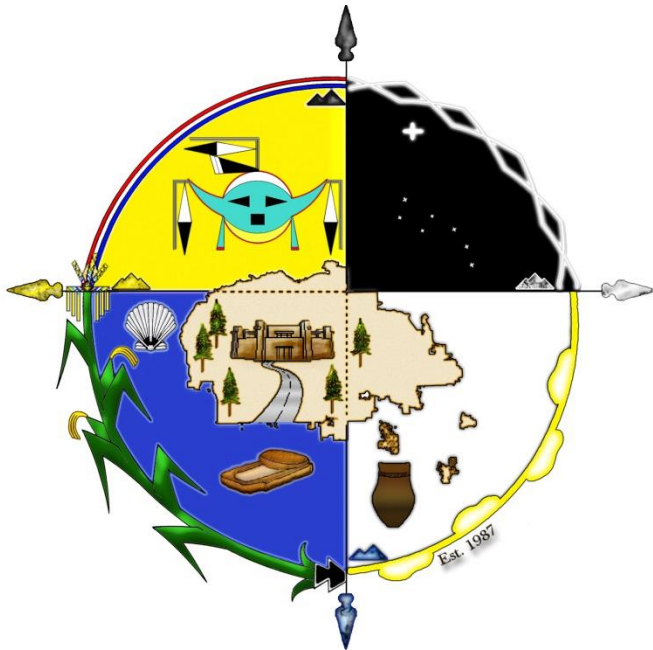


THE NAVAJO NATION

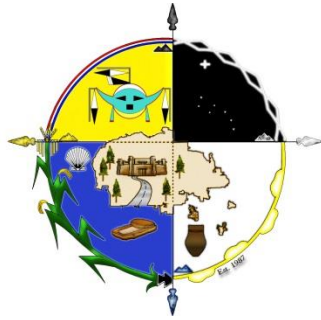
PERMIT PACKAGE 2016



Historic Preservation Department

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THE NAVAJO NATION HISTORIC PRESERVATION DEPARTMENT Cultural Resource Compliance Section

PO Box 4950, Window Rock, Arizona 86515

TEL: (928) 871-7198 / 7134 FAX: (928) 871-7886 WEBSITE: hpd.navajo-nsn.gov

Navajo Nation Cultural Resources Permit Holder(s):

Enclosed is the Navajo Nation Historic Preservation Department (HPD) updated **2016** Annual Permit package which explains cultural resources management procedures on Navajo Nation lands. Fulfilling Navajo Nation standards and requirements is the responsibility of each permittee. Please discard any old guidelines you may have received from us. The enclosed information includes:

- Policies Procedures & Requirements for Acquiring Cultural Resource Investigation Permits
- Permit Application Procedures, Forms and Fee Schedule
- Interim Fieldwork, Report Standards and Guidelines
- Guidelines for the Treatment of Historic, Modern & Contemporary Sites
- Navajo Nation Policy to Protect Traditional Cultural Properties (TCPs)
- Navajo Nation Burial Policy and Procedures (Jishchaa Policy)
- Guidelines for the Treatment of Discovery Situations
- Nation Cultural Resources Protection Act (NNCRPA)
- Navajo Nation Policy for the Disposition of Cultural Resource Collections

Introduction

HPD is the Navajo Nation's lead agency for cultural resources preservation, protection and management planning. It operates under the authority of the Navajo Nation Cultural Resources Protection Act [NN Code Title 19, Section 1001 (Chapter 8)]. HPD's role in the Navajo Nation is similar to that of a State Historic Preservation Office (SHPO). On behalf of the Navajo Nation, HPD acts as the Tribal Historic Preservation Office (THPO) in the federal "Section 106" review process. HPD advises federal, state/tribal agencies and project sponsors on protection and management of cultural resources in a manner that reflects the unique preservation concerns of the Navajo Nation. HPD is also responsible for reviewing applications and issuing permits for all archaeological and ethnographic investigations within the exterior boundaries of the Navajo Nation: tribal trust lands, fee lands, allotments, PLO 2198..

The following information has been provided in previous permit packages and will serve as a refresher on the history of the funds allocation and the P.L. 93-638 Contracts between the Navajo Nation Historic Preservation Department and the Bureau of Indian Affairs (BIA).

Congress allocates funds through the Federal Historic Preservation Fund for direct preservation grants to Indian tribes. These grants strengthen tribal historic preservation programs and provide the basis for a centralized data base and geographic information system for cultural resources data throughout the Navajo Nation.

In addition, Pursuant to the Indian Self-determination Act of 1976, as amended (P.L. 93-638, P.L. 100-472), HPD has entered into a contract with the Bureau of Indian Affairs-Navajo Regional Office (BIA-NRO). This "638" contract has resulted in several changes in the structure and scope of services provided by HPD.

HPD, BIA and the "638" Contract

Background

The BIA is the lead federal agency for Section 106 review of the majority of undertakings on the Navajo Reservation. (The Indian Health Service, Department of Housing and Urban Development and the Office of Navajo and Hopi Indian Relocation also act as lead agencies for certain undertakings). The BIA cultural resources program has grown over the last decade to include a review and compliance section which handles all Section 106 review and compliance permit issuance, data base maintenance, etc., and individual archaeology field programs for the BIA branches of forestry, roads, Navajo partition lands, land operations and facilities management. The branch archaeologists are responsible for performing small-scale field projects and/or contracting out larger field projects such as road right-of-way mitigation projects, forest compartment surveys, etc. Each of the programs advises the BIA-NRO Regional Director, who issues final notices to proceed with undertakings or "archaeological clearance" in compliance with the National Historic Preservation Act.

The Indian Self-determination Act was established to direct the federal funds spent on BIA programs to tribes, for programs the tribes wish to operate themselves. Many former BIA schools, for example, are now run by tribes, with the funding provided on a contracted basis by the BIA. Through the same process, HPD has contracted the cultural resource management functions of BIA-NRO, which means that the BIA funding for those programs is provided directly to the Navajo Nation. Now, instead of the BIA making the decisions about cultural resources management for the Navajo Nation, HPD makes the decisions on behalf of the Navajo Nation and advises the BIA-NRO Regional Director. Rather than having two independent review procedures, two sets of permitting requirements, and so forth, all functions are now provided through one centralized office. The BIA still functions as the "lead" federal agency, however, and the Area Director makes the final decisions in matters where federal approval is necessary.

HPD Structure

Under the "638" contract, HPD has grown considerably in size and has been divided into a number of sections. These include review and compliance, facilities management, traditional cultural program, etc. The Review and Compliance Section (Cultural Resources Compliance Section) handles all matters pertaining to Section 106 compliance.

Report Submission

Reports prepared for Section 106 review are to be submitted only to HPD-CRCS. Details regarding the submission of reports are outlined in HPD's *Fieldwork and Report Standards and Guidelines*. HPD requires two copies of each report. In addition, two sets of site forms are required. Report review will be handled according to 36 CFR 800, and final approval will be issued by the BIA-NRO Regional Director.

Conclusion

We look forward to a more efficient program for all of us, and one that will ultimately result in the best possible care of the Navajo Nation's cultural resources. Please feel free to call us if you have any questions or if we can be of any assistance at (928)871-7198 or 871-7134.

THE NAVAJO NATION HISTORIC PRESERVATION DEPARTMENT Cultural Resource Compliance Section

POLICIES, PROCEDURES & REQUIREMENTS FOR ACQUIRING CULTURAL RESOURCES INVESTIGATION PERMITS

TYPES OF PERMITS

The Navajo Nation Historic Preservation Department (NNHPD) issues three categories of permits:

Class A:	For site visitation, including personal archaeological research and visitation only
Class B:	For non-collection inventories conducted pursuant to Section 106 of the Nation Historic Preservation Act (NHPA) and/or the Navajo Nation Cultural Resources Protection Act (NNCRPA); activities that are authorized include archaeological inventories as well as ethnographic inquiries that are conducted simultaneously with the archaeological inventories (see 36 CFR Part 800.4, identifying historic properties)
Class C/Type 1:	For archeological excavation or collection purposes (including monitoring), ethnographic inventories conducted as a separate phase of Section 106 and/or NNCRPA, and ethnographic research conducted for the purpose of treating traditional cultural properties pursuant to Section 106 and/or Navajo Nation Policy to Protect Traditional Cultural Properties. An ARPA permit is also required for archeological excavation or collection purposes including monitoring
Class C/Type 2:	For Ethnographic inquiries involving personal/professional research. Ethnographic research includes any systematic collection of oral information from members of the Navajo Nation regardless of differences in academic definitions for specific kinds of ethnography. Explanations regarding ethnographic research appear below in permit-specific contexts

Navajo Nation permits are required on **all** lands of the Navajo Nation. Navajo Nation lands are defined as lands of the Navajo Nation, or of Navajo individuals, that either are under the ownership, jurisdiction or control of the Navajo Nation or are held in trust by the United States or subject to a restriction against alienation imposed by the United States, except for subsurface interests not owned or controlled by the Navajo Nation or a Navajo individual. The most common Navajo land statuses are Tribal Trust, Allotted, Fee Lands (Canoncito Band, Alamo Band, Ramah Band), and P.L.O. 2198. Permit requirements for these land statuses are provided in Table 1 at the end of this section. *It is the responsibility of the sponsor and the permittee to ensure correct identification of land status.* **Fieldwork conducted without the proper permit(s) is illegal and will result in prosecution pursuant to NNCRPA (NN Code Title 19, Section 307 and 308.c) and/or the Archaeological Resources Protection Act (43 CFR Part 7).**

PERMIT APPLICATION PROCEDURES

Permit application procedures are described below and are summarized in Tables 1 & 2. Navajo Nation Cultural Resources Investigation Permit Request Forms and Cultural Resource Permit fee schedule are enclosed.

ANNUAL APPLICATION

An application is required at the beginning of each calendar year (see below for permit-specific requirements). If approved, this application allows the contractor to apply for project-specific permits during the calendar year. The information submitted with the initial application does not need to be resubmitted with each project-specific request. A minimum of ten working days is required to/for review of annual application. Information needed for the annual application includes:

- A statement of the organization's qualifications [including facilities and equipment).
- Current resumes of supervisory/specialist personnel (principal investigators, project director(s), crew chief(s), cultural specialist(s), laboratory director(s), analyst(s), and crew members).

The annual application must clearly and unambiguously identify the applicants for the specific position(s) they will hold. Resumes must be in a simple format that provides all of the information required to document the person's qualifications (e.g. education; time spent in the field [distinguishing between survey, excavating, and ethnographic work, as appropriate], laboratory, etc.). Individuals may not assume positions of greater responsibility than those for which they have been approved; violation of this provision may lead to the nullification of a company's annual application, the disapproval of future project-specific permit requests and/or to the suspension or revocation of project-specific permits that have been already issued.

Resumes for additional personnel, or for persons applying for positions of greater responsibility than were originally approved, must be submitted during the year for review, approval and inclusion in the annual application file. Such individuals may not be listed in requests for project-specific permits or authorizations until approved by HPD.

- A letter outlining the kind(s) and scale(s) of projects that are anticipated during the year and any other relevant information.
- A sample report.
- Application fee of \$100.00 (see enclosed schedule) should submitted to Navajo Nation Cashier's Department, PO Box 3150, Window Rock, Arizona, 86515. Please include Account #107009-1869.

The past performances of both the company and individuals will be taken into account during the review of the annual application. Performance will be continually evaluated throughout the year and determined by the quality of the product submitted to the HPD. Quality is determined by the information provided in reports, including whether permittee have adhered to *The HPD Policies, Procedures, Standards and Guidelines*. In terms of Section 106 and/or NNCRPA compliance, the ultimate standard of quality is whether reports contain the information necessary for HPD-CRCS personnel to make decisions pursuant to 36 CFR 800 and/or NNCRPA. Report quality is the responsibility of the person in Direct Charge. A poor performance record may lead to disapproval of either a company's or an individual's annual application.

Notification of the approval or disapproval of the application will be sent to the applicant upon review. If approved, the notification will include details about individual applicants and the position(s) for which they have been permitted. The approval remains in effect until the end of the calendar year. A poor performance evaluation after an annual application has been issued may lead to the suspension or revocation of the contractor's annual application, disapproval of project-specific permit requests, and/or the revocation of project-specific permits already issued. Poor performance on the part of an individual may lead alternatively to restrictions on the responsibilities they are allowed to assume in the future. The converse is also true (i.e., superior past performance on the part of an individual may lead to their being approved for positions of greater responsibilities than their level of education and experience otherwise indicates).

PROJECT-SPECIFIC PERMITS

HPD will not review reports for purposes of consultation pursuant to Section 106 of the NHPA or NNCRPA unless a project-specific permit number was issued for the project. The project-specific permit number will not be issued by HPD unless resumes have been received for all of the supervisory/specialist personnel participating in the project and these individuals have been approved for their specific positions. ***Requests for project-specific permits must be received by HPD prior to the start of fieldwork;*** HPD will not rush a permit request when fewer than the number of days specified below. The inclusion on the permit request form of individuals not previously approved as a part of the annual application process, and/or the submission of incomplete or inaccurate information about project specifics will lead to delays in the issuance of project-specific permits. When current and accurate information is provided on the permit request form, HPD will make every effort to return the project-specific permit number within the specified number of days; however ***fieldwork may not begin without a project specific permit number.*** If you have not received a response to your request by the specified number of days after its receipt by HPD, you may telephone to inquire as to its status; we will process the permit in as timely a fashion as possible. The project specific permit number must be included on all reports submitted for review. *The project-specific permit fee must be submitted to the Navajo Nation's Cashier's Department.* See the enclosed fee schedule for the applicable fee for each individual permit (for permits related to the Section 106/CRPA process, fees are based on the cultural resource management costs of the project).

Class A Permits (Site Visitation/Personal Non-collection Archaeological Research)

Class A permits are for visitation and/or personal research on archaeological sites. No collection, disturbance or any activity other than visitation is authorized under Class A permits. Personal ethnographic research is conducted under a Class C permit (see below). No initial annual application is necessary for personal research projects but requests for Class A permits must be made in writing (via the enclosed Class A request form) at least ten days prior to the site visitation. The request must specify:

- The identity and location of site(s) to be visited.
- The proposed date(s) of visitation.
- The names of all individuals visiting archaeological site(s).
- The purpose of visitation.

Except for group tours, there is no fee for personal research or visitation conducted under Class A permits. Formal group site tours require a permit fee (see the enclosed fee schedule). This permit is only for visits to archaeological sites, *other off road trips require back country permits from the Navajo Nation Parks and Recreation Department.* Class A permits are valid only for the dates on the actual permit.

Class B Permits (Inventory for Section 106 and/or NNCRPA Purposes)

Under approval of the annual application, project-specific Class B permits may be requested at any time during the year. The form used to request a Class B permit is enclosed on page 16. Class B authorizes Section 106 and/or NNCRPA non-collection archaeological inventories and ethnographic inquiries conducted simultaneously with archaeological inventories (see 36 CFR Part 800.4, identifying historic properties). While no additional Class C ethnographic permit is necessary for collecting basic ethnographic data in concert with archaeological inventories, the Class B permit application must specify the personnel responsible for the ethnographic data collection (pursuant to the Navajo Nation Policy for the Protection of Traditional Cultural Properties [enclosed in Section Five]) along with the other supervisory/specialist personnel participating in the project. Requests for Class B permits must be received by HPD at least 10 days prior to start of fieldwork.

Class B permits are valid for 90-days from the date of issue (or if requested after October 31st) the permit is valid up until December 31st of that calendar year. An extension may be requested in writing prior to the expiration date. A Class B permit is required for each undertaking unless given special permission by HPD.

Class C Permits - Type 1 (Ethnographic research for Section 106 and/or NNCRPA purposes)

A Class C ethnographic permit is necessary for ethnographic inventories conducted as a separate phase of Section 106 and/or NNCRPA investigations, if data collection is for the purpose of treating cultural resources that are included, or eligible for inclusion, in the Navajo Register of Historic Places or the National Register of Historic Places (that is, when mitigation of damage that is expected to occur to such sites as a result of an undertaking, is required.) If treatment of traditional cultural places and archaeological resources are occurring in a single phase of an undertaking, it is not necessary to request a separate Class C ethnographic permit in addition of a Class C archaeological collection/excavation permit. In such a case, however, the permit request must include detailed information (e.g., a treatment proposal outlining the scope of work, project personnel and qualifications, evidence of logistical support, and the like as detailed below for ARPA permits) as they pertain to both traditional and archaeological resources.

An annual application is required prior to requesting this type of Class C permit. Once the annual application has been approved, these permits may be requested on a case-by-case basis at any time during the calendar year. The form used to request the project-specific permits are enclosed. Neither Navajo-owned company blanket nor indefinite services permits are issued for Class C permits. Requests for permits involving treatment of cultural resources (i.e., those that include research proposals) must be received at least 30 days prior to the initiation of fieldwork, while requests for permits for ethnographic inventories being conducted as a separate phase of Section 106 and/or NNCRPA investigations must be received at least 10 days in advance. See the enclosed fee schedule for applicable fees.

Class C Permits - Type 1 (Archaeological Collection/Excavation and Monitoring for Section 106 and/or NNCRPA Purposes)

An annual application is required prior to requesting Class C archaeological collection/excavation and monitoring permits for Section 106 and/or NNCRPA purposes. Once the annual application has been approved, these permits may be requested on a case-by-case basis at any time during the calendar year; the form used to request them is enclosed. These Class C permit applications must be accompanied by an ARPA permit application with the attendant information (see below). Class C Permit requests must be received at least 30 days prior to the initiation of fieldwork. See the attached fee schedule for applicable fees.

Class C Permits – Type 2 (Personal/ Professional Ethnographic Research)

No annual application is necessary for personal ethnographic research projects. Requests for Class C personal ethnographic research permits require a \$100.00 application fee; however, the fee may be waived by special arrangement with the HPD for formal research that will result in data provided to the Navajo Nation. Application must be made in writing (using the request form enclosed) and include the following information:

- A copy of the research design or grant proposal outlining the purpose of the project and the methods to be used (including copies of interview forms and consent forms to be used).
- A resume or other statement of the researcher's qualifications.

- Evidence that the officials of the chapter(s) in which the work is to be conducted have been informed of the proposed research project, i.e. chapter resolution.
- The final report must include evidence that the individuals who were interviewed consented to participating in the research, as well as forms regarding use of the interviewee's name(s) and the information provided by them for publication purposes.

Class C personal ethnographic research permit requests are subject to a 30-day review period, during which time the research proposal will be evaluated in terms of its contribution or benefit to the Navajo Nation.

ARCHEOLOGICAL RESOURCES PROTECTION ACT (ARPA) PERMITS

ARPA permit requests are made to HPD for the BIA on the enclosed ARPA permit application form. They are reviewed by HPD on behalf of the BIA, and they are issued by the BIA. A minimum of 35-40 days should be allowed between application and issuance of an ARPA permit. Application requirements for the ARPA permit include:

- A copy of the research proposal.
- Names, addresses, institutional affiliations and qualifications of individuals responsible for conducting the proposed work and for carrying out the terms of the permit.
- Evidence of logistical support and laboratory facilities.
- Evidence of the curation agreement with the Navajo Nation or a qualified curatorial facility approved by the Navajo Nation (refer to 43 CFR Part 7, Section 6[b] for more detailed information).

Table 1. **2016**

Permit Requirements for Common Land Statuses on Navajo Nation Lands

LAND STATUS	ACTIVITY	NN PERMIT	BIA PERMIT
Navajo Tribal Trust	Visitation	Class A	None
	Inventory	Class B or C	None
	Collection/Excavation	Class C	ARPA
	Ethnographic	Class B or C	None
Allotment	Visitation	Class A	None
	Inventory	Class B or C	None
	Collection/Excavation	Class C	ARPA
	Ethnographic	Class B or C	None
Tribal Fee Land	Visitation	Class A	None
	Inventory	Class B or C	None
	Collection/Excavation	Class C	None
	Ethnographic	Class B or C	None
P.L.O. 2198	Visitation	Class A	None
	Inventory	Class B or C	None
	Collection/Excavation	Class C	ARPA
	Ethnographic	Class B or C	None

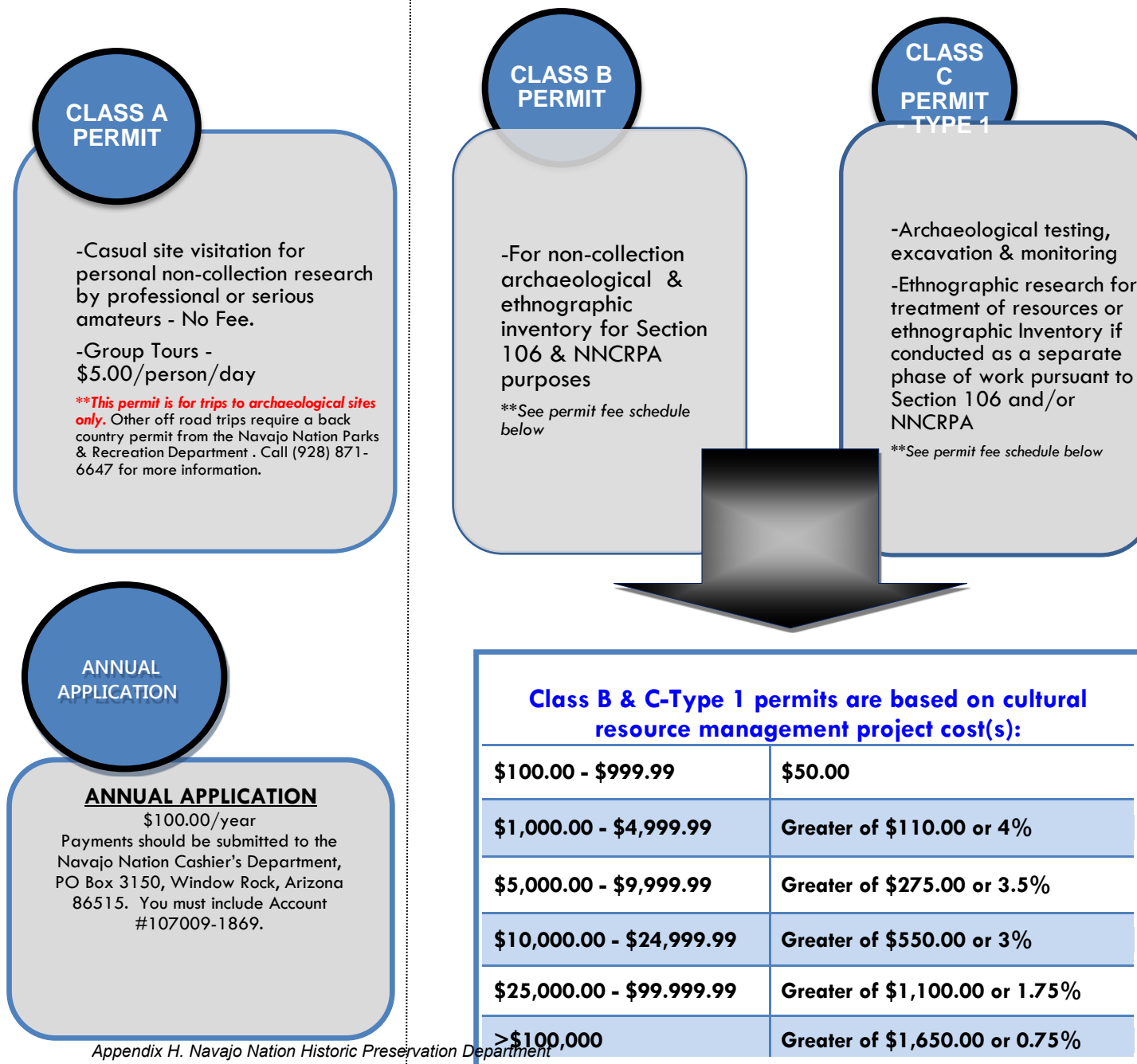


Table 2 | 2016

Summary of Navajo Nation Permit Requirements

PERMIT CLASS	PURPOSE	ANNUAL APPLICATION	PERMIT FEE	HPD REVIEW PERIOD
Class A	Site Visitation and/or Group tours	No	\$5 per day, per person	10 days
	Non-collection: personal research on archaeological sites: i.e. photography, rock art documentation	No	No	10 days
Class B	Non-collection: Archaeological/ethnographic inventory for Section 106/NNCRPA Purposes	Yes	Yes (See Permit Fee Schedule)	10 days
Class C Type 1	Archaeological testing, excavation, monitoring for Section 106/NNCRPA requirements	Yes	Yes (See Permit Fee Schedule)	30 Days
	Ethnographic research: for treatment of ethnographic properties/ inventories conducted as a separate phase of work pursuant to Section 106/NNCRPA	Yes	Yes (See Permit Fee Schedule)	30 days
Class C Type 2	Ethnographic data collection for personal research or professional research	No	Yes (See Permit Fee Schedule)	30 days

THE NAVAJO NATION HISTORIC PRESERVATION DEPARTMENT Cultural Resource Compliance Section

CLASS A PERMITS REQUIREMENTS **VISITATION/PERSONAL NON-COLLECTION ARCHEOLOGICAL RESEARCH**

Class A permits are for visitation and/or personal research to archaeological sites. No collection, disturbance or any activity other than visitation and documentation is authorized under Class A permits. Personal ethnographic research is conducted under a Class C permit (see below). No initial annual application is necessary for personal research projects but requests for Class A permits must be made in writing (via the enclosed Class A form) at least ten days prior to the site visitation. The request must specify:

1. The identity and location of site(s) to be visited.
2. The proposed date(s) of visitation.
3. The names of all individuals visiting archaeological site(s).
4. The purpose of visitation/research (e.g., photography, rock art documentation, mapping, etc.).

