



Pearl River Basin, Mississippi, Federal Flood Risk Management Project

Appendix G – Cultural Resources Coordination



June 2024

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Section 1

Cultural Resources Coordination

The documents attached are in reverse chronological order.

**1.1 MCGIMSEY C. (LA SHPO) "RE: FOLLOW-UP RE: 2ND SECTION 106
CONSULTATION MEETING REGARDING: PEARL RIVER BASIN, MISSISSIPPI
FLOOD RISK MANAGEMENT PROJECT, HINDS AND RANKIN COUNTIES,
MISSISSIPPI." EMAIL RESPONSE TO J. KAPLAN (CEMVN). 31 MAY 2023.**

From: [Chip McGimsey](#)
To: [Kaplan, Jeremiah H CIV USARMY CEMVN \(USA\)](#)
Subject: [URL Verdict: Neutral][Non-DoD Source] RE: Follow-up RE: 2nd Section 106 Consultation Meeting Regarding: "Pearl River Basin, Mississippi Flood Risk Management Project, Hinds and Rankin Counties, Mississippi"
Date: Wednesday, May 31, 2023 9:17:03 AM

Jeremiah,

I appreciate the opportunity to participate in last weeks conference call. I still remain unclear why the Louisiana SHPO was invited to participate in this project as I can not identify any effects within Louisiana. In the absence of any documentation of potential effects, I see no need for our office to participate in future consultations. Let me know if you have any questions.

Chip McGimsey
State Archaeologist
LA Division of Archaeology
cmcgimsey@crt.la.gov
225-219-4598

From: Kaplan, Jeremiah H CIV USARMY CEMVN (USA) <Jeremiah.H.Kaplan@usace.army.mil>
Sent: Wednesday, May 31, 2023 7:26 AM
To: Shaw, Thomas R Jr CIV USARMY CEMVK (USA) <Thomas.R.Shaw@usace.army.mil>; Williams, Eric M CIV USARMY CEMVN (USA) <Eric.M.Williams@usace.army.mil>; Emery, Jason A CIV USARMY CEMVN (USA) <Jason.A.Emery@usace.army.mil>; Androwski, Rachele R CIV USARMY CEMVK (USA) <Rachele.R.Androwski@usace.army.mil>; Vicknair, Shawn Michael CIV USARMY CEMVN (USA) <Shawn.M.Vicknair@usace.army.mil>; Gilmore, Tammy F CIV USARMY CEMVN (USA) <Tammy.F.Gilmore@usace.army.mil>; Prochaska, Lesley C CIV USARMY CEMVN (USA) <Lesley.C.Prochaska@usace.army.mil>; walt@headwaters-inc.com; Keith W. Turner <kturner@watkinseager.com>; psullivan@richlandms.com; Office of Federal Agency Programs <ofap@achp.gov>; Chris Daniel <cdaniel@achp.gov>; MDAH Section106 <section106@mdah.ms.gov>; Barry White <bwhite@mdah.ms.gov>; Cindy Carter-Davis <ccarterdavis@mdah.ms.gov>; Meredith Massey <mmassey@mdah.ms.gov>; cdotson@jacksonms.gov; tmurray@jacksonms.gov; histpres@actribe.org; Bryant J. Celestine <celestine.bryant@actribe.org>; Lindsey Bilyeu <lbilyeu@choctawnation.com>; Ian Thompson <ithompson@choctawnation.com>; kswalden@chitimacha.gov; Theresa Patingo <theresap@chitimacha.gov>; jflynn@jenachoctaw.org; sarah.medlock@choctaw.org; amanda.bell@choctaw.org; Section106 <Section106@mcn-nsn.gov>; thunt@muscogeenation.com; Everett Bandy <ebandy@quapawnation.com>; earlii@tunica.org; Vincent Grizzell <vgrizzell@city.jackson.ms.us>; Melissa F. Payne <melissap@jacksonms.gov>; Ryan, Jennifer Ivy CIV USARMY CEMVD (USA) <Jennifer.I.Ryan@usace.army.mil>; Boyett, Ricky D Jr CIV USARMY CEMVN (USA) <Ricky.D.Boyett@usace.army.mil>; Poche, Rene CIV USARMY CEMVN (USA) <Rene.G.Poche@usace.army.mil>; Tiffany Murray <tmurray@city.jackson.ms.us>; Constance, Troy G CIV USARMY CEMVN (USA) <Troy.G.Constance@usace.army.mil>; dallasquinn1 <dallasquinn1@gmail.com>; Pigott, James Edward (Jamey) CIV USARMY CEMVK (USA) <James.E.Pigott@usace.army.mil>; Owens, Anna M CIV USARMY CEMVK (USA) <Anna.M.Owens@usace.army.mil>; Prestwood, Steven C (Craig) CIV USARMY CEMVK (USA)

1.2 BANDY E. (QN) "RE: MDAH PROJECT LOG #02-151-23 - REGARDING THE PEARL RIVER FRM STUDY." EMAIL RESPONSE TO J. EMERY (CEMVN). 22 MARCH 2023.

**1.3 BANDY E. (QN) "RE: PEARL RIVER FRM PROJECT- NOTICE OF INITIATION OF A
PA - HINDS AND RANKIN COUNTY, MS." EMAIL RESPONSE TO J. EMERY
(CEMVN). 23 FEBRUARY 2023.**

From: [Everett Bandy](#)
To: [Emery, Jason A CIV USARMY CEMVN \(USA\)](#)
Cc: [Kaplan, Jeremiah H CIV USARMY CEMVN \(USA\)](#); [Williams, Eric M CIV USARMY CEMVN \(USA\)](#); [Androwski, Rachelle R CIV USARMY CEMVK \(USA\)](#)
Subject: [Non-DoD Source] RE: MDAH Project Log #02-151-23 - Regarding the Pearl River FRM Study
Date: Wednesday, March 22, 2023 2:06:35 PM

We concur with their findings and recommendations. Thank you for the updated information and change in our correspondence.

Also, my apologies for having to jump off the call. I am attempting to juggle several high priority issues at the moment and would have preferred not to have had to end so abruptly.

Thank you all so much for your time and assistance.
-Everett

From: Emery, Jason A CIV USARMY CEMVN (USA) <Jason.A.Emery@usace.army.mil>
Sent: Wednesday, March 22, 2023 9:31 AM
To: Everett Bandy <ebandy@quapawnation.com>
Cc: Kaplan, Jeremiah H CIV USARMY CEMVN (USA) <Jeremiah.H.Kaplan@usace.army.mil>; Williams, Eric M CIV USARMY CEMVN (USA) <Eric.M.Williams@usace.army.mil>; Androwski, Rachelle R CIV USARMY CEMVK (USA) <Rachelle.R.Androwski@usace.army.mil>
Subject: FW: MDAH Project Log #02-151-23 - Regarding the Pearl River FRM Study

CAUTION! This is an EXTERNAL email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Everett,

Current MS SHPO response to the PA NOI, received yesterday. The current one we were discussing.

Jason

Jason A. Emery, RPA
Chief, Cultural & Social Resources Section (CEMVN-PDS-N)
U.S. Army Corps of Engineers, New Orleans District
Regional Planning and Environment Division, South
Office: (504) 862-2364
Cell: (504) 390-7868
jason.a.emery@usace.army.mil

From: Emery, Jason A CIV USARMY CEMVN (USA)
Sent: Tuesday, March 21, 2023 4:10 PM
To: MDAH Section106 <section106@mdah.ms.gov>
Cc: Kaplan, Jeremiah H CIV USARMY CEMVN (USA) <Jeremiah.H.Kaplan@usace.army.mil>; Barry White <bwhite@mdah.ms.gov>; Cindy Carter-Davis <ccarterdavis@mdah.ms.gov>; Androwski, Rachelle R CIV USARMY CEMVK (USA) <Rachelle.R.Androwski@usace.army.mil>; Meredith Massey <mmassey@mdah.ms.gov>

1.4 JOHN L. (CN) "RE: NOTICE OF INTENT TO PREPARE PROGRAMMATIC AGREEMENT REGARDING: PEARL RIVER BASIN, MISSISSIPPI FEDERAL FLOOD RISK MANAGEMENT PROJECT." LETTER RESPONSE TO R. ANDROWSKI (CEMVK). 28 FEBRUARY 2023.

February 28, 2023

Ms. Rachelle R. Androwski
Tribal Liaison
Department of the Army
Corps of Engineers
4155 Clay Street
Vicksburg, MS 39183

Dear Ms. Androwski:

Thank you for the notice of intent to prepare a programmatic agreement regarding the Pearl River Basin flood management project in Hinds and Rankin Counties, Mississippi.

The proposed project is outside of our area; therefore, we do not request government-to-government consultation with the United States Army Corps of Engineers. While the Chickasaw Nation has no objection to the undertaking, we respectfully defer to the federally recognized First American tribe(s) who have identified a connection to the project area.

We appreciate your efforts to preserve and protect significant historic properties. If you have any questions, please contact Ms. Karen Brunso, tribal historic preservation officer, at (580) 272-1106, or by email at hpo@chickasaw.net.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lisa John', with a long horizontal line extending to the right.

Lisa John, Secretary
Department of Culture and Humanities

cc: Rachelle.R.Androwski@usace.army.mil

1.5 NELSON R. (ACHP) “REF: PEARL RIVER BASIN, MISSISSIPPI FEDERAL FLOOD RISK MANAGEMENT PROJECT HINDS AND RANKIN COUNTIES, MISSISSIPPI ACHP PROJECT NUMBER: 019276.” LETTER RESPONSE TO M. CONNOR (ASA(CW)). 06 JULY 2023.

Hon. Sara C. Bronin
Chair

Jordan E. Tannenbaum
Vice Chairman

Reid J. Nelson
Executive Director



July 6, 2023

Honorable Michael L. Connor
Assistant Secretary of the Army for Civil Works
U.S. Army Corps of Engineers
108 Army Pentagon
Washington DC 20310

Ref: *Pearl River Basin, Mississippi Federal Flood Risk Management Project*
Hinds and Rankin Counties, Mississippi
ACHP Project Number: 019276

Dear Mr. Connor:

In response to the recent notification by the U.S. Army Corps of Engineers, the Advisory Council on Historic Preservation (ACHP) will participate in consultation to develop a Section 106 agreement document for the referenced undertaking. Our decision to participate in this consultation is based on the *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, contained within the regulations, "Protection of Historic Properties" (36 CFR Part 800), implementing Section 106 of the National Historic Preservation Act. The criteria are met for this proposed undertaking because has the potential for presenting procedural problems and presents issues of concern to Indian tribes.

Section 800.6(a)(1)(iii) of these regulations requires that we notify you as the head of the agency of our decision to participate in consultation. By copy of this letter, we are also notifying Col. Christopher Klein, Vicksburg District, of this decision.

Our participation in this consultation will be handled by Mr. Christopher Daniel, who can be reached at (202) 517-0223 or via email at cdaniel@achp.gov. We look forward to working with your agency and other consulting parties to seek ways to avoid, minimize, or mitigate the undertaking's potential adverse effects on historic properties.

Sincerely,

Reid J. Nelson
Executive Director

ADVISORY COUNCIL ON HISTORIC PRESERVATION
401 F Street NW, Suite 308 ☐ Washington, DC 20001-2637
Phone: 202-517-0200 ☐ Fax: 202-517-6381 ☐ achp@achp.gov ☐ www.achp.gov

1.6 KAPLAN J. (CEMVK) “3RD SECTION 106 CONSULTATION MEETING REGARDING: PEARL RIVER BASIN, MISSISSIPPI FLOOD RISK MANAGEMENT PROJECT, HINDS AND RANKIN COUNTIES, MISSISSIPPI.” EMAIL TO CONSULTING PARTIES. 21 JUNE 2023.

Pearl River Basin, Mississippi Federal Flood Risk Management Project

Appendix G – Cultural Resources Coordination

From: [Kaplan, Jeremiah H CIV USARMY CEMVN \(USA\)](#)
To: [Kaplan, Jeremiah H CIV USARMY CEMVN \(USA\)](#); [Shaw, Thomas R Jr CIV USARMY CEMVK \(USA\)](#); [Williams, Eric M CIV USARMY CEMVN \(USA\)](#); [Emery, Jason A CIV USARMY CEMVN \(USA\)](#); [Andrewski, Rachelle R CIV USARMY CEMVK \(USA\)](#); [Vicknair, Shawn Michael CIV USARMY CEMVN \(USA\)](#); [Gillmore, Tammy F CIV USARMY CEMVN \(USA\)](#); [Prochaska, Lesley C CIV USARMY CEMVN \(USA\)](#); [walt@headwaters-inc.com](#); [Keith W. Turner; psullivan@richlandms.com](#); [Office of Federal Agency Programs](#); [Chris Daniel](#); [MDAH Section106](#); [Barry White](#); [Cindy Carter-Davis](#); [Meredith Massey](#); [cdotson@jacksonms.gov](#); [tmurray@jacksonms.gov](#); [histores@actribe.org](#); [Bryant J. Celestine](#); [Lindsey Bilveu](#); [Ian Thompson](#); [kswalden@chitimacha.gov](#); [Theresa Patingo](#); [jflynn@ienachoclaw.org](#); [amanda.bell@choctaw.org](#); [Section106](#); [thunt@muscogeenation.com](#); [Everett Bandy](#); [earlin@tunica.org](#); [Vincent Grizzell](#); [Melissa F. Payne](#); [Ryan, Jennifer Ivy CIV USARMY CEMVD \(USA\)](#); [Boyett, Ricky D Jr CIV USARMY CEMVN \(USA\)](#); [Poche, Rene CIV USARMY CEMVN \(USA\)](#); [Tiffany Murray](#); [Constance, Troy G CIV USARMY CEMVN \(USA\)](#); [dallasquinn1@gmail.com](#); [Pigott, James Edward \(Jamey\) CIV USARMY CEMVK \(USA\)](#); [Owens, Anna M CIV USARMY CEMVK \(USA\)](#); [Prestwood, Steven C \(Craig\) CIV USARMY CEMVK \(USA\)](#); [Tribal Historic Preservation](#); [Stiles, Sandra F CIV USARMY CEMVN \(USA\)](#)
Subject: 3rd Section 106 Consultation Meeting Regarding: "Pearl River Basin, Mississippi Flood Risk Management Project, Hinds and Rankin Counties, Mississippi"
Start: Wednesday, June 21, 2023 9:00:00 AM
End: Wednesday, June 21, 2023 11:00:00 AM
Location: Webex
Attachments: [Agenda PRBMFRMP Pearl River 3rd PA Meeting.pdf](#)
[Draft PRBMFRMP PA 06 08 23 V2.docx](#)
[Draft PRBMFRMP PA 06 08 23 V2.pdf](#)

Dear Consulting Parties,

Please find attached the agenda for the 3rd Section 106 Consultation Meeting Regarding: "Pearl River Basin, Mississippi Flood Risk Management Project, Hinds and Rankin Counties, Mississippi" and the 2nd Draft WHEREAS Clauses/Preamble sections (in track-changes) and 1st Draft Stipulations of the "PROGRAMMATIC AGREEMENT AMONG THE U.S. ARMY CORPS OF ENGINEERS, VICKSBURG DISTRICT; RANKIN-HINDS FLOOD CONTROL DISTRICT; AND THE MISSISSIPPI DEPARTMENT OF ARCHIVES AND HISTORY; REGARDING THE PEARL RIVER BASIN, MISSISSIPPI FLOOD RISK MANAGEMENT PROJECT, HINDS AND RANKIN COUNTIES, MISSISSIPPI" for your review and comment (previously submitted to stakeholders via e-mail on 6/8/2023). To facilitate additional discussion regarding the terms of this PA, CEMVK is requesting your input on the attached WHEREAS Clauses/Preamble sections of the Draft PA on or before 06/21/2023. Please feel free to provide comments via Track Changes in Microsoft Word (preferred method), with a marked and scanned copy of the .pdf version of the PA (attached), by e-mail, or verbally during the proposed 06/21/2023 meeting. Meeting log-in info is provided below.

Additionally, CEMVK requests that each consulting party to this PA designate a primary and secondary point of contact at your earliest convenience (to be incorporated into Appendixes). The primary contact is the contact to which all formal correspondence is sent. If the individual designated as the primary point of contact is not available, communications shall be directed to the secondary contact. Please e-mail all contact updates directly to Jeremiah.H.Kaplan@usace.army.mil <<mailto:Jeremiah.H.Kaplan@usace.army.mil>> . Please also feel free to contact me directly or use this invite to propose a new date/time if you are interested in participating and unable to attend at the specified date/time.

Should you have any questions or require additional information regarding this Undertaking, contact Jeremiah Kaplan, Archaeologist at Jeremiah.H.Kaplan@usace.army.mil <<mailto:Jeremiah.H.Kaplan@usace.army.mil>> or (504) 862-2004, or, Rachelle R. Andrewski, Tribal Liaison at (601) 631-5920 or Rachelle.R.Andrewski@usace.army.mil <<mailto:Rachelle.R.Andrewski@usace.army.mil>> .

For Situational Awareness:

On June 13, 2023, CEMVK sent out Participating/Cooperating Agency Request Letters to Agencies/Tribes to determine interest in participating in the development of the associated NEPA document (DEIS) in partial fulfillment of USACE CEMVK's responsibilities under NEPA. Responses are requested within 30 days of the date of this letter.

Thank you,

Jeremiah

Jeremiah Kaplan, MA

Cultural & Social Resources Section (CEMVN-PDS-N)

United States Army Corps of Engineers

New Orleans District Regional Planning and Environment Division, South

1.7 KAPLAN J. (CEMVK) “2ND SECTION 106 CONSULTATION MEETING REGARDING: PEARL RIVER BASIN, MISSISSIPPI FLOOD RISK MANAGEMENT PROJECT, HINDS AND RANKIN COUNTIES, MISSISSIPPI.” EMAIL TO CONSULTING PARTIES. 25 MAY 2023.

Pearl River Basin, Mississippi Federal Flood Risk Management Project
Appendix G – Cultural Resources Coordination

From: [Kaplan, Jeremiah H CIV USARMY CEMVN \(USA\)](#)
To: [Kaplan, Jeremiah H CIV USARMY CEMVN \(USA\)](#); [Shaw, Thomas R Jr CIV USARMY CEMVK \(USA\)](#); [Williams, Eric M CIV USARMY CEMVN \(USA\)](#); [Emery, Jason A CIV USARMY CEMVN \(USA\)](#); [Androwski, Rachelle R CIV USARMY CEMVK \(USA\)](#); [Vicknair, Shawn Michael CIV USARMY CEMVN \(USA\)](#); [Gillmore, Tammy F CIV USARMY CEMVN \(USA\)](#); [Prochaska, Lesley C CIV USARMY CEMVN \(USA\)](#); [walt@headwaters-inc.com](#); [Keith W. Turner; psullivan@richlandms.com](#); [Office of Federal Agency Programs](#); [Chris Daniel](#); [MDAH Section106](#); [Barry White](#); [Cindy Carter-Davis](#); [Meredith Massey](#); [cdotson@jacksonms.gov](#); [tmurray@jacksonms.gov](#); [histores@actribe.org](#); [Bryant J. Celestine](#); [Lindsey Bilveu](#); [Ian Thompson](#); [kswalden@chitimacha.gov](#); [Theresa Patingo](#); [iflynn@jenachocotaw.org](#); [sarah.medlock@choctaw.org](#); [amanda.bell@choctaw.org](#); [Section106](#); [thunt@muscogeenation.com](#); [Everett Bandy](#); [earlil@tunica.org](#); [Vincent Grizzell](#); [Melissa F. Payne](#); [Ryan, Jennifer Ivy CIV USARMY CEMVD \(USA\)](#); [Bovett, Ricky D Jr CIV USARMY CEMVN \(USA\)](#); [Poche, Rene CIV USARMY CEMVN \(USA\)](#); [Tiffany Murray](#); [Constance, Troy G CIV USARMY CEMVN \(USA\)](#); [dallasquinn1@gmail.com](#); [Pigott, James Edward \(Jamey\) CIV USARMY CEMVK \(USA\)](#); [Owens, Anna M CIV USARMY CEMVK \(USA\)](#); [Prestwood, Steven C \(Craig\) CIV USARMY CEMVK \(USA\)](#)
Subject: 2nd Section 106 Consultation Meeting Regarding: "Pearl River Basin, Mississippi Flood Risk Management Project, Hinds and Rankin Counties, Mississippi"
Start: Thursday, May 25, 2023 9:00:00 AM
End: Thursday, May 25, 2023 11:00:00 AM
Location: WebEx/Call-in (see info below)
Attachments: [Draft PRBMFRMP PA 05 10 23 V1.docx](#)
[Draft PRBMFRMP PA 05 10 23 V1.pdf](#)
[Agenda PRBMFRMP Pearl River 2nd PA Meeting 05 25 2023.pdf](#)
[PRBMFRMP NHPA Section 106 PN.pdf](#)

Dear Consulting Parties,

Please find attached the agenda for the 2nd Section 106 Consultation Meeting Regarding: "Pearl River Basin, Mississippi Flood Risk Management Project, Hinds and Rankin Counties, Mississippi" and the 1st Draft WHEREAS Clauses/Preamble sections of the "PROGRAMMATIC AGREEMENT AMONG THE U.S. ARMY CORPS OF ENGINEERS, VICKSBURG DISTRICT; RANKIN-HINDS FLOOD CONTROL DISTRICT; AND THE MISSISSIPPI DEPARTMENT OF ARCHIVES AND HISTORY; REGARDING THE PEARL RIVER BASIN, MISSISSIPPI FLOOD RISK MANAGEMENT PROJECT, HINDS AND RANKIN COUNTIES, MISSISSIPPI" for your review and comment. To facilitate additional discussion regarding the terms of this PA, CEMVK is requesting your input on the attached WHEREAS Clauses/Preamble sections of the Draft PA on or before 05/25/2023. Please feel free to provide comments via Track Changes in Microsoft Word (preferred method), with a marked and scanned copy of the .pdf version of the PA (attached), by e-mail, or verbally during the proposed 05/25/2023 meeting.

Additionally, CEMVK requests that each consulting party to this PA designate a primary and secondary point of contact at your earliest convenience (to be incorporated into Appendixes). The primary contact is the contact to which all formal correspondence is sent. If the individual designated as the primary point of contact is not available, communications shall be directed to the secondary contact. Please e-mail all contact updates directly to Jeremiah.H.Kaplan@usace.army.mil <<mailto:Jeremiah.H.Kaplan@usace.army.mil>> . Please also feel free to contact me directly or use this invite to propose a new date/time if you are interested in participating and unable to attend at the specified date/time.

Should you have any questions or require additional information regarding this Undertaking, contact Jeremiah Kaplan, Archaeologist at Jeremiah.H.Kaplan@usace.army.mil <<mailto:Jeremiah.H.Kaplan@usace.army.mil>> or (504) 862-2004, or, Rachelle R. Androwski, Tribal Liaison at (601) 631-5920 or Rachelle.R.Androwski@usace.army.mil <<mailto:Rachelle.R.Androwski@usace.army.mil>> .

For Situational Awareness:

CEMVK will be holding NEPA Public Meetings during the month of May. Additional information will follow.

Thank you,

Jeremiah

Jeremiah Kaplan, MA

Cultural & Social Resources Section (CEMVN-PDS-N)

United States Army Corps of Engineers

New Orleans District Regional Planning and Environment Division, South

1.8 BILYEU L. (CNO) " RE: NOTICE OF INTENT TO PREPARE PROGRAMMATIC AGREEMENT REGARDING: PEARL RIVER BASIN, MISSISSIPPI FEDERAL FLOOD RISK MANAGEMENT PROJECT, HINDS AND RANKIN CO."S, MS." EMAIL RESPONSE TO J. KAPLAN (CEMVN). 04 APRIL 2023.

From: [Lindsey Bilyeu](#)
To: [Kaplan, Jeremiah H CIV USARMY CEMVN \(USA\)](#)
Subject: [Non-DoD Source] RE: Notice of Intent to Prepare Programmatic Agreement Regarding: Pearl River Basin, Mississippi Federal Flood Risk Management Project, Hinds and Rankin Co.'s, MS
Date: Tuesday, April 4, 2023 10:47:42 AM

Mr. Kaplan,

The Choctaw Nation of Oklahoma thanks the USACE for the correspondence regarding the above referenced project. Hinds and Rankin Co.'s, MS lie in our area of historic interest. Our office requests to be a consulting party on the PA.

In addition, as we are continuing our review of the project, could you provide GIS shapefiles of the project area? This will help us view the proposed area in our GIS database and see if we have any known cultural or sacred sites in the area.

If you have any questions, please contact me.

Thank you,

Lindsey D. Bilyeu, M.S.
Program Coordinator 2
Choctaw Nation of Oklahoma
Historic Preservation Department
P.O. Box 1210
Durant, OK 74702
Office: (580) 642-8377
Cell: (580) 740-9624

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1.9 KAPLAN J. (CEMVK) “FW: PEARL RIVER FRM PROJECT- NOTICE OF INITIATION OF A PA - HINDS AND RANKIN COUNTY, MS.” EMAIL TO C. DOTSON (COJ GLG). 28 MARCH 2023.

From: [Kaplan, Jeremiah H CIV USARMY CEMVN \(USA\)](#)
To: cdotson@jacksonms.gov
Cc: [Emery, Jason A CIV USARMY CEMVN \(USA\)](#); [Williams, Eric M CIV USARMY CEMVN \(USA\)](#); [Shaw, Thomas R Jr CIV USARMY CEMVK \(USA\)](#); [Vicknair, Shawn Michael CIV USARMY CEMVN \(USA\)](#)
Subject: FW: Pearl River FRM Project- Notice of Initiation of a PA - Hinds and Rankin County, MS
Date: Tuesday, March 28, 2023 7:18:00 AM
Attachments: [MS SHPO Rankin Hinds - Pearl River NOI Develop PA.pdf](#)

Ms. Dotson,

The U.S. Army Corps of Engineers (USACE), Vicksburg District (CEMVK), is initiating consultation to develop a Programmatic Agreement (PA) for the proposed “Pearl River Basin, Mississippi Federal Flood Risk Management Project, Hinds and Rankin Counties, Mississippi” (PRBFFRMP), pursuant to Section 106 of the National Historic Preservation Act (NHPA), as amended (54 U.S.C. § 300101 et seq.). On February 15, 2023, CEMVK distributed a Notice of Intent to develop a PA to the Mississippi Department of Archives and History and Federally-recognized Tribal entities with an interest in the study area (see attached). As a result of this consultation, Barry White, Deputy State Historic Preservation Officer, Mississippi Department of Archives and History, identified the City of Jackson - Certified Local Government as potentially having an interest in participating in this consultation. As such, CEMVK is forwarding the attached information and inviting the City of Jackson to participate in the Section 106 process for this Undertaking. Additionally, CEMVK is seeking any information your office may wish to provide at this time concerning:

- The alternatives under consideration and their potential to significantly affect historic properties and/or sites of religious and cultural significance;
- Any other relevant parties who you feel may have an interest in participating in this consultation (36 CFR § 800.2; Participants in the Section 106 process).

Additionally, CEMVK requests your response regarding:

- Concurrence with CEMVK’s proposal to develop a project-specific PA in accordance with 36 CFR § 800.14(b) that establishes procedures to satisfy CEMVK’s Section 106 responsibilities with regard to the programmatic review of this Undertaking;
- Your organization’s continued interest in participating in the development of this PA.

CEMVK is now working on drafting an agenda and setting a date for the 1st Section 106 stakeholder consultation meeting regarding this Undertaking. The invite and additional information is forthcoming in the near future. CEMVK looks forward to your organization’s review of this information and working with you and your staff to ensure that CEMVK fulfills its historic preservation responsibilities. In the meantime, should you have questions or require additional information regarding this Undertaking, please do not hesitate to contact me by any of the means specified below.

Thank you,

Office: (504) 862-2364
Cell: (504) 390-7868
FAX: 504-862-1375
Email: jason.a.emery@usace.army.mil

**1.10 KAPLAN J. (CEMVN) "RE: MDAH PROJECT LOG #02-151-23." EMAIL RESPONSE
TO B. WHITE (MDAH). 27 MARCH 2023.**

From: [Kaplan, Jeremiah H.CIV USARMY CEMVN \(USA\)](#)
To: [MDAH Section106; Barry White](#)
Cc: [Cindy Carter-Davis; Meredith Massey; Williams, Eric M.CIV USARMY CEMVN \(USA\); Emery, Jason A.CIV USARMY CEMVN \(USA\)](#)
Subject: RE: MDAH Project Log #02-151-23
Date: Monday, March 27, 2023 2:31:00 PM

Mr. White,

The requested 30-day response period for MVN's *"Notice of Intent to Prepare Programmatic Agreement Regarding: "Pearl River Basin, Mississippi Federal Flood Risk Management Project, Hinds and Rankin Counties, Mississippi."* has now come to a close. MVN thanks you for your response appreciates your participation in this consultation. We have made a note of your recommendation to reach out to the Alabama-Coushatta Tribe of Texas as a potential consulting party. CEMVN also has distributed this notice to the following parties:

- Advisory Council on Historic Preservation (not yet determined if participation warranted)
- Alabama-Coushatta Tribe of Texas (pending response)
- Chickasaw Nation (deferred to other tribes contacted)
- Choctaw Nation of Oklahoma (pending response)
- Chitimacha Tribe of Louisiana (pending response)
- Jena Band of Choctaw Indians (pending response)
- Mississippi Band of Choctaw Indians (verbal statement of participation; pending written response)
- Muscogee Creek Nation (pending response)
- Quapaw Tribe Of Oklahoma (verbal statement of participation; pending written response)
- Tunica-Biloxi Tribe of Louisiana (pending response)

We are now working on drafting an agenda and setting a date for the 1st Section 106 stakeholder meeting regarding this Undertaking. Should you identify any other relevant parties who you feel may have an interest in participating in this consultation please do not hesitate to notify us and we can provide information and include them in the initial Section 106 Consultation Meeting invite.

Thank you,

Jeremiah

Jeremiah Kaplan, MA
Cultural & Social Resources Section (CEMVN-PDS-N)
United States Army Corps of Engineers
New Orleans District Regional Planning and Environment Division, South
7400 Leake Ave.
New Orleans, LA 70118-3651
Office: (504) 862-2004
Email: Jeremiah.H.Kaplan@usace.army.mil

1.11 KOEPPEL C. (ACHP) “REF: PEARL RIVER BASIN, MISSISSIPPI FEDERAL FLOOD RISK MANAGEMENT PROJECT HINDS AND RANKIN COUNTIES, MISSISSIPPI ACHP PROJECT NUMBER: 019276.” LETTER RESPONSE TO COL. KLEIN (CEMVK). 16 MARCH 2023.



March 16, 2023

Jeremiah Kaplan, Archaeologist
U.S. Army Corps of Engineers
Vicksburg District
4155 Clay Street
Vicksburg, MS 39183-3435

Ref: *Pearl River Basin, Mississippi Federal Flood Risk Management Project*
Hinds and Rankin Counties, Mississippi
ACHP Project Number: 019276

Dear Mr. Kaplan:

On February 22, 2023, the Advisory Council on Historic Preservation (ACHP) received your notification and supporting documentation regarding the initiation of Section 106 consultation regarding the referenced undertaking. Based upon the information you provided, we have concluded, pursuant to 36 CFR § 800.2(b)(1), of the regulations, “Protection of Historic Properties” (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act, that our participation may be premature.

The U.S. Army Corps of Engineers, Vicksburg District should continue consultation with the Mississippi State Historic Preservation Officer, Indian tribes, and other consulting parties, as appropriate, to identify and evaluate historic properties and to assess any potential adverse effects on those historic properties. We request that within 180 calendar days of receiving this correspondence, you provide the ACHP with an update as to the progress of the consultation since February of 2023. Upon receipt of the additional information we will notify you within 15 days regarding our decision on participation.

If you have any questions or require our further assistance at this time, please contact Mr. Christopher Daniel at (202) 517-0223 or by e-mail at cdaniel@achp.gov and reference the ACHP Project Number above.

Sincerely,

Christopher Koeppel
Assistant Director
Office of Federal Agency Programs
Federal Property Management Section

ADVISORY COUNCIL ON HISTORIC PRESERVATION
401 F Street NW, Suite 308 ☐ Washington, DC 20001-2637
Phone: 202-517-0200 ☐ Fax: 202-517-6381 ☐ achp@achp.gov ☐ www.achp.gov

1.12 WHITE B. (MDAH) "NOTICE OF INTENT TO PREPARE PROGRAMMATIC AGREEMENT REGARDING: PEARL RIVER BASIN, MISSISSIPPI FEDERAL FLOOD RISK MANAGEMENT PROJECT, MDAH PROJECT LOG #02-151-23, HINDS AND RANKIN COUNTIES." LETTER RESPONSE TO COL. KLEIN (CEMVK). 15 MARCH 2023.



P.O. Box 571
Jackson, MS 39205-0571
601-576-6850
mdah.ms.gov

March 15, 2023

Col. Christopher Klein, Commander
Corps of Engineers, Vicksburg District
4155 Clay Street
Vicksburg, MS 39183-3435

RE: Notice of Intent to Prepare Programmatic Agreement Regarding: Pearl River Basin, Mississippi Federal Flood Risk Management Project, MDAH Project Log #02-151-23, Hinds and Rankin Counties.

Dear Col. Klein:

We have reviewed your February 15, 2023 Notice of Intent to prepare a Programmatic Agreement, received on February 23, 2023, for the above-referenced undertaking, pursuant to our responsibilities under Section 106 of the National Historic Preservation Act and 36 CFR Part 800. After review, we have the following comments:

- 1) **Alternative B:** Construction of the new levee segments would likely directly impact approximately 50 previously recorded archaeology sites and potentially cause direct or indirect effects to architectural resources listed in or eligible for the National Register of Historic Places. The majority of the Northeast Jackson, Belhaven Creek, and Fairground new levee segment locations have not been previously surveyed for archaeological resources. Additionally, sources of fill would require archaeological survey prior to utilization, or should be previously approved through the MS Department of Environmental Quality.
- 2) **Alternative C:** Channel widening, placement of excavated fill, and construction of new levees will impact approximately 179 previously recorded archaeology sites and numerous historic structures, including submersion or demolition of two National Register eligible Native American Mounds (City Mounds, 22Hi692, and Flowood Mounds, 22Ra502). Neither of these sites has been evaluated to determine whether they contain Native American burials. The Flowood Mounds site contains a conical mound and Woodland period sherds consistent with Coles Creek period mound centers, which are known to often include human remains. Additionally, the plans call for demolition of the weir associated with the Fewell Water Treatment Plant (049-JAC-6255-ML), which is eligible for the National Register and a designated Mississippi Landmark. Relocation of utility lines and underground pipelines will create additional potential impacts to historic properties.
- 3) The Alabama-Coushatta tribe has expressed interest in Hinds and Rankin Counties to MDAH during calls related to NAGPRA repatriations. USACE should include this tribe in consultations for this undertaking.

Board of Trustees: Spence Flatgard, *president* | Hilda Cope Povall, *vice president* | Carter Burns | Kimberly L. Campbell |
Nancy Carpenter | Betsey Hamilton | Mark E. Keenum | T.J. Taylor

MDAH concurs with the proposal to develop a project-specific programmatic agreement and looks forward to participating in the consultations and providing further comment. If additional information on historic properties is needed, please contact Cindy Carter-Davis at section106@mdah.ms.gov.

Sincerely,



Barry White
Director, Historic Preservation Division
Deputy State Historic Preservation Officer
bwhite@mdah.ms.gov
601-576-6953

1.13 “PUBLIC NOTICE NHPA/NEPA NOTICE OF INTENT TO PREPARE PROGRAMMATIC AGREEMENT REGARDING: “PEARL RIVER BASIN, MISSISSIPPI FEDERAL FLOOD RISK MANAGEMENT PROJECT, HINDS AND RANKIN COUNTIES, MISSISSIPPI.” 10 MAY 2023. POSTED ON THE DESIGNATED PROJECT WEBSITE: ([HTTP://WWW.MVK.USACE.ARMY.MIL/MISSIONS/PROGRAMS-AND-PROJECT-MANAGEMENT/PROJECT-MANAGEMENT/PEARL-RIVER/](http://www.mvk.usace.army.mil/missions/programs-and-project-management/project-management/pearl-river/)).

