

**PROGRAMMATIC AGREEMENT  
BETWEEN BUREAU OF RECLAMATION, EASTERN COLORADO AREA OFFICE,  
AND THE COLORADO STATE HISTORIC PRESERVATION OFFICER  
REGARDING THE ARKANSAS VALLEY CONDUIT PROJECT,  
COLORADO**

**WHEREAS**, the Omnibus Public Land Management Act of 2009 (Public Law 111-11) amended the original Fryingpan-Arkansas authorization (Public Law 87-590), and the proposed Arkansas Valley Conduit is an authorized feature of the Fryingpan-Arkansas Project that would transport water east from Pueblo Dam along the Arkansas River to Lamar, Colorado, serving communities that cannot meet primary and secondary water quality standards; and

**WHEREAS**, the Bureau of Reclamation, Eastern Colorado Area Office (ECAO) has determined that construction of the Arkansas Valley Conduit Project (AVC) and Long-Term Excess Capacity Master Contract, Colorado is an Undertaking and therefore triggers the requirements of Section 106 of the National Historic Preservation Act (NHPA) [16 U.S.C. Section 470f] for the Undertaking as defined at 36 CFR 800.16(y); and

**WHEREAS**, ECAO has determined that the Undertaking may have direct, indirect, and cumulative effects on cultural resources included in, or eligible for inclusion in, the National Register of Historic Places (NRHP), hereafter called historic properties [36 CFR 800.16(l)(1)]; and

**WHEREAS**, ECAO, in consultation with the Colorado State Historic Preservation Officer (SHPO), defined the area of potential effects (APE) as the AVC Project corridor consisting of the approximately 235-mile long pipeline from Pueblo, CO east to Lamar, CO with additional spurs to serve participants across multiple federal, state, and local jurisdictions; and private lands; as well as staging areas, detours, and other earth-disturbing activities within the construction corridor (see the *Arkansas Valley Conduit and Long-Term Excess Capacity Master Contract Final Environmental Impact Statement* map of identified alternative in Appendix A); and

**WHEREAS**, public involvement was implemented by Reclamation in accordance with a public involvement plan prepared and implemented through the *Draft and Final Arkansas Valley Conduit and Long-Term Excess Capacity Master Contract Environmental Impact Statements* (AVC EIS) process that included scoping meetings, newsletters, project website ([www.usbr.gov/avceis](http://www.usbr.gov/avceis)), public hearings, cooperating agency team meetings, news releases, and publication of Federal Register notices. Historic property impacts were evaluated in the Draft and Final Environmental Impact Statements. This programmatic agreement was included as appendix to the Final AVC EIS.

**WHEREAS**, ECAO has consulted with the Advisory Council on Historic Preservation (ACHP) inviting them to participate; and the ACHP declined to participate in a letter dated April 17, 2012; and

**WHEREAS**, ECAO has consulted with the U.S. Army Corps of Engineers Albuquerque District (Corps) inviting them to participate; and the Corps declined to participate in a conference call on April 13, 2012; and

**WHEREAS**, ECAO has consulted with the National Park Service (NPS), inviting them to participate as a signatory and consulting party; and the NPS agreed to participate in an e-mail on December 6, 2012; and

**WHEREAS**, ECAO has consulted with twenty-four Native American tribes (Tribes) inviting them to participate in identifying Indian Trust Assets and Section 106 consultation (see Appendix B for listing); seven were invited to participate as consulting parties in the PA; and (as of the signing of this PA) none of the Tribes have responded to our letters of June 20, 2011, January 17, 2012, and January 5, 2013, or to follow-up telephone calls; and

**WHEREAS**, ECAO invited eight certified local governments to be consulting parties (see Appendix C for listing); and Bent County accepted in a telephone call on November 1, 2012; Kiowa County Historic Preservation Commission accepted in an e-mail on December 4, 2012; and Otero County accepted in a letter of January 22, 2013; and

**WHEREAS**, ECAO in consultation with the SHPO and other concurring parties, pursuant to 36 CFR Part 800, has determined to use a phased process to identify historic properties [36 CFR 800.4(b)(2)] and assess the effects on those properties [36 CFR 800.5(a)(3)]; such that completion of the identification and evaluation of historic properties, determinations of effect on historic properties, and consultation concerning measures to avoid, minimize, or mitigate any adverse effects will be carried out in phases as part of planning for and prior to the implementation of the Undertaking; and

