

**MEMORANDUM OF AGREEMENT
BETWEEN
NATURAL RESOURCES CONSERVATION SERVICE
AND
THE NEVADA STATE HISTORIC PRESERVATION OFFICER
REGARDING
WEST WASH DAM WATERSHED PROJECT
WASHOE COUNTY**

WHEREAS, the Nevada Natural Resources Conservation Service (NRCS) has entered into an agreement with the City of Reno to rehabilitate the West Wash and East Wash Dams to meet current NRCS, City of Reno, and State of Nevada Division of Water Resources (DWR) dam safety criteria and performance standards. The West Wash Dam Watershed Project (undertaking) is located in Washoe County, Nevada, T19N; R19E; Sections 3 and 4, and T20N; R19E; Sections 33, 34; and

WHEREAS, the NRCS is the responsible Federal agency and has determined that the West Wash Dam Watershed Project is an undertaking pursuant to Title 54 U.S.C. § 300101, et. seq. commonly known as the National Historic Preservation Act of 1966, as amended (NHPA), and Title 54 U.S.C. § 306108, commonly known as Section 106 of the NHPA (Section 106), and its implementing regulations 36 Code of Federal Regulations (CFR) Part 800; and

WHEREAS, the undertaking consists of the following items: Restoring the original design elevation to the principal spillway approach. West Wash Dam will have the embankment raised five feet to a new elevation of 4798 feet, the auxiliary spillway widened to the original design width of 80 feet and lowered to a crest elevation of 4782.5 feet, the impoundment area to the west of the existing flow line will be regraded to allow for more water storage, and a two-foot-tall parapet wall will be built on the east corner of the dam. Re-grading the impoundment area of West Wash Dam will consist of steepening the western slope to a 2:1 slope and the total cut and fill associated with the grading will be approximately 421,683 yd³ and 28,588 yd³, respectively; and

WHEREAS, the NRCS has defined the area of potential effects (APE) for the undertaking as a 133.49-acre area that encompasses all potential effects of the undertaking (Attachment I); and

WHEREAS, the NRCS has determined that the undertaking will have an adverse effect on the existing West Wash Dam (S2873), which is a contributing element to historic property district 390 (comprised of the East and the West Wash Dam), eligible for the National Register of Historic Places (NRHP) under the Secretary of Interior's Significance Criterion A, and has consulted with the Nevada State Historic Preservation Office (SHPO) pursuant to 36 CFR Part 800; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), the NRCS has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination providing the specified documentation, and the ACHP has chosen not to participate in the consultation

pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, the Signatories agree that this Memorandum of Agreement (MOA) may be signed in counterparts, and the executed MOA, and each signature, will be effective and binding as if all parties had signed the same document; and

NOW, THEREFORE, the NRCS, and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

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

I. MITIGATION

- A. Archival Record Submission: The NRCS will provide the SHPO with digital copies of archival information currently in the NRCS administrative records within one year of the execution of the MOA. This information pertains to the 1958 Peavine Mountain Watershed Project (Project), of which the East and West Wash Dams were a part. The digital copies shall be no less than 600dpi in quality. The archival information will consist of, but not be limited to, the following:
1. Available archival scans of photographs (color and black and white) of the construction phase of the Project; and
 2. Color negative scans of the construction phase of the Project; and
 3. Scans of photographs from the inspection updates of the Project in 1978; 1983 and 1988; and
 4. A Project Plan Report from 1958. The 1958 report includes a description of the Project and plan maps of the four structures associated with the Project (East Wash Dam, West Wash Dam, Upper Peavine Creek Dam and Lower Peavine Creek Dam).
- B. Nevada Historical Marker Development and Installation: The NRCS, in coordination with the SHPO and the Nevada Division of State Parks who is responsible for the maintenance of the Nevada Historical Markers, will oversee the development and installation of Nevada State Historical Marker #275 near the West Wash Dam within one year of completion of undertaking construction activities consistent with the requirements of the program (NRS 383.091).

NRCS will place the historical marker in a publicly accessible location acceptable to the property owner. The historical marker will describe the importance of the West and East Wash Dams to the history of flood protection to the City of Reno, the development of the 1958 Project, and the Watershed Protection and Flood Preservation Act of 1954.

