

## Appendix P: Draft Programmatic Agreement

**PROGRAMMATIC AGREEMENT  
AMONG THE BUREAU OF LAND MANAGEMENT, IDAHO BOISE DISTRICT OFFICE  
AND THE IDAHO STATE HISTORIC PRESERVATION OFFICER,  
AND THE OREGON VALE DISTRICT OFFICE  
AND THE OREGON STATE HISTORIC PRESERVATION OFFICER,  
REGARDING THE TRI-STATE FUEL BREAKS PROJECT  
ENVIRONMENTAL IMPACT STATEMENT**

**WHEREAS**, the BLM is mandated under the Federal Land Policy and Management Act of 1976 (43 USC § 1701) to manage public lands on the basis of multiple use in a manner that will protect the quality of scientific, historical, archeological, and other values; and

**WHEREAS**, the BLM is responsible for complying with Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA), 54 USC § 306108 et. Seq. and its implementing regulations, at 36 CFR § 800; and

**WHEREAS**, the Idaho Boise and Oregon Vale District Offices of the Bureau of Land Management (BLM), are preparing an Environmental Impact Statement (EIS) for the Tri-state Fuel Breaks Project, a strategic system of fuel breaks in Owyhee and Malheur Counties; and

**WHEREAS**, the purpose of the Tri-state Fuel Breaks Project is to provide safe areas and strategic opportunities to enable wildland fire suppression resources in southwestern Idaho and southeastern Oregon to more rapidly and effectively protect natural resource, cultural resource, and socioeconomic values from wildfires by creating and maintaining fuel breaks along a network of established roads through mechanical, chemical, biological and/or prescribed fire treatments; and

**WHEREAS**, the proposed land management treatments associated with the Tri-state Fuel Breaks Project include mowing, hand cutting, chemical treatment (herbicide), seeding of native and non-native plant species (including drill seeding, broadcast seeding, disking and other seed bed preparation techniques), targeted grazing, temporary fence construction, prescribed fire, roadbed vegetation clearing, and mineral material (gravel pit) development; and

**WHEREAS**, proposed land management treatments associated with the Tri-state Fuel Breaks Project constitute an Undertaking as defined in 36 CFR § 800.16 (y): and

**WHEREAS**, fuel breaks associated with the Tri-state Fuel Breaks Project are proposed along up to 1,539 miles of roads within a project area of approximately 3.6 million acres of land, and fuel breaks will consist of a 430 feet (131 meters)<sup>1</sup> wide corridor centered on the roads designated as fuel breaks; and

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<sup>1</sup> This includes the road (10-30 ft wide, 3-9 m) and the 200-foot (61-m) treatment area on each side of the road.

**WHEREAS**, the Undertaking will be implemented over 10-15 years with maintenance of fuel breaks in perpetuity; and

**WHEREAS**, the Tri-state Fuel Breaks Project will affect BLM-administered and State lands in the states of Idaho and Oregon, necessitating project coordination between the BLM administrative units and consulting parties in two-states (36 CFR 800.14(b)(1)(i)); and

**WHEREAS**, the BLM intends to use the provisions of this PA to address the applicable requirements of the Oregon Revised Statutes (ORA 358.905-961, ORS 390.235, and ORS 97.740-760) and Idaho Code (Idaho Code 67.4111-67.4131) that apply to that portion of the undertaking on State lands; and

**WHEREAS**, the BLM intends to phase the NHPA Section 106 process at 36 CFR 800.2 through 800.6 because specific locations for prospective treatments constituting the Undertaking have not yet been identified, and therefore project effects on historic properties cannot be assessed prior to signing the Tri-State Fuel Breaks Record of Decision (36 CFR 800.14(b)(1)(ii)); and

**WHEREAS**, the BLM must consider if the Undertaking will have direct, indirect, and cumulative effects on historic properties included in, or eligible for inclusion in the National Register of Historic Places (NRHP); and

