

## UNITED STATES DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT  
WASHINGTON, D.C. 20240

October 10, 2008

In Reply Refer To:  
8270, 1790 (240) PEMS TRANSMISSION 10/29/2008  
Instruction Memorandum No. 2009-011  
Expires: 09/30/2010**To:** All State Directors**From:** Assistant Director, Renewable Resources and Planning**Subject:** Assessment and Mitigation of Potential Impacts to Paleontological Resources**Program Areas:** Paleontological Resources Management, Environmental Assessment

**Purpose:** This Instruction Memorandum (IM) provides guidelines for assessing potential impacts to paleontological resources in order to determine mitigation steps for federal actions on public lands under the Federal Land Policy and Management Act (FLPMA) and the National Environmental Policy Act (NEPA). These guidelines also apply where a federal action impacts split-estate lands. In addition, this IM provides field survey and monitoring procedures to help minimize impacts to paleontological resources from federal actions in the case where it is determined that significant paleontological resources will be adversely affected by a federal action.

**Policy/Action:** It is the policy of the BLM that potential impacts from federal actions on public lands, including land tenure adjustments, be identified and assessed, and proper mitigation actions be implemented when necessary to protect scientifically significant paleontological resources. This policy also applies to federal actions impacting split-estate lands and is subject to the right of landowners to preclude evaluation and mitigation of paleontological resources on their land. Paleontological resources removed from public lands require a Paleontological Resources Use permit for collection. Significant paleontological resources collected from public lands are federal property and must be deposited in an approved repository. Paleontological resources collected from split-estate lands are the property of the surface-estate owner, and their disposition will be in accordance with the surface agreement between the landowner and the permittee.

**Timeframe:** This guidance is effective immediately for all BLM offices.

**Background:** Surface disturbing activities may cause direct adverse impacts to paleontological resources through the damage or destruction of fossils; or loss of valuable scientific information by the disturbance of the stratigraphic context in which fossils are found. Indirect adverse impacts may be created by increased accessibility to important paleontological resources leading to looting or vandalism. Land tenure adjustments may result in the loss of significant paleontological resources to the public if paleontological resources pass from public ownership. Generally, the project proponent is responsible for the cost of implementing mitigation measures including the costs of investigation, salvage and curation of paleontological resources.

This IM together with the Potential Fossil Yield Classification system (PFYC; see IM 2008-009) will provide guidance for the assessment of potential impacts to paleontological resources, field survey and monitoring procedures, and recommended mitigation measures that will better protect paleontological resources impacted by federal actions. This guidance expands and clarifies the guidance in the Handbook H-8270-1 (General Procedural Guidance for Paleontological Resource Management) Chapter III (Assessment & Mitigation) and will be incorporated into the next Handbook revision.

**Impact on Budget:** Costs are minimal for implementation of this guidance since mitigation of paleontological resources is already part of any approval of surface-disturbing actions on public lands.

**Manual/Handbook Affected:** Supersedes Handbook H-8270-1 (General Procedural Guidance for Paleontological Resource Management) Chapter III.B.

**Coordination:** Washington Office Division of Cultural and Paleontological Resources and Tribal Consultation.

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## 2 Attachments

- 1- Guidelines for Assessment and Mitigation of Potential Impacts to Paleontological Resources (19 pp)
- 2- Paleontological Resources Assessment Flowchart (2 pp)

# Guidelines for Assessment and Mitigation of Potential Impacts to Paleontological Resources

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### Introduction

Surface disturbing federal actions on public and split-estate lands may cause direct adverse impacts to paleontological resources through the damage or destruction of fossils or the disturbance of the stratigraphic context in which they are located. Indirect adverse impacts may be created from increased accessibility to fossils leading to looting or vandalism activities. Land tenure adjustments may result in the loss of significant paleontological resources to the public if fossils pass from public ownership.

Under the Federal Land Policy and Management Act (FLPMA) and the National Environmental Policy Act (NEPA), federal actions and land tenure adjustments that may impact or result in a loss of paleontological resources on public or split-estate lands are evaluated, and necessary mitigation is identified.

## I. ASSESSMENT OF POTENTIAL IMPACTS TO PALEONTOLOGICAL RESOURCES

The following sections outline general steps designed to assist in the analysis and assessment of possible impacts to paleontological resources from proposed actions. These sections are sequential in order and provide for termination of the assessment at various stages if the analysis indicates no impacts are likely to occur.

A. Scoping. Field Offices must assess all proposed federal actions to identify possible effects to significant paleontological resources (see Appendix A for definition) that are potentially recoverable and are likely to be within the zone of expected surface disturbance or relatively close to the surface. The direct effects of all surface activities and the indirect effects of increased public access and land tenure adjustments must be considered in any paleontological assessment. The assessment will determine whether further analysis will be necessary. The Paleontology Program Coordinator (Paleontology Coordinator – see Appendix A for definition) has primary responsibility for the scoping process for projects within the Field Office area, but the Paleontology Program Lead (Paleontology Lead – see Appendix A for definition) may be responsible for projects that span multiple Field or District Offices, and can support the Paleontology Coordinator as requested.

1. Surface only activities – If the proposed project will not disturb potentially fossil-yielding bedrock or alluvium, no additional work is necessary. The project file should be documented as appropriate. Examples of such projects include weed spraying, mechanical brush treatment, geophysical exploration, or surface disturbing activities such as road construction when the fossil resource is expected to be buried well below project compression or excavation depth or when surface fossil resources would be left undamaged.

2. Land Tenure Adjustments – If parcels are identified to pass from public ownership in a proposed land tenure adjustment action but contain no potential for recoverable, significant paleontological resources, no additional work is necessary. The project file should be documented as appropriate, and conclusions addressed in the environmental document. This situation may arise, for example, in areas consisting only of granitic bedrock where paleontological resources would not normally occur.

3. Young alluvial deposits or deep soils may cover and obscure sedimentary bedrock, and any fossils that may occur in that bedrock would be unidentifiable or irretrievable prior to disturbance actions. In most of these cases, the fossil resources cannot be quantified, but the potential for impacting paleontological resources should be mentioned in the evaluation of the proposal, i.e., the planned disturbance will pass through the soil layer and impact a bedrock unit which is known to contain significant fossils elsewhere.

If the initial scoping identifies the possibility for adversely affecting significant paleontological resources, further analysis is necessary. If there will be no impact or potential impact based on the action or the fossil resource may be impacted, but is too deep to be recovered, e.g., deep well bore passing through a fossil formation, the project file must be documented, and no additional assessment is necessary.

