

**PROGRAMMATIC AGREEMENT
AMONG
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
WESTERN AREA POWER ADMINISTRATION,
STATE HISTORIC PRESERVATION OFFICERS OF
COLORADO, WYOMING, NEW MEXICO, NEBRASKA, AND UTAH,
BUREAU OF INDIAN AFFAIRS, BUREAU OF LAND MANAGEMENT, BUREAU OF
RECLAMATION, NATIONAL PARK SERVICE, NAVAJO NATION, NORTHERN
ARAPAHOE TRIBE, SHOSHONE TRIBE, STATE LAND DEPARTMENT OF NEW
MEXICO, UTE MOUNTAIN UTE, U.S. ARMY-FORT CARSON, U.S. FISH AND
WILDLIFE SERVICE, U.S. FOREST SERVICE, AND THE WYOMING MILITARY
DEPARTMENT**

**REGARDING
MAINTENANCE AND MINOR CONSTRUCTION ACTIVITIES AT EXISTING
WESTERN TRANSMISSION LINES, FACILITIES AND PROPERTIES
IN COLORADO, NEBRASKA, NEW MEXICO, UTAH, AND WYOMING**

WHEREAS, the United States Department of Energy, Western Area Power Administration (Western), Rocky Mountain Region (RMR) operates and maintains an extensive electrical transmission system in Colorado, Nebraska, New Mexico, Utah, and Wyoming that includes transmission lines, substations, communications sites, maintenance facilities, and ancillary features; and

WHEREAS, Western conducts routine and emergency maintenance and minor construction activities (maintenance program) in order to maintain the reliability of the electrical system; thereby making these "undertakings" as defined in 36 CFR § 800.16(y) and subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. 470f, and implementing regulations, 36 CFR Part 800; and

WHEREAS, Western is the lead agency for compliance with Section 106 of the NHPA on all Western's maintenance program undertakings, as these have the potential to affect historic properties (as defined in 36 CFR § 800.16(l)(1)) on private, State, Federal, and tribal lands; and

WHEREAS, Western's electrical delivery system crosses private, Federal, State, state trust, and tribal lands, and Western has consulted with the following agencies because of their land management responsibilities where Western has rights-of-way (ROWs), easements or leases, and include the Bureau of Indian Affairs, Bureau of Land Management, Bureau of Reclamation, National Park Service (Kerr County (CO) and Bighorn Canyon (WY) Recreation Areas), U.S. Army-Ft. Carson, U.S. Fish and Wildlife Service, U.S. Forest Service, and the Wyoming Military Department (hereafter referred to as the land management agencies), and Western has invited these parties to sign the Programmatic Agreement (PA) as Invited Signatories; and Western anticipates that all will sign the PA; and

WHEREAS, Western's electrical delivery system also crosses lands belonging to the Navajo Nation, Northern Arapahoe, Eastern Shoshone Tribe, and Ute Mountain Ute (federally-recognized tribes), and Western consulted with these tribes and respective Tribal Historic Preservation

Officers (THPOs) regarding the development of this PA, and invited these tribes to participate as Signatories; however, to date none have indicated if they will sign the PA at this time; and

WHEREAS, Western also engaged, throughout its consultation process, other federally-recognized tribes (Appendix A; all tribes consulted are collectively referred to as "Tribes") that may attach religious or cultural significance to properties in Colorado, Wyoming, Nebraska, New Mexico, and Utah that may be affected by Western's maintenance program and invited these tribes to sign as Concurring Parties; however, to date none have indicated if they will sign the PA at this time; and

WHEREAS, this PA is only applicable on tribal lands (defined at 36 CFR § 800.16(x)) where the applicable tribe or THPO has executed the PA; and

WHEREAS, Western sought public input through public outreach, and comments were considered and incorporated in this PA; and

WHEREAS, Western also consulted with the Advisory Council on Historic Preservation (ACHP) and the Colorado, Nebraska, New Mexico, Utah, and Wyoming State Historic Preservation Officers (SHPOs) on this PA pursuant to regulation (36 CFR Part 800), and all are participating as Signatories; and

WHEREAS, this PA supersedes the previous PA signed in 2002, titled *Programmatic Agreement Among The Advisory Council On Historic Preservation, Western Area Power Administration, And The State Historic Preservation Officers Of Colorado, Wyoming, Nebraska, And Utah, Bureau Of Land Management, National Park Service, U.S. Forest Service, Bureau Of Reclamation, Fort Carson, Northern Arapahoe And Shoshone Tribe, Regarding Impacts Of Routine Maintenance Of Transmission Lines, Substations, And Other Facilities On Archaeological Resources In Colorado, Wyoming, Nebraska And Utah*; and

WHEREAS, the definitions in Appendix B are applicable to this PA;

NOW, THEREFORE, Western, the ACHP, SHPOs, Signatories and Invited Signatories agree that Western's maintenance program shall be administered in accordance with the following stipulations to satisfy Western's Section 106 responsibility.

STIPULATIONS

Western, as the lead Federal agency for all Western's maintenance program undertakings, shall ensure that the following measures are carried out:

I. WESTERN'S PROFESSIONAL QUALIFICATIONS, DOCUMENTATION STANDARDS, AND CULTURAL RESOURCE AWARENESS TRAINING

- A. Western's Regional Preservation Officer (RPO) and Federal Preservation Officer (FPO) are responsible for ensuring the implementation of this PA and will meet the Secretary of Interior's Professional Qualification Standards (36 CFR Part 61) in one or more fields in History, Archeology, Architectural History, Architecture, or Historic Architecture, as appropriate for the activity/undertaking.

Western's RPO and FPO will ensure that its contractors obtain all appropriate permits and authorizations for survey or monitoring on State, Federal or tribal lands. Western will ensure that all field work conducted under contract shall be carried out or supervised by a person meeting the Secretary of Interior's Professional Qualification Standards appropriate to the resources. Work shall be conducted to the Secretary's documentation standards, as well as those for the appropriate land-managing agency, tribe, or State requirements for identification and evaluation of resources.

