

**PROGRAMMATIC AGREEMENT
REGARDING COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC
PRESERVATION ACT FOR
THE GULF INTRACOASTAL WATERWAY (GIWW) COASTAL RESILIENCE
STUDY
IN
BRAZORIA AND MATAGORDA COUNTIES, TEXAS
AMONG
THE U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT, AND
THE TEXAS STATE HISTORIC PRESERVATION OFFICER.**

WHEREAS, the U.S. Army Corps of Engineers, Galveston District (USACE) has determined that new construction, improvements to existing facilities, and maintenance of existing facilities of the Gulf Intracoastal Waterway Coastal Resilience Study (hereinafter, “undertaking”) may have an effect on historic properties eligible for listing in the National Register of Historic Places (NRHP) (hereinafter, “historic properties”) pursuant to Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108) (NHPA), as amended, and its implementing regulations (36 CFR 800); and

WHEREAS, the undertaking was authorized by the Water Resources and Development Act of 2016, in accordance with Section 1201, requesting The Secretary to conduct a feasibility study for the following projects for water resources development and conservation and other purposes, as identified in the reports titled “Report to Congress on Future Water Resources Development” submitted to Congress on January 29, 2015, and January 29, 2016, respectively, pursuant to section 7001 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2282d) or otherwise reviewed by Congress: (25) GULF INTRACOASTAL WATERWAY, BRAZORIA AND MATAGORDA COUNTIES, TEXAS.—Project for navigation and hurricane and storm damage reduction, Gulf Intracoastal Waterway, Brazoria and Matagorda Counties, Texas.; and

WHEREAS, USACE has defined the undertaking’s preliminary area of potential effects (APE) as described in **Appendix A-Project Summary**; however, the final horizontal and vertical APE cannot be fully determined until the pre-construction, engineering, and design phase of the study, and will be developed in consultation with the SHPO and those Tribal Nations requesting consulting party status (hereinafter, “Tribal Nations”) prior to a cultural resources survey being performed; and

WHEREAS, this Programmatic Agreement (PA) is being executed to describe the process the USACE and the non-federal partner will utilize in the event that unanticipated discoveries are identified during construction and maintenance activities; and

WHEREAS, the USACE and the Texas State Historic Preservation Officer (SHPO) have agreed that it is advisable to execute this PA for the purposes stated above in accordance with 36 CFR 800.6 and 36 CFR 800.14(b)(1)(ii); and

WHEREAS, the USACE will invite the Advisory Council on Historic Preservation (Council) to participate; and

WHEREAS, in accordance with 36 C.F.R. § 800.14(b), the USACE has notified the Alabama-Coushatta Tribe of Texas, the Comanche Nation of Oklahoma, the Coushatta Tribe of Louisiana, the Mescalero Apache Tribe, the Northern Arapaho Tribe, Kiowa Indian Tribe of Oklahoma, and the Tonkawa Tribe of Oklahoma, of the development and execution of this PA.

NOW, THEREFORE, the USACE and the SHPO agree that the proposed undertaking shall be implemented and administered in accordance with the following stipulations in order to take into account the effects of the undertaking on historic properties and to satisfy the USACE's Section 106 responsibilities for all individual aspects of the undertaking.

STIPULATIONS

I. Identification, Evaluation, Effect Determination, and Resolution

- A. **Scope of Undertaking.** This PA shall be applicable to all new construction, improvements, and maintenance activities related to the Gulf Intracoastal Waterway Coastal Resilience Study. The APE shall be established by the USACE in consultation with the SHPO and Tribal Nations and shall include all areas to be directly or indirectly affected by new construction, construction staging and access areas, new or extensions of existing storm or flood risk management features, ecological mitigation features, and project maintenance activities.
- B. **Qualifications and Standards.** The USACE shall ensure that all work conducted in conjunction with this PA is performed in a manner consistent with the Secretary of Interior's "Standards and Guidelines for Archeology and Historic Preservation" (48 FR 44716-44740; September 23, 1983), as amended, or the Secretary of the Interior's "Standards for the Treatment of Historic Properties" (36 CFR 68), as appropriate. Additionally, for any Texas state public land, the USACE will ensure that all work is conducted in accordance with the Antiquities Code of Texas (Texas Natural Resources Code, Title 9, Chapter 191) and the Texas Administrative Code, Title 13, Part 2.
- C. **Definitions.** The definitions set forth in 36 CFR 800.16 are incorporated herein by reference and apply throughout this PA.
- D. **Identification of Historic Properties.** Prior to the initiation of construction, the USACE shall make a reasonable and good faith effort to identify historic properties located within the APE. These steps may include, but are not limited to, background research, consultation, oral history interviews, sample field investigations, and field survey. The USACE will consult with the SHPO to identify individuals or organizations to invite as consulting parties. If additional consulting parties are identified, the USACE shall provide them copies of documentation specified in 36 CFR 800.11(e), subject to confidentiality provisions of 36 CFR 800.11(c). The level of effort for these activities shall be determined in consultation with the SHPO, Tribal Nations that attach religious

and cultural significance to the APE, and any consulting parties. For the identification and evaluation of above-ground resources, USACE will ensure that it is conducted by a Secretary of the Interior (SOI)- qualified Architectural Historian.

