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DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
MANUAL TRANSMITTAL SHEET

Release
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Subject

8150 - PERMITTING USES OF CULTURAL RESOURCES (PUBLIC)

1. Explanation of Material Transmitted. This release completely revises BLM Manual Section 8150 AND 8151.
2. Reports Required: None
3. Materials Superseded: Manual pages superseded by this release are listed under REMOVE below. No other directives are superseded.
4. Filing Instructions: File as directed below:

REMOVE

All of 8150 (Rel. 8-48)
All of 8151 (Rel. 8-49)

INSERT

8150

(Total: 22 Sheets)

A handwritten signature in cursive script, appearing to read "Charles J. Lynch".

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

Table of Contents

- .01 Purpose
- .02 Objectives
- .03 Authority
- .04 Responsibility
- .05 References
- .06 Policy
- .07 File and Records Maintenance

- .1 Authorizing Scientific Uses of Cultural Resources
 - .11 Limitations of Permits
 - A. To Whom Permits May Be Issued
 - B. To Whom Permits May Not Be Issued
 - 1. Federal Agencies
 - 2. BLM Employees and Agents
 - 3. Federal Employees Acting as Consultants
 - C. Limits of Applicability
 - 1. Public Lands
 - 2. Non-Federal Lands
 - 3. Ethnographic Work
 - D. Uses Authorized
 - 1. Survey and Recordation
 - 2. Limited Testing and/or Collection
 - 3. Excavation and/or Removal
 - 4. A Combination of Activities
 - E. Curation Agreements are Required Regardless of the Use Authorized
 - .12 Processing Applications for Permits
 - A. Application Receipt and Initial Processing
 - B. Application Review and Evaluation
 - 1. Completeness
 - 2. Qualifications of Applicant
 - 3. Qualifications of Proposed Curatorial Facility
 - 4. Certification by Curatorial Facility
 - 5. Purpose of Proposed Work
 - 6. Conformity with Management Constraints
 - 7. Indian Tribal Religious or Cultural Concerns
 - 8. Evaluation and Recommendation
 - 9. Decision
 - C. Permit Issuance or Denial
 - D. Information About Permits and Permittees
 - E. Fieldwork Authorizations

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

- .13 Notifying Indian Tribes
 - A. Permit Notification Requirement and Content
 - 1. When Notification Is Required
 - 2. When Notification Is Not Required
 - 3. Content of Notification

- .2 Coordinating with Other Agencies and Offices
 - .21. Coordination With Other Federal Agencies
 - A. Exchange of Information
 - B. Consistency of Requirements
 - C. Performance of Permittees
 - .22 Coordination Within BLM
 - A. Consistency of Criteria and Requirements
 - B. Permit Issuance Lead
 - C. Interstate Effect of Suspension or Revocation
 - .23 Status of Permits and Performance

- .3 Administering Permits
 - .31 Monitoring and Documenting Performance
 - A. Monitoring and Review
 - B. Documentation
 - .32 Modifying, Renewing, and Extending Permits
 - A. Modification
 - 1. Initiated by Permittee
 - 2. Initiated by State Director
 - B. Renewal
 - C. Extension
 - D. Decision and Documentation
 - .33 Suspending and Revoking Permits
 - A. Suspension for Cause
 - B. Revocation for Cause
 - C. Effect of Suspension or Revocation for Cause
 - 1. Effect on Organization
 - 2. Effect on Individual
 - D. State Director's Warning
 - E. Suspension for Management Purposes
 - F. Revocation for Management Purposes
 - G. Notice of Suspension
 - H. Notice of Revocation
 - I. Documentation

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

- .34 Responding to Disputes and Appeals
 - A. Disputes
 - 1. Request for Review
 - 2. Request for Conference
 - 3. Review at Higher Organizational Level
 - 4. Record of Review
 - B. Appeals
 - 1. Initiated by Disputant
 - 2. Initiated by Other Affected Person
 - C. Departmental Review of Professional Issues
- .35 Maintaining an Automated Permit Status File

.4 Reporting Results and Protecting Products of Permitted Cultural Resource Work

- .41 Reports
 - A. Preliminary Report
 - B. Interim Report
 - C. Final Report
- .42 Management of Collections
 - A. Responsibility of Permittee
 - 1. Catalog of Artifacts
 - 2. Confirmation of Delivery
 - B. Responsibility of Curatorial Facility

.5 Assessing the Results of Permitted Cultural Resource Work

- .51 Assessing Project Results
- .52 Assessing Cumulative Results
- .53 Public Dissemination of Results

Illustrations

- 1. Required Permit Content (.12B8a)
- 2. Land Use and Resource Protection Conditions (.12B8a)
- 3. Relationships Among BLM, Permittees, and Land Use Applicants (.33I2)

Glossary of Terms

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

.01 Purpose. The purpose of this Manual Section is to provide specific procedural direction on authorizing the use of cultural resources on public land, and on administering permits and the products resulting from permitted work.

.02 Objectives. Objectives of the program's utilization component are to facilitate appropriate scientific use of cultural properties on public lands; to ensure that collections of archaeological materials removed from public lands and records relating to them are maintained in qualified public repositories as United States property and are used for appropriate research or educational purposes; and to ensure that tangible public benefits follow from permitted uses of public land cultural resources.

.03 Authority.

A. (See BLM Manual Section 8100.03A, H, I, and J.)

B. Title 43 Code of Federal Regulations, Parts 3, 4, 7, and 2920.

C. Departmental Manual, 519 DM 2 and 411 DM

D. Title 36 Code of Federal Regulations, Part 79

.04 Responsibility. (See also BLM Manual Section 8100.04.)

A. State Directors, through or with the assistance of the appropriate Deputy State Director(s) or his or her delegate within the State Office, as assigned, are responsible for receiving permit applications; for preparing permanent files; for conducting technical and management reviews to ensure that all qualifying requirements are met; for issuing or denying, modifying, suspending, and revoking permits; for establishing consultation relationships with potentially affected Indian tribes; and for maintaining complete and current files. Authority to issue, deny, modify, suspend, or revoke permits, and to issue warnings to permittees, may be delegated to an appropriate official within the State Office, at the State Director's discretion. Staffing of the necessary administrative work may be assigned as appropriate, but decision authority remains with the State Director or his or her immediate delegate in the State Office.

B. Field Office managers, through or with the assistance of their delegates, as assigned, are responsible for conducting technical and management reviews of permit applications as requested by the State Director; for making recommendations concerning permit issuance, denial, modification, warning, suspension, and revocation; for receiving requests to authorize field work proposed under the authority of a permit; for issuing or denying such fieldwork authorizations; for notifying and consulting with affected Indian tribes; and for monitoring work conducted under permits and fieldwork authorizations.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

C. Cultural Resource Specialists on State Office or Field Office staffs are responsible, within the limits of their professional qualifications, for providing and documenting technical reviews and recommendations; for developing and recommending permit terms and conditions; for monitoring and documenting permittees' technical performance and compliance with permit terms and conditions; for overseeing and documenting the maintenance of collections in BLM and public repositories; and for promoting the beneficial use of cultural resources and information derived from them.

.05 References (See BLM Manual Section 8100.05.)

.06 Policy.

A. The BLM encourages appropriate scientific use of cultural resources on public land and authorizes such use, consistent with the controlling laws and regulations and the established objectives for the resources' long-term management.

B. Responsible Field Office managers monitor activities under permits to ensure that permittees observe agreed-upon conditions of authorized cultural resource use.

C. As much as possible the BLM ensures that approved activities that change the integrity of cultural resources are prudent in the effects they cause, and generous in the public benefits they contribute.

D. The BLM ensures that archaeological materials removed from public lands are properly housed in approved curatorial facilities and maintained to Federal standards as U.S. property.

E. As appropriate, the BLM promotes the use of U.S. collections for educational and research purposes.

F. Each activity conducted under a permit must be assessed in writing for its contribution to cultural resource knowledge, for its implications for cultural resource planning decisions and protection priorities, and for its importance to the public.

.07 File and Records Maintenance. See .12A, .12B1, .12B8, .12B9, .12C, .12E2, .12E3c-d, .13, .23, .31B, .32B2, .32D, .33D4, .33I, .34A3c, .35. Filing requirements are found in the GRS/BLM Combined Records Schedule (Schedule 4, Item 14).

