0040

United States Department of Agriculture

Forest Service

Manti-La Sal National Forest

Supervisor's Office
599 West Price River Drive
Price, UT 84501
Phone # (435) 637-2817
Fax # (435) 637-4940

File Code: 2820/2360

Date: May 17, 2000

Mr. Kerry Frame
Canyon Fuel Company
6955 Union Park Center, Suite 540
Midvale, UT 84047

Reading
ACT/041/002

RE: Memorandum of Agreement between the Manti-La Sal National Forest, Canyon Fuel Company L.L.C., Utah Division of Oil, Gas and Mining, and the Utah State Historic Preservation Office regarding protection of cultural resources in the SUFCO Mine area, Emery and Sevier Counties, Utah.

Dear Mr. Frame:

At the request of Mr. Wes Sorenson of Canyon Fuels Company L.L.C., we are forwarding five (5) copies of the final agreement between the Manti-La Sal National Forest, Canyon Fuel Company L.L.C., the Utah Division of Oil, Gas and Mining (DOGM), and the Utah State Historic Preservation Office (SHPO) stipulating measures for monitoring of subisidence effects and potential treatment of adverse effects to cultural resource sites located in Canyon Fuel Company's SUFCO Mine area. This agreement provides terms for cultural resource protection previously agreed to by all of the signatory parties. We do note that we have added one clause (Item #26) dealing with Freedom of Information Act requirements for the Forest Service. We believe this is a minor modification and there will be no objection to this minor modification. Please review this clause and contact us if you do have any concerns or questions about the clause.

At the request of Mr. Sorenson, we have identified Mr. Richard D. Pick as the signatory for Canyon Fuels Company L.L.C. Please sign all five copies and forward all five copies to:

Mr. Paul Baker
Utah Division of Oil, Gas and Mining
1594 West North Temple
Salt Lake City, UT 84114

Mr. Baker will coordinate signature for DOGM and forward the copies to SHPO. Once all parties have signed the agreement, the agreement will be returned to our office for distribution to all parties. We will return an original signed copy to each of the signatory parties. Please feel free to contact Forest archaeologist Stan McDonald or myself at (435) 637-2817 if you have any questions. Finally, we wish to extend our appreciation to Canyon Fuels Company L.L.C. and

the assistance of Mr. Mike Davis and Mr. Sorenson in the development and implementation of this agreement to protect important archaeological and historic resources in the SUFCO Mine area.

Sincerely,

for CROCKETT DUMAS

Acting Forest Supervisor

Enclosures

cc: Mr. Paul Baker, DOGM

Mr. James Dykman, SHPO

C. Reed, Minerals-SO

S. McDonald, Heritage-SO

J. DeFreeest, Minerals-Price/Ferron RD

T. Moynier, Grants and Agreements-SO

MEMORANDUM OF AGREEMENT
BETWEEN
THE USDA- MANTI-LASAL NATIONAL FOREST,
THE UTAH STATE HISTORIC PRESERVATION OFFICER,
CANYON FUEL COMPANY, L.L.C.,
AND
UTAH DIVISION OF OIL, GAS AND MINING
REGARDING THE SUFCO MINE

Agreement No. 00-MU-11041000-017

WHEREAS, the United States Department of Agriculture-Forest Service, Manti-La Sal National Forest (USDA-FS) as the Federal Agency, charged with administering the surface resources on National Forest System lands for Federal coal leases U-76195 and U-63214 as authorized by the Mineral Leasing Act of 1920, as amended by the Coal Leasing Amendments of 1975 and the Office of Surface Mining (OSM) and the Utah Division of Oil, Gas and Mining (UDOGM) are responsible for administration of the SUFCO mine plan under the Surface Mining Control an Reclamation Act of 1977 and the Utah Coal Rules; and

WHEREAS, it is the statutory responsibility of the USDA-FS to ensure consideration of cultural resources as authorized in 36 CFR 800.2(a) and to ensure that the work conducted under this agreement meets professional standards as required by 36 CFR Part 800.2(a)(1); and