The USACE shall provide the results of survey or site testing investigations in a draft report(s) to the SHPO, Tribal Nations, and any consulting parties for review and comment. Comments received by the USACE from the SHPO, Tribal Nations, or consulting parties shall be addressed in subsequent draft report(s), which shall be provided to all consulting parties for review. If comments on the draft report(s) by the SHPO, Tribal Nations, and any consulting parties are not received by the USACE within thirty (30) days of receipt, the reports and their recommendations shall be considered adequate and the reports may be finalized. The USACE shall provide a final report(s) of all investigations to the SHPO, Tribal Nations, and any consulting parties. If no historic properties are identified in the APE, the USACE shall document this finding pursuant to 36 CFR 800.11(d), provide this documentation to the SHPO, Tribal Nations, and any consulting parties.

E. Evaluation of National Register Eligibility. If cultural resources are identified within the APE, the USACE shall determine their eligibility for the NRHP in accordance with the process described in 36 CFR 800.4(c) and criteria established in 36 CFR 60. All draft reports of NRHP site testing or other NRHP investigations shall be submitted to the SHPO and Tribal Nations for review and comment. If SHPO comments are not received by the USACE within 30 days of receipt, the reports or investigations and their recommendations shall be considered adequate and the reports may be finalized. Comments received by the USACE from the SHPO or Tribal Nations shall be addressed in the final report, which shall be provided to all consulting parties. The determinations of significance shall be conducted in consultation with the SHPO and Tribal Nations. Should the USACE and the SHPO agree that a property is or is not eligible, then such consensus shall be deemed conclusive for the purpose of this PA. Should the USACE and the SHPO not agree regarding the eligibility of a property, the USACE shall obtain a determination of eligibility from the Keeper of the National Register pursuant to 36 CFR 63. For historic properties found not eligible for the NRHP, no further protection or consideration of the site will be afforded for compliance purposes.

F. Assessment of Adverse Effects.

1. No Historic Properties Affected. The USACE shall make a reasonable and good faith effort to evaluate the effect of each undertaking on historic properties in the APE. The USACE may conclude that no historic properties are affected by an undertaking if no historic properties are present in the APE, or the undertaking will have no effect as defined in 36 CFR 800.16(i). This finding shall be documented in compliance with 36 CFR 800.11(d) and the documentation shall be provided to the SHPO and retained by the USACE for at least seven (7) years. The USACE shall provide information on the finding to the public upon request, consistent with the confidentiality requirements or 36 CFR 800.11(c).

2. Finding of No Adverse Effect. The USACE, in consultation with the SHPO, and Tribal Nations shall apply the criteria of adverse effect to historic properties within the APE in accordance with 36 CFR 800.5. The USACE may propose a finding of no adverse effect if the undertaking's effects do not meet the criteria of 36 CFR 800.5(a)(1) or the undertaking is modified to avoid adverse effects in accordance with 36 CFR 68. The USACE shall provide to the SHPO documentation of this finding meeting the requirements of 36 CFR 800.11(e). The SHPO shall have 30 days in which to review the findings and provide a written response to the USACE. The USACE may proceed upon receipt of written concurrence from the SHPO. Failure of the SHPO to respond with 30 calendar days of receipt of the finding shall be considered agreement with the finding. The USACE shall maintain a record of the finding and provide information on the finding to the public upon request, consistent with the confidentiality requirements of 36 CFR 800.11(c).
3. Resolution of Adverse Effect. If the USACE determines that the undertaking will have an adverse effect on historic properties as measured by criteria in 36 CFR 800.5(a)(1), the USACE shall consult with the SHPO and Tribal Nations to resolve adverse effects in accordance with 36 CFR 800.6.
 - a) For historic properties that the USACE and the SHPO agree will be adversely affected, the USACE shall:
 - (1) Consult with the SHPO to identify other individuals or organizations to be invited to become consulting parties. If additional consulting parties are identified, the USACE shall provide them copies of documentation specified in 36 CFR 800.11(e) subject to confidentiality provisions of 36 CFR 800.11(c).
 - (2) Afford the public an opportunity to express their views on resolving adverse effects in a manner appropriate to the magnitude of the project and its likely effects on historic properties.
 - (3) Consult with the SHPO, Tribal Nations, and any additional consulting parties to seek ways to avoid, minimize or mitigate adverse effects.
 - (4) Prepare an historic property plan (Plan) to be included in a Memorandum of Agreement (MOA) which describes mitigation measures the USACE proposes to resolve the undertaking's adverse effects and provide this Plan for review and comment to all consulting parties. All parties have 30 days in which to provide a written response to the USACE.
 - b) If the USACE and the SHPO fail to agree on how adverse effects will be resolved, the USACE shall request that the Council join the consultation and provide the Council and all consulting parties with documentation pursuant to 36 CFR 800.11(g).

