

**PROTOTYPE PROGRAMMATIC
AGREEMENT BETWEEN THE
US DEPARTMENT OF AGRICULTURE,
COLORADO NATURAL RESOURCES CONSERVATION SERVICE STATE OFFICE,
COLORADO STATE HISTORIC PRESERVATION OFFICER,
INDIAN TRIBE
REGARDING CONSERVATION ASSISTANCE**

WHEREAS, the United States Department of Agriculture (USDA) Natural Resources Conservation Service administers numerous voluntary assistance programs, special initiatives, and grant and emergency response programs for soil, water, and related resource conservation activities available to eligible private producers, States, commonwealths, Federally Recognized Tribal governments, other government entities, and other applicants for conservation assistance, pursuant to the Agricultural Act of 2014 (2014 Farm Bill, Public Law 113-79); Soil Conservation and Domestic Allotment Act of 1935 (Public Law 74-46, 16 U.S.C. 590 a-f, as amended); the Flood Control Act of 1944 (Public Law 78-534, as amended); the Watershed Protection and Flood Prevention Act (Public Law 83-566, as amended, 16 U.S.C. 1001-1012); the Agricultural and Food Act of 1981 (Public Law 97-98, 95 Stat. 1213); the Agricultural Credit Act (Public Law 95-3341, Title IV, Section 403); Food, Agriculture, Conservation and Trade Act of 1990 (Public Law 101-624); the Flood Control Act of 1936 (Public Law 74-738); the Food Security Act of 1985 (Public Law 99-198, as amended); the Federal Agricultural Improvement and Reform Act of 1996 (Public Law 104-127); and executive and secretarial orders, implementing regulations and related authorities; and

WHEREAS, NRCS, through its conservation assistance programs and initiatives, provides assistance for activities with the potential to affect historic properties eligible for or listed in the National Register of Historic Places (NRHP), including National Historic Landmarks (NHLs) and therefore constitute undertakings subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. 470f, and its implementing regulations, 36 CFR Part 800, including the provisions of these regulations addressing NHLs at 36 CFR Part 800.10; and

WHEREAS, NRCS has determined that the requirement to take into account the effects to historic properties of its undertakings may be more effectively and efficiently fulfilled through the use of a Prototype Programmatic Agreement (Prototype Agreement); and

WHEREAS, the NRCS State Office (NRCS) has consulted with the State Historic Preservation Officer/SHPO or Tribal Historic Preservation Officer/THPO/Indian tribe or Native Hawaiian Organization/NHO and followed the instructions in the ACHP letter that accompanied the Prototype Agreement, dated November 21, 2014; and

WHEREAS, NRCS also is responsible for fulfilling the requirements of the National Environmental Policy Act (NEPA), including the use of categorical exclusions, and coordinating NEPA and Section 106 reviews, as appropriate; and

WHEREAS, NRCS developed this Prototype Agreement in consultation with the National Conference of State Historic Preservation Officers (NCSHPO) and its members, interested Indian tribes, Native Hawaiian organizations, interested historic preservation organizations, (such as the National Trust for Historic Preservation), and the Advisory Council on Historic Preservation (ACHP); and

WHEREAS, in accordance with 36 CFR Part 800.14(b)(4), the ACHP has designated this agreement as a Prototype Agreement, which allows for the development and execution of subsequent prototype agreements by individual NRCS State office(s) (State-based Prototype Agreements) to evidence compliance with Section 106; and

WHEREAS, this State-based Prototype Agreement conforms to the NRCS Prototype Agreement as designated by the ACHP on November 21, 2014, and therefore, does not require the participation or signature of the ACHP when the NRCS State Office and the SHPO/THPO/Indian tribe/NHO agree to the terms of the State-based Prototype Agreement; and

WHEREAS, this Prototype Agreement replaces the 2002 nationwide “Programmatic Agreement among the United States Department of Agriculture Natural Resources Conservation Service, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers relative to Conservation Assistance,” as amended in 2011 and 2012, which expired on November 20, 2014; and

WHEREAS, the NRCS State Conservationist is the responsible federal agency official within the state for all provisions of Section 106, including consultation with the SHPO, NHOs, and government-to-government consultation with Indian tribe(s) to negotiate the State-based Prototype Agreement; and

WHEREAS, the State-based Prototype Agreement does not apply to undertakings occurring on or affecting historic properties on Tribal lands, as defined by Section 301(14) of the NHPA, without prior agreement and execution of a State-based Prototype Agreement with the concerned Indian tribe(s); and

WHEREAS, the NRCS has consulted with Indian tribe(s) or NHOs and has invited the Indian tribe(s) or NHO to enter into this State-based Prototype Agreement as invited signatory; and

WHEREAS, this Prototype Agreement does not modify the NRCS’ responsibilities to consult with Indian tribes and NHOs on all undertakings that might affect historic properties and properties of religious and cultural significance to them, regardless of where the undertaking is located, without prior agreement by the concerned Indian tribe or NHO, and recognizes that historic properties of religious and cultural significance to an Indian tribe or NHO may be located on ancestral homelands or on officially ceded lands near or far from current settlements; and

