

## **Programmatic Agreement**

**Among  
The National Park Service  
The Arizona State Historic Preservation Office  
And  
The Utah State Historic Preservation Office**

### **Regarding Off-road Vehicle Management Plan for Glen Canyon National Recreation Area**

**WHEREAS**, the National Park Service (NPS) is developing an Off-road Vehicle (ORV) Management Plan to manage off-road use of motor vehicles and on-road use of off-highway vehicles (OHVs) and street-legal all-terrain vehicles (ATVs) at Glen Canyon National Recreation Area (Glen Canyon); and

**WHEREAS**, the U.S. Congress established Glen Canyon on October 27, 1972 " ... to provide for public outdoor recreation use and enjoyment of Lake Powell and lands adjacent thereto in the States of Arizona and Utah and to preserve scenic, scientific, and historic features contributing to public enjoyment of the area" (Public Law 92-593); and

**WHEREAS**, Executive Orders 11644 and 11989 (Use of off-road vehicles on public lands) and NPS laws, regulations and policies direct that the designation of areas and routes for the use of ORVs be based on the protection of resources of the public lands, promotion of the safety of all users of those lands, and minimization of conflicts among the various uses of those lands, and that these areas and routes be located to minimize impacts to soil, watershed, vegetation or other resources of the public lands; and

**WHEREAS**, NPS regulation 36 CFR §4.10 provides for the designation of areas and routes for ORV use and prohibits the operation of motor vehicles except on park roads, in parking areas, and on designated ORV routes and areas; and

**WHEREAS**, NPS completed responsibilities under applicable laws and regulations for prior planning efforts relevant to the current undertaking to include an Environmental Impact Statement and General Management Plan (GMP) (1979) designating the current GMP road system and shoreline areas where road access would be permitted within Glen Canyon; an Environmental Assessment and Development Concept Plan for Lone Rock Beach (1981) to provide management actions and visitor facilities for recreational use of the beach and to designate a 180-acre ORV high-intensity use area contiguous to the beach; and an Environmental Assessment and Development Concept Plan for Lake Powell's Accessible Shorelines (1988) to manage 20 shoreline sites with road access in order to reduce resource degradation, visitor use conflicts, and safety hazards; and

**WHEREAS**, NPS, in response to the current undertaking, has prepared an Off-road Vehicle Management Plan/Draft Environmental Impact Statement (DEIS) to evaluate the suitability of conventional and non-conventional motor vehicle use at accessible shorelines, to evaluate the designation of ORV routes in other areas of Glen Canyon, and to evaluate the use of OHVs and street-legal ATVs on Glen Canyon's designated road system, and has examined the relative effects of the proposed alternatives on known historic properties; and

**WHEREAS**, NPS is responsible for complying with the National Historic Preservation Act (NHPA) (16 U.S.C. 470 et seq.) and has determined that the development of the ORV Management Plan and the designation and use of ORV areas and routes are in the aggregate, an undertaking subject to Section 106

of NHPA and its implementing regulations at 36 CFR Part 800, and that the undertaking has the potential to cause direct, indirect, and cumulative effects which may result in adverse effects to historic properties listed in or eligible for listing in the National Register of Historic Places (NRHP); and

**WHEREAS**, NPS prepared the document entitled "Clarification of Cultural Resource Considerations for the Glen Canyon National Recreation Area Off-Road Vehicle Management Plan/ Environmental Impact Statement" to provide guidance for compliance with Section 106 concerning designation and management of areas for ORV use, with attention toward defining the area of potential effects (APE) and the appropriate level of effort for identification of historic properties within the APE; and

**WHEREAS**, the APE, as described below in Stipulation II, encompasses all elements of the undertaking to include the designation and use of ORV areas and routes; and

**WHEREAS**, the responsibilities of the State Historic Preservation Office under Section 106 of the NHPA and 36 CFR Part 800 are to advise, assist, review, and consult with Federal agencies as they carry out their historic preservation responsibilities and to respond to Federal agency's requests for review and comment;

**WHEREAS**, NPS has entered into Section 106 consultation with the Arizona State Historic Preservation Officer (AZSHPO), the Utah State Historic Preservation Officer (UTSHPO), associated Indian tribes, and additional consulting parties inclusive of Traditionally Associated Peoples (Appendix A) regarding the designation of an APE for this undertaking (36 CFR §800.4(a)(1)), the appropriate level of effort for identification of historic properties within the APE (36 CFR §800.4(b)(1)), and determinations of eligibility (36 CFR §800.4(c)(2)) and effect (36 CFR 800.5); and

**WHEREAS**, NPS received concurrence from the AZSHPO and the UTSHPO on the designation of the APE, the recommended reasonable and good-faith efforts to carry out appropriate identification efforts, and the determinations of eligibility and effect; and

**WHEREAS**, NPS completed the proposed inventories consisting of Class I inventory of the APE provided in the Off-road Vehicle Management Plan/DEIS, Class II and Class III inventory of the primary area of impact at accessible shorelines provided in "Archaeological Inventory of the Glen Canyon National Recreation Area Accessible Shorelines", and Class III inventory of proposed routes provided in "Cultural Resources Inventory and Significance Evaluations in Ferry Swale, Glen Canyon National Recreation Area, Coconino County, Arizona and Kane County, Utah"; and

**WHEREAS**, NPS identified that portions of the APE and surrounding area have been subject to multiple cultural resources inventories in the past and contain historic and prehistoric archeological sites and properties of traditional religious and cultural significance determined to be eligible for listing to the NRHP, and that those properties have the potential to be adversely affected by the undertaking; and

**WHEREAS**, NPS determined that some portions of the APE having not received Class III inventory may contain additional historic properties, inclusive of Traditional Cultural Properties (TCPs), as well as other properties of traditional religious and cultural importance, sacred sites, and/or cultural items that have the potential to be adversely affected by the undertaking; and

**WHEREAS**, NPS, pursuant to 36 CFR §800.6(a)(1), has notified the Advisory Council on Historic Preservation (ACHP) on June 13, 2014 of a finding of adverse effect for the ORV Management Plan undertaking, provided the documentation specified in 36 CFR §800.11(e), and has invited the ACHP to participate in consultations on the undertaking and the ACHP has declined the invitation on August 28, 2014; and

**WHEREAS**, 36 CFR §800.14(b)(3) provides for developing a programmatic agreement (PA) for complex or multiple undertakings and 36 CFR §800.14(b)(1)(i)-(ii) provide for developing a PA when effects on historic properties are multi-state in scope and cannot be fully determined prior to approval of an undertaking; and

**WHEREAS**, 36 CFR §800.4(b)(2) provides for phased identification and evaluation of historic properties where alternatives consist of large land areas, and for the deferral of final identification and evaluation of historic properties when provided for in a PA executed pursuant to 36 CFR §800.14(b); and

**WHEREAS**, the NPS has determined through I06 consultation that a phased process for compliance with Section 106 of NHPA is appropriate for the ORV Management Plan 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 set forth in this PA; and

**WHEREAS**, NPS has consulted with the Navajo Nation, the Hopi Tribe, the Kaibab Band of Paiute Indians, the San Juan Southern Paiute Tribe, the Ute Mountain Ute Tribe, the Paiute Indian Tribe of Utah, and the Pueblo of Zuni regarding places of religious and cultural significance that may be affected by the undertaking and has invited these tribes to participate in the PA as concurring parties; and

**WHEREAS**, NPS has provided adequate opportunities for public involvement pursuant to 36 CFR §800.2(d)(3) through use of agency procedures under the National Environmental Policy Act (NEPA) and documented the comments and views of the public through the NEPA process, which include in part concerns for Ancestral Puebloan, recent American Indian and pioneer homesteading resources; concern for effects of dust on rock art; concern for increased access to historic properties; concern for resources at adjacent or nearby NPS units; concern for the efficacy of signing and enforcement; concern about increased access leading to vandalism and theft of cultural resources; and concern for inadequate inventory of historic properties; and

**WHEREAS**, unless defined in this PA at Appendix B, all terms are used in accordance with 36 CFR Part 800; and

**WHEREAS**, the AZSHPO and UTSHPO are signatory parties to this PA;

**NOW, THEREFORE**, the signatory parties and the concurring parties (the Parties) agree that the ORV Management Plan undertaking shall be administered in accordance with the terms of this PA to take into account the effect of the undertaking on historic properties and to satisfy the Section 106 requirements for all aspects of the undertaking.

### STIPULATIONS

The NPS will ensure that the following stipulations are implemented:

#### I. REQUIREMENTS

- I) NPS will be the responsible federal agency for implementing this PA. Its roles and responsibilities include ensuring that the Parties carry out their responsibilities, as applicable; consulting with American Indian tribal governments; overseeing all cultural resource work; issuing requests for review and comment from the Parties on eligibility, effect, and resolution of

adverse effects, as needed; and preparation of treatment plans, reports of findings, and other relevant documents.

- 2) Nothing in this PA would affect the programmatic guidance for other activities related to the Section 106 compliance process provided within the 2008 Servicewide Programmatic Agreement (Appendix C) among the NPS, the ACHP, and the National Conference of State Historic Preservation Officers for compliance with Section 106 of the NHPA. However, this PA does supersede the 1988 Programmatic Agreement (Appendix D) between the NPS, AZSHPO, UTSHPO, and ACHP for the purpose of further delineating their respective responsibilities with respect to the Development Concept Plan for Lake Powell's Accessible Shorelines.
- 3) NPS will implement this PA in accordance with its responsibilities for the undertaking under:
  - a. The National Park Service Organic Act of 1916 (16 U.S.C. 1)
  - b. Sections 106 and 110 of the National Historic Preservation Act of 1966 (16 U.S.C 470 et seq.), and the Section 106 implementing regulations at 36 CFR Part 800
  - c. The National Environmental Policy Act of 1969 (42 U.S.C 4321 et seq.)
  - d. Redwoods National Park Expansion Act of 1978 (amending 16 U.S.C. 1a-1)
  - e. Archaeological Resources Protection Act of 1979 (16 U.S.C. 470 et seq.) and its implementing regulations at 43 CFR Part 7
  - f. The Native American Grave Protection and Repatriation Act of 1990 (25 U.S.C. 3001 et seq.) and its implementing regulations at 43 CFR Part 10
  - g. The Programmatic Agreement among the National Park Service (U.S. Department of the Interior), the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers for Compliance with Section 106 of the National Historic Preservation Act (2008)
  - h. Executive Orders 11644 and 11989 (Use of off-road vehicles on public lands)
  - i. Executive Order 13007 (Indian Sacred Sites)
  - J. Executive Order 13175 (Government-to-Government Consultation)
- 4) NPS will ensure that all cultural resources investigations performed under the terms of this PA will abide by the following standards and guidelines:
  - a. The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (1983, as amended and annotated)
  - b. The Glen Canyon National Recreation Area Resource Management Plan, Cultural Component (1987)
  - c. National Register Bulletin 38: Guidelines for Documenting and Evaluation Traditional Cultural Properties (1990)

- d. The Glen Canyon National Recreation Area Archaeological Resources Protection Plan (2002, as amended)
  - e. National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation (Revised 1997)
  - f. NPS-28: Cultural Resource Management Guideline (1998)
  - g. National Park Service Management Policies: Cultural Resource Management (2006)
  - h. Operating Procedures for Submission of Archaeological and Building Survey Reports to the Utah SHPO as part of consultation under Section 106 of the National Historic Preservation Act and / or Utah Code 9-8-404 (2007)
  - i. Consultation with Indian tribes in the Section 106 Process: A Handbook (2008)
  - J. Arizona Reporting Standards for Cultural Resources (2012)
  - k. Memorandum of Understanding among the U.S. Department of Defense, U.S. Department of the Interior, U.S. Department of Agriculture, U.S. Department of Energy, and the Advisory Council on Historic Preservation Regarding Interagency Coordination and Collaboration for the Protection of Indian Sacred Sites (2012)
- 5) NPS will further ensure that all research, field work, documentation, analysis, and report production performed under the terms of this PA will be conducted by, or under the supervisions of, a qualified professional. A qualified professional meets the Secretary of the Interior's qualifications for archeology, architectural history, historic architecture, cultural anthropology or history, as appropriate [Federal Register: June 20, 1997 (Volume 62, Number 119)][Page 33707-33723].
- 6) NPS will be responsible for ensuring that the consulting parties are kept informed regarding the ORV Management Plan undertaking and the performance of this PA. The Parties to this agreement will assist NPS in meeting its responsibilities over the life of the undertaking.

## II. AREA OF POTENTIAL EFFECT (APE) FOR THE ORV MANAGEMENT PLAN

- 1) The NPS, in consultation with the AZSHPO, UTSHPO, and other consulting parties, has defined and documented the APE based on direct, indirect, and cumulative effects. The APE will encompass all lands that may be affected by elements of the undertaking to include the designation and use of ORV areas and routes. The NPS may modify the APE in accordance with provisions (6) and (7) of this stipulation.
- 2) The APE is defined as follows (See maps in Appendix E):
  - a. Accessible Shoreline ORV Areas: The area including the 1988 ORV area designations at full pool elevation (3,700') for Lake Powell and extending below to the current and fluctuating shorelines, and limited by a 35 degree slope as the restricting limit of accessibility for ORV use to define the primary area of impact (PAI) plus an additional 0.5 mile buffer zone extending beyond these limits to define the secondary area of impact (SAI).

- b. Lone Rock Beach Play Area: The fence-enclosed 180-acre area that is open to high-intensity ATV and motor vehicle use.
  - c. Park Roads and Designated ORV Routes: An area 120 meters wide, measured as 60 meters on either side of the centerline, and extending the length of the road or route.
- 3) Direct effects are anticipated to occur within the accessible shoreline primary areas of impact, within the entire Lone Rock Beach Play Area, within the footprint of the travel lane of roads extending up to 10 meters from either side of the centerline, and within the travel lane of ORV routes extending up to four meters from either side of the centerline.
  - 4) Indirect effects may occur within the accessible shoreline secondary areas of impact, within the area outside of the travel lane of roads between 10 meters and 60 meters on either side of the centerline, and within the area outside of the travel lane of ORV routes between four meters and 60 meters on either side of the centerline.
  - 5) For the purposes of this PA, the consideration of cumulative effects is the same as that for direct and indirect effects. The cumulative effects may be direct and indirect and result from incremental effects related to the undertaking over time, e.g., an increase in authorized and unauthorized access because of new routes and off-road use by an additional class of motor vehicle.
  - 6) Should NPS propose changes to the APE, NPS shall then consult with the applicable Parties to the PA for concurrence with the changes, and continue consultation to identify and evaluate any historic properties in the amended portion of the APE that may be affected and to resolve any adverse effects.
  - 7) Any of the Parties to this PA may propose that the APE be modified. The NPS shall send all Parties to this PA a description and a map of the modification and consult with them for no more than 30 days in an effort to reach consensus on the proposal. Agreement to amend the APE will not require an amendment to the PA. If all the Parties cannot agree to a proposal for the modification of the APE, then the NPS will consider their concerns and will render a final decision.

### III. IDENTIFICATION AND EVALUATION

- 1) Pursuant to 36 CFR §800.4, the NPS shall identify additional historic properties, including TCPs and/or sacred sites, that may be affected by the undertaking and gather sufficient information to evaluate the eligibility of these properties for the NRHP. Information shall be obtained through cultural resources inventories and/or other appropriate investigations inclusive of consultation with appropriate parties. Identification of historic properties shall follow the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716), applicable SHPO guidelines, and agency programs and guidelines to meet the requirements of Section 110(a)(2) of NHPA. NPS shall ensure that professional historians, archaeologists and cultural anthropologists meeting the professional qualifications requirements cited in Stipulation I (5) will conduct the cultural resources inventories. The NPS shall also depend upon the expertise of the Indian tribes in determining what is significant to tribes.

