



Valley Creek Feasibility Study, Bessemer and Birmingham, Alabama

Final Integrated Feasibility Report and Environmental Assessment

Appendix I – NHPA Sec 106 PA and Correspondence

June 2021



**US Army Corps
of Engineers** ®

**PROGRAMMATIC AGREEMENT
BETWEEN
THE U.S. ARMY CORPS OF ENGINEERS AND
THE ALABAMA STATE HISTORIC PRESERVATION OFFICER REGARDING
THE VALLEY CREEK FEASIBILITY STUDY AND PROJECT, JEFFERSON
COUNTY, ALABAMA**

WHEREAS, the U.S. Army Corps of Engineers (USACE), Mobile District is conducting a feasibility study (Study) as authorized by the Rivers and Harbors Act of 1962, P.L. 87-874, Section 209

WHEREAS, the Study is being conducted to identify and respond to problems and opportunities associated with flood risk in the Valley Creek watershed; and

WHEREAS, USACE proposes to study alternatives and measures that relate to reducing flood potential in the Valley Creek watershed in Bessemer, Alabama; and

WHEREAS, USACE has determined that the Study, and any subsequent associated project activities (Project), constitute an Undertaking, as defined in 36 C.F.R. § 800.16(y), and therefore is subject to Section 106 of the National Historic Preservation Act of 1966, 54 U.S.C. § 306108 (NHPA); and

WHEREAS, USACE has defined the Undertaking's preliminary area of potential effects (APE) as a mile buffer on either side of Valley Creek, from the emergence of Valley Creek from under 7th Street in south Birmingham to the County Road 47 bridge over Valley Creek in south Bessemer, as shown in Attachment 1; and

WHEREAS, USACE has determined that the Project has the potential to affect properties listed or eligible for listing on the National Register of Historic Places (NRHP) and has consulted with the Alabama Historical Commission, State Historic Preservation Officer (SHPO) pursuant to the NHPA; and

WHEREAS, at least one historic property (Bessemer Mounds) and two properties with undetermined eligibilities are known to be present within the APE, and large portions of the APE have not been inventoried for Historic Properties; and

WHEREAS, USACE, with the concurrence of SHPO, has decided to comply with Section 106 of the NHPA for the Project through the execution and implementation of this Programmatic Agreement (PA) because USACE cannot fully determine the effects of the Undertaking on Historic Properties [36 C.F.R. § 800.14(b)(1)(ii)] for all segments of the Project at this time; and

WHEREAS, this PA shall establish the process USACE shall follow for compliance with 54 U.S.C. § 306108 (formerly 16 U.S.C. § 470f, referred to hereinafter as "Section 106"), taking into consideration the views of the Signatories and Concurring Parties; and

WHEREAS, the City of Bessemer is the non-Federal Sponsor for the study and has been invited to be a Concurring Party to this PA; and

WHEREAS, in accordance with 36 C.F.R. §§ 800.2(c)(2)(ii)(A), 800.3(f)(2), and 800.14(b)(2)(i), USACE has contacted Federally Recognized Indian Tribes, via letter(s), phone call(s), email(s), and/or meetings, to invite them to consult on the Project and this PA, including the Absentee-Shawnee Tribe Oklahoma; Alabama-Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town; The Chickasaw Nation; Eastern Band of the Cherokee Nation; Eastern Shawnee Tribe of Oklahoma; Kialagee Tribal Town, Oklahoma; Muscogee (Creek) Nation; Poarch Band of Creek Indians; Shawnee Tribe, Oklahoma; and United Keetoowah Band of Cherokee Indians in Oklahoma; USACE has invited them (and others who may be identified in the future as appropriate Concurring Parties) to participate as Concurring Parties to this PA; and USACE will continue consultation throughout the duration of this PA; and

WHEREAS, the definitions set forth in 36 C.F.R. § 800.16 are incorporated herein by reference and apply throughout this PA; and

WHEREAS, the definitions for Signatory Parties set forth in 36 C.F.R. § 800.6(c)(1), and the definitions for Concurring Parties set forth in 36 C.F.R. § 800.6(c)(3), are incorporated herein by reference and apply throughout this PA; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), USACE has notified the Advisory Council on Historic Preservation (ACHP) of the potential for the Project to result in adverse effects to Historic Properties, and the ACHP has chosen to not participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(4) and 36 C.F.R. § 800.14(b)(2)(ii), USACE has notified the public of the Project and provided an opportunity for members of the public to comment on the Project and the Section 106 process as outlined in this PA;

NOW, THEREFORE, USACE and 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

USACE shall ensure that the following stipulations are carried out:

I. TIME FRAMES AND REVIEW PROCEDURES

A. For all documents and deliverables produced in accordance with the stipulations of this PA, including findings and effects determinations, USACE shall provide a draft document to the SHPO, Concurring Parties, and Federally Recognized Indian Tribes for review. Any written comments provided by SHPO, Concurring Parties, and Federally Recognized Indian Tribes, within thirty calendar days from the date of receipt, shall be considered in the revision of the document or deliverable. USACE shall document and report the written comments received for the document or deliverable and how comments were addressed. USACE shall provide a revised final document or deliverable to SHPO, Concurring Parties, and Federally Recognized Indian Tribes. SHPO, Concurring Parties, and Federally Recognized Indian Tribes shall have thirty calendar days from receipt to respond. Failure of SHPO, Concurring Parties, and Federally Recognized Indian Tribes to respond within thirty calendar days of receipt of any submittal shall not preclude USACE from moving to the next step in this PA.

B. Should SHPO object to the final document or deliverable submitted for review, USACE and SHPO shall consult for a period not to exceed fifteen Calendar days (or other agreed to time period) following the receipt of SHPO's written objection in an effort to come to agreement on the issues to which SHPO has objected. Should SHPO and USACE be unable to agree on the issues to which SHPO has objected, SHPO and USACE shall proceed in accordance with **Stipulation XIV (Dispute Resolution)**, below. The timeframe to consult to resolve a disagreement or objection may be extended by mutual consent of USACE and SHPO.

II. TRIBAL INVOLVEMENT

A. In consultation with Federally Recognized Indian Tribes, USACE will make a reasonable and good-faith effort to identify properties of traditional religious and cultural importance. USACE has initiated consultation with Federally Recognized Indian Tribes with respect to the Project and will ensure that consultation continues throughout the implementation of this PA.

B. In accordance with the guidance provided in National Register Bulletin 38 and Preservation Brief 36, USACE will seek comments from all Federally Recognized Indian Tribes in making determinations of NRHP eligibility for any Traditional Cultural Properties (TCPs) and Cultural Landscapes (as defined in Bulletin 38 and Preservation Brief 36). Review of documentation shall be consistent with **Stipulation I (Timeframes and Review Procedures)**.

C. Federally Recognized Indian Tribes may choose not to sign this PA as a Concurring Party. Federally Recognized Indian Tribes not acting as Concurring Parties to the PA will be contacted when USACE identifies potential interest in a specific action of the project. USACE will make a good faith effort to identify any Federally Recognized Indian Tribes with interest in the proposed treatment of Historic Properties. USACE will then contact each identified organization and individual by mail or email inviting them to consult about the specific Historic Properties. If interest from the contacted parties is received by USACE, USACE will proceed to consult in accordance with **Stipulation II.A. (Tribal Involvement)**. Further consultation may also be carried out through letters of notification, emails, public meetings, environmental assessments/environmental impact statements, site visits, and/or another method requested by a Federally Recognized Indian Tribe. Failure of any contacted group to comment within thirty calendar days shall not preclude USACE from proceeding with the Project.

D. USACE shall make a reasonable and good-faith effort to ensure that Federally Recognized Indian Tribes, acting as either Concurring Parties or those expressing interest in the project, will be invited to participate in the development and implementation of the terms of this PA, including, but not limited to, the identification of the APE, identification of potential Historic Properties, determinations of eligibility, findings of effect, and the resolution of adverse effect for those Historic Properties. Review periods shall be consistent with **Stipulation I (Timeframes and Review Procedures)** except in situations involving unanticipated discoveries and treatment, which shall follow the review schedules of **Stipulation IX (Inadvertent Discoveries and Unanticipated Effects)**. USACE shall ensure that all interested Native American reviewers shall receive copies of all final survey and evaluation reports.

III. AREA OF POTENTIAL EFFECTS

The APE for Project activities includes the construction footprint, staging areas, and a reasonable buffer determined through consultation between SHPO, Concurring Parties, Federally Recognized Indian Tribes, and USACE, and takes into account the likelihood of direct and indirect effects to Historic Properties resulting from the Project. **Enclosure 1** includes an overall APE map for the Project. The current, overall APE includes the Valley Creek and a mile buffer in either direction from the emergence of the creek from subsurface tunnels at 7th Street in south Birmingham in the northeast to the County Road 47 bridge over Valley Creek in south Bessemer in the southwest, it will be necessary to further refine the APE as design and construction proceed. Prior to activities under **Stipulation IV (Identification and Evaluation)**, USACE shall submit to SHPO, Concurring Parties, Federally Recognized Indian Tribes a map of the revised APE, and a description of the Project activities that would occur within it, in accordance with **Stipulation I (Timeframes and Review Procedures)**. Revisions to the APE will not necessitate modifications to this PA.

