

**PROGRAMMATIC AGREEMENT**

**AMONG THE**

**U.S.D.A. FOREST SERVICE,  
MONONGAHELA NATIONAL FOREST,  
THE WEST VIRGINIA DIVISION OF CULTURE AND HISTORY,  
AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**

**REGARDING**

**THE PROCESS FOR COMPLIANCE WITH SECTION 106  
OF THE NATIONAL HISTORIC PRESERVATION ACT  
FOR UNDERTAKINGS ON  
THE MONONGAHELA NATIONAL FOREST  
OF THE EASTERN REGION OF THE U.S.D.A. FOREST SERVICE**

WHEREAS, the United States Department of Agriculture, Forest Service, Monongahela National Forest, hereinafter referred to as “the Forest”, has a multiple use mission to manage its public lands for a variety of “undertakings” that may have an effect on historic properties; and

WHEREAS, the Forest as public land steward is mandated to comply with Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA) (16 U.S.C. 470), and its implementing regulations, entitled "Protection of Historic Properties" (36 CFR 800); and to comply with Section 110 of the NHPA, and its implementing regulations (16 U.S.C. 470); and

WHEREAS, the Forest has determined that its programs, policies, actions, and administration of lands under its jurisdiction meet the definition of an undertaking and may have an effect on historic properties either included in or eligible for inclusion in the National Register of Historic Places (NRHP); and

WHEREAS, under the National Historic Preservation Act of 1966, as amended, the responsibilities of the Advisory Council on Historic Preservation (ACHP) include advising and assisting Federal agencies in carrying out their historic preservation responsibilities, and cooperating with Federal agencies to ensure that the effects of undertakings on historic properties are taken into consideration at all levels of planning and development; and

WHEREAS, under the National Historic Preservation Act of 1966, as amended, the responsibilities of the State Historic Preservation Officer (SHPO) include advising and assisting Federal agencies in carrying out their historic preservation responsibilities, and cooperating with Federal agencies to ensure that the effects of undertakings on historic properties are taken into consideration at all levels of planning and development; and

WHEREAS, the Forest has consulted with the Advisory Council on Historic Preservation pursuant to section 800.14 of the regulations (36 CFR 800) implementing Section 106 of the NHPA, and the ACHP has chosen to participate in development of this PA; and

WHEREAS, the Forest has consulted with the West Virginia Division of Culture and History whose Commissioner is the West Virginia State Historic Preservation Officer (WV SHPO) pursuant to section 800.14(b) of the regulations (36 CFR 800) implementing Section 106 of the NHPA, and the WV SHPO has chosen to participate in the development of this PA; and

WHEREAS, the Council for West Virginia Archaeology, the Preservation Alliance of West Virginia, and the Appalachian Forest Heritage Area have been consulted on the development of the PA and participate in the Section 106 process pursuant to 36 CFR 800.14(b)(2)(ii) for development of this PA; and

WHEREAS, the signatories to this agreement share a common desire and purpose to develop alternative procedures that would satisfactorily take into account the effects of Forest undertakings. These include, but are not limited to timber sales, campsite rehabilitation, land sales, land exchanges, mineral exploration, mineral extraction, road and trail maintenance and construction, and any other projects that may have effects on historic properties. Where avoidance procedures are followed, this document reduces redundant documentation associated with undertakings within areas having adequate prior identification, review, and consultation;

WHEREAS, the Eastern Band of Cherokee Indians, the Absentee Shawnee Executive Committee, the Tonawanda Band of Indians, the Cayuga Indian Nation, the Onondaga Nation, the Oneida Indian Nation of New York, the Seneca Nation of Indians, the Tuscarora Nation, the Delaware Tribe, the Delaware Nation, the Cherokee Nation of Oklahoma, the Eastern Shawnee Tribe of Oklahoma, the Seneca-Cayuga Tribe of Oklahoma, and the Shawnee Tribe were consulted on the development of the PA pursuant to 36 CFR 800.14(b)(2)(ii); and

WHEREAS, the terms of a previously executed agreement between the WV SHPO and the Forest have been made obsolete by changes to the regulations found at 36 CFR 800, and this Programmatic Agreement replaces the previous agreement in its entirety; and

WHEREAS, the public has been provided the opportunity to comment on the development of this PA, with public notice published in **X**, on **X**;

NOW, THEREFORE, the ACHP, the Forest, and the WV SHPO agree that the Monongahela National Forest shall manage its Section 106 compliance responsibilities in accordance with the following stipulations:

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

## **STIPULATIONS**

### **I. SCOPE AND OBJECTIVES**

The purpose of this Programmatic Agreement (PA) is to streamline compliance with the ACHP's regulations *Protection of Historic Properties* (36 CFR Part 800) implementing Section 106 of the NHPA for undertakings whenever: (1) there are no identified historic properties within an Area of Potential Effect (APE) (Stipulation V(H)); (2) historic properties, and/or unevaluated properties that are eligible for the NRHP until determined proven otherwise, are within the APE and will be managed and maintained in such a way that their assets are protected and no adverse effects will result (Stipulation V(I)); or (3) the nature of the undertaking is such that it is unlikely to affect historic properties and is therefore exempt from further review and consultation, or the resources have no NRHP potential, as specified in this PA (Stipulations V(G) and V(L)), and from the provisions

of 36 CFR 800. If historic properties are present within an undertaking's APE and would be affected by an undertaking, and protection measures that would result in no adverse effect (pursuant to Stipulation V(I)) cannot or will not be implemented, then Stipulation V(J), the procedures outlined in 36 CFR 800.5 through 800.7 will be followed regarding determination of effects, review, and consultation to resolve adverse effects. Where appropriate, the public involvement and participation processes will be integrated with those undertaken in compliance with the National Environmental Policy Act of 1969 (NEPA) (Stipulation IX).

## **II. COORDINATION AND INFORMATION EXCHANGE**

(A) All efforts to identify, evaluate, and/or treat historic properties in connection with the planning of undertakings shall be carried out in accordance with the standards and guidelines specified in this PA and the Monongahela National Forest Land and Resource Management Plan (FLRMP) (2006).

(i) All reports that document identification, evaluation, and/or consultation efforts to resolve adverse effects shall be available to the WV SHPO, and other consulting parties, as appropriate, and indexed/referenced in the annual report from the Forest, to facilitate integration in the statewide database.

(B) Consultation and coordination among the Forest, the ACHP, the WV SHPO, and other consulting parties, pursuant to this PA, shall be the responsibility of the Forest Supervisor unless specified otherwise and shall be documented through official correspondence.

## **III. DEFINITIONS**

The following definitions, and others included in 36 CFR 800.16, apply to this PA.

**Archaeological Technician** A Heritage Program assistant who meets the Office of Personnel Management standards (X118) and conducts site inventory, documentation, and other related work under the supervision of a Heritage Program Manager.

