

**PROGRAMMATIC AGREEMENT
AMONG
THE UNITED STATES ARMY CORPS OF ENGINEERS, ALBUQUERQUE DISTRICT
AND
THE NEWMEXICO STATE HISTORIC PRESERVATION OFFICER
AND
THE COLORADO STATE HISTORIC PRESERVATION OFFICER
AND
THE PUEBLO OF SANTA ANA TRIBAL HISTORIC PRESERVATION OFFICER**

**REGARDING
ROUTINE OPERATIONS AND MAINTENANCE UNDERTAKINGS THAT HAVE THE
POTENTIAL TO AFFECT HISTORIC PROPERTIES AT FLOOD CONTROL PROJECTS**

WHEREAS, the United States Army Corps of Engineers, Albuquerque District (Corps) manages the resources of nine flood control projects (Projects) which includes in New Mexico: Abiquiu Dam and Reservoir, Cochiti Dam and Reservoir, Conchas Reservoir, Galisteo Dam and Reservoir, Jemez Canyon Dam and Reservoir, Santa Rosa Dam and Lake and Two Rivers Reservoir and in Colorado: John Martin Dam and Reservoir and Trinidad Lake; and

WHEREAS, during government-to-government consultation with the Pueblo de Cochiti the two parties determined that they would pursue a separate PA for undertakings occurring at Cochiti Dam and Reservoir, and thus, Cochiti Dam and Reservoir will not be included in this PA; and

WHEREAS, the Corps has a federal mission which includes operation of these dams and reservoirs for specific Congressionally-authorized purposes, generally for the primary purposes of flood control and sediment retention, and for the secondary purposes of public recreation and conservation storage of water owned by other Federal and private entities; and

WHEREAS, these dams constitute vital public safety infrastructure, the function and operation of which serve to protect life and property; and

WHEREAS, the Corps has determined that many of its management activities related to the operation of its dams and reservoirs are federal undertakings, pursuant to Section 106 and Section 110 of the National Historic Preservation Act (NHPA) of 1966, as amended (54 U.S.C. §306108), that may affect properties included in, or eligible for inclusion in, the National Register of Historic Places; and

WHEREAS, the Corps has consulted with the Advisory Council on Historic Preservation (Council) and the State Historic Preservation Officers (SHPOs) of the States of New Mexico and Colorado pursuant to section 800.14(b) of 36 CFR 800, the regulations implementing Section 106 of the NHPA (54 U.S.C. §306108) as amended, and Section 110(f) of the same statute (54 U.S.C. §306107); and

WHEREAS, the Council has declined to participate in the development of this programmatic agreement (PA) in a letter dated December 4, 2014; and

WHEREAS, the Corps' Jemez Dam and Reservoir is located on tribal lands of the Pueblo of Santa Ana (hereafter the Pueblo) and pursuant to 36 CFR 800.2(c)(2)(i) and 36 CFR 800.14(f) the Corps has consulted on a government-to-government basis with the Pueblo of Santa Ana and invited them to be Signatories to this PA; and

WHEREAS, the Pueblo of Santa Ana has assumed the responsibilities of the SHPO under Section 101(d)(2) (54 U.S.C. §302702) of the NHPA and appointed a Tribal Historic Preservation Officer (THPO); and

WHEREAS, in the development of this PA, the Corps has consulted other Federally-recognized Native American Tribes with cultural affinity to historic properties in the vicinity of each Corps Project (see Appendix C), pursuant to 36 CFR 800.2(c)(2) and 36 CFR 800.14(f); and

WHEREAS, the Corps has consulted the public and other interested parties (see Appendix C) pursuant to 36 CFR 800.14(b)(2) and has invited New Mexico State Parks, which leases land from the Corps and manages recreation at the Santa Rosa Lake and Conchas Lake Projects in New Mexico, and Colorado Parks and Wildlife, which leases land from the Corps and manages recreation at Trinidad Lake and John Martin Dam and Reservoir Projects in Colorado, to be concurring parties to this PA; and

WHEREAS, this PA does not pertain to or affect undertakings subject to the Corps' regulatory responsibility under Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act and the implementing regulations at 33 CFR Parts 320-332 (the Corps Regulatory Program); and

WHEREAS, the Signatory parties share a common desire to develop a flexible, programmatic approach for implementing Section 106 of NHPA that will satisfactorily take into account the effects of Corps undertakings on historic properties, provide for appropriate tribal consultation and public participation, minimize redundant documentation, and reduce the need for case-by-case review of routine undertakings when historic properties will not be affected or when undertakings have predictable effects and have a very low likelihood of affecting historic properties;

NOW THEREFORE, the Corps, the Pueblo and the SHPOs agree that the Corps shall administer its activities subject to Section 106 of the NHPA in accordance with the following stipulations:

STIPULATIONS

Definitions. The definitions found at 36 CFR § 800.16 apply throughout this PA except where another definition is provided in Appendix B.

I. Management of Historic Properties

- A. The Corps shall continue its management and preservation of historic properties at each of its Projects through implementation of Department of Defense (DoD) Instruction 4715.16 and Corps policy and guidance found in Engineering Regulation ER-1130-2-540 and Engineering Pamphlet EP-1130-2-540 which states that "the Corps of Engineers will manage federally owned, administered, or controlled historic properties in a spirit of stewardship for the inspiration and benefit of present and future generations."
- B. The Corps will update individual Historic Properties Management Plans (HPMP) as specified in Corps policy and guidance found in ER-1130-2-540 and EP-1130-2-540 in consultation with the appropriate SHPO and/or THPO, Tribes, and other consulting parties. The purpose of a HPMP is to provide a comprehensive program to direct the historic preservation activities and objectives at each Project individually, and to provide a basis for effective management and protection of historic properties. The Corps will create and/or review HPMP documents every five (5) years in accordance with Corps regulations and Corps Master Planning schedules, and update them as necessary. Appendix D of this PA provides information on the status of HPMP documents for all Projects.

II. Tribal Consultation

- A. The Corps shall, in accordance with Section 101(d)(6)(A) (54 U.S.C. § 302706(b)) of the NHPA, consult with Native American Tribes that may attach traditional religious and cultural significance to historic properties that may be affected by Corps undertakings at each Project. The Corps shall follow the principles of the Memorandum for Commanders, USACE, Tribal Consultation Policy dated November 1, 2012, and the *U.S. Department of Defense American Indian and Alaska Native Policy* to guide its tribal consultation procedures and relationships. The Corps shall follow the regulations in 36 CFR 800.2(c)(2) when consulting Native American Tribes regarding undertakings at Corps Projects.
- B. The Corps shall be sensitive to tribal concerns and rights regarding confidentiality and privacy and shall protect sensitive information to the fullest extent permitted by law, using applicable provisions and exemptions of Section 304 (54 U.S.C. §307103) of NHPA, Section 9 of the Archaeological Resources Protection Act of 1979 (ARPA) and Section (b) of the Freedom of Information Act.
- C. Undertakings Occurring at Corps Projects on Tribal Lands. The Corps' Jemez Dam and Reservoir Project is located on the tribal lands of Santa Ana Pueblo in Sandoval County, New Mexico. In accordance with 36 CFR 800.2(c)(2)(i)(A), because Santa Ana Pueblo has assumed the responsibilities of the SHPO under Section 101(d)(2) of the NHPA and appointed a THPO, the Corps will consult with the THPO in lieu of the SHPO on undertakings occurring at Jemez Dam and Reservoir.
- D. Undertakings Occurring at Corps Project on Non-Tribal Lands. The Corps will conduct Tribal consultation on non-Tribal lands by sending scoping letters on projected upcoming undertakings to Native American Tribes that may attach

traditional religious and cultural significance to historic properties that may be affected by Corps undertakings at each Project. To the extent possible these scoping letters will be sent quarterly unless no new undertakings have been planned since the most recent letter sent. The Corps may also send scoping letters for individual undertakings more often than quarterly as appropriate. Scoping letters will describe projected upcoming undertakings and seek comment. The Corps will take into account any Tribal comments received. Scoping letters will not be sent for exempted activities listed in Appendix A unless a Professional Archaeologist meeting the requirements in IV.B.2 has reason to believe that a specific exempted activity may affect historic properties.