WHEREAS, the USDA-FS has determined that its consent to the SUFCO mine plan permit Incidental Boundary Change (Federal coal lease U-63214) and modification (U-76195) (hereinafter referred to as the Project) may have an effect on properties included in or eligible for inclusion in the National Register of Historic Places (NRHP) and has consulted with the Utah State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800.6(b) of the Advisory Council on Historic Preservation (the Council) regulations implementing Section of 106 of the National Historic Preservation Act, as amended, [16 U.S.C. Section 470 (f)] and Section 110(f) of the same Act [16 U.S.C. 470 h-2 (f)]; and

WHEREAS, this Agreement covers permitting and administration of the SUFCO Mine (including underground mining activities such as construction of mine entries, gateroads, mechanical mining of longwall panels and ventilation breakout facilities) and mining-induced subsidence of the ground surface on National Forest System lands; and

WHEREAS, unless otherwise defined differently in this Agreement all terms are used in accordance with 36 CFR Part 800.16; and

WHEREAS, the Canyon Fuel Company, LLC (the Permittee) has been invited to participate in consultation and to concur in this Memorandum of Agreement;

WHEREAS, the USDA-FS has consulted with the appropriate Native American Tribes about the project; and

WHEREAS, the Uintah-Ouray Tribe has expressed an interest in historic properties within the project area and has been invited to comment and participate in this agreement;

NOW THEREFORE, the Permittee agrees that the underground mining operations of the Project shall be administered in accordance with the following stipulations to ensure that historic and prehistoric properties will be treated to avoid or mitigate effects to the extent practicable to satisfy the Forest Service, the Council, UDOGM, OSM and the SHPO and that the proposed project (undertaking) shall be administered in accordance with the following stipulations to satisfy Section 106 responsibilities for all aspects of the undertaking.

STIPULATIONS

In accordance with existing Forest Service guidelines for cultural resources (prehistoric and historic) and the Secretary of the Interior's Standards and Guidelines (48 FR 44716-44742) (the Secretary's Standards), the Forest Service will ensure that the following measures will be carried out:

1. The Forest Service will be the lead agency and will the contact for tribes, UDOGM, OSM, the SHPO, and other interested parties for the project. The Permittee's cultural resource consultant may be called upon to facilitate coordination with the SHPO, company and other agencies or to distribute information and/or reports to reviewers.

2. The Council and the SHPO may monitor activities carried out pursuant to this Agreement, and the Council will review such activities if so requested. The Forest Service will cooperate with the Council and the SHPO in carrying out their monitoring and review responsibilities.

3. The USDA-FS will assure that all evaluation and monitoring of subsidence effects on historic properties and treatments will follow the general process outlined in the Cultural Resource Plan of Work prepared by the Permittee's cultural resource consultant which will meet the specifications as outlined.

4. Monitoring Plan. The USDA-FS will ensure that the Permittee's cultural resource consultant submits a Monitoring Plan to monitor sites described in Appendix B. The Monitoring Plan will describe in detail, the methods, procedures, and criteria (following guidelines in Attachment A) and monitoring frequency (following guidelines in Attachment B) to be employed in evaluating subsidence related effects to each of the sites. This will include, but not necessarily be limited to photography, mapping, field measurements, written descriptions and subsidence data (to be provided by Canyon Fuel Company, L.L.C) The plan will provide the data and information required for the Annual and Final Monitoring Reports as described in Attachments A and B.

5. The USDA-FS will ensure that all work undertaken to satisfy the terms of this Agreement meets the National Historic Preservation Act of 1966 as amended and implemented through 36 CFR 800 as amended 1999, the Secretary's Standards and is consistent with the Council's *Treatment of Archaeological Properties Handbook*, November 1980. The USDA-FS will also ensure that the work is carried out by or under the direct supervision of a person or persons meeting, at a minimum, the applicable professional qualifications standards set forth in the Secretary's Standards.

6. Monitoring Reports. One (1) final cultural resource report, an archaeological monitoring and evaluation of subsidence effects on cultural resources in the Project will be submitted to the Forest Service for initial review. In addition, annual reports of monitoring will also be submitted to the Forest Service for review; this may be included in the Permittee's Annual Subsidence Monitoring. However, any draft recommended determinations of effect, or re-evaluations of National Register eligibility will be submitted to the USDA-FS for review. The USDA-FS will first review these draft reports within 30 calendar days of receipt and request revisions and corrections as necessary. The revised draft report will be subject to USDA-FS review prior to the report being submitted to the SHPO and other agencies for comment. The Forest Service may request the permittee's contractor to submit the revised report to all parties. The SHPO review time will be 30 calendar days from their dated receipt of the document.

