

# Agency Correspondence



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

Environmental Compliance Branch  
Regional Planning and Environmental Division South

**SUBJECT:** Invitation to Be a Cooperating Agency for the Arkabutla Dam Safety Modification Study

Dear Mississippi Department of Environmental Quality:

The US Army Corps of Engineers (USACE), Vicksburg District (MVK) are developing an Environmental Assessment (EA) for the proposed, "Arkabutla Dam Safety Modification Study". The study area encompasses Arkabutla Dam, Arkabutla Lake, and the Coldwater River near the dam in DeSoto and Tate Counties, MS. In accordance with regulations pertaining to the National Environmental Policy Act (Title 40 of the Code of Federal Regulations (CFR), part 1501.8, state, tribal, or local agencies that may have special expertise with respect to any environmental impact involved in a proposal for legislation (or a reasonable alternative) or other major federal action that may significantly affect the quality of the human environment may take part as a Participating or Cooperating Agency.

USACE MVK invites your Agency to be a cooperating agency. Your Agency could: participate and provide input during agency coordination meetings, including the review of any scoping comments received; Identify issues related to your Agency's special expertise; and could review administrative and public drafts of the Draft and Final environmental document. Designation as a participating or cooperating agency does not imply that your Agency supports the proposed project.

**Project Authority**

The project is authorized The Flood Control Act of 15 May 1928, as amended by the Acts of 15 June 1936 and 28 June 1938, authorized the construction of the Arkabutla Dam and Reservoir Project, which is included in the approved program for flood control under the appropriation "Flood Control Mississippi River and Tributaries", Act of 1939. Development of recreation and public-use areas on USACE reservoir areas was authorized by Section 4 of the Flood Control Act of 22 December 1944, as amended by Section 209 of the Flood Control Act of 3 December 1954. Construction of the project began in August 1940 and was completed in June 1943. The authorized project included flood control and recreation.

## **Background**

Arkabutla Dam is in the Northwest portion of Mississippi in DeSoto county about 35 miles (56.3 km) south of Memphis, Tennessee. The dam was constructed to improve flood risk management in Yazoo River basin. After the Great Mississippi Flood of 1927, engineers and technical experts determined that the headwaters of the Yazoo River played a substantial role in the flooding of the Mississippi Delta. In 1936, the Yazoo Headwater Project created the Arkabutla, Sardis, Enid, and Grenada lakes in Mississippi to reduce flood risk.

Existing Arkabutla Dam components consist of an embankment dam, abutment dikes, outlet works, spillway, and closure dikes. The total length of the dam including the abutment dikes is 10,700 feet (3.26 km) in length. The maximum height above the valley floor is 85 feet (26 meters). The outlet works consist of a three-gated reinforced concrete intake tower, single reinforced concrete conduit, reinforced concrete stilling basin, and outlet channel. A service bridge connects the intake tower with the crown of the main embankment and allows access from embankment to the intake structure operating floor. The spillway is in a natural saddle about 3,000 feet (0.91 km) north of the dam and is an uncontrolled overflow type consisting of a reinforced concrete approach apron, weir, chute, stilling basin, and riprap lined outlet channel. The two small closure dikes are located northwest of the spillway and have a total length of approximately 1,300 feet (.40 km) and a maximum height of 35 feet (10.7 meters).

Arkabutla Dam has been at risk of being breached since the discovery that higher than normal flows, fine and coarse sands, woody debris, and organic matter were all being passed through the pressure relief systems underneath the stilling basin, which signified the possible presence of a backwards eroding pipe developing or progressing. On May 7, 2023, the MVK Dam Safety Officer declared the situation at Arkabutla Dam to be a Potential Breach Emergency and began lowering the Arkabutla Lake's pool level to 204-foot (62-meter) elevation to relieve pressure on the dam.

After the pool was lowered a deviation from Arkabutla Lake's current water control plan was implemented, to maintain the lake pool at 204-foot (62-meter) elevation until interim and long-term repairs can be made. More information about the current status and recent updates on the conditions at Arkabutla Dam can be found here:

<https://www.mvk.usace.army.mil/Missions/Emergency-Operations/Arkabutla-Emergency-Repairs/>

### **Proposed Actions Under Consideration**

The intent of the proposed Undertaking is to address the active potential failure risk to Arkabutla Dam by replacing the existing outlet works, used to control and release water from the reservoir pool, in a new location that includes the following project features (Attached KMZ):

- 1) New Construction/ Installation:
  - a. Borrow material locations;
  - b. New discharge channel;
  - c. Reinforced concrete conduit;
  - d. Reinforced concrete control house with vertical lift gates and emergency gates;
  - e. Reinforced concrete intake structure; and
  - f. Reinforced concrete stilling basin.
- 2) Abandonment of Existing Outlet Works (to remain in place with protective filters) and filling in of the old river channel.

Please respond to this invitation within 30 days of the date of this letter. If you have any questions, please contact Taylor Piefke by email [taylor.piefke@usace.army.mil](mailto:taylor.piefke@usace.army.mil).

Sincerely,

Dan Moore  
Chief, Environmental Compliance Section  
Regional Planning Environment Division South



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

July 17, 2024

Regional Planning and  
Environment Division, South  
Environmental Planning Branch  
Attn: CEMVN-PDN-UDP

The U.S. Army Corps of Engineers (USACE) is preparing a Dam Safety Modification Report (DSMR) for Arkabutla Dam to document the completion of a Dam Safety Modification Study (DSMS) and identification of a Risk Management Plan (RMP) to reduce unacceptable dam safety risks. Arkabutla Dam is a high hazard potential dam located in Desoto County, Mississippi with portions of the Lake extending into Tate County, Mississippi. The dam is located on the Coldwater River, a tributary of the Tallahatchie River, that stores floodwater to provide flood damage reduction in the Yazoo Basin, approximately 4.25 miles (6.84 km) north of Arkabutla, Mississippi and approximately 35 miles (56 km) south of Memphis, Tennessee.

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After the pool was lowered a deviation from Arkabutla Lake's current water control plan was implemented, to maintain the lake pool at 204-foot (62-meter) elevation until interim and long-term repairs can be made. More information about the current status and recent updates on the conditions at Arkabutla Dam can be found here:

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### **Description of the Undertaking (Proposed Action under Consideration)**

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  - f. Reinforced concrete stilling basin.
- 2) Abandonment of Existing Outlet Works (to remain in place with protective filters) and filling in of the old river channel.

### **Initial Identification and Evaluation of Threatened and Endangered Species**

USACE completed Section 7 consultation on 8 July 2024 through USFWS's IPaC website (Attachment 1). USACE made the following determinations about impacts related to threatened and endangered species that could possibly occur in the project area:

Northern Long-eared Bat ( <i>Myotis septentrionalis</i> )	May affect but not likely to adversely affect.
Tricolored Bat ( <i>Perimyotis subflavus</i> )	May affect but not likely to adversely affect.
Alligator Snapping Turtle ( <i>Macrochelys temminckii</i> )	May affect but not likely to adversely affect.
Monarch Butterfly ( <i>Danaus plexippus</i> )	No Effect

As part of the IPaC process a NLEB range wide determination key was completed (Attachment 2) and concurred with the USACE determination of may affect but are not likely to adversely affect the NLEB. Due to having a similar natural history and roosting behavior as the NLEB, it was determined that the proposed actions may affect but are unlikely to adversely affect the Tricolored bat.

Since alligator snapping turtles rarely exit the water, it is unlikely that the terrestrial construction activity would cause direct effects. However, the cofferdam construction and the backfilling of the old channel may minorly affect alligator snapping turtles. Alligator snapping turtles would likely leave the area during construction and return after the project is complete. Best management practices including backfilling

the old channel outside of the turtle's hibernation season would be implemented to reduce any potential impacts to alligator snapping turtles.

Potential impacts to monarch butterfly larvae and adults could involve the removal of host milkweed plants, construction noise, and other disturbances. However, based on the site-specific conditions the proposed actions are not likely to jeopardize the continued existence of the monarch butterfly.

### **Initial Identification and Evaluation of Terrestrial Habitat**

The proposed actions would impact wetlands and other terrestrial resources. Multiple areas of forest and wetlands would need to be cleared and grubbed for construction of the outlet works and new channel and within the borrow pit locations. In these areas, approximately 62.9 acres of wetlands would be cleared for construction based on the USFWS National Wetland Inventory website. A delineation of the wetlands and a mitigation plan for impacts to the wetlands would be completed during the Preconstruction Engineering and Design (PED) project stage after the project footprint is further refined.

Due to the abundance of similar forest habitat in the vicinity of the project area, impacts to terrestrial resources and wildlife are anticipated to be minimal. A mitigation plan would be required for impacts to wetlands.

### **Conclusion**

If you would like to provide comments and feedback on this project, please contact Mr. Taylor Piefke of this office at (601) 631- 5087 or via e-mail [Taylor.Piefke@usace.army.mil](mailto:Taylor.Piefke@usace.army.mil).



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Attn: CEMVN-PDN-UDP

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- 2) Abandonment of Existing Outlet Works (to remain in place with protective filters) and filling in of the old river channel.

A 404 Evaluation and Water Quality Certification would be required for this project. Water Quality Certification process would be completed after feasibility during the preconstruction, engineering, and design phase. USACE is requesting for you to be a cooperating agency and provide comments.

### **Conclusion**

If you would like to provide comments and feedback on this project, please contact Mr. Taylor Piefke of this office at (601) 631- 5087 or via e-mail [Taylor.Piefke@usace.army.mil](mailto:Taylor.Piefke@usace.army.mil).

**SECTION 106  
CONSULTATION  
CORRESPONDENCE**



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

June 28, 2024

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

Ms. Devon Frazier  
Tribal Historic Preservation Officer  
Cultural Preservation Department, Tribal Historic Preservation Board  
Absentee-Shawnee Tribe of Indians of Oklahoma  
2025 S Gordon Cooper Drive  
Shawnee, OK 74801

**RE: Notice of Intent to Prepare a Programmatic Agreement (PA) for the Environmental Assessment for the Arkabutla Dam Safety Modification Study, DeSoto and Tate Counties, Mississippi.**

<b>(Project Location Project Center Point</b>	<b>Latitude 34.758125°</b>	<b>Longitude -90.126179°</b>
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Dear Ms. Frazier:

The U.S. Army Corps of Engineers (USACE) is preparing a Dam Safety Modification Report (DSMR) for Arkabutla Dam to document the completion of a Dam Safety Modification Study (DSMS) and identification of a Risk Management Plan (RMP) to reduce unacceptable dam safety risks. Arkabutla Dam is a high hazard potential dam located in Desoto County, Mississippi with portions of the Lake extending into Tate County, Mississippi. The dam is located on the Coldwater River, a tributary of the Tallahatchie River, that stores floodwater to provide flood damage reduction in the Yazoo Basin, approximately 4.25 miles (6.84 km) north of Arkabutla, Mississippi and approximately 35 miles (56 km) south of Memphis, Tennessee (located as follows on the *Banks, MS* and *Frees Corner, MS* 7.5-minute USGS quadrangle maps: Sections 2, 10, and 11 in Township 4S, Range 9W) (Figures 1 & 2).

### **Project Authority**

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### **Background**

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

Mr. Delvin Johnson  
Tribal Historic Preservation Officer  
Alabama Coushatta Tribe of Texas  
571 State Park Road  
Livingston, TX 77351

**RE: Notice of Intent to Prepare a Programmatic Agreement (PA) for the Environmental Assessment for the Arkabutla Dam Safety Modification Study, DeSoto and Tate Counties, Mississippi.**

<b>(Project Location Project Center Point</b>	<b>Latitude 34.758125°</b>	<b>Longitude -90.126179°)</b>
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Dear Mr. Johnson:

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

Mr. Robert Yargee  
Second Chief and NAGPRA Coordinator  
Alabama-Quassarte Tribal Town  
P.O. Box 187  
Wetumka, OK 74883

**RE: Notice of Intent to Prepare a Programmatic Agreement (PA) for the Environmental Assessment for the Arkabutla Dam Safety Modification Study, DeSoto and Tate Counties, Mississippi.**

<b>(Project Location Project Center Point</b>	<b>Latitude 34.758125°</b>	<b>Longitude -90.126179°)</b>
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Dear Mr. Yargee:

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

Jonathan M. Rohrer  
Tribal Historic Preservation Officer  
Caddo Nation of Oklahoma  
117 Memorial Lane  
Binger, OK 73009

**RE: Notice of Intent to Prepare a Programmatic Agreement (PA) for the Environmental Assessment for the Arkabutla Dam Safety Modification Study, DeSoto and Tate Counties, Mississippi.**

<b>(Project Location Project Center Point</b>	<b>Latitude 34.758125°</b>	<b>Longitude -90.126179°</b>
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Dear Mr. Rohrer:

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Attn: CEMVK-PDS-N

Karen Brunso  
Tribal Historic Preservation Officer  
Chickasaw Nation  
P.O. Box 1548  
Ada, OK 74821

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Dear Ms. Brunso:

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**4155 CLAY STREET**  
**VICKSBURG, MISSISSIPPI 39183-3435**

June 28, 2024

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

Kimberly S. Walden,  
Tribal Historic Preservation Officer  
Chitimacha Tribe of Louisiana  
155 Chitimacha Loop  
Charenton, LA 70523

**RE: Notice of Intent to Prepare a Programmatic Agreement (PA) for the Environmental Assessment for the Arkabutla Dam Safety Modification Study, DeSoto and Tate Counties, Mississippi.**

<b>(Project Location Project Center Point</b>	<b>Latitude 34.758125°</b>	<b>Longitude -90.126179°)</b>
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Dear Ms. Walden:

The U.S. Army Corps of Engineers (USACE) is preparing a Dam Safety Modification Report (DSMR) for Arkabutla Dam to document the completion of a Dam Safety Modification Study (DSMS) and identification of a Risk Management Plan (RMP) to reduce unacceptable dam safety risks. Arkabutla Dam is a high hazard potential dam located in Desoto County, Mississippi with portions of the Lake extending into Tate County, Mississippi. The dam is located on the Coldwater River, a tributary of the Tallahatchie River, that stores floodwater to provide flood damage reduction in the Yazoo Basin, approximately 4.25 miles (6.84 km) north of Arkabutla, Mississippi and approximately 35 miles (56 km) south of Memphis, Tennessee (located as follows on the *Banks, MS* and *Frees Corner, MS* 7.5-minute USGS quadrangle maps: Sections 2, 10, and 11 in Township 4S, Range 9W) (Figures 1 & 2).

### **Project Authority**

The project is authorized The Flood Control Act of 15 May 1928, as amended by the Acts of 15 June 1936 and 28 June 1938, authorized the construction of the Arkabutla Dam and Reservoir Project, which is included in the approved program for flood control under the appropriation "Flood Control Mississippi River and Tributaries", Act of 1939. Development of recreation and public-use areas on USACE reservoir areas was authorized by Section 4 of the Flood Control Act of 22 December 1944, as amended by Section 209 of the Flood Control Act of 3 December 1954. Construction of the project began in August 1940 and was completed in June 1943 (Figure 3). The authorized project included flood control and recreation.

### **Background**

Arkabutla Dam is in the Northwest portion of Mississippi in DeSoto county about 35 miles (56.3 km) south of Memphis, Tennessee. The dam was constructed to improve flood risk management in Yazoo River basin. After the Great Mississippi Flood of 1927, engineers and technical experts determined that the headwaters of the Yazoo River played a substantial role in





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June 28, 2024

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

Dr. Ian Thompson  
Director/Tribal Historic Preservation Officer  
Choctaw Nation  
P.O. Box 1210  
Durant, OK 74702-1210

**RE: Notice of Intent to Prepare a Programmatic Agreement (PA) for the Environmental Assessment for the Arkabutla Dam Safety Modification Study, DeSoto and Tate Counties, Mississippi.**

<b>(Project Location Project Center Point</b>	<b>Latitude 34.758125°</b>	<b>Longitude -90.126179°</b>
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June 28, 2024

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

Mr. Dakota John  
Tribal Historic Preservation Officer  
Coushatta Tribe of Louisiana  
1940 C.C. Bell Road  
Elton, LA 70532

**RE: Notice of Intent to Prepare a Programmatic Agreement (PA) for the Environmental Assessment for the Arkabutla Dam Safety Modification Study, DeSoto and Tate Counties, Mississippi.**

<b>(Project Location Project Center Point</b>	<b>Latitude 34.758125°</b>	<b>Longitude -90.126179°</b>
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June 28, 2024

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

Ms. Johnna Flynn  
Tribal Historic Preservation Officer  
Jena Band of Choctaw Indians  
P.O. Box 14  
Jena, LA 71342

**RE: Notice of Intent to Prepare a Programmatic Agreement (PA) for the Environmental Assessment for the Arkabutla Dam Safety Modification Study, DeSoto and Tate Counties, Mississippi.**

<b>(Project Location Project Center Point</b>	<b>Latitude 34.758125°</b>	<b>Longitude -90.126179°</b>
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June 28, 2024

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

Ms. Melanie Carson,  
Tribal Historic Preservation Officer  
Mississippi Band of Choctaw Indians  
MBCI Planning Office  
101 Industrial Rd  
Choctaw, MS 39350

**RE: Notice of Intent to Prepare a Programmatic Agreement (PA) for the Environmental Assessment for the Arkabutla Dam Safety Modification Study, DeSoto and Tate Counties, Mississippi.**

<b>(Project Location Project Center Point</b>	<b>Latitude 34.758125°</b>	<b>Longitude -90.126179°</b>
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Dear Ms. Carson:

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

Mr. Hal Bell  
State Historic Preservation Office  
Mississippi Department of Archives and History  
Historic Preservation Division  
P.O. 571 Jackson, Mississippi 39205-0571

**RE: Notice of Intent to Prepare a Programmatic Agreement (PA) for the Environmental Assessment for the Arkabutla Dam Safety Modification Study, DeSoto and Tate Counties, Mississippi.**

<b>(Project Location Project Center Point</b>	<b>Latitude 34.758125°</b>	<b>Longitude -90.126179°)</b>
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Dear Mr. Bell:

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June 28, 2024

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

Mr. Turner Hunt,  
Tribal Historic Preservation Officer  
Historic & Cultural Preservation Office  
Muscogee (Creek) Nation  
P.O. Box 580  
Okmulgee, OK 74447

**RE: Notice of Intent to Prepare a Programmatic Agreement (PA) for the Environmental Assessment for the Arkabutla Dam Safety Modification Study, DeSoto and Tate Counties, Mississippi.**

<b>(Project Location Project Center Point</b>	<b>Latitude 34.758125°</b>	<b>Longitude -90.126179°</b>
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Dear Mr. Hunt:

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

Ms. Billie Burtrum  
Preservation Officer/QHPP Director  
Tribal Historic Preservation Officer  
Quapaw Nation  
P.O. Box 765  
Quapaw, OK 74363

**RE: Notice of Intent to Prepare a Programmatic Agreement (PA) for the Environmental Assessment for the Arkabutla Dam Safety Modification Study, DeSoto and Tate Counties, Mississippi.**

<b>(Project Location Project Center Point</b>	<b>Latitude 34.758125°</b>	<b>Longitude -90.126179°</b>
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Dear Ms. Burtrum:

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

Mr. Benjamin Yahola  
Tribal Historic Preservation Officer  
Historic Preservation  
Seminole Nation of Oklahoma  
P.O. 1498  
Wewoka, OK 74884

**RE: Notice of Intent to Prepare a Programmatic Agreement (PA) for the Environmental Assessment for the Arkabutla Dam Safety Modification Study, DeSoto and Tate Counties, Mississippi.**

<b>(Project Location Project Center Point</b>	<b>Latitude 34.758125°</b>	<b>Longitude -90.126179°</b>
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Regional Planning and  
Environment Division, South  
Environmental Planning Branch  
Attn: CEMVK-PDS-N

Ms. Tina Osceola  
Director, Tribal Historic Preservation Office  
Seminole Tribe of Florida  
30290 Josie Billie Hwy, PMB 1004  
Clewiston, FL 33440

**RE: Notice of Intent to Prepare a Programmatic Agreement (PA) for the Environmental Assessment for the Arkabutla Dam Safety Modification Study, DeSoto and Tate Counties, Mississippi.**

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

Mr. Earl J. Barbry, Jr.,  
Tribal Historic Preservation Officer  
Director, Planning & Development  
Tunica-Biloxi Tribe of Louisiana  
P.O. Box 1589  
150 Melacon Road  
Marksville, LA 71351

**RE: Notice of Intent to Prepare a Programmatic Agreement (PA) for the Environmental Assessment for the Arkabutla Dam Safety Modification Study, DeSoto and Tate Counties, Mississippi.**

<b>(Project Location Project Center Point</b>	<b>Latitude 34.758125°</b>	<b>Longitude -90.126179°</b>
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Dear Mr. Barbry:

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

Mr. Roger Cain  
Tribal Historic Preservation Officer  
United Keetoowah Band of Cherokee Indians  
P.O. Box 746  
Tahlequah, OK 74465

**RE: Notice of Intent to Prepare a Programmatic Agreement (PA) for the Environmental Assessment for the Arkabutla Dam Safety Modification Study, DeSoto and Tate Counties, Mississippi.**

<b>(Project Location Project Center Point</b>	<b>Latitude 34.758125°</b>	<b>Longitude -90.126179°</b>
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Dear Mr. Cain:

The U.S. Army Corps of Engineers (USACE) is preparing a Dam Safety Modification Report (DSMR) for Arkabutla Dam to document the completion of a Dam Safety Modification Study (DSMS) and identification of a Risk Management Plan (RMP) to reduce unacceptable dam safety risks. Arkabutla Dam is a high hazard potential dam located in Desoto County, Mississippi with portions of the Lake extending into Tate County, Mississippi. The dam is located on the Coldwater River, a tributary of the Tallahatchie River, that stores floodwater to provide flood damage reduction in the Yazoo Basin, approximately 4.25 miles (6.84 km) north of Arkabutla, Mississippi and approximately 35 miles (56 km) south of Memphis, Tennessee (located as follows on the *Banks, MS* and *Frees Corner, MS* 7.5-minute USGS quadrangle maps: Sections 2, 10, and 11 in Township 4S, Range 9W) (Figures 1 & 2).

### **Project Authority**

The project is authorized The Flood Control Act of 15 May 1928, as amended by the Acts of 15 June 1936 and 28 June 1938, authorized the construction of the Arkabutla Dam and Reservoir Project, which is included in the approved program for flood control under the appropriation "Flood Control Mississippi River and Tributaries", Act of 1939. Development of recreation and public-use areas on USACE reservoir areas was authorized by Section 4 of the Flood Control Act of 22 December 1944, as amended by Section 209 of the Flood Control Act of 3 December 1954. Construction of the project began in August 1940 and was completed in June 1943 (Figure 3). The authorized project included flood control and recreation.

### **Background**

Arkabutla Dam is in the Northwest portion of Mississippi in DeSoto county about 35 miles (56.3 km) south of Memphis, Tennessee. The dam was constructed to improve flood risk management in Yazoo River basin. After the Great Mississippi Flood of 1927, engineers and technical experts determined that the headwaters of the Yazoo River played a substantial role in

the flooding of the Mississippi Delta. In 1936, the Yazoo Headwater Project created the Arkabutla, Sardis, Enid, and Grenada lakes in Mississippi to reduce flood risk (see Figure 3).

Existing Arkabutla Dam components consist of an embankment dam, abutment dikes, outlet works, spillway, and closure dikes. The total length of the dam including the abutment dikes is 10,700 feet (3.26 km) in length. The maximum height above the valley floor is 85 feet (26 meters). The outlet works consist of a three-gated reinforced concrete intake tower, single reinforced concrete conduit, reinforced concrete stilling basin, and outlet channel. A service bridge connects the intake tower with the crown of the main embankment and allows access from embankment to the intake structure operating floor. The spillway is in a natural saddle about 3,000 feet (0.91 km) north of the dam and is an uncontrolled overflow type consisting of a reinforced concrete approach apron, weir, chute, stilling basin, and riprap lined outlet channel. The two small closure dikes are located northwest of the spillway and have a total length of approximately 1,300 feet (.40 km) and a maximum height of 35 feet (10.7 meters) (Figure 4).

Arkabutla Dam has been at risk of being breached since the discovery that higher than normal flows, fine and coarse sands, woody debris, and organic matter were all being passed through the pressure relief systems underneath the stilling basin, which signified the possible presence of a backwards eroding pipe developing or progressing. On May 7, 2023, the MVK Dam Safety Officer declared the situation at Arkabutla Dam to be a Potential Breach Emergency and began lowering the Arkabutla Lake's pool level to 204-foot (62-meter) elevation to relieve pressure on the dam. After the pool was lowered a deviation from Arkabutla Lake's current water control plan was implemented, to maintain the lake pool at 204-foot (62-meter) elevation until interim and long-term repairs can be made. More information about the current status and recent updates on the conditions at Arkabutla Dam can be found here:

<https://www.mvk.usace.army.mil/Missions/Emergency-Operations/Arkabutla-Emergency-Repairs/>

### **Description of the Undertaking (Proposed Action under Consideration)**

The intent of the proposed Undertaking is to address the active potential failure risk to Arkabutla Dam by replacing the existing outlet works, used to control and release water from the reservoir pool, in a new location that includes the following project features (Figures 5 and 6):

- 1) New Construction/Installation:
  - a. Borrow material locations;
  - b. New discharge channel;
  - c. Reinforced concrete conduit;
  - d. Reinforced concrete control house with vertical lift gates and emergency gates;
  - e. Reinforced concrete intake structure; and
  - f. Reinforced concrete stilling basin.
- 2) Abandonment of Existing Outlet Works (to remain in place with protective filters).

### **Initial Identification and Evaluation of Historic Properties**

At this time, no formal Area of Potential Effects (APE) has been developed. Background research and literature review have been conducted by USACE staff in association with emergency actions at the lake, consulting the National Register of Historic Places (NRHP) database, the Mississippi Department of Archives and History (MDAH), Mississippi Historic Resources Inventory Historic Resources Inventory Map (MDAH Website), historic aerial photography, historic map research, and a review of cultural resources survey reports.

## **Programmatic Agreement Development**

USACE has determined that the proposed action constitutes an Undertaking as defined in 36 CFR § 800.16(y) and has the potential to cause effects on historic properties. This letter initiates formal Section 106 consultation pursuant to 36 CFR § 800.3(c). The goal of this Section 106 consultation is to provide a project-specific framework for addressing this complex Undertaking and establish protocols for continuing consultation with the Mississippi SHPO, Tribal Governments, and other stakeholders in the form of a Programmatic Agreement (PA). The PA would identify consulting parties, define applicability, establish review timeframes, stipulate roles and responsibilities of stakeholders, summarize Tribal consultation procedures, consider the views of the SHPO/THPO and any other consulting parties, afford for public participation, determine an appropriate level of field investigation to identify and evaluate historic properties within the APE and 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 mitigation, provide provisions for post-review unexpected discoveries and unmarked burials, and incorporate the procedures for amendments, duration, termination, dispute resolution, and implementation.

## **Consulting Parties**

USACE is reaching out to the Advisory Council on Historic Preservation, the Mississippi State Historic Preservation Office (MS SHPO), and 15 Tribal governments including: Absentee-Shawnee Tribe of Indians of Oklahoma, The Alabama-Coushatta Tribe of Texas, The Alabama-Quassarte Tribal Town, The Caddo Nation of Oklahoma, The Chickasaw Nation, Chitimacha Tribe of Louisiana, The Choctaw Nation of Oklahoma, The Coushatta Tribe of Louisiana, The Jena Band of Choctaw Indians, The Mississippi Band of Choctaw Indians, The Muscogee (Creek) Nation, The Quapaw Nation, The Seminole Nation of Oklahoma, The Seminole Tribe of Florida, The Tunica-Biloxi Tribe of Louisiana, and The United Keetoowah Band of Cherokee Indians. Should you know of additional Tribal governments or preservation groups, please do not hesitate to communicate these to USACE.

## **Conclusion**

Again, USACE would like to propose a date and time for the initial Section 106 consultation meeting, via Teleconference. The purpose of the initial meeting will be to describe the proposed Undertaking more fully. USACE will provide an agenda, meeting materials, and webinar access to the various Consulting Parties regarding the meeting as soon as possible. If you would like to be a consulting party on this project, please contact Mr. John Underwood of this office at (601) 631-5017 or via e-mail [John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil) or Mr. Mike Renacker, Vicksburg District Tribal Liaison at (601) 631-5842 or via e-mail at [Mike.Renacker@usace.army.mil](mailto:Mike.Renacker@usace.army.mil).

Sincerely,

**MOORE.DANIEL**  
**.R.1388299416**

Digitally signed by  
MOORE.DANIEL.R.1388299416  
Date: 2024.06.28 14:10:27  
-05'00'

Dan Moore  
Chief, Environmental Compliance Section  
Regional Planning and Environmental Division South

**List of Recipients:**

Absentee-Shawnee Tribe of Indians of Oklahoma  
Alabama-Coushatta Tribe of Texas  
Alabama-Quassarte Tribal Town  
Caddo Nation of Oklahoma  
Chickasaw Nation  
Chitimacha Tribe of Louisiana  
Choctaw Nation of Oklahoma  
Coushatta Tribe of Louisiana  
Jena Band of Choctaw Indians, Louisiana  
Mississippi Band of Choctaw Indians  
Muscogee (Creek) Nation  
Quapaw Nation  
Seminole Nation of Oklahoma  
Seminole Tribe of Florida  
Tunica-Biloxi Tribe of Louisiana  
United Keetoowah Band of Cherokee Indians  
Mississippi State Historic Preservation Office (MS SHPO)



From: [Underwood, John R CIV USARMY CEMVK \(USA\)](#)  
To: [dfrazier@astribe.com](#); [Johnson.Delvin@actribe.org](#); [jrohrer@mycaddonation.com](#); [kim@chitimacha.gov](#); [Lindsey Bilyeu](#); [dakotajohn@coushatta.org](#); [Johnna Flynn](#); [thpo@choctaw.org](#); [Turner Hunt](#); [Billie Burtrum](#); [Yahola.b@sno-nsn.gov](#); [thpocompliance](#); [Earl Barbry Jr. \(earlii@tunica.org\)](#); [rcain@ukb-nsn.gov](#); [Cindy Carter-Davis](#)  
Cc: [106NAGPRA@astribe.com](#); [histpres@actribe.org](#); [section106@mycaddonation.com](#); ["Ian Thompson"](#); [kdawsey@coushatta.org](#); [Section106](#); [Section106@mcn-nsn.gov](#); [Quapaw Nation](#); [Tim Martin](#); ["Section106@mdah.ms.gov"](#); [Renacker, George M \(Mike\) CIV USARMY CEMVK \(USA\)](#); [Lieb, Pamela D CIV USARMY CEMVM \(USA\)](#)  
Subject: Arkabutla Dam Safety Modification Study Section 106 Discussion  
Date: Monday, July 1, 2024 11:07:00 AM

---

Good morning,

Arkabutla Dam has been at risk of being breached since the discovery that higher than normal flows, fine and coarse sands, woody debris, and organic matter were all being passed through the pressure relief systems underneath the stilling basin, which signified the possible presence of a backwards eroding pipe developing or progressing. On May 7, 2023, the MVK Dam Safety Officer declared the situation at Arkabutla Dam to be a Potential Breach Emergency and began lowering the Arkabutla Lake's pool level to 204-foot (62-meter) elevation to relieve pressure on the dam. After the pool was lowered a deviation from Arkabutla Lake's current water control plan was implemented, to maintain the lake pool at 204-foot (62-meter) elevation until interim and long-term repairs can be made. More information about the current status and recent updates on the conditions at Arkabutla Dam can be found here: <https://www.mvk.usace.army.mil/Missions/Emergency-Operations/Arkabutla-Emergency-Repairs/>

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- 1) New Construction/Installation:
  - ??? Borrow material locations;
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  - ??? Reinforced concrete intake structure; and
  - ??? Reinforced concrete stilling basin.
- 2) Abandonment of Existing Outlet Works (to remain in place with protective filters)

In association with the National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA), USACE is requesting an initial consultation meeting to address this complex Undertaking and establish protocols for consultation with the Mississippi SHPO, Tribal Governments, and other stakeholders in the form of a Programmatic Agreement (PA). The PA would identify consulting parties, define applicability, establish review timeframes, stipulate roles and responsibilities of stakeholders, summarize Tribal consultation procedures, consider the views of the SHPO/THPO and any other consulting parties, afford for public participation, determine an appropriate level of field investigation to identify and evaluate historic properties within the APE and 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 mitigation, provide provisions for post-review unexpected discoveries and unmarked burials, and incorporate the procedures for amendments, duration, termination, dispute resolution, and implementation.

**Below is a link to a doodle poll with proposed initial meeting dates/times for your consideration:**

<https://doodle.com/meeting/participate/id/bYIG3mKa>

Additional correspondence will be forthcoming with additional, more specific study/project details and information. If you have any questions, please feel free to contact Mr. John Underwood of this office at (601) 631-5017 or via e-mail [John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil) or Mr. Mike Renacker, Vicksburg District Tribal Liaison at (601) 631-5842 or via e-mail at [Mike.Renacker@usace.army.mil](mailto:Mike.Renacker@usace.army.mil).