**Area of Potential Effects (APE)** means the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist.

**ACHP** means the Advisory Council on Historic Preservation or a Council member or employee designated to act for the Council.

**Consultation** means the process of seeking, discussing, and considering the views of other participants, and where feasible, seeking agreement with them regarding matters arising in the Section 106 process.

**Effect** means alteration to the characteristics of a historic property qualifying it for

inclusion in, or eligibility for, the National Register per the definition in 36 CFR 800.16 (i).

**Eligible for inclusion in the National Register** includes both properties formally determined as such in accordance with regulations of the Secretary of the Interior and all other properties that meet the National Register of Historic Places criteria.

**Exempt Undertaking** is an undertaking that is exempt from review or consultation under terms of this PA and 36 CFR 800, pursuant to Stipulation V(E). Exempt undertakings are listed in Attachment A.

**Historic Property** means any prehistoric or historic district, site, building, structure, object or historical/cultural landscape included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term also applies to any cultural resource or property not yet evaluated to determine whether it is eligible for the NRHP. This term includes artifacts, features, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or native Hawaiian organization and that meet the National Register criteria per the definition in 36 CFR 800.16(l).

**Heritage Program Manager (HPM) (i.e., Forest Archaeologist/Forest Historian)** is the position on the Forest that is responsible for: directing, planning, and administering the Forest's complex and multi-faceted Heritage Program; providing professional and technical advice to the Forest Supervisor and District Rangers as decision-makers; 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 HPM shall meet the professional standards established for archaeologist as outlined in 36 CFR 296.8 or in the *Secretary of the Interior's Standards and Guidelines for Professional Qualifications* (48 FR 44738-44739) or in the Forest Service's OPM X118 series for Forest Archaeologist/Forest Historian.

**Native American tribe** means an Indian tribe, band, nation, or other organized group or community, including a native village, regional corporation, or village corporation, as those terms are defined the Alaska Native Claims settlement Act (43 U.S. C. 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

**National Register** means the National Register of Historic Places maintained by the Secretary of the Interior.

**National Register criteria** means the criteria established by the Secretary of the Interior for use in evaluating the eligibility of properties for the National Register (36 CFR Part 60).

**Survey** is a systematic, detailed examination of an area designed to gather information about the number, location, condition, and distribution of historic properties within an undertaking's APE.

**State Historic Preservation Officer (SHPO)** means the official appointed or designated pursuant to Section 101(b)(1) of the NHPA to administer the State historic preservation program or representative designated to act for the State Historic Preservation Officer.

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

#### **IV. STAFFING AND TRAINING**

The Monongahela National Forest (MNF) will maintain professional and technical staff appropriate to carry out the terms of this PA.

##### **(A) Qualifications**

(i) The MNF will ensure that Heritage Program activities conducted pursuant to this PA are implemented under the supervision and oversight of professionals trained as archaeologists, historians, architectural historians, or anthropologists and, at a minimum, meet the standards set forth in Forest Service Manual 2360 and The Secretary of the Interior's *Historic Preservation Professional Qualification Standards*. Activities supervised or conducted by such professionals will be within their areas of professional expertise.

(ii) Heritage Program technicians, paraprofessional archaeologists, student interns and volunteers shall only conduct work under the direct technical supervision of a Forest Service Heritage professional meeting the qualifications in Stipulation IV(A)(i). Only the HPM or other professional Forest Heritage Resources personnel will make Section 106 judgments, findings and determinations on "undertakings," "significance," "effect," "measures to resolve adverse effects," and "area of potential effect."

##### **(B) Training**

(i) The MNF shall ensure that its Heritage Program staff is provided with appropriate training, consistent with current National Park Service standards, in order to remain apprised of new historic preservation legislation, and cultural resource management and archaeological methods.

(ii) Heritage Program staff are encouraged to attend professional meetings and continuing education courses.

(iii) The MNF shall ensure that the Forest Leadership Team, District Rangers,

project planning staff and Forest personnel maintain an up-to-date working knowledge of the requirements of the National Historic Preservation Act, 36 CFR 800, and the Secretary of the Interiors Standards for Historic Preservation.

(iv) The MNF will ensure that new line officers, staff officers, leadership team members, and other critical staff will receive training and instruction of the purpose, meaning, application, and implementation of this PA. Such training may be conducted with the assistance of the SHPO on a schedule to be determined based on changes in staffing or at the recommendation of the Forest Supervisor, HPM, or SHPO.

(C) Paraprofessional cultural resource personnel may be employed in conformance with Forest Service Manual (FSM) 2361.42 and current R9 FSM supplements.

## **V. REVIEW OF UNDERTAKINGS**

(A) For each action that meets the above definition of “undertaking” and is the type of activity that has the potential to cause effects to historic properties, the Forest shall establish the area of potential effect (APE), as defined above, in accordance with the criteria of effect in 36 CFR 800.5.

(B) Where the Forest proposes to carry out, or causes to be carried out, an identification of historic properties within the APE, it need not consult with the WV SHPO prior to such inventory, but shall document the results of such inventory and provide this documentation to the WV SHPO for review and comment in accordance with the terms of this part. As determined necessary by the Forest, additional identification strategies may be developed in consultation with WV SHPO for certain classes of undertakings or conditions rather than for individual undertakings.

(C) Identification of Historic Properties. The Forest shall identify historic properties in the APE. The scope of identification efforts will depend on: existing knowledge about historic properties; goals for survey activities developed in the planning process; and current management needs. Critical steps in the identification process are: a literature review; Native American Indian consultation (as appropriate); historical and archival research, consultation with other knowledgeable parties, and field survey (as necessary);

- (i) Survey efforts for undertakings whose APE is less than 50 acres shall be documented employing the standard form “Cultural Resource Report” (see Attachment C);
- (ii) Survey efforts for undertakings whose APE is 50 acres or greater shall be documented employing the standard form “Cultural Resources Reconnaissance Report” (see Attachment D)

(D) Evaluation of Resources as Historic Properties

The Forest shall ensure that cultural resources are evaluated for their eligibility for

inclusion in the National Register of Historic Places to the maximum extent possible. Such evaluations will, except for those sites excluded from eligibility as indicated in Stipulation V(L) below, be conducted in consultation with the WV SHPO.

(E) The Forest shall ensure that all historic property identification, evaluation, and assessment of effects activities reasonably conform to the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, Standards for Identification (48 FR 44720-44723). The Forest shall make a reasonable effort to conform to the West Virginia Division of Culture and History's Guidelines for Phase I Surveys, Phase II Testing, Phase III Mitigation and Cultural Resource Reports.

(F) The Forest shall ensure that all Heritage Program work is supervised and directed by:

(i) Professional archaeologists or historians 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).

(ii) Archaeological technicians who meet Office of Personnel Management standards for personnel who may perform such surveys;

(iii) Professional consultants and/or partners 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).

