APPENDIX C: CULTURAL RESOURCES

Tribal and SHPO Responses to Consultation



SOUTHERN UTE INDIAN TRIBE

Southern Ute Cultural & Preservation Department P.O. Box 737, Mail Stop #73, Ignacio CO 81137 Phone: 970-563-0100 Fax: 970-563-1098

September 27, 2020

Christina Sinkovec Army Crops of Engineers- Albuquerque District 4101 Jefferson Plaza NE Albuquerque, NM

Dear Ms. Sinkovec,

I have reviewed your Consultation Request under section 106 of the National Historic Preservation Act regarding the <u>Ditch Rehab Project</u> project and offer the following response as indicated by the box that is checked.

NO EFFECT: I have determined that there are no properties of religious and cultural significance to the Southern Ute Indian Tribe that are listed on the National Register within the area of potential effect or that the proposed project will have no effect on any such properties that may be present.
NO ADVERSE EFFECT: I have identified properties of cultural and religious significance within
the area of effect that I believe are eligible for listing in the National Register, for which
there would be no adverse effect as a result of the proposed project.
ADVERSE EFFECT: I have identified properties of cultural and religious significance within the
area of potential effect (APE) that are eligible for listing in the National Register. I believe
the proposed project would cause an adverse effect on these properties.
REQUEST FOR ADDITIONAL INFORMATION: The Southern Ute Indian Tribe requests
additional information on the planned site for its impact on properties of religious and
cultural importance to the Tribe as follows: We request consultation per Section 106 of
NHPA. Furthermore, we request a draft copy of the MOA and the survey results once they
are completed.
Please reply to Cassandra Atencio at catencio@southernute-nsn.gov and
Garrett Briggs at ghriggs@southernute-nsn gov and refer to in future

Garrett Briggs at gbriggs@southernute-nsn.gov and refer to ongoing correspondence with this office.

Hencin

Sincerely,

Ms. Cassandra Atencio **NAGPRA** Coordinator

Southern Ute Cultural Department

Southern Ute Indian Tribe



From: <u>Timothy Begay</u>

To: Sinkovec, Christina B CIV USARMY CESPA (USA)
Cc: Richard M. Begay; Paulson Chaco; Ettie Anderson

Subject: [Non-DoD Source] FARMER"S MUTUAL DITCH REHABILITATION

Date: Monday, August 17, 2020 1:34:25 PM

Dear Ms. Sinkovec:

The Navajo Nation Heritage and Historic Preservation Department's (NNHPD) Traditional Culture Program is (TCP) in receipt of your letter regarding proposed rehabilitation of irrigation ditches. The U.S. Army Corps of Engineers in cooperation with the of New Mexico State Engineer, and Farmer's Mutual Ditch Association is planning rehabilitee 22 miles of irrigation ditches along the San Juan Rive between Shiprock and Farmington, New Mexico.

After reviewing the Navajo Nation's Traditional Cultural Properties (TCPs) database, there are two TCP's in the area of the proposed project, TCP # 343 **Tooh** (San Juan River), and TCP # 945 **Tiis yaa hozhone** which are near the proposed project. The Navajo Nation does not have any major concerns on TCP # 343, as long as the flow of the San Juan River is not diverted from its natural course for the project. TCP #945 is located outside the project area and will not be affected. The Navajo Nation stresses the importance of these Navajo TCP landscapes and how they are embedded in everyday Navajo culture. The project may proceed.

However, in the event of a discovery ["discovery" means any previously unidentified or incorrectly identified cultural resources including but not limited to archaeological deposits, human remains, or locations reportedly associated with Native American religious/traditional beliefs or practices], all operations near the discovery must cease, and contact our office.

Furthermore, the Navajo Nation claims cultural affiliation to *Nihi naa zázi* (*Ancestors who lived around us*) formally knowing Anaasazi people (*from Archaic to Pueblo IV periods*) of the southwest. The Navajo Nation makes these claims through Navajo oral history and ceremonial history, which has been documented as early as the 1880s and taught from generation to generation).

If you have any additional questions, concerns or would like to discuss these issues further, please don't hesitate to contact our office at (928) 871-7198 or (928) 871-7152. Thank you for your cooperation and understanding.

Sincerely,

Timothy C. Begay, Navajo Cultural Specialist
Navajo Nation Heritage and Historic Preservation Department
P.O. Box 4950
Window Rock, AZ 86515
tbegay@navajo-nsn.gov



DEPARTMENT OF THE ARMY ALBUQUERQUE DISTRICT, CORPS OF ENGINEERS BY: ALL 3 2 2020 DECEMBER 11 THE PARTY OF TH 4101 JEFFERSON PLAZA NE ALBUQUERQUE NM 87109-3435

July 22, 2020

Planning, Project and Program Management Division Planning Branch **Environmental Resources Section**

Dr. Jeff Pappas State Historic Preservation Officer Historic Preservation Division Bataan Memorial Building 407 Galisteo Street, Suite 236 Santa Fe, NM 87501

Dear Dr. Pappas:

The U.S. Army Corps of Engineers, Albuquerque District (Corps), in cooperation with the New Mexico State Engineer and the Farmer's Mutual Ditch Association, is planning a project that would rehabilitate the ditch system's structural components (Enclosure 1). Rehabilitation work would be conducted under the Water Resources Development Act of 1986 (Public Law 99-662; 33 U.S.C. 2201 et. seg.), as amended. The Secretary of the Army has been authorized and directed to undertake, without regard to economic analysis, such measures as are necessary to protect and restore New Mexico's acequias (irrigation ditches). The State Engineer and the Farmer's Mutual Ditch Association are the project sponsors, and the Corps is responsible for the design and implementation of the project. The project area is located in San Juan County, New Mexico, approximately half a mile west of Farmington, New Mexico. The intent of this letter is to notify your office of the planned project and the adverse effect it will have to the Farmer's Mutual Ditch (LA 68213/HCPI 44824), to obtain your concurrence on the adverse effect determination and staging area survey results, and to initiate the Section 106 consultation process for the proposed undertaking, which will include the drafting of a Memorandum of Agreement (MOA) to mitigate adverse effects to the Farmer's Mutual Ditch.

The Farmer's Mutual Ditch measures approximately 22 miles in length and was likely constructed in several segments over time. Portions of the ditch may date back as far as the 1870's, but the ditch was formally adjudicated in 1920. The current project addresses two lengths along the ditch (Reach 1 and Reach 2, Enclosure 1), each measuring about 1 mile. These two reaches consist of open earthen ditch that runs at the base of the Martin Mesa escarpment. The ditch in this area is subject to frequent rock falls and landslides which fill it in, causing flooding and damage to private property while cutting off access to water downstream. The flooding and ditch damage resulting from these catastrophes require costly repairs, and the events occur with enough frequency that the decision has been made by the acequia association to pipe the ditch

in these two reaches. Both reaches will be piped in the existing channel alignment with 4.5-foot diameter reinforced concrete pipe. Existing sluice gates in Reaches 1 and 2 will be removed and replaced by new manholes with sluice gates, and pipes that tie into the manhole sluice structures. A minimum of 15 new manholes will be installed along the alignment for maintenance purposes.

The Farmer's Mutual Ditch brings water to approximately 600 users and irrigates approximately 4200 acres of farmland (Everhart 2002). Prior cultural resources work on the Farmer's Mutual Ditch included a Class III cultural resources inventory survey for the rehabilitation of the ditch's San Juan River diversion, upstream from the current project areas (Rayl 1988). During consultation for that rehabilitation, the New Mexico State Historic Preservation Officer concurred with the Corps' determination that the Farmer's Mutual Ditch system was potentially eligible for nomination to the National Register of Historic Places under criteria "c" and "d." The Advisory Council on Historic Preservation concurred with that finding and suggested that the Ditch system may also be eligible under criterion "a" (Everhart 2002). In 2001, USACE archaeologist Gregory Everhart conducted a cultural resource survey to the west of the current project area for the proposed conversion of a 3.2-mile segment of Farmer's Mutual Ditch from an earthen ditch to a concrete-lined one with new screw-lift field gates (Enclosure 2). The Everhart investigations found no new archaeological sites or historic properties in that 3.2-mile segment of the ditch, and that project was determined to have no adverse effect to historic properties (Everhart 2002). Your office concurred with that determination on September 17, 2002 (HPD Log No. 65839). In 2012, the ditch was recorded as part of a survey for a transmission line by Marron and Associates for the Bureau of Land Management (Walley and Connor 2012). Marron and Associates recommended the ditch eligible for the NRHP under criteria "a" and "c". Your office concurred with that determination on September 17, 2014 (HPD Log No. 99794). In 2018, the ditch was given an HCPI number and recorded on HCPI forms by the Natural Resource Conservation Service, who again determined that the ditch should be eligible to the NRHP (Murrell 2018).

The Area of Potential Effects (APE) for the current project includes a 100-foot easement centered on the Farmer's Mutual Ditch center line for a combined distance of approximately 2.5 miles, including the section between Reaches 1 and 2 (Enclosure 2) and one 1.5-acre staging area located on private land on the north side of the acequia in between the two reaches. The APE for the current project totals 43.82 acres and has not been surveyed for cultural resources. There is one known archaeological site near the western end of the APE, a petroglyph panel (LA 10952; Enclosure 2). USACE Archaeologists Jessica Gisler and Christina Sinkovec visited the proposed project APE on February 19-21, 2020, to assess the potential project effects and survey the staging area, and to determine the exact location of the LA 10952 and what effects project activities might have on that site.