- c) If the Council agrees to join the consultation, the USACE shall proceed in accordance with 36 CFR 800.9.
- d) If, after consulting to resolve adverse effects, the Council, the USACE, or the SHPO determines that further consultation will not be productive, then any party may terminate consultation in accordance with the notification requirements and processes prescribed in 36 CFR 800.7.

II. Post Review Changes and Discoveries

- A. Changes in the Undertaking. If construction on the undertaking has not commenced and the USACE determines that it will not conduct the undertaking as originally coordinated, the USACE shall reopen consultation pursuant to Stipulation I. D-F.
- B. Unanticipated Discoveries or Effects. Pursuant to 36 CFR 800.13(b)(3), if historic properties are discovered or unanticipated effects on historic properties are found after construction on an undertaking has commenced, the USACE shall develop a treatment plan to resolve adverse effects and notify the SHPO and Tribal Nations within 48 hours of the discovery. The notification shall include the USACE assessment of the NRHP eligibility of affected properties and proposed actions to resolve the adverse effects. Comments received from the SHPO and Tribal Nations within 48 hours of the notification shall be taken into account by the USACE in carrying out the proposed treatment plan. The USACE may assume SHPO concurrence in its eligibility assessment and treatment plan unless otherwise notified by the SHPO within 48 hours of notification. USACE shall provide the SHPO and Tribal Nations a report of the USACE actions when they are completed.

III. Curation and Disposition of Recovered Materials, Records, and Reports

- A. Curation. The USACE shall ensure that all archeological materials and associated records owned by the State of Texas or any non-federal partner, which result from identification, evaluation, and treatment efforts conducted under this PA, are accessioned into a curation facility in accordance with the standards of 36 CFR 79, the Antiquities Code of Texas (Texas Natural Resource Code, Chapter 191), the Texas Administrative Code 13 TAC §29.5, and the Council of Texas Archeologists Guidelines and Standards for Curation, except as specified in Stipulation IV for human remains. The curation of items owned by the State of Texas or any non-federal partner shall be maintained in perpetuity by the non-federal partner. Archeological items and materials from privately owned lands shall be returned to their owners upon completion of analyses required for Section 106 compliance under this PA.
- B. Reports. The USACE shall provide copies of final technical reports of investigations and mitigation to the consulting parties and the SHPO, as well as additional copies for public distribution. All consulting parties shall withhold site location information or other data that may be of a confidential or sensitive nature pursuant to 36 CFR 800.11(c).

IV. Treatment of Human Remains

- A. **Prior Consultation.** If the USACE's investigations, conducted pursuant to Stipulation I of this PA, indicate a high likelihood that Native American Indian human remains may be encountered, the USACE shall develop a treatment plan for these remains in consultation with the SHPO and Tribal Nations. The USACE shall ensure that Tribal Nations indicating an interest in the undertaking are afforded a reasonable opportunity to identify concerns, provide advice on identification and evaluation, and participation in the resolution of adverse effects in compliance with the terms of this PA.
- B. **Inadvertent Discovery.** Immediately upon the inadvertent discovery of human remains during historic properties investigations or construction activities conducted pursuant to this PA, the USACE shall ensure that all ground disturbing activities cease in the vicinity of the human remains and any associated grave goods and that the site is secured from further disturbance or vandalism. The USACE shall be responsible for immediately notifying local law enforcement officials, and within 48 hours of the discovery, shall initiate consultation with the SHPO and Tribal Nations to develop a plan for resolving the adverse effects.

Additionally, the USACE shall follow the procedures outlined in Chapter 711 of the Texas Health and Safety Code requiring the following notifications when human remains are discovered: A person who discovers an unknown or abandoned cemetery (defined as one or more interments) shall file notice of the discovery of the cemetery with the county clerk of the county in which the cemetery is located and concurrently mail notice to the landowner on record in the county appraisal district not later than the 10th day after the date of the discovery. The notice must contain a legal description of the land on which the unknown or abandoned cemetery was found and describe the approximate location of the cemetery and the evidence of the cemetery that was discovered. An unverified cemetery is defined as a location having some evidence of interment, but in which the presence of one or more graves has not been verified by a person described in Section 711.0105 or by the Texas Historical Commission. A person who discovers an unverified cemetery shall file notice and evidence of the discovery with the Texas Historical Commission on a form provided by the Texas Historical Commission, and shall concurrently provide a copy of the notice to the landowner on record in the county appraisal district on whose land the unverified cemetery is located.