- E. If a Tribe or Tribes notify the Corps that they determine that an undertaking would adversely affect cultural resources, and that concern or objection cannot be resolved on further discussion between that Tribe or Tribes and the Corps, the Corps will follow the regulations for consultation in 36 CFR 800.5, even if that undertaking would otherwise have resulted in a determination of "no historic properties affected" under Stipulation VI.F or an exemption pursuant to Stipulation V.

III. Public Participation

The Corps shall use its procedures for public involvement under the National Environmental Policy Act (NEPA) to solicit information and concerns about historic properties from members of the public in a manner that reflects the nature and complexity of each undertaking, its potential effect on historic properties, the likely interest of the public on the effects on historic properties, and confidentiality concerns of Native American Tribes. For undertakings that qualify as categorical exclusions, and where appropriate, the Corps shall send scoping letters on projected upcoming undertakings to interested local governments or public groups quarterly.

IV. Personnel

- A. In order to administer its activities subject to Section 106 of the NHPA in accordance with this PA, and in order to conduct cultural resource investigations, the Corps shall use a professional archaeologist who meets the standards established for an archaeologist in the OPM X-118 professional (GS-0193) series or equivalent, or a Federal, Tribal, or private consulting firm staff whose qualifications meet the Secretary of the Interior's Professional Qualifications Standards set forth in the Federal Register at 48 Fed. Reg. 44716-01 (September 29, 1983), as amended, in recommending application of exemptions listed in Appendix A, completing identification and evaluation of historic properties, and in making recommendations of eligibility and effect. The Corps shall review any recommendations of exemptions and/or National Register eligibility recommendation(s) and make its own determination of effect resulting from the performance of the activities prior to submitting such determinations to the SHPO and/or THPO for review.
- B. The following lists the responsibilities and required qualifications for those individuals responsible for implementing this PA.

1. Agency Official. As specified in 36 CFR 800.2(a), the Agency Official shall be the Albuquerque District Commander. The District Commander has approval authority for proposed undertakings and can commit the Federal agency to take appropriate action for a specific undertaking as a result of section 106 compliance under this PA. The District Commander may delegate the authority to make these commitments to another member of his or her staff at his or her discretion.
2. Professional Archaeologist. A Professional Archaeologist is an archaeologist who meets the professional standards established for an archaeologist in the OPM X-118 professional (GS-0193) series or equivalent, or the Secretary of the Interior's Standards and Guidelines for Professional Qualifications (48 FR 44738-44739). The Professional Archaeologist has the following responsibilities under this PA:
 - a. Determining which undertakings qualify as exemptions as specified in Stipulation V.A.1 of this PA;
 - b. Determining the Area of Potential Effect as specified in Stipulation VI.C of this PA;
 - c. Determining the appropriate level of identification required as specified in Stipulation VI.D of this PA;
 - d. Making determinations of eligibility as specified in Stipulation VI.E of this PA;
 - e. Making determinations of effect as specified in Stipulation VI.F of this PA;
 - f. Determining appropriate resolution of adverse effects as specified in Stipulation VI.G of this PA;
 - g. Conducting tribal consultation as specified in Stipulation II of this PA;
 - h. Preparing, reviewing, and submitting for review cultural resources inventory documents as specified in Stipulation XIII of this PA;
3. Professional Archaeologist Hierarchy
 - a. If the Corps has a Professional Archaeologist (District Archaeologist) on staff, then a District Archaeologist shall perform the duties in section IV.B.2. A District Archaeologist may, at his or her discretion, choose to delegate these duties to another Professional Archaeologist.
 - b. In the event that the Corps does not have a District Archaeologist employed within the Albuquerque District, the Corps shall consult a

Professional Archaeologist from another Corps district to perform the duties in section IV.B.2. or contract for the services of a Professional Archaeologist at the sole discretion of the Corps.

4. For guidance on undertakings involving built environment resources where questions of eligibility, effect, and treatment require specialized knowledge, the Professional Archaeologist may at his or her discretion consult the Corps' Technical Center of Expertise for Historic Structures and Buildings (TCX), or in the event that staff at the TCX are not available, the Corps may contract a professional consultant who meets the professional standards of the Secretary's Standards and Guidelines for Professional Qualifications (48 FR 44738-44739).

V. Exemptions

- A. Undertakings Exempt from Review. Certain classes of actions or treatments have predictable effects and little or no potential to affect historic properties and are exempt from further review and/or consultation under the terms of this PA.
 1. Those categories of undertakings listed in Appendix A are exempt from further review or consultation. These include categories of undertakings for which no historic properties are present, or for which the Signatories agree the potential effects on historic properties are foreseeable and likely to be minimal. Appendix A may be revised or updated as needed by mutual written agreement of all Signatories. This will include consultation with Native American Tribes if the proposed revisions to exemptions have the potential to affect historic properties of traditional cultural and religious significance.
 2. The Professional Archaeologist as defined in Stipulation IV shall conduct a review of each exempted activity prior to implementation to determine if the proposed undertaking meets the criteria outlined in Appendix A. If the Professional Archaeologist finds that the undertaking meets the criteria, then the Corps is not required to notify or consult with SHPO, THPO, Tribes or other parties regarding the undertaking.
 3. The Corps, at its discretion, may elect to consult on an otherwise exempt undertaking.
 4. The Corps will provide documentation of the use of an exemption to the appropriate SHPO/THPO as specified in Stipulation XIII.A.

VI. Consultation Procedures

- A. For undertakings not exempt from review pursuant to Stipulation V.A, the Corps shall complete the following steps. Where appropriate, and in accordance with 36

CFR 800.2(c), these steps will be carried out in consultation with the SHPOs, THPO, Native American Tribes and other consulting parties.

- B. Project Planning and Decisions. The Corps will ensure that Section 106 consultation is completed prior to making a final decision to proceed with a proposed undertaking. To the maximum extent possible, Section 106 consultation will be completed at the earliest stage of planning or decision-making and include consideration of design options as appropriate based on project scope.
- C. Determination of Area of Potential Effects. The Corps shall determine an undertaking's area of potential effects taking into consideration any information provided by the SHPOs, Pueblo, other Native American Tribes, and other consulting parties as required. If any question exists as to an undertaking's area of potential effects, the Corps shall consult the appropriate SHPO and/or THPO in making this determination. The Corps will consider the direct, indirect, and cumulative effects that an undertaking may have on historic properties in the area of potential effects. The Corps will consider the potential effects an undertaking may have on historic properties located on federal and non-federal land, taking into consideration the scale and nature of the undertaking, the extent of federal involvement, the nature and extent of potential effects on historic properties, and the likely nature and location of historic properties within the area of potential effects.
- D. Determination of Appropriate Level of Identification
 - 1. When the Corps proposes to perform a one hundred-percent (100%) or complete inventory of an undertaking's area of potential effects, no consultation with the SHPO or THPO regarding the level or extent of inventory will be required.
 - 2. Based upon existing inventory information, the Professional Archaeologist may determine that further inventory will not be necessary for the area of potential effects if a 100% inventory has previously been performed and if the fieldwork and report are consistent with current professional standards. Inventories more than ten years old will be reexamined and considered for resurvey if they do not reflect current standards and knowledge levels. The Corps will provide references to prior inventories, previously recorded properties and their current National Register of Historic Places (NRHP) evaluations, and will document a decision not to conduct further inventory in the Section 106 documentation provided to the SHPOs and/or THPO as specified in Stipulation XIII.A, B, C, and D.
 - 3. In the event that the Corps proposes to perform a less-than-100% inventory (sample inventory) of the area of potential effects, the appropriate SHPO and/or THPO will be given an opportunity to comment on the proposed level, extent, and design of the sample inventory, subject to a 30-day review period.

