

DETERMINATION OF LEVEL OF REVIEW ENVIRONMENTAL REVIEW RECORD

Project Name: Mechanicsville WWTF Improvements

CDBG Contract Number:

Project Location: Mechanicsville, IA

Project Description (Attach additional descriptive information, as appropriate to the project, including narrative, maps, photographs, site plans, budgets and other information.): The existing Mechanicsville lagoon infrastructure will be retained for primary and secondary treatment. No screening or grit removal will be required. An OPTAER fine bubble partial mix aeration system will be implemented in Cell 1 and Cell 2. The Quiescent Cell would continue to be used as a settling cell. A four (4) – cell aerated Horizontal Flow SAGR system for nitrification (ammonia removal) will be constructed following Cell 3 (the quiescent cell.)

In the OPTAER system, flow will enter the enhanced lagoon system through the partially mixed aerated lagoon Cell 1. Water will then flow to partially mixed aerated lagoon Cell 2. In the partially mixed cells, varying levels of air and mixing are used to provide both nitrification (ammonia removal) and traditional reductions of Bod and TSS. Water will then flow to Cell 3 for settling prior to the SAGR cells. Water then flows to the SAGR cells for additional ammonia removal. After exiting the SAGR, water will flow to a UV disinfections chamber and is discharged to the receiving stream.

The existing aerated lagoon facility is no longer a viable treatment alternative. Improvements to the WWTF are required to be able to meet the effluent limits that have been given by the Iowa Department of Natural resources.

The subject project has been reviewed pursuant to HUD regulations 24 CFR Part 58 "Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities," and the following determination with respect to the project is made:

- Exempt** from NEPA review requirements per 24 CFR 58.34(a)()
- Categorically Excluded NOT Subject** to §58.5 authorities per 24 CFR 58.35(b)()
- Categorically Subject** to §58.5 authorities per 24 CFR 58.35(a)(1)
(A Statutory Checklist for the §58.5 authorities is attached.)
- An **Environmental Assessment** (EA) is required to be performed in accordance with subpart E of 24 CFR Part 58 is attached.
- An **Environmental Impact Statement** (EIS) is required to be performed.

Use this worksheet for projects listed under 24 CFR §58.35 (a) categorically Excluded subject to 58.5 and for projects under 24 CFR §58.35 (b) Not subject to 58.5

24 CFR 58.6 Requirements Form



Great Plains Regional Office – Region VII
400 State Avenue, Room 200
Kansas City, KS 66101-2406

PROJECT NAME: Preston Mechanicsville WWTF Improvements _____

Contract Number #: _____
project.

Retain this form in the ERR of the subject

1. AIRPORT RUNWAY PROTECTION ZONE / CLEAR ZONE NOTIFICATION

[24 C.F.R. Part 51.303(a)(3)]

Does the project involve the sale or acquisition of property located within a Civil Airport's Runway Protection Zone or a Military Airfield's Clear Zone?

(X) No. Cite or attach Source Document: Airport Distance Map _____
(Project complies with 24 CFR 51.303(a)(3).)

() Yes. **Notice must be provided to buyer.** The notice must advise the buyer that the property is in a Runway Protection Zone or Clear Zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information, and a copy of the signed notice must be maintained in this ERR.

2. COASTAL BARRIERS RESOURCES ACT

[Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501)]

Is the project located in a coastal barrier resource area?

(X) No. Cite or attach Source Document: No CBRA in MO/KS/NE/IA
<http://www.fema.gov/nfip/cobra.shtm> (Proceed with project.)

() Yes. Federal assistance may not be used in such an area.

3. FLOOD DISASTER PROTECTION ACT

[Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001-4128)]

Does the project involve acquisition, construction or rehabilitation of structures located in a FEMA-identified Special Flood Hazard Area?

(X) No. Cite or attach Source Document: FIRMette _____
(Proceed with project.)

() Yes. Cite or attach Source Document: _____

Is the community participating in the National Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?

() Yes. **Flood Insurance under the National Flood Insurance Program must be obtained.** If HUD assistance is provided as a grant, insurance must be maintained for the economic life of the project and in the amount of the total project cost (or up to the maximum allowable coverage, whichever is less). If HUD assistance is provided as a loan, insurance must be maintained for the term of the loan and in the amount of the loan (or up to maximum allowable coverage, whichever is less). A copy of the flood insurance policy declaration must be kept on file in the ERR.

() No. **Federal assistance may not be used in the Special Flood Hazards Area.**

Responsible Entity Official: Signature / Name / Title /Date

Statutory Checklist

24 CFR §58.5 – NEPA related federal statues and authorities

Recipient Name: City of Mechanicsville

CDBG Contract Number:

An “**ERR Determination**” form should be provided as a cover to this checklist.

This checklist is a component of the Environmental Review Record (ERR) [§58.38]. Supplement the ERR, as appropriate, with photographs, site plans, maps, narrative and other information that describe the project.

DIRECTIONS – For each authority, check one of the appropriate boxes under “Status.”

“**A box**” The project is in compliance, either because: (1) the nature of the project does not implicate the authority under consideration, or (2) supporting information documents that project compliance has been achieved. In either case, information must be provided as to **WHY the authority is not implicated, or HOW compliance is met**; *OR*

“**B box**” The project requires an additional compliance step or action, including but not limited to consultation with or approval from an oversight agency, performance of a study or analysis, completion of remediation or mitigation measure, or obtaining of license or permit.

IMPORTANT: Compliance documentation consists of verifiable source documents and/or relevant base data. Appropriate documentation must be provided for each law or authority. Documents may be incorporated by reference into the ERR provided that each source document is identified and available for inspection by interested parties. Proprietary material and studies that are not otherwise generally available for public review shall be included in the ERR. Refer to HUD guidance for more information.

Statute, Authority, Executive Order, Regulation or Policy cited at 24 CFR §58.5	STATUS		Compliance Documentation
	A	B	
1. Air Quality [Clean Air Act sections 176(c) & (d), and 40 CFR 6, 51, 93]	X	<input type="checkbox"/>	The City of Mechanicsville is not located within a county listed as an EPA non-attainment or maintenance area for one or more critical pollutants, called National Ambient Air Quality Standards (NAAQS). See Appendix A.
2. Airport Hazards (Clear Zones and Accident Potential Zones) [24 CFR 51D]	X	<input type="checkbox"/>	Project will not be located within 2,500 feet of the end of a civil airport runway or 15,000 feet of the end of a military airfield runway. HUD policy is to promote compatible land use in RCZ/CZ/APZ. See Appendix B
3. Coastal Zone Management [Coastal Zone Management Act sections 307(c) & (d)]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No coastal zone management programs exist in the states of HUD Region VII, as established by Nat'l Oceanic & Atmospheric Administration, Office of Ocean and Coastal Resource Management http://coastalmanagement.noaa.gov/mystate/welcome.html
4. Contamination and Toxic Substances [24 CFR 58.5(i)(2)]	X	<input type="checkbox"/>	Project location will not be affected by any contaminated or toxic substances. A field inspection, land use search, and review of environmental compliance were conducted using EPA Environmental Mapper http://www.epa.gov/emefdata/em4ef.home ; and IDNR contaminated sites database: https://programs.iowadnr.gov/contaminatedsites/pages/search.aspx and https://programs.iowadnr.gov/tanks/pages/advanced.aspx See Appendix C.

5. Endangered Species [50 CFR 402]	X	<input type="checkbox"/>	<p>The project will not affect any Federally listed endangered or threatened species or its habitat because the project area does not have suitable habitat for the listed species. A list of species and habitat information can be found for Iowa by county at: http://www.fws.gov/Midwest/Endangered/LISTS/iowa_cty.html.</p> <p>A list of species for the project county is in Appendix D</p>
6. Environmental Justice [Executive Order 12898]	X	<input type="checkbox"/>	<p>No neighborhoods in Mechanicsville suffer from adverse health or environmental effects which disproportionately impact a minority or low-income population relative to the community at large. The project will assist low to moderate income persons for a better quality of life. See census statistics in Appendix E and at: and http://scorecard.goodguide.com and https://www.epa.gov/ejscreen and https://ejscreen.epa.gov/mapper/</p>
7. Explosive and Flammable Operations [24 CFR 51C]	X	<input type="checkbox"/>	<p>Within the city limits of Mechanicsville, IA there are no above ground storage tanks or facilities that store, handle or process chemicals or petrochemicals of an explosive or flammable nature such as liquid propane, gasoline or other above ground storage tanks. Appendix F</p>
8. Farmland Protection [7 CFR 658]	X	<input type="checkbox"/>	<p>The site of the proposed treatment plant is owned by and within the corporate limits of Mechanicsville. Aerial photograph found in appendix G</p>
9. Floodplain Management [24 CFR 55, Executive Order 11988]	X	<input type="checkbox"/>	<p>The project location is not within a 100 or 500- year floodplain. FIRMETTE is located in appendix H Map</p>
10. Historic Preservation [36 CFR 800]	X	<input type="checkbox"/>	<p>There are historic and archaeological sites surrounding Mechanicsville, IA. It is not required to consult Indian Tribes as all work is in previously disturbed ground at the city WWTF. No Historic Properties Effected. Appendix I</p>
11. Noise Control [24 CFR 51B]	X	<input type="checkbox"/>	<p>The proposed wastewater treatment facility is not a noise sensitive project. See Appendix</p>
12. Water Quality (Sole Source Aquifers) [40 CFR 149]	X	<input type="checkbox"/>	<p>The project is not located within an area of an EPA designated sole source aquifer. Map found in appendix J and https://www.hudexchange.info/resource/reportmanagement/published/ESD_900000010000940_11202020_900000010001561_1448049600846.pdf</p>
13. Wetland Protection [24 CFR 55, Executive Order 11990]	X	<input type="checkbox"/>	<p>The project is not located within an area of an NWI Wetland. Map can be found in appendix K and http://www.fws.gov/wetlands/data/Mapper.html</p>
14. Wild and Scenic Rivers [36 CFR 297]	X	<input type="checkbox"/>	<p>The project is not located within one mile of a designated Wild & Scenic River, or river being studied as a potential component of the Wild & Scenic River system. Iowa does not have any designated rivers but does have 1 study river (1972: upper Iowa 80 miles. Preservation by state recommended) and 7 potential study rivers listed in the NRI (Sections of the Boone river, Cedar River, Maquoketa River, Middle Raccoon river, Turkey River, Upper Iowa River, Wapsipinicon River, and Yellow River.) Information is in appendix L and https://www.nps.gov/ncrc/programs/rtca/nri/states/ia.html</p>

DETERMINATION (check one):

X **COMPLIANCE IS MET.** The project is in compliance with aforementioned authorities and regulations, as documented above.

ACTION REQUIRED. The project will be compliant with the aforementioned authorities and regulations, provided further action is taken. The action is a condition of the environmental review and is described below. (An additional compliance action may include obtaining a license or permit from a state, federal, or local agency, or completing a certain remediation or mitigation measure.)

Required Condition(s):

PREPARER

PREPARER SIGNATURE:  _____ DATE: 6/15/2020

PREPARER NAME & TITLE: Elizabeth Kemp, Rehab Specialist

RESPONSIBLE ENTITY APPROVING OFFICIAL

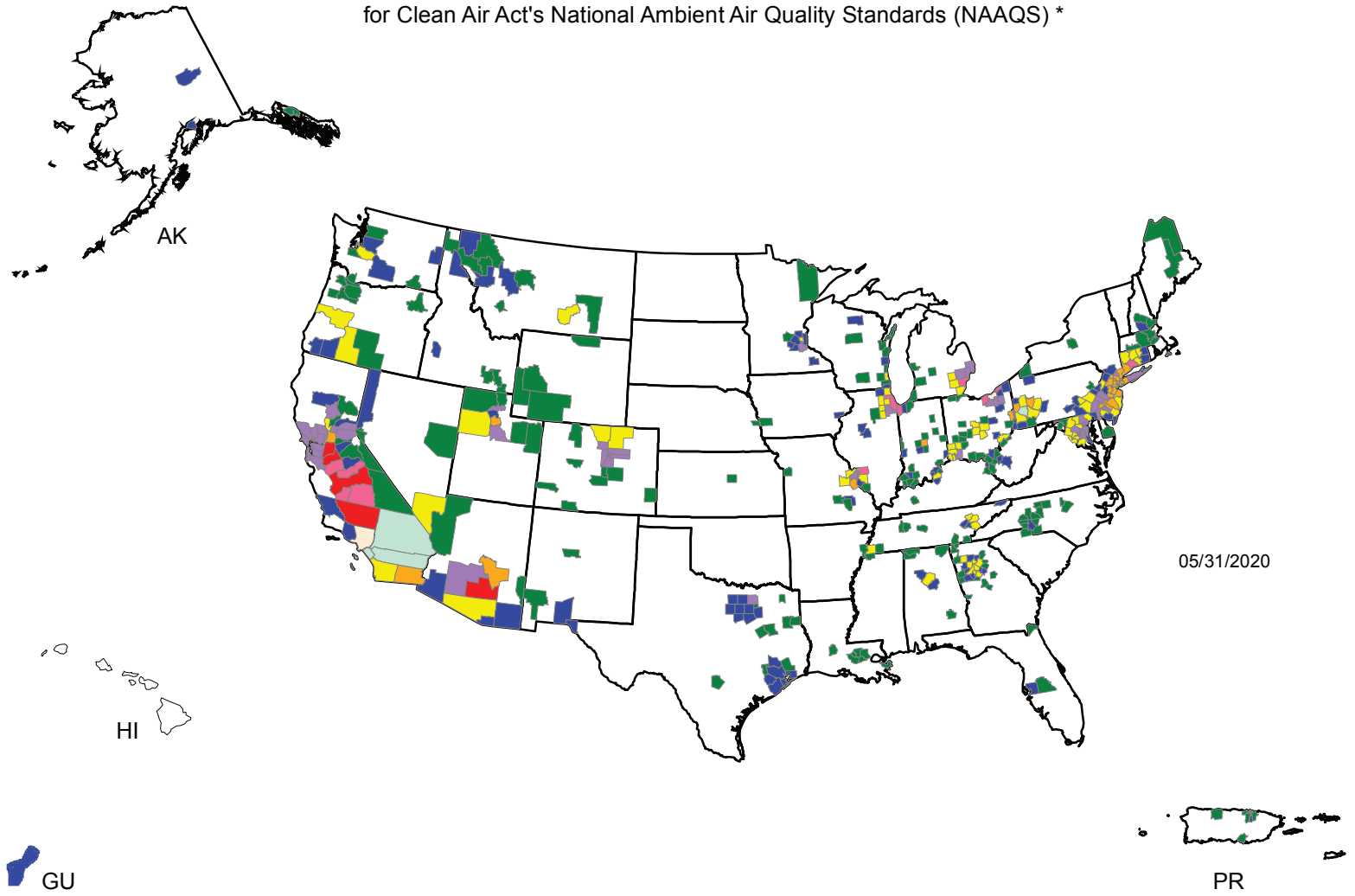
SIGNATURE: _____ DATE: _____

APPROVING OFFICIAL NAME & TITLE: _____

APPENDIX A

Counties Designated "Nonattainment" or "Maintenance"

for Clean Air Act's National Ambient Air Quality Standards (NAAQS) *



Legend **

-  County Designated Nonattainment or Maintenance for 9 NAAQS Pollutants
-  County Designated Nonattainment or Maintenance for 8 NAAQS Pollutants
-  County Designated Nonattainment or Maintenance for 7 NAAQS Pollutants
-  County Designated Nonattainment or Maintenance for 6 NAAQS Pollutants
-  County Designated Nonattainment or Maintenance for 5 NAAQS Pollutants
-  County Designated Nonattainment or Maintenance for 4 NAAQS Pollutants
-  County Designated Nonattainment or Maintenance for 3 NAAQS Pollutants
-  County Designated Nonattainment or Maintenance for 2 NAAQS Pollutants
-  County Designated Nonattainment or Maintenance for 1 NAAQS Pollutants

* The National Ambient Air Quality Standards (NAAQS) are health standards for Carbon Monoxide, Lead (1978 and 2008), Nitrogen Dioxide, 8-hour Ozone (2008), Particulate Matter (PM-10 and PM-2.5 (1997, 2006 and 2012), and Sulfur Dioxide.(1971 and 2010)

** Included in the counts are counties designated for NAAQS and revised NAAQS pollutants. Revoked 1-hour (1979) and 8-hour Ozone (1997) are excluded. Partial counties, those with part of the county designated nonattainment and part attainment, are shown as full counties on the map.

Non-attainment and Maintenance Areas in the State of Iowa

Listed below are the current maintenance and nonattainment areas in the state of Iowa. Owners and operators of portable equipment that are transferring the portable equipment must notify the department at least 14 days prior to transferring the equipment to one of these areas (567 IAC 22.3(3)“f”). Use the Notice of Relocation of Portable Equipment” form (DNR Form 542-1362). Please contact the air construction permit assistance line at 1-877-AIR-IOWA if you have questions.

Maintenance Areas (Pollutant)

Buffalo (PM10)

Cedar Rapids (SO₂)

Clinton (SO₂)

Council Bluffs (Lead)

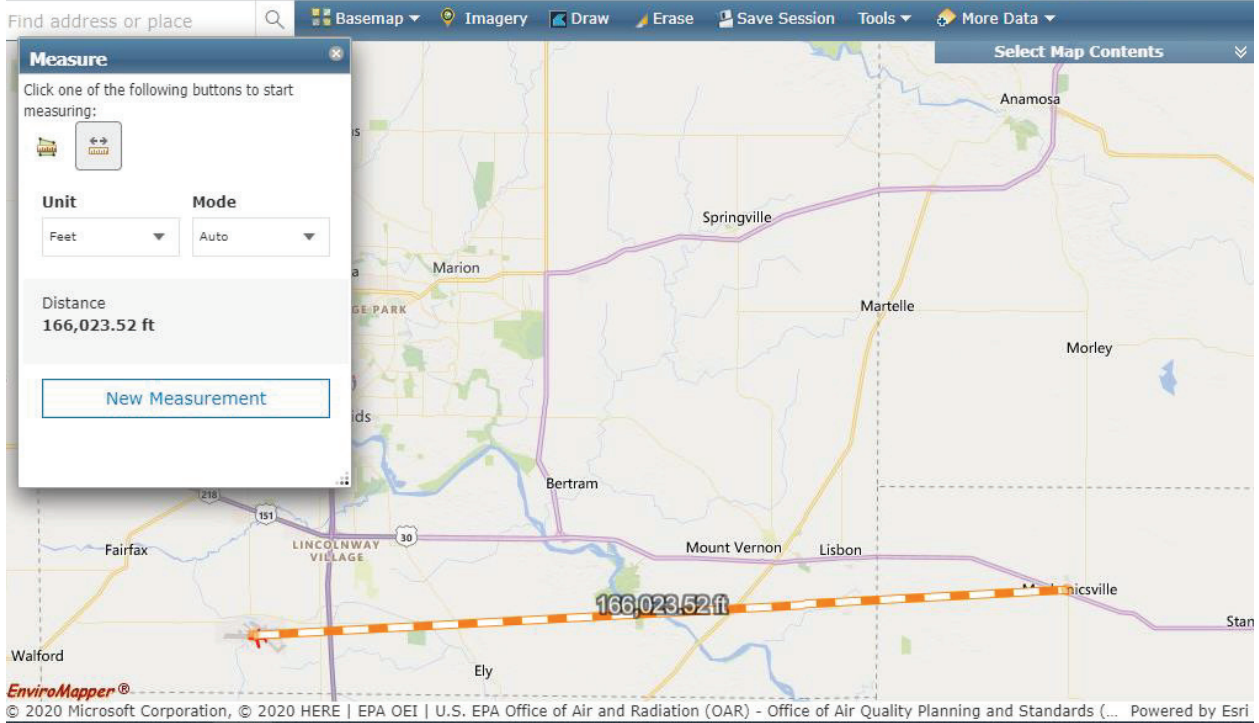
Mason City (PM10)

Muscatine (24-hour SO₂ & PM_{2.5})

Non-Attainment Areas (Pollutant)

Muscatine (1-hour SO₂)

APPENDX B

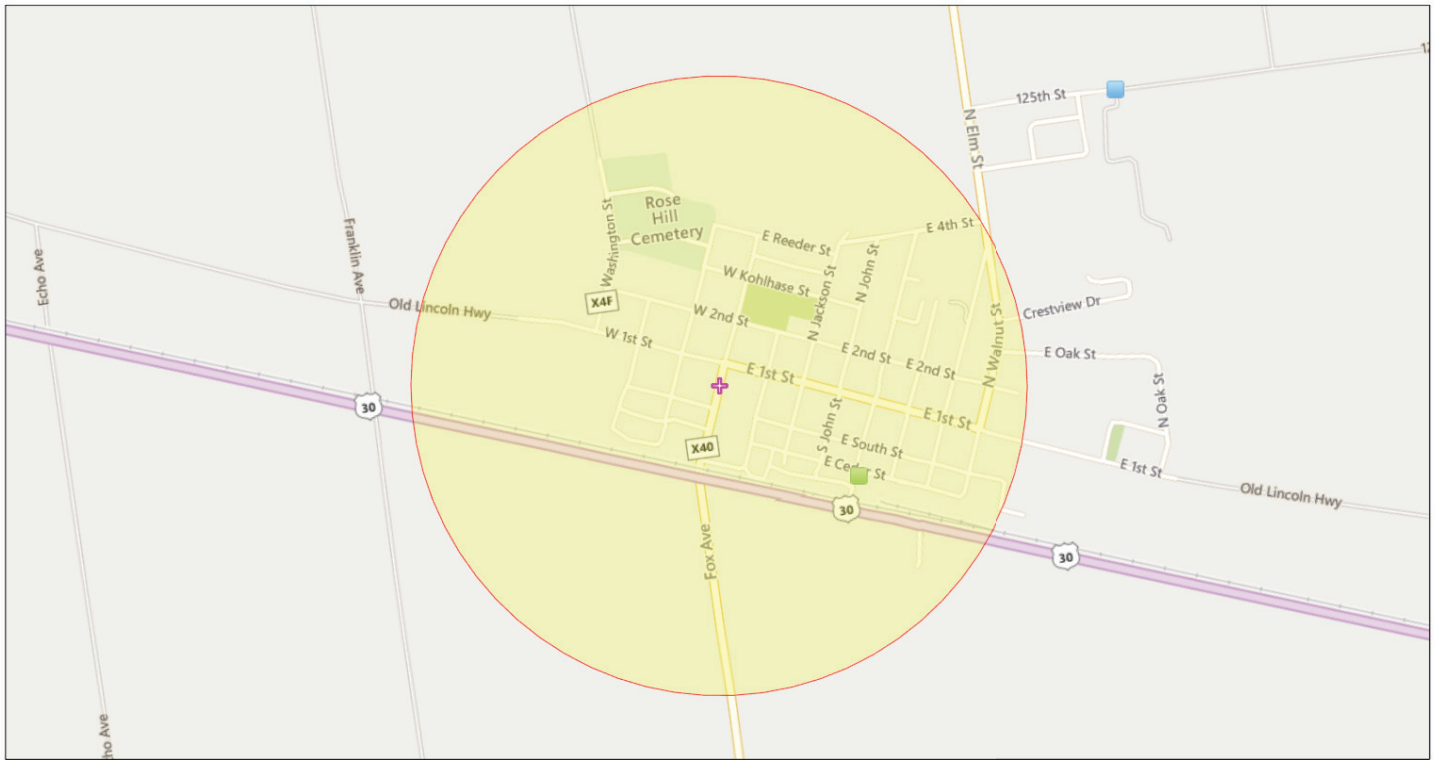


The distance to the nearest airport is 166,023 feet in Cedar Rapids, IA.

APPENDIX C

NEPAssist Report

Mechanicsville, IA



June 15, 2020

- Water Dischargers (NPDES)
- Hazardous Waste (RCRAInfo)
- + Mechanicsville, IA
- Project Buffer
- + Airport Points



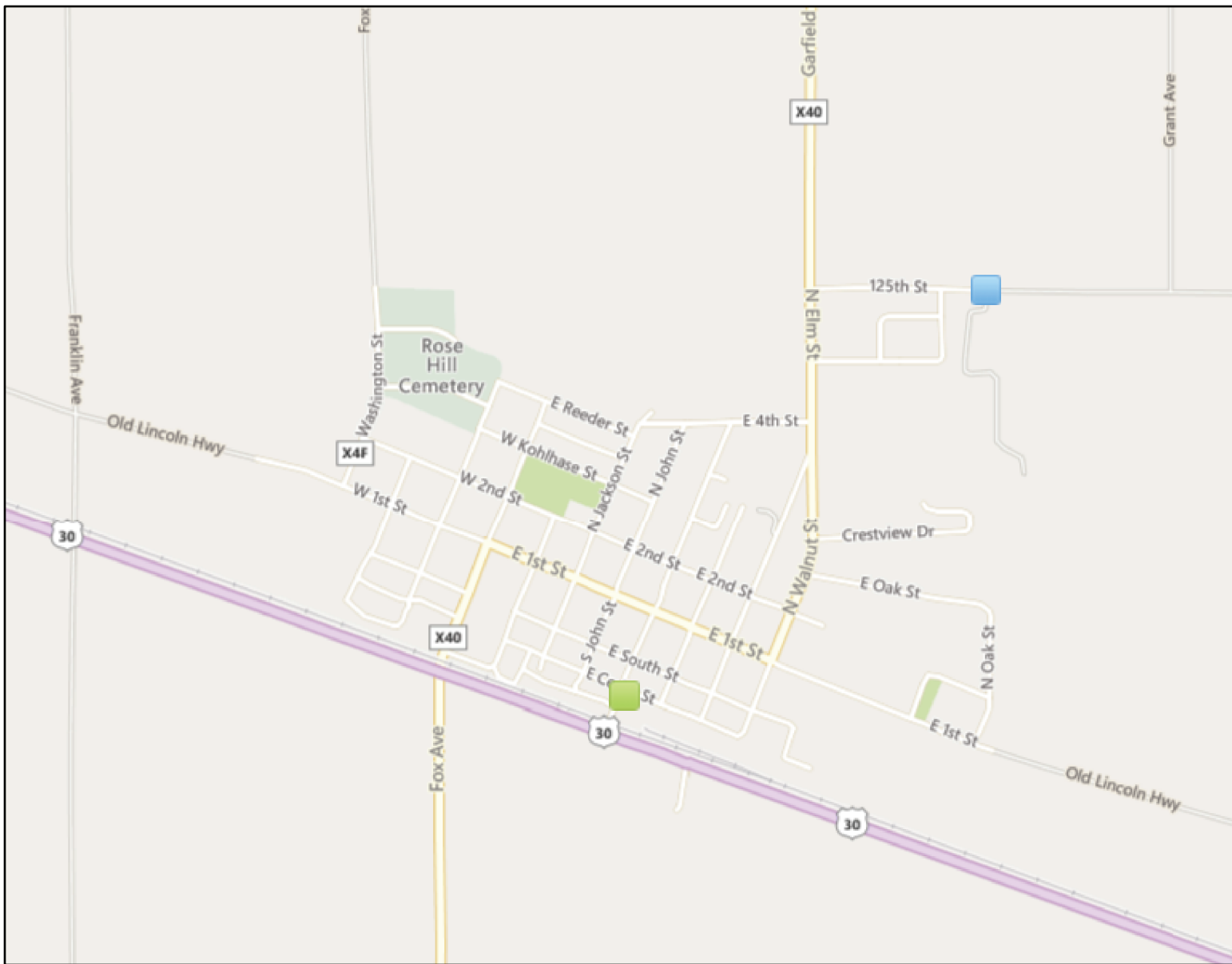
© 2020 Microsoft Corporation © 2020 HERE, EPA OEI

Project Location	41.9051,-91.25812
Within 0.5 miles of an Ozone 8-hr (1997 standard) Non-Attainment/Maintenance Area?	no
Within 0.5 miles of an Ozone 8-hr (2008 standard) Non-Attainment/Maintenance Area?	no
Within 0.5 miles of a Lead (2008 standard) Non-Attainment/Maintenance Area?	no
Within 0.5 miles of a SO2 1-hr (2010 standard) Non-Attainment/Maintenance Area?	no
Within 0.5 miles of a PM2.5 24hr (2006 standard) Non-Attainment/Maintenance Area?	no
Within 0.5 miles of a PM2.5 Annual (1997 standard) Non-Attainment/Maintenance Area?	no
Within 0.5 miles of a PM2.5 Annual (2012 standard) Non-Attainment/Maintenance Area?	no
Within 0.5 miles of a PM10 (1987 standard) Non-Attainment/Maintenance Area?	no
Within 0.5 miles of a Federal Land?	no
Within 0.5 miles of an impaired stream?	no
Within 0.5 miles of an impaired waterbody?	no
Within 0.5 miles of a waterbody?	no
Within 0.5 miles of a stream?	yes
Within 0.5 miles of an NWI wetland?	Available Online
Within 0.5 miles of a Brownfields site?	no
Within 0.5 miles of a Superfund site?	no
Within 0.5 miles of a Toxic Release Inventory (TRI) site?	no
Within 0.5 miles of a water discharger (NPDES)?	no
Within 0.5 miles of a hazardous waste (RCRA) facility?	yes
Within 0.5 miles of an air emission facility?	no




Within 0.5 miles of a school?	no
Within 0.5 miles of an airport?	no
Within 0.5 miles of a hospital?	yes
Within 0.5 miles of a designated sole source aquifer?	no
Within 0.5 miles of a historic property on the National Register of Historic Places?	no
Within 0.5 miles of a Toxic Substances Control Act (TSCA) site?	no
Within 0.5 miles of a Land Cession Boundary?	yes
Within 0.5 miles of a tribal area (lower 48 states)?	no

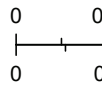
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EPA Facilities Mechanicsville, IA



June 15, 2020

-  Water Dischargers (NPDES)
-  Hazardous Waste (RCRAInfo)
-  Airport Points



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Services (https://directory.iowa.gov/service/Index?_ga=1.101492737.1604613096.1488473035&ia_slv=1592239325186)

Agencies (https://directory.iowa.gov/?ia_slv=1592239325186)

Social (https://directory.iowa.gov/social/Index?ia_slv=1592239325186)

(https://www.iowa.gov/search/google?ia_slv=1592239325186)

CONTAMINATED SITES

Site Search







Sites may be searched by entering text in one text boxes at the base of the columns (name, address, city or program). Other search criteria may also be entered the general text box including county, zip code, project manager, alternative name, or ownership type.

The system will start sorting as a search is initiated in the general text search box; pressing an enter or return key isn't necessary. The best results are obtained by using the column text boxes in combination with the general text box to narrow the search list.

Copy CSV Print

Show 10 entries

Search:

ID 	Name 	Address 	City 	Program 
1982 (Detail/1982)	Radium Petroleum	South of US 30 east on county rd X-40	Mechanicsville	Chapter 133
	<input type="text" value="Search"/>	<input type="text" value="Search"/>	<input type="text" value="Mechanicsville"/>	-- (All) -- 

Showing 1 to 1 of 1 entries (filtered from 2,339 total entries)

Previous 1 Next

[State of Iowa \(https://www.iowa.gov\)](https://www.iowa.gov) [DNR Home \(https://www.iowadnr.gov\)](https://www.iowadnr.gov) [Site Policy \(https://www.iowa.gov/pages/policies\)](https://www.iowa.gov/pages/policies)

Leading lowans in caring for our natural resources

Version: 3.6.1.5060



6/15/2020 10:51:03 AM user: Login

Advanced search UST Registration Number ▼ for [Go](#)

Advanced Search

UST
 LUST
 AST
 UST 3rd Party Inspections
 UST Certifications

Registration Number:
 Site Name:
 Site Address:
 Site City: MECHANICSVILLE ▼
 County: --County-- ▼
 Site Status: --Status Type-- ▼
 Financial Responsibility Expiration Before:
 Affiliate:

[Search](#)[Export Results](#)

Registration No.	Leak No.	Name	Address	Status	Insurer	Policy End Date
198601448	8LTU39	AGVANTAGE	201 E CEDAR Mechanicsville, IA 523060000	Regulated tanks - r/f		
198605400		BER MAR FARMS	RR 2 Mechanicsville, IA 523060000	Regulated tanks - r/f		
198914580		BERNARD E ANDREW	697 160TH STREET Mechanicsville, IA 52306-7605	Non-regulated Farm/Res <1100 -active		
198600896		CASEY'S GENERAL STORE #1445	207 S MADISON Mechanicsville, IA 523060000	Regulated tanks - r/f	CASEY S MARKETING CO	08/20/2015
201100015		CASEYS GENERAL STORE 2989	206 SHORT ST Mechanicsville, IA 52306	Regulated tanks - active	CASEYS MARKETING CO	08/01/2020
198603133	7LTO91	CEDAR COUNTY MAINT SHED #5	FAYETTE ST Mechanicsville, IA 52306	Regulated tanks - active	PMMIC	10/26/2020
198605530	8LTC42	DEANS 76	101 MADISON Mechanicsville, IA 523060000	Regulated tanks - r/f		
198914109		DON J DAVIDSON FARM	546 GRANT AVENUE Mechanicsville, IA 523060000	Non-regulated Farm/Res <1100 - r/f		
198915924		DONALD R OVERBAUGH	516 GARFIELD AVENUE Mechanicsville, IA 523060000	Non-regulated Farm/Res <1100 -active		
197910098	8LTV77	EASTERN IOWA AUTO BROKERS	301 HWY 30 E Mechanicsville, IA 523060000	Non-regulated leaking site		
198915469		GARY BAKER	RTE 2 BOX 68 Mechanicsville, IA 523060000	Non-regulated Farm/Res <1100 - r/f		
198912800		JAMES LIESER	R R Mechanicsville, IA 523060000	Non-regulated Farm/Res <1100 - r/f		
198600862	7LTX47	LINCOLN COMM SCHOOL	Madison St Mechanicsville, IA 523060000	Regulated tanks - r/f		
198915200		MELVIN LEHRMAN	277 INDIAN AVENUE Mechanicsville, IA 523060000	Non-regulated Farm/Res <1100 - r/f		
198914279		ON FARM	RTE 2 INDIAN AVE Mechanicsville, IA 523060000	Non-regulated Farm/Res <1100 -active		
198913346		PHILLIP PUFFER	393 ECHO AVENUE Mechanicsville, IA 523060000	Non-regulated Farm/Res <1100 - r/f		
198710340		RADIUM PETROLEUM CO	301 HIWAY #30 E Mechanicsville, IA 523060000	Regulated tanks - r/f		
198915146		RAYMOND EILERS	RTE 2 BOX 57 Mechanicsville, IA 523060000	Non-regulated Farm/Res <1100 -active		
198915201		ROYCE LEHRMAN	970 120TH STREET Mechanicsville, IA 523060000	Non-regulated Farm/Res <1100 -active		

Tanks

 198913054	VICTOR ROBINSON	BOX 237 Mechanicsville, IA 523060000	Non-regulated Farm/Res <1100 -active		
1					

DISCLAIMER: The information on this website represents data provided to the DNR from outside entities. Although believed to be generally reliable, its accuracy cannot be guaranteed. No warranty, expressed or implied, is provided for the data herein, or its use. The Tanks database does not display nor contain all the records submitted for a site. Additional information may be obtained from the DNR Records Center at 515-725-8480 or DNR.Records@dnr.iowa.gov.

The Above Ground Storage Tank (AST) information on this website is no longer maintained. The DNR does not regulate ASTs. For additional information on ASTs, please contact the State Fire Marshal office at (515)-725-6145.

4.1.5.5973

[State of Iowa Home](#)
webmaster@dnr.iowa.gov

[DNR Home](#)
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[Site Policy](#)

APPENDIX D

Endangered species review

Step 2: Evaluate determination keys

The U.S. Fish and Wildlife Service has performed up-front analysis for certain project types, agencies, and species. This analysis has been compiled into *determination keys*, a simple interview process to arrive at a recommended determination for some species in your project area.

There are 2 determination keys that may apply to your project. Each determination key starts with a qualification interview to see if the key is appropriate for your project.

- FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat
Release date: December 2, 2019
You have skipped this determination key.
- Northern Long-Eared Bat (NLEB) Consultation and 4(d) Rule Consistency
Release date: March 28, 2019
You have skipped this determination key.



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Illinois-Iowa Ecological Services Field Office
Illinois & Iowa Ecological Services Field Office
1511 47th Ave
Moline, IL 61265-7022
Phone: (309) 757-5800 Fax: (309) 757-5807

In Reply Refer To:

June 15, 2020

Consultation Code: 03E18000-2020-SLI-1869

Event Code: 03E18000-2020-E-04443

Project Name: Mechanicsville WWTF Improvements

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The attached species list identifies any federally threatened, endangered, proposed and candidate species that may occur within the boundary of your proposed project or may be affected by your proposed project. The list also includes designated critical habitat if present within your proposed project area or affected by your project. This list is provided to you as the initial step of the consultation process required under section 7(c) of the Endangered Species Act, also referred to as Section 7 Consultation.

Section 7 of the Endangered Species Act of 1973 requires that actions authorized, funded, or carried out by Federal agencies not jeopardize federally threatened or endangered species or adversely modify designated critical habitat. To fulfill this mandate, Federal agencies (or their designated non-federal representative) must consult with the Service if they determine their project "may affect" listed species or critical habitat.

Under 50 CFR 402.12(e) (the regulations that implement Section 7 of the Endangered Species Act) the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally. You may verify the list by visiting the ECOS-IPaC website <http://ecos.fws.gov/ipac/> at regular intervals during project planning and implementation and completing the same process you used to receive the attached list. As an alternative, you may contact this Ecological Services Field Office for updates.

Please use the species list provided and visit the U.S. Fish and Wildlife Service's Region 3 Section 7 Technical Assistance website at - <http://www.fws.gov/midwest/endangered/section7/s7process/index.html>. This website contains step-by-step instructions which will help you

determine if your project will have an adverse effect on listed species and will help lead you through the Section 7 process.

For all wind energy projects, please contact this field office directly for assistance, even if no federally listed plants, animals or critical habitat are present within your proposed project or may be affected by your proposed project.

Although no longer protected under the Endangered Species Act, be aware that bald eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 et seq.) and Migratory Bird Treaty Act (16 U.S.C. 703 et seq), as are golden eagles. Projects affecting these species may require measures to avoid harming eagles or may require a permit. If your project is near an eagle nest or winter roost area, see our Eagle Permits website at <http://www.fws.gov/midwest/midwestbird/EaglePermits/index.html> to help you determine if you can avoid impacting eagles or if a permit may be necessary.

We appreciate your concern for threatened and endangered species. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List
 - USFWS National Wildlife Refuges and Fish Hatcheries
 - Wetlands
-

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Illinois-Iowa Ecological Services Field Office

Illinois & Iowa Ecological Services Field Office

1511 47th Ave

Moline, IL 61265-7022

(309) 757-5800

Project Summary

Consultation Code: 03E18000-2020-SLI-1869

Event Code: 03E18000-2020-E-04443

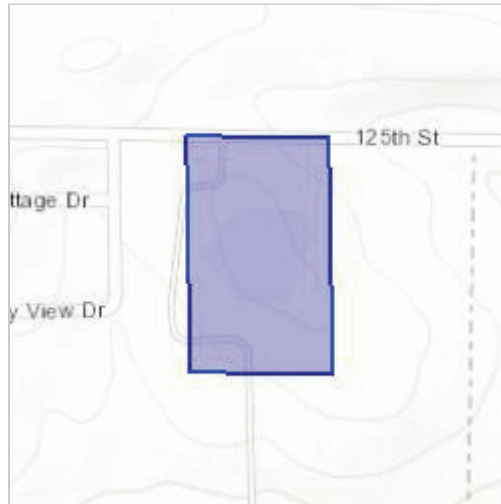
Project Name: Mechanicsville WWTF Improvements

Project Type: WASTEWATER FACILITY

Project Description: The existing aerated lagoon facility is no longer a viable treatment alternative. Improvements to the WWTF are required to be able to meet the effluent limits that have been given by the Iowa Department of Natural resources.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/41.90970294163756N91.24408364295691W>



Counties: Cedar, IA

Endangered Species Act Species

There is a total of 4 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Mammals

NAME	STATUS
Indiana Bat <i>Myotis sodalis</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5949	Endangered
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened

Flowering Plants

NAME	STATUS
Prairie Bush-clover <i>Lespedeza leptostachya</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/4458	Threatened
Western Prairie Fringed Orchid <i>Platanthera praeclara</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1669	Threatened

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

USFWS National Wildlife Refuge Lands And Fish Hatcheries

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

Wetlands

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

FRESHWATER POND

- [PUBKx](#)
-



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S7 Consultation Technical Assistance Decision Process for "No Effect" Determinations

HUD Projects - Step 6

Step 6. "No Effect" Determination and Documentation

Your project is located entirely within an urban area (incorporated village or city) and does not involve any new construction activities. Additionally, your project entails one of the following characteristics:

- the rehabilitation of existing buildings, if the rehabilitation does not significantly alter present capacity or use, or
- the reconstruction or resurfacing of existing infrastructure (e.g., streets, sewers, sidewalks, etc.) without disturbance to previously undisturbed ground, or
- the removal of urban blight, through the demolition of unwanted and unsightly structures, provided that the locations for disposal and stockpiling of demolition debris are clearly described in project plans and do not contain plant or animal habitats.

