

46 **WHEREAS**, the Forest Service has invited the Confederated Tribes of the Chehalis Reservation,
47 the Confederated Tribes of the Colville Reservation, the Confederated Tribes and Bands of the
48 Yakama Nation, the Confederated Tribes of the Umatilla Indian Reservation, the Cowlitz Indian
49 Tribe, the Hoh Tribe, the Jamestown S’Klallam Tribe, the Kalispel Tribe of Indians, the Lower
50 Elwha Klallam Tribe, the Lummi Nation, the Makah Tribe, the Muckleshoot Indian Tribe, the
51 Nez Perce Tribe, the Nisqually Indian Tribe, the Nooksack Indian Tribe, the Port Gamble
52 S’Klallam Tribe, the Puyallup Tribe of Indians, the Quileute Nation, the Quinault Indian Tribe,
53 the Samish Indian Nation, the Sauk-Suiattle Indian Tribe, the Shoalwater Bay Indian Tribe, the
54 Skokomish Indian Tribe, the Snoqualmie Indian Tribe, the Spokane Tribe of Indians, the
55 Suquamish Tribe, the Squaxin Island Tribe, the Stillaguamish Tribe of Indians, the Swinomish
56 Indian Tribal Community, the Tulalip Tribes, Upper Skagit Indian Tribe, the Confederated
57 Tribes of Warm Springs Reservation of Oregon, and the Confederated Tribes of Grand Ronde
58 Community of Oregon to participate in consultation on the development of this Agreement and
59 has invited them to be “Concurring Parties” in accordance with 36 CFR §800.14(f); and
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61 **WHEREAS**, the Confederated Tribes of the Colville Reservation, the Confederated Tribes of
62 Grand Ronde Community of Oregon, the Hoh Tribe, the Kalispel Tribe of Indians, the
63 Snoqualmie Indian Tribe, the Squaxin Island Tribe, and the Confederated Tribes of the Umatilla
64 Indian Reservation responded with comments, and the Confederated Tribes of the Colville
65 Reservation elected to participate as a Concurring Party to this Agreement; and
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67 **WHEREAS**, under the NHPA, the responsibilities of the WA DAHP include advising and
68 assisting Federal agencies in carrying out their historic preservation responsibilities, and
69 cooperating with Federal agencies to ensure that the effects of undertakings on historic properties
70 are taken into consideration at all levels of planning and development; and
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72 **WHEREAS**, the Forest Service has invited the Washington Trust for Historic Preservation, the
73 National Trust for Historic Preservation, the Association for Washington Archeology, the
74 Society for American Archeology, the Society for Applied Anthropology, and the Society for
75 Historic Archeology to participate in consultation on the development of this Agreement as
76 Concurring Parties, and the Society for Historic Archaeology has responded and elected not to
77 participate; and
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79 **WHEREAS**, in accordance with the regulations of 36 CFR §800.14 (b), the Forest Service has
80 notified and invited the ACHP to participate in the development of this Agreement, and the
81 ACHP has elected to participate as per their correspondence dated October 22, 2019; and
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83 **WHEREAS**, the Forest Service has consulted with the WA DAHP pursuant to the Federal
84 agencies program alternatives of 36 CFR §800.14, and the WA DAHP has chosen to participate
85 in the development of this Agreement; and
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87 **WHEREAS**, in the development of this Agreement, the Forest Service has provided the public
88 with an opportunity to comment on the general scope and nature of the Agreement via the R6
89 Pacific Northwest US Forest Service public website; and
90

91 **NOW, THEREFORE**, the Forest Service, the WA DAHP, and the ACHP agree that lands
92 managed by the Forest Service located in the State of Washington shall implement undertakings
93 in accordance with the following stipulations in order to take into account their effect on historic
94 properties.

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96 **STIPULATIONS**

97 The Forest Service shall ensure that the following measures are carried out:

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99 **I. PURPOSE**

- 100
101 A. This Agreement is intended to modify the Section 106 compliance process when
102 appropriate circumstances warrant a decrease in review mandates.
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104 B. All Forest Service undertakings located in the State of Washington shall be
105 reviewed under the process outlined in this agreement (refer to Section IV.
106 Stipulation), unless a Forest has determined to utilize the process defined in Subpart
107 B of 36 CFR §800.
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109 C. Detailed procedures for specific classes of undertakings (i.e., phased identification,
110 emergency protocol, and grazing permit protocol) and select site type recordation
111 (i.e., historic properties of religious and cultural significance) are described in the
112 appendices of this Agreement, beginning in Appendix E. These appendices describe
113 protocols that take into account the unique nature of a class of undertakings or site
114 types based on extensive agency experience.
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116 **II. PARTICIPATION**

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118 To participate under this Agreement, each of the National Forests and the National Scenic
119 Area located in the State of Washington, hereafter referred to as “Forests,” shall meet the
120 following criteria:

- 121
122 A. Each Forest shall employ a professional in the protection of historic properties (as
123 defined in 36 CFR §61), hereafter known as a “Forest Heritage Professional Leader”
124 (FHPL) assigned to the Forest Supervisor's Office (including the office of the Columbia
125 River Gorge National Scenic Area Manager). The FHPL shall meet professional
126 standards established for historic and archaeological professionals in the appropriate
127 area(s) of expertise, shall conduct all actions to the professional standards referenced in
128 36 CFR § 800.2(a)(1), and shall meet the Secretary of the Interior’s Professional
129 Qualification Standards or meet OPM X-118 standards for the professional level in the
130 GS-0193, GS-1070, or GS-0190 job series.
131
132 1. An Archaeological Technician (GS-0102) working under the direct supervision of
133 a FHP. The person must meet qualifications outlined in the Forest Service
134 Handbook (FSH) 2309.12, Section 06.2 and meet OPM standards for GS-0102
135 Social Science Aid and Technician.

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2. A professional consultant who meets the Secretary of the Interior Standards and Guidelines for Professional Qualification Standards (48 FR 44738-44739). Consultant responsibilities do not include formally approving Section 106 documents on behalf of the Forest, making official agency findings, signing consultation letters, or otherwise functioning as an agency official for the purposes of Section 106.

B. The Forest shall provide immediate notification to WA DAHP, the participating parties, and the affected tribes when a Forest does not meet the aforementioned qualifications, and shall inform those parties as to how they will meet the Section 106 obligations referenced in 36 CFR §800.9(b).

C. Within the first year following the execution of this Agreement, each Forest shall develop a formal process to ensure that the FHPL is informed of all projects, programs, permits, and activities occurring on their Forest and shall convey a plan for that process to WA DAHP and affected tribes. This plan shall be signed by the Forest Supervisor and included in the Annual Report (refer to Appendix I).

D. Each Forest shall use a Forest Inventory Plan (FIP) in conjunction with the Washington Information System for Architectural and Archaeological Records Data (WISAARD) predictive model to develop a project-specific research design or shall follow a previously approved management plan (i.e., the Management Plan for the Columbia River Gorge National Scenic Area). The tribes and interested parties shall review proposed research designs as they relate to archaeology, the built environment, and historic properties of religious and cultural significance.

1. Most FIPs, by default, address only archaeological concerns. When updating, revising, or developing a FIP, the FIP should consider the built environment and historic properties of religious and cultural significance, in addition to archaeological concerns. If the FIP does not address all three, there should be a clear acknowledgement of the FIPs limitations.

2. Within a year of the signing of this Agreement, the FHPL shall review their Forest's existing FIP in consultation with the affected tribes and WA DAHP, and shall provide an FIP update strategy to the RHPL. The RHPL shall include the FIP update strategy in the Annual Report.

3. The FIP (or WISAARD predictive model), once approved by WA DAHP, shall become the Forest's accepted inventory design for all projects and no further consultation would be required, with the following exception:

a. When project circumstances dictate, a project-specific inventory design shall be completed; in those instances, consultation with WA DAHP and the affected tribes is required.

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- E. Each Forest shall maintain and utilize a record system that is technologically compatible with WA DAHP’s current record system (WISAARD) for sharing information. The Forest Service and WA DAHP are responsible for the accuracy of their respective records systems. Data-sharing protocols shall be agreed upon in a separate Memorandum of Understanding (MOU) (Reference Stipulation XII (D)).
 - F. The RHPL shall annually monitor and evaluate the level of compliance by Forests with the terms of this Agreement. In addition, the RHPL (or a designated subject matter expert) shall participate in the evaluation of candidates for all Forest Heritage Professional (FHP) positions, and shall provide functional assistance and program reviews. Forests are encouraged to invite representative(s) of WA DAHP and/or concerned tribes to participate in the hiring process.
 - G. In cases where the RHPL determines that a FHP does not possess the necessary qualifications to perform a specialized preservation function, the RHPL shall assist the Forest in identifying available expertise from outside the immediate staff to meet the FHP criteria and shall notify WA DAHP, the affected tribes, and other concerned parties. Forests shall work with the tribes who are uniquely qualified to assist in the identification of historic properties of tribal religious and cultural significance.
 - H. Any Forest not meeting Stipulation II (A) in this Agreement must follow 36 CFR §800 Subpart B for all undertakings (case-by-case review) until such time that its program is qualified to work under this Agreement, as determined by the Forest Service, Pacific Northwest Regional Office (RO), based upon recommendations from the RHPL and agreed to by WA DAHP and ACHP.
 - I. When it can be demonstrated that a Forest does not follow 36 CFR §800, and multiple violations of this Agreement, and/or misuses of Appendix E Phased Identification have been documented (by WA DAHP and/or affected tribes), all Section 106 compliance under this Agreement will cease until the non-compliance is rectified through and approved NHPA performance plan (see Stip. II. I. 2 below). In such instances, the reinstatement process shall include:
 - 1. NHPA training for all of that Forest’s Agency Officials, Environmental Coordinators/Planners, Staff Officers who supervise FHPLs/FHPs, heritage staff, and those forest service employees who are involved in project management (project proponents).
 - 2. Development of an approved NHPA performance plan in consultation with the FHPL, Forest Agency Officials, RHPL, WA DAHP, ACHP and the affected tribes.

226 **III. CONSULTATION, COORDINATION, AND INFORMATION EXCHANGE**
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- 228 A. The Forest Service shall use the notification process embodied in 36 CFR 800 §2(d) of
229 the NHPA to comply with the provisions for public notification and participation, as well
230 as the identification, notification, and participation of tribes and other parties interested in
231 the undertaking,.

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233 The FHPL shall ensure that NHPA concerns are addressed and clearly identified within
234 the National Environmental Policy Act (NEPA) notification process through review of all
235 project consultation letters and public project postings, as well as, integrate tribal
236 consultation requirements following established protocols for Government-to-
237 Government relations as per 36 CFR 800.8(a)(1 and 2).
238

- 239 B. Consultation with WA DAHP:
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- 241 1. Each Forest will have a FHPL who, along with their staff, will serve as the
242 primary points of contact (PPOC) with WA DAHP for consultation and
243 information exchange. The Agency Official shall notify WA DAHP, Tribal
244 Historic Preservation Officers (THPOs), and the affected tribes whenever there is
245 a change of personnel or heritage program status.
246

- 247 C. Consultation with affected tribes shall follow the provisions outlined in NHPA 36 CFR
248 §800.8(a)(2) as follows:
249

- 250 1. During the earliest feasible steps of project planning, each Forest shall seek the
251 views of the affected tribes (36 CFR §800.16(m)) regarding the identification and
252 evaluation of historic properties, including those properties of religious and
253 cultural significance, and the assessment of effects of undertakings on any historic
254 property.
255
- 256 2. The Agency Official shall ensure access to decisions made pursuant to this
257 Agreement and shall consider comments or objections from affected tribes in a
258 timely manner consistent with the procedures established in this Agreement.
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- 260 3. The Agency Official shall develop consultation procedures with affected tribes
261 that are sensitive to their modes of communication, cultural values, systems of
262 interaction, and the views of their traditional cultural authorities.
263
- 264 4. For ethnographic information and information on historic properties of tribal
265 religious and cultural significance, tribal representatives are considered
266 professional experts and may be consulted for their expertise and knowledge
267 (NHPA Section 101 and 36 CFR §800.4(c)1).
268

- 269 5. The Agency Official shall integrate tribal consultation requirements following
270 established protocols for Government-to-Government relations and NEPA 36
271 CFR §800.8(a)(2).
272
- 273 6. Each Forest is encouraged to advise WA DAHP of the mode of consultation with
274 affected THPO/tribes.
275
- 276 7. Tribes are encouraged to contact the RHPL to address issues or concerns that are
277 not being addressed at the Forest level.
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279 **D. Lead Federal Agency**

280 In the event of undertakings involving multiple Federal agencies, where the Forest
281 Service has been designated the Lead Federal Agency, the following may apply:
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283 Where the Forest Service acts as the Lead Federal Agency on behalf of another Federal
284 agency or agencies pursuant to 36 CFR §800.2(a)(2), the Forest Service may use the
285 provisions of this Agreement provided that the other Federal agency or agencies agree in
286 writing. Otherwise, the Forest Service and the other Federal agencies shall utilize 36 CFR
287 §800 Subpart B in lieu of following this Agreement. The Lead Federal Agency shall
288 advise WA DAHP, the THPOs, affected tribes, and other consulting parties of the Lead
289 Federal Agency designation.
290

291 **E. Other Consulting Parties and the General Public (36 CFR §800.2(d))**

292 The Forest shall seek and consider the views of the public in a manner that reflects the
293 nature and complexity of, and effects on historic properties. These include:
294

- 295 1. Representatives of local governments, applicants for Federal assistance, permits,
296 licenses, and other approvals, and individuals and organizations with a
297 demonstrated interest in an undertaking may participate as consulting parties (36
298 CFR §800.2 (c)(3)-(5)).
299

300 **IV. UNDERTAKING REVIEW AND INVENTORY**

301 This section in this Agreement is intended to modify the Section 106 compliance process
302 when appropriate circumstances warrant a decrease in review mandates. By following the
303 guidance listed in the stipulations below, the signatories agree that certain routine forest
304 activities with no potential to cause effects or limited potential to cause effects can utilize
305 the shortened compliance process outlined under each Appendices. If the undertaking does
306 not qualify for any of the Appendices under the streamline review process, the Section 106
307 process outlined in Stip. VIII shall be followed.

308 **A. Initial Review**

- 309 1. The initial review process shall utilize existing data (including but not limited to
310 Forest and DAHP site and survey records, historical documents and maps,
311 ethnographic records, etc.) to identify known or potential historic properties in
312 the project's review area.

- 313 2. Based on the results of the initial review (Stip. IV.A.1), the FHP shall determine
314 if a activity/project is an “undertaking” pursuant to the definition provided at 36
315 CFR§ 800.16 (y)
- 316 a. Appendix A projects will have no effect to historic properties, therefore,
- 317 3. For each activity/project that meets the definition of an “undertaking,” the FHP
318 shall establish an area of potential effect (APE) to facilitate the initial review
319 process.
- 320 a. Appendices B-C undertakings and tribal consultation:
- 321 1. The FHPs may consult with each affected tribe to determine
322 which, if any (and under what conditions), of the activities
323 contained in Appendix B-C can be exempt from further tribal
324 consultation with that specific tribe.
- 325 2. The FHPs shall consult with affected tribes about the presence of
326 historic properties of religious and cultural significance or TCPs
327 (Refer to Appendix D).

328 B. Streamlined Review Categories and Protocols

329 1. Review Categories

330 The Forests have determined that **undertakings listed in Appendix A-C range from**
331 **no potential to limited potential to affect historic properties and shall be**
332 **excluded from further review and consultation with WA DAHP under the terms**
333 **of this Agreement.** The signatories to this Agreement agree that the routine forest
334 undertakings identified in Appendix A-C have either no potential to cause effect
335 (Appendix A) or limited potential to affect historic properties (Appendix B & C).
336 The FHP shall assess each undertaking to determine if it qualifies as excluded
337 pursuant to Appendix A-C or one of the other appendices. No inventory report shall
338 be required for Appendix A. A short report form shall be developed for Appendix B
339 & C. All exempted undertakings shall be listed in the Annual Report (Stipulation
340 XIV). A Forest may, at the discretion of the Heritage Professional, submit an
341 otherwise excluded undertaking for review under another section of this PA or 36
342 CFR§800.

- 343
- 344 a. Exempt from Further Review (APPENDIX A):
345 Upon completion of the Initial Review process (Stipulation IV.A) by a FHP,
346 any activity listed in Appendix A and has *no potential to effect* is exempt
347 from further WA DAHP review and consultation. Unless exempted through
348 Stip. 4. A. 5, the FHP shall consult with the affected tribes. With the
349 conclusion of consultation with the affected tribes, the Agency Official has
350 no further obligations under Section 106. Forest Heritage Professional(s)

351 shall advise the Agency Official whether the project meets the criteria for
352 Exempt from Further Review. Exempt from Further Review projects will
353 be documented in the Forest Services' Heritage Application; as well as,
354 accounted for in the Forest's Annual Report to WA DAHP and consulting
355 parties and the Section 106 clearance documentation shall be uploaded into
356 the DAHP WISAARD (Refer to Stip. XIII.D).

357
358 b. Limited Review (APPENDIX B):

359 Proposed **undertakings shall be reviewed by an FHP to determine if**
360 **they can be processed using Appendix B – Limited Potential to Effect**
361 **Historic Properties.** Any undertaking that meets the parameters
362 established in Appendix B is exempt from further WA DAHP review and
363 consultation. Unless exempted through Stip. 4. A. 5, the FHP shall consult
364 with affected tribes. With the conclusion of consultation with the affected
365 tribes, the Agency Official has no further obligations under Section 106.
366 The Limited Review undertakings shall be documented with a Section 106
367 clearance letter, a copy of that letter shall be provided to the project
368 proponent and a copy will be uploaded per the WA DAHP data-sharing
369 protocols (Refer to Stip. XIII.D). Additionally the undertaking shall be
370 documented in the Annual Report and made available to WA DAHP and
371 affected THPO/tribes.

372 c. Limited Review- Historic Structures (APPENDIX C):

373 For undertakings that qualify under Appendix C: Historic Structures
374 Treatments: All Forests have Historic Structures that require maintenance,
375 repair, and protection measures that do not affect the historic structures.
376 The activities, listed in Appendix C, are excluded from any further review
377 and consultation. The WA DAHP shall be consulted for activities not
378 included in Appendix C, which shall require case-by-case review.
379 Appendix C undertakings shall be documented in the Annual Report and
380 shall be uploaded into the DAHP WISAARD (Refer to Stip. XIII.D).

381
382 If the undertaking does not qualify for Appendix B-C or cannot apply the protocols
383 outlined in Appendices E, F, G, and H; then follow Stipulation VIII.

384
385 2. Review Protocols

386
387 Listed below are protocols for either specific classes of resources or activities, such
388 as phased identification. These protocols range in limited to potential effects to
389 historic properties and except for Appendix D & H, cannot utilize the exemptions in
390 Appendix A-C. These protocols highlight additional streamlined processes for
391 specific classes of resources or activities but involve additional processes in order to
392 meet the conditions of a specific protocol.
393

394 b. Traditional Historic Properties Identification Protocol (**APPENDIX D**):
395 The intent of this protocol is to provide guidance in the identification
396 and determination of NRHP eligibility of traditional historic properties
397 and general topics for consideration when evaluating an undertakings
398 effect on select site types.

399 c. Phased Identification Protocol (**APPENDIX E**):
400 This protocol provides the Forests with the authority to proceed with a
401 phased analysis when such situations are encountered. This protocol
402 applies to all forest activities that utilize 36 CFR§ 800.4 (b)(2), where
403 due to the large scale and complexity of the projects, effects to historic
404 properties cannot be fully assessed prior to signing individual National
405 Environmental Policy Act (NEPA) decision documents (36 CFR§
406 800.14(b)(1)(ii). The conditions in this protocol may utilize Appendices
407 A-C if the conditions are met. Utilization of this protocol requires the
408 development of a Phased Implementation and Treatment Plan and an
409 annual report for activities that do not follow streamlined review.

410 d. Heritage Resources Emergency Response Protocol (**APPENDIX F**):
411
412 The purpose of this protocol is to establish state-wide standardized guidance
413 and procedures in the event of a disaster or emergency situation on public
414 lands administered by the Forest Service. These procedures have been
415 developed to assist in compliance with the National Historic Preservation
416 Act (NHPA) of 1966 and implementing regulations of 36 CFR 800, and to
417 mitigate adverse impacts to historic properties from both the incident and
418 the agency’s response to incident.
419

420 e. Heritage Resources Grazing Permit Protocol (**APPENDIX G**):
421
422 The purpose of these procedures is to address the NHPA Section 106
423 compliance process for the renewal of grazing permits on Forest Service
424 lands. The conditions in this protocol may utilize Appendices A-C, if the
425 conditions are met. The following procedures will allow for renewal of the
426 permits while maintaining compliance with the NHPA.
427

428 f. Recordation of Prospect Pits, Trenches, and Other Finds (**APPENDIX**
429 **H**):
430 This protocol addresses the recordation of prospector pits or trenches
431 that are found in large numbers throughout the forest system managed
432 lands. The Signatories have agreed that these features, under specific
433 circumstances, are exempt from the normal mandate to record cultural
434 features and/or artifacts. This section also addresses a class of cultural
435 materials encountered on the Forests (to include prospector pits or
436 trenches) that Heritage personnel have been internally documenting as

437 “Other Finds” because they constitute insignificant cultural items that
438 qualify as neither cultural sites nor isolated finds.

