

PROGRAMMATIC AGREEMENT
AMONG
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
THE COLORADO STATE HISTORIC PRESERVATION OFFICE
AND
THE U.S.D.A. FOREST SERVICE
ARAPAHO AND ROOSEVELT NATIONAL FOREST
AND PAWNEE NATIONAL GRASSLAND
REGARDING THE EXPEDITED REVIEW OF MAINTENANCE AND
RESTORATION UNDERTAKINGS
AND
IMPLEMENTATION OF UNDERTAKINGS
IN RESPONSE TO DECLARED EMERGENCIES
AND HAZARDOUS ENVIRONMENTAL CONDITIONS

WHEREAS, the USDA, Forest Service, Arapaho and Roosevelt National Forests and Pawnee National Grassland (Forest) are authorized by the Organic Administration Act (16 U.S.C. 551) and the National Forest Management Act of 1976 (P.L. 94-588, 90 Stat. 2949) and others; and

WHEREAS, the Forest is committed to preserving and fostering appreciation of heritage resources on and related to National Forest System Lands in relationship to such laws as the National Historic Preservation Act, as amended (NHPA) (1992; P.L. 89-665, 80 Stat.915); and

WHEREAS, the Forest intends to coordinate its compliance with Section 106 of the NHPA (Section 106) with the applicable requirements of the National Environmental Policy Act (NEPA) (42 U.S.C.4321-4347) pursuant to 40 CFR § 1500-1508; and

WHEREAS, the Forest is involved in undertakings that may potentially affect historic properties, and is required to take into account the effects of any undertaking on such properties pursuant to "Protection of Historic Properties" (36 CFR Part 800); and

WHEREAS, the Forest Supervisor is the agency official pursuant to 36 CFR § 800.2(a); and

WHEREAS, the Forest is increasingly responding to environmental and human caused disasters including but not limited to floods, fires, mudslides, and tornados, some of which are declared emergencies by the President, tribal government, or Governor of a State; and

WHEREAS, for the purposes of this programmatic agreement (agreement), environmental and human caused disasters (hereinafter, "disasters") are those events that are of a large enough scale to disrupt more than one land management

jurisdictions, and/or require specialized management teams, and are identified or designated as such by the relevant Forest Supervisor; and

WHEREAS, the Forest has determined response actions to these disasters constitute undertakings under Section 106; and

WHEREAS, the Forest has determined these undertakings may affect historic properties and have consulted with the Colorado State Historic Preservation Officer (SHPO) pursuant to Section 800.14(b) of the regulations (36 CFR Part 800), implementing Section 106; and

WHEREAS, the Forest has developed this agreement to streamline the review, reporting, and consultation requirements for undertakings proposed in response to disasters, and for undertakings proposed in environmental conditions following a disaster where hazards to staff conducting pedestrian surveys cannot be mitigated; and

WHEREAS, for certain undertakings, the Forest may not be able to determine the effects on historic properties in areas where hazards to staff conducting pedestrian surveys are significant and therefore, no survey will be conducted, the Forest will comply with Section 106 through the provisions of this agreement; and

WHEREAS, this agreement also identifies routine maintenance, operational and restoration undertakings following a disaster that may be exempt from further review and consultation because they are unlikely to affect historic properties; and

WHEREAS, the Forest has invited the Advisory Council on Historic Preservation (ACHP) to participate in consultation pursuant to 36 CFR §§ 800.6(a)(1) and 800.14(b) and the ACHP has elected to participate; and

WHEREAS, the Forest has invited the Kiowa, Northern Ute, Northern Arapaho, Northern Cheyenne, Oglala Sioux, Pawnee, Rosebud Sioux, Shoshone, Southern Ute, Southern Cheyenne, Southern Arapaho and Ute Mountain Ute Tribes (Tribes) pursuant to 36 CFR §§ 800.6(a)(1) and 800.14(b) to participate in developing this agreement; and

WHEREAS, the Southern Ute Tribe and the Northern Arapaho Tribe have elected to participate in the development of this agreement as consulting parties; and

WHEREAS, the Forest has consulted with the Colorado counties of Boulder, Clear Creek, Gilpin, Grand, Larimer, and Weld (Local Governments or LG);

NOW, THEREFORE, the Forest, ACHP, and SHPO agree that undertakings in response to disasters, undertakings in hazardous environmental conditions, and routine maintenance, operational and restoration undertakings shall be administered in

ARP Emergency/Hazardous Work Environment PA

accordance with the following stipulations to satisfy the Forest's Section 106 responsibilities for these individual undertakings.