Based on these characteristics, a "No Effect" determination is appropriate because the project will not occur within suitable habitat for any listed species and/or no habitat disturbance is anticipated. Hence, no listed species or designated critical habitat is anticipated to be directly or indirectly affected by this action.

To document your section 7 review and "no effect" determination, we recommend that you print this page (go to File<Print Preview), fill-in the project name and date, attach your [species list](#), and file in your administrative record.

HUD Project: Mechanicsville WWTF Improvements

Date: 6/15/2020 EJK

[Back](#)
[Home - "No Effect" Determination Process](#)

In the Midwest

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[Midwest Ecological Services Home](#)

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Section 7 Consultation

[Section 7 Home](#)

[Section 7: A Brief Explanation](#)

[Section 7: Technical Assistance](#)

[Biological Assessment Guidance](#)

[Section 7 Consultation Handbook](#)

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APPENDIX E



Location: User-specified point center at 41.905100, -91.258120
 Ring (buffer): 0.5-miles radius
 Description: Mechanicsville, IA

Summary	Census 2010
Population	870
Population Density (per sq. mile)	1,403
Minority Population	28
% Minority	3%
Households	351
Housing Units	371
Land Area (sq. miles)	0.62
% Land Area	100%
Water Area (sq. miles)	0.00
% Water Area	0%

Population by Race	Number	Percent
Total	870	-----
Population Reporting One Race	862	99%
White	853	98%
Black	2	0%
American Indian	2	0%
Asian	2	0%
Pacific Islander	0	0%
Some Other Race	3	0%
Population Reporting Two or More Races	8	1%
Total Hispanic Population	14	2%
Total Non-Hispanic Population	856	98%
White Alone	842	97%
Black Alone	2	0%
American Indian Alone	2	0%
Non-Hispanic Asian Alone	2	0%
Pacific Islander Alone	0	0%
Other Race Alone	0	0%
Two or More Races Alone	8	1%

Population by Sex	Number	Percent
Male	425	49%
Female	445	51%

Population by Age	Number	Percent
Age 0-4	46	5%
Age 0-17	205	24%
Age 18+	665	76%
Age 65+	155	18%

Households by Tenure	Number	Percent
Total	351	
Owner Occupied	285	81%
Renter Occupied	66	19%

Data Note: Detail may not sum to totals due to rounding. Hispanic population can be of any race.
Source: U.S. Census Bureau, Census 2010 Summary File 1.



THE POLLUTION INFORMATION SITE



Investigate Pollution Topics

TOXICS

- ▶ Toxic Chemical Releases
- ▶ Lead Hazards
- ▶ Superfund

AIR

- ▶ Smog and Particulates
- ▶ Hazardous Air Pollutants

WATER

- ▶ Clean Water Act
- ▶ Watershed Indicators

AGRICULTURE

- ▶ Animal Waste

ENVIRONMENTAL JUSTICE

- ▶ Community Center
- ▶ En Español

HEALTH HAZARDS

- ▶ Chemical Profiles
- ▶ Health Effects
- ▶ Regulations

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FIND UNEQUAL BURDENS

Select a [group](#):

 ▼

Show me all the counties in:

 ▼

where this group is numerically worse off than the rest of the population in the county for one or more of these [environmental burdens](#): [check any one burden, or more]

- Cancer Risks from Hazardous Air Pollutants
- Releases of Toxic Chemicals
- Superfund Sites
- Facilities Emitting Smog and Particulates

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- Releases of Toxic Chemicals
- Superfund Sites
- Facilities Emitting Smog and Particulates

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COMMUNITY CENTER | [Environmental Justice](#) | [Locator for Unequal Burdens](#)**FIND UNEQUAL BURDENS**Select a [group](#):

Non-Highschool Graduates ▼

Show me all the counties in:

IOWA ▼

where this group is numerically worse off than the rest of the population in the county
for one or more of these [environmental burdens](#): [check any one burden, or more]

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- Releases of Toxic Chemicals
- Superfund Sites
- Facilities Emitting Smog and Particulates

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where this group is numerically worse off than the rest of the population in the county for one or more of these [environmental burdens](#): [check any one burden, or more]

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- Releases of Toxic Chemicals
- Superfund Sites
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APPENDIX F

Iowa Geographic Map Server Mechanicsville, IA



6/15/2020, 10:53:49 AM

Iowa - 2019 Orthophotos ■ Green: Band_2 ■ Blue: Band_3

■ Red: Band_1



Esri, HERE, Garmin, (c)



6/15/2020 10:50:05 AM user: Login

[Advanced](#) search UST Registration Number ▼ for [Go](#)

Advanced Search

UST LUST AST UST 3rd Party Inspections UST Certifications

Registration Number:

Owner ID:

Site Name:

Site Address:

Tank City:

Site Status:

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No Records Found

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The Above Ground Storage Tank (AST) information on this website is no longer maintained. The DNR does not regulate ASTs. For additional information on ASTs, please contact the State Fire Marshal office at (515)-725-6145.

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APPENDIX G

Iowa Geographic Map Server Mechanicsville, IA



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Iowa - 2019 Orthophotos ■ Green: Band_2 ■ Blue: Band_3

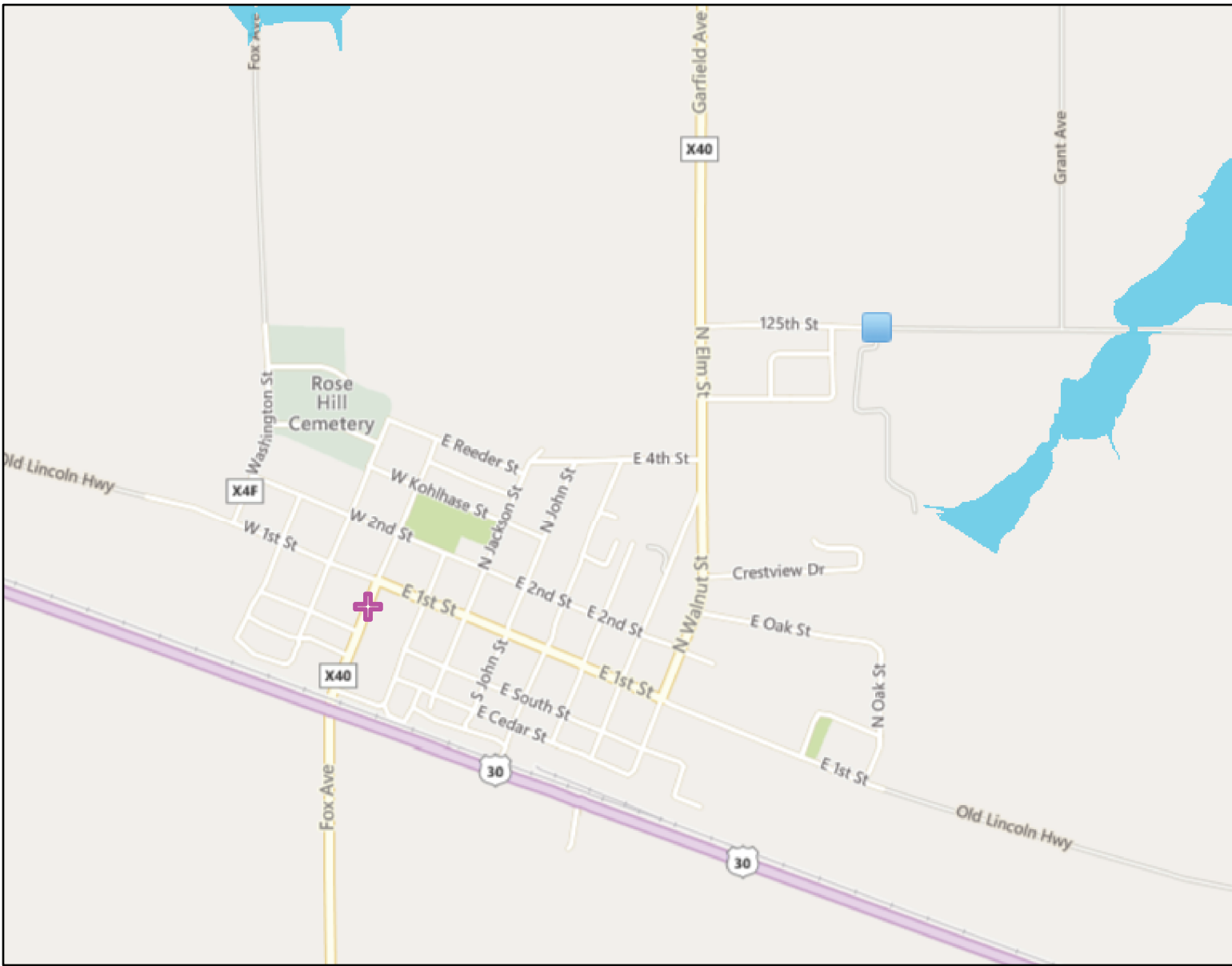
■ Red: Band_1



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APPENDIX H

FEMA Flood Hazards Mechanicsville, IA



June 15, 2020

Flood Hazard Zones

- 1% Annual Chance Flood Hazard
- Regulatory Floodway
- Special Floodway
- Area of Undetermined Flood Hazard
- 0.2% Annual Chance Flood Hazard

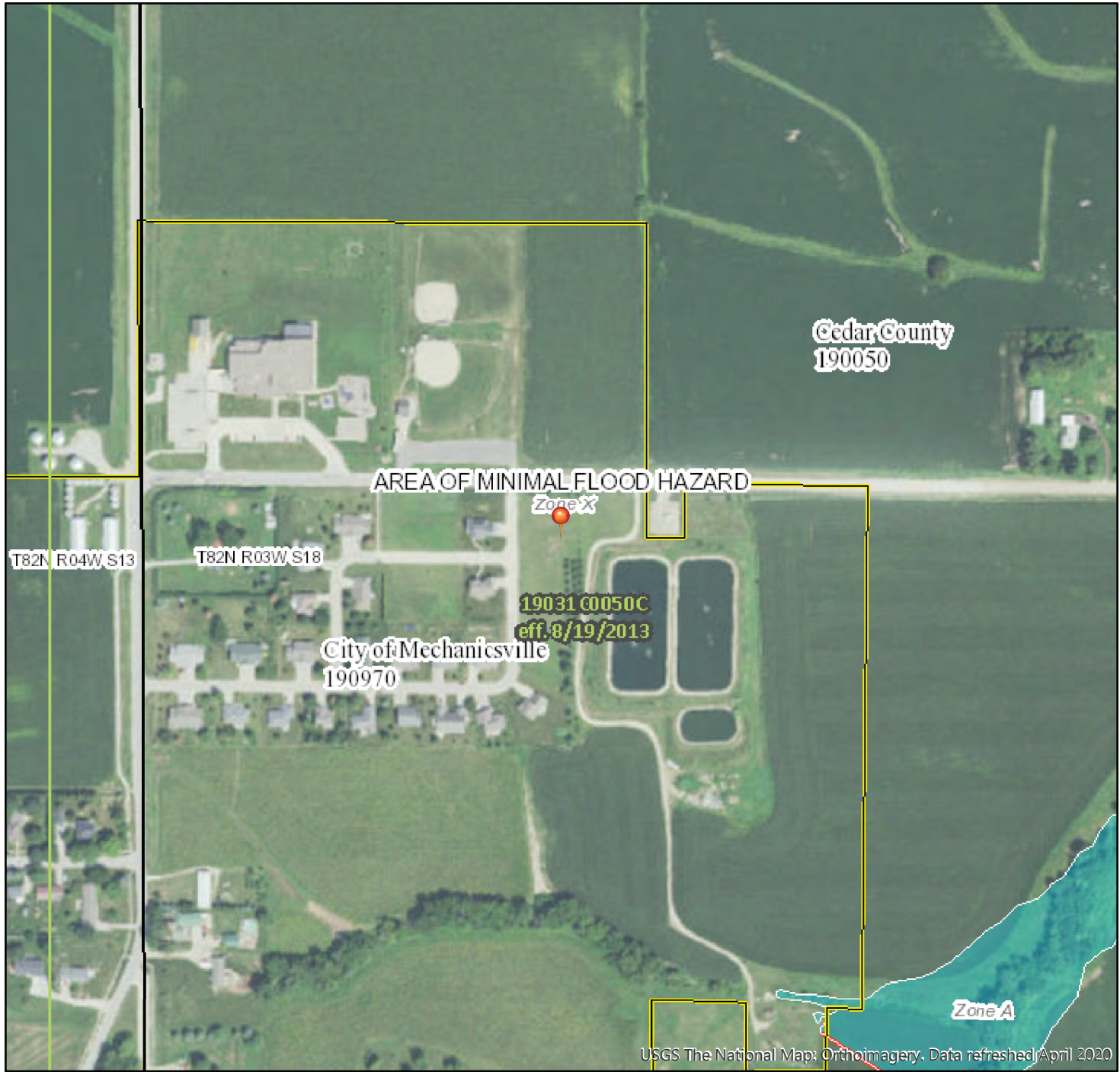


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National Flood Hazard Layer FIRMette



91°15'2"W 41°54'50"N



Legend

SEE FIS REPORT FOR

SPECIAL FLOOD HAZARD AREA

OTHER AREAS OF FLOOD HAZARD

OTHER AREAS OF FLOOD HAZARD
GENERAL STRUCTURE

OTHER AREAS OF FLOOD HAZARD
FEATURE

MAP PAN



This map is a digital flood hazard map. The base map accuracy is not guaranteed.

The flood hazard information was exported from the FIRM panel and may not reflect changes in time. The information may become obsolete.

This map is a digital flood hazard map. The base map accuracy is not guaranteed. The flood hazard information was exported from the FIRM panel and may not reflect changes in time. The information may become obsolete.

0 250 500 1,000 1,500 2,000 Feet 1:6,000

91°14'24"W 41°54'24"N

Procedures for Making Determinations on Floodplain and Wetland Management

Floodplain and Wetland Management: Executive Order 11988 & Executive Order 11990 (24 CFR Part 55):

Recipients are required to protect the values and benefits of floodplains and wetlands. Recipients should reduce flood losses and wetlands destruction by not conducting, supporting or allowing projects to be located in floodplains or wetlands unless it is the only practicable alternative.

The HUD “8-step” decision-making process is utilized to determine if flood-free alternatives are available to meet the purpose and need of the project. If, through the 8-step process, it is determined that the proposed project must be located in the floodplain or wetland, then certain measures must be undertaken. These measures, identified in step 5 of the process, should minimize potential harm to beneficial floodplain and wetland values, reduce the hazard and the risk of flood loss; and minimize the impact of floods on human safety, health and welfare.

Prior to proceeding with a project in or effecting a floodplain or wetland a recipient must comply with the requirements of Executive Order 11988 and 11990. The recipient must complete an 8-step decision making process outlined in 24 CFR Part 55, Subpart C, Section 55.20. A summary of the 8-step process is:

1. Determine if the proposed action is in a wetland or the 100-year floodplain (or in the 500-year floodplain for a critical action i.e., actions for which even a slight chance of flooding would be too great). If the proposed action would not be conducted in these areas, then no further compliance with this part is required. **The location of the WWTF where proposed improvements are to be made is not within a 100-year floodplain or in a 500-year floodplain for a critical action.**
2. Notify the public of the intent to locate the proposed action in the floodplain or wetland. The notice must be published at least once in a local newspaper of general circulation (in cities where there is no newspaper of general circulation, notices must be displayed in the local post office and its substations). The public must be given at least fifteen days to comment. The notice is titled *Notice of Proposed Project to be Located in a Floodplain or Wetland*. This Notice can be found in the following pages. The recipient must use this form, or its equivalent, to meet federal requirements.
3. Identify and evaluate practicable alternatives to locating in the floodplain. This determination requires the recipient to consider whether the floodplain or wetland can be avoided either through selecting alternative sites, choosing alternative actions to serve the identical project objective, or taking no action. Note that specific, actual alternative site must be identified and evaluated.
4. Identify indirect or direct impacts associated with the occupancy or modification of the floodplain or wetland.
5. Identify methods to minimize the potential adverse impacts within the floodplain or wetland and to restore and preserve its natural and beneficial values.
6. Reevaluate the alternatives, taking into account the identified impacts, the steps necessary to minimize these impacts and the opportunities to restore and preserve floodplain values.
7. If the recipient determines the only practicable alternative is locating in the floodplain or wetland, a final public notice shall be published. A sample notice that is titled *Notice of a Decision Regarding Project to be Located in a Floodplain or Wetland* can be found on the following pages. The notice will include the reason for locating the project in a floodplain or wetland, the alternatives that were considered, and any mitigation measures that are planned.
8. The proposed action can be implemented after steps 1 through 7 have been completed and all other requirements are met.

APPENDIX I

**PROGRAMMATIC AGREEMENT AMONG
THE IOWA ECONOMIC DEVELOPMENT AUTHORITY,
THE IOWA STATE HISTORIC PRESERVATION OFFICER, AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION REGARDING
RESPONSIBILITIES DELEGATED UNDER 24 CFR § 58**

WHEREAS, the U.S. Department of Housing and Urban Development (hereinafter, HUD) allocates funds to the Iowa Economic Development Authority (hereinafter, IEDA) through various programs including the annual Community Development Block Grant Program (hereinafter, CDBG), authorized by Title I of the Housing and Community Development Act of 1974, in accordance with Section 104(g) (42 U.S.C. 5304(g)) and the allocation of future CDBG Disaster funds, should such funding be made available to the State of Iowa; and,

WHEREAS, Section 106 of the National Historic Preservation Act of 1966, as amended (U.S.C. §300101 *et seq.*, hereinafter, NHPA), requires federal agencies to take into account the effect of their undertakings on historic properties and to afford the Advisory Council on Historic Preservation (hereinafter, ACHP) a reasonable opportunity to comment on such undertakings; and,

WHEREAS, pursuant to 24 CFR § 58.2(7), the Responsible Entity (hereafter, RE) is defined as the recipient or grantee of CDBG funds provided by HUD for the implementation of an eligible program activity; and,

WHEREAS, pursuant to 24 CFR § 58.5, the RE must assume responsibilities for environmental review, decision-making, and action that would apply to HUD under Section 106 of the NHPA and its implementing regulations at 36 CFR § 800; and,

WHEREAS, the IEDA has consulted with the Iowa State Historic Preservation Officer (hereinafter, SHPO) and the ACHP and has determined that certain CDBG actions have the potential to cause effects to historic properties while others do not; and,

WHEREAS, given the breadth and number of Iowa's non-entitlement community funding recipients and the need for timely and efficient delivery of governmental assistance, the IEDA, SHPO, and ACHP have agreed that the Section 106 process for undertakings where the RE must assume HUD environmental review responsibilities pursuant to 24 CFR § 58.4, and where IEDA administers the CDBG program, may be addressed programmatically in order to effectively and expeditiously meet regulatory obligations as an alternative to standard Section 106 procedures, as allowed by 36 CFR § 800.14; and,

WHEREAS, the RE, in the interest of streamlining, will enter into lead federal agency agreements pursuant to 36 CFR § 800.2(a)(2) and 24 CFR § 58.7 when any other federal agency shares a role in an undertaking and such agreements are applicable and mutually advantageous and of net benefit to the ultimate recipient of federal aid; and,

WHEREAS, the RE will use the process established by the National Environmental Policy Act (hereafter, NEPA) when practicable and feasible to address the requirements of both the Section 106 and NEPA process; and,

WHEREAS, the IEDA has contacted federally recognized tribes that may attach religious and cultural significance to historic properties that may be affected by HUD-funded undertakings, as identified in Appendix A of this agreement, notifying them of the collective desire and intent of the signatories of this agreement to address Section 106 compliance programmatically, to notify them of the types of undertakings pursued under 24 CFR § 58 programs and to solicit their views on which types of undertakings may have the potential to affect properties of interest to them and how they wish to be consulted upon undertakings that may potentially affect properties in which they have an expressed interest, and finally to review and comment upon the programmatic agreement in the capacity of an invited consulting party; and,

WHEREAS, it is the intent of this document to streamline Section 106 consultation with the SHPO, and in no-way minimizes or otherwise modifies the RE's responsibilities to consult with other interested parties including federally recognized tribes on the type of project that they may have interest in.

WHEREAS, the IEDA, in consultation with the SHPO and ACHP, has identified other potential consulting parties, as identified in Appendix A of this agreement, including but not limited to the Iowa Office of the State Archaeologist, Preservation Iowa and the Chicago Field-Office of the National Trust for Historic Preservation, and has afforded them and the public a reasonable opportunity to comment by disseminating information about this programmatic agreement; and,

WHEREAS, the IEDA will continue to consult with Native American tribes and other consulting parties on individual undertakings and involve the public by utilizing HUD procedures for soliciting public involvement found at 24 CFR § 58.43; § 58.45–46; § 58.59 and other applicable sections of the part, as appropriate; and,

WHEREAS, all references to time periods in this agreement are in calendar days; and,

NOW THEREFORE, the IEDA, the SHPO, and the ACHP as signatories to this agreement, agree that, upon execution of this programmatic agreement, undertakings where the RE has assumed HUD environmental responsibilities pursuant to 24 CFR § 58 shall be implemented in accordance with the following stipulations and conditions in a timely manner and with the adequate resources in order to take into account the effects of these undertakings on historic properties.

STIPULATIONS

To the extent of its legal authority, and in coordination with SHPO, the REs, and taking into account the comments of consulting parties, IEDA will require that the following stipulations be implemented:

I. IEDA RESPONSIBILITIES

- A. The IEDA shall designate staff to carry out the terms of this Programmatic Agreement, including an IEDA Historic Preservation Specialist (hereafter, IEDA HPS) who is determined to meet, in consultation with the SHPO, the Secretary of the Interior's Professional Qualifications Standards (https://www.nps.gov/history/local-law/arch_stnds_9.htm). IEDA shall ensure that that all guidance provided to the REs from the IEDA HPS shall meet the Secretary of the Interior's Standards and Guidelines for identification, evaluation and affects assessments and will be consistent with 24 CFR Part 58.

- B. The IEDA HPS will consult with each RE to carry out the identification of historic properties and assessment of effects in accordance with 36CFR Sections 800.3 through 800.5. The IEDA HPS will coordinate consultation with the RE and the SHPO in the event that an undertaking will have an adverse effect.
- C. The IEDA HPS shall ensure that all Section 106 documentation compiled by the RE is complete and accurate and meets or exceeds the standards outlined at 36 CFR 800.11 and is consistent with the ACHP's *Meeting the "Reasonable and Good Faith" Identification Standard in Section 106 Review*(issued November 2011.) The IEDA HPS may request additional information from the RE to ensure a complete submittal.
- D. The IEDA HPS shall review the Section 106 documents provided by the RE and issue comments on the project. The IEDA HPS will either concur with the finding presented by the RE on the "Request for IEDA HPS Review" form or will provide comments back to the RE with reasons why they were unable to concur with the proposed finding. An undertaking may not commence until the IEDA HPS and the RE concur with a finding consistent with the NHPA.
- E. The IEDA HPS, at their discretion, may consult with the SHPO on any eligibility evaluation or effects assessment prior to providing comments to the RE.
- F. The IEDA HPS shall provide copies of any identification and evaluation documents prepared by the RE such as Iowa Site Inventory Forms (ISIFs) or Archaeological Investigation Reports to the SHPO for inclusion in the statewide inventory at a minimum of once a year, along with a summary of projects processed under this programmatic agreement per Federal reporting year which ends each September 30th providing reporting content to the SHPO no later than October 15th annually in accordance with Stipulation XII. A. of this agreement.
- G. The IEDA HPS shall provide technical assistance to the RE when requested regarding all other historic preservation activities including but not limited to: Tribal Consultation, public notifications, lead agency agreements and consultation with the National Park Service (hereinafter, NPS) regarding effects to National Historic Landmarks.
- H. IEDA will host regular training opportunities for REs to ensure compliance with this agreement and a working knowledge of the requirements of Section 106 particularly as they pertain to the identification and evaluation of historic properties and affects assessments. These trainings may be offered through webinars, onsite workshops, in coordination with statewide conferences or one-on-one as coordinated with REs.
- I. In the event that the IEDA HPS is unable to comply with the above stipulations due to an extended absence or time in between filling this position, IEDA shall instruct the REs to consult directly with the SHPO in accordance to standard Section 106 consultation under 36 CFR § 800.3 (c)(3); however the RE may continue to apply the Programatically Excluded Activities found in Appendix B of this agreement as they apply to eligible projects.

II. RE RESPONSIBILITIES

- A. The RE shall ensure that all historic property investigations, evaluations, and data recovery efforts conducted pursuant to this agreement shall be performed in accordance with the Secretary of the Interior's Standards and Guidelines for Identification and Evaluation; and shall be performed in a manner that is consistent with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (36 CFR § 60, § 63 and § 65) and the guidance provided in the state-level *Guidelines for Archaeological Investigations in Iowa*, and all other federal or state standards as appropriate as indicated at 36 CFR § 800.4(b)(1). The RE shall use the HUD issued HP Fact Sheet #6 *When to do Archaeological Field Investigations*, Appendix D, as a guide and shall ensure that any required investigation and final archaeological reports resulting from data recovery are responsive to contemporary professional standards and to the Department of the Interior's *Format Standards for Final Reports of Data Recovery Programs* (42 FR 5377–5379).
- B. The RE shall ensure that all documentation submitted to IEDA meets or exceeds the standards outlined at 36 CFR § 800.11 and is consistent with the ACHP's *Meeting the "Reasonable and Good Faith" Identification Standard in Section 106 Review* (issued November 2011).
- C. Pursuant to Section 304 of the NHPA (54 U.S.C. §307103) and Chapters 263B.10, 14, and 22.7(20) of the Iowa Code, the RE shall withhold from disclosure to the public, information relating to the location or character of historic resources and archaeological sites when it has been determined that disclosure of such information may create a substantial risk for harm, theft, or destruction to such resources or to the area or place where such resources are located.
- D. The RE shall ensure that artifacts and records resulting from archaeological investigation made pursuant to this agreement shall be curated at a facility in the State of Iowa that meets or exceeds the Secretary of the Interior's Standards (36 CFR § 79).
- E. The RE shall ensure that consultation for undertakings affecting historic buildings include discussion of the feasibility and practicality of the use of interim controls in lieu of full lead paint abatement as allowed at 24 CFR § 35.1330 provided that standards for abatement and clearance are determined by the RE to be achievable while taking into account any comments of the IEDA HPS and SHPO if applicable.
- F. The RE shall consult directly with the National Park Service Midwest Regional Office in Omaha on all undertakings that may affect a National Historic Landmarks in accordance with 36 CFR § 800.10 (Special requirements for protecting National Historic Landmarks) and copy the IEDA HPS on such consultation.
- G. The RE shall provide a letter of notification to IEDA when they intend to determine to enter into a lead federal agency agreement. The notification shall identify the undertaking, any federal agencies other than HUD, and the RE's lead or subordinate role under the agreement. IEDA must be included as a signatory of any such lead agency agreement, and all agreements should stipulate that the agency taking lead will identify all participating funding sources in their Section 106 consultation, if consultation is required.

- H. The RE shall ensure that all documentation regarding Section 106 consultation is submitted to the IEDA HPS in a comprehensive packet as described in Stipulation VI. of this agreement.
- I. The RE shall ensure that any change in scope of work identified after project approval and IEDA HPS consultation, will be submitted to the IEDA HPS who will work with the RE to determine if continued consultation in accordance with Stipulation VI of this agreement is required.

III. SHPO RESPONSIBILITIES

- A. The SHPO shall be available to discuss with the IEDA HPS within a ten (10) day time frame from a request for consultation.
- B. The SHPO will provide guidance on scopes of work when necessary to avoid adverse effects and in the preparation of agreement documents developed to avoid, minimize or resolve adverse effects to historic properties such as Memoranda of Agreement.
- C. In the event that the IEDA HPS is unavailable to perform the duties stipulated above, per Stipulation I. H. of this agreement, the SHPO will resume standard Section 106 Review and consultation in accordance with 36 CFR § 800.3 (c)(3) until such time as the IEDA HPS can resume the duties outlined above in Stipulation I. A-G.

IV. ACHP RESPONSIBILITIES

- A. The ACHP shall participate in cases requiring dispute resolution as required in Stipulation IX and in instances when the Criteria for ACHP Involvement in Reviewing Individual Section 106 Cases are met (36 CFR § 800, Appendix A).

V. EXCLUDED UNDERTAKINGS

- A. The RE shall determine individual undertakings excluded from Section 106 review (no potential to affect historic properties) based on the following sets of criteria—those activities listed as exempt at 24 CFR § 58.34, or those categorically excluded not subject to review under 24 CFR § 58.35(b), or those excluded from Section 106 review under this programmatic agreement as further described in Appendix B of this agreement except in extraordinary circumstances (see 24 CFR § 58.2(a)(3)) in which a normally excluded activity may have a significant impact.
- B. Undertakings cannot be segmented into activities that are excluded and activities that are not excluded. If the entire undertaking does not qualify for exclusion under the predefined criteria as described in Appendix B, then the entire undertaking must follow procedures for standard project review. Similarly, undertakings cannot be segmented according to funding streams or by any other agency action that is subject to Section 106 review (i.e., permit, license, assistance, etc.). If multiple agencies are funding different but integral elements of an undertaking and those elements cannot demonstrate independent utility, then each component must be considered part of a larger undertaking and the agencies should assign a lead agency to address their collective compliance responsibilities. Failure to assign a lead federal agency

will result in redundant effort and potential inefficiencies leading to project delays. If other agencies involved in the undertaking refuse to assign a lead under the programmatic agreement, then those agencies will need to consult on the ENTIRE undertaking, separately. The alternative procedures established in the programmatic agreement only apply when the CDBG RE is assigned the lead agency role.

- C. For an undertaking determined by the RE to be excluded from Review, the RE shall document this determination by completing the *Excluded from Review, Project Determination* form (Appendix E). The RE shall include the form and supporting documentation with the project file and notify IEDA by mailing a copy to their office or uploading it to their on-line grant documents, in accordance with the annual CDBG Management Guide. The IEDA HPS shall review all *Excluded from Review, Project Determination* forms to ensure compliance with this agreement. The IEDA HPS may seek additional information from the RE, or may recommend the review be elevated to standard project review. Once the IEDA HPS has signed off on the determination that an undertaking is excluded from review, this concludes the RE's responsibilities for complying with Section 106 and this programmatic agreement for undertakings determined exempt from review.
- D. If for any reason the RE cannot determine to exclude all activities of an undertaking from review, the RE shall submit the entire undertaking to IEDA for review as described in Stipulations II and VI. The resulting request for comment should nevertheless focus on the portions of the project with the potential to affect historic properties.

VI. STANDARD PROJECT REVIEW

A. Public and Consulting Party Involvement

- 1. The RE shall invite parties to consult on specific undertakings subject to review and not excluded by Stipulation V. Consulting parties include the RE, IEDA, SHPO, federally recognized Native American Indian Tribes with an interest in the area of the undertaking, Historic Preservation Commissions of a local government, individuals and organizations who, due to the nature of their legal or economic relation to the undertaking, or their concern with the undertaking's effects on historic properties demonstrate a legitimate interest, and the public, Appendix A (36 CFR § 800.2).

B. Identification and Evaluation of Historic Properties

- 1. Identify Historic Properties
 - a. For each undertaking the RE shall determine and document an Area of Potential Effects (hereafter, APE) consistent with 36 CFR § 800.16(d).
 - b. The RE shall examine sources of information on historic properties existing within the APE as a basic level of investigation. Sources of existing information **included but not limited to:** the National Register of Historic Places (hereinafter, NRHP), maintained by the Keeper of the National Register at the NPS on behalf of the Secretary of the Interior, the State Inventory of historic properties and results of previous evaluations in Iowa —the *Iowa Site Inventory*, maintained by the SHPO, local historical societies, local historic preservation commissions and *I-Sites Pro* Iowa Archaeological Sites and

Surveys Database maintained by the Office of the State Archaeologist (hereinafter, OSA) and provided through an Iowa Department of Transportation web portal as well as maps, recorded soil-sediment data, landform data, and property records where available for the APE on a case-by-case basis.

- c. The RE shall seek input from consulting parties described in Stipulation VI.A.1 for information on land-use history of the APE and historic properties within the APE that may be affected.
- d. Based on the nature and scope of the undertaking and analysis of the potential for the APE to contain historic properties, the RE will determine if they are persuaded by authoritative sources of information that there is a “likely” (36 CFR § 800.4(b)(1)) presence of National Register-eligible or listed properties within the APE or a portion of it that the project may affect National Register resources. When warranted, the RE may undertake field survey work to further its efforts to identify and evaluate historic properties with the APE or a portion of it.

2. Evaluate Historic Significance

The RE shall determine the historic significance of resources within the APE through the application of the NRHP criteria at 36 CFR § 60 in accordance with 36 CFR § 800.4(c).

3. Results of Identification and Evaluation

The RE shall submit documentation of the historic property identification efforts to IEDA for review and approval. Submittals should include a cover letter containing a detailed description of the undertaking, a *Request for Comment on a HUD Project* form, a map of the location of the undertaking and all other applicable supporting documentation requested on the form.

C. Assessment of Effects and Resolution of Adverse Effects

1. If no historic properties are located within the APE or there are properties within the APE that will not be affected, the RE will submit to IEDA a finding of “no historic properties affected.” If the IEDA HPS concurs with the RE’s finding the RE’s may proceed with the undertaking.
2. If historic properties will be affected by the undertaking but the effects do not meet the criteria of adverse effect outlined at 36 CFR § 800.5.(a)(1) or the RE chooses to modify the scope of work or the scale and nature of the undertaking to ensure consistency with the Secretary’s Standards for the Treatment of Historic Properties, the RE shall submit to IEDA a finding of “no adverse effect.” If the IEDA HPS concurs with the RE’s finding the RE’s may proceed with the undertaking.
3. If the RE determines that the undertaking will result in “adverse effects” to one or more historic properties and the IEDA HPS concurs, the RE will submit consultation to the SHPO and any other identified interested parties in accordance with 36 CFR § 800.6 including consulting on ways to avoid, minimize or mitigate adverse effects on historic properties. Resolution of Adverse Effects shall trigger a standard section 106 process

including notification of the ACHP and the development and execution of Memoranda of Agreement, and will not be processed under the expedited procedure outlined in this agreement.

VII. UNANTICIPATED DISCOVERIES

A. *Human remains.* Iowa law protects all human burials regardless of historical age, sex, or cultural/ethnic affiliation. The RE shall observe the following procedures in the event that construction or project planning and testing, such as archaeological investigations, encounter human remains.

1. In the event that construction activities or project planning and testing, such as archeological investigations encounter human remains or burials, work shall cease in the area. The RE shall take appropriate steps to secure the site and notify officials at the Bioarchaeology Program at the OSA (Lara Noldner, 319-384-0740). The RE shall concurrently notify IEDA and the SHPO.
2. If the remains appear to be ancient (i.e., older than 150 years), the Bioarchaeology Program at OSA shall have jurisdiction in accordance with Chapter 263 of the Iowa Code. The RE will follow any procedures recommended or required by the OSA.
3. Human remains less than 150 years old are protected under Chapter 566 of the Iowa Code. In the event that project activities encounter human remains appearing less than 150 years in age, the RE shall notify the appropriate law enforcement authorities and the Iowa Department of Health.

B. *Archaeological material (non-mortuary related).* The RE shall observe the following procedures in the event that project activities encounter previously undetected non-mortuary-related archeological materials during project implementation or during project planning and testing, such as archaeological investigations.

1. All activities in the area of the resource shall cease immediately, appropriate steps shall be implemented to secure the site, IEDA and the SHPO shall be notified of the discovery.
2. A qualified archaeologist retained by IEDA or the RE will inspect the work site and determine the extent of the affected archeological resource within 48 hours of its discovery. Construction work may then continue in the area outside the archeological resource as it is defined by the archaeologist in consultation with the SHPO.
3. Before work can resume in the area of any unanticipated discovery, the RE must determine the NRHP eligibility of the archeological resource in consultation with the SHPO.
4. Upon a determination of eligibility, the RE shall submit a plan for avoidance, protection, recovery of information, or destruction without data recovery to the SHPO for review and comment. The RE will notify all consulting parties of the unanticipated discovery and provide the proposed treatment plan for their consideration. The SHPO and consulting parties will have seven (7) days to provide comments on the proposed treatment plan upon

receipt of the information. The RE may implement the proposed treatment plan if SHPO fails to respond within the allotted timeframe.

5. Work in the affected area shall resume upon either:
 - a. The development and implementation of an appropriate data recovery plan, other recommended mitigation procedures, or agreement among the RE and the SHPO that the site does not warrant mitigation of adverse effects to a historic property; or,
 - b. Agreement by SHPO and the RE that the newly located archeological materials are not eligible for inclusion on the NRHP.

C. Post Review Discoveries upon Architectural Properties. The REs shall ensure that the following procedures are observed in the event that post-review effects to buildings, objects, or districts are identified.

1. Work in the affected area shall cease and the RE shall notify IEDA and SHPO of the discovery.
2. An architectural historian retained by IEDA or the RE will inspect the work site and determine the extent and magnitude of the effects upon the property within 48 hours of its discovery. The RE shall provide the determination of effect and report of the consulting historian's findings to the SHPO who shall have seven (7) days to provide comments.
3. Upon assessment of adverse effect, the RE shall submit a plan for after-the-fact mitigation to the SHPO for review and comment. The RE will notify all consulting parties of the unanticipated discovery and provide the mitigation proposal for their consideration. The SHPO and consulting parties will have seven (7) days to provide comments on the mitigation proposal upon its receipt. The RE may implement the proposed mitigation plan if SHPO fails to respond within the allotted timeframe.
4. Work in the affected area shall resume upon either upon:
 - a. Agreement by the RE and SHPO that the encountered properties are not eligible for listing in the NRHP; or,
 - b. Agreement by the RE and SHPO that the effects are not adverse; or,
 - c. The development and implementation of an appropriate mitigation plan, or agreement among the RE and the SHPO that the site does not warrant mitigation.

VIII. ANTICIPATORY ACTIONS

- A. The RE shall ensure that consultation pursuant to Stipulation VI or other applicable stipulations of this agreement take place once a project assumes federal identity and shall be concluded prior to the commencement of that federal activity or the release of HUD funds to the undertaking (ie. Signing a construction contract, purchasing real property, or other choice

limiting activities). A federal identity is assumed once an RE submits an official application for HUD funds to IEDA or RE.

- B. IEDA will not grant funding to any RE who, with intent to avoid the requirements of this Agreement, NHPA or NEPA, has intentionally significantly adversely affected a historic property to which the CDBG grant would relate, or having legal power to prevent it, allowed such significant adverse effect to occur. Under extraordinary circumstances, and after consulting with the ACHP, IEDA may determine that circumstances justify awarding such grant despite the adverse effects created or permitted by the RE, and will ensure that the RE completes consultation for the project pursuant to Stipulation VI or other applicable stipulations of this agreement as appropriate.

IX. DISPUTE RESOLUTION

- A. IEDA shall represent itself and RE petitioning singly or as a group in all dispute resolution situations.
- B. Should any signatory to this agreement or RE (represented by IEDA) object at any time to any actions proposed or the manner in which the terms of this agreement are implemented, IEDA shall consult with the SHPO and any such party to resolve the objection.
- C. If IEDA determines that such objection cannot be resolved, then the IEDA will:
 - 1. Forward all documentation relevant to the dispute, including the IEDA's proposed resolution, to the ACHP. The ACHP shall provide the IEDA with its advice on the resolution of the objection within fifteen (15) days of receiving adequate documentation.
 - 2. If the ACHP does not provide its advice regarding the dispute within the fifteen (15) day period, then the IEDA may make a final decision on the dispute and proceed accordingly.
 - 3. Prior to reaching such a final decision, IEDA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories to the agreement, and provide them and the ACHP with a copy of such written response. IEDA's final decision on the dispute will be provided on a schedule compatible with all internal and external review, as may be determined necessary by IEDA.
 - 4. The responsibilities of the PA signatories to carry out all other actions subject to the terms of this agreement that are not the subject of the dispute remain unchanged.