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

.1 Authorizing Scientific Uses of Cultural Resources

.11 Limitations of Permits

A. To Whom Permits May Be Issued. State Directors may issue permits to appropriately qualified non-Federal applicants, provided that work proposed would further knowledge in the public interest, would not conflict with other legitimate or protected uses of the public lands and resources, and would not be inconsistent with any approved management plan, objective, or established policy applicable to the public lands or resources concerned.

B. To Whom Permits May Not Be Issued.

1. Federal Agencies. State Directors may not issue permits to other Federal agencies. Officially proposed cultural resource work, which would be conducted on the public lands by appropriately qualified Federal employees from another agency and which would otherwise require a permit, may be authorized by a written agreement. Approval is subject to exactly the same review process and considerations as are specified in this Manual Section for a permit. Where the written agreement is not job specific, other Federal agencies are required to obtain a Fieldwork Authorization from the appropriate Field Office manager prior to beginning fieldwork. An employee of another Federal agency, proposing to do off-duty personal research that would require a permit, is subject to the regular permit application process.

2. BLM Employees and Agents. State Directors may not issue permits as such to BLM employees or cultural resource consultants under contract to BLM, who are carrying out official agency duties associated with the management of cultural resources on public lands. BLM employees and contractors must meet qualifications provisions in .12B2b and limiting provisions in .11B3 of this Manual Section. This must be documented through the means appropriate to employment and assignment of duties, or procurement of services (see BLM Manual Sections 1400-335, 1400-90, 1510, and 8100.2). A BLM employee, proposing to do off-duty personal research that would require a permit, is subject to the regular permit application process.

3. Federal Employees Acting as Consultants. State Directors may not issue a permit to any Federal employee whose intent is to provide off-duty consultation services directly or indirectly to a BLM land use applicant. Field Office managers may not issue a fieldwork authorization for such consultation services to a Federal employee who holds a cultural resource use permit for off-duty personal research as allowed in paragraphs .11B1 and 2.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

C. Applicability of Permits

1. Public Lands. Permit requirements described in this Manual Section pertain only where BLM administers the surface. Cultural resource consultants may not be required to hold BLM permits to conduct work on non-Federal surface overlying Federal subsurface (split estate), even though BLM is requiring the work prior to authorizing development of subsurface minerals. (Buried cultural resources are legally recognized as part of the surface estate.)

2. Non-Federal Lands. Although permits are not issued for consultants working on non-Federal surface under BLM requirements, BLM is responsible for the quality of work done to satisfy historic preservation requirements and should review both the project proponent's proposed choice of consultant and the adequacy of the work proposed and advise the proponent about adequacy of the qualifications and/or the work through official correspondence. The BLM must accept a consultant's work product, even if indirectly, before completing the historic preservation review process and approving the proponent's land use application.

3. Ethnographic Work. Ethnographic work pertaining to public lands does not require a cultural resource use permit. However, when ethnographic work is being done on behalf of the BLM to enable the BLM to comply with a legal requirement, the qualifications of the ethnographer and proposed methodology should be reviewed, to ensure that they meet the Secretary of the Interior's professional qualification Standards, and approved in writing by the State Office prior to the initiation of field studies.

D. Uses Authorized. The following activities are subject to permitting under the procedures below.

1. Survey and Recordation may be authorized for applicants who propose to identify, evaluate, record, or conduct similar non-impacting studies of cultural properties that will not include excavation and/or removal of material remains or other significant disturbance of cultural properties. As agreed in advance and specifically limited in the permit conditions, such permits may authorize collection of isolated archaeological materials, not in association with cultural properties, and limited subsurface testing (e.g. shovel testing), as described in BLM Manual Section 8110.22B. Survey and Recordation permits may be issued on a multiple-Field Office or Statewide basis, for extended periods of time, to facilitate Section 106 compliance inventories and surveys. As appropriate, this type of permit may also be used to authorize nonimpacting research projects.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

2. Limited Testing and/or Collection may be authorized for applicants who propose to do small-scale testing and/or systematic collection and removal of material remains during field identification, evaluation, and recording activities, so that the significance or research potential of a cultural property may be better understood but not substantially diminished. Work proposed under Limited Testing and/or Collection permits may be used to determine future mitigation strategies. This category of permit does not normally require notification under .13 since the work proposed is unlikely to cause harm to or destruction of sites having religious or cultural importance. These are project-specific permits.

3. Excavation and/or Removal may be authorized for applicants who propose to excavate and/or remove material remains at a greater scale than the limited testing described in .11D2, with the result that the significance and/or future research potential of a cultural property or properties may be substantially altered. This category of permit includes major testing programs designed to answer research questions and to guide future data recovery efforts. Ordinarily, this type of permit will require notification and consultation with Indian Tribes pursuant to the Archaeological Resources Protection Act (ARPA) and the Native American Graves Protection Act (NAGPRA) because of the substantial likelihood that the work authorized could result in harm to or destruction of sites having religious or cultural importance to Indian Tribes or disturb cultural items subject to NAGPRA. These are project-specific permits.

4. A Combination of Activities described in .11D1 through 3 may be authorized in a single permit, as appropriate to the extent and nature of work proposed in the application. A permit may be modified, under provisions of .32, to authorize additional activities, project areas, and/or cultural properties that were not specified in the permit at the time of issuance.

E. Curation Agreements are Required Regardless of the Use Authorized. The permittee will be required to deposit copies of records, data, photographs, and other documents, and collections as applicable, with an approved curatorial facility.

.12 Processing Applications for Permits. Any person (see Glossary) may apply for a cultural resource use permit by submitting an approved application form and required supporting documentation (see .12B2 through .12B5), in person or by mail, to the address designated by the State Director responsible for administering the public lands where the proposed work would occur.

A. Application Receipt and Initial Processing. Applications are officially received, assigned a case identifier number, and assembled in a permanent record folder by the appropriate staff, as determined under .04.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

B. Application Review and Evaluation.

1. Completeness. An appropriately qualified specialist shall examine each application upon receipt to determine if the filing is regular and completely fills all information requirements.

a. Information Lacking. Applications that are missing necessary information or required documentation in support of an information item may be withheld from further review until the needed information or documentation is provided. The applicant shall be informed as quickly as possible what is needed for review. For this purpose, documented telephone contact is preferable to written notification.

b. Unmet Criteria. Any application that fails to meet minimum qualifying criteria specified in .12B2 through .12B5, either upon initial receipt or through failure to respond adequately to a request for missing information, may be recommended for rejection without further review, by following the permit denial procedure in .12B8, .12B9, and .12C. An exception is that the criteria pertaining to organizational qualifications, principal investigator's qualifications, crew chiefs' qualifications, and purpose of proposed work shall not be applied to an application filed by the Governor for a permit on behalf of the State (16 U.S.C. 470cc(j)).

2. Qualifications of Applicant. Applications shall be reviewed by an appropriately qualified cultural resource specialist to determine whether or not applicants are adequately qualified for work proposed, except that among criteria in .12B, only the requirement to name a project administrator qualified to obligate the applicant organization shall apply to an application filed by the Governor for a permit on behalf of the State (16 U.S.C. 470cc(j)). Applicants may be disqualified on the basis of failure to meet qualifying criteria, which may include documented history of inadequate performance under a previous permit (e.g., revocation for cause). Similarly, individuals named in applications may be excluded from a permit or have their intended roles changed for insufficient qualifications or documented inadequate performance under a previous permit (see .33C).

a. Organizational Qualifications. Applications must show the applicant's organizational capability to accomplish work of the type and scope proposed. An organizational resume or summary of organizational experience should be submitted to provide the following minimum information:

(1) Statement of applicant's organizational ability to accomplish work, including:

- (a) Location(s) of facilities and equipment.
- (b) Description of facilities and equipment.
- (c) Organizational structure and staffing.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

(d) Specification of which and to what extent facilities, equipment, and staff listed would be involved in the proposed work.

(2) Statement of applicant's organizational history in completing type of work proposed, including:

(a) Similar past projects.

(b) Past Government contracts.

(c) Selected bibliography of project or contract reports and/or publications resulting from (a) and (b).

(d) Federal permits held in the last 3 years, effective dates of permits currently in force, and applications pending or planned (information on current permits and applications is important for interagency or intrabureau coordination under .2).

(3) Other pertinent organizational experience, such as research and special studies.

(4) If the applicant is a newly formed entity, any information that might take the place of information about similar past projects and past Government contracts should be provided. In such cases, individual capabilities of personnel will carry greater weight in evaluation of organizational qualifications. Lack of an organizational history should not be the principal factor in a recommendation for permit denial.

b. Individual Qualifications.