4. The Professional Archaeologist shall ensure that all identification activities and inventory reports reasonably conform to the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44720-44723) and are consistent with any standards set forth in relevant HPMPs. Where the Corps deems appropriate and feasible, the Corps will attempt to conform to State standards in addition to the Secretary's Standards and Guidelines.

E. Determination of Eligibility

1. Cultural materials that do not meet the site definition found in Appendix B or in any applicable site definition provided in the HPMP for the appropriate Project on which the undertaking occurs will be recorded as isolated occurrences, unless the Professional Archaeologist determines at her/his discretion that they merit recordation as a site. Isolated occurrences shall be recorded in a manner consistent with State and/or Tribal guidelines and will be included in the report produced for each inventory and in the case of Colorado, isolated occurrences will be recorded on the appropriate Isolated Find form (OAHP 1408). Isolated occurrences will be considered ineligible for inclusion in the NRHP unless the Professional Archaeologist determines that they may be eligible for NRHP listing. The Corps may elect to consult on the eligibility of an isolated occurrence if it deems such consultation necessary, or if the Professional Archaeologist determines that an isolated occurrence may be eligible for NRHP listing.
2. The Corps shall ensure that properties identified in the area of potential effect are evaluated for eligibility for inclusion in the NRHP as stipulated in 36 CFR 800.4(c) by applying the National Register criteria found in 36 CFR 60.4. All properties for which the Corps has not made a determination of eligibility will be treated as eligible for management purposes until such time that consultation has been completed with the appropriate SHPO/THPO. Properties that were previously determined ineligible because they were younger than 50 years at the time of determination will be reevaluated for eligibility if/when they reach 50 years of age.
3. In the event that the Corps makes a determination of "no historic properties affected" pursuant to Stipulation VI.F.1 or VI.F.2 of this PA involving properties that have not previously been determined ineligible for inclusion in the NRHP, the Corps will provide the SHPO and/or THPO the opportunity to review the determination of eligibility for the proposed ineligible properties.
 - a. For undertakings in which no more than five (5) properties that are not isolated occurrences are present but determined by the Corps to be ineligible, the Corps shall provide the necessary inventory documentation and written justification of why each property does not meet the criteria for NRHP eligibility defined in 36 CFR 60.4 to

the appropriate SHPO/THPO. The SHPO/THPO shall have 10 business days from receipt to review the determination of eligibility.

- b. If the number of properties meeting the definition in this section exceeds five (5), the SHPO/THPO shall have 30 calendar days from receipt to review the determinations of eligibility.
 - c. If the SHPO/THPO fails to respond within these specified review periods, the Corps eligibility determination will stand.
4. If the Corps and a Native American Tribe(s) and/or SHPO/THPO with jurisdiction cannot agree on any determination of eligibility, the parties will follow the regulations in 36 CFR 800.4(c) to resolve the disagreement.

F. Determination of Effect

1. No Properties Present. When the appropriate level of inventory is completed and no properties are present in the area of potential effects, including any non-eligible isolated occurrences or properties previously determined to be not eligible for NRHP listing and which have received prior SHPO or THPO concurrence to that effect, the Corps shall document a finding of "no historic properties affected," and the undertaking may proceed. The Corps will provide inventory documentation to the appropriate SHPO and/or THPO as specified in Stipulation XIII.B. Copies of the inventory reports will also be available for inspection by Native American Tribes and by the public, consistent with the provisions of Section 304 (54 U.S.C. §307103) of NHPA, Section 9 of ARPA, ER-1105-2-100 Appendix C, and the Secretary of the Interior's Standards for Archeological Documentation. The Corps shall consider whether any property determined through previous consultation to be non-eligible should be re-evaluated by taking into account the passage of time and changing perceptions of significance.
2. Ineligible Properties. For projects where properties are documented in the area of potential effects but those properties have been determined to be ineligible for listing on the NRHP pursuant to Stipulation VI.E.3 and those ineligible determinations have not yet completed consultation with the appropriate SHPO or THPO, these not-eligible determinations will be submitted to the appropriate SHPO or THPO pursuant to Stipulation VI.E.3. If the SHPO/THPO concurs with the eligibility determination, the Corps may proceed with the undertaking pursuant to Stipulation VI.F.1 of this PA. If the SHPO/THPO fails to respond within the review period specified in Stipulation VI.E.3, the Corps may proceed with the undertaking pursuant to Stipulation VI.F.1 of this PA. If the SHPO/THPO objects, and the objection cannot be resolved, the parties will follow the regulations in 36 CFR 800.4(c)(2) to resolve the objection.

3. Properties present, but not affected. When the agreed-upon level of inventory is completed and eligible or unevaluated properties are present in the area of potential effects, and the Corps determines that the undertaking will not have an effect on any such properties, the Corps shall document a finding of "no historic properties affected," and the undertaking may proceed. The Corps will provide inventory documentation to the appropriate SHPO and/or THPO specified in Stipulation XIII.B. Copies of the inventory reports will also be available for inspection by Native American Tribes and the public consistent with the provisions of Section 304 (54 U.S.C. §307103) of NHPA, Section 9 of ARPA, ER-1105-2-100 Appendix C, and the Secretary of the Interior's Standards for Archeological Documentation.
4. The SHPOs and/or THPO may review a sample of undertakings covered by Stipulations VI.F.1, VI.F.2, and VI.F.3. The SHPOs and/or THPO may request access to information about a sample of undertakings by direct request to the Corps in writing or via email. If the SHPOs and/or THPO have questions about the documentation or the findings, they will provide comments to the Corps immediately upon review. The Corps will take these comments into consideration on future similar cultural resources and/or projects. Such consideration may include further discussion with SHPOs and/or THPO in order to reach consensus if possible.
5. No Adverse Effect to Historic Properties. When the Corps determines that one or more historic properties may be affected by an undertaking it shall apply the criteria of adverse effect found in 36 CFR 800.5(a). If the Corps determines that the project will result in no adverse effect to historic properties, then the Corps shall follow the standard review procedures defined in 36 CFR 800.5(c).
6. Adverse Effect to Historic Properties. If the Corps applies the criteria of adverse effect found in 36 CFR 800.5(a) and determines that the project will result in an adverse effect to historic properties, the Corps shall document this finding and notify the appropriate SHPO and/or THPO, Tribes, consulting parties, and the interested public pursuant to 36 CFR 800.6(a). The Corps shall continue to consult with the SHPO and/or THPO, Tribes, and consulting parties to develop and evaluate alternatives or modifications that could avoid, minimize or mitigate adverse effects. The Corps shall submit the inventory documentation to the SHPO. The Corps shall notify affected Tribes and consulting parties of their adverse effect determinations and shall invite their comments. The Corps shall proceed with the resolution of Adverse Effect procedures in VI.G.
7. Notwithstanding the provisions in Stipulations VI.F.1, VI.F.2, and VI.F.3 the Corps shall submit for standard review by the appropriate SHPO/THPO, prior to proceeding with the undertaking, inventory reports for any undertaking where:

- a. The Corps chooses to consult using the standard review process,
 - b. A substantial public concern exists about effects of the undertaking on historic properties such that the expedited review process in the PA cannot ensure that those concerns will be adequately considered,
 - c. A disagreement exists with a Native American Tribe concerning undertakings on or near a historic property or a property of traditional cultural or religious significance to the Tribe, or
 - d. A SHPO, THPO, or the Council requests that the Corps consult using the standard review process based on a substantial concern that historic properties may be adversely affected.
- 8. The Corps will suspend any undertaking that does not conform to the conditions of this PA and will consult as needed with the SHPO/THPO, the Council, and others if applicable to bring the undertaking into conformance.
- G. Resolving Adverse Effect. The Corps shall resolve adverse effects through one of two processes, without an agreement document or with an agreement document.
 - 1. If no Tribe, consulting party or interested member of the public wishes to participate in the resolution of adverse effects, the Corps and appropriate SHPO or THPO will follow a streamlined process and resolve adverse effects without an agreement document as described below. If another state or federal agency is participating in the resolution of adverse effects, this streamlined procedure may be used if this is acceptable to the other agencies.
 - a. Data Recovery Plans. When the Corps proposes to resolve adverse effects through data recovery, the Corps will prepare a data recovery plan. This plan most often involves properties eligible under Criterion D only, as defined in 36 CFR 60.4, but could include properties eligible under D and other criteria. The Corps shall submit the data recovery plan to the appropriate SHPO or THPO for review and comment. In New Mexico, if the SHPO or Santa Ana THPO does not respond within 30 days, the Corps may assume concurrence with the plan; in Colorado, the plan must receive concurrence from the Colorado SHPO before proceeding. Comments submitted by the SHPO or THPO shall be taken into consideration by the Corps and the data recovery plan revised, if necessary. The Corps will submit a written response to the SHPO or THPO prior to implementation of the plan.
 - i. Preliminary reports will be provided to the appropriate SHPO or THPO within the time frame specified in the data recovery plan. The SHPO or THPO will provide comments within 30 days or another agreed upon time frame. Comments submitted by the SHPO or THPO shall

be taken into consideration by the Corps and the preliminary report will be revised, if necessary. If the SHPO or THPO does not respond within the agreed upon time-frame, the Corps may assume concurrence.

- ii. Final data recovery reports will be submitted to the SHPO or THPO within the time frame specified in the data recovery plan. If the SHPO or THPO does not intend to provide comments, the SHPO or THPO will notify the Corps immediately upon making this decision. If SHPO or THPO has concerns regarding the report, the SHPO or THPO will provide comments to the Corps within 30 days or an agreed upon time frame. The Corps will respond to these comments in writing and revise the report if necessary.
- b. Other Mitigation Plans. If data recovery is not the only mitigation measure or is not the most appropriate mitigation measure the Corps will prepare, or cause to be prepared, a mitigation plan. The Corps is encouraged to discuss mitigation measures with the SHPO or THPO prior to preparation of the plan, especially when the affected properties are eligible under Criterion C as defined in 36 CFR 60.4.

The Corps will submit the mitigation plan to the SHPO or THPO for review and comment. In New Mexico, if the SHPO or THPO does not respond within 30 days, Corps may assume concurrence with the proposed mitigation plan; in Colorado, the plan must receive concurrence from the Colorado SHPO before proceeding. The Corps will respond to the SHPO or THPO comments in writing prior to implementation of the plan.

Mitigation plans may include but are not limited to the following:

- i. Historic American Buildings Survey/Historic American Engineering Record/Historic American Landscapes Survey (HABS/HAER/HALS). Typically HABS/HAER documentation will be prepared for buildings and structures eligible under Criterion C or Criteria A and C as defined in 36 CFR 60.4.
- ii. Preservation, Rehabilitation, Restoration or Reconstruction. Mitigation plans involving preservation (including stabilization), rehabilitation, restoration or reconstruction will follow the Secretary of Interior's standards and guidance found at <http://www.nps.gov/history/tps/>.

- iii. Archival Research. Mitigation may involve researching the history of the historic property and/or the region and its people to address research themes. This may include primary research at sources including national, state or local archives, university collections, museum collections, HABS/HAER documentation, census data, General Land Office (GLO) records, local newspapers, family histories, land deeds, photos, maps, regional and economic data on precipitation averages, livestock and cash crop prices.
- iv. Oral Histories. Oral histories should follow the guidance found in the Handbook for Oral History-NPS, 2004 by Janet A. McDonnell (31 pages): <http://www.cr.nps.gov/history/oh/oralh1.htm>; and Oral History Association: Principles and Best practices, 2009: <http://www.oralhistory.org/about/principles-and-practices/>.
- v. Ethnography. Mitigation plans involving ethnography should follow the guidance found in NPS Essential Competencies for an Ethnography; American Anthropological Association's statement on Ethnography: <http://www.aaanet.org/stmts/irb.htm>; NPS NRHP Bulletin 38-TCPs, Appendix II, Professional Qualifications for Ethnography: <http://www.nps.gov/nr/publications/bulletins/nrb38/nrb38%20apendix%202.htm>.
- vi. Mitigation may involve workforce training and education on cultural sensitivity; preparation of papers, brochures, articles, books or booklets, web-based digital and video materials written for the general public in jargon-free language and include professional quality photographs and/or drawings as appropriate; preparation of a curriculum for use in schools; a public interest story to be posted on the Corps' web site, press release, article for NewsMAC; and exhibits, including formal displays, posters, wayside exhibits, etc.
- vii. Preliminary reports will be provided to the SHPO or THPO within the time frame specified in the mitigation plan. Comments submitted by the SHPO or THPO shall be taken into consideration by the Corps and the preliminary report will be revised, if necessary. If the SHPO or THPO does not respond with the agreed upon time-frame, the Corps may assume SHPO or THPO concurrence.

- viii. Final reports will be submitted by the SHPO or THPO within the time frame specified in the mitigation plan. If the SHPO or THPO does not intend to provide comments, the SHPO or THPO will notify the Corps immediately upon making this decision. If SHPO or THPO has concerns regarding the report, the SHPO or THPO will provide comments to the Corps. The Corps will respond to these comments in writing and revised the final report if necessary.
- 2. When a Tribe or other consulting party wishes to participate in the resolution of adverse effects, the Corps, upon receipt of SHPO or THPO concurrence of a determination of adverse effect, will follow the process outlined in 36 CFR 800.6 and will prepare an agreement document. The Corps will continue consultation with SHPO, THPO, Tribes, consulting parties, interested public, and the ACHP, if participating, to develop an agreement document.
- H. Standard Treatments and Protocols. The Corps, in consultation with SHPOs and THPO, may develop standard treatments, mitigation measures, and/or protocols for certain classes of undertakings where effects on historic properties are similar and repetitive. In such treatment protocols, the Corps shall consult with Native American Tribes if the proposed treatment has the potential to affect properties of interest to them, and with other parties that have a demonstrated interest in the class of historic properties. Upon mutual written agreement by the Signatories, such standard treatments shall be appended to this Agreement and may be followed in lieu of standard case-by-case consultation for the specified class of undertakings or properties.
- I. The Corps shall afford the SHPOs, THPO, Council, Native American Tribes, interested organizations and the general public, as appropriate, the opportunity to provide input during development of Environmental Assessment (EA) and Environmental Impact Statement (EIS) documents prepared under NEPA.