Public Notice NHPA/NEPA¹

Notice of Intent to Prepare Programmatic Agreement Regarding: “Pearl River Basin, Mississippi Federal Flood Risk Management Project, Hinds and Rankin Counties, Mississippi.”

The United States Army Corps of Engineers, Vicksburg District (CEMVK), in partnership with the Rankin Hinds Pearl River Flood and Drainage Control District (RHFDCD) as the Non-Federal Interest (NFI), is initiating the process to develop a Programmatic Agreement (PA) for the “Pearl River Basin, Mississippi Federal Flood Risk Management Project, Hinds and Rankin Counties, Mississippi” (PRBMFRMP; Undertaking) pursuant to Section 106 of the National Historic Preservation Act (NHPA), as amended (54 U.S.C. § 300101 et seq.), that requires Federal agencies to take into account the effect of their undertakings on historic properties and consult with stakeholders regarding these effects.

The purpose of the proposed action is to provide a comprehensive solution to flooding caused by the Pearl River in the Jackson Metropolitan Area. RHFDCD plans to carry out the PRBMFRMP under the standing authority of Section 211 of the Water Resources Development Act of 1996 which provides authority for the NFI to undertake the design and construction of federally authorized flood control projects without federal funding and be eligible to be reimbursed an amount equal to the estimate of the federal share of the project after construction is complete. All projects pursued under the authority of section 211 must comply with all appropriate federal laws, criteria, standards, policies, and state laws and regulations.

RHFDCD has now developed an array of alternatives that meets the study’s purpose and need. These include, but are not exclusive to: 1) non-structural measures (buyout, elevation, and/or floodproofing of commercial and private buildings); 2) upgrading existing levees, construction levee segments in unprotected areas, and the addition of pumps and gated structures; 3) construction of channel improvements, demolition of the existing weir near the J. H. Fewell Water Treatment Plant site, construction of a new weir further downstream, federal levee improvements, and upgrading an existing levee around the Savannah Street Wastewater Treatment Plant. Additional project information can be accessed at: <https://rankinhindsflooddistrict.ms.gov/report/>.

CEMVK has determined that the proposed action constitutes an Undertaking as defined in 36 CFR § 800.16(y) and has the potential to cause effects to historic properties. Accordingly, CEMVK proposes to develop a project-specific PA pursuant to 36 CFR § 800.14(b)(3) to provide a framework for addressing this undertaking and establish protocols for continuing consultation with the MS State Historic Preservation Officer, Tribal Governments, and other stakeholders. The PA would identify consulting parties, define applicability, establish review timeframes, stipulate roles and responsibilities of stakeholders, consider the views of the SHPO/Tribal Historic Preservation Officer and other consulting parties, afford for public participation, provide the measures CEMVK will implement to develop an Area of Potential Effects (APE) in consultation with external stakeholders, outline a standard review process for plans and specifications as they are developed, determine an appropriate level of field investigation to identify and evaluate historic properties and/or sites of religious and cultural significance within the APE, streamline the assessment and resolution of Adverse Effects through avoidance, minimization, and programmatic treatment approaches for mitigation.

To help further develop a course of action for this project CEMVK is requesting your input by June 09, 2023, concerning the proposed Undertaking and its potential to significantly affect historic properties and/or of relevant parties who may have an interest in participating in this consultation. Comments can be sent electronically to: PearlRiverFRM@usace.army.mil, or, mail comments to: US Army Corps of Engineers, Vicksburg District, CEMVK-PMP, 4155 Clay Street, Vicksburg, MS 39183.



Figure 1. Map displaying PRBMFRMP Study Area.

¹ CEMVK is issuing this public notice as part of its responsibilities under the Advisory Council on Historic Preservation's regulations, 36 CFR Part 800, implementing Section 106 of the National Historic Preservation Act of 1966, as amended (54 U.S.C. § 306108). This notice applies to activities carried out under the authority of the Water Resources Development Act (WRDA) of 1996 and Section 3104 of WRDA 2007. CEMVK is also required to fulfill the Council of Environmental Quality regulations (NEPA regulations, 43 FR 55978 (1978)) that provide policy and procedures to enable CEMVK officials to be informed and to take into account environmental considerations when authorizing or approving CEMVK actions that may significantly affect the environment of the United States. It is the intent of NEPA that federal agencies encourage and facilitate public involvement to the extent practicable in decisions that may affect the quality of the environment.

1.14 KAPLAN J. (CEMVK) “1ST SECTION 106 CONSULTATION MEETING REGARDING: PEARL RIVER BASIN, MISSISSIPPI FLOOD RISK MANAGEMENT PROJECT, HINDS AND RANKIN COUNTIES, MISSISSIPPI.” EMAIL TO CONSULTING PARTIES. 26 APRIL 2023.

From: [Kaplan, Jeremiah H CIV USARMY CEMVN \(USA\)](#)
To: [Kaplan, Jeremiah H CIV USARMY CEMVN \(USA\)](#); [Shaw, Thomas R Jr CIV USARMY CEMVK \(USA\)](#); [Williams, Eric M CIV USARMY CEMVN \(USA\)](#); [Emery, Jason A CIV USARMY CEMVN \(USA\)](#); [Androwski, Rachelle R CIV USARMY CEMVK \(USA\)](#); [Vicknair, Shawn Michael CIV USARMY CEMVN \(USA\)](#); [Gillmore, Tammy F CIV USARMY CEMVN \(USA\)](#); [Prochaska, Lesley C CIV USARMY CEMVN \(USA\)](#); [walt@headwaters-inc.com](#); [Keith W. Turner](#); [psullivan@richlandms.com](#); [Office of Federal Agency Programs](#); [Chris Daniel](#); [MDAH Section106](#); [Barry White](#); [Cindy Carter-Davis](#); [Meredith Massey](#); [cdotson@jacksonms.gov](#); [tmurray@jacksonms.gov](#); [histores@actribe.org](#); [Bryant J. Celestine](#); [Lindsey Bilveu](#); [Jan Thompson](#); [kswalden@chitimacha.gov](#); [Theresa Patingo](#); [jflynn@jenachoclaw.org](#); [sarah.medlock@choctaw.org](#); [amanda.bell@choctaw.org](#); [Section106](#); [thunt@muscogeenation.com](#); [Everett Bandy](#); [earl@tunica.org](#)
Subject: 1st Section 106 Consultation Meeting Regarding: "Pearl River Basin, Mississippi Flood Risk Management Project, Hinds and Rankin Counties, Mississippi"
Start: Wednesday, April 26, 2023 9:00:00 AM
End: Wednesday, April 26, 2023 11:00:00 AM
Location: WebEx/Call-in (see info below)
Attachments: [Agenda 1st Section 106 PA Development Stakeholder Meeting PRBFRMP.pdf](#)
[Attachment 1 PRBFRMP Proposed Habitat Mitigation Parcels.kmz](#)
[Attachment 2 Rankin Hinds - Pearl River NOI Develop PA.pdf](#)
[Attachment 3 SHPO March 15, 2023, response to CEMVN NOI to Develop PA.pdf](#)

Dear potential Consulting Parties,

Please find attached the agenda for the 1st Section 106 Consultation Meeting Regarding: "Pearl River Basin, Mississippi Flood Risk Management Project, Hinds and Rankin Counties, Mississippi." Do not hesitate to notify CEMVK regarding any information your office may wish to provide at this time concerning the proposed undertaking and its potential to significantly affect historic properties and/or of any other relevant parties who you feel may have an interest in participating in this consultation. Also, please feel free to contact me directly or use this invite to propose a new date/time if you are interested in participating and unable to attend at the specified date/time. Should you have any questions or need additional information regarding this Undertaking, contact Jeremiah Kaplan, Archaeologist at Jeremiah.H.Kaplan@usace.army.mil <<mailto:Jeremiah.H.Kaplan@usace.army.mil>> or (504) 862-2004, or, Rachelle R. Androwski, Tribal Liaison at (601) 631-5920 or Rachelle.R.Androwski@usace.army.mil <<mailto:Rachelle.R.Androwski@usace.army.mil>>.

Thank you,

Jeremiah

Jeremiah Kaplan, MA
Cultural & Social Resources Section (CEMVN-PDS-N)
United States Army Corps of Engineers
New Orleans District Regional Planning and Environment Division, South
7400 Leake Ave.
New Orleans, LA 70118-3651
Office: (504) 862-2004
Email: Jeremiah.H.Kaplan@usace.army.mil <<mailto:Jeremiah.H.Kaplan@usace.army.mil>>

-- Do not delete or change any of the following text. --

When it's time, join your Webex meeting here.

Join meeting <<https://usace1.webex.com/usace1/j.php?MTID=m50cbfe262e8412e9bf01c8cd2fbd1a3a>>

**1.15 EMERY J. (CEMVK) “PEARL RIVER FRM PROJECT- NOTICE OF INITIATION OF A
PA - HINDS AND RANKIN COUNTY, MS.” EMAIL TO S. MEDLOCK (MBCI). 13
MARCH 2023.**

From: [Emery, Jason A CIV USARMY CEMVN \(USA\)](#)
To: sara.medlock@choctaw.org
Cc: [Williams, Eric M CIV USARMY CEMVN \(USA\)](#); [Shaw, Thomas R Jr CIV USARMY CEMVK \(USA\)](#); [Kaplan, Jeremiah H CIV USARMY CEMVN \(USA\)](#); [Vicknair, Shawn Michael CIV USARMY CEMVN \(USA\)](#); [Androwski, Rachelle R CIV USARMY CEMVK \(USA\)](#)
Subject: RE: Pearl River FRM Project- Notice of Initiation of a PA - Hinds and Rankin County, MS
Date: Monday, March 13, 2023 1:37:53 PM
Attachments: [MBCI Rankin Hinds - Pearl River NOI Develop PA.pdf](#)

Sara,

Very nice chatting with you. Glad to hear that MBCI is interested in participating in the NHPA Section106 process, at this time. Understand the workload you are juggling. Talk to you later.

Jason

Jason A. Emery, RPA
Chief, Cultural & Social Resources Section (CEMVN-PDS-N)
U.S. Army Corps of Engineers, New Orleans District
Regional Planning and Environment Division, South
Office: (504) 862-2364
Cell: (504) 390-7868
jason.a.emery@usace.army.mil

From: Emery, Jason A CIV USARMY CEMVN (USA)
Sent: Wednesday, February 22, 2023 2:45 PM
To: chiefben@choctaw.org; sara.medlock@choctaw.org
Cc: Williams, Eric M CIV USARMY CEMVN (USA) <Eric.M.Williams@usace.army.mil>; Shaw, Thomas R Jr CIV USARMY CEMVK (USA) <Thomas.R.Shaw@usace.army.mil>; Kaplan, Jeremiah H CIV USARMY CEMVN (USA) <Jeremiah.H.Kaplan@usace.army.mil>; Vicknair, Shawn Michael CIV USARMY CEMVN (USA) <Shawn.M.Vicknair@usace.army.mil>; Androwski, Rachelle R CIV USARMY CEMVK (USA) <Rachelle.R.Androwski@usace.army.mil>
Subject: Pearl River FRM Project- Notice of Initiation of a PA - Hinds and Rankin County, MS

Dear Mississippi Band of Choctaw Indians:

Please find attached a consultation letter initiating the development of a Programmatic Agreement for the ***"Pearl River Basin, Mississippi Federal Flood Risk Management Project, Hands and Rankin Counties, Mississippi."*** Please see attachment for specific requests regarding the consultation process.

Jeremiah Kaplan is the lead archaeologist for the consultation and Rachelle Androwski is the USACE Tribal Liaison, contact details are in the consultation letter.

We look forward to hearing from you regarding this important project,

Jason

Jason A. Emery, RPA

**1.16 EMERY J. (CEMVK) “PEARL RIVER FRM PROJECT- NOTICE OF INITIATION OF A
PA - HINDS AND RANKIN COUNTY, MS.” EMAIL TO C. BEN AND S. MEDLOCK
(MBCI). 22 FEBRUARY 2023.**

From: [Emery, Jason A CIV USARMY CEMVN \(USA\)](#)
To: [Kaplan, Jeremiah H CIV USARMY CEMVN \(USA\)](#)
Subject: FW: Pearl River FRM Project- Notice of Initiation of a PA - Hinds and Rankin County, MS
Date: Monday, July 24, 2023 4:37:49 PM
Attachments: [MBCI Rankin Hinds - Pearl River NOI Develop PA.pdf](#)

Subject email.

Jason A. Emery, RPA
Chief, Cultural & Social Resources Section (CEMVN-PDS-N)
U.S. Army Corps of Engineers, New Orleans District
Regional Planning and Environment Division, South
Office: (504) 862-2364
Cell: (504) 390-7868
jason.a.emery@usace.army.mil

From: Emery, Jason A CIV USARMY CEMVN (USA)
Sent: Wednesday, February 22, 2023 2:45 PM
To: chiefben@choctaw.org; sara.medlock@choctaw.org
Cc: Williams, Eric M CIV USARMY CEMVN (USA) <Eric.M.Williams@usace.army.mil>; Shaw, Thomas R Jr CIV USARMY CEMVK (USA) <Thomas.R.Shaw@usace.army.mil>; Kaplan, Jeremiah H CIV USARMY CEMVN (USA) <Jeremiah.H.Kaplan@usace.army.mil>; Vicknair, Shawn Michael CIV USARMY CEMVN (USA) <Shawn.M.Vicknair@usace.army.mil>; Androwski, Rachelle R CIV USARMY CEMVK (USA) <Rachelle.R.Androwski@usace.army.mil>
Subject: Pearl River FRM Project- Notice of Initiation of a PA - Hinds and Rankin County, MS

Dear Mississippi Band of Choctaw Indians:

Please find attached a consultation letter initiating the development of a Programmatic Agreement for the ***"Pearl River Basin, Mississippi Federal Flood Risk Management Project, Hands and Rankin Counties, Mississippi."*** Please see attachment for specific requests regarding the consultation process.

Jeremiah Kaplan is the lead archaeologist for the consultation and Rachelle Androwski is the USACE Tribal Liaison, contact details are in the consultation letter.

We look forward to hearing from you regarding this important project,

Jason

Jason A. Emery, RPA
Chief, Cultural & Social Resources Section (CEMVN-PDS-N)
MVD Regional Planning Division, South
New Orleans District (MVN)

United States Army Corps of Engineers

1.17 “NOTICE OF INTENT TO PREPARE PROGRAMMATIC AGREEMENT REGARDING: “PEARL RIVER BASIN, MISSISSIPPI FEDERAL FLOOD RISK MANAGEMENT PROJECT, HINDS AND RANKIN COUNTIES, MISSISSIPPI. 15 FEBRUARY 2023. NOTE: A SIMILAR LETTER WAS SENT TO NFI, SHPO, FEDERALLY-RECOGNIZED TRIBES, AND ACHP.



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, VICKSBURG DISTRICT
4155 CLAY STREET
VICKSBURG, MS 39183-3435

February 15, 2023

Regional Planning and
Environment Division, South
Environmental Planning Branch
Attn: CEMVK-PDS-N

Katherine Blount, SHPO
Mississippi Department of Archives & History
P.O. Box 571
Jackson, MS 39205-0571

RE: Notice of Intent to Prepare Programmatic Agreement Regarding: “*Pearl River Basin, Mississippi Federal Flood Risk Management Project, Hinds and Rankin Counties, Mississippi.*”

Dear Ms. Blount:

The U.S. Army Corps of Engineers (USACE), Vicksburg District (CEMVK), is initiating consultation to develop a Programmatic Agreement (PA) for the proposed “Pearl River Basin, Mississippi Federal Flood Risk Management Project, Hinds and Rankin Counties, Mississippi” (PRBFFRMP), pursuant to Section 106 of the National Historic Preservation Act (NHPA), as amended (54 U.S.C. § 300101 et seq.). CEMVK proposes to develop the PA in accordance with the guidance found in 36 CFR Part 800.14(b) for project-specific PAs as a means for the federal agency to take into account the effect of their undertakings on historic properties during the planning process and consult with stakeholders regarding these effects. Additionally, the PA will establish procedures to satisfy CEMVK’s Section 106 responsibilities with regard to the programmatic review of this Undertaking and allows CEMVK to coordinate Section 106 reviews with its evaluation of the proposed action’s potential for significant impacts to the human and natural environment required by the National Environmental Policy Act (NEPA), as amended (42 U.S.C. § 4321 et seq.).

This letter is also intended to provide information regarding the Rankin-Hinds Pearl River Flood and Drainage Control District’s (Non-Federal Interest (NFI); RHPRFD CD) recommendations for flood risk reduction within the Pearl River Basin in the Rankin Hinds Pearl River Flood and Drainage Control District, Mississippi. Documentation in this letter is consistent with the requirements in 36 CFR §800.11(e). Attachment 1 of this letter provides related previous consultation documentation to assist parties in understanding previous NHPA assessments and specifically assist the Advisory Council on Historic Preservation (ACHP) in determining if Appendix A of the regulations: *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, applies to this undertaking and whether the ACHP’s participation in the consultation to develop a PA pursuant to § 800.14(b) is warranted.

Study Authority/Background

The RHPRFD CD is pursuing the PRBMFFRP under the standing authority of Section 211 of the Water Resources Development Act (WRDA) of 1996 (WRDA 96), “*Construction of Flood*

-2-

Control Projects by Non-Federal Interests," and subsequent authorization (WRDA 2007 § 3104). Section 211 of WRDA 96 provides authority for NFI to undertake the design and construction of federally authorized flood control projects without federal funding and to be eligible to be reimbursed an amount equal to the estimate of the federal share of the project after construction is complete.

Further, Section 3104 of WRDA 2007, Paragraph (b), modified the "Pearl River Basin Project" originally authorized by Section 401(e)(3) of WRDA 1986 to authorize the Assistant Secretary of the Army for Civil Works (ASACW) to "construct the project generally in accordance with the plan described in *The Pearl River Watershed, Mississippi, Feasibility Study Main Report, Preliminary Draft*, dated February 2007" (USACE 2007). Additionally, Paragraph (c) states, "If the Secretary determines under subsection (b) that the [L]ocally [P]referred [P]lan provides a level of flood damage reduction that is equal to or greater than the level of flood damage reduction provided by the [N]ational [E]conomic [D]evelopment plan and that the locally preferred plan is environmentally acceptable and technically feasible, the Secretary may construct the project identified as the [NED] plan, or the [LPP], or some combination thereof."

All projects pursued under the authority of section 211 must be planned, designed, and constructed in accord with appropriate federal laws and criteria, standards and policies, and construction must comply with all applicable federal and state laws and regulations. Accordingly, RHPRFDCD developed the *Integrated Feasibility Study & Environmental Impact Statement, Pearl River Basin, Mississippi, Federal Flood Risk Management Project, Hinds & Rankin Counties, Mississippi* (RHPRFDCD 2018) in order to provide a recommendation for federal participation in flood risk management within the Pearl River Basin in Mississippi. In the rescoping process, the over 60 plans examined in prior reports were distilled to an initial array of 16 to be reviewed to determine the potential changes that might be possible. The Final Array of alternatives carried forward for consideration included the No Action Alternative, Alternative A, Alternative B, and Alternative C. The Draft Report dated June 13, 2018, was released on June 23, 2018, for stakeholder/public comment in conjunction with ongoing technical, peer, and policy reviews. Subsequently, results of the reviews will be incorporated into the Final Feasibility Study & Environmental Impact Statement and Chief's Report, which will again be made available for stakeholder/public review.

Study Area

The Pearl River Basin is located in east-central and southwest Mississippi and the southeastern part of Louisiana and drains an area encompassing approximately 8,760 square miles (2,268,829.5 ha). The river extends from its headwaters in Neshoba County through the Jackson metropolitan area and empties into the Mississippi Sound. The Pearl River Watershed includes all, or parts, of 23 counties in Mississippi and parts of three (3) Louisiana parishes. The present focused Study Area (Figures 1-2), falls within the Pearl River Basin and encompasses an area measuring approximately 46.2 square miles (11,965.7 km). The Study Area includes parts of Hinds, Madison, and Rankin counties and the municipalities of Flowood, Jackson, Pearl, and Richland. Major tributaries of the Pearl River within the Study Area include Caney, Eubanks, Hanging Moss, Hog, Lynch, Prairie Branch, Purple, Richland, and Town Creeks. The basin also includes Mississippi's largest surface source of drinking water; the Ross Barnett Reservoir. In the Rankin and Hinds County portion of the Jackson metropolitan area (MSA) alone, there are more than 13,000 businesses employing over 180,000 people. As the capital of Mississippi, Jackson's downtown Central Business District (CBD), is home to many

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governmental offices. Major transportation routes, including two (2) interstate highways, U.S. and state highways, local streets, and major rail carriers are affected by flooding, causing detours throughout the area. Flooding causes infrastructure damage, including damages to homes, businesses, and the 46 million gallons per day Savanna Street Wastewater Treatment Plant (WWTP), which serves this area. LeFleur's Bluff State Park is also located in the Study Area. Maps depicting the PRBMFFRP Study Area are included as Figures 1-2.

Study Purpose

The Pearl River, within the Study Area, is affected by periodic flooding as a result of upstream rainfall events with increasingly occurring heavy and intense rainfall resulting in greater flood events (up to ten feet deep in some areas). Such flooding events have caused disruption to businesses and industry throughout the Jackson metropolitan area and threaten an estimated 44,000 people, 5,000 structures, commercial businesses and industries, federal, state, and local facilities, and critical infrastructure including four (4) hospitals, a major wastewater treatment facility, and transportation/evacuation routes within a 50 square mile zone (12,949.9 km) that includes parts of Rankin and Hinds counties. Numerous flood events have affected the Study Area, most notably the Easter Flood of 1979 and the May Flood of 1983. The 1979 event flooded homes and businesses, causing damages that at that time totaled approximately \$223-million. If the same event occurred in the present day, damages would surpass \$1-billion. Most recently, the Pearl River crested at 36.67 feet (11.1 m) in Jackson, Mississippi on February 26 17, 2020, the third highest crest ever recorded. Without additional flood protection along the Pearl River, flooding will continue to threaten the communities, residential areas, and infrastructure within the present Study Area. Accordingly, the goal of the present study is to provide a comprehensive solution to reduce flood risk in the Jackson MSA caused by the Pearl River and flood protection needs were identified based on historic problems that have been experienced within the Study Area. These needs include:

- Reducing flood risk in the Jackson MSA;
- Reducing flood risk to critical infrastructure including the Savanna Street Wastewater Treatment Facility; and
- Improving access to transportation routes with average daily traffic counts of 10,000 or higher, evacuation routes, and critical care facilities during flood events.

Description of the Undertaking

CEMVK has determined that the proposed action constitutes an Undertaking as defined in 36 CFR § 800.16(y). RHPRFDCD has now completed its initial screening of alternatives and has developed an array of alternatives that meets the study's' purpose and need. Components of the alternatives under consideration include:

No Action (Future Without-Project Condition):

Under the No Action Alternative, no flood risk reduction would occur. The area would continue to experience flooding caused by the headwaters of the Pearl River. Impacts will continue to be great and could possibly increase as urban development continues to impact structures, infrastructure, transportation, and the existing WWTP.

Alternative A:

The measure consists of relocating structures (buy out) and allows for moving structures as part of the project and buying the land upon which the structures were located. However, RHPRFDCD (2018) determined that the cost of this alternative far exceeds economic justification, does not meet the stated goals and objectives, and is unimplementable. Therefore, this alternative was not considered further.

Alternative B:

Approximately 13.5 miles (21.7 km) of levees currently protect portions of the Jackson metropolitan area; however, portions of the Jackson MSA remain unprotected. Alternative B (Figure 3) consists of upgrading existing levees, construction of additional levee segments and/or floodwalls in unprotected areas, and the addition of pumps and gated structures; which have the potential to create flooding effects behind the levees due to ponding that would also need addressed. Additional work includes staging, clearing, grubbing, fertilizing, seeding, and mulching. It is expected that heavy construction equipment such as dump trucks, excavators, and bulldozers will be used for construction. Alternative B assumes that borrow material to be utilized in construction of the levee segments would come from upland sources outside of the Pearl River drainage watershed; although the exact locations of the borrow source is yet to be determined. All these actions may have the potential to impact historic properties.

New Levees

The levees would be fully compacted, have 1V on 3H side slopes, a 10 foot (3.0 m) wide crown, and a 5 foot (1.5 m) thick impervious riverside face. Because of the horizontal landside slope, no roadway addition was considered. Any roadway crown addition would have added substantial construction and real estate requirements. For new levee closures required at highways, railroads, etc., an earthen and sandbag closure would be required. The Fairgrounds and East Jackson levee enlargements would be constructed on the landside of the existing levee to minimize the necessity of impervious clay materials. Each proposed new levee segment is described below:

- a. Northeast Jackson Levee (Station 0+00 to 301+54). The Northeast Jackson Levee begins in the Jackson Country Club area near County Line Road and extends southward along the west bank of the Pearl River to Lakeland Drive (Highway 25). This, proposed levee segment is approximately 5.0 miles (8.0 km) long and has an average height of 22 feet (6.7 m). From Highway 25, a floodwall would extend south and westward to high ground just east of Eubanks Creek. This floodwall is required because of the highly developed area south of Lakeland Drive and the close proximity to LeFleur Bluff State Park (Mayes Lakes area).
- b. Eubanks Creek (Station 0+00 to 16+96). This segment begins at high ground just south of Lakeland Drive and extends southerly to Eubanks Creek, then continues in a westward direction to high ground. The levee would be 0.3 miles (0.4 km) long and have an average height of 24.5 feet (7.4 m).
- c. Belhaven Creek (Station 0+00 to 17+06). The Belhaven Creek Reach, is an extension of the existing Fairgrounds levee necessitated by an increase in the level of protection for that area. The levee begins at high ground along the shoulder of the northbound lane of

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Interstate 55. The average height of the levee is 25 feet (7.6 m) and is approximately 0.3 miles long (0.4 km).

- d. Town and Lynch Creeks Levee (Station 0+00 to 71+95). This reach of levee, begins on high ground near the Old Brandon Road crossing on the Pearl River (Woodrow Wilson Bridge) and proceeds southerly along the west bank of the river. The levee crosses Highway 80 and Interstate 20 before tying into high ground just south of Lynch Creek. The levee is approximately 1.4 miles (2.2 km) long and has an average height of 17.0 feet (5.1 m).
- e. Flowood Levee (Station 0+00 to 279+24). This levee originates on high ground at a point approximately 0.2 mile (0.3 km) west of Fannin Road and 1.2 miles (1.9 km) north of Highway 25 (Lakeland Drive) and extends southwesterly around a newly developed residential area. From this point, the levee would continue approximately parallel to Lakeland Drive before turning southwesterly to follow along the east bank of the Pearl River. After crossing Lakeland Drive, the levee would continue to follow the east bank of the river until intersecting the existing East Jackson Levee just west of Highway 468. This segment of levee would be approximately 5.3 miles (8.5 km) long and have an average height of 13.0 feet (3.9 m).

Each upgraded levee segment is described below:

- a. Fairgrounds Levee (Station 0+00 to 92+41). The entire Jackson Levee will be enlarged to raise it 3.0 to 5.0 feet (0.9-1.5 m) to provide the same level of protection as the new levees. In addition, the extension along the Fortification Street ramp will be raised to the proposed levee design grade and be connected to the Belhaven Creek Levee. This segment would be approximately 1,600 feet (487.6 m) long.
- b. East Jackson Levee (Station 140+00 to 626+25). Approximately 8.7 miles (14.0 km) of the existing East Jackson Levee would be raised approximately 2 to 6 feet (0.6-1.8 m) to provide design flood protection. Also, a 0.5 mile (0.8 km) extension would be required at the downstream end tying into the Illinois Central Gulf Railroad embankment just north of Childre Road. The upper limits of the levee enlargement would end near Highway 468.

Gated Drainage Structures

Structures recommended to be built through the project levee are listed below:

- a. Northeast Jackson
 - i. Station 25+30- Two 60-inch-diameter (1.5 m) concrete pipes;
 - ii. Station 110+93 - Two (2) 12 x 12-foot (3.6 x 3.6 m) box culverts;
 - iii. Station 147+18 - One (1) 12 x 12-foot (3.6 x 3.6 m) box culvert;
 - iv. Station 235+51 - Two (2) 4-foot (1.2 m) diameter concrete pipes.
- b. Floodwall Extension
 - i. Station 291+11 - One (1) 3-foot (0.9 m) diameter concrete pipe.
- c. Eubanks Creek
 - i. Station 10+94 - Two (2) 8 x 7-foot (2.4 x 2.1 m) box culvert.
- d. Fairgrounds Extension.
 - i. Station 9+64 - One (1) 12 x 10-foot (3.6 x 3.0 m) box culvert.

- e. Town and Lynch Creeks
 - i. Station 16+65 - Three (3) 12 x 12-foot (3.6 x 3.6 m) box culverts;
 - ii. Station 65+90 - Three (3) 12 x 12-foot (3.6 x 3.6 m) box culverts.
- f. Flowood
 - i. Station 41+57 - Two (2) 4-foot (1.2 m) diameter concrete pipes;
 - ii. Station 92+27 - One (1) 4-foot (1.2 m) diameter concrete pipe;
 - iii. Station 175+05 - Two (2) 6 x 5-foot (1.8 x 1.5 m) box culverts;
 - iv. Station 197+24 - Two (2) 3-foot (0.9 m) diameter concrete pipes;
 - v. Station 257+94 - Two (2) 8 x 6-foot (2.4 x 1.8 m) box culverts.

Conveyance Improvements

Channel conveyance improvements would be constructed from RM 292 to RM 302 on the west bank to reduce flooding induced by new levees and reduce any impacts to the outlet structure of the Ross Barnett Reservoir.

Property Relocations

Due to the increase in stages between the proposed levees in the vicinity of Lakeland Drive, existing development on each side of Lakeland Drive on the west bank of the Pearl River would be adversely affected. Stages could increase by as much as 1 foot (0.3 m) in this area with the larger floods. Early investigations revealed that a levee or floodwall could not be constructed around this development without acquiring many of the 28 buildings at this location. As a result, the levee plan includes total acquisition of this area. Two (2) other commercial buildings adjacent to the Richland Levee will no longer require acquisition since the levee is no longer part of the plan.

Mitigation

Additionally, compensatory mitigation would be required for any habitat losses incurred during construction of Alternative B. Habitat mitigation locations for Alternative B would be implemented within the Pearl River Basin where the project impacts would occur. It is presently estimated that Alternative B would have direct impacts to a total of approximately 386.7 acres (156.4 ha) of wetlands and "other waters of the U.S." Of this total, approximately 89.8 acres (36.3 ha) would be filled as a part of the proposed levee segments construction, and an additional approximately 135.4 acres (54.7 ha) would be cleared and converted to a grassland habitat along the levee alignments and maintained in that state through time as the levee segments right-of-way.

Further, there may be areas within the project footprint that require Hazardous, Toxic, and Radioactive Waste (HTRW) remediation measures such as addressing any potential creosote residuals within the creosote slough and groundwater at the Gulf States Creosote Company site and the intersection of the levee segment and Eubanks Creek where the City of Jackson's major sewer interceptor cross and where historical landfilling activities may have occurred.

Alternative C:

The project area impacted by this alternative includes residential areas, commercial areas, schools, and hospitals. Flood Risk Management (FRM) is realized by Alternative C through removing areas that constrict the floodplain along with widening and deepening of the channel and floodplain within the project footprint; thereby improving downstream conveyance of water through the project area and lowering the water surface elevation of the river in some places

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within the project area by as much as 8 feet (2.4 m). Water surface elevation reductions due to this excavation would provide reduction of flood elevations not only within the reach of excavation, but additional elevation reduction for upstream of the excavation.

Alternative C (Figure 4) consists of the construction of channel improvements, demolition of the existing weir near the J. H. Fewell Water Treatment Plant (WTP) site, construction of a new weir with a low-flow gate structure further downstream, federal levee improvements (i.e., excavated material plan), and upgrading an existing non-federal levee around the Savannah Street Wastewater Treatment Plant (WWTP). Construction of the project will require relocations and/or improvements to various public and private utilities and infrastructure, mitigating potential HTRW and other hazardous waste sites within the floodplain, avoidance and minimization measures required under the Endangered Species Act, and the creation of new habitat mitigation areas to offset losses within the project's construction footprint areas. All these actions may have the potential to impact historic properties.

Channel Improvements

Channel improvements consist of excavating areas along the Pearl River, including cutoffs where necessary, to improve conveyance from River Mile (RM) 284 to 294. It is expected that heavy construction equipment such as excavators, dump trucks, bulldozers, graders, and tractors/plows and other implements will be used for construction. The exact access and staging locations are still to be determined. The channel improvement footprint includes approximately 2,557 acres (1034.7 ha) in which disturbance would occur. The excavation will be of various widths ranging in width from 400 to 2000 feet (121.9-609.6 m) to be determined during the Preconstruction Engineering and Design (PED) Phase. Excavation depths will vary between 5-20 feet (1.5-6.0 m) to meet the proposed water bottom elevation of 248.0 feet (75.5 m) NGVD. This total includes 1,692 acres (684.7 ha) in which excavation will occur to widen the channel and 865 acres (350.0 ha) that will be utilized for placement of the excavated fill material behind existing USACE levees. In total, approximately 25 million cubic yards (19.1 million m³) of material will be excavated from the floodplain and channel overbanks. The preliminary project layout also includes islands within the channel improvement excavation area that will be maintained and/or expanded upon from RM 289.5 to RM 292.0. Further, sand bars will be constructed along the existing islands to compensate for the loss of sand bar habitat.

Overbank Modifications

The existing overbank areas of the Pearl River channel will be widened to further increase conveyance of flood flows. Existing levees will remain in place and will not be altered. Beginning at Station 10+00 (approximately RM 284), construction will proceed northward with the existing floodplain partitioned into three (3) main segments to allow for quantity control and flood management. The progression upstream will naturally allow for positive and continued dewatering of flooded areas ahead of moving into the next section. The three (3) segments and their main areas of activity are further described in these stationed reaches.

1. Station 10+00 thru 140+00. Specific items included in this reach are the I-20 Interstate bridges (Sta. 95+00±) as well as the U.S. Highway 80 (Sta. 110+00), Old Brandon Road (Sta. 135+00±), and railroad bridges (Sta. 70+00±, Sta. 130+00±). Two (2) high-pressure gas lines run through this reach and will have to be carefully monitored as excavation and

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grading activities progress. Multiple access points on both sides of the river will have to be maintained and monitored from a perspective of public safety and construction use.

2. Station 140+00 through 290+00. This reach contains the creation of new land mass on the east side levees and the expansion and construction of islands in the widened overbank using excavated material. As with the previous reach segment, numerous access points will require management and maintenance for use and safety. A creosote slough area (Sta. 240+00±) will be avoided, when possible, in order to not disturb or cause any objectionable material to be exposed or mixed with other excavated material. In the event avoidance is not possible, the slough area may be excavated and hauled to a separate disposal site, and the remaining exposed surface capped prior to final grading.
3. Station 290+00 through 400+00. As with the previous downstream reaches, there are bridges to work around (Highway 25 near Sta. 360+00), and gas/transmission lines that must be monitored during earthmoving operations. Depending on the final design, Mayes Lake (Sta. 310+00±) may need tie-in work to maintain its current level. A determination about the tie-in work will be made during the PED phase. An existing abandoned railroad bridge and embankment of the Gulf, Mobile & Northern/Gulf Mobile and Ohio (GM&N/GM&O) could also be effected. Some island forming work will also be required in this reach. In the area surrounding the J. H. Fewell WTP, Alternative C calls for the demolition of the J.H. Fewell WTP Weir, which is currently set to approximately 250.0 feet (76.2 m) NGVD. Dredging would be conducted to elevation 248.0 feet (75.5 m) NGVD. The existing weir at the water works bend will remain undisturbed until completion of the new weir at the downstream terminus as to maintain water supply for the treatment plant. Following the construction of the new weir the existing weir will be demolished. To maintain water supply at the J. H. Fewell WTP, a pool area would be created. It is undetermined if the water intake structures and access way of the J. H. Fewell WTP would need further modification.