X. AMENDMENT

- A. IEDA shall represent itself and the RE petitioning singly or as a group in all requests for amendments to this agreement.
- B. Any of the signatories to this programmatic agreement, or RE (represented by IEDA), may request with appropriate justification that IEDA should amend any or all of its articles subsequent to this programmatic agreement's execution, whereupon IEDA will notify the other signatories who will consult in accordance with 36 CFR § 800.13, to consider such amendment.

Prior to reaching a final decision on the amendment, IEDA must notify the ACHP of its intent to amend the programmatic agreement and invite the ACHP's review and comment. The amendment will be effective on the date an executed copy (signed by all of the signatories) is filed with the ACHP. IEDA shall provide copies of the amended programmatic agreement to the signatories.

- C. Revisions to the appendices shall not require notification of and review by the ACHP. However, SHPO must agree to any such changes and IEDA shall provide the ACHP with file copies of finalized versions that reflect all revisions.

XI. TERMINATION AND DURATION

- A. The IEDA shall represent itself and all RE when the latter petition as a unanimous body to terminate this agreement.
- B. If any signatory to this agreement or RE (represented by IEDA) determines that its terms will not or cannot be carried out, that party shall immediately notify IEDA. The IEDA will then consult with the other signatories to attempt to develop an amendment per Stipulation X or other form of resolution. If within thirty (30) days resolution through amendment or other means cannot be reached, any signatory may terminate the agreement upon written notification to the other signatories.
- C. Once the agreement is terminated or becomes null and void and until a new agreement is executed, work on undertakings subject to this programmatic agreement shall proceed to follow the standard Section 106 process (36 CFR § 800, Subpart B) including for SHPO Review all projects with no exclusions allowed only by this programmatic agreement. IEDA must then execute a new agreement pursuant to 36 CFR § 800.6, or, request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. IEDA shall notify the signatories as to the course of action it will pursue.
- D. This agreement will become null and void five (5) years from the date of its execution. Prior to such time, the term of duration may be extended by filing an amendment with the ACHP in accordance with Stipulation X.

XII. MONITORING AND REPORTING


- A. By October 15 of each year, the IEDA shall submit an annual report to SHPO for review and comment on certain program activities that occurred through September 30 of the previous year, per the federal fiscal reporting period. The report will include a summary of all projects reviewed by the IEDA HPS, those projects with documentation collected under Stipulation I. F of this agreement, all projects excluded from SHPO review and indicate which exclusion of this agreement the projects qualified for, a summary of legal agreements executed during the reporting period, and update on agreed upon mitigation measures, and suggestions, if any, for additional actions that could be considered for inclusion as Specific Excluded Activities in Appendix B. Supporting documentation will be available to the SHPO upon written request. From time to time, the SHPO may review files for the entire range of activities subject to Section 106 review to verify that IEDA is properly implementing the terms of the Agreement.

XIII. EXECUTION OF THE AGREEMENT

- A. This agreement is considered executed after signatures by IEDA and SHPO have been provided to the ACHP, and the ACHP signs the agreement. Execution of this agreement by the ACHP and the implementation of its terms evidences that the IEDA and the several recipient RE have taken into account program effects on historic properties and have afforded the SHPO and ACHP an opportunity to comment.

SIGNATORIES

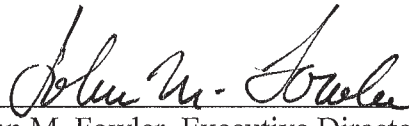
Iowa Economic Development Authority

By:  Date: 8-1-16
Tim Waddell, Division Administrator

State Historic Preservation Officer

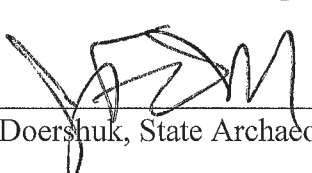
By:  Date: 01 AUG 2016
Steve King, Deputy State Historic Preservation Officer

Advisory Council on Historic Preservation

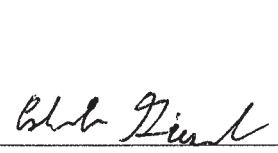
By:  Date: 8/23/16
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CONCURRING PARTIES

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By:  Date: 7/29/16
John Doershuk, State Archaeologist

Preservation Iowa

By:  Date: 7/27/16
Caleb Giesel, Executive Director

APPENDICES

- Appendix A. CONSULTING PARTIES
- Appendix B. PROGRAMMATICALLY EXCLUDED ACTIVITIES FOR SECTION 106 REVIEW UNDER THE PROGRAMMATIC AGREEMENT AND EXEMPT FROM REVIEW, PROJECT DETERMINATION FORM
- Appendix C. PROCESS and DECISION-MAKING CHART
- Appendix D. HP FACT SHEET #6 *When to do Archaeological Field Investigation*
- Appendix E. AUTHORIZATION FOR ALTERNATE SIGNATORY
- Appendix F. REQUEST FOR COMMENT ON A HUD PROJECT
- Appendix G. GLOSSARY

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Wesley Andrews, THPO
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Harbor Springs, MI 49740
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White Earth Band of the Minnesota Chippewa Tribe

Erma Vizenor, Chairperson
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Cayla Olson, THPO
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Ponca Tribe of Nebraska

Larry Wright, Chairman
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Shannon Wright, THPO
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Menominee Indian Tribe of Wisconsin

Gary Besaw, Chairman
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gbesaw@mitw.org

David Grignon, THPO
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Keshena, WI 54135-0910
(715) 799-5258, (715) 799-5295
dgrignon@mitw.org

***Source:** HUD, OCP&D Environmental Planning Division. BE ADVISED: Some of the tribal contact information may be out-of-date. Please verify contact persons and mailing addresses prior to initiating consultation. Tribal websites, The Office of the State Archaeologist Bioarchaeology Director, state historic preservation officers, or HUD field environmental staff are all potential resources. <http://egis.hud.gov/tdat/Query.aspx?state=Iowa>

CONSULTING PARTIES: SIGNATORY, CONCURRING OR INVITED
 (this is a list of parties included in the execution of this agreement. Many of these parties may also be involved in consultation on individual undertakings, and additional parties may be identified specifically for an individual undertaking.

Signatory Parties

Iowa Economic Development Authority, Community Development Division
 Iowa State Historic Preservation Officer
 Advisory Council on Historic Preservation

Concurring Parties

Iowa Office of the State Archaeologist
 Preservation Iowa

Consulting Parties

Native American Tribes as indicated above
 Iowa State Association of Counties
 National Trust for Historic Preservation
 Iowa League of Cities

American Planning Association, Iowa Chapter
 Iowa Councils of Governments and Regional Planning Agencies
 Iowa Association of Regional Councils
 Private CDBG Grant Administration Service Providers:
 Anderson Consulting, Inc
 MSA
 PlanScape Partners - Enerjyn
 Pathfinders R C & D, Inc.
 Simmering-Cory, Inc.

Certified Local Government Contact List, including only Non-Entitlement Communities
<https://iowaculture.gov/sites/default/files/History%20-%20Preservation%20-%20Certified%20Local%20Governments%20-%20Benefits%20-%20Community%20List%20%28PDF%29.pdf>

City and County Historic Preservation Commissions
 Local organizations with an interest in the undertaking such as historical societies, museums, etc.

Plans for Public Involvement

The notice and invitation to comment on certain undertakings will include a PDF notice for the above groups to post, and IEDA will follow the state's HUD Citizen Participation Plan, including publishing a public notice, hosting a public hearing and making the agreement available on IEDA's website.

APPENDIX B

PROGRAMMATICALLY EXCLUDED ACTIVITIES

In addition to projects and activities that are either exempt under HUD regulations (24 CFR Part 58.34) or may be categorically excluded as being not subject to review of the laws listed at 24 CFR Part 58.5 in accordance with 24 CFR Part 58.35(b), the signatories agree that the following types of activities do not have the potential to cause adverse effects on historic properties, assuming such historic properties are present, and therefore the Responsible Entity has no further obligations under Section 106 once appropriately documented with the IEDA HPS.

Section 1. Administrative Costs and Non –Brick and Mortar Financial Assistance

The RE will document how the project meets these excluded activities on an *Excluded from SHPO Review Form* for submittal to the IEDA HPS.

- a. IEDA activities including equipment purchase, inventory financing, interest subsidy, operating expenses, and similar costs associated with construction or expansion of existing operations where physical improvements, if any, will be limited to those listed in Sections 2 and 3, below;
- b. Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and down payments assistance, interest buydowns, interim mortgage assistance, and similar activities that result in the transfer of title where no change in use will occur and physical improvements, if any, will be limited to those listed in Sections 2 and 3, below;
- c. Building acquisition where physical improvements, if any, will be limited to those listed in Sections 2 and 3, below.

Section 2. Undertakings Involving Ground Disturbance

Non-Specific Activities

If the project will **NOT** involve buildings, districts, objects, structures, defined sites, or cultural landscapes that are 50 years or age or older and not listed in or previously determined eligible for the NRHP in the Area of Potential Effects; there are no triangle sites within ¼ mile of the APE; **AND** either of the following conditions is met, the SHPO does not need to review the project regardless of activity. The RE will document how the project meets the qualifying criteria on an *Excluded from SHPO Review Form* for submittal to the IEDA HPS.

Qualifying Criteria:

- a. Previously Surveyed - The Area of Potential Effects (APE) was intensively surveyed after 1999 for the purposes of a previous Section 106 review and determined by the federal agency not to contain archaeological sites that are NRHP-listed, eligible, or unevaluated, and this finding was accepted by the Iowa SHPO. This requires consultation with Office of the State Archaeologist or *I-SitesPro* online databases to determine.
- b. Profoundly Disturbed - The APE has been profoundly disturbed. *Profound disturbance* as it relates to the APE occurs when a past activity or activities have physically altered the *three-dimensional* APE of an undertaking *in its entirety* to the point where there is no potential for an archaeologically significant property to remain.

Specific Excluded Activities

When the following ground disturbing activities are proposed for any project locations not meeting the Qualifying Criteria, they will be considered excluded from further review by the SHPO or ACHP, because the activities have limited potential to adversely affect historic properties (some exceptions noted in *italics* below). The RE will document how the project meets these specific excluded activities on an *Excluded from SHPO Review Form* for submittal to the IEDA HPS.

- a. Photoscopic pictures of water and/or sewer pipe.
- b. Re-lining of non-historic water and/or sewer pipe (i.e., polyvinyl, fiber cement, and other composite or plastic pipe; clay pipe less than 24 inches in diameter, post-WPA pre-cast concrete pipe and boxes).
- c. Point repairs of water and/or sewer pipe.
- d. Hydrant replacements.
- e. Manhole cover replacements.
- f. New/replacement service lines and related appurtenances involving boring or slit trenches up to one (1) foot in width and up to 100 feet in length, if no known NRHP listed, eligible, or unevaluated properties, including sites and historic districts, are within the APE and no triangle sites are within ¼ mile of the APE.
- g. Equipment replacement, purchase, removal, and/or installation.
- h. Disturbances confined to the current footprint of an existing facility compound, such as water and/or sewer treatment plants, if no known NRHP listed, eligible, or unevaluated properties, including sites and historic districts.
- i. Directional boring of utility lines without sending and receiving pits, if no known NRHP listed, eligible, or unevaluated properties, including sites and historic districts, are within the APE and no triangle sites are within ¼ mile of the APE.
- j. Connecting pits relating to directional boring for utility lines no bigger than 10 feet by 10 feet, if no known NRHP listed, eligible, or known but unevaluated properties, including sites and historic districts, are within the APE and no triangle sites are within ¼ mile of the APE.
- k. In-place replacement of non-historic water and/or sewer mains (i.e., polyvinyl, fiber cement and other generic composite or plastic pipe; clay pipe less than 24 inches in diameter, post-WPA pre-cast concrete pipe and boxes), if no known NRHP listed, eligible, or known but unevaluated properties, including sites and historic districts, are within or immediately adjacent to the APE.
- l. Replacement of wells in existing well fields.
- m. Test boring/well sites to determine soil suitability, if no recorded archeological sites are within or immediately adjacent to the APE
- n. Replacement of concrete or asphalt sidewalks.
- o. Replacement of water towers on the same parcel when that parcel is less than one (1) acre in size, if water tower to be demolished is less than 50 years old and the new tower is not more than a 10% increase in capacity or an increase of more than 20 feet in height as compared to the existing water tower.
- p. Utility upgrades without new ground disturbance.
- q. Parking lot rehabilitation or construction of less than one (1) acre in size, without the installation of storm drains or other related below-ground appurtenances located on row-cropped agricultural land, provided that any ground disturbance activities will be confined to the plowzone, which generally extends 10 to 12 inches below the surface.
- r. Replacement of overhead conductor cable.
- s. Resurfacing and/or rehabilitation of existing concrete sidewalks and curbs and concrete or asphalt roads, drives, or entries where there will be no change in the existing horizontal and vertical alignment. *This does not apply to roads found eligible for listing on the NRHP.*
- t. Conversion of an existing gravel road to concrete or asphalt where there will be no change in the existing horizontal and vertical alignment. *This does not apply to roads found eligible for listing on the NRHP.*
- u. Pavement widening and/or shoulder construction and the addition of auxiliary lanes, such as turn lanes or climbing lanes where there will be no change in the existing horizontal and vertical alignment of an

existing right of way. *This does not apply to roads found eligible for listing on the NRHP.*

- v. Demolition of non-historic buildings when all activity is confined to the current footprint of the original construction, which includes a presumed builder's trench extending three (3) feet beyond the existing foundation/footing, and, when ground surface conditions are stable enough to support the weight and movement of heavy equipment on bare ground or on temporary mats without sinking into the ground, rutting the ground surface, or resulting in any form of earthmoving at the demolition site.

Section 3. Undertakings Involving Architectural/Historical Resources

Non-Specific Excluded Activities

If any of the following conditions are met, SHPO does not need to review the architectural portion of a project regardless of activity. The RE will document how the project meets the qualifying criteria on an *Excluded from SHPO Review Form* for submittal to the IEDA HPS.

Qualifying Criteria:

- a. Less than 50 - The Project will involve a building of any type that is less than 50 years old and that is not listed in or previously determined eligible for the NRHP, and does not convey the level of exceptional significance to be considered eligible for the NRHP under Criteria Consideration G (individually or as a contributing component to a historic district).
- b. Previous Evaluation - The Area of Potential Effect (APE) has been surveyed by a professional historian or architectural historian within the last 5 years, determined not to contain historic properties, and the finding was accepted by the Iowa SHPO. Please note this does not include properties simply added to the Iowa Site Inventory within 5 years. The property must have been signed off as being "not eligible" by SHPO staff.

Specific Excluded Activities

When the following activities are proposed for any architectural properties not meeting the Qualifying Criteria, they will be considered excluded from further review by the SHPO, because the activities have limited potential to adversely affect historic properties (some exceptions noted in *italics* below). The RE will document how the project meets these specific excluded activities on an *Excluded from SHPO Review Form* for submittal to the IEDA HPS.

- 1. Exterior Rehabilitation
 - a. Caulking and weather stripping in a color complementary to the adjacent surfaces
 - b. Scraping, extremely low-pressure (less than 100 psi) washing, and/or repainting of exterior cladding. *This does not apply to destructive surface preparation treatments, such as water blasting, sand or other particle blasting, power sanding, or chemical cleaning.*
 - c. Repair or in-kind replacement of windows (i.e., new windows will duplicate the material, dimensions, design, detailing, and operation of the extant or known historic windows; glazing will be clear, non-reflective, and without tint; window sashes will not be clad with aluminum or synthetic material), as follows (*this does not apply to the replacement of existing archaic, decorative, or architectural/structural glass*):
 - i. Repair, scrape, paint, and re-glaze existing windows.
 - ii. Repair or in-kind replacement of window sash, glass, and/or hardware, including jam tracks. Consideration should be given first to identifying ways to repair rather than replace damaged historic materials.
 - iii. Repair or in-kind replacement of damaged and non-operable transoms. Consideration should be given first to repair rather than replacement of damaged historic materials.

- d. Installation of storm windows and doors, provided that they conform to the shape and size of the historic windows and doors. The meeting rail of storm windows must coincide with that of the existing sash. Color should complement trim; mill finish aluminum is not acceptable.
 - e. Repair or in-kind replacement (i.e., the new features will duplicate the extant material, dimensions, and detailing) of the following features (*consideration should be given first to identifying ways to repair rather than replace damaged historic materials*):
 - i. Porches — railings, post/columns, brackets, cornices, steps, flooring, ceilings, and other decorative treatments.
 - ii. Roofs.
 - iii. Siding.
 - iv. Exterior architectural details and features.
 - v. Doors, including cellar/bulkhead doors.
 - vi. Gutters and downspouts.
 - f. Repair or reconstruction of concrete/masonry walls, parapets, chimneys, or cornices, provided any new masonry or mortar matches the color, strength, composition, rake, and joint width of existing walls, and no power tools are used on historic materials. (*Work on historic masonry must follow the guidance provided in Preservation "Brief #2: Repointing Mortar Joints in Historic Masonry Buildings," currently found online at <http://www.nps.gov/history/hps/tps/briefs/brief02.htm>.)*
 - g. Bracing and reinforcing of chimneys and fireplaces, provided the bracing and reinforcing are either concealed from exterior view or removable in the future.
 - h. Construction or replacement of wheelchair ramps, provided the ramps are on secondary façades and will not directly impact the material fabric of the building.
 - i. Installation of temporary wheelchair ramps on any façade.
 - j. Substantial repair or in-kind replacement of signs or awnings. *This does not apply to historic sign—painted, neon, or otherwise.*
2. Interior Rehabilitation
- a. Non-destructive or concealed testing for damage assessment or identification of hazardous materials (e.g., lead paint, asbestos, etc.).
 - b. Scraping and repainting of interior trim.
 - c. Plumbing repair/replacement, including pipes and fixtures when no structural alteration is involved. *This does not apply to historic fixtures, which must be repaired for this allowance to apply.*
 - d. HVAC system repair, replacement, and/or cleaning, including furnaces, pipes, ducts, radiators, or other HVAC units when no structural alteration or exposed new ductwork is involved. *This does not apply to historic fixtures, which must be repaired for this allowance to apply.*
 - e. Repair or replacement of electrical wiring, including switches and receptacles. *This Allowance does not apply to installing exposed wiring such as surface mounted wiring, conduits, piping, or to the installation of new systems where they will affect significant interior features.*
 - f. Repair or replacement of interior fire detection, fire suppression, or security alarm systems. *This Allowance does not apply to exposed systems such as surface mounted wiring, conduits, or piping where replacement will affect significant interior features.*
 - g. Restroom improvements for handicapped accessibility, provided the work is contained within existing restroom and significant interior materials and features (e.g., historic trim or architectural details) are not altered.
 - h. Repair or in-kind replacement of interior floors, walls, and ceilings. This applies to the repair of interior finishes, including plaster and wallboard, provided the repair is restricted to the damaged area and does not affect adjacent materials. *This does not apply to historic architectural finishes such as decorative plaster or plaster substrates for decorative materials such as wainscoting, murals, gold leaf, etc.*
 - i. Installation of drywall over existing wall surface, provided no decorative plaster or other decorative features are covered and all historic trimwork is reinstalled.
 - j. Installation of insulation in ceilings, attic spaces, and crawl spaces. *This does not apply to the installation of urea formaldehyde foam insulation or any other insulation containing water.*

- k. Installation of insulation in wall spaces, provided an appropriate interior vapor barrier or vapor barrier paint is used and historic exterior clapboards are removed and reinstalled carefully. *This does not apply to the installation of urea formaldehyde foam insulation or any other thermal wall insulation containing water.*
 - l. Repair or pouring of concrete cellar floor in an existing cellar.
 - m. Repair or replacement of cabinets and countertops. *Historic "built-in" cabinets must be repaired for this to apply.*
3. Site Improvements
- a. Repair or in-kind replacement of driveways, parking lots, and walkways, although consideration should be given first to repair rather than replacement of damaged historic materials whenever feasible.
 - b. Repair or in-kind replacement of non-historic landscaping and utilities, such as paving, planters, trellises, irrigation, and lighting.
 - c. Repair or in-kind replacement of fencing and other exterior retaining or freestanding walls, provided masonry and mortar matches the color, strength, composition, rake, and joint width of historic wall and no power tools are used on historic materials. *(Work on historic masonry must follow the guidance provided in Preservation "Brief #2: Repointing Mortar Joints in Historic Masonry Buildings," currently found online at <http://www.nps.gov/history/hps/tps/briefs/brief02.htm>.)*

Excluded from Review, Project Determination Form

After referencing Appendix B of the Programmatic Agreement (PA) to verify that the project activity does not need further review, use this form to document compliance with the Section 106 of the NHPA. This form will be submitted to IEDA either with your Request for Release of Funds (RROF) or individually per building as applicable.

As an example, here are the steps you would take:

- Start Environmental Review
- See if the project is exempt from further review by referencing Appendix B of the PA..
- If the project activity meets either the Qualifying Criteria or the Specific Excluded Activities, fill out this form and include it in your environmental review record or upload it to iowagrants.gov as applicable.
- Use the “When to Consult with Tribes Under Section 106” included in the PA to determine if Tribal consultation is required. If so, mail letters to tribes; you must still do this even if your project activity meets and exemption under this PA.
- Complete the rest of the Environmental Review
- Publish Notice
- Submit the Request for Release of Funds: attach a copy of the notice and the *Exempt from Review, Project Determination Form*.

NOTE: You must still solicit comment about the project from the Native American Tribes even if your project activity is exempt from further review.

Recipient Name:
Recipient Address:

Contract Number:

For information on this request, contact:

Contact Name:

Contact Phone Number:

Project Description (provide a brief description of the actual scope of work not just “housing rehab”)

Project Address (Street, City, Zip):

Project County:

Reason Project Activity is Excluded from Review (use Appendix B of the PA):

Section 1, 2 or 3:

Qualifying Criteria a. or b.:

OR

Specific Excluded Activity (include which specific activity):

Notes:

(include date of construction)

Pictures: Take a before picture of the primary façade of any buildings directly impacted by project activities. Attach them to this form.

Applicant Certification:

As the duly designated certifying official of the recipient, I also certify that: I am authorized to and do consent to assume the status of responsible federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.

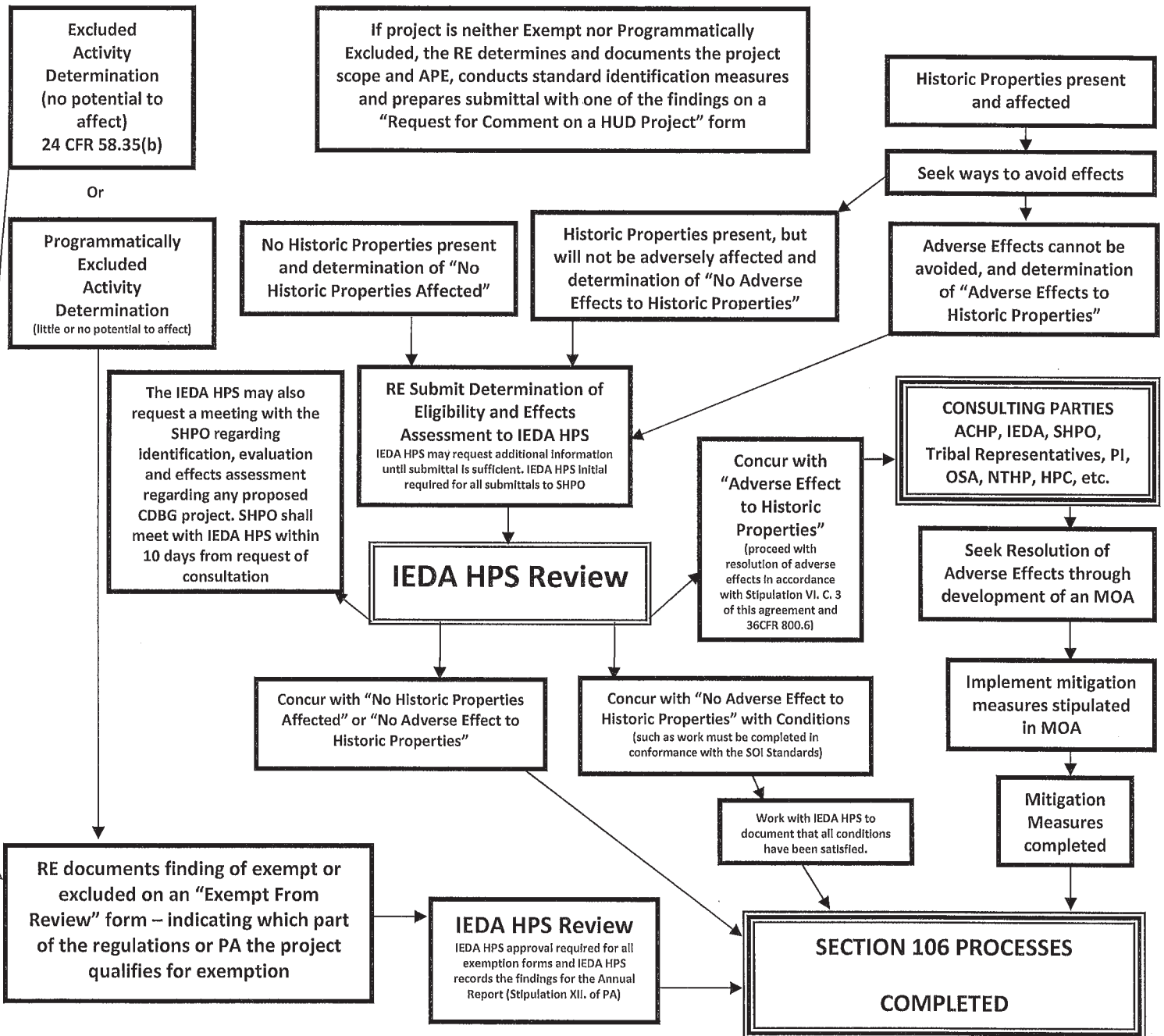
Signature of the Certifying Officer of Applicant,

Date

Print Name and Title of Certifying Officer of Applicant

APPENDIX C

SECTION 106 REVIEW PROCESS FOR TYPICAL PROJECTS*



*Technical Assistance from IEDA HPS may be sought at any point in the process. This chart does not address post review discoveries, monitoring findings, annual reporting, dispute resolution, and other unusual circumstances. Any other portions of Environmental Review are not considered here.

HP FACT SHEET #6:**WHEN TO DO ARCHAEOLOGICAL FIELD INVESTIGATIONS**

HUD offers the following guidance on when to do professional archaeological field investigations. It is applicable to both Part 50 and Part 58 programs. It meets the "reasonable and good faith effort" requirement to identify historic properties, per 36 CFR § 800.4(b).

- Archaeological field investigations and related work should be approved only when HUD or the Responsible Entity (RE) is *persuaded* by authoritative sources of information that there is a "likely" (§ 800.4(b)(1)) presence of National Register-eligible or -listed properties within the project site and that the project may affect National Register resources.
- Authoritative sources of information include, but are not limited to, reports, studies, surveys, predictive models, National Register data, and/or tribal input. These data must demonstrate that the project site contains or is reasonably adjacent to archaeological sites that meet National Register criteria.
- The SHPO/THPO and other qualified persons may provide such information. The information should indicate a close and direct relationship between such previously discovered sites and the project site. It should also indicate the likelihood that National Register resources will be affected. Archaeological field investigation in such cases would help determine the presence of resources on site and provide the basis for establishing their significance and the project effects on them.
- For urban areas, it is reasonable to consider the project site relationship only to such off-project archeological sites that are immediately adjacent to the project site.
- In the case of projects for new developments in areas not previously developed or disturbed, a somewhat more distant site or ring of sites may be considered as relevant to the project site. But still, in this scenario, HUD or the RE *must be persuaded* that documented archaeology sites outside the APE are reasonably close enough to the project site to establish a likely relationship and so warrant a professional field investigation on the project site.
- HUD or the RE should generally not honor a request for a professional archaeological field investigation without specific justification or solely on grounds that previous surveys have never been conducted in the area. HUD or the RE may turn down such requests as an unjustifiable public expense, particularly where private or non-federal lands are involved.

This guidance is supported further by the Advisory Council on Historic Preservation's 2007 *Policy Statement on Affordable Housing and Historic Preservation* (72 FR 7387-7389), Implementation Principle #8, that limits archaeological field investigations in certain situations.

Implementation Principle #8:

"Archaeological investigations should be avoided for affordable housing projects limited to rehabilitation and requiring minimal ground disturbance"
(emphasis added).

NEED ADDITIONAL HELP?

CONTACT YOUR LOCAL HUD ENVIRONMENTAL OFFICER.

Source: Office of Environment and Energy, Environmental Planning Division, CPD, May 2009

**AUTHORIZATION FOR ALTERNATE SIGNATORIES
FOR SECTION 106 COMPLIANCE FORMS**

CDBG Grant Administrators or City Clerks may now sign the Section 106 Compliance Forms including the *Exempt from Review Project Determination Form* and the *Request for Comment on a HUD Project* form. In order to take advantage of this opportunity, the Agency Official/CEO must sign this form and have it witnessed. The CEO is the person who signed the CDBG contract. The grant administrator or City Clerk must also sign this form as a signatory.

Note: By signing this agreement, the Agency Official/CEO is still legally responsible for all findings and determinations made on their behalf by the signatory.

Once signed, submit this form with your Section 106 compliance documentation.

As stated in 36 CFR Part 800, the implementing regulation for Section 106 of the National Historic Preservation Act of 1966, the Agency Official with jurisdiction over an undertaking takes legal and financial responsibility for Section 106 compliance in accordance with Subpart B of 36 CFR Part 800. In the case of the state Community Development Block Grant (CDBG) Program, however, the Agency Official will be the selected non-entitlement cities, which as CDBG recipients are authorized to serve as the Agency Official under 24 CFR Part 58.

In the event that the Agency Official is unable to sign the *Request for Comment* form or the *Exempt from Review Project Determination Form*, however, the following alternates signatories listed below are authorized to act on the behalf of the Agency Official. In the event an alternate signatory is used, the Agency Official remains legally responsible for all required findings and determinations made through the Section 106 process. The signatures attested below are effective as of:

(Date)

Sincerely,

Agency Official (CEO) signature

[Name and Title of] Signatory # 1

Signature of Signatory #1

[Name and Title of] Signatory # 2

Signature of Signatory #2

[Name and Title of] Witness

Signature of Witness

REQUEST FOR COMMENT ON A HUD PROJECT*

- This is a new submittal
 This is more information relating to a previous submittal

Cover Letter: Please include a cover letter with a comprehensive description of the Area of Potential Effect (APE) and project activities. The APE should include the project area, all easements, borrow areas, equipment and material storage, and staging areas. If applicable, describe excavation and other earthmoving activities including 3-dimensional parameters (length, width, and depth).

I. GENERAL INFORMATION

- a. Project name and/or Property Owner: _____
b. Property Street & Number: _____
c. County: _____ City: _____ Zip: _____
d. Lead Federal Agency: _____ CDBG Contract No: _____
e. Federal Funding Program: CDBG If HUD; check one: 24 CFR Part 50 or 24 CFR Part 58
f. Contact Person on Project: _____
Contact Address: _____ City: _____ State: _____ Zip: _____
e-mail: _____ Phone: _____

II. IDENTIFICATION OF HISTORIC PLACES

Please check box indicating whether you are requesting an archaeological and/or architectural review of your project and include each of the items requested.

 Archaeology

- 7.5 min Quad U.S.G.S. (1-mile radius) with quad name and APE outlined (maps on-line at <http://ortho.gis.iastate.edu/>)
 Site plan showing limits of proposed activities or general layout (engineering)
 Aerial photo: zoom to project area (photos on-line at <http://ortho.gis.iastate.edu/>)
 Description of width and depth of proposed excavation and current conditions of project area
 OSA site file search, Phase IA, or Phase I (whichever is appropriate)
 Number of acres in project: _____
 Legal location: Section(s) _____ Township(s) _____ Range(s) _____

 Architecture

- Date of original construction for the building: _____
 Previous site information available (contact Iowa Site Inventory Coordinator)
 Updated or new Iowa site Inventory Form (available online at www.iowahistory.org/preservation)
 Clear photos of property and surrounding area
 Location map (no bigger than 11x17) with APE clearly defined (Quad map or city plat map)
 Copy of county or city assessor's card record or other appropriate property information
 Detailed description of proposed action, including copy of project specifications, if applicable

III. APPLICANT CERTIFICATION (Check Either Adverse Effect or No Adverse Effect for Historic Property Affected category)**Determination of Effect (Check One)**

- No historic properties will be affected** (i.e., none are present or there are historic properties present but the project will have no effect upon them)
 No Adverse Effect to a historic property (i.e., a historic property is present and affected. However, the project either has no adverse effect on the historic property, or the applicant or other federally authorized representative will consult with the SHPO to modify the project or impose conditions to avoid adverse effects.)
 Adverse Effect to a historic property (i.e., a historic property is present and adversely affected. The applicant, or other federally authorized representative, will consult with the SHPO and other consulting parties to resolve the adverse effect.)

Federally Authorized Signature: _____ Date: _____
Type name and title below →

Submit one copy with each property for which comment is requested. Please print or type.

Return with full Section 106 Compliance Documents to the IEDA HPS at: 200 East Grand Ave., Des Moines, IA 50309

*This form may be replaced by an electronic submission process, which would collect the same information.

GLOSSARY

ACHP - Advisory Council on Historic Preservation

APE – Area of Potential Effects

CDBG – Community Development Block Grant

CEO – Chief Elected Official

CFR – Code of Federal Regulation

HPC – Historic Preservation Commission

HUD – Federal Department of Housing and Urban Development

IEDA – Iowa Economic Development Authority

IEDA HPS – Iowa Economic Development Authority Historic Preservation Specialist

ISIF – Iowa Site Inventory Form

NEPA – National Environmental Policy Act

NHPA – National Historic Preservation Act

NPS – National Park Service

NRHP – National Register of Historic Places

NTHP – National Trust for Historic Preservation

OSA – Office of the State Archaeologist

PA – Programmatic Agreement

RE – Responsible Entity

RROF – Request for Release of Funds

SHPO – State Historic Preservation Office(r)

SOI – Secretary of the Interior

THPO – Tribal Historic Preservation Officer

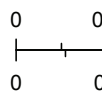
U.S.C. – United States Code

Historic Sites Mechanicsville, IA



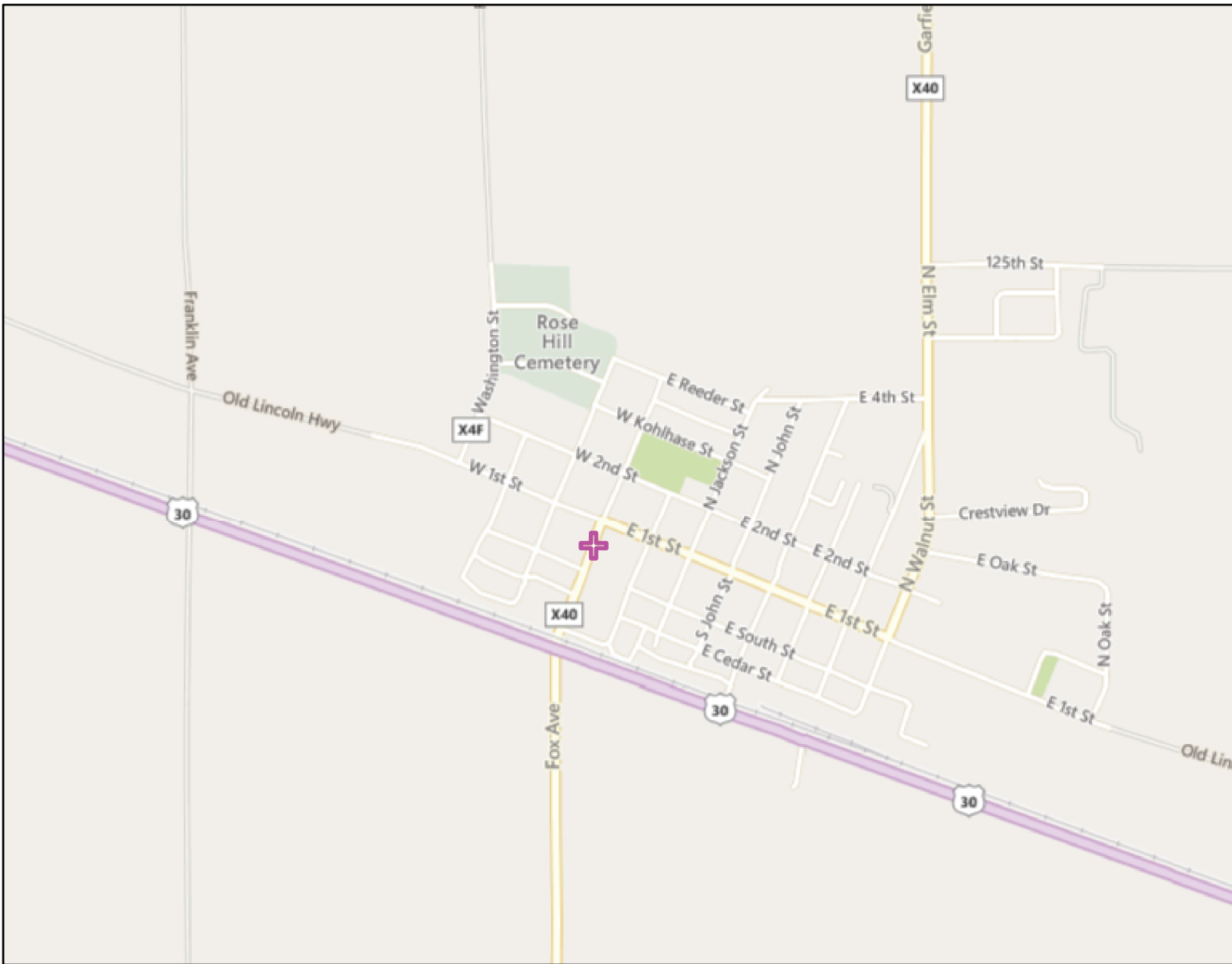
June 15, 2020

- Historic Structures Large Scale Archeological Sites
- National Register Historic
- Cemeteries
- Fewer than 4
- 4 - 20
- Red: Band_1
- More than 20
- Green: Band_2
- Blue: Band_3





© OpenStreetMap

NRHP Mechanicsville, IA



June 15, 2020

-  Search Result (point)
-  National Register of Historic Places



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Historic Preservation

Protection of Historic Properties: National Historic Preservation Act (36 CFR Part 800):

Introduction: Federally funded activities are subject to the review requirements of Section 106 of the National Historic Preservation Act. The review process involves consultation with various agencies, groups and individuals. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties. Historic Properties are those properties that are listed on the National Register or are eligible for listing. A property is considered eligible when it meets specific criteria established by the National Park Service (36 CFR Part 63).

Programmatic Agreement: On August 23, 2016 the *Programmatic Agreement (PA) among the Iowa Economic Development Authority, the Iowa State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding Responsibilities Delegated Under 24 CFR § 58* was executed. This agreement Outlines Programmatically Excluded Activities; allows for IEDA to have qualified staff complete the Section 106 review for undertakings resulting in findings of: No Potential to Cause Effects, No Historic Properties Affected, No Adverse Effect; involves SHPO in standard review of all undertakings resulting in Adverse Effects, and creates data sharing between IEDA and SHPO to further expand the State's Inventory. This document is available for review on IEDA Community Development Block Grant website: <http://www.iowaeconomicdevelopment.com/Community/CDBG>

Lead Federal Agency: As stipulated in the PA, when more than one Federal agency is involved in a project, a lead agency can be identified to serve as the agency official who shall act on the others behalf to fulfill their collective responsibilities under Section 106.

Excluded from further Review: Some CDBG projects are excluded from further review. To determine if your project fits the criteria, reference the PA. A link is provided above. Be sure to reference the correct Section of Appendix B. One pertains to those projects that involve ground disturbance and one involves Architectural/Historical resources. Follow the procedures outlined in the PA. USDA-RD has their own unique Programmatic Agreement. USDA-RD offices should follow their User's Manual to discover SHPO procedures.

Section 106 Consultation: If your project activity is not excluded from further review, you must consult in accordance to the PA. The PA outlines a process in which all recipients of IEDA awarded CDBG funds will consult with IEDA's Historic Preservation Specialist (IEDA HPS). IEDA has established an on-line submittal process and provided training for the required procedures. Training slides to help the recipient through the Section 106 process are also available on IEDA's CDBG website (link above). If you have any questions about historic preservation requirements contact IEDA's HPS, Ann Schmid at 515-725-3078 or ann.schmid@iowa.gov.