439
440 C. Streamlined Review

441 The FHP shall determine the applicability of this Agreement’s compliance protocols as
442 defined in the appendices. If the undertaking **meets** the conditions within Appendix A-C,
443 the Forest shall follow the streamlined-review process. If the undertaking **does not meet**
444 the conditions in the streamlined review process; then Stip. VIII - Deviations from Stream-
445 lined Review Process shall apply. When utilizing Stip. VIII, the FHP shall follow Section
446 V-VII and will not consult on APE or inventory design.

447
448 **V. PRE-FIELD REVIEW AND SURVEY STANDARDS**

449 A. Pre-field Review

450 The FHP is responsible for determining the **preliminary APE** under Appendix A-C and
451 recommending the level of inventory required for undertakings under Appendix B-C
452 (utilizing an inventory process under Stip. II.C), based upon the result of the pre-field
453 research, using the following sources:

- 454
- 455 1. Based on the outcome of Stipulation IV.A, determine if the project may be
456 considered under Appendices A-C.
 - 457
 - 458 2. Consult the following resources:
 - 459 a. Forest’s cultural resource Heritage Application;
 - 460 b. DAHP cultural resource spatial database;
 - 461 c. Previous cultural resource reports and site forms archive;
 - 462 d. Master land status plats (homesteads);
 - 463 e. Topographic maps, aerial photographs, General Land Office (GLO) maps,
464 historic land records, and historic Forest maps;
 - 465 f. Ethnographic and historic resources;
 - 466 g. Past tribal consultation and public input.

467
468 B. Survey Standards

469 Process for utilizing previous survey, including surveys 5 years or older:

- 470
- 471 1. Previous surveys shall be evaluated by the FHP to determine whether they meet
472 current survey standards (e.g., current WA DAHP Guidelines, or approved inventory
473 plans) for the purposes of current undertakings subject to the terms of this agreement.
474 The evaluation of all previous surveys must be documented in the Cultural Resource
475 Inventory Report to demonstrate the above criteria are met. Additionally the
476 limitations of past surveys that did not fully address archaeology, built environment
477 and historic properties of religious and cultural significance to tribes shall be
478 documented in the inventory report along with what measures have been taken to
479 address those deficiencies. All previous survey must meet the following criteria:

- 480 a. were conducted by and under the direction of a qualified FHPL (as defined in
481 Stip. II.A);
482 b. were surveyed using transects spaced at 30 meters or less or other approved
483 survey methodology;
484 c. where there are no changed conditions (such as fire, flooding, etc.); and
485 d. Addresses the horizontal and vertical extent of the undertaking associated with
486 that portion of the APE.
487 e. The agency may not have the ability to inspect (monitor) all sites within
488 and/or intersecting an APE; but will focus on those areas where there is the
489 greatest risk to historic properties and update the site records as needed. These
490 areas shall be determined in consultation with WA DAHP and the affected
491 tribes.
492 f. The FHP shall review the quality of the site records to ensure they meet
493 current Forest and WA DAHP standards. If unable to relocate a site in its
494 documented location, the FHP shall take photos and GPS point of the
495 recorded location. Shovel probes may be used to determine presence/absence
496 of subsurface deposits.
497 g. Cultural resource inventories shall include historic properties of religious and
498 cultural significance to Indian tribes as determined by the affected tribe based
499 on the type of undertaking and location.

- 500
501 2. In portions of the APE that have had adequate previous survey (as set forth in Stip.
502 V.B), a sample of the high probability areas may be resurveyed if there is a changed
503 condition on the ground (i.e. wildfire, mudslide). The FHP shall provide a
504 justification for the sampling in the report. The Forest shall ensure that all new
505 cultural resource surveys meet Stip. V.B and, as appropriate, Stip. VI.

506
507 **VI. EVALUATION AND DETERMINATION OF ELIGIBILITY**

508
509 In evaluating and determining the NRHP eligibility of historic properties for all undertakings,
510 the Forest Service shall adhere to the following:

- 511 A. Forests shall ensure historic properties that may be affected and cannot be avoided or
512 protected by the application of project design criteria, are evaluated for their
513 significance (36 CFR §60.4). A similar level of effort shall be applied to the
514 identification and evaluation of archaeological sites, the built environment, and
515 historic properties of religious and cultural significance to Indian tribes. When
516 determining whether a cultural resource is eligible for the NRHP, Forests shall
517 consult with and consider the views of any affected tribes that may attach traditional
518 religious and cultural significance to the identified property; and any other
519 consulting party. Forests shall consult with and seek the concurrence of the WA
520 DAHP on NRHP eligibility findings.
521
522 B. Properties and sites that have previously been determined not eligible (with WA
523 DAHP concurrence) may be re-evaluated if there are changing perceptions of

524 significance (36 CFR§ 800.4[c][1]). All sites, with the exception of historic
525 buildings, must have a trinomial number assigned.

526
527 C. FHP may make NRHP Determinations of Eligibility (DOE) under this agreement
528 once the Forest Service ensures the personnel performing these duties meet the
529 requirements for an FHP as defined in this agreement, and/or the Secretary of
530 Interior Standards and Guidelines for Professional Qualifications. Principal
531 Investigators/Field Directors operating under an authorized Forest Service
532 Archaeological Investigations permit, who meet the Secretary of Interior’s standards
533 for professional archaeology, are also qualified to make NRHP recommendations of
534 eligibility. FHPs shall certify that all formal DOEs completed under this agreement
535 meet appropriate evaluation standards and guidelines, and are properly documented
536 with affected tribal and WA DAHP consultations.

537
538 D. All DOEs shall be submitted to the WA DAHP, THPOs, and the affected tribes for
539 consensus determinations pursuant to 36 CFR§ 800.4(c)(2). If there is any
540 unresolved disagreement between the Forest and the WA DAHP regarding a Forest’s
541 determination, the Forest shall forward the determination to the Keeper who will
542 make a final determination. Until such time as a consensus determination from the
543 WA DAHP or a final determination is made by the Keeper, the Forest shall treat the
544 property as a historic property.

545
546 E. Forests shall document all DOE findings, including all National Register criteria and
547 applicable aspects of integrity. The WA DAHP shall provide written
548 concurrence/non-concurrence of a Forest’s evaluations within 30 days of receipt of
549 adequate documentation. The WA DAHP may have an additional 30 days to reply
550 when needed, provided it notifies the Forest prior to the end of the initial 30 day
551 period.

552
553 F. When evaluating historic properties that may be eligible for the NRHP because of
554 their religious and cultural significance to Tribes, Forests shall consult with the WA
555 DAHP, affected tribes under 36 CFR §800, and, as needed, the Keeper under 36
556 CFR §63. Any unresolved disagreement resulting from such consultation shall be
557 submitted to the Keeper in accordance with 36 CFR§ 63.3.

558
559 G. Forests shall treat unevaluated cultural resources as eligible for inclusion to the
560 NRHP, in consultation with affected tribes. The FHP should be aware that in the
561 case of historic properties of religious and cultural significance to Indian tribes,
562 avoiding the footprint of the site may not be sufficient to preserve the qualities that
563 make the property eligible for the NHPA. Any decision to exclude a project from
564 case-by-case review must carefully consider the characteristics that make the site
565 eligible and how the undertaking will affect those characteristics.

566

- 567 H. The FHP shall review and approve research designs for NRHP site eligibility
568 evaluation on NFS lands after consulting with WA DAHP, THPOs, and affected
569 tribes.
570
- 571 I. Generally, cultural resources which extend beyond the boundary of the APE shall be
572 evaluated as a whole, including where the resource also extends off Forest Service-
573 managed lands if possible. Documentation, determination of eligibility, and finding
574 of effect shall consider the entire resource. In cases where the resource extends off
575 Forest Service lands including linear features, access or jurisdiction considerations
576 may not allow full investigation of the portion of the site off Forest Service lands.
577 In these cases, an effort shall be made to determine the extent and nature of the
578 portion of the site off Forest Service lands, however the determination of eligibility
579 and finding of effect may be restricted to the portion of the resource located on
580 Forest Service lands unless consultation with WA DAHP, THPOs, or affected tribes
581 indicates the need for more complete documentation and evaluation.
582
- 583 1. Finding of Effects to Historic Properties
584 a. *No Historic Properties Affected:*
585 1. When the survey inventory is completed:
586 a) And **no historic properties are present** within and/or
587 intersecting the APE, the Forest shall document a finding of
588 “No Historic Properties Affected”.
589
590 b) Or **historic properties are present** within and/or
591 intersecting the APE but effects are avoided, the Forest shall
592 document a finding of “No Historic Properties Affected”.
593
- 594 2. The undertaking may proceed following approval of the
595 Cultural Resource Inventory Report by the FHP and approval
596 of the undertaking by the Agency Official, WA DAHP,
597 THPOs, and affected tribes.
598
- 599 b. *No adverse effect:* When the Forest determines that historic
600 properties may be affected by an undertaking, it shall apply the
601 criteria of adverse effect provided at 36 CFR§ 800.5(a). If the effect
602 will not be adverse, the Forest shall provide survey documentation
603 and the “No Adverse Effect” finding to WA DAHP, the affected
604 tribes, and other consulting parties. WA DAHP shall have 30 days
605 from receipt to review the finding and respond. If the WA DAHP
606 concurs with the finding the Forest may proceed with the undertaking
607 in accordance with the proposed conditions or treatment measures.
608 The WA DAHP may have an additional 30 days to reply when
609 needed, provided it notifies the Forest prior to the end of the initial 30
610 day period. If the WA DAHP objects and the objection cannot be
611 resolved, or if the WA DAHP fails to respond and unresolved

612 objections from other consulting parties exist, the Forest shall seek
613 the views of the ACHP to resolve the objection.

614
615 c. *Adverse Effect*: If the Forest finds, in consultation with the WA
616 DAHP, THPOs, and affected tribes; that the undertaking will have an
617 “Adverse Effect” on historic properties, the Forest shall comply with
618 the ACHP’s regulations at 36 CFR § 800.5 – 800.6, which includes
619 development of a Memorandum of Agreement (MOA).
620

621 **VII. SITE MONITORING**

- 622
- 623 1. The Forest shall conduct professional monitoring of avoided historic properties to
624 ensure that implemented protection measures were effective. The FHPs shall
625 determine in consultations with the WA DAHP, THPOs, and affected tribes the
626 schedule and requirements of any historic property monitoring, and it can be
627 conducted as part of the routine Heritage Program Managed to Standard (HPMtS)
628 condition assessment of Priority Heritage Assets.
629
 - 630 2. A permanent record shall be completed for each monitoring event and kept on file
631 in the Forest Service Heritage Application, Forest Supervisor's Office, and/or at
632 the respective district office(s). Forests shall upload the monitoring report to
633 WISAARD and notify affected tribes of its availability.
634
 - 635 3. If changes are noted in the site integrity, condition, or appearance of the historic
636 property, or new information is revealed, the site record shall be updated,
637 consulting parties shall be notified, and a post-review discovery or a damage
638 assessment shall be completed.
639
 - 640 4. Site inspections by the WA DAHP, THPOs, or affected tribes may be performed
641 during or after an undertaking with advance notice and arrangement between the
642 WA DAHP, the FHPL, and the Forest.
643

644 **VIII. DEVIATIONS FROM STREAM-LINED REVIEW PROCESS** 645 **(ABBREVIATED REVIEW)**

- 646 A. The Forest shall consider from the process in 36 CFR §800 Subpart B in lieu of the
647 process in this Agreement, when Appendices A-C do not apply or one of the
648 following circumstances occurs:
649
- 650 1. There are no known or potential historic properties, but there has been
651 little or no prior adequate survey and the nature of the undertaking has
652 the potential to impact historic properties that might be present;
 - 653 2. There has been no adequate previous survey in the medium and high
654 probability areas (Refer to Stip V.B);

- 655 3. a FHP deems it necessary based on professional judgement:
- 656 4. Results from consultation with affected tribes indicate a high potential
- 657 for historic properties or other concerns of significance to an affected
- 658 tribe.
- 659 B. The FHP shall then follow the process outlined in this Agreement, by applying
- 660 Stipulations V.B - VII.
- 661
- 662 C. The FHP shall follow the WISAARD workflow while in consultation with WA
- 663 DAHP on projects utilizing the Section 106 process as outlined in the data-sharing
- 664 MOU.
- 665
- 666 1. The criteria for determining the Area of Potential Effect (APE) for
- 667 individual undertakings will be determined by the FHP. The Forest shall
- 668 consider potential direct and indirect effects to historic properties
- 669 (including historic properties of religious and cultural significance) per 36
- 670 CFR §800.5.
- 671
- 672 2. The FHP shall use an approved FIP (or WISAARD predictive model) or
- 673 when project circumstance dictate; a project specific inventory design will
- 674 be completed. In those instances, consultation with WA DAHP and the
- 675 affected tribes on the project specific inventory design is required (Stip. II
- 676 C.3).
- 677

678 **IX. UNANTICIPATED DISCOVERIES OR EFFECTS**

- 679
- 680 A. Any discovery of a historic property or unanticipated effect made by a Forest during the
- 681 implementation of any undertaking will be treated in accordance with Section 106 (36
- 682 CFR§800.13(b)). **Forests are encouraged to use their existing inadvertent discovery**
- 683 **plans (IDP) and shall comply with any other agreements with Indian tribes related**
- 684 **to this matter.**
- 685
- 686 B. In the event human remains, funerary objects, sacred objects, and objects of cultural
- 687 patrimony are inadvertently discovered during project implementation, all activities shall
- 688 cease and the Forest shall comply with the provisions of the Native American Graves
- 689 Protection and Repatriation Act of 1990 (NAGPRA) as outlined in 43 CFR 10. The steps
- 690 for this process are outlined in each Forest's Inadvertent Discovery Plan. Forests are
- 691 encouraged to engage with affected tribes on identifying locations for reinternment of
- 692 human remains.
- 693
- 694 C. If the undertaking has not been completed at the time the unanticipated discovery or
- 695 effect is discovered, all activities in the vicinity of the potential historic property shall
- 696 cease and reasonable efforts shall be taken to avoid or minimize harm to the property
- 697 until the following consultations are completed:
- 698

- 699 1. The Forest shall consult with WA DAHP, THPOs, and affected tribes to agree on a
700 mutually acceptable course of action regarding the historic property. Consultation
701 shall begin within 48 hours of discovery.
702
- 703 2. If agreement cannot be reached with the WA DAHP, THPOs, and affected tribes
704 within 10 days, the Forest shall consult with the ACHP. The Forest shall provide the
705 ACHP with summary documentation on the issues and feasible steps that might be
706 taken, and request the comments of the ACHP before making a decision on whether,
707 or how, to proceed with the undertaking. The ACHP shall have ten (10) calendar
708 days following receipt of the documentation to provide the Forest with comments,
709 which the Forest shall take into account when reaching its decision.
710
- 711 3. The Forest shall notify the ACHP, WA DAHP, THPOs, the affected tribes, and any
712 interested parties of its decision within ten (10) calendar days.
713
- 714 D. If the undertaking has already been concluded when an unanticipated discovery or effect
715 to a historic property has been discovered, the Forest shall consult with the ACHP, the
716 WA DAHP, and affected tribes, to agree on a mutually acceptable course of action,
717 which the Forest shall implement within a specified time period. This consultation shall
718 not exceed thirty (30) calendar days. If agreement on a course of action cannot be reached
719 within this time frame, the Forest shall take any comments received into account. The
720 Forest shall notify and submit appropriate documentation of its decision within ten (10)
721 calendar days to the ACHP, WA DAHP, THPOs, affected tribes, and any interested
722 parties.
723
- 724 1. Within six (6) months, the Forest shall provide the WA DAHP, ACHP, THPOs, and
725 affected tribes, if appropriate, with a report describing the effects of the historic
726 properties and the proposed method(s) for resolving the adverse effects. This report
727 must include information regarding: the type of property affected; the property's
728 NRHP status; the nature of the effects; the date effects identified; the location of the
729 property (e.g., name of Ranger District); the condition of the property; and other
730 pertinent information.
731

732 **X. EXISTING AGREEMENTS**
733

- 734 A. This Agreement incorporates processes and methods utilized in other executed
735 agreements and signed management plans for the treatment of specific classes of historic
736 properties among the Forest Service, ACHP, and WA DAHP. The application of these
737 agreements ranges from Forest-specific to Region-wide in scope. Each agreement will
738 continue to be implemented if deemed applicable by all parties. The Forest Service shall
739 conduct an Applicability Review of these existing agreements.
740
- 741 B. The Applicability Review detailed in X.A above shall be accomplished a year of final
742 signature and coordinated by the Regional Office and the respective Forest.
743

- 744 C. These existing legacy agreements include the following:
745
746 1. Programmatic Agreement among the National Forests of Washington State the
747 Washington State Historic Preservation Office and the Advisory Council on Historic
748 Preservation Regarding Recreation Residence, Recreation Residence Tract and
749 Organizational Camp/Club Management
750
751 2. Programmatic Memorandum of Agreement for Management of Depression-Era
752 Administrative Structures on National Forests Lands in Oregon and Washington
753

754 **XI. HERITAGE PRESERVATION PROGRAM**
755

- 756 A. The Forest Service commits to fulfill its responsibilities enumerated in Section 110
757 of NHPA. The Regional Forester shall support the development of a region-wide
758 Historic Preservation Program (HPP) within five years of the execution of this
759 Agreement.
760
761 B. The HPP accomplishes Section 110 activities of the NHPA through
762 implementation of the Heritage Program Managed to Standard (HPMtS), which
763 includes performance measures that reflect FSM 2360 direction to preserve
764 America’s heritage through “responsible stewardship activities that recognize,
765 preserve, protect, enhance, and use cultural resources for the greatest public
766 benefit” (FSM 2360.2). This program direction is tiered to the earlier National
767 Heritage Strategy (USDA 2000) and directs each Forest to accomplish projects
768 annually that contribute to the following categories:
769
770 1. Build components of a HPP that includes all the elements listed in FSH
771 2309.12 Chapter 21.1) – Heritage Program Planning.
772 a. A synthesis of known historic properties, traditionally known as a
773 Cultural Resource Overview.
774 b. A synthesis of projected historic properties numbers, types, and
775 locations based on predictive modeling, site identification strategies,
776 and known cultural resources.
777 c. Goals and objectives for managing historic properties with projected
778 annual accomplishments through preservation, research, education,
779 interpretation, and tourism.
780 d. Annual monitoring targets to assess site conditions and to measure
781 success of treatment or mitigation measures.
782 e. Protocols for responding to unanticipated discovery of historic
783 properties or human remains, as required by section 36 CFR§ 800.13–
784 Protection of Historic Properties and the Native American Graves
785 Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001 et seq.).
786 f. Protocols for responding to damage to or theft of historic properties.
787 g. Direction for the protection of historic properties vulnerable to
788 catastrophic fires or other natural or human-caused damage or

- 789 emergencies (36 CFR§ 800.12). Refer to Appendix F – Heritage
790 Resources Emergency Response Protocol.
- 791 h. A collections management plan.
- 792 i. Schedules and protocols for information management in Heritage
793 corporate databases.
- 794
- 795 2. Conduct Field Survey of Forest Service lands (in addition to section 106
796 undertaking surveys) where cultural resources are most likely to occur in
797 accordance with NHPA section 110, ARPA, and EO 11593. (FSM 2363.03 –
798 Policy, FSM 2363.1 – Identification).
- 799 a. Utilize Geographic Information Systems and current database
800 technologies to track and analyze site locations and develop models to
801 guide future inventories and evaluations.
- 802
- 803 3. Prepare NRHP evaluations and or nominations of legacy sites: Legacy
804 historic properties are evaluated for eligibility for listing in the National
805 Register, previous evaluations shall be revisited every 15 years.
- 806
- 807 4. Conduct condition assessments on Forest Service designated Priority Heritage
808 Assets (including heritage assemblages) on an interval of not greater than 5
809 years. (FSM 2362.4 – Historic Property Plans, FSM 2363.3 – Allocation of
810 Cultural Resources to Management Categories, FSM 2364.3 – Long Term
811 Protection, FSM 2366 – Management of Heritage Collections).
- 812
- 813 5. Legacy site records and reports for archaeology and the built environment
shall be provided to SHPO as per Stip. XIII.
- 814
- 815 6. Site records shall be updated and provided to the SHPO when new
816 information becomes available. Forests are encouraged to revisit sites and
817 update records at least every 10 years or as conditions change. Monitor sites
818 or resurvey in conjunction with proposed undertakings.
- 819
- 820 7. Accomplish historic properties stewardship activities to protect and maintain
821 Priority Heritage Assets. (FSM 2364.36 – Direct Protection Measures, FSM
822 2364.42 – Conservation and Maintenance of Cultural Resources).
- 823
- 824 8. Offer opportunities for study and/or public use including scientific
825 investigation, public dissemination of research results, adaptive reuse of
826 historic properties, traditional use, interpretation, or other public outreach
827 through Windows on the Past projects. (FSM 2364.43 – Study and Use of
828 Historic Properties, FSM 2365.2 – Windows on the Past, Passport in Time,
829 HistoriCorps projects)).
- 830
- 831 9. Engage volunteers to contribute to activities that enhance cultural resource
stewardship and conservation to expand the capacity, visibility, and delivery

832 of the Heritage Program. (FSM 2365.1 – Criteria for Heritage Public
833 Education and Outreach, FSM 2365.2 – Windows on the Past).