7. Assessing Effects. If, after review of the effects findings in the archaeological monitoring reports and/or other relevant data, the USDA-FS determines that underground mining activities has not affected historic properties, and/or if the USDA-FS determines that the effects are not adverse as defined in 36 CFR 800.5(a)(1 and 2), the USDA-FS will forward this determination to the SHPO for review. If, however, after review of these data, the USDA-FS determines and the SHPO concurs that the effects are adverse, the USDA-FS will continue to consult with the SHPO and other consulting parties and tribes to develop and evaluate alternatives, including data recovery measures to mitigate these adverse effects.

8. Treatment Plan. If the USDA-FS and SHPO agree that the underground mining has caused adverse effects, the USDA-FS shall ensure that the Permittee's Cultural Resource Consultant prepares a comprehensive Treatment Plan that will address the effects of the proposed undertaking on all historic properties determined to have been adversely affected. The Permittee will be financially responsible for development of the Treatment Plan and costs associated with data recovery, analysis and reporting to implement the Treatment Plan. The Treatment Plan shall identify the nature of the effects to which each property has been subjected and the treatment strategies proposed to minimize or mitigate the effects of the undertaking. The Treatment Plan shall meet the standards contained in Attachment A, "Standards for the Treatment Plan." The USDA-FS shall submit the Treatment Plan to the SHPO, other parties to this Agreement, and to identified interested parties (pursuant to the 1992 amendments to the Act) for review. The SHPO, and other parties will have 30 calendar days from receipt to comment on the Treatment Plan. If the SHPO, or other parties fail to submit their written comments within 30 calendar days of receipt, the USDA-FS shall implement the Treatment Plan. If the SHPO, or other parties object in writing to the Treatment Plan or any part thereof, within the review period, the USDA-FS will consult with the objecting party to resolve the objection.

If it is determined that more than one site has been adversely affected by underground mining activities and more than one site will require data recovery measures to mitigate adverse effects, a single, comprehensive research design and Treatment Plan is envisioned for this project through coordination by the Permittee's cultural resource consultant. The research design should reflect the site-specific character of the each site (age, cultural affiliation, site function) and the proposed treatment plan should take into account site-specific effects from underground mining. Though general research questions to be addressed through data recovery will be similar for sites in the area, the research design and treatment plan(s) should reflect the unique character and information potential of each affected historic property. Individual treatment plans may be submitted to the USDA-FS and SHPO for review and consideration. However, these site specific treatments, if required by circumstances, will be incorporated into the comprehensive Treatment Plan to follow. Review times for these specific treatments will be the same as the comprehensive Treatment Plan, above, although the USDA-FS may request expedited review.

9. The Permittee shall be responsible for protecting the cultural property during data recovery operations should data recovery actions be implemented. The Permittee shall also set forth written assurances that funding for fieldwork, analyses, and publication of results shall be made available for sites where data recovery and monitoring is enacted.

10. Curation of Specimens and records. The USDA-FS shall ensure that all records and materials resulting from identification and data recovery efforts are maintained and curated in accordance with 36 CFR 79. All costs of curation will be borne by the Permittee. With the exception of materials that may be repatriated in accordance with the provisions of the Native American Graves Protection Act of 1990 (NAGPRA), collections to be curated will be housed at the College of Eastern Utah Prehistoric Museum. The Permittee's cultural resource consultant will be required to acquire a valid curation agreement with the Museum prior to commencing data recovery operations.

11. Discovery Situations. The Permittee or cultural resource consultant employed by the Permittee shall bring to the attention of the Manti-La Sal National Forest Supervisor's Office any and all antiquities, or other objects of historic, paleontological, or scientific interest including, but not limited to, historic or prehistoric ruins or artifacts discovered as a result of this undertaking.

