

MEMORANDUM FOR RECORD

SUBJECT: Blanchard River Watershed Flood Risk Management Study, Hancock County, Ohio – Introductory Section 106 Review Meeting with Consulting Parties

1. On 30 July 2015, the U.S. Army Corps of Engineers (USACE)-Buffalo District convened a meeting to present an overview of the subject flood risk management study and the Section 106, National Historic Preservation Act review process. The objective of this meeting was to provide an introduction to Section 106 items (Area of Potential Effect and Programmatic Agreement) specific to the Blanchard River Watershed Flood Risk Management Study.
2. The meeting was convened at 1230 hours at the Hancock County Engineer’s Assembly Room, 1900 Lima Avenue, Findlay, Ohio, and included the following participants:

Name	Organization	Telephone No.	E-mail Address
Consulting Parties			
Darl Deeds Trustee	Eagle Township		ddeeds@thewavz.com
Jeff Hunker Trustee	Liberty Township		hunkers4@woh.rr.com
Lydia Mihalik (via Webmeeting) Mayor	City of Findlay		Mayor@FindlayOhio.com
Steve Wilson Project Manager	Hancock County Engineer	419.422.7433	scwilson@co.hancock.oh.us
USACE- Buffalo District			
Jan Marie Hemberger Archaeologist	Louisville District Environmental Resources Section	502.315.6872	jan.m.hemberger@usace.army.mil
Martin Wargo Supervisory Biologist	Environmental Analysis Team	716.879.4116	martin.p.wargo@usace.army.mil
William Butler Environmental Protection Specialist	Environmental Analysis Team	716.879.4268	william.e.butler@usace.army.mil

3. After an introduction of the participants, Mr. Wargo provided a summary of the **current status of the study**. He explained the following recent and future actions with respect the study schedule:

- Public review period for the study’s Draft Detailed Project Report/Environmental Impact Statement (April 2015) has concluded.
- USACE is currently involved in project optimization for the feasibility study.

- Agency Decision Milestone (ADM) is currently scheduled for 22 August 2015. This meeting will involve the entire vertical team (i.e., Buffalo District, Lakes & Rivers Division, and USACE Headquarters). The purpose of this meeting is to obtain their endorsement of the feasibility study.
- Civil Works Review Board (CWRB) is currently scheduled for December 2015.
- Chief of Engineers' Report is currently scheduled for March 2016. This will be USACE's final recommendation to the Office of Management and Budget (OMB) and Congress that will present the best and most efficient solution identified in the feasibility study.
- Congressional action will then be required to authorize the project and appropriate funds for its final design and construction.
- Currently, required rights-of-entry have not been obtained to complete field investigation necessary to identify and evaluate potentially affected historic properties. From now until December 2015, USACE will need to demonstrate sufficient progress through consultation with interested parties that an agreement has been reached or will be reached in order to complete Section 106 compliance for the project.

4. Ms. Hemberger provided an overview of the Tentatively Selected Plan (TSP); Attachment 1 presents the main features of the TSP. Using a display poster and PowerPoint presentation (Attachments 2 and 3), she then explained the following **key concepts** related to Section 106 review:

- cultural resources
- historic properties – i.e., those cultural resources which are listed in or eligible for listing in the National Register of Historic Places (NRHP)
- area of potential effect (APE) – explained that there are different APEs for architectural properties and archaeological properties based on the types of impacts the project may cause

5. Using the Advisory Council on Historic Preservation's (ACHP) flow chart (Attachment4), Ms. Hemberger then explained the Section 106 process. She noted that both the Ohio State Historic Preservation Office (SHPO) and Wyandotte Nation Tribal Historic Preservation Office (THPO) have been identified as **consulting parties** for the Federal undertaking. The public has been involved in the study through the National Environmental Policy Act (NEPA) scoping process as well as participation in various meetings and workshops. The SHPO also provided recommendations for agencies and organizations that may have information related to cultural resources within the study area and/or may wish to be involved as consulting parties. A list of these agencies/organizations that were formally contacted on 23 February 2015 and a current list of the consulting parties are included as Attachments 5 and 6, respectively.

6. Ms. Hemberger reiterated that comprehensive cultural resources surveys required for the **identification and evaluation of historic properties** within the APE have not been completed. Once these properties have been identified and evaluated, then the potential effects of the TSP can be fully assessed. The **determination of effects** is critical for this study. To illustrate, Ms. Hemberger cited the example of the proposed diversion channel. In considering this project feature, a determination will need to be made as to whether or not the project would alter the characteristics that made a potentially affected historic property eligible for listing in the NRHP. If this is not the case, then the TSP would result in No Effect or No Adverse Effect; if these characteristics are significantly altered, then an effort would be made to **resolve this Adverse Effect** by modifying the TSP, or minimizing or mitigating the adverse effect. Ms. Hemberger pointed out that there are several options for mitigating an adverse effect. For example, in the case of an archaeological site, a percentage of the site could be excavated to collect data via an approved data recovery plan. Another option would be to develop an interpretative display for public information via a local museum, pamphlet/booklet, etc. In the end, a **Memorandum of Agreement** would be developed and executed to define these mitigation measures. Ms. Hemberger stated that, given the current lack of information concerning potentially affected historic properties within the APE, the development of the **Project Programmatic Agreement** will specify how USACE will address this Section 106 review process. Concerning consulting parties, Ms. Hemberger said that at this time the ACHP has not chosen to be involved in the development of the PA, but this does not mean that they may not enter into the consultation in the future. Mr. Hunker pointed out that when potential consulting parties were first invited to become involved they were requested to indicate their interest in architectural and/or archaeological properties. He asked if they might be excluded from consultation on one or the other if they had only indicated one interest area. Ms. Hemberger responded that initially all consulting parties would be provided study information as the review process begins, but they may choose to limit their involvement to a specific interest area as the consultation progresses.

7. Ms. Hemberger again noted that surveys for the APE have not yet been completed. Architectural and archaeological surveys completed in 2010-11 considered a large portion of the watershed and provide important pre-contact and post-contact context for the study area. Since existing rights-of-way can be used to visually inspect potentially affected properties, the architectural survey of the APE is currently underway. Although sources of existing information can be reviewed to identify known historic properties within the APE, rights-of-entry are still required for additional archaeological survey work in order to fully identify and evaluate these sites. Mr. Wargo pointed out that an archaeological predictive model completed for the watershed classified areas as Low, Moderate and High Probability Areas for containing archaeological sites based on several factors (e.g., slope, proximity to water, soil type, etc.). Although predictive models cannot completely predict past settlement patterns, every effort to align the current project features to avoid High to Moderate Probability Areas using this information will be made until field verified.

8. After this overview, Ms. Hemberger then discussed these Section 106 items in more specific reference to the Blanchard River Watershed Study. She noted the differentiation in the **APE** for architectural impacts and archaeological impacts and also pointed out the abandoned quarry within the southwest portion of the city of Findlay as a potential site for the placement of material to be excavated during project construction (Attachment 7). She also indicated that the

APEs could be reduced as the TSP is refined during plan optimization and the project's pre-construction engineering and design (PED) phase. Concerning the **identification and evaluation** of cultural resources, Ms. Hemberger said that there would be little to discuss at this time since field investigations have not been completed. USACE, SHPO and the consulting parties will outline these field investigations and evaluations in more detail in the PA.