A. USACE ensures the final APE includes:

(1) The extent of all Project construction and excavation activity required to control flooding potential, such as retention areas, stream alteration, bridge modifications, and levees; and

(2) The additional right-of-way/easements obtained by USACE as part of the Project's features; and

(3) All construction staging areas, access routes, spoil areas, and stockpiling areas, and

(4) Any areas where indirect effects may be reasonably anticipated.

B. After the final APE has been defined and consulted on, construction or other Project activities may require revisions to the APE. If the final APE is revised, USACE shall consult on that revision in accordance with **Stipulation I (Timeframes and Review Procedures)**, and USACE shall determine the potential for Project activities in a revised APE to affect potential Historic Properties, in accordance with **Stipulation IV (Identification and Evaluation)**.

C. Amendment of the APE, by agreement of SHPO and USACE, shall not require amendment of this PA.

IV. IDENTIFICATION AND EVALUATION

USACE shall complete any identification and evaluation of Historic Properties prior to proceeding with construction.

A. Identification of Historic Properties: An inventory of properties within the final APE, agreed to under Stipulation I, consistent with the *Secretary of Interior's Standards and Guidelines for Archeology and Historic Preservation* (48 FR 44716–44740) and with the State of Alabama's *Policy for Archaeological Survey and Testing in Alabama* will be initiated for the Project as construction details become available.

Survey recordation shall include features, isolates, and re-recordation of previously recorded sites, as necessary. The survey shall ensure that Historic Properties such as historical structures and buildings, historical engineering features, landscapes, viewsheds, and traditional cultural properties (TCPs) with significance to Federally Recognized Indian Tribes, are recorded in addition to archaeological sites. Recordation of historic structures, buildings, objects, and sites shall be prepared using the Alabama Building Survey Form (Enclosure 2) while recordation of archaeological sites shall be prepared using the Alabama State Site File (Enclosure 3).

B. Evaluation of Properties: After recordation on Alabama Site Record forms, identified properties shall be evaluated by a qualified professional for their

eligibility for listing in the NRHP consistent with the *Secretary of Interior's Standards for Evaluation*, 36 C.F.R. § 60.4. In accordance with Stipulation I

(Timeframes and Review Procedures), USACE shall submit a completed inventory and evaluation report to SHPO and Concurring Parties.

If SHPO, any Concurring Parties, and/or Federally Recognized Indian Tribes disagree regarding eligibility, USACE shall notify all Signatories and Concurring Parties of the dispute and consult with SHPO. If the dispute cannot be resolved, USACE shall seek a formal determination of eligibility from the Keeper of the National Register. The Keeper's determination will be final in accordance with 36 CFR 63.4.

V. DETERMINATION OF EFFECTS

Avoidance of adverse effects to Historic Properties is the preferred treatment approach. USACE will consider redesign of Project elements in order to avoid Historic Properties and Project effects that may be adverse. However, it may not be possible to redesign the Project in order to avoid adverse effects to Historic Properties.

USACE will apply the criteria of adverse effect, pursuant to 36 C.F.R. § 800.5(a)(1), to all Historic Properties within the APE. USACE shall prepare and submit the finding of effect document in accordance with **Stipulation I (Timeframes and Review Procedures)**.

If effects to Historic Properties are determined to be adverse, **Stipulation VI. (Historic Properties Treatment Plan)**, below, will be followed.

VI. HISTORIC PROPERTIES TREATMENT PLAN

If it is determined that project activities will result in adverse effects, USACE, in consultation with SHPO, Concurring Parties, and Federally Recognized Indian Tribes, shall develop a Historic Properties Treatment Plan (HPTP) to resolve all adverse effects resulting from the Project, which would be appended to this PA. HPTP shall outline the minimization and mitigation measures necessary to resolve the adverse effects to Historic Properties. Proposed mitigation measures may include, but are not limited to, data recovery, oral history, historic markers, interpretive brochures, and publications, depending on their criterion for eligibility. Development of appropriate measures shall include consideration of Historic Property types and provisions for avoidance or protection of Historic Properties where possible. If it is determined that archaeological and/or tribal monitors are appropriate, HPTP shall include a Monitoring Plan.

If adverse effects are identified, HPTP shall be in effect before construction commences. HPTP may be amended and appended to this PA without amending the PA. USACE would submit HPTP for review, in accordance with **Stipulation I (Timeframes and Review Procedures)**.

A. Review: USACE shall submit the Draft HPTP to SHPO, Concurring Parties, and Federally Recognized Indian Tribes for review and comment pursuant to **Stipulation I (Timeframes and Review Procedures)**.

B. Reporting: Reports and other data pertaining to the treatment of effects to Historic Properties will be distributed to SHPO, Concurring, and Federally Recognized Indian Tribes, consistent with **Stipulation XIII (Confidentiality)** of this PA, unless parties have indicated through consultation that they do not want to receive a report or data.

C. Amendments/Addendums/Revisions: If a Historic Property that is not covered by the existing HPTP is discovered within the APE subsequent to the initial inventory effort, or if there are previously unexpected effects to a Historic Property, or if USACE and SHPO agree that a modification to HPTP is necessary, USACE shall prepare an addendum to HPTP. USACE shall then submit the addendum to SHPO, Concurring Parties, and Federally Recognized Indian Tribes for review and comment, and if necessary, shall follow the provisions of **Stipulation IX (Inadvertent Discoveries and Unanticipated Effects)**. HPTP may cover multiple discoveries for the same property type.

D. Data Recovery: When data recovery is proposed, USACE, in consultation with SHPO, Concurring Parties, and Federally Recognized Indian Tribes shall ensure that specific Research Designs are developed consistent with the *Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation*, the ACHP's "Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites" (ACHP, May 18, 1999), and the State of Alabama's standards as outlined in the Alabama Historical Commission Administrative Code Chapter 460-x-9 Archaeological Investigations.

E. Final Report Documenting Implementation of the Historic Properties Treatment Plan: Within one year after the completion of all work for the Project, USACE shall submit to SHPO, Concurring Parties, and Federally Recognized Indian Tribes, a Final Report documenting the results of all work prepared under the HPTP, and the information learned from each of the Historic Properties. The submittal of the Final Report shall be in accordance with **Stipulation I (Timeframes and Review Procedures)**.

VII. QUALIFICATIONS

A. Professional Qualifications: All technical work required for historic preservation activities implemented pursuant to this PA shall be carried out by or under the direct supervision of a person or persons meeting, at a minimum, the *Secretary of Interior's Professional Qualifications Standards* for archeology or history, as appropriate (48 FR 44739). "Technical work" here means all efforts to

inventory, evaluate, and perform subsequent treatment such as data recovery excavation or recordation of potential Historic Properties that is required under this PA. This stipulation shall not be construed to limit peer review, guidance, or editing of documents by SHPO and associated Project consultants.

B. Historic Preservation Standards: Historic preservation activities carried out pursuant to this PA shall meet the *Secretary of Interior's Standards and Guidelines for Archaeology and Historic Preservation* (48 FR 44716- 44740), as well as standards and guidelines for historic preservation activities established by SHPO. USACE shall ensure that all reports prepared pursuant to this PA will be provided to the Signatories, Concurring Parties, and Federally Recognized Indian Tribes and are distributed in accordance with **Stipulation XIII (Confidentiality)**.

C. Archeological Monitor Standards: Archeological monitoring activities required for exploratory, construction, or construction related ground disturbing activities implemented pursuant to this PA shall be carried out by a person meeting, at a minimum, the *Secretary of Interior's Professional Qualifications Standards* for prehistoric or historic archaeology, as appropriate (48 FR 44739). "Archeological monitoring" here includes monitoring ground disturbing activities that have been determined by USACE to be occurring in areas potentially sensitive for Historic Properties or buried resources.

VIII. NOTICES TO PROCEED WITH CONSTRUCTION

Notices to Proceed may be issued by USACE for individual construction segments, defined by USACE in its construction specifications, after and in addition to the identification and evaluation of Historic Properties has been completed for the Project per **Stipulation IV (Identification and Evaluation)**, prior to resolution of adverse effects on Historic Properties within the APE provided that:

A. HPTP has been finalized for the Project in accordance with Stipulation VI; and

B. Project development activities do not encroach within 30 meters (100 feet) of the known boundaries of any Historic Property as determined from archeological site record forms, other documentation, or as otherwise defined in consultation with SHPO and other parties, as appropriate; and

C. An archeological monitor meeting the professional qualifications as described in **Stipulation VII (Qualifications)**, is present during any Project activities that are anticipated to extend either vertically or horizontally into any areas designated to be archeologically sensitive by USACE, in consultation with SHPO, except in phases of construction where visual inspection of the construction area cannot be safely or feasibly accomplished.

