

**PROGRAMMATIC AGREEMENT
AMONG
THE DEPARTMENT OF ENERGY OAK RIDGE OPERATIONS OFFICE
THE TENNESSEE STATE HISTORIC PRESERVATION OFFICER
AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
CONCERNING MANAGEMENT OF HISTORICAL AND CULTURAL PROPERTIES AT
THE OAK RIDGE RESERVATION**

WHEREAS, the United States Department of Energy Oak Ridge Operations Office (DOE/ORO) proposes the continued operation, maintenance, research, development, waste management, decontamination/decommissioning, and restoration activities (herein referred to as "Activities") at the Oak Ridge Reservation (ORR) including all properties as set forth on the map attached as Figure 1 and have determined these Activities will have an effect upon historic resources included in and eligible for inclusion in the National Register of Historic Places (National Register), and

WHEREAS, DOE/ORO has consulted with the Advisory Council on Historic Preservation (Council) and the Tennessee State Historic Preservation Officer (SHPO) pursuant to Section 800.13 of the regulations (36 CFR Part 800) implementing Sections 106 and 110 of the National Historic Preservation Act (16 U.S.C. §§ 470f and 470h-2), and

WHEREAS, the origins of the ORR lie with the World War II Manhattan Project for the development of the atomic bomb and subsequently many other significant atomic energy research, development, and production activities have taken place at the ORR and several of the scientific and highly technological facilities associated with these activities are still in existence;

NOW, THEREFORE, the DOE/ORO, the Council, and the SHPO agree that the Activities at the ORR shall be administered in accordance with the following Programmatic Agreement ("Agreement") to satisfy the DOE/ORO's responsibilities for compliance with Section 106 and Section 110 of the National Historic Preservation Act (NHPA) for all individual undertakings.

STIPULATIONS

The DOE/ORO shall ensure that the following measures are carried out.

I. DEVELOPMENT OF A MANAGEMENT PLAN FOR HISTORICAL AND CULTURAL RESOURCES (CULTURAL RESOURCES MANAGEMENT PLAN) FOR THE OAK RIDGE RESERVATION

- A. To ensure that historic and cultural resources receive full consideration during the Activities at the ORR, the DOE/ORO shall develop and implement a Cultural Resources Management Plan (CRMP) for the ORR. The goal of the CRMP is to formally establish and document the means by which consideration of historic and cultural resources are integrated into the decision-making process for the Activities at the ORR. The CRMP will provide for the development and implementation of procedures, methods, and responsibilities for the identification of historic and cultural resources and determine appropriate treatments

that strike a balance between their historic and cultural significance and the necessary DOE/ORO Activities that may impact them.

- B. The CRMP shall be developed in consultation with the SHPO and the Council. The CRMP will be prepared in accordance with the DOE's Environmental Guidelines for Development of Cultural Resources Management Plans, the Secretary of the Interior's Standards and Guidelines for Preservation Planning (48 FR 44716-20), the Section 110 Guidelines (52 FR 4727-46), the recommendations and conclusions contained in the Council's recent report to Congress, Balancing Historic Preservation Needs with the Operation of Highly Technical or Scientific Facilities, and will be consistent with the draft Council guidance document entitled Historic Resource Management Plans and other standards or guidelines prepared by the SHPO for Preservation planning.
- C. Within 24 months after the date of ratification of this Agreement, the DOE/ORO will provide copies of the draft CRMP to the SHPO and the Council for 30 days' review and comment. Copies of the CRMP will also be provided to appropriate town/county authorities and local preservation organizations for review and comment. Disagreements or questions about the draft CRMP will be resolved by the DOE/ORO through consultation among the parties to this Agreement in accordance with Stipulation V. below.
- D. The CRMP shall incorporate systematic intensive surveys, inventories, and reviews (herein referred to as "Survey") of the ORR when and as they are completed. The Survey (described below in II.) shall provide the initial foundation for determinations made to ensure compliance with Sections 106 and 110 of the NHPA.