Creation, review, and fabrication of Historical Marker #275 will proceed as follows:

1. NRCS shall submit a draft design with interpretive text for the marker to the SHPO for review and comment. SHPO review will include, but not be limited to, a determination that the design is adequate, appropriate, and sufficient for a Nevada Historical Marker consistent with NRS 383.091. The SHPO shall have forty-five (45) days from receipt of the submission to respond to NRCS. If the SHPO concurs or does not respond to the NRCS in a timely fashion, NRCS may finalize the design and proceed with fabrication and installation of the marker.
2. NRCS will revise the design and interpretive text to address any SHPO comments within forty-five (45) days of receipt of those comments. NRCS shall submit the revised draft final design with interpretive text for the marker to the SHPO for review and comment. The SHPO shall have thirty (30) days from receipt of the revised draft final to respond to NRCS. If the SHPO concurs or does not respond to the NRCS in a timely fashion, NRCS may finalize the design and proceed to fabrication and installation of the marker.

II. DURATION

This MOA will expire if its terms are not carried out within two (2) years from the date of its execution or if the mitigation stipulations 1A and 1B are not carried out in the time specified, whichever comes first. Prior to such time, the NRCS may consult with the SHPO to reconsider the terms of the MOA and amend it in accordance with Stipulation V below.

At such time, and prior to work continuing on the undertaking, the NRCS shall either (a) execute a MOA pursuant to 36 CFR § 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7.

III. POST-REVIEW DISCOVERIES

If unanticipated potential historic properties are discovered within the APE or unanticipated effects on historic properties found during the undertaking, all work will halt in the immediate vicinity of the discovery and NRCS shall follow the procedures found at 36 CFR § 800.13(c).

IV. DISPUTE RESOLUTION

Should any signatory to this MOA object at any time to actions proposed or the manner in which the terms of this MOA are implemented, the NRCS shall consult with such party to resolve the objection. If the NRCS determines that such objections cannot be resolved, the NRCS will:

- A. Forward all documentation relevant to the dispute, including the NRCS's proposed resolution, to the ACHP. The ACHP shall provide NRCS 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, NRCS shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the

ACHP and the SHPO, and provide them with a copy of this written response. NRCS will then proceed according to its final decision.

- B. If the ACHP does not provide its advice regarding the dispute within thirty (30) days, the NRCS may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the NRCS shall prepare a written response that takes into account any timely comments regarding the dispute from the SHPO and provide the SHPO and the ACHP with a copy of such written response.

V. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by the signatories. The amendment will be effective on the date a copy signed by all the signatories are filed with the ACHP.

VI. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation V above. If within thirty (30) days (or another time period agreed to by the signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatory.

Once the MOA is terminated, and prior to work continuing on the undertaking, the NRCS must either execute an MOA pursuant to 36 CFR § 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. NRCS shall notify the SHPO as to the course of action it will pursue.

VII. IT IS MUTUALLY AGREED

- A. The US Department of Agriculture - NRCS and the SHPO will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing these objectives. Each party will carry out its separate activities in a coordinated and mutually beneficial manner.
- B. Nothing in this MOA shall obligate either the NRCS or the SHPO to obligate or transfer any funds. Specific work projects or activities that involve the transfer of funds, services, or property among the various agencies and offices of the NRCS and the SHPO will require execution of separate agreements and be contingent upon the availability of appropriated funds. Such activities must be independently authorized by appropriate statutory authority. This MOA does not provide such authority. Negotiation, execution, and administration of each such agreement must comply with all applicable statutes and regulations.
- C. This MOA takes effect upon the signature of the US Department of Agriculture - NRCS

and the Nevada State Historic Preservation Office.

D. This MOA is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person.

E. Nothing in this Agreement shall be construed as requiring a Party to expend funds in violation of the Federal Anti-deficiency Act codified at 31 U.S.C. § 1341.

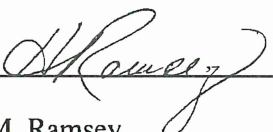
EXECUTION of this MOA by the NRCS and the SHPO and implementation of its terms evidence that NRCS has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

[Remainder of Page Intentionally Blank]

Signatures:

In witness whereof, the parties to this MOA through their duly authorized representatives have executed this MOA on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this MOA as set forth herein.