834
835 **XII. TRAINING**

- 836
837 A. In accordance with Forest Service Manual 2360.46, the Forest Service is required to
838 “implement cultural resource awareness training for agency employees and provide
839 technical direction to Forest Service Heritage Program personnel.”
840
- 841 1. The RHPL shall ensure annually that Heritage Program staff are provided with
842 opportunities to receive appropriate training in order to remain apprised of new
843 historic preservation legislation, heritage resource management concepts and tools
844 (especially regarding identification and evaluation of historical properties of religious
845 and cultural significance to Indian tribes), and archaeological methods.
846
 - 847 2. Heritage Program staff shall attend local professional archaeological meetings such as
848 the Northwest Anthropological Conference (NWAC) at least once every 3 years,
849 maintain currency in ACHP web-based training, and ACHP Tribal and Forest Service
850 government-to-government training.
851
 - 852 3. Heritage program staff shall attend WA DAHP Tribal Summit every other year at a
853 minimum.
854
 - 855 4. Heritage program staff shall attend professional meetings and continuing education
856 courses every other year.
857
 - 858 5. Heritage Program staff receive and maintain currency in DAHP WISAARD training
859 and access to the Web Based Tutorials.
860
 - 861 6. The RHPL and FHPL shall ensure that the Forest Leadership Teams (FLT) and other
862 project planning staff maintain an up-to-date working knowledge of the requirements
863 of the NHPA, 36 CFR§800, and other pertinent heritage legislation and policy and
864 Tribal Government to Government knowledge and policy.
865

866 **XIII. DATA SHARING, INFORMATION MANAGEMENT AND CONFIDENTIAL**
867 **INFORMATION (FOIA)**

- 868
869 A. Any information furnished to the Forest Service under this instrument is subject to the
870 Freedom of Information Act (FOIA) (5 U.S.C. 552); except that information as specified
871 by Exemption 3 (5 USC 552b) of FOIA, Archaeological Resource Protection Act of 1979
872 (16 USC 740hh), as amended, and NHPA.
873
- 874 B. Internally, Forests shall protect all sensitive, confidential, or proprietary information
875 about the location and character of historic properties pursuant to site confidentiality
876 provisions afforded under the ARPA (43 CFR 7.18), the NHPA (36 CFR§ 296.18), and

877 FSM 2361.4. Each Forest, to the extent practicable, and at the discretion of the Agency
878 Official, shall limit internal Forest staff access to the cultural resource site database and
879 heritage program files.
880

881 C. Where the tribes or interested parties specifically request that information about TCP,
882 ancestral use areas, and/or sacred sites remain confidential, such records shall be
883 maintained in confidential files at the Ranger District or Forest's Supervisor's Office.
884 Access to such records shall be restricted to the FHP(s) and the Agency Official(s). The
885 Forest shall consult with tribes on what sensitive information may be released on a case-
886 by-case basis. If sensitive information is identified during the course of tribal
887 consultation the Forest will, to the extent practicable and feasible, protect information
888 from release under the FOIA pursuant to Section 3056 of the Cultural and Heritage
889 Cooperation Authority (25 USC 32A Section 3056). Forests shall be consistent in the
890 Agreement with Tribes and other parties with regard to data-sharing and intellectual
891 property rights.
892

893 D. WA DAHP WISAARD Data-sharing Protocol
894

895 1. The Forest Service and WA DAHP shall develop a MOU for electronic data-
896 sharing within three months of the execution of this agreement.
897

898 2. This agreement supersedes all existing data-sharing agreements with Washington
899 forests including the Columbia River Gorge National Scenic Area and the
900 Umatilla National Forest.
901

902 3. FHP shall provide email notification to the affected THPOs/tribes once
903 documents are uploaded to WISAARD.
904

905 **XIV. ANNUAL REPORTING AND MEETING** 906

907 A. An annual report for the Washington Forests shall be compiled by the RHPL. The Annual
908 Report will include the Heritage Program Managed to Standard (HPMtS) Annual Report
909 for Region 6 and a summary of projects conducted under Appendices A, B, and C and
910 shall be submitted to WA DAHP by RHPL. The FHPLs shall distribute the Annual
911 Report to their respective tribes. The report shall provide information for each Federal
912 fiscal year and shall be due to the WA DAHP on or before January 31st of the following
913 calendar year (Refer to Appendix I).
914

915 B. The RHPL and representatives from the Forests shall meet annually with WA DAHP and
916 interested tribes. The ACHP is invited to review and discuss the annual report and any
917 issues of interest or concern to any of the parties.
918

919 C. If an annual report for any Washington Forest is not provided to the WA DAHP, THPOs,
920 and affected Tribe(s) within 10 day of the due date, the Stipulation XVII SUSPENSION
921 FOR CAUSE shall be initiated immediately.

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XV. DURATION

This Agreement becomes effective upon the date of signature. This Agreement shall remain in force for a period of five (5) years from the date of its execution, unless terminated or amended prior to the date of expiration. A review shall be undertaken in year 4, with the process developed and agreed to with the Forest, RO and consulted Tribes. At the conclusion of each five-year term, this Agreement shall automatically be renewed for another five-year term, unless changes are requested by the authorized signatory officials.

XVI. DISPUTE RESOLUTION

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

- A. Forward all documentation relevant to the dispute, including the Forest's proposed resolution, to the ACHP. The ACHP shall provide the Forest with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Forest shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and signatories, and provide them with a copy of this written response. The Forest shall then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the Forest may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Forest shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories to the Agreement, and provide them and the ACHP with a copy of such written response.
- C. If consulting tribes have a dispute with the Agreement, they are encouraged to address their concerns first with the RHPL, WA DAHP, and/or ACHP. The affected THPOs/tribes can also follow the dispute processes outlined in 36 CFR§ 800.
- D. The Forest's responsibility to carry out all other actions subject to the terms of this Agreement that are not the subject of the dispute remain unchanged.

XVII. SUSPENSION FOR CAUSE

Upon determination by any party to this Agreement of a documented pattern of failure to comply with this Agreement, the party may request in writing to the Forest Service Regional Office (RO) that a Forest be excluded from the terms of this agreement. Upon receipt of such a request, the Forest Service shall consult with the parties to seek

967 agreement or other actions that would avoid suspension. If a mutually acceptable solution
968 to avoid suspension is not reached within 60 days of the objecting party's request to the
969 RO, the suspension shall take effect. Suspension from this Agreement requires the
970 pertinent Forest to comply with 36 CFR§ 800.3-7 with regard to all undertakings that
971 would otherwise be streamlined under this Agreement. Suspension of a Forest from the
972 terms of this Agreement may be lifted with unanimous consent of the Forest Service, WA
973 DAHP, and the ACHP.

974 **XVIII. AMENDMENTS**

976 All proposed amendments shall be sent to all consulting parties for 30 days review. If
977 appropriate, the signatories shall meet to discuss comments with consulting parties.
978 Comments on the proposed amendments shall be taken into account by the signatories.
979 This Agreement may be amended when such an amendment is agreed to in writing by all
980 signatories. The amendment will be effective on the date a copy signed by all signatories
981 is filed with the ACHP.
982

983 **XIX. TERMINATION**

984 Any party to this Agreement may terminate it by providing 60 days written notice to the
985 other parties, provided that the parties shall consult during the period prior to termination
986 to seek agreement on amendments or other actions that would avoid termination.
987 Termination of this Agreement or failure to abide by its terms shall require the Forest to
988 comply with 36 CFR§ 800 with respect to undertakings that otherwise would be reviewed
989 under this Agreement.
990

991 In the event of termination of this Agreement, the Forest shall comply with the provisions
992 of 36 C.F.R. Part 800 Subpart B for all Undertakings or portions of Undertakings that
993 have not already begun. The Forest shall notify the Signatories and Concurring Parties to
994 this Agreement of the course of action it will pursue.
995

996 **XVII. IMPLEMENTATION OF THIS PA**

- 997
- 1000 A. This Agreement will become effective on the date filed with the ACHP. The Forest
1001 Service shall ensure that each party is provided with a complete copy and that the final
1002 Agreement, updates to any appendices, and any amendments are filed with ACHP.
1003
- 1004 B. Nothing in this Agreement shall obligate the Forest to expend appropriations or to enter
1005 into any contract or other obligation. Specific work projects or activities that involve the
1006 transfer of funds, services or property between the parties to this Agreement will require
1007 the execution of separate agreements or contracts, contingent upon the availability of
1008 funds as appropriated by Congress. Each subsequent agreement or arrangement involving
1009 the transfer of funds, services, or property between the parties to this Agreement must
1010 comply with all applicable statutes and regulations, including those statutes and

1011 regulations applicable to procurement activities, and must be independently authorized by
1012 appropriate statutory authority.

1013
1014 C. Execution of this Agreement by the Forest Service, WA DAHP, and the ACHP and
1015 implementation of its terms are evidence that the Forest Service has taken into account
1016 the effects of its undertakings on historic properties and has afforded the ACHP
1017 opportunity to comment pursuant to Section 106 of the NHPA.

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PROGRAMMATIC AGREEMENT

AMONG

**THE UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE, PACIFIC
NORTHWEST REGION (REGION 6); THE ADVISORY COUNCIL ON HISTORIC PRESERVATION;
AND THE WASHINGTON DEPARTMENT OF ARCHEOLOGY AND HISTORIC PRESERVATION**

REGARDING

**CULTURAL RESOURCE MANAGEMENT OF THE NATIONAL HISTORIC PRESERVATION ACT
FOR UNDERTAKINGS ON NATIONAL FOREST SYSTEM LANDS IN THE STATE OF WASHINGTON**

SIGNATORIES:

U.S. FOREST SERVICE – REGION SIX

By: GLENN CASAMASSA Digitally signed by GLENN CASAMASSA
Date: 2020.08.10 11:52:56 -07'00' Date: _____
GLENN P. CASAMASSA – Regional Forester

PROGRAMMATIC AGREEMENT

AMONG

**THE UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE, PACIFIC
NORTHWEST REGION (REGION 6); THE ADVISORY COUNCIL ON HISTORIC PRESERVATION;
AND THE WASHINGTON DEPARTMENT OF ARCHEOLOGY AND HISTORIC PRESERVATION
REGARDING**

**CULTURAL RESOURCE MANAGEMENT OF THE NATIONAL HISTORIC PRESERVATION ACT
FOR UNDERTAKINGS ON NATIONAL FOREST SYSTEM LANDS IN THE STATE OF WASHINGTON**

SIGNATORIES:

WASHINGTON STATE DEPARTMENT OF ARCHEOLOGY & HISTORIC
PRESERVATION



By: _____
ALLYSON BROOKS, Ph.D – State Historic Preservation Officer

August 11, 2020
Date: _____

PROGRAMMATIC AGREEMENT

AMONG

**THE UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE, PACIFIC
NORTHWEST REGION (REGION 6); THE ADVISORY COUNCIL ON HISTORIC PRESERVATION;
AND THE WASHINGTON DEPARTMENT OF ARCHEOLOGY AND HISTORIC PRESERVATION**

REGARDING

**CULTURAL RESOURCE MANAGEMENT OF THE NATIONAL HISTORIC PRESERVATION ACT
FOR UNDERTAKINGS ON NATIONAL FOREST SYSTEM LANDS IN THE STATE OF WASHINGTON**

SIGNATORIES:

ADVISORY COUNCIL OF HISTORIC PRESERVATION



By: _____
AIMEE JORJANI - Chairman

8/13/2020
Date: _____

1087 **APPENDIX A**
1088 **EXEMPT FROM FURTHER REVIEW PROJECTS**
1089

1090 The following are activities that *will have no potential to cause effects* (36 CFR§ 800.3 a (1))
1091 and are excluded from further WA DAHP review and consultation under the terms of this
1092 Agreement. The FHP shall determine if a project meets the conditions of one or more of the
1093 following actions that have no potential to affect historic properties. Appendix A projects shall
1094 be included in the Forest Annual Review, documented in the Heritage Application and retained
1095 in the Forest’s cultural resource files. Documentation shall follow established WA DAHP
1096 WISAARD data-sharing protocols. To utilize this appendix, a project must meet the following
1097 criteria:

- 1098
- 1099 • Previous adequate negative survey (Stip V. B).
- 1100 • Does not create new ground disturbance or change accessibility (tribal access) or use.
- 1101

1102 The presence of an activity on this list does not automatically exclude a given project from
1103 consultation. If this effort is sufficient to have identified all types of historic properties within
1104 the APE and to understand the characteristics of those properties that make them eligible for
1105 inclusion in the National Register, then Appendix A may be applied if the project has no
1106 potential to affect those properties. **If the FHP determines that a project has the potential**
1107 **to affect historic properties, the project shall not be considered excluded and shall be**
1108 **subject to the provisions of this Agreement.**

1109 The FHP should be aware that in the case of properties of religious and cultural significance
1110 to Indian tribes, avoiding or limiting visual and auditory impacts to a property may be
1111 necessary to preserve the qualities that make the property eligible for the National Register of
1112 Historic Places (Refer to Appendix D). Any decision to exclude a project from case-by-case
1113 review must carefully consider the potential for visual effects, assuming any historic
1114 properties are present.

1115

1116

1117 **NOTE:**

- 1118 ▪ **Projects requiring protection measures or other conditions for the protection and**
1119 **preservation of historic properties are not considered Exempt from Review**
1120 **Projects.**

1121

1122 The following types of Forest Service activities are examples of projects with NO POTENTIAL
1123 to Affect Historic Properties:

1124

1125 **I. SAFETY HAZARDS AND LAW ENFORCEMENT ACTIVITIES**

- 1126 A. Removal of illicit narcotics equipment from federal land during law enforcement
1127 operations (excluding the removal of buildings or structures that are 50 years of age or
1128 older or will become 50 years of age within five years). Removal cannot involve
1129 bulldozing or other types of massive disturbance.
- 1130 B. Research activities involving no construction or destructive actions (i.e. demolition,
1131 dismantling) or ground disturbance.

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II. NON-DISTURBING ADMINISTRATIVE ACTIONS

- A. Replacing or adding new lines (power or telephone) to existing pole(s) when there is no change in pole configuration and where no new road construction is authorized.
- B. Designation of Resources Natural Areas (RNAs). RNAs are permanently protected and maintained in natural conditions for the purposes of conserving biological diversity, conducting non-manipulative research and monitoring, and fostering education.
- C. Mineral Withdrawals remove specific areas of public lands from the application of the General Mining Law of 1872 and they prevent the filing of new mining claims and largely halt new mining exploration, drilling, and mine development.

III. RANGE MANAGEMENT ACTIVITIES

- A. Non-renewal of an existing grazing permit that has expired and returns the allotment to the agency. (Refer to Appendix G for further clarification).

IV. LANDS AND RECREATION SPECIAL USE PERMITS

- A. Land acquisitions, easement acquisitions, or transfers of administrative control to the Forests.
- B. Conversion of an existing authorization from one federal authority to another federal authority (e.g., a road permit under the authority of the Federal Land Policy and Management Act to an easement under the authority of the Federal Highway Act) where no new surface disturbance is authorized.
- C. Special-use permits which would transfer user, or add another user and related electronic equipment to an existing approved communication facility or structure, not requiring the expansion of the facilities permit area.
- D. Maintenance to an existing electronic communication site that involves no ground disturbance or impacts to known historic properties; does not add to nor change the configuration of the existing facility; and has documented previous Section 106 clearance.

V. WILDLIFE AND AQUATIC ENHANCEMENTS

- A. Creation of snags, exclusive of tree tipping or root wadding.

VI. ROAD MAINTENANCE, TRAIL MAINTENANCE, AND TRAVEL MANAGEMENT

- A. Driving stakes, rebar, survey markers, angle iron, or similar markers within the existing road prism.
- B. Use of existing material source sites where no expansion of the source will occur.
- C. Routine maintenance, snow removal, and resurfacing when confined to an existing vertical and horizontal disturbed area, such as roads, parking lot, airstrip, or heliport, etc.
- D. Stockpiling of road maintenance related materials on existing roads, turnouts, or other disturbed areas.
- E. Recurrent brushing (hand, machine, chipping) activities to control vegetation within the existing clearing limits of roads, trails, parking lots, in power line corridors, airstrips, or heliports.

1177

1178 **VII. SOIL AND WATER**

- 1179 A. Inventory and data collection including land use and land cover, cadastral surveys,
1180 geophysical surveys, and approval of permits for such activities, as long as no ground
1181 disturbing activities are involved. This may result in the formal classification of Federal
1182 Lands as to their mineral character, waterpower, water storage values, plant association,
1183 ecological potential, and forage condition.

1184 **APPENDIX B**
1185 **LIMITED REVIEW UNDERTAKINGS**
1186

1187 Undertakings listed in this appendix have **limited potential to affect** historic properties and are
1188 excluded from further WA DAHP review and consultation under the terms of this Agreement.
1189 **The FHP shall make the determination as to whether the undertaking meets the conditions**
1190 **to utilize this appendix.** To utilize this appendix, an undertaking must meet the following
1191 criteria:

- 1192 • Completion of adequate previous survey or new negative survey (Stip V. B)
- 1193 • If relying upon previous documented survey, the project does not create new ground
1194 disturbance
- 1195 • Located outside of a historic property (to include archaeological, built environment, and
1196 historic properties of religious or cultural significance).
- 1197 • The Forest has consulted with affected tribes per Stip. IV.A.4.
- 1198 • If the undertaking does not qualify for review under Appendix B, follow process outlined
1199 in Stip. VIII.

1200
1201 As detailed in Stipulation IV.A, in order to determine if Appendix B applies to an
1202 undertaking, the FHP shall:

- 1203 1. Establish an APE for each undertaking,
- 1204 2. Review existing data to identify known or potential historic properties, and
- 1205 3. Consult with affected tribes about the presence of historic properties of
1206 religious and cultural significance or TCPs.
 - 1207 a. If this effort is sufficient to have identified all types of historic
1208 properties within the APE and to understand the characteristics of
1209 those properties that make them eligible for inclusion in the National
1210 Register, then Appendix B may be applied if the undertaking has no or
1211 limited potential to affect those properties.
 - 1212 b. If no previous documentation on the presence of historic properties of
1213 religious and cultural significance to Indian tribes, the FHP shall
1214 engage affected tribes about the presence of those property types.

1215
1216 **NOTE:**

- 1217 • Projects requiring protection measures (i.e. design criteria) or other conditions for the
1218 protection and preservation of historic properties are not considered Limited Review
1219 Undertakings.
- 1220 • **Special Use Permit Authorization/Re-authorizations**, must have completion of
1221 adequate survey.
- 1222 • **Developed Recreation Sites** must be evaluated for eligibility to the NRHP prior to the
1223 use of these exemptions.

1224
1225 The FHP should be aware that in the case of properties of religious and cultural significance
1226 to Indian tribes, avoiding or limiting visual and auditory impacts to a property may be
1227 necessary to preserve the qualities that make the property eligible for the National Register of
1228 Historic Places (Refer to Appendix D), keeping in mind the following:

- 1229 • Any decision to exclude a project from case-by-case review must carefully consider
1230 the potential for all effects, including visual effects, assuming any historic properties
1231 are present.
- 1232 • Undertakings should consider impacts to access of traditional areas of importance and
1233 the protection of traditional cultural materials throughout national forests.
- 1234 • All undertakings should consider the safety of tribal members (i.e. invasive plant
1235 eradication in traditional gathering areas).

