

PROGRAMMATIC AGREEMENT

AMONG

AMONG THE YAVAPAI-APACHE NATION;
THE NATURAL RESOURCES CONSERVATION SERVICE;
THE BUREAU OF INDIAN AFFAIRS, WESTERN REGIONAL OFFICE;
THE BUREAU OF INDIAN AFFAIRS, TRUXTON CANON FIELD OFFICE;
THE ARIZONA STATE HISTORIC PRESERVATION OFFICE;

REGARDING

COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC
PRESERVATION ACT AND THE YAVAPAI APACHE NATION RESOLUTION FOR THE
CHARTER OF PRESERVATION PROGRAMS, FOR CONSERVATION ASSISTANCE
ACTIVITIES RELATIVE TO YAVAPAI-APACHE NATION INTERESTS

WHEREAS, The United States Department of Agriculture, Natural Resources Conservation Service (NRCS), carries out Technical Assistance and other natural resource conservation programs under the Soil Conservation and Domestic Allotment Act of 1936 (P.L. 74-46, 16 U.S.C. 590 a-f), as amended; the Flood Control Act of 1936 (P.L. 74-738); the Flood Control Act of 1944 (P.L. 78-534), as amended; the Watershed Protection and Flood Prevention Act (P.L. 83-566), as amended, Section 6; the Great Plains Act of 1956 (P.L. 84-1021); the Agricultural and Food Act of 1981 (P.L. 97-98, 95 Stat. 1213); the Agricultural Credit Act (P.L. 95-334, Title IV, Section 403); the Food, Agriculture, Conservation, and Trade Act of 1990 (P.L. 101-624); the Water Resources Planning Act of 1965 (42 U.S.C. 1962); the Food Security Act of 1985 (P.L. 99-198), as amended, Title XII and related authorities; and,

WHEREAS, the Yavapai-Apache Nation (YAN) has indicated a desire to participate in certain NRCS programs; and,

WHEREAS, the NRCS, in consultation with the YAN; the Arizona State Historic Preservation Office (SHPO); and the Advisory Council on Historic Preservation (ACHP), has determined that certain of these conservation activities may affect properties listed in or eligible for listing in the National Register of Historic Places and YAN Sacred and Traditional Cultural Places (TCPs), and that these conservation activities are therefore subject to compliance with Title 36 Part 800 of the Code of Federal Regulations (36 CFR 800) (regulations implementing Section 106 of the National Historic Preservation Act [16 U.S.C. 470f] [NHPA]), and the YAN Resolution for the Charter of Preservation Programs; and,

WHEREAS, 36 CFR Part 800.14 provides for streamlined procedures for complying with Section 106 of NHPA through Programmatic Agreements, when appropriate; and,

WHEREAS, the YAN Cultural Preservation Office (CPO) has been consulted by the NRCS pursuant to 36 CFR.800.14; and,

WHEREAS, the NRCS, the CPO, the SHPO, and the ACHP have concluded that a streamlined compliance process is appropriate to NRCS programs that involve numerous small and repetitive undertakings whose timely delivery is vital to YAN clientele active in agricultural production.

WHEREAS, SHPO is authorized to enter into this agreement in order to fulfill its role of advising and assisting Federal agencies in carrying out their Section 106 responsibilities under the following federal statutes: Sections 101 and 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f, and pursuant to 36 CFR Part 800, regulations implementing Section 106, at 800.2(c)(1)(i) and 800.6(b); and

WHEREAS, SHPO is authorized to advise and assist federal and state agencies in carrying out their historic Preservation responsibilities and cooperate with these agencies under A.R.S. § 41-511.04(D)(4); and

WHEREAS, the Regional Director, Bureau of Indian Affairs, Western Regional Office, (BIA-WRO) is identified in the implementing regulations for the Archaeological Resources Protection Act (ARPA), at 25 CFR Part 262, as having responsibility for consulting with contractors performing non-excavation, non-collection inventory surveys on the need for such contractors to obtain ARPA permits on the YAN Reservation; and,

WHEREAS, the BIA-WRO, the BIA-Truxton Canon Field Office (BIA-TCFO), share responsibility for the administration of permits issued under ARPA and 43 CFR 7.5 and have, therefore, been invited to participate as consulting parties and to concur in this Agreement; and,

WHEREAS, the majority of historic property investigations undertaken to provide NHPA compliance support for NRCS undertakings are non-excavation, non-collection inventory surveys and are authorized by the CPO under authority granted by the YAN Resolution for the Charter of Preservation Programs; and,

WHEREAS, the NRCS and YAN acknowledge the interests of certain other federally recognized Indian tribes in the identification, evaluation, and disposition of certain historic properties on YAN lands, particularly those properties having traditional and religious cultural importance; and,

NOW, THEREFORE, the NRCS, the YAN, the BIA-WRO, the BIA-TCFO, the SHPO, and the ACHP agree that NRCS shall take into account the effects of conservation activities on YAN and historic properties on the Reservation and YAN historic properties elsewhere, as stipulated in this Programmatic Agreement.

STIPULATIONS

1. The YAN Government has designated the CPO as the representative of the YAN in matters relative to cultural resources.
2. NRCS conservation activities on YAN lands will comply with 36 CFR 800, Section 106 of the NHPA, Program Regulations found in Title 7 of the Code of Federal Regulations, all federal and tribal regulations listed in Appendix A, and all internal NRCS cultural resources directives established in General Manual 420 Part 401 and 601, through implementation of the policies and procedures set forth below.
3. The definitions in Appendix B of this Programmatic Agreement are applicable throughout NRCS operations relative to YAN interests.
4. NRCS will handle the discovery of any Native American human remains in strict accordance with the YAN policy and applicable federal law. NRCS recognizes the authority of the YAN Resolution for the Charter of Preservation Programs for work conducted on YAN lands and will comply with this Resolution as agreed within this Programmatic Agreement.
5. NRCS recognizes that many YAN TCPs are located outside of YAN lands, and will consult with the CPO concerning any land-disturbing activities (non-exempt practices listed in the handbook) that might pose a potential threat to YAN TCPs located both on and off of the YAN Reservation, within the area that the YAN has identified as the YAN area of historical interest. If the CPO does not respond to a NRCS request for consultation within thirty days, the NRCS may assume that the CPO has no objections to the NRCS and cooperator proceeding with the project. Where appropriate, on a case by case basis, the NRCS will attempt to procure access for YAN members to conduct TCP investigations from private landowners and from other tribes.

UNDERTAKINGS

1. **Definition of an Undertaking.** ACHP regulations (36 CFR 800.16) defines an undertaking as "...any project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; those requiring a Federal permit, license or approval; and those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency." A cultural resources investigation must be undertaken if a NRCS program or practice has the potential for affecting cultural resources. Most NRCS programs and practices have been pre-evaluated with respect to their potential for impacting cultural resources.

2. ***Exempt Programs and Practices:*** Assistance practices that are unlikely to affect cultural resources do not require a cultural resources investigation. These Exempt Practices are listed in Appendix C to this Agreement. Activities that are determined to be exempt will be documented in the conservation file for each project.
3. ***Practices Considered Likely to Affect Cultural Resources:*** Practices that are likely to affect cultural resources will usually require a cultural resources investigation. These Non-Exempt practices are listed in Appendix D to this agreement. A potential exemption is provided for some of these practices at the beginning of the list (existing equivalent or greater ground disturbance).
4. **The Cultural Resources Inventory Process** will consist of the steps listed in Appendix E and depicted in the Procedures Flowchart (Appendix F).

RESPONSIBILITIES

Natural Resources Conservation Service

1. **The NRCS State Conservationist** is responsible for ensuring overall cultural resources compliance in all NRCS activities YAN lands.
2. **The NRCS District Conservationist** is responsible for ensuring that the specific provisions of this Programmatic Agreement are implemented for all undertakings administered at the field office level.
3. **Field Office Personnel**, under the direction of the District Conservationist, shall prepare narrative descriptions and project maps and will submit them to the CPO with a request for CPO to conduct a cultural resources survey and TCP investigation. Field Office personnel, under the direction of the District Conservationist, will also forward the CPO cultural resources survey report to the NRCS Arizona State CRS for submission to the SHPO and for tribal consultation
4. **NRCS Cultural Resources Specialists (CRS)** (individuals meeting the Secretary of the Interior's Standards and Guidelines for professional archaeologists or closely related positions) are responsible for providing overall cultural resource program guidance and oversight. The NRCS Arizona State CRS shall forward CPO archaeological survey reports to the SHPO and will return SHPO compliance documentation to the Field Office for forwarding to CPO. The CRS will also consult at this time with other tribes who have a heritage interest in lands occupied by YAN. When no cultural resources are found the field office need not wait for a response from the CRS or the SHPO before implementing assistance. The CRS will submit negative reports to the SHPO in quarterly batches.

5. The NRCS will consult with the CPO on TCPs in all off-reservation undertakings that are located within the geographic area that YAN has identified to SHPO as being the YAN area of heritage interest.
6. NRCS retains final responsibility for ensuring that cultural resources compliance activities have been completed for all actions in which NRCS has legislated or designated departmental authority to administer specific federal programs, or when NRCS is providing technical assistance to its clients.
7. When participating in multi-agency projects, NRCS will not assume lead agency status for the purpose of cultural resources compliance except through written Programmatic Agreement with the CPO. When another agency is considered the lead agency for a particular multi-agency undertaking, NRCS may assume that CPO concurrence with the lead agency (per 36 CFR 800.3 through 36 CFR 800.6) is valid with regard to NRCS involvement in the same undertaking. NRCS shall request documented verification that the lead agency has satisfactorily met cultural resources compliance requirements and has the approval of the CPO to proceed. Failure by any party or agency to comply with cultural resources compliance requirements may result in NRCS withdrawal from the action.
8. NRCS is responsible for ensuring the security of any cultural resources information provided by the CPO or revealed during NRCS investigations, and will normally withhold such information from public disclosure. The primary exception to this is that copies of the CPO archaeological surveys and site reports will be forwarded to the SHPO by the NRCS. Other exceptions may include cooperators, contractors, other federally recognized Native America tribes with an ancestral interest in portions of the YAN Reservation, and other parties on a need-to-know basis for the purpose of protecting cultural resources and advancing the goals of this Programmatic Agreement. All information collected by NRCS on YAN lands related to cultural resources is the property of the YAN thus all collected data not required for the SHPO reports will be returned to the CPO once decisions related to NHPA, NEPA, etc., have been reached.

Yavapai-Apache Nation

The CPO has responsibility for consulting with NRCS regarding the effects of conservation program activities on any cultural resources on YAN lands that may be eligible for inclusion in National Register of Historic Places and shall:

1. Maintain a comprehensive reservation-wide inventory of known cultural resources and historic properties.
2. Advise and assist the NRCS, as appropriate and mutually agreed, in carrying out its historic Preservation responsibilities, including the identification and evaluation of

cultural resources, and in the development of measures to avoid adverse effects to such resources.

3. Provide NRCS access to cultural resources site records and other information as appropriate and necessary for NRCS to carry out historic Preservation protection.
4. Receive requests for Cultural Resources Surveys and project maps from the NRCS Field Office, assign qualified persons to conduct cultural resources surveys and TCP investigations on YAN lands, and provide cultural resources survey, TCP investigations, and site reports to the NRCS Field Office in a format suitable for submission to the SHPO.

The Arizona State Historic Preservation Office (SHPO) has the responsibility for reviewing the cultural resources and TCP investigation reports for all NRCS undertakings on YAN lands for compliance with Section 106 of the National Historic Preservation Act [16 U.S.C. 470f] [NHPA]) and shall:

1. Review all cultural resource inventory reports forwarded by the CRS and provide the CRS with comments on the report or concurrence with the recommended findings of effect for each project.
2. Make no AZSITE system data entries for cultural resources on YAN lands.
3. Restrict access to cultural resource documentation for archaeological sites on YAN Lands, to persons presenting written access permission from the CPO.

WITHDRAWING ASSISTANCE

1. NRCS may elect to withdraw assistance from a project when it is determined by the State Conservationist that cost or other factors involved with cultural resource mitigation are not feasible or are such that the undertaking will have adverse effects on significant cultural resources.
2. NRCS will consult pursuant to 36CFR 800.9 (c) when a participant, after application to NRCS:
 - a) Carries out an irreversible action associated with requested technical assistance that adversely impacts a cultural resource or historic property prior to completion of NRCS compliance responsibilities, or
 - b) Refuses to implement a recommended mitigation plan; or

- c) Adversely affects a cultural or historic property in order to evade the requirements imposed by Section 106 of the NHPA or an approved conservation plan, provided that the participant has both the knowledge of the adverse effects and the legal power to prevent them.

CONSERVATION CONTRACTS

All NRCS financial and associated technical assistance projects are issued permits and are delivered through conservation contracts which must be signed within fiscal year deadlines in order to preserve funding. Therefore, when it is not feasible or practical to complete all cultural resources compliance requirements for long-term conservation contracts (five or more years in duration) within the allotted period, these requirements may be deferred until after the contract is signed. NRCS shall ensure that any deferred cultural resources requirements are completed and placed in the conservation plan as early in planning as possible and prior to any ground disturbing activities. NRCS conservation contracts are subject to substantial modification or cancellation for a variety of reasons, including protection of cultural resources.

The cooperator or contractor for each contract will be provided with a written statement of the requirements for avoidance and a clear map, and will be required to sign the NRCS Participant Agreement (Appendix G), detailing cooperator or contractor obligations in the event of the discovery of buried heritage resources or human remains, at the same time that the contract is signed.

MONITORING AGREEMENT COMPLIANCE

1. NRCS will cooperate with the CPO in monitoring agency compliance with this Programmatic Agreement.
2. The CPO, the SHPO, and the ACHP may also monitor, field check, or review any NRCS activity carried out under this Programmatic Agreement.

AMENDMENTS

Any party to this Programmatic Agreement may request that it may be amended or modified, whereupon the parties will consult to consider such revisions. Any resulting amendments shall be executed in the same manner as this original document.