WHEREAS, when NRCS conducts individual Section 106 reviews for undertakings under this State-based Prototype Agreement, it shall identify and invite other agencies, organizations, and individuals to participate as consulting parties; and

NOW, THEREFORE, the NRCS State Office and the SHPO/NHO/INDIAN TRIBE/THPO agree that undertakings in Colorado State shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

NRCS shall ensure that the following stipulations are met and carried out

I. Applicability.

- a. Once executed by the NRCS and the Colorado SHPO/Indian tribe, this State-based Prototype Agreement sets forth the review process for all NRCS undertakings subject to Section 106 in Colorado State.
- b. Execution of this State-based Prototype Agreement supersedes any existing State Level Agreement with Colorado SHPO and/or consultation protocols with Indian tribe executed under the previous NRCS nationwide Programmatic Agreement, but does not replace any existing project-specific Section 106 agreements (Memoranda of Agreement or Programmatic Agreements).
- c. This State-based Prototype Agreement applies only when there is a Federal Preservation Officer (FPO) in the NRCS National Headquarters (NHQ) who meets the Secretary of the Interior's Professional Qualification Standards (48 FR 44716).
- d. This State-based Prototype Agreement applies only where there is staffing or access to staffing (through contracted services or agreements with other agencies or Indian tribe(s)) who meet the Secretary of Interior's Professional Qualification Standards in the Colorado NRCS State office.

II. Roles and Professional Qualifications.

- a. The NRCS Colorado State Conservationist is responsible for oversight of its performance under this State-based Prototype Agreement.
- b. NRCS of Colorado shall ensure all NRCS staff or individuals carrying out Section 106 historic preservation compliance work on its behalf, including the NRCS Colorado State senior historic preservation professional staff member (the Cultural Resources Specialist (CRS) or Archaeologist, or Historian), are appropriately qualified to coordinate the reviews of resources and historic properties as applicable to the resources and historic properties being addressed (site, building, structure, landscape, resources of significance to Indian tribes, and other concerned communities). Thus, these staff and consultants must meet the Secretary of the Interior's Professional Qualification Standards and have the knowledge to assess the resources within an undertaking's area of potential effects (APE).
- c. The Colorado State Conservationist is responsible for consultation with the Colorado SHPO and government to government consultation with Ute Mountain Ute, Southern Ute, and other interested Indian tribes' leader and/or their THPO to develop consultation protocols. The

responsibilities may not be delegated to any other staff, nor carried out on behalf of NRCS by another federal agency.

d. The NRCS Colorado CRS/Archaeologist/Historian and/or professional consultants shall provide technical historic property and resource information to the State Conservationist for use in Section 106 findings and determinations, after appropriate consultations with the SHPO, Indian tribes, and discussions with the landowner. The CRS/Archaeologist/Historian shall monitor and oversee the work and reporting of all NRCS field office personnel and professional service consultants. The CRS/Archaeologist/Historian shall also assist the State Conservationist in determining whether an undertaking has the potential to affect historic properties, triggering Section 106 review, pursuant to 36 CFR Part 800.3(a).

e. NRCS field office personnel involved in implementing this State-based Prototype Agreement, after completion of NRCS' web, classroom, and field awareness training acquired through USDA's AgLearn training site, shall work with the CRS/Archaeologist/Historian, as feasible, in completing historic preservation compliance (Section 106) field records for the agricultural producer's (NRCS' client or voluntary applicant for assistance) files and for use in producing initial historic property identification records (as set forth and outlined in NRCS' operational guidance, the National Cultural Resources Procedures Handbook, Title 190, Part 601).

f. The CRS/Archaeologist/Historian in Colorado shall oversee development of the scopes of work for investigation of the APEs for identified undertakings (see 36 CFR Part 800.4). The NRCS may use professional service contractors or consultants or partners to assist with cultural resources compliance studies. NRCS shall ensure these contractors meet the Secretary of Interior's Professional Qualifications Standards.

g. NRCS remains responsible for all consultation with the SHPO, Indian tribes and THPOs, and all determinations of NRHP eligibility and effect. NRCS may not delegate consultation for findings and determinations to professional services consultants or producers/applicants for conservation assistance.

h. The Colorado SHPO and Indian Tribes interested in Colorado if provided sufficient data on a proposed undertaking and APE for the proposed undertaking by the NRCS State Office shall consult and provide a response to NRCS within thirty (30) days and this may be negotiated. The definition of sufficient data is provided in 36 CFR Part 800.11.

i. The ACHP shall provide technical guidance, participate in dispute resolution, and monitor the effectiveness of this agreement, as appropriate.

