

## STEP THREE: ASSESS EFFECTS

### B: No Adverse Effect

#### Consultation/Resolution of No Adverse Effect Findings

Although not always required, the Montana SHPO may recommend use of a two party Memorandum of Agreement (MOA) in some No Adverse Effect situations. Examples include when there are multiple properties involved, numerous or complex stipulations, stipulations which may take some time to complete (particularly when the stipulation will not be completed before the agency approves a project), or when multiple parties are involved with differing responsibilities. However, a MOA may not be required particularly if the ACHP is reviewing the finding under §800.5(c)(3). MOAs are generally not required in the 36 CFR 800 regulations for No Adverse Effects and if SHPO requests such an agreement in order to concur in a No Adverse Effect, the agency may decide to request ACHP review as an alternative.

If the SHPO does not respond to a request for review and concurrence in a No Adverse Effect finding within 30 days, the agency may assume concurrence. Other consulting and interested parties also have 30 days to review and possibly object to agency findings. The ACHP may at the request of those parties, or on its own initiative, also review those findings.

In cases where the SHPO and agency cannot reach agreement on a No Adverse Effect finding or on acceptable preservation conditions, the agency must then submit their views with documentation (§800.11(e)) to the ACHP after notifying the SHPO. The ACHP may concur, concur with new conditions, or object, leading to formal ACHP consultation regarding an Adverse Effect. However, if the ACHP does not respond in 15 days, the agency may assume ACHP concurrence in an agency's No Adverse Effect finding.

