PROTOTYPE PROGRAMMATIC AGREEMENT BETWEEN THE US DEPARTMENT OF AGRICULTURE, SOUTH DAKOTA NATURAL RESOURCES CONSERVATION SERVICE STATE OFFICE AND SOUTH DAKOTA STATE HISTORIC PRESERVATION OFFICER, REGARDING CONSERVATION ASSISTANCE

WHEREAS, the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) administers numerous voluntary assistance programs, special initiatives, and grant and emergency response programs for soil, water, and related resource conservation activities available to eligible private producers, States, commonwealths, Federally Recognized Tribal governments, other government entities, and other applicants for conservation assistance, pursuant to the Agricultural Act of 2014 (2014 Farm Bill, Public Law 113-79); Soil Conservation and Domestic Allotment Act of 1935 (Public Law 74-46, 16 U.S.C. 590 a-f, as amended); the Flood Control Act of 1944 (Public Law 78-534, as amended); the Watershed Protection and Flood Prevention Act (Public Law 83-566, as amended, 16 U.S.C. 1001-1012); the Agricultural and Food Act of 1981 (Public Law 97-98, 95 Stat. 1213); the Agricultural Credit Act (Public Law 95-3341, Title IV, Section 403); Food, Agriculture, Conservation and Trade Act of 1990 (Public Law 101-624); the Flood Control Act of 1936 (Public Law 74-738); the Food Security Act of 1985 (Public Law 99-198, as amended); the Federal Agricultural Improvement and Reform Act of 1996 (Public Law 104-127); and executive and secretarial orders, implementing regulations and related authorities; and

WHEREAS, NRCS, through its conservation assistance programs and initiatives, provides assistance for activities with the potential to affect historic properties eligible for or listed in the National Register of Historic Places (NRHP), including National Historic Landmarks (NHLs) and therefore constitute undertakings subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. 470f, and its implementing regulations, 36 CFR Part 800, including the provisions of these regulations addressing NHLs at 36 CFR Part 800.10; and

WHEREAS, NRCS has determined that the requirement to take into account the effects to historic properties of its undertakings may be more effectively and efficiently fulfilled through the use of a Prototype Programmatic Agreement (Prototype Agreement); and

WHEREAS, the NRCS South Dakota State Office has consulted with the South Dakota State Historic Preservation Officer (SHPO) and followed the instructions in the ACHP letter that accompanied the Prototype Agreement, dated November 21, 2014; and

WHEREAS, NRCS also is responsible for fulfilling the requirements of the National Environmental Policy Act (NEPA), including the use of categorical exclusions, and coordinating NEPA and Section 106 reviews, as appropriate; and

WHEREAS, NRCS developed this Prototype Agreement in consultation with the National

Conference of State Historic Preservation Officers (NCSHPO) and its members, interested Indian tribes, Native Hawaiian organizations, interested historic preservation organizations, (such as the National Trust for Historic Preservation), and the Advisory Council on Historic Preservation (ACHP); and

WHEREAS, in accordance with 36 CFR Part 800.14(b)(4), the ACHP has designated this agreement as a Prototype Agreement, which allows for the development and execution of subsequent prototype agreements by individual NRCS State office(s) (State-based Prototype Agreements) to evidence compliance with Section 106; and

WHEREAS, this State-based Prototype Agreement conforms to the NRCS Prototype Agreement as designated by the ACHP on November 21, 2014, and therefore, does not require the participation or signature of the ACHP when the NRCS State Office and the SHPO agree to the terms of the State-based Prototype Agreement; and

WHEREAS, this Prototype Agreement replaces the 2002 nationwide "Programmatic Agreement among the United States Department of Agriculture Natural Resources Conservation Service, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers relative to Conservation Assistance," as amended in 2011 and 2012, which expired on November 20, 2014; and

WHEREAS, the NRCS State Conservationist is the responsible federal agency official within the state for all provisions of Section 106, including consultation with the SHPO, NHOs, and government-to-government consultation with Indian tribes to negotiate the State-based Prototype Agreement; and

WHEREAS, the State-based Prototype Agreement does not apply to undertakings occurring on or affecting historic properties on Tribal lands, as defined by Section 301(14) of the NHPA, without prior agreement and execution of a State-based Prototype Agreement with the concerned Indian tribe; and

WHEREAS, the NRCS has consulted with Indian tribe(s) or NHOs and has invited the Indian tribe(s) or NHOs to enter into State-based Prototype Agreements; and

WHEREAS, this Prototype Agreement does not modify the NRCS' responsibilities to consult with Indian tribes and NHOs on all undertakings that might affect historic properties and properties of religious and cultural significance to them, regardless of where the undertaking is located, without prior agreement by the concerned Indian tribe or NHO, and recognizes that historic properties of religious and cultural significance to an Indian tribe or NHO may be located on ancestral homelands or on officially ceded lands near or far from current settlements; and

WHEREAS, when NRCS conducts individual Section 106 reviews for undertakings under this State-based Prototype Agreement, it shall identify and invite other agencies, organizations, and individuals to participate as consulting parties; and

NOW, THEREFORE, the NRCS South Dakota State Office and the South Dakota SHPO agree that undertakings in South Dakota shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The NRCS shall ensure that the following stipulations are met and carried out:

I. Applicability.

a. Once executed by the NRCS and the South Dakota SHPO, this State-based Prototype Programmatic Agreement (PPA) sets forth the review process for all NRCS undertakings subject to Section 106 in South Dakota.
b. Execution of this PPA supersedes any existing State Level Agreement with South Dakota SHPO executed under the previous NRCS nationwide Programmatic Agreement, but does not replace any existing project-specific Section 106 agreements (Memoranda of Agreement or Programmatic Agreements).
c. This PPA applies only when there is a Federal Preservation Officer (FPO) in the NRCS National Headquarters (NHQ) who meets the Secretary of the Interior's Professional Qualification Standards (48 FR 44716).
d. This PPA applies only where there is staffing or access to staffing (through contracted services or agreements with other agencies or Indian tribes) who meet the Secretary of Interior's Professional Qualification Standards in the South Dakota NRCS state or area office.

II. Roles and Professional Qualifications.

a. The NRCS South Dakota State Conservationist (State Conservationist) is responsible for oversight of its performance under this PPA.
b. The State Conservationist is responsible for consultation with the South Dakota SHPO and government-to-government consultation with federally-recognized Indian tribal leaders and/or their THPO to develop consultation protocols. These responsibilities may not be delegated to any other staff, nor carried out on behalf of NRCS by another federal agency.
c. The NRCS South Dakota shall ensure all NRCS staff or individuals carrying out Section 106 cultural resource historic preservation compliance work on its behalf, including the NRCS South Dakota State Cultural Resource Specialist (SCRS) or area Cultural Resources Specialists (CRS), are appropriately qualified to coordinate the reviews of resources and historic properties as applicable to the resources and historic properties being addressed (site, building, structure, landscape, resources of significance to Indian tribes, and other concerned communities). Thus, these staff and consultants must meet the Secretary of the Interior's Professional Qualification Standards and have the knowledge to assess the resources within an undertaking's area of potential effects (APE). The SCRS, the South Dakota lead CRS, will be directly responsible for the following:

1. Formulating state NRCS cultural resource guidance and procedures.

2. Determining and maintaining cultural resources training programs for field personnel acceptable to the NRCS State Conservationist and SHPO.

3. Assisting the State Conservationist and State Tribal Liaison in interacting with tribal governments in response to cultural resource issues.

4. Providing supervision, determining, and designating CRS responsibilities based upon workload and professional qualifications.

5. Consulting with the SHPO in discovery, emergency, urgent and compelling situations.

6. Ensuring that SHPO receives updated NRCS conservation practice standards with each annual review of Appendix A.

7. Preparing NRCS annual cultural resources report to the SHPO.

8. Preparing standard treatments in consultation with SHPO pursuant to 36 CFR Part 800.14(d).

d. The CRS and/or professional consultants shall provide technical historic property and resource information to the State Conservationist for use in Section 106 findings and determinations, after appropriate consultations with the SHPO, Indian tribes, and discussions with the landowner. The CRS shall monitor and oversee the work and reporting of all NRCS field office personnel and professional service consultants. The CRS shall also assist the State Conservationist in determining whether an undertaking has the potential to affect historic properties, triggering Section 106 review, pursuant to 36 CFR Part 800.3(a). Other communications under this agreement are clarified below:

1. For the purpose of modifications to the PPA, signing Memorandum of Agreements (MOA), and/or annual reporting, the State Conservationist will communicate directly with the SHPO.

2. For the purpose of developing or reviewing PPA procedures, preparing MOA, or questions on NRCS cultural resources policy, assigned review and compliance SHPO staff will communicate directly with the SCRS.