IX. INADVERTENT DISCOVERIES AND UNANTICIPATED EFFECTS

A. USACE is responsible for complying with 36 C.F.R. § 800.13(a) in the event of inadvertent discoveries of Historic Properties during implementation of the Project. Discoveries of previously unidentified Historic Properties or unanticipated adverse effects to known Historic Properties are not anticipated, however if there is an inadvertent discovery or unanticipated effect, USACE will ensure that the following stipulations are met. These provisions will be included in all construction, operations, and maintenance plans and project managers will brief field personnel.

B. Inadvertent Discovery/Unanticipated Effect:

1. Properties not previously identified which are discovered while conducting any Project action are subject to the terms outlined in this PA. If, at any point, such properties are discovered or an unanticipated effect occurs, all ground-disturbing activities within 100 feet of the initial location of discovery or effect will cease immediately. Activity within 100 feet of the initial location of the discovery or effect will remain halted until USACE agency official issues a Notice to Proceed (NTP) following the procedure outlined in Stipulation VII.

2. Within 24 hours, a qualified archaeologist will inspect the discovery. If the find is of Native American origin, Federally Recognized Indian Tribes will be consulted. Inspection of the discovery could entail shovel tests, auger pits, limited backhoe trenching, or other similar methods, which may occur concurrently with consultation with Federally Recognized Indian Tribes. The purpose of the inspection is to determine 1) is the discovery at least 50 years old; if so, 2) is the find associated with other materials; and, if so 3) are the associated materials in an intact or potentially intact deposit. If all three are affirmatively answered or if the discovery is of special importance or significance to Federally Recognized Indian Tribes, then the discovery shall be considered a potential Historic Property and be formally evaluated. If the discovery is not 50 years old, is not intact, and is not of special importance or significance to Federally Recognized Indian Tribes, then the discovery will be documented, USACE will be notified, and no further notifications or consultations shall be required.

3. USACE cultural resources point of contact (POC) shall be notified by email within 24 hours of the discovery of a potential Historic Property. USACE POC will be provided sufficient information to determine if additional investigations are needed to determine if the resource is a Historic Property or if the available information is sufficient for that purpose. USACE cultural resources POC will be informed if there was a Native American monitor was present and, if so, their views concerning the find. Based on this notification, USACE cultural resources POC shall do the following:

a. Determine if sufficient information is available to determine if the find is a Historic Property.

b. Determine if additional investigations are warranted before additional notifications and consultation is conducted.

c. Notify SHPO of the discovery.

d. Determine if immediate consultation with Federally Recognized Indian Tribes is warranted and, if so, immediately initiate consultation with Federally Recognized Indian Tribes.

e. If in agreement with a determination that a find is a Historic Property, USACE will ensure work is stopped until appropriate treatment has been determined and implemented.

f. USACE Project Manager shall then initiate communication with the project design team to determine if alternative design or construction methods can be implemented to avoid, protect, or minimize adverse effects to the resource.

4. USACE shall notify the Signatories, Concurring Parties, and Federally Recognized Indian Tribes through email or phone call within 48 hours of the discovery or unanticipated effect. This initial notification shall describe the nature of the discovery or unanticipated effect, describe the plan to protect the discovery or the resource(s) subject to an unanticipated effect in order to reduce/minimize effects to the extent practicable, and provide a timeline for carrying out the rest of the provisions in this section. Tribal representatives will be invited to inspect the discovery or effect.

5. Once USACE has determined that sufficient information is available to determine that a cultural resources discovery is a Historic Property, USACE, or its professionally qualified consultant, shall prepare a document that includes 1) a description of the discovered resource; 2) an assessment of the find as a potential Historic Property or a NRHP evaluation of the find if sufficient data is available, citing appropriate evaluation criteria; and 3) recommended avoidance or treatment measures. USACE shall provide this document by email to the Signatories, Concurring Parties, and Federally Recognized Indian Tribes. The Signatories, Concurring Parties, and Federally Recognized Indian Tribes shall have five working days from receipt of the emailed document to comment and review the document and provide comments or recommendations to USACE cultural resources POC.

6. If USACE receives no response after the five working day period, USACE shall assume that there are no concerns with the proposed resolutions and shall proceed with implementation.

7. If a mitigation/treatment plan or other measures are adopted, Project activities in the 100 foot buffer, or other appropriate distance determined by USACE, will remain suspended until USACE provides an NTP.

C. Workforce Training: During implementation of Project activities, USACE, or archeologists meeting the professional qualifications as described in **Stipulation VII (Qualifications)**, will provide training to all construction personnel before they begin work, regarding proper procedures and conduct in the event

that archeological materials are encountered during construction.

D. Human Remains: Treatment of human remains is governed by **Stipulation XI (Treatment of Human Remains)**.

X. CURATION

Archeological items and materials from State or privately owned lands shall be maintained in accordance with 36 C.F.R. § 79 until any specified analyses are complete.

XI. TREATMENT OF HUMAN REMAINS

A. In the event that Native American human remains, as well as Native American funerary objects, sacred objects, or objects of cultural patrimony are encountered within the APE during the Project, those remains and objects are subject to the Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001 *et seq.*) and treatment under NAGPRA's implementing regulations at 43 C.F.R. Part 10. When NAGPRA items are discovered inadvertently, an appropriate USACE official must be notified immediately upon the discovery. USACE shall follow the requirements of 43 C.F.R. §10.3 for consultation; notification; development of excavation, treatment, and disposition plans as needed; and the requirements of 43 C.F.R. §10.6 for NAGPRA item disposition. USACE will also notify SHPO and Federally Recognized Indian Tribes within 24 hours in the event that Native American human remains, Native American funerary objects, sacred objects, or objects of cultural patrimony are encountered. Confidentiality regarding the nature and locations of Native American remains, funerary objects, sacred objects, or objects of cultural patrimony under this agreement shall be maintained. Also, if any information provided to USACE by Native American tribes or others who wish to control the dissemination of that information, USACE will make a good faith effort to do so, to the extent permissible by law according to **Stipulation XIII (Confidentiality)**.

B. In the event non-native human remains or unmarked human burials are encountered within the APE, those remains will be subject to the Alabama Historical Commission, Administrative Code, Chapter 460-X-10 (Burials) and Alabama's Burial Act, § 13A-7-23.1, as amended. When unmarked human burials or non-native human skeletal remains are inadvertently found, the appropriate USACE official must be notified immediately upon the discovery. USACE will notify SHPO of the encounter and follow the requirements regarding notification, treatment, and jurisdiction under Chapter 460-X-10(f) (Notification).

XII. PUBLIC CONSULTATION AND PUBLIC NOTICE

The interested public will be invited to provide input on the identification, evaluation, and proposed treatment of Historic Properties. This may be carried out through either letters of notification, public meetings, environmental assessment/environmental impact statements, and/or site visits. USACE shall

ensure that any comments received from members of the public are taken under consideration and incorporated where appropriate. Review periods shall be consistent with **Stipulation I (Timeframes and Review Procedures)**. In seeking input from the interested public, locations of Historic Properties will be handled in accordance with **Stipulation XIII (Confidentiality)**. In cases where

the release of location information may cause harm to the Historic Property, this information will be withheld from the public in accordance with Section 304 of the NHPA (54 U.S.C. § 307103).

XIII. CONFIDENTIALITY

Confidentiality regarding the nature and location of the archaeological sites and any other cultural resources discussed in this PA shall be limited to appropriate USACE personnel, USACE contractors, Federally Recognized Indian Tribes, SHPO, and those parties involved in planning, reviewing and implementing this PA in accordance with Section 304 of the NHPA (54 U.S.C. § 307103).

XIV. DISPUTE RESOLUTION

Should any Signatory or Concurring Party to this PA object at any time to any actions proposed or the manner in which the terms of this PA are implemented, USACE shall consult with such party to resolve the objection. If USACE determines that such objection cannot be resolved, USACE will:

A. Forward all documentation relevant to the dispute, including the USACE's proposed resolution, to ACHP. ACHP shall provide USACE with its advice on the resolution of the objection within forty-five days of receiving adequate documentation. Prior to reaching a final decision on the dispute, USACE shall prepare a written response that takes into account any timely advice or comments regarding the dispute from ACHP, signatories and concurring parties, and provide them with a copy of this written response. USACE will then proceed according to its final decision.

B. If ACHP does not provide its advice regarding the dispute within the forty-five day time period, USACE may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, USACE shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the PA, and provide them and ACHP with a copy of such written response.

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

XV. NOTICES

A. All notices, demands, requests, consents, approvals or communications from all parties to this PA to other parties to this PA shall be personally delivered, sent by United States mail, and all parties shall be considered in receipt of the

materials five calendar days after deposit in the United States mail, certified and postage prepaid, return receipt requested.

B. Signatory and Concurring Parties agree to accept facsimiles or copies of signed documents and agree to rely upon such facsimiles or copies as if they bore original signatures.

XVI. AMENDMENTS, NONCOMPLIANCE, AND TERMINATION

A. Amendment: Any Signatory Party to this PA may propose that the PA be amended, whereupon USACE shall consult with SHPO to consider such amendment. The PA may be amended only upon written concurrence of all Signatories.