Reference: As a reference, you may want to visit the State Historical Society of Iowa website regarding Historic Site and Archaeological Inventory: <https://iowaculture.gov/history/preservation/historic-site-archaeological-inventory> This website also has information on the Secretary of the Interior's Professional Qualification Standards for archaeology and historical investigation. Surveys completed for Section 106 review must meet the Department of Interior Standards, Section 110 or the equivalent. Under the National Historic Preservation Act (NHPA) the Advisory Council on Historic Preservation (ACHP) was established. This Federal agency oversees the Section 106 process. Recipients can learn more about the council's role, get copies of 36 CFR 800, and obtain other information about the Section 106 process on the Council's web site at <http://achp.gov/>

Tribal Consultation: For a list of projects that would require you to contact the tribal authorities reference *When To Consult With Tribes Under Section 106* (page3 of this document). If your project type is not on the list you do not need to consult with the tribes.

A list of tribal authorities who would like to be contacted can be found in Appendix A of the PA. This list is state-wide, therefore it is recommended that you also consult the HUD Tribal Directory for the list and current contact for tribes interested in undertaking in the specific area of the project.

For tribal consultation, reference the PA first, then HUD's guidance: *Process for Tribal Consultation in Projects That Are Reviewed Under 24 CFR Part 58* (pages 4-17 of this document).

(Continued)

Below is a simplified documentation process to meet the Section 106 requirements. Use the below steps to determine if your project is an undertaking that has the potential to cause effects to historic properties.

Step 1 Determine the Area of Potential Effects (APE) (36 CFR Section 800.16(d))
The APE is the surface and subsurface geographic area within which the undertaking may cause effects to historic properties if they exist. Usually it encompasses the project area including all easements' borrow areas, equipment and material storage; and staging areas. Also take into account the excavation and other earthmoving activities including 3-dimensional parameters (length, width, and depth) of the intended subsurface impacts. This information is normally included in the engineering plans and schematics for the project.

Step 2 Identify historic properties within the APE (36 CFR Section 800.4)
The recipient shall make a reasonable and good faith effort to carry out appropriate identification efforts. These include: Conduct background research: consult interested parties, including Indian tribes if applicable, take oral history reviews: interview local historians, complete field surveys, initiate a phase 1 archeological survey. Remember professionally qualified individuals should conduct an evaluation and identification of historic properties. Reference past planning, research and studies: Gather information on the types and number of recorded archaeological sites with a 1-mile radius of the project APE. This can be done by contacting the office of the State Archaeologist using the *Request for Iowa Site File Search*.

Step 3 Results of Identification and Evaluation (36 CFR 800.4(d))
After evaluation, the recipient must determine if the project will affect historic properties. Based upon the evaluation one of the following findings must be made:

 X **No historic properties effected.** This means that either there are no historic properties present or there will be no effect upon the historic properties by the undertaking. If this finding applies to your project do the following:

1. Per the PA consult with IEDA HPS by completing and submitting a NHPA Section 106 Status form in IowaGrants.gov and send consultation to tribes and other interested parties as appropriate.
2. IEDA HPS will review and approve or comment on the submittal. Upon IEDA approval and if the Indian Tribes or other parties have not objected to the finding the recipients responsibilities under Section 106 are fulfilled

 Historic properties effected. This means there are historic properties present and they will be effected by the undertaking or that IEDA HPS or the Indian Tribes have objected to the agency's finding. You must now determine if the undertaking will have an adverse effect on the historic property (36 CFR Section 800.5).

- **Adverse Effect:** an adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. If your project meets this criterion you need to contact IEDA HPS immediately and initiate consultation with SHPO (36 CFR Section 800.6).
3. **No Adverse Effect:** if your project does not meet the above definition of an adverse effect, per the PA consult with IEDA HPS by completing and submitting a NHPA Section 106 Status form in IowaGrants.gov and send consultation to tribes and other interested parties as appropriate.

CDBG Recipients Remember: You must receive IEDA HPS approval and complete the section 106 process before you publish the FONSI or the Request for Release of Funds Notice for a project.

When To Consult With Tribes Under Section 106

Section 106 requires consultation with federally-recognized Indian tribes when a project may affect a historic property of religious and cultural significance to the tribe. Historic properties of religious and cultural significance include: archeological sites, burial grounds, sacred landscapes or features, ceremonial areas, traditional cultural places, traditional cultural landscapes, plant and animal communities, and buildings and structures with significant tribal association. The types of activities that may affect historic properties of religious and cultural significance include: ground disturbance (digging), new construction in undeveloped natural areas, introduction of incongruent visual, audible, or atmospheric changes, work on a building with significant tribal association, and transfer, lease or sale of properties of the types listed above.

If a project includes any of the types of activities below, invite tribes to consult:

- significant ground disturbance (digging)**
Examples: new sewer lines, utility lines (above and below ground), foundations, footings, grading, access roads
- new construction in undeveloped natural areas**
Examples: industrial-scale energy facilities, transmission lines, pipelines, or new recreational facilities, in undeveloped natural areas like mountaintops, canyons, islands, forests, native grasslands, etc., and housing, commercial, and industrial facilities in such areas
- incongruent visual changes**
Examples: construction of a focal point that is out of character with the surrounding natural area, impairment of the vista or viewshed from an observation point in the natural landscape, or impairment of the recognized historic scenic qualities of an area
- incongruent audible changes**
Examples: increase in noise levels above an acceptable standard in areas known for their quiet, contemplative experience
- incongruent atmospheric changes**
Examples: introduction of lights that create skyglow in an area with a dark night sky
- work on a building with significant tribal association**
Examples: rehabilitation, demolition or removal of a surviving ancient tribal structure or village, or a building or structure that there is reason to believe was the location of a significant tribal event, home of an important person, or that served as a tribal school or community hall
- transfer, lease or sale of a historic property of religious and cultural significance**
Example: transfer, lease or sale of properties that contain archeological sites, burial grounds, sacred landscapes or features, ceremonial areas, plant and animal communities, or buildings and structures with significant tribal association

None of the above apply

Project/ Date

Elizabeth Kemp 6/15/2020
Reviewed By

HUD Tribal Directory Assessment Tool (TDAT):
<http://egis.hud.gov/tdat/Tribal.aspx>



U.S. Department of Housing and Urban Development
Community Planning and Development

Special Attention of:

All Regional Directors
All Field Office Directors
All CPD Division Directors
All Regional Environmental Officers
All Responsible Entities
All Housing Directors
All PIH Division Directors
All Program Environmental Clearance Officers

Notice: CPD 12-0-

Issued:

Expires: This Notice is effective until amended, superseded, or rescinded.

Cross References:

SUBJECT: Process for Tribal Consultation in Projects That Are Reviewed Under 24 CFR Part 58

I. Purpose

The “Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities,” 24 CFR Part 58, outlines the review process for many projects assisted with HUD programs, including those funded through CDBG, HOME, HOPE VI, HOPWA, Emergency Shelter Grants, certain Indian Housing programs, Public Housing Capital Fund, and Economic Development Initiative grants, and certain loans guaranteed by HUD. Part 58 covers many environmental areas, including historic resources. It references the “Section 106” review process for historic resources, which requires federal agencies to consult with federally-recognized Indian tribes on projects that may affect historic properties of religious and cultural significance to tribes. Under Part 58, local, state, or tribal governments become Responsible Entities (REs) and assume the federal agency’s environmental review authority and responsibility for projects within their jurisdiction, including those for which they are grantees. The RE must consult with tribes to determine whether a proposed project may adversely affect historic properties of religious and cultural significance, and if so, how the adverse effect could be avoided, minimized or mitigated. This applies to projects on and off tribal lands. This Notice clarifies the steps that REs should follow in the tribal consultation process. Following this protocol ensures compliance with the requirement for certification of tribal consultation on the Request for Release of Funds and Certification (form HUD 7015.15).

II. Background

Section 106 of the National Historic Preservation Act (*16 U.S.C. 470f*) and its implementing regulations (36 CFR Part 800) direct federal agencies to undertake an open, consultative process to consider the impact of their projects on historic and archeological resources. The review must be completed before an agency approves and/or commits funds to a project. In projects that are reviewed under 24 CFR Part 58, the Responsible Entity (RE), acting as HUD, consults with the State Historic Preservation Officer (SHPO), local government, individuals and organizations

with demonstrated interest, the public, and representatives of federally-recognized Indian tribes and Native Hawaiian Organizations, including Tribal Historic Preservation Officers (THPOs). This Notice focuses on tribal consultation and project impacts to historic properties of religious and cultural significance to tribes. If a project includes activities that may affect such properties, the RE must consult with tribes to identify the property(ies) and consider ways to avoid, minimize or mitigate possible adverse effects to them. For guidance on consulting with Native Hawaiian Organizations, see "[Consultation with Native Hawaiian Organizations in the Section 106 Review Process: A Handbook](#)" published by the Advisory Council on Historic Preservation in June 2011.

Effective tribal consultation begins at the earliest possible stages of a project and is carried out to meet project timeframes. It fosters meaningful dialogue that strives to protect historic properties of religious and cultural significance to tribes. As noted in 36 CFR 800.2(c)(2)(ii)(B): "Consultation with Indian tribes should be conducted in a sensitive manner respectful of tribal sovereignty. Nothing in this part alters, amends, repeals, interprets, or modifies tribal sovereignty, any treaty rights, or other rights of an Indian tribe, or preempts, modifies, or limits the exercise of any such rights." [Additional guidance](#) on working with tribal representatives is available. REs may engage cultural resource specialists to assist in the process as needed, but REs remain ultimately responsible for initiating consultation with tribes.

Further details on the Statutory and Regulatory Requirements for tribal consultation are included in Section VI. Definitions are included in Section VII.

III. Required Actions by Responsible Entities

A. Determine if Section 106 Review is Required

Not all projects require Section 106 review. Some are exempted through regulation or Programmatic Agreements between the RE and the SHPO. If Section 106 review is not required, tribal consultation is not required.

1. Exempt Activities

If project activities are limited to those listed in [24 CFR 58.34 \(a\) \(1-11\)](#) as Exempt Activities and those listed in [24 CFR 58.35 \(b\)](#), as Categorical Exclusions not subject to §58.5, no further review and no consultation are required. The listed Activities and Exclusions have "No Potential to Cause Effects." Examples include: maintenance activities, tenant-based rental assistance, operating costs, affordable housing pre-development costs, studies and plans.

2. Programmatic Agreement

If the funded activity is covered by an existing Programmatic Agreement (PA), the PA may contain more Exempt activities in addition to the ones above. [[Link to PA database](#)] Follow the review process in the PA, including appropriate tribal consultation. If the PA does not contain a section on tribal consultation, and the activity is not Exempt, follow the process in III. C., below.

3. Projects Involving Multiple Federal Agencies

If the project involves multiple federal agencies, the RE may defer to another federal agency as the lead agency to undertake the Section 106 review. Generally, the agency with the largest stake in the project acts as the lead agency. Document the lead agency agreement in writing and retain it in the Environmental Review Record (ERR). The agreement must contain provisions for appropriate tribal consultation. If adverse effects are involved, the RE

must sign the Memorandum of Agreement that resolves the adverse effect(s). Contact the HUD Federal Preservation Officer to discuss questions about a specific case.

B. Determine if Tribal Consultation is Required

Not all projects that require Section 106 review require consultation with Indian tribes. Consultation with federally recognized tribes is required when a project includes activities that have the potential to affect historic properties of religious and cultural significance to tribes. These types of activities include: ground disturbance (digging), new construction in undeveloped natural areas, introduction of incongruent visual, audible, or atmospheric changes, work on a building or structure with significant tribal association, or transfer, lease or sale of historic properties of religious and cultural significance.

1. Checklist on When to Consult With Tribes

Use the When to Consult With Tribes Under Section 106 checklist (Appendix A) to determine if the project includes types of activities that have the potential to affect historic properties of religious and cultural significance. [Link to checklist] If not, tribal consultation is not required. Keep a copy of the checklist in the Environmental Review Record (ERR). If needed, you may seek technical assistance from the HUD Field Environmental Officer (FEO). If consultation is required, follow the steps below.

Through written agreement with a tribe, an RE may modify the process outlined below. [See 36 CFR 800.2(c)(2)(ii)(E)] An RE may also choose to incorporate into their consultation effort any relevant provisions in existing agreements between SHPOs and tribes and in other SHPO and THPO written guidance regarding tribal consultation.

C. Consult With Tribes

If a project includes the types of activities that may affect historic properties of religious and cultural significance, the RE must consult with the relevant tribe(s) to identify any such properties in the project's Area of Potential Effect (APE). If they are present, consultation continues with evaluation of the eligibility of the properties for the National Register of Historic Places and assessment of the possible effects of the project on Register-eligible properties. The goal is to avoid adverse effects if possible.

Steps 1-4 below correspond to the steps commonly used to describe the Section 106 process in other guidance: Initiate Consultation (Step 1); Identify and Evaluate Historic Properties (Step 2); Assess Effects (Step 3); and Resolve Adverse Effects (Step 4). For the sake of efficiency, Steps

2, 3 and 4 may be treated together in consultation discussions and comments. [See 36 CFR 800.3(g) Expediting consultation]

Step1. Identify federally-recognized tribes with an interest in the project area and initiate consultation

The RE can use the Tribal Directory Assessment Tool (TDAT) to identify tribes with a current or ancestral interest in the county where the project is located. TDAT is a web-based directory of federally recognized tribes and their geographic areas of interest. Tribes may have an interest in counties far from their current location, counties where the tribe lived centuries or millennia ago.

a. Tribal Directory Assessment Tool (TDAT)

Type the project address into the locator box in TDAT and it will return a list of tribes with interest in the area, with contact names, addresses, e-mail addresses, fax numbers and phone numbers. You can export the list as an Excel spreadsheet

for mail merge in g. below. If TDAT shows no federally recognized tribes with an interest in the area, document the result in the ERR; consultation is complete unless a previously unidentified, federally recognized tribe expresses a desire to consult.

b. Tribe as Grant Recipient

If a tribe is a grant recipient in a HUD project and assumes the role of RE and conducts the Section 106 review, that tribe is responsible for inviting other tribes to consult if other tribes also have a religious or cultural interest in the project area. [Additional guidance](#) is available.

c. Non-federally Recognized Tribes

Although REs are only required to consult with federally-recognized tribes, the RE may invite non-federally recognized tribes with a demonstrated interest in the project to consult as additional consulting parties. They may also participate as members of the public. [See pages 9-11 of [Consultation with Indian Tribes in the Section 106 Review Process: A Handbook](#)]

d. Contact federally-recognized tribe(s) and invite consultation

Once the RE has identified tribes with a potential interest in the project area, the RE mails a letter to each tribe to invite consultation. The letter(s), on RE letterhead, may be transmitted by email. Keep a copy of the letter(s) in the Environmental Review Record (ERR) for monitoring purposes.

e. Historic Properties of Religious and Cultural Significance

The letter that invites consultation should contain a request for assistance in identifying historic properties of religious and cultural significance in the project area - archeological sites, burial grounds, sacred landscapes or features, ceremonial areas, traditional cultural places, traditional cultural landscapes, plant and animal communities, and buildings and structures with significant tribal association - and any initial concerns with impacts of the project on those resources.

f. Tribal Historic Preservation Officer (THPO)

Some tribes have both a tribal leader and a Tribal Historic Preservation Officer (THPO) listed in TDAT. Send letters to both and ask that the tribe's response indicate a single point of contact if possible. On tribal lands, a THPO may have assumed authority for Section 106 review in lieu of the State Historic Preservation Officer (SHPO). On non-tribal lands, the THPO may have been delegated by the tribe to represent them in Section 106 reviews, but their participation does not take the place of consultation with the SHPO. [See page 6 of [Consultation with Indian Tribes in the Section 106 Review Process: A Handbook](#)]

g. Template Letter

Send a letter to the tribe(s) using TDAT contact info mail merged with the template letter. The RE may customize the template letter if desired. [Link to template letter]

You must add a description of the project into the letter by editing the template. The description should include, as applicable: the location and size of the property; type of project; type and scale of new building(s) or structures; construction materials; number of housing units; depth and area of ground disturbance; introduction of visual, audible or atmospheric changes; or transfer, lease or sale of property. [Link to sample project descriptions]

The RE -- not a contractor, lender, sponsor, sub-recipient or other grantee -- must sign the letter to the tribe(s). The RE is required to conduct government-to-government consultation.

h. Map

Enclose a map showing the location of the project and the Area of Potential Effect (APE), which may be larger than the project property. For urban sites, a map generated from a site like Google Earth is preferred. [Link to Google Earth] For rural sites, a USGS topographic map is preferred. [Link to topo map site]

i. Timeframes

HUD's policy is to request a response to the invitation to consult within 30 days from the date the tribe receives the letter. For gauging the beginning and end of the 30 day period, an RE may assume that an emailed letter is received on the date it is sent. For a hard copy letter, an RE may send the letter certified mail, or, if mail delivery is predictable and reliable, the RE may assume a 5-day delivery period, and assume that the period ends 35 days after the letter is mailed.

If a tribe wishes to be a consulting party, the tribe must provide within 30 days an indication of their desire to consult. The tribe does not need to actually provide information about historic properties of religious and cultural significance within 30 days; that may take longer. If a tribe responds that they do not want to consult, document the response in the ERR. If a tribe does not respond to the invitation to consult within 30 days, the RE should document the invitation and lack of response in the ERR; further consultation is not required.

j. Tiered Review

If a project is utilizing a Tiered review, consultation should usually begin in the Tier 1 broad level review. If a tribe expresses interest in further consultation on specific sites, the Tier 1 review should include a written strategy for continuing consultation on site specific reviews in Tier 2. [See [24 CFR 58.15](#)]

Step 2. Consult with the tribe(s) to identify and evaluate historic properties of religious and cultural significance

Theoretically, the consultation process first identifies potential historic properties, then evaluates which ones are eligible for the National Register of Historic Places, and then assesses the impact(s) of the project on those resources. In practice, those efforts often occur simultaneously. It is important to remember though, that only historic properties of religious and cultural significance that are eligible for or listed on the National Register are protected under Section 106. If no such properties are present, refer to the "No Historic Properties Affected" finding in Step 3 below.

a. Consultation Meeting(s)

After receiving a response that a tribe wants to consult, contact the tribe(s) to arrange further consultation which may take place by phone, web meeting, or face-to-face meeting. Try to accommodate a tribe's preferences as to meeting location and method of communication. If needed, a site visit is an eligible project expense. If more than one tribe wants to consult, consult jointly if possible. Integrate tribal consultation with consultation with other non-tribal parties, including the SHPO, as possible and appropriate. Recognize that some tribes may not want to consult jointly, particularly where there are concerns for confidentiality of information.

b. Evaluation of Historic Properties for the National Register of Historic Places

Gather information on known historic properties from the tribe, SHPO, consultants, and other repositories. Discuss with the tribe whether known properties appear eligible for the National Register of Historic Places. HUD acknowledges that tribes possess special expertise in evaluating the eligibility of religious and cultural properties for the National Register. Generally, if the RE disagrees with a tribe's opinion, the RE or the tribe may ask the Advisory Council on Historic Preservation to enter the consultation. The tribe may also ask the Council to request the RE to obtain a formal determination of eligibility from the Keeper of the National Register.

c. Surveys to Identify Additional Historic Properties

If a convincing case is made by the tribe(s) and/or SHPO that National Register eligible historic properties potentially exist on the site, and that they may be affected by the project, the grantee may approve funding for an archeological survey as part of the project. Consult HUD's HP Fact Sheet #6, [Guidance on Archeological Investigations in HUD Projects](#). [Link to HP Fact Sheet #6]

Sometimes, consultation results in modification of project plans to avoid potential effects on historic properties of religious and cultural significance. If effects are avoided, e.g. by designating a sensitive area as undisturbed green space, it is generally not necessary to fully identify and document resources with an archeological survey.

An RE is not required to pay for consultation. However, an RE may choose to negotiate payment to a tribe for detailed survey documentation on historic properties of religious and cultural significance to the tribe, similar to payment to a consultant. If agreed upon ahead of time, this payment may be an eligible project expense.

d. Confidentiality of Information

Tribes may be hesitant to share information on the location, character, and use of historic properties of special religious and cultural significance. Discuss with the tribe(s) ways to protect confidentiality of such information. The RE should strive to ensure confidentiality when requested. [36 CFR 800.11\(c\)](#) outlines a formal process for obtaining federal authority to withhold sensitive information, in the event that practical means or state authority are not available.

Step 3. Consult with the tribe(s) to evaluate the effects of the project on identified and potential historic resources

After discussing the possible effects of the project on historic properties of religious and cultural significance to tribes, the RE determines the appropriate finding: "No Historic Properties Affected"; "No Adverse Effect"; or "Adverse Effect". The RE will also be consulting with other parties, like the SHPO, to determine effects of the project on these and other types of resources, like historic buildings with no tribal association. It is desirable to consolidate findings of effect for all types of historic properties in one letter. Ultimately, a project has one overall finding of effect. Tribes have 30 days to object to a finding of effect.

a. Criteria of Adverse Effect

Consult with the tribe(s) and other consulting parties to apply the [Criteria of Adverse Effect](#), and determine if the project may have an adverse effect.

b. “No Historic Properties Affected” Finding

If there are no known or potential historic properties in the project area that are listed on or eligible for the National Register of Historic Places, or if such properties exist but there will be no effect on them, notify the tribe(s) and other consulting parties of your determination of “No Historic Properties Affected.” Describe which of the above circumstances applies. It is not necessary to fully identify and document resources if they will not be affected by the project.

c. “No Adverse Effect” Finding

If the project will have an effect, but it will not be adverse, notify the tribe(s) and other consulting parties of your determination of “No Adverse Effect.” They have 30 days to object. If a tribe objects, the RE should consult to resolve the objection. The tribe or the RE may also ask the Advisory Council on Historic Preservation to review the determination. The request must be made within the 30-day period and must include the documentation listed in [36 CFR 800.11 \(e\)](#).

d. “Adverse Effect” Finding

If the project will affect National Register listed or eligible historic properties in any of the ways outlined in the Criteria of Adverse Effect, notify the tribe(s) and other consulting parties of your determination of “Adverse Effect” and consult to resolve the adverse effects. Typical activities that could adversely affect historic properties of religious and cultural significance include: ground disturbance (digging), new construction in undeveloped natural areas, introduction of incongruent visual, audible, or atmospheric changes, work on a building or structure with significant tribal association, or transfer, lease or sale of historic properties of religious and cultural significance.

Step 4. Consult to resolve adverse effects

If there are possible “Adverse Effects”, consult with the tribe(s) and other consulting parties to consider alternatives that would avoid or minimize adverse effects, including possible mitigation measures.

a. Notification of Advisory Council

The RE must notify the Advisory Council on Historic Preservation (ACHP) about the adverse effect and give them an opportunity to enter the consultation. The Council will decide whether to enter the consultation based on established [criteria](#) that include whether a project “Presents issues of concern to Indian tribes or Native Hawaiian organizations.” The Advisory Council must respond within 15 days of receipt of the request. [See link to on-line ACHP notification system – pending]

b. Consideration of Alternatives

Consult with the tribe(s) and other consulting parties about possible ways to modify a project to avoid adverse effects. If initial discussion does not resolve the issue(s), a site visit with consulting parties and project developers is often helpful. An agreed upon alternative may be stipulated with “conditions” in a revised “No Adverse Effect” finding for the project.

c. Consideration of Mitigation Measures

If adverse effects cannot be fully resolved, and there is a compelling need for the project to proceed despite the adverse effect(s), consider ways to mitigate or compensate for the harm to the historic property(ies). Mitigation measures may include data recovery, documentation, research, publication, education, interpretation, curation, off-site preservation, and/or monitoring and may relate to the specific resource that is being affected, or other historic properties in a similar location or of a similar type.

d. If needed, prepare and execute a Memorandum of Agreement (MOA)

An MOA stipulates the agreed upon measures to minimize and/or mitigate adverse effects. It is a legally binding document that obligates all named parties to the agreement. The RE is responsible for ensuring that the measures required by the MOA are satisfactorily carried out. Model language is available. At the discretion of the RE, where deemed necessary, an MOA may also be used to codify agreed upon measures to avoid an adverse effect, in conjunction with a conditional “No Adverse Effect” finding.

e. Execution of the MOA

The MOA must be executed prior to the decision point for the project -- as applicable, prior to the dissemination or publication of public notices required by 24 CFR Part 58 (e.g., notice of finding of no significant impact (§58.43), and notice of intent to request the release of funds (§58.70)). The RE should send a digital copy of the MOA to the HUD Field Environmental Officer (FEO) who will file it in the MOA file in the central HUD shared drive. A copy must also be provided to the Advisory Council on Historic Preservation and the consulting tribe(s).

f. Signatories to the MOA

The Responsible Entity may invite the tribe(s) to sign the MOA as a consulting party. The tribal leader and the THPO may sign the MOA. For projects on tribal lands, if the tribe has a THPO who has assumed Section 106 responsibilities for the tribe, the THPO must be a signatory.

HUD does not sign Section 106 agreement documents covered by 24 CFR Part 58. HUD does sign agreements covered by 24 CFR Part 50. If a project is subject to both, HUD may sign as long as the agreement states the appropriate program reference. [See CPD [Memo on HUD Environmental Regulations and Section 106 Agreement Documents](#)]

g. Completion of MOA requirements

The RE must ensure that the stipulations and mitigation measures in the MOA are carried out and inform the tribe(s) of completion. Document completion in the Environmental Review Record (ERR).

h. Termination of Consultation

If consulting about properties on tribal lands, a THPO may determine that further consultation will not be productive and terminate consultation. Likewise, an RE, SHPO, or, if participating, the Advisory Council on Historic Preservation, may terminate consultation. Termination of consultation is detailed at [36 CFR 800.7](#). A tribe that is consulting about properties off tribal lands may decline an invitation to sign an MOA, but does not have a right to terminate consultation under 36 CFR 800.7.

IV. Record of Compliance

Include evidence of compliance with this protocol in the Environmental Review Record (ERR), including notes, letters, e-mails, reports, etc.

Failure to consult with tribes per this protocol may lead to HUD issuing a finding of non-compliance with 36 CFR Part 800, the regulations that implement Section 106. If HUD makes a finding, HUD may initiate sanctions, corrective actions, or other remedies specified in program regulations or agreements or contracts with the RE which may include terminating grants where appropriate and repayment of funds expended with non-federal funds. (See [24 CFR 58.77](#))

A. Request for Release of Funds (RROF) (Form 7015.15)

REs and grantees must certify on the Request for Release of Funds and Certification (form HUD 7015.15) that they have consulted with federally-recognized tribes per this protocol. [See Part 2, #3 of [form](#)]

V. Discoveries During Construction

Whenever previously unknown below ground historic properties of religious and cultural significance are discovered during construction, excavation in the area of the resources must immediately stop until tribal consultation can occur. The RE must notify tribes (including the THPOs), the Advisory Council on Historic Preservation, and the SHPO within 48 hours of the discovery. [See [36 CFR 800.13\(b\)](#)] Contact the tribes identified in Step 1 and reenter consultation which should take place under an accelerated timeframe. A site visit with the RE, tribe(s), and SHPO (as appropriate) is recommended to resolve any potential adverse effect(s) to the historic property(ies) of religious and cultural significance.

A. Human Remains

If the discovery includes human remains, they should be respectfully covered over and secured, and the RE should contact law enforcement authorities as well as tribes and other consulting parties. If the human remains are determined to be Indian burials, the RE should follow the guidance in the “[Advisory Council on Historic Preservation Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects.](#)”

B. Native American Graves Protection and Repatriation Act (NAGPRA)

In undertakings on federal or tribal lands, the Native American Graves Protection and Repatriation Act (NAGPRA) (*25 U.S.C. 3001 et seq*) requires that cultural items excavated or inadvertently discovered be returned to their respective peoples. Cultural items include human remains, funerary objects, sacred objects, and objects of cultural patrimony. [More information](#) is available.

VI. Statutory and Regulatory Requirements

Federal law directs federal agencies to consult with tribes when there is a potential for a federally-funded project to affect a historic property of religious and cultural significance to tribes.

Section 106 of the National Historic Preservation Act ([16 U.S.C. 470f](#)) requires that prior to approving the expenditure of funds for a project, a federal agency must take into account the effect of the undertaking on historic resources.

Section 101 (d)(6)(A) and (B) of the National Historic Preservation Act identifies the types of properties to be considered and the obligation to consult. The Act provides that properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for inclusion in the National Register of Historic Places. In carrying out its responsibilities under Section 106 of the Act, a Federal agency is required to consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to such properties. In projects that are reviewed under 24 CFR Part 58, the Responsible Entity (RE) assumes the role of the Federal agency, including tribal consultation. [[See 24 CFR 58.4](#)]

The regulations that implement Section 106 of the Act, [36 CFR Part 800](#) – “Protection of Historic Properties,” define “Indian tribe” as federally recognized tribes, and limit the need to consult to projects that have the potential to affect historic properties of religious and cultural significance to tribes.

36 CFR 800.2 (c)(2)(ii)

Consultation on historic properties of significance to Indian tribes and Native Hawaiian organizations.

Section 101(d)(6)(B) of the act requires the agency official to consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to historic properties that may be affected by an undertaking...

36 CFR 800.3

(a) *Establish undertaking.* The agency official shall determine whether the proposed Federal action is an undertaking as defined in § 800.16(y) and, if so, whether it is a type of activity that has the potential to cause effects on historic properties.

(1) *No potential to cause effects.* If the undertaking is a type of activity that does not have the potential to cause effects on historic properties, assuming such historic properties were present, the agency official has no further obligations under section 106 or this part.

Therefore, the consultation process outlined in this Notice starts by first establishing whether the project includes a type of activity that has the potential to affect historic properties of religious and cultural significance to tribes. If it does, it outlines the steps to consult with tribes to identify and evaluate resources, and to assess the effects of the project on the resources.

VII. Definitions

Definitions of some of the terms used in this Notice may be found in 24 CFR Part 58 and 36 CFR Part 800, “Protection of Historic Properties”, and are repeated here for convenience.

The definition of **Responsible Entity** is found in 24 CFR 58.2(a)(7).

Responsible Entity. Responsible Entity means:

- (i) With respect to environmental responsibilities under programs listed in §58.1(b)(1), (2), (3)(i), (4), and (5), a recipient under the program.

(ii) With respect to environmental responsibilities under the programs listed in §58.1(b)(3)(ii) and (6) through (12), a state, unit of general local government, Indian tribe or Alaska Native Village, or the Department of Hawaiian Home Lands, when it is the recipient under the program. Under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*) listed in §58.1(b)(10)(i), the Indian tribe is the responsible entity whether or not a Tribally Designated Housing Entity is authorized to receive grant amounts on behalf of the tribe. The Indian tribe is also the responsible entity under the Section 184 Indian Housing Loan Guarantee program listed in §58.1(b)(11). Regional Corporations in Alaska are considered Indian tribes in this part. Non-recipient responsible entities are designated as follows:

(A) For qualified housing finance agencies, the State or a unit of general local government, Indian tribe or Alaska native village whose jurisdiction contains the project site;

(B) For public housing agencies, the unit of general local government within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;

(C) For non-profit organizations and other entities, the unit of general local government, Indian tribe or Alaska native village within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;

Definitions of some other parties in the Section 106 process are found in 36 CFR 800.16.

Council means the Advisory Council on Historic Preservation or a Council member or employee designated to act for the Council.

Indian tribe means an Indian tribe, band, nation, or other organized group or community, including a native village, regional corporation, or village corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Native Hawaiian organization means any organization which serves and represents the interests of Native Hawaiians; has as a primary and stated purpose the provision of services to Native Hawaiians; and has demonstrated expertise in aspects of historic preservation that are significant to Native Hawaiians.

Native Hawaiian means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

State Historic Preservation Officer (SHPO) means the official appointed or designated pursuant to section 101(b)(1) of the act to administer the State historic preservation program or a representative designated to act for the State historic preservation officer.

Tribal Historic Preservation Officer (THPO) means the tribal official appointed by the tribe's chief governing authority or designated by a tribal ordinance or preservation

program who has assumed the responsibilities of the SHPO for purposes of section 106 compliance on tribal lands in accordance with section 101(d)(2) of the act.

Other relevant definitions found in 36 CFR 800.16 include:

Area of potential effects means the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.

Consultation means the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the section 106 process. The Secretary's "Standards and Guidelines for Federal Agency Preservation Programs pursuant to the National Historic Preservation Act" provide further guidance on consultation.

Effect means alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register.

Eligible for inclusion in the National Register includes both properties formally determined as such in accordance with regulations of the Secretary of the Interior and all other properties that meet the National Register criteria.

Historic property means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria.

Memorandum of agreement means the document that records the terms and conditions agreed upon to resolve the adverse effects of an undertaking upon historic properties.

National Register means the National Register of Historic Places maintained by the Secretary of the Interior.

Programmatic agreement means a document that records the terms and conditions agreed upon to resolve the potential adverse effects of a Federal agency program, complex undertaking or other situations in accordance with §800.14(b).

Tribal lands means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities.

Undertaking means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license or approval.

Acronyms Used in This Notice

ACHP	Advisory Council on Historic Preservation (federal)
APE	Area of Potential Effect
CPD	Community Planning and Development Office
ERR	Environmental Review Record
FEO	Field Environmental Officer
HUD	U.S. Department of Housing and Urban Development
MOA	Memorandum of Agreement
NAGPRA	Native American Graves Protection and Repatriation Act
PA	Programmatic Agreement
RE	Responsible Entity
REO	Regional Environmental Officer
RROF	Request for Release of Funds and Certification
SHPO	State Historic Preservation Officer
TDAT	Tribal Directory Assessment Tool
THPO	Tribal Historic Preservation Officer

Appendix A

When To Consult With Tribes Under Section 106 Checklist

Yolanda Chávez
Deputy Assistant Secretary for Grant
Programs

Excluded from Review, Project Determination Form

After referencing Appendix B of the Programmatic Agreement (PA) to verify that the project activity does not need further review, use this form to document compliance with the Section 106 of the NHPA. This form will be submitted to IEDA either with your Request for Release of Funds (RROF) or individually per building as applicable.

As an example, here are the steps you would take:

- Start Environmental Review
- See if the project is exempt from further review by referencing Appendix B of the PA..
- If the project activity meets either the Qualifying Criteria or the Specific Excluded Activities, fill out this form and include it in your environmental review record or upload it to iowagrants.gov as applicable.
- Use the “When to Consult with Tribes Under Section 106” included in the PA to determine if Tribal consultation is required. If so, mail letters to tribes; you must still do this even if your project activity meets and exemption under this PA.
- Complete the rest of the Environmental Review
- Publish Notice
- Submit the Request for Release of Funds: attach a copy of the notice and the *Exempt from Review, Project Determination Form*.

NOTE: You must still solicit comment about the project from the Native American Tribes even if your project activity is exempt from further review.

Recipient Name: City of Mechanicsville

Contract

Number:

Recipient Address: 100 E 1st St, Mechanicsville, IA 52306

For information on this request, contact:

Contact Name: Elizabeth Kemp

Contact Phone Number: 563-556-4166

Project Description (provide a brief description of the actual scope of work not just “housing rehab”)

The project consists of replacing the water main along North Avenue between 10th St. and Highway 38. The sewer project will occur throughout the Census Tract 4503, Block Group 2 previously delineated within the City of Tipton.

**Project Address (Street, City, Zip):
Mechanicsville, IA**

Project County: Cedar

Reason Project Activity is Excluded from Review (use Appendix B of the PA):

Section 2

Qualifying Criteria a. or b.: b

OR

Specific Excluded Activity (include which specific activity):

Notes:

(include date of construction)

Pictures: Take a before picture of the primary façade of any buildings directly impacted by project activities. Attach them to this form.

Applicant Certification:

As the duly designated certifying official of the recipient, I also certify that: I am authorized to and do consent to assume the status of responsible federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.

Signature of the Certifying Officer of Applicant,

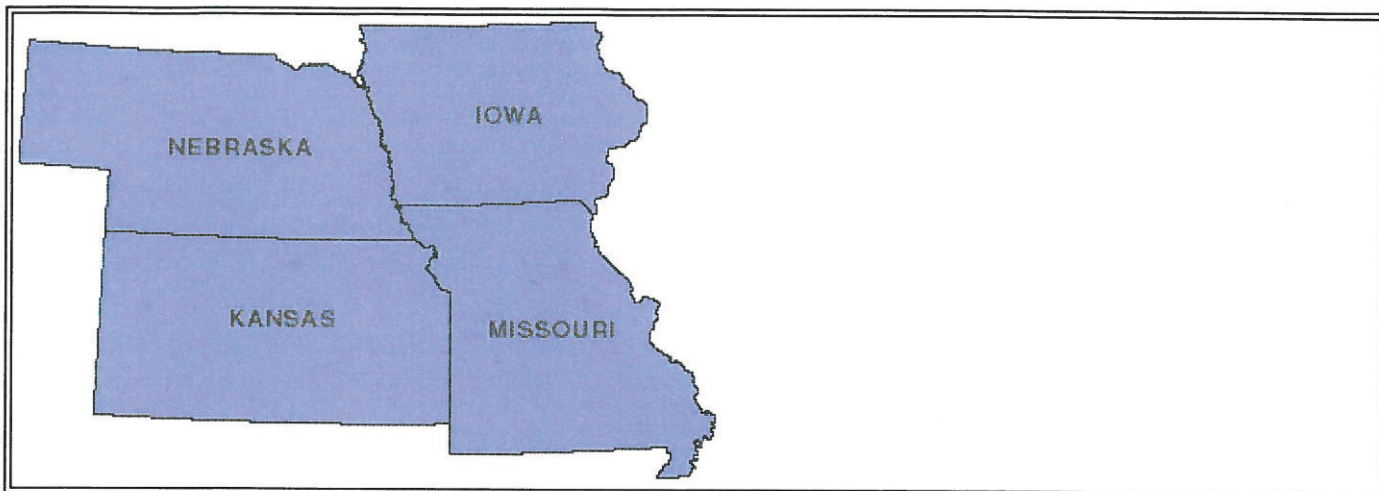
Date

Print Name and Title of Certifying Officer of Applicant

APPENDIX J

Designated Sole Source Aquifers in EPA Region VII

Iowa, Kansas, Missouri, Nebraska



REGION VII (IA, KS, MO, NE)

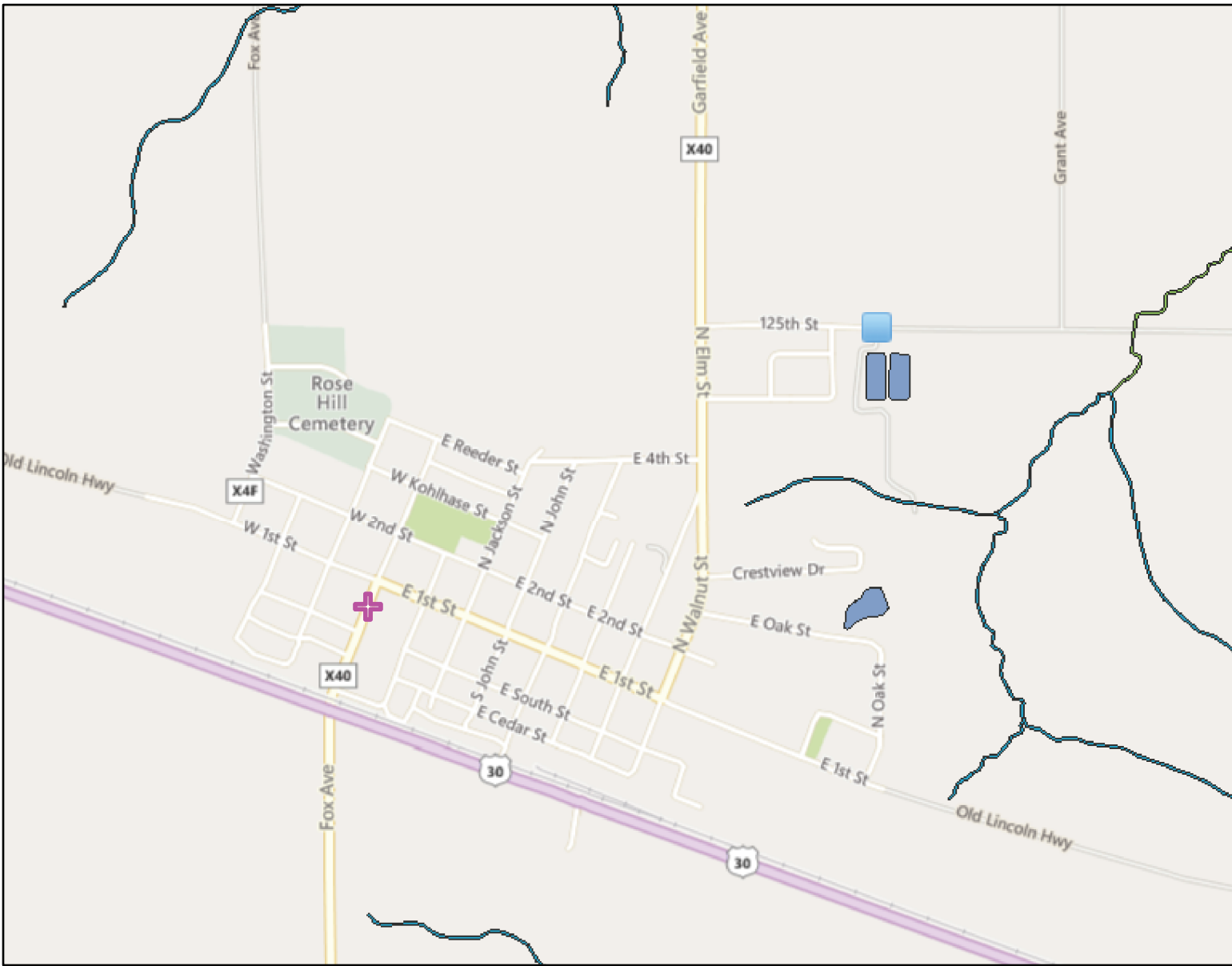
Stephanie Lindberg
Drinking Water/Ground Water Branch
EPA Region 7
901 N. 5th Street
Kansas City, KS 66101
phone: (800) 223-0425
email: lindberg.stephanie@epa.gov

There are no designated Sole Source Aquifers in Region VII. Contact the coordinator above for more information about designating SSAs in Region VII.