(1) Permit Administrator. Applications must show the name of the individual proposed to be responsible for carrying out the conditions of the permit and otherwise complying with legal requirements applicable to the permitted activity. This individual must be legally empowered to obligate the applicant organization and must sign the application and other official correspondence such as permit amendments. Unless this individual is also named under 12B2b(2) or (3), this individual need not be professionally qualified as a field investigator.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

(2) Principal Investigator. Applications must include the name of any individual(s) proposed to be responsible for planning, supervising, and overseeing field projects, including responsibility for the professional quality of evaluations and recommendations. Principal investigators shall have primary accountability for technical completeness and competence of work conducted under the permit. They shall be responsible for development of work plans and/or research designs, for performance of crew chiefs, for selection standards and limitations on work assignments of crew members, for analysis and interpretation of field data, for integration of fieldwork results into comparative regional perspectives, and for preparation of reports. For each such individual, information must be included with the application to demonstrate that the individual has achieved the following:

(a) Adequate professional instruction. This may be obtained in either of the following two ways:

(i) Formal education resulting in a graduate degree in the appropriate discipline.

(ii) Formal education resulting in a bachelor's degree in the appropriate discipline for the permitted activity plus at least 24 months of professionally supervised experience including similar duties as proposed in the application.

(b) Competence in theory and methods, and in recording, collecting, handling, analyzing, evaluating, and reporting cultural property data, relative to the type and scope of work proposed.

(c) Ability to plan, equip, staff, organize, and supervise activity of the type and scope proposed.

(d) Ability to carry research to completion, as evidenced by timely completion of theses, research reports, and similar documents.

(e) Completion of at least 16 months of professional cultural resource management experience including similar duties as proposed in the application. This experience must include at least 4 months of experience with comparable cultural resources in similar cultural contexts and environmental settings. The State Director may reduce the 4-month geographical experience requirement, as appropriate, if the proposed work is a narrow technical study independent of culture or location, such as research focused on a particular aspect of lithic technology. If equivalency is claimed under .12B2b(2)(a)(ii), the 16 months of experience required in this paragraph is to be included in, not in addition to, the required 24 months.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

(3) Crew Chief. Applications must include the name of any individual(s) proposed to be responsible for carrying out field projects. Crew chiefs shall be responsible for the technical quality of field work, for the direct on-the-ground supervision of all aspects of field work and data gathering, for proposing resource evaluations and recommendations for further treatment, and for preparing field records and descriptive reports. For each such individual, information must be included with the application to demonstrate that the individual has achieved the following:

(a) Adequate professional instruction, obtained in either of the following two ways:

(i) Formal education resulting in a baccalaureate degree in appropriate discipline (anthropology/archaeology, history, architecture) and at least 12 months of pertinent professionally supervised experience, with increasing responsibility leading to duties similar to those proposed in the application.

(ii) Equivalent training and experience, including at least 30 months of professionally supervised experience including increasing responsibilities leading up to responsibilities equivalent to those proposed in the application.

(b) Competence in recording, collecting, handling, analyzing, evaluating, and reporting cultural property data, relative to the type and scope of work proposed.

(c) Demonstrated ability to supervise activity of the type and scope proposed.

(d) Completion of at least 4 months of professional cultural resource management experience with comparable cultural resources in similar cultural contexts and environmental settings. This may be part of the experience required in .12B2b(3)(a)(i) and (ii).

(4) Individual qualifications can be documented by information such as the following, with greater weight being given to field experience that corresponds to work proposed in the application:

(a) Survey and excavation reports of cultural resource management or Section 106 (or other compliance) projects that the individual carried out or supervised.

(b) National Register documentation based on the individual's field work, resulting in property listings or determinations of eligibility.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

(d) Publications including articles in professional journals, monographs, books, or chapters in edited books, related to the preservation of cultural properties.

(c) Materials such as presentations, booklets, brochures, lesson plans, or videos that interpret the results of the individual's cultural resource investigations for the general public;

(e) Presentations at regional, national, or international professional conferences related to the preservation of cultural properties.

(f) Professional service on boards or committees of regional, national, or international professional organizations concerned with the preservation of cultural properties.

(g) Awards, research grants, research fellowships, or invitations to teaching posts.

(5) The same individual may be proposed to perform any combination of permit administrator, principal investigator, and crew chief duties, provided that evidence is submitted to show that all pertinent qualifications are met for those positions.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

3. Qualifications of Proposed Curatorial Facility. To the maximum extent possible, proposed curatorial facilities should meet the 36 CFR Part 79 standards. State Directors shall determine that those facilities proposed to house collections and/or copies of records, data, photographs, and other documents derived from the permitted work satisfy the following minimum considerations, as applicable:

a. Physical Considerations:

- (1) Adequate security.
- (2) Adequate protection for the types of materials expected to be housed, such as climate control for perishable material remains, if applicable.
- (3) Adequate protection for records, data, photographs, and other documents.
- (4) Adequate records/accessioning/retrieval systems, including full capability to account for materials.
- (5) Adequate provisions for scholarly access and study.
- (6) Maintenance of physical plant insurance.

b. Administrative Considerations:

- (1) Provision for permanent preservation, including transfer to a Federal or federally approved location in the event the facility should cease to exist.
- (2) Adequate staffing.
- (3) Proximity to the region/culture area where work is proposed, preferably location in the same State within which work is proposed.
- (4) Provision for granting qualified scholars reasonable access to records and collections for research purposes.

4. Certification by Curatorial Facility. Each application must include written certification, signed by a properly authorized official of the proposed curatorial facility, of willingness to accept any collections, as applicable, and records, data, photographs, and other documents generated during the proposed term of the permit, and to assume permanent curatorial responsibility and accountability for such materials on behalf of the United States Government.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

5. Purpose of Proposed Work.

a. Public Interest. Applications must show that the work proposed would further knowledge of cultural properties in the public interest. Work that conforms to the use of a cultural property determined appropriate through evaluation and planning, and work that has been agreed to through the section 106 consultation process (including the application of a BLM-SHPO protocol), are considered to be in the public interest. Applications for excavation, research, or field school projects must include documentation that sets forth a methodological/theoretical framework appropriate to work proposed, and that proposes a schedule for timely and professional reporting of completed work.

b. Definite Need. Because of the considerable staff time it takes to review applications, prepare permits for approval, and monitor status, State Directors or their delegates should counsel prospective applicants not to apply for speculative permits. Permits must not be viewed or used as a Federal certification of consultants' credentials, a license to practice, or a precondition for consultants to compete for jobs. Applicants who are denied a speculative permit should be informed in writing (see .12B8) that an application for definite work will be processed promptly, and that denial under these circumstances does not reflect negatively on qualifications or performance. Land use applicants who will be requested to provide cultural resource information or services in support of their applications should be informed of the exact need, and asked to have their preferred consultant apply for a cultural resource use permit, as soon as the need is determined.

6. Conformity with Management Constraints. All applications must be reviewed for compatibility of proposed work with any approved management plan or established policy, objectives, or requirements applicable to the management of the public lands and resources involved.

a. Proposed work may be modified through limitations or conditions, or applications may be denied, if the application proposes work incompatible with:

(1) Cultural resource management commitments established through evaluation and planning. For example, if an applicant proposes to train university field school students in excavation techniques in a cultural property that has been allocated to long-term conservation because of scarcity and overriding scientific importance, a similar property that has been allocated to the research category should be substituted (after consultation with the applicant), or the application should be denied. (See BLM Manual Section 8110.)

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

(2) Multiple use resource protection requirements pertaining to time of year, type of activity, type of equipment employed, access, personal safety, fire safety, or other management restrictions. For example, if an applicant proposes to do testing in a bighorn sheep lambing area during lambing season, or to use motorized equipment in a wilderness study area, the proposed timing or method of use should be changed through conditions (after consultation with the applicant) or the application should be denied.

(3) Other authorized uses of lands or resources exclusive in nature.

b. When the application is of a general nature, at a scope above the level of specific projects, so that potential conflicts cannot be identified, this review step may be limited or deferred until a request for fieldwork authorization is submitted pursuant to .12D.