- 2) The NPS shall continue to develop Geographic Information Systems (GIS) databases to create zonal management models that will inform the prioritization of the phasing of identification and evaluation efforts. The following two models will be developed and validated prior to making determinations about the location and timing of cultural resources inventory and site evaluation protocols within different probability/sensitivity zones or in response to triggering parameters.
  - a. *Archeological Sensitivity Model*: The basis for an archeological sensitivity model is to inform the location and timing of cultural resources inventory and site evaluation protocols for those portions of GMP roads and ORV routes that have not received adequate identification efforts. This type of GIS model will allow for the examination of associations between a range of archeological and environmental variables that are thought to influence human behavior and the selection of site locations. Cultural resources inventory and site evaluation protocols may then be determined and prioritized based on different probability/sensitivity zones.
  - b. *Trigger-Point Model*: The basis for a trigger-point model is to inform the location and timing of cultural resources inventory and site evaluation protocols for Lone Rock Beach and accessible shorelines at Glen Canyon in response to the potential for decreasing water elevations of Lake Powell and the exposure of documented and previously unidentified cultural resources. This type of GIS model will allow for the quantification of shoreline exposure, where cultural resources inventory and site evaluation protocols may be triggered by established parameters derived from the analysis of topographic and environmental variables, and the exposure of documented historic and prehistoric archeological sites inundated by the filling of Lake Powell.
- 3) Initial model development and validation efforts will be completed within one year of promulgating the special regulations under 36 CFR §4.10 describing the routes and areas designated for ORV use. Ongoing validation and refinement efforts will occur as new data is generated. Based on the results of the GIS-based zonal management models, the NPS in consultation with the Parties will determine appropriate cultural resources inventory and site evaluation protocols. Implementation of the protocols will begin within one year of their determination and continue in prioritized order until completed. Demonstration of annual progress will be available for review by the consulting parties following the provisions in Stipulations III (6) and VI (8).
- 4) Where the NPS has determined through Section 106 consultation that the agency's identification and evaluation obligations have been met at specific locations through Class III inventory, the following areas will not require additional inventory and evaluation efforts unless modifications to the APE occur below 3600 feet in elevation following Stipulations II (6) and (7):
  - a. Lone Rock Beach Play Area
  - b. Dirty Devil Accessible Shoreline - PAI
  - c. White Canyon Accessible Shoreline - PAI
  - d. Paiute Canyon Accessible Shoreline - PAI
  - e. Neskahi Accessible Shoreline - PAI

f. Copper Canyon Accessible Shoreline - PAI

g. Ferry Swale ORV Routes

- 5) Following inventory, NPS, in consultation with the Parties, shall determine the NRHP eligibility of all newly recorded cultural resources in the APE in accordance with 36 CFR §800.4(c). Where previously documented historic properties occurring within the APE have not been evaluated for eligibility to the NRHP, the NPS shall utilize the identification efforts described in Stipulation III (1) to update site information and evaluate historic significance through application of the National Register Criteria. NPS shall also follow the *National Register Bulletin 15: How to Apply the National Register Criteria/or Evaluation* and the *National Register Bulletin 38: Guidelines for Documenting and Evaluation Traditional Cultural Properties*. Evaluation of previously documented sites will begin within one year of the execution of this PA.
- 6) NPS shall ensure that copies of inventory reports containing recommendations of NRHP eligibility are submitted for initial review to the Parties. The review period for identification and evaluation will be 30 calendar days. Any comments NPS receives within the review period will be considered in making revisions to the inventory report. If by the end of that period NPS receives no response from one or more Parties, NPS will assume that those Parties have no objections to the inventory reports as submitted and the NRHP eligibility determinations as proposed.
- 7) If comments are received during the initial review, NPS will revise the inventory reports as necessary and provide the revised reports to the appropriate Parties for a final review. The review period for identification and evaluation will be 30 calendar days. Any comments NPS receives within the review period will be considered in making its final determination. If by the end of that period NPS receives no response from one or more Parties, NPS will assume that those Parties have no objections to the inventory reports as submitted and the NRHP eligibility determinations as proposed.
- 8) Any signatory party with whom NPS consults under this PA may object to NPS' NRHP determinations by submitting the objection in writing to NPS. NPS will attempt to resolve the objection following the provisions for dispute resolution in Stipulation VI (5). If, however, those efforts are unsuccessful, NPS shall request a formal determination from the Keeper of the National Register. The Keeper's determination will be final.
- 9) If the NPS and applicable Parties agree that the cultural resource is no eligible for listing in the NRHP, no further review or consideration under this PA will be required for such cultural resource.
- 10) If the NPS and applicable Parties agree that the cultural resource is eligible for listing in the NRHP, then effect determinations will be made in accordance with Stipulation IV.

#### IV. ASSESSMENT OF EFFECTS

- 1) After applying the criteria of adverse effect, NPS has determined that this undertaking possesses the potential to adversely affect documented and previously unidentified historic properties. These effects are anticipated to occur at some (but not all) of the historic properties located within and adjacent to GMP roads and proposed ORV routes, and within proposed ORV areas at accessible shorelines.



- 2) While NPS recognizes that authorizing the use of additional classes of vehicles on existing GMP roads, proposed ORV routes, and within proposed ORV areas at accessible shorelines has the potential to adversely affect historic properties, the nature, severity, and timing of those effects are anticipated to vary by context. The extent of effects is expected to be most apparent where the roads, routes, and areas intersect with site boundaries. Sites located outside of the GMP roads, proposed ORV routes, and ORV areas are expected to be less susceptible to direct impacts from motorized vehicle use, although indirect impacts from visitation may increase.
- 3) Motorized vehicle operation within the previously disturbed footprint of existing GMP roads and proposed ORV routes is not anticipated to result in adverse effects beyond those that have already occurred through historic use, except in cases where subsurface cultural materials may be impacted at historic properties where they occur within the transportation alignment. Sites located on exposed slickrock or possessing shallow depositional contexts have experienced relatively minor disturbances from motorized vehicle use. On the other hand, sites located in more substantial and loosely consolidated depositional contexts have experienced a greater severity of disturbance from road bed incision and increased erosion resulting in altered surface assemblages or disturbed subsurface remains. Reasonably foreseeable direct effects may occur if existing transportation alignments shift, such as in response to natural impacts or obstacles impeding travel, or where unauthorized off-road use departs from the existing GMP roads or proposed ORV routes.
- 4) Furthermore, NPS recognizes that motorized vehicle use may increase the accessibility of historic properties in the vicinity of the existing GMP roads and proposed ORV routes and areas which may result in reasonably foreseeable indirect impacts by visitors through unintentional and intentional vandalism. Intentional vandalism may occur as site damage or destruction from illegal excavation, graffiti, and the collection of surface artifacts. Unintentional vandalism may result from the development of social trails, unauthorized camping, littering, and any other recreation impacts at sites with fragile features or components.
- 5) Whenever feasible, NPS shall ensure that management and recreation activities avoid or minimize effects to historic properties within the APE. Avoidance and minimization will be achieved through the following procedures:
  - a. Avoidance: Activities that may cause effect will be conducted outside a 100 foot buffer around each historic property. The NPS may use fencing or other temporary barriers to achieve avoidance provided there will be no effect to historic properties. Temporary barriers will be removed after the activity has ceased. If through avoidance an unanticipated archaeological discovery is made, the operator will follow the procedures in Stipulation VI (3).
  - b. Monitoring: Activities that may cause effect that are outside of the defined limits of the historic property but within the 100 foot buffer area will be monitored by a qualified professional. The NPS will ensure that a qualified professional is in position to monitor the activity. Monitors will be granted the authority to guide the activity to ensure avoidance. If through monitoring an unanticipated archaeological discovery is made, the operator will follow the procedures in Stipulation VI (3).
- 6) NPS further recognizes the need to use a phased process in applying the criteria of adverse effect consistent with the phased identification and evaluation efforts conducted pursuant to 36 CFR §800.4(b)(2).

- 7) NPS shall assess and determine the effects of the undertaking on historic properties subject to this agreement in accordance with 36 CFR Part 800. NPS will make one of three possible findings:
  - a. A finding of *No Historic Properties 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; or
  - b. A finding of *No Adverse Effect* would result when the undertaking will have an effect on a historic property within the APE, but the effect will not diminish the aspects of integrity nor the characteristics that make the property eligible for listing in the NRHP; or
  - c. A finding of *Adverse Effect* would result when the 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.
- 8) For findings of *No Historic Properties Affected* and *No Adverse Effect*, the NPS shall provide documentation of the finding to the appropriate SHPO and notify the remaining Parties without further review or additional consultation provided that:
  - a. NPS findings are not subject to objection as provided for in Stipulation IV (10).
  - b. NPS has completed review to ensure identification and evaluation of historic properties in the APE has been completed according to Stipulation III, and that adequate information has been compiled to identify and evaluate the effects of the undertaking on historic properties.
  - c. NPS has consulted with the appropriate Indian Tribe(s) and additional consulting parties as appropriate regarding possible effects to properties of traditional religious and cultural importance and/or sacred sites that may not be eligible for inclusion in the NRHP.
  - d. NPS has determined that the undertaking will not affect or will not adversely affect historic properties in accordance with the criteria of adverse effect at 36 §CFR 800.5.
- 9) For findings of *Adverse Effect*, NPS shall consult further to resolve the adverse effect pursuant to 36 §CFR 800.6 and as described in Stipulation V.
- 10) NPS shall consult with the appropriate SHPO, Indian Tribe(s), additional consulting parties inclusive of Traditionally Associated Peoples and/or the NPS Department of Interior for National Historic Landmarks (NHLs), and shall, where appropriate, invite ACHP participation when any of the following criteria are met:
  - a. The undertaking affects NHLs, or properties of national significance listed on the NRHP.
  - b. The undertaking affects a human burial.
  - c. The undertaking adversely affects TCPs or properties of traditional religious and cultural importance and/or sacred sites that may not be eligible for inclusion in the NRHP.

- d. The undertaking adversely affects the physical integrity, or restricts access to or ceremonial use, of a sacred site.
- 11) The period for reviewing NPS finding of effects will be 30 calendar days. Any comments NPS receives within the review period will be considered in making its assessment. If by the end of that period NPS receives no comments from one or more Parties, NPS will assume that those Parties have no objections to the findings of effects as proposed.
  - 12) Any Party with whom NPS consults under this PA may object to NPS's finding of effects by submitting the objection in writing to NPS. NPS shall resolve the objection following the provisions for dispute resolution in Stipulation VI (5).

## V. RESOLUTION OF ADVERSE EFFECTS

- l) NPS shall make every reasonable effort to avoid adverse effects to historic properties identified according to Stipulation III. NPS will also implement the following elements of the ORV Management Plan as proactive approaches to resolve potential adverse effects:
  - a. Develop communication strategy.
    - i. Conduct outreach to visitors pre-visit through several governmental and non-governmental sources to provide information about where to operate ORVs in Glen Canyon; the laws and regulations pertaining to ORV use and resource protection; safety information and training related to ORV use; and how ORV use can impact cultural resources. These sources may include but are not limited to the Glen Canyon website, social media and information from the public information office.
    - ii. Develop partnerships with governmental and non-governmental off-roading groups and other appropriate entities to develop community awareness regarding on- and off-road ATV and OHV use and the stewardship of Glen Canyon's resources and values.
    - m. Post information signs and/or bulletin boards on park roads and at designated ORV areas and routes.
    - iv. Develop a volunteer stewardship program in partnership with governmental and non-governmental entities to enlist volunteers in the stewardship of cultural resources within Glen Canyon that can include, but is not limited to:
      1. Posting of signs
      2. Closing undesignated ORV routes
      3. Assisting with the reestablishment of native vegetation for disturbed areas and closed routes
      4. Assisting with monitoring activities.
  - b. Post signs at designated areas for off-road use.
    - i. Identify use rules and regulations.
    - ii. Indicate the status of a road segment as open or closed.
    - iii. Delineate the designated travel routes.
  - c. Close undesignated ORV routes.
    1. Utilize signs, boulders, or other physical barriers.
    - ii. Reestablish native vegetation in appropriate areas to restore natural conditions except for putting new vegetation within the boundaries of historic properties.

- d. Develop monitoring procedures.
    - 1. Identify changes and trends in resource condition.
    - ii. Assess the effectiveness of current management actions.
    - iii. Inform future management actions to reduce, minimize, or mitigate impacts.
    - iv. Include areas exposed at shoreline ORV areas due to reductions in the level of Lake Powell.
    - v. Provide annual reporting of monitoring efforts and any mitigation undertaken to Glen Canyon management and the Parties.
    - vi. Utilize revenues from ORV permit system (if adopted) and other sources to conduct the monitoring and annual reporting.
    - vii. Invite assistance in monitoring from governmental and non-governmental organizations who have offered to provide qualified volunteer assistance.
    - viii. Involve the Glen Canyon Visitor and Resource Protection Division in the monitoring of cultural resources.
- 2) NPS stipulates the following provisions that will guide its strategy for resolution of adverse effects:
- a. NPS will conduct intensive archeological inventory prior to surface disturbing actions as needed during implementation of the ORV Management Plan.
  - b. NPS will evaluate archeological sites identified during Class I inventory that have not been previously evaluated for National Register eligibility in consultation with Parties.
  - c. NPS will develop an archeological monitoring program to monitor historic properties within the APE on a systematic basis.
  - d. Where changes in resource condition are observed at historic properties, NPS will take steps to correct the situation to avoid adverse effects in consultation with Parties.
  - e. Where changes in resource condition are assessed as adverse, NPS will resolve those effects in consultation with the Parties.
- 3) If and when a proposed activity may result in an adverse effect to historic properties NPS, in consultation with the Parties, shall resolve the adverse effect through one or more of the following treatments, or other treatments identified through consultation, in accordance with an approved Historic Property Treatment Plan (HPTP):
- a. Reduction of use during particular times of the year and/or at specific locations based on surface conditions
  - b. Relocation or closure of road segments that are threatening or causing resource damages
  - c. Improved signs and communication/education with partners and users
  - d. Preservation treatments to stabilize resources that are damaged or threatened by damage

- e. Revegetation and/or drainage control to stabilize the resource-supporting sediment matrix that is damaged or threatened by damage
  - f. Detailed documentation or data recovery
- 4) NPS shall ensure that the HPTP is prepared and implemented to meet the applicable standards for the treatment of historic properties and properties of religious and cultural importance cited in Stipulation I to address resolution of adverse effects.
- 5) At a minimum, an HPTP shall include the following topics for the treatment of adverse effects to historic properties:
- a. A description of the historic property (or properties), its integrity and character defining features and an explanation of its NRHP eligibility
  - b. A summary of previous research and applicable research issues
  - c. Proposed research questions and data needs
  - d. Field methods and justification in terms of research questions
  - e. Special analyses and justification in terms of research questions
  - f. Schedule and work effort needed to perform tasks (hours, budget, etc.)
  - g. Native American consultation regarding the research issues and questions
- 6) At a minimum, the HPTP shall include the following topics for the treatment of adverse effects to properties of religious and cultural significance:
- a. A summary of the results of ethnographic inventory, its methods, and findings
  - b. A description of the identified property (or properties) of religious and cultural significance and their cultural values
  - c. The potential effects of the undertaking's related activities to the characteristics that make the property (or properties) of religious and cultural significance important to the affected tribal people
  - d. Recommendations for resolving the potential effects of the undertaking to the property (or properties) of religious and cultural significance including culturally appropriate means of compensating for loss of use or access to these places
  - e. Schedule and work effort needed to perform tasks (hours, budget, etc.)
- 7) NPS, in consultation with the Parties, will develop the proposed HPTP to resolve adverse effects. The proposed HPTP will be submitted to the Parties for 30-day review. If by the end of that period NPS receives no comments from one or more Parties, NPS will assume that those Parties have no objections to the proposed HPTP. Any comments NPS receives within the review period will be considered in preparing a final HPTP.

