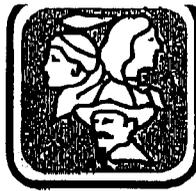


## **Addendum to Appendix E, Historic Preservation Correspondence**

### **SHPO Correspondence**

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COLORADO  
HISTORICAL  
SOCIETY

The Colorado History Museum 1300 Broadway Denver, Colorado 80208-2137

November 17, 2005

Brad Beckham  
Manager, Environmental Programs Branch  
Colorado Department of Transportation  
Environmental Programs Branch  
4201 East Arkansas Avenue  
Denver, CO 80222

Re: CDOT Project FC-NH(CX) 160-2(48), US 160, Durango to Bayfield EIS; Eligibility and Effects Determination. (CHS #33425)

Dear Mr. Beckham,

Thank you for your correspondence dated November 8, 2005 and received by our office on November 14, 2005 regarding the above-mentioned project.

After review of the submitted information, we concur with the proposed finding of *not eligible* for the resources listed below.

- 5LP.7873
- 5LP.7874
- 5LP.7875

After review of the proposed finding of effect, we concur with the finding of *no historic properties affected* of the National Historic Preservation Act for the proposed project.

If unidentified archaeological resources are discovered during construction, work must be interrupted until the resources have been evaluated in terms of the National Register criteria, 36 CFR 60.4, in consultation with this office.

We request being involved in the consultation process with the local government, which as stipulated in 36 CFR 800.3 is required to be notified of the undertaking, and with other consulting parties. Additional information provided by the local government or consulting parties might cause our office to re-evaluate our eligibility and potential effect findings. Please note that our compliance letter does not end the 30-day review period provided to other consulting parties.

If we may be of further assistance, please contact Amy Pallante, our Section 106 Compliance Coordinator, at (303) 866-4678.

Sincerely,

*Manu Wolf*  
for Georgianna Contiguglia  
State Historic Preservation Officer

# MEMORANDUM

**DEPARTMENT OF TRANSPORTATION**  
Environmental Programs Branch  
4201 East Arkansas Ave.  
Denver, Colorado 80222  
(303) 757-9259

RECEIVED BY:

NOV 28 2005



PROGRAM ENG.

**DATE:** November 22, 2005

**TO:** Kerrie Neet **Attn:** Paul Jankowski

**FROM:** Dan Jepson 

**SUBJECT:** Addendum Cultural Resources Clearance, Project FC-NH(CX) 160-2(48), US 160, Durango to Bayfield

Attached for your files is a copy of the addendum cultural resources survey report completed for the project referenced above. Inventory of parcels at the proposed new US 160/US 550 interchange resulted in the documentation of a historic site comprised primarily of discarded agricultural equipment (5LP7873), as well as two historic isolated finds (5LP7874, 5LP7875). In consultation with the State Historic Preservation Officer (SHPO), we have determined that none of these resources are eligible for listing on the National Register of Historic Places (NRHP), no historic properties will be affected, and no further actions are required. A copy of the SHPO concurrence letter is attached.

A segment of the NRHP-eligible Denver and Rio Grande Railroad grade (5LP1131.8) is also present in the newly surveyed areas. However, the effects to this section of the grade in the context of the DEIS were previously determined to have no adverse effect on that resource, a determination with which the SHPO concurred in 2001. As such, no further work (including administrative actions) are necessary for 5LP1131.

Clearance to proceed is recommended for all of the properties included in the 2005 addendum survey for the proposed new interchange. Given that there is a small sliver of Bureau of Land Management administered land included in the interchange footprint, all pertinent correspondence related to this Section 106 process has been forwarded to archaeologist Bruce Bourcy in the BLM San Juan Field Office in Durango.

Attachment

cc: L. Schoch  
CF



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240



ER 05/822

JAN 18 2006

Mr. David A. Nicol  
Division Administrator  
Federal Highway Administration  
12300 West Dakota Avenue  
Suite 180  
Lakewood, Colorado 80228

Dear Mr. Nicol:

Thank you for the opportunity to comment on the Draft Environmental Impact Statement and Section 4(f) for **US-160, from Durango to Bayfield**, in La Plata County, Colorado. The Department of the Interior (Department) has reviewed the document, and hereby submits these comments to you as an indication of our thoughts regarding this project.

## SPECIFIC COMMENTS

### Page 3-31 [pdf page 118], Section 3.8.2 Water Quality, last sentence

The sentence states that none of the United States Geological Survey (USGS) stations has real-time data as of 2003; data for station 09353800, Los Pinos River near Ignacio, Colorado, continues to be collected and are now available in real-time on the internet at: [http://nwis.waterdata.usgs.gov/co/nwis/uv?site\\_no=09353800](http://nwis.waterdata.usgs.gov/co/nwis/uv?site_no=09353800).