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STIPULATIONS

The Forest shall ensure that the following Stipulations are implemented:

A. SCOPE AND OBJECTIVES

1) The primary purpose of this agreement is to provide a streamlined review and reporting process for undertakings proposed in response to disasters, and to exempt certain routine maintenance, operational, and restoration undertakings from further review and consultation because they are unlikely to affect historic properties:

(a) Due to changes in environmental conditions the Forest is experiencing disasters on a very frequent basis; many of these receive State and/or Federal Declarations of Emergency. These disasters include but are not limited to floods, fires, tornados and mud slides. This agreement streamlines the consultation for undertakings following a disaster to allow recovery efforts to move forward in a timely fashion.

(b) For the purposes of this agreement, disasters are those events that are of a large enough scale to disrupt more than one land management jurisdiction, and/or require specialized management teams, and are identified or designated as such by the relevant Forest Supervisor.

(c) The provisions for expedited consultation under this agreement apply to those response and restoration undertakings that would occur within (6) months of the disaster. The Forest may extend this period of applicability through consultation with the SHPO and Tribes.

2) The second purpose of this agreement is to provide procedures to complete the Section 106 process for undertakings where the environmental conditions following a disaster are hazardous, rendering pedestrian inventories prohibitive. Following a disaster, restoration activities may be required in areas that have increased hazards to people conducting pedestrian surveys. For example, flooding can increase the potential for unstable soils, undercut banks, and increase the accumulation of potentially hazardous waste. Similarly, fires can cause an increase in unstable soils, damaged trees, mudslides and slumping.

B. MANAGEMENT OF UNDERTAKINGS

1) Exempt Actions or Treatments

Certain classes of actions or treatments have little or no potential to affect historic properties and are exempt from further review and/or consultation under the terms of this agreement. The Forest Archaeologist or heritage designee shall conduct a literature search to identify known cultural resources for each exempt action/treatment. If the Forest Archaeologist or heritage designee finds that the undertaking meets the criteria outlined in Appendix A, the Forest Managers, planners and heritage staff are not required to notify or consult with the SHPO, Tribes, LG, or other parties of that undertaking, unless the Forest Archaeologist or heritage designee has reason to believe that a specific undertaking may affect historic properties. Detailed descriptions of the exempt undertakings are included in Appendix A. Exempt undertakings may be added or deleted from Appendix A by written concurrence between the SHPO and Forest, after comments are received from the Tribes and LG, without requiring amendment to this agreement. Any modifications to Appendix A shall be submitted to the ACHP.

2) Consultation with SHPO, Tribes, Local Governments, and the Public

a) Initial Outreach

The Forest shall use the NEPA scoping process for undertakings subject to an EA or EIS analysis and the terms of this agreement to help identify consulting parties and interested parties, and communicate with the public as required in 36 CFR § 800.3(e)-(f).

Undertakings requiring a CATX NEPA analysis will use the terms of this agreement for consultation with SHPO, Tribes, and LG.

b) Tribal Consultation

The Forest recognizes that effective Tribal Consultation is not achieved through consultations only conducted for individual undertakings. Upon execution of this agreement the Forest will consult with interested Tribes to establish a process for annual meetings with the Tribes.

- i. **Annual Meetings** – Upon execution of this agreement representatives of the Tribes shall be invited to an annual meeting that will include the following:
 - a. Field visits to previously recorded significant sites and to identify areas of potential importance to Indian tribes.