B. Analysis of Existing Data. If scoping suggests the possibility of disturbing fossil-yielding bedrock or alluvium that is near to the surface and that may contain significant paleontological resources that are potentially recoverable, more in-depth analysis is necessary. Geologic mapping reflecting the Potential Fossil Yield Classification (PFYC) should be consulted, along with any other easily accessible information, such as GIS-based locality data, other known paleontological locality information, and existing paleontological reports for the area, aerial photos, or soils maps.

1. Potential Fossil Yield Classification (PFYC) – This is a system for categorizing the probability of geologic units to contain scientifically significant paleontological resources or noteworthy fossil occurrences. It has five levels or Classes, with Class 1 applied to geologic units that are not likely to contain significant fossils through Class 5 for geologic formations that have a high potential to yield scientifically significant fossils on a regular basis (see IM No. 2008-009). This classification does not reflect rare or isolated occurrences of significant fossils or individual localities, only the relative occurrence on a formation- or member-wide basis. Any rare occurrences may require additional assessment and mitigation if they fall within the area of anticipated impacts.

2. If the results of the preliminary analysis determine that the proposed project will only affect geologic units not likely to contain significant fossils or that have a very low or low potential for significant fossils (PFYC Class 1 or 2), and no scientifically important localities are known to occur in the area, the project file should be documented, and no additional paleontology assessment is necessary.

3. The results of an analysis of a proposed project may indicate the potential to disturb PFYC Class 3, 4, or 5 formations or potentially fossil-bearing alluvium, or known significant localities, which may then suggest the need for field surveys and/or other mitigation measures. The results may also identify areas where little or nothing is known of the fossil record so that additional attention may be given to these areas during field survey. The analysis should consider the likely impacts on the known or potential fossil resource and should be the basis for determining the need for or level of additional assessments.

C. Determining the Need for Field Surveys and Mitigation. The previously discussed procedures may result in the determination that the project may encounter bedrock or an alluvial zone that has a moderate or high potential to contain significant paleontological resources. However, it does not determine the appropriate action, such as a field survey, on-site monitoring, special stipulations, avoidance, or other mitigation.

1. If the need for further work is not clearly evident after the analysis, the Authorized Officer and/or Project Leader should be consulted for a final decision. The Paleontology Lead or Regional Paleontologist may also be consulted. A brief written report of findings should be prepared, including the rationale for supporting the decision not to require a field survey or additional monitoring. The report should be signed by the Authorized Officer and placed in the project file. For example, a seismic survey using vibroseis trucks may be proposed on areas of deep soils, or a temporary recreational event may be planned in an area of low fossil potential. These types of projects are not likely to have a reasonable potential to adversely affect important

paleontological resources. The file should be documented and a standard discovery stipulation attached to the permit proposal.

2. If the analysis in Sec. I.B indicates a reasonably high expectation of not just encountering a potential fossil-bearing zone and also causing adverse impacts to significant paleontological resources, the determination must be made as to (1) whether adverse effects cannot be avoided; (2) whether the adverse impacts can be avoided by altering the location or scope of the project; (3) whether the impacts can be mitigated through development of special stipulations such as requiring on-site monitoring; or (4) whether field surveys will be necessary to determine the presence or absence of significant paleontological resources.

3. In the case where it is known that significant paleontological resources will be adversely impacted, the preferred course of action is avoidance of the impact by moving or rerouting the site of construction, or eliminating or reducing the need for surface disturbance.

4. Application of specific stipulations may reduce or eliminate adverse impacts in many cases. A standard discovery stipulation should be included in any permit approval that is likely to affect significant paleontological resources. The stipulation should mandate an immediate work stoppage in the area of discovery, notification to the Authorized Officer, and protection of the material and geological context. Other stipulations may be appropriate on a case-by-case basis.

(a) A suggested standard discovery stipulation for a discretionary federal action is:

The permittee shall immediately notify the BLM Authorized Officer of any paleontological resources discovered as a result of operations under this authorization. The permittee shall suspend all activities in the vicinity of such discovery until notified to proceed by the Authorized Officer and shall protect the discovery from damage or looting. The permittee may not be required to suspend all operations if activities can be adjusted to avoid further impacts to a discovered locality or be continued elsewhere. The Authorized Officer will evaluate, or will have evaluated, such discoveries as soon as possible, but not later than 10 working days after being notified. Appropriate measures to mitigate adverse effects to significant paleontological resources will be determined by the Authorized Officer after consulting with the operator. Within 10 days, the operator will be allowed to continue construction through the site, or will be given the choice of either (1) following the Authorized Officer's instructions for stabilizing the fossil resource in place and avoiding further disturbance to the fossil resource, or (2) following the Authorized Officer's instructions for mitigating impacts to the fossil resource prior to continuing construction through the project area.

Note: C.1 and C.2 above would be conducted at the permittee's expense. By regulation, after a 3809 plan of operations is approved or where there is no plan, the BLM is responsible for the cost of any investigation and recovery of fossil materials.

(b) Other stipulations may be developed to reduce potential impacts, preferably in consultation with the project proponent. These may include (1) techniques to reduce surface

disturbance, (2) briefings for all personnel about the potential for discovery, (3) requiring all finds be reported, and (3) using a "light touch" in sensitive areas. These should be made a formal part of the authorization for the project and discussed at a preconstruction meeting or an on-site meeting in the case of oil and gas operations.

(c) All proponents should be directed to share the current rules and regulations regarding fossil theft and the limitations to free use collecting of invertebrate and plant fossils on BLM-administered lands with all employees and subcontractors under their direction. Unlawful removal, damage, or vandalism of paleontological resources will be prosecuted by federal law enforcement. Theft or damage to government property by a proponent, a proponent's employee, or a subcontractor that is under a proponent's direction may lead to legal actions against the proponent.

5. If avoidance actions or stipulating measures are insufficient to protect known paleontological resources, a written assessment must be completed to determine the need for field survey or monitoring. This assessment must include the anticipated direct or indirect impacts associated with the project, the inadequacies of avoidance or special stipulations to protect the resource, existing paleontological information and known localities, relevant geologic information, and the potential for additional discoveries. The assessment must be completed by the Paleontology Coordinator.