**WHEREAS**, ECAO, with the concurrence of the SHPO, intends to facilitate its compliance with Section 106 of the NHPA for this Undertaking through the execution and implementation of this Programmatic Agreement (PA) because ECAO cannot fully determine the effects of the undertaking on historic properties [36 CFR 800.14(b)(1)(ii)] at this time; and

**WHEREAS**, ECAO will ensure all work is carried out by cultural resource personnel meeting the *Secretary of Interior's Professional Qualification Standards* (48 FR 44716); and

**WHEREAS**, ECAO consulted separately under Section 106 for phased geo-technical work for the Undertaking;

**NOW, THEREFORE**, ECAO and the SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations, as previously agreed upon, in order to take into account the effect of the Undertaking on historic properties.

## STIPULATIONS

ECAO shall ensure that the following measures are carried out:

### 1. Area of Potential Effects

#### A. Defining the APE

ECAO, in consultation with the SHPO, has defined and documented the APE based on direct, indirect, and cumulative effects. The APE will apply to federal, state, tribal, and private lands that may be affected by construction of the AVC, staging areas, access roads, borrow areas, and other related transmission infrastructure for this Undertaking. ECAO may modify the APE in accordance with Stipulation I.B. of this PA. The APE is defined as the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking [36 CFR 800.16(d)].

#### 1. Direct Effects

The APE for direct effects is the area within which historic properties may sustain physical alteration or destruction as a result of the Undertaking. The APE for direct effects is limited to the area of potential ground disturbance by activities related to the Undertaking.

a. For the water pipeline, the APE will be the construction easement.

b. The APE for access roads, except for existing crowned and ditched or paved roads, will be the construction easement. Existing crowned and ditched or paved roads are not part of the APE unless project-related changes to the current footprints of these roads are planned. If adjacent areas are needed, ECAO will re-define the APE as appropriate per terms of this PA.

c. The APE for staging areas, borrow areas, and other infrastructure will include the footprint of the facility and the construction easement.

d. Intensive survey of geo-technical drill sites will take place prior to the intensive survey of the rest of the APE. The area that will be surveyed is the drill rig footprint plus a 250 foot buffer. All cultural resources within the buffer will be avoided, but structures and buildings will not be formally recorded until later intensive survey (see II.D.2). For those drill holes in urban areas where buildings and structures are avoided, photographs and coordinates of those buildings and structures will be documented in an appendix to the report. A separate final report for all geo-technical work will be submitted to the SHPO.

#### 2. Indirect Effects

The AVC EIS evaluated the APE for indirect effects and considered visual, atmospheric, and audible elements as well as vibration during construction in urban areas that could

diminish the integrity of the human and built environment. The indirect effects of all action alternatives would be temporary and for most action alternatives negligible to minor. However if an action alternative is selected in the Record of Decision that would have moderate, temporary noise effects on National Register eligible properties, ECAO will notify consulting parties and land-managing agencies and will consult on appropriate mitigation.

a.dThe indirect APE for the Undertaking will be limited to a ½-mile radiusdd surrounding large, permanent above-ground structures, such as treatment plants,dd storage tanks, pumping plants, and new or modified power lines. Smaller above-ground appurtenances including, but not limited to, valves, pressure-sensing devices,dd and chlorination/cleaning ports are not considered likely to affect the view shed anddd will not be considered further for indirect effects.dd

### 3.dCumulative Effectsdd

Cumulative effects include reasonably foreseeable effects caused by the Undertaking thatdd may occur later in time, be farther removed in distance or be cumulative [36 CFRdd 800.5(a)(1)]. For the purposes of this PA, the APE for cumulative effects is the same asdd that for direct and indirect effects.dd

