

**Programmatic Agreement**  
**among**  
**the U.S. Department of Energy, National Nuclear Security Administration,**  
**Los Alamos Field Office,**  
**the New Mexico State Historic Preservation Office**  
**and**  
**the Advisory Council on Historic Preservation**  
**Concerning Management of the Historic Properties at**  
**Los Alamos National Laboratory, Los Alamos, New Mexico**

**WHEREAS**, this Programmatic Agreement (PA) replaces the previous PA dated December 23, 2015; and

**WHEREAS**, the U.S. Department of Energy (DOE), National Nuclear Security Administration (NNSA), Los Alamos Field Office (Field Office) has responsibility for the management of all historic properties at Los Alamos National Laboratory (LANL) that have either been determined eligible for listing in the National Register of Historic Places (Register) or are awaiting eligibility assessments, pursuant to Section 110 of the National Historic Preservation Act (NHPA) as amended, and must assess the effect of any federal undertaking upon historic properties included in, eligible for, or properties with undetermined eligibility for the Register pursuant to the NHPA, as amended, 54 United States Code (U.S.C.) 306108 and its implementing regulations, Section 106 of 36 Code of Federal Regulations (CFR) Part 800; and

**WHEREAS**, cultural resources management at LANL is part of a large set of planning activities that have as their common goal the responsible use of the LANL built environment and landscape in support of the Field Office missions; and

**WHEREAS**, LANL is comprised of approximately 40 square miles of land containing approximately 1,700 archaeological sites, 400 buildings and structures of historic age, multiple potential archaeological and historic districts, and a unit of the Manhattan Project National Historical Park; and

**WHEREAS**, the Field Office has determined that the mission of LANL as a scientific laboratory, with its associated operation, maintenance, research, development, waste management, and decontamination-decommissioning activities, may have both direct and indirect effects on historic properties; and

**WHEREAS**, the Field Office seeks to develop LANL-specific procedures and streamline Section 106 consultation and historic property documentation in consultation with the State Historic Preservation Officer (SHPO), the Advisory Council on Historic Preservation (ACHP) and other interested parties; and

**WHEREAS**, the Field Office recognizes the potential effect of mission activities on archaeological sites, sacred places and traditional use areas that are affiliated with Native American and Hispanic peoples; and

**WHEREAS**, the Field Office recognizes the potential effect of mission activities on local, state, and nationally significant buildings and structures; and

**WHEREAS**, the Field Office has consulted with federally-recognized New Mexico Tribes listed in Appendix A, invited the tribes to review and comment on this PA and responded as appropriate; and

**WHEREAS**, the New Mexico SHPO has an interest in continuing its cooperative relationship with the Field Office to facilitate a more effective and efficient Section 106 consultation process, to promote activities of mutual benefit, and to participate in the development of this PA; and

**WHEREAS**, the Field Office has invited the public to comment through a notification and online posting of this PA; and

**WHEREAS**, the Field Office in accordance with 36 CFR § 800.14(b) (2) (i), has notified the ACHP of the development of this PA and the ACHP has elected to participate; and

**NOW, THEREFORE**, the Field Office, the SHPO, and the ACHP agree that Field Office and LANL activities that have the potential to affect historic properties shall be administered in accordance with the stipulations section of this PA to satisfy the Field Office responsibilities under Sections 106 and 110 of the NHPA.

### **STIPULATIONS**

The Field Office shall ensure that the following measures are carried out:

For the purposes of this PA, the term "including" shall mean "including but not limited to." For the purposes of this PA, the term "historic properties" shall mean all properties, archaeological sites, traditional cultural properties, standing structures, buildings, associated records and artifacts that are included in, eligible for, or have not yet been evaluated for the Register.

#### **1. Roles and Responsibilities**

- A. The Field Office has a cultural resources program manager. The LANL Management and Operating Contractor has a staff of cultural resource specialists who meet the qualifications set forth in the Secretary of the Interior's Standards and Guidelines for Professional Qualifications (36 CFR Part 61), or work under the supervision of individuals who meet these qualifications. Any future Management and Operating Contractor will have a staff of Secretary of the Interior-qualified cultural resource specialists.
- B. Secretary of the Interior-qualified cultural resource staff review all projects or undertakings submitted through the Integrated Review Tool project review system. The project requirements identification (PRID) and the excavation/fill/soil disturbance permit (EXID) are part of the Integrated Review Tool system. A PRID review is required for all new or modified

projects and an EXID permit review is required for all ground-disturbing activities at LANL.

- C. The Field Office will determine if the undertaking is identified in the exemptions listed in Appendix B, attached hereto and incorporated by reference. If the undertaking is identified in Appendix B or is a property type listed in Appendix C, attached hereto and incorporated by reference, the Field Office has no further obligations to consult with the SHPO under Section 106 or this PA.