The Permittee's cultural resource consultant shall document the site on appropriate Intermountain Antiquities System Site (IMACS) records, photographs and detailed site maps showing site features, diagnostic artifacts, tools and natural features to facilitate relocating the site. Maps will show these features to within 90% accuracy. A permanent rebar datum (½" diameter, 3' length is the desired standard) will be established on the site and indicated on the site map to permit easy relocation of the discovery/feature. This datum point will be left in place.

The Permittee's cultural resource specialist will evaluate the site for its National Register eligibility and assess potential effects from underground mining. These findings shall be submitted to the USDA-FS. The USDA-FS will review these findings and forward its determination of eligibility and effect to the SHPO for review and comment. If the site is evaluated as significant and will be adversely affected by underground mining, a treatment plan will be developed in consultation with the USDA-FS and previously identified interested parties and tribes and the SHPO.

12. Human Remains. If human remains are discovered during monitoring, treatment or any other activities associated with the project, they will be secured and protected until such time as appropriate disposition has been determined, in accordance with applicable Federal statutes. Archaeological excavation in the immediate vicinity of the discovery will cease, but may continue on the remainder of the site.

The Manti-La Sal Forest archaeologist will be notified immediately by phone or in person, followed by written notification, of any discoveries of human remains, funerary objects, sacred objects, or objects of cultural patrimony. These items are subject to the requirements of Native American Graves Protection and Repatriation Act of 1990 (NAGPRA). General policy and direction for treatment of human remains will be addressed further in all Treatment Plans (and/or Data Recovery Plans) prepared for the project. In the absence of a specific plan, developed in consultation with a Tribe or Tribes, the USDA-FS will meet the requirements of NAGPRA for all discoveries of NAGPRA items including human remains, associated and unassociated funerary objects, sacred objects, and objects of cultural patrimony on a case by case basis in accordance with the implementing regulations set forth at 43CFR10.

13. Stipulations 10, 11, and 12 dealing with discoveries of historic properties, discovery and/or treatment of human remains and curation of specimens will be referenced in The Mine Plan of Operations and any approved Treatment Plans.

14. Should any party to this Agreement object, in writing, within 30 days to any actions pursuant to this Agreement, the USDA-FS shall consult with the objecting party to resolve the objection. If the USDA-FS determines that the objections cannot be resolved, the USDA-FS shall forward all documentation relevant to the dispute to the Council pursuant to (36CFR800.6(c)(ii)). Within 30 days after receipt of all pertinent documentation, the Council will either:

a. Provide the USDA-FS with recommendations, which the USDA-FS will take into account in reaching a final decision regarding the dispute; or

b. Notify the USDA-FS that it will comment pursuant to 36 CFR Part 800.7(c) and proceed to comment. Any Council comment provided in response to such a request will be taken into account by the USDA-FS with reference to the subject of dispute.

Any recommendation or comment provided by the Council will be understood to pertain only to the subject of the dispute; the USDA-FS responsibility to carry out all actions under this Agreement that are not the subject of the dispute will remain unchanged.

15.If it is determined that a historic property is being adversely affected or is likely to be adversely affected by subsidence, the Forest Service should consult with the other parties (as provided in Stipulation 7) and resolve any disputes among the parties following procedures in Stipulation 13.

16.Any party to this Agreement may request that it be amended, whereupon the parties will consult in accordance with 36 CFR Part 800.6(c)(7) to consider such amendment.

17.In the event that the ownership of the Permittee(s) changes, such change will be reflected by adding the new owner/mine operator's name signatory page without modification to this Agreement and without concurrence by other signatories to this Agreement.

18. Any one of the parties to this Agreement may terminate it by providing 30 calendar days notice, in writing, to the other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of a termination, the USDA-FS will comply with 36 CFR Part 800.3 through 800.6 with regard to individual actions covered by this Agreement.

19. In the event the Forest Service does not carry out the terms of this Agreement, the USDA-FS will comply with 36 CFR 800.3 through 800.6 with regard to individual actions covered by this Agreement.

20. This instrument in no way restricts the Forest Service or the Cooperators from participating in similar activities with other public or private agencies, organizations, and individuals.

21. Pursuant to Section 22, Title 41, United States Code, no member of, or Delegate to, Congress shall be admitted to any share or part of this instrument, or any benefits that may arise therefrom.