Respectfully,

John R. Underwood, MA, RPA

Archaeologist

Cultural & Social Resources Section (CEMVK-PDS-U) U.S. Army Corps of Engineers Vicksburg District  
Regional Planning and Environment Division, South

[John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil)

601.631.5017



From: [Underwood, John R CIV USARMY CEMVK \(USA\)](#)  
To: ["dfrazier@astribe.com"](#); ["Johnson.Delvin@actribe.org"](#); ["jrohrer@mycaddonation.com"](#); ["kim@chitimacha.gov"](#); ["Lindsey Bilyeu"](#); ["dakotajohn@coushatta.org"](#); ["Johnna Flynn"](#); ["thpo@choctaw.org"](#); ["Turner Hunt"](#); ["Billie Burtrum"](#); ["Yahola.b@sno-nsn.gov"](#); ["thpocompliance"](#); ["Earl Barbry Jr. \(earlii@tunica.org\)"](#); ["rcain@ukb-nsn.gov"](#); ["Cindy Carter-Davis"](#); ["106NAGPRA@astribe.com"](#); ["histpres@actribe.org"](#); ["section106@mycaddonation.com"](#); ["Ian Thompson"](#); ["kdawsey@coushatta.org"](#); ["Section106"](#); ["Section106@mcn-nsn.gov"](#); ["Quapaw Nation"](#); ["Tim Martin"](#); ["Section106@mdah.ms.gov"](#); ["Renacker, George M \(Mike\) CIV USARMY CEMVK \(USA\)"](#); ["Ryan, Jennifer Ivy CIV USARMY CEMVD \(USA\)"](#); ["Lieb, Pamela D CIV USARMY CEMVM \(USA\)"](#); ["Jennifer Baughn"](#)  
Cc: ["Moore, Daniel R CIV USARMY CEMVN \(USA\)"](#); ["Piefke, Taylor J CIV USARMY CEMVN \(USA\)"](#)  
Subject: RE: Arkabutla Dam Safety Modification Study Section 106 Discussion  
Date: Friday, July 26, 2024 4:47:00 PM  
Attachments: [reduced\\_Arkabutla DSMS Section 106 Meeting.pdf](#)

---

Good Friday afternoon,

Please find attached the brief slide deck associated with the forthcoming Arkabutla Dam Section 106 meeting for your familiarization. I look forward to this initial conversation and working with everyone.

Respectfully,

John R. Underwood, MA, RPA

Archaeologist

Cultural & Social Resources Section (CEMVK-PDS-U) U.S. Army Corps of Engineers Vicksburg District

Regional Planning and Environment Division, South

John.R.Underwood@usace.army.mil

601.631.5017

-----Original Appointment-----

**From:** Underwood, John R CIV USARMY CEMVK (USA)

**Sent:** Thursday, July 25, 2024 4:33 PM

**To:** 'dfrazier@astribe.com'; 'Johnson.Delvin@actribe.org'; 'jrohrer@mycaddonation.com'; 'kim@chitimacha.gov'; 'Lindsey Bilyeu'; 'dakotajohn@coushatta.org'; 'Johnna Flynn'; 'thpo@choctaw.org'; 'Turner Hunt'; 'Billie Burtrum'; 'Yahola.b@sno-nsn.gov'; 'thpocompliance'; 'Earl Barbry Jr. (earlii@tunica.org)'; 'rcain@ukb-nsn.gov'; 'Cindy Carter-Davis'; '106NAGPRA@astribe.com'; 'histpres@actribe.org'; 'section106@mycaddonation.com'; 'Ian Thompson'; 'kdawsey@coushatta.org'; 'Section106'; 'Section106@mcn-nsn.gov'; 'Quapaw Nation'; 'Tim Martin'; 'Section106@mdah.ms.gov'; 'Renacker, George M (Mike) CIV USARMY CEMVK (USA); Ryan, Jennifer Ivy CIV USARMY CEMVD (USA); Lieb, Pamela D CIV USARMY CEMVM (USA)

**Cc:** Moore, Daniel R CIV USARMY CEMVN (USA); Piefke, Taylor J CIV USARMY CEMVN (USA)

**Subject:** Arkabutla Dam Safety Modification Study Section 106 Discussion

**When:** Tuesday, July 30, 2024 10:00 AM-11:00 AM (UTC-06:00) Central Time (US & Canada).

**Where:** WebEx

Good evening,

As previously stated in email correspondences from July 1 and 21, USACE is preparing a Dam Safety Modification Report (DSMR) to address the active potential failure risk to Arkabutla Dam by replacing the existing outlet works, used to control and release water from the reservoir pool, in a

new location. After circulating a Doodle pool for approximately 2½ weeks, a date/time of July 30 (Tuesday) at 10:00 am appears to be the most agreeable to those responding participants. The bottom of this email contains all the log-in information.

The purpose of the initial meeting will be to describe the proposed Undertaking more fully and establish protocols for consultation with the Mississippi SHPO, Tribal Governments, and other stakeholders in the form of a Programmatic Agreement (PA). To aid in these conversations, I have included the most recent tentative preliminary project Right-of-Way (ROW) limits as a JPEG file (possible borrow in red; possible construction in blue) as well as a proposed agenda to guide the meeting. A brief project presentation is being finalized and will be forwarded to you in advance of the meeting so you all may further familiarize yourselves with the project details and scope.

If you would like to be a consulting party on this project, please contact Mr. John Underwood of this office at (601) 631-5017 or via e-mail [John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil) or Mr. Mike Renacker, Vicksburg District Tribal Liaison at (601) 631-5842 or via e-mail at [Mike.Renacker@usace.army.mil](mailto:Mike.Renacker@usace.army.mil). Should you be unable to attend this meeting, please feel to contact me or Mr. Renacker for other arrangements.

Respectfully,

John R. Underwood, MA, RPA

Archaeologist

Cultural & Social Resources Section (CEMVK-PDS-U) U.S. Army Corps of Engineers Vicksburg District  
Regional Planning and Environment Division, South

[John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil)

601.631.5017

## **John Underwood is inviting you to a scheduled Webex meeting.**

Tuesday, July 30, 2024

10:00 AM | (UTC-05:00) Central Time (US & Canada) | 1 hr

[Join meeting](#)

### **More ways to join:**

#### **Join from the meeting link**

<https://usace1.webex.com/usace1/j.php?MTID=m80312062f3ea58c456b240dc6>

[19e6072](#)

**Join by meeting number**

Meeting number (access code): 2828 203 2287

Meeting password: EkPapxa?266

**Tap to join from a mobile device (attendees only)**

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**Join by phone**

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Dial [28282032287@usace1.webex.com](tel:28282032287@usace1.webex.com)

You can also dial 207.182.190.20 and enter your meeting number.

Need help? Go to <https://help.webex.com>

From: [Underwood, John R CIV USARMY CEMVK \(USA\)](#)  
To: ["dfrazier@astribe.com"](#); ["Johnson.Delvin@actribe.org"](#); ["jrohrer@mycaddonation.com"](#); ["kim@chitimacha.gov"](#); ["Lindsey Bilyeu"](#); ["dakotajohn@coushatta.org"](#); ["Johnna Flynn"](#); ["thpo@choctaw.org"](#); ["Turner Hunt"](#); ["Billie Burtrum"](#); ["Yahola.b@sno-nsn.gov"](#); ["thpocompliance"](#); ["Earl Barbry Jr. \(earlii@tunica.org\)"](#); ["rcain@ukb-nsn.gov"](#); ["Cindy Carter-Davis"](#); ["106NAGPRA@astribe.com"](#); ["histpres@actribe.org"](#); ["section106@mycaddonation.com"](#); ["Ian Thompson"](#); ["kdawsey@coushatta.org"](#); ["Section106"](#); ["Section106@mcn-nsn.gov"](#); ["Quapaw Nation"](#); ["Tim Martin"](#); ["Section106@mdah.ms.gov"](#); ["Renacker, George M \(Mike\) CIV USARMY CEMVK \(USA\)"](#); ["Lieb, Pamela D CIV USARMY CEMVM \(USA\)"](#); ["Ryan, Jennifer Ivy CIV USARMY CEMVD \(USA\)"](#); ["Stephens, Ashley L CIV USARMY CELRH \(USA\)"](#); ["Moore, Daniel R CIV USARMY CEMVN \(USA\)"](#); ["Piefke, Taylor J CIV USARMY CEMVN \(USA\)"](#)  
Cc: [Underwood, John R CIV USARMY CEMVK \(USA\)](#)  
Subject: FW: Arkabutla Dam Safety Modification Study Section 106 Discussion  
Start: Tuesday, July 30, 2024 10:00:00 AM  
End: Tuesday, July 30, 2024 11:00:00 AM  
Location: Blockedhttps://usace1.webex.com/usace1/j.php?MTID=m80312062f3ea58c456b240dc619e6072  
Attachments: [Webex meeting.ics](#)  
[Arkabutla DSMS Section 106 Initial Consultation Meeting Agenda.docx](#)  
[Arkabutla Preliminary ROW.kmz](#)

---

Good evening,

As previously stated in email correspondence from July 1, USACE is preparing a Dam Safety Modification Report (DSMR) to address the active potential failure risk to Arkabutla Dam by replacing the existing outlet works, used to control and release water from the reservoir pool, in a new location. After circulating a Doodle pool for approximately 2½ weeks, a date/time of July 30 (Tuesday) at 10:00 am appears to be the most agreeable to those responding participants. The purpose of the initial meeting will be to describe the proposed Undertaking more fully and establish protocols for consultation with the Mississippi SHPO, Tribal Governments, and other stakeholders in the form of a Programmatic Agreement (PA).

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Respectfully,

John R. Underwood, MA, RPA

Archaeologist

Cultural & Social Resources Section (CEMVK-PDS-U) U.S. Army Corps of Engineers Vicksburg District Regional Planning and Environment Division, South

[John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil) <<mailto:John.R.Underwood@usace.army.mil>>

601.631.5017

John Underwood is inviting you to a scheduled Webex meeting.

Tuesday, July 30, 2024

10:00 AM | (UTC-05:00) Central Time (US & Canada) | 1 hr

Join meeting <Blocked<https://usace1.webex.com/usace1/j.php?MTID=m80312062f3ea58c456b240dc619e6072>>

More ways to join:

Join from the meeting link

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Join by meeting number

Meeting number (access code): 2828 203 2287

Meeting password: EkPapxa?266

Tap to join from a mobile device (attendees only)

+1-844-800-2712,,28282032287## <tel:%2B1-844-800-2712,,\*01\*28282032287%23%23\*01\*> US Toll Free

+1-669-234-1177,,28282032287## <tel:%2B1-669-234-1177,,\*01\*28282032287%23%23\*01\*> US Toll

Join by phone

+1-844-800-2712 US Toll Free

+1-669-234-1177 US Toll

Global call-in numbers <Blocked<https://usace1.webex.com/usace1/globalcallin.php?MTID=mec72cb64ae1cba39131987646b9fd4db>> | Toll-free calling restrictions <Blocked[https://usace1.webex.com/usace1/customer\\_tollfree\\_restrictions.pdf](https://usace1.webex.com/usace1/customer_tollfree_restrictions.pdf)>

Join from a video system or application

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To: ["dfrazier@astribe.com"](#); ["Johnson.Delvin@astribe.org"](#); ["jrohrer@mycaddonation.com"](#); ["kim@chitimacha.gov"](#); ["Lindsey Bilyeu"](#); ["dakotajohn@coushatta.org"](#); ["Johnna Flynn"](#); ["thpo@choctaw.org"](#); ["Turner Hunt"](#); ["Billie Burtrum"](#); ["Yahola.b@sno-nsn.gov"](#); ["thpocompliance"](#); ["Earl Barbry Jr. \(earlii@tunica.org\)"](#); ["rcain@ukb-nsn.gov"](#); ["Cindy Carter-Davis"](#); ["106NAGPRA@astribe.com"](#); ["histpres@actribe.org"](#); ["section106@mycaddonation.com"](#); ["Ian Thompson"](#); ["kdawsey@coushatta.org"](#); ["Section106"](#); ["Section106@mcn-nsn.gov"](#); ["Quapaw Nation"](#); ["Tim Martin"](#); ["Section106@mdah.ms.gov"](#); ["Renacker, George M \(Mike\) CIV USARMY CEMVK \(USA\)"](#); ["Ryan, Jennifer Ivy CIV USARMY CEMVD \(USA\)"](#); ["Lieb, Pamela D CIV USARMY CEMVM \(USA\)"](#)  
Cc: ["Moore, Daniel R CIV USARMY CEMVN \(USA\)"](#); ["Piefke, Taylor J CIV USARMY CEMVN \(USA\)"](#)  
Subject: Arkabutla Dam Safety Modification Study Section 106 Discussion  
Start: Tuesday, July 30, 2024 10:00:00 AM  
End: Tuesday, July 30, 2024 11:00:00 AM  
Location: WebEx  
Attachments: [Arkabutla DSMS Section 106 Initial Consultation Meeting Agenda.docx](#)  
[Preliminary ROW footprints.JPG](#)

---

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As previously stated in email correspondences from July 1 and 21, USACE is preparing a Dam Safety Modification Report (DSMR) to address the active potential failure risk to Arkabutla Dam by replacing the existing outlet works, used to control and release water from the reservoir pool, in a new location. After circulating a Doodle pool for approximately 2½ weeks, a date/time of July 30 (Tuesday) at 10:00 am appears to be the most agreeable to those responding participants. The bottom of this email contains all the log-ion information.

The purpose of the initial meeting will be to describe the proposed Undertaking more fully and establish protocols for consultation with the Mississippi SHPO, Tribal Governments, and other stakeholders in the form of a Programmatic Agreement (PA). To aid in these conversations, I have included the most recent tentative preliminary project Right-of-Way (ROW) limits as a JPEG file (possible borrow in red; possible construction in blue) as well as a proposed agenda to guide the meeting. A brief project presentation is being finalized and will be forwarded to you in advance of the meeting so you all may further familiarize yourselves with the project details and scope.

If you would like to be a consulting party on this project, please contact Mr. John Underwood of this office at (601) 631-5017 or via e-mail [John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil) <<mailto:John.R.Underwood@usace.army.mil>> or Mr. Mike Renacker, Vicksburg District Tribal Liaison at (601) 631-5842 or via e-mail at [Mike.Renacker@usace.army.mil](mailto:Mike.Renacker@usace.army.mil) <<mailto:Mike.Renacker@usace.army.mil>> . Should you be unable to attend this meeting, please feel to contact me or Mr. Renacker for other arrangements.

Respectfully,

John R. Underwood, MA, RPA

Archaeologist

Cultural & Social Resources Section (CEMVK-PDS-U) U.S. Army Corps of Engineers Vicksburg District Regional Planning and Environment Division, South

[John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil) <<mailto:John.R.Underwood@usace.army.mil>>

601.631.5017

John Underwood is inviting you to a scheduled Webex meeting.

Tuesday, July 30, 2024

10:00 AM | (UTC-05:00) Central Time (US & Canada) | 1 hr

Join meeting <Blocked<https://usace1.webex.com/usace1/j.php?MTID=m80312062f3ea58c456b240dc619e6072>>

More ways to join:

Join from the meeting link

<https://usace1.webex.com/usace1/j.php?MTID=m80312062f3ea58c456b240dc619e6072> <Blocked<https://usace1.webex.com/usace1/j.php?MTID=m80312062f3ea58c456b240dc619e6072>>

Join by meeting number

Meeting number (access code): 2828 203 2287

Meeting password: EkPapxa?266

Tap to join from a mobile device (attendees only)

+1-844-800-2712,,28282032287## <tel:%2B1-844-800-2712,,\*01\*28282032287%23%23\*01\*> US Toll Free

+1-669-234-1177,,28282032287## <tel:%2B1-669-234-1177,,\*01\*28282032287%23%23\*01\*> US Toll

Join by phone

+1-844-800-2712 US Toll Free

+1-669-234-1177 US Toll

Global call-in numbers <Blocked<https://usace1.webex.com/usace1/globalcallin.php?MTID=mec72cb64ae1cba39131987646b9fd4db>> | Toll-free calling restrictions <Blocked[https://usace1.webex.com/usace1/customer\\_tollfree\\_restrictions.pdf](https://usace1.webex.com/usace1/customer_tollfree_restrictions.pdf)>

Join from a video system or application

Dial 28282032287@usace1.webex.com <sip:28282032287@usace1.webex.com>

You can also dial 207.182.190.20 and enter your meeting number.

Need help? Go to <https://help.webex.com> <Blocked<https://help.webex.com>>

From: [Lindsey Bilyeu](#)  
To: [Underwood, John R CIV USARMY CEMVK \(USA\)](#)  
Subject: [Non-DoD Source] RE: Arkabutla Dam Safety Modification Study Section 106 Consultation Correspondence  
Date: Wednesday, July 31, 2024 10:52:28 AM

---

John,

The Choctaw Nation of Oklahoma thanks the USACE, Vicksburg District, for the correspondence regarding the above referenced project. This project lies outside of our area of historic interest. The Choctaw Nation Historic Preservation Department respectfully defers to the other Tribes that have been contacted.

If you have any questions, please contact me.

Yakoke (Thank you),

Lindsey D. Bilyeu, MS  
Program Coordinator  
NHPA Compliance Review  
Historic Preservation  
Choctaw Nation of Oklahoma  
[lbilyeu@choctawnation.com](mailto:lbilyeu@choctawnation.com)  
Office: 580-642-8377  
Cell: 580-740-9624

---

**From:** Underwood, John R CIV USARMY CEMVK (USA) <John.R.Underwood@usace.army.mil>  
**Sent:** Monday, July 1, 2024 1:27 PM  
**To:** Ian Thompson <ithompson@choctawnation.com>; Lindsey Bilyeu <lbilyeu@choctawnation.com>  
**Subject:** Arkabutla Dam Safety Modification Study Section 106 Consultation Correspondence

**Halito:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon,

Please find attached Section 106 correspondence and associated KMZ files concerning the subject project as referenced in the email communication provided earlier today. If you have any questions, please feel free to contact Mr. John Underwood of this office at (601) 631-5017 or via e-mail [John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil) or Mr. Mike Renacker, Vicksburg District Tribal Liaison at (601) 631-5842 or via e-mail at [Mike.Renacker@usace.army.mil](mailto:Mike.Renacker@usace.army.mil).

Respectfully,  
John R. Underwood, MA, RPA  
Archaeologist



Cultural & Social Resources Section (CEMVK-PDS-U) U.S. Army Corps of Engineers Vicksburg District  
Regional Planning and Environment Division, South

[John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil)

601.631.5017

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure. If you have received this message in error, you are hereby notified that we do not consent to any reading, dissemination, distribution or copying of this message. If you have received this communication in error, please notify the sender immediately and destroy the transmitted information. Please note that any view or opinions presented in this email are solely those of the author and do not necessarily represent those of the Choctaw Nation.

---

July 31, 2024

Mr. John Underwood  
U.S. Army Corps of Engineers, Vicksburg District  
4155 East Clay Street  
Vicksburg, Mississippi 39183-3435

RE: NOI to Prepare a Programmatic Agreement for the Environmental Assessment for the  
Arkabutla Dam Safety Modification Study, (USACE) MDAH Project Log #07-010-24,  
DeSoto County

Dear Mr. Underwood:

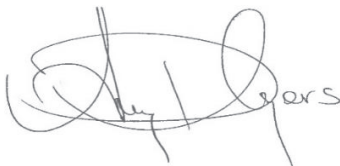
We have reviewed the notice of intent, received on July 1, 2024, for the above referenced project, in accordance with our responsibilities under Section 106 of the National Historic Preservation Act and 36 CFR Part 800.

In a letter dated December 18, 2013 (Project #11-098-13), SHPO stated that the Arkabutla Dam is eligible under Criterion A and Criterion C. SHPO reiterated this eligibility determination in response to Project #04-145-24, in which we concurred that the Arkabutla Dam was eligible for listing in the National Register. That project focused on building relief wells which would not have adversely impacted the dam itself. In the current project, USACE proposes to install a new dam outlet in a new location, including a new discharge channel, concrete conduit, control house with vertical lift gates and emergency gates, and intake structure. SHPO concurs that this proposed undertaking will have an effect on the historic resource.

Additionally, MDAH Archaeology notes that the Flower Garden site, 22Ta667, and several other previously recorded sites are within the APE of the proposed undertaking. Therefore, we agree to consult with COE to develop a Programmatic Agreement to avoid or mitigate adverse effects to historic properties.

If you have any questions, please do not hesitate to contact us at (601) 576-6940.

Sincerely,



Amy D. Myers  
Preservation Planning Administrator

FOR: Katie Blount  
State Historic Preservation Officer



*the*  
**Chickasaw**  
**Nation**

DEPARTMENT OF CULTURE AND HUMANITIES

OFFICE OF THE SECRETARY | POST OFFICE BOX 1548 | ADA, OK 74821-1548 | (580) 436-7258

*Bill Anoatubby*  
Governor  
*Chris Anoatubby*  
Lt. Governor

August 5, 2024

Mr. John Underwood  
Department of the Army  
Corps of Engineers  
Vicksburg District  
4155 Clay Street  
Vicksburg, MS 39183-3435

Dear Mr. Underwood:

Thank you for the initial letter regarding the proposed Arkabutla Dam Safety Modification Study to address dam safety issues at Arkabutla Dam in DeSoto County, Mississippi. The Chickasaw Nation wants to be a consulting party in the proposed programmatic agreement to address any adverse effects to historic properties from the proposed undertaking.

Please direct any future correspondence to Ms. Karen Brunso, tribal historic preservation officer, at [hpo@chickasaw.net](mailto:hpo@chickasaw.net). Your efforts to preserve and protect significant historic properties are appreciated. If you have any questions, please contact Ms. Karen Brunso at (580) 272-1106.

Sincerely,

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

Lisa John, Secretary  
Department of Culture and Humanities

cc: [John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil)

From: [Underwood, John R CIV USARMY CEMVK \(USA\)](#)  
To: ["dfrazier@astribe.com"](#); ["Johnson, Delvin@actribe.org"](#); ["jrohrer@mycaddonation.com"](#); ["kim@chitimacha.gov"](#); ["dakotajohn@coushatta.org"](#); ["Johnna Flynn"](#); ["Turner Hunt"](#); ["Billie Burtrum"](#); ["Yahola.b@sno-nsn.gov"](#); ["thpocompliance"](#); ["Earl Barbry Jr. \(earlii@tunica.org\)"](#); ["rcain@ukb-nsn.gov"](#); ["Cindy Carter-Davis"](#); ["106NAGPRA@astribe.com"](#); ["histpres@actribe.org"](#); ["section106@mycaddonation.com"](#); ["kdawsey@coushatta.org"](#); ["Section106"](#); ["Section106@mcn-nsn.gov"](#); ["Quapaw Nation"](#); ["Tim Martin"](#); ["Section106@mdah.ms.gov"](#); ["Renacker, George M \(Mike\) CIV USARMY CEMVK \(USA\)"](#); ["Ryan, Jennifer Ivy CIV USARMY CEMVD \(USA\)"](#); ["Lieb, Pamela D CIV USARMY CEMVM \(USA\)"](#); ["Jennifer Baughn"](#)  
Cc: ["Moore, Daniel R CIV USARMY CEMVN \(USA\)"](#); ["Piefke, Taylor J CIV USARMY CEMVN \(USA\)"](#)  
Subject: Arkabutla Dam Safety Modification Study Section 106 Discussion Minutes  
Date: Friday, August 9, 2024 10:45:00 AM  
Attachments: [Arkabutla DSMS Section 106 Initial Consultation Meeting Minutes 30 July 2024.docx](#)

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Good morning,

Please find attached the minutes from the Section 106 Programmatic Agreement meeting held July 30, 2024. As plans continue to develop and be refined, I will be providing updates via email. The initial draft PA should be available for review before the end of the month and will guide subsequent meetings.

I will circulate another survey poll for a second meeting in the next few weeks targeting the first half of September, so please be on the lookout for that communication.

Please contact Mr. John Underwood of this office at (601) 631-5017 or via e-mail [John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil), or Mr. Mike Renacker, Vicksburg District Tribal Liaison at (601) 631-5842 or via e-mail at [Mike.Renacker@usace.army.mil](mailto:Mike.Renacker@usace.army.mil) should you have any comments or questions.

Respectfully,

John R. Underwood, MA, RPA

Archaeologist

Cultural & Social Resources Section (CEMVK-PDS-U) U.S. Army Corps of Engineers Vicksburg District  
Regional Planning and Environment Division, South

[John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil)

601.631.5017

From: [Underwood, John R CIV USARMY CEMVK \(USA\)](#)  
To: ["dfrazier@astribe.com"](#); ["Johnson, Delvin@actribe.org"](#); ["jrohrer@mycaddonation.com"](#); ["kim@chitimacha.gov"](#); ["dakotajohn@coushatta.org"](#); ["Johnna Flynn"](#); ["Turner Hunt"](#); ["Billie Burtrum"](#); ["Yahola.b@sno-nsn.gov"](#); ["thpocompliance"](#); ["Earl Barbry Jr. \(earlii@tunica.org\)"](#); ["rcain@ukb-nsn.gov"](#); ["Cindy Carter-Davis"](#); ["106NAGPRA@astribe.com"](#); ["histpres@actribe.org"](#); ["section106@mycaddonation.com"](#); ["kdawsey@coushatta.org"](#); ["Section106"](#); ["Section106@mcn-nsn.gov"](#); ["Quapaw Nation"](#); ["Tim Martin"](#); ["Section106@mdah.ms.gov"](#); ["Renacker, George M \(Mike\) CIV USARMY CEMVK \(USA\)"](#); ["Ryan, Jennifer Ivy CIV USARMY CEMVD \(USA\)"](#); ["Lieb, Pamela D CIV USARMY CEMVM \(USA\)"](#); ["Jennifer Baughn"](#)  
Cc: ["Moore, Daniel R CIV USARMY CEMVN \(USA\)"](#); ["Piefke, Taylor J CIV USARMY CEMVN \(USA\)"](#)  
Subject: RE: Arkabutla Dam Safety Modification Study Section 106 Discussion Minutes  
Date: Monday, August 26, 2024 3:55:00 PM  
Attachments: [Eastern Borrow Areas.jpg](#)  
[Revised footprints August 26 2024 Labeled.JPG](#)

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Good afternoon,

I hope this email finds you all well. The initial draft of the Section 106 Programmatic Agreement tracking to be ready for circulation by this Friday (August 30<sup>th</sup>) and be the focus of the next series of discussions. I will circulate another survey poll by the end of the week to set a placeholder for the next meeting, probably targeting the week of September 23-27.

Since our initial meeting, the project's preliminary APE has been revised, eliminating potential borrow locations to the east of Arkabutla Lake along U.S. Highway 51 (see attached JPEG – areas in red), which removes two previously recorded archaeological resources from potential project impacts. Further revisions to the potential construction footprint has removed a third archaeological site from potential impacts as well (see attached Revised footprints JPEG). The cross-hatched areas represent portions where any ground-disturbing activities have been removed. To accommodate projected borrow needs, a second borrow (designated by the light blue color in the Revised footprint JPEG) has been added that does not contain any previously identified cultural resources.

Please contact Mr. John Underwood of this office at (601) 631-5017 or via e-mail [John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil), or Mr. Mike Renacker, Vicksburg District Tribal Liaison at (601) 631-5842 or via e-mail at [Mike.Renacker@usace.army.mil](mailto:Mike.Renacker@usace.army.mil) should you have any comments or questions.

Respectfully,

John R. Underwood, MA, RPA

Archaeologist

Cultural & Social Resources Section (CEMVK-PDS-U) U.S. Army Corps of Engineers Vicksburg District  
Regional Planning and Environment Division, South

[John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil)

601.631.5017

From: [Underwood, John R CIV USARMY CEMVK \(USA\)](#)  
To: ["dfrazier@astribe.com"](#); ["Johnson, Delvin@actribe.org"](#); ["jrohrer@mycaddonation.com"](#); ["kim@chitimacha.gov"](#); ["dakotajohn@coushatta.org"](#); ["Johnna Flynn"](#); ["Turner Hunt"](#); ["Billie Burtrum"](#); ["Yahola.b@sno-nsn.gov"](#); ["thpocompliance"](#); ["Earl Barbry Jr. \(earlii@tunica.org\)"](#); ["rcain@ukb-nsn.gov"](#); ["Cindy Carter-Davis"](#); ["106NAGPRA@astribe.com"](#); ["histpres@actribe.org"](#); ["section106@mycaddonation.com"](#); ["kdawsey@coushatta.org"](#); ["Section106"](#); ["Section106@mcn-nsn.gov"](#); ["Quapaw Nation"](#); ["Tim Martin"](#); ["Section106@mdah.ms.gov"](#); ["Renacker, George M \(Mike\) CIV USARMY CEMVK \(USA\)"](#); ["Ryan, Jennifer Ivy CIV USARMY CEMVD \(USA\)"](#); ["Lieb, Pamela D CIV USARMY CEMVM \(USA\)"](#); ["Jennifer Baughn"](#)  
Cc: ["Moore, Daniel R CIV USARMY CEMVN \(USA\)"](#); ["Piefke, Taylor J CIV USARMY CEMVN \(USA\)"](#)  
Subject: RE: Arkabutla Dam Safety Modification Study Section 106 PA - Continued Discussion  
Date: Thursday, August 29, 2024 10:03:00 AM  
Attachments: [DRAFT Arkabutla Dam Safety modification Study Section 106 PA August 2024.pdf](#)

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Good morning,

I hope this email finds you all well. Please find attached the initial draft of the Section 106 Programmatic Agreement (PA) for review, which references the most updated and revised project footprints transmitted to you all on Monday, August 26, 2024. I have edited a Doodle Poll with some targeted dates/times to meet and begin discussing the specifics of this proposed PA (using Microsoft Teams to reduce log-in issues). Due to some scheduling conflicts, I am proposing two windows **(Monday, September 30 through Thursday, October 3 & Monday, October 7 – Thursday, October 10)**. The link to this poll is highlighted below.

Please contact Mr. John Underwood of this office at (601) 631-5017 or via e-mail [John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil), or Mr. Mike Renacker, Vicksburg District Tribal Liaison at (601) 631-5842 or via e-mail at [Mike.Renacker@usace.army.mil](mailto:Mike.Renacker@usace.army.mil) should you have any comments or questions.

<https://doodle.com/meeting/participate/id/bYlG3mKa>

Respectfully,

John R. Underwood, MA, RPA

Archaeologist

Cultural & Social Resources Section (CEMVK-PDS-U) U.S. Army Corps of Engineers Vicksburg District  
Regional Planning and Environment Division, South

[John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil)

601.631.5017

From: [Underwood, John R CIV USARMY CEMVK \(USA\)](#)  
To: ["dfrazier@astribe.com"](#); ["Johnson.Delvin@actribe.org"](#); ["jrohrer@mycaddonation.com"](#); ["kim@chitimacha.gov"](#); ["dakotajohn@coushatta.org"](#); ["Johnna Flynn"](#); ["Turner Hunt"](#); ["Billie Burtrum"](#); ["Yahola.b@sno-nsn.gov"](#); ["thpocompliance"](#); ["Earl Barbry Jr. \(earlii@tunica.org\)"](#); ["rcain@ukb-nsn.gov"](#); ["Cindy Carter-Davis"](#); ["106NAGPRA@astribe.com"](#); ["histpres@actribe.org"](#); ["section106@mycaddonation.com"](#); ["kdawsey@coushatta.org"](#); ["Section106"](#); ["Section106@mcn-nsn.gov"](#); ["Quapaw Nation"](#); ["Tim Martin"](#); ["Section106@mdah.ms.gov"](#); [Renacker, George M \(Mike\) CIV USARMY CEMVK \(USA\)](#); [Ryan, Jennifer Ivy CIV USARMY CEMVD \(USA\)](#); [Lieb, Pamela D CIV USARMY CEMVM \(USA\)](#); ["Jennifer Baughn"](#)  
Cc: [Moore, Daniel R CIV USARMY CEMVN \(USA\)](#); [Piefke, Taylor J CIV USARMY CEMVN \(USA\)](#)  
Subject: RE: Arkabutla Dam Safety Modification Study Section 106 PA - Continued Discussion  
Date: Thursday, August 29, 2024 10:34:00 AM

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Good morning all,

I have been informed of some technical issues accessing the Doodle Poll, so I have created a new entry for the proposed date/time range (highlighted below):

<https://doodle.com/meeting/participate/id/eEGxEXIb>

Again, apologies for the confusion and please contact me at (601) 631-5017 or via e-mail [John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil), or Mr. Mike Renacker, Vicksburg District Tribal Liaison at (601) 631-5842 or via e-mail at [Mike.Renacker@usace.army.mil](mailto:Mike.Renacker@usace.army.mil) should you have any comments or questions.

