

Appendix H

Section 106 Memorandum of Agreement



MEMORANDUM OF AGREEMENT

AMONG THE U.S. ARMY CORPS OF ENGINEERS, FEDERAL HIGHWAY ADMINISTRATION,
THE SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION, THE SOUTH DAKOTA
DEPARTMENT OF GAME, FISH, AND PARKS, AND THE SOUTH DAKOTA
STATE HISTORIC PRESERVATION OFFICER,

REGARDING

PROJECT P 0044(207)290 PCN 05X0 – Replace SD Highway 44 Platte-Winner Bridge (Structure #12-085-080)

WHEREAS, the U.S. Army Corps of Engineers (USACE) proposes to provide a 404 Permit to the South Dakota Department of Transportation (SDDOT) for Federal Aid Project P 0044(207)290 PCN 05X0, thereby making the Project an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. § 306108, and its implementing regulations, 36 C.F.R. §800; and

WHEREAS, the undertaking consists of the proposed replacement of the South Dakota Highway 44 (SD 44) Platte-Winner Bridge (Structure #12-085-080, also referred to as the Francis Case Memorial Bridge) as well as associated approach work, excavations, grading, cutting, and placement of fill at various locations along the new SD44 alignment and work associated with the Snake Creek Recreation Area. The existing bridge is a 28-span, 5,655.5-foot by 30.3-foot continuous welded plate-girder bridge; and

WHEREAS, the USACE has defined the undertaking's Area of Potential Effects (APE) as the proposed project alternative (North Skew Alignment) along SD 44. The Northern Skew corridor runs at an offset angle north of the Platte-Winner Bridge at distances varying between 90 feet at the west end and 250 feet at the east end. The total APE footprint encompasses 25.88 acres (see Attachment 1: Project Location and APE Maps); and

WHEREAS, a portion of the APE occurs on lands which are owned by the South Dakota Department of Game, Fish, and Parks (SDGFP) but for which the USACE retains federal oversight in regard to the National Historic Preservation Act pursuant to Water Resources Development Act of 1999, Title VI – Cheyenne River Sioux Tribe and Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund Section 605 (Title VI); and

WHEREAS, the USACE, for purposes of the undertaking and this agreement, has been designated the lead federal agency for compliance with Section 106 of the NHPA, pursuant to 36 C.F.R. § 800.2; and

WHEREAS, the Federal Highway Administration (FHWA) has participated in consultation since the project is a Federal Aid Project funded by FHWA, and FHWA is a signatory to this Agreement; and

WHEREAS, the FHWA intends to coordinate its compliance with Section 106 of the NHPA (Section 106) with the applicable requirements of the National Environmental Policy Act (NEPA) (72 U.S.C. 4321-4347) pursuant to 40 CFR§1500-1508; and

WHEREAS, the USACE, in consultation with the South Dakota State Historic Preservation Officer (SHPO), has determined that the undertaking will have an Adverse Effect upon the Platte Winner Bridge, a property which is eligible for listing in the National Register of Historic Places, and has consulted with the SHPO pursuant to 36 C.F.R § 800, the regulations implementing Section 106 of the NHPA (54 U.S.C. § 306108) (see Attachment 2: SHPO Eligibility Concurrence – Architecture/History and Attachment 3: SHPO Adverse Effect Concurrence); and

WHEREAS, the USACE, in consultation with the SHPO, has determined that the undertaking has the potential to have an Adverse Effect upon two archaeological properties within the APE, 39CH0054 and 39CH0315. Site 39CH0315 was determined to be eligible for listing in the National Register of Historic Places, and Site 39CH0054 has not been evaluated for the National Register of Historic Places, (see Attachment 4: SHPO Eligibility Concurrence - Archaeology and Attachment 3: SHPO Adverse Effect Concurrence); and

WHEREAS, the USACE has consulted with the SDDOT and SDGFP regarding the effects of the undertaking on historic properties and has invited them to sign this Memorandum of Agreement (MOA) as invited signatories; and

WHEREAS, the USACE has initiated consultation with 26 tribes that are part of the Programmatic Agreement for the Operation and Management of the Missouri River Main Stem System for Compliance with the National Historic Preservation Act, as amended. This consultation was done through informational letters sent out on November 16, 2018, and determination letters sent on October 28, 2020. The Santee Sioux Nation and the Winnebago Tribe of Nebraska have responded to the determination letter and stated that consultation with them regarding this project is now complete. The Winnebago stated that this project "will not affect any known sites affiliated with the Winnebago Tribe of Nebraska." Although the Ihanktonwan (Yankton Sioux Tribe) has chosen to participate in this MOA, they are not signatories to the Programmatic Agreement for the Operation and Management of the Missouri River Main Stem System by their own choice; and

WHEREAS, the Yankton Sioux Tribe and the Rosebud Sioux Tribe have been invited to sign the MOA as concurring parties; and

WHEREAS, the Yankton Sioux Tribe and the Rosebud Sioux Tribe each have requested to have tribal monitors present for construction activities along the portion of the project indicated as a sensitive area (see Attachment 5: Site Monitor Location Map). The Rosebud Sioux Tribe has agreed that Yankton Sioux Tribe will conduct the tribal monitoring efforts for the projects; and

WHEREAS, in accordance with 36 C.F.R. § 800.5(a)(3), the USACE, FHWA, and SDDOT consulted with the SHPO, the Yankton Sioux Tribe, and the Rosebud Sioux Tribe on construction monitoring for the geotechnical borings on the west and east banks of the river that were completed prior to the execution of the MOA in accordance with Stipulation VI; and

WHEREAS, the FHWA and SDDOT have conducted public consultation during the development of the project through the Corridor Plan and through individual public agency consultation with the SDGFP, South

Dakota Department of Agriculture and Natural Resources, SHPO, U.S. Fish and Wildlife Service, and the USACE; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), the USACE has notified the Advisory Council on Historic Preservation (ACHP) of the Adverse Effect determination by providing the specified documentation, and the ACHP has chosen not to participate in the consultation pursuant to 36 C.F.R. § 800.6(a)(1)(iii) (see Attachment 6: ACHP Notification); and

NOW, THEREFORE, the USACE, the SHPO, FHWA, SDDOT, and SDGFP 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 USACE, with the assistance of SDDOT, shall ensure that the following measures are carried out:

I. PHOTOGRAPHIC DOCUMENTATION

SDDOT will submit current photographic documentation of the bridge (Structure #12-085-080) to the SHPO which conforms to the Photography Guidelines for the Purposes of Section 106 Mitigation (see Attachment 7: Photography Guidelines for the Purposes of Section 106 Mitigation). This will include digital color photographs that meet the National Register of Historic Places photograph standards, meaning photos must be at least 2000 x 3000 pixels at 300 dpi saved as TIFFs, and submitted on CD/DVD or flash drive. Photographs shall minimally include full views of the bridge's primary elevations, close-ups of any decorative, character-defining, or structural features, and general views of the bridge and its environs. Photographs will be labeled according to the SHPO's naming requirements defined in the *South Dakota Historic Resource Survey Manual*. SHPO must approve the documentation prior to the demolition of the bridge. Upon review and approval of the documentation, SHPO will submit the photographs of the bridge to the South Dakota State Archives for public use and reproduction.

II. EXISTING RECORD SEARCH

SDDOT will conduct a search for any existing reports, photographs, drawings, plans, or similar documents related to the bridge (Structure #12-085-080). The search will include, but is not limited to, any SDDOT or FHWA files, county or city government files, local historical society or museum files, or other repositories that may likely have records related to the bridge. SDDOT will submit a letter to SHPO documenting what repositories or files were searched.