All attachments to this PA, and other instruments prepared pursuant to this PA may be individually revised or updated through consultation consistent with **Stipulation I (Timeframes and Review Procedures)** and agreement in writing of the Signatories without requiring amendment of this PA, unless the Signatories through such consultation decide otherwise. In accordance with **Stipulation XI (Treatment of Human Remains)** and **Stipulation XII (Public Consultation and Public Notice)**, the Concurring Parties, Federally Recognized Indian Tribes, and interested members of the public, will receive amendments to the Project's description, initial cultural resource inventory report and maps of the APE, HPTPs, and monitoring and discovery plans, as appropriate, and copies of any amendment(s) to the PA.

B. Termination: Only the Signatories may terminate this PA. If this PA is not amended as provided for in **Stipulation XVI.A. (Amendment)**, or if any Signatory proposes termination of this PA for other reasons, the Signatory proposing termination shall notify the other Signatory in writing, explain the reasons for proposing termination, and consult with the other Signatory to seek alternatives to termination, within thirty calendar days of the notification. Should such consultation result in an agreement on an alternative to termination, the Signatories shall proceed in accordance with that agreement.

Should such consultation fail, the Signatory proposing termination may terminate this PA by promptly notifying the other Signatory and Concurring Parties in writing.

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

C. Duration: This PA shall remain in effect for a period of five years after the date it takes effect and shall automatically expire and have no further force or effect at the end of this five-year period unless it is terminated or amended prior to that time. No later than ninety calendar days prior to the

expiration date of the PA, USACE shall initiate consultation to determine if the PA should be allowed to expire automatically or whether it should be extended, with or without amendments, as the Signatories may determine.

XVII. ANNUAL REPORTING

At the end of every calendar year following the execution of this PA, USACE shall provide all parties to this PA a summary report detailing work carried out pursuant to its terms, if any. Such report shall describe progress made implementing the terms of the PA as well as include any scheduling changes proposed, any problems encountered, and any disputes and objections received in USACE' efforts to carry out the terms of this PA. Any Signatory party may request to meet with the other Signatories to discuss implementation of this PA.

XVIII. EFFECTIVE DATE

This PA shall take effect on the date that it has been fully executed by USACE and SHPO.

EXECUTION of this PA by USACE and SHPO and implementation of its terms evidence that USACE has taken into account the effects of this undertaking on Historic Properties and afforded ACHP an opportunity to comment.

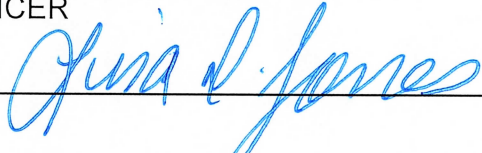
SIGNATORIES TO THIS PA:

U.S. ARMY CORPS OF ENGINEERS, MOBILE DISTRICT

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Date: 2020.11.18 12:27:54 -06'00' DATE: _____

Sebastien P. Joly, Colonel, U.S. Army Corps of Engineers, District Engineer

ALABAMA HISTORICAL COMMISSION, STATE HISTORIC PRESERVATION
OFFICER

BY:  DATE: 2.9.21

Lisa D. Jones, Alabama Historical Commission, State
Historic Preservation Office, State Historic Preservation
Officer

**PROGRAMMATIC AGREEMENT
BETWEEN
THE U.S. ARMY CORPS OF ENGINEERS AND
THE ALABAMA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE VALLEY CREEK FEASIBILITY STUDY AND PROJECT,
JEFFERSON COUNTY, ALABAMA**

CONCURRING PARTIES:

CITY OF BESSEMER, ALABAMA

BY: _____ DATE: _____

**PROGRAMMATIC AGREEMENT
BETWEEN
THE U.S. ARMY CORPS OF ENGINEERS AND
THE ALABAMA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE VALLEY CREEK FEASIBILITY STUDY AND PROJECT,
JEFFERSON COUNTY, ALABAMA**

CONCURRING PARTIES:

ABSENTEE-SHAWNEE TRIBE OKLAHOMA

BY: _____ DATE: _____
Edwina Butler-Wolfe, Governor

**PROGRAMMATIC AGREEMENT
BETWEEN
THE U.S. ARMY CORPS OF ENGINEERS AND
THE ALABAMA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE VALLEY CREEK FEASIBILITY STUDY AND PROJECT,
JEFFERSON COUNTY, ALABAMA**

CONCURRING PARTIES:

ALABAMA-COUSHATTA TRIBES OF TEXAS

BY: _____ DATE: _____
Cecilia Flores, Chairperson

**PROGRAMMATIC AGREEMENT
BETWEEN
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REGARDING THE VALLEY CREEK FEASIBILITY STUDY AND PROJECT,
JEFFERSON COUNTY, ALABAMA**

CONCURRING PARTIES:

ALABAMA-QUASSARTE TRIBAL TOWN

BY: _____ DATE: _____
Nelson Harjo, Chief

**PROGRAMMATIC AGREEMENT
BETWEEN
THE U.S. ARMY CORPS OF ENGINEERS AND
THE ALABAMA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE VALLEY CREEK FEASIBILITY STUDY AND PROJECT,
JEFFERSON COUNTY, ALABAMA**

CONCURRING PARTIES:

THE CHICKASAW NATION

BY: _____ DATE: _____
Bill Anoatubby, Tribal Governor

**PROGRAMMATIC AGREEMENT
BETWEEN
THE U.S. ARMY CORPS OF ENGINEERS AND
THE ALABAMA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE VALLEY CREEK FEASIBILITY STUDY AND PROJECT,
JEFFERSON COUNTY, ALABAMA**

CONCURRING PARTIES:

EASTERN BAND OF THE CHEROKEE NATION

BY: _____ DATE: _____
Richard Sneed, Principal Chief

**PROGRAMMATIC AGREEMENT
BETWEEN
THE U.S. ARMY CORPS OF ENGINEERS AND
THE ALABAMA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE VALLEY CREEK FEASIBILITY STUDY AND PROJECT,
JEFFERSON COUNTY, ALABAMA**

CONCURRING PARTIES:

EASTERN SHAWNEE TRIBE OF OKLAHOMA

BY: _____ DATE: _____
Glenna J. Wallace, Chief

**PROGRAMMATIC AGREEMENT
BETWEEN
THE U.S. ARMY CORPS OF ENGINEERS AND
THE ALABAMA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE VALLEY CREEK FEASIBILITY STUDY AND PROJECT,
JEFFERSON COUNTY, ALABAMA**

CONCURRING PARTIES:

KIALEGEE TRIBAL TOWN, OKLAHOMA

BY: _____ DATE: _____
Jeremiah Hobia, Chief

**PROGRAMMATIC AGREEMENT
BETWEEN
THE U.S. ARMY CORPS OF ENGINEERS AND
THE ALABAMA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE VALLEY CREEK FEASIBILITY STUDY AND PROJECT,
JEFFERSON COUNTY, ALABAMA**

CONCURRING PARTIES:

MUSCOGEE (CREEK) NATION

BY: _____ DATE: _____
James Floyd, Principal Chief

**PROGRAMMATIC AGREEMENT
BETWEEN
THE U.S. ARMY CORPS OF ENGINEERS AND
THE ALABAMA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE VALLEY CREEK FEASIBILITY STUDY AND PROJECT,
JEFFERSON COUNTY, ALABAMA**

CONCURRING PARTIES:

POARCH BAND OF CREEK INDIANS

BY: _____ DATE: _____
Stephanie A. Bryan, Tribal Chair

**PROGRAMMATIC AGREEMENT
BETWEEN
THE U.S. ARMY CORPS OF ENGINEERS AND
THE ALABAMA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE VALLEY CREEK FEASIBILITY STUDY AND PROJECT,
JEFFERSON COUNTY, ALABAMA**

CONCURRING PARTIES:

SHAWNEE TRIBE, OKLAHOMA

BY: _____ DATE: _____
Ron Sparkman, Chairman

**PROGRAMMATIC AGREEMENT
BETWEEN
THE U.S. ARMY CORPS OF ENGINEERS AND
THE ALABAMA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE VALLEY CREEK FEASIBILITY STUDY AND PROJECT,
JEFFERSON COUNTY, ALABAMA**