### B.dModifying the APEd

The APE, as currently defined, encompasses an area sufficient to accommodate all of thedd Undertaking components under consideration as of the date of the execution of this PA.dd The APE may be modified by ECAO in consultation with the SHPO when tribaldd consultation, additional field research or literature review, consultation with consultingdd parties, or other factors indicate that the qualities and values of historic properties that liedd outside the boundaries of the currently defined APE may be affected directly, indirectly,dd or cumulatively. Agreement to modify the APE will not require an amendment to the PAdd but consulting parties and affected land-managing agencies will be notified.dd

## II. Identification, Evaluation, and Determination of Effects

A.dECAO will ensure that all work undertaken to satisfy the terms of this PA meets thedd Secretary of the Interior's Standards for Archeology and Historic Preservation (48 FR 44716)dd (Federal Register, September 29, 1983) and is consistent with the ACHP guidance ondd archaeology found at<http://www.achp.gov/archguide/>anddd the Guidelines for Evaluating anddd Documenting Traditional Cultural Properties, National Register Bulletin 38, 1998. ECAOdd has defined conventions or standards for inventory corridors and survey intensity todd adequately identify historic properties that may be affected by this Undertaking consistentdd with SHPO survey guidelines.dd

B.dECAO will ensure that all identification and inventory is carried out by or under the directdd supervision of a person or persons meeting, at a minimum, the applicable professionaldd qualifications standards set forth in the Secretary's Standards and the permitting requirementsdd of appropriate states and federal agencies.dd

C. Identification and evaluation activities will be conducted only after qualified cultural resource professionals have obtained the appropriate federal and state permits for such fieldwork. ECAO or other appropriate federal or state land managing agencies shall authorize fieldwork to conduct inventories on land they manage, respectively, following review of a complete application from the qualified cultural resource consultant.

D.d Inventory - ECAO will ensure that a cultural resource inventory will be completed in the following phases:

1. Phase 1 – Literature Review

a. A literature review has been completed for a two-mile-wide corridor along all alternatives of the proposed Undertaking. The literature review resulted in a report that has been reviewed and commented on by the SHPO. The literature review will inform all subsequent phases, and it will be used as a reference document to support all of the intensive-level surveys conducted for this Undertaking. ECAO will ensure that additional file searches are conducted as needed to address changes in the APE and to be current in advance of any intensive-level inventories. ECAO will contact local and county historic preservation advisory boards seeking additional information to supplement the literature review and to use in planning the reconnaissance survey.

2. Phase 2 – Preferred Alternative Inventory – Direct Effects

a. After ECAO identifies a preferred alternative, a reconnaissance survey will be conducted within the direct effects APE, as described in Section I.A.1., for all areas not covered by previous acceptable intensive survey(s). The purpose of the reconnaissance survey is to identify areas with good or excellent potential to contain historic properties that require intensive survey. ECAO will consult with the SHPO and other consulting parties regarding the results of the reconnaissance survey to identify areas for which intensive-level survey will be completed. Federal lands and any portions of the preferred alternative adjacent to or crossing the Santa Fe National Historic Trail will be included in the intensive-level survey. The resulting intensive survey report will also recommend areas to be monitored during construction, including high and medium probability areas for buried archaeological deposits.

b. ECAO will review previous inventory files to ascertain the age of previous inventories, methods used, and results to determine whether previous surveys meet Colorado Survey Manual Guidelines. Those previous surveys that meet or exceed the guidelines will not be resurveyed. However, all cultural resources located within the APE and documented during previous survey will be revisited and re-evaluated for changes that may have occurred since the original documentation. Depending on the age of the original documentation and any changes, either complete documentation or a reevaluation form will be completed.

c. ECAO will assume that all previously documented or potential historic districts are significant and will not undertake new documentation or evaluation of either the district itself or contributing resources unless the resource is located within the APE.

and will be affected by the Undertaking. Historic buildings and structures not located within an established or provisional historic district will be documented and evaluated for significance according to standard survey documentation.

