

**MEMORANDUM OF AGREEMENT
AMONG
THE BUREAU OF RECLAMATION,
THE UTAH STATE HISTORIC PRESERVATION OFFICE,
AND
THE SOUTH CACHE WATER USERS ASSOCIATION
REGARDING
THE HYRUM RESERVOIR SPILLWAY REPLACEMENT PROJECT,
CACHE COUNTY, UTAH**

WHEREAS, the Bureau of Reclamation, Provo Area Office proposes to replace the Hyrum Reservoir Spillway and pipe a 2,100 feet long segment of the Wellsville-Mendon Lower Canal adjacent to the spillway (Undertaking), which is on land managed by Reclamation, using federal monies; and

WHEREAS, the South Cache Water Users Association (Association) and Wellsville Mendon Conservation District will be partners in this Undertaking which will occur in Township 10 North, Range 1 East, Sections 5, 6, and 7 of the Salt Lake Base and Meridian. The reservoir can be found on USGS 7.5' topographic quadrangles Logan, Utah, and Wellsville, Utah; and

WHEREAS, Reclamation has established the Undertaking's Area of Potential Effects (APE), as defined in 36 CFR 800.16(d), to include an area surrounding the Hyrum Reservoir and its associated spillway which comprises approximately 25 acres; and

WHEREAS, Hyrum Reservoir Spillway (42CA200), a historic property located within the APE, has been determined eligible for listing in the National Register of Historic Places (NRHP) under Criteria A and C; and the Wellsville-Mendon Lower Canal (Site 42CA174) has been determined eligible for listing in the NRHP under Criterion A; and

WHEREAS, Reclamation has determined, in consultation with the Utah State Historic Preservation Officer (SHPO), that the Undertaking will have an adverse effect on sites 42CA174 and 42CA200, as defined in 36 CFR 800.5(a)(1); and

WHEREAS, Reclamation notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect associated with the Undertaking in accordance with 36 CFR 800.6(a)(1)(i), and the ACHP has elected not to participate in the consultation to resolve the adverse effects; and

WHEREAS, in accordance with 36 CFR 800.6(b)(1)(i), Reclamation invited the Northwest Band Shoshone Tribe, Shoshone-Bannock Tribes of the Fort Hall Reservation, Shoshone Tribe of the Wind River Reservation, Wyoming, and Ute Tribe of the Uintah and Ouray Reservation to participate in the consultation to resolve the adverse effects associated with the Undertaking, and all parties have declined to participate; and

WHEREAS, pursuant to 36 CFR 800.6(c)(2) Reclamation has invited the Association to be an invited signatory to this Memorandum of Agreement (MOA); and

WHEREAS, pursuant to 36 CFR 800.6(c)(2) Reclamation has invited the Hyrum State Park to be an invited signatory to this MOA; and

WHEREAS, in accordance with 36 CFR 800.6(b)(1)(iv), Reclamation shall submit this MOA, along with the documentation specified in 36 CFR 800.11(f), to the ACHP prior to approving the Undertaking in order to meet the requirements of Section 106 of the National Historic Preservation Act of 1966 and 36 CFR 800.6(b)(1); and

NOW, THEREFORE, Reclamation, the Association, Hyrum State Park, and the SHPO agree that upon Reclamation's decision to proceed with the Undertaking, Reclamation shall ensure that the following stipulations are implemented in order to take into account the effects of the Undertaking on historic properties, and that these stipulations shall govern the Undertaking and all of its parts until this MOA expires or is terminated.

I. STIPULATIONS

Reclamation shall ensure that the SCWUA contract a person who meets the professional qualifications standards as set forth in the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation to complete the following tasks:

1. Complete an updated Intermountain Antiquities Computer System (IMACS) site form for the entire Hyrum Reservoir Complex as Site 42CA200. The IMACS site form will include:
 - A detailed description of the Hyrum Reservoir history as well as all features.
 - A GIS map showing the complex and the location of each feature.
 - Archival quality photos of the Hyrum Reservoir Complex and its associated features. These photographs will meet all current photographic standards of the Utah Division of State History.
 - Attachments including historic photographs, design drawings, etc. associated with the Hyrum Reservoir.
 - Re-evaluation of the complex's eligibility to the NRHP after completion of project, submitted to Utah SHPO with formal determination.
2. Develop a historic context for the irrigation system in Hyrum. Signatories will be able to review drafts of the context before final submission by Reclamation.

