

APPENDIX Q. PROGRAMMATIC AGREEMENT

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AUG 17 2011

**TRUST LANDS
ADMINISTRATION**

**PROGRAMMATIC AGREEMENT
BETWEEN**

**THE U.S.D.I. BUREAU OF LAND MANAGEMENT, UTAH,
THE UTAH STATE HISTORIC PRESERVATION OFFICER,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
THE STATE OF UTAH**

**SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION,
AND GASCO ENERGY, INC.**

**REGARDING THE UINTA BASIN NATURAL GAS DEVELOPMENT PROJECT
DEVELOPMENT PLAN IN UINTAH AND DUCHESNE COUNTIES, UTAH**

2011 AUG 17 10:29

WHEREAS, Gasco Energy, Inc. (Gasco) proposes to develop natural gas resources on leased and currently unleased lands in the Gasco Uinta Basin Natural Gas Project Area (Project), which includes Federal, State, and private lands in Uintah and Duchesne Counties in eastern Utah; and

WHEREAS, the Bureau of Land Management (BLM) is a multiple use agency responsible for the leasing and development of fluid mineral resources as well as the protection of cultural resources as authorized by the Federal Lands Policy and Management Act of 1976 (FLPMA) (43 USC 1701); and

WHEREAS, the BLM Vernal Field Office Manager is the agency official pursuant to 36 CFR Part 800.2(a), and has determined that this project is an undertaking as defined under 36 CFR Part 800.16(y) that has the potential to affect historic properties, and is responsible for signing this Programmatic Agreement (Agreement); and

WHEREAS, the BLM in consultation with the Utah State Historic Preservation Officer (SHPO), Advisory Council on Historic Preservation (ACHP), and the Consulting Parties have developed an Areas of Potential Effect (APE) which includes 253,746 acres (see Attachment A-BLM Section 106 Consultation Initiation Letter (w/APE Map and Consulting Parties Attached)); and

WHEREAS, the BLM has decided to employ a phased approach as allowed under 36 CFR Part 800.4(b)(2) and because the BLM cannot fully determine effects to historic properties prior to approval of the undertaking it has chosen to develop a Programmatic Agreement (Agreement) pursuant to 36 CFR Part 800.14(b)(1)(ii) of the ACHP's regulations implementing Section 106 of the National Historic Preservation Act (NHPA), as amended, [16 U.S.C. Section 470(f)] as incorporated by reference herein; and

WHEREAS, the BLM consulted with the SHPO to ensure that historic properties are taken into consideration at all levels of Project planning and development for the Project that may affect historic properties pursuant to 36 CFR Part 800.2(c)(1); and is a Signatory to this Agreement; and

WHEREAS, the BLM notified the ACHP and the ACHP has elected to participate in the consultation process for this Agreement under 36 CFR Part 800.6(a)(1); and is a Signatory to this Agreement; and

WHEREAS, the BLM is responsible for government-to-government consultation with Federally recognized Indian Tribes for this undertaking and is the lead agency for all Native American consultation and coordination, and has formally invited the Indian tribes and Native American

organizations listed as interested parties to participate in consultation, and continue to be consulted regarding the potential effects of the Project on historic properties to which they ascribe traditional religious and cultural significance (see Attachment B-Tribal Consultation Summary); and

WHEREAS, the Ute Mountain Ute, Goshute, White Mesa Ute, Laguna Pueblo, Southern Ute, Ute Indian, Santa Clara Pueblo, Hopi, Zia Pueblo, Navajo Nation, Northwest Band of Shoshone, and Eastern Shoshone were invited to participate in consultation. The Ute Indian Tribe and Eastern Shoshone Tribe have participated in consultation and have been invited to be Concurring Parties to this Agreement; and

WHEREAS, the Project includes lands administered by the School and Institutional Trust Lands Administration (SITLA), an agency in the State of Utah that has a responsibility to comply with Utah Code Ann. § 9-8-404 on lands owned or controlled by the SITLA within the APE. The SITLA intends to employ this Agreement to address the applicable requirements for actions resulting from this Agreement involving SITLA and BLM land. The SITLA, however, does not waive its independent state statutory jurisdiction to make final decisions concerning its lands, and is not bound in its leasing or other approval authority by actions taken, or determinations made, concerning Federal lands, and has therefore been consulted and invited to be a Signatory to this Agreement; and

WHEREAS, Uintah and Duchesne Counties have participated in consultation and have been invited to be Concurring Parties to this Agreement; and

WHEREAS, Gasco has participated in consultation and has been invited to be an Invited Signatory to this Agreement; and

WHEREAS, the National Trust for Historic Preservation (NTHP), Nine Mile Canyon Coalition (NMCC), Colorado Plateau Archaeological Alliance (CPAA), and Southern Utah Wilderness Alliance (SUWA) have participated in consultation as Consulting Parties as per 36 CFR Part 800.3(f)(3) and have been invited to be Concurring Parties to this Agreement; and

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

NOW, THEREFORE, the Consulting Parties agree that the Project shall be administered in accordance with the following stipulations:

STIPULATIONS

The BLM will ensure that the following measures will be carried out.

1. Gasco will fund independent cultural resource consultants (independent consultants) to complete all cultural resources fieldwork, analysis, monitoring, data recovery, reporting, curation, and other mitigation required under this Agreement. Independent consultants will coordinate all work with the BLM or responsible agency. The land management agencies will make site eligibility and effects determinations and seek SHPO concurrence on those determinations. All reports, analyses, plans, or other products produced under this agreement, regardless of fund source, will be considered an agency work product, owned by the BLM or other land management agency.