(G) Undertakings Exempt from Section 106 Review and Consultation

(i) Management of the MNF involves a number of routine and recurrent undertakings whose potential effects on historic properties are foreseeable and likely to be absent, negligible, or minimal;

(ii) Undertakings identified in Attachment A have little or no potential to affect historic properties. As a result of their limited-to-no potential to affect historic properties, these undertakings are exempt from case-by-case Section 106 review and no further consultation with the WV SHPO, other consulting parties, or the public is required.

All proposed undertakings shall be reviewed by the HPM to determine whether the proposal meets the definition of an exempt undertaking under the terms of this PA. At any time, the HPM may elect to subject a specific proposal that appears on the list of exempt undertakings to Section consultation and consideration of heritage preservation activities is necessary. Such consideration may include survey and documentation as necessary.

(iii) The list of exempt undertakings may be revised or updated, as needed, at the request of the MNF and by mutual written agreement of the MNF, ACHP, and the WV SHPO. If all signatories agree, a revised, dated and signed list of exempted



undertakings shall be designated and appended to this PA.

(iv) Any discovery of an historic property or unanticipated effect made by the MNF during the implementation of an exempt undertaking will be treated in accordance with Stipulation VII.

#### (H) No Historic Properties Identified and No Effects

When no historic properties are identified in the APE for an undertaking, following Stipulations V (A-D) of this PA, or historic properties are identified and evaluated and the Forest has determined that the undertaking will have no effect on the property following the definition of effect (see Stipulation III), these findings will be documented in a Culture Resources Report or Cultural Resources Reconnaissance Report, as appropriate, and will be included in the Annual Report submitted by the MNF to the WV SHPO and other consulting parties as determined. No further consultation is required.

#### (I) No Adverse Effects

When historic properties are identified within the APE of an undertaking, and the Forest has determined that the undertaking may adversely affect the property, the Forest may require that adjustments to the project scope be made to apply standard protection measures to eliminate or reduce the effects to the historic property. Standard protection measures will include avoidance or other appropriate forms of mitigation of all direct and indirect effects to these properties. If, following the recommendations of the HPM, all effects can be avoided to the satisfaction of the HPM employing the Standard Protection Measures found in Attachment B, a “no adverse effect” finding and the Standard Protection Measures that will be applied will be documented in a Culture Resources Report or Cultural Resources Reconnaissance Report, as appropriate, and will be included in the Annual Report. No further consultation with the WV SHPO or other parties as determined, is required.

#### (J) Adverse Effects

When inventory identifies historic properties in the APE and adverse effects cannot be avoided or appropriately mitigated, the Forest will consult with the WV SHPO, other interested parties, and the ACHP, as determined, to resolve the adverse effects and complete the Section 106 consultation process pursuant to the regulations found at 36 CFR 800.6 to 36 CFR 800.7. The Forest and consulting parties will execute a Memorandum of Agreement to document the measures and processes agreed upon to resolve adverse effects.

#### (K) Unforeseen Effects

If the HPM, or professional archaeologist or heritage specialists delegated by the HPM, determine that certain proposed undertakings would likely have significant, controversial,

or unforeseen effects on historic properties based on known information, those undertakings may be excluded from the scope and provisions of this PA.

#### (L) Resources Having No Potential For Listing on The National Register of Historic Places

Isolated finds of archaeological material consisting of two or fewer artifacts within a 400 square meter area (20 x 20 meters), or archaeological sites occurring in clearly disturbed contexts (e.g., within a plowzone soil horizon), are agreed here to have no potential for inclusion in the National Register of Historic Places. No consultation or reporting related to Forest Service undertakings on these classes of properties is required. Site forms will be generated for these resources, however, and forwarded to the WVSHPO.

### **VI. MONITORING**

The Forest shall conduct monitoring as necessary to ensure that identified protection measures are effective. The Forest's professional heritage resources staff shall determine the schedule and requirements of any monitoring. A permanent record, such as a condition survey, shall be completed for each monitoring event and kept on file at the Forest Supervisor's Office and/or at the respective district office(s) and will be documented and included in the Annual Report. Inspection by the WV SHPO may be performed during or after an undertaking with advance notice and arrangement between the WV SHPO, the HPM, and the Agency Official. If major changes are noted in the site integrity, condition, or appearance of the historic property or new information is uncovered, the site forms shall be updated accordingly and this information shall be forwarded for inclusion in the statewide inventory.

### **VII. UNANTICIPATED DISCOVERIES**

All signatories to this agreement, if appropriate, shall be notified by the Forest immediately upon discovery that a property has inadvertently been affected by an undertaking implemented under this PA.

(A) If the undertaking has not been completed at the time the effect is discovered, all activities in the vicinity of the historic property shall cease and reasonable efforts shall be taken to avoid or minimize harm to the property until the following consultations are completed. The Forest shall immediately consult with WV SHPO for not more than 10 calendar days after discovery to agree on a mutually acceptable course of action regarding the historic property. If agreement cannot be reached within this time frame, the WV SHPO shall be afforded 10 calendar days thereafter to provide written comments to the Forest. Thereafter, the Forest shall consult with ACHP for not more than 10 calendar days. If agreement cannot be reached within this time frame, then the Forest shall provide ACHP with summary documentation on the issues and feasible steps that might be taken, and request the comments of the ACHP before making a decision on whether or how to proceed with the undertaking. The ACHP shall have 10 calendar days following receipt of the request to provide the Forest with comments, which the Forest

shall take into account in reaching its decision. The Forest shall notify the ACHP, WV SHPO, and any interested parties of its decision within 10 calendar days.

(B) If the undertaking has already been concluded when an effect to a property has been discovered, the Forest shall consult with the ACHP, the WV SHPO, and other consulting parties as determined, to agree on a mutually acceptable course of action that the Forest shall implement within a specified time period. If agreement on a course of action cannot be reached, the Forest shall take any comments received into account. The Forest shall notify and submit appropriate documentation of its decision to the ACHP, WV SHPO, and any consulting parties.

(C) Within six months, but no later than the initiation of consultations under A or B of this Stipulation, the Forest shall provide the WV SHPO, ACHP if a participant, and other interested parties with a report describing the undertaking and the circumstances surrounding the cause and resolution of the effects. This report must include information regarding: the type of property affected; the property's NRHP status; the nature of the effects; the date effects were identified; the location of the property (i.e., name of Ranger District); the condition of the property; and other pertinent information, as well as document the Forest's response to the discovery of the effects and the actions taken to address or resolve the effects.

(D) In the event that Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony are inadvertently discovered during project implementation, all activities shall cease and the Forest shall comply with the provisions of the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) as outlined in 43 CFR 10.