3. For the purpose of project compliance activities, NRCS CRS will communicate directly with the assigned review and compliance SHPO archaeologist, historian, and/or architectural historian for concurrence on determinations of effect and eligibility. The SHPO staff will respond directly to a NRCS CRS. The SHPO response times will follow the 36 CFR Part 800 regulations. No response after applicable response time will constitute SHPO concurrence in NRCS CRS determinations. The SHPO will notify NRCS if more time is needed to respond on

individual projects. The NRCS will notify the SHPO if a more expedient review is needed on individual projects. The NRCS and SHPO will try to accommodate special requests for additional/reduced review times when feasible.

4. The NRCS field office and field support office staff will communicate directly with the assigned CRS. Copies of all reporting forms, maps, and attachments will be sent to the assigned CRS. The CRS will respond to the NRCS field office and field support offices either electronically or in writing. Copies of all compliance correspondence should be kept in the field office copy of the producer's file and CRS files.

5. The USDA program participants may choose to use other individuals as cultural resource contractors. In these cases, NRCS may formally authorize these cultural resource contractors (non-NRCS employees) to communicate (but not consult for NRCS) directly with SHPO to initiate the section 106 process and, if relevant, conduct the appropriate level of cultural resource survey. The State Conservationist, or their designee, will make notification of the initiation of the contractor process formally in writing to SHPO (36 CFR Part 800.2(c)(4)).

6. Cultural resource and producer information may not be subject to the Freedom of Information Act (FOIA). Section 304 of NHPA and other Federal laws and USDA Farm Bill program requirements may limit public access to information concerning a producer, an undertaking, and its effect on cultural resources. The NRCS is providing SHPO cultural resource information for the expressed purposes of consultation under NHPA and 36 CFR Part 800. The NRCS field offices and SHPO will limit access to NRCS producer information pursuant to Federal laws and regulations. The NRCS may limit certain reports from being submitted to the State Archaeological Research Center depending upon privacy concerns.

e. The NRCS field office personnel (FOP) and other conservation partners (non-CRS working directly with NRCS projects) involved in implementing this PPA, after completion of NRCS web, classroom, and field awareness training acquired through USDA's AgLearn training site, shall work with the CRS, as feasible, in completing historic preservation compliance (Section 106) field records for the agricultural producer's (NRCS client or voluntary applicant for assistance) files and for use in producing initial historic property identification records (as set forth and outlined in NRCS operational guidance, the National Cultural Resources Procedures Handbook, Title 190, Part 601). The FOP are required to receive formal cultural resources update training every three years, or more frequently if specified by the SCRS based on quality assurance review (QAR) reports. This update training can consist of formal classroom work, field exercises, or on-the-job training (or any combination of such) under the direct supervision of a CRS. If a FOP has not received update training in a three-year period, they will be notified by a CRS that they may no longer conduct cultural resource field reviews until said update training is satisfactorily completed. The NRCS use of FOP will be limited to the following situations:

1. They may conduct SD-SSC-1 (Cultural Resources Field Review form) pedestrian surface field reviews on areas of 40 acres or less.

2. Pedestrian field reviews must be conducted at no greater than one hundred-foot intervals.

3. Pedestrian field reviews will not be conducted while the ground surface is obscured, such as covered in snow or inundated.

4. They may not formally record or evaluate sites for National Register of Historic Places (NRHP) eligibility. They may locate sites, but only a CRS may record them, evaluate them for the NRHP, and make determinations of effect.

5. They may act in the capacity of a crewmember while under the direct supervision of a CRS.

6. The NRCS, conservation district and other conservation partner personnel working on NRCS projects are not authorized to collect cultural resources (i.e., artifacts) located on private or public lands (unless specified under a state permit on state lands). Personnel may photograph relevant artifacts or features or mark their location/s for CRS examination, but not collect (even if the artifacts are offered to personnel by the landowner).

f. The CRS in South Dakota shall oversee development of the scopes of work for investigation of the APEs for identified undertakings (see 36 CFR Part 800.4). The NRCS may use professional service contractors or consultants or partners to assist with cultural resources compliance studies. The NRCS shall ensure these contractors meet the Secretary of Interior's Professional Qualifications Standards.
g. The NRCS remains responsible for all consultation with the SHPO, Indian tribes and THPOs and all determinations of NRHP eligibility and effect. NRCS may not delegate consultation for findings and determinations to professional services consultants or producers/applicants for conservation assistance.
h. The South Dakota SHPO, if provided sufficient data on a proposed undertaking and APE for the proposed undertaking by a CRS, shall consult and provide a response to NRCS within 30 days. The definition of sufficient data is provided in 36 CFR Part 800.11.
i. The ACHP shall provide technical guidance, participate in dispute resolution, and monitor the effectiveness of this agreement, as appropriate.

III. Training.

a. The NRCS shall require non-NRCS cultural resource professionals conducting cultural resources identification and evaluation work to complete, at a minimum, the NRCS Web-based (in USDA AgLearn) and field Cultural Resources Training in modules and the ACHP's Section 106 Essentials course.
b. The NRCS shall require CRS and other NRCS personnel overseeing cultural resource work to take the NRCS Cultural Resources Training Modules (awareness training) and the

ACHP's Section 106 Essentials course, or a course with similar content, if approved by the NRCS FPO. Training must be completed within the first calendar year after execution of this PPA Agreement, if not previously taken and documented. New CRS must have this training within one year of beginning work for NRCS. The NRCS personnel shall review and update training completion with their supervisors and include their training in their Individual Development Plans (IDP) or within their AgLearn course completion record.
c. The NRCS may invite the SHPO or THPO staff to participate in presentations at agency classroom or field trainings.
d. The NRCS SCRS/CRS or staff overseeing cultural resources work shall have historic preservation update training beyond the ACHP's Section 106 Essentials course once every five years. Update training can be conducted by any qualified historic preservation vendor based upon the CRS's previous training and their IDP.

IV. Lead Federal agency.

a. For any undertaking for which the NRCS is the lead federal agency for Section 106 purposes per 36 CFR Part 800.2(a)(2), NRCS staff shall follow the terms of this PPA. NRCS shall notify the SHPO of its involvement in the undertaking and the involvement of the other federal agencies and which agency is designated as lead.
b. For any undertaking for which the NRCS is not the lead federal agency for Section 106 purposes, including those undertakings for which the NRCS provides technical assistance to other USDA or other federal agencies, the terms of this PPA shall not apply to that undertaking. If the lead federal agency agrees, NRCS may follow the approved alternative procedures in place for that agency.

V. Review Procedures.

a. In consultation with the SHPO, NRCS shall identify those undertakings with little to no potential to affect historic properties and list those undertakings as "Class N" in Appendix A.
b. NRCS field office personnel (FOP) will determine if conservation activities are subject to SHPO review based on Appendix A of this PPA.

1. If not subject to review by SHPO, FOP will document this decision at the field office level and proceed with the activity.

2. If the activity is subject to review by SHPO, prior to going to the field, FOP will check their relevant county commission, local historical society, and tribal consultation file, the Archaeological Resources Management System (ARMS), National Register of Historic Places (NRHP), and State Register of Historic Places (SRHP) internet site databases or lists to determine if known sites, or potential sites, are present within the subject Section, Township, and Range encompassing the Area of Potential Effect (APE). Consultation file reviews and database search results will be recorded on the relevant SD-SSC-1 or SD-SSC-2 form.

    i. <u>SD-SSC-1 Form</u>: Will be utilized for all undertakings in which database searches for known resources in the APE are negative, the

APE is less than 40 acres in size, and where consultation does not indicate the potential for cultural resources. The SD-SSC-1 form will be filled out completely in the appropriate form database, signed by FOP who conducted the field review, and sent with the appropriate map attachment/s (1:24,000 scale 7.5 minute series United States Geologic Survey Quadrangle) to a CRS prior to project implementation. A CRS will review all SD-SSC-1 forms and respond back to the appropriate field staff via email or hard copy within 30 days. The CRS will determine if the compliance process is completed and the project can proceed, or if additional information is required (i.e., field conditions, photographs, or an inventory by a CRS). All CRS responses should be filed with the SD-SSC-1 form in the field office copy of the producer's file. For those SD-SSC-1 forms in which the compliance process is completed, a CRS will sign the form, file in their county files, add data to the NRCS Performance Results System (PRS) or current equivalent, and send appropriate information to the SHPO on an annual basis.

ii. SD-SSC-2 Form: Will be utilized for all undertakings in which database searches for known resources in the APE are positive, the APE is more than 40 acres in size, where land ownership is other than private, or where consultation indicates the potential for cultural resources. The SD-SSC-2 form will be filled out completely in the appropriate form database, signed by the appropriate FOP and sent with the appropriate map attachment/s (1:24,000 scale 7.5 minute series United States Geologic Survey Quadrangle) to a CRS prior to project implementation (i.e., no ground disturbing activities will occur until CRS response). A CRS will review all SD-SSC-2 forms and respond back to the appropriate field staff via E-mail or hard copy within 30 days. A CRS will examine existing data to determine if the site(s) are near the APE, consider consultation concerns, and environmental/cultural conditions, then determine if the undertaking requires a field review by a FOP (SD-SSC-1) or an inventory by a CRS. All CRS responses should be filed with the SD-SSC-2 form in the field office copy of the producer's file. For those SD-SSC-2 forms in which the compliance process is complete (i.e., in the case of adequate previous surveys), the CRS will sign the form, file in their county files, add data to the NRCS Performance Results System (PRS) or current equivalent, and send appropriate information to the SHPO on an annual basis.