DISPUTE RESOLUTION

1. Arbitration: To the extent required by A.R.S. §§12-1518(B) and 12-133, the parties agree to resolve any dispute arising out of this Agreement by arbitration.
2. Should any conflicts, real or perceived, be discovered between NRCS and CPO they will be resolved in good faith consultation among the parties with the intent of fully respecting the rights of the YAN Government. The Arizona SHPO and ACHP may be invited by either party to participate in such consultation.
3. If a dispute should arise between the NRCS and the CPO with regard to any individual undertaking; the State CRS, the CPO, and any appropriate interested persons identified by the NRCS or the CPO shall consult to resolve the disagreement. If such consultation fails to resolve the disagreement within a reasonable amount of time, the NRCS shall provide the SHPO with complete documentation relevant to the dispute. SHPO participation is limited to issues directly related to interpretation of state and federal law, policies, and regulations. Within 30 days of receipt of the documentation, the SHPO will either:
 - a) Provide NRCS and the CPO with recommendations which both parties shall consider in reaching a determination; or
 - b) Notify NRCS that it will comment pursuant to 36 CFR 800.7 and proceed to comment. NRCS will consider SHPO comments in accordance with 36 CFR 800.7(c)(4), and Section 110(l) of the act. Other NRCS activities under this Programmatic Agreement that are not subject to the dispute shall continue without interruption.
4. If a dispute cannot be resolved by consultation among the NRCS, the CPO, and the SHPO; the NRCS can request mediation by ACPH. The requesting party shall provide the ACHP with complete documentation relevant to the dispute. ACHP participation is limited to issues directly related to interpretation of federal law, policies, and regulations. Within 30 days of receipt of the documentation, the ACHP will either:
 - c) Provide NRCS and the CPO, with recommendations which both parties shall consider in reaching a determination; or
 - d) Notify NRCS that it will comment pursuant to 36 CFR 800.7 and proceed to comment. NRCS will consider ACHP comments in accordance with 36 CFR 800.7(c)(4), and Section 110(l) of the act. Other NRCS activities under this Programmatic Agreement that are not subject to the dispute shall continue without interruption.
5. Should CPO raise any objection to any activity carried out by a specific NRCS field office or staff member, CPO will consider excluding that field office or staff member

from this Programmatic Agreement before withdrawing from or terminating the Programmatic Agreement altogether.

DISCOVERIES

In the event of a discovery ("discovery" means any previously unidentified or incorrectly identified cultural resources including but not limited to archaeological deposits, human remains, or locations reportedly associated with Native American religious/traditional beliefs or practices), all operations in the immediate vicinity of the discovery must cease and the CPO must be notified immediately. Discoveries will be handled on a case-by-case basis with particular attention paid to the need to complete approved undertakings and the adequacy of the original inventory effort. The NRCS will monitor those portions of undertakings that occur within 50 feet of historic resources evaluated as eligible for nomination onto the National Register of Historic Places and will follow the procedures in Appendix H for Construction discoveries.

EMERGENCY UNDERTAKINGS

The NRCS shall follow the procedures in Appendix J for emergency undertakings.

TERMINATION

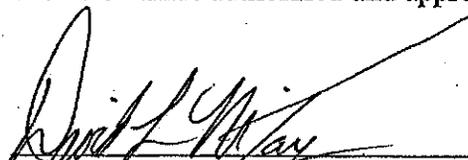
1. Any party to this Programmatic Agreement may terminate it by providing 60 calendar days notice to the other parties with specific reasons for such withdrawal, providing that the parties consulted during the period prior to termination under "Dispute Resolution", above, an opportunity to seek agreement on amendments or other actions that would avoid termination.
2. Execution of this Programmatic Agreement and implementation of its terms evidences that the NRCS has satisfied its cultural resources compliance responsibilities with respect to its undertakings on YAN lands, and that it has received approval for undertakings implemented in accordance with this Programmatic Agreement
3. One of the reasons SHPO may terminate this agreement would be upon finding that a SHPO employee that was significantly involved in the creation of this agreement is, at any time the agreement is in effect but no later than three years after its execution, an employee or consultant to any other party in the agreement.

OTHER

6. Equal Opportunity/Non-Discrimination: The Parties agree to comply with Chapter 9, Title 41, Arizona Revised Statutes (Civil Rights), Arizona Executive Order 99-4 and any

other federal or state laws relating to equal opportunity and non-discrimination, including the Americans with Disabilities Act.

7. Records: Pursuant to A.R.S. et seq. 35-214, 35-215 and 41-2548, all books, accounts, reports, files and other records relating to this Agreement shall be subject, at all reasonable times, to inspection and audit by the State for three years after the termination of this Agreement.
8. Conflict of Interest: This Agreement is subject to cancellation by the State under A.R.S. et seq. 38-511 if a person significantly involved in the Agreement on behalf of the State is an employee or consultant of the contractor at any time while the Agreement or any extension of the Agreement is in effect.
9. Non-Availability of Funds: This Agreement shall be subject to available funding, and nothing in this Agreement shall bind the State or Federal agencies to expenditures in excess of funds authorized and appropriated for the purposes outlined in this Agreement.



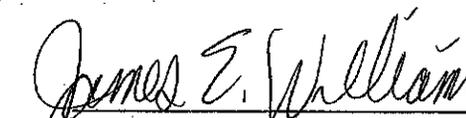
DAVID L. MCKAY
Arizona State Conservationist

1/18/06
Date



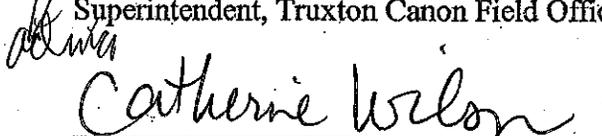
JAMIE FULMER
Chair, YAN Nation

12/7/05
Date



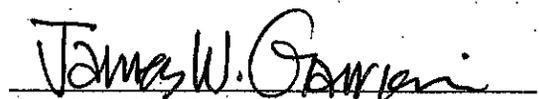
ROBERT McNICHOLS
Superintendent, Truxton Canon Field Office

1/6/2006
Date



WAYNE NORDWALL
Acting Director, BIA-Western Regional Office

12/23/05
Date



JAMES W. GARRISON
Arizona State Historic Preservation Office

2/21/06
Date

APPENDIX A - LEGAL AUTHORITIES

An Annotated List of Statutes Governing Cultural Resources Protection on YAN Lands

Yavapai-Apache Legislation

Resolution for the Charter of Preservation Programs assigns responsibility for cultural resources management to the Chair of the Yavapai-Apache Nation and ensures funding for Yavapai-Apache preservation departments.

Arizona State Statutes:

Arizona Revised Statute 11-593 applies to reporting deaths and requires any person having knowledge of the death of a human being or knowing of the existence of a body to promptly notify the nearest peace officer if the person was not under the care of a physician for a potentially fatal illness, died violently, was in good health, was in a prison, was a prisoner, died in an unusual or suspicious manner, died from occupational disease or occupational accident, died under anesthesia or in surgery, died in a way that presents a public health hazard, or was under treatment by prayer or spiritual means alone. This statute also requires the peace officer to notify the medical examiner, sets autopsy requirements, and requirements for county coordination with the Arizona Department of Public Safety.

Arizona Revised Statute 41-844, applies to State lands in Arizona and requires Federal agency personnel and all other persons to notify the Arizona State Museum when they find human remains which appear to be more than 50 years old, or when they find objects that might be of special significance to Native American peoples. Also under the statute, Native American groups can make claims to such objects when they are held by state institutions, such as museums. The objects of special importance include those used in religious ceremonies, and others that may be symbols of the cultural heritage of the Native American Indians in Arizona. Items included with a burial are also covered by the law.

Arizona Revised Statute 41-865 applies to private lands in Arizona, and requires that landowners or their agents notify the Arizona State Museum when materials that might be human remains are found. The museum then has up to 10 days, or more if permitted by the landowner, to consult with any groups that might be culturally affiliated with the remains, and to implement a decision about what to do with the materials. Groups to be consulted include Native American Indian tribes and any other organized cultural group that can reasonably represent the group to which the deceased belonged. This law also makes it a crime to profit financially

from the sale of human remains or items buried with them as covered under the law.

Federal Legislation:

American Indian Religious Freedom Act of 1978 (P.L. 95-341, 92 Stat. 469, 42 U.S.C. 1996) declares that it is the policy of the United States to protect and preserve for American Indians, Eskimos, Aleuts, and Native Hawaiians the inherent right of freedom to believe, express, and exercise their traditional religions.

Antiquities Act of 1906 (P.L. 59-209, 34 Stat. 225, 16 U.S.C. 435; et seq.) provides for the protection of historic and prehistoric remains and any object of antiquity on Federal lands; establishes criminal sanctions for unauthorized destruction and appropriation of antiquities; and authorizes scientific investigation of antiquities on Federal lands, subject to permit and regulations.

Archaeological Resources Protection Act of 1979 (P.L. 96-95; 93 Stat. 721, as amended; 16 U.S.C. 470a; et seq.); Establishes a federal permitting process for activities is requirement for the excavation or removal of archaeological materials from federal or Indian land and civil and criminal penalties for violations of the permitting requirements. Protected archeological materials must be at least 100 years in age.

Computer Security Act of 1987, establishes standards and guidelines for Federal computer systems, requires security plans by all operators of Federal computer systems that contain sensitive information, and mandatory periodic training for all persons involved in managing, using, or operating Federal computer systems that contain sensitive information.

Historical and Archeological Data Preservation Act of 1974 (P.L. 93-291, 88 Stat. 174, 16 U.S.C. 469a; et seq.) amends the Reservoir Salvage Act of 1960 and authorizes the Secretary of the Interior or the responsible Federal agency to undertake recovery, protection, preservation of historical and archeological data that would otherwise be lost as a result of Federal or Federally assisted activities. In addition, the Act authorizes Federal agencies to expend up to 1 percent of authorized project costs for the protection of archeological and historical data. This limitation applies only to treatment costs. Moneys expended on inventory and evaluation during the planning phase do not count against this limitation.

Historic Sites Act of 1935 (P.L. 74-292, 49 Stat. 666, 16 U. S.C. 461; et seq.) authorizes the establishment of National Historic Sites, the preservation of properties of national historical or archeological

significance, and the designation of National Historic Landmarks. It also establishes criminal sanctions for violating regulations pursuant to the Act.

National Environmental Policy Act of 1969 (NEPA) (P.L. 91-190, 83 Stat. 852,, 42 U.S.C. 4321; et seq.) declares that it is the policy of the Federal Government to preserve important historic, cultural, and natural aspects of our national heritage. Compliance with NEPA requires consideration of all environmental concerns during project planning and execution.

National Historic Preservation Act of 1966 (NHPA) (P.L. 89-665, 80 Stat. 915, as amended; 16 U.S.C. 470; et seq.) establishes a national policy for preserving the cultural environment and establishes the Advisory ACHP on Historic Preservation (ACHP). Section 106 (16 U.S.C. 47017) of this act also sets forth a Federal mandate for protection of properties listed in or eligible for listing in the National Register of Historic Places (NRHP) through review and comment by ACHP on proposed Federal, Federally assisted, or Federally licensed undertakings that may affect such properties.

Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) (P.L. 101-601, 25 U.S.C. 3001) requires Federal agencies and museums to inventory human remains and associated funerary objects and provide culturally affiliated tribes with collection inventories, requires repatriation on request to such tribes, establishes a grant program to assist in preparing inventories, and makes the sale or purchase of Native American human remains and associated grave goods illegal.

Reservoir Salvage Act of 1960 (P.L. 86-523, 74 Stat. 220, as amended; 16 U.S.C. 469; et seq.) provides for the preservation of historical and archeological materials or data, including relics and specimens, that might otherwise be lost or destroyed as a result of any Federal, or Federally assisted, licensed project, activity, or program.

Federal Regulations:

Departmental Regulation 3140-1, USDA ADP Security Policy establishes policy and personnel responsibilities for USDA to maintain a comprehensive security program to assure adequate protection of Automated Data Processing resources and incorporation of applicable laws and Federal regulations on sensitive information.

Departmental Manual 3140-1, USDA ADP Security Manual contains standards, guidelines, and procedures for the development and administration of ADP security programs and sensitive information.

Enhancement, Protection, and Management of the Cultural Environment (7 CFR 1) sets forth U.S. Department of Agriculture (USDA) general policy and procedural direction pertaining to the cultural environment.

National Register of Historic Places (36 CFR 60) sets forth procedures of the U. S. Department of the Interior (USDI), National Park Service, for nominations to the National Register of Historic Places by States and Federal agencies.

Protection of Historic and Cultural Properties (36 CFR 800) is a procedure established by ACHP for implementing section 106 of NHPA and authorizes publication of agency implementing procedures in the form of counterpart regulations.

Executive Orders:

Executive Order 11593 (36 FR 892 1), Protection and Enhancement of the Cultural Environment gives the Federal Government leadership in preserving, restoring and maintaining the historic and cultural environment of the Nation. This order directs Federal agencies to administer historic properties under their control in a spirit of stewardship and trusteeship for future generations. They are directed to initiate measures necessary to implement their policies, plans, and programs in ways that preserve, restore, and maintain Federally owned sites, structures, and objects of historical, architectural, or archeological significance. Executive Order 11593 directs that agencies, in consultation with ACHP, institute procedures ensuring that Federal plans and programs contribute to preservation and enhancement of non-federally owned sites, structures, and objects of historical, architectural, or archeological significance. Under the order, Federal agencies are required to locate, inventory, and nominate to NRHP all sites, buildings, districts, and objects under their jurisdiction or control that appear to qualify for listing in NRHP. The requirements of this executive order were incorporated into amendments to Section 110 of the National Historic Preservation Act (NHPA).

Executive Order 13006, Locating Federal Facilities on Historic Properties in Our Nation's Central Cities. This order requires Federal agencies, subject to economic and operational considerations to give first consideration to historic properties when acquiring or locating new facilities. It removes barriers that have prevented the leasing and acquisition of Federal facilities in historic districts and requires Federal agencies to seek appropriate partnerships with state and local governments, Indian tribes, and private organizations to enhance the National Historic Preservation Program.

Executive Order 13007, Indian Sacred Sites, requires Federal land managers to avoid adversely affecting the physical integrity of Indian sacred sites on Federal land, and to accommodate access to, and ceremonial use of, such sites by Indian practitioners. It also requires that where appropriate, the confidentiality of sacred sites is maintained.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, requires Federal agencies to develop an accountable consultation process to insure that the agencies do not infringe on Indian tribal self-government and sovereignty by promulgating regulations or submitting regulations to Congress without comment by the affected tribe or tribes.