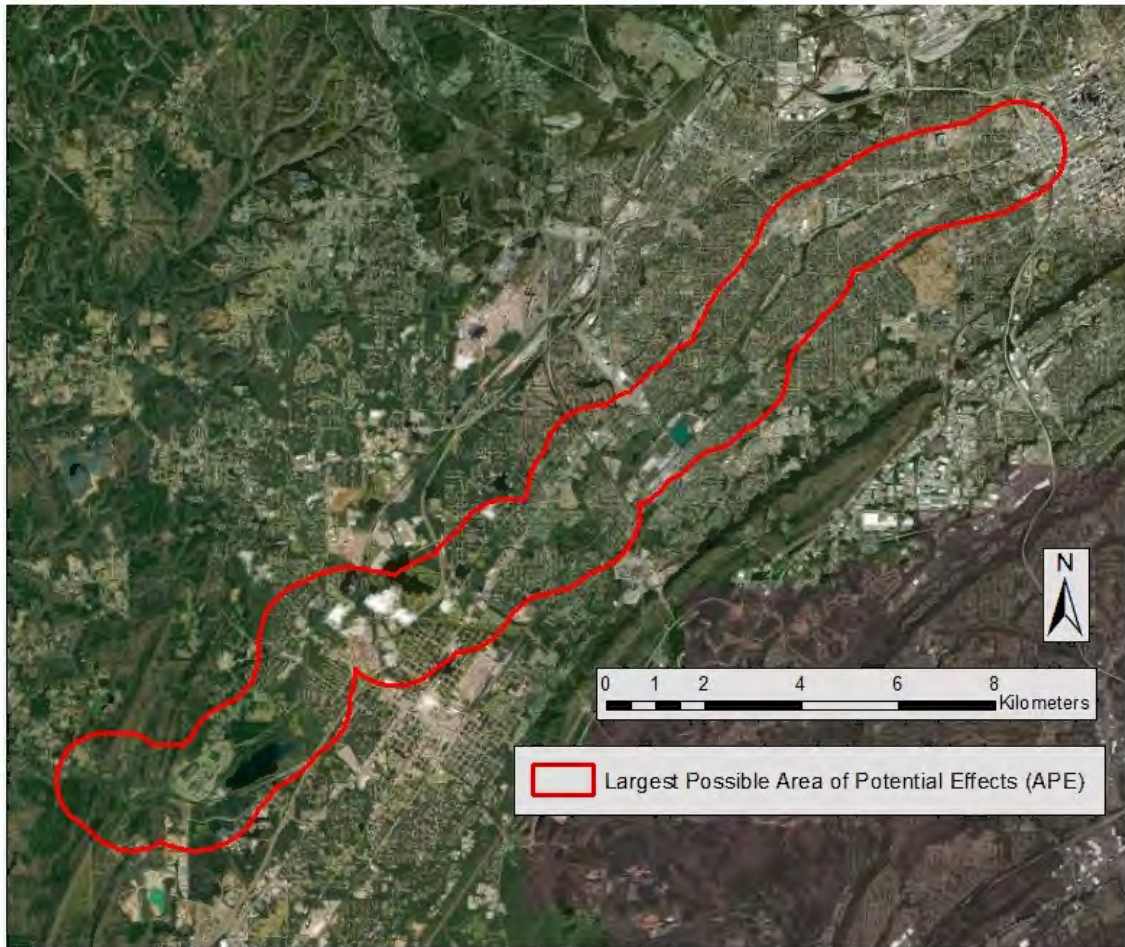
CONCURRING PARTIES:

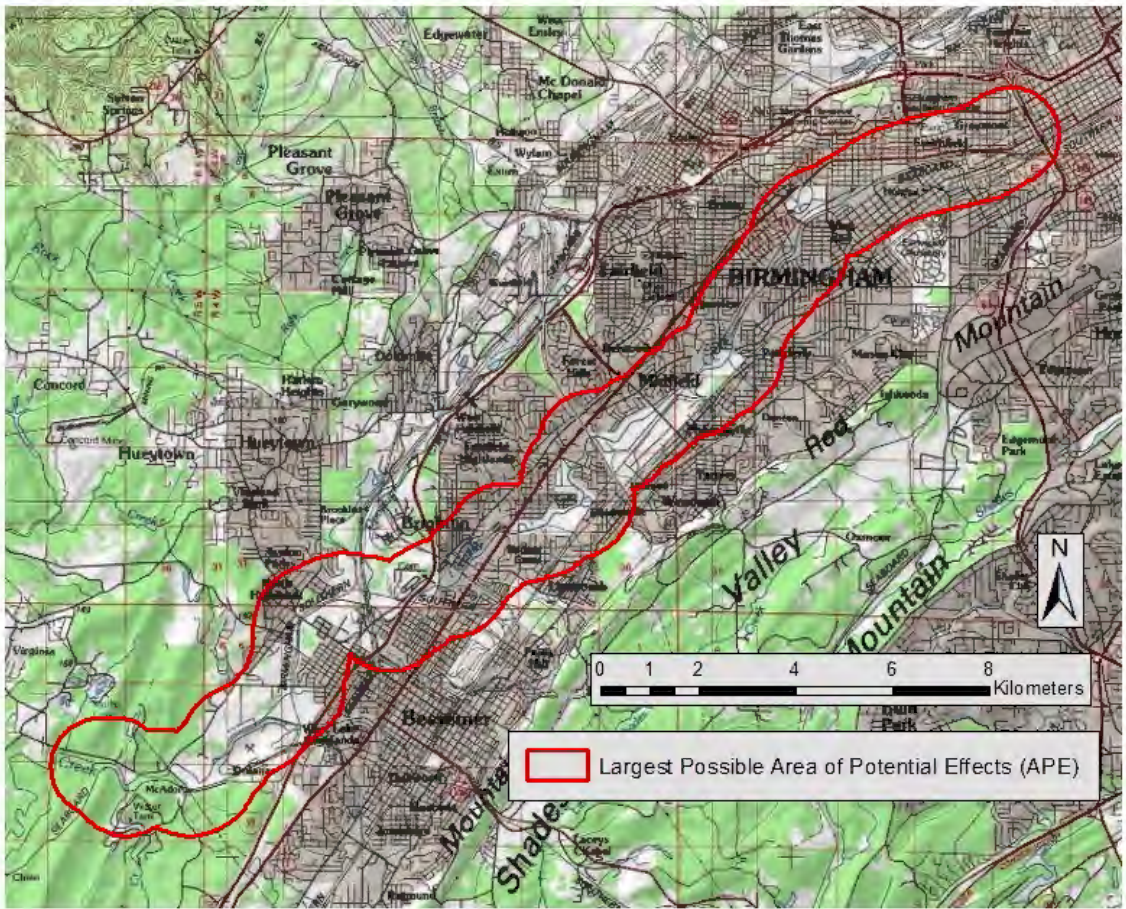
UNITED KEETOOWAH BAND OF CHEROKEE INDIANS IN OKLAHOMA

BY: _____ DATE: _____
George C. Wickliffe, Chief

Enclosure 1

Aerial Photo and Topographic Maps Showing the Largest Possible Project APE





Enclosure 2

Alabama Building Survey Form



**ALABAMA
HISTORICAL
COMMISSION**
The State Historic Preservation Office

468 S. Perry Street
Montgomery, Alabama 36130-0900
Voice: (334)242-3184
Fax: (334)262-1083
www.ahc.alabama.gov

HISTORIC BUILDING SURVEY FORM

I. Location/Ownership

AHC Survey Number:		Form completed by:		Date:	
Property Name:					
Location/Street Address:					
City/Zip:		County:			
USGS Quad:		Township/Range/Section:			
Current Owner's Name & Contact Info (if known):					

2. Physical Description

Construction date:		Source:	
Alteration date:		Source:	
Architect/Builder:		Contractor:	
Physical condition: (Excellent, Good, Fair, Poor, Ruinous)		Remaining historic fabric: (High, Medium, Low)	
No. of stories:			
Historic use of property:			
Current use of property:			
Architectural style category:		Architectural style sub-category:	
Basic typology:		Basic shape:	
Basic floor plan:		Historic Construction material(s):	
Current exterior wall material(s)		Roof finish material(s):	
Main roof configuration:		Foundation material:	
Porch type:			
Window type and materials:			
Describe alterations:			
Number and type of all outbuildings: (if significant, fill out separate survey form)			
Exterior Architectural Description:			
Description of Setting:			
Historical Notes:			

3. Eligibility

Appears Eligible for Alabama Register:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> would contribute to a district	<input type="checkbox"/> Undetermined	
Appears Eligible for National Register:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> would contribute to a district	<input type="checkbox"/> Undetermined	
AR Criteria:	<input type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C	<input type="checkbox"/> D	<input type="checkbox"/> Undetermined
NR Criteria:	<input type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C	<input type="checkbox"/> D	<input type="checkbox"/> Undetermined
Level of Significance:	<input type="checkbox"/> Local	<input type="checkbox"/> State	<input type="checkbox"/> National	<input type="checkbox"/> Undetermined	
Justification of Eligibility/Ineligibility:					