III. EXISTING RECORD REPRODUCTION

If any publicly available documents related to Structure #12-085-080 are found while completing Stipulation II and those documents are not otherwise restricted by federal or state law, SDDOT will either submit the original, if possible, or one copy of those documents to SHPO and USACE. SDDOT will also scan any photographs (historic or more recent) of Structure #12-085-080 found

while completing Stipulation II and provide the images to SHPO and USACE. Images will be scanned at 600 dpi, saved as TIFFs, and submitted on a CD/DVD or flash drive. Upon receipt and review of the documents and/or images, SHPO will submit the documents and/or images to the South Dakota State Archives for public use and reproduction.

IV. HISTORIC BRIDGE DIGITAL CONTENT

SDDOT will consult with SHPO on the preparation of content regarding the history of the Platte-Winner Bridge for a GIS story map to be developed by SDDOT. The GIS story map content will focus on the Platte-Winner Bridge and include locational and descriptive information on the bridge including photographs and a written summary of its history, significance, and character-defining features. SDDOT will host the historic bridge GIS story map on its website for a minimum of ten years. The SHPO may provide a link to the historic bridge GIS story map on its website. SDDOT will provide SHPO with transcripts of the GIS story map content for inclusion in the State Archives.

V. SITE AVOIDANCE

SDDOT has taken measures in design of the project to avoid adverse impacts to Site 39CH0315, including the use of fill material to build on top of existing ground for the new roadway. If necessary, any fill material sourced from an outside location will be obtained from a location for which the Section 106 consultation process has been completed. SDDOT will require the contractor to document compliance with this requirement. The amount of fill required for the project is not anticipated to cause compaction impacts to the site. However, Site 39CH0315 may be impacted by the installation of bridge pilings at the location of the eastern abutment. Heavy equipment will be on site for installation of bridge piles, but excavation of material is not expected to be necessary beyond vegetative clearing to accommodate the equipment work around Site 39CH0315. Construction activities near Site 39CH0315 will be monitored in accordance with Stipulation VI of the MOA.

Site 39CH0054 is mapped within the project limits. Although the mapped position of this site may be inaccurate and the site may have eroded into the river, construction activities near the mapped position of Site 39CH0054 will be monitored in accordance with Stipulation VI of the MOA.

VI. CONSTRUCTION MONITORING

During construction, including initial ground-disturbing activities and geotechnical borings on the west and east banks of the river, SDDOT will ensure that an archaeologist meeting the *Secretary of the Interior's Professional Qualification Standards for Archaeologists* (48 C.F.R. 44738-9) and a tribal monitor representative on behalf of the Yankton Sioux Tribe and Rosebud Sioux Tribe will be present to monitor ground-disturbing activities in the culturally sensitive area surrounding sites 39CH0054 and 39CH0315, as depicted in Attachment 5: Site Monitor Location Map. Any SDDOT staging areas located outside of the areas indicated in Attachment 5 or not previously evaluated as part of the APE will be identified and addressed as an amendment to this MOA. A five-business day notice will be given prior to initiating ground disturbing activities to allow for coordination with the Tribal Historic Preservation Officer (THPO) and tribal monitors. General

monitoring activities will include direct, on-the-ground observation of ground-disturbing work, photo documentation of the disturbance, and periodic close-up inspection of back dirt spoil piles and stripped or graded surfaces. Upon completion of the archaeological monitoring, SDDOT will submit a report of the results to all signatories.

VII. DURATION

This MOA will expire if its terms are not carried out within six (6) years from the date of its execution. Prior to such time, the USACE may consult with other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation XI below.

VIII. POST REVIEW DISCOVERIES

If properties are discovered that may be historically significant or unanticipated effects on historic properties found, all work within 150 feet of the discovery will immediately cease, and SDDOT will notify USACE, the South Dakota Archaeological Research Center (ARC), SHPO, the Yankton Sioux Tribe, and the Rosebud Sioux Tribe, within 48 hours of the discovery to determine the appropriate course of action.

In the event that human remains are discovered during project activities, pursuant to this Agreement, all work within 150 feet of the discovery will immediately cease, The remains will be treated pursuant to the Native American Graves Protection and Repatriation Act of 1990, as amended (NAGPRA) (25 USC 3001 et seq.), and 43 CFR 10.5(e) of the implementing regulations as set forth in Native American Graves Protection and Repatriation Regulations (43 CFR 10), as well as SDCL 34-27-25, SDCL 34-27-28, and SDCL 34-27-31 and follow SDDOT's guidelines on the inadvertent discovery of human remains (Attachment 8). If human remains are discovered on USACE or Title VI lands, SDDOT shall follow USACE "SOP Response Procedures for Discovery of Human Skeletal Remains" contained within Attachment 9.

All potential NAGPRA items as defined in 43 CFR 10.2 (d), will be treated with dignity, care and respect. Pursuant to NAGPRA's law and regulations, NAGPRA items discovered will only be removed following consultation with the Rosebud Sioux and Yankton Sioux Tribal Historic Preservation Offices (THPO). Repatriation of such NAGPRA items will be expedited and follow guidance by both THPOs.

IX. MONITORING AND REPORTING

Each year following the execution of this MOA until it expires or is terminated, SDDOT shall provide all parties to the MOA, a summary report detailing work undertaken pursuant to its terms. Such report shall be submitted by January 1 and shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the USACE's efforts to carry out the terms of this MOA.

X. DISPUTE RESOLUTION

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

- A. Forward all documentation relevant to the dispute, including the USACE's proposed resolution, to the ACHP. The ACHP shall provide the USACE with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the USACE shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The USACE will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30)-day time period, the USACE may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the USACE shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA and provide them and the ACHP with a copy of such written response.
- C. The USACE's responsibility to carry out all other actions subject to the terms of the MOA that are not the subject of the dispute remain unchanged.

XI. AMENDMENTS

In the event of changes to the project scope which result in the alteration of the undertaking's APE or its effects on historic properties, USACE shall consult with all consulting parties to amend the MOA to reflect these changes. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

Individual attachments to this MOA may be edited following consultation with and agreement from all consulting parties without the need to amend the Agreement, unless the signatory parties, through consultation, decide otherwise.

XII. TERMINATION

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

SIGNATURE PAGE

SIGNATORY


MEMORANDUM OF AGREEMENT

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THE SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION, THE SOUTH DAKOTA
DEPARTMENT OF GAME, FISH, AND PARKS, AND THE SOUTH DAKOTA
STATE HISTORIC PRESERVATION OFFICER,**

REGARDING

**PROJECT P 0044(207)290 PCN 05X0 – Replace Highway 44 Platte-Winner Bridge (Structure #12-
085-080)**

UNITED STATES ARMY CORPS OF ENGINEERS

By:  Date: 17 DEC 2021
COL Mark R. Himes, P.E., USACE Omaha - District Commander

SIGNATURE PAGE

SIGNATORY


MEMORANDUM OF AGREEMENT

AMONG THE U.S. ARMY CORPS OF ENGINEERS, FEDERAL HIGHWAY ADMINISTRATION,
THE SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION, THE SOUTH DAKOTA
DEPARTMENT OF GAME, FISH, AND PARKS, AND THE SOUTH DAKOTA
STATE HISTORIC PRESERVATION OFFICER,

REGARDING

PROJECT P 0044(207)290 PCN 05X0 – Replace Highway 44 Platte-Winner Bridge (Structure #12-
085-080)

SOUTH DAKOTA STATE HISTORIC PRESERVATION OFFICER

By: 

Ted M. Spencer, State Historic Preservation Officer

Date: 10-15-21

SIGNATURE PAGE

SIGNATORY

MEMORANDUM OF AGREEMENT

**AMONG THE U.S. ARMY CORPS OF ENGINEERS, FEDERAL HIGHWAY ADMINISTRATION,
THE SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION, THE SOUTH DAKOTA
DEPARTMENT OF GAME, FISH, AND PARKS, AND THE SOUTH DAKOTA
STATE HISTORIC PRESERVATION OFFICER,**