7. Indian Tribal Religious or Cultural Concerns. All applications for Limited Testing and/or Collection permits and Excavation and/or Removal permits must be reviewed for potential harmful or destructive effects on locations of religious or cultural importance to Indian tribes. (See ARPA Section 4(c) and 43 CFR 7.7(a). See also Manual Handbook H-8120-1.) In addition, applications for Survey and Recordation permits may be so reviewed if there are reasons to think, because of an area's previously identified sensitivity, that even such nonimpacting use should be made known to Indian tribes. If it is determined that the potential exists for harm to or destruction of sites of religious or cultural concern to Indian tribes as a result of permit authorization, the notification procedures in .13 must be followed prior to making a decision to approve the application. Indian tribal religious or cultural concerns may be the basis for modification of the proposed work through limitations or terms and conditions, or for denial of the application.

8. Evaluation and Recommendation. Upon completing the review, the cultural resource specialist shall prepare a recommendation for permit issuance or denial. The basis for the recommendation, documented in writing, shall become a part of the permanent file.

a. Recommending Permit Conditions and Permit Term. When recommending that the State Director approve a permit, the cultural resource specialist shall prepare a brief written summary of review findings, complete an approved permit form with the standard conditions (Illustrations 1), and attach any special conditions determined appropriate to the work and recommended for approval (e.g., Illustration 2). The specialist's recommendation for the permit's term (duration) shall be indicated by the expiration date entered on the form.

(1) For permits that would cover a series of jobs over an extended period of time, the permit term reflects the confidence BLM has in the organization's ability to complete work and meet permit conditions. Three years is normal for survey permits issued to firms that have demonstrated a history of acceptable performance.

(2) New firms or firms that have experienced performance problems may be issued permits of shorter duration, such as one year, or held to a separate permit for each job.

Illustration 1, Page 1 of 2
.12B8a
8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)
Illustration 1

Required Permit Content

All cultural resource use permits must include completed information fields for:

1. Permit number
2. Name of permittee
3. Permittee's mailing address, telephone number, and email address
4. Nature of authorized cultural resource work
5. Location of authorized cultural resource work
 - a. Description of Public Lands involved
 - b. Identification of specific cultural resource(s) involved (if applicable)
6. Authorized beginning date
7. Expiration Date
8. Name of individual(s) authorized to plan and supervise field work and approve reports, evaluations, and recommendations
9. Name of individual responsible for carrying out terms and conditions of permit
10. Name of approved curatorial facility where collections and records shall be deposited upon completion of authorized cultural resource work
11. Signature of State Director or authorized official and date signed

All cultural resource use permits must include the following administrative conditions:

1. This permit is subject to all applicable provisions of pertinent regulations (43 CFR 2920; 43 CFR 3; 43 CFR 7), and policies and procedures (BLM Manual Section 8150), which are made a part hereof.
2. This permit may not be assigned.
3. Permittee shall immediately request that the State Director make a modification to accommodate any change in an essential condition of the permit (1, 2, 5, 6, 9, 10, 11 above), and shall without delay notify the State Director of any other changes affecting the permit or regarding information submitted as part of the application for the permit. Failure to do so may result in permit suspension or revocation or criminal charges.
4. This permit is issued for the term specified in 6 and 7 above. It is subject to suspension or revocation, for management purposes or for cause, at the discretion of the State Director, upon written notice.
5. Permittee may request permit extension, in writing, at any time prior to expiration of the term of the permit, specifying a limited, definite amount of time required to complete permitted work.
6. Any correspondence about this permit or work conducted under its authority must cite the permit number. Any publication of results of work conducted under the authority of this permit must cite the Bureau of Land Management and the permit number.
7. Special conditions attached to this permit are made a part hereof.
8. Permittee shall contact the affected Field Office manager prior to beginning any field work under the authority of this permit by submitting a fieldwork authorization request except when a specific fieldwork authorization is included with the permit.
9. Permittee's initiation of work or other activities under the authority of this permit signifies the permittee's acceptance of the terms and conditions of the permit.

(cont'd. next page)

Illustration 1 (continued)

Required Permit Content

Administrative conditions continued

10. Permittee may request a review, in writing to the official concerned, of any disputed decision regarding inclusion of specific terms and conditions in this permit or any fieldwork authorization, denial of a fieldwork authorization request, or modification, suspension, or revocation of this permit, setting out reasons for believing that the decision should be reconsidered.
11. Permittee shall not be released from requirements of this permit until all outstanding obligations have been satisfied, whether or not the term of the permit has expired. Permittee may be subject to civil penalties for violation of any term or condition of this permit.
12. Permittee shall use State Director-approved GPS technology to record all location data for field work authorized in this permit.
13. Permittee shall submit a preliminary report to the authorized officer within 10 days of completion of any episode of field work, setting out what was done, how it was done, by whom, specifically where, and with what results, including maps, GPS data, an approved site form for each newly recorded cultural property, a BLM evaluation form for each cultural property examined, and the permittee's professional recommendations, as results require. Depending on the scope, duration, and nature of the work, the authorized officer may require progress reports, during or after the fieldwork period or both.
14. Permittee shall submit a final report to each the authorized officer and the State Director not later than 180 days after completion of field work. Where a fieldwork episode involved only minor work and/or minor findings, a final report may be submitted in place of the preliminary report.
15. Permittee shall deposit all artifacts, samples and collections, as applicable, and copies of all records, data, photographs, and other documents, resulting from work conducted under this permit, with the curatorial facility named in item 11, above, not later than 90 days after the date the final report is submitted to the State Director. Not later than 180 days after the final report is submitted, permittee shall provide the State Director with a catalog and evaluation of all materials deposited with the curatorial facility, including the facility's accession and/or catalog numbers.

Illustration 2

Land Use and Resource Protection Conditions

Following are additional conditions the State Director may add to the permit if applicable (conditions pertaining to excavation, for example, would not be applicable in a permit that does not authorize excavation). The State Director may add any pertinent State-specific conditions. The Field Office manager may adjust or add conditions to fieldwork authorizations as appropriate to the location, time of year, or work to be conducted. Such adjusted and added conditions become a fully enforceable part of the permit.

1. Permittee shall observe all Federal, State, and local laws and regulations applicable to the public lands and resources, whether or not stipulated in the permit conditions.
2. Permittee shall allow the State Director and authorized officer or their representatives full access to the work area specified in this permit at any time the permittee is in the field, for purposes of examining the work area and any recovered materials and related records.
3. Permittee shall cease work upon discovering any human remains and associated funerary objects, and shall immediately notify the authorized officer. Work in the vicinity of the discovery may not resume until the authorized officer has given permission.
4. Permittee shall backfill all subsurface test exposures and excavation units as soon as possible after recording the results, and shall restore them as closely as reasonable to the original contour.
5. Permittee shall take precautions to protect livestock, wildlife, the public, or other users of the public lands from accidental injury in any excavation unit.
6. Permittee shall not conduct any flint knapping or lithic replication experiments at any archaeological site, aboriginal quarry source, or non-site location that might be mistaken for an archaeological site as a result of such experiments.
7. Permittee shall perform the field work authorized in this permit in a way that does not impede or interfere with other legitimate uses of the public lands, except when the authorized officer specifically provides otherwise.
8. Permittee shall restrict vehicular activity to existing roads and trails unless the authorized officer provides otherwise.
9. Permittee shall keep disturbance to the minimum area consistent with the nature and purpose of the field work.
10. Permittee shall not cut or otherwise damage living trees unless the authorized officer gives permission.
11. Permittee shall take precaution at all times to prevent wildfire. Permittee shall be held responsible for suppression costs for any fires on public lands caused by the permittee's negligence. Permittee may not burn debris without the authorized officer's specific permission.
12. Permittee shall not disturb resource management facilities within the permit area, such as fences, reservoirs, and other improvements, without the authorized officer's approval. Where disturbance is necessary, permittee shall return the facility to its prior condition, as determined by the authorized officer.
13. Permittee shall remove temporary stakes and/or flagging, which the permittee has installed, upon completion of field work. Permittee shall clean all camp and work areas before leaving the permit area.
14. Permittee shall take precautions to prevent littering or pollution on public lands, waterways, and adjoining properties. Refuse shall be carried out and deposited in approved disposal areas.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

b. Preparation of Denial Letter. For any recommendation to deny a permit application, the cultural resource specialist shall prepare a letter to the applicant, setting out in detail the reasons for denial.

9. Decision. The file, including the staff recommendation and documentation and the completed permit form or denial letter, shall be transmitted to the appropriate official for decision (see .04). Once the permit or the denial letter has been signed, that information shall be returned to the permanent file.

C. Permit Issuance or Denial.

1. Final Processing. Upon receiving the file, the responsible staff shall check the file for completeness.

2. Distribution. The responsible staff shall distribute the decision document and copies as follows:

a. Original signed permit, including standard and special conditions, or original signed letter of denial to applicant/permittee.

b. Copy to the permanent file.

c. Copy to each Field Office affected.

d. Copy to any curatorial facility identified under .12B4.