Maintenance personnel will be required to receive cultural resource awareness and sensitivity training annually that is delivered by a qualified archeologist at Western's regional offices or in the field. Maintenance personnel will also receive such training in the field, prior to projects that require archeological monitoring. New maintenance personnel will receive awareness and sensitivity training prior to starting work.

II. UNDERTAKINGS

- A. Appendix C is a list of maintenance program undertakings exempt from further Section 106 review. **These undertakings are determined by the Signatories and Invited Signatories to have little or no likelihood of affecting historic properties, should they be present.**
- B. Appendix D is a list of maintenance **non-exempt** program undertakings that **require review under Stipulation IV.** Further, any maintenance program activity not listed in Appendices C or D requires Western's RPO or FPO to follow the procedures outlined in Stipulation IV, prior to the activity/undertaking.

III. HISTORIC PROPERTY IDENTIFICATION AND EVALUATION

- A. **Determine the Area of Potential Effects (APE):** As early as possible in the planning process, the RPO or FPO in consultation with the Region's Environmental Manager and maintenance staff will review maintenance undertakings specified in Stipulation IV to define the APE within Western's ROW or easement.

B. Level of Effort:

1. **Class I Inventory:** The RPO or FPO will conduct a Class I inventory of the proposed APE. Western's RPO or FPO or Western's contractor will conduct a file search with the appropriate State and Federal agency if necessary, and a search of Western's internal records. For undertakings that occur within a tribe's reservation boundaries, Western or Western's contractors will contact the tribe to find out about surveys and historic properties known within the proposed project area, as well as any other cultural resources or areas of concern that Western should consider with regard to the proposed undertaking.

2. **Class II or III Survey:** Based on the results of the Class I inventory, the RPO or FPO will determine to what extent a Class II or III field survey of the APE within the ROW or easement is needed. APEs with no prior inventories will be inventoried at the Class III level for historic properties except in areas heavily disturbed (i.e. mechanically modified by cut or fill, severe erosion or within modern flood plains) or where dense vegetation prohibits survey (Appendix E, Best Management Practices (BMP)). For areas greater than 1 acre or greater than 0.25-miles long that cannot be surveyed due to vegetation coverage, the RPO or FPO will consult with the appropriate land managing agency or tribe to discuss monitoring, or post-activity survey or other options if the proposed project cannot be redesigned to avoid these areas. Because field conditions can vary due to weather or terrain, slopes over 20 degrees will be evaluated on the ground for safety with regard to pedestrian survey. If areas are determined safe, Western will survey the areas. If areas are determined unsafe, exclusions will be documented with photographs and depicted on a map. Portions of the APE that cannot be surveyed due to safety concerns will be examined with binoculars for the presence of areas with a high probability to contain cultural resources such as rockshelters, etc, and an attempt will be made to investigate these areas in a manner that is safe. Any areas less than 20 degrees slope perceived as a safety concern will be reported to Western. Western will contact the land managing agency regarding the issue and discuss the situation and any potential options. Survey reports will be provided to the land managing agency, SHPOs, THPOs and Tribes, as appropriate as stipulated in V.B and C, and be provided a **30-calendar-day comment period**. Extensions to this timeframe may be requested by letter, email or telephone. For any Class II sample survey, Western will consult the SHPO/THPO, as appropriate and the land managing agency regarding the parameters of the sample survey prior to conducting the survey.

3. **Tribal Consultation:** As part of Western's identification efforts, the RPO or FPO will consult interested Tribes that attach religious and cultural significance to properties within the APE. Tribes will be provided **30 calendar days to respond**. Extensions to this timeframe may be requested by letter, email or telephone. Western may consult Tribes proactively (non-project specific) to determine the presence of places of traditional, religious and cultural importance that might be affected by maintenance undertaking requiring review.

C. Determinations of National Register of Historic Places Eligibility (NRHP):

Determinations of eligibility shall be made in consultation with the appropriate land managing agencies, SHPOs, Tribes, and THPOs as appropriate. Pursuant to regulation (36 CFR § 800.4(C)(1)), if Western and the SHPO/THPO do not agree, Western shall obtain a determination of eligibility from the Secretary (Keeper of the National Register) pursuant to 36 CFR Part 63. All cultural resources at the time of documentation will be evaluated relative to all criteria of significance found at 36 CFR § 60.4; however, when there is difficulty determining the eligibility of a cultural resource in the field the RPO or FPO may assume it eligible. Agencies and Tribes agree to provide comments on NRHP eligibility within **30 calendar days** of receipt of Western's request for comments. Extensions to this timeframe may be requested by letter, email or telephone. After consultation with the appropriate agencies and Tribes, the RPO or FPO shall consult with the SHPO or THPO regarding determinations of NRHP eligibility. Correspondence between Western and the SHPO or THPO will be provided to the appropriate land managing agencies, Tribes, and THPOs pursuant to Stipulation V.C.

IV. PROJECT EFFECTS AND APPROVED CONDITIONS

A. Western utilizes a BMP of avoiding or minimizing adverse effects to historic properties whenever possible, and has established additional BMPs that will be followed to minimize project effects to historic properties (see Appendix E). For all non-exempt undertakings (see Appendix D), the RPO or FPO will review such undertakings per Stipulation II.B and make findings of effects in accordance with the following:

1. A finding of **No Historic Property Affected** would result when no historic properties are present or when there are historic properties present but the undertaking will have no effect upon them (for example when the APE or proposed undertaking is modified to avoid historic properties). A finding of **No Adverse Effect** would result when one or more historic property is within the APE, and the undertaking will affect a historic property, but the effects will not diminish the aspects of integrity nor the characteristics that make the property eligible for listing in the NRHP (for example when efforts are made to minimize effects).

