

**PROGRAMMATIC AGREEMENT  
AMONG THE  
U.S.D.A. FOREST SERVICE, PACIFIC SOUTHWEST REGION,  
CALIFORNIA STATE HISTORIC PRESERVATION OFFICER,  
AND ADVISORY COUNCIL ON HISTORIC PRESERVATION  
REGARDING  
THE IDENTIFICATION, EVALUATION AND TREATMENT OF HISTORIC PROPERTIES MANAGED BY THE  
NATIONAL FORESTS OF THE SIERRA NEVADA, CALIFORNIA**

**WHEREAS**, the U.S.D.A. Forest Service, Sequoia, Inyo, Sierra, Stanislaus, Eldorado, Tahoe, and Plumas National Forests, and the Lake Tahoe Basin Management Unit (Forests) have a multiple-use mission to manage their public lands for a variety of resources, values, products, and uses; and

**WHEREAS**, the Forests are responsible for federal, federally-assisted, and federally licensed activities involved in the pursuit of the multiple-use mission that may involve historic properties (undertakings) in the State of California; and

**WHEREAS**, the Forests, as public land stewards, are mandated to comply with Sections 106 and 110 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470f; 470h-2), implementing regulations for Section 106 (36 CFR 800), and other Federal historic preservation and related authorities; and

**WHEREAS**, the Forests have determined that their policies, programs, and administration of Forest lands may have an effect on historic properties as defined at NHPA Section 301(5) (16 U.S.C. 470w(5)); and

**WHEREAS**, the Forests propose to comply with the following laws in planning and executing undertakings: Antiquities Act of 1906 (34 Stat. 225); 16 U.S.C. 431-433), Historic Sites Act of 1935 (49 Stat. 666; 16 U.S.C. 461-467), National Historic Preservation Act of 1966, as amended (80 Stat. 915 et seq.; 16 U.S.C. 470 et seq.), Archaeological and Historical Preservation Act of 1974 (88 Stat. 174; 16 U.S.C. 469), the Archeological Resources Protection Act (ARPA) of 1979, as amended (93 Stat. 721 et seq.; 16 U.S.C. 470 et seq.), American Indian Religious Freedom Act of 1978 (92 Stat. 469; 42 U.S.C. 1996), Native American Graves Protection and Repatriation Act of 1990 (104 Stat. 3048-3058; 25 U.S.C. 3001-3013), the Federal Lands Policy and Management Act (FLMPA) of 1976, as amended (90 Stat.2743; 43 U.S.C. 1701 et seq.), National Environmental Policy Act of 1969 (NEPA), as amended (83 Stat. 852 et seq.; 42 U.S.C. 4321-4347), Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476, et seq.), as amended by the National Forest Management Act (90 Stat. 2949, et seq.; 16 U.S.C. 1601-1614), Federal Records Act (FRA) of 1968, as amended (P.L. 90-620; 44; U.S.C. 2101 et seq.), and other authorities, as appropriate; and

**WHEREAS**, the Forests maintain historic preservation programs staffed by heritage resource professionals that meet the Secretary of Interior's Guidelines on Historic Preservation, Professional Qualifications Standards (Federal Register 1983, Vol. 48, No. 190) or Office of Personnel Management's X118 standards, and have demonstrated substantial compliance with the provisions of 36 CFR 800; and

**WHEREAS**, the Regional Forester of the USDA Forest Service Pacific Southwest Region (Regional Forester), California State Historic Preservation Officer (SHPO), Advisory Council on Historic Preservation (Council), and Forests share a desire to develop alternative procedures that satisfactorily take into account the effects of undertakings on historic properties, as described in this Agreement; and

**WHEREAS**, the Regional Forester, SHPO, Council, and Forests concur that this Agreement shall reduce paperwork; increase efficiency; provide for effective and timely coordination among the Regional Forester, SHPO, Council, and Forests; ensure that historic properties relating to the Forests' undertakings are identified, protected or otherwise managed and not neglected; and facilitate the Forests' progress towards meeting Section 110 responsibilities; and

**WHEREAS**, the Regional Forester, SHPO, Council, and Forests recognize that management of historic properties will be an ongoing process warranting the application of new and different management measures as information becomes available, and that such an ongoing process may warrant continued consultation; and

**WHEREAS**, the Regional Forester, SHPO, and Council (consulting parties) have consulted and reached this Agreement in accordance with 36 CFR 800 to achieve these objectives; and

**WHEREAS**, execution of this Agreement by the consulting parties, and signature by the Forest Supervisor of each participating Forest (concurring parties) obligates the consulting and concurring parties to comply with the stipulations contained herein;

**NOW THEREFORE**, the Regional Forester, SHPO, Council, and Forests agree that all policies, programs, actions, and lands administration by the Forests (undertakings) shall be implemented in accordance with the stipulations of this Agreement to take into account the effect of their undertakings on historic properties in lieu of the procedures of 36 CFR 800, and satisfy the Forests' NHPA Section 106 responsibilities for individual undertakings.

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The Forests participating in this Agreement shall ensure that the following measures are carried out:

## I. PURPOSE AND SCOPE

This Agreement establishes a program for fulfilling the participating Forests' responsibilities for undertakings under the authority of Sections 106 and 110 of the National Historic Preservation Act (NHPA)(16 USC 470), and related authorities. It establishes alternative procedures to those specified at 36 CFR 800, simplifying Section 106 review of undertakings on the Forests. This Agreement also encourages coordination of heritage resources management activities with the terms of other agreement documents, legal authorities, and stewardship responsibilities.

This Agreement was developed for the following USDA Forest Service, Pacific Southwest Region National Forests:

- Sequoia National Forest
- Stanislaus National Forest
- Tahoe National Forest
- Plumas National Forest
- Sierra National Forest
- Eldorado National Forest
- Lake Tahoe Basin Management Unit
- Inyo National Forest

Unless otherwise specified in Attachment 1, definitions at 36 CFR 800 apply to this Agreement.

This Agreement may be implemented by administrative subdivisions of these Forests (e.g., districts or zones), by qualified heritage resources professionals in heritage programs, as specified in Attachment 2. Where these participating Forests act as lead agency on behalf of other Federal agencies, or where an undertaking may have effects beyond the boundaries of the State of California, the Forests shall comply with 36 CFR 800 in lieu of compliance with this Agreement.

The following are special features of this Agreement.

1. Exempt Undertakings (Page 5). Some Forest undertakings, because of their nature and scope, have low potential to affect historic properties. These classes of undertaking shall be exempt from heritage program or Section 106 review. Once classified as an exempt undertaking by a Forest Manager, no further consideration of heritage resources is warranted with regard to that class of undertaking.
2. Screened Undertakings (Page 5). The prospective effects of some types (classes) of undertakings can be ambiguous and may or may not have the potential to affect historic properties, depending on the specific manner in which the undertaking is designed or implemented. This Agreement describes a process of internal Forest review of the potential of undertakings within these classes to affect heritage resources. Forest Heritage Resources Managers (FHRMs) and Forest Heritage Resource Specialists (FHRs) on each Forest are delegated responsibility to review (screen) such undertakings and determine on a case-by-case basis whether such undertakings shall be considered exempt or subject to further heritage preservation activities described in this Agreement.

3. Heritage Program Standards and Guidelines. This Agreement provides specific standards for conducting heritage resources inventory, evaluation, and management, including Forest Heritage Program requirements, identification standards, standard procedures for protecting heritage resources, reporting, public participation, and Certified Archaeological Surveyor Program standards and requirements.
4. No Properties/No Effects (Page 10). Some undertakings may contain no historic properties, or the undertakings can be managed in such a way that heritage resource values are protected. This Agreement streamlines NHPA Section 106 review process when:
  - there are no heritage resources within an undertaking's Areas of Potential Effects (APEs) or there are no National Register eligible properties within the APEs (pursuant to formal evaluation);
  - heritage resources have little or no potential to be affected by the undertaking; or
  - heritage resources will be protected through standard protection measures.

The Agreement provides standard protection protocols and criteria for determining when the evaluation of heritage resources is not necessary or appropriate, and when to evaluate heritage resources for eligibility to the National Register of Historic Places.

5. Undertaking Modules (Page 14). This Agreement accommodates the development and inclusion of heritage preservation activities and management approaches for specific classes of Forest undertakings (undertaking modules) for which standard procedures under the 36 CFR 800 or other terms of this Agreement are not efficient. The incremental development of new undertaking modules is encouraged as special needs arise.
6. Preservation Planning (Page 15). This Agreement requires the development of Heritage Preservation Plans (HPPs) on Forests that do not yet have accepted HPPs. HPPs provide historic contexts for the identification, evaluation, and management of heritage resources and offer procedures for such heritage program activities that are tailored and streamlined to the circumstances of each Forest or region. Annual progress must be made in meeting NHPA Section 110 requirements until HPPs that meet such obligations have been developed and implemented. This Agreement also approves the use of the *Framework for Archaeological Research and Management for Forests of the North-Central Sierra Nevada* (FARM), an existing HPP element for prehistoric archaeological resources.

The procedures described in this Agreement follow a decision tree, as depicted in Figure 1.



## II. FOREST HERITAGE PROGRAM REQUIREMENTS

### A. Heritage Programs

Each Forest included in the terms of this Agreement (participating Forests) shall support a full time Heritage Program committed to the fulfillment of historic preservation mandates and objectives defined in NHPA Sections 106 and 110 and related authorities, as well as Forest Service Heritage Resource Program goals defined in Forest Service Manual Title 2300, Chapter 2361 (1990) or its successor.

1. Program requirements, including levels of staffing, professional qualifications, and facilities, are described in Attachment 2.
2. The Forests may use Certified Archaeological Surveyors (CASs) to conduct a limited range of heritage resource program activities under the direction of the FHRM or FHRS, or in conjunction with cooperative agreements or challenge grant cooperators under the direction of the FHRM or FHRS. CASs must meet the standards specified in Forest Service Manual (FSM) 2361.42 and those detailed in Attachment 3, or standards set by the Forests and agreed to by SHPO that meet or exceed the levels of training and qualifications specified in Attachment 3.
3. The use of volunteer and other cooperators is encouraged in the Heritage Program for resource protection, monitoring, interpretation and research programs consistent with Forest Service goals and objectives and the terms of this Agreement. Volunteers and cooperators must work under the direct supervision of heritage resource professionals (HRPs).

B. All efforts to identify, evaluate and manage historic properties (heritage preservation activities) in connection with the planning of undertakings shall be carried out in accordance with the standards and guidelines specified in this Agreement (Attachments 1-9), 36 CFR 800, error as otherwise agreed to by SHPO. HPPs that have been reviewed and accepted in accordance with Stipulation XI.A may provide alternatives or additional procedures for meeting the Forests' responsibilities under Sections 106 and 110 of the National Historic Preservation Act.

C. If at any time a participating Forest, or the Regional Forester determines that one or more Forest(s) fail to meet the Heritage Resource Program requirements specified in Stipulation II.A., II.B. and Attachment 2, the Forest Supervisor(s) and/or the FHRM(s) shall consult with the Regional Forester and SHPO to reach agreement on staffing alternatives that will ensure compliance with the stipulations of this Agreement, pursuant to Stipulation XIII. Forests shall follow the review and consultation procedures for undertakings specified at 36 CFR 800 when: in consultation with the SHPO, Council, or Regional Forester determine that continuation of this Agreement is no longer desirable and any consulting party(s) terminates this Agreement pursuant to Stipulation XIV.D.; the Regional Forester suspends the participation of one or more Forests until such time that the Regional Forester believes that program requirements can be consistently met; or Forests determine that the provisions of this Agreement are not responsive to Forest needs for individual undertakings or the heritage resources program generally.



- D. Review of implementation and effectiveness of this Agreement by the SHPO, Council, and Regional Forester, and procedures by which the Regional Forester may suspend the participation of individual Forests in this Agreement, are discussed in Stipulation XIV.

### III. EXEMPT UNDERTAKINGS

#### A. Definition

Many undertakings, by their nature, have little potential to affect historic properties. Classes of undertakings listed in Attachment 4.I. are not subject to review or consultation under 36 CFR 800.

#### B. Public Comment and Objections

1. The public is informed and afforded opportunities to comment on Forest undertakings through public notification and review procedures specified under NEPA (42 U.S.C. 4321-4347), consistent with Council on Environmental Quality (CEQ) regulations (40 CFR 1508) and the Forest Service Handbook (FSH 1909.15--Environmental Policy and Procedures Handbook WO Amendment 1909.15-92-1). Interested persons and the interested public shall be notified of upcoming proposals for undertakings through the dissemination of schedules of proposed actions, "...prepared and distributed at least every three months to interested and affected agencies, organizations, and individuals. The schedule should include proposed actions which are anticipated to be categorically excluded from documentation in an environmental impact statement or an environmental assessment" (FSH 1909.15(07.1)).
2. If an interested person(s) or member(s) of the public raises a timely objection to the classification of a specific undertaking as exempt, the Forest receiving the objection shall follow the procedures described in Stipulation XIII.B. Timely objections are those that are raised within the public notification and review procedures specified under NEPA (42 U.S.C. 4321-4347), consistent with Council on Environmental Quality (CEQ) regulations (40 CFR 1508) and the Forest Service Handbook (FSH 1909.15--Environmental Policy and Procedures Handbook WO Amendment 1909.15-92-1).

### IV. SCREENED UNDERTAKINGS

Some types of undertakings, by their nature, *usually* have little potential to affect historic properties, but may have such potential under certain circumstances and contexts. The circumstances and contexts of such undertakings shall be reviewed (screened) by the FHRM or FHRS to determine whether further consideration of heritage preservation activities is necessary. Undertakings that shall be screened by the FHRM or FHRS are listed in Attachment 4.II.