2. Consultation. The BLM has identified Consulting Parties pursuant to 36 CFR Part 800.2 and will consult with them on fulfillment of stipulations associated with this Agreement.

The BLM will continue to consult with appropriate Indian Tribes regarding historic properties of religious and cultural significance in accordance with the NHPA, the Native American Graves Protection and Repatriation Act (NAGPRA), Archaeological Resources Protection Act of 1979 (ARPA), American Indian Religious Freedom Act of 1978 (AIRFA), Executive Order 13007 Sacred Sites, and their implementing regulations. The BLM will provide copies of any reports/studies developed pursuant to this Agreement to those tribes that have expressed a desire for information as it is gathered for the Project. Independent consultants will provide the BLM with adequate report copies to facilitate the BLM's tribal consultation.

3. Standards and Qualifications. The BLM will ensure that all work undertaken to satisfy the terms of this Agreement meets the "Secretary of the Interior's Standards and Guidelines for Archeological and Historic Preservation" (48 FR 44716-44742, September 23, 1983) (the Secretary's Standards) and takes into consideration the ACHP's "Section 106 Archaeology Guidance" (*available online at www.achp.gov/archguide; 01/01/2009*), and NPS "Guidelines for Evaluating and Documenting Traditional Cultural Properties," *National Register Bulletin 38*, 1989, as incorporated by reference herein. The BLM will also ensure that 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 of the Interior's Standards (36 CFR 61).

4. Inventory Procedures and Protocols. The BLM will ensure prior to any surface disturbance that all areas within a site specific APE will be inventoried for cultural resources. Prior to conducting the field inventory, the independent consultant will obtain a project number from the SHPO, conduct a file search for previous cultural resource inventories and previously-documented sites at either the Vernal Field Office, SHPO, or both, and submit the necessary fieldwork authorization forms. If an area within a site specific APE has been previously inventoried and the BLM or SITLA find the existing inventories adequate, no new survey will be required in the area (as outlined in Stipulation 10). If unevaluated cultural resources are found in a previously inventoried area, they will be evaluated by the independent consultant and eligibility and management recommendations will be provided to the land management agency for final determination.

Areas of Potential Effect and Survey Standards and Protocols

- A. Well Pads: At minimum, survey of a 10-acre block, centered on the staked drill location (center stake) will be required for pads containing a single drill hole. Depending on the amount of surface disturbance proposed at drill locations that contain multiple drill holes, a larger area (up to 40 acres) will be surveyed for each well pad. In most instances, surveying this size of an area would allow for identifying cultural resources in the vicinity of a particular location. In many instances, it will also be large enough to allow for avoidance of most sites while keeping the well in the same general location to meet geological needs.
- B. Other Facilities: A minimum 5-acre area will be surveyed for all other surface facilities. If the surface disturbance exceeds 3 acres, a minimum 10-acre block surrounding the center of the facility will be inventoried for cultural resources. If the surface disturbance

of a facility exceeds 5 acres, the inventory area will include the facility disturbance footprint plus a reasonable buffer of at least 100 feet.

- C. New Roads and Pipelines: A corridor width of 300 feet; 150 feet on either side of the ROW centerline will be inventoried for cultural resources. This corridor width allows for adjustment of the project Right of Way (ROW) to easily avoid most cultural resources.
- D. Existing Roads Requiring Upgrades: Existing roads that require modifications will be inventoried in a similar fashion to new roads and pipelines.
- E. Regular Maintenance, Reroutes, and Minor Upgrades: New surface disturbances related to maintenance, reroutes, and minor upgrades will be inventoried for cultural resources. In addition, 50 feet on either side of the road center will be surveyed for road maintenance requiring more than blading and small reroutes. Larger reroutes longer than 200 feet, or multiple small reroutes within any one-mile segment, will be surveyed to a width of 150 feet on either side of the reroute center. Minor upgrades, such as culverts and drainage control channels will be inventoried based on the extent of the disturbance. At a minimum, a buffer of 100 feet around the maximum area of disturbance will be inventoried for cultural resources.
- F. Inventory Procedures: Cultural resource inventories will follow the procedures established in the current BLM-Utah Handbook "Guidelines for Identifying Cultural Resources."
- G. All necessary efforts to avoid effects to eligible cultural resources will be made during the planning phases of a particular undertaking. These efforts include, but are not limited to, rerouting pipelines or road corridors and moving well locations or other facilities to avoid direct effects to important resources during the design phase. Indirect effects to Historic Properties, where setting is an important aspect of site eligibility, will be minimized or avoided by implementation of measures such as low profile well facilities, screening and facility color selection, mufflers or other noise reducing technologies or adaptations to limit noise.

5. Evaluation.

- A. All sites identified in a site specific APE will be evaluated for eligibility for inclusion on the NRHP. The NRHP criteria for evaluation and procedures for nominating cultural resources to the NRHP are outlined in 36 CFR 60.1 as follows:

The quality of significant in American history, architecture, archeology, engineering and culture is present in districts, sites, buildings, structures that possess integrity of location, design, setting, material, workmanship, feeling and association, and that they:

- i. ...are associated with events that have made a significant contribution to the broad patterns of our history; or
- ii. ...are associated with the lives of persons significant to our past; or
- iii. ...embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic value, or that

represent a significant and distinguishable entity whose components may lack individual distinction; or

iv. ...have yielded or may be likely to yield information important in prehistory or history.

In addition, 36 CFR 60.4 states those cultural resources that meet the above criteria but have achieved significance within the last 50 years shall not be considered eligible for nomination to the NRHP unless they are integral parts of districts that do meet the criteria, or if they meet additional exceptional criteria outlined therein.