d. ECAO intends to exclude the following cultural manifestations from formal documentation and evaluation: two-track roads that do not appear on historic maps or other available resources (as described below), stock ponds, soil berms, fence lines, pastures, and agricultural fields. The Colorado Survey Manual Guidelines will be consulted. ECAO will use available historical records prior to survey in order to evaluate the context and potential age of all observed cultural manifestations. Those manifestations that do not appear to meet the National Park Service established 50-year guideline for potential historic properties will be exempted from formal documentation. ECAO acknowledges that a cultural resource may be a potential historic property even though it does not meet the 50-year guideline; these resources would be evaluated for significance on a case-by-case basis (see Guidelines for Evaluating Properties that have Achieved Significance in the Past Fifty Years). Such historical records examined prior to survey include general land office survey plats, 15 minute U. S. Geological Survey quadrangles, historic maps (as available), and available histories of the project corridor. Due to the sheer number of private lands within the APE, it is not feasible to consult County Assessor records prior to survey, but ECAO intends to coordinate with local and county historic preservation advisory boards as an additional means to identify potential historic properties. Small unnamed irrigation laterals and field ditches and similar features will be listed in an appendix.

e. ECAO may choose to document the entire extent of a linear resource if said resource will be crossed on numerous occasions to streamline review of determinations of eligibility and effect. ECAO will use a combination of ground inspection (alignment crossings), aerial and satellite imagery, and historic records to document whole linear resources. Integrity evaluations will rely on reasonable assumptions determined using crossing locations and reconnaissance level evaluation.

f. Documentation may entail recording cultural resources over multiple land jurisdictions. If the boundary of a potentially eligible cultural resource extends beyond the APE, ECAO will attempt to obtain landowner permission to record and evaluate the resource. If landowner consent cannot be obtained, ECAO will evaluate the resource within the APE using best available information including evaluative testing and historical records. Cultural resources not fully evaluated because of access restriction will remain evaluated as “needs data” and that portion within the APE will be evaluated as contributing or noncontributing.

### 3. Phase 2 – Preferred Alternative Inventory – Indirect Effects

a. Visual. A Geographic Information System view shed analysis will be used to evaluate the visual effects of this Undertaking on historic properties within ½ mile radius of large, permanent above-ground structures. If any historic properties are located within that radius, ECAO will consult with SHPO and consulting parties.

regarding landscaping, color, or architectural design of permanent above-ground structures to minimize adverse visual effects to nearby historic properties. Constructed structures, facilities, and features would be designed to blend with the architectural characteristics of surrounding structures. Local agencies would be invited to participate in the Environmental Review Team to coordinate design of above ground structures, facilities, and features.

4.a Phase 3 – Inventory during Construction<sup>aa</sup>

a.a This phase will include inventory as needed, of any variances to the Undertaking<sup>aa</sup> that are outside the currently defined APE (including changes in construction right-of-way and ancillary areas). Where ECAO determines that additional inventory is<sup>aa</sup> needed, no ground disturbance will be authorized in the variance area until the<sup>aa</sup> inventory, the effects determinations, and any required on-site mitigation measures<sup>aa</sup> are completed, and a Notice to Proceed is issued. ECAO will determine where<sup>aa</sup> construction may continue while the additional work is being completed.<sup>aa</sup>

E. ECAO will invite the SHPO and the NPS to be members of the Environmental Review<sup>aa</sup> Team. As explained on page 4-1 of the *Arkansas Valley Conduit and Long-Term Excess Capacity Master Contract Draft Environmental Impact Statement*, members of that team will<sup>aa</sup> advise ECAO regarding implementation of environmental commitments and will review<sup>aa</sup> changes in engineering design, such as pipeline routing. Any changes in the construction<sup>aa</sup> program warranting additional National Environmental Policy Act review, adaptive<sup>aa</sup> management or other environmental compliance will be addressed by the Environmental<sup>aa</sup> Review Team.<sup>aa</sup>

F.a Determinations of Eligibility and Assessment of Effect<sup>aa</sup>

For each cultural resource that is located within the APE, ECAO in consultation with the<sup>aa</sup> SHPO and land-managing federal agency and any Indian tribe that attaches religious or<sup>aa</sup> cultural significance to any identified resource, will apply the NRHP criteria (36 CFR part<sup>aa</sup> 63) pursuant to 36 CFR 800.4(c)(1), to determine whether a property is eligible. Where there<sup>aa</sup> is insufficient information for making site eligibility determinations, ECAO in consultation<sup>aa</sup> with the SHPO, the land-managing agency, and tribes may determine that archaeological<sup>aa</sup> testing or other investigations are necessary to complete NRHP evaluations for cultural<sup>aa</sup> resources that may be affected by the Undertaking.<sup>aa</sup>

ECAO, in consultation with the SHPO and the land managing agencies, will assess effects in order to identify all reasonably foreseeable and potentially adverse effects that could occur as a result of the Undertaking. The land-managing agencies will be consulted about potential adverse effects to historic properties on their lands.