- b. A discussion of the Forests proposed undertakings for the next few years.
 - c. Field visits to active projects (drilling sites, hazardous tree removal projects, construction projects, etc.) to discuss projects effects on sites.
- ii. **Post Disaster Notification** – As soon as conditions allow, the Forest will send the Tribes maps of the extent of the areas affected by the disaster, a description of the disaster with descriptions of the effects of the disaster, and a literature search of known Native American sites located within the area affected by the disaster.
- iii. **Consultation on Undertakings in Response to the Disaster.** After the Forest has identified proposed undertakings in response the disaster the Forest shall consult with the Tribes on the potential effects of the undertaking. The minimal initial consultation shall consist of the description of the proposed undertaking, literature search of the project area with descriptions of previously recorded cultural resources, and three maps, one vicinity map, one showing the project area at a 1:24000 scale, and one map at a 1:24000 scale with the locations of any previously identified cultural resources. The initial project consultation package shall be mailed to the Tribe's government and with copies provided to the THPO or other staff that has been authorized by the Tribe. The Forest shall then follow Stipulation 3 of this agreement. Alternate consultation methods requested by specific Tribes will be followed as documented in Appendix F.
- iv. Modifications to Appendix F shall be negotiated between the Forest and the Tribes.
- v. If during the field inventory for cultural resources, sites are located that may have traditional cultural and religious significance to the Tribes, the Forest will conduct additional consultation with SHPO and the affected Tribe. This consultation will include determinations of eligibility as appropriate.

c) Local Government and Public Consultation

- i. During the NEPA scoping process, the Forests will ensure that representatives of LG and local historical societies are invited to consult to identify properties of historic significance that may be located within the project area. The Forest shall invite the LG to consult on determinations of eligibility. Field visits will be arranged as appropriate

to visit significant sites located previously and to identify areas of potential importance to the public.

- ii. The public will be informed of each undertaking via the Forest's NEPA procedures for public outreach.

d) Unusual or Controversial Projects.

If the Forest Heritage Staff determine through the NEPA scoping that a proposed project has elements that are too unusual or too controversial to be covered by the stipulations in this Agreement, or if requested by a Tribe or LG, the Forest will follow the process specified in federal regulations, "Protection of Historic Properties" (36 CFR §§ 800.3 through 800.6) to comply with Section 106 for that proposed undertaking

3) Reporting, Review And Consultation Procedures.

The following reporting and consultation process will be followed for all disaster response and restoration undertakings and undertakings in hazardous environmental settings in response to such disasters that are not listed in Appendix A. The Forest may follow one of the three following processes: (1) reporting a negative results inventory, (2) reporting after project implementation utilizing Standard Treatments (Standard Treatment) or (3) reporting during project implementation with cultural resource reporting conducted in phases (Phased Reporting).

a) Reporting Process for Negative Results Reports

Where the field survey for an undertaking identifies no cultural resources, or in which only isolated finds were identified, the Forest shall follow the procedures outlined in the Programmatic Agreement Regarding the Reporting of Negative Results Cultural Resource Inventories, signed by all of the Colorado forests, SHPO and the ACHP in 2009. This stipulation will be in force as long as the Negative Results agreement is in place.

b) Alternate Report Process with Standard Treatments

For undertakings where the project will be implemented before the final report is submitted to SHPO, Tribes, and LG and before the SHPO, Tribe, and LG is offered the opportunity to review the eligibility determinations of resources located during inventory, the following procedures will be used:

- i) The Forest will submit a letter of notification to the SHPO, Tribe, and LG containing information about the Area of Potential Effect (APE), High

Potential Areas and proposal to use the Standard Treatment reporting process. If the Forest does not submit a letter of notification to SHPO, Tribe, and LG prior to the field investigation for each related action, the Forest will follow the process specified in federal regulations, "Protection of Historic Properties" (36 CFR Part 800) prior to commencing that undertaking.