III. Training.

a. NRCS shall require personnel conducting cultural resources identification and evaluation work to complete, at a minimum, the NRCS Web-based (in USDA AgLearn) and field Cultural Resources Training in modules and the ACHP's Section 106 *Essentials* course.

b. NRCS shall require CRS/Archaeologist/Historian and/or other NRCS personnel overseeing cultural resource work to take the NRCS Cultural Resources Training Modules (awareness training) and the ACHP's Section 106 *Essentials* course, or a course with similar content, if approved by the NRCS FPO. Training must be completed within the first calendar year after

execution of this State-based Prototype Agreement. NRCS personnel shall review and update training completion with their supervisors and include their training in their Individual Development Plans.

c. NRCS may invite the SHPO/Indian tribe or staff to participate in presentations at agency classroom or field trainings.

d. NRCS shall encourage all personnel conducting or overseeing cultural resources work to take additional appropriate specialized training as provided by the SHPO, Indian tribes, the ACHP, National Park Service, General Services Agency or other agencies, as feasible.

IV. Lead Federal agency.

a. For any undertaking for which the NRCS is the lead federal agency for Section 106 purposes per 36 CFR Part 800.2(a)(2), NRCS staff shall follow the terms of this State-based Prototype Agreement. NRCS shall notify the SHPO/Indian tribe of its involvement in the undertaking and the involvement of the other federal agencies.

b. For any undertaking for which the NRCS is not the lead federal agency for Section 106 purposes, including those undertakings for which the NRCS provides technical assistance to other USDA or other federal agencies, the terms of this State-based Prototype Agreement shall not apply to that undertaking. If the lead federal agency agrees, NRCS may follow the approved alternative procedures in place for that agency.

V. Review Procedures.

a. In consultation with the Colorado SHPO/Indian tribe, NRCS shall identify those undertakings with little to no potential to affect historic properties and list those undertakings in Appendix A. Upon the determination by the CRS that a proposed undertaking is included in the Appendix A listed as no effect to historic properties, the NRCS is not required to consult further with the SHPO/Indian tribes for that undertaking.

b. The list of undertakings provided in the Appendix A may be modified through consultation and written agreement between the NRCS State Conservationist and the SHPO/Indian tribes without requiring an amendment to this State-based Prototype Agreement. The NRCS State office will maintain the master list and will provide an updated list to all consulting parties with an explanation of the rationale (metadata) for classifying the practices accordingly.

c. A working process for NRCS is in Appendices A and B. Undertakings not identified in Appendix A shall require further review as outlined in Stipulation V.c. The NRCS shall consult with the SHPO/Indian tribe to define the undertaking's APE, identify and evaluate historic properties that may be affected by the undertaking, assess potential effects, and identify strategies for resolving adverse effects prior to installation of the practice or implementation of the action.

1. NRCS may provide its proposed APE, identification of historic properties and/or scope of identification efforts, and assessment of effects in a single transmittal to the SHPO/Indian tribe, provided this documentation meets the substantive standards in 36 CFR Part 800.4-5 and 800.11.

2. The NRCS shall attempt to avoid adverse effects to historic properties whenever possible; where historic properties are located in the APE, NRCS shall describe how it proposes to modify, buffer, or move the undertaking to avoid adverse effects to historic properties.
3. Where the NRCS proposes a finding of “no historic properties affected” or “no adverse effect” to historic properties, the SHPO/Indian tribe who shall have thirty (30) calendar days from receipt of this documented description and information to review it and provide comments. The NRCS shall take into account all timely comments.
 - i. If the SHPO/Indian tribe, or another consulting party, disagrees with NRCS’ findings and/or determination, it shall notify the NRCS within the thirty (30) calendar day time period. The NRCS shall consult with the SHPO/Indian tribe or other consulting party to attempt to resolve the disagreement. If the disagreement cannot be resolved through this consultation, NRCS shall follow the dispute resolution process in Stipulation VIII below.
 - ii. If the SHPO/Indian tribe does not respond to the NRCS within the thirty (30)-day period and/or the NRCS receives no objections from other consulting parties, or if the SHPO/Indian tribe concurs with the NRCS’ determination and proposed actions to avoid adverse effects, the NRCS shall document the concurrence/lack of response within the review time noted above, and may move forward with the undertaking.
4. Where a proposed undertaking may adversely affect historic properties, NRCS shall describe proposed measures to minimize or mitigate the adverse effects, and follow the process in 36 CFR Part 800.6, including consultation with other consulting parties and notification to the ACHP, to develop a Memorandum of Agreement to resolve the adverse effects.

VI. Emergency and Disaster Management Procedures (Response to Emergencies)

- a. NRCS shall notify the SHPO/Indian tribe immediately or within 48 hours of the emergency determination, following the NRCS’ Emergency Watershed Program (EWP) final rule (see Section 216, P.L. 81-516 Final Rule, 7 CFR Part 624 (April 2005)).
- b. The NRCS State office shall prepare procedures for exigency (following the rules for NRCS’ (EWP and ECP) regarding immediate threat to life and property requiring, response within 5 days) in consultation with the SHPO/Indian tribes. These procedures are appended to this document in Appendix B.
- c. If the NRCS State office has not developed specific procedures for responding to exigencies, the NRCS shall follow the recently approved guidelines for Unified Federal Review issued by the Department of Homeland Security, Federal Emergency Management Service (DHS, FEMA), the Council on Environmental Quality (CEQ), and the ACHP in July 2014, or the procedures in 36 CFR Part 800.12(b).