1.a Consultation with Tribes<sup>aa</sup>

ECAO will provide inventory and evaluation report(s) to Tribes identified pursuant to 36<sup>aa</sup> CFR 800.3(f). Tribes will have 30 days to review the report(s) and provide comments to<sup>aa</sup> ECAO.<sup>aa</sup>

**2.e Consultation with Other Consulting Parties**

ECAO will prepare a summary document containing brief descriptions, recommendations for eligibility, and assessment of effect for each site. ECAO will distribute the summary document to consulting parties (other than tribes and the SHPO) for review and consultation of eligibility and effect, following 36 CFR 800.4(c) and 36 CFR 800.5(a)(1) and (a)(2)(i)-(vii). The document will be consistent with confidentiality provisions of 36 CFR 800.11(c).

Consulting Parties will have 30 days to review the summary document and provide comments to ECAO. ECAO will take the comments into account prior to transmitting the inventory report(s) and supporting documentation, including the recommendations for eligibility and assessments of effect to the appropriate SHPO for consultation.

**3.e Consultation with SHPO**

ECAO will provide the inventory report(s) and supporting documentation to the SHPO and will seek a consensus determination of eligibility and effect with the SHPO for all cultural resources whether on federal, state, or private lands. These determinations of effect will serve as the basis for the development of a Treatment Plan.

a. If ECAO and the SHPO agree that the cultural resource is not eligible for listing in the NRHP, no further review or consideration under this PA will be required for such cultural resources.

b. If the ECAO and SHPO agree that the cultural resource is eligible, then effect determinations will be in accordance with Stipulation II. F.

c. If ECAO and the SHPO do not agree on eligibility, and agreement cannot be reached within 30 days, then ECAO will request a determination of eligibility from the Keeper of the National Register (Keeper), pursuant to 36 CFR 800.4(c)(2) and 36 CFR Part 63. The Keeper's determination will be final.

4. Determinations of effect may be subject to change due to alterations in the Undertaking and APE. ECAO will consult with the SHPO and all appropriate consulting parties to this PA and the land-managing agency, if affected, and tribes if any changes in the Undertaking or APE require changes in the agency's determinations of effect.

**III. Reporting and Review of Documentation**

At the conclusion of the fieldwork described in Stipulation II, the ECAO will submit copies of the draft reports and site forms to the SHPO for review. Each report will be consistent with Colorado state guidelines and formats including determinations of eligibility and effect. The SHPO will have 30 days from receipt of each report to review and provide comments on the report. These comments will address adequacy of inventory and reports, the eligibility of properties identified [36 CFR 800.4(c)], and the effects of the Undertaking on any cultural resources considered to be historic properties [36 CFR 800.4(d) and 36 CFR 800.5]. Based on



the comments received, the ECAO may revise the reports. Any revised reports will be submitted to the SHPO for a 15-day review.

All other outstanding reports, such as addendum reports for variances, mitigation or monitoring reports, or other reporting actions required under the Treatment Plan, will be produced no later than three years after the completion of the relevant work element (as described in the Treatment Plan) of the Undertaking.

#### **IV. Treatment Plan to Resolve Adverse Effects**

A. Before construction begins, ECAO, in consultation with the SHPO and any Indian tribe that attaches religious and cultural significance to identified historic properties, will prepare a Treatment Plan designed to resolve adverse effects on eligible Historic Properties within the APE. ECAO will consider any views concerning such effects which have been provided by consulting parties, tribes, land-managing agencies, and the public. The Treatment Plan will be appended to this PA and will list all historic properties located within the APE that have been identified and are subject to adverse effects. The Treatment Plan will address all characteristics contributing to the Properties' eligibility to the NRHP and will identify specific mitigation strategies proposed to address the direct, indirect, and cumulative effects of the Undertaking. The Treatment Plan will be consistent with the *Secretary of Interior's Standards for the Treatment of Historic Properties* (36 CFR 68), the *Secretary of Interior's Standards and Guidelines for Archaeology and Historic Preservation* (48 FR 44716-42), and will take into account the ACHP publication *Treatment of Archaeological Properties: A Handbook* (ACHP 1980).