REGARDING

**PROJECT P 0044(207)290 PCN 05X0 – Replace Highway 44 Platte-Winner Bridge (Structure #12-
085-080)**

FEDERAL HIGHWAY ADMINISTRATION

By: 
Tom Lehmkuhl, Environmental Specialist

Date: 10.19.2021

SIGNATURE PAGE

INVITED SIGNATORY

MEMORANDUM OF AGREEMENT

**AMONG THE U.S. ARMY CORPS OF ENGINEERS, FEDERAL HIGHWAY ADMINISTRATION,
THE SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION, THE SOUTH DAKOTA
DEPARTMENT OF GAME, FISH, AND PARKS, AND THE SOUTH DAKOTA
STATE HISTORIC PRESERVATION OFFICER,**

REGARDING

**PROJECT P 0044(207)290 PCN 05X0 – Replace Highway 44 Platte-Winner Bridge (Structure #12-
085-080)**

SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION

By: Joanne M. Hight
Joanne Hight, Administration Program Manager

Date: 10/29/2021

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INVITED SIGNATORY

MEMORANDUM OF AGREEMENT

**AMONG THE U.S. ARMY CORPS OF ENGINEERS, FEDERAL HIGHWAY ADMINISTRATION,
THE SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION, THE SOUTH DAKOTA
DEPARTMENT OF GAME, FISH, AND PARKS, AND THE SOUTH DAKOTA
STATE HISTORIC PRESERVATION OFFICER,**

REGARDING

PROJECT P 0044(207)290 PCN 05X0 – Replace Highway 44 Platte-Winner Bridge (Structure #12-085-080)

SOUTH DAKOTA DEPARTMENT OF GAME, FISH, AND PARKS

By: *Scott Simpson*
Scott Simpson (Dec 14, 2021 12:50 CST)

Scott Simpson, Division Director - Parks & Recreation

Date: 12/14/2021

SIGNATURE PAGE

CONCURRING PARTY

MEMORANDUM OF AGREEMENT

**AMONG THE U.S. ARMY CORPS OF ENGINEERS, FEDERAL HIGHWAY ADMINISTRATION,
THE SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION, THE SOUTH DAKOTA
DEPARTMENT OF GAME, FISH, AND PARKS, AND THE SOUTH DAKOTA
STATE HISTORIC PRESERVATION OFFICER,**

REGARDING

**PROJECT P 0044(207)290 PCN 05X0– Replace Highway 44 Platte-Winner Bridge (Structure #12-
085-080)**

YANKTON SIOUX TRIBE

By:  _____
Robert Flying Hawk, Chairman of the Yankton Sioux Tribe

Date: 1/10/22

SIGNATURE PAGE

CONCURRING PARTY

MEMORANDUM OF AGREEMENT

**AMONG THE U.S. ARMY CORPS OF ENGINEERS, FEDERAL HIGHWAY ADMINISTRATION,
THE SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION, THE SOUTH DAKOTA
DEPARTMENT OF GAME, FISH, AND PARKS, AND THE SOUTH DAKOTA
STATE HISTORIC PRESERVATION OFFICER,**

REGARDING

**PROJECT P 0044(207)290 PCN 05X0 – Replace Highway 44 Platte-Winner Bridge (Structure #12-
085-080)**

ROSEBUD SIOUX TRIBE

By: *Ione Quigley*
Ione Quigley, Tribal Historic Preservation Officer

Date: *3/22/22*

List of Attachments

Attachment 1: Project Location and APE Maps

Attachment 2: SHPO Eligibility Concurrence - Architecture/history

Attachment 3: SHPO Adverse Effect Concurrence

Attachment 4: SHPO Eligibility Concurrence - Archaeology

Attachment 5: Site Monitor Location Map

Attachment 6: ACHP Notification

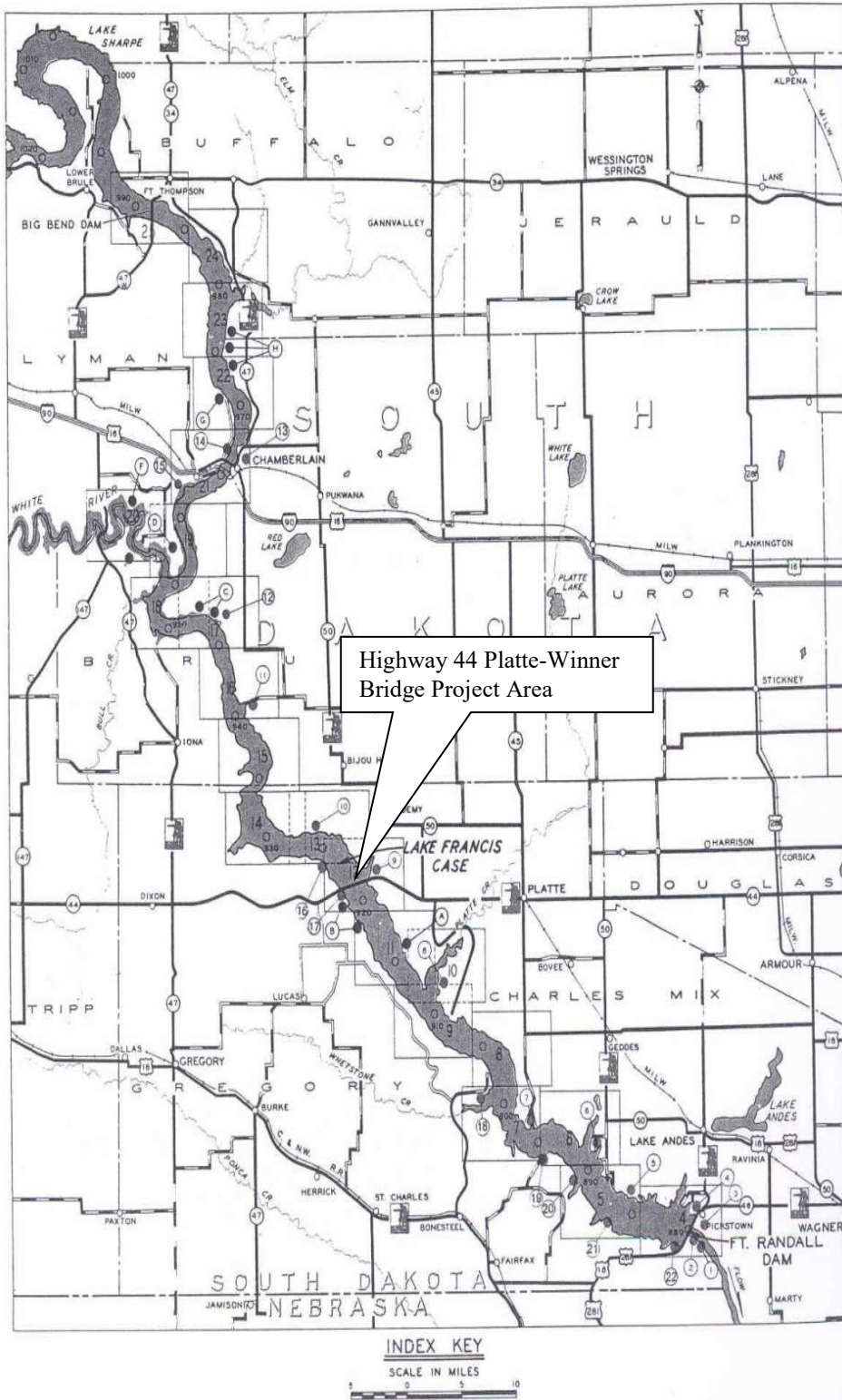
Attachment 7: Photography Guidelines for the Purposes of Section 106 Mitigation