### Page 4-73, Section 4.8.2.1 Driscoll Method and Results

The use of the Driscoll method as a screening tool for identifying potential water-quality concerns is appropriate; however, the presentation of the modeling results could be improved by including predicted EMCs (event mean concentration) for all constituents that can be estimated using this methodology, including oil and gas, BOD, nutrients, and other trace elements, and comparing those estimated concentrations with applicable State water-quality standards for each potentially-affected stream segment. Further, it would be beneficial if the rationale for the assumptions that "total copper and total zinc provide an overall picture of the water quality impacts associated with the proposed roadway improvements," that the "relative water quality impact of total suspended solids (TSS) would be similar to the impact of these two heavy metals," and that "oil and grease are minor when compared to TSS and heavy metals" also be included in the draft EIS.

## **Endangered Species Act**

We appreciate the coordination between Fish and Wildlife Service (FWS), Colorado Department of Transportation (CDOT) and Federal Highway Administration throughout the development of this DEIS, and value the efforts made to address FWS concerns:

We support your efforts to address wildlife crossings and in particular the number proposed. A considerable amount of effort has been expended to ensure that the crossings will work in terms of proper size and location. The crossings should however, be monitored for several years to further determine their effectiveness as it takes animals a few years to become accustomed to using them.

The document indicates that wildlife crossings will definitely be constructed. However, because it will be some time before the project is built, the number, locations and design should be reevaluated in the final design just as the project is to be implemented in case minor changes are needed to ensure maximum benefit to wildlife. It would help if the following sentence found on page 4-100, "The number, locations, and type of crossings that will be constructed will be identified during the final design," were changed to reflect the Colorado Department of Transportation's commitment to construct wildlife crossings, but that these final details regarding number, location, and design will need to be determined at the time of project implementation.

A table of impacts to the federally listed Southwestern Willow Flycatcher would be useful. Maps showing the locations and delineations of the affected habitat patches before and after construction would help to visualize the effects to the birds.

## **SECTION 4(f) COMMENTS**

The Department recognizes and appreciates the coordination conducted with Federal, State, and local agencies, and the general public. We acknowledge that you have consulted with the Colorado State Historic Preservation Office, who concurred with your determinations of eligibility and effect. We also appreciate that you have stepped outside the box to incorporate creative mitigation measures into this project to minimize adverse effects to the historic ditches, specifically the Public Information Notice describing the role of irrigation in the settlement of the region. The Department of the Interior appreciates when agencies go above and beyond incorporating typical mitigation measures for the preservation of historic properties.

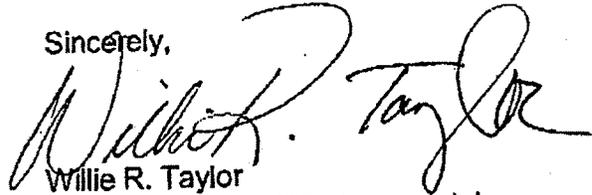
Following our review of the Section 4(f) Evaluation, we concur that there is no feasible or prudent alternative to the Preferred Alternative selected in the document, and that all measures have been taken to minimize harm to these resources. We appreciate the opportunity to review this document and look forward to reviewing the final document once a Preferred Alternative has been selected.

If you need further assistance about the FWS comments, please contact Alison Michael, CDOT Liaison in the Service's Colorado Field Office, at (303) 275-2378. If you have

any questions concerning the water quality comments, please contact Lloyd Woosley,  
Chief of the USGS Environmental Affairs Program, at (703) 648-5028 or at  
[lwoosley@usgs.gov](mailto:lwoosley@usgs.gov).

We appreciate the opportunity to provide these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Willie R. Taylor". The signature is fluid and cursive, with a large initial "W" and a long, sweeping tail.

Willie R. Taylor  
Director, Office of Environmental  
Policy and Compliance

**Memorandum of Agreement**

MEMORANDUM OF AGREEMENT

RECEIVED

APR 10 2006

BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION  
AND THE COLORADO STATE HISTORIC PRESERVATION OFFICER

REGARDING SECTION 106 COMMITMENTS FOR ARCHAEOLOGICAL SITE 5LP5677

Colorado Department of Transportation Project FC-NH(CX) 160-2(48), US 160, Durango to Bayfield Environmental Impact Statement, La Plata County, Colorado