- 8) NPS shall ensure that a report or reports are prepared documenting the results of treatment carried out in accordance with the HPTP. A draft report will be submitted to the Parties for 30-day review. Any comments NPS receives within the review period will be considered in making revisions. Multiple drafts of the report or reports may be needed, each with a 30 calendar day review period. In all cases, if by the end of the 30-day review period NPS receives no comments from one or more Parties, NPS will assume that those Parties have no objections to the report or reports as drafted.
- 9) Any Party with whom NPS consults under this PA may object to the development and implementation of the HPTP by submitting the objection in writing to NPS. NPS shall resolve the objection following the provisions for dispute resolution in Stipulation VI (5).

## VI. GENERAL TERMS AND STIPULATIONS

### 1) Curation

- a. Cultural resources collected in the execution of this PA shall be the property of the federal landowner on whose land these resources are recovered.
- b. Curation for artifacts and all records, data base files, photographs, negatives, maps, field notes, artifacts, reports (both a hard copy and electronic copy) and other materials collected or developed for any identification, evaluation, or treatment activities on federal land shall follow the Regulations for the Curation of Federally Owned and Administered Archeological Collections at 36 CFR Part 79.

### 2) Confidentiality

- a. In recognition of the sensitive nature of information that may be obtained through cultural resources investigations carried out under the terms of this PA, particularly those associated with properties of traditional religious and cultural importance, NPS shall ensure that public access to this information is restricted as provided for under Section 304 of the National Historic Preservation Act.
- b. NPS, in coordination with the responsible federal land managing agency or agencies shall ensure that public access to information about the nature and location of archaeological sites on federal or tribal lands is restricted as provided for under Section 9 of the Archaeological Resources Protection Act.

### 3) Unanticipated Archeological Discoveries

- a. If unanticipated archaeological resources are discovered during project related activities, NPS shall cease all ground disturbing activities, secure the discovery location, and using the contact list in Appendix F, report the discovery to the proper authority within 24 hours.

### 4) Unanticipated Discovery of Human Remains

- a. If an unmarked human burial or unregistered grave is encountered during project related activities, NPS shall ensure that any and all human remains, sacred objects, and objects of cultural patrimony will be treated with dignity and respect. All ground disturbing activity

shall cease, the discovery location shall be secured, and NPS shall make the proper notifications using the contact list in Appendix F.

5) Dispute Resolution

- a. NPS will attempt to resolve disputes in consultation with the objecting Party. Should any Party to this PA object in writing, within 30 days to any actions proposed pursuant to this PA, NPS shall consult with the objecting Party to resolve the objection and notify the appropriate SHPO of the objection. If NPS determines that the objection cannot be resolved, NPS shall forward all documents relevant to the dispute to the ACHP and notify the other Parties about the nature of the dispute. NPS will ask the ACHP to either:
  1. Provide NPS with recommendations on the resolution of the objection within 30 days of receiving adequate documentation, which NPS shall take into consideration in reaching a final decision regarding the dispute; or
  11. Notify NPS that it shall comment within an additional 30 days pursuant to 36 CFR 800.7(a).
- b. Any ACHP comment provided in response to such a request shall be taken into account by NPS with reference only to the subject of the dispute. NPS's responsibility to carry out all actions under this PA, other than those that are not subject of the dispute, will remain unchanged.
- c. Prior to reaching a final decision on the dispute, NPS will consult with the Parties regarding this dispute. NPS shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and the signatory Parties and provide them with a copy of this written response. NPS will then proceed according to its final decision.

6) Amendments

- a. Any signatory party to this PA may request that the PA and/or any of its appendices be amended. The party proposing the amendment will notify NPS and request an amendment. The proposed amendment shall be submitted in draft form with the request. NPS will consult with the signatory parties to review and consider the amendment. Where there is consensus, the amendment will be effective on the date a copy signed by all of the signatory parties is filed with the ACHP. Where no consensus is reached among the signatory parties the PA will not be amended. The amendment proponent may seek to terminate the PA under Stipulation VI (7).

7) Termination

- a. Any signatory party to this PA may terminate it by providing 30-day notice to the other signatory parties, provided that the signatory parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination.
- b. In the event of termination, NPS will coordinate with its federal, state, and tribal partners to ensure compliance with 36 CFR Part 800 with regard to individual undertakings covered by this PA or in regard to all remaining actions under this PA.

8) Periodic PA Review

- a. NPS will be responsible for ensuring that the Parties are kept informed regarding the ORV Management Plan undertaking and the performance of this PA. The Parties to this agreement will assist NPS in meeting its responsibilities over the life of the undertaking.
- b. Every year, for the first five years, NPS shall meet with the signatory parties within 30 calendar days of the anniversary of the execution of this PA. Thereafter, NPS shall meet with the signatory parties every five years. The annual reporting of monitoring efforts and any mitigation undertaken will be provided to the Parties for review and comment prior to the meeting with signatory parties. The purpose of these meetings will be to review the performance of this agreement and determine if amendments are needed to improve its performance and effectiveness. If amendments are agreed to, then the PA will be amended in accordance with Stipulation VI (6). Where there is no agreement, the PA shall remain in its present form.
- c. The signatory parties may review the PA as needed at any time outside of the regular scheduled review times provided that all signatory parties agree to the meeting in advance.

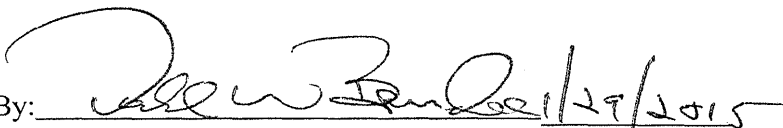
9) PA Duration

The PA will remain in effect for the life of the undertaking unless it is terminated in accordance with Stipulation VI (7).



**SIGNATORIES:**


NATIONAL PARK SERVICE

By:  | Date: 2/27/2015  
Todd W. Brindle, Superintendent, Glen Canyon National Recreation Area

By:  | Date: 2/27/15  
ARIZONA STATE HISTORIC PRESERVATION OFFICE

Jim Garrison, Director

UTAH STATE HISTORIC PRESERVATION OFFICE

By:  | Date: 2/04/2015  
Brad Westwood, Director

Appendices

Appendix A: List of Consulting Parties Appendix B: List of Terms and Definitions

Appendix C: Servicewide Programmatic Agreement (2008) Appendix D: Accessible  
Shoreline Programmatic Agreement (1988)

Appendix E: Area of Potential Effect for Alternative E

Appendix F: Points of Contact for all participants in the undertaking



## Appendices

(A through F) for the Programmatic Agreement Related to the  
Off-road Vehicle Management Plan for Glen Canyon National Recreation Area

**Appendix A**  
**List of consulting parties**

**State Historic Preservation Office**

Prefix	First Name	Last Name	Title	Company Name
Ms.	Lori	Hunsaker	Deputy State Historic Preservation Office	Utah Historic Preservation Office
Ms.	James	Garrison	State Historic Preservation Officer	Arizona State Parks

**Indian Tribes**

Tribe	Chapter/Band	Name	Title
Navajo Nation	N/A	Ben Shelly	President
Navajo Nation	N/A	Tim Begay	Navajo Cultural Specialist
Navajo Nation	N/A	Tony Joe	Navajo Traditional Cultural Program Manager
Navajo Nation	N/A	Fred White	Deputy Director, Division of Natural Resources
Navajo Nation	N/A	Ron Maldonado	Acting Tribal Historic Preservation Office
Navajo Nation	N/A	Effie Yazzie	Lake Powell Navajo Tribal Park
Navajo Nation	N/A	Kelly Francis	Navajo Cultural Specialist
Navajo Nation	Kaibeto	Kelsey Begay	Chapter President
Navajo Nation	Kaibeto	Peter Corbell	Chapter Manager
Navajo Nation	Lechee	Irene Nez-Whitekiller	Chapter President
Navajo Nation	Oljato	Herman Daniels, Jr.	Chapter President
Navajo Nation	Ts'ah Bii Kin	Martha Tate	Chapter President
Navajo Nation	Shonto	Elizabeth Whitethorne-Benally	Chapter President
Navajo Nation	Navajo Mountain	Alex Bitsinnie	Chapter President
Navajo Nation	Navajo Mountain	Willie Greyeyes	Elder
Navajo Nation	Coppermine	Floyd Stevens	Chapter President

Tribe	Chapter/Band	Name	Title
Navajo Nation	Gap/Bodaway	Billy Arizona	Chapter President
Hopi	N/A	Herman Honanie	Chairman
Hopi	N/A	Terry Morgart	Research Assistant
Hopi	N/A	Leigh Kuwanwisiwma	Director Cultural Historic Preservation Office
Hopi	N/A	Stewart Koyiyumptewa	Hopi Cultural Preservation
Kaibab Paiute	N/A	Manuel Savala	Chairman
Kaibab Paiute	N/A	Charley Bullets	Director, Southern Paiute Consortium
San Juan Southern Paiute	N/A	May Preston	Chairwoman
San Juan Southern Paiute	N/A	Natalie Edgewater	Council Member
Ute Mountain Ute	N/A	Manuel Heart	Chairman
Ute Mountain Ute	White Mesa Ute Band	Terry Knight, Sr.	Tribal Historic Preservation Officer
Ute Mountain Ute	N/A	Lynn Hartman	ALP Cultural Resources Contractor Administrator
Ute Mountain Ute	N/A	Malcolm Lehi	Council Representative
Paiute Indian Tribe of Utah	N/A	Gari Lafferty	Chairperson
Paiute Indian Tribe of Utah	N/A	Jeanine Borchardt	Vice Chairperson
Paiute Indian Tribe of Utah	Koosharem Band	Elliott Yazzie	Band Chairman
Paiute Indian Tribe of Utah	Shivwits Band	Georgetta Wood	Band Chairwoman
Paiute Indian Tribe of Utah	Kanosh Band	Corrina Bow	Band Chairwoman
Pueblo of Zuni	N/A	Arlen Quetawki Sr.	Governor
Pueblo of Zuni	N/A	Kurt Dongoske	Tribal Historic Preservation Officer

**Additional Consulting Parties**

Prefix	First Name	Last Name	Title	Company Name
Mr.	Nick	Sandberg	County Planner	San Juan County
Mr.	Brian	Bremmer	County Engineer	Garfield County
Mr.	Jeff	Prince	OHV Program Coordinator	Arizona State Parks
Mr.	Chris	Haller	OHV Coordinator	Utah Parks and Recreation
Ms.	Sue	Fivecoat	Manager	BLM Henry Mountains Field Station
Mr.	Jared	Lundell	Archeologist	BLM Richfield Field Office
Ms.	Christine	Goetze	Cultural Resource Program Manager	Southeast Utah Group
Ms.	Rose	Chilcoat	Associate Director	Great Old Broads for Wilderness
Ms.	Shelley	Silbert	Executive Director	Great Old Broads for Wilderness
Ms.	Laura	Welp	Ecosystems Specialist	Western Watersheds Project
Mr.	Jonathan	Ratner	Director	Western Watersheds Project - WY Office
Mr.	John	Fellmeth	President	San Juan Public Entry and Access Rights (SPEAR)
Mr.	Jerry	Spangler	Executive Director	Colorado Plateau Archeological Alliance
Ms.	Sonia	Hutmacher	Vice-President, Government-Affairs and Research	Utah Professional Archeological Council
Mr.	James	Page	President, Armijo Chapter	Old Spanish Trail Association
Mr.	Benjamin	Pykles Ph.D	Curator	Church Historic Sites, The Church of Jesus Christ of Latter-day Saints

## APPENDIX B LIST OF TERMS AND DEFINITIONS

Unless defined differently in this PA, all terms are used in accordance with 36 CFR Part 800.

The following definitions clarify the vehicle terminology commonly used throughout the Glen Canyon ORV Management Plan/DEIS and found in this PA.

- 1) **Conventional Motor Vehicle:** The term "conventional motor vehicle" is used throughout this plan/DEIS to distinguish motor vehicles designed primarily for use and operation on streets and highways and are licensed and registered for interstate travel but can be used off-road, from non-conventional vehicles primarily designed for offroad use. Automobiles, vans, highway motorcycles, sport utility vehicles, recreational vehicles (RVs), pickup trucks, or buses for which the primary purpose of manufacture is transportation and/or commerce are examples of conventional motor vehicles. Conventional motor vehicles do not include OHVs, ATVs, or snowmobiles.
- 2) **General Management Plan (GMP) Road:** Roads (paved and unpaved) open to motor vehicle travel as designated in the Glen Canyon 1979 General Management Plan (figure 1). All other roads are closed to public motor vehicle travel. Park roads in Glen Canyon are the same as GMP roads.
- 3) **Motor Vehicle:** NPS defines a motor vehicle as every vehicle that is self-propelled and every vehicle that is propelled by electric power, but not operated on rails or upon water, except a snowmobile and a motorized wheelchair (36 CFR 1.4).
- 4) **Non-conventional Motor Vehicle:** The term "non-conventional motor vehicle" is used throughout this plan/DEIS to distinguish ATVs, OHVs, dirt bikes, sand rails, side-by-sides, dune buggies, and other vehicles primarily designed for off-road use from conventional motor vehicles. When necessary to distinguish a road or area designated for a specific category of motor vehicles, non-conventional motor vehicles are further divided into two categories: OHVs and street-legal ATVs. Snowmobiles are not included in this term.
  - a. **Off-highway Vehicle (ORV):** NPS has no definition of OHVs in the federal code. Glen Canyon overlaps two state jurisdictions (Arizona and Utah) with distinct vehicle codes that define OHV operator and vehicle requirements; see the "Conventional Motor Vehicle Operator Requirements" section in "Chapter 2: Alternatives." In Utah, Utah State Park regulations define OHVs as follows:
    - i. "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, or motorcycle. (this plan/DEIS would not authorize snowmobile use at Glen Canyon)
    - ii. "All-terrain type I vehicle" means any motor vehicle 52 inches or less in width, having an un-laden dry weight of 1500 pounds or less, traveling on three or more low pressure tires, having a seat designed to be straddled by the operator, and designed for or capable of travel over unimproved terrain. (effective July 1, 2009)

- iii. (a) "All-terrain type II vehicle" means any other motor vehicle, not defined in Subsection (2), (10), or (21), designed for or capable of travel over unimproved terrain.
- iii. (b) "All-terrain type -II vehicle" does not include golf carts, any vehicle designed to\_ carry a disabled person, any vehicle not specifically designed for recreational use, or farm tractors as defined under\_ Section 41-1a-102.