Return to: [Sole Source Aquifer program home page](#)

APPENDIX K

NWI Wetlands Mechanicsville, IA



June 15, 2020

- | | | |
|--|---|---|
|  Water Dischargers (NPDES) |  Estuarine and Marine Wetland |  Freshwater Pond |
| Wetlands |  Freshwater Emergent Wetland |  Lake |
|  Estuarine and Marine Deepwater |  Freshwater Forested/Shrub Wetland |  Other |



U.S. Fish and Wildlife
wetlands_team@fws.gov

APPENDIX L

Nationwide Rivers Inventory

National Park Service
U.S. Department of the Interior

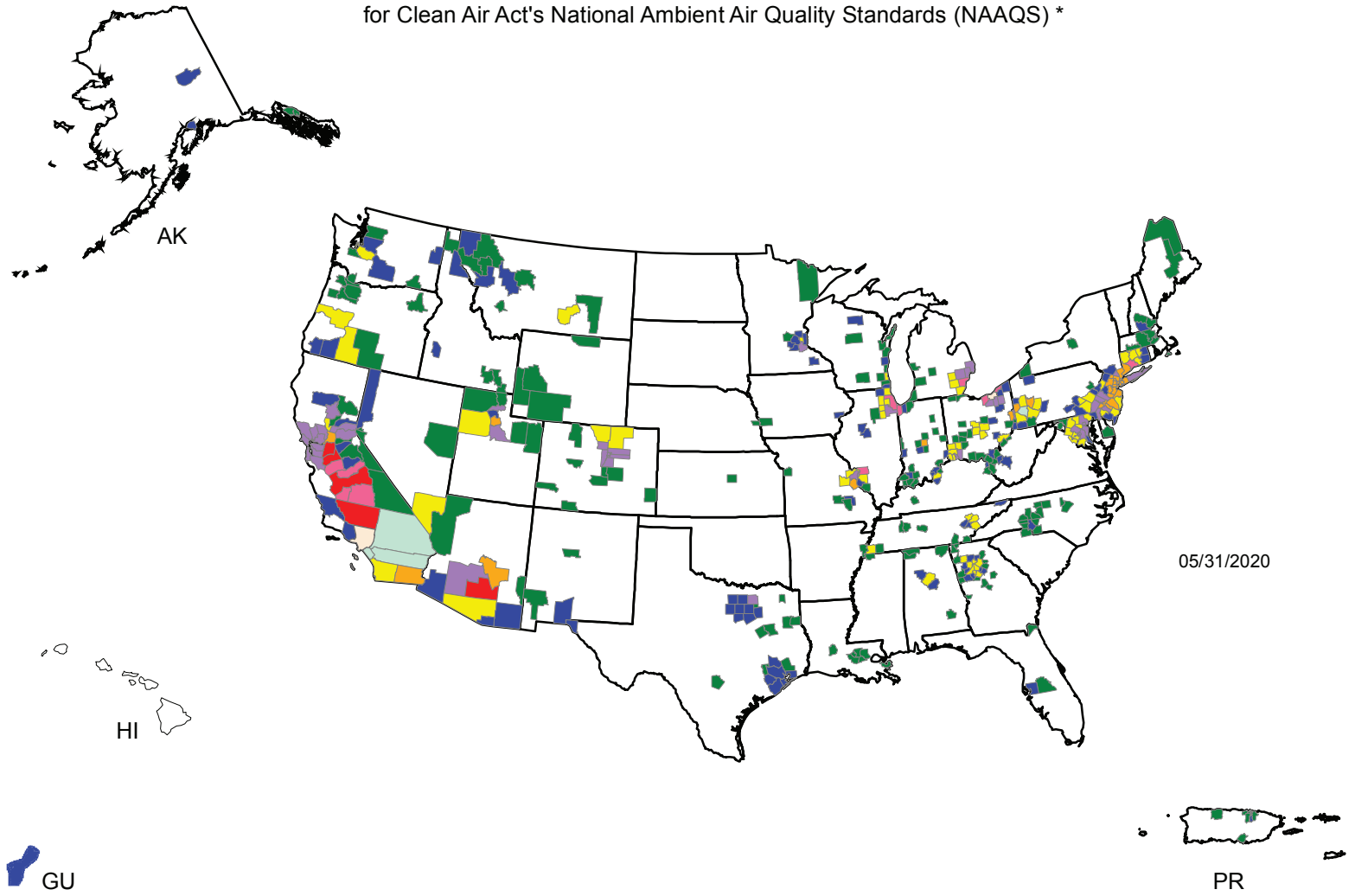
This is a listing of more than 3,200 free-flowing river segments in the U.S....



APPENDIX A

Counties Designated "Nonattainment" or "Maintenance"

for Clean Air Act's National Ambient Air Quality Standards (NAAQS) *



Legend **

- County Designated Nonattainment or Maintenance for 9 NAAQS Pollutants
- County Designated Nonattainment or Maintenance for 8 NAAQS Pollutants
- County Designated Nonattainment or Maintenance for 7 NAAQS Pollutants
- County Designated Nonattainment or Maintenance for 6 NAAQS Pollutants
- County Designated Nonattainment or Maintenance for 5 NAAQS Pollutants
- County Designated Nonattainment or Maintenance for 4 NAAQS Pollutants
- County Designated Nonattainment or Maintenance for 3 NAAQS Pollutants
- County Designated Nonattainment or Maintenance for 2 NAAQS Pollutants
- County Designated Nonattainment or Maintenance for 1 NAAQS Pollutants

* The National Ambient Air Quality Standards (NAAQS) are health standards for Carbon Monoxide, Lead (1978 and 2008), Nitrogen Dioxide, 8-hour Ozone (2008), Particulate Matter (PM-10 and PM-2.5 (1997, 2006 and 2012), and Sulfur Dioxide.(1971 and 2010)

** Included in the counts are counties designated for NAAQS and revised NAAQS pollutants. Revoked 1-hour (1979) and 8-hour Ozone (1997) are excluded. Partial counties, those with part of the county designated nonattainment and part attainment, are shown as full counties on the map.

Non-attainment and Maintenance Areas in the State of Iowa

Listed below are the current maintenance and nonattainment areas in the state of Iowa. Owners and operators of portable equipment that are transferring the portable equipment must notify the department at least 14 days prior to transferring the equipment to one of these areas (567 IAC 22.3(3)“f”). Use the Notice of Relocation of Portable Equipment” form (DNR Form 542-1362). Please contact the air construction permit assistance line at 1-877-AIR-IOWA if you have questions.

Maintenance Areas (Pollutant)

Buffalo (PM10)

Cedar Rapids (SO₂)

Clinton (SO₂)

Council Bluffs (Lead)

Mason City (PM10)

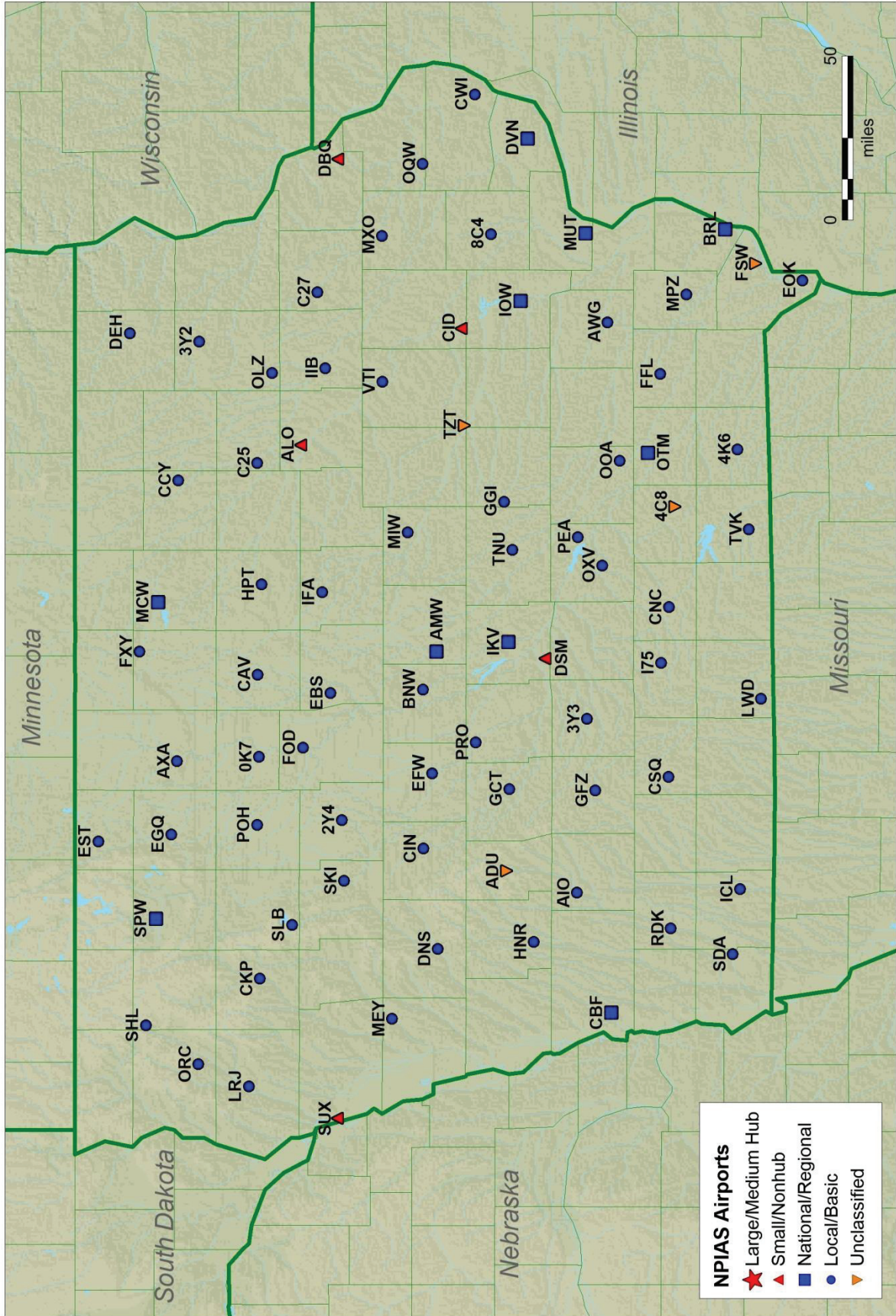
Muscatine (24-hour SO₂ & PM_{2.5})

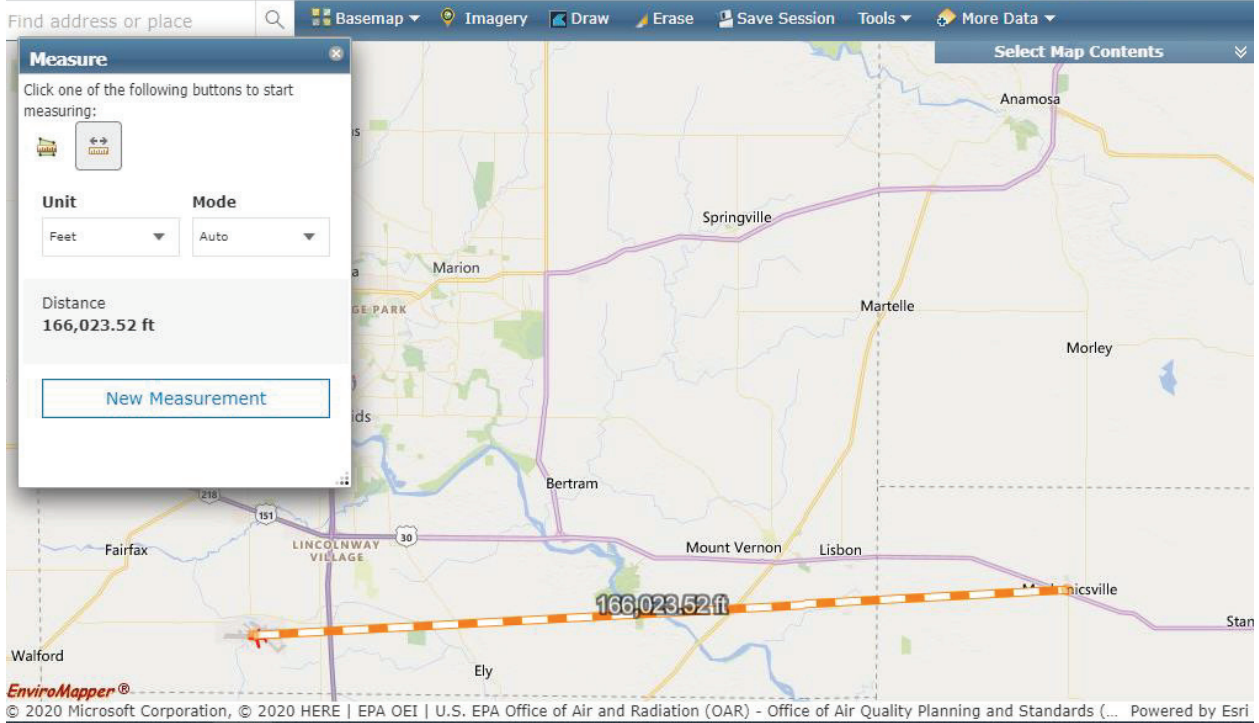
Non-Attainment Areas (Pollutant)

Muscatine (1-hour SO₂)

APPENDX B

Iowa



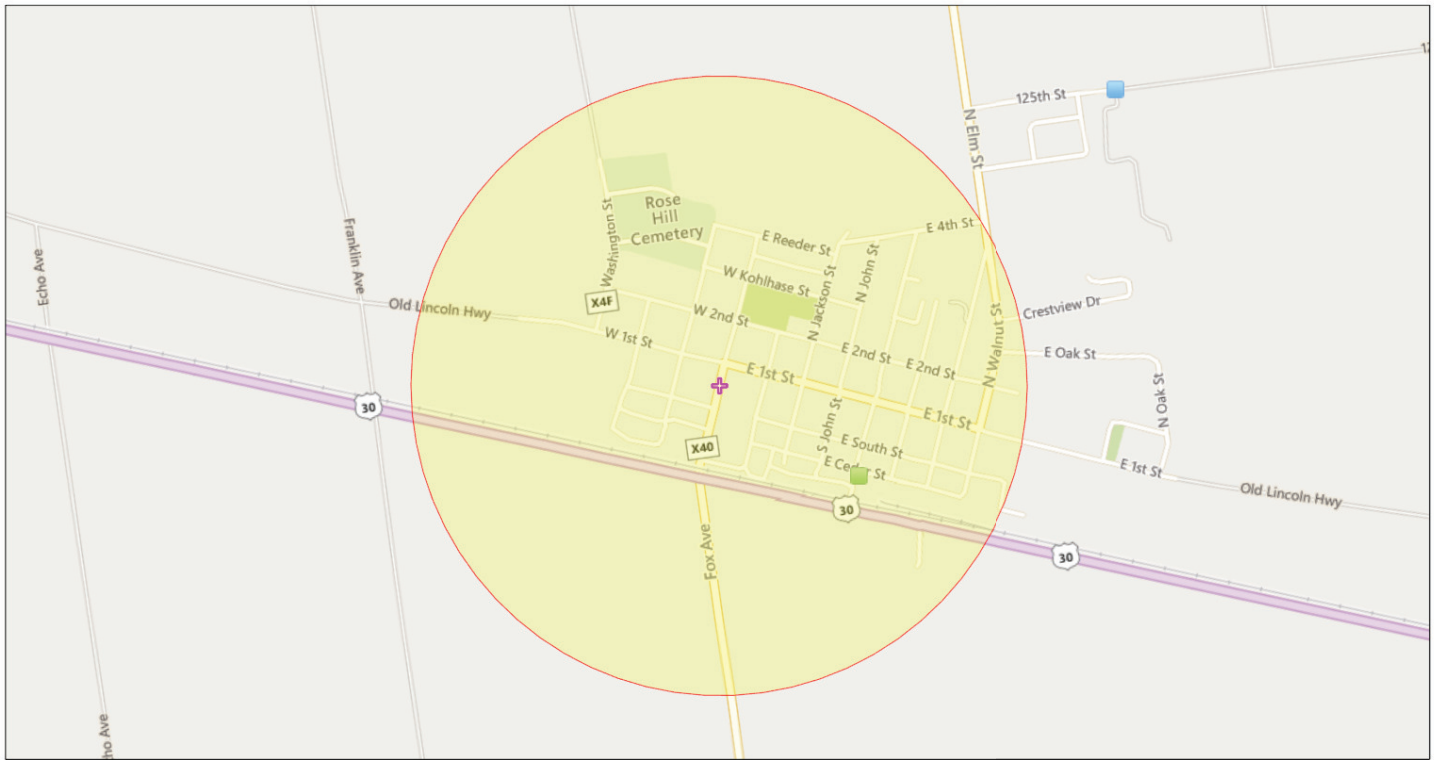


The distance to the nearest airport is 166,023 feet in Cedar Rapids, IA.

APPENDIX C

NEPAssist Report

Mechanicsville, IA



June 15, 2020

- Water Dischargers (NPDES)
- Hazardous Waste (RCRAInfo)
- + Mechanicsville, IA
- Project Buffer
- + Airport Points



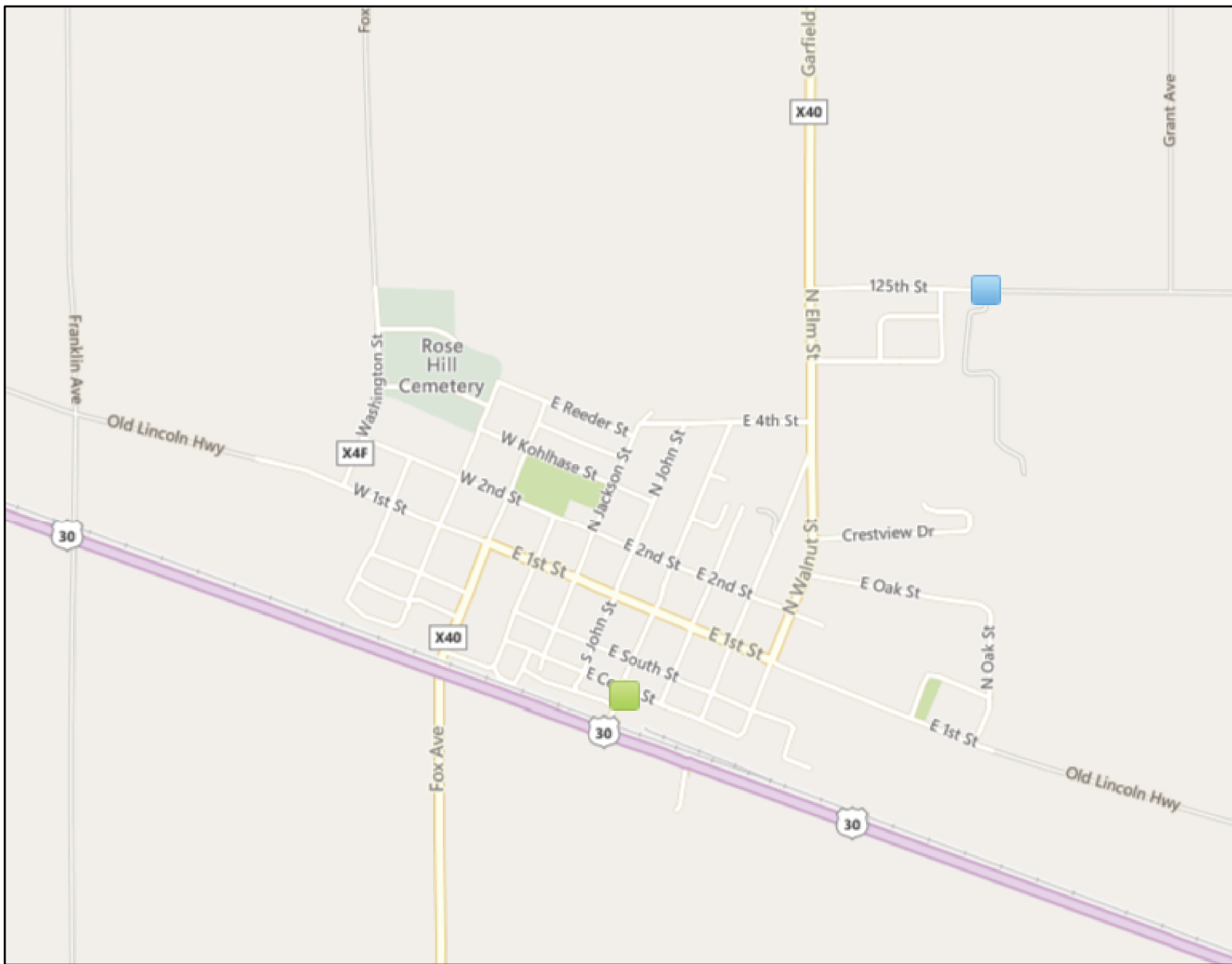
© 2020 Microsoft Corporation © 2020 HERE, EPA OEI

Project Location	41.9051,-91.25812
Within 0.5 miles of an Ozone 8-hr (1997 standard) Non-Attainment/Maintenance Area?	no
Within 0.5 miles of an Ozone 8-hr (2008 standard) Non-Attainment/Maintenance Area?	no
Within 0.5 miles of a Lead (2008 standard) Non-Attainment/Maintenance Area?	no
Within 0.5 miles of a SO2 1-hr (2010 standard) Non-Attainment/Maintenance Area?	no
Within 0.5 miles of a PM2.5 24hr (2006 standard) Non-Attainment/Maintenance Area?	no
Within 0.5 miles of a PM2.5 Annual (1997 standard) Non-Attainment/Maintenance Area?	no
Within 0.5 miles of a PM2.5 Annual (2012 standard) Non-Attainment/Maintenance Area?	no
Within 0.5 miles of a PM10 (1987 standard) Non-Attainment/Maintenance Area?	no
Within 0.5 miles of a Federal Land?	no
Within 0.5 miles of an impaired stream?	no
Within 0.5 miles of an impaired waterbody?	no
Within 0.5 miles of a waterbody?	no
Within 0.5 miles of a stream?	yes
Within 0.5 miles of an NWI wetland?	Available Online
Within 0.5 miles of a Brownfields site?	no
Within 0.5 miles of a Superfund site?	no
Within 0.5 miles of a Toxic Release Inventory (TRI) site?	no
Within 0.5 miles of a water discharger (NPDES)?	no
Within 0.5 miles of a hazardous waste (RCRA) facility?	yes
Within 0.5 miles of an air emission facility?	no




Within 0.5 miles of a school?	no
Within 0.5 miles of an airport?	no
Within 0.5 miles of a hospital?	yes
Within 0.5 miles of a designated sole source aquifer?	no
Within 0.5 miles of a historic property on the National Register of Historic Places?	no
Within 0.5 miles of a Toxic Substances Control Act (TSCA) site?	no
Within 0.5 miles of a Land Cession Boundary?	yes
Within 0.5 miles of a tribal area (lower 48 states)?	no

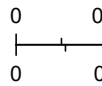
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EPA Facilities Mechanicsville, IA



June 15, 2020

-  Water Dischargers (NPDES)
-  Hazardous Waste (RCRAInfo)
-  Airport Points



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Services (https://directory.iowa.gov/service/Index?_ga=1.101492737.1604613096.1488473035&ia_slv=1592239325186)

Agencies (https://directory.iowa.gov/?ia_slv=1592239325186)

Social (https://directory.iowa.gov/social/Index?ia_slv=1592239325186)

(https://www.iowa.gov/search/google?ia_slv=1592239325186)

CONTAMINATED SITES

Site Search

Sites may be searched by entering text in one text boxes at the base of the columns (name, address, city or program). Other search criteria may also be entered the general text box including county, zip code, project manager, alternative name, or ownership type.

The system will start sorting as a search is initiated in the general text search box; pressing an enter or return key isn't necessary. The best results are obtained by using the column text boxes in combination with the general text box to narrow the search list.

Copy CSV Print

Show 10 entries

Search:

ID	Name	Address	City	Program
1982 (Detail/1982)	Radium Petroleum	South of US 30 east on county rd X-40	Mechanicsville	Chapter 133
	<input type="text" value="Search"/>	<input type="text" value="Search"/>	<input type="text" value="Mechanicsville"/>	-- (All) --

Showing 1 to 1 of 1 entries (filtered from 2,339 total entries)

Previous 1 Next

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Leading lowans in caring for our natural resources

Version: 3.6.1.5060



6/15/2020 10:50:36 AM user: Login

[Advanced](#) search UST Registration Number for [Go](#)

Advanced Search

UST
 LUST
 AST
 UST 3rd Party Inspections
 UST Certifications

Leak Number:
 Leak Risk Classification: --Risk Classification--
 Site Name:
 Site Address:
 Site City: MECHANICSVILLE
 County: --County--
 Site Status: --Status Type--

[Search](#)

[Export Results](#)

Leak No.	Leak Classification	Registration No.	Name	Address
8LTU39	No Action Required	198601448	AGVANTAGE	201 E CEDAR Mechanicsville, IA 523060000
7LTO91	No Action Required	198603133	CEDAR COUNTY MAINT SHED #5	S FAYETTE ST W SOUTH Mechanicsville, IA 52306
8LTC42	No Action Required	198605530	DEANS 76	101 MADISON Mechanicsville, IA 523060000
8LTV77	No Action Required	197910098	EASTERN IOWA AUTO BROKERS	301 HWY 30 E Mechanicsville, IA 523060000
7LTX47	No Action Required	198600862	LINCOLN COMM SCHOOL	MONROE STREET Mechanicsville, IA 523060000

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The Above Ground Storage Tank (AST) information on this website is no longer maintained. The DNR does not regulate ASTs. For additional information on ASTs, please contact the State Fire Marshal office at (515)-725-6145.

4.1.5.5973

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6/15/2020 10:51:03 AM user: Login

Advanced search UST Registration Number for Go

Advanced Search

UST
 LUST
 AST
 UST 3rd Party Inspections
 UST Certifications

Registration Number:
 Site Name:
 Site Address:
 Site City: MECHANICSVILLE
 County: --County--
 Site Status: --Status Type--
 Financial Responsibility Expiration Before:
 Affiliate:

[Search](#)

[Export Results](#)

Registration No.	Leak No.	Name	Address	Status	Insurer	Policy End Date
198601448	8LTU39	AGVANTAGE	201 E CEDAR Mechanicsville, IA 523060000	Regulated tanks - r/f		
198605400		BER MAR FARMS	RR 2 Mechanicsville, IA 523060000	Regulated tanks - r/f		
198914580		BERNARD E ANDREW	697 160TH STREET Mechanicsville, IA 52306-7605	Non-regulated Farm/Res <1100 -active		
198600896		CASEY'S GENERAL STORE #1445	207 S MADISON Mechanicsville, IA 523060000	Regulated tanks - r/f	CASEY S MARKETING CO	08/20/2015
201100015		CASEYS GENERAL STORE 2989	206 SHORT ST Mechanicsville, IA 52306	Regulated tanks - active	CASEYS MARKETING CO	08/01/2020
198603133	7LTO91	CEDAR COUNTY MAINT SHED #5	FAYETTE ST Mechanicsville, IA 52306	Regulated tanks - active	PMMIC	10/26/2020
198605530	8LTC42	DEANS 76	101 MADISON Mechanicsville, IA 523060000	Regulated tanks - r/f		
198914109		DON J DAVIDSON FARM	546 GRANT AVENUE Mechanicsville, IA 523060000	Non-regulated Farm/Res <1100 - r/f		
198915924		DONALD R OVERBAUGH	516 GARFIELD AVENUE Mechanicsville, IA 523060000	Non-regulated Farm/Res <1100 -active		
197910098	8LTV77	EASTERN IOWA AUTO BROKERS	301 HWY 30 E Mechanicsville, IA 523060000	Non-regulated leaking site		
198915469		GARY BAKER	RTE 2 BOX 68 Mechanicsville, IA 523060000	Non-regulated Farm/Res <1100 - r/f		
198912800		JAMES LIESER	R R Mechanicsville, IA 523060000	Non-regulated Farm/Res <1100 - r/f		
198600862	7LTX47	LINCOLN COMM SCHOOL	Madison St Mechanicsville, IA 523060000	Regulated tanks - r/f		
198915200		MELVIN LEHRMAN	277 INDIAN AVENUE Mechanicsville, IA 523060000	Non-regulated Farm/Res <1100 - r/f		
198914279		ON FARM	RTE 2 INDIAN AVE Mechanicsville, IA 523060000	Non-regulated Farm/Res <1100 -active		
198913346		PHILLIP PUFFER	393 ECHO AVENUE Mechanicsville, IA 523060000	Non-regulated Farm/Res <1100 - r/f		
198710340		RADIUM PETROLEUM CO	301 HIWAY #30 E Mechanicsville, IA 523060000	Regulated tanks - r/f		
198915146		RAYMOND EILERS	RTE 2 BOX 57 Mechanicsville, IA 523060000	Non-regulated Farm/Res <1100 -active		
198915201		ROYCE LEHRMAN	970 120TH STREET Mechanicsville, IA 523060000	Non-regulated Farm/Res <1100 -active		

Tanks

 198913054	VICTOR ROBINSON	BOX 237 Mechanicsville, IA 523060000	Non-regulated Farm/Res <1100 -active		
1					

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APPENDIX D



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Illinois-Iowa Ecological Services Field Office
Illinois & Iowa Ecological Services Field Office
1511 47th Ave
Moline, IL 61265-7022
Phone: (309) 757-5800 Fax: (309) 757-5807

In Reply Refer To:

June 15, 2020

Consultation Code: 03E18000-2020-SLI-1869

Event Code: 03E18000-2020-E-04443

Project Name: Mechanicsville WWTF Improvements

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The attached species list identifies any federally threatened, endangered, proposed and candidate species that may occur within the boundary of your proposed project or may be affected by your proposed project. The list also includes designated critical habitat if present within your proposed project area or affected by your project. This list is provided to you as the initial step of the consultation process required under section 7(c) of the Endangered Species Act, also referred to as Section 7 Consultation.

Section 7 of the Endangered Species Act of 1973 requires that actions authorized, funded, or carried out by Federal agencies not jeopardize federally threatened or endangered species or adversely modify designated critical habitat. To fulfill this mandate, Federal agencies (or their designated non-federal representative) must consult with the Service if they determine their project "may affect" listed species or critical habitat.

Under 50 CFR 402.12(e) (the regulations that implement Section 7 of the Endangered Species Act) the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally. You may verify the list by visiting the ECOS-IPaC website <http://ecos.fws.gov/ipac/> at regular intervals during project planning and implementation and completing the same process you used to receive the attached list. As an alternative, you may contact this Ecological Services Field Office for updates.

Please use the species list provided and visit the U.S. Fish and Wildlife Service's Region 3 Section 7 Technical Assistance website at - <http://www.fws.gov/midwest/endangered/section7/s7process/index.html>. This website contains step-by-step instructions which will help you

determine if your project will have an adverse effect on listed species and will help lead you through the Section 7 process.

For all wind energy projects, please contact this field office directly for assistance, even if no federally listed plants, animals or critical habitat are present within your proposed project or may be affected by your proposed project.

Although no longer protected under the Endangered Species Act, be aware that bald eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 et seq.) and Migratory Bird Treaty Act (16 U.S.C. 703 et seq), as are golden eagles. Projects affecting these species may require measures to avoid harming eagles or may require a permit. If your project is near an eagle nest or winter roost area, see our Eagle Permits website at <http://www.fws.gov/midwest/midwestbird/EaglePermits/index.html> to help you determine if you can avoid impacting eagles or if a permit may be necessary.

We appreciate your concern for threatened and endangered species. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List
 - USFWS National Wildlife Refuges and Fish Hatcheries
 - Wetlands
-

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Illinois-Iowa Ecological Services Field Office

Illinois & Iowa Ecological Services Field Office

1511 47th Ave

Moline, IL 61265-7022

(309) 757-5800

Project Summary

Consultation Code: 03E18000-2020-SLI-1869

Event Code: 03E18000-2020-E-04443

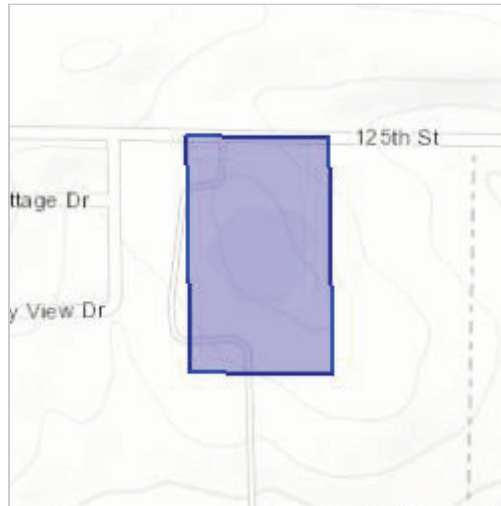
Project Name: Mechanicsville WWTF Improvements

Project Type: WASTEWATER FACILITY

Project Description: The existing aerated lagoon facility is no longer a viable treatment alternative. Improvements to the WWTF are required to be able to meet the effluent limits that have been given by the Iowa Department of Natural resources.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/41.90970294163756N91.24408364295691W>



Counties: Cedar, IA

Endangered Species Act Species

There is a total of 4 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Mammals

NAME	STATUS
Indiana Bat <i>Myotis sodalis</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5949	Endangered
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened

Flowering Plants

NAME	STATUS
Prairie Bush-clover <i>Lespedeza leptostachya</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/4458	Threatened
Western Prairie Fringed Orchid <i>Platanthera praeclara</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1669	Threatened

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

USFWS National Wildlife Refuge Lands And Fish Hatcheries

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

Wetlands

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

FRESHWATER POND

- [PUBKx](#)
-

Endangered species review

Step 2: Evaluate determination keys

The U.S. Fish and Wildlife Service has performed up-front analysis for certain project types, agencies, and species. This analysis has been compiled into *determination keys*, a simple interview process to arrive at a recommended determination for some species in your project area.

There are 2 determination keys that may apply to your project. Each determination key starts with a qualification interview to see if the key is appropriate for your project.

- FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat
Release date: December 2, 2019
You have skipped this determination key.
- Northern Long-Eared Bat (NLEB) Consultation and 4(d) Rule Consistency
Release date: March 28, 2019
You have skipped this determination key.



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S7 Consultation Technical Assistance Decision Process for "No Effect" Determinations

HUD Projects - Step 6

Step 6. "No Effect" Determination and Documentation

Your project is located entirely within an urban area (incorporated village or city) and does not involve any new construction activities. Additionally, your project entails one of the following characteristics:

- the rehabilitation of existing buildings, if the rehabilitation does not significantly alter present capacity or use, or
- the reconstruction or resurfacing of existing infrastructure (e.g., streets, sewers, sidewalks, etc.) without disturbance to previously undisturbed ground, or
- the removal of urban blight, through the demolition of unwanted and unsightly structures, provided that the locations for disposal and stockpiling of demolition debris are clearly described in project plans and do not contain plant or animal habitats.

Based on these characteristics, a "No Effect" determination is appropriate because the project will not occur within suitable habitat for any listed species and/or no habitat disturbance is anticipated. Hence, no listed species or designated critical habitat is anticipated to be directly or indirectly affected by this action.

To document your section 7 review and "no effect" determination, we recommend that you print this page (go to File<Print Preview), fill-in the project name and date, attach your [species list](#), and file in your administrative record.

HUD Project: Mechanicsville WWTF Improvements

Date: 6/15/2020 EJK

[Back](#)
[Home - "No Effect" Determination Process](#)

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Section 7 Consultation

[Section 7 Home](#)

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[Section 7: Technical Assistance](#)

[Biological Assessment Guidance](#)

[Section 7 Consultation Handbook](#)

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APPENDIX E



Location: User-specified point center at 41.905100, -91.258120
 Ring (buffer): 0.5-miles radius
 Description: Mechanicsville, IA

Summary	Census 2010
Population	870
Population Density (per sq. mile)	1,403
Minority Population	28
% Minority	3%
Households	351
Housing Units	371
Land Area (sq. miles)	0.62
% Land Area	100%
Water Area (sq. miles)	0.00
% Water Area	0%

Population by Race	Number	Percent
Total	870	-----
Population Reporting One Race	862	99%
White	853	98%
Black	2	0%
American Indian	2	0%
Asian	2	0%
Pacific Islander	0	0%
Some Other Race	3	0%
Population Reporting Two or More Races	8	1%
Total Hispanic Population	14	2%
Total Non-Hispanic Population	856	98%
White Alone	842	97%
Black Alone	2	0%
American Indian Alone	2	0%
Non-Hispanic Asian Alone	2	0%
Pacific Islander Alone	0	0%
Other Race Alone	0	0%
Two or More Races Alone	8	1%

Population by Sex	Number	Percent
Male	425	49%
Female	445	51%

Population by Age	Number	Percent
Age 0-4	46	5%
Age 0-17	205	24%
Age 18+	665	76%
Age 65+	155	18%

Households by Tenure	Number	Percent
Total	351	
Owner Occupied	285	81%
Renter Occupied	66	19%

Data Note: Detail may not sum to totals due to rounding. Hispanic population can be of any race.
Source: U.S. Census Bureau, Census 2010 Summary File 1.



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Investigate Pollution Topics

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- ▶ Toxic Chemical Releases
- ▶ Lead Hazards
- ▶ Superfund

AIR

- ▶ Smog and Particulates
- ▶ Hazardous Air Pollutants

WATER

- ▶ Clean Water Act
- ▶ Watershed Indicators

AGRICULTURE

- ▶ Animal Waste

ENVIRONMENTAL JUSTICE

- ▶ Community Center
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HEALTH HAZARDS

- ▶ Chemical Profiles
- ▶ Health Effects
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Select a [group](#):

 ▼

Show me all the counties in:

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where this group is numerically worse off than the rest of the population in the county for one or more of these [environmental burdens](#): [check any one burden, or more]

- Cancer Risks from Hazardous Air Pollutants
- Releases of Toxic Chemicals
- Superfund Sites
- Facilities Emitting Smog and Particulates

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Non-Highschool Graduates ▼

Show me all the counties in:

IOWA ▼

where this group is numerically worse off than the rest of the population in the county
for one or more of these [environmental burdens](#): [check any one burden, or more]

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APPENDIX F

Iowa Geographic Map Server Mechanicsville, IA



6/15/2020, 10:53:49 AM

Iowa - 2019 Orthophotos ■ Green: Band_2 ■ Blue: Band_3

■ Red: Band_1



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UST LUST AST UST 3rd Party Inspections UST Certifications

Registration Number:

Owner ID:

Site Name:

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The Above Ground Storage Tank (AST) information on this website is no longer maintained. The DNR does not regulate ASTs. For additional information on ASTs, please contact the State Fire Marshal office at (515)-725-6145.