Except for group tours, there is no fee for personal research or visitation conducted under Class A permits. Formal group site tours require a permit fee (see the enclosed fee schedule).

PERMIT NUMBER

Type of Permit Requested	Site Visitation <input type="checkbox"/>	Documentation <input type="checkbox"/>
Proposed Starting Date:		
Proposed Ending Date:		
Person in Charge (if applicable):		
Visitation Location		
State:		
County:		
Chapter:		
Legal Location (Township & Range, Section)		
Land Status:		
Description/purpose of visitation/research (e.g. photography, rock art documentation, etc.)		
Name of Organization		
Address		Telephone No./Contact Info.
Names of Individuals Visiting		
<p>*Please remit permit fee to Navajo Nation Cashier's Department, PO Box 3150, Window Rock, AZ 86515</p> <p>(Include account #107009-1869 and permit number)</p>		

***Return this form to:**

Attn: PERMITTING SECTION

Navajo Nation Historic Preservation Department

Cultural Resource Compliance Section

P.O. Box 4950

Window Rock, AZ 86515

TEL: (928) 871-7198 FAX: (928) 871-7886 Fax

Inventory for Section 106/NNCRPA

PERMIT NUMBER	
----------------------	--

Brief Description of Project (including approximate acreage)	
Proposed Starting Date:	
Proposed Ending Date:	
Project Location	
State:	
County:	
Chapter:	
Legal (Township & Range, Section if platted, project if unplatted):	
Land Status:	
Name(s) of U.S.G.S 7.5 minute map(s) (attach map(s) to request form)	
Name of Organization	
Address	Telephone No./Contact Info.
Project Personnel	
Person(s) in General Charge - Principal Investigator[s]:	
Person(s) In Direct Charge - Project Director[s] (specify positions):	
*Please remit permit fee to Navajo Nation Cashier's Department, PO Box 3150, Window Rock, AZ 86515 <i>(Include account #107009-1869 and permit number)</i>	

Return this form to:
Attn: PERMITTING SECTION
 Navajo Nation Historic Preservation Department
 Cultural Resource Compliance Section
 P.O. Box 4950
 Window Rock, AZ 86515
 TEL: (928) 871-7198 FAX: (928) 871-7886

Pursuant to Section 106/NNCRPA

PERMIT NUMBER	
----------------------	--

Type of Permit Requested (Refer to Section Two of permit package)			
Section 106/CRPA - Archaeological Collection/Excavation & Monitoring			<input type="checkbox"/>
Section 106/CRPA – Ethnographic Research (Research for treatment of Ethnographic properties/inventories – if conducted as separate phase of work)			<input type="checkbox"/>
Name of Organization			
Address		Telephone No./Contact Info.	
Project Personnel			
Person(s) in General Charge - Principal Investigator[s]:			
Person(s) In Direct Charge - Project Director[s] (specify positions):			
Project Location			
State:			
County:			
Chapter:			
Legal (Township & Range, Section if platted, project if unplatted):			
Land Status:			
Name(s) of U.S.G.S 7.5 minute map(s) (attach map(s) to request form)			
Brief Description of Project			
Start Date:		End Date:	
*Please remit permit fee to Navajo Nation Cashier's Department, PO Box 3150, Window Rock, AZ 86515 (Include account #107009-1869 and permit number)			

Return this form to:
 Attn: **PERMITTING SECTION**
 Navajo Nation Historic Preservation Department
 Cultural Resource Compliance Section
 P.O. Box 4950
 Window Rock, AZ 86515
 TEL: (928) 871-7198 FAX: (928) 871-7886

The Navajo Nation
Historic Preservation Department
Cultural Resource Compliance Section

CLASS C/Type 2 PERMIT REQUIREMENTS
ETHNOGRAPHIC DATA COLLECTION FOR PERSONAL/PROFESSIONAL RESEARCH

No annual application is necessary for personal/professional ethnographic research projects. Request for Class C/Type 2 personal/professional ethnographic research permits require a \$100.00 application fee; however, the fee may be waived by special arrangements with the NNHPD for formal research that will result in data provided to the Navajo Nation. The request must be made in writing along with the enclosed request form. The following information must be included:

1. A copy of the research design or grant proposal outlining the purpose of the project and the methods to be used (include copies of interview forms and consent forms)
2. A resume or other statement of the researcher's qualifications
3. Evidence that the officials of the chapter(s) in which the work is to be conducted have been informed of the proposed research project, i.e. chapter resolution
4. The final report must include evidence that the individuals who were interviewed consented to participating in the research, as well as forms regarding use of the interviewees name(s) and the information provided by them for publication purposes

Class C/Type 2 personal/professional ethnographic research permit requests are subject to thirty day review period, during which time the research proposal will be evaluated in terms of its contributions or benefit to the Navajo Nation.

ETHNOGRAPHIC DATA COLLECTION
FOR PERSONAL/PROFESSIONAL RESEARCH

PERMIT NUMBER

Type of Permit Requested (Refer to Section Two of permit package)	
Ethnographic Data Collection for Personal Research	<input type="checkbox"/>
Ethnographic Data Collection for Professional Research	<input type="checkbox"/>
Name of Organization/Individual	
Address	Telephone No./Contact Info.
Names of all individuals conducting research	
Project Location	
State:	
County:	
Chapter:	
Brief Description of Project	
Proposed Starting Date:	
Proposed Ending Date:	
*Please remit permit fee to Navajo Nation Cashier's Department, PO Box 3150, Window Rock, AZ 86515 (Include account #107009-1869 and permit number)	

Return this form to:
Attn: **PERMITTING SECTION**
Navajo Nation Historic Preservation Department
Cultural Resource Compliance Section
P.O. Box 4950
Window Rock, AZ 86515
TEL: (928) 871-7198 FAX: (928) 871-7886

United States Department of the Interior

Application for Permit for Archeological Investigations

Under the Authority of
The Archaeological Resources Protection Act of 1979
 (16 U.S.C. 470aa-mm; 43 CFR 7);

and/or **The Antiquities Act of 1906**
 (P.L. 59-209; 34 Stat. 225; 16 U.S.C. 431-433; 43 CFR 3)

and/or the appropriate **Bureau-specific statute** Such as
 The Reclamation Act; The National Park Service Organic Act; The National Wildlife
 Refuge System Administration Act; The Federal Land Policy and Management Act

Instructions: Complete and return two copies of this application form and required attachments to the appropriate State or Regional Office of the land managing bureau involved. All information requested must be completed before the application will be considered. Use separate pages if more space is needed to complete a section.

1. **Name of applicant** (institution, corporation, partnership, individual, or other entity)

2. **Mailing address**

3. **Telephone number(s)**

4. **Email address(es)**

5. **Nature of archeological work proposed**

- ☐ Survey and Recordation
- ☐ Limited Testing and/or Collection (project-specific)
- ☐ Excavation and/or Removal (project-specific)

6. **Location of proposed work** (attach additional sheets)

a. Description of Federal lands involved. Indicate State, county, and Federal administrative unit. Specify the best available location data, e.g., GPS coordinates, UTM coordinates, township, range and section (cadastral) subdivisions, or metes and bounds. Include a readable copy of a map or plan at an appropriate scale showing specific areas for which permit is desired.

b. Identification of archeological resource(s) or other cultural resource(s) involved (if applicable).

7. **Time of proposed work**

Overall duration of project: From To

Estimated duration of fieldwork: From To

8. **Principal Investigator**

Name of individual(s) responsible for planning and generally overseeing field projects, including overall supervision of staff and overall responsibility for the professional quality of resource evaluations and recommendations.

Principal Investigator contact information

Telephone number(s):

Email address(es):

9. Field Director Name of individual(s) responsible for carrying out field projects, for technical quality of fieldwork through direct on-the-ground supervision of all aspects of fieldwork and data gathering, for proposing resource evaluations and recommendations for further treatment, and for preparing field records and descriptive reports.	Field Director contact information Telephone number(s): Email address(es):
10. Permit Administrator Name of individual responsible for fulfilling the terms and conditions of the permit (must be legally empowered to obligate applicant organization).	Permit Administrator contact information Telephone number(s): Email address(es):
11. Applicant must include the following attached to the application form. <ol style="list-style-type: none"> Description of the purpose, nature, and extent of the work proposed, including how and why it is proposed to be conducted: (include research design, methods, curation); Summary of organizational capabilities, including information on location(s) and description of facilities and equipment, on organizational structure and staffing, and on facilities, equipment and staff to be involved in the proposed work; Summary of organizational history in completing work of the kind proposed, including similar past projects, government contracts, and Federal permits (previously held, currently in force with effective dates, and currently pending or planned, by agency and region/state), reports and/or publications resulting from similar work, and any other pertinent organizational experience; For each individual named in 8 and 9 above, a curriculum vitae or similar resume or summary of education, training, and experience in the kind of work proposed and in the role proposed; Written certification, signed by a properly authorized official of the proposed curatorial facility, attesting to the facility's capability and willingness to accept any collections, as applicable, and records, data, photographs, and other documents generated during the proposed term of the permit, and to assume permanent curatorial responsibility for such materials on behalf of the United States Government pursuant to 36 CFR 79. In the case of an application on Indian lands where the Indian Tribe or Indian owner(s) do not wish to take custody, written consent to undertake curation is required from the Indian Tribe or the Indian owner(s) pursuant to 25 CFR 262.8. Custody of any Native American human remains or cultural items subject to the Native American Graves Protection and Repatriation Act (NAGPRA), 25 USC 3001-3013, removed from public lands or Indian lands shall be determined in accordance with NAGPRA and its implementing regulations, 43 CFR 10. 	
12. Proposed outlet(s) for public written dissemination of the results	
13. Signature of individual named in 10	14. Date signed

Paperwork Reduction Act and Estimated Burden Statement: This information is being collected pursuant to 16 U.S.C. 470cc and 470mm, to provide the necessary facts to enable the Federal land manager (1) to evaluate the applicant's professional qualifications and organizational capability to conduct the proposed archeological work; (2) to determine whether the proposed work would be in the public interest; (3) to verify the adequacy of arrangements for permanent curatorial preservation, as United States property, of specimens and records resulting from the proposed work; (4) to ensure that the proposed activities would not be inconsistent with any management plan applicable to the public lands involved; (5) to provide the necessary information needed to complete the Secretary's Report to Congress on Federal Archeology Programs; and (6) to allow the National Park Service to evaluate Federal archeological protection programs and assess compliance with the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470). Submission of the information is required before the applicant may enjoy the benefit of using publicly owned archeological resources. To conduct such activities without a permit is punishable by felony-level criminal penalties, civil penalties, and forfeiture of property. A federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. Public reporting for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Departmental Consulting Archeologist; NPS; 1849 C Street, NW (2275); Washington, DC 20240-0001.

THE NAVAJO NATION

HISTORIC PRESERVATION DEPARTMENT

Cultural Resource Compliance Section

FIELDWORK, REPORT STANDARDS AND GUIDELINES

The Navajo Nation Historic Preservation Department (HPD) has prepared these guidelines as a fieldwork and reports standards manual for contractors working on Navajo Nation lands. The guidelines contained in this manual replace those dated August 01, 1991. They are not, however, all inclusive.

FIELDWORK

- Prior to any fieldwork, a permit must be acquired from NNHPD (refer to Section 2 of permit package). Fieldwork conducted without the proper permit(s) is illegal and will result in prosecution pursuant to NNCRPA (NN Code Title 19, Section 307 and 308.c) and/or the Archaeological Resources Protection Act (43 CFR Part 7).
- Prior to fieldwork, a thorough records check will be conducted at NNHPD CRCS & TCP Offices.
- Spacing between surveyors or individual transects will not exceed fifteen (15) meters. The minimal area for a block survey is 1 acre. The minimal width of a linear survey is fifteen (15) meters.
- At minimum, a 35 to 50-ft buffer zone will be surveyed around the area of potential effect, i.e. home sites, block surveys, linear surveys.
- All cultural resources encountered in the survey area will be documented completely, even if they are partly outside of the survey boundary. For questions about "historic" resources, refer to the *Navajo Nation Guidelines of the Treatment of Historic, Modern and Contemporary Abandoned Sites*. For traditional cultural properties (sacred sites), refer to the *Navajo Nation Policy to Protect Traditional Cultural Properties* [Section 5], and the National Park Service's National Register Bulletin 38 (The bulletin can be accessed via internet at www.nps.gov).

DEFINITIONS

- Site: A site is "the location of a prehistoric or historic occupation or activity, or a building or structure, whether standing or ruined."¹ A site is anything that falls within the preceding definition and is more than an isolated occurrence.
- Traditional Cultural Property (TCP): A location of an event (a ceremony, belief, prayer, sweat lodge, plant gathering areas, and others as defined within the Navajo Nation Policy to Protect Traditional Cultural Properties) where the location itself maintains historic or traditional cultural value regardless of the value of any existing structure. The Navajo Nation requires that a Traditional Cultural Property (TCP) **NOT** be recorded as a site. A burial is **NOT** a TCP and should be recorded as a "Burial" using the Jishchaa' Policy Guidelines in Section 7 of this permit package. However, if the burial is within a historic or prehistoric site, it should be recorded as a part of the site, not as a burial by itself.
- Isolated Occurrence (IO): Any non-structural remains of a single event: alternately, any non-structural assemblage of approximately 10 or fewer artifacts within an area of approximately 10 sq m or less, especially if it is of questionable human origin or if it appears to be the result of fortuitous causes. The number and/or composition of observed artifact classes are a useful rule of thumb for distinguishing between a site and an isolate. It seems unlikely, for example, that the presence of three artifact classes (e.g., lithic debitage, ground stone or sandstone fragments, and pottery) represents the remains of a single event. Similarly, it seems unlikely that two sherds from different vessels or two pieces of debitage from different parent materials, together with a small number of items from a second artifact class represent a single event.

¹U.S. Department of the Interior N.P.S. Cultural Resources, "How to Apply the National Register Criteria for Evaluation," National Register Bulletin. Washington, D.C. 1997. Pg. 5.

- All sites will be mapped to scale using a tape and compass or surveying instrument. UTM coordinates will be obtained using a GPS unit. "Eyeball" and "paced" maps will **NOT** be accepted.

REPORTS

1. All reports that are submitted will be one-sided and unbound (exceptions paper clips, binder clips and staples).
2. An *Archaeological Inventory Report Documentation Page* (AIRS form) is required for use on small projects. A copy of the form can be found at the end of this section. The form will be used on projects less than 30 acres in size and containing no more than 4 sites. Supplemental pages are expected for most of the categories, particularly items 14, 15 and 16. The minimum acceptable buffer for avoiding eligible historic property(ies) is 15 meters. Mistakes are not tolerated in the title and on section 13-location.
3. A narrative report must be submitted for projects over 30 acres and/or containing more than four sites. The AIRS form will be attached to the front of the narrative report. An example of AIRS form is provided at the end of this section. Each narrative report must be paginated and contain an abstract, table of contents and a list of references cited. Electronic copy (ies) of report(s) that contain more than 15 sites will accompany the hard copy (ies).
4. The following information **must** be included in all reports:
 - A. Description of the undertaking. Please give enough detailed information (i.e. widths of right-of-ways, lengths of lines, roads, etc) of the undertaking since Section 106 is driven by the undertaking. HPD needs ample description in order to complete our basic description on the compliance form.
 - B. For home sites, make sure name(s) are spelled correctly.
 - C. Chapter, Agency, County, State, land status (e.g., Tribal Trust [Canconcito Band Land, Alamo Band Land, Ramah Band Land], Allotment, Fee, PLO 2198, etc.). This information will be provided by the sponsor. If necessary, however, this information may be obtained while conducting the pre-field records check, from the BIA Real Property Management at (505)863-8427, or the Navajo Nation Land Administration Office at (928)-871-6523.
 - D. Additional land information required are legal description (including reference to prime meridians), Township and Range (even if unplatted, it must projected), and UTM coordinates. All coordinates should be in NAD 83. DO NOT USE NAVAJO BASELINE, except if project is within Canyon de Chelley National Monument.
 - E. UTM coordinates for linear projects are required for all beginning and ending points and major turn points. UTM coordinates are required for the corners of all block surveys greater than 5 acres. Center point UTM's are sufficient for block acres less than 5 acres in size. All UTM's are to be obtained through the use of a GPS unit.
 - F. If you have been contacted by HPD for more information, or a correction on a report, a cover letter or a statement on top of the report should read REVISION or CORRECTION.
 - G. **PROOFREAD and EDIT ALL REPORTS** before submitting them.
5. The nature of the undertaking and acreage to be affected **must** be described in detail. Acreage must include the area of the undertaking (i.e., the area of direct effect) and the area surveyed (i.e., the area of the undertaking, any buffer zone and any surveyed site areas that extend beyond the buffer). The description of the undertaking will be detailed and will include the length and width of project area and include the area of potential effect. See examples below:

Example 1-Telephone line: Description of undertaking: X Communications Company proposes to construct two segments of telephone lines that will serve the residents of the Round Rock Chapter, in Apache County, Arizona. The proposed telephone lines contain Location 1, an existing buried line to be upgraded. The second segment, Location 2 is a newly proposed buried telephone line extension. Upgrading and the line extension will involve trenching, laying of cable, and back-filling. Surface and subsurface disturbance will be intensive and extensive within the trenching area. Register eligible sites were encountered in Location 2. Aerial cables will need to be spanned over both sites in order to ensure avoidance of the two site s. The proposed spanned location A will measure a minimum 118 ft. in length, and spanned location B will measure a minimum of 65.6 ft. in length. The types of disturbance expected include trenching, drilling at designated pole locations with truck mounted

drilling equipment, and surface disturbance from rubber-tired vehicles used in stringing power cables with truck-mounted pulleys and/or hand carrying cables by construction personnel. In all, a total of 8,292 ft. of proposed telephone lines will be constructed. Location 1 segment measures approximately 2,175 ft. in length with a 30 ft. wide right-of-way, and Location 2 segment measures approximately 6,117 ft. in length with a 30 ft. wide right-of-way. A total area of effect is 5.71 acres. The federal lead agency for this undertaking is the Federal Communications Commission (FCC).

Example 2-Power Line: Description of undertaking: X Utility Company proposes to construct a power line and associated tap lines that will serve the residents of Rock Point and Mexican Water Chapters, Apache County, Arizona. The proposed project consists of two main power lines (Line A and Line B). Line A will have seven associated tap lines and Line B has no associated tap lines. Line A measures a total of 45,664.73 ft. in length with a 30 ft. wide right-of-way, and Line B measures 2,947.08 ft. in length with a 30 ft wide right-of-way. Thus, the total proposed line length measures 48,611.81 ft. In addition, 17 proposed guy anchor locations will be constructed along proposed power line rights-of-way and associated tap lines. Each guy anchor locations measure 50 ft. in length for a total length of 875 ft. In all, a total length of 49,486.81 ft. of power lines, tap lines, and guy anchor locations will be constructed. A total of 34.0 acres of land will be included in the area of effect. The types of disturbance expected include minimal surface blading, drilling at designated pole locations, and surface disturbance from rubber-tired vehicles used in stringing the power cables. Disturbance, both surface and subsurface, with heavy equipment will be extensive and intensive.

Example 3-Roadway: Description of undertaking: This project will involve the construction of 1.9 miles (3.1 km) of paved road with the installation of drainage culverts off of an existing dirt road. The right-of-way (r-o-w) will be 150 feet (45.72) meters) wide. Proposed construction and maintenance activities will include the following: grading and back-filling project length is 1.9 miles (3.1 km). Total area within the project r-o-w is 34.55 acres within the right-of-way, installation of drainage culverts, and paving of road surface. Total (13.99 ha.). The total area surveyed was 69.09 acres (27.96 ha.) within a 300 ft/91 km inventory right-of-way boundary. Ground disturbance with heavy equipment will be extensive and intensive.