Sites recorded within the project area that are within the boundary of "The Historic and Prehistoric Resources of Nine Mile Canyon," a multiple property listing on the National Register of Historic Places (NRHP), will be evaluated for significance following criteria outlined in the Registration Requirements on page F 94 of the nomination document.

- B. Visual, atmospheric and audible effects (36 CFR 800.5(a)(2)(v)) will be analyzed by the BLM for those Historic Properties eligible under Criteria A, B, or C, where setting is a character defining feature, and are at a minimum within 600 feet of a well pad or new road development. The BLM will obtain SHPO concurrence on the effects determination. Consulting Parties will help design the analysis standards when needed. To ensure consistency, any site within the APE with a NRHP evaluation more than three years old (2008) and within 600 feet of new development will be reevaluated for eligibility by a qualified professional with particular attention to criteria A, B and C.

Traditional Cultural Properties (TCPs) identified by tribes or other cultural groups will be evaluated for National Register significance following NPS guidelines (Guidelines for Documenting and Evaluating Traditional Cultural Properties available online at www.nps.gov/history/nr/publications/bulletins/nrb38/; 6/18/2011). Direct and indirect effects of development will be evaluated within a 3000 foot radius area of a National Register eligible TCP.

6. Reporting. Gasco, through their independent consultants, will initiate and prepare cultural resource reports for specific Applications for Permit to Drill (APD) or Right-of-Way (ROW) applications for the land management agency. The cultural resource reports will be submitted at the same time or prior to when the application documents are submitted to the land management agencies. The cultural resource reports will adhere to the requirements and recommendation specified in the *BLM Cultural Resources Management 8110 and 8120 Manuals* and the *Secretary's Standards*. Upon receiving, reviewing and accepting the cultural resource reports, the BLM will initiate Section 106 or SITLA would initiate U.C.A. § 9-8-404 consultation with the SHPO. In addition, if requested by the Ute Tribe, the BLM will send all archaeological reports as they are completed to the Uintah and Ouray Ute Indian Tribe Cultural Rights and Protection Office and a notification to the Ute Tribe Business Committee, which will allow the Tribe an opportunity to comment on the cultural report. If the Tribe determines the need for additional consultation, they will request participation in the pre-drill onsite inspections.

7. Construction Monitoring. Monitoring of construction activities involving surface disturbance serves to verify that recommendations concerning resource avoidance are met, to ensure that there are no adverse effects to historic properties, and to identify discoveries in areas deemed to have a high potential for containing buried cultural resources. The BLM will require cultural resource monitoring in areas with high cultural resource densities, areas with high geomorphological potential for containing cultural resources, or as recommended in the

approved APD or ROW permit. If a discovery is made during construction monitoring, the Discovery Plan, presented in the following section will be followed.

8. Discovery Plan. In the case that an unanticipated cultural resource (referred to hereafter as a Discovery) is identified during surface-disturbing or other project activities, the following protocol will be followed to ensure the proper identification, evaluation, and mitigation of adverse impacts to the resource.

In general, all activity within 100 feet of the Discovery will cease immediately. Work may not resume until the resource can be identified and evaluated by the appropriate independent consultant and the appropriate government cultural resource specialist. In direct consultation with the BLM or SITLA, SHPO, Gasco, and the independent consultant will develop an emergency treatment strategy. Efforts will be made to expedite resumption of construction without further adverse effects to the cultural resource. Briefly, the following six steps must be completed before work can resume in the vicinity of the Discovery.

- i. All activity within 100 feet of the Discovery will be stopped immediately. Work can continue outside the 100 foot buffer if an archaeological monitor is present and has determined that no additional effects to the Discovery would occur.
- ii. Notification will occur as follows:
 - a. If the Discovery is on the BLM lands, notify the appropriate BLM Field Office and SHPO of the Discovery within 24 hours.
 - b. If the Discovery is on State or private land, notify SITLA and SHPO of the Discovery within 24 hours.
- iii. Site documentation and evaluation by an independent consultant, and government representatives will occur within five working days of Discovery.
- iv. A determination of eligibility will be made.
- v. An Action Plan and/or Mitigation Plan will be developed with SHPO consultation and followed.
- vi. Work will be resumed upon receipt of written permission (which includes email notification) from the appropriate land management agency.

A. Mitigation Efforts for Discoveries of Cultural Resources

If Discoveries are encountered during the course of the Project, the following procedures shall be followed before work can resume.

i. *Determine Extent of Discovery/Site Recordation*

In order to understand the nature and extent of the Discovery, an independent consultant will document the Discovery following the BLM guidelines for site documentation as stated in the 8100 manuals within five days. This can include, but is not limited to, documenting exposed artifacts and features; mapping the extent of artifacts, features, and cultural horizons; and documenting natural and cultural stratigraphy in open trenches or pits.

ii. *Evaluation of Eligibility*

The Discovery will be evaluated, based on the eligibility criteria outlined above, to determine if it is a property that is eligible for inclusion on the NRHP. The independent consultant will make eligibility recommendations to the appropriate government agency. The government archaeologist will either concur or not concur with the eligibility recommendation. If needed or required, the government archaeologist will consult with the SHPO or seek concurrence on the preliminary eligibility determination and mitigation strategy. The BLM will also inform Consulting Parties of the eligibility determination and mitigation steps. Findings of eligibility can include *ineligible*, *eligible*, and in rare cases, *insufficient data* to make a determination (e.g., *unevaluated*). A site eligibility determination will be made within two weeks of Discovery.