Attachment 8: Inadvertent Discovery of Human Remains

Attachment 9: USACE "SOP Response Procedures for Discovery of Human Skeletal Remains"

Attachment 1: Project Location and APE Maps

General Project Location Map, Lake Francis Case






AREA NO.	AREA NAME
1	RANDALL CREEK
2	TAILRACE
3	SPILLWAY
4	NORTH POINT
5	WHITE SWAN
6	PEASE CREEK
7	NORTH WHEELER
8	PLATTE CREEK
9	SNAKE CREEK
10	TURGEON WELLS
11	ELM CREEK * * *
12	BOYER
13	AMERICAN CREEK
14	CHAMBERLAIN
15	DUDE RANCH
16	BURYANEK
17	WEST BRIDGE
18	WHETSTONE BAY
19	SOUTH WHEELER
20	SOUTH SCALP CREEK
21	JOE DAY BAY
22	SOUTH SHORE

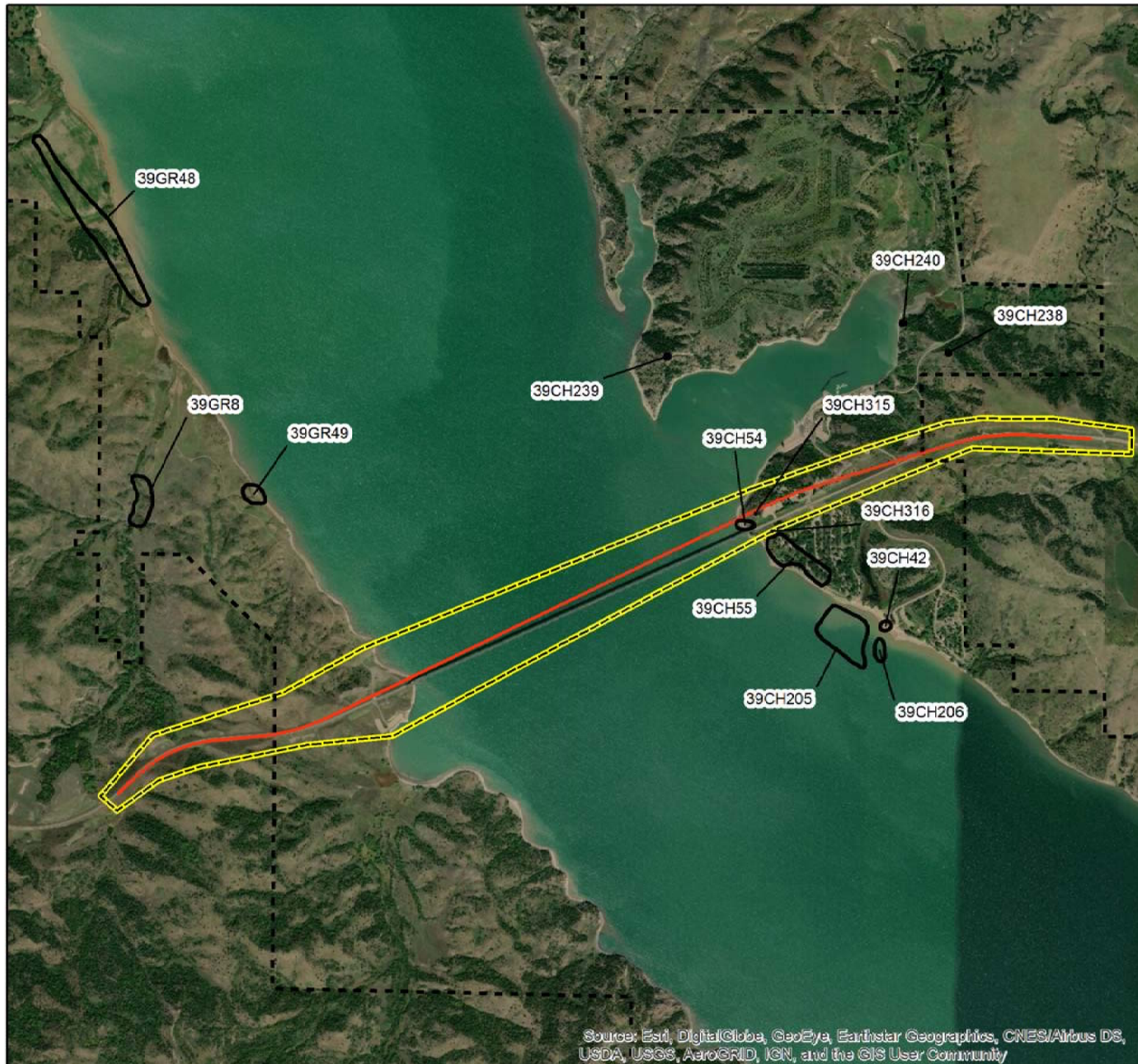
Operations/Regulatory GIS Unit
 1991-1998 Lake Francis Case Boating and Recreation Guide. U.S. Army Corps of Engineers,
 Omaha District.

Platte-Winner Bridge

Cultural Resources

Legend

-  Proposed Centerline
-  Title VI Boundary
-  APE



Disclaimer: The United States government and USACE furnishes this data and the recipient accepts and uses it with the expressed understanding that the government makes no warranties, expressed or implied, concerning the accuracy, completeness, reliability, usability, or suitability for any particular purpose of the information and data furnished. The United States shall be under no liability whatsoever to any person by reason of any use made thereof. Data displayed on this map are approximations derived from GIS layers and should not be used in place of survey data or legal land descriptions.

Fort Randall Project CENWO-008-B

Produced By:
Andrew Clark
Production Date:
15 Nov 16
Revised By:
Revision Date:



File Location:
N/A

Sources:

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Attachment 2: SHPO Eligibility Concurrence - Architecture/History



November 27, 2019

Julie Jacobsen
Cultural Resources Program, Planning Branch
Department of the Army
Corps of Engineers, Omaha District
1616 Capitol Ave
Omaha NE 68102-4901

SECTION 106 PROJECT CONSULTATION

Project: 181120002F – Replace Highway 44 Platte-Winner Bridge (Structure #12-085-080); Review of National Register of Historic Places Evaluation Report for Structure #12-085-080

Location: Multiple Counties
(COE)

Dear Ms. Jacobsen:

Thank you for the opportunity to comment on the above-referenced National Register of Historic Places Evaluation Report, prepared by Mead & Hunt and dated April 2019, for the Platte-Winner Bridge, also known as the Francis Case Memorial Bridge (structure #12-085-080). We received this report and your correspondence on October 28, 2019. Based upon the information provided, we concur with your determination that structure #12-085-080 is eligible for listing in the National Register of Historic Places under Criteria A and C.

Your correspondence notes that your agency will also complete an archaeological/geomorphological study for this project, which will be submitted separately to our office for review. After our office has reviewed both the architectural report and the archaeological/geomorphological study, your agency will continue consultation regarding the effects of the proposed undertaking on historic properties. We look forward to continuing consultation with your agency.

Should you require any additional information, please contact Kate Nelson at (605) 773-6005 or Kate.Nelson@state.sd.us.

Sincerely,

Jay D. Vogt
State Historic Preservation Officer

Kate Nelson
Restoration Specialist

CC: Sandra Barnum, U.S. Army Corps of Engineers

Attachment 3: SHPO Adverse Effect Concurrence



December 4, 2020

Mr. Bill R. Chada
Department of the Army
Corps of Engineers, Omaha District
Fort Randall Project
PO Box 199
Pickstown, SD 57367-0199

SECTION 106 PROJECT CONSULTATION

Project: 181120002F – 2020 Highway 44 Bridge Replacement
Location: Multiple Counties
(USACE)

Dear Mr. Chada:

Thank you for the opportunity to comment on the above referenced project pursuant to 54 U.S.C. 306108, Section 106 of the National Historic Preservation Act of 1966 (as amended) and the Programmatic Agreement for the Operation and Management of the Missouri River Main Stem System. The South Dakota Office of the State Historic Preservation Officer (SHPO) concurs with your determination regarding the effect of the proposed undertaking on the non-renewable cultural resources of South Dakota.