#### A. Procedures

1. FHRMs or FHRSs shall screen each type of undertaking listed in Attachment 4.II. to determine, according to available information and using professional judgment, if there is a reasonable

2. cause to believe there is potential for heritage resources to be affected by a proposed undertaking. Variables that the FHRMs or FHRSs should consider in making this determination include:
  - types of heritage resources that are known to occur at the location;
  - potential for heritage resources, taking into consideration existing information and knowledge of the types and distribution of heritage resources in similar settings elsewhere;
  - potential for, and type of, ground disturbance related to the undertaking;
  - means of access and access routes;
  - secondary effects of the undertaking, such as erosion, trampling, or increased public visitation which may lead to vandalism or other resource degradation;
  - possible visual effects; and
  - potential for effects to cultural values held toward heritage resources by Native Americans or other ethnic group(s) and traditional cultural properties.
2. If the FHRM or FHRS finds that there is little potential to affect heritage resources, then those undertakings may be considered exempt from further consideration with regard to heritage resources. All undertakings that are screened, will be listed in the Annual Report to the SHPO (see Stipulation XII and Attachment 5)).
3. If the FHRM or FHRS determines that the screened undertaking has the potential to affect heritage resources, then the undertaking shall not be considered exempt and shall be subject to further consideration of heritage resources under the terms of this Agreement.

#### B. Adding and Removing Exempt or Screened Undertakings

Revisions to the list of exempt and screened undertakings identified in Attachment 4 may be proposed by a Forest in an Annual Report (Stipulation XII. and Attachment 5), or suggested by the SHPO, Council, or Regional Forester as part of their review of the Annual Report. Revisions regarding exempt undertakings shall be applicable to all Forests participating in this Agreement.

1. Upon recommendation by any party to this Agreement, the Regional Forester, SHPO, and Council shall consider adding other classes of undertakings to Attachment 4. Attachment 4 may be revised to include additional classes of undertakings upon the written approval of the Regional Forester, SHPO, and Council.
2. Any party to this Agreement may request, in writing, the removal of any class of undertaking from Attachment 4. The Regional Forester shall notify SHPO and Council of the request and initiate consultation to determine if the class should be removed or revised. Within 60 days of receipt of the written request, the Regional Forester, SHPO, and Council will make a final determination whether to exclude the class from Attachment 4 of this Agreement.

## V. IDENTIFICATION OF HERITAGE RESOURCES AND HISTORIC PROPERTIES

- A. The Forests shall ensure that all identification activities conform to the Secretary of Interior's Standards and Guidelines for Archeology and Historic Preservation, Standards for Identification (Federal Register 48(190):44720- 44723) and are carried out pursuant to the identification procedures outlined in Attachment 6.
- B. The scope of identification efforts will depend on existing knowledge about properties, goals for survey activities developed in the planning process, and current management needs. Critical steps in the identification process may include a literature review, Native American and interested party consultation, field survey, documentation of results, and record keeping.
- C. Where the Forests propose to carry out, or cause to be carried out, an intensive survey as described in Attachment 6, of lands within the APE, regardless of land ownership, they need not consult with the SHPO prior to such inventory, but shall document the results of such inventory in accordance with Attachments 5 and 6.
- D. Where a Forest proposes to carry out, or causes to be carried out, a sample survey, reconnaissance or less than intensive survey (e.g., sample inventory for scattered timber salvage of range allotments), the Forest shall consult with the SHPO on the appropriate type, intensity, and level of inventory to be conducted pursuant to 36 CFR 800. Such identification strategies can be developed in consultation with the SHPO for certain classes of undertakings or conditions rather than for individual undertakings. Where approved by SHPO, nonintensive survey methods will be considered adequate for satisfying identification requirements under this PA.
  - 1. The Forest or SHPO may request the Council to participate in such consultation.
  - 2. Only professional archaeologists, or consultants meeting professional standards, pursuant to 36 CFR 296.8, may design a sample survey, reconnaissance, of less than intensive survey.
- E. The identification procedures set forth in HPP elements accepted by the SHPO and Council may be followed instead of the Identification Standards outlined in Attachment 6. When alternative inventory methods or strategies outlined in HPPs are followed, no pre-inventory SHPO consultation is necessary, unless otherwise specified in HPPs.

## VI. EVALUATION

### A. Mandatory Evaluation

If an undertaking will result in the alteration of any characteristic of a heritage resource that could affect the NRHP eligibility of that resource, the Forest will follow the provisions of 36 CFR 800 regarding the evaluation of that resource. Evaluation methods and criteria shall be consistent with the "Secretary of Interior's Standards and Guidelines for Evaluation (48 Federal Register 190:44729-44738).

Evaluation procedures described in California Archaeological Resource Identification and Data Acquisition Programs (CARIDAPs) accepted by the SHPO may be applied to heritage resources that appear to qualify. If heritage resources are found to qualify under the definitions of a CARIDAP, no SHPO consultation is necessary to manage the resource in accordance with the terms of the CARIDAP (see Stipulation VI.D.).

The evaluation procedures and criteria set forth in HPP elements accepted by the SHPO and Council may be followed instead of the process described at 36 CFR 800 or in this Agreement. If the evaluation procedures and criteria set forth in HPP elements are not followed by the Forests, then the Forests will follow the regulations at 36 CFR 800 or the Stipulations of this Agreement.

#### B. Standard Protection Measures and Deferred Evaluation

If the FHRM or FHRS determines that the nature and scope of a proposed undertaking is such that its effects can be reasonably predicted and appropriate measures can be undertaken to ensure that the values of heritage resources or historic properties are not affected in any way, then those heritage resources or historic properties may be managed in a manner which ensures that their values are preserved by using the Standard Procedures for Protecting Heritage Resources (Standard Protection Measures) listed in Attachment 7. Under these circumstances, and if protection measures described in Attachment 7 are implemented, no evaluation of heritage resources is required prior to implementing an undertaking.

1. Standard Protection Measures in Attachment 7 relating to specific classes of undertakings, including road and trail maintenance, grazing, hazard tree removal, and prescribed fires, are interim procedures until Forest Undertaking Modules have been developed and certified for those classes of undertakings. Once certified, the terms of the applicable modules will prevail over the standard protection measures described for that class of undertaking in Attachment 7.
2. The Forests may elect to consult with the SHPO on any undertaking pursuant to 36 CFR 800 regarding heritage resource evaluation rather than defer evaluation through the application of Standard Protection Measures.
3. If the Forests elect to evaluate heritage resources pursuant to 36 CFR 800 for specific undertakings, they may choose one of the following alternatives to consider the effects of the undertaking on heritage resources: (a) apply Standard Protection Measures described in Attachment 7 without further SHPO consultation; or (b) complete the NRHP Section 106 process by following the provisions of 36 CFR 800.
3. At its discretion, the SHPO may elect to participate with the Forests in consultation on a specific undertaking, or class of undertakings where Standard Protection Measures are used.
4. Deferred NRHP evaluation of heritage resources does not relieve the Forests from their responsibilities to consider such properties under Section 106 or 110 in future land management activities.

### C. Previously Evaluated Properties

The NRHP eligibility of heritage resources for which formal determinations were made more than ten years prior to the date of this Agreement shall be reconsidered by the FHRM regardless of the previous determination, by applying the NRHP criteria found at 36 CFR 60.4, in light of contemporary professional standards and changing perspectives regarding the significance of historic properties.

1. If the FHRM, after reconsidering NRHP eligibility or formal determination or listing by the Secretary of the Interior, agrees with the previous determination, the Forest may assume that the previous NRHP determination remains valid for the purposes of this Agreement. No formal consultation with the SHPO is required under such circumstances.
2. If the FHRM disagrees with the previous NRHP eligibility determination or formal determination or listing by the Secretary of the Interior, the Forest shall follow Stipulation VI.A. of this Agreement (requiring consultation pursuant to 36 CFR 800) if the property will be affected by the undertaking.

### D. California Archaeological Resource Identification and Data Acquisition Programs

Some types of properties can be evaluated in accordance with "California Archaeological Resource Identification and Data Acquisition Programs" (CARIDAPs) developed or accepted by the SHPO. CARIDAPs employ specific criteria to classify archaeological resources which contain limited but easily retrieved information, and whose NRHP eligibility and cultural values are limited to their scientific information (e.g., 36 CFR 60.4(d)). Some resources that qualify under the physical definition of a CARIDAP may retain values that cannot be recovered or adequately treated through standard data collection. Consultation with Native American groups and interested persons may be necessary to determine an archaeological site NRHP ineligible or adequately treated under the terms of a CARIDAP. Otherwise, properties that qualify under a CARIDAP shall be managed in accordance with its data collection and management provisions or managed under the terms of an accepted HPP.

No case-by-case consultation is necessary between the Forests and the SHPO for undertakings that will not affect historic properties (i.e., National Register eligible) and involve only heritage resources that qualify and are treated according to the provisions of a CARIDAP. Heritage resources evaluated and treated with a CARIDAP shall be reported in Annual Reports, as described in Attachment 5.

### E. Section 110 Progress

This Agreement offers a streamlined reporting and review process, and deferred NRHP evaluation of properties for which Standard Resource Protection Measures can be applied (which would otherwise be evaluated pursuant to 36 CFR 800). These procedures should free agency resources for heritage program activities that will advance the Forests' compliance with NHPA Section 110. Active and measurable progress in advancing the Forests' Section 110 requirements will be essential in demonstrating whether complementary benefits are derived in exchange for a process that is simpler and more expeditious than the process found at 36 CFR 800. Section 110 compliance shall therefore be advanced through Forests' development of Heritage Preservation Plans and Interim Section 110 Plans, as described in Stipulation XI.

## VII. CONSIDERING EFFECTS

### A. Undertakings That Will Not Affect Historic Properties

1. When a Forest conducts intensive inventory as described in Attachment 6, or a Forest conducts less than intensive survey approved by the SHPO pursuant to Stipulation V.D. or specified in an accepted HPP, case-by-case consultation with the SHPO or Council is not required prior to implementing the undertaking under the following circumstances:
  - no heritage resources are recorded within the APE;
  - all heritage resources within the APE have been determined to be NRHP ineligible pursuant to Stipulation VI.A.;
  - the undertaking will not affect heritage resources within the APE and no protection measures are necessary;
  - the undertaking will not affect heritage resources through the application of Standard Protection Measures described in Attachment 7; and/or
  - heritage resources qualify and have been treated according to the provisions of a CARIDAP accepted by the SHPO, and such resources are the only heritage resources within the APE, or one or more of the above circumstances also apply.
2. If an historic property is traversed by facilities or improvements created within the last 50 years, these existing facilities or improvements may be used for a project so long as their use is consistent with the function for which they were created and that use does not further affect heritage resources (e.g., the use of existing access roads that traverse linear sites). Such continued use shall be considered to have no effect on historic properties.
3. Undertakings that will not affect heritage resources or historic properties, as described in Stipulation VII.A. (above), and reports documenting results of the inventory, evaluation, and management efforts shall be listed in the Annual Report (Stipulation XII.B. and Attachment 5).
  - a. Survey Reports (SRs) will be submitted to the appropriate Information Center of the Historical Resources Information System for inclusion in the statewide inventory.
  - b. Copies of SRs will be available for review by the SHPO and public in accordance with Attachment 8.
  - c. Records that describe and disclose the specific location of sensitive heritage resources shall be excluded from SRs available to the general public.

## B. Effects to Historic Properties

1. If effects to properties cannot be avoided pursuant to Stipulation VII.A.1., or the undertaking does not qualify for consideration within one of the Forest Undertaking Modules, the Forests will determine the nature of the effect that the undertaking may have on historic properties by applying the Criteria of Effect and Adverse Effect set forth at 36 CFR 800, prior to making a decision regarding the undertaking subject to review.
2. Where the Forest, Regional Forester, SHPO, or Council believe that a Forest undertaking will affect an historic property, the Forest shall follow the procedures set forth in 36 CFR 800 to complete the Section 106 process.
3. The provisions of HPPs accepted by the Regional Forester, SHPO and Council under the terms of this Agreement may provide alternative procedures by which Forests consider the effects of undertakings on historic properties and complete the Section 106 consultation process.

## C. Monitoring Known Heritage Resources

1. Each Forest shall conduct monitoring, as appropriate, necessary to ensure that identified protection measures are effective. FHRMs and FHRs shall determine the schedule and requirement of any monitoring. A permanent record shall be completed for each monitoring event and kept on file at the Forest Supervisor's Office. Inspection by the SHPO may be performed during or after an undertaking with advance notice and arrangement between the SHPO, the FHRM, and the Agency Official.
2. Most undertakings that do not require management measures will not be monitored. The following circumstances are exceptions where monitoring should be considered and undertaken:
  - a. When undertakings change during implementation because of unforeseen circumstances, and these changes then require the adoption of Standard Protection Measures (Attachment 7) for previously identified heritage resources, monitoring may be necessary, if existing information is inadequate to determine whether these measures are appropriate. Monitoring might be appropriate if proposed activities are near some types of historic period resources or heritage resources of importance to Native Americans, or if the effectiveness of identified protection measures is problematic. Monitoring may be necessary during and/or after these undertakings.
  - b. When heritage resources are discovered during the implementation of an undertaking, monitoring shall occur as early as possible to determine whether the use of Standard Protection Measures is appropriate. Monitoring frequency will be determined by the FHRM.
3. When Standard Protection Measures have not been implemented to ensure the protection of heritage resources, and activities have occurred that may have affected historic properties or

unevaluated heritage resources, then monitoring is required during and/or after the undertaking.

- a. If the undertaking has not been completed when the FHRM receives notification that prescribed protection measures have not been followed, then all activities in the immediate vicinity of the respective heritage resource shall be suspended until a professional archaeologist visits the property and the FHRM recommends appropriate measures that will protect the site. The need for additional consultation will also be determined before resumption of any suspended activities.
    - i. If the property has not been affected, and Standard Protection Measures can be effectively employed for the remaining implementation period, then the undertaking may resume without further consultation if recommended by the FHRM.
    - ii. If historic properties may have been affected, consultation will be initiated in accordance with Stipulation VII.E.
    - iii. The Annual Report shall summarize all instances where Standard Protection Measures were prescribed but not fully implemented, and the measures taken to ensure protection of historic properties and unevaluated heritage resources.
  - b. If the undertaking has been completed when the FHRM receives notification that prescribed protection measures have not been followed, then a field inspection of respective historic properties and unevaluated heritage resources will be initiated as soon as possible, and the provisions of Stipulation VII.E. followed. The circumstances surrounding the Forest's failure to use prescribed protection measures will be described in the Annual Report.
4. Where the nature, scope, frequency, and duration of some types of recurrent undertakings increase the risk of affecting historic properties despite the application of Standard Protection Measures, periodic monitoring shall ensure that prescribed protection measures remain effective throughout the implementation period. In these instances, the FHRM shall recommend that a monitoring program be applied to the undertaking activities.