- C. **Dispute Resolution.** If, during consultation conducted under paragraphs A and B of Stipulation IV, all consulting parties cannot agree upon a consensus plan for resolving adverse effects, the matter shall be referred to the Council for resolution in accordance with the procedures outlines in 36 CFR 800.9.

V. PA Amendments, Disputes and Termination

- A. **Amendments.** Any party to the PA may propose to the other parties that it be amended, whereupon the parties will consult in accordance with 36 CFR 800.6(c)(7) to consider such an amendment.

- B. Disputes. Disputes regarding the completion of the terms of this agreement shall be resolved by the signatories. If the signatories cannot agree regarding a dispute, any one of the signatories may request the participation of the Council in resolving the dispute in accordance with the procedures outlined in 36 CFR 800.9. The USACE shall forward to the Council and all consulting parties within fifteen (15) days of such a request all documentation relevant to the dispute, including the USACE's proposed resolution of the dispute. The Council will respond to the request within thirty (30) days of receiving all documentation. The USACE will take any recommendations or comments from the Council into account in resolving the dispute. In the event that the Council fails to respond to the request within thirty (30) days of receiving all documentation, the USACE may assume the Council's concurrence with its proposed resolution and proceed with resolving the dispute.

- C. Termination of PA. Any party to this PA may terminate it by providing a sixty (60) day notice to the other parties, provided that the parties will consult during the period prior to the termination to seek agreement on amendments or other actions that will avoid termination. In the event of termination of this PA the USACE shall comply with the provisions of 36 CFR 800, Subpart B.

VI. Term of this Agreement

- A. This PA remains in force for a period of ten (10) years from the date of its execution by all signatories, unless terminated pursuant to Stipulation V.C. Sixty (60) days prior to the conclusion of the ten (10) year period, the USACE shall notify all parties in writing of the end of the ten year period to determine if they have any objections to extending the term of this PA. If there are no objections received prior to expiration, the PA will continue to remain in force for a new ten (10) year period.

Execution of this PA and implementation of its terms evidences that the USACE has afforded the Council an opportunity to comment on the undertaking and its effects on historic properties, and that the USACE has taken into account those effects and fulfilled Section 106 responsibilities regarding the undertaking.

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THE TEXAS STATE HISTORIC PRESERVATION OFFICER.**

Colonel Timothy R. Vail, District Engineer

Date

Mark Wolfe, Texas State Historic Preservation Officer

Date

APPENDIX A

GULF INTRACOASTAL WATERWAY (GIWW) COASTAL RESILIENCE STUDY SUMMARY

Background

Federal agencies are required under Section 106 of the National Historic Preservation Act to “take into account the effects of their undertakings on historic properties” and consider alternatives “to avoid, minimize or mitigate the undertaking’s adverse effects on historic properties” [(36 CFR 800.1(a-c)] in consultation with the State Historic Preservation Officer (SHPO) and appropriate federally recognized Indian Tribes (Tribal Historic Preservation Officers - THPO) [(36 CFR 800.2(c)]. In accordance with this and other applicable regulations, including the National Environmental Policy Act of 1969 (NEPA), the Native American Graves Protection and Repatriation Act (NAGPRA), the Antiquities Code of Texas, and Engineer Regulation (ER) 1105-2-100, USACE has reviewed of the Texas Historical Commission (THC) ATLAS Database to better determine the existing conditions and potential risks of encountering cultural resources.

Human habitation along the north central coast in the vicinity of Matagorda Bay has only been identified in the region as early as 7,500 BP. This region has broad coastal estuarine systems and bays and coastal prairies further inland. Sediments in the region consist of fluvial deposits and delta formations overlying Pleistocene aged clay. Prehistoric archeological sites are primarily located adjacent to brackish estuarine systems. Shell midden sites are especially common in the region along the shorelines and upland areas adjacent to rivers and bays and on the barrier islands. This portion of the central Texas Coast is very rural, and historic sites are located in small urban centers, but farmsteads, ranches, and plantations also occur across the region. Shipwrecks are also common in the general area.