(a) In some cases, bedrock will not be visible at the surface in the project area (for example, where thin soils or alluvium obscure all outcrops), but the proposed excavation will likely penetrate into bedrock with known significant paleontological resources. Because fossil material will not be visible at the ground surface in these cases, it may be appropriate to forego a field survey prior to excavation, but require on-site monitoring or spot-checks when bedrock is finally encountered. If construction monitoring is proposed, the written assessment must include a thorough justification for the recommendation.

(b) The State Office may require the Paleontology Coordinator to notify the Paleontology Lead that a field survey or monitoring is deemed appropriate prior to the final decision to require the survey or monitoring. The notification should minimally include the name of the project, the legal description of the location or other locational information, a brief summary of the proposed action, reason(s) for the decision to require a survey or monitoring, and any other relevant information. Concurrence of the Paleontology Lead or Regional Paleontologist may be required prior to the final decision for requiring a survey or monitoring.

(c) A standardized assessment document may be developed that can be applied to projects that are similar in nature, relatively small, and repetitive in approach for use within a Field Office or District. This written assessment is intended to simplify the documentation process for those projects that are likely to have minimal impacts, and may be structured as a programmatic assessment, a form, a checklist, or other document with standard items. This assessment must include the name of the project, the legal description of the location or other locational reference, a brief summary of the proposed action, reason(s) for the decision, and any other relevant information. The parameters in the assessment should be designed to identify the need for a field survey. For example, the parameters may indicate a field survey may be required

for road and well pad construction activities occurring on Class 4 or 5 formations where the formation is likely to be encountered during surface disturbing activities. The Field Manager, in consultation with the Paleontology Lead, must approve the use of a programmatic assessment prior to initial implementation.

6. The decision to require a field survey or monitoring must be made by the Authorized Officer and documented in the project file. If required, a copy of the decision must be furnished to the Paleontology Lead.

## II. PROCEDURES FOR CONDUCTING A PALEONTOLOGICAL FIELD SURVEY

If the assessment of existing data indicates: (a) the presence or high probability of occurrence of vertebrate fossils or uncommon nonvertebrate fossils (PFYC Class 4 or 5), or that the probability is unknown (Class 3), in the area of a proposed federal action or transfer of title, and (b) a reasonable probability that those resources will be adversely affected by the proposed action, a paleontological field survey should be conducted.

A. Definition of Field Surveys. Field Surveys are pedestrian surveys to be performed in areas where significant fossils can be expected to occur within the boundary and immediate vicinity of the anticipated disturbance, or where the probability of encountering significant fossils is unknown.

1. Field surveys are performed prior to any surface disturbing activities. Before conducting field surveys, the project location should be as final as possible and any staking of the location should be complete.

2. Surveys are conducted by a BLM Regional Paleontologist, Paleontology Lead, Paleontology Coordinator, appropriately trained and supervised BLM staff, or by a BLM-permitted consulting paleontologist hired by the project proponent.

(a) At the Field Manager's discretion, other qualified BLM staff may conduct surveys on small projects. Performance of surveys by BLM staff must also be approved by the Regional Paleontologist, Paleontology Lead, or Paleontology Coordinator.

(b) Surveys that are complex in nature, constrained by construction schedules, or otherwise cannot be performed by BLM staff should be performed by a consulting paleontologist holding a valid BLM Paleontological Resources Use Permit. Submission of reports may be done directly by the paleontologist to the BLM. The project proponent is also responsible for all costs associated with the survey, including the consulting paleontologist's fees and charges, all survey costs, fossil preparation to the basic identification stage, analyses, reports, and curation costs directly related to mitigation of the project's anticipated impacts. Any required monitoring and mitigation costs are also the responsibility of the project proponent. These costs are to be negotiated between the project proponent and the consulting paleontologist prior to beginning any data gathering, analysis, or field work, and these negotiations do not require BLM

involvement or approval. Any new, additional, or modified curation agreements between the paleontologist and the official repository must be in place prior to starting field work.

(c) Authorization for an activity to proceed cannot be given by a consulting paleontologist. Performance of the survey, either by a consulting paleontologist or BLM staff, or submission of the report DOES NOT constitute approval for the activity to proceed. The BLM must review the report, including adequacy of the field methods and findings. The Authorized Officer must approve the findings and determine the need for monitoring prior to approval to proceed.

B. Conducting Field Surveys. Field surveys must be performed by the Principal Investigator or an approved Field Agent or Field Monitor (see section IV.C., Types of Field Personnel for descriptions of these individuals) as authorized under a Paleontological Resource Use Permit, or by a BLM Regional Paleontologist or qualified BLM designee. Field surveys and collections performed as a mitigation measure are not intended to be scientific research studies, but are meant to identify, avoid, or recover paleontological resources to prevent damage or destruction from project activities. However, proper scientific techniques and procedures must be utilized during all mitigation efforts. Safety should be an important consideration; therefore, surveys should not be attempted on cliff faces, in open, non-reinforced trenches deeper than five feet, or other unsafe areas.

1. The scope of the survey is dependent upon the scale of the project. Small projects are defined as less than 10 acres, or, if linear, less than five miles; large projects exceed those dimensions.

2. At the start of field work, the consulting paleontologist (paleontologist) must contact the Paleontology Coordinator in each affected Field Office who may require a visit to that office. After an initial visit each year, the paleontologist may contact the Field Office by telephone or email prior to subsequent field trips, at the discretion of the Field Office. Information about the survey schedule, additional personnel, emergency field contact information, and any other pertinent data should be provided to the Paleontology Coordinator. The Field Office will inform the paleontologist of any conditions that may impact the survey, such as fire danger or restrictions, drought restrictions, wildlife timing restrictions, management restrictions, road restrictions or construction, and any other relevant information.

3. During the field survey, the paleontologist surveys, locates, and documents all paleontological resources within 200 feet of the proposed project location or corridor, or less distance upon approval.

(a) Where significant paleontological resources are at risk, data collection alone does not constitute mitigation of damage. All significant fossils that may be damaged or destroyed during project activities must be collected, along with all relevant contextual and locational data. Specimens must be collected during the survey or prior to commencement of any surface-disturbing activities.



(b) In many cases, isolated gar scales, chelonid (turtle) carapace or plastron fragments, crocodile and fish teeth, and unidentifiable bone fragments do not need to be collected. The location must be recorded and a description of the fossil material noted in the field notes and on a BLM Locality Form as part of the report. The context of these types of fossils should be considered, as they may represent rare occurrences or unusual faunal associations, and thus may be scientifically important and must be documented and voucher specimens collected where appropriate.