- ii) The Forest will consider all cultural resource sites located during the field inventory to be historic properties and will utilize the standard treatments (Stipulation F) to protect cultural resources. The Forest will proceed with the implementation of the project prior to the report submittal. The signatories agree to a finding of no adverse effect on a project by project basis when the standard treatments will be implemented. The cultural resource inventory reports shall be completed after the project implementation and shall be consistent with SHPO guidelines. The report will include documentation of all previously recorded and newly recorded heritage resources, and determination of National Register eligibility for each heritage resource.
- iii) The Forest will submit the report for comment on eligibility of resources, to other consulting parties after project implementation, provided that confidential information will be protected from disclosure to the public in accordance with 36 CFR § 800.11(c). The report will document a finding of no adverse effect documenting the use of standard treatments and resource avoidance, for the undertaking.
- iv) SHPO, Tribes and LG will only comment on National Register eligibility if they do not concur with the Forest's determination. SHPO, Tribes and LG will have thirty days to comment after receipt of the final report; comment may be by verbal communication, email or formal letter. Unresolved determinations of National Register eligibility will be forwarded to the Keeper of the National Register for decision in accordance with 36 CFR Part 63.
- v) If the SHPO does not comment on the project, the Forest will assume SHPO concurrence with National Register eligibility determinations at the end of 30 days and will place a memo in the Forest project file and internal databases regarding the official determination of eligibility.

c) Process with Phased Reporting.

For undertakings where the project will be implemented before the final report is submitted, the following procedures will be used:

- i) The Forest will submit a letter of notification to the SHPO, Tribe, and LG containing information about the APE, High Potential Areas and proposal to use Phased Reporting for the related undertaking. If the Forest does not submit a letter of notification to SHPO prior to the field investigation for each related action, the Forest will follow the process specified in federal regulations, "Protection of Historic Properties" (36 CFR Part 800) prior to commencing that undertaking.
- ii) The SHPO will assign a tracking number for the project and will send that tracking number to the Forest project contact. The tracking number may be sent by verbal communication, email or formal letter. All addendums to this report and related correspondence will have the tracking number, addendum number, and project name in the title.
- iii) The Forest shall not treat every cultural resource as a historic property and will use the Standard Treatments only for sites determined, based on a field examination and consultation with the SHPO, Tribe, and LG, to be eligible.
- iv) The Forest will submit an initial cultural resource inventory report, and will consult on the eligibility of individual sites as they are recorded.

The initial cultural resource report shall consist of the following:

- Cultural Resource Survey Management Information Form.
- Title Page
- Abstract
- Table of Contents
- Introduction
- Environment
- Culture History/Context and Previous Work
- Statement of Objectives and Research Design
- Field/Lab Methods
- References Cited

The initial report shall be submitted to SHPO for review and comment after the project plan has been approved, and after notification of the phased reporting process has been sent to SHPO, but before project implementation. The report will document a finding of no adverse effect for the undertaking.

- v) As cultural resource sites are located during the field inventory, each site will be recorded to Colorado Office of Archaeology and Historic Preservation (CO OAHP) standards. Site forms, a description of each resource, and site eligibility determinations will be sent to SHPO, Tribe and LG as an addendum to the initial report during the field inventory, as

the sites are located. Previously recorded sites will have a re-visitation form filled out to SHPO standards.

- vi) The cover letter and site forms for each phase of the report will be submitted to the SHPO, Tribe, and LG.
- vii) SHPO, Tribes and LG will only comment on National Register eligibility if they do not concur with the Forest's determination. SHPO, Tribe and LG will have seven days to comment; comment may be by verbal communication, email or formal letter. The Forest will wait the full seven days from confirmed receipt for notification from SHPO that they do not concur with the eligibility determination. The Forest will assume SHPO concurrence with eligibility determinations at the end of seven days and will proceed with the project implementation utilizing the appropriate standard treatments for eligible sites. Forest will confirm SHPO receipt by personal communication.
- viii) All sites that are field evaluated as eligible, and/or sites where SHPO, Tribes and LG has not concurred with the Forest's determination of eligibility, will be treated with the Standard Treatment for eligible sites (Stipulation 4). The signatories agree to a finding no adverse effect to historic properties when standard treatments will be implemented on each project phase.
- ix) After project implementation but no later than six months after implementation, the final reporting phase will include an evaluation of the survey strategy, evaluation of effectiveness of Standard Treatments, a list of all sites recorded during the project, summary, and conclusions from the entire project. All phases of the cultural resource inventory reports shall be consistent with SHPO guidelines including documentation of all previously recorded and newly recorded heritage resources, and a determination of National Register eligibility for each heritage resource.
- x) The Forest will submit the final report for comment on eligibility determinations to other consulting parties, provided that confidential information will be protected from disclosure to the public in accordance with 36 CFR § 800.11(c). The report will document a finding of no adverse effect for the undertaking.
- xi) Disagreements will follow the dispute resolution process as outlined in Stipulation F. Unresolved determinations of National Register eligibility will be forwarded to the Keeper of the National Register for decision in accordance with 36 CFR Part 63.