iii. A CRS will write a report for each project that they conduct a formal field inventory and consult on a project-by-project basis with SHPO and other relevant parties. For those reports in which the compliance process is completed, CRS will send a copy of the

report and consultation correspondence to the FOP for the field office copy of the producer's file, file a copy in their county files, and add data to the NRCS Performance Results System (PRS) or current equivalent.

c. If cultural resources are located on any undertaking that can be avoided by all activities associated with undertaking implementation, a South Dakota CRS will: 1) visit and inspect the cultural resource(s), determine relevant boundaries, and prepare an inventory report, including the South Dakota Archaeological Research Center (SDARC) site form, to be submitted to SHPO. It is the intent of NRCS, whenever practicable, to avoid adverse effects to cultural resources that are listed, eligible, or eligible conditionally (treated as eligible unless further study shows they are not) for listing in the National Register of Historic Places. This avoidance policy not only protects the integrity of cultural resources in their original location from NRCS assisted activities, but is also a cost-effective way to avoid the additional time and expense from resource evaluation, continued consultation, and potential mitigation. Therefore, the SHPO and NRCS agree that, for those cultural resources in which background research and/or field indicators demonstrate or clearly infer the cultural resource's characteristics, the SHPO and NRCS may agree to treat an unevaluated resource as eligible conditionally for the purpose of avoidance. The SHPO will review NRCS avoidance strategies for concurrence. After the CRS receives SHPO concurrence, the review period has elapsed, and/or the NRCS receives no objections from other consulting parties, the CRS will supply the FOP with written notice (i.e., copy of report and SHPO response) that they may proceed with the implementation of the conservation practice. The FOP will file all compliance documentation in the field office copy of the producer's file. The CRS will file all compliance documentation in their county files and add data to the NRCS Performance Results System (PRS) or current equivalent.

The following procedures are to be followed to insure that cultural resource avoidance strategies are properly implemented:

1. CRS derived cultural resources boundaries and relevant buffers will be noted in the field (i.e., flagging or more substantial marking) and on respective practice plans.

2. The NRCS FOP will inform the relevant participants (i.e., producer and contractor) that the site is to be avoided.

3. The NRCS FOP will inform the relevant landowner whether the cultural resource is NRHP listed, eligible, or is being treated as eligible conditionally.

4. Since very few projects actually require avoidance, and these projects are considered sensitive in compliance with Federal, state, and/or tribal regulations, NRCS field personnel familiar with the avoidance strategy must be present during the project's construction (in the area of the project adjacent to the cultural resource) to assure the cultural resource is avoided during practice implementation.

5. The NRCS FOP will notify the CRS in writing (i.e., email, letter, etc.) that the practice was implemented as planned and the cultural resource was avoided. This

will provide necessary documentation and assure proper compliance with relevant regulations.

d. If cultural resources cannot be avoided, they will be recorded on the SDARC site form by a CRS. The CRS will determine if they are eligible for the National Register of Historic Places (NRHP) and determine if there is an Adverse Effect, as required in 36 CFR Part 800. 5(a) (1) and consult with SHPO. When there is a determination of Adverse Effect, the NRCS SCRS will notify the ACHP and ask ACHP if they want to participate in a resolution of the Adverse Effect as stipulated in 36 CFR Part 800. 6 (a) (1). The SCRS, or SCRS delegated CRS, will then develop a MOA between SHPO and NRCS (and ACHP if they choose to participate) to mitigate the Adverse Effect. The undertaking may proceed after SHPO (and ACHP if they choose to participate) and NRCS has signed the MOA and the stipulations of the agreement have been met.

e. The list of undertakings (Class "U") provided in the Appendix A, and any of the Appendixes, may be modified through consultation and written agreement between the State Conservationist and the SHPO without requiring an amendment to this PPA. The NRCS State office will maintain the master list of undertakings in Appendix A and will provide an updated list to all consulting parties with an explanation of the rationale (metadata) for classifying the practices accordingly.

VI. Emergency and Disaster Management Procedures (Response to Emergencies)

a. The following procedures will be implemented during an emergency declared by the President of the United States, the Governor of South Dakota, a Tribal official on a reservation, the State Conservationist, or other authorized individual. The NRCS shall notify the SHPO immediately or within 48 hours of the emergency determination and these procedures will ensure that the need to protect life and property is accomplished while taking cultural resources into account to the maximum extent congruent with rapidly changing priorities and circumstances. These emergency situations are of two types, with separate compliance processes.

1. Normal Emergency Activities include those declared by the South Dakota State Conservationist, Tribal Government, Governor of South Dakota, or President of the United States. During Normal Emergency Activities NRCS SCRS will make decisions for treatments to cultural resources in consultation with SHPO. Undertakings (Class "U") provided in the Appendix A will be field reviewed, inventoried or monitored. The SHPO will have 7 days to review NRCS reports in these situations instead of the regular 30 days as defined in 36 CFR Part 800.12 (b) (2).

2. Urgent and Compelling Situations - Urgent and compelling situations require that work be initiated within five days to save life or property. 36 CFR Part 800. 12(d) states regarding these situations, "Immediate rescue and salvage operations conducted to preserve life and property are exempt from the provisions of Section 106 and this part." In these declared disaster situations NRCS shall proceed with the undertaking and the SCRS shall notify SHPO as soon as possible after the

situation has been identified and accepted as urgent and compelling. The waiver may be invoked in only a limited range of circumstances involving major natural disaster or imminent threat to life or property. Notification should include a description of the circumstances creating the urgent and compelling situation, work to be undertaken, geographic area to which the waiver applies, and any consideration of cultural resources already completed or planned to be completed. The SCRS will be responsible to document and avoid adverse effects to cultural resources encountered during urgent and compelling work to the fullest extent practical.

In these emergency situations NRCS may elect to waive all or part of NRCS cultural resources responsibilities as allowed under 36 CFR Part 800 12(d). The SCRS will notify SHPO of disaster waiver situations in writing, including an outline of NRCS plans to consider potential adverse effects to cultural resources and appropriate treatments.

Additional emergency procedures may be developed in response to specific situations and will be appended, with SHPO approval, to Appendix B.

VII. Post-review discoveries of cultural resources or historic properties and unanticipated effects to historic properties.

a. Where construction has not yet begun and a cultural resource is discovered after Section106 review is complete, the NRCS shall consult to seek avoidance or minimization strategies in consultation with the SHPO and/or to resolve adverse effects in accordance with 36 CFR Part 800.6.
b. The NRCS shall ensure that every contract for assistance includes provisions for halting work/construction in the area when potential historic properties are discovered or unanticipated effects to historic properties are found after implementation, installation, or construction has begun. When such a discovery occurs, the producer who is receiving financial assistance or their contractor shall immediately notify the NRCS State Conservationist's Office, CRS, supervisory NRCS personnel for the area, and the landowner/applicant.

1. The NRCS CRS shall inspect the discovery within 24 hours, if weather permits, and in consultation with the local NRCS official (field office supervisor or District or Area Conservationist), concerned Indian tribes, the SHPO, the NRCS State engineering or program supervisor, as appropriate), the landowner/producer (whomever NRCS is assisting), the CRS shall establish a protective buffer zone surrounding the discovery. This action may require inspection by tribal cultural resources experts in addition to the CRS.

2. All NRCS contact with media shall occur only under the direction of the NRCS Public Affairs Officer, as appropriate, and the State Conservationist.

3. Security shall be established to protect the resources/historic properties,

workers, and private property. Local law enforcement authorities will be notified in accordance with applicable State law and NRCS policy in order to protect the resources. Construction and/or work may resume outside the buffer only when the State Conservationist determines it is appropriate and safe for the resources and workers.

4. The NRCS CRS shall notify the SHPO and the ACHP no later than 48 hours after the discovery and describe NRCS assessment of the National Register eligibility of the property, as feasible and proposed actions to resolve any adverse effects to historic properties. The eligibility determination may require the assessment and advice of concerned Indian tribes, the SHPO, and technical experts (such as historic landscape architects) not normally employed by NRCS.

5. The SHPO and ACHP shall respond within 48 hours from receipt of the notification with any comments on the discovery and proposed actions.

6. The NRCS shall take any comments provided into account and carry out appropriate actions to resolve any adverse effects.

