



# United States Department of the Interior

BUREAU OF RECLAMATION  
Montana Area Office  
P.O. Box 30137  
Billings, MT 59107-0137



IN REPLY REFER TO:

MT-227  
2.1.1.04

VIA ELECTRONIC MAIL ONLY

Ms. Alexis Clark  
Historic Preservation Specialist  
Advisory Council on Historic Preservation  
401 F Street NW, Suite 308  
Washington, DC 20001  
aclark@achp.gov, e106@achp.gov

Subject: Bureau of Reclamation Request for the Advisory Council on Historic Preservation  
Review and Opinion on Bureau of Reclamation Findings on a Proposed Undertaking  
Located near Fresno Dam in Hill County, Montana.

Dear Ms. Clark:

The Montana Area Office of the Bureau of Reclamation (Reclamation) respectfully requests Advisory Council on Historic Preservation (ACHP) review and opinion according to 36 CFR 800.5(c)(2)(i), 36 CFR 800.5 (c)(3)(i), 36 CFR 800.5(c)(3)(ii) regarding Reclamation's determination of no adverse effect for the proposed undertaking Fresno Office Water Cistern, MTAO Project No. MR-23-004 located near Fresno Dam in Hill County, Montana. Reclamation and the Montana State Historic Preservation Office (SHPO) are in a dispute over SHPO recommendations regarding monitoring and subsurface testing at site 24HL0935 (Fresno Dam Construction Camp) a site eligible for inclusion in the National Register of Historic Places (NRHP) under Criteria A and C. This camp is associated with the construction of site 24HL0860, Fresno Dam, a site eligible for inclusion in the NRHP.

Please reference the enclosed documents divided by folders to help in your review. These folders are the following: Reclamation Submission, SHPO\_Reclamation Emails, Previous Undertakings in 24HL0935, and Rossillon Report.

The details are in the enclosed documentation, but in summary, the dispute is that Reclamation has determined the proposed undertaking of the installation of a water cistern as a no adverse effect. According to the SHPO, they are generally in agreement with Reclamation's assessment of the project and initially recommended Reclamation have an archaeological monitor in place during construction activities and when Reclamation said no to an archaeological monitor, they changed their stance to subsurface testing. Reclamation maintains that both are unnecessary due to the very low likelihood any subsurface deposits will be encountered.

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Even if encountered, Reclamation fails to see how these would be of significance and contribute to our knowledge of the already well documented and studied camp.

Reclamation has provided the SHPO with information referencing three cultural resource inventories that have not located any cultural resources on the surface of the proposed cistern installation area, other than a road feature that was included in a 1992 inventory, which was an improved road in a 2007 inventory, but not present in this area after Reclamation had a new cultural resource inventory and site update done in 2022 for site 24HL0935. Please note this correction of adding the road feature comment when viewing the email correspondence from Reclamation to SHPO Peter Brown on May 12, 2023. In addition, Reclamation provided the SHPO with a historic camp map of no resources or structures in this area, a historic Reclamation record citing of camp specifications to clean up the camp after dam construction, two archaeological contractor recommendations that the archaeological component of site 24HL0935 lacks significance under Criterion D, and the fact that the SHPO has concurred on a determination of no adverse effect previously to two separate undertakings in the site 24HL0935 bounds. One of these undertakings, Fresno Dam 3-Phase Power, that crosses a portion of site 24HL0935, was consulted on as recently as last year with the SHPO. The SHPO requested a site update to 24HL0935 before they would concur. Reclamation hired an archaeological firm at considerable expense (\$4,191.40) to conduct a cultural resource inventory and site update of site 24HL0935 in 2022.

Reclamation has not received a direct answer from the SHPO whether they concur or do not concur with our determination of no adverse effect. SHPO Peter Brown cites testing and monitoring are SHPO's standard recommendations when ground disturbance is proposed at a property likely to have archaeological resources; however, in this case, Reclamation believes these are not specific reasons for disagreement as called for in 36 CFR 800.5(c)(2)(i). Other than agreeing to the SHPO's testing or monitoring recommendations, SHPO Brown informed us "BOR's third option is to take its concerns to the Advisory Council on Historic Preservation".

In a March 2, 2021, letter Reclamation received from the Office of Federal Agency Programs Director Reid J. Nelson; ACHP Case Number: 16587, and shared with the SHPO by the ACHP, the ACHP speaks of the importance "... for the federal agency and SHPO/THPO to balance the level of effort and resources necessary to identify and preserve historic properties with project benefits, costs, schedules, and community issues that in part comprise the broader public interest. Achieving such a balance requires the federal agency, in consultation with the SHPO/THPO and other consulting parties, to be flexible and reasonable in determining the level of effort for identification of historic properties". The letter also states "A reasonable and good faith effort does not require the "approval" of a SHPO/THPO or other consulting party. The ACHP, SHPO/THPO, and other consulting parties advise and assist the federal agency in developing its identification efforts, but do not dictate its scope or intensity".

Despite all the studies and recommendations regarding site 24HL0935 and concurring to previous undertakings at site 24HL0935 by the SHPO without monitoring or subsurface testing, the SHPO now expects our Reclamation archaeologist to travel to site 24HL0935 to monitor or conduct subsurface testing at the proposed undertaking.

The distance from Billings, Montana to site 24HL0935 and back is a 522-mile round trip. Reclamation is not afraid to do what it takes to give due consideration to historic properties; however, in this case, we believe we have put forth a reasonable and good faith effort at site 24HL0935 as outlined above and in our enclosed information.

Reclamation respectfully requests ACHP review of our finding of no adverse effect and our plan to proceed with the undertaking without monitoring or subsurface testing at site 24HL0935.

If you have any questions concerning this letter, please contact Rick Hanson at (406) 247-7666 or by email at [rdhanson@usbr.gov](mailto:rdhanson@usbr.gov). If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

Sincerely,

Ryan Newman  
Area Manager

Enclosures

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