Respectfully,

John R. Underwood, MA, RPA

Archaeologist

Cultural & Social Resources Section (CEMVK-PDS-U) U.S. Army Corps of Engineers Vicksburg District  
Regional Planning and Environment Division, South

[John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil)

601.631.5017

---

**From:** Underwood, John R CIV USARMY CEMVK (USA)

**Sent:** Thursday, August 29, 2024 10:04 AM

**To:** 'dfrazier@astribe.com' <dfrazier@astribe.com>; 'Johnson.Delvin@actribe.org' <Johnson.Delvin@actribe.org>; 'jrohrer@mycaddonation.com' <jrohrer@mycaddonation.com>; 'kim@chitimacha.gov' <kim@chitimacha.gov>; 'dakotajohn@coushatta.org' <dakotajohn@coushatta.org>; 'Johnna Flynn' <jflynn@jenachoctaw.org>; 'Turner Hunt' <thunt@muscogeenation.com>; 'Billie Burtrum' <Billie.Burtrum@quapawnation.com>; 'Yahola.b@sno-nsn.gov' <Yahola.b@sno-nsn.gov>; 'thpocompliance' <thpocompliance@semtribe.com>; 'Earl Barbry Jr. (earlii@tunica.org)' <earlii@tunica.org>; 'rcain@ukb-nsn.gov' <rcain@ukb-nsn.gov>; 'Cindy Carter-Davis' <ccarterdavis@mdah.ms.gov>; '106NAGPRA@astribe.com' <106nagpra@astribe.com>; 'histpres@actribe.org' <histpres@actribe.org>; 'section106@mycaddonation.com' <section106@mycaddonation.com>; 'kdawsey@coushatta.org' <kdawsey@coushatta.org>; 'Section106' <section106@choctaw.org>; 'Section106@mcn-nsn.gov' <Section106@mcn-nsn.gov>; Quapaw Nation <section106@quapawnation.com>; 'Tim Martin' <TMartin@tunica.org>; 'Section106@mdah.ms.gov' <section106@mdah.ms.gov>; Renacker, George M (Mike) CIV USARMY CEMVK (USA)



<Mike.Renacker@usace.army.mil>; Ryan, Jennifer Ivy CIV USARMY CEMVD (USA)  
<Jennifer.I.Ryan@usace.army.mil>; Lieb, Pamela D CIV USARMY CEMVM (USA)  
<Pamela.D.Lieb@usace.army.mil>; 'Jennifer Baughn' <jbaughn@mdah.ms.gov>  
**Cc:** Moore, Daniel R CIV USARMY CEMVN (USA) <Daniel.R.Moore@usace.army.mil>; Piefke, Taylor J  
CIV USARMY CEMVN (USA) <Taylor.Piefke@usace.army.mil>  
**Subject:** RE: Arkabutla Dam Safety Modification Study Section 106 PA - Continued Discussion

Good morning,

I hope this email finds you all well. Please find attached the initial draft of the Section 106 Programmatic Agreement (PA) for review, which references the most updated and revised project footprints transmitted to you all on Monday, August 26, 2024. I have edited a Doodle Poll with some targeted dates/times to meet and begin discussing the specifics of this proposed PA (using Microsoft Teams to reduce log-in issues). Due to some scheduling conflicts, I am proposing two windows **(Monday, September 30 through Thursday, October 3 & Monday, October 7 – Thursday, October 10)**. The link to this poll is highlighted below.

Please contact Mr. John Underwood of this office at (601) 631-5017 or via e-mail [John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil), or Mr. Mike Renacker, Vicksburg District Tribal Liaison at (601) 631-5842 or via e-mail at [Mike.Renacker@usace.army.mil](mailto:Mike.Renacker@usace.army.mil) should you have any comments or questions.

<https://doodle.com/meeting/participate/id/bYlG3mKa>

Respectfully,  
John R. Underwood, MA, RPA  
Archaeologist  
Cultural & Social Resources Section (CEMVK-PDS-U) U.S. Army Corps of Engineers Vicksburg District  
Regional Planning and Environment Division, South  
[John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil)  
601.631.5017

For organizers: Meeting options <[https://dod.teams.microsoft.us/meetingOptions/?organizerId=4fc343de-7417-4c83-8839-9dfa49f375b&tenantId=fc4d76ba-f17c-4c50-b9a7-8f3163d27582&threadId=19\\_dod\\_meeting\\_55fd1160b8243a98150670142ac755e@thread.v2&messageId=0&language=en-US](https://dod.teams.microsoft.us/meetingOptions/?organizerId=4fc343de-7417-4c83-8839-9dfa49f375b&tenantId=fc4d76ba-f17c-4c50-b9a7-8f3163d27582&threadId=19_dod_meeting_55fd1160b8243a98150670142ac755e@thread.v2&messageId=0&language=en-US)> | Reset dial-in PIN <<https://dialin.cpc.dod.teams.microsoft.us/usp>>

---

October 1, 2024

Mr. John Underwood  
U.S. Army Corps of Engineers, Vicksburg District  
4155 East Clay Street  
Vicksburg, Mississippi 39183-3435

RE: Draft Programmatic Agreement Among the U.S. Army Corps of Engineers (USACE)  
Vicksburg District; Tribal Nations; and SHPO/State Historic Preservation Officer;  
Regarding the Arkabutla Dam (MS01496), Coldwater River, Mississippi, Embankment,  
Outlet Works, Spillway, Dam Safety Modifications Study, (USACE) MDAH Project Log  
#09-005-24, DeSoto County

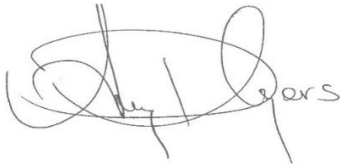
Dear Mr. Underwood:

We have reviewed the draft programmatic agreement, received on August 29, 2024, for the above referenced project in accordance with our responsibilities under Section 106 of the National Historic Preservation Act and 36 CFR Part 800.

Due to a meeting being held on October 9, 2024, with USACE, concerning this programmatic agreement, MDAH would like to defer our comments until this meeting's conclusion and the receipt of additional information.

If you have any questions, please do not hesitate to contact us at (601) 576-6940.

Sincerely,



Amy D. Myers  
Review and Compliance Officer

FOR: Katie Blount  
State Historic Preservation Officer



November 25, 2024

Mike Renacker  
Project Manager  
U.S. Army Corps of Engineers  
CEMVK-PPMD

Ref: *Arkabutla Dam Safety Modification Study, DeSoto and Tate Counties*  
*Desoto County, Mississippi*  
*ACHP Project Number: 021603*

Dear Mr. Renacker:

On October 4, 2024, the Advisory Council on Historic Preservation (ACHP) received your notification and supporting documentation regarding the potential adverse effects of the referenced undertaking on a property or properties listed or eligible for listing in the National Register of Historic Places. Because the ACHP did not respond within 15 days with a decision regarding our nonparticipation, the ACHP assumes that the Army Corps of Engineers continued the consultation to resolve adverse effects.

However, if we receive a request for participation from the Mississippi State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer, affected Indian Tribe, a consulting party, or other party, we may reconsider this decision. Should the undertaking's circumstances change, consulting parties cannot come to consensus, or you need further advisory assistance to conclude the consultation process, please contact us.

Pursuant to 36 CFR § 800.6(b)(1)(iv), you will need to file the final Section 106 agreement document (Agreement), developed in consultation with the Mississippi SHPO and any other consulting parties, and related documentation with the ACHP at the conclusion of the consultation process. The filing of the Agreement and supporting documentation with the ACHP is required in order to complete the requirements of Section 106 of the National Historic Preservation Act.

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

Sincerely,

Lucrecia Brooks  
Historic Preservation Technician  
Office of Federal Agency Programs

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](mailto:achp@achp.gov) • [www.achp.gov](http://www.achp.gov)

From: [Underwood, John R CIV USARMY CEMVK \(USA\)](#)  
To: ["Section106"](#)  
Cc: [Savannah Waters](#)  
Subject: FW: 2025 Arkabutla Project Update  
Date: Friday, January 17, 2025 4:04:00 PM

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Dr. Waters,

Below is a link to a survey poll for scheduling the next Section 106 Consultation meeting regarding the Arkabutla Lam and Dam project the Vicksburg District is also proposing. The initial consultation invite went out late this past June, and we have hosted virtual follow-up meetings in July, October, and December of 2024. The next target window is the first week of February.

I will forward you the meeting notes and slide decks from these previous meetings for your awareness and information.

Please feel free to contact me should you have any questions.

Respectfully,

John R. Underwood, MA, RPA

Archaeologist

Cultural & Social Resources Section (CEMVK-PDS-U) U.S. Army Corps of Engineers Vicksburg District  
Regional Planning and Environment Division, South

John.R.Underwood@usace.army.mil

601.631.5017

---

**From:** Underwood, John R CIV USARMY CEMVK (USA)

**Sent:** Thursday, January 16, 2025 9:57 AM

**To:** 'dfrazier@astribe.com' <dfrazier@astribe.com>; 'Johnson.Delvin@actribe.org' <Johnson.Delvin@actribe.org>; 'jrohrer@mycaddonation.com' <jrohrer@mycaddonation.com>; 'kim@chitimacha.gov' <kim@chitimacha.gov>; 'dakotajohn@coushatta.org' <dakotajohn@coushatta.org>; 'Johnna Flynn' <jflynn@jenachoctaw.org>; 'Robin Soweka Jr.' <rosoweka@muscogeenation.com>; 'Billie Burtrum' <Billie.Burtrum@quapawnation.com>; 'Yahola.b@sno-nsn.gov' <Yahola.b@sno-nsn.gov>; 'thpocompliance' <thpocompliance@semtribe.com>; 'Earl Barbry Jr. (earlii@tunica.org)' <earlii@tunica.org>; 'rcain@ukb-nsn.gov' <rcain@ukb-nsn.gov>; 'Cindy Carter-Davis' <ccarterdavis@mdah.ms.gov>; '106NAGPRA@astribe.com' <106nagpra@astribe.com>; 'histpres@actribe.org' <histpres@actribe.org>; 'section106@mycaddonation.com' <section106@mycaddonation.com>; 'kdawsey@coushatta.org' <kdawsey@coushatta.org>; 'Section106' <section106@choctaw.org>; 'Section106@mcn-nsn.gov' <Section106@mcn-nsn.gov>; Quapaw Nation <section106@quapawnation.com>; 'karen.brunso@chickasaw.net' <Karen.Brunso@chickasaw.net>; 'Section106@mdah.ms.gov' <section106@mdah.ms.gov>; Renacker, George M (Mike) CIV USARMY CEMVK (USA) <Mike.Renacker@usace.army.mil>; Ryan, Jennifer Ivy CIV USARMY CEMVD (USA) <Jennifer.I.Ryan@usace.army.mil>; Lieb, Pamela D CIV USARMY CEMVM (USA) <Pamela.D.Lieb@usace.army.mil>; 'Jennifer Baughn' <jbaughn@mdah.ms.gov>; Stephens, Ashley L CIV USARMY CELRH (USA) <Ashley.L.Stephens@usace.army.mil>

**Cc:** Moore, Daniel R CIV USARMY CEMVN (USA) <Daniel.R.Moore@usace.army.mil>; Piefke, Taylor J CIV USARMY CEMVN (USA) <Taylor.Piefke@usace.army.mil>; Sullivan, Emily P CIV USARMY CEMVK (USA) <Emily.P.Sullivan@usace.army.mil>; Wimmer, Mark D Jr (David) CIV USARMY CEMVN (USA) <Mark.D.Wimmer@usace.army.mil>; 'section 106' <section.106@quapawnation.com>; 'Thomas Dabney' <tdabney@mdah.ms.gov>

**Subject:** 2025 Arkabutla Project Update

Good morning,

Please find below a link (highlighted) to a survey poll for an early February follow-up discussion of the Arkabutla project and Section 106 PA, building from conversations held during the December 2024 meeting.

<https://doodle.com/meeting/participate/id/azQ42Jye>

Please contact Mr. John Underwood of this office at (601) 631-5017 or via e-mail [John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil) or Mr. Mike Renacker, Vicksburg District Tribal Liaison at (601) 631-5842 or via e-mail at [Mike.Renacker@usace.army.mil](mailto:Mike.Renacker@usace.army.mil), should have any questions concerning this document.

Respectfully,

John R. Underwood, MA, RPA

Archaeologist

Cultural & Social Resources Section (CEMVK-PDS-U) U.S. Army Corps of Engineers Vicksburg District  
Regional Planning and Environment Division, South

[John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil)

601.631.5017

From: [Underwood, John R CIV USARMY CEMVK \(USA\)](#)  
To: ["dfrazier@astribe.com"](#); ["Johnson.Delvin@actribe.org"](#); ["jrohrer@mycaddonation.com"](#); ["kim@chitimacha.gov"](#); ["dakotajohn@coushatta.org"](#); ["Johnna.Flynn"](#); ["Billie.Burtrum"](#); ["Yahola.b@sno-nsn.gov"](#); ["Savannah.Waters"](#); ["thpocompliance"](#); ["Earl.Barbry.Jr.\(earlii@tunica.org\)"](#); ["rcain@ukb-nsn.gov"](#); ["Cindy.Carter-Davis"](#); ["106NAGPRA@astribe.com"](#); ["histpres@actribe.org"](#); ["section106@mycaddonation.com"](#); ["kdawsey@coushatta.org"](#); ["Section106"](#); ["Section106@mcn-nsn.gov"](#); ["Quapaw.Nation"](#); ["Lindsey.Bilyeu"](#); ["karen.brunso@chickasaw.net"](#); ["Section106@mdah.ms.gov"](#); ["Renacker.George.M\(Mike\)CIVUSARMYCEMVK\(USA\)"](#); ["Ryan.Jennifer.IvyCIVUSARMYCEMVD\(USA\)"](#); ["Lieb.Pamela.DCIVUSARMYCEMVM\(USA\)"](#); ["Jennifer.Baughn"](#); ["Stephens.Ashley.LCIVUSARMYCELRH\(USA\)"](#)  
Cc: ["Moore.Daniel.RCIVUSARMYCEMVN\(USA\)"](#); ["Piefke.Taylor.JCIVUSARMYCEMVN\(USA\)"](#); ["Sullivan.Emily.PCIVUSARMYCEMVK\(USA\)"](#); ["Wimmer.Mark.DJr\(David\)CIVUSARMYCEMVN\(USA\)"](#); ["section106"](#); ["Meredith.Massey"](#); ["Thomas.Dabney"](#); ["Holdiness.Garrett.HCIVUSARMYCEMVK\(USA\)"](#); ["Section106"](#)  
Subject: Arkabutla Project - Section 106 Updates  
Start: Wednesday, February 5, 2025 2:00:00 PM  
End: Wednesday, February 5, 2025 3:00:00 PM  
Location: Microsoft Teams Meeting  
Attachments: [Arkabutla DSMS Section 106 Continued Conversations February 5 2025 Agenda.docx](#)  
[DRAFT Arkabutla Damn Safety modification Study Section 106 PA January 27 2025.pdf](#)

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Good morning all,

I hope this email finds you all well. Based upon feedback from the latest poll, it appears that the afternoon of Wednesday, February 5th is the most favorable date/time for our next scheduled meeting. Attached is the proposed agenda for review. We are in the process of finalizing the environmental documentation for the project study in response to internal policy compliance and technical reviews and have included the latest draft of the Section 106 PA. Logon information is provided in the invitation below as well as the attached agenda.

Please contact Mr. John Underwood of this office at (601) 631-5017 or via e-mail [John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil) <<mailto:John.R.Underwood@usace.army.mil>> , or Mr. Mike Renacker, Vicksburg District Tribal Liaison at (601) 631-5842 or via e-mail at [Mike.Renacker@usace.army.mil](mailto:Mike.Renacker@usace.army.mil) <<mailto:Mike.Renacker@usace.army.mil>> should you have any comments or questions.

Respectfully,

John R. Underwood, MA, RPA

Archaeologist

Cultural & Social Resources Section (CEMVK-PDS-U) U.S. Army Corps of Engineers Vicksburg District

Regional Planning and Environment Division, South

[John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil) <<mailto:John.R.Underwood@usace.army.mil>>

601.631.5017

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Microsoft Teams Need help? <<https://aka.ms/JoinTeamsMeeting?omkt=en-US>>

Join the meeting now <[https://dod.teams.microsoft.us/l/meetup-join/19%3ad0d3ameeting\\_a9b6ce29e0ca4689ae82184ba1212da5%40thread.v2/0?context=%7b%22Tid%22%3a%22fc4d76ba-f17c-4c50-b9a7-8f3163d27582%22%2c%22Oid%22%3a%224fc343de-7417-4c83-8839-9dfa49ff375b%22%7d](https://dod.teams.microsoft.us/l/meetup-join/19%3ad0d3ameeting_a9b6ce29e0ca4689ae82184ba1212da5%40thread.v2/0?context=%7b%22Tid%22%3a%22fc4d76ba-f17c-4c50-b9a7-8f3163d27582%22%2c%22Oid%22%3a%224fc343de-7417-4c83-8839-9dfa49ff375b%22%7d)>

Meeting ID: 993 126 449 908

Passcode: 9Rw39SA7

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Dial in by phone

+1 601-262-2433,,542202685# <<tel:+16012622433,,542202685>> United States, Vicksburg

Find a local number <<https://dialin.cpc.dod.teams.microsoft.us/71aa306f-43b1-41da-a46c-76ada22fc845?id=542202685>>

Phone conference ID: 542 202 685#

For organizers: Meeting options <[https://dod.teams.microsoft.us/meetingOptions/?organizerId=4fc343de-7417-4c83-8839-9dfa49ff375b&tenantId=fc4d76ba-f17c-4c50-b9a7-8f3163d27582&threadId=19\\_dod\\_meeting\\_a9b6ce29e0ca4689ae82184ba1212da5@thread.v2&messageId=0&language=en-US](https://dod.teams.microsoft.us/meetingOptions/?organizerId=4fc343de-7417-4c83-8839-9dfa49ff375b&tenantId=fc4d76ba-f17c-4c50-b9a7-8f3163d27582&threadId=19_dod_meeting_a9b6ce29e0ca4689ae82184ba1212da5@thread.v2&messageId=0&language=en-US)> | Reset dial-in PIN <<https://dialin.cpc.dod.teams.microsoft.us/usp>>



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From: [Underwood, John R CIV USARMY CEMVK \(USA\)](#)  
To: ["dfrazier@astribe.com"](#); ["Johnson, Delvin@actribe.org"](#); ["jrohler@mycaddonation.com"](#); ["kim@chitimacha.gov"](#); ["dakotajohn@coushatta.org"](#); ["Johnna Flynn"](#); ["Billie Burtrum"](#); ["Yahola.b@sno-nsn.gov"](#); ["Savannah Waters"](#); ["thpocompliance"](#); ["Earl Barbry Jr. \(earlii@tunica.org\)"](#); ["rcain@ukb-nsn.gov"](#); ["Cindy Carter-Davis"](#); ["106NAGPRA@astribe.com"](#); ["histpres@actribe.org"](#); ["section106@mycaddonation.com"](#); ["kdawsey@coushatta.org"](#); ["Section106"](#); ["Section106@mcn-nsn.gov"](#); ["Quapaw Nation: Lindsey Bilyeu"](#); ["karen.brunso@chickasaw.net"](#); ["Section106@mdah.ms.gov"](#); ["Renacker, George M \(Mike\) CIV USARMY CEMVK \(USA\)"](#); ["Ryan, Jennifer Ivy CIV USARMY CEMVD \(USA\)"](#); ["Lieb, Pamela D CIV USARMY CEMVM \(USA\)"](#); ["Jennifer Baughn"](#); ["Stephens, Ashley L CIV USARMY CELRH \(USA\)"](#)  
Cc: ["Moore, Daniel R CIV USARMY CEMVN \(USA\)"](#); ["Piefke, Taylor J CIV USARMY CEMVN \(USA\)"](#); ["Sullivan, Emily P CIV USARMY CEMVK \(USA\)"](#); ["Wimmer, Mark D Jr \(David\) CIV USARMY CEMVN \(USA\)"](#); ["section 106"](#); ["Meredith Massey"](#); ["Thomas Dabney"](#); ["Holdiness, Garrett H CIV USARMY CEMVK \(USA\)"](#); ["Section106"](#)  
Subject: Minutes from February 5, 2025 Section 106  
Date: Thursday, February 20, 2025 1:07:00 PM  
Attachments: ["Rervised Section 106 PA Arkabutla DSMS February 20 2025.pdf"](#)  
["Arkabutla DSMS Section 106 Continued Conversations February 5 2025 Meeting Minutes.pdf"](#)  
["Arkabutla DSMS Section 106 Meeting February 5 2025.pdf"](#)

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Good afternoon all,

Please find attached the minutes and presentation from the Section 106 Programmatic Agreement meeting held February 5, 2025. Also included in this email is the final draft of the Section 106 PA document that captures the stipulations as discussed over the past several meetings. In association with ongoing consultation efforts for the project, USACE leadership wishes to invite all consulting parties to be signatories to this Section 106 PA.

Should you wish to be a signatory, please feel free to contact Mr. John Underwood of this office at (601) 631-5017 or via e-mail [John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil), or Mr. Mike Renacker, Vicksburg District Tribal Liaison at (601) 631-5842 or via e-mail at [Mike.Renacker@usace.army.mil](mailto:Mike.Renacker@usace.army.mil) so we can ensure we have the proper credentials on the appropriate signatory pages.

Respectfully,

John R. Underwood, MA, RPA

Archaeologist

Cultural & Social Resources Section (CEMVK-PDS-U) U.S. Army Corps of Engineers Vicksburg District

Regional Planning and Environment Division, South

[John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil)

601.631.5017

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Cc: ["Moore, Daniel R CIV USARMY CEMVN \(USA\)"](#); ["Piefke, Taylor J CIV USARMY CEMVN \(USA\)"](#); ["Sullivan, Emily P CIV USARMY CEMVK \(USA\)"](#); ["Wimmer, Mark D Jr \(David\) CIV USARMY CEMVN \(USA\)"](#); ["section 106"](#); ["Meredith Massey"](#); ["Thomas Dabney"](#); ["Holdiness, Garrett H CIV USARMY CEMVK \(USA\)"](#); ["Section106"](#)  
Subject: RE: Minutes from February 5, 2025 Section 106  
Date: Monday, February 24, 2025 11:45:00 AM  
Attachments: [FINAL DRAFT Arkabutla DSMS Section 106 PA February 24 2025 highlighted.pdf](#)

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Good morning,

MVK's Office of Council (OC) requested additional language added to the PA to address rescission of Executive Order (EO) 12898 (Environmental Justice) and its impact to NEPA and public involvement. The following new language has been added to the Section 106 PA in lieu of language related to EO 12898:

This environmental assessment was initiated prior to the rescission of Executive Order 12898. During the applicability of Executive Order 12898, the agency engaged in efforts to fully comply with Environmental Justice requirements in effect at the time, including targeted public meetings. Since the rescission of Executive Order 12898 on January 21, 2025, the agency has discontinued Environmental Justice considerations as required under Executive Order 14173.

This new language has been highlighted for reference purposes and can be found in Section III(A)(3)(b) under ROLES AND RESPONSIBILITIES OF THE CONSULTING PARTIES on page 6.

As always, please feel free to contact Mr. John Underwood of this office at (601) 631-5017 or via e-mail [John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil), or Mr. Mike Renacker, Vicksburg District Tribal Liaison at (601) 631-5842 or via e-mail at [Mike.Renacker@usace.army.mil](mailto:Mike.Renacker@usace.army.mil) with any questions.

Respectfully,

John R. Underwood, MA, RPA

Archaeologist

Cultural & Social Resources Section (CEMVK-PDS-U) U.S. Army Corps of Engineers Vicksburg District  
Regional Planning and Environment Division, South

[John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil)

601.631.5017

---

**From:** Underwood, John R CIV USARMY CEMVK (USA)

**Sent:** Thursday, February 20, 2025 1:08 PM

**To:** 'dfrazier@astribe.com' <dfrazier@astribe.com>; 'Johnson.Delvin@actribe.org' <Johnson.Delvin@actribe.org>; 'jrohrer@mycaddonation.com' <jrohrer@mycaddonation.com>; 'kim@chitimacha.gov' <kim@chitimacha.gov>; 'dakotajohn@coushatta.org'

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<Billie.Burtrum@quapawnation.com>; 'Yahola.b@sno-nsn.gov' <Yahola.b@sno-nsn.gov>; 'Savannah  
Waters' <swaters@muscogeenation.com>; 'thpocompliance' <thpocompliance@semtribe.com>;  
'Earl Barbry Jr. (earlii@tunica.org)' <earlii@tunica.org>; 'rcain@ukb-nsn.gov' <rcain@ukb-nsn.gov>;  
'Cindy Carter-Davis' <ccarterdavis@mdah.ms.gov>; '106NAGPRA@astribe.com'  
<106nagpra@astribe.com>; 'histpres@actribe.org' <histpres@actribe.org>;  
'section106@mycaddonation.com' <section106@mycaddonation.com>; 'kdawsey@coushatta.org'  
<kdawsey@coushatta.org>; 'Section106' <section106@choctaw.org>; 'Section106@mcn-nsn.gov'  
<Section106@mcn-nsn.gov>; Quapaw Nation <section106@quapawnation.com>; 'Lindsey Bilyeu'  
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'Section106@mdah.ms.gov' <section106@mdah.ms.gov>; Renacker, George M (Mike) CIV USARMY  
CEMVK (USA) <Mike.Renacker@usace.army.mil>; Ryan, Jennifer Ivy CIV USARMY CEMVD (USA)  
<Jennifer.I.Ryan@usace.army.mil>; Lieb, Pamela D CIV USARMY CEMVM (USA)  
<Pamela.D.Lieb@usace.army.mil>; 'Jennifer Baughn' <jbaughn@mdah.ms.gov>; Stephens, Ashley L  
CIV USARMY CELRH (USA) <Ashley.L.Stephens@usace.army.mil>  
**Cc:** Moore, Daniel R CIV USARMY CEMVN (USA) <Daniel.R.Moore@usace.army.mil>; Piefke, Taylor J  
CIV USARMY CEMVN (USA) <Taylor.Piefke@usace.army.mil>; Sullivan, Emily P CIV USARMY CEMVK  
(USA) <Emily.P.Sullivan@usace.army.mil>; Wimmer, Mark D Jr (David) CIV USARMY CEMVN (USA)  
<Mark.D.Wimmer@usace.army.mil>; 'section 106' <section.106@quapawnation.com>; 'Meredith  
Massey' <mmassey@mdah.ms.gov>; 'Thomas Dabney' <tdabney@mdah.ms.gov>; Holdiness, Garrett  
H CIV USARMY CEMVK (USA) <Garrett.H.Holdiness@usace.army.mil>; 'Section106'  
<Section106@muscogeenation.com>

**Subject:** Minutes from February 5, 2025 Section 106

Good afternoon all,

Please find attached the minutes and presentation from the Section 106 Programmatic Agreement meeting held February 5, 2025. Also included in this email is the final draft of the Section 106 PA document that captures the stipulations as discussed over the past several meetings. In association with ongoing consultation efforts for the project, USACE leadership wishes to invite all consulting parties to be signatories to this Section 106 PA.

Should you wish to be a signatory, please feel free to contact Mr. John Underwood of this office at (601) 631-5017 or via e-mail [John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil) , or Mr. Mike Renacker, Vicksburg District Tribal Liaison at (601) 631-5842 or via e-mail at [Mike.Renacker@usace.army.mil](mailto:Mike.Renacker@usace.army.mil) so we can ensure we have the proper credentials on the appropriate signatory pages.

Respectfully,

John R. Underwood, MA, RPA  
Archaeologist

Cultural & Social Resources Section (CEMVK-PDS-U) U.S. Army Corps of Engineers Vicksburg District  
Regional Planning and Environment Division, South  
[John.R.Underwood@usace.army.mil](mailto:John.R.Underwood@usace.army.mil)

601.631.5017

**SECTION 106  
CONSULTATION  
MEETING  
MINUTES**



## MEETING MINUTES

July 30, 2024, 10:00 am - 11:00 am CT

# **1<sup>st</sup> Section 106 Consultation Meeting for the Development of a Programmatic Agreement Regarding the Arkabutla Dam Safety Modification Study (DSMS) Vicksburg District (MVK) Teleconference and Webmeeting**

Teleconference: +1-844-800-2712; Access Code 2828 203 2287. If asked for participant number, press #.

Webmeeting: <https://usace1.webex.com/usace1/j.php?MTID=m80312062f3ea58c456b240dc619e6072>

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### **I. Welcome and Introductions (USACE)**

- A. Mr. John Underwood (USACE – MVK District Archaeologist) – Welcomed those in attendance at start of meeting at 10:05 am
- B. Mr. Underwood introduced those in attendance:
  - 1. Ms. Cindy Carter-Davis (Mississippi Department of Archives and History [MDAH] Chief Archaeologist).
  - 2. Ms. Pamela Lieb (USACE MVM District Archaeologist/Tribal Liaison/Cultural Regional Technical Specialist).
  - 3. Ms. Ashley Stephens (USACE - Dam Safety Modification Mandatory Center of Expertise [DSMMCX] Huntington District Headquarters in Huntington, West Virginia – Community Planner).
  - 4. Mr. Mike Renacker (USACE – MVK Tribal Liaison /Senior Project Manager).

### **II. Outreach to Tribes, SHPOS, and Public**

- A. Mr. Underwood began by stating this meeting represents the kick-off to discussing a long-term fix of the Arkabutla Dam and Lake outlet works, where recent investigation has identified loss of structural integrity.
  - 1. This loss of integrity has triggered recent emergency actions (deviation to existing Water Control Plan (WCP) as well as installation additional relief wells and piezometers to further reduce pressure on Arkabutla Dam and better monitor conditions until permanent repairs can be developed and implemented.
  - 2. This focus of discussions will be the process of achieving National Historic Preservation Act (NHPA) Section 106 concurrence through a Programmatic Agreement acknowledging the following:
    - a. Complexity of project, acknowledging that the existing Dam and Outlet Works represent a historic structure; and
    - b. The unknowns as we continue to conceptualize the most appropriate fix.

### **III. Project Overview and Walkthrough/Background**

- A. Project Authorization
  - 1. Mr. Underwood walked through the authorization history:
    - a. The Flood Control Act of 15 May 1928, as amended by the Acts of 15 June 1936 and 28 June 1938, authorized the construction of the Arkabutla Dam and Reservoir Project, which is included in the approved program for flood control under the



appropriation "Flood Control Mississippi River and Tributaries," Act of 1939. Built in tandem with other Dams and Lakes in Mississippi (Enid, Grenada, and Sardis).

b. Construction began in 1941 and was completed in 1943.

c. Purposes were twofold:

a. Flood Control

b. Recreation

2. Current Arkabutla Features:

a. Closure Dikes

b. Spillway

c. Dam Embankment

d. Outlet Works

B. Current proposal is to replace Outlet Works in New Location.

#### **IV. Discussion**

A. Mr. Underwood presented information concerning Preliminary Right-of-Way (ROW) Footprints:

1. 2 Proposed Borrow Areas (one to the north of the Preliminary Construction ROW and one well east across the existing Lake bisected by U.S. Highway 51).

2. Known Cultural Resources within Preliminary ROW Construction Footprint Project Authorization:

a. Eastern Borrow:

a. 2 previously identified archaeological sites, one along a potential accessway, and a second along the northern ROW boundary edge.

b. Partially covered within 4 previous cultural resources surveys conducted (1981, 1992, and two in 2003).

b. Northern Borrow:

a. Partially covered within 4 previous cultural resources surveys conducted (1992, 2003, 2006, and 2010).

c. Construction:

a. 1 previously identified archaeological site, located along the southern ROW boundary edges, as well as the existing Arkabutla Dam and Outlet Works.

b. Partially covered within 2 previous cultural resources surveys (2012 and 2013).

d. Mr. Underwood stressed that these are very preliminary and represent the largest initial footprint.

a. Intent is to shrink the footprints, thereby avoiding the peripherally-located archaeological sites, as well as to re-align the accessway to avoid any impacts as well.

b. Recommunicated that intent is always first to avoid, then minimize, then lastly mitigate.

c. Intent is to shrink the footprints, thereby avoiding the peripherally-located archaeological sites, as well as to re-align the accessway to avoid any impacts as well.

d. Acknowledged that additional investigative efforts will be needed during preconstruction.

B. Replace Outlet Works in New Location

1. Features:
  - a. Reinforced concrete intake structure;
  - b. Reinforced concrete control house with vertical lift gates and an emergency gate;
  - c. Bridge connecting the control house to the top of the dam;
  - d. Reinforced concrete conduit;
  - e. Reinforced concrete stilling basin;
  - f. Excavation of a new discharge channel with riprap scour protection to direct water towards the existing discharge channel; and
  - g. Abandon In-place existing Outlet Works.
2. Many such features are designed with additional levels of armament and reinforcement to counter deficiencies historically noted over the life of the existing Outlet Works.
3. Current Arkabutla Features:
  - a. Closure Dikes
  - b. Spillway
  - c. Dam Embankment
  - d. Outlet Works

V. Questions/Comments

- A. Mr. Underwood opened the meeting to comments/questions.
- B. Ms. Carter-Davis (MDAH) reminded USACE that significant effort has been undertaken install/outfit the Lakes for hydroelectric capability.
  1. Asked if this capability is still in consideration as a feature/capability as the project progresses through design
  2. Mr. Underwood ensured that the PDT (Project Delivery Team) is aware and will convey that comment to the team.
- C. Ms. Carter-Davis asked how long the project will remain in development, as well as how will water levels be maintained in the future.
  1. Mr. Underwood informed Ms. Carter-Davis that the project will be in PED (Pre-Construction Engineering and Design) for some time as the complex fix is developed.
  2. Ms. Stephens (USACE) explained that the water levels will continue according to the existing Water Control Plan (WCP) and the current deviation keeping water/pool levels at the current level.
    - a. Mr. Underwood explained that additional NEPA/Environmental studies and actions will be undertaken to address the WCP deviation as it will transition from emergency to a more long-term temporary status until the “fix” is complete.
    - b. Mr. Underwood further explained that this PA is limited to addressing the Section 106 process related to the Arkabutla Dam and Outlet Works project and actions associated with its implementation.
- D. Ms. Lieb (USACE)
  1. Asked about Tribal engagements, citing the low attendance and lack of participation.
  2. Mr. Underwood explained that multiple Tribes had been contacted with 2 Tribes having formally accepted the meeting invitation (Quapaw Nation & Seminole Tribe of Florida).
    - a. **NOTE:** Mr. Underwood later received word from the Quapaw Nation of technical difficulties accessing the WebEx platform.
    - b. Copies of the meeting minutes and presentation will be provided to all consulting parties; this correspondence will also include an invitation to suggest other Section 106 consultation arrangements if needed.