On November 3, 2020, we received your letter dated October 28, 2020, regarding the proposed replacement of the Platte-Winner Bridge. On November 20, 2018, our office received your preliminary correspondence regarding the proposed bridge replacement. Since that time, your agency has consulted with SHPO on numerous aspects of the undertaking, including the evaluation of the bridge and of archaeological sites. In SHPO letter 181120002F dated November 27, 2019, SHPO concurred that structure 12-085-080, the Platte-Winner Bridge, is eligible for listing in the National Register of Historic Places under Criteria A and C. In SHPO letter 181120002F, dated May 20, 2020, SHPO concurred with your determination that 39CH0315 should be considered eligible for listing in the National Register of Historic Places under Criterion D.

As the proposed undertaking calls for the removal of the Platte-Winner Bridge and the potential to adversely affect eligible site 39CH0315 and unevaluated site 39CH0054, SHPO concurs with your determination of “Adverse Effect” for the proposed undertaking.

Pursuant to 36 C.F.R. § 800.6, we look forward to continuing consultation with your agency to resolve the adverse effect through a Memorandum of Agreement (MOA). Please be sure to notify the Advisory Council on Historic Preservation of the Adverse Effect.

900 GOVERNORS DR • PIERRE • SD 57501 • P { 605 • 773 • 3458 } F { 605 • 773 • 6041 } • HISTORY.SD.GOV

DEPARTMENT OF EDUCATION { DOE.SD.GOV }

Should you require any additional information, please contact Jenna Carlson Dietmeier at (605) 773-8370 or Jenna.CarlsonDietmeier@state.sd.us.

Sincerely,

Jay D. Vogt
State Historic Preservation Officer



Jenna Carlson Dietmeier
Review & Compliance Coordinator

CC: Julie Jacobsen, U.S. Army Corps of Engineers
Tom Lehmkuhl, Federal Highway Administration
Joanne Hight, South Dakota Department of Transportation
Timothy Thoreen, HR Green

Attachment 4: SHPO Eligibility Concurrence – Archaeology



May 20, 2020

Julie Jacobsen
Department of the Army
Corps of Engineers, Omaha District
1616 Capitol Ave
Omaha NE 68102-4901

SECTION 106 PROJECT CONSULTATION

Project: 181120002F – Replace Highway 44 Platte – Winner Bridge – Geo-Archaeological Investigations
Location: Multiple Counties
(USACE)

Dear Ms. Jacobsen:

Thank you for the opportunity to comment on the proposed project pursuant to 54 U.S.C 306108 (Section 106) of the National Historic Preservation Act of 1966 (as amended) and the Programmatic Agreement for the Main Stem System. The South Dakota Office of the State Historic Preservation Officer (SHPO) would like to provide the following comments regarding the effect of the proposed undertaking on the non-renewable cultural resources of South Dakota.

On December 9, 2019, we received your correspondence dated December 5, 2019, and the report and two addendums entitled “A Level III Cultural Resources Investigation and Geoarchaeological Evaluation of South Dakota Department of Transportation’s Proposed SD Highway 44 Platte-Winner Bridge Corridor Study and Environmental Assessment, Charles Mix and Gregory Counties, South Dakota,” by Archeology Laboratory, Augustana University. In a letter dated December 13, 2020, we requested additional clarification concerning the scope of the proposed project. The additional information was submitted on April 27, 2020, by Timothy Thoren from HR Green.

Based on the information provided, we agree that newly recorded site 39CH0315 should be considered eligible for listing in the National Register of Historic Places under Criteria D. However, we disagree with the non-contributing status for the portion of 39CH0315 located in the footprint of the bridge abutment.

As described in 36 C.F.R. § 800.6, we look forward to continuing consultation with your agency to find ways to avoid, minimize or mitigate the adverse effects of this undertaking.

Should you require additional information, please contact Paige Olson at (605) 773-6004 or Paige.Olson@state.sd.us.

Sincerely,

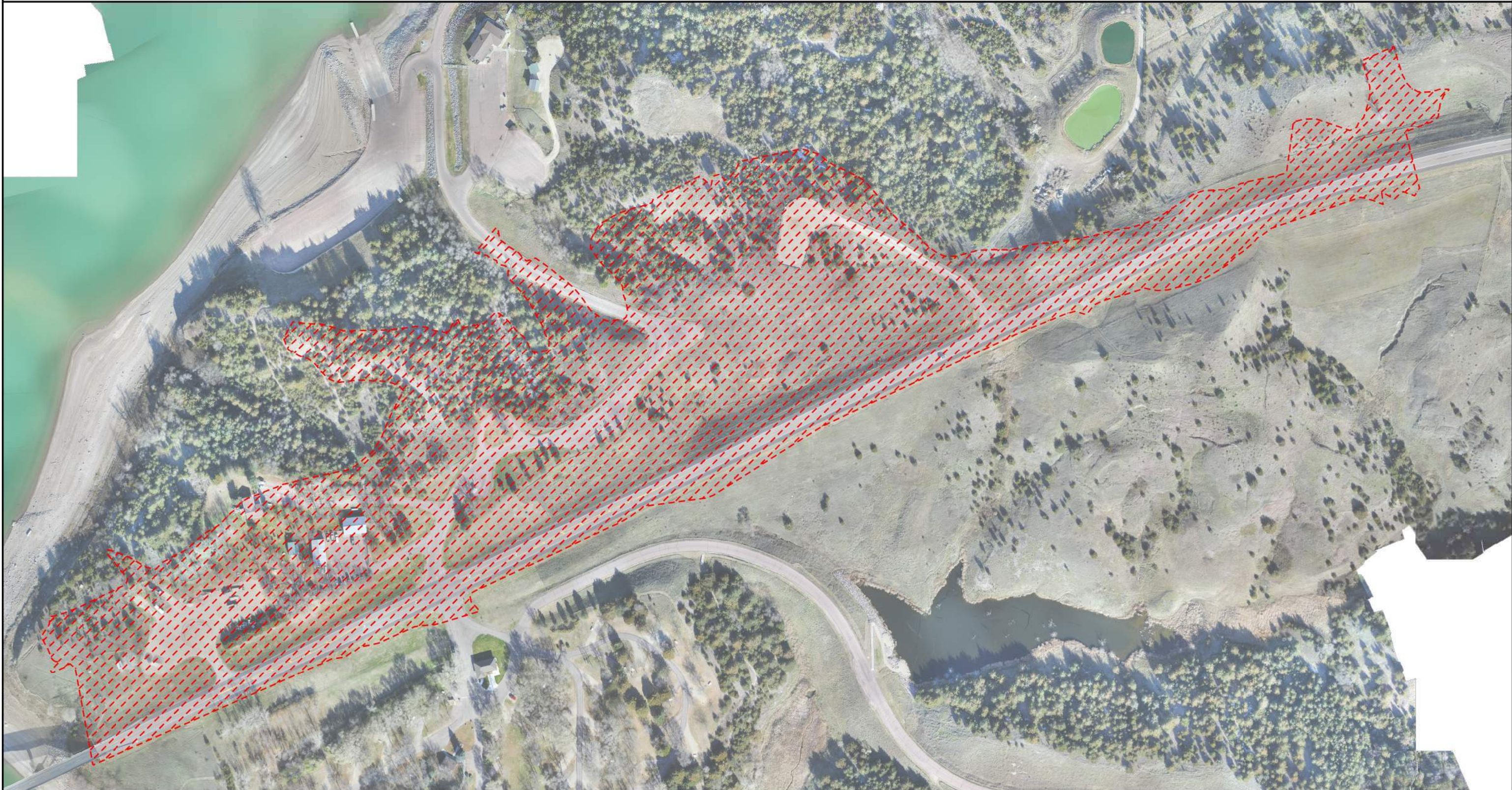
Jay D. Vogt
State Historic Preservation Officer