WHEREAS, the Federal Highway Administration (FHWA) has determined that the Preferred Alternative described in the Environmental Impact Statement (EIS) for Project FC-NH(CX) 160-2(48), US 160, Durango to Bayfield, will impact prehistoric archaeological site 5LP5677 in La Plata County, Colorado, which requires small-scale test excavations in order to determine its eligibility for the National Register of Historic Places (NRHP), and has consulted with the Colorado State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. Section 470f); and

WHEREAS, FHWA has consulted with the Colorado Department of Transportation (CDOT) regarding the effects of the undertaking on historic properties and has invited them to sign this MOA as an invited signatory; and

WHEREAS, FHWA has consulted with the Southern Ute Indian Tribe and Pueblo of Laguna, which are consulting tribes for the EIS under the Section 106 regulations, and has invited them to sign this MOA as concurring parties (the Hopi Tribe, also a consulting tribe, elected not to participate in the agreement); and

WHEREAS, the consulting parties agree that it is in the public interest to expend funds to determine whether this site is eligible for listing on the NRHP, and that test excavations to recover information from the site will be done in accordance with the published guidance; and

WHEREAS, to the best of our knowledge and belief, no human remains, associated or unassociated funerary objects or sacred objects, or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001), are expected to be encountered in the archaeological work; and

WHEREAS, if as a result of the archaeological testing FHWA determines that 5LP5677 is eligible for listing on the NRHP and the Colorado SHPO concurs with that determination, a plan to resolve adverse effects will be developed in consultation with the SHPO and the concurring parties, and the Advisory Council on Historic Preservation (ACHP) will be notified of the adverse effect and offered the opportunity to participate, as outlined in Stipulations II(A)(1), (2) and (3), below; and

WHEREAS, the historic property that will be affected by this agreement is:

5LP5677, an archaeological site located on private land adjacent to US Highway 160. The site contains at least one cultural component dated to the Archaic period (6000 BC-400 AD), as determined through analysis of a fragmentary flaked stone projectile point discovered on the site surface. 5LP5677 is manifested as a scatter of flaked stone artifacts on a depositional surface that suggests the presence of intact buried cultural strata that may provide information related to a broad range of research themes identified for southwestern Colorado. In June 2000, FHWA and CDOT determined that additional data resulting from archaeological excavations was needed in order to evaluate 5LP5677 for eligibility to the

NRHP, an assessment with which the SHPO concurred on July 6, 2000. The property owner denied CDOT access to the site for the purpose of conducting the test excavations, and therefore completing a final National Register eligibility determination has not been possible.

**NOW, THEREFORE,** FHWA and the Colorado SHPO agree that the undertaking shall be implemented in accordance with the following stipulations.

## STIPULATIONS

FHWA shall ensure that the following measures are carried out:

### I. Test Excavations

At such time that access to the property containing 5LP5677 is obtained, but before the initiation of ground disturbing activities associated with improvements to US Highway 160 in the vicinity of the site, 5LP5677 will be subjected to limited archaeological test excavations. The testing will focus on information pertinent to completing a final, comprehensive determination of NRHP eligibility. All documentation related to the excavations, including the National Register eligibility evaluation developed by FHWA and CDOT, must be reviewed and accepted by the SHPO.

#### A) FIELDWORK AND REPORTING

- 1) CDOT shall ensure that the archaeological excavations are performed or directly supervised by personnel meeting the Secretary of Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716, as amended), in addition to the procedures and protocols developed by the Colorado Office of Archaeology and Historic Preservation (OAHP).
- 2) The technical report documenting the excavations will adhere to the reporting guidelines established by the Colorado OAHP. The report will be submitted to the SHPO as part of the Section 106 eligibility review and concurrence process, and will also be provided to the concurring parties for review and comment.
- 3) The NRHP eligibility assessment resulting from the test excavations will be used by FHWA and CDOT to determine adverse effects. If 5LP5677 is determined to be not eligible for nomination to the NRHP and the SHPO concurs with a finding of no historic properties affected, no further Section 106 actions will be required.

### II. Resolution of Adverse Effects (as applicable)

#### A) PLANNING AND IMPLEMENTATION

- 1) If as a result of testing the site is determined NRHP eligible, FHWA and CDOT will develop a plan to resolve adverse effects as stipulated in 36 CFR 800.6. It is likely that mitigation will take the form of data recovery excavations, although a final determination in this regard will be made in consultation with the SHPO and concurring parties. With this uncertainty in mind, however, the following stipulations detail planning for resolution of adverse effects in the context of controlled scientific excavations.