Findings of **No Adverse Effect** will be made in consultation with the appropriate land-managing agencies, Tribes, THPOs and SHPOs, except when the following conditions apply:

- a) the FPO/RPO determines that the project area is surveyed to current Class III standards (see Stipulation III), **and**
- b) historic properties within the APE will be avoided or impacts are limited to driving rubber-treaded vehicles across a site on a regularly maintained existing access road.

The RPO or FPO will determine if the above conditions apply and are appropriate for the undertaking. The RPO or FPO is not required to consult with the land managing agency or tribe regarding findings of No Historic Property Affected or No Adverse

Effect, when approved conditions apply. For all non-exempt undertakings (listed or not listed in Appendix D) where these approved conditions do not apply, the RPO or FPO will consult with the appropriate land-managing agency, Tribes and SHPO/THPO regarding No Adverse Effect findings pursuant to 36 CFR § 800.5(d)(1). Consulting parties will be provided **30 calendar days to respond**. If no response, within the 30-calendar-day time frame, Western may assume concurrence and may move forward with the undertaking. Extensions to this timeframe may be requested by letter, email or telephone. The RPO or FPO will document findings of effect for all non-exempt undertakings, which will be reported annually pursuant to Stipulation IX.

- B. The RPO or FPO will make a finding of **Adverse Effect** when adverse effects to historic properties cannot be avoided or minimized. An adverse effect results when an undertaking alters any characteristic of a historic property that qualifies the property for inclusion in the NRHP in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association.
- C. Western's RPO or FPO shall consult with the appropriate SHPO/THPO, ACHP, Land managing agencies, Tribes, and other consulting parties to resolve adverse effects pursuant to 36 CFR § 800.6 prior to commencing with the activity. Should project plans change, or Western decides not to pursue with the activity, all parties involved will be notified.

V. **COORDINATION OF UNDERTAKINGS THAT OCCUR ON FEDERAL, STATE AND TRIBAL LANDS**

For all planned maintenance program undertakings requiring review under this PA (see Stipulation II.B) that occur on State, Federal and tribal lands, Western ensures that:

- A. Western's environmental staff (Environmental Manager, RPO or FPO) will conduct a project review according to Stipulation III. The RPO may seek input from the appropriate State or Federal land managing agency(ies) or Tribe(s). Additionally, the RPO/FPO will alert the appropriate Federal land managing agency(ies) or Tribe(s) as to the probable date and duration that Western's maintenance undertakings will occur in their jurisdiction.
- B. If inventory or archaeological monitoring is necessary, Western will provide the State or Federal agency(ies) and Tribe(s), as appropriate, with draft copies of all new reports, tribal consultation documentation (as appropriate), and all similar documentation relating to the identification, evaluation, and effect of historic properties, and seek their comment per Stipulation III.
- C. Western will provide the Federal agency(ies) and Tribe(s), as appropriate, with digital and hard copies of final inventory reports, and associated Geographic Information Systems data, when available, and records and copies of correspondence from the SHPO or THPO regarding NRHP eligibility determinations pursuant to Stipulation III.

- D. Western will consult with land-managing agencies, Tribes and the SHPO on NRHP eligibility per Stipulation III.
- E. Western will consult with land-managing agencies, Tribes, and the SHPO on findings of No Adverse Effects and Adverse Effects, pursuant to Stipulation IV.B, respectively.
- F. All documentation provided to SHPO, agencies, THPOs, and Tribes for review concerning NRHP eligibility and project effect determinations will follow, at a minimum, the documentation standards outlined in 36 CFR § 800.11.

VI. EMERGENCY CONTIGENCIES

Emergency situations are defined as hazardous materials spills or situations of unplanned or unscheduled power outages or imminent outages that potentially threaten human life and property. An emergency is when the preservation of human life and property is a priority concern. Emergencies apply only to undertakings that are implemented within 30 days after a disaster or after formal declaration by an appropriate authority as described at 36 CFR § 800.12. In the event of an emergency, Western's RPO upon notification will comply with the following procedures:

- The Region's Environmental Manager, RPO or FPO will notify the affected land-managing agency or Tribe or THPO by telephone or e-mail within 30 days of notification of the emergency.
- Western will conduct a Class I inventory of the emergency activity APE to determine if known historic properties exist within the APE. If the area has not been previously surveyed, a post-emergency Class III survey will be conducted within 45 calendar days.
- If cultural resources are found as a result of the post-emergency survey the procedures under Stipulation VII for Discoveries will be followed.
- A summary of the emergency activity will be included in the annual report pursuant to Stipulation IX.

VII. DISCOVERIES

- A. If archaeological materials are discovered as a result of any maintenance activity or undertaking, the discovery will be protected, all earth disturbing activities will cease within 30 meters (100 ft) of the discovery, and heavy equipment will be removed from the area until the discovery is assessed and documented. If the RPO or FPO determines that the discovery is an isolate and determines it is not eligible for NRHP listing, it will be documented and the activity will proceed with no further consultation. For all other discoveries, Western will either assume the materials eligible for NRHP listing pursuant to 36 CFR § 800.13(c) or consult with the appropriate land-managing agency, Tribes, THPOs, and SHPO regarding eligibility and effect. Western will notify the

appropriate land-managing agency, SHPO, State agency and Tribes by phone within 48 hours of the discovery.

- B. If human remains are discovered work will cease within 30 meters (100 ft) of the discovery. If remains are discovered on Federal land, pursuant to 43 CFR Part 10, the individual who made the discovery will notify the land managing agency and Western immediately by phone followed by written notification within 24 hours of the discovery. If human remains are discovered on tribal lands, pursuant to 43 CFR Part 10, Western will notify the BIA and tribe followed by written notification within 24 hours of the discovery. Compliance with laws concerning discoveries of human remains on Federal lands will be the responsibility of the Federal land managing agency. If human remains are found on State or private lands, Western will comply with state procedures.