**WHEREAS**, the BLM has invited the Advisory Council on Historic Preservation (ACHP) to be a signatory and consult on developments and execution of this Programmatic Agreement (PA) pursuant to 36 CFR § 800.6(a)(1) and the ACHP has elected not to formally enter consultation on the development of this PA; and

**WHEREAS**, the BLM has invited the Idaho and Oregon State Historic Preservation Officers (SHPO) to be signatories and consult on developments and execution of this PA pursuant to 36 CFR § 800.6(a)(1); and

**WHEREAS**, the BLM has initiated consultation with the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation, the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation, the Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, and the Burns Paiute Tribe (Tribes) regarding the Undertaking; will continue to consult with them on the implementation of the Undertaking itself and this PA in their role as consulting parties for the purposes of 36 CFR §800.2(c) and as concurring parties for purposes of 36 CFR §800.6(c)(3), should they so desire, to this PA; and

**WHEREAS**, the BLM has identified interested parties, including the National Trust for Historic Preservation, Oregon-California Trails Association, Idaho Professional Archaeological Council, the Idaho Archaeological Society, Association of Oregon Archaeologists, the Oregon Archaeological Society, the Owyhee County Historical Society, the Malheur County Cultural Trust, Malheur County Historical Society

and the Upper Snake River Tribes Foundation, and has invited them to be consulting parties to this PA; and

**WHEREAS**, no parties agreed to be Invited Signatories (36 CFR § 800.6(c)(2)) or Concurring Parties (36 CFR § 800.6(c)(3)); and

**NOW, THEREFORE**, the Signatories agree that implementation of the EIS decision record shall be administered in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties and to ensure that historic properties will be treated to avoid adverse effects, on State and BLM lands and to satisfy the BLM's NHPA Section 106 responsibilities for all aspects of the Undertaking.

## **STIPULATIONS**

The BLM shall ensure that these stipulations are carried out:

### **Stipulation I. Phased Process for Identifying, Evaluating, and Resolving Adverse Effects on Historic Properties**

#### **A. Area of Potential Effects**

The fuel break area of potential effect (APE) will consist of a 430 ft (131 m) foot wide corridor centered on the centerline of roads designated as fuel breaks. The APE for the four mineral material sites<sup>2</sup> will be the designated 20-acre areas for each site. The specific APE for each phase of fuel break treatment implementation will be determined by the location and extent of the treatment and will be a subset of the APE for the entire EIS. The implementation-specific APEs will be determined by a BLM cultural resource specialist. The BLM may modify the APE as needed or requested by the SHPOs, Tribes, or consulting parties through consultation, without amending this PA. All consulting parties will receive formal notification of the amended APE.

#### **B. Identification of Historic Properties**

##### **1. Inventory standards**

- a. The BLM shall ensure that appropriate cultural resource inventories are completed.

These inventories will be in accordance with the Idaho SHPO's *Guidelines and Procedures for Cultural Resource Review and Consultation in Idaho*, Oregon's *Guidelines for Historic Resource Surveys in Oregon*, *Guidelines for Conducting Field Archaeology in Oregon*, *State of Oregon Guidelines for Reporting on Archaeological Investigations*, or any subsequent edition issued by the Idaho or Oregon SHPOs, the BLM 8100 Manual, and the *Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation*. The BLM will consult with the appropriate SHPO(s) on any deviation from the guidelines.

- b. Class II and Class III Surveys

The BLM inventory system is divided into three types of inventory, Class I- existing information inventory; Class II – probabalistic field survey; and Class III – intensive field survey (BLM Manual 8110.21). For this undertaking the BLM will conduct Class

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<sup>2</sup>Mineral material sites refer to gravel production needed for fuel break road maintenance.