VII. Emergency Undertakings.

A. Declared Emergencies

- 1. The Corps will follow the procedures in 36 CFR 800.12 in responding to emergency situations as defined in Appendix B.

B. Critical Infrastructure Emergencies

- 1. In situations where components and systems integral to the operating functions of dams and other critical flood control infrastructure malfunction or fail, and where delay in action (including but not limited to repair, replacement, installation of temporary features) would result in substantial

risk to life and/or property, the Corps will take action as it sees fit to mitigate the risk to life and/or property.

2. The Corps will notify the appropriate SHPO or THPO via a telephone call or email as soon as possible after the failure. The SHPO or THPO have 7 days to comment unless circumstances do not permit 7 days. The Corps will provide documentation of the corrective action within 30 days of completion.

VIII. Post-review Discoveries

The Corps shall follow the procedures in 36 CFR 800.13 for post-review discoveries if historic properties are discovered or if unanticipated effects on historic properties are found after the Corps has completed Section 106 consultation for the undertaking.

IX. Council Participation

The Signatories may seek advice, guidance and assistance from the Council concerning the application of this PA to specific undertakings, including the resolution of disagreements, whether or not the Council is formally involved in the review of the undertaking pursuant to 36 CFR 800.2(b)(2).

X. Data Sharing

- A. The Corps will maintain spatial and tabular site and survey data in its internal database and GIS systems. These data shall be protected as indicated in Stipulation X.D.
- B. Data Gathered at the Jemez Canyon Dam and Reservoir Project. The Corps will ensure that inventory reports, and relevant associated documentation from undertakings occurring at the Jemez Canyon Dam and Reservoir Project are transmitted to the Pueblo of Santa Ana THPO. The Corps will not provide these documents to the NMSHPO unless with the consent of the Pueblo of Santa Ana THPO, or if required by law.
- C. Data Gathered at Other Projects. The Corps will ensure that inventory reports, and relevant associated documentation from undertakings occurring on all other Projects are transmitted to the appropriate SHPO for inclusion in each State's cultural resources database.
- D. The Corps, the SHPOs, and Pueblo will ensure that site locations and other confidential information are protected and made available only to qualified persons in accordance with state and federal guidelines, including Section 304 (54 U.S.C. §307103) of NHPA and Section 9 of ARPA.

XI. Duration

This PA will expire after a period of five (5) years from the date of its execution and can be extended an additional five (5) years by agreement of all Signatories. At any time, the Corps may

consult with the other Signatories to reconsider the terms of the PA and amend it in accordance with Stipulation XIV below.

XII. Dispute Resolution

Should any Signatory to this PA object within the time frames allowed under the PA to any finding, proposed undertaking, or determination made pursuant to this PA, the Corps will consult with the objecting party to resolve the objection. If the Corps or the objecting party determines that the objection cannot be resolved, the Corps will forward all relevant documentation to the Council in accordance with 36 CFR Section 800.2(b)(2).

- A. Upon receipt of adequate documentation, the Council shall review and advise the Corps on the resolution of the objection within 30 days. All comments provided by the Council and the Signatory parties to the PA will be taken into account by the Corps in reaching a final decision regarding the dispute.
- B. If the Council does not provide comments regarding the dispute within 30 days after receipt of adequate documentation, the Corps may render a decision regarding the dispute. In reaching its decision, the Corps will take into account all comments regarding the dispute from the parties to the PA.
- C. The Corps' responsibility to carry out all other actions subject to the terms of this PA that are not the subject of the dispute will remain unchanged. The Corps will notify all parties of its decision in writing before implementing that portion of the undertaking subject to dispute under this stipulation. The Corps' decision will be final.

XIII. Reporting

- A. Exemptions. The Corps will submit a report of exempted undertakings to all Signatories on an annual basis no later than March 31. The report will be in the form of a table that provides, at a minimum, a thorough summary of the undertaking, information on where the undertaking occurred, and what exemption the Corps applied from Appendix A of this PA. This annual report shall also include a brief statement on or discussion of the update status of HPMPs for Projects relevant to each Signatory.
- B. Findings of No Historic Properties Affected. The Corps will submit a report of all undertakings for which the Corps made a determination of "no historic properties affected" to the Colorado SHPO and Pueblo of Santa Ana THPO on an annual basis no later than March 31 of each year, and to the New Mexico SHPO on a quarterly basis. The report will include, at a minimum, a summary of the undertaking, information on where the undertaking occurred, and references to the inventory documentation that was used to make the determination.
- C. The reports for exemptions and findings of "no historic properties affected" shall include any scheduling changes proposed, any problems encountered, any disputes

and objections received in the Corps' efforts to carry out the terms of this PA, and a summary of how those disputes were resolved.

D. Cultural Resources Inventory Documentation

1. **Undertakings Resulting in a Determination of No Historic Properties**
Affected-the Corps will submit to the SHPO and/or THPO a copy of any cultural resources inventory report, along with associated cultural resources documentation including resource recording forms and maps, as appropriate, quarterly. Electronic submission to state databases, as appropriate, will occur upon finalizing the report.
2. **Undertakings Requiring Standard Review**-In the case of undertakings that require the use of the standard review process as specified in Stipulations VI.F.5, VI.F.6, and VI.F.7 the Corps shall submit the inventory documentation at the time of consultation with the appropriate SHPO and/or THPO. All inventory documents will be approved by a Professional Archaeologist before use in making eligibility and effect determinations.

XIV. Amendments

Any Signatory to the PA may request that it be amended, whereupon the Signatories and concurring parties will consult to consider the amendment. The amendment will be effective on the date a copy signed by all of the Signatories is filed with the ACHP.

XV. Availability of Funds

The Signatories to this PA recognize that the Corps must operate in accordance with authorized project purposes and funding limitations. All actions taken by the Corps in accordance with this PA are subject to the availability of funds, and nothing in this PA shall be interpreted as constituting a violation of the Anti-Deficiency Act. Similarly, all actions taken by the SHPOs for the States of New Mexico and Colorado in accordance with this PA are subject to the availability of funds appropriated by the respective State legislatures.

XVI. Termination

Any Signatory to this PA may terminate it by providing ninety (90) days written notice to the other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. Termination of this PA, or failure to abide by its terms shall require the Corps to comply with 36 CFR 800 with respect to undertakings that otherwise would be reviewed under this agreement.

XVII. Severability

In the event any provision of this PA shall be deemed contrary to or in violation of any applicable existing law of the States of New Mexico or Colorado or the United States of America or of the Pueblo of Santa Ana, only the conflicting provision shall be deemed null and void, and the remaining provisions of this PA shall remain in effect.

XVIII. Execution

Execution and implementation of this PA satisfies the Corps' Section 106 responsibilities for all individual undertakings occurring at the Projects managed by the Albuquerque District that are treated in conformance with the stipulation herein.

XIX. Implementation

This agreement was signed in multiple counterparts, each of which is an identical copy, and each of which is considered an original. This PA becomes effective on the date of the last signature and will be implemented immediately.