#### D. Monitoring For Identification

Where no known heritage resources are discovered in the APE following an intensive inventory, but uncertainty remains about the possible presence of heritage resources because of observation limitations, information from the literature review, or other sources (e.g., oral history), monitoring shall be employed for the undertaking, if recommended by the FHRM. The purpose of monitoring would be to ensure that unidentified heritage resources, if present, are not irretrievably lost, damaged, or destroyed. If any heritage resources are identified, the provisions of Stipulation VII.E. shall be followed.



## E. Inadvertent Effects

1. The SHPO and Regional Forester shall be notified by a Forest immediately upon discovery that a protected or previously unidentified heritage property has been, or could be, inadvertently affected by an undertaking implemented under this Agreement.
  - a. If the undertaking has not been completed at the time the effect is discovered, all activities in the vicinity (50 meters) of the property shall cease and reasonable efforts shall be taken to avoid or minimize harm to the property until the following consultations are completed. Consultations shall be initiated within seven days between the Forest and the SHPO to develop an agreed upon course of action. If agreement cannot be reached, the SHPO shall provide written comments to the Forest who will then initiate consultations with the Regional Forester and Council. If agreement cannot be reached between the Forest, Regional Forester, and Council, then the Forest shall provide the Regional Forester and Council with summary documentation on the issues and feasible steps that could be taken, and request the comments of the Council before making a decision on whether or how to proceed with the undertaking. The Forest will notify the Council, Regional Forester, SHPO, and any interested parties of its decision. The terms of this Agreement do not relieve or substitute the Forests' responsibilities under the Native American Graves Protection and Repatriation Act (NAGPRA) (104 Stat. 3048-3058; 25 U.S.C. 3001-3013), or other authorities, as appropriate;
  - b. If the undertaking has already been concluded when an effect to a property has been discovered, the Forest, Regional Forester, and SHPO (and Council if they choose to participate) shall develop an agreed course of action which the Forest must implement within a specified time period. The Forest shall notify and submit appropriate documentation to all participating parties when the agreed course of action is completed.
2. Within six months of discovering the inadvertent effect and notifying the Regional Forester and SHPO, or an alternative schedule agreed by the SHPO, the Forest shall provide the Regional Forester, SHPO, Council if it is a participant, and other interested parties with a report describing the undertaking and the circumstances surrounding the effects. Reporting requirements are described in Attachment 5 to this Agreement.

If the inadvertent effects involve the failure of Standard Protection Measures or a Forests' failure to ensure that such measures were adequately implemented, then the report shall describe the failure, the reason for that failure, and measures that will be taken to prevent similar future occurrences.

3. A summary of inadvertent effects shall be included in the Annual Report (Stipulation XII. and Attachment 5.

## VIII. PUBLIC PARTICIPATION

Forests shall use the public notification process embodied in the National Environmental Policy Act (NEPA) (42 U.S.C. 4321-4346) to comply with provisions for public notification, the identification of interested persons, and public participation in decision making found in 36 CFR 800. Interested persons shall be afforded an opportunity to comment on the manner in which the effects of undertakings implemented under the provisions of this Agreement are taken into account. Procedures for public participation are described in Attachment 8.

## IX. EMERGENCIES

- A. Should a Forest find it necessary to implement an undertaking that has a potential to affect heritage resources in the case of a declared emergency, the Forest may follow the provisions of 36 CFR 800.
- B. In the event of an emergency that does not meet the criteria of 36 CFR 800, but where there is an imminent threat of a major disaster such that an emergency action that has potential to affect heritage resources is necessary for the preservation of human life or property, the Agency Official shall:
  1. notify the Regional Forester, SHPO, and Council of the emergency;
  2. where there is an agreement that an emergency situation exists and time permits, the Regional Forester, SHPO, and Council agree to provide comments within 7 working days or less as the situation warrants.

## X. FOREST UNDERTAKING MODULES

When specific classes of undertakings are implemented repeatedly on Forest lands, the development of special procedures for the identification, evaluation, and management of heritage and historic properties, i.e., Forest Undertaking Modules (modules) may be warranted. The purpose of these modules is to streamline the historic preservation process by developing procedures which take into account the unique nature of such classes of undertakings while at the same time affording heritage and historic properties appropriate types and levels of consideration to take into account the potential effects of individual undertakings on their cultural values.

The identification, evaluation, and management of heritage and historic properties for certain classes of undertakings shall be guided by the modules prepared under the terms of this Agreement. The development and format for modules is described in Attachment 9.

## XI. PRESERVATION PLANNING

The greater flexibility and simplified process of heritage resource management for undertakings afforded by the terms of this Agreement should provide measurable results in the advancement of historic preservation planning and compliance with responsibilities listed in Section 110 of NHPA. Such progress will be essential in demonstrating whether complimentary benefits are derived in exchange for a more simplified process for compliance with certain provisions of 36 CFR 800.

### A. Heritage Preservation Plans

Each Forest participating in this Agreement will develop a Heritage Preservation Plan (HPP) consistent with the requirements of NHPA Section 110 and the Secretary of Interior's Guidelines for Preservation Planning. An HPP is developed with consideration to the heritage resource types and historic contexts known for each Forest, and advances Forest's NHPA Section 110 requirements. Once completed and accepted, HPPs replace Interim Section 110 plans.

1. Each Forest that does not have a completed and accepted HPP will report to the SHPO and Council on the status of, and schedule for, HPP development. The status report on HPP development shall comprise an element of the Annual Report to the SHPO and Council, and include the elements described in Attachment 5. The HPP status report will include copies of HPPs or HPP elements developed for individual Forests to date.
2. The HPP that is developed for each Forest shall describe the procedures and standards by which the Forest will conduct heritage preservation activities including inventory, evaluation, and treatment of heritage resources, taking into account the nature of regional heritage resources and cultural contexts.

HPPs should provide criteria that allow Forests to choose which properties should be evaluated based on reasons such as ecosystem management, research interests, resource protection needs, interpretive potential, and other public benefits.

3. HPPs shall also describe goals and procedures for heritage resource enhancement activities, environmental education related to heritage resources, public participation and interpretation, and heritage resource stabilization and restoration.
4. HPPs shall be implemented through this Agreement and substitute for specific provisions of this Agreement when the consulting parties (Regional Forester, SHPO, Council) agree in writing that the HPP is an acceptable substitute to procedures described in this Agreement.
5. Forests shall submit HPPs or HPP elements to the consulting parties for review and comment. The Forests' submittals shall be separate from the Annual Report, unless otherwise agreed by the consulting parties. Consulting parties shall have 60 days to review draft HPPs.

B. *The Framework for Archaeological Research and Management for Forests of the North-Central Sierra Nevada* (FARM; Jackson et al. 1994) shall be implemented as the prehistoric archaeological element of an HPP for the Eldorado, Stanislaus, and Tahoe National Forests and the Lake Tahoe Basin Management Unit.

1. Procedures for the identification, evaluation, and management of heritage resources described in the FARM may be independently implemented by the Forests of the North-Central Sierra without further review by the SHPO or Council, as long as procedures of the FARM are implemented and the following criteria are met:
  - a. the public and interested persons are provided information and opportunities to comment on specific undertakings consistent with Stipulation VIII and Attachment 8 of this Agreement;
  - b. there are no unresolved objections by interested persons with regard to the effects of specific undertakings on heritage resources;
  - c. the desired condition of evaluated heritage resources is attained or maintained by the proposed undertaking.
2. If interested persons or members of the public raise timely objections to any heritage preservation activities conducted or proposed by a Forest under the FARM, the Forest shall make a good faith effort to address all concerns and objections in accordance with Stipulation XIII.B. of this Agreement.
3. If a desired condition of preservation or conservation of a heritage resource with moderate or high cultural values cannot be realized with regard to an undertaking:
  - a. the property shall be considered NRHP eligible under criteria that correlate to those used in the FARM; and
  - b. the Forest shall apply the criteria of Adverse Effect and follow the procedures set for in 36 CFR 800 to complete the Section 106 process.
4. Forests implementing the FARM shall prepare an Annual Report consistent with Stipulation XII.B. and Attachment 5.
5. Additional elements and revisions to the FARM shall be reviewed and incorporated in accordance with procedures for HPP development described in Stipulation XI.A.

C. Interim NHPA Section 110 Plans

Until HPPs that describe heritage program activities that meet the requirements of NHPA Section 110 are completed and implemented, Forests shall develop and implement Interim Section 110 Plans that describe the scope, focus, priorities, and schedule of Section 110 activities that will be implemented. The first Annual Report shall include an Interim Section 110 Plan, and subsequent Annual Reports shall describe progress made in implementing that plan, and implementation

goals for the subsequent year, taking into account the views of interested parties. Failure to complete an Interim Section 110 Plan within the stipulated time frame, or lack of reasonable progress in implementing the Plan, may be cause for the termination of a Forest's suspension from this Agreement.

At a minimum, the Interim Section 110 Plan shall:

1. include a discussion of the legal and managerial context within which the Forest heritage program operates;
2. identify the principal components of the Forest's heritage program (e.g., inventory, evaluation, monitoring, interpretation, protection, etc.);
3. identify short-term and long-term heritage program goals and objectives;
4. establish program priorities and strategies for accomplishment of goals and objectives;
5. establish a schedule for achieving progress toward goals, particularly for National Register nominations, evaluations of heritage resources, and monitoring; and
6. provide a mechanism for monitoring program accomplishments.

Forests shall demonstrate progress in their compliance with NHPA Section 110 with particular attention to the development of contextual planning that provides the basis for thoughtful heritage resources evaluation and management. Evaluation efforts need not be limited strictly to the properties identified in undertakings.

Interim Section 110 Plans should also place high priority on the integration of heritage resources in ecosystem management, research interests, resource protection needs, heritage resource enhancement activities, environmental education related to heritage resources, public participation and interpretation, and heritage resource stabilization and restoration.

The contents of interim NHPA Section 110 Plans, Annual Reports, and ways of demonstrating progress in meeting NHPA Section 110 responsibilities, are described in greater detail in Attachment 5.

#### D. Enhancement and Interpretation Activities

The Forests will maintain a program of environmental education and heritage awareness to educate the public and agency personnel about heritage values, the fragility of historic properties, and the importance of preserving them. This program is implemented through public outreach efforts, partnerships, cooperative agreements, and internal training sessions. The Forests will consult the SHPO through Interim Section 110 Plans, HPPs, and Annual Reports on such activities. Enhancement of heritage awareness and appreciation may include:

1. A program of heritage resource interpretation, documented through an interpretive plan, interpretation signs or exhibits, guided walks, educational brochures, pamphlets, monographs, and other works of a popular and technical nature emphasizing the relevance,

fragility and other values of such properties to the public and appropriate USFS staff. The Forests will work to ensure that National Forest interpretive plans are in harmony with state interpretive plans and facilities, where appropriate;

2. A research program focusing on the evaluation, interpretation, treatment, preservation, and/or protection of historic properties, evidenced through cooperative agreements, partnerships, research reports, treatment plans, presentation or publication of professional papers, etc.;
  3. Partnerships with SHPOs and other state and local historic preservation agencies as well as businesses who wish to further enhancement and interpretive plans and facilities;
  4. Developing and encouraging interpretive facilities at well-protected historic properties as deemed appropriate by the National Forest, in consultation with the SHPO and the Forest Region; and
  5. Using volunteers to monitor, conduct surveillance, construct protective devices, participate in public interpretation, and participate in other tasks to the extent feasible, and with direct supervision from an appropriately qualified professional.
- E. If any of the consulting parties to this Agreement believe that a participating Forest is not making satisfactory progress or making a good faith effort to develop an HPP or follow their Interim Section 110 plans, the Regional Forester shall consult with the subject Forest(s) to determine the cause and possible remedies to the lack of adequate progress. Continued failure of the Forest(s) to meet agreed levels of progress may be cause for the Regional Forester to suspend the Forest(s) from participation in this Agreement.

## **XII. REPORTING, COORDINATION AND INFORMATION EXCHANGE**

- A. Reports on heritage preservation activities conducted under this Agreement shall meet contemporary professional standards and include the categories of information described in Attachment 5, or as otherwise agreed to by SHPO.
- B. The Regional Forester, SHPO, and the Council shall receive an Annual Report, as described in Attachment 5.
- C. The Information Center of the Historical Resources Information System (RIC) appropriate to each participating Forest shall receive for integration in the statewide database:
  1. All reports that document heritage resource identification efforts; and
  2. All reports that document property evaluation and treatment.
- D. Where Native American tribes, traditional leaders, or individuals specifically request that information they have provided about traditional cultural properties remain confidential, such records shall be maintained in separate files at each Forest Supervisor's Office under the control of the FHRM.

- E. Each participating Forest will ensure that the SHPO, and the Council at its request, have received a copy of the current National Forest Land and Resource Management Plan (LRMP), existing Heritage Resource overview documents, Historic Preservation Plan, and a Forest map, within 30 days of the effective date of this Agreement.
- F. Each participating Forest will consult with the SHPO and make any appropriate additions to existing Management Prescriptions or other Forest-wide planning tools based on implementation of this Agreement during the revision or amendment of the LRMP. The Forests will incorporate references to this Agreement into LRMPs as they are amended or revised.
- G. Consultation and coordination between the Forests, Regional Forester, SHPO, the Council and other interested parties, pursuant to this Agreement, shall be conducted by the FHRM, under the direction and responsibility of the Forest Supervisor.

### XIII. OBJECTIONS

#### A. Objections by Consulting Parties

Should any party to this Agreement object to any aspect of its implementation, then the parties to this Agreement shall consult among themselves and with interested persons, as appropriate, to resolve the objection. If consultation fails to resolve the objection, amendments may be proposed to deal with the objection. If the objection involves a particular undertaking, and the objection cannot be resolved, then the Forest shall comply with Section 106 of the NHPA for that undertaking by following the provisions of 36 CFR 800.