Paige Olson
Review and Compliance Coordinator

cc: Bill Chada, U.S. Army Corps of Engineers
Joanne Hight, South Dakota Department of Transportation
Tom Lehmkuhl, Federal Highway Administration
Timothy Thoreen, HR Green

Attachment 5: Site Monitor Location Map



Attachment 5: Site Monitor Location Map

 Approximate Future Construction Footprint (as of August 2021)



Attachment 6: ACHP Notification



January 4, 2021

Mr. Bill R. Chada
Archeologist
U.S. Army Corps of Engineers
Fort Randall Project
399 Powerhouse Road
P.O. Box 199
Pickstown, SD 57367

Ref: *Proposed US Highway 44 Bridge Replacement Project
Charles Mix and Gregory Counties, South Dakota
ACHP Project Number: 16342*

Dear Mr. Chada:

The Advisory Council on Historic Preservation (ACHP) has received your notification and supporting documentation regarding the adverse effects of the referenced undertaking on a property or properties listed or eligible for listing in the National Register of Historic Places. Based upon the information 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 (THPO), affected Indian tribe, a consulting party, or other party, we may reconsider this decision. Additionally, should circumstances change, and it is determined 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 South Dakota State Historic Preservation Officer (SHPO), 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 the notification of adverse effect. If you have any questions or require further assistance, please contact John Eddins, PhD. at (202) 517-0211 or by email at jeddins@achp.gov.

Sincerely,

LaShavio Johnson
Historic Preservation Technician
Office of Federal Agency Programs

**Attachment 7: Photography Guidelines for the Purposes of Section
106 Mitigation**



PHOTOGRAPHY GUIDELINES FOR THE PURPOSES OF SECTION 106 MITIGATION

At a minimum, these guidelines reflect the recommendations of the South Dakota Office of the State Historic Preservation Officer (SHPO) when documenting historic properties affected by federal undertakings. These guidelines cannot be used to circumvent consultation with appropriate consulting parties as identified in the Section 106 process. These guidelines are based on National Park Service guidance to ensure consistency in the quality of photographic documentation.

Selecting a Digital Camera

BEST: Six megapixel or greater digital SLR camera

Acceptable: Two – five megapixel point-and-shoot digital camera

Not acceptable: Camera phones, disposable or single-use digital cameras, digital cameras with fewer than two megapixels of resolution

Taking the Picture

Image file format (Set the camera for highest image quality).

BEST: Tag Image File format (TIFF) or RAW format images. This allows for the best image resolution.

Acceptable: JPEGs converted to TIFFs, by a computer conversion process, are acceptable; however, JPEGs must not be altered in any way prior to conversion (other than renaming them).

Do not use the JPEG setting on the camera, if a higher quality setting is available.

RGB color digital **TIFFs** are preferred.

Digital Camera Resolution (Set the camera to the maximum or largest pixel dimension the camera allows).

BEST: Six megapixels or greater (2000 x 3000 pixel image)

Acceptable: Minimum two megapixels (1200 x 1600 pixel image)

Renaming the digital TIFF image

All digital image files must be renamed using a standard naming format.

The TIFF file name must include:

State_county_property name (or district name or SHPO ID)_0001
(Use zeros in image numbers to create 4 digit number, e.g. 0002, 0003, etc.)

Example for individual properties:
SD_PenningtonCounty_ElizabethBrown House_0001

Example for district and farmstead labels:
SD_PenningtonCounty_RapidCityCommercialHistoricDistrict_0125

Example for individual properties using SHPO ID labels:
SD_PenningtonCounty_PN00000123

Example for districts and farmsteads using SHPO ID labels:
SD_PenningtonCounty_PN00400001
SD_PenningtonCounty_PN00400002

Burning the Images onto an Archival Disk

A CD/ DVD or flash drive must contain all TIFF images, the photograph log, and sketch map. The photograph log and sketch map must be saved as a PDF/A or PDF file.

Reminder: JPEGs converted to TIFFs, by a computer conversion process, are acceptable; however, JPEGs must not be altered in any way prior to conversion (other than renaming them). When image is open on your computer, right click and you will see the image properties (Dimensions, dpi, etc.).

Acceptable: CD-R, DVD-R, flash drive, or any disk obtained from a commercial photo processor.

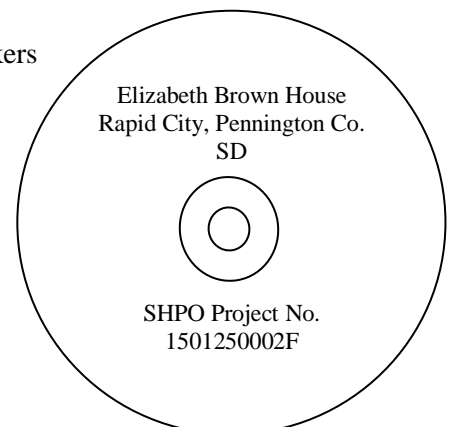
Not acceptable: CD-RW or DVD-RW (if packaging says “rewriteable” do not use).

Labeling the Disk

Best: Labels printed directly on the disk or drive by laser printer (non-adhesive).

Acceptable: Hand-written labels using CD/DVD safe markers OR other markers (Sharpies) or a label tag attached through the lanyard/keychain hole of the flash drive

Not Acceptable: Ammonia/solvent-based markers or adhesive stickers



Photograph Log Page

The photograph Log and sketch map must be saved to the CD/DVD or flash drive.

Example of acceptable photo pages

Name of Property:	Henderson House
City or Vicinity:	Pierre
County:	Hughes County
State:	SD
Name of Photographer:	Mary Smith
Date of Photographs:	April 2015
Location of Original Digital Files:	411 E. 6th St., Rapid City, SD 57501
Photograph Number:	0001
SHPO Project Number:	150415001F

Photo #1 (SD_HughesCounty_HendersonHouse_0001)
South façade (left) and east elevation (right), camera facing northwest.

Sketch Map

Photographs must be keyed to a sketch map, see Attachment 1 for sample.

Use of Photographs

All photographs submitted in accordance with the terms of a Memorandum of Agreement or Programmatic Agreement will be used as specified in the Agreement, which may include submission by the SHPO as official documentation to the South Dakota State Archives for public use and reproduction.

Guidelines for Photographic Coverage

Photographs submitted as official documentation should be clear, well-composed, and provide an accurate visual representation of the property and its significant features. They must illustrate the qualities that make the property eligible for the National Register. Photographs should show historically significant features and any alterations that have affected the property's historic integrity.

The necessary number of photographic views depends on the size and complexity of the property. Submit as many photographs as needed to depict the current condition and significant features of the property. A few photographs may be sufficient to document a single building or object. Larger, more complex properties and historic districts will require a number of photos.

Buildings, structures, and objects:

Photographs need to show the principal facades and the setting in which the property is located.

Additions, alterations, intrusions, and dependencies need to appear in the photographs.

Include views of interiors, outbuildings, landscaping, or unusual features if they contribute to the significance of the property.

Historic and archaeological sites:

Photographs need to show the condition of the site and any above-ground or surface features and disturbances.

If relevant to the evaluation of significance, include drawings or photographs illustrating artifacts that have been removed from the site.

At least one photograph must show the physical environment and topography of the site.

Architectural, Historic Districts and Farmsteads (key all photographs to the sketch map for the district):

Submit photographs showing major building types and styles, pivotal buildings and structures, and noncontributing resources.