Cultural Resources and Preliminary Area of Potential Effects

The activities associated with the proposed undertaking include all new construction, improvements, and maintenance activities related to the proposed Gulf Intracoastal Waterway (GIWW) Coastal Resilience Study, Texas. The preliminary Area of Potential Effects (APE) includes the footprint of all areas in the recommended plan that will be directly impacted and all areas within 150 meters (approximately 500 feet) of the footprint that will be indirectly impacted. Direct impacts will include the new construction of structures, construction of staging and access areas, dredge areas, construction of barrier features, marsh nourishment, and project maintenance. Indirect impacts include primarily the visual impacts of elevated structures that have a potential to affect historic buildings, structures, or landscapes. The APE will also include activities that may be added during Preconstruction Engineering and Design (PED).

Twenty terrestrial cultural resource investigations have been performed within 1,000 meters of the project area. These investigations consist entirely of archeological

investigations. Eighteen archeological sites and one shipwreck have been identified within 1,000 meters of the project area. The resources are listed in the following table (Table 1).

Table 1 Archeological Sites

Site Number	National Register of Historic Places Eligibility	Cultural Affiliation	Site Type
41MG1	Undetermined	Historic, Possible Prehistoric	Battlefield, Possible Shell Midden
41MG2	Undetermined	Prehistoric	Shell Midden
41MG11	Undetermined	Prehistoric	Shell Midden
41MG54	Undetermined	Prehistoric	Shell Midden
41MG55	Undetermined	Prehistoric	Shell Midden
41MG56	Undetermined	Prehistoric	Shell Midden
41MG57	Undetermined	Prehistoric	Shell Midden
41MG60	Ineligible	Prehistoric	Shell Midden
41MG64	Undetermined	Prehistoric	Shell Midden
41MG111	Undetermined	Prehistoric	Unknown
41MG117	Ineligible	Prehistoric	Shell Midden
41MG118	Ineligible	Prehistoric	Shell Midden
41MG119	Ineligible	Prehistoric	Shell Midden
41MG120	Undetermined	Prehistoric	Shell Midden
41MG121	Undetermined	Prehistoric	Shell Midden
41MG122	Undetermined	Prehistoric	Shell Midden
41MG123	Ineligible	Prehistoric	Shell Midden
41MG124	Undetermined	Prehistoric	Shell Midden
2484	Undetermined	Historic	1864 Shipwreck

Recommendations

There could be the potential for the proposed project to impact historic properties. The features proposed for this project could involve the construction of structures that have a potential to directly and indirectly affect historic properties in both terrestrial and submerged environments. The proposed project is in an area that would be considered to have a high probability for terrestrial and submerged cultural resources to occur. If the recommended plan would involve construction in previously undisturbed environments, USACE would recommend an intensive cultural resources survey for all proposed project areas to include marine and terrestrial archeological investigations and a historic building and structure survey to determine the presence or absence of historic properties within the APE. These investigations would be conducted prior to construction during the USACE PED phase. The scope of these investigations would be determined in concert with the Texas State Historic Preservation Officer and Native American Tribes and in accordance with the Programmatic Agreement for this project.



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
P. O. BOX 1229
GALVESTON, TEXAS 77553-1229

February 9, 2021

Regional Planning and Environmental Center

Mark Wolfe
Executive Director, Texas Historical Commission
1511 Colorado Street
Austin, TX 78701

Dear Mr. Wolfe:

The U.S. Army Corps of Engineers (USACE) Galveston District, in partnership with Texas Department of Transportation, is initiating the preparation of a Draft Integrated Feasibility Report and Environmental Assessment (DIFR-EA) pursuant to the National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act (NHPA), for the Gulf Intracoastal Water Way (GIWW), Coastal Resilience Study, Texas. The study area is along the GIWW in Brazoria and Matagorda Counties, Texas. The DIFR-EA will describe the results of investigations and analyses used to determine the feasibility of restoring navigational infrastructure and improving the resiliency for the aforementioned section of the GIWW.

The USACE has drafted a Programmatic Agreement (PA) for the cultural resources portion of this study. The draft PA is enclosed for your review and comment.

The USACE looks forward to continuing to work closely with you throughout the course of this undertaking. Should you have any questions, or require any further information concerning the above, please contact Mr. Christopher G. Davies Cultural Resources Manager, Regional Planning and Environmental Center at (501)-324-7134, or at christopher.g.davies@usace.army.mil.