1236
1237 The FHP shall assign a project number and document the decision on a Project Review Form
1238 indicating that the undertaking will be reviewed under the Appendix B guidelines. The
1239 document shall include a description of the undertaking and will be retained in each Forest's
1240 cultural resource files, entered into the Heritage Application and included in the annual report.
1241 Documentation shall be uploaded per the WA DAHP data-sharing protocols (Refer to Stip.
1242 XII.D).

1243
1244 An activity listed under one disciplinary heading in Appendix B does not mean the same
1245 activity cannot qualify as an excluded action when undertaken by a different discipline for a
1246 different purpose. For example, the erection of buck-and-pole fence is listed under Road
1247 Maintenance in Appendix B, Section IX.P.1, yet under the stipulations of this appendix it is
1248 fully acceptable for other disciplines to prescribe the construction of buck-and-pole fence for
1249 purposes other than road maintenance.

1250
1251 In certain circumstances, even though an action may meet the criteria; the FHP may, based on
1252 other justifying factors, recommend any of the following: field inventory, field inspection, and/or
1253 monitoring.

1254
1255 **Limited Review Undertakings include:**

1256
1257 **I. GENERAL**

1258
1259 A. Activities located on steep slopes greater than 25% where no known cultural resources
1260 are present with no potential for sites such as rock art, rock shelters, quarry sites,
1261 gathering sites, legendary sites, or historic mining sites, and where appropriate
1262 historical documentation have been consulted upon.

1263
1264 B. Maintenance or replacement in-kind and in-place of modern constructed features
1265 less than 50 years of age that involves no ground disturbance (e.g., maintenance or
1266 replacement of cattle guards, gates, fences, stock tanks, guardrails, barriers, traffic
1267 control devices, light fixtures, curbs, sidewalks, etc.).

1268
1269 **II. SAFETY HAZARDS AND LAW ENFORCEMENT ACTIVITIES**

1270
1271 A. Installation of law enforcement detection devices such as trail cameras within cultural
1272 resource sites, but not affixed to historic structures, for ARPA investigations and/or
1273 to prevent site vandalism.

- 1274
1275 B. Removal of hazardous materials or surfaces such as asbestos and lead paint, and
1276 replacing them with nontoxic materials that resemble the historic surfaces as closely
1277 as possible. This applies only to the removal of the toxic material itself, not the area
1278 being worked on; e.g., one may not replace an entire window to complete lead paint
1279 abatement.
1280
1281 C. Filling, barricading, or screening of abandoned mine shafts, drifts, adits, and stopes
1282 where such features are either not historic (< 50 years of age), have been determined
1283 not eligible for the National Register, or have been determined to be non-
1284 contributing components to an otherwise National Register eligible/listed site.
1285 Closure methods are limited to reversible actions such as bat gate (except cupola
1286 type), rebar shaft grate, gates, lugs, fencing, or polyurethane foam (PUF) shaft-plug
1287 methods where installation avoids portal structural features as much as practicable.
1288
1289 D. Routine removal of trash and abandoned property (i.e. vehicles, mining equipment,
1290 logging equipment) that is less than 50 years of age and does not qualify as a historic
1291 property nor will there be ground disturbance.
1292

1293 **III. NON-DISTURBING ADMINISTRATIVE ACTIONS**
1294

- 1295 A. Area or road closures implemented for emergency purposes.
1296

1297 **IV. RANGE MANAGEMENT ACTIVITIES**
1298

- 1299 A. Installation of temporary electric fences less than 25 feet in length where small-
1300 diameter posts such as T-posts or rebar can be driven into the ground without
1301 digging post holes.
1302
1303 B. Maintenance or replacement of existing fence lines, fence posts, gates, or corner
1304 posts. All fence posts or corner posts that need to be replaced will be relocated within
1305 the existing fence corridor which is defined as a linear polygon that follows the
1306 existing fence-line and is no wider than 24” (12” either side of the existing posts
1307 being replaced).
1308
1309 C. Maintenance of stock ponds—within the existing footprint—to include the removal
1310 of silt/sediment from the water catchment area. This exclusion is limited to sediment
1311 accumulations and excludes disturbance to built dam grades. The project proposal
1312 shall include a statement designating a specific location where the removed sediment
1313 shall be deposited and the Heritage Professional shall consider the potential effects of
1314 that associated action in their review.
1315
1316 D. The deposition of organic-rich sediments removed during stock pond maintenance
1317 over the face of an earthen dam or to the margins of the dam.
1318

- 1319 E. Embankment repair of existing stock dams where the following stipulations apply:
1320
1321 1. For all practices, ground disturbance must be confined to areas previously
1322 disturbed by the construction of the existing embankment.
1323 2. Borrow material for embankment repairs is limited to previously disturbed side
1324 slopes and pool area.
1325 3. Dam embankment repair is not an activity that is excluded from consultation if
1326 the objective is to elevate the dam grade with the intent of raising of the water
1327 level in the dam – an undertaking that may also necessitate the raising of the
1328 primary spillway pipe or cutting of a new emergency spillway.
1329
- 1330 F. Pipe installation or replacement of a primary spillway pipe in an existing dam
1331 embankment – provided the existing materials are less than 50 years of age or have
1332 been previously determined not eligible for the NRHP. Disturbance must be confined
1333 to the area associated with the original construction of the existing embankment.
1334
- 1335 G. Repair of an existing emergency spillway that includes filling eroded areas, filling
1336 gullies, and flattening or other modification of a previously excavated, non-natural
1337 spillway. All disturbance must be confined to the area associated with the original
1338 construction of the existing spillway. The project proposal shall include a statement
1339 designating a specific location where the fill will be obtained (i.e., borrow pit) and the
1340 Heritage Professional shall consider the potential effects of that associated action in
1341 their review.
1342
- 1343 H. In stock pond designs, there may be have been berms and/or embankments built to
1344 increase water storage capacity. These are guidelines as to the restrictions on enlargement
1345 of an existing stock pond. Repair of the side slopes and top of the embankment of stock
1346 ponds to restore the original grade (frequently 3:1 front and back slopes), the
1347 recommended amount of freeboard (typically 3.5 feet), and the original top of the
1348 embankment (typically 12-foot wide). This exemption also permits the construction of a
1349 wave or splash berm and the repair or construction of wing dikes—provided all new
1350 construction is limited to areas of the dam that have previously been disturbed by dam
1351 construction or maintenance and will not affect historic properties. Examples of
1352 embankment slope and top repair include repair of wave erosion, repair of erosion caused
1353 by livestock, repair of animal burrows, tree removal, repair embankment settlement,
1354 repair embankment sliding, and debris removal (such as automobile bodies, tires, metal,
1355 rocks, wood, etc.). Disturbance must be confined to the area associated with the original
1356 construction of the existing embankment and the source of necessary fill or material must
1357 be considered in making a determination under Appendix B.
1358
- 1359 I. Placement of water tanks in existing, dried-out dugouts/stock ponds.
1360
- 1361 J. Installation of above-ground water pipelines where no ground disturbance occurs.
1362
- 1363 K. Routine mowing or haying of grasslands when such work will not affect historic

1364 properties including traditional gathering areas.

1365

1366 L. Re-seeding a grassland area with native grasses for prairie restoration purposes using
1367 hand-broadcast or low impact seeding methods (no tilling or drilling).

1368

1369 **V. LANDS AND RECREATION SPECIAL USE PERMITS**

1370

1371 A. Special Land Use designations which do not authorize surface disturbing projects (i. e.
1372 wilderness study areas and environmental education areas).

1373 B. Placement of geophysical seismic monitoring equipment on the surfaced portion or
1374 within the prism (area clearly associated with road construction, from road surface
1375 to top of cut and/or toe of fill) of a regularly maintained road.

1376

1377 C. Conducting or approving permits for non-archaeological data collection and
1378 monitoring activities which involve no more than one square meter of *cumulative*
1379 surface disturbance and are located outside of historic properties. Such activities
1380 could include forage trend monitoring, stream gauges, weather gauges, research
1381 sensors, photo plots, traffic counters, animal traps, or similar devices.

1382

1383 D. Renewing existing linear permits (roads, pipelines, utility lines, underground cables,
1384 etc.), when no new surface disturbance is authorized. Does not include modifications
1385 to any existing structures or facilities. If the original permit did not include
1386 consideration to all types of historic properties, consulting parties may have concerns
1387 about the original and (with the renewed permit) ongoing effects to historic properties.

1388

1389 E. Authorizing new utility lines to be added to existing overhead transmission lines
1390 when there is no change in pole configuration and no new surface disturbance. To
1391 qualify, however, the Heritage Professional shall analyze potential effects due to the
1392 mechanical equipment that will be used as well as proposed staging areas and access
1393 routes.

1394

1395 F. Utility pole replacement or installation by utility companies within previously
1396 disturbed locations. The project proposal shall include a statement describing
1397 associated vehicular access routes and staging areas, and the FHP shall consider the
1398 potential effects of all associated actions in their review, including that it is unlikely
1399 that pole replacement will not involve some new ground disturbance.

1400

1401 G. Standard maintenance of utility line corridors within previously disturbed locations.
1402 The project proposal shall include a statement describing associated vehicular access
1403 routes, staging areas, and any proposed vegetation management activities (i.e.,
1404 clearing of vegetation under utility lines). The FHP shall consider the potential effects
1405 of all associated actions in their review.

1406

1407 H. Renewing existing site permits (e.g., communication sites, recreation residences,
1408 camps, businesses) when no new surface disturbance is authorized. Does not include

1409 modifications to any existing structures or facilities. If the original permit did not
1410 include consideration to all types of historic properties, consulting parties may have
1411 concerns about the original and (with the renewed permit) ongoing effects to historic
1412 properties.
1413

1414 I. Issuance of permits, (including road-use permits), easements, rights of way, or
1415 leases that do not have the potential to affect access to, or use of, resources utilized
1416 by American Indians. Road maintenance and resurfacing under the permit can be
1417 authorized only where work is confined to previously maintained surfaces, ditches,
1418 culverts, and cut-and-fill slopes provided there are no known unevaluated cultural
1419 resources or historic properties that would be affected because maintenance
1420 activities would be limited to disturbed contexts.
1421

1422 J. Issuing permits for new equipment at an existing communication site with an
1423 approved communication site plan where the new use does not entail any new
1424 ground disturbance or additional height to towers.
1425

1426 K. Issuance of permits for recreational activities which are spatially limited to
1427 National Forest System roads and trails listed on the Forest's annual Motor Vehicle
1428 Use Map (a publicly available map referred to by the acronym "MVUM").
1429

1430 L. Issuance of recreation permits for streams in addition to trails and roads listed on
1431 the Forests MVUM. The Heritage Professional shall also consider in their review
1432 the potential effects of associated spectator areas, staging areas, or pit/support
1433 areas, including portable toilets and refreshment areas.
1434

1435 M. Issuance of road-use permits for commercial hauling or permits for off-highway
1436 vehicle events over authorized roads or trails as indicated on the Forests' annually-
1437 updated Motor Vehicle Use Map with restrictions on widening and vegetation
1438 management practices (i.e. brushing roadsides) The FHP shall also consider in their
1439 review the potential effects of associated spectator areas, staging areas, or pit/support
1440 areas, including portable toilets and refreshment areas.
1441

1442 N. Issuance of permits for winter activities that occur on or near historic properties where
1443 historic properties are subsurface and are protected by an adequate surface covering of
1444 snow deep enough to ensure protection of the resource, as determined by the agency
1445 officer in consultation with the Heritage Professional, taking into consideration the
1446 types of historic properties in the area, the types of activities to occur, their duration,
1447 and temperature. Activities of this nature include snow machining, cross country
1448 skiing, trail grooming, fat-tire bicycling, and snowshoeing.
1449

1450 O. Permitted activities that involve no ground disturbance and are not located within a
1451 historic property (i.e. commercial filming, university research projects, apiary placement
1452 and weather station placement).
1453

1454 P. Maintenance to an existing hydroelectric or water storage facility and associated
1455 infrastructure where the proposed modifications are restricted to non-historic elements or
1456 have prior Section 106 analysis, do not change the use of the facility, and do not involve
1457 new ground disturbance.

1458

1459 **VI. WILDLIFE ENHANCEMENTS**

1460

1461 A. Staging areas associated with wildlife activities.

1462

1463 B. Wildlife habitat improvements involving no adverse impact to culturally significant
1464 aquatic resources. Examples include:

- 1465 1. Maintenance of wildlife water developments/guzzlers, such as fence/gate
1466 repair or water collector apron repair/replacement.
- 1467 2. Removal of small ponderosa pine from meadows using hand/power tools.
- 1468 3. Fence or gate maintenance that constitute riparian/spring exclosures.
- 1469 4. Administrative Closures, such as the Cave Closure Order, that restrict human
1470 entry in caves.
- 1471 5. Capping of vertical pipes or the placement of vent covers on vault toilet vent
1472 pipes.
- 1473 6. Placement of escape ramps in watering tanks for small mammals to get out.

1474

1475 C. Wildlife and aquatic structure maintenance/management (raptor nest platforms, duck
1476 boxes, bird boxes, bat boxes, etc.).

1477

1478 D. Installation or deployment of small instruments such as seismometer, hydrometers, etc.
1479 with no ground disturbance.

1480

1481 E. Installation of bat gates in mine openings under the following conditions:

1482

- 1483 1. When the resource has been determined not eligible for the National
1484 Register – or the specific component containing the opening has been
1485 determined non- contributing to an otherwise National Register eligible
1486 site.
- 1487 2. When the resource has been determined eligible for the National Register,
1488 the installation is permitted if closure methods are limited to reversible
1489 actions such as bat gate (except cupola type), rebar shaft grate, gates, lugs,
1490 fencing, or polyurethane foam (PUF) shaft plug methods.

1491

1492 **VII. FISHERIES AND AQUATICS ENHANCEMENTS**

1493

1494 A. Instream structure placement that does not involve ground disturbance activities.

1495

1496 B. Installation of stream monitoring equipment that includes ground disturbance provided
1497 that disturbance is limited to areas within the active streambed.

1498

- 1499 C. Installation of stream monitoring devices within the stream channel that will not disturb
1500 adjacent stream terraces and/or intact over-bank soil deposits.
1501
- 1502 D. Fishery habitat improvements confined to the active stream channel that will not disturb
1503 adjacent stream terraces and/or intact over-bank soil deposits.
1504
- 1505 E. Removal of log jams and debris jams from streams or drainages using hand labor or small
1506 mechanical devices where motorized vehicle use is limited to authorized roads.
1507
- 1508 F. Activities aimed at controlling or eradicating aquatic, non-fish invasive species such as
1509 plants, invertebrates, and pathogens. The Forest shall ensure that affected tribes are aware
1510 of the application of any substances and timing of potential contamination of traditionally
1511 gathered resources.
1512

1513 **VIII. DEVELOPED RECREATION SITES**

- 1514
- 1515 A. Placement or replacement of visitor information kiosks, bulletin boards or information
1516 signs, portable sanitation devices, or visitor registers where the proposed location of
1517 the facility has been previously disturbed and is not located within a known historic
1518 property. If the original placement did not include consideration of all types of historic
1519 properties, consulting parties may have concerns about the ongoing effects to historic
1520 properties.
1521
- 1522 B. Routine maintenance such as repair of signage, hand removal of fallen trees, hand
1523 brushing of trail corridors, mowing, and facilities repair requiring no new ground
1524 disturbance (e.g. in-kind fire ring and picnic table replacement, water bar cleanout,
1525 water spigot replacement, etc.).
1526
- 1527 C. Construction of water bars and check dams along non-motorized trails where
1528 project activities shall occur within the existing trail corridor and limited to hand
1529 tools.
1530
- 1531 D. Replacement of pit or vault toilets within the same disturbed foot print, provided
1532 that the toilet to be replaced is not older than 50 years old. If the original placement
1533 did not include consideration of all types of historic properties, affected tribes may
1534 have concerns about the ongoing effects to historic properties.
1535
- 1536 E. Felling of hazardous trees within developed and dispersed recreation areas, adjacent
1537 to recreation residences, or in other areas frequented for recreation purposes, for
1538 health and safety reasons. Individual trees are to be felled and removed by hand or
1539 left in place.
1540
- 1541 F. Alteration of structures that have been evaluated and determined to be not eligible to the
1542 NRHP that do not involve ground disturbance
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**IX. ROAD MAINTENANCE, TRAIL MAINTENANCE, AND TRAVEL
MANAGEMENT**

- A. Off-Highway Vehicle (OHV) trail designations which utilize existing roadways and trail ways
- B. The administrative action of reducing the maintenance level of a road (rated as 1 through 5) and therefore the designated maintenance activities, provided it doesn't involve any ground disturbing activities to do so.
- C. The administrative action of changing the use designation of a trail from motorized to non-motorized use.
- D. Felling and removal of hazard and wind throw trees from road prisms and trails where deemed necessary for health, safety, or administrative reasons (e.g., blocked access), provided trees are felled into and removed from within the existing road or trail prisms (area clearly associated with road construction from road surface to top of cut and/or toe), and provided ground disturbance is not allowed off previously disturbed areas associated with road or trail prisms.
- E. Installation or replacement of signposts and monuments such as National Forest boundary monuments situated next to highways or formally designated roads and trails when either (1) no new ground disturbance is involved, (2) the collective total ground disturbance involves no more than one square meter of cumulative surface disturbance, and (3) is not eligible to the NHRP and (4) is not located near or within the vicinity of a historic property.
- F. Work within the disturbed perimeter of existing material borrow pits.
- G. Routine trail maintenance limited to brushing and maintenance of existing tread with hand tools in areas where adequate survey has been completed.
- H. Maintenance or replacement of non-historic culverts (less than 50 years) including placement of rip-rap at inlet and outlets of existing culverts where there are no unevaluated cultural resources or historic properties and where the feature itself is not a historic property.
- I. Installation of roadside safety features such as guardrails adjacent to existing forest roads in previously disturbed areas (vertically and horizontally) where the road and its features are not historic properties.
- J. Reconstruction or repair of snow fences where no new ground disturbance is involved.
- K. Designation of snowmobile routes.

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- L. Actions taken for temporary or permanent road closures that do not involve ground disturbance on authorized or unauthorized roads and trails. Examples include:
 1. Placing buck and pole fence enclosures to block access.
 2. Placement of boulders or felled trees to block access.
 3. Placement of Carsonite posts/markers.
 4. Placement of slash and/or brush to block access.

X. SOIL AND WATER

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

XI. FUELS AND VEGETATION MANAGEMENT TREATMENTS

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

- 1634 Motorized vehicle activities occur outside of known historic property boundaries
1635 and/or buffer zones as appropriate. This activity excludes the use of large tracked
1636 vehicles.
1637
- 1638 E. Insecticide spraying on individual trees and on small stands of trees. Employees
1639 walk from developed roads to the infected trees and apply the chemical by hand.
1640 No trees are removed under this activity. The Forest shall ensure that affected tribes
1641 are aware of the application of insecticides and potential contamination of
1642 traditionally gathered resources.
1643
- 1644 F. Semiochemical treatments where pheromones distasteful to beetles are placed in
1645 the trees to discourage beetles from accessing specific stands of trees.
1646
- 1647 G. Trap-tree activities where green saw-timber size (9" or greater) trees are felled to
1648 serve as "trap trees" within areas where beetle populations have increased past
1649 endemic levels. Roughly one year later the trees are either debarked to kill the beetles
1650 that have hatched or piled by hand and burned in designated, previously disturbed
1651 burn areas. No heavy machinery is used.
1652
- 1653 H. Lethal trap tree activities, where trees are felled using a chainsaw, then chemical
1654 pesticide is applied along the entire length of the tree. No trees are removed and
1655 no heavy machinery is used.
1656
- 1657 I. Aggregate (also called trap-out) beetle activities, where funnel traps with attractive
1658 pheromones are hand-placed in trees. Traps are placed by hand and removed by
1659 hand. Occasionally a metal fence post will be driven into the ground to support the
1660 trap.
1661
- 1662 J. Mowing to create fire lines/breaks, taking into consideration impacts to traditionally
1663 gathered resources.
1664
- 1665 K. Aspen enhancement projects where non-commercial ponderosa pine will be cut from
1666 the understories of existing aspen stands using chainsaws to reduce ladder fuels,
1667 break up the continuity of fuels, and to improve the health and resiliency of existing
1668 aspen stands. Slash is either hand piled for chipping or bucked up by hand, loaded
1669 onto rubber-tired vehicles and hauled away. Motorized vehicle activities occur
1670 outside of known historic properties boundary and/or buffer zones as appropriate.
1671
- 1672 L. Boundary treatments where dead standing trees, down trees, and slash within 300 ft.
1673 of the National Forest/private-land boundary are cleared with chainsaws, understory
1674 ladder fuels are removed, and lower branches on retained trees pruned to create a fuel
1675 break that would both increase the controllability of a potential wildfire from burning
1676 onto private land and/or from private land onto the Forest. Slash is either hand piled
1677 for chipping or bucked up by hand, loaded onto rubber-tired vehicles and hauled
1678 away. This excludes the use of large tracked vehicles.

