



Ute Mountain Ute Tribal Historic Preservation Office: Authority and Oversight



Authority and Oversight of the THPO

All cultural resources on Ute Mountain Ute Reservation lands are subject to oversight by the Tribal Historic Preservation Office (THPO). The THPO was established by Tribal Resolution in 2009 and a Cultural Resource Management Plan (CRMP) was developed to guide all cultural resource work.

As stated in the letter dated December 18, 2009 (Appendix C of the CRMP), the Director of the National Park Service has formally approved the Ute Mountain Ute Tribe to assume certain State Historic Preservation Officer duties within the exterior boundaries of the Tribe's reservation in Colorado, New Mexico, and Utah.

As stated in 36 CFR 800.2(c)(2)(A), the Tribal Historic Preservation Officer (THPO) appointed or designated in accordance with the NHPA is the official representative for the purposes of Section 106. As such, agency officials shall consult with the THPO in lieu of the SHPO regarding undertakings occurring on or potentially affecting historic properties on tribal lands. This includes those historic properties within the Ute Mountain Tribal Park and the Ute Mountain Ute Mancos Canyon Archaeological District.

Permitting for Cultural Resource Investigations

Cultural Resources Permits for fieldwork are required on all Ute Mountain Ute tribal lands. Fieldwork conducted without the proper permit(s) is illegal and will result in prosecution pursuant to the Archaeological Resources Protection Act (ARPA) (43 CFR Part 7).

The Ute Mountain Ute THPO is responsible for issuing permits (except ARPA permits, which are the purview of the BIA) for cultural resources investigations on Ute Mountain Ute tribal lands. Permits are required for any cultural resources investigations that are outside the realm of traditional use and visitation and are required by any non-tribal member for any cultural resources work on tribal lands.

Tribal members are only required to obtain the necessary permits if excavation or disturbance of an archaeological or historical site is to occur (in other words, Tribal members do not need a Visitation Permit or an Ethnographic Study Permit.)



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Archaeological Resources Protection Act (ARPA; Public Law 96-95 as amended, 16 U.S.C. 470aa-mm) (1978)

ARPA defines archaeological resources, improves law enforcement, increases criminal penalties for harm or destruction of resources, and allows for civil penalties. For projects on Ute Mountain Ute lands, an ARPA permit is required prior to excavation or removal of cultural materials from any site.

Consent for the request for an ARPA permit must be obtained directly from the THPO. Tribal members are only exempt from obtaining an ARPA permit for excavation of sites on tribal lands if there are tribal laws permitting such actions. However, the Ute Mountain Ute Tribe does not currently have any such laws in place.

Prior to THPO	Process in 2019 with THPO
<p>Cultural Investigation Permits: All cultural resource investigations require a permit issued by the SHPO (Colorado, Utah, or New Mexico depending on location).</p>	<p>Cultural Investigation Permits: All cultural resource investigations require a permit issued by the THPO. <i>The SHPO no longer issues cultural resource investigation permits for Ute Mountain Ute tribal lands.</i> An annual and project-specific permit are required for all cultural work on Ute tribal lands. Issuance of these permits are overseen by the THPO.</p>
<p>Excavation Permits: All excavation or removal of cultural items on Ute Reservation lands requires an ARPA permit issued by BIA.</p>	<p>Excavation Permits: All excavation or removal of cultural items on Ute Reservation lands requires an ARPA permit issued by BIA. This must be coordinated through the THPO and may require consent letter from Tribal Council.</p>
<p>Tribal Enterprises: Tribal enterprises are subject to Federal rules and regulations regarding cultural resources on Ute tribal lands. This was overseen from outside of the tribe by state of federal entities.</p>	<p>Tribal Enterprises: Tribal enterprises are subject to Federal rules and regulations regarding cultural resources on Ute tribal lands. This is overseen by the THPO, a department of the Ute Mountain Ute tribe. The THPO interacts directly with federal and state agencies.</p>