## **2. Area of Potential Effects**

- A. In defining the area of potential effects, the Field Office will consider potential direct, indirect, and cumulative effects to historic properties and their associated settings when the setting is an important aspect of integrity, as applicable. The introduction of physical, visual, or audible elements has the potential to affect the historic setting or use of historic properties including but not limited to properties of religious and cultural significance to Native American tribes. The Field Office will take this into account in defining the limits of an area of potential effect for indirect effects. The Field Office may consult with the SHPO on undertakings where defining the area of potential effects is complicated or controversial.

## **3. Consultation with Native American Tribes**

- A. The Field Office will consider the effects of its undertakings on historic properties significant to Native American tribes that ascribe cultural affiliation (tribal history, including those of traditional religious and cultural importance) to LANL lands as defined in Part IV Section 18 of the Cultural Resources Management Plan for matters pertaining to the NHPA, the National Environmental Policy Act, the Native American Graves Protection and Repatriation Act, and the American Indian Religious Freedom Act.
  - 1. NHPA Section 106 actions pertaining to the modification, decommissioning, or demolition of post-1942 historic buildings and structures will be exempt from tribal consultation based on prior consultation unless there is the potential to affect Native American cultural resources.
  - 2. The Field Office shall assure that Native American tribes have the opportunity to identify historic property concerns and to participate as consulting parties in all aspects of consultation for projects that are of interest to them. General notification will occur as early as possible in the planning process, but no later than the historic property identification stage.
  - 3. The Field Office will seek information from LANL-affiliated Native American tribes, as identified and consulted upon in *Determination of Ownership and Cultural Affiliation for Human Remains and Culturally Sensitive Objects Pursuant to the Native American Graves Protection and*

*Repatriation Act (NAGPRA) at Los Alamos National Laboratory, New Mexico (LA-UR-06-6796)*, about any historic properties of traditional cultural or religious significance that may be present within an undertaking's area of potential effect. The Field Office will ensure that current contacts for Native American tribes are maintained by the Field Office.

4. The Field Office shall use periodic meetings and project-specific consultation requests as needed to assure that Native American tribes have the opportunity to identify tribal concerns and to participate as consulting parties in all aspects of projects that are of interest to them. Native American tribes contacted and tribal concerns and recommendations derived from the consultation process shall be documented and addressed, consistent with the confidentiality considerations in Section 3.C.
  - B. When it is determined that an undertaking may affect a historic property identified by a Native American tribe as having traditional cultural or religious significance, the Field Office shall consult further with the tribe regarding the identification, evaluation, assessment of effects, and the resolution of adverse effects, if applicable, with respect to the property. If the SHPO and/or tribes do not concur with the Field Office's determination of effect, the Field Office will continue to consult with these parties to attempt to achieve concurrence. If these consultation efforts fail, then the procedures at 36 CFR 800.5(c)(2)(i) through (iii) will be followed.
  - C. The Field Office shall be sensitive to tribal concerns and rights regarding confidentiality and privacy and shall protect sensitive information to the fullest extent permitted by law, using applicable provisions and exemptions of Section 304 of the NHPA, Section 9 of the Archaeological Resources Protection Act, and Section (b) of the Freedom of Information Act.
4. Consulting Parties
- A. Consulting parties may include the SHPO, Native American tribes, local governments, local historical societies, the National Park Service, the public, and applicants for federal assistance, permits, licenses and other approvals (see 36 CFR 800.2(c)).
  - B. The Field Office shall invite potential consulting parties to participate, or consulting parties may request to participate in the Section 106 consultation process if they have a demonstrated interest in a Field Office undertaking or its effects on historic properties. A "demonstrated interest" may be indicated by an organization that focuses on historic preservation, as exhibited in their mission statement, charter or bylaws, their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's potential effects on historic properties. Any confidentiality concerns of Native American tribes, private individuals, and businesses shall be addressed.

- C. If the SHPO or a consulting party does not concur with the Field Office's determination of effect, the Field Office will continue to consult with the party to attempt to achieve concurrence. If these consultation efforts fail, then the procedures in 36 CFR 800.5(c)(2)(i) through (iii) will be followed.

## **5. Public Involvement**

- A. The Field Office will seek out and consider the views of the public when carrying out actions under the terms of this PA. The Field Office shall notify the public of proposed undertakings with potential adverse effects. The Field Office will solicit such input through the public participation opportunities afforded by environmental review processes established under the National Environmental Policy Act, and the Field Office will consider comments or objections by members of the public in a timely manner.
- B. The Field Office shall ensure that environmental documents include information on historic properties that may be affected by the proposed action and alternatives. The public will have access to findings made pursuant to this PA, consistent with the confidentiality requirements in the NHPA, Section 304, and the Archaeological Resources Protection Act, Section 9(a), and all other applicable laws, regulations and executive orders.
- C. Nothing in this PA will be interpreted as limiting or otherwise hindering cooperative efforts regarding historic preservation between the Field Office and other interested individuals or groups. All forms of cooperation are encouraged.