- 1679
1680 M. Creation of hand lines for prescribed burns where chainsaws and hand tools are used,
1681 and where duff and vegetation are cleared to mineral soil.
1682
- 1683 N. Tree planting by hand or with hand tools where **both** of the following criteria are met:
1684 1. The project area has received previous adequate survey that has addressed traditional
1685 gathering areas and traditionally gathered resources.
1686 2. No seedlings are planted within the boundaries of eligible or potentially eligible
1687 (unevaluated) cultural sites. Should tree planting within site boundaries be
1688 planned or preferred, the Forest shall consult as per stipulations in the main body
1689 of this Agreement and the undertaking will no longer qualify as excluded.
1690
- 1691 O. Non-disturbing broadcast seeding and mulching for establishment of native
1692 vegetation.
1693
- 1694 P. Removal of non-native, invasive plant species using hand tools.
1695
- 1696 Q. Post-sale chipping operations utilizing existing landings or in place skid trails in
1697 areas previously surveyed for historic properties.
1698
- 1699 R. Weed Treatments using non-motorized application or motorized when ground is dry
1700 or frozen. The Forest shall ensure that affected tribes are aware of the application of
1701 herbicides and potential contamination of traditionally gathered resources.
1702
- 1703 S. Re-seeding during vegetation restoration projects that includes broadcast native
1704 seeding or drilling to depths of 0.5 inches. Project must consider impacts to
1705 traditional gathering areas and archaeological sites.
1706
- 1707 T. Harvest of special forest products (e.g., teepee poles, willow stems, pine boughs, and
1708 medicinal plants) when all collection can be accomplished using hand tools and
1709 without driving vehicles where not permitted on the Forests' Motor Vehicle Use
1710 Map. The majority of these requests originate with tribal members for the intent of
1711 using them for traditional practices.
1712
- 1713 U. Post-harvest chipping operations in existing landings or skid trails.
1714
- 1715 V. Non-mechanized pre-commercial thinning, post and pole harvesting, hazard tree removal,
1716 and non-commercial firewood cutting. Non-mechanized refers to the absence of
1717 conventional logging equipment, but could involve the use of a small rubber tired
1718 personal vehicle to access the project area and tree cutting.
1719
- 1720 W. Commercial-use permits for firewood, and manual acquisition of special forest
1721 products (e.g., mushrooms, pine cones, Christmas trees).
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**XII. BURNED AREA EMERGENCY RESPONSE (BAER)
RESTORATION AND REHABILITATION (POST-BAER)**

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

XII. MINERALS

- A. Approval of previously approved Mining Plans of Operations that would add another user, or the sale or transfer of an approved operation to other individuals that would not change the terms of the Plan of Operations or affect historic properties.

**APPENDIX C
HISTORIC STRUCTURE TREATMENTS**

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All Forests have Historic Structures that require maintenance, repair, and protection measures which will not affect a historic structure. These activities, listed below, **will be exempt from further WA DAHP review and consultation** and shall be reported in the Annual Report. Those historic structure activities that will affect a structure’s character (i.e., adversely affect period of significance fabric, materials, workmanship or design) require review and consultation with the WA DAHP. Forest heritage staff shall be trained in *The Secretary of the Interior's Standards for Rehabilitation, and Guidelines for Rehabilitating Historic Buildings* and historic structure integrity. The Forest has consulted with affected tribes on the applicability of Appendices B and C, as per Stip. IV.A.4.

All activities performed under Appendix C shall be assigned a project number and be documented in Forest Heritage Program reports and approved by the FHPL. The activities will follow the preservation requirements and/or protection measures stipulated on the project report.

Forests shall emphasize the repair of existing elements, rather than in-kind replacement in order to preserve historic fabric where prudent and feasible (i.e. where economical; or where materials and skills are available. When applying these protection measures, the Heritage Program shall verify that the proposed work conforms to recommendations set forth in *Secretary of the Interior's Standards for the Treatment of Historic Properties* with the *Guidelines for Preserving, Rehabilitating, Restoration and Reconstructing Historic Buildings*.

When applying these protection measures, the Heritage Program shall verify that the proposed work conforms to recommendations set forth in *The Secretary of the Interior's Standards for Rehabilitation, and Guidelines for Rehabilitating Historic Buildings*. If the undertaking does not qualify for the criteria under Appendix C, follow process outlined in Stip. VIII.

1. Structural Elements:

- a. Repair or replacement of siding ,trim, or hardware, when done in kind to match historic material, design and color, which does not affect overall integrity of the building or site.
- b. Repair of window frames or shutters by patching, splicing, consolidating or otherwise reinforcing or replacing in kind those parts that are either extensively deteriorated or are missing which does not affect overall integrity of the building or site.
- c. Replacement of window frames to match original material and design. The same original configuration of panes shall be retained which does not affect overall integrity of the building or site.
- d. Replacement of glass, when done in kind to match the original form and design. Windowpanes may be double, or triple glazed as long as the glazing is clear, and replacement does not alter original window form which does not affect overall integrity of the building or site.

- 1814 e. Maintenance of features, such as frames, hoodmolds, paneled or
 1815 decorated jambs and moldings, through appropriate surface
 1816 treatments such as cleaning, rust removal, limited paint removal,
 1817 and reapplication of protective coating systems using historic color
 1818 and texture which does not affect overall integrity of the building
 1819 or site.
- 1820 f. Repair or replacement of doors, when done in kind to match
 1821 historic material and form which does not affect overall integrity of
 1822 the building or site.
- 1823 e. Repair or replacement of roofs or parts of roofs that are
 1824 deteriorated, when done in-kind or where matching historic
 1825 material and design which does not affect the overall integrity of
 1826 the building or site. In areas of high fire danger, fire retardant
 1827 roofing is allowed. If fire retardant materials are used, the materials
 1828 must match the original roofing color and be compatible with
 1829 design and character of the building. Adequate anchoring for
 1830 roofing material to guard against wind damage and moisture
 1831 penetration shall be provided.
- 1832 f. Lookout catwalks, and in-kind exterior painting when there is no
 1833 change in color or form, for unevaluated, assumed eligible historic
 1834 structures and does not affect overall integrity of the building or
 1835 site.
- 1836 g. Repair or in-kind replacement of exterior lighting which does not
 1837 affect overall integrity of the building or site.

1838 2. Surfaces:

- 1839 a. Painting interior or exterior surfaces, when the new paint matches
 1840 the existing or historic color. If the existing paint color is not
 1841 desirable and the historic color is not known, the color should be in
 1842 keeping with historic color schemes for nearby or similar
 1843 structures. Damaged or deteriorated paint may be removed to the
 1844 next sound layer by hand-scraping or hand-sanding. Use of
 1845 abrasive methods, such as sandblasting, is not covered by this
 1846 treatment.
- 1847 b. In-kind replacement of caulking and weather stripping around
 1848 windows, doors, walls and roofing which does not affect overall
 1849 integrity of the building or site.
- 1850 c. Removal of hazardous materials or surfaces such as asbestos and
 1851 lead paint and replacing them with nontoxic materials that
 1852 resemble the historic surfaces as closely as possible which does not
 1853 affect the overall integrity of the building or site.
- 1854 d. Replacement of modern appliances and fixtures (e.g. ranges,
 1855 refrigerators, and bathroom fixtures). When associated cabinetry is
 1856 intact, and the interior, in general, retains its historic appearance,
 1857 the cabinetry will be retained.
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3. Utility Systems:

- a. Installation of mechanical equipment that does not affect the visual and physical integrity/exterior fabric of the building or site.
- b. In-kind replacement, removal, or upgrading of electrical wiring which does not affect the overall integrity of the building or site.
- c. Replacement of and enlarging liquid propane gas systems, if tanks are screened with landscaping materials which does not affect the overall integrity of the building or site.
- d. Replacement of communications equipment, when the same size, shape, and configuration are retained, excluding large antenna and communications dishes which does not affect the overall visual and physical integrity of the building or site.
- f. Replacement of lightning rod wiring with new copper wire which does not affect the overall integrity of the building or site.

4. Surrounding Features:

- a. Replacement of signs in-kind.
- b. Ongoing maintenance of immediately surrounding landscaping, including such modifications as removing hazardous vegetation, adding vegetation that blends with the historic landscape, or adding rocks to define paths, where not otherwise prohibited, so long as historic landscape characteristics are maintained.
- c. Repair or replacement of driveways, fencing, light posts, and walkways done in-kind to match existing or historic materials and design which does not affect the overall integrity of the site and was previously surveyed.
- d. Tree planting or removal in areas that have been previously disturbed by these activities, including nursery beds and arboreta, provided historic landscaping is maintained.

5. New Materials:

- a. Installation of dry insulation which does not affect the overall integrity of the building or site.
- b. Installation of fire or smoke detectors or burglar alarms which does not affect the overall integrity of the building or site.
- c. Installation of skirting over a structure's crawl space, if constructed or painted a color to match or blend with the structure with no effect to integrity of the building or site.
- d. Installation of temporary door or window covers to secure structures from vandalism during the off-season or after visitor house with no effect to the overall integrity of the building or site.

1904 **APPENDIX D**

1905 **TRADITIONAL HISTORIC PROPERTIES IDENTIFICATION PROTOCOL**

1906
1907 The intent of this protocol **is to provide guidance in the identification and determination of**
1908 **NRHP eligibility of traditional historic properties** and general topics for consideration when
1909 evaluating an undertaking's effect on sites. This document addresses only NHPA concerns. If
1910 there is an existing MOU that addresses this topic, the MOU will supersede the appendix
1911 protocol as long as the MOU is in alignment with 36 CFR§ 800.

1912
1913 Guidelines for Evaluating and Documenting Traditional Cultural Properties are set forth in
1914 National Register Bulletin #38, Parker and King (as revised 1998). Bulletin #38 guidelines are
1915 "meant to supplement, not substitute for, more specific guidelines, such as those used by...Indian
1916 tribes with respect to their own lands and programs" (Parker and King 1998:3).

1917
1918 Agency officials and FHPs shall engage tribal communities prior to the proposal of activities that
1919 have the potential to impact tribal resources and areas, involve those affected tribal communities
1920 in the identification of their own significant resources and areas of use, and clarify tribal interests
1921 in specific planning areas.

1922 When referring to historic properties of religious or cultural significance, these locations meet
1923 the National Register of Historic Places definition for a site: "a location of a significant event, a
1924 prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined,
1925 or vanished, where the location itself possesses historic, cultural, or archeological value
1926 regardless of the value of any existing structure. These sites MAY also meet the standards for
1927 sacred sites and must to conform to Executive Order 13007. "Generally speaking, however, a
1928 traditional cultural property's history of yielding, or potential to yield, information, if relevant to
1929 its significance at all, is secondary to its association with the traditional history and culture of the
1930 group that ascribes significance to it" (Parker and King 1998:14). "Traditional" in this context
1931 refers to those beliefs, customs, and practices of a **living** community of people that have been
1932 passed down through the generations, usually orally or through practice" (Parker and King
1933 1998:1)

1934
1935 **I. PROCESS**

1936 **A. IDENTIFICATION**

1937 Traditional historic properties of religious and cultural significance are sometimes
1938 difficult to identify and typically require close consultation with the affected
1939 tribes (Refer to Stip. I. B of this protocol). "It is vital to evaluate properties
1940 thought to have traditional cultural significance from the standpoint of those who
1941 may ascribe such significance to them, whatever one's own perception of them,
1942 based on one's own cultural values, may be" (Parker and King 1998:4). Forests
1943 are required to consult with THPOs and tribes on forest-based Section 106
1944 undertakings; as part of this consultation, forests must attempt to identify historic
1945 properties of religious and cultural significance with the assistance of the affected
1946 tribal communities. Only the affected community has the heritage to determine
1947 how, why, and what constitutes a significant property (Parker and King 1998:1,
1948 2). This may require the forest to complete ethnographic research and/or gather

1949 literary references with the assistance of affected tribes. In this instance, if the
1950 affected tribe has information available (ethnographic or otherwise) about the
1951 historic property, the expectation, is sufficient information will be shared with the
1952 FHP which will allow for the FHP to develop measures to interpret, manage, and
1953 protect the property (Refer to ACHP 2012 for additional guidance) (36 CFR§
1954 800.4(b)(1). **Tribal information shall be considered confidential and not to be**
1955 **shared or disclosed to other parties without express written permission from**
1956 **the affected tribe (36 CFR§ 296.18).** If ethnographic information is unavailable
1957 or has not been completed, the ‘incomplete status’ needs to be stated as such in
1958 the report, and a research strategy developed to address the limitations
1959 accordingly. The forest must demonstrate a reasonable and good faith effort
1960 (sufficient level of effort) to engage in consultation with the affected tribes (36
1961 CFR§ 800.4(b)(1).
1962

1963 Suggested workflow for engaging affected tribes in the identification of historic
1964 properties of religious and cultural significance (Ball et. al. 2015):

- 1965 1. Identify clear management objectives, this includes but is not limited to:
 - 1966 a. Determine the undertaking through the NHPA process,
 - 1967 b. Identify the affected tribes,
 - 1968 c. Engage those tribes in the non-government to government
1969 discussion
 - 1970 d. Identify historic properties
 - 1971 1. Identify character defining features of the historic property.
 - 1972 e. Identify the potential impacts to culturally important resources.
- 1973 2. FHP shall complete initial background review and data-gathering (due
1974 diligence) prior to consultation effort with the affected tribes, in order to
1975 facilitate an informed discussion.
- 1976 3. Schedule meetings with affected tribes to discuss the undertaking and
1977 potential impacts to tribal resource concerns
- 1978 4. Identify places/landscapes/values: Tribe reviews the project information,
1979 identifies the historic properties that could be affected by the proposed
1980 undertaking, determines what information will be shared with the Forest.
- 1981 5. Identify Forest and/or Tribal data gaps and how the data gaps will be
1982 reasonably addressed.
- 1983 6. Incorporate tribal input into existing management framework and/or
1984 review process.
 - 1985 a. Encourage tribal input in developing design criteria.
- 1986 7. Feedback to the affected tribe how their information has been incorporated
1987 into the review process.
- 1988 8. Monitor and review the process to ensure all parties are satisfied with the
1989 outcomes.
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B. EVALUATION

1. Historic Property Types

The property types can be viewed through a minimum of three lenses and rarely are all three thoroughly accounted for in the site identification and evaluation processes. Identification and consideration of the three Ps (People, Places, and Practices) is helpful in the furtherance this effort. Each ‘P’ should also consider: Who, What, Why, Where, When, and How. This assessment will then lend itself for incorporation into the administrative process.

Listed below are nine site types generally identified as historic properties of religious and cultural importance. It is followed by a list of those more common issues of concern when implementing an undertaking within or in the vicinity of a historic property. (These are not exhaustive lists and are expected to expand as FHPs engage their affected tribes.) The resulting information shall become part of the Eligibility documentation.

- a. Traditional Gathering Sites (include but not limited to ethnobotanicals and hunting)
- b. Traditional Cultural Landscapes - Any place in which a relationship, past or present, exists between a spatial area, resource, and an associated group of indigenous people whose cultural practices, beliefs, or identity connects them to that place. A Tribal Cultural Landscape is determined by and known to a culturally related group of indigenous people with relationships to that place.
- c. Legendary Sites
- d. Habitation Sites (include but not limited to villages and allotments) - “Properties that have traditional cultural significance have already yielded, or have the potential to yield, important information through ethnographic, archaeological, folkloric, or other studies” (Parker and King 1998). Similarly, many traditional tribal village sites are also archaeological sites, whose study can provide important information about the history or prehistory of the group that lived there.
- e. Rock Features and Alignments
- f. Rock Images (Petroglyphs, Pictographs, and Geoglyphs)
- g. Culturally Modified Trees (CMTs)
- h. Springs and Water Courses
- i. Reciprocal Site lines, view sheds, and alignments. The nature of these resources requires consideration of the point of viewing (the hinge), the focus or target of viewing (can include wide vistas), and all parts and place between.

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2. Resource Concern by Activity

This section identifies the most common resource concerns and activities to be considered when evaluating and protecting traditional historic properties. Table 1 below lists common cultural resources concerns often encountered by forest-based activities. As a reminder, the list is not exhaustive and should be considered action by action, resulting in an ever growing list/table. The concerns/activities provided are intended to spark the thought process and encourage discussions with tribal partners. All of these activities, including those not listed, must consider the direct, indirect, and cumulative effects to historic properties.

		ACTIVITY TYPES											
		Range Management Activities	Developed Recreation Sites	Road Maintenance	Trail Maintenance	Travel Management	Fuels and Vegetation Management	Minerals and Mining	Landscape Scale Projects (Watershed Restoration)	Land Special Uses (Utility Corridors)	Recreation Special Uses	Forest Land-Use Planning	Aquatics
RESOURCE CONCERNS	Destruction of plant communities	X					X	X	X	X	X		X
	Introduction of invasive species	X	X				X	X	X	X	X		
	Impacts to Native Plants and Wildlife Species	X	X				X	X	X	X	X		
	Impacts to Wildlife	X	X				X	X	X	X	X		
	Soil compaction/alteration	X	X	X	X	X	X	X	X	X	X		X
	Destruction of an inter-connected use area (cumulative effects)								X	X			
	Irreversible cattle trails	X											
	Damage to springs and water sources	X						X	X				
	Limit access for traditional practice	X	X	X	X	X	X	X	X			X	X
	Damage to archaeological sites	X	X	X	X	X		X	X		X		
	Damage to standing structures	X						X	X		X		
	Looting/collection by recreators		X								X		
	Increase the number of people		X	X	X	X					X		
	Irreversible User-created trails		X								X		
	Decrease in solitude		X	X	X	X		X	X		X		
	Cumulative Viewshed Effects							X	X	X			
	Visual Impacts							X	X	X			
	Auditory impacts		X					X	X		X		
	Address Cultural Landscape concerns	X							X	X			
	Decision-making that fails to consider full effects on tribal resources.										X	X	
Deferred maintenance resulting in poor habitat conditions			X	X	X							X	

*Culvert maintenance is typically associated with Aquatics, Road and Trail Maintenance.

Table 1: Resource Concerns by Activity Type

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3. Questions for Identifying Effects to Historic Properties

(This is not an exhaustive list and is expected to expand as FHPs engage their affected tribes.)

- a. Has there been an evaluation and/or monitoring of plant and

- 2057 animal communities through indicator species to determine
2058 conditions and effects of the undertaking on the historic
2059 property?
2060 b. Has there been a transportation analysis to determine effects
2061 of the project on accessibility to the location by tribal
2062 members?
2063 c. Are measures required to avoid or limit visual and/or auditory
2064 impacts to a property? Are the measures necessary to preserve
2065 the qualities that make the property eligible to the National
2066 Register?
2067 d. Can the project avoid incorporating the site into modern
2068 constructions (i.e. rock cairns used in fence construction)?
2069

2070 C. DOCUMENTATION

2071 1. Documenting Effects to Historic Properties

2072 It is a best practice to consult with the affected tribal community to ensure
2073 that the FHP is capturing the issues and concerns fully and adequately.
2074 Furthermore, consultation will assist the FHP in developing design criteria
2075 to minimize effects to traditional historic property site types.