#### B. Objections by Interested Parties and the Public

1. Should an interested party or a member of the public object in a timely manner to the implementation of the terms of this Agreement, including the treatment of an undertaking as exempt (Attachment 4), the party receiving the objection shall notify the consulting parties.
2. The Forest(s) shall consult with the objecting party(s) in good faith, and within 30 days shall address the objection, documenting the steps that were taken to address the concern, and the results of that effort.
3. If the objection cannot be resolved, then the Forest shall notify the objecting party(s) and choose one of the following:
  - a. If the objection involves a particular Forest's undertaking which cannot be resolved, then the Forest shall comply with Section 106 of the NHPA by following the provisions of 36 CFR 800 for that particular undertaking.
  - b. If the objection involves any other aspect of implementation of the Agreement, and consultation fails to resolve the objection, the Regional Forester shall forward all documentation, including SHPO comments relevant to the objection to the Council. Within 60 days after receipt of all pertinent documentation, the Council will either:

- i. provide the Regional Forester with recommendations, which the Regional Forester shall take into account in reaching a final decision regarding the dispute; or provide the Forest with recommendations, which the Forest Supervisor shall take into account in reaching a final decision regarding the objection; or
  - ii. notify the Regional Forester that it will comment pursuant to 36 CFR 800, and proceed to comment.
4. Any Council comment provided in response to an objection shall be taken into account by the Regional Forester with reference to the subject of the dispute. Any recommendation or comment provided by the Council will be understood to pertain only to the subject of the dispute. The Regional Forester's responsibility to carry out all actions under this Agreement that are not the subject of the dispute will remain unchanged.

#### **XIV. REVIEW, MONITORING, AMENDMENTS AND TERMINATION**

##### **A. Annual Review**

1. The Forests participating in this Agreement shall designate a representative to serve as a liaison between the Forests, Regional Forester, SHPO, and Council regarding review of the Agreement.
2. Compliance with, and effectiveness of, this Agreement shall in large measure be based on information presented in Annual Reports to the Regional Forester, SHPO, and Council by each participating Forest. The content and format for Annual Reports are listed in Attachment 5.I.

##### **B. Review of Undertakings**

The Regional Forester, SHPO, or Council may review individual undertakings implemented according to the terms of this Agreement for any reason, including requests from interested parties or the public.

1. At their discretion, the Regional Forester and SHPO may elect to participate with the Forests in consultation on specific undertakings or classes of undertakings where Standard Protection Measures are used.
2. The Forests shall respond to a request to review the implementation of an undertaking by providing appropriate documentation on the Forests efforts to identify, evaluate, protect, or treat heritage resources within 15 days of the request.



### C. Amendments, Addition and Termination of Individual Forests, and Termination of the Agreement

If, at any time, one or more of the consulting parties determine that changes to the Agreement are necessary or the terms of this Agreement have not or cannot be met, they may notify the other consulting parties in writing and request their consideration of proposed amendments, recommend that the Agreement be terminated, or recommend that a Forest's participation in the Agreement be suspended.

1. Amendments. Amendments to this Agreement shall be executed in the same manner as the original Agreement.
2. Adding or Terminating Individual Forests. Forests may be added or terminated from participation in the Agreement as follows:
  - a. The Regional Forester shall make written recommendations about adding or terminating Forests as participants to the Agreement; SHPO and Council shall comment on those recommendations within 60 days of receiving written requests. Participation of each Forest is independent of that of the others, and may be added or terminated without affecting participation of the others. Forests additions or terminations must be agreed to by all consulting parties; disagreements may be resolved pursuant to Stipulation XIII.A. of this Agreement.
  - b. Forest additions shall become effective as of the date of concurrence with the Agreement by the added Forest.
  - c. In the event that the Regional Forester considers termination of an individual Forest's participation in this Agreement, the Regional Forester shall prepare a written report for Council and SHPO review pursuant to Stipulation XIV.C.2.a. above, and shall make recommendations as to individual Forest continued participation as follows:
    - i. Provisional participation owing to some performance deficiencies. If deficiencies are not removed within one year, the Forest will be terminated from participation in the Agreement; or
    - ii. Removal from participation due to clear pattern of consistent and broad failure to meet stipulations.
  - d. Individual Forest termination shall become effective as of the date of written agreement by the consulting parties.
3. Termination of the Agreement

This Agreement may be terminated by one or more of the consulting parties at any time, if any of the consulting parties determine that: (a) the terms of this Agreement have not been adequately met; (b) the terms of the Agreement cannot be met; (c) continued implementation of the Agreement is no longer in the best interest of the consulting or concurring parties; or

(d) the Agreement is no longer an appropriate mechanism for heritage resources management.

The consulting party shall make a good faith effort to resolve the issue(s) prompting termination. If consultation fails to resolve these issue(s), one or more consulting party may issue a termination notice to the other consulting parties. The Agreement shall be terminated in 30 days from the date the termination notification was received. The time frame for termination may be alternatively specified upon agreement of all consulting parties. In the event of termination, the Forest(s) shall submit all undertakings for review pursuant to 36 CFR 800 or the terms of another executed Programmatic Agreement.

## **XV. COORDINATION WITH OTHER AGREEMENTS**

- A. Should a conflict occur between the terms of this Agreement and the terms of another agreement document executed in accordance with 36 CFR 800, the signatories to this Agreement shall consult with the parties to the conflicting agreement to determine which terms should be followed.
  - 1. The responsible Forest shall document the consultation and resulting agreement.
  - 2. If the consulting parties fail to reach agreement, the provisions of Stipulation XIII.A. will be followed to resolve the objection.
- B. Annual reports or other types of reports specified in other Programmatic Agreements may be coordinated with the reporting requirements of this Agreement, as long as the intent and report information requirements specified in this Agreement are met.

## **XVI. TIME LIMITS**

Unless otherwise specified in this Agreement, Table 1, or agreed to between the concurring party appropriate to the undertaking and review procedure, the SHPO and Council shall be afforded 30 calendar days from receipt of appropriate documents to respond to any Forest communications. Should the SHPO or Council not respond within 30 days, the Forest may assume SHPO or Council concurrence with the Forest's determination or proposed course of action and will document non-response by the SHPO and/or Council in the project file.

Table 1: Time Commitments Under the Programmatic Agreement

Submitting Party	Type of Document or Responsibility of Submitting Party	Relevant Stipulation in Agreement	Receiving Agency	Response Time by Receiving Agency (days)
Forests	provide copy of: · Land and Resource Management Plan · existing overviews and HPPs	XII.E.	SHPO, Council	30
Forests	Consult on inventory strategy if < intensive	V.D.	SHPO	15
SHPO Council	SHPO or Council elects to review specific undertakings and notifies Forest	IV.B.3. XIV.C.2.	Forests	N/A
Forests	Annual Report · report heritage preservation activities · HPP status report · Interim Section 110 Plan	XII.B. X.IA. XI.B.	SHPO, Council, Reg. For. (RO)	N/A
Forests	Historic Preservation Plan elements	XI.A.5.	SHPO, Council, RO	60
Forests	Consult with SHPO and Council within 7 days Report on inadvert.effects w/i 6 months of event	VII.C.2.	SHPO	N/A
Forests	Emergency undertaking	IX.B.	SHPO, Council	7
Consulting Parties	Objections from SHPO, Council, RO, Forests and consultation Request for Termination	XII.A. XIV.D.	SHPO, Council	N/A 30
Interested Parties	Interested Parties object to Forest implementation. Forest consults to resolve objection. Unresolved objection goes to Council	XIII.B.1. XIII.B.2. XIII.B.3.	Forests Council	N/A 30 or 60
Forests	Initial Draft Undertaking Modules	X.B.	SHPO, RO Council, int. parties	60
Forests	Revised draft modules	X.B.	SHPO, RO Council, int. parties	30
Forests	update LRMP to reflect terms of PA and/or HPP	XII.F.	N/A	N/A

Execution and implementation of this Programmatic Agreement evidences that USFS has satisfied its Section 106 responsibilities with respect to its administration of lands and programs in California.

**Consulting Parties:**

**CALIFORNIA STATE HISTORIC PRESERVATION OFFICER**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**USDA FOREST SERVICE, PACIFIC SOUTHWEST REGION**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

This Agreement may be implemented by the following individual Forests, upon signature of the Forest Supervisor and other Consulting Parties to this Agreement.

**Concurring Parties:**

**SEQUOIA NATIONAL FOREST**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**PLUMAS NATIONAL FOREST**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**INYO NATIONAL FOREST**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ELDORADO NATIONAL FOREST**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**SIERRA NATIONAL FOREST**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**TAHOE NATIONAL FOREST**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**STANISLAUS NATIONAL FOREST**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**LAKE TAHOE BASIN MANAGEMENT UNIT**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## ATTACHMENT 1

### DEFINITIONS

Definitions appearing in 36 CFR 800 apply to this Agreement, as well as those appearing in:

"Definition of a Certified Archaeological Surveyor"; Region Five Handbook for Archaeological Survey R5-2700-37 (1980);

"Glossary of Cultural Resource Terminology," Region Five Handbook for Archaeological Survey R5-2700-37 (1980);

"Glossary of Some Commonly Used Timber Management Terms;"

"Draft Forest Transportation Terminology Handbook, 2/88", Forest Service Handbook 7709.54; and

"Trail Maintenance Terminology Excerpt from Trails Handbook", Forest Service Handbook 2309.23.

For the purposes of this Agreement, the following definitions also apply.

**"Emergency undertaking"** means any Forest undertaking that the Agency Official determines must be initiated within 30 days in order to avoid an imminent threat to human life or major property damage resulting from a natural or human-caused, unforeseeable disaster (including but not limited to events such as wild fires or breaches in canals, levees, pipelines or dams).

**"Exempt undertaking"** means an undertaking that is exempt from Section 106 review under this Agreement because the nature of the Forest undertaking is such that it has little potential to effect historic properties, even if any such properties were present at the location of the undertaking. Exempt undertakings are listed in Attachment 4.I.

**"Screened undertakings"** means undertakings that may be exempt from formal identification, evaluation, management protocols and Section 106 review under this Agreement because the FHRM or FHRS has reviewed the nature of the undertakings and determined that they have little potential to affect historic properties, if any such properties were prospectively present at the location of the undertakings. However, such undertakings may on occasion have the potential to affect historic properties. In such instances a FHRM or FHRS must review specific undertakings' circumstances, resulting in professional judgments concerning heritage resource activities appropriate to ensure the identification and appropriate management of historic properties. Screened undertakings are listed in Attachment 3B.

**"Forest Undertaking Module"** means a program developed for the Forests and accepted by the SHPO and Council that describes procedures to take into account the effects of specific types of undertakings on heritage resources. Forest undertaking modules shall be incorporated in this Agreement once they are reviewed and certified, as described in Stipulation X.

**"Heritage preservation activities"** means the activities and procedures by which the Forests conduct heritage resource identification, evaluation, and management.

**"Heritage Preservation Plan" (HPP)** means a document prepared for an individual Forest in conformance with the Secretary of Interior's Guidelines for Preservation Planning to organize preservation activities (identification, evaluation, and treatment of historic properties and heritage resources) in a logical sequence. A Forest Heritage Resource Preservation Plan outlines a process that determines when an area should be examined for heritage resources, how an area should be examined, whether identified properties contain significant values, and how the significant values of those properties should be treated. A Forest Heritage Resource Preservation Plan is developed with consideration to the heritage resource types and historic contexts known for each Forest.

**"Heritage Resources"** are objects or places either created, used or modified by humans. In order to qualify as a heritage resource, the creation, use, or modification must have first occurred no less than 50 years ago. Heritage resources include sites, structures, buildings, districts, and objects associated with, or representative of, people, cultures, and human activities and events. The term heritage resource means any such property, regardless of its NRHP eligibility status.

**"Heritage Resources Professionals" (HRPs)** are individuals trained in disciplines relevant to heritage preservation activities, including historical and prehistoric archaeologists, historians, ethnographers, historical architects, as outlined in 36 CFR 296.8, the Secretary of the Interior's Standards and Guidelines for Professional Qualifications (48 FR 44738-44739), or the Office of Personnel Management's X118 (OPMX118) standards.

**"Forest Heritage Resources Manager" (FHRM)** is the position on each Forest that is responsible for: directing, planning, and administering the Forest's complex and multifaceted Heritage Program; providing professional and technical advice to the Forest Leadership Team; directing the Heritage Program internally, and with external agencies, organizations, and the public; and planning and developing the Forest's heritage resource inventory, evaluation, and enhancement program. The FHRM shall meet the professional standards established for either archaeologist or historian as outlined in 36 CFR 296.8, the Secretary of the Interior's Standards and Guidelines for Professional Qualifications (48 FR 44738-44739), or OPMX118 standards, Journeyman level.

**"Forest Heritage Resources Specialists" (FHRS)** are qualified individuals (HRPs) employed on each Forest and/or Forest District. FHRSs conduct and may lead heritage resource literature searches; surveys; resource evaluation including archaeological test excavation; and preparation of survey, evaluation and management reports; FHRSs maintain Forest heritage resource records at either a District or Forest level, and assist the FHRM with administering Heritage Program activities on the Forest. HRPs shall meet the professional standards established for either archaeologist or historian as outlined in 36 CFR 296.8, the Secretary of the Interior's Standards and Guidelines for Professional Qualifications (48 FR 44738-44739), or OPMX118 standards, fully professional level.

**"Intensive Survey"** is a systematic, detailed visual or physical examination of a geographic area designed to gather information about the location, condition and distribution of all types of heritage resources within that geographic area, including historic and prehistoric sites, buildings, structures, districts, and objects. For the purposes of this Agreement, an archaeological survey is considered intensive when, at a minimum, all of an area is examined by archaeological surveyors spaced no more than 30 meters apart. Additional identification methods may be employed under the definition of intensive survey, depending on the potential to miss locating historic properties with minimum survey standards.