6. The “previous research” section shall include sites previously identified within **100 meters** of the current project area. State records (Anthropology Lab, Arizona State Museum, etc.) and scholarly or CRM-related data bases (Museum of Northern Arizona, Highway Department, etc.) should be checked as appropriate to specific project locations/jurisdictions. Basic descriptive information must be provided about these sites, including, at a minimum, site number, cultural affiliation, development phase/date, site type, and the report reference. Be clear in the documentation if the report does not contain the afore-mentioned information. All information obtained can be briefly stated within a few sentences for minor reports. Large reports, with many previously identified sites, may require additional discussion. In extreme cases, where large numbers of known sites might overwhelm an otherwise small project effort, consult with the HPD about the appropriate action. The information may be presented within the text or in tabular form.
7. Site forms that are currently in use by the Navajo Nation Archeology Department (NNAD) will be utilized to document sites. Previously recorded sites will be updated using the NNAD’s site update form. Copies of these forms are provided.
8. Navajo Nation site numbers may be requested on a Navajo Nation Site Number Request Form. A request form is located at the end of this section.
9. Only Navajo Nation site numbers will be accepted.
10. Contractors will do a Traditional Cultural Property record search with the NNHPD TCP Program. A TCP Record Verification Form will be filled out and signed by the TCP Reviewer. Form will accompany report.
11. Enough descriptive information on each cultural resource (e.g. sites, including all constituent components); in-use sites/areas; traditional cultural/sacred places should be recorded; however, **burials/graves, in-use sites/areas and traditional cultural/sacred places should not be assigned a site number**. Cultural resource information must be provided in the text of the report to allow the report to stand alone and to permit independent review and evaluation without constant reference to other cultural resource documentation forms.

do not include specific site forms.

Traditional Cultural Properties and Burials need to be documented on an attached confidential appendix at the end of the report (see guidelines at the end of this section)

12. Project area maps must be 1:1 reproductions of USGS maps and **must not** be photocopied back-to-back with other maps or text pages. Report site planview maps must be drawn to scale and show the location of the project (including, if applicable, the existing and proposed right-of-way and any buffer zone) relative to the resource. All reproductions must be clear and legible.
13. Each resource (including each component comprising individual sites) must be evaluated for its eligibility for inclusion to the National Register of Historic Places (36 CFR Part 60.4). These evaluations must be specific with regard to the resource's integrity and elements of significance.
14. Each resource (including each component comprising individual sites) must be evaluated with respect to its eligibility for protection under the Archaeological Resources Protection Act (ARPA).
15. Each undertaking (project) must be evaluated for its effects on properties considered to be eligible for inclusion to the National Register of Historic Places (36 CFR Part 800.9). It must also be evaluated for its effects on identified Traditional Cultural Properties (TCP's). Adherence to the Navajo Nation Policy to Protect Traditional Cultural Properties, National Register Bulletin 38 and consultation with Navajo Nation Traditional Cultural Program (TCP) office will provide assistance in this area. Mitigation recommendations (i.e., avoidance/redesign, fencing, monitoring, testing, data recovery, and/or cancellation of all or part of the project) must be clear, specific, and consistent within the document.
16. Three factors govern report submissions: Either the sponsor submits the report to the HPD, or the contractor does. There are, however, two ramifications related to the first factor.
 - A. IF THE SPONSOR AND THE LEAD AGENCY ARE THE SAME (i.e. IHS and ONHIR): The sponsor/agency must submit the report to the HPD with a cover letter and/or a compliance form stating the evaluations regarding the National Register eligibility and ARPA status of the resources, the evaluation of the undertaking's effect on historic properties, and the proposed mitigative measures (e.g., avoidance/redesign, fencing, testing, and/or mitigation, or cancellation of the undertaking). The sponsor must provide HPD with one complete copy of the report (including site forms). In addition, a separate set of project area maps (one-sided) will be provided. It is the responsibility of the sponsor/agency to obtain from their contractor the number of report copies they require. Finally, it is the sponsor's/agency's responsibility to ensure that the contractor is kept informed of reviewer's comments, and that both the reviewer(s) and contractor are kept informed about the status of the undertaking.
 - B. IF THE SPONSOR SUBMITS THE REPORT AND THE SPONSOR AND THE LEAD AGENCY ARE NOT THE SAME: it is the sponsor's responsibility to provide the HPD with two copies of the report and two copies of site forms. In addition, a separate set of project area maps (one-sided) will be provided. These reports should be submitted with a cover letter in which the evaluations regarding the National Register eligibility and ARPA status of the resources, the evaluation of the undertaking's effect on historic and traditional cultural properties, and the mitigative measures (e.g., avoidance/redesign, fencing, testing and/or mitigation, or cancellation of the undertaking) are clearly stated.
 - C. IF THE CONTRACTOR SUBMITS THE REPORT (usually when the sponsor and lead agency are not the same), the contractor is acting as the sponsor's agent. As a result, it is the contractor's responsibility to have consulted with the sponsor prior to submission of the report. The evaluations and recommendations presented in the report will therefore indicate the sponsor's position on the National Register eligibility and ARPA status of the resources, the effect of the undertaking on historic and traditional cultural properties, and the mitigative measures to be invoked (e.g., avoidance/redesign, fencing, testing, and/or mitigation, or cancellation of the undertaking). In addition, a separate set of project area maps (one-sided) will be provided. HPD must be provided with two copies of the report and two copies of the site forms. *Copies of the report should be given to the sponsor(s).*

17. ~~Navajo Nation Reporting Guidelines to Protect Burials & TCPs~~ In order to protect confidential information and better integrate all cultural resource records, the Navajo Nation Historic Preservation Department (NNHPD), has instituted these reporting guidelines. The guidelines are to be utilized by all contractors permitted by the Navajo Nation Historic Preservation Department, Cultural Resource Compliance Section (CRCS).
- A. Information on burials (human remains & funerary objects) and confidential Traditional Cultural Properties (TCPs) shall be reported in the following manner:
 1. Summarized (with only general location information) in reports submitted for review to HPD/CRCS, and;
 2. Given full, detailed to the extent appropriate (including, at minimum, location, and contact data), information about the resource in a separate, and clearly labeled, confidential appendix.
 - B. As stated in the *Navajo Nation Policy for the Protection of Jischaa': Gravesites, Human Remains & Funerary Items* (NNPPJ), Treatment Plan, VII, C, 4 [upon finding human remains],

“The results of investigations at a burial site shall be incorporated in to a report as a detachable,] i.e., detached] confidential appendix.” and, “Locational information shall be proved to HPD in a confidential appendix. It shall not be retained by the sponsor, its agent, the cultural resource professional, or anyone else.”
 - C. Reports shall include one of the two completed forms for burials (*with or without* known lineal descendants) provided in NNPPJ in the appendix, to appear in the separate, confidential appendix.
 - D. HPD recognizes a wide range of TCPs; some are confidential and/or personal to individuals (example: personal offering places), while others are known to entire communities (example: named landscape features associated with origin stories), and would not necessarily be considered confidential. We also appreciate that the only people qualified to make this determination are those identifying and/or using the resource.
 - E. It is incumbent on the researcher to determine if their interviewee considers the information confidential.
 1. If the interviewee believes that the TCP information should be *treated as confidential*, then only general information about the place, its eligibility for the protection under appropriate laws, and effects and/or appropriate mitigation strategies should appear in the body of the report. Site forms and maps shall be placed in the confidential appendix.
 2. If the information is not to be treated as confidential (example: some herb gathering areas), then all information may appear in the body of the report.
 - F. Bulletin 38 of the *National Register of Historic Places States*, “...information on historic properties, including TCPs, may be kept confidential under the authority of Section 304 of the *National Historic Preservation Act*.”
18. HPD will not accept any reports that use the term “ancestral puebloan or puebloan” when referring to the Anasazi or Nihinaazázi. The Navajo Nation is cultural affiliated to the Anasazi people, and reports that make any reference to Navajos as newcomers to the southwest will be returned. It is the responsibility of the Navajo Nation to protect the information relevant to its life ways, history and origins of its People. Navajo ceremonial and oral histories establish that Navajos have been here since time immemorial. This relationship is confirmed in centuries of traditional history and more than 100 years of anthropological literature. This relationship is also confirmed by archaeological, genetic/biological, and linguistic evidence.
19. Reports that are not in accordance with these standards and guidelines will be returned at the sender’s expense.

ARCHAEOLOGICAL INVENTORY REPORT (AIRs) DOCUMENTATION PAGE

Final Programmatic Environmental Impact Statement
Navajo Nation Integrated Weed Management Plan

Bureau of Indian Affairs
Navajo Region

1. RECEIPIENTS ACCESSION NO.	2. (FOR HPD USE ONLY)	3. HPD REPORT NO.
4. TITLE OF REPORT:		5. FIELDWORK DATES
AUTHOR:		6. REPORT DATE
7. CONSULTANT NAME & ADDRESS General Charge: Org. Name: Org. Address: Phone No.		8. PERMIT NO.
		9. CONSULTANT REPORT NO.
10. SPONSOR NAME & ADDRESS: Ind. Responsible: Org. Name: Org. Address: Phone No.		11. SPONSOR PROJECT NO.
		12. AREA OF EFFECT: ____ac AREA SURVEYED: ____ac
13. LOCATION a. Chapter b. Agency: c. County d. State e. Land Status f. UTM Center: g. Area: T____ N/S, R____ E/W Sec.____ h. 7.5' Map Name(s): i. Lead Agency:		
14. REPORT OR SUMMARY (Attach additional pages if necessary) a. Description of Undertaking: b. Existing Data Review: c. Area of Environmental & Cultural Setting: d. Field Methods:		
15. CULTURAL RESOURCE FINDINGS (Attach additional pages if necessary) a. Location/Identification of each resource: b. Evaluation of Significance of each resource:		
16. MANAGEMENT SUMMARY/RECOMMENDATIONS (Attach additional pages if necessary)		
17. CERTIFICATION: Signature: _____ Date: _____ General Charge Name: _____ Date: _____ Signature: _____ Date: _____ Direct Charge Name: _____		

NAVAJO NATION ARCHAEOLOGY DEPARTMENT
Site Survey and Management Form

SITE NO: FIELD OR OTHER NAME:

DATE RECORDED:

PROJECT NUMBER AND NAME:

ORGANIZATION:

ARCHAEOLOGIST(S):

USGS MAP REFERENCE:

LEGAL LOCATION:

UTM: Zone 12;

STATE: COUNTY: CHAPTER:

LAND STATUS:

GROUND VISIBILITY: KIND AND EXTENT OF COVER?

TOPOGRAPHY:

DRAINAGE:

ELEVATION (ft/m): SLOPE AND DIRECTION:

SEDIMENT TYPE:

OTHER:

VEGETATION PRESENT:

CULTURAL AFFILIATION(S): SITE TYPE:

PERIOD(S) OF OCCUPATION (DATE, IF KNOWN):

HOW DATED?

DIMENSIONS OF SITE (L x W): TOTAL AREA (SQ M):

HOW DETERMINED:

ARCHITECTURE PRESENT? DESCRIBE:

ARTIFACTS OBSERVED/COUNTED:

COLLECTION MADE OF WHAT? METHOD:

PHOTO TAKEN? B/W ROLL: FRAME(S): COLOR ROLL: FRAME(S):

SITE DESCRIPTION:

CONDITION OF SITE:

CAUSES OF DISTURBANCE:

LOCATION OF SITE RELATIVE TO PROJECT AREA:

EXTENT OF INVESTIGATION TO DATE:

RESEARCH POTENTIAL:

RECOMMENDATIONS:

SITE ASSESSMENT UNDER 36 CFR 60.4 (NATIONAL REGISTER):

INTEGRITY:

CRITERIA a-d:

50 YEAR GUIDELINE:

EXCLUSIONS:

SITE ASSESSMENT UNDER 43 CFR 7.3 (ARPA):

SITE ASSESSMENT UNDER AMERICAN INDIAN RELIGIOUS FREEDOM ACT:

PROVIDE A SITE MAP (INCLUDING SITE DESIGNATION, NORTH ARROW, RECOGNIZABLE FEATURES, LANDMARKS, AND RELATIONSHIP TO PROJECT AREA).

HOW CAN SITE BE REACHED?

OTHER COMMENTS (ETHNOGRAPHIC DATA, ETC.):

**Navajo Nation Archaeology Department
Site Survey and Management Update Form**

Site Number:

Original Site Number:

Date:

Current Project Number and Name:

Update by:

New Location Information:

Legal Description:

UTM Coordinates:

Other:

Location of Site Relative to Current Project Area:

Additional Description (including current condition of site):

Site Assessment (indicate any changes from original evaluation):

36 CFR 60.4 (National Register of Historic Places):

Archaeological Resources Protection Act (ARPA):

American Indian Religious Freedom Act (AIRFA):

Recommendations:

THE NAVAJO NATION HISTORIC PRESERVATION DEPARTMENT Cultural Resource Compliance Section

GUIDELINES FOR THE TREATMENT OF HISTORIC, MODERN & CONTEMPORARY ABANDONED SITES

INTRODUCTION

Abandoned cultural sites of recent historic, modern or contemporary age are frequently encountered during cultural resource inventories on Navajo Nation lands. For the purposes of these guidelines, all such sites are referred to as “historic sites.” This document provides the Historic Preservation Officer’s (HPO) guidelines for recording, reporting and treatment of historic sites on lands of the Navajo Nation.

REPORTING AND RECORDING

For the purposes of reporting and recording, historic sites shall be treated as archeological sites. All historic sites must be fully recorded and reported, UNLESS they are still in use.

In-Use Sites/In-Use Areas

In-use sites require only summary documentation, sufficient to determine if potential historic properties are present and if they be affected by the proposed undertaking. In-use sites require only brief verbal description and, out of respect for the privacy of the occupants, shall not be photographed, recorded, mapped or assigned site numbers.

Archaeological Sites

The professional judgment of the archaeologist must be used to determine what constitutes a historic site. Historic sites are not restricted to those over 50 years old, and those under 50 years old are to be recorded as archaeological sites in the same manners as any other. Conversely, the information to be gained from recently scattered roadside trash, for example is so minimal as to preclude the necessity for recording. Again, the judgment of the archaeologist must be used in determining the level of recording necessary on a case by case basis. However, these decisions should be documented in the report to allow the reviewer an independent evaluation of the field decisions field.

At a minimum, recording and reporting of historic sites must satisfy the Secretary of the Interior’s Standards and Guidelines.¹ Recording and reporting must be sufficiently detailed to allow an independent evaluation of the archaeologist’s recommendations for National Register of Historic Places (NRHP) eligibility, determination of effect as specified in 36 CFR 800.9 (a) (b), and protection under the American Indian Religious Freedom Act (AIRFA). The information a historic site contains includes what knowledgeable people remember about the site and its constituent features, artifacts and other material remains. If the functions and dates of a historic site and its constituent features are not evident from material remains, the archaeologist must attempt to recover information through on-site interviews in order to evaluate the site’s NRHP eligibility and significance under AIRFA. Depending on the nature of the historic site, the information potential may not necessarily be exhausted by recording until ethno historic data are recorded.

Treatment

Two factors must be considered in evaluating historic sites as cultural resources and in making recommendations regarding their treatment. Each historic site must be evaluated:

1. As an archeological site and as a historic property. Can the site contribute archaeologically or historically significant data? Is it associated with important individuals, events or trends in local, regional or national history? If the site is considered archaeologically or historically significant, treatment should be proposed in terms of current, contemporary professional practice, including collection of ethnographic data through on-site interviews.
2. As a locus of traditional cultural practices that is protected by U.S. Constitution and Federal and Tribal law. Navajo home sites, for example, are the location of a variety of ceremonies and related practices that are "sacred." Hogans and sweathouses are usually blessed. Materials used in ceremonies and other items which should not be disturbed are often disposed of within a home site complex. Sites of ceremonial activity such as Enemy-way and other religious observances are also frequently encountered.

If the historic site is not considered NRHP eligible, treatment must still be considered in terms of its significance under AIRFA. If there is any reason to suspect that a project may affect aspect of traditional cultural practices a reasonable effort must be made to locate and interview former users of the historic site. Should it prove impossible to locate former users, knowledgeable local residents should be interviewed. The interviewees should be asked to identify any areas within the historic site that should not be disturbed. However, interviewees should not be pressured to justify their desire to exclude certain areas from construction impacts. Interviewees should be asked to identify any objections to project construction within a historic site due to its impacts on areas important in continuing traditional cultural practices.

If interviewees have no objections to a project proceeding within the boundaries of a historic site that is not considered eligible for nomination to the NRHP, this fact should be noted in the report and project impacts on traditional cultural practices at that location need not be further considered. If specific objections or concerns are expressed, these must be reported and every effort made to design the project in such a way as to avoid impacts to areas of the site about which concerns were expressed.

If interviews are not possible and there is reason to suspect that the site may contain values protected under AIRFA, prudent alternatives to routing the project through the site must be considered. If a feasible alternative project design can be identified that avoids impacts to the site, the alternative design should be utilized.

¹ "Archaeology and Historic Preservation; Secretary of the Interior's Standard Guidelines," Federal Register, 48(190):44716-44742 (Thursday, September 29, 1983).

THE NAVAJO NATION HISTORIC PRESERVATION DEPARTMENT Cultural Resource Compliance Section

POLICY TO PROTECT TRADITIONAL CULTURAL PROPERTIES

Introduction

As economic development proceeds in the Navajo Nation, a growing number of places of significance to the Navajo people may be damaged by the land disturbance that accompanies development. In June of 1999, the Navajo National Park Service issued National Register Bulletin 38, titled "Guidelines for Evaluating and Documenting Traditional Cultural Properties." The bulletin defines a "traditional cultural property" as a property that "is eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community."

Most traditional cultural properties significant to Navajos are of the type commonly called "sacred places." Others are locations of other traditional activities, such as home sites and places where weavers gather plants for dyes.

We use the term "traditional cultural property" in this document to make apparent that we talking about the same kinds of places as Bulletin 38, and because this document is geared toward cultural resource managers and related professionals. The term, however, offends many Navajo traditionalists. One reason is that, by containing the word "property," it suggests that such places can be treated as mere commodities, like real estate. Another reason is that the term seems like a long and lackluster euphemism for "sacred places," which corresponds more closely to the Navajo term for such places (hodiyyin). "Traditional cultural property" is, indeed, partly a euphemism intended to obscure the "religious" qualities that these places have for people who do not separate the sacred from the secular. Within the present federal legal framework for historic and cultural preservation, such obscurantism seems necessary to keep such places from being found ineligible for protection under federal preservation law because of the doctrine of separation of church and state. We would prefer that, instead of avoiding the term "sacred places," all concerned recognize that the root of what makes a place sacred is its association with aspects of the past that people connect with their present concerns of living. We apologize to traditionalists for perpetuating the use of the term "traditional cultural properties," which we find a practical necessity in certain contexts.

Traditional Cultural Properties Covered by this Policy

This policy covers traditional cultural properties that lack the evidence of human use that qualify them as archaeological sites, historic properties ~~or graves~~. The main emphasis here is on traditional cultural properties significant to the Navajo people. The last section of this policy statement, in addition, addresses such properties significant to other Native American groups that may be located on lands of the Navajo Nation. This policy supersedes the "Draft Proposed Nation Policy to Protect Navajo Sacred Places" (1986). Existing federal, state and tribal laws and rules protect archaeological sites, historic properties and ~~graves~~. These laws and rules include the *Federal Antiquities Act of 1906* (P.L. 59-209); the *National Historic Preservation Act* (P.L. 89-665); the *National Environmental Protection Act of 1969 Executive Order 11953*; "Protection and Enhancement of the Cultural Environment," May 13, 1971 (36 C.F.R. 8921); the *Archaeological Resources Protection Act of 1978* (P.L. 95-96); the *American Indian Religious Freedom Act of 1978* (P.L. 95-341); the *Native American Graves Protection and Repatriation Act (NAGPRA)*; *New Mexico and Arizona laws protecting human remains on private lands*; the *Navajo Nation Policies and Procedures Concerning Protection of Cemeteries, Gravesites and Human Remains of 1986* (ACMA-39-86); and the *Navajo Nation Cultural Resources Protection Act (CMY-19-88)*, which supersedes all previously existing Navajo Nation cultural resource preservation legislation.

Cultural resource surveys required by these laws and policies are very likely to detect sites with material evidence of human use (mainly archaeological sites) so that they can be protected. Certain types of Navajo traditional cultural properties are likely to have such evidence. These types include, but are not limited to, sites that may have been blessed such as those with hogans, houses, sweathouses, game corrals (needzii'), eagle traps and so forth; and other sites where ceremonies may have occurred (if evidence of such use, such as the remains of ceremonial structures, is visible); trail shrines; rock art; and both marked and unmarked graves.

Because traditional cultural properties are considered eligible for inclusion in the National Register, such properties are protected by Section 106 of the National Historic Preservation Act, even when they lack clear evidence of human use. Such places are not likely to be detected by conventional surveys, however, and no other way of detecting such places has been used systematically up to now. Navajo traditional cultural properties without clear evidence of human use include, but are not limited to, the following types: places for gathering plants for use in ceremonies and other traditional purposes; places for gathering minerals for ceremonial and other traditional uses; places for gathering contents of sacred bundles; places for gathering other materials for ceremonial and other traditional purposes; ~~unmarked graves (contain material remains but these are not necessarily visible on the surface);~~ prayer offering places; places associated with the origin stories of particular ceremonials; places associated with the general Navajo origin story; places associated with origin stories of particular ceremonials; places associated with the origin of a clan; places associated with the origin of a Navajo custom; places identified as the home of a Holy Being such as Wind, Lightning, Big Snake; location of echoes (Talking Rocks, which convey human words to the Holy People); natural discoloration of rock that has some kind of supernatural power; places where an apparition or other supernatural event occurred; and places that have played a part in the life cycle rituals of individuals (such as the spot where a newborn baby's umbilical cord is placed. Many of these sorts of places are features of the natural landscape, such as mountains, hills, rocky outcrops, springs and individual trees.

This policy outlines procedures for identifying such places, for determining how concerned Navajo people think particular development projects will affect those places, and for learning about the protection measures that concerned Navajo people think should be used. This outline is intended to be used along with National Register Bulletin 38, which offers general guidelines to document and evaluate such properties.

Traditional cultural properties covered by this policy statement may be on land under Tribal, BIA, other Federal (public land) and State jurisdiction. With land owner consent and cooperation, this policy statement will apply to private lands as well.

Identification of Traditional Cultural Properties on Lands Administered by the Navajo Nation for the BIA in Trust for Navajos

To identify Navajo traditional cultural properties, the developer of a proposed project on tribally or BIA administered land must observe the following procedures:

- A. The developer shall employ an archaeological contractor or consulting anthropologist who meets the professional standards of the Navajo Nation (or the land manager). That contractor or consultant shall conduct a cultural resources literature search that will include at least the following references for information on places of traditional cultural significance.