## **VIII. PROCEDURES UNDER UNUSUAL CIRCUMSTANCES**

(A) Where the Forest acts as lead agency on behalf of other Federal agencies, or where an undertaking may have effects beyond the boundaries of the State of West Virginia, the Forest shall comply with 36 CFR 800 in lieu of compliance with this PA.

(B) Should the Forest find it necessary to implement an undertaking in the case of:

(i) a declared emergency, the Forest may follow the provisions of 36 CFR 800.12.

(ii) an undeclared emergency (i.e., where there is an imminent threat of a major natural disaster such that an emergency action is necessary for the preservation of human life or property), the agency official shall notify the WV SHPO and ACHP of the emergency, and where there is agreement that an emergency situation exists and time permits, the WV SHPO and ACHP agree to provide comments within 7 working days or less, as the situation warrants.

## **IX. PUBLIC, CONSULTING PARTY, AND TRIBAL PARTICIPATION**

(A) *The Public.* The Forest shall make every effort to use the public scoping process embodied in NEPA (42 U.S.C. 4321-4346) to comply with requirements for public notification, identification of other parties interested in the undertaking, and public participation found in 36 CFR 800.2(d) and 800.3(3) and (f). The NEPA process allows individuals, organizations, or groups an opportunity to comment on Forest undertakings, including those measures used for the identification, protection, and management of historic properties, and the effects of undertakings on historic properties. These comments are taken into account as part of the NEPA decision. If no NEPA is conducted requiring public participation and comment, or if the Forest determines it is warranted or necessary, the Forest will establish an independent process to involve and consult with the public, and other consulting parties.

(B) *Consulting Parties.* At the discretion of the Forest, other parties interested in the undertaking shall be recognized as consulting parties and invited to participate in consultation in accordance with the above definition of consultation. Other interested parties may be afforded an opportunity to comment on the manner in which the effects of undertakings implemented under the provisions of this PA are taken into account. The Forest's policy and procedures for implementing NEPA (Forest Service Manual 1950; Forest Service Handbook 1909.15; at 57 FR 43180-43213) include public notification and involvement of certain individuals and organizations with a demonstrated interest in the undertaking, beginning at the earliest stages of planning an undertaking, during the environmental analysis period, and after a decision is made.

(C) *Tribes.* The NEPA scoping process shall be used to meet 36 CFR 800 responsibilities to initiate consultation with tribal governments, Native Americans, and other certain individuals and Native American organizations with a demonstrated interest in the undertaking, to solicit information about identification of and effect to properties that they may attach religious and cultural significance. If no NEPA is conducted, or if the Forest determines it is warranted or necessary, the Forest will establish an independent process to involve and consult with Indian tribes.

## **X. ANNUAL REPORTING AND MEETING**

(A) The Forest will compile an annual report on its Heritage Resource Program and will submit the report by January 31<sup>st</sup> of each following year. If, due to extenuating circumstance, the Forest is unable to submit the report at the appointed date, the WV SHPO will be notified with a request for an extension. The WV SHPO will respond within 10 business days of receiving the request. This report will include general information about the annual program of work, as well as more detailed information on project reviews [as stated in Stipulation V(B) of this PA] that conclude with exemptions, findings of no historic properties, no effect, or with historic properties that were avoided through the application of Standard Protection Measures, as well as monitoring activities. This report will include clear descriptions and maps of undertakings, APE's, the inventory methods, and the protection measures that were employed. The annual report will be submitted to the parties to this agreement.

(B) The Forest and the WVSHPO, and other consulting parties as determined, will meet on an annual basis to discuss the previous year's accomplishments and the next year's planned work.

(C) Both project-specific and non-project-specific site identification efforts will be reported to the WV SHPO on an ongoing basis and will continue the use of Forest Service Site Form and will not be submitted to the WV SHPO through the annual report. State site numbers will be provided by WV SHPO on an as-needed basis through informal communications.

## **XI. DURATION**

This agreement becomes effective upon the date of signature. This agreement shall remain in force for a period of five years from the date of its execution, unless terminated or amended prior to the date of expiration. Within 18 months before the date of expiration, the signatories will consult to determine if the agreement should be terminated or amended. Amendment may include extension of the terms of the agreement.

## **XII. DISPUTE RESOLUTION**

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

(A) Forward all documentation relevant to the dispute, including the Forest's proposed resolution, to the ACHP. The ACHP shall provide the Forest with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Forest shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The Forest will then proceed according to its final decision.

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

(C) The Forest's responsibility to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.

### **XIII. AMENDMENTS**

This PA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy has been signed by all of the signatories.

Any signatory can propose minor technical revisions to the PA that would correct errors or clarify the intent of stipulations. Such minor technical revisions will go into effect upon written agreement by all signatories. The Forest will notify all consulting parties regarding adopted revisions within 30 days of their adoption.

### **XIV. TERMINATION**

If any signatory to this PA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per the Dispute Resolution Stipulation, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other signatories.

### **XV. FINANCIAL OBLIGATIONS**

Nothing in this PA shall obligate the Forest to expend appropriations or to enter into any contract or other obligation. Specific work projects or activities that involve the transfer of funds, services or property between the parties to this PA will require the execution of separate agreements or contracts, contingent upon the availability of funds as appropriated by the Congress. Each subsequent agreement or arrangement involving the transfer of funds, services or property between the parties to this PA must comply with all applicable statutes and regulations, including those statutes and regulations applicable to procurement activities, and must be independently authorized by appropriate statutory authority.

Execution of this Programmatic Agreement and implementation of its terms evidence: that the MNF has afforded the Advisory Council on Historic Preservation an opportunity to comment on the Forest's undertakings and the effects of these undertakings to historic properties and; that the MNF has taken into account the effects of its undertakings to historic properties and; that the Forest has satisfied its Section 106 responsibilities for all individual undertakings.

**U.S.D.A. FOREST SERVICE, MONONGAHELA NATIONAL FOREST,  
EASTERN REGION**

\_\_\_\_\_  
Kent P. Connaughton  
Regional Forester

**DATE:** \_\_\_\_\_

**WEST VIRGINIA DIVISION OF CULTURE AND HISTORY**

\_\_\_\_\_  
Randall Reid-Smith  
State Historic Preservation Officer, West Virginia Division of Culture and History

**DATE:** \_\_\_\_\_

**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

\_\_\_\_\_  
John Fowler  
Executive Director

**DATE:** \_\_\_\_\_

# **ATTACHMENT A**

## **EXEMPT UNDERTAKINGS**

### **I. EXEMPTIONS**

The following classes of undertakings are considered exempt from further review or consultation under the terms of this PA, as defined in Stipulation V(G). The HPM will determine if a proposed undertaking falls under the classes of exempt undertakings in the following Forest Service Program Areas listed below.