BIA -- Bureau of Indian Affairs

THPO -- Tribal Historic Preservation Office

SHPO -- State Historic Preservation Office



United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, N.W.
Washington, D.C. 20240

DEC 10 2009

IN REPLY REFER TO:

H32(2255)

Mr. Ernest House, Sr., Chairman
Ute Mountain Ute Tribe
P.O. Box 468
Towaoc, CO 81334

Dear Chairman House:

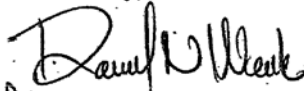
Congratulations. On behalf of the Secretary of the Interior and the National Park Service, I am pleased to approve the plan of the Ute Mountain Ute Tribe for assuming responsibilities pursuant to the National Historic Preservation Act. Enclosed please find your copy of the fully executed agreement by which the Tribe assumes its formal place in the national historic preservation program.

The Ute Mountain Ute Tribe is the 88th tribe to assume historic preservation duties that were previously the responsibility of the State. We look forward to a long and productive relationship with the Tribe in this program, and we hope that additional tribes will follow your footsteps.

As you may know, there is currently available to tribes assuming these duties a modest amount of funding to help support the work of the Tribal Historic Preservation Officer (THPO). Our Heritage Preservation Services Program will notify your THPO, Mr. Terry Knight, of the amount of funding available to the Tribe for fiscal year 2010. If you have any questions, please contact Mr. James Bird at (202) 354-1837.

Once again, I offer my congratulations and best wishes to you.

Sincerely,


Jonathan B. Jarvis
Director

Enclosure

cc: Terry Knight, THPO
Mike Snyder, IMRO

AGREEMENT BETWEEN
THE NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR
AND THE UTE MOUNTAIN UTE TRIBE
FOR THE ASSUMPTION BY THE TRIBE OF CERTAIN RESPONSIBILITIES
PURSUANT TO THE NATIONAL HISTORIC PRESERVATION ACT (16 U.S.C. 470)

WHEREAS, sovereign Indian tribes are uniquely suited to make decisions about historic resources on tribal lands; and

WHEREAS, enhancing the role of Indian tribes in the national historic preservation partnership will result in a stronger and better national effort to identify and protect historic and cultural resources for future generations of all Americans; and

WHEREAS, Section 101(d)(2) of the National Historic Preservation Act provides that, "A tribe may assume all or any part of the functions of a State Historic Preservation Officer in accordance with subsections (b)(2) and (b)(3), with respect to tribal lands;" and

WHEREAS, in accordance with Section 101(d) (2) (A) of the Act, the Tribal Council of The Ute Mountain Ute Tribe has requested approval to assume certain of those functions on tribal lands; and

WHEREAS, in accordance with Section 101(d) (2) (B) of the Act, The Ute Mountain Ute Tribe has designated a tribal preservation official to administer the tribal historic preservation program; and

WHEREAS, in accordance with Section 101(d)(2)(C) of the Act, The Ute Mountain Ute Tribe has provided to the Secretary acting through the National Park Service a plan that describes how the functions the Tribe proposes to assume will be carried out; and

WHEREAS, in accordance with Section 301 of the Act, "tribal lands" means all lands within the exterior boundaries of The Ute Mountain Ute Tribe's Reservation, and any dependent Indian communities formally recognized as such by the Department of the Interior; and

WHEREAS, the National Park Service, on behalf of the Secretary, has reviewed The Ute Mountain Ute Tribe plan for conformance with the applicable Federal regulations, 36 CFR 60, and 36 CFR 61, and has determined that the plan meets the requirements of those regulations; and

WHEREAS, the National Park Service, on behalf of the Secretary, has reviewed the plan and has determined in accordance with Section 101(d)(2)(D)(i) that The Ute Mountain Ute Tribe is fully capable of carrying out the functions specified in the Tribe's plan; now, therefore,