7. The NRCS shall provide a report to the SHPO and the ACHP of the actions when they are completed.

c. When human remains are discovered, the NRCS shall follow all applicable federal, Tribal, and state burial laws and ordinances, including the Native American Graves Protection and Repatriation Act, and implementing regulations, when on Tribal or federal lands, and related human rights and health statutes, where appropriate. The NRCS shall also refer to the ACHP's Policy Statement regarding Treatment of Burial Sites, Human Remains and Funerary Objects and the ACHP's Section 106 Archaeology Guidance. The NRCS shall also follow USDA and NRCS policy on treatment of human remains and consultation.

1. All undertakings involving human remains on private property are subject to South Dakota Codified Law (SDCL 34:27:21-31). If human remains are discovered on private property NRCS will cease all work, protect the human remains <u>in place</u> (do not remove or disturb), and notify the county sheriff, the South Dakota State Archaeologist, the SCRS, and appropriate Assistant State Conservationist for Field Operations (ASTC(FO)) within five hours of the discovery.

VIII. Dispute resolution.

a. Should any consulting or signatory party to this PPA object to any actions proposed or the manner in which the terms of the agreement are implemented, the NRCS State Conservationist and SCRS shall consult with such party to resolve the objection. If the State Conservationist determines that such objection cannot be resolved, he or she will:

1. Forward all documentation relevant to the dispute, including the State

Conservationist's proposed resolution, to the NRCS FPO and Senior Policy Official (SPO Deputy Chief for Science and Technology) and the ACHP. The ACHP shall provide the FPO, SPO, and State Conservationist with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, NRCS shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and any signatory or consulting parties, and provide them with a copy of this written response. The NRCS will then proceed according to its final decision.

2. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, NRCS may make a final decision on the dispute and proceed. Prior to reaching such a final decision, NRCS shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and consulting parties, and provide them and the ACHP with a copy of the written response.

b. The NRCS South Dakota Office responsibility to carry out all other actions subject to the terms of this agreement that are not the subject of the dispute remains unchanged.
c. Any consulting party to PPA may request the ACHP provide its advisory opinion regarding the substance of any finding, determination, or decision regarding compliance with its terms.
d. At any time during the implementation of the PPA, a member of the public may submit an objection pertaining to this agreement to the State Conservationist, in writing. Upon receiving such an objection, the State Conservationist shall notify the NRCS SPO, FPO, and the SHPO, take the objection into account, and consult with other consulting parties as appropriate to resolve the objection. The State Conservationist shall notify the SPO, FPO, and SHPO of the outcome of this process.

IX. Public Involvement

The State Conservationist will ensure that appropriate preservation partners are involved in the development of this PPA and participate in Section 106 review as set forth above in Section V (reference to other parties).

X. Annual reporting and monitoring.

a. Every year following the execution of this agreement, commencing December 1, 2015, until it expires or is terminated, the State Conservationist shall provide all consulting parties (including those parties who participate in the consultation but do not sign the agreement) and the FPO a summary report detailing work undertaken pursuant to its terms, including a list of undertakings falling under Appendix A as well as undertakings that required further review; a summary of the nature and content of meetings held with SHPO; and an assessment of the overall effectiveness of the PPA. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in NRCS efforts to carry out the terms of this agreement.

1. The NRCS will provide an annual report to the SHPO summarizing fiscal year (October 1-September 30) Section 106 compliance activities and results, including NRCS Performance Results System (PRS) or current equivalent fiscal year information. The annual report will include a table or database files listing the county, legal description, total acres surveyed, a list and the number of undertakings subject to FOP field reviews, whether a project was inventoried by a CRS, inventory results, a list of projects inventoried by a professional archaeologist including the results of the field check, and the results of quality review checks. The annual report will be sent to SHPO no later than March 31 of the following year.

2. The NRCS FPO shall use the state reports to provide, through the NRCS SPO, an annual report to the ACHP.

3. The NRCS and SHPO will meet and consult annually regarding the performance of this agreement, typically after the submittal of the annual report and prior to May 31 of the following year.

b. The State Conservationist will participate in an annual review with the NRCS Regional Conservationist regarding the effectiveness of the prototype agreement and submit a written (e-mail) report following this review to the SPO (Deputy Chief for Science and Technology).
c. The State Conservationist, SHPO, or Indian tribes may request that the ACHP participate in any annual meeting or agreement review.
d. The SCRS/CRS will address quality assurance and review of the PPA through the following:

1. A CRS will review each SD-SSC-1 and SD-SSC-2 form for all undertakings listed in Appendix A that are subject to review by the SHPO (Class "U").

2. Quality Assurance Review (QAR) spot checks will be completed by a CRS at selected field offices and for any contractors. Each office will be checked at least once every eight years. At a minimum this QAR will include:

    i. Number of conservation practices which are undertakings for the field office (Class "U").

    ii. Total of conservation practice compliance processes completed correctly.

    iii. A 5% field inspection of FOP/contractor negative field reviews. These spot checks are conducted to ensure accuracy and quality control.

    iv. Recommendations for additional training or other methods to improve future compliance activities, if any are needed.

XI. Compliance with applicable State law and Tribal law (when on Tribal lands).

The NRCS shall comply with relevant and applicable state law, including permit requirements on state land, and with relevant and applicable tribal law, when on tribal lands.

XII. Duration of Prototype Agreement.

This PPA will be in effect for 10 years from the date of execution unless amended or terminated pursuant to Stipulation XIII below.

XIII. Amendment and termination.

a. This PPA may be amended if agreed to in writing by all signatories. The amendment will be effective on the date a copy, signed by all of the signatories, and is filed with the NRCS FPO, SPO, and the ACHP.
b. If any signatory to this PPA, or the ACHP, determines that its provisions will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation XIII. If within 30 calendar days, or other time period agreed upon by the signatories, an amendment cannot be agreed upon, any signatory or the ACHP may terminate the agreement upon written notification to the other signatories.
c. If this PPA is terminated, or expires without being extended via the amendment process described above, and prior to continuing work on any undertaking, NRCS shall comply with 36 CFR Part 800 for all individual undertakings in South Dakota.
d. The NRCS will consider requests from other USDA agencies to become a signatory to the PPA following formal written requests and appropriate discussion with and approval by the NRCS FPO and SPO, and joint USDA Agency-NRCS State Office consultation with the ACHP, NCSHPO, and Indian tribes/THPOs or NHOs, and other consulting parties, as appropriate. Such inclusion of the USDA agency may require amendment to this PPA.

Execution of this PPA by the NRCS and SHPO and implementation of its terms evidence that NRCS has taken into account the effects of its undertakings in South Dakota State on historic properties and afforded the ACHP a reasonable opportunity to comment.

Signatory Parties

By: _____ Date: 1/30/2015
State Conservationist, South Dakota Natural Resources Conservation Service

By: Jay D. Vogt Date: 02-02-2015
South Dakota State Historic Preservation Officer

APPENDIX A. LIST OF UNDERTAKINGS THAT REQUIRE SECTION 106 REVIEW (U) AND THOSE UNDERTAKINGS NOT REQUIRING FURTHER SECTION 106 REVIEW (N) BY SOUTH DAKOTA NRCS

Based upon conditions specific to South Dakota and pursuant to Stipulation V.a., in consultation with the South Dakota SHPO, the NRCS, through a qualified Cultural Resources Specialist as described in Stipulation II (c), has reviewed NRCS Conservation Activities and Practices and concurred on which undertakings will not require further Section 106 review because they are a type of activity with foreseeable effects that have little or no potential to affect historic properties (Class N), and those which have the potential to cause effects on historic properties (Class U) (subject to SHPO review). The following table indicates the potential of each conservation activity or conservation practice to cause effects on historic properties. The categories are as follows:

A. Conservation activities or practices which will not require further Section 106 review because they are a type of activity with foreseeable effects that have little or no potential to affect historic properties are marked "N" below in the "Class" column.

B. Projects that must be reviewed by SHPO are marked "U" below in the "Class" column.

C. Projects that a NRCS CRS must consider visual, atmospheric, and/or audible effects to architectural resources are listed as "Yes" under the last column.