II. CULTURAL RESOURCES SURVEY AND INVENTORY

- A. DOE/ORO will conduct, or cause to be conducted, a Survey to identify significant historical properties located within the ORR. This Survey and other elements associated with the Survey listed below will be incorporated into the CRMP. The Survey will be conducted in a manner consistent with Section 110(a)(2) of the NHPA, the Department of Interior's Guidelines for Archeology and Historic Preservation (48 FR 44716, September 29, 1983), and applicable DOE standards.
- B. The Survey shall be initiated as soon as possible after the ratification of this Agreement and will be conducted in a phased approach. Existing information such as previous survey data, photographs, maps, drawings, building plans, descriptions, sketches, etc. shall be used where possible and where appropriate (photographs, drawings, and building plans may not be available in some situations due to security classification priorities) along with new data and material developed by investigators.
 - 1. Properties to be identified and evaluated shall include but not be limited to (a) archeological materials (artifacts) and sites

dating to the prehistoric and historic periods; (b) standing structures that are 50 years of age and/or are important because they represent a major historical theme; (c) cultural and natural places that have importance for American folklife traditions (e.g., remains of old homesteads and/or farms that predated the establishment of ORR or that are of traditional cultural importance for Native Americans), and (d) Manhattan Project and Cold War scientific facilities.

2. Properties which have been previously identified and those identified through this Survey which are included or eligible for inclusion in the National Register will be recorded and maintained in an active database as specified in the CRMP that will be developed and is discussed in I. above.
 3. This Survey shall be conducted and performed by qualified professionals with appropriate background, education, and experience which at a minimum will include the Secretary of the Interior's Professional Qualifications Standards (48 Federal Register 44738-9) or other standards which are deemed to be otherwise qualified by the SHPO and shall be in conformance with the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation. The contractor will be chosen from a list that has been approved by the SHPO to perform the Survey. The results of the Survey will be presented to the SHPO for concurrence.
 4. In the interim before the Survey is completed, any project that is determined to be an undertaking will be submitted to the SHPO for review before project initiation. Undertakings that involve new construction or physical modifications which could affect a property included or eligible for inclusion in the National Register shall be conducted in compliance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.
- C. Archeological surveys will be ongoing as dictated by proposed construction/disturbance activities in previously undisturbed areas and will be conducted in a manner to allow for consultation and coordination with the SHPO.
- D. Properties identified as historically significant through the Survey shall be evaluated in accordance with 36 CFR Part 800 and in consultation with the SHPO. If this evaluation determines that there are properties eligible for inclusion in the National Register, DOE/ORO, in consultation with the SHPO, shall nominate individual properties or historical districts to the Keeper of the National Register.
- E. If the DOE/ORO and the SHPO do not agree on National Register eligibility, or if the Council or the National Park Service so request, the DOE/ORO shall request a formal determination of

eligibility from the Keeper of the National Register, National Park Service, whose determination shall be final.

- F. Undertakings proposed for those areas/districts and properties that have been surveyed but are not included and were not identified (and concurred by the SHPO) as eligible for inclusion or nomination in the National Register may proceed with no further investigation and no additional coordination with or notification to the SHPO.

III. INTERIM PROGRAMMATIC EXCLUSIONS FROM SECTION 106 REVIEW

- A. Until such time as the CRMP is finalized and implemented, the following criteria will be used to determine the extent of DOE/ORO's Section 106 Review responsibilities:
1. If the activity will not impact primary scientific facilities or equipment that were originally constructed prior to January 1, 1960, (or is addressed under item C of this section below) and will not result in ground disturbance (or is addressed under item D of this section below), then the activity is excluded from further Section 106 review.
 2. If the activity will impact primary scientific facilities or equipment that were originally constructed prior to January 1, 1960, (or is addressed under item C of this section below) or will result in ground disturbance (or is addressed under item D of this section below), and
 - a. is a programmatic exclusion listed in Section IV below, then DOE/ORO shall apply the Council's Criteria of Adverse Effect (36 CFR Part 800.9(b)) to the activity.
 - (1) If DOE/ORO finds that the activity will not have an adverse effect to historic properties at or adjacent/ appurtenant to the area of the activity, it can be initiated and completed with no review by either the SHPO or the Council.
 - (2) If the activity will have an adverse effect, DOE/ORO shall contact the SHPO and initiate the review procedures set forth in the Council's regulations beginning at 36 CFR Part 800.5(e)-800.6.
 - b. is not a programmatic exclusion listed in Section IV below, then DOE/ORO shall contact the SHPO and initiate the review procedures set forth in the Council's regulations beginning at 36 CFR Part 800.5.
- B. Pursuant to Part III.A.2.a.(2) and b. above, if the SHPO and DOE/ORO agree on measures to be implemented by DOE/ORO that will result in no adverse effect to the historic property (as determined by applying the exceptions to the Criteria of Adverse Effect, 36 CFR Part 800.9(c)),

such activities need not be reviewed by the Council. However, DOE/ORO shall retain all project documentation for possible review by the Council. Appropriate measures that may be implemented by DOE/ORO to avoid, reduce, or mitigate project effects include, but are not limited to:

1. resiting the proposed activity, where feasible;
 2. rehabilitation in accordance with "The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings;"
 3. additions to historic buildings and structures that takes into account the significant architectural characteristics of the original building or structure;
 4. salvage of architectural or scientific/engineering elements where feasible;
 5. recordation as a last resort when other mitigation measures are determined, in consultation with the SHPO, to be infeasible. Recordation shall include photographs, floorplans, and drawings (when not precluded because of security classification priorities) to the standards of the Historic American Buildings Survey or the Historic American Engineering Record (HABS/HAER: National Park Service, Washington DC). No undertaking shall be initiated until this documentation is accepted by the SHPO.
- C. When an activity is proposed for an area in which DOE/ORO has completed its historic properties survey (and the survey has been accepted by the SHPO), DOE/ORO shall consult the survey to determine if the activity has the potential to affect properties eligible or included in the National Register instead of using the 1960 cutoff date set forth above. If this potential exists, the DOE/ORO shall initiate the procedures set forth above at III.B.
- D. Archeology:
1. When a ground disturbance activity is proposed in a previously undisturbed area and an archeological survey (that has been reviewed and accepted by the SHPO) has determined that no National Register included or eligible archeological properties will be affected by the proposed activity, DOE/ORO may proceed with the project with no further review by either the SHPO or the Council.
 2. When a ground disturbance activity is proposed in a previously undisturbed area where there has been no archeological survey reviewed and accepted by the SHPO, DOE/ORO shall contact the SHPO to determine whether an archeological survey is warranted prior to initiation of the activity.

3. When a ground disturbance activity is proposed in an area where previous ground disturbance activities have occurred, DOE/ORO may proceed with the activity without consulting the SHPO or the Council regarding the need for an archeological survey so long as the depth and the extent of new disturbance does not exceed the depth and extent of previous disturbances.
4. If archeological properties are located by a survey, the DOE/ORO shall consult with the SHPO to determine the property's National Register eligibility; if found to be eligible, DOE/ORO shall further consult with the SHPO to determine appropriate measures that might avoid, reduce, or mitigate the activity's effects to the site.
5. If the SHPO and DOE/ORO agree to measures that will result in no adverse effect to the archeological property (as determined by applying the Criteria of Effect and Adverse Effect, 36 CFR Part 800.9 [a-c]), such activities need not be reviewed by the Council. However, DOE/ORO shall retain all project documentation for possible review by the Council.

IV. PROGRAMMATIC EXCLUSIONS

A. General Equipment:

Direct replacement or removal of equipment or facility components.

B. Process and Lab Equipment:

Installation, maintenance, repair, storage, relocation, removal or replacement of process or lab equipment and associated systems such as: presses, rolling mills, foundry equipment, cranes, glove boxes and hoods, fans and tanks, ultrasonic cleaners, machine shop equipment, heat exchangers, ovens and furnaces, salt baths, centrifuges, bag houses and scrubbers, conveyors, motors, piping, valves, autoclaves, compressors, pumps, hydroforms, recovery equipment, metal forming equipment, inspection equipment, motor control centers, and cyclone separators.

C. Water Systems:

Siting, installation, maintenance, repair, removal, and operation of plant water systems including, but not limited to: water wells, cooling water systems, potable water systems, storm sewers, waste water treatment systems, plant drainage, and plumbing.

D. Electrical Systems:

Installation, maintenance, repair, removal, or replacement of plant and building electrical systems including, but not limited to: switchyards, building conduit, wiring and lighting, emergency

lighting, circuits and wiring, meters, transformers, utility poles, crossarms, and insulators and downed transmission lines.