d). Determination of Adverse Effects

When the Forest determines that the actions within the undertaking cannot be modified to avoid adverse effects, and/or that the Standard Treatments in Stipulation 4 cannot be implemented effectively, the Forest, SHPO, Tribes and LG agree that one of the following actions will sufficiently mitigate the adverse effect to the historic property:

i) Historic Built Environment sites

(A) Photo-documentation will consist of the following:

- One site overview on 35mm (or larger as appropriate) black and white negative.
- All accessible elevations of each standing structure will be photographed with a 35mm (or larger as appropriate) black and white negative,
- All prints will be produced using archival developing processes.
- Within 14 days of completion the FS shall submit the archival photo-documentation report to SHPO for review and comments. The SHPO shall have 14 days for review and comments. Upon acceptance of the archival report, the FS will provide an original of the archival report to the SHPO. Acceptance of the photo-documentation report by the SHPO shall conclude the mitigation of the adverse effect for this property.

(B) Interpretive Planning – When appropriate the Forest may use interpretive methods such as, but not limited to the following as part of interpretive planning:

- Audio Tapes
- Interpretive CD's
- Interpretive Brochures
- Interpretive Panels
- Interpretive pages on the LG/FS/Tribe web sites.

When interpretation is used as a standard treatment, the Forest will consult with the SHPO, Tribes and LG to determine the appropriate treatment. The Forest will provide the SHPO the final plans for interpretation along with any proposed interpretation installation locations and designs of interpretive panels for review and comment. SHPO shall have 30 days to provide comments.

ii) Archaeological sites, districts and landscapes – When the Forest determines that adverse effects cannot be avoided, the Forest will consult

further with SHPO and other consulting parties in accordance with 36 CFR § 800.6 to resolve the adverse effects, including notifying ACHP of the determination of adverse effect. Project implementation will not proceed until the adverse effect is resolved with all consulting parties through the execution of a Memorandum of Agreement.

4) Standard Treatments for Historic Properties

Standard Treatments shall be included in the NEPA specialist report and NEPA decision document as design criteria for the protection of historic properties. The standard treatments below will be included for each type of action in an undertaking:

- a) Activities involving hazardous tree removal, grapple piling, mechanical treatment, skid trails and landing areas.

When sites that are evaluated as field eligible historic properties are located during the field inventory, no mechanical treatment will occur within the site boundary plus a 50 foot buffer around the site. If treatment is necessary on or around the site, these sites and the 50 foot buffer will be hand-treated for hazard trees and accumulated fuel build up utilizing the treatment options in Stipulation B.

- b) Activities involving road construction, temporary road construction and skid trails, all construction or reconstruction including access and staging areas.

When sites that are evaluated as field eligible historic properties are located during the field inventory, a 50 foot buffer around the site will be established. The road control line will be moved to avoid the site and the 50 foot buffer area. If the undertaking consists of construction and there is the potential for unidentified buried cultural remains, the location of the road or trail will be moved to avoid the site and the construction activities in the area will be monitored by an archaeologist.

- c) Activities where culturally modified trees (CMT) may be felled, limbed or removed.

Any culturally modified trees found will be photographed with 35mm black and white film, and will be mapped using GPS. The photos will be developed using standard archival techniques. The photos and site forms with maps will be sent to the SHPO, Tribes, and LG. When culturally peeled trees are felled or die and are wind thrown, additional descriptive information and age borings or scar cross sections will be made to gather as

much information about the trees. When possible, when CMT's are to be felled, the cut to fell the tree will be made above the cultural modification, leaving the stump with the scar, and the trunk will be capped.

d) If the Forest Service determines that adverse effects cannot be avoided, the Forest will consult further with the SHPO and other consulting parties in accordance with Stipulation 3(d) including a formal notification to the ACHP, to resolve the adverse effects. The final cultural resource report will be submitted and SHPO concurrence will be received before the project is implemented. Project implementation will not proceed until the adverse effects are resolved with all consulting parties through the execution of a Memorandum of Agreement.