VII. Post-review discoveries of cultural resources or historic properties and unanticipated effects to historic properties.

- a. Where construction has not yet begun and a cultural resource is discovered after Section 106 review is complete, the NRCS shall consult to seek avoidance or minimization strategies in

consultation with the SHPO/Indian tribe, and/or to resolve adverse effects in accordance with 36 CFR Part 800.6.

b. The NRCS shall ensure that every contract for assistance includes provisions for halting work/construction in the area when potential historic properties are discovered or unanticipated effects to historic properties are found after implementation, installation, or construction has begun. When such a discovery occurs, the producer who is receiving financial assistance or their contractor shall immediately notify the NRCS State Conservationist's Office, CRS, supervisory NRCS personnel for the area, and the landowner/applicant.

1. NRCS CRS shall inspect the discovery within 24 hours, if weather permits, and in consultation with the local NRCS official (field office supervisor or District or Area Conservationist), concerned Indian tribes, the SHPO, the NRCS State engineering or program supervisor, as appropriate), the landowner/producer (whomever NRCS is assisting), the CRS shall establish a protective buffer zone surrounding the discovery. This action may require inspection by tribal or cultural resources experts in addition to the CRS.

2. All NRCS contact with media shall occur only under the direction of the NRCS Public Affairs Officer, as appropriate, and the State Conservationist.

3. Security shall be established to protect the resources/historic properties, workers, and private property. Local law enforcement authorities will be notified in accordance with applicable State law and NRCS policy in order to protect the resources. Construction and/or work may resume outside the buffer only when the State Conservationist determines it is appropriate and safe for the resources and workers.

4. NRCS CRS shall notify the SHPO/Indian tribe and the ACHP no later than 48 hours after the discovery and describe NRCS' assessment of the National Register eligibility of the property, as feasible and proposed actions to resolve any adverse effects to historic properties. The eligibility determination may require the assessment and advice of concerned Indian tribe(s), the SHPO, and technical experts (such as historic landscape architects) not employed by NRCS.

5. The SHPO/Indian tribe and ACHP shall respond within 48 hours from receipt of the notification with any comments on the discovery and proposed actions.

6. NRCS shall take any comments provided into account and carry out appropriate actions to resolve any adverse effects.

7. NRCS shall provide a report to the SHPO/Indian tribe(s) and the ACHP of the actions when they are completed.

c. When human remains are discovered, the NRCS shall follow all applicable federal, tribal, and State burial laws and ordinances, including the Native American Graves Protection and Repatriation Act, and implementing regulations, when on tribal or federal lands, and related human rights and health statutes, where appropriate. NRCS shall also refer to the ACHP's Policy Statement regarding *Treatment of Burial Sites, Human Remains and Funerary Objects* and the ACHP's Section 106 Archaeology Guidance. NRCS shall also follow USDA and NRCS policy on treatment of human remains and consultation.

VIII. Dispute resolution.

a. Should any consulting or signatory parties to this State-based Prototype Agreement object to any actions proposed or the manner in which the terms of the agreement are implemented, the NRCS State Conservationist and CRS shall consult with such party to resolve the objection. If the State Conservationist determines that such objection cannot be resolved, he or she will:

1. Forward all documentation relevant to the dispute, including the State Conservationist's proposed resolution, to the NRCS FPO and Senior Policy Official (SPO Deputy Chief for Science and Technology) and the ACHP. The ACHP shall provide the FPO, SPO, and State Conservationist with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, NRCS shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and any signatory or consulting parties, and provide them with a copy of this written response. NRCS will then proceed according to its final decision.

2. If the ACHP does not provide its advice regarding the dispute within the thirty (30)-day time period, NRCS may make a final decision on the dispute and proceed. Prior to reaching such a final decision, NRCS shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and consulting parties, and provide them and the ACHP with a copy of the written response.

b. The NRCS Colorado Office responsibility to carry out all other actions subject to the terms of this agreement that are not the subject of the dispute remains unchanged.

c. Any consulting party to State-based Prototype Agreement may request the ACHP provide its advisory opinion regarding the substance of any finding, determination, or decision regarding compliance with its terms.

d. At any time during the implementation of the State-based Prototype Agreement, a member of the public may submit an objection pertaining to this agreement to the NRCS State Conservationist, in writing. Upon receiving such an objection, the State Conservationist shall notify the NRCS SPO and FPO, the SHPO/Indian tribe, take the objection into account, and consult with other consulting parties as appropriate to resolve the objection. The NRCS State Conservationist shall notify the SPO, FPO, SHPO/Indian tribe(s) of the outcome of this process.

IX. Public Involvement

The NRCS State Conservationist will ensure the public is involved in the development of this State-based Prototype Agreement and participates in Section 106 review as set forth above in Section V (reference to other parties).