Sincerely,

Amanda McGuire

Amanda McGuire
Chief, Environmental Branch
Regional Planning and Environmental Center

Davies, Christopher G CIV USARMY CESWF (USA)

From: noreply@thc.state.tx.us
Sent: Monday, March 8, 2021 1:49 PM
To: Davies, Christopher G CIV USARMY CESWF (USA); reviews@thc.state.tx.us
Subject: [Non-DoD Source] Section 106 Submission



Re: Project Review under Section 106 of the National Historic Preservation Act and/or the Antiquities Code of Texas

THC Tracking #202105833

Date: 03/08/2021

Gulf Intracoastal Water Way (GIWW), Coastal Resilience Study

Matagorda County

Bay City, TX

Description: Coastal Resilience Study

Dear Christopher Davies:

Thank you for your submittal regarding the above-referenced project. This response represents the comments of the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission (THC), pursuant to review under Section 106 of the National Historic Preservation Act.

The review staff, led by Bill Martin, Amy Borgens, Jeff Durst, Lydia Woods, Caitlin Brashear, Christina Rieth, has completed its review and has made the following determinations based on the information submitted for review:

We have the following comments: Stipulation I. Identification, Evaluation, Effect Determination, and Resolution. Regarding the identification and evaluation of above-ground resources, this should be conducted by a Secretary of the Interior (SOI)- qualified Architectural Historian. Stipulation I. E. National Register Eligibility. This states that if historic properties are discovered the Corps will determine their eligibility for inclusion in the National Register. Please note that the term historic property is defined as a cultural resource that has been determined eligible. Therefore, please substitute the term "cultural resources" in the first sentence, noting that they will be evaluated for eligibility. Stipulation IV. Treatment of Native American Human Remains. Please change this to read "Treatment of Human Remains," since non-Native American remains will be treated in the same manner.

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this review process, and for your efforts to preserve the irreplaceable heritage of Texas. If the project changes, or if new historic properties are found, please contact the review staff. If you have any questions concerning our review or if we can be of further assistance, please email the following reviewers: bill.martin@thc.texas.gov, amy.borgens@thc.texas.gov, Jeff.Durst@thc.texas.gov, lydia.woods@thc.texas.gov, caitlin.brashear@thc.texas.gov, Christina.Rieth@thc.texas.gov.

This response has been sent through the electronic THC review and compliance system (eTRAC). Submitting your project via eTRAC eliminates mailing delays and allows you to check the status of the review, receive an electronic response, and generate reports on your submissions. For more information, visit <http://thc.texas.gov/etrac-system>.

Sincerely,



for Mark Wolfe, State Historic Preservation Officer
Executive Director, Texas Historical Commission

Please do not respond to this email.



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

April 21, 2021

Mr. Reid Nelson
Advisory Council on Historic Preservation
401 F Street NW, Suite 308
Washington, DC 20001

Dear Mr. Nelson:

The U.S. Army Corps of Engineers (USACE) Galveston District, in partnership with Texas Department of Transportation, is initiating the preparation of a Draft Integrated Feasibility Report and Environmental Assessment (DIFR-EA) pursuant to the National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act (NHPA), for the Gulf Intracoastal Water Way (GIWW), Coastal Resilience Study, Texas. The study area is along the GIWW in Brazoria and Matagorda Counties, Texas. The DIFR-EA will describe the results of investigations and analyses used to determine the feasibility of restoring navigational infrastructure and improving the resiliency for the aforementioned section of the GIWW. Because effects on historic properties cannot be fully determined prior to approval of the undertaking, we find it necessary to defer identification and evaluation of historic properties. A Draft PA is included as an enclosure for your review.

The Area of Potential Effects (APE) will include all areas to be affected by new construction, construction staging and access areas, ecological mitigation features, and project maintenance activities, defined as the footprint of all areas of direct impacts and a as yet undermined buffer for indirect impacts to standing structures or buildings. The USACE will likely recommend marine and terrestrial cultural resources investigations be performed once specific construction plans have been finalized and impact areas identified.

In conclusion, we request your office to review and comment on the enclosed draft PA and invite you to participate as a signatory. We have invited the Texas State Historic Preservation Officer (SHPO) to be a signatory to this PA. The SHPO provided comments on the PA, which our office has addressed. The USACE has also notified the Alabama-Coushatta Tribe of Texas, the Comanche Indian Tribe, the Coushatta Tribe of Louisiana, the Mescalero Apache Tribe, Kiowa Indian Tribe of Oklahoma, the Northern Arapaho Tribe, and the Tonkawa Tribe of Indians of Oklahoma to solicit their comments

or suggestions in the development and execution of this PA. There have been no responses from the Tribal Nations at this time.

We are seeking your comments on the enclosed, Programmatic Agreement. Please send your response to Christopher G. Davies via email to christopher.g.davies@usace.army.mil. If you have any questions or require further information, Mr. Davies can be reached by telephone at (501) 324-7134.