SUGGESTED READING LIST

- Parker, Patricia L., and Thomas F. King
1990 Guidelines for Evaluating and Documenting Traditional Cultural Properties. National Register Bulletin 38. U.S. Department of the Interior, National Park Service, Interagency Resources Division, Washington, D.C.
- Van Valkenburgh, Richard F.
1974 Navajo Sacred Places, ed. Clyde Kluckhohn. In Navajo Indians III, pp. 9 -199. Garland Publishing, New York
- 1941 Dine Bikeyah. U.S. Department of the Interior, U.S. Indian Service, Navajo Agency, Window Rock, AZ

** this work may be hard to find. But we suggest using Linford, Navajo Places, History, Legend, Landscape*

Kelley, Klara B.

1994 Navajo Sacred Places. Bloomington: Indiana University Press

Linford, Lawrence D.

2000 Navajo Places, History, Legend, Landscape. University of Utah Press

McPherson, Robert S.

1992 Sacred Land, Sacred View: Navajo Perceptions of the Four Corners. Signature Books

2009 Comb Ridge and Its People. The Ethnohistory of the Rock. United States University Press

****Also the following, if the proposed project is in the Eastern Navajo Nation:**

Carroll, Charles H.

1982 An Ethnographic Investigation of Sites and Locations of Cultural Significance to The Navajo People to be Affected by PNM's Four Corners to Ambrosia to Pajarito 500 kV Transmission Project. Public Service Company of New Mexico, Albuquerque

1983 The Ute Mountain Ethnographic Study. Public Service Company of New Mexico, Albuquerque

Fransted, Dennis

1979 An Introduction to the Navajo Oral History of Anasazi Sites in the San Juan Basin Area. Navajo Aging Services, Fort Defiance, AZ

Roessel, Robert, Jr.

1983 Dinetah: Navajo History. Rough Rock Demonstration School, Rough Rock, AZ

York, Frederick F.

1981 An Ethnographic Study of the Public Service Company of New Mexico's Proposed New Town Site and Its Environs. Human Environmental Resource Services Corporation, Anthropological Series 1, Albuquerque.

York, Frederick F., and Joseph C. Winter

1988 Report of an Ethnographic Study and Archeological Review of Proposed Coal Lease Tracts in Northwestern New Mexico. Office of Contract Archeology, University of New Mexico, Albuquerque

****In addition, the following background readings are strongly recommended for those consultants not thoroughly familiar with them:**

Downer, Alan S.

1989 Anthropology, Historic Preservation and the Navajo: A Case Study in Cultural Resource Management on Indian Lands. Ph.D. Dissertation, Department of Anthropology, University of Missouri, Columbia

Frisbie, Charlotte J.

1987 Navajo Medicine Bundles or Jish: Acquisition, Transmission and Disposition the Past and Present. University of New Mexico Press, Albuquerque.

Gill, Sam D.

1981 Sacred Words: A Study of Navajo Religion and Prayer. Greenwood Press, Westport, Conn

Kelley, Klara B.

1988 San Augustine Coal Area, Archaeological Investigations in West- Central New Mexico, Vol. 2, Historic Cultural Resources. Cultural Resources Series No. 4, U.S. Bureau of Land Management, New Mexico State Office, Santa Fe

Kelley, Roger I., R. W. Lang and Harry Walters.

1972 Navajo Figurines Called Dolls. Museum of Navajo Ceremonial Art, Inc., Santa Fe, NM

Kluckhohn, Clyde and Leland C. Wyman

1940 An Introduction to Navajo Chant Practice. Memoirs of the American Anthropological Association 53

Spencer, Katherine

1957 Mythology and Values, An Analysis of Navajo Chantway Myths. Memoirs of the American Folklore Society 48

Wyman, Leland C.

1970 Blessingway: With Three Versions of the Myth Recorded and Translated from the Navajo by Father Berard Haile, O.F.M. University of Arizona Press, Tucson.

- B. For all projects that require more than 1 acre, consultations with Navajo people are also required, (Projects of one acre or less are likely to include, but are not limited to, single home sites, single-business site leases, and isolated utilities installations for single home sites or single business sites.) In addition, consultations with Navajo people are also required for projects of 1 acre or less in certain localities and natural settings with a high probability of having traditional cultural properties. If the developer or anthropological consultant is in doubt about the need for such consultations, they should contact NNHPD. The project developer must demonstrate that a qualified professional anthropologist made a good-faith effort to consult:
1. Present surface user(s): grazing-permit holder(s) (individuals whose consents for right-of-way have been sought by developer); any other residents in or within view of the proposed project area.
 2. Chapter(s) within which the proposed project is located: chapter officers and/or delegate(s) to Navajo Nation Council; at the request of any of these individuals, the developer's consulting anthropologist will also make a presentation at a meeting of general chapter membership.
 3. Other knowledgeable people recommended by the present surface user(s), chapter officials, and chapter members.
- C. Documentation of the concerns of people consulted will normally take the form of a questionnaire or interview schedule administered by the developer's consulting anthropologist and his or her interpreter/field assistant, if any. Documentation of each consultation will normally include the following information (documentation shall include a detailed explanation as why any of this information was not provided):
1. Source of information on traditional cultural properties: names of interviewer and interpreter, date and location of interview, language or interview.
 2. Identification of each place by Navajo and English names (English translation of Navajo name if there is no English name) and USGS 1:24,000 or 1:62,500 scale map location;
 3. What type of place is it: description of its physical attributes or appearance and its traditional associations or functions (attributes that make it a traditional cultural property)?
 4. What impacts, if any does the interviewee expect the proposed project to have on each place?
 5. What modification or redesign of the proposed project would the interviewee recommend?
 6. If impacts cannot be avoided, what measures to mitigate adverse impacts would the interviewee recommend?

The Navajo Nation Historic Preservation Department Sacred and Traditional Places Documentation Form and guidelines for its use are appended to this policy statement and are recommended for this purpose.

Further documentation of concerns such as general chapter resolution or other written form that the chapter considers appropriate are required.

- D. Discoveries of Navajo traditional cultural properties during project development. The procedures set forth above in this section are likely to identify significant Navajo traditional cultural properties before development. No feasible procedure, however, can guarantee the identification of all such properties. There is always the possibility that during project development someone may report that the project area contains a previously unidentified property. This situation is considered analogous to an archaeological "emergency discovery situation" in which the developer encounters previously unreported subsurface archaeological remains. As soon as the developer learns

of the presence of a previously unreported traditional cultural property, the developer will cease operations and notify the NNHPD. Normally operations will not resume until the NNHPD has obtained, on its own or through the developer, information adequate to identify and evaluate the reported traditional cultural property and devise a plan for its subsequent treatment, and has notified the developer to resume operations.

Identification of Navajo Traditional Cultural Properties on Lands NOT Administered by the Navajo Nation or BIA in Trust for Navajos

- A. In general. If these lands are surrounded by or are near lands used by Navajos, the developer, through a consulting anthropologist who meets the professional requirements of the Navajo Nation and the land manager, must consult the neighboring Navajo chapters and any knowledgeable individuals recommended by the chapters, and document those consultations according to guidelines set forth in the preceding section. If the lands are used by Navajos (for example, BLM-administered lands in the eastern part of the Navajo country), the developer's consulting anthropologist must make a good-faith effort to consult these Navajo users according to the procedures in Section C. above.
- B. Dinetah. Dinetah is a special case involving land in eastern San Juan County and western Rio Arriba and Sandoval Counties, New Mexico, much of which is not now used by Navajos. It needs special consideration because it contains so many recorded (and therefore probably many unrecorded) Navajo archaeological sites, sacred places, and other traditional cultural properties; because parts of it are not near any Chapter area; and because parts of it are not near any Chapter area; and because so many of its traditional cultural properties are of potential concern to Navajos all over Navajo land. Most of this land is under BLM jurisdiction, and BLM is required in accordance with the American Religious Freedom Act and Section 106 of the National Historic Preservation Act (and its implementing regulations 36 CFR Part 800) to consult with interested Native American communities about management of cultural resources to be affected by its decisions. The developer's consulting anthropologist therefore must make a good-faith effort to consult neighboring chapters, any Navajo users, and document these consultations according to the guidelines set forth in Section C. above. In addition, the developer's consulting anthropologist must consult with NNHPD.
- C. Discoveries of Navajo traditional cultural properties during project development. Procedures set forth in Section C., Item 4. above will be applied here with the following modifications. The developer will normally notify the land manager as well as NNHPD, and the notification to the developer to continue operations will normally come from the land manager with NNHPD concurrence.

Possible Traditional Cultural Properties of Other Native American Groups on Lands Administered by the Navajo Nation or BIA in Trust for Navajos

The NNHPD is committed to protecting traditional cultural properties of other Native American groups on lands under its jurisdiction, with the expectation that other tribes on whose lands Navajo traditional cultural properties are located will make a reciprocal commitment. Therefore, the developer of a proposed project is responsible for consulting other Native American groups when such groups may have traditional cultural properties in the area affected by the developer's project. To determine which other groups, if any, are to be consulted, the developer's anthropological consultant normally will look at material showing the extent of the aboriginal land claims (and subsequent land claims, if appropriate) Before the Indian Claims Commission or U.S. Court of Claims made by those tribes nearest the part of Navajo land where the proposed project is to be located. The developer's consultant anthropologist will then make a good faith effort to consult any other groups in whose land claim(s) the proposed project area lies. NNHPD considers the land claims areas of other Native American groups to be the maximum areas within which traditional cultural properties of these groups may be identified.

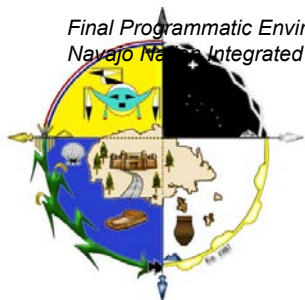
NNHPD does not believe that the land claims neither areas were necessarily used exclusively by these groups nor that they are covered by any particular types of property rights use rights, etc. Nothing in this policy shall be construed as a concession by the Navajo Nation as to the validity of any claim of any other tribe concerning Navajo land. The Navajo Nation is attempting to foster cooperation between tribes on matters of general concern, such as traditional cultural properties, but this spirit of cooperation must not be misinterpreted as any sort of legally binding statement by the Navajo Nation.

The developer's anthropological consultant will be required to contact the appropriate tribal government and/or

community representatives and proceed with identification efforts as directed by those entities. The developer's anthropological consultant should first contact NNHPD for referrals to appropriate contact people in the appropriate tribe or community.

Instructions for Using "Navajo Nation Historic Preservation Department's Sacred and Traditional Cultural Places Documentation Form"

This form is intended as a checklist of information required to document consultations with knowledgeable Navajo people about traditional cultural properties that may be impacted by a particular development undertaking. It is not intended to be administered as a questionnaire, although the interviewer may use it that way. The form should be used to present information gained in each interview, with continuation sheets attached for items where the form does not provide enough space. The interviewer will document each interview on a copy of the attached form. Interviewees are NOT to be asked to sign the form. For people contacted who refuse to be interviewed, the interviewer will fill out the top section of the form and indicate that the person refused to be interviewed. It is also important to make clear to the interviewee that the interviewee is under no obligation to be interviewed. If he or she refuses, however, any resources in the area may go unprotected since the people with the authority to protect them won't know about them. Also, during the interview, the interviewee may refuse to provide certain information such as name of a particular medicinal plant. The interviewer should not press the person to reveal such information, but should note on the form that the person did not want to reveal it. Because these inquiries are so sensitive, the staff of NNHPD will be available to help your staff get oriented to conducting these interviews. If you wish, they will meet with the members of your staff who may be conducting these interviews to go over the process and answer any questions. Please call (928)-871-7147 if you have any questions.



SACRED & TRADITIONAL PLACES DOCUMENTATION FORM

PROJECT NUMBER/NAME:

PROJECT LOCATION:

CHAPTER:

LEGAL DESCRIPTION (for large projects, give Township, Range, & Sections only):

UTM COORDINATES (for small project areas only center point):

DATE OF INTERVIEW:

NAME(S) OF INTERVIEWEES:

NAME OF INTERVIEWER:

NAME OF INTERPRETER (if any):

OTHERS PRESENT:

LOCATION OF INTERVIEW (interviewee's home, project area, other specify):

WAS INTERVIEW REFUSED?

1. How was project area identified to interviewee? (Visit to area, map location (specify map), other method (specify):

2. Which of the following types of sacred/traditional places, if any does the interviewee identify? Inside or immediately adjacent to the project area? (Attach continuation sheet with information if necessary.)

a. Place for gathering plants for use in ceremonies (specify plant and ceremony if interviewee is willing to supply that information:

b. Place for gathering plants for other purposes (specify plants and purposes):

c. Place for gathering contents of sacred bundles (specify material gathered and typed of bundle, for example, Dzil leezh, Mountain Soil Bundle):

d. Place for gathering other materials for traditional purposes (specify materials and purposes):

e. Place where ceremony has been held (specify ceremony; also names of sponsors and dates, if possible):

f. Former home site location (specify former residents and dates of use, if possible):

g. Former sweathouse location (specify former users and dates of use if possible):

- h. Grave (specify name of deceased and relationship to interviewee, if possible; refer to Navajo Nation Policies and Procedures Concerning the Protection of cemeteries, Gravesites, and Human Remains for additional documentation and treatment required by Tribal law).**

- i. Prayer offering place (specify type of prayer ceremony associated with it, if any, and type of offering, if any):**

- j. Place associated with general Navajo origin (Emergence) story (indicate which part of the story the place is associated):**

- k. Place associated with the origin story of a ceremony (specify ceremonial and how place figures in its origin story):**

- l. Place associated with origin or home of a clan (specify clan and indicate nature of its association with the place):**

- m. Place identified as home of a Holy Being such as Wind (Nilch'i), Lightning (li'ni), Big Snake (Tl'iistosoh) (specify which Holy Being, indicate any associated story):**

- n. Location of Talking Rocks (Tse Yalti' i--rocks that convey human words to the Holy People):**

- o. Petroglyph, pictograph or natural discoloration of rock that has some kind of power (specify):**

- p. Place associated with other traditional story (give story and indicate how place is associated with it):**

q. Other type of sacred/traditional place (describe):

3. Indicate locations of all resources listed above on portions of USGS map and attach copy to this form.

4. Does the interviewee consider the proposed development a threat to any of the above types of places?

___ ☐ **NO**

___ ☐ **YES (specify nature of threat or perceived impact of proposed project on place):**

5. If yes, what modification or redesign of the proposed project would the interviewee recommend so as not to threaten the place?

a. Avoidance (specify how close redesigned project could come to place)

b. Alternative location (specify - attach portion of USGS map if possible showing location):

c. Other (specify):

6. Is there anyone else that the interviewee feels should be consulted (filled out a separate form for each of these interviewees, but list names and locations of homes here:

RCO-220-96

RESOLUTION
OF THE RESOURCES COMMITTEE
OF THE NAVAJO NATION COUNCIL

Repealing the Old Navajo Nation Policies and Procedures
Concerning the Protection of Cemeteries, Gravesites and Human
Remains, Approved by Resolution No. ACMA-39-86, and Approving
a New Navajo Nation Burial Policy

WHEREAS:

1. Pursuant to 2 N.N.C. § 691, the Resources Committee of the Navajo Nation Council is established and continued as a standing committee of the Navajo Nation Council; and
2. Pursuant to 2 N.N.C. § 695 (b) (13), the Resources Committee of the Navajo Nation Council is the oversight committee for the Division of Natural Resources, including the Historic Preservation Department; and
3. Pursuant to 2 N.N.C. § 695 (b) (12), the Resources Committee of the Navajo Nation Council is authorized to establish Navajo Nation policy with respect to the optimum utilization of all resources; and
4. The Historic Preservation Department within the Division of Natural Resources is established in accordance with the Plan of Operation approved by the Government Services Committee of the Navajo Nation Council on October 25, 1994, by Resolution No. GSCO-82-94; and
5. Pursuant to section IV (F) of said Plan of Operation, the Director of the Historic Preservation Department is authorized to develop and recommend policies, rules and regulations relating to Navajo land pertaining to the management of cultural, archaeological, historic and scientific resources; and
6. By Resolution No. ACMA-39-86, approved March 13, 1986, the former Advisory Committee of the Navajo Tribal Council approved the Navajo Nation Policies and Procedures Concerning the Protection of Cemeteries, Gravesites and Human Remains; and
7. The Director of the Historic Preservation Department has drafted a new proposed Navajo Nation Burial Policy, a copy of which is attached hereto as Exhibit "A" and incorporated herein, and has recommended to the Resources Committee of the Navajo Nation Council that the old Navajo Nation Policies and Procedures Concerning the Protection of Cemeteries, Gravesites and Human Remains be repealed and the new proposed Navajo Nation Burial Policy be approved in its place; and

8. The Resources Committee of the Navajo Nation Council finds that repealing the old Navajo Nation Policies and Procedures Concerning the Protection of Cemeteries, Gravesites and Human Remains and adopting a new Navajo Nation Burial Policy is in the best interest of the Navajo Nation and its people.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Resources Committee of the Navajo Nation Council hereby repeals the Navajo Nation Policies and Procedures Concerning the Protection of Cemeteries, Gravesites and Human Remains, approved by the former Advisory Committee of the Navajo Tribal Council on March 31, 1986, by Resolution No. ACMA-39-86.

2. The Resources Committee of the Navajo Nation Council hereby approves the new Navajo Nation Burial Policy, a copy of which is attached hereto as Exhibit "A" and incorporated herein.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Resources Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 5 in favor, 0 opposed and 0 abstained, this 31st day of October, 1996.


Pro Temp Chairperson
Resources Committee

Motion: Jones Begay
Second: Harold Tunney

NAVAJO NATION POLICY FOR THE PROTECTION OF *JISHCHAA'*: GRAVESITES, HUMAN REMAINS, AND FUNERARY ITEMS

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I. POLICY STATEMENT

Diné (Navajo) society is based on harmony and beauty. Issues related to death are treated with the utmost respect in our culture. In harmony with the Diné way of life, we do not talk about or discuss death. We avoid burial sites and do not handle materials belonging to one who is deceased. The Diné view is that human remains, associated funerary items, and unassociated funerary items all fit under *jishchaa'*, a term that refers to things that are associated with death as well as the burial itself.

Due to the circumstances of modern life, we find it necessary to establish rules and regulations concerning the protection of gravesites, human remains, and funerary items. We do this with complete and full awareness of the wide range of Diné values, beliefs, and practices. We apologize to those who have passed on for the intrusion. We apologize to the living for all the discomfort this subject causes.

This policy outlines procedures based on Diné cultural beliefs. The Navajo Nation is committed to protecting all gravesites, human remains, and funerary items under its jurisdiction. Human remains and funerary items, once interred, should not be disinterred. However, the Navajo Nation recognizes that under certain circumstances disinterment will occur. In these situations the human remains and funerary items must be reinterred as quickly as possible and as near to the original burial location as feasible. Except under extraordinary circumstances, analysis of human remains is restricted to in-field non-destructive visual determinations of age and sex for the purposes of locating lineal descendants. Records about human remains and funerary items or their location shall be maintained and safeguarded in the Cultural Resource Compliance Section (CRCS) at the Navajo Nation Historic Preservation Department for use in project planning and appropriate related activities.

In the absence of identified lineal descendants, all Native American human remains and funerary items identified on Diné lands are the responsibility of the Navajo Nation. The Historic Preservation Officer shall determine the treatment of human remains without identified lineal descendants and/or funerary items in consultation with other tribes, as appropriate. We expect that other tribes will make a reciprocal commitment. The Navajo Nation encourages the development of programmatic agreements with federal agencies and other tribes. The Navajo Nation expects all human remains and funerary items to be treated with the utmost respect from the time they are discovered until their final disposition.

II. AUTHORITY

This policy is implemented pursuant to the Navajo Nation Cultural Resources Protection Act (CRPA, CMY-19-88). It is intended to complement provisions set forth in the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA, P.L. 101-601), the Archaeological Resources Protection Act of 1979 (ARPA, P.L. 96-95), the National Historic Preservation Act of 1966 (NHPA, P.L. 89-665, as amended), and others.

III. DEFINITIONS

For the purpose of this policy, the following definitions apply.

Analysis of human remains - limited to non-destructive, in-field visual determinations of age at death, approximate date of interment (based on context), sex, and cultural affiliation of human remains. No other type of analysis will be allowed.

Analysis of funerary items - limited to non-destructive, in-field, visual determinations of cultural or temporal affiliation

Anaasázi - the Diné term for all ancient peoples who inhabited Diné customary lands, including all peoples whom archaeologists call "prehistoric."

Cultural Affiliation - a relationship of shared group identity which can be reasonably traced between the deceased and living people.

Cultural Property - any cultural resource deemed sufficiently important to warrant listing on the Navajo Nation Register of Cultural Resources.

Cultural Resource - any product of human activity, or any object or place given significance by human action or belief.

Cultural Resource Professional - any individual who is authorized by the Navajo Nation to conduct cultural resource investigations. Such individuals may include persons who work in archaeology, anthropology, ethnology, Navajo culture, and other related disciplines, including traditional healers

Diné - the Navajo people.

Federal Agency - any department, agency, or instrumentality of the United States

Funerary Items - items that are reasonably believed to have been associated with the deceased either at the time of death or later, whether or not they are found in direct association with human remains. For Navajo burials, such funerary items may include, but are not limited to, shovels, tinware, saddles, clothing, and jewelry.

Historic Preservation Department (HPD) - the Navajo Nation Historic Preservation Department as established by Section 20 of the CRPA.

Historic Preservation Officer - the Director of the Historic Preservation Department.

Human Remains - the physical remains of a human body, including but not limited to bone, teeth, hair, ashes, or mummified or otherwise preserved soft tissues of a person

Inadvertent Discovery - finding; locating; observing; uncovering; unearthing; learning about through conversation, discussion, or interview; or otherwise detecting human remains, funerary items, or site(s) in which human remains or funerary items are believed to exist when such discovery was not the original intent.

Intentional Excavations - the unearthing of sites, gravesites, human remains, or funerary items for an undertaking or any purpose authorized by the Historic Preservation Department pursuant to CRPA.

Jishchaa' - a location or item associated with death and burial of an individual.

Lineal Descendant - an individual tracing his or her ancestry directly and without interruption to a particular individual. The Diné traditional kinship system shall be used for Diné burials.

Navajo Nation lands (Diné lands) - all lands or interests in land owned or held by the Navajo Nation, whether held by original title, held in trust by the United States, held in fee simple or held under lease, easement, permit or otherwise, whether restricted or unrestricted, and whether within or outside the boundaries of the Navajo Nation.

Site - the location of human activity as indicated by physical or ethnographic evidence.

Sponsor - the agency official or the official in a private capacity who has decision-making authority over a particular undertaking.

Treatment - a thoughtfully developed and respectful plan for taking care of human remains or funerary items, accomplished through consultation with appropriate parties.