(c) Occurrences of plant or invertebrate fossils should be recorded and representative examples or voucher specimens collected where appropriate. Additional mitigation measures may be appropriate in some cases for these types of localities.

(d) If a large specimen or a concentration of significant fossils is located during the field survey, the available time and/or personnel may not allow for full recovery during the survey. The specimen(s) and locality(ies) should be stabilized as needed, and a determination made as to whether avoidance is necessary or whether full recovery of the specimen is required at a later time prior to disturbance activities. The Authorized Officer and project proponent must be notified, the mitigation alternatives discussed including funding for recovery, and a decision reached as soon as possible. If avoidance or later recovery is selected for mitigation, the find should be stabilized, buried if needed to protect the fossils and context, and appropriate measures implemented to reduce adverse effects from natural or human causes.

4. During the survey, locations or areas that exhibit a lithology suggesting a high probability of subsurface fossil material must be recorded, and a recommendation for the need for on-site monitoring, spot-checking, or testing should be made in the report. This may include areas where no fossil material was found on the surface during the survey. The recommendation should consider the size and type of planned disturbance, such as the depth of a trenching operation or the acreage of surface disturbance.

5. Surveys must be performed only during times when the ground is visible and not frozen. This will often preclude surveys during winter months in many areas. Biological timing restrictions, such as critical nesting or birthing times, may confine or delay field activities. Project proponents should be informed of BLM's requirement for performing any field surveys as soon as possible and should be advised of the possibilities for delays in survey completion based on seasonal weather conditions or other management restrictions to allow for adequate scheduling of available time.

C. Report of Survey Findings. After completion of the field survey, the paleontologist must file a written report with the BLM and the designated repository. If required, a copy should also be filed with the project proponent. This report must summarize the results of the survey as well as appropriate geological and paleontological background information as described below. It should also include any recommendations for on-site monitoring or other mitigation. For small projects (less than 10 acres), the report must be filed within 30 days after completion of the survey unless specific approval for a different time frame has been received from the BLM. The time frame for submission of the report for large projects should be negotiated during project scoping. On a case-by-case basis, approval to begin project activities may be granted for those

portions of the project area noted to be less paleontologically sensitive prior to final approval of the report.

1. Reports of the general findings and the background information must be submitted to the BLM project manager or Authorized Officer (if appropriate), the Paleontology Lead or Regional Paleontologist, and each affected Field Office. Reports must include the following details, as applicable. Items (a) and (b) should appear at the beginning of the report and may be presented as a title page in multi-page reports. Some of these categories may be combined.

- (a) Name, affiliation, address, date of report, and permit number (if consultant) of paleontologist doing the survey.
- (b) Project name and number (if used), name of proponent, and general location of project.
- (c) Date(s) of survey and names of any personnel assisting with the survey.
- (d) Brief description of the proposed project, emphasizing potential impacts to paleontological resources.
- (e) Description of background research conducted. (Include overview of known paleontological information, institutions consulted, previous surveys in the area, previous projects of similar nature in the area, and general description of survey techniques employed).
- (f) Summary of regional and local geology. May reference earlier projects for relevant information.
- (g) Summary of regional and local paleontology. May reference earlier projects for relevant information.
- (h) Summary of the survey results.
- (i) Significance of findings.
- (j) Potential impacts to paleontological resources resulting from the project.
- (k) Detailed mitigation recommendations that may lessen potential adverse impacts.
- (l) Potential fossiliferous areas to allow for future assessment of sites if applicable.
- (m) Cited and other pertinent references.
- (n) Map of project area, indicating areas surveyed, known localities, and new discoveries.
- (o) Relevant photos, diagrams, tables to aid in explaining, clarifying, or understanding the findings.
- (p) Listing of collected material, including field numbers, field identifications, and elements, cross-referenced to locality field numbers. This list may be submitted in electronic format, preferably in spreadsheet format.
- (q) BLM locality form (8270-3) or equivalent for each new locality (including localities where fossils were observed but not collected) with a 1:24000 scale map showing the localities (not reduced in scale during photocopying) (see items 2 and 3 below).

2. Exact locations of fossil localities contained in these reports are considered sensitive and must not be included in any public document. The BLM locality form (8270-3) or

equivalent, 1:24000 scale map showing the localities, and any other information containing specific fossil locations may be bound separately or placed in a separate section to allow for preservation of confidential locality data. A copy of this confidential section must be submitted to the Paleontology Lead (in some cases, two copies may be required). A copy for each affected Field Office may be required. Another copy must be submitted to the official repository with the collected materials.

3. BLM GPS recording and data standards must be used to report paleontological locality data. Existing USGS topographic maps are often based on the NAD27 standard, so locality data calculated from a map base must be converted before submission. Data must be recorded and reported with a mean error of +/- 12.5 meters or less, at a 95 percent confidence level. For small localities, data should be reported as point data. Larger polygonal localities should be reported using coordinates of a centroid and a description of the approximate size, or the key coordinate points of a bounding polygon. Linear features, such as roads or surveyed project boundaries, must be reported as line data. The 1:24000 scale map(s) accompanying the locality forms should graphically illustrate the locality, either as a point or an outline of the locality as appropriate, and be clearly labeled with the locality or field number.

D. Report Approval. The Authorized Officer will analyze the Survey Report for adequacy within 10 working days of receipt. Notification accepting the report, or explaining any identified deficiencies, will be sent to the consulting paleontologist and the project proponent with a copy placed in the project file. Any deficiencies must be corrected as soon as possible, usually initiated within five working days, and the report must be resubmitted for approval. Any resubmissions must be prompt, but consideration will be made for the amount of time needed for major corrections. Deficiencies directly affecting the survey, such as inadequate survey procedures or incomplete data, must be corrected before granting approval for the project to proceed. Deficiencies not directly affecting the survey, such as curation issues, will not prevent approval of the project, but must be corrected as soon as possible.