3. Additional Material to Permittees. With each original permit, include in the mailing to the permittee information about requesting fieldwork authorization, together with any procedural instructions and materials (inventory forms, etc.) that will aid the permittee in meeting conditions of the permit.

D. Information About Permits and Permittees.

1. Confidentiality. The State Director may withhold information about the location and nature of permitted work if disclosing it would compromise the protection of archaeological resources and/or National Register properties.

2. Public Information. The State Director and Field Office manager may on request provide the names of individuals and firms holding cultural resource use permits, but must not represent the information as identifying the only consultants who are qualified to conduct cultural resource studies. Land use applicants who are being required to provide inventory and evaluation data in support of their land use applications should be encouraged to select a qualified consultant and to request that the consultant apply for the appropriate permit. (See .12B5b) Permittee lists should not be used to limit competition in any way.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

E. Fieldwork Authorizations.

1. All permits require fieldwork authorizations, which may take the form of written documentation (including email or fax), a record of pre-field checks of office records, or documented oral authorizations by telephone. Project-specific permits (see .11D2 and 3) often include at issuance the only fieldwork authorization that they will require. However, if field work will be discontinuous, project-specific permits will need additional authorization prior to each episode of field work. The primary purpose of fieldwork authorizations is to determine whether areas have been previously surveyed, whether there are conflicts with other resources, or other factors (such as safety issues) that could affect timing and scope of the proposed fieldwork. For any recommendation to postpone fieldwork, the cultural resource specialist shall prepare a letter to the permittee, setting out in detail the reasons for delay and when work may begin. Fieldwork authorizations should not routinely be used to apply additional special conditions to the permit beyond what was attached at original issuance, nor should the fieldwork authorization process be used as a second level of review of proposed personnel.

2. Field Office managers are responsible for authorizing specific field work conducted under a cultural resource use permit. Field Offices shall maintain a file for each permit affecting them, documenting to the file all fieldwork authorized under the permit, and shall forward originals or copies of documentation, as appropriate, to the permanent file.

3. Written Authorization Procedures. Because fieldwork authorizations may be given as the product of in-office pre-field records checks, as telephone authorizations, as email or fax exchanges, or as more formal written documentation, the applicability of the procedural guidance in paragraphs .12E3a-d will vary from State to State, being most applicable to States that employ more formal fieldwork authorization procedures. States electing optional methods must document contacts and authorizations as part of the permit record. Permittees should also be advised to document contacts and authorizations for their own records.

a. Pre-work Contact. Except for project-specific permits that authorize work to begin immediately upon issuance, each permit shall require that the permittee contact the Field Office manager prior to beginning any work under authority of the permit. The permittee should make such contact by submitting a request for fieldwork authorization, in person or by mail, to the Field Office manager responsible for the administration of lands involved in the proposed field work (except when waived under paragraph .12E3b(1)). When proposed field work would consist of numerous instances of essentially similar tasks carried out in the same Field Office (e.g., oil and gas drill pad surveys), the Field Office manager may elect to limit pre-work contacts to initial and periodic (e.g., monthly or quarterly) submissions of fieldwork authorization requests, updated at the initiation of each new fieldwork episode by documented telephone contacts.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

b. Review. An appropriately qualified cultural resource specialist shall review proposed field work in consultation with the Field Office manager(s) with management responsibility for the location(s) specified. A cultural resource specialist who does not have appropriate professional qualifications to review the work proposed by the permittee may not be assigned to do the review.

(1) Site or Project-Specific Permits. When a permit is sufficiently specific to project location field work is proposed to begin immediately upon issuance of the permit, and the affected Field Office manager has approved the permit application, further review may be waived and a fieldwork authorization issued as part of the permit.

(2) General Authorization Permits. When permits are at a scope of generalization above the level of specific projects, so that pre-issuance review was limited or deferred, such review must be completed prior to approving a request for fieldwork authorization.

(3) Additional Permit Conditions. The cultural resource specialist in consultation with the Field Office manager may develop and recommend necessary and appropriate conditions that were not previously included in the permit. Additional conditions in fieldwork authorizations should ordinarily be limited to protecting other resources (e.g., restricting activity in specific areas during elk calving season) or ensuring public safety (e.g., alerting the permittee to extreme fire hazard and specifying necessary precautions). They may not substantially alter the scope of the permit. Simple instructions to the permittee that can be conveyed in a cover letter should not be added to the permit as conditions. Any conditions added in fieldwork authorizations have the same force and effect as conditions in the original permit. Special resource protection or safety considerations may be adequate reason to deny a request for fieldwork authorization or to delay its approval until the special circumstances have changed. Both as a courtesy and as a possible source of unconsidered alternatives, the permittee should be consulted before a decision is made to deny or delay a fieldwork authorization.

(4) Evaluation and Recommendation. Upon completing the review, the cultural resource specialist shall prepare a recommendation for approval, including any additional conditions considered necessary, or for denial. The basis for the recommendation must be adequately documented in writing.

(5) Preparation of Authorization Form. For any recommendation for approval, the cultural resource specialist shall prepare a fieldwork authorization, attaching any additional conditions recommended.

(6) Preparation of Denial Letter. For any recommendation to deny a request for fieldwork authorization, the cultural resource specialist shall prepare a letter to the permittee, setting out in detail the reasons for denial.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

c. Decision. A staff recommendation for approval or denial will be submitted to the Field Office manager for decision. Once the fieldwork authorization or denial letter has been signed, the temporary file shall be returned to the Field Office records section for further action.

d. Issuance. Upon receiving the temporary file, the Field Office records section shall distribute the decision document and copies as follows: Original signed fieldwork authorization, including additional conditions, if any, or original signed letter of denial to permittee; copy to issuing office for inclusion in the permanent file; copy to each Field Office manager affected.

.13 Notifying Indian Tribes. The State Director or Field Office managers, as appropriate, are responsible for notifying and consulting with Indian tribes when work proposed in an application for a permit might have a harmful or destructive effect on sites or areas that have tribal religious or cultural importance in accordance with ARPA and NAGPRA (see "site of religious or cultural importance" and "cultural item," Glossary of Terms). In general, only permits for major testing programs and excavation and/or removal are expected to be subject to consultation requirements (see .12B7 and .13). As defined in ARPA, the term "Indian tribe" includes Alaska Native Villages and Native Corporations defined in or established by the Alaska Native Claims Settlement Act. Except as noted below, the specific notification or consultation procedures and processes contained in BLM Manual Section 8120 and the associated Manual Handbook H-8120-1 shall be followed when dealing with Indian tribes on permitting issues. File information pertaining to the nature and location of sites or areas that are of concern to Indian tribes or groups for religious or cultural reasons, shall be protected from public disclosure to the extent allowed by statute. Sites or areas that are or coincide with archaeological resources as defined in ARPA and 43 CFR 7.3, or that are or coincide in location with a cultural property eligible for or included in the National Register of Historic Places, shall be protected from disclosure under a Freedom of Information Act request (16 U.S.C. 470w-3; 16 U.S.C. 470hh).

A. Permit Notification Requirement and Content. (See 43 CFR 7.7(a).)

1. When Notification Is Required. Upon receiving an application for an Excavation and/or Removal permit that could, if approved, result in harm to or destruction of already identified sites or areas of Indian tribal religious or cultural concern, the Field Office manager shall notify Indian tribe(s) known to have the concerns. Notification shall be by mail, return receipt requested.

2. When Notification Is Not Required. Notification shall not be required when one or more of the following conditions applies:

- a. The proposed activity will not result in surface disturbance.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

b. Diligent attempts to identify Indian tribes with aboriginal or historic ties have had a negative conclusion.

c. Information obtained pursuant to this subsection indicates that notification is not necessary under the circumstances of the proposed work.

d. Information has been withheld by the Indian tribe or group, and the Field Office manager has informed the tribe or group in writing that the absence of information will preclude notification.

e. The tribe has already been consulted about the proposed archaeological work pursuant to Section 106 of the National Historic Preservation Act, the national Programmatic Agreement, and the State's BLM-SHPO Protocol, sufficient to satisfy the requirement of 43 CFR 7.7.