II or Class III surveys as defined in Manual 8110 – Identifying and Evaluating cultural Resources.

i. Class II Inventory

A cultural resource site predictive model, such as the model developed for the Owyhee Land Exchange in Idaho, may be used to determine the likelihood of significant (likely NRHP eligible) pre-contact sites within a treatment area. Based on information derived from the model, along with the type of treatment proposed, some areas may not receive an intensive Class III survey when the potential for adversely affecting a cultural site is determined to be minimal. The model will be tested by surveying a percentage of areas with low, moderate and high sensitivity. The new data, such as newly found sites and areas inventoried, will be incorporated into existing model layers and then used to periodically recalculate site sensitivity values to ensure the model reflects the best possible data. The likelihood of historic sites in an area would be based on the model as well as historic research using General Land Office maps and other historic maps and documents.

ii. Class III Inventory

A systematic, detailed field inspection done under the direction of a Cultural Resource Specialist.

2. Assessing Previously Conducted Field Inventory

- a. A BLM cultural resource specialist will determine if any previous adequate inventory exists in the APE. Adequate inventory includes those conducted using inventory and guidelines described in B.1(a). If the cultural resource survey(s) have been (1) conducted by and under the direction of a professional archaeologist; (2) with survey transects spaced at 30 m or less; and (3) where environmental factors are not expected to have resulted in exposures of buried archaeological resources; and (4) where a literature review does not suggest potential for built environment resources, no additional inventory will be conducted. Any previous inventory over 15 years old may be rejected, or the BLM would consult with the SHPO concerning its adequacy. If there is any indication, based on the archaeologist’s professional knowledge, that a previous inventory was not adequate or potential historic properties were not recorded (including built environment resources), the treatment area would be resurveyed.

3. Inventory for Individual Vegetation Treatments

The level of inventory required to assess effects to cultural resources<sup>3</sup> (i.e., complete intensive 30m transect width or less [Class III], sample inventory based on a predictive model [Class II] or no additional inventory) will be determined by the most ground disturbing activity proposed in the fuel break. If there is a change in the treatment type that would result in a change in inventory requirement for that treatment, the area would be inventoried according to the new treatment requirements, unless it was previously inventoried at 100%.

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<sup>3</sup> The term “cultural resources” is a term used to refer to a wide range of cultural property/resource types including but not limited to archaeological sites, buildings, structures, trails, roads, and objects regardless of age or ethnic affiliation. This term may also be used to describe landscape features or geographic areas important to certain ethnic or tribal groups. Cultural resources are not defined in statute or regulation but can include “historic properties” as defined in the National Historic Preservation Act (16 U.S.C. § 470w-5) and archaeological resources as defined in the Archaeological Resources Protection Act (16 U.S.C. § 470bb-1)

- a. Mowing
  - i. Class III inventory of 131 m corridor along all NRHP-eligible or unevaluated historic roads and trails where there is more potential for above-ground sites and resources.
  - ii. In Oregon, additional inventory along non-historic roads will not be required where there is no expectation for above-ground historic properties. In Idaho, the level of inventory along non-historic roads will be based upon a cultural resource site sensitivity model and/or prefield research that may indicate the potential or lack of potential for sites.
- b. Hand cutting brush
  - i. No additional inventory if the cut materials will be lopped and scattered.
  - ii. Class III inventory of 131 m corridor if cut material will be piled or chipped.
- c. Chemical treatment (herbicide)
  - i. No additional inventory except where it might be likely to affect traditional plant gathering areas used by Indian tribes. In order to determine where traditional plant gathering areas are located, the BLM will consult with the Tribes at least one year prior to herbicide treatment. A Class II inventory may be utilized at the discretion of the cultural resource specialist.
- d. Seeding of native and non-native plant species
  - i. Disking
    - 1. Class III inventory of 131 m corridor.
  - ii. Drill seeding
    - 1. Class III inventory of 131 m corridor.
  - iii. Broadcast seeding
    - 1. No additional inventory.
    - 2. Class II at the Cultural Resource Specialist's discretion.
  - iv. Prescribed fire for seed bed preparation
    - 1. If the area has completely burned in the last 20 years, inventory of fire lines and staging areas. No additional inventory of the remaining fire area.
    - 2. Class III inventory of 131 m corridor if the area has not burned in last 20 years.
- e. Targeted grazing
  - i. Class III inventory of 131 m corridor.
- f. Prescribed fire
  - i. Class III inventory of 131 m corridor for pile burning.
  - ii. A BLM cultural resource specialist will review tumbleweed burning areas for any previous inventories or the presence of previously recorded historic properties. Areas with potential rock art will be inspected in the field, if tumbleweed concentrations allow.
- g. Mineral material site development
  - i. Class III inventory of entire material source site.
- h. Roadbed vegetation clearing
  - Class III inventory of road corridor where blading is proposed.

