

Class III Cultural Resources Inventory Guideline

The Opencut Section strongly recommends that applicants consult with the State Historic Preservation Office (SHPO) and conduct a Class III Cultural Resources Inventory if necessary, prior to applying for a permit as a part of their own exploration and project feasibility analysis. This would allow the Operator to better assess the site and work on the Class III cultural resource prior to putting forth the effort and time required for an Opencut application. If SHPO and/or the DEQ archaeologist recommend that a cultural resource inventory be conducted, Opencut would be unable to review the application until “Concurrence” for the site is obtained from the DEQ archaeologist and SHPO. Please be aware that SHPO **only** makes recommendations as to if Class III inventory is required. The DEQ archeologist has the final say in determining if a Class III is needed or not.

ARM 17.24.212 and MCA 82-4-434(3)(h) require that archaeological and historical values on affected lands be given appropriate protection. Therefore, Operators would be required to conduct a Class III archaeological survey if the State Historic Preservation Office (SHPO) and/or the DEQ Archaeologist recommend that a cultural resource inventory be conducted. Although MCA 82-4-434(1) requires the Opencut Section to request a SHPO report for each application submitted, it is in the best interest of the Operator to plan ahead by requesting their own SHPO report. The SHPO request document can be accessed here: <https://mhs.mt.gov/Shpo/Forms>. Ensure “Opencut Permit” is stated under the Project Description section/box. If a SHPO request is obtained by the Operator, a copy of the request should be submitted with the Opencut application along with the SHPO concurrence letter (if applicable) to avoid duplicate requests

Procedure to Follow if SHPO and/or the DEQ Archaeologist determines that a Class III Cultural Resources Inventory is necessary:

- The Operator would be required to conduct a Class III Archaeological survey, obtain concurrence from SHPO, and submit the SHPO Concurrence letter to Opencut, in order for Opencut to be able to deem the application complete. No further review of the application would occur until the Concurrence letter was submitted.

To obtain concurrence from SHPO, do not conduct any testing, digging, or surface disturbances at the site, and complete the following steps:

- a. Do NOT contact SHPO to obtain a Concurrence Letter. Concurrence is obtained by DEQ consulting with SHPO on a Class III or similar investigation that is submitted to DEQ.
- b. Retain the services of an archaeological professional to conduct a Class III Cultural Resources Inventory of the site. Standard operating procedure for this step is for the contracted archeologist to conduct a SHPO file search (identified as a SHPO Report above) prior to entering the field. If DEQ has already performed this file search, it is a public document that can be requested from DEQ. If the SHPO file search has not been conducted, the file search should include any Sections (TRS) that are included in the proposed project, along with any Sections that are within ¼ mile of the project. This inventory typically entails the professional reviewing archaeological and historical information for the vicinity and conducting a thorough visual inspection of the site. A Class III survey is produced and submitted to DEQ for review. Provided no changes are required after review, the DEQ archaeologist would submit the report to SHPO for concurrence with the findings of the report.
 - i. The Operator must submit two hard copies and one digital copy (CD/DVD/Thumb Drive or File Transfer Service) of the Class III report to the

DEQ archeologist at DEQ Archaeologist, Directors Office, P.O. Box 200901, Helena, MT 59620

- c. If no sites are identified, or all identified sites are determined not eligible for the National Register of Historic Places (NRHP) and concurrence is received from SHPO, then work may proceed with no effects to historic properties.
- d. If the Class III Inventory identifies sites that are either recommended eligible, potentially eligible, or undetermined, the Operator's archaeologist must prepare and submit to the DEQ archaeologist either: **a)** a Testing Plan that describes the additional methods and means (e.g. digging or surface disturbance) proposed to further investigate the site; or **b)** an Avoidance Plan that describes the measures proposed to ensure that archaeological and historical values at the site would be given appropriate protection.
 - i. The DEQ archeologist would:
 1. Review the proposed plan to determine if the proposed Testing Plan or Avoidance Plan provides that the archaeological and historical values would be given appropriate protection, or if further treatment or mitigation must be developed.
 2. If no changes to the plan are necessary, the DEQ archaeologist would submit the plan to SHPO for concurrence.
 3. If further treatment or mitigation must be developed, the DEQ archaeologist would confer with SHPO and notify the Operator's archaeologist of the needed changes.
- e. When the Operator obtains written concurrence from SHPO on #C above, the Operator may proceed with the Testing Plan (e.g. digging or surface disturbance), which must be implemented by the Operator's archaeologist.
- f. If the Operator receives SHPO concurrence on an avoidance plan, the Operator must update the Opencut application to include any requirements of the report, and submit the revised application and SHPO concurrence to the Opencut Section.
- g. If the Operator is required to conduct a Testing Plan, the Operator's archaeological professional must prepare a report providing results of the testing and recommendations on NRHP eligibility and submit the report to the DEQ archaeologist.
- h. If no sites are NRHP eligible, and no changes to the report are necessary, the DEQ archaeologist would submit the report to SHPO for concurrence. When the Operator obtains written concurrence from SHPO, the Operator must update the Opencut application (if applicable) to include any requirements of the report, and submit the revised application and SHPO concurrence to the Opencut Section.
- i. If one or more sites are determined eligible for the NRHP, the Operator's archaeologist must prepare a Mitigation or Treatment Plan and submit it to the DEQ Archaeologist.
 - i. If no changes are necessary to the Mitigation or Treatment Plan, the DEQ Archaeologist would submit the plan to SHPO for concurrence.
 - ii. Upon completion of any mitigation, a detailed report of the mitigation and its findings must be submitted to DEQ and SHPO for comment and review.
 - iii. When the Operator obtains written concurrence from SHPO, the Operator must update the Opencut application to include any requirements of the report, and submit the revised application and SHPO concurrence to the Opencut Section.

*The Montana Antiquities Act prohibits the disclosure of archaeological site information to the public. Therefore, do **not** include any archaeological locational information in the Opencut application (i.e. Plan of Operation, application forms, maps, or attachments).*