- a. If the land managing agency determines the site is ineligible for inclusion to the NRHP, and there is SHPO concurrence on this eligibility recommendation, work may resume and no further action need be taken.
- b. If the land managing agency determines the site is eligible for inclusion on the NRHP, then an assessment of effect to the resource will be made. If there is a finding of "no adverse effect," Gasco may resume work after adequate documentation is completed, after the BLM provides written permission to Gasco or their contractors to proceed.
- c. If the site is determined to be eligible and there is a finding of "adverse effect" to the resource, then procedures to mitigate the adverse effects must be completed before work can continue. Mitigation efforts will be contingent upon several factors. These include the type and extent of the disturbed resource, the extent of the adverse effect, and whether or not it is possible to avoid any further effect to the resource.
- d. If a determination cannot be made based on the data collected during recordation, additional testing may be required to further delineate the nature, extent, and significance of the Discovery.

B. Mitigation efforts can be either non-destructive or destructive, and can include:

- i. Collection of additional information from the disturbed portion of the resource using non-destructive methods.
- ii. Collection of additional information from undisturbed portions of the resource using non-destructive methods.
- iii. Collection of additional information from disturbed portions of the resource using destructive methods.

Non-destructive methods include narrative descriptions, scaled drawings and profiles, mapping, and noninvasive procedures such as photography and the use of remote sensing technologies. Destructive methods include artifact collection, testing, excavation, and the recovery of samples for environmental analysis and dating (e.g., charcoal or soil samples for radiocarbon or macrobotanical analysis). It is recommended that any destructive methods used in mitigation be restricted to areas where adverse effects have occurred.

C. Additional Mitigation.

After the Project's third adverse effect determination, Discovery of a Historic Property or combination of three such events, the mitigation will be a project wide synthesis of the individual site specific cultural resource reports. The report will summarize the various sites recorded during project implementation and provide historical contexts for common site types. This report will be written for the general public and be made available through internet website or widely distributed publication, after the BLM accepts the report.

D. Unanticipated Discovery of Human Remains and Associated Materials

i. Human Remains on the BLM Land

a. Discovery Notification

Human remain discoveries are treated differently from other cultural resource Discoveries because of specific statutes. If human remains, remains thought to be human, associated or unassociated funerary objects, or objects of cultural patrimony are discovered, work within 100 feet of the discovery will stop immediately. Gasco or its sub-contractors will immediately provide verbal notification of the discovery to the BLM and the Antiquities Section. Upon notification, the BLM will notify the appropriate law enforcement authorities, the county coroner, and appropriate Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) coordinator. If the remains are determined not to be of forensic importance (i.e. prehistoric or otherwise unrelated to a criminal case), an assessment of the remains will be made.

b. Assessment of the Remains

An in-situ assessment of the remains will be made to determine the cultural affiliation of the remains to aid in determining required actions as defined in a written NAGPRA Plan of Action (POA) prepared by the BLM. The BLM will meet all requirements of NAGPRA for all discoveries of human remains and associated objects in accordance with 43 CFR 10 and BLM WO IM 2007-002, which allows for reburial of human remains and associated funerary objects excavated on BLM land. All reasonable measures will be taken by the involved parties to resolve issues regarding affiliation and disposition of human remains within 30 days as required by law.

c. Protection of Human Remains

Gasco is responsible for the security and protection of human remains during NAGRPA consultations, at least until disposition of the remains is determined.

d. Resumption of Work

Work in the immediate vicinity (within 100 feet) of the human remains may not resume until after the disposition of the human remains is determined. The BLM will provide written permission to proceed, after consultation with appropriate Tribal representatives. This permission can only be given after a written binding agreement is executed between the necessary parties. That agreement will adopt a recovery plan for removal, treatment, and disposition of the human remains or associated objects in accordance with 43 CFR Part 10.4(e).

ii. Human Remains on State and Private Land

If human remains are discovered on nonfederal lands Gasco will adhere to Utah Codes 9-8-309, 76-9-704, and 9-9-403. In accordance with 9-8-309 and 76-9-704, all activity in the area shall cease and local law enforcement, the landowner, and the Antiquities Section of the Division of State History should be notified immediately. If law enforcement determines that the remains are ancient then the Antiquities Section may advise on retrieval or retrieve the remains with the landowner's permission. The Antiquities Section may also advise on the determination of ownership and disposition of Native American remains in accordance with U.C.A. 9-9-403.

9. Resolution of Adverse Effects. The BLM has applied the criteria of adverse effects for the project as required by 36 CFR 800.5 and cannot fully determine whether the project will have an adverse effect on Historic Properties prior to approval of the undertaking. The BLM has consulted with the SHPO and other consulting parties to seek ways to avoid, minimize, or mitigate any potential adverse effects from future actions as required by 36 CFR 800.6. The following is an outline of the process for resolution of any future adverse effects consistent with phased identification and evaluation efforts conducted pursuant to Part 36 CFR 800.4(b)(2).

- A. Gasco will avoid adverse effects to Historic Properties whenever possible as outlined in Stipulation 4(G).
- B. When Gasco is unable to modify the location of a facility or activity to avoid adverse effects, the BLM shall consult with the SHPO to develop a plan to minimize or mitigate adverse effects. The BLM will notify Consulting Parties of plans and provide reports of any mitigation activities at Biennial Review meetings (Stipulation 19).
- C. When a site specific action has complied with the stipulations of this Agreement (Inventory, Evaluation, and Reporting), the BLM may authorize the action upon submittal of appropriate documentation to the SHPO and other Consulting Parties.
- D. In situations where site specific actions will adversely affect complex or multiple Historic Properties, the BLM in consultation with the SHPO, may develop a site specific Memorandum of Agreement to outline procedures for resolving the adverse direct and indirect effects. In the development of such an agreement, the BLM shall follow the requirements of 36 CFR 800.6 and 36 CFR 800.7. The requirements for authorization of the site specific action will be addressed in the Memorandum of Agreement.