Special Agreements, Directives, and Program

Secretary of Interior's Standards and Guidelines is the body of guidelines and associated standards created under authority of the National Historic Preservation Act of 1966 and published in 48 FR 44716 as "Archeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines. This authority is designed to assist in organizing information gathered about historic preservation activities; to describe steps to be achieved by federal agencies, states, and others when planning for the identification, evaluation, registration, and treatment of historic properties, and to integrate the diverse efforts of the various entities performing historic preservation into a systematic effort to preserve the nation's cultural heritage. Within the NRCS mission, activities carried out by the agency's historic preservation program following Section 110 of NHPA should conform to the fullest practical extent with the Secretary's Standards and Guidelines.

Archaeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines (48FR44716); Provides technical guidance on archeological and historic preservation activities and methods.

NRCS General Manual (GM) 420 (Social Sciences), Parts 401 and 601 (Policy and Procedure for the Protection of Cultural Resources).

National Cultural Resources Training Program, National Employee Development Staff, Soil Conservation Service, United States Department of Agriculture provides cultural resources training for Soil Conservation Service employees mandated under multiple agreements with the Advisory ACHP on Historic Preservation and the National Conference of State Historic Preservation Officers.

Programmatic Agreement Among the USDA-Natural Resources Conservation Service, the Advisory Council On Historic Preservation, and the National Conference of State Historic Preservation Officers, Regarding Soil and Water Conservation Assistance Activities on Private and Public Lands (2002).

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An Annotated List of Statutes Governing Cultural Resources Protection on YAN Lands

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Arizona Revised Statute 11-593 applies to reporting deaths and requires any person having knowledge of the death of a human being or knowing of the existence of a body to promptly notify the nearest peace officer if the person was not under the care of a physician for a potentially fatal illness, died violently, was in good health, was in a prison, was a prisoner, died in an unusual or suspicious manner, died from occupational disease or occupational accident, died under anesthesia or in surgery, died in a way that presents a public health hazard, or was under treatment by prayer or spiritual means alone. This statute also requires the peace officer to notify the medical examiner, sets autopsy requirements, and requirements for county coordination with the Arizona Department of Public Safety.

Arizona Revised Statute 41-844, applies to State lands in Arizona and requires Federal agency personnel and all other persons to notify the Arizona State Museum when they find human remains which appear to be more than 50 years old, or when they find objects that might be of special significance to Native American peoples. Also under the statute, Native American groups can make claims to such objects when they are held by state institutions, such as museums. The objects of special importance include those used in religious ceremonies, and others that may be symbols of the cultural heritage of the Native American Indians in Arizona. Items included with a burial are also covered by the law.

Arizona Revised Statute 41-865 applies to private lands in Arizona, and requires that landowners or their agents notify the Arizona State Museum when materials that might be human remains are found. The museum then has up to 10 days, or more if permitted by the landowner, to consult with any groups that might be culturally affiliated with the remains, and to implement a decision about what to do with the materials. Groups to be consulted include Native American Indian tribes and any other organized cultural group that can reasonably represent the group to which the deceased belonged. This law also makes it a crime to profit financially

from the sale of human remains or items buried with them as covered under the law.

Federal Legislation:

American Indian Religious Freedom Act of 1978 (P.L. 95-341, 92 Stat. 469, 42 U.S.C. 1996) declares that it is the policy of the United States to protect and preserve for American Indians, Eskimos, Aleuts, and Native Hawaiians the inherent right of freedom to believe, express, and exercise their traditional religions.

Antiquities Act of 1906 (P.L. 59-209, 34 Stat. 225, 16 U.S.C. 435; et seq.) provides for the protection of historic and prehistoric remains and any object of antiquity on Federal lands; establishes criminal sanctions for unauthorized destruction and appropriation of antiquities; and authorizes scientific investigation of antiquities on Federal lands, subject to permit and regulations.

Archaeological Resources Protection Act of 1979 (P.L. 96-95; 93 Stat. 721, as amended; 16 U.S.C. 470a; et seq.); Establishes a federal permitting process for activities is requirement for the excavation or removal of archaeological materials from federal or Indian land and civil and criminal penalties for violations of the permitting requirements. Protected archeological materials must be at least 100 years in age.

Computer Security Act of 1987, establishes standards and guidelines for Federal computer systems, requires security plans by all operators of Federal computer systems that contain sensitive information, and mandatory periodic training for all persons involved in managing, using, or operating Federal computer systems that contain sensitive information.

Historical and Archeological Data Preservation Act of 1974 (P.L. 93-291, 88 Stat. 174, 16 U.S.C. 469a; et seq.) amends the Reservoir Salvage Act of 1960 and authorizes the Secretary of the Interior or the responsible Federal agency to undertake recovery, protection, preservation of historical and archeological data that would otherwise be lost as a result of Federal or Federally assisted activities. In addition, the Act authorizes Federal agencies to expend up to 1 percent of authorized project costs for the protection of archeological and historical data. This limitation applies only to treatment costs. Moneys expended on inventory and evaluation during the planning phase do not count against this limitation.

Historic Sites Act of 1935 (P.L. 74-292, 49 Stat. 666, 16 U. S.C. 461; et seq.) authorizes the establishment of National Historic Sites, the preservation of properties of national historical or archeological

significance, and the designation of National Historic Landmarks. It also establishes criminal sanctions for violating regulations pursuant to the Act.

National Environmental Policy Act of 1969 (NEPA) (P.L. 91-190, 83 Stat. 852,, 42 U.S.C. 4321; et seq.) declares that it is the policy of the Federal Government to preserve important historic, cultural, and natural aspects of our national heritage. Compliance with NEPA requires consideration of all environmental concerns during project planning and execution.

National Historic Preservation Act of 1966 (NHPA) (P.L. 89-665, 80 Stat. 915, as amended; 16 U.S.C. 470; et seq.) establishes a national policy for preserving the cultural environment and establishes the Advisory ACHP on Historic Preservation (ACHP). Section 106 (16 U.S.C. 47017) of this act also sets forth a Federal mandate for protection of properties listed in or eligible for listing in the National Register of Historic Places (NRHP) through review and comment by ACHP on proposed Federal, Federally assisted, or Federally licensed undertakings that may affect such properties.

Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) (P.L. 101-601, 25 U.S.C. 3001) requires Federal agencies and museums to inventory human remains and associated funerary objects and provide culturally affiliated tribes with collection inventories, requires repatriation on request to such tribes, establishes a grant program to assist in preparing inventories, and makes the sale or purchase of Native American human remains and associated grave goods illegal.

Reservoir Salvage Act of 1960 (P.L. 86-523, 74 Stat. 220, as amended; 16 U.S.C. 469; et seq.) provides for the preservation of historical and archeological materials or data, including relics and specimens, that might otherwise be lost or destroyed as a result of any Federal, or Federally assisted, licensed project, activity, or program.

Federal Regulations:

Departmental Regulation 3140-1, USDA ADP Security Policy establishes policy and personnel responsibilities for USDA to maintain a comprehensive security program to assure adequate protection of Automated Data Processing resources and incorporation of applicable laws and Federal regulations on sensitive information.

Departmental Manual 3140-1, USDA ADP Security Manual contains standards, guidelines, and procedures for the development and administration of ADP security programs and sensitive information.

Enhancement, Protection, and Management of the Cultural Environment (7 CFR 1) sets forth U.S. Department of Agriculture (USDA) general policy and procedural direction pertaining to the cultural environment.

National Register of Historic Places (36 CFR 60) sets forth procedures of the U. S. Department of the Interior (USDI), National Park Service, for nominations to the National Register of Historic Places by States and Federal agencies.

Protection of Historic and Cultural Properties (36 CFR 800) is a procedure established by ACHP for implementing section 106 of NHPA and authorizes publication of agency implementing procedures in the form of counterpart regulations.

Executive Orders:

Executive Order 11593 (36 FR 892 1), Protection and Enhancement of the Cultural Environment gives the Federal Government leadership in preserving, restoring and maintaining the historic and cultural environment of the Nation. This order directs Federal agencies to administer historic properties under their control in a spirit of stewardship and trusteeship for future generations. They are directed to initiate measures necessary to implement their policies, plans, and programs in ways that preserve, restore, and maintain Federally owned sites, structures, and objects of historical, architectural, or archeological significance. Executive Order 11593 directs that agencies, in consultation with ACHP, institute procedures ensuring that Federal plans and programs contribute to preservation and enhancement of non-federally owned sites, structures, and objects of historical, architectural, or archeological significance. Under the order, Federal agencies are required to locate, inventory, and nominate to NRHP all sites, buildings, districts, and objects under their jurisdiction or control that appear to qualify for listing in NRHP. The requirements of this executive order were incorporated into amendments to Section 110 of the National Historic Preservation Act (NHPA).

Executive Order 13006, Locating Federal Facilities on Historic Properties in Our Nation's Central Cities. This order requires Federal agencies, subject to economic and operational considerations to give first consideration to historic properties when acquiring or locating new facilities. It removes barriers that have prevented the leasing and acquisition of Federal facilities in historic districts and requires Federal agencies to seek appropriate partnerships with state and local governments, Indian tribes, and private organizations to enhance the National Historic Preservation Program.

Executive Order 13007, Indian Sacred Sites, requires Federal land managers to avoid adversely affecting the physical integrity of Indian sacred sites on Federal land, and to accommodate access to, and ceremonial use of, such sites by Indian practitioners. It also requires that where appropriate, the confidentiality of sacred sites is maintained.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, requires Federal agencies to develop an accountable consultation process to insure that the agencies do not infringe on Indian tribal self-government and sovereignty by promulgating regulations or submitting regulations to Congress without comment by the affected tribe or tribes.

Special Agreements, Directives, and Program

Secretary of Interior's Standards and Guidelines is the body of guidelines and associated standards created under authority of the National Historic Preservation Act of 1966 and published in 48 FR 44716 as "Archeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines. This authority is designed to assist in organizing information gathered about historic preservation activities; to describe steps to be achieved by federal agencies, states, and others when planning for the identification, evaluation, registration, and treatment of historic properties, and to integrate the diverse efforts of the various entities performing historic preservation into a systematic effort to preserve the nation's cultural heritage. Within the NRCS mission, activities carried out by the agency's historic preservation program following Section 110 of NHPA should conform to the fullest practical extent with the Secretary's Standards and Guidelines.

Archaeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines (48FR44716); Provides technical guidance on archeological and historic preservation activities and methods.

NRCS General Manual (GM) 420 (Social Sciences), Parts 401 and 601 (Policy and Procedure for the Protection of Cultural Resources).

National Cultural Resources Training Program, National Employee Development Staff, Soil Conservation Service, United States Department of Agriculture provides cultural resources training for Soil Conservation Service employees mandated under multiple agreements with the Advisory ACHP on Historic Preservation and the National Conference of State Historic Preservation Officers.

Programmatic Agreement Among the USDA-Natural Resources Conservation Service, the Advisory Council On Historic Preservation, and the National Conference of State Historic Preservation Officers, Regarding Soil and Water Conservation Assistance Activities on Private and Public Lands (2002).

APPENDIX B - GLOSSARY
(Definitions of Terms Used in this Agreement)

Adverse Effect means an alteration, as the result of a Federal or Federally assisted action, in the integrity of the qualities or characteristics that make an historic property eligible for the National Register of Historic Places. This may include reductions in the integrity of the location, design, setting, materials, workmanship, associations, or other qualities that are important in defining the historic significance of the property.

Advisory Council on Historic Preservation (ACHP) is the independent agency mandated to advise the President, Congress, and Federal agencies and review their activities related to historic properties. ACHP was established pursuant to title II of the National Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. 470, as amended).

Area of Potential Effect (APE) is the geographic area or areas within which an undertaking may cause alterations in the character or use of any cultural resources present.

Criteria of Effect are standards/guidelines found in 36 CFR 800.9(a) which are used to determine whether an undertaking will have an effect on a cultural resource or historic property.

Criteria of Adverse Effect are standards, found in 36 CFR 800.9(b) which are used to determine whether the effects caused by an undertaking will be detrimental to the resource and include but are not limited to: 1) destruction or alteration of all or part of a property; 2) isolation from or alteration of the surrounding environment of the property; 3) introduction of visual, audible, or atmospheric elements that are out of character with the property or alter its setting; 4) neglect of a property resulting in its deterioration or destruction; 5) transfer or sale of Federally owned, leased or controlled property without adequate consultation on restrictions for the preservation and maintenance of the historic property.

Cultural Resources is a broad term which encompasses virtually all of the traces of the past activities and accomplishments of people that are (generally), over 50 years old. It includes (1) tangible traces such as districts, sites, buildings, structures and objects; (2) less tangible traces such as dance forms, aspects of folklife, cultural or religious practices including places where such activities have traditionally occurred; (3) historical documents; (4) and some natural features such as landscapes, vistas, and cemeteries. Cultural resources may: (1) have little or no actual significance; (2) be included in or determined eligible for inclusion in the National Register of Historic Places or an equivalent register maintained at the state, local, or tribal level; (3) be unevaluated yet potentially eligible for inclusion in the National Register or a local equivalent.

Cultural Resources Field Inspection is an on-the-ground examination of the area of potential effect. These inspections may range in scope from: a) a

reconnaissance survey that examines all or part of an area in sufficient detail to make generalizations about the types and distributions of cultural resources that may be present; to b) an intensive survey, which is a systematic examination of the entire area that may be impacted by an undertaking in sufficient detail to locate and document all cultural resources that may be directly or indirectly affected.

Cultural Resources Investigation is a general term that includes all activities necessary to identify, evaluate, and protect cultural resources which may be affected by an NRCS program or assistance activity. This includes literature and records research, coordination with external agencies and persons, talking with participants, sponsors, and other knowledgeable people, locating and recording cultural resources in the field, and developing and implementing plans to reduce or avoid (mitigate) adverse effects.

Cultural Resources Review refers specifically to that part of the investigation that is concerned with obtaining information on previous archaeological work or known cultural resources in the area of potential effect, or information (ethnographic, environmental, etc.), that will aid in designing field inspection strategy and locating cultural resources in the field.

Cultural Resources Specialist is a person meeting the Secretary of the Interior' Professional Qualification Standards listed in 36 CFR Part 61, Appendix A. These standards include a graduate degree in anthropology, archeology, or closely related field; and at least one full year of direct professional experience or equivalent training in the field; at least four months of supervised field and analytic experience in North American history or archaeology; and demonstrated ability to carry research to completion.