SIGNATURE PAGE

**PROGRAMMATIC AGREEMENT
AMONG
THE UNITED STATES ARMY CORPS OF ENGINEERS, ALBUQUERQUE DISTRICT
AND
THE NEWMEXICO STATE HISTORIC PRESERVATION OFFICER
AND
THE COLORADO STATE HISTORIC PRESERVATION OFFICER
AND
THE PUEBLO OF SANTA ANA TRIBAL HISTORIC PRESERVATION OFFICER**

**REGARDING
ROUTINE OPERATIONS AND MAINTENANCE UNDERTAKINGS THAT HAVE THE
POTENTIAL TO AFFECT HISTORIC PROPERTIES AT FLOOD CONTROL PROJECTS**

SIGNATORY PARTY:

US ARMY CORPS OF ENGINEERS, ALBUQUERQUE DISTRICT



Larry Caswell, Jr.
Lieutenant Colonel, U.S. Army
District Commander

6 December 2019
Date

SIGNATURE PAGE

PROGRAMMATIC AGREEMENT

AMONG

THE UNITED STATES ARMY CORPS OF ENGINEERS, ALBUQUERQUE DISTRICT

AND

THE NEWMEXICO STATE HISTORIC PRESERVATION OFFICER

AND

THE COLORADO STATE HISTORIC PRESERVATION OFFICER

AND

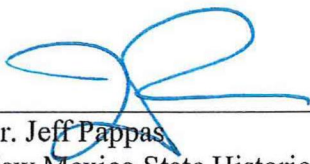
THE PUEBLO OF SANTA ANA TRIBAL HISTORIC PRESERVATION OFFICER

REGARDING

**ROUTINE OPERATIONS AND MAINTENANCE UNDERTAKINGS THAT HAVE THE
POTENTIAL TO AFFECT HISTORIC PROPERTIES AT FLOOD CONTROL PROJECTS**

SIGNATORY PARTY:

NEW MEXICO STATE HISTORIC PRESERVATION OFFICER



Dr. Jeff Pappas
New Mexico State Historic Preservation Officer

12/3/19

Date

SIGNATURE PAGE

**PROGRAMMATIC AGREEMENT
AMONG
THE UNITED STATES ARMY CORPS OF ENGINEERS, ALBUQUERQUE DISTRICT
AND
THE NEWMEXICO STATE HISTORIC PRESERVATION OFFICER
AND
THE COLORADO STATE HISTORIC PRESERVATION OFFICER
AND
THE PUEBLO OF SANTA ANA TRIBAL HISTORIC PRESERVATION OFFICER**

**REGARDING
ROUTINE OPERATIONS AND MAINTENANCE UNDERTAKINGS THAT HAVE THE
POTENTIAL TO AFFECT HISTORIC PROPERTIES AT FLOOD CONTROL PROJECTS**

SIGNATORY PARTY:

COLORADO STATE HISTORIC PRESERVATION OFFICER


for Mr. Steve Turner, AIA
Colorado State Historic Preservation Officer


Date

SIGNATURE PAGE

PROGRAMMATIC AGREEMENT

AMONG

THE UNITED STATES ARMY CORPS OF ENGINEERS, ALBUQUERQUE DISTRICT

AND

THE NEWMEXICO STATE HISTORIC PRESERVATION OFFICER

AND

THE COLORADO STATE HISTORIC PRESERVATION OFFICER

AND

THE PUEBLO OF SANTA ANA TRIBAL HISTORIC PRESERVATION OFFICER

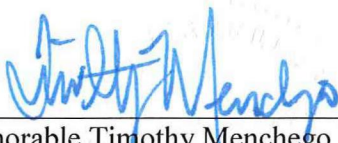
REGARDING

**ROUTINE OPERATIONS AND MAINTENANCE UNDERTAKINGS THAT HAVE THE
POTENTIAL TO AFFECT HISTORIC PROPERTIES AT FLOOD CONTROL PROJECTS**

SIGNATORY PARTY:

GOVERNOR, PUEBLO OF SANTA ANA

PUEBLO OF SANTA ANA TRIBAL HISTORIC PRESERVATION OFFICER



Honorable Timothy Menchego
Governor, Pueblo of Santa Ana
Pueblo of Santa Ana Tribal Historic Preservation Officer



Date

APPENDIX A

ACTIVITIES EXEMPT FROM CONSULTATION

Certain classes of actions or treatments have predictable effects and little or no potential to affect historic properties and are exempt from further review and/or consultation under the terms of this PA. A Professional Archaeologist, as defined in Section IV of this PA, shall conduct a review of each exempted activity prior to implementation of the action. If the Professional Archaeologist finds the proposed undertaking meets the criteria outlined in this Appendix, then the Corps is not required to notify or consult with SHPO, THPO, Tribes or other parties regarding the undertaking, unless the Professional Archaeologist has reason to believe that a specific undertaking may affect historic properties.

A. ADMINISTRATIVE ACTIONS

1. Permits, easements, rights-of-way, grants, licenses and leases, including renewals and amendments of such, that do not authorize surface disturbance or have the potential to affect historic structures or traditional cultural properties
2. Easement acquisitions and relinquishments that do not authorize surface disturbance or have the potential to affect historic structures or traditional cultural properties
3. Land acquisitions that do not authorize surface disturbance or have the potential to affect historic structures or traditional cultural properties
4. Administrative changes in reservoir storage allotments that do not affect the overall reservoir storage elevation
5. Exchanges, sales, or disposals of excess real property, not including land, that is/are less than 45 years old that do not meet criteria consideration exceptions under 36 CFR 60.4
6. Boundary line agreements and surveys, including maintenance, repair, and/or minor modifications to existing fence lines that do not require disturbance beyond placement of posts and hand removal of vegetation, and the action will not result in concentrations of animals or creation of two track trails from vehicles
7. Release of deed restrictions to cure encroachments

B. GENERAL EXEMPTIONS

1. Activities where previous natural and human disturbance has modified the landscape so extensively that the likelihood of finding historic properties is negligible (e.g. activities within the footprint of the construction embankments and seepage control features of a dam)

2. Activities that involve less than one square meter of total ground disturbance, unless within known sites
3. Activities limited within stream channels, not including terraces, cutbanks or other undisturbed ground adjacent to the stream channel
4. Removal of tamarisk or other invasive species by hand or with hand tools, and involving no surface disturbance, except within known sites

C. TRANSPORTATION, UTILITIES, STRUCTURES AND OTHER INFRASTRUCTURE

1. Maintenance, repair, and replacement of existing structural features and their appurtenant components, that are not within or contributing to a historic district, are less than 50 years of age, or determined with SHPO or THPO concurrence not to be eligible for NRHP listing, that do not involve ground disturbance including but not limited to: roofs, docks, buoys, cattleguards, gates, fences, signs, fixtures, windows, doors, HVAC and electrical components, and vault toilets
2. Maintenance of historic buildings including routine maintenance and repair of historic buildings for which SHPO or THPO consultation on eligibility has been completed entailing no structural change or any substantial change of color, form, function or materials
3. Repair, replacement, or removal of elements that have previously been determined, with agreement of applicable Signatories, not to be character-defining features, including equipment or material not original to a historic structure. Lists of character-defining features and non-defining features must be appended to this document by mutual agreement of applicable Signatories in order for this exemption to take effect.
4. Repair or in-kind replacement of components within historic structures in locations or spaces that are entirely hidden from view (including but not limited to locations within or behind walls; beneath floors; within existing conduit, access tunnels, pipes, elevator shafts, or ductwork).
5. Pesticide and vegetation control spray projects that will not affect known properties of traditional cultural and religious value (e.g. on the face and wings of a dam)
6. Installation of sign posts and monuments, including but not limited to trail orientation signs and markers, carsonite markers, cadastral survey monuments, street signs, safety and regulatory signs and markers, traffic signs, where ground disturbance would amount to one square meter or less per sign, and where such sign posts or monuments would not exceed eight feet in

height or four feet in width, unless within known sites or historic districts or directly impacting the viewshed of a historic district. Single posts taller than eight feet are permissible for posts, nesting boxes, or perches to promote raptor habitat, where ground disturbance would amount to one square meter or less per post unless within known sites or historic districts or directly impacting the viewshed of a historic district. The Corps will define viewsheds for historic districts by polygons, which will be approved by applicable Signatories and appended to this document by mutual agreement of applicable Signatories