Conservation Activities	Code	Class	Potential for Visual Effect
Advice or Technical Assistance when NRCS Exercises No Control Over Implementation		N	No
Changes or Amendments to Approved Actions when the NRCS State Office, in Consultation with the SHPO, concurs that Such Changes have No Potential to Affect National Register Eligible Properties		N	No
Conservation Easement Purchases that Do Not Call for Structural Modification, Structure Removal, or Ground Disturbing Activities		N	No
Conservation Easement that Call for Structural Modification, Structure Removal, or Ground Disturbing Activities		U	Yes
Conservation Planning		N	No
Determinations of Compliance or Non-Compliance		N	No
Development or Revision of Technical Standards and Specifications		N	No
Highly Erodible Land Determinations		N	No
National Resource Inventory with Limited Subsurface Testing Completed with a Shovel, Auger, or Probe		N	No
Plant Materials for Conservation Recommendations (7 CFR Part 613) Data Analysis from Technical Determinations or Resource Inventories		N	No
Prime and Unique Farmland Determinations		N	No
Resource Inventory, Monitoring, Field Trials, and Other Information Gathering Activities that Do Not Involve Subsurface Disturbance		N	No
River Basin Studies under Section 6 of P. L. 83-566 (7CFR Part 621) Data Analysis from Technical Determinations or Resource Inventories		N	No
Sodbusting Determinations (No direct technical assistance provided)		N	No

Conservation Activities	Code	Class	Potential for Visual Effect
Sodbusting Determinations – Previously Cultivated Land		N	No
Sodbusting Determinations – Unbroken Land (Direct technical assistance provided)**		U**	No
Soil Survey (7 CFR Part 611) Data Analysis from Technical Determinations or Resource Inventories		N	No
Soil Survey with Limited Subsurface Testing Completed with a Shovel, Auger, or Probe		N	No
Soil Survey that Includes the Mechanical Excavation of Soil Pits or Trenches		U	No
Snow Survey and Water Supply Forecast (7 CFR Part 612) Data Analysis from Technical Determinations or Resource Inventories		N	No
Technical Determinations Based on Empirical or Factual Findings		N	No
Wetland Certification		N	No
Wetland Determinations		N	No
Conservation Practices	**Code**	**Class**	**Potential for Visual Effect**
Access Control	472	N	No
Access Road	560	U	Yes
Air Filtration and Scrubbing	371	N	No
Air Filtration and Scrubbing – with New Ground Disturbance or Modification to a Structure Greater than 50 Years Old	371	U	Yes
Anaerobic Digester	366	U	Yes
Animal Mortality Facility	316	U	Yes
Animal Trails and Walkways	575	U	No
Brush Management -Chemical	314	N	No
Brush Management –Mechanical*	314	U	No
Building Envelope Improvement (Structure Less than 50 years old)	672	N	No
Building Envelope Improvement (Structure Greater than 50 years old)	672	U	Yes
Channel Bed Stabilization	584	U	Yes
Clearing and Snagging	326	U	No
Composting Facility	317	U	Yes
Conservation Cover	327	N	No
Conservation Cover with New Ground Breaking	327	U	No
Conservation Crop Rotation	328	N	No
Conservation Crop Rotation with New Ground Breaking (See guidance on sodbusting when appropriate**)	328	U	No
Constructed Wetland	656	U	Yes
Contour Buffer Strips	332	N	No
Contour Farming	330	N	No
Cover Crop	340	N	No
Critical Area Planting	342	N	No
Critical Area Planting with New Ground Breaking/Borrow	342	U	No
Cross Wind Ridges	588	N	No
Cross Wind Trap Strips	589C	N	No
Dam	402	U	Yes

Conservation Practices	Code	Class	Potential for Visual Effect
Dam, Diversion	348	U	Yes
Deep Tillage	324	U	No
Denitrifying Bioreactor	747	U	No
Dike	356	U	Yes
Diversion	362	U	Yes
Drainage Water Management	554	N	No
Dry Hydrant	432	U	No
Early Successional Habitat Development/Management	647	N	No
Fabricated Windbreak (Heavy Use Area Protection)	561	U	Yes
Farmstead Energy Improvement	374	N	No
Fence	382	N	No
Field Border	386	N	No
Filter Strip	393	N	No
Firebreak-Cropped Area	394	N	No
Firebreak-Non Cropped Area	394	U	No
Forage and Biomass Planting	512	N	No
Forage and Biomass Planting with New Ground Breaking	512	U	No
Forage Harvest Management	511	N	No
Forest Stand Improvement – Chemical or when hand-cut and hand-stacked	666	N	No
Forest Stand Improvement – When rubber-tire or track vehicles are used for cutting or removal of trees/brush	666	U	No
Fuel Break – No Ground Disturbance	383	N	No
Fuel Break – When rubber-tire or track vehicles are used for cutting or removal of trees/brush	383	U	No
Grade Stabilization Structure	410	U	Yes
Grassed Waterway	412	U	No
Grazing Land Mechanical Treatment	548	U	No
Heavy Use Area Protection	561	U	Yes
Herbaceous Weed Control	315	N	No
Herbaceous Wind Barriers	603	N	No
Integrated Pest Management	595	N	No
Irrigation Canal or Lateral	320	U	Yes
Irrigation Ditch Lining	428	U	No
Irrigation Field Ditch	388	U	No
Irrigation Land Leveling	464	U	No
Irrigation Pipeline	430	U	No
Irrigation Reservoir	436	U	Yes
Irrigation System, Microirrigation	441	U	No
Irrigation System, Sprinkler (Nozzle Change and/or Flow Meter ONLY)	442	N	No
Irrigation System, Surface and Subsurface	443	U	No
Irrigation System, Tailwater Recovery	447	U	No
Irrigation Water Management	449	N	No
Lighting System Improvement (Structure Less than 50 years old)	670	N	No

Conservation Practices	Code	Class	Potential for Visual Effect
Lighting System Improvement (Structure Greater than 50 years old)	670	U	Yes
Lined Waterway or Outlet	468	U	Yes
Livestock Pipeline	516	U	No
Livestock Pipeline (Temporary practice laid upon the surface with no ground disturbance)	516	N	No
Livestock Shelter Structure	576	U	Yes
Mulching	484	N	No
Nutrient Management	590	N	No
Obstruction Removal	500	U	Yes
Open Channel	582	U	No
Pond	378	U	Yes
Pond (Restoration with ground disturbances confined to previously disturbed areas)	378	N	No
Pond Sealing or Lining-Bentonite Sealant	521C	N	No
Pond Sealing or Lining-Compacted Clay Treatment	521D	N	No
Pond Sealing or Lining-Flexible Membrane	521A	N	No
Pond Sealing or Lining-Soil Dispersant Treatment	521B	N	No
Prescribed Burning Non Cropped	338	U	Yes
Prescribed Burning Previously Cropped	338	N	No
Prescribed Grazing	528A	N	No
Pumping Plant	533	U	No
Range Planting-Cropped	550	N	No
Range Planting-Non Cropped	550	U	No
Residue and Tillage Management Reduced Till	345	N	No
Residue and Tillage Management No-Till	329	N	No
Restoration and Management of Rare or Declining Habitats	643	N	No
Riparian Forest Buffer	391	U	No
Riparian Herbaceous Cover	390	N	No
Riparian Herbaceous Cover with New Ground Breaking/Borrow	390	U	No
Road/Trail/Landing Closure and Treatment	654	U	No
Roof Runoff Structure	558	U	Yes
Roofs and Covers	367	N	No
Salinity and Sodic Soil Management	610	N	No
Seasonal High Tunnel System for Crops (Interim)	798	U	Yes
Spoil Spreading	572	U	No
Spring Development	574	U	No
Sprinkler System	442	U	No
Stormwater Runoff Control	570	N	No
Stream Crossing	578	U	No
Streambank and Shoreline Protection	580	U	Yes
Stripcropping	585	N	No
Structure for Water Control	587	U	Yes
Subsurface Drain	606	U	No
Surface Drainage, Field Ditch	607	U	No
Surface Drainage, Main or Lateral	608	U	No
Terrace	600	U	No

Conservation Practices	Code	Class	Potential for Visual Effect
Tree/Shrub Site Preparation	490	U	No
Tree/Shrub Establishment	612	U	No
Tree/Shrub Pruning	660	N	No
Underground Outlet	620	U	No
Upland Wildlife Habitat Management with New Ground Breaking	645	U	No
Upland Wildlife Habitat Management	645	N	No
Vegetated Treatment Area	635	U	No
Waste Facility Closure	360	U	No
Waste Recycling	633	N	No
Waste Separation Facility	632	U	Yes
Waste Storage Facility	313	U	Yes
Waste Transfer	634	U	No
Waste Treatment	629	U	Yes
Waste Treatment Lagoon	359	U	Yes
Water and Sediment Control Basin	638	U	No
Water Treatment Facility	724	U	Yes
Water Treatment Facility when Co-located within an Existing Structure	724	N	No
Water Well	642	U	No
Water Well Decommissioning	351	U	No
Water Well Decommissioning (Well less than 50 years old)	351	N	No
Watering Facility	614	U	No
Watering Facility (Tank replacement with ground disturbances confined to previously disturbed areas)	614	N	No
Waterspreading	640	U	No
Well Water Testing	355	N	No
Wetland Creation	658	U	No
Wetland Enhancement	659	U	No
Wetland Restoration-All Other than Grass Seeding	657	U	No
Wetland Restoration-Grass Seeding	657	N	No
Wetland Wildlife Habitat Management	644	N	No
Windbreak/Shelterbelt Establishment	380	U	No
Windbreak/Shelterbelt Renovation	650	U	No
Woody Residue Treatment	384	U	No
Woody Residue Treatment - Ground disturbances confined to previously disturbed areas	384	N	No
Areas not requiring a cultural resources field inspection	**Code**	**Class**	
Existing feedlots (areas obviously subject to substantial previous ground disturbances) with no significant change of use proposed	313	N	