## **VI. Future Consultation Schedule**

- A. After all comments/questions, Mr. Underwood mentioned future meeting prospects.
- B. No sooner than the end of August/start of September.
- C. Mr. Underwood suggested staying with morning timeframe between Tuesday and Thursday.
  - 1. Ms. Carter-Davis mentioned conflicts on the mornings of the second Tuesdays and Thursdays of every month.
  - 2. Mr. Underwood noted that potential conflict and will steer future meeting times away from those times/dates.
- D. Meeting adjourned at 10:45 am.**



## MEETING MINUTES

October 9, 2024, 11:00 am - 12:00 pm CT

### Continued 106 Conversations Section 106 Compliance for the Arkabutla DSMS Project

#### Vicksburg District (MVK)

#### Teleconference and Webmeeting

Teleconference: +1-601-262-2433; Access Code 752 665 490. If asked for participant number, press #.

Webmeeting: [https://dod.teams.microsoft.us/j/1/meetup-](https://dod.teams.microsoft.us/j/1/meetup-join/19%3adod%3ameeting_55f6d1160b8243a98150670142acf55e%40thread.v2/0?context=%7b%22Tid%22%3a%22fc4d76ba-f17c-4c50-b9a7-8f3163d27582%22%2c%22Oid%22%3a%224fc343de-7417-4c83-8839-9dfa49ff375b%22%7d)

[join/19%3adod%3ameeting\\_55f6d1160b8243a98150670142acf55e%40thread.v2/0?context=%7b%22Tid%22%3a%22fc4d76ba-f17c-4c50-b9a7-8f3163d27582%22%2c%22Oid%22%3a%224fc343de-7417-4c83-8839-9dfa49ff375b%22%7d](https://dod.teams.microsoft.us/j/1/meetup-join/19%3adod%3ameeting_55f6d1160b8243a98150670142acf55e%40thread.v2/0?context=%7b%22Tid%22%3a%22fc4d76ba-f17c-4c50-b9a7-8f3163d27582%22%2c%22Oid%22%3a%224fc343de-7417-4c83-8839-9dfa49ff375b%22%7d)

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#### I. Welcome and Introductions (USACE)

- A. Mr. John Underwood (USACE – MVK District Archaeologist) – Welcomed those in attendance at start of meeting at 11:05 am
- B. Mr. Underwood introduced those in attendance:
  - 1. Cheyenne Greenup (Quapaw Nation Preservation Officer).
  - 2. Ms. Cindy Carter-Davis (Mississippi Department of Archives and History [MDAH] Chief Archaeologist).
  - 3. Thomas (Mississippi Department of Archives and History [MDAH] Architectural Historian).
  - 4. Ms. Emily Sullivan (USACE MVK – Biologist).
  - 5. Mr. David Wimmer (USACE MVK – Biologist).
  - 6. Mr. Taylor Piefke (USACE MVK – Biologist).
  - 7. Mr. Mike Renacker (USACE – MVK Tribal Liaison /Senior Project Manager).
  - 8. Ms. Pamela Lieb (USACE MVM District Archaeologist/Tribal Liaison/Cultural Regional Technical Specialist).
  - 9. Ms. Jennifer Ryan (USACE MVD [Division] – Senior Archaeologist and Tribal Liaison).

#### II. Project Updates

- A. Mr. Underwood began by stating this meeting represents the opportunity to update Consulting Parties to the evolving project to addressing the long-term fix of the Arkabutla Dam and Lake outlet works, where recent investigation has identified loss of structural integrity.
- B. Mr. Underwood presented information concerning latest concepts of the Right-of-Way (ROW) Footprints:
  - 1. Construction Footprint.
    - a. Outlined the main components of the project, consisting of constructing new Outlet Works approximately 500-ft. north of the existing Outlet Works.
    - b. Need for and number of repairs have accelerated in recent years and will continue to do so...trying to execute a long-term fix will likely uncover more severe integrity deficiencies, hence the proposed plan for complete replacement on new location.

- a. Elements include:
    - 1. Cofferdam – this temporary, watertight enclosure will be built in the lake bed area to allow for construction of the new Outlet Works.
    - 2. The existing Outlet Works continue to remain in service until the New Outlet Works are online.
    - 3. Once the New outlet Works are operational, the existing/older Outlet Works will be abandoned.
- 2. New Borrow Area.
  - a. The extent of wetland impacts to the two formerly-discussed sites on USACE property necessitated a search for another potential clay course area.
  - b. Multiple off-site areas were presented to RPEDS based on Geotechnical analysis of Natural Resources Conservation Service (NRCS) and U.S. Department of Agriculture (USDA) soil maps and classifications for sufficient areas of the appropriate types of silty clay required for embankment work.
  - c. Of the new sites presented, this one located west of the existing Outlet Works is the only one with no previously known cultural or wetland concerns (no previously identified archaeological sites or cultural resources surveys).
- 3. Avoidance/Minimization Efforts.
  - a. One archaeological site is located at/near the southern limits of the construction footprint, but preliminary design efforts have already committed to adjusting the footprint to the north, avoiding the resource.
    - a. Area is still within the area subject to investigative efforts to ensure the site remains outside the impact footprint.
  - b. Ms. Cheyenne Green asked about land ownership: which portions are in private versus federal ownership?
    - a. Mr. Underwood stated that the construction area is all federal land, while the earlier proposed borrow areas were similarly federally owned.
    - b. The most recently proposed borrow area is privately owned
      - 1. This area could be permanently owned by USACE; or
      - 2. This area could be temporarily owned by USACE through construction easements, compensating the owner for agricultural losses.

### **III. Updates**

#### **A. New Proposed Stipulations**

- 1. Pool Elevation/Water Level.
  - a. According to MDAH records, there are approximately 70 previously known archaeological sites across the Lake Bed.
    - a. Current draw down is being maintained at an elevation of 204
  - b. Ms. Cindy Carter-David asked about duration of this draw down.
    - 1. Mr. Underwood answered that it will remain at this elevation for the duration of the project's construction to keep pressure off the existing Outlet Works.
    - 2. Current draw down is being maintained at an elevation of 204 feet and will continue to be maintained at that elevation.

2. In acknowledgement and consideration of this scenario, USACE is proposing the following stipulations:
  - a. Survey of the Lake Bed to assess and document condition/state of previously identified archaeological sites.
    - a. Last assessment was conducted in early 1980s.
  - b. Survey of the Lake Bed to document/record new archaeological resources – coordinating efforts with Arkabutla Lake Rangers to document and record areas they are aware of.
  - c. Monitoring Plan to assess impacts from changes in pool elevation (seasonal raising and lowering of water levels). Sample based upon characteristics such as (including but not limited to):
    - a. Elevation
    - b. Type
    - c. Size

#### **IV. Questions/Comments**

- A. Ms. Carter-Davis asked if the source of the original earthen embankment material was known or documented.
  1. Mr. Underwood has been conducting cursory reviews to see if the source material is known, but so far has not found a documented answer.
  2. Ms. Carter-Davis expressed that recent MDAH experience with restoration efforts at Winterville Mounds suggest it came from very nearby, possibly the Lake Bed.
    - a. Mr. Underwood concurred that this is probably the most likely source.
    - b. Ms. Carter-Davis suggested that material in the existing earthen embankment may contain archaeological deposits, which may also contain human remains, triggering Native American Graves Protection and Repatriation ACT (NAGPRA).
    - c. Mr. Underwood responded that construction activities associated with the existing earthen embankment will need archaeological monitoring.
- B. Mr. Underwood asked Mr. Thomas if he had any additional comments from the historic structure perspective.
  1. Mr. Underwood reiterated that the existing Outlet Works would be subjected to Historic American Building Survey (HABS)/Historic American Engineering Record (HAER) level mitigation effort.
    - a. Primary components would include:
      - a. Photodocumentation
      - b. Historic Context
      - c. Compilation of Historic Photos
      - d. Digitized Blueprints/Plans/Schematics
  2. Mr. Thomas was very comforted to hear USACE is committed to this level of effort.

#### **V. Questions/Comments**

- A. Mr. Underwood made a final call for concerns/issues/questions.
  1. No concerns/issues/questions were raised.
  2. Mr. Underwood closed by saying that he will capture and summarize the details of this meeting and distribute for comments/edits.
    - a. New draft of Section 106 PA will be distributed at the end of the month/first of November capturing the details and suggestions presented during meeting.
    - b. Disregard the draft sent to Consulting Parties on August 29/30.
3. **Meeting adjourned at 11:40 am**



## AGENDA

December 5, 2024, 2:00 pm - 3:00 pm CT

### Continued 106 Conversations Section 106 Compliance for the Arkabutla DSMS Project

#### Vicksburg District (MVK)

#### Teleconference and Webmeeting

Teleconference: +1-601-262-2433; Access Code 223 940 190. If asked for participant number, press #.

Webmeeting: [https://dod.teams.microsoft.us/j/meetup-](https://dod.teams.microsoft.us/j/meetup-join/19%3adod%3ameeting_6f1dc239cd1a40cc9adb29009024a76a%40thread.v2/0?context=%7b%22Tid%22%3a%22fc4d76ba-f17c-4c50-b9a7-8f3163d27582%22%2c%22Oid%22%3a%224fc343de-7417-4c83-8839-9dfa49ff375b%22%7d)

[join/19%3adod%3ameeting\\_6f1dc239cd1a40cc9adb29009024a76a%40thread.v2/0?context=%7b%22Tid%22%3a%22fc4d76ba-f17c-4c50-b9a7-8f3163d27582%22%2c%22Oid%22%3a%224fc343de-7417-4c83-8839-9dfa49ff375b%22%7d](https://dod.teams.microsoft.us/j/meetup-join/19%3adod%3ameeting_6f1dc239cd1a40cc9adb29009024a76a%40thread.v2/0?context=%7b%22Tid%22%3a%22fc4d76ba-f17c-4c50-b9a7-8f3163d27582%22%2c%22Oid%22%3a%224fc343de-7417-4c83-8839-9dfa49ff375b%22%7d)

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#### I. Welcome and Introductions (USACE)

- A. Mr. John Underwood (USACE – MVK District Archaeologist) – Welcomed those in attendance at start of meeting at 2:05 pm
- B. Mr. Underwood introduced those in attendance:
  1. Ms. Karen Brunso (Chickasaw Nation THPO)
  2. Ms. Billie Burtrum (Quapaw Nation THPO)
  3. Ms. Cindy Carter-Davis (Mississippi Department of Archives and History [MDAH] Chief Archaeologist)
  4. Mr. David Wimmer (USACE MVK – Biologist)
  5. Mr. Taylor Piefke (USACE MVK – Biologist)
  6. Mr. Hank Holdiness (USACE – MVK Project Manager)
  7. Ms. Ashley Stephens (USACE - Dam Safety Modification Mandatory Center of Expertise [DSMMCX] Huntington District Headquarters in Huntington, West Virginia – Community Planner)
  8. Ms. Pamela Lieb (USACE MVM District Archaeologist/Tribal Liaison/Cultural Regional Technical Specialist).

#### II. Project Updates (Prefaced by acknowledging that presentation was not effectively shared during tele-meeting)

- A. Mr. John Underwood began by stating this meeting represents the opportunity to update Consulting Parties to the evolving project to addressing the long-term fix of the Arkabutla Dam and Lake outlet works, where recent investigation has identified loss of structural integrity.
- B. Overview of Construction area:
  1. One archaeological site is located at/near the southern limits of the construction footprint, but preliminary design efforts have already committed to adjusting the footprint to the north, avoiding the resource.
  2. Area is still within the area subject to investigative efforts to ensure the site remains outside the impact footprint.
- C. Overview of Proposed Borrow Area:
  1. Offsite location; no previously identified sites or surveys.
  2. Area would still be subject to investigative efforts.



- D. Example of Existing Photography of the Dam's Construction:
1. Presented examples of what exists (what was chronicled & photo captions)
    - a. Dam construction and Outlet Works construction emphasized.
  2. Accessible via USACE Arkabutla Dam website:  
<https://www.mvk.usace.army.mil/missions/recreation/arkabutla-lake/>
- E. New Proposed Stipulations
1. Monitoring
    - a. During degradation of the existing earthen dam/embankment (construction)
      - a. SOI qualified archaeologists (at least 2)
      - b. Reporting:
        1. Methodology
        2. Findings
        3. Photodocumentation
  2. Survey
    - a. Phase I Effort
    - b. Document & record information about/status of known archaeological sites
    - c. Document & record information about/status of new/unknown archaeological sites
    - d. Elevation and GPS Data
    - e. Assessment/Evaluation of archaeological resources – capture current integrity:
      - a. Natural Impacts (i.e., erosion, seasonal water action/movement); and
      - b. Human Impacts (i.e., construction, artifact collecting, recreational vehicles, and vandalism)
    - f. Heritage Study
      - a. Utilize *Cultural Resources Heritage Area Contextual and Cultural Study for the Yazoo Backwater Study Area, Mississippi* as template
        1. Chapters/Sections
          1. Natural Setting (Coldwater River drainage)
          2. Climate
          3. Historical Cultural Context (eras)
          4. Coldwater River Sub-Basin Soils
          5. Native American Cultural Context (time periods)
          6. Data collection & synthesis
            1. NPS
            2. Cemeteries
            3. Historic Maps
            4. BLM General Land Office Plats
            5. Geomorphology/soils/physiography
          7. Previous Cultural Resources Investigations
          8. Previously Identified Archaeological Sites
          9. Previously Identified Built Resources
          10. Historic Cemeteries
          11. NRHP Listed & Mississippi Landmark Designated Resources
          12. Study Area Settlement Patterning
        - b. Establish Study Area (facts for consideration)
          1. Current Federal Property Boundary for Arkabutla Lake
            1. Approximately 38,500 acres
          2. Coldwater River Sub-Basin (as defined by MDEQ)
            1. 1,902.6 square miles (1,217,664 acres)

### **III. Discussion**

- A. Ms. Brunso (Chickasaw Nation) raised several questions/concerns:
  - 1. Regarding Heritage Study:
    - a. Acknowledgement that area is associated with heavy/substantial Chickasaw presence.
    - b. Coldwater River is very prominent and significant to the Chickasaw.
    - c. Additionally, the greater area is associated with several known Chickasaw homesites. – as attested to by BLM maps.
      - a. Mr. Underwood affirmed this, stating that some preliminary assessments indicate several Chickasaw patent holders in historical records.
  - 2. Regarding Survey:
    - a. Ms. Brunso also commented about capturing cultural resources downstream of the earthen dam.
    - b. Mr. Underwood stated that he is acquiring GIS data of this coverage for analyzing inundation coverages with precise locational comparisons for further consideration
    - c. Ms. Brunso is very concerning about condition of sites across the Lakebed –
      - a. Cited past stories of looting
      - b. Chickasaw leadership is very concerning about past and any current looting
        - 1. Mr. Underwood agreed – survey would allow to have confirmation and evidence of what has or is occurring.
      - c. Ms. Brunso is also concerned with tracking where collections from the area resources are...are they in academic, personal, or private hands?
      - d. Mr. Underwood also stated that this would be of interest to MDAH as well
- B. Mr. Underwood asked MDAH about the photography, especially with regards to potential mitigation documentation of the existing Earthen Dam and Outlet Works
  - 1. Ms. Carter-Davis confirmed that MDAH architectural historians would be very excited about condition and extent and quality of period documentation

### **IV. Questions/Comments**

- A. Transmittals from meeting:
  - 1. Minutes
  - 2. PDF of PowerPoint presentation
  - 3. Link to Arkabutla Dam historic photos
  - 4. Discussed ability for meeting participants to receive files in variety of formats:
    - a. Most everyone can receive documents and PDF files
    - b. Ms. Burtrum (Quapaw Nation) stated that their IT firewalls block all compressed GIS or Google Earth files
      - a. Mr. Underwood will look into ways to find very high-quality imagery for transmittal to ensure no detail is lost
    - c. Mr. Underwood will also include the latest draft of the Section 106 PA that includes the stipulations discussed during this meeting.
      - a. Mr. Underwood affirmed this, stating that some preliminary assessments indicate several Chickasaw patent holders in historical records.

### **V. Future Consultation Schedule**

- A. Mr. Underwood made a final call for concerns/issues/questions
  - 1. No concerns/issues/questions were raised.
- B. Mr. Underwood closed by saying that he will capture and summarize the details of this meeting and distribute for comments/edits
- C. Meeting adjourned at 2:55 pm



## AGENDA

February 5, 2025, 2:00 pm - 3:00 pm CT

### Continued 106 Conversations Section 106 Compliance for the Arkabutla DSMS Project

#### Vicksburg District (MVK)

#### Teleconference and Webmeeting

Teleconference: +1-601-262-2433; Phone Conference ID: 542 202 685#.

Webmeeting: [https://dod.teams.microsoft.us/j/meetup-](https://dod.teams.microsoft.us/j/meetup-join/19%3adod%3ameeting_a9b6ce29e0ca4689ae82184ba1212da5%40thread.v2/0?context=%7b%22Tid%22%3a%22fc4d76ba-f17c-4c50-b9a7-8f3163d27582%22%2c%22Oid%22%3a%224fc343de-7417-4c83-8839-9dfa49ff375b%22%7d)

[join/19%3adod%3ameeting\\_a9b6ce29e0ca4689ae82184ba1212da5%40thread.v2/0?context=%7b%22Tid%22%3a%22fc4d76ba-f17c-4c50-b9a7-8f3163d27582%22%2c%22Oid%22%3a%224fc343de-7417-4c83-8839-9dfa49ff375b%22%7d](https://dod.teams.microsoft.us/j/meetup-join/19%3adod%3ameeting_a9b6ce29e0ca4689ae82184ba1212da5%40thread.v2/0?context=%7b%22Tid%22%3a%22fc4d76ba-f17c-4c50-b9a7-8f3163d27582%22%2c%22Oid%22%3a%224fc343de-7417-4c83-8839-9dfa49ff375b%22%7d)

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#### I. Welcome and Introductions (USACE)

- A. Mr. John Underwood (USACE – MVK District Archaeologist) – Welcomed those in attendance at start of meeting at 2:05 pm
- B. Mr. Underwood introduced those in attendance:
  - 1. Ms. Karen Brunso (Chickasaw Nation THPO)
  - 2. Ms. Cheyenne Greenup (Quapaw Nation, Quapaw Nation Historic Preservation Program [QNHPP] Deputy Director)
  - 3. Ms. Jamie McNeely (Quapaw Nation)
  - 4. Mr. Seth Pevehouse (Muscogee [Creek] Nation, Historic and Cultural Preservation Office)
  - 5. Mr. Delvin Johnson (Alabama Coushatta Tribe of Texas THPO)
  - 6. Mr. Dakota Street (Mississippi Department of Archives and History [MDAH], Historic Preservation Division)
  - 7. Mr. David Wimmer (USACE MVK – Biologist)
  - 8. Ms. Emily Sullivan (USACE MVK – Biologist)
  - 9. Mr. Hank Holdiness (USACE – MVK Project Manager)
  - 10. Mr. Mike Renacker (USACE – MVK Tribal Liaison /Senior Project Manager).
  - 11. Ms. Ashley Stephens (USACE - Dam Safety Modification Mandatory Center of Expertise [DSMMCX] Huntington District Headquarters in Huntington, West Virginia – Community Planner)
  - 12. Ms. Pamela Lieb (USACE MVM District Archaeologist/Tribal Liaison/Cultural Regional Technical Specialist).

#### II. Project Updates

- A. Mr. John Underwood began by stating this meeting represents the opportunity to update Consulting Parties to the evolving project to addressing the long-term fix of the Arkabutla Dam and Lake outlet works, where recent investigation has identified loss of structural integrity.
  - 1. Existing outlet works to remain in operation until new outlet works are operational. Operational and maintenance history of project suggests repairs would not fully correct/remedy issues.
  - 2. Project duration is over span of several years.
- B. Overview of Construction area:

1. One archaeological site is located at/near the southern limits of the construction footprint, but preliminary design efforts have already committed to adjusting the footprint to the north, avoiding the resource.
  2. Area is still within the area subject to investigative efforts to ensure the site remains outside the impact footprint.
- C. Overview of Proposed Borrow Area:
1. Offsite location; no previously identified sites or surveys.
  2. Area would still be subject to investigative efforts.
  3. Area has been slightly enlarged in size, increasing from approximately 240 to approximately 330 acres.
- D. Example of Existing Photography of the Dam's Construction:
1. Presented examples of what exists (what was chronicled & photo captions)
    - a. Dam construction and Outlet Works construction emphasized.
  2. Accessible via USACE Arkabutla Dam website:  
<https://www.mvk.usace.army.mil/missions/recreation/arkabutla-lake/>
- E. Review of New Proposed Stipulations
1. Monitoring during Construction
    - a. During degradation of the existing earthen dam/embankment (construction)
      1. SOI qualified archaeologists (at least 2)
    - b. Reporting:
      1. Methodology
      2. Findings
      3. Photodocumentation
  2. Survey
    - a. Phase I Effort
    - b. Document & record information about/status of known archaeological sites across lakebed
    - c. Document & record information about/status of new/unknown archaeological sites
    - d. Elevation and GPS Data
    - e. Assessment/Evaluation of archaeological resources – capture current integrity:
      1. Natural Impacts (i.e., erosion, seasonal water action/movement); and
      2. Human Impacts (i.e., construction, artifact collecting, recreational vehicles, and vandalism)
      3. Collect random geomorphological samples across lakebed to establish depth to original pre-lake surface (if possible)
    - f. Heritage Study
      1. Utilize Cultural Resources Heritage Area Contextual and Cultural Study for the Yazoo Backwater Study Area, Mississippi as template
        - (a). Chapters/Sections
          - (1). Natural Setting (Coldwater River drainage)
          - (2). Climate
          - (3). Historical Cultural Context (eras)
          - (4). Coldwater River Sub-Basin Soils
          - (5). Native American Cultural Context (time periods)
          - (6.) Data collection & synthesis
            - i. NPS
            - ii. Cemeteries
            - iii. Historic Maps
            - iv. BLM General Land Office Plats

- v. Geomorphology/soils/physiography
- (7). Previous Cultural Resources Investigations
- (8). Previously Identified Archaeological Sites
- (9). Previously Identified Built Resources
- (10). Historic Cemeteries
- (11). NRHP Listed & Mississippi Landmark Designated Resources
- (12). Study Area Settlement Patterning
- (13). Capture where assemblages from Arkabutla Lake archaeological sites are being curated
- (b). Establish Study Area (facts for consideration)

### III. Discussion

- A. Mr. Underwood asked about those in attendance about their desire to be signatories.
  - 1. Regardless of signatory status, all consulting parties will remain fully informed and involved in the project as it progresses.
- B. Ms. Brunso (Chickasaw Nation) raised concerns about the current U.S. Government Executive administration and impacts to Section 106 PA process.
  - 1. Ms. Brunso still expressed that the Chickasaw Nation is interested in being signatories.
- C. Regarding Heritage Study:
  - 1. Acknowledgement that area is associated with heavy/substantial Chickasaw presence.
  - 2. Coldwater River is very prominent and significant to the Chickasaw people.
  - 3. Heritage Study is crucial to gaining better understanding of how to better assess/evaluate and protect cultural resources.
    - a. Mr. Underwood affirmed this, stating that the Heritage Study is a means to chronicle the story of this area as a cultural and historical landscape.
- D. Regarding past US Army Engineer Research and Development Center (ERDC) studies
  - 1. Ms. Brunso asked about acquiring past studies involving various research studies conducted across the lakes involving culturally significant natural resources and cultural landscapes/resources
  - 2. Mr. Underwood will follow up and identify a POC for access to such studies.

### IV. Questions/Comments

- A. Mr. Underwood made a final call for concerns/issues/questions
  - 1. No concerns/issues/questions were raised.
- B. Mr. Underwood closed by saying that he will capture and summarize the details of this meeting and distribute for comments/edits.
  - 1. This will include a PDF copy of the presentation to all meeting invitees.
- C. Meeting adjourned at 2:50 pm

CORRESPONDENCE  
MAPS,  
PHOTOGRAPHS,  
DRAWINGS, &/OR  
PLANS





Figure 1. Arkabutla Dam and Lake overview.



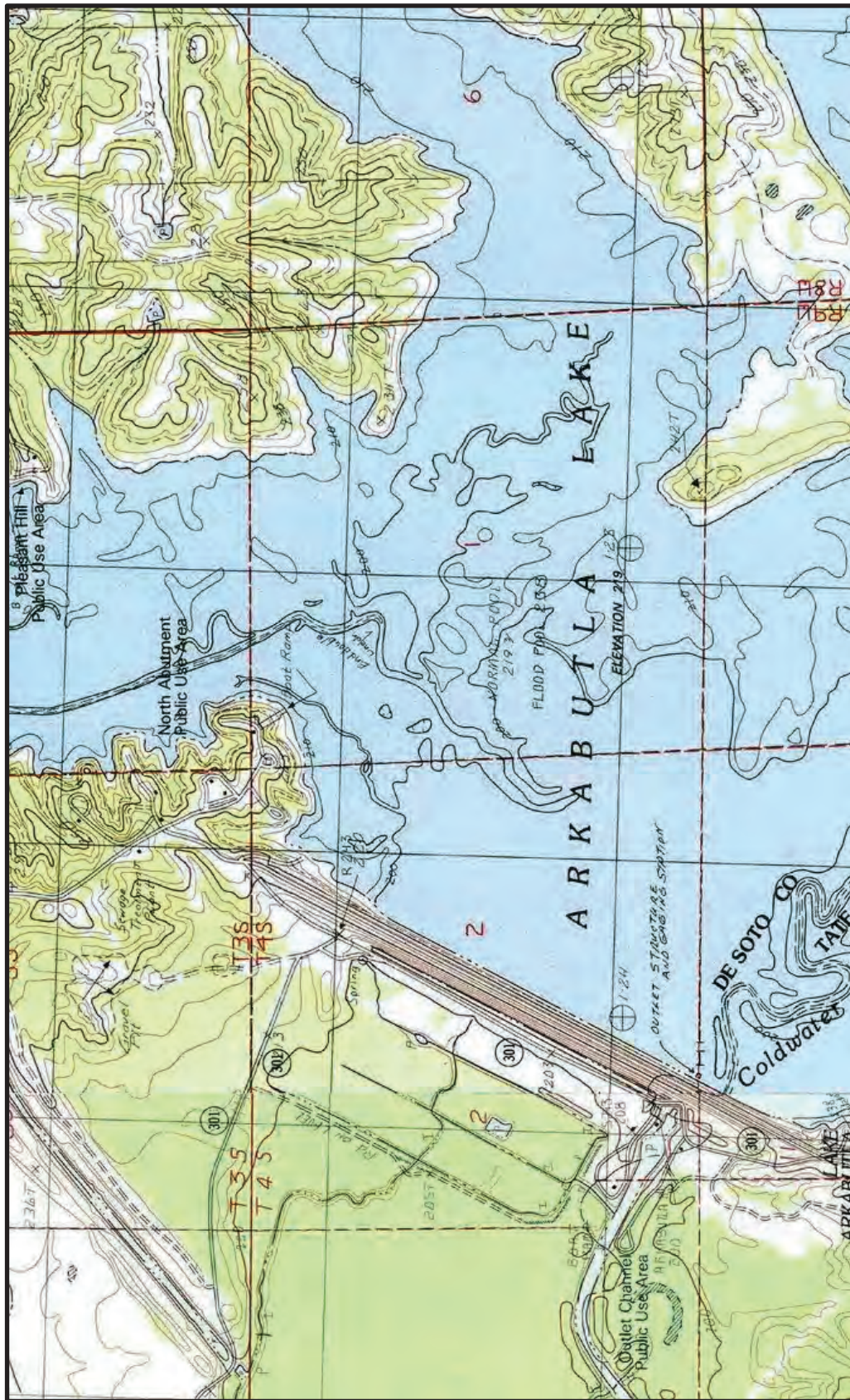


Figure 2. Arkabutla Dam and Lake, close-up on the dam and existing outlet works.



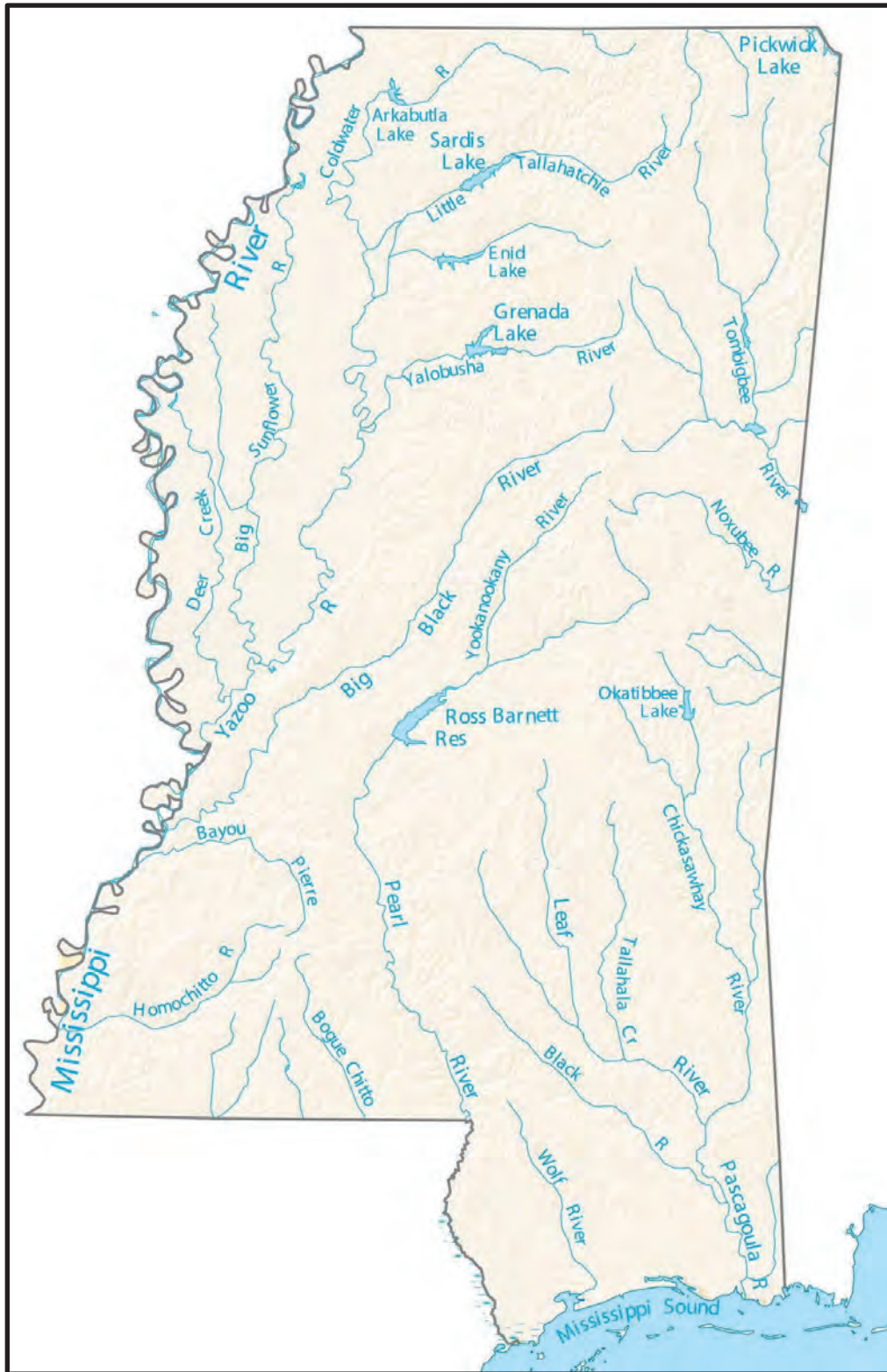


Figure 3. Dams and Lakes in Mississippi.



Figure 4. Existing Project Features.