22. This instrument is executed as of the date of last signature and, unless sooner terminated, is effective through April 30, 2005 at which time it will expire unless renewed.

23. The principal contacts for this instrument are:

Paul Baker
Utah Division of Oil, Gas and Mining
1594 West North Temple
Salt Lake City, UT 84114
(801) 538-5261

Mike Davis
Canyon Fuel Company, L.L.C.
397 South 800 West
Salina, UT 84654
(435) 286-4421

Stan McDonald
Manti-La Sal National Forest
599 West Price River Drive
Price, UT 84501
(435) 637-2817

James Dykman
Utah State Historic Preservation Office
300 Rio Grande
Salt Lake City, UT 84101-1182
(801) 533-3555

23. Principal Contacts (continued):

Carol Gleichman
Advisory Council on Historic Preservation
12136 West Bayaud Avenue
Suite 330
Lakewood, CO 80228
(303) 969-5110

24. This instrument is neither a fiscal nor a funds obligation document. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds between the parties to this instrument will be handled in accordance with applicable laws, regulations, and procedures including those for Government procurement and printing. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This instrument does not provide such authority. Specifically, this instrument does not establish authority for noncompetitive award to the cooperator of any contract or other agreement. Any contract or agreement for training or other services must fully comply with all applicable requirements for competition.

25. Modifications within the scope of this instrument shall be made by the issuance of an executed modification agreed to by all signatories prior to any changes being performed.

26. Any information furnished to the Forest Service under this instrument is subject to the Freedom of Information Act (5 U.S.C. 552).

Execution and implementation of this Agreement evidences that the USDA-FS has satisfied its Section 106 responsibilities as implemented by 36CFR800 (as amended 1999), for all individual activities on the undertaking and that UDOGM has met their responsibilities to consult with the Utah State Historic Preservation Office regarding the protection of historic properties.

SIGNATORIES

for Joseph G. Gallagher 19 May 2000

FOREST SERVICE, MANTI-LASAL NATIONAL FOREST
By: Crockett Dumas Date:
Title: Acting Forest Supervisor

UTAH DIVISION OF OIL, GAS AND MINING
By: Lowell P. Braxton Date:
Title: Director

UTAH STATE HISTORIC PRESERVATION OFFICER
By: Wilson Martin Date:
Title: Deputy SHPO

CONCURRENCE:

CANYON FUEL COMPANY, L.L.C.
By: Richard D. Pick Date:
Title: President and CEO

THE AUTHORITY AND FORMAT OF THIS INSTRUMENT HAS BEEN REVIEWED AND APPROVED FOR SIGNATURE
Lisa M. Mayne 5/17/00
AGREEMENTS COORDINATOR DATE

ATTACHMENT A
STANDARDS AND GUIDELINES FOR MONITORING,
MONITORING REPORTS, TREATMENT AND PERMITS

I. Standards for Monitoring and Monitoring Reports:

Standards for Monitoring

The Permittee's' consultant shall submit a plan to monitor sites at the required monitoring frequencies for sites outlined in Attachment B. Monitoring will be implemented at the agreed upon intervals (see Attachment B) and continue through the conclusion of the liability period for the mine plan and/or subsidence is determined by the USDA-FS to be complete. The monitoring plan shall be developed in accordance with the procedures outlined in Item #4 of this agreement, stipulations listed below and the Standard for Monitoring Reports.

Standards for Annual Monitoring Reports.

A. Annual Monitoring Report: The Annual Monitoring Report is to be a brief report displaying:

1)Brief Description of the Project and Rationale for Monitoring.
2)Brief Description of Sites Monitored.
3)Monitoring Methods.
4)Monitoring frequency.
5)Monitoring observations for each site displaying monitoring criteria and results, photographs of each site.
6) Monitoring records will be attached as an Appendix.
7)Summary of Monitoring results including observed effects or unchanged situations.
8)Conclusions and recommendations, changes to the monitoring plan or for remedial actions.