## ATTACHMENT 2

### FOREST HERITAGE PROGRAM REQUIREMENTS

#### I. HERITAGE RESOURCE PROGRAMS

A permanent, full time Heritage Resource Program (Program) shall be maintained by the Forest. The Program shall be committed to the fulfillment of historic preservation mandates and objectives defined Sections 106 and 110 of the National Historic Preservation Act, and related authorities, as well as Forest Service Heritage Resource Program goals defined in Forest Service Manual Title 2300, Chapter 2361 (1990).

#### II. HERITAGE RESOURCE PROGRAM STAFF

- A. The Forests shall maintain a staff of professional Heritage Resource Specialists (FHRSs) to ensure that all stipulations of this Agreement are completely and consistently carried out.
- B. Qualified FHRSs shall conduct or supervise literature, field, and laboratory investigations, analyses and report preparation, or review their completion by other appropriate personnel. The need for particular grade levels or specialized skills, knowledge, or abilities to meet the requirements of specific situations may be met through permanent hires, temporary reassignments from other administrative units, or other accepted government arrangements, except as stipulated below.
- C. The Forest Supervisor of each participating Forest shall support a **Forest Heritage Resources Manager (FHRM)** designated as the Forest-wide coordinator for heritage preservation activities. The FHRM must be trained as a professional in archaeology or history and meet the professional qualifications standards described in Attachment 2.II.E (below).
- D. The Forest Supervisor of each participating Forest shall support a full time **Forest Heritage Resources Specialist (FHRS)** for each administrative unit (e.g., District, Zone). The FHRS is the designated coordinator for heritage preservation activities within that administrative unit. FHRSs must be trained as a professional in archaeology or history and meet the professional qualifications standards described in Attachment 2.II.E (below). Alternative staffing arrangements may be negotiated with the SHPO, based on particular Forest needs, or circumstances (e.g., changes or reorganization) of a Forest's administration.
- E. Professional Qualification Standards. Each participating Forest shall ensure that heritage resource program activities for all Forest undertakings are carried out by qualified Heritage Resource Specialists that meet the "Secretary of Interior's Guidelines for Historic Preservation Projects, Professional Qualifications Standards (Federal Register 1983, Vol. 48, No. 190. 44738-39), or Office of Personnel Management's X118 standards.
  1. The Forest Supervisor, the FHRM, and the FHRS shall ensure that individuals in appropriate disciplines directly supervise field and laboratory work carried out under the terms of this Agreement. "Supervise" means active oversight and review over all aspects of the work.



2. The use of Certified Archaeological Surveyors (CAS) must meet the standards specified in Forest Service Manual (FSM) 2361.42 and those detailed in Attachment C, or other standards set by the Forests and agreed to by the SHPO.
3. Volunteers may be used to assist in heritage program activities as long as those volunteers are directly supervised by a Heritage Resources Professional.

### III. HERITAGE RESOURCE PROGRAM FACILITIES

The Forest Supervisor of each participating Forest shall maintain facilities to house the Heritage Resource Staff, heritage resource records, and collections that exist on the Forest in a secure and professionally responsible manner.

## ATTACHMENT 3

### CERTIFIED ARCHAEOLOGICAL SURVEYOR PROGRAM

#### I. CERTIFIED ARCHAEOLOGICAL SURVEYOR PROGRAM

- A. Certified Archaeological Surveyors are Forest Service employees or volunteers who have satisfactorily completed a regionally approved program designed to provide them with the skills to assist professionals in the management of the heritage resource program.
- B. The Pacific Southwest Region recognizes two classes of Certified Archaeological Surveyors:
  - 1. Class I Certified Archaeological Surveyor:
    - a. Class I training is designed to acquaint Forest Service employees with the heritage resources management program in sufficient depth to enable them to incorporate heritage resource awareness into their normal functions and program activities.
    - b. The Class I level is particularly useful for specialists who must consider historic properties in their project planning, and for sale administrators and contract inspectors who monitor project activities.
  - 2. Class II Certified Archaeological Surveyor:
    - a. Class II training is designed to train Forest Service employees and volunteers to assist heritage resource professionals with specific program tasks.
    - b. Persons who have successfully completed Class II training may be certified as Certified Archaeological Surveyors.
    - c. Under the direct supervision of a professional heritage resource specialist who meets the qualifications in Attachment 2.II.E, Certified Archaeological Surveyors may perform intensive surveys for project APEs and assist with other program objectives.

#### II. PROGRAM OPERATIONS

- A. Class II Certified Archaeological Surveyors shall work under the direction and supervision of FHRM's, FHRSS, or other heritage resource professionals (HRPs) designated by FHRMs.
  - 1. FHRM's or delegated heritage resource professionals shall determine program participation and permitted activities for Certified Archaeological Surveyors.
  - 2. FHRM's or delegated heritage resource professionals shall determine whether a proposed undertaking may be surveyed by a Class II Certified Archaeological Surveyor.

3. FHRM's or delegated heritage resource professionals shall, for each individual undertaking, determine strategies and intensity requirements for intensive survey, and level of professional supervision required.
4. FHRM's or delegated heritage resource professionals shall review all reports prepared by Certified Archaeological Surveyors.

B. Monitoring

1. FHRM's or delegated heritage resource professionals shall field check at least 10% of all Certified Archaeological Surveyor work completed during the year.
2. Monitoring results shall be included in the Annual Report.
3. For undertakings where properties are found within APE's, FHRM's or delegated heritage resource professionals shall field check each located site prior to initiation of project activities. Only heritage resource professionals may approve the use of Standard Protection Measures (Attachment 7) at specific properties within an APE and use of this PA for specific undertakings.

### III. CERTIFIED ARCHAEOLOGICAL SURVEYOR TRAINING

- A. Class I Certified Archaeological Surveyor training consists of a minimum of 40 hours of regional classroom training.
  1. This training shall be approved by the Regional Historic Preservation Officer.
  2. The training shall follow the course syllabus outlined in the regional heritage resource Certified Archaeological Surveyor training guide, or another syllabus approved by the Regional Historic Preservation Officer.
  3. The training shall be presented by the Regional Historic Preservation Officer and/or Forest Heritage Resource Managers, supplemented by other heritage resource professionals.
- B. Class II Certified Archaeological Surveyor training includes the above minimum regional classroom training plus a Forest specific field course composed of:
  1. A minimum of forty hours of archaeological survey field work on the trainee's duty Forest, performed under the direct supervision of the FHRM or other professional heritage resource staff;
  2. Completion of two acceptable heritage resource surveys and reports, and one acceptable site form.

#### IV. CERTIFICATION

- A. Certification is achieved through:
  - 1. Satisfactory completion of all requirements;
  - 2. Formal examination and evaluation of the trainee by the FHRM to assess the trainee's abilities to meet the skills necessary to the Certified Archaeological Surveyor program;
  - 3. Formal certification by a FHRM and Forest Supervisor.
- B. Maintenance of certification is attained by:
  - 1. Attendance at periodic Certified Archaeological Surveyor update training sessions, offered on regional or Forest levels, at least every two years;
  - 2. Participation in at least one acceptable heritage resource inventory per year, with direct involvement in both field work and report preparation.
- C. Decertification results from either:
  - 1. Work related deficiencies:
    - a. Moving to a new Forest or location different from that in which the Certified Archaeological Surveyor received field training;
    - b. Failure of Certified Archaeological Surveyor to meet required maintenance activities described above; or
    - c. Identification of serious deficiencies in the Certified Archaeological Surveyor's work (e.g., failure to identify or adequately record historic properties).
  - 2. Ethical violations:
    - a. Violations of ethical behavior related to confidentiality of heritage resource information;
    - b. Behavior that compromises resource or program integrity;
    - c. Failure to complete SRs prior to the end of the fiscal year.
  - 3. If serious work deficiencies or ethical violations occur:
    - a. The FHRM shall report any serious work deficiencies or ethical violations to the Forest Supervisor in a timely manner, and shall not accept any survey reports under review until the matter is fully resolved.

D. Recertification may be achieved only for work related deficiencies, other than falsification of records, by:

1. Completing field training updates to correct locational deficiencies;
2. Completing training updates specially designed to correct any deficiencies resulting from program inactivity; or
3. Completing update training specially designed to alleviate identified deficiencies in field or report work.

## ATTACHMENT 4

### EXEMPT AND SCREENED UNDERTAKINGS

#### I. EXEMPT UNDERTAKINGS

The following classes of undertakings are considered exempt from further review or consultation under the terms of this Agreement, as defined in Stipulation III. Forest managers and planners do not have to notify or consult with FHRMs or FHRs about these classes of undertakings unless such managers and planners have reason to believe that a specific exempt undertaking may affect historic properties. Classes of exempt undertakings are:

1. easement acquisitions, where the historic properties received are not considered in exchange for any historic properties relinquished;
2. land acquisitions or transfers of administrative control to the Forest Service, where the historic properties received are not considered in exchange for any relinquished;
3. withdrawal revocations;
4. personal use fuel wood and Christmas tree permits;
5. transfer of use authorization from one authority to another when an action such as a boundary adjustment necessitates changing a right-of-way or easement from one authority to another (e.g., Forest Service Special Use Permit to a USFS Title V Right-of-Way);
6. installation of signposts and monuments, when no new ground disturbance is involved;
7. nondisturbing broadcast seeding and mulching for establishment of vegetation;
8. removal of log jams and debris jams using hand labor or small mechanical devices;
9. removal of illicit narcotics equipment from federal land during law enforcement operations, excluding the removal of buildings or structures that may be more than 50 years of age and will not become 50 years of age within five years of the date of execution of this Agreement
10. placement of geophysical seismic monitoring equipment on the surfaced portion or within the prism (area clearly associated with road construction, from road surface to top of cut and/or toe of fill) of a regularly maintained road; and
11. activities that involve less than one cubic meter of *cumulative* ground disturbance.

## II. SCREENED UNDERTAKINGS

FHRMs or FHRSs shall determine whether a specific undertaking subsumed in the following classes of undertakings may be treated as exempt under this PA. If the FHRM or FHRS determines that an undertaking may affect historic properties, the undertaking shall not be considered exempt and shall be subject to the provisions of this Agreement or 36 CFR 800, as appropriate. Exempt undertakings may include:

1. land use planning activities that do not authorize specific undertakings (e.g., Forest Land and Resource Management Plans, Wilderness Plans, Wild and Scenic River Plans);
2. activities whose APE is entirely within obviously disturbed contexts, and the disturbance is such that the presence of historic properties is considered highly unlikely;
3. activities that do not involve ground or surface disturbance (e.g., timber stand improvement, precommercial thinning, nondisturbing wildlife structures, and fuels treatment), and that do not have the potential to affect access to or use of resources by Native Americans;
4. issuance or granting of permits, easements, rights-of-way, or leases that do not authorize surface or resource disturbance, and that do not have the potential to affect access to or use of resources by Native Americans;
5. application of pesticides that do not have the potential to affect access to or use of resources by Native Americans;
6. work within the perimeter of existing material borrow pits;
7. activities limited within stream channels, not including terraces, cut banks, etc.;
8. routine trail maintenance limited to brushing and light maintenance of existing tread with hand tools;
9. routine road maintenance and resurfacing where work is confined to previously maintained surfaces, ditches, culverts, and cut and fill slopes where there are no known historic properties or historic properties would not be affected because proposed work is clearly within disturbed context;
10. felling of hazardous trees along roadways, within recreation areas, or other areas for health and safety reasons provided they are left in place or cut up for firewood;
11. removal of hazard and windthrow trees from road prisms where deemed necessary for health, safety, or administrative reasons, so long as trees are felled into and removed from within existing road prisms (area clearly associated with road construction, from road surface to top of cut and/or toe of fill) where previous disturbance is such that the presence of historic properties is considered unlikely, and so long as ground disturbance is not allowed off previously disturbed areas associated with road prisms;

12. issuance of road use permits for commercial hauling over existing roads having no historic properties, whenever federal involvement is incidental to activities associated with the permit's purpose and where there are no known effects to traditional cultural properties;
13. temporary road closures involving no new ground disturbance;
14. construction of snow fences where no new ground disturbance is involved;
15. maintenance of existing nonstructural facilities that does not involve new or additional ground disturbance (e.g., maintenance or replacement of cattle guards, gates, fences, stock tanks, guard rails, barriers, traffic control devices, light fixtures, curbs, sidewalks, etc.);
16. activities or alterations involving facilities or structures that are less than 50 years of age and will not become 50 years of age within five years of the date of execution of this Agreement;
17. maintenance (that does not add to nor change the configuration of the existing facilities) of existing electronic communication sites involving no ground disturbance or impacts to known historic properties;
18. removal of trash that does not qualify as an historic property; and
19. installation of law enforcement detection devices within historic properties for ARPA investigations to prevent site vandalism.



## ATTACHMENT 5

### DOCUMENTS PREPARED UNDER THIS AGREEMENT

#### I. ANNUAL REPORTS

Each Forest shall prepare an Annual Report for inclusion in a joint submittal from the participating Forests to the SHPO, Council, and Regional Forester. The Annual Report shall describe the Forest's accomplishments and activities under the terms of this Agreement no later than March 1 of each year, including activities for the previous fiscal year (October 1 through September 30 of the previous fall).

Participating Forests shall coordinate to ensure that all Annual Reports are consistent in the types of information and format to ensure consistency and facilitate review by the SHPO, Council, and Regional Forester. Summary information can be provided in table form, where possible.

At a minimum, the **Annual Report** shall include the information listed below.

##### A. Exempt and Screened Undertakings.

1. Provide a list of undertakings that were screened by the FHRM or FHRS and for which additional heritage preservation activities were conducted (i.e., undertakings determined not to be exempt after screening).
2. As appropriate, provide recommendations for withdrawal of certain types of undertakings from, or addition of new types of undertakings to, the list of exempt and screened undertakings (Attachment 4). Recommendations, if any, for changes to review procedures should also be included in this section.

##### B. Summary of Heritage Resource Studies. This section is devoted to undertakings subject to Section 106 of the National Historic Preservation Act, but considered under the terms of this Agreement. Summary information may be provided in table form and must contain the information listed below.