X. Annual reporting and monitoring.

a. Every year following the execution of this agreement, commencing December 1, 2015, until it expires or is terminated, the NRCS Colorado State Conservationist shall provide all consulting parties (including those parties who participate in the consultation but do not sign the agreement) and the FPO a summary report detailing work undertaken pursuant to its terms,

including a list of undertakings falling under Appendix A as well as undertakings that required further review; a summary of the nature and content of meetings held with SHPO/Indian tribes; and an assessment of the overall effectiveness of the State-based Prototype Agreement. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the NRCS efforts to carry out the terms of this agreement.

1. The NRCS FPO shall use the state reports to provide, through the NRCS SPO, an annual report to the ACHP.
 2. The State Conservationist shall use the State report to assess the need for annual meetings with the SHPO/Indian tribes each fiscal year.
- b. The State Conservationist will participate in an annual review with the NRCS Regional Conservationist regarding the effectiveness of the prototype agreement and submit a written (email) report following this review to the SPO (Deputy Chief for Science and Technology).
- c. The NRCS State Conservationist, SHPO, or Indian tribes may request that the ACHP participate in any annual meeting or agreement review.

XI. Compliance with applicable State law and Tribal law (when on Tribal lands).

NRCS shall comply with relevant and applicable State law, including permit requirements on State land, and with relevant and applicable tribal law, when on tribal lands.

XII. Duration of Prototype Agreement.

This State-based Prototype Agreement will be in effect for 10 years from the date of execution unless amended or terminated pursuant to Stipulation XIII below.


XIII. Amendment and termination.

- a. This State-based Prototype Agreement may be amended if agreed to in writing by all signatories. The amendment will be effective on the date a copy, signed by all of the signatories, is filed with the NRCS FPO, SPO, and the ACHP.
- b. If any signatory to this State-based Prototype Agreement, or the ACHP, determines that its provisions will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation XII. If within 30 calendar days, or other time period agreed upon by the signatories, an amendment cannot be agreed upon, any signatory or the ACHP may terminate the agreement upon written notification to the other signatories.
- c. If this State-based Prototype Agreement is terminated, or expires without being extended via the amendment process described above, and prior to continuing work on any undertaking, NRCS shall comply with 36 CFR Part 800 for all individual undertakings in Colorado State.
- d. NRCS will consider requests from other USDA agencies to become a signatory to the State-based Prototype Agreement following formal written requests and appropriate discussion with and approval by the NRCS FPO and SPO, and joint USDA Agency-NRCS State Office

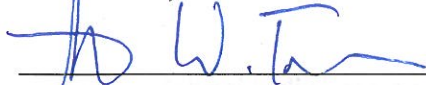
consultation with the ACHP, NCSHPO, and Indian tribe(s)/THPOs, and other consulting parties, as appropriate. Such inclusion of the USDA agency may require amendment to this State-based Prototype Agreement.

Execution of this State-based Prototype Agreement by the NRCS and SHPO/Indian tribe and implementation of its terms evidence that NRCS has taken into account the effects of its undertakings in Colorado on historic properties and afforded the ACHP a reasonable opportunity to comment.

Signatory Parties



Clint Evans, State Conservationist, Colorado Natural Resources Conservation Service



Steve Turner, Colorado State Historic Preservation Officer

11/23/15

Invited Signatories/Concurring Parties

American Indian tribe or THPO

APPENDIX A

LIST OF UNDERTAKINGS REQUIRING NO FURTHER SECTION 106 REVIEW IN COLORADO NRCS

Pursuant to Stipulation V.a. above, in consultation with the Colorado SHPO and Indian tribe(s), the NRCS, through the qualified Cultural Resource Specialist (CRS) as described in Stipulation II.b., has determined that the following undertakings have little or no potential to affect historic properties. The NRCS is not required to consult further with the SHPO and Indian tribe(s) under Section 106 for any undertaking that are listed in the comprehensive table (below as Table A) in the column headed: **Undertakings with little to no Potential to Affect Historic Properties.**

Table A is a comprehensive table of NRCS conservation practices, enhancements and conservation activities available to NRCS in Colorado. If the planned practice implementation does not meet the stated conditions, the practice will require review by a CRS. Upon review of the project, the CRS will initiate Section 106 consultation unless the undertaking meets any of the following conditions as determined by the CRS.

- When practice installation does not extend beyond the previously tilled zoned and is installed in lands that have an agricultural history of tillage.
- Flood damage repairs to roads, bridges, water control structures, or dams when the facility is not of historic significance and the rehabilitation is to the previously disturbed area.
- In-stream structures that do not involve ground disturbance activities.
- Removal of modern dumps (less than 50 years old) not associated with historic properties.
- Removal of non-historic structures or buildings less than 50 years old where there will be no ground disturbance.
- Replacement of existing structures as they pertain to farm and ranch access roads (culverts, roads, cattle guards, and water control structures) as long as construction does not exceed previous disturbance. When the replacement of these structures will exceed previous disturbance, the NRCS Cultural Resource Specialist will do archaeological review on a case by case basis and send this information and recommendation via letter to consultation partners for their review and comment on Colorado Cultural Resource Forms will be prepared if the culverts, roads, cattle guards, or water control structures are eligible on their own under one of the National Register criteria.
- In forest lands where pruning and thinning of pre-commercial sized trees is undertaken using hand loppers, chainsaws or hand saws and where the dispersal of forest debris is left lying where it falls, is chipped, or is hand stacked (not for burning). When no tracked vehicles are utilized unless over frozen ground with protective snow cover. Other vehicles (such as ATV or pickups) may be used to access or transport pruning debris as they will have minimal impacts to the surface.