Discovery is a specialized term when used within the context of cultural resources compliance. It means the unanticipated occurrence of a cultural resource after a cultural resources investigation has been completed and a federal undertaking has commenced. In addition to actual cultural material, such a discovery may include the occurrence of previously unevaluated information, data, or a previously unanticipated impact to known cultural resources.

Effect is any change, beneficial or adverse, in the qualities that make an historic property eligible for inclusion in the National Register of Historic Places. Effects are determined by applying the ACHP's "Criteria of Effect" found in 36 CFR 800.9(a).

Eligibility the condition of meeting, or not meeting, the criteria of significance and integrity required for nomination onto the National Register of Historic Places.

Emergency Work is conducted according to the regulations outlined by the NRCS Emergency Watershed Protection (EWP) Program. Technical and financial assistance are provided when a natural occurrence causes an imminent threat to life or property by sudden impairment of and damage to a watershed [See

Watershed Manual, Part 509A, 509.4(e)]. When a declared emergency exists, expedited cultural resources compliance procedures maybe necessary and are outlined on page 31 above.

Evaluation is the process of applying criteria found in 36 CFR 60.4 in order to determine the significance of a cultural resource.

Feature is a term used to denote discrete cultural resources, usually within a larger cultural resources site, that cannot (as distinct from artifacts), be easily removed or transported intact. Examples include structures, hearths, burials, ash stains, middens, petrographs, etc.).

Historic Property is any cultural resource, including prehistoric or historic districts, sites, buildings, structures, or objects, included in or eligible for inclusion in the National Register of Historic Places, including artifacts, records, and material remains related to such a property or resource.

Identification is a process of using specific methods or techniques to locate and describe cultural resources (see also "Field Inspection").

Impacts are any changes, beneficial or adverse, in the character, quality, or use of a cultural resource. It is differentiated from *effects* in that it applies to all cultural resources, not just those determined to be eligible for the National Register.

Integrity is the sum of the qualities of location, design, setting , workmanship, materials, feeling, and association that a porperty must retain to convey its historic significance.

Lead Agency is the agency with primary legislative responsibility or designated Departmental authority to administer public lands or Federal programs and provide financial or technical assistance.

Treatment refers to actions that lessen or eliminate the impacts of NRCS undertakings on cultural and historic properties. These actions may include: 1) minimizing the impact by redesigning the undertaking (avoidance); 2) rectifying the impacts by repairing, rehabilitating, or restoring the affected cultural resource; 3) preservation and maintenance operations during the life of the action; and 4) compensating for the impact by moving or documenting the historic property or conducting data recovery.

National Register Criteria are the criteria established by the Secretary of the Interior for use in evaluating the eligibility of cultural resources for inclusion on the National Register of Historic Places, published at 36 CFR 60.

National Register of Historic Places (NRHP) is the Nation's official list of districts, sites, buildings, structures, and objects which meet the NRHP criteria for evaluation and are worthy of preservation because of their significance in American history, architecture, archeology, and culture. The NRHP is maintained

by the Secretary of the Interior under the authority of section 101 of the National Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. 470a).

No Historic Properties Affected. This determination is applied when there are no cultural resources in the area of potential effect of the undertaking or when the significant cultural resources (i.e., those determined to be eligible for nomination onto the National Register of Historic Places) that are present in the area of potential effect will not be damaged because they will be avoided during the undertaking. This determination will be made by the CRS in consultation with the SHPO.

No Adverse Effect. This determination is applied where historic properties are present and will be affected, but the undertaking has been modified, or conditions imposed, such that impacts are reduced to a level acceptable to the SHPO. This determination will be made by the CRS in consultation with the SHPO. If it is unclear whether or not the undertaking will adversely impact identified cultural resources, consult the CRS.

NRCS Tribal State Technical Committee. A group tribal members who volunteer or are appointed by their tribes to advise the State Conservationist on Environmental Quality Incentives Program issues.

Section 106 Review is the action that implements the section of the National Historic Preservation Act of 1966, as amended, which requires Federal Agencies to take into account the effects of their undertakings on historic properties and to provide the Advisory Council on Historic Preservation a reasonable opportunity to comment. This section is implemented in 36 CFR 800.

Significance is the quality of being eligible for inclusion in the National Register as the result of meeting the Criteria for Evaluation found in 36 CFR 60.4, or qualities that make a property eligible for protection under specific criteria contained in statutes such as AIRFA, NAGPRA, ARPA. See National Register of Historic Place bulletin No. 15 for a synopsis of the criteria of significance.

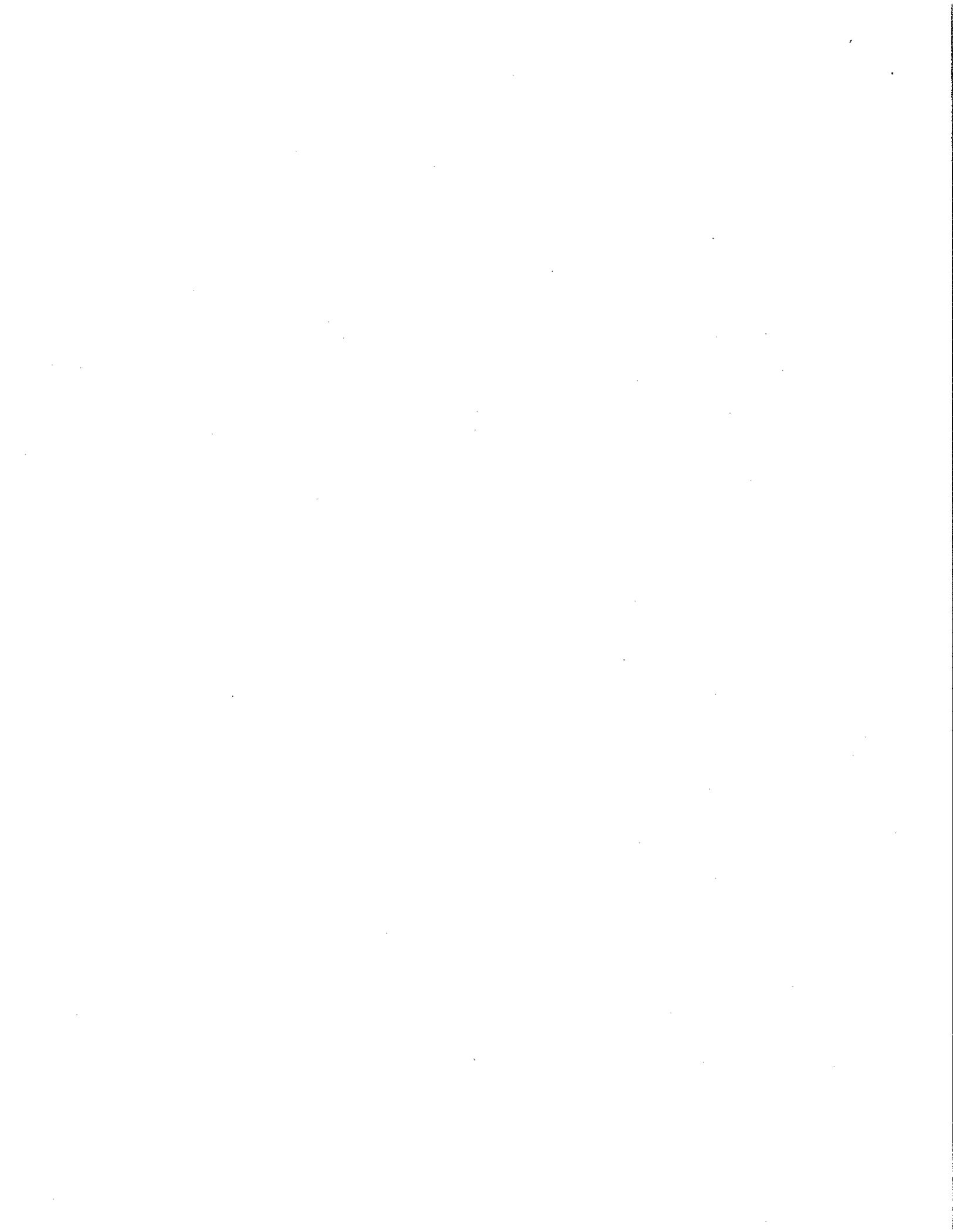
Site (cultural resource) is the location of an event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical, cultural, or archeological value regardless of the value of any existing structures or uses. Examples are battlefields, historic campgrounds, ancient trails or gathering places, deposits of cultural debris, and historic farms.

State Historic Preservation Officer (SHPO) is the official appointed pursuant to section 101(b)(1) of the NHPA, as amended, who is responsible for administering the State Historic Preservation Plan, or is a designated representative authorized to act for the SHPO.

Traditional Cultural Properties (TCPs) are properties associated with the cultural practices or beliefs of a living community that are rooted in the history of the community, and are important in maintaining the continuing cultural identity of

the community. TCPs may be determined eligible for the NRHP, and as such, are considered under the Section 106 process. Examples of TCPs include: 1) locations where Native American or other groups traditionally gather wild foods or medicines; 2) ethnic neighborhoods whose cultural character is important to those who live in them; 3) rural landscapes reflecting traditional patterns of agriculture or social interaction; and 4) landforms associated with Native American traditions and religious practices.

Undertaking is "...any project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; those requiring a Federal permit, license or approval; and those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency." (36 CFR 800.16).



APPENDIX C - Exempt Program

Management Exemption: The following program activities are primarily management related and considered exempt from the cultural resources investigation requirement:

- National Resources Inventory, water supply forecasts, snow and range surveys, wetlands inventories, resource monitoring, and other forms of noninvasive resource data collection;
- National Cooperative Soil Survey program activities that involve no ground disturbance, or are limited to small scale field investigations such as small shovel holes, auger holes, probe holes, and/or core holes. Larger scale field investigations such as soil investigation pits require a cultural resources investigation for the area of potential affect and for a 50 foot (15 meter) buffer around the area of potential effect.
- Providing basic information on soil and water conservation and crop production;
- Providing general planning assistance of a district-wide or similar nature;
- Most administrative actions with the exception of actions undertaken to acquire, construct, lease, or demolish facilities for the purpose of carrying out agency missions.

Farmed Soils Exemption: Farmed soils that have been previously slip plowed, "deep tilled," or leveled to specifications are exempt from the cultural resource investigation requirement. It is, however, necessary to reliably establish that these disturbances have occurred and to establish that no National Register eligible sites exist on or around the property before proceeding with the conservation plan. Field Office personnel developing a conservation plan for such soils shall undertake the following actions:

- Interview the cooperator or prior property owners to establish: what leveling, plowing, and/ or tilling activities have taken place on the property when those activities took place, and who did the leveling, plowing, and/or tilling.
- Certify the "what", "when", and "by whom" of these activities in the Cultural Resources section (VI) of the Arizona NRCS Environmental Evaluation Worksheet (AZ-CPA-1) for the conservation plan.
- Provide the CRS with a description of the planned undertaking (use the standard Field Inspection Record form) and a map of the undertaking so that the CRS can check the Arizona State Museum and SHPO site records to

insure that National Register eligible sites have not been recorded on or around the location of the undertaking.

- When verbal or written clearance is received from the CRS, proceed with the undertaking (after certifying this clearance on the AZ-CPA-1).

Exempt Practices

The following practices are non-intrusive or minimally so and will usually have a benign or beneficial effect on cultural resources when installed according to standard NRCS criteria. These practices can generally be installed without archaeological consultation; however, a number of practices occur in both lists depending on certain conditions. These practices are marked with an "*" denoting exception to the exemption:

Alley cropping (311). Trees or shrubs planted in a set or series of single or multiple rows with agronomic, horticultural crops or forages cultivated in the alleys between the rows of woody plants.

* ***Brush Management*** (314). Managing and manipulating stands of brush on rangeland, pasture land, and recreation and wildlife areas by mechanical, chemical, or biological means (Chemical) or biological portion of practice only).

* ***Channel Vegetation*** (322). Establishing and maintaining adequate plants on channel banks, berms, spoil, and associated areas. (does not include shaping of channel banks).

Conservation Cover (327). Establishing and maintaining perennial vegetative cover to protect soil and water resources on land retired from agricultural production.

Conservation Cropping Sequence (328). An adapted sequence of crops designed to provide adequate organic residue for maintenance or improvement of soil tilth.

Conservation Tillage (329). Any tillage and planting system in which at least 30 percent of the soil surface is covered by plant residue after, planting to reduce soil erosion by water; or, where soil erosion by wind is the primary concern, at least 1000 pounds per acre of flat small grain residue-equivalent are on the surface during the critical erosion period.

Contour Buffer Strips (332). Narrow strips of permanent, herbaceous, vegetative cover established across the slope and alternated down the slope with parallel, wider cropped strips.

Contour Farming (330). Farming sloping land in such a way that preparing land, planting, and cultivating are done on the contour.

Contour Orchard and Other Fruit Area (331). Planting orchards, vineyards, or, small fruit so that all cultural operations are done on the contour.

Cover and Green Manure Crop (340). A crop of close growing grasses, legumes, or small grain grown primarily for seasonal protection and soil improvement. It usually is grown for 1 year or less, except where there is permanent cover as in orchards.

Cross Wind Ridges (589A). Ridges formed by tillage or planting and aligned across the prevailing wind erosion direction.

Cross Wind Stripcropping (589B). Growing crops in strips established across the prevailing wind erosion direction, and arranged so that strips susceptible to wind erosion are alternated with strips having a protective cover that is resistant. This practice applies to cropland or other lands where crops are grown.

Cross Wind Trap Strips (589C). Herbaceous cover resistant to wind erosion established in one or more strips across the prevailing wind erosion direction. This practice applies to cropland or other lands where crops are grown.

Deferred Grazing, Arizona Interim (352). Removing domestic livestock grazing from an area for a prescribed period to meet a specified objective.

Delayed Seedbed Preparation (354). Any cropping system in which all of the crop residue and volunteer vegetation are maintained on the soil surface until approximately 3 weeks before the succeeding crop is planted. This practice applies to cropland or other lands where crops are grown.

Early Successional Habitat Development/Management (647). Manage early plant succession to benefit desired wildlife or natural communities.

***Fencing (382).** Enclosing or dividing an area of land with a suitable permanent structure that acts as a barrier to livestock, big game, or people. Includes electric fences (when installed by hand without mechanical preparation only).