The Arizona Game and Fish Department and Arizona State Parks define OHVs as follows:

- 1. A motorized vehicle when operated primarily off of highways on land, water, snow, ice or Other natural terrain or on a combination of land, water, snow, ice or other natural terrain. (this plan/DEIS would not authorize snowmobile use at Glen Canyon).
  - ii. Includes a two-wheel, three-wheel or four-wheel vehicle, motorcycle, four-wheel drive vehicle, dune buggy, amphibious vehicle, ground effects or air cushion vehicle, and any\_ other means of land transportation deriving motive power from a source other than muscle or wind.
  - iii. Does not include a vehicle that is either designed primarily for travel on, over or in the water, or used in installation, inspection, maintenance, repair or related activities involving facilities for the provision of utility or railroad service.
- 5) **Street-legal All-terrain Vehicle (ATV):** NPS has no definition of ATVs in the federal code. Glen Canyon overlaps two state jurisdictions (Arizona and Utah) with distinct vehicle codes. In Utah, ATVs are legal to operate on a road or highway, with the e4ception of an interstate freeway or a limited access highway, if they meet the "street-legal" definition under the Utah state motor vehicle and traffic code, currently described at UCA 41-6a-1509, "Street-legal all-terrain vehicle - Operation on highways - Registration and licensing requirements - Equipment requirements."
- 6) **Off-road Use:** The terms "off-road use or off-road travel" refers to the driving of any motor vehicle off of paved or unpaved roads. Operating a motor vehicle off of park roads or parking areas within the National Park System is illegal unless it is authorized by a special regulation.
- 7) **Off-road Vehicle (ORV):** NPS defines ORVs broadly as "any motorized vehicle designed for or capable of cross country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain" (Executive Order 11644). Because the federal definition is so broad, the term "ORV" is not sufficient to describe the full scope of management activities in this plan/DEIS. This plan/DEIS distinguishes between conventional motor vehicles (e.g., automobiles, trucks, cars, and other vehicles that are licensed and registered for interstate travel), and non-conventional motor vehicles (e.g., all-terrain vehicles (ATVs), dirt bikes, sand rails, side-by-sides, dune buggies, etc.), which generally are not licensed for interstate travel.

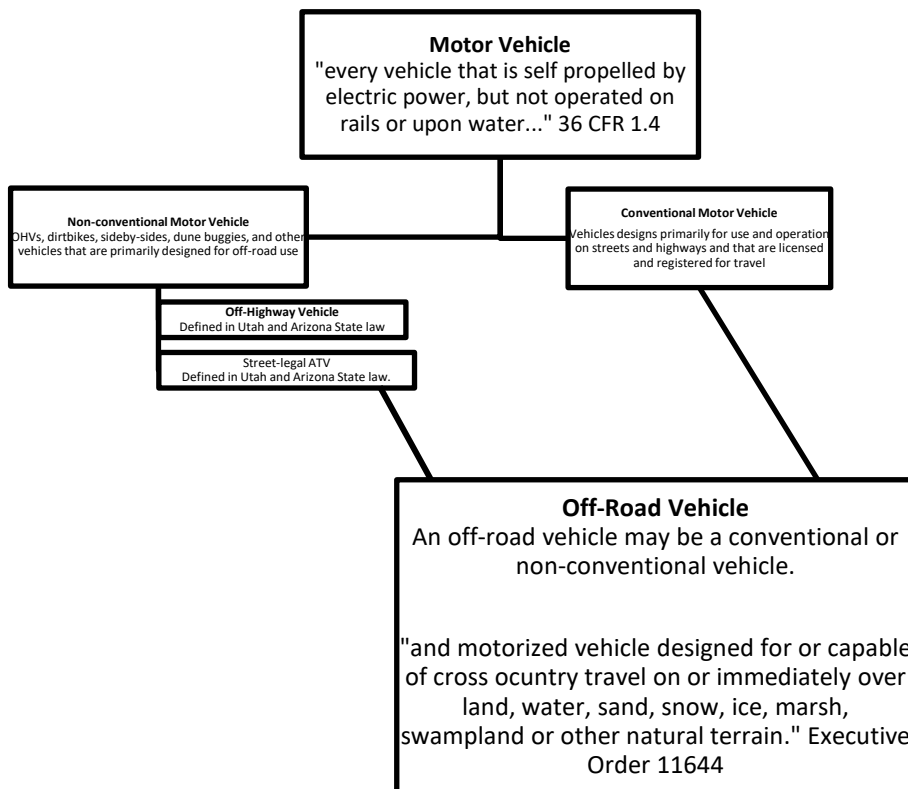
In Arizona, ATVs are legal to operate on a road or highway if they meet the "street-legal" definition under the Arizona state motor vehicle and traffic code, currently described at ARS 28-1171-1181 (Article 20 - Off highway-Vehicles). Street-legal ATVs must comply with the same requirements as a road motorcycle for registration, titling, odometer statement, vehicle



identification number, license plates, registration fees, and county motor vehicle emissions inspection and maintenance programs. Street-legal ATVs must also comply with the same requirements as conventional motor vehicles for motor vehicle insurance and safety inspection requirements.

- 8) Off-road Vehicle (ORV) Area: NPS has no definition of ORV areas in the federal code. This plan/DEIS uses the term "ORV area" as referenced in 36 CFR 4.10 to describe an area designated for off-road use.
- 9) Off-road Vehicle (ORV) Route: NPS has no definition of ORV routes in the federal code. This plan/DEIS uses the term "ORV route" as referenced in 36 CFR 4.10 to describe a specific linear corridor designated for off-road motor vehicle travel between identified points or locations.
- 10) Park Road: NPS defines a park road as the main-traveled surface of a roadway open to motor vehicles, owned, controlled or otherwise administered by NPS (26 CFR 1.4), see also Park Road Standards (NPS 1984).

The following diagram shows the relationship between conventional and non-conventional vehicles and OHVs and street-legal ATVs that guides the use of these terms for the purposes of Glen Canyon ORV Management Plan/DEIS.



**The following additional definitions clarify terminology commonly used throughout this PA that are not defined above or at 36 CFR Part 800.**

1. **Archaeological Site:** A location that contains the physical evidence of past human behavior that allows for its interpretation, that is at least 50 years of age, and for which a boundary can be established.
2. **Avoidance:** Modification of a project or other undertaking so that effects on cultural resources that would have resulted from the originally proposed actions do not occur.
3. **Cultural Items:** Human remains, associated funerary objects, unassociated funerary objects, sacred objects, cultural patrimony [25 USC 3001 (3)].
4. **Cultural Resources:** The National Historic Preservation Act recognizes five property types: districts, sites, buildings, structures, and objects. As called for in the act, these categories are used in the National Register of Historic Places, the preeminent reference for properties worthy of preservation in the United States. To focus attention on management requirements within these property types, the NPS Management Policies categorizes cultural resources as archeological resources, cultural landscapes, structures, museum objects, and ethnographic resources.
  - a. **Archeological Resources:** The remains of past human activity and records documenting the scientific analysis of these remains. Archeological resources include stratified layers of household debris and the weathered pages of a field notebook, laboratory records of pollen analysis and museum cases of polychrome pottery. Archeological features are typically buried but may extend above ground; they are commonly associated with prehistoric peoples but may be products of more contemporary society. What matters most about an archeological resource is its potential to describe and explain human behavior. Archeological resources have shed light on family organization and dietary patterns, they have helped us understand the spread of ideas over time and the development of settlements from place to place.
  - b. **Cultural Landscapes:** Settings we have created in the natural world. They reveal fundamental ties between people and the land—ties based on our need to grow food, give form to our settlements, meet requirements for recreation, and find suitable places to bury our dead. Landscapes are intertwined patterns of things both natural and constructed: plants and fences, watercourses and buildings. They range from formal gardens to cattle ranches, from cemeteries and pilgrimage routes to village squares. They are special places: expressions of human manipulation and adaptation of the land.
  - c. **Structures:** Material assemblies that extend the limits of human capability. Without them we are restricted to temperate climates, the distances we can walk, and the loads we can carry. With them we can live where we choose, cross the continent in hours, and hurl a spacecraft at the moon. Structures are buildings that keep us warm in winter's worst blizzard and bridges that keep us safe over raging rivers; they are locomotives that carry us over vast prairies and monuments to extend our memories. They are temple mounds and fishing vessels, auto factories and bronze statues—elaborations of our productive ability and artistic sensitivity.
  - d. **Museum Objects:** Manifestations and records of behavior and ideas that span the breadth of human experience and depth of natural history. They are evidence of technical development and scientific observation, of personal expression and curiosity about the past, of common enterprise and daily habits. Museum objects range from a butterfly collection to the woven fragments of a prehistoric sandal. They include the walking cane of an American president, a blacksmith's tools, and the field notes of a

marine biologist. They encompass fossilized dinosaur bones and business journals, household furnishings and love letters bound with a faded ribbon. They are invaluable samples and fragments of the world through time and the multitude of life therein.

- e. **Ethnographic Resources:** Basic expressions of human culture and the basis for continuity of cultural systems. A cultural system encompasses both the tangible and the intangible. It includes traditional arts and native languages, religious beliefs and subsistence activities. Some of these traditions are supported by ethnographic resources: special places in the natural world, structures with historic associations, and natural materials. An ethnographic resource might be a riverbank used as a Pueblo ceremonial site or a schoolhouse associated with Hispanic education, sea grass needed to make baskets in an African-American tradition or a 19-century sample of carved ivory from Alaska. Management of ethnographic resources acknowledges that culturally diverse groups have their own ways of viewing the world and a right to maintain their traditions.
5. Curation: "The practice of documenting, managing, preserving, and interpreting museum collections according to professional museum and archival practices." [62 Federal Register 33707, 6-20-97. Secretary of the Interior's. Historic Preservation Professional Qualification Standards: ·curation]
6. Effective Date of the Agreement: The date of the last Signatory to sign the Agreement.
7. Human Remains and Associated Funerary Objects: The physical remains of the body of a person of Native American ancestry. The term does not include remains or portions of remains that may reasonably be determined to have been freely given or naturally shed by the individual from whose body they were obtained, such as hair made into ropes or nets. For the purposes of determining cultural affiliation, human remains incorporated into a funerary object, sacred object, or object of cultural patrimony must be considered as part of that item. [43 CFR 10.2 (d)(1)].  
Funerary objects are those objects that, as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later.
8. Inventory: The process of locating cultural resources and gathering information about them through archeological surveys, ethnographic fieldwork, or archival searches.
9. Mitigation: Measures carried out to avoid or reduce the effects of undertakings on cultural resources. These measures may include relocation or other modifications of the undertaking itself or recovery of materials and data from the cultural resource site to be affected.
10. Native American: "Of, or relating to, a tribe, people, or culture that is indigenous to the United States." [Native American Graves Protection and Repatriation Act, Section 2(9)]
11. Properties of Traditional Religious and Cultural Importance: Cultural resources with attached religious and cultural importance from traditional communities and groups regardless of qualification for eligibility of inclusion on the National Register of Historic Places
12. Properties of Traditional Religious and Cultural Significance: Cultural Resources with attached religious and cultural importance from traditional communities and groups that are eligible for inclusion on the National Register of Historic Places as Traditional Cultural Properties.
13. Repository: "A facility such as a museum, archeological center, laboratory or storage facility managed by a university, college, museum, other educational or scientific institution, a Federal,

State or local Government agency or Indian tribe that can provide professional, systematic and accountable curatorial services on a long term basis." [36 CFR Part 79, Curation of Federally-Owned and Administered Archeological Collections, Section 79.4(j)]

14. Sacred Sites: Any specific, discrete, narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; provided that the tribe or appropriately authoritative representative of an Indian religion has informed the agency of the existence of such a site.
15. Site: The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure [36 CFR Part 60, NRHP, Section 60.3 (1)]
16. Traditionally Associated Peoples: Social/cultural entities such as tribes, communities, and kinship units, as well as park neighbors, traditional residents, and former residents who remain attached to a park area despite having relocated, are "traditionally associated" with a particular park when (1) the entity regards park resources as essential to its development and continued identity as a culturally distinct people; (2) the association has endured for at least two generations (40 years); and (3) the association began prior to the establishment of the park. [NPS Management Policies (2006:159)]
17. Traditional Cultural Property: A property associated with the cultural practices, beliefs, the sense of purpose, or existence of a living community that is rooted in that community's history or is important in maintaining its cultural identity and development as an ethnically distinct people. Traditional cultural properties are ethnographic resources eligible for listing in the National Register. [NPS Management Policies (2006:159)]

APPENDIX C  
SERVICEWIDE PROGRAMMATIC AGREEMENT (2008)

PROGRAMMATIC AGREEMENT AMONG THE NATIONAL PARK SERVICE  
(U.S. DEPARTMENT OF THE INTERIOR),  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND THE  
NATIONAL CONFERENCE OF STATE HISTORIC  
PRESERVATION OFFICERS FOR COMPLIANCE WITH SECTION 106 OF THE  
NATIONAL HISTORIC PRESERVATION ACT

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**PROGRAMMATIC AGREEMENT AMONG THE  
NATIONAL PARK SERVICE  
(U.S. DEPARTMENT OF THE INTERIOR),  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
AND THE NATIONAL CONFERENCE OF STATE HISTORIC  
PRESERVATION OFFICERS FOR COMPLIANCE WITH SECTION 106  
OF THE NATIONAL HISTORIC PRESERVATION ACT**

**WHEREAS**, the National Park Service (NPS) plans for, operates, manages, and administers the National Park System (System) and is responsible for identifying, preserving, maintaining, and interpreting the historic properties of the System unimpaired for the enjoyment of future generations in accordance with the 1916 National Park Service Organic Act, the NPS Management Policies (2006), and applicable NPS Directors Orders; and

**WHEREAS**, the operation, management, and administration of the System entail undertakings that may affect historic properties (as defined in 36 CFR Part 800), which are therefore subject to review under Sections 106, 110(t) and 111(a) of the National Historic Preservation Act as amended (NHPA) (16 USC 470 *et seq.*) and the regulations of the Advisory Council on Historic Preservation (ACHP) (36 CFR Part 800); and

**WHEREAS**, the NPS has established management policies, director's orders, standards, and technical information designed for the identification, evaluation, documentation, and treatment of historic properties consistent with the spirit and intent of the NHPA; and

**WHEREAS**, the NPS has a qualified staff of cultural resource specialists to carry out programs for historic properties; and

**WHEREAS**, the purpose of this Programmatic Agreement (PA) is to establish a program for compliance with Section 106 of the NHPA and set forth a streamlined process when agreed upon criteria are met and procedures are followed; and

**WHEREAS**, signature and implementation of this PA does not invalidate park-, Region-, or project-specific memoranda of agreement (MOA) or programmatic agreements negotiated for Section 106 purposes prior to the effective date of this PA; and

**WHEREAS**, Federally recognized Indian Tribes are recognized by the U.S. government as sovereign nations in treaties and as unique political entities in a government-to-government relationship with the United States; and

**WHEREAS**, the NPS has conducted a series of "listening" meetings with Indian Tribes, has requested the input of a number of Native Advisors in the process of preparing this PA, and has held consultation meetings with Federally recognized Indian Tribes, Native Hawaiian organizations, and other parties on the content of the PA; and



**WHEREAS**, 36 CFR 800.2 (c)(2)(i)(A) and (B) provide for consultation with Indian Tribes on the same basis as the State Historic Preservation Officer (SHPO) when an undertaking will occur on or affect historic properties on tribal lands; and

**WHEREAS**, in accordance with 36 CFR 800.14(b)(2)(iii), a PA shall take effect on tribal lands only when the designated representative of the tribe is a signatory to the agreement; and

**WHEREAS**, for those parks located partly or wholly within tribal lands, the NPS has invited the applicable Tribal Historic Preservation Officer (THPO) or Indian Tribe to sign this PA as an Invited Signatory; and

**WHEREAS**, the NPS has consulted with the NCSHPO and the ACHP regarding ways to ensure that NPS operation, management, and administration of the Parks provide for management of the Parks' historic properties in accordance with the intent of NPS policies, director's orders and Sections 106, 110, 111, and 112 of the NHPA.

**NOW, THEREFORE**, the NPS, the NCSHPO, the ACHP, and the signatory tribes mutually agree that the NPS will carry out its Section 106 responsibilities with respect to operation, management, and administration of the Parks in accordance with the following stipulations.