### III. DETERMINATION OF FURTHER MITIGATION REQUIREMENTS

The need for additional mitigation to protect paleontological resources will be determined on a case-by-case basis. The Authorized Officer, in consultation with Regional Paleontologist or the Paleontology Lead, will analyze the Survey Report for survey findings and any mitigation recommendations. If no further mitigation is needed, the Authorized Officer will promptly notify the project proponent that there are no additional paleontological surveys or mitigation measures required, and the project may proceed pending any other approvals. The project file must be documented indicating acceptance of the survey report and identifying any additional mitigation requirements. If it is determined that additional mitigation efforts are needed to protect or preserve the paleontological resources, the project proponent will be notified as soon as possible. The Authorized Officer and/or the Paleontology Lead usually develop and approve the mitigation procedures or recommend a project be redesigned in consultation with the project proponent. Factors such as locality or specimen significance, economics, safety, and project urgency will be considered when developing mitigation measures. Additional mitigation

measures will be developed and implemented as timely as possible so as not to delay project actions.

A. Relocation. The preferred mitigation technique is to change the project location based on the results of the field survey. Relocation, however, may necessitate a field survey of the new area, as well as resurveys by other resource specialists. Anticipation of this contingency prior to or during the original survey may allow for survey of an expanded area at the same time. If relocation will eliminate impacts and is acceptable to all parties, then a report to the file, including a map showing the original and revised locations, must be completed documenting the change. Approval for the project to proceed in the revised location may then be granted by the Authorized Officer to the project proponent. When avoidance is not possible, appropriate mitigation may include excavation or collection (data recovery), stabilization, monitoring, protective barriers and signs, or other physical and administrative protection measures.

B. Deferred Fossil Collection. In some cases, fossil material may have been identified, but not completely collected during the initial field survey, such as a partial dinosaur or other large fossil assemblage. It may be possible to complete the recovery of this material and all related data prior to beginning construction activities, and thus mitigate the adverse impact. This may require a shift in the project schedule and must be coordinated with the project proponent. Approval by the Authorized Officer for the project to proceed will only be granted when recovery of the fossil material and field data is completed. A report to the file and the project proponent documenting the recovery and indicating that no further mitigation is required must be completed, and the report signed by the Authorized Officer. If the discovery cannot be fully collected within the available time frame, it may have to be avoided by relocating or redesigning the project.

#### IV. PROCEDURES FOR FIELD MONITORING

The purpose of on-site monitoring is to assess and collect any previously unknown fossil material uncovered during the project activities or soon after surface-disturbing actions. Based on the initial scoping, the field survey and recommendations, and the plan of operations, it may be necessary to require monitoring of surface-disturbing activities. Monitoring may be required as part of an overall mitigation for a project which was developed during the NEPA process, or upon the discovery of paleontological resources during project activities.

A. Monitoring Plan. A monitoring plan can be developed by a BLM paleontologist or a qualified paleontologist hired by the proponent. The plan must be appropriately scaled to the size and complexity of the anticipated monitoring. If developed by a third party, the appropriate Paleontology Lead or Regional Paleontologist shall review the plan for sufficiency prior to acceptance. Monitoring of the project may proceed when the monitoring plan is approved by the Authorized Officer. A monitoring plan indicates the treatments recommended for the area of the proposed disturbance and must minimally address the following:

1. The recommended approach to additional specimen collection, such as total or partial recovery or sampling; and

2. The specific locations and intensity of monitoring or sampling recommended for each geologic unit, stratigraphic layer, or area impacted.

Monitoring intensity is determined based on the analysis of existing data and/or field surveys and any previous monitoring efforts.

B. Types of Monitoring. There are two types of monitoring: 1) on-site, performed during ongoing operations, and 2) spot-checks, performed during or after disturbance, or at key times during the progress of the project.

1. On-site monitoring – In areas with a high probability for buried fossils, the presence of a monitor at the site of disturbance at all times that disturbance is occurring may be warranted. The need for a full-time monitor is based on the findings of the survey, the local geology, and the proposed actions. Efforts will be made to complete fossil recovery with minimal work stoppage. However, in some cases, an extended period of work stoppage may be required, so coordination with the project proponent or representative is important (see D below). Prior to beginning the monitoring work, the monitor, company supervisor, and machinery operators should agree on procedures for brief work stoppages to allow for examination of finds. It is critical that safety be of utmost concern because of the presence of heavy machinery and open trenches.

The monitor must assess any finds, collect loose fossil material and related data, and take appropriate steps to mitigate any current or potential damage. Consideration of the size of the expected fossils must also be considered; for example, microfossils may not be visible during excavation activities. It may be appropriate to collect samples of matrix for later recovery of microvertebrate fossils or other analyses. Activities planned to occur during night time should be assessed relative to the potential to uncover significant fossils. Fossils may not be visible at night in trenching or grading operations, so construction activities may need to be suspended during night time in sensitive areas.

2. Spot-checking – In areas with a moderate to high probability for unknown fossil material, it may be more appropriate to check only at key times rather than maintain continuous monitoring of operations. Key times for scheduling spot-checking are when the fossil-bearing bedrock is exposed to view or prior to placing spoil material back into the excavation. Examples of these key times may be when a pipeline trenching operation is complete but before pipe is placed and the trench backfilled or prior to redistribution of topsoil. Spot-checking requires close coordination with the project proponent and the paleontologist, and usually requires the paleontologist to be available on short notice. In some instances, it may be advantageous to allow rain and/or wind to erode away loose matrix and concentrate fossil material to increase visibility. The paleontologist will coordinate with the project proponent to allow sufficient time for this action to occur, as appropriate to conditions, expected fossil material, and construction schedules.

The paleontologist should report potentially fossiliferous areas in the final report to allow for future assessment of sites, even if no fossils were located during the project monitoring.

C. Types of Field Personnel. Depending on the complexity of the project, it may be necessary to employ a number of paleontology field personnel simultaneously. There may be a lack of fully qualified paleontologists to perform all the necessary monitoring during the scheduled times of construction. Use of additional personnel for field work is permissible, but Field Agents and Field Monitors (described below) must be requested by the Permittee and authorized by the BLM prior to field work.

1. **Principal Investigator** – The person listed as Permittee (Permit item 1a) on the Paleontological Resources Use Permit is the Principal Investigator (PI) and is responsible for all actions under the permit, for meeting all permit terms and conditions, and for the performance of all other personnel. This person is also the contact person for the project proponent and the BLM.

2. **Field Agent** – Other qualified paleontologists may perform field work independently of the PI under the conditions of this permit. Résumés must be submitted to BLM and must demonstrate qualifications equivalent to those of Permittees. Field Agents must be listed on the permit under “Name(s) of individual(s) responsible for planning, supervising, and carrying out fieldwork” (Permit item 8) or authorized in a separate letter from BLM. They must follow all the permit terms and conditions applicable to field work and must carry a copy of the permit, included terms and conditions, and separate authorizing letter (if used) while in the field. Field work results must be reported to the PI, who will then submit required reports.