#### 4. Cultural Resource Documentation

- a. Previously recorded sites, located within the APE, that do not meet current recordation standards, where site records are over 15 years, or where a site does not meet the description of the current site record, will be updated on the Idaho Archaeological

Survey of Idaho (ASI) form or the Oregon Archaeological Site or the Oregon SHPO Clearance form.

- b. Non-linear sites extending outside the APE will be completely recorded unless the BLM and the appropriate SHPO agree that a less than complete recording is sufficient for evaluation or the site continues onto land where access is prohibited. Sites extending on to land where access is prohibited and cannot be fully recorded, would be recorded to the fullest extent possible and access issues would be documented in the site record and inventory report.
  - c. Linear sites will be recorded outside of the APE to the extent necessary to determine site National Register of Historic Places eligibility or as directed under the appropriate state's linear site recording protocols. Linear sites extending on to land where access is prohibited and cannot be fully recorded, would be recorded to the fullest extent possible and access issues would be documented in the site record and inventory report.
5. National Register of Historic Places Eligibility Determinations
- a. The BLM shall make every effort to evaluate all cultural resources located within the APE for NRHP eligibility. In cases where determining site eligibility might require subsurface testing, an eligibility determination may be deferred due to Tribal concerns with digging in sites. If site eligibility is deferred, pending subsurface testing, the site will be treated as eligible until new information indicates otherwise.
  - b. The BLM shall apply the criteria for evaluation found in 36 CFR § 60.4 and National Register Bulletin 15 and 38, and consider all four National Register criteria for evaluation when assessing each cultural resource. The BLM's evaluations shall be consistent with the Secretary of the Interior's Standards and Guidelines for Evaluation and the BLM Manual 8100.
  - c. The BLM shall re-evaluate existing consensus determinations of eligibility if
    - i. There have been changes that may have affected the integrity of the historic property; and/or
    - ii. There is new information concerning the cultural resource, its historic context or environmental history; and/or
    - iii. If the resource was originally assessed by itself, and may now be eligible as part of a district.
  - d. Consultation with SHPO on eligibility
    - i. The BLM shall consult with the appropriate SHPO(s) regarding site eligibility.
    - ii. The BLM may request SHPO assistance in determining eligibility.
  - e. Disputes on Eligibility
    - i. If the BLM and the SHPO cannot concur on the eligibility of a cultural resource, and agreement cannot be reached within 30 calendar days, then the BLM will request a formal determination of eligibility from the Keeper of the National Register of Historic Places (Keeper), pursuant to 36 CFR § 800.4(c)(2). The process to be followed is detailed in 36 CFR § 63 regulations on eligibility for inclusion in the National Register of Historic Places. The Keeper's determination will be final.

### **C. Assess Effects**

1. The BLM shall apply the definition of effect (36 CFR § 800.16 (i)) and criteria of adverse effect (36 CFR § 800.5) to determine the effect of a project activity on historic properties.

2. If the BLM determines that no historic properties are affected because there are no historic properties present or all historic properties are avoided, the BLM will document this finding and include it in the annual report (Stipulation G).
3. If the BLM finds that there may be an effect on one or more historic properties, the BLM will provide SHPO, Tribes, and consulting parties with the results of the finding for their review according to 36 CFR § 800.5 (c).