## **6. LANL-Specific Section 106 Reporting and Communication**

- A. **Formal Consultation**—Formal consultations between the SHPO and the Field Office are completed by a letter on Field Office letterhead and may be sent electronically to [nm.shpo@state.nm.us](mailto:nm.shpo@state.nm.us) with a copy sent to the appropriate SHPO staff reviewer. Larger files will be sent via regular mail, or will be hand delivered to the SHPO's office. The purpose of formal consultation is to afford the SHPO the opportunity to comment and for the Field Office to make informed decisions while building their administrative record for the undertaking. The SHPO's formal response will be on SHPO letterhead or by signed stamp and will include the SHPO tracking number. This response may be sent electronically or by regular mail.
- B. **Meetings and Other Communication**—The SHPO and the Field Office may meet at any time to discuss annual work plans, specific undertakings, outreach efforts, or other issues related to the Field Office's management of cultural resources. Both parties will make every effort to arrange such meetings in a timely manner and to provide information requested. The SHPO and the Field Office are encouraged to discuss specific undertakings prior to formal consultation or any aspect of the Field Office's cultural resource management program. Unless a topic falls under the category of formal consultation, communication may be informal via telephone and email.

## **7. Undertakings Not Requiring SHPO Consultation**

- A. The Field Office and SHPO have identified specific projects or activities that do not have the potential to cause effects to historic properties. These undertakings are listed in Appendix B: *Undertakings Not Requiring Further Section 106 Review*. The Field Office and the SHPO, in consultation with Native American tribes and other consulting parties, may agree in writing that other classes of actions may be added to Appendix B by mutual agreement. When all parties have agreed to the proposed additions to Appendix B, the Field Office will notify the signatories to this agreement in writing and provide the revised Appendix B.
- B. The Field Office will contact the SHPO in writing if there is a question on whether a proposed action constitutes an undertaking that might affect historic properties. The SHPO will provide written comments within ten calendar days of receipt of the request. The SHPO's comments and the Field Office's agreement or disagreement with the comments will be made part of the records for the proposed action. In the case of a disagreement, the Field Office will consult with the SHPO on the proposed action.

## **8. Streamlined Review for Actions Requiring Further Consultation**

- A. The Field Office will comply with the NHPA, as amended, 54 U.S.C 306108 and its implementing regulations, Section 106 of CFR Part 800. Sections 9 and 10 establish Field Office specific procedures in order to streamline the consultation process.

## **9. Eligibility**

- A. Archaeological sites are evaluated for Register eligibility by employing the criteria for listing in the Register as well as using LANL-specific contexts and research themes.
  - 1. Previously completely excavated sites, destroyed sites, and 100-percent collected artifact scatter sites, or artifact scatter sites that have been substantially collected (i.e., early archaeological research and sites collected by the Pajarito Archaeological Research Project) will likely be determined ineligible under Criterion D. However, sites will also be evaluated for eligibility under Criteria A–C and could potentially retain Register-eligibility. Eligibility for sites that have been substantially collected will be evaluated on a case-by-case basis.
- B. The *Archaeological Site Significance and Eligibility Standards*, for the conduct of archaeological work at LANL was developed in association with excavations and laboratory analyses as part of the DOE Land Conveyance and Transfer Project in 2008. This overarching research design was reviewed by the SHPO and the ACHP and was provided to culturally affiliated Native American tribes. Revised standards completed in 2015 are included in Appendix B of the revised Cultural Resources Management Plan. Future

revisions to the *Archaeological Site Significance and Eligibility Standards* will be done in consultation with the SHPO.

- C. Historic buildings and structures are evaluated for Register eligibility by employing the criteria for listing in the Register as well as using LANL-specific contexts and research themes.

Identified LANL themes and subthemes, many spanning both the Manhattan Project and Cold War periods, are listed below.

- **Weapons Research, Development, Testing, and Stockpile Support:** Atomic Bomb, Hydrogen Bomb, Technical Development (High Explosives, Initiators, Detonators, Limited Production), Pacific Testing, Nevada Test Site Testing, Treaty Verification, and Nuclear Safety and Security
- **Supercomputing:** ENIAC, Monte Carlo, MANIAC, Stretch
- **Reactor Technology:** Clementine, LOPO, SUPO, HYPO, Omega West, LAMPRE, UHTREX, KIVA, Godiva, Rover/Nuclear Propulsion
- **Biomedical/Health Physics:** Radiation Effects on Humans/Animals, Fatalities, Standards, Exposure Limits, Shielding, Bioassay, Remote Handling, Medical Isotopes
- **Strategic and Supporting Research:** Nuclear Science, Pioneering Physics, Energy Research
- **Environment/Waste Management:** Material Disposal Practices, Waste Management, Cleanup, Demolition and Decommissioning
- **Administrative and Social History:** General Administration of Facility, Social Organization of Laboratory and Town, Security Practices, Civil Defense
- **Architectural History:** Construction and Demolition History, Architectural Styles