Enclosure 3

Alabama Archaeological Site Form

ARCHAEOLOGICAL INFORMATION

LEVEL OF INVESTIGATION: _____

01-Volunteered Report

02-Reconnaissance Survey

03-Intensive (100%) Survey

EXCAVATION STATUS: _____

01-No Collection

03-Shovel Tests

05-Limited Testing

07-Excavation

02-Surface Collection

04-Surface Collection & Shovel Tests

06-Extensive Testing

08-Total Excavation

TOPOGRAPHIC ASSOCIATION: _____

01-Upland Crest

03-Upland Base

05-Terrace

07-Tidal Marsh

02-Upland Slope

04-Floodplain

06-Island

PHYSIOGRAPHIC DISTRICT: _____

01-Northern Piedmont Upland

09-Blount Mountain

17-Warrior Basin

25-Eastern Red Hills

02-Southern Piedmont Upland

10-Jackson Co. Mountains

18-Wills Valley

26-Fall Line Hills

03-Big Canoe Valley

11-Little Mountain

19-Tennessee Valley

27-Flatwoods

04-Cahaba Ridges

12-Lookont Mountain

20-Outer Nashville Basin

28-Lime Hills

05-Cahaba Valley

13-Moulton Valley

21-Black Prairie

29-Southern Pine Hills

06-Coosa Ridges

14-Murphree Valley

22-Buhrstone Hills

30-Western Red Hills

07-Coosa Valley

15-Sand Mountain

23-Chnnnennuggee Hills

31-Coastal Strip

08-Weisner Ridges

16-Sequatchie Valley

24-Dougherty Plain

32-Mobile Delta

NEAREST WATER SOURCE: _____

AT CONFLUENCE (y/n): _____

01-Sink

05-Lake

09-Third Order Stream

13-Estuary

02-Well

06-Oxbow Lake

10-Fourth Order Stream

14-Ocean/Bay

03-Spring

07-First Order Stream

11-Major Tributary

04-Swamp

08-Second Order Stream

12-River

DIRECTION TO WATER: _____

DISTANCE TO WATER: _____ m

DRAINAGE BASIN: _____

01-Alabama

07-Choctawhatchee

13-Pea

19-Yellow

02-Apalachicola

08-Concuh

14-Perdido

20-Coastal Estuary/Bay

03-Black Warrior

09-Coosa

15-Sipsey

04-Buttahatchee

10-Escambia

16-Tallahpoosa

05-Cahaba

11-Escatawpa

17-Tennessee

06-Chattahoochee

12-Mobile-Tensaw

18-Tombigbee

GROUND COVER: _____

01-Grassland

04-Unimproved Forest

07-Inundated

09-Roadway

02-Cultivation

05-Improved Forest/Orchard

08-Developed (Urban/
Residential/Industrial)

10-Open and Eroded

03-Secondary Growth

06-Intermittent Flooding

99-Other (specify) _____

SOIL TEXTURE CLASS: _____

01-Coarse Sand

09-Coarse Sandy Loam

17-Clay Loam

02-Sand

10-Sandy Loam

18-Silty Clay Loam

03-Fine Sand

11-Fine Sandy Loam

19-Sandy Clay

04-Very Fine Sand

12-Very Fine Sandy Loam

20-Silty Clay

05-Loamy Coarse Sand

13-Loam

21-Clay

06-Loamy Sand

14-Silt Loam

22-Rockland

07-Loamy Fine Sand

15-Silt

08-Loamy Very Fine Sand

16-Sandy Clay Loam

SOIL TYPE: _____

NATURE OF DEPOSIT: _____

01-Entire Site Disturbed

02-Upper Portion Disturbed

03-Deep Disturbance

04-Undisturbed

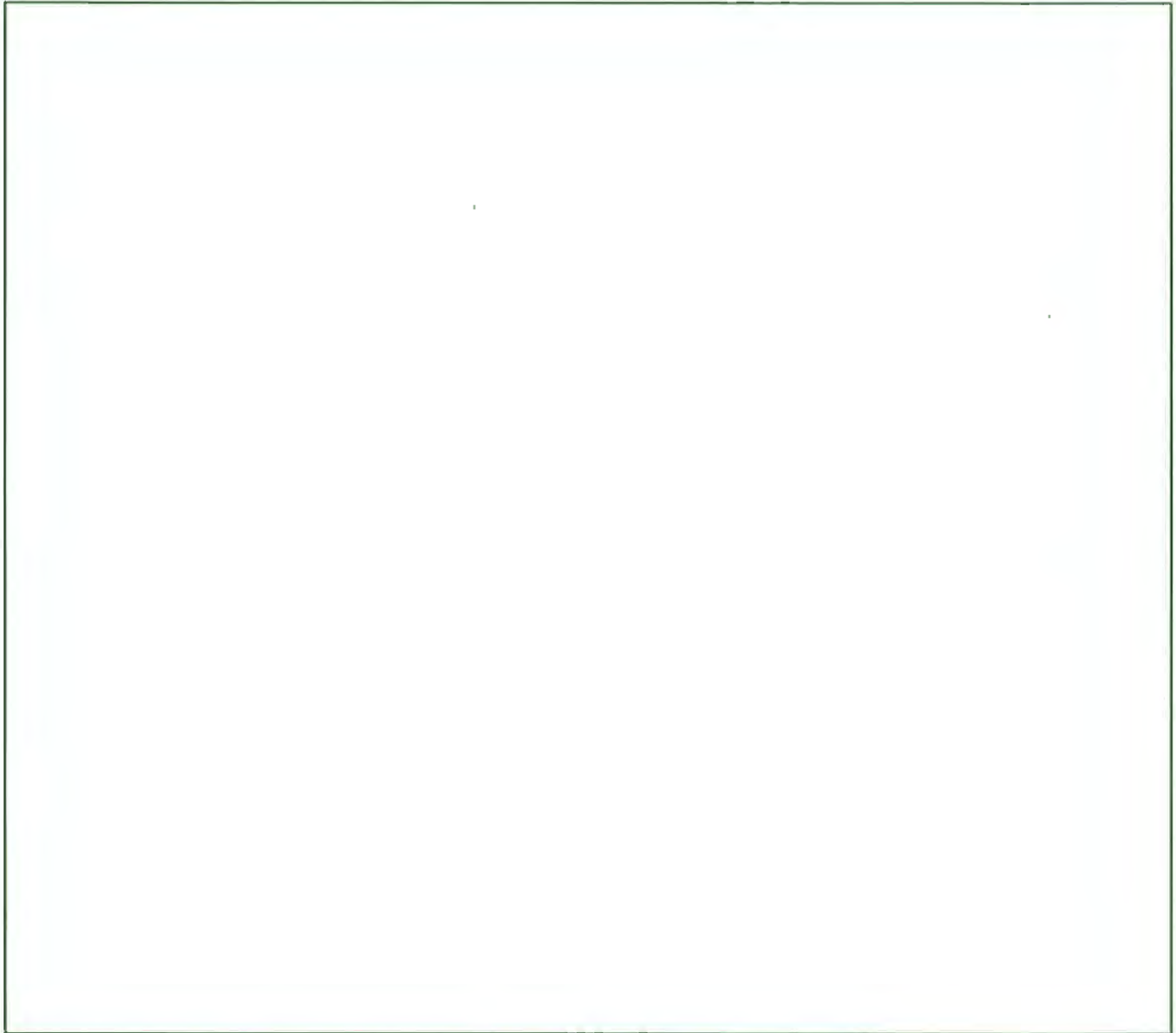
SITE CHARACTERISTICS:

_____ HUMAN REMAINS	_____ WEIR
_____ FEATURES	_____ HISTORIC STRUCTURE (STANDING)
_____ ROCKSHELTER	_____ HISTORIC STRUCTURE SITE (NOT STANDING)
_____ CAVE	_____ HISTORIC CEMETERY
_____ ARTIFACT SCATTER	_____ QUARRY
_____ MIDDEN	_____ STILL
_____ SHELL MIDDEN	_____ MILL
_____ SINGLE EARTHEN MOUND	_____ ENGINEERING
_____ MULTIPLE EARTHEN MOUNDS	(Specify) _____
_____ PETROGLYPH/PICTOGRAPH	_____ OTHER (Specify) _____
_____ STONE MOUND(S)	

CULTURAL AFFILIATION(S):

--CULTURE--	--PHASES, CULTURES, HORIZONS, IF KNOWN--
_____ PALEOINDIAN (Unidentified)	
_____ EARLY	_____
_____ MIDDLE	_____
_____ LATE	_____
_____ ARCHAIC (Unidentified)	
_____ EARLY	_____
_____ MIDDLE	_____
_____ LATE	_____
_____ GULF FORMATIONAL (Unidentified)	
_____ MIDDLE	_____
_____ LATE	_____
_____ WOODLAND (Unidentified)	
_____ EARLY	_____
_____ MIDDLE	_____
_____ LATE	_____
_____ MISSISSIPPIAN (Unidentified)	
_____ EARLY	_____
_____ MIDDLE	_____
_____ LATE	_____
_____ PROTOHISTORIC	_____
_____ HISTORIC ABORIGINAL	_____
_____ UNKNOWN ABORIGINAL	_____
_____ NON-ABORIGINAL	_____
_____ 16th CENTURY	_____
_____ 17th CENTURY	_____
_____ 18th CENTURY	_____
_____ 19th CENTURY	_____
_____ 20th CENTURY	_____
	SPECIFIC DATE RANGE _____

MAP OF SITE



7.5' USGS TOPOGRAPHIC MAP: _____

SITE FORM AUTHOR IDENTIFICATION

DATE: _____

AUTHOR-NAME: _____

ADDRESS: _____

CITY: _____

STATE: _____ ZIP: _____



REPLY TO:
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, MOBILE DISTRICT
P.O. BOX 2288
MOBILE, AL 36628-0001

MAY 28 2019

Inland Environment Team
Planning and Environmental Division

Ms. Lisa D. Jones
State Historic Preservation Officer
Alabama Historical Commission
468 South Perry Street
Postal Office Box 300900
Montgomery, Alabama 36130-3184

Dear Ms. Jones:

Per the requirements outlined in Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended and implementing regulations 36 Code of Federal Regulation (CFR) Part 800, the U.S. Army Corps of Engineers (USACE), Mobile District considers the effects of its undertakings upon historic properties. USACE, Kansas City District on behalf of Mobile District is conducting a feasibility study of the Valley Creek Flood Control project in Bessemer, Alabama. The project is considered an undertaking and therefore subject to Section 106 review.