- 2) Given funding limitations and project phasing along the US 160 corridor, adverse effects to 5LP5677 as a result of highway improvements are not anticipated for a number of years. At such time that the site is within the limits of a planned and funded construction project and therefore in danger from earth-moving activities, an Archaeological Data Recovery Plan defining the methodology and goals for the excavation will be completed. The Plan will meet all criteria outlined in the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, in addition to the procedures and protocols developed by the Colorado OAHP. The Data Recovery Plan will be reviewed and approved by the SHPO prior to issuance of an excavation permit. As concurring parties, the Southern Ute Tribe and Pueblo of Laguna will also be provided the opportunity to review the excavation plan.
- 3) FHWA will submit Documentation for Finding of Adverse Effect to the Advisory Council on Historic Preservation and offer the Council the opportunity to participate, per 36 CFR 800.6(a)(1) and 800.11(e).

### **III. Duration**

This agreement will be null and void if its terms are not carried out within ten (10) years from the date of its execution. Prior to such time, FHWA may consult with the other signatories to reconsider the terms of the agreement and amend in accordance with Stipulation VI, below.

### **IV. Monitoring and Reporting**

Each year following the execution of this agreement until it expires or is terminated, FHWA shall provide all parties to this agreement a summary report detailing work undertaken, as applicable, pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in FHWA's efforts to carry out the terms of this agreement. Failure to provide such summary report may be considered noncompliance with the terms of this MOA pursuant to Stipulation VI, below.

### **V. Dispute Resolution**

Should any party to this agreement object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, FHWA shall consult with the objecting party(ies) to resolve the objection. If FHWA determines, within 30 days, that such objection(s) cannot be resolved, FHWA will:

- A) Forward all documentation relevant to the dispute to the Council in accordance with 36 CFR 800.2(b)(2). Upon receipt of adequate documentation, the Council shall review and advise FHWA on the resolution of the objection within 30 days. Any comment provided by the Council, and all comments from the parties to the MOA, will be taken into account by FHWA in reaching a final decision regarding the dispute.
- B) If the Council does not provide comments regarding the dispute within 30 days after receipt of adequate documentation, FHWA may render a decision regarding the dispute. In reaching its decision, FHWA will take into account all comments regarding the dispute from the parties to the MOA.
- C) FHWA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged. FHWA will notify all parties of its decision in writing before implementing that portion of the Undertaking subject to dispute under this stipulation. FHWA's decision will be final.

## **VI. Amendments and Noncompliance**

If any signatory to this MOA, including the invited signatory, determines that its terms will not or cannot be carried out or that an amendment to its terms must be made, that party shall immediately consult with the other parties to develop an amendment to this MOA. The amendment will be effective on the date a copy signed by all of the original signatories is executed. If the signatories cannot agree to appropriate terms to amend the MOA, any signatory may terminate the agreement in accordance with Stipulation VII, below.

## **VII. Termination**

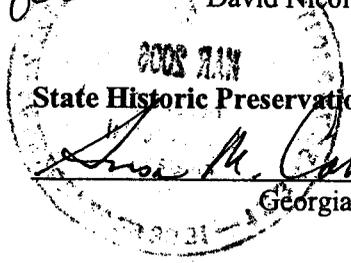
If the MOA is not amended following the consultation set out in Stipulation VI above, it may be terminated by any signatory or invited signatory. Within 30 days following termination, FHWA shall notify the signatories if it will initiate consultation to execute an MOA with the signatories under 36 CFR 800.6(c)(1) or request the comments of the Council under 36 CFR 800.7(a) and proceed accordingly.

Execution of this Memorandum of Agreement by FHWA and the Colorado SHPO and implementation of its terms evidence that FHWA will fulfill its Section 106 obligations for archaeological site 5LP5677 by determining if the site meets minimum criteria for eligibility to the National Register of Historic Places. If FHWA determines the site eligible for listing on the NRHP and the SHPO concurs with that assessment, FHWA will plan accordingly to resolve adverse effects, in consultation with the signatories to this agreement as well as the concurring parties.

**SIGNATORIES:**

**Federal Highway Administration**

*for* *Monica Pavuk* Date: *Apr. 4, 2006*  
David Nicol, P.E., Division Administrator



**State Historic Preservation Officer:**

*Georgianna Contiguglia* Date: *Feb. 22, 2006*  
Georgianna Contiguglia, SHPO

**INVITED SIGNATORY:**

**Colorado Department of Transportation:**

*Jennifer Fuchs* Date: *2/8/06*  
*for* Tom Norton, Executive Director

**CONCURRING PARTIES:**

**Pueblo of Laguna:**

*Roland E. Johnson* Date: *3/29/06*  
Roland E. Johnson, Governor

**Southern Ute Indian Tribe:**

*Clement Frost* Date: *3-13-06*  
Clement Frost, Chairman