There are four general property types associated with LANL's historical themes:

1. Laboratory-Processing Buildings such as high explosive and tritium processing and research facilities
2. Administration Buildings such as office buildings and facilities housing cafeterias and health and safety offices (change rooms and offices for radiological monitoring staff)
3. Security Buildings and Structures such as guard stations, security lights, and fencing
4. Support Buildings and Structures such as warehouses, water tanks, utilities, and waste treatment facilities

- D. Modifications to LANL properties that have not been formally assessed for Register eligibility will be treated as eligible.
- E. The inventory of all extant previously declared ineligible properties will be reviewed for changes to historical significance based on the passage of time.
- F. If the Field Office and SHPO cannot agree on the eligibility of a property, or if the ACHP requests, the Field Office will obtain a formal determination of eligibility from the Keeper of the National Register, whose decision shall be final.

#### 10. Assessment and Determination of Effects

- A. No Historic Properties Affected—Those undertakings determined to have no direct or indirect effect on historic properties because no eligible and/or potentially eligible (unevaluated) properties are present in the area of potential effects will be allowed to proceed. These will be reported on an annual basis to the SHPO pursuant to Section 13 below, with the survey report available for review and comment. The report will be submitted to the SHPO within six months of the survey for review and comment. Undertakings that have no direct or indirect effect because eligible and/or potentially eligible (unevaluated) properties within the area of potential effects will be avoided by project activities will also be allowed to proceed. Previously unevaluated properties will be reported to the SHPO with the documentation available for review and comment.

A survey report and associated forms for archaeological sites and/or historic structures will be submitted if the area of potential effects has been previously unsurveyed. Documentation will be entered into the New Mexico Cultural Resource Information System (NMCRIIS) and submitted to the SHPO within six months of the survey for review and comment. If the process exceeds six months, the Field Office will notify the SHPO to consult on and determine a new deadline.

If the SHPO has questions or concerns about the documentation or the findings of eligibility and effect, the SHPO will provide comments to the Field Office. The Field Office will take these comments into consideration on future similar cultural resources and/or projects.

#### B. No Adverse Effect Undertakings

- 1. Archaeological Sites—If an undertaking is determined to have no adverse effect, the Field Office will notify the SHPO, Native American tribes, and consulting parties pursuant to 36 CFR 800.5(d)(1).
- 2. Historic Buildings—Guidance included in the ACHP's *Balancing Historic Preservation Needs with the Operation of Highly Technical or Scientific Facilities* notes that flexibility is required when working with highly technical built resources. At LANL, interior remodeling or renovation of Register-eligible properties, where changes or renovations support the



continued building use or mission, will be considered to have no adverse effect providing the renovations do not have the potential to effect those qualities that make the property eligible. Interior remodeling or renovations of Register-eligible properties will be subject to Secretary of the Interior-qualified cultural resource staff review (through the Integrated Review Tool process). Archival-quality digital photographs will be taken of the interior of the property prior to commencement of work.

Upgrades, remodeling, or renovation to the exterior of Register-eligible buildings will be subject to Secretary of the Interior-qualified cultural resource staff review and will be allowed to proceed provided that the modifications do not affect or have the potential to affect those qualities that make a historic property eligible for the Register. The Field Office will consult with the SHPO on these undertakings.

Upgrades, remodeling, or renovation will require archival quality photographic documentation of the present condition, review of historic photographs, and the collection of architectural plans and drawings. These documents and photographs will be compiled and maintained at LANL throughout the life cycle of the property.

#### C. Adverse Effect

1. If an undertaking may have a potential adverse effect on historic properties, the Field Office will notify the SHPO, Native American tribes, and consulting parties pursuant to 36 CFR 800.6(a). The Field Office will submit a project report and NMCRIS forms to the SHPO within thirty days after determining the report meets standards. The SHPO will provide comments within thirty days of receipt of the report and forms. If the SHPO does not respond within the agreed-upon timeframe, the Field Office may assume concurrence with determinations of eligibility and effect. The Field Office will proceed with the resolution of adverse effect procedures in Section D.
2. Neglect of a Register-eligible property that causes its deterioration will be considered an adverse effect per 36 CFR 800.5(2)(v).
3. Mission Changes or Building Closures. Mission change is defined as a new use not related to the original historic function of the building. Building closure undertakings are typically known as "Cold & Dark" or "Cool & Dim" projects and often include the relocation of personnel, the abandonment of records, and the removal or salvaging of equipment, experiments, and other interior fixtures. Cold & Dark projects usually involve permanently disconnecting power and other utilities. Mission changes or building closures are considered an adverse effect.