#### **A. General**

- 1) Removal of log jams and debris jams;
- 2) Law Enforcement actions including removal of illicit narcotics equipment from federal land during law enforcement operations, excluding the removal of buildings or structures that will become 50 years of age within five years of the date of execution of this agreement;
- 3) Elimination of drug labs, and marijuana abatement;
- 4) Information Technology (IT) including telecommunications, hardware, software support, service, management, procurement, and replacement, not including placement of towers or alterations to historic towers;
- 5) Public Affairs activities;
- 6) Any and all routine administrative, clerical, or maintenance work undertaken in an office or garage/workshop setting not affecting historic properties;
- 7) Application of pesticides;
- 8) Social and Economic Assessments for Forest Plan revision;
- 9) Annual Reports to Stakeholders;
- 10) Research activities involving no destructive actions (ground disturbance, demolition, dismantling) on known historic properties;
- 11) Removal of modern trash that does not qualify as an historic property.



## **B. Minerals and Geology (MG)**

- 1) Placement of geophysical seismic monitoring equipment on the surface 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;
- 2) Inventory, data and information collection (including collection of samples), including land use and land cover, geologic, minerals and resource evaluation activities, cadastral surveys, geophysical surveys and approval of permits for such activities, as long as no ground-disturbing activities or historic properties are involved;
- 3) Rendering formal classification of Federal lands in the United States as to their mineral character, waterpower, water storage values, plant association, ecological potential, or forage condition use;
- 4) Caving, surveying for the purpose of cave mapping, searching for cave openings or karst features (ridge-walking), when no earth disturbance or removal of cultural materials occurs; unless the cave has been determined to be a Traditional Cultural Property, even a non-Native American TCP;
- 5) Operation and maintenance of existing minerals operations and facilities where the activities occur within the footprint of existing disturbance, where the previous disturbance footprint can be documented.

## **C. Lands**

- 1) Land acquisitions or transfers of administrative control to the Forest Service;
- 2) Marking or maintaining land line location;
- 3) Transfer of use authorization from one federal agency to another when an action such as a boundary adjustment necessitates changing a right-of-way from one Federal agency to another;
- 4) Monumentation placement;
- 5) Easement acquisitions;
- 6) Installation of signposts and monuments, when no new ground disturbance is involved and no historic properties are within the APE.

## **D. Recreation**

- 1) Recreation and National Visitor Use Monitoring; including installation of road and trail use counters;
- 2) Felling of hazardous trees within recreation areas or other areas for health and safety;
- 3) Developed Recreation Areas routine maintenance;
- 4) Routine trail maintenance, limited to brushing, tree trimming, and light maintenance of existing tread with hand tools and small mechanized equipment;
- 5) Issuance of recreation Special-Use Permits for the following activities:
  - a) Development of cross-country ski trails where ground disturbance is not involved (i.e., tree-felling to remove a wide path of vegetation);
  - b) Development of snowmobile trails where ground disturbance is not involved and where noise or associated activities will not affect historic properties;
- 6) Replacement of recreational, special designation, bulletin boards or information signs, barrier posts, visitor registers and portable sanitation devices in Forest Service developed recreation areas;
- 7) Dispersed non-commercial recreation activities such as Christmas tree cutting, hiking, hunting, fishing, camping, mountain biking, horseback riding, winter sports, photography, and mushroom gathering;
- 8) Creation and maintenance of scenic vistas where no new ground disturbance is involved;
- 9) Issuance of recreational special-use permits where the potential to cause ground disturbance or affect to historic properties is negligible, including but not limited to:
  - a) Along rivers, well-established trails, and other specified areas where use is similar to previous permits for which environmental documents have been prepared, and which would not substantially increase the level of use or continue unsatisfactory environmental conditions;
  - b) Where uses are consistent with planning decisions or land allocations, as applicable, and where there will be no surface disturbance;
  - c) Where campsite locations are restricted to areas along the river that have been previously surveyed and historic properties are not located;

- 10) Trail reconstruction and maintenance;
- 11) Campground, recreation residence, and resort operation and maintenance when no new ground disturbance occurs (i.e., repair of existing buried utilities, tables, and fire rings) and no alterations to historic properties;
- 12) Management of wilderness areas to standards;
- 13) Small-scale maintenance projects, except for repair and rehabilitation work at any historic property. Historic property projects will conform to the terms of Attachment B.

#### **E. Roads**

- 1) Issuance of road 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;
- 2) Felling and removal of hazard and windthrown trees from road prisms and adjacent areas where deemed necessary for health, safety, or administrative reasons, so long as trees are felled into and removed from these areas with equipment stationed on 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;
- 3) Temporary road closures involving no new ground disturbance;
- 4) Work within the perimeter of existing material borrow pits;
- 5) 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;
- 6) Road decommissioning (to include removal of drainage structures, ripping, seeding, mulching, outsloping, and recontouring), where the road is not an historic property;
- 7) Bridge, tunnel, or other engineering inspections;
- 8) Maintenance, rehabilitation and snow removal confined to an existing roadway, parking lot, airstrip or heliport where historic properties (e.g.,

NRHP-eligible/listed roads and railroad grades) are not involved;

- 9) Designated road or trail closures accomplished with gates, barricades, berms, or waterbars, where the road or trail is not an historic property;
- 10) Seeding and planting, blading, or the ripping of native- or nonnative-surfaced roadways or trailways, where the road or trail is not an historic property;
- 11) Off-highway vehicle (OHV) trail designations that utilize existing roadways and trailways, provided that no heritage resources have been recorded within or directly adjacent to the roadways or trailways, and where the roadway or trail is not an historic property;
- 12) Watershed restoration activities that address road erosion and sedimentation with road decommissioning, including:
  - a) Removing metal culverts in the absence of cut stone boxes;
  - b) Road surface decompaction;
  - c) Outsloping;
  - d) Waterbarring;
  - e) Stabilization of potentially unstable fill areas;
  - f) Seeding and planting native vegetation, and mulching, if needed;
  - g) Relieving inboard ditch lines more frequently (to prevent critical amounts of drainage water discharge);
  - h) Rocking non-native road surfaces (to armor against road surface erosion and maintain design drainage configuration against traffic impacts, especially where roads must remain open during wet periods, where roads are not historic properties;
  - i) Replacement of existing stream crossing structures, excluding bridges, where such structures are less than 50 years old and are not historic properties.