E. Communications and Computer Systems:

Siting, installation, maintenance, repair, removal, or replacement of communications and computer systems, including: public address systems, facsimile systems, microwave/radio systems, fiber optic cables, phone systems, and computers and peripheral systems including transmitters.

F. Routine Plant Service Activities:

Mowing and trimming of grass, shrubs, or trees; moving and assembling of furniture and equipment; snow removal; routine vegetation and erosion control activities; janitorial and housekeeping services; small scale use of pesticides; small scale road, sidewalk, and parking lot repair; maintenance and repair of plant vehicles and heavy equipment; maintenance of plant safe/vaults and locks; busing and plant transportation; minor relocation of access roads; maintenance or repair of industrial machinery; maintenance, repair, or installation of fencing; maintenance, repair, or installation of indoor or outdoor signs; construction of scaffolding, calibration, testing, repair, and maintenance of laboratory and/or electronic equipment; corrective and preventative actions to maintain and preserve buildings, structures, and equipment in a suitable condition; and routine decontamination of tools, surfaces, and equipment.

G. Waste Treatment, Storage and Disposal Activities:

Operation and maintenance of waste treatment, storage, and disposal facilities; maintenance of landfills; spill cleanup activities; maintenance, repair or replacement of liquid retention tanks, dikes, and piping; and maintenance, or repair of lagoons and small basins.

H. Repair and Maintenance of Buildings:

Maintenance, repair, modification, or direct in kind replacement (when available) associated with structures or buildings including, but not limited to: painting, siding, roofing, mounting and hanging wall items; door, ceiling, wall, window, floor, and floor covering repair/replacement; cabinet and shelf fabrication and installation; and elevator repair.

I. Occupational Safety and Health Act Regulations and Permit Compliance:

Installation, maintenance, repair, or replacement of equipment used in current operations designed to maintain compliance with permits and Occupational Safety and Health Act regulations and Americans With Disabilities Act regulations.

J. Hazard Prevention:

Installation and maintenance required for hazard prevention including: fabrication, removal, installation, and repair of safety railings, machine guards, hand rails, guard rails, ladders, frames, and fences; installation of nonskid surfaces and anchoring floor mats; and grounding of structures and equipment.

K. Security Systems:

Installation, maintenance, removal, and repair of security systems, including: computer security, detection, monitoring, surveillance, and alarm systems.

L. Heating and Air Conditioning Systems:

Installation, maintenance, removal, repair, or replacement of heating, ventilating, air conditioning systems, and high efficiency particulate air filters.

M. Steam Condensate/Chemical Treatment Systems:

Modification to steam/condensate systems including, but not limited to: repair or replacement of associated piping, pumps, and condensers to maintain system integrity (excluding above ground steam lines); extension of systems to accommodate new construction or building modification; and repair of any associated chemical treatment systems.

N. Removal of Asbestos:

Asbestos removal and renovation activities including cleanup, encapsulation, and removal and/or disposal of asbestos-containing materials from existing buildings and structures.

O. Removal of Polychlorinated Biphenyl Contaminated Items:

Removal of Polychlorinated Biphenyl contaminated items such as electrical transformers and capacitors possibly requiring temporary removal of walls, ceilings, fences, power lines, or other obstacles which would prevent forklift or crane access to the item targeted for removal. Some transformers may have contaminated pads and/or soil around the base. The surrounding substrate will be sampled and, if determined to be contaminated, will be excavated and removed.

P. Fire Protection System:

Routine upgrades and modifications to fire protection systems including fire alarm systems, smoke detectors, and sprinkler systems.

Q. Personnel Safety:

Installation or modification of personnel safety systems and devices including, but not limited to: safety showers, eye washes, emergency exit lighting systems, emergency ingress/egress routes; protective additions to electrical equipment; personnel accountability/assembly systems and stations; improvements to walking and working surfaces or areas; fabrication and installation of platforms, rails, shields and guards; and stairway modifications and installations.

R. Environmental Monitoring:

Installation, operation, maintenance, repair, replacement, or abandonment of environmental devices/stations, including, but not limited to: monitoring wells and well-monitoring devices, monitoring weirs, flow meters, rain gauges, sampling devices, meteorological towers, instrumentation/equipment buggies, geochemical/geophysical monitoring and survey devices; and actions necessary for conducting site monitoring and characterization activities including, but not limited to: sampling water, soil, rock, flora, and fauna.