#### D. Resolution of Adverse Effects

1. Adverse effects will be resolved through the Section 106 process as defined in 36 CFR 800.6.

2. If an Native American tribe or interested consulting party wishes to participate in the resolution of adverse effects, the Field Office will follow the process outlined in 36 CFR 800.6 and will prepare a Memorandum of Agreement in consultation with the SHPO.
3. The Field Office, in consultation with the SHPO, the ACHP, and consulting parties has developed standard practices and mitigation measures for certain types of properties where the mitigation approach or strategy is similar and repetitive (see Appendix D, attached hereto and incorporated by reference). When the Field Office proposes to resolve adverse effects through use of a standard practice included in Appendix D, the Field Office will notify the SHPO, Native American tribes, and other consulting parties, as appropriate, of the proposal to use a standard practice to resolve adverse effects. The SHPO will have thirty days to respond and provide comments on the proposed standard practice. If the Field Office does not receive comments from the SHPO within thirty days, the Field Office may assume SHPO concurrence with the use of the standard practice.

If new development of standard practices is necessary, the Field Office shall consult with the SHPO, Native American tribes, and other consulting parties that have demonstrated interest in the class of historic properties. Upon mutual written agreement by the Field Office, the SHPO, and the ACHP, such standard practices shall be appended to this PA. The Field Office will notify the signatories of this agreement in writing and provide the revised Appendix D. The standard practices may then be followed in lieu of case-by-case consultation for the specified class of properties.

4. If the SHPO does not concur with the use of the proposed standard practice, the Field Office and the SHPO will consult further to resolve adverse effects.
5. Mission Changes/Building Closure—Mission change is defined as a new use not related to the original historic function of the building.
  - a. The following documentation will be compiled and maintained at LANL throughout the life cycle of the property.
    - i. Before significant mission changes or building closure activities begin, the interior and other affected areas of the building or structure will be photographed. Archival-quality digital photographs will be produced in accordance with the Secretary of the Interior's Standards for Architectural and Engineering Documentation.
    - ii. Historically significant equipment and artifacts associated with historic properties will be identified before the shutdown, and curation of these items will be coordinated with Bradbury Science Museum staff. These artifacts may have interpretive or educational

value as exhibits within local, state, or national museums and will be curated, as appropriate, at LANL. The identification and archiving of any extant historical records will be coordinated with LANL archives or records management personnel, as appropriate.

- iii. A list of former workers will be compiled, especially those individuals with institutional knowledge of historical facility operations. Oral interviews will be conducted as appropriate.
  - b. Neglect of a Register-eligible or potentially eligible (unevaluated) property that causes its deterioration will be considered an adverse effect per 36 CFR 800.5(2)(v). Properties that are Cold & Dark or Cool & Dim are especially susceptible to demolition by neglect. To avoid an adverse effect, sustained maintenance and repair of these properties is necessary (see 36 CFR 800.5(2)(v)).
6. If resolution of adverse effects only includes the Field Office and the SHPO, no Memorandum of Agreement will be required. Agreement will be documented in writing. The Field Office will consult with the SHPO to resolve adverse effects.

#### **11. Concurring Party**

- A. The Field Office authorized officer may invite other parties to concur. A party invited to concur has no responsibility under the agreement, but may be invited to sign the agreement as a Concurring Party. The refusal of any party invited to sign a Memorandum of Agreement does not invalidate that agreement.

#### **12. Legacy Reports**

- A. Legacy reports may include any archaeological and historic survey reports, excavation reports, building documentation, interpretive materials, or other deliverables. The Field Office will submit these deliverables as funding and staffing allow.
- B. Documentation of legacy reports shall include project activity forms and site records along with inventory area and site location(s) information, if applicable.

#### **13. Annual Report to the SHPO**

- A. The Field Office will prepare and submit an annual report to the SHPO by January 15. The report will include succinct information on:
  - List of No Historic Properties Affected undertakings and reason for the determination. This includes No Effect Through Avoidance (all eligible properties within the area of potential effects will be avoided by project activities) for archaeological surveys with negative findings, and for No Adverse Effect undertakings involving mission-related upgrades to buildings and structures.

- List of legacy reports completed and number of reports remaining.
- B. The annual report will be in table format and will include the following types of information as appropriate:
- Review date or date of action
  - Project title with brief description of the project technical area
  - Laboratory of Anthropology (LA) number or LANL building number
  - Site type/building type
  - Site affiliation/date built
  - Site/building location
- C. The SHPO will review the annual report and provide comments within thirty days. The SHPO will provide suggestions for improving the Section 106 process as defined in this PA; including discussion on eligibility evaluations and effect findings and ways to improve consensus if necessary, and recommendations for any amendments to improve the effectiveness of the PA, including the addition or revision of appendices.