9. Concerning the PA, Ms. Hemberger noted that a Preliminary Draft PA had been included in the Draft DPR/EIS (Attachment 8). This PA includes basic study information and serves as an initial basis to begin discussions; however, the final PA will be the product of the consultation process. Ms. Hemberger then explained the basic components of the PA:

- Preamble – This section will include basic study information that will need to be revised with updated information.
- Stipulations – This section is the main part of the PA that will outline consultation procedures, the identification and evaluation procedures for remaining studies (Phase I Survey and Phase II Evaluative Testing), etc. Also, these stipulations will address such issues as the ownership of artifacts in relation to land ownership, the curation of cultural material recovered during field surveys, and the protection and management of any inadvertent discoveries.
- Administrative Procedures – This section will address dispute resolution procedures and possible amendments to the PA.
- Anti-deficiency Provisions – This section will address the status of the PA and the implementation of its stipulations in the event of insufficient funding.
- Termination – This section explains how and when the PA could or would be terminated.
- Signatories – The PA will be endorsed by the following: (a) Signatories; (b) Invited Signatories; and (c) Consulting Parties. Consulting Parties will be involved throughout the development of the PA, but at its completion may choose not to sign it. This would not mean that the PA could not be executed. Mr. Hunker asked if consulting parties could join in or drop out of the consultation process in the future. Ms. Hemberger replied that new consulting parties would be able to participate during the course of the consultation and current consulting parties may choose not to participate. She explained that once a more definitive plan alignment for the TSP is determined, USACE would also contact affected landowners and invite their participation. Agencies such as the Ohio Department of Transportation and Federal Highway Administration may also be identified as potential consulting parties.

Ms. Hemberger noted that ACHP guidance on Section 106 MOAs and PAs is available at: <http://www.achp.gov/agreementdocguidance.html#ch4-2>. The ACHP publication entitled *Protecting Historic Properties: A Citizen's Guide to Section 106 Review* was also distributed for information (<http://www.achp.gov/docs/CitizenGuide.pdf>).

10. Mr. Hunker asked for clarification of the study schedule and an explanation as to how it relates to the schedule for the PA. Ms. Hemberger explained that some architectural survey work has begun and the archaeological survey could begin immediately with the necessary rights-of-entry, if funding was available. The goal is to have a signed PA in December 2015 (at the time of the CWRB) or at least to have made good progress with the consulting parties in its development). Mr. Hunker asked how Congress would respond to the Chief's Report without these completed surveys. Ms. Hemberger explained that it is not unusual for projects to be authorized lacking certain detailed studies (e.g., design, geotechnical, ecological, etc.). Mr. Hunker appreciated this information but noted that the project would have a major impact on Liberty Township.

11. As a wrap up, Ms. Hemberger said that USACE would send a follow-up letter to all consulting parties and provide the information presented at this meeting. The consulting parties will be asked to formally provide their comments on a Preliminary Draft PA. She also noted that the Ohio SHPO will play a major role in this consultation. Mr. Wargo reiterated the December 2015 milestone for completing the PA. Ms. Hemberger said that the next meeting will be scheduled to occur within approximately 30 days and will involve the representatives of the SHPO. In the meantime, the Preliminary Draft PA will be revised to incorporate additional comments from the consulting parties. For subsequent meetings, USACE will investigate the possibility of doing some as conference calls and/or webmeetings.

12. The meeting adjourned at approximately 1410 hours.

/s/

WILLIAM E. BUTLER III
Environmental Protection Specialist

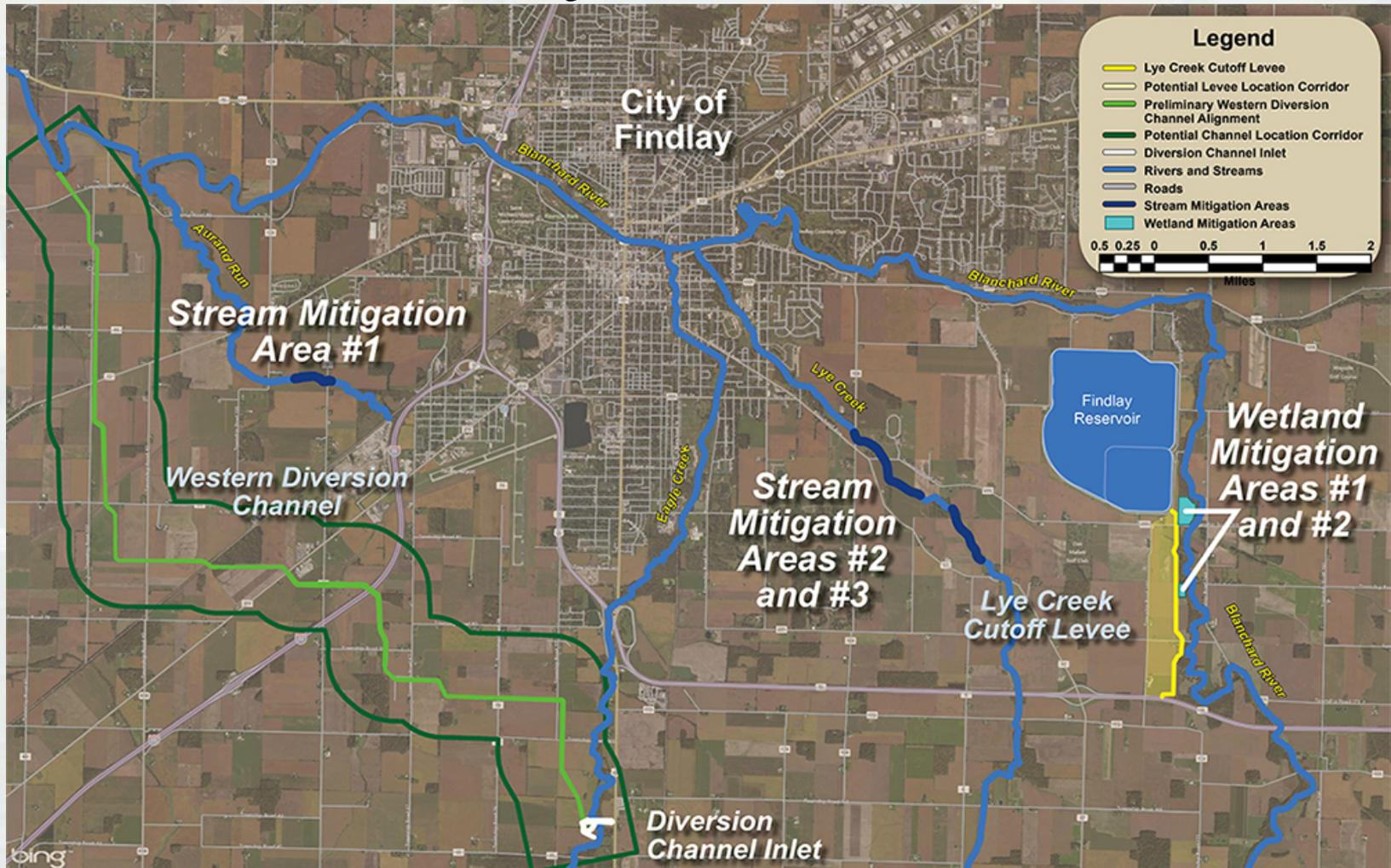
Attachments:

1. Tentatively Selected Plan
2. Poster – Blanchard River Watershed Study Cultural Resources
3. PowerPoint Presentation – Introductory Section 106 Meeting w/Consulting Parties
4. ACHP Section 106 Process Flowchart
5. List of Invited Potential Consulting Parties
6. Current List of Consulting Parties
7. Area of Potential Effect
8. Preliminary Draft PA

CF (via e-mail):

Sherri Clemons (Wyandotte Nation)
Lisa Atkins (Ohio SHPO)
Nathan Young (Ohio SHPO)
ODOT Scenic Highways Program (T. Barrett)
Hancock County Engineer (S. Wilson)
City of Findlay (L. Mihalik)
Eagle Township (D. Deeds)
Liberty Township (J. Hunker)
Marion Township (J. Wolfe)
CELRB-PM-PM (M. Pniewski)
CELRB-PM-P (J. Hemberger)
CELRB-PM-PE (M. Wargo)
CELRB-PM-PB (L. Ortiz)

Tentatively Selected Plan



Tentatively Selected Plan

- Approved TSP consisted of following elements:
 - 9.4-mile Channel to Divert Flows from Eagle Creek
 - 1.5-mile Diversion Cutoff Levee to manage cross flow from Blanchard River to Lye Creek
 - Possible Non-Structural Measures (if economically feasible)
- Basis of selection was NED
- Net Annual Benefits - \$671,600
- Benefit/Cost Ratio – 1.22



Blanchard River Watershed Study

Cultural Resources



Cultural resources:

Any prehistoric or historic district, site, building, structure or object that evidences of human occupation or activity that is important in the history, architecture, or archaeology of a community or region. This includes properties of traditional religious and cultural importance to an Indian Nation or Native Hawaiian organization.



Area of Potential Effect (APE):

The geographic area within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties (National Register of Historic Places (NRHP) eligible or listed archaeological sites, standing structures, etc.). Depending on the nature of the various project components and the resources that may be affected, the APE may be different for the different kinds of effects caused by the project. An example is use of a Findlay quarry to dispose soil excavated during project construction.



Historic properties:

Any prehistoric or historic district, site, building, structure or object, listed in, or eligible for listing in the NRHP maintained by the Secretary of the Interior (including artifacts, records and remains that are related to/located within such properties). It also includes properties of traditional religious and cultural importance to an Indian Nation or Native Hawaiian organization and that are listed in, or eligible for listing in the NRHP.



Your help is appreciated.

Do you know of any cultural resources within the area of potential effect?



Blanchard River Watershed Study

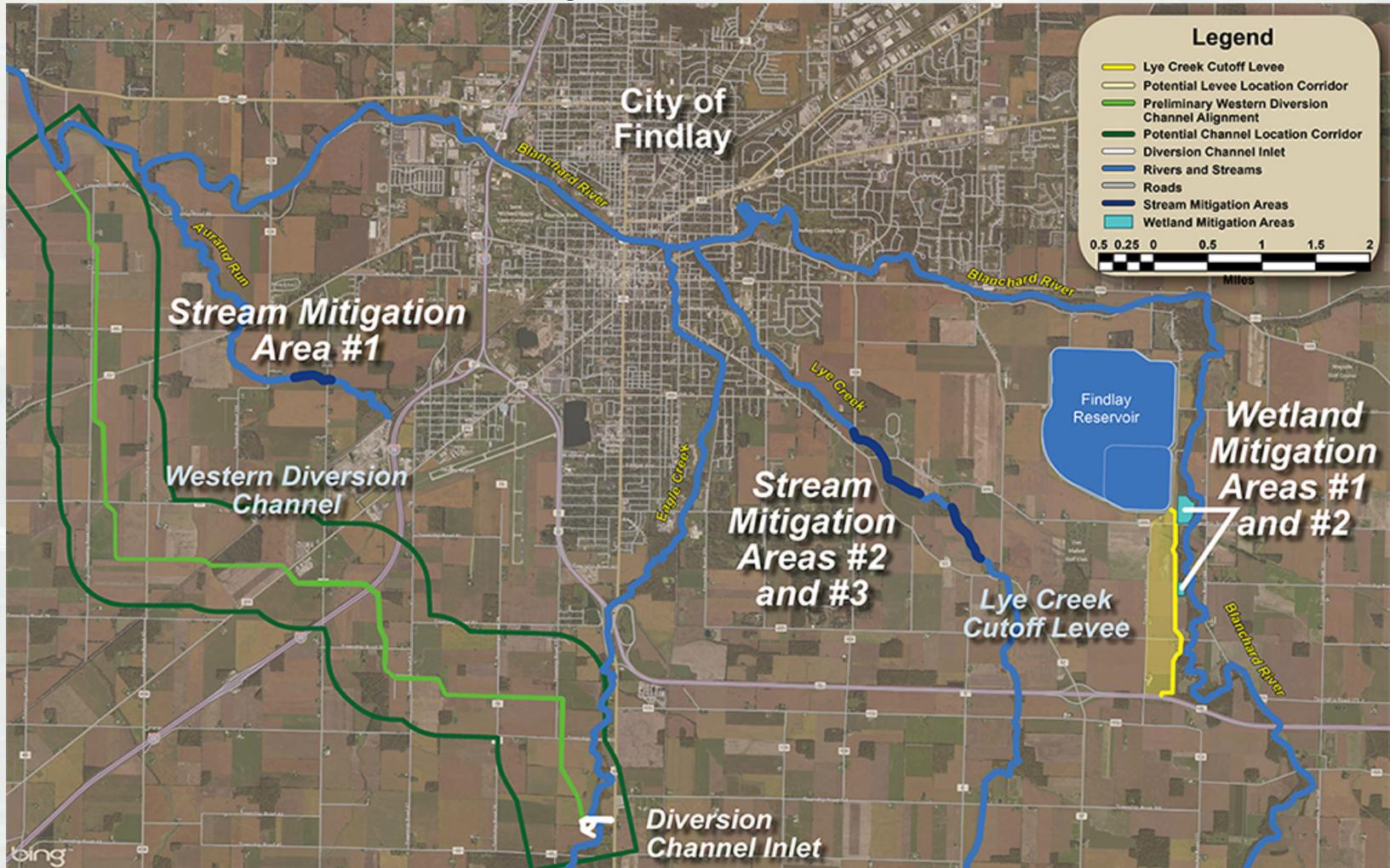
Introductory Section 106 Meeting w/
Consulting Parties
July 30, 2015