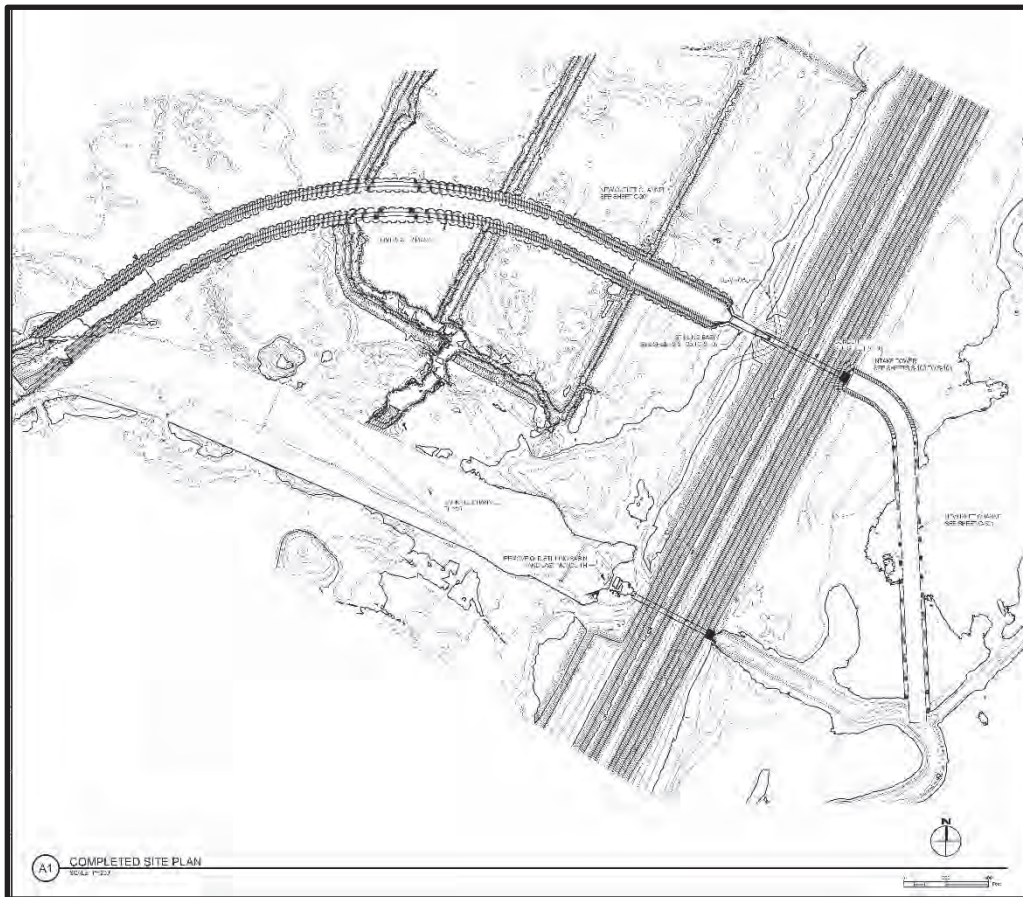
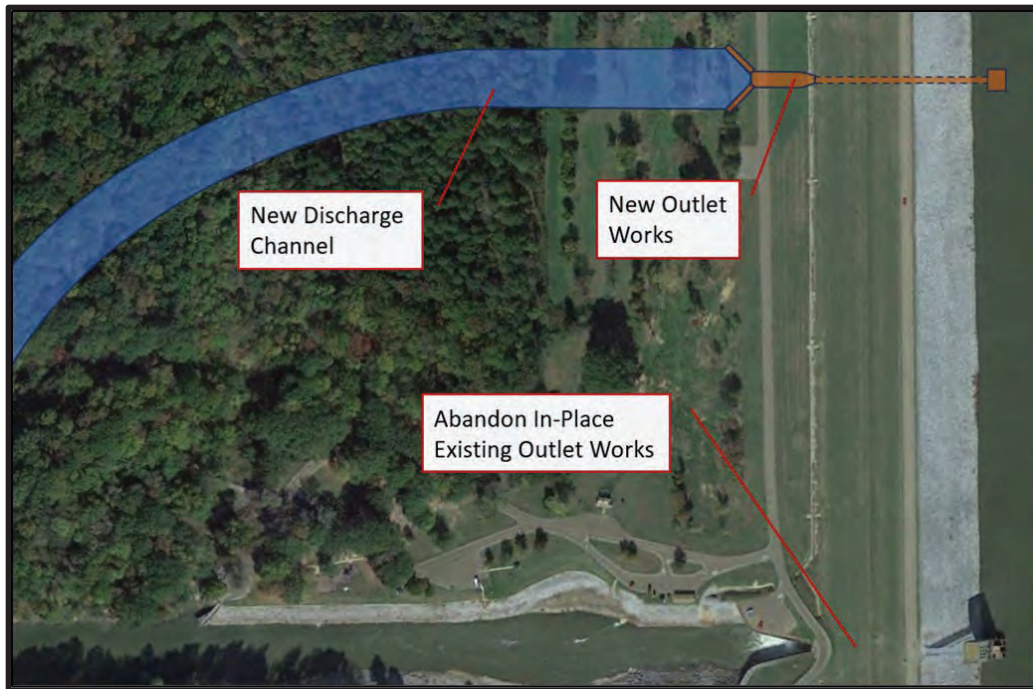


Figure 5. New Outlet Works and Features location maps.





Figure 6. Proposed potential borrow locations (light blue represents clay borrow sources, red represents sand borrow sources, orange represents borrow source locations preferred by lake field office personnel).

**SECTION 106**  
**PROGRAMMATIC**  
**AGREEMENT**  
**DRAFT**

# **FINAL DRAFT PROGRAMMATIC AGREEMENT**

**AMONG THE  
U.S. ARMY CORPS OF ENGINEERS (USACE) VICKSBURG DISTRICT;  
TRIBAL NATIONS;  
AND SHPO/STATE HISTORIC PRESERVATION OFFICER;  
REGARDING  
THE ARKABUTLA DAM (MS01496), COLDWATER RIVER, MISSISSIPPI,  
EMBANKMENT, OUTLET WORKS, SPILLWAY,  
DAM SAFETY MODIFICATION STUDY (HEREAFTER REFERRED TO AS THE ARKABUTLAM DAM  
PROJECT)**

## **PREAMBLE**

**WHEREAS**, the mission of the U.S. Army Corps of Engineers (USACE), Vicksburg District (MVK), is to deliver vital public and military engineering services; partnering in peace and war to strengthen our Nation's security, energize the economy, and reduce risks from disasters; and

**WHEREAS** Arkabutla Dam is in Desoto County, Mississippi with portions of the lake extending into Tate County, Mississippi. The dam is located on the Coldwater River, a tributary of the Tallahatchie River, and it stores floodwater to provide flood damage reduction in the Yazoo River Basin. The dam is located approximately 4.25 miles north of Arkabutla, Mississippi and approximately 35 miles south of Memphis, Tennessee. The project is authorized by the Flood Control Act of 1928, as amended by the Flood Control Acts of 1936 and 1938. The Flood Control Act of 1936 authorized a plan of improvement for control of headwater flooding in the Yazoo River Basin and the Flood Control Act of 1939 authorized construction of the project under the Flood Control Mississippi River and Tributaries appropriation. Construction of the project began in August 1940 and was completed in June 1943. The reservoir at Arkabutla was constructed as part of the Yazoo River Basin Headwater Project. The authorized project purposes include flood control and recreation; and

**WHEREAS**, Arkabutla Lake is one of the four Yazoo Basin Lakes that were authorized, designed, and constructed for flood control of the downstream areas in the Yazoo Basin (Appendix A, Figures A-1 and A-2); and

**WHEREAS**, the USACE Dam Safety Program uses risk to inform how it manages the approximately 740 dams it operates and maintains, with life safety as the highest priority. This approach is a best practice adopted to evaluate, prioritize, and justify dam safety decisions, Risk allows USACE to quantify and describe the hazard, likelihood of something going wrong, and consequences if something goes wrong look, evaluating potential projects in terms of its purposes; ecosystems; constrained budgets; the uncertainty of future events and current knowledge; past design decisions; and combinations of these factors; and

**WHEREAS**, during completion of an Issue Evaluation Study (IES) in November 2021, six (6) potential failure modes (PFM) were identified, two which were labeled as primary risk drivers: PFM 8: Backward Erosion Piping into the Outlet Works Drainage System, and PFM 10: Backward Erosion Piping into the Conduit; and

**WHEREAS**, risk was found to have significantly increased based on formation of a downstream sinkhole in the outlet works drainage system in April 2023 and analysis of data collected from April to July 2023 from automated foundation piezometers (geotechnical instruments used here to measure pressure exerted by an open body of water on retaining structures, monitoring the retention structure's stability) as well as dye testing and visual inspection of the outlet works drainage system, revealing atypical downstream debris, soil material, and water movement, all indicators of increased permeability of the retention structure's foundation material; and

**WHEREAS**, the intent of the Arkabutla Dam Project is to reduce risk associated with Arkabutla Dam to tolerable levels through replacing the outlet works in a new location; and

**WHEREAS**, USACE has determined that the project elements (Appendix A) that, together, constitute this Undertaking 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 Tribes including sites that may contain human remains and/or associated cultural items; and

**WHEREAS**, as USACE cannot fully determine at this time how this Undertaking may affect historic properties, the location of historic properties, or their significance and character, USACE has elected to develop this Agreement in consultation with stakeholders, as provided for in 36 CFR § 800.14(b)(3), to govern the implementation of this Undertaking and fulfill its obligations under Section 106 of the NHPA including the resolution of adverse effects for this Undertaking; and

**WHEREAS**, as used in this Amended Agreement, “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 USACE as a Signatory, Invited Signatory, or Concurring Party starting on the date the Consulting Party signs this Agreement as a Signatory, Invited Signatory, or Concurring Party and provides USACE 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 Agreement; and

**WHEREAS**, in accordance with 36 CFR § 800.6(c)(2), Invited Signatories who sign this Agreement are signatories with the authority to amend and terminate the Agreement; and

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

**WHEREAS**, USACE recognizes that The Absentee-Shawnee Tribe of Indians of Oklahoma, The Alabama Coushatta Tribe of Texas, Alabama-Quassarte Tribal Town, The Caddo Nation of Oklahoma, The Chickasaw Nation, The Chitimacha Tribe of Louisiana, The Coushatta Tribe of Louisiana, The Jena Band of Choctaw Indians, The Mississippi Band of Choctaw Indians, The Muscogee (Creek) Nation, The Quapaw Nation, The Seminole Nation of Oklahoma, The Seminole Tribe of Florida, The Tunica-Biloxi Tribe of Louisiana, and The United Keetoowah Band of Cherokee Indians (collectively referenced as “ Federally-recognized Tribes”), may have sites of religious and cultural significance 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, USACE invited Tribes to participate in government-to-government consultation starting July 1, 2024. Pursuant to 36 CFR § 800.2 (c)(2)(ii)(E), and in consideration of the confidentiality of information, USACE has invited the Tribes to enter into this Agreement that specify how USACE will carry out Section 106 responsibilities for this Undertaking; and

**WHEREAS**, USACE 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 Programmatic Agreement or other agreement with USACE for administration of USACE Programs; and

**WHEREAS**, USACE recognizes that the State Historic Preservation Office is organized in accordance with Mississippi's needs and has staff dedicated to historic preservation of the built-environment (divisions, commissions, or departments, etc.) and staff dedicated to archaeological sites (divisions, departments, surveys, etc.). Collectively, these staff fulfill the SHPO's role in accordance with the NHPA and will be referred to as the SHPO. Any specific roles or authorities under state regulation will be defined, as appropriate; and

**WHEREAS**, in accordance with 36 CFR § 800.6(a)(1), the ACHP (November 25, 2024) and the Choctaw Nation of Oklahoma (July 31, 2024) provided electronic notice that they have declined to participate in further consultation; and

**WHEREAS**, USACE received written confirmation (July 31, 2024) that the Mississippi State Historic Preservation Officer (MS SHPO) of their desire to participate in consultation on this Agreement pursuant to 36 CFR § 800.14(b) and 36 C.F.R. § 800.6; and

**WHEREAS**, for the review of specific Undertakings under this Agreement, USACE may invite other agencies, organizations, and individuals to participate as consulting parties; and

**WHEREAS**, the USACE Vicksburg District uses its own staff and authority and will consult with the SHPOs and the appropriate Federally-recognized Tribe(s) regarding specific project elements within the respective districts; and

**WHEREAS**, USACE commits to continuing consultation with the Signatories, Invited Signatories and Concurring Parties to develop the Arkabutla Dam Project Agreement throughout the pre-construction engineering and design, and construction phases of the Undertaking's implementation; and

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

**NOW THEREFORE**, USACE (Vicksburg District), the Signatories, Invited Signatories), and Concurring Parties agree that the Undertaking associated with the Arkabutla Dam Project shall be administered in accordance with the following stipulations in order to take into account the effects of the individual elements of the undertaking on historic properties and to satisfy USACE's responsibilities under Section 106 of the NHPA for all applicable undertakings.

## **STIPULATIONS**

### **I. APPLICABILITY**

- A.** This Agreement applies to the Undertaking in the Vicksburg District (MVK) of USACE for the currently identified authorized work required to reduce risk associated with Arkabutla Dam Project, currently listed in Appendix A and Stipulation I.E. (below), which includes the elements of the Undertaking addressed in the Arkabutla Dam (MS01496) Coldwater River, Mississippi Embankment, Outlet Works, Spillway, DAM SAFETY MODIFICATION REPORT (DSMR).
- B.** USACE will not apply or utilize this Agreement for any Undertaking other than the currently authorized Undertaking as defined and detailed in the Arkabutla Dam (MS01496) Coldwater River, Mississippi Embankment, Outlet Works, Spillway, DSMR, currently listed in Appendix A and Stipulation I.E. Any alteration, modification, or change in the scope or nature of the Undertaking will require additional consultation to address said alterations, modifications, or changes, which may culminate in the development of an Amendment to this Agreement (see Stipulation XIII) or designation as a new Undertaking pursuant to 36 CFR § 800.3.
- C.** USACE may utilize this Agreement to fulfill its Section 106 responsibilities and those of other Federal agencies that designate USACE as the lead Federal agency pursuant to 36 CFR § 800.2(a)(2) with appropriate notification to the other Signatories and ACHP regarding the Undertaking that falls within the scope of this Agreement. When USACE is not designated as the lead Federal agency, all Federal agencies, including USACE, remain individually responsible for their compliance with Section 106.



This provision does not prevent USACE from recognizing another Federal agency as lead Federal agency for this specific Undertaking, as appropriate.

**D.** USACE has determined that the following types of activities have limited or no potential to affect historic properties and USACE has no further Section 106 responsibilities with regard to them, pursuant to 36 CFR § 800.3(a)(1):

1. Administrative actions such as personnel actions, travel, procurement of services, and supplies (including vehicles and equipment) for the support of day-to-day operational activities, and the temporary storage of materials provided storage occurs within existing facilities or on previously disturbed soils.
2. Providing funding for planning, studies, and design and engineering costs that involve no commitment of resources other than staffing and associated funding.
3. Funding the administrative action of acquiring properties, including the real estate transactions and transfers.
4. Boundary Surveying, monitoring, data gathering, and reporting in support of planning or design activities (e.g., conducting geotechnical boring investigations or other geophysical and engineering activities provided no clearing or grubbing is necessary).
5. Demarcation of project areas and resources (e.g., cultural sites, wetlands, threatened and endangered species habitat).

**E.** Project Description: Arkabutla Dam is in Desoto County, Mississippi with portions of the Lake extending into Tate County, Mississippi. The dam is located on the Coldwater River, a tributary of the Tallahatchie River, that stores floodwater to provide flood damage reduction in the Yazoo Basin. The dam is located approximately 4.25 miles north of Arkabutla, Mississippi and approximately 35 miles south of Memphis, Tennessee. Arkabutla Dam is one of the four flood control dams in the Yazoo River Basin. The other three flood control dams are Enid on the Yocona River. The proposed Undertaking involves replacing the Outlet Works at a new location and includes the following elements (see Appendix A, Figures 3-6):

1. New Outlet Works (All new features will be designed with additional levels of armament and reinforcement) (see Appendix A; Figure 3):
  - a. Reinforced concrete intake structure;
  - b. Reinforced concrete control house with vertical lift gates and an emergency gate;
  - c. Bridge connecting the control house to the top of the dam;
  - d. Reinforced concrete conduit;
  - e. Reinforced concrete stilling basin; and
  - f. Excavation of a new discharge channel with riprap scour protection to direct water towards the existing discharge channel.
2. Cofferdam (see Appendix A; Figure 4).
3. Abandonment of existing Outlet Works in place (see Appendix A; Figures 3 and 5).
4. Proposed borrow sources and accessways (see Appendix A; Figure 6).

## **II. POINTS OF CONTACT**

- A. USACE Vicksburg District will provide at a minimum a primary and secondary contact, which may include technical staff as well as liaisons. The primary contact is the contact to which all initial and 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.
- B. USACE has requested and will continue to request Consulting Parties, including Signatories, Invited Signatories and Concurring Parties, designate a primary and secondary point of contact. Each Consulting Party to this Amended Agreement is requested to provide phone numbers, email addresses, and mailing addresses for the primary and secondary contacts.
- C. USACE acknowledges that contacts and areas of interest may change over time. Addressing this is primarily a USACE responsibility with assistance from the Consulting Parties. The initial compilation is provided in Appendix B. Following the initial compilation, USACE and the Consulting parties shall follow the process outlined in the appropriate set of roles and responsibilities below to provide and distribute updated information. Alteration of Appendix B will not require executing additional amendments.
- D. In accordance with the process laid out in the roles and responsibilities below, USACE will follow-up on returned email and hard-copy mail or disconnected phone lines to ensure that a POC is re-established, and the relevant Consulting Party receives the necessary information.

### **III. ROLES AND RESPONSIBILITIES OF THE CONSULTING PARTIES**

- A. USACE: To the extent of its legal authority, and in coordination with other Signatories, Invited Signatories, and Concurring Parties, USACE shall ensure that the following measures are implemented.
  - 1. Shall not construct any element of the Undertaking until Section 106 review is completed pursuant to this Agreement.
  - 2. Shall notify and consult with the MS SHPO, appropriate Federally-recognized Tribes, and other Consulting Parties. 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.
  - 3. Shall comply with public involvements requirements of Section 106 in accordance with 36 CFR § 800.2(d).
    - a. USACE shall notify the public of the elements of the Undertaking in a manner that reflects the nature, complexity, significance of historic properties likely affected by the Amended Undertaking, the likely public interest given USACE's specific involvement, and any confidentiality concerns of Federally-recognized Tribe(s), private individuals and organizations.
    - b. USACE may consult with the SHPO(s) and relevant THPO(s), Consulting Tribes, or Federally-recognized Tribe(s), and other consulting parties, to determine if there are individuals or organizations with a demonstrated interest in historic properties that should be included as a consulting party for the Undertaking in accordance with 36 CFR § 800.2(c)(5). If such parties are identified or identify themselves to USACE, USACE shall provide them with information regarding the Undertaking and its effects on historic properties, consistent with the confidentiality provisions of 36 CFR § 800.11(c).
    - c. In accordance with the public outreach strategy developed for the Undertaking in

consultation with SHPO(s), appropriate Federally-recognized Tribe(s), USACE shall identify the appropriate stages for seeking public input during the Section 106 consultation process. USACE shall consider all views provided by the public regarding the Undertaking.

- d. USACE shall also provide public notices and the opportunity for public comment or participation in the Undertaking through the public participation process of the National Environmental Policy Act (NEPA) and its implementing regulations set out at 40 CFR Parts 1500-1508, and/or Executive Orders 11988 and 11990 relating to floodplains and wetlands. This environmental assessment was initiated prior to the rescission of Executive Order 12898. During the applicability of Executive Order 12898, the agency engaged in efforts to fully comply with Environmental Justice requirements in effect at the time, including targeted public meetings. Since the rescission of Executive Order 12898 on January 21, 2025, the agency has discontinued Environmental Justice considerations as required under Executive Order 14173.
4. Shall maintain the POC List, Amended Appendix B and distribute as part of the consultation, to the parties listed as the Primary POC. USACE will incorporate any changes to the POC listing as derived from the steps below into the annual distribution, as well as individual updates received in the interim.
  - a. USACE district staff engaged in consultation who receive a returned email, returned letter, or notification of a disconnected phone line, will follow up with the relevant Consulting Party to re-establish the appropriate point of contact. This will be communicated to necessary parties upon clarification and in the annual POC update.
  - b. At a minimum the MVK Cultural staff will make a round of phone calls to confirm the current POC listed for each of the Federally-recognized Tribes contained in the POC listing.
  - c. District Archaeologists will ensure that the contact information for the SHPOs within their district have not changed.
5. Shall consult with any Federally-recognized Tribe on a government-to-government basis in recognition of its sovereign status, whether a signatory to this Agreement or not, but particularly regarding sites that may have traditional, religious, and/or cultural importance to Federally-recognized Tribes. In meeting its Federal trust responsibility, USACE alone shall conduct all government-to-government consultation with Federally-recognized Tribes.
6. Shall be responsible for determining the APE, identifying historic properties located within the APE, providing NRHP eligibility determinations, and findings of effect, in consultation with SHPO(s), appropriate Federally-recognized Tribes, and other Consulting Parties.
7. Shall ensure all Cultural Resources review is conducted by qualified professional staff as outlined in Stipulation VI.
8. Shall ensure that all documentation generated as part of the NHPA process resulting from the Amended Undertaking shall be consistent with applicable *Standards (State and Federal)* (Stipulation VI.A) and confidentiality provisions outlined in Stipulation IV.
9. Shall ensure, to the greatest extent practicable, that the SHPO(s) and the appropriate Federally-recognized Tribe(s) are consulted at the same time. And will, prior to submitting any determinations of eligibility and/or finding of effect as part of the consultation, review National

Register eligibility recommendations provided by a cultural resources contractor and make its own determination.

10. USACE contractors shall not consult directly with any SHPO(s)/THPO(s), Consulting Tribes, or Federally-recognized Tribes. Consultation with SHPO(s)/THPO(s), Consulting Tribes, or Federal recognized Tribes remains a federal responsibility. This is/will be documented in any SOW for Cultural Resource Management activities or other construction work.
11. Shall, when authorizing elements of this Undertaking requiring environmental/cultural conditions pursuant to this Agreement, include all stipulations and conditions negotiated as part of the Section 106 Process. USACE will ensure that this information is communicated to the USACE contractor and will be available for technical questions related to its implementation. This information is conveyed through the Buildability, Constructability, Operability, Environmental and Sustainability Reviews (BCOES Process), per Engineering Regulation 415-1-11, leading to solicitation.
12. Shall ensure that all documentation (e.g., identification, evaluation, and mitigation reports) resulting from this Undertaking is reviewed pursuant to this Agreement is consistent with SHPO(s) and appropriate Consulting Tribes' Tribal guidelines, per Stipulation VI., and the confidentiality provisions of 54 U.S.C. § 307103 and 36 CFR § 800.11(c), per Stipulation IV.
13. Shall ensure that, on Federal land, that the provisions of the Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. §3001-3013, 18 U.S.C. § 1170) and the Archaeological Resources Protection Act of 1979 (ARPA)(16 U.S.C. §470aa – 470mm) are followed.
14. Shall ensure that the provisions of the State of Mississippi's burial law, including specific authorities outlined in Stipulation IX- Treatment of Human Remains and Items of Religious and Cultural Importance are followed. USACE will provide any necessary technical guidance on the implementation of these provisions in association with implementation of the Amended Undertaking and this Agreement.
15. Shall consult the ACHP to resolve disputes that may occur during the implementation of this Agreement, pursuant to the Dispute Resolution process in Stipulation XII, resolve adverse effects, and participate in the annual reviews convened by USACE to review the effectiveness of this Agreement.

**B. SHPO:**

1. The SHPO shall coordinate with USACE, to identify Consulting Parties, including any communities, organizations, or individuals that may have an interest in the Undertaking and its effects on historic properties.
2. The SHPO shall consult with USACE regarding USACE's determination of the Areas of Potential Effects (APE), National Register eligibility, and findings of effect responding within timeframes set out in Stipulation V.
3. On a per Work Item basis, the SHPO shall provide, as part of the consultation, available information about historic properties (such as access to site files, GIS data, survey information, geographic areas of concern) for the purposes of addressing effects to historic properties. Only Qualified Staff, per Stipulation VI. shall be afforded access to protected historic property

information. USACE and any SHPO may execute a written agreement to clarify and memorialize data sharing if it extends beyond any basic fee structure or access schedule.

4. The SHPO staff of jurisdiction (Historic Preservation Division staff members or equivalent) shall be reasonably available as a resource and for consultation through site visits, written requests, telephone conversations or electronic media. In those instances where consultation has occurred, USACE shall provide a written summary via e-mail or regular mail to SHPO, including any decisions that were reached.

**C. Federally Recognized Tribes:**

1. USACE acknowledges that Federally-recognized Tribes possess special expertise in assessing the National Register eligibility of properties with religious and cultural significance to that particular Tribe. Tribal leaders, and as appropriate, their representatives, shall decide the individual for the Tribe who meets appropriate qualifications/standards for the Tribe's review of the Amended Undertaking affecting properties with religious and cultural significance to that particular Tribe. Designations such as this will follow the intent and processes laid out in USACE's 2023 Tribal Consultation Policy and Executive Order 13175.
2. Federally-recognized Tribes (THPOs and other designees) may coordinate with USACE, to identify Consulting Parties, including any communities, organizations, or individuals that may have an interest in the Amended Undertaking and its effects on historic properties.
3. Federally-recognized Tribes (THPOs and other designees) may consult with USACE regarding USACE's determination of the Areas of Potential Effects (APE), National Register eligibility, and findings of effect responding within timeframes set out in Stipulation V.
4. Federally-recognized Tribes (THPOs and other designees) may provide, as part of the consultation, available information about historic properties (such as access to site files, GIS data, survey information, geographic areas of concern) for the purposes of addressing 4. Only Qualified Staff, per Stipulation VI. shall be afforded access to this sensitive information. USACE and any Federally-recognized Tribe may execute a written agreement to clarify and memorialize data sharing, if it extends beyond any basic fee structure or access schedule.
5. Federally-recognized Tribes (THPOs and other designees) may be reasonably available as a resource and for consultation through site visits, written requests, telephone conversations or electronic media. In those instances where consultation has occurred, USACE shall provide a written summary via e-mail or regular mail to THPO, including any decisions that were reached.
6. Federally-recognized Tribes (THPOs and other designees) may, based on availability, participate in annual reviews convened by USACE to discuss the effectiveness of this Amended Agreement in accordance with Stipulation III.

**IV. CONFIDENTIALITY OF HISTORIC PROPERTY INFORMATION**

- A. USACE will safeguard information about historic properties to the extent allowed by Section 304 of NHPA (54 U.S.C. § 307103), Section 9 of the Archaeological Resources Protection Act (ARPA), and other applicable Federal laws, as well as implementing restrictions conveyed to USACE by the SHPO and Federally-recognized Tribes, consistent with state and tribal guidelines. These safeguards will be included in any developed cultural resources Scopes of Work, as well.
- B. Only USACE staff meeting the Professional Standards (Stipulation VI.), shall be afforded access to protected historic property information provided by any SHPO and/or Federally-recognized Tribes;

- C. Regarding sensitive information shared by Federally-recognized Tribes, USACE, in accordance with provisions of federal law, will not share non-public information, without first confirming (in writing with the provider of the information) the appropriateness of sharing.
- D. USACE shall 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 to the extent permitted by federal law.
- E. The SHPO(s)/THPO(s), Consulting Tribal staff, and Federally-recognized Tribal staff and/or designee(s), shall safe guard historic property information (locational and other non-public) in accordance with the provisions of Section 304 of the NHPA and applicable State and Tribal legal authorities.
- F. USACE anticipates the presentation of historic property data as part of any Standard Treatment Measure (STM) or Memorandum of Agreement Treatment Measure (MOA TM) but shall ensure that these products, presentations, or other publications are adequately coordinated and consulted upon before release/presentation to ensure that any otherwise protected information is being represented appropriately.

## **V. CONSULTATION STANDARDS, TIMEFRAMES, AND CORRESPONDENCE**

### **A. Consultation Standards:**

1. Consultation among all Consulting Parties to this Agreement will continue throughout the implementation of this Agreement. Per 36 CFR § 800.16(f), consultation means “the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the section 106 process.”
2. USACE, when consulting with any Federally-recognized Indian Tribe, whether a signatory to this Agreement or not, will do so on a government-to-government basis in recognition of their sovereign status.
3. USACE will consult with the SHPO(s), Federally-recognized Tribes, and other consulting parties, based on expressed areas of interest in the case of Federally-recognized Tribes or jurisdiction in case of the SHPO(s). Consultations may include face-to-face meetings, as well as communications by regular mail, electronic mail, 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.

### **B. Timeframes:**

1. All time designations in this Agreement shall be in calendar days unless otherwise expressly stipulated in writing in this Agreement:
  - a. For Emergency Undertakings as reviewed under Stipulation VII., USACE shall follow the timeframes as indicated in 36 CFR 800.12 (b) (2.).
  - b. Following the Streamlined Project Review Stipulation VII. provisions of this Agreement, the response time for requests for concurrence shall be a maximum of thirty (30) days, unless otherwise agreed to by the parties to the specific consultation on a case-by-case basis.

2. The review period will be extended until the next business day, if a review period included in this Agreement concludes on a Saturday, Sunday, State, or Federal, or Tribal holiday. If requested, USACE may consider an extension of a review period consistent with the time designations in this Agreement for parties affected by an unanticipated state office closure (any state) (e.g., hurricane, tornado or similar).
3. Any electronic communication forwarding plans or other documents for review under the terms of this Agreement 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.
4. E-mail comments by the Signatories on any documents submitted for review under this Agreement are timely if they are received at any time on or before the last day of a review period. Responses sent by mail will be accepted as timely if they are postmarked by the last day allowed for the review.
5. If any Signatory does not object to USACE's finding or determination related to any feature of the Undertaking within an agreed upon timeframe, USACE may proceed to the next step in the consultation process as described in Stipulation VII, Project Review.
6. Timeframes are contingent upon USACE ensuring that its findings and determinations are made by Qualified Staff and supported by documentation as required by 36 CFR § 800.11(d) and 36 CFR § 800.11(e), and consistent with USACE guidance.

**C. Correspondence:**

1. The Consulting Parties may send and accept official notices, comments, requests for further information and documentation, and other communications required by this Agreement in accordance with the protocol in Appendix B.
2. 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 intended recipient(s) and determine alternative methods to deliver the information (including available file sharing platforms).
3. Time-sensitive information that is not sent by e-mail should be sent by overnight mail, courier, or hand-delivered. The timeframe for requests for review not sent by e-mail will be measured by the date the delivery is signed for by the SHPO(s), Federally-recognized Tribe, or other organization representing the Consulting Parties.

## **VI. STANDARDS**

- A. In addition to the definitions utilized in 36 CFR § 800, this Agreement 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 Agreement 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:
  1. "Qualified Staff" – shall mean staff who meet, at a minimum, the SOI Professional Qualifications Standards set forth at 48 FR 44738 (September 29, 1983), for History, Archaeology, Architectural History, Architecture, or Historic Architecture ([https://www.nps.gov/history/local-law/arch\\_stnds\\_9.htm](https://www.nps.gov/history/local-law/arch_stnds_9.htm)) and the appropriate qualifications presented in Professional Qualifications (36 CFR Part 61, Appendix A).

2. "Standards" -- shall mean the Secretary of the Interior's (SOI) Standards and Guidelines for Archaeology and Historic Preservation [Federal Register 48(190) 1983:44716-44737] ([https://www.nps.gov/history/local-law/arch\\_stnds\\_0.htm](https://www.nps.gov/history/local-law/arch_stnds_0.htm));
  3. "Meeting Professional Standards" -- shall mean that all cultural resource investigations shall be performed by, or under the direct (in-field) supervision of appropriate professional(s) or by contractors, who are "Qualified Staff";
  4. "Field and Reporting Standards" -- shall mean the current historic standing structure and archaeological guidance from SHPO Office (<https://efaidnbmnnnibpcajpcqlclefindmkaj/https://www.mdah.ms.gov/sites/default/files/2020-06/20200610-MS-STANDARDS-AND-GUIDELINES.pdf>);
  5. "Policies and Guidelines" -- shall mean guidance from any of the following:
    - a) The National Park Service publication *The Archaeological Survey: Methods and Uses* (National Park Service 1978);
    - b) ACHP's Treatment of Archeological Properties: A Handbook (1980) (<https://www.achp.gov/sites/default/files/documents/2018-11/Treatment%20of%20Archeological%20Properties-A%20Handbook-OCR.pdf>);
    - c) Identification of Historic Properties: A Decision-making Guide for Managers (1988, joint ACHP-NPS publication);
    - d) Consulting About Archeology Under Section 106 (1990);
    - e) ACHP's [Recommended Approach for Consultation on Recovery of Significant Information from Archeological Sites](https://www.achp.gov/sites/default/files/documents/2018-06/ACHPPolicyStatementRegardingTreatmentofBurialSitesHumanRemainsandFuneraryObjects0207.pdf) (1999);
    - f) ACHP's Policy Statement Regarding the Treatment of Burial Sites, Human Remains and Funerary Objects (2007) <https://staging.achp.gov/sites/default/files/policies/2018-06/ACHPPolicyStatementRegardingTreatmentofBurialSitesHumanRemainsandFuneraryObjects0207.pdf>; and
    - g) Section 106 Archaeology Guidance: A reference guide to assist federal agencies in making effective decisions about archaeological sites (2009) <https://www.achp.gov/sites/default/files/guidance/2017-02/ACHP%20ARCHAEOLOGY%20GUIDANCE.pdf>)
- B.** In developing Scopes of Work (SOW) for identification and evaluation studies, STM or MOA TM(s), or any other cultural resources activities required under the terms of this Agreement, USACE will comply with the requirements of the Standards, Field and Reporting Standards, and the Policies and Guidelines, in existence at the time this work is performed.
- C.** Additionally, in developing SOW for identification and evaluation studies, STM or MOA TM(s), or any other cultural resources activities required under the terms of this Agreement, and where geographically appropriate, USACE will take into account the following guidance:
1. Guidance from the *National Historic Preservation Act Section 106 Protocol and Standards*, *Archaeological Survey Standards*, and *Archaeological Resources Protection Act Violation Procedures*; and
  2. Any additional area-specific guidance beyond that provided for under Stipulation VI. (e.g., additional Federally-recognized Tribal guidance, or local preservation ordinances).
- D.** In developing the SOW for development of the contextual cultural study of the Coldwater River basin under the terms of this Agreement, USACE will consult guidelines associated with feasibility studies developed in association with designation of National Heritage Areas (NHA), drawing specifically



upon the contextual study the Yazoo Backwater Water Management Area project, in existence at the time this work is performed (see Appendix D for more detailed information).