VIII. DURATION

This PA will expire ten (10) years from the date of its execution, unless the PA is amended pursuant to Stipulation XI with a new expiration date prior to such time. If this PA expires, Western shall consult on undertakings pursuant to 36 CFR §§ 800.4 - 800.6 until a new PA is executed pursuant to 36 CFR § 800.14.

IX. PROGRAM MONITORING AND REPORTING

The RPO or FPO will initiate an annual meeting with the appropriate SHPO or THPO and interested Signatories and Invited Signatories to discuss the implementation of the PA and the annual report. Western will provide a report to the SHPO and all Signatories and interested consulting parties detailing the **non-exempt undertakings** over the course of the prior year by April 1 of each year, beginning in 2015. This report will include emergencies and discoveries. Western will prepare a table listing the following information:

- Undertakings,
- Dates of undertakings,
- File searches,
- Surveys,
- Reports,
- Eligibility determinations, and
- Consultations with land-managing agencies and Tribes.

X. DISPUTE RESOLUTION

Should any Signatory or Invited Signatory to this PA object at any time to any actions proposed or the manner in which the terms of this PA are implemented, the RPO or FPO shall notify the appropriate SHPO about the objection by email and will consult with the objecting party to resolve the matter. If the RPO or FPO determines that such objection cannot be resolved, the FPO will forward the objection to the ACHP for its advisory comments.

- A. If the ACHP does not provide its advisory comments regarding the dispute within 30 calendar days, Western may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, Western shall prepare a written response that takes into account any timely comments regarding the dispute from the Signatories and Invited Signatories to the PA, and provide them and the ACHP with a copy of such written response.
- B. Western's responsibilities to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.

XI. AMENDMENTS

This PA may be amended in counterparts, when such an amendment is agreed to in writing by all Signatories and Invited Signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

XII. TERMINATION

If any Signatory or Invited Signatory to this PA determines that its terms will not or cannot be carried out, that Signatory or Invited Signatory shall immediately consult with the other signatories to attempt to develop an amendment per Stipulation XII. If within thirty 30 calendar days (or another time period agreed to by all Signatories) an amendment cannot be reached, any Signatory or Invited Signatory may terminate its involvement in the PA upon written notification to the other Signatories. If the PA is terminated or if a Signatory or Invited Signatory terminates involvement prior to work continuing on any undertaking that would be normally be covered by this PA or on that Signatory's land, Western must either:

- A. Follow the procedures outlined in 36 CFR §§ 800.4 - 800.6 for each undertaking, or
- B. Execute a new PA pursuant to 36 CFR § 800.14(b), or
- C. Request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. Western shall notify the signatories as to the course of action it will pursue.

XIII. GENERAL PROVISIONS

- A. **Severability.** Should any portion of this PA be judicially determined to be illegal or unenforceable, the remainder of the PA shall continue in full force and effect, and any party may renegotiate the terms affected by the severance.
- B. **Sovereign Immunity.** The State of Wyoming and the WYSHPO do not waive their sovereign or governmental immunity by entering into this PA and each fully retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of the PA.

Execution and implementation of this PA evidences that Western has satisfied its Section 106 responsibilities for all individual undertakings associated with its maintenance program in Colorado, Nebraska, New Mexico, Utah, and Wyoming and afforded the ACHP the opportunity to comment.

SIGNATORIES

WESTERN AREA POWER ADMINISTRATION

By: Bradley S. Warren Date: 6-4-15
Bradley S. Warren, Regional Manager, Department of Energy

COLORADO STATE HISTORIC PRESERVATION OFFICER

By: Richard A. Williams Date: 3/30/2015
Edward Nichols, State Historic Preservation Officer
Deputy SHPO / State Archeologist

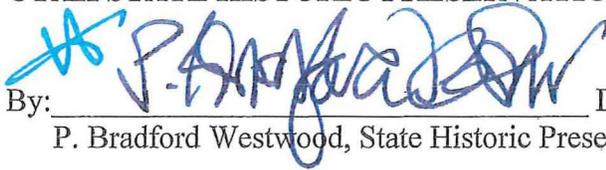
NEBRASKA STATE HISTORIC PRESERVATION OFFICER

By: Michael Smith Date: 04-03-2015
Michael Smith, State Historic Preservation Officer

NEW MEXICO STATE HISTORIC PRESERVATION OFFICER

By:  Date: 3/30/15
Jeff Pappas, PhD., State Historic Preservation Officer

UTAH STATE HISTORIC PRESERVATION OFFICER

By:  Date: ~~April~~ May 04, 2015
P. Bradford Westwood, State Historic Preservation Officer

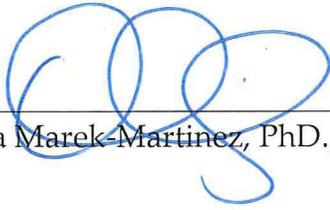
WYOMING STATE HISTORIC PRESERVATION OFFICER

By: Mary Hopkins Date: 5/13/15
Mary Hopkins, State Historic Preservation Officer

By: S. Jane Caton #132273 Date: 5-8-15
S. Jane Caton, Senior Assistant Attorney General

NAVAJO NATION

By:



Date:

7/27/15

Ora Marek-Martinez, PhD., Tribal Historic Preservation Officer

NORTHERN ARAPAHO TRIBE

By: _____ Date: _____
Dean Goggles, Chairman

NORTHERN ARAPAHO TRIBE

By: _____ Date: _____
Yufna Soldier Wolf, Tribal Historic Preservation Officer

SHOSHONE TRIBE OF THE WIND RIVER RESERVATION

(Eastern Shoshone Tribe)

By: _____ Date: _____

Darwin St. Clair, Jr., Chairman

SHOSHONE TRIBE OF THE WIND RIVER RESERVATION

(Eastern Shoshone Tribe)