Field Border (386). A strip of perennial vegetation established at the edge of a field by planting or by converting it from trees to herbaceous vegetation or shrubs. Installation does not exceed the depth, extent or kind of previous disturbance.

Filter strip (393). A strip or area of vegetation for removing sediment, organic matter, and other pollutants from runoff and wastewater.

Fish Pond Management (399). Developing or improving impounded water to produce fish for domestic use or recreation.

Fish Stream Improvement (395). Improving a stream channel to make a new fish habitat or to enhance an existing habitat.

Forage Harvest Management (511). The timely cutting and removal of forages from the field as hay, greenchop, or silage.

Forest Land Management (409). Forest land management for the benefit of the environment through which needed erosion control and water quality practices are applied in combination with needed silvicultural practices.

Forest Stand Improvement (666). To manipulate species composition and stocking by cutting or killing selected trees and understory vegetation.

Grasses and Legume in Rotation (411). Establishing grasses and legumes or a mixture of them and maintaining the stand for a definite number of years as part of a conservation cropping system.

Hedgerow Planting (422). Establishing a living fence of shrubs or trees in, across, or around a field.

Herbaceous Wind Barriers (603). Herbaceous vegetation established in rows or narrow strips across the prevailing wind direction.

Heavy Use Area Protection (561). Protecting heavily used areas by establishing vegetative cover, by surfacing with suitable materials, or by installing needed structures.

Irrigation Canal or Lateral (320). A permanent ditch or side conduit constructed to convey water from the source of supply to one or more farms system (only when it can be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications. [see "Farmed Soils Exemption on page 14].

Irrigation Field Ditch (388). A permanent irrigation ditch constructed to convey water from the source of supply to a field or fields in a farm distribution system (only when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications[NOTE: Certify this with dates and the names of the persons who did the leveling, etc. on the project EE].

****Irrigation Land Leveling (464).*** Reshaping the surface of existing or previously cropped land to planned irrigation grades (only when it is reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications. [see "Farmed Soils Exemption on page 14].

***Irrigation System, Sprinkler (442)** A planned irrigation system in which all necessary facilities are installed for efficiently applying water by means of perforated pipes or nozzles operated under pressure (only when it is reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14].

*** Irrigation System, Surface and Subsurface (443).** A planned irrigation system in which all necessary water-control structures have been installed for efficient distribution of irrigation water by surface means, such as furrows, borders, contour levees, or contour ditches, or by subsurface means (only when it is reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14].

***Irrigation System, Trickle (441).** A planned irrigation system in which all necessary facilities are installed for efficiently applying water directly to the root zone of plants by means of applicators (orifices, emitters, porous tubing, perforated pipe) operated under low pressure. The applicators can be placed on or below the surface of the ground (only when it is reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14].

*** Irrigation Water Conveyance, Non-reinforced Concrete Ditch and Canal Lining (428A).** A fixed lining of impervious material installed in an existing or newly constructed irrigation field ditch, irrigation canal, or lateral (only when installed in an existing water conveyance or when it is reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14].

*** Irrigation Water Conveyance, Flexible Membrane Ditch and Canal Lining Specifications (428B)** A fixed lining of impervious material installed in an existing or newly constructed irrigation field ditch, irrigation canal, or lateral (only when installed in an existing water conveyance or when installed in an existing water conveyance or when it is reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14].

***Irrigation Water Conveyance, Galvanized Steel Ditch and Canal Lining (428C).** A fixed lining of impervious material installed in an existing or newly constructed irrigation field ditch, irrigation canal, or lateral (only when installed in an existing water conveyance or when installed in an existing water conveyance or when it is reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14].

Irrigation Water Conveyance, Rigid Gated Pipeline (430-HH). A rigid line of pipe, with closely spaced gates, installed as part of a surface irrigation system.

**** Irrigation Water Conveyance, Rock and Mortar Ditch and Canal Lining*** (428AA-1). A hand placed fixed lining of impervious material installed in an existing or newly constructed irrigation field ditch, irrigation canal, or lateral (only when installed in an existing water conveyance or when installed in an existing water conveyance or when it is reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14"]).

Irrigation Water Management (449). Determining and controlling the rate, amount, and timing of irrigation water in a planned and efficient manner.

Land Reclamation, Fire Control (451). Controlling or extinguishing fires in coal refuse.

Land Reclamation, Landslide Treatment (453). Treating in place of material, mine spoil (excavated overburden), mine waste, or overburden to reduce down slope movement.

Land Smoothing (466). Removing irregularities on the land surface by use of special equipment.

Livestock Exclusion (472). Excluding livestock from an area not intended for grazing.

Mulching (484). Applying plant residues or other suitable materials not produced on the site to the soil surface.

Nutrient Management (590). Managing the amount, form, placement, and timing of applications of plant nutrients.

Pasture and Hayland Management (510). Proper treatment and use of pastureland or hayland.

****Pasture and Hayland Planting*** (512). Establishing and reestablishing long term stands of adapted species of perennial, biennial, or reseeding forage plants. (does not include grassed waterways or outlets on cropland).

Prescribed Burning (338). Applying fire to predetermined areas under conditions that the intensity and spread of the fire are controlled.

Prescribed Grazing (528A). The controlled harvest of vegetation with grazing or browsing animals.

Pest Management (685). Managing agricultural pest infestations (including weeds, insects, and diseases) to reduce adverse effects on plant growth, crop production, and environmental resources.

Pond Sealing or Lining (521). Installing fixed lining of impervious material or treating the soil in a pond mechanically or chemically to impede or prevent excessive water loss.

* ***Range Planting (550).*** Establishment of adapted perennial vegetation such as grasses, forbs, legumes, shrubs, and trees (non-mechanical portions of the practice only).

Recreation Area Improvement (562). Establishing grasses, legumes, vines, shrubs, trees, or other plants or selectively reducing stand density and trimming woody plants to improve an area for recreation.

Regulating Water in Drainage Systems (554). Controlling the removal of surface or subsurface runoff, primarily through the operation of water control structures.

Residue Management (329A, 329B, and 344). Managing the amount, orientation, and distribution of crop and other plant residue on the soil surface.

Restoration and Management of Declining Habitats (643). Restoring and conserving rare or declining native vegetation communities and associated wildlife species.

Riparian Forest Buffer (391A). An area of trees and/or shrubs located adjacent to and up gradient from water bodies.

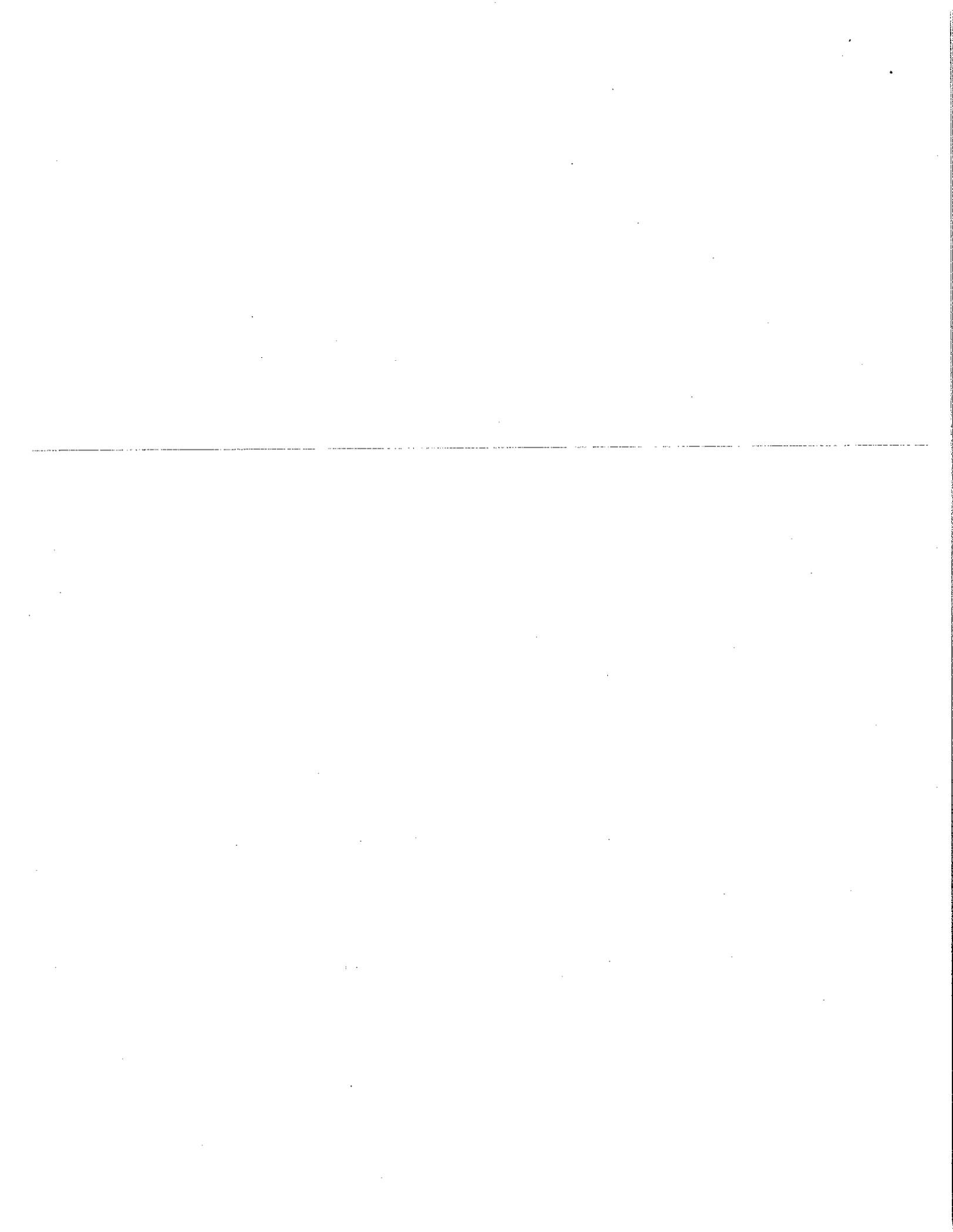
Riparian Herbaceous Cover (390). Riparian areas are ecosystems that occur along watercourses or at the fringe of water bodies. Riparian herbaceous cover consists of grasses, grass-like plants, and forbs.

* ***Rock Barrier (555).*** A rock retaining wall constructed across the slope to form and support a bench terrace that will control the flow of water and check erosion on sloping land (when no excavation is required).

Roof Runoff Management (558). A facility for collecting, controlling, and disposing of runoff water from roofs.

Row Arrangement (557). Establishing a system of crop rows on planned grades and lengths primarily for erosion control and water management.

Shallow Water Management for Wildlife (646). Managing shallow water on agricultural lands and moist soil areas for wildlife habitat.



**APPENDIX D- Non-Exempt Practices
(Requiring a Cultural Resources Investigation).**

The following conservation practices have a high potential to impact cultural resources when installed according to standard NRCS criteria, and will normally require a complete archaeological review. These practices may be exempt if the ground disturbance associated with them will not exceed the depth, extent, or kind (severity) of existing disturbance. An "*" denotes exceptions.

Access Road (560). A travelway constructed as part of a conservation plan.

Bedding (310). Plowing, blading, or otherwise elevating the surface of flat land into a series of broad, low ridges separated by shallow, parallel dead furrows.

***Brush Management (314).** Managing and manipulating stands of brush on rangeland, pasture land, and recreation and wildlife areas by mechanical, chemical, or biological means. (mechanical portions of practice only).

*** Channel Vegetation (322)** Establishing and maintaining adequate plants on channel banks, berms, spoil, and associated areas (shaping of natural channel banks only).

Chiseling and Subsoiling (324). Loosening the soil, without inverting and with a minimum of mixing of the surface soil, to shatter restrictive layers below normal plow depth that inhibit water movement or root development.

Clearing and Snagging (326). Removing snags, drifts, or other obstructions from a channel.

Composting Facility (317). A facility for the biological stabilization of waste organic material.

Commercial Fishponds (397). A water impoundment constructed and managed for commercial aquaculture production.

Constructed Wetland (656). A wetland that has been constructed for the primary purpose of water quality improvement.

Controlled Drainage (335). Control of subsurface and surface water through use of drainage facilities and water control structures.

Covered Anaerobic Lagoon (360). A constant volume lagoon designed for methane production and recovery in conjunction with a separate waste storage facility.

* **Critical Area Planting (342)**. Planting vegetation, such as trees, shrubs, vines, grasses, or legumes, on highly erodible or critically eroding areas (shaping portion of practice only).

Dam, Diversion (348). A structure built to divert part or all of the water from a waterway or a stream into a different watercourse, an irrigation canal or ditch, or a water-spreading system.

Dam, Floodwater Retarding (402). A single-purpose dam designed for temporary storage of floodwater and for its controlled release.

Dam, Multiple-Purpose (349). A dam constructed across a stream or a natural watercourse that has a designed reservoir storage capacity for two or more purposes, such as floodwater retardation and irrigation water supply, municipal water supply, and recreation.

Dike (356). An embankment constructed of earth or other suitable materials to protect land against overflow or to regulate water.

Diversion (362). A channel constructed across the slope with a supporting ridge on the lower side.

* **Fencing (382)**. Enclosing or dividing an area of land with a suitable permanent structure that acts as a barrier to livestock, big game, or people (mechanical portion of the practice, only)

Firebreak (394). A strip of bare land or fire-retarding vegetation.

Fish Raceway or Tank (398). A channel or tank with a continuous flow of water constructed or used for high-density fish production.

Floodwater Diversion (400). A graded channel with a supporting embankment or dike on the lower side, constructed in lowland areas and subject to flood damage.

Floodway (404). A channel, usually bounded by dikes, used to carry flood flows.

Forest Harvest Trails and Landings (655). Laying out, constructing and using forest harvest trails and landings.

Forest Site Preparation (490). Treating areas to encourage natural regeneration of desirable trees and shrubs, or to permit artificial regeneration by planting or direct seeding.

Grade Stabilization Structure (410). A structure used to control the grade and bank, dam, or wall cutting in natural or artificial channels.

Grassed Waterway (412). A natural or constructed channel that is shaped or graded to required dimensions and established in suitable vegetation for the stable conveyance of runoff.