E. Additionally, in developing the SOW for the development of the heritage area contextual/cultural study of the Coldwater River basin area under the terms of this Agreement, USACE will also take into account the following guidance:

1. Guidance from the National Park Service publication *NATIONAL HERITAGE AREA FEASIBILITY STUDY GUIDELINES* (National Park Service 2019 - [https://www.nps.gov/subjects/heritageareas/upload/NHA-Feasibility-Study-Guidelines\\_FINAL-Revisions-2019\\_508-compliant.pdf](https://www.nps.gov/subjects/heritageareas/upload/NHA-Feasibility-Study-Guidelines_FINAL-Revisions-2019_508-compliant.pdf)); and
2. The National Park Service publication *Heritage Study, Environmental Assessment, Lower Mississippi Delta Region: Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee* (2 vols.) (1998 - [https://www.nps.gov/parkhistory/online\\_books/mrdr/mrdr\\_heritage\\_study.pdf](https://www.nps.gov/parkhistory/online_books/mrdr/mrdr_heritage_study.pdf) & [https://www.nps.gov/parkhistory/online\\_books/mrdr/mrdr\\_heritage\\_study2.pdf](https://www.nps.gov/parkhistory/online_books/mrdr/mrdr_heritage_study2.pdf)); and
3. The National Park Service publication *National Heritage Area (NHA) Feasibility Studies Short Guide to Assessing National Importance, Contributing Resources, Opportunities, and a Boundary for Heritage Areas* ([https://www.nps.gov/subjects/heritageareas/upload/NHA-Study-Guidance\\_Assessing\\_a\\_Nationally\\_Important\\_Landscape\\_andOpportunities.pdf](https://www.nps.gov/subjects/heritageareas/upload/NHA-Study-Guidance_Assessing_a_Nationally_Important_Landscape_andOpportunities.pdf)); Guidance from the *National Historic Preservation Act Section 106 Protocol and Standards*, *Archaeological Survey Standards*, and *Archaeological Resources Protection Act Violation Procedures*;
4. The National Park Service publication *REGIONWIDE ARCHEOLOGICAL SURVEY PLAN, SOUTHEAST FIELD AREA, NATIONAL PARK SERVICE* (National Park Service 1996 - [https://www.nps.gov/parkhistory/online\\_books/sero/rasp.pdf](https://www.nps.gov/parkhistory/online_books/sero/rasp.pdf)). Any additional area-specific guidance beyond that provided for under VI A (e.g., additional Federally-recognized Tribal guidance, or local preservation ordinances);

F. Lastly, in developing the SOW for all monitoring elements associated with the construction of the undertaking as well as for assessing/evaluating both newly identified and previously identified archaeological resources in the lake/reservoir under the terms of this Agreement, USACE will consult other USACE districts and divisions concerning lake/reservoir cultural resources management and take into account the following guidance, including but not limited to (see Appendix E for more detailed information):

1. *Draft CULTURAL SITE MONITORING AND ENFORCEMENT*, U.S. Army Corps of Engineers, Omaha District - [https://www.nps.gov/subjects/heritageareas/upload/NHA-Feasibility-Study-Guidelines\\_FINAL-Revisions-2019\\_508-compliant.pdf](https://www.nps.gov/subjects/heritageareas/upload/NHA-Feasibility-Study-Guidelines_FINAL-Revisions-2019_508-compliant.pdf); and
2. *U.S. ARMY CORPS OF ENGINEERS, OMAHA DISTRICT CULTURAL RESOURCE PROGRAM DRAFT ANNUAL REPORT CALENDAR YEAR 2018* (February 2019), U.S. Army Corps of Engineers, Omaha District - <https://safe.menlosecurity.com/doc/docview/viewer/docN73E2C7C288E3b12a0710fc4faf9e5dde9efe454d3e6d4c5798d2720a5c9b2c769452a056e083>; and
3. *Draft Historic Properties Management Plan, Waco Lake, McLennan County, Texas* (Redacted U.S. Army Corps of Engineers, Fort Worth District [https://www.swf-wc.usace.army.mil/waco/pdf/20230811\\_Draft\\_Waco%20HPMP\\_Redacted.pdf](https://www.swf-wc.usace.army.mil/waco/pdf/20230811_Draft_Waco%20HPMP_Redacted.pdf)).

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## VII. PROJECT REVIEW

- A. Review for Emergency Undertakings: For review of actions that are emergencies, USACE shall follow the provisions of 36 CFR 800.12 (b).
- B. Streamlined Project Review: For all elements of the Undertaking, USACE shall ensure that the following project review steps are implemented. In the interest of streamlining, USACE may combine some or all of these steps during consultation in accordance with 36 CFR § 800.3(g).

1. Consulting Parties: USACE shall consider all written requests of individuals and organizations to participate as consulting parties and consult with the SHPO(s) and the appropriate Federally-recognized Tribe(s) to identify any other parties that meet the criteria to be consulting parties and invite them to participate in the Section 106 process. USACE may invite others to participate as consulting parties as the Section 106 consultation proceeds.
2. Area of Potential Effects (APE): For all features undergoing streamlined project review, Qualified Staff shall determine the APE in consultation with the SHPO(s) and appropriate Federally-Recognized Tribe(s).

The APE will be defined as all areas to be affected by construction activities and areas of associated ground disturbance including but not limited to haul roads, borrow areas, staging and stockpiling areas. The APE will include all areas for which a Right-of-Entry is sought by USACE. Additional effects that will be considered shall include visual, auditory, and off-site anticipated erosion resulting from the constructed feature. USACE may consider information provided by other parties, such as local governments and the public, when establishing the APE.

### APE Definition Factors:

- a. For standing structures not adjacent to or located within the boundaries of a National Register listed or eligible district, Qualified Staff may define the APE as the individual structure or structures when the proposed Undertaking is limited to its repair or rehabilitation (e.g. floodwalls, or other appurtenant structures to the levees, etc.).
  - b. For archaeological sites the USACE should consider the nature of likely properties in non-surveyed areas.
3. Identification and Evaluation: Qualified Staff shall determine, in consultation with the SHPO and Tribe(s), if the APE contains historic properties, including properties of religious and cultural significance to Federally-recognized Tribes. This may include the review of newly developed or previously produced documentation in coordination with the SHPO, appropriate Federally-recognized Tribe(s), and any additional Consulting Parties.
    - a. Level of Effort: USACE shall make a reasonable and good faith effort to identify historic properties in accordance with 36 CFR § 800.4(b)(1). USACE shall consult with SHPO(s) and appropriate Federally-recognized Tribe(s) to determine the level of effort, methodology necessary to identify and evaluate a variety of historic property types, and any reporting requirements. For properties of religious and cultural significance to affected Federally-recognized Tribe(s), USACE shall consult with the affected Tribe(s) to determine if the APE contains such properties and determine the necessary level of

effort to identify and evaluate or avoid any such historic properties. All Identification and Evaluation studies will comply with the Standards (Stipulation VI).

b. Timing:

- a. With respect to each element of the Undertaking, USACE shall achieve compliance with all relevant terms of this Agreement prior to initiating physical construction of that Work Item.
- ii. The results of all field investigations will be subject to a review and comment period of no less than thirty (30) days by the appropriate Consulting Parties, following the receipt by the SHPO(s) and the appropriate Federally-recognized Tribe(s) of the completed reporting document (architectural survey, Phase I or II archaeological reports, and any other supporting documentation).
- iii. Coordination of consultation will be through the designated Points of Contact (Stipulation II).

4. Determinations of Eligibility: USACE shall make determinations of National Register eligibility based on identification and evaluation efforts, and consult with the SHPO(s), appropriate Federally-recognized Tribe(s), and other Consulting Parties regarding these determinations. Should the SHPO(s), or appropriate Federally-recognized Tribe(s) disagree with the determination of eligibility, USACE shall:
  - a. Consult further with the objecting party to resolve the objection;
  - b. Treat the property as eligible for the National Register; or
  - c. Obtain a determination of eligibility from the Keeper of the National Register in accordance with 36 CFR § 63.2(d)-(e) and 36 CFR § 800.4 (c) 2.
5. USACE shall notify the SHPO(s), appropriate Federally-recognized Tribes(s), and any other consulting parties of this finding and provide supporting documentation in accordance with 36 CFR § 800.11(d). Unless consulting parties object to the finding, or request additional information, within 30-days, the Section 106 review of the Undertaking will have concluded.
  - a. If the SHPO(s) and/or appropriate Federally-recognized Tribes(s), objects to a finding of “no historic properties affected,” USACE shall consult with the objecting party to resolve the disagreement.
    - i. If the objection is resolved, USACE either may proceed with the Undertaking in accordance with the resolution or reconsider effects on the historic property by applying the criteria of adverse effect pursuant to Stipulation VII., Application of the Criteria of Adverse Effect, below.
    - ii. If USACE is unable to resolve the disagreement, it will forward the finding and supporting documentation to ACHP and request that ACHP review USACE’s finding in accordance with the process described in 36 CFR § 800.4(d)(1)(iv)(A) through 36 CFR § 800.4(d)(1)(iv)(C). USACE shall, pursuant to 800.4(d)(1)(iv)(C), prepare a summary of its decision that contains the rationale for the decision and evidence of consideration of the ACHP’s opinion, and provide this to the SHPO(s), appropriate Federally-recognized Tribes(s), and all other consulting parties. If USACE’s final determination is to reaffirm its “no

historic properties affected” finding, the Section 106 review of the Undertaking will have concluded. If USACE will revise its finding, then it shall proceed in accordance with Stipulation VII., below.

6. Assessing Adverse Effects: If, through consultation, USACE finds the Undertaking may affect historic properties in the APE, including those of religious or cultural significance to affected Federally-recognized Tribe(s), USACE shall apply the criteria of adverse effect to historic properties within the APE(s), 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).
  - a. *Findings of No Adverse Effect:* If, through consultation, USACE determines that an element/elements of the Undertaking does not meet the adverse effect criteria, pursuant to 36 C.F.R. § 800.5(a)(1), USACE shall propose a finding of “no adverse effect” and consult with the MS SHPO, appropriate Federally-recognized Tribes(s) and Consulting Parties in accordance with 36 CFR § 800.5(b) and following steps i-iii below, or will move to subparagraph b.
    - i. USACE shall notify all consulting parties of its finding; describe any project specific conditions and/or modifications required to avoid or minimize effects to historic properties; and provide supporting documentation pursuant to 36 CFR §800.11(e).
    - ii. Unless a consulting party objects within thirty (30)-days, USACE will proceed with its “no adverse effect” determination and conclude the Section 106 review.
    - iii. If a consulting party objects to a finding of “no adverse effect,” USACE will consult with the objecting party to resolve the disagreement.
      - a) If the objection is resolved, USACE shall proceed with the Undertaking in accordance with the resolution; or
      - b) If the objection cannot be resolved, USACE shall request that ACHP review the findings in accordance with 36 CFR § 800.5(c)(3)(i)-(ii) and submit the required supporting documentation. USACE shall, pursuant 800.5(c)(3)(ii)(B), prepare a summary of its decision that contains the rationale for the decision and evidence of consideration of the ACHP’s opinion, and provide this to the SHPO(s), appropriate Federally-recognized Tribes and all other consulting parties. If USACE’s final determination is to reaffirm its “no adverse effect” finding, the Section 106 review of the Undertaking will have concluded. If USACE will revise its finding then it shall proceed to Stipulation VI., below.
  - b. *Avoidance and Minimization of Adverse Effects:* If USACE, during its initial review, finds any element of the Undertaking may adversely affect historic properties, USACE may make a further internal review to consider ways to avoid or minimize effects to historic properties. The review will consider revising the elements of the scope of work affecting historic properties to substantially conform to the SOI Preservation Standards or otherwise avoid or minimize adverse effects.
    - i. If USACE modifies the scope of work following its initial internal review to avoid or minimize effects below the “criteria of adverse effect” (36 CFR 800.5 (a)(1), (i.e., to the point USACE can make a finding of No Adverse Effect), USACE shall consult with the SHPO, appropriate Federally-recognized Tribe(s), and all other

consulting parties providing the *original and modified* Scopes of Work as part of its finding of “no adverse effect” following the process in Stipulation VII.

- ii. If USACE is unable to modify elements of the Undertaking to avoid or minimize effects below the “criteria of adverse effect”, USACE shall initiate consultation to resolve the adverse effect(s) in accordance with Stipulation VII., Resolution of Adverse Effects.
7. Resolution of Adverse Effects: If USACE determines that the Undertaking or any of its elements may adversely affect a historic property, it shall resolve the effects of the Amended Undertaking in consultation with the SHPO, the appropriate Federally-recognized Tribe(s), ACHP, if participating, and other consulting parties, by one of the methods, described in VII.C.7.(a-c). USACE may use the Abbreviated Resolution Process (ABR) to resolve adverse effect and propose it to parties, and if the parties agree, will use the ABR. If the parties do not agree, then USACE will move to develop a MOA, in accordance with 36 CFR § 800.6(c). When, through consultation, USACE determines the Amended Undertaking will adversely affect an NHL, USACE shall notify and invite the Secretary of the Interior and ACHP, as well as notifying Regional National Park Service staff to participate in consultation in accordance with 36 CFR § 800.10.
  - a. *Abbreviated Resolution Process:* USACE may propose in writing to the consulting parties to resolve the adverse effects of the Undertaking through the application of one or more Treatment Measures outlined in Amended Appendix D (Historic Property Treatment Plan). USACE shall ensure that the provisions of the Historic Property Treatment Plan, as outlined in the consultation and agreed to by consulting parties, are documented in writing and implemented. The use of these Treatment Measures in a Historic Property Treatment Plan shall not require the execution of an individual Memorandum of Agreement or Secondary Programmatic Agreement.
    - i. In consultation with the SHPO, appropriate Federally-recognized Tribe(s), and other consulting parties, USACE shall propose in writing the implementation of a specific Historic Property Treatment Measure, or combination of Treatment Measures, with the intent of expediting the resolution of adverse effects, and provide documentation as required by 36 CFR § 800.11(e) and 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.
    - ii. The ACHP at its discretion may participate in the development of Historic Property Treatment Plans, under the Abbreviated Resolution Process, when requested by USACE, SHPO(s), appropriate Federally-recognized Tribe(s), or other consulting parties, or when the ACHP determines that its participation is warranted.
    - iii. Unless a consulting party or the ACHP objects to USACE’s proposed Historic Property Treatment Plan within the timeframe outlined in Stipulation V. Timeframes, USACE shall proceed with the implementation of the Historic Property Treatment Plan and will conclude the Section 106 review.
    - iv. If any of the consulting parties or ACHP objects within the timeframe outlined in Stipulation V. Timeframes, to the resolution of adverse effects through the application of the Abbreviated Consultation Process, USACE shall resolve the adverse effect(s) using procedures outlined below in Stipulation VII., MOA or

Programmatic Agreement. USACE shall invite any individual or organization that will assume a specific role or responsibility outlined in a Memorandum of Agreement or Secondary Programmatic Agreement to participate as an invited signatory to the undertaking-specific agreement.

- v. Because funding and implementation details of a Historic Property Treatment Plan for specific Undertakings may vary by State and Non-Federal Sponsor, USACE shall provide written notice to the Consulting Parties within sixty (60) days of the completion of the Historic Property Treatment Measure(s). This written notice will serve as confirmation that the Historic Property Treatment Measure(s) for a specific Undertaking have been implemented. USACE also shall include information pertaining to the progress and completion of Historic Property Treatment Plans in the annual report pursuant to Stipulation III USACE Roles and Responsibilities.
  - b. *Memorandum of Agreement (MOA)*: USACE shall provide ACHP with an adverse effect notice in accordance with 36 CFR § 800.6(a)(1) if it has not already provided such under the Abbreviated Consultation Process of this Agreement, if a consulting party or ACHP objects in accordance with Stipulation II.C.6(a)(iii), or if USACE in consultation with SHPO(s)/THPO(s), Tribe(s), and other consulting parties has determined that an MOA would be more appropriate than the Abbreviated Consultation Process to resolve the adverse effect(s). In consultation with SHPO(s), appropriate Federally-recognized Tribe(s), and other consulting parties, including ACHP (if participating), USACE shall develop an MOA, in accordance with 36 CFR § 800.6(c) to agree upon Treatment Measures to avoid, minimize, and/or mitigate adverse effects on historic properties. The MOA may also include Treatment Measures that serve an equal or greater public benefit in promoting the preservation of historic properties in lieu of the Treatment Measures (Outlined in Appendix F).
8. Objections: Should USACE or any signatory or consulting party object within the timeframes established by this Amended Agreement to any plans, specifications, or actions taken pursuant to resolving an adverse effect, and the objection cannot be resolved, USACE shall address the objection in accordance with Stipulation XI, Dispute Resolution.
9. Reports:
- a. USACE shall ensure that all reports and other documents resulting from the actions pursuant to this Amended Agreement will be provided in a format acceptable to the SHPO and appropriate Federally-recognized Tribes. USACE 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).
  - b. USACE shall provide all documentation for these efforts to the SHPO(s), appropriate Federally-recognized Tribes, or other Consulting Parties, as appropriate, consistent with the confidentiality provisions of Stipulation IV. of this Amended Agreement.
  - c. Once supporting documentation is received, SHPO and Tribes will have thirty (30)-days to review supporting documentation (e.g., site forms and reports). If the SHPO or appropriate 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 USACE and specify the anticipated completion date. USACE will consider the request and work with the requesting party to come to a mutually agreeable timeframe. USACE will notify other Consulting Parties of any mutually approved extension by e-mail.

## **VIII. CURATION**

Recovered archaeological collections from a USACE-required archaeological survey, evaluation, and/or mitigation remain the property of the land owner (either private, State, Federal, etc.). USACE, in coordination with the SHPO and appropriate Federally-recognized Tribe(s) may, as determined through consultation, encourage private land owners to transfer any recovered artifacts and related documentation to an appropriate archive or public or Federally-recognized Tribal entity. USACE, in coordination with the SHPO and Federally-recognized Tribe(s), shall work with all Tribal, State, and local agents to support steps that ensure the long-term curation of these artifacts and documents through the transfer of the materials to a suitable repository as agreed to by USACE, the SHPO, and appropriate Federally-recognized Tribes(s) and following applicable State or Tribal guidelines. USACE shall ensure that collections from federal or tribal land, including field and laboratory records sufficient to document the collection, are curated at a repository meeting federal standards (36 C.F.R. 79) as agreed to by USACE, SHPO, and affected Federally-recognized Tribe(s), and follow that repository's guidelines.

## **IX. TREATMENT OF HUMAN REMAINS AND ITEMS OF RELIGIOUS AND CULTURAL IMPORTANCE**

**A. Documenting Human Remains:** 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 (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 should not be published or made publicly available in any way. The USACE 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, FOIA, and, as appropriate, ARPA). As part of the consultation for each Work Item where Human Remains are present, the USACE will ensure that the consultation happens as appropriate to each jurisdiction to determine the course of action for each situation.

### **B. General Human Remains Discovery Process:**

1. In the event that previously unreported or unanticipated human remains, burials, funerary objects, Native American sacred objects, or Native American 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) USACE shall notify the relevant historic preservation interests (SHPO and interested Federally-recognized Tribal representatives) within 24-hrs of the discovery. Concurrently, USACE will implement the provisions 2 thru 6 below:
2. Any USACE employee or contractor(s) who knows or has reason to know that they have inadvertently discovered human remains, burials, funerary objects, Native American sacred

objects, or Native American 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 USACE District's Point of Contact in this agreement. The written notification should contain the results, if any, of the field evaluation. The appropriate USACE District's Cultural Resources Staff and Tribal Liaison will begin to develop a plan of action to inform the appropriate District Commander of the consultation tasks necessary to address the discovery. No Photographs should be taken at this time of the human remains.

3. All fieldwork, construction 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, within the APE. USACE 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. USACE will take immediate steps, if necessary, to further secure and protect inadvertently discovered human remains, burials, funerary objects, Native American sacred objects, or Native American objects of cultural patrimony, as appropriate, including stabilization, or covering the find location.
4. USACE will notify local law enforcement, coroner, or Medical Examiner, as appropriate, and the SHPO, per the POC in Amended Appendix B, 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. USACE 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, USACE will follow jurisdictional guidelines as provided for based on land ownership (per Stipulation IX).
  - a. In cases where human remains, burials, funerary objects, Native American sacred objects, or Native American objects of cultural patrimony are discovered during the implementation of a USACE-funded undertaking on Federal Land, USACE will notify by telephone and e-mail, the SHPO, 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 individual state's Designated Authority will notify and coordinate with 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, USACE will assist the Designated Authority, to consult with 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 individual 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, USACE will assist the Designated Authority to consult with the affected parties, as appropriate.
5. USACE will consult with SHPO, THPOs, 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 Undertaking 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 Native American objects of cultural patrimony occurs on Federal Land (see Stipulation IX for the detailed process).

6. Following the outcome of any consultation (Federal Lands or Non-Federal Lands) to address the discovery of human remains, USACE 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 Undertaking.

**C. Specific Authorities and Processes for Addressing Human Remains:** If human remains, funerary objects, Native American sacred objects, or Native American objects of cultural patrimony are encountered during project field investigations or laboratory work or during construction activities, the USACE will comply with the provisions based on the nature of the land ownership at the time remains or objects are encountered, in accordance with Engineering Regulation 1102-2-100 (Policy & Guidance), Appendix C-4.

1. Federal Lands: If discovered/recovered from *Federal lands*, USACE shall concurrently implement processes defined in this Amended Agreement, satisfying NHPA, as well as
  - ensuring consultation with appropriate Federally-recognized Tribes for any human remains, funerary objects, Native American sacred objects, or Native American objects of cultural patrimony (objects) 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 the Archaeological Resources Protection Act, 16 USC §§ 470aa et seq., are followed.
- a. For discoveries of human remains, burials, funerary objects, Native American sacred objects, or Native American objects of cultural patrimony, USACE will continue to consult with the SHPO, claimant Federally-recognized Tribes, and other affected parties, as appropriate, whether they are Signatories to this Amended Agreement or not, regarding additional measures to avoid and protect or mitigate the adverse effect of the Amended Undertaking. These measures may include:
  - i. Visits to the site by the SHPO, claimant Federally-recognized Tribes, and other affected parties, as appropriate;
  - ii. Formally evaluate the archaeological site for NRHP-eligibility;
  - iii. Explore potential avoidance alternatives;
  - iv. 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.
- b. Initial Determination of nature of discovered Human Remains when from Federal Lands (Native American or Other)
  - i. USACE, 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 USACE archaeologists or any other

professional without first consulting with the claimant Federally-recognized Tribes, whether they are Signatories to this Agreement or not. The consulting 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 Tribes or next living descendant.

- ii. USACE, in consultation with the SHPO, claimant Federally-Recognized Tribes, 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, USACE 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.
  - iii. If the remains are determined NOT to be Native American in origin, USACE 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.
- c. Initiating NAGPRA Consultation following Inadvertent Discoveries/Recovery of Human Remains from Federal Lands
  - i. For the purposes of notification and consultation of an inadvertent discovery, USACE considers the Consulting Tribes, and 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 Work Item.
  - ii. Upon certification of an inadvertent discovery of NAGPRA items by the responsible Federal official, the USACE shall notify the consulting Federally-recognized Tribes. This notification will be made via email and telephone call to the appropriate consulting Tribes' Primary POC 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.
  - iii. 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.
- d. Consultation for Inadvertent Discoveries//Recovery of Human Remains from Federal Lands that are Native American
  - i. 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.

- ii. If all consulting parties participating in the consultation reach the same conclusion under A above, then the USACE 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 Amended Agreement.
  - iii. If consensus is not attained, the USACE 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). The USACE 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. USACE and the consulting Federally-recognized Tribes will create a template plan of action to be on file.
  - iv. 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.
  - v. Based on the responses received, USACE 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.
  - vi. At the conclusion of implementation of the plan of action, USACE 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.
- e. Process to Determine Disposition of Native American Human Remains from Federal Lands
- i. 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, USACE 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 Tribes. Both notices will be published a second time, at least one week later.
  - ii. Copies of the Notice of Intended Disposition, as well as a description of when and where it was published, will be provided to the National Parks Service, National NAGPRA program.

- iii. USACE 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 USACE lands, or the claimant Federally-recognized Tribe/s may choose to rebury privately once the Tribe assumes control over the NAGPRA items.
- 2. Non-Federal Lands: If human remains are recovered *from State or other private land*, USACE will require that Mississippi laws are followed, as outlined by state statute. As requested, and to the extent of its legal authority, USACE will support the state lead (Designated Authority) in following the State's processes related to discovery, disposition, disinterment, re-interment, and memorialization.
  - a. Mississippi: Mississippi statutes related to the discovery of human remains are collected below.
    - i. Burial Excavation Permits (Native American only). Miss. Code §§ 25-59-1, 39-7-19 (1972, as amended);
    - ii. Abandoned Cemeteries, House Bill 780. <https://www.mdah.ms.gov/historic-preservation/archaeology/permits>
    - iii. 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 USACE, Tribe(s), landowner, and descendants as appropriate to determine the necessary course of action.
  - b. Regardless of state, if the human remains recovered are determined to be Native American, USACE, in conjunction with the NFS, will identify and secure a mutually agreeable reburial location in which to reinter the human remains removed from the project area. Other arrangements may define at the time it is determined that Native American human remains have been recovered, but will include at a minimum:
    - i. In person consultation regarding the human remains and any objects;
    - ii. The identification of a reburial location as close to the disinterment location, as feasible;
    - iii. A commitment on the part of USACE to facilitate the reburial by an affiliated Tribe and to protect the human remains and associated grave goods, at no cost to the Federally-recognized Tribes, or the SHPO.
    - iv. Acknowledgment of the establishment of the cemetery in the administrative record and in the real estate records as determined best at time of reburial.
  - c. If the remains are determined NOT to be Native American in origin, USACE 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 USACE real estate guidance at the time of the discovery.

## **X. Provisions for Post-Review Discoveries (Non-Human Remains)**

- A.** USACE 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, USACE 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.
- B.** If previously unreported properties that may be eligible for nomination to the NR or that may be of significance to Federally-recognized Tribes, and/or, if unanticipated effects on historic properties are found during the construction phase, USACE will implement the provisions outlined below that are intended to ensure that the Undertaking is in compliance with all applicable federal and state laws and regulations, including Section 106 of the NHPA:
- C.** If there is no reasonable expectation that the property contains human remains, funerary objects, Native American sacred objects, or Native American 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, provision of Stipulation IX will be followed. USACE 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, USACE, as appropriate, will:
1. 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;
  2. Clearly mark the area of the discovery;
  3. Implement additional measures, as appropriate, to protect the discovery from theft and vandalism; and
  4. Provide an initial assessment of the site's condition and eligibility to the MS SHPO and appropriate Federally-recognized Tribes; and
  5. Notify other Consulting Parties, if applicable, of the discovery.
- D.** If USACE, in consultation with the SHPO, Consulting 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.
- E.** If USACE determines that the cultural resource site or artifact either is, or may be, eligible for inclusion on the NRHP, USACE will consult with the SHPO, Consulting Tribes, and other Consulting Parties, as appropriate, regarding appropriate measures for site treatment pursuant to 36 C.F.R. § 800.6(a). The SHPO and Tribes will have seven (7)-days to provide their objections or concurrence on the proposed actions. These measures may include:
1. Formal archaeological evaluation of the site;
  2. Visits to the site by SHPO and/or Consulting Tribes;
  3. Exploration of potential alternatives to avoid the site;
  4. Preparation and implementation of a mitigation plan by USACE in consultation and concurrence with the SHPO, Consulting Tribes, and other Consulting Parties, as appropriate.

- F. The notified Consulting Parties will have seven (7)-days following notification to provide comment regarding USACE's determination of the NRHP eligibility of the discovery.
- G. A report of findings describing the background history leading to and immediately following the reporting and resolution of an inadvertent discovery will be prepared by USACE within thirty (30)-days of the resolution of each inadvertent discovery.
- H. USACE will communicate the procedures to be observed with its contractors and personnel.
- I. USACE will provide Notice to Proceed to the contractor to work in the area. Notices to Proceed may be issued by USACE for individual construction segments, defined by USACE in its construction specifications, after the identification and evaluation of historic properties has been completed.

## **XI. DISPUTE RESOLUTION**

- A. Should any Signatory or Concurring Party to this Amended Agreement object at any time to any actions proposed or the way the terms of this Amended Agreement are implemented, the USACE shall consult with such party to resolve the objection. If USACE determines that such objection cannot be resolved, the USACE will forward all documentation relevant to the dispute, including the USACE's proposed resolution, to the ACHP. The ACHP shall provide USACE 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, the USACE shall prepare a written response that considers any timely advice or comments regarding the dispute from the ACHP, Signatories, and Invited Signatories, and provide them with a copy of this written response. The USACE 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, the USACE 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 considers any timely comments regarding the dispute from the Signatories and Invited Signatories to the Amended Agreement and provide them and the ACHP with a copy of such written response.
- C. The USACE's responsibility to carry out all other actions subject to the terms of this Amended Agreement that are not the subject of the dispute remain unchanged.

## **XII. SEVERABILITY, WITHDRAWAL, AND TERMINATION**

- A. The SHPO or any Invited Signatory may withdraw from this Agreement after providing USACE written notice ninety (90) calendar days prior to its withdrawal. USACE shall consult with the withdrawing party to identify any mutually acceptable measures that would avoid the party's withdrawal. If mutually acceptable measures are identified that would require amendment to the PA, USACE will go through the amendment procedures outlined in Stipulation XIII.
- B. In the case of SHPO withdrawal, the Agreement would no longer apply within that SHPO(s)' state and USACE would comply with 36 CFR Part 800 for all undertakings previously subject to this PA in that state. In the case of an Invited Signatory withdrawing from the Agreement, USACE would consult with that Tribe pursuant to 36 CFR Part 800 for all Undertakings previously subject to this Agreement that would have the potential to affect historic properties of religious and cultural significance to the Tribe. This Agreement would remain in effect in all other jurisdictions and for all other parties.
- C. Signatories and Invited Signatories, who execute this Agreement, may terminate this Agreement by providing thirty (30) days written notice to the other Signatories, provided that the Signatories consult during this period to seek amendments or other actions that would prevent termination. If this

Agreement is terminated, USACE shall comply with Section 106 through other applicable means pursuant to 36 CFR Part 800. Upon such determination, USACE shall provide all other Signatories and ACHP with written notice of the termination of this Agreement.

- D.** A Consulting Tribe may notify the other Signatories that it is fully withdrawing from participation in the Agreement. Following such a withdrawal, USACE shall review Undertakings that may affect historic properties of religious and cultural significance to the Consulting Tribe in accordance with 36 CFR §§ 800.3 through 800.7, 36 CFR § 800.8(c), or an applicable alternative under 36 CFR § 800.14. Withdrawal from this Agreement by a Consulting Tribe does not otherwise terminate the Agreement. At any time that this Agreement remains in effect, a Consulting Tribe that has withdrawn from the Agreement may notify USACE and SHPO(s) in writing that it has elected to participate again in the Agreement.
- E.** In the event any provision of this Agreement 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) shall be deemed null and void, and the remaining provisions of the Agreement shall remain in effect.

### **XIII. AMENDMENTS**

**A. The Undertaking**

May not be subject to amending if the scope and nature of the Undertaking is significantly altered, modified, or changed such that it no longer reflects the scope and nature of the Amended Undertaking as defined and detailed in the Arkabutla Dam (MS01496) Coldwater River, Mississippi Embankment, Outlet Works, Spillway, DSMR, currently listed in Appendix A and Stipulation I.E.

