



US Army Corps
of Engineers
Buffalo District

STAFF ACTION COVER SHEET

SUBJECT: Letter to [REDACTED]

TYPE: ☒ **ACTION**
☐ **INFORMATION**

ROUTING/STAFF COORDINATION

(Please # boxes in order of coordination)

No.	Init.	Name/Office	Date	No.	Init.	Name/Office	Date
		District Commander				Civilian Personnel Advisory Center	
		Deputy Commander				Contracting Division	
		DDE-PM - [REDACTED]				EEO	
		Executive Assistant				Emergency Mgt Office	
		Executive Secretary				Information Mgt Office	
		Prog & Proj Mgt Branch				Internal Review Office	
		Programs Mgt Team				Logistics Office	
		Project Mgt Team		3	[REDACTED]	Office of Counsel - [REDACTED]	7/14/10
2	[REDACTED]	Special Projects Branch - [REDACTED]				Public Affairs Office	
		Planning Branch				Real Estate Office	
		Technical Services Division				Resource Mgt Office	
		Construction Branch				Safety & Occupation Health Office	
		Design Branch		5		Special Projects - [REDACTED]	
		Operations Branch		[REDACTED]		Environmental Analysis - [REDACTED]	7/15/10
		Regulatory Branch		1	[REDACTED]	Environmental Analysis - [REDACTED]	7/14/10

PURPOSE: Information only.

SUMMARY: Response to [REDACTED] letter of June 23. Please review and sign off, forward to next person for [REDACTED] Signature.

RECOMMENDATION: Sign

ACTION OFFICER (Name, Office Symbol and Telephone Number)

[REDACTED]

DATE

7/14/10



DEPARTMENT OF THE ARMY

BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

REPLY TO
ATTENTION OF

Environmental Analysis Section

JUL 16 2010

SUBJECT: Niagara Falls Storage Site (Building 401 Demolition), Town of Lewiston, Niagara County, New York



Dear [REDACTED]:

Thank you for your letter dated June 23, 2010, addressed to [REDACTED], presenting your comments on the scheduled demolition of Building 401 on the Niagara Falls Storage Site (NFSS). The U.S. Army Corps of Engineers (USACE) recognizes the significance of the Lake Ontario Ordnance Works (LOOW) and NFSS to national, regional and local history and the need to resolve adverse effects resulting from our Federal undertakings. In planning our remediation activities in the vicinity of Building 401, we have taken into account the effects on the historic property as well as impacts on the quality of the human environment. In the development of actions to resolve adverse effects to LOOW-NFSS resulting from the demolition of Building 401, avoidance, minimization and mitigation have been considered. However, given the deteriorated state of the building, need to potentially address residual contamination beneath the structure, and its residence on an active Formerly Utilized Sites Remedial Action Program (FUSRAP) site, adaptive reuse was not recommended and dismantlement of Building 401 was determined to be the best solution.

In accordance with Section 106 of the National Historic Preservation Act of 1966, as amended, USACE-Buffalo District initiated our consultation with potentially interested parties concerning the proposed undertaking on May 29, 2003. This consultation included the New York State Office of Parks, Recreation and Historic Preservation (State Historic Preservation Office - SHPO) and Town of Lewiston Historic Preservation.

During the course of this consultation, the SHPO expressed the opinion that the former LOOW is eligible for listing in the National Register of Historic Places for its association with World War II and the Manhattan Project. Considering this historic status, the SHPO concluded that the demolition of Building 401 would have an adverse effect on this eligible historic property.

In continuation of this consultation, the following parties were notified of the determination of adverse effect and were offered the opportunity to present their views on the proposal to resolve these effects:

Tuscarora Nation
Haudenosaunee Standing Committee on Burial Rules and Regulations

OFFICE: Environmental Analysis Section -2-
SUBJECT: Niagara Falls Storage Site (Building 401 Demolition), Town of Lewiston, Niagara
County, New York

U.S. Department of Energy-History Division
U.S. Department of the Interior-National Park Service
New York State Office of Parks, Recreation and Historic Preservation (State Historic
Preservation Office - SHPO)
Town of Lewiston Historic Preservation
Lewiston Historical Society
Niagara County Historical Society
Atomic Heritage Foundation
Preservation Buffalo Niagara

On October 1, 2009, these parties were invited to assume a specific role or responsibility in the resolution of the adverse effect resulting from the planned Federal undertaking. Such roles may include compiling, archiving and displaying documents concerning the history of the former LOOW (e.g., reports, drawings and photographs). Other than the SHPO, none of these parties responded to this notification.