#### **D. Avoiding, Minimizing, and Mitigating Adverse Effects**

The BLM shall ensure that the design of the project includes the following stipulations.

##### 1. No Effect and No Adverse Effect Determinations

1. Mowing with a rubber-tired vehicle may occur in a historic property, on a case by case basis. If mowing will occur in a historic property, the mower will not turn around in the property. Mowing blades will be set at 10 inches or higher so that ground-level artifacts won't be disturbed, thus no effects to the characteristics of the site that make it eligible for listing on the NRHP.
  - a. Mowing may be allowed in lithic scatter sites unless the site contains features, has artifacts taller than 10 inches, is a prehistoric artifact scatter with multiple artifact types (such as ceramics or groundstone) exhibiting spatial patterning, within historic trail ruts, or any site that a BLM cultural resource specialist determines might be adversely affected by mowing.
  - b. Mowing in intact sagebrush communities will not be allowed within 15 meters of the outside edge of NRHP eligible trail ruts<sup>4</sup> and the mower must travel parallel to the ruts only crossing perpendicularly, if needed, at locations determined by a BLM cultural resource specialist. Sagebrush within the 15 meter buffer would be thinned by hand to reduce the potential for the trail corridor to become a conduit for fire. If the NRHP eligible trail is the proposed fuel break road, then mowing sagebrush no less than 10 inches would be allowed in the intact sagebrush communities provided pockets or a mosaic of sagebrush (no less than 25% cover) are left intact, and the outside edge of mowing is meandering in order to visually soften the edges of the treatment. The sagebrush pockets that are remaining may be hand thinned if necessary, leaving at least 50% of the sagebrush in each pocket. Alternatively, if an historic trail is within visual resource management (VRM) Class I<sup>5</sup>, then mowing would be "feathered" in height as the mown vegetation reaches the interface with the untreated vegetation to visually soften the edges of treatment. This would be achieved by incrementally raising the mower as the mower approaches non-treated vegetation. Depending on the nature of the vegetation in a given location, hand cutting may be interspersed with or replace mowing to mimic a more natural appearance.
2. Hand cutting of vegetation may occur in a historic property, on a case by case basis, provided the cut vegetation is scattered (not piled) or hand carried off site. Hand cutting of sagebrush will mainly be used where there is not enough brush to warrant mowing or in rocky, steep or resource sensitive areas.

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<sup>4</sup> Trail ruts are remnants of trails that are not currently being used by vehicular traffic and are typically overgrown with vegetation.

<sup>5</sup> The object of VRM Class I is to preserve the existing character of the landscape. This class provides for natural ecological changes; however, it does not preclude very limited management activity. The level of change to the characteristic landscape should be very low and must not attract attention. There are 647,391 acres designated as VRM Class I in the proposed project area.