THE NATIONAL PARK SERVICE AND THE UTE MOUNTAIN UTE TRIBE DO
HEREBY AGREE AS FOLLOWS:

1. The Ute Mountain Ute Tribe assumes responsibility on tribal lands for the following functions set out in Section 101(b) (3) of the Act:

A. Direct and conduct a comprehensive, Reservation-wide survey and maintain an inventory of historic and culturally significant properties;

B. Identify and nominate eligible properties to the National Register and otherwise administer applications for listing historic properties on the National Register;

C. Develop and implement a comprehensive, Reservation-wide historic preservation plan covering historic, archeological, and traditional cultural properties;

D. Advise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities;

E. Cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal agencies, State agencies, local governments, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development;

F. Provide public information, education and training, and technical assistance in historic preservation;

G. Consult with the appropriate Federal agencies in accordance with Section 106 of the Act on:

i. Federal undertakings that may affect historic and culturally significant properties within the boundaries of the Reservation;

ii. The content and sufficiency of any plans to protect, manage, or to reduce or mitigate harm to such properties;

H. Administer such Federal assistance as may be provided for tribal historic preservation activities pursuant to this agreement.

2. In accordance with the Tribe's plan noted above, the State Historic Preservation Officers (hereafter, SHPOs) of Colorado, New Mexico and Utah in consultation and cooperation with the Tribe, retains responsibility for the functions in Section 101(b) (3), as follows:

A. Cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified pursuant to subsection (c) of the Act.

B. Advise and assist in the evaluation of proposals for rehabilitation projects that may qualify for Federal assistance, such as historic preservation income tax credits.

3. The SHPO, in accordance with Section 101(d)(2)(D)(iii) of the Act, may exercise the historic preservation responsibilities along with the tribal preservation official on reservation land that is neither owned by a tribal member nor held in trust for the tribe by the Secretary, provided that the owner of such property requests the SHPO's participation;

4. In evaluating the significance of and impact on historic and cultural resources, the Tribal Historic Preservation Officer will consult, as needed, with individuals who meet the Secretary's Standards for the discipline or disciplines that correspond to the resource under consideration. In any case where the individual consulted is not a staff member; the Tribal Historic Preservation Officer will retain a record of the consultation.

5. The Ute Mountain Ute Tribe's Tribal Historic Preservation Officer Advisory Board will serve as the Tribal Historic Preservation Officer's advisory board for the purposes of this agreement. The Tribal Historic Preservation Officer will, in accordance with Section 101(d) (4) (C), provide for the appropriate participation in the historic preservation program by the Tribe's traditional cultural authorities through membership on the Tribal Historic Preservation Officer Advisory Board, and through such other means as the Officer deems appropriate. Before making any decision pursuant to this agreement that affects a property of significance to another tribe whose traditional lands are within the Ute Mountain Ute Tribe's reservation, the Tribal Historic Preservation Officer will consult with the appropriate representative(s) of that other tribe. The Tribal Historic Preservation Officer will provide for the appropriate participation of the interested public by soliciting public comments in a manner described in the Tribe's plan.

6. The Tribe will carry out its responsibilities for review of Federal undertakings pursuant to Section 106 of the Act in accordance with the regulations (36 CFR Part 800) of the Advisory Council on Historic Preservation. In the event that the Tribe seeks to substitute its own review procedures for those established by the Council, such substitution is subject to a separate negotiation with the Council, pursuant to Section 101(d)(5) of the Act.

7. The Ute Mountain Ute Tribe will consider nominations to the National Register of Historic Places in accordance with 36 CFR 60. In accordance with the Tribe's plan and consistent with Item 4 above, the Tribal Historic Preservation Officer will ensure that the Tribal Historic Preservation Review Board has access to appropriately qualified individuals in carrying out its review of National Register nominations.