3. **Field Monitor** – Field Monitors may be utilized for supplemental on-site monitoring of surface-disturbing activities when the PI or a Field Agent is performing field work elsewhere. Field Monitors must have sufficient field experience to demonstrate acceptable knowledge of fossil identification, collection methods, and paleontological techniques. The PI must supply a summary of each person’s experience to the BLM prior to field work. Field Monitors must be approved by the BLM prior to performing field work and must carry a copy of the permit while in the field. The PI or Field Agent must be in communication with the Field Monitor using a portable communication device, such as a cell phone or two-way radio, and are required to be near enough to the Field Monitor to allow for prompt examination of all fossil discoveries (no more than two hours away) by the PI or Field Agent.

4. **Field Assistant** – Additional personnel not meeting the previously cited experience or knowledge levels may be utilized during field work, but must be under direct, on-site supervision of either the PI or a Field Agent as part of a supervised crew. Field assistants must have at least four to eight hours of training or experience received from a qualified paleontologist in identifying paleontological resources prior to performing field work or when first utilized in this capacity. A listing of all Field Assistants (including contact information) must be supplied prior to any field work. All discoveries made by a Field Assistant must be immediately reported to the PI or Field Agent on site. To ensure proper supervision, an appropriate ratio of Field Assistants per PI or Field Agent must be maintained. The complexity of the project, the area to be covered, and the experience of the assistants are some of the factors that should be considered in determining the proper ratio, but commonly five to seven assistants is the maximum number that can be supervised by one PI or Field Agent.

D. Work Stoppage. If significant fossil material is discovered during construction activities, the PI, Field Agents, and Field Monitors have the authority to temporarily halt surface disturbing actions until an assessment of the find is completed and appropriate protection measures taken. Efforts will be made to complete fossil recovery with minimal work stoppage. However, in some cases, an extended period of work stoppage may be required. If the paleontological resource can be avoided, mitigated, or collected within approximately two hours, work may resume after approval from the PI or Field Agent, and the Authorized Officer must be notified as soon as possible of the discovery and any mitigation efforts that were undertaken. If the find cannot be mitigated within a reasonable time (two hours), the concurrence of the Authorized Officer or official representative for a longer work stoppage must be obtained. Work may not resume until approval is granted from both the PI or Agent and the Authorized Officer.

## V. FINAL PROJECT REPORT

Upon completion of all field work, including survey and monitoring, the PI must submit within 30 days, a written final report to the Authorized Officer, Paleontology Lead, and the designated repository. A copy of the report may be provided to the project proponent if required, but without the BLM Locality forms. Reports must include the following details. Items 1 and 2 should appear at the beginning of the report, and may be presented as a title page in multi-page reports.

1. Name, affiliation, address, date of report, and permit number (if consultant) of the paleontologist doing the survey.
2. Project name and number (if used), name of proponent, and general location of project.
3. Date(s) of the survey and names of any personnel assisting with the survey.
4. Brief description of project and expected impacts to paleontological resources.
5. A summary of mitigation performed.
6. A summary of findings, including important discoveries.
7. A description of potentially fossiliferous areas to allow for future assessment of sites, even if no fossils were located during the project monitoring.
8. A completed BLM locality form 8270-3 or equivalent for each new locality using Universal Transverse Mercator (UTM) NAD 83 coordinates, and 1:24000 scale maps with new localities plotted using points or polygons as appropriate. Locality forms, maps, and any other information containing specific fossil locations should be bound separately or assembled as a separate section to allow for preservation of confidential locality data.
9. List of specimen field numbers and field identifications of collected material, cross-referenced to the locality field number. This list may be submitted in electronic format, preferably in a spreadsheet format.

If the survey was performed by BLM, a report similar in contents must be written and filed in the project file, and the project proponent notified as soon as possible upon completion.

## VI. COMPLETION OF MITIGATION RESPONSIBILITY

When the final report with the specimen inventory and the signed receipt of confirmation of museum deposition are accepted by the BLM, mitigation for paleontological resources related to the project will be considered completed. The project proponent will be notified in writing as soon as possible by the Authorized Officer after consulting with the Paleontology Lead or Regional Paleontologist and a copy of the notification placed in the project file.

The responsibility of the project proponent ends when appropriate mitigation related directly to the project is completed and final approval is received from the Authorized Officer. Any additional field collection, quarrying, final specimen preparation, etc. will be considered to be research, and will be the responsibility of the consulting paleontologist or another approved party. The project proponent will not be held responsible for completion of any research project. However, the project proponent can choose to sponsor further research. A separate research permit will be required for additional research activities.

## VII. COLLECTIONS RESULTING FROM ASSESSMENT AND MITIGATION

Fossil specimens and related data collected from public lands during field surveys and mitigation remain the property of the Federal government. They must be placed in the approved repository(s) identified on the Paleontological Resource Use Permit held by the consulting paleontologist as soon as practical and receipt(s) of collections submitted to the BLM, but no later than 60 days after all field work is completed. Written approval from the Paleontology Lead or Regional Paleontologist is required if additional time is needed for transfer of all specimens and field data.

## VIII. RESOURCE MANAGEMENT UPDATES

Based on findings resulting from any of the above steps, the project file, locality and specimen information, and other BLM data should be updated to reflect any new or modified information. Paleontology permit files should be checked and updated, as well as any other administrative information.

The PFYC Class assignments can be assessed based on the analysis, survey, and monitoring results. New information may indicate a change in the PFYC Class is appropriate for one or several geologic units. Other applications of the PFYC system should be considered, such as the use for impact analyses in planning documents or for survey and mitigation determinations for other projects. Any changes in classification must be made in consultation with the Paleontology Lead or Regional Paleontologist to maintain consistency across Field Office boundaries.



## APPENDIX A – DEFINITIONS

(As applicable to BLM management of paleontological resources)

**Alluvium** – A general term for clay, silt, sand, gravel, or similar unconsolidated detrital material [fragments of rock or mineral material derived from older rocks] deposited during relatively recent geologic time by a stream or other body of running water as a sorted or semi-sorted sediment in the bed of the stream or its flood plain or delta, or as a cone or fan at the base of a mountain slope; especially, such a deposit of fine-grained texture (silt or silty clay) deposited during a time of flood (*from American Geological Institute (AGI), Glossary of Geology, 1972 ed.*)

Alluvium may contain paleontological resources in older alluvial deposits. The location on the landscape often will provide clues to the potential for paleontological resources within alluvial deposits. As an example, alluvium developed near major river courses or lake margins has a much higher potential to contain significant paleontological resources than alluvium (colluvium) formed from slope wash.