- a. Hand cutting of sagebrush will be allowed in all historic properties provided cut material is lopped and scattered away from features and dense artifact concentrations that might be damaged. Hand cutting of juniper may occur within a historic property as determined by a BLM cultural resource specialist and will be dependent upon density of juniper and the presence of features or artifacts. In some cases, directional felling may be appropriate. The presence of an archaeological monitor may be necessary when treatments are occurring within a historic property. Hand cutting will not occur in any historic property that a BLM cultural resource specialist determines might be adversely affected by hand cutting.
3. Chipping of cut materials will not occur on historic properties due to the disturbance caused by mechanical equipment and human activity around the equipment. Chipping also creates a bed of flammable material that, depending on the thickness, could produce high temperatures over a long duration that may adversely affect certain archaeological materials such as wood, obsidian or ceramics.
  4. Seeding may occur in a historic property using hand seeders or UTV/ATV mounted broadcast seeders. On a case by case basis, a minimum till, no-till or standard rangeland drill, pulled by rubber-tired tractor, with depth bands may be used in a historic property. Soils should be firm (not wet or saturated) and, to minimize soil disturbance, the vehicle will not turn in the historic property. The use of a minimum or no-till drill that only impacts the soil surface will protect criterion D requirements for eligibility by not impacting those characteristics that may make the site eligible for listing on the NRHP. The use of a track-driven bulldozer to pull a rangeland drill will not be allowed in any historic property, unless the displacement factor can be shown to be equal to or less than rubber-tired equipment. Track-driven vehicles will not turn in any historic property. Dragging chains or tires to minimize the visual impact of drill rows will not occur in historic properties.
    - a. In Idaho, drill seeding may be allowed in lithic scatter sites where there are only lithic flakes that are widely dispersed and no known diagnostic artifacts and where soils are firm and not wet or saturated. In Oregon, drill seeding within a lithic scatter will be consulted on with SHPO on a case-by-case basis.
    - b. Drill seeding will not occur in sites with features, in historic artifact scatter sites, prehistoric artifact scatter sites with multiple artifact types (such as ceramics or groundstone) which may indicate multiple activity types and patterning that may be more sensitive to ground disturbance, or any site that a BLM cultural resource specialist determines might be adversely effected by drill seeding.
    - c. Drill seeding will not be allowed within 15 meters of extant NRHP eligible or unevaluated trail ruts, and the equipment must travel parallel to the ruts only crossing perpendicularly, if needed, at locations determined by a BLM cultural resource specialist. Herbicide treatments and broadcast seeding of native vegetation is preferable within the 15 meter buffer, however, seeding of prostrate kochia would be acceptable in areas where native vegetation has been replaced with non-native invasive vegetation. If the NRHP eligible trail is the existing fuel break road then drill seeding may come to the edge of the roadway.
    - d. Disking will not occur in any known historic property. Disking will not be allowed within 15 meters of extant NRHP eligible trail ruts, and the equipment must travel parallel to the ruts only crossing perpendicularly, if needed, at locations determined by a BLM cultural resource specialist. If the NRHP eligible trail is the existing fuel break road, then disking may come to the edge of the roadway. Disking along NRHP eligible or potentially eligible roads or trails is acceptable only if the existing vegetation is not native. Although planting of native vegetation is preferable, planting of prostrate kochia



would be acceptable in areas where the native vegetation has been replaced with non-native invasive vegetation.

5. Herbicide application will not occur where it is likely to affect rock art images or traditional Native American plant gathering areas as determined in consultation with affected Tribes. Additionally, herbicides will only be applied in a historic property by hand/backpack sprayer, or aerially, or with a UTV/ATV mounted sprayer provided soils are not wet or saturated, or by a tractor sprayer with a boom from a tractor that does not leave the road.

6. Purposeful piling of cut vegetation and then burning those piles will not occur in any historic property. Prescribed burning of tumbleweeds may occur in historic properties on a case by case basis depending on site characteristics and whether extant archaeological materials are combustible or artifacts or features would be damaged. In some cases, site characteristics may warrant removal of tumbleweeds prior to burning. Tumbleweeds will be pulled away from known rock art as far as needed to avoid potential damage to rock art from ash, flames and excessive heat. The distance tumbleweeds would be pulled from rock art would be determined in consultation between the fuel's expert and BLM archaeologist.

a. Tumbleweed burning will be allowed in all site types that do not contain combustible materials, unless a BLM cultural resource specialist determines a historic property might be adversely affected by tumbleweed burning.

7. If historic properties are present in targeted grazing areas, any range improvements or installations planned to support grazing will be placed 250 feet or farther from the outer boundary of the property, unless physical barriers, such as fences, canyon rims or cliffs, are already present. Range improvements or installations will not be placed along NRHP eligible or potentially eligible named historic roads or trails unless natural topography or vegetation will hide or screen the improvement in order to minimize the visual impact.

8. Historic properties in the mineral material sites will be avoided. If cultural resources are discovered during development of mineral material sites, operations would cease until the cultural resource has been evaluated and any necessary consultation has occurred.