Buffalo District



US Army Corps of Engineers
BUILDING STRONG

Tentatively Selected Plan



Section 106 Consultation Process/Participants

- Process Overview
- Survey/Consultation Efforts
- Consulting Parties
- Q & A

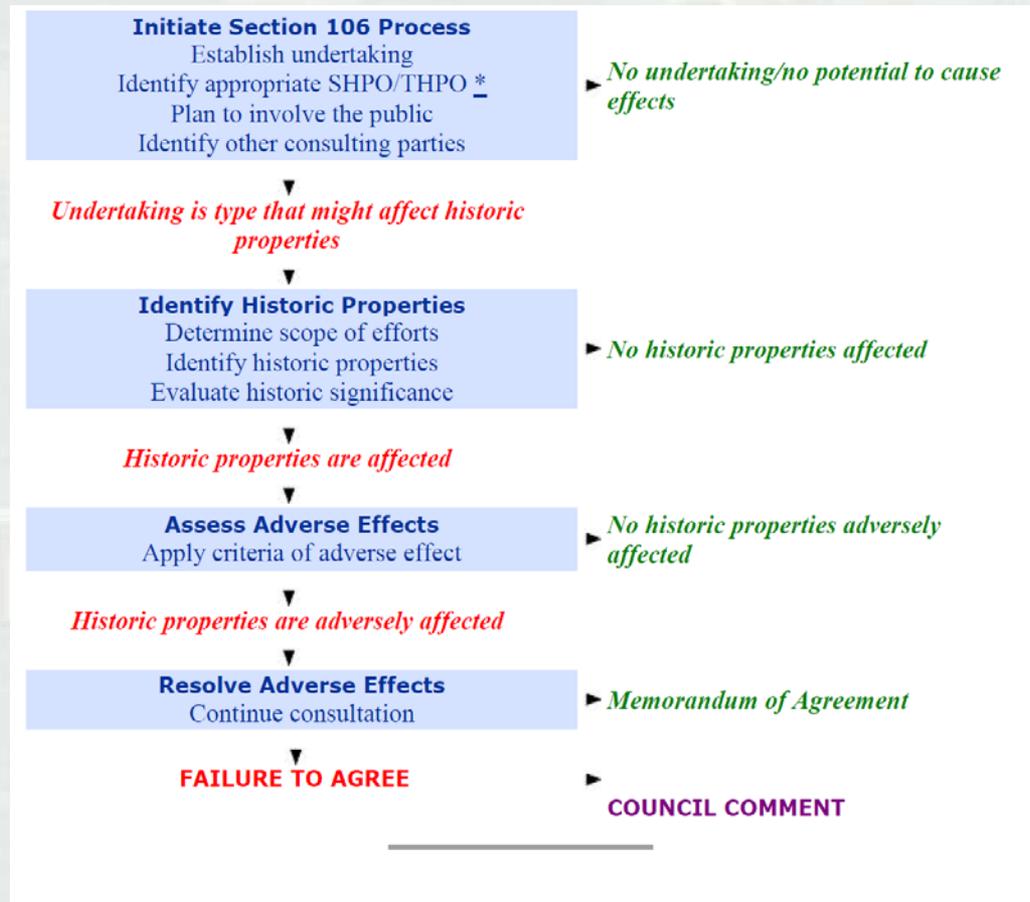


Important Definitions

- **Cultural resources:** Any prehistoric or historic district, site, building, structure or object that evidences of human occupation or activity that is important in the history, architecture, or archaeology of a community or region. This includes properties of traditional religious and cultural importance to an Indian Nation or Native Hawaiian organization.
- **Historic properties:** Any prehistoric or historic district, site, building, structure or object, listed in, or eligible for listing in the NRHP maintained by the Secretary of the Interior (including artifacts, records and remains that are related to/located within such properties). It also includes properties of traditional religious and cultural importance to an Indian Nation or Native Hawaiian organization and that are listed in, or eligible for listing in the NRHP.
- **Area of Potential Effect (APE):** The geographic area within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties (National Register of Historic Places eligible or listed archaeological sites, standing structures, etc.). Depending on the nature of the various project components and the resources that may be affected, the APE may be different for the different kinds of effects caused by the project.



Section 106 Consultation Process Overview



Consultation Efforts

- Notified eight Indian Nations that have had an historical presence in the watershed.
- Met with the Ohio State Historic Preservation Office (SHPO) concerning project purpose, scope and Section 106 compliance.
- Through study process and coordination w/Ohio SHPO identified other potential consulting parties.
- Sent invitation to potential consulting parties.



Consulting Parties

- | Name | Title |
|------------------|--|
| ▪ Sherri Clemons | Tribal Historic Preservation Officer, Wyandotte Nation |
| ▪ Lisa Atkins | Architecture Reviews Mgr, Ohio SHPO |
| ▪ Nathan Young | Archaeology Reviews Mgr, Ohio SHPO |
| ▪ Tom Barrett | ODOT Scenic Byways Program Mgr |
| ▪ Steve Wilson | Hancock County Engineer |
| ▪ Lydia Mihalik | Mayor, Findlay |
| ▪ Darl Deeds | Trustee, Eagle Township |
| ▪ Jeff Hunker | Trustee, Liberty Township |
| ▪ John Wolfe | Trustee, Marion Township |
| ▪ Frank Quinn | Director of Preservation, Heritage Ohio |

Note: The Advisory Council on Historic Preservation may participate in consultation.



Survey Efforts

- Literature review conducted in study area covering the tentatively selected plan.
- Architectural survey efforts underway.
- Archeological survey efforts cannot begin until rights of entry obtained.