### **PURPOSE AND NEED**

NPS park operations, management, and administration require a large number of low-impact or repetitive activities on a daily basis that have the potential to affect properties listed in or determined eligible for the National Register of Historic Places and require consultation under Section 106. This PA provides an efficient process for compliance with Section 106 for daily NPS park operations, management, and administration activities. It establishes two processes for Section 106 review: a "streamlined" review process for designated undertakings that meet established criteria and a "standard" review process for all other undertakings. This PA also provides programmatic procedures and guidance for other activities related to the Section 106 compliance process, including identification of resources, consultation; and planning.

The NPS shall ensure the following measures are implemented.

### **I) RESPONSIBILITIES, QUALIFICATIONS, AND TRAINING**

The following sections list the responsibilities and required qualifications for those individuals responsible for implementing this PA.

#### **A) Responsibilities**

1. Director, National Park Service  
The Director has policy oversight responsibility for the agency's historic preservation program. The Director, through the Deputy Director for Operations, executes this PA for the NPS and provides policy level oversight within the NPS to ensure that stipulations of the PA are met.
2. Associate Director for Cultural Resources  
The Associate Director for Cultural Resources (ADCR) provides national leadership for policy implementation through establishing standards and guidance for managing cultural resources within the Parks. The ADCR works with the NPS regions and parks

to ensure and support compliance with the stipulations of this PA and provides accountability to the signatories of this PA with regard to its implementation. The ADCR is responsible for working with Regions and Parks to develop and fund training needs related to Section 106 and the implementation of the PA. The ADCR in cooperation with the regions and parks, is responsible for issuing a guidance document for this agreement within 12 months of its execution. At the time of execution of this PA, the ADCR also holds the title of Federal Preservation Officer (FPO).

3. Regional Directors

The Regional Director is the line manager for all Superintendents within his/her region. The Regional Director is responsible for policy oversight, strategic planning; and direction for parks and programs within the region and reports to the Director through the NPS Deputy Director for Operations. Review and support of Park and Superintendent implementation of this PA and training to achieve Section 106 compliance is the responsibility of the Regional Director.

4. Regional Section 106 Coordinators

The Regional Section 106 Coordinators work with parks and other NPS offices to provide support for Section 106 compliance and implementation of this PA. The Regional Section 106 Coordinators provide guidance materials and technical assistance for implementing the PA and assist the parks to meet the training, reporting, and consultation requirements of the PA.

5. Superintendents

Superintendents are the responsible agency officials as defined in 36 CFR 800.2(a) for purposes of Section 106 compliance and the implementation of this PA.

Each Superintendent shall do the following within his/her park:

- a. Designate a Park Section 106 Coordinator and a Cultural Resource Management (CRM) Team meeting the necessary qualifications;
  - b. Develop and maintain relationships with Federally recognized Indian Tribal governments and Native Hawaiian organizations (if applicable);
  - c. Develop and maintain relationships with SHPOs/THPOs;
  - d. Ensure early coordination among the Section 106 Coordinator, the CRM Team, and other-park and regional staff concessioners, park partners, neighboring communities groups affiliated with park resources, and others in the planning of projects and activities that may affect historic properties;
  - e. Ensure that Section 106 consultation with the SHPO/THPO and other consulting parties is initiated early in the planning stages of any given undertaking, when the widest feasible range of alternatives is available for consideration;
  - f. Ensure that the Park Section 106 Coordinator, CRM Team Members and the park cultural resources staff receives the NBPA training needed to carry out their responsibilities. Provide opportunities for other involved staff to receive NHPA training as funding and opportunities permit.
6. Park Section 106 Coordinator  
The Park Section 106 coordinator provides day-to-day staff support for Section 106 activities and serves as liaison among park personnel, the NPS Regional Office, NPS Centers, and others involved in undertakings. The coordinator makes recommendations to the Superintendent regarding the appropriate course- of action unde;r this PA, including whether a project constitutes a Section 106 undertaking.
7. Cultural Resource Management (CRM) Team  
The CRM Team shall provide expertise and technical advice to the Superintendent and the Park Section I06 Coordinator for purposes of Section 106 compliance and implementation of this PA.

## B) Qualifications

### 1. Park Section 106 Coordinator

The Superintendent shall designate at least one (1) person to act as the park's Section 106 Coordinator; whose Section 106 responsibilities are specified, as appropriate. The designee may be chosen from the park staff, other NPS parks, NPS archeological and preservation centers, and the NPS Regional Office. The Park Section 106 Coordinator shall have an appropriate combination of professional training and/or experience to effectively carry out the responsibilities of the position.

### 2. Cultural Resource Management (CRM) Team

The Superintendent shall designate a CRM Team with expertise to fulfill and implement the requirements of their PA, whose Section 106 responsibilities are specifies, as appropriate.

- a. Subject matter experts chosen must be appropriate to the resource types found in the park. Therefore, the number of individuals who comprise the CRM Team is not static and will be appropriate to include all necessary disciplines. Multi-disciplinary reviews of proposed undertakings are recommended.
- b. CRM Team members may be on the park staff or in other-parks, or from NPS Regional Offices, NPS Centers, Federally recognized Indian Tribes, Native Hawaiian organizations, or elsewhere in the public or private sector.
- c. CRM Team members who are federal employees shall meet the qualifications for the applicable discipline as defined in Appendix E to NPS-28: Cultural Resource Management Guideline. CRM Team members who are representing Federally recognized Indian Tribes may be traditional cultural authorities, elders, and others experienced in the preservation of tribal culture. All other CRM team members, who are not federal employees or representing a Federally recognized Indian Tribe, must meet

### C) Training

Periodic training on Section 106 compliance issues and the provisions of this PA is needed to maintain an understanding of the requirements of each.- Such training may be accessed through the NPS, the ACHP, S}:IPOs/THPOs, Indian Tribes, Native Hawaiian organizations, other Federal or state agencies or private industry. Training may be in a classroom setting, electronic media, meetings, or other formats that allow for the conveyance of information. The NPS Washington Office, in consultation with the NPS parks, regions, and training centers, will work with the ACHP and NC\_SHPO to establish options for training in accordance with this PA, within 12 months from the time of execution of this PA.

1. All Superintendents and Section 106 coordinators will be notified of the opportunity to receive training on the provisions of this programmatic agreement once it has been made available by the NPS Washington Office. The NPS ADCR will work with the Regional 106 coordinators- to accomplish this training throughout the Regions and parks-within 12 months of its availability.
2. Superintendents will report on Section 106 training received by Superintendents and park staff as part of the biennial report (Section VIII.B of this agreement).

## II) CONSULTATION

### A) Consultation with Federally Recognized Indian Tribes and, THPOs, and Native Hawaiian Organizations

Government-to-government consultation with Federally recognized Indian Tribes and consultation with Native Hawaiian organizations shall occur at the Superintendent level and be initiated during planning and prior to undertaking an activity, program or project that may affect historic properties of significance to Federally recognized Indian tribes or Native Hawaiian organizations. Maintaining an on-going consultative relationship with THPOs and/or staff of Federally recognized Indian Tribes and Native Hawaiian organizations is essential.

1. Consultation on Undertakings of Tribal Lands  
Superintendents shall identify, compile a list of, and consult with Federally recognized Indian Tribes, THPOs and Native Hawaiians that are known to have aboriginal lands within the park boundaries, assert an interest in historic properties within the park boundaries, or have lands or interest in lands adjacent to the park.
  - a. Such consultation will be in accordance with 36 CFR 800.2(c)(2)(ii), NPS Director's Order 75A: Public Engagement and Public Involvement, and with Sections m and IV of this PA.
  - b. Each Superintendent, with the assistance of park and Regional Office ethnographers, will be responsible for identifying aboriginal lands within the park boundary, working cooperatively with the appropriate Federally recognized Indian Tribes and Native Hawaiian organizations.
  - c. Superintendents, in consultation with the Park Section 106 Coordinator and the CRM Team, shall establish a process and develop consultation agreements, where appropriate, that provide for early coordination between the park and Federally recognized Indian tribes, THPOs, and/or Native Hawaiian organizations in identification and evaluation of historic properties and the planning of projects and activities that may affect historic properties.
  - d. Identification and evaluation of historic properties on aboriginal lands must be based upon consultation with the appropriate traditionally associated communities.
2. Consultation on Undertakings on Tribal Lands

For those undertakings that either occur on tribal lands or will otherwise have the potential to affect historic properties on tribal lands, including cumulative impacts from collectively significant actions taking place over a period of time, the Superintendent shall consult with that tribe on the same basis as he or she consults with the SHPO.

- a. Where the Tribe has assumed the SHPO's responsibility for Section 106 pursuant to Section 101 (d)(2) of the NHPA, the Superintendent shall consult with the THPO in lieu of the SHPO, except as provided for in Section 101 (d)(2)(D)(iii).
- b. Where the Tribe has not assumed the SHPO's responsibility for Section 106, the Superintendent shall consult with the Tribe's designated representatives in addition to and on the same basis as the SHPO. The Tribe shall have the same rights of consultation and concurrence as the SHPO.

3. Applicability of this PA on Tribal Lands

When a park is located partly or wholly within the boundaries of tribal lands, and the tribe has not signed this PA as an Invited Signatory, any undertaking that may occur on those tribal lands shall require consultation with the Tribe and/or THPO in accordance with 36 CFR Part 800, and the provisions of this PA are not applicable.

A tribe may sign this PA by written notification to the Director of such intent, signed by the THPO, Indian tribe, or a designated representative of the tribe. Once such a written and signed notification is received by the Director, the provisions of this PA will be applicable to undertakings occurring on those lands where a park is located partly or wholly within the boundaries of that particular tribe's tribal lands.

4. Development of Agreements to Facilitate Government-to-Government Consultation with Federally recognized Indian Tribes and Consultation with Native Hawaiian Organizations

Development of consultation protocols; memoranda of agreement and programmatic agreements is encouraged. Such agreements may be negotiated between Superintendents and Federally recognized Indian Tribes, THPOs, or Native Hawaiian organizations and may be independent of or supplement this PA. For example, such agreements may be specific to a project, plan, or park activity, or may set forth specific consultation protocols between the park and a specific tribe or group of Native peoples. Superintendents will provide an informational copy of all agreements to the Regional Section 106 Coordinator and to the ACHP and appropriate SHPO/THPO in accordance with 36 CFR 800.2(c)(2)(ii)(E).

B) Consultation with SHPOs

Consultation with SHPOs on projects reviewed in accordance with the Standard Review Process will occur in accordance with the procedures set forth in Section IV of this PA. Consultation with SHPOs on implementation of this PA will occur biennially in accordance with Section VIII of this PA.

C) Consultation with Local Governments and Applicants for Federal Assistance, Licenses, Permits, and Other Approvals

Where appropriate, the Superintendent shall actively seek the views and comments of local governments and certified local governments. Those seeking Federal assistance, licenses, permits, or other approvals are entitled to participate as a consulting party as defined in 36 CFR 800.2(c)(4) and will be consulted, as applicable.

D) Consultation with the Public

Superintendents will consult with interested members of the public.

E) General Consultation Provisions

1. Section 110 Inventory of Historic Properties

The parks implement a program to identify, evaluate, and, when appropriate, nominate historic properties to the National Register of Historic Places in accordance with Section 110(a)(2)(d) of the NHPA. Research and testing of all types of historic properties for purposes of identification and evaluation must be limited to the minimum necessary to obtain the required inventory and evaluative information. Early coordination on the identification and evaluation of historic properties should be undertaken with Federally recognized Indian Tribes or Native Hawaiian organizations, as appropriate, utilizing tribal knowledge and expertise wherever applicable. Knowledge and data from appropriate sources of expertise should be utilized, including SHPOs, local governments, Indian Tribes; Pacific Islanders, and national and local professional and scientific organizations. Inventory records should be periodically reviewed and updated, as necessary, to ensure data on historic properties, including condition information, is current, and any previous evaluations of significance remain accurate.

2. Information Sharing: Historic Property Inventories

Parks, NPS Regional Offices, NPS Centers, and SHPOs will share information with each other regarding inventories of historic properties and historic contexts developed, as well as other reports and research results related to historic properties in the parks, whenever such studies become available: In addition, parks NPS Regional Offices, and NPS Centers will make such information available to interested Federally recognized Indian Tribes, THPOs, and Native Hawaiian organizations. Federally recognized Indian Tribes who are signatories to this PA will, likewise, make such information available to NPS parks and Regional Offices, as appropriate. Information will be shared with the understanding that sensitive information will be withheld by the recipient of the information from public disclosure pursuant to Section 304 of NHPA and other applicable laws. Procedures for information sharing and format for information (i.e. electronic, hard copy, etc.) should be agreed upon between the parties.

3. Notification of Park Section 106 Coordinator

The National Park Service will provide contact information on Section 106 coordinators to Indian Tribes, SHPOs/THPOs, and Native Hawaiian organizations . for each park through the Regional Office from the Regional 196 Coordinator within six months of this PA and updated biennially.

4. Review. and comment on guidance and training documents

The ADCR will consult with the ACHP and NCSHPO in the development of training materials and guidance for this PA.

F) Development of Agreements to Facilitate Consulta on

Development of consultation protocols, memoranda of agreement, and programmatic agreements is encouraged. Such agreements may be negotiated between Superintendents and organizations or governments and may be independent of or supplement this PA. For example, such agreements may be specific to a project, plan, or park activity, or may set forth specific consultation protocols between the park and a specific group, state, or local government.

Superintendents will provide an informational copy of all agreements to the Regional Section 106 Coordinator and to the ACHP and appropriate- SHPO/THPO in accordance with 36 CFR 800.2(C)(2)(ii)(E).

III) STREAMLINED REVIEW PROCESS

Where the Park Section 106 Coordinator determines the following criteria are met for a proposed undertaking, no further consultation is required unless otherwise specifically requested by-the SHPO/THPO, Federally recognized Indian Tribe(s) or Native Hawaiian organization(s), or the ACHP.

A) Criteria for Using the Streamlined Review Process

All of the following criteria must be met in order to use the Streamlined Review Process:

1. The proposed undertaking must be an activity eligible for streamlined review, listed in Section III.c of this PA. These undertakings shall be known as "streamlined activities" for purposes of reference and replace the term "nationwide programmatic exclusions"; set forth in the 1995 Programmatic Agreement between the NPS, the ACHP, and the NCSHPO; and
2. Identification and evaluation of all types of historic properties within the project area of potential effect (APE) must have previously undertaken, sufficient to assess effects on those resources (with the exception of V.C (16)). Identification and evaluation of historic properties of religious and cultural significance to Indian tribes and Native Hawaiian organizations must be based upon consultation with those entities. All properties within the APE must have previously been evaluated for eligibility to the National Register of Historic Places and the SHPO/THPO must have concurred with the eligibility determination. Inventory records should be periodically reviewed and updated, as necessary, to ensure data on historic properties, including condition information, is current, and any previous evaluations of significance remain accurate; and
3. The Section 106 Coordinator, in consultation with appropriate members of the CRM Team must have reviewed the project and certified that the effects of the proposed undertaking on historic properties on or eligible for the National Register will *not be*

adverse based on criteria in 36 CFR 800.5, including consideration of direct, indirect, and cumulative effects. The Effect Finding must be "No Historic Properties Affected" or "No Adverse Effect".