By: _____ Date: _____

Wilfred Ferris, Tribal Historic Preservation Officer

UTE MOUNTAIN UTE

By: _____ Date: _____
Manuel Heart, Chairman

UTE MOUNTAIN UTE

By: _____ Date: _____
Terry Knight, Tribal Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: John M. Fowler Date: 6/16/15
John M. Fowler, Executive Director

INVITED SIGNATORIES

BUREAU OF INDIAN AFFAIRS

By: _____ Date: _____
Sharon Pinto, Regional Director, Navajo Region

BUREAU OF INDIAN AFFAIRS

By: Darryl LaCounte Date: 5-22-2015
Darryl LaCounte, Acting Regional Director, Rocky Mountain Region

BUREAU OF LAND MANAGEMENT

By:  Date: 4-10-15
Ruth Welch, Colorado State Director

BUREAU OF LAND MANAGEMENT

By: Aden L. Seidlitz Date: 8/17/15
Aden Seidlitz, Acting New Mexico State Director

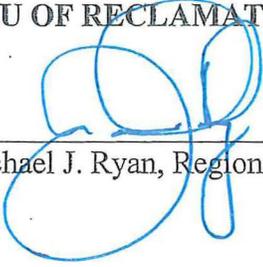
BUREAU OF LAND MANAGEMENT

By:  Date: 5/18/15
Jenna Whitlock, Acting Utah State Director

BUREAU OF LAND MANAGEMENT

By: Mary Jo Rugwell Date: 5/1/15
Mary Jo-Rugwell, Acting Wyoming State Director

BUREAU OF RECLAMATION

By:  Date: 4/2/15
Michael J. Ryan, Regional Director, Great Plains Region

BUREAU OF RECLAMATION

By: _____ Date: _____
Terrance Fulp, PhD., Regional Director, Lower Colorado Region

BUREAU OF RECLAMATION

By:  Date: 11/7/14
Brent Rhees, Acting Regional Director, Upper Colorado Region

NATIONAL PARK SERVICE

By: Janna E. Joss Date: April 15, 2015
Sue E. Masica, Regional Director, Intermountain Region

Acting
for

NATIONAL PARK SERVICE

By:  Date: April 23, 2015
Cameron H. Sholly, Regional Director, Midwest Region

NEW MEXICO STATE LAND OFFICE

By: _____ Date: _____
Aubrey Dunn, Commissioner

U.S. ARMY GARRISON, FORT CARSON

By: Roderick Choholm Date: 10 JUNE 2015
COL Joel D. Hamilton, Garrison Commander

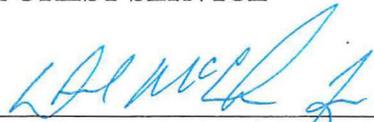
U.S. FISH AND WILDLIFE SERVICE

By:  Date: 4.2.15
for Noreen Walsh, Regional Director - Mountain-Prairie Region
Deputy

U.S. FOREST SERVICE

By: _____ Date: _____
William Reed, Regional Forester for Intermountain Region

U.S. FOREST SERVICE

By:  Date: 4/7/15
Daniel Jiron, Regional Forester for Rocky Mountain Region

WYOMING MILITARY DEPARTMENT, CAMP GUERNSEY

By:  Date: 29 Jan 15
MAJ. GEN. Luke Reiner, Wyoming Military Department

APPENDIX A

List of Federally Recognized Tribes Invited to Participate as Signatories* or Concurring Parties**

Apache Tribe of Oklahoma**	Pueblo of Jemez**
Cheyenne and Arapaho Tribes of Oklahoma**	Pueblo of Laguna**
Cheyenne River Sioux Tribe**	Pueblo of Nambe**
Comanche Nation of Oklahoma**	Pueblo of Picuris**
Confederated Tribes of the Goshute Reservation**, Nevada and Utah	Pueblo of Pojoaque**
Crow Creek Sioux Tribe**	Pueblo of San Felipe**
Crow Tribe*	Pueblo of San Ildefonso**
Eastern Shoshone*	Pueblo of Sandia**
Fort Peck Assiniboine Sioux Tribe**	Pueblo of Santa Ana**
Hopi Tribe**	Pueblo of Santa Clara**
Jicarilla Apache Nation**	Pueblo of Taos**
Kewa Pueblo** (formerly the Pueblo of Santa Domingo)	Pueblo of Tesuque**
Kiowa Tribe of Oklahoma**	Pueblo of Zia**
Lower Brule Sioux Tribe**	Pyramid Lake Paiute Tribe **
Navajo Nation*	Rosebud Sioux Tribe**
Northern Cheyenne Tribe**	Santee Sioux Tribe of Nebraska**
Northern Arapahoe*	Shoshone-Bannock Tribes**
Ohkay Owingeh** (formerly the Pueblo of San Juan)	Southern Ute Indian Tribe**
Omaha Tribe of Nebraska**	Standing Rock Sioux Tribe**
Paiute Indian Tribe**	Ute Indian Tribe** (Uintah & Ouray Reservation)
Pawnee Nation of Oklahoma **	Ute Mountain Ute Tribe*
Ponca Tribe of Nebraska**	Wichita & Affiliated Tribes **
Pueblo de Cochiti**	Winnebago Tribe of Nebraska**
Pueblo of Acoma**	Ysleta del Sur Pueblo**
Pueblo of Isleta**	Zuni Pueblo**

APPENDIX B

Definitions

Aircraft Warning Device – A device consisting of both signs and marker balls. Signs are usually placed on the tops of transmission line structures. “Marker balls” are large colored balls placed around overhead ground wires to make them visible to aircraft and birds.

Anchor – An anchor is a metal pin or concrete weight attached to the end of a guy wire to secure it to the ground.

Archeological Resources/Materials – Any material remains of past human life or activities which are of archaeological interest (as defined in the uniform regulations implementing the Archeological Resources Protection Act at 43 CFR § 7.3(1)) and are at least 50 years of age.

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

Armor Rod – Protective pre-formed wires wrapped around an aluminum conductor to prevent damage at point of support. An armor rod is also used to repair minor conductor damage.