The purpose of the project is to reduce the potential for flooding in the upper Valley Creek watershed in Bessemer, Alabama. The actual extent of the project is currently unresolved. The Area of Potential Effects (APE) as presented in Figure 1 represents the widest possible extent of the APE. This maximum APE consists of approximately 27.6 kilometers (km) of Valley Creek, with a southwestern most limit approximately 1.3 km southwest of the junction of Powder Plant Road and Johns Road in Bessemer, Alabama and a northeastern most limit where Valley Creek becomes a subterranean, tunneled, urban drainage in Birmingham, Alabama with a one km buffer on either side of this 27.6 km stretch of Valley Creek. The individual features identified in Figure 1, including detention areas, berms, channel modifications, and bridge modifications, are the estimated maximum extent of project features to be implemented. The maximum possible extent of flood control features includes eight detention areas totaling 1.2 km², eight bridge modifications, three berms totaling 4.8 km, and one 2.7 km channel modification. Over the course of the project development, the actual list of features to be implemented and APE will be reduced. Only a small amount of the APE has been surveyed for historic properties and only one known historic property has been recorded in the current APE. USACE, Mobile District will develop a Programmatic Agreement (PA) in order to be in compliance with 36 CFR 800, as it is unlikely that all historic properties and the project's effects to historic properties will be fully identified before the completion of the National Environmental Policy Act (NEPA) process.

This purpose of this letter is to initiate the Section 106 process and gather any initial comments on the project APE. Please direct comments or questions to Dr. Steven Highland via email at Steven.A.Highland@usace.army.mil or contact via phone (251) 694-3867.

Sincerely,

A handwritten signature in black ink, appearing to read "Jacobson", with a large, stylized flourish on the left side.

Jennifer L. Jacobson
Chief, Environment and Resources
Branch

Enclosure

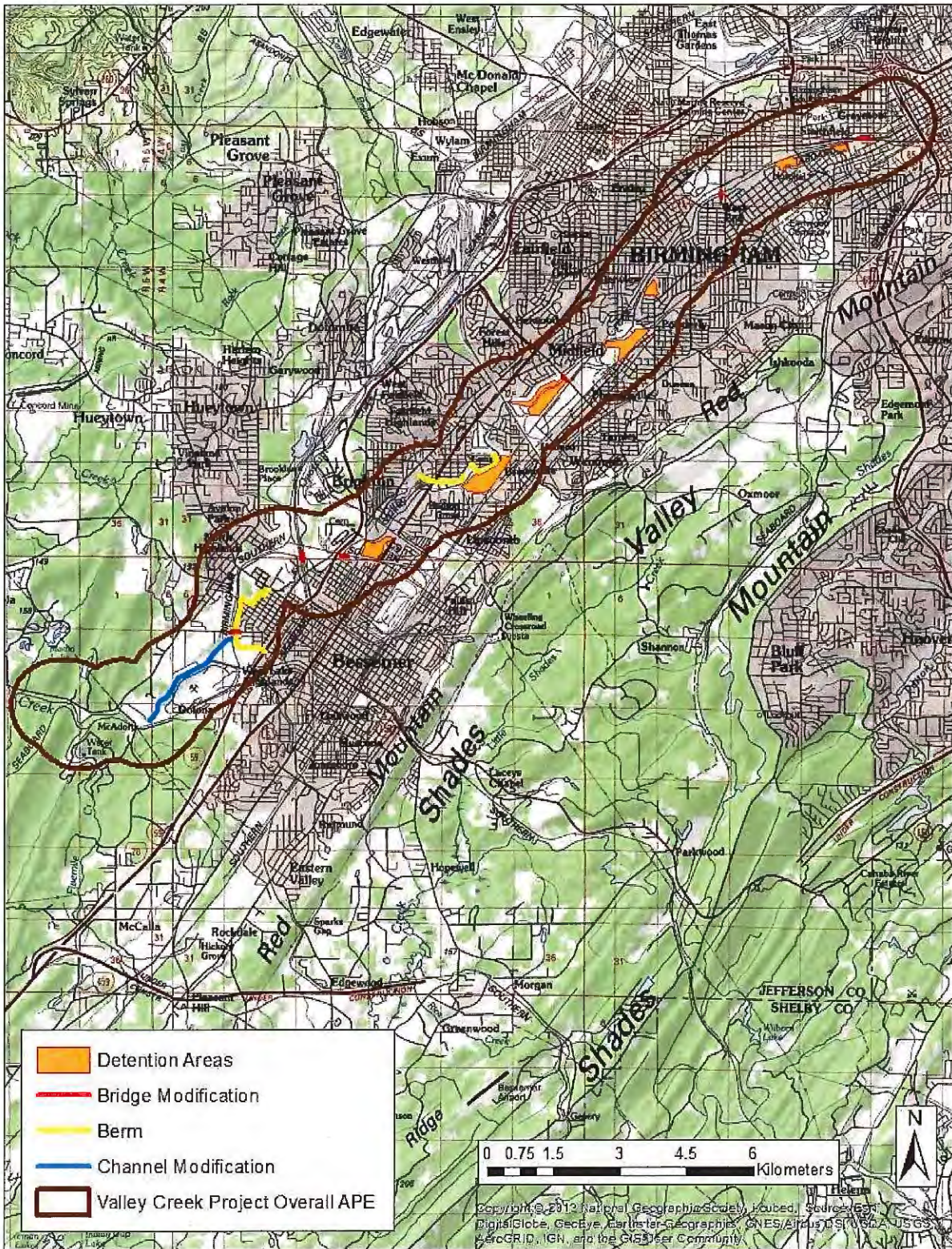


Figure 1. Map showing the location of the Valley Creek Project APE and potential project features.

VALLEY CREEK TRIBAL LETTERS

Ms. Devon Frazier
Tribal Historic Preservation Officer
Absentee-Shawnee Tribe Oklahoma
2025 South Gordon Cooper Drive
Shawnee, Oklahoma 74801

#

Mr. Bryant J. Celestine
Tribal Historic Preservation Officer
Alabama-Coushatta Tribes of Texas
571 State Park Road 56
Livingston, Texas 77351

#

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

#

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

#

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

#

Mr. Russell Townsend
Tribal Historic Preservation Officer
Eastern Band of the Cherokee Nation
Post Office Box 455
Cherokee, North Carolina 28719

#

Mr. Brett Barnes
Cultural Preservation Officer
Eastern Shawnee Tribe of Oklahoma
Post Office Box 350
Seneca, Missouri 64865

#

Mr. David Cook
Tribal Administrator
Kialegee Tribal Town, Oklahoma
Post Office Box 332
Wetumpka, Oklahoma 74883
#

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

Mr. Larry Haikey
Tribal Historic Preservation Officer
Poarch Band of Creek Indians
5811 Jack Springs Road
Atmore, Alabama 36502
#

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

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



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, MOBILE DISTRICT
P.O. BOX 2288
MOBILE, AL 36628-0001

MAY 28 2019

Inland Environment Team
Planning and Environmental Division

Ms. Devon Frazier
Tribal Historic Preservation Officer
Absentee-Shawnee Tribe Oklahoma
2025 South Gordon Cooper Drive
Shawnee, Oklahoma 74801

Dear Ms. Frazier:

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Sincerely,



Curtis M. Flakes
Chief, Planning and Environmental
Division

Enclosure

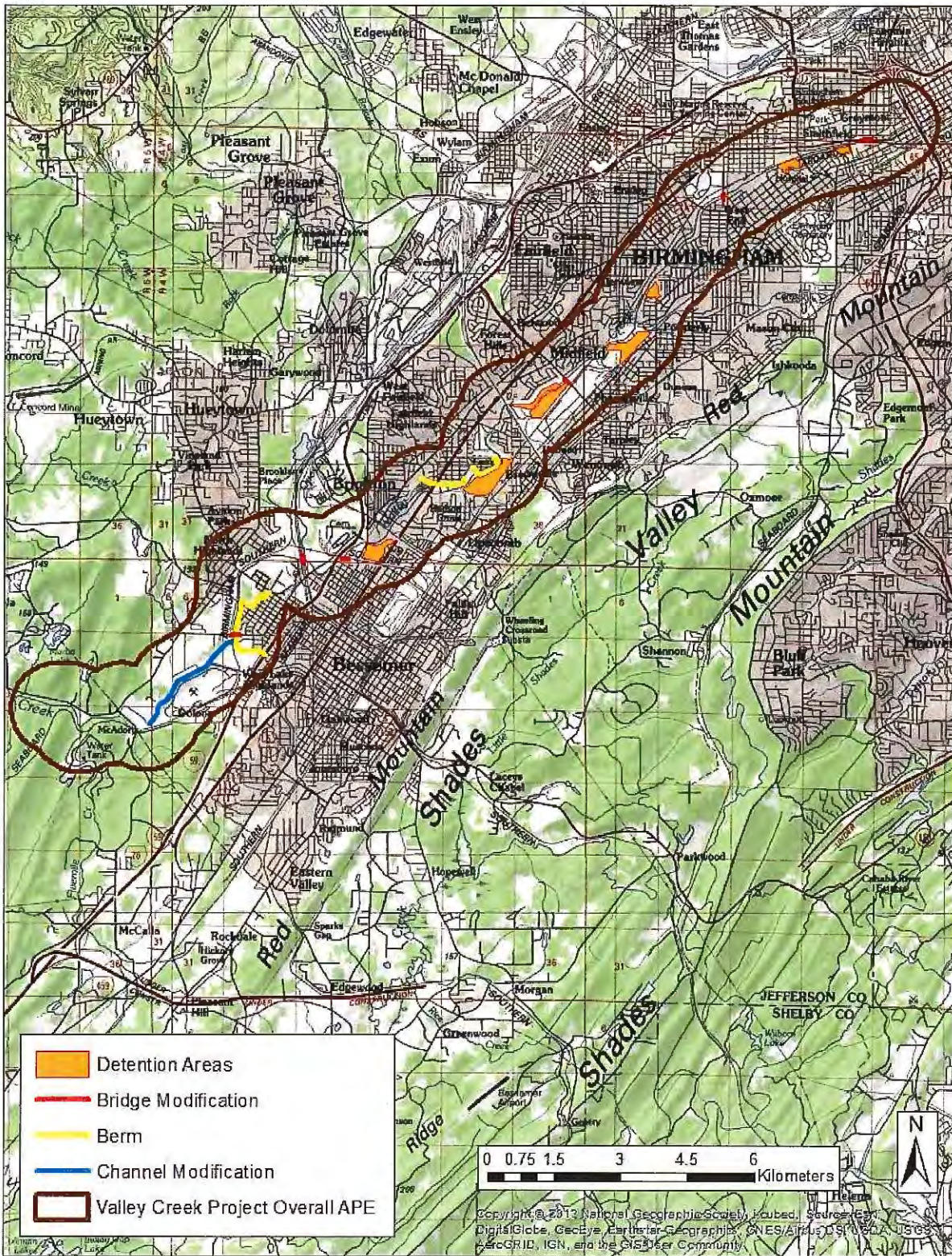


Figure 1. Map showing the location of the Valley Creek Project APE and potential project features.



ALABAMA HISTORICAL COMMISSION

468 South Perry Street
P.O. Box 300900
Montgomery, Alabama 36130-0900
334-242-3184 / Fax: 334-240-3477

Lisa D. Jones
Executive Director
State Historic Preservation Officer

July 1, 2019

Mobile District, USACE
Post Office Box 2288
Mobile, Alabama 36628-0001
Attn: Jennifer L. Jacobson

Re: AHC 2019-0953
Valley Creek Flood Control Project
Feasibility Study
Jefferson County

Dear Ms. Jacobson:

Upon review of the above referenced project, we have determined the following. Our files indicate that it is unknown if sites potentially eligible for the National Register of Historic Places exist here. The project area is similar environmentally to areas that are known to have significant cultural resources. Therefore, we consider it archaeologically sensitive.

We request that a professional archaeologist survey all proposed ground disturbing location within the area of potential effect to identify any cultural resources that may be present. Submit the resulting report to our office for review and determination prior to construction activities.

In addition, we request photographs and approximate construction dates for all structures (houses, barns, bridges, etc.) at least 50 years of age within or within view of the project area; these locations should be keyed to a good quality USGS topographic map.

We appreciate your commitment to helping us preserve Alabama's historic archaeological and architectural resources. Should you have any questions, please contact Eric Sipes at 334.230.2667 or Eric.Sipes@ahc.alabama.gov. Have the AHC tracking number referenced above available and include it with any future correspondence.

Sincerely,

A handwritten signature in blue ink that reads "Lee Anne Wofford".

Lee Anne Wofford
Deputy State Historic Preservation Officer

LAW/EDS/CWK/amh



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, MOBILE DISTRICT
P.O. BOX 2288
MOBILE, AL 36628-0001

OCT 23 2019

Inland Environment Team
Planning and Environmental Division

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State Historic Preservation Officer
Alabama Historical Commission
468 South Perry Street
Post Office Box 300900
Montgomery, Alabama 36130-3184

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A previous letter dated May 28, 2019 was sent to your office initiating Section 106 consultation, including the stated intent to develop a Programmatic Agreement (PA). USACE will not be able to identify all effects to historic properties by the proposed activities of this project prior to the approval of the project; therefore we intend to develop a PA in conjunction with the Alabama Historical Commission and interested tribal nations, in accordance with 36 CFR Part 800.14(b)(1)(ii) to comply with the NHPA. Attached is the first draft of the proposed PA for your initial review.

Please direct comments or questions to Dr. Steven Highland via email at Steven.A.Highland@usace.army.mil or contact via phone at (251) 694-3867.

Sincerely,

Jennifer L. Jacobson
Chief, Environment and Resources
Branch

Enclosure

VALLEY CREEK TRIBAL CONTACT LIST (12)

- 1) Ms. Devon Frazier
Tribal Historic Preservation Officer
Absentee-Shawnee Tribe Oklahoma
2025 South Gordon Cooper Drive
Shawnee, Oklahoma 74801
#
- 2) Mr. Bryant J. Celestine
Tribal Historic Preservation Officer
Alabama-Coushatta Tribes of Texas
571 State Park Road 56
Livingston, Texas 77351
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- 3) Ms. Samantha Robinson
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P.O. BOX 2288
MOBILE, AL 36628-0001
OCT 23 2019

Inland Environment Team
Planning and Environmental Division

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2025 South Gordon Cooper Drive
Shawnee, Oklahoma 74801

Dear Ms. Frazier:

Per the requirements outlined in Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended and implementing regulations 36 Code of Federal Regulation (CFR) Part 800, the U.S. Army Corps of Engineers (USACE) considers the effects of its undertakings upon historic properties. USACE, Kansas City District, and the City of Bessemer, Alabama are partnering on a feasibility study to evaluate flood risk management measures in the Valley Creek basin. The study area is within USACE Mobile District's Area of Responsibility, but the study is being led by the Kansas City District. The purpose of the project is to reduce the potential for flooding in the upper Valley Creek watershed in Bessemer, Alabama. The project is considered an undertaking and therefore subject to Section 106 review. USACE, Mobile District is the lead for coordination on compliance with Section 106.

A previous letter dated May 28, 2019 was sent to your office initiating Section 106 consultation, including the stated intent to develop a Programmatic Agreement (PA). USACE will not be able to identify all effects to historic properties by the proposed activities of this project prior to the approval of the project; therefore we intend to develop a PA in conjunction with the Alabama Historical Commission and interested tribal nations, in accordance with 36 CFR Part 800.14(b)(1)(ii) to comply with the NHPA. Attached is the first draft of the proposed PA for your initial review.

Please direct comments or questions to Dr. Steven Highland via email at Steven.A.Highland@usace.army.mil or contact via phone at (251) 694-3867.

Sincerely,

Curtis M. Fiakes
Chief, Planning and Environmental
Division

Enclosure



October 15, 2021

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

Ref: *Proposed Valley Creek Flood Control Project*
Jefferson County, Alabama
ACHP Project Number: 14423

Dear Mr. Meade:

On October 14, 2021, the Advisory Council on Historic Preservation (ACHP) received a copy of the executed Section 106 agreement document (Agreement) for the referenced undertaking. In accordance with 36 CFR 800.6(b)(1)(iv) of the ACHP's regulations, the ACHP acknowledges receipt of the agreement. The filing of the Agreement and implementation of its terms fulfills the requirements of Section 106 of the National Historic Preservation Act and the ACHP's regulations.

We appreciate receiving a copy of this Agreement for our records. Please ensure that all consulting parties are provided a copy of the executed Agreement in accordance with 36 CFR 800.6(c)(9). If you have any questions or require additional assistance, please contact Mr. Christopher Daniel at (202) 517-0223 or by e-mail at cdaniel@achp.gov and reference the ACHP Project Number above.

Sincerely,

LaShavio Johnson
Historic Preservation Technician
Office of Federal Agency Programs