Grazing Land Mechanical Treatment (548). Renovating, contour furrowing, pitting, or chiseling native grazing land by mechanical means.

Hillside Ditch (423). A channel that has a supporting ridge on the lower side constructed across the slope at definite vertical intervals and gradient with or without a vegetative barrier.

***Irrigation Canal or Lateral (320).** A permanent ditch or side conduit constructed to convey water from the source of supply to one or more farms system (when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14].)

***Irrigation Field Ditch (388).** A permanent irrigation ditch constructed to convey water from the source of supply to a field or fields in a farm distribution system (when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14].)

*** Irrigation Land Leveling (464).** Reshaping the surface of existing or previously cropped land to be irrigated to planned grades (unless it is reliably established that the land has been previously slip plowed, "deep ripped," or leveled to specifications [see "Farmed Soils Exemption on page 14].)

Irrigation Pit or Regulating Reservoir (552A & B). A small storage reservoir constructed to regulate or store a supply of water for irrigation.

Irrigation Storage Reservoir (436). An irrigation water storage structure made by constructing a dam.

***Irrigation System, Sprinkler (442)** A planned irrigation system in which all necessary facilities are installed for efficiently applying water by means of perforated pipes or nozzles operated under pressure (when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14].)

*** Irrigation System, Surface and Subsurface (443).** A planned irrigation system in which all necessary water-control structures have been installed for efficient distribution of irrigation water by surface means, such as furrows, borders, contour levees, or contour ditches, or by subsurface means (when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14].)

Irrigation System, Tailwater Recovery (447). A facility to collect, store, and transport excess water from irrigation for reuse in a farm irrigation distribution system.

***Irrigation System, Trickle (441).** A planned irrigation system in which all necessary facilities are installed for efficiently applying water directly to the root zone of plants by means of applicators (orifices, emitters, porous tubing, perforated pipe) operated under low pressure. The applicators can be placed on or below the surface of the ground (when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14"]).

*** Irrigation Water Conveyance, Aluminum Tubing or Asbestos Cement Pipeline (430AA & BB).** A pipeline and appurtenances installed in an irrigation system. (unless installed in an existing water conveyance or when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14"]).

***Irrigation Water Conveyance, Galvanized Steel Ditch and Canal Lining (428Q).** A fixed lining of impervious material installed in an existing or newly constructed irrigation field ditch, irrigation canal, or lateral (unless installed in an existing water conveyance or when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14"]).

*** Irrigation Water Conveyance, Non-reinforced Concrete Ditch and Canal Lining (428A).** A fixed lining of impervious material installed in an existing or newly constructed irrigation field ditch, irrigation canal, or lateral. (unless installed in an existing water conveyance or when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14"]).

*** Irrigation Water Conveyance, Flexible Membrane Ditch and Canal Lining (428B)** A fixed lining of impervious material installed in an existing or newly constructed irrigation field ditch, irrigation canal, or lateral (unless installed in an existing water conveyance or when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14"]).

***Irrigation Water Conveyance, Galvanized Steel Ditch and Canal Lining (428Q).** A fixed lining of impervious material installed in an existing or newly constructed irrigation field ditch, irrigation canal, or lateral (unless installed in an existing water conveyance or when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14"]).

*** Irrigation Water Conveyance, Rock and Mortar Ditch and Canal Lining (428AA- 1).** A hand placed fixed lining of impervious material installed in an existing or newly constructed irrigation field ditch, irrigation canal, or lateral (unless installed in an existing water conveyance or when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14]).

Land Clearing (460). Removing trees, stumps, and other vegetation from wooded areas.

Land Reclamation, Shaft and Adit Closing (452). Closing vertical and horizontal underground mine openings.

Land Reclamation, Subsidence Treatment (454). Treating subsidence areas to reduce the harmful effects and provide for beneficial use.

Land Reclamation, Toxic Discharge Control (455). Control of acid or otherwise toxic aqueous discharges from abandoned mines or mine waste.

Land Reclamation, Highwall Treatment (456). Reducing harmful effects of highwalls that are the exposed vertical walls of mining projects in abandoned mined areas.

Land Reconstruction, Abandoned Mined Land (543). Restoring land and water areas that are adversely affected by past mining practices and increasing the productivity of the areas for a beneficial use.

Land Reconstruction, Currently Mined Land (544). Restoring currently mined land to an acceptable form and for a planned use.

Lined Waterway or Outlet (468). A waterway or outlet having an erosion-resistant lining of concrete, stone, or other permanent material. The lined section extends up the side slopes to a designed depth. The earth above the permanent lining may be vegetated or otherwise protected.

Manure Transfer (634). A manure conveyance system using structures, conduits, or equipment.

Mine Shaft & Adit Closing (457). Filling underground mines or closing exposed openings.

Mole Drain (482). An underground conduit constructed by pulling a bullet-shaped cylinder through the soil.

Obstruction Removal (500). Removal and disposal of unwanted, unsightly, or hazardous buildings, structures, vegetation, landscape features, trash, and other materials.

Open Channel (582). Constructing or improving a channel either natural or artificial, in which water flows with a free surface.

Pipeline (516). Pipeline installed for conveying water for livestock or for recreation (subsurface portion of practice only).

Pond (378). A water impoundment made by constructing a dam or an embankment or by excavating a pit or dugout.

Precision Land Forming (462). Reshaping the surface of land to planned grades.

Pumped Well Drain (532). A well sunk into an aquifer from which water is pumped to lower the prevailing water table.

Pumping Plant for Water Control (533). A pumping facility installed to transfer water for a conservation need, including excess surface or ground water; filling ponds, ditches, or wetlands; or pumping from wells, ponds, streams, and other sources.

* **Range Planting (550).** Establishment of adapted perennial vegetation such as grasses, forbs, legumes, shrubs, and trees (mechanical portion of practice only).

Recreation Land Grading and Shaping (566). Altering the surface of the land to meet the requirements of recreation facilities.

Recreation Trail and Walkway (568). A pathway prepared especially for pedestrian, equestrian, and cycle travel.

* **Rock Barrier (555).** A rock retaining wall constructed across the slope to form and support a bench terrace that will control the flow of water and check erosion on sloping land (when excavation is required, only).

Runoff Management System (570). A system for controlling excess runoff caused by construction operations at development sites, changes in land use, or other land disturbances.

Sediment Basin (350). A basin constructed to collect and store debris or sediment.

Spoil Spreading (572). Disposing of surplus excavated materials.

Spring Development (574). Improving springs and seeps by excavating, cleaning, capping, or providing collection and storage facilities.

Stock Trails and Walkways (575). A livestock trail or walkway constructed to improve grazing distribution and access to forage and water.

Streambank and Shoreline protection (580). Using vegetation or structures to stabilize and protect banks of streams, lakes, estuaries, or excavated channels against scour and erosion.

Stream Channel Stabilization (584). Stabilizing the channel of a stream with suitable structures.

Structure for Water Control (587). A structure in an irrigation, drainage, or other water management system that conveys water, controls the direction or rate of flow, or maintains a desired water surface elevation.

Subsurface Drain (606). A conduit; such as plastic tubing, tile, or pipe; installed beneath the ground surface to collect and/or convey drainage water.

Surface Drainage, Field Ditch (607). A graded ditch for collecting excess water in a field.

Surface Drainage, Main or Lateral (608). An open drainage ditch constructed to a designed size and grade.

Terrace (600). An earth embankment, a channel, or a combination ridge and channel constructed across the slope.

Trough or Tank (614). A trough or tank, with needed devices for water control and waste water disposal, installed to provide drinking water for livestock.

Underground Outlet (620). A conduit installed beneath the surface of the ground to collect surface water and convey it to a suitable outlet.

Vertical Drain (630). A well, pipe, pit, or bore hole in porous, underground strata into which drainage water can be discharged.

Waste Management System (312). A planned system in which all necessary components are installed for managing liquid and solid waste, including runoff from concentrated waste areas, in a manner that does not degrade air, soil, or water resources.

Waste Storage Pond (425). An impoundment made by excavation or earth fill for temporary storage of animal or other agricultural waste.

Waste Storage Structure (313). A fabricated structure for temporary storage of animal wastes or other organic agricultural wastes.

Waste Treatment Lagoon (359). An impoundment made by excavation or earth fill for biological treatment of animal or other agricultural waste.

Water and Sediment Control Basin (638). An earth embankment or a combination ridge and channel generally constructed across the slope and minor watercourses to form a sediment trap and a water detention basin

Water-Harvesting Catchment (636). A facility for collecting and storing precipitation.

Waterspreading (640). Diverting or collecting runoff from natural channels, gullies, or streams with a system of dams, dikes, ditches, or other means and spreading it over relatively flat areas.

Water Table Control (641). Water table control through proper use of subsurface drains, water control structures, and water conveyance facilities for the efficient removal of drainage water and distribution of irrigation water.

Well (642). A well constructed or improved to provide water for irrigation, livestock, wildlife, or recreation.

Wetland Creation (658). A wetland that has been created on a site location which historically was not a wetland or is a wetland but the site will be converted to a wetland with a different hydrology, vegetation type, or function than naturally occurred on the site.

Wetland Development or Restoration (657). Construction or restoration of a wetland facility to provide the hydrological and biological benefits of a wetland.

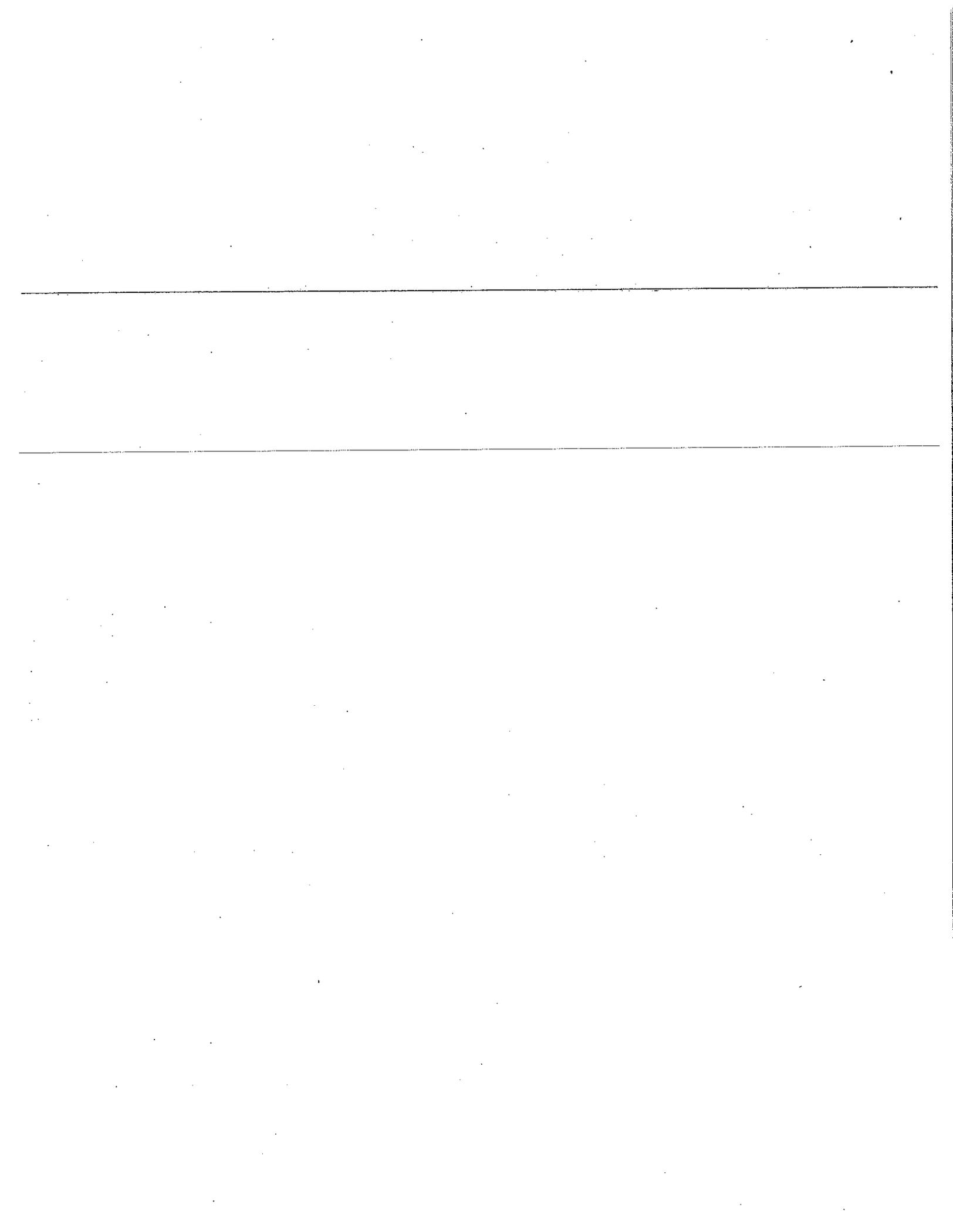
Wildlife Watering Facility (648). Constructing, improving, or modifying watering places for wildlife.

Wildlife Wetland Habitat Management (644). Retaining, creating, or managing wetland habitat for wildlife

Windbreak/Shelterbelt Establishment (380). Linear plantings of single or multiple rows of trees or shrubs for environmental purposes.

Windbreak/Shelterbelt Renovation (650). Widening, partial replanting, removing and replacing selected trees and shrubs to improve an existing windbreak.

Woodland Direct Seeding (652). Planting tree seed by hand or by mechanical means.