S. Routine Activities:

Routine administrative, contractual, security, preventative maintenance, financial, or personnel activities.

T. Training, Planning, and Tests:

Training exercises; emergency preparedness planning; various tests and demonstrations including, but not limited to: transport packaging tests for radioactive/hazardous material, tank car tests, research and development demonstrations, and small scale pilot demonstrations.

U. Habitat Protection:

Actions in researching, protecting, restoring, or improving fish and wildlife habitat.

V. Energy Conservation:

Actions to conserve energy.

W. Emergency Situations:

Activities required by emergency situations, (i.e., health and safety-related emergencies) as determined on a case-by-case basis including those emergency activities in compliance with Federal, State, or local regulatory requirements including, but not limited to: State/ Environmental Protection Agency, Federal Facility Agreements; Comprehensive Environmental Response, Compensation, and Liability Act; Resource Conservation and Recovery Act; Superfund Amendments and Reauthorization Act; Occupational Safety and Health Act, etc.

Emergency activities that will have an effect to historic properties shall be handled in accordance with 36 CFR Part 800.12.

V. AGREEMENT REVIEW

- A. Any party to this Agreement may request a review of the terms of this Agreement in the event the need arises. If revisions are needed, the parties will consult to make such revisions in a manner consistent with 36 CFR Part 800.13.
- B. The Council and the SHPO may monitor activities carried out pursuant to this Agreement, and the Council will review such activities if so requested. DOE/ORO will cooperate with the Council and the SHPO in carrying out their monitoring and review responsibilities.
- C. Any party to this Agreement may terminate it by providing 60 days notice to the other parties providing that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, DOE/ORO will comply with 36 CFR Parts 800.4 through 800.6 with regard to all individual undertakings for activities at the ORR.

VI. DISPUTE RESOLUTION

The DOE/ORO and the SHPO shall jointly attempt to resolve any disagreement arising from implementation of this Agreement. If the DOE/ORO determines that the disagreement cannot be resolved, the DOE/ORO shall request the further comments of the Council in accordance with 36 CFR Part 800.6(b). Any Council comment provided in response will be considered by the DOE/ORO in accordance with 36 CFR Part 800.6(c)(2), with reference only to the subject of the dispute. The DOE/ORO's responsibility to carry out all other actions under this Agreement are not the subject of dispute and will remain unchanged.

Execution and implementation of this Agreement evidences that DOE/ORO has satisfied its Section 106 and 110 responsibilities for all individual undertakings related to the Activities of the ORR.