9. Using heavy equipment to blade roadbed vegetation where the road passes through an historic property will not occur. Within historic properties acceptable treatment methods to remove roadbed vegetation would include herbicide spraying and/or hand cutting of vegetation. Vegetation removed from the roadbed must be scattered and not piled within a site. If there is a significant concentration of vegetation removed from the roadbed it should be piled outside the site boundary if feasible. The mechanical blading of roadbed vegetation within a NRHP eligible road will only occur if the roadbed has been bladed in the past, which is evidenced by existing berms along the side of the road. But blading would not occur where there is woody vegetation in or tightly encroaching on the road even if it has been bladed in the past. In no instance will the NRHP eligible road be widened. Any historic features associated with the road will be avoided by mechanical vegetation removal activities.

10. If historic properties will be avoided or the project modified within the property, the property will be marked with lath, flagging, temporary avoidance fencing, or by using GPS buffers, as appropriate, for the selected treatment method. Any physical marking that might clearly indicate the presence of a cultural resource site will be removed immediately after the treatment has been completed.

## 2. Resolution of Adverse Effects

a. If the BLM determines that a treatment will have an adverse effect on one or more historic properties, the BLM will prepare written documentation of the following findings and provide this documentation to the appropriate consulting parties for comment:

- i. Determination of National Register eligibility of a property, including any reevaluations under additional criteria.
  - ii. Determinations of the undertaking's effect on the historic property.
  - iii. Proposed mitigation measures to resolve the undertaking's adverse effects on the historic property.
- b. The consulting parties shall have 30 calendar days to comment after receipt of this property-specific documentation. The BLM shall consider all comments.
- c. If objections are raised, the BLM shall continue consultation in an attempt to resolve the objection. If the parties are unable to resolve the dispute, resolution procedures in Stipulation VII.2 will be followed.
- d. If no comments are received, the BLM may proceed with their proposed plan.

**Stipulation II. Reporting**

1. The BLM will submit inventory reports and spatial data to the Idaho and Oregon SHPOs, as appropriate, for concurrence on site National Register eligibility and project effects within one year of survey completion and prior to project implementation.
2. The BLM will provide the SHPOs with project reports containing the following:
  - a. List and map of all treatments proposed for implementation
  - b. List and map of surveys completed
  - c. List and map of previous adequate survey
  - d. List and map of previously recorded sites, updated sites and/or new sites recorded
  - e. List of treatments where there will be no effect on historic properties.

**Stipulation III. Consultation with Indian Tribes**

1. Through consultation with the appropriate Tribes, the BLM will identify and evaluate historic properties to which Native Americans attach religious or cultural significance, pursuant to 36 CFR 800.2(c)(2)(ii). Consultation on identification, evaluation, and treatment efforts shall be consistent with BLM Manual H-1780-1.

**Stipulation IV. Protecting Sensitive Information Related to Historic Properties**

1. The parties to the PA acknowledge that historic properties covered by this PA are subject to the provisions of Section 304 of the NHPA relating to the nondisclosure of sensitive information about the location, character, and ownership of a historic property, including historic properties of traditional religious and cultural importance to Indian Tribes, and having so acknowledged, will ensure that all actions and documentation prescribed by this PA are consistent with the Act. The BLM may require data sharing agreements with parties interested in obtaining confidential information.
2. Information considered proprietary by Native Americans will be held confidential to the extent provided by Federal law. 16 U.S.C. §470hh (a) of the Archaeological Resources Protection Act (ARPA) of 1979 restricts the disclosure of information concerning the nature and location of any archaeological resource to the public. Section 304 (54 U.S.C. § 307103) of the NHPA also authorizes the authority to withhold from disclosure to the public, information concerning the location, character, or ownership of a historic resource.