Auger Truck – A truck equipped with a bed-mounted auger used to dig holes for poles or structure foundations.

Bed Rail – A steel support beam placed between the very top of the two wooden poles on traditional H-Frame structures so as to link the poles and stabilize them.

Bird Guard – A specially designed device placed on transmission line structures to prevent birds from being electrocuted.

Best Management Practices (BMPs) – Practices, methods or techniques found to be the most effective and practical means of preventing, avoiding or minimizing effects of undertakings. A BMP can be something structural that is implemented on the ground, or can be part of a process that is used to plan, conduct or close out an operation. BMPs should be matched and adapted to meet the site-specific requirements of the project and local environment, relative to the historic property(ies) within the APE. No one BMP is best suited to every site or situation, or will remain the most optimal practice over time. BMPs must be adaptive and monitored regularly to evaluate effectiveness.

Bobcat – A small front-end loader.

Bucket Truck – A specially designed truck equipped with a bucket and hydraulic arm used to lift men and equipment to the top of transmission line structures during construction, maintenance and inspection of transmission line structures.

Bushing – An electrically insulated lining for a hole to protect a through conductor (from Webster's).

Capacitor Bank – A capacitor is a device which stores an electrical charge. Capacitors are grouped in “banks” inside switchyards and substations. Capacitor banks perform various functions including increasing power flow, compensating for voltage drops, and improving power at the point of delivery.

Circuit Breaker or “Breaker” – A circuit breaker is any device designed primarily to provide safe, rapid interruption of abnormal current flow. Circuit breakers interrupt a faulted circuit, and reclose as soon as the fault has been cleared.

Class I Inventory –A literature and records search of existing archaeological and historic site records.

Class II Survey –A professionally conducted sample survey designed to characterize an area previously unsurveyed.

Class III Survey –A professionally conducted, intensive 100 percent pedestrian survey conducted to the specifications of the land managing agency.

Clipping – The task of permanently attaching the conductor to the insulators during construction. Clipping is the last step in completing conductor stringing.

Communication Site – Four communication systems are used by Western to track and monitor the power system: Microwave transmissions, power line carriers, radio, and leased telephone lines. Microwave communication sites are being used more and more. A microwave site consists of a fenced, level pad occupied by a tower and a small control building.

Conductor – A conductor, often called wire or line, is the actual carrier of current in a transmission system. It is usually made from solid or stranded aluminum and reinforced with steel.

Cross Arm – The cross arm is the crossing member of a wood pole or steel transmission line structure which supports the insulators for the conductors.

Cultural Resources (see Archaeological Resources/Materials)

Cut Out Fuse – A fuse is an electrical safety device that melts and interrupts the circuit when the current exceeds certain amperage.

Dampener Installation – Vibration dampeners are installed to inhibit the conductor or overhead ground wires from oscillating, whipping, and/or bouncing. They may be installed using bucket trucks.

Danger Tree – A tree, living or dead, that could fall onto the transmission line, structure, facility or a tree that could grow under the line to a height that could cause electric current jumps by Federal Energy Regulatory Commission/Nuclear Energy Regulatory Commission (FERC/NERC) standards.

Disconnect Switch – A switch is used to open or close a circuit. An open switch stops current from flowing in a circuit, while a closed switch allows current to flow again. A disconnect switch is used in an electrical system to separate a part of the system during a fault, and to allow for maintenance and repair.

Footing – A footing is an enlargement at the base of a structure used to distribute the load or weight of the structure. Footings are dug with an auger into the ground and sometimes are filled with concrete.

Ground Mat – A ground mat is a large wire mesh mat buried under a substation or other electrical facility used to help ground electrical equipment.

Ground Rod – A ground rod is a metal pole installed in the ground to a depth of at least 5 feet. The rods are attached to grounding cables.

Ground Wire – A ground wire is a safety device that directs current to the earth or “ground”. Overhead ground wires act as lightning rods. They are connected to the transmission line structures and extend down into the ground.

Guy Wire – A steel wire used to support or strengthen a structure. A guy wire securely anchors the structure to the ground. Guy wires are used at dead-end and turning structures, and at endpoints such as substations.

Historic Property – Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the NRHP maintained by the Secretary of the Interior. This term includes artifacts, 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.

Insulator – An insulator keeps current from flowing to the earth or another conductor. Insulators usually hang from the transmission line structure cross arms. An insulator inhibits the flow of electricity to the earth or another conductor. Insulators are usually bell-shaped, arranged in strings, and are made of porcelain, Pyrex glass, or plastic.

Isolate (Isolated Occurrence or Isolated Find) – is a cultural manifestation that does not meet the definition of a site as defined by the respective land managing agency, State SHPO or THPO.

Jumper Cable (properly termed a “transmission line jumper”) – A wire cable used to electrically connect two pieces of high voltage electrical equipment that are located in close proximity. Transmission line jumpers can be used to connect a transmission line to an adjacent line, breaker, switch, transformer, or other high voltage equipment.

Knee Brace – An angle support device used to support a transmission line structure's cross arm.

Light Beacon – A light attached to a tower used for guidance or aircraft warning.

Lightning Arrestor – Any attachment, usually a metal bayonet, used to attract lightning away from the transmission system and direct it to a ground wire and the ground.

Masticator – A tractor-type machine used for mechanically removing vegetation. Three types of masticators are used:

1. **Feller Buncher** – A tractor-type piece of machinery used to mechanically clear or mow dense vegetation. This is a method of vegetation removal that mechanically blades high- growth vegetation down to 6 - 8 inches while avoiding soil disturbance during normal operations.
2. **Hydroax** – A hydro-axe is an articulated tractor with a mower-mulcher mounted on the front of the machine. It has rubber flotation-type tires that cause little disturbance to the surface ground in dry soil. The mower-mulcher clips and mulches vegetation from 4 to 10 inches above ground. The hydroax can also be used to remove tree stumps from the ground.
3. **Cut-Shredder (brush hog)** – A rotating drum with teeth that is attached to a front end loader for the removal of vegetation. The drum has guide arms to prevent it from hitting the ground.