On November 19, 2009, representatives from the SHPO, Preservation Buffalo Niagara and USACE conducted a site visit to examine the condition and context of Building 401 and discuss the scope of the proposed undertaking. At that time, it was agreed to proceed with the development of a Memorandum of Agreement (MOA) that would stipulate appropriate historic preservation measures. USACE considered all potential effects of this undertaking and submitted a determination of effects to the Advisory Council on Historic Preservation (ACHP) and New York State Historic Preservation Office. The ACHP was also invited to participate in the consultation process, but declined to become involved. Consequently, the MOA between the SHPO and USACE was implemented.

In accordance with Section 106 of the National Preservation Act, the SHPO and USACE endorsed the enclosed MOA in March 2010 and agreed to document the building through records review, the preparation of archival documents and photographs, and the preparation and installation of historic markers. In addition, a time-lapse video of the demolition project will be created and archived.

Thank you again for your continued involvement in this project. If you have any questions or require any additional information, please contact [REDACTED] of my staff at [REDACTED], or by writing to his attention at the above address.

Sincerely,

[REDACTED]
Supervisory Biologist
Environmental Analysis Section

Enclosure



**New York State Office of Parks,
Recreation and Historic Preservation**

Historic Preservation Field Services • Peebles Island, [REDACTED]
[REDACTED]
[REDACTED]

David A. Paterson
Governor

Carol Ash
Commissioner

March 11, 2010

[REDACTED]
Environmental Protection Specialist
United States Army Corps of Engineers, Buffalo District
1776 Niagara Street
Buffalo, NY 14207-3199

Re: USACE
Niagara Falls Storage Site – Building 401 Demolition
Lewiston, Niagara County
03PR02895

Dear [REDACTED]:

Attached please find the fully-executed Memorandum of Agreement (MOA) between our agencies regarding the Niagara Falls Storage Site, Building 401 created in accordance with Section 106 of the National Historic Preservation Act of 1966 and the relevant implementing regulations.

We look forward to continued consultation regarding the recordation of the National Register-eligible structure and the interpretive elements proposed in the MOA.

Thank you for your consultation. We look forward to working with you as the project develops. If you have any questions, I can be reached at [REDACTED]. Please refer to the Project Review (PR) number in any future correspondences regarding this project.

Sincerely,

[REDACTED]

[REDACTED]

Historic Sites Restoration Coordinator
[REDACTED]

Enclosure

**MEMORANDUM OF AGREEMENT
BETWEEN**

**THE UNITED STATES ARMY CORPS OF ENGINEERS
AND
THE NEW YORK STATE HISTORIC PRESERVATION OFFICE**

**REGARDING
THE DEMOLITION OF BUILDING 401 OF THE LAKE ONTARIO ORDNANCE
WORKS/NIAGARA FALLS STORAGE SITE**

WHEREAS, pursuant to the National Historic Preservation Act of 1966 (NHPA), and other federal and state laws and regulations, the United States Army Corps of Engineers (Corps) is responsible for managing historic properties in a manner that emphasizes preservation and to avoid, minimize or mitigate the impact of undertakings that might adversely affect historic resources listed on, or eligible for listing on, the National Register of Historic Places; and

WHEREAS, the Building 401 at the Lake Ontario Ordnance Works-Niagara Falls Storage Site (LOOW-NFSS) has been determined eligible by the New York State Historic Preservation Office (SHPO) for listing in the National Register of Historic Places; and

WHEREAS, the Corps and the SHPO (collectively, the Parties) agree that Building 401 currently poses a safety hazard to site workers and to Corps and other agency personnel and its removal is necessary to remediate underlying contaminated soil; and

WHEREAS, it has been determined that options to avoid or minimize the affects of this undertaking have been reviewed and determined to not be viable; and

WHEREAS, SHPO, in consultation with the Corps and other involved agencies, has identified measures to mitigate the adverse effect caused by the demolition of Building 401; and

NOW, THEREFORE, in accordance with Section 106 of the National Historic Preservation Act, the Corps and the SHPO agree that the undertaking shall proceed in accordance with the stipulations below.