**Approved Repository** – Meets the Department of the Interior 411 Departmental Manual (DM) provisions for museum property, including capability for providing adequate long-term curatorial services, such as a physically secure environment, and maintaining professional staff qualified to catalog, care for, preserve, retrieve, and loan, where appropriate, these materials and associated records.

**Bedrock** – A general term for the rock, usually solid, that underlies soil or other unconsolidated, surficial material (*from American Geological Institute (AGI), Glossary of Geology, 1972 ed.*) For paleontological purposes, bedrock generally excludes alluvium, colluvium, sand dunes, and loess (fine-grained blanket deposit of marl or loam). In certain situations, bedrock may contain recent soils/sediments with fossils.

**Colluvium** – A general term applied to any loose, heterogeneous, and incoherent mass of soil material or rock fragments deposited chiefly by mass-wasting, usually at the base of a steep slope or cliff; e.g., talus, cliff debris, and avalanche material. Also, alluvium deposited by unconcentrated surface run-off or sheet erosion, usually at the base of a slope (*from American Geological Institute (AGI), Glossary of Geology, 1972 ed.*)

**Field Agent** – Other qualified paleontologists may perform field work independently of the PI under the conditions of this permit. Résumés must be submitted to BLM and must demonstrate qualifications equivalent to those of Permittees. Field Agents must be listed on the permit under “Name(s) of individual(s) responsible for planning, supervising, and carrying out fieldwork” (Permit item 8) or authorized in a separate letter from BLM. They must follow all the permit terms and conditions applicable to field work and must carry a copy of the permit, included terms and conditions, and separate authorizing letter (if used) while in the field. Field work results must be reported to the PI, who will then submit required reports.

**Field Assistant** – Additional personnel not meeting the previously cited experience or knowledge levels may be utilized during field work, but must be under direct, on-site supervision

of either the PI or a Field Agent as part of a supervised crew. Field assistants must have at least 4 to 8 hours of training or experience received from a qualified paleontologist in identifying paleontological resources prior to performing field work or when first utilized in this capacity. A listing of all Field Assistants (including contact information) must be supplied prior to any field work. All discoveries made by a Field Assistant must be immediately reported to the PI or Field Agent on site. To ensure proper supervision, an appropriate ratio of Field Assistants per PI or Field Agent must be maintained. The complexity of the project, the area to be covered, and the experience of the assistants are some of the factors that should be considered in determining the proper ratio, but commonly five to seven assistants is the maximum number that can be supervised by one PI or Field Agent.

**Field Monitor** – Field Monitors may be utilized for supplemental on-site monitoring of surface-disturbing activities when the PI or a Field Agent is performing field work elsewhere. Field Monitors must have sufficient field experience to demonstrate acceptable knowledge of fossil identification, collection methods, and paleontological techniques. The PI must supply a summary of each person’s experience to the BLM prior to field work. Field Monitors must be approved by BLM prior to performing field work and must carry a copy of the permit while in the field. The PI or Field Agent must be in communication with the Field Monitor using a portable communication device, such as a cell phone or two-way radio, and are required to be near enough to the Field Monitor to allow for prompt examination of all fossil discoveries (no more than two hours) by the PI or Field Agent.

**Field Survey** – Pedestrian (walking) surveys performed in areas where significant fossils are expected to occur within the boundary or immediate vicinity of an anticipated disturbance. Surveys are performed by a qualified paleontologist or BLM Regional Paleontologist or other officially appointed BLM employee prior to any surface disturbing activities. Survey activities also include concurrent collection of significant fossils.

**Land Tenure Adjustments/Change in Title** – Changes in ownership or administration of surface or mineral estates, typically exchanges or sales, which may result in a change in ownership or control of paleontological resources.

**Monitoring** – a) On-site observation during all surface disturbing activities to assess and collect any previously-unknown fossil material uncovered by the project activities. b) Examination of excavation or spoil piles at key times during project activities. Monitoring must be performed by a permitted paleontologist, field agent, or field monitor (see section *IV.C.*), Regional Paleontologist, or other officially appointed BLM employee, and occurs during or soon after surface disturbing actions.

**Paleontological Locality (Locality)** – A geographic point or area where a fossil or associated fossils are found in a related geological context. A paleontological locality is confined to a discrete stratigraphic layer, structural feature, or physiographic area.

**Paleontology Program Coordinator (Paleontology Coordinator)** – The employee designated by the local BLM Office Manager to manage paleontological resource issues, including planning, mitigation, budget, and other administrative duties. The local point of contact for

paleontological resource use permittees, the State Office Paleontology Program Lead, and the Regional Paleontologist. The employee is usually a geologist or archaeologist.

(a) In some offices, additional employees may be designated by the supervisor to determine the need for field surveys and monitoring for some projects, or other duties in support of the paleontology program. The scope of duties for these additional employees must be approved by the Paleontology Program Lead and closely coordinated with the Paleontology Coordinator.

(b) A few current BLM employees may meet the same professional qualifications that are required for a BLM Paleontological Resources Use Permit applicant. BLM-approved training and field experience may also allow employees to gain sufficient background to achieve competency in the field. With the approval of the Regional Paleontologist and the Office Manager or Deputy State Director, these employees may be designated as qualified to perform field surveys or monitoring. The current availability of these employees must also be approved by the unit manager or Deputy State Director, typically on a project-by-project basis or within a defined time period. Depending on official duties, local roles and responsibilities, and management preferences, these employees may or may not be the Paleontology Coordinator.

**Paleontology Program Lead (Paleontology Lead)** – Any one of the following: the Regional Paleontologist in the states with an identified position; the paleontologist at Grand Staircase-Escalante National Monument; or the State Office Archeologist in the states without a Regional Paleontologist.

**Principal Investigator** – The person listed as Permittee (Permit item 1a) on the Paleontological Resources Use Permit is the Principal Investigator (PI) and is responsible for all actions under the permit, for meeting all permit terms and conditions, and for the performance of all other personnel. This person is also the contact person for the project proponent and the BLM.