#### **14. Data Sharing**

- A. Spatial and tabular site and survey data will be maintained and information will be in a compatible format to the NMCRIS maintained by the SHPO.
- B. Site locations and other confidential information will be protected and made available only to qualified persons in accordance with state and federal guidelines, including Section 304 of the NHPA, Section 9 of the Archaeological Resources Protection Act, and Section 18-6-11.1 of the New Mexico Cultural Properties Act, New Mexico States Annotated 1978.

#### **15. Post-review Discovery**

- A. If historic properties are discovered or unanticipated effects on historic properties found after the Section 106 process for a proposed undertaking has been completed, the Field Office will follow the procedures in 36 CFR Part 800.13.
1. If the undertaking has been approved and the construction has commenced, the Field Office, in consultation with the SHPO and Native American tribes, will evaluate eligibility and resolve any potential adverse effects. The Field Office will notify the ACHP of the agreed upon strategy and provide them an opportunity to comment.
    - a. If no mutually acceptable resolution of adverse effects can be reached between the Field Office and the SHPO, the Field Office will follow the dispute resolution procedures outlined in Section 15. The Field Office or the SHPO may ask the ACHP to participate in the consultation and resolution process.

- B. Determinations are made in terms of ownership and cultural affiliation as specifically applied to human remains and associated and unassociated object covered by NAGPRA (NAGPRA, 25 U.S.C. 3001) based on the LANL NAGPRA Cultural Affiliation Determination on July 17, 2007, *Determination of Ownership and Cultural Affiliation for Human Remains and Culturally Sensitive Objects Pursuant to the Native American Graves Protection and Repatriation Act* (LA-UR-06-6796).

#### **16. Dispute Resolution**

- A. Should any signatory or concurring party to this PA object at any time to any actions proposed or the manner in which the terms of this PA are implemented, the Field Office shall consult with such party to resolve the objection. If the Field Office determines that such objection cannot be resolved, the Field Office will:
1. Forward all documentation relevant to the dispute, including the Field Office's proposed resolution, to the ACHP. The ACHP shall provide the Field Office with its advice on the resolution of the objection within thirty days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Field Office shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories, and concurring parties and provide them with a copy of this written response. The Field Office will then proceed according to its final decision.
  2. If the ACHP does not provide its advice regarding the dispute within the thirty-day time period, the Field Office may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Field Office shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the PA, and provide them and the ACHP with a copy of such written response.
  3. The Field Office is responsible for carrying out all other actions subject to the terms of this PA. Those actions not the subject of the dispute remain unchanged.

#### **17. Emergencies**

- A. When a state of emergency is declared, the Field Office will follow 36 CFR 800.12(b)(2). Every effort will be made to avoid adversely affecting historic properties.
- B. For emergencies such as wildland fire suppression, flooding, or hazardous materials incidents, the Field Office will notify the SHPO and any Native American tribe likely to be affected as soon as possible about the emergency. The Field Office will meet its Section 106 obligations in the following manner.

1. To the extent that such actions do not compromise agency personnel safety, public safety, or immediately threaten property, the Field Office will evaluate effects on known historic properties and newly-discovered sites or historic structures for Register eligibility prior to continuing emergency operations. The Field Office will make reasonable efforts to avoid, minimize, or mitigate adverse effects of emergency operations to any historic properties discovered. Such evaluations should occur within forty-eight hours of discovery, but if that cannot be accomplished, all sites or structures will be treated as eligible. For eligible properties, the preferred course of action will be to identify and implement tactics so that adverse effects to historic properties are avoided. If adverse effects cannot be avoided, the Field Office will ensure that a treatment plan is prepared and executed so long as these actions will not compromise agency personnel safety, public safety, or immediately threatened property.
2. The above actions apply only to undertakings that will be implemented within thirty days after the disaster or emergency has been formally declared by the appropriate authority. The Field Office may request an extension of the period of applicability from the ACHP prior to the expiration of the thirty days. Immediate rescue and salvage operations conducted to preserve life or property are exempt from the provisions of Section 106 and this section of this PA. A complete report on any emergency situations, any affected historic properties, and any data recovery carried out will be provided by the Field Office to the SHPO.
3. If Field Office managers delegate authority for managing an emergency situation to an Incident Command Team, the Field Office retains responsibility for Section 106 compliance on LANL lands. The process will follow the above procedures and a cultural resource advisor will be assigned to the Incident Command Team.

#### **18. Duration of the PA**

- A. This PA will be effective for five years from the date of signature by all parties, or as otherwise agreed to by all parties. Upon consultation with, and agreement by, other parties to this PA, it may be extended for an additional five years.

#### **19. Amendments**


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

#### **20. Termination**


- A. If any signatory to this PA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment per stipulation 15 above. If within sixty days an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other signatories.