B. Standards for Final Monitoring Report

At the conclusion of all monitoring (estimated to occur approximately three years subsequent to the completion of all subsidence at all sites, see Attachment B for further discussion on monitoring schedules) the Permittee's consultant shall submit a Final Cultural Resource Monitoring Report. The Cultural Resource Monitoring Report should include the following information:

1) Introduction

a. Description of the Project Area

b. Description of the proposed undertaking, background information on previous environmental analysis, Section 106-NHPA compliance required for the coal leasing project and administration of the Mine Plan, a brief discussion of anticipated effects to cultural resources from underground mining, and the rationale for implementation of the monitoring program.

c. Locational information on 7.5 minute USGS Topographical Quadrangle including name, Section and Township/Range, land status (BLM, Forest Service, etc.), and county.

d. USGS map (1:24000 scale) showing location and boundaries of project area. Map should be clearly labeled and of reproducible quality.

e. Discussion of all sites monitored including site description, location, size, age, function, identified features and artifacts, and middens. A USGS map (1:24000 scale) showing the location of all monitored sites shall be included displaying Forest and Smithsonian Site numbers. Photographs of all monitored sites should be included in this section.

f. Discussion of anticipated site-specific impacts (for each monitored site) posed by underground mining including predicted subsidence effects as displayed in the Pines Environmental Impact Statement, the Mining and Reclamation Plan, pertinent technical reports and other relevant data sources.

2) Environment

a. Brief description of the environmental setting including topography, vegetation, elevation, water sources, ground visibility, and human alteration or disturbance, as appropriate.

3) Methodology

a. Monitoring Information (general overview, purpose and scope of monitoring).
b. Names and designations of field personnel.
c. Dates of fieldwork.
d. Monitoring techniques; types of monitoring employed including measurement of subsidence, standardized photography, field mapping, frequency of field monitoring and measurable criteria for assessing effects to the monitored sites. This will also include discussion of methodology and criteria employed during field monitoring to assess changes to the character of sites caused by impacts other than underground mining.
e. The means relied upon for identifying the location of any monitoring reference points (e.g. photo reference points, elevational mapping points to measure vertical/horizontal displacement of ground surfaces).
f. Photographs of fieldwork and monitoring techniques should be included in this section along with any graphic illustrations that will aid in explaining monitoring techniques to readers.
g. Background data on monitoring techniques elsewhere which are applicable to the employed monitoring plan.

4) Monitoring Results

a. A brief summary of the total number of sites monitored, the period and frequency of monitoring, and an overall assessment of the amount of subsidence that has occurred at each site and the observed impacts.

b. Site-by-site descriptions of the monitoring results including the types of impacts observed, severity or degree and impacts and a discussion of observed impacts versus predicted impacts.

c. Site-by-site evaluations of impacts to the qualities of sites that make them eligible for listing in the National Register of Historic Places.

5) Conclusions

a. A brief summary of overall impacts to the monitored sites in the Project.

b. Discussion and assessment of the effectiveness of monitoring techniques and recommendations for any changes to those techniques.

c. Conclusions regarding direct, indirect and cumulative impacts to sites observed during monitoring including a summary of effects to the qualities of sites that make them eligible to the National Register.

d. Recommendations for management including data recovery, further monitoring or other work necessary to mitigate any adverse impacts caused by underground mining activities.

6) Appendices

a. Monitoring records. Copies of monitoring records and data recording sheets, photographs and maps.
b. Updated site records to document changes to site character observed during monitoring.

C. The time frames for submitting reports are as follows:

1. Annual Report:

Draft Annual report of monitoring results: January 15
Forest Service review comments (and addressing comments of UDOGM): February 15
Revision and Final Annual Report: March 15

2. Final Monitoring Report

Draft of Final Monitoring Report: 6 months following the conclusion of the permit.
Forest Service Review comments: 30 days after receipt of the draft final report.
Revision and submission of final report: 30 days after USDA-FS comments.

D. Number of report copies and submission. Two copies of the annual reports and final report will be submitted to the USDA-Forest Service. Distribution will be coordinated through the USDA-Forest Service and the Permittee's Cultural Resource Consultant. Except as noted below, each party to this agreement will be provided with copies of the draft and final annual report and drafts and final copies of the final comprehensive report. Draft report copies will be submitted to the parties in this agreement by Canyon Fuel Company. Draft copies of reports will not be submitted to SHPO. Final copies will be submitted to SHPO and such submission will be coordinated through the USDA-Forest Service and the Permittee's Cultural Resource Consultant. The report shall meet the Secretary of Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44728-44738), (Secretary's Standards), and following the aforementioned outline for the Monitoring Reports. The Permittee's consultant will also provide the USDA-Forest Service with one unbound, camera ready, single spaced text with original archivally processed photographic plates of this report.