7. Alteration of structures less than 45 years old that do not meet criteria consideration exceptions under 36 CFR 60.4
8. Rewiring of overhead electrical power lines. If within known sites, the Corps stipulates that the work would not involve driving vehicles off existing roads
9. Repair or replacement of existing paved roads and parking lots which includes sealing cracks, fog coating, milling, recompaction, overlay, and filling potholes where staging of vehicles and materials will occur on previously disturbed areas, unless within a historic district
10. Repair or replacement of existing paved roads and parking lots within a historic district, which includes sealing cracks, fog coating, milling, recompaction, overlay, and filling potholes where staging of vehicles and materials will occur on previously disturbed areas, not to include total resurfacing, recurbing, or alignment change
11. Maintenance of existing authorized gravel roads, including associated drainage features, and parking lots which includes grading and adding gravel, unless within or immediately adjacent to known sites, unless within a historic district.
12. Maintenance of existing authorized gravel roads within a historic district, including associated drainage features, and parking lots which includes grading and adding in-kind or compatible gravel (exhibiting similar color, visual, and textural characteristics), unless within or immediately adjacent to known sites, and not including total resurfacing, recurbing, or alignment change
13. Repair or replacement of existing underground utilities of the same size and footprint that does not involve new ground disturbance exceeding the original footprint or is within or immediately adjacent to known sites
14. Installation and repair of guard rails within the existing disturbance footprint of an existing asphalt or engineered gravel road unless within known sites or historic districts
15. Installation of traffic counters on existing asphalt or authorized gravel road

16. Placement of material during construction at a permanent disposal, access and staging areas less than one acre in size that have been previously authorized for that purpose and material

D. RECREATION FACILITIES

1. Routine foot trail maintenance of existing trails that does not occur within known sites
2. Seasonal installation and removal of floating docks
3. Installation and removal of buoys
4. Temporary boat ramp extensions during periods of low water that occur in areas where the boat ramp has previously been extended or that does not occur within known sites
5. Repair or replacement of existing boat ramp surfaces which includes sealing cracks, fog coating, milling, recompaction, overlay, and filling potholes where staging of vehicles and materials will occur on previously disturbed areas, unless within a historic district
6. Minor routine vegetation management including mowing, pruning/trimming, planting of new vegetation and removal of dead or dying vegetation within a developed or landscaped area that is not a contributing element to a historic district
7. Removal or replacement of existing recreation facilities and equipment (including but not limited to vault toilets, playground equipment, picnic shelters, picnic tables, shower buildings) of the same size and footprint that does not involve new ground disturbance, known sites, or viewshed impacts, unless the facilities are greater than 50 years of age or listed as contributing elements to a historic district

E. DAM AND LEVEE MAINTENANCE

1. Dewatering and dredging of the stilling basin below the outlet works of a dam for the purposes of inspection
2. Removal of debris from the trash rack of a dam
3. Dredging of sediment from the intake structure of a dam
4. Routine installation, maintenance, and repair of monitoring equipment within the embankment of the dam such as piezometers, slope indicators, pressure pipes, settlement plates, and pressure relief wells
5. Installation and upkeep of stationing markers on the dam and levee crest

6. Routine and preventative maintenance actions performed frequently on functioning elements of the dam, including but not limited to: cleaning of drains, greasing of components, changing of fluids, replacement of disposable components such as filters, light bulbs and seals, repair and replacement of mechanical components such as valves and packing glands, in-kind touch up of paint and epoxy on operating portions of the dam to prevent corrosion and water damage
7. Repair, using in kind or compatible materials (exhibiting similar color, visual, and textural characteristics), of areas of spalling, cracking, crazing, and/or pop-outs on the concrete surface of the dams and spillways
8. Replacement and repair of rip-rap on the embankment of the dam using in kind or substantially similar materials to include color, size, and distribution
9. Repair or replacement of existing mechanical and electrical components integral to dam operating functions (such as electrical, hydraulic lines, ventilation ducting/fans, crane parts, sump pumps, hydraulic motors and associated parts, high water alarms).
10. Repair or replacement of components in locations or spaces that are entirely or largely hidden from view (including but not limited to locations within or behind walls; beneath floors; within existing conduit, access tunnels, pipes, or ductwork).

F. RESERVOIR MANAGEMENT AND FLOOD RESPONSE

1. Storage or release of flood flows within established flood control pool elevation
2. Debris removal from the reservoir pool and from the dams, levees and their appurtenant structures

APPENDIX B

DEFINITIONS

The following definitions apply to this PA:

- A. "100 % or Complete Inventory" is a comprehensive, systematic, intensive examination of an area designed to gather information about the number, location, condition, and distribution of historic properties within the entire area of an undertaking's APE.
- B. "Archaeological site" or "site" is a location where there exists material evidence of the past life and culture of human beings dating to an age or likely age of greater than 50 years, and containing ten (10) or more artifacts within a 100-square-meter area; or a feature or features in association with any artifacts greater than 50 years of age.
- C. "Area of Potential Effects" (APE) means the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist.
- D. "Building", as defined in 36 CFR 60.3(a), is a structure created to shelter any form of human activity, such as a house, barn, church, hotel, or similar structure. Building may refer to a historically related complex such as a courthouse and jail or a house and barn.
- E. "Disturbance" is any physical modification to the ground surface or subsurface, including but not limited to removal, reworking, redeposition, redistribution, compaction, burial, or thermal alteration of surface or subsurface sediments or deposits.
- F. "Easement Relinquishment" refers to the Corps giving up its rights to use land owned by another entity, resulting in no change to the ownership or use rights held by the landowner or any other party. In these cases, resources on lands under the easement would experience no change in protection as a result of the relinquishment.
- G. "Effect" means alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register.
- H. "Eligible for inclusion in the National Register" includes both properties formally determined as such in accordance with regulations of the Secretary of the Interior and all other properties that meet the National Register criteria.
- I. "Emergency Undertaking" is an undertaking proposed by the Corps as an essential and immediate response to a disaster or emergency declared by the President, a Tribal government, or the Governor of a State or another immediate threat to life or property (36 CFR 800.12).