3. Content of Notification. Any notification shall include, at a minimum, the following information:

a. Location and nature of proposed work.

b. Identification of anticipated harmful or destructive effects, to specific known sites or areas of religious or cultural importance, that the Field Office manager has determined might result from the proposed work.

c. Statement that any request for consultation with the Field Office manager must be received within 30 days from date of receipt of the notification (beginning as of the date of delivery shown on the return receipt).

d. Citation of ARPA Section 4(c) 43 CFR 7.7(a) as the basis for notification, and citation of NAGPRA Section 3(c) if the work involves intentional excavation of human remains and/or associated funerary objects.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

.2 Coordinating with Other Agencies and Offices.

.21 Coordination With Other Federal Agencies. For permit applications filed under the authority of ARPA that involve the jurisdictions of more than one Federal land manager, State Directors or appropriate Field Office managers are required to coordinate the review and evaluation of applications and the issuance of permits (see 43 CFR 7.8(b)).

A. Exchange Information. If needed, each State Director or Field Office manager shall seek to develop an agreement, such as a memorandum of understanding, with counterpart office heads for other Federal agencies that have permit issuance responsibility on lands proximate or contiguous to lands under the State Director's or Field Office manager's administrative jurisdiction. The agreement should provide for exchange of information pertaining to permit applications that affect lands under more than one jurisdiction. Similar agreements may also be developed with State agencies as appropriate.

B. Consistency of Requirements. State Directors or Field Office managers should notify office heads of other agencies when a permit application indicates that the other agency's lands are involved, that a permit for similar work on the other agency's lands is in force, or that a comparable application is pending in the other agency. When work would be essentially similar on the lands of more than one agency, proposed terms and conditions should be compared so that improved interagency consistency of requirements may be achieved.

C. Performance of Permittees. Information pertaining to permit reviews, warnings, suspensions, and revocations should be provided to office heads of other agencies when appropriate.

.22 Coordination Within BLM.

A. Consistency Criteria and Requirements. When an applicant is applying to more than one BLM State for a permit for the same or essentially similar work, the authorized officers should coordinate the review of applications and shall ensure, when possible, consistency of decisionmaking criteria and selection of terms and conditions.

B. Permit Issuance Lead. Two or more State Directors may agree that one will assume a lead role and issue a single permit with terms and conditions appropriate to each participating State. Fieldwork authorizations shall remain individual and specific to each affected Field Office.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

C. Interstate Effect of Suspension or Revocation. If a State Director suspends or revokes a permit for cause, documentation about the decision shall be transmitted to all other States where the permittee holds an active permit. Other BLM States administering active permits held by the permittee in question shall review the circumstances and decide whether their active permits should also be suspended or revoked. If the State Director deems it necessary, the active permit may be suspended immediately, pending completion of the review.

.23 Status of Permits and Performance. Information relating to applications, permits, and performance of permittees should be maintained in current status in an automated permit status file, which should be of a format that can be shared electronically. Other BLM States in which a permittee also holds a permit should be notified in any case of a suspension or revocation for cause (see .33).

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

.3 Administering Permits

.31 Monitoring and Documenting Performance.

A. Monitoring and Review. Field Office managers shall be responsible for monitoring the permittee's performance at various intervals throughout the life of the permit. Monitoring, adequate to ensure compliance, shall be conducted when the permittee is in the field. Performance is reviewed with direct regard to conditions in the permit as well as applicable standards and guidelines. Monitoring is intended to verify the permittee's adherence to administrative conditions as well as adherence to technical and resource protection conditions. Administrative conditions include, among others, conducting the survey at the times agreed to and having the required personnel present during field work. Performance monitoring should be carried out often enough that developing problems can be recognized and brought to the permittee's attention at a time when they may still be easily corrected, without requiring a formal State Director's warning (see .33D). For any permit issued for a period greater than one year, the permittee's performance under the permit shall be reviewed at least annually. State Directors should establish the monitoring standards appropriate for their States. In addition to fieldwork monitoring, Field Office managers should verify the timely deposit of records and collections, as applicable, with approved curatorial facilities at least annually.

B. Documentation. Findings from any performance monitoring or annual review shall be entered into the permanent file and may be noted in an automated status file, as appropriate. The responsible manager should inform the permittee in writing of the results of performance monitoring, review, and verification.

.32 Modifying, Renewing, and Extending Permits.

A. Modification.

1. Initiated by Permittee. The permittee may request permit modification, in writing, at any time. The permittee must request a permit modification whenever a change in any essential condition of the permit is anticipated. Any change in an essential condition that is not accommodated by a modification shall make the permit invalid and shall be cause for suspension. Essential conditions include individuals named in the permit, type, scope, or location of work, location and facilities of permittee or curatorial facility, and any other conditions pertaining to the permittee's eligibility for the permit. A change of permit duration may not be accommodated by modification (see Renewal and Extension below).

2. Initiated by State Director. The State Director may modify a permit at any time when essential management considerations have changed but do not require that the permit be suspended or revoked. The State Director may modify a permit to remove an individual from a responsible position, such as crew chief, when monitoring has shown that the individual is incapable of performing adequately in the position, and suspension or revocation of the permit is otherwise not necessary.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

3. Written Notice. The State Director shall provide written notice of a permit modification to the permittee, in person or by mail (return receipt requested), setting out in full the reasons for the modification. Whenever possible, oral notice should precede written notice.

B. Renewal.

1. A permittee holding a permit for Survey and Recordation may request that the State Director renew it. The renewal request may be made up to 3 months prior to the expiration of the term of the permit or, provided no field work has been conducted after the permit expired, within a reasonable period of time after expiration. The permittee should submit an updated application form, showing any changes in essential conditions (see .32) since the original application. If such changes have been already been accommodated by modification, the State Director may allow the permittee to attest to this in a letter request in lieu of an application form. The State Director may renew a permit, provided that the permit is not suspended for cause and the permittee has no outstanding, significant performance problems. The State Director may modify and renew a permit at the same time.

2. A renewed permit should be given a new number so that case files do not become unwieldy, either in size or in complexity. This can be as simple a change as adding an ending-year suffix. In the event of a dispute or appeal, reviewing officials should not have to work with an excessively large case file containing years-old, superseded information. Cultural resource permit files should follow the same basic case recordation standards as serialized lands and minerals case files, for similar reasons.

C. Extension. A permittee holding a permit for Limited Testing and/or Collection or for Excavation and/or Removal may request that the State Director extend the permit. The request should be made a reasonable period of time before the permit's term expires. Because these are project-specific permits, there should not be a need for numerous extensions. The State Director may extend a permit, provided that any changes in an essential condition (see .32A) have been accommodated by modification, the permit is not suspended for cause, and the permittee has no outstanding, significant performance problems. The State Director may modify and extend a permit at the same time. An extended permit may retain the same number.

D. Decision and Documentation. Decisions on permit modification, renewal, and extension shall be based on a review process comparable to the review in .12B. Any modification, renewal, or extension shall be documented in the permanent file and noted in an automated status file.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

.33 Suspending and Revoking Permits.

A. Suspension for Cause.

1. The State Director may suspend a permit for infringements of permit conditions that are of a serious or irresponsible nature. For example, acts of commission or omission or misrepresentation warrant suspension when they are directly or indirectly detrimental to cultural or natural resources or public safety. Also, suspension is appropriate when the permittee has failed to meet a condition of the permit, such as failure to request a modification to accommodate change in an essential condition and failure to meet special resource protection conditions added as part of a fieldwork authorization or as a permit modification (initiated by the State Director). When a permittee's actions warrant suspension, prompt suspension is the appropriate BLM response; the State Director should not instead allow a problem permit to run to term and then deny a request for its renewal.

2. The State Director shall suspend a permit when the permittee has been formally charged with a violation of any prohibition in 16 U.S.C. 470ee or 43 CFR 7.4.

3. Because not all permit conditions are of equal weight, good judgment must be exercised in determining whether a permit should be suspended. Lesser performance problems that warrant an action of record should be handled by a State Director's warning (see .33D).

4. A suspended permit may be reinstated.

B. Revocation for Cause.

1. The State Director shall revoke a permit upon the permittee's conviction under 16 U.S.C. 470ee, or the assessment of a civil penalty under 16 U.S.C. 470ff and 43 CFR 7.

2. The State Director may revoke a permit upon the permittee's failure after a reasonable time to correct the situation that led to suspension for cause.

3. The State Director shall revoke a permit upon determining that information presented as fact in an application, a fieldwork authorization request, or a report was knowingly falsified.