Based on the Corps' February, 2020 site visit, the conversion of the entire length of both reaches from earthen ditch to piped ditch will result in an adverse effect to LA

68213 (the ditch itself) and the features described below (Table 1; Enclosure 2; Enclosure 3):

Table 1: Effect of Project Activities on Features within the APE (Enclosures 2 and 3)

Feature No	Feature Type	Project Effect		
1	Turnout with sluice gate	Removal		
2	Turnout with sluice gate; area around concrete has eroded badly	Removal		
3	Turnout with sluice gate; has concrete patch that reads: "KH MB FM DC 7-1-40"	Removal		
4	Footbridge with sluice gate; footbridge is constructed of metal rails covered with wooden planks	Removal		
5	Metal and concrete turnout with sluice gate	Removal		
6	Concrete wall functioning as downslope side of ditch; concrete has inscription: "May 14 1940 Work 8 DC RS"	Possible retention if useful to hold pipe in place, otherwise removal.		
7	Concrete wall reinforcing downslope side of ditch	Possible retention if useful to hold pipe in place, otherwise removal.		
8	Large metal flume; flume currently replaces earthen ditch in severely eroded area where earth retention is currently nearly impossible.	Removal		
9	Turnout with sluice gate	Removal		
10	Turnout with sluice gate at west end of project APE	Removal/Replacement with new gate		
11	Blasting shack; used to store explosives for ditch maintenance	This feature may not need to be removed. It is located on the opposite side of the access road from the ditch and most likely will not interfere with rehabilitation activities.		

The petroglyph panel, LA 10952, is at the western end of the project APE on a rock face above the access road to the ditch. Two more potential sites, a large historic trash dump and an old car on the side of the mesa slope, were also discovered during the course of the Corps' reconnaissance visit. Full documentation of these sites and assessment of project effect will be conducted as part of an intensive cultural resource survey that will be a stipulation of the Memorandum of Agreement (MOA) discussed below. The proposed staging area was surveyed by Corps Archaeologists Christina Sinkovec and Jessica Gisler on February 20, 2020. The staging area has been previously used as an agricultural field and for livestock grazing. No new sites or isolated occurrences were found in the staging area. A NIAF form was completed for the survey, and is attached for your review (Enclosure 4). It is the Corps' opinion that no historic properties will be affected by use of the staging area during project activities. The Corps seeks your concurrence with this determination.

As mentioned above, the Farmer's Mutual Ditch (LA 68213/HCPI 44824) has been previously determined eligible for inclusion to the National Register of Historic Places under criteria a and c. The ditch was integral to the development of irrigated agriculture and settlement of the Kirtland area (a). The resource is functionally intact and retains historical integrity consistent with its original function making it a classic example of irrigation ditch engineering and construction (c). The proposed undertaking will not affect the ditch's location or setting, or the association of the ditch with its community. In many ways, the proposed undertaking is beneficial in that it allows the Village of Kirtland and surrounding communities to continue their way of life while significantly lowering ditch maintenance costs. That being said, the ditch's original materials, design, and workmanship will be compromised by the use of concrete and piping, and by the removal of the existing turnouts and sluice gate structures. The feeling of water running openly through an earthen ditch system in the rural countryside will also be compromised by piping. For all of these reasons, it has been determined by the Corps that the proposed rehabilitation project will have an adverse effect to the Farmer's Mutual Ditch. The Corps seeks your written concurrence with the determination of adverse effect to LA 68213/HCPI 44824.

A teleconference meeting was held with your office on January 23, 2020, in which your office agreed that the proposed project most likely constitutes an adverse effect to the ditch, and during which we discussed that the APE should be visited to determine the exact effects of the project to the ditch and its associated features. We also discussed the likely need for a Memorandum of Agreement between the Corps and your office, in which we will outline mitigation for the adverse effects. Based on other recent MOA's with your office regarding acequia/ditch rehabilitation work, the Corps suggests that mitigations for the Farmer's Mutual Ditch should include a class III, intensive survey and photodocumentation of the ditch length within the current project's APE, a full recordation of the three aforementioned sites (LA 10952, the trash dump, and the car), and oral history interviews conducted with ditch association and community members. The MOA will also state that future undertakings will require further cultural resources survey and photodocumentation. An MOA with these stipulations is currently being drafted for review by your office.

If you have further suggestions for mitigations or would like to discuss the MOA further. or if you have any questions or comments regarding the adverse effect determination for the Farmer's Mutual Ditch Rehabilitation Project, please feel free to contact Christina Sinkovec, archaeologist at (505) 342-3168 or Christina.B.Sinkovec@usace.army.mil, or myself at (505) 342-3281, or at George.H.MacDonell@usace.army.mil. You may also provide comments to the above address.

Sincerely,

MACDONELL.GEORG Digitally signed by E.HOWELL.10453196

MACDONELL.GEORGE.HOWELL.1 045319667

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Date: 2020.07.23 10:53:56 -06'00'

George H. MacDonell

Chief, Environmental Resources Section

NEW MEXICO STATE HISTORIC PRESERVATION OFFICER

Enclosures

REFERENCES:

Everhart, Gregory D.

2002 A Cultural Resources Inventory of 24.4 Acres for the Rehabilitation of a Portion of Farmer's Mutual Ditch, Near Kirtland and Fruitland, San Juan County, New Mexico. Report No. COE-02-07. Prepared for the U.S. Army Corps of Engineers, Albuquerque District, Albuquerque, New Mexico.

Murrell, Jesse

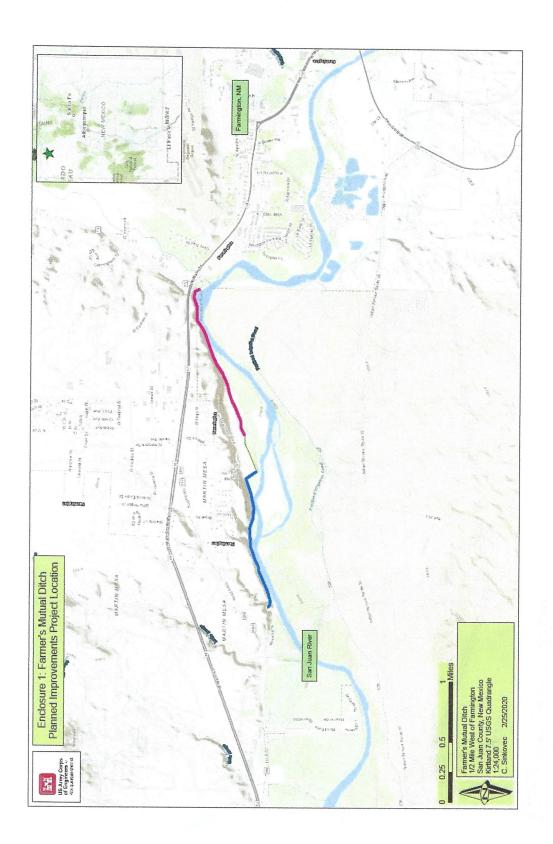
2018 Cultural Resource Inventory for the Duane Aspaas Irrigation Pipeline, San Juan County, New Mexico. Report prepared for US Natural Resource Conservation Service, New Mexico State Office, Santa Fe, New Mexico.

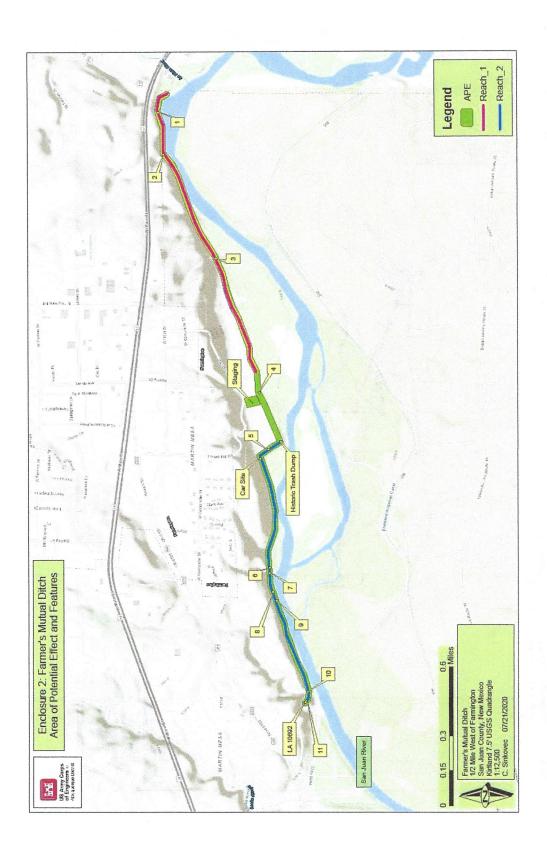
Rayl, Sandra L.

1988 Cultural Resources Inventory, Farmer's Mutual Ditch Heading, San Juan River, and Eledge (Mill) Ditch Heading, Animas River, near Aztec and Farmington, San Juan County, New Mexico. Report No. COE-88-01. Prepared for the U.S. Army Corps of Engineers, Albuquerque District. Albuquerque, New Mexico.

Walley, Scott and Maria Hroncich-Conner

2012 A Cultural Resource Survey Along the PNM FC Transmission Line on BLM, State, and Private Lands, San Juan County, New Mexico. Report prepared by Marron and Associates for the US Bureau of Land Management, Farmington Field Office, Farmington, New Mexico.