STIPULATIONS

The Corps will ensure that the demolition of Building 401 will proceed in compliance with following stipulations:

I. RECORDATION OF HISTORIC STRUCTURES

In consultation with the SHPO, the Corps shall document Building 401 and its site through a Historic American Building Survey-Historic American Engineering Record (HABS/HAER) Level II photographic documentation and accompanying narrative in accordance with the Secretary of the Interior's Guidelines for Architectural and Engineering Documentation (1983, as amended and annotated).

- a. Three sets of black and white photographs (4" x 5" prints on archival paper) and one set of 4" x 5" negatives that record the exterior appearance and major interior spaces.
- b. Original and historic drawings will be replicated and/or digitized as part of the HABS/HAER documentation.
- c. A historic narrative pertaining to the history of the structure to illustrate the historic and architectural significance of the complex. The narrative will provide an appropriate historic context for the structures.
- d. An inventory of historic documentation and records is provided indicating title of original document and its location. Digital copies of the documents will be provided.
- e. A time-lapse video of the demolition project will be provided.
- f. Two copies of the report are required: one copy of the report will be submitted to the SHPO for forwarding to the State Archives (which will include the archival negatives) and one copy of the report will be submitted to an appropriate local repository (library or historical society).

II. REVIEW PROCESS

The Corps shall consult with the SHPO as the interpretive design for the Project is advanced, including providing the SHPO with drawings and other appropriate materials.

- a. SHPO will have 15 business days in which to comment on the proposed design of signage and landscape treatments.
- b. If the Corps and SHPO cannot agree to appropriate treatments with regard to the design, the ACHP will be requested to review and provide final comments to resolve any disagreement.

III. DESIGN OF LANDSCAPE ELEMENTS

The Corps, in consultation with the SHPO, will include historical interpretation of the original Building 401 through:

- a. The use of plaques or markers to narrate and illustrate the history of the complex, the significance of its role, and other important aspects of the Complex. These plaques or markers shall be prepared in accordance with the Corps' Sign Standards Manual (EP 310-1-6a and 6b);

IV. OTHER

Amendments: If any of the terms of this Agreement cannot be met, or the design or scope of the project changes, the Corps will immediately request the consulting parties to consider an amendment or addendum to the Agreement. Such an amendment; or addendum, shall be executed in accordance with 36 CFR 800.13 to consider such amendment.

Any signatory to this Agreement may request that it be amended. If any signatory determines that an amendment must be made, that party shall immediately consult with the other parties to develop the amendment to the Agreement. 36 CFR 800.5 (c) shall govern the execution of any such amendment.

Termination of the Agreement will be governed by 36 CFR 800.5 (c): "If any signatory determines that the terms of a memorandum of agreement cannot be carried out, the signatories shall consult to seek amendment of the agreement. If the agreement is not amended, any signatory may terminate it. The Agency Official shall either execute a memorandum of agreement with signatories under paragraph (c) (1) of this section or request the comments of the Council under Section 800.7 (a)."

The Corps will be responsible for informing its independent contractors, employees, agent, and assigns of their responsibility to comply with this Memorandum of Agreement (MOA), including all stipulations, while acting as Corps' agent with respect to the activities covered by this MOA. Such persons shall be subject to the same sanctions for violations of the MOA as those prescribed for the Corps.

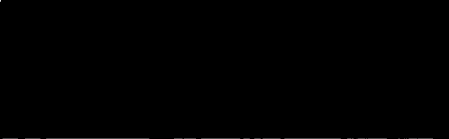


The Council and the SHPO may monitor activities carried out pursuant to the Agreement, and the Council will review such activities if so requested. The Corps will cooperate with the Council and the SHPO in carrying out their monitoring and review responsibilities. In the event an on-site visit is required, at least 48-hour notification will be given to the Corps, and SHPO and/or ACHP representatives shall complete a required health and safety briefing.

In the event the Corps does not carry out the terms of this Agreement, during the commenting process it shall not take or sanction any action or make any irreversible commitment that would result in an adverse effect to a National Register-listed or eligible property, or that would foreclose the Council's consideration of modifications or alternatives that could avoid or mitigate the adverse effect.

Execution of this Memorandum of Agreement and carrying out its Stipulations evidences that the Corps has satisfied its Section 106 responsibilities for the demolition of Building 401.

SIGNATORY PARTIES

  (date) 3/9/10
New York State Historic Preservation Officer

 / MAR 10
(date)
  District Commander
United States Army Corps of Engineers