- Areas outside the 65-foot buffer around practice determined as the APE are not considered.

Definition of terms used in Appendix A:

- *Conservation Practice:* A specific treatment, such as structural or vegetative measure, or management technique, commonly used to meet specific needs in planning and implementing conservation, for which standards and specifications have been developed.
- *Conservation Enhancement:* A type of conservation activity used to treat natural resources and improve conservation performance. Enhancements are directly related to a practice standard and are installed at a level of management intensity which exceeds the sustainable level for a given resource concern.
- *Conservation Activity:* A general category of NRCS undertakings not otherwise covered under conservation practices or enhancements.

Table A. NRCS Conservation Activity, Practice, and Enhancement List (as of November 19, 2015)

Code	Conservation Activity, Conservation Practice, or Conservation Enhancement	Undertaking with little to no Potential to Affect Historic Properties	Requires Cultural Resource Specialist Review (Cultural Resource Specialist will initiate consultation unless meets criteria described in Appendix A preface)	Description
NA	Conservation Activity Plans (CAP)	X		A conservation plan developed for producers to identify conservation practices to address specific resource concerns.
NA	Development or revision of Technical Documents	X		Includes conservation practice standards, specification, implementation requirements, and technical notes and tools
NA	Easement Acquisition	X		Financial assistance provided to partners to purchase easements that protect the agricultural use and conservation values of eligible land
NA	Information gathering activities	When there is no ground disturbance or when there are no known sites and activity is limited to small scale field investigations such as shovel holes, auger holes, probe holes, and/or core holes.		Includes resource inventory, monitoring, field trials and other research or information gathering.
NA	Soil Survey	When there is no ground disturbance or when there are no known sites and activity is limited to small scale field investigations such as shovel holes, auger holes, probe holes, and/or core holes.		The process of classifying soil types and other soil properties in a given area and geo- encoding such information.

Code	Conservation Activity, Conservation Practice, or Conservation Enhancement	Undertaking with little to no Potential to Affect Historic Properties	Requires Cultural Resource Specialist Review (Cultural Resource Specialist will initiate consultation unless meets criteria described in Appendix A preface)	Description
NA	Technical Assistance	When NRCS provides no financial assistance for implementation of conservation activities or otherwise exercises no control over implementation		Advice or technical assistance, including the development, review and/or approval of conservation plans or technical designs.
314	Brush Management	When practice installation involves hand operations, chemical treatment or surface mowing.		The management or removal of woody (non-herbaceous or succulent) plants including those that are invasive and noxious.
324	Deep Tillage		X	Performing tillage operations below the normal tillage depth to modify adverse physical or chemical properties of a soil.
325	High Tunnel System		X	A seasonal polyethylene covered structure with electricity, no heating, and no mechanical ventilation systems that is used to cover crops to extend the growing season in an environmentally safe manner.
326	Clearing and Snagging		X	Removal of vegetation along the bank (clearing) and/or selective removal of snags, drifts, or other obstructions (snagging) from natural or improved channels and streams
328	Conservation Crop Rotation	X		A planned sequence of crops grown on the same ground over a period of time (i.e. the rotation cycle).

Code	Conservation Activity, Conservation Practice, or Conservation Enhancement	Undertaking with little to no Potential to Affect Historic Properties	Requires Cultural Resource Specialist Review (Cultural Resource Specialist will initiate consultation unless meets criteria described in Appendix A preface)	Description
356	Dike		X	A barrier constructed of earth or manufactured materials.
362	Diversion		X	A channel constructed across the slope with a supporting ridge on the lower side.
373	Dust Control on Unpaved Roads and Surfaces	When practice installation or site preparation does not involve earth movement such as blading or machine scalping		Controlling direct particulate matter emissions produced by vehicle and machinery traffic or wind action from unpaved roads and other surfaces by applying a palliative on the surface.
378	Pond		X	A water impoundment made by constructing an embankment or by excavating a pit or dugout.
379	Multi-Story Cropping	X		Existing or planted stands of trees or shrubs that are managed as an overstory with an understory of woody and/or non-woody plants that are grown for a variety of products.
380	Windbreak/Shelterbelt Establishment	When practice installation or site preparation does not involve earth movement such as blading or machine scalping.		Windbreaks or shelterbelts are single or multiple rows of trees or shrubs in linear configurations.
382	Fence		X	A constructed barrier to animals or people.