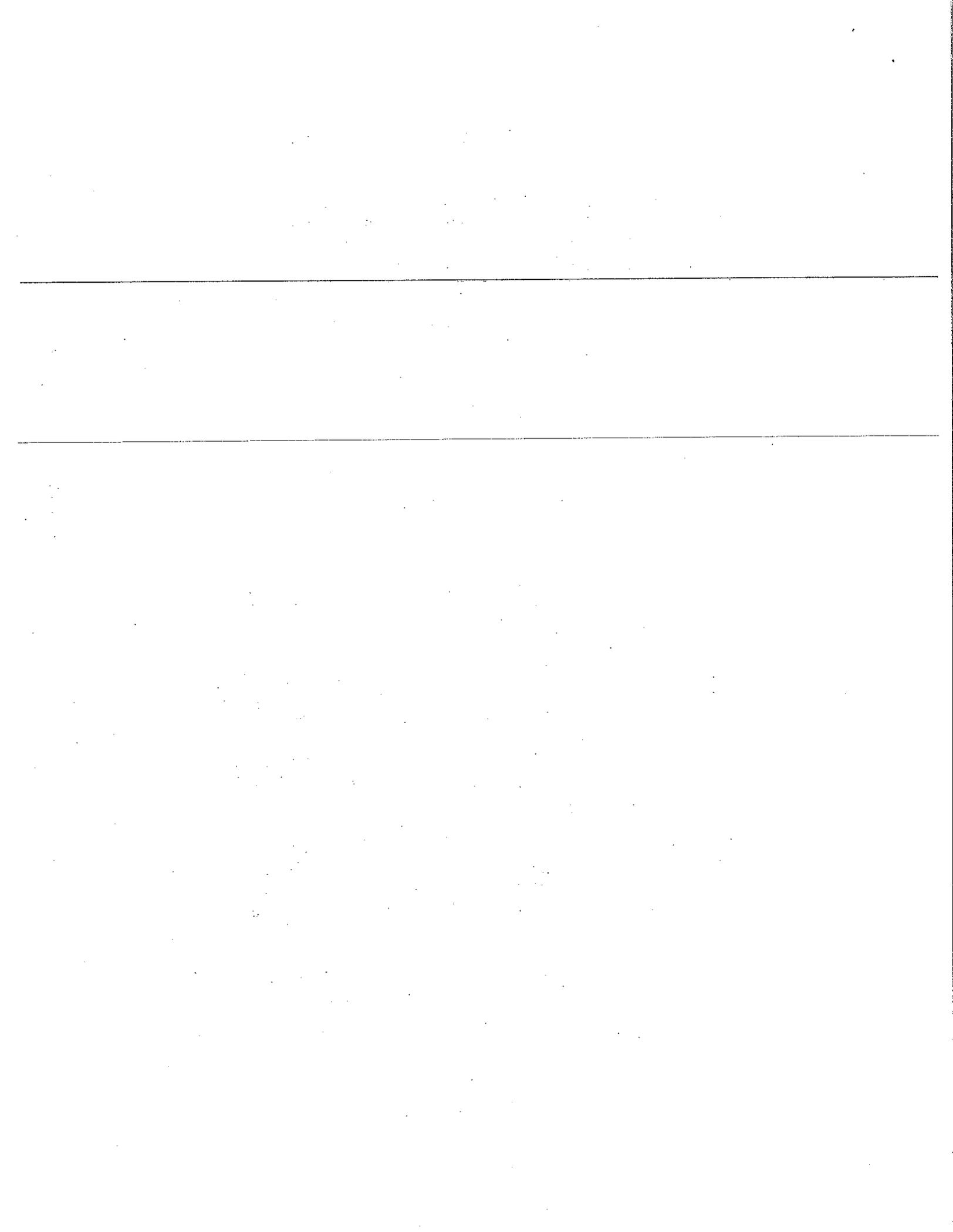


APPENDIX E
The Cultural Resources Inventory Process

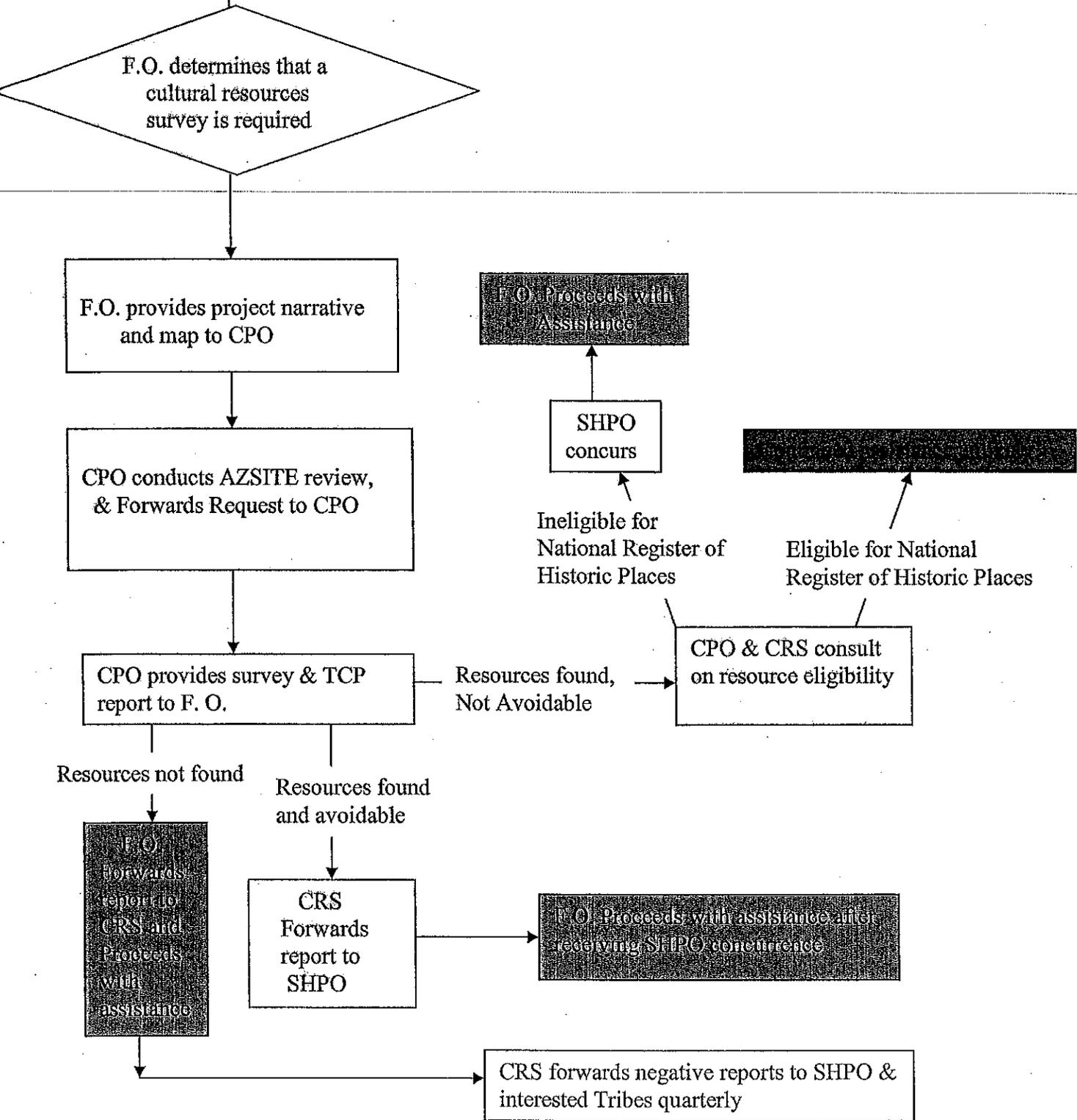
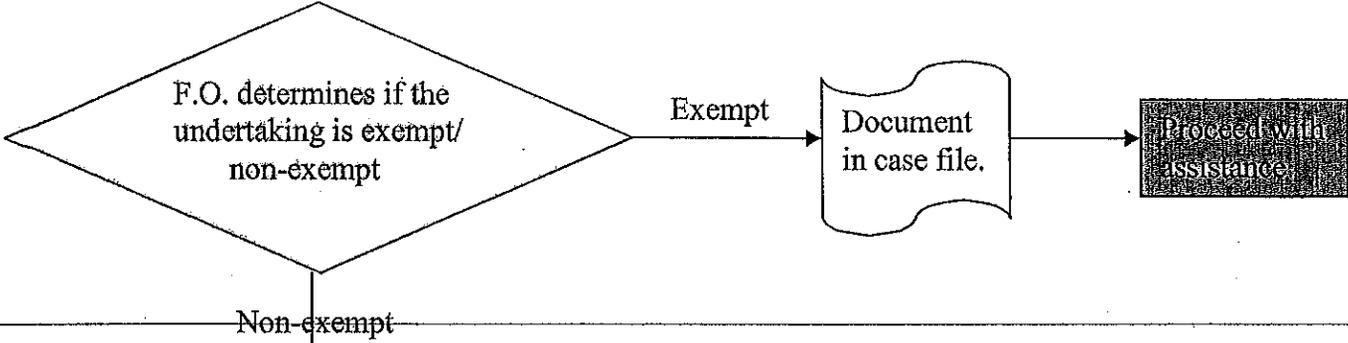
1. The NRCS Field Office (F.O.) responsible for undertakings on Yavapai-Apache (YAN) lands will determine a proposed undertaking is Exempt or Non-Exempt. If exempt, F.O. personnel will document the exemption in the project case file and proceed with the assistance. If Non-Exempt the F.O. personnel will proceed to step 2.

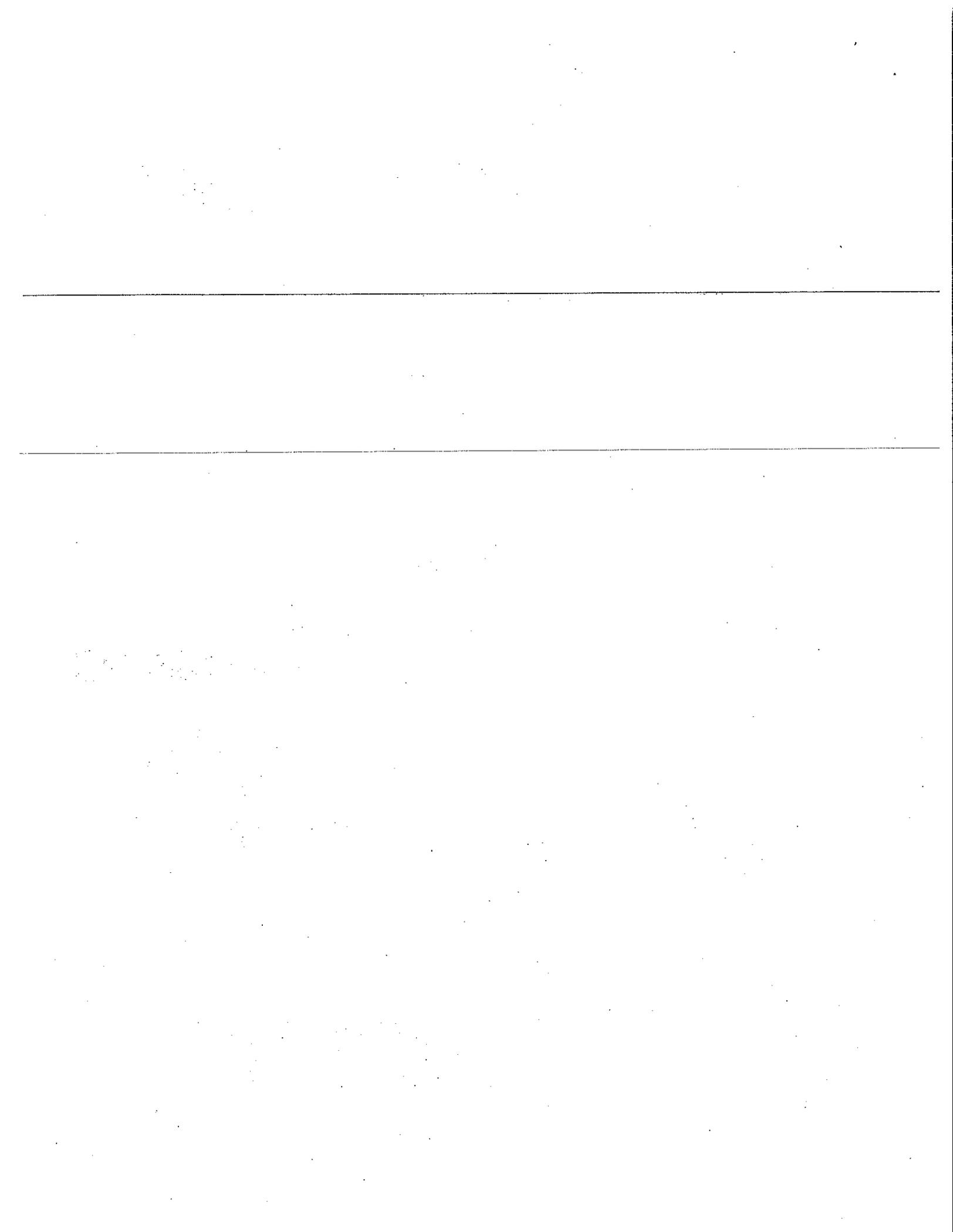
2. The NRCS Field Office (F.O.) responsible for undertakings on YAN lands will submit a map for each project and a narrative project description requesting a cultural resources background check, cultural resources survey, and a TCP investigation to the YAN Cultural Preservation Office (CPO) for all Non-Exempt undertakings.

3. CPO personnel meeting the Secretary of the Interior's Standards and Guidelines for professional archaeologists or closely related positions will conduct the cultural resources survey and TCP investigation and will provide the F.O. with a survey report incorporating a recommendation of findings.
4. The NRCS Field Office responsible for each undertaking will forward the cultural resources and TCP investigation report to the NRCS Arizona State CRS (CRS).
5. The CRS will forward the cultural resources and TCP investigation reports to the Arizona State Historic Preservation Office (SHPO). The reports for surveys in which no archaeological sites were found (negative reports) will be forwarded in batches at the end of each quarter of the fiscal year. The F. O. may proceed with assistance on projects where no archaeological sites were found without waiting for SHPO concurrence or comments.
6. The SHPO will review the cultural resources and TCP investigation reports for compliance with Section 106 of the National Historic Preservation Act [16 U.S.C. 470f] [NHPA]), and provide comments on, or concurrence with the recommended findings of effect to the CRS.
7. The CRS will forward the SHPO comments or concurrence to the CPO, with copies of the comments or concurrence to the F. O.