DEPARTMENT OF ENERGY OAK RIDGE OPERATIONS OFFICE

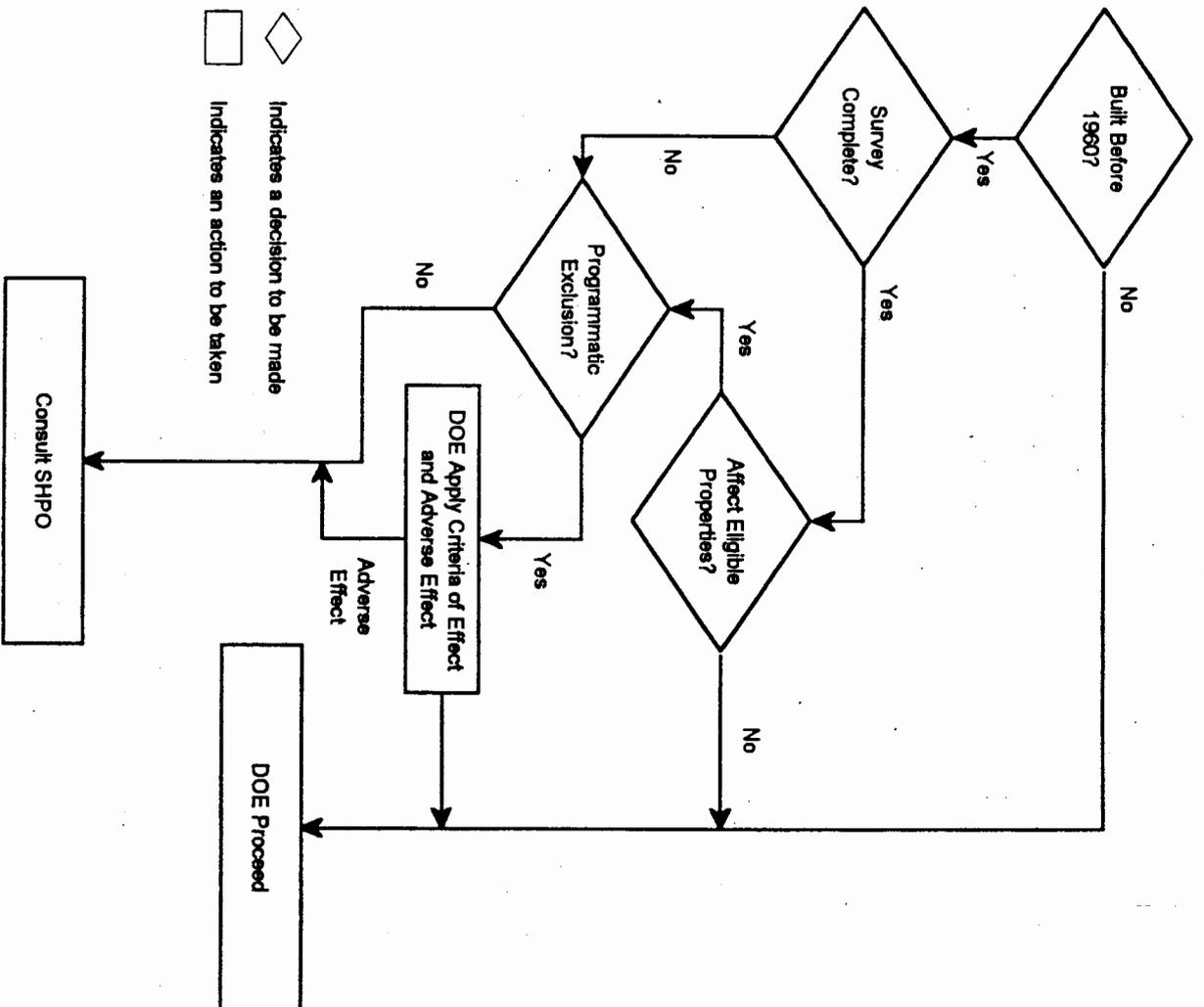
By: *Joe A. Bani* Date: 12-20-93

TENNESSEE HISTORIC PRESERVATION OFFICER

By: *Josh* Date: 1/17/94

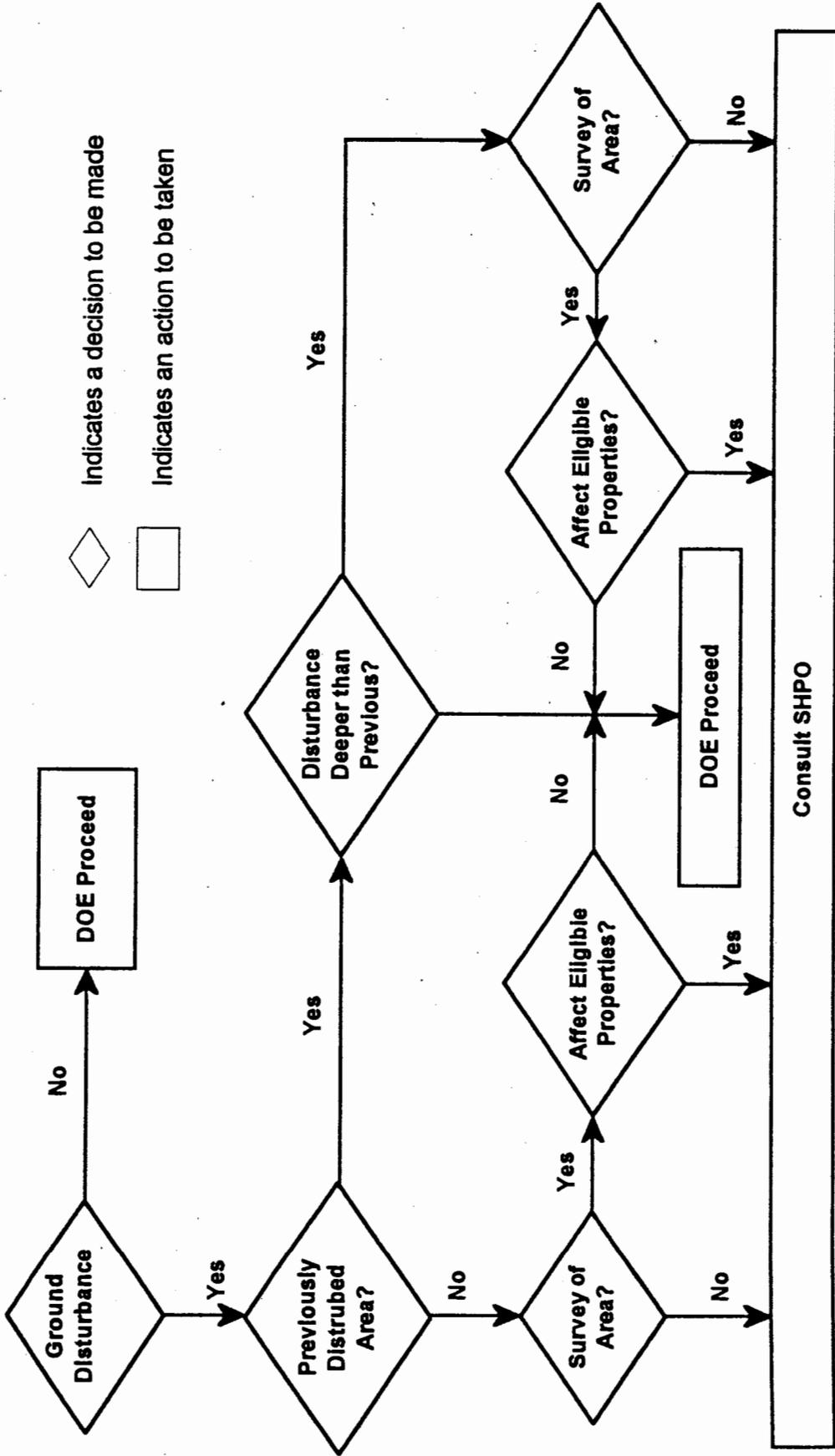
ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: *Anthony H. Sater* Date: 5-6-94



◇ Indicates a decision to be made
 □ Indicates an action to be taken

Fig. G-1. Review process using the PA for determining Section 106 documentation and consultation requirements for actions impacting extant structures.



◇ Indicates a decision to be made
 □ Indicates an action to be taken

Fig. G.2. Review process for determining Section 106 documentation and consultation requirements for action involving ground-disturbing activities.





Department of Energy

Oak Ridge Operations
P.O. Box 2001
Oak Ridge, Tennessee 37831— 8739

July 29, 1994

12-2-94
MS 6282
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2007

Cherokee Nation of Oklahoma
Post Office Box 948
Tahlequah, Oklahoma 74465

Cherokee Nation of Oklahoma:

The U.S. Department of Energy Oak Ridge Operations (DOE ORO) is currently preparing a Cultural Resource Management Plan (CRMP) for the Oak Ridge Reservation (ORR), Anderson and Roane Counties, Tennessee. As a part of the preparation of the CRMP, we are requesting comments from interested parties concerning matters related to archaeological resources. DOE ORO is requesting any comments you may have as a Native American representative concerning matters related to Native American burials that might be encountered during future archaeological surveys or construction activities on the ORR.

Specifically we are requesting your comments concerning notification, any special treatment, and disposition of the human remains that might be discovered on the ORR. Presently DOE ORO does not have any proposed plans to conduct any major archaeological investigations on the ORR in the near future.

Your input and comments would be appreciated as a part of the process for the preparation of the ORR CRMP. Thank you in advance for your comments. If you have any questions you may call me at 615-576-9574.

Sincerely,

Ray T. Moore
DOE ORO Cultural Resource
Management Coordinator





Department of Energy

Oak Ridge Operations
P.O. Box 2001
Oak Ridge, Tennessee 37831— 8739
July 29, 1994

ms 6282
Bldg. 130 mT

2001

Eastern Band of Cherokee Indians
Post Office Box 455
Cherokee, NC 28719

Eastern Band of Cherokee Indians:

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DOE ORO Cultural Resource
Management Coordinator