- 2076 a. The FHP shall document in the cultural resource inventory report:
- 2077 1. Summary of tribal engagement;
 - 2078 2. Discussion, as appropriate to confidentiality, of the
2079 ethnographic literature review,
 - 2080 3. Document the analysis of how the character defining
2081 features are or are not affected by the project;
 - 2082 4. Consider and document effects analysis for direct, indirect,
2083 and cumulative effects on historic properties; and
 - 2084 5. Describe what, if any, design criteria was implemented to
2085 minimize effects
 - 2086 6. Create a Post-implementation Monitoring Plan as
2087 necessary.
2088

2089 D. IMPLEMENTATION

- 2090 1. Ensure that design criteria has been incorporated into the project's
2091 implementation plan.
- 2092 2. Monitor during or post-implementation as necessary.
 - 2093 a. Partner with tribal members for site monitoring if appropriate.
2094

2095 II. REFERENCES

2096 Advisory Council for Historic Preservation

- 2097 2012 "Consultation with Indian Tribes in the Section 106 Review Process: A
2098 Handbook"
2099

2100 Ball, David; Rosie Clyburn; Roberta Cordero; Briece Edwards; Valerie Grussing; Janine
2101 Ledford; Robert McConnell; Rebekah Monette; Robert Steelquist; Eirik Thorsgard; and
2102 John Townsend
2103 2015 “A Guidance Document for Characterizing Tribal Cultural Landscapes.”
2104 Bureau of Ocean Energy Management (BOEM), Pacific OCS Region.
2105 Complete report can be found at this website
2106 <http://www.boem.gov/Pacific-Completed-Studies/>
2107
2108 Parker, Patricia L. and King, Thomas F.
2109 1998 Guidelines for Evaluating and Documenting Traditional Cultural
2110 Properties are set forth in National Register Bulletin #38 as revised. U.S.
2111 Department of the Interior, National Park Service.
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2145 **APPENDIX E**
2146 **PHASED IDENTIFICATION PROTOCOL**

2147
2148 ** This protocol focuses only on NHPA compliance as per U.S. Code 54§ 306101.*
2149

2150 The Section 106 implementing regulations found at 36 CFR §800.4(b)(2) allow for phased
2151 identification and evaluation “*Where alternatives under consideration consist of corridors or*
2152 *large land areas, or where access to properties is restricted, the agency official may use a*
2153 *phased process to conduct identification and evaluation efforts. The agency official may also*
2154 *defer final identification and evaluation of historic properties if it is specifically provided for in a*
2155 *memorandum of agreement executed pursuant to § 800.6, a programmatic agreement executed*
2156 *pursuant to § 800.14 (b), or the documents used by an agency official to comply with the*
2157 *National Environmental Policy Act pursuant to §800.8.”*
2158

2159 The agency utilizes phased identification for complex, large-scale, multi-year projects where a
2160 NEPA decision is completed prior to the NHPA compliance. This protocol provides the Forests
2161 with the authority to proceed with a phased identification when such situations are encountered
2162 and serves in place of individual project programmatic agreements. This protocol applies to all
2163 forest activities that utilize 36 CFR§ 800 (b)(2), where due to the large scale and complexity of
2164 the projects, effects to historic properties cannot be fully assessed prior to signing individual
2165 National Environmental Policy (NEPA) decision documents (36 CFR 800.14(b)(1)(ii). At any
2166 time during consultation with WA DAHP, THPOs, or tribes; WA DAHP, THPOs, and/or
2167 affected tribes can dispute the use of this protocol and request the Forest develop an individual
2168 project programmatic agreement.
2169

2170 Because the projects that utilize phased identification are complex in nature and can occur over a
2171 long period of time, definitions used throughout this protocol are warranted:
2172

2173 **Undertaking-** The project that is proposed for phased identification. All proposed
2174 activities with the potential to effect historic properties analyzed under NEPA/Categorical
2175 Exclusions under NEPA has no impact on NHPA compliance) and approved by the
2176 signature of a agency official
2177

2178 **Area of Potential Effect (APE)-** the geographic area or areas within which an
2179 undertaking may directly or indirectly cause alterations in the character or use of historic
2180 properties, if any such properties exist. The area of potential effects is influenced by the
2181 scale and nature of an undertaking and may be different for different kinds of effects
2182 caused by the undertaking. For this protocol, there may be several, more defined APEs
2183 for each project phase (Phased APE) of the overall undertaking that focus on a particular
2184 area within the APE.
2185

2186 **Phased APE-** the APE for the individual activities occurring as part of the project, which
2187 focuses on a specific areas for identification, evaluation, assessment and resolution of
2188 adverse effects.
2189

2190 **Project-** An activity/or activities that could be applied to Appendix A, or meet the
2191 definition of an undertaking under NHPA.

2192
2193 **Activity-** A range of land management projects that could have the potential to effect
2194 historic properties and be considered an undertaking.

2195
2196 **1. SCOPE**

2197 A. In ongoing efforts to restore, enhance, and retain the health and resilience of Washington
2198 forests; the Forest Service is working with multiple collaborators to complete landscape
2199 scale ecosystem restoration and vegetation management projects.

2200
2201 B. It is the policy of the Forest Service to emphasize ecosystem restoration across all
2202 National Forest System Lands and within its multiple use mandate (Forest Service
2203 Manual (FSM) 2020.3). Management activities include, but are not limited to, thinning;
2204 prescribed fire; replacing culverts; road decommissioning; and manipulating or protecting
2205 terrestrial and aquatic ecosystems. These activities are often planned on a landscape
2206 scale, and are adaptive in nature, requiring that restoration activities may change or be
2207 modified as projects are implemented over a multi-year period.

2208
2209 **2. PROFESSIONAL STANDARDS AND QUALIFICATIONS**

2210 A. Employ a professional in the protection of historic properties (as defined in 36 CFR§
2211 800.61(l)(1)), hereafter known as a Forest Heritage Professional (FHP) located at the
2212 Forest Supervisor's Office (includes Columbia River Gorge National Scenic Area office).
2213 The FHP shall meet professional standards established for historic or archaeological
2214 professionals in the appropriate area(s) of expertise, conduct all actions to the
2215 professional standards referenced in 36 CFR§ 800.2(a)(1), meet the Secretary of the
2216 Interior's Professional Qualification Standards, or meet OPM X-118 standards for
2217 professional level in the GS-0193, GS-1070, OR GS-0190 job series. For ethnographic
2218 information and information on historic properties of religious and cultural significance
2219 to Indian tribes, tribal representatives are considered professional experts and may be
2220 consulted for their expertise and knowledge (NHPA Section 101 and 36 CFR§
2221 800.4(c)(1)).

2222
2223 B. An Archaeological Technician (GS-0102) working under the direct supervision of a FHP.
2224 The person must meet qualifications outlined in the Forest Service Handbook (FSH)
2225 2309.12, Section 06.2 and meet OPM standards for GS-0102 Social Science Aid and
2226 Technician.

2227
2228 C. A professional consultant who meets the Secretary of the Interior Standards and
2229 Guidelines for Professional Qualification Standards (48 FR 44738-44739). Consultant
2230 responsibilities do not include formally approving Section 106 documents on behalf of
2231 the Forest, making official agency findings, signing consultation letters, or otherwise
2232 functioning as an agency official for the purposes of Section 106.

2233

2234 **3. INTERNAL COORDINATION**

2235 A. The following actions shall be completed, prior to issuance of a NEPA decision or
2236 associated project documentation for Categorical Exclusion, under a phased analysis as
2237 part of the environmental analysis under NEPA, regardless of the level of NEPA e.g.,
2238 Environmental Impact Statement – Record of Decision, Environmental Analysis –
2239 Decision Notice, or Categorical Exclusion – Decision Memo).

2240
2241 B. The FHPL shall notify WA DAHP, THPOs, affected tribes, and other consulting parties
2242 of the intent to use a phased approach to comply with Section 106. This notification will
2243 happen early in the NEPA analysis and prior to the deciding/agency official (Regional
2244 Forester, Forest Supervisor, or District Ranger) signing a Record of Decision, Decision
2245 Notice, or Decision Memo.

2246
2247 C. The agency official shall ensure that a FHP is brought into the process for project
2248 planning and implementation design as early as possible and is a member of the
2249 Interdisciplinary Team and Implementation Team. The agency official shall ensure that a
2250 system is in place to track implementation of cultural resource protection and monitoring
2251 requirements. The agency official shall will ensure that necessary communication and
2252 coordination between the FHP and the Interdisciplinary Team continues throughout the
2253 planning and implementation of projects conducted under this Phased Section 106
2254 Protocol.

2255
2256 D. An initial cultural resource analysis is completed prior to the signing of the NEPA
2257 Decision and clearly states that the identification and protection requirements of the
2258 Phased 106 Protocol shall be completed prior to the authorization of on-the-ground work
2259 for individual projects done as part of the undertaking. The initial cultural resource
2260 analysis for NEPA purposes shall include (Follow Stip IV-VI):

- 2261 1) A brief description of the area under analysis and the defined APE.
2262 2) A brief summary of the proposed action and alternatives, including ground-
2263 disturbing proposed activities.
2264 3) The percent of the APE inventoried to current standards (addressing
2265 archaeological sites, the built environment, and properties of religious and cultural
2266 significance to Indian tribes), a brief summary of the nature and distribution of
2267 historic properties, and the results of tribal consultation.
2268 4) Identification of mitigation measures to avoid or minimize effects to historic
2269 properties.
2270 5) Recommendations for general site protection measures and monitoring. Develop
2271 project design criteria that shall be applied throughout the life of the project. The
2272 intent of project design criteria is to minimize impacts to historic properties.
2273 6) A statement that future management practices shall be contingent upon
2274 completion of the identification and protection of historic properties and
2275 compliance with applicable provisions of NHPA.
2276 7) Share the information gathered, note the limitations in this identification effort,
2277 and engage affected tribes in identifying historic properties that have not been
2278 previously identified.

- 2279 E. Agency officials shall ensure that preparation of a Categorical Exclusion (CE), an
2280 environmental assessment (EA) or an EIS and record of decision (ROD) includes citation
2281 of a Phased Implementation & Treatment Plan, which includes: procedures for
2282 identification of historic properties, assessment of effects, consultation in the
2283 development of mitigations measures leading to resolution of any adverse effects (36
2284 CFR§ 800.8(a)(3) and 36 CFR§ 800.5(a)(1)).
2285
- 2286 F. The criteria and exemptions in Appendix A shall be reviewed for applicability to portions
2287 of the proposed activity and/or are sufficient to protect historic properties;
2288
- 2289 G. The criteria and exemptions in Appendix B shall be reviewed for applicability to portions
2290 of the proposed undertaking and/or are sufficient to protect historic properties;
2291
- 2292 H. The NEPA decision document shall clearly state that initiation of work on any projects
2293 will be contingent upon application of project design criteria and cite the direction
2294 provided in the Phased Implementation & Treatment Plan, as well as, demonstrate
2295 compliance with applicable provisions of NHPA in accordance with this Phased
2296 Identification Protocol.
2297

2298 **4. TRIBAL CONSULTATION**

- 2299 A. The Section 106 review process shall be used to meet Forest responsibilities to initiate
2300 consultation with Indian tribes as outlined in 36 CFR§ 800, “Protection of Historic
2301 Properties.” The agency official shall conduct tribal consultation as early as possible in
2302 the project planning phase in accordance with the most current Washington PA,
2303 Executive Order 13175 “Consultation and Coordination with Indian Tribal
2304 Governments”, and Executive Order 13007 “Indian Sacred Sites”.
2305
- 2306 B. The agency official shall conduct tribal consultation as early as possible during project
2307 and implementation planning to determine if any cultural resources of concerns are
2308 within the area of potential effect. If specific properties are identified (during consultation
2309 or during the cultural resource inventory) that may be affected, the Forest shall consult
2310 with the affected tribes regarding evaluation, determination of effects, and protection or
2311 treatment methods.
2312
- 2313 C. The agency official shall coordinate tribal consultation under this Agreement with its
2314 consultation responsibilities under other statutes, including the Native American Graves
2315 Protection and Repatriation Act (NAGPRA) and the Archaeological Resources Protection
2316 Act (ARPA).
2317
- 2318 D. The Forest shall be sensitive to tribal concerns and rights regarding confidentiality and
2319 privacy and shall protect sensitive information to the fullest extent permitted by law,
2320 using applicable provisions and exemptions of Section 304 of NHPA, Section 9 of
2321 ARPA, Section (b) of the Freedom of Information Act, and as outlines in Stipulation 17
2322 of this Agreement.
2323

2324 **5. PUBLIC PARTICIPATION**

2325 A. The agency official shall seek and consider the views of the public in a manner that
2326 reflects the nature and complexity of the undertaking and projects with Phased APEs and
2327 its potential effects on historic properties. The agency official shall use its procedures for
2328 public involvement under the National Environmental Policy Act (NEPA) to solicit
2329 information and concerns about historic properties from members of the public. The
2330 agency official shall ensure that an appropriate level of public involvement is provided, in
2331 accordance with 36 CFR§ 800.2(d)(3).

2332
2333 B. The agency official shall ensure that public access to findings made pursuant to this
2334 Agreement is consistent with Section 304 of NHPA and Section 9 of ARPA and shall
2335 consider comments or objections by members of the public in a timely manner.
2336

2337 **6. PHASED IMPLEMENTATION & TREATMENT PLAN**

2338 In order to utilize this protocol, the development of a Phased Implementation & Treatment Plan
2339 is required to outline all Section 106 efforts related to any phase of a project, the same Phased
2340 Implementation & Treatment Plan can be used for multi-year projects, if needed. At a minimum,
2341 this plan shall include Stipulations VII- XIV below and a process for resolution of adverse
2342 effects. This plan shall be included in the NEPA administrative record
2343

2344 **7. AREA OF POTENTIAL EFFECT**

2345 Initially, the boundary of the NEPA planning area (as appropriate) for landscape scale restoration
2346 projects will constitute the area of potential effect (APE) for projects under this Protocol. Further
2347 consultation is required with WA DAHP, THPOs and tribes to finalize the Phased APEs for each
2348 stage of the project. A FHPL shall determine the level of field inventory needed for each phase
2349 of a multi-year project as per Stipulation VIII of this protocol.
2350

2351 **8. CULTURAL RESOURCE INVENTORY STRATEGIES AND DOCUMENTATION**

2352 The APE/Phased APE must be inventoried by a FHP or professional consultant, or
2353 historian/architectural historian when appropriate, who meet the qualifications in Stipulation
2354 II.A. The Forest shall document all cultural resources and cultural resource inventory reports in
2355 the Forest Service Heritage Application and WISAARD. The Forest Service and Washington
2356 DAHP are developing a process of transferring data between the Forest Service Heritage
2357 Application and the Washington State database known as WISAARD. Until such a process is
2358 developed, the Forest shall submit cultural resource data through WISAARD. All inventory
2359 reports shall be submitted electronically to the DAHP WISAARD and must meet the latest
2360 version of the WA State Standards for Cultural Resource Reporting ([https://dahp.wa.gov/project-
2361 review/washington-state-standards-for-cultural-resource-reporting](https://dahp.wa.gov/project-review/washington-state-standards-for-cultural-resource-reporting)). Cultural resource inventory
2362 reports shall be submitted to the affected tribes for 30-day comment period prior to submission to
2363 WA DAHP.
2364

2365 **9. PRE-FIELD RESEARCH**

2366 A. The Forest shall utilize relevant information to assess the project's potential to affect
2367 historic properties and the expected nature and distribution of historic properties that may
2368 be affected. Follow Stipulation V.A.1-7 of the programmatic agreement.

- 2369
2370 B. Expected nature and severity of project impacts (this should include consideration of all
2371 planned activities and entries) based on:
2372 1) Type, intensity, and extent of mechanical treatments;
2373 2) Type, intensity, and extent of prescribed burning treatments;
2374 3) Type and extent of manual treatments.
2375
2376 C. Expected nature and distribution of historic properties based on:
2377 1) The cultural resource GIS database for each;
2378 2) WA DAHP cultural resource GIS database;
2379 3) Previous cultural resource reports and site forms;
2380 4) Master land status plats (homesteads);
2381 5) Topographic maps, aerial photographs, General Land Office (GLO) Maps, historic
2382 land records, and historic maps;
2383 6) Information obtained through ethnographic and historic resources;
2384 7) Information obtained through tribal consultation and public input.
2385

2386 **10. APPLICATION OF THE APPENDICES**

- 2387 A. The following guidelines shall be used to determine if a project within the undertaking
2388 are requires a cultural resources inventory survey and the type of survey strategy under
2389 this Agreement.
2390
2391 B. A survey strategy addressing the annual program of work for each phase in a project will
2392 address the survey design, a plan for the protection of known sites and follow the
2393 guidance under Section II. B-C of this appendix in consultation with WA DAHP and
2394 tribes.
2395
2396 C. The FHPL shall determine if the project meets the criteria in Appendix A of this
2397 Agreement, as an excluded project from cultural resource survey and/or case-by-case
2398 review by the WA DAHP. As stated in Stipulation IV.A, in order to determine if
2399 Appendix A applies to a project element, the FHP shall first establish a project's review
2400 area; review existing data to identify known or potential historic properties; and consult
2401 with affected tribes about the presence of historic properties of religious and cultural
2402 significance or TCPs. If this effort is sufficient to have identified all types of historic
2403 properties within the impact area and to understand the characteristics of those properties
2404 that make them eligible for inclusion in the National Register, then Appendix A may be
2405 applied if the project element has no potential to affect those properties. If the FHP
2406 determines that a project element has the potential to affect historic properties, the project
2407 element shall not be considered excluded and shall be subject to the provisions of this
2408 Agreement. The Forest shall follow the applicable documentation requirements.
2409
2410 D. If the proposed project action/treatment/activity is determined to be an undertaking, the
2411 FHPL shall determine if the undertaking meets the criteria in Appendix B of this
2412 Agreement. As detailed in Stipulation IV.A of the main body of this agreement, in order
2413 to determine if Appendix B applies to an element of the overall undertaking, the FHP

2414 shall first establish an impact area for the project element, review existing data to identify
2415 known or potential historic properties, and consult with affected tribes about the presence
2416 of historic properties of religious and cultural significance or TCPs. If this effort is
2417 sufficient to have identified all types of historic properties within the APE/Phased APE
2418 and to understand the characteristics of those properties that make them eligible for
2419 inclusion in the National Register, then Appendix B may be applied if the project element
2420 has no or limited potential to affect those properties. The decision shall be documented.
2421

2422 E. If the proposed project action/treatment/activity is determined to be an undertaking, the
2423 FHP shall determine if the undertaking meets the criteria in Appendix C of this
2424 Agreement, as an excluded undertaking from cultural resource survey and/or case-by-
2425 case review by the WA DAHP. The decision shall be documented.
2426

2427 F. If the proposed project action/treatment/activity is determined by the FHPL to be an
2428 undertaking and does not meet the criteria as exempt or excluded under the appendices of
2429 the Agreement, the cultural resource inventory shall proceed with under Stipulation VIII
2430 – Deviations from the Stream-lined Review Process (Abbreviated Review).
2431

2432 **11. FIELD SURVEY AND MONITORING**

2433 This section specifies the process determining what level of pre-implementation survey is
2434 required and possible implementation monitoring and/or post-implementation monitoring
2435 activities for projects covered under the project decision notice. Follow Stipulations V and VI of
2436 this Agreement.
2437

2438 A. Pre-Implementation Survey

2439 1) Activities requiring pre-implementation survey - Any activity located within areas of
2440 high probability, as indicated by a FIP or WISAARD predictive model, shall require
2441 100% intensive pedestrian surface survey prior to implementation. In addition, 10%
2442 of low probability areas shall receive intensive pedestrian survey. A FHP will consult
2443 with WA DAHP and affected tribes if there is a need to change the above survey
2444 strategy. If, in consultation with THPOs and tribes, there are additional survey
2445 considerations needed for historic properties of religious and cultural significance,
2446 those considerations shall be incorporated into the survey design.
2447

2448 2) If surface artifacts are identified, limited testing may be conducted to determine the
2449 vertical and horizontal extent and integrity of cultural deposits, also considering
2450 landform boundaries. Shovel test probes shall excavated on a cross pattern, or as
2451 described in the FIP.

2452 a. In situations where dense vegetation or duff makes pedestrian survey difficult-
2453 to-impossible, the FHP may shift the focus to implementation monitoring.
2454

2455 B. Implementation Monitoring

2456 1) The implementation monitoring plan shall be developed by the FHP, in consultation
2457 with WA DAHP and affected tribes for each Phased APE and included in the Phased
2458 Implementation & Treatment Plan.

- 2459
2460 2) Implementation involving mechanical treatments shall be monitored by a FHP during
2461 ground disturbing activities.
2462
2463 3) If implementation monitoring results in the identification of a cultural resource, the
2464 Forest shall follow the Inadvertent Discovery Protocol provided in this Agreement.
2465
2466 4) Assess the efficacy of the design criteria and adjust as needed to minimize impacts to
2467 cultural resources.
2468

2469 C. Post-Implementation Monitoring

- 2470 1) The post- implementation monitoring plan shall be developed by the FHP, in
2471 consulted with WA DAHP and affected tribes for each phased APE and included in
2472 the Phased Implementation & Treatment Plan.
2473
2474 2) Implementation projects shall have post-treatment monitoring, that includes non-
2475 ground disturbing/mechanical activity. This is because project areas may become
2476 directly or indirectly affected by project treatments, potentially exposing
2477 archaeological sites that were not previously identifiable by standard archaeological
2478 survey methods.
2479
2480 3) Mechanical treatment areas shall have post-implementation monitoring occur within
2481 six months of implementation.
2482
2483 4) Herbicide, manual, and prescribed burning treatments post-implementation
2484 monitoring shall occur within a year of project completion.
2485
2486 5) Assess the efficacy of the design criteria and adjust as needed to minimize impacts to
2487 cultural resources.
2488

2489 **12. EVALUATION**

2490 In evaluating and determining the National Register of Historic Places (NRHP) eligibility of
2491 historic properties for all undertakings, the Forest would follow Stipulation VI of this
2492 Agreement.
2493

2494 **13. FINDING OF EFFECTS TO HISTORIC PROPERTIES**

2495 A. Following completion of the inventory, the FHP shall determine the effects of the project
2496 on historic properties using the following Stipulation VI.I.1 (a-c) of this Agreement.
2497

2498 B. Finding of Effects to Historic Properties *No Historic Properties Affected*:

- 2499 1) When the survey inventory is completed:
2500
2501 a. And **no historic properties are present** within and/or intersecting the Phased
2502 APE, the Forest shall document a finding of “No Historic Properties
2503 Affected”.