Execution of this PA by the Field Office and the SHPO and implementation of its terms evidence that the Field Office has taken into account the effects of such undertakings on historic properties and afforded the ACHP an opportunity to comment.

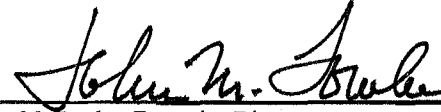
**U.S. DEPARTMENT OF ENERGY, NATIONAL NUCLEAR SECURITY  
ADMINISTRATION, LOS ALAMOS FIELD OFFICE**

By:  Date: 6/21/17  
Kimberly Davis Lebak, Field Office Manager

**NEW MEXICO STATE HISTORIC PRESERVATION OFFICER**

By:  Date: 6/27/17  
Jeff Pappas, PhD, State Historic Preservation Officer

**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**

By:  Date: 8/2/17  
John M. Fowler, Executive Director

## **Appendix A**

### **List of Tribes Consulted**

**Pueblo de San Ildefonso**

**Pueblo of Santa Clara**

**Pueblo of Jemez**

**Pueblo of Cochiti**

**Pueblo of Tesuque**

**The Hopi Tribe**

**Ohkay Owingeh (Pueblo of San Juan)**

**Pueblo of Acoma**

**Pueblo of Laguna**

**Pueblo of Nambe**

**Pueblo of Isleta**

**Pueblo of Picuris**

**Pueblo of Pojoaque**

**Pueblo of Sandia**

**Pueblo of San Felipe**

**Pueblo of Santa Ana**

**Pueblo of Santo Domingo**

**Pueblo of Zia**

**Pueblo of Taos**

**Pueblo of Zuni**

**Jicarilla Apache Nation**

**Mescalero Apache Tribe**

**Navajo Nation**

**Ute Mountain Ute Tribe**



## **Appendix B**

### **Undertakings Not Requiring Further Section 106 Review**

All undertakings, including undertakings not requiring additional Section 106 review, are initially reviewed through the Integrated Review Tool by Secretary of the Interior-qualified cultural resource staff. However, the following activities or undertakings are exempt from cultural resource management review, provided that (a) they do not affect or have the potential to affect those qualities or settings that make a historic property eligible for the Register and (b) that they do not involve ground-disturbing activities (ground disturbance is defined as any activity that compacts or disturbs the ground within an area that has not been previously disturbed and contains no cultural deposits). If the activities do not meet these provisions, the Field Office will consult with the SHPO.

1. Pavement milling, overlay, chip seal, or rehabilitation on existing roads when the typical section is not increased to include new shoulders or travel lanes
2. Routine maintenance on existing fire roads and fire breaks that were historically bladed through historic properties where no intact cultural deposits remain or in areas that have had gravel/base course placed over remaining cultural deposits
3. Replacement or removal of general equipment or facility components
4. Installation, maintenance, repair, storage, relocation, removal, or replacement of process or laboratory equipment and associated systems
5. Siting, installation, maintenance, repair, removal, and operation of plant water systems
6. Siting, installation, maintenance, repair, removal, or replacement of plant and building electrical systems
7. Siting, installation, maintenance, repair, removal, or replacement of communications and computer systems
8. Routine service activities such as mowing and trimming grass, shrubs, or trees; moving furniture and equipment; snow removal; erosion control; housekeeping services; small-scale road, sidewalk, and parking-lot repair; maintenance and repair of vehicles and equipment; non-historic fencing and signs; maintenance of safe/vaults and locks; and routine decontamination of tools, surfaces, and equipment
9. Operation and maintenance of waste treatment, storage, and disposal facilities
10. Routine maintenance or repair of structures and buildings
11. Installation, maintenance, repair, or replacement of equipment used in current operations designed to maintain compliance with permits and Occupational Safety and Health Act regulations and Americans with Disabilities Act regulations

- 12. Installation and maintenance of features for hazard prevention of equipment, buildings, and structures**
- 13. Installation, maintenance, removal, and repair of security systems**
- 14. Installation, maintenance, removal, repair, or replacement of heating and air conditioning systems (when the system will be replaced in-kind)**
- 15. Modifications to steam condensate systems and chemical treatment systems**
- 16. Routine upgrades and modifications to fire protection systems**
- 17. Removal of asbestos-containing materials from existing buildings and structures**
- 18. Removal of polychlorinated-biphenyl-contaminated (PCB) items**
- 19. Installation or modification of personnel safety systems**

## **Appendix C**

### **Property Types Requiring No Formal Documentation**

The following property types are exempt from Register evaluation. However, all undertakings that include these property types are reviewed through the Integrated Review Tool by LANL Secretary of the Interior-qualified cultural resource staff. If any of these property types exhibit significant architectural or engineering features, or are associated with a National Register-eligible site or district, the Field Office will document and consult with the SHPO on the undertaking.