10. Programmatic Exceptions. The BLM may authorize the following actions in areas that have been inventoried within the last fifteen years and reviewed by cultural resource personnel for adequacy, and where the avoidance procedures outlined in Stipulation 4(G) are followed. No additional documentation will be required for these actions:

- A. Authorize the drilling of additional wells on an existing well pad.
- B. Authorize the installation of additional facilities, such as storage tanks and pumping structures, on an existing well pad.

- C. Authorize the replacement and repair of existing pipelines and the addition of new pipelines within a previously inventoried area when Historic Properties will be avoided following avoidance procedures.
- D. Authorize the repair, maintenance, and minor expansion of existing roads within previously inventoried areas when adverse effects to Historic Properties will be avoided.
- E. Authorize the repair, maintenance, and minor expansion of existing well pads or facilities within previously inventoried areas when Historic Properties will be avoided following avoidance procedures.
- F. Authorize engineers to survey, stake, and map proposed well pad locations prior to cultural resource inventory of the area. Placement of staking lath within areas potentially containing cultural resource sites has minimal potential to cause an adverse effect. Off-road motorized vehicle access is not authorized for this activity. While Onshore Oil and Gas Order No. 1: Onshore Oil and Gas Operations; Federal and Indian Oil and Gas Leases; Approval of Operations (Federal Register / Vol. 72, No. 44 / Wednesday, March 7, 2007 / Rules and Regulations pages 10308 – 10328) states that this is casual use, allowable without a permit, the Vernal Resource Management Plan (RMP) states that in this area vehicle traffic is limited to existing roads and trails.

11. Collections. Gasco will ensure that all collections and associated records resulting from identification and data recovery efforts during the Project are curated in accordance with 36 CFR 79. Collections that may be repatriated in accordance with the provisions of the NAGPRA and applicable state laws (i.e., Utah 9-9-401 to 406) (i.e., human remains, associated and unassociated funerary objects, sacred objects, and objects of cultural patrimony) will be curated in accordance with 36 CFR 79 until they have been repatriated. Gasco shall bear all costs of curation, which typically includes proper documentation, transfer of materials, and long-term storage of artifacts, photographs, archaeological site forms, and reports at an accredited repository.

12. Personnel Training. All personnel (full time, part time, or temporary; including contractors) involved in construction, operation, and maintenance of this Project shall be instructed (to a degree appropriate to their involvement in the Project) by Gasco, with BLM oversight, on cultural resource site avoidance and protection measures. The instruction will be required prior to being authorized to work in the APE and will be part of Gasco's Environmental Training Program. At a minimum, all employees shall receive written information sheet(s) that discuss the importance of cultural resources and laws pertaining to their protection, including penalties for violation.

Personnel who routinely work in the project area shall be required to receive additional cultural resource awareness training that will be developed by Gasco with BLM oversight. Gasco will maintain records demonstrating that the above described personnel training has been carried out. Signatories and Concurring Parties of this Agreement may participate in development of this training program.

13. Standard Section 106 Process. The BLM may choose to use the Standard Section 106 process instead of this Programmatic Agreement for new or complex issues not addressed in this Agreement. In such cases, the BLM shall follow the requirements outlined in 36 CFR Part 800.

14. Dispute Resolution Should any Consulting Party object, in writing, at any time to any actions proposed or the manner in which the terms of this Agreement are implemented, the BLM shall consult with the Consulting Party to resolve the concern within 30 days. If the BLM determines that the concern cannot be resolved, the BLM shall forward all documentation relevant to the dispute, including the BLM's proposed resolution, to the ACHP. The ACHP shall provide the BLM with its advice on the resolution of the concern within 30 days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the BLM shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and provide them with a copy of this written response. The BLM will then proceed according to its final decision. If the ACHP does not provide its advice regarding the dispute within the 30 days time period, the BLM may make a final decision on the dispute and proceed accordingly.

The BLM's responsibility to carry out all other actions subject to the terms of this Agreement that are not the subject of the dispute will remain unchanged.

15. Protection of Confidential Information. Each Consulting Party to this Agreement shall safeguard information about the nature and location of archaeological, historic, and traditional cultural properties, pursuant to Section 304 of the NHPA and Section 9 of the ARPA.

The BLM shall ensure that all confidential information, as defined in Section 9 of the ARPA and Section 304 of the NHPA is managed in such a way that Historic Properties, archaeological resources, traditional cultural values, and sacred objects are not compromised, to the fullest extent available under law.

16. Amendments. Any Consulting Party to this Agreement may request that it be amended, whereupon the Signatories will consult to consider such amendment. An amendment will go into effect upon written agreement by all Signatories.

The attachments to this Agreement may be amended or modified by the BLM after consultation with Consulting Parties.

17. Termination. Any Signatory or Invited Signatory to this Agreement may terminate it by providing 30 calendar days' notice, in writing, to the other Signatories, provided that the Signatories will consult during the period prior to termination to seek agreement on amendments or other actions that will avoid termination. In the event of a termination, the BLM, Gasco and other Signatories shall comply with 36 CFR Part 800.3 through 800.7 with regard to individual actions covered by this Agreement. Any Concurring Party to this Agreement may withdraw their concurrence and participation at any time by written notice, but such withdrawal will not terminate this Agreement or affect it in any way.