B. Each plan will provide a table listing each historic property including:

1. Smithsonian Trinomial Number, and
2. Sequential location in terms of GIS coordinates or UTM's or similar established markers, and
3. The nature of the required mitigation pertaining to each historic property (e.g., avoidance, minimization, landscape photography, archaeological data recovery, etc.), and
4. Identification of those corresponding mitigation measures, if any, which must be completed prior to authorization of ground-disturbing activities and those which may be completed after such authorization of ground-disturbance in the area requested by the ECAO for initiation of construction.

C. Review and Approval of Treatment Plan

1. Once the Treatment Plan is completed, a 30-day review by all consulting parties, tribes, and land-managing agencies will occur. Consulting Parties will submit all comments to ECAO.

2. ECAO will take the comments into account and ECAO will consult with the SHPO regarding the final Treatment Plan. The SHPO will have 30 days to review the final Treatment Plan before ECAO implements the plan to mitigate any adverse effects caused by the Undertaking.

D.oAn ANNUAL REPORT of findings regarding all Historic Properties treated under the o o  
Treatment Plan from January 1-December 31 for the given year will be filed with the SHPO o o  
and federal land-managing agency on or before January 31 of the following year. This report o o  
shall use and amend the treatment table as described above.o o

## **V. Unanticipated Discoveries**

A.oIf previously unrecorded cultural resources are discovered during construction, the  
following actions will be implemented:o o

1.oConstruction will be immediately halted in the area of the discovery, and measures o o  
taken to protect the resources.o o

2. A Secretary of the Interior qualified archaeologist will evaluate the discovery and o o  
make a recommendation as to the NRHP eligibility of the resource.o o

3.oECAO will submit site-specific treatment, consistent with the Treatment Plan, and in o o  
accordance with Stipulation III listed above.o o

4.oECAO will conclude consultation with SHPO within five working days of delivery of o o  
the proposed treatment of the discovery.o o

B.oIf the discovered Historic Property is near an area identified by a Tribe as a Traditional o o  
Cultural Property, as described in *National Register Bulletin 38*, ECAO will consult with the o o  
identified Tribe regarding the proposed treatment.o o

## **VI. Inadvertent Discovery of Human Remains**

A. In the event human remains or funerary objects, as defined by the Native American o o  
Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001) are discovered on o o  
Federal land, work will immediately cease and steps will be taken to secure the remains.o o  
ECAO will follow NAGPRA regulations set forth in 43 CFR 10.o o

B.oIn the event human remains are discovered on state, county, municipal, or private lands, o o  
work will immediately cease in the area, and steps will be taken to secure the remains.o o  
ECAO will ensure that the provisions of Colorado Statute CRS 24-80-1301 to 1305 o o  
(Unmarked Human Graves) and subsequent regulations by the Colorado State Archaeologist o o  
(8 CCR 1504-7) are followed.o o

## **VII. Curation**

A.oThe ECAO shall ensure that curation of the material remains and all associated records o o  
resulting from identification and data recovery efforts is completed in accordance with 36  
CFR Part 79. The ECAO shall provide documentation of the curation of these materials to o o  
the SHPO within 60 days of acceptance of the applicable report. Materials found on federal  
lands will remain federal property when curated (unless otherwise appropriately repatriated o o  
in accordance with federal law).o o

B.d Archaeological materials collected from private lands pursuant to the implementation of dd this PA shall be maintained in accordance with 36 CFR Part 79 until all analysis is complete. dd If private landowners wish to donate collections from their lands to a museum, university, dd historical society, or other repository, the ECAO will offer to assist in the transfer by dd completing the repository's donation forms and other paperwork. Otherwise, collections dd from private lands will be returned to the landowners within 30 days of acceptance by the dd SHPO of the final mitigation report. Human remains associated with these collections will be treated according to applicable state law. Documentation of the disposition of private dd collections shall be provided to SHPO. dd

### **VIII. Duration**

This agreement will be null and void if its terms are not carried out within ten (10) years from the date of its execution. Prior to such time, ECAO may consult with the other signatories to reconsider the terms of the agreement and amend in accordance with Stipulation X below.