Maintenance and Reinforcement of Bridge Abutments

If any stabilization or armoring such as riprap, slope paving, slide repairs, etc., is required, it will be carried out prior to clearing and any major channel work. Any required protection counter measures will be performed as required by the Mississippi Department of Transportation.

Excavated Material Plan

Federal levees exist within much of this reach and Alternative C will use the existing levees, upgraded with excavated material placed behind them. Excavated fill would be placed in designated areas on the protected side of existing levees. These areas will be graded, compacted, and seeded to establish long term erosion control. Additional riprap or other required armoring will be placed as required during the final grading operations.

Approximately 465.6 acres (188.4 ha) would be impacted by the excavated material fill areas placed on the protected side of levees. Clearing of wooded areas to the east of the proposed new banks (small areas on the west side) will be required ahead of receiving excavated material from the channel widening. The excavated material would be used to create

substantial new land mass removed from the floodplain within the Jackson MSA. The new land mass created behind the levees will range from 200 to over 1,000 feet (121.9-304.8 m) in width and could be used for future development. Further, the newly created riverfront area will allow for expanded riverfront access, natural and wildlife areas, and commercial development, along with recreational opportunities, and is expected to result in beneficial impacts to low water due to changes in hydrology from future development and the resulting increased runoff from newly developed impervious surfaces.

Weir and Gate

As previously mentioned, the existing weir located at RM 291.0 near the J. H. Fewell WTP site would be demolished and replaced with a new weir further downstream near RM 284.3 at the south end of the channel improvements area. The new weir would include a 12 x 12-foot (3.6 x 3.6 m) low-flow gate. The weir would be submerged at elevation 266.0 feet (81.0 m) NGVD. Existing flows through the project area would continue to pass through the weir at all times. The replacement weir would be constructed to elevation 258.0 (78.6 m) NGVD and would be approximately 1,500 feet (457.2 m) in length; providing for a significantly larger body of water within the Pearl River channel to the north of the weir. Further, the area downstream in front of the weir would be armored to minimize erosion and a fish passage will be created around the relocated weir. The fish passage has been conceptually designed to be approximately 7,300 feet (2,225.0 m) in length. Public recreation facilities within the floodplain (i.e., boat ramps and landings, pedestrian access points, public and RV parks, natural areas, and trails) are associated non-federal features proposed as part of the Undertaking as a result of new expanded year-round recreational waterbody created by the weir. However, the location of recreation benefits will be finalized with local input during the feasibility level design.

New Federalized Levee

The Savanna Street WWTP is protected by an existing non-federal levee near RM 282. The levee will undergo maintenance and additional upgrades in advance of the main construction phases. The levee section proposed for the new federalized levee around the WWTP, consists of a 10 foot (3.0 m) crown width with 1V on 3H landside and riverside slopes. The levee would be fully compacted zoned fill with a 5 foot-thick (1.5 m) impervious clay blanket on the river side with the remaining portion consisting of random materials. At this location, additional pumps would not be needed to provide protection behind levees except where pumps already exist and would be modified as needed.

Relocations

Utility relocations will be accomplished ahead of main channel construction in addition to other relocation activities. Between Interstates 20 and 55, high voltage transmission lines will be either raised or rerouted away from the construction zone altogether. In addition, several high-pressure gas lines cross through the project area. Preliminary investigations show these gas lines are below grade and therefore, should not interfere with planned excavation and grading activities. In the event relocation or lowering is required, they will be dealt with on an as-needed basis. The same methodology will be taken regarding water and sewer lines running parallel to the channel on the west side. Construction activities will be planned around avoiding these existing utilities unless relocation is absolutely necessary. Non-structural relocations would not be required as a result of the implementation of Alternative C.

HTRW

Alternate C includes relocating a portion of the closed and sealed Gallatin Street Landfill Site. The entirety of this location, about 40 acres (16.1 ha), will be excavated and transported uphill and re-established immediately outside and adjoining the proposed boundary of the new channel. An equivalent area will be cleared, grubbed, excavated, and backfilled as needed to provide proper storage and containment for material to be stored and isolated from the surrounding environment. Excavation activities will result in the channel being graded to fit the proposed section. This initial movement will provide the finish-grade base point for all remaining work to proceed. Channel armoring will be established as needed during finish grading operations to protect the banks and subgrade against future years' erosion and removal and to prevent objectionable materials from entering the Pearl River flow. Final remedial designs will be coordinated with appropriate federal and state agencies to determine necessary actions to prevent and/or eliminate potential leaching of landfill waste chemicals to the groundwater and movement of groundwater into the proposed channel improvement area prior to the initiation of excavation activities at this location.

The Gulf States Creosote Company site is located within the Alternative C project area. The site, or portions thereof, may require avoidance, remediation, or some other mitigating measures. The LeFleur's Landing site is also located along the edge of the proposed channel improvement excavation area. It will require additional capping and bank stabilization measures due to potential leaching of landfill waste and groundwater movement in the area. Remediation design and coordination with appropriate state and federal agencies will determine site actions to eliminate potential leaching of landfill waste to the groundwater and movement of groundwater into the proposed channel improvement.

Habitat Mitigation

Additionally, compensatory mitigation would be required for any habitat losses incurred during construction of Alternative C. At the present time, the analysis of potential habitat mitigation locations for Alternative C is ongoing. However, generally and to the extent possible, the mitigation projects would be implemented within the Pearl River Basin where the project impacts would occur. RHPRFDCD presently estimates that approximately 2,069.0 acres (837.2 ha) of the project area contain vegetation resources and associated terrestrial habitat types. It can be anticipated that the vast majority of the vegetation resources located within the proposed project construction and fill limits would be removed during the construction phase. Approximately 1,395.5 acres (564.7 ha) of habitat would be impacted by the excavation activities associated with the proposed channel improvements. Approximately 465.6 acres (188.4 ha) would be impacted by the dredge disposal fill areas placed along the shoreline. The channel excavation would also result in the creation of an additional approximately 1,692.0 acres (188.4 ha) of "other waters of the U.S." Also, approximately 487.0 acres (197.0 ha) of existing surface water bodies within the channel improvement footprint, including the Pearl River channel itself and its tributaries, will be impacted by this alternative. This includes oxbow lakes, sloughs, and portions of Eubanks Creek, Hanging Moss Creek, Lynch Creek, Purple Creek, Three-Mile Creek, Town Creek, Eastover Creek, Belhaven Creek, and Conway Slough. These specific water bodies and numerous other existing water bodies will be incorporated into the footprint of the channel improvements. Additional direct impacts to water bodies would be anticipated by the filling activities within the dredge disposal areas. The approximately 3.0 miles (4.8 km) of relatively stable existing riverine habitat on the southern and northern extremes of the project area will be mitigated. The proposed riverine habitat mitigation will be included as a

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part of the overall habitat replacement plan and include the preservation and enhancement of existing riverine habitat areas within the Pearl River Basin either upstream or downstream of the proposed project area. In addition, channel excavation depths will be varied to create underwater habitat, spawning, and nesting areas as well as additional environmental features developed during feasibility level design working with the U.S. Fish and Wildlife Service.

Non-Structural Measures

The non-federal sponsor will assess residual non-structural measures on its own upon completion of the federal project such as voluntary acquisition of structures in both Hinds and Rankin counties that would otherwise continue to be located in flood prone areas.

Area of Potential Effects (APE)

In this consultation, the "Study Area" is referenced in place of a formal Area of Potential Effects (APE) for discussion and planning purposes. At the feasibility stage, the APE is conceptual; CEMVK acknowledges that the APE could change in PED. Therefore, CEMVK proposes to adopt a programmatic approach in accordance with 36 CFR § 800.14(b) to determine the final APE for the Undertaking in consultation with SHPO and participating Tribe(s) pursuant to 36 CFR § 800.16(d). The APE will incorporate both direct effects (e.g., access, staging, and construction areas) and indirect effects (e.g., visual), including all areas of proposed ground disturbance. Furthermore, CEMVK may consider information provided by other parties, such as the NFI, local governments, and the public, when establishing the APE.

Historic Property Identification and Evaluation Efforts

The proposed PA will provide a review process to address the potential of this Undertaking to effect historic properties that are eligible for or listed on the National Register of Historic Places (NRHP), including archaeological sites, districts, buildings, structures, and objects that are significant in American history, architecture, archaeology, engineering, and/or sites of religious and cultural significance on or off Tribal Lands (as defined in 36 CFR § 800.16(x)).

The following data is not intended to be all-inclusive but is meant to provide a general understanding of the various types of historic resources that may be encountered within the Study Area that could be affected by the proposed Undertaking so that effective programmatic review measures can be developed in consultation with the appropriate stakeholders. CEMVK has conducted a review of existing documentation: the NRHP database, the Mississippi Department of Archives and History (MDAH) *Historic Resources Inventory Database* (MDAH Website), MDAH Site Cards, historic map research, a review of cultural resources survey reports and other pertinent data and has determined that there are multiple historic properties as defined in 36 CFR 800.16(l) within the Study Area.

Based on this background research, CEMVK determined that the Study Area also contains over 5006 inventoried above-ground resources, 57 properties individually listed on the NRHP, four (4) National Historic Landmarks (NHL); Eudora Welty House and Garden, Mississippi State Capitol, Governor's Mansion, and the (Old) Mississippi State Capitol, and 10 primary National Register Historic Districts (NRHD), many of which have had boundary increases or amendments since their original designation, which include: Belhaven; Belhaven Heights (and Amendment); Farish Street Neighborhood (and Amendment); Poindexter Park; Smith Park Architectural (and Boundary Increase I/II/III); Spengler's Corner (and Boundary Increase); West Capitol Street; Downtown Fondren; Southwest Midtown; and, Upper Midtown NRHDs.

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At the state level of significance, the Study Area also contains four (4) locally designated historic districts, three (3) of which correspond to, whole or in part, with existing NRHDs which include: Belhaven Heights Historic District, Farish Street Historic District, Morris Historic District, and Belhaven Historic District. The Study Area also contains 64 Mississippi Landmarks. The Mississippi Landmark designation is the highest form of recognition bestowed on properties by the state of Mississippi and offers the fullest protection against changes that might alter a property's historic character. Publicly owned properties that are determined to be historically or architecturally significant may be considered for designation. Significant publicly owned archaeological sites are automatically deemed Mississippi Landmarks under the Mississippi Antiquities Law.

In addition to the aforementioned built-environment resources, approximately 179 archaeological sites have been previously recorded within the Study Area that collectively span the entire spectrum of Pre-Contact and Post-Contact/historic cultural components generally recognized for the region; encompassing roughly some 10,000 years or more. Further, the Study Area contains archaeological sites (and above-ground resources) associated with both the prehistoric period and the historic period of significance spanning from the early- to mid-nineteenth century up until the mid-twentieth century correlating to the following MDAH Historic Themes (MDAH 2019): *Traditional Cultural Properties; Antebellum Mississippi; Civil Rights; Depression Era* (including New Deal projects constructed between 1933 to 1939); *Education; Historic Indian; Industrial/Commercial; Landscape/Landscape Features; Military; Post Reconstruction; Pre-World War II Mississippi (1900-1941); Post World War II Mississippi (1942-present); Protohistoric Period; Reconstruction; Technology/Engineering; Transportation/Communication*; and others. It is also important to stress that many known of the sites in the Study Area have cultural components encompassing more than one of these cultural/temporal periods attesting to the long-ranging cultural importance of the region.

Based on the information available to CEMVK at this time related to historic property identification and evaluation, it is clear that no comprehensive systematic built-environment survey has been conducted throughout the entire Study Area. Additionally, earlier correspondence indicated that not all the previous surveys in the Study Area meet current MDAH standards (see: letter from MDAH to Headwaters Consulting dated April 11, 2018, in Attachment 1). Further, the current distribution of historic resources in the Study Area is largely indicative of project-specific federal and state compliance activities, rather than activity specific survey for this Undertaking. Therefore, in addition to considering the known historic resources within the Study Area, the Undertaking must also be further assessed for unevaluated resources. Steps for this will be outlined in the PA.

Consulting Parties

This letter continues formal Section 106 consultation pursuant to 36 CFR § 800.3(c). In addition to the MS SHPO and the ACHP, CEMVK has identified the following Tribal governments as having an interest in the project: the Chickasaw Nation, Choctaw Nation of Oklahoma, Jena Band of Choctaw Indians, Mississippi Band of Choctaw Indians, Muscogee (Creek) Nation, Quapaw Nation, and the Tunica-Biloxi Tribe of Louisiana. Should you know of additional Tribal governments or preservation groups with an interest in participating in this consultation, please do not hesitate to communicate these to CEMVK.

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CEMVK proposes to send future notices, draft agreements, and other background information to consulting parties by e-mail to minimize communication delays and expedite the development of the PA. Please let CEMVK know if this is impractical, so we can make alternative arrangements.

Assessment of the Undertaking's potential to effect Historic Properties

CEMVK has determined that the proposed action constitutes an Undertaking as defined in 36 CFR § 800.16(y) and has the potential to cause effects to historic properties. However, no determination of effect under the NHPA is being made at this time. As the federal agency cannot fully determine how the Undertaking may affect historic properties, the location of historic properties, or their significance and character at the present time [36 CFR § 800.14(b)(1)(ii)], prior to approving the Undertaking, CEMVK proposes to develop a project-specific PA pursuant to 36 CFR § 800.14(b) in consultation with the NFI, SHPO, Tribes, ACHP, if participating, and other interested parties, to satisfy CEMVK's Section 106 responsibilities for this Undertaking.

Conclusion

The goal of this Section 106 consultation is to provide a framework for addressing this Undertaking and establish protocols for continuing consultation with the MS SHPO, Tribal governments, and other stakeholders. The PA would identify consulting parties, define applicability, establish review timeframes, stipulate roles and responsibilities of stakeholders, include Tribal consultation procedures, consider the views of the SHPO/THPO(s) and any other consulting parties, afford for public participation, develop programmatic allowances to exempt certain actions from Section 106 review, outline a standard review process, determine an appropriate level of field investigation to identify and evaluate historic and determine the potential to affect historic properties and/or sites of religious and cultural significance, streamline the assessment and resolution of Adverse Effects through avoidance, minimization, and programmatic treatment approaches for mitigation, establish reporting frequency and schedule, provide provisions for post-review unexpected discoveries and unmarked burials, and incorporate the procedures for amendments, duration, termination, dispute resolution, and implementation. The PA would then govern CEMVK's subsequent NHPA compliance efforts. Following the execution of a PA, the ASACW may then proceed with making a final recommendation on the project and issuing a Record of Decision in compliance with NHPA and in coordination with NEPA.

A date and time for the initial Section 106 PA development meeting has not yet been set. The purpose of the initial meeting will be to discuss the properties being considered as part of the alternatives under consideration, relevant historic properties, and to gather feedback from your organization regarding the proposed Undertaking and the potential to affect significant cultural/Tribal resources, and begin development of the PA. CEMVK will notify SHPO, Tribes, and other likely consulting parties regarding the meeting as soon as possible and forward information regarding a conference call-in number and the agenda. Schedule updates will continue to be provided to stakeholders in subsequent Section 106 communications and consultation meetings. Further, CEMVK is seeking any information your office may wish to provide at this time concerning:

- The alternatives under consideration and their potential to significantly affect historic properties and/or sites of religious and cultural significance;

- Any other relevant parties who you feel may have an interest in participating in this consultation (36 CFR § 800.2; *Participants in the Section 106 process*).

Additionally, CEMVK requests your response regarding:

- Concurrence with CEMVK’s proposal to develop a project-specific PA in accordance with 36 CFR § 800.14(b) that establishes procedures to satisfy CEMVK’s Section 106 responsibilities with regard to the programmatic review of this Undertaking;
- Your organization’s continued interest in participating in the development of this PA.

CEMVK is forwarding this letter for your review and comment and requests your comments within 30-days. CEMVK looks forward to your organization’s review of this information and working with you and your staff to ensure that CEMVK fulfills its historic preservation responsibilities. Should you have any questions or need additional information regarding this Undertaking, please contact Jeremiah Kaplan, Archaeologist at Jeremiah.H.Kaplan@usace.army.mil or (504) 862-2004, or, Rachelle R. Androwski, Tribal Liaison at (601) 631-5920 or Rachelle.R.Androwski@usace.army.mil.

Sincerely,



Christopher D. Klein
Colonel, Corps of Engineers
Commander

CC: File

An electronic copy of this letter with enclosures will be provided to the Section-106 Inbox, Section106@mdah.ms.gov and Cindy Carter-Davis <ccarterdavis@mdah.ms.gov>; hbell@mdah.ms.gov

Distribution:

1. Advisory Council on Historic Preservation
2. MS SHPO
3. The Chickasaw Nation
4. Choctaw Nation of Oklahoma
5. Jena Band of Choctaw Indians
6. Mississippi Band of Choctaw Indians
7. Muscogee (Creek) Nation
8. Quapaw Nation
9. Rankin-Hinds Pearl River Flood and Drainage Control District
10. Tunica-Biloxi Tribe of Louisiana

Attachments:

1. Previous Cultural Resources Consultation

-15-

References:

MDAH

2019 *Mississippi Standards for Archaeological Practices*. Developed by the Mississippi Department of Archives and History, Historic Preservation Division, Archaeology and Historic Sites Section

Rankin-Hinds Pearl River Flood and Drainage Control District

2018 *Integrated Draft Feasibility Study & Environmental Impact Statement, Pearl River Basin, Mississippi, Federal Flood Risk Management Project, Hinds & Rankin Counties, Mississippi*. Report prepared by the Rankin-Hinds Pearl River Flood and Drainage Control District. Electronic copy available at: <https://rankinhindsflooddistrict.ms.gov/report/>.

U.S. Army Corps of Engineers

1984 *Pearl River Basin Interim Report on Flood Control and Environmental Impact Statement*. Report prepared by the U.S. Army Corps of Engineers, Mobile District.

U.S. Army Corps of Engineers.

1996 Jackson Metropolitan Area, Mississippi, Feasibility Report. Flood Control, Pearl River Basin, Mississippi (Draft). Report prepared by the U.S. Army Corps of Engineers, Vicksburg District. Vicksburg, MS.

U.S. Army Corps of Engineers

2007 *Pearl River Watershed Draft Feasibility Study and Environmental Impact Statement*. Preliminary Draft. Report prepared by the U.S. Army Corps of Engineers, Vicksburg District. Vicksburg, MS.



Figure 1. Satellite imagery displaying location of the PRBFFRMP Study Area.

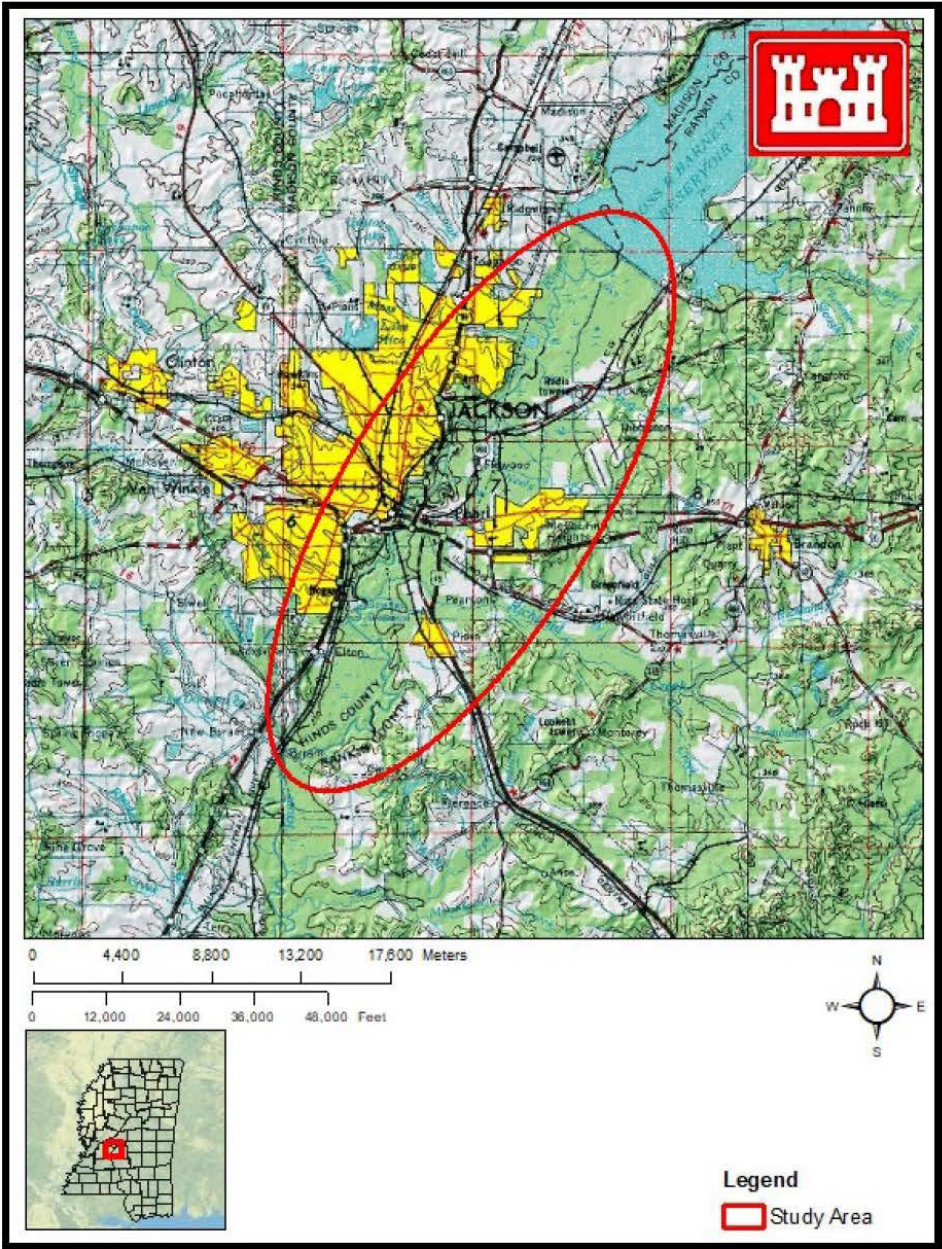


Figure 2. USGS Topographic Quad Map displaying location of the PRBFFRMP Study Area.

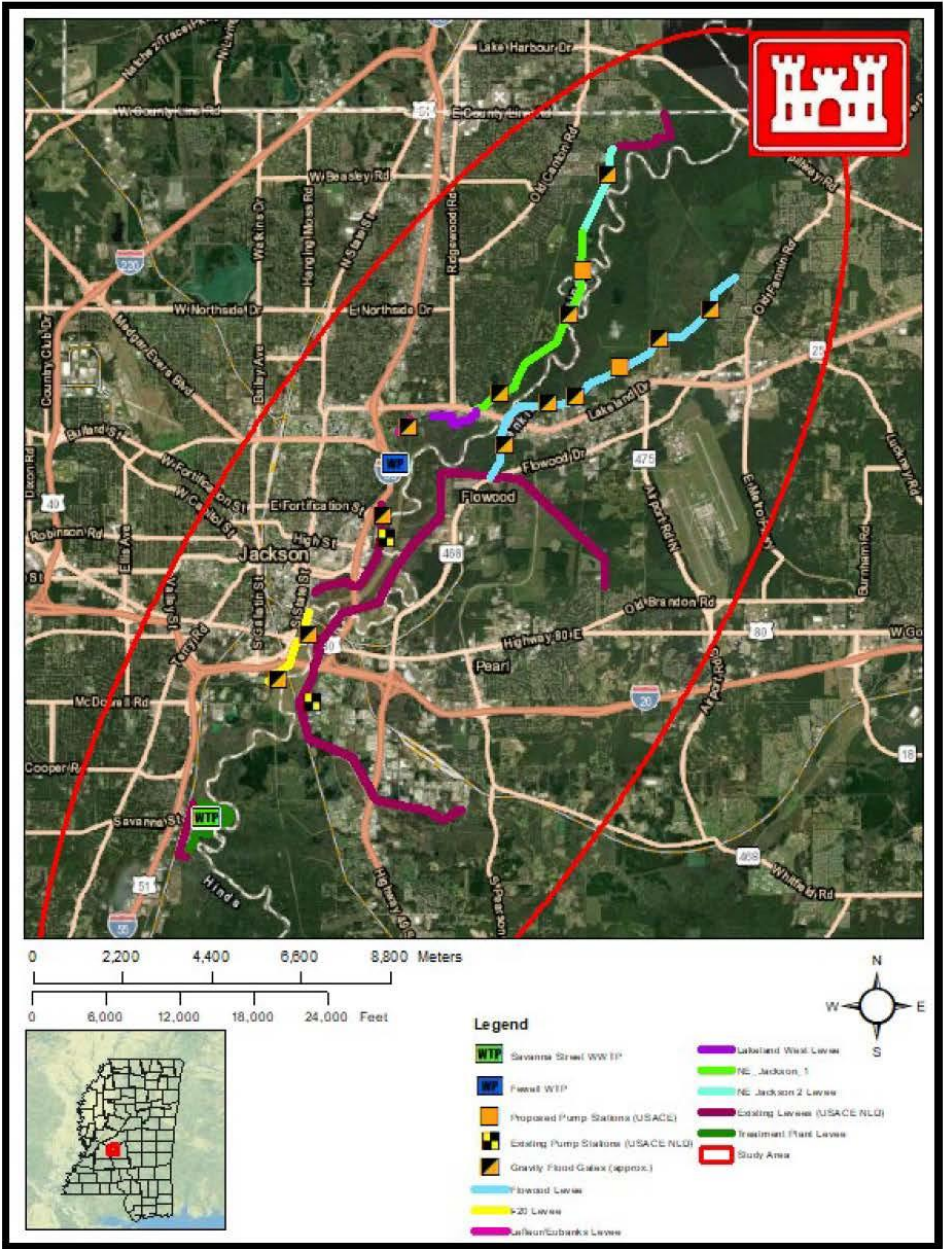


Figure 3. Alternative B Project Features.

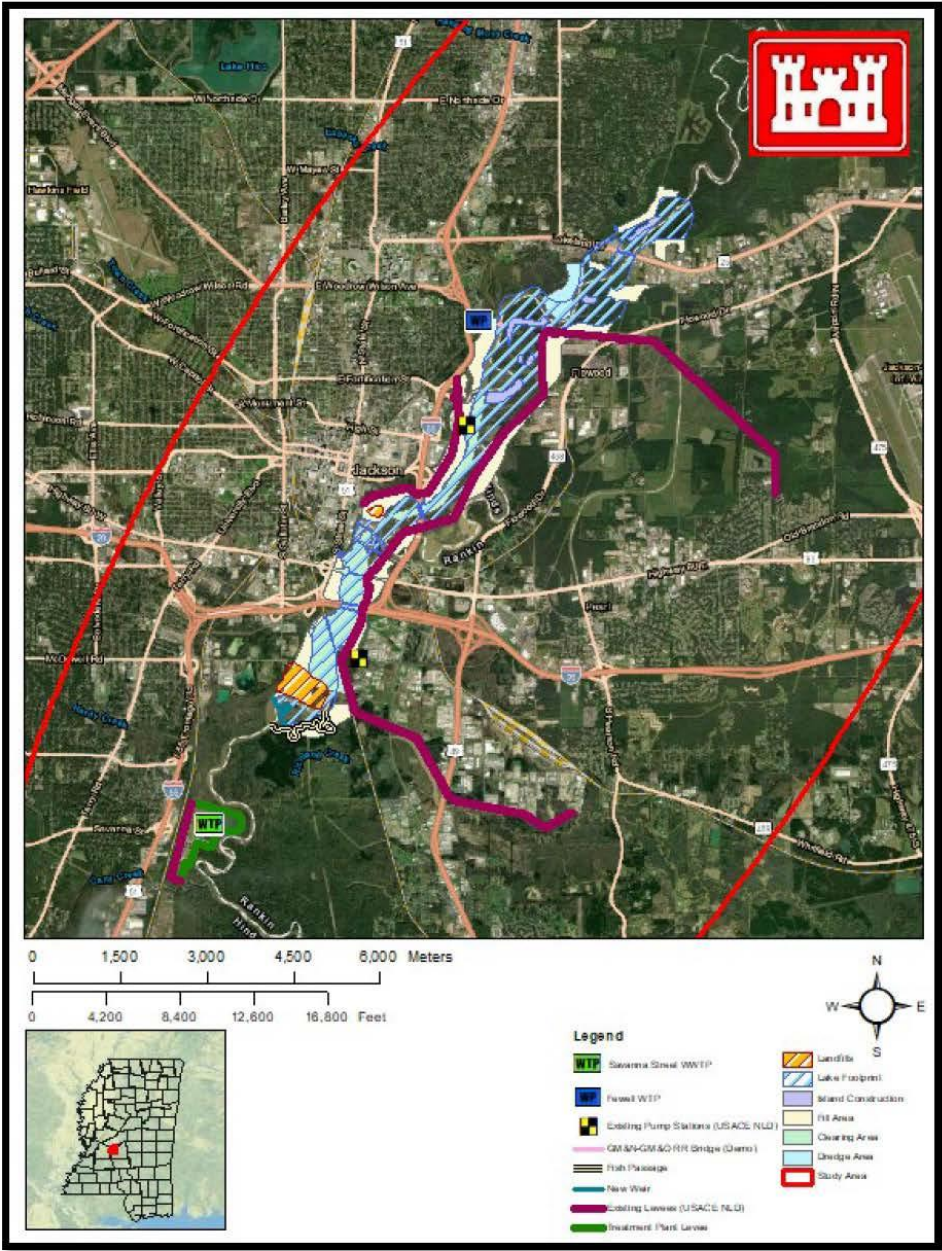


Figure 4. Alternative C project features.

Attachment 1. Previous Cultural Resources Consultation

The documents attached are in reverse chronological order and originate primarily from the Non Federal Sponsor’s consultations in the process of developing the *Integrated Feasibility Study and Environmental Impact Statement* Pearl River Watershed, Hinds and Rankin Counties, MS.

- 1. White B. “Jackson Flood Control Project.” Email response to W. Dinkelacker. 29 November 2022.
- 2. Dikelacker, W. “Jackson Flood Control ProJet.” Email to K. Blount and B. White. 29 November 2022.
- 3. White, B. “Ranking Hinds Pearl River Flood and Drainage Control District Flood Risk Management Project.” Letter to K. Turner. 7 June 2022.
- 4. Turner, K. “Rankin Hinds Pear River Flood and Drainage Control District – Flood Risk Management Project.” Email to K. Blount 2 June 2022. Transmittal of Rankin Hinds Draft Programmatic Agreement.

Rankin Hinds provided - Draft Programmatic Agreement Between the United States Army Corps of Engineers and the Rankin Hinds Pearl River Flood and Drainage Control District and the Mississippi Department of Archives and History Regarding the Integrated Final Feasibility Study and Environmental Impact Statement Pearl River Basin, Mississippi Federal Flood Risk Management Project, Hinds and Ranking Counties, Mississippi

- 5. Hemphill, P. “Status of Section 106 Consultation.” Letter to K. Turner. 27 Sept 2018
- 6. Wendt, L. “Draft FS/EIS for the Rankin Hinds Pearl River Flood and Drainage Control District in Mississippi.” Email to J. Ryan. 12 Sept 2018.
- 7. Sanders, K. Response to letter from Col. M. C. Derosier. 30 Aug 2018.
- 8. Bell, H. “Proposed LeFleur Lakes project, (USACE) MDAH Project Log #03-055-18, Hinds and Rankin Counties.” Letter to W. Dinkelacker. 11 April 2018
- 9. Bell, H. “Draft Feasibility Study/Environmental Impact Statement for the Pearl River Basin federal flood risk reduction project, Rankin Hinds Pearl River Flood

and Drainage Control District, (USACE) MDAH Project Log #08-020-18, Hinds and Rankin Counties.” Letter to J. Ryan. 22 Aug 2018.

10. Dinkelacker, W. “Jackson, Mississippi Flood Control Project, MDAH Log No. 03-055-18, Rankin and Hinds Counties.” Letter to J. Underwood. 28 Aug 2018

11. Bell, H. “Proposed Jackson Flood Control Project, (USACE) MDAH Project Log #08-164-18 (03-055-18), Hinds and Rankin Counties.” Letter to W. Dinkelacker. 21 Sept 2018

From: [Barry White](#)
To: [Walt Dinkelacker](#)
Cc: [Kaplan, Jeremiah H CIV USARMY CEMVN \(USA\)](#); [Shaw, Thomas R Jr CIV USARMY CEMVK \(USA\)](#); [Keith Turner \(kturner@watkinseager.com\)](#); [Gilmore, Tammy F CIV USARMY CEMVN \(USA\)](#); [Lang Kirkwood](#); [Katie Blount](#); [Cindy Carter-Davis](#)
Subject: [Non-DoD Source] Re: Jackson Flood Control Project
Date: Tuesday, November 29, 2022 11:01:32 AM

Good morning, Walt.

Thank you for the introduction and update—we look forward to working with you all to develop a PA for the project. If the group would also include Cindy Carter-Davis, MDAH Chief Archaeologist, in future communications, we would appreciate it.

Best,

Barry

Barry White
Director, Historic Preservation Division
Deputy State Historic Preservation Officer
Mississippi Department of Archives and History
P.O. Box 571
Jackson, MS 39205-0571
bwhite@mdah.ms.gov
601-576-6953

From: Walt Dinkelacker <walt@headwaters-inc.com>
Sent: Tuesday, November 29, 2022 8:29 AM
To: Katie Blount <kblount@mdah.ms.gov>; Barry White <bwhite@mdah.ms.gov>
Cc: Kaplan, Jeremiah H CIV USARMY CEMVN (USA) <Jeremiah.H.Kaplan@usace.army.mil>; Shaw, Thomas R Jr CIV USARMY CEMVK (USA) <Thomas.R.Shaw@usace.army.mil>; Keith Turner (kturner@watkinseager.com) <kturner@watkinseager.com>; Gilmore, Tammy F CIV USARMY CEMVN (USA) <Tammy.F.Gilmore@usace.army.mil>; Lang Kirkwood <lang@headwaters-inc.com>
Subject: Jackson Flood Control Project

Katie/Barry,

Hope you guys had a great Thanksgiving and enjoyed time away from the office.

I am reaching out to provide a brief update on status of the Jackson Flood Control project as well as introduce you to our partners with the Corps.

Regarding the status, the Flood Control District and the USACE are working jointly to complete a decision document that will supplement the Feasibility Study and EIS. Attached is the most recent correspondence with your office. To complete the decision document, the USACE has decided that a Programmatic Agreement (PA) is required prior to the Assistant Secretary of the Army for Civil

Works making a decision.

Mr. Jeremiah Kaplan (copied) will be the point of contact for the USACE. He will be reaching out to you shortly with respect to initiating the PA.

Please keep me and Jeremiah included on all communication. Thank you and we look forward to working with you,

Walt Dinkelacker
P.O. Box 2836
Ridgeland, MS 39158
601-634-0097 (o)
769-233-2556 (d)



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Integrated Feasibility Study and Environmental Impact Statement
Pearl River Watershed, Hinds and Rankin Counties, MS



P.O. Box 571
Jackson, MS 39205-0571
601-576-6850
mdah.ms.gov

June 7, 2022

Mr. Keith W. Turner
Watkins & Eager PLLC
400 East Capitol Street
Jackson Mississippi 39201

RE: Rankin Hinds Pearl River Flood and Drainage Control District Flood Risk Management Project

Dear Mr. Turner:

Pursuant to your June 2, 2022, email, this letter serves as comment from our agency regarding the Rankin Hinds Pearl River Flood and Drainage Control District Flood Risk Management Project. On March 12, 2018, MDAH received a request for cultural resources assessment that included two maps of the proposed footprint of project Alternatives B and C. In a letter dated April 11, 2018, we issued comments on these alternatives that provided a list of known sites within a 600 meter buffer of the proposed project areas as well as a review of the relevant surveys of the area.