4.1.1.5.5973

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APPENDIX G

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APPENDIX H

Procedures for Making Determinations on Floodplain and Wetland Management

Floodplain and Wetland Management: Executive Order 11988 & Executive Order 11990 (24 CFR Part 55):

Recipients are required to protect the values and benefits of floodplains and wetlands. Recipients should reduce flood losses and wetlands destruction by not conducting, supporting or allowing projects to be located in floodplains or wetlands unless it is the only practicable alternative.

The HUD "8-step" decision-making process is utilized to determine if flood-free alternatives are available to meet the purpose and need of the project. If, through the 8-step process, it is determined that the proposed project must be located in the floodplain or wetland, then certain measures must be undertaken. These measures, identified in step 5 of the process, should minimize potential harm to beneficial floodplain and wetland values, reduce the hazard and the risk of flood loss; and minimize the impact of floods on human safety, health and welfare.

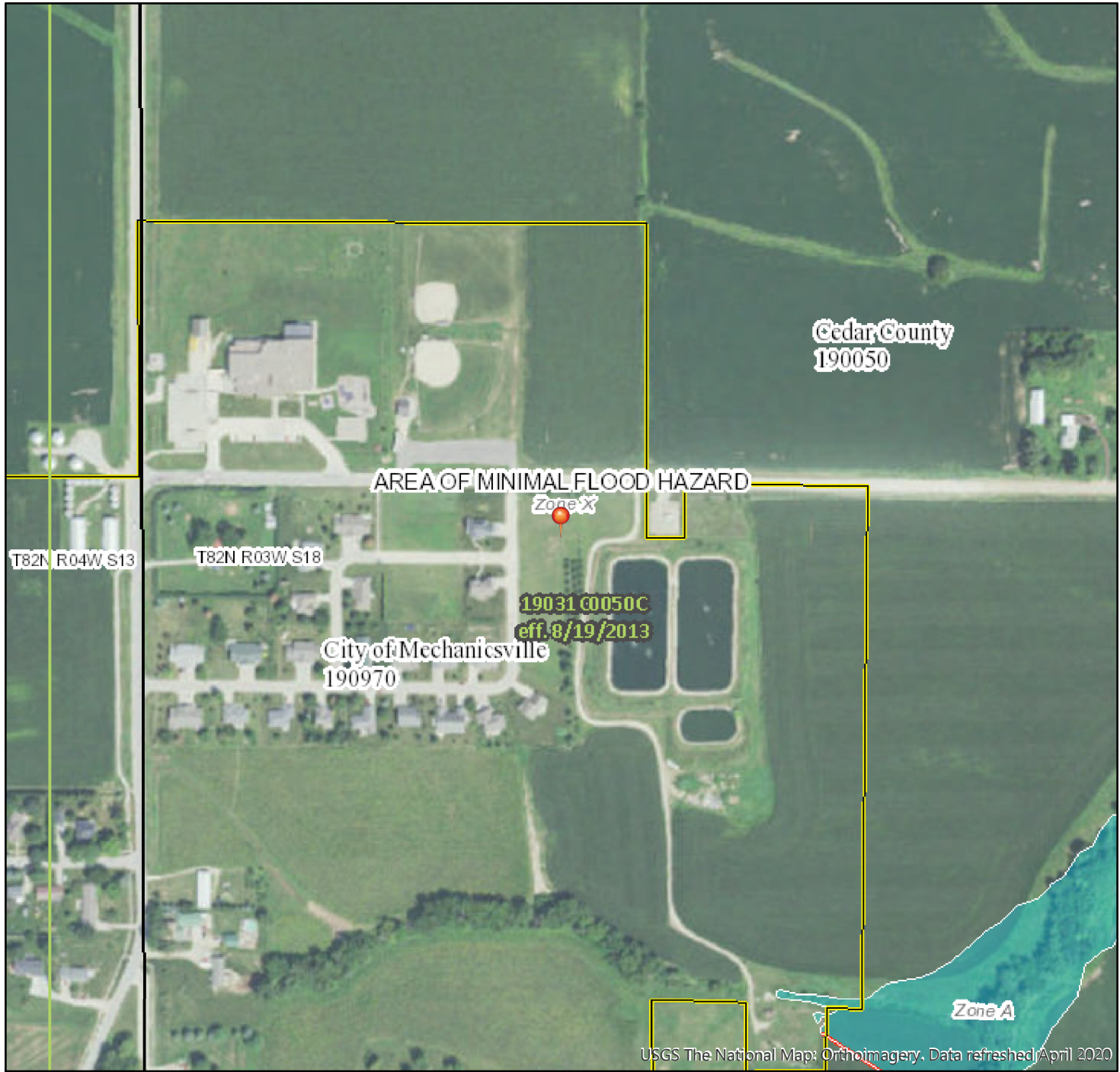
Prior to proceeding with a project in or effecting a floodplain or wetland a recipient must comply with the requirements of Executive Order 11988 and 11990. The recipient must complete an 8-step decision making process outlined in 24 CFR Part 55, Subpart C, Section 55.20. A summary of the 8-step process is:

1. Determine if the proposed action is in a wetland or the 100-year floodplain (or in the 500-year floodplain for a critical action i.e., actions for which even a slight chance of flooding would be too great). If the proposed action would not be conducted in these areas, then no further compliance with this part is required. **The location of the WWTF where proposed improvements are to be made is not within a 100-year floodplain or in a 500-year floodplain for a critical action.**
2. Notify the public of the intent to locate the proposed action in the floodplain or wetland. The notice must be published at least once in a local newspaper of general circulation (in cities where there is no newspaper of general circulation, notices must be displayed in the local post office and its substations). The public must be given at least fifteen days to comment. The notice is titled *Notice of Proposed Project to be Located in a Floodplain or Wetland*. This Notice can be found in the following pages. The recipient must use this form, or its equivalent, to meet federal requirements.
3. Identify and evaluate practicable alternatives to locating in the floodplain. This determination requires the recipient to consider whether the floodplain or wetland can be avoided either through selecting alternative sites, choosing alternative actions to serve the identical project objective, or taking no action. Note that specific, actual alternative site must be identified and evaluated.
4. Identify indirect or direct impacts associated with the occupancy or modification of the floodplain or wetland.
5. Identify methods to minimize the potential adverse impacts within the floodplain or wetland and to restore and preserve its natural and beneficial values.
6. Reevaluate the alternatives, taking into account the identified impacts, the steps necessary to minimize these impacts and the opportunities to restore and preserve floodplain values.
7. If the recipient determines the only practicable alternative is locating in the floodplain or wetland, a final public notice shall be published. A sample notice that is titled *Notice of a Decision Regarding Project to be Located in a Floodplain or Wetland* can be found on the following pages. The notice will include the reason for locating the project in a floodplain or wetland, the alternatives that were considered, and any mitigation measures that are planned.
8. The proposed action can be implemented after steps 1 through 7 have been completed and all other requirements are met.

National Flood Hazard Layer FIRMette



91°15'2"W 41°54'50"N



Legend

SEE FIS REPORT F

SPECIAL FLO
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APPENDIX I

**PROGRAMMATIC AGREEMENT AMONG
THE IOWA ECONOMIC DEVELOPMENT AUTHORITY,
THE IOWA STATE HISTORIC PRESERVATION OFFICER, AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION REGARDING
RESPONSIBILITIES DELEGATED UNDER 24 CFR § 58**

WHEREAS, the U.S. Department of Housing and Urban Development (hereinafter, HUD) allocates funds to the Iowa Economic Development Authority (hereinafter, IEDA) through various programs including the annual Community Development Block Grant Program (hereinafter, CDBG), authorized by Title I of the Housing and Community Development Act of 1974, in accordance with Section 104(g) (42 U.S.C. 5304(g)) and the allocation of future CDBG Disaster funds, should such funding be made available to the State of Iowa; and,

WHEREAS, Section 106 of the National Historic Preservation Act of 1966, as amended (U.S.C. §300101 *et seq.*, hereinafter, NHPA), requires federal agencies to take into account the effect of their undertakings on historic properties and to afford the Advisory Council on Historic Preservation (hereinafter, ACHP) a reasonable opportunity to comment on such undertakings; and,

WHEREAS, pursuant to 24 CFR § 58.2(7), the Responsible Entity (hereafter, RE) is defined as the recipient or grantee of CDBG funds provided by HUD for the implementation of an eligible program activity; and,

WHEREAS, pursuant to 24 CFR § 58.5, the RE must assume responsibilities for environmental review, decision-making, and action that would apply to HUD under Section 106 of the NHPA and its implementing regulations at 36 CFR § 800; and,

WHEREAS, the IEDA has consulted with the Iowa State Historic Preservation Officer (hereinafter, SHPO) and the ACHP and has determined that certain CDBG actions have the potential to cause effects to historic properties while others do not; and,

WHEREAS, given the breadth and number of Iowa's non-entitlement community funding recipients and the need for timely and efficient delivery of governmental assistance, the IEDA, SHPO, and ACHP have agreed that the Section 106 process for undertakings where the RE must assume HUD environmental review responsibilities pursuant to 24 CFR § 58.4, and where IEDA administers the CDBG program, may be addressed programmatically in order to effectively and expeditiously meet regulatory obligations as an alternative to standard Section 106 procedures, as allowed by 36 CFR § 800.14; and,

WHEREAS, the RE, in the interest of streamlining, will enter into lead federal agency agreements pursuant to 36 CFR § 800.2(a)(2) and 24 CFR § 58.7 when any other federal agency shares a role in an undertaking and such agreements are applicable and mutually advantageous and of net benefit to the ultimate recipient of federal aid; and,

WHEREAS, the RE will use the process established by the National Environmental Policy Act (hereafter, NEPA) when practicable and feasible to address the requirements of both the Section 106 and NEPA process; and,

WHEREAS, the IEDA has contacted federally recognized tribes that may attach religious and cultural significance to historic properties that may be affected by HUD-funded undertakings, as identified in Appendix A of this agreement, notifying them of the collective desire and intent of the signatories of this agreement to address Section 106 compliance programmatically, to notify them of the types of undertakings pursued under 24 CFR § 58 programs and to solicit their views on which types of undertakings may have the potential to affect properties of interest to them and how they wish to be consulted upon undertakings that may potentially affect properties in which they have an expressed interest, and finally to review and comment upon the programmatic agreement in the capacity of an invited consulting party; and,

WHEREAS, it is the intent of this document to streamline Section 106 consultation with the SHPO, and in no-way minimizes or otherwise modifies the RE's responsibilities to consult with other interested parties including federally recognized tribes on the type of project that they may have interest in.

WHEREAS, the IEDA, in consultation with the SHPO and ACHP, has identified other potential consulting parties, as identified in Appendix A of this agreement, including but not limited to the Iowa Office of the State Archaeologist, Preservation Iowa and the Chicago Field-Office of the National Trust for Historic Preservation, and has afforded them and the public a reasonable opportunity to comment by disseminating information about this programmatic agreement; and,

WHEREAS, the IEDA will continue to consult with Native American tribes and other consulting parties on individual undertakings and involve the public by utilizing HUD procedures for soliciting public involvement found at 24 CFR § 58.43; § 58.45–46; § 58.59 and other applicable sections of the part, as appropriate; and,

WHEREAS, all references to time periods in this agreement are in calendar days; and,

NOW THEREFORE, the IEDA, the SHPO, and the ACHP as signatories to this agreement, agree that, upon execution of this programmatic agreement, undertakings where the RE has assumed HUD environmental responsibilities pursuant to 24 CFR § 58 shall be implemented in accordance with the following stipulations and conditions in a timely manner and with the adequate resources in order to take into account the effects of these undertakings on historic properties.

STIPULATIONS

To the extent of its legal authority, and in coordination with SHPO, the REs, and taking into account the comments of consulting parties, IEDA will require that the following stipulations be implemented:

I. IEDA RESPONSIBILITIES

- A. The IEDA shall designate staff to carry out the terms of this Programmatic Agreement, including an IEDA Historic Preservation Specialist (hereafter, IEDA HPS) who is determined to meet, in consultation with the SHPO, the Secretary of the Interior's Professional Qualifications Standards (https://www.nps.gov/history/local-law/arch_stnds_9.htm). IEDA shall ensure that that all guidance provided to the REs from the IEDA HPS shall meet the Secretary of the Interior's Standards and Guidelines for identification, evaluation and affects assessments and will be consistent with 24 CFR Part 58.

- B. The IEDA HPS will consult with each RE to carry out the identification of historic properties and assessment of effects in accordance with 36CFR Sections 800.3 through 800.5. The IEDA HPS will coordinate consultation with the RE and the SHPO in the event that an undertaking will have an adverse effect.
- C. The IEDA HPS shall ensure that all Section 106 documentation compiled by the RE is complete and accurate and meets or exceeds the standards outlined at 36 CFR 800.11 and is consistent with the ACHP's *Meeting the "Reasonable and Good Faith" Identification Standard in Section 106 Review*(issued November 2011.) The IEDA HPS may request additional information from the RE to ensure a complete submittal.
- D. The IEDA HPS shall review the Section 106 documents provided by the RE and issue comments on the project. The IEDA HPS will either concur with the finding presented by the RE on the "Request for IEDA HPS Review" form or will provide comments back to the RE with reasons why they were unable to concur with the proposed finding. An undertaking may not commence until the IEDA HPS and the RE concur with a finding consistent with the NHPA.
- E. The IEDA HPS, at their discretion, may consult with the SHPO on any eligibility evaluation or effects assessment prior to providing comments to the RE.
- F. The IEDA HPS shall provide copies of any identification and evaluation documents prepared by the RE such as Iowa Site Inventory Forms (ISIFs) or Archaeological Investigation Reports to the SHPO for inclusion in the statewide inventory at a minimum of once a year, along with a summary of projects processed under this programmatic agreement per Federal reporting year which ends each September 30th providing reporting content to the SHPO no later than October 15th annually in accordance with Stipulation XII. A. of this agreement.
- G. The IEDA HPS shall provide technical assistance to the RE when requested regarding all other historic preservation activities including but not limited to: Tribal Consultation, public notifications, lead agency agreements and consultation with the National Park Service (hereinafter, NPS) regarding effects to National Historic Landmarks.
- H. IEDA will host regular training opportunities for REs to ensure compliance with this agreement and a working knowledge of the requirements of Section 106 particularly as they pertain to the identification and evaluation of historic properties and affects assessments. These trainings may be offered through webinars, onsite workshops, in coordination with statewide conferences or one-on-one as coordinated with REs.
- I. In the event that the IEDA HPS is unable to comply with the above stipulations due to an extended absence or time in between filling this position, IEDA shall instruct the REs to consult directly with the SHPO in accordance to standard Section 106 consultation under 36 CFR § 800.3 (c)(3); however the RE may continue to apply the Programatically Excluded Activities found in Appendix B of this agreement as they apply to eligible projects.

II. RE RESPONSIBILITIES

- A. The RE shall ensure that all historic property investigations, evaluations, and data recovery efforts conducted pursuant to this agreement shall be performed in accordance with the Secretary of the Interior's Standards and Guidelines for Identification and Evaluation; and shall be performed in a manner that is consistent with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (36 CFR § 60, § 63 and § 65) and the guidance provided in the state-level *Guidelines for Archaeological Investigations in Iowa*, and all other federal or state standards as appropriate as indicated at 36 CFR § 800.4(b)(1). The RE shall use the HUD issued HP Fact Sheet #6 *When to do Archaeological Field Investigations*, Appendix D, as a guide and shall ensure that any required investigation and final archaeological reports resulting from data recovery are responsive to contemporary professional standards and to the Department of the Interior's *Format Standards for Final Reports of Data Recovery Programs* (42 FR 5377–5379).
- B. The RE shall ensure that all documentation submitted to IEDA meets or exceeds the standards outlined at 36 CFR § 800.11 and is consistent with the ACHP's *Meeting the "Reasonable and Good Faith" Identification Standard in Section 106 Review* (issued November 2011).
- C. Pursuant to Section 304 of the NHPA (54 U.S.C. §307103) and Chapters 263B.10, 14, and 22.7(20) of the Iowa Code, the RE shall withhold from disclosure to the public, information relating to the location or character of historic resources and archaeological sites when it has been determined that disclosure of such information may create a substantial risk for harm, theft, or destruction to such resources or to the area or place where such resources are located.
- D. The RE shall ensure that artifacts and records resulting from archaeological investigation made pursuant to this agreement shall be curated at a facility in the State of Iowa that meets or exceeds the Secretary of the Interior's Standards (36 CFR § 79).
- E. The RE shall ensure that consultation for undertakings affecting historic buildings include discussion of the feasibility and practicality of the use of interim controls in lieu of full lead paint abatement as allowed at 24 CFR § 35.1330 provided that standards for abatement and clearance are determined by the RE to be achievable while taking into account any comments of the IEDA HPS and SHPO if applicable.
- F. The RE shall consult directly with the National Park Service Midwest Regional Office in Omaha on all undertakings that may affect a National Historic Landmarks in accordance with 36 CFR § 800.10 (Special requirements for protecting National Historic Landmarks) and copy the IEDA HPS on such consultation.
- G. The RE shall provide a letter of notification to IEDA when they intend to determine to enter into a lead federal agency agreement. The notification shall identify the undertaking, any federal agencies other than HUD, and the RE's lead or subordinate role under the agreement. IEDA must be included as a signatory of any such lead agency agreement, and all agreements should stipulate that the agency taking lead will identify all participating funding sources in their Section 106 consultation, if consultation is required.

- H. The RE shall ensure that all documentation regarding Section 106 consultation is submitted to the IEDA HPS in a comprehensive packet as described in Stipulation VI. of this agreement.
- I. The RE shall ensure that any change in scope of work identified after project approval and IEDA HPS consultation, will be submitted to the IEDA HPS who will work with the RE to determine if continued consultation in accordance with Stipulation VI of this agreement is required.

III. SHPO RESPONSIBILITIES

- A. The SHPO shall be available to discuss with the IEDA HPS within a ten (10) day time frame from a request for consultation.
- B. The SHPO will provide guidance on scopes of work when necessary to avoid adverse effects and in the preparation of agreement documents developed to avoid, minimize or resolve adverse effects to historic properties such as Memoranda of Agreement.
- C. In the event that the IEDA HPS is unavailable to perform the duties stipulated above, per Stipulation I. H. of this agreement, the SHPO will resume standard Section 106 Review and consultation in accordance with 36 CFR § 800.3 (c)(3) until such time as the IEDA HPS can resume the duties outlined above in Stipulation I. A-G.

IV. ACHP RESPONSIBILITIES

- A. The ACHP shall participate in cases requiring dispute resolution as required in Stipulation IX and in instances when the Criteria for ACHP Involvement in Reviewing Individual Section 106 Cases are met (36 CFR § 800, Appendix A).

V. EXCLUDED UNDERTAKINGS

- A. The RE shall determine individual undertakings excluded from Section 106 review (no potential to affect historic properties) based on the following sets of criteria—those activities listed as exempt at 24 CFR § 58.34, or those categorically excluded not subject to review under 24 CFR § 58.35(b), or those excluded from Section 106 review under this programmatic agreement as further described in Appendix B of this agreement except in extraordinary circumstances (see 24 CFR § 58.2(a)(3)) in which a normally excluded activity may have a significant impact.
- B. Undertakings cannot be segmented into activities that are excluded and activities that are not excluded. If the entire undertaking does not qualify for exclusion under the predefined criteria as described in Appendix B, then the entire undertaking must follow procedures for standard project review. Similarly, undertakings cannot be segmented according to funding streams or by any other agency action that is subject to Section 106 review (i.e., permit, license, assistance, etc.). If multiple agencies are funding different but integral elements of an undertaking and those elements cannot demonstrate independent utility, then each component must be considered part of a larger undertaking and the agencies should assign a lead agency to address their collective compliance responsibilities. Failure to assign a lead federal agency

will result in redundant effort and potential inefficiencies leading to project delays. If other agencies involved in the undertaking refuse to assign a lead under the programmatic agreement, then those agencies will need to consult on the ENTIRE undertaking, separately. The alternative procedures established in the programmatic agreement only apply when the CDBG RE is assigned the lead agency role.

- C. For an undertaking determined by the RE to be excluded from Review, the RE shall document this determination by completing the *Excluded from Review, Project Determination* form (Appendix E). The RE shall include the form and supporting documentation with the project file and notify IEDA by mailing a copy to their office or uploading it to their on-line grant documents, in accordance with the annual CDBG Management Guide. The IEDA HPS shall review all *Excluded from Review, Project Determination* forms to ensure compliance with this agreement. The IEDA HPS may seek additional information from the RE, or may recommend the review be elevated to standard project review. Once the IEDA HPS has signed off on the determination that an undertaking is excluded from review, this concludes the RE's responsibilities for complying with Section 106 and this programmatic agreement for undertakings determined exempt from review.
- D. If for any reason the RE cannot determine to exclude all activities of an undertaking from review, the RE shall submit the entire undertaking to IEDA for review as described in Stipulations II and VI. The resulting request for comment should nevertheless focus on the portions of the project with the potential to affect historic properties.

VI. STANDARD PROJECT REVIEW

A. Public and Consulting Party Involvement

- 1. The RE shall invite parties to consult on specific undertakings subject to review and not excluded by Stipulation V. Consulting parties include the RE, IEDA, SHPO, federally recognized Native American Indian Tribes with an interest in the area of the undertaking, Historic Preservation Commissions of a local government, individuals and organizations who, due to the nature of their legal or economic relation to the undertaking, or their concern with the undertaking's effects on historic properties demonstrate a legitimate interest, and the public, Appendix A (36 CFR § 800.2).

B. Identification and Evaluation of Historic Properties

- 1. Identify Historic Properties
 - a. For each undertaking the RE shall determine and document an Area of Potential Effects (hereafter, APE) consistent with 36 CFR § 800.16(d).
 - b. The RE shall examine sources of information on historic properties existing within the APE as a basic level of investigation. Sources of existing information **included but not limited to:** the National Register of Historic Places (hereinafter, NRHP), maintained by the Keeper of the National Register at the NPS on behalf of the Secretary of the Interior, the State Inventory of historic properties and results of previous evaluations in Iowa —the *Iowa Site Inventory*, maintained by the SHPO, local historical societies, local historic preservation commissions and *I-Sites Pro* Iowa Archaeological Sites and

Surveys Database maintained by the Office of the State Archaeologist (hereinafter, OSA) and provided through an Iowa Department of Transportation web portal as well as maps, recorded soil-sediment data, landform data, and property records where available for the APE on a case-by-case basis.

- c. The RE shall seek input from consulting parties described in Stipulation VI.A.1 for information on land-use history of the APE and historic properties within the APE that may be affected.
- d. Based on the nature and scope of the undertaking and analysis of the potential for the APE to contain historic properties, the RE will determine if they are persuaded by authoritative sources of information that there is a “likely” (36 CFR § 800.4(b)(1)) presence of National Register-eligible or listed properties within the APE or a portion of it that the project may affect National Register resources. When warranted, the RE may undertake field survey work to further its efforts to identify and evaluate historic properties with the APE or a portion of it.

2. Evaluate Historic Significance

The RE shall determine the historic significance of resources within the APE through the application of the NRHP criteria at 36 CFR § 60 in accordance with 36 CFR § 800.4(c).

3. Results of Identification and Evaluation

The RE shall submit documentation of the historic property identification efforts to IEDA for review and approval. Submittals should include a cover letter containing a detailed description of the undertaking, a *Request for Comment on a HUD Project* form, a map of the location of the undertaking and all other applicable supporting documentation requested on the form.

C. Assessment of Effects and Resolution of Adverse Effects

1. If no historic properties are located within the APE or there are properties within the APE that will not be affected, the RE will submit to IEDA a finding of “no historic properties affected.” If the IEDA HPS concurs with the RE’s finding the RE’s may proceed with the undertaking.
2. If historic properties will be affected by the undertaking but the effects do not meet the criteria of adverse effect outlined at 36 CFR § 800.5.(a)(1) or the RE chooses to modify the scope of work or the scale and nature of the undertaking to ensure consistency with the Secretary’s Standards for the Treatment of Historic Properties, the RE shall submit to IEDA a finding of “no adverse effect.” If the IEDA HPS concurs with the RE’s finding the RE’s may proceed with the undertaking.
3. If the RE determines that the undertaking will result in “adverse effects” to one or more historic properties and the IEDA HPS concurs, the RE will submit consultation to the SHPO and any other identified interested parties in accordance with 36 CFR § 800.6 including consulting on ways to avoid, minimize or mitigate adverse effects on historic properties. Resolution of Adverse Effects shall trigger a standard section 106 process

including notification of the ACHP and the development and execution of Memoranda of Agreement, and will not be processed under the expedited procedure outlined in this agreement.

VII. UNANTICIPATED DISCOVERIES

A. *Human remains.* Iowa law protects all human burials regardless of historical age, sex, or cultural/ethnic affiliation. The RE shall observe the following procedures in the event that construction or project planning and testing, such as archaeological investigations, encounter human remains.

1. In the event that construction activities or project planning and testing, such as archeological investigations encounter human remains or burials, work shall cease in the area. The RE shall take appropriate steps to secure the site and notify officials at the Bioarchaeology Program at the OSA (Lara Noldner, 319-384-0740). The RE shall concurrently notify IEDA and the SHPO.
2. If the remains appear to be ancient (i.e., older than 150 years), the Bioarchaeology Program at OSA shall have jurisdiction in accordance with Chapter 263 of the Iowa Code. The RE will follow any procedures recommended or required by the OSA.
3. Human remains less than 150 years old are protected under Chapter 566 of the Iowa Code. In the event that project activities encounter human remains appearing less than 150 years in age, the RE shall notify the appropriate law enforcement authorities and the Iowa Department of Health.

B. *Archaeological material (non-mortuary related).* The RE shall observe the following procedures in the event that project activities encounter previously undetected non-mortuary-related archeological materials during project implementation or during project planning and testing, such as archaeological investigations.

1. All activities in the area of the resource shall cease immediately, appropriate steps shall be implemented to secure the site, IEDA and the SHPO shall be notified of the discovery.
2. A qualified archaeologist retained by IEDA or the RE will inspect the work site and determine the extent of the affected archeological resource within 48 hours of its discovery. Construction work may then continue in the area outside the archeological resource as it is defined by the archaeologist in consultation with the SHPO.
3. Before work can resume in the area of any unanticipated discovery, the RE must determine the NRHP eligibility of the archeological resource in consultation with the SHPO.
4. Upon a determination of eligibility, the RE shall submit a plan for avoidance, protection, recovery of information, or destruction without data recovery to the SHPO for review and comment. The RE will notify all consulting parties of the unanticipated discovery and provide the proposed treatment plan for their consideration. The SHPO and consulting parties will have seven (7) days to provide comments on the proposed treatment plan upon

receipt of the information. The RE may implement the proposed treatment plan if SHPO fails to respond within the allotted timeframe.

5. Work in the affected area shall resume upon either:
 - a. The development and implementation of an appropriate data recovery plan, other recommended mitigation procedures, or agreement among the RE and the SHPO that the site does not warrant mitigation of adverse effects to a historic property; or,
 - b. Agreement by SHPO and the RE that the newly located archeological materials are not eligible for inclusion on the NRHP.

C. Post Review Discoveries upon Architectural Properties. The REs shall ensure that the following procedures are observed in the event that post-review effects to buildings, objects, or districts are identified.

1. Work in the affected area shall cease and the RE shall notify IEDA and SHPO of the discovery.
2. An architectural historian retained by IEDA or the RE will inspect the work site and determine the extent and magnitude of the effects upon the property within 48 hours of its discovery. The RE shall provide the determination of effect and report of the consulting historian's findings to the SHPO who shall have seven (7) days to provide comments.
3. Upon assessment of adverse effect, the RE shall submit a plan for after-the-fact mitigation to the SHPO for review and comment. The RE will notify all consulting parties of the unanticipated discovery and provide the mitigation proposal for their consideration. The SHPO and consulting parties will have seven (7) days to provide comments on the mitigation proposal upon its receipt. The RE may implement the proposed mitigation plan if SHPO fails to respond within the allotted timeframe.
4. Work in the affected area shall resume upon either upon:
 - a. Agreement by the RE and SHPO that the encountered properties are not eligible for listing in the NRHP; or,
 - b. Agreement by the RE and SHPO that the effects are not adverse; or,
 - c. The development and implementation of an appropriate mitigation plan, or agreement among the RE and the SHPO that the site does not warrant mitigation.

VIII. ANTICIPATORY ACTIONS

- A. The RE shall ensure that consultation pursuant to Stipulation VI or other applicable stipulations of this agreement take place once a project assumes federal identity and shall be concluded prior to the commencement of that federal activity or the release of HUD funds to the undertaking (ie. Signing a construction contract, purchasing real property, or other choice

limiting activities). A federal identity is assumed once an RE submits an official application for HUD funds to IEDA or RE.

- B. IEDA will not grant funding to any RE who, with intent to avoid the requirements of this Agreement, NHPA or NEPA, has intentionally significantly adversely affected a historic property to which the CDBG grant would relate, or having legal power to prevent it, allowed such significant adverse effect to occur. Under extraordinary circumstances, and after consulting with the ACHP, IEDA may determine that circumstances justify awarding such grant despite the adverse effects created or permitted by the RE, and will ensure that the RE completes consultation for the project pursuant to Stipulation VI or other applicable stipulations of this agreement as appropriate.

IX. DISPUTE RESOLUTION

- A. IEDA shall represent itself and RE petitioning singly or as a group in all dispute resolution situations.
- B. Should any signatory to this agreement or RE (represented by IEDA) object at any time to any actions proposed or the manner in which the terms of this agreement are implemented, IEDA shall consult with the SHPO and any such party to resolve the objection.
- C. If IEDA determines that such objection cannot be resolved, then the IEDA will:
 - 1. Forward all documentation relevant to the dispute, including the IEDA's proposed resolution, to the ACHP. The ACHP shall provide the IEDA with its advice on the resolution of the objection within fifteen (15) days of receiving adequate documentation.
 - 2. If the ACHP does not provide its advice regarding the dispute within the fifteen (15) day period, then the IEDA may make a final decision on the dispute and proceed accordingly.
 - 3. Prior to reaching such a final decision, IEDA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories to the agreement, and provide them and the ACHP with a copy of such written response. IEDA's final decision on the dispute will be provided on a schedule compatible with all internal and external review, as may be determined necessary by IEDA.
 - 4. The responsibilities of the PA signatories to carry out all other actions subject to the terms of this agreement that are not the subject of the dispute remain unchanged.

X. AMENDMENT

- A. IEDA shall represent itself and the RE petitioning singly or as a group in all requests for amendments to this agreement.
- B. Any of the signatories to this programmatic agreement, or RE (represented by IEDA), may request with appropriate justification that IEDA should amend any or all of its articles subsequent to this programmatic agreement's execution, whereupon IEDA will notify the other signatories who will consult in accordance with 36 CFR § 800.13, to consider such amendment.

Prior to reaching a final decision on the amendment, IEDA must notify the ACHP of its intent to amend the programmatic agreement and invite the ACHP's review and comment. The amendment will be effective on the date an executed copy (signed by all of the signatories) is filed with the ACHP. IEDA shall provide copies of the amended programmatic agreement to the signatories.

- C. Revisions to the appendices shall not require notification of and review by the ACHP. However, SHPO must agree to any such changes and IEDA shall provide the ACHP with file copies of finalized versions that reflect all revisions.

XI. TERMINATION AND DURATION

- A. The IEDA shall represent itself and all RE when the latter petition as a unanimous body to terminate this agreement.
- B. If any signatory to this agreement or RE (represented by IEDA) determines that its terms will not or cannot be carried out, that party shall immediately notify IEDA. The IEDA will then consult with the other signatories to attempt to develop an amendment per Stipulation X or other form of resolution. If within thirty (30) days resolution through amendment or other means cannot be reached, any signatory may terminate the agreement upon written notification to the other signatories.
- C. Once the agreement is terminated or becomes null and void and until a new agreement is executed, work on undertakings subject to this programmatic agreement shall proceed to follow the standard Section 106 process (36 CFR § 800, Subpart B) including for SHPO Review all projects with no exclusions allowed only by this programmatic agreement. IEDA must then execute a new agreement pursuant to 36 CFR § 800.6, or, request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. IEDA shall notify the signatories as to the course of action it will pursue.
- D. This agreement will become null and void five (5) years from the date of its execution. Prior to such time, the term of duration may be extended by filing an amendment with the ACHP in accordance with Stipulation X.

XII. MONITORING AND REPORTING


- A. By October 15 of each year, the IEDA shall submit an annual report to SHPO for review and comment on certain program activities that occurred through September 30 of the previous year, per the federal fiscal reporting period. The report will include a summary of all projects reviewed by the IEDA HPS, those projects with documentation collected under Stipulation I. F of this agreement, all projects excluded from SHPO review and indicate which exclusion of this agreement the projects qualified for, a summary of legal agreements executed during the reporting period, and update on agreed upon mitigation measures, and suggestions, if any, for additional actions that could be considered for inclusion as Specific Excluded Activities in Appendix B. Supporting documentation will be available to the SHPO upon written request. From time to time, the SHPO may review files for the entire range of activities subject to Section 106 review to verify that IEDA is properly implementing the terms of the Agreement.

XIII. EXECUTION OF THE AGREEMENT

- A. This agreement is considered executed after signatures by IEDA and SHPO have been provided to the ACHP, and the ACHP signs the agreement. Execution of this agreement by the ACHP and the implementation of its terms evidences that the IEDA and the several recipient RE have taken into account program effects on historic properties and have afforded the SHPO and ACHP an opportunity to comment.

SIGNATORIES

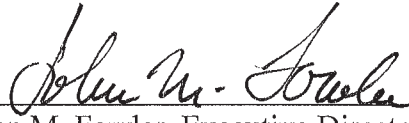
Iowa Economic Development Authority

By:  Date: 8-1-16
Tim Waddell, Division Administrator

State Historic Preservation Officer

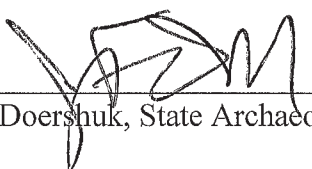
By:  Date: 01 AUG 2016
Steve King, Deputy State Historic Preservation Officer

Advisory Council on Historic Preservation

By:  Date: 8/23/16
John M. Fowler, Executive Director

CONCURRING PARTIES

Office of the State Archaeologist

By:  Date: 7/29/16
John Doershuk, State Archaeologist

Preservation Iowa

By:  Date: 7/27/16
Caleb Giesel, Executive Director

APPENDICES

- Appendix A. CONSULTING PARTIES
- Appendix B. PROGRAMMATICALLY EXCLUDED ACTIVITIES FOR SECTION 106 REVIEW UNDER THE PROGRAMMATIC AGREEMENT AND EXEMPT FROM REVIEW, PROJECT DETERMINATION FORM
- Appendix C. PROCESS and DECISION-MAKING CHART
- Appendix D. HP FACT SHEET #6 *When to do Archaeological Field Investigation*
- Appendix E. AUTHORIZATION FOR ALTERNATE SIGNATORY
- Appendix F. REQUEST FOR COMMENT ON A HUD PROJECT
- Appendix G. GLOSSARY

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***Source:** HUD, OCP&D Environmental Planning Division. BE ADVISED: Some of the tribal contact information may be out-of-date. Please verify contact persons and mailing addresses prior to initiating consultation. Tribal websites, The Office of the State Archaeologist Bioarchaeology Director, state historic preservation officers, or HUD field environmental staff are all potential resources. <http://egis.hud.gov/tdat/Query.aspx?state=Iowa>

CONSULTING PARTIES: SIGNATORY, CONCURRING OR INVITED
 (this is a list of parties included in the execution of this agreement. Many of these parties may also be involved in consultation on individual undertakings, and additional parties may be identified specifically for an individual undertaking.

Signatory Parties

Iowa Economic Development Authority, Community Development Division
 Iowa State Historic Preservation Officer
 Advisory Council on Historic Preservation

Concurring Parties

Iowa Office of the State Archaeologist
 Preservation Iowa

Consulting Parties

Native American Tribes as indicated above
 Iowa State Association of Counties
 National Trust for Historic Preservation
 Iowa League of Cities

American Planning Association, Iowa Chapter
 Iowa Councils of Governments and Regional Planning Agencies
 Iowa Association of Regional Councils
 Private CDBG Grant Administration Service Providers:
 Anderson Consulting, Inc
 MSA
 PlanScape Partners - Enerjyn
 Pathfinders R C & D, Inc.
 Simmering-Cory, Inc.

Certified Local Government Contact List, including only Non-Entitlement Communities
<https://iowaculture.gov/sites/default/files/History%20-%20Preservation%20-%20Certified%20Local%20Governments%20-%20Benefits%20-%20Community%20List%20%28PDF%29.pdf>

City and County Historic Preservation Commissions
 Local organizations with an interest in the undertaking such as historical societies, museums, etc.

Plans for Public Involvement

The notice and invitation to comment on certain undertakings will include a PDF notice for the above groups to post, and IEDA will follow the state's HUD Citizen Participation Plan, including publishing a public notice, hosting a public hearing and making the agreement available on IEDA's website.

APPENDIX B

PROGRAMMATICALLY EXCLUDED ACTIVITIES

In addition to projects and activities that are either exempt under HUD regulations (24 CFR Part 58.34) or may be categorically excluded as being not subject to review of the laws listed at 24 CFR Part 58.5 in accordance with 24 CFR Part 58.35(b), the signatories agree that the following types of activities do not have the potential to cause adverse effects on historic properties, assuming such historic properties are present, and therefore the Responsible Entity has no further obligations under Section 106 once appropriately documented with the IEDA HPS.

Section 1. Administrative Costs and Non –Brick and Mortar Financial Assistance

The RE will document how the project meets these excluded activities on an *Excluded from SHPO Review Form* for submittal to the IEDA HPS.

- a. IEDA activities including equipment purchase, inventory financing, interest subsidy, operating expenses, and similar costs associated with construction or expansion of existing operations where physical improvements, if any, will be limited to those listed in Sections 2 and 3, below;
- b. Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and down payments assistance, interest buydowns, interim mortgage assistance, and similar activities that result in the transfer of title where no change in use will occur and physical improvements, if any, will be limited to those listed in Sections 2 and 3, below;
- c. Building acquisition where physical improvements, if any, will be limited to those listed in Sections 2 and 3, below.

Section 2. Undertakings Involving Ground Disturbance

Non-Specific Activities

If the project will **NOT** involve buildings, districts, objects, structures, defined sites, or cultural landscapes that are 50 years or age or older and not listed in or previously determined eligible for the NRHP in the Area of Potential Effects; there are no triangle sites within ¼ mile of the APE; **AND** either of the following conditions is met, the SHPO does not need to review the project regardless of activity. The RE will document how the project meets the qualifying criteria on an *Excluded from SHPO Review Form* for submittal to the IEDA HPS.

Qualifying Criteria:

- a. Previously Surveyed - The Area of Potential Effects (APE) was intensively surveyed after 1999 for the purposes of a previous Section 106 review and determined by the federal agency not to contain archaeological sites that are NRHP-listed, eligible, or unevaluated, and this finding was accepted by the Iowa SHPO. This requires consultation with Office of the State Archaeologist or *I-SitesPro* online databases to determine.
- b. Profoundly Disturbed - The APE has been profoundly disturbed. *Profound disturbance* as it relates to the APE occurs when a past activity or activities have physically altered the *three-dimensional* APE of an undertaking *in its entirety* to the point where there is no potential for an archaeologically significant property to remain.

Specific Excluded Activities

When the following ground disturbing activities are proposed for any project locations not meeting the Qualifying Criteria, they will be considered excluded from further review by the SHPO or ACHP, because the activities have limited potential to adversely affect historic properties (some exceptions noted in *italics* below). The RE will document how the project meets these specific excluded activities on an *Excluded from SHPO Review Form* for submittal to the IEDA HPS.