Sincerely,

Amanda M. McGuire
Chief, Environmental Branch
Regional Planning and Environmental Center

Enclosures



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
P. O. BOX 1229
GALVESTON, TEXAS 77553-1229

February 9, 2021

Regional Planning and Environmental Center

Bryant Celestine
Alabama-Coushatta Tribe of Texas
571 State Park Road 56
Livingston, TX 77351

Dear Mr. Celestine:

The U.S. Army Corps of Engineers (USACE) Galveston District, in partnership with Texas Department of Transportation, is initiating the preparation of a Draft Integrated Feasibility Report and Environmental Assessment (DIFR-EA) pursuant to the National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act (NHPA), for the Gulf Intracoastal Water Way (GIWW), Coastal Resilience Study, Texas. The study area is along the GIWW in Brazoria and Matagorda Counties, Texas. The DIFR-EA will describe the results of investigations and analyses used to determine the feasibility of restoring navigational infrastructure and improving the resiliency for the aforementioned section of the GIWW.

The USACE has drafted a Programmatic Agreement (PA) for the cultural resources portion of this study. The draft PA is enclosed for your review and comment.

The USACE looks forward to continuing to work closely with you throughout the course of this undertaking. Should you have any questions, or require any further information concerning the above, please contact Mr. Christopher G. Davies, Cultural Resources Manager, Regional Planning and Environmental Center at (501)-324-7134, or at christopher.g.davies@usace.army.mil.

Sincerely,

Amanda McGuire

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Chief, Environmental Branch
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
P. O. BOX 1229
GALVESTON, TEXAS 77553-1229

February 9, 2021

Regional Planning and Environmental Center

Linda Langley
Coushatta Tribe of Louisiana
1940 C.C. Bel Road
Elton, LA 70532

Dear Dr. Langley:

The U.S. Army Corps of Engineers (USACE) Galveston District, in partnership with Texas Department of Transportation, is initiating the preparation of a Draft Integrated Feasibility Report and Environmental Assessment (DIFR-EA) pursuant to the National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act (NHPA), for the Gulf Intracoastal Water Way (GIWW), Coastal Resilience Study, Texas. The study area is along the GIWW in Brazoria and Matagorda Counties, Texas. The DIFR-EA will describe the results of investigations and analyses used to determine the feasibility of restoring navigational infrastructure and improving the resiliency for the aforementioned section of the GIWW.

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Sincerely,

Amanda McGuire

Amanda McGuire
Chief, Environmental Branch
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
P. O. BOX 1229
GALVESTON, TEXAS 77553-1229

February 9, 2021

Regional Planning and Environmental Center

Ivy Smith
Kiowa Tribe Office of Historic Preservation
P.O. Box 369
Carnegie, OK 73015

Dear Ms. Smith:

The U.S. Army Corps of Engineers (USACE) Galveston District, in partnership with Texas Department of Transportation, is initiating the preparation of a Draft Integrated Feasibility Report and Environmental Assessment (DIFR-EA) pursuant to the National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act (NHPA), for the Gulf Intracoastal Water Way (GIWW), Coastal Resilience Study, Texas. The study area is along the GIWW in Brazoria and Matagorda Counties, Texas. The DIFR-EA will describe the results of investigations and analyses used to determine the feasibility of restoring navigational infrastructure and improving the resiliency for the aforementioned section of the GIWW.

The USACE has drafted a Programmatic Agreement (PA) for the cultural resources portion of this study. The draft PA is enclosed for your review and comment.

The USACE looks forward to continuing to work closely with you throughout the course of this undertaking. Should you have any questions, or require any further information concerning the above, please contact Mr. Christopher G. Davies, Cultural Resources Manager, Regional Planning and Environmental Center at (501)-324-7134, or at christopher.g.davies@usace.army.mil.

Sincerely,

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U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
P. O. BOX 1229
GALVESTON, TEXAS 77553-1229

February 9, 2021

Regional Planning and Environmental Center

Ms. Holly Houghton
Mescalero Apache Tribe
Post Office Box 227
Mescalero, NM 88340

Dear Ms. Houghton:

The U.S. Army Corps of Engineers (USACE) Galveston District, in partnership with Texas Department of Transportation, is initiating the preparation of a Draft Integrated Feasibility Report and Environmental Assessment (DIFR-EA) pursuant to the National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act (NHPA), for the Gulf Intracoastal Water Way (GIWW), Coastal Resilience Study, Texas. The study area is along the GIWW in Brazoria and Matagorda Counties, Texas. The DIFR-EA will describe the results of investigations and analyses used to determine the feasibility of restoring navigational infrastructure and improving the resiliency for the aforementioned section of the GIWW.