MDAH and the applicant agree that additional archaeological survey must be conducted prior to construction, including areas in which the existing survey work is no longer acceptable. All new survey should be conducted under the guidance of the 2020 Mississippi Standards for Archaeological Practices, including submittal of a research design for MDAH review. With these conditions, we have no reservations about the planning phase of the project proceeding.

Given the stage of the project, MDAH does not believe that any agreement is necessary at this juncture. When more specific design documents have been developed, we will join consultation on an agreement for the project in accordance with our responsibilities under Section 106 of the NHPA and 36 CFR Part 800.

If you need additional information, please feel free to contact me at (601) 576-6953.

Sincerely,

A handwritten signature in blue ink that reads "Barry White". The signature is fluid and cursive, with the first name "Barry" and last name "White" clearly distinguishable.

Barry White
Deputy State Historic Preservation Officer

FOR: Katie Blount
State Historic Preservation Officer

Board of Trustees: Spence Flatgard, *president* | Hilda Cope Povall, *vice president* | Carter Burns | Kimberly L. Campbell |
Agency Cultural Resources: Amy Depew | Debra Hamilton | Web Heidelberg | Edmond E. Hughes Jr. | Mark E. Keenum

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From: [Keith W. Turner](#)
To: [Katie Blount](#)
Cc: bwhite@MDAH.ms.gov; [Walt Dinkelacker](#)
Subject: Rankin Hinds Pearl River Flood and Drainage Control District - Flood Risk Management Project
Date: Thursday, June 2, 2022 3:28:21 PM
Attachments: [Draft PROGRAMMATIC AGREEMENT 051622 \(002\).docx may 23 2022.docx](#)

Thanks for your time this afternoon. As a continuation of the Flood Control District and MSDAH working together to address SHPO issues I have attached a proposed agreement between the entities that should address the remaining activities between the parties. In the meantime we are requesting the MSDAH provide a letter to the Flood Control District to help the Assistant Secretary of the Army Corps of Engineers (ASA) staff understand the process going forward. I have outlined below the topics for the letter. Additionally we are requesting that the letter be completed next week (sorry for the short timeline) Thanks and please call me with any questions as you are drafting the letter.

Letter Topics

1. The Flood Control District and MSDAH have been in communications over the past years and MSDAH has commented on the Draft FS/EIS (FYI MSDAH comments are dated April 2018 and our project team members (Headwaters) have met with MSDAH staff numerous over the past recent years)

2. The parties agree that additional work is necessary and the additional work will be completed during the Preliminary Design stage during consultation with MSDAH.
3. The parties are developing an agreement which outlines the path forward, the remaining work and the timeline for completion of the work. The parties plan in entering into the agreement when the project is approved by the ASA.

Thanks

Keith W. Turner
Watkins & Eager PLLC
400 East Capitol Street
Jackson Mississippi 39201
601-965-1958 Office direct
601-594-6894 Cell
watkinseager.com



PROGRAMMATIC AGREEMENT
BETWEEN THE UNITED STATES ARMY CORPS OF ENGINEERS
AND THE
RANKIN HINDS PEARL RIVER FLOOD AND DRAINAGE CONTROL DISTRICT
AND THE
MISSISSIPPI DEPARTMENT OF ARCHIVES AND HISTORY
REGARDING THE
INTEGRATED FINAL FEASIBILITY STUDY &
ENVIRONMENTAL IMPACT STATEMENT
PEARL RIVER BASIN, MISSISSIPPI
FEDERAL FLOOD RISK MANAGEMENT PROJECT
HINDS & RANKIN COUNTIES, MISSISSIPPI

WHEREAS, the United States Army Corps of Engineers (USACE) and Rankin Hinds Pearl River Flood and Drainage Control District (RHFDCD) plans to carry out the Flood Risk Management Project pursuant to the Water Resources Development Act of 2007, Section 211 of WRDA 1996; and

WHEREAS, for the past 100 years, headwater flooding of the Pearl River has caused disruption to residences, businesses and industry throughout the Jackson, MS, metropolitan area. The most notable of the numerous flood events that have affected the study area is the Easter Flood of 1979, which disrupted residences, business, transportation, and infrastructure across the Jackson metropolitan area. If a comparable event occurred in 2019, damages would surpass \$1.2 billion. The most recent event occurred in 2020. The purpose of this project is to provide a comprehensive solution to flood risk in the Jackson metropolitan area caused by the Pearl River.

WHEREAS, the undertaking consists of constructing channel improvements, levee expansions, a gated weir, and fill areas along the banks and levee system from dredged materials; and

WHEREAS, the USACE has defined the undertaking's area of potential effects (APE) as described in the attached Integrated Final Feasibility Study & Environmental Impact Statement, Pearl River Basin, Mississippi, Federal Flood Risk Management Project, Hinds & Rankin Counties, Mississippi; and

WHEREAS, it has been determined that the undertaking will require that additional surveys of sites within the project area whose eligibility for listing in the National Register of Historic Places has yet to be determined, and has consulted with the Mississippi State Historic

Preservation Officer (SHPO pursuant to 36 CFR Part 800, the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108); and

NOW, THEREFORE, the USACE and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The USACE shall ensure that the following measures are carried out:

- I. Surveys
 - a. The previously identified sites (22RA502, 22Ra689, and 22Ra 693) that are NHRP eligible will be avoided and not re-visited.
 - b. Known sites within the area of construction with an undetermined eligibility will be tested (Phase II activities) prior to construction. The level of Phase II testing will be commensurate with the specific site.
 - c. For lands within the project footprint that have not been surveyed, were surveyed prior to 2001, a research design will be prepared that will outline the proposed survey methodology. Many of the areas within the project footprint have previously disturbed (construction of the levees). These areas would not be surveyed in the research design.
 - d. Prior to construction, there would be a collective agreement as to the survey protocol of the lands within the project area during the research design review. Once the research design is approved, cultural resource surveys would commence prior to construction.
 - e. The results of the surveys would be submitted to MDAH for review and concurrence.
- II. Duration

This PA will expire if its terms are not carried out within Ten (10) years from the date of its execution. Prior to such time, USACE and RHFDCD may consult with the other signatories to reconsider the terms of the PA and amend it in accordance with Stipulation VI below.
- III. Post-Review Discoveries

If properties are discovered that may be historically significant or unanticipated effects on historic properties found, the USACE and RHFDCD shall implement the discovery plan included as Attachment 2 of this PA.

 - a. Where construction has not yet begun and a cultural resource is discovered after Section106 review is complete, the USACE and RHFDCD shall consult to seek avoidance or minimization strategies in consultation with the SHPO/Indian tribe, and/or to resolve adverse effects in accordance with 36 CFR Part 800.6.

- b. The USACE and RHFDCD shall ensure that every contract for assistance includes provisions for halting work/construction in the area when potential historic properties are discovered or unanticipated effects to historic properties are found after implementation, installation, or construction has begun. When such a discovery occurs, the producer who is receiving financial assistance or their contractor shall immediately notify the USACE and RHFDCD personnel for the area, and the landowner/applicant.
 1. USACE and RHFDCD shall inspect the discovery within 24 hours, if weather permits, and in consultation with the local USACE official and RHFDCD, concerned Indian tribes, the SHPO, and others, as appropriate), the USACE and RHFDCD shall establish a protective buffer zone surrounding the discovery. This action may require inspection by tribal cultural resources experts.
 2. All contact with media shall occur only under the direction of the RHFDCD, as appropriate.
 3. Security shall be established to protect the resources/historic properties, workers, and private property. Local law enforcement authorities will be notified in accordance with applicable State law and USACE policy in order to protect the resources. Construction and/or work may resume outside the buffer only when the USACE determines it is appropriate and safe for the resources and workers.
 4. USACE and RHFDCD shall notify the SHPO/Indian tribe no later than 48 hours after the discovery and describe USACE's assessment of the National Register eligibility of the property, as feasible and proposed actions to resolve any adverse effects to historic properties. The eligibility determination may require the assessment and advice of concerned Indian tribes, the SHPO, and technical experts (such as historic landscape architects) not employed by the USACE.
 5. The SHPO/Indian tribe shall respond within 48 hours from receipt of the notification with any comments on the discovery and proposed actions.
 6. USACE and RHFDCD shall take any comments provided into account and carry out appropriate actions to resolve any adverse effects.
 7. USACE and RHFDCD shall provide a report to the SHPO/Indian tribe of the actions when they are completed.
- c. When human remains are discovered, the USACE shall follow all applicable federal, tribal, and state burial laws and ordinances, including the Native American Graves Protection and Repatriation Act, and implementing regulations, when on tribal or federal lands, and related human rights and health statutes, where appropriate. USACE shall also refer to the ACHP's Policy Statement regarding Treatment of Burial Sites, Human Remains and Funerary Objects and the ACHP's Section 106 Archaeology Guidance. USACE shall also follow its policy on treatment of human remains and consultation.

IV. Monitoring and Reporting

Each year following the execution of this MOA until it expires or is terminated, USACE and RHFDCD shall provide all parties to this PA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in USACE's efforts to carry out the terms of this PA.

V. Dispute Resolution

Should any signatory or concurring party to this PA object at any time to any actions proposed or the manner in which the terms of this PA are implemented, USACE and RHFDCD shall consult with such party to resolve the objection. If USACE determines that such objection cannot be resolved, USACE will:

- a. Forward all documentation relevant to the dispute, including the USACE's proposed resolution, to the ACHP. The ACHP shall provide USACE and RHFDCD with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, USACE and RHFDCD shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. USACE and RHFDCD will then proceed according to its final decision.
- b. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, USACE and RHFDCD may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, USACE shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the PA and provide them and the ACHP with a copy of such written response.
- c. USACE's and RHFDCD responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VI. Amendments

This PA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories.

VII. Termination

If any signatory to this PA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment per Stipulation VIII, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other signatories.

Execution of this PA by the USACE, RHFDCD and SHPO and implementation of its terms evidence that USACE and RHFDCD has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

DRAFT

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Integrated Feasibility Study and Environmental Impact Statement
Pearl River Watershed, Hinds and Rankin Counties, MS



DEPARTMENT OF THE ARMY
VICKSBURG DISTRICT, CORPS OF ENGINEERS
4155 CLAY STREET
VICKSBURG, MISSISSIPPI 39183-3435

Programs and Project
Management Division

SEP 27 2018

SUBJECT: Status of Section 106 Consultation

Rankin-Hinds Pearl River Flood & Drainage Control District
C/O Mr. Keith Turner, Counsel
Watkins & Eager, PLLC
400 East Capitol Street
Jackson, MS 39201

Dear Mr. Turner:

The U.S. Army Corps of Engineers, Vicksburg District has received responses from the Louisiana State Historic Preservation Office (LA SHPO), the Mississippi State Historic Preservation Office (MS SHPO), and the Muscogee-Creek Nation regarding the Draft Feasibility Study/Environmental Impact Statement for the Pearl River Basin federal flood risk reduction project. All three responses are enclosed.

The MS SHPO response outlines its areas of concerns at this stage of the study. Cultural resource consultation is an on-going process. Section 106 of the National Historic Preservation Act and 36 CFR Part 800 define the process, and parties understand some stipulations will extend through the life of the project construction. The LA SHPO stated no objection to the implementation of the project as currently proposed but also stated that this determination could change should new information come to its attention.

With regard to Federally Recognized Indian Tribes, the Muscogee-Creek Nation has stated that the project area is outside their area of historic interests and choose to defer to other Tribal nations. It is likely that further responses from other Federally Recognized Indian Tribes will be received in due time, and USACE will continue to serve as the avenue for communications with the Tribes.

Please return any comments or questions to Ms. Jennifer Ryan via email to Jennifer.I.Ryan@usace.army.mil.

Sincerely,

A handwritten signature in cursive script that reads "Patricia Hemphill".

Patricia Hemphill
Chief, Programs and Project Management Division
USACE, Vicksburg District

Enclosures

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Pearl River Basin, Mississippi Federal Flood Risk Management Project
Appendix G – Cultural Resources Coordination

Integrated Feasibility Study and Environmental Impact Statement
Pearl River Watershed, Hinds and Rankin Counties, MS

From: [Section106](#)
To: [Ryan, Jennifer Ivy CIV USARMY CEMVN \(US\)](#)
Subject: [Non-DoD Source] Draft FS/EIS for the Rankin Hinds Pearl River Flood and Drainage Control District in Mississippi
Date: Wednesday, September 12, 2018 10:19:58 AM

Ms. Ryan,

Thank you for contacting the Muscogee (Creek) Nation concerning the Draft FS/EIS for the Rankin Hinds Pearl River Flood and Drainage Control District in Mississippi. Upon review, it was noted that the project area lies outside of our historic area of interest. We respectfully defer to the other Tribes that have been contacted about this project. Should further information or comment be needed, please do not hesitate to contact me at (918) 732-7852 or by email at lwendt@mcn-nsn.gov <<mailto:lwendt@mcn-nsn.gov>>.

Regards,

LeeAnne Wendt

LeeAnne Wendt, M.A., RPA

Historic and Cultural Preservation Department, Tribal Archaeologist

Muscogee (Creek) Nation

P.O. Box 580 / Okmulgee, OK 74447

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lwendt@MCN-nsn.gov <<mailto:lwendt@MCN-nsn.gov>>

Blocked<http://www.muscogeenation-nsn.gov/> <Blocked<http://www.muscogeenation-nsn.gov/>>

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Integrated Feasibility Study and Environmental Impact Statement
Pearl River Watershed, Hinds and Rankin Counties, MS



CEMVK-DE

DEPARTMENT OF THE ARMY
VICKSBURG DISTRICT, CORPS OF ENGINEERS
4155 CLAY STREET
VICKSBURG, MISSISSIPPI 39183-3435

Ms. Kristin Sanders
State Historic Preservation Officer
Louisiana Department of Culture, Recreation, and
Tourism, Office of Cultural Development
P.O. Box 44247
Baton Rouge, LA 70804

The proposed undertaking will have no adverse effect on historic properties. Therefore, our office has no objection to the implementation of this project. This effect determination could change should new information come to our attention.

Kristin P. Sanders Deputy
State Historic Preservation Officer

Date 08/30/2018

Ms. Sanders,

The Rankin Hinds Pearl River Flood and Drainage Control District (RH), a political subdivision of the State of Mississippi, has recently prepared a draft Feasibility Study/Environmental Impact Statement (FS/EIS) for the Pearl River Basin, Mississippi, federal flood risk reduction project, Rankin and Hinds Counties project. This study has been undertaken pursuant to Section 3104 of the Water Resources Development Act of 2007.

The U.S. Army Corps of Engineers, Vicksburg District (MVK) has been requested by RH to act as their federal agent and initiate consultation with Tribal Nations and State Historic Preservation Offices with interests in the study area. The enclosed CD contains a copy of the draft FS/EIS and appendices prepared by RH. Additional copies can be mailed per your request.

The draft FS/EIS will ultimately be submitted to the Assistant Secretary of the Army for Civil Works for approval. If approved, and if funding is appropriated to complete a design, the study would transition into a design project that would be subject to further consultation and coordination.

On behalf of RH, MVK requests that the Louisiana State Historic Preservation Office review the enclosed draft FS/EIS. We will relay any comments and concerns to RH. Please provide comments to Jennifer Ryan via email (jennifer.l.ryan@usace.army.mil) or by mail at 4155 East Clay Street, Vicksburg, MS 39183.

Sincerely,

Michael C. Derosier
Colonel, Corps of Engineers
District Commander

RECEIVED

AUG 03 2018

ARCHAEOLOGY

Enclosure

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Mississippi Department of Archives and History
Integrated Feasibility Study and Environmental Impact Statement
Pearl River Watershed, Hinds and Rankin Counties, MS



HISTORIC PRESERVATION DIVISION

P. O. BOX 571

Jackson, MS 39205-0571

Phone 601-576-6940 Fax 601-576-6955

Website: mdah.ms.gov

April 11, 2018

Mr. Walt Dinkelacker
Headwaters Consulting
Post Office Box 2836
Ridgeland, Mississippi 39157-2836

RE: Proposed LeFleur Lakes project, (USACE) MDAH Project Log #03-055-18,
Hinds and Rankin Counties

Dear Mr. Dinkelacker:

We have reviewed your request for a cultural resources assessment, received on March 12, 2018, for the above referenced project in accordance with our responsibilities under Section 106 of the National Historic Preservation Act and 36 CFR Part 800. After review, it is our determination due to the presence of recorded sites within the APE, topography of the area, presence of recorded sites in close proximity and the fact that the area was surveyed prior to 1994, that a cultural resources survey should be performed by a qualified archaeologist. The resulting report should reference the project log number above on the title page.

A list of individuals who have represented themselves as being willing and qualified to do archaeological survey work in Mississippi will be furnished upon request. A copy of this letter should be made available to the contracting archaeologist(s).

We also offer the following comments regarding Alternative B (Levee Plan) and Alternative C (Channel Improvement Plan).

Comments for Alternative B (Levee Plan):

The following sites appear to directly fall within the proposed clearing limits and are located immediately adjacent to the proposed levee footprint:

- 22Hi672 is the City Mound Site. It is already listed on the National Register and should be avoided. If it cannot be avoided, then data recovery/mitigation/full salvage excavation should be conducted after consultation with the relevant Mississippi Native American Tribes.
- 22Hi819 is an Early Woodland/Gulf Formational through Middle/Late Woodland site that is eligible due to its proximity and setting and temporal association with City Mound Site (22Hi672). If it cannot be avoided, then data recovery/mitigation/full salvage excavation should be conducted after consultation with the relevant Mississippi Native American Tribes.

Mr. Dinkelacker
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April 11, 2018

- 22Hi820 is an Early Woodland/Gulf Formational through Middle/Late Woodland site that is eligible due to its diverse and dense artifact assemblage in addition to its proximity and setting and temporal association with City Mound Site (22Hi672). If it cannot be avoided, then data recovery/mitigation/full salvage excavation should be conducted after consultation with the relevant Mississippi Native American Tribes.

The following sites appear to directly fall within the proposed levee footprint:

- 22Hi823 is a Marksville period (Middle Woodland) site that is eligible due to its dense and diverse artifact assemblage, which includes temporally and functionally diagnostics of the Marksville period. If it cannot be avoided, then data recovery/mitigation/full salvage excavation should be conducted after consultation with the relevant Mississippi Native American Tribes.
- 22Ra546 is an Archaic and Middle/Late Woodland site located across a wide terrace overlooking the Pearl River. Its National Register of Historic Places (NRHP) eligibility has yet to be determined, so if it cannot be avoided, Phase II testing/evaluation/assessment is required to determine NHRP eligibility in consultation with the relevant Mississippi Native American Tribes.

The following sites appear to directly fall within the proposed clearing limits:

- 22Ra692 is a deeply buried, very early prehistoric site, represented by a cluster of pitted/anvil/abrader/hammerstones in apparent association with an expended lanceolate base projectile point/knife, dating to the transitional Paleo-Archaic period and identification of a Dalton culture feature at 40 cmbs (1.3 ft.). Avoidance of the site would be preferred, but if it is to be impacted, then full scale data recovery/mitigation/salvage excavations need to be conducted after consultation with the relevant Mississippi Native American Tribes.

Comments for Alternative C (Channel Improvement Plan):

The following sites appear to directly fall within the proposed fill areas:

- 22Ra502 is the Flowood Mound Site. This site is eligible for listing on the National Register. It should be avoided. If it cannot be avoided, then data recovery/mitigation/full salvage excavation should be conducted after consultation with the relevant Mississippi Native American Tribes.
- 22Ra546 is an Archaic and Middle/Late Woodland site located across a wide terrace overlooking the Pearl River. Its National Register of Historic Places (NRHP) eligibility has

Mr. Dinkelacker
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- yet to be determined, so if it cannot be avoided, Phase II testing/evaluation/assessment is required to determine NHRP eligibility in consultation with the relevant Mississippi Native American Tribes.
- 22Ra689 is a Middle/Late Woodland site with minor Mississippian and Early Woodland period occupations that is eligible due to its moderately-high artifact density and depth of recovery, suggesting potential for undisturbed materials at depth. If it cannot be avoided, then data recovery/mitigation/full salvage excavation should be conducted after consultation with the relevant Mississippi Native American Tribes.

The following sites appear to directly fall within the proposed channel improvement areas:

- 22Ra596 is a prehistoric site of undertermined age located across uplands overlooking Neely Creek. Its National Register of Historic Places (NRHP) eligibility has yet to be determined, so if it cannot be avoided, Phase II testing/evaluation/assessment is required to determine NHRP eligibility in consultation with the relevant Mississippi Native American Tribes.
- 22Ra597 is a prehistoric site of undertermined age located across a small knoll across an upland setting overlooking Neely Creek. Its National Register of Historic Places (NRHP) eligibility has yet to be determined, so if it cannot be avoided, Phase II testing/evaluation/assessment is required to determine NHRP eligibility in consultation with the relevant Mississippi Native American Tribes.
- 22Ra671 is the City Landing or Ferry Bridge Site. This is an important historic site relevant to the history of the area. Its NRHP eligibility has yet to be determined, so if it cannot be avoided, Phase II testing/evaluation/assessment is required to determine eligibility. Given the location and type of site, we recommend that the area be subjected to backhoe trenching to discover features that should then be hand-excavated.
- 22Ra692 is a deeply buried, very early prehistoric site with Paleo/Early Archaic deposits and later Middle/Late Woodland through Mississippian occupations. Avoidance of the site would be preferred, but if it is to be impacted, then full scale data recovery/mitigation/salvage excavations need to be conducted after consultation with the relevant Mississippi Native American Tribes.
- 22Ra693 is an Archaic and Middle/Late Woodland site that is eligible due to its dense and diverse artifact assemblage and depth of recovery. If it cannot be avoided, then data recovery/mitigation/full salvage excavation should be conducted after consultation with the relevant Mississippi Native American Tribes.

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The following sites appear to directly fall within the proposed channel improvements and adjacent fill areas:

- 22Ra698 is discrete Middle/Late Woodland site situated across a small knoll on the terrace immediately overlooking Prairie Branch, a tributary of the Pearl River. If it cannot be avoided, then data recovery/mitigation/full salvage excavation should be conducted after consultation with the relevant Mississippi Native American Tribes.

Areas previously surveyed in 1981 (MDAH# 81-027 "Cultural Resources Survey of Selected Flood Control Plans, Pearl River, near Jackson, Mississippi" by Dottie Gibbens) should be resurveyed, as the survey methodology used at the time (arbitrary shovel testing and limited pedestrian reconnaissance of high probability areas) did not meet the minimum standards for archaeology for the State of Mississippi.

Areas previously surveyed in 1983 (MDAH# 83-054 "A Cultural Resources Inventory of the Proposed Dry Impoundment Area North of Ross Barnett reservoir and Field Reconnaissance of the Pearl River, Between River Miles 278 and 301, Jackson, Mississippi" by Heartfield, Price and Greene, Inc.) should be resurveyed, as the survey methodology used at the time (judgmental shovel testing and pedestrian reconnaissance of high probability areas) did not meet the minimum standards for archaeology for the State of Mississippi.

Areas previously surveyed in 1987 (MDAH# 87-092 "Cultural Resources Survey Report" by Alan Whitehead) should be resurveyed, as the survey methodology used at the time (judgmental shovel testing and pedestrian reconnaissance) did not meet the minimum standards for archaeology for the State of Mississippi.

Areas previously surveyed in 1990 (MDAH# 90-121 "Cultural Resources Investigations, Jackson Metropolitan Area, Mississippi" by R. Christopher Goodwin, Stephen Hinks, William P. Athens, Julie McClay, and William A. Morgan) should be resurveyed, as the survey methodology use at the time (vehicular reconnaissance of portions of the levee corridor and limited pedestrian reconnaissance) did not meet the minimum standards for archaeological survey for the State of Mississippi.

Areas previously surveyed in 1991 (MDAH# 91-284 "Pearl River Feasibility Study, Cultural Resources Survey, Hinds and Rankin Counties, Mississippi" by James Lauro) should be resurveyed, as the survey methodology use at the time (judgmental shovel testing and primarily pedestrian reconnaissance) did not meet the minimum standards for archaeology for the State of Mississippi.

Mr. Dinkelacker
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Areas previously surveyed in 1992 (MDAH# 92-281 "Cultural Resources Survey of Two Soil Conservation Service Project Areas, Adams and Hinds Counties, Mississippi" by Erwin Roemer) should be resurveyed, as the survey methodology used at that time (arbitrary shovel testing and limited pedestrian reconnaissance of high probability areas) did not meet the minimum standards for archaeology for the State of Mississippi.

Areas previously surveyed in 1993 (MDAH# 93-024 "Cultural Resource Survey and Testing on the Pearl River in the Jackson Metro Area" by James Lauro) should be resurveyed, as the survey methodology used at that time (20% sample of areas considered to be in a higher order of probability to contain archaeological sites and 5% low probability areas; transect spacing of 50 meters in open ground and 75 meters in wooded, densely vegetated areas) did not meet the minimum standards for archaeological survey for the State of Mississippi.

Areas previously surveyed in 1995 (MDAH# 95-143 "A Cultural Resource Survey of a 40-Acre Tract of Land, Madison County, Mississippi" by James Lauro) should be resurveyed, as the survey methodology used at that time (arbitrary shovel testing and limited pedestrian reconnaissance of high probability areas) did not meet the minimum standards for archaeological survey for the State of Mississippi.

Areas previously surveyed in 1996 (MDAH# 96-323 "A Cultural Resources Investigation of Approximately 60 Acres, Rankin County, Mississippi" by James Lauro) should be resurveyed, as the survey methodology used at that time (arbitrary shovel testing and pedestrian reconnaissance) did not meet the minimum standards for archaeological survey for the State of Mississippi.

As previously stated in the 2006 report (MDAH #06-314 "Phase I Cultural Resources Survey of the Proposed LeFleur Lakes, Hinds, Madison and Rankin Counties" by Mary Evelyn Starr, James May, Daniel Allen, James Lauro, and Kristen Kinsella) certain areas were inaccessible to the survey crew at the time of survey due to the lack of landowner permission. We concur with the report's recommendations that these areas should be surveyed for archaeological sites when landowner permission to enter these properties is obtained provided those areas fall within the project's area of potential effect.

We also concur with the 2006 report's recommendations (on page 628) that deep testing, either through trenching or soil coring, should be conducted at locations identified by the geologist and archaeologists. Soil coring to obtain pollen samples and dendochronology samples from submerged stumps should also be conducted as recommended by the report. If this area is to be permanently inundated, then this is would be the last chance to gather these samples.

Mr. Dinkelacker
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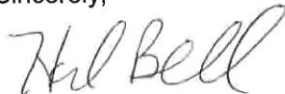
We also recommend that any areas to be included in the proposed project area that have not been surveyed for archaeological sites be surveyed prior to any ground disturbance/inundation.

Several inventoried historic resources also fall within the potential viewshed of the proposed project area and would require NRHP eligibility recommendations and determinations of effect related to the proposed alternative's area of potential effect. Those historic resources include the following:

The Belhaven Historic District (Listed)
The Railroad Switching Tower (MDAH Inventory #049-JAC-0761) - Unevaluated
Woodrow Wilson Bridge (MDAH Inventory #049-JAC-0711-NR-ML) – Listed and Mississippi Landmark
Alabama & Vicksburg (Depot) Railroad Bridge (MDAH Inventory #049-JAC-0772) – Unevaluated
LeFleur's Bluff (MDAH #049-JAC-0773-S) - Unevaluated
GM&N/GM&O Railroad Bridge (MDAH Inventory #049-JAC-0780) - Unevaluated
Hindu Temple (MDAH Inventory 121-BRN-4025)

If you have any questions, please contact me at 601-576-6940.

Sincerely,




Hal Bell
Review and Compliance Officer

FOR: Katie Blount
State Historic Preservation Officer

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Integrated Feasibility Study and Environmental Impact Statement
Pearl River Watershed, Hinds and Rankin Counties, MS

MISSISSIPPI DEPARTMENT of ARCHIVES AND HISTORY

MDAH 

HISTORIC PRESERVATION DIVISION
P. O. BOX 571
Jackson, MS 39205-0571
Phone 601-576-6940 Fax 601-576-6955
Website: mdah.ms.gov

August 22, 2018

Ms. Jennifer Ryan,
U.S. Army Corps of Engineers, Vicksburg District
4155 East Clay Street
Vicksburg, Mississippi 39183-3435

RE: Draft Feasibility Study/Environmental Impact Statement for the Pearl River Basin federal flood risk reduction project, Rankin Hinds Pearl River Flood and Drainage Control District, (USACE) MDAH Project Log #08-020-18, Hinds and Rankin Counties

Dear Ms. Ryan:

We have reviewed the June 15, 2018, draft FS/EIS, received on August 2, 2018, for the above referenced project, pursuant to our responsibilities under Section 106 of the National Historic Preservation Act and 36 CFR Part 800. After review, we have the following comments:

Comments: Tentatively Selected Plan (TSP)/Locally Preferred Plan (LPP) – Channel Improvements Plan Alternative C)

Executive Summary Section (page x) – Features of the Tentatively Selected Plan

- 1) This alternative calls for the excavation of approximately 25 million yards of soils from 10.4 miles of the existing drainage way (400-2,000 ft.) swath. At the minimal, this amounts to north of 5,000 acres of material. MDAH would require a commitment to have the areas where this material would be deposited be subjected to cultural resources studies/examination.
- 2) The set-back of existing levees would also require cultural resources investigations of those locations and the locations where fill material would be required (if necessary).
- 3) National Register eligibility and effects determination of the existing weir need to be made prior to its relocation.

Section 2.5.9 Cultural and Historic Resources (pages 86 and 87)

General Comment: It would appear that the recommendations/comments from January 2007 and April 2018 are still in effect (further studies and potential mitigation work for specific locations prior to the initiation of disturbance activities). It should be stressed that the number of eligible sites in the project area reflect current, existing knowledge. There is potential for additional eligible resources to be identified after recommended additional cultural resources studies have been conducted association with Section 106 responsibilities.

Integrated Feasibility Study and Environmental Impact Statement
Pearl River Watershed, Hinds and Rankin Counties, MS

Ms. Ryan
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Section 2.5.9.1 (page 87)

Tribal consultation under Section 106 does not need to wait for MDAH review to be complete. A reasonable and good faith effort approach should be concurrent consultation with MDAH and Tribes.

There are no copies of the Tribal correspondence provided in Appendix F. It is advisable to refer to the Tribes as Federally-Recognized Indian Tribes versus local Tribes.

Section 4.5.9 Cultural and Historic Resources (pages 207-209)

Alternative A

Under *Direct Impacts* (lines 5-12 of page 207) – The alternative calls for the buyout of approximately 3,100 structures (homes, businesses, government and public buildings, schools, and hospitals). These structures would require individual NRHP eligibility determinations since they would be adversely affected by the alternative under Section 106. The fact that none are currently designated or listed does not absolve the Section 106 responsibility of evaluating historic properties that are 50 years of age or older for the NRHP.

Under *Indirect Impacts* (lines 13-17 of page 207) – The locations where relocated properties would be relocated to would require Section 106 clearance to insure that a historic property/properties are not impacted by relocation efforts.

Under *Cumulative Impacts* (lines 1-6 of page 208) – MDAH disagrees that Alternative A implementation constitutes minor cumulative effects given the unknown NRHP eligibility of the individual properties slated for relocation.

Alternative B

Under *Direct Impacts* (lines 8-18 of page 208) – The alternative calls for the construction of additional levee segments and associated and additional floodway clearing along the Pearl River channel. Three eligible and one listed archaeological site represent the known resources directly impacted by the project. Given that, data recovery is the most likely mitigation for adverse effects. The proposed footprint will require Section 106 study to identify and target where further cultural resources studies are required to identify any additional eligible cultural resources, should they exist.

Under *Indirect Impacts* (lines 19-27 page 208) – MDAH agrees that further/future development qualifies as adverse effects but argue that this represents possibly moderate-to-major and potentially long-term in duration.

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Ms. Ryan
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Under *Cumulative Impacts* (lines 28-35 of page 208 and lines 1-2 of page 209) - MDAH disagrees that Alternative B implementation constitutes minor cumulative effects given the potential for additional NRHP eligible resources that could be identified after recommended additional cultural resources studies.

Alternative C

Under *Direct Impacts* (lines 4-18 of page 209) – The alternative calls for the construction of channel improvements, associated weir structure, and improved levee segments. MDAH agrees with avoidance strategies provided that site avoidance does not in turn adversely affect its current condition/state through the project's implementation. MDAH also agrees with the commitment to additional cultural resources studies be completed prior to construction but argues that potential adverse impacts could be long-term in duration dependent upon the results of additional cultural resources surveys.

Furthermore, given the scale of this project, a Programmatic Agreement would be advisable to consult interested parties to develop measures/protocols through consultation to implement in the advent of inadvertent discoveries during construction.

Under *Indirect Impacts* (lines 19-27 page 208) – MDAH agrees that dredge disposal areas are an indirect impacts considering that locations have not been identified. It is the expectation that these locations would be subjected to MDAH review prior to their use as such. MDAH also agrees that further/future development qualifies as adverse effects but argue that this represents possibly moderate-to-major and potentially long-term in duration.

Under *Cumulative Impacts* (lines 30-36 of page 209 and lines 1-3 of page 210) - MDAH disagrees that Alternative C implementation constitutes minor cumulative effects given the potential for additional NRHP eligible resources that could be identified after recommended additional cultural resources studies.

If you need additional information, please let me know.

Sincerely,



Hal Bell
Review and Compliance Officer

FOR: Katie Blount
State Historic Preservation Officer

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Integrated Feasibility Study and Environmental Impact Statement
Pearl River Watershed, Hinds and Rankin Counties, MS

August 28, 2018

Mr. John Underwood, Chief Archaeologist
Mississippi Department of Archives and History
Historic Preservation Division
P.O. Box 571
Jackson, MS 39205-0571

**RE: Jackson, Mississippi Flood Control Project
MDAH Log No. 03-055-18
Rankin and Hinds Counties**

Dear Mr. Underwood

Thank you for providing comments, dated April 11, 2018, regarding the Jackson MS Flood Control project. Also, thank you for taking time to meet on May 24th to discuss the comment letter and the overall project.

After reviewing the letter in detail and discussing the project with your office, there are several items noted in your April 11th letter that we wish to clarify and items that we are requesting further clarification on. Please accept the following as a response to your comment letter:

1. The April 11th comment letter from your agency references the project as the LeFleur Lakes project. As discussed during our meeting, we understand why this mistake was made. This is not the LeFleur Lakes project. The current project is commonly referred to as the Jackson Metropolitan Flood Control Project. Please make this correction.
2. The first paragraph of your letter states that a cultural resources survey should be conducted due to the presence of recorded sites in the APE, topography of the area, presence of recorded sites in close proximity and the fact that the area was surveyed prior to 1994.

This is a broad statement that was clarified during our meeting. During our meeting with you and your agency, the following was discussed in terms of survey activities in the project area:

- a. Sites within the project area that have been determined to be eligible will not be revisited. The eligible sites (22Ra502, 22Ra689, 22Ra693) will be avoided.
- b. Known sites with an undetermined eligibility will be tested (Phase II activities) prior to construction. The level of Phase II testing will be commensurate with the specific site.
- c. For lands within the project footprint that have not been surveyed, were surveyed prior to 2001, or were not surveyed to the 2001 standards, a research design will be prepared that will outline the proposed survey methodology. For example, many of the areas within the project footprint have been previously disturbed

Integrated Feasibility Study and Environmental Impact Statement
Pearl River Watershed, Hinds and Rankin Counties, MS

(construction of the levee's). We would not propose to survey these areas in the research design. Prior to construction, we will collectively agree to the survey protocol of the lands within the project area during the research design review. Once your agency approves the research design, cultural resources surveys would commence prior to construction and would be submitted to your agency for review and concurrence.

Please accept this as a response and update to your April 11, 2018. We would further ask that you please respond, in writing, upon your receipt and review.

Sincerely,

A handwritten signature in black ink, appearing to read "Walt Dinkelacker".