Section 106 Consultation Process/Participants

- Questions and answers

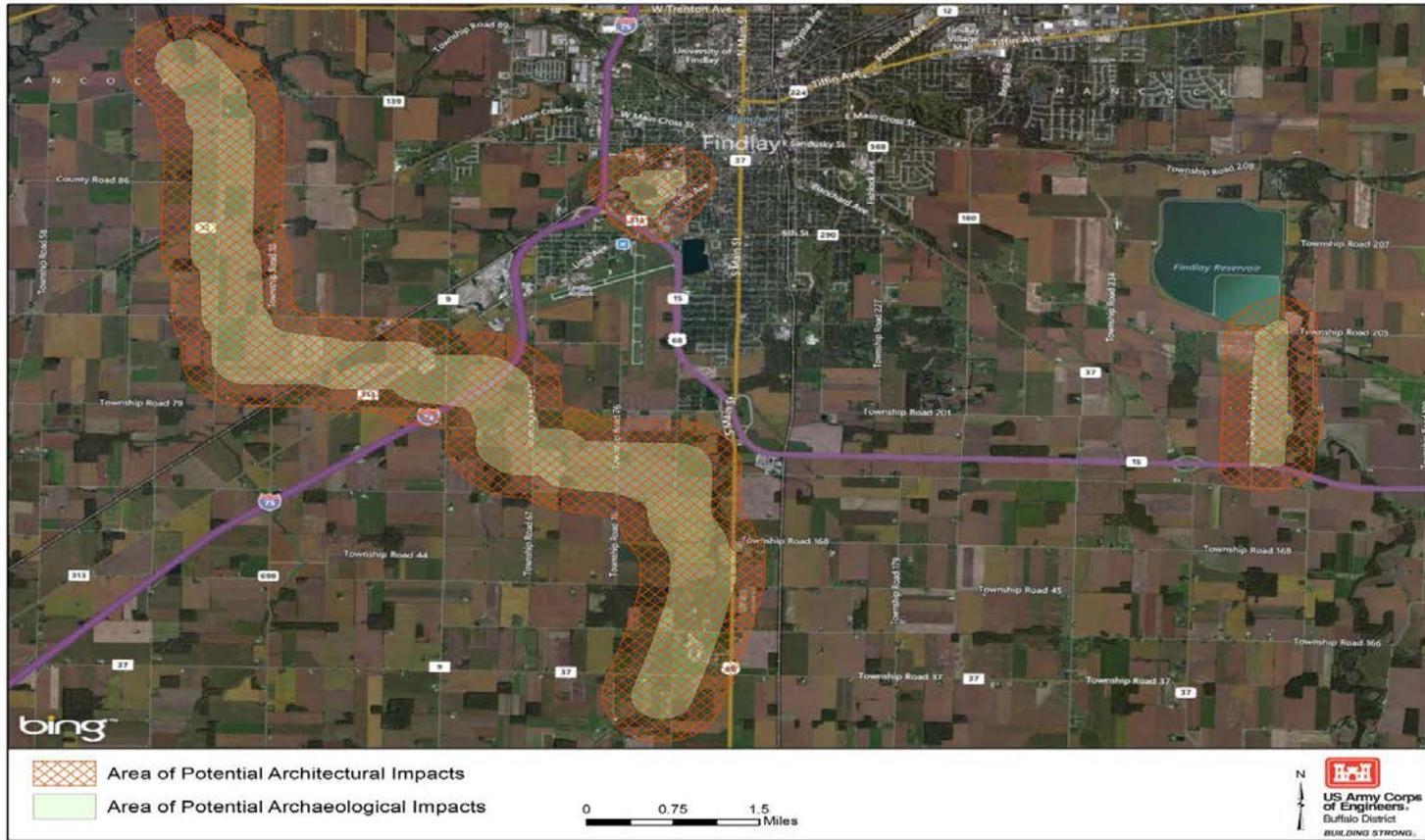


Section 106 Items Specific to Blanchard River Watershed Study

- Area of Potential Effects
- Identification & Evaluation of Cultural Resources
- Determination of Effects to Historic Properties
- Programmatic Agreement – Introduction to Draft Framework
- Q & A



Area of Potential Effect (APE)

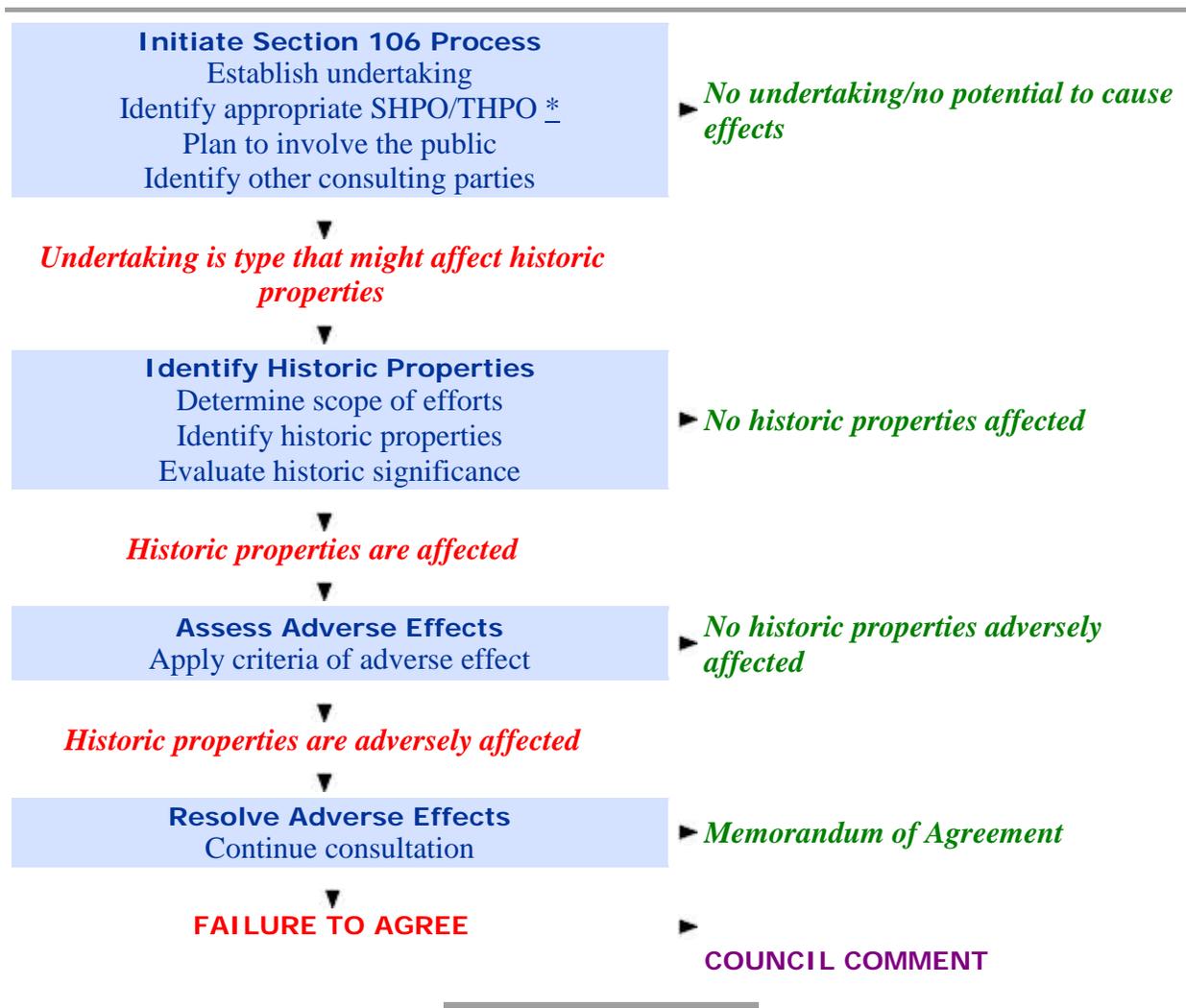


Wrap Up

- Summarize Today's Discussion
- Outline Future Section 106 Meetings/Activities



Section 106 Regulations Flow Chart



* The regulations define the term "THPO" as those tribes that have assumed SHPO responsibilities on their tribal lands and have been certified pursuant to Section 101(d)(2) of the NHPA. Nevertheless, remember that tribes that have not been so certified have the same consultation and concurrence rights as THPOs when the undertaking takes place, or affects historic properties, on their tribal lands. The practical difference is that during such undertakings, THPOs would be consulted *in lieu of* the SHPO, while non-certified tribes would be consulted *in addition to* the SHPO.