C. MANAGEMENT OF CULTURAL RESOURCE PROGRAMS HAZARDOUS ENVIRONMENTS AFTER EMERGENCY SITUATIONS

1) For all projects/actions conducted in areas the Forest Supervisor and/or District Ranger has determined are too hazardous to allow pedestrian inventories, the Forest will follow these procedures to take into account the effects of the undertaking on historic properties regardless of the type of action proposed.

a) The Forest will conduct an Existing Data Review (Literature Search) to identify known historic properties within the area of potential effects for all proposed actions/projects. The Existing Data Review will include a survey strategy based on previously accepted models (Appendix B). The survey strategy will focus on areas where historic properties are likely to occur. The Forest will prepare a budget or plan for the resources needed to complete field inventory, completion of inventory reports and all consultation needed to review the project in compliance with Section 106.

b) The Forest will develop a job hazard analysis (JHA) and a risk assessment (RA) for each project. If the Risk Management Matrix risk level is in the Acceptable/Tolerable or the Acceptable/Tolerable with Mitigations levels, the project will receive a field inventory and the Forest will consult on the eligibility of sites and the effects of the project in accordance with the reporting and consultation procedures in Stipulation B.

c) Where the Forest determines that the project would take place in an area where the Risk Management risk level is Unacceptable/Intolerable (as defined in Appendix E) no pedestrian inventory will be conducted (No Field Inventory Actions (NFI)).

i) If the existing data review reveals known historic properties within the boundaries of the NFI project, a plan will be developed to mitigate the

effects of the action and protect the property from other environmental hazards as feasible (i.e. falling trees, undercut or slumping soils, fire etc). The mitigation plan will be used only if the Forest determines that the implementation of such a plan is within the Acceptable/Tolerable risk levels as defined in Appendix E (Risk Management Matrix).

ii) For areas where the hazard to field inventory crews is too hazardous, and the hazards cannot be mitigated, the Forest will use the budget planned for the level of effort that would normally be expended to comply with Section 106 for each NFI (C.1(a)) and redirect this effort to a Resource Benefit Action (RBA) that will identify new cultural resource sites or will benefit known historic properties.

iii) The Forest will forward the existing data review, risk assessment forms with the Line Officer Work Activity Review, mitigation plan for previously recorded historic properties and the budget to the SHPO for review and comment.

iv) When the hazard has abated, the Forest will consult with SHPO to determine the need for post implementation monitoring to document the effects of the implemented undertaking or to identify newly exposed resources. The responsible line officer is the one to decide whether or not the hazard has abated. The results of any post implementation monitoring will be considered as appropriate in Stipulation C.1.d. below.

d) Resource Benefit Actions (RBA) – The Forest Heritage staff will identify potential RBA's and will complete a project proposal to be presented to the Consulting Parties Group (CPG). Interested consulting parties in this agreement shall be invited to participate in the CPG, including but not limited to the SHPO, Tribes, LG and additional consulting parties that have demonstrated an interest in the undertaking.

For the first two years of this agreement, and bi-annually after that, the CPG members, the Forest and SHPO will meet either in person or through electronic means to review and rank RBAs that will be conducted in lieu of the NFI projects.

RBAs may include the following:

- Cultural resource inventory of areas of high site probability
- Testing of sites
- Interpretation of sites
- Data recovery from sites
- Rehabilitation of sites, structures or buildings
- Removal of trees or other hazards around significant sites

- Synthesis of existing data into cultural contexts
- Ethnographic studies
- Historical or oral history studies
- Other cultural or historical preservation or research

D. **THIRD PARTY PROJECTS** All third party undertakings/projects proposed in response to a disaster, and located in an area where the Forest has identified hazardous environmental conditions as defined in Stipulation A that require a license, permit or authorization from the Forest will be considered individually but will follow the process as outlined for Undertakings in Response to Declared Disaster and Hazardous Environmental Conditions in Stipulation C.