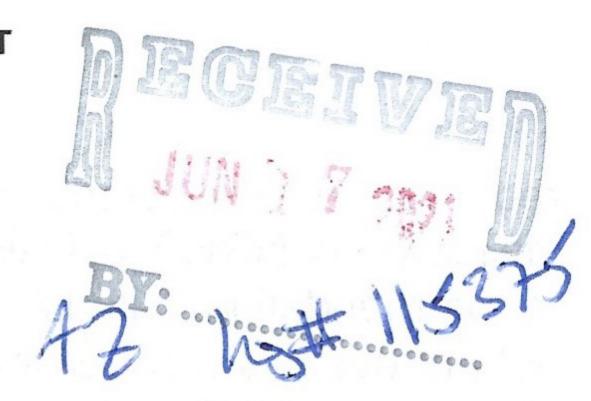






DEPARTMENT OF THE ARMY CORPS OF ENGINEERS, ALBUQUERQUE DISTRICT 4101 JEFFERSON PLAZA NE

4101 JEFFERSON PLAZA NE ALBUQUERQUE, NM 87109-3435



June 16, 2021

Planning, Project and Program Management Division Planning Branch Environmental Resources Section

Dr. Jeff Pappas State Historic Preservation Officer Historic Preservation Division Bataan Memorial Building 407 Galisteo Street, Suite 236 Santa Fe, NM 87501

Dear Dr. Pappas:

The U.S. Army Corps of Engineers (USACE), Albuquerque District, plans to rehabilitate a two- and one-half-mile section of the 22-mile long Farmers Mutual Ditch (Ditch), San Juan County. The rehabilitation involves the removal and replacement of several features of the Ditch, and the installation of concrete lining between two sections of buried piping. On July 28, 2020, USACE and your office agreed that the rehabilitation project would have an adverse effect on the Ditch (LA No. 68213/HCPI No 44824; HPD Log No. 113444) and entered into a Memorandum of Agreement (MOA) to resolve these adverse effects. USACE contracted with BRIC, LLC to fulfill the terms of the MOA, which included a Class III inventory, recordation of LA 10952 and the portion of the Farmer's Mutual Ditch within the area of potential effect (APE), and a report detailing the fulfillment of the stipulations of the MOA. The report (NMCRIS No. 147384) has been completed and is attached for your review (Enclosure 1).

The Ditch was previously determined eligible in 2018 under criterion (a) due to its association with pioneer homesteading in the San Juan River valley in the late 1800s and historical association with the late nineteenth- and early twentieth-century expansion of agriculture and ranching in the valley, specifically in the Kirtland area. The Ditch is located west of the City of Farmington and east of Kirtland in the San Juan River floodplain, San Juan County, New Mexico (Enclosure 2). The legal description of the project falls within T29N, R14W, Sections 12, 13, 14, and 15 of the Kirtland Quadrangle. Pursuant to 36 CFR 800.4, the area of potential effect (APE) is a 100-foot wide easement along a 2.67-mile long reach of the ditch.

One new site (LA 198490), two previously recorded sites (LA 10952 & LA 68213/HCPI 44824), and three IOs were documented within the project area. LA 198490 is a newly

recorded, recent historic (c. 1950s – c. 1980s) trash dump. LA 198490 is recommended ineligible for NRHP inclusion by BRIC, LLC., and USACE agrees with this recommendation. Site LA 10952, a prehistoric petroglyph site, was previously recorded but not evaluated for eligibility to the NRHP. BRIC, LLC. recommends that LA 10952 is eligible for NRHP inclusion under criterion (d), and USACE concurs, but would also call this site eligible under criterion (a). Site LA 68213/HCPI 44824, the Farmer's Mutual Ditch, was previously determined eligible to the NRHP in 2018 (HPD Log No. 108490) in 2018 (Table 1).

Table 1: New and Previously Recorded Site Eligibilities

LA Number	New/Prev	Site Description	BRIC, LLC Eligibility Recommendation	USACE Eligibility Determination
68213	Previous	Farmer's Mutual Ditch	Eligible (previously determined)	Eligible (previously determined)
10952	Previous	Petroglyph site	Eligible (d)	Eligible (a and d)
198490	New	Historic trash dump	Not Eligible	Not Eligible

The footprint of LA 10952 falls outside of the project APE and will therefore be avoided by all project activities. USACE determines that LA 198490 is not eligible to the NRHP and will therefore not be affected by project activities. The attached report fulfills the stipulations of the MOA between SHPO and USACE intended to mitigate the adverse effect to LA 68213/HCPI 44824. Therefore, the proposed Ditch rehabilitation project will have no effect to historic properties. USACE seeks your concurrence with our eligibility determinations for LA 198490 and LA 10952 and our determination of effect.

Pursuant to 36 CFR 800.2 and 800.4, USACE initiated tribal consultation in a letter dated July 24, 2020. A letter was sent to tribes having an interest in undertakings occurring in San Juan County, including the Navajo Nation, Ohkay Owingeh, the Pueblo of Laguna, the Southern Ute Tribe, the Ute Mountain Ute Tribe, the Hopi Tribe, and the Kiowa Tribe, and offered the opportunity for these tribes to participate in the creation of the Memorandum of Agreement for the project. Responses were received from the Navajo Nation and the Southern Ute Tribe. The Navajo Nation identified two Traditional Cultural Properties (TCP's) near the project area: TCP # 343 Tooh (San Juan River), and TCP # 945 Tiis yaa hozhone. The Navajo Nation did not have any concerns regarding TCP # 343, as long as the flow of the San Juan River is not further diverted from its natural course for the Project, and further indicated that TCP #945 is located outside the project area and will not be affected. The Southern Ute Tribe requested a copy of the Memorandum of Agreement between USACE and SHPO, which was provided by USACE via e-mail on November 4, 2020. Southern Ute also requested a copy of the Class III inventory report. USACE will consult with the above tribes regarding the results of the Class III inventory, including site eligibility and project effect, and will provide copies of the inventory report to Southern Ute and to any other tribes upon request.

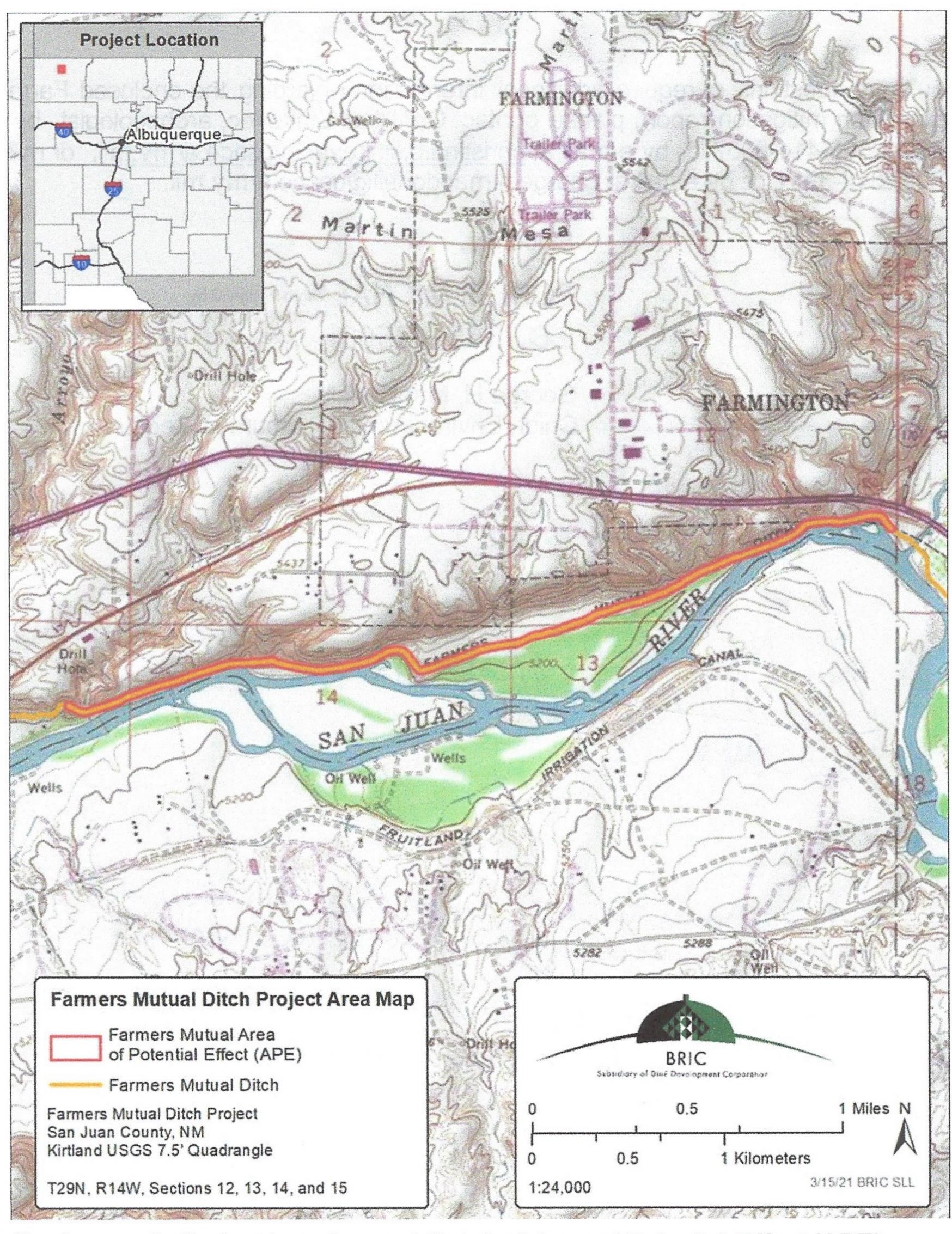
If you have questions or require additional information regarding the enclosed Farmer's Mutual Ditch mitigation report, please contact Christina Sinkovec, archaeologist, by phone at 505-414-5057 or by e-mail at christina.b.sinkovec@usace.army.mil, or myself at (505) 342-3281 or by email at george.h.macdonell@usace.army.mil.

Sincerely,

PORTER.MICHAE Digitally signed by PORTER.MICHAEL.D.1365143508 L.D.1365143508 Date: 2021.06.17 11:56:54-06'00'

George H. MacDonell Chief, Environmental Resources Section

- Heave have the lits shapelibes for the apolitical site boundries planted into the Huncrits was Service - Prese possale tu HurtPD/SHPD, with the 100% engineering plans when available.