- J. "Exemptions" includes those undertakings, which because of their nature and scope, have predictable effects and a very low likelihood of affecting historic properties. These classes of undertakings shall be exempt from further Section 106 review and consultation under this PA (Appendix A).
- K. "Flood Control Project", referred to in the document as a "Project", is a dam built, operated, and maintained by the US Army Corps of Engineers for the primary purpose of flood control. A Corps Project is different from an undertaking (see definition above), which is also referred to as a "project" or "activity".
- L. "Historic Property" means any prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to a Native American Tribe or Native Hawaiian organization and that meet the National Register criteria.
- M. "Land acquisition" means a change in land ownership status where the Corps becomes the owner of a piece of land. This definition solely refers to the change in land status and does not include any changes in land use or management decisions, which may constitute undertakings under Section 106.
- N. "Maintenance" refers to small-scale and routine activities implemented for the ongoing upkeep of real property in order to prevent or limit deterioration and to maintain functioning systems. Examples of maintenance activities include but are not limited to cleaning, painting, and repairs to structure or utilities.
- O. "Native American Tribe" means any Federally-recognized Native American Tribe, band, nation, or other organized group or community.
- P. "Sample Inventory" is designed to estimate characteristics, density and/or distribution of the population of sites or historic properties in an area based on a sample.
- Q. "Standard Review Process" is the Section 106 review process as defined in 36 CFR 800 Subpart B.
- R. "Standard Treatments" are standard treatments, mitigation measures, and/or protocols for specific types of historic properties or actions, which may be developed in consultation with the SHPOs and Pueblo of Santa Ana.
- S. "Structure", as defined in 36 CFR 60.3(p), is a work made up of interdependent and interrelated parts in a definite pattern of organization. Constructed by man, it is often an engineering project large in scale.
- T. "Undertaking" means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by

or on behalf of the agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license, or approval.

APPENDIX C

LIST OF CONSULTED PARTIES

I. Consulted Tribes

Name	Title	Tribal Affiliation
Bobby Komardley	Chairman	Apache Tribe of Oklahoma
Reggie Wassana	Governor	Cheyenne & Arapaho Tribes of Oklahoma
Max Bear	Director of Cultural Heritage Program	Cheyenne & Arapaho Tribes of Oklahoma
Karen Little Coyote	Cheyenne Director of Cultural Heritage Program	Cheyenne & Arapaho Tribes of Oklahoma
Virginia Richey	Tribal Historic Preservation Officer	Cheyenne & Arapaho Tribes of Oklahoma
William Nelson, Sr.	Chairman	Comanche Nation of Oklahoma
Martina Callahan	Tribal Historic Preservation Officer	Comanche Nation of Oklahoma
Jeff Haozous	Chairman	Fort Sill Apache Tribe
Leland Michael Darrow	Tribal Historian	Fort Sill Apache Tribe
Levi Pesata	President	Jicarilla Apache Nation
Jeffrey Blythe	Tribal Historic Preservation Officer	Jicarilla Apache Nation
Matthew Komalty	Chairman	Kiowa Tribe
Arthur Blazer	President	Mescalero Apache Tribe

Holly Houghten	Tribal Historic Preservation Officer	Mescalero Apache Tribe
Lee Spoonhunter	Chairman	Northern Arapaho Tribe
Devin B. Oldman	Tribal Historic Preservation Officer	Northern Arapaho Tribe
Rynalea Whiteman Pena	President	Northern Cheyenne Tribe
Teanna Limpy	Tribal Historic Preservation Officer	Northern Cheyenne Tribe
Joseph M. Aguilar	Governor	Kewa Pueblo
Everett Chavez		Kewa Pueblo
Jonathan Nez	President	Navajo Nation
Richard M. Begay	Tribal Historic Preservation Officer	Navajo Nation
Timothy Begay	Navajo Cultural Specialist	Navajo Nation
Ron Lovato	Governor	Ohkay Owingeh
Michael Montoya	Tribal Historic Preservation Officer	Ohkay Owingeh
Bruce Pratt	President	Pawnee Nation of Oklahoma
Matt Reed	Tribal Historic Preservation Office Director	Pawnee Nation of Oklahoma
Eugene Herrera	Governor	Pueblo de Cochiti
Jacob Pecos	Director, Department of Natural Resources	Pueblo de Cochiti
Brian Vallo	Governor	Pueblo of Acoma
Todd Scissons	Tribal Historic Preservation Officer	Pueblo of Acoma

Max Zuni	Governor	Pueblo of Isleta
Daniel Waseta	Cultural Affairs Committee	Pueblo of Isleta
Henry Walt	Tribal Historic Preservation Officer	Pueblo of Isleta
David Toledo	Governor	Pueblo of Jemez
Christopher Toya	Tribal Historic Preservation Officer	Pueblo of Jemez
Wilfred Herrera, Jr.	Governor	Pueblo of Laguna
Adam Ringia	Tribal Historic Preservation Officer	Pueblo of Laguna
Phillip A. Perez	Governor	Pueblo of Nambe
Craig Quanchello	Governor	Pueblo of Picuris
Jeff Atencio	Tribal Programs Administrator	Pueblo of Picuris
Joseph M. Talachy	Governor	Pueblo of Pojoaque
Bruce Bernstein	Tribal Historic Preservation Officer	Pueblo of Pojoaque
James Candelaria	Governor	Pueblo of San Felipe
Ricardo Ortiz	Tribal Historic Preservation Officer	Pueblo of San Felipe
Perry Martinez	Governor	Pueblo of San Ildefonso
Bradley J. Vierra	Tribal Historic Preservation Officer	Pueblo of San Ildefonso
Isaac Lujan	Governor	Pueblo of Sandia
Timothy Menchego	Governor/ Tribal Historic Preservation Officer	Pueblo of Santa Ana
J. Michael Chavarria	Governor	Pueblo of Santa Clara

Ben Chavarria	Tribal Historic Preservation Officer	Pueblo of Santa Clara
Richard Aspenwind	Governor	Pueblo of Taos
Milton Herrera	Governor	Pueblo of Tesuque
Bernard Mora	Tribal Historic Preservation Officer	Pueblo of Tesuque
Anthony Medina	Governor	Pueblo of Zia
Val Panteah, Sr.	Governor	Pueblo of Zuni
Kurt Dongoske, RPA	Tribal Historic Preservation Officer	Pueblo of Zuni
Christine Baker-Sage	Chairman	Southern Ute Tribe
Cassandra J. Atencio	NAGPRA Coordinator	Southern Ute Tribe
Timothy L. Nuvangyaoma	Chairman	The Hopi Tribe
Leigh Kuwanwisiwma	Hopi Cultural Preservation Office	The Hopi Tribe
Stewart Koyiyumptewa	Director, Hopi Cultural Preservation Office	The Hopi Tribe
Russel Martin	President	Tonkawa Tribe of Indians of Oklahoma
Luke Duncan	Chairman	Ute Indian Tribe of the Uintah & Ouray Reservation
Betsy Chapsse	Director, Cultural Rights and Protection	Ute Indian Tribe of the Uintah & Ouray Reservation
Harold Cuthair	Chairman	Ute Mountain Ute Tribe
Nikki Shurack	Tribal Archaeologist	Ute Mountain Ute Tribe
Terry Knight, Sr.	Tribal Historic Preservation Officer	Ute Mountain Ute Tribe

Gwendena Lee-Gatewood	Chairwoman	White Mountain Apache Tribe
Mark Altaha	Tribal Historic Preservation Officer	White Mountain Apache Tribe
Terri Parton	President	Wichita and Affiliated Tribes
Gary McAdams	NAGPRA Representative	Wichita and Affiliated Tribes
E.Michael Silvas	Governor	Ysleta del Sur Pueblo
Rick Quezada	NAGPRA Representative	Ysleta del Sur Pueblo

II. Other Consulted Parties

New Mexico Archaeological Council
Colorado Council of Professional Archaeologists
Conchas Lake State Park
Trinidad Lake State Park

APPENDIX D

HISTORIC PROPERTIES MANAGEMENT PLANS

Project Name	Date of last update	Current Status
Abiquiu	1997	
Cochiti	1998	New draft under review (2019)
Conchas	1990s	
Galisteo	1998	New draft under review (2019)
Jemez	None	
John Martin	1997	
Santa Rosa	1990s	New draft in progress (2019)
Trinidad	None	
Two Rivers	1994	