**B. Body of the Amended Programmatic Agreement:**

May be further amended when such an amendment is agreed to in writing by all Signatories and Invited Signatories. The amendment will be effective on the date a copy signed by all of the Signatories and Invited Signatories is filed with the ACHP.

**C. Amended Appendices:**

May be further amended at the request of USACE or another Signatory or Invited Signatory in the following manner:

1. USACE, on its own behalf or on behalf of another Signatory or Invited Signatory, shall notify the Signatories of the intent to modify the current Appendix or Appendices and shall provide a draft of the updated Appendix or Appendices to all Signatory parties.
2. If no Signatory or Invited Signatory objects in writing within thirty (30) days of receipt of USACE's proposed modification, USACE shall date and sign the amended Appendix and provide a copy of the amended Appendix to the other Signatories. Such an amendment shall go into effect on the date USACE transmits the amendment to the other Signatories.
3. Current List of Appendices:

  - a. Appendix A: Proposed Work Items
  - b. Appendix B: Point of Contacts (POC)
  - c. Appendix C: (Reserved)
  - d. Appendix D: Treatment Measures

- D. Any Amendments to the Body of the Agreement or the Appendices, shall be posted to the websites currently tracking the implementation of the Undertaking.

#### **XIV. DURATION**

- A. The Agreement shall expire ten (10) years from the date of the last signature. One (1) year prior to the expiration of the Agreement, the USACE shall review the Agreement in order to determine whether it should be reissued or allowed to expire. If the Agreement requires reissue, the USACE shall consult with the Consulting Parties, as well as amend the Agreement in order to ensure compliance with the most current version of the Federal regulations implementing the NHPA.
- B. The Signatories and Invited Signatories may collectively agree to extend this Agreement to cover additional calendar years, or portions thereof, through an amendment provided that the original Agreement has not expired.

#### **XV. ANTI-DEFICIENCY ACT**

USACE's obligations under this Agreement are subject to the availability of appropriated funds, and the stipulations of this Agreement are subject to the provisions of the Anti-Deficiency Act. USACE shall make reasonable and good faith efforts to secure the necessary funds to implement this Agreement in its entirety. If compliance with the Anti-Deficiency Act alters or impairs USACE's ability to implement the stipulations of this Agreement, USACE shall consult in accordance with the amendment procedures found at Stipulation XIII and termination procedures found at Stipulation XII.

#### **XVI. EXECUTION AND IMPLEMENTATION**

- A. Nothing in this Agreement is intended to prevent the USACE from consulting more frequently with the Consulting Parties concerning any questions that may arise or on the progress of any actions falling under or executed by this Agreement.
- B. This Agreement shall be executed in counterparts, with a separate page for each Signatory, and shall become effective on the date the agreement is signed by or filed with the ACHP.
- C. USACE shall ensure that each Signatory and Invited Signatory is provided with an electronic (pdf) and physical copy of the Agreement including signatures. USACE shall provide electronic copies of additional executed signature pages to the Consulting Parties as they are received. USACE shall provide a complete copy of the Agreement with original signatures to any Signatory on request.
- D. Execution of this Agreement by the USACE (Vicksburg District), Signatories, Invited Signatories), the Mississippi Levee Board, and Concurring Parties and implementation of its terms evidence that USACE has taken into account the effects of this Undertaking on historic properties and afforded ACHP a reasonable opportunity to comment on USACE's Proposed Actions on these Features.



**SIGNATORY PAGE**

**PROGRAMMATIC AGREEMENT**

**AMONG THE  
U.S. ARMY CORPS OF ENGINEERS (USACE) VICKSBURG DISTRICT;  
TRIBAL NATIONS;  
AND SHPO/STATE HISTORIC PRESERVATION OFFICER;  
REGARDING  
THE ARKABUTLAM DAM PROJECT  
SIGNATORY PAGE**

**U.S. Army Corps of Engineers, Vicksburg District (CEMVK)**

---

Jeremiah A. Gipson  
Colonel, Corps of Engineers  
District Commander

Date: \_\_\_\_\_

**SIGNATORY PAGE**

**PROGRAMMATIC AGREEMENT**

**AMONG THE  
U.S. ARMY CORPS OF ENGINEERS (USACE) VICKSBURG DISTRICT;  
TRIBAL NATIONS;  
AND SHPO/STATE HISTORIC PRESERVATION OFFICER;  
REGARDING  
THE ARKABUTLAM DAM PROJECT  
SIGNATORY PAGE**

**The Mississippi State Historic preservation Officer (MS SHPO)**

\_\_\_\_\_  
Katie Blount  
Mississippi State Historic Preservation Officer

Date: \_\_\_\_\_

**INVITED SIGNATORY PAGE**

**PROGRAMMATIC AGREEMENT**

**AMONG THE  
U.S. ARMY CORPS OF ENGINEERS (USACE) VICKSBURG DISTRICT;  
TRIBAL NATIONS;  
AND SHPO/STATE HISTORIC PRESERVATION OFFICER;  
REGARDING  
THE ARKABUTLAM DAM PROJECT  
SIGNATORY PAGE**

**Tribal Nation**

Nothing in this Agreement shall be construed to waive the sovereign rights and immunities of the Tribal Nation, its officers, employees, or agents.

\_\_\_\_\_  
Chairperson/Chief/Governor/Principal Chief/Mikko/Tribal Governor  
Tribal Nation

Date: \_\_\_\_\_

**CONCURRING PARTY SIGNATORY PAGE**

**PROGRAMMATIC AGREEMENT**

**AMONG THE  
U.S. ARMY CORPS OF ENGINEERS (USACE) VICKSBURG DISTRICT;  
TRIBAL NATIONS;  
AND SHPO/STATE HISTORIC PRESERVATION OFFICER;  
REGARDING  
THE ARKABUTLAM DAM PROJECT  
SIGNATORY PAGE**

**XXXXXXXXXXXXXXXXXX**

\_\_\_\_\_  
XXXXXXXXXXXX  
XXXXXXXXXXXX

Date: \_\_\_\_\_

**Appendix A: Proposed Work Items**  
**ARKABUTLAM DAM PROJECT**  
**As of 10 February 2025**

The project descriptions below include the latest information regarding Work Items that will be reviewed in accordance with this Agreement. These items are subject to change as additional information and analyses are conducted. In addition, Work Items may be added from other project authorities, but only for alteration or enhancement of the Arkabutla Dam Project features (Figures A-1 through A-6).

The Proposed Plan includes the following features as discussed below.

1. *New Outlet Works (see Figure A-3):*

- New outlet works will consist of new state-of-the-practice reinforced concrete intake structure; reinforced concrete control house with vertical lift gates and an emergency gate; a bridge connecting the control house to the top of the dam; reinforced concrete conduit; and a reinforced concrete stilling basin.
- This plan also includes excavation of a new discharge channel with riprap scour protection to direct water towards the existing discharge channel. Following construction of the new outlet works, complete abandonment of the existing outlet works would occur. Along with the abandonment, the existing outlet channel would be backfilled to top of existing ground to the confluence of the new outlet channel.
- Identification of potential borrow, disposal areas, and laydown areas (see Figure 6).
- Installation of gate house mechanical equipment including gate hoists, a bridge crane, compressed air system, and HVAC system.

2. *Dewatering Project Area (see Figure A-4):*

- To dewater the project area, two sets of dewatering wells are needed. A total of eight (8) shallow dewatering wells (four (4) on the north side and four (4) on the south side of the excavation).
- To dewater project area's substrata, an additional nine (9) 12-inch diameter relief wells extending down to an elevation of 130 feet are needed. Therefore, to dewater the whole project area, a total of 17 wells are needed.

3. *Cofferdam (see Figure A-4):*

- A zoned soil embankment cofferdam would be constructed "in the wet" around the excavation with 1:3 side slopes to protect and dewater the excavation area.
- The current pool restriction at the project makes constructing in the wet feasible, leaving only about 4 feet of the constructed embankment below the water surface.

4. *Abandonment of Existing Features (see Figures A-3 and A-5):*

- Following construction of the new outlet works, complete abandonment of the existing outlet works would occur.
- Along with the abandonment, the existing outlet channel would be backfilled to top of existing ground to the confluence of the new outlet channel.
- The existing toe ditches will be modified to redirect discharge into the new discharge channel or to an alternate location for discharge of toe drain waters.

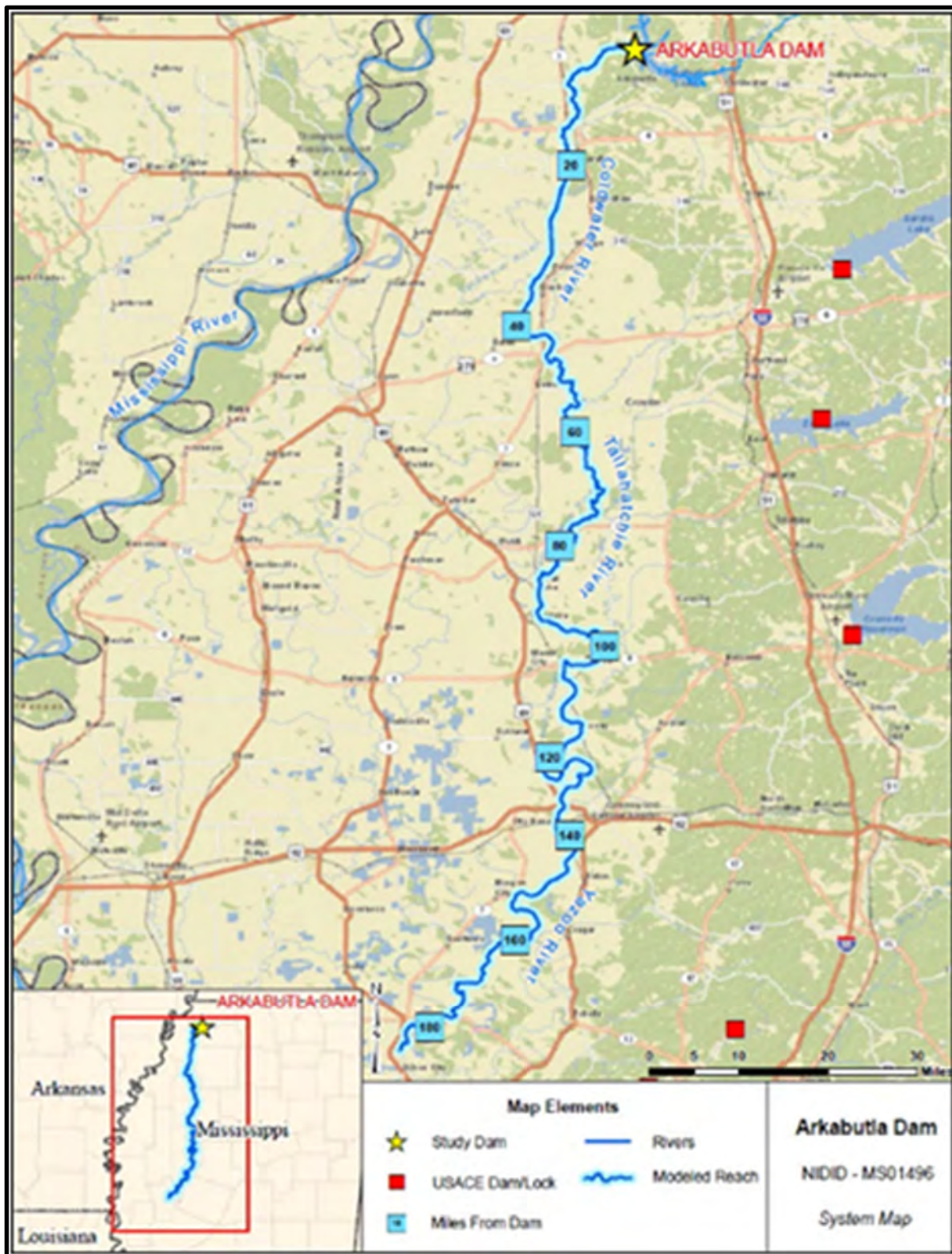


Figure A-1. Arkabutla Dam Project Area.





Figure A-2. Arkabutla Dam Project Features.



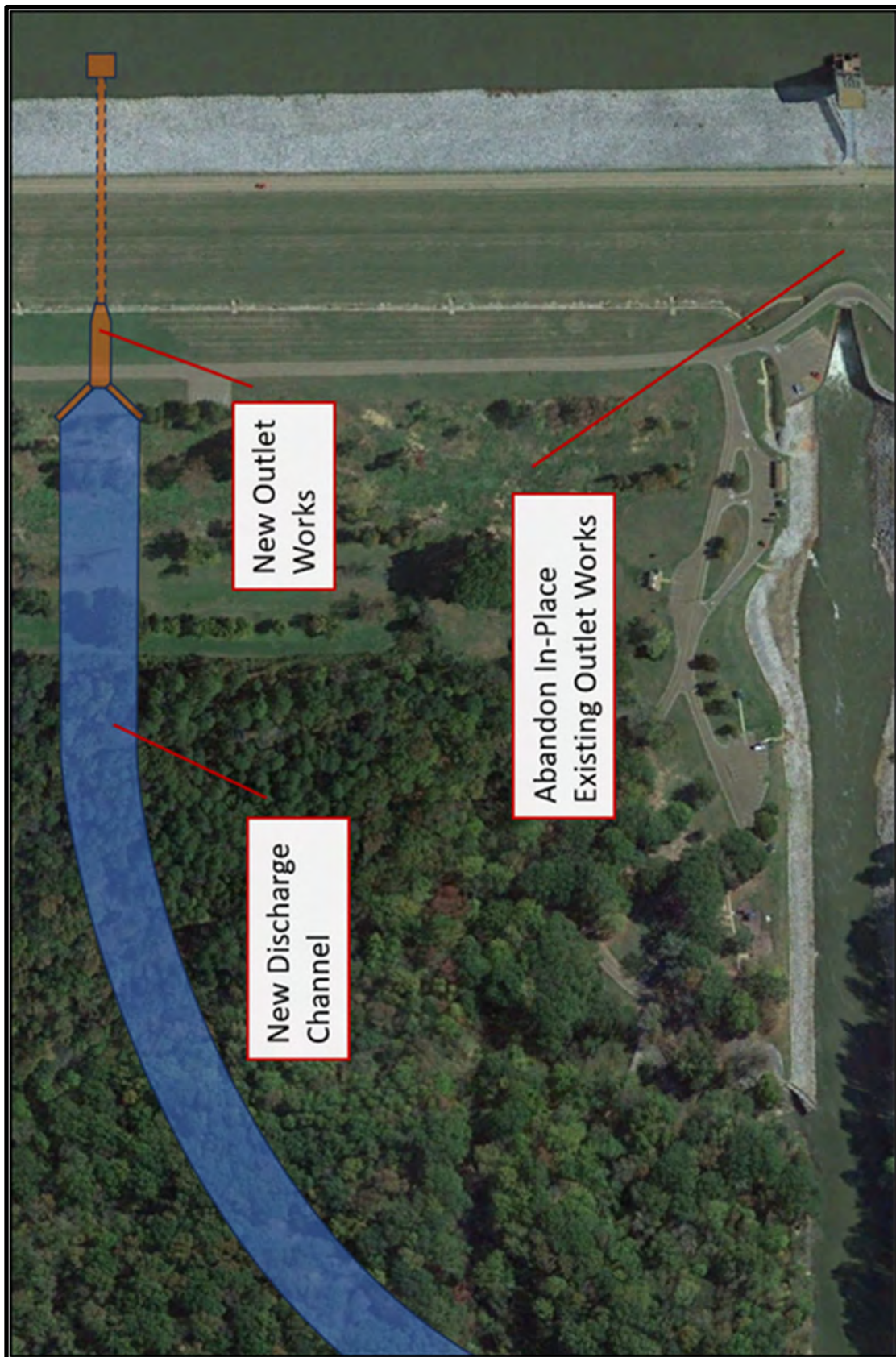


Figure A-3. New Outlet Works and Discharge Channel.

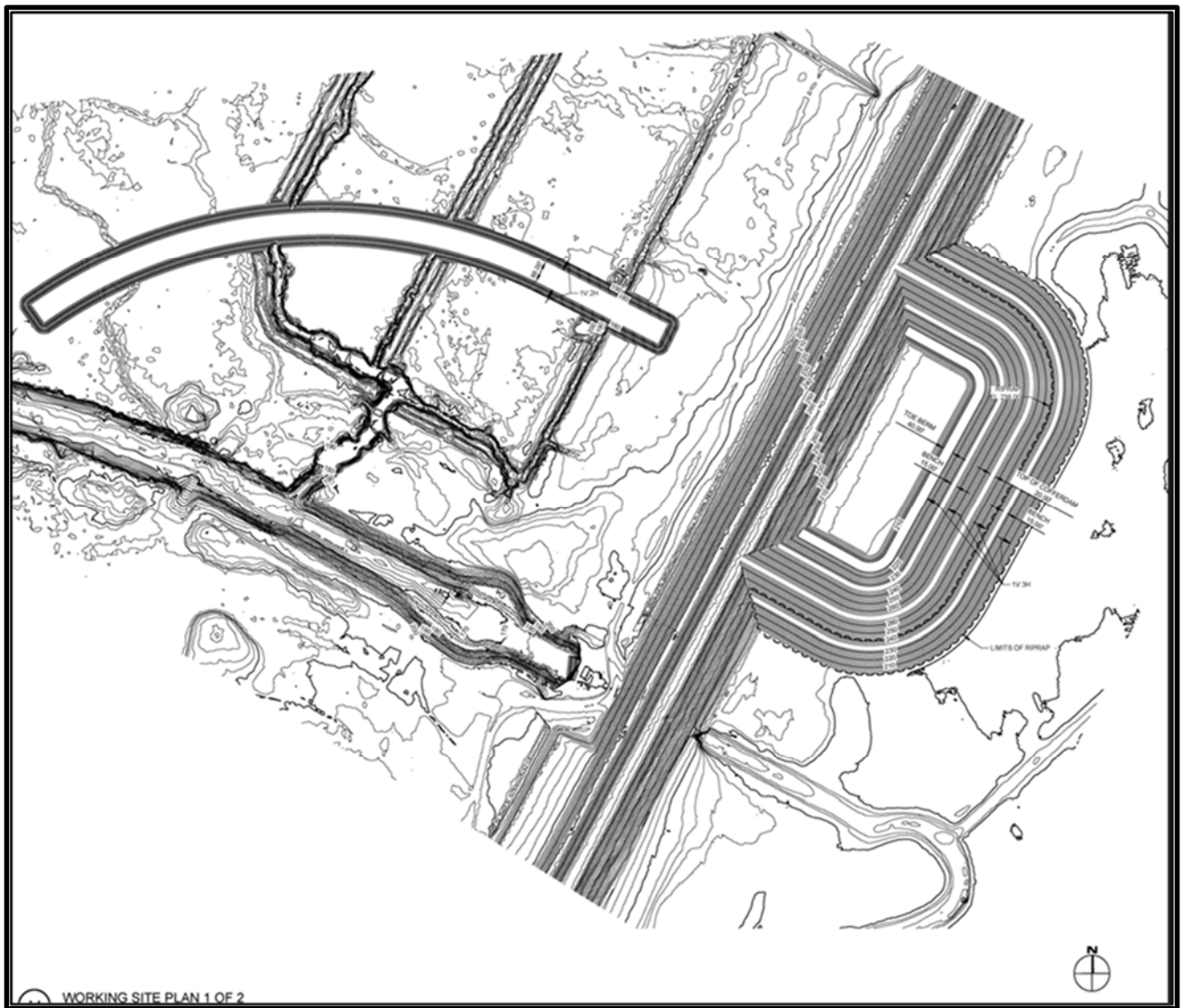


Figure A-4. Proposed Cofferdam and Discharge Channel.



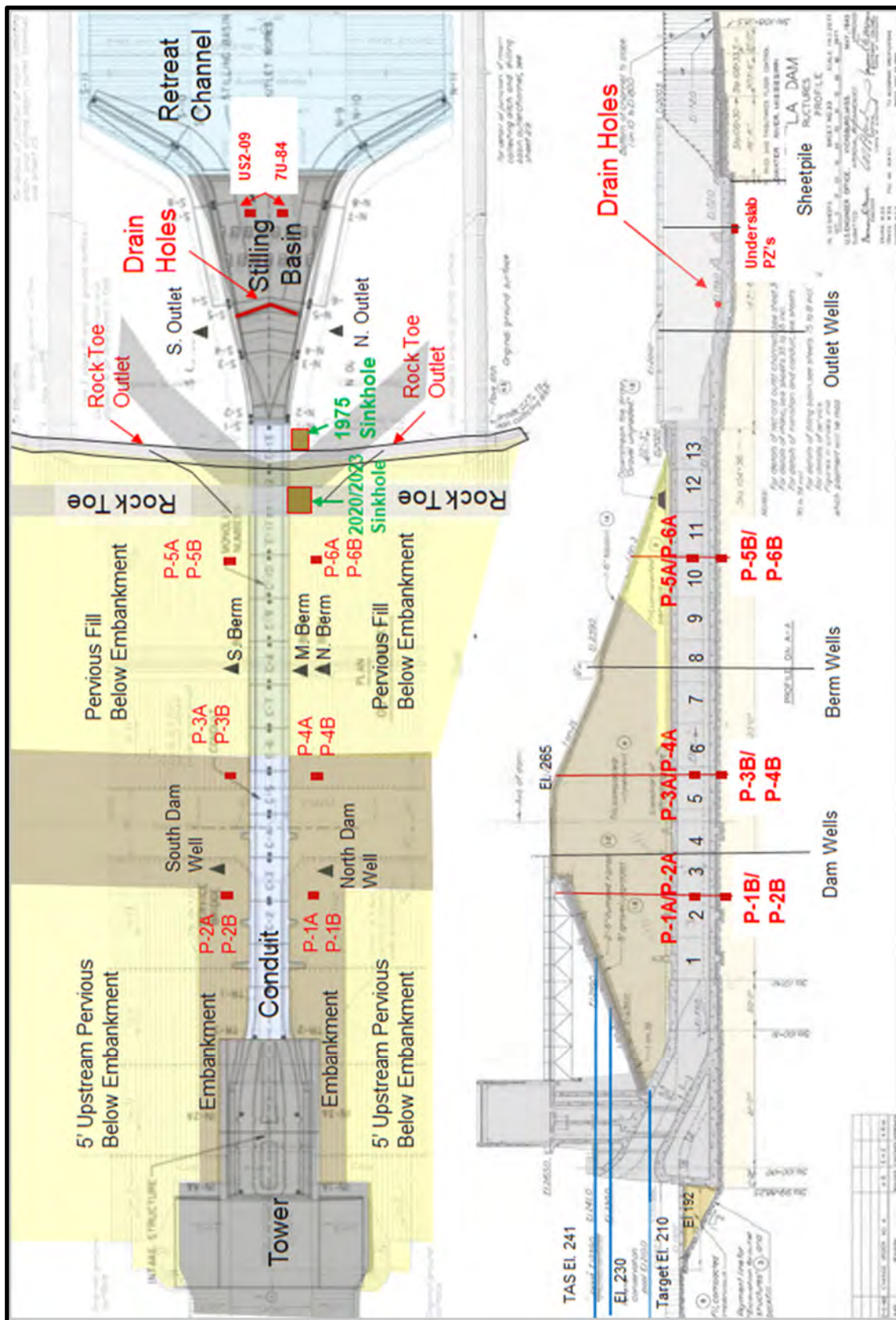


Figure A-5. Existing Outlet Works, plan and profile views.



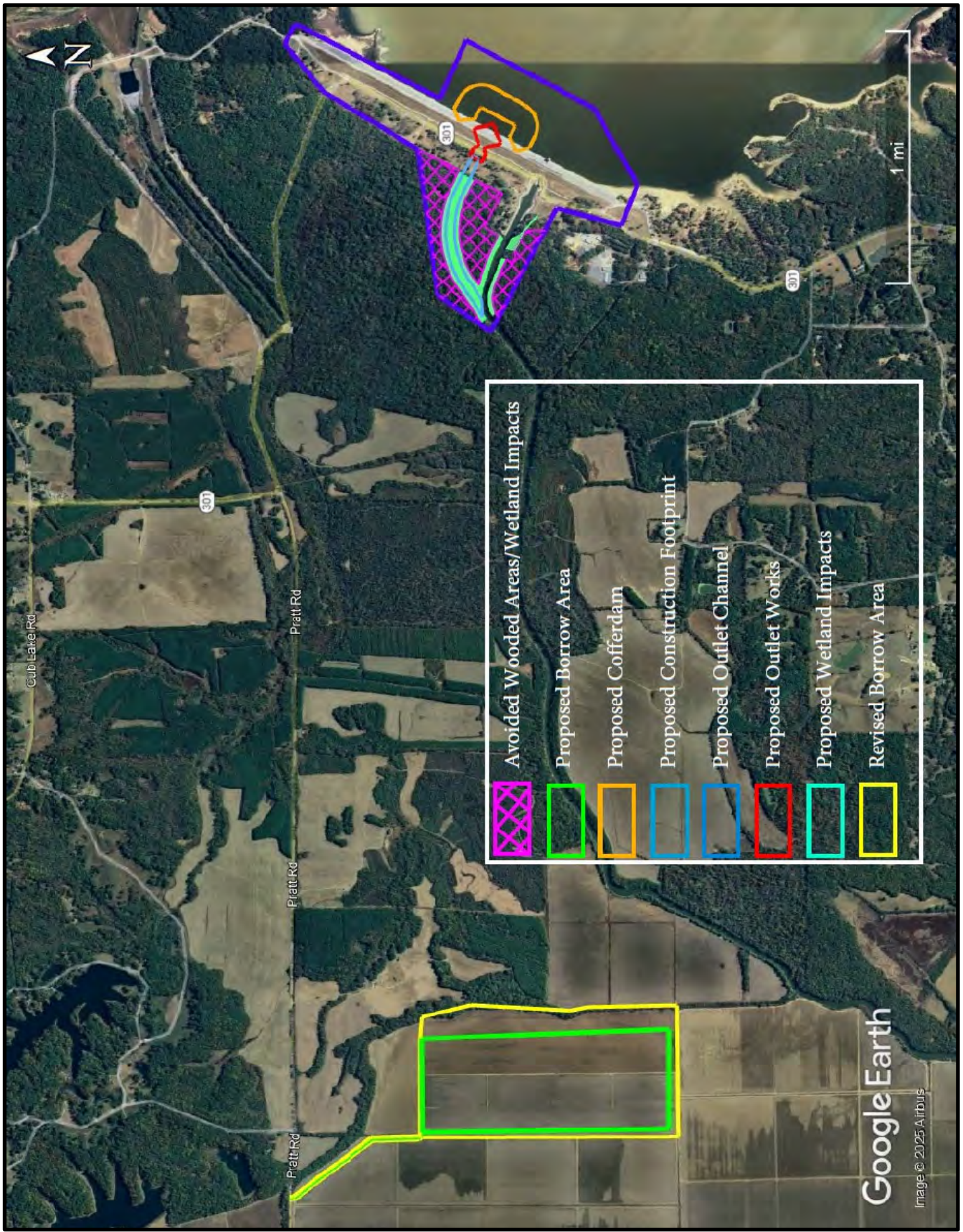


Figure A-6. Proposed Borrow Area and Construction Footprint.

## Appendix B: Point of Contacts (POC)

### CONTACT INFORMATION FOR SIGNATORIES AND FEDERALLY RECOGNIZED TRIBES

Signatories shall provide USACE with updated contact information as it becomes available, and revisions to this Table will be made without an amendment to this Agreement. This Table will be updated annually by USACE and included in the Annual Report.

Most will be all email (excepting reports), others will be mixed electronic and paper. Just a matter of capturing so that district archaeologist/TL has the right tool to communicate in the future.

<b>Federally-Recognized Tribes</b>	
<b>Absentee-Shawnee Tribe of Indians of Oklahoma</b>  <u>Primary:</u> Ms. Devon Frazier Tribal Historic Preservation Officer (THPO) Cultural Preservation Department, Tribal Historic Preservation Board 2025 S Gordon Cooper Drive Shawnee, OK 74801 <a href="mailto:dfrazier@astribe.com">dfrazier@astribe.com</a>  <a href="mailto:106nagpra@astribe.com">106nagpra@astribe.com</a>  Method of contact for project notification and documentation: email to Primary contact email.	<b>Absentee-Shawnee Tribe of Indians of Oklahoma</b>  <u>Secondary:</u> Honorable John Raymond Johnson, Tribal Governor Absentee-Shawnee Tribe of Indians of Oklahoma Building 2 2025 S Gordon Cooper Drive Shawnee, OK 74801
<b>Alabama-Coushatta Tribe of Texas</b>  <u>Primary:</u> Mr. Delvin Johnson Tribal Historic Preservation Officer (THPO) Alabama-Coushatta Tribe of Texas 571 State Park Road Livingston, TX 77351 <a href="mailto:Johnson.Delvin@actribe.org">Johnson.Delvin@actribe.org</a>  Method of contact for project notification and documentation: email to Primary contact email.	<b>Alabama-Coushatta Tribe of Texas</b>  <u>Secondary:</u> Mikko Kanicu Donnis Battise Alabama-Coushatta Tribe of Texas 571 State Park Rd. 56 Livingston, TX 77351

<p><b>Alabama-Quassarte Tribal Town</b></p> <p><u>Primary:</u>  Ms. Samantha Robinson, THPO  Alabama-Quassarte Tribal Town  P.O. Box 187  Wetumka, OK 74883-0187  <a href="mailto:samantha.robinson@alabama-quassarte.org">samantha.robinson@alabama-quassarte.org</a></p> <p>Method of contact for project notification and documentation: email to Primary contact email</p>	<p><b>Alabama-Quassarte Tribal Town</b></p> <p><u>Secondary:</u>  Honorable Tarpie Yargee, Chief  Alabama-Quassarte Tribal Town  P.O. Box 187  Wetumka, OK 74883-0187</p>
<p><b>Caddo Nation</b></p> <p><u>Primary:</u>  Mr. Jonathan M. Rohrer, THPO  117 Memorial Lane  Binger, OK 73009  <a href="mailto:jrohrer@mycaddonation.com">jrohrer@mycaddonation.com</a>  <a href="mailto:section106@mycaddonation.com">section106@mycaddonation.com</a></p> <p>Method of contact for project notification and documentation: email to Primary contact email.</p>	<p><b>Caddo Nation</b></p> <p><u>Secondary:</u>  Tamara Francis Fourkiller, Chairman  Caddo Nation  PO Box 487  Binger, OK 73009  <a href="mailto:tffourkiller.cn@gmail.com">tffourkiller.cn@gmail.com</a></p>
<p><b>Chickasaw Nation</b></p> <p><u>Primary:</u>  Ms. Karen Brunso, THPO  Division of Historic Preservation  PO Box 1548  Ada, Oklahoma 74821  (580) 272-1106  <a href="mailto:Karen.Brunso@chickasaw.net">Karen.Brunso@chickasaw.net</a>  <a href="mailto:HPO@chicksaw.net">HPO@chicksaw.net</a></p> <p>Method of contact for project notification and documentation: email to <a href="mailto:HPO@chicksaw.net">HPO@chicksaw.net</a>.</p>	<p><b>Chickasaw Nation</b></p> <p><u>Secondary:</u>  Bill Anoatubby, Governor  PO Box 1548  Ada, Ok 74821  (580) 436-2603</p>
<p><b>Chitimacha Tribe of Louisiana</b></p> <p><u>Primary:</u>  Ms. Kimberly S. Walden, THPO  Chitimacha Tribe of Louisiana  155 Chitimacha Loop  Charenton, LA 70523  <a href="mailto:kswalden@chitimacha.gov">kswalden@chitimacha.gov</a></p> <p>Method of contact for project notification and documentation: email to Primary Contact</p>	<p><b>Chitimacha Tribe of Louisiana</b></p> <p><u>Secondary:</u>  Honorable Melissa Darden, Chairman  Chitimacha Tribe of Louisiana  155 Chitimacha Loop  Charenton, LA 70523</p>



