

## Appendix H

### Laws for Protecting Cultural Resources

Federal agencies must comply with a number of laws and regulations governing management and protection of cultural resources and Native American religious values/traditional cultural resources. These include:

- 1) Antiquities Act of 1906, which chronologically and philosophically provided the basic legislation for protection and preservation of cultural properties;
- 2) National Historic Preservation Act (NHPA) of 1966, Section 106 of which directs all Federal agencies to take into account the effects of their undertakings on properties in or eligible for the National Register of Historic Places, and Section 110 of which sets inventory, nomination, protection and preservation responsibilities for Federal agencies. The law also requires consultation with tribes as part of land use planning and project implementation.
- 3) National Environmental Policy Act (NEPA) of 1969, which establishes policy for protection of the environment, including preservation of “important historic, cultural, and natural aspects of our national heritage.” NEPA specifically requires federal agencies to consult tribes and interested persons/organizations that may be affected by an undertaking. NEPA serves to integrate several other statutes for the purposes of environmental assessment and decision-making.
- 4) Federal Land Policy and Management Act (FLPMA) of 1976, which directs the BLM to manage public land on the basis of multiple uses and to “protect the quality of...historical resources, and archaeological values...” The Act also directs the BLM to integrate Native American concerns into land use planning.
- 5) American Indian Religious Freedom Act (AIRFA) of 1978 which establishes policy to preserve for Native Americans the “inherent right of freedom to believe, express, and exercise their traditional religions” including providing access to religious sites;
- 6) Archaeological Resources Protection Act (ARPA) of 1979 provides criminal penalties for unauthorized excavation, removal, damage, alteration, and defacement of archaeological resources.
- 7) Indian Mineral Development Act of 1982 establishes the Bureau of Indian Affairs as the primary custodian of Indian mineral resources. Through secondary agreements and through policy directives, other Federal agencies including the BLM provide technical assistance and may act in an advisory role to the tribes.
- 8) Federal Oil and Gas Royalty Management Act of 1982 enforces existing regulations under the mineral leasing laws providing for the inspection of production activities on lease sites on Federal and Indian Lands.
- 9) Native American Graves Protection and Repatriation Act of 1990 requires consultation with tribes prior to agency authorization of any activity which could result in the excavation and/or removal of human remains, funerary objects, sacred objects or objects of cultural patrimony from federal lands.

- 10) Cadastral Survey/25 U.S.C. Section 176 states that whenever it becomes necessary to survey any Indian reservation or lands the survey will be completed under the direction and control of the BLM in conformity to the rules and regulations under which public lands are surveyed.

There are also a number of relevant Executive Orders/Memorandums that relate specifically to tribal consultation/coordination and Native American religious values/traditional cultural resources. These include:

- 11) Government-to-Government Executive Memorandum of April 29, 1994 which states that each executive department or agency shall assess the impact of plans, projects, programs and activities on tribal trust resources and assure that the rights and concerns of tribal governments are considered during development of such plans, project, programs and activities.
- 12) Executive Order 11593 directs Federal agencies to inventory all cultural properties (as defined by the NHPA) under their jurisdiction and to nominate them to the National Register of Historic Places.
- 13) Executive Order 13007 relates to Indian Sacred Sites and states that in managing federal lands, each agency with statutory or administrative responsibility for management of Federal lands shall, to the extent practicable...1) accommodate access to and ceremonial use of Indian sacred sites by Indian religions practitioners and 2) avoid adversely affecting the physical integrity of such sacred sites. This order also provide for confidentiality in respect to Sacred Sites.
- 14) Executive Order 13084 which states that each agency shall to the extent practical and permitted by law, consider any application by an Indian tribal government for a waiver of statutory or regulatory requirements in connection with any program administered by that agency.

These and other laws and policies are generally implemented as per the Code of Federal Regulations (CFR). Nationally, the BLM has developed implementing policies and procedures (Cultural Resource Manual Series 8100) to help guide planning and decision-making as it affects historic properties. BLM California further developed implementing policies and procedures in the BLM California Programmatic Agreement (PA) with the State Historic Preservation Office. The PA prescribes the manner in which the BLM and the SHPO will cooperatively implement legal mandates, and is intended to ensure that the State organizes its programs to operate efficiently and effectively in accordance with the intent and requirements of the National Historic Preservation Act.

The cultural resource values of the Ukiah Field Office can best be categorized as follows: archaeological and traditional cultural.

Archaeological resources include prehistoric remains, which demonstrate Native American occupation of the region prior to the arrival of Europeans (ca. 1854), and historic remains, which represent post-European contact activities (over 50 years old). Information about prehistoric and historic archaeological remains, which include sites, districts, buildings, structures, objects and traditional cultural properties, is generally obtained through scientific investigations conducted by archaeologists, ethnographers, historians, and other cultural resource management (CRM) professionals.

Traditional cultural resources are those utilized by the Native American community for maintenance of traditional cultural practices such as hunting, gathering and lithic procurement. Information about

these resources is generally obtained through consultation with tribal governments and traditional practitioners.