Walt Dinkelacker

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Mississippi Department of Archives and History
Integrated Feasibility Study and Environmental Impact Statement
Pearl River Watershed, Hinds and Rankin Counties, MS



HISTORIC PRESERVATION DIVISION
P. O. BOX 571
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Website: mdah.ms.gov

September 21, 2018

Mr. Walt Dinkelacker
Headwaters Consulting
Post Office Box 2836
Ridgeland, Mississippi 39157-2836

RE: Proposed Jackson Flood Control Project, (USACE) MDAH Project Log
#08-164-18 (03-055-18), Hinds and Rankin Counties

Dear Mr. Dinkelacker:

We have reviewed your August 28, 2018, letter, received on August 29, 2018, for the above referenced project in accordance with our responsibilities under Section 106 of the National Historic Preservation Act and 36 CFR Part 800. After review, we concur with the scope and recommendations as outlined in the letter.

If you have any questions, please contact me at 601-576-6940.

Sincerely,

Hal Bell
Review and Compliance Officer

FOR: Katie Blount
State Historic Preservation Officer

List of Acronyms and Abbreviations

ACHP	Advisory Council on Historic Preservation
ACTT	Alabama-Coushatta Tribe of Texas
APE	Area of Potential Effects
ASA(CW)	Assistant Secretary of the Army for Civil Works
CEMVN	USACE New Orleans District
CEMVK	USACE Vicksburg District
CN	Chickasaw Nation
CNO	Choctaw Nation of Oklahoma
CT	Coushatta Tribe of Louisiana
CTL	Chitimacha Tribe of Louisiana
EO	Executive Order
CLG	Certified Local Government
JBCI	Jena Band of Choctaw Indians
LDOA	Louisiana Division of Archaeology
MBCI	Mississippi Band of Choctaw Indians
MCN	Muscogee (Creek) Nation (MCN)
MDAH	Mississippi Division of Archives and History
MVD	Mississippi Valley Division
NEPA	National Environmental Policy Act
NFS	Non- Federal Sponsor
NHL	National Historic Landmarks
NHPA	National Historic Preservation Act
NRHD	National Register of Historic District
NRHP	National Register of Historic Places
PA	Programmatic Agreement
QN	Quapaw Nation
SHPO	State Historic Preservation Officer
TBTL	Tunica-Biloxi Tribe of Louisiana
USACE	United States Army Corps of Engineers

1 **PROGRAMMATIC AGREEMENT AMONG**
2 **THE U.S. ARMY CORPS OF ENGINEERS, VICKSBURG DISTRICT; RANKIN-HINDS FLOOD**
3 **CONTROL DISTRICT; THE MISSISSIPPI DEPARTMENT OF ARCHIVES AND HISTORY;**
4 **AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION; REGARDING THE PEARL**
5 **RIVER BASIN, MISSISSIPPI FLOOD RISK MANAGEMENT PROJECT, HINDS AND RANKIN**
6 **COUNTIES, MISSISSIPPI**
7

8 **WHEREAS**, in order to address periodic flooding of the Pearl River within the Jackson
9 Metropolitan Area, the U.S. Army Corps of Engineers (USACE), Vicksburg District (CEMVK), in
10 partnership with the Rankin Hinds Pearl River Flood and Drainage Control District (RHFDCCD)
11 as the Non-Federal Interest (NFI), plans to carry out the Pearl River Basin, Mississippi Flood
12 Risk Management Project, Hinds and Rankin Counties, Mississippi (PRBMFRMP; Undertaking)
13 under the standing authority of Section 211 of the Water Resources Development Act (WRDA)
14 of 1996 (WRDA 96), "*Construction of Flood Control Projects by Non-Federal Interests*." The
15 purpose of this project is to provide a comprehensive solution to flood risk in the Jackson
16 Metropolitan Area caused by the Pearl River; and
17

18 **WHEREAS**, CEMVK is the lead Federal agency for purposes of the National Environmental Policy
19 Act of 1969 (NEPA) and its implementing regulations, set out at 40 CFR parts 1500-1508 (43 FR
20 55978), "Section 106" of the National Historic Preservation Act (NHPA) [54 U.S.C. § 300101 et
21 seq.], as amended (54 U.S.C. § 306108), and its implementing regulations, set out at 36 Code of
22 Federal Regulations (CFR) Part 800, and in accordance with 36 CFR § 800.2(a)(2) and 800.8;
23 and
24

25 **WHEREAS**, Section 211 of WRDA 96 provides authority for NFI to undertake the design and
26 construction of federally authorized flood control projects without Federal funding and to be
27 eligible to be reimbursed an amount equal to the estimate of the Federal share of the project after
28 construction is complete. All projects pursued under the authority of section 211 must be planned,
29 designed, and constructed in accordance with appropriate Federal laws and criteria, standards,
30 and policies, and construction must comply with all applicable Federal and state laws and
31 regulations; and
32

33 **WHEREAS**, as a result of the "Easter Flood" of April 1979, which devastated the City of Jackson,
34 on May 9, 1979, Congress authorized the USACE to develop studies to determine whether any
35 further improvements for flood damage prevention and related purposes would be advisable for
36 the Pearl River. The *Pearl River Basin Interim Report on Flood Control* (USACE 1984)
37 recommended construction of a dry dam upstream of Jackson, Mississippi, in the vicinity of
38 Shoccoe, Mississippi, and Section 401(e)(3) of WRDA 1986 authorized construction, but the dam
39 was subsequently determined to be unimplementable from a local interest standpoint; and
40

41 **WHEREAS**, Section 3104 of WRDA 2007 (WRDA 07), Paragraph (b), modified the "Pearl River
42 Basin Project" originally authorized by WRDA 1986 to authorize the Assistant Secretary of the
43 Army for Civil Works (ASACW) to "construct the project generally in accordance with the plan
44 described in *The Pearl River Watershed, Mississippi, Feasibility Study Main Report, Preliminary*
45 *Draft*, dated February 2007" (USACE 2007). Additionally, Paragraph (c) states, "If the Secretary
46 determines under subsection (b) that the [L]ocally [P]referred [P]lan provides a level of flood
47 damage reduction that is equal to or greater than the level of flood damage reduction provided by
48 the [N]ational [E]conomic [D]evelopment plan and that the locally preferred plan is
49 environmentally acceptable and technically feasible, the Secretary may construct the project
50 identified as the [NED] plan, or the [LPP], or some combination thereof"; and

WHEREAS, RHFDCD developed the *Integrated Feasibility Study & Environmental Impact Statement, Pearl River Basin, Mississippi, Federal Flood Risk Management Project, Hinds & Rankin Counties, Mississippi* (RHFDCD 2018) in order to provide a recommendation for Federal participation in flood risk management within the Pearl River Basin in Mississippi; and

WHEREAS, RHPRFDCD has now completed its initial screening of alternatives and has developed an array of alternatives that meets the study's purpose and need. The three (3) primary alternatives under consideration include, but are not exclusive to: 1) non-structural measures (e.g., buy-out, elevation, and/or floodproofing of commercial and private buildings; see Appendix B); 2) upgrading existing levees, construction of additional levee segments and/or floodwalls in unprotected areas, the addition of pumps and gated structures, and the creation of compensatory habitat mitigation areas; 3) construction of channel improvements, demolition of the existing weir near the J. H. Fewell Water Treatment Plant site, construction of a new weir with a low-flow gate structure further downstream, Federal levee improvements, upgrading an existing non-Federal levee around the Savannah Street Wastewater Treatment Plant, and the creation of compensatory habitat mitigation areas; and

WHEREAS, upon the final decision of which plan, or combination of plans, to construct by the ASACW, CEMVK has received Congressional authorization (WRDA 07 § 3104) and appropriation (WRDA 96 § 211) necessary for the PRBMFRMP to move forward in the Pre-Construction Engineering and Design phase (PED), where additional engineering studies, project design work, surveys, and coordination of Land, Easements, Rights-of-Way, Relocation, and Disposal Areas (LERRDS) by RHFDCD will occur; and the individual footprints of structural measures and properties eligible for non-structural measures will be coordinated with stakeholders as the project is developed further; and

WHEREAS, CEMVK has determined that the PRBMFRMP Project is a Federal Undertaking, as defined by 54 U.S.C. § 300320 and 36 CFR § 800.16(y), consisting of one (1) project with multiple construction items, subject to review under Section 106 of the NHPA, 54 U.S.C. § 306108, and its implementing regulations under 36 CFR § 800 (2004); and may result in multiple construction items, that may affect properties listed in or eligible for listing on the National Register of Historic Places (NRHP) pursuant to 36 CFR Part 60 (historic properties) and/or properties having religious and cultural significance to Federally-Recognized Tribes (hereafter collectively referenced as "Tribes") including sites that may contain human remains and/or associated cultural items; and

WHEREAS, because the scope and programmatic nature of the PRBMFRMP makes it unreasonable to fully identify historic properties or determine the effects of the Undertaking at the present time, CEMVK has concluded that a phased process to conduct identification and evaluation of historic properties (36 CFR § 800.4(b)(2)) and for application of the criteria of adverse effect (800.5(a)(3)), is an appropriate and necessary approach for the agency to meet the requirements of Section 106, and will therefore phase identification, evaluation, and mitigation of historic properties in conjunction with the phasing of construction items; and

WHEREAS, as the Federal agency cannot fully determine how these construction items may affect historic properties, the location of historic properties, or their significance and character, CEMVK has elected to negotiate a Programmatic Agreement (PA) in consultation with

stakeholders, as provided for in 36 CFR § 800.14(b)(1)(ii), to govern the implementation of this Project and fulfill its obligations under Section 106 of the NHPA including the resolution of adverse effects for the Undertaking; and

WHEREAS, in this PA, “Signatories” is defined in 36 CFR § 800.6(c)(1), “Invited Signatories” is defined in 36 CFR § 800.6(c)(2), and “Concurring Party” is defined in 36 CFR § 800.6(c)(3); and

WHEREAS, a Consulting Party will be recognized by CEMVK as a Signatory, Invited Signatory, or a Concurring Party starting on the date the Consulting Party signs this PA and provides CEMVK with a record of this signature; and

WHEREAS, in accordance with 36 CFR § 800.6(c)(1), a Signatory has the authority to execute, amend, or terminate the PA; and

Whereas, in accordance with 36 CFR § 800.6(c)(2), Invited Signatories who sign this PA are signatories with the authority to execute, amend, or terminate the PA; and

WHEREAS, in accordance with 36 CFR § 800.6(c)(3), a Concurring Party is a Consulting Party invited to concur in the PA but who does not have the authority to amend or terminate the PA; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), the Advisory Council on Historic Preservation (ACHP) has been provided the required documentation and invited to participate in this PA. On July 6, 2023, the ACHP provided written notice that it has chosen to participate in the consultation; and

WHEREAS, CEMVK has consulted with the RHFDCD regarding the potential effects of the construction items on historic properties, and as the proponents of the Undertaking, are a Signatory to this PA; and

WHEREAS, pursuant to 36 C.F.R. § 800.6(b)(1), CEMVK has consulted with the Mississippi State Historic Preservation Officer (SHPO) of the Mississippi Department of Archives and History (MDAH) regarding its intent to develop this PA and invited the SHPO to participate. SHPO accepted on March 15, 2023, and is a Signatory to this PA; and

WHEREAS, CEMVK recognizes that the Alabama-Coushatta Tribe of Texas (ACTT), Chickasaw Nation (CN), the Choctaw Nation of Oklahoma (CNO), the Chitimacha Tribe of Louisiana (CTL), the Jena Band of Choctaw Indians (JBCI), the Mississippi Band of Choctaw Indians (MBCI), the Muscogee (Creek) Nation (MCN), Quapaw Nation (QN), and the Tunica-Biloxi Tribe of Mississippi (TBTL) (“Tribes”), may have sites of religious and cultural significance on or off Tribal Lands [as defined in 36 CFR § 800.16(x)] that may be affected by this Undertaking, and in meeting its Federal trust responsibility, CEMVK engaged in Government-to-Government consultation with Federally-Recognized Tribes via letter on February 15, 2023. Pursuant to 36 CFR § 800.2 (c)(2)(ii)(E), and in consideration of the confidentiality of information, CEMVK has invited the Federally-Recognized Tribes to enter into an PA that specifies how CEMVK will carry out Section 106 responsibilities for this Undertaking; and

WHEREAS, the ACTT, CN, CNO, CTL, JBCI, MBCI, MCN, QN, and the TBTL have assumed the responsibilities of the SHPO with respect to its/their Tribal lands through appointment of a Tribal Historic Preservation Officer (THPO) or other representative in accordance with Section 101 of the NHPA and CEMVK will consult with the appropriate THPO in lieu of the SHPO for construction items occurring on or affecting its/their Tribal lands; and

WHEREAS, on February 23, 2023, the CN submitted a written response to CEMVK's February 15, 2023, letter deferring to the "First American Tribe(s) who have identified a connection to the project area," and

WHEREAS, on February 28, 2023, the QN submitted a written response to CEMVK's February 15, 2023, requesting additional Government-to-Government consultation to discuss the details of the project. On March 22, 2023, CEMVK and the QN engaged in additional consultation via teleconference. During this meeting the QN confirmed that consultation to develop a PA is appropriate, the QN is only interested in portion of the project area within Hinds County on west side of Pearl River, and that the QN will participate as a Consulting Party and is a [Invited] Signatory to this PA; and

WHEREAS, CEMVK conducted consultation with the MBCI on July 23, 2019 (letter), February 22, 2023 (e-mail), and March 13, 2023 (telephone conference). During the March 13, 2023, meeting the MBCI confirmed that they will participate as a Consulting Party and is a [Concurring] Party to this PA; and

WHEREAS, on April 4, 2023, the CNO submitted a written response to CEMVK's February 15, 2023, letter requesting to be a Consulting Party and is an Invited Signatory to this PA; and

WHEREAS, as of the date of this Agreement, no other Federally-Recognized Tribes have expressly declined to enter into this Agreement as a signatory party; and

WHEREAS, CEMVK may invite additional Federally-Recognized Tribes that have sites of religious and cultural significance to enter into the terms of this Agreement as Invited Signatories or Concurring Parties in accordance with 36 CFR § 800.14(f), and nothing in this Agreement prevents a Federally-Recognized Tribe from entering into a separate PA or other agreement with CEMVK; and

WHEREAS, the terms of this PA shall not apply to construction items on or affecting Tribal lands without prior execution of the PA by the affected Federally-Recognized Tribe; and

WHEREAS, USACE has informed local governments during the development of this Agreement, including the City of Jackson Certified Local Government, and will take appropriate steps to involve and notify those parties during the implementation of the terms of this Agreement; and

WHEREAS, on May 10, 2023, CEMVK posted a NHPA/NEPA Public Notice on the designated project website: (<http://www.mvk.usace.army.mil/Missions/Programs-and-Project-Management/>)

[Project-Management/Pearl-River/](#)) for a (30)-day comment period requesting the public's input concerning: 1) the proposed Undertaking and its potential to significantly affect historic properties; 2) assistance in identifying any relevant parties who may have an interest in participating in this consultation, and; 3) CEMVK's proposal to develop a PA pursuant to 36 CFR § 800.14(b). No comments were received; and

WHEREAS, for the review of specific construction items under this PA, CEMVK may invite other agencies, organizations, and individuals to participate as Consulting Parties; and

WHEREAS, Consultation among all Signatories, Invited Signatories, and Concurring Parties to this PA will continue throughout the implementation of the PA. Consultation is mutual, meaningful dialogue regarding the fulfillment of this PA, the process of Section 106 compliance, and the treatment of historic properties that may be affected by the Undertaking; and

WHEREAS, The Signatories, Invited Signatories, and Concurring Parties have determined that USACE's Section 106 requirements can be effectively and efficiently implemented through a programmatic approach stipulating roles and responsibilities, exempting certain construction items from Section 106 review, establishing protocols for consultation, facilitating identification and evaluation of historic properties, and streamlining the assessment and resolution of adverse effects; and,

NOW, THEREFORE, CEMVK, RHFDCCD, SHPO, ACHP (Signatories), CNO, QN (Invited Signatories), and MBCI (Concurring Party) agree that the PRBMFRMP shall be administered in accordance with the with the following stipulations in order to take into account the effects of the Undertaking on historic properties and to satisfy CEMVK's responsibilities under Section 106 of the NHPA for all resulting construction items. CEMVK will not authorize implementation of an individual construction item until Section 106 review is completed pursuant to this Agreement.

STIPULATIONS

To the extent of its legal authority, and in coordination with other Signatories, Invited Signatories, and Concurring Parties, CEMVK will implement the following measures:

I. GENERAL

A. Applicability

1. CEMVK has determined that the following types of activities have limited or no potential to affect historic properties and CEMVK has no further Section 106 responsibilities with regards to them, pursuant to 36 CFR § 800.3(a)(1):
 - a) Administrative actions such as personnel actions, travel, procurement of services, supplies (including vehicles and equipment) for the support of day-to-day operational activities.

- b) Providing funding for planning, studies, and design and engineering costs that involve no commitment of resources other than staffing and associated funding.
- c) Funding the administrative action of acquiring properties; including the real estate transactions and transfers.
- d) Surveying, monitoring, data gathering, and reporting in support of planning activities (e.g., soil survey testing, conducting geotechnical boring investigations or other geophysical and engineering activities) provided that such testing is shifted to avoid impacts to known cultural resources and that soil survey and geotechnical testing of sediment utilizes hand-dug test pits, hand probes, cores, and/or augers. If heavy equipment (i.e., backhoes, tractors, excavators, etc.) will be used as part of the testing process, then the activities are considered to have potential to affect historic properties. Under such circumstances, Section 106 consultation will be required in accordance with Stipulation II.F.1.

B. Timeframes and Communications

1. All references to time periods in this PA are in calendar days. If a review period included in this PA ends on a Saturday, Sunday, or State/Federal holiday, the review period will be extended until the next business day. Any electronic communication forwarding plans or other documents for review under the terms of the PA that is sent after 4:00 pm Central Time will be deemed to have been received by the reviewing party on the next business day. E-mail comments submitted by a Signatory, Invited Signatory, or Concurring Party for review under this PA are timely if they are received at any time on the last day of a review period. Responses sent by U.S. mail will be accepted as timely if they are postmarked by the last day allowed for the review.
2. CEMVK will provide the Signatories, Invited Signatories, and Concurring Parties with the opportunity to review and comment on various documents and reports as specified under the terms of the PA. Determinations or reviews that have been completed by CEMVK under the terms of this PA prior to the signature of a Signatory, Invited Signatory, or Concurring Party will not be reconsidered because the Consulting Party did not have the opportunity to review and comment.
3. The Signatories, Invited Signatories, and Concurring Parties may send and accept official notices, comments, requests for further information and documentation, and other communications required by this PA by electronic mail (e-mail). If the size of an e-mail message is unusually large or an e-mail is returned to a sender because its size prevents delivery, the sender will contact the recipient(s) and determine alternative methods to deliver the information.
4. Time sensitive information that is not sent by e-mail should be sent by overnight mail, courier, or be hand-delivered and the timeframe for its review will be measured by the

date the delivery is signed for by the individual recipient, agency, or organization representing the Signatory, Invited Signatory, or Concurring Party.

5. Due to the varied nature of construction items, the individual response times to CEMVK's requests for comment or concurrence will vary. These response times are contingent upon CEMVK ensuring that its findings and determinations are made by *Qualified Staff* as defined in Stipulation II.A.1(b) and supported by documentation as required by 36 CFR § 800.11(d) and 36 CFR § 800.11(e), and consistent with CEMVK guidance.
6. The response time for each request for comment or concurrence shall be a maximum of thirty (30)-days, unless otherwise stipulated in this PA or agreed to on a case-by-case basis.
7. The failure of any Signatory, Invited Signatory, or Concurring Party to comment or concur on CEMVK's finding or determination within an agreed upon timeframe, will be treated by CEMVK as non-objection, and CEMVK may proceed to the next step in the consultation process without taking additional steps to seek comments from that party.

C. Points of Contact

1. The Signatories, Invited Signatories, and Concurring Parties of this PA will each designate a primary and secondary point-of-contact (see Appendix A). The primary contact is the contact to which all formal correspondence is sent. If the individual designated as the primary point-of-contact is not available, communications shall be directed to the secondary contact.
2. It is the responsibility of each Signatory, Invited Signatory, and Concurring Party to inform CEMVK of any changes in the name, address, e-mail address, or phone number of the point-of-contact. Such changes shall not require an amendment to this PA. CEMVK will forward this information to the other Consulting Parties by e-mail. The failure by any party to this PA to notify CEMVK of changes to their point-of-contact's information shall not be grounds for asserting that notice of a proposed action was not received.

D. Confidentiality

1. In accordance with 36 CFR § 800.6(a)(5), if a Federally-Recognized Indian Tribe requests that specific information shared with CEMVK be kept confidential, or if the agency official believes that there are other reasons to withhold information, CEMVK will comply to the extent allowed by law.
2. CEMVK will safeguard information about historic properties provided by SHPO and/or sites of traditional, religious, and/or cultural importance to Federally-Recognized Tribes, including location information or non-public information provided by SHPO/Federally-Recognized Tribes to assist in the identification of such properties, to the extent allowed

by Section 304 of NHPA (54 U.S.C. § 307103), and other applicable laws. In accordance with Stipulation II.A.1(b) only *Qualified Staff* will be afforded access to protected historic property information.

3. CEMVK will provide to all Consulting Parties the documentation specified in 36 CFR § 800.11 subject to the confidentiality provisions of 36 CFR § 800.11(c) and such other documentation as may be developed during consultation to resolve adverse effects.

E. Roles and Responsibilities of the Signatories

1. CEMVK:

- a) Shall not construct components of an individual construction item until Section 106 review is completed pursuant to this PA.
- b) Will notify and consult with the SHPO, Federally-Recognized Tribes, and other Consulting Parties, as appropriate. Consultations may include face-to-face meetings, as well as communications by U.S. mail, e-mail, facsimile, and/or telephone. Times and places of meetings, as well as an agenda for meetings, will be developed with mutual acceptance and done in a timely manner.
- c) Will consult with any Federally-Recognized Tribe on a Government-to-Government basis in recognition of their sovereign status, whether a signatory to this PA or not, throughout any activity or construction item that might affect historic properties; particularly in regard to sites that may have traditional, religious, and/or cultural importance to Federally-Recognized Tribes. In meeting its Federal trust responsibility, CEMVK alone will conduct all Government-to-Government consultation with Federally-Recognized Tribes.
- d) Will be responsible for determining the Area of Potential Effects (APE), identifying historic properties located within the APE, providing NRHP eligibility determinations, and findings of effect, in consultation with SHPO, Federally-Recognized Tribes, and other Consulting Parties.
- e) Will ensure all Cultural Resources review is conducted by staff meeting the *Professional Standards* as outlined in Stipulation II.A.1(c).
- f) Will ensure that all documentation generated as part of the NHPA process resulting from the Undertaking will be consistent with applicable *Standards* (Stipulation II.A.1(a)) and confidentiality provisions outlined in Stipulation I.D.
- g) Will provide to the NFI, a written record of all stipulations and conditions pursuant to this agreement regarding the subject real property that the NFI has jurisdiction over and ensure that they are understood. Additionally, CEMVK will provide the NFI with guidance on the treatment of any historic properties, if applicable.

- h) Will provide the other Signatories and ACHP with an annual report for each year that this PA is in effect as outlined in Stipulation V.E.1.

2. SHPO/THPO(s):

- a) Will coordinate with CEMVK, to identify Consulting Parties, including any communities, organizations, or individuals that may have an interest in a specific construction item and its effects on historic properties.
- b) Will review CEMVK's determination of the APE, NRHP eligibility, findings of effect, and respond within timeframes required by this PA.
- c) Upon request, SHPO will provide CEMVK with available information about historic properties (such as access to site files, GIS data, survey information, geographic areas of concern). Only *Qualified Staff* will be afforded access to protected historic property information.
- d) For construction items on Tribal lands or affecting properties of religious and cultural significance, and where no Tribe-specific consultation agreements or protocols are in place, CEMVK will consult with affected Federally-Recognized Tribes in accordance with 36 CFR Part 800. In determining the specific Tribes affected, CEMVK will first establish that it is a construction item with the potential to affect historic properties with religious and cultural significance and may consult with Federally-Recognized Tribes, SHPO, and Consulting Parties, as appropriate, and access the U.S. Department of Housing and Urban Development *Tribal Directory Assessment Tool* (<https://egis.hud.gov/tdat/>), or other tools to identify geographic Tribal interests.
- e) Will be available as a resource and participate in reviews of construction items and consultation as needed and any other roles appropriate to the completion of the goals of this PA. In those instances where consultation with SHPO/THPO(s) or other Tribal-designated representative has occurred, CEMVK will document any decisions that were reached in its project file.
- f) Will review the annual report provided by CEMVK and will recommend any actions or revisions to be considered; including updates to the appendices in accordance with Stipulation V.E.2.
- g) Will participate in meetings convened by CEMVK or any other Signatory, Invited Signatory, or Concurring Party to review the effectiveness of this PA.

3. NFI:

- a) Will coordinate with CEMVK, to identify Consulting Parties, including any communities, organizations, private landowners, or other individuals that may have an interest in a specific construction item and its effects on historic properties.

- b) Will participate in meetings as needed and any other roles appropriate to the completion of the goals of this PA.
 - c) Agrees to comply with all stipulations and conditions pursuant to this PA regarding real property under its ownership, authority, control, and/or jurisdiction that is being investigated or used for the PRBMFRMP.
 - d) Agrees that it will consider any guidance regarding the treatment of historic properties provided by CEMVK or other Consulting Parties in future planning regarding the subject real property.
 - e) Will review the annual report provided by CEMVK and will recommend any actions or revisions to be considered; including updates to the appendices in accordance with Stipulation V.E.2.
 - f) Will participate in meetings convened by CEMVK or any other Signatory, Invited Signatory, or Concurring Party to review the effectiveness of this PA.
 - g) Will assist in determining the final disposition of any recovered archaeological collections from any required archaeological survey, evaluation, Standard Treatment Measure (STM) or project-specific Memorandum of Agreement (MOA) Treatment Measure (TM), or post-review discovery, in accordance with Stipulation III.B of this PA and will coordinate with any private landowners regarding MDAH *Archaeology Collections Deed of Gift* forms, if necessary.
4. ACHP:
- a) ACHP will provide guidance and advisory information to resolve disputes that may occur during the implementation of this Agreement, pursuant to the Dispute Resolution process in Stipulation V.B of this PA.
 - b) ACHP will advise USACE if it will participate in consultations to resolve adverse effects, pursuant to 36 CFR § 800.6(a)(1).
 - c) ACHP will participate in the annual reviews convened by USACE to review the effectiveness of this Agreement.

F. Public Participation

1. To date, CEMVK has undertaken the public outreach and participation activities which have been memorialized in "Whereas" clauses found in this PA.
2. It is the intent of NEPA that Federal agencies encourage and facilitate public involvement to the extent practicable in decisions that may affect the quality of the environment. CEMVK will also provide public notices and the opportunity for public

comment or participation on the Undertaking through the NEPA public participation process, and if applicable, Executive Order 12898 (*Environmental Justice*) provided such notices specifically reference Section 106 as a basis for public involvement.

3. CEMVK recognizes that the views of the public are essential to informed decision making throughout the Section 106 consultation process. CEMVK will notify the public of the proposed implementation of any construction item-specific STM or MOA TM as required by this PA in a manner that reflects the nature, complexity, and significance of historic properties potentially affected by the construction item and the likely public interest given CEMVK's specific involvement.
4. CEMVK may confer with Consulting Parties to determine if there are individuals, groups, or organizations with a demonstrated interest in historic properties that should be included as a Consulting Party for any specific construction item in accordance with 36 CFR § 800.2(c)(5). If such parties are identified, or identify themselves to CEMVK, CEMVK will provide them with information regarding the construction item and its effects on historic properties, consistent with the confidentiality provisions of Stipulation I.D of this PA.
5. CEMVK will ensure that reasonable time frames for public comment are afforded and will consider all views provided by the public regarding any specific construction item. CEMVK will provide contact information and accept responses to its requests for public comments through the U.S. mail or e-mail submittals.
6. Should a member of the public object to implementation of the PA's terms, CEMVK will notify the other Consulting Parties by e-mail and take the objection into consideration. CEMVK will consult with the objecting party and, if that party so requests, the other Signatories, for not more than fifteen (15)-days. In reaching its decision regarding the objection, CEMVK will take into consideration all comments from these parties. Within fifteen (15)-days after closure of this consultation period, CEMVK will provide the other Consulting Parties with its final decision in writing.
7. Additional opportunities for NEPA participation and NEPA-related public comment will be relayed through appropriate means (e.g., postings, publications, social media), as is applicable.

II. PROJECT REVIEW

A. Standards

1. This PA uses the definitions presented in the subsequent paragraphs to establish standards for performing all cultural resource project reviews and investigations required under the terms of this PA including, but not limited to, site identification, NRHP eligibility evaluations, and as appropriate, STM or MOA TM for the resolution of adverse effects to historic properties:

- 496 a) “Standards” — shall mean the Secretary of the Interior’s (SOI) *Standards and*
 497 *Guidelines for Archaeology and Historic Preservation* [Federal Register 48(190)
 498 1983:44716-44737] ([https://www.nps.gov/subjects/historicpreservation/upload/](https://www.nps.gov/subjects/historicpreservation/upload/standards-guidelines-archeology-historic-preservation.pdf)
 499 [standards-guidelines-archeology-historic-preservation.pdf](https://www.nps.gov/subjects/historicpreservation/upload/standards-guidelines-archeology-historic-preservation.pdf)).
 500
- 501 b) “Qualified Staff” — shall mean staff who meet, at a minimum, the SOI
 502 *Professional Qualifications Standards* set forth at 48 FR 44738 (September 29,
 503 1983), for History, Archaeology, Architectural History, Architecture, or Historic
 504 Architecture ([https://www.federalregister.gov/documents/1997/06/20/97-16168/](https://www.federalregister.gov/documents/1997/06/20/97-16168/the-secretary-of-the-interiors-historic-preservation-professional-qualification-standards)
 505 [the-secretary-of-the-interiors-historic-preservation-professional-qualification-](https://www.federalregister.gov/documents/1997/06/20/97-16168/the-secretary-of-the-interiors-historic-preservation-professional-qualification-standards)
 506 [standards](https://www.federalregister.gov/documents/1997/06/20/97-16168/the-secretary-of-the-interiors-historic-preservation-professional-qualification-standards)) and the appropriate qualifications presented in *Professional*
 507 *Qualifications* (36 CFR Part 61, Appendix A).
 508
- 509 c) “Professional Standards” — shall mean that all cultural resource investigations
 510 shall be performed by, or under the direct (in-field) supervision, of appropriate
 511 professional(s), or by contractors, who are “Qualified Staff.”
 512
- 513 d) “Field, Analysis, Documentation, Reporting, and Curation Standards” — CEMVK
 514 shall ensure that all fieldwork, analysis, documentation, reporting, and curation
 515 resulting from construction items reviewed pursuant to this PA are consistent with
 516 the MDAH *Mississippi Standards for Archaeological Practices* and the MDAH,
 517 Mississippi Historic Preservation Division (MHDP), *Architectural Survey*
 518 *Standards* ([https://www.mdah.ms.gov/sites/default/files/2020-06/20200610-MS-](https://www.mdah.ms.gov/sites/default/files/2020-06/20200610-MS-STANDARDS-AND-GUIDELINES.pdf)
 519 [STANDARDS-AND-GUIDELINES.pdf](https://www.mdah.ms.gov/sites/default/files/2020-06/20200610-MS-STANDARDS-AND-GUIDELINES.pdf)), or the most current versions located on
 520 the MDAH website.
 521
- 522 e) “Policies and Guidelines” — shall mean guidance from any of the following:
 523
- 524 • The National Park Service (NPS) publication: *The Archaeological Survey:*
 525 *Methods and Uses* (NPS 1978);
 - 526 • ACHP’s *Treatment of Archeological Properties: A Handbook* (1980; [https://](https://www.achp.gov/sites/default/files/documents/2018-11/Treatment%20of%20Archeological%20Properties-A%20Handbook-OCR.pdf)
 527 [www.achp.gov/sites/default/files/documents/2018-11/Treatment%20of%20](https://www.achp.gov/sites/default/files/documents/2018-11/Treatment%20of%20Archeological%20Properties-A%20Handbook-OCR.pdf)
 528 [Archeological%20Properties-A%20Handbook-OCR.pdf](https://www.achp.gov/sites/default/files/documents/2018-11/Treatment%20of%20Archeological%20Properties-A%20Handbook-OCR.pdf));
 - 529 • *Identification of Historic Properties: A Decision-making Guide for Managers*
 530 (1988, joint ACHP-NPS publication);
 - 531 • *ACHP’s Consulting About Archeology Under Section 106* (1990);
 - 532 • *ACHP’s Recommended Approach for Consultation on Recovery of Significant*
 533 *Information from Archeological Sites* (1999);
 - 534 • *ACHP’s Policy Statement Regarding the Treatment of Burial Sites, Human*
 535 *Remains and Funerary Objects* (2007; [https://www.achp.gov/sites/default/](https://www.achp.gov/sites/default/files/2018-06/FactSheetPolicyRegardingTreatmentofBurialSitesHumanRemainsandFuneraryObjects.pdf)
 536 [files/2018-06/FactSheetPolicyRegardingTreatmentofBurialSitesHuman](https://www.achp.gov/sites/default/files/2018-06/FactSheetPolicyRegardingTreatmentofBurialSitesHumanRemainsandFuneraryObjects.pdf)
 537 [RemainsandFuneraryObjects.pdf](https://www.achp.gov/sites/default/files/2018-06/FactSheetPolicyRegardingTreatmentofBurialSitesHumanRemainsandFuneraryObjects.pdf));
 - 538 • *ACHP’s Section 106 Archaeology Guidance: A reference guide to assist*
 539 *federal agencies in making effective decisions about archaeological sites*
 540 (2009; <https://www.achp.gov/sites/default/files/guidance/2017-02/ACHP%20>

- [ARCHAEOLOGY%20GUIDANCE.pdf](#);
 • *National Register Bulletin 38, Guidelines for Evaluating and Documenting Traditional Cultural Properties* (1998).

2. In developing Scopes of Work (SOW) for identification and evaluation studies, STM or MOA TM(s), or any other stewardship activities required under the terms of this PA, CEMVK, will comply with the requirements of the 1) *Standards*; 2) *Professional Standards*; 3) *Field, Analysis, Documentation, Reporting, and Curation Standards*; and 4) *Policies and Guidelines*, as in existence at the time they are performed.

B. Programmatic Allowances

3. If CEMVK determines a construction item conforms to one (1) or more allowances in Appendix C of this Agreement, CEMVK shall complete the Section 106 review process by documenting this determination in the project file, without SHPO or Tribal review or notification. Allowances can only be applied by *SOI-Qualified Staff* in accordance with Stipulation II.A.1(b) of this Agreement.
4. If the construction item involves a National Historic Landmark (NHL), CEMVK shall notify SHPO, participating Federally-Recognized Tribes, and NPS NHL Program Manager of the NPS Southeast Regional Office that the construction item conforms to one (1) or more Allowances. CEMVK shall provide information about the proposed Scope of Work (SOW) for the construction item and the Allowance(s) enabling CEMVK's determination.
5. If CEMVK determines any portion of a construction item's SOW does not conform to one (1) or more Allowances listed in Appendix C, CEMVK shall conduct Section 106 review for the entire construction item in accordance Stipulation II.C (*Standardized Project Review*).
6. Allowances may be revised, and new Allowances may be added to this Agreement, in accordance with Stipulation V.A; *Amendments*.

C. Standardized Project Review

1. For construction items not exempted from further Section 106 review under Stipulations I.A and/or I.B, CEMVK will ensure that the following *Standardized Project Review* steps are implemented (Stipulations II.B-H).

D. Defining the Undertaking

1. Plans and Specifications (P+S) for individual construction items implemented under this PA will be submitted to the SHPO, Federally-Recognized Tribes, and interested Consulting Parties, at the 35% (Concept Design) or greater level of completion along with a narrative description of the construction item. Updated P+S and narrative descriptions will be provided if the construction footprint or scope of project changes after development

of the 35% level design. If there are no subsequent revisions to the construction footprint or scope of project, additional P+S will be provided only upon written request.