Enclosure 2: Project Location and Detail of Area of Potential Effect (APE)



Southern Ute Indian Tribe

Cultural Preservation Department Tribal Historic Preservation Office Phone: (970) 563-2983 Fax: (970) 563-1098 P.O. Box 737 Ignacio, CO 81137



December 22, 2022

ATTN: Dept. of Defense | Dept. of the Army | Corps of Engineers, Albuquerque District 4101 Jefferson Plaza NE Albuquerque New Mexico 87109

Dear Jessica Gisler, We have reviewed your Consultation Request per the National Historic Preservation Act regarding the Farmer's Mutual Ditch project and offer the following response as indicated by the box that is checked. DEFER **NO EFFECT:** I have determined that there are no properties of religious and cultural significance to the Southern Ute Indian Tribe that are listed on the National Register within the area of potential effect or that the proposed project will have no effect on any such properties that may be present. **Comments:** NO ADVERSE EFFECT: I have identified properties of cultural and religious significance within the area of effect that I believe are eligible for listing in the National Register, for which there would be no adverse effect as a result of the proposed project. Comments: *********************************** $\overline{\mathbf{Q}}$ ADVERSE EFFECT: I have identified properties of cultural and religious significance within the area of potential effect (APE) that are eligible for listing in the National Register. I believe the proposed project would cause an adverse effect on these properties. Comments: LA 10952 be avoided by all ground-disturbing activities if possible. If avoidance is not possible, tribal consultation to develop a monitoring plan that is satisfactory to tribal concerns, with considerations for archaeological features at the site, most notably the fragility of the large prehistoric petroglyph panel. The THPO is concerned about whether the Rock Scaling will also cause the petroglyph panel to fall, this is a non-renewable cultural resource that is important. Panels were not created for mere amusement, the ancestors thought this was site important enough to record an event so that future generations could still look upon it and reflect. The THPO also recommends that no migratory nesting or breeding sites be disturbed, and the project proponent proceed outside those periods of breeding or nesting. Raptors are of cultural and religious significance as they are a part of ceremonies and prayers. The San Juan River itself is important in Ute oral and written history and is a part of their

REQUEST FOR ADDITIONAL INFORMATION: The Southern Ute Indian Tribe requests additional information on the planned site for its impact on properties of religious and cultural importance to the Tribe as follows:

ancestral homelands, where they traversed and lived pre-reservation.

Please respond to our department at sunagpra@southernute-nsn.gov and refer to SUCPD_FY2023_NEPA_NHPA_0016 in future correspondence with this office so that administrative record is accurately managed.

Toghoyaqh,

Eresenfut Atencia

Tribal Historic Preservation Officer Tribal Historic Preservation Office Cultural Preservation Department Southern Ute Indian Tribe

Office: (970) 563-2989 | Mobile: (970) 442-1852

catencio@southernute-nsn.gov



January 26, 2023

Planning, Project and Program Management Division Planning Branch Environmental Resources Section

Cassandra Atencio Tribal Historic Preservation Officer Southern Ute Indian Tribe P.O. Box 737 Ignacio, CO 81137

Dear Ms. Atencio:

The U.S. Army Corps of Engineers, Albuquerque District (Corps) has received your comments on a possible adverse effect in regard to our Farmer's Mutual Ditch Project Section 106 Consultation Letter dated December 5, 2022 (SUCPD_FY2023_NEPA_NHPA_0016). The purpose of this letter is to respond to those comments.

In your office's response dated December 22, 2022, you identified a property of cultural and religious significance within the area of potential effect (APE) that is eligible for listing in the National Register of Historic Places (NRHP). You commented that the proposed project may cause an adverse effect to LA 10952. LA 10952 is a large petroglyph panel on the southern side of the Farmer's Mutual Ditch. Your office's recommendation was that LA 10952 be avoided by all ground-disturbing activities if possible. If avoidance is not possible, you recommended that the Corps engage in tribal consultation to develop a monitoring plan that is satisfactory to tribal concerns, with considerations for archaeological features at the site, most notably the fragility of the large prehistoric petroglyph panel. You stated that the THPO is concerned about whether the rock scaling will cause the petroglyph panel to fall.

Your office also recommended that no migratory nesting or breeding sites be disturbed, and the project proponent proceed outside of periods of nesting or breeding, as raptors are of cultural and religious significance as they are a part of ceremonies and prayers.

Corps archaeologist, Jessica Gisler, conducted a phone call with Tribal Historic Preservation Officer, Cassandra Atencio on Monday, January 23, 2023. During this call, Gisler presented two maps that better depicted the location of LA 10952 in relation to Reach 2 of the Farmer's Mutual Ditch project (Enclosures 1 and 2). The maps showed that LA 10952 is located on the southern side of the Farmer's Mutual Ditch, and that the site is located approximately 100 meters west of the end of Reach 2. The Corps will



only be conducting rock scaling within Reach 1 at this time. Even if Rock Scaling is needed within Reach 2, LA 10952 is far enough outside of the Reach 2 corridor that it would not be impacted. No rock scaling will occur within the vicinity of LA 10952. The Corps has not begun the planning for Reach 2 of the project yet but will likely begin the design sometime during the summer of 2023. During their phone discussion, Atencio and Gisler discussed the possibility that heavy equipment may need to be brought in on the access road that passes LA 10952 during the implementation of Reach 2 of the project. They agreed that consultation to determine the necessary protection measures for LA 10952 should begin as soon as possible to avoid delays to the Reach 2 project schedule. They scheduled a site visit to LA 10952 for February 21, 2023. Afterwards they will discuss potential protection measures and/or a monitoring plan for LA 10952 during the implementation of Reach 2 of the project.

The Corps has also put into place some best management practices for the protection of raptors during the implementation of this project. Project activity will occur between November and the end of February, outside of the migratory bird nesting season. If a bald eagle is present within 0.5 miles of the work in the morning before the project activity starts, or following breaks, the contractor will suspend all activity until the bird leaves of its own volition. However, if a bald eagle arrives during construction activities or if an eagle is beyond that distance, construction would not be interrupted.

Based on the results of the phone call and the information presented above, the Corps determines that Reach 1 of the proposed Farmer's Mutual Acequia Rock Scaling project would result in **no historic properties affected**. The Corps seeks your concurrence with our determination.

If you have any questions or comments regarding the Farmer's Mutual Acequia Rock Scaling Project, please contact Jessica Gisler, archaeologist, at (505) 342-3309 or by e-mail at jessica.l.gisler@usace.army.mil, or myself at (505) 342-3661 or by email at danielle.a.galloway@usace.army.mil.

Sincerely,

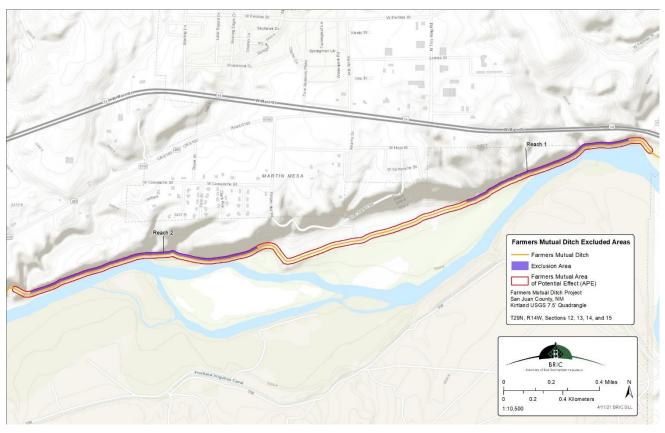
Danielle A. Galloway

Danielle Galloway

Chief, Environmental Resources Section

Enclosures





Enclosure 1. Reach 1 and 2 of the Farmer's Mutual Ditch Project.





Enclosure 2. LA 10952 in proximity to the western end of Reach 2.

[Non-DoD Source] Re: [EXTERNAL] Farmer's Mutual Ditch Project



Atencio, Cassandra <catencio@southernute-nsn.gov> To Gisler, Jessica Lee (Jess) CIV USARMY CESPA (USA)



≪ Reply All





Tue 2/14/2023 1:54 PM

Yes I will be there, after the site visit, I would like it to go in administrative record, our recommendations of the treatment measures, so that we can make a determination of NO ADVERSE EFFECT, based on distance for avoidance, monitoring during phase 2, and

That phase 1 will be a determination of NO EFFECT, because the petroglyph is not going to be impacted at all during that phase.

I am not able to open up our database from my phone right at this moment.

Thank you,

Cassandra Atencio Tribal Historic Preservation Officer

Cultural Preservation Department

Southern Ute Indian Tribe

Sent from my iPhone

From: Greg Kaufman

To: Gisler, Jessica Lee (Jess) CIV USARMY CESPA (USA); Shannon Montoya

Subject: [Non-DoD Source] RE: Section 106 Consultation Request

Date: Monday, December 12, 2022 10:42:13 AM

Attachments: <u>image001.png</u>

Jess -

The Pueblo of Sandia has no objection to your project in San Juan County. Thanks for the notification.

Regards, Greg



Greg Kaufman
Environment Director
Pueblo of Sandia
481 Sandia Loop
Bernalillo, NM 87004
gkaufman@sandiapueblo.nsn.us

Office: 505-771-5080 Cell: 505-340-7616

From: Gisler, Jessica Lee (Jess) CIV USARMY CESPA (USA) <Jessica.L.Gisler@usace.army.mil>

Sent: Thursday, December 8, 2022 11:11 AM

To: Shannon Montoya <snmontoya@sandiapueblo.nsn.us>
Cc: Greg Kaufman <gkaufman@sandiapueblo.nsn.us>
Subject: [EXTERNAL] Section 106 Consultation Request

Dear Governor Paisano,

Attached is the Section 106 letter for the Farmer's Mutual Acequia Improvement Project. We invite your comments in regards to the proposed undertaking. If you have questions or require additional information, please contact myself or Danielle Galloway at Danielle.A.Galloway@usace.army.mil. Thank you!

Jess Gisler Archaeologist U.S. Army Corps of Engineers Albuquerque District 4101 Jefferson Plaza, NE Albuquerque, NM 87109

Cell: 913-544-7589 Ofc: 505-342-3309

Jessica.L.Gisler@usace.army.mil

From: Randy Teboe

To: Gisler, Jessica Lee (Jess) CIV USARMY CESPA (USA)

Subject: [URL Verdict: Unknown][Non-DoD Source] RE: Section 106 Consultation Request

Date: Friday, December 16, 2022 9:37:55 AM

Jess,

Please be advised that the Pueblo de San Ildefonso has no comment or concern regarding your project.