Unclaimed - human remains or funerary items for which no lineal descendants can be identified or located.

Undertaking - any project, activity, or program that can or does change the character or use of cultural properties or jishchaa'. The project, activity, or program must be under the direct or indirect supervision of a sponsor.

Unidentified - human remains or funerary items for which lineal descent or cultural affiliation cannot be determined through either consultation or analysis.

IV. TRADITIONAL CONCERNS

Diné traditional and spiritual values shall be observed in dealing with human remains, and associated funerary items, burials, and/or the relocation and transfer of gravesites. Diné teachings discourage the direct handling of human remains. Development projects, such as the construction and maintenance of roads, power lines, and water lines, often disturb burials. In such instances, the Navajo Nation must take steps to ensure the protection of human remains. It must also protect its people from association with human remains. The concerns listed below should therefore be taken into consideration in dealing with gravesites, human remains, and funerary items.

- A. All individuals involved in burial issues must be warned that handling human remains or funerary items, direct exposure to gravesites, or discussion of burial issues may affect their overall health in the immediate future or sometime during their lifetime. For example, the soil associated with a burial is considered contaminated by death. Procedures such as brushing bones or funerary items, taking soil samples, and disarticulating bones are therefore considered both offensive and dangerous. Knowledgeable Diné should be consulted regarding appropriate protective measures.
- B. Individuals involved with burial issues will come into contact with the Navajo public after they have been in contact with gravesites, human remains, or funerary items and that contact may affect the health of other individuals. They should take measures to protect the public and themselves when disinterring and/or reintering human remains or when in contact with gravesites. If individuals, sponsors, or their agents need assistance or information regarding protective measures, they should contact the Navajo Nation Historic Preservation Department Traditional Culture Program.

- C. Pregnant women, or individuals in daily contact with them, should not be directly involved in the handling, removal, or intimate discussion of gravesites, human remains, or funerary items.
- D. Funerary items must be treated with respect. They have been placed with the human remains for essential reasons and should not be handled casually, collected, removed, or separated from the human remains.
- E. Traditional Diné avoid gravesites, human remains, and funerary items. They do not talk about someone who has passed on, and they do not carelessly mention or discuss death. Researchers need to be aware that the Diné may be extremely uncomfortable even talking about the topic, may not be willing to visit the gravesite, and should not be interviewed over and over regarding the same topic.
- F. Sponsors and others should limit the number of individuals who come into contact with gravesites, human remains, or funerary items.

V. ENCOUNTERING GRAVESITES, HUMAN REMAINS, AND FUNERARY ITEMS

- A. The Navajo Nation requires sponsors to make a good faith effort to locate gravesites, human remains, and funerary items within the area of potential effect prior to initiation of an undertaking. Such good faith effort shall include the following:
 - 1. file searches of existing information, including files maintained at HPD (contact CRCS), mission records, and other pertinent materials as appropriate.
 - 2. archaeological inventory and ethnographic interviews with residents of the local community and with other knowledgeable individuals. Navajo Nation permitting procedures require that investigators contact local chapters prior to initiating field activities (Navajo Nation Policy To Protect Traditional Cultural Properties, 1989). Continuing contact may be appropriate to ensure that local concerns are addressed.
 - 3. other approaches, such as traditional diagnostic techniques, as necessary or appropriate. Traditional practitioners may provide such information.
- B. When an inadvertent discovery occurs in the context of an undertaking but outside the context of intentional excavation, the sponsor shall adhere to the following procedures:
 - 1. All ground-disturbing activities shall immediately cease within a 50-foot (15.2-meter) radius, using the discovery as the center point.
 - 2. The sponsor or its agent *must* contact CRCS within one (1) business day to arrange for proper evaluation and consultation.
 - 3. The sponsor or its agent shall identify itself and its project and shall supply the following information:
 - a. a verbal description of what has been found and the context in which remains are located;
 - b. the general location of the gravesite, human remains, and/or funerary items; and
 - c. any other pertinent information.
 - 4. Verbal notification shall immediately be followed by written notification. HPD will attempt to respond promptly so as not to cause project delays.

5. Human remains and funerary items *must* be protected in place until treatment measures are implemented. Treatment measures shall be consistent with Part VII of this policy.
 6. The sponsor or its agent may resume ground-disturbing activities only after a proposed treatment plan has been agreed upon *and* implemented.
- C. When an inadvertent discovery occurs within the context of intentional excavation, the sponsor shall adhere to the following procedures.
1. All trenching, hand excavation, sampling, photography, etc., shall cease within a 10-foot (3-meter) radius of the discovery after the nature and extent of buried remains have been determined.
 2. The sponsor or its agent *must* contact CRCS within one (1) business day to arrange for proper evaluation and consultation.
 3. The sponsor or its agent shall identify itself and its project and shall supply the following information:
 - a. a verbal description of what has been found and the context in which remains are located;
 - b. the general location of the gravesite, human remains, and/or funerary items;
 - c. a preliminary assessment of the type of burial it is (Diné, Anaasází, other);
 - d. an assessment of the complexity of the burial(s) and the likelihood of disturbance if left in place;
 - e. a proposed location for reburial, if applicable; and
 - f. any other pertinent information.
 4. Verbal notification shall immediately be followed by written notification. HPD will attempt to respond promptly so as not to cause project delays.
 5. Human remains and funerary items *must* be protected in place until treatment measures are implemented. Treatment measures shall be consistent with Part VII of this policy.
 6. The sponsor or its agent may resume ground-disturbing activities only after a proposed treatment plan has been agreed upon *and* implemented.
- D. When CRCS is notified of an inadvertent discovery of human remains outside the context of an undertaking:
1. CRCS shall ask the notifying party to provide
 - a. a verbal description of what was found and the context in which remains are located;
 - b. the general location of the gravesite, human remains, and/or funerary items; and
 - c. any other pertinent information, including the name of a contact person.
 2. CRCS shall determine on a case-by-case basis whether HPD will assume responsibility for treatment.

VI. IDENTIFICATION OF GRAVESITES, HUMAN REMAINS, AND FUNERARY ITEMS

- A. Once gravesites, human remains, and/or funerary objects are located, a good faith effort shall be made to determine through contextual analysis, interviews, non-destructive visual inspection, and other appropriate means whether the remains represent:
 - 1. a burial with lineal descendants;
 - 2. a Diné burial for which lineal descendants cannot be identified or located;
 - 3. a Native American burial for whom lineal descendants cannot be identified or located (including Anaasází burials, burials of individuals from other tribes, and unidentified burials); or
 - 4. a non-Native American burial for which lineal descendants cannot be identified.
- B. Non-destructive visual inspection of human remains shall be limited to determinations of age (of both the individual and the interment), sex, and cultural affiliation. To the greatest extent possible, such visual inspection shall be performed without handling, brushing off, or disarticulating the remains.
- C. Initial identification efforts may require consultation with Diné elders and other residents and non-residents who may have knowledge about the identity and/or cultural affiliation of the remains. When the remains are clearly Anaasází, such consultation is not necessary. Chapter officials must be notified prior to initiating local consultation. All identification efforts must respect the culturally sensitive nature of discussions regarding human remains.
- D. In cases where no lineal descendants have been identified, the sponsor (in the case of an undertaking) must use all information available, including physical evidence as well as word of mouth, to determine the probable age at death and of interment and the sex of the individual buried at this location. Specialists such as physical anthropologists may be required to collect and analyze this information. One should err in the direction of greater age estimates for the date of interment when no firm data are available. Following the provisions of ARPA and the Resolution of the Parks Commission, Navajo Tribal Council (April 8, 1980), remains shall be considered "archaeological resources" only if they are, or are suspected to be, 100 years of age or older.

VII. PROCEDURES FOR TREATMENT OF HUMAN REMAINS AND FUNERARY ITEMS

The policy of the Navajo Nation is that gravesites, human remains, and funerary items should not be disturbed. In cases where disturbance is unavoidable, treatment procedures will vary depending on the results of consultation with lineal descendants, culturally affiliated tribes, or appropriate entities. In the case of an undertaking, all costs related to treatment shall be borne by the sponsor.

In all cases, only non-destructive, in-field visual analysis to determine age and sex of individuals shall be allowed. At no time shall the remains or funerary items leave the project area. All analysis shall take place on site. No soil samples of any kind shall be taken from within one foot (0.3 m) of human remains. Human remains shall not be brushed unless absolutely necessary to make age and sex determinations. Depictions (sketches, drawings, etc.) of gravesites, human remains, and funerary items shall not appear in the body of any report; however, a map showing the orientation of the remains and associated funerary items shall be provided in a confidential appendix. Site maps in the body of the report should identify all features, including burials, but detailed illustrations are not allowed.

Photographs of gravesites and human remains are prohibited. In cases where funerary items are to be reinterred and may be susceptible to theft, photographs of the funerary items may be permitted in consultation with HPD. All photographs and negatives shall become the property of HPD; to be kept on file should ARPA investigations be necessary.

If circumstances require that human remains be disinterred, an ARPA permit is required if the burial is at least 100 years old. ARPA permits are issued through the Bureau of Indian Affairs with the consent of the Navajo Nation. A Class "C" Navajo Nation Cultural Resources Investigation Permit also is required. It may take up to 30 days to obtain ARPA and/or Class "C" permits. Navajo Nation employees engaged in Navajo Nation business and Navajo traditional healers are exempt from permit requirements.

A. Burials with Lineal Descendants

If the deceased has known lineal descendants, regardless of cultural affiliation, consultation shall be conducted directly with the lineal descendants. Cultural resource professionals should take traditional Diné kinship into account when they determine lineal descendants. If the deceased was a member of another tribe, consultation with lineal descendants shall proceed only after contacting HPD and only after HPD has initiated government-to-government relations with such other tribes.

In consultation with HPD, the sponsor or its agent shall document the concerns of lineal descendants regarding the burial and shall record their wishes regarding treatment of the human remains and/or funerary items on a Statement of Wishes form (see Attachments). This form *must* be used to record the wishes of lineal descendants regarding treatment of the burial.

Results of consultation with lineal descendants shall be held in confidence among the sponsor, cultural resource professional, HPD, and the lineal descendants. Sponsors and their agents shall not provide any information collected during consultation with lineal descendants to anyone other than HPD (and the lineal descendants, as requested). Upon completion of the project, sponsors and their agents shall turn over all records to HPD.

Documentation shall be provided to HPD that the decision made by the closest lineal descendant was made without any improper influence or pressure and was based upon full knowledge of all options available to them. This documentation must be initiated and performed by the sponsor or its agent, in the presence of or with the participation of a trained cultural resource professional approved by HPD. The cultural resource professional should work closely with any and all appropriate local residents, officials, elders, and traditional healers; should be familiar with policies related to the protection of human remains; should be knowledgeable regarding local history and customs; and must abide by professional standards and ethics. The cultural resource professional shall act as a witness to the documentation. Statement of Wishes forms is available from CRCS.

B. Diné Burials without Lineal Descendants

In cases where Diné burials are identified but where it is not possible to locate lineal descendants, the local chapter may serve as proxy for lineal descendants. In order to determine whether the Chapter wishes to serve as proxy, the sponsor or its agent, in consultation with HPD, shall consult with Chapter officials to determine procedures to be followed regarding presenting information to the Chapter as a whole.

Normally, this determination should be made within five (5) working days. If the Chapter determines that it wishes to serve as proxy, the sponsor shall follow the procedures delineated in Section VII.A. If the Chapter determines that it does not wish to serve as proxy, the sponsor or its agent shall consult with HPD, and HPD shall make decisions regarding treatment in accordance with procedures established in Section VII.C. All costs related to treatment shall be borne by the sponsor. Upon completion of the project, the sponsor and its agent shall turn over all records to HPD.

C. Other Native American Burials without Lineal Descendants

In the absence of lineal descendants, all Native American human remains identified on Diné lands are the responsibility of the Navajo Nation [NAGPRA, 1990: Sec. 3(a)(2)(A)]. Such human remains may include Anaasázi burials, non-Diné burials without lineal descendants but for whom cultural affiliation is known and unidentified Native American burials. In cases where consultation with other tribes is required, consultation shall occur in coordination with HPD and treatment shall remain consistent with this policy. ARPA and Class "C" permits must be in hand before initiating excavation. Navajo Nation employees engaged in Navajo Nation business and Navajo traditional healers are exempt from permit requirements.

Treatment Plan

Human remains and funerary items, once interred, should not be disinterred. If the burial is in no danger of impact, its location shall be documented and remains shall be protected as necessary. Documentation shall be provided to HPD. If the burial is in danger of impact, sponsors must exhaust all reasonable alternatives before disinterring. The following treatment plan shall be used in all cases where disinterment is necessary. The treatment plan shall insure the rapid reburial of human remains.

1. Notification, Consultation, and Excavation:
 - a. Upon discovery of human remains or funerary items, the cultural resource professional shall immediately determine the nature and extent of the burial and/or funerary items, while leaving the remains in place and protected. All other activities must immediately cease within a 10-foot (3-meter) radius unless a previously approved data recovery plan is in place. When human remains or funerary items are encountered in the context of an approved data recovery plan, the cultural resource professional may continue investigations outside the immediate burial area.
 - b. HPD must be notified immediately that human remains have been encountered.
 - c. Remains must be kept in place on site until a determination is made by HPD regarding appropriate treatment. When security is a problem, the sponsor or its agent must consult with HPD regarding protective measures.
 - d. Analysis shall proceed according to Section VI.B, above.
 - e. The location of the remains shall be thoroughly documented. The location shall be described and recorded on the appropriate 7.5-minute USGS topographic map. Locational information shall be provided to HPD in a

confidential appendix. It shall not be retained by the sponsor, its agent, the cultural resource professional, or anyone else.

2. Human Remains Identified in the Laboratory. If human remains are discovered along with faunal remains or other samples during laboratory analysis, the sponsor or its agent must contact HPD and then shall rebury the remains consistent with the plan noted in Section 3, below.
3. Reburial
 - a. Reinterment should take place immediately following removal of remains, unless there are extenuating circumstances.
 - b. The reburial location shall be situated as close to the site of origin as possible, but far enough away from earth-disturbing and erosion activities so as to eliminate the likelihood of future impact. Selection of a reburial site will depend upon construction design plans, depth of soil, the security of the location, approval of land users (if needed), and other pertinent factors.
 - c. An identification number shall be assigned to the gravesite. To obtain a grave identification number, contact CRCS.
 - d. The new location shall be described and recorded on the appropriate 7.5-minute USGS topographic map. Recordation shall include a 50-foot (15.2-meter) radius buffer zone for the gravesite. Locational information shall be provided to HPD in a confidential appendix. HPD may provide to others on a need-to-know basis. It shall not be retained by the sponsor, its agent, the cultural resource professional, or anyone else.
 - e. The remains and funerary items shall be reburied in the same orientation and position as originally found. For relocation purposes, the location of the reburial and a sketch map depicting the position of the remains shall be prepared. Upon request, a skeletal illustration form is available from HPD to inventory the completeness of the human remains. This information shall immediately be turned over to, and shall become the property of, HPD.
 - f. The sponsor or its agent shall ensure that the reburial location is reclaimed to conform to the natural landscape and that protective measures are implemented, as necessary, to avoid future impacts to the reburial site (protective fencing, stabilization, reseeding, etc.).
4. Reporting. The results of investigations at a burial site shall be incorporated into a report as a detachable, confidential appendix. This report shall be submitted to the CRCS. None of the information regarding the location of burials shall be retained by the sponsor or its agent. Confidential appendices shall only be distributed to appropriate parties, as determined by HPD.

D. Non-Native American Burials without Lineal Descendants

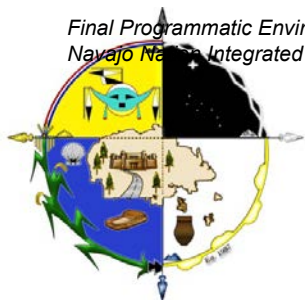
In the rare instance that non-native human remains without lineal descendants are encountered on Diné lands, HPD shall initiate consultation with the appropriate entities.

VIII. DISPUTE RESOLUTION

HPD shall consider disputes within or between families, within a community, between tribes, or with federal agencies related to the treatment of gravesites, human remains, and funerary items on a case-by-case basis. Disputes among lineal descendants may be referred to the Navajo Peacemaker Courts (*Hózhó'í Naa'táanii*), as appropriate.

IX. ATTACHMENTS/FORMS

- A. Identification of Gravesites, Human Remains, and Funerary Items *and* Statement of Wishes: Burials *with* Lineal Descendants
- B. Identification of Gravesites, Human Remains, and Funerary Items: Burials *without* Lineal Descendants



**Identification of Gravesites, Human Remains, and Funerary Items *and*
Statement of Wishes for
Burials *WITH* Lineal Descendants**

****CONFIDENTIAL****

(NOTE: Complete one form for each individual encountered)

DATE:

NAME OF DECEASED:

DESCRIPTION:

Clan (Maternal):	
Clan (Paternal):	
Sex:	
Age of Death:	
Date of Death (if known):	

REPORT NO.:

SITE NO.:

REPORT AUTHOR(S):

REPORT TITLE:

LOCATION OF BURIAL:

Chapter:	UTM Zone:	N	E
Agency:	Land Status:		
County:	Township/Range:		
State:	USGS 7.5 Minute Map:		

REINTERMENT LOCATION (if applicable):

Chapter:	UTM Zone: N E
Agency:	Land Status:
County:	Township/Range:
State:	USGS 7.5 Minute Map:

DESCRIPTION OF UNDERTAKING IN RELATION TO BURIAL:

NAME OF LINEAL DESCENDANT/RESPONSIBLE PARTY:

NAME OF LINEAL DESCENDANT/RESPONSIBLE PARTY:

RELATIONSHIP OF LINEAL DESCENDANT/RESPONSIBLE PARTY TO THE DECEASED:

CLANS OF RESPONSIBLE PARTY:

Maternal Clan	
Paternal Clan	

ADDRESS/LOCATION OF RESIDENCE FOR LINEAL DESCENDANT/RESPONSIBLE PARTY:

NAME/ORGANIZATION ADDRESS OF FIELD RECORDER:

LANGUAGE IN WHICH INTERVIEW WAS CONDUCTED:

NAME/ORGANIZATION/ADDRESS OF INTERPRETER (if any):

NAMES OF OTHERS PRESENT DURING INTERVIEW:

DESCRIPTION OF BURIAL (i.e. markers, headstone, funerary items, other):

ENVIRONMENTAL SETTING:

FIELD METHODS:

Add supplemental sheets if necessary.

STATEMENT OF LINEAL DESCENDANT/RESPONSIBLE PARTY

On, _____
(date)

I, _____
(name of lineal descendant/responsible party)

Was told by: _____
(name & address of field recorder)

That the burial was in danger of being disturbed by the following undertaking :

(title of report/description of undertaking)

I understand that the following treatment alternatives are available to me, according to the Navajo Nation Policy for the Protection of Jishchaa': Gravesites, Human Remains, and Funerary Items:

1. The human remains and funerary items may be left in place and shall be avoided forever, without stigma or other sanctions placed against the relatives. To this end, a 50-foot (15.2-meter) radius buffer zone measured horizontally shall be maintained, and the local environment shall be reclaimed and/or stabilized at the end of the disturbance activities. A larger or smaller buffer zone may be delineated with approval of the lineal descendants.
2. The human remains and funerary items may be relocated to a location of the lineal descendant's choice (and with the consent of the land-user at the location of reburial). The integrity of the human remains and funerary items shall be maintained, and they shall be treated with all due respect. Witnesses from the Navajo Nation Historic Preservation Office and/or others may be present, especially if desired by the lineal descendant(s), to ensure that the rights of the lineal descendant(s) are protected. The lineal descendant(s) also has the right to request who should participate in the process of disinterment and reburial. In the case of an undertaking, all costs related to treatment shall be borne by the sponsor.
3. The lineal descendant(s) may request that the grave not be protected from any disturbance. However, if the grave is more than 100 years old or is located within an archaeological site, the Navajo Nation has the responsibility to protect the grave from disturbance. Determination of eligibility for protection shall be made with reference to the Archaeological Resource Protection Act (ARPA), the National Historic Preservation Act (NHPA, as amended), the Native American Grave Protection and Repatriation Act (NAGPRA), the American Indian Religious Freedom Act (AIRFA), the Navajo Nation Cultural Resource Protection Act (CRPA; CMY-19-88), and other relevant tribal and federal policies.
4. The lineal descendant(s) may decline to specify wishes regarding treatment of the grave.

Recordation of Wishes:

(Note to field recorder: Record the concerns and wishes of the lineal descendants/responsible party fully. If reburial is chosen, the lineal descendants may specify location of the new burial site and any witnesses desired. They may also specify concerns regarding fencing, stabilization, and maintenance of the new burial site. Supplemental sheets may be added if necessary.)

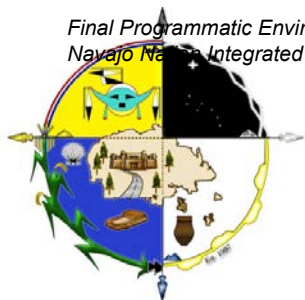
I understand that information on this form shall be held in confidence among the sponsor or its agent (in the case of an undertaking), HPD, and the lineal descendants. Neither the sponsor nor its agent shall provide any information collected during consultation with lineal descendants to anyone other than HPD. Upon completion of the project, sponsors shall turn over all records to HPD and to the lineal descendants, as requested.

<hr/> Signature/Thumbprint:	<hr/> Date
<hr/>	
<hr/>	

<hr/> Witness(es):	<hr/> Date
--------------------	------------

<hr/> Signature of Interpreter	<hr/> Date
--------------------------------	------------

<hr/> Signature of Field Recorder:	<hr/> Date:
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**Identification of Gravesites, Human Remains, and Funerary Items *and*
Statement of Wishes for
Burials WITHOUT Lineal Descendants**

****CONFIDENTIAL****

(NOTE: Complete one form for each individual encountered)

DATE:

REPORT NO.:

SITE NO.:

REPORT AUTHOR(S):

REPORT TITLE:

LOCATION OF BURIAL:

Chapter:	UTM Zone:	N	E
Agency:	Land Status:		
County:	Township/Range:		
State:	USGS 7.5 Minute Map:		

DATE OF DISCOVERY:

ADDRESS/LOCATION OF RESIDENCE FOR LINEAL DECENDANT/RESPONSIBLE PARTY:

NAME/ORGANIZATION ADDRESS OF FIELD RECORDER:

DESCRIPTION OF UNDERTAKING IN RELATION TO BURIAL:

SPONSOR OF PROJECT:

DESCRIPTION OF BURIAL (i.e. markers, headstone, funerary items, single or multiple burials, flex positioning, orientation, other):

ENVIRONMENTAL SETTING:

APPROXIMATE DATE OF INTERMENT (AD/BC):

AGE AND SEX OF INDIVIDUAL(S):

Individual:	1	2	3	4	5	6	7	8
Age of individual:								
Sex of Individual:								
Skeleton: Complete (C) or Partial (P) [chose one]								

IF PARTIAL SKELETONS ARE ENCOUNTERED, DESCRIBE BELOW. INCLUDE IDENTIFYING NUMBER FOR SKELETONS DESCRIBED. Use supplementary sheets if necessary.