Streetscapes and landscapes are recommended. Aerial views may also be useful. Views of significant topographic features and spatial elements should also be submitted.

Views of individual buildings are not necessary if streetscape views clearly illustrate the significant historical and architectural qualities of the district.

Archaeological Districts:

Submit photographs of the principal sites and site types within the district following the guidelines for archaeological sites (see above).

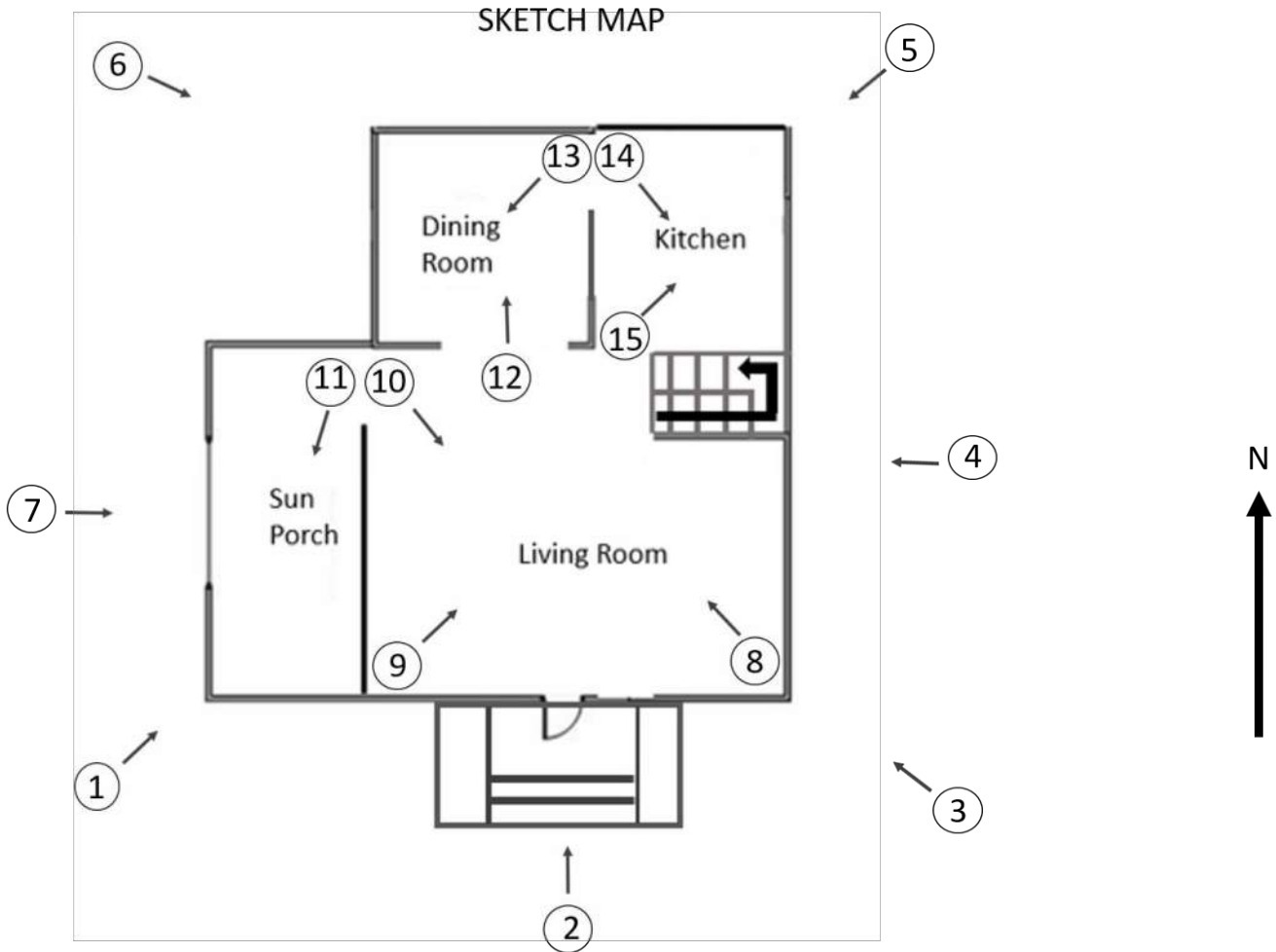


Photo Key

Name of Property:	Henderson House
City/Vicinity:	Pierre
County:	Hughes
State:	South Dakota
Name of Photographer:	Mary Smith
Date of Photographs:	April 2015
Number of Photos:	15
Section 106 Project #:	150415001F

Attachment 8: Inadvertent Discovery of Human Remains

INADVERTENT DISCOVERY OF HUMAN REMAINS

In the event of an inadvertent discovery of human remains or funerary objects on state or private land, the following steps shall be taken pursuant to South Dakota Codified Law Chapter 34-27-25, 34-27-28, and 34-27-31:

1. The Contractor shall immediately halt construction activities within a 150-foot radius from the point of discovery and implement measures to protect the discovery from looting and vandalism. No digging, collecting or moving of human remains or other items shall occur after the initial discovery. Construction personnel and all others at the discovery site shall treat the remains with care, dignity, and respect. Protection measures may include the following:
 - a) Flag the buffer zone around the find spot.
 - b) Keep workers, press, and curiosity seekers, away from the find spot.
 - c) Tarp the find spot.
 - d) Prohibit photography of the find unless requested by an agency official.
 - e) Have an individual stay at the location to prevent further disturbance until a law enforcement officer arrives
2. The Contractor shall notify local law enforcement, the FHWA and DOT, and the South Dakota State Archaeologist (State Archaeologist) within forty-eight (48) hours of the discovery.
3. The FHWA/DOT shall notify the South Dakota State Historic Preservation Office (SHPO), Indian tribes, and other consulting parties within forty-eight (48) hours of the discovery.
4. If local law enforcement determines that the remains are not associated with a crime, the FHWA/DOT shall determine if it is prudent and feasible to avoid disturbing the remains. If the FHWA/DOT, in consultation with the Project Engineer and the Contractor determine that disturbance cannot be avoided, the FHWA/DOT shall consult with the State Archaeologist, SHPO, Indian tribes and other consulting parties to determine acceptable procedures for the removal, treatment and disposition of the burial or remains. The FHWA/DOT shall ensure that the Contractor implements the plan for removal, treatment and disposition of the burial or remains as authorized by the South Dakota State Archaeologist.
5. The FHWA/DOT shall notify the Contractor that they may resume construction activities in the area of the discovery upon completion of the plan authorized by the State Archaeologist.

**Attachment 9: USACE “SOP Response Procedures for Discovery of
Human Skeletal Remains”**

**U.S. ARMY CORPS OF ENGINEERS
SOP RESPONSE PROCEDURES
FOR
DISCOVERY OF HUMAN SKELETAL REMAINS
REVISED APRIL 2012**

1. PURPOSE: The purpose of this Standard Operating Procedure (SOP) is to provide guidance to assure respectful and responsive treatment of human skeletal remains inadvertently discovered on Title VI Transfer Lands belonging to the State of South Dakota Game, Fish & Parks (GF&P), and U.S. Army Corps of Engineers, Omaha District (Corps) project lands. This document outlines the steps for the reporting, recording, and disposition of human remains at a practical level for field personnel.

2. POLICY: It is policy to treat human skeletal remains respectfully and responsively in consultation with affected tribes and in accordance with the North Dakota Intertribal Reinterment Committee (NDIRC) Memorandum of Agreement (MOA); Native American Graves Protection and Repatriation Act (NAGPRA); the National Historic Preservation Act; and other applicable federal, tribal, state, and local laws.

3. APPLICABILITY: This policy is applicable to Tribal Government Officials;, South Dakota Game, Fish & Parks Department; and Civil Works Water Resource Development Projects within the Corps.