## **F. Vegetation Management**

- 1) Non-disturbing broadcast seeding and mulching for establishment of vegetation;

- 2) Collection of forest products (e.g. berries, boughs, and cones) for non-commercial purposes as long as ground-disturbing activities are not involved;
- 3) Vegetation inventory, surveys, and monitoring;
- 4) Aerial or hand vegetation spraying/fertilization or grass seeding;
- 5) Establishment of long-term study plots for botanical research projects; re-introduction studies that may involve driving stakes (i.e., rebar or angle iron) in the ground several feet, to serve as reference points;
- 6) Pruning or clipping branches from trees by hand and leave clippings where they fall or removing (i.e., Christmas boughs) if no ground disturbance occurs;
- 7) Gathering of wood bark by de-barking standing trees or cutting of pole-sized trees which do not involve ground disturbance in felling or transport;
- 8) Recurrent brushing (hand, machine, chipping) activities to control vegetation within the existing clearing limits of roads, trails, parking lots, airstrips or heliports;
- 9) Post-sale chipping operations utilizing existing landings or in skid trails in areas previously surveyed;
- 10) Release of insects for biological pest control;
- 11) Injection of trees and soil for pest and vegetation management;
- 12) Girdling/cutting trees, shrubs, or vines with hand tools that do not involve ground disturbance for transport of woody material. Examples include pre-commercial thinning, non-commercial thinning, crop tree release in young stands, hawthorn release, girdling trees to create snags, etc;
- 13) Planting tree or shrub seedlings with hand tools including installing and maintaining protective devices around the seedlings to deter deer browsing;
- 14) Construction of deer enclosure fences in or adjacent to timber stands receiving silvicultural treatments using driven metal posts or pre-existing post holes;
- 15) Activities that do not involve ground or surface disturbance (e.g., timber stand improvement, precommercial thinning, non-disturbing wildlife structures, and fuels treatment), where no historic structures that qualify as

historic properties are affected;

- 16) Crop tree release;
- 17) Fence construction and maintenance that does not require blading of the fence line;
- 18) Re-use or creation of log landings and skid roads where previous survey efforts meet current standards;
- 19) Activities where vegetative product is removed by lifting from the surface and without ground disturbance, including naturally downed timber and plant materials.

#### **G. Special Uses**

- 1) 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 USFA Title V Right-of-Way);
- 2) Transfer of an existing permit or lease from an existing holder to a new permit holder or leaseholder;
- 3) Permits, easements, rights-of-way, and leases that do not authorize ground disturbance or which the HPM determines will have no visual effects to, or otherwise have no adverse affects to, historic properties;
- 4) Special-use permits that add another user and related electronic equipment to an approved communication facility or structure, which does not require further ground disturbance or which the HPM determines will have no visual effects to, or otherwise have no adverse affects to, historic properties;
- 5) Issuance of special-use permits, easements and other agreements where no surface disturbance is authorized and where no heritage resources are involved (e.g., filming a movie or video production);
- 6) Issuance, granting, or renewal of special-use permits that would add another user and related electronic equipment to an approved communication facility or structure, not requiring the expansion or alteration of the facilities permit area;
- 7) Issuance, granting, or renewal of recreation, non-commercial group use, or outfitter guide permits, when the activity is utilizing existing roads or recreation trails, and would not create or continue unsatisfactory

conditions for heritage resources;

- 8) Issuance, granting, or renewal of special-use permits that add another user and related electronic equipment to an approved communication facility or structure, which requires disturbance to a previously impacted area.

## **H. Wildlife and Fish**

- 1) Wildlife opening maintenance (i.e., mowing);
- 2) Fish habitat improvements involving no new ground disturbance or disturbance to historic properties;
- 3) Threatened and endangered species monitoring and inventory;
- 4) Biological assessments;
- 5) Wildlife structure maintenance;
- 6) Wildlife surveys;
- 7) Modification of existing fences to provide wildlife ingress and egress;
- 8) Fish and wildlife inventories including, but not limited to fish population surveys, deer ageing, car counts, grouse, woodcock and songbirds, and inventory of raptor nests and heron rookeries;
- 9) Re-introduction of endemic or native faunal species into their historical habitats;
- 10) Wildlife habitat improvement projects such as hand planting of forage and browse, aerial seeding or fertilizing, and thinning from below (non-mechanized removal of down material);
- 11) Installation of nesting platforms and boxes;
- 12) Re-introduction of endemic or, native floral species into their historical habitats, not previously surveyed;
- 13) Addition of chemicals to water bodies for biota management;
- 14) Construction of snow fences where no new ground disturbance is involved.

## **I. Water, Soils, Noxious Weeds and Air Quality**

- 1) Herbicide for noxious weeds or non-native invasive species;
- 2) Air quality monitoring;
- 3) Cumulative watershed monitoring for water quantity, quality and channel morphology;
- 4) Treatment of water quality by new actions not involving ground disturbance (e.g. stream liming);
- 5) Installation of stream monitoring equipment;
- 6) Pit excavation for soil resource assessment on slopes of greater than 15%, with no springs or rock shelters in the immediate vicinity;
- 7) Soil auguring for soil resource assessment on slopes of greater than 15%, with no springs or rock shelters in the immediate vicinity;
- 8) Soil testing/auguring in previously disturbed areas;
- 9) Fence construction and maintenance that requires blading of the fence line;
- 10) Stream restoration/stabilization activities not involving new ground disturbance including stream banks, flood plains and terraces;
- 11) Soil assessment activities, including:
  - a) Soil assessment pit excavation and soil auguring for soil resource assessment on slopes of 15% or less, provided that the personnel conducting such assessments are certified by the HPM as proficient in site identification. Should a site be identified during such work, work will stop in that area. The HPM will be notified of the site location.
  - b) Prior to soil assessment activities, the HPM will make available the results of previous survey efforts to soils staff in order to avoid effects to previously recorded sites.

**J. Range**

- 1) Fence maintenance that does not involve blading of the fenceline;
- 2) Driving of new metal fence posts or re-use of existing post holes;
- 3) Maintenance of existing ponds, troughs and cattle access points to



streams;

- 4) Debris loading (i.e., placement of felled vegetation) on sensitive areas;
- 5) Replacement of existing water lines and troughs;
- 6) Permitted grazing of stock;
- 7) Liming;
- 8) Fertilizing;
- 9) Seeding;
- 10) Cutting of black locust to replace fence posts;
- 11) Controlling hawthorne and noxious weeds via brush cutting, mowing, and herbicide (applied using basal spray application as needed to remove competing vegetation on an as-needed basis).

#### **K. Fire/Incident Management**

- 1) Prescribed burns using previously existing fire lines (roads, natural breaks, etc.), where no above ground historic properties will be affected;
- 2) All fire management activities undertaken in the course of initial attack and active fire suppression.

#### **L. Facilities**

- 1) Upgrading or adding new lines (power or telephone) to existing poles, when there is no change in pole configuration;
- 2) Authorization for installation of devices to protect human or animal life (e.g., raptor electrocution prevention devices);
- 3) Removal of previously determined non-NRHP-eligible structures, objects and materials (including abandoned equipment, pipes, engines, rod lines, collection tanks, boilers, jacks, vehicles, dumps, and fences) and reclamation of the same from the previously surveyed area;
- 4) Maintenance or replacement in-kind of existing non-structural facilities that does not involve new or additional ground disturbance (e.g., maintenance or replacement of gates, fences, traffic control devices, light fixtures, curbs, sidewalks, etc.);

- 5) Activities or alterations involving facilities or structures that are less than 50 years of age and that will not become 50 years of age within five years of the date of execution of this agreement;
- 6) Maintenance (that does not add to nor change the configuration of the existing facility) to an existing electronic communication site involving no ground disturbance or effects to known historic properties;
- 7) Removal of previously determined non-eligible and non-contributing structures and reclamation of the same previously surveyed area.