- a. Photoscopic pictures of water and/or sewer pipe.
- b. Re-lining of non-historic water and/or sewer pipe (i.e., polyvinyl, fiber cement, and other composite or plastic pipe; clay pipe less than 24 inches in diameter, post-WPA pre-cast concrete pipe and boxes).
- c. Point repairs of water and/or sewer pipe.
- d. Hydrant replacements.
- e. Manhole cover replacements.
- f. New/replacement service lines and related appurtenances involving boring or slit trenches up to one (1) foot in width and up to 100 feet in length, if no known NRHP listed, eligible, or unevaluated properties, including sites and historic districts, are within the APE and no triangle sites are within ¼ mile of the APE.
- g. Equipment replacement, purchase, removal, and/or installation.
- h. Disturbances confined to the current footprint of an existing facility compound, such as water and/or sewer treatment plants, if no known NRHP listed, eligible, or unevaluated properties, including sites and historic districts.
- i. Directional boring of utility lines without sending and receiving pits, if no known NRHP listed, eligible, or unevaluated properties, including sites and historic districts, are within the APE and no triangle sites are within ¼ mile of the APE.
- j. Connecting pits relating to directional boring for utility lines no bigger than 10 feet by 10 feet, if no known NRHP listed, eligible, or known but unevaluated properties, including sites and historic districts, are within the APE and no triangle sites are within ¼ mile of the APE.
- k. In-place replacement of non-historic water and/or sewer mains (i.e., polyvinyl, fiber cement and other generic composite or plastic pipe; clay pipe less than 24 inches in diameter, post-WPA pre-cast concrete pipe and boxes), if no known NRHP listed, eligible, or known but unevaluated properties, including sites and historic districts, are within or immediately adjacent to the APE.
- l. Replacement of wells in existing well fields.
- m. Test boring/well sites to determine soil suitability, if no recorded archeological sites are within or immediately adjacent to the APE
- n. Replacement of concrete or asphalt sidewalks.
- o. Replacement of water towers on the same parcel when that parcel is less than one (1) acre in size, if water tower to be demolished is less than 50 years old and the new tower is not more than a 10% increase in capacity or an increase of more than 20 feet in height as compared to the existing water tower.
- p. Utility upgrades without new ground disturbance.
- q. Parking lot rehabilitation or construction of less than one (1) acre in size, without the installation of storm drains or other related below-ground appurtenances located on row-cropped agricultural land, provided that any ground disturbance activities will be confined to the plowzone, which generally extends 10 to 12 inches below the surface.
- r. Replacement of overhead conductor cable.
- s. Resurfacing and/or rehabilitation of existing concrete sidewalks and curbs and concrete or asphalt roads, drives, or entries where there will be no change in the existing horizontal and vertical alignment. *This does not apply to roads found eligible for listing on the NRHP.*
- t. Conversion of an existing gravel road to concrete or asphalt where there will be no change in the existing horizontal and vertical alignment. *This does not apply to roads found eligible for listing on the NRHP.*
- u. Pavement widening and/or shoulder construction and the addition of auxiliary lanes, such as turn lanes or climbing lanes where there will be no change in the existing horizontal and vertical alignment of an

existing right of way. *This does not apply to roads found eligible for listing on the NRHP.*

- v. Demolition of non-historic buildings when all activity is confined to the current footprint of the original construction, which includes a presumed builder's trench extending three (3) feet beyond the existing foundation/footing, and, when ground surface conditions are stable enough to support the weight and movement of heavy equipment on bare ground or on temporary mats without sinking into the ground, rutting the ground surface, or resulting in any form of earthmoving at the demolition site.

Section 3. Undertakings Involving Architectural/Historical Resources

Non-Specific Excluded Activities

If any of the following conditions are met, SHPO does not need to review the architectural portion of a project regardless of activity. The RE will document how the project meets the qualifying criteria on an *Excluded from SHPO Review Form* for submittal to the IEDA HPS.

Qualifying Criteria:

- a. Less than 50 - The Project will involve a building of any type that is less than 50 years old and that is not listed in or previously determined eligible for the NRHP, and does not convey the level of exceptional significance to be considered eligible for the NRHP under Criteria Consideration G (individually or as a contributing component to a historic district).
- b. Previous Evaluation - The Area of Potential Effect (APE) has been surveyed by a professional historian or architectural historian within the last 5 years, determined not to contain historic properties, and the finding was accepted by the Iowa SHPO. Please note this does not include properties simply added to the Iowa Site Inventory within 5 years. The property must have been signed off as being "not eligible" by SHPO staff.

Specific Excluded Activities

When the following activities are proposed for any architectural properties not meeting the Qualifying Criteria, they will be considered excluded from further review by the SHPO, because the activities have limited potential to adversely affect historic properties (some exceptions noted in *italics* below). The RE will document how the project meets these specific excluded activities on an *Excluded from SHPO Review Form* for submittal to the IEDA HPS.

- 1. Exterior Rehabilitation
 - a. Caulking and weather stripping in a color complementary to the adjacent surfaces
 - b. Scraping, extremely low-pressure (less than 100 psi) washing, and/or repainting of exterior cladding. *This does not apply to destructive surface preparation treatments, such as water blasting, sand or other particle blasting, power sanding, or chemical cleaning.*
 - c. Repair or in-kind replacement of windows (i.e., new windows will duplicate the material, dimensions, design, detailing, and operation of the extant or known historic windows; glazing will be clear, non-reflective, and without tint; window sashes will not be clad with aluminum or synthetic material), as follows (*this does not apply to the replacement of existing archaic, decorative, or architectural/structural glass*):
 - i. Repair, scrape, paint, and re-glaze existing windows.
 - ii. Repair or in-kind replacement of window sash, glass, and/or hardware, including jam tracks. Consideration should be given first to identifying ways to repair rather than replace damaged historic materials.
 - iii. Repair or in-kind replacement of damaged and non-operable transoms. Consideration should be given first to repair rather than replacement of damaged historic materials.

- d. Installation of storm windows and doors, provided that they conform to the shape and size of the historic windows and doors. The meeting rail of storm windows must coincide with that of the existing sash. Color should complement trim; mill finish aluminum is not acceptable.
 - e. Repair or in-kind replacement (i.e., the new features will duplicate the extant material, dimensions, and detailing) of the following features (*consideration should be given first to identifying ways to repair rather than replace damaged historic materials*):
 - i. Porches — railings, post/columns, brackets, cornices, steps, flooring, ceilings, and other decorative treatments.
 - ii. Roofs.
 - iii. Siding.
 - iv. Exterior architectural details and features.
 - v. Doors, including cellar/bulkhead doors.
 - vi. Gutters and downspouts.
 - f. Repair or reconstruction of concrete/masonry walls, parapets, chimneys, or cornices, provided any new masonry or mortar matches the color, strength, composition, rake, and joint width of existing walls, and no power tools are used on historic materials. (*Work on historic masonry must follow the guidance provided in Preservation "Brief #2: Repointing Mortar Joints in Historic Masonry Buildings," currently found online at <http://www.nps.gov/history/hps/tps/briefs/brief02.htm>.)*
 - g. Bracing and reinforcing of chimneys and fireplaces, provided the bracing and reinforcing are either concealed from exterior view or removable in the future.
 - h. Construction or replacement of wheelchair ramps, provided the ramps are on secondary façades and will not directly impact the material fabric of the building.
 - i. Installation of temporary wheelchair ramps on any façade.
 - j. Substantial repair or in-kind replacement of signs or awnings. *This does not apply to historic sign—painted, neon, or otherwise.*
2. Interior Rehabilitation
- a. Non-destructive or concealed testing for damage assessment or identification of hazardous materials (e.g., lead paint, asbestos, etc.).
 - b. Scraping and repainting of interior trim.
 - c. Plumbing repair/replacement, including pipes and fixtures when no structural alteration is involved. *This does not apply to historic fixtures, which must be repaired for this allowance to apply.*
 - d. HVAC system repair, replacement, and/or cleaning, including furnaces, pipes, ducts, radiators, or other HVAC units when no structural alteration or exposed new ductwork is involved. *This does not apply to historic fixtures, which must be repaired for this allowance to apply.*
 - e. Repair or replacement of electrical wiring, including switches and receptacles. *This Allowance does not apply to installing exposed wiring such as surface mounted wiring, conduits, piping, or to the installation of new systems where they will affect significant interior features.*
 - f. Repair or replacement of interior fire detection, fire suppression, or security alarm systems. *This Allowance does not apply to exposed systems such as surface mounted wiring, conduits, or piping where replacement will affect significant interior features.*
 - g. Restroom improvements for handicapped accessibility, provided the work is contained within existing restroom and significant interior materials and features (e.g., historic trim or architectural details) are not altered.
 - h. Repair or in-kind replacement of interior floors, walls, and ceilings. This applies to the repair of interior finishes, including plaster and wallboard, provided the repair is restricted to the damaged area and does not affect adjacent materials. *This does not apply to historic architectural finishes such as decorative plaster or plaster substrates for decorative materials such as wainscoting, murals, gold leaf, etc.*
 - i. Installation of drywall over existing wall surface, provided no decorative plaster or other decorative features are covered and all historic trimwork is reinstalled.
 - j. Installation of insulation in ceilings, attic spaces, and crawl spaces. *This does not apply to the installation of urea formaldehyde foam insulation or any other insulation containing water.*

- k. Installation of insulation in wall spaces, provided an appropriate interior vapor barrier or vapor barrier paint is used and historic exterior clapboards are removed and reinstalled carefully. *This does not apply to the installation of urea formaldehyde foam insulation or any other thermal wall insulation containing water.*
 - l. Repair or pouring of concrete cellar floor in an existing cellar.
 - m. Repair or replacement of cabinets and countertops. *Historic "built-in" cabinets must be repaired for this to apply.*
3. Site Improvements
- a. Repair or in-kind replacement of driveways, parking lots, and walkways, although consideration should be given first to repair rather than replacement of damaged historic materials whenever feasible.
 - b. Repair or in-kind replacement of non-historic landscaping and utilities, such as paving, planters, trellises, irrigation, and lighting.
 - c. Repair or in-kind replacement of fencing and other exterior retaining or freestanding walls, provided masonry and mortar matches the color, strength, composition, rake, and joint width of historic wall and no power tools are used on historic materials. *(Work on historic masonry must follow the guidance provided in Preservation "Brief #2: Repointing Mortar Joints in Historic Masonry Buildings," currently found online at <http://www.nps.gov/history/hps/tps/briefs/brief02.htm>.)*

Excluded from Review, Project Determination Form

After referencing Appendix B of the Programmatic Agreement (PA) to verify that the project activity does not need further review, use this form to document compliance with the Section 106 of the NHPA. This form will be submitted to IEDA either with your Request for Release of Funds (RROF) or individually per building as applicable.

As an example, here are the steps you would take:

- Start Environmental Review
- See if the project is exempt from further review by referencing Appendix B of the PA..
- If the project activity meets either the Qualifying Criteria or the Specific Excluded Activities, fill out this form and include it in your environmental review record or upload it to iowagrants.gov as applicable.
- Use the “When to Consult with Tribes Under Section 106” included in the PA to determine if Tribal consultation is required. If so, mail letters to tribes; you must still do this even if your project activity meets and exemption under this PA.
- Complete the rest of the Environmental Review
- Publish Notice
- Submit the Request for Release of Funds: attach a copy of the notice and the *Exempt from Review, Project Determination Form*.

NOTE: You must still solicit comment about the project from the Native American Tribes even if your project activity is exempt from further review.

Recipient Name:
Recipient Address:

Contract Number:

For information on this request, contact:

Contact Name:

Contact Phone Number:

Project Description (provide a brief description of the actual scope of work not just “housing rehab”)

Project Address (Street, City, Zip):

Project County:

Reason Project Activity is Excluded from Review (use Appendix B of the PA):

Section 1, 2 or 3:

Qualifying Criteria a. or b.:

OR

Specific Excluded Activity (include which specific activity):

Notes:

(include date of construction)

Pictures: Take a before picture of the primary façade of any buildings directly impacted by project activities. Attach them to this form.

Applicant Certification:

As the duly designated certifying official of the recipient, I also certify that: I am authorized to and do consent to assume the status of responsible federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.

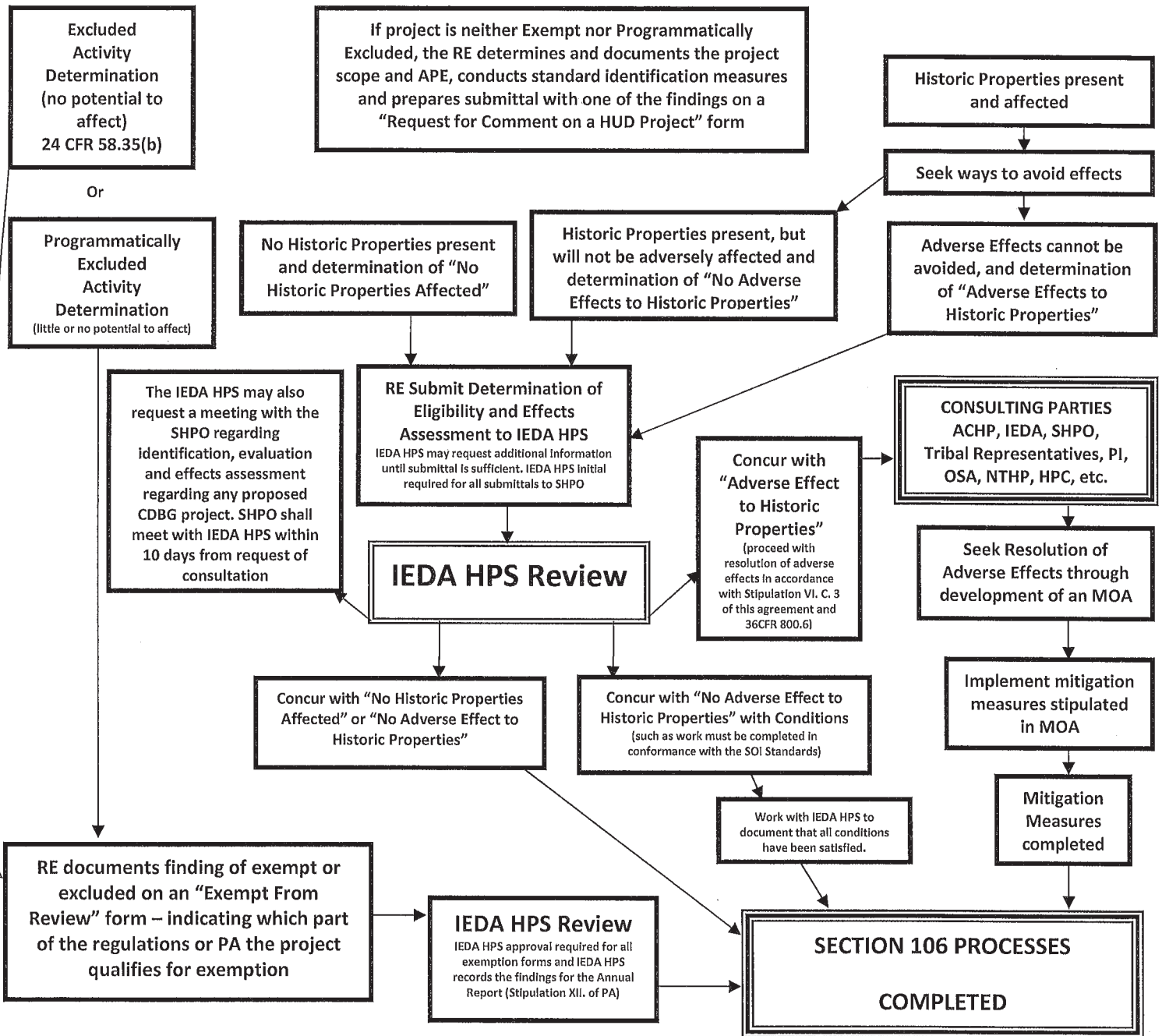
Signature of the Certifying Officer of Applicant,

Date

Print Name and Title of Certifying Officer of Applicant

APPENDIX C

SECTION 106 REVIEW PROCESS FOR TYPICAL PROJECTS*



*Technical Assistance from IEDA HPS may be sought at any point in the process. This chart does not address post review discoveries, monitoring findings, annual reporting, dispute resolution, and other unusual circumstances. Any other portions of Environmental Review are not considered here.

HP FACT SHEET #6:**WHEN TO DO ARCHAEOLOGICAL FIELD INVESTIGATIONS**

HUD offers the following guidance on when to do professional archaeological field investigations. It is applicable to both Part 50 and Part 58 programs. It meets the "reasonable and good faith effort" requirement to identify historic properties, per 36 CFR § 800.4(b).

- Archaeological field investigations and related work should be approved only when HUD or the Responsible Entity (RE) is *persuaded* by authoritative sources of information that there is a "likely" (§ 800.4(b)(1)) presence of National Register-eligible or -listed properties within the project site and that the project may affect National Register resources.
- Authoritative sources of information include, but are not limited to, reports, studies, surveys, predictive models, National Register data, and/or tribal input. These data must demonstrate that the project site contains or is reasonably adjacent to archaeological sites that meet National Register criteria.
- The SHPO/THPO and other qualified persons may provide such information. The information should indicate a close and direct relationship between such previously discovered sites and the project site. It should also indicate the likelihood that National Register resources will be affected. Archaeological field investigation in such cases would help determine the presence of resources on site and provide the basis for establishing their significance and the project effects on them.
- For urban areas, it is reasonable to consider the project site relationship only to such off-project archeological sites that are immediately adjacent to the project site.
- In the case of projects for new developments in areas not previously developed or disturbed, a somewhat more distant site or ring of sites may be considered as relevant to the project site. But still, in this scenario, HUD or the RE *must be persuaded* that documented archaeology sites outside the APE are reasonably close enough to the project site to establish a likely relationship and so warrant a professional field investigation on the project site.
- HUD or the RE should generally not honor a request for a professional archaeological field investigation without specific justification or solely on grounds that previous surveys have never been conducted in the area. HUD or the RE may turn down such requests as an unjustifiable public expense, particularly where private or non-federal lands are involved.

This guidance is supported further by the Advisory Council on Historic Preservation's 2007 *Policy Statement on Affordable Housing and Historic Preservation* (72 FR 7387-7389), Implementation Principle #8, that limits archaeological field investigations in certain situations.

Implementation Principle #8:

"Archaeological investigations should be avoided for affordable housing projects limited to rehabilitation and requiring minimal ground disturbance"
(emphasis added).

NEED ADDITIONAL HELP?

CONTACT YOUR LOCAL HUD ENVIRONMENTAL OFFICER.

Source: Office of Environment and Energy, Environmental Planning Division, CPD, May 2009

**AUTHORIZATION FOR ALTERNATE SIGNATORIES
FOR SECTION 106 COMPLIANCE FORMS**

CDBG Grant Administrators or City Clerks may now sign the Section 106 Compliance Forms including the *Exempt from Review Project Determination Form* and the *Request for Comment on a HUD Project* form. In order to take advantage of this opportunity, the Agency Official/CEO must sign this form and have it witnessed. The CEO is the person who signed the CDBG contract. The grant administrator or City Clerk must also sign this form as a signatory.

Note: By signing this agreement, the Agency Official/CEO is still legally responsible for all findings and determinations made on their behalf by the signatory.

Once signed, submit this form with your Section 106 compliance documentation.

As stated in 36 CFR Part 800, the implementing regulation for Section 106 of the National Historic Preservation Act of 1966, the Agency Official with jurisdiction over an undertaking takes legal and financial responsibility for Section 106 compliance in accordance with Subpart B of 36 CFR Part 800. In the case of the state Community Development Block Grant (CDBG) Program, however, the Agency Official will be the selected non-entitlement cities, which as CDBG recipients are authorized to serve as the Agency Official under 24 CFR Part 58.

In the event that the Agency Official is unable to sign the *Request for Comment* form or the *Exempt from Review Project Determination Form*, however, the following alternates signatories listed below are authorized to act on the behalf of the Agency Official. In the event an alternate signatory is used, the Agency Official remains legally responsible for all required findings and determinations made through the Section 106 process. The signatures attested below are effective as of:

(Date)

Sincerely,

Agency Official (CEO) signature

[Name and Title of] Signatory # 1

Signature of Signatory #1

[Name and Title of] Signatory # 2

Signature of Signatory #2

[Name and Title of] Witness

Signature of Witness

REQUEST FOR COMMENT ON A HUD PROJECT*

- This is a new submittal
 This is more information relating to a previous submittal

Cover Letter: Please include a cover letter with a comprehensive description of the Area of Potential Effect (APE) and project activities. The APE should include the project area, all easements, borrow areas, equipment and material storage, and staging areas. If applicable, describe excavation and other earthmoving activities including 3-dimensional parameters (length, width, and depth).

I. GENERAL INFORMATION

- a. Project name and/or Property Owner: _____
 b. Property Street & Number: _____
 c. County: _____ City: _____ Zip: _____
 d. Lead Federal Agency: _____ CDBG Contract No: _____
 e. Federal Funding Program: CDBG If HUD; check one: 24 CFR Part 50 or 24 CFR Part 58
 f. Contact Person on Project: _____
 Contact Address: _____ City: _____ State: _____ Zip: _____
 e-mail: _____ Phone: _____

II. IDENTIFICATION OF HISTORIC PLACES

Please check box indicating whether you are requesting an archaeological and/or architectural review of your project and include each of the items requested.

- Archaeology**
- 7.5 min Quad U.S.G.S. (1-mile radius) with quad name and APE outlined (maps on-line at <http://ortho.gis.iastate.edu/>)
 - Site plan showing limits of proposed activities or general layout (engineering)
 - Aerial photo: zoom to project area (photos on-line at <http://ortho.gis.iastate.edu/>)
 - Description of width and depth of proposed excavation and current conditions of project area
 - OSA site file search, Phase IA, or Phase I (whichever is appropriate)
 - Number of acres in project: _____
 - Legal location: Section(s) _____ Township(s) _____ Range(s) _____
- Architecture**
- Date of original construction for the building: _____
 - Previous site information available (contact Iowa Site Inventory Coordinator)
 - Updated or new Iowa site Inventory Form (available online at www.iowahistory.org/preservation)
 - Clear photos of property and surrounding area
 - Location map (no bigger than 11x17) with APE clearly defined (Quad map or city plat map)
 - Copy of county or city assessor's card record or other appropriate property information
 - Detailed description of proposed action, including copy of project specifications, if applicable

III. APPLICANT CERTIFICATION (Check Either Adverse Effect or No Adverse Effect for Historic Property Affected category)

Determination of Effect (Check One)

- No historic properties will be affected** (i.e., none are present or there are historic properties present but the project will have no effect upon them)
- No Adverse Effect to a historic property** (i.e., a historic property is present and affected. However, the project either has no adverse effect on the historic property, or the applicant or other federally authorized representative will consult with the SHPO to modify the project or impose conditions to avoid adverse effects.)
- Adverse Effect to a historic property** (i.e., a historic property is present and adversely affected. The applicant, or other federally authorized representative, will consult with the SHPO and other consulting parties to resolve the adverse effect.)

Federally Authorized Signature: _____ Date: _____
 Type name and title below →

Submit one copy with each property for which comment is requested. Please print or type.

Return with full Section 106 Compliance Documents to the IEDA HPS at: 200 East Grand Ave., Des Moines, IA 50309

*This form may be replaced by an electronic submission process, which would collect the same information.

GLOSSARY

ACHP - Advisory Council on Historic Preservation

APE – Area of Potential Effects

CDBG – Community Development Block Grant

CEO – Chief Elected Official

CFR – Code of Federal Regulation

HPC – Historic Preservation Commission

HUD – Federal Department of Housing and Urban Development

IEDA – Iowa Economic Development Authority

IEDA HPS – Iowa Economic Development Authority Historic Preservation Specialist

ISIF – Iowa Site Inventory Form

NEPA – National Environmental Policy Act

NHPA – National Historic Preservation Act

NPS – National Park Service

NRHP – National Register of Historic Places

NTHP – National Trust for Historic Preservation

OSA – Office of the State Archaeologist

PA – Programmatic Agreement

RE – Responsible Entity

RROF – Request for Release of Funds

SHPO – State Historic Preservation Office(r)

SOI – Secretary of the Interior

THPO – Tribal Historic Preservation Officer

U.S.C. – United States Code

Historic Preservation

Protection of Historic Properties: National Historic Preservation Act (36 CFR Part 800):

Introduction: Federally funded activities are subject to the review requirements of Section 106 of the National Historic Preservation Act. The review process involves consultation with various agencies, groups and individuals. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties. Historic Properties are those properties that are listed on the National Register or are eligible for listing. A property is considered eligible when it meets specific criteria established by the National Park Service (36 CFR Part 63).

Programmatic Agreement: On August 23, 2016 the *Programmatic Agreement (PA) among the Iowa Economic Development Authority, the Iowa State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding Responsibilities Delegated Under 24 CFR § 58* was executed. This agreement Outlines Programmatic Excluded Activities; allows for IEDA to have qualified staff complete the Section 106 review for undertakings resulting in findings of: No Potential to Cause Effects, No Historic Properties Affected, No Adverse Effect; involves SHPO in standard review of all undertakings resulting in Adverse Effects, and creates data sharing between IEDA and SHPO to further expand the State's Inventory. This document is available for review on IEDA Community Development Block Grant website: <http://www.iowaeconomicdevelopment.com/Community/CDBG>

Lead Federal Agency: As stipulated in the PA, when more than one Federal agency is involved in a project, a lead agency can be identified to serve as the agency official who shall act on the others behalf to fulfill their collective responsibilities under Section 106.

Excluded from further Review: Some CDBG projects are excluded from further review. To determine if your project fits the criteria, reference the PA. A link is provided above. Be sure to reference the correct Section of Appendix B. One pertains to those projects that involve ground disturbance and one involves Architectural/Historical resources. Follow the procedures outlined in the PA. USDA-RD has their own unique Programmatic Agreement. USDA-RD offices should follow their User's Manual to discover SHPO procedures.

Section 106 Consultation: If your project activity is not excluded from further review, you must consult in accordance to the PA. The PA outlines a process in which all recipients of IEDA awarded CDBG funds will consult with IEDA's Historic Preservation Specialist (IEDA HPS). IEDA has established an on-line submittal process and provided training for the required procedures. Training slides to help the recipient through the Section 106 process are also available on IEDA's CDBG website (link above). If you have any questions about historic preservation requirements contact IEDA's HPS, Ann Schmid at 515-725-3078 or ann.schmid@iowa.gov.

Reference: As a reference, you may want to visit the State Historical Society of Iowa website regarding Historic Site and Archaeological Inventory: <https://iowaculture.gov/history/preservation/historic-site-archaeological-inventory> This website also has information on the Secretary of the Interior's Professional Qualification Standards for archaeology and historical investigation. Surveys completed for Section 106 review must meet the Department of Interior Standards, Section 110 or the equivalent. Under the National Historic Preservation Act (NHPA) the Advisory Council on Historic Preservation (ACHP) was established. This Federal agency oversees the Section 106 process. Recipients can learn more about the council's role, get copies of 36 CFR 800, and obtain other information about the Section 106 process on the Council's web site at <http://achp.gov/>

Tribal Consultation: For a list of projects that would require you to contact the tribal authorities reference *When To Consult With Tribes Under Section 106* (page3 of this document). If your project type is not on the list you do not need to consult with the tribes.

A list of tribal authorities who would like to be contacted can be found in Appendix A of the PA. This list is state-wide, therefore it is recommended that you also consult the HUD Tribal Directory for the list and current contact for tribes interested in undertaking in the specific area of the project.

For tribal consultation, reference the PA first, then HUD's guidance: *Process for Tribal Consultation in Projects That Are Reviewed Under 24 CFR Part 58* (pages 4-17 of this document).

(Continued)

Below is a simplified documentation process to meet the Section 106 requirements. Use the below steps to determine if your project is an undertaking that has the potential to cause effects to historic properties.

Step 1 Determine the Area of Potential Effects (APE) (36 CFR Section 800.16(d))
The APE is the surface and subsurface geographic area within which the undertaking may cause effects to historic properties if they exist. Usually it encompasses the project area including all easements' borrow areas, equipment and material storage; and staging areas. Also take into account the excavation and other earthmoving activities including 3-dimensional parameters (length, width, and depth) of the intended subsurface impacts. This information is normally included in the engineering plans and schematics for the project.

Step 2 Identify historic properties within the APE (36 CFR Section 800.4)
The recipient shall make a reasonable and good faith effort to carry out appropriate identification efforts. These include: Conduct background research: consult interested parties, including Indian tribes if applicable, take oral history reviews: interview local historians, complete field surveys, initiate a phase 1 archeological survey. Remember professionally qualified individuals should conduct an evaluation and identification of historic properties. Reference past planning, research and studies: Gather information on the types and number of recorded archaeological sites with a 1-mile radius of the project APE. This can be done by contacting the office of the State Archaeologist using the *Request for Iowa Site File Search*.

Step 3 Results of Identification and Evaluation (36 CFR 800.4(d))
After evaluation, the recipient must determine if the project will affect historic properties. Based upon the evaluation one of the following findings must be made:

 X **No historic properties effected.** This means that either there are no historic properties present or there will be no effect upon the historic properties by the undertaking. If this finding applies to your project do the following:

1. Per the PA consult with IEDA HPS by completing and submitting a NHPA Section 106 Status form in IowaGrants.gov and send consultation to tribes and other interested parties as appropriate.
2. IEDA HPS will review and approve or comment on the submittal. Upon IEDA approval and if the Indian Tribes or other parties have not objected to the finding the recipients responsibilities under Section 106 are fulfilled

 Historic properties effected. This means there are historic properties present and they will be effected by the undertaking or that IEDA HPS or the Indian Tribes have objected to the agency's finding. You must now determine if the undertaking will have an adverse effect on the historic property (36 CFR Section 800.5).

- **Adverse Effect:** an adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. If your project meets this criterion you need to contact IEDA HPS immediately and initiate consultation with SHPO (36 CFR Section 800.6).
3. **No Adverse Effect:** if your project does not meet the above definition of an adverse effect, per the PA consult with IEDA HPS by completing and submitting a NHPA Section 106 Status form in IowaGrants.gov and send consultation to tribes and other interested parties as appropriate.

CDBG Recipients Remember: You must receive IEDA HPS approval and complete the section 106 process before you publish the FONSI or the Request for Release of Funds Notice for a project.

When To Consult With Tribes Under Section 106

Section 106 requires consultation with federally-recognized Indian tribes when a project may affect a historic property of religious and cultural significance to the tribe. Historic properties of religious and cultural significance include: archeological sites, burial grounds, sacred landscapes or features, ceremonial areas, traditional cultural places, traditional cultural landscapes, plant and animal communities, and buildings and structures with significant tribal association. The types of activities that may affect historic properties of religious and cultural significance include: ground disturbance (digging), new construction in undeveloped natural areas, introduction of incongruent visual, audible, or atmospheric changes, work on a building with significant tribal association, and transfer, lease or sale of properties of the types listed above.

If a project includes any of the types of activities below, invite tribes to consult:

- significant ground disturbance (digging)**
Examples: new sewer lines, utility lines (above and below ground), foundations, footings, grading, access roads
- new construction in undeveloped natural areas**
Examples: industrial-scale energy facilities, transmission lines, pipelines, or new recreational facilities, in undeveloped natural areas like mountaintops, canyons, islands, forests, native grasslands, etc., and housing, commercial, and industrial facilities in such areas
- incongruent visual changes**
Examples: construction of a focal point that is out of character with the surrounding natural area, impairment of the vista or viewshed from an observation point in the natural landscape, or impairment of the recognized historic scenic qualities of an area
- incongruent audible changes**
Examples: increase in noise levels above an acceptable standard in areas known for their quiet, contemplative experience
- incongruent atmospheric changes**
Examples: introduction of lights that create skyglow in an area with a dark night sky
- work on a building with significant tribal association**
Examples: rehabilitation, demolition or removal of a surviving ancient tribal structure or village, or a building or structure that there is reason to believe was the location of a significant tribal event, home of an important person, or that served as a tribal school or community hall
- transfer, lease or sale of a historic property of religious and cultural significance**
Example: transfer, lease or sale of properties that contain archeological sites, burial grounds, sacred landscapes or features, ceremonial areas, plant and animal communities, or buildings and structures with significant tribal association

None of the above apply

Project/ Date

Elizabeth Kemp 6/15/2020
Reviewed By

HUD Tribal Directory Assessment Tool (TDAT):
<http://egis.hud.gov/tdat/Tribal.aspx>



U.S. Department of Housing and Urban Development
Community Planning and Development

Special Attention of:

All Regional Directors
All Field Office Directors
All CPD Division Directors
All Regional Environmental Officers
All Responsible Entities
All Housing Directors
All PIH Division Directors
All Program Environmental Clearance Officers

Notice: CPD 12-0-

Issued:

Expires: This Notice is effective until amended, superseded, or rescinded.

Cross References:

SUBJECT: Process for Tribal Consultation in Projects That Are Reviewed Under 24 CFR Part 58

I. Purpose

The “Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities,” 24 CFR Part 58, outlines the review process for many projects assisted with HUD programs, including those funded through CDBG, HOME, HOPE VI, HOPWA, Emergency Shelter Grants, certain Indian Housing programs, Public Housing Capital Fund, and Economic Development Initiative grants, and certain loans guaranteed by HUD. Part 58 covers many environmental areas, including historic resources. It references the “Section 106” review process for historic resources, which requires federal agencies to consult with federally-recognized Indian tribes on projects that may affect historic properties of religious and cultural significance to tribes. Under Part 58, local, state, or tribal governments become Responsible Entities (REs) and assume the federal agency’s environmental review authority and responsibility for projects within their jurisdiction, including those for which they are grantees. The RE must consult with tribes to determine whether a proposed project may adversely affect historic properties of religious and cultural significance, and if so, how the adverse effect could be avoided, minimized or mitigated. This applies to projects on and off tribal lands. This Notice clarifies the steps that REs should follow in the tribal consultation process. Following this protocol ensures compliance with the requirement for certification of tribal consultation on the Request for Release of Funds and Certification (form HUD 7015.15).

II. Background

Section 106 of the National Historic Preservation Act (*16 U.S.C. 470f*) and its implementing regulations (36 CFR Part 800) direct federal agencies to undertake an open, consultative process to consider the impact of their projects on historic and archeological resources. The review must be completed before an agency approves and/or commits funds to a project. In projects that are reviewed under 24 CFR Part 58, the Responsible Entity (RE), acting as HUD, consults with the State Historic Preservation Officer (SHPO), local government, individuals and organizations

with demonstrated interest, the public, and representatives of federally-recognized Indian tribes and Native Hawaiian Organizations, including Tribal Historic Preservation Officers (THPOs). This Notice focuses on tribal consultation and project impacts to historic properties of religious and cultural significance to tribes. If a project includes activities that may affect such properties, the RE must consult with tribes to identify the property(ies) and consider ways to avoid, minimize or mitigate possible adverse effects to them. For guidance on consulting with Native Hawaiian Organizations, see "[Consultation with Native Hawaiian Organizations in the Section 106 Review Process: A Handbook](#)" published by the Advisory Council on Historic Preservation in June 2011.

Effective tribal consultation begins at the earliest possible stages of a project and is carried out to meet project timeframes. It fosters meaningful dialogue that strives to protect historic properties of religious and cultural significance to tribes. As noted in 36 CFR 800.2(c)(2)(ii)(B): "Consultation with Indian tribes should be conducted in a sensitive manner respectful of tribal sovereignty. Nothing in this part alters, amends, repeals, interprets, or modifies tribal sovereignty, any treaty rights, or other rights of an Indian tribe, or preempts, modifies, or limits the exercise of any such rights." [Additional guidance](#) on working with tribal representatives is available. REs may engage cultural resource specialists to assist in the process as needed, but REs remain ultimately responsible for initiating consultation with tribes.

Further details on the Statutory and Regulatory Requirements for tribal consultation are included in Section VI. Definitions are included in Section VII.

III. Required Actions by Responsible Entities

A. Determine if Section 106 Review is Required

Not all projects require Section 106 review. Some are exempted through regulation or Programmatic Agreements between the RE and the SHPO. If Section 106 review is not required, tribal consultation is not required.

1. Exempt Activities

If project activities are limited to those listed in [24 CFR 58.34 \(a\) \(1-11\)](#) as Exempt Activities and those listed in [24 CFR 58.35 \(b\)](#), as Categorical Exclusions not subject to §58.5, no further review and no consultation are required. The listed Activities and Exclusions have "No Potential to Cause Effects." Examples include: maintenance activities, tenant-based rental assistance, operating costs, affordable housing pre-development costs, studies and plans.

2. Programmatic Agreement

If the funded activity is covered by an existing Programmatic Agreement (PA), the PA may contain more Exempt activities in addition to the ones above. [\[Link to PA database\]](#) Follow the review process in the PA, including appropriate tribal consultation. If the PA does not contain a section on tribal consultation, and the activity is not Exempt, follow the process in III. C., below.

3. Projects Involving Multiple Federal Agencies

If the project involves multiple federal agencies, the RE may defer to another federal agency as the lead agency to undertake the Section 106 review. Generally, the agency with the largest stake in the project acts as the lead agency. Document the lead agency agreement in writing and retain it in the Environmental Review Record (ERR). The agreement must contain provisions for appropriate tribal consultation. If adverse effects are involved, the RE

must sign the Memorandum of Agreement that resolves the adverse effect(s). Contact the HUD Federal Preservation Officer to discuss questions about a specific case.

B. Determine if Tribal Consultation is Required

Not all projects that require Section 106 review require consultation with Indian tribes. Consultation with federally recognized tribes is required when a project includes activities that have the potential to affect historic properties of religious and cultural significance to tribes. These types of activities include: ground disturbance (digging), new construction in undeveloped natural areas, introduction of incongruent visual, audible, or atmospheric changes, work on a building or structure with significant tribal association, or transfer, lease or sale of historic properties of religious and cultural significance.

1. Checklist on When to Consult With Tribes

Use the When to Consult With Tribes Under Section 106 checklist (Appendix A) to determine if the project includes types of activities that have the potential to affect historic properties of religious and cultural significance. [Link to checklist] If not, tribal consultation is not required. Keep a copy of the checklist in the Environmental Review Record (ERR). If needed, you may seek technical assistance from the HUD Field Environmental Officer (FEO). If consultation is required, follow the steps below.

Through written agreement with a tribe, an RE may modify the process outlined below. [See 36 CFR 800.2(c)(2)(ii)(E)] An RE may also choose to incorporate into their consultation effort any relevant provisions in existing agreements between SHPOs and tribes and in other SHPO and THPO written guidance regarding tribal consultation.

C. Consult With Tribes

If a project includes the types of activities that may affect historic properties of religious and cultural significance, the RE must consult with the relevant tribe(s) to identify any such properties in the project's Area of Potential Effect (APE). If they are present, consultation continues with evaluation of the eligibility of the properties for the National Register of Historic Places and assessment of the possible effects of the project on Register-eligible properties. The goal is to avoid adverse effects if possible.

Steps 1-4 below correspond to the steps commonly used to describe the Section 106 process in other guidance: Initiate Consultation (Step 1); Identify and Evaluate Historic Properties (Step 2); Assess Effects (Step 3); and Resolve Adverse Effects (Step 4). For the sake of efficiency, Steps

2, 3 and 4 may be treated together in consultation discussions and comments. [See 36 CFR 800.3(g) Expediting consultation]

Step1. Identify federally-recognized tribes with an interest in the project area and initiate consultation

The RE can use the Tribal Directory Assessment Tool (TDAT) to identify tribes with a current or ancestral interest in the county where the project is located. TDAT is a web-based directory of federally recognized tribes and their geographic areas of interest. Tribes may have an interest in counties far from their current location, counties where the tribe lived centuries or millennia ago.

a. Tribal Directory Assessment Tool (TDAT)

Type the project address into the locator box in TDAT and it will return a list of tribes with interest in the area, with contact names, addresses, e-mail addresses, fax numbers and phone numbers. You can export the list as an Excel spreadsheet

for mail merge in g. below. If TDAT shows no federally recognized tribes with an interest in the area, document the result in the ERR; consultation is complete unless a previously unidentified, federally recognized tribe expresses a desire to consult.

b. Tribe as Grant Recipient

If a tribe is a grant recipient in a HUD project and assumes the role of RE and conducts the Section 106 review, that tribe is responsible for inviting other tribes to consult if other tribes also have a religious or cultural interest in the project area. [Additional guidance](#) is available.

c. Non-federally Recognized Tribes

Although REs are only required to consult with federally-recognized tribes, the RE may invite non-federally recognized tribes with a demonstrated interest in the project to consult as additional consulting parties. They may also participate as members of the public. [See pages 9-11 of [Consultation with Indian Tribes in the Section 106 Review Process: A Handbook](#)]

d. Contact federally-recognized tribe(s) and invite consultation

Once the RE has identified tribes with a potential interest in the project area, the RE mails a letter to each tribe to invite consultation. The letter(s), on RE letterhead, may be transmitted by email. Keep a copy of the letter(s) in the Environmental Review Record (ERR) for monitoring purposes.

e. Historic Properties of Religious and Cultural Significance

The letter that invites consultation should contain a request for assistance in identifying historic properties of religious and cultural significance in the project area - archeological sites, burial grounds, sacred landscapes or features, ceremonial areas, traditional cultural places, traditional cultural landscapes, plant and animal communities, and buildings and structures with significant tribal association - and any initial concerns with impacts of the project on those resources.

f. Tribal Historic Preservation Officer (THPO)

Some tribes have both a tribal leader and a Tribal Historic Preservation Officer (THPO) listed in TDAT. Send letters to both and ask that the tribe's response indicate a single point of contact if possible. On tribal lands, a THPO may have assumed authority for Section 106 review in lieu of the State Historic Preservation Officer (SHPO). On non-tribal lands, the THPO may have been delegated by the tribe to represent them in Section 106 reviews, but their participation does not take the place of consultation with the SHPO. [See page 6 of [Consultation with Indian Tribes in the Section 106 Review Process: A Handbook](#)]

g. Template Letter

Send a letter to the tribe(s) using TDAT contact info mail merged with the template letter. The RE may customize the template letter if desired. [Link to template letter]

You must add a description of the project into the letter by editing the template. The description should include, as applicable: the location and size of the property; type of project; type and scale of new building(s) or structures; construction materials; number of housing units; depth and area of ground disturbance; introduction of visual, audible or atmospheric changes; or transfer, lease or sale of property. [Link to sample project descriptions]

The RE -- not a contractor, lender, sponsor, sub-recipient or other grantee -- must sign the letter to the tribe(s). The RE is required to conduct government-to-government consultation.

h. Map

Enclose a map showing the location of the project and the Area of Potential Effect (APE), which may be larger than the project property. For urban sites, a map generated from a site like Google Earth is preferred. [Link to Google Earth] For rural sites, a USGS topographic map is preferred. [Link to topo map site]

i. Timeframes

HUD's policy is to request a response to the invitation to consult within 30 days from the date the tribe receives the letter. For gauging the beginning and end of the 30 day period, an RE may assume that an emailed letter is received on the date it is sent. For a hard copy letter, an RE may send the letter certified mail, or, if mail delivery is predictable and reliable, the RE may assume a 5-day delivery period, and assume that the period ends 35 days after the letter is mailed.