1. Structures with minimal or no visible surface manifestations (i.e., pits; underground storage tanks; underground vaults; buried material disposal areas; septic tanks; underground pipelines; sewer lines; and steam, storm-water, acid, or electrical manholes)
2. Aboveground fuel and water tanks
3. Wells and boreholes
4. Road-block barriers
5. Transformer and pressure-relief-valve stations
6. Mobile trailers and modular buildings and enclosures—these structures are used either as mobile trailers that are moved on-site, or pre-manufactured sides and roofs typically resting on poured concrete pads. They serve as temporary administrative support office space or storage facilities.

## **Appendix D**

### **Standard Practices**

The Field Office will comply with the NHPA, as amended, 54 U.S.C. 306108 and its implementing regulations, Section 106 of 36 CFR Part 800. The following sections establish LANL-specific procedures in order to streamline the consultation process to resolve adverse effects. Before implementing any of the standard practices listed in this appendix, the Field Office shall consult with the SHPO, Native American tribes, and other consulting parties of the proposal to use the standard measure pursuant to Stipulation 10.D.

#### **1. Archaeological Sites**

- A. Prehistoric artifact scatters and rock features on bedrock and/or secondary contexts.
  - 1. Per the *Archaeological Site Significance and Eligibility Standards* (Appendix B of *A Plan for the Management of the Cultural Heritage at Los Alamos National Laboratory* [LA-UR-15-27624]), prehistoric artifact scatters and isolated rock features situated on bedrock will be mitigated through in-field data recovery. With the limited data potential resulting from the proximity to bedrock and/or secondary context, the significant information content of these sites will be collected through in-field analysis and site recordation. Data recovery will include a detailed site recording and a detailed in-field analysis of artifacts.
  - 2. Should there be potential for additional information to be gained through subsequent laboratory analysis, a sampling and analysis strategy will be developed with input from the SHPO, and a limited numbers of artifacts may be collected. Data recovery of rock features will consist of a precise description of the feature, a site sketch, photographs, and detailed in-field analysis of any associated artifacts. Collection and subsequent laboratory analysis may be conducted for artifacts with the potential to yield additional information. Results of any data-recovery project carried out under this provision will be reported to the SHPO through a report that will include a project activity form, site records, inventory area, and site location information, if applicable. A final report with all associated documentation will be submitted to the SHPO within twelve (12) months after the undertaking is complete.

#### **2. Buildings, Structures, and Objects**

- A. Adverse effects to Register-eligible buildings and structures will be resolved according to the procedures as defined in Part II, Section 10 of *A Plan for the Management of the Cultural Heritage at Los Alamos National Laboratory, New Mexico* (LA-UR-15-27624) and Stipulation 9 of this PA. These standard practices do not apply to exceptionally significant properties as defined in Section 10 of *A Plan for the Management of the Cultural Heritage at Los Alamos National Laboratory, New Mexico*.

- B. Demolition or Major Remodeling—The following documentation will be conducted before demolition or major remodeling begins.**
- 1. The interior and exterior of the building or structure will be photographed. Archival-quality digital photographs will be produced according to the procedures as defined in Section 4.1 of the National Archives Bulletin 2014-04 *Revised Format Guidance for the Transfer of Permanent Electronic Records*.**
  - 2. Historically significant equipment and artifacts associated with historic properties will be identified and documented before removal or demolition, and curation will be coordinated with Bradbury Science Museum staff. The Bradbury Science Museum is a DOE-owned facility. These artifacts may have interpretive or educational value as exhibits within local, state, or national museums and will be curated, as appropriate, at LANL. The identification and archiving of extant historical records will be coordinated with LANL archives or records management personnel, as appropriate.**
  - 3. A listing of all LANL drawings for the property will be compiled, and an 11 × 17 copy of the selected reduced-scale key drawings will be submitted to the SHPO. If available, drawings and technical schematic plans depicting any significant instrumentation or equipment historically housed in the property will be submitted to the SHPO (note: significant experiments or engineering systems may be candidates for additional documentation). Documentation will include a map showing the location of the property relative to the entire LANL property. Additionally, the general site area will be documented so that there will be a permanent archival record of the history and appearance of the technical area where the property is located. A LANL technical area is a geographically-defined administrative unit within LANL property. A site map will also be generated depicting, at a sufficient scale, the footprint of each eligible and non-eligible building or structure within the associated technical area. A series of historic site maps, representing the technical area's construction history, will also be included.**
  - 4. As defined in Part II, Section 10 of *A Plan for the Management of the Cultural Heritage at Los Alamos National Laboratory, New Mexico* (LA-UR-15-27624), a historic context will include a history of the use of the eligible property supplemented with information from oral interviews.**
  - 5. A final report with all associated documentation will be submitted to the SHPO within twelve months after the undertaking is complete. Archival photographic prints will be retained at LANL and digital photo files will be stored on a LANL server.**