**M. Law Enforcement**

- 1) Installation of law enforcement detection devices within historic properties for ARPA investigations and/or to prevent site vandalism.

## **ATTACHMENT B**

### **STANDARD HERITAGE RESOURCE PROTECTION MEASURES**

#### **I. PROTECTION MEASURES**

The following protection measures shall be implemented as appropriate for all subject undertakings managed under this PA. When these protection measures are approved by the HPM and are effectively applied, the proposed undertakings should have no adverse effects on historic properties and the Forest is not required to consult with the SHPO or other parties, prior to implementation of the measures.. The application of protection measures will be reported on in the annual report of the Heritage Program to the SHPO and other consulting parties.

#### **II. PRESERVATION IN PLACE**

At a minimum, historic properties and unevaluated properties shall be preserved in place and protected in the planning process by being excluded from areas where activities associated with an undertaking will occur. Exclusion is most often achieved by modifying or altering boundary or activity in the original proposal for the undertaking.

#### **III. AVOIDANCE**

All proposed undertakings, activities, facilities, improvements, and disturbances shall make every attempt to avoid adversely affecting historic properties or unevaluated properties. Avoidance means that no activities associated with an undertaking that may adversely affect historic or unevaluated properties shall occur to a historic property or within an historic property's boundaries, including any defined buffer zones. Portions of undertakings may need to be modified, redesigned, or eliminated to properly avoid historic or unevaluated properties.

For heritage resources eligible for the NRHP pursuant to 36 CFR 60.4(d), the physical demarcation of historic or unevaluated properties, and their exclusion from an undertaking's proposed activity areas is a minimum requirement for the Forest to obtain advance concurrence on a determination of no adverse effect. In some cases, in order not to attract attention to certain sensitive sites, flagging may not be appropriate. In these cases, buffer zones are still required.

Physical demarcation and avoidance during the implementation of an undertaking is also required for other heritage resources eligible for the NRHP under other criteria. But minimum protection requirements shall also include the use of buffer zones to extend the protection area around historic properties where setting is an important attribute, and the proposed activity may have an effect on the setting's quality.

Linear sites may be crossed or bounded in areas where their features or characteristics clearly lack integrity, that is, where those portions (taking into account any buffer zones related to setting) do not contribute to site eligibility.

All historic or unevaluated properties within an APE shall be clearly delineated prior to implementing any associated activities that have the potential to affect such properties.

Boundaries of and associated buffer zones of historic properties and unevaluated properties shall be determined by the HPM and be delineated with effective marking. Activities within the boundaries of such properties shall be prohibited with the exception of using developed Forest transportation systems when the HPM recommends that such use is consistent with the terms and purposes of this agreement.

Historic property and unevaluated property location and boundary marking information shall be conveyed to appropriate Forest Service administrators or employees responsible for implementation of a proposed undertaking so pertinent information can be incorporated into planning and implementation documents, and contracts (e.g., clauses or stipulations in permits).

Buffer zones may be established to ensure added protection where the HPM determines that they are necessary. The use of buffer zones in conjunction with other avoidance measures is particularly applicable where setting contributes 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; historic or traditional cultural properties important to Native Americans). The size of buffer zones will be determined by the HPM on a case-by-case basis. Landscape architects may be consulted to determine appropriate viewsheds for historic properties. Knowledgeable consulting parties, such as Native Americans, should be consulted when the use or size of protective buffers for traditional or cultural properties needs to be determined.

When any changes in proposed activities are necessary to avoid adversely affecting historic properties or unevaluated properties (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), these changes shall be completed prior to approval of the undertaking or the initiation of any on-the-ground, project-related activities.

#### **IV. MONITORING PROTECTIVE MEASURES ON SITE**

Monitoring may be used to enhance the effectiveness of protection measures in conjunction with other measures (Stipulation IV). The results of any monitoring inspections shall be included in the Forest's Monitoring Report.

## V. STANDARD PROTECTION MEASURES FOR ACTIVITIES WITHIN THE BOUNDARIES OF HISTORIC PROPERTIES

The Forest HPM shall provide written approval for the work specified below within the boundaries of NRHP eligible, listed or unevaluated historic properties, under carefully controlled conditions. When these protection measures are approved by the HPM and are effectively applied, the proposed undertakings should have no adverse effects on historic properties and the Forest is not required to consult with the SHPO or other parties, prior to implementation of the measures. All activities performed under these Standard Resource Protection Measures shall be documented in the Forest's Annual Report and shall be in keeping with the *Secretary of the Interior's Standards for Historic Preservation Projects*.

- A) Felling and removal of hazard, windthrown, and salvage trees within historic properties shall be approved under the following conditions:
  - 1) Felled trees may be removed using only the following techniques:
    - a) Hand bucking and carrying,
    - b) Rubber tired loader or skidder,
    - c) Crane/self loader,
    - d) Helicopter; and
    - e) Horse logging.
  - 2) Equipment operators shall be briefed on the need to make every effort possible to reduce ground disturbances (e.g., minimizing turns);
  - 3) Exercise caution and take advantage of site conditions (e.g., frozen ground, snow cover, previously disturbed areas, dry conditions, etc.) when skidding or tracked equipment are used within historic property boundaries; and
  - 4) All such activities must be monitored by qualified heritage specialists at the time of tree removal.
- B) Placement of foreign, non-archaeological material (e.g., padding, filter cloth, geotextiles, etc.) over an archaeological deposit to prevent surface and subsurface impacts may be utilized on an archaeological deposit under the following conditions:
  - 1) Engineering will design the foreign material depth to acceptable professional standards;

- 2) Engineering will design the foreign material use to ensure that there will be no surface or subsurface impacts to the archaeological deposit;
- 3) The foreign material must be easily distinguished from and cannot mix with the underlying archaeological deposit;
- 4) The foreign material must be removable should research or other needs require access to the archaeological deposit at a later date;
- 5) Native American or other public concerns about the use of the foreign material have been addressed prior to use; and
- 6) Any such specified activities within the boundaries of historic properties shall be reviewed during the annual meeting to assess continuation of or need for changes in the protection measure.

## VI. HISTORIC STRUCTURES AND BUILDINGS

The Forest HPM shall provide written approval (project approval letter required) for the specific activities listed below involving the routine repair and maintenance of structural historic properties, such as those at the Sites Homestead and Camp Blue Bend. When these protection measures are approved by the HPM and are effectively applied, the proposed undertakings should have no adverse effects on historic properties and the Forest is not required to consult with the SHPO or other parties, prior to implementation of the measures.