Table 1. Potentially Interested Parties Invited to Consultation (Feb-Mar 2015)

Potentially Interested Party	Interested in Participation as Consulting Party			Not Interested/No Response
	<i>Archaeological Resources</i>	<i>Architectural Resources</i>	<i>Both</i>	
Advisory Council on Historic Preservation (Mr. John Fowler)				✓
Amanda Township Trustees (Mr. David Bushong; Ms. Wanda Bushong; Mr. Jon Hagerty; Mr. Dan Watson)				✓
City of Findlay (Ms. Lydia Mihalik) <i>(included as Signatory to PA)</i>				✓
Eagle Creek Historical Organization (Mr. Tom Kroske)				✓
Eagle Township Trustees (Mr. David Bower; Mr. Darl Deeds; Ms. Rachel Rader; Mr. Dean Vonstein)			✓	
Forest Area Historical Society				✓
Hancock County Townships Trustees Association (Mr. Richard Fenstermaker; Mr. David Bower)				✓
Hancock Historical Museum Association				✓
Heritage Ohio (Mr. Frank Quinn)			✓	
Jackson Township Trustees (Mr. Ron Cornwell; Mr. Brian Miller; Mr. Rick Stacy; Mr. Merritt Van Stein)				✓

Table 1. Potentially Interested Parties Invited to Consultation (Feb-Mar 2015)

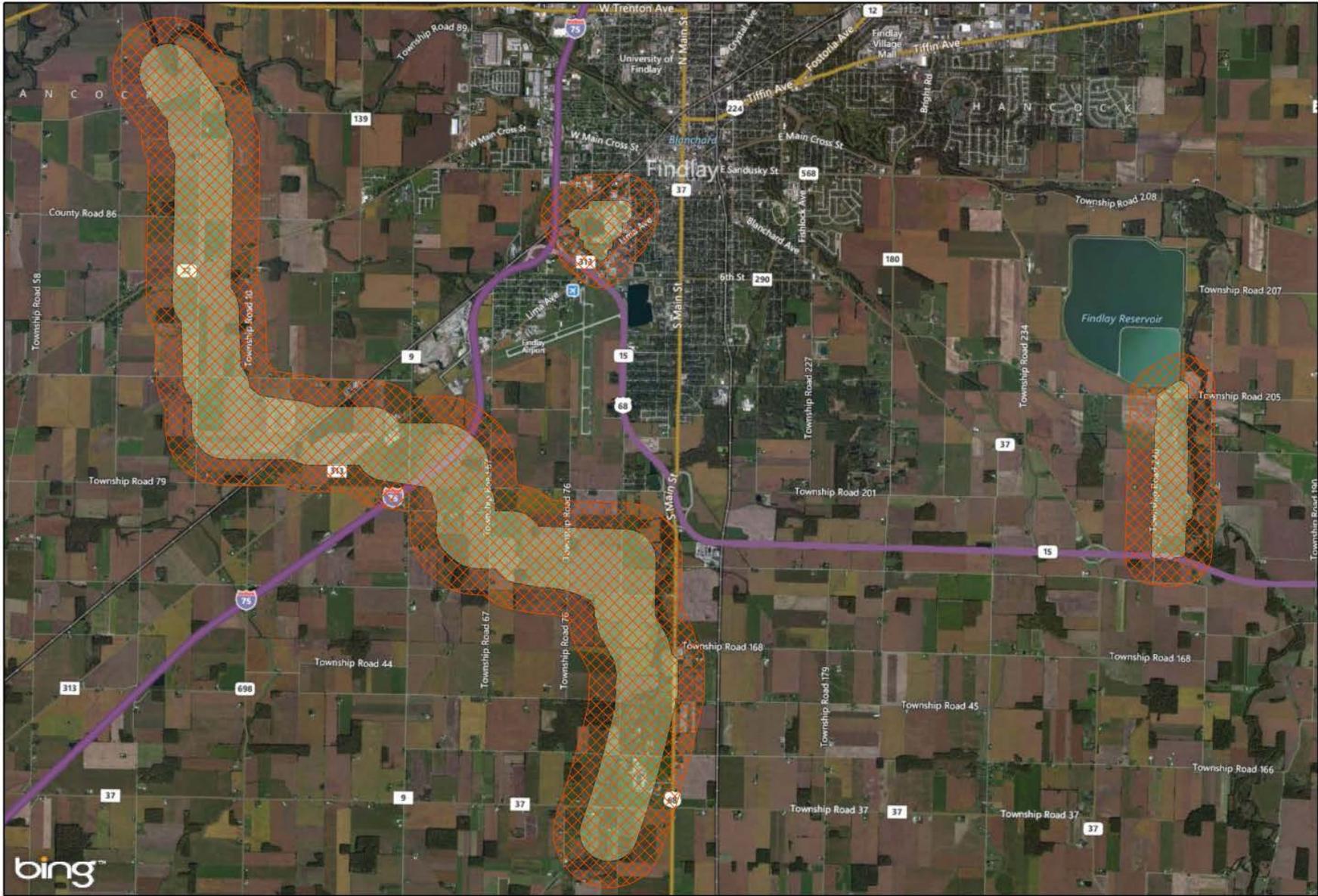
Potentially Interested Party	Interested in Participation as Consulting Party			Not Interested/No Response
	<i>Archaeological Resources</i>	<i>Architectural Resources</i>	<i>Both</i>	
Liberty Township Trustees (Mr. Shawn Beucler; Ms. Melissa Ellerbrock; <u>Mr. Jeff Hunker</u> ; Mr. Herbert Stump)		✓		
Marion Township Trustees Mr. Jim Gosche; Mr. Robert Johnson; Ms. Jeanie Ploeger; <u>Mr. John Wolfe</u>)			✓	
Maumee Valley Heritage Corridor, Inc. (Ms. Angie Quinn)				✓
Miami-Erie Canal Corridor Association (Mr. L. Neal Brady)				✓
Norfolk Southern Corporation				✓
Northwest Ohio Railroad Preservation, Inc. (Mr. Larry Todd)				✓
Ohio Archaeological Council (Ms. Lynn Hanson)				✓
Ohio Dept. of Transportation-Ohio Scenic Byways (Ms. Shyna Gawell)			✓	
Ohio Genealogical Society (Ms. Clair Harmon)				✓
Ohio Historical Society (Mr. Burt Logan)				✓

Table 1. Potentially Interested Parties Invited to Consultation (Feb-Mar 2015)

Potentially Interested Party	Interested in Participation as Consulting Party			Not Interested/No Response
	<i>Archaeological Resources</i>	<i>Architectural Resources</i>	<i>Both</i>	
Preservation Ohio (Mr. Thomas Palmer)				✓
Ohio Historic Bridge Association (Mr. David Simmons)				✓
Progress Through Preservation, Inc. (Ms. Diane Orender)				✓
Swiss Community Historical Society (Mr. Phil Kingsley)				✓
Western Lake Erie Historical Society				✓

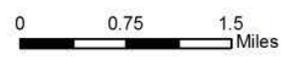
Blanchard River Watershed Study - Consulting Parties for Section 106 Review