APPENDIX F – YAN CRM PROCEDURES FLOWCHART





Appendix G - Participant Agreement

Participant Name _____

Program _____

Participant Agrees:

- 1) Construction and/or installation of the conservation practices described in this conservation plan/contract shall not begin before the NRCS contracting officer has signed the contract.
- 2) Construction and/or installation of the conservation practices shall not begin before NRCS has approved the design.
- 3) Participant shall not begin construction and/or installation of conservation practices until NRCS has completed an environmental evaluation of the project and has notified participant that the practice site has been cleared for Threatened and Endangered Species and cultural resources.
- 4) Practice site shall not be moved, altered, modified, increased, or extended without prior notification and concurrence from NRCS.
- 5) If cultural resource artifacts, human remains or any Threatened and Endangered Species are discovered during construction, all construction activity shall cease until an on-site evaluation is conducted by NRCS personnel and clearance given.
- 6) All communication procedures for the items above can be carried out in person or by phone, fax, or email. All communication will be documented in the case file.
- 7) Participant is responsible for obtaining all necessary permits before construction/installation of conservation practices, including 401 certification, Corps of Engineers 404 permit, Native Plant Removal permit, State Land Improvement Permit, etc.
- 8) Participant will maintain conservation practices for the required life span of each practice. Practice life spans vary from 10 to 25 years.
- 9) Other: _____

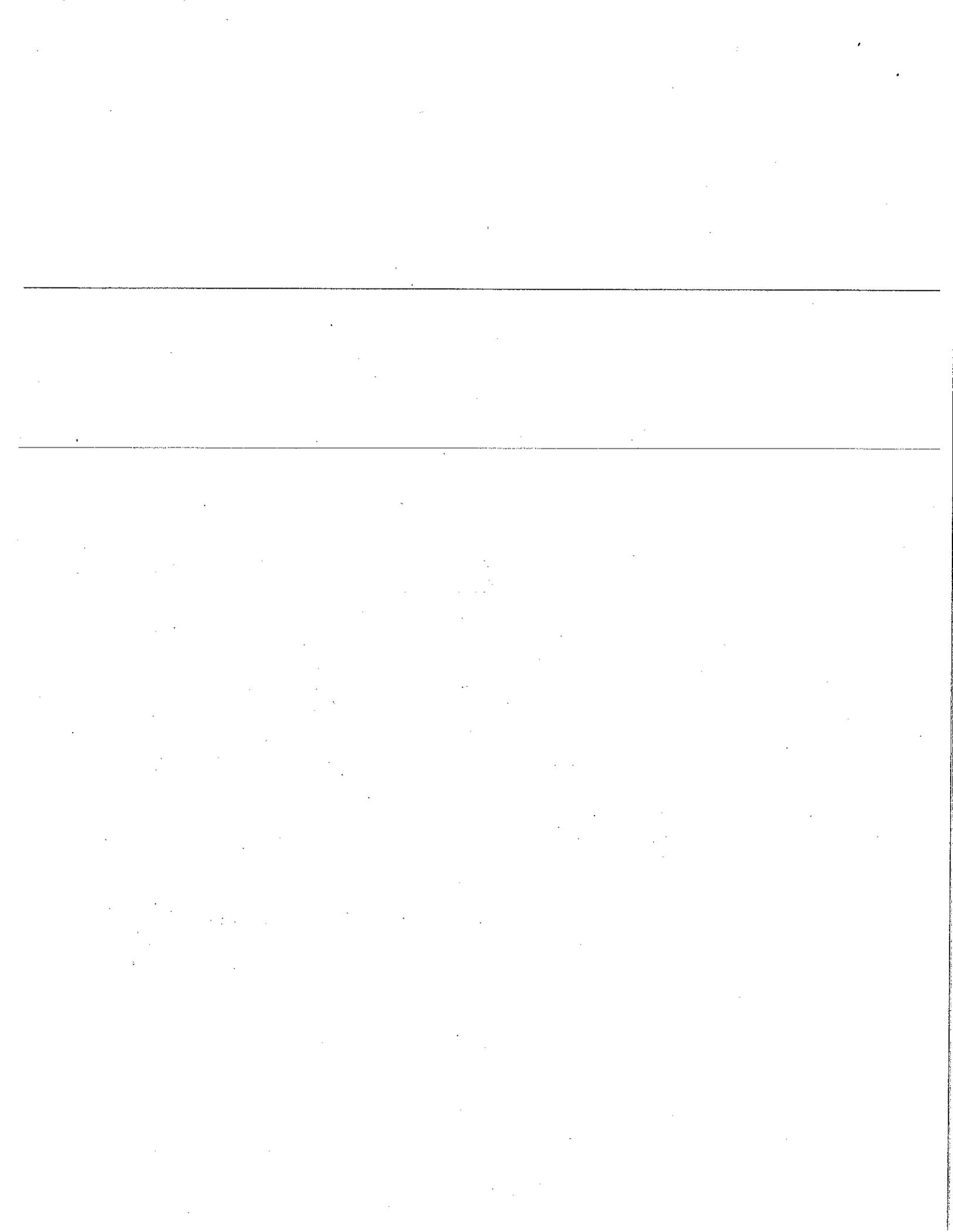
Initials: _____

Failure to comply with the measures described above may result in the cancellation of the contract and forfeiture of all cost-share dollars.

Participant signature _____

Date _____

NRCS Conservationist _____



APPENDIX H

Construction Discoveries

When the procedures for complying with Section 106 are completed, NRCS remains obligated to respond to and consider any unanticipated cultural resources discovered during implementation of an assistance activity. This includes contracts developed using engineering designs, technical specifications, cost share, and other assistance provided by NRCS (an exception may occur if another agency in a multi-agency undertaking has assumed responsibility for such discoveries through an agreement with the CPO and SHPO). If a discovery occurs during implementation of NRCS assistance, the Field Office shall:

1. Inform the contractor, or the landowner or manager to halt work in the vicinity of the discovery to allow the significance of the resource to be determined (a stop-work or "discovery" clause should tie a part of every NRCS contract). Construction work at a safe distance from the discovery may proceed.
2. In the event that the action affecting the resource is not halted, inform the landowner and sponsor that continuing to affect the resource may result in withdrawal of assistance.
3. Take reasonable measures to cover or otherwise protect the discovery. This may include covering exposed resources with suitable material (tarpaulins, etc.), or demarcating the area with flags or temporary barriers in order to prevent further damage or disturbance.
4. Notify the CPO and the CRS on the same working day as the discovery, or as soon thereafter as possible. This notification shall be by telephone followed by a brief written description of the circumstances.

The CPO will normally respond within 48 hours to any construction discovery and will assume responsibility for meeting the remaining requirements of this Section. Notify the CRS if the CPO is unavailable, proceed as follows:

- Assume that the cultural resource is significant and maintain protective measures.
- Document the circumstances and nature of the discovery, and recommend feasible actions to avoid or minimize further adverse impacts.
- Send the documentation to the CRS and follow any guidance received until the matter can be referred to the CPO.

NRCS may, at its discretion assume that the cultural resource is eligible for the National Register of Historic Places for purposes of this section, or the NRCS CRS shall consult

with the CPO and the SHPO about significance using the criteria in 36 CFR 60.4. Consultation among the CPO, the NRCS, and the SHPO regarding discoveries shall be completed within 10 working days of notification of the SHPO.

If consultation among the CPO, the NRCS, and the SHPO concludes in a determination that the resource is significant, NRCS and CPO will develop feasible actions to minimize adverse effects to the resource.

If consultation among the CPO, the NRCS, and the SHPO concludes in a determination that the resources are not significant, work may proceed without further review under this section.

The **ACHP** may be invited to comment on any proposed treatment for discoveries involving significant cultural resources. This may occur simultaneously with CPO and SHPO consultation.

Construction Discoveries involving Human Remains

All human burials or remains are regulated by some form of legislation, no matter where they occur. In addition, human burials or remains will naturally be of special significance to individuals who knew the deceased, and perhaps also to the cultural or ethnic group to which the deceased belonged. In some cases, they may also be of considerable interest to the police. Therefore, the discovery of previously human remains in an unregulated context during NRCS conservation assistance always requires immediate action, above and beyond the basic procedures for construction discoveries stated above.

When found on YAN land, the remains of Native Americans shall be treated according to the provisions of the Native American Graves Protection and Repatriation Act. The remains shall be treated as a potential criminal case unless the archaeological context is sufficiently obvious or their antiquity is assessed by the CPO or CRS.

If human remains are found during implementation of NRCS assistance, the Field Office shall immediately notify the YAN Police, CPO, and the CRS. Telephone calls should be followed by a brief but concise written report. The CPO will normally respond within 24 hours to discoveries of this nature and will assume primary responsibility for further action. However, if the CPO is not available, the Field Office will notify the CRS. If the remains are prehistoric the CPO (CRS, if CPO is not available) will notify the Arizona State Museum about the find and will arrange for removal and re-burial.

APPENDIX I

Considering Cultural Resources During Emergency Work

NRCS emergency work procedures are implemented by the State Conservationist in response to requests from the local government for assistance after disaster events. The two types of emergency work recognized are *exigency* situations that are done within 30 to 40 days of fund obligation, and *non-exigency* situations that are completed within 220 days of fund obligation.

The guiding principle with respect to considering cultural resources during emergency work is to implement normal NRCS procedures for protecting cultural resources to the fullest extent practicable without endangering human life or property. If begun promptly, there will often be sufficient time to complete the process beginning on page 4 of this handbook. This will be particularly true of smaller and non-exigent situations.

In cases where it is not possible or cost effective due to the severity or scale of the disaster, to implement normal cultural resources procedure, the State Conservationist may elect to implement the following procedures, which are based on directives contained in the NRCS National Watershed Manual (7 CFR 624) and 36 CFR 800.12. The State Conservationist may also elect to have the NRCS Chief, or designee, request an emergency waiver under 36 CFR 78 as an alternative for dealing with disasters of major scale. In such cases NRCS will either develop an appropriate plan consistent with 36 CFR Part 78, or execute a programmatic agreement with ACHP for considering historic properties.

Exigent Emergencies.

- Within 10 days of approving a request for emergency assistance, NRCS will notify the ACS and the SHPO of the declaration of emergency with the date(s) that emergency work and procedures are in effect.
- The ACS shall respond within seven days of notification of an emergency project with any information on known cultural resources in the area of potential effect, and recommendations for their protection. The ACS review will also attempt to identify unexamined areas with high potential for cultural resources in the affected area.
- NRCS will take into account all cultural resources information provided by ACS prior to repair work.
- The ACS or NRCS personnel approved by the ACS will perform field inspections prior to emergency repairs in the area of potential effect. The use of untrained personnel to aid in such inspections will be governed by the scale of disaster and relief response needed and will be indicated during consultations with the SHPO.

- Should a cultural resource be discovered, the ACS and the SHPO will be immediately notified. The NRCS, the SHPO, and the ACS will consult to evaluate the resource and determine an appropriate course of action. If no appropriate action can be taken to protect an identified cultural resource without endangering human life or property, the ACS, the SHPO, and the ACHP will be informed immediately over the signature of the State Conservationist.

- The ACS and the SHPO will be provided copies of all final reports of NRCS emergency work activities involving cultural resources. In any case where a cultural resource was damaged as the result of the disaster or the subsequent repair work, this notification will include the ACHP.

Nonexigent Emergencies.

-
- NRCS personnel will attempt to carry out the normal procedures outlined in this Agreement to the fullest extent practicable, including quarterly reporting procedures.
 - If the ACS is asked for assistance, NRCS will document the declaration of emergency with the date(s) that emergency work and procedures are in effect. The ACS shall respond within 10 days of notification with any information on known cultural resources in the area of potential effect, and recommendations for their protection. ASC review will also attempt to identify unexamined areas with high potential for cultural resources in the affected area.
 - If circumstances will not allow completion of the normal procedures established in this Agreement, the procedures for exigent emergencies will be followed.

APPENDIX J

Considering Cultural Resources During Emergency Work

NRCS emergency work procedures are implemented by the State Conservationist in response to requests from the local government for assistance after disaster events. The two types of emergency work recognized are *exigency* situations that are done within 30 to 40 days of fund obligation, and *non-exigency* situations that are completed within 220 days of fund obligation.

The guiding principle with respect to considering cultural resources during emergency work is to implement normal NRCS procedures for protecting cultural resources to the fullest extent practicable without endangering human life or property. If begun promptly, there will often be sufficient time to complete the normal cultural resources management process. This will be particularly true of smaller and non-exigent situations.

In cases where it is not possible or cost effective due to the severity or scale of the disaster, to implement normal cultural resources procedure, the State Conservationist may elect to implement the following procedures, which are based on directives contained in the NRCS National Watershed Manual (7 CFR 624) and 36 CFR 800.12. The State Conservationist may also elect to have the NRCS Chief, or designee, request an emergency waiver under 36 CFR 78 as an alternative for dealing with disasters of major scale. In such cases NRCS will either develop an appropriate plan consistent with 36 CFR Part 78, or execute a programmatic agreement with ACHP for considering historic properties.

Exigent Emergencies.

- Within 10 days of approving a request for emergency assistance, NRCS will notify the CPO and the SHPO of the declaration of emergency with the date(s) that emergency work and procedures are in effect.
- The CPO shall respond within seven days of notification of an emergency project with any information on known cultural resources in the area of potential effect, and recommendations for their protection. The CPO review will also attempt to identify unexamined areas with high potential for cultural resources in the affected area.
- NRCS will take into account all cultural resources information provided by CPO prior to repair work.
- The CPO or NRCS personnel approved by the CPO will perform field inspections prior to emergency repairs in the area of potential effect. The use of untrained personnel to aid in such inspections will be governed by the scale of disaster and relief response needed and will be indicated during consultations with the SHPO.

- Should a cultural resource be discovered, the CPO and the SHPO will be immediately notified. The NRCS, the SHPO, and the CPO will consult to evaluate the resource and determine an appropriate course of action. If no appropriate action can be taken to protect an identified cultural resource without endangering human life or property, the CPO, the SHPO, and the ACHP will be informed immediately over the signature of the State Conservationist.
-

- The CPO and the SHPO will be provided copies of all final reports of NRCS emergency work activities involving cultural resources. In any case where a cultural resource was damaged as the result of the disaster or the subsequent repair work, this notification will include the ACHP.

Non-exigent Emergencies.

- NRCS personnel will attempt to carry out the normal procedures outlined in this Agreement to the fullest extent practicable, including quarterly reporting procedures.
- If the CPO is asked for assistance, NRCS will document the declaration of emergency with the date(s) that emergency work and procedures are in effect. The CPO shall respond within 10 days of notification with any information on known cultural resources in the area of potential effect, and recommendations for their protection. ASC review will also attempt to identify unexamined areas with high potential for cultural resources in the affected area.
- If circumstances will not allow completion of the normal procedures established in this Agreement, the procedures for exigent emergencies will be followed.