Thank you,
Randy Teboe
Tribal Historic Preservation Officer
Pueblo de San Ildefonso
Cell 505-231-6375
Office 505-455-4141
thpo@sanipueblo.org



From: Chris A Moquino <Governor@sanipueblo.org>

Sent: Thursday, December 8, 2022 11:37 AM

To: 'thpo' <thpo@sanipueblo.org>; 'Lt. Governor' <lt.gov.tc@outlook.com>; 'Peter C. Chestnut' <pcc@chestnutlaw.com>; 'Carolyn J. Abeita' <cabeita@nmlawgroup.com>; j.gonzales@sanipueblo.org

Cc: 'Kitty Monyoya' <governorsassistant@sanipueblo.org>; 'Lawrence Atencio'

<natural.resources@sanipueblo.org>

Subject: FW: Section 106 Consultation Request

From: Gisler, Jessica Lee (Jess) CIV USARMY CESPA (USA) < Jessica.L.Gisler@usace.army.mil>

Sent: Thursday, December 8, 2022 11:27 AM

To: governor@sanipueblo.org
Cc: thpo@sanipueblo.org

Subject: Section 106 Consultation Request

Dear Governor Martinez,

Attached is the Section 106 letter for the Farmer's Mutual Acequia Improvement Project. We invite your comments in regards to the proposed undertaking. If you have questions or require additional information, please contact myself or Danielle Galloway at Danielle.A.Galloway@usace.army.mil. Thank you!

Jess Gisler
Archaeologist
U.S. Army Corps of Engineers
Albuquerque District
4101 Jefferson Plaza, NE
Albuquerque, NM 87109

Cell: 913-544-7589 Ofc: 505-342-3309

<u>Jessica.L.Gisler@usace.army.mil</u>



December 5, 2022

Planning, Project and Program Management Division Planning Branch Environmental Resources Section

Dr. Jeff Pappas State Historic Preservation Officer Historic Preservation Division Bataan Memorial Building 407 Galisteo Street, Suite 236 Santa Fe, NM 87501

Dear Dr. Pappas:

The U.S. Army Corps of Engineers, Albuquerque District (Corps), in cooperation with the New Mexico State Engineer and the Farmer's Mutual Ditch Association, is planning a project that would rehabilitate the ditch system's structural components (Enclosure 1). Rehabilitation work would be conducted under the Water Resources Development Act of 1986 (Public Law 99-662; 33 U.S.C. 2201 et. seq.), as amended. The Secretary of the Army has been authorized and directed to undertake, without regard to economic analysis, such measures as are necessary to protect and restore New Mexico's acequias (irrigation ditches). The State Engineer and the Farmer's Mutual Ditch Association are the project sponsors, and the Corps is responsible for the design and implementation of the project. The project area is located in San Juan County, New Mexico, approximately one half mile west of Farmington, New Mexico. The Corps initially notified your office about this project and the adverse effect it would have to the Farmer's Mutual Ditch (Ditch; LA 68213/ HCPI 44824) in a letter dated July 22, 2020. Since then, it has been determined that rockfall from the cliffs above the Farmer's Mutua Acequia will pose a significant danger to the construction crews during implementation. It has been decided that rock scaling will need to be performed on the cliffs above reach one of the acequia. Access will need to occur from above the cliff across BLM Land. The Corps has been in communication with Jeff Tafoya (Assistant Field Manager, Lands and Renewable Resources) and David (Erik) Simpson (BLM Archaeologist) regarding the need for an archaeological survey on their land above the rock scaling areas. They asked us to consult with your office and get your approval on the area of potential effects (APE) for the rockfall project. Your office signed off on the APE on 11/04/2022 (HPD Log 118332). The purpose of this letter is to present the results of the survey of the rock scaling APE and seek your concurrence in our determination of **no historic properties affected** for the proposed Farmer's Mutual Acequia Rock Scaling project.

Original Project Scope

The Farmer's Mutual Ditch measures approximately 22 miles in length and was likely constructed in several segments over time. Portions of the ditch may date back as far as the 1870's, but the ditch was formally adjudicated in 1920. The current project addresses two lengths along the ditch (Reach 1 and Reach 2; Enclosure 1), each measuring about 1 mile. These two reaches consist of open earthen ditch that runs at the base of the Martin Mesa escarpment. The ditch in this area is subject to frequent rock falls and landslides which fill it in, causing flooding and damage to private property while cutting off access to water downstream. The flooding and ditch damage resulting from these catastrophes require costly repairs, and the events occur with enough frequency that the decision has been made by the acequia association to pipe the ditch in these two reaches. Both reaches will be piped in the existing channel alignment with 72-inch sized corrugated metal pipe. A minimum of 14 new manholes will be installed along the alignment for maintenance purposes.

Previous Cultural Resources Investigations

The Farmer's Mutual Ditch brings water to approximately 600 users and irrigates approximately 4200 acres of farmland (Everhart 2002). Prior cultural resources work on the Farmer's Mutual Ditch included a Class III cultural resources inventory survey for the rehabilitation of the ditch's San Juan River diversion, upstream from the current project areas (Rayl 1988). In 2001, USACE archaeologist Gregory Everhart conducted a cultural resource survey to the west of the current project area for the proposed conversion of a 3.2-mile segment of Farmer's Mutual Ditch from an earthen ditch to a concrete-lined one with new screw-lift field gates (Enclosure 2). The Everhart investigations found no new archaeological sites or historic properties in that 3.2-mile segment of the ditch, and that project was determined to have no adverse effect to historic properties (Everhart 2002). The State Historic Preservation Office (SHPO) concurred with that determination on September 17, 2002 (HPD Log No. 65839). In 2012, the ditch was recorded as part of a survey for a transmission line by Marron and Associates for the Bureau of Land Management (Walley and Connor 2012). Marron and Associates recommended the ditch eligible for the NRHP under criteria "a" and "c". SHPO concurred with that determination on September 17, 2014 (HPD Log No. 99794). In 2018, the ditch was given an HCPI number and recorded on HCPI forms by the Natural Resource Conservation Service, who again determined that the ditch should be eligible to the NRHP (Murrell 2018).

The APE for the originally-defined project included a 100-foot easement centered on the Farmer's Mutual Ditch center line for a combined distance of approximately 2.5 miles, including the section between Reaches 1 and 2 (Enclosure 2) and one 1.5-acre staging area located on private land on the north side of the acequia in between the two reaches. Total area for the originally-defined project is 43.82 acres.

In 2020, the Corps determined that conversion of the entire length of both reaches from earthen ditch to piped ditch will result in an adverse effect to LA 68213

(the ditch itself) and its features, including footbridges, turnouts, and sluice gates, all of which will be removed and replaced with new access points. The anticipated rehabilitation project will thus change the design, materials, and workmanship of the Ditch within the sections being piped. To address this adverse effect in accordance with Section 106 of the National Historic Preservation Act, the Corps developed a Memorandum of Agreement (MOA) with the NM SHPO, signed July 28, 2020. Stipulations of this MOA included full documentation of the ditch and other cultural resources within the APE. The APE for this portion of the project was surveyed for cultural resources in 2021 By BRIC, LLC and a Class III Inventory report was prepared to satisfy MOA requirements. This inventory documented the ditch, two archaeological sites, and three isolated occurrences (IOs). The Class III Inventory report was submitted on June 17, 2021. We received concurrence from your office on June 29, 2021 (HPD Log 115375).

Addition of Rock Scaling to Undertaking

The scope of the proposed undertaking was expanded in October of 2021 when it was determined that the slopes adjacent to the acequia channel are extremely steep and due to their geological composition pose a potential rockfall hazard to construction workers working within the channel. Prior to the start of construction within the acequia channel, rock scaling will be performed on these rock slopes to remove unstable or potentially unstable rock. Rock scaling will be performed by trained professionals rappelling from the top of the rock slope and using hand tools to dislodge the rocks from the top down in a controlled manner. The project Geologist has performed multiple field surveys and identified areas along the rock slopes that pose potential risk of rockfall during construction. To reduce this risk, six segments (Rockfall Sections 3, 4, 6, 7, 9, and 10) along the Reach 1 alignment of the acequia, having an approximate total length of 2,350 feet, have been identified for potential rock scaling (Enclosure 3). It is possible that rock scaling will not need to occur in Rockfall Sections 9 and 10. The rock scaling contractor will have the final say on which sections require rock scaling. After rock scaling activities are completed, a final inspection will be performed by a specialist hired by the Contractor to certify that work can safely begin within the acequia and allow the displaced rock to be collected and hauled offsite.

Because specific locations for rock scaling have not yet been selected, a large APE was identified that will encompass all potential rock scaling areas and access points (Enclosure 4). The APE measures 59.3 acres.

No previous surveys have occurred within the APE for the rock scaling portion of the project, and there are no known sites. Seven surveys have been performed within .5 miles of the rock scaling APE (Enclosure 5) and none of them documented any sites within the vicinity of the APE.

Rock Scaling Cultural Resource Survey Results

Corps archaeologists Jessica Gisler and Jonathan Van Hoose performed a Class III inventory of the Rock Scaling APE on November 2nd and 3rd. The archaeologists performed an intensive survey by walking 15m E-W transects. The APE for the rock scaling portion of the project measured 59.3 acres. The Corps archaeologists were only able to survey 47.2 acres of the APE due to the need to stay within a safe distance of the cliff edge; as discussed with your office prior to fieldwork, the steep cliff faces could therefore not be directly subjected to pedestrian survey themselves. In order to identify possible resources on the cliff faces, the Corps archaeologists walked a transect along the base of the cliffs next to the Farmer's Mutual Acequia and scanned the cliffs with binoculars to locate any possible rock art or rock shelters. None were identified. The surface visibility ranged between 51 and 75%, with large patches of the soil visible between tufts of grass. The survey area contained a large degree of gravel. The understory was a mix of grasses and forbs with the occasional cholla. There was no overstory present. The BLM asked the Corps to buffer the survey area by 100ft on all sides (Enclosure 6). The Corps archaeologists attempted to do this wherever possible without crossing property lines, entering the highway corridor, or walking too close to the cliff edge. The northern boundary of the survey area is bordered by U.S. Hwy 64, and a portion of the western boundary is a fence line that marks private property. The southern boundary of the survey area is the edge of the cliff.