1. List the name, type, and size (acreage) of each undertaking subject to a heritage resource study, the number of acres subject to field inventory, and provide a list of heritage resource reports with appropriate identifying numbers (e.g., ARR numbers).
2. If applicable, indicate whether the procedures of a Forest Undertaking Module were followed.
3. Summarize the results of each study, including:
  - a. undertakings whose APE was adequately covered by previous survey;
  - b. undertakings where no properties were identified within an undertaking's APE;

- c. the number of properties classified according to the following types:
    - prehistoric sites
    - historic sites
    - historic/prehistoric sites
    - buildings
    - structures
    - districts (type and number of contributors)
    - objects
    - ethnographic sites
    - traditional cultural sites
  - d. within each type, the number of properties previously recorded versus newly recorded properties;
  - e. whether a Heritage Resource Form (HRF) and Survey Report (SR) have been completed as of the Annual Reporting date; and
  - f. whether the HRF has been submitted to the Regional Information Center (RIC).
4. Summarize the National Register status of each property type by count, indicating:
    - a. listed or determined eligible;
    - b. determined not eligible;
    - c. number of properties evaluated since last Annual Report; and
    - d. unevaluated
  5. Enumerate, by type, the number of properties subject to evaluation according to a CARIDAP.
  6. List, by type, the number of properties subject to management measures, including:
    - a. Standard Procedures for Avoidance (Attachment 5); and
    - b. monitoring.
- C. Inadvertent Effects. Inadvertent effects must be summarized in the Annual Report, listing:
1. The name of the undertaking;
  2. The type of undertaking;
  3. The name and type of affected heritage resource;
  4. The type and severity of damage; and
  5. Actions taken to address the damage and prevent future occurrences.

D. Heritage Preservation Planning

1. The First Annual Report shall discuss the development of a Heritage Preservation Plan, including:
  - a. a description of progress and products accomplished to date;
  - b. the elements envisioned for an HPP, accompanied by a brief description of the subject matter and its contribution to heritage resource management; and
  - c. a schedule for developing and implementing an HPP based on established priorities and realistic expectations for personnel and funding.
2. After the development of a plan for HPP development in the first Annual Report, subsequent Annual Reports shall include:
  - a. a description of the progress made toward meeting the schedule for HPP;
  - b. problems encountered in developing HPP or meeting the schedule; and
  - c. proposed revisions in the HPP plan or schedule, and administrative or procedural remedies that are proposed to address problems in HPP development.

- E. Section 110 Compliance. HPPs should include goals and methods of attaining compliance with Section 110, but the development of comprehensive HPPs may take several years. In the interim, each Forest shall develop an Interim Section 110 plan that specifically describes the Forest's proposed scope, priorities, and schedule for achieving measurable progress in compliance with Section 110 of the NHPA (cf. Stipulation XI.C.).

Forests shall demonstrate progress in their compliance with NHPA Section 110 through implementation of Interim Section 110 Plans. The first Annual Report will include an Interim Section 110 Plan, administrative and procedural steps proposed for implementing the Plan, and a schedule or process of implementation.

Forests will emphasize evaluation, and these efforts need not be limited to historic properties identified in undertakings considered under this Agreement. Interim Section 110 Plans, and evidence of their implementation, should include some of the following:

1. nomination(s) to the National Register of Historic Places;
2. a program for evaluating the eligibility and/or cultural values of heritage resources, including:
  - a. development of an action plan for evaluations containing objectives, annual goals, procedures, and time frames;
  - b. with SHPO concurrence, development of specific approaches to evaluation of properties or classes of resources (e.g., thematic studies, multiple property studies);

3. a program of historic property monitoring designed to identify and assess the effects that may be associated with environmental degradation, visitor use, vandalism, permit issuance, administrative use, maintenance, and/or other activities;
4. a program for the preservation and stabilization of historic properties threatened by decay, erosion, and other forms of degradation, documented in stabilization and preservation plans, treatment plans, and accomplishment reports;
5. implementation of an ARPA monitoring program in areas where site vandalism and destruction, and artifact theft, are problems;
6. a program of environmental education and heritage awareness, to educate the public and agency personnel about heritage values, the fragility of historic properties, and the importance of preserving them, documented through public outreach efforts, partnerships, cooperative agreements, internal training sessions, etc.;
7. a program of heritage resource interpretation, documented through an interpretive plan, interpretation signs or exhibits, guided walks, brochures, and/or other programs;
8. a research program focusing on the evaluation, interpretation, treatment, preservation, and/or protection of historic properties, evidenced through cooperative agreements, partnerships, research reports, treatment plans, presentation or publication of professional papers, etc.;
9. contributions to regional and state cultural resource planning efforts, as members of planning teams, committees, etc.;
10. a record of regular training and enhancement of professional skills for FHRSS, including attendance at professional meetings, training, educational leaves or other educational arrangements, development of professional skills opportunities, details, etc.

Subsequent Annual Reports shall describe the progress in meeting the objectives and schedule outlined in the Interim Section 110 Plan, particularly with regard to evaluation, but also in the areas of inventory, interpretation, preservation, enhancement, public participation, data management and dissemination, and protection.

F. Measuring Effectiveness. This section should consider and discuss the effectiveness of the Agreement, including:

1. Any reasonably reliable estimate of cost savings and/or increases in management efficiency;
2. The Forest's assessment of how well the Agreement is working, including any reasonably reliable estimate of cost savings and increases in management efficiency; and
3. Special or innovative procedures required or helpful in avoiding historic properties or implementing this Agreement.

- G. Any other available information that the Regional Forester, SHPO, or Council requests should be incorporated into the Annual Report. On request, copies of SRs and HRFs prepared for undertakings implemented under this Agreement shall be submitted to the SHPO, Regional Forester, or the Council.

## II. REPORT ON INADVERTENT EFFECTS

Within six months of discovery of the inadvertent effect or schedule otherwise agreed to by the SHPO (e.g., Annual Report date), the Forest shall provide the SHPO, Council, if a participant, and other interested parties with a report describing the undertaking and the circumstances surrounding the effects. This report must include the following information:

- A. The undertaking or activity that caused the effect, including:
  - 1. name;
  - 2. location (i.e., Forest, Ranger District, area);
  - 3. type of undertaking;
- B. The type of property affected, including the condition of the property; and other pertinent information. A HRF shall be submitted with the report;
- C. The property's NRHP status, including a discussion of the specific characteristics and values known to be associated with the property;
- D. A description of the circumstances surrounding the effect, including:
  - 1. The heritage program activities that were performed in advance of the undertaking or activity. A copy of any studies relevant to the property that were conducted prior to the inadvertent effect should accompany the report;
  - 2. Management measures that were implemented to protect the property; and
  - 3. The context of discovery of the inadvertent effects, including:
    - a. date of discovery;
    - b. identity of reporter;
    - c. how the effect was identified (e.g., monitoring the undertaking, periodic site visits or monitoring, reports from Forest personnel or public);
- E. The nature of the effects, including the values that appear to have been affected; and

- F. A plan to take the inadvertent effect into account, which may include one or more of the following:
1. Evaluate the property if its NRHP eligibility and cultural values have not been previously identified;
  2. Assess the damage to the values the site, which may include excavation and analysis of materials;
  3. Compensation for damages;
  4. Administrative and procedural measures to protect the site and avoid future inadvertent effects in similar circumstances.

## ATTACHMENT 6

### IDENTIFICATION STANDARDS

#### I. QUALIFICATIONS

Identification efforts may be conducted by:

- A. FHRSs who meet the professional standards of 36 CFR 296.8, Office of Personnel Management X118 standards, or the Secretary of the Interior's Standards and Guidelines for Professional Qualifications (Federal Register 48(190):44738-44739).
- B. Professional consultants who meet the professional standards of 36 CFR 296.8, or the Secretary of the Interior's Standards and Guidelines for Professional Qualifications (48 FR 44738-44739).
- C. Certified archaeological surveyors (CASS) who meet the standards specified in Forest Service Manual (FSM) 2361.42 and those detailed in Attachment 3.I.B., or other standards set by the Forests and agreed to by SHPO, and under the supervision of a HRP. Volunteers under the direct supervision of HRPs may also participate in identification activities.

#### II. PLANNING AND IDENTIFICATION OF INFORMATION NEEDS

Most Forest undertakings are planned long in advance of their implementation, affording ample time for the consideration of heritage resources under the terms of this Agreement. Projects covered by categorical exclusions, or associated with routine maintenance are of special concern due to the often short turn-around between project planning and implementation. Consequently, there may be increased potential for error in protecting heritage resources from impacts. Specific planning strategies are necessary to reduce this potential.

- A. Recreation - Projects should be tracked on a regular basis according to the Recreation Planning Program summary. This summary prioritizes projects according to those that will be implemented in the current fiscal year, as well as those projects that will be funded or planned in out-years. This process enables appropriate scheduling of heritage preservation activities.
- B. Mining - Each notice of intent shall be submitted to the FHRS on the district or administrative unit to which the notice applies for review and assessment of appropriate heritage preservation activities.
- C. Controlled Burns/Prescribed Fires - Yearly plans which identify burn areas shall be submitted to FHRSs for review and assessment of appropriate heritage preservation activities, or conform with other Forest heritage planning documents approved by the SHPO (e.g., module on prescribed fires).

- D. Wildfire - Emergency Command Center, Plans Chief, Incident Commander, or Resource Coordinator on the wildfire incident shall notify the FHRM or FHRS designated by the FHRM as soon as possible after the incident has been identified. If a Forest has developed prioritized sensitivity maps and procedures for heritage resource management during wildfires, those procedures may be followed with regard to notification of and response by the FHRM.
- E. Grazing - The need for specific heritage preservation activities shall be determined and addressed as Grazing Allotment Plans come up for renewal, or in conformance with other Forest heritage planning documents approved by the SHPO (e.g., module on range management).
- F. Trail and Road Maintenance - The FHRM and FHRS should be provided with annual trail and road maintenance plans, as available, to determine need for further heritage preservation activities.
- G. Facilities and Recreation Residences - All proposals for alterations of facilities and recreation residences more than 50 years old will be reviewed by the FHRM, FHRS, or Forest Historian to determine the type of heritage preservation activity that may be necessary, or conform with other Forest heritage planning documents approved by the SHPO (e.g., module on existing facilities management, Eldorado National Forest's Interim Guidelines for Maintenance Recreation Residences [10/20/92], and Regional Management Plans for Administrative Buildings and Lookouts).
- H. Timber - Historic properties should be identified, potential effects assessed, and treatment and monitoring plans proposed, during the environmental analysis process and prior to a decision notice.

### III. IDENTIFICATION PROCEDURES

In developing and implementing an identification effort, the Forests shall ensure that:

- A. Field survey is preceded by background research into the area's geomorphology, environment, history, prehistory, architectural history, ethnography, and the results of previous surveys in the vicinity;
- B. Field methods are designed with reference to this background research;
- C. Field surveys are designed to identify all types of historic properties that may be affected by the undertaking, typically including, but not limited to historic and prehistoric archaeological sites, historic structures, historic landscapes, traditional cultural properties, and isolated artifacts.
- D. The identification effort seeks to identify not only historic properties subject to effect, but people and groups who may have concerns about such properties and effects. These may include local residents, Indian tribes, professional and avocational researchers, and others. If traditional cultural properties or archaeological sites are likely to occur, give special attention to consulting Indian tribes in a manner that is sensitive to their cultural values and traditions. Seek to elicit not only information on properties that may be historic in the APE, but on concerns that those consulted may have about effects of the undertaking.



#### IV. CONSULTATION AND REPORTING

- A. Where the Forests propose to carry out, or cause to be carried out, an intensive survey of the APE, regardless of land ownership, they need not consult with the SHPO prior to such inventory.
- B. Where a Forest proposes to carry out, or causes to be carried out, a sample survey, reconnaissance, or less than intensive survey, the Forest shall consult with the SHPO on the appropriate type, intensity, and level of inventory to be conducted under this Agreement. Such identification strategies can be developed in consultation with SHPO for certain classes of undertakings or conditions rather than for individual undertakings. Where approved by SHPO, non-intensive survey methods will be considered adequate for satisfying identification requirements under this Agreement. The Forest or SHPO may request the Council to participate in such consultation. Consultation may take the form of written requests, or meetings or telephone conversations provided that these forms of communication are documented by meeting or phone conversation records.
  - 1. Circumstances under which APEs need not be subjected to intensive survey may include but are not limited to:
    - a. areas that have been subjected to such heavy disturbance in the recent past that it is very unlikely that historic properties could survive;
    - b. examination of project alternatives, where broad-scale or reconnaissance level survey may be appropriate for initial planning purposes;
    - c. areas that are determined, based on a predictive model, to be extremely unlikely to contain historic properties; and
    - d. an accepted HPP which specifies procedures for determining the type and scope of inventory appropriate for the Forest and class of undertaking.
  - 2. Only professional archaeologists or consultants meeting professional standards (HRPs, FHRMs, FHRs) may design a sample survey, reconnaissance, or less than intensive survey.
- C. All identified historic properties shall be recorded on appropriate Heritage Resource Forms (HRF) (e.g., Eureka!/Oracle database), or other forms acceptable to the SHPO. HRFs for previously recorded properties within an APE should be updated to meet the documentation standards specified in this Agreement.