18. Term. This Agreement shall be effective when all Signatories have signed it and will automatically terminate on the tenth anniversary thereof, unless each of the Signatories agrees to extend the term hereof through an amendment per Stipulation 16. All Signatories and Concurring Parties will meet prior to the termination date to discuss extending the term.

19. Biennial Review. The BLM, SHPO, and Consulting Parties will meet biennially, unless requested to meet more frequently by two or more of the Consulting Parties, to review the functionality and effectiveness of the Agreement. The meeting may be held via a teleconference call if the requesting parties agree. This meeting will include, at a minimum, a

project update, information regarding any adverse effect determinations and Discoveries since the last meeting, and mitigation efforts. Consulting Parties will make a meeting request to the BLM Vernal Field Office which will coordinate invitations and logistics.

The stipulations of this Agreement are subject to the provisions of the Anti-Deficiency Act (31 U.S.C. Section 1341) and availability of funds. If compliance with the Anti-Deficiency Act alters or impairs the ability of the BLM to implement stipulations of this Agreement, the BLM shall consult with the SHPO regarding the matter and acceptable alternatives. The responsibility of the BLM to carry out all other obligations that are not subject of the deficiency will remain unchanged.

Execution of this Agreement by the Signatories and implementation of its terms evidence that the BLM has taken into account the effects of this Project on Historic Properties and afforded the ACHP an opportunity to comment.

Signatories:



Michael G. Stiewig, Field Manager
Bureau of Land Management, Vernal Field Office, Utah

8/2/11
Date



Wilson G. Martin
Utah State Historic Preservation Officer

8/16/11
Date



John M. Fowler, Executive Director
Advisory Council for Historic Preservation

8/31/11
Date

Invited Signatories:



Michael K. Decker
Executive Vice President and Chief Operating Officer
Gasco Energy, Inc.

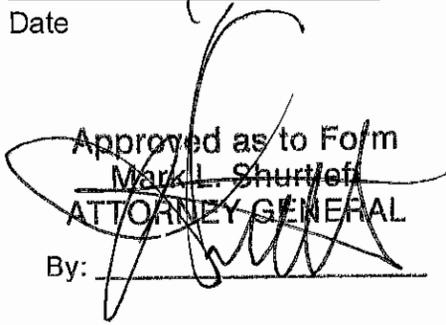
8/9/11
Date



Kevin Carter, Director
Utah School and Institutional Trust Lands Administration

22 Aug 2011
Date

Concurring Parties:

Approved as to Form
Mark L. Shurtzoff
ATTORNEY GENERAL
By: 



Kirk J. Wood, Chairman
Duchesne County Commission

8/2/11
Date



Michael J. McKee, Commissioner
Uintah County Commission

Date

Definitions used in this Programmatic Agreement

Area of Potential Effect (APE)- The geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The APE is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking (36 CFR 800.16 (d)).

Project APE- This is the 253,746 acres of the entire project (Attachment A) expanded to include the Green River Corridor and Nine Mile Canyon.

Site Specific APE- As this phased project is implemented individual well pads, access roads, pipelines, and other project development will require a Section 106 clearance including designation of an APE for the specific proposed action. These APEs will be much smaller, sometimes as small as 10 to 40 acres, depending upon the disturbance and proposed development.

Authorized Officer- The Authorized Officer for this project is the BLM Field Manager, Vernal Field Office and his or her delegated representative.

Consulting Party- Any party that has participated in the development of this agreement (i.e. Concurring Party, Invited Signatory, and Signatory)

Concurring Party- A party who signs this Agreement, but is not legally or financially responsible for completion of stipulations. Concurring Parties may volunteer to assist with implementation of stipulations; however, cannot terminate the Agreement.

Invited Signatory- The authorized official may invite additional parties to sign the agreement and they have the same rights with regard to amendments and termination as the signatories. Gasco Energy, Inc. and the SITLA are Invited Signatories.

Signatory- Parties who have legal or financial responsibilities for completions of stipulations of the Agreement. For this Agreement, Signatories are the BLM, SHPO, and ACHP.

Cultural Resources- Any prehistoric or historic building, structure, feature, object, site, or district which is older than 50 years. The term includes artifacts, records, and materials that are related to and located in such properties.

Independent Cultural Resource (independent consultant) Consultant- A qualified and BLM permitted professional consultant in cultural resources (archaeologist, historian, ethnographer, historic architect, architectural historian, or anthropologist) who is responsible for implementing cultural resource inventories and who prepares cultural resource documents, reports, analysis, records, and professional literature. Independent consultants are funded by Gasco and must meet the Secretary of the Interior's Professional Qualification Standards. Independent consultants also include Traditional Tribal Practitioners who have the knowledge and ability to recognize and identify Traditional Cultural Properties and Sacred Sites.

Cultural Resource Inventory- A systematic and detailed field examination of an area to gather information about the number, location, condition, and distribution of cultural resources. Also referred to as a Class III survey, Class III Inventory, or intensive level survey. Cultural resource inventory typically requires a systematic pedestrian review of an area with transect intervals of 15 meters or less.

Historic Properties- Any prehistoric or historic district, site, building, structure, or object, and its associated artifacts, materials, features, setting, and records, that is either listed in or eligible for listing in the National Register of Historic Places (NRHP). All cultural resources are treated as "Historic Properties" until their National Register eligibility is determined (with SHPO concurrence).