*See Standard Treatment Brush Management – Mechanical (9/2009)

** See SD Policy on Environmental Compliance on Sod Busting (Food Security Act)

Conservation Stewardship Enhancements	Code	Class	Potential for Visual Effect
Injecting or Incorporating Manure	AIR01	N	No
Nitrogen Stabilizers for Air Emissions Control	AIR02	N	No
Replace burning, removals and other crop residues with non-burning alternatives	AIR03	N	No
Use drift reducing nozzles, low pressures, lower boom height, and adjuvants to reduce pesticide drift	AIR04	N	No
Replacing oil- and wood-fired heaters in orchards and vineyards	AIR06	N	No
GPS, targeted spray application (SmartSprayer), or other chemical application electronic control technology	AIR07	N	No
Nitrification Inhibitors or Urease Inhibitors	AIR08	N	No
Drainage Water Management for Seasonal Wildlife Habitat	ANM01	N	No
Defer Crop Production on Temporary and Seasonal Wetlands	ANM02	N	No
Incorporate Native Grasses and/or Legumes into 15% or more of Herbage Dry Matter Productivity	ANM03	N	No
Incorporate Native Grasses and/or Legumes into 15% or more of Herbage Dry Matter Productivity with New Ground Breaking	ANM03	U	No
Extend Existing Filter Strips for Water Quality Protection and Wildlife Habitat	ANM04	N	No
Extending Riparian Forest Buffers for Water Quality Protection and Wildlife Habitat	ANM05	N	No
Extending Riparian Forest Buffers for Water Quality Protection and Wildlife Habitat with Tree or Shrub Plantings or New Ground Breaking	ANM05	U	No
Extending Existing Riparian Herbaceous Cover for Water Quality Protection and Wildlife Habitat	ANM06	N	No
Extending Existing Riparian Herbaceous Cover for Water Quality Protection and Wildlife Habitat– with New Ground Breaking	ANM06	U	No
Extending Existing Field Borders for Water Quality Protection and Wildlife Habitat	ANM07	N	No
Extending Existing Field Borders for Water Quality Protection and Wildlife Habitat with New Ground Breaking or Shrub Planting	ANM07	U	No
Improve Plant Diversity and Structure of Non Cropped Areas for wildlife food and habitat	ANM08	N	No
Improve Plant Diversity and Structure of Non Cropped Areas for wildlife food and habitat with Tree or Shrub Plantings or New Ground Breaking	ANM08	U	No
Grazing Management to Improve Wildlife Habitat	ANM09	N	No
Harvest hay in a manner that allows wildlife to flush and escape	ANM10	N	No
Patch burning to enhance wildlife habitat	ANM11	U	No
Shallow Water Habitat	ANM12	N	No
Shallow Water Habitat – New Construction	ANM12	U	No
Non forested Riparian Zone Enhancement for Fish and Wildlife	ANM13	N	No
Non forested Riparian Zone Enhancement for Fish and Wildlife with Tree or Shrub Plantings or New Ground Breaking	ANM13	U	No
Riparian Forest Buffer Terrestrial and Aquatic Wildlife Habitat	ANM14	N	No
Forest Stand Improvement for Habitat and Soil Quality	ANM15	N	No
Monitoring Nutritional Status of Livestock using the NUTBAL PRO System	ANM17	N	No
Retrofit Watering Facility for Wildlife Escape	ANM18	N	No
Wildlife Corridors	ANM19	N	No
Wildlife Corridors with Tree or Shrub Plantings or New Ground Breaking	ANM19	U	No
Silvopasture for Wildlife Habitat	ANM20	N	No

Conservation Stewardship Enhancements	Code	Class	Potential for Visual Effect
Prairie Restoration for Grazing and Wildlife Habitat	ANM21	N	No
Prairie Restoration for Grazing and Wildlife Habitat with New Ground Breaking	ANM21	U	No
Restoration and Management of Rare or Declining Habitats	ANM22	N	No
Multi Species Native Perennials for Biomass Wildlife Habitat	ANM23	N	No
Multi Species Native Perennials for Biomass Wildlife Habitat with New Ground Breaking	ANM23	U	No
Upland Forest Wildlife Structures - No Ground Disturbance	ANM24	N	No
Upland Forest Wildlife Structures – New Ground Disturbance or when rubber-tire or track vehicles are used	ANM24	U	No
Stockpiling of Forages to Extend the Grazing Season	ANM25	N	No
Managing Calving to Coincide with Forage Availability	ANM26	N	No
Wildlife Friendly Fencing	ANM27	N	No
Aquatic Organism Passage Barrier Removal all Work Confined to Previously Disturbed Areas	ANM28	N	No
Aquatic Organism Passage Barrier Removal, New Ground Disturbance or Impacting Structures Greater than 50 Years Old	ANM28	U	No
On-Farm Forage Based Grazing System	ANM29	N	No
Ultra High Density Grazing System to Improve Soil Quality	ANM30	N	No
Drainage Water Management	ANM31	N	No
Extend Existing Filter Strips or Riparian Herbaceous Cover for Water Quality Protection and Wildlife Habitat	ANM32	N	No
Extend Existing Filter Strips or Riparian Herbaceous Cover for Water Quality Protection and Wildlife Habitat – with New Ground Breaking	ANM32	U	No
Riparian Buffer, Terrestrial and Aquatic Wildlife Habitat	ANM33	N	No
Leaving Standing Grain Crops Un-Harvested to Benefit Wildlife	ANM34	N	No
Enhance wildlife habitat on expired grass/legume covered CRP acres or acres with similar perennial vegetated cover managed as hayland	ANM35	N	No
Enhance wildlife habitat on expired tree covered CRP acres or acres with similar woody cover managed as forestland – chemical or when hand-cut and hand-stacked	ANM36	N	No
Enhance wildlife habitat on expired tree covered CRP acres or acres with similar woody cover managed as forestland – when rubber tire or track vehicles are used for cutting or removal of trees or brush or when prescribed burning is used	ANM36	U	No
Prescriptive grazing management system for grazed lands (includes expired CRP grass/legume or tree covered acres converted to grazed lands)	ANM37	N	No
Retrofit watering facility for wildlife escape and to enhance access for bats and bird species	ANM38	N	No
Resource-Conserving Crop Rotation	CCR99	N	No
Fuel Use Reduction for Field Operations	ENR01	N	No
Pumping Plant Powered by Renewable Energy	ENR03	N	No
Pumping Plant Powered by Renewable Energy with New Ground Disturbance	ENR03	U	No
Locally Grown and Marketed Farm Products	ENR05	N	No
Upgrade of Old Diesel Powered Pumping Plants with a Cleaner Power Source	ENR06	N	No
Enhance wildlife habitat on expired tree covered CRP acres or acres with similar woody cover managed as forestland – when rubber tire or track vehicles are used for cutting or removal of trees or brush or when prescribed burning is used	ANM36	U	No
On-Farm Energy Audit	ENR07	N	No

Conservation Stewardship Enhancements	Code	Class	Potential for Visual Effect
Using Nitrogen Provided by Legumes, Animal Manure and Compost to Supply 100% of the Nitrogen Needs	ENR08	N	No
Variable Frequency Drive Electric Motors	ENR09	N	No
Using Nitrogen Provided by Legumes, Animal Manure and Compost to Supply 90 to 100% of the Nitrogen Needs	ENR10	N	No
Improving Energy Feedstock Production Using Alley Cropping Systems with Short Rotation Woody Crops	ENR11	U	No
Use of Legume Cover Crops as a Nitrogen Source	ENR12	N	No
On-Farm Pilot Projects	FPP02	U	No
On-Farm Research and Demonstrations	FRD01	U	No
Establish Pollinator Habitat	PLT01	N	No
Monitor Key Grazing Areas to Improve Grazing Management	PLT02	N	No
Forest Stand Improvement Pre-treating Vegetation and Fuels	PLT03	N	No
Forest Stand Improvement Pre-treating Vegetation and Fuels when Heavy Equipment is used to remove trees (slash) from site	PLT03	U	No
Forest Improvement Prescribed Burning	PLT04	U	No
Multi Story Cropping Sustainable Management of Nontimber Forest Plants	PLT05	N	No
Multi Story Cropping Sustainable Management of Nontimber Forest Plants – When rubber-tire or track vehicles are used for cutting or removal of trees/brush	PLT05	U	No
Renovation of a Windbreak, Shelterbelt, or Hedgerow for Wildlife Habitat	PLT06	N	No
Renovation of a Windbreak, Shelterbelt, or Hedgerow for Wildlife Habitat with Root Removal and/or New Planting	PLT06	U	No
Hardwood Crop Tree Release	PLT07	N	No
Habitat Development for Beneficial Insects for Pest Management	PLT08	N	No
Intensive Management of Rotational Grazing	PLT10	N	No
Conifer Crop Tree Release - Chemical or when hand-cut and hand-stacked	PLT11	N	No
Conifer Crop Tree Release - When rubber-tire or track vehicles are used for cutting or removal of trees/brush	PLT11	U	No
Patch Harvesting to Improve Degraded Hardwood Stands - Chemical or when hand-cut and hand-stacked	PLT12	N	No
Patch Harvesting to Improve Degraded Hardwood Stands - When rubber-tire or track vehicles are used for cutting or removal of trees/brush	PLT12	U	No
Forest Stand Improvement for Wildlife Reduction – No Ground Disturbance	PLT13	N	No
Forest Stand Improvement for Wildlife Reduction – New Ground Disturbance	PLT13	U	No
Alley Cropping Establishment for Wildlife and Beneficial Insect Habitat	PLT14	U	No
Establish Pollinator and/or Beneficial Insect Habitat	PLT15	N	No
Intensive Rotational Grazing	PLT16	N	No
Creating Forest Openings to Improve Hardwood Stands– Chemical or when hand-cut and hand-piled	PLT17	N	No
Creating Forest Openings to Improve Hardwood Stands – When rubber-tire or track vehicles are used for cutting or removal of trees/brush	PLT17	U	No
Increasing On-Farm Food Production with Edible Woody Buffer Landscapes	PLT18	U	No
Herbicide resistant weed management	PLT19	N	No
High residue cover crop or mixtures of high residue cover crops for weed suppression and soil health	PLT20	N	No