II. Guidelines for Treatment

A. General

1) The Treatment Plan will conform to the Secretary's Standards. Treatment recommendations should be commensurate with the nature and significance of the involved cultural resources. Recommendations should consider a range of alternative treatments including protection measures and data recovery.

B. Standards for the Treatment Plan.

1) The Data Recovery Plan shall conform to the Secretary's Standards and should provide the context and justification for, and a detailed description of, the proposed data recovery work.

2) Protection Measures

a. Recommendations for physical or administrative protection measures must consider the nature and source of deterioration of the properties.

b. If long term physical or administrative protection measures are recommended, proposals must include justification and undertaking specifications.

3) The Treatment Plan shall include at a minimum:

a. The properties or portions of properties where data recovery is to be carried out;

b. Any property, properties, or portions of properties that will be destroyed, altered, or transferred without data recovery;

c. The research questions to be addressed through the data recovery, with an explanation of their relevance and importance;

d. The methods to be used, with an explanation of their relevance to the research questions;

e. The methods to be used in analysis, data management, and dissemination of data;

f. The proposed disposition of recovered materials and records including the disposition of Native American sacred items, human remains, and grave goods;

g. Proposed methods for involving the interested public in data recovery;

h. Proposed methods for disseminating results of the work to the interested public;

i. Proposed methods by which relevant Native American Tribes and local governments will be kept informed of the work and afforded an opportunity to participate;

j. A proposed schedule for the submission of progress reports to the USDA-Forest Service and cooperating agencies.

k. Proposed methods for site rehabilitation/stabilization following excavation activities, and tied to the Permittee's Plan of Development.

l. Address security measure(s) for site protection during excavation.

m. Address how cultural artifacts and samples (carbon 14, pollen, etc.) collected will be secured and protected from the time of removal through excavation or sampling to the final curation facility.

C. Draft Report

1) Preliminary Summary Report of the data recovery will be issued within 60 (sixty) days from completion of the project data recovery.

2) The Permittee will submit a data recovery draft report to the USDA-Forest Service following completion of all planned treatment within 18 months after completion of project construction. This report will meet the Secretary's Standards.

3) Distribution of the data recovery draft report for review and comment will be coordinated through the USDA-Forest Service and the Permittee's Cultural Resource Consultant. The data recovery draft report will be reviewed by the Forest Service. Copies will also be distributed to each SHPO and agency, with comments made back to the Permittee's Cultural Resource Consultant within 30 calendar days. The Forest Service will then review the corrected draft for completeness and for appropriate incorporation of review comments prior to acceptance of the revised draft. The Forest Service will submit the revised data recovery draft report to all the signatories to the Agreement for their review. There will be a 30 calendar day period for review of the revised draft .

D. Final Report

1) The Permittee's Cultural Resource Consultant shall submit a data recovery final report based on the review and comments to the Forest Service. The Forest Service will follow the same process and time frames established in Stipulation 5 of this document in review and preparation of the final report.

2) Distribution of copies of the data recovery final report will be coordinated through the Forest Service and the Permittee's Cultural Resource Consultant. The number of copies to be produced will be determined by Forest Service in coordination with the Cultural Resource Consultant. At a minimum, copies of the report will be made available to the Council, the SHPO, the Forest Service, the Permittee, reviewing agencies, and all interested parties.

3) The Permittee's Cultural Resource Consultant will provide the Forest Service with one unbound, camera ready, single spaced text with archivally processed photographic plates of the final data recovery report.

III. Standards for Permits

A. General Standards

1) Each cultural resource contractor performing work on National Forest System lands must have cultural resources permits issued by the appropriate authority. These include, but may not be limited to, inventory and excavation permits issued by the Forest Service, state and local permits as required.

