



# **Grand River Ecosystem Restoration Study**

## **Final Integrated Feasibility Report and Environmental Assessment**

### **Appendix N: NHPA Section 106 Programmatic Agreement and Correspondence**

**October 2020**



**US Army Corps  
of Engineers** ®  
Kansas City District

---

Page Intentionally Left Blank

## **PROGRAMMATIC AGREEMENT**

### **AMONG THE U.S. ARMY CORPS OF ENGINEERS, KANSAS CITY DISTRICT; MISSOURI DEPARTMENT OF CONSERVATION; MISSOURI DEPARTMENT OF NATURAL RESOURCES; IOWA TRIBE OF KANSAS AND NEBRASKA; OSAGE NATION; OTOE-MISSOURIA TRIBE; PAWNEE NATION OF OKLAHOMA; PONCA TRIBE OF NEBRASKA; AND THE MISSOURI STATE HISTORIC PRESERVATION OFFICER; REGARDING THE GRAND RIVER AND TRIBUTARIES IN MISSOURI FEASIBILITY STUDY**

**WHEREAS**, the U.S. Army Corps of Engineers, Kansas City District (Corps) in partnership with the Missouri Departments of Conservation (MDC) and Missouri Department of Natural Resources (DNR) is developing a Grand River and Tributaries Feasibility Study (GRTFS) that will result in ecosystem restoration projects within the Grand River basin that include but are not limited to actions to reduce sediment deposition on significant habitat within and around Pershing State Park, dredging of Locust and Muddy creeks to restore flow conveyance; various actions to enhance wetlands through improved water management and habitat development at Fountain Grove Conservation Area; a levee setback on Swan Lake National Wildlife Refuge; and approximately 300 bank stabilization projects in the Locust Creek watershed

**WHEREAS**, the general area of potential effect (APE) for the GRFTS includes federal land, state land, and private land within the active Grand River basin in the state of Missouri (Appendix A); however, individual Projects undertaken by the Corps and MDC and DNR as a result of the GRTFS would occur at project locations that have not yet been determined or are located in environmentally dynamic areas that may require project redesign in the event of a flooding, and will require a specific APE to be determined prior to project implementation; and

**WHEREAS**, the Corps is the lead federal agency for purposes of the National Environmental Policy Act of 1969 (NEPA) and the National Historic Preservation Act (NHPA) (54 U.S.C. §§ 300101 et seq.) and in accordance with 36 C.F.R. §§ 800.2(a)(2) and 800.8; and

**WHEREAS**, the Corps has determined that the Projects implemented under the GRTFS constitute a Federal Undertaking that may have adverse effects on historic properties and has consulted with the Missouri State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, the regulations implementing Section 106 of the NHPA; and

**WHEREAS**, in accordance with 36 C.F.R. §§ 800.4(b)(2) and 800.5(a)(3), the Corps has elected to use a phased process to conduct identification and evaluation of historic properties, and for application of the criteria of adverse effect, respectively, because the scope and programmatic nature of the GRTFS make it unreasonable to identify historic properties or determine the effects of site-specific Projects at this time; and

**WHEREAS**, 36 C.F.R. § 800.14, allows the Corps to negotiate a programmatic agreement (PA) to govern the implementation of a particular program or the resolution of adverse effects from complex project situations or multiple undertakings; and,

**WHEREAS**, in this PA, “Signatories” is defined in 36 C.F.R. § 800.6(c)(1) and “Invited Signatories” is defined in 36 C.F.R. § 800.6(c)(2); and

**WHEREAS**, in accordance with 36 C.F.R. § 800.6(a)(1)(i)(C), the Advisory Council on Historic Preservation (ACHP) has been provided the required documentation and invited to participate in this PA, but notified the Corps in a letter dated July 29, 2019 that it has chosen not to participate in accordance with 36 C.F.R. § 800.6(a)(1)(iv); and

**WHEREAS**, the Corps, MDC, and DNR, as the proponents of the Undertaking, are Signatories to this PA; and

**WHEREAS**, letters describing the Project and its objectives and inviting participation were sent to eighteen (18) federally-recognized Indian Tribes (listed in Appendix B); and

**WHEREAS**, of those Indian Tribes invited to participate the Iowa Tribe of Kansas and Nebraska, Osage Nation, Otoe-Missouria Tribe, Pawnee Nation of Oklahoma, and Ponca Tribe of Nebraska (Indian Tribes) have chosen to participate in Section 106 consultation and to be Invited Signatories to this PA, in accordance with 36 C.F.R. 800.2 and 800.6; and

**WHEREAS**, the Missouri Alliance for Historic Preservation was invited to participate, but declined; and

**NOW THEREFORE**, the Corps, MDC, DNR, Missouri SHPO, and Indian Tribes agree that the Projects under the GRTFS shall be implemented in accordance with the following stipulations in order to take into account the effect of the individual undertakings on historic properties.

## **STIPULATIONS**

**The Corps shall ensure that the following measures are carried out:**

### **I. STANDARDS**

A. All cultural resource investigations including site identification, National Register of Historic Places (NRHP) eligibility evaluations and, as appropriate, mitigation measures for adverse effects to historic properties required under the terms of this PA will be carried out by or under the direct in the field supervision of appropriate professional(s) or by contractors who meet, at a minimum, the *Secretary of the Interior’s Historic Preservation Professional Qualification Standards* (48 FR 44716, September 29, 1983).

B. In developing scopes of work for identification, evaluation studies, treatment measures, and stewardship activities required under the terms of this PA, the Corps will take into account the following guidance:

1. ACHP's guidance on conducting archaeology under Section 106 (2007);
2. ACHP's *Policy Statement Regarding the Treatment of Burial Sites, Human Remains and Funerary Objects* (February 23, 2007);
3. Guidance from the Osage Nation *National Historic Preservation Act Section 106 Protocol and Standards, Archaeological Survey Standards, Archaeological Resources Protection Act Violation Procedures, and Procedures for Handling Human Remains during Authorized Intentional Excavations or during Inadvertent Discoveries of Human Remains* (Appendix C);
4. Guidance from the Missouri SHPO (Appendix D);
5. Secretary of the Interior's *Standards and Guidelines for Archaeology and Historic Preservation* (48 FR 44716-42, September 29, 1983); and
6. "Treatment of Archaeological Properties" (ACHP 1983).

## **II. CONFIDENTIALITY**

The Corps will safeguard information about historic properties of religious and cultural significance to federally recognized Indian Tribes, including location information, or non-public information provided by federally recognized Indian Tribes to assist in the identification of such properties, to the extent allowed by Section 304 of NHPA (54 U.S.C. § 307103), and other applicable laws.

## **III. POINTS OF CONTACT**

A. The Signatories and Invited Signatories will each designate a primary and secondary point of contact. The primary contact is the contact to which all initial and formal correspondence is sent. If the individual designated as the primary point of contact is not available, communications shall be directed to the secondary contact.

B. Each Signatory and Invited Signatory of this PA shall provide all parties to the PA with the phone numbers, email addresses, and mailing addresses for the primary and secondary contacts (see Appendix E). Similarly, when a point of contact changes, all Signatories and Invited Signatories shall be notified in writing (hardcopy or email) within thirty (30) business days of the change. Such changes shall not require an amendment to this PA.

## **IV. CONSULTATION STANDARDS**

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

B. The Corps will consult with any federally recognized Indian Tribe whether a signatory to this PA or not on a government-to-government basis in recognition of their sovereign status, throughout any activity or undertaking that might affect historic properties, particularly Tribal cultural sites.

C. The Corps will notify/consult with SHPO, federally recognized Indian Tribes, and other consulting parties. Consultations may include face-to-face meetings, as well as communications by mail, electronic mail, facsimile, and/or telephone. Times and places of meetings, as well as an agenda for meetings, will be developed with mutual acceptance and done in a timely manner.

## **V. HISTORIC PROPERTY IDENTIFICATION**

A. In consultation with SHPO, Indian Tribes, and other consulting parties, the Corps will determine the APE for each Project implemented under the GRFTS. The APE will be defined as all areas to be impacted by construction activities and areas of associated ground disturbance including but not limited to haul roads, borrow areas, staging areas, and visual impacts. The APE will also include any areas of anticipated erosion resulting from the construction activities.

B. In consultation with the SHPO, Indian Tribes, and other consulting parties the Corps will complete the identification and evaluation of historic properties within the APE for each project prior to the initiation of construction, in accordance with 36 C.F.R. § 800.4(a), (b) and (c).

C. The Corps will also take appropriate measures necessary to identify historic properties within the APE including but not limited to archaeological sites; historic structures; shipwrecks; human burials, cemeteries, or other sites likely to contain human skeletal remains and funerary objects; sacred sites; and Traditional Cultural Properties, which are cultural resource sites that are eligible for inclusion in the NRHP based on associations with the cultural practices, traditions, beliefs, lifeways, arts, crafts, or social institutions of a living community. The Corps will provide the appropriate documentation for these identification efforts to the SHPO, the Indian Tribes, and other consulting parties.

D. The Corps will conduct cultural resource surveys to identify historic properties in the APE in accordance with Section 106 of the NHPA and in consultation with SHPO, Indian Tribes, and other consulting parties

1. Cultural resource identification (survey) methods must be adequate to identify cultural resource sites, if present as determined in consultation with and no objection from SHPO, Indian Tribes, and other consulting parties. As appropriate, methods may include but are not limited to pedestrian survey, shovel testing, coring, mechanical trenching, geomorphic evaluations, and remote sensing, historic structure surveys, and traditional cultural property surveys.

2. In consultation and no objection with Indian Tribes, survey methods may appropriately exclude land shown to be recently accreted or disturbed to an extent that it is unlikely that cultural resources would be present in the area. Documentation for excluding such land

will be provided to SHPO, Indian Tribes, and Other consulting parties in advance of the cultural resource survey report.

3. The Corps will ensure that all surveys and field studies are conducted in a manner consistent with the Secretary of the Interior's *Standards and Guidelines for Identification and Evaluation* ([https://www.nps.gov/history/local-law/arch\\_stnds\\_0.htm](https://www.nps.gov/history/local-law/arch_stnds_0.htm)); the National Park Service publication *The Archaeological Survey: Methods and Uses* (National Park Service 1978); and appropriate state and tribal guidelines (see above Stipulation I.(B).

4. All cultural resource surveys will be implemented by the Corps on a schedule established to accommodate all archaeological field investigations and appropriate Signatory and Invited Signatory review prior to the initiation of Project construction.

5. The results of all existing surveys including cultural resource report, maps, and pertinent documents will be subject to a review and comment period no less than thirty (30) business days by the appropriate Signatories and Invited Signatories prior to the initiation of archaeological fieldwork. Submissions will conform to the requirements of each respective Signatory and Invited Signatory in accordance with Stipulation I.(B).

E. Once SHPO, Indian Tribes, and other consulting parties have received the completed survey report and supporting documentation, they shall have forty-five (45) business days from the receipt of all documentation by the Point of Contacts in which to review and provide comments to Corps.

## **VI. HISTORIC PROPERTY EVALUATION**

A. In consultation with SHPO, Indian Tribes and other consulting parties, the Corps will evaluate cultural resource sites that are within the APE of each Project as defined in Stipulation V. (C). above for historic properties that are eligible to be listed pursuant to NRHP criteria (36 C.F.R. Part 60.4).

1. For those historic properties that SHPO, Indian Tribes, and other consulting parties agree are not eligible for inclusion in the NRHP, the Corps will reach a determination of no properties eligible or potentially eligible for the NRHP and no further consultation is required.
2. If the survey results in the identification of historic properties that SHPO, Indian Tribes, and other consulting parties agree are eligible for inclusion on the NRHP (historic properties), the Corps shall treat such properties in accordance with Stipulation VIII below.
3. If, after consulting, SHPO, Indian Tribes, and other consulting parties do not agree on NRHP eligibility the Corps will request a formal determination of eligibility from the Keeper of the NRHP, whose determination shall be final.

## VII. TREATMENT OF HISTORIC PROPERTIES

A. Cultural resources sites determined to be eligible or potentially eligible for listing on the NRHP (historic properties), absent a formal determination of eligibility from the Keeper of the NRHP, will be treated by the Corps in the following manner:

1. The Corps will first attempt to resolve adverse effects or potential adverse effects to historic property by determining if avoidance is feasible through redesign of the project or altering the project for a finding of no adverse effect.

2. If the Corps determines that avoidance is impracticable or not feasible, the Corps will reach a determination of adverse effect and develop an appropriate plan, in consultation with and no objection from SHPO, Indian Tribes and other consulting parties, to minimize and treat the impacts.

a. If data recovery is the agreed upon treatment, then the stipulations in Section VIII will be followed.

b. If other mitigation measures including alternative measures are agreed upon as appropriate:

i. The Corps shall submit the treatment plan to SHPO, Indian Tribes, and other consulting parties, of a thirty (30) business day review and comment period to determine whether the measures are sufficient to reduce, mitigate, or treat adverse effects to the cultural resource site. The Corps will take into account the comments, and shall ensure that appropriate plans are implemented. Any disagreement among the Corps, Signatories, and Invited Signatories will be resolved, in accordance with Stipulation XIII of this PA.

ii. The Corps will ensure that the treatment plan is carried out by qualified personnel including archaeologist(s), architectural historian(s) and/or other appropriate cultural resource specialist that meets, at a minimum, the Secretary of Interior's *Professional Qualifications Standards* (48 FR 44738-9), and the guidelines mentioned in Stipulation I.(B).

3. As appropriate and if feasible, protective measures may be developed in consultation with SHPO, Indian Tribes and other consulting parties, on a case by case basis to avoid or minimize adverse effects.

## VIII. DATA RECOVERY AS TREATMENT OF HISTORIC PROPERTIES

A. If data recovery is the agreed upon treatment for archaeological sites, the data recovery plan will address substantive research questions developed in consultation with and no objection from the Signatories and Invited Signatories.

B. The data recovery plan shall be consistent with the Secretary of the Interior's *Standards and Guidelines for Identification and Evaluation* (<https://www.nps.gov/history/local->

[law/arch\\_stnds\\_0.htm](#)), and take into account the Council's publication *Treatment of Archaeological Properties* (ACHP 1980). It shall specify, at a minimum, the following:

1. The property, properties, or portions of properties where the data recovery plan is to be carried out;
2. The research questions to be addressed, with an explanation of research relevance and importance;
3. The methods to be used, with an explanation of methodological relevance to the research questions;
4. Proposed methods of disseminating results of the work to the interested public; and
5. A discussion of the property's significance within the appropriate historic context.

C. The Corps shall submit the treatment plan to the SHPO, Indian Tribes, and other consulting parties, for a thirty (30) business day review and comment period to determine whether the measures are sufficient to reduce, mitigate, or treat adverse effects to the historic property. The Corps will take into account the comments, and shall ensure that appropriate plans are implemented. Any disagreement among the SHPO, Indian Tribes, and/or other consulting parties will be resolved in accordance with Stipulation XII of this PA.

D. The Corps will ensure that the treatment plan is carried out by an archaeologist(s), architectural historian(s), and/or other appropriate cultural resource specialist that meets, at a minimum, the Secretary of Interior's *Professional Qualifications Standards* (48 FR 44738-9), and the guidelines mentioned in Stipulation I.(B).

E. The Corps will ensure that adequate provisions, including personnel, time, and laboratory space, are available for the analysis of recovered archaeological material.

F. The Corps will ensure that artifacts from federal lands are curated in a facility meeting federal standards for curation of artifacts as required per 36 C.F.R. § 79.

G. The Corps will ensure that no artifacts are collected from private lands. Artifacts will be noted and recorded in the field, then returned to the excavation unit from which they were recovered and reburied.

H. The Corps will develop and implement an adequate program in consultation with the Indian Tribes and SHPO to secure historic properties from vandalism during data recovery.

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

A. If human remains, funerary objects, sacred objects, or objects of cultural patrimony are encountered during project field investigations or laboratory work or during construction activities, the Corps will comply with all provisions outlined below.

1. The Corps will ensure consultation with appropriate Federally-recognized Indian Tribes for any human remains, funerary objects, sacred objects, or objects of cultural patrimony recovered from Federal lands as required by the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA), as amended (25 U.S.C. §§ 3001-3014) and its implementing regulations (43 C.F.R. Part 10). Indian Tribes will be notified by telephone within 24 hours of the discovery.

2. The Corps will ensure applicable state laws will be followed for discoveries on state or private lands in accordance with the Missouri Unmarked Human Burial Sites Act (Mo. Rev. Stat. §§ 194.400-410).

B. If items of religious and cultural importance to Indian Tribes are encountered or collected, the Corps will comply with all provisions outlined in the appropriate federal acts, statues, guidance, provisions, etc. and any decisions regarding the treatment of items of religious and cultural importance will be made in consultation with Indian Tribes.

## **X. REPORTS**

A. The Corps will ensure that all reports and other documents resulting from the actions pursuant to this PA will be provided in a format acceptable to SHPO, Indian Tribes, and other consulting parties. The Corps will ensure that all such reports (e.g., identification surveys, evaluation reports, treatment plans, and data recovery reports) meet or exceed the Department of the Interior's *Format Standards for Final Reports of Data Recovery* (42 FR 5377-79) and the standards identified in Stipulation I.(B).

B. Where a project is determined not to affect cultural resource sites, documentation shall include the following:

1. A description of the project area location, type of activity proposed, and defined APE;
2. A discussion of the vertical and horizontal extent, type of ground disturbance and/or historic use, including river channel changes over time, and time frame/duration of ground disturbance;
3. A map showing the extent and type of ground disturbance and/or historic use and the APE; and
4. A summary statement identifying specific reasons that the proposed project activity will have no effect on historic properties.

C. Disclosure of sensitive information on cultural resources will be restricted per Section 304 of the NHPA and implementing regulations and other applicable non-disclosure provisions.

D. Precise locational data of traditional cultural properties or sacred sites, consisting of architectural, landscapes, objects, or surface or buried archaeological sites, identified in accordance with the Indian Tribes, will be considered to be sensitive information pursuant to Section 304 of the NHPA (54 U.S.C. § 307103). The Corps will comply with the requirements of Section 304 with regard to disclosure of such data.

E. The Corps will make available for publication and public dissemination the reports and associated data, minus precise aforementioned locational data and sensitive information.

## **XI. PROVISIONS FOR POST-REVIEW DISCOVERIES**

A. Plan for Discovery of Unanticipated Cultural Resources Sites and Artifacts Encountered During Construction: The following procedures shall be used in the event that previously unreported and unanticipated cultural resource sites encountered during the construction or maintenance activities. The procedures are intended to ensure that the Project is in compliance with all applicable federal and state laws and regulations, including Section 106 of the NHPA. The Corps will inform all construction contractors of the following procedures.

1. All work within a one hundred (100) meter radius must stop immediately. The Corps will notify the SHPO and Indian Tribes that might attach religious and cultural significance to the affected property, pursuant to 36 C.F.R. § 800.13 as well as any other affected party, of the discovery, and implement interim measures to protect the discovery from looting and vandalism. Construction may continue outside the one hundred (100) meter radius. Within forty-eight (48) hours of receipt of notification of the discovery, the Kansas City District Corps Archaeologist or District Tribal Liaison, as appropriate, shall:

- a. inspect the work site to determine the extent of the discovery and ensure that work activities have halted within the one hundred (100) meter radius buffer zone;
- b. clearly mark the area of the discovery;
- c. implement additional measures, as appropriate, to protect the discovery from looting and vandalism; and
- d. provide an initial assessment of the site's condition and eligibility to the Indian Tribes and SHPO; and
- e. notify other consulting parties, if applicable, of the discovery.

2. The notified SHPO, Indian Tribes, and other consulting parties will have seven (7) business days following notification to concur or disagree with the Corps' determination of the NRHP eligibility of the discovery.

3. If the Corps determines that the cultural resource site or artifact is or may be eligible, the Corps will consult with the SHPO, Indian Tribes, and other consulting parties regarding appropriate measures for site treatment pursuant to 36 C.F.R. § 800.6(a). The Indian Tribes and SHPO will have seven (7) business days to provide their objections or concurrence on the proposed actions. These measures may include:

- a. formal archaeological evaluation of the site;
- b. visits to the site by the Indian Tribes and/or SHPO;
- c. exploration of potential alternatives to avoid the site;
- d. preparation and implementation of a mitigation plan by the Corps in consultation and concurrence with the Indian Tribes and SHPO.

4. If the Corps archaeologist, in consultation with SHPO, Indian Tribes, and other consulting parties, determines the site is either isolated, completely disturbed by construction activities, or will not be further disturbed by construction activities, construction may resume within the one hundred (100) meter radius buffer zone.

B. Plan for Inadvertent Discoveries of Human Remains, Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony: The following procedures shall be used in the event that previously unreported and unanticipated human remains, funerary objects, sacred objects, and objects of cultural patrimony are encountered during construction or maintenance activities. The procedures are intended to ensure that the Project is in compliance with all applicable Federal and State laws and their implementing regulations, including NAGPRA; Archeological Resources Protection Act of 1979 (ARPA) (16 U.S.C. § 470aa-mm); and Section 106 of the NHPA. The Corps will inform all construction contractors of the following procedures.

1. In the case of the post-review discovery of human remains, funerary objects, sacred objects or objects of cultural patrimony on Federal land, the Corps will follow the procedures outlined by NAGPRA regulations (43 C.F.R. Part 10, Subpart B), and ARPA (43 C.F.R. Part 7). If the human remains are not American Indian, the Corps will comply with the appropriate state unmarked burial laws as cited in Stipulation VIII of this PA.
2. In the case of post review discoveries of human remains or funerary objects on State or private lands during construction or maintenance activities, the Corps will comply with the Missouri unmarked burial laws as cited in Stipulation VIII of this PA.
3. Any Corps employee, contractor, or subcontractor who knows or has reason to know that he or she has inadvertently discovered human remains, funerary objects, sacred objects, or objects of cultural patrimony on Federal lands or human remains or funerary objects on State or private lands must provide immediate telephone notification of the inadvertent discovery, with written confirmation, to the Corps.
4. The Corps will immediately notify local law enforcement by telephone of the discovery of unmarked human remains and accompany local law enforcement personnel during all field investigations.
5. All work must stop immediately within a one hundred (100) meter radius around the point of discovery. The Corps will implement measures to protect the discovery from looting and vandalism. Any human remains or other items in the immediate vicinity of the discovery must not be removed or otherwise disturbed. Human remains must be covered with canvas or other natural material.

6. If remains are discovered on federally owned land and local law enforcement determines that the remains are not involved in a legal investigation, the protocol implementing NAGPRA apply. If the discovery occurs on State or private land, the appropriate state burial law will apply.

7. The Corps will notify SHPO, Indian Tribes, and other consulting parties by telephone and email within forty-eight (48) hours of the discovery of human remains, funerary objects, sacred objects, items of cultural patrimony, or burial furniture and inform them of the steps already taken to address the discovery. This step is not intended to substitute the requirements of 43 C.F.R. 10.4(d)(iii).

8. The Corps will take immediate steps, if necessary, to further secure and protect inadvertently discovered human remains, funerary objects, sacred objects, or items of cultural patrimony, including, as appropriate, stabilization, or covering the find location.

9. The Corps, when on Federal lands, in consultation with the Indian Tribes, whether they are Signatories to this PA or not, and other interested parties such as living descendants, may consult with a qualified physical anthropologist, forensic scientist, or other experts as may be needed to examine and assess the inadvertent discovery. Unless the remains were inadvertently removed, the evaluation will be conducted at the site of discovery. Other than for crime scene investigation, no excavation, examination, photographs, or analysis of American Indian human remains or remains suspected of being American Indian will be conducted or allowed by the Corps archaeologists or any other professional without first consulting with and securing permission from the appropriate Indian Tribes, whether they are Signatories to this PA or not. The consulting expert will be allowed to draw and measure the exposed remains and associated funerary objects. Drawings and other records will be curated at a State-approved curation facility in the state of discovery. Drawings cannot be published in any form or shown as part of scholarly presentations without the written permission of the Indian Tribes or nearest living descendant.

10. The Corps in consultation with the appropriate SHPO, Indian Tribes, and other consulting parties will have seven (7) business days to determine if the skeletal remains are human, the degree to which they were disturbed, and, if possible using reasonable measures to, assess their potential age, cultural affiliation, and identity, if possible, without any further disturbance. Upon making their determination or at the end of the seven (7) business days, whichever comes first, the Corps will notify the Indian Tribes, whether they are Signatories to this PA or not, of its findings. This notification must include pertinent information as to kinds of human remains, funerary objects, sacred objects, or items of cultural patrimony discovered, their condition, and the circumstances of their inadvertent discovery. The Corps will also inform the Indian Tribes of any involvement the relevant SHPO plans to have in the process.

11. The Indian Tribes, whether they are Signatories to this PA or not, will have seventy-two (72) hours to respond verbally followed by written response via U.S. mail and

electronic mail. The response should specify the intent of the Indian Tribes to conduct or decline further consultation.

12. The Corps will consult with the Indian Tribes, whether they are Signatories to this PA or not, or identified lineal descendant regarding additional measures to avoid and protect or mitigate the adverse effect of the project on the human remains and grave site. These measures may include:

- a. formally evaluate the archaeological site for NRHP-eligibility;
- b. visits to the site by SHPO, Indian Tribes, and other consulting parties;
- c. explore potential alternatives to avoid the human remains or grave;
- d. develop a mitigation plan by the Corps in consultation and concurrence with SHPO, Indian Tribes, and other consulting parties, including procedures for disinterment and re-interment; and
- e. Implementation of the mitigation plan.

13. A report of findings describing the background history leading to and immediately following the reporting and resolution of an inadvertent discovery will be prepared within thirty (30) business days of the resolution of each inadvertent discovery. This report must meet the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (49 FR 44716) and guidelines in Stipulation IB.

C. The Corps will communicate the procedures to be observed under Parts A and B of this Stipulation with its contractors and personnel.

## **XII. DISPUTE RESOLUTION**

A. 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 Corps shall consult with such party to resolve the objection. If Corps determines that such objection cannot be resolved, the Corps will forward all documentation relevant to the dispute, including the Corps' proposed resolution, to the ACHP. The ACHP shall provide Corps 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 Corps shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, Signatories, and Invited Signatories, and provide them with a copy of this written response. The Corps will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the Corps may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, Corps shall prepare a written response that takes into account any timely comments regarding the dispute from the Signatories and Invited Signatories to the PA, and provide them and the ACHP with a copy of such written response.

C. The Corps' responsibility to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.

### **XIII. TERMINATION**

Any Signatory or Invited Signatory to this PA may request a reconsideration of its terms or revoke the relevant portions of this PA upon written notification to the other Signatories or Invited Signatories, by providing a notice of thirty (30) business days to the other Signatories or Invited Signatories, provided that Signatories or Invited Signatories consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. Once the PA is terminated, and prior to work continuing on Undertakings cover by the PA, the Corps must either (a) execute a new PA pursuant to 36 CFR § 800.14 or comply with 36 CFR part 800.4 through part 800.6 for all Undertakings that would otherwise be reviewed under this PA. The Corps shall notify the Signatories and Invited Signatories as to the course of action it will pursue

### **XIV. AMENDMENTS**

This PA may 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 and Invited Signatories is filed with the ACHP.

### **XV. PERIODIC REVIEW**

A. The Corps will provide the SHPO, Indian Tribes, and other consulting parties evidence of compliance with this PA in site-specific annual reports pursuant to NEPA and Section 106 of the NHPA. This documentation shall contain the name of the project, historic properties identified, determinations of effect, avoidance procedures, and level of investigation and/or mitigation conducted with titles of all project reports related to such investigation and/or mitigation which have been completed.

B. The PA shall expire ten (10) years from the date of the last signature. One (1) year prior to the expiration of the PA, the Corps, Indian Tribes, and SHPO shall review the PA in order to determine whether it should be reissued or allowed to expire. If the PA requires reissue, the Corps shall consult with the Signatories and Invited Signatories, as well as amend the PA in order to ensure compliance with the most current version of the Federal regulations implementing the NHPA.

### **XVI. ANTI-DEFICIENCY ACT**

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

### **XVII. COMMUNICATION**

The Corps will provide the SHPO and Indian Tribes with public meeting announcements, special releases, and notifications of the availability of report(s); comments received by the Corps will be taken into account in finalizing plans for each Project.

**XVIII. EXECUTION AND IMPLEMENTATION**

A. Nothing in this PA is intended to prevent the Corps from consulting more frequently with the Signatories and Invited Signatories concerning any questions that may arise or on the progress of any actions falling under or executed by this PA.

B. Execution of this PA by the Signatories and Invited Signatories and implementation of its terms evidence that the Corps has taken into account the effects of this Undertaking on historic properties and afforded the ACHP an opportunity to comment.

C. The Corps will file a copy of the executed PA with the ACHP.

D. This PA may be executed in counterparts.

**SIGNATORIES**

U.S. ARMY CORPS OF ENGINEERS, KANSAS CITY DISTRICT

BY: *William C. Hannan Jr.* Date: 2020.06.29  
15:17:53 -05'00' Date: 29 JUN 2020

William C. Hannan  
Colonel, Corps of Engineers  
District Commander

MISSOURI STATE HISTORIC PRESERVATION OFFICER

BY: *Carol S. Comer* Date: 7-28-20

Carol S. Comer, State Historic Preservation Officer

MISSOURI DEPARTMENT OF CONSERVATION

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

Sara Parker Pauley, Director Missouri Department of Conservation

PROGRAMMATIC AGREEMENT AMONG THE U.S. ARMY CORPS OF ENGINEERS, KANSAS CITY DISTRICT; MISSOURI DEPARTMENT OF CONSERVATION; MISSOURI DEPARTMENT OF NATURAL RESOURCES; IOWA TRIBE OF KANSAS AND NEBRASKA; OSAGE NATION; OTOE-MISSOURIA TRIBE; PAWNEE NATION OF OKLAHOMA; PONCA TRIBE OF OKLAHOMA; AND THE MISSOURI STATE HISTORIC PRESERVATION OFFICER; REGARDING THE GRAND RIVER AND TRIBUTARIES, MISSOURI AND IOWA FEASIBILITY STUDY

The Corps will provide the SHPO and Indian Tribes with public meeting announcements, special releases, and notifications of the availability of report(s); comments received by the Corps will be taken into account in finalizing plans for each Project.

**XVIII. EXECUTION AND IMPLEMENTATION**

A. Nothing in this PA is intended to prevent the Corps from consulting more frequently with the Signatories and Invited Signatories concerning any questions that may arise or on the progress of any actions falling under or executed by this PA.

B. Execution of this PA by the Signatories and Invited Signatories and implementation of its terms evidence that the Corps has taken into account the effects of this Undertaking on historic properties and afforded the ACHP an opportunity to comment.

C. The Corps will file a copy of the executed PA with the ACHP.

D. This PA may be executed in counterparts.

**SIGNATORIES**

U.S. ARMY CORPS OF ENGINEERS, KANSAS CITY DISTRICT

BY: William C. Hannan Jr. Date: 2020.06.29  
15:17:53 -05'00' Date: 29 JUN 2020

William C. Hannan  
Colonel, Corps of Engineers  
District Commander

MISSOURI STATE HISTORIC PRESERVATION OFFICER

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

Carol S. Comer, State Historic Preservation Officer

MISSOURI DEPARTMENT OF CONSERVATION

BY: Sara Parker Pauley Digitally signed by Sara Parker Pauley  
Date: 2020.07.10 15:17:54 -05'00' Date: \_\_\_\_\_

Sara Parker Pauley, Director Missouri Department of Conservation

MISSOURI DEPARTMENT OF NATURAL RESOURCES

BY: Don Bunting for CC Date: 7-28-20

Carol Comer, Director

**INVITED SIGNATORIES**

IOWA TRIBE OF KANSAS AND NEBRASKA

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

Lance Foster  
Vice Chairman

KAW NATION

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

Ms. Lynn Williams  
Chair

OSAGE NATION

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

Geoffrey M. Standing Bear  
Principal Chief

OTOE-MISSOURIA TRIBE

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

John R. Shotton  
Chairman

PAWNEE NATION OF OKLAHOMA

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

W. Bruce Pratt  
President

MISSOURI DEPARTMENT OF NATURAL RESOURCES

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

Carol Comer, Director

**INVITED SIGNATORIES**

IOWA TRIBE OF KANSAS AND NEBRASKA

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

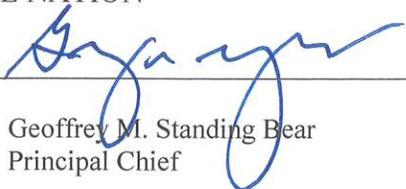
Lance Foster  
Vice Chairman

KAW NATION

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

Ms. Lynn Williams  
Chair

OSAGE NATION

BY:  \_\_\_\_\_ Date: 7/20/20

Geoffrey M. Standing Bear  
Principal Chief

OTOE-MISSOURIA TRIBE

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

John R. Shotton  
Chairman

PAWNEE NATION OF OKLAHOMA

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

W. Bruce Pratt  
President

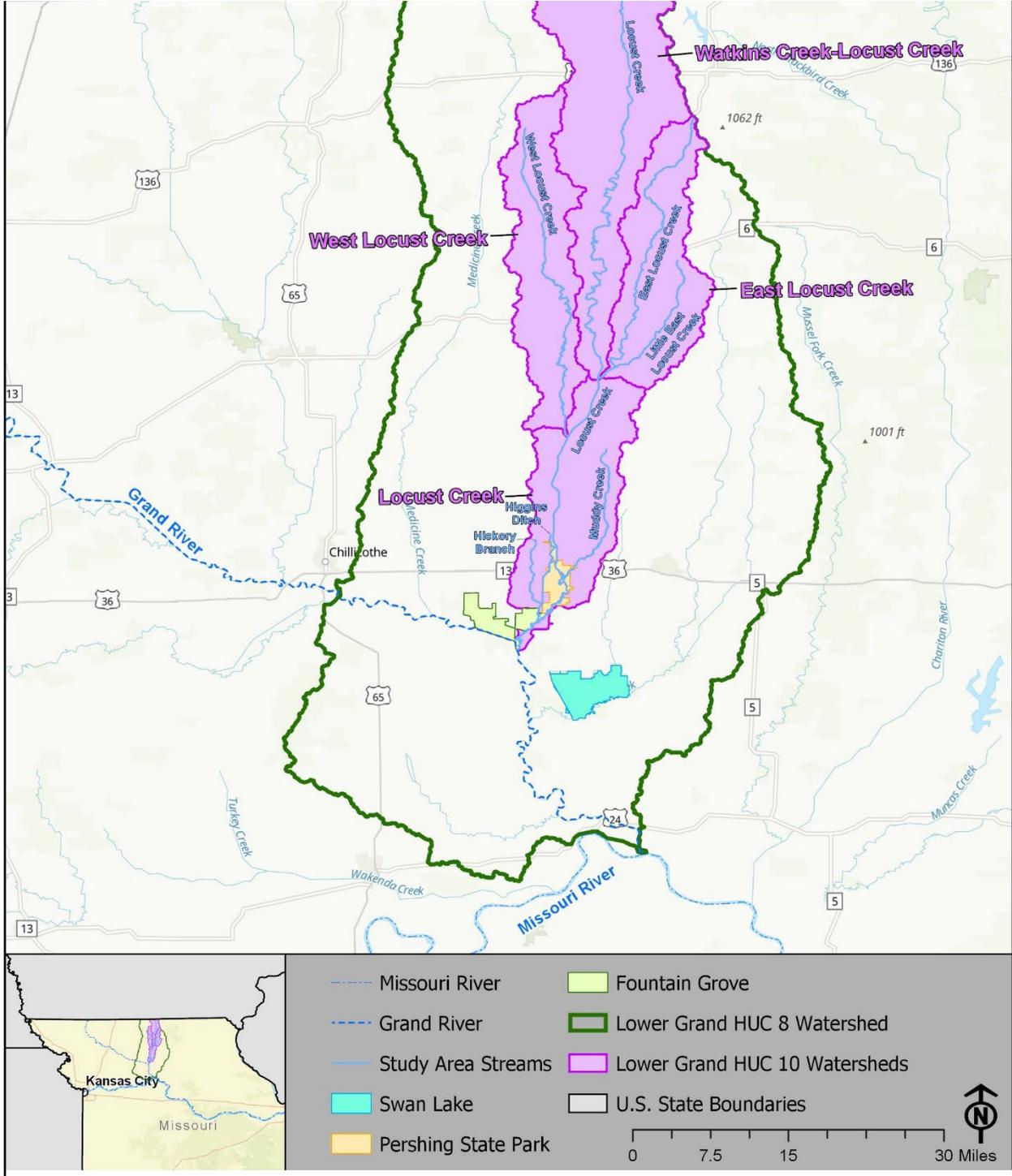
PONCA TRIBE OF NEBRASKA

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

Larry Wright Jr.  
Chairperson

# APPENDIX A

## THE GRAND RIVER AND TRIBUTARIES, MISSOURI AND IOWA FEASIBILITY STUDY AREA



## APPENDIX B

### FEDERALLY RECOGNIZED INDIAN TRIBES CONTACTED BY CORPS

President Wilfrid Cleveland  
Ho-Chunk Nation  
P.O. Box 667  
Black River Falls,  
Wisconsin 54615

Chairperson Tim Rhodd  
Iowa Tribe of Kansas and Nebraska  
3345 B Thrasher Road  
White Cloud, Kansas 66094

Chairperson Lynn Williams  
Kaw Nation  
Drawer 50  
Kaw City, Oklahoma 74641

Chairperson Lester Randall  
Kickapoo Tribe of Kansas  
1107 Goldfinch Road  
Horton, Kansas 66439

Chief Douglas G. Lankford  
3410 P Street NW  
Miami, Oklahoma  
74355

Chairperson Vernon Miller  
Omaha Tribe  
P.O. Box 368  
Macy, Nebraska 68039

Principal Chief Geoffrey M. Standing Bear  
Osage Nation  
627 Grandview  
Pawhuska, Oklahoma 74056

Chairman John R. Shotton  
Otoe-Missouria Tribe  
8151 Highway 77  
Red Rock, Oklahoma 74651

President W. Bruce Pratt  
Pawnee Nation of Oklahoma  
P.O. Box 470  
Pawnee, Oklahoma 74058

Chairperson Larry Wright Jr.  
Ponca Tribe of Nebraska  
P.O. Box 288  
Niobrara, Nebraska 6786

Chairman Douglas Rhodd  
Ponca Tribe of Oklahoma  
20 White Eagle Drive  
Ponca City, Oklahoma 74601

Chairperson Joseph Rupnick  
Prairie Band Potawatomi Nation  
16281 Q Road  
Mayetta, Kansas 66509

Chairwoman Tiauna Carnes  
Sac and Fox Nation of Missouri  
305 N. Main Street  
Reserve, Kansas 66434

Chairperson Troy Wanatee  
Sac and Fox Tribe of Mississippi  
349 Meskwaki Road  
Tama, Iowa 52339

Principal Chief Kay Rhoads  
Sac and Fox Nation of Oklahoma  
920883 S. Hwy 99 Bldg. A  
Stroud, Oklahoma 74079

Chairperson Frank White  
Winnebago Tribe of Nebraska  
P.O. Box 687  
100 Bluff Street  
Winnebago, Nebraska 68071-0687

## APPENDIX C

### GUIDANCE FROM THE OSAGE NATION



## *OSAGE NATION*

---

### *Historic Preservation Office*

#### **National Historic Preservation Act Section 106 Protocol and Standards**

The Osage Nation Historic Preservation Office (ONHPO) has developed the following procedures for Section 106 consultation required by the Historic Preservation Act, (NHPA) [54 U.S.C. § 300101 et seq.] 1966.

Please submit all of the following information for all NHPA Section 106 consultation requests (additional formatting and information requested in standards for cultural resource survey reports below):

- A. To initiate consultation with the Osage Nation Historic Preservation Office submit a 1-page cover letter with the following included:
  - Federal agency name, district, or department
  - Point of contact information: individual's name, address, phone, fax, and email
  - Project name and number, or other designation (if for tracking)
  - Project location information: **USPLSS** (quadrangle, quarter section, section, township, and range) and **UTM (WGS84) coordinates are required**  
Projects will not be reviewed until both USPLSS and UTM coordinates are submitted
  - Total area surveyed in acres
  
- B. Professional cultural resource survey report. At a minimum, **all field surveyors** must possess a **BA or BS in anthropology** with an emphasis in archaeology (exception- see page 4). At a minimum, the **supervisor who is in the field and supervises the field survey**, interprets the results of the field survey, determines the cultural resource recommendation, and produces the cultural survey report **must possess an MA or MS in anthropology** with an emphasis in archaeology. **Supervisors must accompany and oversee all field surveyors during the fieldwork.** With the first cultural resource survey report, include curriculum vitae for all project archaeologists and identify work performed. See page 3 for an outline of the documentation required in a standard cultural resource survey report.
  
- C. USGS topographic and/or aerial maps locating project area within the: 1) state, 2) county, 3) quadrangle, and 4) section.

- D. USGS topographic and/or aerial maps specifically locating: 1) project APE, 2) project staging areas outside of APE, 3) access road, and 4) location of all archaeological and historic sites in and in close vicinity of the project APE. Please do not submit hand drawn or hand annotated maps.
- E. GLO maps for project area, please include both late 19<sup>th</sup> century and early 20<sup>th</sup> century maps and identify project APE on maps.
- F. Project site plan map indicating location of screened shovel tests (please label shovel tests with identification number on maps). Please do not submit hand drawn or hand annotated maps. **Shovel test minimum width is 30 cm. Shovel test minimum depth is 20 cm beyond sterile soil. If terminated before sterile soil is reached, please provide an explanation either in the text or in the shovel test log. Excavated shovel tests must be screened using a 0.25 in mesh screen, dug in stratigraphic or 10 cm levels, and measurements must be recorded in centimeters. Please refer to the Archaeological Survey Standards for density of shovel testing.**
- G. Table listing shovel test locations, width (cm), actual depth (cm) of each level, soils of each level, and results.
- H. Shovel test map with all shovel test locations labeled by their field identification number.
- I. Site photographs in color, specifically images depicting exact location of 1) project marked by stakes or flagging (if possible), 2) access roads, 3) utility easement (if applicable), 4) staging areas, and 5) identified archaeological/historic sites.
- J. Copy of the review letter from the State Historic Preservation Office. For projects in Oklahoma, letters from both SHPO components, the Oklahoma Archaeological Survey and the Oklahoma Historical Society are required.

Please do not email documentation; it will be deleted without being opened. Mail one printed color copy of all documentation accompanied with a CD version.

Please use only the following contact and address information:

Dr. Andrea A. Hunter, THPO  
Osage Nation Historic Preservation Office  
627 Grandview  
Pawhuska, OK 74056

Phone: 918-287-5328  
Fax: 918-287-5376

## **Standards for Cultural Resource Survey Reports**

The following outlines the documentation required in a cultural resource survey report that will enable the Osage Nation Tribal Historic Preservation Office to efficiently evaluate the information gathered for a proposed project in a coherent, standardized format. Please include in all reports:

1. Abstract

Executive summary of project, survey results, and recommendations

2. Introduction

Introduce project and project design

3. Environmental Setting

Specific location, legal description, composition of project site

General location, geomorphology, landform, soils, vegetation, hydrology

4. Cultural History

Brief overview of cultural occupation represented in locale

5. File Search and Previous Research

Results of file search in state database for previously recorded archaeological sites and review of previous archaeological investigations, NRHP listings, GLO records and maps, late 19<sup>th</sup> and early/mid-20<sup>th</sup> century maps, and mid-20<sup>th</sup> and current aerial photographs. For projects in Osage County, OK include: Osage tribal allotment records and maps, late 19<sup>th</sup> and early/mid-20<sup>th</sup> century maps such as the Oklahoma State Highway Department's General Highway and Transportation Map of Osage County, and mid-20<sup>th</sup> and current aerial photographs such as those at the Oklahoma Petroleum Research Library in Norman, Oklahoma.

6. Field Methods and Analytical Techniques

How field survey and analysis were conducted

7. Results of Archaeological Field Investigations

Review findings and identification of National Register of Historic Places

8. Recommendations

Summarize archaeological sites identified, NRHP determinations, and project recommendations

9. References Cited

## **Minimum Qualifications for Archaeology Personnel\***

The minimum professional qualifications for archaeology field survey assistants are:

- BA or BS in anthropology with an emphasis in archaeology

Or with prior approval from the ONHPO by providing the following documentation:

- BA or BS in Applied Indigenous Studies, Native American Studies, Geology, Geography, History, Architectural History, Historic Preservation plus:
- at least one year of full-time professional archaeology experience or equivalent specialized training in archaeological research, administration, or management;
- at least four months of supervised field experience in general North American archaeology; and
- demonstrated ability to carry fieldwork to completion.

The minimum professional qualifications for personnel who supervises and conducts the archaeological field survey, interprets the results of the field survey, determines the cultural resource recommendation, and produces the cultural survey report are:

- Graduate degree in archaeology or anthropology with an emphasis in archaeology; and
- One year of full-time professional experience at a supervisory level in the study of archaeological resources of the prehistoric period.

\* With the first cultural survey report, please submit the curriculum vitae for the field survey personnel and for the archaeological supervisor. When personnel change, please submit their curriculum vitae.



## ***OSAGE NATION***

### ***HISTORIC PRESERVATION OFFICE***

---

#### **ARCHAEOLOGICAL SURVEY STANDARDS**

The following archaeological survey standards are the minimum amount of work acceptable for archaeological surveys conducted on the Osage Nation Reservation/Osage County and throughout Osage Nation ancestral territory as determined by the Osage Nation Historic Preservation Office (ONHPO). Additional archaeological work (i.e. more shovel tests or transects) or methods (backhoe trenches) can always be incorporated into the research design to help locate and identify archaeological sites depending on the area or potential for encountering significant cultural resources. Alternative, project-specific, standards may be developed in conjunction with the ONHPO for projects with unique or unusual circumstances as appropriate.

#### **Professional Qualifications:**

Archaeological investigations must be conducted by an archaeologist who meets the U.S. Secretary of the Interior's *Professional Qualification Standards for Archeology* (36 CFR Part 61; 48 FR 44716). At a minimum, all field surveyors must possess a BA or BS in anthropology with an emphasis in archaeology. At a minimum, the supervisor who is in the field and supervises the field survey, interprets the results of the field survey, determines the cultural resource recommendation, and produces the cultural survey report must possess an MA or MS in anthropology with an emphasis in archaeology. Supervisors must accompany and oversee all field surveyors during the fieldwork. With the first cultural resource survey report, include curriculum vitae for all project archaeologists and identify work performed.

#### **Background Research:**

Archaeologists must conduct a background literature search prior to field investigations. At a minimum this shall include searches of the SHPO's databases for previously recorded archaeological sites and historic properties, and previous archaeological work in the vicinity. For projects in Osage County, OK, the archaeologists would also include searches of the Osage Allotment Maps, Oklahoma Geological Survey Archives (Norman, Oklahoma) for early USGS 7.5 and 15-minute topographic maps and aerial photographs, plus the GLO map archive available online ([www.glorerecords.blm.gov](http://www.glorerecords.blm.gov)).

#### **Deeply Buried Cultural Deposits:**

Archaeologists must assess the potential for deeply buried cultural deposits within the block area prior to starting field investigations. At a minimum, this shall include a review of the USDA soil

surveys and geologic maps. If there is a potential for deeply buried cultural deposits within the block survey area, deeper subsurface investigations (to be determined in consultation with the ONHPO) will be required.

### **Survey Report:**

Archaeologists must submit the results of their investigation in a report to the ONHPO that follows the Secretary of the Interior's *Standards for Archeological Documentation*. The ONHPO will complete its review within 30 days of receipt of the archaeology survey report and the SHPO review letters. For Oklahoma this would include review letters by the Oklahoma Archaeological Survey and the Oklahoma Historical Society.

### **Fieldwork:**

Unless otherwise determined in conjunction with the ONHPO, all areas of a project's Area of Potential Effects (APE) should be subjected to subsurface investigations via systematic shovel testing. No area of the project's APE should be omitted from shovel testing due to surface visibility. The omission of areas from subsurface testing in an archaeological survey due to ground visibility is neither effective nor ethical. While the presence of artifacts on the surface of the ground can be an indication for the presence of a site, the absence of artifacts on the surface of the ground, even in conditions of 100 percent surface visibility, is not a confirmation for the absence of an archaeological site which may be buried beneath the ground's surface. Additionally, it should not be assumed that previously disturbed areas contain no significant archaeological sites or buried human remains. Those areas known to be, or thought to be, previously disturbed should also be subjected to survey in order to identify archaeological sites and to evaluate the level of disturbance which may or may not have impacted buried archaeological sites.

#### **A. Shovel Testing**

The entire APE must be subject to systematic shovel testing. Shovel tests must be conducted in intervals no greater than 30 meters in transects no wider than 30 meters. A smaller or reduced shovel test interval may be appropriate in areas with particularly high probability or potential for significant, intact archaeological deposits. Additionally, the ONHPO may require shovel test intervals be reduced to 15 meters in areas known to have a higher probability for archaeological sites or areas of significance to the Osage Nation. Shovel tests must be a minimum of 30 cm in diameter and must be dug to 20 cm beyond sterile subsoil. If portions of the APE are believed to contain subsoil at the surface of the ground, then shovel tests are to be dug to 20 cm below the surface to confirm that it is subsoil and to determine that the subsoil is sterile of artifacts and/or features. Shovel tests should be dug in stratigraphic or 10 cm levels with sediments screened through ¼-inch mesh unless high clay or water content requires that they be troweled through.

If sterile subsoil is too deep to reach via shovel testing, then selective coring/auguring should commence to determine the need for more appropriate methods to survey for deeply buried archaeological deposits. In seasonally inundated areas where the soil is very poorly drained, shovel

testing should be conducted to verify soil conditions (i.e. hygroscopic soils), but shovel test intervals may be extended to a maximum of 50 meters in those areas.

Unless previously determined in conjunction with the ONHPO, the only areas within the APE in which shovel testing may be omitted are areas of a 20 percent or greater slope. Areas known to be, or believed to be previously disturbed, including but not limited to previously developed lands, agricultural fields, and buried utilities, are not to be omitted from subsurface testing. Systematic shovel testing in the manner stated above is required in those areas to establish the presence of archaeological sites, to determine the level of ground disturbance, and to evaluate the impact of previous ground disturbance on any archaeological sites located in the area.

Notes should be kept on each shovel test documenting the shovel test location (including GPS coordinates), soil stratigraphy referencing USDA soil descriptions and actual soils encountered, soil color description (Munsell color codes if possible), depth, and the presence or absence of artifacts. A representative sample of shovel tests should be documented with photographs and profile drawings all of which should be incorporated into the survey report. The survey report will also include a shovel test log and a shovel test map that clearly depicts each labeled shovel test location.

## **B. Pedestrian Survey**

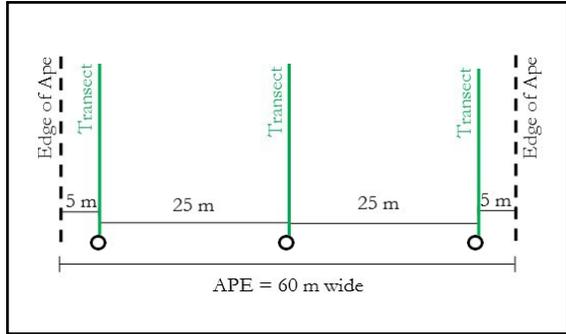
While pedestrian survey may be used in addition to systematic shovel testing, it may not be used in lieu of shovel testing in any area, except for those areas consisting of a slope 20 degrees or greater. Sloped areas exceeding 20 degrees should be investigated via pedestrian survey at intervals no wider than 10 meters.

## **C. Linear Projects**

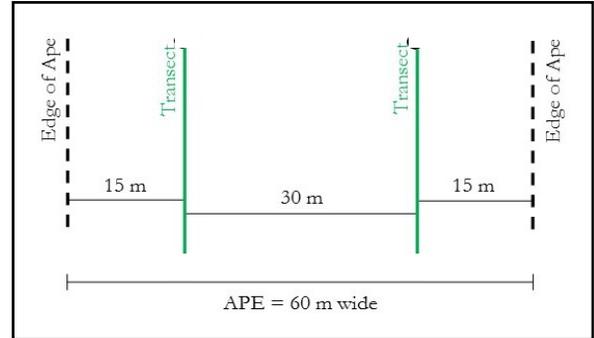
For linear projects exceeding 1 mile, such as power line corridors, shovel test intervals may be extended to a maximum of 100 meters. A linear project is defined as an undertaking with an APE width no greater than 30 m. Additional judgmental shovel tests, as appropriate, should be placed in areas with particularly high probability or potential for significant, intact archaeological deposits.

If shovel test transects parallel the edge of the APE, the transect nearest the edge of the APE should be no further than half a standard shovel test interval as defined for the project from the edge of the APE. For example, if the shovel test interval being used for a particular project is 25 m, the transects nearest the edges of the APE should be no further than 12.5 m from the edge of the APE. If the APE is 60 m wide and shovel tests are being excavated at 25 m intervals, there should be three shovel test transects, and the transects nearest the edges of the APE would be 5 m from the edge of the APE. If shovel tests were excavated on only two transects, the distance from the transects to the edge of the APE would be 17.5 m, which is greater than half of a standard shovel test interval as defined for the project, and not deemed adequate coverage for a high probability area.

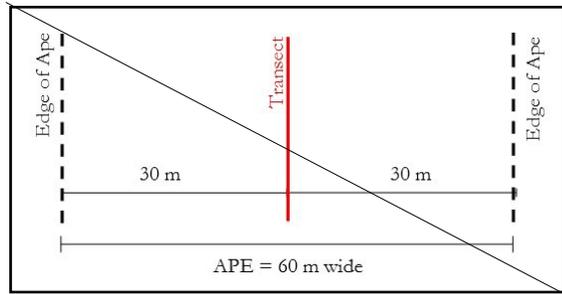
**Examples of Shovel Test Transect Placements (Across 60-Meter Wide Survey Corridor)**



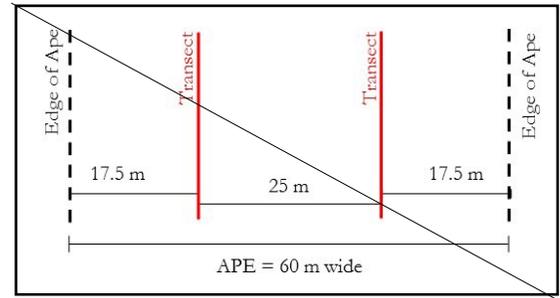
**Adequate Coverage (high probability)**  
 Three Shovel Test Transects Spaced 25 m Apart on 60-m Wide Corridor, with Shovel Tests Excavated at 25-m Intervals.



**Adequate Coverage (minimum)** Two Shovel Test Transects Spaced 30 m Apart on 60-m Wide Corridor, with Shovel Tests Excavated at 30-m Intervals.



**Insufficient Coverage**  
 One Shovel Test Transect on 60-m Wide Corridor, Regardless of Shovel Test Interval on Transect.



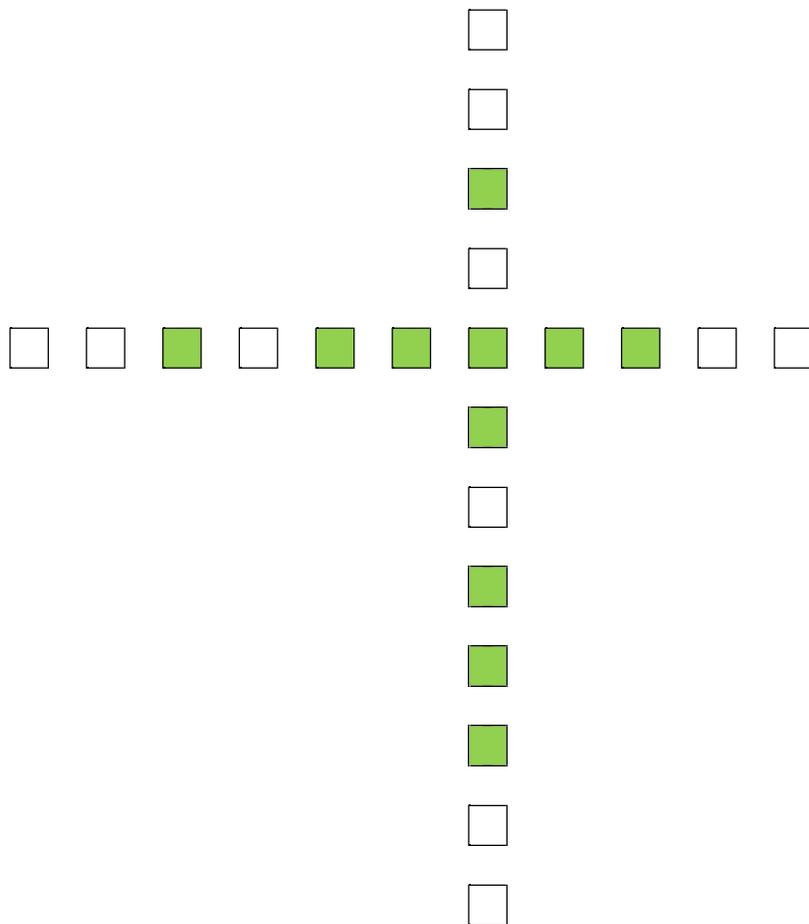
**Insufficient Coverage**  
 Two Shovel Test Transects Spaced 25 m Apart on 60-m Wide Corridor, with Shovel Tests Excavated at 25-m Intervals.

**Determining Site Boundary:**

Shovel testing is required to determine site boundaries.

A minimum of nine (9) shovel tests must be placed in a + pattern that is perpendicular extending from the center of the artifact discovery location.

A shovel test must be placed every five (5) meters until two (2) negative shovel tests are sequentially excavated in each direction. All surface finds and positive shovel tests must be bounded by radial shovel tests in this manner.



 Positive shovel test

 Negative shovel test



## Osage Nation Historic Preservation Office

ᏊᏊᏊᏊ ᏊᏊᏊ ᏊᏊᏊᏊ

---

### Archaeological Resources Protection Act Violation Procedures

Federal agencies must conduct consultation and cooperation with Federally-recognized Tribes (Tribes) regarding Federal Acts and Orders including, but not limited to the Archaeological Resources Protection Act of 1979 (ARPA), as amended (16 U.S.C. §470aa-470mm), the Native American Graves Protection and Repatriation Act (NAGPRA, 25 U.S.C. §3001 et seq.), Presidential Executive Order 13007 (“Indian Sacred Sites”), Presidential Executive Order 13175 (“Consultation and Coordination with Indian Tribal Governments”), and the American Indian Religious Freedom Act, 42 U.S.C. § 1996 (AIRFA). Further, Federal agencies are required to use staff who meet the Secretary of Interior’s *Professional Qualifications Standards* for archaeology (48 FR 44738k-9).

The Osage Nation has a deep concern for the identification, treatment, and protection of its properties of cultural, historic, and religious significance throughout its Ancestral Territory. Of particular concern to the Osage Nation are its sacred sites. Federal agencies with land-management responsibilities have a responsibility to accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and to avoid adversely affecting the physical integrity of sacred sites (Executive Order 13007). Sacred sites may be further endangered during ARPA investigations particularly when sites are assessed for damages and also by public outreach activities conducted by law enforcement personnel. Although the Osage Nation understands the lands owned by the Federal government are managed for the benefit of the American people, places of significance to the Osage people belong to the Osage people. The treatment of sacred sites is of grave concern to the Osage Nation, particularly when they have been desecrated and are subject to investigations pursuant to ARPA. Federal agencies are encouraged to coordinate with the Osage Nation in developing specific protocols in response to violations of ARPA (looting, vandalism, etc.) as well as providing support in the investigation, trying, and, if a conviction is obtained, sentencing of parties responsible for these abhorrent acts. Federal agencies do not know what is culturally sensitive and must consult with Tribes so that they may interpret these places while respecting its concerns. Federal agencies must work with the Osage Nation as partners in increasing their capacity for, and compliance with, Section 10(c) of ARPA, as codified at 16 U.S.C. 470ii(c); Section 14 of ARPA, as codified at 16 U.S.C. 470mm; and Section 14(c) of ARPA, as codified at 16 U.S.C. 470mm(c). It is, perhaps, not possible to prevent such crimes entirely, but the Osage Nation contends that, through coordination, we can mitigate the risk of and appropriately address such crimes when they do occur. The Osage Nation considers these places to be invaluable and irreplaceable; no assessment of the damage will appropriately reflect the true damage that has been done. The Osage Nation anticipates consulting with each of its Federal partners on this matter.

It is the responsibility of each Federal agency to identify and maintain persistent relationships with Tribes that have an interest in the lands they manage and communicate with those Tribes through their identified representatives. The Osage Nation and each Federal Agency shall designate a primary and secondary point of contact for ARPA-related matters. Each party shall

provide the other parties with the phone numbers, email addresses, and mailing addresses for the primary and secondary point of contact. Each party shall notify the other parties in writing when the primary point of contact changes. All inquiries and correspondence shall be directed to the primary point of contact. If the individual designated as the primary point of contact is not available, communications should be directed to the secondary point of contact. Please note, in light of the confidential nature of criminal investigations, representatives of the Osage Nation are subject to Tribal confidentiality law, specific Non-Disclosure Agreements entered into as a condition of their employment, Federal confidentiality laws, professional ethical codes governing their behavior, and their own personally held beliefs, morals, and convictions concerning the dissemination of information that may endanger places of sacred and historical significance to the people of the Osage Nation.

The Archeological Resource Protection Act (ARPA), as well as other laws, protect and provide for consultation procedures on Federal lands. The respectful treatment of these sites is of paramount concern to the Osage Nation. The purpose of these procedures is to ensure the respectful treatment of these sites and to ensure that views of affiliated Tribes are fully considered in the decision-making process. The treatment of human remains, graves, and funerary objects shall be conducted according to the provisions of NAGPRA and previously executed agreements between the Osage Nation and Federal agencies. In the event of a violation of ARPA, Federal agencies shall do the following:

- 1) Upon the discovery that a violation of ARPA has occurred, Federal agency (Agency) personnel will immediately notify the Agency Archaeologist and appropriate Law Enforcement official of the discovery. This will initiate a criminal investigation under the management of the Agency.
- 2) The responding Agency official will implement interim measures to protect the site from additional looting and vandalism as well as inadvertent disturbance to the crime scene.
- 3) Following notification of the discovery, the Agency Archaeologist will immediately, within twenty-four (24) hours inspect the site and ensure that no further disturbance will occur.
- 4) If deemed necessary, immediate surveillance measures, including persistent physical presence by Agency Law Enforcement personnel, will be taken.
- 5) Treatment of the crime scene and evidence will proceed as stipulated by the Agency's ARPA plan, as approved and established in consultation with the Osage Nation.
- 6) Prior to dissemination of information regarding the violation and the location of the violation, the Osage Nation must be afforded the opportunity to provide input on the content of that information.
- 7) Artifacts that have been removed from their primary context and where that context may be in question may be retained in a secure location, pending further decisions on treatment and disposition. Artifacts held as evidence in an ARPA or other legal cases will remain in the chain of custody until released by the Agency Law Enforcement official to the Agency Archaeologist.
- 8) If the Agency Archaeologist determines that the site is affiliated or potentially affiliated with the Osage Nation or the Osage Nation has elected to take responsibility for earlier period cultures, the Agency Official will notify the Osage Nation within twenty-four (24) hours. The notification shall include law enforcement findings, if applicable and permissible, along with

general location information, and other details or written descriptions of the artifacts. The Osage Nation will respond verbally within seventy-two (72) hours, followed by response via U.S. mail or electronic mail. The response will specify the Tribe's intention to conduct or decline further consultation and coordination.

- 9) Once an initial consultation meeting is established, a mutually-agreed upon agenda will be provided to all anticipated participants. Through consultation between the Agency and the Osage Nation, a determination of cultural affiliation of the site should be made, if possible, and a draft treatment plan developed. The Osage Nation shall be able to visit the site with the Agency Archeologist.
- 10) At the completion of consultation, a draft treatment plan shall be completed to clearly designate the decisions that have been agreed upon by each party. The treatment plan will outline procedures, restrictions, and timelines. Said plan will be submitted by the Agency to the Osage Nation for comment and shall be approved by the Osage Nation prior to implementation. The final treatment plan will be signed by the Osage Nation and the Agency.
- 11) Treatment plan elements may include but are not limited to:
  - a) Future monitoring of the site(s);
  - b) Periodic access to the site by the Osage Nation;
  - c) Restrictions including, but not limited to, proposed changes from current land use in the area, maintenance activities, restrictions regarding marking the site, and public access;
  - d) Additional, long-term security measures including signage and electronic surveillance;
  - e) Long-term coordination with the Osage Nation;
  - f) A confidentiality agreement stipulating that the location and Tribal significance of the site not be disclosed to the public or to Agency personnel without a demonstrated need to know;
  - g) Travel and Per Diem for Agency personnel and Tribal representatives;
  - h) Public outreach, as appropriate; and
  - i) The opportunity to conduct religious ceremonies with regard to the site itself.
- 12) Additional considerations made in the development of the Treatment Plan may include but are not limited to:
  - a) A map of the area;
  - b) A description of the site area including topography, soil type, flora, fauna, and distance to roads and public areas;
  - c) Known historic properties and other cultural resources in the general vicinity of the site;
  - d) Need for field investigations;
  - e) Accounts of any Tribal consultation or coordination regarding the violations that may have already occurred;
  - f) Flood susceptibility and location above the flood pool level;
  - g) Current restrictions on public access;
  - h) Current land use;
  - i) Anticipated future land use;
  - j) Access potential;
  - k) Viewshed;
  - l) Photographs and/or other media, as appropriate; and
  - m) Proximity to areas with a history of ARPA violations.

- 13) The Agency shall maintain a current list of monitoring attempts, reports on observations made during those monitoring attempts, and additional consultation between the Osage Nation and the Agency. As this list is updated, it will be forwarded to the Osage Nation. This information will be housed with the Agency Archaeologist in a secure location protected from public access. The list and its contents shall be disclosed only to authorized Osage Nation representatives and, upon prior notification to the Osage Nation, to other Federally recognized Tribes and Agency personnel who have a need to know the information.
- 14) No photography of human remains will be permitted except in cases in which criminal activity is involved and photographic documentation is essential for investigative and prosecutorial needs. Associated photographs, drawings, and other records will be held at the Agency and made available only to those involved with the case, including Special Agents, Law Enforcement Specialists, Law Enforcement Rangers, Assistant United States Attorney, and Archaeologists assigned to this case, and as necessary by direction of the court to the defense and jury. Photographs and drawings cannot be published in any form or shown as part of scholarly presentations without the written permission of the Osage Nation. Subsequent to the closure of a case, any photographs taken in the course of the investigation will be destroyed if the human remains are unrelated to a crime and they can be identified as Native American or potentially Native American. It is understood that some photographs will become part of a permanent record as they pertain to the case and retained by the courts and Agency as documentation of the case. Archaeological Damage Assessment reports that include images of human remains or other culturally sensitive objects will contain a page identifying the sensitive nature of the images with any stipulations necessary to protect and preserve their integrity.
- 15) Additional requests and comments may be provided through subsequent consultation between the Osage Nation and Federal agencies including but not limited to:
  - a) Damage assessment;
  - b) Forensic testimony; and
  - c) Letters of support for submission to the court.



## Osage Nation Historic Preservation Office

ᏊᏊᏊᏊ ᏊᏊᏊ ᏊᏊᏊᏊ

---

### **Procedures for Handling Human Remains during Authorized Intentional Excavations or during Inadvertent Discoveries of Human Remains**

#### **Procedure Statement:**

This policy applies whenever the Osage Nation Historic Preservation Office (ONHPO) Director determines that it is prudent and necessary to consult on any projects or activities involving potential excavation of human remains during authorized intentional excavations approved by the Osage Nation.

#### **Purpose of the Procedure:**

The Osage people desire to protect their rights to privacy and to Osage Intellectual Property. Due to the continued abuse, misrepresentation, and exploitation of the right of the Osage people, it is necessary that guidelines be established and strictly followed so as to protect the rights of the past, present, and future generations of the Osage people.

This procedure, as required and promulgated by NAGPRA, applies to Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony as defined in the statute and regulations (see glossary) that are excavated intentionally or discovered inadvertently on Federal or Tribal lands.

Towards this end, the Osage Nation shall be consulted by all entities that propose projects or activities involving Osage cultural resources and that such proposed projects or activities be reviewed and approved by the Traditional Cultural Advisors Committee and the Osage Nation Historic Preservation Office through a permitting process or other contractual agreement.

This protocol should in no way be construed as a substitute for mandated consultation with the Osage Nation, nor is it a justification to excavate any human remains outside the specific and discrete standards of archaeological activity. If the planned activity is also subject to review under Section 106 of the National Historic Preservation Act (16 U.S.C. 470), consultation and any agreement for compliance conducted under that Act should be coordinated with the requirements of the NHPA.

Further, any excavation or removal of Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony discovered inadvertently or excavated intentionally as part of a planned activity must be undertaken in accordance with the requirements of the Archaeological Resources Protection Act (ARPA) (16 USC 470) and its implementing regulations as well as the requirements of the Native American Graves Protection and Repatriation Act (NAGPRA) (23 USC 3001). Under NAGPRA, a written plan of action is required for both inadvertent discoveries and intentional excavations (43 CFR 10.5(e)).

**Scope:**

This policy applies to the ONHPO Director, the Traditional Cultural Advisors committee, NAGPRA Coordinator, and all other designated ONHPO staff members and representatives involved in proposed projects or activities including research and multimedia sources of Osage intellectual property.

**Definitions:**

- “Human Remains” refers to the physical remains of the body of a person of Native American ancestry.
- “Funerary Objects” refers to objects that, as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later, including any items exclusively made for burial purposes or to contain human remains.
- “Sacred Objects” refers to ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents.
- “Objects of Cultural Patrimony” refers to those objects having ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native American, and which, therefore, cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual is a member of the Indian tribe or Native Hawaiian organization and such objects shall have been considered inalienable by such Native American group at the time the object was separated from such group.
- “Intentional Excavation” includes the planned archaeological removal of human remains, funerary objects, sacred objects, or objects of cultural patrimony found under or on the surface of Federal or tribal lands pursuant to section 3 (c) of the Native American Graves Protection and Repatriation Act. (43 CFR 10.2 (g)(3))
- “Projects” or “Activity” includes, but is not limited to, any Phase 3 cultural resource surveys, archaeological investigations including excavation via meter-by-meter units, and/or other subsurface excavations undefined here or yet to be defined.
- “Agency” refers to the Federal or state organization that has authority under law to conduct archaeological investigations on Federal or state lands and can enter into government-to-government consultation with the Osage Nation.

**Governing Laws and Regulations:**

- National Historic Preservation Act of 1966, as amended through 2006 (16 U.S.C. 470)
- Protection of Historic Properties, as amended through 2004, (36 CFR Part 800)
- Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.)
- Archaeological Resources Protection Act, as amended (16 U.S.C. 470)
- American Indian Religious Freedom Act, as amended (42 U.S.C. 1996)
- National Environmental Policy Act (42 U.S.C. 4321, et seq.)
- Executive Order No. 13007
- Agency-Specific Legislation
- Osage Nation Constitution

- Osage Nation Cultural Preservation Act, as amended (ONCA 07-24)
- Osage Grave Protection Act (ONCA 15-75)

**Procedure:**

With respect to the treatment of human remains encountered during investigations or inadvertently discovered, the Osage Nation requests that all projects or activities adhere to the following:

- 1) That **No Photographs Be Taken** of the human remains and that hand-drawn illustrations or plan notes be used in documentation and other communication, this requirement will also be stated as an agency responsibility as stipulated in any Memorandum of Agreement for a project. Should unforeseen, unusual circumstances arise, the agency may request that photographs be taken. These photographs will, however, be taken **only after** consultation and concurrence with the Osage Nation and other concerned Tribes consulting on a project; and
- 2) That all excavations, work, and/or activities in a one hundred (100)-meter radius of the human remains be stopped immediately; and
- 3) That the Osage Nation Historic Preservation Office Director be immediately notified by phone, within twenty-four (24) hours of finding human remains; and
- 4) The ONHPO be given the opportunity to visit the location and be provided an on-site orientation of the location where the human remains were discovered prior to any further disturbance or excavation in the location; and
- 5) That agency staff not conduct excavation, handling, or removal of any human remains without the Osage Nation Historic Preservation Office approval; and
- 6) That agency staff conduct themselves in a professional and sensitive manner in the vicinity of, and with respect to, the human remains, including limiting handling the remains only to the extent which is necessary and not using the unfortunate circumstance as an opportunity to gain experience or knowledge with respect to the recovery and analysis of human remain; and
- 7) That only natural materials be used in the process of collection, transportation, and storage of human remains;
- 8) That each skeletal element be placed in its own container so as to prevent damage to the remains during their collection, transportation, and storage; and
- 9) That all objects associated with the human remains be collected, transported, and stored with the human remains with which they were associated and remain so throughout the process to and including reburial; and

- 10) That all objects that may reasonably be determined to be associated with the human remains be considered associated with those remains; it is understood that the agency staff will err on the side of caution, i.e. be liberal in their determination of association in consultation and concurrence with the Osage Nation; and
- 11) That the agency consult with the Osage Nation Historic Preservation Office for approval to collect, preserve, and process an amount (to be determined in each case) of soil from identified graves; and
- 12) That, if approved by the ONHPO, all soil samples collected from grave locations be kept with those remains and be processed following consultation specific to those samples, and be processed separately from other samples; and
- 13) That agency will provide the Osage Nation with copies of all documentation concerning human remains including documentation concerning the transfer of control of the human remains and the associated objects from agency to any curation/storage entities; and
- 14) That the Osage Nation Historic Preservation Office will be “cc’d” on all correspondence between or among the agency and other entities when the correspondence concerns human remains or associated funerary objects; and
- 15) That the Osage Nation Historic Preservation Office will provide the name(s) and contact information of any preferred Biological Anthropologist/Archaeologist of which it is aware who may conduct analysis of the collected faunal and human remains on behalf of the agency; and
- 16) That agency will contact the Osage Nation Historic Preservation Office sufficiently in advance, or when it is notified, of any pre-construction meetings and construction of the project. The Osage Nation reserves the right to request project monitoring at any time during the project planning or execution.

**APPENDIX D**

**GUIDANCE FROM THE MISSOURI STATE HISTORIC PRESERVATION OFFICER**

# MISSOURI GUIDELINES FOR PHASE I ARCHAEOLOGICAL SURVEYS AND REPORTS

## INTRODUCTION

Please note that the following “Guidelines for Phase I Archaeological Surveys / Reports in Missouri” are just that, guidelines. They are designed to provide baseline procedures for field methodology and budgeting so that adequate information can be provided to the Missouri Department of Natural Resources, State Historic Preservation Office (SHPO) staff for their review and comment on a project.

We fully expect that “field decisions” will need to be made to allow for individual situations. We will accept reports that vary from the following guidelines so long as an adequate justification is provided as to why the variations in methodology were made. For example, if a project corridor crosses several small drainages with a high likelihood for archaeological sites and then crosses into a large area of uplands with less likelihood for archaeological sites, it would be appropriate to widen out the shovel probe interval in the upland areas. A similar analysis would apply where, slopes, wetlands, or other aspects that would make previous habitation unlikely were not surveyed and are described in the report as such. Use professional judgment when considering methodology variations and expect to provide the justification in the report.

To avoid having requests for clarification or additional information, keep in mind that this is likely the only information on the project the SHPO reviewer has and they were not involved during the fieldwork, analysis and write-up of the project. We recommend that prior to submission, if possible, you pass the report by a cold reader (a person familiar with the following procedure, who was not involved in the fieldwork, analysis and write-up).

In addition, please bear in mind that these are guidelines for *archaeological* surveys. Do not confuse the project footprint and the Area of Potential Effect (APE) for an archaeological project with the footprint and the APE for a project that also includes an architectural component (i.e. cell tower) when reading and dealing with the standing structures and photographs section.

Thank you,

MISSOURI DEPARTMENT OF NATURAL RESOURCES  
STATE HISTORIC PRESERVATION OFFICE

Archaeological Review Staff

## Survey Procedures

### A. Pedestrian survey of previously plowed / disturbed and high surface visibility areas:

Pedestrian survey of project areas is the most archaeologically thorough and cost effective technique presently available. Pedestrian survey can be employed in areas with good surface visibility. Visibility must equal 25 percent or greater of the ground surface area to use pedestrian survey techniques. The appropriate transect interval is 5 meters.

The exception to this is areas that have never been plowed or otherwise disturbed in the past because it is unlikely that artifacts would be found on the surface regardless of surface visibility (see Systematic shovel testing).

### B. Systematic shovel testing of low surface visibility and previously undisturbed / unplowed areas:

In areas that have not been previously plowed, or areas with less than 25 percent surface visibility, systematic shovel testing should be employed. The appropriate transect interval is 15 meters. Such shovel testing involves the excavation of holes at least 25cm in diameter down to archaeologically sterile soil (usually the B-horizon) if possible. If it is not possible to get to archaeological sterile soil using the standard method being employed then every third test hole should be augured to a sufficient depth. The excavated material from each shovel probe should be screened through a minimum of ½ inch mesh.

Where cultural materials are encountered the grid interval should close to 5 meters to more accurately delineate the actual site boundaries (i.e. do not “Swiss cheese” the entire site, just locate an accurate boundary).

### C. Deep testing:

When dealing with areas that potentially contain deeply buried cultural remains it will be necessary to utilize techniques that can investigate deep strata. Usually such techniques include hand or mechanical systematic deep coring, or deep trenches using heavy equipment (typically a backhoe). Examples of geomorphic features requiring such testing are floodplains, alluvial fans, and occasionally some uplands and terraces where post-Pleistocene loess deposition has occurred.

### D. Photographic Requirements for Structures:

Photographs must be provided for all structures located within the project area and the Area of Potential Effect (APE). This includes all structures regardless of the condition. For example, a 40-acre subdivision development project that contains 3 former farmsteads on the property will require photographs of all structures.

Be sure to provide a statement regarding eligibility and effect in the “Recommendations” portion of the report for each structure or district (see example – Section C Recommendations below).

E. Collection Strategy and Curation:

At a minimum, samples of artifacts observed during Phase I survey should be collected and curated. If artifact collection is not feasible due to lack of landowner permission, then field photographs of diagnostic artifacts (scale included) and a sample of non-diagnostic artifacts should be included in the report along with a signed statement from the landowner indicating the desire to retain the artifacts.

Artifacts should be curated either with the consulting firm or with the Museum Support Center at the University of Missouri.

Survey Report

At the completion of the field survey a report of the archaeological findings and recommendations must be sent to the SHPO for evaluation. Please keep in mind, that when submitting reports to the SHPO for review, all project reports submitted will be considered final and therefore should be thorough and complete. Draft reports will be reviewed only if agreed upon during consultation prior to project initiation.

For most projects we recommend that the Section 106 Survey Memo be completed for the report. When determining if the Survey Memo or a full text report is appropriate, bear in mind that other researchers (including yourselves) will be using the report in future and it will need to convey the information regarding the survey and sites located clearly.

If you are submitting a full text report, a Section 106 Survey Memo must be completed and included. Staff uses the Section 106 Survey Memo to compile a bibliographic index of archaeological investigations throughout the state. And in this situation it should be noted that maps and attachments will not be required (as they are already in the report) and many of the fields on the form, such as “Cultural Material Recovered” will be completed as “please see the following report”.

To assist in this evaluation and to avoid delays in processing, the full text reports should contain, at a minimum, a discussion of the following topics:

A. Background Information:

1. Full, detailed description of project for which the survey was conducted. This must include the name of the applicable federal agency.
2. Previous archaeological research within a minimum of one mile from the maximum extent of the archaeological Area of Potential Effects (which includes areas such as construction limits and access roads) for the project area. This must be based on examination of published and unpublished literature at the Cultural Resource Inventory in Jefferson City, Missouri and other regional and local repositories as appropriate.

This must include, but not be limited to the following: the site files, CRM reports, Determinations of Eligibility, historic architectural surveys, etc. A thorough examination of historical documents to ascertain presence and extent of historical occupation/land use of project area should also be included. At a minimum, copies of relevant plat maps and atlases that document historic habitation with a discussion of length of occupation and use must be included. These topics need to be addressed in the report of investigations in addition to the ASM site file check.

3. Delineation of important regional research questions based on cultural history and past investigations. This should include, but not be limited to, referencing The Master Plan for Archaeological Resource Protection in Missouri (1987).
4. Thorough discussion and description of present and past environment and the implications for interpreting the local archaeological record should be included. Such topics as topography, soils, and discussion of relevant periods of prehistory should also be included. Discuss only the periods of prehistory and history that are relevant to the current project based on the background research.

B. Survey Information:

1. Complete description of project area including acreage, ground cover, topography, and any other factors that are important to interpreting the survey results.
2. Relevant portion of the 7.5 minute topographic map delineating the project area.
3. Survey techniques thoroughly described and documentation of consultation for alternative procedures.
4. Sketch maps should be included with each report. While maps do not have to be to scale and can be hand drawn, they must be legible and include the following information:
  - Land use / ground cover (including percentage surface visibility).
  - Survey limitations (a description and justification for any areas that could not be surveyed. For example: 0.2 acres of pasture could not be surveyed because landowner could not be contacted to turn off electric fence and remove livestock.) These areas should be clearly labeled on Figure 2, the sketch map.
  - Survey techniques employed in relation to individual areas of land use / ground cover (i.e. pedestrian survey or shovel probes)

- Location of testing procedures (i.e. backhoe trenches, test units, etc.) and site limits (if applicable).

5. Any additional photographs, maps, or other relevant materials that would contribute to the understanding of the project.

C. Recommendations:

This section must include the consultant's recommendations determined by consulting the appropriate National Register Bulletin(s) available from the National Park Service. At a minimum, National Register Bulletin 15 - "How to Apply the National Register Criteria for Evaluation" must be employed to make determinations of eligibility and recommendations.

Other bulletins are available for specific topics and should be consulted and used appropriately for topics such as:

cemeteries\*  
shipwrecks\*  
historic archaeological sites  
historic landscapes  
rural historic landscapes  
traditional cultural properties

\* Missouri state laws also protect these resources. Refer to <http://www.moga.mo.gov/statutesearch/> for the revised Missouri Statutes concerning protection of these resources.

Recommendations in the report must include one of the following statements with regard to the project as a whole *in addition to determinations of eligibility for the individual sites / structures*:

**a) No Historic Properties Located.**

For projects that failed to locate historic properties

**b) No National Register Eligible Historic Properties Located.**

Historic properties were located; however they do not meet the eligibility standards for listing on the National Register of Historic Places.

**c) National Register Eligible Historic Properties Located.**

Historic properties were located which meet the eligibility standards for listing on the National Register of Historic Places.

**d) Historic Properties May Meet Requirements For National Register Listing; Phase II Testing Is Recommended**

Historic properties were located which may meet the eligibility standards for listing on the National Register of Historic Places. However, not enough information was collected during the Phase I. Phase II Testing is therefore needed to make the eligibility determination.

*For example: Survey located twelve archaeological sites, 23XX001 through 23XX012. Sites 23XX001, 23XX002, and 23XX003 are small, low-density prehistoric scatters that do not appear to meet requirements for National Register Eligibility (see site form for details). Sites 23XX004 – 23XX011 are small historic period scatters which do not appear to meet requirements for National Register eligibility. One site, 23XX012 appears to be eligible. Mid-range dates for the ceramics collected suggest a mid-1800s occupation, but the site terminus post quem and terminus ante quem are 1874 and 1895 respectively, as based on an indicated structure in historic atlases. It therefore appears that the ceramics may have been curated. The site may meet requirements for National Register Eligibility, and avoidance or Phase II testing is recommended for this resource.*

*In addition, the survey located 4 buildings over 50 years old. Buildings A, B, and C (see photograph log) have had several recent additions and had vinyl siding added and do not appear to be eligible for listing in the National Register of Historic Places. Building D (see photograph log), is a Greek Revival I - house that appears to be eligible under Criterion C for Architecture. As planned, the proposed project will have no adverse effect on this historic property because it will have no direct impact to the physical structure of the building.*

**“Potentially Eligible”** *This term is not acceptable.* Resources will be considered eligible until proven otherwise. Recommendations of eligibility should clearly state that the site/structure “is eligible for listing on the National Register of Historic Places” or the site/structure “is not eligible for listing on the National Register of Historic Places”.

D. Site Information (if present):

1. A full description of the site location, material recovered (including curation facility), and a preliminary interpretation of its place in the local culture history must be included.
2. A completed site form with topographic map and sketch map must be submitted to the SHPO for each site. **Site forms should be included only in the SHPO copy of the reports.** These site forms are not to be included in any reports that may be disseminated to the general public. Reports must include the citation *Section 304 of the National Historic Preservation Act of 1966* on the confidentiality of site location information.
3. Recommendations for each site are required. These will consist of either: “the site is not eligible”, “further testing will be required”, or mitigation alternatives for the site. Any suggestions concerning site disposition should be stated in terms of their relationships to relevant regional research questions and The Master Plan for Archaeological Resource Protection in Missouri (1987).

E. Archaeological Contractor's Vita:

All contract archaeologists working in Missouri must either have a current vita on file with the SHPO or submit one with each report.

F. Project Correspondence:

Project correspondence must be included as an appendix. This should include such letters as the initial SHPO survey request, and any other relevant correspondence. Please do not include budget information.

## APPENDIX E

### CONTACT LIST

#### MISSOURI RIVER RECOVERY PLAN/ LOWER MISSOURI RIVER

##### U.S. ARMY CORPS OF ENGINEERS-KANSAS CITY DISTRICT

###### Primary contact:

Timothy Meade  
District Archeologist/Tribal Liaison  
U.S. Army Corps of Engineers  
Kansas City District  
600 Federal Building  
601 E. 12th Street  
Kansas City, MO 64106-2896  
P: (816) 389-3138  
Cell: (816) 492-0324  
Timothy.M.Meade@usace.army.mil]  
Method of contact for project notification and documentation: [email]  
Method of contact for other communication: [email or phone call]

###### Secondary contact:

Eric Lynn  
Chief, PMP-C  
U.S. Army Corps of Engineers  
Kansas City District  
600 Federal Building  
601 E. 12th Street  
Kansas City, MO 64106-2896  
P: (816) 389-3258  
Eric.S.Lynn@usace.army.mil]  
Method of contact for project notification and documentation: [email]  
Method of contact for other communication: [email or phone call]

## **MISSOURI STATE HISTORIC PRESERVATION OFFICER**

### Primary contact:

Amy Rubingh  
Review, Compliance, and Records Coordinator  
Division of State Parks, Missouri Department of Natural Resources  
PO Box 176  
1101 Riverside Drive  
Jefferson City, MO 65101  
573-751-4589  
Any.rubingh@dnr.mo.gov  
Method of contact for project notification and documentation: [postal mail/courier]  
Method of contact for other communication: [email, phone call]

### Secondary contact:

Toni Prawl, Ph.D.  
Director and Deputy State Historic Preservation Officer  
Division of State Parks, Missouri Department of Natural Resources  
PO Box 176  
1101 Riverside Drive  
Jefferson City, MO 65101  
573-751-7857  
toni.prawl@dnr.mo.gov  
Method of contact for project notification and documentation: postal mail/courier  
Method of contact for other communication: email

## **IOWA TRIBE OF KANSAS AND NEBRASKA**

### Primary contact:

Lance Foster  
Tribal Historic Preservation Officer  
3345 B Thrasher Rd.  
White Cloud, Kansas 66094  
785-595-3258  
[lfoster@iowas.org](mailto:lfoster@iowas.org)  
Method of contact for project notification and documentation: [email]  
Method of contact for other communication: [email, phone call]

### Secondary contact:

Alan Kelley  
Vice Chairman  
3345 B Thrasher Rd.

White Cloud, Kansas 66094  
785-595-3258

[akelley@iowas.org](mailto:akelley@iowas.org)

Method of contact for project notification and documentation: [email]

Method of contact for other communication: [email, phone call]

## **KAW NATION**

Crystal Douglas

Kaw Nation

Drawer 50

Kaw City, OK 74641

580-269-2552

[crystal\\_douglas@kawnation.com](mailto:crystal_douglas@kawnation.com)

Method of contact for project notification and documentation: email or postal mail/courier

Method of contact for other communication: email, phone call

## **OSAGE NATION**

### Primary contact:

Dr. Andrea A. Hunter

Tribal Historic Preservation Officer/Director

Osage Nation

627 Grandview Avenue

Pawhuska, OK 74056

918-287-5671

[ahunter@osagenation-nsn.gov](mailto:ahunter@osagenation-nsn.gov)

Method of contact for project notification and documentation: postal mail/courier

Method of contact for other communication: email, phone call

### Secondary contact:

John Fox

Archaeologist

Osage Nation

627 Grandview Avenue

Pawhuska, OK 74056

918-287-5274

[jfox@osagenation-nsn.gov](mailto:jfox@osagenation-nsn.gov)

Method of contact for project notification and documentation: postal mail/courier

Method of contact for other communication: email, phone call

## **OTOE-MISSOURIA TRIBE**

### Primary contact:

Elsie Whitehorn  
Tribal Historic Preservation Officer  
Otoe-Missouria Tribe  
8151 Highway 77  
Red Rock, OK 74651  
(580) 723-4466 ext. 202  
[ewhitehorn@omtribe.org](mailto:ewhitehorn@omtribe.org)

Method of contact for project notification and documentation: email, [postal mail/courier](#)

Method of contact for other communication: [email](#), [phone call](#)

## **PAWNEE NATION OF OKLAHOMA**

### Primary contact:

Matt Reed  
Historic Preservation Officer  
Pawnee Nation  
PO Box 470  
657 Harrison Street  
Pawnee, Oklahoma 74058  
918-762-2180  
[jreed@pawneenation.org](mailto:jreed@pawneenation.org)

Method of contact for project notification and documentation: email

Method of contact for other communication: [email](#), [phone call](#)

### Secondary contact:

Meghan Cunningham  
NAGPRA Officer  
Pawnee Nation  
PO Box 470  
657 Harrison Street  
Pawnee, Oklahoma 74058  
(918) 762-2180  
[mrice@pawneenation.org](mailto:mrice@pawneenation.org)

Method of contact for project notification and documentation: [email](#)

Method of contact for other communication: [email](#), [phone call](#)

## **PONCA TRIBE OF NEBRASKA**

### Primary contact:

Shannon Wright  
Cultural Resource Director/ Tribal Historic Preservation Officer  
Ponca Tribe of Nebraska

PO Box 288  
252-1 Spruce Avenue  
Niobrara, NE 68760  
402-857-3519

[swright@poncatrbe-ne.org](mailto:swright@poncatrbe-ne.org)

Method of contact for project notification and documentation: [email](#)

Method of contact for other communication: [email, phone call](#)

## **PONCA TRIBE OF OKLAHOMA**

### Primary contact:

Staci Hesler  
Tribal Historic Preservation Officer  
Ponca Tribe of Oklahoma  
121 White Eagle Drive  
Ponca City, OK 74604  
580-763-0126

[staci.hesler@ponca.com](mailto:staci.hesler@ponca.com)

Method of contact for project notification and documentation: [email](#)

Method of contact for other communication: [email, phone call](#)

<b>Tribe</b>	<b>Tribal Chair</b>	<b>Cultural Contact Point</b>
Ho-Chunk Nation	President Wilfrid Cleveland	William Quackenbush, THPO
Iowa Tribe of Kansas	Chairperson Tim Rhodd	Lance Foster, THPO
Kaw Nation	Chairperson Lynn Williams	Crystal Douglas, THPO
Kickapoo Tribe of Kansas	Chairman Lester Randall	
Miami Tribe of Oklahoma	Chief Douglas Lankford	Diane Hunter, THPO
Omaha Tribe	Vernon Miller, Chairman	Thomas Parker, THPO
Osage Nation	Principal Chief Geoffrey Standing Bear	Dr. Andrea Hunter, THPO
Otoe-Missouria Tribe	Mr. John R. Shotton, Chairman	Elsie Whitehorn, THPO
Pawnee Nation of Oklahoma	President W. Bruce Pratt	Matt Reed, THPO
Ponca Tribe of Nebraska	Larry Wright, Jr.	Gloria Hamilton, THPO
Ponca Tribe of Oklahoma	Mr. Douglas Rhodd, Chairman	Liana Staci Hesler, THPO
Prairie Band Potawatomie Nation	Chairman Joseph Rupnick	Warren Wahweotten, Jr.
Sac and Fox Nation of Missouri	Chairpers Tiauna Carnes	
Sac and Fox Nation of Oklahoma	Principal Chief Kay Rhoads	
Sac and Fox Tribe of the Mississippi	Chairperson Troy Wanatee	Mr. Johnathan Buffalo, Historic Preservation Coordinator
Winnebago	Chairwoman Darla Lapointe	Ms. Emily De Leon, THPO/ Sasha Rivers, THPO



**DEPARTMENT OF THE ARMY**  
CORPS OF ENGINEERS, KANSAS CITY DISTRICT  
635 FEDERAL BUILDING  
601 EAST 12<sup>TH</sup> STREET  
KANSAS CITY MO 64106-2824

## Community and Risk Communication Section

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

Dear Dr. Hunter:

The U.S. Army Corps of Engineers Kansas City District (Corps) in partnership with Missouri Department of Natural Resources and Missouri Department of Conservation are developing a plan in the Grand River Basin, IA and MO to address recognized problems in this area including flooding, sedimentation, bank erosion, log jams and loss of important aquatic and wetland habitats. The main focus of this effort is targeted at ecosystem restoration action in the lower Grand River Basin near the Grand River and Locust Creek confluence as shown in the study focus area map attached. Some programmatic analysis of broader basin-wide actions will likely be included in the plan. The project is currently in the feasibility stage which will assess a range of alternatives and ultimately identify a preferred alternative for implementation in a feasibility report with an integrated Environmental Assessment (EA). Alternatives are currently being formulated for analysis and no preferred alternative has yet been selected. This letter is to inform the Osage Nation of the proposed undertaking and serves to initiate consultation under Section 106 of the National Historic Preservation Act (NHPA).

Section 106 of the NHPA requires the Corps to consult with interested parties on its undertakings, including the Grand River Basin study. As specific projects and project locations resulting from the study are unknown and not likely to be fully determined prior to the completion of the EA, the Corps plans to develop a programmatic agreement (PA) to fulfil its NHPA responsibilities for consultation on the Grand River EA. Non-signatories to this PA can request an alternative process at any time throughout the consultation process. If your party does not wish to participate in the PA, consultation will still occur for the Grand River EA and after for site specific projects, as required by Section 106.

The Corps will continue consultation with your Tribe as the study progresses. We are open to any input or comments on the project. If you have any questions or concerns, please contact me at [timothy.m.meade@usace.army.mil](mailto:timothy.m.meade@usace.army.mil) or (816) 389-3138.

Sincerely,

*Timothy Meade*

Timothy Meade  
District Archeologist

## Powell, Gina S CIV USARMY CENWK (US)

---

**From:** Powell, Gina S CIV USARMY CENWK (US)  
**Sent:** Monday, June 3, 2019 12:01 PM  
**To:** John Fox  
**Cc:** Meade, Timothy M CIV (USA)  
**Subject:** RE: Grand River Basin Ecosystem Project

Dear Mr. Fox,

We have received your email message. Thank you. Future correspondence will occur via paper mail through the US Postal service.

Sincerely,

Gina S. Powell, Archeologist  
U.S. Army Corps of Engineers, Kansas City District  
601 E. 12th Street  
Kansas City, MO 64106  
Phone: 816-389-2320

-----Original Message-----

From: John Fox [mailto:jfox@osagenation-nsn.gov]  
Sent: Monday, June 3, 2019 11:43 AM  
To: Powell, Gina S CIV USARMY CENWK (US) <Gina.S.Powell@usace.army.mil>  
Cc: Meade, Timothy M CIV (USA) <Timothy.M.Meade@usace.army.mil>  
Subject: [Non-DoD Source] Grand River Basin Ecosystem Project

Dear Dr. Powell,

The Osage Nation Historic Preservation Office has received the notification letter for the Grand River Basin study project in northern Missouri and southern Iowa. The Osage Nation would like to participate in the programmatic agreement (PA).

In accordance with the National Historic Preservation Act, (NHPA) [54 U.S.C. § 300101 et seq.] 1966, undertakings subject to the review process are referred in 54 U.S.C. § 302706 (a), which clarifies that historic properties may have religious and cultural significance to Indian tribes. Additionally, Section 106 of NHPA requires Federal agencies to consider the effects of their actions on historic properties (36 CFR Part 800) as does the National Environmental Policy Act (43 U.S.C. 4321 and 4331-35 and 40 CFR 1501.7(a) of 1969).

The Osage Nation has a vital interest in protecting its historic and ancestral cultural resources. Should you have any questions or need any additional information, please feel free to contact me at the number listed below.

Thank you for consulting with the Osage Nation on this matter,

John Fox  
Archaeologist, MS, RPA

627 Grandview Avenue, Pawhuska, OK 74056

Phone: 918-287-5274

[jfox@osagenation-nsn.gov](mailto:jfox@osagenation-nsn.gov) <<mailto:jfox@osagenation-nsn.gov>>

IMPORTANT: This email message may contain confidential or legally privileged information and is intended only for the use of the intended recipient(s). Any unauthorized disclosure, dissemination, distribution, copying or the taking of any action in reliance on the information herein is prohibited. Emails are not secure and cannot be guaranteed to be error-free. They can be intercepted, amended, or contain viruses. Anyone who communicates with us by email is deemed to have accepted these risks. Osage Nation is not responsible for errors or omissions in this message and denies any responsibility for any damage arising from the use of email. Any opinion and other statement contained in this message and any attachment are solely those of the author and do not necessarily represent those of the Osage Nation.



**DEPARTMENT OF THE ARMY**  
CORPS OF ENGINEERS, KANSAS CITY DISTRICT  
635 FEDERAL BUILDING  
601 EAST 12<sup>TH</sup> STREET  
KANSAS CITY MO 64106-2824

Community and Risk Communication Section

Dr. Toni M. Prawl  
Director and Deputy State Historic Preservation Officer  
State Historic Preservation Office  
Department of Natural Resources  
P. O. Box 176  
Jefferson City, Missouri 65102-0176

Dear Dr. Prawl:

The U.S. Army Corps of Engineers Kansas City District (Corps) in partnership with Missouri Department of Natural Resources and Missouri Department of Conservation are developing a plan in the Grand River Basin in Iowa and Missouri to address recognized problems in this area including flooding, sedimentation, bank erosion, log jams and loss of important aquatic and wetland habitats. The main focus of this effort is targeted at ecosystem restoration action in the lower Grand River Basin near the Grand River and Locust Creek confluence. Some programmatic analysis of broader basin-wide actions will likely be included in the plan. The project is currently in the feasibility stage which will assess a range of alternatives and ultimately identify a preferred alternative for implementation in a feasibility report with an integrated Environmental Assessment (EA). Alternatives are currently being formulated for analysis and no preferred alternative has yet been selected. A map of the study focus area is attached to the letter. The purpose of this letter is to initiate consultation with your office under Section 106 of the National Historic Preservation Act (NHPA).

As specific projects and project locations resulting from the study are unknown and not likely to be fully determined prior to the completion of the EA, the Corps plans to develop a PA to fulfil its NHPA responsibilities for consultation on the Grand River EA. The Corps has also invited appropriate federally recognized Native American tribes and the Advisory Council on Historic Preservation to participate in the development of the Programmatic Agreement (PA). At this time, we invite you to participate in the development of the PA on the Grand River Basin project and be a signatory to that document.

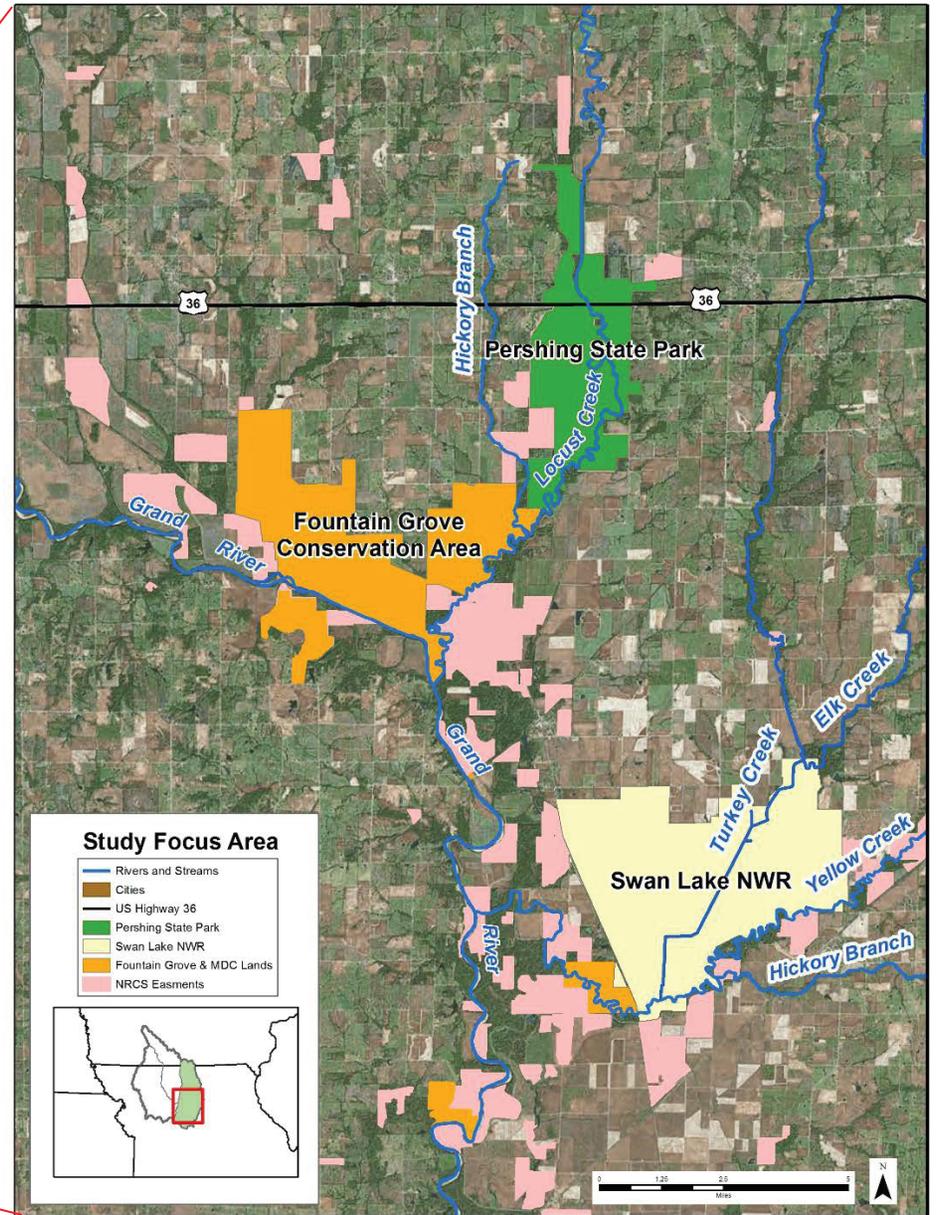
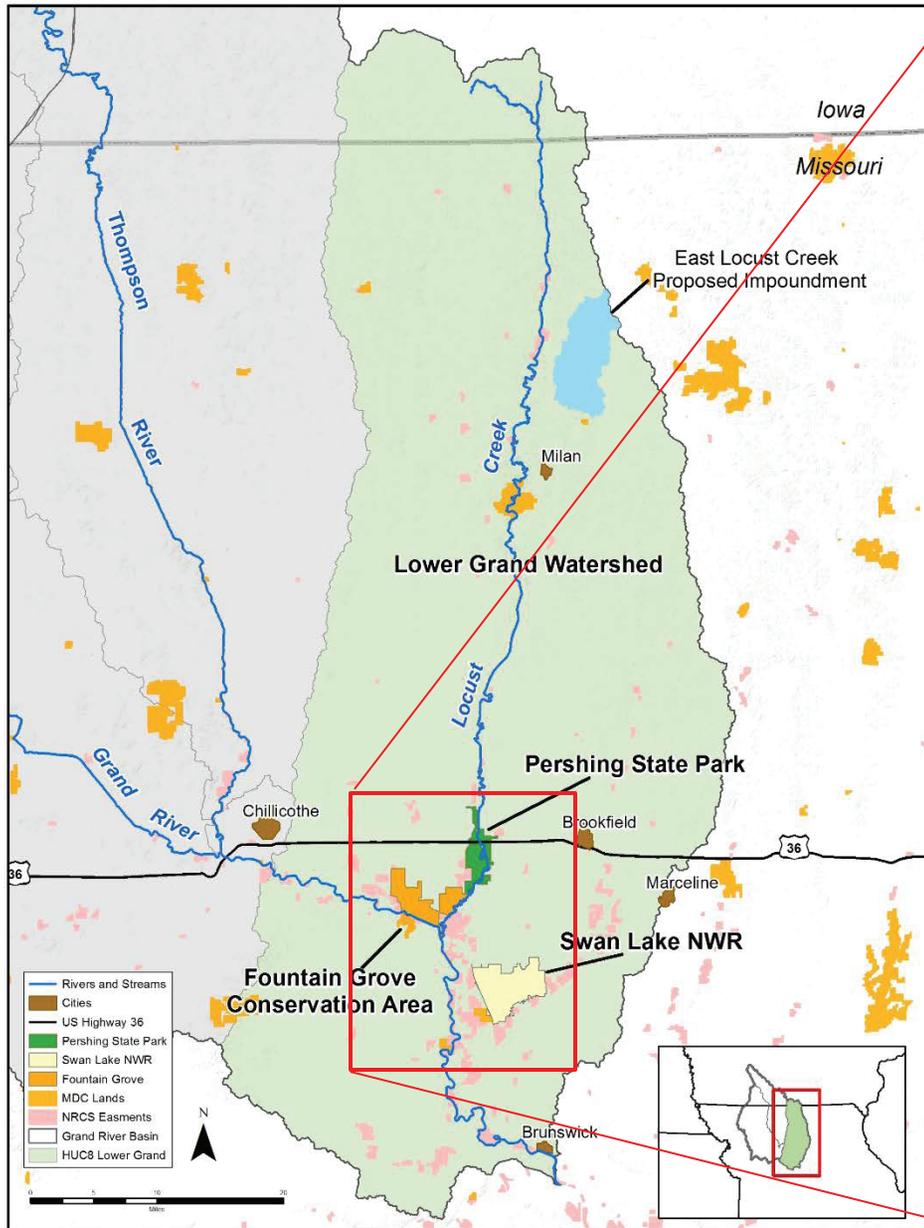
We appreciate your consideration regarding the matter and look forward to working with you on this important matter. If you have any questions or concerns, please contact me at [timothy.m.meade@usace.army.mil](mailto:timothy.m.meade@usace.army.mil) or (816) 389-3138.

MEADE.TIMOTHY.M.1270866332

Sincerely,

Digitally signed by MEADE.TIMOTHY.M.1270866332  
DN: c=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USA,  
cn=MEADE.TIMOTHY.M.1270866332  
Date: 2019.01.29 16:10:28 -06'00'

Timothy Meade  
District Archeologist





**DEPARTMENT OF THE ARMY**  
U.S. ARMY CORPS OF ENGINEERS, KANSAS CITY DISTRICT  
635 FEDERAL BLDG  
601 E 12<sup>TH</sup> STREET  
KANSAS CITY, MISSOURI 64106-2824

Community and Review Section, Planning Branch

Mr. Reid Nelson  
Office of Federal Agency Programs  
Advisory Council on Historic Preservation  
401 F Street NW, Suite 308  
Washington, DC 20001-2637

Dear Mr. Nelson:

The U.S. Army Corps of Engineers Kansas City District (Corps), in partnership with Missouri Department of Natural Resources and Missouri Department of Conservation, is developing a plan in the Grand River Basin in Iowa and Missouri to address recognized problems in this area including flooding, sedimentation, bank erosion, log jams, and loss of important aquatic and wetland habitats. The main focus of this effort is targeted at ecosystem restoration action in the lower Grand River Basin near the Grand River and Locust Creek confluence in Missouri (see attached maps). Some programmatic analysis of broader basin-wide actions will likely be included in the plan. The project is currently in the feasibility stage, which will assess a range of alternatives and ultimately identify a preferred alternative for implementation in a feasibility report with a National Environmental Policy Act (NEPA) document. Alternatives are currently being formulated for analysis and no preferred alternative has yet been selected. A map of the study focus area is attached to the letter. The purpose of this letter is to initiate consultation with your office under Section 106 of the National Historic Preservation Act (NHPA).

As specific projects and project locations resulting from the study are unknown and not likely to be fully determined prior to the completion of the NEPA document, the Corps plans to develop a Programmatic Agreement (PA) to fulfil its NHPA responsibilities for consultation on the Grand River. The Corps has also invited appropriate federally recognized Native American tribes and the Missouri SHPO to participate in the development of the PA. At this time, we invite you to participate in the development of the PA on the Grand River Basin project and be a signatory to that document.

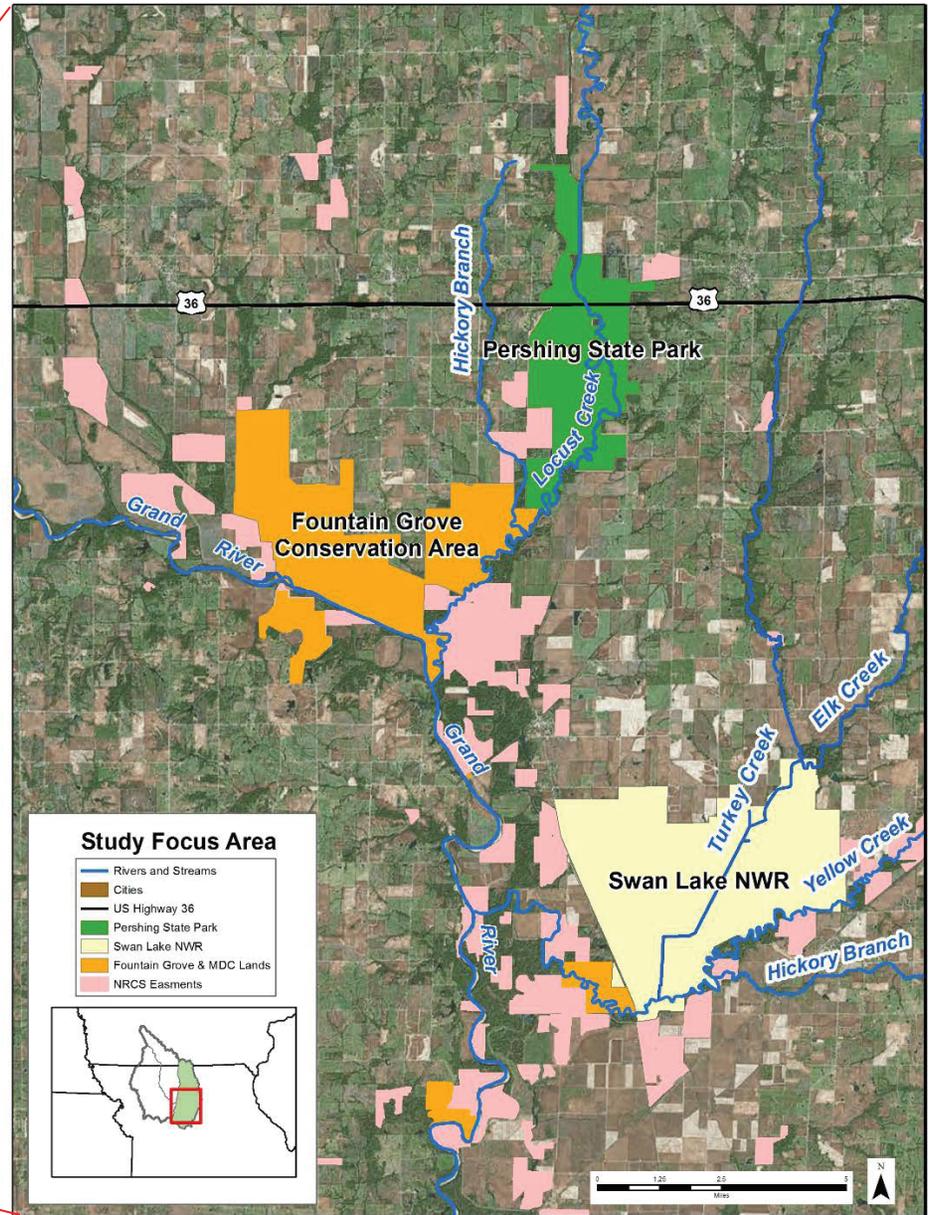
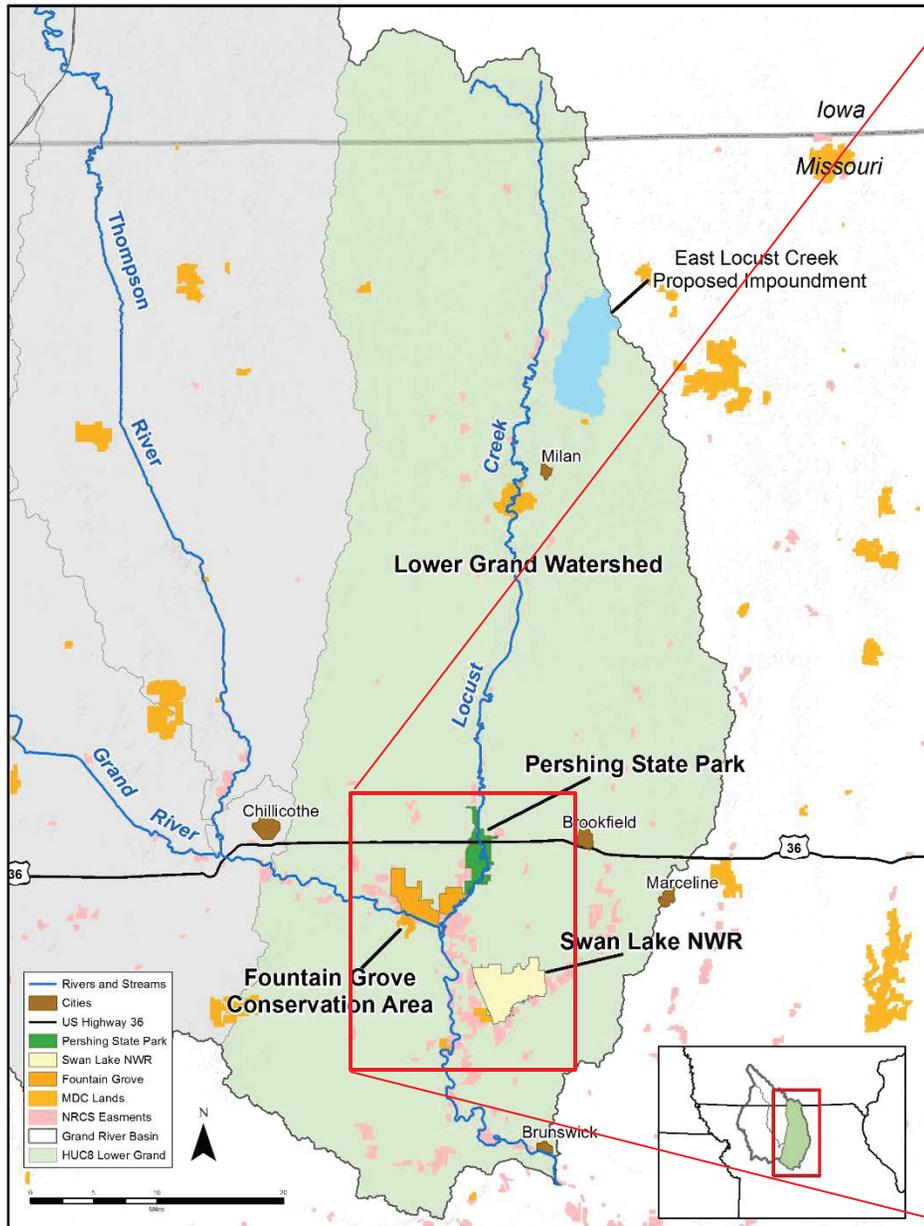
We appreciate your consideration regarding the matter and look forward to working with you on this important matter. If you have any questions or concerns, please contact me at [gina.s.powell@usace.army.mil](mailto:gina.s.powell@usace.army.mil) or (816) 389-2320.

Sincerely,

Gina Powell, Ph.D.  
Archeologist

enclosure

Date mailed: 19 February 2019





Missouri Department of [dnr.mo.gov](http://dnr.mo.gov)

# NATURAL RESOURCES

Michael L. Parson, Governor

Carol S. Comer, Director

March 1, 2019

Mr. Timothy Meade  
Department of Army  
Corps of Engineers, Kansas City District  
635 Federal Building  
601 East 12<sup>th</sup> Street  
Kansas City, MO 64106-2824

Re: **SHPO Project No. 009-MLT-19** – Grand River, Locust Creek Confluence Ecosystem  
Restoration (COE), Missouri

Dear Mr. Meade:

Thank you for submitting information on the above referenced project for our review pursuant to Section 106 of the National Historic Preservation Act (P.L. 89-665, as amended) and the Advisory Council on Historic Preservation's regulation 36 CFR Part 800, which requires identification and evaluation of cultural resources.

We have reviewed the information provided concerning the above referenced project. We look forward to the continuation of consultation to develop a programmatic agreement for this project.

Pending completion of this process, no actions should be taken that would foreclose consideration of alternatives to avoid or satisfactorily mitigate any adverse effects to historic properties. Please be advised that, should project plans change, information documenting the revisions should be submitted to this office for further review.

If you have any questions, please write Heather Gibb at State Historic Preservation Office, P.O. Box 176, Jefferson City, Missouri 65102 or call 573/751-7862. Please be sure to include the SHPO Log Number (**009-MLT-19**) on all future correspondence or inquiries relating to this project.

Sincerely,

STATE HISTORIC PRESERVATION OFFICE

*Toni M. Prawl*



Toni M. Prawl, Ph.D.  
Director and Deputy State  
Historic Preservation Officer





Preserving America's Heritage

July 29, 2019

Ms. Gina Powell  
Archeologist  
Kansas City District  
U.S. Army Corps of Engineers  
635 Federal BLDG  
601 E 12th Street  
Kansas City, MO 64106-2824

Ref: *Proposed Grand River Basin Project*  
*Missouri*

Dear Ms. Powell:

The Advisory Council on Historic Preservation (ACHP) has received your notification and supporting documentation regarding the adverse effects of the referenced undertaking on a property or properties listed or eligible for listing in the National Register of Historic Places. Based upon the information you provided, we have concluded that Appendix A, *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, of our regulations, "Protection of Historic Properties" (36 CFR Part 800), does not apply to this undertaking. Accordingly, we do not believe that our participation in the consultation to resolve adverse effects is needed. However, if we receive a request for participation from the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer, affected Indian tribe, a consulting party, or other party, we may reconsider this decision. Additionally, should circumstances change, and you determine that our participation is needed to conclude the consultation process, please notify us.

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

Thank you for providing us with your notification of adverse effect. If you have any questions or require further assistance, please contact Christopher Daniel at 202 517-0223 or via e-mail at [cdaniel@achp.gov](mailto:cdaniel@achp.gov).

Sincerely,

Arusna Thompson  
Historic Preservation Technician  
Office of Federal Agency Programs



**DEPARTMENT OF THE ARMY**  
CORPS OF ENGINEERS, KANSAS CITY DISTRICT  
635 FEDERAL BUILDING  
601 EAST 12<sup>TH</sup> STREET  
KANSAS CITY MO 64106-2824

October 23, 2019

Community and Risk Communication Section

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

Dear Dr. Hunter:

This letter is a follow up to a January 2019 letter and an e-mail dated 9 October 2019 informing the Osage Nation of the U.S. Army Corps of Engineers, Kansas City Districts (Corps) development of an Environmental Assessment (EA) for an ecosystem restoration feasibility study in the Grand River Basin in Carroll, Chariton, Linn, and Livingston counties in north central Missouri and the subsequent posting of a Public Notice for the project. Those correspondence also informed your Tribe of the Corps intent to develop a Programmatic Agreement (PA) to meet our commitments to the National Historic Preservation Act (NHPA) and to invite you to participate in the PA as an invited signatory.

Mr. John Fox from your staff informed us by e-mail on June 3, 2019, that the Osage Nation wishes to participate in the development of the PA. Attached for your review and comment is a draft copy of the PA for the Grand River ecosystem restoration project. Please review and provide me with any comments or edits you may have by December 13, 2019.

We look forward to working with the Osage Nation on the development of this PA for this important project. Do not hesitate to contact me with any questions, comments, or concerns at [timothy.m.meade@usace.army.mil](mailto:timothy.m.meade@usace.army.mil) or (816) 389-3138.

Sincerely,

**MEADE.TIMOTHY.M.1** Digitally signed by  
270866332 MEADE.TIMOTHY.M.1270866332  
Date: 2019.10.23 14:59:50 -05'00'

Timothy Meade  
District Archeologist

**From:** [Ben Crawford](#)  
**To:** [Meade, Timothy M CIV \(USA\)](#)  
**Subject:** [Non-DoD Source] Great River Basin ecosystem restoration  
**Date:** Wednesday, November 20, 2019 1:54:41 PM

---

Dear Mr. Meade,

My name is Eben Crawford, I work for the Winnebago Tribe of Nebraska as the Tribe's Curator and NAGPRA Assistant. Unfortunately Randy Teboe is no longer serving as the Tribe's THPO and I will be helping to handle his consulting duties temporary until the Tribe finds a suitable replacement.

In the meantime, please address all future communication to [thpo@winnebagoTribe.com](mailto:thpo@winnebagoTribe.com) <<mailto:thpo@winnebagoTribe.com>>. I recently received a letter concerning the ecosystem restoration in the great river basin. I have no concerns that sites culturally relevant to the Tribe will be effected. I also wanted to communicate to you that for now I am only concerned with construction projects and ground disturbing activities within the following counties.

Minnesota: Blue Earth, Waseca, Winona, Houston, Olmsted, Fillmore

Wisconsin: Clark, Jackson, La Crosse, Monroe, Juneau, Sauk, Richland, Crawford, Vernon, Grant, Iowa, LaFayette, Green, Rock, Dane, Columbia, Dodge, Jefferson, Fond Du Lac, Winnebago, Green Lake, Marquette, Wood

Iowa: Woodbury, Waukon, Decorah, Clayton, Fayette, Black Hawk, Bremer, Winneshiek, Howard, Chickasaw, Grundy, Hardin, Hamilton, Webster, Humbolt, Wright, Franklin, Kossuth, Winnebago, Worth, Mitchell, Cerro Gordo, Floyd, Butler

Nebraska: Thurston

South Dakota: Buffalo, Hyde, Hughes

Illinois: Winnebago, Boone, Stephenson, Jo Daviess, Carroll, Ogle, Whiteside, Lee, Henry, Bureau

If human remains or artifacts are inadvertently discovered during the course of construction or ground disturbing activities outside of these counties please contact us.

Thank you for your time,

Eben Crawford

Eben Crawford

Museum Curator & NAGPRA Assistant, Winnebago Tribe of Nebraska

402-922-0897

## **Powell, Gina S CIV USARMY CENWK (US)**

---

**From:** Powell, Gina S CIV USARMY CENWK (US)  
**Sent:** Monday, June 3, 2019 12:01 PM  
**To:** John Fox  
**Cc:** Meade, Timothy M CIV (USA)  
**Subject:** RE: Grand River Basin Ecosystem Project

Dear Mr. Fox,

We have received your email message. Thank you. Future correspondence will occur via paper mail through the US Postal service.

Sincerely,

Gina S. Powell, Archeologist  
U.S. Army Corps of Engineers, Kansas City District  
601 E. 12th Street  
Kansas City, MO 64106  
Phone: 816-389-2320

-----Original Message-----

From: John Fox [mailto:jfox@osagenation-nsn.gov]  
Sent: Monday, June 3, 2019 11:43 AM  
To: Powell, Gina S CIV USARMY CENWK (US) <Gina.S.Powell@usace.army.mil>  
Cc: Meade, Timothy M CIV (USA) <Timothy.M.Meade@usace.army.mil>  
Subject: [Non-DoD Source] Grand River Basin Ecosystem Project

Dear Dr. Powell,

The Osage Nation Historic Preservation Office has received the notification letter for the Grand River Basin study project in northern Missouri and southern Iowa. The Osage Nation would like to participate in the programmatic agreement (PA).

In accordance with the National Historic Preservation Act, (NHPA) [54 U.S.C. § 300101 et seq.] 1966, undertakings subject to the review process are referred in 54 U.S.C. § 302706 (a), which clarifies that historic properties may have religious and cultural significance to Indian tribes. Additionally, Section 106 of NHPA requires Federal agencies to consider the effects of their actions on historic properties (36 CFR Part 800) as does the National Environmental Policy Act (43 U.S.C. 4321 and 4331-35 and 40 CFR 1501.7(a) of 1969).

The Osage Nation has a vital interest in protecting its historic and ancestral cultural resources. Should you have any questions or need any additional information, please feel free to contact me at the number listed below.

Thank you for consulting with the Osage Nation on this matter,

John Fox  
Archaeologist, MS, RPA

627 Grandview Avenue, Pawhuska, OK 74056

Phone: 918-287-5274

[jfox@osagenation-nsn.gov](mailto:jfox@osagenation-nsn.gov) <<mailto:jfox@osagenation-nsn.gov>>

IMPORTANT: This email message may contain confidential or legally privileged information and is intended only for the use of the intended recipient(s). Any unauthorized disclosure, dissemination, distribution, copying or the taking of any action in reliance on the information herein is prohibited. Emails are not secure and cannot be guaranteed to be error-free. They can be intercepted, amended, or contain viruses. Anyone who communicates with us by email is deemed to have accepted these risks. Osage Nation is not responsible for errors or omissions in this message and denies any responsibility for any damage arising from the use of email. Any opinion and other statement contained in this message and any attachment are solely those of the author and do not necessarily represent those of the Osage Nation.



**DEPARTMENT OF THE ARMY**  
U.S. ARMY CORPS OF ENGINEERS, KANSAS CITY DISTRICT  
635 FEDERAL BLDG  
601 E 12<sup>TH</sup> STREET  
KANSAS CITY, MISSOURI 64106-2824

Community and Review Section, Planning Branch

Mr. Reid Nelson  
Office of Federal Agency Programs  
Advisory Council on Historic Preservation  
401 F Street NW, Suite 308  
Washington, DC 20001-2637

Dear Mr. Nelson:

The U.S. Army Corps of Engineers Kansas City District (Corps), in partnership with Missouri Department of Natural Resources and Missouri Department of Conservation, is developing a plan in the Grand River Basin in Iowa and Missouri to address recognized problems in this area including flooding, sedimentation, bank erosion, log jams, and loss of important aquatic and wetland habitats. The main focus of this effort is targeted at ecosystem restoration action in the lower Grand River Basin near the Grand River and Locust Creek confluence in Missouri (see attached maps). Some programmatic analysis of broader basin-wide actions will likely be included in the plan. The project is currently in the feasibility stage, which will assess a range of alternatives and ultimately identify a preferred alternative for implementation in a feasibility report with a National Environmental Policy Act (NEPA) document. Alternatives are currently being formulated for analysis and no preferred alternative has yet been selected. A map of the study focus area is attached to the letter. The purpose of this letter is to initiate consultation with your office under Section 106 of the National Historic Preservation Act (NHPA).

As specific projects and project locations resulting from the study are unknown and not likely to be fully determined prior to the completion of the NEPA document, the Corps plans to develop a Programmatic Agreement (PA) to fulfil its NHPA responsibilities for consultation on the Grand River. The Corps has also invited appropriate federally recognized Native American tribes and the Missouri SHPO to participate in the development of the PA. At this time, we invite you to participate in the development of the PA on the Grand River Basin project and be a signatory to that document.

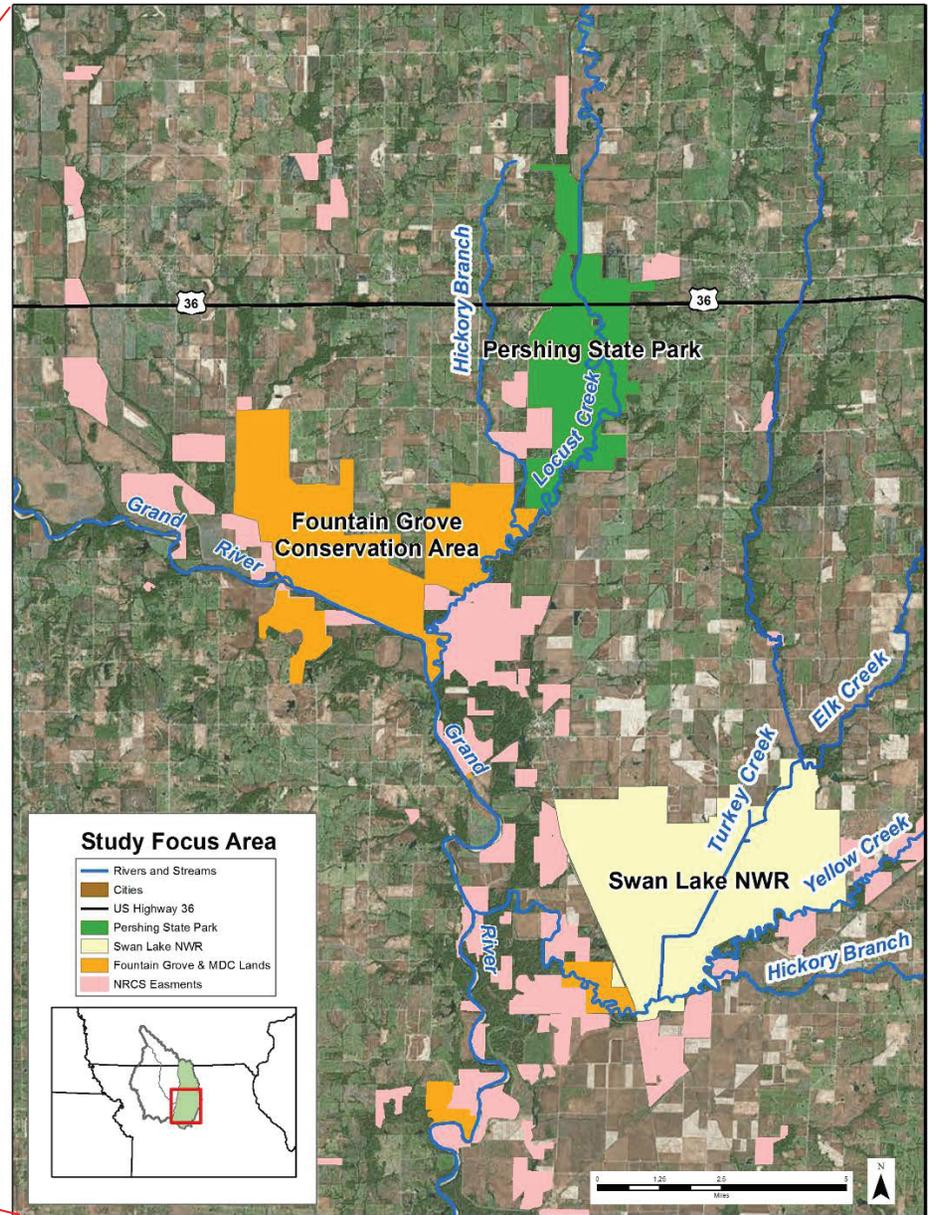
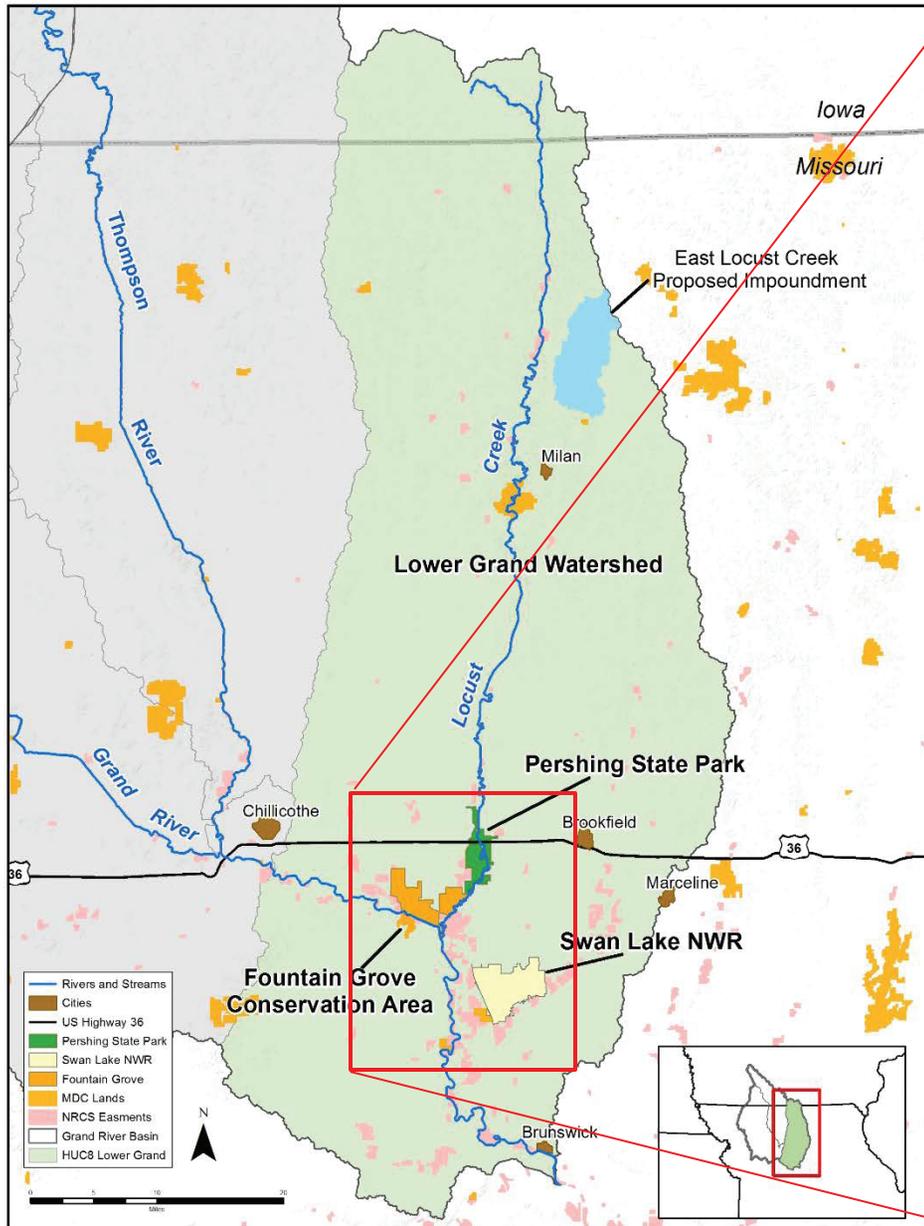
We appreciate your consideration regarding the matter and look forward to working with you on this important matter. If you have any questions or concerns, please contact me at [gina.s.powell@usace.army.mil](mailto:gina.s.powell@usace.army.mil) or (816) 389-2320.

Sincerely,

Gina Powell, Ph.D.  
Archeologist

enclosure

Date mailed: 19 February 2019





Preserving America's Heritage

July 29, 2019

Ms. Gina Powell  
Archeologist  
Kansas City District  
U.S. Army Corps of Engineers  
635 Federal BLDG  
601 E 12th Street  
Kansas City, MO 64106-2824

Ref: *Proposed Grand River Basin Project*  
*Missouri*

Dear Ms. Powell:

The Advisory Council on Historic Preservation (ACHP) has received your notification and supporting documentation regarding the adverse effects of the referenced undertaking on a property or properties listed or eligible for listing in the National Register of Historic Places. Based upon the information you provided, we have concluded that Appendix A, *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, of our regulations, "Protection of Historic Properties" (36 CFR Part 800), does not apply to this undertaking. Accordingly, we do not believe that our participation in the consultation to resolve adverse effects is needed. However, if we receive a request for participation from the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer, affected Indian tribe, a consulting party, or other party, we may reconsider this decision. Additionally, should circumstances change, and you determine that our participation is needed to conclude the consultation process, please notify us.

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

Thank you for providing us with your notification of adverse effect. If you have any questions or require further assistance, please contact Christopher Daniel at 202 517-0223 or via e-mail at [cdaniel@achp.gov](mailto:cdaniel@achp.gov).

Sincerely,

Arusna Thompson  
Historic Preservation Technician  
Office of Federal Agency Programs

ADVISORY COUNCIL ON HISTORIC PRESERVATION  
401 F Street NW, Suite 308 • Washington, DC 20001-2637  
Phone: 202-517-0200 • Fax: 202-517-6381 • [achp@achp.gov](mailto:achp@achp.gov) • [www.achp.gov](http://www.achp.gov)



# OTOE-MISSOURIA TRIBE OF INDIANS

8151 HIGHWAY 177  
RED ROCK, OK 74651-0348

November 12, 2019

Timothy Meade, District Archaeologist  
Department of Army  
Corps of Engineers, Kansas City District  
635 Federal Building  
601 East 12th Street  
Kansas City, MO 64106-2824

**RE: Grand River Basin Programmatic Agreement (PA) draft**

Dear Mr. Meade,

The Otoe-Missouria Tribal Historic Preservation Office has received the above-mentioned draft and will review all the available information provided.

The Otoe-Missouria Tribal Historic Preservation Office thanks you for the opportunity to coordinate government-to-government and our office looks forward to further notification on the development of the PA. Should you have further questions or concerns, please contact me.

Thank you,

A handwritten signature in cursive script that reads "Elsie Whitehorn".

Elsie Whitehorn  
Tribal Historic Preservation Officer  
Otoe-Missouria Tribe  
580-723-4466 ext 202  
ewhitehorn@omtribe.org

## Meade, Timothy M CIV (USA)

---

**From:** Meade, Timothy M CIV (USA)  
**Sent:** Tuesday, October 8, 2019 4:05 PM  
**To:** BQuackenbush@ho-chunk.com; Iowa Tribe of Kansas and Nebraska; Crystal Douglas; ewhitehorn@omtribe.org; Joseph Reed; ghamilton@poncatribе-ne.org; jfox@osagenation-nsn.gov; tparker@omahatribe.com; nmauro@poncatribе-ne.org; Winnebago Tribe of Nebraska; tiauna.carnes@sacandfoxks.com; Kickapoo Tribe of Indians of Kansas  
**Cc:** Snyder, Michael V CIV USARMY CENWK (USA)  
**Subject:** FW: Public Notice for the Draft Grand River Feasibility Study and Environmental Assessment (UNCLASSIFIED)

**Classification:** UNCLASSIFIED

CLASSIFICATION: UNCLASSIFIED

Hello All:

Below is information on a draft Environmental Assessment and draft Finding of No Significant Impact (FONSI) in accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, for the Grand River ecosystem restoration feasibility study. Your Tribe was informed of the study by letter in January. At that time, we informed you and invited your participation in the development of a Programmatic Agreement being prepared by the Corps.

To Whom it May Concern:

The U.S. Army Corps of Engineers, Kansas City District, has prepared a draft Environmental Assessment and draft Finding of No Significant Impact (FONSI) in accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, for the Grand River ecosystem restoration feasibility study. Components of the tentatively selected plan would be located on and around Pershing State Park, Fountain Grove Conservation Area and Swan Lake National Wildlife Refuge in Carroll, Chariton, Linn and Livingston counties in north central Missouri. The tentatively selected plan also includes implementation of bank stabilization projects in the upper portion of the Locust Creek sub-basin. Projects may be implemented in the Watkins Creek-Locust Creek (excluding the portion in Iowa); East Locust Creek; West Locust Creek; and Locust Creek watersheds. The overall purpose of the study is to identify a plan that will achieve ecosystem restoration benefits within the Lower Grand River sub-basin. Specifically, to reverse the trend of degradation of wetland, aquatic and floodplain habitats within the areas of Pershing State Park, Fountain Grove CA, Swan Lake NWR, Yellow Creek CA, and surrounding public and private lands. The U.S. Army Corps of Engineers has made a preliminary determination that the proposed action would not result in significant degradation to the environment and therefore supports preparation of a draft FONSI. The EA, draft FONSI and supporting information are provided with issuance of the Public Notice on October 8, 2019 to initiate the public review and comment period, which will extend until November 20, 2019.

The public notice, draft feasibility report/environmental assessment, draft FONSI, and draft 404(b)(1) evaluation can be accessed at:

<https://www.nwk.usace.army.mil/Media/Public-Notices/Planning-Public-Notices/Article/1982752/draft-grand-river-feasibility-study-environmental-assessment/>

Public meetings are scheduled from 5-7 p.m. at the following locations and dates:

October 15, 2019: Gen. John J. Pershing Boyhood Home State Historic Site, Memorial Museum and Leadership Archive Building, 900 Ausmus St. Laclede, MO 64651

October 16, 2019: Keytesville Community Center, 301 West Bridge St. Keytesville, MO 65261

October 17, 2019: Milan Community Center, 205 North Market St. Milan, MO 63556

Additional information can be found on the project web site:

<https://www.nwk.usace.army.mil/Missions/Civil-Works/Civil-Works-Programs-And-Projects/Grand-River-Basin/>

Please Direct your Comments to either me or Michael Snyder at the addresses below.

Timothy Meade

Senior District Archeologist and Tribal Liaison U.S. Army Corps of Engineers, Kansas City District Federal Building

601 East 12th Street

Kansas City, Missouri

64106-2896

Ph: (816) 389-3138

Or

Michael V. Snyder

Environmental Resource Specialist, PMP-R U.S. Army Corps of Engineers - Kansas City District

601 E. 12th St.

Kansas City, MO 64106

(816) 389-3141

Thank you for your consideration of the matter.

Tim

CLASSIFICATION: UNCLASSIFIED

## Meade, Timothy M CIV (USA)

---

**From:** Rubingh, Amy <Amy.Rubingh@dnr.mo.gov>  
**Sent:** Tuesday, December 10, 2019 3:24 PM  
**To:** Meade, Timothy M CIV (USA)  
**Subject:** [Non-DoD Source] 009-MLT-19 PA for Grand River

Hi Tim,

I have 4 comments for you regarding the document. 1) in the ACHP whereas clause there should be a date when they declined to participate included. 2) X.C We would prefer if archaeological site locations be covered under Section 304 of the NHPA and not provided outside the agency, SHPO, Tribes, and landowners. 3) Stipulation IX and XI are repetitive since they both address Unanticipated discoveries. Stipulation XI is more in depth and should be applied to field investigations and laboratory work. 4) Under stipulation XVIII there should be added a section stating that the COE will file the executed PA with the ACHP. (we've had a couple of agencies not do this so we've started adding it to agreement documents.)

Thanks,  
Amy Rubingh  
Archaeologist/Records Management  
Missouri SHPO  
PO Box 176  
Jefferson City, MO 65102  
(573)751-4589



*We'd like your feedback on the service you received from the Missouri Department of Natural Resources. Please consider taking a few minutes to complete the department's Customer Satisfaction Survey at [Blockedhttps://www.surveymonkey.com/r/MoDNRsurvey](https://www.surveymonkey.com/r/MoDNRsurvey). Thank you.*