Conservation Stewardship Enhancements	Code	Class	Potential for Visual Effect
Forest stand improvement pre-treating vegetation and fuels preceding a prescribed fire	PLT21	N	No
Forest stand improvement pre-treating vegetation and fuels preceding a prescribed fire when Heavy Equipment is used to remove trees (slash) from sites	PLT21	U	No
Continuous No-Till with High Residue	SOE01	N	No
Forest stand improvement pre-treating vegetation and fuels preceding a prescribed fire when Heavy Equipment is used to remove trees (slash) from sites	PLT21	U	No
Continuous No-Till with High Residue	SOE01	N	No
Protection of Cultural Resource	SOE02	U	No
Continuous No-Till Organic System	SOE03	N	No
Continuous No-Till	SOE04	N	No
Intensive No-Till (Organic of Non-Organic System)	SOE05	N	No
Controlled Traffic System	SQL01	N	No
Continuous Cover Crops	SQL02	N	No
Drainage Water Management for Nutrient Pathogen or Pesticide Reduction	SQL03	N	No
Use of Cover Crop Mixes	SQL04	N	No
Use of Deep Rooted Crops to Break up Soil Compaction	SQL05	N	No
Conversion of Cropped land to Grass-based Agriculture for Biomass or Forage Production and Wildlife Habitat	SQL06	N	No
Forest Stand Improvement for Soil Quality - No ground disturbance	SQL07	N	No
Forest Stand Improvement for Soil Quality - New Ground Disturbance or when rubber-tire or track vehicles are used	SQL07	U	No
Intercropping to Improve Soil Quality and Increase Biodiversity	SQL08	N	No
Conversion of Cropped Land to Grass-based Agriculture	SQL09	N	No
Crop management system where crop land acres were recently converted from CRP grass/legume cover or similar perennial vegetation	SQL10	N	No
Cover cropping in orchards, vineyards and other woody perennial horticultural crops	SQL11	N	No
Intensive cover cropping in annual crops	SQL12	N	No
Biological Suppression and Other Non-chemical Techniques to Manage Brush, Weeds and Invasive Species	WQL01	N	No
Biological Suppression and Other Non-chemical Techniques to Manage Brush, Weeds and Invasive Species with Root Removal	WQL01	U	No
Rotation of Supplement and Feeding Areas	WQL03	N	No
Plant Tissue Tests and Analysis to Improve Nitrogen Management	WQL04	N	No
Apply Nutrients No More Than 30 Days Prior to Planned Planting Date	WQL05	N	No
Apply Controlled Release Nitrogen Fertilizer	WQL06	N	No
Split Nitrogen Applications 50% After the Crops/Pasture Emerge/Green up	WQL07	N	No
Split Applications of Nitrogen Based on a PSNT (Pre-Sidedress Nitrogen Test) or other Crop-Based Indicators	WQL08	N	No
Apply Phosphorus Fertilizer Below the Soil Surface	WQL09	N	No
Plant a cover crop that will scavenge residual nitrogen	WQL10	N	No
Precision Application Technology to Apply Nutrients	WQL11	N	No
Managing Livestock Access to Water Bodies/Courses	WQL12	U	No
High Level Integrated Pest Management to Reduce Pesticide Environmental Risk	WQL13	N	No
Land Application of Treated Manure	WQL14	N	No

Conservation Stewardship Enhancements	Code	Class	Potential for Visual Effect
Reduce the Concentration of Nutrients on Farm by Limiting the Amount of Feed and Fertilizer Brought on Livestock Farms	WQL15	N	No
Use of Legume Cover Crops as a Nitrogen Source	WQL16	N	No
Use of Non Chemical Methods to kill cover crops	WQL17	N	No
Non Chemical Integrated Pest Management for Livestock	WQL18	N	No
Transition to Organic Grazing Systems	WQL19	N	No
Transition to Organic Cropping Systems	WQL20	N	No
Integrated Pest Management for ORGANIC Farming	WQL21	N	No
On Farm Composting of Farm Organic Waste	WQL22	N	No
Protection of Sensitive Areas on Winter Grazing Land	WQL23	U	Yes
Apply Enhanced Efficiency Fertilizer Products	WQL24	N	No
Split Applications of Nitrogen Fertilizer based on a PSNT	WQL25	N	No
Reduce the concentration of nutrients imported on farm	WQL26	N	No
Drainage water management for nutrient, pathogen, or pesticide reduction	WQL27	N	No
Irrigation System Automation	WQT01	N	No
Mulching for Moisture Conservation	WQT02	N	No
Irrigation Pumping Plant Evaluation	WQT03	N	No
Regional Weather Networks for Irrigation Scheduling	WQT04	N	No
Remote Monitoring and Notification of Irrigation Pumping Plant Operation	WQT05	N	No
Conversion to Non-Irrigated Crop Production	WQT06	N	No
Regional Weather Networks for Irrigation Scheduling	WQT07	N	No
Decrease irrigation water quantity or conversion to non-irrigated crop production	WQT08	N	No

APPENDIX B
PROCEDURES FOR EMERGENCY RESPONSE
(TO BE DEVELOPED)

APPENDIX C
GLOSSARY OF ACRONYMS USED IN THIS DOCUMENT

ACHP	Advisory Council on Historic Preservation
APE	Area of Potential Effect—from ACHP regulations 36 CFR Part 800
CRS	Cultural Resources Specialist (NRCS—meets Secretary of Interior's Professional Qualification Standards, generally an archaeologist or historian)
FOIA	Freedom of Information Act
FOP	NRCS Field Office Personnel
FPO	Federal Preservation Officer (Federal Preservation Officer)
NCSHPO	National Conference of State Historic Preservation Officers
NEPA	National Environmental Policy Act
NHL(s)	National Historic Landmark(s)
NHO	Native Hawaiian Organization
NHPA	National Historic Preservation Act
NHQ	National Headquarters (NHQ)
NRCS	Natural Resources Conservation Service
NRHP	National Register of Historic Places
SHPO	State Historic Preservation Officer
THPO	Tribal Historic Preservation Officer
SCRS	State Cultural Resources Specialist (NRCS lead specialist —meets Secretary of Interior's Professional Qualification Standards, generally an archaeologist, architectural historian and/or historian)
SPO	Senior Policy Official (NRCS)
PPA	State-based Prototype Programmatic Agreement
USDA	United States Department of Agriculture

APPENDIX D
SD NRCS SD-SSC-1 and SD-SSC-2 FORMS

UNITED STATES DEPARTMENT OF AGRICULTURE — SD-SSC-1

NATURAL RESOURCES CONSERVATION SERVICE — Rev. 09/2007

Annual Tribal Consultation: Fiscal Year:

CULTURAL RESOURCE FIELD REVIEW

Field Office: Project#: County: Acres:

Field Office Address:

Landowner: Level of Training:

Owner's Address: Date of Inventory:

Section: Township: Range:

Section2: TWN2: RNG2:

Section3: TWN3: RNG3:

Attached USGS Quadrangle Map Name:

Personnel: Ground Vis:

Land Use:

Conservation Practice:

Conservation Program:

Practice Description:

Field Time Accountable: Project > 40 acres:

Property Ownership:

Consultation Type:

Consultation Areas of Concern:

Results of ARMS Data Base Search:

National/State Register information Check Results:

Survey Methodology:

Cultural Resource Located During Field Inspection:

Paleontological Resource Located:

Observations:

Cultural Resource Specialist (signature) Field Office ASK Level IV (signature with title)

Signature Date CRS: Signature Date FO:

NRCS personnel must be certified at ASK Level IV (full completion of National Cultural Resources 1-8 Module Training) to conduct and document cultural resource field reviews. Field reviews must be conducted with pedestrian transects, spaced maximum of 100 ft. (Include digital photographs of any building(s) 50 years or older within the area of potential effects). Attach a USGS map (1:24,000 scale) showing the area of potential effects, the practice/s locations, and the areas of known cultural resources. Send a copy with this form to your area Cultural Resource Specialist (CRS) and place in your appropriate field office file. All forms require a response from a CRS prior to practice implementation.