- A) The Forest will repair existing elements, rather than in-kind replacement, whenever prudent and feasible.
- B) Work on eligible, listed or unevaluated historic properties will conform with recommendations set forth in the *Secretary of the Interior's Standards for Rehabilitation, and Guidelines for Rehabilitating Historic Buildings*.
- C) **Repair or in-kind replacement treatments shall apply to no more than 20% of the historic fabric, materials, workmanship, or design of a structure's distinctive elements** [e.g., foundations or footings, walls, porches, etc. (excepting roofs and windows)].
- D) **Where proposed repair or in-kind replacement, or other historic preservation activities, may have an effect on a structure's historic character (i.e., affecting original fabric, materials, workmanship, or design, involving more than 20% of a distinctive structural element), consultation will not be carried out under the provision of this PA and instead will undergo case-by-case consultation pursuant to 36 CFR 800.**

E) **Exterior routine repair and maintenance protection measures:**

- 1) **Repair or replacement of siding, trim, or hardware**, shall be done with in-kind materials to match historic material, design, and color;
- 2) **Repair of window frames or shutters** shall be done by patching, splicing, consolidating, or otherwise reinforcing or replacing in-kind those parts that are either extensively deteriorated or are missing. The same historic configuration of panes shall be retained;
- 3) **Replacement of window frames** shall match historic material and design. The same historic configuration of panes shall be retained;
- 4) **Replacement of glass, when done in-kind shall match historic form and design.** Window panes may be double or triple glazed as long as the glazing is clear and replacement does not alter the historic window form. This excludes the use of tinted glass, use of which requires consultation;
- 5) **Maintenance of features, such as frames, hoodmolds, paneled or decorated jambs and moldings**, shall be conducted through appropriate surface treatments such as cleaning, rust removal, limited paint removal, and reapplication of protective coating systems using historic color and texture;
- 6) **Repair or replacement of doors**, when done shall use in-kind material to match historic material, style, and form;
- 7) **Repair or replacement of porches, cornices, and stairs** when done shall use in-kind material to match historic material and design, and the style, materials, and character of the structure;
- 8) **Repair or replacement of foundations** when done shall not change the structure's historic appearance;
- 9) **Repair or replacement of roofs** or parts of roofs that are deteriorated, shall be done in-kind or where matching historic material and design. In areas of high fire danger, fire retardant roofing is allowed. If fire retardant materials are used, the materials must match the original roofing color and be as compatible with the design and character of the building as possible. Adequate anchorage for roofing material to guard against wind damage and moisture penetration shall be provided, possibly requiring the use of modern sheathing, provided that the sheathing does not detract from or otherwise undermine the overall integrity of the structure;
- 10) **Painting exterior and interior surfaces**, when the new paint and design motif and pattern match the existing or historic color. If the existing paint color is not desirable and the historic color is not known, the color shall be in

keeping with historic color schemes for nearby or similar structures. Damaged or deteriorated paint may be removed to the next sound layer by hand-scraping or hand-sanding. Use of abrasive methods, such as sandblasting, is not covered by this treatment;

**11) Replacement or installation of caulking and weather-stripping around windows, doors, walls, and roofs, provided that such caulking and weather-stripping are done in colors or in a manner that does not distract from the historic feel and appearance of the structure.]**

**12) Replacement of lightning rod wiring** with new copper wire;

**13) Replacement of modern appliances and fixtures** (e.g., ranges, refrigerators, and bathroom fixtures). When associated historic cabinetry is intact, and the interior, in general, retains its historic appearance, the cabinetry will be retained;

**14) Repair or replacement of floor coverings**, when done in-kind to match historic material and design;

**15) Rendering inoperable, but not removing, gas lighting fixtures**, when another inconspicuous light source is used;

**16) Floor, wall, or ceiling refinishing** in-kind;

**17) Installation of mechanical equipment that does not affect the visual integrity or exterior fabric of the building;**

**18) Replacement of metal water tanks** with ones of fiberglass, when the color and texture of the existing or historic tank are replicated or when landscaping camouflages the replacement tank. Redwood tanks with plastic inserts are also feasible. Construction of a structure around a tank to control temperature is allowed when landscaping camouflages the change;

**19) Replacement of and enlarging liquid propane gas systems**, if tanks are screened with landscaping materials;

**20) Addition of a completely removable accessibility ramp** that blends with the historic materials and style of the structure itself;

**21) Repair, replacement, or addition of exterior lighting** that blends with the landscaping and style of the building;

**F) Interior Routine Repair and Maintenance Protection Measures**

**1) Replacement, removal, or upgrading of electrical wiring.**



- 2) **Replacement of floor furnaces and floor registers** with surface-mounted wall heating systems or hot water appliances. Repairs to the floors will be done with in-kind materials and design.
- 3) **Repair, replacement, removal, or upgrading of interior water and plumbing systems** when historic features, such as hand pumps, are left in place. Historic plumbing fixtures should be retained and used if possible.
- 4) **Removal of hazardous materials** or surfaces such as asbestos and lead paint, and replacing them with nontoxic materials that resemble the original in color and texture;
- 5) **Installation of dry insulation.**
- 6) **Installation of fire or smoke detectors or burglar alarms.**
- 7) **Installation of skirting over a structure's crawl space**, if constructed, painted a color to match or blend with the structure.
- 8) **Installation of security systems or security devices**, such as dead bolts, door locks, window latches, and door peep holes.

#### G) Landscape

- 1) **Ground-disturbing activities** where previous archaeological survey has demonstrated that NRHP eligible archaeological deposit exists;
- 2) **Excavations for repair or replacement of building footings or foundation work** within two (2) feet of existing footings and foundations.
- 3) **Installation of buried utilities**, such as sewer, water, or storm drains, electrical, gas, or leach lines, and septic tanks, where installation is restricted to specific areas previously disturbed by installation of these utilities.
- 4) **Tree planting or removal** in areas that have been previously disturbed by these activities, including nursery beds and arboreta, may be done provided historic landscaping is maintained.
- 5) **Replacement of signs** in-kind to match existing or historic materials and design.
- 6) **Ongoing maintenance of immediately surrounding landscaping**, including such modifications as removing hazardous vegetation, adding vegetation that blends with the historic landscape, or adding rocks to define paths, where not otherwise prohibited, so long as historic landscape characteristics are

maintained.

- 7) **Installations of interpretive signs or exhibit structures** that are not attached to historic structures and do not visually intrude on the historic property. Signs should be constructed of materials and painted colors that harmonize with the historic property and its setting.
- 8) **Repair or replacement of driveways and walkways** will be done in-kind to match existing or historic materials and design.
- 9) **Repair or replacement of fencing** will be done in-kind to match existing or historic material and design.