- 2504
- 2505 b. Or **historic properties are present** within and/or intersecting the Phased APE
- 2506 but affects are avoided, the Forest shall document a finding of “No Historic
- 2507 Properties Affected”.
- 2508
- 2509 2) The undertaking may proceed following approval of the Cultural Resource Inventory
- 2510 Report by the FHP and approval of the undertaking by the Agency Official, WA
- 2511 DAHP, and affected tribes.
- 2512
- 2513 C. *No adverse effect*: When the Forest determines that historic properties may be affected
- 2514 by an undertaking, it shall apply the criteria of adverse effect provided at 36 CFR§
- 2515 800.5(a). If the effect will not be adverse, the Forest shall provide survey documentation
- 2516 and the “No Adverse Effect” finding to WA DAHP, the affected tribes, and other
- 2517 consulting parties. WA DAHP shall have 30 days from receipt to review the finding and
- 2518 respond. If the WA DAHP concurs with the finding the Forest may proceed with the
- 2519 undertaking in accordance with the proposed conditions or treatment measures. The WA
- 2520 DAHP may have an additional 30 days to reply when needed, provided it notifies the
- 2521 Forest prior to the end of the initial 30-day period. If the WA DAHP objects and the
- 2522 objection cannot be resolved, or if the WA DAHP fails to respond and unresolved
- 2523 objections from other consulting parties exist, the Forest shall seek the views of the
- 2524 ACHP to resolve the objection.
- 2525
- 2526 D. *Adverse Effect*: If the Forest finds, in consultation with the WA DAHP and affected
- 2527 THPO(s), that the undertaking will have an “Adverse Effect” on historic properties, the
- 2528 Forest shall comply with the ACHP’s regulations at 36 CFR§ 800.5 – 800.6, which
- 2529 includes development of a Memorandum of Agreement (MOA).

2530

2531 **14. SUSPENSION FOR CAUSE**

2532 The Regional Forester shall suspend any project that does not conform to the conditions of this

2533 Phased Section 106 Protocol and shall consult as needed with the RHPL, WA DAHP, ACHP,

2534 and others if applicable, to bring the project into compliance. If the FHPL determines that the

2535 Phased Section 106 Protocol will not or cannot be carried out, they shall immediately consult

2536 with tribes and other interested parties and to attempt to resolve the lack of compliance. If

2537 concerns cannot be resolved, then the Forest must fulfill the requirements in 36 CFR§ 800.3-7

2538 regarding this undertaking.

2539

2540 **15. SUGGESTED PROTECTION MEASURES**

- 2541 A. The FHPL shall develop protection measures for each project, such as:
- 2542 1) Unevaluated historic properties shall be treated as eligible for all actions.
- 2543 2) All historic properties within and/or intersecting Phased APEs shall be clearly
- 2544 delineated by an archaeologist prior to implementing any activities that have potential
- 2545 to affect historic properties.
- 2546 3) When using mechanized equipment, prohibit any activities within a site either
- 2547 unevaluated, eligible, or listed on the NRHP.
- 2548 4) No use of vehicles or other heavy mechanized equipment within site boundaries that

- 2549 are designated for avoidance.
- 2550 5) No staging of equipment or materials within site boundaries.
- 2551 6) No staging or piling of slash and waste materials on sites
- 2552 7) No construction of fire control lines and no ignition points will occur within a site
- 2553 either unevaluated, eligible, or listed on the NRHP.
- 2554 8) Allow broadcast burning over non-combustible sites or site features provided:
- 2555 9) No staging of equipment within site boundaries.
- 2556 10) No slash piles or pile burning within site boundaries.
- 2557

2558 **16. APPROVAL**

- 2559 A. In no effect determination (to include: cases of determination of no historic properties, no
- 2560 historic properties affected, and no adverse effect) Stipulation VI.I (a-b) of this
- 2561 Agreement when the terms of the Phased Section 106 Protocol and Phased
- 2562 Implementation & Treatment Plan have been met, a project may proceed provided all
- 2563 project design criteria is applied.
- 2564
- 2565 B. Projects that result in a determination of adverse effect, Stipulation VI.I (c), require
- 2566 further consultation among the Forest, WA DAHP, ACHP, and affected Tribes and
- 2567 development of a MOA (36 CFR§ 800.6). If mitigation involves treatment of a historic
- 2568 property in the APE/Phased APE, mitigation must be completed prior to project
- 2569 implementation, or adequate site protection measures, approved by the signatories to the
- 2570 MOA, must be in place during project implementation until mitigation work is complete.
- 2571

2572 **17. ANNUAL REPORTING AND MEETING**

- 2573 A. The agency official shall provide WA DAHP and affected THPO(s)/tribes with a
- 2574 summary report detailing phases of a larger project undertaking under this protocol. In
- 2575 addition to a summary report document, a conversation shall occur between the agency
- 2576 official, the FHPL, WA DAHP, THPOs, and affected tribes reviewing the information
- 2577 contained in the report. This meeting is the mechanism to address cumulative effects,
- 2578 effectiveness of project design criteria and any other concerns related to the various
- 2579 phases within the undertaking.
- 2580
- 2581 B. The summary report shall address the following:
- 2582 1) The reporting on phased projects shall include identification of the project as part of a
- 2583 larger phased effort, also known as the undertaking.
- 2584 2) What phase of the overall project the report is from,
- 2585 3) Identification efforts including ethnographic research (to include tribal consultation),
- 2586 inventory strategy, findings of effect, and overall summary of effects to historic
- 2587 properties (36 CFR§800.5 (a)(1)).
- 2588 4) Shall address cumulative effects of the undertaking.
- 2589 5) Attach any associated monitoring information and include a discussion of cumulative
- 2590 effects of the undertaking and the effectiveness of design criteria for the individual
- 2591 Phased APEs.
- 2592 6) Resolution of Adverse Effects: If there is an adverse effect, the agency official, the
- 2593 FHPL, WA DAHP, and affected THPO(s)/tribes shall review how an adverse effect

2594 occurred, how it contributed to cumulative effects to the overall undertaking and what
2595 further project design criteria could be developed and an update on efforts.
2596

2597 **18. DISCOVERY SITUATIONS**

2598 With every undertaking there is a potential for discovering previously undocumented cultural
2599 resources. Any discovery during implementation shall be treated in accordance with 36 CFR§
2600 800.13(b) and follow Stipulation IX, if the Forest does not have an IDP for archaeological
2601 resources and human remains.
2602

2603 **19. CONFIDENTIALITY OF CULTURAL RESOURCE DATA**

2604 A. Any information furnished to the under this programmatic agreement is subject to the
2605 FOIA (5 U.S.C 552); except that information as specified by Exemption 3 (5 U.S.C 552
2606 (b) (3)), ARPA (16 U.S.C 470hh), as amended, and NHPA (36 CFR§ 800).
2607

2608 B. Internally, the Forest shall protect all sensitive, confidential, or proprietary information
2609 about the location and character of historic properties pursuant to site confidentiality
2610 provisions under the ARPA (43 CFR§ 7.18), the NHPA (36 CFR§ 296.18), and Service
2611 Manual 2361.4. The FHP shall, to the extent possible, limit internal access to cultural
2612 resource data. The FHP may provide limited information about cultural resource during
2613 planning and implementation of projects. The FHP shall review contracts to insure the
2614 Heritage Program IDP for archaeological resources and human remains is cited, that
2615 maps identify historic properties and unevaluated cultural resources requiring avoidance
2616 as “areas to protect” and that the cultural resource site location disclosure clause (36
2617 CFR§ 296.18) is cited on each map within the contract.
2618

2619 C. TCP overviews and information about TCPs, ancestral use areas, and/or scared sites shall
2620 remain confidential. These types of records shall be labeled “confidential-not for
2621 distribution” and maintained in a restricted location at the Ranger District or Forest
2622 Supervisor Office. Access to such records shall be restricted to the FHP and the Agency
2623 Official(s). The Forest shall consult with the tribes in regards to the use of the
2624 information within cultural resource inventory reports.
2625

2626 **20. DISPUTE RESOLUTION**

2627 A. Should any signatory or consulting party to this Agreement object to the manner in which
2628 the terms of this Agreement (including appendices) are implemented, the agency official
2629 shall consult with the objecting party to resolve the objection. If the objection cannot be
2630 resolved, the agency official shall:
2631

2632 B. Forward all relevant documentation to the ACHP in accordance with 36 CFR§ 800.2(b)
2633 (2). Upon receipt of adequate documentation, the ACHP shall advise the Forest on the
2634 resolution of the objection within 30 days. Prior to reaching a final decision on the
2635 dispute, the Forest shall prepare a written response that takes into account any timely
2636 advice or comments regarding the dispute from the ACHP, signatories and consulting
2637 parties, and provide the objecting party with a copy of this written response within 60
2638 days and shall proceed according to its final decision.

- 2639
2640 C. If the ACHP does not provide comments regarding the dispute within 30 days after
2641 receipt of adequate documentation, the Forest may render a decision regarding the
2642 dispute. Prior to reaching such a final decision, shall prepare a written response that
2643 takes into account any timely comments regarding the dispute from the signatories and
2644 consulting party to the Agreement and provide them and the ACHP with a copy of such
2645 written response.
2646
- 2647 D. It is the Forest's responsibility to carry out all other actions subject to the terms of this
2648 Agreement that are not the subject of the dispute. The agency official shall notify all
2649 parties of its decision in writing before implementing that portion of the undertaking
2650 subject to dispute under this stipulation.
2651

2652 **21. TERMINATION**

2653 When a Forest does not follow 36 CFR§ 800 and multiple infractions, multiple violations of this
2654 Agreement, and/or the misuse Appendix E Phased Identification have been documented (by WA
2655 DAHP and/or affected tribes); no further Section 106 compliance will be completed and the
2656 Forest forfeits the privilege of using this protocol **and** loses the privilege of utilizing this
2657 Agreement (Refer to Stip II).
2658

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APPENDIX F
HERITAGE RESOURCES EMERGENCY RESPONSE PROTOCOL

PURPOSE

The purpose of this protocol is to establish **region-wide guidance and standardized procedures** in the event of a natural disaster or emergency situation occurring on public lands administered by the Forest Service (Forest). Wildfires are a common example of such an emergency situation. It is the responsibility of the Forest to ensure that Agency Officials and heritage program staff are appropriately trained and aware of their obligations. These procedures have been developed to assist in compliance with the National Historic Preservation Act (NHPA) of 1966 and implementing regulations of 36 CFR§ 800, and to mitigate adverse impacts to historic properties from both the incident and the agency’s response to the incident.

Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to consider the potential impacts of projects they plan, implement, assist with, or authorize on historic properties. The Section 106 implementing regulations, ‘Protection of Historic Properties’ (36 CFR § 800), encourage federal agencies to establish agency procedures that consider historic properties during operations that respond to a disaster or emergency declared by the President, a tribal government, or the governor of a state or to other immediate threats to life or property. The Forest should provide a map of the location of the emergency/disaster to affected tribes as soon as possible.

DEFINITION

Disaster or Emergency: An unforeseen combination of circumstances that bring great damage, loss, or destruction, and the resulting state that calls for immediate action. A disaster or emergency under Section 106 of the NHPA is one declared by the President, tribal government, or the governor of a state or other immediate threat to life or property (36 CFR § 800.12(a)). The emergency situations section of the Section 106 regulations applies only to undertakings that will be implemented in response to the disaster or emergency within 30 days after the disaster or emergency has been formally declared by the appropriate authority or, in the case of another immediate threat to life or property, within 30 days after such an event occurs.

I. ACHP GUIDANCE

The Advisory Council on Historic Places (ACHP) provides specific guidance should a disaster or emergency occur on lands managed by federal agencies online at http://www.Council.gov/sec106_disaster-responseFAQ.html.

A summary of their guidance is provided below:

- A. Determination of Federal Responsibility
 - 1. In determining whether the Forest has any Section 106 responsibilities, the agency must first determine whether it will be carrying out, assisting, or permitting an undertaking with the potential to affect historic properties in response to or as a result of a disaster or emergency.

2730 Note: Examples of possible emergencies that may spur NHPA Section 106 requirements
2731 include, but are not limited to: wildfires, flooding, landslides, avalanches, earthquakes,
2732 volcanic eruptions, tornados, and failing dams or culverts when downstream resources are
2733 threatened.

- 2734
2735 B. Determination of exemption from the provisions of Section 106
2736 1. Immediate rescue and salvage operations conducted to preserve life or property
2737 are exempt from the provisions of Section 106 (36 CFR § 800.12(d)). This
2738 exemption applies regardless of whether there has been a declared disaster or
2739 emergency. The agency determines whether its undertaking meets the criteria for
2740 this exemption. The regulations implementing Section 106 allow agencies to take
2741 necessary actions in a timely manner to address public health and safety.
2742 2. When the agency becomes aware of a disaster or emergency situation, it exercises
2743 its judgment to determine whether its action is in response to that situation and:
2744 a. Needs to be carried out immediately to save people or property from death
2745 or destruction. Such action is exempt from Section 106; or
2746 b. Can be delayed (to at least allow notification and some manner of
2747 consultation) without endangering people’s lives or property. Such action
2748 is not exempt from Section 106.

- 2749
2750 C. Agency Official authority
2751 1. The federal agency official, an individual with approval authority for the
2752 undertaking and who can commit the federal agency to take appropriate action for
2753 a specific undertaking, needs to be involved in a leadership role during the
2754 Section 106 process.

- 2755
2756 D. Determining Lead Agency
2757 1. Federal agencies may designate a lead federal agency for Section 106 compliance
2758 purposes where more than one federal agency is involved in an undertaking (36
2759 CFR § 800.2(a)(2)). The designation of a lead federal agency shall identify the
2760 appropriate official to serve as the agency official who will act on behalf of all the
2761 coordinating agencies, fulfilling their collective responsibilities under Section
2762 106. Those federal agencies that do not designate a lead federal agency remain
2763 individually responsible for their compliance with Section 106.

- 2764
2765 E. Consultation
2766 1. The federal agency must notify and invite the following parties to consult on
2767 undertakings responding to a disaster or emergency: the relevant WA DAHP,
2768 THPO(s), affected tribe(s), or those that may attach religious and cultural
2769 significance to affected historic properties.

2770
2771 **II. EMERGENCY PROCEDURES**

2772 The following steps provide guidance to follow should an emergency arise on Forest
2773 administered lands.

- 2774 A. An emergency contact list of archaeologists on the Forest should be kept up-to-date
2775 and available to members of the Forest Leadership Team and Fire Management.
2776
- 2777 B. Site and survey records should be organized to facilitate a rapid response to possible
2778 emergencies. Following protocols set forth in the national Fire Retardant EIS, the
2779 Forest's Fire and Aviation Management will maintain GIS data of cultural areas
2780 extraordinarily sensitive to the effects of fire retardant, as needed, to help avoid
2781 retardant damage to these resources.
- 2782 1. Additional pre-incident preparation (not limited to):
- 2783 a. Provide known cultural resource/resource advising information to Fire
2784 management personnel.
- 2785 b. Develop at-risk site list with accompanying GIS layer.
- 2786 c. Fire-wise Site Plans (Risk Assessments) for at-risk properties.
- 2787 d. Complete proactive surveys for potential Incident Command locations (i.e.
2788 command post, spike camps, contingency lines, etc.)
- 2789 e. Identify areas with potential flight /air restrictions.
- 2790 f. Develop a Forest-specific heritage resources emergency plan to include an
2791 emergency artifact collection policy and a tribal consultation/communication
2792 plan.
2793
- 2794 C. FHPs shall be encouraged to obtain and maintain fire line qualifications and be
2795 trained on the best practices for resource protection during wildfire emergencies.
- 2796 1. Recommended Red Card qualifications to be obtained by FHPs include (at a
2797 minimum):
- 2798 a. ARCH (Archaeologist)
- 2799 b. REAF/READ (Resource Advisor –Fire line Qualified)/ (Resource Advisor)
- 2800 c. BAES (Burned Area Emergency Specialist)
2801
- 2802 D. FHPs that do not obtain the fire line qualifications may still be of great assistance
2803 during emergencies in an office setting by determining historic properties at risk and
2804 conveying pertinent information to the incident management team.
2805
- 2806 E. The following steps provide guidance and should be followed should an emergency
2807 arise.
- 2808 1. When an emergency is determined, it is expected that the Forest will conduct
2809 immediate rescue and salvage operations to preserve life or property
- 2810 2. The Forest will determine which emergency response actions can be delayed to at
2811 least allow notification and some manner of consultation without endangering
2812 people's lives or property.
- 2813 3. If the emergency response has the potential to affect historic properties, the Forest
2814 will contact the FHPL.
- 2815 4. The FHP will conduct an existing records review to assess the potential impacts to
2816 known historic properties.
- 2817 5. The FHP will work with the incident management team to minimize impacts, to
2818 known historic properties, when feasible.

- 2819 6. If the emergency is expected to extend beyond initial response and will require
2820 extended response efforts, the FHP will notify WA DAHP, THPO(s), and affected
2821 tribe(s) who may attach religious and cultural significance to affected historic
2822 properties of the continued threat to resources.
- 2823 7. If the emergency is a wildfire;
- 2824 a. The Forest shall issue resource requests for fire line qualified archaeologists,
2825 as needed, to work directly with the incident management team to provide
2826 recommendations for minimizing impacts to historic properties.
- 2827 b. Fire line qualified archaeologists will be expected to work on the fire line
2828 during fire suppression and suppression repair efforts, per the discretion of the
2829 incident management team, to assist with historic property protection
2830 measures.
- 2831 c. The Forest will seek to protect historic properties from damage caused by the
2832 fire, fire suppression efforts, and post-fire suppression repair.
- 2833 d. Archaeologists that are not fire line qualified may be needed to assist by
2834 providing office support through record searches and map production.
- 2835 e. Archaeologists assigned to the incident will keep detailed notes, GIS data
2836 points and photographs to be used in post-emergency NHPA reporting to WA
2837 DAHP and affected tribes.
- 2838 f. If a Burned Area Emergency Response Team (BAER) is needed to assess and
2839 respond to post-fire impacts, archaeologists will be assigned to the BAER
2840 team to assist, as needed.
- 2841 8. If the emergency response is being led by another agency;
- 2842 a. The Forest will designate the lead agency.
- 2843 b. The lead agency will notify WA DAHP and potentially affected tribes, as
2844 required under Section of 106 of the NHPA.
- 2845 c. The Forest will assign an archaeologist as a point-of-contact with the lead
2846 agency.
- 2847 (1) The Forest's archaeologist will work with the lead agency to help avoid
2848 and protect historic properties through information sharing.
- 2849 (2) The lead agency will assign professional archaeologists, as needed, to
2850 provide on-the-ground and planning recommendations, recognizing that
2851 expedited or deferred field surveys may be needed.

2852 2853 **III. REPORTING PROCEDURES**

2854 Following the emergency, the affected Forest's FHP will develop a report that includes an
2855 assessment of impacts to historic properties with formal determinations of effect for both the
2856 emergency and the emergency response efforts for larger wildland fire incidents (5 acres or
2857 smaller will not be reported). This report will be submitted to WA DAHP, THPO(s) and affected
2858 tribe(s), as required under Section 106 of the NHPA.