The survey area was littered with modern trash that has been dumped from cars on U.S. Hwy 64. The Corps archaeologists noted one small modern trash scatter in the northwest corner of the survey area (Enclosure 7). The trash scatter consisted of a few cinder blocks, pieces of siding from a trailer, asphalt shingles, a "Fix-a-Flat" can, and a sleeping bag (Enclosure15). It appeared that the trash may have been dumped over the property line by the neighboring landowners. The Corps archaeologists observed a dilapidated trailer with the same type of siding that was observed in the trash scatter on the neighboring private property. The trash scatter consisted of recent material and was not recorded, but the Corps archaeologists did take a boundary around it with the GPS. No cultural resource sites or rock art were located during this survey, but 18 isolated occurrences were recorded (Enclosure 8). They are summarized in the table below. IO #10 is a Descanso consisting of a white cross with the inscription "RIP Gilo" (Enclosure 16). The cross is located on a high point overlooking the San Juan River. A hunting knife and some coins had been placed at the foot of the cross. The Descanso will be avoided during project implementation even though it is unlikely to be eligible for the National Register of Historic Places (NRHP).

Table 1. Isolated Occurrences

IO#	Description	UTM Location
1	Light Grey Coarse Quartzite Secondary Flake 2-3 cm No Retouch	12 N 744796 E 4069196 N
2	5 Gallon Metal Bucket With Crimp Lid And Two Screw Openings	12 N 744713 E 4069220 N
3	One Anheuser Busch 1970's Style Red Beer Can	12 N 744636 E 4069248 N
4	One Anheuser Busch 1970's Style Red Beer Can	12 N 744369 E 4069240 N
5	One Anheuser Busch 1970's Style Red Beer Can "Pitch In!"	12 N 744645 E 4069208 N
6	One Anheuser Busch 1970's Style Red Beer Can	12 N 744366 E 4069140 N
7	Dark Brown Chert Flake Secondary Flake 4-5 cm No Retouch	12 N 744797 E 4069195 N
8	Dark Brown Chert Secondary Flake 3-4 cm No Retouch	12 N 744798 E 4069196 N
9	Debris From Trailer	12 N 744351 E 4069253 N
10	Descanso Memorial Marker	12 N 745162 E 4069289 N
11	Light Tan Chert Primary Flake 4-5 cm No Retouch	12 N 744436 E 4069130 N
12	Steel Can Lid Church Key Opening 4 Inch Diameter	12 N 744401 E 4069134 N
13	Steel Can Unknown Opening Style	12 N 744642 E 4069194 N
14	Possible Trailer Hitch Part	12 N 744345 E 4069240 N
15	Trailer Siding	12 N 744649 E 4069192 N
16	Trailer Siding	12 N 744467 E 4069129 N
17	Two Anheuser Busch 1970s Style Red Beer Cans "Pitch In!"	12 N 744388 E 4069156 N
18	Two Wooden Potential Fence Posts	12 N 744575 E 4069208 N

Pursuant to 36 CFR 800.2, consulting parties in the Section 106 process identified for the proposed project includes the Corps and your office. Scoping letters were mailed to tribes having cultural resources concerns in San Juan County, including the Pueblo of Acoma, Pueblo of Cochiti, Pueblo of Isleta, Pueblo of Jemez, Kewa Pueblo, Pueblo of Laguna, Pueblo of Nambe, Ohkay Owingeh, Pueblo of Picuris, Pueblo of Pojoaque, Pueblo of San Felipe, Pueblo of San Ildefonso, Pueblo of Sandia, Pueblo of Santa Ana, Pueblo of Santa Clara, Pueblo of Taos, Pueblo of Tesuque, Pueblo of Zia, Pueblo of Zuni, All Pueblos Council of Governors, Eight Northern Indian Pueblos Council, Five Sandoval Indian Pueblos, Ten Southern Pueblos Council, Jicarilla Apache Tribal Council, Navajo Nation, Southern Ute Indian Tribe, The Hopi Tribe, Ute Mountain Ute Tribe, Pueblo of Isleta, Pueblo of San Felipe, and the Kiowa Tribe, on November 15, 2022. No Traditional Cultural Properties and no Indian Trust Assets are known to occur within or adjacent to the Farmer's Mutual Acequia.

Based upon the information above, the Corps determines that the proposed Farmer's Mutual Acequia Rock Scaling project would result in **no historic properties affected**. The Corps seeks your concurrence with our determination.

If you have any questions or comments regarding the Farmer's Mutual Acequia Rock Scaling Project, please contact Jessica Gisler, archaeologist, at (505) 342-3309 or by e-mail at jessica.l.gisler@usace.army.mil, or myself at (505) 342-3661 or by email at danielle.a.galloway@usace.army.mil.

Sincerely,

Danielle A. Galloway

Danielle Galloway

Chief, Environmental Resources Section

Enclosures

REFERENCES:

Everhart, Gregory D.

2002 A Cultural Resources Inventory of 24.4 Acres for the Rehabilitation of a Portion of Farmer's Mutual Ditch, Near Kirtland and Fruitland, San Juan County, New Mexico. Report No. COE-02-07. Prepared for the U.S. Army Corps of Engineers, Albuquerque District, Albuquerque, New Mexico.

Murrell, Jesse

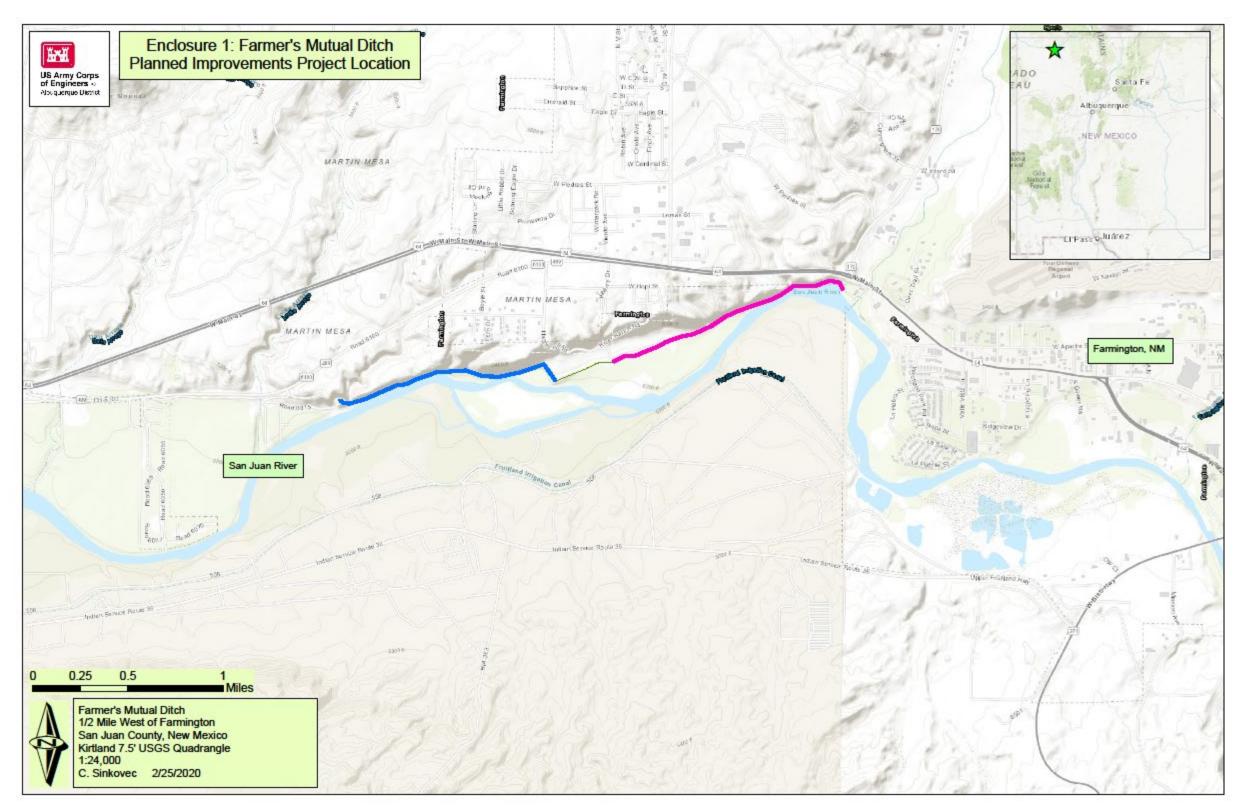
2018 Cultural Resource Inventory for the Duane Aspaas Irrigation Pipeline, San Juan County, New Mexico. Report prepared for US Natural Resource Conservation Service, New Mexico State Office, Santa Fe, New Mexico.

Rayl, Sandra L.

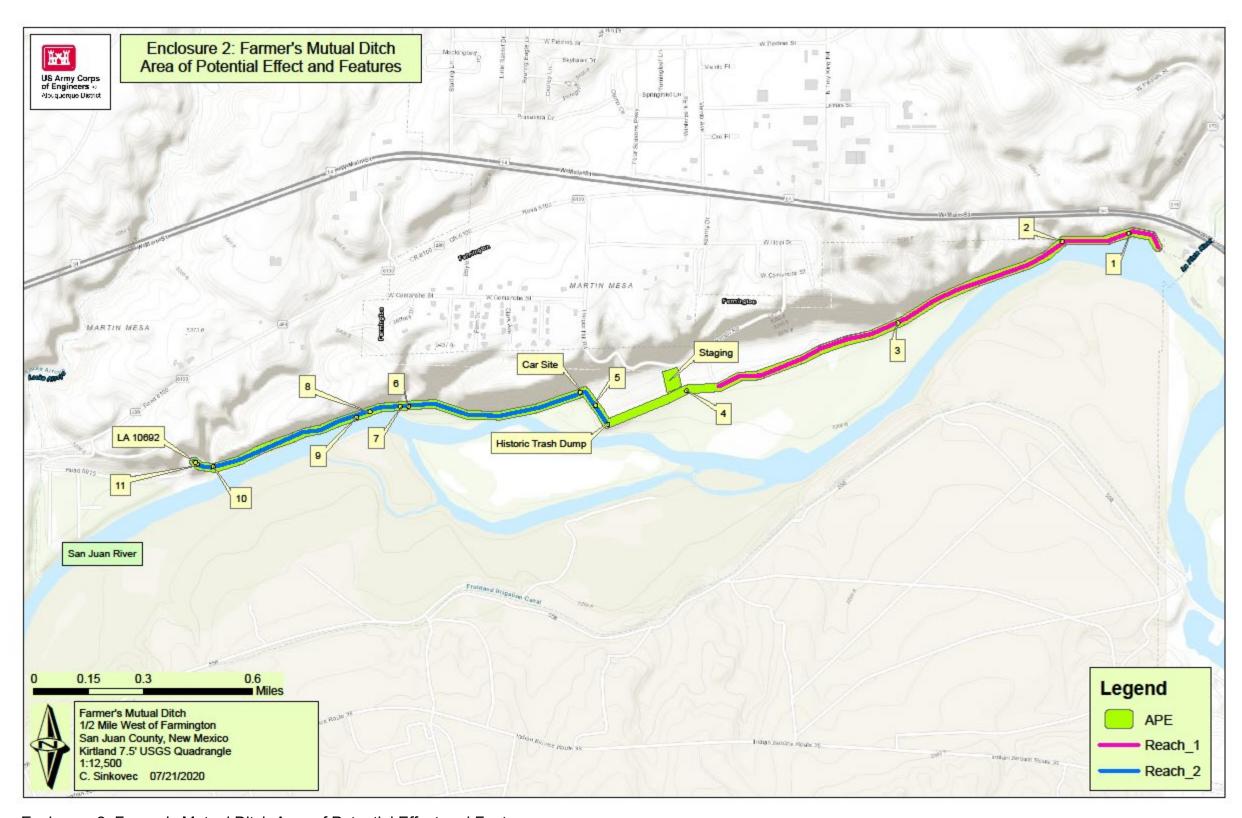
1988 Cultural Resources Inventory, Farmer's Mutual Ditch Heading, San Juan River, and Eledge (Mill) Ditch Heading, Animas River, near Aztec and Farmington, San Juan County, New Mexico. Report No. COE-88-01. Prepared for the U.S. Army Corps of Engineers, Albuquerque District. Albuquerque, New Mexico.

Walley, Scott and Maria Hroncich-Conner

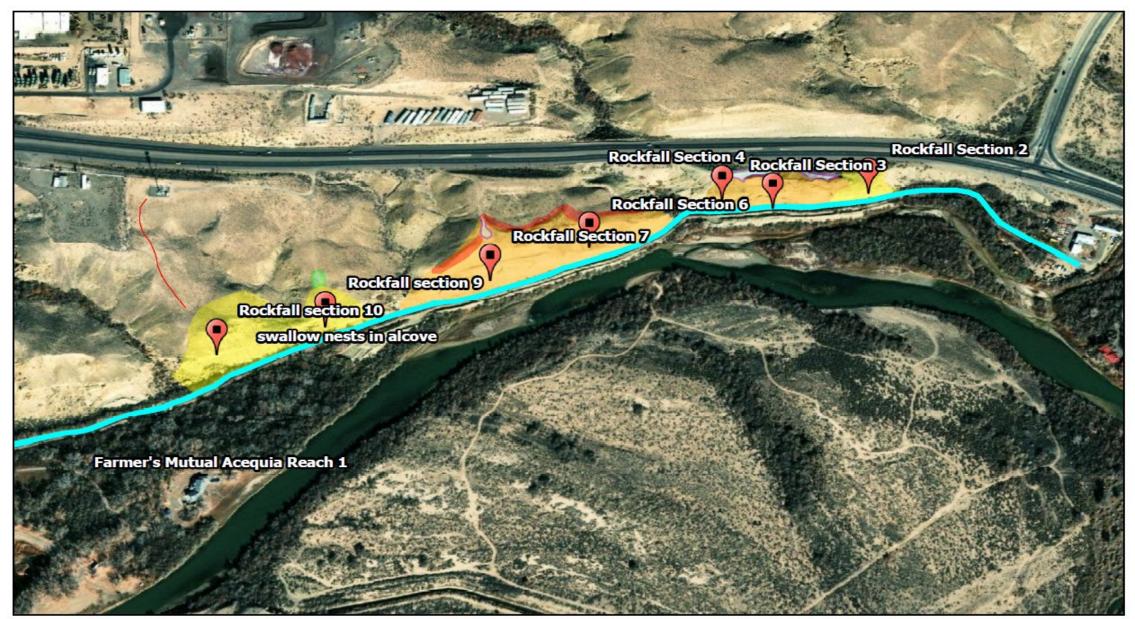
2012 A Cultural Resource Survey Along the PNM FC Transmission Line on BLM, State, and Private Lands, San Juan County, New Mexico. Report prepared by Marron and Associates for the US Bureau of Land Management, Farmington Field Office, Farmington, New Mexico.

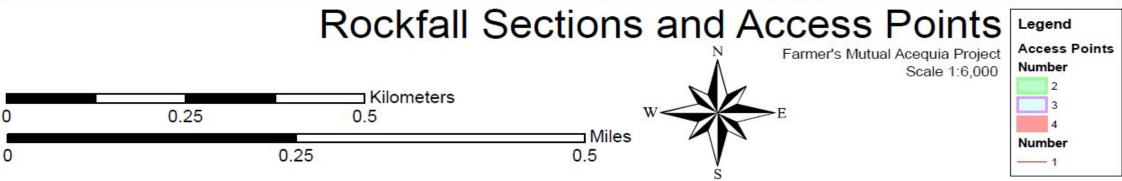


Enclosure 1. Farmer's Mutual Ditch Planned Improvements Project Location

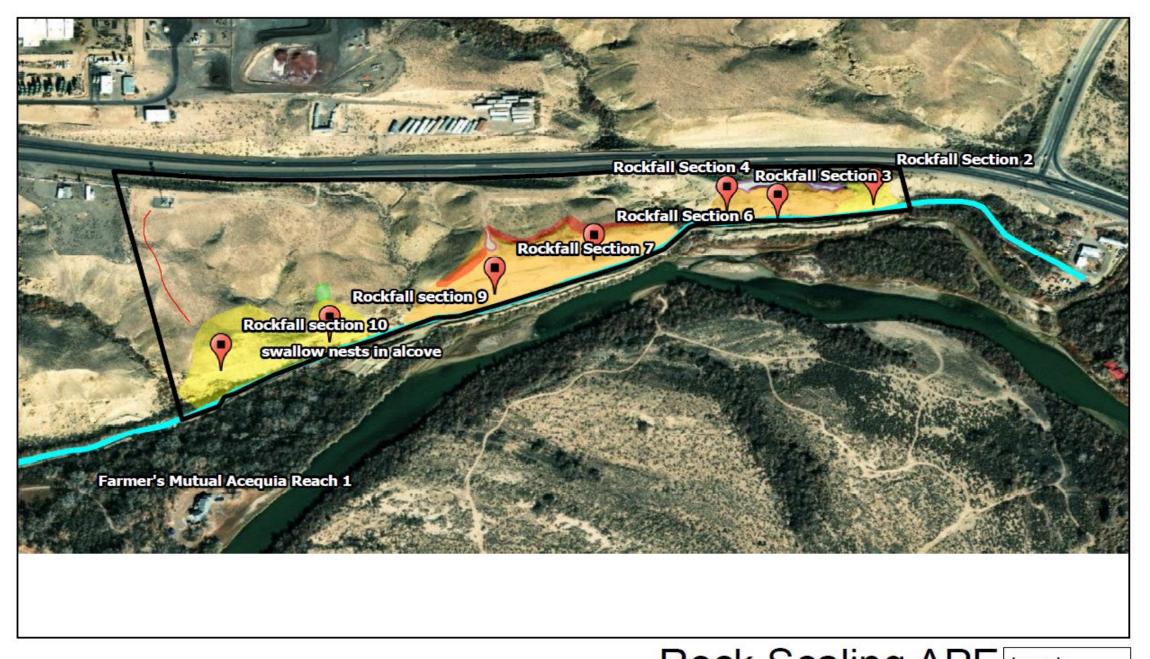


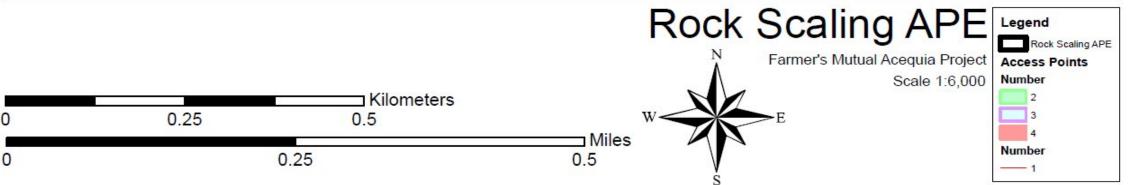
Enclosure 2. Farmer's Mutual Ditch Area of Potential Effect and Features