#### B) Streamlined Review Process

1. *Evaluate Whether the Proposed Undertaking is Eligible for Streamlined Review:* The Park Section 106 Coordinator, in consultation with appropriate members of the CRM Team, determines whether the proposed undertaking is an activity listed as an undertaking eligible for streamlined review: in Section III.C of this PA. If not, compliance for the undertaking must be accomplished through the Standard Review Process, outlined in Section IV of this PA.
2. *Identify the Undertaking's Area of Potential Effect (APE):* The Park Section 106 Coordinator, in consultation with members of the CRM Team with expertise in the appropriate discipline(s), determines the project's APE, taking into account direct, indirect, and cumulative effects.
3. *Identify Historic Properties within APE:* The Park Section 106 Coordinator, in consultation with members of the CRM Team with expertise in the appropriate discipline(s), identifies the location, number, and significance of historic properties within the APE. If properties are located within the APE that have not yet been documented or evaluated for eligibility for the National Register of Historic Places, or if the SHPO/THPO has not yet concurred with the eligibility determination, compliance for the undertaking must be accomplished through the Standard Review Process, outlined in Section IV of this PA.
4. *Evaluate Effect of Undertaking on Historic Properties in APE:* The Park Section 106 Coordinator, in consultation with members of the CRM Team with expertise in the appropriate discipline(s), evaluates the effect of the proposed undertaking and cumulative effects on historic properties, applying the Criteria of Adverse Effect set forth in 36 CFR 800.5(a)(1).
5. *Document Streamlined Review Process:* If after following steps one through four (1-4) listed above, the Park Section 106 Coordinator determines no historic, properties are within the APE, or the proposed undertaking would result in a determination of "no historic properties affected" or "no adverse effect", no further consultation is required The Park Section 106 Coordinator shall document the determination as follows:
  - a. The Streamlined Review process will be documented using the NPS "Assessment of Actions Having an Effect on Cultural Resources" form, or another appropriate format. Parks are encouraged to use Servicewide automated project planning and tracking systems, such as the NPS Planning, Environment and Public Comment (PEPC) system, to track and document Section 106 compliance activities.
  - b. Documentation will include the comments of each member of the CRM Team involved in the review process and the signature of the Superintendent.. Electronic signatures are acceptable.
  - c. Documentation will be permanently retained by the Park Section 106 Coordinator for review by consulting parties and to facilitate the preparation of the Annual Report.
  - d. Annual Report: An annual report of all undertakings reviewed using the Streamlined Review process will be prepared by the Park Section 106 Coordinator, using existing and readily available data sources and reporting systems such as the NPS Planning, Environment and Public Comment (PEPC) system, for transmittal to the S:aPO/fHPO.



### C) Undertakings Eligible for Streamlined Review

#### 1. Preservation Maintenance and Repair of Historic Properties: The Streamlined Review Process is intended to be used for:

- Mitigation of wear and deterioration of a historic property to protect its condition without altering its historic character;
- Repairing when its condition warrants with the least degree of intervention including limited replacement in-kind;
- Replacing an entire feature in-kind when the level of deterioration or damage of materials precludes repair; and
- Stabilization to protect damaged materials or features from additional damage.

Use of the Streamlined Review Process is limited to actions for retaining and preserving, protecting and maintaining, and repairing and-replacing in-kind, as necessary, materials and features, consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties (Standards) and the accompanying guidelines.

Emergency stabilization, including limited replacement of irreparably damaged features or materials and temporary measures that prevent further loss of historic material or at correct unsafe conditions until permanent repairs can be accomplished, may use the Streamlined Review Process. For archeological sites and cultural landscapes, the Streamlined Review Process may also be used for work to moderate, prevent, or arrest erosion.

If the project activities include ground disturbance, archeological monitoring may be appropriate throughout the ground disturbing activities, in accordance with any recommendation of the CRM Team. When monitoring is recommended, members of any appropriate Federally recognized Indian Tribes or Native Hawaiian organizations may be invited to participate in monitoring.

The Streamlined Review Process may be used for routine repairs necessary to continue use of a historic property, but it is not intended to apply to situations where there is a change in use or where a series of individual projects cumulatively results in the complete rehabilitation or restoration of a historic property. If an approved treatment plan exists for a given historic property (such as a historic structure report, cultural landscape report, or preservation maintenance plan), the proposed undertaking needs to be in accordance with that plan. This streamlined activity includes the following undertakings, as well as others that are comparable in scope, scale, and impact:

- a. Removal of non-historic debris from an abandoned building.
- b. Cleaning and stabilizing of historic structures, features; fences, stone walls, plaques, and cannons using treatment methods that do not alter or cause damage to historic materials.
- c. Repainting in the same color as existing, or in similar colors or historic colors based upon an approved historic structure report, cultural landscape report, or a historic paint color analysis.
- d. Removal of non-historic, exotic species according to Integrated Pest Management principles when the species threatens cultural landscapes, archeological sites, or historic or prehistoric structures.
- e. Energy improvements limited to insulation in the attic or basement, and installation of weather stripping and caulking.
- f. In-kind repair and replacement of deteriorated pavement; including, but not

limited to, asphalt, concrete, masonry unit pavers, brick, and stone on historic roads, paths, trails, parking areas, pullouts, etc.

- g. Repair or limited in-kind replacement of rotting floorboards, roof material, or siding. Limited in-kind replacement refers to the replacement of only those elements of the feature that are too deteriorated to enable repair, consistent with the Standards.
- h. In-kind replacement of existing gutters, broken or missing glass panes, retaining walls, and fences.

2. Rehabilitation and/or Minor Relocation of Existing Trails, Walks, Paths, and Sidewalks: The Streamlined Review Process may be used for undertakings proposed on existing non-historic trails, walks, paths, and/or sidewalks that are located within previously disturbed areas and do not exceed the depth of the previous disturbance. The Streamlined Review Process may also be used for undertakings proposed on existing historic trails, walks, paths, and/or sidewalks, provided that the proposed undertaking is conducted in accordance with an approved treatment plan (such as a historic structure report, cultural landscape report, or preservation maintenance plan).

If the project activities include ground disturbance, archeological monitoring may be appropriate throughout the ground disturbing activities, in accordance with any recommendation of the CRM Team. When monitoring is recommended, members of any appropriate Federally recognized Indian Tribes or Native Hawaiian organizations may be invited to participate in monitoring.

This streamlined activity includes the following undertakings, as well, as others that are comparable in scope, scale, and impact:

- a. In-kind regrading, graveling, repaving, or other maintenance treatments of all existing trails, walks and paths within existing disturbed alignments.
- b. Minor realignment of trails, walks, and paths where the ground is previously disturbed as determined by a qualified archeologist.
- c. Changing the material or color of existing surfaces using materials that are recommended in an approved treatment plan or in keeping with the cultural landscape.
- d. Construction of water bars following the recommendations of an approved treatment plan or in keeping with the cultural landscape.

3. Repair/Resurfacing/Removal of Existing, \_ Roads, Trails, and Parking Areas: The Streamlined Review Process may be used as follows:

- a. Existing roads, trails, parking areas, and associated features that have been determined not eligible for the National Register in consultation with the SHPO/THPO, may be repaired or resurfaced in-kind or in similar materials as long as the extent of the project, including staging areas, is confined within the existing surfaced areas. The repair or resurfacing cannot exceed the area of the existing road surface and cannot exceed the depth of existing disturbance.
  - b. Existing roads, trails, parking areas, and associated features, that have been determined eligible for the National Register in consultation with the SHPO/THPO, may be repaired or resurfaced in-kind. The project, including staging areas, cannot exceed the area of the existing surface and cannot exceed the depth of existing disturbance.
  - c. Existing surfaced areas may be expanded or new surface constructed if the extent of new surfacing can be demonstrated to occur on land that has been disturbed by prior excavation or construction and has been shown not to contain buried historic properties. New or expanded surface may not be an addition to, or continuation of, existing surfaces that are listed in or eligible for the National Register and all project activities, including staging areas, must be located in non-historic areas to be eligible for streamlined review.
  - d. Existing surfaced areas may be removed if the surfaced area is not a historic property, it is not located within a historic property and all project activities, including staging areas, will occur on land that has been disturbed by prior excavation or construction and has been shown not to contain buried historic properties.
4. Health and Safety Activities: The Streamlined Review Process may be used for health and safety activities that do not require the removal of original historic elements or alteration of the visual character of the property or area.

If the project activities include ground disturbance, archeological monitoring may be appropriate throughout the ground disturbing activities, in accordance with any recommendation of the CRM Team. When monitoring is recommended, members of any appropriate Federally recognized Indian Tribes or Native Hawaiian organizations may be invited to participate in monitoring.

This streamlined activity includes the following undertakings as well as others that are comparable in scope, scale, and impact:

- a. Sampling/testing historic fabric to determine hazardous content, e.g. lead paint, asbestos, radon.
- b. Limited activities to mitigate health and safety problems that can be handled without removal of historic fabric, surface treatments, or features that are character-defining elements, or features within previously disturbed areas or areas inventoried and found not to contain historic properties.
- c. Testing of soil and removal of soil adjacent to buried tanks, provided the project does not exceed the area of existing disturbance and does not exceed the depth of existing disturbance, as determined by a qualified archeologist.
- d. Removal of oil or septic tanks within previously disturbed areas or as inventoried and found not to contain historic properties.
- e. Removal of HAZMAT materials within previously disturbed areas or areas inventoried and found not to contain historic properties.
- f. Safety activities related to black powder regulations.
- g. Replacement of septic tanks and systems in previously disturbed areas, or areas inventoried and found not to contain historic properties.
- h. Common pesticide treatments.
- i. Removal of both natural and anthropogenic surface debris following volcanic activity, tropical storms, hurricanes, tornados, or similar major weather events, provided removal methods do not include ground disturbance or otherwise cause damage to historic properties.

5. Routine Grounds Maintenance: The Streamlined Review Process may be used for routine grounds maintenance activities. If an approved treatment plan exists for a given historic property (such as a historic structure repo cultural landscape report, or preservation maintenance plan ), the proposed undertaking needs to be in accordance with that plan.

If the project activities include ground disturbance, archaeological monitoring may be appropriate throughout the ground disturbing activities, in accordance with any recommendation of the CRM Team. When monitoring is recommended, members of any appropriate Federally recognized Indian Tribes or Native Hawaiian organizations may be invited to participate in monitoring.

This streamlined activity includes the following undertakings, as well as others that are comparable in scope, scale, and impact:

- a. Grass replanting in same locations with approved species.
  - b. Woodland and woodlot management (including tree trimming, hazard tree removal, thinning, routine removal of exotic species that are not a significant component of a cultural landscape, stump grinding).
  - c. Maintaining existing vegetation on earthworks, trimming trees adjacent to roadways and other historic roads and trails.
  - d. Routine maintenance of gardens and vegetation within cultural landscapes with no changes in layout or design.
  - e. Routine grass maintenance of cemeteries and tombstones with no tools that will damage the surfaces of stones (i.e. weed whips).
  - f. Trimming of major specimen trees needed for tree health or to address critical health/safety conditions.
  - g. Routine roadside and trail maintenance and cleanup with no ground disturbance.
  - h. Planting of non-invasive plant species in non-historic areas.
  - i. Removal of dead and downed vegetation using equipment and methods that do not introduce ground disturbance.
  - j. Replacement of dead, downed, overgrown, or hazard trees, shrubs, or other vegetation with specimens of the same species.
  - k. Replacement of invasive or exotic landscape plantings with similar non- invasive plants.
  - l. Routine lawn mowing, leaf removal, watering, and fertilizing.
  - m. Routine orchard maintenance and pruning.
6. Battlefield Preservation and Management: the Streamlined Review Process may be used only if the park has approved planning documents (General Management Plan, cultural landscape report, treatment plan) that specify preservation and management protocols for the subject battlefield.

If the project activities include ground disturbance, archeological monitoring may be appropriate throughout the ground disturbing activities, in accordance with any recommendation of the CRM Team. When monitoring is recommended, members of any appropriate Federally recognized Indian Tribes or Native Hawaiian organizations may be invited to participate in monitoring.

Consistent with that plan(s), activities include:

- a. Maintenance and preservation work limited to retaining, protecting, repairing, and

replacing in-kind materials and features that contribute to the National Register significance of the battlefield landscape.

- b. Earthworks maintenance to prevent erosion and ensure preservation of existing profile, based on current and accepted practices identified in "Sustainable Military Earthworks Management" found on the NPS Cultural Landscape Currents website.
- c. Removal of hazard trees with no ground disturbance and with use of stump grinding provided the grinding is limited to the diameter of the stump and a depth of no greater than 6 inches.
- d. Repairing eroded or damaged sections of earthworks in-kind following archeological documentation and recordation in appropriate NPS inventory and management data assets resulting in complete, accurate, and reliable records for those properties.
- e. Maintaining a healthy and sustainable vegetative cover.

7. Hazardous Fuel and Fire Management: The Streamlined Review Process *may be used only* if the park has an approved fire management plan or forest management plan.

If the project activities include ground disturbance, archeological monitoring may be appropriate throughout the ground disturbing activities, in accordance with any recommendation of the CRM Team. When monitoring is recommended, members of any appropriate Federally recognized Indian Tribes or Native Hawaiian organizations may be invited to participate in monitoring.

Following completion of activities under this section, post-burn inspection and monitoring should be conducted by a qualified archeologist to ensure no archeological sites were impacted or previously unknown sites revealed.

Consistent with the approved fire management plan or forest management plan, this streamlined activity includes the following undertakings, as well as others that are comparable in scope, scale, and impact:

- a. Removal of dead and downed vegetation, outside of historic districts, cultural landscapes, and archeological sites, using equipment- methods that do not introduce ground disturbance beyond documented natural or historic disturbance.
- b. Removal of dead and downed vegetation, as well as trees and brush located within historic properties, if the vegetation does not contribute to the significance of the historic property and equipment and methods are used that do not introduce ground disturbance beyond documented natural or historic disturbance.
- c. Forest management practices, including thinning of tree stands, outside of historic districts, cultural landscapes, and archeological sites, using equipment and methods that do not introduce ground disturbance beyond documented natural or historic disturbance.
- d. Restoration of existing fire line disturbances, such as hand lines, bulldozer lines, safety areas, helispots, and other operational areas.
- e. Slope stabilization, to include reseeding with native seeds, replanting with native plants and/or grasses, placement of straw bales, wattles, and felling of dead trees when the root ball is left intact and in situ.

8. Installation of Environmental Monitoring Units: The Streamlined Review Process may be used for the placement of small-scale, temporary or permanent monitoring units, such as weather stations, termite bait stations, water quality, air quality, or wildlife stations, in previously disturbed areas, as determined by a qualified archeologist, or areas inventoried and found not to contain historic properties. Borings must be limited to pipes less than 2 inches in diameter and surface samples to less than 12 inches in size and minimal in number.
9. Maintenance or Replacement of Non-Historic Utility Lines, Transmission Lines, and Fences: If the project activities include ground disturbance, archeological monitoring may be appropriate throughout the ground disturbing activities, in accordance with any recommendation of the CRM Team. When monitoring is recommended, members of any appropriate Federally recognized Indian Tribes or Native Hawaiian organizations may be invited to participate in monitoring.

This streamlined activity includes the following undertakings, as well as others that are comparable in scope, scale, and impact:

- a. Maintenance or replacement of buried linear infrastructure in previously disturbed areas. The area of previous disturbance must be documented by a qualified archeologist and must coincide with the route of the infrastructure in its entirety.
  - b. Replacement of non-historic materials, provided the undertaking will not impact adjacent or nearby historic properties and is not located in a historic property, or visible from an above-ground historic property.
  - c. Maintenance or replacement of infrastructure, such as old water distribution systems, that has been determined to be not eligible for the National Register, in consultation with the SHPO/THPO.
  - d. Maintenance of above-ground infrastructure.
  - e. Replacement of above-ground infrastructure provided the undertaking is not located in a historic property or visible from an above-ground historic property.
  - f. Enhancement of a wireless telecommunications facility, including the updating of mechanical equipment, provided the activities do not involve excavation nor any increase to the size of the existing facility.
10. Erection of Signs, Wayside Exhibits, and Memorial Plaques: If an approved treatment plan exists for a given historic property (such as a historic structure report, cultural landscape report, or preservation maintenance plan), the proposed undertaking needs to be in accordance with that plan. If the project activities include ground disturbance, archeological monitoring may be appropriate throughout the ground disturbing activities, in accordance with any recommendation of the CRM Team. When monitoring is recommended, members of any appropriate Federally recognized Indian Tribes or Native Hawaiian organizations may be invited to participate in monitoring.