UNITED STATES DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE

SD-SSC-2
Rev. 09/2007

Fiscal Year:

CULTURAL RESOURCE REQUEST FOR HELP

Field Office: Project#: Acres:

Field Office Address:

Landowner: County:

Owner's Address:

Personnel:

Section: Township: Range:

Section2: TWN2: RNG2:

Section3: TWN3: RNG3:

Attached USGS Quadrangle Map Name:

Land Use:

Conservation Practice:

Conservation Program:

Practice Description:

Property Ownership:

Consultation Type:

Observations:

Reasons For Submitting the SD-SSC-2 (Request for Help) Form. Check Applicable Boxes Below

- Project Is Over 40 Acres In Size ○
- Positive ARMS Database Search ○
- Land Ownership (Non Private) ○
- NRCS and THPO Agreement ○
- Positive National Register/State Register Search For Areas Of Potential Effects ○
- Consultation Identified Potential Cultural Resource In Area Of Potential Effect ○

Cultural Resource Specialist (signature)

Field Office ASK Level IV (signature with title)

Signature Date CRS:

Signature Date FO:

Attach a USGS map (1:24000 scale) showing the area of potential effects, the practice/s locations, and the areas of any known cultural resources. Send a copy with this form to your Cultural Resource Specialist (CRS) and place in your appropriate field office file. All forms require a response from a CRS prior to practice implementation.

APPENDIX E
STANDARD TREATMENTS

South Dakota (SD) Natural Resources Conservation Service (NRCS) Standard Treatment for Railway Line Segments That Have No Other Ancillary Features (i.e., tunnels, bridges, associated buildings, crossings, telegraph lines, etc.,) Pursuant to Stipulation II (c)(8).

INTRODUCTION:
The SD State Historic Preservation Office (SHPO) has determined that railway line segments in SD 50 years or older may be eligible for the National Register of Historic Places under criteria A and/or C, for their broad contribution to the transportation history of the state.

The NRCS occasionally crosses railway line segments during the implementation of conservation practices on private and occasionally, public lands. These types of projects most commonly affect railway line segments that have no other ancillary features. In these cases, due to the nature of the resource (when only eligible under criterion A) and the undertaking ("no adverse effect,") the NRCS will implement a standard treatment under the SLA Stipulation X B to streamline the Section 106 compliance process while considering the effects of their undertaking on historic properties.

HISTORIC CONTEXT:
The Revised 2007 "South Dakota's Railroads: An Historic Context," prepared for the South Dakota SHPO, defines railway line segments as "intact segments of railway trackage (and the ancillary features associated with it), as well as, segments of abandoned railroad grade" (2007: 53). This context goes further and states the following:

> ...most of South Dakota's former railroad right-of-way has been abandoned. Many such lines have had tracks removed and in some instances ownership has reverted to the adjoining landowners. In the case of the former Burlington line from Edgemont to Lead a recreational trail is being constructed along the right-of-way. Significant stretches of both operating abandoned right-of-way remain, however, and the lineal character of these resources provides a strong visual reminder of the railroads industry's reason for being. (2007: 54-55)

The context notes that, "In general, railway-related structural features in South Dakota may be significant for their association with the history of the region (Criterion 'A') or as representation of the transportation technology or engineering of a period (Criterion 'C')" (2007: 57).

The following determinations or treatments will apply when an NRCS project will have a direct impact on where a historic railroad grade was located, whether extant or removed.

NO HISTORIC PROPERTIES AFFECTED:

1. **Railroad no longer in use, no berm or evidence of alignment remains.**

→ Feature has loss integrity and is not considered eligible for the National Register of Historic Places.

No standard treatment required.

NO ADVERSE EFFECT SITUATIONS:

2. **Railroad still retains a berm, ballast, ties or track.**

→ Feature may contain integrity and be eligible for listing in the National Register of Historic Places.

Where railroad berm/ballast still present (no tracks or ties):
The proposed conservation practice will directly affect a portion of an extant berm, bisecting the structure with no more than a 10-foot wide area of potential effects (APE width of machinery) or where a directional bore under the railroad will be used. When a trench is made through the berm/ballast, the berm should be re-contoured when the trench is backfilled.

This type of project will have no adverse effect to the railway line segments when there are extant adjacent physical remnants of the resource within the area that physically represent this surviving representation of the railroad's activities in this area and the state.

Where railroad tracks & ties still present:
Only where a directional bore under the railroad will be used. This type of project will have no adverse effect to the railway line segments when there are extant adjacent physical remnants of the resource within the area that physically represent this surviving representation of the railroad's activities in this area and the state.

For both of the above examples, the NRCS field office personnel will document the portion of the railroad berm to be impacted through digital photography and Global Positioning System mapping. Photographs will depict the proposed affected area and views along the remaining railway berm. These photographs will be sent to the area NRCS cultural resource specialist (CRS) for review. If the CRS does not note any unusual features to the railway segment that would require a level III survey of the area, the CRS will fill out an archeological site form and submit the site form and photographs to the SHPO along with a *brief* letter report with a no adverse effect determination. This letter report will just discuss the project's effect on the railroad segment as the related form SD-SSC-1, Cultural Resource Inventory, will be approved by the NRCS CRS and filed in the area CRS's files.

South Dakota Natural Resources Conservation Service (NRCS) Standard Treatment for the following conservation practice:

Brush Management – Mechanical.

Introduction: Pursuant to Stipulation II (c)(8) of the PPA, the NRCS and SHPO identified Brush Management-Mechanical as an undertaking with the potential to affect historic properties. The PPA also stipulates that any project over 40 acres requires a survey by a cultural resource specialist. Standard treatments can be applied by NRCS for certain practices to assist them in complying with provisions of the PPA and Section 106. Using standard treatments in the planning and design of NRCS undertakings, as a best practice, may allow NRCS to make a finding of no adverse effects for the relevant aspects of the undertaking.

Standard Treatment: Under certain conditions, Brush Management-Mechanical practices over 40 acres in size can be implemented without the need for a 100 percent (Level III) cultural resource survey. This is because, as appropriate to the cultural, historical, and ecological conditions within the area of potential effects, they are a type of activity with foreseeable effects that are minimal or not adverse to cultural resources eligible for listing in the National Register of Historic Places (NRHP). The proposed standard treatment will apply in situations A and B, when the relevant stipulations are carried out.

A. Mechanical brush management projects conducted with rubber tire equipment, where brush is cut near ground level and the roots will not be removed, and brush is not transported off site, will apply if the following are met:

   Stipulations:
   a. Mechanical brush management must occur during dry ground conditions;
   b. Brush must be piled up in close proximity (less than 100 feet) to the location (preferably on slope) it was cut, and only burned during frozen ground conditions;
   c. The majority of the project should be on or along sloping areas.

B. Mechanical brush management projects conducted with mechanized equipment, during frozen ground conditions, where brush is cut near ground level and the roots will not be removed, and brush may or may not be transported offsite.

   Stipulations:
   a. Mechanical brush management must occur during frozen ground conditions;
   b. Brush must be piled up and removed and/or burned (when still on site) during frozen ground conditions;
   c. Slope is not an issue.

Review Process: Each project over 40 acres will be reviewed by a cultural resource specialist (CRS) to determine if the standard treatment applies. The CRS will:

1. Review each project SD-SSC-2 form and check with the field office to assure what type of equipment will be utilized;

2. Conduct a site file search and determine what types of sites are likely to occur within the project environs and what their significant characteristics may be;
3. Based upon consultation information, the project's physiographic and cultural characteristics, determine whether the proposed practice could have an adverse effect on historic properties based upon known information and determine whether ***a***. No on-the-ground survey is required; ***b***. less than 100 percent survey is required (i.e., level spots or ridge lines if a common travel route for equipment); or ***c***. a full survey is required.
4. If ***a***, the CRS will prepare a No Adverse Effect (NAE) letter to the SHPO for concurrence. The letter will include a summary of the practice, how the practice meets the standard treatment, the cultural characteristics of the location, and related maps. If ***b*** or *c*, the CRS will conduct the survey (Level II or III) and submit the report to SHPO. A Level II survey will cite the standard treatment option and will not require prior SHPO approval for less than 100 percent.