TYPE OF BURIAL (e.g. cist, crevice, midden):

Photographs of funerary items are permitted only in situations where there is a risk of ARPA violations. Photographs require prior permission from NNHPD. All sketches, photographs, negatives, and photo logs must be attached to this form.

WERE PHOTOGRAPHS TAKEN OF FUNERARY ITEMS?

☐
☐

† NO
YES

NAME/TITLE OF INDIVIDUAL AT NNHPD WHO PROVIDED PERMISSION TO TAKE PHOTOGRAPHS:

FIELD METHODS:

DATE OF DISINTERMENT (if applicable):

DATE OF REINTERMENT (if applicable):

REINTERMENT LOCATION (if applicable):

Chapter:	UTM Zone: N E
Agency:	Land Status:
County:	Township/Range:
State:	USGS 7.5 Minute Map:

NOTE: Reburial location must be mapped on a USGS 7.5-minute topographic map (attached).

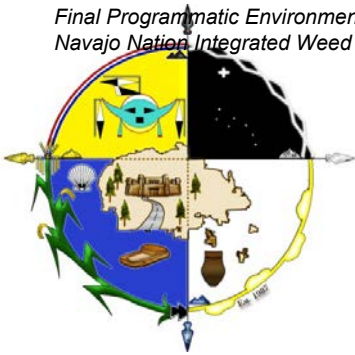
NAME/ORGANIZATION/ADDRESS OF INDIVIDUAL(S) WHO CONDUCTED THE DISINTERMENT:

NAME/ORGANIZATION/ADDRESS OF INDIVIDUAL(S) WHO CONDUCTED THE REINTERMENT:

WITNESS(ES) TO REINTERMENT:

REASON FOR RELOCATION OF BURIAL:

Supplemental sheets may be added if necessary.



GUIDELINES FOR THE TREATMENT OF DISCOVERY SITUATIONS

INTRODUCTION

The Bureau of Indian Affairs, Navajo Area Office (BIA) and the Navajo Nation have entered into a contract pursuant to the Indian Self-determination and Education Act (P.L. 93-638, as amended) under which the Navajo Nation Historic Preservation Department (HPD) performs selected historic preservation functions as the agent of the BIA, including Section 106 consultations.

Pursuant to 36 CFR 800.11(a), these *Guidelines* will be complied with in the event of discovery of cultural and historic properties, and human remains; or unanticipated effects on identified cultural and historic properties, and human remains during the course of an undertaking or any other activity funded or permitted by the BIA within the boundaries of the Navajo Nation.

The BIA, through HPD, is responsible for ensuring identification of both previously recorded and unrecorded cultural and historic properties, and human remains, and evaluation of the effect(s) a project will have on such properties.

These *Guidelines* require adherence to the following policies, standards, and guidelines in addition to relevant cultural and historic preservation laws and regulations:

1. Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation.
2. Advisory Council on Historic Preservation's Treatment of Archeological Properties: A Handbook.
3. Navajo Nation Interim Fieldwork and Report Standards and Guidelines.
4. Navajo Nation Policy and Procedures for the Protection of Cemeteries, Gravesites and Human Remains.
5. Navajo Nation Historic Preservation Department Guidelines for the Treatment of Historic, Modern, and Contemporary Abandoned Sites.
6. Navajo Nation Policy to Protect Traditional Cultural Properties.
7. Native American Graves Protection and Repatriation Act (NAGPRA).
8. National Register Bulletin 38.

The BIA is ultimately responsible for compliance with 36 CFR 800.

DEFINITIONS

1. The term "discovery" refers to finding; locating; observing; uncovering; unearthing; learning about through conversation, discussion, or interview; or otherwise detecting human remains or any kind of cultural or historic property, as defined below.
2. A "historic property" is defined in Section 301(5) of the National Historic Preservation Act, as amended (1992), as any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register, including artifacts, records, and material remains related to such a property or resource.

Pursuant to *National Register Bulletin 38* and Section 101(d) (6) (A) of the National Historic Preservation Act, as amended (1992), "historic property" includes properties of traditional religious and cultural importance to an Indian tribe.

3. "Cultural properties" as defined by Section 10(c) of the Navajo Nation Cultural Resources Protection Act (NNCRPA, CMY-19-88) will also be identified and protected. The types of properties and landmarks eligible for listing on the Navajo Nation Register of Cultural Properties and Cultural Landmarks are defined in Section 101(a-c) of the NNCRPA.
4. The term "contemporary" refers to sites, properties, places, or burials that are 50 years of age or less.
5. The term "historical" refers to sites, properties, places, or burials that post-date 1539.
6. The term "prehistoric" refers to sites, properties, places, or burials that pre-date 1539.
7. The term "scope-of-work" refers to a plan that includes one or more of the following procedures, which may be necessary to identify, evaluate, and mitigate adverse effects on cultural and historic properties.
 - A. Archaeological work may include:
 1. Identification and evaluation of archaeological properties, including recommendations of eligibility for nomination to the National Register of Historic Places;
 2. Testing of potentially eligible historic properties for a determination of significance and eligibility for nomination to the National Register of Historic Places;
 3. Testing of historic properties to determine the nature and extent of cultural deposits;
 4. Data recovery.
 - B. Ethnographic work may include
 1. Identification and evaluation of traditional cultural properties, other cultural properties, and burial sites, including, as applicable, recommendations of eligibility for nomination to the National Register of Historic Places;
 2. Treatment of the sites and properties;
 3. Conflict resolution.

PROTOCOL

These guidelines must be followed in any situation involving the discovery of any kind of cultural or historic property, including historical and prehistoric archaeological sites and traditional cultural properties, and human remains, whether previously identified or unknown.

In the event of a discovery, the project sponsor will inform the project contractor to temporarily cease work within 50 feet of the site. A 100-foot-radius avoidance zone will be maintained around discoveries containing human remains.

HPD will be contacted within one (1) working day at (928) 871-7198 or 7134 to arrange for proper evaluation of any discovery.

When a cultural or historic property is discovered:

1. HPD will make a determination of effect and significance of the cultural or historic property (ies) by the most efficient and expeditious means and notifies the BIA of these determinations.

2. HPD will consult with interested parties, including other Indian tribes, during development of a scope-of-work and will take into account comments from interested parties into the scope-of-work.
3. In the event of a dispute concerning the disposition of human remains discovered on the Navajo Nation, the Navajo Nation Historic Preservation Officer will make all final decisions regarding resolution of disputes in accordance with Navajo Nation policies.

ADMINISTRATIVE PROCEDURES

In the event of a declaration of a discovery, the following the actions will be taken.

1. For discovery situations where a scope-of-work has been approved:
 - A. HPD will define a 50-foot-radius avoidance zone around the discovery (100-foot-radius if the discovery contains human remains) to remain in effect for the duration of investigations at the site.
 - B. HPD will make recommendations regarding significance and eligibility for nomination to the National Register of Historic Places for each discovered property.
 - C. If the property is eligible, HPD will establish a schedule to complete treatment.
 - D. HPD will implement or direct its contractor to implement the scope-of-work at each discovery consistent with the approved scope-of-work for the undertaking.
 - E. The methods of excavation, recordation, conservation, analysis, preservation, storage, interviewing or consultation with knowledgeable individuals and interested parties, and reporting of discoveries shall be consistent with the scope-of-work, the general and specific methods of treatment outlined below, and stipulations of any existing memorandum of agreement or programmatic agreement applicable to the undertaking.
 - F. HPD will simultaneously notify the BIA and all declared interested parties upon the completion of treatment.
 - G. The BIA will wait three (3) working days after work is completed at the discovery before letting the project contractor continue work in the avoidance zone. This period will enable consulting and interested parties to submit comments.
 - H. The results of the investigations at a discovery will be incorporated into the draft technical report. Confidential data resulting from the ethnographic assessment and provenience data for all cultural and historic sites will be provided in one or more detachable appendices. Confidential appendices will only be distributed to appropriate parties.
 - I. The contractor will finalize the technical report, incorporating or addressing comments received from HPD.
2. For discoveries situations where a scope-of-work has not been approved:
 - A. HPD will define a 50-foot-radius avoidance zone around the discovery (100-foot-radius if the discovery contains human remains) to remain in effect for the duration of investigations at the discovery.
 - B. HPD will make recommendations regarding significance and eligibility for nomination to the National Register of Historic Places for each discovered property.
 - C. If the property is eligible, HPD will establish a schedule to complete treatment.

- D. HPD will prepare or direct a cultural resource management contractor to provide a scope-of-work within five (5) working days of the request.
- E. The methods of excavation, recordation, conservation, analysis, preservation, storage, consultation, and reporting of discoveries shall be consistent with the scope-of-work, the general and specific methods of treatment outlined below, and stipulations of any existing memorandum of agreement or programmatic agreement applicable to the undertaking.
- F. Upon approval of the scope-of-work by HPD, HPD will direct its contractor to implement the plan.
- G. HPD will simultaneously notify the BIA and all declared interested parties upon the completion of treatment.
- H. BIA will wait three (3) working days after work is completed at the discovery before letting the project contractor continue work in the avoidance zone.
- I. The results of investigations at a discovery will be incorporated into a draft technical report. Confidential data resulting from the ethnographic assessment and provenience data for all cultural and historic sites will be provided in one or more detachable appendices. Confidential appendices will only be distributed to appropriate parties.
- J. The contractor will finalize the technical report, incorporating or addressing comments received from HPD.

GENERAL METHODS OF TREATMENT

In all discovery situations the existing ground surface in the vicinity of the discovery will be mapped to show the relationship of the discovery to the project area, topographic features, cultural features, and surface artifacts. The map will be prepared using, at a minimum, a compass and measuring tape.

ARCHAEOLOGICAL METHODS: Assessment and treatment of cultural resources may be accomplished using archaeological methods. Data recovery strategies for historic properties may include in situ preservation, scientific testing and excavation, and documentation. This information will be used to develop a scope-of-work for treatment of affected properties. The plan will be implemented after approval of HPD.

The general process for treatment of archaeological components of historic properties is as follows:

- 1. Assessment of situation by a qualified archaeologist.
- 2. Development of a strategy to determine the significance of the property if significance is not explicit from visible evidence. Initiate a testing program if necessary.
- 3. Development of a strategy for data recovery and implementation of the plan for data recovery.

ETHNOGRAPHIC METHODS: Assessment and treatment of cultural resources and burials may be accomplished using ethnographic methods. Methods include conducting interviews with chapter officials, local and customary land users, and other knowledgeable individuals to elicit information regarding these surface features. This information will be used to develop a scope-of-work for treatment of affected properties. The plan will be implemented after approval of HPD.

The general process for treatment of traditional cultural properties, historical sites, and burials (not found in the context of a historic property) is as follows:

- 1. Assessment of situation by a qualified anthropologist and/or cultural specialist.

2. Consultation with chapter officials, local and customary land users, and other knowledgeable individuals.
3. In the case of unclaimed human remains, consultation with interested parties, including officials from other Indian tribes.
4. Development of a scope-of-work, in consultation with HPD.
5. Implementation of the scope-of-work upon approval by HPD.
6. Preparation of a technical report; confidentiality of information will be ensured.

Burials not found in the context of a historic property will be treated in accordance with the Navajo Nation Policies and Procedures Concerning the Protection of Cemeteries, Gravesites and Human Remains and the Native American Graves Protection and Repatriation Act.

SPECIFIC METHODS OF TREATMENT

The following methods of treatment are offered for situations in which a research design or scope-of-work has not been approved for the undertaking. If a research design or scope-of-work has been approved for a specific undertaking, discovered historic and cultural properties, and human remains, shall be treated in a manner consistent with the research design or scope-of-work, using the following treatment methods as a guideline.

ASH STAINS, HEARTHES, AND OTHER THERMAL FEATURES: The location will be mapped and the feature will be profiled and photographed. Excavated fill will be screened through quarter-inch or smaller mesh. If it appears that the feature can be dated through association of artifacts or stratigraphy, appropriate samples may be taken, including charcoal fragments for radiocarbon dating. Should the feature appear likely to yield botanical remains, pollen and flotation samples may be collected. HPD must be consulted before any samples are analyzed.

STORAGE PITS: The location will be mapped and the feature will be profiled and photographed. The feature will be fully excavated, and the fill must be screened through quarter-inch or smaller mesh screen. If it appears that the feature can be dated through association of artifacts or stratigraphy appropriate samples may be taken. Should the feature appear likely to yield botanical remains, pollen and flotation samples may be collected. All artifacts will be collected. HPD must be consulted before any samples are analyzed.

BURIED OR PARTIALLY BURIED STRUCTURES, MIDDENS, AND OTHER FEATURES: Examples of buried or partially buried features include pit structures, pothouses, and kivas. The location will be mapped and the feature will be profiled and photographed. Treatment of buried or partially buried features is a two-stage process involving (1) nature and extent testing within the area of effect to define the boundary of the feature and detect the presence of additional features and (2) data recovery within the area of effect. Systematic trenching in conjunction with 1 by 1 m test units, or other subsurface investigative techniques, may be used within the area of effect. Consultation with HPD is required after the initial recording has been completed for review of the data recovery plan.

Excavated fill will be screened through quarter-inch or smaller mesh. If it appears that the feature can be dated through association of artifacts or stratigraphy, or by radiographic or archeomagnetic dating, appropriate samples may be taken. Should the feature appear likely to yield botanical remains, pollen and flotation samples may be collected. HPD must be consulted before any samples are analyzed.

MISCELLANEOUS PREHISTORIC FEATURES: Examples of miscellaneous features include buried cultural horizons and agricultural features. The location will be mapped and the feature will be profiled and photographed. The strategy for treatment of miscellaneous prehistoric features is the same as that for buried or partially buried features.

SURFACE FEATURES: Examples of surface features include field houses, jacal structures, ramadas, masonry structures, historical, contemporary, and modern structures, and various types of historic landscapes. The location will be mapped and the feature(s) will be photographed. Treatment of surface features may be a multistage process involving (1) intensive and extensive documentation of the property to define the boundary of the feature and detect the presence of additional features, (2) consultation with local and customary users, and other knowledgeable individuals, in order to determine the nature of the site, place, property, or feature and recommend a treatment plan, and (3) implementation of data recovery or the treatment plan within the area of effect.

The strategy discussed above for treatment of buried or partially buried features may be the appropriate way to treat some surface features and should be used as a guideline for data recovery. Alternatively, the strategy espoused below for traditional cultural properties and historical sites may be more appropriate and should be used as a guideline for treatment.

TRADITIONAL CULTURAL PROPERTIES (TCPs) AND HISTORICAL SITES: Examples of traditional or historical features include named landscape features, mineral or herb gathering areas, offering areas, hogans, trail markers, cairns, sheep corrals, ceremonial sites (e.g., Enemy Way sites), sweathouses, and tepee grounds. If a TCP or historical site is encountered, or information about a possible site is provided to the project sponsor or their agent by any knowledgeable or concerned individual, the project sponsor must ensure that work is discontinued within a 50-foot-radius of the property and contact HPD within one (1) day of the discovery. Treatment of TCPs or historical sites is a two-stage process involving (1) consultation with HPD along with local and customary users, and other knowledgeable individuals, in order to determine the nature of the site, place, property, or feature and recommend a scope-of-work and (2) implementation of the scope-of-work. Examples of treatment include, but are not limited to, the following:

1. Avoiding the remaining portion of the property through use of protective fencing or redesign of the undertaking or project.
2. Monitoring the remaining portion of the property during construction and/or erection of protective fencing to ensure protection.
3. Moving material remains of the TCP. This activity may include participation of local medicine men or women for ceremonial blessings.
4. Restricting construction activities to certain seasons or times of the day.
5. Conducting ceremonies for the well-being of properties that have been affected.

HPD will recommend the best possible treatment as guided by interviews and consultation.

HUMAN REMAINS: If human remains (whether modern, contemporary, historical, or prehistoric) are encountered at any phase of work, the project sponsor shall immediately take steps to preserve and protect the remains in situ. Work must cease within a 100-foot-radius of the remains and HPD must be contacted within one (1) working day of the discovery. Treatment of the human remains shall be dependent upon consultation with HPD. *Under no circumstances* shall the project sponsor or the project contractor further disturb human remains except under the formal direction of HPD. All human remains must be treated in accordance with the laws of the Navajo Nation. Claimed human remains shall not be disturbed without the consent of the next-of-kin. Unclaimed human remains shall be treated according to the provisions of the Navajo Nation Policies and Procedures Concerning the Protection of Cemeteries, Gravesites and Human Remains and the Native American Graves Protection and Repatriation Act.

THE NAVAJO NATION
CULTURAL RESOURCES PROTECTION ACT
(NNCRPA)
TRIBAL COUNCIL RESOLUTION CMY-19-88

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§ 1001. Findings

- A. This Act may be cited as the “Navajo Nation Cultural Resources Protection Act”.
- B. The Navajo Tribal Council finds and declares that:
 - 1. The spirit and direction of the Navajo Nation are founded upon and reflected in its cultural heritage;
 - 2. The cultural heritage of the Navajo Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the Navajo People;
 - 3. Cultural properties of the Navajo Nation are being lost or substantially altered, often inadvertently, with increasing frequency;
 - 4. The preservation of this irreplaceable cultural heritage is in the interest of the Navajo Nation and its people so that its vital legacy of cultural, educational, esthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Navajos;
 - 5. In the face of ever increasing energy development, economic development, sanitation and public health developments, the present Tribal governmental and non-Tribal governmental programs to preserve the Navajo Nation’s cultural resources are inadequate to ensure future generations a genuine opportunity to appreciate and enjoy the rich heritage of the Navajo Nation;
 - 6. Increased knowledge of our cultural resources, the establishment of better means of identifying and administering them, and fostering their preservation will improve the planning of federal, Tribal, state and other projects and will assist economic growth and development and expeditious project implementation; and
 - 7. Although the major role in cultural resource preservation has been borne by the federal and state governments, and both must continue to play a role, it is nevertheless essential that the Navajo Nation expand and accelerate its cultural resource preservation programs and activities.

§1002. Policy

It shall be the policy of the Navajo Nation, in cooperation with the states, federal government, other Indian Tribes, and private organizations and individuals to:

- A. Use appropriate measures to foster conditions under which our modern society and our cultural resources can coexist in productive harmony and fulfill the social, economic and other requirements of present and future generations;
- B. Provide leadership in the preservation of cultural resources of the Navajo Nation;
- C. Administer Navajo Nation-owned, administered or controlled cultural resources in a spirit of stewardship and for the inspiration of present and future generations;
- D. Contribute to the preservation of non-Navajo Nation-owned cultural resources and give maximum encouragement to organizations and individuals undertaking preservation by private means;
- E. Encourage the public and private preservation and utilization of usable elements of the Navajo Nation’s stock of historic buildings and structures.

§ 1003. Definitions

As used throughout this Act, the term:

- A. “Archaeology Department” means the Navajo Nation Archaeology Department.
- B. “Building” means any structure made by man primarily to provide shelter.
- C. “Cultural property” means any cultural resource deemed to be important enough to warrant listing in the Navajo Register.
- D. “Cultural resource” means any product of human activity, or any object or place given significance by human action or belief.
- E. “Department” means the Navajo Nation Historic Preservation Department.
- F. “District” means any discrete area comprising buildings, objects, sites or structures that form a recognizable, unified whole.
- G. “Indian” or “Indian person” mean any enrolled member of an Indian Tribe recognized by the Secretary of the Interior.
- H. “Lands in which the Navajo People have a historical interest” means all lands historically or traditionally used by the Navajo People.
- I. “Navajo Lands” means those lands held in Trust for the benefit of the Navajo Nation and those lands which the Navajo Nation holds in fee simple or in which it has a legal interest.
- J. “Navajo Landmarks” means those cultural properties that are of significance to the entire Navajo Nation.
- K. “Navajo Register” means the Navajo Nation Register of Cultural Properties.
- L. “Object” means a product of human activity or an item given significance or meaning by human activity or belief.
- M. “Place” refers to an identifiable location at which an event occurred or a location given significance by human action or belief.
- N. “Preservation Officer” means the Navajo Nation Historic Preservation Officer, who is the Director of the Navajo Nation Historic Preservation Department.
- O. “Site” means the location of the physical remains of human activity.
- P. “Sponsor” means the agency official or the official in a private capacity that has decision making authority over a particular undertaking.
- Q. “Structure” means construction resulting from human activity, the primary purpose of which is other than to provide shelter.
- R. “Tribal Archaeologist” means the Navajo Tribal Archaeologist, who is the director of the Archaeology Department.

- S. “Undertaking” means any project, activity, or program that can result in changes in the character or use of cultural properties, if any such cultural properties are located in the area of potential effects. The project, activity or program must be under the direct or indirect jurisdiction of a Sponsor. Undertakings include new and continuing projects, activities or programs not previously considered under the authority of this Act.

§ 1004. Historic Preservation Department

The Navajo Nation Historic Preservation Department (hereafter referred to as the “Department”) within the Division of Resources shall be the Navajo Nation’s agency responsible for the protection, preservation and management planning for the Navajo Nation’s cultural resources. The department shall be directed by the Navajo Nation Historic Preservation Officer (hereafter referred to as the “Preservation Officer”) who shall advise the President of the Navajo Nation, the Navajo Nation Tribal Council, the divisions, departments, programs, agencies, authorities, enterprises and any other instrumentalities of the Navajo Nation, the federal, state and local governments, private organizations and individuals on matters pertaining to cultural resource preservation to achieve the goals of this Act on Navajo lands, and on lands in which the Navajo people have a historical interest. The Department shall conduct such other activities authorized in accordance with the Department’s approved Plan of Operation.

§ 1005. Archaeology Department

The Navajo Nation Archaeology Department (hereafter referred to as the “Archaeology Department”) within the Division of Resources shall be the Navajo Nation’s agency for providing cultural resources services to project sponsors. The Archaeology Department shall be directed by the Navajo Tribal Archaeologist (hereafter referred to as the “Tribal Archaeologist”), who shall be responsible for organizing and providing cultural resource services to sponsors, including instrumentalities of the Navajo Nation, Navajo people, other agencies and industry in need of cultural resources services both on and off the Navajo Reservation. The Tribal Archaeologist shall also organize and implement, in consultation with the Preservation Officer, a program of archaeological and anthropological research designed to enhance and benefit the Navajo Nation’s cultural resources. The Archaeology Department shall conduct such other activities authorized in accordance with its approved Plan of Operation.