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P. O. BOX 1229
GALVESTON, TEXAS 77553-1229

February 9, 2021

Regional Planning and Environmental Center

Mr. Devin B. Oldman
Northern Arapaho Tribe
Post Office Box 67
St. Stevens, WY 82524

Dear Mr. Oldman:

The U.S. Army Corps of Engineers (USACE) Galveston District, in partnership with Texas Department of Transportation, is initiating the preparation of a Draft Integrated Feasibility Report and Environmental Assessment (DIFR-EA) pursuant to the National Environmental Policy Act (NEPA) Section 106 of the National Historic Preservation Act (NHPA), for the Gulf Intracoastal Water Way (GIWW), Coastal Resilience Study, Texas. The study area is along the GIWW in Brazoria and Matagorda Counties, Texas. The DIFR-EA will describe the results of investigations and analyses used to determine the feasibility of restoring navigational infrastructure and improving the resiliency for the aforementioned section of the GIWW.

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U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
P. O. BOX 1229
GALVESTON, TEXAS 77553-1229

February 9, 2021

Regional Planning and Environmental Center

Ms. Susan Nahwooksy
The Comanche Nation of Oklahoma
P.O. Box 908
Lawton, OK 73502

Dear Ms. Nahwooksy:

The U.S. Army Corps of Engineers (USACE) Galveston District, in partnership with Texas Department of Transportation, is initiating the preparation of a Draft Integrated Feasibility Report and Environmental Assessment (DIFR-EA) pursuant to the National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act (NHPA), for the Gulf Intracoastal Water Way (GIWW), Coastal Resilience Study, Texas. The study area is along the GIWW in Brazoria and Matagorda Counties, Texas. The DIFR-EA will describe the results of investigations and analyses used to determine the feasibility of restoring navigational infrastructure and improving the resiliency for the aforementioned section of the GIWW.

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U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
P. O. BOX 1229
GALVESTON, TEXAS 77553-1229

February 9, 2021

Regional Planning and Environmental Center

Lauren Norman-Brown
Tonkawa Tribe of Oklahoma
1 Rush Buffalo Road
Tonkawa, OK 74653

Dear Ms. Norman-Brown:

The U.S. Army Corps of Engineers (USACE) Galveston District, in partnership with Texas Department of Transportation, is initiating the preparation of a Draft Integrated Feasibility Report and Environmental Assessment (DIFR-EA) pursuant to the National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act (NHPA), for the Gulf Intracoastal Water Way (GIWW), Coastal Resilience Study, Texas. The study area is along the GIWW in Brazoria and Matagorda Counties, Texas. The DIFR-EA will describe the results of investigations and analyses used to determine the feasibility of restoring navigational infrastructure and improving the resiliency for the aforementioned section of the GIWW.

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Sincerely,

Amanda McGuire

Amanda McGuire
Chief, Environmental Branch
Regional Planning and Environmental Center



May 3, 2021

Christopher Davies
Cultural Resources Manager
Regional Planning and Environmental Center
U.S. Army Corps of Engineers
Little Rock District
P.O. Box 867
Little Rock, AR 72203-0867

Ref: *Proposed Programmatic Agreement for the Gulf Intracoastal Water Way (GIWW), Coastal Resilience Study
Brazoria and Matagorda Counties, Texas
ACHP Project Number: 016796*

Dear Mr. Davies:

On April 21, 2021, the Advisory Council on Historic Preservation (ACHP) received your notification and supporting documentation regarding the potential adverse effects of the referenced undertaking on a property or properties listed or eligible for listing in the National Register of Historic Places. Based upon the information you provided, we have concluded that Appendix A, *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, of our regulations, "Protection of Historic Properties" (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act, does not apply to this undertaking. Accordingly, we do not believe our participation in the consultation to resolve adverse effects is needed.

However, if we receive a request for participation from the State Historic Preservation Officer, Tribal Historic Preservation Officer, affected Indian tribe, a consulting party, or other party, we may reconsider this decision. Should the undertaking's circumstances change, consulting parties cannot come to consensus, or you need further advisory assistance to conclude the consultation process, please contact us.

Pursuant to Section 800.6(b)(1)(iv), you will need to file the final Section 106 agreement document (Agreement), developed in consultation with the Texas State Historic Preservation Office and any other consulting parties, and related documentation with the ACHP at the conclusion of the consultation process. The filing of the Agreement and supporting documentation with the ACHP is required in order to complete the requirements of Section 106 of the National Historic Preservation Act.

Thank you for providing us with your notification of adverse effect. If you have any questions or require our further assistance, please contact Christopher Daniel at (202) 517-0223 or by e-mail at

cdaniel@achp.gov and reference the ACHP Project Number above.

Sincerely,

A handwritten signature in black ink, appearing to read "Artisha Thompson". The signature is written in a cursive, flowing style.

Artisha Thompson
Historic Preservation Technician
Office of Federal Agency Programs