Further, Reclamation shall:

3. Provide monies and information for educational signage to be placed at the Hyrum State Park on the importance of the Hyrum Dam and its associated irrigation system, those monies shall not exceed \$5,000.
4. Ensure that consulting parties have ample time to review proposed wayside sign before erection.

II. DURATION

This MOA will be null and void if all of its terms are not carried out within five (5) years from the date of its execution. Prior to such time, Reclamation may consult with other signatories to reconsider the terms of the agreement and amend in accordance with Stipulation IV, below.

III. 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, Reclamation shall consult with the objecting party(ies) to resolve the objection. If Reclamation determines, within thirty (30) days, that such objection(s) cannot be resolved, Reclamation will:

- (1) Forward all documentation relevant to the dispute, including Reclamation's proposed resolution, to the ACHP in accordance with 36 CFR 800.2(b)(2). Upon receipt of adequate documentation, the ACHP shall review and advise Reclamation on the resolution of the objection within thirty (30) days. Prior to reaching a final decision on the dispute, Reclamation shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and signatories, and provide them with a copy of this written response. Reclamation will then proceed according to its final decision.
- (2) If the ACHP does not provide comments regarding the dispute within thirty (30) days after receipt of adequate documentation, Reclamation may render a decision regarding the dispute. Prior to reaching a final decision on the dispute, Reclamation shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and signatories, and provide them with a copy of this written response.
- (3) Reclamation's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

IV. AMENDMENTS

If any signatory to this MOA, including the Association as an invited signatory, 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 MOA pursuant to 36 CFR 800.6(c)(7). The amendment will be effective on the date a copy signed by all of the original signatories is filed with the ACHP.

V. TERMINATION

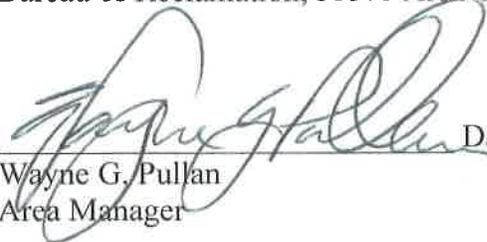
If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation IV, above. If within thirty (30) days signatories cannot agree to appropriate terms to amend the MOA, any signatory may terminate the agreement upon written notification to the other signatories.

Within 30 days following termination, Reclamation shall notify the signatories if it will initiate consultation to execute an MOA 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 MOA by Reclamation, the Association, and the SHPO, the submission of documentation and filing of this MOA with the ACHP pursuant to 36 CFR 800.6(b)(1)(iv) prior to Reclamation's approval of this undertaking, and the implementation of its terms show that Reclamation has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES:

Bureau of Reclamation, Provo Area Office

 Date 05 FEB 2016
Wayne G. Pullan
Area Manager

Utah State Historic Preservation Office

 Date 2/5/16
Christopher Merritt
Deputy SHPO

INVITED SIGNATORIES:

South Cache Water Users Association

 Date 05 Feb 2016
Thomas Bailey
President

On Behalf of the Hyrum State Park

_____ Date _____
Director, State Parks
Fred Hayes

SIGNATORIES:

Bureau of Reclamation, Provo Area Office

_____ Date _____
Wayne G. Pullan
Area Manager

Utah State Historic Preservation Office

_____ Date _____
Christopher Merritt
Deputy SHPO

INVITED SIGNATORIES:

South Cache Water Users Association

_____ Date _____
Thomas Bailey,
President

On Behalf of the Hyrum State Park

 _____ Date 2/9/16
Director, State Parks
FH Fred Hayes