ATTACHMENT B:
LIST OF SITES TO BE MONITORED

State/Forest Site Numbers	Site Name	Site Type	Anticipated Impacts	Monitoring Frequency *
42SV2492/ML-3582		Prehistoric Rockshelter	Low Risk for roof failure	Monitoring Schedule B
42SV2423/ML-3439	Refugia Shelter	Prehistoric Rockshelter	None. Mine area below will be fully supported	Monitoring Schedule A
42SV2425/ML-3441		Prehistoric Lithic Scatter	Potential surface cracking	Monitoring Schedule A
42SV2430/ML-3446	Elusive Peacock Shelter	Prehistoric Rockshelter	None. Mine area below will not be mined.	Monitoring Schedule A
42SV2432/ML-3448		Prehistoric Rockshelter	Will be fully supported/low risk of structural failure	Monitoring Schedule A
42SV2433/ML-3449	Big Mac Shelter	Prehistoric Rockshelter	Moderate risk of roof failure	Monitoring Schedule B
42SV2434/ML-3450	Little Mac Shelter	Prehistoric Rockshelter	Moderate risk of roof failure	Monitoring Schedule B
42SV896	Crazy Bird Shelter	Prehistoric Rockshelter	Data recovery implemented under previous 106 consultation; only minor spalling outside of shelter has occurred.	Monitoring Schedule C
42SV2386		Prehistoric Lithic/Ceramic Scatter	Potential surface cracking	Monitoring Schedule C
42SV2387		Prehistoric Lithic Scatter/Rock Art	Some potential for surface cracking	Testing, Monitoring Schedule C
42SV2388		Prehistoric Lithic and Groundstone Artifact Scatter	Limited potential for surface cracking	Monitoring Schedule C
42SV2389		Prehistoric Rockshelter	Potential for failure of portion of shelter roof	Testing, Monitoring Schedule C
42SV2341/ML-3335		Prehistoric Rockshelter	Within area of active mining/potential for roof failure	Monitoring Schedule B

FOOTNOTES:

Monitor Schedule A: Sites listed in this schedule are located in areas that will be mined using full-support methods (e.g. gateroad entry area where pillars are left in place) or are close to areas to be mined. Monitoring schedule for these sites is as follows: (a) 6 months prior to the mining, the site will be monitored once to provide baseline conditions; (b) After the onset of mining, the site will be monitored once within the following six months (1 to 6 months after the initiation of active subsidence) and once in the following six months (6-12 months after the

initiation of active subsidence); and (c) thereafter, the site will be monitored once per year for two (2) more years at the rate of once per year (when the effects of subsidence are estimated to be complete). If subsidence monitoring data indicates further movement of the ground surface, monitoring will continue at the rate of once per year until such time that subsidence monitoring data indicates no further movement of the ground surface.**

Monitoring Schedule B: Sites listed in this schedule are located in areas which will be mined under and subsided. The monitoring schedule for these sites is as follows: (a) 6 months prior to the period of mining (initiated when the site is located within the angle of draw), the site will be monitored once to provide baseline conditions; (b) after the onset of active subsidence, the site will be monitored once per month within the following six months (1 to 6 months after the initiation of active subsidence) and quarterly (once per 3 months) in the following six months (6-12 months after the initiation of active subsidence); (c) thereafter, the site will be monitored once per year for two (2) more years at the rate of once per year (when the effects of subsidence are estimated to be complete). If subsidence monitoring data indicates further movement of the ground surface, monitoring will continue at the rate of once per year until such time that subsidence monitoring data indicates no further movement of the ground surface.**

Monitoring Schedule C: Sites listed in this schedule are located in areas currently being undermined and are under approved mine plans. Sites in this schedule will be monitored once per year for at least two (2) years until such time that subsidence monitoring data indicates no further movement of the ground surface and that subsidence is complete.**

Note: Some sites may be located in areas that will be (1) mined first using full support methods and (2) later subjected to subsidence from adjacent mining by full-extraction methods (long-wall panels). Thus, both Monitoring Schedules A and B may apply.

*Final assignment of sites to either Monitor Schedule A or Monitor Schedule B or both is contingent upon approval of the final mine plan.

**Final Monitoring Report Schedule will commence at the end of the final two year period of monitoring.