§ 1006. Navajo Nation Museum

The Navajo Tribal Museum shall be the repository for all cultural resources collected on Navajo Lands. The Navajo Tribal Museum shall conduct such other activities authorized in accordance with its approved Plan of Operation

§ 1011. Navajo Nation register of cultural properties and cultural landmarks

- A. The Preservation Officer shall create, expand, maintain and administer a Navajo Nation Register of Cultural Properties (hereafter referred to as the “Navajo Register”) comprising buildings, districts, objects, places, sites and structures significant in Navajo Nation history, architecture, archaeology, engineering, and culture.
- B. The Preservation Officer shall create, expand, maintain and administer a program for designation of Navajo Nation Cultural Landmarks (hereafter referred to as “Navajo Landmarks”), which shall include those cultural properties of significance to the entire Navajo Nation.
- C. Cultural properties on Navajo lands shall be deemed to be included in the Navajo Register if, as of the date of enactment of the Navajo Nation Cultural Resources Protection Act, they are

1. Historic properties listed in the National Register of Historic Places;
 2. Historic properties designated National Historic Landmarks;
 3. Natural areas designated National Natural Landmarks;
 4. Cultural properties included in the National Park System at Navajo National Monument, Canyon de Chelly National Monument, and Chaco Canyon National Historical Park; and
 5. Archaeological sites designated as Chaco Protection Sites pursuant to P.L. 96-550.
- D. The Preservation Officer shall establish a program to locate, inventory, and evaluate cultural resources on Navajo lands and to list all such resources as may be eligible in the Navajo Register and to designate such properties as may qualify as Navajo Landmarks.

§ 1021. Protection of Cultural Properties

In order to ensure the protection of the cultural properties of the Navajo Nation, the Sponsor of any undertaking must obtain the approval of the Preservation Officer prior to implementation or authorization of any undertaking by the Sponsor.

§ 1031: Prohibited Activities

No cultural property may be visited or investigated on Navajo Lands, except those cultural properties designated as open to the public within the boundaries of a Navajo Nation Park or a National Park or Monument; nor may any person alter, damage, excavate, deface, destroy or remove, any cultural properties on Navajo lands. No person may sell, purchase, exchange or transport cultural resources from Navajo lands. No person may engage in ethnographic research on Navajo lands: Except that such activities may be conducted under the authority of and in accordance with the stipulations of a valid Navajo Nation Cultural Resources Permit issued by the Preservation Officer under the authority of § 1032.

§ 1032. Permits

- A. There shall be three classes of Permits.
1. *Class A* permits shall be issued for activities involving casual visitation and inspection of cultural properties.
 2. *Class B* shall be issued for cultural resource inventory activities involving no collection or disturbance of cultural resources.
 3. *Class C* shall be issued for cultural resource investigations involving alteration, collection, excavation, removal or any disturbance of cultural resources or for ethnographic research.
- B. Permits shall be issued only on a case-by-case basis, except that organization qualifying for a Class 1 or 3 under Navajo preference pursuant to Navajo Nation Code may be granted blanket Class B permits. The Preservation Officer may waive this requirement whenever he or she finds that issuance of a blanket Class B permit is in the best interests of the Navajo Nation and its people.
- C. Permits shall not be issued for periods to exceed 12 months, except when necessary to cover the duration of a single project.

§ 1033. Exceptions

- A. The prohibition against visitation of cultural resources does not apply to enrolled members of the Navajo Nation or to Navajo Nation employees engaged in official activities.
- B. The prohibition against alteration, collection, disturbance, excavation or removal of cultural resources or collection of ethnographic data do not apply to:
 - 1. Navajo traditional practitioners engaging in activities directly relating to the practice of traditional Navajo religion; or
 - 2. To Navajo Nation employees engaged in official business, relating to cultural resources management activities approved in accordance with Departmental rules and procedures.

§ 1034. Permit requirements

Any person proposing to visit or inspect cultural resources, undertake cultural resources inventory, alter, collect, excavate or remove cultural resources or engage in ethnographic research, who is not exempted pursuant to § 1033 of this Act, shall apply to the Preservation Officer for a Navajo Cultural Resources Permit for the proposed activity. The Preservation Officer may issue a Permit to any qualified individual, subject to appropriate terms and conditions.

§ 1035. Suspension of permits

- A. The Preservation Officer may suspend a Permit without cause upon determining that continuation of activities under a permit would not be in the best interests of the Navajo Nation or its people. Such a suspension is made without liability to the Navajo Nation, its agents or employees. Such a suspension shall not prejudice the ability of the permit holder to hold or obtain other permits.
- B. The Preservation Officer may suspend a permit for cause upon determining that any term or condition of a permit is not being met by the permit holder.

§ 1036. Revocation of permits

- A. The Preservation Officer may revoke a permit without cause upon determining that continuation of a permit is not in the interests of the Navajo Nation or its People. Such a revocation is made without liability to the Navajo Nation, its agents and employees. Such revocations shall not prejudice the ability of the permit holder to hold or obtain other permits.
- B. The Preservation Officer may revoke a permit for cause upon finding that:
 - 1. Any of the terms or conditions of a permit has been willfully violated;
 - 2. A permit-holder has engaged in activities prohibited by this Act; and
 - 3. A permit-holder has engaged in activities that resulted in the prior suspension of a permit.

§ 1037. Criminal Penalties

Any Indian person violating the provisions of §1301 of this Act shall be subject to criminal penalties.

- A. Any Indian person who:
 - 1. Engages in cultural resource inventory activities except under the authority of a Class B permit, or
 - 2. Who alters, collects, damages, destroys, excavates or removes cultural resources except under the authority of Class C permit or under the exception provided by § 1033 of this Act, shall upon conviction, be guilty of a misdemeanor and subject to punishment of up to one year in jail and a fine of up to one thousand dollars (\$1000).

§ 1038. Civil assessments

Individuals violating the prohibitions in § 1031 or § 1037 of this Act shall be subject to civil assessments. Civil assessments shall be imposed by the Resources Committee of the Navajo Nation Council (hereafter referred to as the Resources Committee”), in accordance with procedures adopted by the Resources Committee expressly for this purpose. The Resources Committee shall adopt such procedures within 90 days of the adoption of this Act.

- A. Violation of the provisions of § 1031 or § 1037 of this Act by any person, who does business on the Navajo Nation, shall be grounds for withdrawal of the privilege of doing business on the Navajo Nation. The Resources Committee shall consider whether or not to recommend to the Navajo Nation Council that any individual found to have violated § 1031 or § 1037 shall lose the privilege of doing business on the Navajo Nation.
- B. Any non-Indian who visits or inspects cultural resources on Navajo lands without a valid Class A permit shall be committing trespass. Such individuals determined to be in trespass after a hearing before the Resources Committee of the Navajo Nation Council, shall be assessed a civil forfeiture of not more than one hundred dollars (\$100.00) for the first offense and not more than five hundred dollars (\$500.00) for each subsequent offense. For the purposes of this part, each visit to or inspection of a cultural resource on Navajo Lands shall be considered a separate offense. The Resources Committee may, at its discretion, recommend to the Navajo Nation Council that any person found to be in trespass be excluded from the Navajo Nation.
- C. Any non-Indian who engages in cultural resources inventory activities on Navajo lands, except under the authority of a valid Class B permit shall be committing trespass. Any individual determined to be in trespass after a hearing before the Resources Committee, shall be assessed a civil forfeiture of not more than one thousand dollars (\$1000) for each offense. For the purposes of this part, each inventory on Navajo lands shall be considered a separate offense. The Resources Committee shall consider whether or not to recommend to the Navajo Nation Council that any individual found to have violated this prohibition shall be excluded from the Navajo Nation.
- D. Any individual within Navajo lands who alters, collects, damages, defaces, destroys, excavates, removes or sells cultural resources or who collects ethnographic data without a valid Class C permit, or as permitted under the exceptions detailed in § 1033, or who engages in activities in violation of the terms and conditions of a valid permit shall be liable, after a hearing before the Resources Committee, to the Navajo Nation for civil damages as determined by the Resources Committee as follows:
 - 1. Assessment of Actual Damages. The Resources Committee shall impose the civil assessments based upon actual damages in accordance with “Standards for Assessing Damages to Cultural Properties” that the Resources Committee shall adopt expressly for this purpose. The “Standards for Assessing Damages to Cultural Resources” shall include, but need not necessarily limit consideration to:

- a. Full costs of restoration of the cultural resource;
 - b. Enforcement and administrative costs associated with the civil action;
 - c. Costs of disposition of cultural resources, including as appropriate, costs of curation in perpetuity;
 - d. Costs associated with documentation, testing and evaluation of the cultural resource in order to assess the characteristics of the cultural resource and plan for its restoration; and
 - e. Costs of any additional mitigation measures the Resources Committee deems appropriate to implement.
2. Assessment of Treble Damages. In addition to the actual damages, the Resources Committee may, at its discretion, assess damages of up to three (3) times the amount of the actual damages.
3. Seizure of Equipment and Cultural Resources. The citing officer shall seize all cultural resources in the possession of any individual cited under § 1031 of this Act, together with any other property used for or related to the violation in the possession of the individual cited, as the officer may deem necessary to obtain payment of any civil assessment.
4. Forfeiture of Cultural Resources and Property. After hearing before the Resources Committee:
 - a. Any cultural resources obtained in violation of this Act shall be forfeited to the Navajo Nation;
 - b. Any other property seized in accordance with § 1038(D) (3), shall be released to the owner upon timely payment of any related civil assessments;
 - c. Any seized property shall be forfeited to the Navajo Nation if the assessment has not been paid within 15 days of the hearing at which the civil assessment was levied or pursuant to this Act, whichever is later. Any such forfeiture shall be limited to the amount of the civil assessment. Any property remaining after forfeiture of property up to the value of the assessment shall be returned to the owner.
- E. Civil assessments imposed under this part shall be reserved solely for the purposes of restoring damaged cultural resources and for meeting the purposes of this Act and shall be deposited in the Historic Preservation Revolving Account for disbursement in accordance with Tribal budgetary procedures.
- F. Any individual assessed by the Resources Committee pursuant to § 1038 of this Act shall have the right to appeal the decision of the Resources Committee to the Navajo Nation District Court as follows:
 1. Any appeal must be filed in writing with the Navajo Nation District Court within thirty days of notification of the action of the Resources Committee;
 2. The review by the Navajo Nation District Court shall be limited to:
 - a. Ensuring that the appellant received due process of law; and
 - b. Ensuring that any rights the individual may have under the Navajo Nation Bill of Rights and the Indian Civil Rights Act (25 U.S.C. § 1301-1341) were observed; and
 3. Consideration by the Navajo Nation District Court shall be limited to review of the administrative record created before the Resources Committee during the hearing before it.

§ 1041. Appeals

- A. Any administrative action taken by the Preservation Officer pursuant to this Act which is a final action made on behalf of the Navajo Nation may be appealed by any party directly and adversely affected by such action. Notice of appeal must be filed within 30 days of notification of the Preservation Officer's action.
- B. Within 90 days of the adoption of this Act, the Preservation Officer shall establish regulations governing appeals of administrative decisions reached under the authority of this Act. The regulations shall specify

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procedures governing appeals, identify who may appeal, detail notification requirements, establish time limits for action on the part of all parties, enumerate documentation requirements, and include any other elements necessary to carry out the purposes of this Section.

- C. Any appellant adversely affected by the outcome of an appeal under regulations promulgated pursuant to § 1041(B) of this Act shall be entitled to review of the action in Navajo Nation District Court as follows:
1. Notice of an appeal under the provisions of this part must be filed with the Navajo Nation District Court within 30 days of receipt of notice of a final action by the Division of Natural Resources;
 2. Judicial review by the Navajo Nation District Court shall be limited to:
 - a. Ensuring that the appellant received due process of law, and
 - b. Ensuring that all rights of the appellant under the Navajo Nation Bill of Rights and the Indian Civil Rights Act (25 U.S.C. 1301-1341) were observed.
 3. Judicial review by the Navajo Nation District Court shall be limited to review of the administrative record created during the administrative appeals process.

§ 1051. Regulations, procedures, standards and guidelines

The Preservation Officer shall develop, promulgate, publish and implement such regulations, procedures, standards and guidelines necessary to implement the requirements of or to achieve the purpose of this Act.

§ 1061. Severability

If any provision of this Act or the application thereof to any person, court or circumstances is held invalid by a Navajo Nation or federal court, the invalidity shall not affect other provisions of this Act which can be given effect without the invalid provision or application and to this end; the provisions of this Act are severable.

NAVAJO NATION

POLICY FOR THE DISPOSITION OF CULTURAL RESOURCES COLLECTIONS



NAVAJO NATION HISTORIC PRESERVATION DEPARTMENT

**Approved: 4/22/08
Effective date: 4/29/08**

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POLICY FOR THE DISPOSITION OF CULTURAL RESOURCES COLLECTION

1. INTRODUCTION

This policy establishes definitions, standards, procedures and guidelines to be followed for the disposition of cultural resources collections recovered on Navajo Nation Lands.

2. POLICY STATEMENT

It is the policy of the Navajo Nation to protect all cultural resources that it owns or that are under its jurisdiction. Under its obligation to the *Diyin diné'é* (Holy People) and as an expression of its sovereignty, the Navajo Nation will treat its cultural resources in a manner consistent with *Diné* (Navajo) values.

Hózhó, a natural state of harmony, beauty, and balance, is the very heart of the *Diné* way of life. The disturbance and/or removal of cultural resources disrupts *hózhó*. In order to avoid unnecessary disturbance to *hózhó*, it is the policy of the Navajo Nation to strongly discourage the excavation, disturbance or removal of any cultural resources unless there is a compelling need. When such disturbance occurs either accidentally or out of necessity, it is Navajo Nation policy to implement all prudent and feasible measures to return its' cultural resources to the cultural landscape.

Accordingly, the excavation of cultural resources may be permitted only after all alternative treatment measures (e.g., avoidance, protective fencing, project redesign, etc.) have been exhausted. When excavation or disturbance of cultural resources can not be avoided, such activities shall be carried out in the least intrusive and most expeditious manner possible.

When removal of material remains is completed, all appropriate analysis approved by the Historic Preservation Officer has been completed, and the resulting technical report accepted by the Historic Preservation Officer or his designee, the remains are to be promptly returned to the cultural landscape in accordance with this Policy.

The Navajo Nation Historic Preservation Department shall act on behalf of the Navajo Nation to achieve these objectives through the implementation of this Policy.

3. AUTHORITY

In accordance with Navajo Nation law and federal laws, including but not limited to: the Treaty of June 1, 1868 between the Navajo Nation and the United States, 156 Stat. 667; various United States statutes and executive orders expanding the Navajo Indian reservation or otherwise confirming Navajo Nation ownership of Navajo Nation lands and all resources appurtenant thereto; the Archaeological Resources Protection Act of 1979, 16 U.S.C. 470aa-mm (ARPA); the National Historic Preservation Act of 1966, 16 U.S.C. 470. *et seq.* (NHPA); and the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3001, *et seq.* (NAGPRA), the Navajo Nation owns all material remains located on, discovered on, excavated, collected or

POLICY FOR THE DISPOSITION OF CULTURAL RESOURCES COLLECTION

removed from Navajo Nation Lands, except under limited circumstances where such law or laws expressly provide that such items are owned by private individuals.

Navajo Nation law and federal law further provide that the Navajo Nation controls the ultimate disposition of material remains owned by the Navajo Nation. Nothing in federal law severs the Navajo Nation's ownership and control of cultural resources from Navajo Nation lands, even when those items have been collected under properly approved federal permits issued under the Antiquities Act of 1906 or ARPA.

Where associated records/archival materials are or have been prepared and assembled pursuant to the Navajo Nation Cultural Resources Protection Act, 19 N.N.C. 1001 *et seq.* (CRPA) or in the absence of a valid permit under ARPA, the Antiquities Act or other applicable law, the Navajo Nation owns such associated records/archival materials. Where associated records/archival materials are or have been prepared and assembled pursuant to a valid Navajo Nation cultural resources permit (and where applicable, a federal permit), the Navajo Nation retains ownership both of those associated materials and any and all intellectual property rights relating to those items.

In accordance with these rights of ownership of material remains, associated records/archival materials, and the cultural heritage and intellectual property of the Navajo Nation this policy reflects Navajo Nation law concerning the disposition of material remains and associated records/archival materials in the possession of the United States, which nevertheless remain subject to the paramount rights of the Navajo Nation.

4. DEFINITIONS

For the purpose of this policy,

4.1. Associated Records/Archival Materials means original records (as well as any copies thereof) that were or are prepared, assembled, etc. to document efforts to locate, evaluate, document, study, preserve or recover cultural resources.

4.2. Collection means material remains that are excavated, collected or removed from a cultural resource, along with any associated records/archival materials. Some collections may consist of archival materials only.

4.3. Cultural Landscape (*Diné Bikéyah*) means the places that embody cultural meaning for the Diné, whether located within or outside the boundaries of the Navajo Nation. For the purpose of this policy, "cultural landscape" includes Diné individuals and communities.

4.4. Cultural Patrimony means objects having ongoing historical, traditional or cultural importance central to Diné traditional practitioners or clans (rather than property owned by an individual under the principles of Navajo common law) and which, therefore, cannot be alienated, appropriated or conveyed by any individual.

POLICY FOR THE DISPOSITION OF CULTURAL RESOURCES COLLECTION

4.5. Cultural Property means any cultural resources deemed to be important enough to warrant listing in the Navajo Register, 19 N.N.C.1011.

4.6. Cultural Resource means any product of human activity or any object or place given significance by human action or belief, 19 N.N.C. 1003.D.

4.7. Curation/Curatorial Services means managing and preserving a collection according to professional museum and archival practices, including;

- (i) Inventorying, accessioning, labeling, and cataloging a collection;
- (ii) Identifying, evaluating, and documenting a collection;
- (iii) Storing and maintaining a collection using appropriate methods and containers, and under appropriate environmental conditions and physical security controls;
- (iv) Periodically inspecting a collection and taking such actions as may be necessary to preserve it;
- (v) Providing access to and facilities for study of a collection; and
- (vi) Handling, cleaning, stabilizing and conserving a collection in such a manner as may be necessary to preserve it.

4.8. Deaccession means to formally and permanently withdraw material remains from a collection.

4.9. Diné means the Navajo People.

4.10. Hataa_ii means a traditional Diné chanter/healer/practitioner recognized as such by his or her community.

4.11. Historic Preservation Department (HPD) means the Navajo Nation Historic Preservation Department as established by CRPA 19 N.N.C. 1004.

4.12. Historic Preservation Officer means the Department Manager of the Historic Preservation Department or his/her designee.

4.13. Inadvertent Discovery means finding, locating, observing, uncovering, unearthing, learning about through conversation, discussion or interview or otherwise detecting cultural resources when such discovery was not the original intent of the activity.

4.14. Intentional Excavation means the removal of material remains from their original context for any purpose authorized by the HPD pursuant to CRPA.

4.15. Material Remains means artifacts, objects, specimens, and other physical evidence that are excavated or removed in connection with efforts to locate, evaluate, document, study, preserve or recover a prehistoric or historic cultural resource.

4.16. Museum Director means the Director of the Navajo Nation Museum.

POLICY FOR THE DISPOSITION OF CULTURAL RESOURCES COLLECTION

4.17. Navajo Nation Lands means all lands or interests in land owned by or held by the Navajo Nation, whether held by original title, held in fee simple or held in trust by the United States, whether restricted or unrestricted, and whether within or outside the boundaries of the Navajo Nation.

4.18. Navajo Nation Museum means the museum established within the Historic Preservation Department by the Navajo Nation Museum Plan of Operation approved November 14, 1995, by Resolution No. GSCN-92-95.

4.19. Offering means a gift made to Diyin diné'é (the Holy People) or at holy places including, but not limited to; precious gems, feathers, songs, prayers, carved items, incense/smoke, pollen, cornmeal, botanical items, water or minerals.

4.20. Repository means a facility such as a museum, archaeological center, laboratory or storage facility managed by a university; college, museum, other educational or scientific institution; a Federal, State, or local Government agency or Indian Tribe that can provide professional, systematic, and accountable curatorial services.

4.21. Sacred Objects means specific ceremonial objects that either have been offered to Diyin diné'é or are needed for the practice of healing ceremonies or traditional Native American religions by their present-day adherents.

4.22. Site means the location of the physical remains of human activity, 19 N.N.C. 1003.O.

4.23. Special Collection means any collection or portion of a collection that requires special disposition, such as sensitive information; confidential information; fragile items; items that should only be viewed/used by persons of a particular age or gender, and/or items that can only be viewed/used at certain seasons of the year.

4.24. Sponsor means the agency official or an individual in a private capacity who has decision-making authority over a particular undertaking, 19 N.N.C. 1003.

4.25. Tribal Archaeologist means the Department Manager of the Navajo Nation Archaeology Department, 19 N.N.C. 1005.

4.26. Undertaking means any project, activity or program that can result in changes in the character or use of cultural properties. The project, activity or program must be under the direct or indirect jurisdiction of a Sponsor, 19 N.N.C. 1003.S.

5. COMPONENTS OF COLLECTIONS

Collections include material remains that are excavated or removed from a prehistoric or historic cultural resource, along with associated records/archival materials that are prepared or assembled in connection with the survey, excavation, removal or other study. Some collections may consist of archival materials only.

5.1. Material Remains

Classes of material remains (and illustrative examples) that may be in a collection include, but are not limited to:

- (i) Components of structures and features (such as houses, pit structures, sweathouses, hornos, hearths, mills, fortifications, raceways, earthworks, and mound(s);
- (ii) Intact or fragmentary artifacts of human manufacture (such as tools, weapons, pottery, basketry, and textiles);
- (iii) Intact or fragmentary objects used by humans (such as rock crystals, feathers, and pigments);
- (iv) By-products, waste products or debris resulting from the manufacture or use of cultural or natural material (such as slag, dumps, fire-cracked rock, cores, and debitage);
- (v) Organic material (such as plant and animal remains);
- (vi) Components of petroglyphs, pictographs, intaglios or other works of artistic or symbolic representation;
- (vii) Environmental and chronometric specimens (such as pollen, seeds, wood, shell, bone, charcoal, tree core samples, soil, sediment cores, obsidian, volcanic ash, and baked clay); and
- (viii) Paleontological specimens that are found in direct physical relationship with a cultural resource.