Name	Title	Address	E-mail Address
Sherri Clemons	Tribal Historic Preservation Officer	64700 E Highway 60, Wyandotte, OK 74370	sclemons@wyandotte-nation.org
Lisa Atkins	Architecture Reviews Mgr	800 E 17th Av, Columbus, OH 43211	ladkins@ohiohistory.org
Nathan Young	Archaeology Reviews Mgr	800 E 17th Av, Columbus, OH 43211	nyoung@ohiohistory.org
Tom Barrett	ODOT Scenic Byways Program Mgr	1980 W Broad St, Columbus, OH 43223	tom.barrett@dot.state.oh.us
Steve Wilson	County Engineer	1900 Lima Av, P.O. Box 828, Findlay, OH 45839-0828	steve.wilson@urs.com
Lydia Mihalik	Mayor	Municipal Bldg., 318 Dorney Plaza, Findlay, OH 45840	Mayor@FindlayOhio.com
Darl Deeds	Trustee	8753 Township Rd 48, Findlay, OH 45840	ddeeds@thewavz.com eagletownshiptrustees@gmail.com
Jeff Hunker	Trustee	7108 Township Rd 136, Findlay, OH 45840	hunkers4@woh.rr.com
John Wolfe	Trustee	11476 State Route 37, Findlay, OH 45840	mariontownshipancock@gmail.com
Frank Quinn	Director of Preservation	846-1/2 E Main St, Columbus, OH 43205	fquinn@heritageohio.org



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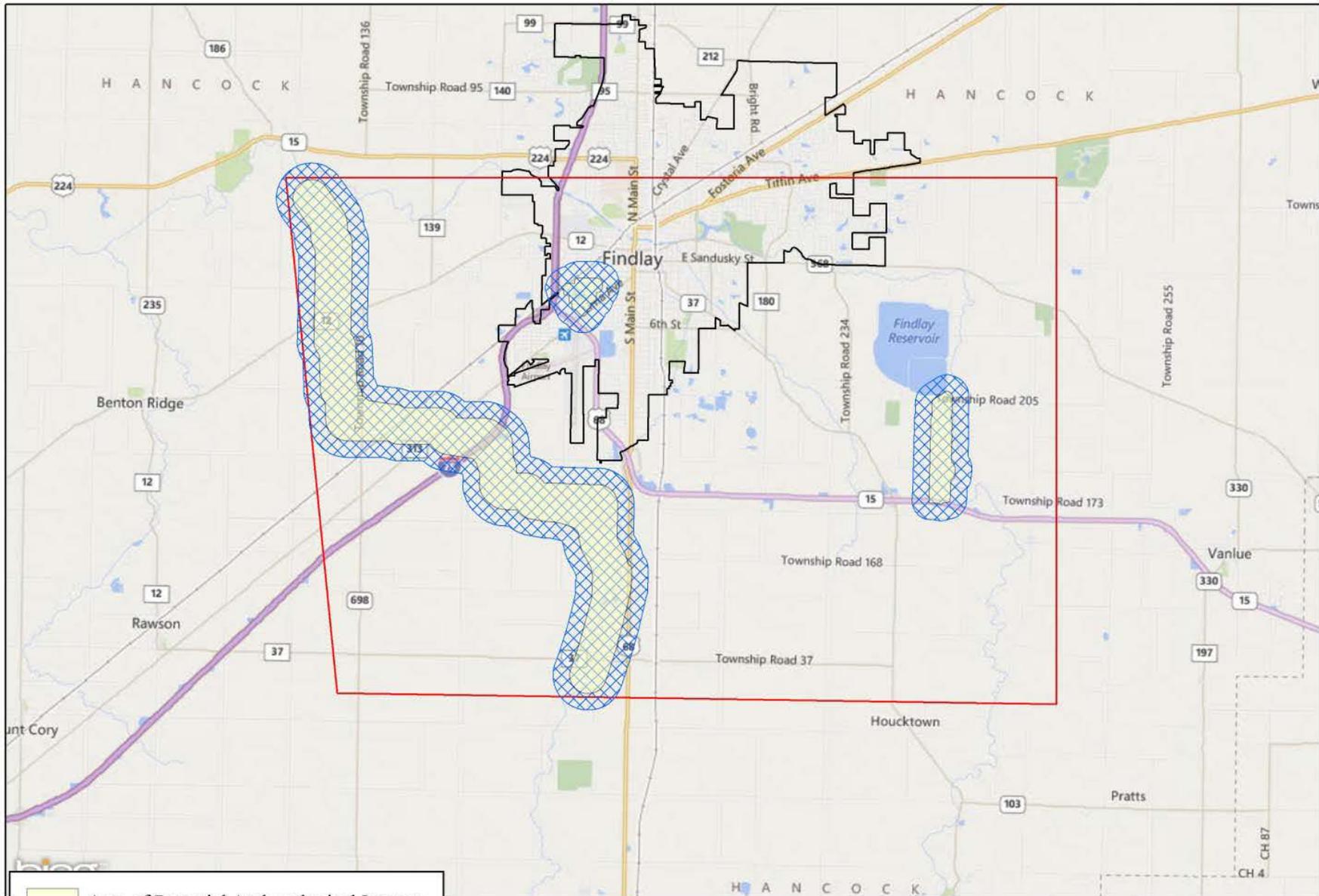
-  Area of Potential Architectural Impacts
-  Area of Potential Archaeological Impacts



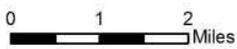
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US Army Corps of Engineers
Buffalo District
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- Area of Potential Archaeological Impacts
- Area of Potential Architectural Impacts
- Project Area



5.5 Preliminary Draft Programmatic Agreement

PROGRAMMATIC AGREEMENT
AMONG THE U.S. ARMY CORPS OF ENGINEERS-BUFFALO DISTRICT,
OHIO STATE HISTORIC PRESERVATION OFFICER, WYANDOTTE NATION,
HANCOCK COUNTY AND CITY OF FINDLAY
REGARDING THE FLOOD RISK MANAGEMENT PROJECT IN FINDLAY, OHIO
INITIAL ROUGH DRAFT-2014

WHEREAS, the U.S. Army Corps of Engineers-Buffalo District (Corps) is conducting a feasibility study of flood risk management measures for the City of Findlay, Hancock County and

WHEREAS, the Corps is considering the following flood risk management measures for Findlay _____.

WHEREAS, all required cultural resources investigations, identification, evaluation, determination of effects, and consultation for compliance with Section 106 of the National Historic Preservation Act of 1966, as amended, cannot be completed by the Corps or its agent prior to starting the design stage of the Findlay Flood Risk Management Project (Project); and

WHEREAS, the Corps has established the Project's Area of Potential Effects (APE), as required by 36 CFR § 800.4(a)(1) and defined in section 800.1 6(d), as consisting of _____ (includes associated construction work areas, construction staging areas, borrow areas, and disposal areas, as well as associated _____); and

WHEREAS, the Corps has determined that the Project may have effects on historic properties within the APE and has consulted with the Advisory Council on Historic Preservation (Advisory Council) pursuant to section 800.2(b) of the regulations (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f), and the Advisory Council has declined to participate in the Programmatic Agreement for this Project; and

WHEREAS, Hancock County, as the non-Federal sponsor for the Project (Sponsor) and the City of Findlay, Ohio have participated in consultation on the Project's flood risk management measures and have been invited to concur in this Programmatic Agreement as consulting parties; and

WHEREAS, _____ are also interested parties and have been invited to participate in consultation on the Project's flood risk management measures and to concur in this Programmatic Agreement as consulting parties; and

WHEREAS, the Corps initially contacted the Absentee-Shawnee Tribe of Indians, Eastern Shawnee Tribe of Oklahoma, Little River Band of Ottawa Indians, Little Traverse Bay Band of Odawa Indians, Miami Tribe of Oklahoma, Ottawa Tribe of Oklahoma, Shawnee Tribe, and Wyandotte Nation by letter dated December 3, 2012, to determine these tribes' interest in the Project, particularly regarding potential Project effects on properties important to their history, culture, or religion, including traditional cultural properties, and the Corps will consult with any of these tribes interested in this Project;

WHEREAS, on December 11, 2012, the Wyandotte Nation has requested to be a consulting party on this Project; and

WHEREAS, opinions and comments on the Project and its alternative measures and alignments have been and will be solicited through the study's scoping process, public meetings, and official review periods on the Environmental Impact Statement, in compliance with the National Environmental Policy Act (NEPA).