USDA-NATURAL RESOURCES CONSERVATION SERVICE

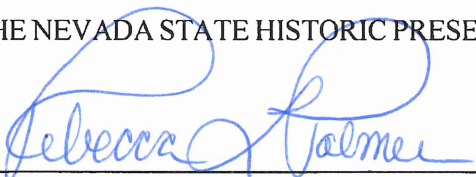


Heidi M. Ramsey
Nevada State Conservationist

2/6/2024

Date

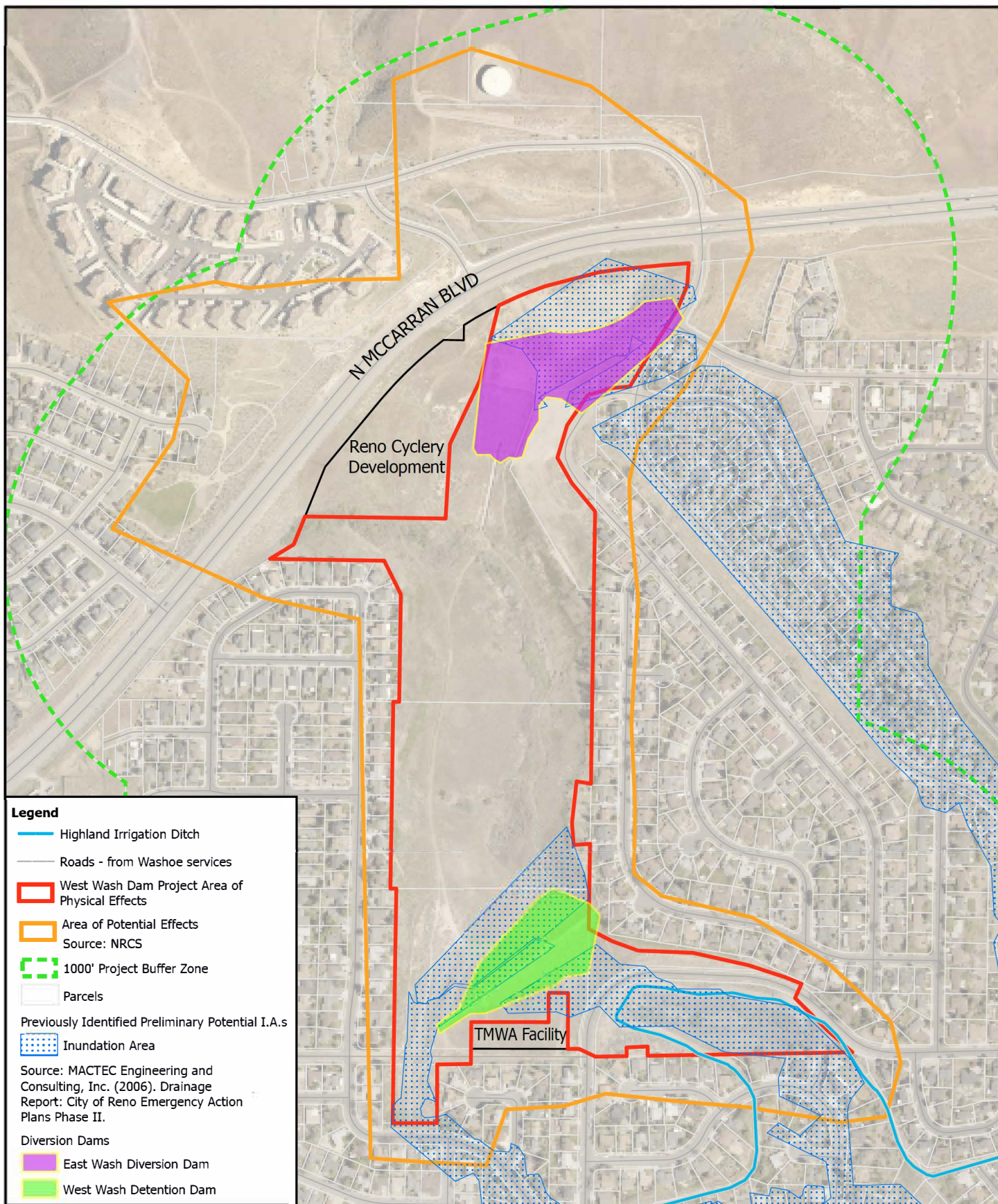
THE NEVADA STATE HISTORIC PRESERVATION OFFICE



Rebecca L. Palmer
State Historic Preservation Officer

2/6/2024

Date



20 Years!
FARR WEST
ENGINEERING
5510 Longley Lane
Reno, NV 89511
(775) 851-4788
www.farrwestengineering.com



Project Area of Potential Effects

The data contained herein does not represent survey delineation and should not be construed as a replacement for the authoritative source. No liability is assumed by Farr West Engineering as to the sufficiency or accuracy of the data.