### **IX. Dispute Resolution**

Should any party to this agreement object at any time to any actions proposed or the manner in which the terms of this PA are implemented, ECAO shall consult with the objecting party(ies) to resolve the objection. If ECAO determines, within 30 days, that such objection(s) cannot be resolved, ECAO will:

A.d Forward all documentation relevant to the dispute to the ACHP in accordance with 36 dd CFR 800.2(b)(2). Upon receipt of adequate documentation, the ACHP shall review and dd advise ECAO on the resolution of the objection within 30 days. Any comment provided by dd the ACHP, and all comments from the parties to the PA, will be taken into account by ECAO dd in reaching a final decision regarding the dispute. dd

B.d If the ACHP does not provide comments regarding the dispute within 30 days after dd receipt of adequate documentation, ECAO may render a decision regarding the dispute. In dd reaching its decision, ECAO will take into account all comments regarding the dispute from dd the parties to the PA. dd

C.d ECAO's responsibility to carry out all other actions subject to the terms of this PA that dd are not the subject of the dispute remain unchanged. ECAO will notify all parties of its dd decision in writing before implementing that portion of the Undertaking subject to dispute dd under this stipulation. ECAO's decision will be final. dd

### **X.d Amendments and Noncompliance**

If any signatory to this PA determines that its terms will not or cannot be carried out or that an amendment to its terms must be made, that party shall immediately consult with the other parties to develop an amendment to this PA pursuant to 36 CFR 800.6(c)(7) and 800.6(c)(8). The amendment will be effective on the date a copy signed by all of the original signatories is filed

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with the ACHP. If the signatories cannot agree to appropriate terms to amend the PA, any signatory may terminate the agreement in accordance with Stipulation XI below.

#### **XI. Termination**

If the PA is not amended following the consultation set out in Stipulation X, it may be terminated by any signatory. Within 30 days following termination, ECAO shall notify the signatories if it will initiate consultation to execute a new PA with the signatories under 36 CFR 800.6(c)(1) or request the comments of the ACHP under 36 CFR 800.7(a) and proceed accordingly.


Execution of this PA by ECAO and SHPO, the submission of documentation, and filing of this PA with the ACHP pursuant to 36 CFR Section 800.6(b)(1)(iv) prior to ECAO's approval of this Undertaking, and implementation of its terms evidence that ECAO has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

#### **Signatories:**

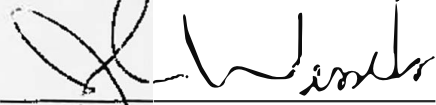
Bureau of Reclamation, Eastern Colorado Area Office

 Name 7/31/2013 Date  
Michael P. Collins, Area Manager

Colorado State Historic Preservation Officer

 Name 9/8/2013 Date  
for Edward C. Nichols (Deputy SHAPO)

National Park Service, Intermountain Region

  
\_\_\_\_\_  
John A. Wessels, Regional Director

Name JUL 16 2013 Date

**Consulting Parties:**

Bent County Historic Preservation Advisory Board

By: Bill - Key Date: 7-10-13

Title: Commissioner

Kiowa County Historic Preservation Commission

By: Alyx Robota

Date: 7-25-13

Title: Chairperson



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Otero County Historic Preservation Advisory Board

By: Keith Goodrum Date: 7/29/13

Title: Otero County Board of Commissioners  
Chairman

**N.1-18**



## **APPENDIX B**

### **Tribes Invited to Participate in Section 106 Consultation**

Mr. Alonzo Chalepah\*  
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Apache Tribe of Oklahoma  
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Chairman Comanche Nation  
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Mr. Jimmy Arterberry  
THPO Comanche Nation of Oklahoma  
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Mr. Dale Old Horn  
THPO Crow Nation  
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Mr. Ronald D Twohatchet\*  
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Chairperson  
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Ms. Jaime Lynn Eskew  
Kiowa Tribe of Oklahoma  
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Mr. Leroy Spang\*  
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Mr. Conrad Fisher  
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Mr. Wilford Ferris  
THPO Eastern Shoshone  
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Ft. Washakie, WY 82514