8. The Tribal Historic Preservation Officer will provide to the National Park Service a brief annual written report on the Tribe's accomplishments pursuant to this agreement. The report will include, at a minimum, the number of additional properties surveyed and added to the Tribe's inventory, the number of Federal undertakings reviewed pursuant to Section 106 of the Act, and a description of any educational activities and programs carried out. The report shall not be construed as requiring the provision of information that the Tribe deems to be sensitive or culturally inappropriate.

9. As of the date of this agreement, The Ute Mountain Ute Tribe's Tribal Historic Preservation Officer is Mr. Terry Knight. The Tribe will notify the National Park Service whenever there is a vacancy in the position and whenever a successor is designated by the Tribe.

10. The National Park Service will, in accordance with Section 101(d)(2)(A) of the Act foster communication, cooperation, and coordination among the Tribe, the State Historic Preservation Officer, and Federal agencies in the administration of the national historic preservation program. All such efforts by NPS will be on an as-needed basis and will be based on consultation with the Tribe to ensure that tribal values are fully respected.

11. The National Park Service, upon execution of this agreement, will notify all Federal Preservation Officers, the Advisory Council on Historic Preservation, the State Historic Preservation Officers of Colorado, New Mexico and Utah, the National Association of Tribal Historic Preservation Officers, and the National Conference of State Historic Preservation Officers that The Ute Mountain Ute Tribe has assumed formal responsibility on tribal lands for all of the functions set out in Item 1 above. In particular, such notice shall make clear that the Tribe has assumed the role of the State Historic Preservation Officer on tribal lands for the purposes of consultation on Federal undertakings pursuant to Section 106 of the National Historic Preservation Act.

12. The National Park Service will consult with The Ute Mountain Ute Tribe to determine what technical assistance the Tribe needs and wants in order to enhance its participation in the national historic preservation program. Based on that consultation, NPS will make available to The Ute Mountain Ute Tribe such technical assistance as is appropriate and feasible. The Ute Mountain Ute Tribe is eligible for grants-in-aid from the Historic Preservation Fund to assist in carrying out the duties it has assumed under this agreement. However, nothing in this Memorandum of Agreement requires the National Park Service to provide financial assistance to The Ute Mountain Ute Tribe to carry out the functions it has assumed under this agreement. Only a separate grant agreement, cooperative agreement or contract obligates NPS to provide funding for tribal activities.

13. The National Park Service, pursuant to Sections 101(d)(2) and 101(b)(2) of the Act, and in direct consultation with the Tribe, will carry out a periodic review of the Tribe's program pursuant to the Act, to ensure that the Tribe is carrying out the program in conformance with the Tribe's plan and with this agreement. To the greatest extent feasible, the review will be a collegial process that involves both NPS and the Tribe in a

mutual evaluation and assessment of the program. Generally, such a review will occur every four years.

14. The Ute Mountain Ute Tribe may terminate this agreement for any reason by providing the National Park Service sixty days written notice of such termination. The National Park Service may terminate this agreement upon determining that the Tribe has not carried out its assumed responsibilities in accordance with this agreement, the Act, or any other applicable Federal statute or regulation. Unless circumstances warrant immediate action, NPS will not terminate the agreement without first providing the Tribe a reasonable and appropriate opportunity to correct any deficiencies.

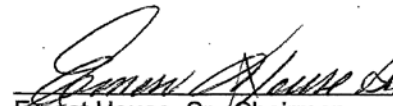
15. This agreement may be amended by the mutual, written consent of The Ute Mountain Ute Tribe and the National Park Service.

16. This agreement shall become effective upon signature by the Director of the National Park Service or his designee, which signature shall not occur until after the Tribal Chairman of The Ute Mountain Ute Tribe has signed the agreement.

FOR THE NATIONAL PARK SERVICE:


for Jonathan B. Jarvis, Director 12/10/2009
Date

FOR THE UTE MOUNTAIN UTE TRIBE:


Ernest House, Sr., Chairman 11/03/09
Date