1. HRFs shall include, at a minimum, the same information categories contained in State of California Department of Parks and Recreation Archeological Site Record (DPR 422) and Historic Resources Inventory (DPR 523) forms, as appropriate or as otherwise agreed to by the SHPO and the Forests.
  2. HRFs shall be completed as described in the Heritage Resource database manual, which shall be designed to include, at a minimum, categories outlined in the California Archeological Inventory Handbook for Completing an Archeological Site Record (1989) and the Instructions for Completing California Historic Resources Inventory Forms (1984), or successor manuals as appropriate and agreed to by the SHPO and Forests.
  3. Where historic structures are a component of a larger historic property, they shall be treated as features of those properties and must be recorded on HRFs, as appropriate.
  4. HRFs shall be submitted to appropriate Regional Information Centers of the California Archeological Survey (RIC) for trinomial assignments.
    - a. Trinomial designations shall be incorporated into documentation submitted to SHPO for review. If trinomials have been requested, but not received by the time the Forest needs to submit consultation to the SHPO, then Forests will provide copies of RIC transmittal letters with their documentation.
  5. HRFs shall be housed at Forest Supervisor's and/or District Offices in controlled access facilities.
- D. A Survey Report (SR) (e.g., Archaeological Survey Report (ASR); Cultural Resources Inventory Report (CRIR); Heritage Resource Report; Archaeological Reconnaissance Report (ARR)) shall be prepared for each undertaking or group of small related undertakings.
1. Previous inventory efforts and related reports shall be reviewed for adequacy by the FHRM, FHRS, or qualified person designated by the FHRM to determine if the report meets contemporary professional standards, or whether resurvey is appropriate given changing standards, research designs, conditions, or an undertaking's effects;
  2. The FHRM shall ensure that SRs conform to guidelines in the:
    - a. Pacific Southwest Region's Heritage Resource Database Manual (when implemented on individual Forests);
    - b. State of California Department of Parks and Recreation guidelines "Archaeological resource Management Reports (ARMR): Recommended Contents and Format (1989)";
    - c. Secretary of Interior's Standards and Guidelines for Archeology and Historic Preservation, Reporting Identification Results (48 FR 44723); and/or
    - d. other standards set by the Forests and agreed to by the SHPO.

3. SRs shall list and include HRFs for all newly identified properties within an undertaking's APE. At the request of the SHPO, HRFs for previously recorded sites will be submitted to the SHPO.
  4. SRs shall reference previous reports if portions of undertakings have been subject to earlier surveys previously reported to the SHPO.
  5. Previous SRs that report on survey coverage within the APE of a new undertaking may be used and submitted to satisfy the identification standards established in this Agreement, as long as those previous SRs meet, or are supplemented to meet contemporary professional standards and the requirements of this Agreement. evidence of inventory
- E. The Forests shall submit HRFs and SRs to the SHPO for review and comment within 15 days of request by the SHPO, when the subject HRFs and SRs have been completed. If the HRFs and SRs have not been completed at the time of the SHPO's request, the Forest shall provide the SHPO with a schedule for completion and submittal.
- F. Results of negative inventories will be submitted to the appropriate Information Center for inclusion in the Statewide Inventory.
- G. No additional identification efforts are required prior to the implementation of an undertaking if its APE is entirely within an area that has been previously inventoried and represented by a SR (including previous SRs); and the FHRM, FHRS, or HRP designated by the FHRM determines that no additional inventory or consultation with the SHPO is required prior to implementation, provided the following conditions are met:
1. The FHRM, or a person delegated by the FHRM, confirms that previous identification efforts meet current standards;
  2. The undertaking and SR (new or previous) are listed in the Annual Report.

## ATTACHMENT 7

### STANDARD PROCEDURES FOR PROTECTING HERITAGE RESOURCES

#### I. INTRODUCTION

The following protection measures shall be implemented as appropriate for all subject undertakings managed under this Agreement. When these protection measures are effectively applied, the Forest will have taken into account the effect of these undertakings on historic properties.

Standard protection measures require that heritage resources be excluded from any undertaking activity within their boundary. Proposed facilities or improvements related to projects (e.g., skid trails, landings, access road) shall avoid heritage resources or shall be excluded from projects. Finally, land disturbance activities such as grading or cutting of steep banks, shall not pedestal or in other ways isolate a site from its surroundings.

Several of the standard procedures relate to specific classes of undertakings (e.g., road and trail maintenance, grazing, hazard tree removal, prescribed burns) and should be considered interim procedures until Forest Undertaking Modules have been developed, accepted and certified for those classes of undertaking. Once certified, the terms of the module will prevail over the standard protection measures described for that class of undertaking in this attachment to the Agreement.

Procedures for implementing heritage resource protection should be coordinated with Forest planning procedures to ensure that heritage resources are properly identified and potential effects and management options carefully considered. Protection procedures properly begin with heritage resources identification and information needs, standards for which are described in Attachment 6 of this Agreement. These planning-level procedures are primarily administrative and involve documentation, mapping, intra-Forest communication, and project tracking.

#### II. PROCEDURES

Procedures described below involve on-the-ground actions or restrictions designed to ensure resource protection. Standard procedures are as follows:

- A. Planning, Review and Information. Historic property locations and boundary information shall be conveyed by the FHRM or FHRS to the project manager prior to or concurrently with the physical definition of the APE (e.g., unit layout, marking of trees, landings, skid trails, access roads), or other aspects of an undertaking's implementation for the purpose of modifying, as necessary, the undertaking to avoid properties.
  1. When any changes in proposed undertaking activities are necessary to protect heritage resources (e.g., project modifications, redesign or elimination; removing old or confusing project markings or engineering stakes within site boundaries; or revising maps or changing specifications, etc.) these changes shall be completed prior to initiating any activities.

2. Heritage resource information for timber sales shall be recorded and disseminated using the following strategies:
  - a. FHRMs or FHRSs review timber sale area maps, or other project maps to verify the correct location of historic properties. Historic properties will be identified using Controlled Area (CA) symbols. Timber staff will provide FHRM with timely notification of all changes in cut units, roads, or facilities that may occur during the course of sale preparation, and in all cases, prior to offering sales for contract.
  - b. Final sale area maps shall be available in the FHRS's office and shall highlight heritage resource locations using their Forest heritage resource (FS) numbers.
    - (i) Heritage resource locational information is sensitive, and access to the map shall be restricted to a limited range of Forest personnel or contractors performing work on the Forest on a "need-to-know" basis.
    - (ii) For salvage sales, survey coverage shall be plotted showing surveyed and unsurveyed areas, and maps should be frequently updated, as appropriate.
  - c. Sale Administrators (SAs) shall check the sale area maps and consult with the FHRS, as necessary, to coordinate avoidance measures.
    - (i) For salvage sales the SAs or District Timber Management Officer (DTMO) shall notify the FHRM and FHRS of the timing and location of harvest activities so FHRM and FHRS have sufficient lead time to coordinate site protection measures.
  - d. In situations where timber sales involve numerous heritage resources or which will occur close to heritage resources, the FHRM or FHRS shall participate in pre-operations meetings with the sale purchaser to identify and coordinate protection measures (communication, flagging, monitoring, directional felling, etc.).
  - e. Critical heritage resource concerns will be documented on Harvest Activity or comparable record keeping system (e.g., System 200) which specifies harvest instructions for particular sale units, including design and harvest activity.
  - f. Critical heritage resource information will be documented on Stand Record Cards or comparable record-keeping system which provides long-term tracks of all activities regarding a particular timber stand.
  - g. SAs will maintain a sale file documenting heritage resources concerns, especially those related to avoidance and monitoring plans. SAs will notify FHRSs in a timely manner whenever on-site monitoring is required during harvest activities.

3. Monitoring may be used to enhance the effectiveness of protection measures. The results of any monitoring inspections shall be included in the Annual Report (Attachment 5).
- B. Flagging. Heritage resources identified within a project's APE shall be delineated by flagging or tagging site boundaries prior to implementing the project.
1. For historic properties eligible for the NRHP under 36 CFR 60.4(d), or those that may be important only for the information they contain, the physical demarcation of historic properties (and any buffer zones that are determined needed to ensure protection) and their exclusion from an undertaking's proposed activity areas is a minimum requirement.
  2. Physical demarcation and avoidance during the implementation of an undertaking is also required for other properties that may be eligible for the NRHP under other criteria.
  3. Flagging will be a standard color on all Districts or administrative units of each Forest.
  4. The boundaries of heritage resources identified during the course of new inventories and which may be affected by undertakings shall be flagged.
  5. Previously inventoried lands containing heritage resources that may be affected by the undertaking shall be revisited by a FHRM, FHRS, HRP, or CAS to relocate and flag the boundaries of previously identified properties. HRFs (site records) for these properties will be updated or re-recorded, as appropriate. If flagging includes buffer zones, a FHRM or FHRS must determine the extent of that zone, even if these individuals do not physically flag heritage resource sites.
  6. Occasionally, proposed APEs may include portions of linear heritage resources (trails, wagon roads, ditches, etc.). The boundaries of such linear sites or features shall be flagged, as appropriate, to protect the resource.
  7. The establishment of a buffer zone surrounding a heritage resource may be employed as a means to lessen the likelihood that inadvertent effects from project implementation might occur.
    - a. The use of buffer zones in conjunction with other avoidance measures is particularly appropriate where setting may contribute to the property's eligibility under 36 CFR 60.4, or where it may be an important attribute of some types of historic properties (e.g., historic buildings or structures; properties important to Native Americans).
    - b. Buffer zones need to be determined by a FHRM or FHRS on a case-by-case basis. Landscape architects, architectural historians, and historians may be consulted, as appropriate to the property types, to determine appropriate view sheds for historic resources. Interested Native Americans should be consulted when the use or size of protective buffers for Native American traditional or cultural properties needs to be determined.

- c. The distinction between heritage resource boundaries and buffer zones must always be clear in heritage resource records (e.g., archaeological site records) and reports.
- C. Timber Harvest. Trees may be harvested and skidded away from the exterior boundary of heritage resources, however, no part of the trees shall intrude into the boundary.
- 1. Skidding equipment and other machinery shall not transgress onto any portion of the heritage resource during maneuvers prior to, or during, the skidding of logs or other project activities.
  - 2. Trees shall not be felled immediately adjacent to heritage resources if doing so will affect the visual integrity of those properties, if visual integrity may contribute to the importance of the heritage resource.
- D. Misdirected Tree Felling. If trees are inadvertently felled so that they intrude into the boundaries of a heritage resource, all portions of the tree within the boundaries shall be left in-place until evaluation can be made by the FHRM, FHRS, or their designated heritage resource specialist. Procedures for inadvertent effects (Stipulation VII.E of this Agreement) should be followed.
- E. Hazard Trees and Windthrow. For the purpose of this Agreement, hazard trees are defined as trees that present imminent danger to life, property, public safety, or heritage resources. Windthrow is defined as uprooted trees generally laying parallel to the ground with main roots exposed or broken portions of standing trees. When hazard trees or windthrow are identified within or adjacent to historic properties, a series of steps shall be followed to avoid or minimize effects, as specified below.
- 1. Analysis of potential effects.
    - a. A timber specialist shall define the hazard and the potential for injury to people and property in consultation with the FHRM or FHRS. The process of identifying the potential danger should take into account the logistics of removal, the heritage resource type, and the anticipated effects to the site if the tree were to fall naturally. Based on this consultation, the FHRM or FHRS will determine appropriate steps to follow in protecting or minimizing damage to heritage resources during hazard tree removal.
  - 2. Avoidance procedures. Whenever possible, hazard trees shall be directionally felled away from the property. Where visual integrity is an issue, the stump shall be flush cut and all slash piled out of view.
 

If hazard trees cannot be directionally felled so as to fall completely outside of the property boundary, the tree shall, under the direct supervision of a FHRS, be directionally felled to avoid sensitive features of the heritage resource. Other measures may be implemented to limit the amount of damage to the heritage resource. Depending on circumstances, such measures include:

    - a. limbing and/or topping the tree to eliminate gouging of soil; and

- b. under the direct supervision of a FHRS, removal of downed trees or windthrow with helicopter or rubber tired loaders with full suspension, where openings are large enough to accommodate this type of equipment, or with rubber tire heel-boom loaders where openings are smaller; and/or
  - c. leaving the felled tree in place and taking no further actions that may disturb the heritage resource.
3. When Avoidance Is Not Possible. If procedures described above cannot be implemented to protect heritage resources, the Forests shall immediately consult with SHPO to ascertain the expected severity of damage. If the SHPO and Forest agree that the activity will not diminish or destroy those qualities that may make the property eligible, including potential visual impacts if NRHP criteria A or C may be relevant, the Forest shall remove the tree using all appropriate protection measures.

If the SHPO and Forest fail to agree on the severity of impact, or if the SHPO and Forest agree that the impact may be severe, the Forest shall follow 36 CFR 800.