This streamlined activity includes the following undertakings, as well as others that are comparable in scope, scale, and impact:

- a. Replacement of existing signage in the same location with similar style, scale and materials.
  - b. New signs that meet NPS standards, e.g. at entrance to the park or related to the park's interpretive mission, provided the sign is not physically attached to a historic building, structure, or object (including trees) and the sign is to be located in previously disturbed areas or areas inventoried and found not to contain historic properties.
  - c. Replacement of interpretive messages on existing signs, wayside exhibits, or memorial plaques.
  - d. Small developments such. As paved pads, benches, and other features for universal access o signs, wayside exhibits, and memorial plaques in previously disturbed areas or areas inventoried and found not to contain historic properties.
  - e. Temporary signage for closures, repairs, detours, safety, hazards, etc. in previously disturbed areas or areas inventoried and found not to contain historic properties.
  - f. Memorial plaques placed within established zones that allow for such placement.
11. Culvert Replacement: The Streamlined Review Process may be used when culvert replacement will occur within existing cut and profiles, and:
- a. The existing culvert and/or associated road, rail bed, or cultural landscape has been determined not eligible for the National Register, either individually or as a contributing element to a historic district or cultural landscape, in consultation with the SHPO/THPO; or
  - b. The existing culvert is less than 50 years old.
12. Reburial of Human Remains and Other Cultural Items Subject to the Native American Graves Protection and Repatriation Act (NAGPRA): The Streamlined Review Process may be used for the reburial of human remains and other cultural items subject.to NAGPRA. The Streamlined Review Process may only be used when:
- a. The reburial is in previously disturbed areas and does not introduce ground disturbance beyond documented disturbance; or
  - b. The reburial is in previously inventoried areas found to not contain historic properties.
- Any reburial in NPS-administered areas must be in conformance with NPS policies on cemeteries and burials including cultural resource policies.
13. Meeting Accessibility Standards in Historic Structures and Cultural Landscapes: The Streamlined Review Process may only be used for the following undertakings intended to meet accessibility standards:
- a. Reconstruction or repair of existing wheel chair ramps and sloped walkways provided the undertaking does not exceed the width or depth of the area of previous disturbance
  - b. Upgrading restroom interiors in historic structures within existing room floor area to achieve accessibility, unless the historic features and/or fabric of the restroom contribute to the historic significance of the structure.
14. Mechanical, Electrical and Plumbing Systems: The Streamlined Review Process may be used as follows for activities related to mechanical, electrical, and plumbing systems. Such systems may include HVAC systems, fire detection and suppression systems, surveillance systems; and other required system upgrades to keep park lands and properties -functional and protected.
- a. Park areas, landscapes, buildings, and structures that have been determined not eligible for the National Register in consultation with the SHPO/THPO, may undergo

installation of new or repair/ upgrading of existing systems in accordance with the Streamlined Review Process.

- b. Properties that have been determined eligible for the National Register in consultation with the SHPO/THPO may undergo limited upgrading of mechanical, electrical, and plumbing systems. However, the Streamlined Review Process may not be used for the installation of new systems or complete replacement of these systems. If proposed activities include the removal of original historic elements or alter the visual character or the property's character-defining materials, features, and spaces, then the Streamlined Review Process may not be used.
- c. If the project activities include ground disturbance, archeological monitoring may be appropriate throughout the ground disturbing activities, in accordance with any recommendation. of the CRM Team. When monitoring is recommended, members of any appropriate Federally recognized Indian Tribes or Native Hawaiian organizations may be invited to participate in monitoring.

15. Acquisition of Lands for Park Purposes: The Streamlined Review Process may be used for the acquisition of land for park purposes, including additions to existing parks. The second criterion for use of the Streamlined Review Process identification and evaluation of all types of historic properties within the project APE; see Section III.A.2) does not apply to this activity, provided the acquisition does not include any further treatment or alteration of properties, since access to land for inventory and evaluation prior to NPS acquisition may be limited. Any known or potential historic properties on the land acquired should be protected from demolition by neglect. Pursuant to 36 CFR 800.S(a)(2)(vi), demolition by neglect constitutes an adverse effect. If any undertakings are proposed in conjunction with the acquisition that have the potential to affect historic properties, the Streamlined Review Process may not be used.

16. Leasing of Historic Properties: The Streamlined Review Process may be used provided all treatment of historic properties proposed in relation to the leasing action is consistent with undertakings eligible for Streamlined Review, set forth in Section III.C of this PA. The Streamlined Review Process may not be used where there is a change of use or where a series of individual projects cumulatively results in the complete rehabilitation or restoration of a historic property.

#### D) Adding to List of Undertakings Eligible for Streamlined Review

Any proposed additions or revisions to the list of undertakings eligible for streamlined review must be developed through a region-, state- or park-specific Programmatic Agreement and pursuant to 36 CFR 800.14(b). The Regional Director or Superintendent, as appropriate, will develop such agreements with SHPOs/THPOs, in consultation with Federally recognized Indian Tribes and the ACHP or others, as appropriate. If such an agreement is developed by the Superintendent, s/he will notify the Regional Director. Regional Directors will report the development of supplemental, region-, state-, or park-specific programmatic agreements to the Director on an annual basis. The NPS FPO will maintain records on supplemental agreements and provide annual notification of any such agreements to all signatories to this agreement.

#### IV) STANDARD REVIEW PROCESS

All undertakings that do not qualify for streamlined review as described in Section m above, will be reviewed in accordance with 36 CFR Part 800.



Superintendents are responsible for compliance with these regulations. Compliance may also be accomplished through park- and/or project-specific programmatic agreements. Specific activities required will be undertaken by the Park Section 106 Coordinator, in consultation with appropriate members of the CRM Team. Parks are encouraged to use Servicewide automated project planning and tracking systems, such as the NPS Planning, Environment and Public Comment (PEPC) system, to track and document Section 106 compliance activities and to make such automated systems accessible to compliance partners, including SHPOs/THPOs, Federally recognized Indian Tribes, Native Hawaiian organizations, and/or the ACHP. If a park executes a MOA or PA with consulting parties to resolve adverse effects, the superintendent will provide an informational copy of the agreement to the Regional Section 106 Coordinator.

V) NATIONAL HISTORIC LANDMARKS

The NHPA provides heightened protection for designated National Historic Landmarks (NHLs) through Section 110(f) and the NHPA's implementing regulations (36 CFR 80.10).

Specifically, the NHPA requires that Federal agencies shall, to the maximum extent possible, undertake planning and actions necessary to minimize harm to any NHL that may be directly and adversely affected by an undertaking.

Where the other criteria as listed in Section III.A are met, proposed undertakings that may affect a designated NHL may follow the Streamlined Review Process. Where preliminary planning activities indicate that a proposed undertaking has the potential to have an adverse effect on an NHL, prior to initiating a formal consultation process, the Superintendent will initiate an internal review process in accordance with NPS Management Policies to determine alternatives to avoid or minimize the adverse effects and to assess the possibility of impairment.

VI) INADVERTENT DISCOVERIES

In the event that historic properties are inadvertently encountered during an undertaking for which review has been previously conducted and completed under Section III or Section IV of this PA, or through other events such as erosion or animal activity, the Superintendent will notify the SHPO/THPO, Federally Recognized Indian Tribe(s), and/or Native Hawaiian organization, as appropriate, within 48 hours, or as soon as reasonably possible. The Superintendent in consultation with the Section 106 Coordinator and the appropriate members of the CRM Team, will make reasonable efforts to avoid, minimize, or mitigate adverse effects on those historic properties in consultation with the SHPO/THPO, Federally recognized Indian tribe (s), and/or Native Hawaiian organization (s), as appropriate. If human remains or other cultural material that may fall under the provisions of NAGPRA are present, the Superintendent will comply with NAGPRA and ARPA. The Superintendent will ensure that any human remains left in situ, are not exposed, and remain protected while compliance with NAGPRA, ARPA, or other applicable federal, state, and/or local laws and procedures is undertaken.

VII) EMERGENCY ACTIONS

Emergencies are those actions deemed necessary by the Superintendent as an essential and immediate response to a disaster or emergency declared by the President, a tribal government, or the Governor of a State, or another immediate threat to life or property. Emergency actions are only those actions required to resolve the emergency at that time and they are limited to undertakings that will be started within thirty (30) days after the emergency has been declared. Such emergency actions will be consistent with the NPS Environmental

Safeguards Plan for All- Hazards Emergencies and any other- approved servicewide emergency response plans.. The Superintendent will notify the SHPO/THPO within 24 hours of the declared emergency or as soon as conditions permit.

## VIII) REVIEW AND MONITORING OF PA IMPLEMENTATION

The purpose of the PA review and monitoring process is to ensure NPS protection of historic properties in its stewardship. This is accomplished through the review of undertakings that were completed during the reporting period, review of programmed undertakings, review of implementation of the PA, and review of completion of training requirements.

### A) Superintendents Biennial Review and Monitoring Meeting

In order to foster cooperative relations, each Superintendent will, at a minimum, invite consulting parties to a review meeting every two years (biennial), with the first meeting initiated within six months of the signing of this PA by all parties. If all parties agree that such a meeting is not necessary at that time, the meeting may be waived. However, Superintendents shall remain responsible for initiating biennial meetings in subsequent years. More frequent meetings may be appropriate based on specific park circumstances and therefore an alternative meeting schedule may be established, if mutually agreed upon by the parties.

1. Meetings may be conducted in any mutually agreeable location and/or format, including in- person, video conferencing or teleconferencing.
2. The primary invitees to each park's biennial review and monitoring meeting will include the applicable SHPO/THPO, Federally recognized Indian Tribes, and Native Hawaiian organizations with an interest in that park's properties. Superintendents may also consider inviting other interested parties, including Pacific Islanders, concessioners, lessees, friends groups, historic societies, or gateway communities, as appropriate.
3. Superintendents may instead choose to meet individually with some parties, particularly those that have strong interest in specific historic properties.
4. Attendance and meeting minutes will be recorded and distributed to all invited parties after the conclusion of the meeting.
5. Specific discussion items may include the following:
  - a. Any documentation pursuant to this PA.
  - b. Any inventories of historic properties developed in the previous two years, or opportunities for future inventory and research, as well as other reports and research results related to historic properties.
  - c. Programmed undertakings that are scheduled, or are likely to be scheduled, for the next two fiscal years.
  - d. Provisions of this PA as well as any project- or program-specific Memoranda of Agreement or Programmatic Agreements.
  - e. Training received by park staff during the reporting period and opportunities for cooperative training arrangements.
  - f. Names of and contact information for the Park Section 106 Coordinator and the CRM Team Members.

### B) Superintendents Reporting to NPS Regional Directors

In order to inform park program review and potential ACHP evaluation of PA implementation, Superintendents will report biennially to Regional Directors on

implementation of the PA. The Biennial Report shall include the streamlined review data prescribed in Section III B of this PA, training completed and basic data demonstrating compliance-with the provisions of this PA as outlined in the guidance document for this agreement (Section I.A.2). ACHP, SHPOs, or THPOs may request hard copies of biennial reports.

- C) Park Section 106 Program Review by NPS Regional Directors, SHPOs, THPOs, and the ACHP
  - 1. The Regional Director may, at his/her discretion, initiate a review of a park's implementation of this PA. The AHP, either at its own discretion, or upon request of a Federally recognized Indian Tribe, SHPO/THPO, or Native Hawaiian organization, may at any time raise with the appropriate Regional Director any programmatic or project matters where they wish the Regional Director to review a Park Superintendent's Section 106 decisions. The Regional Director will consult with the ACHP, and the Regional Director shall provide a written response to the ACHP, and where applicable, the SHPO or THPO, that documents the outcome of the consultation and the resolution. The Regional Director has the option to suspend a park's use of this PA, and subsequently reinstate it as appropriate.
  - 2. Documentation of NPS Section 106 reviews not already provided to SHPOs, THPOs, and the ACHP will be available for review by the ACHP and the appropriate SHPO/THPO upon request. Individual SHPOs/THPOs who wish to review this documentation are responsible for specifying scheduling, frequency, and types of undertakings of concern to them.
- D) NPS Regional Directors Reporting to the Director of the NPS  
Regional Directors will report biennially to the Director on implementation of this PA within his/her region. Each Regional Biennial Report will be submitted within six (6) months following receipt of Park Biennial Reports by the Regional Director as required in Section VIII.B of this PA. A hardcopy of the biennial reports will be sent to the ACHP and upon request from a SHPO or THPO.

#### IX) SUBSEQUENT AGREEMENTS

- A) Upon execution of this PA, Superintendents are encouraged to evaluate their park's programs and discuss with SHPO /THPOs, Federally recognized Indian Tribes, Native Hawaiian organizations, and/or the ACHP ways to develop supplemental programmatic agreements for park undertakings that would otherwise require numerous individual requests for comments.
- B) Development of programmatic agreements specific to a project, plan, or park may be negotiated between Superintendents and SHPOs/THPOs, Federally recognized Indian Tribes; Native Hawaiian organizations, the ACHP, and/or other consulting parties where appropriate, pursuant to 36 CFR 800.14(b), and may be independent of or supplement this PA. Superintendents will provide an informational copy of all agreements to the Regional Section 106 Coordinator.
- C) Memoranda of agreement developed to resolve adverse effects for specific projects shall be negotiated between Superintendents and SHPOs/THPOs, Federally recognized Indian Tribes, Native Hawaiian organizations, and/or the ACHP, pursuant to 36 CFR 800.6(c), and shall be independent of this PA. Superintendents will provide an informational copy of all agreements to the Regional Section 106 Coordinator.

#### X) DISPUTE RESOLUTION

- A) Should disputes arise, the Superintendent, SHPO/THPO, and/or the ACHP will consult with the objecting parties to resolve the objection. All work that is the subject of the dispute will stop until the dispute is solved in accordance with the procedures in this section. If the dispute

cannot be resolved, all documentation relevant to the dispute will be forwarded to the parties named above. If the SHPO/THPO objects to a Park Superintendent's decision, the information will be forwarded to the Regional Director. If the National Park Service objects to the SHPO/THPO's opinion, the information will be forwarded to the ACHP. If the Regional Director cannot resolve a SHPO/THPO objection, the Regional Director will forward to the ACIIP relevant documentation not previously furnished to the ACHP and notify the Director of the dispute. Within thirty (30) days after receipt of all pertinent documentation, the ACHP either:

1. Provide the Regional Director with a recommendation, with an information copy provided to the Director, which the Regional Director will take into account in reaching a final decision regarding the dispute; or
  2. Notify the Regional Director that it will comment to the Director pursuant to the provisions of 36 CFR 800.7 and proceed to comment. Any ACHP comment provided in response to such a request will be taken into account by the NPS with reference to the subject of the dispute.
- B) In the event the ACHP does not respond within thirty (30) days of receipt of all pertinent documentation, the Regional Director may proceed with his or her recommended resolution.
- C) At the request of any individual, agency, or organization, the ACHP may provide the NPS with an advisory opinion regarding the substance of any finding, determination, or decision made in accordance with this PA or regarding the adequacy of the NPS' compliance with Section 106 and this PA.