<p><b>Coushatta Tribe of Louisiana</b></p> <p><u>Primary:</u>  Mr. Dakota John  Tribal Historic Preservation Officer  Coushatta Tribe of Louisiana  1940 C.C. Bell Road  Elton, LA 70532</p> <p><a href="mailto:dakotajohn@coushatta.org">dakotajohn@coushatta.org</a></p> <p><a href="mailto:kdawsey@coushatta.org">kdawsey@coushatta.org</a></p> <p>Method of contact for project notification and documentation: email Senior Compliance Review Officer with a copy to THPO.</p>	<p><b>Coushatta Tribe of Louisiana</b></p> <p><u>Secondary:</u>  Gary Batton, Chief  Choctaw Nation of Oklahoma  Attn: Choctaw Nation Historic Preservation Department  P.O. Box 1210  Durant, OK 74702-1210  (800) 522-6170  <a href="mailto:gbatton@choctawnation.com">gbatton@choctawnation.com</a></p>
<p><b>Jena Band of Choctaw Indians</b></p> <p><u>Primary:</u>  Ms. Johnna Flynn, THPO  Jena Band of Choctaw Indians  P.O. Box 14  Jena, LA 71342  <a href="mailto:jflynn@jenachoctaw.org">jflynn@jenachoctaw.org</a></p> <p>Method of contact for project notification and documentation: email to Primary contact.</p>	<p><b>Jena Band of Choctaw Indians</b></p> <p><u>Secondary:</u>  B. Cheryl Smith, Chief  Jena Band of Choctaw Indians  1052 Chanaha Hina Street  Trout, LA 71371  (318) 992-2717  <a href="mailto:chief@jenachoctaw.org">chief@jenachoctaw.org</a></p>
<p><b>Mississippi Band of Choctaw Indians</b></p> <p><u>Primary:</u>  Ms. Melanie Carson, THPO  Mississippi Band of Choctaw Indians  MBCI Planning Office  101 Industrial Rd  Choctaw, MS 39350  <a href="mailto:MCarson@choctaw.org">MCarson@choctaw.org</a></p> <p><a href="mailto:THPO@choctaw.org">THPO@choctaw.org</a></p> <p>Method of contact for project notification and documentation: email to <a href="mailto:THPO@choctaw.org">THPO@choctaw.org</a> and a copy to the Primary contact.</p>	<p><b>Mississippi Band of Choctaw Indians</b></p> <p><u>Secondary:</u>  Ben Cyrus, Chief  Mississippi Band of Choctaw Indians  101 Industrial Road  Choctaw, MS 39350  (601) 656-5251  <a href="mailto:info@choctaw.org">info@choctaw.org</a></p>



<p><b>Muscogee (Creek) Nation</b></p> <p><u>Primary:</u>  Dr. Savannah J. Waters, THPO  Historic and Cultural Preservation Office  The Muscogee (Creek) Nation  P.O. Box 580  Okmulgee, OK 74447  <a href="mailto:swaters@muscogeenation.com">swaters@muscogeenation.com</a></p> <p><a href="mailto:Section106@muscogeenation.com">Section106@muscogeenation.com</a></p> <p>Method of contact for project notification and documentation: email to  <a href="mailto:Section106@muscogeenation.com">Section106@muscogeenation.com</a></p>	<p><b>Muscogee (Creek) Nation</b></p> <p><u>Secondary:</u>  Principal Chief, David Hill  Muscogee (Creek) Nation  Historic &amp; Cultural Preservation Office  P.O. Box 580  Okmulgee, OK 74447</p>
<p><b>Quapaw Nation</b></p> <p><u>Primary:</u>  Ms. Billie Burtrum, Preservation Officer,  THPO  Quapaw Nation Historic Preservation  Program (QNHPP) Director  Quapaw Nation  P.O. Box 765  Quapaw, OK 74363  <a href="mailto:Billie.Burtrum@quapawnation.com">Billie.Burtrum@quapawnation.com</a></p> <p><a href="mailto:section106@quapawnation.com">section106@quapawnation.com</a></p> <p>Method of contact for project notification and documentation:  <a href="mailto:Section106@quapawnation.com">Section106@quapawnation.com</a> and copy to  Primary contact.</p>	<p><b>Quapaw Nation</b></p> <p><u>Secondary:</u>  Honorable Wena Suernaw,  Quapaw Nation Chair  Quapaw Nation  P.O. Box 765  Quapaw, OK 74363-0765</p> <p>Ms. Cheyenne Greenup, Preservation Officer  QNHPP  P.O. Box  Quapaw, OK 74363  <a href="mailto:Cheyenne.greenup@quapawnation.com">Cheyenne.greenup@quapawnation.com</a></p>
<p><b>Seminole Nation of Oklahoma</b></p> <p><u>Primary:</u>  Mr. Benjamin Yahola, THPO  Seminole Nation of Oklahoma  36645 US-270  Wewoka, OK 74884  <a href="mailto:yahola.b@sno-nsn.gov">yahola.b@sno-nsn.gov</a></p> <p>Method of contact for project notification and documentation: email to Primary Contact.</p>	<p><b>Seminole Nation of Oklahoma</b></p> <p><u>Secondary:</u>  Honorable Lewis J. Johnson, Principal Chief  Seminole Nation of Oklahoma  36645 US-270  Wewoka, Oklahoma 74884</p>

<p><b>Seminole Tribe of Florida</b></p> <p><u>Primary:</u>  Ms. Tina Osceola, THPO  Seminole Tribe of Florida  6300 Stirling Road  Hollywood, FL 33024</p> <p><a href="mailto:Chairman@semtribe.com">Chairman@semtribe.com</a></p> <p>Method of contact for project notification and documentation: email to Primary Contact.</p>	<p><b>Seminole Tribe of Florida</b></p> <p><u>Secondary:</u>  Honorable Marcellus W. Osceola Jr., Chairman  Seminole Tribe of Florida  6300 Stirling Road  Hollywood, FL 33024</p>
<p><b>Tunica-Biloxi Tribe of Louisiana</b></p> <p><u>Primary:</u>  Mr. Earl J. Barbry, Jr., THPO  Tunica-Biloxi Tribal Historic Preservation Office  151 Melancon Drive  Marksville, LA 71351  Telephone: (800) 272-9767, ext. 6451  <a href="mailto:earlii@tunica.org">earlii@tunica.org</a></p> <p>Method of contact for project notification and documentation: email to Primary Contact and copy <a href="mailto:TMartin@tunica.org">TMartin@tunica.org</a></p>	<p><b>Tunica-Biloxi Tribe of Louisiana</b></p> <p><u>Secondary:</u>  Chairman Marshall Pierite  Tunica-Biloxi Tribe of Louisiana  151 Melancon Drive  Marksville, LA 71351  Telephone: (318) 253-9767  <a href="mailto:marshallpierite@tunica.org">marshallpierite@tunica.org</a></p> <p>Mr. Tim Martin, Administrator  151 Melancon Drive  Marksville, LA 71351  <a href="mailto:TMartin@tunica.org">TMartin@tunica.org</a></p>
<p><b>United Keetoowah Band of Cherokee Indians</b></p> <p><u>Primary:</u>  Mr. Jason Dalton, THPO  United Keetoowah Band of Cherokee Indians  P.O. Box 746  Tahlequah, OK 74465-0746  <a href="mailto:jdalton@ukb-nsn.gov">jdalton@ukb-nsn.gov</a></p> <p><a href="mailto:ukbthpo@ukb-nsn.gov">ukbthpo@ukb-nsn.gov</a></p> <p>Method of contact for project notification and documentation: email to Primary Contact and copy <a href="mailto:ukbthpo@ukb-nsn.gov">ukbthpo@ukb-nsn.gov</a></p>	<p><b>United Keetoowah Band of Cherokee Indians</b></p> <p><u>Secondary:</u>  Honorable George Wickliffe, Chief  United Keetoowah Band of Cherokee Indians  P.O. Box 746  Tahlequah, OK 74465-0746</p>

<b>SHPOS &amp; Other Non-Federal Organizations</b>	
<b>Advisory Council on Historic Preservation</b>  <u>Primary:</u> Mr. Christopher Daniel, Program Analyst Advisory Council on Historic Preservation 401 F Street NW, Suite 308 Washington DC 20001-2637 (202) 517-0223 e106@achp.gov; <a href="mailto:cdaniel@achp.gov">cdaniel@achp.gov</a>  Method of contact for project notification and documentation: email to <a href="mailto:e106@achp.gov">e106@achp.gov</a> and copy to Primary contact email.  Method of contact for other communication: email, phone call.	<b>Advisory Council on Historic Preservation</b>  <u>Secondary:</u> Ms. Jamie Loichinger, Director Office of Federal Agency Programs Advisory Council on Historic Preservation 401 F. Street NW, Suite 308 Washington, DC 20001-2637 (202) 517-0222 <a href="mailto:jloichinger@achp.gov">jloichinger@achp.gov</a>  Method of contact for project notification and documentation: email to <a href="mailto:e106@achp.gov">e106@achp.gov</a> and copy to Primary contact email.  Method of contact for other communication: email, phone call
<b>Mississippi Department of Archives and History</b>  <u>Primary:</u> Mr. Hal Bell, Review and Compliance Officer State Historic Preservation Office Mississippi Department of Archives and History Historic Preservation Division P.O. Box 571 Jackson, Mississippi 39205-0571 Telephone: Office (601) 576-6957 <a href="mailto:hbelle@mdah.ms.gov">hbelle@mdah.ms.gov</a>  Method of contact for project notification and documentation: online submission at <a href="https://www.mdah.ms.gov/historic-preservation/section-106-review">https://www.mdah.ms.gov/historic-preservation/section-106-review</a>  Method of contact for other communication: email, phone call	<b>Mississippi Department of Archives and History</b>  <u>Secondary:</u> Ms. Cindy Carter-Davis, Chief Archaeologist State Historic Preservation Office Mississippi Department of Archives and History Historic Preservation Division P.O. Box 571 Jackson, MS 39205-0571 Telephone(office): 601-576-6945 E-mail: <a href="mailto:ccarterdavis@mdah.ms.gov">ccarterdavis@mdah.ms.gov</a>

## Appendix C: (Reserved)

## **Appendix D: Heritage Study**

As provided in Stipulation VII E. of this Agreement, a heritage study will be developed by USACE after discussions with the MS SHPO, appropriate Federally-recognized Tribe(s), and other consulting parties, as appropriate, and will be documented in writing. USACE will provide the MS SHPO, appropriate Federally-recognized Tribe(s), and other consulting parties, as appropriate, with the opportunity to concur on the proposed scope/plan. This scope shall identify the natural, cultural, historic, and scenic resources of the Coldwater River basin as they combine to form a cohesive, nationally distinctive landscape that has arisen from patterns of human activity shaped by geography. In association with the above information, a comprehensive listing of repositories housing archaeological collections identified as falling within this cultural landscape will be compiled for reference purposes.

The scope shall identify, at a minimum and as appropriate: the responsible party/entity that will implement and complete the proposed work; the scope of work and the standards that will apply to the preparation and distribution of a deliverable; the deliverable(s) (e.g. the quantity, approximate size, materials, content, final ownership/copyrights); any professional qualifications that will be required to prepare deliverable(s) described in the scope; the repositories and/or parties that will receive copies of a deliverable and the disposition of any deliverable that is not curated; points when USACE, agent or contractor, SHPO/THPO, and/or 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.

USACE will provide written notice to the MS SHPO, appropriate Federally-recognized Tribe(s), and other consulting parties, as appropriate, within sixty (60) days of the completion of the scope. Any dispute regarding the implementation of this study will be resolved following the process set out in Stipulation XI, Dispute Resolution.

This Appendix may be amended in accordance with the process set out in Stipulation XIII of this Agreement for amending appendices.

## **Appendix E: Monitoring Measures**

### **Lake/Reservoir Cultural Resources**

The National Historic Preservation Act (NHPA) of 1966 (as amended) plays a central role in the nation's historic preservation and CRM programs. Section 110 of the NHPA requires agencies to "establish ... a preservation program for the identification, evaluation, and nomination to the National Register of Historic Places, and protection of historic properties" (Section 110, 16 U.S.C. 470h-2). Little guidance is provided as to how this protection can be accomplished. Nevertheless, this mandate to protect historic properties clearly demands an awareness of potential threats and changes (i.e., deterioration) in a site's condition.

Archaeological sites are at risk of being adversely impacted even before they have been identified and evaluated by a Federal agency or other organization. Many sites are discovered during the course of a field survey conducted in compliance with NHPA's Section 106 (16 U.S. Code [U.S.C.] 470f and its implementing regulations 36 Code of Federal Regulations [CFR] Part 800), which require Federal agencies to "... take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register." Field surveys (supplemented by archival research) are designed to locate historic properties that may be impacted by planned or possible future undertakings.

Federal land managing agencies also conduct archaeological surveys to comply with the NHPA Section 110 requirement that agencies maintain a historic preservation program to identify and protect historic properties. Large-scale surveys conducted on military installations under Section 110 sometimes identify dozens of sites that require a formal NRHP eligibility assessment. Often available funds permit the assessment of only few sites per year, leaving many sites in the category of "potentially eligible." Both NRHP eligible and potentially eligible sites are vulnerable to a wide range of adverse impacts. Protecting historic properties (including archaeological resources) as mandated by NHPA clearly requires that sites be revisited periodically to ensure that they are not being damaged by natural processes or cultural activities.

Full compliance with several other Federal laws designed to protect archaeological resources also requires monitoring. The Archaeological Resources Protection Act (ARPA) of 1979, as amended (Public Law [P.L.] 96-95) is designed to preserve archaeological resources on public and Indian lands for the benefit of the American people. ARPA states that "No person may excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands or Indian lands unless pursuant to a permit ..." (ARPA Sec. 6 [a]). The Native American Graves Protection and Repatriation Act (NAGPRA) of 1991 (P.L. 101-601) requires anyone who intentionally excavates sites on Federal or Indian lands where human remains or items of cultural patrimony may be present to first secure an ARPA permit. A Cultural Resources Manager clearly cannot know if ARPA or NAGPRA violations are occurring unless he/or she monitors site conditions.

A monitoring program will be developed by USACE for sites located within the Arkabutla Lake/Reservoir and will include but not be limited to the following:

1. Natural Impacts (i.e. erosion, seasonal water action/movement); and
2. Human Impacts, including construction, artifact collecting, recreational vehicles, and vandalism.

Initial (baseline) monitoring visits, conducted by individuals who meet the professional qualifications described in 36 CFR Part 61 (Secretary of the Interior [SOI] standards) focus on recorded and submitting site forms for new resources as well as updating site forms for previously known resources and (including the acquisition of GPS data) and photography, the goal being to determine the relative level of disturbance and current conditions.



Baseline monitoring procedures include a general evaluation: walk the site, locate the boundaries, search for human and natural impacts, and take photographs from each corner of the site and elsewhere as needed. Cultural, erosion, or human impacts will be documented using GPS and photography: Photographs will be taken from the same position on the site, oriented the same direction during the monitoring cycle to ensure comparability of results. Evidence of artifact collecting and looting will be recorded on the site form and documented with photographs. That information will be passed on to lake personnel and local law enforcement.

Routine monitoring can be conducted by individuals who do not meet the requirements stipulated in 36 CFR Part 61. Monitoring visits will focus on the collection of GPS and photographic data that can be compared with data from previous visits in order to detect the existence and magnitude of changes in site condition. Photographs must be well documented as to the camera's location and view. All monitoring data (including photographs, GPS data, and site forms) will be confidentially maintained by RPEDS cultural resources personnel.

## Construction Monitoring

### **1. Monitoring Methodology**

- a. An SOI qualified archaeologist(s) must be present for all monitored excavations. Selection of a prehistoric or historic qualified archaeologist should be based upon the type of archaeological deposits anticipated to be encountered.
  - i. The monitor should be present for all excavations within high site probability areas.
  - ii. Circumstances that limit or prevent visual examination of project excavations must be described/reported and the unexamined or minimally examined areas delineated on a project area mapping.
  - iii. At the discretion of the monitoring archaeologist(s), excavation or other ground-disturbing activities must be halted any time a suspected archaeological feature or deposit is encountered.
    1. Excavations in the area of the discovery must remain halted until the archaeologist(s) can determine the nature, extent, and age of the archaeological deposit.
    2. If the initial examination determines the deposit may have sufficient integrity and content to be considered potentially eligible for nomination to the National Register, all further excavations in the vicinity of the deposit must be halted until a complete eligibility determination can be made.
    3. Excavations outside of the find location may proceed with continued monitoring.
  - iv. Reporting document(s) must include a map showing the locations of all excavations, surface features/structures, topography, and identified archaeological deposits within the project area where archaeological monitoring is occurring.
  - v. Representative profiles of all excavations should be recorded in the field by both photographs and illustrations.
- b. In the event human remains should be encountered during an archaeological monitoring project, work must stop immediately in the vicinity of the uncovered human remains. Immediate notice regarding the discovery should be made to the appropriate local law enforcement agency, the lead federal agency, the County Coroner's Office, and the State Archaeologist following the provisions of the Mississippi Burial Law in accordance with Stipulation IX (TREATMENT OF HUMAN REMAINS AND ITEMS OF RELIGIOUS AND CULTURAL IMPORTANCE) of this Agreement.

## **2. Defining Archaeological Site Boundaries**

- i. If archaeological deposits are encountered within the mechanically excavated construction area, investigators must provide the UTM coordinates of the center point of an archaeological deposit by a Global Positioning System (GPS) device.
- ii. Locations of cultural material that are more than 50 years old, but do not meet other qualifications for being recorded as a site should be considered Isolated Finds and included in the report on monitoring investigations.
- iii. At the completion of the monitoring, investigators must assess if an identified site is eligible, not eligible, or undetermined for nomination to the National Register of Historic Places. Documentation for these assessments should be provided in the report submitted to all consulting parties.
- iv. A site form or site update form must be filed for every site identified or revisited during a monitoring project.

## **3. Collection Standards**

- i. Investigators must retain all diagnostic artifacts and a representative sample of non-diagnostic items recovered from these disturbed contexts. After counting or weighing in the field or lab, bulk materials such as brick, mortar, plaster, shell, and gravel may be discarded except for a 10% representative sample per provenience.
- ii. Investigators must separate all archaeological materials by their provenience for curation.
- iii. Investigators must retain all field notes, field forms, photographs, and other documentation for curation.

## Appendix F: Treatment Measures

As provided in Stipulation VII B. 7, if an Undertaking may adversely affect a historic property, USACE may propose to resolve the adverse effect through the application of one or more of the Treatment Measures set out below. The selected measures will be developed by USACE after discussions with the SHPO, appropriate Federally-recognized Tribe(s), and other consulting parties, as appropriate, and will be documented in writing (in a Treatment Plan). USACE will provide the SHPO, appropriate Federally-recognized Tribe(s), and other consulting parties, as appropriate, with the opportunity to concur on the proposed Treatment Measures as set out in Stipulation VII.B.

The Treatment Plan shall identify, at a minimum and as appropriate: the responsible party/entity that will implement and complete each treatment measure; the scope of work and the standards that will apply to the preparation and distribution of a deliverable; the deliverable(s) (e.g. the quantity, approximate size, materials, content, final ownership/copyrights); measures to ensure that any treatment measure documenting the condition of or requiring the data recovery on the historic property is implemented before the property is adversely affected; any professional qualifications that will be required to prepare deliverable(s) described in the Treatment Measure(s); the repositories and/or parties that will receive copies of a deliverable and the disposition of any deliverable that is not curated; points when USACE, NFS, agent or contractor, SHPO/THPO(s), and/or 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.

USACE will provide written notice to the SHPO, appropriate Federally-recognized Tribe(s), and other consulting parties, as appropriate, within sixty (60) days of the completion of the Treatment Measures as required by Stipulation VII. B. USACE shall include information pertaining to the progress of and completion of all Treatment Measures in the annual report pursuant to Stipulation III. USACE Roles and Responsibilities.

Any dispute regarding the implementation of a Treatment Plan will be resolved following the process set out in Stipulation XI, Dispute Resolution.

This Appendix may be amended in accordance with the process set out in Stipulation XIII of this Agreement for amending appendices.

**\*\*Reminder\*\*** should there be human remains associated with/anticipated during implementation of a Treatment Plan, review Stipulation IX Treatment of Human Remains to ensure accepted protocols are followed.

If USACE, in consultation with the MS SHPO, Federally-recognized Tribes, and other consulting parties, determines that a treatment measure, including Alternative Mitigation\*, *not included* in the list below is in the public interest and is the most appropriate means to resolve an adverse effect, USACE will initiate consultation to develop an MOA or a Programmatic Agreement as set out in Stipulation VII.B.

\*Alternate Mitigation means something alternative to either the location or the action that is agreed to be a meaningful offsetting of the adverse effects. Easy examples are for survey of lands unaffected by the project in exchange for no mitigation/data recovery for the specified archaeological site. Agencies have a difficult time justifying the funding for these actions unless it can clearly be demonstrated to be in the public interest.

## List of Treatment Measures:

1. **PHOTOGRAPHIC RECORDATION:** USACE, in consultation with the SHPO, and/or, Federally-recognized Tribe(s), and other consulting parties, 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 that will be adversely affected by an Undertaking. The photographic specifications set out below were previously determined by USACE, in consultation with the appropriate SHPO, to meet archival standards and are provided for guidance. Photographic images may include existing drawings and plans. If the parties determine that it is in the public interest to document a property through the preparation of measured drawings, USACE will initiate consultation to develop an MOA.
- A. **Recordation for Standing Structures (Flexible Standards):** The responsible entity will **ensure that a trained professional** 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 USACE, in consultation with the National Park Service (NPS), agent or contractor, SHPO, and/or Federally-recognized Tribe(s), and other consulting parties, as appropriate, and will print specifically identified images.
  1. Digital Photography: The digital photography and color photographs must comply with the “Best” category of requirements from the National Register Photo Policy Fact Sheet:  
[http://www.nps.gov/nr/publications/bulletins/photopolicy/Photo\\_Policy\\_update\\_2013\\_05\\_15.pdf](http://www.nps.gov/nr/publications/bulletins/photopolicy/Photo_Policy_update_2013_05_15.pdf), with the following additional requirements:
    - Image files must be saved as both TIFF and JPEG files.
    - Color images must be produced in RGB (Red/Green/Blue) color mode as 24-bit or 48-bit color files.
    - In addition to the requirements specified by the latest National Register Photo Policy, photographs will be digitally labeled to state the address (name of facility, street number, street name, city, and state); date of photograph; description of view, including direction of camera; and name of photographer/agency.
  2. 35mm Black/White and Color Photography: Photographs must be taken with a 35MM SLR Camera or a 35 MM point-and-shoot camera using 35 MM black/white or color film. Photographs taken with disposable cameras are not acceptable.
    - The 35 mm film black/white or color film photography package will include one (1) full set of 35mm film black/white or color photographs printed on acid free paper specifically designed for color prints, the corresponding 35mm film negatives in acid free sleeves.
    - Photographs will be labeled in pencil on the back to state the address, name of facility, street number, street name, city, and state; date of photograph; description of view, including direction of camera; and name of photographer/agency.
  3. Large Format Photography: Photographs must be taken with a large-format view camera with ample movement for perspective correction. The minimal complement of lenses includes a sharp rectilinear wide angle, a normal, and a mildly telephoto lens.
    - Acceptable film formats are 4x5, 5x7, and 8x10. Acceptable polyester-based films include those of medium and slow speed (100 and 400 ASA) produced by Kodak, Ilford, and others.

- The large format film photography package will include one (1) full set of 4 x 5 or 5 x 7-inch photographs printed on acid free paper, the corresponding 4 x 5 or 5 x 7-inch negatives in acid free sleeves.
  - Photographs will be labeled in pencil on the back to state the address name of facility, street number, street name, city, and state; date of photograph; description of view, including direction of camera; and name of photographer/agency.
4. Video: A video documentary regarding the historic property may include on-camera interviews, archival footage and/or images, current footage of the historic property, and current footage of other similar historic properties. The content and length of the video will be described in the treatment measure.
  5. Narrative History: A narrative history may be prepared to provide a context for the photographs following the Historic American Building Survey (HABS) Historical Reports: Short or Outline format.
  6. 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.
  7. Review: The responsible entity may informally consult with USACE and SHPO, and/or Tribe(s) 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 treatment measure.
  8. Distribution: The responsible entity will prepare a minimum of three archival quality copies of the recordation materials and will forward two copies to the SHPO and one copy to the U.S. Army Corps of Engineers, Office of History. In consultation with the SHPO, and/or Federally-recognized Tribe(s), and other consulting parties, as appropriate, may identify additional archives and/or parties that will receive copies of the recordation materials. The responsible entity will provide USACE with documentation confirming that the recordation materials have been archived as described in the treatment measure.

**B. Recordation for Standing Structures (Established Standards):** The treatment plan 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 entity. Choices will be made between the **Historic American Building Standards (HABS)**, the **Historic American Engineering Standards (HAER)**; or the **Historic American Landscape Standards (HALS) at Level III, Level II or Level I**. During the development of the Treatment Plan USACE will coordinate with the SHPO and appropriate Federally-recognized Tribe(s), as necessary to make the selection. For any project requiring recordation to any of these standards, USACE will ensure that a trained professional photograph 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 USACE, in consultation with the SHPO and/or the appropriate Federally-recognized Tribe(s), and other consulting parties, as appropriate, and will print specifically identified images and produce the required historical narrative:

## **2. Public Interpretation**

USACE shall consult with the SHPO and appropriate Federally-recognized Tribe(s), 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, the MS SHPO may request that the proposed historical marker conform to the requirements of the state in question, and request that the NFS apply to state programs to provide for a uniform interpretive program.

## **3. Historical Context Statements**

USACE shall consult with the SHPO and appropriate Federally-recognized Tribe(s), and other consulting parties, as appropriate to identify the topic; audience; framework of a historic context statement; and format for the final deliverable. The context statement may focus on an individual property, a historic district, a set of related properties, or relevant themes as identified in the specific statewide preservation plan or the National Park Service's National Historic Landmark Thematic Framework.

## **4. Oral History Documentation**

USACE shall consult with the SHPO and appropriate Federally-recognized Tribe(s), 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 the appropriate SHPO and relevant Tribe(s); and format for the final deliverable.

## **5. Historic Property Inventory**

USACE shall consult with the SHPO and appropriate Federally-recognized Tribe(s), and other consulting parties, as appropriate, to establish the appropriate level of effort to accomplish an inventory/re-inventory. Efforts may be directed toward the resurvey of previously designated historic properties, per 36 CFR 800.16(l), which have undergone change or lack sufficient documentation, or the survey of new historic properties and/or districts that lack formal designation. The proposed treatment measure will describe the boundaries of the survey area and the data collection method in keeping with the MS SHPO's guidance for surveys and define the survey objective.

## **6. National Register and National Historic Landmark Nominations**

USACE shall consult with the SHPO, appropriate Federally-recognized Tribe(s), and other consulting parties, as appropriate, to identify the individual properties that would benefit from a completed National Register of Historic Places (NRHP) or National Historic Landmark (NHL) nomination form. Once the parties have agreed to a property, the responsible entity will continue to coordinate with USACE, the MS SHPO, appropriate Federally-recognized Tribe(s), and other consulting parties, as appropriate, through the drafting of the NRHP nomination form or will contact the NHL Program to begin the nomination process. The MS SHPO and/or Federally-recognized Tribe(s) will provide adequate guidance to the responsible entity during the preparation of the nomination form. The responsible entity will work with the MS SHPO to ensure the completed NRHP form is presented to the particular state's National Register Review Committee in a timely manner for consideration by the State Historic Preservation Officer and the Keeper of the Register.

## **7. Geo-References of Historical Maps and Aerial Photographs**

USACE shall consult with the SHPO, appropriate Federally-recognized Tribe(s), and other consulting parties, as appropriate, to identify the historical maps and/or aerial photographs for scanning and geo-referencing. Once a list of maps and/or aerial photographs have been agreed upon, the responsible entity will continue to coordinate with USACE, the appropriate SHPO, Tribe(s), and other consulting parties, SHPO, and/or Tribe(s), and other consulting parties, as appropriate, through the scanning and geo-referencing process and will submit drafts of paper maps and electronic files to USACE, the appropriate SHPO, Tribe(s), and other consulting parties, SHPO, and/or Tribe(s), and other consulting parties, as appropriate, for review. The final deliverable produced by the responsible entity will include a 1) 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.

## **8. Archaeological Research Design and Data Recovery Plan**

USACE shall develop and implement a data recovery plan with a research design in consultation with the SHPO, appropriate Federally-recognized tribe(s), and other consulting parties, as appropriate, 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 Undertaking. The research design and data recovery plan will be consistent with the Secretary of the Interior's Guidelines for Archaeological Documentation ([http://www.nps.gov/history/local-law/arch\\_stnds\\_7.htm](http://www.nps.gov/history/local-law/arch_stnds_7.htm)) ACHP's recommendations on the recovery of significant information from archaeological sites. <http://www.achp.gov/archguide.html>. All work shall conform to the most current guidelines per the MS SHPO and as augmented by Federally-recognized Tribal or other local guidelines, as provide in Stipulation VI. Standards, and, if applicable, Stipulation IX. Treatment of Human Remains and Items of Religious and Cultural Importance.

## **9. Marketing Plan for Demolition or Abandonment**

USACE shall consult with the SHPO, appropriate Federally-recognized tribe(s), and other consulting parties, as appropriate, to develop and implement a feasible marketing plan to advertise the availability of historic structures identified for demolition or abandonment for sale and/or relocation. A good faith and reasonable marketing plan will include publicizing and advertising the property in newspapers, magazines, and/or websites of record for a specific period of time. The plan may require the purchaser to relocate the property outside of the Special Flood Hazard Area (100-year floodplain), and the plan will give preference to a purchaser who proposes to use a professional house mover that follows the recommendations in Moving Historic Buildings by John Obed Curtis (1975, reprinted 1991 by W. Patram for the International Association of Structural Movers) or other similar updated reference material. If a good faith and reasonable marketing effort does not result in the identification of a party or parties willing to purchase and, if necessary, relocate the property, the property may be demolished or abandoned. This marketing plan will be used in conjunction with Treatment Measure I, Recordation Package. USACE will ensure that the property is recorded prior to relocation or demolition.

## **10. Salvage**

The contractor shall work with USACE, the MS SHPO, and/or appropriate Federally-recognized Tribe(s), and other consulting parties, as appropriate, to identify selective architectural elements that



may be salvaged from a building/structure slated for demolition. The elements will be removed at the agent or contractor's expense. The salvaged elements may be re-used in another structure or in displays for educational purposes. As an alternative, the agent or contractor, in consultation with USACE, SHPO, and/or Tribe(s), and other consulting parties will attempt to identify a private or public not-for-profit local or regional historic preservation organization interested in receiving a donation of the architectural features. The organization may sell the architectural features to the general public for the specific purpose of raising funds to support future historic preservation activities in the region. Any income derived by the agent or contractor from the sale of architectural features may be considered project income by the program to be deducted from proceeds of the grant. Salvage activities shall not occur at or below grade in order to avoid affecting unevaluated archaeological resources.

## **11. Assessment and Reduction of Vibratory Affects**

USACE shall consult with the SHPO, appropriate Federally-recognized tribe(s), and other consulting parties, as appropriate, to develop and implement a feasible vibratory reduction strategy. The plan will follow the best practices outlined in NCHRP 25-25, *Current Practices to Address Construction Vibration and Potential Effects to Historic Buildings Adjacent to Transportation Projects* (2012) or similar. Generalized steps are the following: 1) Consultation between historic building owner, Project Delivery Team and reviewing agencies such as SHPO and local planning departments to identify potential risks, negotiate changes and agreement on protective measures. 2) Documentation of the condition of the building prior to commencement of adjacent work, including a detailed photo survey of existing damage as specified in the particular treatment plan. 3) Establishment of vibration limits not to be exceeded based on condition of building, founding soil conditions, and type of construction vibration. 4) Implementation of protective measures at both the construction site and the historic building, which could include specific means and methods to be used and those that will not be used and as specified in the BCOES. 5) Implement regular monitoring during construction to identify damage, evaluate the efficacy of protective measures already in place and to identify and implement additional corrective steps. The results of any implemented plan will be shared with the consulting parties to the particular adverse effect and summarized in the annual plan.

## **12. Public Participation in Effects Mitigation/Resolution**

USACE shall include public participation in developing and implementing mitigation measures. Providing information and opportunities for the public to interact with historic properties reinforces the public value of the Section 106 review process. Public participation measures can be incorporated as standalone stipulations, or there can be a public or community involvement aspect incorporated in another stipulation. Interpretation stipulations can encompass a range of activities designed to make information about the significance of historic properties accessible to the public. Agencies and consulting parties should consider the vast array of possible interpretive efforts, including but not limited to the following:

- Development of websites
- Managing and enhancing heritage tourism
- Interpretive or wayside panels/signage
- Articles and scholarly papers/presentations
- Development of school curriculum and vocational training
- Partnering with Tribal parties for interpretation and education
- Involving community or youth groups in implementation of interpretation

- A comprehensive program of documentation and research leading to a variety of interpretive products: videos, podcasts, apps, websites, brochures, books, museum exhibits, visitor kiosks, lesson plans, posters, walking tours, pocket guides, and games.

### **13. Indigenous Knowledge/Traditional Ecological Knowledge/Native Science**

USACE recognizes the importance of Indigenous Knowledge (IK), also known as Traditional Ecological Knowledge (TEK) or Native Science, in its work with Tribal Nations (see Engineering Pamphlet [EP]-1105-2-64) ([https://www.publications.usace.army.mil/Portals/76/EP%201105-2-64\\_2024%2002%2022.pdf](https://www.publications.usace.army.mil/Portals/76/EP%201105-2-64_2024%2002%2022.pdf)). This represents a body of knowledge that includes observations, practices, beliefs, and innovations developed by Indigenous Peoples over thousands of years. It is based on direct contact with the environment and is often passed down through generations. The USACE's Tribal Consultation Policy recognizes and promotes Tribal sovereignty and self-determination. The policy emphasizes the use of Indigenous Knowledge and Tribal expertise in the USACE's Civil Works programs. USACE and consulting parties should consider the vast array of possible partnership opportunities, including but not limited to the following:

- Water resources/watersheds:
  - i. Cultural and natural resource preservation – training and public outreach
  - ii. Educational outreach
- Climate change assessments/analyses:
  - i. Weather patterns
  - ii. Changes in seasonal water levels