**Regional Paleontologist** – The BLM paleontologist that provides professional expertise in paleontology, and is responsible for interpreting relevant laws, authorities, and policy for the administration of the BLM paleontology program for all States in his/her respective region, and as the program interface between Field and/or District Offices, State Offices, and the Washington Office. In some cases, the Regional Paleontologist also serves as the State Office Paleontologist.

**Significant Paleontological Resource (syn. Significant Fossil Resource)** – Any paleontological resource that is considered to be of scientific interest, including most vertebrate fossil remains and traces, and certain rare or unusual invertebrate and plant fossils. A significant paleontological resource is considered to be scientifically important because it is a rare or previously unknown species, it is of high quality and well-preserved, it preserves a previously unknown anatomical or other characteristic, provides new information about the history of life on earth, or has identified educational or recreational value. Paleontological resources that may be considered to not have paleontological significance include those that lack provenience or context, lack physical integrity because of decay or natural erosion, or that are overly redundant or are otherwise not useful for research.

Vertebrate fossil remains and traces include bone, scales, scutes, skin impressions, burrows, tracks, tail drag marks, vertebrate coprolites (feces), gastroliths (stomach stones), or other physical evidence of past vertebrate life or activities.

**Soil** – The natural medium for growth of land plants (*from* American Geological Institute (AGI), Glossary of Geology, 1972 ed.) Generally, well-developed soils do not contain paleontological resources. However, the C horizon (the substratum above bedrock that is little affected by soil forming processes) may occasionally contain Pleistocene-aged fossils.

**Stipulations** – Written conditions that may restrict or impose limits on approved activities, or require that certain procedures be followed. The general usage herein encompasses several formal terms specific to other use authorizations such as Mitigation, Terms and Conditions, Conditions of Approval, and Standard Stipulations.

**Surface disturbance** – Disruption of the ground surface and subsurface. Disruption may damage or destroy significant paleontological resources and their geological context.

– Generally excludes: fire (but not fire activities, see below), vegetation mowing, weed spraying, grazing, natural erosion, fence building

– Some activities that may impact the ground surface and must be assessed on a case-by-case basis are:

\* Mechanized vegetative treatments – chaining, sagebrush chopping, etc

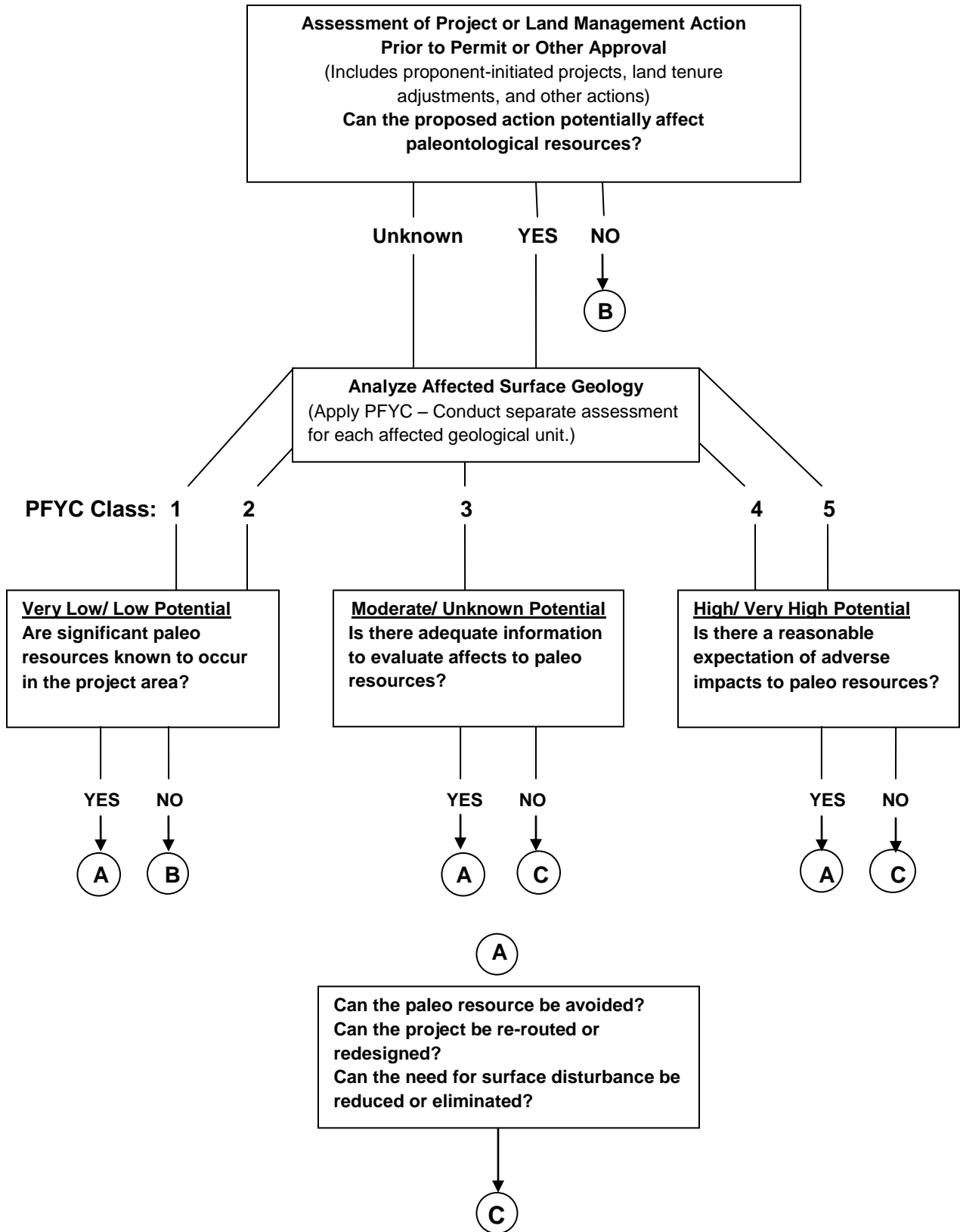
\* Seismic activities – vibroseis techniques, cross-country travel

\* Fire management activities – line building, brush removal and thinning using mechanized equipment

\* Recreational activities – OHV, rock collecting, mountain biking, public events

**Voucher Specimen** – A representative sample that verifies the kind of fossil material found during a field survey, and is collected and curated in an approved repository along with its associated field data.

## Paleontological Resources Assessment Flowchart



# Paleontological Actions