E. Area of Potential Effects

1. For each construction item implemented under this PA, and in consultation with SHPO and participating Federally-Recognized Tribes, *Qualified Staff* will determine the APE in accordance with 36 CFR § 800.16(d). CEMVK may consider scale and nature of a construction item and additional information provided by other parties, such as the NFI, local governments, and the public when establishing the APE and may be different for different kinds of effects caused by the construction item.
2. The APE will incorporate both direct (e.g., access, staging, and all areas to be impacted by construction activities) and indirect (e.g., visual, change of use, auditory, or atmospheric impacts) effects to historic properties, in addition to reasonably foreseeable cumulative effects, and all aspects of integrity, including their associated settings as applicable.
3. At the conceptual level of design, the APE for each individual construction item is theoretical; CEMVK acknowledges that the APE(s) could change as further design is completed. In accordance with Stipulation II.C.1 of this PA, the PA includes a standardized review process for P+S as they are developed, and therefore; changes to the APE may be warranted as the PED phase is further refined. If necessitated, CEMVK will re-initiate consultation to revise the APE in accordance with the PA and ensure that SHPO and Federally-Recognized Tribes are provided the opportunity to comment as defined under Stipulation II.E.1.
4. CEMVK will provide to SHPO and participating Federally-Recognized Tribes, a map displaying the APE for each construction item and provide any pertinent background information relevant to CEMVK's determination of the APE. SHPO and Federally-Recognized Tribes will provide comment and/or concurrence on the proposed APE within the timeframes outlined in Stipulation I.B.

F. Identification and Evaluation of Historic Properties

1. In consultation with SHPO and Federally-Recognized Tribes, as appropriate, CEMVK will complete the identification and evaluation of historic properties within the APE prior to the approval of an individual construction item in accordance with 36 C.F.R. § 800.4(a-c).
2. Cultural Resource Investigation and Evaluation:
 - a) CEMVK will make a reasonable and good faith effort to identify historic properties [as defined at 36 CFR § 800.16(l)(1)] in accordance with 36 CFR § 800.4(b)(1). CEMVK may consult with SHPO and Federally-Recognized Tribes to determine the level of effort and methodology necessary to identify and evaluate a variety of

historic property types. For properties of religious and cultural significance to affected Federally-Recognized Tribes and/or Traditional Cultural Properties (TCP), CEMVK will consult with the affected Federally-Recognized Tribes to determine geographical areas that may be affected by a construction item and determine the necessary level of effort to identify and evaluate or avoid any such historic properties.

- b) CEMVK will take the appropriate measures necessary to identify historic properties within the APE including, but not limited to: buildings; structures; archeological sites (including shipwrecks and/or and properties of traditional religious and cultural importance to Federally-Recognized Tribes); prehistoric or historic districts; objects; cemeteries or other sites that may contain human remains, funerary objects, sacred objects, or objects of cultural patrimony; and TCPs; including artifacts, records, and/or other remains that are related to and located within such properties and that meet the National Register (NR) criteria.
- c) When CEMVK identifies a construction item with the potential to affect a National Historic Landmark (NHL), CEMVK will contact the NPS NHL Program Manager of the Southeast NPS Regional Office in addition to SHPO, participating Federally-Recognized Tribes, and other Consulting Parties. The purpose of this notification is to ensure early coordination for the construction item which CEMVK later may determine adversely affects the NHL.
- d) All cultural resource surveys will be implemented on a schedule established to accommodate all field investigations and appropriate SHPO and Tribal review prior to the approval of a construction item. CEMVK will provide all documentation for these efforts to the SHPO and Federally-Recognized Tribes, and as appropriate, other Consulting Parties consistent with the confidentiality provisions of Stipulation I.D of this PA.

3. Background Research:

- a) CEMVK will ensure that background research is conducted as per the *Standards* and will entail a review of primary and secondary sources relevant to the environmental, geological, and cultural processes that have influenced the study area to gain an understanding of resource sensitivity, determine the kinds of resources that might be identified within the study area, develop research questions, guide fieldwork, and to facilitate the evaluation of resources using the NRHP Criteria. Research materials consulted may include, but are not limited to, information provided by Consulting Parties and the public, the NRHP database, the MDAH *Historic Resources Inventory Database* (MDAH Website), MDAH Archaeological Site Cards, historic maps, pertinent regional and local cultural resources investigations, historic aerial photography, and other appropriate sources.

4. Identification and Evaluation of Archaeological Resources:

- a) CEMVK will ensure that previous fieldwork and background information is reviewed in conjunction with the APE to guide the level of field efforts necessary for each construction item and will attempt to re-identify all previously recorded archaeological sites and determine what, if any, additional fieldwork is necessary.
 - b) In consultation with SHPO and Federally-Recognized Tribes, survey methods may appropriately exclude land shown to be recently disturbed to an extent that it is unlikely that cultural resources would possess integrity sufficient to be considered eligible for listing on the NRHP. Documentation for excluding such land will be provided in the cultural resource survey report.
 - c) If the Phase I level of effort does not provide adequate information to provide eligibility recommendations for any archaeological sites identified within the APE, CEMVK will conduct Phase II Investigation sufficient to provide conclusive eligibility recommendations and meet the *Standards*. The intent of Phase II Investigation is to determine the eligibility of a site for listing on the NRHP utilizing the least amount of ground disturbance to obtain the necessary information.
 - d) CEMVK will ensure that a MDAH Archaeological Site Card is completed for any newly identified archaeological site. Forms for previously recorded sites will be updated as is necessary.
5. Identification and Evaluation of Built Environment Resources:
- a) CEMVK will ensure that an inventory of all above-ground structures or properties within the APE over forty-five (45)-years of age, along with any structures that may possess exceptional significance, is completed that includes at least two (2) photos (including primary elevation) and provides the details necessary to determine a site's limits/boundaries, function, and/or integrity. A forty-five (45)-year threshold anticipates that the construction item commences no more than five (5)-years after an inventory's completion. Site-specific research shall be limited to what is necessary for CEMVK to conduct a professional NRHP eligibility evaluation.
 - b) CEMVK shall ensure that all elements of the built environment that are surveyed will be evaluated according to guidelines set forth in 36 CFR § 800.4(c)(1), as well as additional guidance provided in National Register Bulletin 15: *How to Apply the National Register Criteria for Evaluation*.
 - c) All submissions will utilize the MHPD's *Mississippi Historic Resources Inventory* (MHRI) system.
6. All fieldwork and reporting will meet the *Standards* as defined in Stipulation II.A.1(d).

G. Determinations of Eligibility and Effect

1. CEMVK will review any NRHP eligibility recommendation based on identification and evaluation efforts and make its own finding of effect resulting from the performance of these activities prior to submitting such determinations to the SHPO, Federally-Recognized Tribes, and other Consulting Parties, as appropriate.
2. CEMVK will determine NRHP eligibility, and consult with SHPO, participating Federally-Recognized Tribes, and other Consulting Parties, as appropriate, regarding these determinations. Should SHPO, participating Federally-Recognized Tribes, or another Consulting Party disagree with the determination of eligibility, CEMVK will either:
 - (1) Elect to consult further with the objecting party until the objection is resolved;
 - (2) Treat the property as eligible for the NRHP; or
 - (3) Obtain a determination of eligibility from the Keeper of the NRHP in accordance with 36 CFR § 63.2(d-e) and 36 CFR § 800.4(c)(2).
3. Findings of No Historic Properties Affected:
 - a) CEMVK will make a finding of “No Historic Properties Affected” under the following circumstances:
 - (1) If no historic properties are present in the APE; or
 - (2) The construction item is designed to avoid effects to historic properties, including NRHP-listed or eligible properties of religious or cultural significance to participating Federally-Recognized Tribes; or
 - (3) The construction item does not affect the character defining features of a historic property.
 - b) CEMVK will notify SHPO and participating Federally-Recognized Tribes(s) and provide supporting documentation in accordance with 36 CFR § 800.11(d) and applicable *Standards*. Unless SHPO or a participating Federally-Recognized Tribe objects to the finding within the applicable timeframes outlined in Stipulation I.B, the Section 106 review of the construction item will have concluded.
 - c) If SHPO or participating Federally-Recognized Tribes, objects to a finding of “No Historic Properties Affected,” CEMVK will consult with the objecting party to resolve the disagreement:
 - (1) If the objection is resolved, CEMVK either may proceed with the construction item in accordance with the resolution or reconsider effects on the historic property by applying the criteria of adverse effect pursuant to Stipulation II.G.4.

(2) If CEMVK is unable to resolve the disagreement, it will forward the finding and supporting documentation to the ACHP and request that the ACHP review CEMVK's finding in accordance with 36 CFR § 800.4(d)(1)(iv)(A) through 36 CFR § 800.4(d)(1)(iv)(C). CEMVK will consider ACHP's recommendation in making its final determination. If CEMVK's final determination is to reaffirm its "no historic properties affected" finding, the Section 106 review of the construction item will have concluded. Otherwise, CEMVK will proceed to Stipulation II.H.

4. Application of the Criteria of Adverse Effect:

- a) If CEMVK finds a construction item may affect historic properties in the APE, including those of religious or cultural significance to affected Federally-Recognized Tribes, CEMVK will apply the criteria of adverse effect to historic properties within the APE including cumulative effects taking into account the views of the Consulting Parties and the public concerning effects in accordance with 36 CFR § 800.5(a).
- b) If CEMVK determines that a construction item does not meet the adverse effect criteria, CEMVK will propose a finding of "No Adverse Effect" in accordance with 36 CFR § 800.5(b):
 - (1) CEMVK will notify SHPO and participating Federally-Recognized Tribes, and all other Consulting Parties of its finding; describe any project specific conditions and future submissions; and provide supporting documentation pursuant to 36 CFR §800.11(e).
 - (2) Unless a Consulting Party objects within the applicable timeframe outlined in Stipulation I.B CEMVK will proceed with its "No Adverse Effect" determination and conclude the Section 106 review.
 - (3) If a Consulting Party objects to a finding of "No Adverse Effect," CEMVK will consult with the objecting party to resolve the disagreement.
 - (4) If the objection is resolved, CEMVK will proceed with the construction item in accordance with the resolution; or
 - (5) If the objection cannot be resolved, CEMVK will request that ACHP review the findings in accordance with 36 CFR § 800.5(c)(3)(i)-(ii) and submit the required supporting documentation. CEMVK will consider ACHP's comments in making its final determination.
- c) If CEMVK finds the construction item may adversely affect historic properties, CEMVK will seek ways to revise the scope of the project to substantially conform to the *Standards*, and/or avoid or minimize adverse effects for NRHP-listed or eligible historic properties and/or properties of religious or cultural significance to

Federally-Recognized Tribes, or TCP(s), as is outlined in Appendix D; STM D.I; *Design Review*.

- d) If CEMVK determines in consultation with SHPO and Federally-Recognized Tribes(s), as appropriate, that a construction item has a low potential to effect archaeological resources, CEMVK may determine “No Adverse Effect,” and may require archaeological monitoring of construction activities. In these instances, an archaeological monitoring plan will be developed in consultation with SHPO and participating Federally-Recognized Tribes prior to construction.
- e) If a construction item is not modified to avoid the adverse effect(s), CEMVK will initiate consultation to resolve the adverse effect(s) in accordance with Stipulation II.H.

H. Resolution of Adverse Effects

1. If CEMVK determines that a construction item may adversely affect a historic property, it will resolve the effects of the construction item in consultation with SHPO, NFI, participating Federally-Recognized Tribes, ACHP (if participating), and other Consulting Parties, by one (1) of the following methods depending upon the severity of the adverse effect(s), as well as determination of the historic property’s significance on a local, state, or national level. When CEMVK determines a construction item will adversely affect an NHL, CEMVK will notify and invite the Secretary and ACHP to participate in consultation in accordance with 36 CFR § 800.10. When ACHP participates in consultation related to an NHL, ACHP will report the outcome of the consultation to the Secretary and the CEMVK Administrator.
2. Abbreviated Resolution Process
 - a) After taking into consideration the significance of the historic properties affected, the severity of the adverse effect(s), and avoidance or minimization of the adverse effect(s), CEMVK may propose in writing to the Consulting Parties to resolve the adverse effects of the construction item through the application of one (1) or more STM(s) outlined in Appendix D as negotiated with SHPO, participating Federally-Recognized Tribes, and other Consulting Parties. The use of these STM(s) may not require the execution of a project-specific MOA.
 - b) In consultation with SHPO, participating Federally-Recognized Tribes, and other Consulting Parties, CEMVK will propose in writing the implementation of a specific STM, or combination of STMs, with the intent of expediting the resolution of adverse effects, and provide documentation as required by 36 CFR § 800.11(e) subject to the confidentiality provisions of 36 CFR § 800.11(c)). The correspondence will include a Historic Properties Treatment Plan that outlines roles and responsibilities for accomplishment of the selected treatment measures, specify the deliverables, and define the timeline.

- 853 c) The ACHP is not required to, and would not normally, participate in the
854 development of Historic Property Treatment Plans, under the Abbreviated
855 Resolution Process. However, the ACHP will receive a copy of the Historic
856 Properties Treatment Plan. Only when requested by USACE, SHPO, Federally-
857 recognized Tribe(s), or other Consulting Parties, would they participate, if the
858 ACHP determines that its participation is warranted.
859
- 860 d) Unless a Consulting Party objects to CEMVK's proposal within the timeframe
861 outlined in Stipulation I.B, CEMVK will proceed with the implementation of the
862 STM(s) and will conclude the Section 106 review.
863
- 864 e) If any of the Consulting Parties objects within the timeframe outlined in Stipulation
865 I.B to the resolution of adverse effects through the application of the Abbreviated
866 Resolution Process, CEMVK will resolve the adverse effect(s) using procedures
867 outlined below in Stipulation II.H.3.
868
- 869 f) Because funding and implementation details of STMs for specific construction
870 items may vary, CEMVK will provide written notice to the Consulting Parties within
871 sixty (60)-days of the completion of the STM(s). This written notice will serve as
872 confirmation that the STM(s) for a specific construction item have been
873 implemented. CEMVK also will include information pertaining to the progress and
874 completion of STMs in the annual report pursuant to Stipulation V.E.
875
- 876 3. Project-Specific Memorandum of Agreement
877
- 878 a) CEMVK will provide ACHP with an adverse effect notice in accordance with 36
879 CFR § 800.6(a)(1) if it has not already provided such under the Abbreviated
880 Resolution Process of this Agreement. If a Consulting Party objects in accordance
881 with Stipulation V.B, or if CEMVK in consultation with SHPO, participating
882 Federally-Recognized Tribes, and other Consulting Parties has determined that a
883 project-specific MOA would be more appropriate to resolve the adverse effects. In
884 consultation with SHPO, participating Federally-Recognized Tribes, and other
885 Consulting Parties, including ACHP, CEMVK will develop a project-specific MOA,
886 in accordance with 36 CFR § 800.6(c) to agree upon a TM to avoid, minimize,
887 and/or mitigate adverse effects on historic properties. The MOA may also include
888 Treatment Measures that serve an equal or greater public benefit in promoting the
889 preservation of historic properties in lieu of the Treatment Measures outlined in
890 Appendix D.
891
- 892 4. Objections
893
- 894 a) Should any Consulting Party object within the timeframes established by this PA
895 to any plans, specifications, or actions taken pursuant to resolving an adverse
896 effect, CEMVK will consult further with the objecting party to seek resolution in
897 accordance with Stipulation V.B.
898

I. Reports

1. CEMVK will ensure that all reports and other documents resulting from the actions pursuant to this PA will be provided in a format acceptable to SHPO and Federally-Recognized Tribes, as appropriate. CEMVK will ensure that all such reports (e.g., identification surveys, evaluation reports, treatment plans, and data recovery reports) meet or exceed the Department of the Interior's *Format Standards for Final Reports of Data Recovery* (42 FR 5377-79) and the *Field and Report Standards* identified in Stipulation II.A.1(d).
2. CEMVK will provide all documentation for these efforts to the SHPO and Federally-Recognized Tribes, and as appropriate, other Consulting Parties consistent with the confidentiality provisions of Stipulation I.D of this PA.
3. Once supporting documentation is received, SHPO and Federally-Recognized Tribes will have thirty (30)-days to review supporting documentation (e.g., site forms and reports). If SHPO or Federally-Recognized Tribes intend to review and comment on documentation and are unable to do so within the thirty (30)-day review period, a request for additional review time must be made in writing to CEMVK and specify the anticipated completion date. CEMVK will consider the request and work with the requesting party to come to a mutually agreeable timeframe. CEMVK will notify other Consulting Parties of the extension by e-mail.

III. OTHER CONSIDERATIONS

A. Changes to an Approved Scope of Work

1. If CEMVK determines the change has no potential to affect the property or the previous effect determination is still applicable, CEMVK will approve the change.
2. If CEMVK determines that the change can be modified to conform to any applicable *Standards*, or a previously determined finding of effect is still applicable, CEMVK will conclude its Section 106 review responsibilities.
3. If CEMVK determines that the change may cause additional effects to the property; does not conform to any applicable *Standards*; or changes a previously determined finding of effect, CEMVK will initiate consultation pursuant to Stipulation II.C.1.

B. Provisions for Post-Review Discoveries (Non-Human Remains)

1. CEMVK is responsible for complying with 36 C.F.R. § 800.13(a) in the event of inadvertent discoveries of historic properties during implementation of the Project. Discoveries of previously unidentified historic properties or unanticipated adverse effects to known historic properties are not anticipated, however if there is an inadvertent discovery or unanticipated effect, CEMVK will ensure that the following stipulations are met. These

provisions will be included in all construction, operations, and maintenance plans and project managers will brief field personnel.

2. If previously unreported historic properties that may be eligible for nomination to the NRHP or that may be of significance to Federally-Recognized Tribes, and/or, if unanticipated effects on historic properties are found during the construction phase, CEMVK will implement the provisions outlined below that are intended to ensure that the construction item is in compliance with all applicable Federal and state laws and regulations, including Section 106 of the NHPA:
3. If there is no reasonable expectation that the property contains human remains, funerary objects, Native American sacred objects or objects of cultural patrimony, all work within a fifty (50) meter (164 ft) radius buffer zone must stop immediately. If human remains are located or suspected, provisions of Stipulation III.C will be followed. CEMVK will notify SHPO and Federally-Recognized Tribes, as appropriate, as well as any other affected party, of the discovery, and implement interim measures to protect the discovery from theft and vandalism. Construction may continue outside the fifty (50) meter (164 ft) radius buffer zone. Within seventy-two (72) hours of receipt of notification of the discovery, CEMVK, as appropriate, will:
 - a) Inspect the work site to determine the extent of the discovery and ensure that work activities have halted within the fifty (50) meter (164 ft) radius buffer zone;
 - b) Clearly mark the area of the discovery;
 - c) Implement additional measures, as appropriate, to protect the discovery from theft and vandalism; and
 - d) Provide an initial assessment of the site's condition and eligibility to SHPO and Federally-Recognized Tribes; and
 - e) Notify other Consulting Parties, if applicable, of the discovery.
4. If CEMVK, in consultation with SHPO, Federally-Recognized Tribes, and other Consulting Parties, as appropriate, determines the site is either isolated, does not retain integrity sufficient for listing on the NRHP, or will not be further disturbed by construction activities, construction may resume within the fifty (50) meter (164 ft) radius buffer zone.
5. If CEMVK determines that the cultural resource site or artifact either is, or may be, eligible for inclusion on the NRHP, CEMVK will consult with the SHPO, Federally-Recognized Tribes, and other Consulting Parties, as appropriate, regarding appropriate measures for site treatment pursuant to 36 C.F.R. § 800.6(a). SHPO and Federally-Recognized Tribes will have seven (7)-days to provide their objections or concurrence on the proposed actions. These measures may include:
 - a) Formal archaeological evaluation of the site;

- b) Visits to the site by SHPO and/or Consulting Federally-Recognized Tribes;
 - c) Exploration of potential alternatives to avoid the site;
 - d) Preparation and implementation of a mitigation plan by CEMVK in consultation and concurrence with the SHPO, Consulting Federally-Recognized Tribes, and other Consulting Parties, as appropriate.
6. The notified Consulting Parties will have seven (7)-days following notification to provide comment regarding CEMVK's determination of the NRHP eligibility of the discovery.
 7. A report of findings describing the background history leading to and immediately following the reporting and resolution of an inadvertent discovery will be prepared within thirty (30)-days of the resolution of each inadvertent discovery.
 8. CEMVK will communicate the procedures to be observed with its contractors and personnel.
 9. CEMVK will provide Notice to Proceed to the contractor to work in the area. Notices to Proceed may be issued by CEMVK for individual construction segments after the identification and evaluation of historic properties has been completed.

C. Treatment of Human Remains, Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony

1. In the event that previously unreported and unanticipated human remains, burials, funerary objects, sacred objects, or objects of cultural patrimony are encountered during field investigations, laboratory work, or during construction or maintenance activities, CEMVK will comply with the provisions outlined below:
2. The recordation of human remains in a burial context or as individual elements is a task that requires sensitivity and good judgment, as defined through consultation. Consultation is a necessary part of documenting any human remains (in a discovery situation or during the treatment of historic properties) following the provisions of this stipulation. In planning how to document human remains (e.g., photography, drawing for the purposes of illustration, videography, or other), the determination will be made in consultation and concurrence with the SHPO, Federally-Recognized Tribe(s), and, as appropriate, other descendant communities. Even if it is determined to photo document the human remains, the photographs shall not be published or made publicly available in any way. The CEMVK will maintain records for the purpose of management of the human remains, with the intent of satisfying the protection provisions of the Federal and state laws governing human remains, the records will be hardcopy and digital. When the records are digital, they will not be connected to externally available electronic resources like GIS servers or other and marked as restricted (per NHPA, Freedom of Information Act (FOIA; 5 U.S.C. § 552), and, as appropriate, the Archaeological Resources Protection Act of 1979 (ARPA; 16 U.S.C. §

470aa-mm) or if on non-Federal land the Mississippi Antiquities Law (39-7-41, Miss. Annotated Code 1972, as amended).

3. As part of the consultation for each construction item where human remains are present, CEMVK will ensure that the consultation happens as appropriate to each jurisdiction to determine the course of action for each situation. In the event that previously unreported or unanticipated human remains, burials, funerary objects, Native American sacred objects or objects of cultural patrimony are encountered during field investigations, laboratory work, or during construction or maintenance activities originating from Federal, state, or private lands (Federal and Non-Federal Lands) CEMVK shall notify the relevant historic preservation interests (SHPO and interested Federally-Recognized Tribal representatives) within twenty-four (24) hours of the discovery. Concurrently, CEMVK will implement the provisions of Stipulations III.C.4-8; below:
4. Any CEMVK employee, contractor, or subcontractor who knows or has reason to know that they have inadvertently discovered human remains, burials, funerary objects, Native American sacred objects or objects of cultural patrimony must provide immediate telephone notification of the inadvertent discovery to the responsible Federal construction official, with written confirmation, to the appropriate CEMVK District's Point-of-contact in this agreement. The written notification should summarize any field observations. No photographs should be taken at this time of the human remains. The appropriate CEMVK District's Cultural Resources (CR) Staff and Tribal Liaison will begin to develop a plan of action to inform the District Commander of the consultation tasks necessary to address the discovery.
5. All fieldwork, construction, and/or maintenance activities, must stop immediately within a one hundred (100) meter (328 ft) radius buffer zone around the point of discovery; unless there is reason to believe that the area of the discovery may extend beyond the one hundred (100) meter (328 ft) radius buffer zone in which case the buffer zone will be expanded appropriately. CEMVK will implement measures to protect the discovery from theft and vandalism. Any human remains or other items in the immediate vicinity of the discovery must not be removed or otherwise disturbed. CEMVK will take immediate steps, if necessary, to further secure and protect inadvertently discovered human remains, burials, funerary objects, Native American sacred objects or objects of cultural patrimony, as appropriate, including stabilization, or covering the find location.
6. CEMVK will notify local law enforcement, and the SHPO, per the point-of-contact in Appendix A, by telephone to assess the nature and age of the human skeletal remains within twenty-four (24) hours of the discovery of unmarked human remains and accompany local law enforcement personnel during all field investigations. CEMVK will also notify interested Federally-Recognized Tribes of the discovery within the same period. If the appropriate local law enforcement official determines that the remains are not involved in a criminal investigation, CEMVK will follow jurisdictional guidelines as provided for based on land ownership (per Stipulation III.D).

- a) In cases where human remains, burials, funerary objects, Native American sacred objects or objects of cultural patrimony are discovered during the implementation of a CEMVK-funded construction item on Federal Land, CEMVK will notify by telephone and e-mail, the SHPO, Federally-Recognized Tribes, and other affected parties (e.g., living descendants) that may that might attach religious and cultural significance to the discovery at the earliest possible time, but no later than forty-eight (48) hours and inform them of the steps already taken to address the discovery.
 - b) In cases where the human remains are discovered on Non-Federal Lands and are determined to be Native American, the state's Designated Authority will notify and coordinate with Federally-Recognized Tribes as required by the appropriate state law, but not later than forty-eight (48)-hours from the time of their notification. As requested, and to the extent of its legal authority, CEMVK will assist the Designated Authority, to consult with Federally-Recognized Tribes and affected parties, as appropriate.
 - c) In cases where the human remains are discovered on Non-Federal Lands and determined to be other than Native American, the state's Designated Authority will notify and coordinate in accordance with the appropriate state law. As requested, and to the extent of its legal authority, CEMVK will assist the Designated Authority to consult with the affected parties, as appropriate.
7. CEMVK will consult with SHPO, THPO or other Tribal-designated representatives, and appropriate Federally-Recognized Tribes, and other affected parties to develop a mutually agreeable action plan with timeframes to take into account the effects of the construction item on the discovery; resolve adverse effects if necessary; and ensure compliance with applicable Federal laws and their implementing regulations, if the discovery of Native American human remains, funerary objects, Native American sacred objects or objects of cultural patrimony occurs on Federal Land (see Stipulation III.D for the detailed process).
 8. Following the outcome of any consultation (Federal Lands or Non-Federal Lands) to address the discovery of human remains, CEMVK will coordinate with any contractor(s) regarding any required scope of project modification necessary to implement recommendations from the consultation and facilitate proceeding with the construction item.

D. Specific Authorities and Processes for Addressing Human Remains

1. If human remains, funerary objects, Native American sacred objects or objects of cultural patrimony are encountered during project field investigations, laboratory work, or during construction activities, CEMVK will comply with the provisions outlined below based on the nature of the land ownership at the time remains or objects are encountered:

2. Federal Lands: If discovered/recovered from Federal lands, CEMVK shall concurrently implement processes defined in this Agreement, satisfying NHPA, as well as:
 - Ensuring consultation with appropriate Federally-Recognized Tribes for any human remains, funerary objects, Native American sacred objects or objects of cultural patrimony as required by the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA), as amended (25 U.S.C. §§ 3001-3014) and its implementing regulations (43 C.F.R. Part 10); and
 - Ensuring the appropriate provisions of ARPA are followed.
3. For discoveries of human remains, burials, funerary objects, and Native American sacred objects or objects of cultural patrimony, CEMVK will continue to consult with the SHPO, claimant Federally-Recognized Tribes, and other affected parties, as appropriate, whether they are Signatories to this Agreement or not, regarding additional measures to avoid and protect or mitigate the adverse effect of the construction item. These measures may include:
 - a) Visits to the site by the SHPO, claimant Federally-Recognized Tribes, and other affected parties, as appropriate;
 - b) Formally evaluate the archaeological site for cultural affiliation through artifact analysis and historic research since all sites with human remains would be considered eligible under MS law;
 - c) Explore potential avoidance alternatives;
 - d) Develop and implement a mitigation plan in consultation and concurrence with the SHPO, claimant Federally-Recognized Tribes, and other affected parties, as appropriate, including procedures for disinterment and re-interment.
4. Initial Determination of nature of discovered human remains when from Federal Lands (Native American or other):
 - a) CEMVK, in consultation with the SHPO and claimant Federally-Recognized Tribes, whether they are Signatories to this Agreement or not, and other affected parties, may consult with a qualified physical anthropologist, forensic scientist, or other experts as may be needed to examine and assess the discovery. Unless the remains were inadvertently removed, the evaluation will be conducted at the site of discovery. Other than for crime scene investigation, no excavation, examination, photographs, or analysis of Native American human remains or remains suspected of being Native American will be conducted or allowed by CEMVK archaeologists or any other professional without first consulting with the claimant Federally-Recognized Tribes, whether they are Signatories to this Agreement or not. The

undconsulting expert will be allowed to draw and measure the exposed remains and associated funerary objects. Drawings cannot be published in any form or shown as part of scholarly presentations without the written permission of the appropriate Federally-Recognized Tribes or next living descendant.

- b) CEMVK, in consultation with the SHPO, claimant, and other affected parties, as appropriate, whether they are Signatories to this Agreement or not, will have seven (7) days to determine if the skeletal remains are human, the degree to which they were disturbed, and if possible, using reasonable measures to assess their potential age, cultural affiliation, and identity, without any further disturbance. Upon making a determination or at the end of the seven (7) days, whichever comes first, CEMVK will notify the appropriate affected parties of its findings. This notification will include pertinent information as to kinds of human remains, funerary objects, Native American sacred objects, or Native American items of cultural patrimony discovered, their condition, and the circumstances of their inadvertent discovery.
 - c) If the remains are determined not to be Native American in origin, CEMVK will follow the principals outlined in the 2007 ACHP *"Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects"* to respectfully treat the remains and determine proper disposition, disinterment, re-interment, and memorialization, as well as any Real Estate guidance at the time of the discovery.
5. Initiating NAGPRA Consultation following Inadvertent Discoveries/Recovery of human remains from Federal Lands:
- a) For the purposes of notification and consultation of an inadvertent discovery, CEMVK considers the Consulting Federally-Recognized Tribes who have identified the County/Parish as an area of interest are likely to be cultural affiliated with inadvertently discovered NAGPRA items found on a specific construction item.
 - b) Upon certification of an inadvertent discovery of NAGPRA items by the responsible Federal official, the CEMVK shall notify the consulting Federally-Recognized Tribes. This notification will be made via email and telephone call to the appropriate consulting Federally-Recognized Tribes' Primary point-of-contact within twenty-four (24) hours, and include concurrent hard copy written notification, via regular mail. Notifications shall include a copy of the field documentation and a list of all other parties being notified.
 - c) No later than three (3) days after the email and telephone notification, the consulting Federally-Recognized Tribes and/or claimant Federally-Recognized Tribe shall agree to a date and time for a teleconference to begin the consultation process.

6. Consultation for Inadvertent Discoveries//Recovery of Human Remains from Federal Lands that are Native American:

- a) Consultation will begin with the teleconference with all consulting Federally-Recognized Tribes and/or claimant Federally-Recognized Tribe. At this time both parties may determine that the cause of the inadvertent discovery is not on-going, that the location where the discovery occurred is secure (or can be secured), and that the NAGPRA items do not need to be removed.
- b) If all Consulting Parties participating in the consultation reach the same conclusion under III.D.6 (above), then the CEMVK will issue a written notice to all parties concluding that the location of the inadvertent discovery is secure and that the NAGPRA items will be left in place. If any Consulting Parties disagree with this assessment, then consultation will progress with all Consulting Parties including the signatories to this Agreement.
- c) If consensus is not attained, the CEMVK will notify, in writing, all consulting Federally-Recognized Tribes of its intent to complete consultation with a written plan of action in accordance with 43 CFR § 10.5(e). CEMVK will produce a NAGPRA plan of action which details the steps it will follow to complete the NAGPRA consultation process (43 CFR § 10.5(e)). This plan will contain: a) a list of all materials considered to be NAGPRA items; b) the planned treatment, care, and handling of the materials; c) any planned recording of the find location as an archaeological site; d) any analysis planned for the remains; e) and a description of any anticipated summary reports. CEMVK and the consulting Federally-Recognized Tribes will create a template plan of action to be on file.
- d) Within thirty (30)-days of receipt of notice to consult and the action plan, the consulting Federally-Recognized Tribes agree to provide a summary response containing the names and contact info for any potential lineal descendants, recommendations on any topics that should be included in consultation, request for any additional consultation meetings, recommendations for any treatment actions for the location of the discovery, and a list of any items that should be considered as NAGPRA items. Submission of this report does not preclude on-going discussion on any of these topics as consultation progresses.
- e) Based on the responses received, CEMVK may choose to update and resubmit the plan of action to all Consulting Parties, but at a minimum will notify all Consulting Parties in writing of its intent to implement the plan of action previously presented to the Consulting Parties.
- f) At the conclusion of implementation of the plan of action, CEMVK will provide all of the Consulting Parties, in writing, copies of the draft Notice of Intended Disposition, and will provide the Consulting Parties thirty (30)-days to comment.

7. Process to Determine Disposition of Native American Human Remains from Federal Lands:

- a) Once the thirty (30)-days has commenced after providing the Consulting Parties with the draft copy of the Notice of Intended Disposition, and considering all comments, CEMVK will publish the Notice of Intended Disposition in a newspaper of general circulation in the local area, and also in a newspaper of general circulation in the local area for the Federally-Recognized Tribes. Both notices will be published a second time, at least one (1)-week later.
- b) Copies of the Notice of Intended Disposition, as well as a description of when and where it was published, will be provided to the NPS, National NAGPRA program.
- c) CEMVK anticipates that during the notice period described above, discussions will begin with the appropriate claimant Federally-Recognized Tribe/s regarding disposition. Disposition will generally take the form of a physical transfer of custody and reburial on CEMVK lands, or the claimant Federally-Recognized Tribe(s) may choose to reburial privately once the Tribe assumes control over the NAGPRA items.

8. Non-Federal Lands: If human remains are recovered from NFI, state, or other private land, CEMVK will require that the state laws are followed, as outlined by state statute. As requested, and to the extent of its legal authority, CEMVK will support the state lead (Designated Authority) in following the state's processes related to discovery, disposition, disinterment, re-interment, and memorialization. Mississippi statutes related to the discovery of human remains are collected below:

- Burial Excavation Permits (Native American only). Mississippi Code §§ 25-59-1, 39-7-19 (1972, as amended);
- Abandoned Cemeteries, House Bill 780 (<https://www.mdah.ms.gov/historic-preservation/archaeology/permits>);
- For unanticipated discoveries on private, county, or state land in Mississippi, which are Native American, The Chief Archaeologist is the lead authority and will consult with CEMVK, Federally-Recognized Tribe(s), landowner, and descendants as appropriate to determine the necessary course of action.

E. Curation

1. Recovered archaeological collections from a CEMVK-funded archaeological survey, evaluation, and/or mitigation remain the property of the landowner of the subject

property at the time of excavation. Any records generated are the property of the Federal government. CEMVK, in coordination with Consulting Parties and NFI, as appropriate, will encourage landowners to donate any recovered collections to an appropriate long-term curation facility or Tribal entity. CEMVK, in coordination with the NFI, SHPO, and affected Federally-Recognized Tribes, as appropriate, will work with all landowners to support steps that ensure the long-term curation of these artifacts through the transfer of the materials to a suitable repository as agreed to by CEMVK, SHPO, and affected Federally-Recognized Tribes(s), pursuant to 36 CFR § 79. The disposition of human remains and associated burial items will comply with all Mississippi statutes if on private or state lands.

IV. Lower-Impact Demolition Stipulations

1. The Responsible Party and CEMVK shall ensure compliance with the Lower-Impact Demolition Stipulations in Appendix E. CEMVK shall ensure that the "Lower-Impact Demolition Stipulations" (LIDS; i.e., work restrictions) are made explicit in the demolition contract documents. CEMVK CR staff shall conduct a joint briefing with the Responsible Party to reinforce the legal obligation to comply with the LIDS.
2. For each property that demolition activities may occur at, prior to the commencement of any staging or demolition work, the Responsible Party shall provide CEMVK with advance notice and sufficient time for CEMVK CR staff to conduct any necessary reviews, evaluations, and consultation with the SHPO, Federally-Recognized Tribes, and other Consulting Parties, as appropriate.
3. All demolition properties will be reviewed by CEMVK for known historic properties and/or archaeologically sensitive areas. CEMVK shall conduct background research and verify present site conditions to develop site-specific avoidance measures. In cases where demolitions occur on recorded archeological sites or sensitive areas, CEMVK shall consult with SHPO, Federally-Recognized Tribes, and other Consulting Parties, as necessary, to develop site-specific treatment plans.
4. For any identified archaeological sites determined to be eligible for inclusion on the NRHP, or that are of undetermined NRHP eligibility, and/or archaeologically sensitive areas on or adjacent to the property, a SOI-*Qualified* archaeologist will apply a (50) meter (164 ft) radius buffer zone (i.e., "No Work Zone") to avoid impacting the known site; unless there is reason to believe that the site/sensitive area may extend beyond in which case the buffer zone will be expanded appropriately. CEMVK will also consider any other unique site-specific factors in the development of the treatment plan. CEMVK shall not be responsible for development of treatment plans or monitoring at archeological sites that have been determined ineligible for the National Register.
5. Depending on the unique circumstances of the demolition work and the potential for known/unidentified historic properties, or at the request of any party to this Agreement, CEMVK may deploy a SOI-*Qualified* archaeologist to monitor demolition activities in-part, or in entirety, in conjunction with adherence to LIDS.

6. If during the course of work, CEMVK archeological monitors observe significant or potentially significant findings as a result of activities associated with the construction item, the CEMVK archeological monitors shall treat the findings in accordance with Stipulation III.B.
7. CEMVK shall verify compliance with the LIDS contained in Appendix E. CEMVK reserves the right to conduct unannounced field inspections and monitor demolition activities to verify compliance with LIDS. If CEMVK observes violations of LIDS, CEMVK shall request that the Responsible Party's representative on-site cease demolition activities until the effects of the construction item can be assessed. If adverse effects are observed, CEMVK shall consult with SHPO and other Consulting Parties, as necessary.

V. IMPLEMENTATION OF AGREEMENT

A. Amendments

1. If any Signatory or Invited Signatory who signs this PA determines that an amendment to the terms of this PA must be made, the Signatory or Invited Signatory will consult to seek amendment in the following manner:
 - a) The Signatory or Invited Signatory will submit a written request for amendment to CEMVK containing the proposed amendment.
 - b) Upon receipt of a request to amend this PA, CEMVK will immediately notify the Signatories and Invited Signatories who have signed this PA and initiate a (30)-day period to consult on the proposed amendment, whereupon the Signatories and Invited Signatories will consult to consider such amendments.
 - c) If agreement to the amendment cannot be reached within the (30)-day period, resolution of the issue may proceed by following the dispute resolution process in Stipulation V.B.
 - d) An amendment to this PA, exclusive of the appendices, will be effective only when it has been signed by all the Signatories and Invited Signatories. An amendment will be effective for construction items occurring on or affecting historic properties on Tribal lands only when the affected Federally-Recognized Tribe has signed the amended PA as an Invited Signatory. The terms of this Agreement will not apply to construction items on or affecting Tribal lands without prior execution of the Amended PA by the affected Federally-Recognized Tribes.
 - e) Amendments to this PA will take effect on the date that they are fully executed by all Signatories and Invited Signatories.

- f) Modifications, additions, or deletions to the appendices made as a result of continuing consultation among the Consulting Parties do not require the PA to be amended.
2. Modifications, additions, or deletions to the appendices may be amended at the request of CEMVK or another Signatory or Invited Signatory who has signed this PA in the following manner:
 - a) CEMVK, on its own behalf, or on the behalf of another Signatory or Invited Signatory, will notify all Signatories and Invited Signatories to this PA of the intent to add to or modify the current Appendix or Appendices and will provide a draft of the updated Appendix or Appendices to all Signatories and Invited Signatories.
 - b) If no Signatory or Invited Signatory objects in writing within (30)-days of receipt of CEMVK's proposed addition or modification, CEMVK will date and sign the amended Appendix and provide a copy of the amended Appendix to all Signatories and Invited Signatories. Such an amendment will go into effect on the date CEMVK transmits the amendment to the other Signatories and Invited Signatories or an alternative date provided by the terms of the amendment.

B. Dispute Resolution

1. Should any party to this PA object in writing to the terms of this PA or to any actions proposed or the manner in which the terms of this PA are implemented, CEMVK will consult with such party to resolve the objection for not more than thirty (30)-days.
2. If the objection is resolved within thirty (30)-days, CEMVK will proceed in accordance with the resolution.
3. If CEMVK determines that such objection cannot be resolved, CEMVK will forward to ACHP all documentation relevant to the objection, including CEMVK's proposed resolution.
4. Within thirty (30)-days of receipt, ACHP will:
 - a) Concur with CEMVK's proposed resolution; or
 - b) Provide CEMVK with recommendations, which CEMVK will take into account in reaching a final decision regarding the objection; or
 - c) Notify CEMVK that the objection will be referred for comment in accordance with 36 CFR § 800.7(a)(4) and proceed to do so.
5. Prior to reaching a final decision on the dispute, CEMVK will prepare a written response that takes into account any timely advice or comments regarding the dispute from the

ACHP, Signatories, Invited Signatories, and Concurring Parties, and provide them with a copy of this written response. CEMVK will then proceed according to its final decision. The Signatories will continue to implement all other terms of this PA that are not subject to objection.

6. If the ACHP does not provide its advice regarding the dispute within the thirty (30)-day time period, CEMVK may make a final decision on the dispute and proceed with its proposed resolution to the objection after providing ACHP, Signatories, Invited Signatories, and Concurring Parties, with a written summary of its final decision.

C. Severability and Termination

1. In the event any provision of this PA is deemed by a Federal court to be contrary to, or in violation of, any applicable existing law or regulation of the United States of America, only the conflicting provision(s) will be deemed null and void, and the remaining provisions of the PA will remain in effect.
2. Any Signatory or Invited Signatory who signs this PA may terminate this PA by providing thirty (30)-days' written notice to the other Consulting Parties, provided that the Consulting Parties consult during this period to seek amendments or other actions that would prevent termination. If this PA is terminated, CEMVK will comply with Section 106 through other applicable means pursuant to 36 CFR Part 800. Upon such determination, CEMVK will provide ACHP, Signatories, Invited Signatories, and Concurring Parties written notice of the termination of this PA.
3. Any Invited Signatory or Concurring Party may notify the other Consulting Parties that it is fully withdrawing from participation in the PA. Following such a withdrawal, CEMVK will review the activities within the Undertaking that may affect historic properties of religious and cultural significance to any Federally-Recognized Tribe in accordance with 36 CFR § 800. Withdrawal from this PA by a Concurring Party does not terminate the PA. A Concurring Party that has withdrawn from the PA may at any time notify ACHP, Signatories, Invited Signatories, and Concurring Parties in writing, that it has rescinded its notice to withdraw from participation in the PA.
4. This PA may be terminated by the implementation of a subsequent Agreement that explicitly terminates or supersedes this PA, or by CEMVK's implementation of Alternate Procedures, pursuant to 36 CFR § 800.14(a).

D. Duration and Extension

1. The PA will remain in effect from the date of final signature for a period not to exceed ten (10)-years unless otherwise extended pursuant to Stipulation V.A.1 (above) or terminated pursuant to Stipulation V.C(2) or V.C(4).
2. The Signatories may collectively agree in writing to execute this PA to cover additional

calendar years, or portions thereof, provided that the original PA has not expired or if the PA has expired while a new Agreement is in preparation.

E. Monitoring and Reporting

1. Each year following the execution of this PA, until it expires or is terminated, CEMVK will provide the other Signatories, Invited Signatories, Concurring Parties, and the ACHP with an annual report detailing work carried out pursuant to its terms. This annual report will summarize the actions taken to implement the terms of this PA (e.g., statistics on resolution of adverse effects, use of other agency's determinations, the progress and completion of all STM/MOA TM), include any scheduling changes proposed, any disputes and objections received, and will recommend any actions or revisions to be considered; including updates to the Appendices.
2. Any Signatory, Invited, Signatory, or Concurring Party, including CEMVK, may request a meeting to review the annual report or discuss issues and concerns in greater detail regarding implementation of the PA within the thirty (30)-days' following receipt of the annual report. This review will occur in person or by telephone as determined by CEMVK.

VI. EXECUTION OF AGREEMENT

1. This PA may be executed in counterparts, with a separate page for each Signatory, Invited Signatory, and Concurring Party and will become effective on the date of the final signature of the Signatories.
2. The PA will go into effect regarding construction items occurring, or affecting historic properties, on Tribal lands when the subject Federally-Recognized Tribe has signed the PA as an Invited Signatory.
3. CEMVK will ensure that each Signatory, Invited Signatory, and Concurring Party is provided with an electronic (.pdf) copy of the PA including signatures. CEMVK will provide electronic copies of additional executed signature pages to the Signatories, Invited Signatories, and Concurring Parties as they are received. CEMVK will provide a complete copy of the PA with original signatures to any Consulting Party on request.
4. EXECUTION of this PA and implementation of its terms is evidence that CEMVK has taken into account the effects of the Undertaking on historic properties and afforded the ACHP an opportunity to comment on CEMVK's administration of the referenced Project, and that CEMVK has satisfied its Section 106 responsibilities for all individual construction items of its referenced Project.

Signatory Page

**PROGRAMMATIC AGREEMENT AMONG
THE U.S. ARMY CORPS OF ENGINEERS, VICKSBURG DISTRICT; RANKIN-HINDS FLOOD
CONTROL DISTRICT; AND THE MISSISSIPPI DEPARTMENT OF ARCHIVES AND
HISTORY; REGARDING THE PEARL RIVER BASIN, MISSISSIPPI FLOOD RISK
MANAGEMENT PROJECT, HINDS AND RANKIN COUNTIES, MISSISSIPPI**

United States Army CEMVK of Engineers

By: _____
Christopher D. Klein
Colonel, U.S. Army
District Engineer

Date: _____

Signatory Page

**PROGRAMMATIC AGREEMENT AMONG
THE U.S. ARMY CORPS OF ENGINEERS, VICKSBURG DISTRICT; RANKIN-HINDS FLOOD
CONTROL DISTRICT; THE MISSISSIPPI DEPARTMENT OF ARCHIVES AND HISTORY;
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION; REGARDING THE PEARL
RIVER BASIN, MISSISSIPPI FLOOD RISK MANAGEMENT PROJECT, HINDS AND RANKIN
COUNTIES, MISSISSIPPI**

Mississippi State Historic Preservation Officer

By: _____
Katie Blount
Mississippi State Historic Preservation Officer

Date: _____

Signatory Page

**PROGRAMMATIC AGREEMENT AMONG
THE U.S. ARMY CORPS OF ENGINEERS, VICKSBURG DISTRICT; RANKIN-HINDS FLOOD
CONTROL DISTRICT; THE MISSISSIPPI DEPARTMENT OF ARCHIVES AND HISTORY;
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION; REGARDING THE PEARL
RIVER BASIN, MISSISSIPPI FLOOD RISK MANAGEMENT PROJECT, HINDS AND RANKIN
COUNTIES, MISSISSIPPI**

Rankin Hinds Pearl River Flood and Drainage Control District

By: _____ Date: _____
Pat Sullivan
President
Rankin Hinds Pearl River Flood and Drainage Control District

Signatory Page

**PROGRAMMATIC AGREEMENT AMONG
THE U.S. ARMY CORPS OF ENGINEERS, VICKSBURG DISTRICT; RANKIN-HINDS FLOOD
CONTROL DISTRICT; THE MISSISSIPPI DEPARTMENT OF ARCHIVES AND HISTORY;
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION; REGARDING THE PEARL
RIVER BASIN, MISSISSIPPI FLOOD RISK MANAGEMENT PROJECT, HINDS AND RANKIN
COUNTIES, MISSISSIPPI**

Advisory Council on Historic Preservation

By: _____
Reid Nelson
Executive Director
Advisory Council on Historic Preservation

Date: _____

Invited Signatory Page

**PROGRAMMATIC AGREEMENT AMONG
THE U.S. ARMY CORPS OF ENGINEERS, VICKSBURG DISTRICT; RANKIN-HINDS FLOOD
CONTROL DISTRICT; THE MISSISSIPPI DEPARTMENT OF ARCHIVES AND HISTORY;
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION; REGARDING THE PEARL
RIVER BASIN, MISSISSIPPI FLOOD RISK MANAGEMENT PROJECT, HINDS AND RANKIN
COUNTIES, MISSISSIPPI**

Choctaw Nation of Oklahoma

By: _____
Gary Batton
Chief
Choctaw Nation of Oklahoma

Date: _____

Invited Signatory Page

**PROGRAMMATIC AGREEMENT AMONG
THE U.S. ARMY CORPS OF ENGINEERS, VICKSBURG DISTRICT; RANKIN-HINDS FLOOD
CONTROL DISTRICT; THE MISSISSIPPI DEPARTMENT OF ARCHIVES AND HISTORY;
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION; REGARDING THE PEARL
RIVER BASIN, MISSISSIPPI FLOOD RISK MANAGEMENT PROJECT, HINDS AND RANKIN
COUNTIES, MISSISSIPPI**

Quapaw Nation

By: _____
Wena Supernaw,
Quapaw Nation Chair

Date: _____

Concurring Party Signatory Page

**PROGRAMMATIC AGREEMENT AMONG
THE U.S. ARMY CORPS OF ENGINEERS, VICKSBURG DISTRICT; RANKIN-HINDS FLOOD
CONTROL DISTRICT; THE MISSISSIPPI DEPARTMENT OF ARCHIVES AND HISTORY;
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION; REGARDING THE PEARL
RIVER BASIN, MISSISSIPPI FLOOD RISK MANAGEMENT PROJECT, HINDS AND RANKIN
COUNTIES, MISSISSIPPI**

Mississippi Band of Choctaw Indians

By: _____

Date: _____

Cyrus Ben
Chief

Mississippi Band of Choctaw Indians

References:

MDAH

2019 *Mississippi Standards for Archaeological Practices*. Developed by the Mississippi Department of Archives and History, Historic Preservation Division, Archaeology and Historic Sites Section

U.S. Army Corps of Engineers

1984 *Pearl River Basin Interim Report on Flood Control and Environmental Impact Statement*. Report prepared by the U.S. Army Corps of Engineers, Mobile District.

U.S. Army Corps of Engineers

2007 *Pearl River Watershed Draft Feasibility Study and Environmental Impact Statement*. Preliminary Draft. Report prepared by the U.S. Army Corps of Engineers, Vicksburg District. Vicksburg, MS.

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APPENDIX A
Contact List

Primary Contact	Secondary Contact
Advisory Council on Historic Preservation Christopher Daniel Program Analyst Advisory Council on Historic Preservation 401 F Street NW, Suite 308 Washington DC 20001-2637 202.517.0223 cdaniel@achp.gov	Advisory Council on Historic Preservation Reid Nelson, Chairman Office of Federal Agency Programs Advisory Council on Historic Preservation 401 F. Street NW, Suite 308 Washington, DC 20001-2637 Telephone: (202) 517-0228 E-mail: rnelson@achp.gov
Alabama-Coushatta Tribe of Texas Mikko Kanicu Donnis Battise Tribal Council Chairperson Alabama-Coushatta Tribe of Texas 571 State Park Rd. 56 Livingston, TX 77351 Telephone: (936) 563-1183	Alabama-Coushatta Tribe of Texas Mr. Bryant Celestine Historic Preservation Officer Alabama-Coushatta Tribe of Texas 571 State Park Rd. 56 Livingston, TX 77351 Telephone: (936) 563-1181 E-mail: celestine.bryant@actribe.org
Choctaw Nation of Oklahoma Lindsey D. Bilyeu, MS Senior Compliance Review Officer Historic Preservation Department Choctaw Nation of Oklahoma P.O. Box 1210 Durant, OK 74702 Telephone: (580) 924-8280 E-mail: lbilyeu@choctawnation.com E-mail: jthompson@choctawnation.com	Choctaw Nation of Oklahoma Gary Batton, Chief Choctaw Nation of Oklahoma Attn: Choctaw Nation Historic Preservation Department P.O. Box 1210 Durant, OK 74702-1210 Telephone: (800) 522-6170 E-mail: gbatton@choctawnation.com
Chitimacha Tribe of Mississippi Kimberly S. Walden, THPO Chitimacha Tribe of Mississippi 155 Chitimacha Loop Charenton, LA 70523 Telephone: (337) 923-9923 E-mail: kim@chitimacha.gov	Chitimacha Tribe of Mississippi Chairman Melissa Darden Chitimacha Tribe of Mississippi 155 Chitimacha Loop Charenton, LA 70523 Telephone: (337) 924-4973
Jena Band of Choctaw Indians Ms. Johnna Flynn Jena Band of Choctaw Indians THPO P.O. Box 14 Jena, LA 71342 Telephone: (318) 992-4183 E-mail: JFlynn@jenachoctaw.org	Jena Band of Choctaw Indians Chief Libby Rogers Jena Band of Choctaw Indians 1052 Chanaha Hina Street Trout, LA 71371 E-mail: LRogers@jenachoctaw.org
Mississippi Department of Archives and	Mississippi Department of Archives and

Primary Contact	Secondary Contact
History Cindy Carter-Davis Chief Archaeologist Mississippi Department of Archives and History P.O. Box 571, Jackson MS 39205 601-307-0133 (cell) E-mail: ccarterdavis@mdah.ms.gov	History Barry White Deputy State Historic Preservation Officer Mississippi Department of Archives & History P.O. Box 571 Jackson, MS 39205-0571 Telephone: 601-576-6953 E-mail: section106@mdah.ms.gov
Mississippi Band of Choctaw Indians Ms. Melanie Carson, Acting THPO Mississippi Band of Choctaw Indians MBCI Planning Office 101 Industrial Rd Choctaw, MS 39350 Telephone: (601)663-7606 E-mail: THPO@choctaw.org	Mississippi Band of Choctaw Indians Chief Cyrus Ben, Mississippi Band of Choctaw Indians 101 Industrial Road Choctaw, MS 39350 Telephone: (601) 656-5251 E-mail: info@choctaw.org
Muscogee (Creek) Nation Mr. Turner Hunt THPO Muscogee (Creek) Nation, Historic & Cultural Preservation Office P.O. Box 580 Okmulgee, OK 74447 Telephone: (918) 732-7733 E-mail: Section106@mcn-nsn.gov	Muscogee (Creek) Nation Mr. David Hill Principal Chief Muscogee (Creek) Nation, Historic & Cultural Preservation Office P.O. Box 580 Okmulgee, OK 74447
Quapaw Nation Mr. Everett Bandy Historic Preservation Officer Quapaw Nation Historic Preservation Program PO Box 765 Quapaw, O.K. 74363-0765 Telephone: (918) 238-3100 ext. 17001 E-mail: ebandy@quapawnation.com	Quapaw Nation
Rankin Hinds Pearl River Flood and Drainage Control District Mr. Pat Sullivan President Rankin Hinds Pearl River Flood and Drainage Control District Address 1 Address 2 Telephone:	Rankin Hinds Pearl River Flood and Drainage Control District

Primary Contact	Secondary Contact
E-mail: psullivan@richlandms.com	
Tunica-Biloxi Tribe of Mississippi Mr. Earl J. Barbry, Jr., THPO Tunica-Biloxi Tribal Historic Preservation Office P.O. Box 1589 Marksville, LA 71351 Telephone: (318) 253-8174 x 6451 E-mail: earlji@tunica.org	Tunica-Biloxi Tribe of Mississippi Vice-Chairman Marshall Pierite Tunica-Biloxi Tribe of Mississippi 151 Melancon Drive Marksville, LA 71351 Telephone: (318) 253-1946 E-mail: joeypbarbry@tunica.org

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APPENDIX B
PRBFRMP NON-STRUCTURAL ACTIVITIES & ACTIONS

The majority of potential PRBFRMP Non-Structural activities and actions fall into the specific categories and actions listed in this Appendix, but this action list is meant to be illustrative in nature and shall not be regarded as all-inclusive or disqualify future actions and/or actions not considered in this Appendix for future implementation.

ELEVATION

Physically raising an existing structure to an elevation to the 100-year Base Flood Elevation (BFE) based on year 2075 hydrology or higher if required by USACE or local ordinance. Foundations must be designed to properly address all loads and effects, be appropriately connected to the floor structure above, and utilities must be properly elevated.

Applicability

Residential

Non-Residential

Actions

1. Elevation on piers, columns, or piles;
2. Elevation on continuous foundation walls;
3. Elevating on open foundations (e.g., piles, piers, posts, or columns);
4. Elevation of slab;
5. Slab separation;
6. Elevation on fill;
7. Second story conversion/attic build-out;
8. Establishment of staging areas.

DRY FLOODPROOFING

Techniques applied to keep non-residential structures dry by sealing the structure to keep floodwaters out. Dry flood proofing will be completed on eligible structures at or below three (3) feet (0.9 m) depth.

Applicability

Non-Residential

Residential for historic structures only

Actions

1. Sealing building to make it watertight or impermeable to floodwaters using waterproof membranes or sealants to reduce seepage of floodwater through walls and wall penetrations;
2. Use of watertight shields for doors and windows;
3. Reinforcing walls to withstand floodwater pressure and impact forces generated by floating debris;

4. Anchoring the structure to resist flotation, collapse, and lateral movement;
5. Installing drainage collection systems and sump pumps to prevent sewer backup, control the interior water level, or reduce hydrostatic pressure on the slab and walls;
6. Bracing of walls to address hydrostatic and hydrodynamic forces;
7. Installing removable/permanent flood panels;
8. Establishment of staging areas.

WET FLOODPROOFING

Techniques designed to permit floodwaters to enter a structure to prevent or provide resistance to damage from flooding. Wet Floodproofing of a structure interior is intended to counteract hydrostatic pressure on the walls, surface and support systems of the structure by equalizing interior and exterior water levels during a flood.

Applicability

Residential

Non-Residential

Actions

1. Providing openings to allow in water;
2. Relocation of HVAC and utilities;
3. Installation of flood-resistant materials;
4. Rearrangement/floodproofing of utility systems;
9. Anchoring to resist flotation, collapse, and lateral movement;
10. Establishment of staging areas.
11. Raising interior offices;
12. Flood protection of interior/exterior equipment;
13. Flood protection of applicable interior/exterior industrial/sales supplies;
14. Providing emergency floodproofing for supplies and equipment;
15. new drainage system designed and installed to help remove the water from the building, (Where the floodwater may not drain naturally from the lowest levels of the property);
16. Installing a pumping system for draining the building in concert with the receding waters outside the property;
17. Installing substitute materials that are more flood-damage resistant when replacing deteriorated materials and features;
18. Installing a horizontal water-stop joint in the wall, which prevents the wicking of moisture during a flooding event, in a manner that does not compromise the structural integrity of the wall.

RETROFITTING OF EXISTING BUILDINGS

Modifications to the structural elements of a building to reduce or eliminate the risk of future flood damage and to protect inhabitants. The structural elements of a building that are essential to protect in order to prevent damage include foundations, load-bearing walls, beams, columns, structural floors and roofs, and the connections between these elements. Retrofitting also

includes modifications to the non-structural elements of a building or facility to reduce or eliminate the risk of future damage and to protect inhabitants. Retrofits are primarily defined as modifications to the elements of a building to reduce or eliminate the risk of future damage. Structural retrofits are designed to protect elements such as foundations, load-bearing walls, beams, columns, building envelopes, windows, structural floors, roofs, and the connections between these elements. Non-structural retrofitting involves the modification of a building or facility's non-structural elements and may include elevation of heating and ventilation systems to minimize or prevent flood damage.

Applicability:

Residential

Non-Residential

Actions:

1. Building hardening;
2. Modification to structural elements;
3. Hurricane clips;
4. Tie-down straps;
5. Attic bracing;
6. Cross bracing on pier and post foundations;
7. Metal fasteners;
8. Collar ties;
9. Gussets;
10. Installations of plywood diaphragms beneath first floor joists;
11. Concealed anchoring of furniture;
12. Bracing building contents;
13. Strapping and anchoring of mechanical, electrical, and plumbing equipment;
14. Elevation of heating and ventilating systems;
15. Automatic gas shut off valves;
16. Elevation of electrical panels;
17. Elevating washer and dryer;
18. Elevating furnace or water heater;
19. Anchoring of fuel tanks;
20. Bolting walls;
21. Installing backflow valves;
22. Strengthening of entry doors;
23. Bracing of garage doors.

VOLUNTARY PROPERTY ACQUISITION & STRUCTURE DEMOLITION

The acquisition of an existing at-risk structure and, typically, the underlying land, and conversion of the land to open space through the demolition of the structure. The property must be deed-

restricted in perpetuity to open space uses to restore and/or conserve the natural floodplain functions.

Applicability:

Residential

Non-Residential

Actions:

1. All activities associated with acquiring and demolition of buildings and structures;
2. Establishment of staging areas;
3. Grading and seeding;
4. Removal of septic tanks (if not removed, floors and walls must be cracked or crumbled so the tank will not hold water and be filled with sand or other clean fill).

VOLUNTARY PROPERTY ACQUISITION & STRUCTURE RELOCATION

The physical relocation of an existing structure to an area outside of a hazard-prone area and, typically, the acquisition of the underlying land. Relocation must conform to all applicable State and local regulations. The property must be deed-restricted in perpetuity to open space uses to restore and/or conserve the natural floodplain functions.

Applicability:

Public

Private-Non-Profit

Residential

Non-Residential

Actions:

1. All activities associated with the relocation of buildings and structures;
2. Establishment of staging areas;
3. Grading and seeding;
4. Removal of septic tanks (if not removed, floors and walls must be cracked or crumbled so the tank will not hold water and be filled with sand or other clean fill).

APPENDIX C
Programmatic Allowances

This list of Programmatic Allowances (Allowances) enumerates project activities that may have no or minimal effect on historic properties if implemented as specified in this Appendix.

Allowances can only be applied by SOI-Qualified Staff in accordance with Stipulation II.A.1(b) of this Agreement. In accordance with Stipulation II.B., construction items composed entirely of the following activities do not require Section 106 review. If CEMVK determines any portion of a construction item's scope does not conform to one (1) or more Allowances listed in Appendix C, CEMVK shall conduct Section 106 review, as appropriate, for the entire construction item in accordance with Stipulation II.C(1). Should an unexpected discovery, unidentified property, or unexpected effect be encountered, work must stop and compliance with Stipulation III.B is required.

"In-kind," when referenced in the Allowances for historic materials and features shall be in accordance with the *Standards* and shall mean that it is either the same or a similar material, and the result shall match all physical and visual aspects, including design, design form, texture, profile, dimensions, proportion, and workmanship. Where severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Prior to providing notice to proceed for individual construction items requiring conditions pursuant to this Agreement, CEMVK shall inform the NFI of all stipulations and conditions and ensure that they are understood so they can be adequately conveyed to the sub-recipient. CEMVK shall work in partnership with NFI to provide sub-recipients with guidance on in-kind repair pursuant to The SOI *Standards for the Treatment of Historic Properties* 1995 (*Standards*), 36 CFR Part 68, or the most updated version, and techniques to avoid or minimize adverse effects to historic properties.

When referenced in an Allowance "previously disturbed soils" shall mean the following: alterations to the soil such that the property and associated stratification no longer has the potential to yield specific data from the past.

This list may be revised without amending this PA by a letter concurred with by CEMVK, SHPO, Participating Tribes, and other Consulting Parties, as appropriate.

I. GROUND DISTURBING ACTIVITIES AND SITE WORK: are limited to the proposed activities as described below; including the areas where the activity is staged. Project review should take into account the entirety of the proposed activities including any staging, site access, site cleanup, and site work (e.g., grading for positive drainage, vegetation removal) as potential ground-disturbing activities. This is not the entire list of possible ground-disturbing activities; other possible ground-disturbing activities are listed under Appendix B and other activity types in this appendix. If the construction item ground disturbance is limited to within 2-feet (0.6 m) of the existing structure and no known eligible or unassessed site is within the footprint and/or APE, the Allowance may be applied as documented by CEMVK to the project file. Should an unexpected discovery be encountered, work must stop and compliance with Stipulation III.B is required. If a potential ground-disturbing activity including staging, site access, site cleanup, and site work falls

1902 within a cemetery, known NR-eligible or unassessed archaeological site, and/or where there are
1903 unexpected finds, *Standard Project Review* per Stipulation II.C(1), will apply.

- 1904
- 1905 a. In-kind repair, or in-kind replacement, or reinforcement of footings, foundations,
- 1906 retaining walls, slopes, and slope stabilization systems (e.g., gabion baskets, crib
- 1907 walls, etc.) if related ground disturbing activities are placed within the existing
- 1908 footprint and do not require pile driving. This Allowance does not apply when
- 1909 located within or immediately adjacent to NR-eligible or unassessed
- 1910 archaeological sites. This allowance excludes properties individually listed on the
- 1911 NRHP or contributing properties to NR-eligible or listed historic districts.
- 1912
- 1913 b. In-kind repair or replacement of landscaping and utilities, such as planters,
- 1914 trellises, irrigation, exterior lighting, signs (e.g., freestanding facility signage),
- 1915 retaining walls, ramps, and steps. This allowance also includes decks. Minor
- 1916 mitigation measures (e.g., addition of new safety anchors) will be covered by this
- 1917 Allowance.
- 1918
- 1919 c. In-kind repair or replacement of walkways, paths, trails, driveways, and parking
- 1920 areas.
- 1921
- 1922 d. Installation of perimeter drainage for structures to within 2-feet (0.6 m) of the
- 1923 foundation perimeter and no excavation occurs more than six (6) inches (15.2 cm)
- 1924 of the existing surface elevation.
- 1925
- 1926 e. Removal of woody debris from private property, including leaning trees, hanging
- 1927 branches, and that obstruct access or present a safety hazard provided that
- 1928 structures are not affected, trees and other woody plants are sheared off at the
- 1929 existing ground surface, and ground disturbance is limited to surface scraping, and
- 1930 in-ground elements, such as driveways and walkways, are left in place.
- 1931
- 1932 f. Installation of scaffolding and temporary barriers (e.g., chain link fences),
- 1933 provided such work will not result in additional damage, irreversible alterations,
- 1934 significant loss of historic fabric, or substantial ground disturbance.
- 1935
- 1936 g. In-kind repair or replacement of fencing and freestanding exterior walls.
- 1937
- 1938 h. Non-destructive or concealed testing for hazardous materials (e.g., lead paint,
- 1939 asbestos, etc.) or for assessment of hidden damages.
- 1940

1941 **II. STANDING STRUCTURES:** when proposed activities, including the area where the activity
1942 is staged, are consistent with the *Standards*.

- 1943
- 1944 a. Activities related to the elevation, demolition and/or retrofit of buildings or
- 1945 structures less than forty-five (45)-years old (construction date as noted in the
- 1946 project documentation, or by the Responsible Party or subrecipient, or by a
- 1947 photograph/site visit) so long as the proposed activities substantially conform to

- 1948 the existing footprint and the buildings or structures do not possess exceptional
1949 significance are not located within or adjacent to a National Register-listed or
1950 eligible historic district. This allowance does not apply to archaeological
1951 properties and is intended to be used in conjunction with Stipulation II.C(1) and
1952 Appendix E.I; *Ground Disturbing Activities and Site Work* (above).
1953
1954 b. Installation of temporary stabilization, bracing, or shoring, provided such work
1955 does not result in significant loss of historic fabric, or irreversible alterations to
1956 this or adjacent areas.
1957
1958 c. Strengthening and reinforcing of foundations provided that any visible new
1959 material is compatible with existing structures and the site, and no ground
1960 disturbance is required.
1961
1962 d. Anchoring of buildings to resist flotation, collapse, and lateral movement provided
1963 the anchors are not visible on the exterior, is reversible to the greatest extent
1964 possible, and does not result in additional damage or alteration to character
1965 defining features.
1966
1967 e. Bracing and bolting of walls chimneys, and fireplaces, to address hydrostatic and
1968 hydrodynamic forces provided the bracing is not visible on the exterior, is
1969 reversible to the greatest extent possible and does not result in additional
1970 damage or alteration to character defining features.
1971
1972 f. Strengthening of entry doors and bracing of garage doors provided they do not
1973 result in altering the existing door form and appearance.
1974
1975 g. Replacement of exterior, utilitarian, non-character-defining metal doors and
1976 frames leading into non-character-defining spaces with flood resistant doors and
1977 frames.
1978
1979 h. Elevation of building contents including furniture, partitions, computers, cabinetry,
1980 supplies, and equipment and any other moveable items. This Allowance does not
1981 apply to built-in features.
1982
1983 i. Replacement of damaged plaster and lath with drywall or other flood-resistant
1984 wall treatment where the plaster is a non-character-defining detail, excluding
1985 properties eligible or individually listed on the NRHP or contributing properties to
1986 NHL Historic Districts.
1987
1988 j. Cleaning, repair, or repainting of surfaces, in a building that is less than forty-five
1989 (45)-years of age (construction date as noted in the project documentation, or by
1990 the NFS or sub-recipient, or by a photograph/site visit) provided that the building
1991 is not adjacent to or on a NR-eligible or listed building or structure or within the
1992 viewshed of a NR-eligible or listed historic district.
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- k. Cleaning, repair, or repainting of surfaces, provided that destructive surface cleaning and preparation treatments are not used (e.g., water blasting, sandblasting, power sanding, chemical cleaning). Surface treatments must comply with the treatment approaches outlined in Preservation Brief 6: *Dangers of Abrasive Cleaning to Historic Buildings* (<https://www.nps.gov/tps/how-to-preserve/briefs/6-dangers-abrasive-cleaning.htm>).
 - l. Reconstruction of concrete and masonry walls, columns, parapets, chimneys, or cornices, using compatible brick and mortar following the *SOI Standards for Rehabilitation*.
 - m. Caulking and weather-stripping to complement the color of adjacent surfaces or sealant materials.
 - n. In-kind repainting of surfaces, provided that destructive surface preparation treatments are not used, such as water blasting, sandblasting, power sanding and chemical cleaning.
 - o. In-kind replacement or installation of insulation systems, provided that existing interior plaster, woodwork, or exterior siding is not altered. The Allowance does not apply to urea formaldehyde foam insulation or any other thermal insulation containing water, when installed within wall cavities. It does not apply to exterior insulation finishing systems that do not include an adequate vapor and moisture drainage system or work in enclosed spaces that are not finished.
 - p. Sealing a building or installing flood panels in a building that is less than (45)-years old (construction date as noted in the project documentation, or by the Responsible Party or subrecipient, or by a photograph/site visit) to make it watertight or impermeable to floodwaters. This allowance does not apply to the use of liquid sealants as water repellants on masonry buildings unless the sealant is vapor permeable.
 - q. Installation of removable flood barriers for doors and windows above ground only in a building that is less than (45)-years old (construction date as noted in the project documentation, or by the Responsible Party or subrecipient, or by a photograph/site visit).
 - r. Replacement of exterior, utilitarian, non-character-defining metal doors and frames leading into non-character-defining spaces with metal blast resistant doors and frames.
 - s. In-kind repair or in-kind replacement of interior or exterior protective shutters, storm screens, screen drops, storm fabric, interior blast shields, and door glazing.

- 2039 t. Removal of non-contributing, incompatible windows and doors which were
2040 replaced within the past fifty years and their replacement with new window, door,
2041 and hardware which meets the *Standards*.
2042
- 2043 u. Strengthening of entry doors and bracing of garage doors provided they do not
2044 result in altering the existing door form and appearance.
2045
- 2046 v. Providing openings and installation of flood-resistant materials above ground only
2047 in a building that is less than (45)-years old (construction date as noted in the
2048 project documentation, or by the Responsible Party or subrecipient, or by a
2049 photograph/site visit).
2050
- 2051 w. Repair or replacement of damaged equipment, (e.g., generators, switch boards),
2052 and pumping equipment that is less than forty-five (45)-years of age (construction
2053 date as noted in the project documentation, or by the NFS or sub-recipient, or by
2054 a photograph/site visit).
2055
- 2056 x. Installation of backflow valves, pumping systems (e.g., sump pumps), and/or
2057 perimeter drainage for structures around foundations and footings, to allow for
2058 proper site drainage except when located within or immediately adjacent to NR-
2059 eligible or unassessed archaeological sites. This allowance excludes properties
2060 individually listed on the NRHP or contributing properties to NR-eligible or listed
2061 historic districts.
2062
- 2063 y. The following retrofits, provided that such retrofits are not visible on the exterior
2064 or within character-defining historic interiors: modifications to non-character
2065 defining structural elements; cross bracing on pier and post foundations;
2066 installation of plywood diaphragms beneath first floor joists, anchoring of fuel
2067 tanks; installation of automatic gas shut off valves; concealed anchoring of
2068 furniture and/or bracing of building contents.
2069
- 2070 z. Substantially in-kind repair or in-kind replacement of metal utilitarian structures
2071 (e.g., pump houses, storage buildings) less than (45)-years old (construction date
2072 as noted in the project documentation, or by the Responsible Party or
2073 subrecipient, or by a photograph/site visit), including above-ground pipelines
2074 within the existing footprint that do not require pile-driven foundations.
2075
- 2076 aa. Minor interior and/or exterior modifications required for compliance with the
2077 Americans with Disabilities Act (ADA). This Allowance does not apply to
2078 modification of staircases that are character-defining.
2079

2080 **III. Utilities, Mechanical, and Electrical Systems:**
2081

- 2082 a. In-kind repair or in-kind replacement, or limited upgrading of utility systems,
2083 including mechanical (e.g., heating, ventilation, air conditioning), electrical, and
2084 plumbing systems. This Allowance does not provide for the installation of new

2085 exposed ductwork or the lowering of ceilings to accommodate mechanical,
2086 electrical, and security systems. This Allowance does not apply to character
2087 defining features (e.g., grilles) where exposed to view. Surface-mounted wiring,
2088 conduits, or piping is acceptable provided that installation of system hardware
2089 does not damage or cause the removal of character-defining architectural
2090 features or materials and can be easily removed in the future. This Allowance
2091 does not include increasing the size (e.g., width, depth, length) of existing
2092 channels or cuts in historic material. The Allowance shall not apply to installation
2093 of new exposed ductwork or conduit on properties individually listed on the
2094 NRHP or contributing properties to NR-eligible or listed historic districts.
2095

- 2096 b. Installation or replacement of interior fire detection, fire suppression, or security
2097 alarm systems. Surface-mounted wiring, conduits, or piping is acceptable
2098 provided that installation of system hardware does not damage or cause the
2099 removal of character-defining architectural features or materials and can be
2100 easily removed in the future. This Allowance does not include increasing the size
2101 (e.g., width, depth, length) of existing channels or cuts in historic materials.
2102
- 2103 c. Elevation of HVAC, electrical (e.g., electrical panels, switch boards), and
2104 mechanical equipment (e.g., generators, washers and dryers, and hot water
2105 heaters, and pumping equipment) providing they are placed or located where not
2106 highly visible from the street, or if installation does not result in significant loss of
2107 historic fabric, or character-defining details.
2108
- 2109 d. Installation of generators and similar devices within previously disturbed soils that
2110 are not adjacent to or on a NR-eligible or listed building or structure or within the
2111 viewshed of a NR-eligible or listed district.
2112
- 2113 e. Installation of early warning devices on existing utility poles on other existing
2114 utilities.
2115

2116 **IV. Piers, Docks, Boardwalks, and Boat Ramps:**

2117

- 2118 a. Minor elevation and/or upgrades, such as codes and standards, to existing piers,
2119 docks, boardwalks, and/or boat ramps, when placed in the existing footprint.

Appendix D
Standard Treatment Measures

As provided in Stipulation II.G.4(a), if a construction item may adversely affect NRHP-listed or eligible historic properties and/or properties of religious or cultural significance to Tribes, or TCP(s), CEMVK may propose to resolve the adverse effect through the application of one (1) or more of the STMs set out below. The selected measures will be developed by CEMVK after discussions with the SHPO, Federally-Recognized Tribes, and other Consulting Parties, as appropriate, and will be documented in writing in a Treatment Plan (TP). CEMVK will provide stakeholders with the opportunity to object to the proposed STM as set out in II.H.2(d). If CEMVK, in consultation with stakeholders, determines that a TM not included in the list below is in the public interest and is the most appropriate means to resolve an adverse effect, CEMVK will initiate consultation to develop a project-specific MOA as set out in Stipulation II.H.3(a).

The TP will identify, as appropriate: the Responsible Party that will implement and complete each STM; the STM SOW and the standards that will apply to the preparation and distribution of a deliverable; the deliverable(s) (e.g., the quantity, size, materials, content, final ownership/copyrights); measures to ensure that any STM documenting the condition of, or requiring the data recovery on the historic property, is implemented before the property is adversely affected; any *Professional Standards* in addition to those specified in Stipulation II.A.1(c) that will be required to prepare deliverable(s) described in the STM(s); the repositories and/or parties that will receive copies of a deliverable and the disposition of any deliverable that is not curated; milestones when CEMVK, SHPO, Federally-Recognized Tribes, and other Consulting Parties, as appropriate, will be given the opportunity to review and comment on the deliverable; and timeframes for each review and deliverable.

CEMVK will provide written notice to SHPO, Federally-Recognized Tribes, and other Consulting Parties, as appropriate, within sixty (60)-days of the completion of the STM as required by Stipulation II.H.2(d). CEMVK will include information pertaining to the progress of and completion of all STM(s) in the annual report pursuant to Stipulation V.E.

Any dispute regarding the implementation of a TP will be resolved following the process set out in Stipulation II.H.2(e).

This Appendix may be amended in accordance with Stipulation V.A.1(f) of this Agreement.

List of Standard Treatment Measures:

- I. **DESIGN REVIEW:** The purpose of this STM is to determine if there are feasible alternatives that may avoid or minimize potential adverse effects to historic properties. Avoidance and minimization of adverse effects will be dependent on the type of historic property (e.g., archaeological site vs. historic structure) and the type of adverse effect. CEMVK anticipates that it will identify construction items that may cause an adverse effect during the review of a project, or at an early stage of project planning, when the design has not been fully developed. The implementation of this STM will allow CEMVK, in consultation with SHPO,

Federally-Recognized Tribes, and other Consulting Parties, as appropriate, to continue with plan development, and allows CEMVK and Consulting Parties the potential to influence the design. CEMVK may include this STM with other measures that are intended to mitigate any adverse effects that cannot be avoided or minimized.

Based on CEMVK's review of the construction design, if CEMVK determines that the proposed construction item may adversely affect a historic property:

1. CEMVK will consider ways to resolve adverse effects to a historic property by assessing feasible alternatives and/or determining if avoidance of the historic property is feasible through redesign of the project and/or specific project elements that are causing the adverse effect.
2. If avoidance is not feasible or practical, CEMVK then will look for ways to minimize the adverse effect to the historic property. Plans and specifications will, to the greatest extent feasible, preserve the basic character of the affected historic property. Minimizing the adverse effect could include considering ways to revise the scope of the project to substantially conform to the *Standards* as described in Stipulation II.A.1(a). Primary emphasis shall be given to significant view-sheds, and significant character-defining features (e.g., design, massing, cladding, windows, doors, porches). Some potential examples are shifting specific project elements away from the historic property to lessen the adverse effect (e.g., buffering) and/or, repair or replacement of effected features either with in-kind materials or materials that approximate the originals in appearance. Aesthetic camouflaging treatments such as use of veneers, paints, texture compounds and other surface treatments and/or use of sympathetic infill panels and landscaping features will also be considered to the greatest extent feasible.
3. CEMVK will provide a written assessment of any alternatives, avoidance, and/or minimization measures considered to SHPO, Federally-Recognized Tribes, and Consulting Parties, as appropriate, for a fifteen (15)-day review and comment period.
4. Following the fifteen (15)-day review period CEMVK will consider all comments, and if the scope of the project can be substantially revised to avoid the adverse effects, or the construction item no longer affects the character defining features of a historic property, CEMVK will make a determination of "No Adverse Effect," describe any project specific conditions, and provide supporting documentation pursuant to 36 CFR §800.11(e). Unless a Consulting Party makes a timely objection in accordance with the applicable timeframe outlined in Stipulation I.B, then design review is complete and CEMVK will proceed with its "No Adverse Effect" determination, including any conditions, and conclude the Section 106

review and CEMVK is not required to carry out any additional STMs that may have been identified to offset the potential adverse effect. Any subsequent construction footprint or SOW changes will be reviewed in accordance with Stipulation II.E.

5. Should avoidance or minimization of the adverse effect not be feasible, in whole or in part, or if the adverse effect is determined to be in the best interest of the public and unavoidable, CEMVK will continue consultation with SHPO, Federally-Recognized Tribes, and Consulting Parties, as appropriate, in accordance with Stipulation II.H.2 and the following STMs outlined below are suggested for the resolution of adverse effects.

II. PHOTOGRAPHIC RECORDATION: CEMVK, in consultation with SHPO, Federally-Recognized Tribes, and Consulting Parties, as appropriate, will select the photographic medium or mediums from the options described below and identify a list of photographs that will serve to document the historic property to archival standards. Photographic images may include existing drawings and plans. If the determination is made that it is in the public interest to document a property through the preparation of measured drawings, CEMVK will initiate consultation to develop a project-specific MOA.

A. Recordation for Standing Structures (Flexible Standards)

CEMVK will ensure that a trained professional who meets the *Professional Qualification Standards* as defined in Stipulation II.A.1(a) photograph the exterior and/or interior, if it is accessible, in the selected photographic format(s) with an emphasis on documenting those portions of the exterior and/or interior that will be altered. The trained professional will take photographs of the views identified by CEMVK, SHPO, Federally-Recognized Tribes, and other Consulting Parties, as appropriate, and will print all specifically identified images:

- a. Digital Photography: The digital photography and color photographs must comply with the “Best” category of requirements from the latest *National Register Photo Policy Fact Sheet*: https://www.nps.gov/subjects/nationalregister/upload/Photo_Policy_update_2013_15_508.pdf, with the following additional requirements:
 1. Image files must be saved as both .TIFF and .JPEG files;
 2. Color images must be produced in Red/Green/Blue (RGB) color mode as 24-bit or 48-bit color files;
 3. In addition to the requirements specified by the *National Register Photo Policy Fact Sheet*, photographs will be digitally labeled to state the address (name of facility, street number, street name, city, and state); date of

2253 photograph; description of view, including direction of camera; and name
2254 of photographer, agent, or contractor responsible for the recordation.
2255

- 2256 b. 35mm Black/White and Color Photography: Photographs must be taken with a
2257 35mm SLR Camera or a 35mm “point-and-shoot” camera using 35mm black/
2258 white or color film. Photographs taken with disposable cameras are not
2259 acceptable.
2260

2261 1. The 35mm film black/white or color film photography package will include
2262 one (1) full set of 35mm film black/white or color photographs printed on
2263 acid-free paper specifically designed for color prints, the corresponding
2264 35mm film negatives in acid free sleeves.
2265

2266 2. Photographs will be labeled in pencil on the back to state the address,
2267 name of facility, street number, street name, city, and state; date of
2268 photograph; description of view, including direction of camera; and name
2269 of photographer, agent, or contractor responsible for the recordation.
2270

- 2271 c. Large Format Photography: Photographs must be taken with a large-format
2272 view camera with ample movement for perspective correction. The minimal
2273 complement of lenses includes a sharp rectilinear wide angle, a normal, and a
2274 mildly telephoto lens.
2275

2276 1. Acceptable film formats are 4x5, 5x7, and 8x10-inch. Acceptable polyester-
2277 based films include those of medium and slow speed (100 and 400 ASA)
2278 produced by a wide array of manufacturers.
2279

2280 2. The large format film photography package will include one (1) full set of
2281 4x5, or 5x7-inch photographs printed on acid free paper and the
2282 corresponding 4x5 or 5x7-inch negatives in acid free sleeves.
2283

2284 3. Photographs will be labeled in pencil on the back to state the address name
2285 of facility, street number, street name, city, and state; date of photograph;
2286 description of view, including direction of camera; and name of
2287 photographer, agent, or contractor responsible for the recordation.
2288

- 2289 d. Video: A video documentary regarding the historic property may include on-
2290 camera interviews, archival footage and/or images, current footage of the
2291 historic property, and current footage of other similar historic properties. The
2292 content and length of the video will be described in the TP.
2293

- 2294 e. Narrative History: A narrative history may be prepared to provide a context for
2295 the photographs following the Historic American Building Survey (HABS)

Guidelines for Historical Reports: "Short" or "Outline" format: <https://www.nps.gov/hdp/standards/HABS/HABSHistoryGuidelines.pdf>.

- f. Recordation Package: The recordation package will include a photo log, printed copies of selected photographs, digital copies of photographs, and may include a narrative history. The recordation package may include reproductions of historic photographs, existing building plans, contemporary sketch plans, and/or maps. All materials will be packaged in archival sleeves and boxes. Archival disks will be used for all digital materials.
- g. Review: The photographer, agent, or contractor responsible for the recordation may informally consult with SHPO, Federally-Recognized Tribes, and other Consulting Parties, as appropriate, to select photographs and other images that will be included in the recordation materials. The process to review and finalize the photographs and other images will be described in the TP.
- h. Distribution: The photographer, agent, or contractor responsible for the recordation will prepare a minimum of three (3) archival quality copies of the recordation materials and will forward two (2) copies to SHPO and one (1) copy to CEMVK for archiving. In consultation with SHPO, Federally-Recognized Tribes, and other Consulting Parties, as appropriate, CEMVK may identify additional archives and/or parties that will receive copies of the recordation materials. The responsible entity will provide CEMVK with documentation confirming that the recordation materials have been archived as described in the TP.

B. Recordation for Standing Structures (Established Standards)

The TP will document the proposed Level and Standard that will be most appropriate to capturing the significance of the historic property prior to alteration and define the Responsible Party. Choices will be made between the National Park Service (NPS), Heritage Documentation Programs (<https://www.nps.gov/hdp/>): *Historic American Building Standards* (HABS); *Historic American Engineering Standards* (HAER); or the *Historic American Landscape Standards* (HALS) at *Level III* or *Level II*. During the development of the TP, CEMVK will coordinate with the NPS, SHPO, Federally-Recognized Tribes, and other Consulting Parties, as necessary to make the selection. Any permission requiring a *Level I* effort under any of these standards will require an individual MOA to resolve the effects. The Responsible Party will ensure that a trained professional who meets the *Professional Qualifications Standards*, as defined in Stipulation II.A.1(a), photographs the exterior and/or interior, if it is accessible, in the selected standard with an emphasis on documenting those portions of the historic property that will be altered or demolished. The trained professional will take photographs of the views

identified by CEMVK, in consultation with stakeholders, and will print specifically identified images and produce the required historical narrative.

III. PUBLIC INTERPRETATION: CEMVK will consult with SHPO, Federally-Recognized Tribes, and other Consulting Parties, as appropriate, to design an educational or public interpretive plan. The educational or public interpretive plan may include historical markers, signs, displays, educational pamphlets, websites, workshops, videos, and other similar mechanisms to educate the public on historic properties within the local community, state, or region. In certain instances, SHPO may request that the proposed historical marker conform to the requirements of the Mississippi State Historical Marker Program, and request that the Responsible Party apply to this program.

IV. HISTORICAL CONTEXT STATEMENTS: CEMVK will consult with SHPO, Federally-Recognized Tribes, and other Consulting Parties, as appropriate, to identify the topic, audience, and framework of a historic context statement and format for the final deliverable. The context statement may focus on an individual property, a set of related properties, historic district, or other relevant themes identified in the MDAH *Historic Themes* (MDAH 2019) or the NPS *National Historic Landmark Thematic Framework* (<https://www.nps.gov/subjects/nationalhistoriclandmarks/nhl-thematic-framework.html>).

V. ORAL HISTORY DOCUMENTATION: CEMVK will consult with SHPO, Federally-Recognized Tribes, and other Consulting Parties, as appropriate, to identify the list of potential interview candidates; the parameters of the oral history project; qualifications of the individual or individuals conducting the oral interviews; the process for any ongoing coordination with stakeholders; and format for the final deliverable.

VI. PHOTOGRAPHY OF COLLECTIONS: This treatment measure may be appropriate for the following circumstances including, but not limited to: private collection(s) held by local landowners consisting of artifacts the landowner found on their land that is located in the project footprint and/or collections held in museums that were recovered from project lands in the past.

CEMVK will consult with SHPO, Federally-Recognized Tribes, and other Consulting Parties to determine the collections to be recorded. CEMVK or other designated Responsible Party shall submit the Draft Collection Photograph Package digitally to SHPO, Federally-Recognized Tribes, and other Consulting Parties for review and approval. CEMVK, SHPO, and Federally-Recognized Tribes will review the Draft Collection Photograph Package and CEMVK will compile any comments and provide to the designated Responsible Party for incorporation into the Final Collection Photograph Package.

The designated Responsible Party shall address any comments provided by CEMVK, and once approved by CEMVK, will submit final copies of the approved Digital Collection Photography Package to the identified repository(ies) for permanent retention. Repositories will be identified on a case-by-case basis and may include, but are not limited to, MDAH, participating Tribes, local museums, or historical societies. Photographs shall be taken in accordance with the *Curation Standards* and the package will include both digital photographs and copies printed on archival paper. The repository shall dictate any additional requirements such as file type (e.g., .TIFF or .JPEG). The package shall also include a narrative describing the collection. At a minimum the narrative should include a description of the collection contents; how the collection was obtained, and the ability of the collection to inform about past use and occupation of area and/or other relevant themes identified in the MDAH *Historic Themes* (MDAH 2019).

VII. HISTORIC PROPERTY INVENTORY: CEMVK will consult with SHPO, Federally-Recognized Tribes, and other Consulting Parties, as appropriate, to establish the appropriate level of effort to accomplish a historic property inventory. Efforts may be directed toward the resurvey of previously designated historic properties which have undergone change or lack sufficient documentation, or, the survey of new historic properties that lack formal designation. The proposed STM will describe the boundaries of the survey area and the data collection method in accordance with Stipulation II.A.

VIII. NATIONAL REGISTER AND NATIONAL HISTORIC LANDMARK NOMINATIONS: CEMVK will consult with SHPO, Federally-Recognized Tribes, and other Consulting Parties, as appropriate, to identify individual properties that would benefit from a completed NRHP or NHL nomination form. Once the Consulting Parties have agreed to a property, the Responsible Party will continue to coordinate with CEMVK through the drafting of the NRHP Nomination Form and will contact the NHL Program to begin the nomination process. CEMVK in turn, will forward the materials to Consulting Parties for review and comment. The SHPO and/or Federally-Recognized Tribes will provide adequate guidance to the Responsible Party during the preparation of the nomination form. CEMVK will work with the SHPO to ensure the completed NRHP form is presented to the Mississippi National Register Review Committee in a timely manner for consideration by the SHPO and the Keeper of the Register.

IX. GEO-REFERENCING OF HISTORICAL MAPS AND AERIAL PHOTOGRAPHS: CEMVK will consult with SHPO, Federally-Recognized Tribes, and other Consulting Parties, as appropriate, to identify the historical maps and/or aerial photographs for scanning and geo-referencing. The SHPO/THPO or other Tribal-designated representative and CEMVK shall have final approval on the quality of the documentation. Once a list of maps and/or aerial photographs have been agreed

upon, the Responsible Party will continue to coordinate with CEMVK through the scanning and geo-referencing process and will submit drafts of paper maps and electronic files to CEMVK, who in turn forward the materials to Consulting Parties for review and comment. The final deliverable produced by the Responsible Party will include: 1) a paper copy of each scanned image; 2) a geo-referenced copy of each scanned image; 3) original high-resolution digital image of map/aerial photograph in .TIFF file format; 4) copies of the user agreements for every geo-referenced image with transferability of use to all parties; 5) a process report outlining the research, and; 6) the metadata relating to both the original creation of the paper maps and the digitization process.

X. ARCHAEOLOGICAL RESEARCH DESIGN AND DATA RECOVERY PLAN:

CEMVK will consult with SHPO, Federally-Recognized Tribes, and other Consulting Parties, as appropriate, to develop and implement a research design with a data recovery plan to recover data from archaeological properties listed in, or eligible for, listing in the NRHP, which will be adversely affected by ground-disturbing activities that are part of the construction item, when it has been determined that data recovery is the appropriate mitigation for the resolution of adverse effects to the historic property. Data recovery will be used to recover important information that would be lost as a result of the project and/or project elements. The research design and data recovery plan will be consistent with the *Standards* and all work shall conform to the most current guidelines per SHPO and as augmented by Federally-recognized Tribal or other local guidelines, and, if applicable, Stipulation III.C; *Treatment of Human Remains, Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony*.

Each research design and data recovery plan will be tailored to the specific site undergoing data recovery. At a minimum, the research design and data recovery will include (but is not limited to):

1. Discussion of the National Register significance of the property;
2. Research questions that are directly pertinent to the Historic Property undergoing data recovery;
3. Results of previous research relevant to the site;
4. Background research relevant to the site (geological, prehistory, history, etc.);
5. Proposed field methodology and techniques;
6. Proposed artifact collection methodology;
7. Proposed laboratory processing and analysis;
8. Methods and techniques used in artifact, data, and other records management;
9. Artifact curation during the Federal interest of the project and how artifacts will be returned to landowners after the Federal interest of the project is over;

- 2467 10. Plan for public outreach as part of the data recovery and/or results from the
2468 data recovery.
2469

2470 The SHPO/THPO or other Tribal-designated representative and CEMVK shall have
2471 final approval on the quality of the documentation.

2472 **XI. MARKETING PLAN FOR DEMOLITION OR ABANDONMENT:** CEMVK will
2473 consult with SHPO, Federally-Recognized Tribes, and other Consulting Parties, as
2474 appropriate, to develop and implement a feasible marketing plan to advertise the
2475 availability of historic structures identified for demolition or abandonment for sale
2476 and relocation at the purchasing party's expense. A good faith and reasonable
2477 marketing plan will include publicizing and advertising the property in newspapers,
2478 magazines, and/or websites of record for a specific period of time. The plan may
2479 require the purchaser to relocate the property outside of the Special Flood Hazard
2480 Area (100-year floodplain), and the plan will give preference to a purchaser who
2481 proposes to use a professional house mover that follows the recommendations
2482 contained in the U.S. Department of the Interior, Heritage Conservation and
2483 Recreation Service, publication: *Moving Historic Buildings* by John Obed Curtis
2484 (1979) or other similar updated reference material. Relocation activities will not
2485 occur at or below grade in order to avoid affecting archaeological resources. The
2486 *Marketing Plan for Demolition or Abandonment* treatment measure will be used in
2487 conjunction with Treatment Measure II, *Photographic Recordation*. If the good faith
2488 and reasonable effort does not result in the identification of a party or parties willing
2489 to purchase and relocate the property, the property may be demolished following
2490 the completion of the recordation package. Timeframes and specifics regarding the
2491 salvage will be developed in the consultation package to SHPO/THPO or other
2492 Tribal-designated representative.

2493
2494 **XII. SALVAGE:** CEMVK will consult with SHPO, Federally-Recognized Tribes, and
2495 other Consulting Parties, as appropriate, to identify selective architectural elements
2496 that may be salvaged from a building/structure slated for demolition. The salvaged
2497 elements may be re-used in new construction, rehabilitation of existing structures,
2498 or in displays for educational purposes. As an alternative, CEMVK will consult with
2499 SHPO, Federally-Recognized Tribes, and other Consulting Parties, as appropriate,
2500 to attempt to identify a private or public not-for-profit local or regional historic
2501 preservation organization interested in receiving a donation of the architectural
2502 features. Elements of the affected structure shall be offered for salvage to a
2503 responsible entity, at the salvaging party's expense. The organization may sell the
2504 architectural features to the general public for the specific purpose of raising funds
2505 to support future historic preservation activities in the region. Salvage activities will
2506 not occur at or below grade in order to avoid affecting archaeological resources.
2507 The salvage treatment measure will be used in conjunction with Treatment Measure
2508 II., *Photographic Recordation*. Timeframes and specifics regarding the salvage will

be developed in the consultation package to SHPO/THPO or other Tribal-designated representative.

- XIII. CULTURAL KEYSTONE SPECIES:** CEMVK will consult with Federally-Recognized Tribes, SHPO, Consulting Parties, and others as appropriate, to develop and implement measures focused on conservation and/or ecological restoration of Cultural Keystone Species (CKS) identified by participating Tribes. A CKS can be a plant, animal, or other natural resource that has greatly shaped the cultural identity of a group of people. A CKS often has an important role in diet, materials, medicine, and/or spirituality. CKS can be integral parts of ritual, ceremony, and language, have links to kinship and oral tradition, and may be protected by a people. CKS play a role in environmental stewardship and ecosystem vitality. CKS offer indicators for ecosystem health and community resilience; protecting them ensures the survival of the communities which depend on them. In the case of this mitigation measure, efforts will specifically be directed towards the restoration of Rivercane (*Arundinaria Gigantea*), Switch cane (*Arundinaria Tecta*), and/or other cane species of documented cultural significance and appropriateness for propagation within the Pearl River Basin. Restoration of Rivercane has the potential to improve riverine habit, water quality, erosion control, and cultural revitalization of practices threatened by development and agricultural pressures. Stewarding and conserving a CKS requires a holistic approach; one that accounts for the relationships between places, ecosystems, and cultures. To the greatest extent possible, CEMVK will leverage both Traditional Indigenous Ecological Knowledge (TIEK) and scientific ecological knowledge to develop and implement sustainable practices for long-term successful CKS conservation and/or restoration and stewardship. This may result in additional Stewardship Agreements between CEMVK, Federally-Recognized Tribes, NFI, Consulting Parties, and others, as appropriate. Any such roles and/or responsibilities will be documented in the TP and/or in the form of a separate MOU or MOA; whichever is more appropriate. This measure may be implemented as a Section 106 STM or integrated into the PRBFRMP project-specific Habitat Mitigation Plan.

Appendix E
Lower-Impact Demolition Stipulations
(To be Included in Demolition Contracts)

As provided in Stipulation IV, it is agreed by the Consulting Parties that the Responsible Party shall ensure that their demolition contractor adheres to the “Lower-Impact Demolition Stipulations” (LIDS; i.e., work restrictions) as prescribed by CEMVK and SHPO. This will partially fulfill CEMVK requirements to comply with the National Historic Preservation Act (NHPA) for demolitions funded by CEMVK. In many cases, compliance with LIDS expedites project review and reduces costs because in-depth and lengthy historic reviews can be lessened as the Stipulations are designed to avoid impacts to archaeological resources.

For each property that demolition activities may occur at, prior to the commencement of any staging or demolition work, the Responsible Party shall provide CEMVK with advance notice and sufficient time for CEMVK Cultural Resources (CR) staff to conduct any necessary reviews and/or evaluations and/or consultation with the SHPO, Federally-Recognized Tribes, and others, as appropriate. Depending on the unique circumstances of the demolition work and the potential for known/unidentified historic properties, CEMVK may deploy a SOI-Qualified archaeologist to monitor construction activities in-part or entirety. Additional Protocols for Working with Archaeological Monitors are provided below. Following the completion of CEMVK’s review, CEMVK will then notify and provide instructions to the Responsible Party regarding any additional property-specific conditions and/or requirements (e.g., No Work Zones or Archaeological Monitoring requirements) and provide the Responsible Party with Notice to Proceed. **The Responsible Party and/or their contractors shall not initiate staging or ground-disturbing work prior to receiving approval from a CEMVK CR representative.** Failure to comply with the LIDS Stipulations may jeopardize the NFI’s receipt of Federal funding.

The Responsible Party will ensure that these Stipulations and any property-specific “No Work Zones” are made explicit in demolition contracting documents to be used for construction purposes. Further, the Responsible Party shall brief construction personnel of these Stipulations prior to the commencement of any staging or demolition activities. These briefings shall provide guidance on the nature of potential archeological findings.

CEMVK reserves the right to conduct unannounced field inspections and monitor demolition activities to verify compliance with LIDS.

General Approach:

- Major demolition activities, including placement of equipment, will be confined to areas where soils have been previously disturbed by activities, such as site development, construction, surface grading, landscaping, utility trenching, etc. CEMVK, or their designated representative, will identify areas of obvious soil disturbance and direct the Responsible Party’s contractor to work within these areas;
- When heavy equipment is not in use, it will be staged on hard or firm surfaces where equipment is not susceptible to sinking. Paved surfaces will be used to the fullest extent possible;
- Tracked vehicles and/or large-tired equipment will be used whenever possible to

- 2583 reduce the depth of soil disturbance and minimize soil compaction to a depth of
2584 six (6) inches (15.2 cm) or less;
- 2585 ○ The Responsible Party will ensure that its contractors will not operate heavy
2586 equipment on wet soils if the equipment begins to sink more than six (6) inches
2587 (15.2 cm) below the current ground surface. Heavy equipment may be operated
2588 in the rain, but the Responsible Party will ensure that its contractors will pay
2589 special attention to equipment sinkage, as noted above;
 - 2590 ○ Shearing off structural features at the ground-surface is strongly encouraged so
2591 that further soil disturbance is minimized;
 - 2592 ○ There will be no salvage of architectural materials from below-grade; and,
 - 2593 ○ Excavation of on-site materials and burial of debris are not permitted.

2594 **Activity Specific Guidelines:**

2595 ○ **Treatment of Utilities:**

2596 Utility lines will be disconnected and capped. Extraction of utility lines is not an
2597 eligible CEMVK cost. In cases where there are no shut-off valves, limited
2598 excavation within the utility Rights-of-Way (ROW) will be required to cap these
2599 service lines. Excavation will be limited to the existing ROW to the greatest
2600 extent feasible to limit unnecessary ground disturbance.

2601 ○ **Footing and Pier Removal:**

2602 If it is absolutely necessary to remove footings and piers to ensure public health
2603 and safety, the soil disturbance caused by these activities should be limited to a
2604 depth no greater than six (6) inches (15.2 cm) below the footing or pier to be
2605 extracted. The excavation shall not exceed a 2-foot (0.6 m) lateral width from the
2606 footing or pier being extracted.

2607 ○ **Slab Removal:**

2608 The Responsible Party will ensure, to the fullest extent possible, that its
2609 contractors will make every effort to limit any soil disturbance necessary to
2610 facilitate this process and limit excavation to within 2-feet (0.6 m) of the
2611 foundation perimeter and will not excavate more than six (6) inches (15.2 cm)
2612 below the depth of the foundation to minimize soil disturbance.

2613 ○ **Void and/or Feature filling**

2614 Any voids which require filling because they are a “health and safety issue” will
2615 be filled with clean fill from off-site. Whenever possible this will be a sand matrix,
2616 however sand is not required. These voids may include, but are not limited to,
2617 those created as the result of exposing cisterns, privies, wells, and/or basement-
2618 like depressions.

2619 ○ **Surface Grading and Site Clean-Up:**

2620 The Responsible Party will ensure that its contractors will limit site grading to
2621 within the first six (6) inches (15.2 cm) of the existing surface elevation (e.g.,

2622 sidewalk level, driveway level, slab level, etc.). The Responsible Party will ensure
2623 that its contractors will use light equipment (e.g., small bobcats, hand tools, etc.)
2624 to complete final site clean-up.

2625 **Treatment of New Discoveries:**

2626 ○ *Inadvertent Discovery of Previously Unknown Archaeological Remains and*
2627 *Artifacts*

2628 If during the course of demolition work, archaeological artifacts (prehistoric or
2629 historic) are inadvertently discovered, and there is no reasonable expectation that
2630 the property contains human remains, funerary objects, Native American sacred
2631 objects or objects of cultural patrimony, all work must stop immediately within a
2632 (50) meter (164 ft) radius buffer zone around the point of discovery; unless there
2633 is reason to believe that the area of the discovery may extend beyond in which
2634 case the buffer zone will be expanded appropriately, and the Contractor shall take
2635 all reasonable measures to avoid or minimize harm to the finds. The contractor
2636 shall inform the Responsible Party's representative, who will in turn contact
2637 CEMVK CR staff. In such cases, CEMVK will deploy a (SOI)-Qualified
2638 archaeologist to conduct a site assessment. The Responsible Party will ensure
2639 that the Contractor does not proceed with work until CEMVK CR completes
2640 consultation with the SHPO, Federally-Recognized Tribes and others, as
2641 appropriate. If human remains, funerary objects, Native American sacred objects
2642 or objects of cultural patrimony are discovered, or suspected, the provisions
2643 stipulated under "Inadvertent Discovery of Human Remains" (below) shall be
2644 followed:

2645 ○ *Inadvertent Discovery of Human Remains*

2646 If unmarked graves, burials, human remains, or items of cultural patrimony are
2647 discovered, or suspected, all work must stop immediately within a one hundred
2648 (100) meter (328 ft) radius buffer zone around the point of discovery; unless there
2649 is reason to believe that the area of the discovery may extend beyond the one
2650 hundred (100) meter (328 ft) radius buffer zone in which case the buffer zone will
2651 be expanded appropriately. Any Responsible Party, their contractor, or
2652 subcontractor, who knows or has reason to know that they have inadvertently
2653 discovered human remains, burials, funerary objects, Native American sacred
2654 objects or objects of cultural patrimony must provide immediate notification of the
2655 inadvertent discovery, with written confirmation, to the Responsible Party's
2656 representative, who will in turn contact CEMVK CR staff. CEMVK will implement
2657 measures to protect the discovery from theft and vandalism. Any human remains
2658 or other items in the immediate vicinity of the discovery must not be removed or
2659 otherwise disturbed, and no photographs should be taken at this time of the human
2660 remains. CEMVK will implement measures to protect the discovery from theft and
2661 vandalism. Any human remains or other items in the immediate vicinity of the
2662 discovery must not be removed or otherwise disturbed. CEMVK will take
2663 immediate steps, if necessary, to further secure and protect the inadvertent
2664 discovery, as appropriate, including stabilization, or covering the find location.
2665 CEMVK will notify local law enforcement, and the SHPO, by telephone to assess
2666 the nature and age of the human skeletal remains within twenty-four (24) hours of

the discovery and accompany local law enforcement personnel during field investigations. CEMVK will also notify interested Federally-Recognized Tribes of the discovery within the same period. If the appropriate local law enforcement official determines that the remains are not involved in a criminal investigation, CEMVK will follow jurisdictional guidelines as provided for based on land ownership to determine the course of action for each situation. The Responsible Party will ensure that the Contractor does not proceed with work until CEMVK CR completes consultation with the SHPO, Federally-Recognized Tribes, and others, as appropriate.

• **Protocol for Working with Archaeological Monitors:**

○ **Archaeological Monitoring –Compliance Violations:**

If during spot checks, CEMVK CR Specialists/Archaeologists observe violations of the Lower-Impact Demolition Stipulations, they shall request that the Responsible Party's representative on-site cease demolition activities until the effects of the construction item can be assessed through intensive visual inspection. If adverse effects are observed, CEMVK shall consult with SHPO and other Consulting Parties, as necessary.

○ **Archaeological Monitoring–Findings Assessment:**

If during the course of work, CEMVK archeological monitors observe significant or potentially significant findings as a result of activities associated with the construction item a findings assessment will be required. If the CEMVK archeological monitors determine that a findings assessment will require a discontinuation of work greater than one (1) hour in duration, the archeological monitor is responsible for promptly notifying the Responsible Party's representative on-site regarding the delay. If after the initial one-hour findings assessment, the archeologist has determined more evaluation time will be necessary at this location, the archeologist shall promptly convey this to the Responsible Party's representative on-site.

○ **Archaeological Monitoring --Asbestos Demolitions:**

The Responsible Party's contractors shall establish a safety perimeter beyond which archeological monitors will not be permitted to cross without first obtaining the appropriate training and personal protective equipment (PPE). Archaeologists shall have formal asbestos training, a pulmonary fitness examination, and may be required to wear a full respirator and a Tyvek suit. If an archeological monitor needs to cross the safety perimeter, she/he shall approach the Responsible Party's representative on site and notify them of the need to access the demolition site. The Responsible Party's representative on site shall have all equipment inside the work zone stop work so that the archaeologist may conduct a brief inspection. Once the archeological monitor has completed work, she/he shall leave the restricted zone and the work may resume. This procedure applies not only to field inspections but also to monitoring of known archeological sites and investigations of inadvertent discoveries.