**Stipulation V. Post Review Discovery Procedures**

In the event that historic properties are discovered during project implementation of an Undertaking that has been duly considered under the terms of this PA and in which the property cannot be protected, the BLM will address the discovery in accordance with the provisions of 36

CFR § 800.13(b). In consultation with the SHPO, Concurring Parties, and any Tribes that might attach religious or cultural significance to the affected historic property, the BLM will select the appropriate mitigation option.

**Stipulation VI. Professional Qualifications**

The BLM will ensure that all actions taken by employees or contractors of the agency shall meet professional standards under regulations developed by the Secretary of the Interior in accordance with 36 CFR 800.2(a)(1) and Section 112(a)(1)(A) of the NHPA (54 U.S.C. § 306131(a)(1)(A)).

**Stipulation VII. Dispute Resolution**

1. Any party to this Agreement may object to any activities proposed or the manner in which the terms of this Agreement are implemented. The objecting party must submit the objections and the reasons for the objections to the BLM in writing. The BLM will consult with the objecting party and the other parties to this Agreement to resolve the objections within 30 calendar days.
2. If the BLM determines that the objection cannot be resolved, the BLM will request the assistance of the ACHP to help resolve the objection. If the ACHP does not provide advice within 30 days, the BLM may make a final determination on the dispute and proceed accordingly. The BLM will prepare a written response that addresses any comments from parties to this Agreement and any advice from the ACHP, and provide this written response to all parties in the Agreement.
3. The BLM's responsibility to carry out all other actions subject to the terms of this Agreement that are not the subject of the dispute remain unchanged.

**Stipulation VIII. Amendment**

1. Signatories and Invited Signatories of this Agreement may request an amendment to the Agreement by providing proposed changes in writing to all parties. The parties will consult for no more than 30 calendar days. The amendment will be effective on the date the amendment is signed by all Signatories. If the amendment is not signed within 30 days of receipt, or if all the Signatories do not agree to the amendment, the Agreement will remain unchanged.

**Stipulation IX. Termination**

1. If any Signatory or Invited Signatory determines that its terms will not or cannot be carried out, that party will immediately provide written notice to all other parties stating the reason for the determination. The Signatories will consult to attempt to develop an amendment (Stipulation M). If within 60 calendar days an amendment cannot be reached, any Signatory or Invited Signatory may terminate the Agreement with written notice to the other parties.
2. If an individual SHPO terminates their participation in this Agreement, that termination will apply only within the jurisdiction of that SHPO.

**Stipulation X. Execution**

1. Execution and implementation of this Agreement evidences that the BLM has satisfied its Section 106 responsibilities for all actions associated with the Tri-state Fuel Breaks Project EIS.
2. In the event that BLM does not carry out the requirements of this Agreement, BLM shall comply with 36 CFR 800 (dated 2004) with regard to individual actions associated with Undertakings.
3. This Agreement shall become effective on the date of the last signature below, and shall remain effective, unless terminated as provided in Stipulation N, until the project is completed or 15 years from the effective date, whichever comes first. If the project continues past 15 years, this

PA will be extended in 5 year increments, provided all parties agree and no significant changes in the project have occurred, until the project is completed.

4. Five years after the effective date of this Agreement, the Oregon BLM will meet with Oregon SHPO to provide a project implementation update.
5. New Invited Signatories or Concurring Parties may be added to this PA through written request to the BLM. The addition of new Invited Signatories or Concurring Parties does not alter the term of the PA established upon original execution.

## SIGNATORIES

### IDAHO BUREAU OF LAND MANAGEMENT

By: \_\_\_\_\_  
Lara Douglas, Boise District Manager

Date:

### OREGON BUREAU OF LAND MANAGEMENT

By: \_\_\_\_\_  
Donald Gonzalez, Vale District Manager

Date:

### IDAHO STATE HISTORIC PRESERVATION OFFICE

By: \_\_\_\_\_  
Janet Gallimore, Historical Society Director

Date:

### OREGON STATE HISTORIC PRESERVATION OFFICE

By: \_\_\_\_\_  
Christine Curran, Deputy State Historic Preservation Officer

Date: