

**PROGRAMMATIC AGREEMENT
AMONG
THE SACRAMENTO DISTRICT OF THE U.S. ARMY CORPS OF ENGINEERS,
THE SIERRA FRONT FIELD OFFICE OF THE BUREAU OF LAND MANAGEMENT,
THE NEVADA STATE HISTORIC PRESERVATION OFFICER,
AND THE STOREY COUNTY PUBLIC WORKS DEPARTMENT
REGARDING
NATIONAL HISTORIC PRESERVATION ACT COMPLIANCE
FOR
THE REPLACEMENT OF EXISTING WATER AND SEWER LINES AND
WASTEWATER TREATMENT PLANT EXPANSION IN VIRGINIA CITY AND GOLD
HILL
BOTH LOCATED WITHIN
THE VIRGINIA CITY HISTORIC DISTRICT AND NATIONAL HISTORIC
LANDMARK**

WHEREAS, the Storey County Public Works Department (County) plans to expand its existing wastewater treatment plant located near Virginia City and replace the existing water and wastewater line network in both Virginia City and Gold Hill (hereinafter referred to as the “Undertaking” as defined in 36 C.F.R. § 800.16[y]); and

WHEREAS, the Undertaking is authorized by the Secretary of the Army under Section 595 of the Water Resources Development Act of 1999, Public Law 106-53, as amended (Section 595). This authorization makes the Undertaking subject to the requirements of the National Environmental Policy Act of 1969 (NEPA). As the designated Federal lead agency for NEPA, the Sacramento District, U.S. Army Corps of Engineers (Corps) is responsible for ensuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA), 16 U.S.C. § 470f, and its implementing regulations, 36 C.F.R. § 800; and

WHEREAS, the Undertaking may require the Bureau of Land Management (BLM) to issue new right-of-way grants on parts of the water and wastewater networks as well as lease additional land to Storey County for wastewater treatment plant expansion; and

WHEREAS, the Corps and the BLM agreed that the Corps would assume the role as the lead federal agency for fulfilling their collective responsibilities under Section 106, as provided in 36 C.F.R. § 800.2(a)(2); and

WHEREAS, the County is the local sponsor for the Undertaking and under the provisions of Section 595, is responsible for obtaining all permits, and rights-of-way grants, for the funding of project designs, plans, and project construction, and for implementation of treatment measures for the VCHD and NHL as outlined in this Agreement; and

WHEREAS, the Corps, in consultation with the BLM and the Nevada State Historic Preservation Officer (SHPO), has defined the area of potential effects (APE) for the Undertaking as located completely within the boundaries of the Virginia City Historic District (VCHD), an historic property listed in the National Register of Historic Places (NRHP) and a National

Historic Landmark (NHL), and as the 12.28 acres needed for the wastewater treatment plant expansion, approximately 13 acres needed for staging areas, disposal areas and lift stations, approximately 9.7 miles of water and wastewater lines to be replaced as described in the Virginia City and Gold Hill Wastewater System Improvements Environmental Assessment; and the viewshed of the wastewater treatment plant expansion and lift stations (Appendix 1); and

WHEREAS, the Corps, in consultation with the BLM, has determined that the Undertaking has the potential to cause effects to historic properties and features that contribute to the eligibility of the VCHD for listing in the NRHP and to the NHL status of the VCHD and intends to use this Programmatic Agreement (Agreement) to comply with Section 106 of the NHPA, and its implementing regulations; and

WHEREAS, the Corps, has consulted with the BLM and SHPO about this Undertaking and because the effects of the Undertaking on historic properties cannot be fully determined prior to the Undertaking's approval, chooses to conclude its assessment of the Undertaking's potential adverse effect on the NRHP listed VCHD and NHL and resolve any such effect through the implementation of this Agreement in accordance with 36 C.F.R. § 800.14(b)(1)(ii); and

WHEREAS, in accordance with 36 C.F.R. § 800.3(f)(1) the Corps has consulted with the Comstock Historic District Commission (CHDC) and the Storey County Commission as a Certified Local Government regarding the effects of the Undertaking on historic properties and pursuant to 36 C.F.R. § 800.14(b)(2)(i) has invited them to sign this Agreement as concurring parties, with the CHDC choosing not to participate in this Agreement and the Storey County Commission choosing to participate in this Agreement; and

WHEREAS, in accordance with 36 C.F.R. § 800.3(f)(2) the Corps has consulted with the Washoe Tribe of Nevada and California and the Yerington Paiute Tribe regarding the effects of the Undertaking on historic properties and pursuant to 36 C.F.R. § 800.14(b)(2)(i) has invited them to sign this Agreement as concurring parties, with both of these parties choosing not to participate in this Agreement; and

WHEREAS, in accordance with 36 C.F.R. § 800.10(c), the Corps has invited the National Park Service (NPS) to participate in the consultation, with the NPS choosing not to be a concurring party for this Agreement; and

WHEREAS, in accordance with 36 C.F.R. § 800.14(b)(3), the Corps has notified and invited the Advisory Council on Historic Preservation (ACHP) per 36 C.F.R. § 800.6(a)(1)(C) to participate in consultation to resolve potential adverse effects of the Undertaking and the ACHP has chosen not to participate in the consultation pursuant to 36 C.F.R. § 800.6(a)(1)(iii) (Appendix 2); and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(4) and 36 C.F.R. § 800.14(b)(2)(ii), the Corps has notified the public of the Undertaking and provided an opportunity for members of the public to express their views on the proposed project and the Section 106 process as outlined in this Agreement;

NOW, THEREFORE, the Corps, the BLM and the SHPO agree that the Undertaking shall be administered in accordance with the following stipulations to satisfy the Corps' and the BLM's Section 106 responsibilities for all aspects of the Undertaking.

STIPULATIONS

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

Stipulation I

Identification of Undertaking and Area of Potential Effects Determination

A. Proposed Undertaking

The Storey County Public Works Department is proposing to (1) upgrade their existing wastewater treatment plant in Virginia City; (2) replace the Virginia City sewer collection system; (3) construct sewer lift stations in Gold Hill; and (4) replace/extend the Gold Hill sewer collection system. To do this, the County will need to lease BLM-managed land for the treatment plant expansion and will need additional BLM rights-of-way.

Activities covered by this Agreement include, but are not limited to, re-excavating previously disturbed sewer line trenches to expose and replace existing sewer lines, expanding (widen, deepen or both) previously excavated trenches to allow conformance with contemporary code requirements; expanding existing trenches to accommodate new sewer access points (manholes) spaced at approximately 400 foot intervals along existing lines; staging areas; and other ancillary facilities associated with the sewer line replacement.

B. Area of Potential Effects

The APE is defined to include the areas within which the Undertaking may directly or indirectly adversely affect the historic properties (defined as contributing elements to the VCHD and NHL or properties individually eligible for listing or listed in the NRHP). The APE is located entirely within the boundaries of the NRHP listed VCHD and NHL.

The APE is shown on a map in Appendix 1. Virginia City and Gold Hill are located in Storey County, Nevada, approximately 18 miles southeast of Reno and 12 miles north of Carson City in the western part of Nevada. The Undertaking locations includes portions of T. 16N, R. 21E, Sections 5 and 6, and T. 17N, R. 21E, Sections 20, 28, 29, 31, and 32 of the USGS Virginia City 7.5-minute quadrangle. The APE includes an area along Six Mile Canyon where the upgraded wastewater treatment plant would be constructed, the town of Virginia City where sewer lines would be replaced, and the town of Gold Hill where new force main sewer lines and sewer lift stations would be constructed and existing sewer lines would be replaced.

Stipulation II

Identification, Inventory, Sensitivity Document and Visual Effects Evaluation

A. Background Documentation

Prior to initiating the Class III Cultural Resources Inventory, the Corps will complete a records and literature search as specified in the current edition of the BLM Nevada Cultural Resource Inventory General Guidelines (Guidelines) and BLM IM No. 2004-020, *Guidance for Recording Cultural and Paleontological Resource Locations for the Bureau of Land Management using Global Positioning System Technology* (Guidance), to identify known resources. Records will be examined at the Carson City Field Office and the Nevada State Museum. In addition, General Land Office plats will be examined for potential cultural resources prior to initiation of the survey. The Corps will complete a thorough review of all relevant literature, including any archival data at local facilities (i.e., Nevada State Library and Archives) prior to this inventory.

The results of this background documentation will be used to define the area included in the Class III Cultural Resources Inventory and will be used as the foundation for the Sensitivity Document described under Stipulation II.C.

B. Class III Cultural Resources Inventory

Prior to beginning any surface-disturbing activities, the Corps will complete a Class III Cultural Resources Inventory of the APE. The survey of the APE will be completed using 30-meter transects following BLM Guidelines and Guidance for the areas. A total of approximately 30 acres (including the 12.28 acres needed for the wastewater treatment plant expansion and approximately 13 acres needed for staging areas, disposal areas and lift stations) will be surveyed with this methodology. All archaeological resources identified or relocated will be plotted on USGS 7.5-minute maps and recorded on the appropriate forms, as necessary. A letter report with the results of the inventory will be provided to the BLM. This report will follow BLM Guidelines and Guidance for Class III Inventory reporting format and will include a site location map for the entire project, as well as a table including sites and isolates previously recorded or identified during the current survey. All archeological resources will be recorded on the appropriate forms and will be evaluated for their eligibility for listing in the NRHP.

The Corps will make determinations of the effects that the project may have on the VCHD and NHL, including potential visual impacts and any newly discovered resources within the VCHD and NHL. The Corps will provide these effect determinations to the BLM and following consultation with the BLM, the determinations will be sent to the SHPO for review. The BLM and SHPO will have thirty (30) calendar days from their receipt to provide their comments on the Cultural Resources Inventory and any other Class III Cultural Resources Inventories that may be completed for the Undertaking.

C. Sensitivity Document for the APE

Prior to beginning any surface-disturbing activities, the Corps will complete a Sensitivity Document. The purpose of the Sensitivity Document is to avoid, to the extent possible, post-

review discoveries and the need for mitigation during construction by identifying those areas within the APE that are most likely to have surface or buried historic properties that retain qualities of integrity. Once those areas are identified, an evaluation of the Undertaking's effect on the VCHD and NHL will be made. That evaluation shall include a testing plan for the sensitive areas. The Corps will complete testing plans and data recovery to resolve adverse effects to the VCHD and NHL in advance of construction. The Sensitivity Document will need to be completed in its entirety in advance of any construction or ground-disturbing activities within the APE for the proposed project. For each of the activities in this stipulation, the results, information gathered, and effects determinations that the Corps has made will be forwarded to the BLM. Following consultation with the BLM, determinations will be sent to the SHPO for review. The BLM and SHPO will have thirty (30) calendar days from their receipt to provide their comments on the Sensitivity Document and support documents such as an effects evaluation, proposed testing plans, and proposed data recovery plans.

1. Existing Knowledge and Documentation

The Corps will compile existing knowledge from topographic maps, information on cuts and fill of the area, Sanborn maps, historic geographic/mineral archival information, knowledge of buried utilities (water, gas, and electrical), archival information, survey of knowledgeable individuals, and any other information relating to surface and subsurface features.

2. Testing Plan for Sensitive Areas

The Corps will design a sensitivity map and document with a testing plan in advance of construction, targeting areas within the APE for the project identified as sensitive for buried resources or areas retaining historic properties. The SHPO and BLM will have thirty (30) calendar days from their receipt to provide their comments on the sensitivity map and testing plan. All comments will be considered prior to the implementation of the testing plan.

3. Implementation of Testing Plan

The Corps will implement the testing plan after considering comments from BLM and SHPO. The testing plan may be implemented in phases consistent with construction phases for the project within the APE and consistent with Stipulation IV. Upon completion of the testing plan, the Corps will incorporate testing results into its determinations of NRHP eligibility for sites identified during the sensitivity documentation and site testing. Determinations of eligibility will be developed in consultation with BLM, and submitted to SHPO for comment and/or concurrence. Stipulation II.D will be followed for listed properties or sites determined as NRHP eligible, or contributing historic properties to the VCHD and NHL.

D. Effect Evaluation and Historic Property Treatment Plan

The Corps will determine effects to identified historic properties using the steps described in Stipulations II.A., II.B., and II.C. The Corps will apply the Criteria of Adverse Effect pursuant to 36 CFR § 800.5(a)(1) to identified historic properties that will be affected by the Undertaking. For those historic properties that the Corps has determined will be adversely affected by the Undertaking, a Historic Property Treatment Plan (HPTP) will be developed in accordance with Appendix 3.

1. Historic Property Treatment Plan

The Corps will recommend a data recovery plan based on the determination of adverse effect. The goal of the data recovery plan for those areas that will be affected by the proposed Undertaking is to document and recover values that makes sites, sensitive areas, or parts of the VCHD and NHL eligible for listing in the NRHP as contributing elements to the National Register listed district or as individually eligible historic properties. The SHPO and BLM will have thirty (30) calendar days from their receipt to provide their comments on the effect determinations and the data recovery plan in the HPTP. All comments will be considered before implementation of the HPTP.

2. Assessment of Visual Effects

The Corps will consider visual effects on the VCHD and NHL for all above-ground features of the Undertaking. In consultation with the CHDC and SHPO, the Corps and the County will produce a simulated graphical representation of the wastewater treatment plant within the existing landscape. Views of the existing landscape and proposed above-ground features will be produced and forwarded to the BLM and SHPO for their review. The Corps and the County will also consult with the CHDC and will incorporate suggestions from the CHDC on changes to the exterior design of structures that will minimize visual effects to the overall VCHD and NHL. The SHPO and BLM will have thirty (30) calendar days from their receipt to provide comments on the visual assessment. All comments on the determination of the visual APE and possible effects to the visual APE will be considered.

3. Implementation of HPTP Data Recovery Plan

The HPTP will be implemented to resolve adverse effects to historic properties identified through the plan. The Corps will implement the identified data recovery and other resolutions based on the recommendations of the HPTP and comments from the SHPO, ACHP, and BLM.

Stipulation III

Public and Native American Involvement

A. Public Involvement

The Corps will seek and consider the views of the public on the Undertaking through publicized meetings of the Storey County Commissioner's Meeting and the public review and comment period of the NEPA documentation, as appropriate. Any scheduled meetings will be advertised in the local newspaper and will reflect the nature and complexity of the Undertaking and its effect on historic properties. The Corps will ensure that any comments received during these meetings or the NEPA documentation comment period are considered and incorporated into the final deliverables, as appropriate.

B. Native American Involvement

The Corps will ensure that potentially interested Native Americans are provided an opportunity to comment on deliverables under Stipulation II, as appropriate. All reviewers shall have thirty (30) calendar days after receipt to provide comments to the Corps. The Corps will ensure that any comments received during this time period are considered and incorporated into the final deliverables, as appropriate. The Corps will consult with appropriate tribes to identify properties of traditional religious and cultural importance.

Stipulation IV

Notices to Proceed With Construction

Notices to Proceed (NTP) with the Undertaking may be issued by the County for individual construction segments, defined by the County in its construction Specifications. For those project activities occurring on land the BLM manages the County must consult with the Corps and the BLM in order to issue any NTPs. For those project activities occurring on all other land the County must consult with the Corps in order to issue any NTPs. NTPs may be issued by the County upon written verification from the Corps, or the BLM if the project activities occur on BLM-managed land, that any of the following conditions have been met:

- A. The Corps and SHPO have determined that there are no historic properties that may represent contributing elements to the VCHD and NHL within the APE for a particular construction segment; and
- B. The Corps and SHPO have determined, after implementation of the Sensitivity Document and testing plan, that there will be no effect to historic properties that may represent contributing elements to the VCHD and NHL within the APE for a particular construction segment; or
- C. The Corps, after consultation with the SHPO, BLM and interested parties, has implemented an adequate HPTP for the construction segment, and

1. The fieldwork phase of the data recovery or other resolution of effect option has been completed; and
 2. The Corps has accepted a summary of the fieldwork performed and a reporting schedule for that work; and
 3. The Corps has submitted the summary of the fieldwork to the SHPO. If the SHPO does not respond within two (2) working days from receipt of the summary of the fieldwork, the County can assume concurrence and issue the NTP.
- D. The County is proposing to phase the Undertaking by sequentially replacing segments of the sewer system. The County will ensure that its qualified historical archaeologist, with assistance by an architectural historian or historic architect, as appropriate, provide the Corps, the BLM, and the SHPO with a report detailing the nature and treatment of any historic resources encountered during County activities on each segment of the Undertaking within fifteen (15) days of the completion of work on that segment, unless otherwise negotiated.

Stipulation V
Construction Monitoring

The Corps, BLM, SHPO, or the County may at any time monitor any actions carried out pursuant to this Agreement.

For the sewer line replacement the County, subject to Corps and BLM approval, and in accordance with the Secretary's Standards, will engage the services of a qualified historic archeologist to monitor project construction activities and make determinations as stipulated in V.A, V.B, and V.C. If required under these stipulations, a monitor will be present during surface disturbing activities and will be empowered to stop undertaking-related activities as and where needed:

A. Replacing existing sewer lines or placing manholes within the disturbed area of an existing road or within previously disturbed trenches that are not within the disturbed area of an existing road

1. No specific identification or mitigation efforts are required where there is no new disturbance and replacement lines will be located entirely within previously disturbed trenches or in areas the Sensitivity Document has identified as not likely to contain intact deposits. In the event that potential historic properties are identified, Stipulation VII will be followed. Any historic artifacts recovered during these operations will be examined by a qualified historic archaeologist. The archaeologist will assist the Corps in determining appropriate treatment.
2. When construction activities will create new disturbance in areas identified in the Sensitivity Document as likely to contain intact deposits, the County must include provisions for the following:

- a. A qualified historic archaeologist present during excavation to identify and recover historic materials; and
- b. If necessary, the County will provide 24-hour on-site security for the discovery of historic materials prior to inspection by a qualified historic archaeologist.

B. Replacing existing sewer lines or placing manholes in previously undisturbed areas and/or for which new excavation is needed

When replacing existing sewer lines or placing manholes in previously undisturbed areas and in areas identified in the Sensitivity Document as likely to contain intact deposits, the County will engage the services of a qualified historic archaeologist to inventory, evaluate, and treat adverse effects on historic properties according to the standard procedures in this Agreement (Stipulations II.B., II.C.4., and II.C.5.).

Stipulation VI

Determinations of Effect

The Corps will apply the Criteria of Adverse Effect pursuant to 36 C.F.R. § 800.5(a)(1) to all historic properties within the APE that will be affected by the proposed Undertaking. Determinations of effect will be made in consultation with the SHPO, the BLM, and other interested parties.

Stipulation VII

Unanticipated Discoveries and Preparation of Historic Property Treatment Plans

The execution of Stipulation II is intended to avoid unanticipated effects of the Undertaking on historic properties by identifying areas likely containing intact deposits and implementing a testing and data recovery plan for those areas. However, if unanticipated discoveries are made during construction, the County, in consultation with the Corps, will follow the guidelines in Appendix 4. The Corps' determination on the site's NRHP eligibility will be forwarded to BLM and SHPO within two (2) working days. The BLM and the SHPO will have two (2) working days from their receipt to provide their comments on the eligibility determinations.

If the unanticipated discovery is determined to be an historic property, the County shall ensure that an HPTP is developed for the mitigation of effects on the property that will result from the Undertaking and any related uses and activities. HPTPs will conform to the guidelines in Appendix 3 and will be reviewed by the Corps, BLM and SHPO within two (2) working days from receipt. For any HPTP or Supplemental Treatment Plan (STP) not developed during construction the review timeframes in Stipulation VIII will be followed.

Stipulation VIII

Review of Historic Properties Treatment Plans and Supplemental Treatment Plans

The Corps shall ensure that draft HPTPs and STPs are submitted concurrently to the BLM, the SHPO, appropriate Native American groups, and individuals for review and comment. Reviewers shall have thirty (30) calendar days after receipt of the draft HPTP or STP to comment to the Corps. The Corps shall ensure that any comments received during this time period are taken into account and incorporated into the final HPTP or STP, as appropriate. Failure to comment within this time period shall not preclude the Corps from allowing the HPTP to be finalized and implemented. The Corps shall ensure that all reviewers are provided with copies of the final HPTP within five (5) working days after finalization.

Stipulation IX

Qualifications

All work described in this Agreement completed by the Corps, the BLM, or by the County, will be completed by, or will be under the direct supervision of, persons appropriately permitted by the BLM and by persons meeting the Professional Qualifications Standards of the Secretary of the Interior's Standards and Guidelines, as amended and annotated, for History, Archeology, Architectural History, Architecture, and Historic Architecture as appropriate and as defined in 36 CFR § 61.

Stipulation X

Time Frames

A. Inventory, Evaluation, Testing and Data Recovery

The Corps, BLM, and SHPO shall review and comment on the results of any cultural resources inventory, evaluation, testing, or data recovery plans submitted by the County within the time frames indicated in this Agreement.

B. Consultation

Unless previously noted with different timeframes, the Corps shall submit the results of all identification and evaluation efforts, including unanticipated discoveries, data recovery, testing plans, and treatment plans to the SHPO, BLM, concurring parties, and identified interested persons, as appropriate, for a thirty (30) day review and comment period.

If the SHPO, BLM, concurring parties, or identified interested persons, do not respond to the Corps within thirty (30) days of receipt of a submittal, the Corps shall presume concurrence with the Corps' findings and recommendations as detailed in the submittal.

C. Reports

A draft final report of all identification, evaluation, testing, data recovery, treatment, or other mitigating activities prepared by qualified personnel will be due to the Corps, the BLM, and the SHPO within three (3) months after the completion of the fieldwork associated with the activity,

unless otherwise negotiated. Comments on any draft reports by the BLM or the SHPO will be due to the Corps within thirty (30) calendar days from receipt. The Corps will incorporate comments into the final draft report(s), as appropriate, and submit to the BLM and SHPO within thirty (30) calendar days.

Stipulation XI
Annual Reporting

Each year following the execution of this Agreement, the Corps will provide all parties to this Agreement a summary report detailing work carried out pursuant to its terms, if any. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the Corps' efforts to carry out the terms of this Agreement.

Stipulation XII
Curation

A. Curation on BLM Managed Land

Curation of all records, photographs, maps, field notes, artifacts, and other materials collected or developed for any identification, evaluation, or treatment activities on BLM managed land remain federal property and will be curated in a facility approved by the BLM at the time the final report associated with that activity is accepted by the BLM and will be treated in accordance with 36 CFR § 79 *Curation of Federally-Owned and Administered Archeological Collections*.

B. Curation on County or Private Land

All materials found on County or private land remains the property of the land owner, and will be managed according to the owner's wishes, except that copies of all records, photographs, maps, field notes, and photographs of artifacts, and other materials collected will be retained by the Corps and provided to the SHPO and the County. Curation of materials found on County or private land will be treated in accordance with 36 CFR § 79 *Curation of Federally-Owned and Administered Archeological Collections* to the extent possible and as affordable to the County and private landowners. The Corps will assist with determinations on the treatment of materials as requested.

Stipulation XIII
Other Considerations

- A. As long as construction of the Undertaking commences, if any signatory or concurring party to this Agreement is unable to continue in their capacity as a signatory or concurring party, due to changes in land ownership, congressional authority or other circumstances, then this Agreement shall be amended and executed between the remaining signatories and concurring parties so that the responsibilities in the Agreement prescribed to that party are accounted for by another party.

- B. The County, in cooperation with the Corps, BLM and the SHPO, will ensure that all its personnel, and all the personnel of its contractors, are directed not to engage in the illegal collection of historic and prehistoric materials. Where applicable the County will cooperate with the BLM to ensure compliance with the Archaeological Resources Protection Act of 1979, as amended (16 U.S.C. 470).
- C. The County will bear the expense of identification, evaluation, and treatment of the VCHD and NHL historic properties or contributing properties directly or indirectly affected by activities related to the Undertaking. Such costs may include, but not be limited to, pre-field planning, field work, post-fieldwork analysis, research and report preparation, interim and summary report preparation, and costs associated with the curation of project documentation and artifact collections.

Stipulation XIV
Non-Availability of Funds

This Agreement shall be subject to available funding, and nothing in this Agreement shall bind the Corps to expenditures in excess of funds authorized and appropriated for the purposes outlined in this Agreement. If the County or the Corps determines that funding is inadequate to carry out the terms of this Agreement, the Corps will notify all parties and consult further to amend or terminate the Agreement per Stipulations XVI and XVII.

Stipulation XV
Dispute Resolution

Should any Signatory to this Agreement object at any time to any actions proposed or the manner in which the terms of this Agreement are implemented, the Corps will consult with such party to resolve the objection. If the Corps determines that such objection cannot be resolved within thirty (30) days, the Corps will forward all documentation relevant to the dispute, including the Corps' proposed resolution, to the ACHP per 36 C.F.R. § 800.2(b)(2). Any comments provided by the ACHP within fifteen (15) working days of receiving adequate documentation will be taken into account by the Corps in reaching a final decision regarding the objection.

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

Stipulation XVI
Amendments

This Agreement may be amended through consultation with, and written concurrence of all Signatories. The amendment will be effective on the date the amendment is signed by all of the Signatories.

Stipulation XVII
Termination

- A. This Agreement will terminate either when the Corps, the BLM and SHPO determine that the Undertaking has been completed or five (5) years from the date of its execution, whichever occurs first. Prior to the five year termination date, the BLM, the Corps, or both, may consult with the other parties to reconsider the terms of the Agreement and extend or amend it as appropriate.
- B. If any Signatory to this Agreement determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to seek alternatives to termination. If within thirty (30) days (or another time period agreed to by all Signatories) an Agreement on an alternative to termination cannot be reached, any Signatory may terminate the Agreement upon written notification to the other Signatories.
- C. Should this Agreement be terminated, the Corps will either execute a new agreement pursuant to 36 C.F.R. § 800.6, or request the comments of the ACHP under 36 C.F.R. § 800.7(a).



Stipulation XVIII
Effective Date

This Agreement becomes effective on the date of the last signature below and will remain in effect until terminated, or the Undertaking is completed.

EXECUTION of this Agreement by the Corps, BLM and the SHPO, its transmittal to the ACHP, and subsequent implementation of its terms evidence that the Corps has afforded the ACHP an opportunity to comment on the Undertaking and its effects on historic properties, that the Corps, as the lead Federal agency, has taken into account the effects of the undertaking on historic properties, and that the Corps has satisfied its responsibilities under Section 106 of the National Historic Preservation Act and applicable implementing regulations for all aspects of the Undertaking.

SIGNATORIES TO THIS AGREEMENT:

U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT


Date 1 MAR 12
 William J. Leady, P.E., Colonel, U.S. Army Corps of Engineers, District Commander

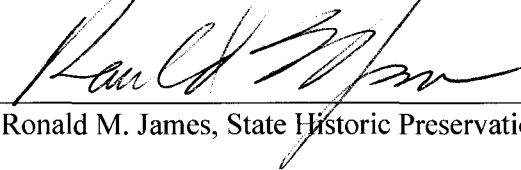
U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT



Date 3/9/12

Alan R. Bittner, Acting Field Manager, Sierra Front Field Office, Carson City District

NEVADA STATE HISTORIC PRESERVATION OFFICER



Date 3-12-12

Ronald M. James, State Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Date

John M. Fowler, Executive Director

STOREY COUNTY



Date 12 MAR 2012

Pat Whitten, County Manager

CONCURRING PARTIES:

NATIONAL PARK SERVICE

_____ Date
David Louter, Pacific West Region Chief of Cultural Resources Program

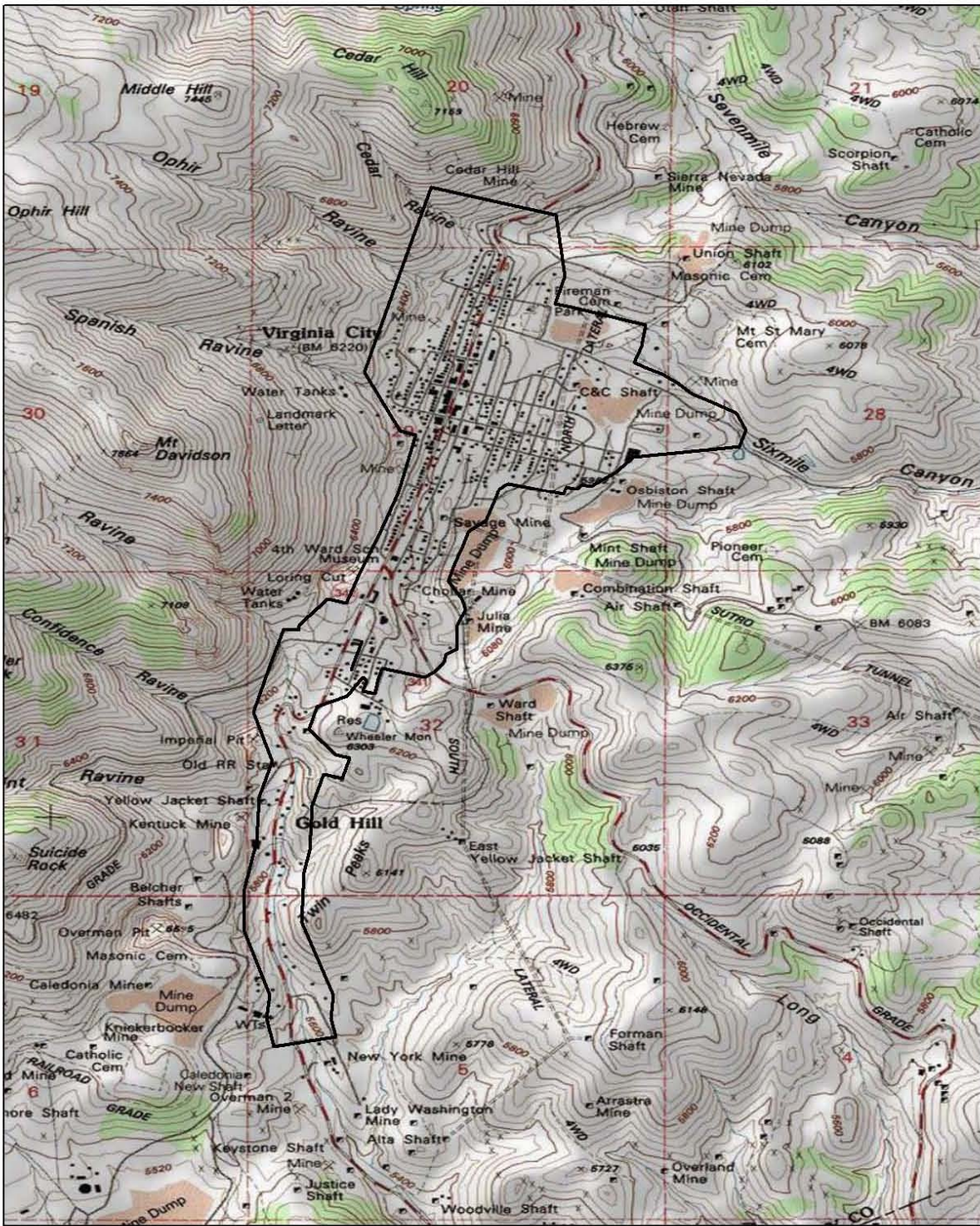
WASHOE TRIBE OF NEVADA AND CALIFORNIA

_____ Date
Wanda Batchelor, Chairwoman

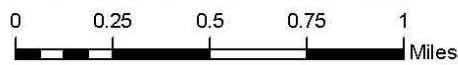
YERINGTON PAIUTE TRIBE

_____ Date
Linda Howard, Chairman

Appendix 1
Area of Potential Effects

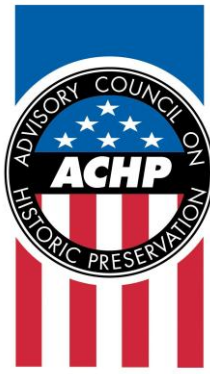


Virginia City Project Boundary
 Virginia City, Nevada (1994) 7.5" U.S.G.S. Quadrangle



Section 595 Virginia City and Gold Hill Wastewater System Improvements Project Area of Potential Effects (APE)

Appendix 2
Correspondence from the Advisory Council on Historic Preservation



Preserving America's Heritage

February 11, 2011

Ms. Alicia E. Kirchner
Chief, Planning Division
U.S. Army Corps of Engineers
Sacramento District
1325 J Street
Sacramento, CA 95814-2922

***Ref: Proposed Virginia City and Gold Hill Wastewater System Improvements Project
Storey County, California***

Dear Ms. Kirchner:

On January 31, 2011, the Advisory Council on Historic Preservation (ACHP) received your notification and supporting documentation regarding the adverse effects of the referenced undertaking on the Virginia City Historic District, which is listed on 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 Memorandum of Agreement (MOA), developed in consultation with the California State Historic Preservation Office and any other consulting parties, and related documentation with the ACHP at the conclusion of the consultation process. The filing of the MOA 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, please contact Tom McCulloch at 202-606-8554, or via email at tmcculloch@achp.gov.

Sincerely,

Raymond V. Wallace
Historic Preservation Technician
Office of Federal Agency Programs

Appendix 3
Historic Property Treatment Plan Guidelines

Historic Property Treatment Plans (HPTP) shall address:

- The historic properties or portions of historic properties where effects will be assessed;
- Any data recovery or other options for resolution of adverse effect to historic properties or portions of historic properties that will be destroyed or altered without treatment;
- The qualifications of the researchers with principal responsibility for assessing effects and proposing and implementing the treatment;
- A research design that will contain the research questions and goals that are applicable to the project area as a whole and that will be addressed through data recovery, along with an explanation of their relevance and importance. These research questions and goals shall reflect the concepts of historic contexts as defined in National Register Bulletin 16. Historic contexts shall be prepared to provide the necessary background information to properly evaluate historical, engineering, and architectural properties;
- The field and analysis methods to be used, with an explanation of their relevance to the research questions;
- The methods to be used in data management and dissemination of data, including a schedule;
- The proposed disposition of recovered materials and records;
- Proposed methods for disseminating results of work to the interested public;
- Proposed methods by which appropriate Native American groups and individuals, local governments, and other interested persons will be kept informed about implementation of the HPTP and afforded an opportunity to comment;
- A proposed schedule for submission of progress reports to the Corps, SHPO, the BLM, and the ACHP;
- Methods and procedures for the recovery, analysis, treatment, and disposition of human remains, associated grave goods, and objects of cultural patrimony that reflect any concerns and/or conditions identified as a result of consultations between the Corps and any affected Native American Group (see Stipulation III.B.);
- The historic properties to be affected in the specified project segment and the nature of those effects;
- The research questions identified in the HPTP that will be appropriate for the specified project segment and that will be addressed through data recovery, along with any explanation of their relevance to the overall research goals as established in the HPTP;

- The specific field work and analytical strategies identified in the HPTP, as well as any other strategies that will be used in the specified project segment;
- A proposed schedule for submission of progress, summary, and other reports to the Corps and;
- Qualifications of consultants employed to undertake the implementation of the STP.

Avoidance of adverse effects on historic properties is the preferred treatment approach. The HPTP will discuss and justify the chosen approaches to the treatment of historic properties and those treatment options considered, but rejected. If preservation of part or all of any historic property is proposed, the treatment plan will include discussion of the following:

1. Description of the area or portions of the historic properties to be preserved in-place, and an explanation of why those areas or portions of sites were chosen;
2. Explanation of how the historic properties will be preserved in-place, including both legal and physical mechanism for such preservation;
3. A plan for monitoring and assessing the effectiveness of mechanisms to preserve the historic properties; and
4. A plan for minimizing or mitigating future adverse effects on the historic properties if preservation in-place mechanisms prove to be ineffective.

Appendix 4
Unanticipated Discoveries Plan

UNANTICIPATED DISCOVERY PLAN

Before any undertaking-related activities begin within the area of potential effect (APE), the County will provide the Corps, the BLM and SHPO with a list of, and schedule for, employees or authorized representatives who are empowered to halt all activities in a discovery situation. These employees will be responsible for notifying the Corps and BLM of any discoveries.

At least one of the Storey County Public Works Department employees or authorized representatives in this list must be present during all undertaking-related activities.

The County also must identify a qualified historical archaeologist who will be responsible for documenting and evaluating unanticipated cultural resources and human remains found during the project according to the stipulations of this Agreement.

The Corps will provide the County with a designated contact who will be responsible for dealing with discoveries in a timely manner.

1. DISCOVERY SITUATIONS

- A. On discovery of any artifact or other evidence, by anyone associated with the Undertaking, indicating the possibility of a buried or previously unidentified potential historic property, other than isolates:
 - 1. The County will immediately stop all surface disturbing activities within 30 feet of the location of the discovery;
 - 2. The County will notify the designated Corps contact and the County's archaeologist to evaluate the discovery;
 - 3. Storey County will secure the site of the discovery as needed until notified to proceed by the Corps. The County will provide 24-hour security of the site if necessary consistent with Stipulation V.A.2.b.

- B. After being notified by the County:
 - 1. The Corps will immediately notify the BLM and SHPO, and will consider the BLM's and SHPO's initial comments on the discovery;
 - 2. Within 2 working days of the discovery, the Corps will notify the County, BLM, SHPO, and identified consulting parties of their decision to either allow undertaking-related activities to proceed or to require mitigation.

- C. If, in consultation with SHPO and the BLM, the Corps determines that mitigation is appropriate, the Corps will develop a Historic Property Treatment Plan (HPTP) in accordance with Appendix 2 and will:

1. Solicit comments from the SHPO, BLM and identified consulting parties, as appropriate, to develop mitigating measures;
 2. Allow SHPO, BLM and identified consulting parties, as appropriate, the opportunity to comment on the extent of mitigation efforts;
 3. Consider any comments and identify the mitigation required within 5 working days of notification to the County of the need for mitigation;
 4. Notify the SHPO, BLM, the County, and identified consulting parties of its decision and ensure that mitigating actions are implemented.
- D. The Corps will ensure that reports of mitigation efforts for discovery situations, prepared by the County's archaeologist, are completed in a timely manner.
1. All reports will conform to the standard procedures in this Agreement (Stipulations II.B., II.C.4., and II.C.5.).
 2. Drafts of such reports will be submitted to the BLM and SHPO for review and comment.
 3. Final reports will be submitted to the BLM and SHPO and potential consulting parties for informational purposes.
- E. Undertaking-related activities within 30 feet of the discovery will not resume until the Corps notifies the County that mitigation is not required or that mitigation is complete and activities can resume.

2. HUMAN REMAINS

Any human remains encountered during the Undertaking will be given sensitive and respectful treatment in accordance with all relevant federal, state, and local laws. Within these constraints, the specific treatment of the remains will depend on the surface ownership where the human remains are discovered and if the remains are identified as Native American.

- A. If human remains, in any condition, are discovered under any circumstances:
1. The County will immediately stop all surface disturbing activities within 30 feet of the location of discovery and secure the site until it can be evaluated;
 2. The remains will be carefully covered and secured to protect them from any degradation, inappropriate observation, or inappropriate photography;
 3. If necessary, the County will provide 24-hour on-site security for the

discovery;

4. The County will conform to all appropriate Nevada statutes concerning possible unrecorded dead bodies, human remains, or crime scenes.
- B. The County will immediately notify local law enforcement authorities, the Corps, BLM and SHPO.
1. Local authorities, assisted by BLM law enforcement personnel, if necessary, will determine whether the remains are of an unrecorded dead body as defined by Nevada statutes (NRS 440.020) and whether the remains are part of a crime scene.
 - a. If the remains are part of a crime scene, local law enforcement shall assume jurisdiction and responsibility for the remains and discovery site.
 - b. The County will immediately notify SHPO, the Corps and BLM that local law enforcement personnel consider the discovery to be a crime scene. This notification will be followed by a written notification, as needed.
 - c. Work will not resume until authorized by the local authorities, the Corps and BLM.
 2. The BLM will assume responsibility for coordination with local authorities, SHPO, and appropriate tribes for discoveries on BLM managed land.
- C. If the discovery is not a crime scene, the County's archaeologist will inspect the remains, determine ancestry and context and report the findings to SHPO, the Corps and BLM and assist the Corps and BLM with appropriate disposition.
- D. If the remains are not Native American, and found on county or private land, the County will assume responsibility for their appropriate and respectful disposition.
- E. If the remains are not Native American, and found on BLM managed lands, BLM assume responsibility for their appropriate and respectful disposition.
- F. If the remains are identified as Native American and are located on private or County land, SHPO will notify the Nevada Indian Commission and the appropriate tribes and comply with the relevant portions of NRS 383.
1. The tribes may inspect the discovery, with permission of the landowner, and will have 48 hours to make a recommendation on the disposition of human remains and associated artifacts.

2. The County will submit a treatment plan consistent with tribal recommendations to SHPO. After the treatment plan is approved by SHPO, the tribes, and the landowner, the County will implement the treatment, which may include scientific studies or removal and reburial.
 3. After the treatment plan is completed and the report is approved:
 - a. All human remains and artifacts must be reinterred under the supervision of the tribes.
 - b. No Native American human remains or associated grave goods will be publicly exhibited or be displayed in any manner without the explicit written consent of the tribes.
 - c. No media will be directly or indirectly alerted to this discovery without the written consent of the tribes.
 4. Work may not resume until authorized by SHPO.
- G. If human remains are identified as Native American and are found on BLM managed land, BLM will comply with 43 CFR Part 10 and will assume responsibility for determinations of affiliation, treatment and repatriation in consultation with affiliated tribes.
1. Unless otherwise resolved, the County may resume all Undertaking related activities at the discovery site 30 calendar-days after the BLM has certified that it has received written notification of the discovery and such resumption is otherwise lawful.
 2. Therefore, all signatories and parties to agree to implement all reasonable measures to resolve any issues regarding affiliation and disposition of discovered remains within a 30-calendar day period beginning with BLM certification of notification.
- H. The County will be responsible for all expenses associated with the discovery including tribal site visits, excavation, analysis, reporting, and reinterment. The County will also be responsible for any reasonable costs incurred by tribal members to receive the remains, to perform ceremonies, or to reinter the remains.