Attachment A

BLM Section 106 Consultation Initiation Letter
(w/APE Map and Consulting Parties Attached)



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Green River District Office
Vernal Field Office
170 South 500 East
Vernal, UT 84078
<http://www.blm.gov/ut/st/en/fo/vernal.html>



In Reply Refer To:
8160 (UTG010)

JAN 26 2011

Certified/Return Receipt Requested
7009 0820 0001 1831 2305

Lori Hunsaker
Deputy State Historic Preservation Officer
Utah State History
300 Rio Grande
Salt Lake City, UT 84101

RE: Initiation of Gasco Full Field Development Project Section 106 Consultation

Dear Ms. Hunsaker,

The Vernal Field Office (VFO) would like to initiate the Section 106, National Historic Preservation Act consultation process with your office for the Gasco Full Field Development Project (Gasco). To begin this process, we are enclosing a map of our proposed area of potential effect (APE), located in T9S, R18 and 19E; T10S, R14-18E; and T11S, R14-19E. As a point of interest, the APE was expanded beyond the project area boundary to include all of Nine Mile Canyon below the southern rim and the Green River corridor below the eastern rim.

In addition, the VFO received several requests for consulting party status from interested organizations during this project's early stages. These requests were initially denied based on the BLM's intention to use the National Environmental Policy Act (NEPA) process to accomplish public consultation, which was identified in the Federal Register Notice of Availability for the Draft Environmental Impact Statement (DEIS). However, comments received from some of these organizations pointed out that the DEIS failed to identify the APE and requested consulting party status once again. In light of this oversight and in an effort to gather public input in a more direct manner, I have decided to grant their request. In addition, additional organizations were added per 36 CFR 800. A proposed list of invitees is enclosed, and I would appreciate your thoughts on any additional participants. Information will be provided regarding an initial meeting once participants have been notified.

If you have additional questions or concerns, please contact either myself at (435) 781-3416 or Kathie Davies at (435) 781-4460. I look forward to a successful consultation process.

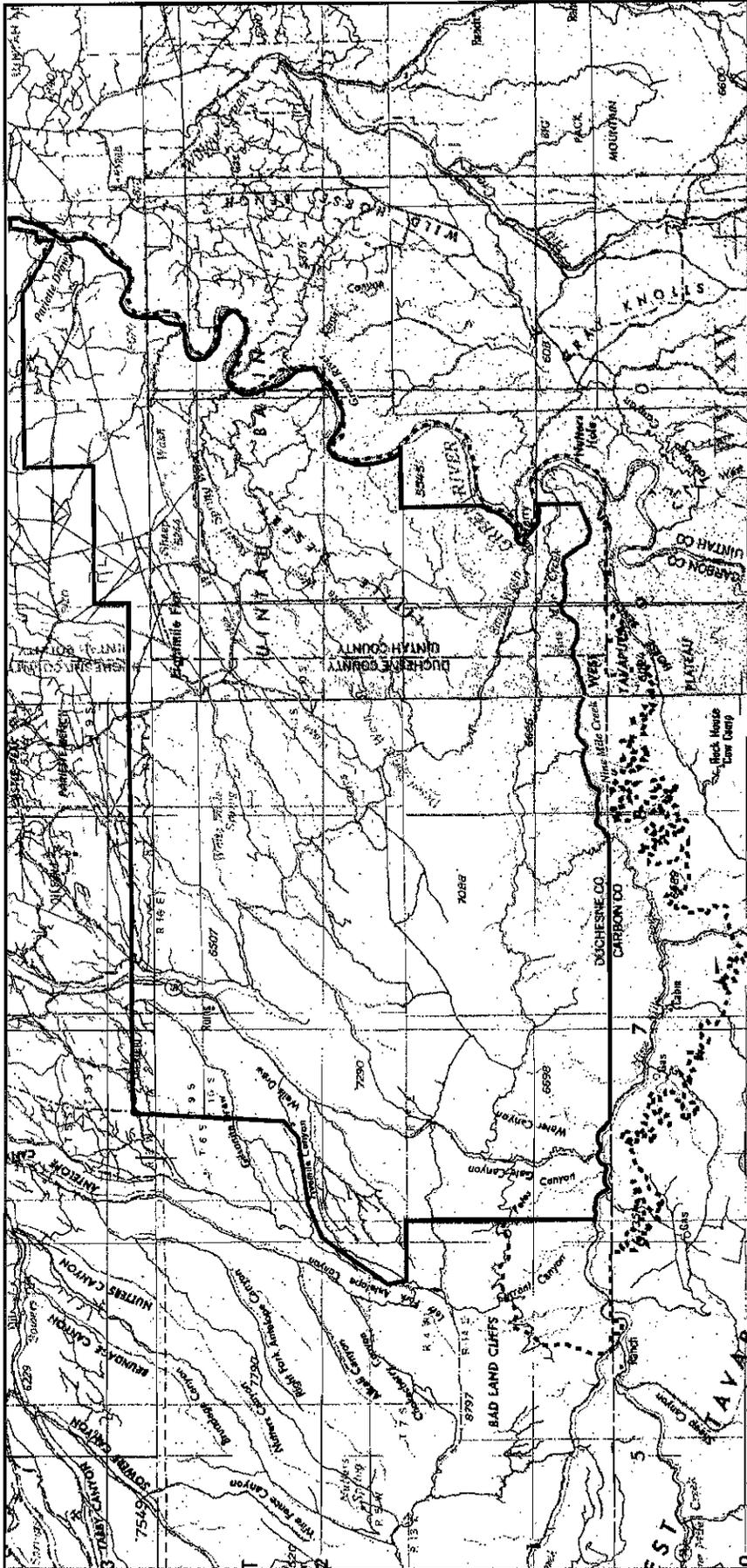
Sincerely,

A handwritten signature in black ink, appearing to read 'M. Stiewig', with a long horizontal line extending to the right.