Microwave Radio Tower – A tower, usually constructed of steel lattice, equipped with a microwave receiving dish.

Optical Ground Wire – Also known as **OPGW** or fiber optic cable is a type of cable used in the construction of electric power transmission and distribution lines. Such cable combines the functions of grounding and communications.

Parabolic Dish – A bowl-shaped antenna or reflector used in microwave communications.

Pole Guard – A metal collar or brace used to add strength to a pole. See also “stub”.

Portable or Mobile Substation – A mini-substation that can be transported by truck and installed anywhere along the transmission system.

Portable or Mobile Transformer – A mini-transformer that can be transported by truck and installed anywhere along the transmission system.

Reactor – A reactor is a device used to introduce inductive reactance into a circuit. Usually installed in groups or banks, they help limit current to a safe value. This protects equipment from excessive power surges during a fault.

Recloser – A recloser is a device associated with a circuit breaker that allows the circuit to close automatically after a fault.

RipRap – The placement of rock or fill in a small area around creek beds or embankments to prevent erosion.

Regulator – See voltage regulator.

Shoofly – A shoofly is a temporary road used to get around an obstruction in the ROW, usually used during construction. More commonly, it also refers to a temporary tap line used to direct current around a piece of the transmission system that is under construction or repair.

Signatures –

1. **Signatory:** A signatory is a party that has a responsibility under the terms of the PA and has the sole authority to execute, amend, or terminate the PA.
2. **Invited Signatory:** A party that has a responsibility under the terms of the PA and has been invited to sign giving them the authority to amend or terminate the PA.
3. **Concurring Party:** A consulting party that does not have a particular responsibility under the PA and has been invited to concur with the stipulations of the PA. The refusal of any party invited to concur in the PA does not invalidate the PA.

Solar Power Array – A collection or grouping of devices such as mirrors or photovoltaic cells, capable of capturing solar energy for use in generating electricity; typically attached to structures.

Stabilizer or Outrigger Pad – A metal plate used to support lifting equipment.

Undertaking – 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.

Stub – A “stub” refers to temporary reinforcement done at the base of a pole to provide additional strength. A stub usually consists of a short piece of another pole.

Steel Transmission Line (TL) Structure – A steel structure, usually in a lattice or single pole configuration which can be used in special construction situations and to carry large transmission voltages.

Substation – A substation is an on-ground facility consisting of various electrical equipment used to transform or “step down or up” the voltage for delivery and consumer use.

Switch (Switchgear) – Substation equipment designed and operated to switch electrical circuits and to interrupt power flow.

Tap Changer – A device in some transformers that increase or reduce the potential by changing the transformer turns ratio. Tap changing transformers are used to control voltage at loads, substations, and direct current ties.

Transformer – A transformer transfers energy from one circuit to another circuit and are used to increase or decrease voltage in an alternating current system. A transformer consists of two “windings”, or many turns of magnetically coupled wires or coils, placed very close together within an oil-cooled cylinder.

Voltage Regulator – An electric device that regulates voltage flowing through distribution lines. It automatically raises and lowers the voltage to maintain required voltage levels for service.

Wave Trap – A wave trap is used in carrier communications to confine the carrier signal to one transmission line section. It is a parallel circuit tuned to the frequency of the carrier signal.

Wood Transmission Line (TL) Structure – A structure built from large wooden poles (usually made of fir, pine, larch or cedar) that are treated with a preservative chemical to protect them against decay/fungi.

X-Brace – An X-brace, usually constructed of wood that provides reinforced support to large wooden transmission line structures.

APPENDIX C

Exempt Undertakings

Activities/Undertakings Exempt From Section 106 Review And Reporting

A. Substation Maintenance

1. Maintenance and replacement of transformers and breakers.
2. Servicing and testing of equipment at existing substations, including oil change-outs.
3. Installation or replacement of bushings.
4. Cleaning or replacement of capacitor banks.
5. Maintenance or installation of above ground propane tanks within a substation yard.
6. Maintenance of switches, voltage regulators, reactors, tap changes, reclosers and valves.
7. Replacement of wiring in substations and switch yards.
8. Replacement of existing substation equipment including regulators, capacitors, switches, wave traps, radiators, and lightning arresters.
9. Installation of cut-out fuses.
10. Adjust and clean disconnect switches.
11. Placement of temporary transformer.
12. Maintenance, installation or removal of a solar power array panel (approx. 3 by 3 feet), and controller from structures.
13. Emergency cleanup of chemical spills (follow procedures in Stipulation VI).
14. Repair or replacement of ground mats, not to exceed current depth of disturbance.
15. Replacement or repair of footings for electrical or communications equipment above the ground mat within an existing substation.
16. Installation of foundations for storage buildings above the ground mat within existing substation yard.
17. Any ground disturbing activity within the leveled and graveled portions of an existing substation yard, not to exceed current depth of disturbance.
18. Clearing vegetation by hand, including controlled burns, within an existing substation.
19. Maintenance and repair or demolition of buildings and structures less than 45 years old.
20. Installation, relocation, or removal of new poles, cable trays, buildings, and appurtenances within the substation perimeter.
21. Installation or maintenance of spill containment, control, and countermeasures structures within the perimeter of the substation fenced yard.
22. Substation control building upgrades including but not limited to; installation, operation, modification, and removal of devices for grid demand and response, fiber optic cable, communication systems, data processing equipment, and similar electronic equipment.