F. Roads and Trails.

- 1. New undertakings that involve road construction, reconstruction, and improvement projects that may impact heritage resources must follow the procedures outlined in 36 CFR 800 or Stipulations V. through VII. of this Agreement.
- 2. If an historic property is traversed by facilities or improvements created within the last 50 years, these existing facilities or improvements may be used for a project so long as their use is consistent with the function for which they were created and that use does not further affect heritage resources (e.g., the use of existing access roads that use or traverse linear sites such as railroad grades). Such continued use shall be considered to have no effect on historic properties.
- 3. Continued or reuse of a Forest road or trail will not affect a property and no case-by case consultation with the SHPO is necessary under the following circumstances:
  - a. when a physical barrier along the traveled way (fences, boulder barriers, existing pavement) prevents further damage to heritage resources;
  - b. where the roadway or trailway was cut through or is situated below a property (e.g., archaeological deposit) through which it passes. The absence of a property (e.g., cultural deposit) may be documented by field work in the form of surface observations and/or subsurface test excavation. These excavations may include shovel tests, excavation units, or auger borings;
  - c. placement of foreign, non-archaeological material (padding) over an archaeological deposit within the traveled way only will not require NRHP evaluation of the archaeological deposit if:
    - i. the pad depth does not exceed two feet;



- ii. the Forest Engineer has determined that two feet of padding is sufficient to ensure no further erosion or downcutting of the pre-pad road surface, taking into consideration variables such as the seasonality, purpose, and intensity of road use;
  - iii. the archaeological site has been recorded to contemporary professional standards, as described in Attachment 6 of this Agreement.
  - iv. pads must be constructed in such a manner that they can be placed without damage to the underlying deposit and easily distinguished from the underlying deposits.
- G. Historic Ditches. FHRMs and FHRS should be familiar with the historical resources within their jurisdiction. Many prominent and important historical ditches and ditch systems are known and their locations have been previously identified. Deep ditches that carried large volumes of water are more likely to represent major economic pursuits and historical developments, and as such should be granted particular consideration in determining appropriate avoidance procedures. The FHRM and FHRS shall be involved in all decisions to breach, cross, or take actions that may damage historic ditches. Avoidance procedures for historic ditches shall include the following measures:
1. If an historic ditch is traversed by existing facilities or improvements, these existing facilities or improvements may be used for a project so long as their use is consistent with the function for which they were created and that use does not further affect the historic ditch (e.g., the use of existing access roads that cross, use, or traverse historic ditches). Such continued use shall be considered to have no effect on historic properties.
  2. An historic ditch may be flagged for avoidance immediately adjacent to its berm as long as trees can be felled away from the ditch and visual integrity is not an issue.
  3. Trees located within an historic ditch or on its berm may be harvested if conditions warrant. Timber staff and FHRM or FHRS shall consult to determine proper action; however, the FHRM or FHRS is responsible for the final determination.
  4. A tree may be harvested in circumstances where it is likely that damage to the ditch will be more severe if the tree is left to fall on its own, under the following condition:
    - a. it is determined to be a hazard tree, including a determination that the tree is an imminent threat of damage to a ditch;
    - b. trees meeting Stipulation III.G.4. (above) will be felled in a manner that will cause the least amount of damage to the ditch.
  5. Historic earthen ditches may be temporarily breached or filled and traversed without evaluating their eligibility to the National Register of Historic Places under certain conditions. The FHRM and FHRS must be involved, and shall have the final determination whether breaches are appropriate under the following circumstances:

- a. No historic ditch shall be breached or crossed at its point of origin, at or near where two ditches come together; at the terminal end of a ditch; or at a rock wall feature.
  - b. The ditch (or segment) has been recorded on an HRF;
  - c. The Timber Sale Administrator or Forest project manager determines that avoidance or evaluation is not economically feasible and practical, in consultation with the FHRM or FHRS;
  - d. The width of the breach is no greater than 20 feet;
  - e. Non-breached ditch segments are protected by flagging and routing all traffic and undertaking activities through the breach;
  - f. The breach will exist for the duration of the undertaking, which must not exceed two years;
  - g. The breached area of the ditch is reconstructed after the undertaking to match the width, depth, and contour of the pre-undertaking ditch segment, conforming to unaltered and adjacent portions of the ditch.
  - h. where practical, new breaches should use the locations of previous breaches;
    - i. breaches must be far enough apart so that the ditch can be visually traced after the breach, even prior to reconstruction;
7. Ditched may be crossed by equipment and vehicles under the following circumstances:
- a. crossings are related to specific land use activities of short term (e.g., timber harvest, off-road vehicle event) such that the crossing does not establish a pattern ongoing use that may further damage or degrade the ditch;
  - b. ditches may be crossed (e.g., logs may be skidded) if the ditches are less than three feet deep and five feet wide (Level 2 and 3 ditches) at points that are at right angles to the length of the ditch. Logs should not be skidded, nor roads constructed, lengthwise on or so near to a ditch that observation of its course is obliterated;
    - i. cable corridors shall be planned so as to minimize the number of crossings, and full suspension may be appropriate in some cases.
  - c. crossings must be far enough apart so that the ditch can be visually traced after its crossing.
- H. Prescribed Fires. In undertakings involving prescribed burns, avoidance of effects may require variance from the more common methods of heritage resource identification and protection. The procedures described in this Attachment shall be superseded by a more comprehensive approaches accepted by the SHPO and Council such as: Forest Undertaking Module for Prescribed Fires; HPP

with element that addresses prescribed fires; or Interim Procedures for the Management of Heritage Resources Related to Prescribed Fires in the Pacific Southwest Region.

1. Basic Assumptions:

- a. Archaeological site identification and protection is often impeded by visual obstructions associated with dense undergrowth. Thus, the likelihood of discovering archaeological sites within prescribed burn areas is limited.
- b. Many prescribed burn areas have been previously burned, usually on a 5 to 10 year rotation.

2. Avoidance Procedures:

- a. Notwithstanding specifications H.2.b. below, and at the discretion of the FHRM, unsurveyed areas need not be surveyed prior to prescribed fires, except for office record checks and cursory field examination to identify historic period structures and materials. If identified, these properties shall be excluded from fire areas and protected by hand-constructed fire lines, foam wetting agents, or fire shelter fabric.
- b. New fire line construction areas shall be surveyed where previously unsurveyed. If heritage resources are identified, fire lines shall be reconfigured to avoid those properties. Existing fire lines where duff is cleared by raking and overhanging branches are removed will not be surveyed, except as in H.2.c. below.
- c. Unsurveyed areas shall be surveyed after the prescribed burn takes place to document the location and condition of heritage resources.

## ATTACHMENT 8

### PUBLIC PARTICIPATION

The Forests will seek information and advice from local and state governments, public and private organizations, interested Native American groups, and other interested persons likely to have knowledge of or concern with historic properties on the National Forests, with reference to the Council's Public Participation in Section 106 Review: A Guide for Agency Officials (ACHP, 1989), Title 6 of the Civil Rights Act of 1964, and incorporating such information into identification, evaluation, and treatment efforts (36 CFR 800). Requirements for participation of interested persons and the public described at 36 CFR 800 shall be coordinated with the public notification process embodied in the National Environmental Policy Act (NEPA) (42 U.S.C. 4321-4346) consistent with Council on Environmental Quality (CEQ) regulations (40 CFR 1508) and implemented through the Forest Service Handbook (FSH 1909.15--Environmental Policy and Procedures Handbook WO Amendment 1909.15-92-1).

If an interested person(s) or member(s) of the public raises a timely objection to the classification of a specific undertaking as exempt, the Forest receiving the objection shall follow the procedures described in Stipulation XIII.B. Timely objections are those that are raised within the public notification and review procedures specified under NEPA (42 U.S.C. 4321-4347), consistent with Council on Environmental Quality (CEQ) regulations (40 CFR 1508) and the Forest Service Handbook (FSH 1909.15--Environmental Policy and Procedures Handbook WO Amendment 1909.15-92-1).

#### I. PROCEDURES

##### A. NEPA Notification

Forests shall use the public notification process embodied in the National Environmental Policy Act (NEPA) (42 U.S.C. 4321-4346) as implemented through FSH 1909.15 to comply with provisions for public notification, the identification of interested persons, and public participation in decision making found in 36 CFR 800. The NEPA process allows individuals, organizations, or groups an opportunity to comment on a Forest's undertaking, including those measures used for the identification, protection, and management of historic properties. These comments are taken into account as part of the NEPA decision. Those who have provided comments during the NEPA process also have administrative appeal rights after a decision is made, and the public is notified of those rights and the appeal process.

1. The process for public notification established in the USDA Forest Service's "National Environmental Policy Act: Revised Policy and Procedures" (57 FR 43180-43213) will be used to identify individuals, groups, or organizations interested in how effects of undertakings on historic properties are being taken into account under this Agreement.
2. Interested persons and the interested public shall be notified of upcoming proposals for undertakings through the dissemination of schedules of proposed actions, "...prepared and distributed at least every three months to interested and affected agencies, organizations, and individuals. The schedule should include proposed actions which are anticipated to be categorically excluded from documentation in an environmental impact statement or an environmental assessment" (FSH 1909.15(07.1)).

3. The Schedule of Proposed Actions includes information regarding: an undertaking's description and location; estimated dates of public scoping and decision; agency's contact person; process for receiving information; status of the environmental analysis; and estimated implementation date.

#### B. Identifying Interested Persons

1. Interested persons are identified through the NEPA scoping process and shall include, at a minimum: individuals, groups, or organizations who are interested in undertakings or actions implemented under the terms of this Agreement; representatives of adjacent Native American communities; federally recognized tribal governments; Native American groups or individuals known to have interests in heritage resources, as identified through previous Section 106, NAGPRA, ARPA, and AIRFA consultations; and others who notify the Forest of their interest in receiving such information about particular projects or historic properties.

#### C. Native American/Ethnic Concerns

The Forests shall ensure that ethnic and Native American concerns in decisions affecting historic properties identified with Native Americans or particular ethnic communities are taken into account by following Forest Service policies.

1. Native American concerns are given specific recognition in NHPA Section 101(d)(6) and 36 CFR 800.
2. Native American tribes, organizations, and individuals with historic and documented concerns regarding heritage resources within the Forests shall receive schedules of proposed actions from the Forests, unless they object to receipt of such schedules.
3. Native American tribes, organizations, and individuals who express concerns regarding heritage resources related to specific undertakings shall be considered interested persons with regard to those undertakings, and shall be consulted regarding the identification, evaluation, and management of heritage resources of concern for such undertakings, consistent with the terms of this Agreement and 36 CFR 800.
4. If FHRMs or persons delegated by the FHRM determine that certain undertakings listed in the Schedule of Proposed Actions would likely have significant, controversial, or undetermined effects on historic properties or contemporary Native American values based on known information, they shall not be considered exempt undertakings and further heritage preservation activities shall be implemented under the provisions of this Agreement or 36 CFR 800.

## ATTACHMENT 9

### FOREST UNDERTAKING MODULES

Identification, evaluation, and management procedures for certain classes of Forest undertakings (e.g., prescribed fires, term grazing permits) shall be guided by modules that contain the types of information, and have been subject to review and acceptance. Modules are distinguished from CARIDAPs, which provide evaluation and treatment procedures for specific classes of heritage resources.

#### I. PRINCIPLES

Forest Undertaking Modules should be:

- A. Straightforward and easy to implement;
- B. Sufficiently specific and detailed to minimize interpretive complications; and
- C. Directive as to what should be done.

#### II. CONTENTS AND FORMAT

Forest Undertaking Modules must contain the following information:

- A. Title that specifies the subject (undertaking);
- B. Summary description that specifies intent, use and limitations of the module;
- C. Background
  - 1. detailed description of the class of undertakings to which the module applies, including variations in methods and implementation of the class of undertaking;
  - 2. description of the known and likely effects of such undertakings on different types of heritage resources, in the absence of protective measures. This discussion should include an identification of the kinds of heritage resources that are most likely to be affected by the class of undertaking;
  - 3. review and citation of salient technical studies on the effects of the class of undertaking on heritage resources, if any;
  - 4. review of studies on the effectiveness of measures to protect or avoid effects to heritage resources and historic properties.

D. Management Protocol. This section must include:

1. heritage resource identification procedures;
2. criteria for determining *when* heritage resources must be characterized or evaluated;
3. when appropriate, *extent and methods* of heritage resource characterization or evaluation;
4. limitations of the module to specific classes of heritage resources, based on results of identification, characterization, or evaluation;
5. process for notifying and soliciting the views and involvement, as appropriate, of interested parties, Native Americans, and the public;
6. administrative protocols such as authority and assignment of responsibility for the undertaking, and the process by which implementation plans are developed, documented, and communicated;
7. steps, measures, or elements to the implementation plan, which may include:
  - a. equipment requirements (types, methods of operation)
  - b. physical conditions of the environment or property
  - c. qualifications of undertaking personnel
  - d. property identification measures, if appropriate (e.g., flagging, mapping)
  - e. property protection measures, as appropriate (e.g., barriers, ground cover)
  - f. undertaking design, as appropriate (direction on undertaking implementation)
  - g. monitoring standards, as appropriate
  - h. documentation standards and reporting procedures
8. procedures in the event of inadvertent effects
9. process by which results of implementation will be integrated into Forest Plans and planning processes;
10. as appropriate, continued long-term studies and refinement of effects and methods of protection.

### III. DEVELOPMENT OF NEW MODULES

New modules may be developed and included in this Agreement by the following procedures.

- A. The Forest(s) proposing to develop a module will provide the Regional Forester, SHPO and Council with written notification of their intent to develop and add a module to this Agreement and seek their initial advice.

- B. Modules shall be prepared according to the principles and content listed in Attachment 9 (I and II).
- C. Interested parties shall be consulted and afforded an opportunity to provide input in the development and review of draft modules. Interested parties should include, as appropriate, signatories to this Agreement, Indian tribes, organizations or individuals that may be directly affected by the module, and organizations or individuals that have asked to be included. Consultation may include meetings, public review and comment on the draft module, and public hearings.
- D. When the Forest(s) have completed the module in draft form, the preparer shall submit the draft to the Regional Forester, SHPO and Council for review, accompanied by a list of the organizations and interested parties consulted during the drafting.
- E. The SHPO and Council shall be afforded 60 days to review and comment on the draft module.
- F. The module shall be added to the Agreement and implemented by the Forests if they so choose, if the SHPO, Council, and Regional Forester accept and certify the module by signing the certification included in this Attachment.
- G. The Forest(s) developing the module shall ensure that all signatories and interested parties consulted during development of the module receive a copy of the final certified module.
- H. The Forests shall implement individual undertakings within the subject class of undertakings according to Stipulations of this Agreement or 36 CFR 800 until the module for the class of undertakings is certified. Individual Forests may choose to follow the provisions of this Agreement or 36 CFR 800 rather than the procedures described in a module for individual undertakings.
- I. Modules may be amended by agreement of the consulting parties to this Agreement if monitoring and review of their effectiveness reveal that modifications will result in greater efficiency with at least equivalent or greater protection of properties. The module shall be amended and re-certified in the same manner as the original module.
- J. Several of the procedures described in Attachment 7 "Standard Procedures For Protecting Heritage Resources" relate to specific classes of undertakings and should be considered interim procedures until modules have been developed, accepted and certified for those classes of undertaking. Once certified, the modules will prevail over Attachment 7 procedures for those classes of undertakings, if and when individual participating Forests so choose. Otherwise the provisions of this Agreement or 36 CFR 800 shall be followed.



**CERTIFICATION OF FOREST UNDERTAKING MODULE**

This certifies that the Forest Undertaking Module entitled

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has been reviewed and approved for attachment to, and implementation in accordance with, the Programmatic Agreement Among The U.S.D.A. Forest Service, Region Five, California State Historic Preservation Officer, And Advisory Council On Historic Preservation Regarding The Identification, Evaluation And Treatment Of Historic Properties Managed By The National Forests Of The Sierra Nevada, California, dated

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**USDA FOREST SERVICE, PACIFIC SOUTHWEST REGION**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**CALIFORNIA STATE HISTORIC PRESERVATION OFFICER**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_