

APPENDIX D  
FRAMEWORK CULTURAL RESOURCES  
PROTECTION AND MANAGEMENT PLAN

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## ACRONYMS

ACHP	Advisory Council on Historic Preservation
AHPA	Archaeological Historic Preservation Act of 1974
AIRFA	American Indian Religious Freedom Act of 1978
Applicant	TransWest Express LLC, also TransWest
ARPA	Archaeological Resources Protection Act of 1979
BIA	Bureau of Indian Affairs
BLM	Bureau of Land Management
CFR	Code of Federal Regulations
CRS	Colorado Revised Statutes
NAGPRA	Native American Grave Protection and Repatriation Act of 1990
NHPA	National Historic Preservation Act
NPS	National Park Service
NRS	Nevada Revised Statutes
NTP	Notice to Proceed
PA	Programmatic Agreement
Plan	Cultural Resources Protection and Mitigation Measures Plan
POD	Plan of Development
Project	TransWest Express Transmission Project, also TWE Project
Reclamation	Bureau of Reclamation
ROD	Record of Decision
ROW	right-of-way
TransWest	TransWest Express LLC, also Applicant
TWE Project	TransWest Express Transmission Project, also Project
U.S.C.	United States Code
UCA	Utah Code Annotated
USFS	United States Forest Service
USFWS	United State Fish and Wildlife Service
Western	Western Area Power Administration
WS	Wyoming Statutes

## **D1.0 INTRODUCTION**

This framework Cultural Resources Protection and Management Plan (Plan) outlines the contents, procedures, and environmental protection measures that will be taken by TransWest Express LLC (TransWest or Applicant) and its Construction Contractor(s) for the TransWest Express Transmission Project (TWE Project or Project). This Plan is largely related to the development of a Programmatic Agreement (PA) between TransWest and various agencies and consulting parties.

## **D2.0 PLAN PURPOSE**

The Bureau of Land Management (BLM) has determined that issuance of the right-of-way (ROW) grant for the TWE Project and related authorizations is an undertaking as defined at 36 Code of Federal Regulations (CFR) 800.16(y) that triggers the requirements of Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA Section 106) on affected federal and non-federal lands during the planning, construction, operation, maintenance and decommissioning of the Undertaking. For purposes of the Undertaking, the BLM Wyoming State Office is lead federal agency for compliance with NHPA Section 106 on behalf of the involved federal agencies. Because the effects on historic properties are multi-state in scope and cannot be fully determined prior to approval of the Undertaking, the BLM, in consultation with the Consulting Parties has determined to use a phased process to identify historic properties (36 CFR 800.4(b)(2)) and assess the effects on those properties (36 CFR 800.5(a)(3)); such that completion of the identification and evaluation of historic properties, determinations of effect on historic properties, and consultation concerning measures to avoid, minimize, or mitigate any adverse effects will be carried out in phases as part of planning for and prior to any Notice to Proceed (NTP) and Undertaking implementation. Therefore, the BLM has determined that a PA documenting the terms and conditions for compliance with Section 106 will be entered into among Consulting Parties according to 36 CFR 800.14(b)(1)(ii).

Signatories to the PA include the BLM, Western Area Power Administration (Western), the United States Forest Service (USFS), the National Park Service (NPS), the Bureau of Reclamation (Reclamation), the Bureau of Indian Affairs (BIA), the U.S. Fish and Wildlife Service (USFWS), the U.S. Army Corps of Engineers (USACE) - Sacramento District, the Advisory Council On Historic Preservation (ACHP), the Wyoming State Historic Preservation Officer, the Colorado State Historic Preservation Officer, the Utah State Historic Preservation Officer, and the Nevada State Historic Preservation Officer. TransWest is an Invited Signatory to the PA. Tribes and other interested parties may be Concurring Parties to the PA.

Execution and implementation of the PA satisfies the federal agencies' Section 106 responsibilities for the Project. As an Invited Signatory, TransWest has certain responsibilities under the PA and will comply with the terms and conditions of the PA.

## **D3.0 PLAN UPDATES**

This Plan will be updated for the NTP Plan of Development (POD) once the PA is signed and the selected Agency Preferred Alternative is identified. Other plans that may be developed related to the protection and management of cultural resources, such as a Historic Properties Treatment Plan, Monitoring Plan, or Unanticipated Discovery Plan, will be incorporated into the PA as they become available.

## **D4.0 REGULATORY REQUIREMENTS**

The TWE Project will require the issuance of ROW grants and special use authorizations; and therefore, qualifies as a federal Undertaking and must comply with Section 106 of the NHPA. Other federal and state laws concerning the protection of cultural resources that must be complied with include:

- American Indian Religious Freedom Act of 1978 (AIRFA) (42 United States Code [U.S.C.] §1996)
- Antiquities Act of 1906 (16 U.S.C. §431-433)
- Archaeological Resources Protection Act of 1979 (ARPA) (16 U.S.C. §470 aa-mm)
- Archeological and Historic Preservation Act of 1974 (AHPA) (16 U.S.C. §469)
- Federal Cave Resource Protection Act of 1988 (16 U.S.C. §4301)
- National Trails System Act of 1968, as amended (16 U.S.C. §§1241-1249)
- Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) (25 U.S.C. §3001)
- Executive Order 11593, Protection and Enhancement of the Cultural Environment
- Executive Order 13007, Indian Sacred Sites
- Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
- Executive Order 13287, Preserve America
- Wyoming Antiquities Act of 1935 (Wyoming Statutes [WS] 35-1-114 to 116)
- Wyoming State Archaeologist Statute, 1967 (WS 36-4-106)
- Colorado Historical, Prehistorical, and Archaeological Resources Act of 1973 (Colorado Revised Statutes [CRS] 24-80-401 to 410)
- Colorado Unmarked Human Graves (CRS 24-80-1301 to 1305)
- Utah State Antiquities Act (Utah Code Annotated [UCA] 9-8-301 to 308)
- Utah Native American Grave Protection and Repatriation Act (UCA R456-1-1 to 17)
- Utah Heritage and Arts, History (UCA Title R455)
- Utah Protection of Human Remains (UCA 76-9-704)
- Utah Ancient human remains on nonfederal lands that area not state lands (UCA 9-8-309)
- Utah Archaeological Vandalism Statutes 76-6-901, 76-6-902, 76-6-903
- Nevada Preservation of Prehistoric and Historic Sites (Nevada Revised Statutes [NRS] 381.195 to 381.227)
- Nevada Protection of Indian Burial Sites (NRS 383.150, NRS 383.190)
- Nevada Protection of Historic and Prehistoric Sites (NRS 383,400-440)