Code	Conservation Activity, Conservation Practice, or Conservation Enhancement	Undertaking with little to no Potential to Affect Historic Properties	Requires Cultural Resource Specialist Review (Cultural Resource Specialist will initiate consultation unless meets criteria described in Appendix A preface)	Description
384	Woody Residue Treatment	When there is no piling for burning		The treatment of residual woody material that is created due to management activities or natural disturbances
391	Riparian Forest Buffer	When practice installation or site preparation does not involve earth movement such as blading, grubbing, or machine scalping.		An area predominantly trees and/or shrubs located adjacent to and up-gradient from watercourses or water bodies.
399	Fishpond Management	X		Managing impounded aquatic habitat and water quality for the production of fish.
412	Grassed Waterway		X	A shaped or graded channel that is established with suitable vegetation to convey surface water at a non-erosive velocity using a broad and shallow cross section to a stable outlet.
430	Irrigation Pipeline		X	A pipeline and appurtenances installed to convey water for storage or application, as part of an irrigation water system.
436	Irrigation Reservoir		X	An irrigation water storage structure made by constructing a dam, embankment, pit, or tank.

Code	Conservation Activity, Conservation Practice, or Conservation Enhancement	Undertaking with little to no Potential to Affect Historic Properties	Requires Cultural Resource Specialist Review (Cultural Resource Specialist will initiate consultation unless meets criteria described in Appendix A preface)	Description
441	Irrigation System, Microirrigation		X	An irrigation system for frequent application of small quantities of water on or below the soil surface: as drops, tiny streams or miniature spray through emitters or applicators placed along a water delivery line.
442	Irrigation Sprinkler		X	A distribution system that applies water by means of nozzles operated under pressure.
443	Irrigation System, Surface and Subsurface		X	A system in which all necessary earthwork, multi-outlet pipelines, and water-control structures have been installed for distribution of water by surface means, such as furrows, borders, and contour levees, or by subsurface means through water table control.
449	Irrigation Water Management	X		The process of determining and controlling the volume, frequency, and application rate of irrigation water.
450	Anionic Polyacrylamide (PAM)	X		Application of water-soluble Anionic Polyacrylamide (PAM) to meet a resource concern
464	Irrigation Land Leveling		X	Reshaping the surface of land to be irrigated, to planned lines and grades.

Code	Conservation Activity, Conservation Practice, or Conservation Enhancement	Undertaking with little to no Potential to Affect Historic Properties	Requires Cultural Resource Specialist Review (Cultural Resource Specialist will initiate consultation unless meets criteria described in Appendix A preface)	Description
484	Mulching	X		Applying plant residues or other suitable materials produced off site, to the land surface.
490	Tree/Shrub Site Preparation	When practice installation or site preparation does not involve earth movement such as blading, grubbing, or machine scalping.		Treatment of areas to improve site conditions for establishing trees and/or shrubs.
511	Forage Harvest Management	X		The timely cutting and removal of forages from the field as hay, greenchop, or silage.
516	Livestock Pipeline		X	A pipeline and appurtenances installed to convey water for livestock or wildlife.
528	Prescribed Grazing	X		Managing the harvest of vegetation with grazing and/or browsing animals.
533	Pumping Plant		X	A facility that delivers water at a designed pressure and flow rate. Includes the required pump(s), associated power unit(s), plumbing, appurtenances, and may include on-site fuel or energy source(s), and protective structures.
560	Access Road		X	An access road is an established route for equipment and vehicles
575	Animal Trails and Walkways		X	A trail is a constructed path with a vegetated or earthen surface. A walkway is a constructed path with an artificial surface. A trail/walkway is used to facilitate the movement of animals, people, or off-road vehicles.

Code	Conservation Activity, Conservation Practice, or Conservation Enhancement	Undertaking with little to no Potential to Affect Historic Properties	Requires Cultural Resource Specialist Review (Cultural Resource Specialist will initiate consultation unless meets criteria described in Appendix A preface)	Description
580	Streambank and Shoreline Protection		X	Treatment(s) used to stabilize and protect banks of streams or constructed channels, and shorelines of lakes, reservoirs, or estuaries.
582	Open Channel		X	Constructing or improving a channel either natural or artificial, in which water flows with a free surface.
585	Stripcropping	X		Growing planned rotations of row crops, forages, small grains, or fallow in a systematic arrangement of equal width strips across a field.
587	Structure for Water Control		X	A structure in a water management system that conveys water, controls the direction or rate of flow, maintains a desired water surface elevation or measures water.
590	Nutrient Management	X		Managing the amount (rate), source, placement (method of application), and timing of plant nutrients and soil amendments.
591	Amendments for the Treatment of Agricultural Waste	X		The use of chemical or biological additives to change the properties of manure, process wastewater, contaminated storm water runoff and other wastes.
592	Feed Management	X		Manipulating and controlling the quantity and quality of available nutrients, feedstuffs, or additives fed to livestock and poultry.