#### XI) MONITORING AND TERMINATION

- A) The NPS will convene a meeting of the signatories to this PA within two (2) years of execution of the PA and as needed thereafter, to review implementation of the terms of this PA and determine whether revisions or amendments are needed. Meetings may be conducted in any mutually agreeable location and/or format, including in-person, video conferencing, or teleconferencing. If revisions or amendments are needed, the parties will consult in accordance with 36 CFR 800.14
- B) This PA may be amended when such an amendment is agreed to in writing by all signatories. When major revisions are proposed to NPS policies that will affect the manner in which the NPS carries out its Section 106 responsibilities, the signatories shall consult to determine whether an amendment to this PA is needed. Any amendments will be effective on the date a copy signed by all of the signatories is filed with the ACHP.
- C) Any party to this PA may terminate it by providing ninety (90) days notice to the other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. Termination by any Federally recognized Indian Tribe signatory will be limited to termination of this PA on the tribal lands of the subject tribe. In the event of termination, the NPS will comply with 36 CFR Part 800 with regard to individual undertakings otherwise covered by this PA.

#### XII) SEVERABILITY

- A) If any section, subsection, paragraph, sentence, clause, or phrase in this PA is, for any reason, held to be unconstitutional or invalid or ineffective, such decision shall not affect the validity or effectiveness of the remaining portions of this PA.

- B) If any section, subsection, paragraph, sentence, clause, or phrase in this PA is, for any reason, held to be unconstitutional or invalid or ineffective, the signatories shall consult to determine whether an amendment to this PA is needed.

XIII) ANTI-DEFICIENCY ACT STATEMENT

1. The stipulations of this Agreement are subject to the provisions of the Anti-Deficiency Act (31 U.S.C. 1341 (1998)). If compliance with the Anti-Deficiency Act alters or impairs NPS ability to implement the stipulations of this Agreement, NPS will consult in accordance with the dispute resolution, amendment or termination stipulations as specified in Sections X and XI of this PA,

**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

BY: [Signature]  
CHAIRMAN

DATE: 11/14/08

**NATIONAL PARK SERVICE**

BY: Mary H. Roman  
DIRECTOR

DATE: 11/14/08

**NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS**

BY: Jay D. Vogt  
PRESIDENT

DATE: 11-14-2008

APPENDIX D  
ACCESSIBLE SHORELINE PROGRAMMATIC AGREEMENT (1988)



United States Department of the Interior

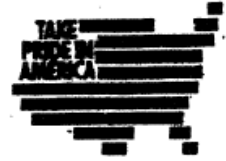
NATIONAL PARK SERVICE

ROCKY MOUNTAIN REGIONAL OFFICE

12795 W. Alameda Parkway

P.O. Box 25287

Denver, Colorado 80225-0287



IN REPLY REFER TO:

H3015 (RMR-PR)

FEB 8 1989

Memorandum

To: Superintendent, Glen Canyon National Recreation Area

From: Associate Regional Director, Planning and Resource Preservation,  
Rocky Mountain Region

Subject: Programmatic Agreement regarding Management/Development Concept  
Plans for Lake Powell's Accessible Shorelines at Glen Canyon  
National Recreation Area, Utah and Arizona

Enclosed for your information and files is a copy of the recently executed subject Programmatic Agreement. This agreement delineates the respective responsibilities of the National Park Service, the Utah and Arizona State Historic Preservation Officers, and the Advisory Council on Historic Preservation with respect to the Management/Development Concept Plan for Lake Powell's Accessible Shorelines while satisfying our responsibilities under Section 106 compliance.

If you have further questions regarding the implementation of this agreement, please contact Regional Historian Michael G. Schene at FTS 327-2875.

*di- /*

Richard A. Strait

Enclosure

cc:

WAS0-400, Jerry Rogers

WAS0-418, Ben Levy

Supt., Southeast Utah Group

Chief, MWAC

DSC-TCE, Ron Johnson

RMR-PP, Mike Snyder

# Advisory Council On Historic Preservation

The Old Post Office Building  
1100 Pennsylvania Avenue. NW. #809  
Washington. DC 20004

Reply to: 730 Simms Street. Room 450  
Golden. Colorado 80401

December 27, 1988

Ms. L. LorraineMintzmyer  
Rocky Mountain Regional Director  
ATTN. Michael G Schane, Regional Historian  
Division of Cultural Resources  
National Park Service  
P.O. Box 25287  
Denver, CO 80225

REF: Programmatic Agreement regarding Management/Development  
Concept Plans for Lake Powell's Accessible Shorelines at  
Glen canyon National Recreation Area, Utah and Arizona

Dear Ms. Mintzmyer:

The enclosed Programmatic Agreement has been executed by the Council. This document constitutes the comments of the Council required by Section 106 of the National Historic Preservation Act and the Council's regulations. As requested, we are returning three of the original copies of this Agreement to you for your records and for distribution to the Arizona and Utah State Historic Preservation Officers.

The Council appreciates your cooperation in reaching a satisfactory resolution of this matter.

Sincerely,  
Robert Fink  
Director, Western Office  
of Project Review

Enclosure



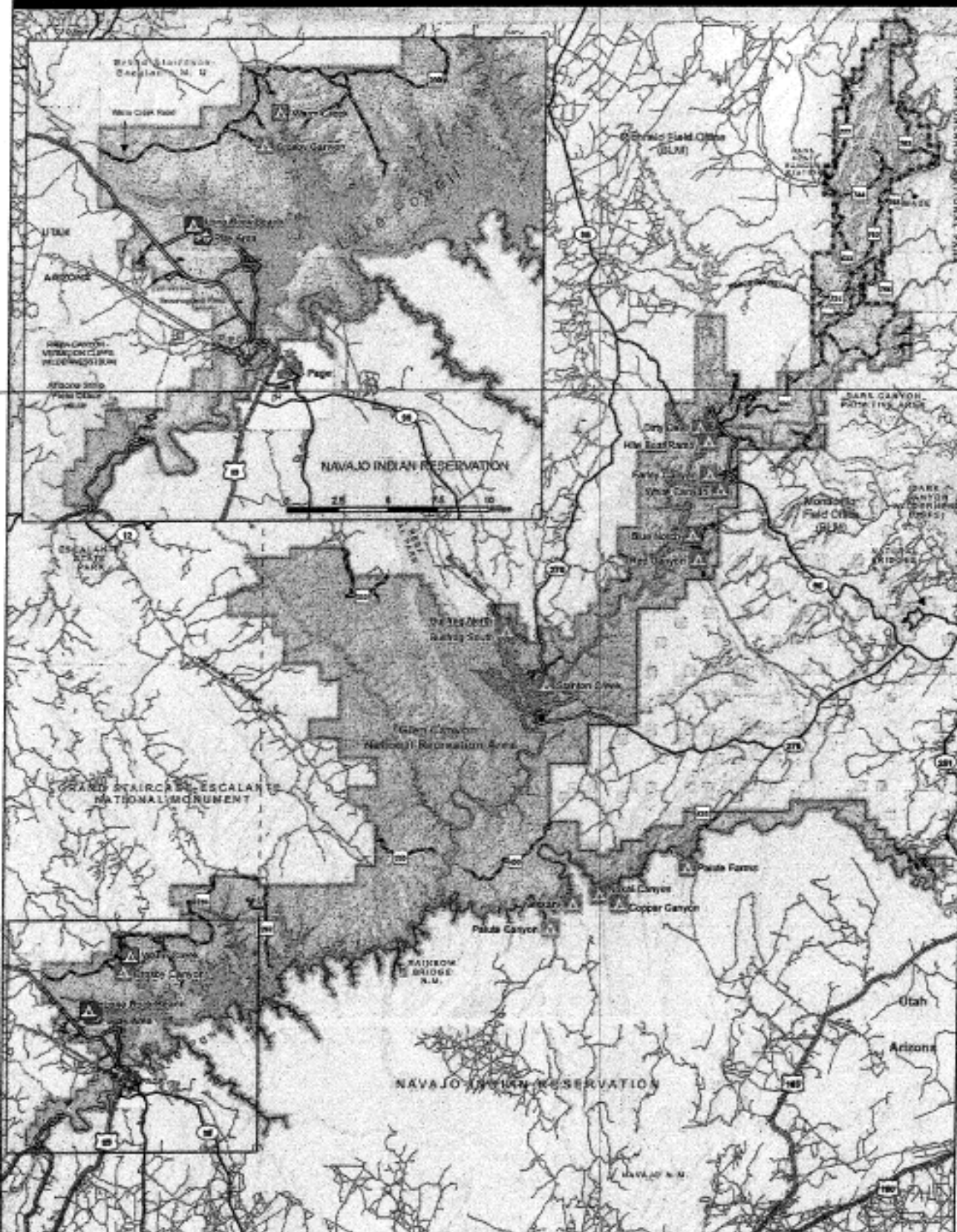
At this time the 1988 Programmatic Agreement Between the National Park Service, Rocky Mountain Region, The Arizona State Historic Preservation Officer, The Utah State Historic Preservation Center, and The Advisory Council on Historic Preservation cannot be uploaded.

Staff are working on digitizing this document. Please contact Glen Canyon National Recreation Area for more information.

**APPENDIX E**  
**AREA OF POTENTIAL EFFECTS**



# Alternative E: Mixed Use



<p><b>ORV Areas</b></p> <ul style="list-style-type: none"> <li> Open to Conventional Motor Vehicles and Street Legal ATVs</li> <li> No Vehicle Use</li> <li> Open to Conventional Motor Vehicles, OHVs, and Street Legal ATVs</li> <li> Play Area Open to Conventional Motor Vehicles, OHVs, and Street Legal ATVs</li> </ul>		<p><b>Designated ORV Routes</b></p> <p><b>SMP Roads</b></p> <ul style="list-style-type: none"> <li> Unpaved</li> <li> Open to Conventional Motor Vehicles Only</li> <li> Open to Conventional Motor Vehicles, OHVs, and Street Legal ATVs</li> <li> Paved</li> <li> Open to Conventional Motor Vehicles and Street Legal ATVs</li> </ul>		<p><b>Roads</b></p> <ul style="list-style-type: none"> <li> U.S. Highway</li> <li> State Route</li> <li> Paved</li> <li> Unpaved</li> <li> Orange Cliff</li> <li> Park Boundary</li> <li> County Boundary</li> <li> State</li> </ul>	

## **Appendix F**

### **Points of Contact for Unanticipated Archeological Discoveries And Discoveries of Human Remains**

This list of contacts will be undated and redistributed to all consulting parties as changes occur in any point of contact. The identified Federal agency will be responsible for contacting the appropriate offices and interested Tribes.

#### Federal Agency:

Glen Canyon National Recreation Area  
691 Scenic View Road  
P.O. Box 1507  
Page, AZ 86040  
(928) 608-6200 or (928) 608-6301

Rosemary Sucec  
Cultural Resources Program Manager  
(928) 608-6277  
[rosemary\\_sucuc@nps.gov](mailto:rosemary_sucuc@nps.gov)

Thann Baker  
Archeologist  
(928) 608-6263  
[thann\\_baker@nps.gov](mailto:thann_baker@nps.gov)

#### State Historic Preservation Offices:

Utah Division of State History  
300 S. Rio Grande Street (450 West)  
Salt Lake City, UT 84101  
(801) 245-7225

Brad Westwood  
Utah State Historic Preservation Officer  
(801) 245-7248  
[bradwestwood@utah.gov](mailto:bradwestwood@utah.gov)

Lori Hunsaker  
Utah Deputy State Historic Preservation Officer  
(801) 245-7241  
[lhunsaker@utah.gov](mailto:lhunsaker@utah.gov)

Arizona State Parks  
1300 W. Washington Street Phoenix, AZ 85007  
(602) 542-4174 or (800) 285-3703

James Garrison

Arizona State Historic Preservation Officer  
(602) 542-4009  
[jgarrison@azstateparks.gov](mailto:jgarrison@azstateparks.gov)

David Jacobs  
Arizona State Historic Preservation Office  
Compliance Specialist/Archaeologist  
(602) 542-7140  
[djacobs@azstateparks.gov](mailto:djacobs@azstateparks.gov)

Tribes:

**Hopi Tribe**

Hopi Cultural Preservation Office  
P.O. Box 123  
Kykotsmovi, AZ 86039  
(928) 734-3619

Lee Wayne Lomayestewa  
Repatriation Coordinator  
(928) 734-3613  
[llomayestewa@hopi.nsn.us](mailto:llomayestewa@hopi.nsn.us)

**Kaibab Paiute Tribe**

Kaibab Band of Paiute Indians Tribal Office  
#1 North Pipe Spring Rd.  
Fredonia, AZ 86022  
(928) 643-7245

Charley Bullets  
Director, Southern Paiute Consortium  
HC 65 Box 2  
Fredonia, AZ 86022  
(928) 643-6278  
[Cbullets74@gmail.com](mailto:Cbullets74@gmail.com)

**Navajo Nation**

Navajo Historic Preservation Department  
P.O. Box 4950  
Window Rock, Arizona 86515 (928) 871-7198

Tim Begay  
Navajo Cultural Specialist  
928-871-7152  
[timothy\\_begay@yahoo.com](mailto:timothy_begay@yahoo.com)

**Paiute Indian Tribe of Utah**

Paiute Indian Tribe of Utah Tribal Office  
440 North Paiute Drive Cedar City UT 84721  
(435)-586-1112

Dorena Martineau  
Cultural Resource Director  
435-586-1112  
[dorena-martineau@ihs.gov](mailto:dorena-martineau@ihs.gov)

### **Pueblo of Zuni**

Pueblo of Zuni  
PO Box 339  
1203B State HWY. 53  
Zuni, NM 87327  
(505) 782-7000

Gerald Hooee  
Councilman  
505-782-7025  
[ghooee@ashiwi.org](mailto:ghooee@ashiwi.org)

Mark Martinez Councilman  
505-782-7022  
[mmarti@ashiwi.org](mailto:mmarti@ashiwi.org)

### **San Juan Southern Paiute**

San Juan Southern Paiute Council Office  
P. O. Box 1989  
Tuba City, AZ 86045 (928) 283-5530

May Preston Chairwoman  
P. O. Box 2862  
Tuba City, AZ 86045  
928-514-6261  
[sjspt.prez@gmail.com](mailto:sjspt.prez@gmail.com)

### **Ute Mountain Ute**

Ute Mountain Ute Tribal Office  
124 Mike Wash Rd.  
Towaoc, CO 81334  
(970) 565-3751

Terry Knight, Sr.  
NAGPRA Representative/THPO  
P.O. Box 468  
Towaoc, CO 81334

970-564-5727  
[tknight@utemountain.org](mailto:tknight@utemountain.org)

Lynn Hartman  
Contractor Administrator  
P.O. Box468  
Towaoc, CO 81334  
970-564-5731  
[hartman@utemountain.org](mailto:hartman@utemountain.org)

County Medical Examiners

**Coconino**

Sheriff William B. Pribil (928) 774-4523  
Coroner's Office: (928) 679-8775

**Garfield**

Sheriff James D. Perkins Jr. (435) 6.76-2678  
Coroner: Raymond Gardner (425) 691-0591

**Kane**

Sheriff Lamont W. Smith (435) 644-4916  
Coroner: Rob Russel (630) 232-5915

**San Juan**

Sheriff Ken Christensen (505) 334-4248  
Coroner: (505) 272-3035

**Wayne**

Sheriff Kurt R. Taylor (435) 836-1308  
[wcs@wayne.utah.gov](mailto:wcs@wayne.utah.gov)

-0-