

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Nevada State Office
P.O. Box 12000
Reno, Nevada 89520-0006

In Reply Refer To:
8120 (NV-930) P

EMS TRANSMISSION 6/14/02
Instruction Memorandum NV-2002-068
Expires 9/30/2003

To: Field Managers, Nevada

From: State Director, Nevada

Subject: Section 106 Delegation Authorizing Native American Monitoring

The Bureau of Land Management (BLM) Manual 8120, Protecting Cultural Resources, contains the following:

.07 Roles in the Section 106 Review Process. Although roles and responsibilities in 36 CFR Part 800 change somewhat under the national Programmatic Agreement, the primary participants in Section 106 compliance continue to be the responsible Field Office Manager (the "Agency Official"), the SHPO, and the Council. The SHPO's and Council's roles are adequately defined in 36 CFR Part 800. The Field Office Manager's role relative to prospective land users and their cultural resource consultants is further defined below.

A. Compliance with Section 106 is a Federal agency responsibility that cannot be delegated or transferred to a non-Federal party.

B. In the terminology of 36 CFR Part 800, the Field Office Manager who is authorized to make a land use decision that could affect properties included in or eligible for the National Register is the "Agency Official" responsible for initiating and carrying out the Section 106 review and consultation.

C. The responsible Field Office Manager may invite land use applicants and their cultural resource consultants to participate in the Section 106 review process, as appropriate.

1. Land use applicants and their cultural resource consultants may not take BLM's place or represent BLM in consultations with the SHPO or Council without the responsible Field Office Manager's explicit and specific authorization.

2. A cultural resource consultant's ideas about how project inventory should be done, or opinions about eligibility or effect, or suggested treatment of adverse effects must not be discussed with the SHPO or Council as if they were BLM's proposals, unless the responsible Field Office Manager has concurred and has authorized the consultant to speak on BLM's behalf.

3. A cultural resource consultant's documents prepared for BLM to use for Section 106 compliance (e.g., survey reports including recommendations) must not be distributed directly to the SHPO or Council without BLM review and evidence of the responsible manager's approval. A consultant's documents should be used as support for BLM's conclusions, not as BLM's conclusions.
4. The responsible Field Office Manager should sign a cover letter to the SHPO and/or Council, abstracting the pertinent points in a consultant's document and relating them to the specific steps of the Section 106 process, whether under 36 CFR Part 800 or under the State's BLM-SHPO Protocol.
5. State Directors should advise the SHPO and Council not to treat consultants' products as Section 106 documents unless they are accompanied by a BLM cover letter requesting Section 106 review.

If you have any questions, please contact Pat Barker at 861-6482.

Signed By:
Robert V. Abbey
State Director, Nevada

Authenticated By:
Debbie Spitale
Staff Assistant