5.2. Associated Records/Archival Materials

Depending on the type of project, the following classes of associated records/archival material are illustrative examples of the materials that may be in a collection:

- (i) Records relating to the identification, evaluation, documentation, study, preservation or recovery of a cultural resource, such as, site forms, field notes, drawings, maps, photographs, slides, negatives, films, video and audio tapes, oral histories, artifact inventories, laboratory reports, computer cards and tapes, computer disks and diskettes, information stored on other forms of electronic media, printouts of computerized data, manuscripts, reports, and accession, catalog, and inventory records;
- (ii) Records collected by ethnographic means, such as interview notes, genealogies, tape recordings, video recordings, oral histories, and photographs;
- (iii) Records relating to the identification of a cultural resource using remote sensing methods and equipment, such as, satellite or aerial photography and imagery, side scan sonar, magnetometers, and ground penetrating radar;

POLICY FOR THE DISPOSITION OF CULTURAL RESOURCES COLLECTION

(iv) Public records essential to understanding the cultural resources, such as, deeds; survey plats; military and census records; birth, marriage, and death certificates; immigration and naturalization papers; tax forms and reports;

(v) Archival records necessary to understanding the cultural resources, such as historical maps, drawings and photographs; manuscripts; architectural and landscape plans; correspondence; diaries; ledgers; catalogs; and receipts; and

(vi) Administrative records relating to the survey, excavation or other study of the cultural resource, such as scopes of work, requests for proposals, research proposals, contracts, antiquities or ARPA permits, reports, popular summaries, documents relating to compliance with section 106 of the NHPA, and National Register of Historic Places nomination and determination of eligibility forms.

Oral history material forms a special class of associated records/archival materials. These materials include tape-recorded and/or video-recorded interviews or transcripts of interviews with individuals or group of individuals that provide information on Diné life stories or local community history.

6. ACQUISITION OF COLLECTIONS

The Navajo Nation assumes responsibility for cultural resource collections in a variety of ways. Such collections may be the result of intentional archaeological excavation, inadvertent discovery, and/or ethnographic investigation. Cultural resource collections may also be returned to the Navajo Nation by museums, libraries, researchers, federal and other agencies, private individuals, contractors, and others. Some collections may be obtained as a result of legal proceedings (e.g., the return of confiscated material).

6.1. Intentional Excavation and Inadvertent Discovery

(i) Intentional Excavation. (a) The excavation of cultural resources may only occur after all alternative treatment measures (e.g., avoidance, protective fencing, project redesign, etc.) have been considered and found to be infeasible. When mitigation is necessary, it shall be carried out in the least intrusive and most expeditious manner possible

(b) Sponsors and their agents shall consult with HPD and obtain the proper permits prior to collecting and/or conducting excavation and removal of cultural resources. To the extent feasible, research designs shall take into account the principles and traditional concerns inherent in this Policy. Sponsors and their agents shall utilize sampling and other strategies as appropriate and feasible in order to minimize disturbance of cultural resources and to minimize the size of collections. All mitigation measures for archaeological resources must be archaeologically justified, necessary and defensible, systematic, thorough, as well as culturally respectful.

(ii) Inadvertent Discovery. Sometimes cultural resources are discovered inadvertently, i.e., during the course of activities which are not otherwise intended identification, evaluate, and/or

POLICY FOR THE DISPOSITION OF CULTURAL RESOURCES COLLECTION

treat cultural resources. When cultural resources are inadvertently discovered, (a) all work in the vicinity (within 50 feet/15 meters) of the resource shall be halted and the resource secured from further damage. (b) The Historic Preservation Officer shall be consulted regarding the importance of the resource and feasible means to avoid damage to it. (c) If the resource can not be avoided, damage to the resource shall be mitigated in accordance with the decision of the Historic Preservation Officer and under the terms of a permit issued, as necessary, in accordance with section 6.1(i)(b) above.

6.2. Ethnographic Acquisition

Sponsors and their agents shall consult with HPD and obtain the proper permits before initiating ethnographic activities. To the extent feasible, research designs shall take into account the principles and traditional concerns inherent in this Policy.

Sacred and ceremonial information is held in trust by individuals for the Navajo Nation as a whole. Information regarding sensitive cultural practices, the location of sacred or culturally significant places is transmitted orally and is not intended to be written down. Traditional Diné do not make permanent records or representations of sacred or ceremonial stories, songs and sandpaintings because such permanent records might fall into the hands of people without proper instruction or individuals who might misuse the knowledge and, in either instance, may consequently harm themselves or others. Similar concerns surround the collection of personal information in life histories. Some kinds of information should never be collected or disseminated. Other types of information can only be shared during particular seasons of the year or with persons of a particular age, maturity level or gender, etc. Individuals who are required to collect and to disseminate such culturally sensitive information through necessary technical reports shall consult with *and* obtain prior written consent from the Historic Preservation Officer

Personal information provided by an interviewee belongs to that individual. Such information shall only be collected *after* obtaining the informed written consent of the interviewee and with their full understanding of its intended use and, if applicable, the nature, type and degree to which that information may have to be disseminated.

Confidential information shall not be released by Sponsors, their agents or others without both the informed written consent of the individual who provided it *and* the prior written approval of the Historic Preservation Officer. Confidential and other sensitive information (including locational data) shall be included in reports only as removable, confidential appendices. Audio and/or video tapes of interviews, transcripts, field notes, and other records and materials directly derived from the project shall not be retained by the Sponsor, its agent or others but shall become the property of the Navajo Nation and shall be submitted to the Historic Preservation Officer for appropriate disposition. Interviewees shall be made aware that information they provide will become part of collections and may be maintained in perpetuity.

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6.3. Return of Pre-existing Collections

There are numerous collections of both sacred and culturally significant Navajo Nation materials in the possession of universities and colleges, museums, libraries, federal agencies, other agencies, researchers, private individuals, contractors, and other individuals. Such collections are of interest and concern to the Navajo Nation. It is the intent of the Navajo Nation to return portions or all of these collections for appropriate disposition or curation by the Navajo Nation. The repatriation of human remains, associated funerary items, and sacred objects will be addressed in a separate Policy.

6.4. Return of Confiscated Collections

Disposition of collections obtained as a result of legal proceedings (e.g., confiscated items) shall be dealt with by the Historic Preservation Officer.

7. PROSCRIBED COLLECTIONS

In addition to general Diné prohibitions regarding disturbance of prehistoric remains, and a preference for leaving the cultural landscape intact, there are also traditional prohibitions regarding certain types of material that should *never, under any circumstances*, be collected; including items that (1) are sacred or of a ceremonial nature; (2) appear to be part of a ceremonial offering; or (3) are in any way related to human burial, including associated and isolated funerary remains such as ceramic vessels, ornaments, wash basins, eating utensils, broken shovels, etc. Sponsors, their agents, and others shall pay particular attention to locations and shall also avoid disturbance of remains that are or appear to be out of the ordinary, such as cairns, shrines or grouped pieces of precious stones.

To avoid inadvertent collection of sacred or ceremonial objects, Sponsors, their agents, and others shall conduct necessary surface collections with great care. As part of the research process, Sponsors, their agents, and others shall make a reasonable and good faith effort to gather appropriate and adequate contextual information (usually by way of ethnographic interviews) on locations which may be sacred, ceremonial or where other culturally sensitive materials might be thought to be present.

Sponsors, their agents, and others shall not collect the following:

1. *Hadaa_t'é ánídaalyaa'ígíí*, figurines typically constructed out of wood, cornmeal, gourd, clay, and/or other botanical materials. These figurines may be anthropomorphic forms or representations of quadrupedal, reptilian or amphibian beings, which have been created to heal ailments for a specific Navajo person. Such figurines are not to be touched, handled or removed. However, should removal appear to be absolutely necessary for the purposes of an undertaking, an *hataa_ii* must be consulted for advice regarding appropriate treatment, and the removal and disposition must be specially approved in writing by the

POLICY FOR THE DISPOSITION OF CULTURAL RESOURCES COLLECTION

Historic Preservation Officer. Evidence of the consultation, together with the *hataa_ii*'s advice or opinion must be provided to the Historic Preservation Officer.

2. Offerings of any kind; including; any grouping of *nt_iz* – pieces of shell, turquoise, and jet, which may be found in association other minerals and with botanicals; *k'eet'áán*-botanical stems or pegs noticeably cut, notched, and decorated in association with the ladder, feathers, and cotton, and beads. Such offerings are not to be touched, handled or removed. However, should removal appear to be absolutely necessary for the purposes of an undertaking, a *hataa_ii* must be consulted for advice regarding appropriate treatment. The removal and disposition must be specially approved in writing by the Historic Preservation Officer. Evidence of the consultation, together with the *hataa_ii*'s advice or opinion must be provided to the Historic Preservation Officer.
3. Retired *Jish* – sacred objects; examples include but are not limited to, items showing evidence of manufacture or human alteration, wood products, cut, carved, and/or shaped; pieces of prepared buckskin or leather-thongs, strips, pouches, bags, etc.; lithics; pottery; tobacco pipes; botanicals; gourds; animal and bird parts-hide, claws, horns, hooves, feathers, bone, etc.; shells; cotton string; yarn; etc. Such objects are not to be touched, handled or removed. However, should removal appear to be absolutely necessary for the purposes of an undertaking, a *hataa_ii* must be consulted for advice regarding appropriate treatment, and the removal and disposition must be specifically approved in writing by the Historic Preservation Officer. Evidence of the consultation, together with the *hataa_ii*'s advice or opinion must be provided to the Historic Preservation Officer.
4. Human remains in any context.
5. Funerary items, including items potentially associated with human burials such as shovel heads, broken shovels, dishware of all sorts, saddles or portions of saddles, burned or unburned clothing, wash basins, etc.
6. Collection of information through ethnographic interviews can occur only after obtaining the interviewee's informed, written consent.

Sacred objects and offerings shall not be photographed or sketched without the prior written permission of the Historic Preservation Officer. Should removal or relocation of sacred objects or offerings be unavoidable, the Sponsor or its agent shall consult with and obtain the prior written approval of the Historic Preservation Officer.

8. ITEMS OF CULTURAL PATRIMONY

In accordance with NAGPRA and upon notice and formal request of the governing council or properly authorized representative of another federally recognized Indian tribe, government-to-government negotiation shall be initiated to return to such tribe objects of cultural patrimony belonging to that tribe that are in the possession of the Navajo Nation. Sacred objects and objects

POLICY FOR THE DISPOSITION OF CULTURAL RESOURCES COLLECTION

of cultural patrimony shall be expeditiously returned where (1) the requesting party is either the individual who originally owned the object or a direct lineal descendant of an individual who owned the object; or (2) the requesting Indian tribe can show that the object was owned or controlled by the tribe; or (3) the requesting Indian tribe can show that the object was owned or controlled by a member thereof, and that no identifiable lineal descendants have made a claim for the object. The place and manner of return of such objects shall be negotiated on a case-by-case basis. Each requesting Indian tribe shall afford the Navajo Nation reciprocity consistent with this policy.

9. OBTAINING INFORMATION AND ASSISTANCE

If Sponsors, their agents or others need assistance or information regarding sacred or culturally sensitive material, measures for protecting themselves or others against the potential ill effects of contact with sacred items (some of which are imbued with “power” that may be dangerous if inappropriately handled), traditional concern, interview methods, “culturally appropriate” activities or behavior, the role of Hataa_ii, and etc., they should contact the Historic Preservation Department.

10. DISPOSITION OF CULTURAL RESOURCES COLLECTIONS

10.1. Collection Disposition

Normally, collections of material remains will not be curated but will be returned to the cultural landscape. The Navajo Nation will curate or archive records. When the Navajo Nation accepts a collection for curation or archiving, it shall collect a fee to cover the expenses associated with that activity and the maintenance of the collection.

10.2 Collection Repository

The Navajo Nation Museum shall be the repository of cultural resources for those collections or parts of collections not returned to the cultural landscape that are obtained on Navajo Nation Lands. Records detailing disposition of collections shall be maintained and safeguarded by the Historic Preservation Officer or the Navajo Nation Museum.

10.3 Accessioning Collections

Sponsors, their agents, and others shall ensure that all parts of a collection to be accessioned by the Navajo Nation Museum are properly prepared for accessioning. Procedures for inventorying, identifying, evaluating, handling, cleaning, analyzing, labeling, cataloging, packaging, and storing collections shall be in accordance with standard professional practices. The Museum Director shall provide information including guidelines for preparing the collection for accessioning, as necessary. Collections deposited with the Navajo Nation shall include all information derived from the project that produced them.

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Navajo Nation sacred and ceremonial objects shall only be dealt with in the context of repatriation activities. In the event that sacred or ceremonial objects are inadvertently collected, Sponsors, their agents, and others shall contact the Historic Preservation Officer and proceed as directed.

10.4 Collection Disposition Fee Schedule

The Museum Director shall develop and maintain a schedule of fees that shall assessed for collections accepted by the Navajo Nation Museum pursuant to this Policy. Fees shall be used to defray the cost of collection disposition. Fees may be waived by the Museum Director with the concurrence of the Historic Preservation Officer.

10.5 Disposition Process

Prior to making any decisions regarding disposition, the Museum Director shall ensure that the collection is properly assembled, inventoried, and accessioned. If material remains or associated records are missing, it shall be the project Sponsors', their agents or others responsibility to make a good faith effort to located the missing items and append them to the collection.

Some collections consist exclusively of original records (or copies thereof) that are prepared, assembled, and document efforts to locate, evaluate, document, study, preserve or recover a cultural resource; that is, of archival materials only (including audiovisual recordings). Such collections shall be curated in their entirety. The Museum Director shall insure that these collections are managed and preserved according to professional museum and archival practices. Collection management shall take into consideration traditional concerns, as appropriate.

Most cultural resource collections will include both material remains and associated records/archival materials. If the collection contains material remains that the Historic Preservation Officer determines should be held in perpetuity (e.g., items of exceptional historical or cultural significance, unusual items, museum quality items or representative samples from collections that may be important to maintain), the Museum Director shall ensure that these items are properly curated. All associated records shall be curated. Such collections (or portions thereof) shall be managed and preserved according to professional museum and archival practices. Collection management shall take into account appropriate Diné traditional concerns.

If the Historic Preservation Officer determines that certain material remains (e.g., sacred objects, ceremonial items, complete projectile points, complete tools, or complete ground stone implements) should be transferred to *Hataalii* or others for cultural reuse, the Historic Preservation Officer shall identify the appropriate recipient(s) and shall document the process by which the items are transferred. All documentation, including a Transfer of Caretaker Responsibility Form, shall be appended to the associated records for the collection and properly curated/archived.

10.6 Disposition Within the Project Area

To the greatest extent possible, material remains that are intentionally excavated as part of an undertaking shall be returned to the cultural landscape. Material remains should be replaced within the boundaries of the project area but outside the construction zone and in locations that are unlikely to be disturbed in the future. Material remains should be placed far enough below the surface of the earth so that items will neither be visible nor exposed by erosion or other disturbance.

They should not be placed in containers of any sort but should be allowed to continue to weather naturally. The items should be permanently marked in a manner approved by the Historic Preservation Officer to make it clear that they have been reburied. Sponsors or their agents are responsible for returning material remains to the cultural landscape unless the Historic Preservation Officer determines that the Navajo Nation will take responsibility for this activity. The Historic Preservation Officer shall ensure that the actual procedures used for reburial of materials remains are fully documented, including preparation of maps showing the locations of the reburied items. All documentation (including maps) shall be appended to the associated records for the collection and properly curated/archived.

To the greatest extent possible, material remains that were obtained through means other than intentional excavation (e.g., inadvertent discovery, return of pre-existing collections, or confiscation) shall also be returned to the cultural landscape. In such cases, the Historic Preservation Officer shall determine the appropriate location and process for disposition. The Historic Preservation Officer shall ensure appropriate involvement of individuals with surface use rights (if any); as well as the actual procedures used for return of the remains to the cultural landscape are fully documented (including maps, if appropriate.) All documentation (including maps) shall be appended to the associated records for the collection and properly curated/archived.

10.7 Disposition Outside of Established Project Boundaries

It is Navajo Nation policy to return remains to the cultural landscape as near as possible to the location from which they were removed. When it is not prudent or feasible to reburial within the approved project boundaries, the Sponsor or its agents must identify a suitable area for reburial. The location selected is subject to the approval of the Historic Preservation Officer.

The Sponsor or its agent must obtain the written consent of individuals (if any) with surface use rights recognized by the Navajo Nation when an area outside the project boundaries is proposed for reburial. The Sponsor or its agents must submit documentation of land user consent when requesting approval of the reburial location.

POLICY FOR THE DISPOSITION OF CULTURAL RESOURCES COLLECTION

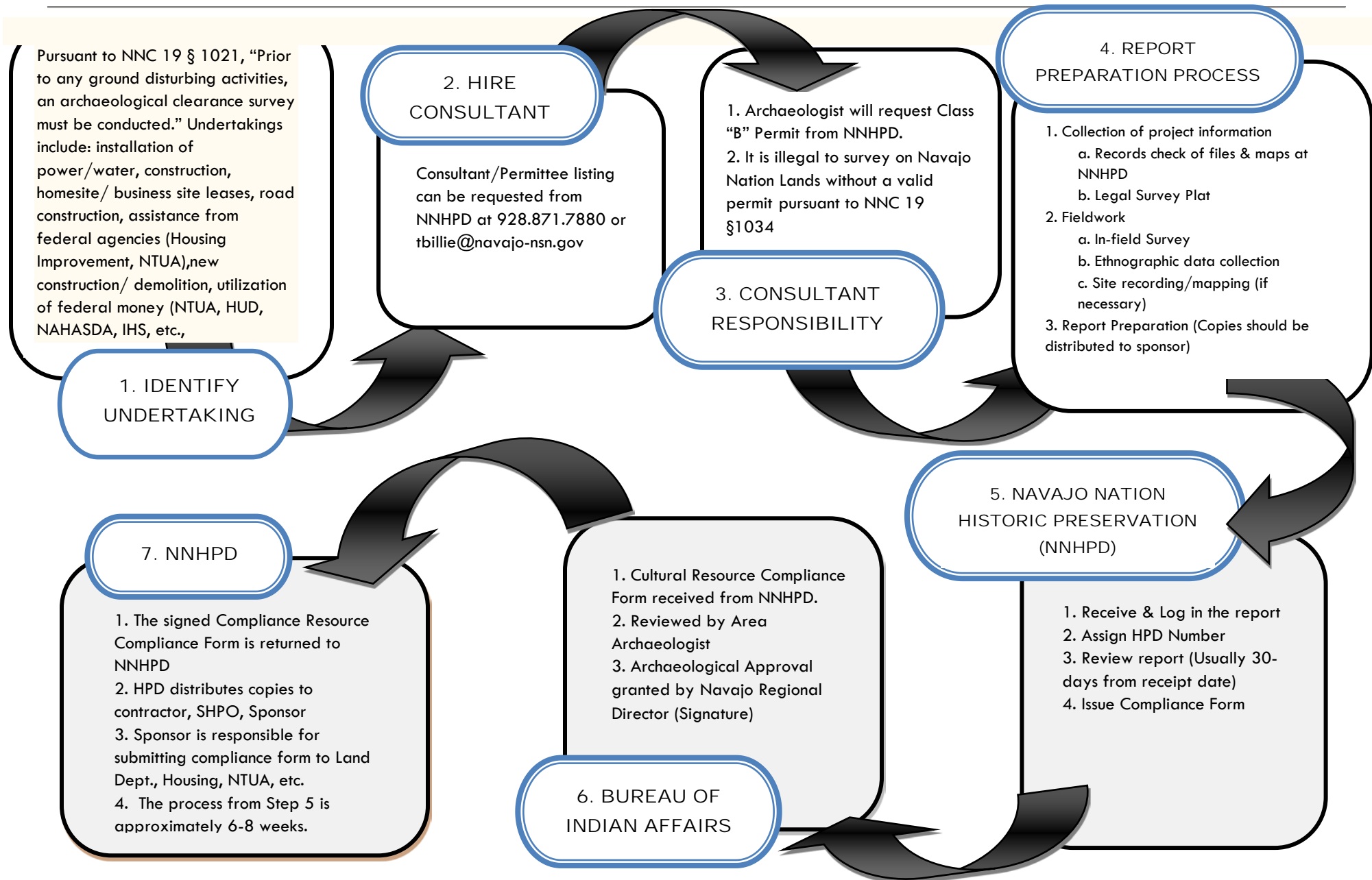
If there are no individuals with surface use rights legally recognized by the Navajo Nation, the Sponsor is responsible for obtaining the approval of the Chapter in which the proposed reburial is to be located.

11. ACCESS TO COLLECTIONS

The Historic Preservation Officer shall be responsible for establishing procedures and policies related to access to collections. Collections shall be made available for educational, scientific and traditional uses, subject to such terms and conditions as are necessary to protect and preserve the condition, research potential, religious or sacred importance, and uniqueness of the collection. Access to sacred, confidential, and other highly sensitive information may be limited on a seasonal or other basis. Access information shall be made available to individuals requesting access.

Collections (or portions thereof) may be loaned to other repositories, institutions or individuals for educational purposes, research, training, display, or other culturally appropriate purpose. Written loan agreements shall be prepared between the repository and the borrower that specify (a) the collection or item being loaned; (b) the purpose of the loan; (c) the length of the loan; (d) and restrictions on use of the collection or item; (e) the manner in which the collection or item must be handled; (f) requirements for insuring the collection or item being borrowed against loss, damage or destruction during transit or while the borrower's possession; and (g) any fees or charges associated with the loan and use of the collection or item.

In certain circumstances, the Historic Preservation Officer may decide to limit access to all or parts of the curated collection because it includes particularly sensitive information, confidential data, fragile items, items that should only be viewed or used during certain seasons of the year or by persons of a particular age or sex, and so forth. Such decisions shall be documented.



THE NAVAJO NATION
HISTORIC PRESERVATION DEPARTMENT
Cultural Resource Compliance Section

PO Box 4950, Window Rock, Arizona 86515
TEL: (928) 871-7198 / 7134 **FAX:** (928) 871-7886 **WEBSITE:** hpd.navajo-nsn.gov

To All Permittees and/or Contractors:

The Navajo Nation Historic Preservation Department, Cultural Resource Compliance Section is the caretaker of a unique collection of data for the Navajo Nation and the Navajo People. Due to the disappearance of cultural resource reports, archival maps, and in order to preserve this unique data, HPD is implementing the following copy policy:

1. There will be no Xerox copying of the USGS Quadrangle maps by archaeological contractors or researchers. **NO EXCEPTIONS.** Copying includes, scanning or any other electronic data collection or the use of personal copying machines.
2. Copying of the cultural resource reports will be limited to the following.
 - A. Small Reports (i.e. AIRS form reports)
 - a. The AIRs form
 - b. Site forms
 - c. Site maps
 - d. Compliance document
 - B. All other reports (narratives)
 - a. Title page
 - b. Site forms
 - c. Site maps
 - d. Compliance document

Failure to conform to these conditions may result in suspension or revocation of this privilege and may affect the permittee's ability to obtain annual and project specific-permits from the Historic Preservation Department.

If you have any concerns or questions, please do not hesitate to contact our office.

Sincerely,
HPD/CRES