4. REFERENCES:

- 43 CFR Part 10: Native American Graves Protection and Repatriation Act (NAGPRA) Implementing Regulations Synopsis (Appendix A).
- 36 CFR 800.12: National Historic Preservation Act Implementing Regulations regarding emergencies.
- Memorandum of Agreement (MOA) between Corps of Engineers, North Dakota Tribes, and the North Dakota Intertribal Reinterment Committee (NDIRC)

5. Discovery of Human Skeletal Remains Procedures: A call center has been established to assist with documenting and investigating the discovery of human remains on lands managed by the U.S. Corps of Engineers lands, including lands transferred under Title VI.

The Omaha District Messaging Center (Messaging Center) is located in Omaha Nebraska at **1-888-761-2722**. This Messaging Center will ask the caller several questions to determine location and status of remains. The call will be logged for tracking and documentation purposes. The Messaging Center will then contact the Corps District and Senior Archeologists and the Cultural Resource Program Manager. Archeologists will investigate and follow the necessary steps to properly protect the remains and notify the proper officials.

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A. **Discovery/Preliminary Site Assessment Process:** If you suspect that you have found human remains or have been notified that remains have been discovered on property managed by the Corps please follow these steps:

- Do not collect or move the remains.
- Visually identify the location. The exact location is very important.
- If the remains are in danger of being damaged or removed by others, try to camouflage the remains with vegetation, sand, soil, etc.
- Call the Omaha District Hotline at **1-888-761-2772**. You will be asked a series of questions and your discovery will be logged. The hotline operator will contact Rick Harnois, Sandy Barnum, and Julie Price. One of these individuals will contact you as soon as possible. Have maps and photos ready to email.
- A site visit may be needed; and you may be asked to accompany an archeologist to the site.
- The archeologist will follow the necessary steps to properly protect the remains and notify the proper officials.

6. Modern Crime Scene: Remains could be a modern crime scene. If you feel you have discovered a modern crime scene, please contact the Message Center at **1-888-761-2772** and advise them you believe the remains are part of a crime scene. Then immediately contact the county Sheriff Department and report the incident.

7. NAGPRA - Implementing Regulations (Synopsis): Once human remains are confirmed, but no later than three days after the notification to the Operations Manager, the proper tribal representative should be contacted by phone and invited to examine the site.

- [43 CFR §10.4(d)(iii)] requires notification within three days to affiliated Tribal members.
- [43 CFR §10.4(c)] requires that the federal activity that resulted in the inadvertent discovery of human remains should cease for a maximum of 30 days and the remains should be secured and protected, "including, as appropriate stabilization or covering."
- NAGPRA [43 CFR §10.4(d)(iv)] requires that the Federal Agency with jurisdiction over the site should consult with potentially interested parties as dictated by 43 CFR§10.5.
- NAGPRA [43 CFR(d)(v)] states that, if the remains are to be excavated or removed, the requirements of §10.3(b) be followed.
- NAGPRA [43 CFR §10.4 (d)(vi)] requires that final disposition of the remains take place as set forth in §10.6 which explains Custody issues.

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8. Consultation: Generally, remains should not be turned over to a Tribal representative until proper consultation has been conducted. The following activities involve consultation with interested parties:

- The discovery of remains.
- Prior to the intentional excavation and/or removal of the remains.
- Before the remains may be turned over to the entity determined to have the paramount right to custody of the remains.

9. Point of Contacts (Revised August 2021):

CORPS CONTACTS			
NAME	TITLE	LOCATION	PHONE
Julie Jacobsen	Cultural Resource Program Manager	Omaha, NE	(402) 995-2706
Joel Ames	Tribal Liaison	Omaha, NE	(402) 995-2909
Sandy Barnum	District Archeologist	Omaha, NE	(402) 995-2674
Megan Ernst	Field Archeologist	Pierre, SD	(605) 945-3407
Richard Rogers	Senior Archeologist	Riverdale, ND	(701) 654-7411
Megan Moscarello	Field Archeologist	Riverdale, ND	(701) 654-7707
Bill Chada	Field Archeologist	Pickstown, SD	(605) 487-7845 ext. 3226
Sheila Newman	Chief Operations Division	Omaha, NE	(402) 995-2435
Larry Janis	Chief of Recreation and Natural Resources	Omaha, NE	(402) 995-2440
Mike Key	Natural Resource Specialist	Omaha, NE	(402) 995-2509
Darin McMurry	Ft. Peck Operations Manager	Ft. Peck, MT	(406) 526-3431
Todd Lindquist	Garrison Operations Project Manager	Riverdale, ND	(701) 654-7702
Trinity Houska	Oahe Operations Project Manager	Pierre, SD	(605) 945-3400
Scott Wik	Big Bend Operations Project Manger	Ft. Thompson, SD	(605) 245-2331
Russ Kieffer	Ft. Randall Operations Project Manager	Pickstown, SD	(605) 487-7847 ext. 3000
Tom Curran	Gavins Point Operations Project Manager	Yankton, SD	(402) 667-2530

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TRIBAL CONTACTS				
Tribe	NAME	TITLE	LOCATION	PHONE
Cheyenne River Sioux Tribe	Steve Vance	THPO	Eagle Butte, SD	(605) 964-7554
Assiniboine and Sioux Tribes of Fort Peck	Dyan Youpee	THPO	Poplar, MT	(406) 768-3520
Santee Sioux Tribe of Nebraska	Joseph Moose	THPO	Santee, NE	(402) 857-2568
Omaha Tribe of Nebraska	Thomas Parker	THPO	Macy, NE	(402) 846-5166
Turtle Mountain Band of Chippewa	Jeff Defjarlais, Jr.	THPO	Belcourt, ND	(701) 477-2650
Lower Brule Sioux Tribe	Brian Molyneaux	Cultural Preservations Office	Lower Brule, SD	(605) 473-8037
Three Affiliated Tribes	Mary Baker	THPO	New Town, ND	(701) 862-2474
Ponca Tribe of Nebraska	Stacy Laravie	THPO	Niobrara, NE	(402) 857-3519
Crow Creek Sioux Tribe	Merle Marks	THPO	Fort Thompson, SD	(605) 245-2221
Northern Cheyenne Tribe	Teanna Limpy	THPO	Lame Deer, MT	(406) 477-4839
Flandreau Santee Sioux Tribe	Garrie Kills A Hundred	THPO	Flandreau, SD	(605) 997-3891
Northern Arapaho Tribe	Ben Ridgley	THPO	Fort Washakie, WY	(307) 332-6120
Winnebago Tribe of Nebraska	Sunshine Thomas-Bear	THPO	Winnebago, NE	(402) 922-2631
Chippewa Cree Tribe of the Rocky Boys' Reservation	Jonathan Windy Boy	THPO	Box Elder, MT	(406) 395-4700
Rosebud Sioux Tribe	Ione Quigley	THPO	Rosebud, SD	(605) 747-4255
Blackfeet Tribe	John Murray	THPO	Browning, MT	(406) 338-7521
Standing Rock Sioux Tribe	Jon Eagle	THPO	Fort Yates, ND	(701) 854-8645
Yankton Sioux Tribe	Kip Spotted Eagle	THPO	Wagner, SD	(605) 384-3641 ext 237
Crow Nation	William Big Day	THPO	Crow Agency, MT	(406) 638-1010

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STATE CONTACTS			
State	Name	Title	Phone
Iowa	Heather Gibb	SHPO	(515) 281-4137
Montana	Pete Brown	SHPO	(406) 444-7717
Nebraska	Trever Jones	SHPO	(402) 471-4745
North Dakota	Bill Peterson	SHPO	(701) 328-2666
South Dakota	Ted M. Spencer	SHPO	(605) 773-3458
Wyoming	Mary Hopkins	SHPO	(307) 777-7697

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