Michael G. Stiewig
Field Manager

2 Enclosures:

1. APE Map
2. Proposed Consulting Party Invitees



Gasco Draft EIS
Alternative A

1:193,000



Base map taken from Salt Lake City, Provo, Vernal, and Grand Junction, UT 1:250,000 USGS topographic quadrangles.

- Existing Road
- EIS Boundary
- ▨ Area of Potential Effects (APE)



SWCA
SOUTHWEST CONSULTANTS AND ENGINEERS
1000 WEST 1000 SOUTH
SALT LAKE CITY, UT 84119
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WWW.SWCA.UTAH.COM

POTENTIAL INVITEES FOR CONSULTATION ON THE GASCO EIS

Utah State Historic Preservation Officer

Advisory Council on Historic Preservation

Gasco Energy Inc. (proponent)

Carbon County

Duchesne County

Uintah County

State Institutional Trust Lands Administration

National Trust for Historic Preservation

Nine Mile Canyon Coalition

Colorado Plateau Archaeological Alliance

Southern Utah Wilderness Alliance

Attachment B

Tribal Consultation Summary

Tribal Consultation Summary

February 9, 2011 – BLM sent a certified letter initiating Tribal Consultation. Letter included a description of the project and a preliminary map of the Area of Potential Effect: Ute Mountain Ute Tribe, Goshute Indian Tribe, White Mesa Ute Tribe, Laguna Pueblo Tribe, Southern Ute Tribe, Ute Indian Tribe, Santa Clara Pueblo Tribe, Hopi Tribe, Zia Pueblo Tribe, Navajo Nation, Northwest Band of Shoshone Tribe, Eastern Shoshone Tribe.

February 17, 2011 – BLM sent a copy of a letter identifying them as an invited participant in the Section 106 Consulting Party process and identifying a first meeting date of March 9, 2011: Ute Mountain Ute Tribe, Goshute Indian Tribe, White Mesa Ute Tribe, Laguna Pueblo Tribe, Southern Ute Tribe, Ute Indian Tribe, Santa Clara Pueblo Tribe, Hopi Tribe, Zia Pueblo Tribe, Navajo Nation, Northwest Band of Shoshone Tribe, Eastern Shoshone Tribe.

February 28, 2011 – Pueblo of Laguna sent a reply indicating that the undertaking will not have a significant impact, but requesting notification of the discovery of new archaeological sites and data recovery, including photographs of recovered items.

March 9, 2011 – Betsy Chapoose of the Ute Indian Tribe and Wilfred Ferris of the Eastern Shoshone Tribe attended the first Gasco Section 106 consulting party meeting.

March 9, 2011 – As a follow up to the meeting, Julie Howard sent Betsy Chapoose of the Ute Indian Tribe a copy of the February 9, 2011 letter requesting initiation of consultation.

March 10, 2011 – In response to a question from Betsy Chapoose of the Ute Indian Tribe, Julie Howard sent an email clarifying that the Ute Indian Tribe was offered cooperating agency status for the EIS when it was initiated, but no response was received. Ms. Howard stated that should the Tribe decide to be a cooperator we can provide the MOU at any time. It was clarified that being a cooperator on the EIS would not affect Section 106 consultation.

April 8, 2011 – Leigh J. Kuwanwisiwma of the Hopi Tribe sent a letter in response to the February 9 request for initiation of consultation. In this letter he indicated that he had reviewed the DEIS and the March 9 meeting notes. He determined that the proposal will adversely effect cultural resources significant to the Hopi Tribe. He stated that there are Traditional Cultural Properties in the area (none were specifically identified by name or location). He requested a copy of the pending Class I overview. He also requested that the Advisory Council on Historic Preservation continue to participate in the consultation. He indicated that he looked forward to further information on this project at the administrative meeting scheduled for April 20, 2011.

April 20, 2011 – Julie Howard attended this administrative meeting with the Hopi Cultural Preservation Office. Terry Mogart requested that requests for consultation be accompanied by the report of the survey results, especially if there is any potential to adversely affect sites. He expressed concern that the Hopi were not consulted on the Draft EIS, and that the Draft EIS didn't have a defined APE.

May 2, 2011 – A copy of the final Class I survey was sent to Betsy Chapoose of the Ute Indian Tribe.

May 24, 2011 – The Hopi responded to BLM's providing the Class I survey. The Hopi stated that their ancestors did not abandon the area by 1500 AD. They also stated that they look forward to continuing consultation during the "development and implementation of cultural resource survey and TCP and ethnographic study plans for the project. They also stated they appreciate the ACHP participating in the consultation and ACHP's ideas regarding a Programmatic Agreement.

May 30, 2011 – A letter was sent by the BLM requesting consultation on the draft Programmatic Agreement. A copy of the draft PA was attached as well as an APE map (attachment 1 to the PA) and the draft Archaeological Rules and Restrictions for Gasco (attachment 3 to the PA): Ute Mountain Ute Tribe, Goshute Indian Tribe, White Mesa Ute Tribe, Laguna Pueblo Tribe, Southern Ute Tribe, Ute Indian Tribe, Santa Clara Pueblo Tribe, Hopi Tribe, Zia Pueblo Tribe, Navajo Nation, Northwest Band of Shoshone Tribe, Eastern Shoshone Tribe.

June 10, 2011 – Richard B. Laurkie, Governor of the Pueblo of Laguna, sent a response stating the project would not have a significant impact at this time.

July 22, 2011 – Byron Loosle, Utah State Office BLM, confirmed via email that during the week he had met with the Hopi in person regarding various projects including Gasco. He stated that the Hopi declined to sign the PA, and felt that since the ACHP was involved in the Section 106 process, their concerns were resolved.

No other correspondence has been received.