4. A revoked permit may not be reinstated.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

C. Effects of Suspension or Revocation for Cause

1. Effect on Organization. The permittee, usually an organization rather than an individual, is the entity most clearly affected by a suspension or revocation for cause. Before considering a reinstatement request or a reapplication, the State Director will require a firm whose permit is suspended or revoked for cause to demonstrate that the cause has been corrected. The State Director may bar a firm, whose permit is revoked for cause, from consideration for a permit to work on BLM-administered lands for a period of years.

2. Effect on Individual. For supervisory personnel who committed or allowed the deficient performance that led to the organization's suspension or revocation for cause, that person will no longer be eligible to work under a cultural resource use permit in a supervisory capacity for that or any other organization. Upon demonstration that the causes for unsatisfactory performance problems have been resolved (e.g., by demonstrating additional training or experience), the State Director may consider reinstating the individual in a supervisory capacity.

D. State Director's Warning. The State Director may notify a permittee in writing when the permittee's performance under a permit is marginal and approaching cause for suspension. State Director's warnings are optional, discretionary, BLM administrative courtesies that are not procedurally required by law, regulation, or policy.

1. The State Director's warning notice should describe the problem in sufficient detail that the permittee can clearly understand the cause for the warning; should set forth what action is needed on the part of the permittee to correct the problem; and should set a time limit within which the permittee will be expected to remedy the problem.

2. The State Director's warning notice should point out that continuation of the problem without remedy is likely to result in permit suspension for cause.

3. When a performance problem is of a relatively minor nature, such as inadvertent omissions or incorrect procedures in the completion of forms or the preparation of reports, the State Director's or Field Office manager's staff should alert the permittee more informally, such as by a telephone call or other direct personal contact.

4. Written State Director's warnings become a part of the permanent permit file and could influence future permit decisions, including the outcome of disputes and appeals. Because of their gravity and their potential relationship to permit suspension, they may be issued only by the State Director.

5. Warnings below the State Director level are not authorized in the BLM cultural resource use permit system.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

E. Suspension for Management Purposes. The State Director may suspend a permit when management conditions that were not in effect at the time the permit was issued require that the permitted work be temporarily stopped. Protection of other resources, safety, or similar considerations might be cause for suspension for management purposes.

F. Revocation for Management Purposes. The State Director may revoke a permit if reasons warranting suspension for management purposes are expected to continue indefinitely.

G. Notice of Suspension. The State Director shall serve the permittee with written notice of suspension, in person or by mail (return receipt requested), setting out in full the reasons for the suspension. Suspension notices must inform the permittee clearly why the suspension has been imposed, what action the permittee must take and the time within which the permittee must act, as applicable, and potential legal consequences to the permittee if work under the suspended permit is continued.

H. Notice of Revocation. The State Director shall serve the permittee with written notice of revocation, in person or by mail (return receipt requested), setting out in full the reasons for the revocation and notifying the revokee that any continuation of work without a permit may be a violation of criminal law. Information on disputes and appeals must be included with any notice of revocation (see .34).

I. Documentation.

1. Any warning, suspension, or revocation shall be documented and entered in the permanent file. The permittee's performance record shall not be affected by suspension or revocation for management purposes, and the permittee shall be so informed. Warning, suspension, or revocation should be noted in an automated status file.

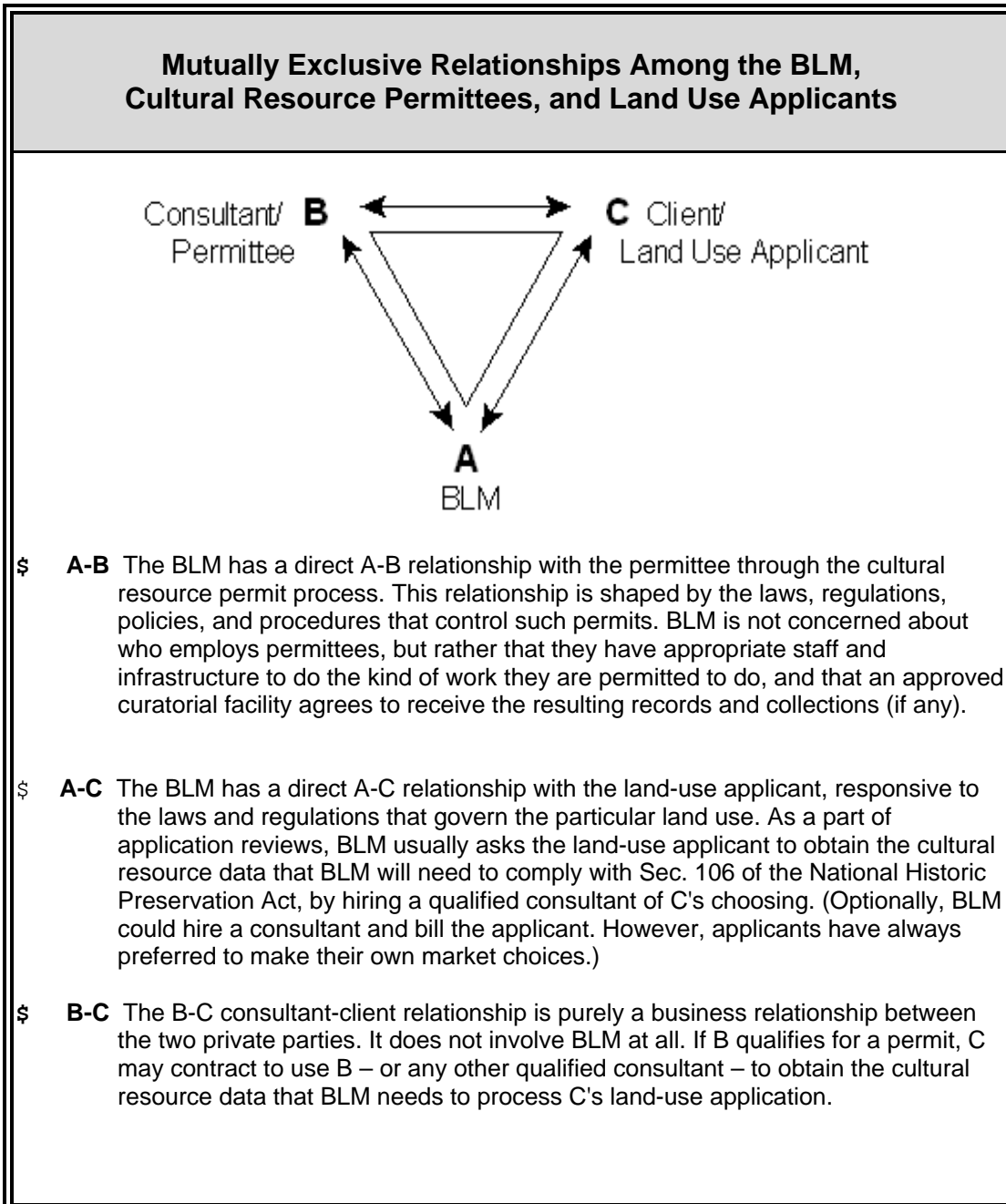
2. In the case of a State Director's warning, which does not take a permit out of operation, communication should be limited to BLM and the permittee. It is inappropriate for the State Director, or any official delegated to act in his or her stead (see .04), to send copies of warning letters and related correspondence to a permittee's client or sponsor. See Illustration 1.

3. In the case of suspension or revocation for cause, other agencies and BLM offices should be notified directly of the action. It is the permittee's or revokee's responsibility, not the BLM's, to notify any client or sponsor whose work will not be completed as scheduled.

Illustration 3
(.33I2)
8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

Illustration 3

Mutually Exclusive Relationships Among the BLM, Cultural Resource Permittees, and Land Use Applicants.



8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

.34 Responding to Disputes and Appeals.

A. Disputes. In accordance with 43 CFR 7.36(a) and (b), any applicant, permittee, or revokee ("disputant") may question the decision of the authorized officer (i.e., State Director or Field Office manager, as applicable) with respect to the denial of a permit application or a request for fieldwork authorization, the inclusion of specific terms and conditions in a permit, or the modification, suspension, or revocation of a permit.

1. Request for Review. The disputant may file a written request to the authorized officer for review of the authorized officer's decision, setting out reasons for believing that the decision should be reconsidered. The authorized officer may modify the original decision in light of information presented, or may sustain the original decision, in either case providing the disputant with written explanation.

2. Request for Conference. Either the disputant or the authorized officer may request a conference to discuss the original decision and its basis. The authorized officer may modify the original decision in light of information presented, or may sustain the original decision, in either case providing the disputant with a written explanation.

