

Final
Supplemental Environmental Assessment
Appendix E: Programmatic Agreement and
Cultural Resources Coordination

Arkansas River Navigation Study
Arkansas and Oklahoma

September 2024

Prepared By:

Regional Planning and Environmental Center
Environmental Branch
U.S. Army Corps of Engineers
Little Rock and Tulsa Districts

MEMORANDUM FOR RECORD

SUBJECT: McClellan-Kerr Arkansas River Navigation System (MKARNS)

1. Due to the complex and long-term nature of the planned project, the effects of the undertaking on historic properties cannot be fully determined prior to project approval, and a Programmatic Agreement (PA) is necessary to achieve compliance with Section 106 of the NHPA. Signatories of the PA include the USACE, the Advisory Council on Historic Preservation, three tribes whose reservations the project traverses (The Muscogee (Creek) Nation, The Cherokee Nation, and The Choctaw Nation of Oklahoma), the Arkansas and Oklahoma State Historic Preservation Officers, and the Oklahoma Archaeological Survey. Seven additional tribes are Invited Signatories: Caddo Nation of Oklahoma, Chickasaw Nation, Delaware Tribe of Indians, The Osage Nation, Quapaw Nation, Seminole Nation of Oklahoma, and the Wichita and Affiliated Tribes.
2. A draft PA was submitted to consulting parties on November 7, 2022, and May 19, 2023. In addition, the USACE held two virtual meetings, on June 13th and June 28th, 2023, to discuss the proposed project and the PA further. A revised draft was sent to consulting parties on November 20, 2023, and a virtual follow-up meeting was held on January 10, 2024. The USACE took all received comments and concerns into account and incorporated them into a revised PA that was sent to the consulting parties for a courtesy review on May 15, 2024. The very few comments that were received were incorporated into the final PA, as appropriate. The Cherokee Nation reached out to this office shortly thereafter and stated that their government was continuing to review the PA and will have comments to be incorporated.
3. The USACE sent a letter on August 19, 2024, requesting that all consulting parties continue to review the PA, but to suspend signing the document, if listed as a Signatory or Invited Signatory, until all comments are received.

Christopher G. Davies
RPEC Cultural Resources Manager

**PROGRAMMATIC AGREEMENT
AMONG
THE U.S. ARMY CORPS OF ENGINEERS,
CADDO NATION OF OKLAHOMA,
CHEROKEE NATION, THE CHICKASAW NATION,
THE CHOCTAW NATION OF OKLAHOMA,
DELAWARE TRIBE OF INDIANS,
THE MUSCOGEE (CREEK) NATION,
THE OSAGE NATION,
QUAPAW NATION,
WICHITA AND AFFILIATED TRIBES (WICHITA, KEECHI, WACO &
TAWAKONIE),
OKLAHOMA,
THE SEMINOLE NATION OF OKLAHOMA,
THE ARKANSAS AND OKLAHOMA STATE HISTORIC PRESERVATION
OFFICERS,
THE OKLAHOMA ARCHEOLOGICAL SURVEY,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC
PRESERVATION ACT FOR THE
PROPOSED IMPROVEMENTS TO THE MCCLELLAN-KERR ARKANSAS RIVER
NAVIGATION SYSTEM IN ARKANSAS AND OKLAHOMA**

WHEREAS, the U.S. Army Corps of Engineers (hereinafter, "USACE") Civil Works mission is to contribute to national welfare by providing quality water resources and emergency response programs, and the Little Rock and Tulsa Districts of the USACE are charged with accomplishing various Civil Works missions including the operation and maintenance of the McClellan-Kerr Arkansas River Navigation System (hereinafter, "MKARNS"); and

WHEREAS, USACE has proposed improvements to the MKARNS in Arkansas and Oklahoma to improve and maintain the navigation channel by addressing the issues of flow management and navigation channel depth increase to enhance commercial navigation, and navigation channel depth maintenance for other MKARNS purposes; and

WHEREAS, improvements were authorized by Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority; and

WHEREAS, improving a channel means making the channel deeper and/or wider and maintaining a channel means keeping the channel at specified depths and widths by dredging and other means; and

WHEREAS, authorized under Section 136 of the Energy and Water Development Appropriations Act of 2004, the MKARNS 12-Foot Channel purpose is to improve commercial

navigation operation by deepening the current 9-foot navigation channel to a 12-foot operational depth; and

WHEREAS, a Final Environmental Impact Statement (hereinafter, “FEIS”), dated August 2005, was prepared and a Record of Decision was signed for the proposed improvements, including a preferred alternative requiring dredging, and the construction of new dredge disposal sites (known as Confined Disposal Facilities (hereinafter CDFs)), river training structures, and revetments; and

WHEREAS, a Programmatic Agreement (hereinafter, “PA”) for cultural resources investigations and consultation was developed between the Arkansas SHPO and USACE in 2005. The Oklahoma SHPO and Oklahoma Archeological Survey (OAS) declined to participate, instead stating that a PA was not necessary for the USACE to satisfy Section 106 and 110 responsibilities under the National Historic Preservation Act (hereinafter, “NHPA”) 54 U.S.C. 300101 et seq., as amended, and its implementing regulations (36 CFR Part 800) for activities proposed as part of the project. The project was never implemented, and no cultural resources investigations were conducted; and

WHEREAS, due to the time elapsed since completion of the 2005 FEIS, USACE has determined that a Supplemental Environmental Assessment (hereinafter, “SEA”) must be completed to ensure compliance with all applicable environmental laws, and to consider and disclose the environmental and social effects of the proposed undertaking; and

WHEREAS, the USACE has determined that the proposed channel improvements will primarily occur on federal fee owned land managed by the USACE Tulsa and Little Rock Districts with limited portions occurring on privately owned land, with easements secured by USACE; and

WHEREAS, USACE has defined the undertaking’s preliminary overall Area of Potential Effects (hereinafter, “APE”) to include all areas of direct and indirect impacts, including, but not limited to all riverbed impacts, proposed CDF locations and associated facilities, construction haul roads and staging areas, the areas around each CDF which will be used during construction activities, and locations of all other ground disturbing activities associated with the undertaking, and will be revised in consultation and concurrence with the Signatories and Invited Signatories (hereinafter, “Consulting Parties”) of this PA as the project progresses. Refer to Appendix I-Project Summary for a description of the MKARNS Feasibility Study and overall project summary; and

WHEREAS, the USACE has determined that the proposed improvements to the MKARNS (hereinafter, “undertaking”) constitute an undertaking subject to Section 106 of the NHPA, as amended, (54 USC 306108), and its implementing regulations (36 CFR Part 800); and

WHEREAS, the USACE has determined that the undertaking may have an adverse effect on historic properties listed in or eligible for listing in the National Register of Historic Places (NRHP) (hereinafter, “historic properties”) in accordance with 36 CFR Part 60; and

WHEREAS, USACE has determined that the undertaking will be constructed in phases as illustrated in Appendix I with each phase of construction requiring the development of a refined APE in consultation with Consulting Parties; and

WHEREAS, the MKARNS was completed over fifty years ago in 1971, and USACE has determined that the system itself, including the built environment (locks, dams, and river flow structures, and all associated facilities) may be eligible for the NRHP under standard evaluation criteria; and

WHEREAS, USACE identified more than 250 archaeological sites recorded along and within close proximity to the MKARNS, most of which are prehistoric, and many of which have not been evaluated for the NRHP eligibility, and USACE has determined there is a high likelihood of additional unrecorded sites within the APE; and

WHEREAS, USACE has determined due to the phased implementation of the undertaking the effects of the undertaking on historic properties cannot be fully determined prior to approval of the undertaking and USACE must utilize a deferred and phased process to conduct identification and evaluation of historic properties and assessment of effects, pursuant to 36 CFR § 800.4(b)(2), 36 CFR § 800.5(a)(4); and

WHEREAS, the USACE, in consultation with Consulting Parties, has determined that development of a PA, in accordance with 36 CFR §§ 800.4(b)(2), § 800.5(a)(4)800.6, 800.14(b)(1)(ii) and 800.14(b)(3), which will commit USACE to the stipulations to a process detailing identification and evaluation of the project's potential effects to historic properties, including determinations of adverse effects and resolution of such effects as well as procedures to be followed in case of any post-review discoveries or inadvertent discoveries; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), USACE has notified the Advisory Council on Historic Preservation (hereinafter, "ACHP") of its adverse effect determination with specified documentation, and on September 8, 2023, the ACHP upon invitation has chosen to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, the State Historic Preservation Officers (hereinafter, "SHPOs") of Arkansas and Oklahoma have the authority to enter into Section 106 agreements; and

WHEREAS, the Oklahoma SHPO and Oklahoma Archeological Survey (hereinafter, "OAS") have entered into a cooperative agreement under which the State Archaeologist at the OAS provides special services to the SHPO in the Section 106 review process, maintains the inventory of Oklahoma's archaeological resources, and provides professional services to the SHPO in pre-contact archaeology. The State Archaeologist at the OAS reviews federal undertakings for possible impacts on pre-contact archaeological resources and provides written comments as the SHPO's official representative and accordingly, USACE has invited the OAS to sign this PA as an Invited Signatory; and

WHEREAS, portions of the undertaking will occur within the exterior boundaries of the reservations of The Muscogee (Creek) Nation, Cherokee Nation, and The Choctaw Nation of Oklahoma, and will therefore occur on tribal lands, requiring The Muscogee (Creek) Nation, Cherokee Nation, and The Choctaw Nation of Oklahoma to be Signatories to this PA; and

WHEREAS, each of the three federally recognized American Indian tribes (hereinafter, “Tribes” or “tribes”) whose Tribal Lands, as defined in 36 CFR 800.16(x), the MKARNS traverses has established a Tribal Historic Preservation Officer (hereinafter THPO), and as authorized under 54 USC 302702 may assume all or any part of the functions of the SHPO on their respective Tribal Lands, and the Tribal Leaders are Signatories to this PA along with USACE, the SHPOs, and the ACHP; and

WHEREAS, the project APE is within the ancestral lands/historical area of interest of other Tribes; and

WHEREAS, USACE invited the following Tribes to consult on this undertaking: Absentee-Shawnee Tribe of Indians of Oklahoma, Alabama-Quassarte Tribal Town, Caddo Nation of Oklahoma, Cherokee Nation, The Chickasaw Nation, The Choctaw Nation of Oklahoma, Delaware Tribe of Indians, Eastern Shawnee Tribe of Oklahoma, Kialegee Tribal Town, The Muscogee (Creek) Nation, The Osage Nation, Quapaw Nation, The Seminole Nation of Oklahoma, Shawnee Tribe, Thlopthlocco Tribal Town, Tunica Biloxi Indian Tribe, United Keetoowah Band of Cherokee Indians in Oklahoma, and Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma; and

WHEREAS, the USACE contacted 18 federally recognized Tribes, resulting in three Tribes participating as Signatories to this PA, seven Tribes participating as Invited Signatories, one Tribe choosing not to participate, and seven tribes not responding to a reasonable and good faith effort to contact them, and;

WHEREAS, the USACE has invited Caddo Nation of Oklahoma, The Chickasaw Nation, Delaware Tribe of Indians, The Osage Nation, Quapaw Nation, The Seminole Nation of Oklahoma, and Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma, to participate in the PA as Invited Signatories, in accordance with 36 CFR 800.6(c)(2), and these Tribal Nations have indicated willingness to sign the PA as Invited Signatories; and

WHEREAS, Thlopthlocco Tribal Town stated that they do not wish to participate in the PA and defer to the comments and concerns of the other Tribes; and

WHEREAS, the USACE did not receive responses from Absentee-Shawnee Tribe of Indians of Oklahoma, Alabama-Quassarte Tribal Town, Eastern Shawnee Tribe of Oklahoma, Kialegee Tribal Town, Shawnee Tribe, Tunica Biloxi Indian Tribe, or United Keetoowah Band of Cherokee Indians in Oklahoma and these Tribal Nations will nonetheless be afforded opportunities to consult on the materials provided to the Consulting Parties; and

WHEREAS, the USACE invited 18 federally recognized Tribes to attend a consultation meeting on one of two days- June 13th or June 28th, 2023. Representatives from three Tribes attended the first virtual consultation session, Quapaw Nation, The Chickasaw Nation, and The Muscogee (Creek) Nation, and representatives from four Tribes attended the second virtual consultation meeting, Cherokee Nation, Quapaw Nation, The Choctaw Nation of Oklahoma, and The Osage Nation; and

WHEREAS, the USACE has not identified or consulted with any other Consulting Parties regarding the effects of the undertaking on historic properties. Any additional entity that wishes to become a Consulting Party to this PA will need to specify the reasons they wish to be consulted in writing, and the USACE will decide on Consulting Party status in consultation with the existing Consulting Parties; and

WHEREAS, the USACE provided updated information regarding the project objectives and need, and responded to questions and concerns, making note of concerns to be explicitly addressed in the Scopes of Work for each phase of the undertaking; and

WHEREAS, the USACE held four public meetings in Tulsa, Oklahoma, Fort Smith, Little Rock, and Pine Bluff, Arkansas from June 5th to June 8th, 2023. No comments regarding cultural resources were received from the general public; and

NOW, THEREFORE, the Signatories and Invited Signatories agree that the PA shall be implemented and administered in accordance with the following stipulations in order to take into account the effects of the undertaking on historic properties and to satisfy the USACE's Section 106 responsibilities for all individual aspects of the undertaking.

STIPULATIONS

The USACE shall ensure the following stipulations are carried out:

I. SCOPE, STANDARDS, AND DEFINITIONS

- A. SCOPE OF UNDERTAKING. This PA shall be applicable to all new construction, improvements, and maintenance activities related to the undertaking for the duration of this PA. Project construction is expected to be accomplished in manageable phases throughout the life of this project, and the USACE will need to defer and phase the Section 106 process to ensure identification, evaluation, and assessment/resolution of adverse effects to Historic Properties is considered. Cultural resources investigations of each construction-related APE will be conducted as designs and specifications are developed and are expected to occur throughout the life of the project consistent with overall project activities. The phased APEs, which shall refine the overall APE shown in Appendix I, shall be determined by the USACE in consultation and concurrence with the Consulting Parties of this PA and shall include, channel dredging and channel maintenance including river-bottom dredging, construction and/or modification of dikes and revetments, creation of new dredged material disposal locations, and any identified indirect or cumulative effects.

B. QUALIFICATIONS AND STANDARDS

1. The USACE shall ensure that all work conducted in conjunction with this PA is performed in a manner consistent with the Secretary of Interior's "Standards and Guidelines for Archeology and Historic Preservation" (48 FR 44716-44740; September 23, 1983), as amended, National Register Bulletin 15 "How to Apply the National Register Criteria for Evaluation" (NPS 1990), National Register Bulletin 38: Guidelines for Evaluating and Documenting Traditional Cultural Properties" (NPS 1990), the requirements for archeological survey as outlined in the Arkansas State Plan Appendix B: *Guidelines for Cultural Resources Fieldwork and Report Writing in Arkansas* revised January 01, 2010 (State Plan), the Tulsa District Operations Division Standards and Guidelines for Cultural Resources Investigations on Tulsa District Owned Land, and the applicable Standards and Guidance from the Signatory Tribes [The Cherokee Nation, The Choctaw Nation of Oklahoma, and The Muscogee (Creek) Nation]. In the case of conflict among these, decisions on which takes precedence in what locations will be determined in consultation and concurrence with all Consulting Parties.
2. The USACE shall ensure that identification and evaluation studies and treatment measures required under the terms of this PA will be carried out by professionals who meet, at a minimum, the Secretary of the Interior's Historic Preservation Professional Qualification Standards (48 FR 44716, September 29, 1983) in accordance with 54 USC 306131 for the associated discipline.

- C. DEFINITIONS. Resources that are determined to be significant are defined as “historic properties.” A historic property is defined as any “prehistoric or historic district, site, building, structure, or object included on, or eligible for inclusion on, the National Register, including artifacts, records, and material remains relating to the district, site, building, structure, or object” (54 USC 300308). All definitions set forth in 36 CFR 800.16 are incorporated herein by reference and apply throughout this PA.

II. IDENTIFICATION, EVALUATION, EFFECT DETERMINATION, AND RESOLUTION

- A. IDENTIFICATION OF HISTORIC PROPERTIES (CULTURAL RESOURCES INVESTIGATIONS). Prior to finalization of engineering designs and locations, and prior to the initiation of any construction activity for any phase of the undertaking, the USACE shall make a reasonable and good faith effort to identify cultural resources within the finalized APE. The APE includes the geographic area or areas within which the undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. Cultural resources include, but are not limited to, archaeological resources (prehistoric and historic), and architectural resources. These steps may include, but are not limited to, background research, consultation, oral history interviews, seeking information from Consulting Parties and other individuals and organizations likely to have knowledge of, or concerns with historic properties in the area, and a cultural resources field survey.
1. **RESEARCH DESIGN**: The USACE will produce a Research Design to guide the cultural resources investigations that will be conducted within the entire APE. The goal of the Research Design is to develop a survey methodology appropriate for the landscape encompassed by the APE and to develop research questions pertinent to the APE that can guide testing and data recovery efforts. The draft Research Design will be provided to all Consulting Parties, with the exception of ACHP, for review and comment. The reviewing parties will submit comments to the USACE within forty-five (45) days of receipt of the draft Research Design.
 2. **PHASED INVESTIGATIONS**: Prior to each stage of construction, the USACE will coordinate with the reviewing parties to refine the APE based on the designs and plans for the specific phase of construction.
 3. **WORK PLAN**: The USACE will provide Work Plans for each stage of construction outlining the portion of the undertaking being addressed and all associated impacts. Work Plans shall outline all methods to be used by the contractor conducting the investigations, which will comport with the standards and processes outlined herein, and which will address topics outlined in the Research Design. Work Plans will be provided to all reviewing parties for review and comment prior to finalization. The reviewing parties will submit comments to the USACE within forty-five (45) days of receipt of the Work Plan.
- B. EVALUATION OF NATIONAL REGISTER ELIGIBILITY. If cultural resources are identified, the USACE shall determine their eligibility for the NRHP (i.e., their status as a

historic property) in accordance with the process described in 36 CFR 800.4(c) and criteria established in 36 CFR Part 60. The determinations of eligibility shall be conducted in consultation with the Consulting Parties, with the exception of the ACHP unless requested in accordance with 36 CFR 800.4(c)(2). Should the Consulting Parties agree that a property is or is not eligible, then such consensus shall be deemed conclusive for the purpose of this PA. Should the Consulting Parties not agree regarding the eligibility of a property, the USACE shall obtain a determination of eligibility from the Keeper of the National Register pursuant to 36 CFR Part 63. For cultural resources found not eligible for the NRHP, no further protection or consideration of the site will be afforded for compliance purposes.

- C. REPORTS OF INVESTIGATIONS. The USACE shall provide the results of all investigations performed under each work plan in draft reports to the Consulting Parties for review and comment. Comments received by the USACE from the Consulting Parties shall be addressed in subsequent draft report(s), which shall be provided to all for review. If comments by the Consulting Parties on the draft report(s) are not received by the USACE within forty-five (45) days of receipt of a cultural resources investigation report, the USACE will contact the Consulting Parties by telephone and email to determine the intent to respond. The USACE may proceed if no response or objection is received from the Consulting Parties. Consulting Parties may request an extension to the draft report(s) review period. The USACE shall provide a final report(s) of all investigations to the Consulting Parties, with the exception of the ACHP.
- D. MKARNS HISTORIC CONTEXT/BASELINE SURVEY/EVALUATION. MKARNS, constructed in 1971, is comprised of a linkage of sites, buildings and structures united historically by plan and physical development. The *National Register Bulletin #15* definition of a Site is: “A site is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of the value of any existing structure.” National Register Bulletin #15 further defines a district as one that “possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.” The MKARNS could therefore be eligible for listing on the National Register of Historic Places as a district under Criterion A for its associations at a national level in the areas of Commerce and Transportation. Within forty-eight (48) months of signing this PA, the USACE shall conduct a baseline inventory and evaluate the entire two-state MKARNS system for the NRHP eligibility.
1. USACE shall develop a historic context separate from the inventory described above that will examine the MKARNS holistically as a multi-state engineered transportation system linked historically by plan and physical development from its initial construction (1971) through its operational changes until present day (2024).
 2. The context shall include a baseline survey and evaluation of the MKARNS with NRHP determinations based upon the historic context. The survey shall compare

MKARNS with related property types nationwide, analyze the MKARNS's integrity, identify all areas and/or periods of significance, property types, and establish clearly defined registration requirements. The evaluation will also determine if a resource is individually significant in addition to being a contributing member of a larger historic district.

3. The draft context and findings, or historic report, shall be sent to the Consulting Parties, with the exception of the ACHP, for a forty-five (45) day review and comment period. Should the Consulting Parties not agree regarding the eligibility of a property, the USACE shall obtain a determination of eligibility from the Keeper of the National Register pursuant to 36 CFR Part 63.

E. ASSESSMENT OF EFFECTS.

1. **NO HISTORIC PROPERTIES AFFECTED.** The USACE shall make a reasonable and good faith effort to evaluate the effect of the phase of the undertaking on identified and determined historic properties in the APEs. The USACE may conclude that no historic properties are affected by the phase of the undertaking if no historic properties are present in the APE, or the phase of the undertaking will have no effect as defined in 36 CFR 800.16(i). This finding shall be documented in compliance with 36 CFR 800.11(d) and documentation shall be provided to the Consulting Parties for a forty-five (45)-day review, and the USACE shall seek concurrence for its determination of No Historic Properties Affected per 36 CFR 800.4(d). The USACE shall provide information on the finding to the public upon request, consistent with the confidentiality requirements of 36 CFR 800.11(c) and Section 304 of the NHPA.
2. **FINDING OF NO ADVERSE EFFECT.** The USACE, in consultation with Consulting Parties shall apply the criteria of adverse effect to historic properties within the APE in accordance with 36 CFR 800.5. The USACE may propose a finding of no adverse effect if the phase of the undertaking's effects do not meet the criteria of 36 CFR 800.5(a)(1) or if the phase of the undertaking is modified to avoid adverse effects.
 - a. The USACE shall provide to the Consulting Parties documentation of this finding meeting the requirements of 36 CFR 800.11(e).
 - b. The Consulting Parties shall have forty-five (45) days in which to review the findings and provide a written response to the USACE. Consulting Parties may request an extension to the review period.
 - c. The USACE may proceed upon receipt of written concurrence from the Consulting Parties.

d. If responses by the Consulting Parties are not received by the USACE within forty- five (45) days of receipt, the USACE will contact the Consulting Parties by telephone and email to determine the intent to respond.

e. The USACE may proceed if no objection is received from the Consulting Parties.

f. If, after consulting on a proposed finding of no adverse effect to historic properties by USACE, the Consulting Parties of this PA disagree with the proposal consultation will continue until resolution is reached.

g. Should resolution not be attained, and the Consulting Parties determine that further consultation will not be productive, then procedures outlined in 36 CFR 800.5(c)(2) shall be followed.

h. The USACE shall maintain a record of the finding and provide information on the finding to the public upon request, consistent with the confidentiality requirements of 36 CFR 800.11(c) and Section 304 of the NHPA, and additionally, on federally owned lands, consistent with the Archaeological Resources and Protection Act (ARPA), at 32 CFR 229.18.

3. FINDING OF ADVERSE EFFECT. The USACE, in consultation with the Consulting Parties shall apply the criteria of adverse effect to historic properties within the APE in accordance with 36 CFR 800.5(a). Should USACE determine that the undertaking will have an adverse effect consistent with the criteria in 36 CFR 800.5(a)(1), the USACE shall consult with the Consulting Parties to resolve adverse effects in accordance with 36 CFR 800.6(a).

F. RESOLUTION OF ADVERSE EFFECTS. If the USACE determines that the undertaking will have an adverse effect on historic properties as measured by criteria in 36 CFR 800.5(a)(1), the USACE shall consult with the Consulting Parties to resolve adverse effects in accordance with 36 CFR 800.6. For all historic properties that will be adversely affected, the USACE shall:

1. Afford the public an opportunity to express their views on resolving adverse effects in a manner appropriate to the magnitude of the project and its likely effects on historic properties.
2. Consult with the Consulting Parties, with the exception of ACHP, to develop and evaluate alternatives or modifications to the undertaking that could avoid, minimize, or mitigate adverse effects. If after forty-five (45) days the USACE has determined that there are no viable plans that would avoid an adverse effect finding, the USACE shall prepare a mitigation plan.
3. Prepare a mitigation plan for the APE of the associated construction phase (prepared in consultation and concurrence with the Consulting Parties, with the

exception of the ACHP, once adverse effect determination is reached) which describes mitigation measures the USACE proposes to resolve the undertaking's adverse effects and provide this mitigation plan for review and comment to all the Consulting Parties of this PA. Consulting Parties shall have forty-five (45) days to provide written response to the proposed mitigation plan. If any of the Consulting Parties disagree with the mitigation plan, the USACE will consult with that Consulting Party for up to forty-five (45) days to achieve a resolution. Once approved and signed by the appropriate USACE approving official and the Consulting Parties, the mitigation plan will be executed. Once the mitigation plan is fulfilled, all Consulting Parties will be notified in writing.

4. If, after consulting to resolve a dispute over adverse effects, the Consulting Parties of this PA determine that further consultation will not be productive, then procedures outlined in Stipulation VI shall be followed.

G. RESOLUTION OF ADVERSE EFFECTS FOR THE BUILT ENVIRONMENT OF THE MKARNS (SYSTEM AS A WHOLE) RESOURCES. Should the MKARNS be determined eligible and the USACE determines that the undertaking will have an adverse effect consistent with the criteria in 36 CFR 800.5(a)(1), the USACE shall first seek to avoid adverse effects to the MKARNS, in accordance with 36 CFR 800.6(a). Should adverse effects still occur, USACE shall conduct the following mitigation:

1. Document the affected resource element to an appropriate level in consultation with the applicable SHPO or THPO. In consultation with the applicable SHPO(s) and/or THPOs, the USACE shall develop separate state specific Historic Property Management Plans (HPMP). The HPMPs shall assist USACE in long-term effective management of the resources in avoiding or minimizing future adverse effects from operations and maintenance, streamlining future Section 106 consultations and provide documentation guidance should adverse effects occur.

III. INADVERTENT DISCOVERIES AND TREATMENT OF HUMAN REMAINS, BURIALS, GRAVES, AND/OR FUNERARY OBJECTS

- A. Treatment of all human remains, funerary objects, and objects of cultural patrimony on federal or tribal lands shall comply with the requirements of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C 3001 et seq., its implementing regulations as set forth in 43 CFR Part 10, and the National Historic Preservation Act, 54 U.S.C. 300101 et seq., as amended, and its implementing regulations (36 CFR Part 800), and in a manner guided by the ACHP's Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects (2023). Under NAGPRA, tribal land is defined to include all lands within the exterior boundaries of any Indian reservation. In addition, on state- or privately-owned lands in Oklahoma, the Oklahoma Burial Desecration Law (21 Oklahoma Statute 1168.0-1168.6) extends protection to human remains and associated burial goods in unmarked graves. In Arkansas, these protections are outlined in Arkansas Act 753 of 1991 (Arkansas Burial Law) and Arkansas Act 705 of 2011, amendment to Arkansas law concerning funerary objects associated with human

remains.

- B. In the event that human remains or evidence of human burials/graves (which may include, but not be limited to, a burial pit outline, coffin hardware, associated items which may indicate a burial house, a cluster of whole or broken pottery, a mound or cairn, or other evidence provided in consultation) are encountered during archaeological survey, shovel testing, unit excavating, land clearing, construction and construction related activities, and/or shoreline erosion, or any other unanticipated effects of the undertaking for the duration of this PA, the USACE shall implement the Treatment Plans included as Appendix III of this PA pursuant to 36 CFR 800.13(b)(3). The USACE shall ensure that the following steps are taken:
1. All ground disturbing activities within a 100-meter radius of the discovery will immediately cease, and the site will be secured from further disturbance. The USACE Archaeologist will be notified immediately, and USACE will implement the Treatment Plan (Appendix III).
 2. At all times human remains and/or funerary objects must be treated with the utmost dignity and respect. Human remains and/or associated artifacts will be left in place and not disturbed. No skeletal remains or materials associated with the remains will be collected or removed until appropriate consultation has taken place, and a site-specific plan of action has been developed. No photographs shall be taken of human remains.
 3. The USACE shall be responsible for immediately notifying local and/or tribal law enforcement officials (of the tribe within whose reservation boundaries the discovery is made) and initiating notifications as outlined in the Treatment Plan (Appendix III).
 4. Upon request, the Consulting Parties or descendants shall be able to visit the site with the USACE archaeologist.

IV. POST REVIEW CHANGES AND DISCOVERIES

- A. CHANGES IN THE SCOPE OF THE UNDERTAKING. If construction on the undertaking has not commenced, and the USACE determines that it will not conduct the undertaking as originally coordinated, the USACE shall notify all Consulting Parties to this PA in writing of the proposed change in scope, provide maps illustrating the proposed changes to the undertaking, and request comments within forty-five (45) days of receipt. If no comments are received from the Consulting Parties within forty-five (45) days, USACE will contact the Consulting Parties by telephone and email to determine their intent to respond. The Consulting Parties may request an extension to the review period. If no response is received, the USACE will document that effort before moving ahead in the process.

1. The USACE, in consultation with Consulting Parties, shall assess and revise the Project APE as needed to incorporate any additional areas that have the potential to affect historic properties.
2. The USACE shall carry out additional investigations to identify historic architectural and archaeological properties that may be affected.
3. The USACE shall assess the Project's effect on any new historic properties in consultation with Consulting Parties and explore measures to avoid, minimize, or mitigate effects on these properties.
4. The USACE shall ensure the preparation of appropriate reports and documents, notify Consulting Parties, including Indian tribes, or any changes in the Project's effect on historic properties, and provide an opportunity for Consulting Parties to review and comment.
5. If a change in project scope results in additional adverse effects to historic properties, USACE shall consult with all consulting parties to amend the PA in accordance with Stipulation VI.

B. POST-REVIEW DISCOVERIES OF CULTURAL RESOURCES OR EFFECTS. In order to minimize the potential for the accidental discovery of cultural resources, USACE is conducting intensive cultural resources and geomorphological investigations of the entire APE. However, due to the nature of the project and project area, all terrestrial construction and construction related activities that have the potential to impact buried deposits will be monitored by Secretary of Interior qualified archeologists or tribal monitors, for potential discoveries or unanticipated effects. If properties are discovered that may be eligible for listing in the NRHP or unanticipated effects on historic properties are identified subsequent to the completion of surveys under Stipulation II, the contracting officer's representative (COR) or the contracting officer (KO), in consultation with an archaeological and/or tribal monitor, shall have the authority to immediately stop activity in the vicinity of the discovery, direct work to another portion of the project, secure the area, and immediately contact the USACE Archaeologist. Pursuant to 36 CFR 800.13(b)(3) the USACE shall implement the Treatment Plan included as Appendix IV of this PA.

V. **CURATION AND DISPOSITION OF RECOVERED MATERIALS, RECORDS, AND REPORTS**

A. CURATION. The USACE shall ensure that all archeological materials and associated records, which result from identification, evaluation, and treatment efforts conducted under this PA on property owned by USACE in Arkansas and Oklahoma, are accessioned into a curation facility in accordance with the standards of 36 CFR Part 79. Materials from work conducted in Oklahoma on USACE land will be curated at the USACE Tulsa District Curation Facility in Tulsa, OK, following the guidance provided by the USACE. Materials from work conducted in Arkansas on USACE land will be curated at the

USACE Tulsa District Curation Facility in Tulsa, OK, or at the University of Arkansas Collection Facility in Fayetteville, Arkansas. Archeological materials from privately owned lands will not be collected, and as such will require in-field analysis by senior archeology staff with laboratory experience and knowledge of regional artifacts.

- B. REPORTS. The USACE shall provide copies of final technical reports of investigations, analyses, and mitigation to the Consulting Parties, with the exception of the ACHP, as well as additional copies (sensitive information removed) for public distribution. All Consulting Parties shall withhold site location information or other data that may be of a confidential or sensitive nature pursuant to 36 CFR 800.11(c) and the Archaeological Resources Protection Act (32 CFR 229.18).

VI. PA AMENDMENTS, DISPUTES, AND TERMINATION

- A. AMENDMENTS. Any Signatory or Invited Signatory to the PA may propose to the other parties that it be amended. This PA will be amended when such an amendment is agreed to in writing by all Signatories and Invited Signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.
- B. DISPUTE RESOLUTION. Should any Consulting Party object at any time to any actions proposed or the manner in which the terms of this PA are implemented, the USACE shall consult with such Consulting Party to resolve the objection. If the USACE determines that such objection cannot be resolved, the USACE will:
1. Forward all documentation relevant to the dispute, including the USACE's proposed resolution, to the ACHP. The ACHP shall provide the USACE with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the USACE shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and/or Consulting Parties and provide them with a copy of this written response.
 2. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the USACE may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, USACE shall prepare a written response that takes into account any timely comments regarding the dispute from the Consulting Parties to the PA and provide them and the ACHP with a copy of such written response.
 3. The USACE's responsibilities to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.
- C. TERMINATION OF PA. If any Signatory to this PA, or Invited Signatory that has signed this PA, determines that its terms will not or cannot be carried out, that party shall immediately consult with the other Signatories, and Invited Signatories that have signed this PA, to attempt to develop an amendment per Stipulation VI(A), above. If within sixty

(60) days an amendment cannot be reached, any Signatory, or Invited Signatory that has signed this PA, may terminate the PA upon written notification to the other Signatories and the Invited Signatories that have signed this PA. Once the PA is terminated, and prior to work continuing on the undertaking, the USACE must either (a) execute a new PA pursuant to 36 CFR 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR 800.7. The USACE shall notify the Signatories and Invited Signatories that have signed this PA as to the course of action it will pursue.

VII. TERM OF THIS AGREEMENT. The date of effectiveness of the PA is the date of the ACHP's signature/ or last Signatory. This PA remains in force for a period of ten (10) years from the date of its execution, unless terminated pursuant to Stipulation VI(C). Ninety (90) days prior to the conclusion of the ten (10) year period, the USACE shall notify all Consulting Parties in writing of the end of the ten-year period to determine if they have any objections to extending the term of this PA. If all are in agreement with extending the term of the PA, the amendment process outlined in Stipulation VI(A) shall be used to extend the PA for an additional term of ten (10) years.

Execution of this PA and implementation of its terms evidences that the USACE has afforded the Council an opportunity to comment on the undertaking and its effects on historic properties.

SIGNATORIES include the USACE Little Rock and Tulsa Districts, Cherokee Nation, The Choctaw Nation of Oklahoma, The Muscogee (Creek) Nation, the Arkansas and Oklahoma State Historic Preservation Officers, and the Advisory Council on Historic Preservation.

INVITED SIGNATORIES are Caddo Nation of Oklahoma, The Chickasaw Nation, Delaware Tribe of Indians, The Osage Nation, Quapaw Nation, The Seminole Nation of Oklahoma, and Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma, and the Oklahoma Archeological Survey. Separate signature pages for each Signatory and Invited Signatory, follow.

**PROGRAMMATIC AGREEMENT
REGARDING COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC
PRESERVATION ACT FOR THE
PROPOSED IMPROVEMENTS TO THE MCCLELLAN-KERR ARKANSAS RIVER
NAVIGATION SYSTEM IN ARKANSAS AND OKLAHOMA**

AMONG

**THE U.S. ARMY CORPS OF ENGINEERS, CADDO NATION OF OKLAHOMA,
CHEROKEE NATION, THE CHICKASAW NATION, THE CHOCTAW NATION OF
OKLAHOMA, DELAWARE TRIBE OF INDIANS, THE MUSCOGEE (CREEK)
NATION, THE OSAGE NATION, QUAPAW NATION, WICHITA AND AFFILIATED
TRIBES (WICHITA, KEECHI, WACO & TAWAKONIE), OKLAHOMA, THE
SEMINOLE NATION OF OKLAHOMA,
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USACE LITTLE ROCK DISTRICT

Colonel Damon M. Knarr
District Engineer

Date: _____

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USACE TULSA DISTRICT

Colonel Timothy P. Hudson
District Engineer

Date: _____

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ARKANSAS STATE HISTORIC PRESERVATION OFFICER

Date: _____

Scott Kaufman
Arkansas State Historic Preservation Officer

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OKLAHOMA STATE HISTORIC PRESERVATION OFFICER

Trait Thompson
Oklahoma State Historic Preservation Officer

Date: _____

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OKLAHOMA ARCHEOLOGICAL SURVEY

Kary Stackelbeck
State Archeologist

Date: _____

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THE CHEROKEE NATION

Chuck Hoskin, Jr
Principal Chief

Date: _____

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THE CHOCTAW NATION OF OKLAHOMA

Garry Batton
Chief

Date: _____

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THE MUSCOGEE (CREEK) NATION

David Hill
Principal Chief

Date: _____

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THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

Date: _____

Reid Nelson
Executive Director

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THE CADDO NATION OF OKLAHOMA

Bobby Gonzalez
Chairman

Date: _____

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THE CHICKASAW NATION

Bill Anoatubby
Tribal Governor

Date: _____

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THE DELAWARE TRIBE OF INDIANS

Brad Kills Crow
Chief

Date: _____

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THE OSAGE NATION

Geoffrey M. Standing Bear
Principal Chief

Date: _____

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EXECUTION AND IMPLEMENTATION

SIGNATORIES include the USACE Little Rock and Tulsa Districts, Cherokee Nation, The Choctaw Nation of Oklahoma, The Muscogee (Creek) Nation, the Arkansas and Oklahoma State Historic Preservation Officers, and the Advisory Council on Historic Preservation. **INVITED SIGNATORIES** are Caddo Nation of Oklahoma, The Chickasaw Nation, Delaware Tribe of Indians, The Osage Nation, Quapaw Nation, The Seminole Nation of Oklahoma, and Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma, and the Oklahoma Archeological Survey.

QUAPAW NATION

Date: _____

**Wena Supernaw
Chair**

**PROGRAMMATIC AGREEMENT
REGARDING COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC
PRESERVATION ACT FOR THE
PROPOSED IMPROVEMENTS TO THE MCCLELLAN-KERR ARKANSAS RIVER
NAVIGATION SYSTEM IN ARKANSAS AND OKLAHOMA**

AMONG

**THE U.S. ARMY CORPS OF ENGINEERS, CADDO NATION OF OKLAHOMA,
CHEROKEE NATION, THE CHICKASAW NATION, THE CHOCTAW NATION OF
OKLAHOMA, DELAWARE TRIBE OF INDIANS, THE MUSCOGEE (CREEK)
NATION, THE OSAGE NATION, QUAPAW NATION, WICHITA AND AFFILIATED
TRIBES (WICHITA, KEECHI, WACO & TAWAKONIE), OKLAHOMA, THE
SEMINOLE NATION OF OKLAHOMA,
THE ARKANSAS AND OKLAHOMA STATE HISTORIC PRESERVATION
OFFICERS, THE OKLAHOMA ARCHEOLOGICAL SURVEY, AND THE ADVISORY
COUNCIL ON HISTORIC PRESERVATION**

EXECUTION AND IMPLEMENTATION

SIGNATORIES include the USACE Little Rock and Tulsa Districts, Cherokee Nation, The Choctaw Nation of Oklahoma, The Muscogee (Creek) Nation, the Arkansas and Oklahoma State Historic Preservation Officers, and the Advisory Council on Historic Preservation. **INVITED SIGNATORIES** are Caddo Nation of Oklahoma, The Chickasaw Nation, Delaware Tribe of Indians, The Osage Nation, Quapaw Nation, The Seminole Nation of Oklahoma, and Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma, and the Oklahoma Archeological Survey.

THE SEMINOLE NATION OF OKLAHOMA

Lewis J. Johnson
Principal Chief

Date: _____

**PROGRAMMATIC AGREEMENT
REGARDING COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC
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OFFICERS, THE OKLAHOMA ARCHEOLOGICAL SURVEY, AND THE ADVISORY
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EXECUTION AND IMPLEMENTATION

SIGNATORIES include the USACE Little Rock and Tulsa Districts, Cherokee Nation, The Choctaw Nation of Oklahoma, The Muscogee (Creek) Nation, the Arkansas and Oklahoma State Historic Preservation Officers, and the Advisory Council on Historic Preservation. **INVITED SIGNATORIES** are Caddo Nation of Oklahoma, The Chickasaw Nation, Delaware Tribe of Indians, The Osage Nation, Quapaw Nation, The Seminole Nation of Oklahoma, and Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma, and the Oklahoma Archeological Survey.

**WICHITA AND AFFILIATED TRIBES (WICHITA, KEECHI, WACO &
TAWAKONIE), OKLAHOMA**

Terri Parton
President

Date: _____

APPENDIX I - PROJECT SUMMARY

The Rivers & Harbors Act of July 24, 1946, authorized the development of the Arkansas River and its tributaries for the purposes of navigation, flood control, hydropower, water supply, recreation, and fish and wildlife. Public Law 91-629 stated that the project would be known as the McClellan-Kerr Arkansas River Navigation System (MKARNS). For the purposes of this study, the navigation system and its associated reservoirs are hereafter referred to as the "MKARNS". Several reservoirs on the Arkansas River and its tributaries support water control on the MKARNS and are operated as part of the navigation system. The MKARNS is a multiple purpose project created for the primary purpose of navigation. The system is operated for the primary purpose of navigation and additionally hydropower for Dardanelle and Ozark Jetta-Taylor Locks and Dams, with secondary consideration of recreation, and fish and wildlife, water supply and irrigation to the extent that those additional purposes do not adversely affect navigation, or potential future authorized purposes of the project. Development of and construction on the MKARNS began in 1952 and was completed in 1971 at a cost of \$1.3 billion.

The Arkansas River Navigation Study was initiated in a Fiscal Year (FY) 1999 Congressional Add to study MKARNS operational issues in the Fort Smith, Arkansas area. As a result of the reconnaissance study, a Section 905(b) Analysis (WRDA 86), dated September 1999, was prepared by the Southwestern Division, Little Rock District, and approved by Headquarters, on January 4, 2000. The study recommended that a navigation feasibility study be prepared. Additional language was included in Section 136 of the Energy and Water Development Act of 2004, which authorized a project depth of 12 feet.

The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority. The Study Authority reads as follows:

"RESOLVED BY THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION OF THE HOUSE OF REPRESENTATIVES, UNITED STATES, that the Board of Engineers for Rivers and Harbors, established by Section 3 of the River and Harbor Act approved June 13, 1902, is hereby requested to review in cooperation with the states of Arkansas and Oklahoma, political subdivisions, agencies and instrumentalities thereof, and appropriated Federal agencies as a shared effort, the report of the Chief of Engineers on the Arkansas River and tributaries, published as House Document No. 308, seventy-fourth Congress, and other pertinent reports, with a view to determining whether any modification of the recommendation contained therein are advisable at this time, with particular reference to developing an implementable plan for storage, conservation, treatment, and conveyance of water in the Arkansas River and tributaries in Arkansas and Oklahoma, for municipal, industrial, and agricultural uses and other purposes. This study should include an assessment of the usability of the water for various uses."

The study area included the entire MKARNS in Arkansas and Oklahoma including:

- Approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam),

13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS; and

- Eleven upstream reservoirs in Oklahoma that influence river flow on the MKARNS. The upstream reservoirs assist with the control of water releases through spillways and power generating units. The rate and amount of water released from each reservoir depends on many factors including available water storage, power requirements, navigation water requirements, inflow rates, river flow rates downstream, and weather conditions.

Commercial navigation is an historic and ongoing activity on the MKARNS. Three elements associated with the maintenance and improvement of the MKARNS navigation channel are considered in this document:

1) River Flow Management: Sustained high flows on the MKARNS have adversely influenced the safety and efficiency of commercial navigation operations. The reliability and predictability of river flows affect navigation traffic utilization of the MKARNS.

Commercial navigation traffic is severely restricted when river flows reach 100,000 cubic feet per second (cfs) at Van Buren, Arkansas. Van Buren is the critical control point in the system because it is the most downstream regulation station for the MKARNS. That is, all the upstream releases are adjusted based on what is happening at the Van Buren gage. For shippers and vessel operators, three specific problems exist.

- The limitations on commercial navigation during and after storm events that cause high flow rates reduces reliability of shipping on the MKARNS. Shippers and vessel operators are in the position of absorbing costs associated with the unreliability of the navigation system. For shippers these costs include the risk of plant shut down due to inventory depletion or, conversely, high inventory cost of carrying excess inventories to avoid the stock out condition. For vessel operators, the costs associated with “parking” tows and towboats during high flows are not offset by revenues. Prices for towing services are established weeks before vessel departure, and vessel “parking” is not included.
- Extended higher flow conditions require vessel operators to utilize higher horsepower towboats and smaller tow size. In anticipation of probable storm events, vessel operators on the MKARNS utilize above average horsepower towboats and smaller than average tow sizes for similar tributary river situations. With these higher operating costs tow operators have higher towing rates, requiring barge operators to aggressively market the Arkansas River to effect the most efficient two-way loaded hauling and avoid empty barge movement. On an annual basis, up bound loaded covered hopper barges exceed down bound loaded covered hopper barges, resulting in new barge operators being reluctant to bring equipment on to the river.
- Shipping charges during high flows, such as barge demurrage (a charge for detaining a barge or tow beyond the time allowed for loading and unloading) and “hot water” charges (additional charge for transporting barges during periods of high river flows) for special services, are assessed to the shipper. For shippers and terminal operators on the MKARNS, the high flow storm events place uncertainty on shipping charges and costs. Specifically, when barges are “parked” and free time expires, demurrage charges are incurred. In addition, upon arrival barges become bunched at the terminals, exposing either the terminal or shipper to demurrage charges.

Special charges, commonly referred to as “hot water” charges, can be incurred by shippers if they elect to have their barges moved to destinations in a one or two barge tow service.

2) Navigation Channel Depth: Commercial navigation is not at optimum productivity within the MKARNS since its 9-foot draft navigation channel limits towboat loads compared to the Lower Mississippi River’s authorized 12-foot draft channel.

- Shipments between the Arkansas and Lower Miss amount to 6.3 million tons and 56% of all tonnage shipments on the regional inland navigation system. Channel deepening would enhance shipments of commodities that benefit from increased depth (such as agricultural chemicals and farm products). Thus, a larger percentage of tonnage could be shipped between the Lower Miss and Arkansas River. A detailed analysis of the economic benefits associated with the connectivity between these two systems is presented in the Economics Analysis Appendix of the Feasibility Report (USACE 2005).
- Because the barge drafts are limited by the MKARNS 9-foot draft channel, and it is not cost-effective to re-load at the MKARNS/Mississippi confluence, upbound tows from the Mississippi must be configured to the limitations of the MKARNS channel.
- Similarly, downbound tows on the MKARNS are not able to take advantage of the Mississippi River’s 12-foot draft channel and are loaded to accommodate the 9-foot channel rather than a 12-foot channel.

The disparity between the navigation channel depths in the two river systems results in less efficient barge operations than could be achieved with a consistent 12-foot navigation channel throughout the MKARNS and Lower Mississippi River commercial navigation systems.

3) Navigation Channel Maintenance: The ongoing operation and maintenance of the existing 9 foot navigation channel on the MKARNS entails the use of “river training structures” as well as periodic dredging at some locations within the navigation channel. Since the completion of the MKARNS in 1971, some authorized maintenance dredged material disposal sites have reached capacity and new disposal sites are required to continue channel maintenance activities. Additionally, the construction of new river training structures is warranted to facilitate the maintenance of the 9-foot navigation channel. Without the proper maintenance of the 9-foot channel, commercial navigation would not be able to operate on the MKARNS.

APPENDIX II – CONTACT INFORMATION

Government Agency Contacts

Organization	Name	Email Address	Telephone Number
USACE	Christopher Davies	Christopher.G.Davies@usace.army.mil	(501) 324-7134
USACE	Holly Smith	Holly.C.Smith@usace.army.mil	(918) 699-9655
USACE	Michelle Horn	Michelle.C.Horn@usace.army.mil	(918) 669-7642
USACE	Allen Wilson	Allen.D.Wilson@usace.army.mil	(501) 324-5752
Arkansas SHPO	Jessica Cogburn	jessica.cogburn@arkansas.gov	(501) 324-9357
Oklahoma SHPO	Lynda Ozan	Lynda.Ozan@history.ok.gov	(405) 522-4484
Oklahoma Archeological Survey	Kary L. Stackelbeck	kstackelbeck@ou.edu	(405) 325-7211

Tribal Nation Contacts

Tribal Nation	Name	Email Address	Telephone Number
Cherokee Nation	Elizabeth Toombs	elizabeth-toombs@cherokee.org	(918) 453-5389
The Choctaw Nation of Oklahoma	Ian Thompson	ithompson@choctawnation.com	(800) 522-6170
The Muscogee (Creek) Nation	Turner Hunt	thunt@MuscogeeNation.com	(918) 732-7759
The Chickasaw Nation	Karen Brunso	karen.brunso@chickasaw.net	(580) 272-1106
The Osage Nation	Andrea Hunter	ahunter@osagenation-nsn.gov	(918) 287-5328
Quapaw Nation	Everett Bandy	ebandy@quapawnation.com	(888) 642-4724
The Seminole Nation of Oklahoma	Ted Underwood	Underwood.T@sno-nsn.gov	(918) 289-8389
Absentee-Shawnee Tribe of Indians in Oklahoma	Devon Frazier	dfrazier@astribe.com	(405) 275-4030 ext. 6243
Alabama-Quassarte Tribal Town	Janice Lowe	jlowe@alabama-quassarte.org	(405) 452-3889
Caddo Nation of Oklahoma	Jonathan M. Rohrer	section106@caddonation.com	(405) 656-2344
Delaware Tribe of Indians	Susan Bachor	sbachor@delawaretribe.org	(610) 761-7452
Eastern Shawnee	Paul Barton	pbarton@estoo.net	(918) 666-2435 x 1845

Tribe of Oklahoma			
Kialegee Tribal Town	David Cook	DC13.DC4@gmail.com	(405) 452-3262
Shawnee Tribe	Tonya Tipton	tonya@shawnee-tribe.com	(918) 542-2441
Thlopthlocco Tribal Town	Galen Cloud	thpo@tttown.org	(918) 560-6106
Tunica Biloxi Indian Tribe	Earl J. Barbry, Jr.	earlii@tunica.org	(318) 253-9767 Ext. 6451
United Keetoowah Band of Cherokee Indians in Oklahoma	Acee Watt	awatt@ukb-nsn.gov	(918) 871-2838
Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma	Gary McAdams	gary.mcadams@wichitatribe.com	(405) 247-2425 Ext. 169

APPENDIX III –TREATMENT PLAN FOR THE INADVERTENT DISCOVERIES OF HUMAN REMAINS, BURIALS, GRAVES, AND/OR FUNERARY OBJECTS OR OBJECTS OF CULTURAL PATRIMONY

I. DISCOVERY OF HUMAN REMAINS, BURIALS, GRAVES, AND/OR FUNERARY OBJECTS OR OBJECTS OF CULTURAL PATRIMONY DURING CULTURAL RESOURCES INVESTIGATIONS OR CONSTRUCTION ACTIVITIES.

Treatment of all human remains, burials, graves, funerary objects, sacred objects, and objects of cultural patrimony on federal or tribal lands shall comply with the requirements of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C 3001 et seq., its implementing regulations as set forth in 43 CFR Part 10, and the National Historic Preservation Act (NHPA), 54 U.S.C. 300101 et seq., as amended, and its implementing regulations (36 CFR Part 800), and in a manner guided by the ACHP's Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects (2023). On state- or privately-owned lands in Oklahoma, the Oklahoma Burial Desecration Law (21 Oklahoma Statutes § 1168.0-1168.6) extends protection to human remains and associated burial goods in unmarked graves. In Arkansas, these protections are outlined in Arkansas Act 753 of 1991 (Arkansas Burial Law) and Arkansas Act 705 of 2011, amendment to Arkansas law concerning funerary objects associated with human remains.

While human remains may have been buried unintentionally by natural forces, the term "burial" is used to refer to all human bone/remains for the purposes of this Treatment Plan. Due to the fragile nature of human bone, burials may also be evidenced by a burial pit outline, coffin hardware, associated items which may indicate a burial house, a cluster of whole or broken pottery, a mound or cairn, or other evidence provided in consultation or through research.

Due to the nature of the project and project area, all terrestrial construction and construction related activities that have the potential for buried deposits will be monitored by Secretary of Interior qualified archeologists or tribal monitors.

A. DISCOVERIES OF HUMAN REMAINS OR BURIAL EVIDENCE DURING FIELDWORK.

In the event that a human burial is encountered in the field during archaeological survey, shovel testing, unit excavating, land clearing, construction and construction related activities, and/or shoreline erosion, or any other unanticipated effects of the undertaking for the duration of this PA, USACE shall ensure that the following steps are taken:

1. In the case of an inadvertent discovery of a suspected burial, minimal additional exposure may be required to make a field determination. If bone is discovered, a field determination of whether bones are possibly human will be made. This may require minimal additional exposure of bones sufficient to observe identifying characteristics. Minor additional exposure of other potential burial evidence may also be required to determine whether a discovery is a burial. Bone or other burial evidence shall not be removed, and sediment shall be retained in situ without screening.

- a. In the case of discovery of a burial during archaeological investigations, the field supervisor (principal investigator, project archaeologist, or crew chief) will ensure that all ground disturbing activities immediately cease within a 100-meter vicinity of the discovery and will secure the site from further disturbance, and initiate stipulations 2-10 below.

b. If the discovery occurs during construction related activities, the contracting officer's representative (COR) or the contracting officer (KO), in consultation with an archaeological and/or tribal monitor, shall have the authority to immediately stop activity in the vicinity of the burial and direct work to another portion of the project. The monitor will immediately direct work to stop within a 100-meter radius of the discovery and protect the discovery from further disturbance. The monitor will initiate stipulations 2-10 below.

2. The archaeologist or monitor(s) will immediately notify the USACE Archaeologist, Project (Lake) Office, and COR of an inadvertent discovery of a possible human burial.

3. USACE will immediately notify local and/or the tribal law enforcement officials of the tribe within whose reservation boundaries the discovery is made of the discovery of human remains or burial, either by telephone or personal communication.

a. The Medical Examiner (ME) will be contacted to make the determination regarding the age of the human remains.

b. Law enforcement and the ME shall be allowed access to the location of the discovery to conduct their investigation.

c. If the burial is declared a criminal matter, the USACE archaeologist will have no further involvement and the decision to declare the site cleared for work to proceed will be made by the appropriate legal authorities.

4. Upon official determination by the ME that the remains are of such age to rule out association with a crime or other recent event, the burial will be documented in situ to the extent necessary for notification and planning. The archaeologist or monitor will determine the extent of the discovery and will map and geolocate the burial, labeling it as a sensitive avoidance area on the project plans. Field notes, location information, and project plans will be provided to the USACE Archaeologist for notification and consultation.

5. At all times human burials must be treated with the utmost dignity and respect. Human remains and/or associated artifacts will be left in place and not disturbed. No skeletal remains or materials associated with the remains will be collected or removed until appropriate consultation has taken place, and a plan of action has been developed. Photography of human remains shall not be allowed except as necessary for purposes of 1) law enforcement investigations; and 2) documentation and assessment with concurrence from Signatories and Invited Signatories to the PA. Such photos would be kept confidential and not disseminated unless copies were requested by a Signatory, Invited Signatory, or Consulting Tribe.

6. The USACE Tribal Liaison, NAGPRA Specialist, Archaeologist, Lake Manager, COR, and Monitor will decide, upon considering the location, appearance, and general accessibility of the site, on additional protective measures that may be necessary. Protective measures may include, but not be limited to, on-site 24-hour security, or covering of the remains using canvas tarps and/or sediment to protect the site from further disturbance or vandalism.

7. Within 24 hours of the discovery, the USACE Archaeologist will notify the Signatories, Invited Signatories, and Consulting Tribes by phone and email that an inadvertent discovery has been made.

8. In order to ensure compliance with NAGPRA section 3 (d) and until there is evidence to the contrary, all human remains will be treated as potentially Native American and shall be secured and protected pursuant to the requirements of NAGPRA and its implementing regulations.

9. If it is determined that the burial is not Native American, USACE will consult with the appropriate state SHPO (including, in Oklahoma, the State Archaeologist), and descendants or other interested parties regarding appropriate treatment measures.

10. If the burial is more likely Native American, the USACE archaeologist, in consultation with Signatories, Invited Signatories, and Consulting Tribes, will draft a site-specific Plan of Action to comprehensively evaluate the potential to avoid and/or minimize the undertaking's effects to the burial if avoidance is at all possible, or to develop a disinterment/reinterment plan.

a. The site-specific written Plan of Action will identify the treatment plan for the discovery, including removal (if necessary), and disposition.

b. The site-specific written Plan of Action, when finalized through the consultation process, will be provided to all Signatories, Invited Signatories, and Consulting Tribes for final review and concurrence.

c. Knowledge of the site would be limited to only those individuals who have a need to know about the site. No identifying markers will be left at the burial site.

11. The Plan of Action will be implemented, which may include participation by one or more Signatories, Invited Signatories, or Consulting Tribes.

12. The USACE shall provide written notification to all Signatories, Invited Signatories, and Consulting Tribes when the Plan of Action, which was developed in consultation with the Signatories, Invited Signatories, and Consulting Tribes, has been implemented.

13. The Contractor will not restart work within the 100-meter radius area of the burial location until USACE, in consultation with the Signatories and Invited Signatories of the PA, has granted clearance and a notice to proceed.

B. DISCOVERIES OF HUMAN REMAINS OR BURIAL EVIDENCE POST-FIELDWORK.

1. If human remains or burial evidence as defined herein are discovered in the archaeological lab or other facility during work associated with the undertaking, the remains or items will be protected without undergoing additional analyses and will be secured within a locked facility.

2. The USACE will be notified of the discovery by telephone and email as soon as possible, but no longer than 24 hours after the discovery.

3. The USACE will notify the Signatories, Invited Signatories, and Consulting Tribes as soon as possible, but no later than 48 hours from receipt of notification.

4. No intrusive or destructive analysis will be conducted on human remains, burial items, items of cultural patrimony, or funerary items without the documented approval of the affiliated tribe (if known). Approval must be in writing but may be given by email.

II. CULTURAL AFFILIATION, POSSESSION, CONTROL, DISPOSITION, AND REPATRIATION. The USACE shall comply with the requirements of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C 3001 et seq., and its implementing regulations as set forth in 43 CFR Part 10.

III. CONTACTS. The complete tribal and agency contact list for the undertaking is provided in Appendix II.

APPENDIX IV - TREATMENT PLAN FOR POST-REVIEW DISCOVERIES OF CULTURAL RESOURCES OR UNANTICIPATED EFFECTS

I. DISCOVERY OF CULTURAL RESOURCES OR UNANTICIPATED EFFECTS AFTER FIELD INVESTIGATIONS AND REVIEW. If properties are discovered that may be eligible for listing in the NRHP or unanticipated effects on historic properties are found subsequent to the completion of investigations conducted under Stipulation II (A-D) of the Programmatic Agreement (PA), the USACE shall implement this Treatment Plan. In order to minimize the potential for the accidental discovery of cultural resources, USACE is conducting intensive cultural resources and geomorphological investigations of the entire APE. However, due to the nature of the project and project area, all terrestrial construction and construction related activities that have the potential for buried deposits will be monitored by Secretary of Interior qualified archeologists or tribal monitors, as applicable, for potential discoveries or unanticipated effects.

Pursuant to 36 CFR 800.13(b)(3), if cultural resources are encountered in the APE post review, all work in the immediate area will be stopped, notifications will be made, and documentation and consultation tasks will be implemented as described herein. Inadvertent discoveries of human remains or possible burial features or items are addressed separately in Appendix III.

Duration of any work stoppages will be contingent upon the significance, size, and depth of the identified cultural resource(s) and/or the nature and extent of anticipated impacts to both archaeological sites and above ground resources. The USACE archaeologist and/or historical architect, in consultation with parties to the PA, will determine the appropriate measures to avoid, minimize, or mitigate any adverse effects to historic properties.

A. PROTECTION AND NOTIFICATION. In the event that discovery of cultural resources occurs during construction, construction related activities, or other work associated with the undertaking, the following steps will be taken to ensure avoidance of the resources until treatment of the discovery is implemented:

1. The contracting officer's representative (COR) or the contracting officer (KO), in consultation with an archaeological and/or tribal monitor, shall have the authority to immediately stop activity within a 30-meter radius of the discovery, unless the corresponding Tribal Nation has published guidelines that require a larger radius within their reservation boundaries, and direct work to another portion of the project.
2. The monitor(s) will inspect the construction site to determine the extent of the discovery and will map, geolocate, and photograph the resource(s) using a scale and north arrow. The monitor will indicate the location and date of the discovery on the project plans. If necessary, the monitor may conduct minimal shovel or trowel scraping to define the extent of the discovery.
3. All documentation will be provided to the USACE Archaeologist for guidance on how to proceed.
4. The USACE Archaeologist will assess whether the discovery qualifies as an isolated find, and if so, will direct the monitor to record the find pursuant to Tulsa District Operations Division Standards and Guidelines for Cultural Resources Investigations on

Tulsa District Owned Land (hereinafter, SWT Standards) or pursuant the Arkansas State Plan.

5. If the USACE Archaeologist determines that the discovery is a feature or appears to represent an archaeological site, the area around the discovery will be cordoned off (by flagging, fencing, or other visible means) within a radius of at least 30 meters unless the corresponding Tribal Nation has published guidelines that require a larger radius within their reservation boundaries.

6. The USACE will implement the chain-of-notification.

7. The USACE Archaeologist will notify the USACE Project (Lake) Office, the Construction Supervisor, and the COR that work has been stopped at the location of the discovery, and that protection measures to deter looting and vandalism are required.

8. Protection measures will be implemented to deter looting and vandalism.

9. The USACE Archaeologist will contact the Signatories, Invited Signatories, and consulting tribes by phone and email within 48 hours to notify them of the discovery of cultural resources and request any information they may have regarding possible properties of significance in the area. This will inform the preliminary assessment.

10. Within 15 days, the USACE will provide to the Signatories, Invited Signatories, and Consulting Tribes, by email and hard copy, a letter report describing the discovery, including the location and the circumstances of the discovery. The letter will include photos of the resource and context within the surrounding construction area, aerial photos, and maps of the location (one of which should be overlain on an aerial). Maps should clearly indicate the project APE in the context of the MKARNS as a whole and the location of the resource within the APE and should indicate which areas of the APE have undergone grading or other construction to date.

11. Upon request, parties of the PA and their representatives shall be allowed to visit the site with the USACE archaeologist and/or historical architect.

12. The Contractor will not restart work within the 30-meter radius of the discovery until USACE, in consultation and concurrence with the Signatories and Invited Signatories of the PA, has granted clearance and a notice to proceed.

II. EVALUATION, ASSESSMENT, AND RESOLUTION OF ADVERSE EFFECTS. Once the nature of the discovery and its vulnerability to further construction-related impacts are understood, plans for treatment of the site will be made in consultation with the Signatories, Invited Signatories, and Consulting Tribes pursuant to 36 CFR 800.6(a).

A. EVALUATION OF SIGNIFICANCE. The discovery will be evaluated for Significance and eligibility for listing in the National Register of Historic Places (NRHP) in consultation per Stipulation II(B) of the PA.

1. If the discovery is determined not to be a potentially significant archaeological site or built environment resource that is eligible for the NRHP, or a

Traditional Cultural Property (TCP) or Sacred site, and the Signatories and Invited Signatories agree in writing, the Archaeologist will notify the COR and monitor that work may resume.

2. If the archaeological deposits or elements of the built environment are determined to be eligible for listing in the NRHP or are assumed to be eligible pursuant to 36 CFR 800.13(c), or are TCPs or sacred sites, effects of the undertaking will be assessed.

B. ASSESSMENT OF EFFECTS. The USACE, in consultation with the Signatories, Invited Signatories, and Consulting Tribes, will evaluate the effects of the undertaking on the discovery as outlined in Stipulation II(E) of the PA.

C. RESOLUTION OF ADVERSE EFFECTS. If the undertaking as planned will have an adverse effect to the discovery, the USACE shall, in consultation with the Signatories, Invited Signatories, and Consulting Tribes, evaluate alternatives to avoid, minimize, or mitigate adverse effects per Stipulation II(F) of the PA, and recommend actions to resolve adverse effects.

If the undertaking cannot be altered or conditioned to avoid or minimize adverse effects, the USACE, in consultation with the Signatories, Invited Signatories, and Consulting Tribes, shall prepare a mitigation plan for the resolution of adverse effects. Mitigation options may include site avoidance, site protection/stabilization, archaeological data recovery, or alternative mitigation measures identified in consultation.

Once approved and signed by the appropriate USACE approving official, Signatories, and Invited Signatories, the mitigation plan will be executed. Once the mitigation plan is fulfilled, all Signatories, Invited Signatories, and Consulting Tribes will be notified in writing.

D. DISPUTE RESOLUTION. If the Signatories and Invited Signatories of the PA cannot reach agreement regarding the NRHP eligibility of a resource or the resolution of adverse effects, the USACE shall follow the process for dispute resolution identified in Stipulation VI(B) of the PA.

**MKARNS 12-foot Channel
Programmatic Agreement
Coordination Documentation**



DEPARTMENT OF THE ARMY
LITTLE ROCK DISTRICT, CORPS OF ENGINEERS
POST OFFICE BOX 867
LITTLE ROCK, ARKANSAS 72203-0867
www.swl.usace.army.mil/

August 18, 2021

Regional Planning and Environmental Center

Ms. Devon Frazier
Absentee-Shawnee Tribe of Indians of Oklahoma
2025 South Gordon Cooper Drive
Shawnee, Oklahoma 74801

Dear Ms. Frazier:

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Resources Manager, Regional Planning and Environmental Center at (501)-324-7134,
or at christopher.g.davies@usace.army.mil.

Sincerely,

Amanda McGuire

Amanda M. McGuire
Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
LITTLE ROCK DISTRICT, CORPS OF ENGINEERS
POST OFFICE BOX 867
LITTLE ROCK, ARKANSAS 72203-0867
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August 18, 2021

Regional Planning and Environmental Center

Ms. Samantha Robinson
Tribal Historic Preservation Officer
Alabama-Quassarte Tribal Town
Post Office Box 187
Wetumka, Oklahoma 74883

Dear Ms. Robinson:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

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August 18, 2021

Regional Planning and Environmental Center

Mr. Scott Kaufman
Deputy State Historic Preservation Officer
Arkansas Historic Preservation Program
1100 North Street
Little Rock, AR 72203

Dear Mr. Kaufman:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

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August 18, 2021

Regional Planning and Environmental Center

Mr. Derek Hill
Caddo Nation of Oklahoma
Post Office Box 487
Binger, Oklahoma 73009

Dear Mr. Hill:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

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Regional Planning and Environmental Center

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August 18, 2021

Regional Planning and Environmental Center

Ms. Elizabeth Toombs
Cherokee Nation
Post Office Box 948
Tahlequah, Oklahoma 74465

Dear Ms. Toombs:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

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August 18, 2021

Regional Planning and Environmental Center

Dr. Brice Obermeyer
Tribal Historic Preservation Officer
Delaware Tribe of Indians
Roosevelt Hall, Room 212, 1200 Commercial Street
Emporia, Kansas 66801

Dear Dr. Obermeyer:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

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Sincerely,

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Amanda M. McGuire
Chief, Environmental Branch
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August 18, 2021

Regional Planning and Environmental Center

Mr. Paul Barton
Tribal Historic Preservation Officer
Eastern Shawnee Tribe of Oklahoma
70500 East 128 Road
Wyandotte, Oklahoma 74370

Dear Mr. Barton:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

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August 18, 2021

Regional Planning and Environmental Center

Mr. David Cook
Tribal Administrator
Kialagee Tribal Town
Post Office Box 332
Wetumka, Oklahoma 74883

Dear Mr. Cook:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

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Amanda McGuire

Amanda M. McGuire
Chief, Environmental Branch
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LITTLE ROCK DISTRICT, CORPS OF ENGINEERS
POST OFFICE BOX 867
LITTLE ROCK, ARKANSAS 72203-0867
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August 18, 2021

Regional Planning and Environmental Center

Dr. Bob Blackburn
State Historic Preservation Officer
Oklahoma Historical Society
800 Nazih Zuhdi Drive
Oklahoma City, Oklahoma 73105

Dear Dr. Blackburn:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

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August 18, 2021

Regional Planning and Environmental Center

Dr. Kary Stackelbeck
Oklahoma Archaeological Survey
111 Chesapeake St.
Norman, OK 73019-5111

Dear Dr. Stackelbeck:

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August 18, 2021

Regional Planning and Environmental Center

Mr. Everett Bandy
Tribal Historic Preservation Officer
Quapaw Nation
Post Office Box 765
Quapaw, Oklahoma 74363-0765

Dear Mr. Bandy:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

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LITTLE ROCK DISTRICT, CORPS OF ENGINEERS
POST OFFICE BOX 867
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August 18, 2021

Regional Planning and Environmental Center

Ms. Tonya Tipton
Tribal Historic Preservation Officer
Shawnee Tribe
Post Office Box 189
Miami, Oklahoma 74355

Dear Ms. Tipton:

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Amanda M. McGuire
Chief, Environmental Branch
Regional Planning and Environmental Center

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POST OFFICE BOX 867
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August 18, 2021

Regional Planning and Environmental Center

Ms. Karen Brunso
The Chickasaw Nation
Post Office Box 1548
Ada, Oklahoma 74821-1548

Dear Ms. Brunso:

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or at christopher.g.davies@usace.army.mil.

Sincerely,

Amanda McGuire

Amanda M. McGuire
Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
LITTLE ROCK DISTRICT, CORPS OF ENGINEERS
POST OFFICE BOX 867
LITTLE ROCK, ARKANSAS 72203-0867
www.swl.usace.army.mil/

August 18, 2021

Regional Planning and Environmental Center

Dr. Ian Thompson
Tribal Historic Preservation Officer
The Choctaw Nation of Oklahoma
Post Office Drawer 1210
Durant, Oklahoma 74701

Dear Dr. Thompson:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

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Sincerely,

Amanda McGuire

Amanda McGuire
Chief, Environmental Branch
Regional Planning and Environmental Center

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August 18, 2021

Regional Planning and Environmental Center

Ms. Corain Lowe-Zepeda
Tribal Historic Preservation Officer
The Muscogee (Creek) Nation
Post Office Box 580
Okmulgee, Oklahoma 74447

Dear Ms. Lowe-Zepeda:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

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Regional Planning and Environmental Center

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August 18, 2021

Regional Planning and Environmental Center

Dr. Andrea Hunter
Tribal Historic Preservation Officer
The Osage Nation
627 Grandview Avenue
Pawhuska, Oklahoma 74056

Dear Dr. Hunter:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

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Amanda M. McGuire
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www.swl.usace.army.mil/

August 18, 2021

Regional Planning and Environmental Center

Mr. Edwin Marshall
Tribal Historic Preservation Officer
The Seminole Nation of Oklahoma
Post Office Box 1498
Wewoka, Oklahoma 74884

Dear Mr. Marshall:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

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Amanda M. McGuire
Chief, Environmental Branch
Regional Planning and Environmental Center

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August 18, 2021

Regional Planning and Environmental Center

Mr. Galen Cloud
Tribal Historic Preservation Officer
Thlopthlocco Tribal Town
Post Office Box 188
Okemah, Oklahoma 74859

Dear Mr. Cloud:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

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Sincerely,

Amanda McGuire

Amanda M. McGuire
Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



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LITTLE ROCK DISTRICT, CORPS OF ENGINEERS
POST OFFICE BOX 867
LITTLE ROCK, ARKANSAS 72203-0867
www.swl.usace.army.mil/

August 18, 2021

Regional Planning and Environmental Center

Mr. Earl J. Barbry, Jr.
Tribal Historic Preservation Officer
Tunica-Biloxi Indian Tribe
Post Office Box 1589
Marksville, Louisiana 71351

Dear Mr. Barbry:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

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Sincerely,

Amanda McGuire

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Chief, Environmental Branch
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Enclosure



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LITTLE ROCK DISTRICT, CORPS OF ENGINEERS
POST OFFICE BOX 867
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August 18, 2021

Regional Planning and Environmental Center

Ms. Whitney Warrior
Tribal Historic Preservation Officer
United Keetoowah Band of Cherokee Indians in Oklahoma
Post Office Box 746
Tahlequah, Oklahoma 74465

Dear Ms. Warrior:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

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Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
LITTLE ROCK DISTRICT, CORPS OF ENGINEERS
POST OFFICE BOX 867
LITTLE ROCK, ARKANSAS 72203-0867
www.swl.usace.army.mil/

August 18, 2021

Regional Planning and Environmental Center

Mr. Gary McAdams
Tribal Historic Preservation Officer
Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie)
Post Office Box 729
Anadarko, Oklahoma 73005

Dear Mr. McAdams:

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Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Ms. Devon Frazier
Absentee-Shawnee Tribe of Indians of Oklahoma
2025 South Gordon Cooper Drive
Shawnee, Oklahoma 74801

Dear Ms. Frazier:

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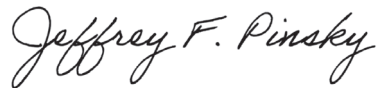
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Resources Manager, Regional Planning and Environmental Center at (501)-324-7134,
or at christopher.g.davies@usace.army.mil.

Sincerely,

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Jeffrey F. Pinsky
Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Ms. Samantha Robinson
Tribal Historic Preservation Officer
Alabama-Quassarte Tribal Town
Post Office Box 187
Wetumka, Oklahoma 74883

Dear Ms. Robinson:

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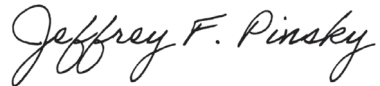
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Jeffrey F. Pinsky
Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Mr. Scott Kaufman
Deputy State Historic Preservation Officer
Arkansas Historic Preservation Program
1100 North Street
Little Rock, AR 72203

Dear Mr. Kaufman:

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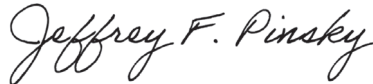
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Jeffrey F. Pinsky
Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Mr. Jonathon Roher
Caddo Nation of Oklahoma
Post Office Box 487
Binger, Oklahoma 73009

Dear Mr. Roher:

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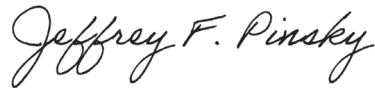
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P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Ms. Elizabeth Toombs
Cherokee Nation
Post Office Box 948
Tahlequah, Oklahoma 74465

Dear Ms. Toombs:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

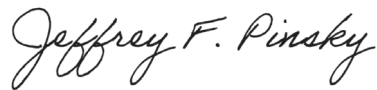
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Resources Manager, Regional Planning and Environmental Center at (501)-324-7134,
or at christopher.g.davies@usace.army.mil.

Sincerely,

A handwritten signature in black ink that reads "Jeffrey F. Pinsky". The script is fluid and cursive, with the first letters of each word being capitalized and prominent.

Jeffrey F. Pinsky
Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Mr. Galen Cloud
Tribal Historic Preservation Officer
Thlopthlocco Tribal Town
Post Office Box 188
Okemah, Oklahoma 74859

Dear Mr. Cloud:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

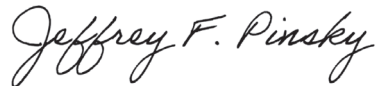
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Chief, Environmental Branch
Regional Planning and Environmental Center

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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Mr. Larry Heady
Tribal Historic Preservation Officer
Delaware Tribe of Indians
Roosevelt Hall, Room 212, 1200 Commercial Street
Emporia, Kansas 66801

Dear Mr. Heady:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

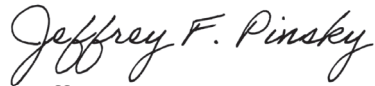
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Jeffrey F. Pinsky
Chief, Environmental Branch
Regional Planning and Environmental Center

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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Mr. Paul Barton
Tribal Historic Preservation Officer
Eastern Shawnee Tribe of Oklahoma
70500 East 128 Road
Wyandotte, Oklahoma 74370

Dear Mr. Barton:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

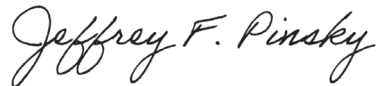
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Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Mr. David Cook
Tribal Administrator
Kialagee Tribal Town
Post Office Box 332
Wetumka, Oklahoma 74883

Dear Mr. Cook:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

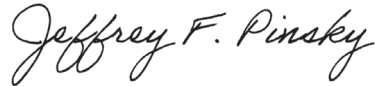
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Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Dr. Kary Stackelbeck
Oklahoma Archaeological Survey
111 Chesapeake St.
Norman, OK 73019-5111

Dear Dr. Stackelbeck:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

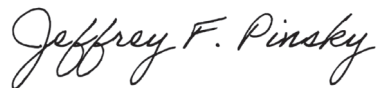
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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Dr. Bob Blackburn
State Historic Preservation Officer
Oklahoma Historical Society
800 Nazih Zuhdi Drive
Oklahoma City, Oklahoma 73105

Dear Dr. Blackburn:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

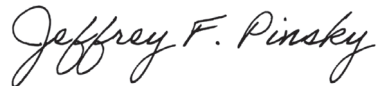
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Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Mr. Everett Bandy
Tribal Historic Preservation Officer
Quapaw Nation
Post Office Box 765
Quapaw, Oklahoma 74363-0765

Dear Mr. Bandy:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

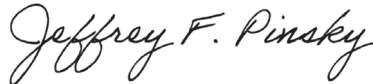
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Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Ms. Tonya Tipton
Tribal Historic Preservation Officer
Shawnee Tribe
Post Office Box 189
Miami, Oklahoma 74355

Dear Ms. Tipton:

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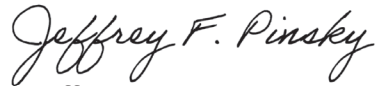
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Regional Planning and Environmental Center

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DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Ms. Karen Brunso
The Chickasaw Nation
Post Office Box 1548
Ada, Oklahoma 74821-1548

Dear Ms. Brunso:

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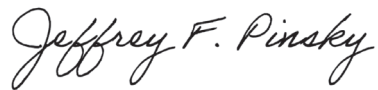
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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Dr. Ian Thompson
Tribal Historic Preservation Officer
The Choctaw Nation of Oklahoma
Post Office Drawer 1210
Durant, Oklahoma 74701

Dear Dr. Thompson:

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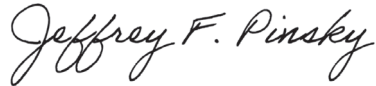
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U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Mr. Turner Hunt
Tribal Historic Preservation Officer
The Muscogee (Creek) Nation
Post Office Box 580
Okmulgee, Oklahoma 74447

Dear Mr. Hunt:

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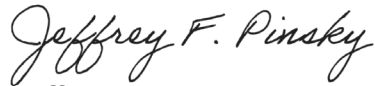
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Sincerely,

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Jeffrey F. Pinsky
Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Dr. Andrea Hunter
Tribal Historic Preservation Officer
The Osage Nation
627 Grandview Avenue
Pawhuska, Oklahoma 74056

Dear Dr. Hunter:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

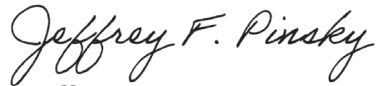
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Jeffrey F. Pinsky
Chief, Environmental Branch
Regional Planning and Environmental Center

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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Mr. Edwin Marshall
Tribal Historic Preservation Officer
The Seminole Nation of Oklahoma
Post Office Box 1498
Wewoka, Oklahoma 74884

Dear Mr. Marshall:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

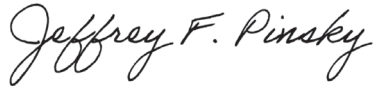
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Chief, Environmental Branch
Regional Planning and Environmental Center

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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Mr. Earl J. Barbry, Jr.
Tribal Historic Preservation Officer
Tunica-Biloxi Indian Tribe
Post Office Box 1589
Marksville, Louisiana 71351

Dear Mr. Barbry:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

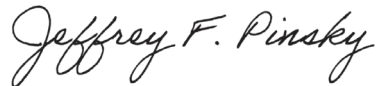
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Jeffrey F. Pinsky
Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Ms. Devon Frazier
Absentee-Shawnee Tribe of Indians of Oklahoma
2025 South Gordon Cooper Drive
Shawnee, Oklahoma 74801

Dear Ms. Frazier:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

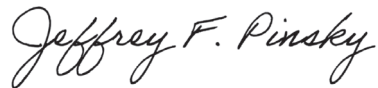
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Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Ms. Samantha Robinson
Tribal Historic Preservation Officer
Alabama-Quassarte Tribal Town
Post Office Box 187
Wetumka, Oklahoma 74883

Dear Ms. Robinson:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

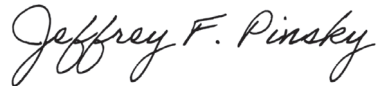
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Jeffrey F. Pinsky
Chief, Environmental Branch
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Enclosure



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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Mr. Scott Kaufman
Deputy State Historic Preservation Officer
Arkansas Historic Preservation Program
1100 North Street
Little Rock, AR 72203

Dear Mr. Kaufman:

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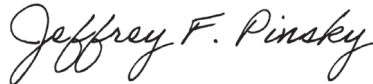
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Jeffrey F. Pinsky
Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Mr. Jonathon Roher
Caddo Nation of Oklahoma
Post Office Box 487
Binger, Oklahoma 73009

Dear Mr. Roher:

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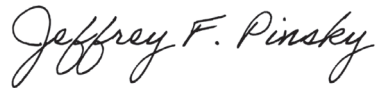
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Chief, Environmental Branch
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Enclosure



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Ms. Elizabeth Toombs
Cherokee Nation
Post Office Box 948
Tahlequah, Oklahoma 74465

Dear Ms. Toombs:

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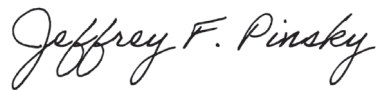
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FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Mr. Larry Heady
Tribal Historic Preservation Officer
Delaware Tribe of Indians
Roosevelt Hall, Room 212, 1200 Commercial Street
Emporia, Kansas 66801

Dear Mr. Heady:

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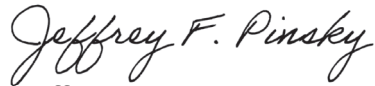
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Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Mr. Paul Barton
Tribal Historic Preservation Officer
Eastern Shawnee Tribe of Oklahoma
70500 East 128 Road
Wyandotte, Oklahoma 74370

Dear Mr. Barton:

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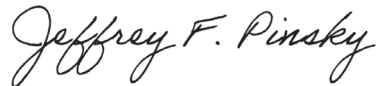
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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Mr. David Cook
Tribal Administrator
Kialagee Tribal Town
Post Office Box 332
Wetumka, Oklahoma 74883

Dear Mr. Cook:

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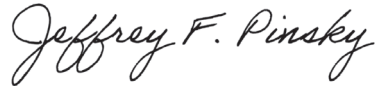
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information concerning the above, please contact Mr. Christopher G. Davies Cultural Resources Manager, Regional Planning and Environmental Center at (501)-324-7134, or at christopher.g.davies@usace.army.mil.

Sincerely,

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Jeffrey F. Pinsky
Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Dr. Kary Stackelbeck
Oklahoma Archaeological Survey
111 Chesapeake St.
Norman, OK 73019-5111

Dear Dr. Stackelbeck:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

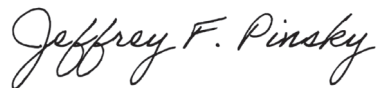
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FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Dr. Bob Blackburn
State Historic Preservation Officer
Oklahoma Historical Society
800 Nazih Zuhdi Drive
Oklahoma City, Oklahoma 73105

Dear Dr. Blackburn:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

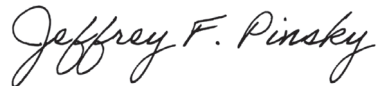
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Jeffrey F. Pinsky
Chief, Environmental Branch
Regional Planning and Environmental Center

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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Mr. Everett Bandy
Tribal Historic Preservation Officer
Quapaw Nation
Post Office Box 765
Quapaw, Oklahoma 74363-0765

Dear Mr. Bandy:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

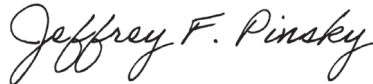
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Jeffrey F. Pinsky
Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Ms. Tonya Tipton
Tribal Historic Preservation Officer
Shawnee Tribe
Post Office Box 189
Miami, Oklahoma 74355

Dear Ms. Tipton:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

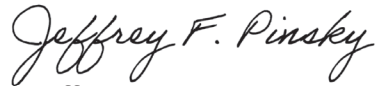
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Chief, Environmental Branch
Regional Planning and Environmental Center

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DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Ms. Karen Brunso
The Chickasaw Nation
Post Office Box 1548
Ada, Oklahoma 74821-1548

Dear Ms. Brunso:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

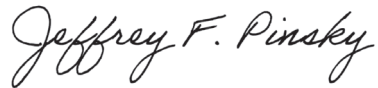
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Jeffrey F. Pinsky
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U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Dr. Ian Thompson
Tribal Historic Preservation Officer
The Choctaw Nation of Oklahoma
Post Office Drawer 1210
Durant, Oklahoma 74701

Dear Dr. Thompson:

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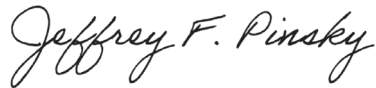
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Jeffrey F. Pinsky
Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Mr. Turner Hunt
Tribal Historic Preservation Officer
The Muscogee (Creek) Nation
Post Office Box 580
Okmulgee, Oklahoma 74447

Dear Mr. Hunt:

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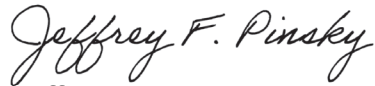
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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
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FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Dr. Andrea Hunter
Tribal Historic Preservation Officer
The Osage Nation
627 Grandview Avenue
Pawhuska, Oklahoma 74056

Dear Dr. Hunter:

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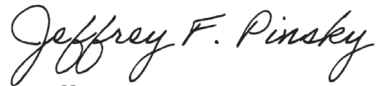
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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
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FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Mr. Edwin Marshall
Tribal Historic Preservation Officer
The Seminole Nation of Oklahoma
Post Office Box 1498
Wewoka, Oklahoma 74884

Dear Mr. Marshall:

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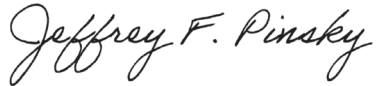
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Chief, Environmental Branch
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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Mr. Galen Cloud
Tribal Historic Preservation Officer
Thlopthlocco Tribal Town
Post Office Box 188
Okemah, Oklahoma 74859

Dear Mr. Cloud:

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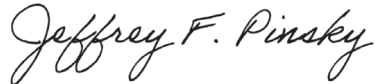
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DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Mr. Earl J. Barbry, Jr.
Tribal Historic Preservation Officer
Tunica-Biloxi Indian Tribe
Post Office Box 1589
Marksville, Louisiana 71351

Dear Mr. Barbry:

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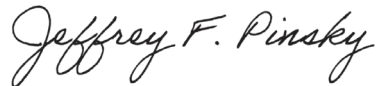
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Sincerely,

A handwritten signature in cursive script that reads "Jeffrey F. Pinsky".

Jeffrey F. Pinsky
Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Ms. Whitney Warrior
Tribal Historic Preservation Officer
United Keetoowah Band of Cherokee Indians in Oklahoma
Post Office Box 746
Tahlequah, Oklahoma 74465

Dear Ms. Warrior:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

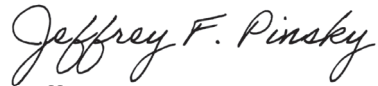
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Sincerely,

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Jeffrey F. Pinsky
Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

Mr. Gary McAdams
Tribal Historic Preservation Officer
Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie)
Post Office Box 729
Anadarko, Oklahoma 73005

Dear McAdams:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS. The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority.

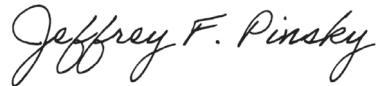
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Jeffrey F. Pinsky
Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 7, 2022

Regional Planning and Environmental Center

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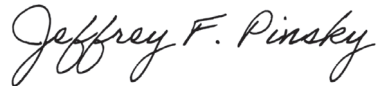
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Jeffrey F. Pinsky
Chief, Environmental Branch
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Enclosure



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

May 19, 2023

Regional Planning and Environmental Center

Ms. Devon Frazier
Absentee-Shawnee Tribe of Indians of Oklahoma
2025 South Gordon Cooper Drive
Shawnee, Oklahoma 74801

Dear Ms. Frazier:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma, including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams, 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the MKARNS.

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Sincerely,

Kenneth Shingleton

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

May 19, 2023

Regional Planning and Environmental Center

Ms. Samantha Robinson
Tribal Historic Preservation Officer
Alabama-Quassarte Tribal Town
Post Office Box 187
Wetumka, Oklahoma 74883

Dear Ms. Robinson:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma, including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams, 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the MKARNS.

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Sincerely,

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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

May 19, 2023

Regional Planning and Environmental Center

Mr. Scott Kaufman
Deputy State Historic Preservation Officer
Arkansas Historic Preservation Program
1100 North Street
Little Rock, AR 72203

Dear Mr. Kaufman:

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FORT WORTH, TEXAS 76102-0300

May 19, 2023

Regional Planning and Environmental Center

Mr. Elizabeth Toombs
Tribal Historic Preservation Officer
Cherokee Nation
Post Office Box 948
Tahlequah, Oklahoma 74465

Dear Ms. Toombs:

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P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

May 19, 2023

Regional Planning and Environmental Center

Mr. Larry Heady
Delaware Tribe of Indians
Tribal Historic Preservation Office
Roosevelt Hall, Room 212, 1200 Commercial Street
Emporia, Kansas 66801

Dear Mr. Heady:

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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

May 19, 2023

Regional Planning and Environmental Center

Mr. Paul Barton
Tribal Historic Preservation Officer
Eastern Shawnee Tribe of Oklahoma
70500 East 128 Road
Wyandotte, Oklahoma 74370

Dear Mr. Barton:

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U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

May 19, 2023

Regional Planning and Environmental Center

Mr. David Cook
Tribal Administrator
Kialagee Tribal Town
Post Office Box 332
Wetumka, Oklahoma 74883

Dear Mr. Cook:

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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
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FORT WORTH, TEXAS 76102-0300

May 19, 2023

Regional Planning and Environmental Center

Dr. Kary Stackelbeck
Oklahoma Archaeological Survey
111 Chesapeake St.
Norman, OK 73019-5111

Dear Dr. Stackelbeck:

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Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

May 19, 2023

Regional Planning and Environmental Center

Ms. Lynda Ozan
Deputy State Historic Preservation Officer
Oklahoma Historical Society
800 Nazih Zuhdi Drive
Oklahoma City, Oklahoma 73105

Dear Ms. Ozan:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma, including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams, 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the MKARNS.

In 2005, the Arkansas River Navigation Study Environmental Impact Statement elected the following alternative: Alternative E - Navigation Channel Maintenance, Operations Only Flow Management, and 12 Foot Navigation Channel. Alternative E consists of 1) adding new dredged material disposal sites in Oklahoma, 2) replacing the existing flow management plan with an Operations Only Flow Management Plan, and 3) increasing the depth of the navigation channel throughout the MKARNS from 9 feet to 12 feet.

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The USACE looks forward to working closely with you throughout this undertaking. If you have any questions or require further information concerning the above, please

contact Mr. Christopher G. Davies, Cultural Resources Manager, Regional Planning and Environmental Center, at (501)-324-7134 or christopher.g.davies@usace.army.mil.

Sincerely,

Kenneth Shingleton

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

May 19, 2023

Regional Planning and Environmental Center

Mr. Everett Bandy
Tribal Historic Preservation Officer
Quapaw Nation
Post Office Box 765
Quapaw, Oklahoma 74363-0765

Dear Mr. Bandy:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma, including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams, 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the MKARNS.

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Sincerely,

Kenneth Shingleton

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

May 19, 2023

Regional Planning and Environmental Center

Ms. Tonya Tipton
Tribal Historic Preservation Officer
Shawnee Tribe
Post Office Box 189
Miami, Oklahoma 74355

Dear Ms. Tipton:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma, including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams, 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the MKARNS.

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Sincerely,

Kenneth Shingleton

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

May 19, 2023

Regional Planning and Environmental Center

Ms. Karen Brunso
Division of Historic Preservation
The Chickasaw Nation
Post Office Box 1548
Ada, Oklahoma 74821-1548

Dear Ms. Brunso:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma, including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams, 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the MKARNS.

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Sincerely,

Kenneth Shingleton

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

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DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

May 19, 2023

Regional Planning and Environmental Center

Dr. Ian Thompson
Tribal Historic Preservation Office
The Choctaw Nation of Oklahoma
Post Office Drawer 1210
Durant, Oklahoma 74701

Dear Dr. Thompson:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma, including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams, 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the MKARNS.

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Sincerely,

Kenneth Shingleton

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

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DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

May 19, 2023

Regional Planning and Environmental Center

Mr. Turner Hunt
Tribal Historic Preservation Officer
The Muscogee (Creek) Nation
Post Office Box 580
Okmulgee, Oklahoma 74447

Dear Mr. Hunt:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma, including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams, 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the MKARNS.

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Sincerely,

Kenneth Shingleton

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

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U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

May 19, 2023

Regional Planning and Environmental Center

Dr. Andrea Hunter
Tribal Historic Preservation Officer
The Osage Nation
Post Office Box 779
Pawhuska, OK 74056

Dear Dr. Hunter:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma, including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams, 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the MKARNS.

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Sincerely,

Kenneth Shingleton

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

May 19, 2023

Regional Planning and Environmental Center

Mr. Ted Underwood
Tribal Historic Preservation Officer
The Seminole Nation of Oklahoma
Post Office Box 1498
Wewoka, Oklahoma 74884

Dear Mr. Underwood:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma, including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams, 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the MKARNS.

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Sincerely,

Kenneth Shingleton

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

May 19, 2023

Regional Planning and Environmental Center

Mr. Galen Cloud
Tribal Historic Preservation Office
Thlopthlocco Tribal Town
Post Office Box 188
Okemah, Oklahoma 74859

Dear Mr. Cloud:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma, including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams, 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the MKARNS.

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Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

May 19, 2023

Regional Planning and Environmental Center

Mr. Earl J. Barbry, Jr.
Tribal Historic Preservation Officer
Tunica-Biloxi Indian Tribe
Post Office Box 1589
Marksville, Louisiana 71351

Dear Mr. Barbry:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma, including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams, 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the MKARNS.

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Sincerely,

Kenneth Shingleton

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Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

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DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

May 19, 2023

Regional Planning and Environmental Center

Mr. A.C. Watt
Director Environmental Services & Historic Preservation
United Keetoowah Band of Cherokee Indians in Oklahoma
Post Office Box 746
Tahlequah, Oklahoma 74465

Dear Mr. Watt:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma, including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams, 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the MKARNS.

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Sincerely,

Kenneth Shingleton

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

May 19, 2023

Regional Planning and Environmental Center

Mr. Gary McAdams
Tribal Historic Preservation Office
Wichita and Affiliated Tribes
Post Office Box 729
Anadarko, Oklahoma 73005

Dear Mr. McAdams:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma, including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams, 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the MKARNS.

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Sincerely,

Kenneth Shingleton

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Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosure



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

August 24, 2023

Regional Planning and Environmental Center

Ms. Elizabeth Toombs
Tribal Historic Preservation Officer
Cherokee Nation
Post Office Box 948
Tahlequah, Oklahoma 74465

Dear Ms. Toombs:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE has invited your Tribal Nation to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma, including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams, 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the MKARNS.

A draft Programmatic Agreement (PA) was submitted to your offices on November 7, 2022, and May 19, 2023. The USACE recognizes the Cherokee Nation THPO and is requesting clarification and information concerning the functions that have and have not been assumed by your office to ensure the USACE engages all appropriate parties for undertakings within the bounds of the Cherokee Nation reservation. USACE takes very seriously its responsibilities under the National Historic Preservation Act and other Federal Laws and Executive Orders and recognizes the importance of cultural resources.

The USACE looks forward to working closely with you throughout this undertaking. If you have any questions or require further information concerning the above, please

contact Mr. Christopher G. Davies, Cultural Resources Manager, Regional Planning and Environmental Center, at (501)-324-7134 or christopher.g.davies@usace.army.mil.

Sincerely,

Brandon Wadlington

Brandon Wadlington
Interim Chief, Environmental Branch
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

August 24, 2023

Regional Planning and Environmental Center

Dr. Ian Thompson
Tribal Historic Preservation Office
The Choctaw Nation of Oklahoma
Post Office Drawer 1210
Durant, Oklahoma 74701

Dear Dr. Thompson:

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A draft Programmatic Agreement (PA) was submitted to your offices on November 7, 2022, and May 19, 2023. The USACE recognizes the Choctaw Nation of Oklahoma THPO and is requesting clarification and information concerning the functions that have and have not been assumed by your office to ensure the USACE engages all appropriate parties for undertakings within the bounds of the Cherokee Nation reservation. USACE takes very seriously its responsibilities under the National Historic Preservation Act and other Federal Laws and Executive Orders and recognizes the importance of cultural resources.

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Sincerely,

Brandon Wadlington

Brandon Wadlington
Interim Chief, Environmental Branch
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

August 24, 2023

Regional Planning and Environmental Center

Mr. Turner Hunt
Tribal Historic Preservation Officer
The Muscogee (Creek) Nation
Post Office Box 580
Okmulgee, Oklahoma 74447

Dear Mr. Hunt:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE has invited your Tribal Nation to participate. The study area includes the entire MKARNS in Arkansas and Oklahoma, including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams, 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the MKARNS.

A draft Programmatic Agreement (PA) was submitted to your offices on November 7, 2022, and May 19, 2023. USACE received your letter dated May 22, 2023, responding to the draft PA. That letter states, "the majority of comments on the MKARNS draft PA stem from the need to recognize the status of the MCN THPO which has assumed some or all of the functions of the SHPO on Tribal Lands in accordance with 101(d)(2) of the NHPA". As provided for in 54 U.S.C. § 302702, a THPO may assume "all or any part of the functions of a State Historic Preservation Officer" following plan approval by the Secretary of Interior.

The USACE recognizes the Muscogee (Creek) Nation THPO and is requesting clarification and additional information concerning the functions that have and have not been assumed by your office to ensure the USACE engages all appropriate parties for undertakings within the bounds of the Muscogee (Creek) Nation reservation. USACE takes very seriously its responsibilities under the National Historic Preservation Act and other Federal Laws and Executive Orders and recognizes the importance of cultural resources.

The USACE looks forward to working closely with you throughout this undertaking. If you have any questions or require further information concerning the above, please

contact Mr. Christopher G. Davies, Cultural Resources Manager, Regional Planning and Environmental Center, at (501)-324-7134 or christopher.g.davies@usace.army.mil.

Sincerely,

Brandon Wadlington

Brandon Wadlington
Interim Chief, Environmental Branch
Regional Planning and Environmental Center

Davies, Christopher G CIV USARMY CESWF (USA)

From: Jessica Cogburn <Jessica.Cogburn@arkansas.gov>
Sent: Thursday, December 8, 2022 10:29 AM
To: Davies, Christopher G CIV USARMY CESWF (USA)
Subject: [Non-DoD Source] AHPP Tracking Number 69417.04_COE_Draft PA for MKARNS_Multiple Counties
Attachments: 69417.04_COE_Draft PA for MKARNS_Multiple Counties.pdf

Good morning,

Attached is the AHPP letter regarding the draft Programmatic Agreement for the MKARNS in Arkansas and Oklahoma. If you have any questions, please feel free to contact me.

Thank you.

JESSICA H. COGBURN

Archeologist / Section 106 Program Manager

Arkansas Historic Preservation Program

1100 North Street

Little Rock, AR 72201

jessica.cogburn@arkansas.gov

p: 501.324.9357 | f: 501.324.9184

ArkansasPreservation.com





Asa Hutchinson
Governor
Stacy Hurst
Secretary

December 08, 2022

Mr. Jeffrey F. Pinsky
Chief, Environmental Branch
Fort Worth District
Regional Planning and Environmental Center
PO Box 17300
Fort Worth, TC 76102-0300

RE: Multiple Counties: MKARNS
Programmatic Agreement Draft: COE
Project Undertaking: PA to enhance commercial navigation opportunities for the McClellan-Kerr
Arkansas River Navigation System (MKARNS)
AHPP Tracking Number: 69417.04

Dear Mr. Pinsky:

The staff of the Arkansas Historic Preservation Program (AHPP) reviewed the draft Programmatic Agreement (PA) regarding the enhancement of commercial navigation opportunities for the McClellan-Kerr Arkansas River Navigation System (MKARNS) in Arkansas.

Based on the provided information, the AHPP concurs with the current language of the Programmatic Agreement and the procedures described for the finding, documenting, and data recovery for archeological sites and historic above ground structures. We will have a new Secretary of the Arkansas Department of Parks, Heritage, and Tourism in January 2023, so the Arkansas State Historic Preservation Officer will need to be changed. We look forward to any future discussion regarding this agreement.

Thank you for the opportunity to review this draft PA. If you have any questions, please contact Jessica Cogburn at 501-324-9357 or email jessica.cogburn@arkansas.gov.

Sincerely,

for
Scott Kaufman
Director, AHPP

cc: Dr. Melissa Zabecki, Arkansas Archeological Survey

Davies, Christopher G CIV USARMY CESWF (USA)

From: Lynda Ozan <Lynda.Ozan@history.ok.gov>
Sent: Monday, June 19, 2023 11:58 AM
To: Davies, Christopher G CIV USARMY CESWF (USA)
Cc: Stackelbeck, Kary; Kristina Wyckoff; Pamela McCarty
Subject: [Non-DoD Source] RE: McClellan-Kerr Arkansas River Navigation System (MKARNS) 12-Foot Channel Meeting(s)
Attachments: OKSHPO comments_June 2023_Nov 2022 MKARNS PA.docx

Christopher:

Thank you for allowing us to participate in last week's call. Attached are the SHPO comments. I understand that Kary will be participating in the call next week and she will be offering comments from OAS independently of the SHPO.

Please let me know if you have any questions.

Lynda Ozan

Deputy State Historic Preservation Officer

Oklahoma Historical Society
800 Nazih Zuhdi Drive
Oklahoma City, OK 73105

405-522-4484
okhistory.org



From: Davies, Christopher G CIV USARMY CESWF (USA) <Christopher.G.Davies@usace.army.mil>
Sent: Friday, May 19, 2023 10:22 AM
To: Lynda Ozan <Lynda.Ozan@history.ok.gov>
Subject: [EXTERNAL] McClellan-Kerr Arkansas River Navigation System (MKARNS) 12-Foot Channel Meeting(s)

Good morning. Please find the attached documents.

Respectfully,

Chris

Christopher G. Davies, RPA
Cultural Resources Manager

Regional Planning and Environmental Center

Office: (501) 324-7134

Mobile: (501) 258-9428

NOT FOR PUBLIC RELEASE. This information is preliminary and is subject to revision. It is being provided for planning purposes with stakeholders only. The information has not received final approval by the U.S. Army Corps of Engineers (USACE) and is provided on the condition that neither the USACE nor the U.S. Government shall be held liable for any damages resulting from the authorized or unauthorized use of the information.

**PROGRAMMATIC AGREEMENT
REGARDING COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC
PRESERVATION ACT FOR THE
PROPOSED IMPROVEMENTS TO THE MCCLELLAN-KERR ARKANSAS RIVER
NAVIGATION SYSTEM IN ARKANSAS AND OKLAHOMA
AMONG
THE U.S. ARMY CORPS OF ENGINEERS, THE CHOCTAW NATION OF
OKLAHOMA, THE MUSCOGEE (CREEK) NATION, THE OSAGE NATION, THE
QUAPAW NATION, AND THE SEMINOLE NATION OF OKLAHOMA,
THE ARKANSAS AND OKLAHOMA STATE HISTORIC PRESERVATION
OFFICERS, AND THE OKLAHOMA ARCHEOLOGICAL SURVEY**

WHEREAS, the U.S. Army Corps of Engineers (USACE) has determined that proposed improvements to the McClellan-Kerr Arkansas River Navigation System (MKARNS) in Arkansas and Oklahoma. (hereinafter, “undertaking”) may have an effect on historic properties eligible for listing in the National Register of Historic Places (NRHP) (hereinafter, “historic properties”) pursuant to Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108) (NHPA), as amended, and its implementing regulations (36 CFR 800); and

WHEREAS, the undertaking was authorized by Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority. and

WHEREAS, USACE has defined the undertaking’s preliminary overall Area of Potential Effect (APE) as described in **Appendix A-Project Summary**; and

WHEREAS, the undertaking will be constructed as shown in Appendix A that will require development of refined APE for each phase in consultation with the signatories of this agreement with input from all consulting parties; and

WHEREAS, MKARNS was completed over fifty years ago in 1970, and the system may be eligible for the NRHP under standard evaluation criteria; and

WHEREAS, this Programmatic Agreement (PA) is being executed to stipulate the USACE processes to identify/assess historic properties present, mitigate any adverse effects, and the USACE process in the event that unanticipated discoveries are identified during construction and maintenance activities; and

WHEREAS, the USACE, the SHPOs, and the OAS have agreed that it is advisable to execute this PA for the purposes stated above in accordance with 36 CFR 800.6 and 36 CFR 800.14(b)(1)(ii); and

WHEREAS, the USACE invited the Advisory Council on Historic Preservation (Council) to participate in a letter dated X XXXX, 2022; and

Commented [LO1]: MKARNS appears to intersect with additional reservations; were Cherokee Nation, Miami Tribe of Oklahoma, Ottawa Tribe, and Peoria Tribe of Indians of Oklahoma invited?

Commented [LO2]: Is the map part of Appendix A?

WHEREAS, in accordance with 36 C.F.R. § 800.14(b), the USACE has notified the Absentee-Shawnee Tribe of Indians in Oklahoma, Alabama-Quassarte Tribal Town, Caddo Nation of Oklahoma, Cherokee Nation, The Chickasaw Nation, The Choctaw Nation of Oklahoma, Delaware Tribe of Indians, Eastern Shawnee Tribe of Oklahoma, Kialegee Tribal Town, The Muscogee Creek Nation, The Osage Nation, Quapaw Nation, The Seminole Nation of Oklahoma, Shawnee Tribe, Thlopthlocco Tribal Town, Tunica Biloxi Indian Tribe, United Keetowah Band of Cherokee Indians in Oklahoma, and Wichita and Affiliated Tribes, of the development and execution of this PA.

WHEREAS, the Choctaw Nation of Oklahoma, the Muscogee (Creek) Nation, the Osage Nation, the Quapaw Nation, and The Seminole Nation of Oklahoma are Invited Signatories to this agreement and will be referenced collectively hereafter as “Consulting Tribes”; and

Commented [LO3]: Please note that this project appears to impact reservation lands of additional tribal governments including Cherokee Nation, Miami Tribe of Oklahoma, and Peoria Tribe of Indians of Oklahoma

NOW, THEREFORE, the USACE, SHPOs, OAS, and Consulting Tribes agree that the proposed undertaking shall be implemented and administered in accordance with the following stipulations in order to take into account the effects of the undertaking on historic properties and to satisfy the USACE’s Section 106 responsibilities for all individual aspects of the undertaking.

STIPULATIONS

USACE shall ensure the following stipulations are carried out:

I. Identification, Evaluation, Effect Determination, and Resolution

A. Scope of Undertaking. This PA shall be applicable to all new construction, improvements, and maintenance activities related to the Arkansas River Navigation Study. Project construction is expected to be accomplished in manageable phases throughout the life of this project. Investigations of each construction-related APE will be conducted as designs and specifications are developed and are expected to occur throughout the life of the project consistent with overall project activities. The phased APEs, which shall refine the overall APE as shown in Appendix A, shall be determined by the USACE in consultation with the signatories and invited signatories of this agreement and shall include river flow management changes that are anticipated to result in changes in the river stage water in the MKARNS, channel dredging and channel maintenance including river-bottom dredging, construction and/or modification of dikes and revetments, creation of new dredged material disposal locations, and any identified indirect or cumulative impact locations.

B. Qualifications and Standards.

1. The USACE shall ensure that all work conducted in conjunction with this PA is performed in a manner consistent with the Secretary of Interior’s “Standards and Guidelines for Archeology and Historic Preservation” (48 FR 44716-44740; September 23, 1983), as amended, National Register Bulletin 15 “How to Apply the National Register Criteria for Evaluation” (NPS 1990), and the requirements for archeological survey as outlined in the Arkansas State Plan Appendices B:

Guidelines for Cultural Resources Fieldwork and Report Writing in Arkansas
revised January 01, 2010 (State Plan).

2. The USACE shall ensure that identification and evaluation studies and treatment measures required under the terms of this PA will be carried out by professional(s) who meets, at a minimum, the Secretary of the Interior's Historic Preservation Professional Qualification Standards (48 FR 44716, September 29, 1983) in accordance with 54 USC § 306131 for the associated discipline.
- C. Definitions. The definitions set forth in 36 CFR 800.16 are incorporated herein by reference and apply throughout this PA.
- D. Identification of Historic Properties (Cultural Resource Surveys). Project construction is expected to be accomplished in manageable phases throughout the life of this project. Investigations of each construction-related APE will be conducted as designs and specifications are developed and are expected to occur throughout the life of the project consistent with overall project activities. Prior to the initiation of any construction activity for any phase of the project, the USACE shall make a reasonable and good faith effort to identify above-ground architectural/engineering (Above-Ground Resources) and archeological historic properties located within the APEs. These steps may include, but are not limited to, background research, consultation, oral history interviews, seeking information from concurring parties and other individuals and organizations likely to have knowledge of, or concerns with historic properties in the area, sample field investigations, and a cultural resource field survey.
1. Archeological Surveys. The USACE shall provide the results of survey or site testing investigations in a draft report(s) to the SHPO(s), OAS, Consulting Tribes, and any consulting parties for review and comment. Comments received by the USACE from the SHPO(s), OAS, Consulting Tribes, and any consulting parties shall be addressed in subsequent draft report(s), which shall be provided to all consulting parties for review. If comments on the draft report(s) by the SHPO(s), OAS, Consulting Tribes, and any consulting parties are not received by the USACE within thirty (30) days of receipt, the reports and their recommendations shall be considered adequate and the reports may be finalized. The USACE shall provide a final report(s) of all investigations to the SHPO(s), OAS, Consulting Tribes, and any consulting parties. If no historic properties are identified in the APE, the USACE shall document this finding pursuant to 36 CFR 800.11(d), provide this documentation to the SHPO(s), OAS, Consulting Tribes, and any consulting parties.
 2. Above-Ground Identification Efforts.
 - i. Historic Context/Baseline Survey. Within [Date TBD] of signing this agreement, the USACE shall develop a historic context in which to evaluate above-ground resources. The context will examine the MKARNS holistically as a multi-state engineered transportation system

Commented [LO4]: This needs to include evaluation as a TCP for each tribe that has shown an interest in the area through time.

linked historically by plan and physical development from its initial construction, completion in 1972 and its operational changes through 2022. The context will baseline survey the system, broadly discuss its integrity, identify any areas of significance, property types and establish clearly defined registration requirements. The context shall be sent to both SHPOs for a 30-day review and comment period.

Commented [L05]: What about consulting tribes?

- ii. Phased Above-Ground Resource Surveys. Should the historic context and baseline survey reveal historic properties present, the USACE shall consult with the respective SHPOs on the level of additional surveys/inventories needed to fully assess individual properties directly or indirectly impacted by any phase of the undertaking.

Commented [L06]: And consulting tribes

E. Evaluation of National Register Eligibility. If historic resources are identified within the individual phased APEs, the USACE shall determine their eligibility for the NRHP in accordance with the process described in 36 CFR § 800.4(c) and criteria established in 36 CFR 60.

1. Archeological Reports. If cultural resources are identified within the APE, the USACE shall determine their eligibility for the NRHP in accordance with the process described in 36 CFR 800.4(c) and criteria established in 36 CFR 60. All draft reports of NRHP site testing or other NRHP investigations shall be submitted to the SHPO(s), OAS, Consulting Tribes, and any consulting parties for review and comment. If SHPO comments are not received by the USACE within 30 days of receipt, the reports or investigations and their recommendations shall be considered adequate, and the reports may be finalized. Comments received by the USACE from the SHPO(s), OAS, Consulting Tribes, and any consulting parties shall be addressed in the final report, which shall be provided to all consulting parties. The determinations of significance shall be conducted in consultation with the SHPO(s), OAS, Consulting Tribes, and any consulting parties. Should the USACE and the SHPO(s) agree that a property is or is not eligible, then such consensus shall be deemed conclusive for the purpose of this PA. Should the USACE and the SHPO(s) not agree regarding the eligibility of a property, the USACE shall obtain a determination of eligibility from the Keeper of the National Register pursuant to 36 CFR 63. For historic properties found not eligible for the NRHP, no further protection or consideration of the site will be afforded for compliance purposes.

Commented [L07]: A large portion of the study area appears to be within the exterior boundaries of reservations (on tribal lands) but this language does not address consultation with THPOs

2. Above-Ground Resources of the MKARNS System. USACE shall determine eligibility of above-ground resources for the NRHP in accordance with the process described in 36 CFR 800.4(c) and criteria established in 36 CFR 60. All draft reports containing NRHP determinations shall be submitted to the SHPO(s) for review and comment. If comments are not received by the USACE within thirty (30) calendar days of receipt, the reports or investigations and their recommendations shall be considered adequate, and the reports shall be finalized.

F. Assessment of Effects.

1. No Historic Properties Affected. The USACE shall make a reasonable and good faith effort to evaluate the effect of the undertaking on identified and determined historic properties in the APEs. The USACE may conclude that no historic properties are affected by the undertaking if no historic properties are present in the APE, or the undertaking will have no effect as defined in 36 CFR § 800.16(i).
 - a. Archeological Determinations. USACE findings shall be documented in compliance with 36 CFR § 800.11(d), and the documentation (cultural resource report, per Stipulation I. D.) shall be provided to the SHPO(s), OAS, Consulting Tribes, and any consulting parties for review and comment. If comments from the SHPO(s) are not received by the USACE within thirty (30) days, the reports or investigations and their recommendations shall be considered adequate and the reports may be finalized. The USACE shall provide information on the finding to the public upon request, consistent with the confidentiality requirements of 36 CFR § 800.11(c) and Section 304 of the NHPA.
 - b. Above-Ground Resource Determinations. USACE findings of effect shall be documented in compliance with 36 CFR § 800.11(d), and the documentation (cultural resource report, per Stipulation I. D.) shall be provided to the SHPO(s) for review and comment. If comments from the SHPO(s) are not received by the USACE within thirty (30) days, the reports or investigations and their recommendations shall be considered adequate and the reports may be finalized.
2. Finding of No Adverse Effect.
 - a. Archeological Resources. The USACE, in consultation with SHPO(s), OAS, Consulting Tribes, and any consulting parties shall apply the criteria of adverse effect to historic properties within the APE in accordance with 36 CFR 800.5. The USACE may propose a finding of no adverse effect if the undertaking's effects do not meet the criteria of 36 CFR 800.5(a)(1) or the undertaking is modified to avoid adverse effects in accordance with 36 CFR 68. The USACE shall provide to the SHPO(s) documentation of this finding meeting the requirements of 36 CFR 800.11(e). The SHPO(s) shall have 30 days in which to review the findings and provide a written response to the USACE. The USACE may proceed upon receipt of written concurrence from the SHPO(s). Failure of the SHPO(s) to respond with 30 calendar days of receipt of the finding shall be considered agreement with the finding. The USACE shall maintain a record of the finding and provide information on the finding to the public upon request, consistent with the confidentiality requirements of 36 CFR 800.11(c).

Commented [LO8]: ... OAS, Consulting Tribes, and consulting parties ...

Recommend checking the document to ensure that consulting parties are included appropriately throughout

Commented [LO9]: Of receipt

b. Above-Ground Resources. The USACE, in consultation with the signatories and invited signatories to this document, shall apply the criteria of adverse effect to historic properties within the APE in accordance with 36 CFR § 800.5. The USACE shall find no adverse effect if the undertaking's effects do not meet the criteria of 36 CFR § 800.5(a)(1) or the undertaking is modified to avoid adverse effects in accordance with 36 CFR § 68. The USACE shall provide to the SHPO(s) documentation of this finding meeting the requirements of 36 CFR § 800.11(e) and the documentation (cultural resource report, per Stipulation I. D.) shall be provided to the SHPO(s). The SHPO(s) shall have thirty (30) days in which to review the findings and provide a written response to the USACE. Failure of the SHPO(s) to respond with 30 calendar days of receipt of the finding shall be considered agreement with the finding.

3. Resolution of Adverse Effects. Should USACE determine that the undertaking will have an adverse effect on historic properties as measured by criteria in 36 CFR § 800.5(a)(1), the USACE shall consult with the SHPO(s), OAS, Consulting Tribes, and any consulting parties to resolve adverse effects in accordance with 36 CFR § 800.6(a).

- a. Historic Archeological Properties. For all historic archeological properties that the USACE and the SHPO(s) agree will be adversely affected, the USACE shall:
- (1) Afford the public an opportunity to express their views on resolving adverse effects in a manner appropriate to the magnitude of the project and its likely effects on historic properties.
 - (2) Consult with the SHPO(s), OAS, Consulting Tribes, and any consulting parties to seek ways to avoid, minimize or mitigate adverse effects.
 - (3) Prepare a mitigation plan (prepared in consultation once adverse effect determination is reached) which describes mitigation measures the USACE proposes to resolve the undertaking's adverse effects and provide this mitigation plan for review and comment to all the Signatories and Invited Signatories of this PA. Signatories and Invited Signatories shall have fifteen (15) calendar days to provide written response to the proposed mitigation plan. Once approved and signed by the appropriate USACE approving official, signatories, and invited signatories, the mitigation plan will be executed. Once the mitigation plan is fulfilled all consulting parties will be notified in writing.
 - (4) If the Signatories and Invited Signatories of this PA fail to agree on how adverse effects will be resolved, the USACE shall request that the ACHP join the consultation in accordance with 36 CFR § 800.6 (b)(2).

Commented [LO10]: 30 days

(5) If, after consulting to resolve adverse effects, the Signatories or Invited Signatories of this PA determine that further consultation will not be productive, then procedures outlined in Stipulations V should be followed.

- b. Historic Above-Ground Architectural/Engineering Properties. Should USACE determine that the undertaking will have an adverse effect on historic above-ground resources as measured by criteria in 36 CFR § 800.5(a)(1), the USACE shall inform the public, seek its views in consultation with the SHPO(s) to resolve adverse effects in accordance with 36 CFR § 800.6(a).

Commented [LO11]: Repeat 1-5 from above for historic above ground resources as well

II. Post Review Changes and Discoveries

- A. Changes in the Scope of the Undertaking. If construction on the undertaking has not commenced, and the USACE determines that it will not conduct the undertaking as originally coordinated, the USACE shall notify all consulting parties to this PA in writing of the proposed change in scope and provide maps illustrating the proposed changes to the undertaking requesting comments within 30 calendar days of receipt. If no comments are received within 30 calendar days, USACE will assume all consulting parties notified have no comments and the undertaking will proceed with the proposed changes.
- B. Unanticipated Discoveries or Effects. Pursuant to 36 CFR 800.13(b)(3), if historic properties are discovered or unanticipated effects on historic properties are found after construction on an undertaking has commenced, the USACE shall develop a treatment plan to resolve adverse effects and notify the SHPO(s), OAS, Consulting Tribes, and any consulting parties within 48 hours of the discovery. The notification shall include the USACE assessment of the NRHP eligibility of affected properties and proposed actions to resolve the adverse effects. Comments received from the SHPO(s), OAS, Consulting Tribes, and any consulting parties within 48 hours of the notification shall be taken into account by the USACE in carrying out the proposed treatment plan. The USACE may assume SHPO concurrence in its eligibility assessment and treatment plan unless otherwise notified by the SHPO within 48 hours of notification. USACE shall provide the SHPO(s), OAS, Consulting Tribes, and any consulting parties a report of the USACE actions when they are completed.

Commented [LO12]: Recommend an appendix with contact information for each party

Commented [LO13]: How is this 48 hours defined? Would this include the weekend? In which case it is even more critical to ensure an effective and updated list of contacts is included as part of this document.

III. Curation and Disposition of Recovered Materials, Records, and Reports

- A. Curation. The USACE shall ensure that all archeological materials and associated records, which result from identification, evaluation, and treatment efforts conducted under this PA on property owned by USACE, are accessioned into a curation facility in accordance with the standards of 36 CFR 79. Archeological materials from privately owned lands will be collected, per terms of real estate right-of-entry, with option to offer return of artifacts to landowner after analysis.
- B. Reports. The USACE shall provide copies of final technical reports of investigations and mitigation to the SHPOs, OAS, Consulting Tribes, and any consulting parties, as well as additional copies (specific site locational data removed) for public distribution. All

Commented [LO14]: What role are you providing to the tribes during the curation discussions?

concurring parties shall withhold site location information or other data that may be of a confidential or sensitive nature pursuant to 36 CFR § 800.11(c).

IV. Treatment of Native American Human Remains and/or Funerary Objects

- A. Prior Consultation. If the USACE's investigations, conducted pursuant to Stipulation I of this PA, indicate a high likelihood that Native American Indian human remains may be encountered, the USACE shall develop a treatment plan for these remains in consultation with the SHPO(s) and the appropriate Tribal Nation(s). The USACE shall ensure that Tribal Nation(s) indicating an interest in the undertaking are afforded a reasonable opportunity to identify concerns, provide advice on identification and evaluation, and participation in the resolution of adverse effects in compliance with the terms of this PA.
- B. Inadvertent Discovery. Immediately upon the inadvertent discovery of human remains during historic properties investigations or construction activities conducted pursuant to this PA, the USACE shall ensure that all ground disturbing activities cease in the vicinity of the human remains and any associated grave goods and that the site is secured from further disturbance or vandalism. The USACE shall be responsible for immediately notifying local law enforcement officials, and within 48 hours of the discovery, shall initiate consultation with the SHPO and the appropriate Tribal Nation(s) to develop a plan for resolving the adverse effects.

V. PA Amendments, Disputes and Termination

- A. Amendments. Any party to the PA may propose to the other parties that it be amended, whereupon the parties will consult in accordance with 36 CFR 800.6(c)(7) to consider such an amendment.
- B. Disputes. Disputes regarding the completion of the terms of this agreement shall be resolved by the signatories. If the signatories cannot agree regarding a dispute, any one of the signatories may request the participation of the Council in resolving the dispute in accordance with the procedures outlined in 36 CFR 800.9. The USACE shall forward to the Council and all consulting parties within fifteen (15) days of such a request all documentation relevant to the dispute, including the USACE's proposed resolution of the dispute. The Council will respond to the request within thirty (30) days of receiving all documentation. The USACE will take any recommendations or comments from the Council into account in resolving the dispute. In the event that the Council fails to respond to the request within thirty (30) days of receiving all documentation, the USACE may assume the Council's concurrence with its proposed resolution and proceed with resolving the dispute.
- C. Termination of PA. Any party to this PA may terminate it by providing a sixty (60) day notice to the other parties, provided that the parties will consult during the period prior to the termination to seek agreement on amendments or other actions that will avoid termination. In the event of termination of this PA the USACE shall comply with the provisions of 36 CFR 800, Subpart B.

Commented [LO15]: Earlier in the document the Advisory Council on Historic Preservation is identified as ACHP. Recommend revising to be consistent throughout.

VI. Term of this Agreement. This PA remains in force for a period of ten (10) years from the date of its execution by all signatories, unless terminated pursuant to Stipulation V.C. Sixty (60) days prior to the conclusion of the ten (10) year period, the USACE shall notify all parties in writing of the end of the ten-year period to determine if they have any objections to extending the term of this PA. If there are no objections received prior to expiration, the PA will continue to remain in force for a new ten (10) year period.

Execution of this PA and implementation of its terms evidences that the USACE has afforded the Council an opportunity to comment on the undertaking and its effects on historic properties, and that the USACE has taken into account those effects and fulfilled Section 106 responsibilities regarding the undertaking.

SIGNATORIES include the USACE Little Rock and Tulsa Districts, the Arkansas and Oklahoma State Historic Preservation Officers, and The Oklahoma Archeological Survey. The Choctaw Nation of Oklahoma, The Muscogee (Creek) Nation, The Osage Nation, The Quapaw Nation, The Seminole Nation of Oklahoma are Invited Signatories. Separate signature pages for each agency and Consulting Tribe follow.

**PROGRAMMATIC AGREEMENT
REGARDING COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC
PRESERVATION ACT FOR THE
PROPOSED IMPROVEMENTS TO THE MCCLELLAN-KERR ARKANSAS RIVER
NAVIGATION SYSTEM IN ARKANSAS AND OKLAHOMA
AMONG**

**THE U.S. ARMY CORPS OF ENGINEERS, THE CHOCTAW NATION OF
OKLAHOMA, THE MUSCOGEE (CREEK) NATION, THE OSAGE NATION, THE
QUAPAW NATION, AND THE SEMINOLE NATION OF OKLAHOMA,
THE ARKANSAS AND OKLAHOMA STATE HISTORIC PRESERVATION
OFFICERS, AND THE OKLAHOMA ARCHEOLOGICAL SURVEY**

EXECUTION AND IMPLEMENTATION

SIGNATORIES include the USACE Little Rock and Tulsa Districts, the Arkansas and Oklahoma State Historic Preservation Officers, and The Oklahoma Archeological Survey. The Choctaw Nation of Oklahoma, The Muscogee (Creek) Nation, The Osage Nation, The Quapaw Nation, The Seminole Nation of Oklahoma are Invited Signatories.

USACE LITTLE ROCK DISTRICT

**Colonel Damon M. Knarr
District Engineer**

Date: _____

**PROGRAMMATIC AGREEMENT
REGARDING COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC
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**THE U.S. ARMY CORPS OF ENGINEERS, THE CHOCTAW NATION OF
OKLAHOMA, THE MUSCOGEE (CREEK) NATION, THE OSAGE NATION, THE
QUAPAW NATION, AND THE SEMINOLE NATION OF OKLAHOMA,
THE ARKANSAS AND OKLAHOMA STATE HISTORIC PRESERVATION
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EXECUTION AND IMPLEMENTATION

SIGNATORIES include the USACE Little Rock and Tulsa Districts, the Arkansas and Oklahoma State Historic Preservation Officers, and The Oklahoma Archeological Survey. The Choctaw Nation of Oklahoma, The Muscogee (Creek) Nation, The Osage Nation, The Quapaw Nation, The Seminole Nation of Oklahoma are Invited Signatories.

USACE TULSA DISTRICT

Date: _____

**Colonel Timothy P. Hudson
District Engineer**

**PROGRAMMATIC AGREEMENT
REGARDING COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC
PRESERVATION ACT FOR THE
PROPOSED IMPROVEMENTS TO THE MCCLELLAN-KERR ARKANSAS RIVER
NAVIGATION SYSTEM IN ARKANSAS AND OKLAHOMA
AMONG**

**THE U.S. ARMY CORPS OF ENGINEERS, THE CHOCTAW NATION OF
OKLAHOMA, THE MUSCOGEE (CREEK) NATION, THE OSAGE NATION, THE
QUAPAW NATION, AND THE SEMINOLE NATION OF OKLAHOMA,
THE ARKANSAS AND OKLAHOMA STATE HISTORIC PRESERVATION
OFFICERS, AND THE OKLAHOMA ARCHEOLOGICAL SURVEY**

EXECUTION AND IMPLEMENTATION

SIGNATORIES include the USACE Little Rock and Tulsa Districts, the Arkansas and Oklahoma State Historic Preservation Officers, and The Oklahoma Archeological Survey. The Choctaw Nation of Oklahoma, The Muscogee (Creek) Nation, The Osage Nation, The Quapaw Nation, The Seminole Nation of Oklahoma are Invited Signatories.

ARKANSAS STATE HISTORIC PRESERVATION OFFICER

Date: _____

Stacy Hurst
Arkansas State Historic Preservation Officer

**PROGRAMMATIC AGREEMENT
REGARDING COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC
PRESERVATION ACT FOR THE
PROPOSED IMPROVEMENTS TO THE MCCLELLAN-KERR ARKANSAS RIVER
NAVIGATION SYSTEM IN ARKANSAS AND OKLAHOMA
AMONG**

**THE U.S. ARMY CORPS OF ENGINEERS, THE CHOCTAW NATION OF
OKLAHOMA, THE MUSCOGEE (CREEK) NATION, THE OSAGE NATION, THE
QUAPAW NATION, AND THE SEMINOLE NATION OF OKLAHOMA,
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EXECUTION AND IMPLEMENTATION

SIGNATORIES include the USACE Little Rock and Tulsa Districts, the Arkansas and Oklahoma State Historic Preservation Officers, and The Oklahoma Archeological Survey. The Choctaw Nation of Oklahoma, The Muscogee (Creek) Nation, The Osage Nation, The Quapaw Nation, The Seminole Nation of Oklahoma are Invited Signatories.

OKLAHOMA STATE HISTORIC PRESERVATION OFFICER

Date: _____

Mr. Trait Thompson
Oklahoma State Historic Preservation Officer

**PROGRAMMATIC AGREEMENT
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**THE U.S. ARMY CORPS OF ENGINEERS, THE CHOCTAW NATION OF
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EXECUTION AND IMPLEMENTATION

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OKLAHOMA ARCHEOLOGICAL SURVEY

Date: _____

Dr. Kary Stackelbeck

State Archeologist

**PROGRAMMATIC AGREEMENT
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PRESERVATION ACT FOR THE
PROPOSED IMPROVEMENTS TO THE MCCLELLAN-KERR ARKANSAS RIVER
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AMONG**

**THE U.S. ARMY CORPS OF ENGINEERS, THE CHOCTAW NATION OF
OKLAHOMA, THE MUSCOGEE (CREEK) NATION, THE OSAGE NATION, THE
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EXECUTION AND IMPLEMENTATION

SIGNATORIES include the USACE Little Rock and Tulsa Districts, the Arkansas and Oklahoma State Historic Preservation Officers, and The Oklahoma Archeological Survey. The Choctaw Nation of Oklahoma, The Muscogee (Creek) Nation, The Osage Nation, The Quapaw Nation, The Seminole Nation of Oklahoma are Invited Signatories.

THE CHOCTAW NATION OF OKLAHOMA

Date: _____

Garry Batton
Chief

**PROGRAMMATIC AGREEMENT
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**THE U.S. ARMY CORPS OF ENGINEERS, THE CHOCTAW NATION OF
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OFFICERS, AND THE OKLAHOMA ARCHEOLOGICAL SURVEY**

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THE MUSCOGEE (CREEK) Nation

Date: _____

David Hill
Principal Chief

**PROGRAMMATIC AGREEMENT
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**THE U.S. ARMY CORPS OF ENGINEERS, THE CHOCTAW NATION OF
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THE OSAGE NATION

Date: _____

**Geoffrey M. Standing Bear
Principal Chief**

**PROGRAMMATIC AGREEMENT
REGARDING COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC
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PROPOSED IMPROVEMENTS TO THE MCCLELLAN-KERR ARKANSAS RIVER
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**THE U.S. ARMY CORPS OF ENGINEERS, THE CHOCTAW NATION OF
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EXECUTION AND IMPLEMENTATION

SIGNATORIES include the USACE Little Rock and Tulsa Districts, the Arkansas and Oklahoma State Historic Preservation Officers, and The Oklahoma Archeological Survey. The Choctaw Nation of Oklahoma, The Muscogee (Creek) Nation, The Osage Nation, The Quapaw Nation, The Seminole Nation of Oklahoma are Invited Signatories.

THE QUAPAW NATION

Date: _____

**Joseph Byrd
Chairman**

**PROGRAMMATIC AGREEMENT
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THE SEMINOLE NATION OF OKLAHOMA

Date: _____

Lewis J. Johnson
Principal Chief

APPENDIX A - PROJECT SUMMARY

The Rivers & Harbors Act of July 24, 1946, authorized the development of the Arkansas River and its tributaries for the purposes of navigation, flood control, hydropower, water supply, recreation, and fish and wildlife. Public Law 91-629 stated that the project would be known as the McClellan-Kerr Arkansas River Navigation System (MKARNS). For the purposes of this study, the navigation system and its associated reservoirs are hereafter referred to as the "MKARNS". Several reservoirs on the Arkansas River and its tributaries support water control on the MKARNS and are operated as part of the navigation system. MKARNS project purposes include navigation, flood control, hydropower, water supply, recreation, and fish and wildlife. Development of and construction on the MKARNS began in 1952 and was completed in 1971 at a cost of \$1.3 billion.

The Arkansas River Navigation Study was initiated in a Fiscal Year (FY) 99 Congressional Add to study MKARNS operational issues in the Fort Smith, Arkansas area. As a result of the reconnaissance study, a Section 905(b) Analysis (WRDA 86), dated September 1999, was prepared by the Southwestern Division, Little Rock District, and approved by Headquarters, on January 4, 2000. The study recommended that a navigation feasibility study be prepared. Additional language was included in Section 13b of the Energy and Water Development Act of 2004, which authorized a project depth of 12 feet.

The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority. The Study Authority reads as follows:

"RESOLVED BY THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION OF THE HOUSE OF REPRESENTATIVES, UNITED STATES, that the Board of Engineers for Rivers and Harbors, established by Section 3 of the River and Harbor Act approved June 13, 1902, is hereby requested to review in cooperation with the states of Arkansas and Oklahoma, political subdivisions, agencies and instrumentalities thereof, and appropriated Federal agencies as a shared effort, the report of the Chief of Engineers on the Arkansas River and tributaries, published as House Document No. 308, seventy-fourth Congress, and other pertinent reports, with a view to determining whether any modification of the recommendation contained therein are advisable at this time, with particular reference to developing an implementable plan for storage, conservation, treatment, and conveyance of water in the Arkansas River and tributaries in Arkansas and Oklahoma, for municipal, industrial, and agricultural uses and other purposes. This study should include an assessment of the usability of the water for various uses."

The study area includes the entire MKARNS in Arkansas and Oklahoma including:

- Approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam), 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS; and
- Eleven upstream reservoirs in Oklahoma that influence river flow on the MKARNS. The upstream reservoirs assist with the control of water releases through spillways and power generating units. The rate and amount of water released from each reservoir depends on many

factors including available water storage, power requirements, navigation water requirements, inflow rates, river flow rates downstream, and weather conditions.

Commercial navigation is an historic and ongoing activity on the MKARNS. Three elements associated with the maintenance and improvement of the MKARNS navigation channel are considered in this document:

1) River Flow Management: Sustained high flows on the MKARNS have adversely influenced the safety and efficiency of commercial navigation operations and have resulted in flood damages along the river. The reliability and predictability of river flows affect navigation traffic utilization of the MKARNS.

Commercial navigation traffic is severely restricted when river flows reach 100,000 cubic feet per second (cfs) at Van Buren, Arkansas. Van Buren is the critical control point in the system because it is the most downstream regulation station for the MKARNS. That is, all the upstream releases are adjusted based on what is happening at the Van Buren gage. For shippers and vessel operators, three specific problems exist.

- The limitations on commercial navigation during and after storm events that cause high flow rates reduces reliability of shipping on the MKARNS. Shippers and vessel operators are in the position of absorbing costs associated with the unreliability of the navigation system. For shippers these costs include the risk of plant shut down due to inventory depletion or, conversely, high inventory cost of carrying excess inventories to avoid the stock out condition. For vessel operators, the costs associated with “parking” tows and towboats during high flows are not offset by revenues. Prices for towing services are established weeks before vessel departure, and vessel “parking” is not included.
- Extended higher flow conditions require vessel operators to utilize higher horsepower towboats and smaller tow size. In anticipation of probable storm events, vessel operators on the MKARNS utilize above average horsepower towboats and smaller than average tow sizes for similar tributary river situations. With these higher operating costs tow operators have higher towing rates, requiring barge operators to aggressively market the Arkansas River to effect the most efficient two-way loaded hauling and avoid empty barge movement. On an annual basis, up bound loaded covered hopper barges exceed down bound loaded covered hopper barges, resulting in new barge operators being reluctant to bring equipment on to the river.
- Shipping charges during high flows, such as barge demurrage (a charge for detaining a barge or tow beyond the time allowed for loading and unloading) and “hot water” charges (additional charge for transporting barges during periods of high river flows) for special services, are assessed to the shipper. For shippers and terminal operators on the MKARNS, the high flow storm events place uncertainty on shipping charges and costs. Specifically, when barges are “parked” and free time expires, demurrage charges are incurred. In addition, upon arrival barges become bunched at the terminals, exposing either the terminal or shipper to demurrage charges. Special charges, commonly referred to as “hot water” charges, can be incurred by shippers if they elect to have their barges moved to destinations in a one or two barge tow service.

2) Navigation Channel Depth: Commercial navigation is not at optimum productivity within the MKARNS since its 9-foot draft navigation channel limits towboat loads compared to the Lower Mississippi River's authorized 12-foot draft channel.

- Shipments between the Arkansas and Lower Miss amount to 6.3 million tons and 56% of all tonnage shipments on the regional inland navigation system. Channel deepening would enhance shipments of commodities that benefit from increased depth (such as agricultural chemicals and farm products). Thus, a larger percentage of tonnage could be shipped between the Lower Miss and Arkansas River. A detailed analysis of the economic benefits associated with the connectivity between these two systems is presented in the Economics Analysis Appendix of the Draft Feasibility Report (USACE 2005).
- Because the barge drafts are limited by the MKARNS 9-foot draft channel, and it is not cost-effective to re-load at the MKARNS/Mississippi confluence, upbound tows from the Mississippi must be configured to the limitations of the MKARNS channel.
- Similarly, downbound tows on the MKARNS are not able to take advantage of the Mississippi River's 12-foot draft channel and are loaded to accommodate the 9-foot channel rather than a 12-foot channel.

The disparity between the navigation channel depths in the two river systems results in less efficient barge operations than could be achieved with a consistent 12-foot navigation channel throughout the MKARNS and Lower Mississippi River commercial navigation systems.

3) Navigation Channel Maintenance: The ongoing operation and maintenance of the existing 9 foot navigation channel on the MKARNS entails the use of "river training structures" as well as periodic dredging at some locations within the navigation channel. Since the completion of the MKARNS in 1971, some authorized maintenance dredged material disposal sites have reached capacity and new disposal sites are required to continue channel maintenance activities. Additionally, the construction of new river training structures is warranted to facilitate the maintenance of the 9-foot navigation channel. Without the proper maintenance of the 9-foot channel, commercial navigation would not be able to operate on the MKARNS.

Davies, Christopher G CIV USARMY CESWF (USA)

From: Turner Hunt <thunt@muscogeenation.com>
Sent: Tuesday, June 13, 2023 8:13 AM
To: Davies, Christopher G CIV USARMY CESWF (USA)
Subject: [Non-DoD Source] Fw: McClellan-Kerr Arkansas River Navigation System (MKARNS) 12-Foot Channel Meeting(s)
Attachments: MCN_MARNS_RPEC 5.22.2023.pdf; MCN_Nov 2022 MKARNS PA.docx;
MCN_Waterways_MKARNS.pdf; MCN_RPEC_MKARNS 8.24.2021.pdf

Mr. Davies,

Can you confirm receipt of the email below? I wanted to ensure you had this information before the meeting this morning Mvto.

Turner W. Hunt

Tribal Historic Preservation Officer
Historic and Cultural Preservation Department
The Muscogee Nation
P.O.Box 580 | Okmulgee, OK 74447
T 918.732.7759 | F 918.758.0649
thunt@MuscogeeNation.com
MuscogeeNation.com
Meyuksvseko Mvskokvlke...

From: Turner Hunt <thunt@muscogeenation.com>
Sent: Monday, May 22, 2023 4:46 PM
To: Davies, Christopher G CIV USARMY CESWF (USA) <Christopher.G.Davies@usace.army.mil>
Cc: RaeLynn Butler <raebutler@muscogeenation.com>
Subject: Re: McClellan-Kerr Arkansas River Navigation System (MKARNS) 12-Foot Channel Meeting(s)

Mr. Davies,

Please see the enclosed materials. MCN THPO looks forward to meeting with you in June. I appreciate your time. Mvto.

Turner W. Hunt

Tribal Historic Preservation Officer
Historic and Cultural Preservation Department
The Muscogee Nation
P.O.Box 580 | Okmulgee, OK 74447
T 918.732.7759 | F 918.758.0649
thunt@MuscogeeNation.com
MuscogeeNation.com
Meyuksvseko Mvskokvlke...

From: Davies, Christopher G CIV USARMY CESWF (USA) <Christopher.G.Davies@usace.army.mil>
Sent: Friday, May 19, 2023 10:27 AM
To: Section106 <Section106@mcn-nsn.gov>
Cc: Turner Hunt <thunt@muscogeenation.com>
Subject: McClellan-Kerr Arkansas River Navigation System (MKARNS) 12-Foot Channel Meeting(s)

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

Good morning. Please find the attached documents.

Respectfully,

Chris

Christopher G. Davies, RPA
Cultural Resources Manager
Regional Planning and Environmental Center
Office: (501) 324-7134
Mobile: (501) 258-9428

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May 22, 2023

DAVID W. HILL
PRINCIPAL CHIEF

DEL BEAVER
SECOND CHIEF

Historic and Cultural Preservation
P.O. Box 580 | Okmulgee, OK 74447
T. 918.732.7732 | F 918.758.0649

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center
U.S. Army Corps of Engineers
P.O. Box 17300
Fort Worth, TX 76012-0300

[via email]

Subject: McClellan-Kerr Arkansas River Navigation System (MKARNS), USACE RPEC, Page 1

Mr. Shingleton,

Thank you for your recent correspondence regarding USACE Southwestern Regional Planning and Environmental Center (RPEC) project on the McClellan-Kerr Arkansas River Navigation System (MKARNS). Portions of this project will be occurring within the exterior boundaries of the Muscogee (Creek) Nation (MCN) Reservation. In 2011, MCN established the Tribal Historic Preservation Office (THPO) in agreement with the National Parks Service (NPS) and the Department of Interior (DOI) in accordance with Section 101(d)(2) of the National Historic Preservation Act. The MCN THPO appreciated the invitation to participate in the project.

Approximately 32 miles of the MKARNS runs through the Muscogee (Creek) Nation Reservation. This includes the Choteau Lock and Dam #17, and Newt Gram Lock and Dam #18.

Unfortunately, our office has been unable to find a copy of any correspondence regarding the draft Programmatic Agreement (PA) from November 2022. The only correspondence our office could associate with this project is the August 18, 2021 letter from RPEC and MCN THPOs response on August 24, 2021. As such, this is the first time that MCN THPO was able to review the draft PA. We hope that our comments can still be incorporated into the draft.

In another recent RPEC project, the Advisory Council on Historic Preservation highlighted the role of the MCN THPO and the need for inclusion in the PA. The majority of comments on the MKARNS draft PA stem from the need to recognize the status of the MCN THPO which has assumed some or all of the functions of the SHPO on Tribal Lands in accordance with 101(d)(2) of the NHPA.



Historic and Cultural Preservation
P.O. Box 580 | Okmulgee, OK 74447
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DAVID W. HILL
PRINCIPAL CHIEF

DEL BEAVER
SECOND CHIEF

**Subject: McClellan-Kerr Arkansas River Navigation System (MKARNS), USACE RPEC,
Page 2**

Additionally, I would like to highlight the following for our future discussions:

- Contacting Law enforcement for inadvertent discoveries of human remains on the MCN Reservation must include the MCN Lighthouse (Tribal Law Enforcement).
- Waterways on the MCN Reservation are special Tribal Resources that are both natural and cultural resources.
- Project elements within the MCN reservation may need special attention, e.g., deposit locations of dredged materials – and ownership of the said Tribal resource.

Our office has placed the June 13th and June 28th meetings to discuss the PA on our calendar. We look forward to the meeting and working with RPEC on the MKARNS project.

Please let me know if you have any questions in the meantime. I appreciate your time.

Turner W. Hunt
Tribal Historic Preservation Officer
Historic and Cultural Preservation Department
The Muscogee Nation
P.O.Box 580 | Okmulgee, OK 74447
T 918.732.7759 | F 918.758.0649
thunt@MuscogeeNation.com
MuscogeeNation.com
Meyuksvseko Mvskokvlke...

CC: Christopher G. Davies, Cultural Resources Manager

Enclosures:
Comments on Draft MKARNS PA
Map of MKARNS on MCN Tribal Lands
Response Aug 24, 2021



DAVID W. HILL
PRINCIPAL CHIEF

DEL BEAVER
SECOND CHIEF

Historic and Cultural Preservation
P.O. Box 580 | Okmulgee, OK 74447
T 123.456.0000 | F 123.456.0000

August 24, 2021

Amanda M. McGuire
Chief, Environmental Branch
Regional Planning and Environmental Center
USACE-CESWF
P.O. Box 17300 Fort Worth, TX 76102

Subject: MKARNS and Arkansas River Basin Study

The Muscogee (Creek) Nation Historic and Cultural Preservation Department (HCPD) has received your letter dated August 18, 2021, notifying our office of the opportunity to participate in a Programmatic Agreement (PA) for the study.

The McClellan-Kerr Arkansas River Navigation System (MKARNS) utilizes portions of the Arkansas River and Verdigris River that are within the exterior boundaries of the Muscogee Nation Reservation, outlined in the 1866 Creek Reconstruction Treaty. Based on the definitions under 25 USC Code Chapter 32 § 3001 (15)(A), this project is occurring on Tribal Land.

The Muscogee Nation views our waterways as natural and cultural resources and the Historic and Cultural Preservation Department would be very interested in becoming a signatory for the PA surrounding the study. Our office must state that since the project is occurring on Tribal Lands we must be given the appropriate level of participation and not be simply considered a concurring party.

The Muscogee Nation Historic and Cultural Preservation Department looks forward to working with RPEC on the future of the MKARNS. Please let me know if you have any questions. Thank you for your time, mvto!

Turner W. Hunt
Historic and Cultural Preservation Department
The Muscogee Nation
P.O.Box 580 | Okmulgee, OK 74447
T 918.732.7759 | F 918.758.0649
thunt@MuscogeeNation.com
MuscogeeNation.com
Meyuksvseko Mvskokvlke...

Davies, Christopher G CIV USARMY CESWF (USA)

From: Andrea Hunter <ahunter@osagenation-nsn.gov>
Sent: Monday, June 26, 2023 5:01 PM
To: Davies, Christopher G CIV USARMY CESWF (USA)
Cc: Caitlin E. Nichols; Colleen A. Bell; Sarah O'Donnell
Subject: [URL Verdict: Neutral][Non-DoD Source] MKARNS PA
Attachments: Nov 2022 MKARNS PA- Osage edits.docx

Please see attached comments on the proposed MKARNS PA.

Thank you,



Dr. Andrea A. Hunter
Director, Tribal Historic Preservation Officer
Osage Nation
627 Grandview Avenue
Pawhuska, OK 74056
Phone: (918) 287-5671 | Fax: (918) 287-5376
[Email](#) | [Website](#)

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Davies, Christopher G CIV USARMY CESWF (USA)

From: Everett Bandy <ebandy@quapawnation.com>
Sent: Tuesday, June 13, 2023 10:51 AM
To: Davies, Christopher G CIV USARMY CESWF (USA)
Cc: Lynda.Ozan@history.ok.gov; Kristina.Wyckoff@history.ok.gov; Jessica Cogburn; Kathryn Bryles (DAH); Karen Brunso; Turner Hunt; Ian Thompson (ithompson@choctawnation.com); Elizabeth Toombs; Billie Burtrum; The Osage Nation; Colleen A. Bell; Adamson, Jack A CIV USARMY CESWF (USA); Mel Zabecki
Subject: [Non-DoD Source] McClellan-Kerr Arkansas River Navigation System (MKARNS PA)
Attachments: Nov 2022 MKARNS PA.docx; Enclosure -Map.pdf; 69417.04_COE_Draft PA for MKARNS_Multiple Counties.pdf

Mr. Davies,

Thank you for the opportunity to meet with your agency and discuss the proposed *McClellan-Kerr Arkansas River Navigation System (MKARNS PA)*, which covers a proposed program of systematic undertakings which are related to wide scale deepening of the Arkansas River channel to 12 feet for commercial activities. I have copied our counterparts from OK and AR SHPO, as well as the tribal nations who have requested signatory status, apart from the Seminole as I am not sure who their THPO is.

The purpose of this email is to aggregate verbal comments into written form.

We understand that archeological survey of riverbanks that would be affected by rock weirs, side scan sonar, and magnetometry scans of the areas that would be affected is proposed. This investigation effort is appreciated. We note that despite this level of effort, additional efforts in the investigation phase of this project is necessary.

The Arkansas River's name in English is derived from our tribe. A significant portion of the Arkansas River was made to be ceded by the Quapaw to the United States. It was a major feature of our life; one could easily describe it as the center of our life before removal. I strongly believe that it meets the threshold of being considered a Traditional Cultural Property or TCP for the Quapaw Nation and may also for other tribal nations as well.

The Arkansas River has been deepened, commercialized, and use for any traditional purposes have been made very difficult as a direct result of cumulative governmental actions. The proposed undertaking(s)/program which are/is being proposed would contribute to making the situation even more pronounced.

The QHPP requests:

- a TCP assessment should be incorporated into the PA.
 - We note that Algonquin Consultants have worked with our nation on multiple occasions and have assessed a riverscape TCP for the Quapaw Nation previously. We understand that government contracts cannot be arbitrarily awarded, but we would like to note for the record that we appreciate their work and strongly recommend them for this assessment.
- Mitigative measures for the decrease in use for traditional practices should be provided. This should be incorporated into the PA. We note that the exact methods of achieving this would/should be explored during the TCP assessment, and with USACE in later consultation. Examples of similar resolutions of adverse effects to traditional use are readily abundant in the northwestern United States.

- Interpretive signage describing the importance of the river has already been heavily installed along the Arkansas River for the 5 civilized tribes, especially the Cherokee. I think signage for the original inhabitants of this area, notably including the Quapaw and to some extent the Osage, should be installed. This would serve to commemorate the original inhabitants of the area prior to commercialization, who are no longer able to practice their original identity along the river.
 - One such sign was already developed for the Quapaw and Osage in consultation with NPS.
 - Additionally, signage about the origin of the river's name should be included.
 - The mouth of the Arkansas River is a very sacred place to the Quapaw and was the center of our homeland. Signage for this and consideration during mitigation of reduction in ability for traditional use should be considered as well.
- 3rd party analysis of tribal treaty rights for each of the signatory signs should be incorporated in the investigation efforts for this PA. Tribal treaty rights may/likely do exist along the APE, and there is an elevated likelihood that the ability to act upon unidentified tribal treaty rights will be impacted by this undertaking. USACE does not likely have tribal treaty rights experts on staff that will be accepted as experts by tribal nations, and USACE attorneys may not want to accept opinions from lawyers which are held on retainer by tribal nations. For this reason, we strongly recommend that USACE or a USACE sub-contractor hire a 3rd party Native American law expert to produce this analysis. Said analysis should be performed by a specialist with familiarity for Oklahoma based tribal nations.
- The Curation section does not provide for any tribal involvement. We understand that a nuanced relationship exists between USACE and private landowners in areas USACE conducts work. We also understand that Quapaw canoes have been removed from the bed of the Arkansas River in the past. It would be of benefit to tribal nations to involve them at some level in this clause, perhaps providing tribes the option to make special requests for USACE to request of landowners regarding the disposition of any found artifacts.

Thank you for the consideration of these comments and for consulting with the Quapaw Nation.

Sincerely,

-Everett Bandy

Preservation Officer/QHPP Director

Quapaw Nation

P.O. Box 765

Quapaw, OK 74363

(w) 918-238-3100 ext. 17001

(f) 918-674-2456

Postscript:

I have reattached some of the relevant documents for this consultation to this email for the benefit of easy reference for the preservation partners who are copied on this email.



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

September 8, 2023

Regional Planning and Environmental Center

Mr. Reid Nelson
Advisory Council on Historic Preservation
401 F Street NW, Suite 308
Washington, DC 20001

Dear Mr. Nelson:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts (USACE) are revisiting a 2005 study to evaluate the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The USACE would like to invite your agency to participate in this study. The study area includes the entire MKARNS in Arkansas and Oklahoma including approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams, 13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS.

Pursuant to 36CFR800, a Programmatic Agreement has been drafted for your review and is enclosed. The comments received from Tribal Nations, SHPOs, and other interested parties are also enclosed. The USACE has also provided letters to three Tribal Nations in order to determine their Tribal Historic Preservation Office (THPO) status and signatory status as the Area of Potential Effect (APE) extends within the exterior boundaries of their reservations in Oklahoma. The USACE respectfully requests any comments or questions be submitted 30 days from receipt of this letter.

The USACE Little Rock District looks forward to continuing to work closely with you throughout the course of this undertaking. Should you have any questions, or require any further information concerning the above, please contact Mr. Christopher G. Davies Cultural Resources Manager, Regional Planning and Environmental Center at (501)-324-7134, or at christopher.g.davies@usace.army.mil.

Sincerely,

Kenneth Shingleton

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosures

Hon. Sara C. Bronin
Chair

Jordan E. Tannenbaum
Vice Chairman

Reid J. Nelson
Executive Director



October 18, 2023

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

Ref: *McClellan-Kerr Arkansas River Navigation System (MKARNS) Study*
Arkansas and Oklahoma
ACHP Project Number: 020028

Dear Mr. Connor:

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

Section 800.6(a)(1)(iii) of these regulations requires that we notify you as the head of the agency of our decision to participate in consultation. By copy of this letter, we are also notifying Little Rock and Tulsa Districts of this decision.

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

Sincerely,

Reid J. Nelson
Executive Director



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Ms. Devon Frazier
Absentee-Shawnee Tribe of Indians of Oklahoma
2025 South Gordon Cooper Drive
Shawnee, Oklahoma 74801

Dear Ms. Frazier:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts, (USACE) is continuing consultation pursuant to Section 106 of the National Historic Preservation Act (NHPA) (54 USC 306108) for the proposed deepening of the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The proposed undertaking consists of increasing the depth of the MKARNS from 9 feet to 12 feet, which is the third component (hereinafter Project) of the Alternative (Alternative E) selected by the 2005 Arkansas River Navigation Study and Environmental Impact Statement (EIS). Due to the amount of time elapsed since the 2005 EIS, a Supplemental Environmental Assessment (SEA) is being conducted. Deepening of the navigation channel requires construction of additional locations for dredge disposal, additional river training structures, and revetments. The project will be accomplished in phases, the first of which includes the construction of six upland confined disposal facilities (CDFs).

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Sincerely,

Kenneth Shingleton

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosures



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Ms. Janice Lowe
Tribal Historic Preservation Officer
Alabama-Quassarte Tribal Town
Post Office Box 187
Wetumka, Oklahoma 74883

Dear Ms. Lowe:

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Sincerely,

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Chief, Cultural and Environmental Programs
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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Mr. Scott Kaufman
Deputy State Historic Preservation Officer
Arkansas Historic Preservation Program
1100 North Street
Little Rock, AR 72203

Dear Mr. Kaufman:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts, (USACE) is continuing consultation pursuant to Section 106 of the National Historic Preservation Act (NHPA) (54 USC 306108) for the proposed deepening of the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The proposed undertaking consists of increasing the depth of the MKARNS from 9 feet to 12 feet, which is the third component (hereinafter Project) of the Alternative (Alternative E) selected by the 2005 Arkansas River Navigation Study and Environmental Impact Statement (EIS). Due to the amount of time elapsed since the 2005 EIS, a Supplemental Environmental Assessment (SEA) is being conducted. Deepening of the navigation channel requires construction of additional locations for dredge disposal, additional river training structures, and revetments. The project will be accomplished in phases, the first of which includes the construction of six upland confined disposal facilities (CDFs).

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P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Ms. Devon Frazier
Absentee-Shawnee Tribe of Indians of Oklahoma
2025 South Gordon Cooper Drive
Shawnee, Oklahoma 74801

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P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Ms. Janice Lowe
Tribal Historic Preservation Officer
Alabama-Quassarte Tribal Town
Post Office Box 187
Wetumka, Oklahoma 74883

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Kenneth Shingleton

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

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DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Mr. Scott Kaufman
Deputy State Historic Preservation Officer
Arkansas Historic Preservation Program
1100 North Street
Little Rock, AR 72203

Dear Mr. Kaufman:

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Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

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U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Mr. Jonathan M. Rohrer
Tribal Historic Preservation Officer
Caddo Nation of Oklahoma
Post Office Box 487
Binger, Oklahoma 73009

Dear Mr. Rohrer:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts, (USACE) is continuing consultation pursuant to Section 106 of the National Historic Preservation Act (NHPA) (54 USC 306108) for the proposed deepening of the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The proposed undertaking consists of increasing the depth of the MKARNS from 9 feet to 12 feet, which is the third component (hereinafter Project) of the Alternative (Alternative E) selected by the 2005 Arkansas River Navigation Study and Environmental Impact Statement (EIS). Due to the amount of time elapsed since the 2005 EIS, a Supplemental Environmental Assessment (SEA) is being conducted. Deepening of the navigation channel requires construction of additional locations for dredge disposal, additional river training structures, and revetments. The project will be accomplished in phases, the first of which includes the construction of six upland confined disposal facilities (CDFs).

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Kenneth Shingleton

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosures



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Ms. Elizabeth Toombs
Tribal Historic Preservation Officer
Cherokee Nation
Post Office Box 948
Tahlequah, Oklahoma 74465

Dear Ms. Toombs:

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Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosures



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Ms. Susan Bachor
Delaware Tribe of Indians
Tribal Historic Preservation Office
Roosevelt Hall, Room 212, 1200 Commercial Street
Emporia, Kansas 66801

Dear Ms. Bachor:

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Chief, Cultural and Environmental Programs
Support Section
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DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Mr. Paul Barton
Tribal Historic Preservation Officer
Eastern Shawnee Tribe of Oklahoma
70500 East 128 Road
Wyandotte, Oklahoma 74370

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Sincerely,

Kenneth Shingleton

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosures



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Mr. David Cook
Tribal Administrator
Kialagee Tribal Town
Post Office Box 332
Wetumka, Oklahoma 74883

Dear Mr. Cook:

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Sincerely,

Kenneth Shingleton

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosures



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Dr. Kary Stackelbeck
Oklahoma Archaeological Survey
111 Chesapeake St.
Norman, OK 73019-5111

Dear Dr. Stackelbeck:

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Sincerely,

Kenneth Shingleton

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Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosures



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Ms. Lynda Ozan
Deputy State Historic Preservation Officer
Oklahoma Historical Society
800 Nazih Zuhdi Drive
Oklahoma City, Oklahoma 73105

Dear Ms. Ozan:

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Sincerely,

Kenneth Shingleton

Type text here

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosures



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Mr. Everett Bandy
Tribal Historic Preservation Officer
Quapaw Nation
Post Office Box 765
Quapaw, Oklahoma 74363-0765

Dear Mr. Bandy:

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Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

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U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Ms. Tonya Tipton
Tribal Historic Preservation Officer
Shawnee Tribe
Post Office Box 189
Miami, Oklahoma 74355

Dear Ms. Tipton:

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P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Ms. Karen Brunso
Division of Historic Preservation
The Chickasaw Nation
Post Office Box 1548
Ada, Oklahoma 74821-1548

Dear Ms. Brunso:

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Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosures



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Dr. Ian Thompson
Tribal Historic Preservation Office
The Choctaw Nation of Oklahoma
Post Office Drawer 1210
Durant, Oklahoma 74701

Dear Dr. Thompson:

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DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Mr. Turner Hunt
Tribal Historic Preservation Officer
The Muscogee (Creek) Nation
Post Office Box 580
Okmulgee, Oklahoma 74447

Dear Mr. Hunt:

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Support Section
Regional Planning and Environmental Center

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U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Dr. Andrea Hunter
Tribal Historic Preservation Officer
The Osage Nation
Post Office Box 779
Pawhuska, OK 74056

Dear Dr. Hunter:

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Chief, Cultural and Environmental Programs
Support Section
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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Mr. Ted Underwood
Tribal Historic Preservation Officer
The Seminole Nation of Oklahoma
Post Office Box 1498
Wewoka, Oklahoma 74884

Dear Mr. Underwood:

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U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Mr. Galen Cloud
Tribal Historic Preservation Office
Thlopthlocco Tribal Town
Post Office Box 188
Okemah, Oklahoma 74859

Dear Mr. Cloud:

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Sincerely,

Kenneth Shingleton

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosures



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Mr. Earl J. Barbry, Jr.
Tribal Historic Preservation Officer
Tunica-Biloxi Indian Tribe
Post Office Box 1589
Marksville, Louisiana 71351

Dear Mr. Barbry:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts, (USACE) is continuing consultation pursuant to Section 106 of the National Historic Preservation Act (NHPA) (54 USC 306108) for the proposed deepening of the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The proposed undertaking consists of increasing the depth of the MKARNS from 9 feet to 12 feet, which is the third component (hereinafter Project) of the Alternative (Alternative E) selected by the 2005 Arkansas River Navigation Study and Environmental Impact Statement (EIS). Due to the amount of time elapsed since the 2005 EIS, a Supplemental Environmental Assessment (SEA) is being conducted. Deepening of the navigation channel requires construction of additional locations for dredge disposal, additional river training structures, and revetments. The project will be accomplished in phases, the first of which includes the construction of six upland confined disposal facilities (CDFs).

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Support Section
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U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Ms. Acee Watt
Director Environmental Services & Historic Preservation
United Keetoowah Band of Cherokee Indians in Oklahoma
Post Office Box 746
Tahlequah, Oklahoma 74465

Dear Ms. Watt:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts, (USACE) is continuing consultation pursuant to Section 106 of the National Historic Preservation Act (NHPA) (54 USC 306108) for the proposed deepening of the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The proposed undertaking consists of increasing the depth of the MKARNS from 9 feet to 12 feet, which is the third component (hereinafter Project) of the Alternative (Alternative E) selected by the 2005 Arkansas River Navigation Study and Environmental Impact Statement (EIS). Due to the amount of time elapsed since the 2005 EIS, a Supplemental Environmental Assessment (SEA) is being conducted. Deepening of the navigation channel requires construction of additional locations for dredge disposal, additional river training structures, and revetments. The project will be accomplished in phases, the first of which includes the construction of six upland confined disposal facilities (CDFs).

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Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

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U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Mr. Gary McAdams
Tribal Historic Preservation Office
Wichita and Affiliated Tribes
Post Office Box 729
Anadarko, Oklahoma 73005

Dear Mr. McAdams:

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Kenneth Shingleton

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosures



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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Mr. Jonathan M. Rohrer
Tribal Historic Preservation Officer
Caddo Nation of Oklahoma
Post Office Box 487
Binger, Oklahoma 73009

Dear Mr. Rohrer:

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Sincerely,

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Chief, Cultural and Environmental Programs
Support Section
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Enclosures



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Ms. Elizabeth Toombs
Tribal Historic Preservation Officer
Cherokee Nation
Post Office Box 948
Tahlequah, Oklahoma 74465

Dear Ms. Toombs:

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Enclosures



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P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Ms. Susan Bachor
Delaware Tribe of Indians
Tribal Historic Preservation Office
Roosevelt Hall, Room 212, 1200 Commercial Street
Emporia, Kansas 66801

Dear Ms. Bachor:

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Support Section
Regional Planning and Environmental Center

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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Mr. Paul Barton
Tribal Historic Preservation Officer
Eastern Shawnee Tribe of Oklahoma
70500 East 128 Road
Wyandotte, Oklahoma 74370

Dear Mr. Barton:

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Enclosures



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Mr. David Cook
Tribal Administrator
Kialagee Tribal Town
Post Office Box 332
Wetumka, Oklahoma 74883

Dear Mr. Cook:

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U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Dr. Kary Stackelbeck
Oklahoma Archaeological Survey
111 Chesapeake St.
Norman, OK 73019-5111

Dear Dr. Stackelbeck:

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Chief, Cultural and Environmental Programs
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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Ms. Lynda Ozan
Deputy State Historic Preservation Officer
Oklahoma Historical Society
800 Nazih Zuhdi Drive
Oklahoma City, Oklahoma 73105

Dear Ms. Ozan:

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Kenneth Shingleton

Type text here

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

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DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Mr. Everett Bandy
Tribal Historic Preservation Officer
Quapaw Nation
Post Office Box 765
Quapaw, Oklahoma 74363-0765

Dear Mr. Bandy:

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Chief, Cultural and Environmental Programs
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U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Ms. Tonya Tipton
Tribal Historic Preservation Officer
Shawnee Tribe
Post Office Box 189
Miami, Oklahoma 74355

Dear Ms. Tipton:

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Sincerely,

Kenneth Shingleton

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosures



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Ms. Karen Brunso
Division of Historic Preservation
The Chickasaw Nation
Post Office Box 1548
Ada, Oklahoma 74821-1548

Dear Ms. Brunso:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts, (USACE) is continuing consultation pursuant to Section 106 of the National Historic Preservation Act (NHPA) (54 USC 306108) for the proposed deepening of the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The proposed undertaking consists of increasing the depth of the MKARNS from 9 feet to 12 feet, which is the third component (hereinafter Project) of the Alternative (Alternative E) selected by the 2005 Arkansas River Navigation Study and Environmental Impact Statement (EIS). Due to the amount of time elapsed since the 2005 EIS, a Supplemental Environmental Assessment (SEA) is being conducted. Deepening of the navigation channel requires construction of additional locations for dredge disposal, additional river training structures, and revetments. The project will be accomplished in phases, the first of which includes the construction of six upland confined disposal facilities (CDFs).

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Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosures



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Dr. Ian Thompson
Tribal Historic Preservation Office
The Choctaw Nation of Oklahoma
Post Office Drawer 1210
Durant, Oklahoma 74701

Dear Dr. Thompson:

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Kenneth Shingleton

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosures



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Mr. Turner Hunt
Tribal Historic Preservation Officer
The Muscogee (Creek) Nation
Post Office Box 580
Okmulgee, Oklahoma 74447

Dear Mr. Hunt:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts, (USACE) is continuing consultation pursuant to Section 106 of the National Historic Preservation Act (NHPA) (54 USC 306108) for the proposed deepening of the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The proposed undertaking consists of increasing the depth of the MKARNS from 9 feet to 12 feet, which is the third component (hereinafter Project) of the Alternative (Alternative E) selected by the 2005 Arkansas River Navigation Study and Environmental Impact Statement (EIS). Due to the amount of time elapsed since the 2005 EIS, a Supplemental Environmental Assessment (SEA) is being conducted. Deepening of the navigation channel requires construction of additional locations for dredge disposal, additional river training structures, and revetments. The project will be accomplished in phases, the first of which includes the construction of six upland confined disposal facilities (CDFs).

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Sincerely,

Kenneth Shingleton

Kenneth Shingleton
Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosures



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Dr. Andrea Hunter
Tribal Historic Preservation Officer
The Osage Nation
Post Office Box 779
Pawhuska, OK 74056

Dear Dr. Hunter:

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Kenneth Shingleton

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Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosures



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Mr. Ted Underwood
Tribal Historic Preservation Officer
The Seminole Nation of Oklahoma
Post Office Box 1498
Wewoka, Oklahoma 74884

Dear Mr. Underwood:

The U.S. Army Corps of Engineers, Little Rock and Tulsa Districts, (USACE) is continuing consultation pursuant to Section 106 of the National Historic Preservation Act (NHPA) (54 USC 306108) for the proposed deepening of the McClellan-Kerr Arkansas River Navigation System (MKARNS) for enhanced commercial navigation opportunities. The proposed undertaking consists of increasing the depth of the MKARNS from 9 feet to 12 feet, which is the third component (hereinafter Project) of the Alternative (Alternative E) selected by the 2005 Arkansas River Navigation Study and Environmental Impact Statement (EIS). Due to the amount of time elapsed since the 2005 EIS, a Supplemental Environmental Assessment (SEA) is being conducted. Deepening of the navigation channel requires construction of additional locations for dredge disposal, additional river training structures, and revetments. The project will be accomplished in phases, the first of which includes the construction of six upland confined disposal facilities (CDFs).

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Kenneth Shingleton

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Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosures



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Mr. Galen Cloud
Tribal Historic Preservation Office
Thlopthlocco Tribal Town
Post Office Box 188
Okemah, Oklahoma 74859

Dear Mr. Cloud:

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Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosures



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Mr. Earl J. Barbry, Jr.
Tribal Historic Preservation Officer
Tunica-Biloxi Indian Tribe
Post Office Box 1589
Marksville, Louisiana 71351

Dear Mr. Barbry:

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Enclosures



DEPARTMENT OF THE ARMY
U.S ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Ms. Acee Watt
Director Environmental Services & Historic Preservation
United Keetoowah Band of Cherokee Indians in Oklahoma
Post Office Box 746
Tahlequah, Oklahoma 74465

Dear Ms. Watt:

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Enclosures



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

November 20, 2023

Regional Planning and Environmental Center

Mr. Gary McAdams
Tribal Historic Preservation Office
Wichita and Affiliated Tribes
Post Office Box 729
Anadarko, Oklahoma 73005

Dear Mr. McAdams:

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Chief, Cultural and Environmental Programs
Support Section
Regional Planning and Environmental Center

Enclosures

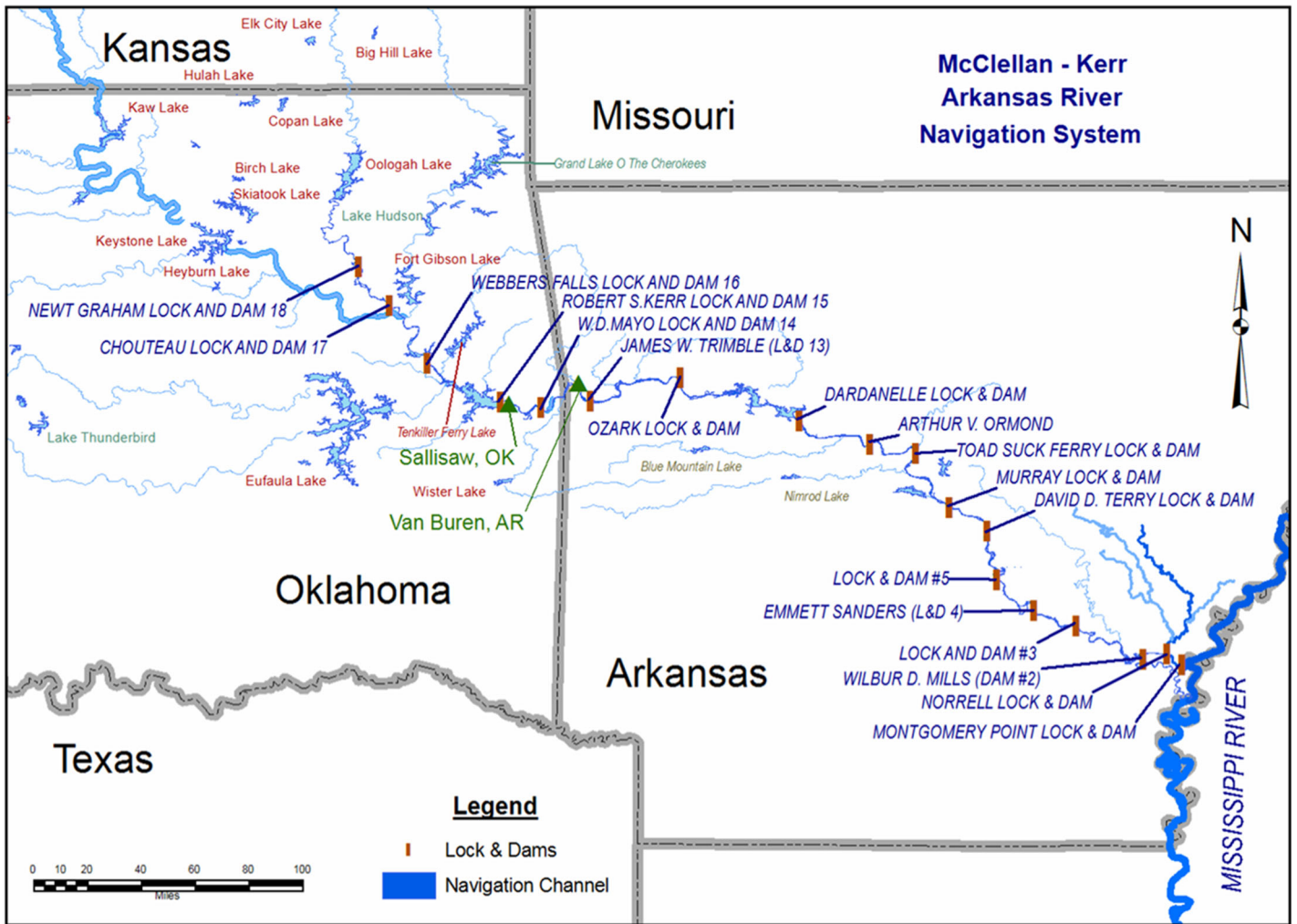
PROPOSED LOCATIONS CONFINED DISPOSAL FACILITIES (CDF)
CONSTRUCTION PHASE 1

Maps are included in geographic order from North (nearest Tulsa) to South (the Arkansas state line).

An online GIS map is available

<https://usacelittlerock.maps.arcgis.com/apps/webappviewer/index.html?id=cb51843e025d4b6b84adee64605760bc>

McClellan-Kerr Arkansas River Navigation System



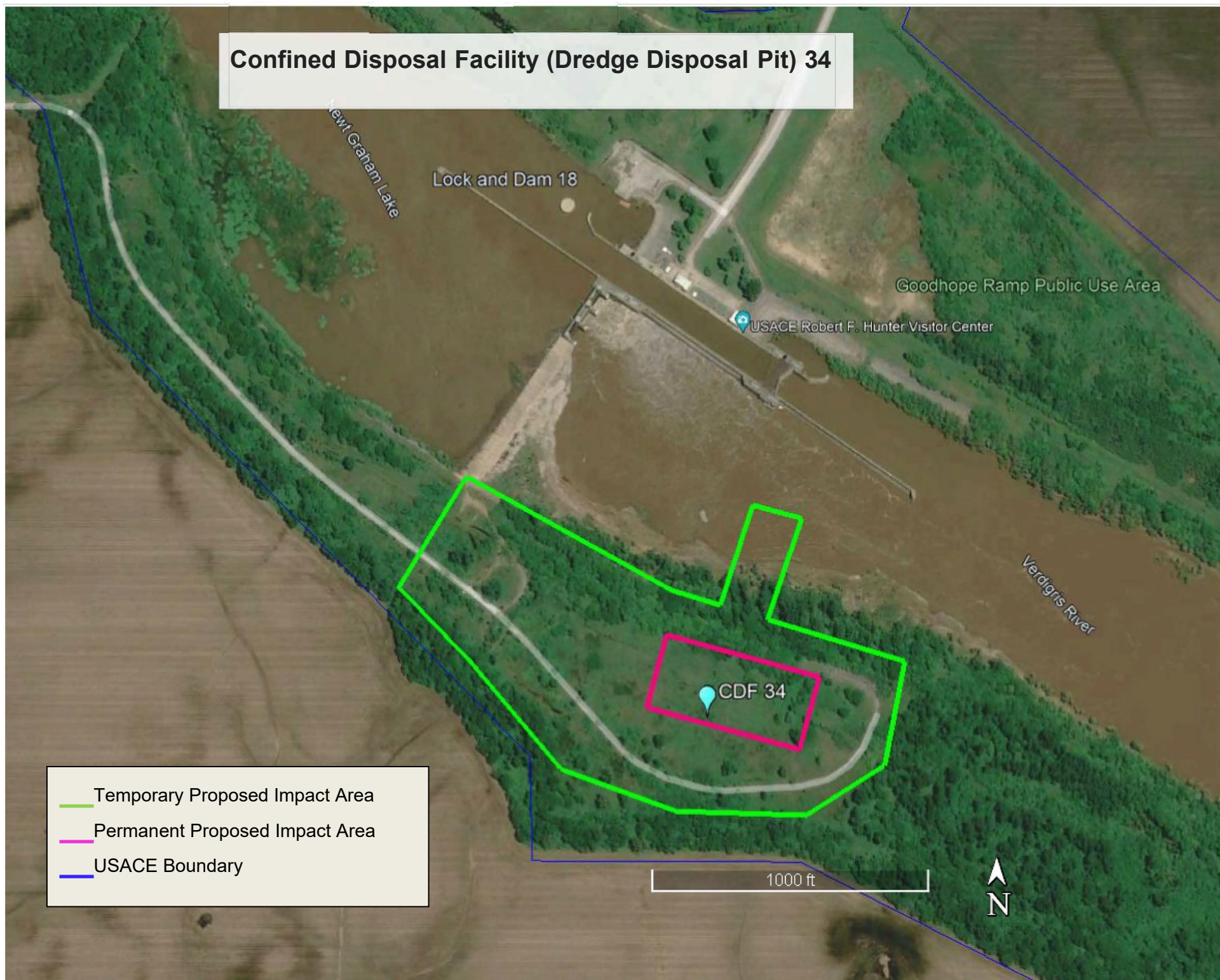
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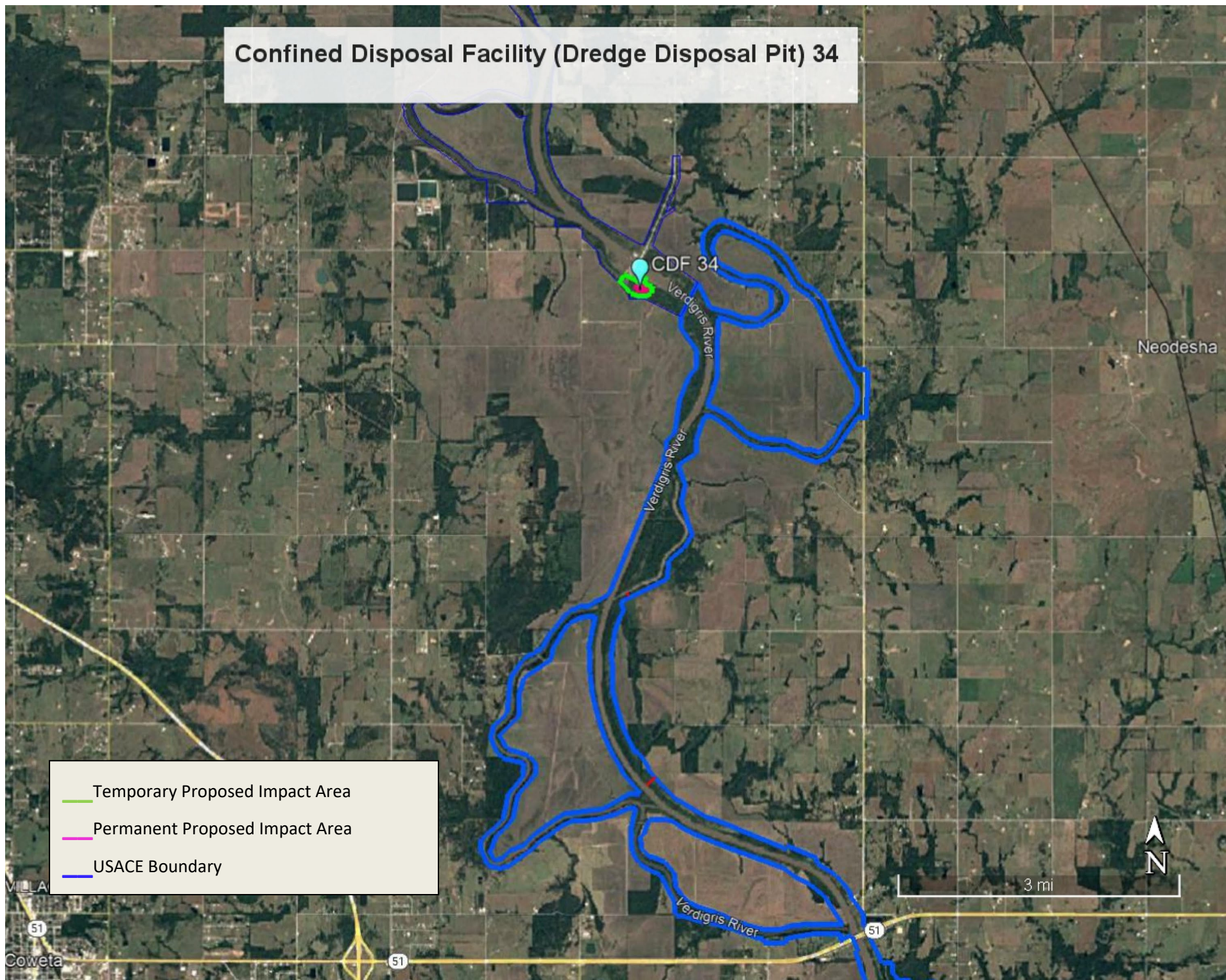
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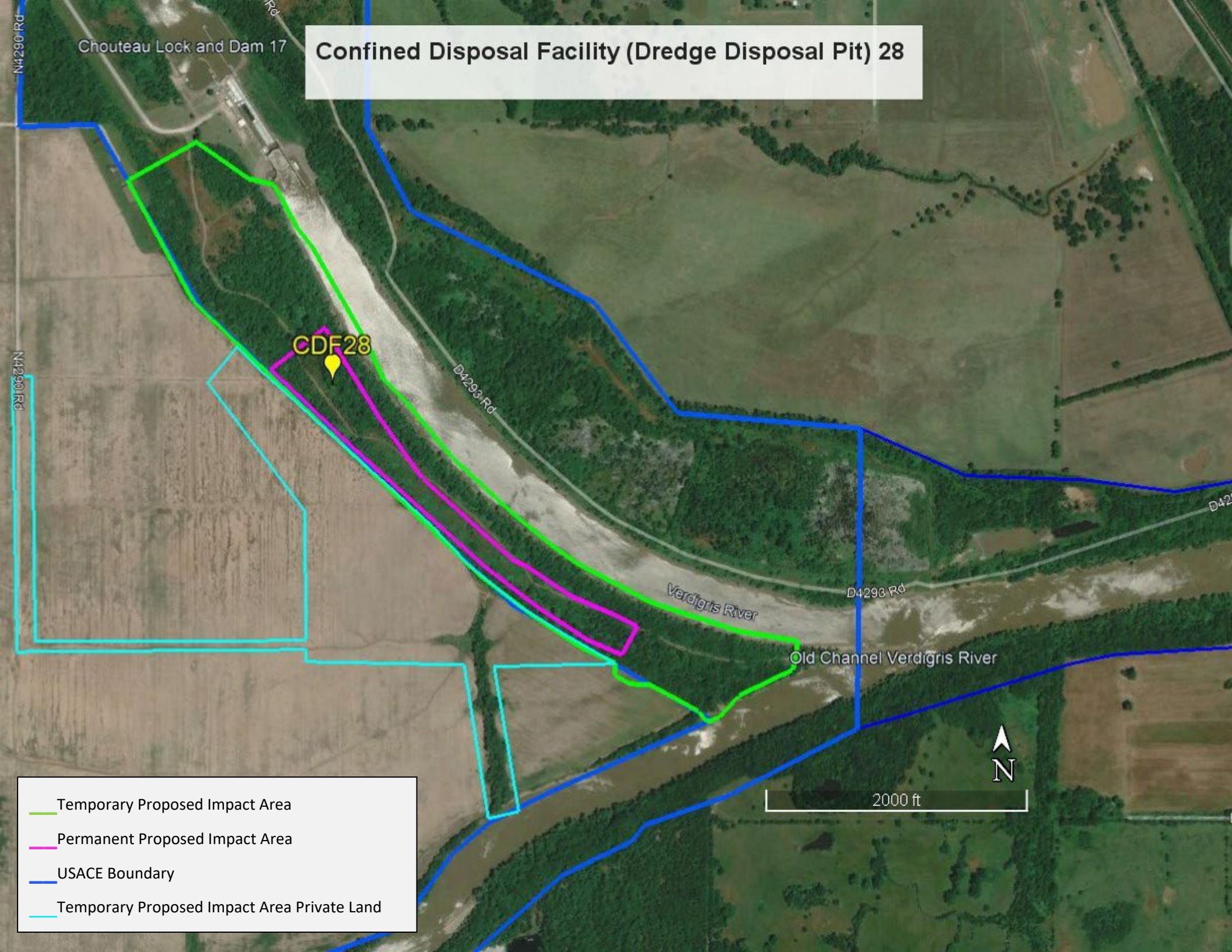
Confined Disposal Facility (Dredge Disposal Pit) 34



Confined Disposal Facility (Dredge Disposal Pit) 34

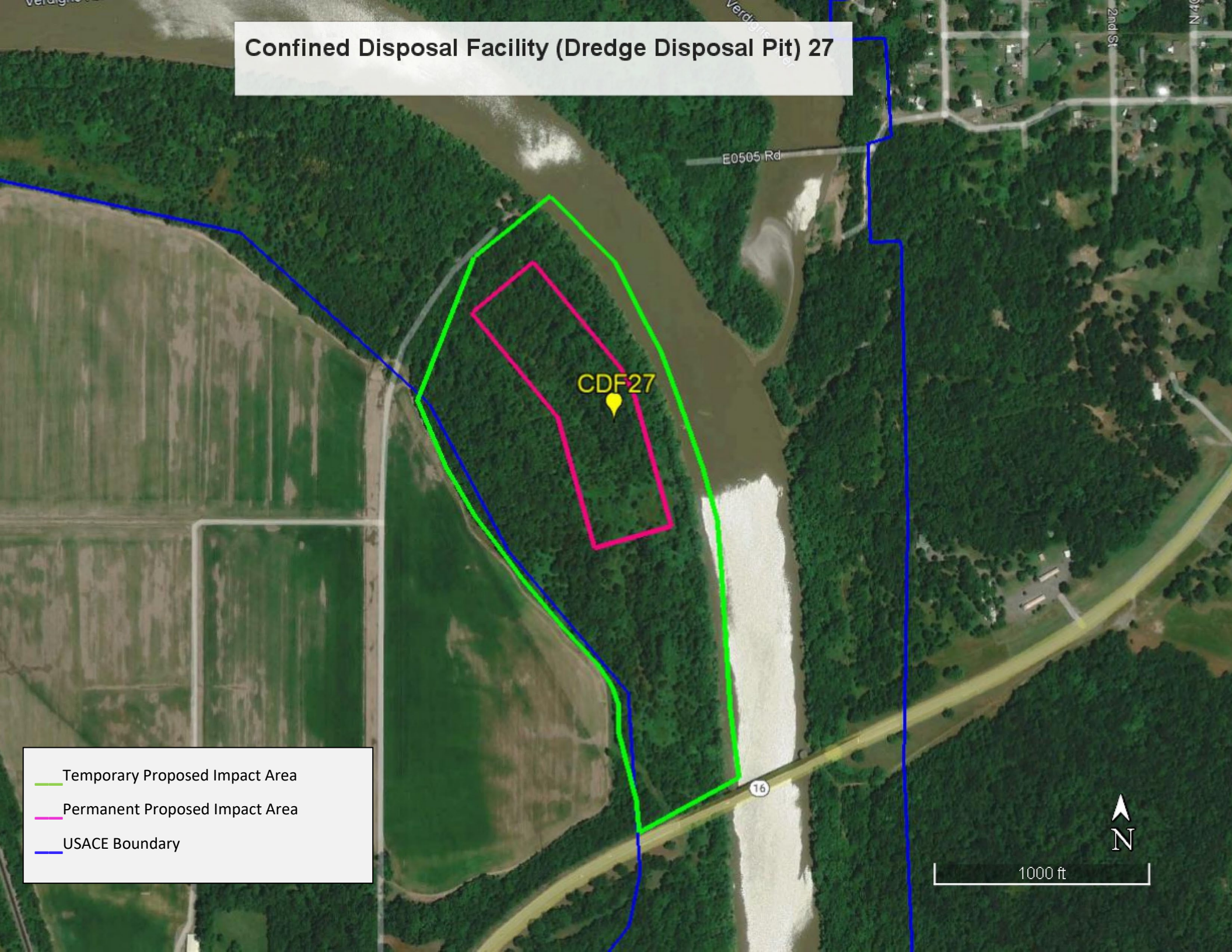


Confined Disposal Facility (Dredge Disposal Pit) 28



- Temporary Proposed Impact Area
- Permanent Proposed Impact Area
- USACE Boundary
- Temporary Proposed Impact Area Private Land

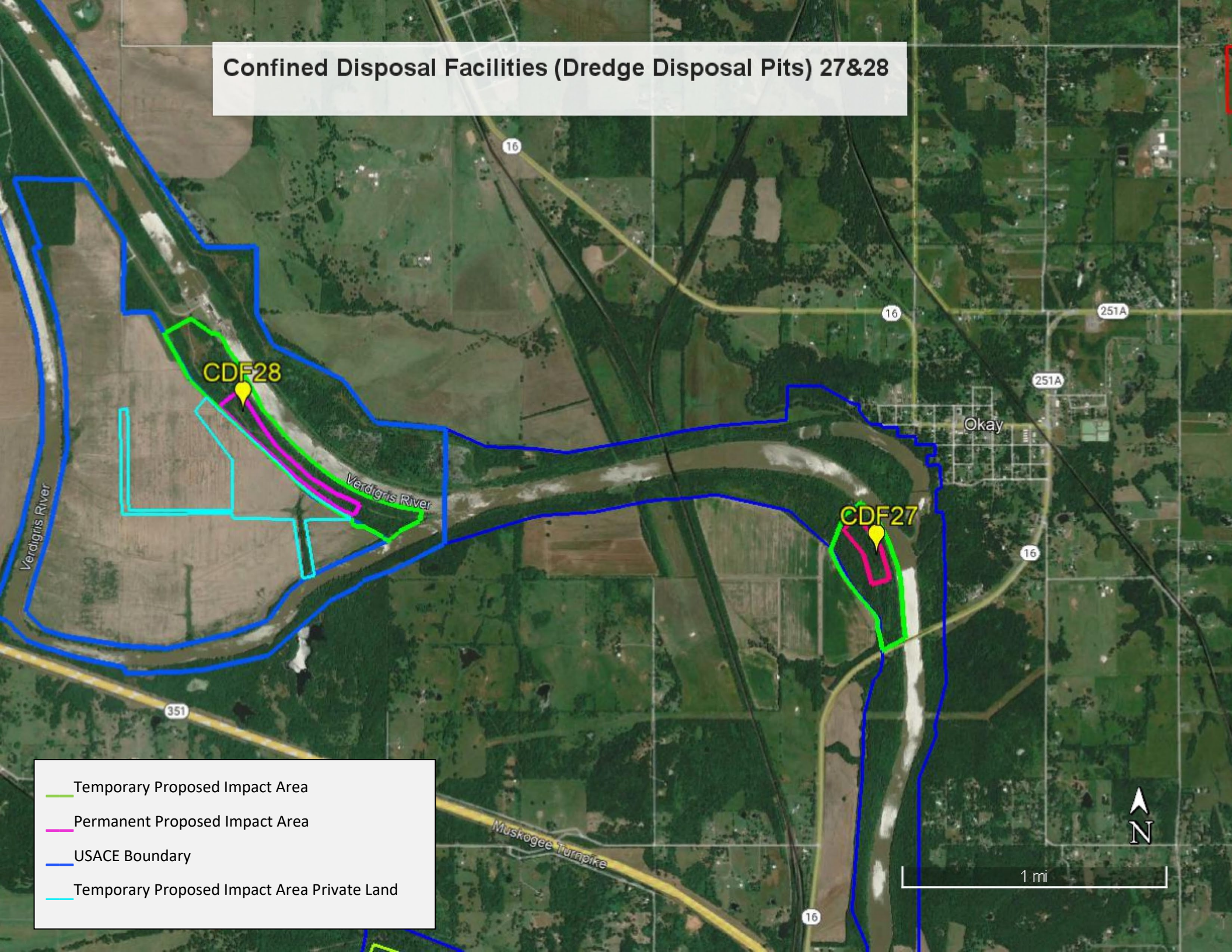
Confined Disposal Facility (Dredge Disposal Pit) 27



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- USACE Boundary



Confined Disposal Facilities (Dredge Disposal Pits) 27&28



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- Permanent Proposed Impact Area
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Confined Disposal Facility (Dredge Disposal Pit) 11

CDF11

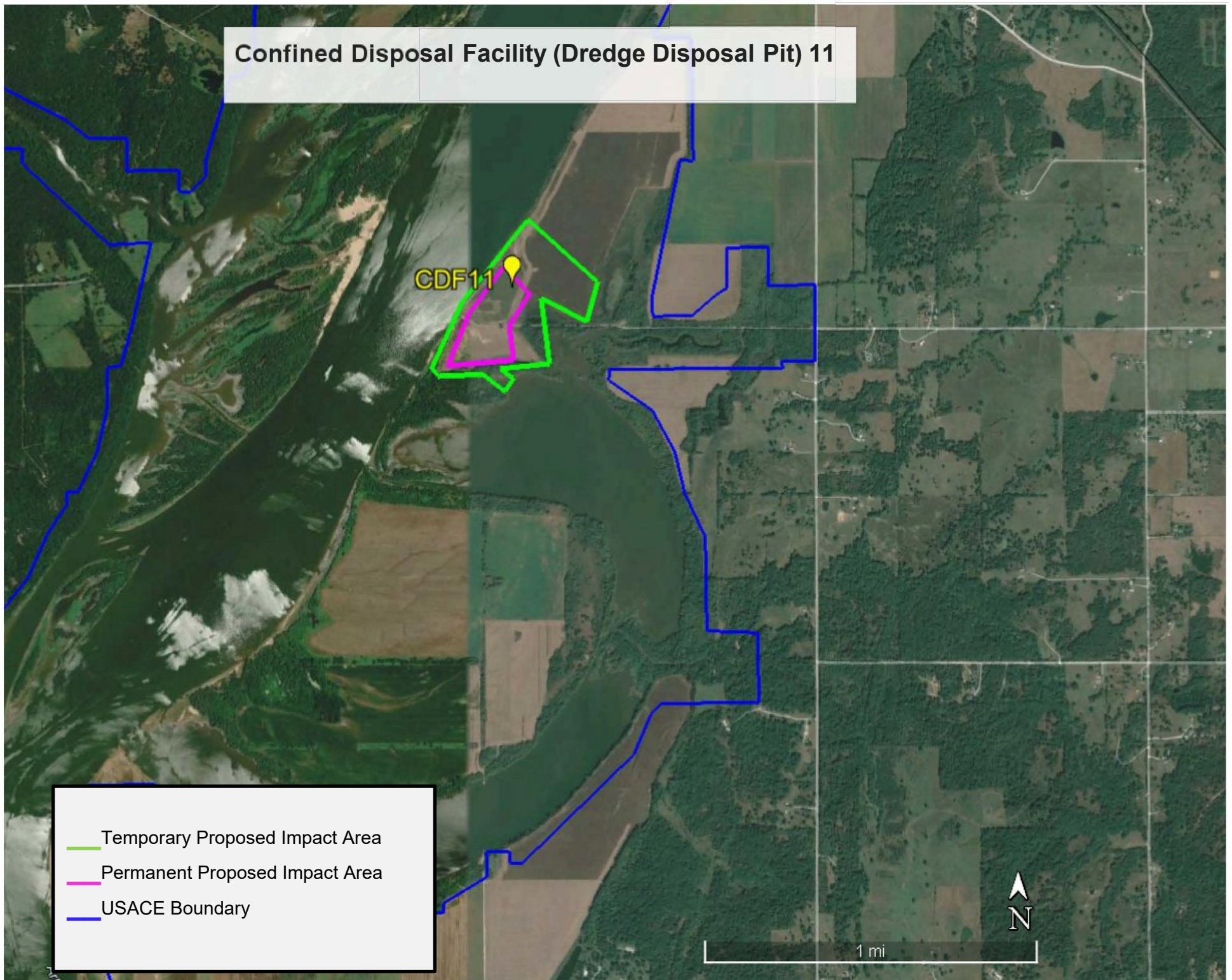
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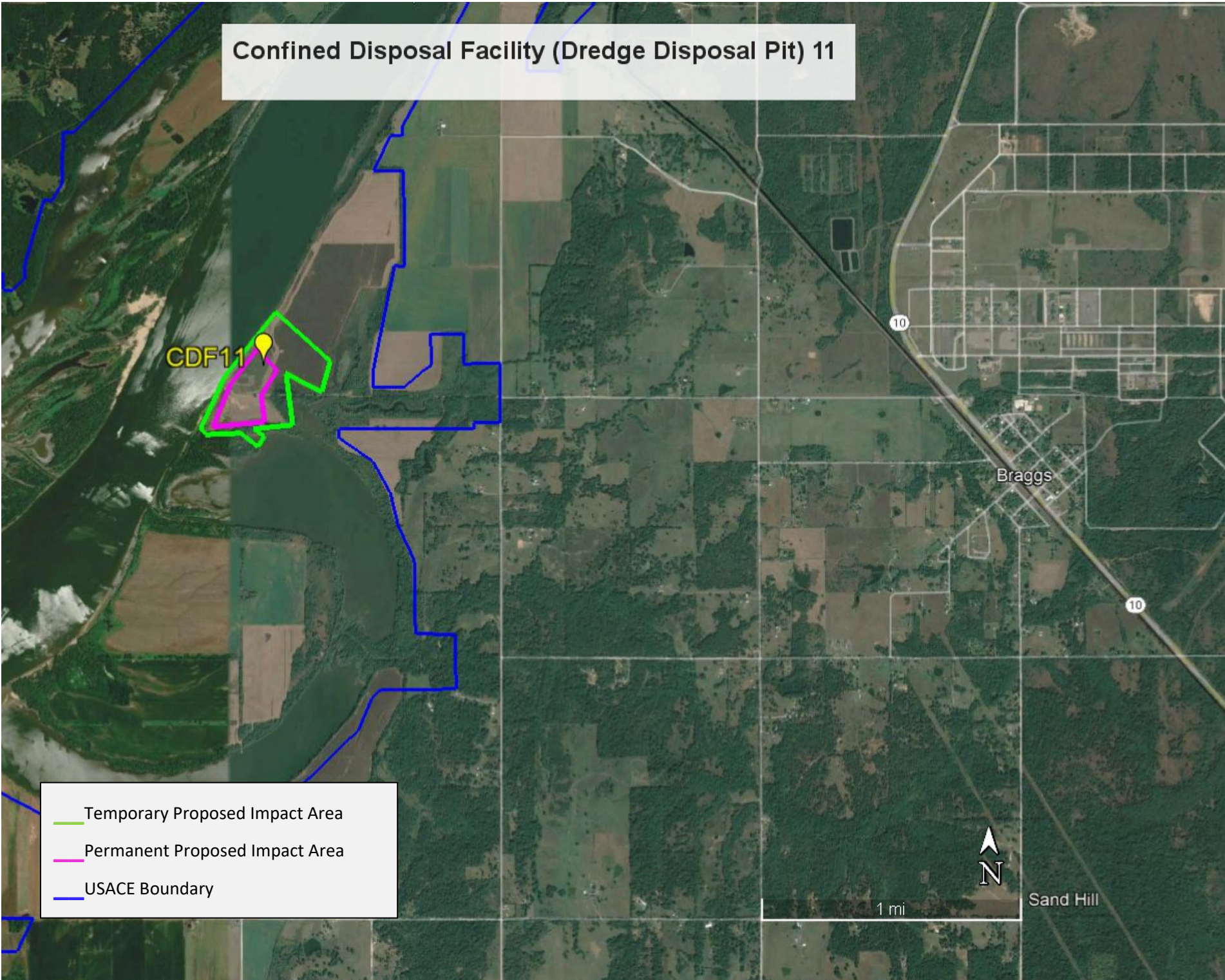
USACE Boundary

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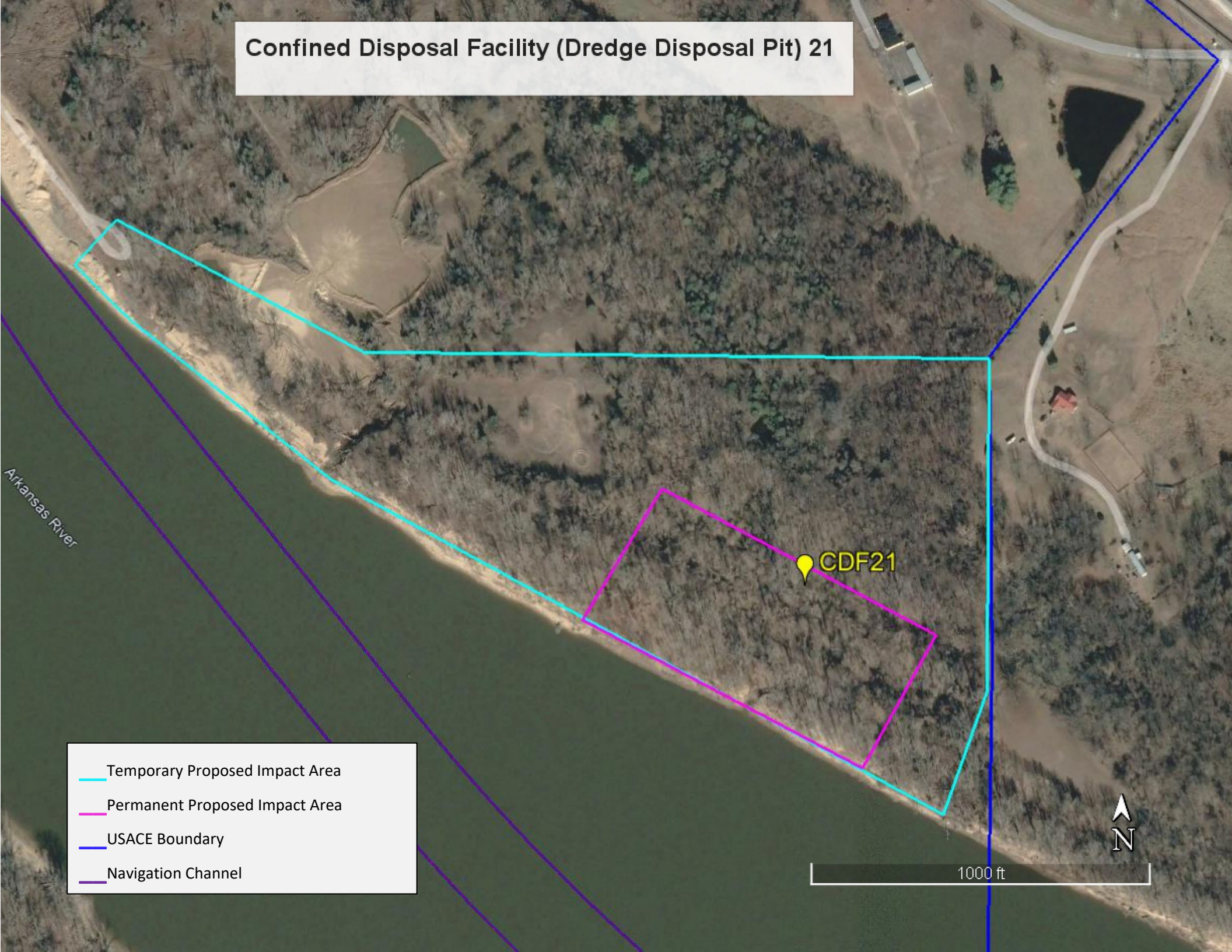


Confined Disposal Facility (Dredge Disposal Pit) 11



- Temporary Proposed Impact Area
- Permanent Proposed Impact Area
- USACE Boundary

Confined Disposal Facility (Dredge Disposal Pit) 21



Arkansas River

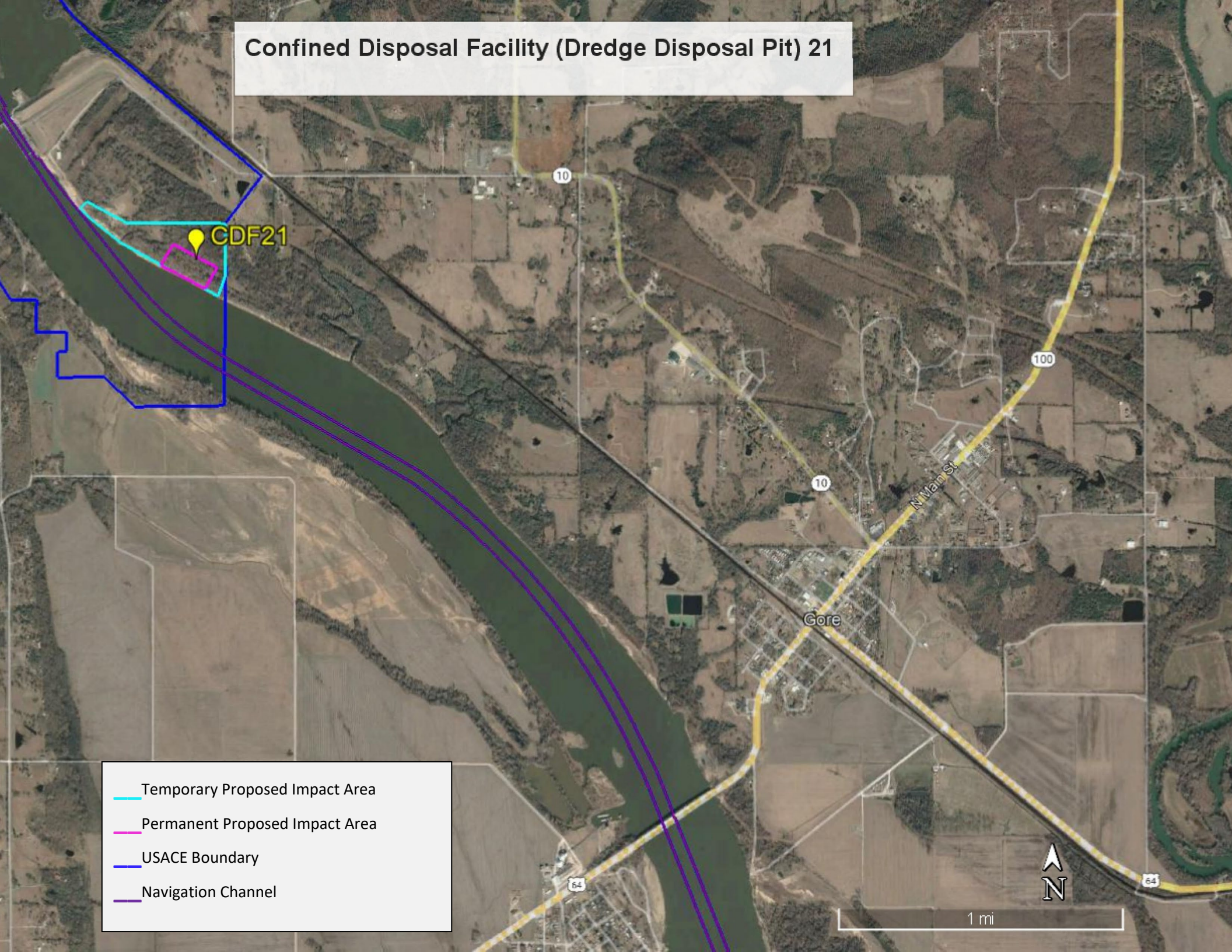
CDF21

- Temporary Proposed Impact Area
- Permanent Proposed Impact Area
- USACE Boundary
- Navigation Channel

1000 ft



Confined Disposal Facility (Dredge Disposal Pit) 21



- Temporary Proposed Impact Area
- Permanent Proposed Impact Area
- USACE Boundary
- Navigation Channel

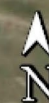
Confined Disposal Facility (Dredge Disposal Pit) ALT 4

CDF ALT4

Arkansas River

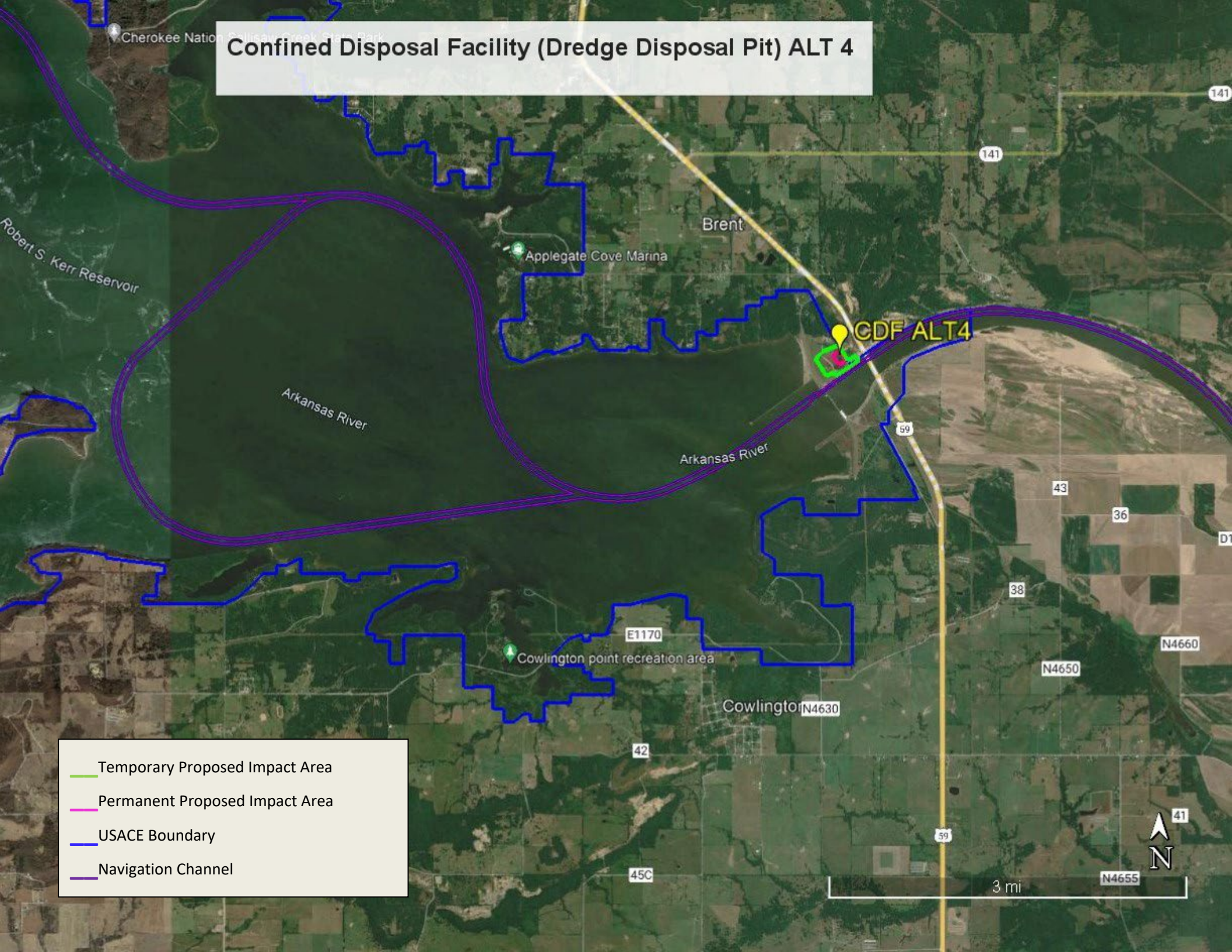
Robert S. Kerr Lock and Dam 15

- Temporary Proposed Impact Area
- Permanent Proposed Impact Area
- USACE Boundary
- Navigation Channel



2000 ft

Confined Disposal Facility (Dredge Disposal Pit) ALT 4



- Temporary Proposed Impact Area
- Permanent Proposed Impact Area
- USACE Boundary
- Navigation Channel

**PROGRAMMATIC AGREEMENT
REGARDING COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC
PRESERVATION ACT FOR THE
PROPOSED IMPROVEMENTS TO THE MCCLELLAN-KERR ARKANSAS RIVER
NAVIGATION SYSTEM IN ARKANSAS AND OKLAHOMA
AMONG**

**THE U.S. ARMY CORPS OF ENGINEERS, CADDO NATION OF OKLAHOMA,
CHEROKEE NATION, THE CHICKASAW NATION, THE CHOCTAW NATION OF
OKLAHOMA, DELAWARE TRIBE OF INDIANS, THE MUSCOGEE (CREEK)
NATION, THE OSAGE NATION, QUAPAW NATION, WICHITA AND AFFILIATED
TRIBES (WICHITA, KEECHI, WACO & TAWAKONIE), OKLAHOMA, THE
SEMINOLE NATION OF OKLAHOMA,
THE ARKANSAS AND OKLAHOMA STATE HISTORIC PRESERVATION
OFFICERS, THE OKLAHOMA ARCHEOLOGICAL SURVEY, AND THE ADVISORY
COUNCIL ON HISTORIC PRESERVATION**

WHEREAS, the U.S. Army Corps of Engineers (hereinafter USACE) Civil Works mission is to contribute to national welfare by providing quality water resources and emergency response programs, and the Little Rock and Tulsa Districts of the USACE are charged with accomplishing various Civil Works missions including the operation and maintenance of the McClellan-Kerr Arkansas River Navigation System; and

WHEREAS, USACE has proposed improvements to the McClellan-Kerr Arkansas River Navigation System (hereinafter, "MKARNS") in Arkansas and Oklahoma to improve and maintain the navigation channel by addressing the issues of Flow Management and Navigation Channel Depth Increase to enhance commercial navigation, and Navigation Channel Depth Maintenance for other MKARNS purposes; and

WHEREAS, improvements were authorized by Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority; and

WHEREAS, improving a channel means making the channel deeper and/or wider. Maintaining a channel means keeping the channel at specified depths and widths by dredging and other means; and

WHEREAS, language was added to Section 136 of the Energy and Water Development Appropriations Act of 2004, authorizing a project depth of 12 feet for the MKARNS; and

WHEREAS, a Final Environmental Impact Statement (FEIS), dated August 2005, was prepared and a Record of Decision was signed for the proposed improvements. The preferred alternative requires dredging, the construction of new Dredge Disposal sites, known as Confined Disposal Facilities (hereinafter CDFs), river training structures, and revetments; and

WHEREAS, channel improvements will in large part occur on federal fee owned land managed by the USACE Tulsa and Little Rock Districts, though some areas may occur on privately owned land, with easements secured by USACE; and

WHEREAS, the USACE has determined that the proposed improvements to the MKARNS (hereinafter, “undertaking”) constitute an undertaking subject to Section 106 of the National Historic Preservation Act (NHPA), as amended, (54 USC 306108), and its implementing regulations (36 CFR Part 800); and

WHEREAS, the USACE has determined that the undertaking may have an effect on cultural resources eligible for listing in the National Register of Historic Places (NRHP) (hereinafter, “historic properties”) in accordance with 36 CFR Part 60; and

WHEREAS, authorized under Section 136 of the Energy and Water Development Appropriations Act of 2004, the MKARNS 12-Foot Channel purpose is to improve commercial navigation operation by deepening the current 9-foot navigation channel to a 12-foot operational depth; and

WHEREAS, due to the time lapsed since completion, the FEIS must be updated to ensure compliance with all applicable environmental laws, and this update is being accomplished by preparation of a Supplemental Environmental Assessment (SEA), which will consider and disclose the environmental and social effects of the proposed actions; and

WHEREAS, USACE has defined the undertaking’s preliminary overall Area of Potential Effects (APE) to include all areas of direct and indirect impacts, including, but not limited to all riverbed impacts, proposed CDF locations and associated facilities, construction haul roads and staging areas, the areas around each CDF which will be used during construction activities, and locations of all other ground disturbing activities associated with the undertaking, and will be revised in consultation and concurrence with the Signatories and Invited Signatories of this PA as the project progresses. Refer to Appendix I-Project Summary for a description of the MKARNS Feasibility Study and overall project summary; and

WHEREAS, the undertaking will be constructed in phases as illustrated in Appendix I. Each phase of construction will require development of a refined APE in consultation with the Signatories, Invited Signatories, and Consulting Tribes of this Programmatic Agreement (hereinafter, “PA”); and

WHEREAS, the MKARNS was completed over fifty years ago in 1971, and the system itself, including the built environment (locks, dams, and river flow structures, and all associated facilities) may be eligible for the NRHP under standard evaluation criteria; and

WHEREAS, there are more than 250 archaeological sites recorded along and within close proximity to the MKARNS, most of which are prehistoric, and many of which have not been evaluated for the NRHP, and there is a high likelihood of unrecorded sites within the APE; and

WHEREAS, the effects of this undertaking on historic properties cannot be fully determined prior to approval of the undertaking; and

WHEREAS, the Signatories agree that it is advisable to accomplish compliance with Section 106 through the development and execution of this PA, in accordance with 36 CFR 800.6 and 36 CFR 800.14(b)(1)(ii) and 800.14(b)(3), which commits USACE to the stipulations outlined herein for identification and evaluation of the project's potential effects to historic properties, including determinations of adverse effects and mitigation of such, and procedures to be followed in case of any post-review discoveries of cultural resources or inadvertent discoveries of burials; and

WHEREAS, this is a project PA under 36 CFR 800.14(b)(3), with the intent of phasing the review of this complex undertaking; and

WHEREAS, the USACE invited the Advisory Council on Historic Preservation (ACHP) to participate in a letter dated September 8, 2023, and the ACHP has chosen to participate; and

WHEREAS, the State Historic Preservation Officers (SHPOs) of Arkansas and Oklahoma have the authority to enter into Section 106 agreements; and

WHEREAS, the Oklahoma SHPO and Oklahoma Archeological Survey (OAS) have entered into a cooperative agreement under which the State Archaeologist at the OAS provides special services to the SHPO in the Section 106 review process, maintains the inventory of Oklahoma's archaeological resources, and provides professional services to the SHPO in pre-contact archaeology. The State Archaeologist at the OAS reviews federal undertakings for possible impacts on pre-contact archaeological resources and provides written comments as the SHPO's official representative. Accordingly, the OAS has been invited to sign this PA; and

WHEREAS, the project APE crosses the exterior boundaries of The Muscogee (Creek) Nation, Cherokee Nation, and The Choctaw Nation of Oklahoma, and will therefore occur on tribal lands, requiring the Muscogee (Creek) Nation, Cherokee Nation, and the Choctaw Nation of Oklahoma to be Signatories to this PA; and

WHEREAS, each of the three federally recognized American Indian tribes (hereinafter, Tribes or tribes) across whose reservations the MKARNS traverses has established a Tribal Historic Preservation Officer (hereinafter THPO) to assume functions of the SHPO on their respective Tribal Lands, and are Signatories to this PA along with USACE, the SHPOs, and the ACHP; and

WHEREAS. The project APE is within the ancestral lands/historical area of interest of other Tribes; and

WHEREAS, USACE invited the following Tribes to consult on this undertaking: Absentee-Shawnee Tribe of Indians of Oklahoma, Alabama-Quassarte Tribal Town, Caddo Nation of Oklahoma, Cherokee Nation, The Chickasaw Nation, The Choctaw Nation of Oklahoma, Delaware Tribe of Indians, Eastern Shawnee Tribe of Oklahoma, Kialegee Tribal Town, The Muscogee (Creek) Nation, The Osage Nation, Quapaw Nation, The Seminole Nation of

Oklahoma, Shawnee Tribe, Thlopthlocco Tribal Town, Tunica Biloxi Indian Tribe, United Keetoowah Band of Cherokee Indians in Oklahoma, and Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma; and

WHEREAS, the USACE contacted 18 federally recognized Tribes, resulting in three Tribes participating as Signatories to this PA, seven Tribes participating as Invited Signatories and seven tribes participating as Consulting Tribes, and one Tribe choosing not to participate; and

WHEREAS, the USACE has invited Caddo Nation of Oklahoma, The Chickasaw Nation, Delaware Tribe of Indians, The Osage Nation, Quapaw Nation, The Seminole Nation of Oklahoma, and Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma, to participate in the PA as Invited Signatories, in accordance with 36 CFR 800.6(c)(2), and these Tribal Nations have indicated willingness to sign the PA as Invited Signatories; and

WHEREAS, Thlopthlocco Tribal Town stated that they do not wish to participate in the PA and defer to the comments and concerns of the other tribes; and

WHEREAS, the USACE did not receive responses from Absentee-Shawnee Tribe of Indians of Oklahoma, Alabama-Quassarte Tribal Town, Eastern Shawnee Tribe of Oklahoma, Kialegee Tribal Town, Shawnee Tribe, Tunica Biloxi Indian Tribe, or United Keetoowah Band of Cherokee Indians in Oklahoma and are referred to hereafter as “Consulting Tribes”; and

WHEREAS, the USACE invited 18 federally recognized Tribes to attend a consultation meeting on one of two days- June 13th or June 28th, 2023. Representatives from three Tribes attended the first virtual consultation session, Quapaw Nation, The Chickasaw Nation, and The Muscogee (Creek) Nation, and representatives from four Tribes attended the second virtual consultation meeting, Cherokee Nation, Quapaw Nation, The Choctaw Nation of Oklahoma, and The Osage Nation; and

WHEREAS, the USACE provided updated information regarding the project objectives and need, and responded to questions and concerns, making note of concerns to be explicitly addressed in the Scopes of Work for each phase of the undertaking; and

WHEREAS, the USACE held four public meetings in Tulsa, Oklahoma, Fort Smith, Little Rock, and Pine Bluff, Arkansas from June 5th to June 8th, 2023. No comments regarding cultural resources were received from the general public; and

NOW, THEREFORE, the Signatories and Invited Signatories agree that the agreement shall be implemented and administered in accordance with the following stipulations in order to take into account the effects of the undertaking on historic properties and to satisfy the USACE’s Section 106 responsibilities for all individual aspects of the undertaking.

STIPULATIONS

The USACE shall ensure the following stipulations are carried out:

I. SCOPE, STANDARDS, AND DEFINITIONS

- A. SCOPE OF UNDERTAKING. This PA shall be applicable to all new construction, improvements, and maintenance activities related to the undertaking for the duration of this agreement. Project construction is expected to be accomplished in manageable phases throughout the life of this project. Investigations of each construction-related APE will be conducted as designs and specifications are developed and are expected to occur throughout the life of the project consistent with overall project activities. The phased APEs, which shall refine the overall APE shown in Appendix I, shall be determined by the USACE in consultation and concurrence with the Signatories and Invited Signatories of this PA and shall include, channel dredging and channel maintenance including river-bottom dredging, construction and/or modification of dikes and revetments, creation of new dredged material disposal locations, and any identified indirect or cumulative impact locations.
- B. QUALIFICATIONS AND STANDARDS.
1. The USACE shall ensure that all work conducted in conjunction with this PA is performed in a manner consistent with the Secretary of Interior's "Standards and Guidelines for Archeology and Historic Preservation" (48 FR 44716-44740; September 23, 1983), as amended, National Register Bulletin 15 "How to Apply the National Register Criteria for Evaluation" (NPS 1990), National Register Bulletin 38: Guidelines for Evaluating and Documenting Traditional Cultural Properties" (NPS 1990), the requirements for archeological survey as outlined in the Arkansas State Plan Appendix B: *Guidelines for Cultural Resources Fieldwork and Report Writing in Arkansas* revised January 01, 2010 (State Plan), the Tulsa District Operations Division Standards and Guidelines for Cultural Resources Investigations on Tulsa District Owned Land, and the applicable Standards and Guidance from the Signatory Tribes. In the case of conflict among these, decisions on which takes precedence in what locations will be determined in consultation.
 2. The USACE shall ensure that identification and evaluation studies and treatment measures required under the terms of this PA will be carried out by professionals who meet, at a minimum, the Secretary of the Interior's Historic Preservation Professional Qualification Standards (48 FR 44716, September 29, 1983) in accordance with 54 USC 306131 for the associated discipline.
- C. DEFINITIONS. Resources that are determined to be significant are defined as "historic properties." A historic property is defined as any "prehistoric or historic district, site, building, structure, or object included on, or eligible for inclusion on, the National Register, including artifacts, records, and material remains relating to the district, site,

building, structure, or object” (54 USC 300308). All definitions set forth in 36 CFR 800.16 are incorporated herein by reference and apply throughout this PA.

II. IDENTIFICATION, EVALUATION, EFFECT DETERMINATION, AND RESOLUTION

- A. IDENTIFICATION OF HISTORIC PROPERTIES (CULTURAL RESOURCES INVESTIGATIONS). Prior to finalization of engineering designs and locations, and prior to the initiation of any construction activity for any phase of the undertaking, the USACE shall make a reasonable and good faith effort to identify cultural resources within the APE. The APE includes areas where archaeological resources may be encountered or disturbed as well as areas where historic structures, landscapes, and viewsheds may be directly or indirectly affected. Cultural resources include, but are not limited to, archaeological resources (prehistoric and historic), and architectural resources. These steps may include, but are not limited to, background research, consultation, oral history interviews, seeking information from Signatories, Invited Signatories, and Consulting Tribes and other individuals and organizations likely to have knowledge of, or concerns with historic properties in the area, and a cultural resources field survey.
1. **RESEARCH DESIGN:** The USACE will produce a Research Design to guide the cultural resources investigations that will be conducted within the entire APE. The goal of the Research Design is to develop a survey methodology appropriate for the landscape encompassed by the APE and to develop research questions pertinent to the APE that can guide testing and data recovery efforts. The draft Research Design will be provided to all Signatories, Invited Signatories, and Consulting Tribes for review and comment. The reviewing parties will submit comments to the USACE within 30 days of receipt of the draft Research Design.
 2. **PHASED INVESTIGATIONS:** Prior to each stage of construction, the USACE will coordinate with the Signatories and Invited Signatories to refine the APE based on the designs and plans for the specific phase of construction.
 3. **WORK PLAN:** The USACE will provide Work Plans for each stage of construction outlining the portion of the undertaking being addressed and all associated impacts. Work Plans shall outline all methods to be used by the contractor conducting the investigations, which will comport with the standards and processes outlined herein, and which will address topics outlined in the Research Design. Work Plans will be provided to all Signatories, Invited Signatories, and Consulting Tribes for review and comment prior to finalization,
- B. EVALUATION OF NATIONAL REGISTER ELIGIBILITY. If cultural resources are identified, the USACE shall determine their eligibility for the NRHP (i.e., their status as a historic property) in accordance with the process described in 36 CFR 800.4(c) and criteria established in 36 CFR Part 60. The determinations of eligibility shall be conducted in consultation with the Signatories, Invited Signatories, and Consulting Tribes. Should the Signatories and Invited Signatories agree that a property is or is not eligible, then such consensus shall be deemed conclusive for the purpose of this PA.

Should the Signatories not agree regarding the eligibility of a property, the USACE shall obtain a determination of eligibility from the Keeper of the National Register pursuant to 36 CFR Part 63. For cultural resources found not eligible for the NRHP, no further protection or consideration of the site will be afforded for compliance purposes.

- C. REPORTS OF INVESTIGATIONS. The USACE shall provide the results of all investigations performed under each work plan in draft reports to the Signatories, Invited Signatories, and Consulting Tribes for review and comment. Comments received by the USACE from the Signatories, Invited Signatories, and Consulting Tribes, shall be addressed in subsequent draft report(s), which shall be provided to all for review. If comments on the draft report(s) by the Signatories are not received by the USACE within forty-five (45) days of receipt of a cultural resources investigation report, the reports and their recommendations shall be considered adequate and the reports may be finalized. If comments by the Signatories, Invited Signatories or Consulting Tribes on the draft report(s) are not received by the USACE within forty-five (45) days of receipt of a cultural resources investigation report the USACE will contact the Invited Signatories and Consulting Tribes by telephone to determine the intent to respond. Signatories, Invited Signatories and Consulting Tribes may request an extension to the draft report(s) review period. The USACE shall provide a final report(s) of all investigations to the Signatories, Invited Signatories, and Consulting Tribes.
- D. MKARNS HISTORIC CONTEXT/BASELINE SURVEY/EVALUATION. MKARNS, constructed in 1971, possesses a linkage of sites, buildings and structures united historically by plan and physical development. It could therefore be eligible for listing on the National Register of Historic Places as a district under Criterion A for its associations at a national level in the areas of Commerce and Transportation. Within 48 months of signing this PA, the USACE shall conduct a baseline inventory and evaluate the entire two-state MKARNS system for the NRHP eligibility.
1. USACE shall develop a historic context that will examine the MKARNS holistically as a multi-state engineered transportation system linked historically by plan and physical development from its initial construction (1971) through its operational changes until present day (2023).
 2. The context shall include a baseline survey and evaluation of the MKARNS with NRHP determinations based upon the historic context. The survey shall compare MKARNS with related property types nationwide, analyze the MKARN's integrity, identify all areas and/or periods of significance, property types, and establish clearly defined registration requirements. The evaluation will also determine if a resource is individually significant in addition to being a contributing member of a larger historic district.
 3. The draft context and findings shall be sent to the Signatories, Invited Signatories, and Consulting Tribes for a forty-five (45) day review and comment period.

E. ASSESSMENT OF EFFECTS.

1. **NO HISTORIC PROPERTIES AFFECTED.** The USACE shall make a reasonable and good faith effort to evaluate the effect of the undertaking on identified and determined historic properties in the APEs. The USACE may conclude that no historic properties are affected by the undertaking if no historic properties are present in the APE, or the undertaking will have no effect as defined in 36 CFR 800.16(i). This finding shall be documented in compliance with 36 CFR 800.11(d) and documentation shall be provided to the Signatories, Invited Signatories, and Consulting Tribes. The USACE shall provide information on the finding to the public upon request, consistent with the confidentiality requirements of 36 CFR 800.11(c) and Section 304 of the NHPA.
2. **FINDING OF NO ADVERSE EFFECT.** The USACE, in consultation with Signatories, Invited Signatories, and Consulting Tribes shall apply the criteria of adverse effect to historic properties within the APE in accordance with 36 CFR 800.5. The USACE may propose a finding of no adverse effect if the undertaking's effects do not meet the criteria of 36 CFR 800.5(a)(1) or the undertaking is modified to avoid adverse effects. The USACE shall provide to the Signatories, Invited Signatories, and Consulting Tribes documentation of this finding meeting the requirements of 36 CFR 800.11(e). The Signatories, Invited Signatories, and Consulting Tribes shall have forty-five (45) days in which to review the findings and provide a written response to the USACE. The USACE may proceed upon receipt of written concurrence from the Signatories and Invited Signatories. Failure of the Signatories Invited Signatories, and Consulting Tribes to respond within forty-five (45) days of receipt of the finding shall be considered agreement with the finding. If responses by the Signatories, Invited Signatories, and Consulting Tribes are not received by the USACE within forty-five (45) days of receipt, the USACE will attempt to contact the Signatories, Invited Signatories, and Consulting Tribes by telephone to determine the intent to respond. Signatories, Invited Signatories, and Consulting Tribes may request an extension to the review period. The USACE shall maintain a record of the finding and provide information on the finding to the public upon request, consistent with the confidentiality requirements of 36 CFR 800.11(c) and Section 304 of the NHPA, and additionally, on federally owned lands, consistent with the Archaeological Resources and Protection Act (ARPA), at 32 CFR 229.18. If, after consulting on a proposed finding of no adverse effect to historic properties by USACE, the Signatories or Invited Signatories of this PA disagree with the proposal and determine that further consultation will not be productive, then procedures outlined in Stipulation VI shall be followed.
3. **FINDING OF ADVERSE EFFECT.** The USACE, in consultation with Signatories, Invited Signatories, and Consulting Tribes shall apply the criteria of adverse effect to historic properties within the APE in accordance with 36 CFR 800.5. Should USACE determine that the undertaking will have an adverse effect

on historic properties as measured by criteria in 36 CFR 800.5(a)(1), the USACE shall consult with the Signatories, Invited Signatories, and Consulting Tribes to resolve adverse effects in accordance with 36 CFR 800.6(a).

F. RESOLUTION OF ADVERSE EFFECTS. For all historic properties that the Signatories, Invited Signatories, and Consulting Tribes agree will be adversely affected, the USACE shall:

1. Afford the public an opportunity to express their views on resolving adverse effects in a manner appropriate to the magnitude of the project and its likely effects on historic properties.
2. Consult with the Signatories, Invited Signatories, and Consulting Tribes to develop and evaluate alternatives or modifications to the undertaking that could avoid, minimize, or mitigate adverse effects.
3. Prepare a mitigation plan for the APE of the associated construction phase (prepared in consultation once adverse effect determination is reached) which describes mitigation measures the USACE proposes to resolve the undertaking's adverse effects and provide this mitigation plan for review and comment to all the Signatories and Invited Signatories of this PA. Signatories and Invited Signatories shall have 45 days to provide written response to the proposed mitigation plan. Once approved and signed by the appropriate USACE approving official, Signatories, and Invited Signatories, the mitigation plan will be executed. Once the mitigation plan is fulfilled, all Signatories, Invited Signatories, and Consulting Tribes will be notified in writing.
4. If, after consulting to resolve adverse effects, the Signatories or Invited Signatories of this PA determine that further consultation will not be productive, then procedures outlined in Stipulation VI shall be followed.

G. RESOLUTION OF ADVERSE EFFECTS FOR MKARNS (SYSTEM AS A WHOLE) RESOURCES. Should the MKARNS be determined eligible and the USACE determine that the undertaking will have an adverse effect on the system as measured by criteria in 36 CFR 800.5(a)(1), the USACE shall first seek to avoid adverse effects in accordance with 36 CFR 800.6(a). Should adverse effects still occur, USACE shall conduct the following mitigation:

1. Document the affected resource element to an appropriate level in consultation with the applicable SHPO or THPO. In consultation with the applicable SHPO(s) and/or THPOs, the USACE shall develop separate state specific Historic Property Management Plans (HPMP). The HPMPs shall assist USACE in long-term effective management of the resources in avoiding or minimizing future adverse effects from operations and maintenance, streamlining future Section 106 consultations and provide documentation guidance should adverse effects occur.

III. INADVERTENT DISCOVERIES AND TREATMENT OF HUMAN REMAINS, BURIALS, GRAVES, AND/OR FUNERARY OBJECTS

- A. Treatment of all human remains, funerary objects, and objects of cultural patrimony shall comply with the requirements of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C 3001 et seq., its implementing regulations as set forth in 43 CFR Part 10, and the National Historic Preservation Act, 54 U.S.C. 300101 et seq., as amended, and its implementing regulations (36 CFR Part 800), and in a manner guided by the ACHP's Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects (2007). On state- or privately-owned lands in Oklahoma, the Oklahoma Burial Desecration Law (21 Oklahoma Statute 1168.0-1168.6) extends protection to human remains and associated burial goods in unmarked graves. In Arkansas, these protections are outlined in Arkansas Act 753 of 1991 (Arkansas Burial Law) and Arkansas Act 705 of 2011, amendment to Arkansas law concerning funerary objects associated with human remains.
- B. In the event that human remains or evidence of human burials/graves (which may include, but not be limited to, a burial pit outline, coffin hardware, associated items which may indicate a burial house, a cluster of whole or broken pottery, a mound or cairn, or other evidence provided in consultation) are encountered during archaeological survey, shovel testing, unit excavating, land clearing, construction and construction related activities, and/or shoreline erosion, or any other unanticipated effects of the undertaking for the duration of this PA, the USACE shall implement the Treatment Plans included as Appendix III of this Agreement pursuant to 36 CFR 800.13(b)(3). The USACE shall ensure that the following steps are taken:
1. All ground disturbing activities within a 100-meter radius of the discovery will immediately cease, and the site will be secured from further disturbance. The USACE Archaeologist will be notified immediately, and USACE will implement the Treatment Plan (Appendix III).
 2. At all times human remains and/or funerary objects must be treated with the utmost dignity and respect. Human remains and/or associated artifacts will be left in place and not disturbed. No skeletal remains or materials associated with the remains will be collected or removed until appropriate consultation has taken place, and a site-specific plan of action has been developed.
 3. The USACE shall be responsible for immediately notifying local and/or tribal law enforcement officials (of the tribe within whose reservation boundaries the discovery is made), and initiating notifications as outlined in the Treatment Plan (Appendix III).
 4. Upon request, the Signatories, Invited Signatories, Consulting Tribes, or descendants shall be able to visit the site with the USACE archaeologist.

IV. POST REVIEW CHANGES AND DISCOVERIES

- A. CHANGES IN THE SCOPE OF THE UNDERTAKING. If construction on the undertaking has not commenced, and the USACE determines that it will not conduct the undertaking as originally coordinated, the USACE shall notify all Signatories, Invited Signatories, and Consulting Tribes to this PA in writing of the proposed change in scope, provide maps illustrating the proposed changes to the undertaking, and request comments within forty-five (45) days of receipt. If no comments are received from the Signatories, Invited Signatories, and Consulting Tribes within forty-five (45) days, USACE will attempt to contact the Signatories, Invited Signatories, and Consulting Tribes by telephone to determine their intent to respond. Signatories, Invited Signatories and Consulting Tribes may request an extension to the review period.
- B. POST-REVIEW DISCOVERIES OF CULTURAL RESOURCES OR EFFECTS. In order to minimize the potential for the accidental discovery of cultural resources, USACE is conducting intensive cultural resources and geomorphological investigations of the entire APE. However, due to the nature of the project and project area, all construction and construction related activities will be monitored for potential discoveries or unanticipated effects. If properties are discovered that may be eligible for listing in the NRHP or unanticipated effects on historic properties are identified subsequent to the completion of surveys under Stipulation II, an archaeological and/or tribal monitor, in consultation with the contracting officer's representative (COR), shall have the authority to immediately stop activity in the vicinity of the discovery, direct work to another portion of the project, secure the area, and immediately contact the USACE Archaeologist. Pursuant to 36 CFR 800.13(b)(3) the USACE shall implement the Treatment Plan included as Appendix IV of this Agreement.

V. CURATION AND DISPOSITION OF RECOVERED MATERIALS, RECORDS, AND REPORTS

- A. CURATION. The USACE shall ensure that all archeological materials and associated records, which result from identification, evaluation, and treatment efforts conducted under this PA on property owned by USACE in Arkansas and Oklahoma, are accessioned into a curation facility in accordance with the standards of 36 CFR Part 79. Materials from work conducted in Oklahoma on USACE land will be curated at the USACE Tulsa District Curation Facility in Tulsa, OK, following the guidance provided by the USACE. Archeological materials from privately owned lands will not be collected, and as such will require in-field analysis by senior staff with laboratory experience and knowledge of regional artifacts.
- B. REPORTS. The USACE shall provide copies of final technical reports of investigations, analyses, and mitigation to the Signatories, Invited Signatories, and Consulting Tribes, as well as additional copies (sensitive information removed) for public distribution. All Signatories, Invited Signatories, and Consulting Tribes shall withhold site location information or other data that may be of a confidential or sensitive nature pursuant to 36 CFR 800.11(c) and the Archaeological Resources Protection Act (32 CFR 229.18).

VI. PA AMENDMENTS, DISPUTES, AND TERMINATION

- A. AMENDMENTS. Any Signatory or Invited Signatory to the PA may propose to the other parties that it be amended, whereupon the parties will consult in accordance with 36 CFR 800.6(c)(7) to consider such an amendment. This PA will be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the Signatories and Invited Signatories is filed with the ACHP.
- B. DISPUTE RESOLUTION. Should any Signatory or Invited Signatory to this PA object at any time to any actions proposed or the manner in which the terms of this PA are implemented, the USACE shall consult with such party to resolve the objection. If the USACE determines that such objection cannot be resolved, the USACE will:
1. Forward all documentation relevant to the dispute, including the USACE's proposed resolution, to the ACHP. The ACHP shall provide the USACE with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation.
 2. If the ACHP does not provide its advice regarding the dispute within the thirty (30) daytime period, the USACE may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, USACE shall prepare a written response that takes into account any timely comments regarding the dispute from the Signatories and/or Invited Signatories to the PA and provide them and the ACHP with a copy of such written response.
 3. The USACE's responsibilities to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.
- C. TERMINATION OF PA. If any Signatory or Invited Signatory to this PA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment per Stipulation VI(A), above. If within sixty (60) days an amendment cannot be reached, any Signatory or Invited Signatory may terminate the PA upon written notification to the other signatories. Once the PA is terminated, and prior to work continuing on the undertaking, the USACE must either (a) execute a new PA pursuant to 36 CFR 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR 800.7. The USACE shall notify the signatories as to the course of action it will pursue.

- VII. TERM OF THIS AGREEMENT.** This PA remains in force for a period of ten (10) years from the date of its execution by all Signatories and Invited Signatories that have signed this agreement, unless terminated pursuant to Stipulation VI(C). Ninety (90) days prior to the conclusion of the ten (10) year period, the USACE shall notify all Signatories and Invited Signatories in writing of the end of the ten-year period to determine if they have any objections to extending the term of this PA. If all are in agreement with

extending the term of the PA, the amendment process outlined in Stipulation VI(A) shall be used to extend the PA for an additional term.

Execution of this PA and implementation of its terms evidences that the USACE has afforded the Council an opportunity to comment on the undertaking and its effects on historic properties.

SIGNATORIES include the USACE Little Rock and Tulsa Districts, Cherokee Nation, The Choctaw Nation of Oklahoma, The Muscogee (Creek) Nation, the Arkansas and Oklahoma State Historic Preservation Officers, and the Advisory Council on Historic Preservation. **INVITED SIGNATORIES** are Caddo Nation of Oklahoma, The Chickasaw Nation, Delaware Tribe of Indians, The Osage Nation, Quapaw Nation, The Seminole Nation of Oklahoma, and Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma, and the Oklahoma Archeological Survey. Separate signature pages for each Signatory and Invited Signatory, follow.

**PROGRAMMATIC AGREEMENT
REGARDING COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC
PRESERVATION ACT FOR THE
PROPOSED IMPROVEMENTS TO THE MCCLELLAN-KERR ARKANSAS RIVER
NAVIGATION SYSTEM IN ARKANSAS AND OKLAHOMA**

AMONG

**THE U.S. ARMY CORPS OF ENGINEERS, CADDO NATION OF OKLAHOMA,
CHEROKEE NATION, THE CHICKASAW NATION, THE CHOCTAW NATION OF
OKLAHOMA, DELAWARE TRIBE OF INDIANS, THE MUSCOGEE (CREEK)
NATION, THE OSAGE NATION, QUAPAW NATION, WICHITA AND AFFILIATED
TRIBES (WICHITA, KEECHI, WACO & TAWAKONIE), OKLAHOMA, THE
SEMINOLE NATION OF OKLAHOMA,
THE ARKANSAS AND OKLAHOMA STATE HISTORIC PRESERVATION
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EXECUTION AND IMPLEMENTATION

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USACE LITTLE ROCK DISTRICT

Colonel Damon M. Knarr
District Engineer

Date: _____

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USACE TULSA DISTRICT

Date: _____

**Colonel Timothy P. Hudson
District Engineer**

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ARKANSAS STATE HISTORIC PRESERVATION OFFICER

Date: _____

Stacy Hurst
Arkansas State Historic Preservation Officer

**PROGRAMMATIC AGREEMENT
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OKLAHOMA STATE HISTORIC PRESERVATION OFFICER

Date: _____

Trait Thompson
Oklahoma State Historic Preservation Officer

**PROGRAMMATIC AGREEMENT
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OKLAHOMA ARCHEOLOGICAL SURVEY

Kary Stackelbeck
State Archeologist

Date: _____

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THE CHEROKEE NATION

Chuck Hoskin, Jr
Principal Chief

Date: _____

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THE CHOCTAW NATION OF OKLAHOMA

Garry Batton
Chief

Date: _____

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THE MUSCOGEE (CREEK) NATION

David Hill
Principal Chief

Date: _____

DRAFT

**PROGRAMMATIC AGREEMENT
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THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

Date: _____

Reid Nelson
Executive Director

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THE CADDO NATION OF OKLAHOMA

Date: _____

Bobby Gonzalez
Chairman

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THE CHICKASAW NATION

Bill Anoatubby
Tribal Governor

Date: _____

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THE DELAWARE TRIBE OF INDIANS

Brad Kills Crow
Chief

Date: _____

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THE OSAGE NATION

Geoffrey M. Standing Bear
Principal Chief

Date: _____

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QUAPAW NATION

Date: _____

**Wena Supernaw
Chair**

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THE SEMINOLE NATION OF OKLAHOMA

Lewis J. Johnson
Principal Chief

Date: _____

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**WICHITA AND AFFILIATED TRIBES (WICHITA, KEECHI, WACO &
TAWAKONIE), OKLAHOMA**

Date: _____

**Terri Parton
President**

APPENDIX I - PROJECT SUMMARY

The Rivers & Harbors Act of July 24, 1946, authorized the development of the Arkansas River and its tributaries for the purposes of navigation, flood control, hydropower, water supply, recreation, and fish and wildlife. Public Law 91-629 stated that the project would be known as the McClellan-Kerr Arkansas River Navigation System (MKARNS). For the purposes of this study, the navigation system and its associated reservoirs are hereafter referred to as the "MKARNS". Several reservoirs on the Arkansas River and its tributaries support water control on the MKARNS and are operated as part of the navigation system. The MKARNS is a multiple purpose project created for the primary purpose of navigation. The system is operated for the primary purpose of navigation and additionally hydropower for Dardanelle and Ozark Jetta-Taylor Locks and Dams, with secondary consideration of recreation, and fish and wildlife, water supply and irrigation to the extent that those additional purposes do not adversely affect navigation, or potential future authorized purposes of the project. Development of and construction on the MKARNS began in 1952 and was completed in 1971 at a cost of \$1.3 billion.

The Arkansas River Navigation Study was initiated in a Fiscal Year (FY) 1999 Congressional Add to study MKARNS operational issues in the Fort Smith, Arkansas area. As a result of the reconnaissance study, a Section 905(b) Analysis (WRDA 86), dated September 1999, was prepared by the Southwestern Division, Little Rock District, and approved by Headquarters, on January 4, 2000. The study recommended that a navigation feasibility study be prepared. Additional language was included in Section 136 of the Energy and Water Development Act of 2004, which authorized a project depth of 12 feet.

The authority for the current effort and other recent studies of the Arkansas River comes from a Resolution by the Committee on Public Works and Transportation of the United States House of Representatives, dated March 11, 1982, and referred to as the Arkansas River Basin Study Authority. The Study Authority reads as follows:

"RESOLVED BY THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION OF THE HOUSE OF REPRESENTATIVES, UNITED STATES, that the Board of Engineers for Rivers and Harbors, established by Section 3 of the River and Harbor Act approved June 13, 1902, is hereby requested to review in cooperation with the states of Arkansas and Oklahoma, political subdivisions, agencies and instrumentalities thereof, and appropriated Federal agencies as a shared effort, the report of the Chief of Engineers on the Arkansas River and tributaries, published as House Document No. 308, seventy-fourth Congress, and other pertinent reports, with a view to determining whether any modification of the recommendation contained therein are advisable at this time, with particular reference to developing an implementable plan for storage, conservation, treatment, and conveyance of water in the Arkansas River and tributaries in Arkansas and Oklahoma, for municipal, industrial, and agricultural uses and other purposes. This study should include an assessment of the usability of the water for various uses."

The study area included the entire MKARNS in Arkansas and Oklahoma including:

- Approximately 445 miles of river from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. A series of 18 locks and dams (including Montgomery Point Lock and Dam),

13 in Arkansas and 5 in Oklahoma, provides for commercial navigation throughout the length of the MKARNS; and

- Eleven upstream reservoirs in Oklahoma that influence river flow on the MKARNS. The upstream reservoirs assist with the control of water releases through spillways and power generating units. The rate and amount of water released from each reservoir depends on many factors including available water storage, power requirements, navigation water requirements, inflow rates, river flow rates downstream, and weather conditions.

Commercial navigation is an historic and ongoing activity on the MKARNS. Three elements associated with the maintenance and improvement of the MKARNS navigation channel are considered in this document:

1) River Flow Management: Sustained high flows on the MKARNS have adversely influenced the safety and efficiency of commercial navigation operations. The reliability and predictability of river flows affect navigation traffic utilization of the MKARNS.

Commercial navigation traffic is severely restricted when river flows reach 100,000 cubic feet per second (cfs) at Van Buren, Arkansas. Van Buren is the critical control point in the system because it is the most downstream regulation station for the MKARNS. That is, all the upstream releases are adjusted based on what is happening at the Van Buren gage. For shippers and vessel operators, three specific problems exist.

- The limitations on commercial navigation during and after storm events that cause high flow rates reduces reliability of shipping on the MKARNS. Shippers and vessel operators are in the position of absorbing costs associated with the unreliability of the navigation system. For shippers these costs include the risk of plant shut down due to inventory depletion or, conversely, high inventory cost of carrying excess inventories to avoid the stock out condition. For vessel operators, the costs associated with “parking” tows and towboats during high flows are not offset by revenues. Prices for towing services are established weeks before vessel departure, and vessel “parking” is not included.
- Extended higher flow conditions require vessel operators to utilize higher horsepower towboats and smaller tow size. In anticipation of probable storm events, vessel operators on the MKARNS utilize above average horsepower towboats and smaller than average tow sizes for similar tributary river situations. With these higher operating costs tow operators have higher towing rates, requiring barge operators to aggressively market the Arkansas River to effect the most efficient two-way loaded hauling and avoid empty barge movement. On an annual basis, up bound loaded covered hopper barges exceed down bound loaded covered hopper barges, resulting in new barge operators being reluctant to bring equipment on to the river.
- Shipping charges during high flows, such as barge demurrage (a charge for detaining a barge or tow beyond the time allowed for loading and unloading) and “hot water” charges (additional charge for transporting barges during periods of high river flows) for special services, are assessed to the shipper. For shippers and terminal operators on the MKARNS, the high flow storm events place uncertainty on shipping charges and costs. Specifically, when barges are “parked” and free time expires, demurrage charges are incurred. In addition, upon arrival barges become bunched at the terminals, exposing either the terminal or shipper to demurrage charges.

Special charges, commonly referred to as “hot water” charges, can be incurred by shippers if they elect to have their barges moved to destinations in a one or two barge tow service.

2) Navigation Channel Depth: Commercial navigation is not at optimum productivity within the MKARNS since its 9-foot draft navigation channel limits towboat loads compared to the Lower Mississippi River’s authorized 12-foot draft channel.

- Shipments between the Arkansas and Lower Miss amount to 6.3 million tons and 56% of all tonnage shipments on the regional inland navigation system. Channel deepening would enhance shipments of commodities that benefit from increased depth (such as agricultural chemicals and farm products). Thus, a larger percentage of tonnage could be shipped between the Lower Miss and Arkansas River. A detailed analysis of the economic benefits associated with the connectivity between these two systems is presented in the Economics Analysis Appendix of the Feasibility Report (USACE 2005).
- Because the barge drafts are limited by the MKARNS 9-foot draft channel, and it is not cost-effective to re-load at the MKARNS/Mississippi confluence, upbound tows from the Mississippi must be configured to the limitations of the MKARNS channel.
- Similarly, downbound tows on the MKARNS are not able to take advantage of the Mississippi River’s 12-foot draft channel and are loaded to accommodate the 9-foot channel rather than a 12-foot channel.

The disparity between the navigation channel depths in the two river systems results in less efficient barge operations than could be achieved with a consistent 12-foot navigation channel throughout the MKARNS and Lower Mississippi River commercial navigation systems.

3) Navigation Channel Maintenance: The ongoing operation and maintenance of the existing 9 foot navigation channel on the MKARNS entails the use of “river training structures” as well as periodic dredging at some locations within the navigation channel. Since the completion of the MKARNS in 1971, some authorized maintenance dredged material disposal sites have reached capacity and new disposal sites are required to continue channel maintenance activities. Additionally, the construction of new river training structures is warranted to facilitate the maintenance of the 9-foot navigation channel. Without the proper maintenance of the 9-foot channel, commercial navigation would not be able to operate on the MKARNS.

APPENDIX III –TREATMENT PLAN FOR THE INADVERTENT DISCOVERIES OF HUMAN REMAINS, BURIALS, GRAVES, AND/OR FUNERARY OBJECTS OR OBJECTS OF CULTURAL PATRIMONY

I. DISCOVERY OF HUMAN REMAINS, BURIALS, GRAVES, AND/OR FUNERARY OBJECTS OR OBJECTS OF CULTURAL PATRIMONY DURING CULTURAL RESOURCES INVESTIGATIONS OR CONSTRUCTION ACTIVITIES.

Treatment of all human remains, burials, graves, funerary objects, sacred objects, and objects of cultural patrimony shall comply with the requirements of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C 3001 et seq., its implementing regulations as set forth in 43 CFR Part 10, and the National Historic Preservation Act, 54 U.S.C. 300101 et seq., as amended, and its implementing regulations (36 CFR Part 800), and in a manner guided by the ACHP's Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects (2007). On state- or privately-owned lands in Oklahoma, the Oklahoma Burial Desecration Law (21 Oklahoma Statutes §§ 1168.0-1168.6) extends protection to human remains and associated burial goods in unmarked graves. In Arkansas, these protections are outlined in Arkansas Act 753 of 1991 (Arkansas Burial Law) and Arkansas Act 705 of 2011, amendment to Arkansas law concerning funerary objects associated with human remains.

While human remains may have been buried unintentionally by natural forces, the term "burial" is used to refer to all human bone/remains for the purposes of this Treatment Plan. Due to the fragile nature of human bone, burials may also be evidenced by a burial pit outline, coffin hardware, associated items which may indicate a burial house, a cluster of whole or broken pottery, a mound or cairn, or other evidence provided in consultation or through research.

A. DISCOVERIES OF HUMAN REMAINS OR BURIAL EVIDENCE DURING FIELDWORK.

In the event that a human burial is encountered in the field during archaeological survey, shovel testing, unit excavating, land clearing, construction and construction related activities, and/or shoreline erosion, or any other unanticipated effects of the undertaking for the duration of this PA, USACE shall ensure that the following steps are taken:

1. In the case of an inadvertent discovery of a suspected burial, minimal additional exposure may be required to make a field determination. If bone is discovered, a field determination of whether bones are possibly human will be made. This may require minimal additional exposure of bones sufficient to observe identifying characteristics. Minor additional exposure of other potential burial evidence may also be required to determine whether a discovery is a burial. Bone or other burial evidence shall not be removed, and sediment shall be retained in situ without screening.

- a. In the case of discovery of a burial during archaeological investigations, the field supervisor (principal investigator, project archaeologist, or crew chief) will ensure that all ground disturbing activities immediately cease within a 100-meter vicinity of the discovery and will secure the site from further disturbance, and initiate stipulations A (2-11) below.

- b. If the discovery occurs during construction related activities, the archaeological and/or tribal monitor (hereinafter, monitor), in consultation with the Contracting Office Representative (COR), shall have the authority to immediately stop activity

in the vicinity of the burial and direct work to another portion of the project. The monitor will immediately direct work to stop within a 100-meter radius of the discovery and protect the discovery from further disturbance. The monitor will initiate stipulations A (2-11) below.

2. The archaeologist or monitor(s) will immediately notify the USACE Archaeologist, Project (Lake) Office, and COR of an inadvertent discovery of a possible human burial.

3. USACE will immediately notify local and/or the tribal law enforcement officials of the tribe within whose reservation boundaries the discovery is made of the discovery of human remains or burial, either by telephone or personal communication.

a. The Medical Examiner (ME) will be contacted to make the determination regarding the age of the human remains.

b. Law enforcement and the ME shall be allowed access to the location of the discovery to conduct their investigation.

c. If the burial is declared a criminal matter, the USACE archaeologist will have no further involvement and the decision to declare the site cleared for work to proceed will be made by the appropriate legal authorities.

4. Upon official determination by law enforcement (the ME) that the remains are of such age to rule out association with a crime or other recent event, the burial will be documented in situ to the extent necessary for notification and planning. The archaeologist or monitor will determine the extent of the discovery and will map and geolocate the burial, labeling it as a sensitive avoidance area on the project plans. Field notes, location information, and project plans will be provided to the USACE Archaeologist for notification and consultation.

5. At all times human burials must be treated with the utmost dignity and respect. Human remains and/or associated artifacts will be left in place and not disturbed. No skeletal remains or materials associated with the remains will be collected or removed until appropriate consultation has taken place, and a plan of action has been developed. Photography of human remains shall not be allowed except as necessary for purposes of 1) law enforcement investigations; and 2) documentation and assessment with concurrence from Signatories and Invited Signatories to the PA. Such photos would be kept confidential and not disseminated unless copies were requested by a Signatory, Invited Signatory, or Consulting Tribe.

6. The USACE Archaeologist, Lake Manager, COR, and Monitor will decide, upon considering the location, appearance, and general accessibility of the site, on additional protective measures that may be necessary. Protective measures may include, but not be limited to, on-site 24-hour security, or covering of the remains using canvas tarps and/or sediment to protect the site from further disturbance or vandalism.

7. Within 24 hours of the discovery, the USACE Archaeologist will notify the Signatories, Invited Signatories, and Consulting Tribes by phone and email that an inadvertent discovery has been made.

8. In order to ensure compliance with NAGPRA section 3 (d) and until there is evidence to the contrary, all human remains will be treated as potentially Native American and shall be secured and protected pursuant to the requirements of NAGPRA and its implementing regulations.

9. If it is determined that the burial is not Native American, USACE will consult with the appropriate state SHPO (including, in Oklahoma, the State Archaeologist), and descendants or other interested parties regarding appropriate treatment measures.

10. If the burial is more likely Native American, the USACE archaeologist, in consultation with Signatories, Invited Signatories, and Consulting Tribes, will draft a site-specific plan of action to comprehensively evaluate the potential to avoid and/or minimize the undertaking's effects to the burial if avoidance is at all possible, or to develop a disinterment/reinterment plan.

a. The site-specific written Plan of Action will identify the treatment plan for the discovery, including removal (if necessary), and disposition.

b. Knowledge of the site would be limited to only those individuals who have a need to know about the site. No identifying markers will be left at the burial site.

11. The USACE shall provide written notification to all Signatories, Invited Signatories, and Consulting Tribes when the plan of action has been implemented.

12. The Contractor will not restart work within the 100-meter radius area of the burial until USACE, in consultation and concurrence with the Signatories and Invited Signatories of the PA, has granted clearance and a notice to proceed.

B. DISCOVERIES OF HUMAN REMAINS OR BURIAL EVIDENCE POST-FIELDWORK.

1. If human remains or burial evidence as defined herein are discovered in the archaeological lab or other facility during work associated with the undertaking, the remains or items will be protected without undergoing additional analyses and will be secured within a locked facility.

2. The USACE will be notified of the discovery by telephone and email as soon as possible, but no longer than 24 hours after the discovery.

3. The USACE will notify the Signatories, Invited Signatories, and Consulting Tribes as soon as possible, but no later than 48 hours from receipt of notification.

4. No intrusive or destructive analysis will be conducted on human remains, burial items, items of cultural patrimony, or funerary items without the documented approval of the affiliated tribe (if known). Approval must be in writing but may be given by email.

II. CULTURAL AFFILIATION, POSSESSION, CONTROL, DISPOSITION, AND REPATRIATION. The USACE shall comply with the requirements of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C 3001 et seq., and its implementing regulations as set forth in 43 CFR Part 10.

III. CONTACTS. The complete tribal and agency contact list for the undertaking is provided in Appendix II.

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APPENDIX IV - TREATMENT PLAN FOR POST-REVIEW DISCOVERIES OF CULTURAL RESOURCES OR UNANTICIPATED EFFECTS

I. DISCOVERY OF CULTURAL RESOURCES OR UNANTICIPATED EFFECTS AFTER FIELD INVESTIGATIONS AND REVIEW. If properties are discovered that may be eligible for listing in the NRHP or unanticipated effects on historic properties are found subsequent to the completion of investigations conducted under Stipulation II (A-D) of the Programmatic Agreement (PA), the USACE shall implement this Treatment Plan. In order to minimize the potential for the accidental discovery of cultural resources, USACE is conducting intensive cultural resources and geomorphological investigations of the entire APE. However, due to the nature of the project and project area, all construction and construction related activities will be monitored for potential discoveries or unanticipated effects.

Pursuant to 36 CFR 800.13(b)(3), if cultural resources are encountered in the APE post review, all work in the immediate area will be stopped, notifications will be made, and documentation and consultation tasks will be implemented as described herein. Inadvertent discoveries of human remains or possible burial features or items are addressed separately in Appendix III.

Duration of any work stoppages will be contingent upon the significance, size, and depth of the identified cultural resource(s) and/or the nature and extent of anticipated impacts to both archaeological sites and above ground resources. The USACE archaeologist and/or historical architect, in consultation with parties to the PA, will determine the appropriate measures to avoid, minimize, or mitigate any adverse effects to historic properties.

A. PROTECTION AND NOTIFICATION. In the event that discovery of cultural resources occurs during construction, construction related activities, or other work associated with the undertaking, the following steps will be taken to ensure avoidance of the resources until treatment of the discovery is implemented:

1. The monitor, in consultation with the COR, shall have the authority to immediately stop activity within a 30-meter radius of the discovery, unless the corresponding Tribal Nation has published guidelines that require a larger radius within their reservation boundaries, and direct work to another portion of the project.
2. The monitor(s) will inspect the construction site to determine the extent of the discovery and will map, geolocate, and photograph the resource(s) using a scale and north arrow. The monitor will indicate the location and date of the discovery on the project plans. If necessary, the monitor may conduct minimal shovel or trowel scraping to define the extent of the discovery.
3. All documentation will be provided to the USACE Archaeologist for guidance on how to proceed.
4. The USACE Archaeologist will assess whether the discovery qualifies as an isolated find, and if so, will direct the monitor to record the find pursuant to Tulsa District Operations Division Standards and Guidelines for Cultural Resources Investigations on Tulsa District Owned Land (hereinafter, SWT Standards) or pursuant the Arkansas State Plan.

5. If the USACE Archaeologist determines that the discovery is a feature or appears to represent an archaeological site, the area around the discovery will be cordoned off (by flagging, fencing, or other visible means) within a radius of at least 30 meters unless the corresponding Tribal Nation has published guidelines that require a larger radius within their reservation boundaries.

6. The USACE will implement the chain-of-notification.

7. The USACE Archaeologist will notify the USACE Project (Lake) Office, the Construction Supervisor, and the COR that work has been stopped at the location of the discovery, and that protection measures to deter looting and vandalism are required.

8. Protection measures will be implemented to deter looting and vandalism.

9. The USACE Archaeologist will contact the Signatories, Invited Signatories, and consulting tribes by phone and email within 48 hours to notify them of the discovery of cultural resources and request any information they may have regarding possible properties of significance in the area. This will inform the preliminary assessment.

10. Within 15 days, the USACE will provide to the Signatories, Invited Signatories, and Consulting Tribes, by email and hard copy, a letter report describing the discovery, including the location and the circumstances of the discovery. The letter will include photos of the resource and context within the surrounding construction area, aerial photos, and maps of the location (one of which should be overlain on an aerial). Maps should clearly indicate the project APE in the context of the MKARNS as a whole and the location of the resource within the APE and should indicate which areas of the APE have undergone grading or other construction to date.

11. Upon request, parties of the PA and their representatives shall be allowed to visit the site with the USACE archaeologist and/or historical architect.

12. The Contractor will not restart work within the 30-meter radius of the discovery until USACE, in consultation and concurrence with the Signatories and Invited Signatories of the PA, has granted clearance and a notice to proceed.

II. EVALUATION, ASSESSMENT, AND RESOLUTION OF ADVERSE EFFECTS. Once the nature of the discovery and its vulnerability to further construction-related impacts are understood, plans for treatment of the site will be made in consultation with the Signatories, Invited Signatories, and Consulting Tribes pursuant to 36 CFR 800.6(a).

A. EVALUATION OF SIGNIFICANCE. The discovery will be evaluated for Significance and eligibility for listing in the National Register of Historic Places (NRHP) in consultation per Stipulation II(B) of the PA.

1. If the discovery is determined not to be a potentially significant archaeological site or built environment resource that is eligible for the NRHP, or a Traditional Cultural Property (TCP) or Sacred site, and the Signatories and Invited Signatories agree in writing, the Archaeologist will notify the COR and monitor that work may resume.

2. If the archaeological deposits or elements of the built environment are determined to be eligible for listing in the NRHP or are assumed to be eligible pursuant to 36 CFR 800.13(c), or are TCPs or sacred sites, effects of the undertaking will be assessed.

B. ASSESSMENT OF EFFECTS. The USACE, in consultation with the Signatories, Invited Signatories, and Consulting Tribes, will evaluate the effects of the undertaking on the discovery as outlined in Stipulation II(E) of the PA.

C. RESOLUTION OF ADVERSE EFFECTS. If the undertaking as planned will have an adverse effect to the discovery, the USACE shall, in consultation with the Signatories, Invited Signatories, and Consulting Tribes, evaluate alternatives to avoid, minimize, or mitigate adverse effects per Stipulation II(F) of the PA, and recommend actions to resolve adverse effects.

If the undertaking cannot be altered or conditioned to avoid or minimize adverse effects, the USACE, in consultation with the Signatories, Invited Signatories, and Consulting Tribes, shall prepare a mitigation plan for the resolution of adverse effects. Mitigation options may include site avoidance, site protection/stabilization, archaeological data recovery, or alternative mitigation measures identified in consultation.

Once approved and signed by the appropriate USACE approving official, Signatories, and Invited Signatories, the mitigation plan will be executed. Once the mitigation plan is fulfilled, all Signatories, Invited Signatories, and Consulting Tribes will be notified in writing.

D. DISPUTE RESOLUTION. If the Signatories and Invited Signatories of the PA cannot reach agreement regarding the NRHP eligibility of a resource or the resolution of adverse effects, the USACE shall follow the process for dispute resolution identified in Stipulation VI(B) of the PA.