Code	Conservation Activity, Conservation Practice, or Conservation Enhancement	Undertaking with little to no Potential to Affect Historic Properties	Requires Cultural Resource Specialist Review (Cultural Resource Specialist will initiate consultation unless meets criteria described in Appendix A preface)	Description
595	Integrated Pest Management	X		A site-specific combination of pest prevention, pest avoidance, pest monitoring, and pest suppression strategies.

600	Terrace		X	An earth embankment, or a combination ridge and channel, constructed across the field slope.
607	Surface Drainage, Field Ditch		X	A graded ditch for collecting excess water in a field.
612	Tree/Shrub Establishment	When practice installation or site preparation does not involve earth movement such as blading, grubbing, or machine scalping.		Establishing woody plants by planting seedlings or cuttings, direct seeding, or natural regeneration.
614	Watering Facility		X	A watering facility is a means of providing drinking water to livestock or wildlife.
620	Underground Outlet		X	A conduit or system of conduits installed beneath the surface of the ground to convey surface water to a suitable outlet.
642	Water Well		X	A hole drilled, dug, driven, bored, jetted or otherwise constructed into an aquifer for water supply.

Code	Conservation Activity, Conservation Practice, or Conservation Enhancement	Undertaking with little to no Potential to Affect Historic Properties	Requires Cultural Resource Specialist Review (Cultural Resource Specialist will initiate consultation unless meets criteria described in Appendix A preface)	Description
643	Restoration and Management of Rare and Declining Habitats		X	Restoring, conserving, and managing unique or diminishing native terrestrial and aquatic ecosystems.
644	Wetland Wildlife Habitat Management	When dozers, trenchers and earth moving equipment are not used.		Retaining, developing or managing wetland habitat for wetland wildlife.
650	Windbreak/Shelterbelt Renovation	When practice installation or site preparation does not involve earth movement such as blading, grubbing, or machine scalping.		Replacing, releasing and/or removing selected trees and shrubs or rows within an existing windbreak or shelterbelt, adding rows to the windbreak or shelterbelt or removing selected tree and shrub branches.
657	Wetland Restoration		X	The return of a wetland and its functions to a close approximation of its original condition as it existed prior to disturbance on a former or degraded wetland site.
658	Wetland Creation		X	The creation of a wetland on a site location that was historically non-wetland.
660	Tree/Shrub Pruning	When slash is not piled for burning		The removal of all or parts of selected branches, leaders, or roots from trees and shrubs.
666	Forest Stand Improvement		X	The manipulation of species composition, stand structure and stocking by cutting or killing selected trees and understory vegetation.

APPENDIX B PROCEDURES FOR EMERGENCY RESPONSE

The following procedures will ensure that the need to protect life and property in an emergency is accomplished while taking historic properties into account to the maximum extent congruent with rapidly changing priorities and circumstances. These emergency situations are the following:

In an emergency regarding immediate threat to life and property, Colorado NRCS shall notify SHPO as soon as possible after the situation has been identified and accepted as an emergency. This notification should include circumstances creating the emergency, work to be undertaken, and any consideration of historic properties, as appropriate. SHPO will then respond within 3 days to Colorado NRCS after receipt of said notification. Colorado NRCS will document and avoid adverse impacts to historic properties encountered during emergency work to the fullest extent practicable. For major disasters, Colorado NRCS may elect to waive part of its cultural resources responsibilities as allowed under 36 CFR Part 800.

APPENDIX C

GLOSSARY OF ACRONYMS USED IN THIS DOCUMENT

USDA	United States Department of Agriculture
NRCS	Natural Resources Conservation Service
ACHP	Advisory Council on Historic Preservation
NHL(s)	National Historic Landmark(s)
NRHP	National Register of Historic Places
SHPO	State Historic Preservation Officer
THPO	Tribal Historic Preservation Officer
NCSHPO	National Conference of State Historic Preservation Officers
NHO	Native Hawaiian Organization
NEPA	National Environmental Policy Act
CEQ	Council on Environmental Quality
DHS	Department of Homeland Security
FEMA	Federal Emergency Management Agency
NHPA	National Historic Preservation Act
FPO	Federal Preservation Officer (Federal Preservation Officer)
SPO	Senior Policy Official (NRCS)
NHQ	National Headquarters (NHQ)
APE	Area of Potential Effect—from ACHP regulations 36 CFR Part 800
CRS	Cultural Resources Specialist (NRCS—meets Secretary of Interior’s Professional Qualification Standards, generally an archaeologist or historian)
EWP	Emergency Watershed Program (NRCS program)

APPENDIX D

CONSUTATION

**COLORADO LOCAL GOVERNMENTS WITH PRESERVATION
ORDINANCES OR ZONINGS**
(Revised June 2, 2015)

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The National Conference of State Historic Preservation Officers (NCSHPO) and its members				
Interested Indian tribes				
Native Hawaiian organizations				
Interested historic preservation organizations (such as the National Trust for Historic Preservation)				
NRCS of Colorado developed this Prototype Agreement in consultation with:				
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