B. Transmission Line Maintenance

1. Ground and aerial patrols.
2. Climbing inspection and tightening hardware on wood and steel transmission line structures.
3. Repair of overhead ground wire.
4. Replacement of aircraft warning devices.
5. Replacement or cleaning of insulators.
6. Installation of bird guards.
7. Replacement of cross arms on wood pole transmission line structures.
8. Cut and drop danger trees within ROW on foot with hand tools.
9. Replacement or repair of steel members of steel transmission line structures.
10. Inspection of hardware on wood and steel transmission line structures.
11. Installation, repair or replacement of X-brace and knee brace.
12. Removal or installation of structure mile markers.
13. Dampener installation.
14. Replacing ground spike on wood pole structures.
15. Vegetation and slash removal projects using hand tools (e.g. chainsaws), no brush piling, no off-road vehicular access, and not exceeding 10 acres do not require consultation with the land-managing agency.
16. Installation of ground rods.
17. Installation of armor rod.
18. Installation of travelers and clipping or de-clipping structures.
19. Repair of existing conductor, repair of existing fiber optic cable (optical ground wire).
20. Application of wood preservatives on existing wooden pole structures.
21. Placing fill or rocks on the surface around existing towers or structures, culverts or erosion features on access roads provided the fill is brought in from a commercial source and ground disturbance is not necessary.
22. Installation of gates where no new posts need to be installed or replacement of existing gates.
23. Exposing tower legs from soil deposition.
24. Stub an existing wood pole structure.
25. Repair of pole guards.
26. Placement of single post informational signs for accessing the right-of-way.
27. Installation or repair of bedrails.
28. Installation or repair of jumper cables.
29. Patrol, transport, and other work using tracked vehicles over the snow that does not disturb underlying soil.

C. Communication System Maintenance

1. Microwave radio tower maintenance.
2. Communication tower and antennae maintenance.
3. Replacement of light beacons.
4. Removal of microwave dish.
5. Installation, removal and repair of parabolic dish.
6. Installation or removal of solar power array panels (approx. 3 x 3 foot panel) and controllers from buildings/structures.
7. Replacement or repair of footings for electrical or communications equipment above the ground mat within an existing communications facility.
8. Installation of prefabricated shelters on a level surface.
9. Maintenance and repair of buildings and structures <45 years old.

D. General Facilities Maintenance

1. Application of soil sterilants and herbicides (responsibility of land managing agency or tribe to notify Western of areas excluded for application of chemicals on its lands during the permitting or approval process).
2. Clearing vegetation on foot using hand tools (chainsaws, etc.).
3. Place fill or rocks around existing culverts provided the material is brought in from a commercial source and ground disturbance is not necessary.
4. Repair or remove existing fences and gates by hand.
5. Installation or repair of snow fences.
6. Maintenance, repair, or demolition of buildings and structures less than 45 years old.
7. Management of nuisance wildlife.
8. Parking a fiber optic splice trailer, or mobile transformer within Western right-of-way or facilities where the construction of a pad is not necessary.

APPENDIX D

Non-exempt Undertakings

Non-exempt activities require RPO or FPO review. **Non-exempt activities where approved conditions are met per Stipulation IV.A(1) do not require consultation.** Any activity not listed in Appendix C or D requires consultation. Non-exempt activities include, but are not limited to:

1. Excavation and installation of new footings on a transmission line or at a communication site.
2. Installation of new or replacement of existing culverts (using a backhoe/front-end loader within an existing access road).
3. Installation of new guy anchors or digging out buried anchors.
4. Transmission Line Structure replacements or installation.
5. Removal of foundations at communication sites.
6. Installation, repair or pulling existing fences and gates with heavy equipment or where posts or poles must be installed.
7. Erosion control projects outside existing facilities or within existing facilities that go beyond current depth of disturbance.
8. Access road maintenance, upgrading, or construction of new roads.
9. Installation of foundations for storage buildings outside graveled area at an existing substation or inside communication site yard.
10. New propane tank installation at a communication site or outside of an established substation.
11. Vegetation clearing using heavy machinery. (bulldozer, brush hog, grader, etc.)
12. Installation of microwave and radio tower.
13. Underground installation/trenching of water, power, communication or ground electrical line.
14. Installation of water bars on existing access roads.
15. Maintenance and repair to historic buildings or structures >45 years old.
16. Construction of landings/pads around structures.
17. Construction of retaining walls.
18. Excavation of material for fill.
19. Staging and/or laydown areas.
20. Actions where a temporary or new property acquisition must occur (easement or fee).
21. Construction of a shoo-fly.
22. Pulling sites for fiber optic cable (optical ground wire) or conductor cable.

APPENDIX E

Best Management Practices (BMP)

- 1) Where the RPO or FPO determines that extremely dense vegetation prevents a Class III survey or where vegetation coverage provides low ground visibility <20% or where vegetation becomes a concern for crew safety, such as dense areas of cacti, mesquite, tamarisk, etc. or poison oak - all such areas will be subject to close reconnaissance from surrounding area. Areas >1 acre or >0.25 mile long that cannot be surveyed due to vegetation coverage, the RPO or FPO will consult with the appropriate land managing agency, Tribe or THPO to discuss monitoring, or post-activity survey or other options if the proposed project cannot be redesigned to avoid these areas per Stipulation III.B(2).
- 2) Where the scale of the project prohibits the removal of vegetation using hand tools, and where mechanical means of vegetation removal will use heavy machinery, the following requirements for BMP are in place:
 - A) Vegetation removal will not be conducted using heavy machinery within historic properties.
 - B) A qualified archaeologist will monitor vegetation removal by heavy machinery in areas that cannot be surveyed, and to be available for discovery situations and to conduct post activity survey to identify the presence of historic properties.
- 3) Because field conditions can vary due to weather or terrain, slopes over 20 degrees should be evaluated on the ground for safety with regard to pedestrian survey. Conditions will be documented with photographs. Portions of the APE that cannot be surveyed due to safety concerns will be examined with binoculars for the presence of areas with a high probability to contain cultural resources such as rockshelters, etc. Any areas less than 20 degrees slope perceived as a safety concern will be reported to Western.