E. **ANNUAL SUMMARY REPORT** The Forest will document the combined results of the field inventories, numbers and type of sites, eligibility recommendations, and number of acres surveyed in fulfillment of the Agreement, and dates when reports were sent or are to be sent to SHPO, Tribes, and LG in an Annual Summary Report, due by March 1st of each year. The Annual Summary Report will utilize the format in Appendix D. If the Forest fails to send in the report by April 1st, SHPO may so advise the Forest Supervisor and ACHP. If the Forest fails to send in the report within 30 calendar days of SHPO's letter, SHPO shall send a letter documenting the failure to the Forest and ACHP, terminating this agreement.

ADMINISTRATIVE STIPULATIONS

F. **DISPUTE RESOLUTION.** Should SHPO or any other consulting party object within 30 days to any finding or action proposed pursuant to this agreement, the Forest shall consult with SHPO and the objecting party to resolve the objection. If the Forest determines that the objection cannot be resolved, the specific Forest shall forward all documentation relevant to the dispute to ACHP. Within 30 days after receipt of all pertinent documentation, ACHP will either:

1. Provide the Forest with recommendations that the Forest will take into account in reaching a final decision regarding the dispute; or
2. Notify the Forest that it will comment pursuant to 36 CFR § 800.7(c), and proceed to comment. Any ACHP comment provided in response to such a request will be taken into account by the Forest Service in accordance with 36 CFR § 800.7(c)(4) with reference to subject of the dispute.
3. Any recommendation or comment provided by ACHP will be understood to pertain only to the subject of the dispute; the Forest's responsibility to carry out all actions under this agreement that are not the subjects of the dispute and will remain unchanged.

4. Should any member of the public raise a timely and substantive objection pertaining to the manner in which the terms of this agreement are carried out, at any time during its implementation, the Forest shall take the objection into account by consulting with the objector to resolve the objection. When the Forest responds to an objection, it shall notify the consulting parties of the objection and the manner in which it was resolved. The Forest may request the assistance of a consulting party to resolve an objection.

G. QUALIFICATIONS. The Forest shall ensure that cultural resource personnel meet the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation and Professional Qualifications Standards for archeologist, architectural historians and historians (48FR190:44716-44742) throughout the implementation of this agreement.

H. COMMENCEMENT AND EXPIRATION. This agreement expires five years from the date of execution. If the Forest wishes to extend the duration of the agreement past the five-year period, the Forest will contact ACHP and SHPO ninety days prior to expiration and schedule a meeting. Based on the meeting, the Forest may amend the agreement in accordance with Stipulation J prior to its expiration.

I. TERMINATION. SHPO, ACHP, or the signatory Forest may terminate this agreement by providing thirty (30) days written notice to the other parties, provided that the parties consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate this agreement upon written notification to the other signatories. In the event this agreement is terminated, the Forest will comply with 36 CFR Part 800 with regard to the individual undertakings covered by this agreement.

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

K. STATEMENT OF NON-BENEFIT. Pursuant to Section 22, Title 41, United States Code, no member of, or Delegate to, Congress shall be admitted to any share or part of this agreement, or any benefits that may arise therefrom.

L. NON-FUND OBLIGATING DOCUMENT. The Forest Service obligations under this agreement are subject to the availability of appropriated funds, and the stipulations of this agreement are subject to the provisions of the Anti-Deficiency Act. The Forest Service will make reasonable and good faith efforts to secure the necessary funds to implement this agreement in its entirety. If compliance with the Anti-Deficiency Act alters or impairs the Forest Service ability to implement the stipulations of this agreement, the Forest Service will consult in accordance with the amendment and terminations procedures found at Stipulations I and J of this agreement.

M. FREEDOM OF INFORMATION ACT (FOIA). Any information furnished to the Forest Service under this instrument is subject to the Freedom of Information Act (5 U.S.C. 552). However, certain sensitive spatial and non-spatial information may be protected per Section 304 of the NHPA (1966, with revisions).