Dr. Jeffrey Blythe  
THPO Jicarilla Apache  
P.O. Box 507  
Dulce, NM 87528

Ms. Holly Boughton  
THPO Mescalero Apache  
P.O. Box 227  
Mescalero, NM 88340

Mr. Jim Shakespeare\*  
Chairman Arapaho Tribe of the Wind River  
Reservation  
P.O. Box 396  
Ft. Washakie, WY 82514

Ms. Darlene Conrad  
THPO Northern Arapaho Tribe  
P.O. Box 396  
Ft. Washakie, WY 82514

Cultural Resource Coordinator  
Ohkay Owingeh  
P.O. Box 1099  
San Juan Pueblo, NM 87566

Mr. Gordon Adams  
THPO Pawnee Nation of Oklahoma  
P.O. Box 470  
Pawnee, OK 74058

Mr. Walter Cristobal  
THPO Pueblo of Santa Ana  
02 Dove Rd, Cultural Resources Dept.  
Santa Ana Pueblo, NM 87004

Mr. Ben Chavarria  
Cultural Resource Coordinator  
Pueblo of Santa Clara  
P.O. Box 580  
Española, NM 87532

Ms. Stacey Oberley  
Southern Ute  
P.O. Box 737  
Ignacio, CO 81137

Mr. Terry Knight  
THPO Ute Mountain Ute  
P.O. Box 468  
Towaoc, CO 81334

Mr. Vernon Garcia  
Pueblo de Cochiti  
P.O. Box 70  
Cochiti, NM 87072

Cultural Resource Coordinator  
Pueblo of San Ildefonso  
Route 5, Box 315-A  
Santa Fe, NM 87501

Mr. Russell Eagle Bear  
THPO Rosebud Sioux  
P.O. Box 809  
Rosebud, SD 57570

Ms. WasteWin Young  
THPO Standing Rock Sioux  
P.O. Box D  
Fort Yates, ND 58538

Mr. Kurt Dongoske  
THPO Zuni Pueblo  
P.O. Box 1149  
Zuni Pueblo, NM

Mr. Floyd Azure\*  
Chairman Assiniboine and Sioux Tribes of  
the Fort Peck Indian Reservation  
P.O. Box 1027  
Poplar, MT 59255

\*These tribes were invited to be a concurring party in the programmatic agreement. These tribes were identified using the Department of Housing and Urban Development Tribal Directory Assessment Tool endorsed by the Advisory Council on Historic Preservation.

## **APPENDIX C**

### **Certified Local Governments Invited to Participate in the Programmatic Agreement**

Historic Preservation Advisory Board  
c/o City Administrator  
102 East Parmenter  
Lamar, CO 81052-3299

Historic Preservation Advisory Board  
c/o Rick Klein, City Manager  
601 Colorado Avenue  
P.O. Box 489  
La Junta, CO 81050

Historic Preservation Commission  
c/o Dara MacDonald  
448 East First Street, Suite 112  
Salida, CO 81201

Historic Preservation Advisory Board  
c/o Ronda Bucholz  
County Administrator  
725 Bent Avenue, Box 350  
Las Animas, CO 81054

Historic Preservation Advisory Board  
c/o T.E. Allumbaugh, Chairman  
Crowley County Board of Commissioners  
603 Main Street, Suite 2  
Ordway, CO 81063

Ms. Alexa Roberts  
Historic Preservation Commission  
P.O. Box 100  
Eads, CO 81036-0100

Historic Preservation Advisory Board  
c/o Jean Hinkle, County Administrator  
P.O. Box 511  
La Junta, CO 81050

Historic Preservation Advisory Board  
c/o Jo Dorenkamp, Administrator  
301 South Main Street, Suite 215  
Lamar, CO 81052

**Arkansas Valley Conduit Environmental Impact Statement  
Appendix N.1 – Programmatic Agreement**

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