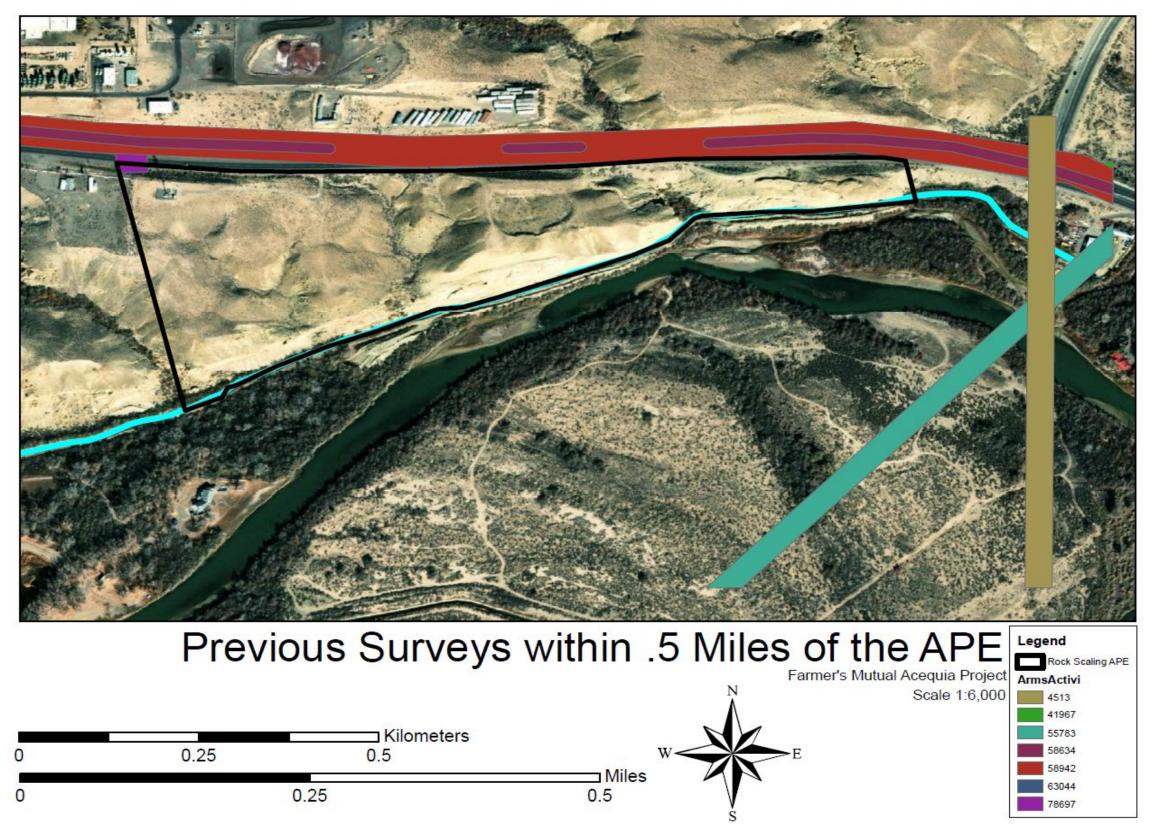


Enclosure 3. Rockfall Sections and Access Points

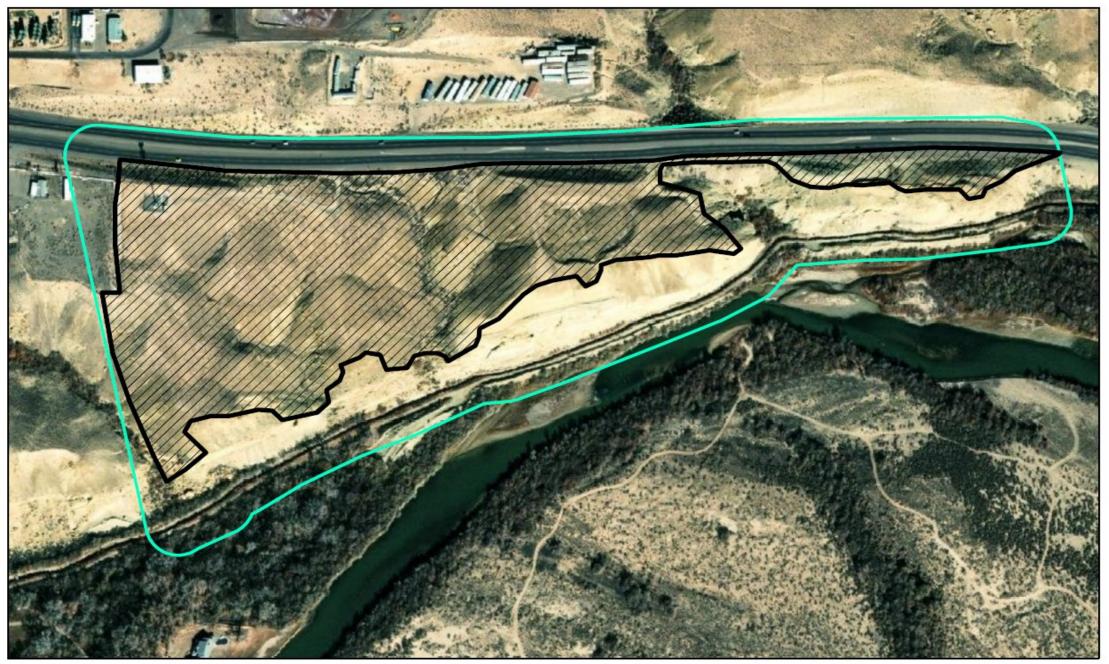




Enclosure 4. Rock Scaling Area of Potential Effect



Enclosure 5. Previous Surveys within .5 Miles of the Area of Potential Effect



Rock Scaling Survey and 100 ft Buffer
Farmer's Mutual Acequia Project
Scale 1:5,000



Enclosure 6. Rock Scaling Survey Area and 100ft Buffer

Legend



Rock Scaling Survey

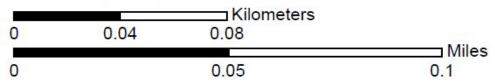


Rock Scaling APE with 100 ft Buffer



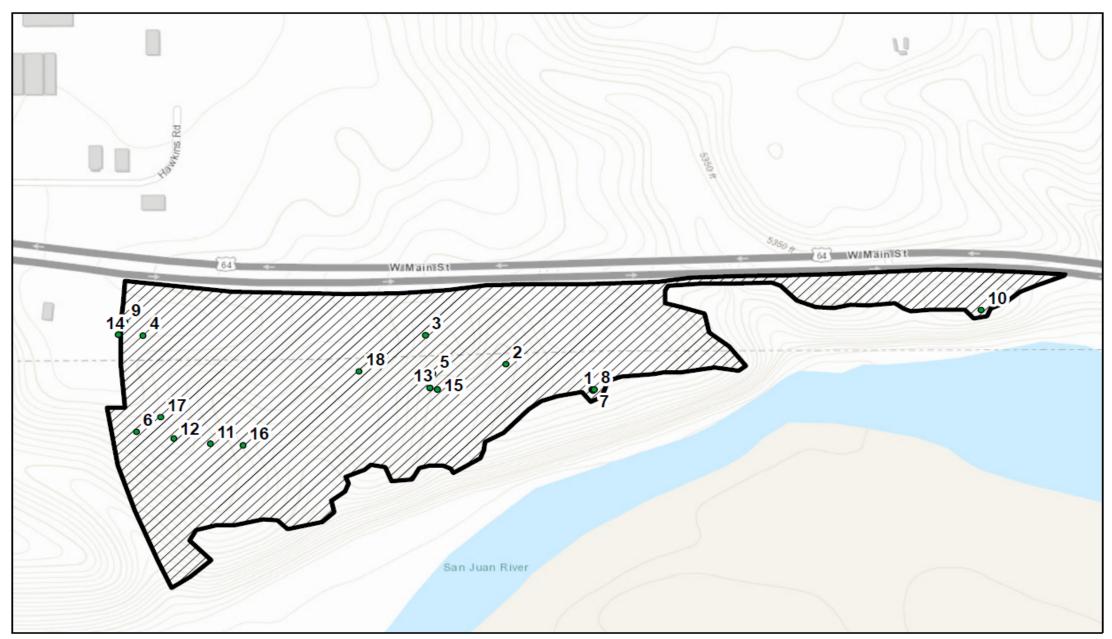
Modern Trash Scatter

Farmer's Mutual Acequia Project Scale 1:5,000



Enclosure 7. Location of Modern Trash Scatter





Rock Scaling Survey Area and Isolated Occurrences

Farmer's Mutual Acequia Project Scale 1:5,000

Kilometers			ers
0	0.125	0.25	
			Miles
0	0.125		0.25



Legend

Isolated Occurrences



Enclosure 8. Isolated Occurrences located within the Rock Scaling Survey Area



Enclosure 9. IO #1. Light Grey Coarse Quartzite Secondary Flake.



Enclosure 10. IO #2. 5 Gallon Metal bucket with Crimp Lid



Enclosure 11. Red Anheuser Busch 1970's Style Beer Can. Representative of IO #s 3,4,5,6, and 17.



Enclosure 12. Red Anheuser Busch 1970's Style Beer Can. Representative of IO #s 3,4,5,6, and 17.



Enclosure 13. IO # 7. Dark Brown Chert Secondary Flake



Enclosure 14. IO #8. Dark Brown Chert Secondary Flake



Enclosure 15. IO #9. Modern Trash Scatter



Enclosure 16. IO #10. Descanso Overlooking the San Juan River



Enclosure 17. IO #11. Light Tan Chert Primary Flake



Enclosure 18. IO #12. 4" Diameter Steel Can Lid with Church Key Opening



Enclosure 19. IO #13. Steel Can with Unknown Opening Style



Enclosure 20. IO #14. Potential Trailer Hitch Part



Enclosure 21. IO #15 and 16. Trailer Siding.



Enclosure 22. IO #18. Two Wooden Beams. Potential Fence Posts



Enclosure 23. Average Surface Visibility of the Survey Area



Enclosure 24. Overview of the Survey Area facing West.