- 2859
- 2860 A. The Forest's report shall include a summary of the following:
- 2861 a. Known sites potentially effected
- 2862 b. New Sites

- 2863 i. New sites should be completely recorded as part of the fire incident. Due
- 2864 to time constraints and safety issues recordation may be expedited and/or
- 2865 completed during suppression repair efforts.
- 2866 c. Sites impacted
- 2867 d. Standard protection measures employed
- 2868 e. Repair measures implemented/undertaken
- 2869 f. Discussion of the effects of the incident and mitigation measures implemented
- 2870 during incident
- 2871 g. BAER measures recommended
- 2872 h. BAER measures implemented
- 2873 i. Post-fire effects monitoring plan if applicable
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2908 **APPENDIX G:**
2909 **HERITAGE RESOURCES GRAZING ALLOTMENT RENEWAL PROTOCOL**
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2911 This protocol addresses the National Historic Preservation Act (NHPA) Section 106 compliance
2912 process for grazing permit reviews on Forest Service managed lands located in Washington
2913 State. The intent of the protocol is to create a framework for a reasonable and good faith
2914 interaction between Range Specialist and FHP that shall allow for timely and efficient review of
2915 grazing permits while maintaining compliance with the NHPA. **This protocol shall be used as**
2916 **guidance to facilitate the review process for grazing permits.**
2917

2918 Please **review applicability of Appendices A and B for exemptions** related to Range
2919 Management Activities.

- 2920 ▪ If the undertaking does not meet the criteria in the appendices, follow the protocol
2921 outlined below.
- 2922 ▪ If the undertaking does not fit within the parameters of the protocol, follow
2923 Section 106 guidance (Stip. VIII).

2924
2925 I. The following are the four instances when grazing permits are reviewed by the Forest Service:
2926

2927 A. Permit Expiration and Waivers

- 2928 a. Permit Expires – The permit is normally issued for a 10-year term and
2929 provides priority for renewal to the holder provided the holder has fully
2930 complied with the terms and conditions of the expiring permit (36 CFR§
2931 222.3(c)(1)(ii)).
- 2932 b. Permit Waiver – waiver of term grazing permits from the permit holder to the
2933 Forest Service and the authorized officer’s issuance of a new permit to a
2934 permit applicant with no changes. An example of this use is when a permittee
2935 sells the land or cattle that a permit is attached, the permit will transfer to the
2936 buyer without changes in the permit requirements.

2937
2938 B. Term Permit Review – the grazing permit is reviewed periodically through the life of
2939 the permit to address any concerns that may arise during its administration outside of
2940 a NEPA analysis.
2941

2942 C. Grazing Allotment Renewal – The grazing allotment is evaluated by the Forest
2943 resource specialist during a NEPA analysis to determine if conditions mitigate
2944 changes in the upcoming permit renewal.
2945

2946 D. Modification of Grazing Permits – modification to a grazing permit at any time
2947 during the term period for which it was issued.
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2953 II. Heritage Program Review of Permits

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2955 A. Permits that have expired or are being waived occur with no changes to the allotment.
2956 This review does not include other changes to the management of the allotment, as such,
2957 it is a paperwork exercise.

2958 1. Expired and Waived permits shall be documented and/or renewed under
2959 Appendix A of this Agreement.

2960 2. The undertaking shall be documented according to the WA DAHP/WISAARD
2961 data-sharing protocols.

2962 B. Term Permits

2963 1. Range Specialist shall provide the term permit reviews (including any changes
2964 identified in the permit) to the FHP for review prior to the field season.

2965 2. FHP shall review the term permits utilizing this Agreement

2966 1. No changes – term permit shall be completed under Appendix A.

2967 2. Changes identified – apply Appendix B as appropriate. Standard 106
2968 procedures may apply if the changes rise to that level (a heritage field
2969 survey is required) within the Agreement filtering process.

2970 3. If a new site is located during the permit review process; the FHP and Range
2971 Specialist shall implement a site protection plan.

2972 4. The undertaking shall be documented according to the WA DAHP/WISAARD
2973 data-sharing protocols and shared with consulting tribes.

2974

2975 C. Grazing Allotment Renewals

2976 1. The undertaking is subject to a NEPA review and requires input from multiple
2977 resource specialist including heritage resources.

2978 2. Range Specialist shall provide information regarding potential changes in the
2979 grazing allotment permit.

2980 3. FHP shall review the information in accordance to Stipulation III and IV of this
2981 Agreement

2982 4. APE shall be defined at a minimum as the entirety of the Allotment.

2983 5. The FHP shall consult with affected tribe(s) regarding historic properties of
2984 religious and cultural importance. Considerations and/or protection measures for
2985 traditional gathering areas and/or traditionally important plant communities may
2986 be necessary.

2987 6. Based upon the results of the FHP’s review, inventory may be required for the
2988 identified changes.

2989

2990 D. Modification of Grazing Permits

2991 1. A term grazing permit may be modified at any time during the term period and
2992 the range specialist shall provide information regarding these potential changes
2993 with grazing permits (types of modifications are guided by FSH2209.13 Chapter
2994 16.1) to the FHP.

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2996 III. Effects Analysis

2997 A. Evaluating and Determining Effects to Historic Properties

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If historic properties (to include archaeology, built environment, and historic properties of religious or cultural significance to Indian tribes) are located within the Allotment, the properties shall be monitored in accordance with Stipulation V and a site monitoring plan shall be required for the life of the permitted allotment.

1. The allotment monitoring plan shall be developed using any or all of the following criteria:
 - a. Inspections of site conditions shall be conducted by the Heritage specialists,
 - b. Observations shall be documented using standardized heritage resource monitoring form,
 - c. Monitoring duration may occur over 1 to 10 year periods depending on the nature and extent of the impact,
 - d. Photo points shall be established where long term monitoring is desired,
 - e. The allotment monitoring plan shall be tracked in the current heritage database.
 - f. Monitoring of indicator plant species, to assess the overall health of plant community. Adverse effects may necessitate a change in the permit timing and/or pasture rotation.

B. Addressing Tribal Concerns

1. Through government-to-government consultation, identify sensitive and traditional cultural use areas
2. Provide allotment and heritage resource maps or other information as requested.
3. Culturally sensitive and traditional use areas may be associated with important plants or plant communities and their habitats, and game habitats
4. Consider the impacts of grazing on natural springs and water courses.
5. Consider the effects of grazing on hunting and gathering areas.
 - a. Resolve adverse effects.

3043 **APPENDIX H**
3044 **RECORDATION OF PROSPECT PITS, TRENCHES, AND OTHER FINDS**
3045

3046 This protocol addresses the recordation of prospector pits or trenches that are found in large
3047 numbers throughout the National Forest System lands. The Signatories have agreed that these
3048 features, under specific circumstances, are exempt from the normal mandate to record
3049 cultural features and/or artifacts. This section also addresses a class of cultural materials
3050 encountered on the Forests (to include prospector pits/trenches) that Heritage personnel have
3051 been internally documenting as “Other Finds” because they constitute cultural items that
3052 qualify as neither cultural sites nor isolated finds usually because they do not have diagnostic
3053 characteristics. It is left to the professional judgment of the FHP to make this determination.
3054

3055 In order to apply this protocol, the following must be met:

- 3056 1. Complete the background research on the site type
 - 3057 2. Verify inability to date the item or the item lacks diagnostic characteristics
 - 3058 3. Document the find within the inventory report as an Other Find
- 3059

3060 **PROSPECTOR PITS AND TRENCHES**

3061 Prospector pits/trenches are typically relatively small excavations dug by hard-rock miners for
3062 the purposes of mineralogical exploration or to establish and maintain ownership of a mining
3063 claim. They constitute one of the most common archaeological features associated with mining
3064 across Forest Service managed lands in the state of Washington. Prospector pits/trenches are
3065 typically difficult to date because they frequently lack diagnostic features and/or artifacts.
3066

3067 A. Prospector pits/trenches with the following characteristics **may be considered as Other**
3068 **Finds:**

- 3069 1. Excavated pits and associated waste rock piles.
 - 3070 2. Consist of a single locus or multiple loci.
 - 3071 3. May be of any size.
 - 3072 4. Contains 10 or less features and/or artifacts in the immediate vicinity with no
3073 specific chronological markers or diagnostic elements.
 - 3074 5. Represent generalized mining activities.
- 3075

3076 B. Prospector pits/trenches that **meet one or more of the following criteria shall be fully**
3077 **recorded as a historic property:**

- 3078 1. Contain subsurface cultural deposits (excluding excavated pits and associated
3079 waste rock piles).
- 3080 2. Be associated with or contain any mining features other than prospector
3081 pits/trenches and associated waste rock piles (excluding intrusive features less
3082 than 45 years of age).
- 3083 3. Be associated with or contain features that suggest functions other than mineral
3084 prospecting (excluding intrusive features less than 45 years of age).
- 3085 4. Be associated with prehistoric quarrying or date to the prehistoric period.
- 3086 5. Be associated with specific mines or mining complexes, or specific persons,
3087 households, or other specific entities or events.

3088 6. Contain more than 10 individual objects of an historic nature (50+ years).

3089

3090 **OTHER FINDS**

3091 In addition to previously and newly recorded cultural resources a large number of other finds are
3092 often documented within proposed project areas. Other finds is a category of cultural items that
3093 do not rise to the level of historic property recordation and are the result of known behaviors that
3094 have occurred across forest service ownership since the agencies inception. Most notably
3095 mineral prospecting, timber logging, and the dumping of refuse along forest service roads and
3096 trails.

3097

3098 A. The material types listed below constitute the most common items that qualify as other
3099 finds.

3100

- 3101 1. Rip-rap (i.e., the use of cobbles, rock, or wood to stabilize riverbanks, stream banks,
3102 or drainages).
- 3103 2. Isolated abandoned motorized vehicles, appliances, and mobile homes.
- 3104 3. Unnamed two-track roads (i.e., ranch roads, seismic roads, etc.). This shall require
3105 standard historic research to determine if the roads are named. Named roads need to
3106 be formally recorded; generally, unnamed roads do not need to be recorded. Discuss
3107 in the report the historic research conducted (i.e. GLO check, county records, historic
3108 maps, etc.).
- 3109 4. Roads that have been reconstructed within the last 50 years.
- 3110 5. Active mines with features that are not historic in nature; historic mines and mining
3111 features shall require documentation.
- 3112 6. Prospector pits/trenches associated with mineral exploration or mining with no
3113 associated features or diagnostic artifacts (refer to section A above).
- 3114 7. Natural lithic outcrops **with no evidence of cultural use**.
- 3115 8. Temporary slash piles and isolated woodpiles associated with logging activity.
- 3116 9. High cut stumps without any associated diagnostic artifacts, cables, or toe cuts.
- 3117 10. Skid trails without any associated diagnostic artifacts
- 3118 11. Ten or less historic artifacts in one localized area with no diagnostic characteristics.
- 3119 12. Recent trash (i.e., highway trash, etc.).

3120

3121 Under terms of this programmatic agreement, prospector pits/trenches and other finds are
3122 considered neither archaeological sites nor isolated finds and shall be noted in the inventory
3123 report. These items need not be recorded as historic properties.

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3134 **APPENDIX I**
3135 **ANNUAL REPORT TEMPLATE**
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3137 An annual report for the Forests shall be compiled by RHPL incorporating submission from the
3138 FHPLs which include the Heritage Program Managed to Standard (HPMtS) Annual Report for
3139 Region 6 and a summary of projects conducted under Appendices A, B, and C. The report shall
3140 provide information for each Federal fiscal year. The report shall be submitted to WA DAHP and
3141 the affected tribes on or before January 31st of the following calendar year.
3142

3143 **Annual Report Template**

- 3144 A. Submission of Cultural Resource Project Reports. For individual projects, Forest Service
3145 shall submit report in accordance with the stipulations in this Agreement.
- 3146 B. Annual Report: The Forest Service Regional Office (RO) shall provide an annual report
3147 to WA DAHP containing summary information on activities conducted under this
3148 agreement by January 31st of each year. FS shall make this report available to the public
3149 and Indian tribes via the Forest Service regional website and notify the ACHP of its
3150 availability via email. This report shall include:
- 3151 1) Narrative information summarizing highlights and major efforts provided for
3152 the Heritage Program Annual Report submitted to the FS Federal Preservation
3153 Officer;
 - 3154 2) A list of:
 - 3155 a. Project reports submitted to WA DAHP during the previous reporting
3156 year for those projects that fall into Appendix A-C.
 - 3157 b. Project reports pending submission to WA DAHP including
3158 anticipated completion dates (such as those projects using phased
3159 identification (Appendix E).
 - 3160 c. Project where previous survey of a current project APE was deemed
3161 adequate in accordance with the Previous Survey Protocol (Stip.
3162 IV.B.3).
 - 3163 d. Projects deemed to be exempted from field survey/project specific
3164 consultation in accordance with the provisions in this Agreement
3165 (Stips IV), summary report format.
 - 3166 3) An updated listing of all Forest heritage staff on those forests which utilize
3167 this agreement.
3168

3169 The Annual Report shall provide primary information for the Annual Program Review meeting.
3170 The RHPL shall submit the Annual Report to WA DAHP and the FHPL shall distribute the
3171 Annual Report to their respective affected tribes. Any question WA DAHP or the affected tribes
3172 may have about the information in this report shall be answered by the RHPL or the appropriate
3173 FHP.
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**APPENDIX J
DEFINITIONS**

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The following definitions, and others included in 36 CFR §800.16, apply to this Agreement:

Advisory Council of Historic Preservation (ACHP) means the entire Council, a Council member, or an employee designated to act for the Council.

Affected Tribes is any Indian Tribe that is affected by any agency undertaking (see also Indian Tribe).

Agency Official (Regional Forester, Forest Supervisor, Area Manager, or District Ranger) the Forest Service Line Officer responsible for legal compliance and land management decisions on a Forest.

Archaeologist (District or Zone Archaeologist or other qualified Archaeologist) [FSH 2309.12(04.14)] works with the Forest Heritage Program Leader (FHPL) to advise the Agency Official on matters concerning the Heritage Program and cultural resources. Archaeologists are Heritage Professionals (FSH 2309.12 (06.1) and can advise on Section 106 judgments, findings of effects, and determinations of eligibility.

Archaeological Technician (Heritage Technician) [FSH 2309.12 (04.2)] conducts site inventory, documentation, and other related work under the supervision of an Archaeologist or FHPL. Archaeological technicians are NOT Heritage Professionals and cannot advise on Section 106 judgments, findings of effects, and determinations of eligibility.

Area of Potential Effects (APE) [36 CFR§ 800.16 (d)] the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.

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

Effect [36 CFR§ 800.16 (i)] means alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register.

Eligible (property) 36 CFR§800.16(1)(2) The term eligible for inclusion in the National Register includes both properties formally determined as such in accordance with regulations of the Secretary of the Interior and all other properties that meet the National Register criteria Forest for the purpose of this Agreement, represents individual National Forests and Scenic Area that is located in whole, or in part, in the State of Washington.

3224 **Forest Heritage Professional (FHP)** as defined by FSM 2360.91 and FSH 2309.12 (04.1) a
3225 Forest Service staff or advisory position with education and expertise in archaeology, history,
3226 cultural resource management, or related disciplines. They provide professional
3227 recommendations and services to help land managers meet their Heritage Program
3228 responsibilities. Only Heritage Professionals may make management recommendations and
3229 review recommended approval of heritage work done by archaeological technicians,
3230 paraprofessional, contractors, cooperators, and volunteers. Heritage Professionals meet the
3231 Professional Qualifications Standards of the Secretary of the Interior's Standards and Guidelines
3232 for Archeology and Historic Preservation or OPM Qualification Standards.

3233
3234 **Forest Heritage Program Leader (FHPL) (Heritage Program Leader, Forest Archaeologist,
3235 and/or Forest Historian)** [FSH 2309.12 (04.13)] is the position on a Forest that is responsible
3236 for: directing, planning, and administering the Forest's complex and multi-faceted heritage
3237 resources management program; providing professional and technical advice to Agency
3238 Officials; directing the heritage resources program internally and with external agencies,
3239 organizations, tribal governments, and the public; and planning and developing the Forest's
3240 heritage resource inventory, evaluation, and enhancement program.

3241
3242 **Forest Inventory Plan (FIP)** is a plan that outlines the forest level research goals and inventory
3243 parameters/methodology a forest uses in completing cultural resource survey. Is used to
3244 guide/direct project level survey methodology.

3245
3246 **Forest Service** for the purpose of this Agreement represents all National Forests & Scenic Area
3247 that are completely or partly within the State of Washington.

3248
3249 **Forest Service Handbook (FSH or FSH 2309)** provides Forest Service guidance on the
3250 management of heritage resources.

3251
3252 **Forest Service Manual (FSM or FSM 2360)** provides Forest Service policy on the
3253 management of heritage resources.

3254
3255 **Historic Property** [36CFR 800.16 (l)] means any pre-contact or historic district, site, building,
3256 structure, or object included in, or eligible for inclusion in, the National Register of Historic
3257 Places maintained by the Secretary of the Interior. This term includes artifacts, features, records,
3258 and remains that are related to and located within such properties. The term includes properties
3259 of traditional religious and cultural importance to an Indian Tribe or native Hawaiian
3260 organization and that meet the National Register criteria per the definition in 36 CFR§ 800.16(1).
3261 Unevaluated cultural resources will be treated as eligible for the NRHP (FSH 2309.12 (30.33)).

3262
3263 **Indian Tribe (Tribe)** [FSH 2309.12 (5)] means Federally recognized Indian or Alaskan native
3264 Tribe, band, nation, pueblo, village or community included in the Federally Recognized Indian
3265 Tribe List Act of 1994 (25 U.S.C. 479a).

3266
3267 **Inventory** (i.e., Project Inventory, Heritage Inventory, and Archaeological Survey) is a
3268 systematic, detailed examination of an area designed to gather information about the number,

3269 location, condition, and distribution of historic properties within an undertaking's APE. This
3270 examination should consider the full range of historic properties including TCPs and TCLs using
3271 ethnographic information.

3272 **Memorandum of Understanding (MOU)** establishes a framework to allow nonprofit
3273 organizations, tribal governments, and state and federal agencies to advance shared priorities,
3274 coordinate investments, and implement projects with the Forest Service.

3275
3276 **National Environmental Policy Act (NEPA)** was signed into law on January 1, 1970. NEPA
3277 requires federal agencies to assess the environmental effects of their proposed actions prior to
3278 making decisions.

3279
3280 **National Register** means the National Register of Historic Places administered by the U.S.
3281 Department of the Interior, National Park Service.

3282
3283 **National Register criteria** means the criteria established by the U.S. Department of the Interior,
3284 National Park Service, for use in evaluating the eligibility of historic properties for the National
3285 Register (36 CFR§ 60.4).

3286
3287 **Range Specialist** is a person qualified to represent and discuss the Forest's Range Management
3288 Program.

3289
3290 **Regional Heritage Program Leader (RHPL)** (interchangeable with Regional Archaeologist)
3291 [FSH 2309.12 (04.12)] is a Heritage Professional who advises the Regional Forester on matters
3292 concerning the program at the Washington Office and Regional level and provides program
3293 leadership to the National Forests, Grasslands, and Scenic Area within the Region. The RHPL
3294 assures that the Forests, Grasslands, and Scenic Area are in compliance with Section 106 and
3295 with Programmatic Agreements (Agreement).

3296
3297 **Regional Office** means the Pacific Northwest Regional Office of the Forest Service and has
3298 broad responsibility for coordinating activities within the various forests, grasslands, and scenic
3299 area of the Region, providing leadership for regional natural resource, social programs, and land
3300 use planning. This office is headed by the Regional Forester who reports directly to the Chief of
3301 the Forest Service.

3302
3303 **State Historic Preservation Officer (WA DAHP)** 36CFR§800.16 (v) means the official
3304 appointed or designated pursuant to section 101(b)(1) of the act to administer the State historic
3305 preservation program or a representative designated to act for the State historic preservation
3306 officer. The Washington State Historic Preservation Office is also referred to as the Washington
3307 State Department of Archaeology and Historic Preservation, or DAHP.

3308
3309 **Traditional Cultural Property (TCP)** is a historic property that is associated with cultural
3310 practices or beliefs of a living community that (a) is rooted in the community's history, and (b) is
3311 important in maintaining the continuing cultural identity of the community. To be eligible for
3312 inclusion on the National Register, a TCP must be a tangible property, that is, a district, site,

3313 building, structure, or object as defined in 36 CFR§ 60.4 and meet one or more of the criteria in
3314 36 CFR§ 60.4.

3315

3316 **Tribal Historic Preservation Officer (THPO)** 36CFR§800.16(w) means the tribal official
3317 appointed by the Indian Tribe's chief governing authority or designated by a tribal ordinance or
3318 preservation program who has assumed the responsibilities of the WA DAHP for purposes of
3319 section 106 compliance on tribal lands in accordance with section 101(d)(2) of the act.

3320

3321 **Undertaking** means a project, activity, or program funded in whole or in part under the direct or
3322 indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal
3323 agency; those carried out with Federal financial assistance; and those requiring a Federal permit,
3324 license or approval per the definition in 36 CFR§ 800.16(y).

3325

3326 **Washington Information System for Architectural and Archaeological Records Data**
3327 **(WISAARD)** is the database of record for the WA DAHP and is Washington State's digital
3328 repository for architectural and archaeological resources and reports

3329