

AN OVERVIEW OF APPLICABLE STATE LAW AND REGULATIONS

The information provided below is an overview of state and federal laws and regulations that may be applicable to the proposed project.

- **Section 106 of the National Historic Preservation Act** requires federal agencies to consider the effects of their undertakings on historic properties. Federal agencies are required to consult with the State Historic Preservation Office/Historic Preservation Division, Indian Tribes, and state and local officials.
- **Cultural Properties Act (Section 18-6-8.0 NMSA 1978)**. The head of any state agency or department having direct or indirect jurisdiction over any land or structure modification which may affect a registered cultural property shall afford the state historic preservation officer a reasonable and timely opportunity to participate in planning such undertaking as to preserve and protect and to avoid or minimize adverse effects on registered properties. A **registered cultural property** is a cultural property that has been placed on the official register on either a permanent or temporary basis by the committee. Rule 4.10.7 NMAC, *Review of Proposed State Undertakings that May Affect Registered Cultural Properties*, establishes the procedure under which heads of state agencies or departments coordinate with the state historic preservation officer.
- **Prehistoric and Historic Sites Preservation Act, NMSA 1989 Section 18-8-7** of the states that "No public funds of the state or any of its agencies or political subdivisions shall be spent on any program or project that requires the use of any portion of or any land from a significant prehistoric or historic site unless there is no feasible or prudent alternative to such use, and unless the program or project includes all possible planning to preserve and protect and to minimize harm to the significant prehistoric or historic site resulting from such use.". **Significant prehistoric or historic** sites are properties listed in the state register of cultural properties or national register of historic places. 4.10.12 NMAC, *Implementation of the Prehistoric and Historic Sites Preservation Act*, establishes the procedures and guidelines for this section of the Act.
- **Unmarked human burials**. Section 18-6-11.2 of the Cultural Properties Act, NMSA 1978 provides for the protection and appropriate and respectful treatment and disposition of each human burial in the state interred in any unmarked burial ground. Any person who uncovers a human burial shall cease any activity that may disturb that burial, or any object or artifact associated with that burial and shall notify the local law enforcement agency having jurisdiction in the area. The local law enforcement agency shall notify the state medical investigator and the state historic preservation officer. Rule 4.10.11 NMAC, *Issuance of Permits to Excavate Unmarked Human Burials in the State of New Mexico*, establishes procedures for reporting unmarked human burials and procedures for obtaining a permit to excavate unmarked human burials.
- **Cultural Properties Protection Act, NMSA 1978 Section 18-6A-5** of the states, "The officer shall, in cooperation with the heads of state agencies, establish a system of professional surveys of cultural properties on state lands. State agencies shall cooperate with the officer and exercise due caution to ensure that cultural properties are not inadvertently damaged or destroyed.