NOW THEREFORE, the Corps, Ohio State Historic Preservation Officer (SHPO) and consulting parties agree that upon filing this Programmatic Agreement (PA) with the Advisory Council on Historic Preservation, the Corps will implement the following stipulations in order to comply with Section 106 of the National Historic Preservation Act, as amended, with respect to the Project.

STIPULATIONS

The Corps will ensure that the following measures are carried out prior to the start of construction on Project flood risk management features at the Findlay:

A. Professional Qualifications. The Corps will ensure that archeologists, historians, and architectural historians meeting the professional qualification standards given in the Secretary of the Interior's *Standards and Guidelines for Archeology and Historic Preservation* will conduct or directly supervise all cultural resources identification, evaluation, and mitigation related to this Project, to include archaeological surveys and testing, historic structure inventories and evaluation, and data recovery and documentation and mitigation.

B. Literature and Records Search. Prior to conducting any cultural resources fieldwork, the Corps or its contractors shall at a minimum consult available site files, previous survey reports, and other documents at the Ohio Historic Society and at the SHPO for information on previously recorded cultural resources sites, site leads, and previously surveyed areas in the Project's APE.

C. Phase I Cultural Resources Investigation. The Corps or its contractors will conduct a Phase I survey or all portions of the Project's APE that had not previously been investigated in order to locate any cultural resources (prehistoric, historic, and architectural). The cultural resources

investigation will be an intensive, on-the-ground study of the area sufficient to determine the number and extent of the resources present and their relationships to Project features. The survey also will consider and address visual effect impacts of the proposed project to cultural resources within the APE.

D. Phase II Testing and Evaluation. The Corps or its contractors will evaluate the National Register of Historic Places eligibility of all cultural resources sites or structures over 50 years old located within the APE. Evaluation shall include such testing necessary to determine the information potential of prehistoric and historic archeological sites and archival research for historic archeological and architectural sites. The Corps will request the concurrence of the SHPO in determining each such site or structure's eligibility or non-eligibility to the National Register.

E. Phase III Mitigation. The Corps will avoid or minimize Project-related adverse effects to historic properties (National Register of Historic Places listed or eligible sites, structures, buildings, districts, or objects) to the extent practicable. Where adverse effects due to the Project are not avoidable, the Corps will formulate, coordinate, and execute a Memorandum of Agreement (MOA) with the SHPO and the other consulting parties as applicable, to mitigate the adverse effects.

F. Burials. If any human burials are encountered during the cultural resources field work or Project construction, the Corps and its contractors will comply with the Native American Graves Protection and Repatriation Act (NAGPRA) for federal or tribal lands, or _____, whichever is applicable.

G. Curation. The Corps or its contractors shall ensure that all materials and records resulting from the survey, evaluation, and data recovery or mitigation conducted for the Project, or recovered during Project construction, will be curated in accordance with 36 CFR Part 79, "Curation of Federally-Owned and Administered Archeological Collections" at a facility within the state of Ohio, unless the private landowner wishes to retain ownership of artifacts recovered from his/her land.

H. Discoveries During Project Implementation. Should an unidentified site or property that may be eligible for inclusion in the National Register be discovered during Project construction, the Corps will cease all work in the vicinity of the discovered property until it can be evaluated pursuant to guidelines in Stipulation D of this Programmatic Agreement. If the property is determined to be eligible, the Corps shall comply with the provisions of Stipulation E above. Project actions which are not in the area of the discovery may proceed while the consultation and any necessary evaluation and mitigation work is conducted.

I. Reports. The Corps shall ensure that draft and final reports resulting from actions pursuant to the Stipulations of this Programmatic Agreement will be provided to the SHPO and, upon request, to

other parties to this agreement. All parties will have 30 days to review and comment on any draft reports furnished to them.

ADMINISTRATIVE PROCEDURES

J. Dispute Resolution. In the event the SHPO, or a concurring party to the PA object to any plans, documents, or reports prepared under the terms of this PA within 30 days after receipt, the Corps shall consult with the party to resolve the objection. If the Corps determines that the objection cannot be resolved, the Corps shall forward all documentation relevant to the dispute to the Advisory Council. Any recommendation or comment provided by the Advisory Council will be understood to pertain only to the subject of the dispute. The Corps' responsibility to carry out all stipulations under this PA that are not the subject of the dispute will remain unchanged.

DISPUTE RESOLUTION

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

1. 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.

2. If the ACHP does not provide its advice regarding the dispute within thirty (30)-day time period, the USACE may make a final decision on the dispute and proceed accordingly. Prior to reaching such 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 PA, and provide them and the ACHP with a copy of such written response.

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

K. Amendments. Any signatory to this PA may request that it be amended, whereupon the parties will consult to consider such amendment. The PA may only be amended with the written concurrence of all parties who have signed the PA.

L. Anti-Deficiency Provision All obligations on the part of the Corps under this PA shall be subject to the appropriation, availability and allocation of sufficient funds to the Buffalo District for such purposes.

M. Termination.

1. Proof of compliance with all stipulations to the satisfaction of the Corps and the SHPO will constitute completion of this Programmatic Agreement.

2. If the terms of this PA have not been implemented within _____ years after its execution, this agreement will be null and void. In such an event, the Corps shall notify the SHPO and the concurring parties of its expiration, and if appropriate, shall re-initiate review of the undertaking in accordance with 36 CFR Part 800.

3. Any signatory party to this PA may withdraw from it by providing thirty (30) days notice to the other parties, provided that the parties will consult during the period prior to withdrawal to seek agreement on amendments or other actions that would avoid withdrawal. In the event of termination, or withdrawal, the Corps will comply with federal regulation 36 CFR Part 800, Protection of Historic Properties.

N. Points of Contact. The points of contact for the signatories and concurring parties are as follows:

- 1.
- 2.

Execution of this Programmatic Agreement, its subsequent filing with the Advisory Council, and implementation of its Stipulations evidences that the Corps has taken into account the effects of the Project on National Register listed or eligible historic properties, and has satisfied its Section 106 responsibilities for all aspects of this undertaking.

U.S. ARMY CORPS OF ENGINEERS-BUFFALO DISTRICT

By: Date:

OHIO STATE HISTORIC PRESERVATION OFFICER

By; Date:

Concur:

HANCOCK COUNTY Date:

By:

CITY OF FINDLAY

By: Date:

WYANDOTTE NATION Date:

By:

Others....