3. Review at Higher Organizational Level. The purpose of the disputes process is to resolve differences of understanding as quickly as possible and at the lowest organizational level possible. It is incumbent on the reviewing official to seek a reasonable resolution and to avoid passing a case upward. However, in some circumstances, higher level review is necessary.

a. The disputant, if unsatisfied with the outcome of a review or conference addressing the authorized officer's decision, may request, in writing to the authorized officer, that the decision be reviewed at the next higher organizational level. The disputant's written request should set out the procedural or substantive basis for thinking that the authorized officer's decision is in error. The authorized officer's decision shall stand during the course of any higher level review.

b. Decisions of a Field Office manager may be reviewed by the State Director, and those of a State Director may be reviewed by the Director. The Director may request that the Departmental Consulting Archeologist participate in the Director's review.

c. Upon receiving a request for higher level review, the authorized officer shall transmit the request and the pertinent file(s) to the reviewing official, i.e., the State Director or Director, as appropriate.

d. The reviewing official shall inform the disputant by mail (copy to the authorized officer) of the estimated time required for the review.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

e. If the reviewing official determines that the authorized officer's decision is procedurally and substantively correct and should stand unchanged, the reviewing official shall notify the disputant by mail (return receipt requested).

f. If the reviewing official determines that the authorized officer's decision is procedurally or substantively flawed, the reviewing official shall consult with the authorized officer, establish a course for correcting the decision, and notify the disputant by mail (return receipt requested).

g. Upon concluding the review, the reviewing official shall return the pertinent file(s) to the authorized officer (i.e., the State Director will return a temporary file to the Field Office manager; the Director will return any file(s) reviewed to the State Director).

h. The authorized officer shall immediately take any corrective actions determined under .34A3f.

4. Record of Review. Record of any reexamination of an authorized officer's decision shall be included in the permanent file.

B. Appeals.

1. Initiated by Disputant. In accordance with 43 CFR 7.36(c) and 43 CFR 7.11, after the dispute opportunities in .34A have been exhausted, the disputant may file a formal appeal with the Interior Board of Land Appeals by following the procedures in 43 CFR Part 4, Subpart E. When the authorized officer finds that suspension of the decision in accordance with 43 CFR 4.21(a) would cause harmful effects to cultural resources, the authorized officer shall apply to the Board for a determination that the decision being appealed, or pertinent parts of the decision, shall stand in full force and effect during the appeal period in the public interest.

2. Initiated by Other Affected Person. Any other affected person wishing to appeal a decision connected with a permit may file a formal appeal with the Interior Board of Land Appeals by following the procedures in 43 CFR Part 4, Subpart E. As necessary, the authorized officer shall apply to the Board for a determination that the decision being appealed shall stand during the appeal period.

C. Departmental Review of Professional Issues. In accordance with 43 CFR 7.36(d), any affected person may request the Departmental Consulting Archeologist's review of any professional issues involved in a BLM permitting decision, such as qualifications, research design, or other professional archaeological matters. The Departmental Consulting Archeologist's final professional recommendation will be made to the Director. The Director shall consider the recommendation, but shall retain the decisionmaking authority.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

.35 Maintaining an Automated Permit Status File. Information on applications, permit issuance, modification, extension, warning, suspension, revocation, or other actions should be entered in an automated permit status file to provide an easily retrieved summary of essential permit information within the State.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

.4 Reporting Results and Protecting Products of Permitted Cultural Resource Work

.41 Reports.

A. Preliminary Report. The permittee shall submit two copies of a preliminary report to the authorized officer within 10 days of completion of any episode of field work, setting out what was done, how it was done, by whom, specifically where, and with what results, including maps, precise and accurate locational data, an approved site form for each newly recorded cultural property, a BLM evaluation form for each cultural property examined, and the permittee's professional recommendations, as results require.

B. Interim Report. Depending on the scope, duration, and nature of the work, the authorized officer may require progress reports, during or after the fieldwork period or both.

C. Final Report. The permittee shall submit two copies of a final report to each the authorized officer and the State Director not later than 180 days after completion of field work. Where a fieldwork episode involved only minor work and/or minor findings, a final report may be submitted in place of the preliminary report.

.42 Management of Collections.

A. Responsibility of Permittee. The permittee shall deposit all artifacts, samples and collections, as applicable, and copies of all records, data, photographs, and other documents, resulting from work conducted under this permit, with the curatorial facility named in the permit, not later than 90 days after the date the final report is submitted to the State Director.

1. Catalog of Artifacts. Not later than 180 days after the final report is submitted, permittee shall provide the State Director with a catalog and evaluation of all materials deposited with the curatorial facility, including the facility's accession and/or catalog numbers.

2. Confirmation of Delivery. The permittee shall provide the State Director with a Confirmation of Museum Collections Deposition Statement (Illustration 4), signed by an authorized curatorial facility official, confirming the date of deposition, type, number and condition of the collected museum objects deposited at the facility. The curatorial facility's own collections receiving form may be substituted if it includes all of the information required in Illustration 4. Collections from each project must be listed separately.

B. Responsibility of Curatorial Facility. Any curatorial agreement between the permittee and the approved curatorial facility must specify that the facility shall manage collections and associated records as United States property in a manner consistent with 36 CFR Part 79, and that the repository will assist the permittee in reporting to the BLM State Director about collections deposited with the facility, including confirmation of receipt, a brief description of the objects received, and the facility's accession and/or catalog numbers for such collections.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

.5 Assessing the Results of Permitted Cultural Resource Work

.51 Assessing Project Results. Following a project, such as a data-recovery excavation, or a set of small but related projects, such as well-pad surveys in a particular well field, the permittee shall be instructed to prepare an assessment as part of the final report. The assessment is intended to give BLM managers a frank, after-the-fact appraisal of what the permitted use of publicly owned cultural resources has returned for the public good. The assessment should describe:

- a. What was done, where, and for what purpose.
- b. What was found, including whether and how finds add to the current body of knowledge.
- c. How the finds fit, or do not fit, land use plans and cultural resource use decisions, including future field inventory priorities.
- d. Whether and why the work was important to the public and worthy of the sponsor's financial support.
- e. What resulting changes should occur in the cultural resource knowledge base, cultural resource management plans, and cultural resource protection priorities.

.52 Assessing Cumulative Results. Where work is permitted generally instead of by individual projects, such as in survey and recordation permits, permittees shall be instructed to prepare at least an annual assessment, as described in .51a-e, due on the permit anniversary, or more frequently as the results of field work merit.

.53 Public Dissemination of Results. The State Director and Field Office manager shall use appropriate means to make the information in permittee's assessments available to the public.

8150 - PERMITTING USES OF CULTURAL RESOURCES – (Public)

Glossary of Terms

[Note: The following terms are defined as they apply to this Manual Section. Other definitions may be found in BLM Manual Section 8100.]

- C -

cultural resource: any cultural property, including records and physical remains related to such property.

cultural resource use permit: a land use authorization that the State Director issues to a qualified applicant, pursuant to this Manual Section, for the purpose of carrying out various identification and/or data recovery operations on cultural properties that are located on lands where BLM administers the surface. Such permits are issued partly under the authority of Section 302(b) of FLPMA and the procedures in BLM Manual Section 2920, but in contrast to other "2920 permits," cultural resource use permits are nonexclusive, noncompetitive, minimum impact permits, and are not subject to Notice of Realty Action, filing fees, or cost reimbursement.

- P -

person: "any individual, corporation, partnership, trust, institution, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the United States, or of any Indian tribe, or of any State or political subdivision thereof" (quoted from 43 CFR 7.3(g)). Although any "person" may apply for a permit, applicants and permittees are generally firms or organizations rather than individuals (see .06B, .06C, and .12B2a).

- S -

site of religious or cultural importance: any location identified by an Indian tribe as having such importance. Note that the word "site" as used in Section 4(c) of the Archaeological Resources Protection Act has a broad, general meaning and is not synonymous with "archaeological resource," although an archaeological resource could be, or could coincide in location with, a site* of religious or cultural importance. (See BLM Handbook H-8120-1.)

* A standard rule of legal construction is that any word not defined in the statute is to be understood according to its ordinary dictionary definition. In ARPA, "archaeological resource" is the defined term of art. "Site" is not defined. If the Congress had meant for "site of religious or cultural importance" to mean "archaeological resource of religious or cultural importance," the drafters either would have used that wording or they would have defined "site" to mean the same as "archaeological resource." Since neither of those things occurred, "site" means place or location.