N. PARTICIPATION IN SIMILAR ACTIVITIES. This instrument in no way restricts the Forest Service or the Cooperators from participating in similar activities with other public or private agencies, organizations, and individuals.

O. RESPONSIBILITIES OF PARTIES. The Forest and ACHP and Colorado SHPO and their respective agencies and office will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing these objectives. Each party will carry out its separate activities in a coordinated and mutually beneficial manner.

P. PRINCIPAL CONTACTS. The principal contacts for this agreement are:

Colorado State Historic Preservation Office
Currently Mark Tobias
1560 Broadway, Suite 400
Denver, CO 80302
Phone: (303) 866-4674

FAX: (303) 866-2711
Email: mark.tobias@state.co.us

Advisory Council on Historic Preservation
Currently Kelly Fanizzo
Room 803, 1100 Pennsylvania Avenue
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FAX: (202)-606-5072
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Arapaho and Roosevelt National Forest
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Southern Ute Tribe
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Phone: (970) 563-0100 ext. 2257
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Email: anaranjo@southernute-nsn.gov

Northern Arapaho Tribe
Currently Corrine Headley
PO Box 396
Fort Washakie WY 82514
Phone: (307) 856-1628
FAX : (307) 332-7543
Email: northernarapahothpo@gmail.com

Q.COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT. Execution and implementation of this Agreement evidences that the Forest have afforded the ACHP an opportunity to comment on the Programmatic Agreement Regarding the Expedited Review of Routine Maintenance, Operational and Restoration Undertakings and Implementation Of Undertakings In Response to Declared Emergencies and Hazardous Environmental Conditions and that the Forest has taken into account the effects of these undertakings on historic properties.

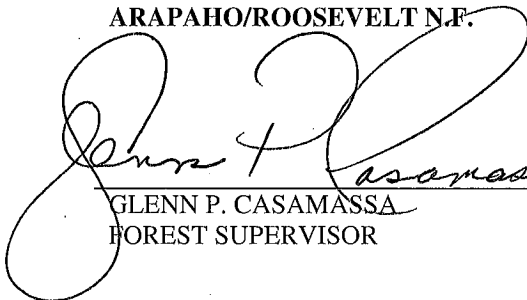
S. AUTHORIZED REPRESENTATIVES. By signature below, Forest Service, SHPO, Southern Ute Tribe, and ACHP certify that the individuals listed in this document as representatives of the signatories are authorized to act in their respective areas for matters related to this agreement.

THE PARTIES HERETO as evidenced by their authorized signature below, have executed, and thereby entered into, this agreement upon the date of their signature below.

Signatories:


**USDA FOREST SERVICE
ARAPAHO/ROOSEVELT N.F.**

**COLORADO STATE HISTORIC
PRESERVATION OFFICE**



GLENN P. CASAMASSA
FOREST SUPERVISOR

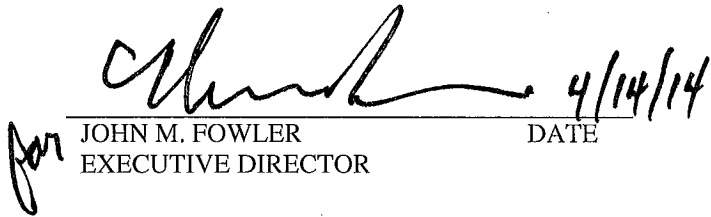
DATE 4-2-14



EDWARD C. NICHOLS (Deputy, 5#70)
COLORADO STATE HISTORIC
PRESERVATION OFFICER

DATE 4-3-2014

**ADVISORY COUNCIL ON HISTORIC
PRESERVATION**



JOHN M. FOWLER
EXECUTIVE DIRECTOR

DATE 4/14/14

Concurring Parties:

Southern Ute Tribe

Northern Arapaho Tribe

James M. Olguin
DATE
ACTING CHAIRMAN BUSINESS COUNCIL

Darrell O'Neal Sr.
DATE
CHAIRMAN BUSINESS COUNCIL