If a tribe wishes to be a consulting party, the tribe must provide within 30 days an indication of their desire to consult. The tribe does not need to actually provide information about historic properties of religious and cultural significance within 30 days; that may take longer. If a tribe responds that they do not want to consult, document the response in the ERR. If a tribe does not respond to the invitation to consult within 30 days, the RE should document the invitation and lack of response in the ERR; further consultation is not required.

j. Tiered Review

If a project is utilizing a Tiered review, consultation should usually begin in the Tier 1 broad level review. If a tribe expresses interest in further consultation on specific sites, the Tier 1 review should include a written strategy for continuing consultation on site specific reviews in Tier 2. [See [24 CFR 58.15](#)]

Step 2. Consult with the tribe(s) to identify and evaluate historic properties of religious and cultural significance

Theoretically, the consultation process first identifies potential historic properties, then evaluates which ones are eligible for the National Register of Historic Places, and then assesses the impact(s) of the project on those resources. In practice, those efforts often occur simultaneously. It is important to remember though, that only historic properties of religious and cultural significance that are eligible for or listed on the National Register are protected under Section 106. If no such properties are present, refer to the "No Historic Properties Affected" finding in Step 3 below.

a. Consultation Meeting(s)

After receiving a response that a tribe wants to consult, contact the tribe(s) to arrange further consultation which may take place by phone, web meeting, or face-to-face meeting. Try to accommodate a tribe's preferences as to meeting location and method of communication. If needed, a site visit is an eligible project expense. If more than one tribe wants to consult, consult jointly if possible. Integrate tribal consultation with consultation with other non-tribal parties, including the SHPO, as possible and appropriate. Recognize that some tribes may not want to consult jointly, particularly where there are concerns for confidentiality of information.

b. Evaluation of Historic Properties for the National Register of Historic Places

Gather information on known historic properties from the tribe, SHPO, consultants, and other repositories. Discuss with the tribe whether known properties appear eligible for the National Register of Historic Places. HUD acknowledges that tribes possess special expertise in evaluating the eligibility of religious and cultural properties for the National Register. Generally, if the RE disagrees with a tribe's opinion, the RE or the tribe may ask the Advisory Council on Historic Preservation to enter the consultation. The tribe may also ask the Council to request the RE to obtain a formal determination of eligibility from the Keeper of the National Register.

c. Surveys to Identify Additional Historic Properties

If a convincing case is made by the tribe(s) and/or SHPO that National Register eligible historic properties potentially exist on the site, and that they may be affected by the project, the grantee may approve funding for an archeological survey as part of the project. Consult HUD's HP Fact Sheet #6, [Guidance on Archeological Investigations in HUD Projects](#). [Link to HP Fact Sheet #6]

Sometimes, consultation results in modification of project plans to avoid potential effects on historic properties of religious and cultural significance. If effects are avoided, e.g. by designating a sensitive area as undisturbed green space, it is generally not necessary to fully identify and document resources with an archeological survey.

An RE is not required to pay for consultation. However, an RE may choose to negotiate payment to a tribe for detailed survey documentation on historic properties of religious and cultural significance to the tribe, similar to payment to a consultant. If agreed upon ahead of time, this payment may be an eligible project expense.

d. Confidentiality of Information

Tribes may be hesitant to share information on the location, character, and use of historic properties of special religious and cultural significance. Discuss with the tribe(s) ways to protect confidentiality of such information. The RE should strive to ensure confidentiality when requested. [36 CFR 800.11\(c\)](#) outlines a formal process for obtaining federal authority to withhold sensitive information, in the event that practical means or state authority are not available.

Step 3. Consult with the tribe(s) to evaluate the effects of the project on identified and potential historic resources

After discussing the possible effects of the project on historic properties of religious and cultural significance to tribes, the RE determines the appropriate finding: "No Historic Properties Affected"; "No Adverse Effect"; or "Adverse Effect". The RE will also be consulting with other parties, like the SHPO, to determine effects of the project on these and other types of resources, like historic buildings with no tribal association. It is desirable to consolidate findings of effect for all types of historic properties in one letter. Ultimately, a project has one overall finding of effect. Tribes have 30 days to object to a finding of effect.

a. Criteria of Adverse Effect

Consult with the tribe(s) and other consulting parties to apply the [Criteria of Adverse Effect](#), and determine if the project may have an adverse effect.

b. “No Historic Properties Affected” Finding

If there are no known or potential historic properties in the project area that are listed on or eligible for the National Register of Historic Places, or if such properties exist but there will be no effect on them, notify the tribe(s) and other consulting parties of your determination of “No Historic Properties Affected.” Describe which of the above circumstances applies. It is not necessary to fully identify and document resources if they will not be affected by the project.

c. “No Adverse Effect” Finding

If the project will have an effect, but it will not be adverse, notify the tribe(s) and other consulting parties of your determination of “No Adverse Effect.” They have 30 days to object. If a tribe objects, the RE should consult to resolve the objection. The tribe or the RE may also ask the Advisory Council on Historic Preservation to review the determination. The request must be made within the 30-day period and must include the documentation listed in [36 CFR 800.11 \(e\)](#).

d. “Adverse Effect” Finding

If the project will affect National Register listed or eligible historic properties in any of the ways outlined in the Criteria of Adverse Effect, notify the tribe(s) and other consulting parties of your determination of “Adverse Effect” and consult to resolve the adverse effects. Typical activities that could adversely affect historic properties of religious and cultural significance include: ground disturbance (digging), new construction in undeveloped natural areas, introduction of incongruent visual, audible, or atmospheric changes, work on a building or structure with significant tribal association, or transfer, lease or sale of historic properties of religious and cultural significance.

Step 4. Consult to resolve adverse effects

If there are possible “Adverse Effects”, consult with the tribe(s) and other consulting parties to consider alternatives that would avoid or minimize adverse effects, including possible mitigation measures.

a. Notification of Advisory Council

The RE must notify the Advisory Council on Historic Preservation (ACHP) about the adverse effect and give them an opportunity to enter the consultation. The Council will decide whether to enter the consultation based on established [criteria](#) that include whether a project “Presents issues of concern to Indian tribes or Native Hawaiian organizations.” The Advisory Council must respond within 15 days of receipt of the request. [See link to on-line ACHP notification system – pending]

b. Consideration of Alternatives

Consult with the tribe(s) and other consulting parties about possible ways to modify a project to avoid adverse effects. If initial discussion does not resolve the issue(s), a site visit with consulting parties and project developers is often helpful. An agreed upon alternative may be stipulated with “conditions” in a revised “No Adverse Effect” finding for the project.

c. Consideration of Mitigation Measures

If adverse effects cannot be fully resolved, and there is a compelling need for the project to proceed despite the adverse effect(s), consider ways to mitigate or compensate for the harm to the historic property(ies). Mitigation measures may include data recovery, documentation, research, publication, education, interpretation, curation, off-site preservation, and/or monitoring and may relate to the specific resource that is being affected, or other historic properties in a similar location or of a similar type.

d. If needed, prepare and execute a Memorandum of Agreement (MOA)

An MOA stipulates the agreed upon measures to minimize and/or mitigate adverse effects. It is a legally binding document that obligates all named parties to the agreement. The RE is responsible for ensuring that the measures required by the MOA are satisfactorily carried out. Model language is available. At the discretion of the RE, where deemed necessary, an MOA may also be used to codify agreed upon measures to avoid an adverse effect, in conjunction with a conditional “No Adverse Effect” finding.

e. Execution of the MOA

The MOA must be executed prior to the decision point for the project -- as applicable, prior to the dissemination or publication of public notices required by 24 CFR Part 58 (e.g., notice of finding of no significant impact (§58.43), and notice of intent to request the release of funds (§58.70)). The RE should send a digital copy of the MOA to the HUD Field Environmental Officer (FEO) who will file it in the MOA file in the central HUD shared drive. A copy must also be provided to the Advisory Council on Historic Preservation and the consulting tribe(s).

f. Signatories to the MOA

The Responsible Entity may invite the tribe(s) to sign the MOA as a consulting party. The tribal leader and the THPO may sign the MOA. For projects on tribal lands, if the tribe has a THPO who has assumed Section 106 responsibilities for the tribe, the THPO must be a signatory.

HUD does not sign Section 106 agreement documents covered by 24 CFR Part 58. HUD does sign agreements covered by 24 CFR Part 50. If a project is subject to both, HUD may sign as long as the agreement states the appropriate program reference. [See CPD [Memo on HUD Environmental Regulations and Section 106 Agreement Documents](#)]

g. Completion of MOA requirements

The RE must ensure that the stipulations and mitigation measures in the MOA are carried out and inform the tribe(s) of completion. Document completion in the Environmental Review Record (ERR).

h. Termination of Consultation

If consulting about properties on tribal lands, a THPO may determine that further consultation will not be productive and terminate consultation. Likewise, an RE, SHPO, or, if participating, the Advisory Council on Historic Preservation, may terminate consultation. Termination of consultation is detailed at [36 CFR 800.7](#). A tribe that is consulting about properties off tribal lands may decline an invitation to sign an MOA, but does not have a right to terminate consultation under 36 CFR 800.7.

IV. Record of Compliance

Include evidence of compliance with this protocol in the Environmental Review Record (ERR), including notes, letters, e-mails, reports, etc.

Failure to consult with tribes per this protocol may lead to HUD issuing a finding of non-compliance with 36 CFR Part 800, the regulations that implement Section 106. If HUD makes a finding, HUD may initiate sanctions, corrective actions, or other remedies specified in program regulations or agreements or contracts with the RE which may include terminating grants where appropriate and repayment of funds expended with non-federal funds. (See [24 CFR 58.77](#))

A. Request for Release of Funds (RROF) (Form 7015.15)

REs and grantees must certify on the Request for Release of Funds and Certification (form HUD 7015.15) that they have consulted with federally-recognized tribes per this protocol. [See Part 2, #3 of [form](#)]

V. Discoveries During Construction

Whenever previously unknown below ground historic properties of religious and cultural significance are discovered during construction, excavation in the area of the resources must immediately stop until tribal consultation can occur. The RE must notify tribes (including the THPOs), the Advisory Council on Historic Preservation, and the SHPO within 48 hours of the discovery. [See [36 CFR 800.13\(b\)](#)] Contact the tribes identified in Step 1 and reenter consultation which should take place under an accelerated timeframe. A site visit with the RE, tribe(s), and SHPO (as appropriate) is recommended to resolve any potential adverse effect(s) to the historic property(ies) of religious and cultural significance.

A. Human Remains

If the discovery includes human remains, they should be respectfully covered over and secured, and the RE should contact law enforcement authorities as well as tribes and other consulting parties. If the human remains are determined to be Indian burials, the RE should follow the guidance in the “[Advisory Council on Historic Preservation Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects.](#)”

B. Native American Graves Protection and Repatriation Act (NAGPRA)

In undertakings on federal or tribal lands, the Native American Graves Protection and Repatriation Act (NAGPRA) (*25 U.S.C. 3001 et seq*) requires that cultural items excavated or inadvertently discovered be returned to their respective peoples. Cultural items include human remains, funerary objects, sacred objects, and objects of cultural patrimony. [More information](#) is available.

VI. Statutory and Regulatory Requirements

Federal law directs federal agencies to consult with tribes when there is a potential for a federally-funded project to affect a historic property of religious and cultural significance to tribes.

Section 106 of the National Historic Preservation Act ([16 U.S.C. 470f](#)) requires that prior to approving the expenditure of funds for a project, a federal agency must take into account the effect of the undertaking on historic resources.

Section 101 (d)(6)(A) and (B) of the National Historic Preservation Act identifies the types of properties to be considered and the obligation to consult. The Act provides that properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for inclusion in the National Register of Historic Places. In carrying out its responsibilities under Section 106 of the Act, a Federal agency is required to consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to such properties. In projects that are reviewed under 24 CFR Part 58, the Responsible Entity (RE) assumes the role of the Federal agency, including tribal consultation. [[See 24 CFR 58.4](#)]

The regulations that implement Section 106 of the Act, [36 CFR Part 800](#) – “Protection of Historic Properties,” define “Indian tribe” as federally recognized tribes, and limit the need to consult to projects that have the potential to affect historic properties of religious and cultural significance to tribes.

36 CFR 800.2 (c)(2)(ii)

Consultation on historic properties of significance to Indian tribes and Native Hawaiian organizations.

Section 101(d)(6)(B) of the act requires the agency official to consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to historic properties that may be affected by an undertaking...

36 CFR 800.3

(a) *Establish undertaking.* The agency official shall determine whether the proposed Federal action is an undertaking as defined in § 800.16(y) and, if so, whether it is a type of activity that has the potential to cause effects on historic properties.

(1) *No potential to cause effects.* If the undertaking is a type of activity that does not have the potential to cause effects on historic properties, assuming such historic properties were present, the agency official has no further obligations under section 106 or this part.

Therefore, the consultation process outlined in this Notice starts by first establishing whether the project includes a type of activity that has the potential to affect historic properties of religious and cultural significance to tribes. If it does, it outlines the steps to consult with tribes to identify and evaluate resources, and to assess the effects of the project on the resources.

VII. Definitions

Definitions of some of the terms used in this Notice may be found in 24 CFR Part 58 and 36 CFR Part 800, “Protection of Historic Properties”, and are repeated here for convenience.

The definition of **Responsible Entity** is found in 24 CFR 58.2(a)(7).

Responsible Entity. Responsible Entity means:

- (i) With respect to environmental responsibilities under programs listed in §58.1(b)(1), (2), (3)(i), (4), and (5), a recipient under the program.

(ii) With respect to environmental responsibilities under the programs listed in §58.1(b)(3)(ii) and (6) through (12), a state, unit of general local government, Indian tribe or Alaska Native Village, or the Department of Hawaiian Home Lands, when it is the recipient under the program. Under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*) listed in §58.1(b)(10)(i), the Indian tribe is the responsible entity whether or not a Tribally Designated Housing Entity is authorized to receive grant amounts on behalf of the tribe. The Indian tribe is also the responsible entity under the Section 184 Indian Housing Loan Guarantee program listed in §58.1(b)(11). Regional Corporations in Alaska are considered Indian tribes in this part. Non-recipient responsible entities are designated as follows:

(A) For qualified housing finance agencies, the State or a unit of general local government, Indian tribe or Alaska native village whose jurisdiction contains the project site;

(B) For public housing agencies, the unit of general local government within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;

(C) For non-profit organizations and other entities, the unit of general local government, Indian tribe or Alaska native village within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;

Definitions of some other parties in the Section 106 process are found in 36 CFR 800.16.

Council means the Advisory Council on Historic Preservation or a Council member or employee designated to act for the Council.

Indian tribe means an Indian tribe, band, nation, or other organized group or community, including a native village, regional corporation, or village corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Native Hawaiian organization means any organization which serves and represents the interests of Native Hawaiians; has as a primary and stated purpose the provision of services to Native Hawaiians; and has demonstrated expertise in aspects of historic preservation that are significant to Native Hawaiians.

Native Hawaiian means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

State Historic Preservation Officer (SHPO) means the official appointed or designated pursuant to section 101(b)(1) of the act to administer the State historic preservation program or a representative designated to act for the State historic preservation officer.

Tribal Historic Preservation Officer (THPO) means the tribal official appointed by the tribe's chief governing authority or designated by a tribal ordinance or preservation

program who has assumed the responsibilities of the SHPO for purposes of section 106 compliance on tribal lands in accordance with section 101(d)(2) of the act.

Other relevant definitions found in 36 CFR 800.16 include:

Area of potential effects means the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.

Consultation means the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the section 106 process. The Secretary's "Standards and Guidelines for Federal Agency Preservation Programs pursuant to the National Historic Preservation Act" provide further guidance on consultation.

Effect means alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register.

Eligible for inclusion in the National Register includes both properties formally determined as such in accordance with regulations of the Secretary of the Interior and all other properties that meet the National Register criteria.

Historic property means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria.

Memorandum of agreement means the document that records the terms and conditions agreed upon to resolve the adverse effects of an undertaking upon historic properties.

National Register means the National Register of Historic Places maintained by the Secretary of the Interior.

Programmatic agreement means a document that records the terms and conditions agreed upon to resolve the potential adverse effects of a Federal agency program, complex undertaking or other situations in accordance with §800.14(b).

Tribal lands means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities.

Undertaking means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license or approval.

Acronyms Used in This Notice

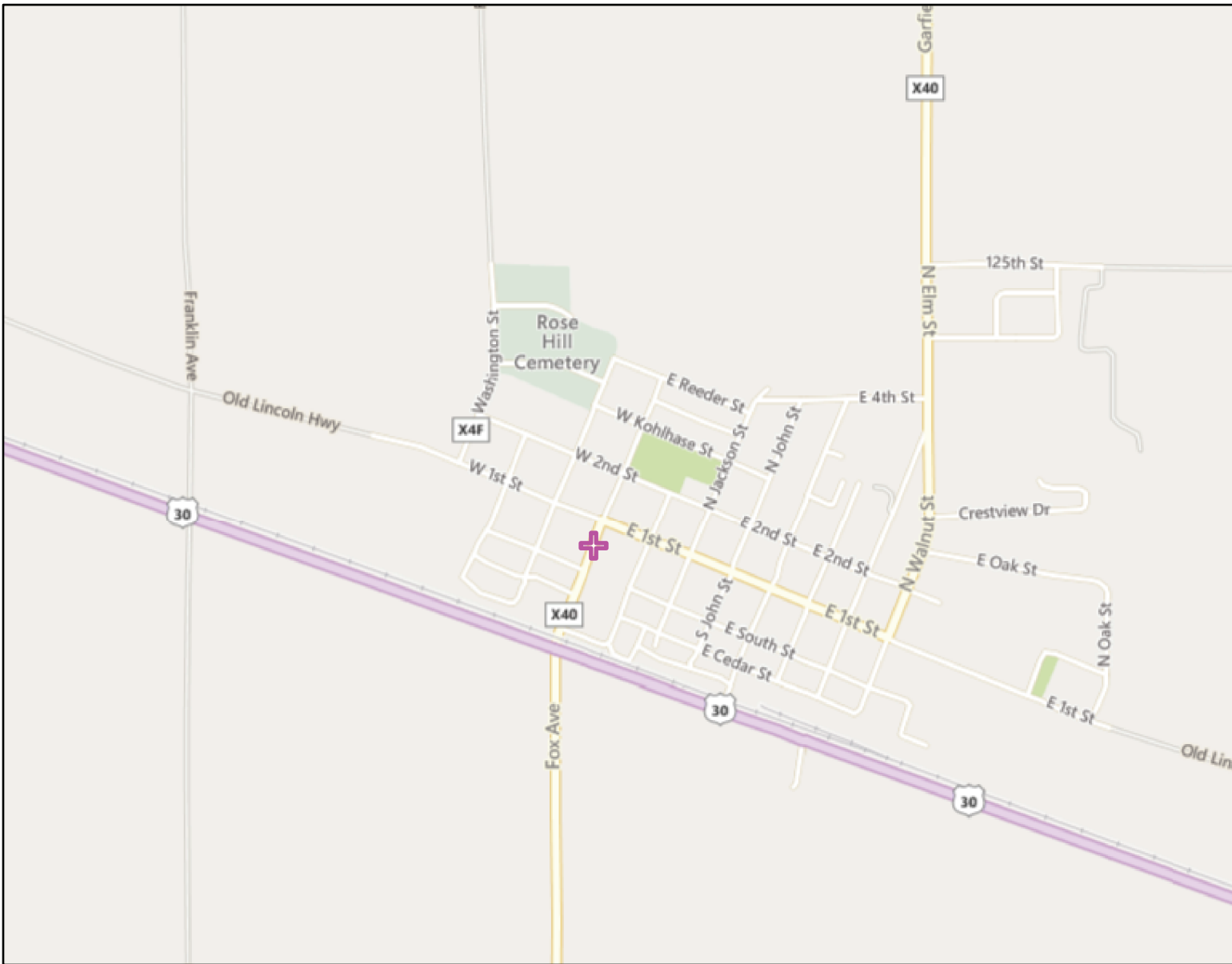
ACHP	Advisory Council on Historic Preservation (federal)
APE	Area of Potential Effect
CPD	Community Planning and Development Office
ERR	Environmental Review Record
FEO	Field Environmental Officer
HUD	U.S. Department of Housing and Urban Development
MOA	Memorandum of Agreement
NAGPRA	Native American Graves Protection and Repatriation Act
PA	Programmatic Agreement
RE	Responsible Entity
REO	Regional Environmental Officer
RROF	Request for Release of Funds and Certification
SHPO	State Historic Preservation Officer
TDAT	Tribal Directory Assessment Tool
THPO	Tribal Historic Preservation Officer

Appendix A



When To Consult With Tribes Under Section 106 Checklist

Yolanda Chávez
Deputy Assistant Secretary for Grant
Programs

NRHP Mechanicsville, IA



June 15, 2020

-  Search Result (point)
-  National Register of Historic Places



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200416059

REQUEST FOR SHPO COMMENT ON A PROJECT

Submit one copy with each property for which our comment is requested. Please print or type.

Return to: State Historical Society of Iowa, State Historic Preservation Office, 600 E. Locust St, Des Moines, IA 50319-0290

I. GENERAL INFORMATION

- This is a new submittal
- This is more information relating to SHPO R&C #: _____

- a. Property Name: Mechanicsville WWTP
- b. Property Street & Number: see attached maps
- c. County: Cedar City: Mechanicsville Zip: 52306
- d. Federal Agency: IDNR/SRF Federal Funding Program/Permit: IDNR/SRF
- e. Agency Project No.: CS1920937 01
- f. Contact Person on Project: Karrie Darnell Phone: (515) 725-8340
- g. Contact Address: 502 E. 9th Street, Des Moines, IA Zip: 50319-0034
email: karrie.darnell@dnr.iowa.gov

II. IDENTIFICATION OF HISTORIC PLACES

Scope of Effort Applied

- As agreed in programmatic or other agency agreements with SHPO (if applicable)
- Includes the attached elements required under 36 CFR 800.4(a)
 - 1) Area of potential effects, as defined in 800.16(d), is shown on map
 - 2) Existing information has been reviewed on historic properties in the property area at SHPO office and/or other locations of inventory data
 - 3) Information has been sought from parties likely to have knowledge about historic properties in the project area
 - 4) Information gathered from Indian tribes, as appropriate

Identification Results

History and Architecture

- An attached Iowa Site Inventory form is completed for each building 50 years of age or older

Archaeology

- Yes No The project will involve excavation
If yes, submit all of the following information (use attachments of necessary)

- 1) Precise project location map (preferably U.S.G.S. 7.5 min Quad with name, date, & location)
- 2) Site plan showing limits of proposed excavation
- 3) Number of acres in project 10 acres of ground disturbance
- 4) Legal location: Section(s) 18 Township(s) 82 N Range(s) 03 W
- 5) Description of width and depth of proposed excavation and current conditions of project area

III. APPLICANT CERTIFICATION (Check Either Adverse Effect or No Adverse Effect for Historic Property Affected category)

Findings (Check One)

- No historic properties will be affected** (i.e., none are present or there are historic properties present but the project will have no effect upon them) and adequate documentation under 800.11 is provided, including:
 - 1) A description of the undertaking, specifying the Federal involvement, and its area of potential effects, including photographs, maps, drawings, as necessary **and**
 - 2) A description of the steps taken to identify historic properties, including, as appropriate, efforts to seek information pursuant to 800.4(b) **and**
 - 3) The basis for determining that no historic properties are present or affected.

I understand that the SHPO has 30 days from receipt to object to the finding, after which the applicant's responsibilities under Section 106 of the Historic Preservation Act are fulfilled.

- An historic property will be affected** for which documentation is provided as required in 36 CFR Part 800.11(e) and, in applying the criteria of adverse effect under 800.5, propose that the project be considered to have (Check One):
 - A **No Adverse Effect** under which, in consultation with the SHPO, the project will be modified or conditions imposed to avoid adverse effects. I understand that failure of the SHPO to provide a dated response within 30 days from receipt to the finding shall be considered agreement of the SHPO with the finding
 - An **Adverse Effect** is found and the applicant, or other federally authorized representative, will consult with the SHPO and other consulting parties to resolve the adverse effect under 800.6

Federally Authorized Signature: Karrie Darnell Date: April 13, 2020
 Type name below Karrie Darnell, Environmental Review Specialist, SRF, IDNR

IV. STATE HISTORIC PRESERVATION OFFICE COMMENT

- Agree with the finding in section III above (move to reader's file) See attached follow-up letter
- Object to the finding for reasons indicated in attached letter
- Cannot review until information is sent as follows: _____

Authorized Signature: [Signature] Date: 5/20/2020

April 13, 2020

Mr. Daniel Higginbottom
State Historical Preservation Office
State Historical Society of Iowa
600 E. Locust St.
Des Moines, IA 50319-0290



RE: Section 106 Review
City of Mechanicsville – WWTP Improvement Project
Cedar County, Iowa
Stanwood USGS 7.5 Minute Quadrangle
Section: 18, Township: 82 N, Range: 03 W

Dear Mr. Higginbottom:

The City of Mechanicsville, Iowa is planning an upgrade to their wastewater treatment plant. The city has applied for financial assistance through the State Revolving Fund (SRF) loan program to build the project.

We ask that you check the project location for any known or suspected adverse impacts to historic properties that run counter to or have not been considered by our determination. The attached maps and drawings show the location of the project. Also attached is a Request for SHPO Comment on a Project form

The project includes construction of continuous aerated discharge lagoons, followed by Submerged Attached Growth Reactors (SAGR) and all associated underground piping and resurfacing as necessary on existing treatment plant property. A new blower building and new sampler building will be constructed. An Ultraviolet (UV) disinfection system will be installed. Project work also includes construction of an earthen berm and pit area, installing a new lagoon aeration system, filling with gravel, and topping with mulch. The proposed borrow pit will require up to 12 feet deep excavation as marked in the attached site sketches. A standby generator will be installed.

The proposed project area includes approximately 20 acres. Of that area, less than 10 acres will require ground disturbance. The Office of the State Archaeologist, was retained to perform a Phase 1 Intensive Archaeological Survey of the project area. According to the attached Phase 1 Report, no significant archaeological resources were identified within the project area. Because of the absence of cultural resources and the lack for potential of intact deposits, no further archaeological work is recommended. Based on this information we believe that further archaeological survey of the project area is not justified.

The National Register of Historic Places does not list any sites in the City of Mechanicsville. The proposed project is located over 3,000 feet from and should not impact the Rose Hill Cemetery. While National Register eligible properties may exist within Mechanicsville, the proposed project will not affect any existing structures. Based on this information we believe that further historical survey of the project area is not justified.

In accordance with Section 106 of the National Historic Preservation Act, we request that you respond in writing to this office within 30 days of receipt of this letter with any comments. If a response is not received within 30 days, the Department will assume that there are no comments. Please forward your comments to me at the address listed in the footer below.

If you have any questions, please contact me by email at karrie.darnell@dnr.iowa.gov or by phone at (515) 725-8340.

Sincerely,



Karrie Darnell
Environmental Review Specialist

502 E. 9th Street
Des Moines, IA 50319-0034

USGS 7.5 Minute Quadrangle: Stanwood
Section: 18, Township: 82 N, Range: 03 W
Date: 1965
Scale: 1 Inch = 2,000 Feet



North

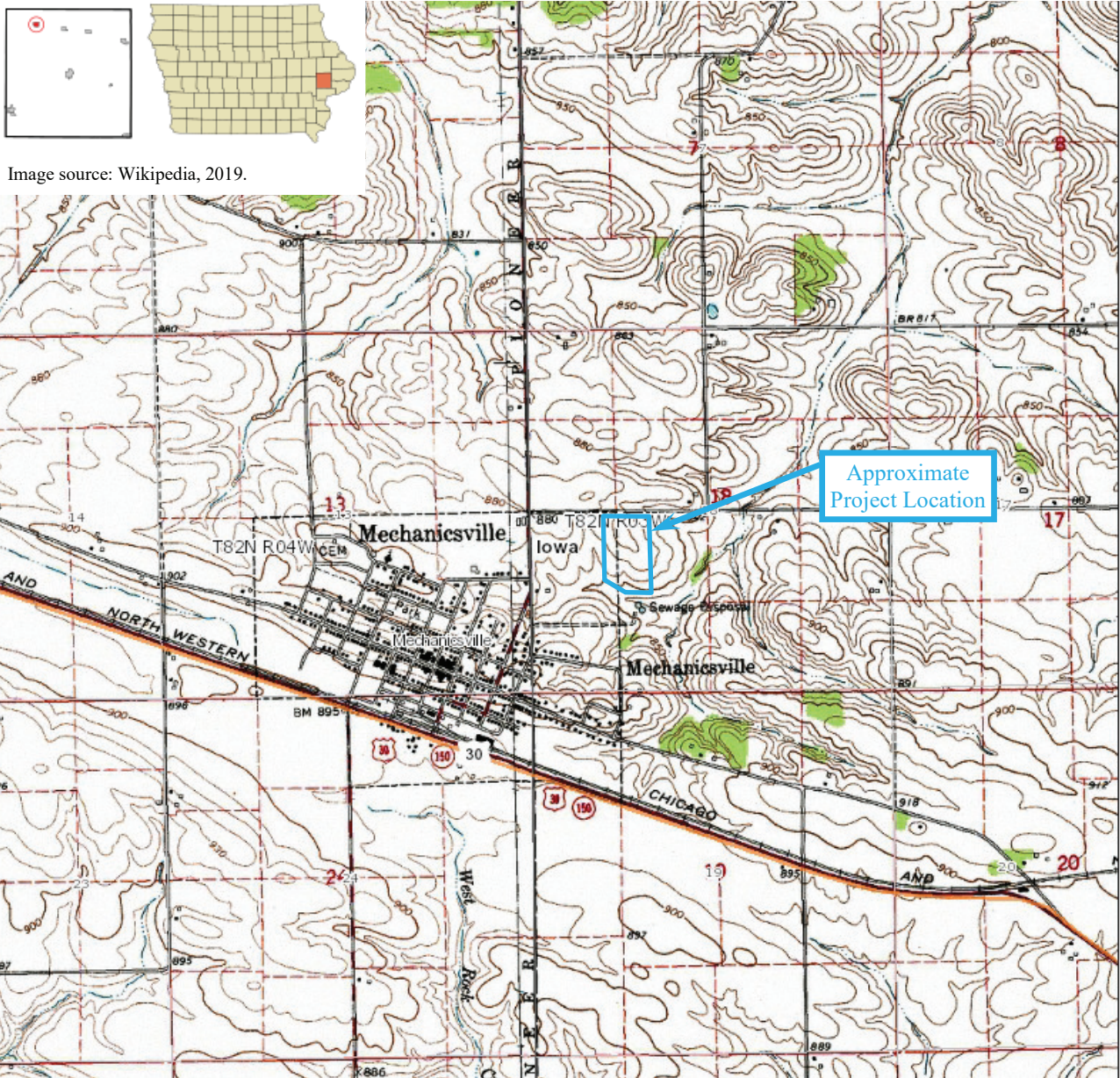


Image source: Wikipedia, 2019.

USGS Topographic Map

Mechanicsville Wastewater Treatment Plant Improvement Project
Mechanicsville, IA

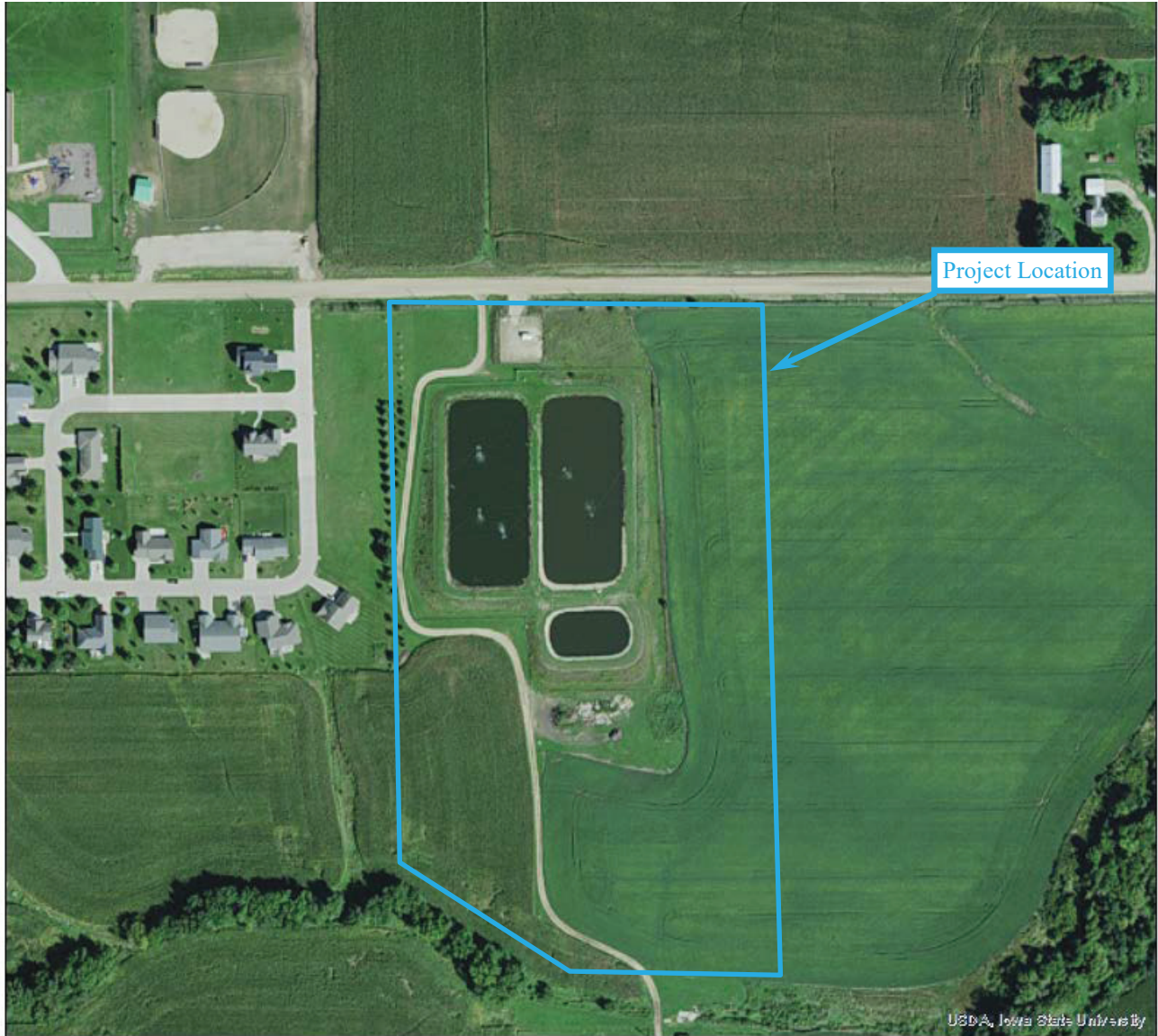


State Revolving Fund
502 East 9th Street
Des Moines, IA 50319-0034

Location information provided by Veenstra & Kimm, Inc



North



Aerial Photograph

Mechanicsville Wastewater Treatment Plant Improvement Project
Mechanicsville, IA

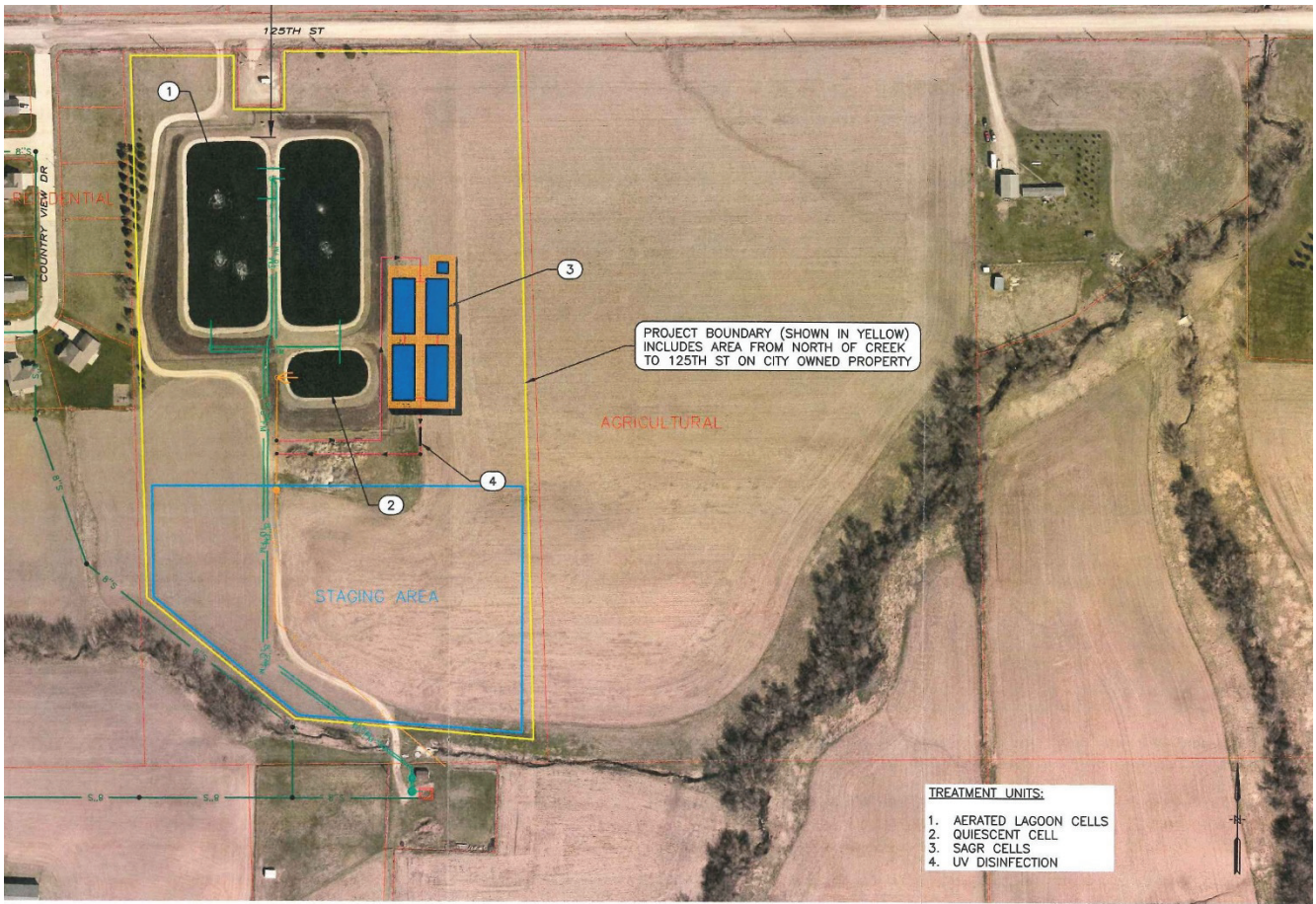


State Revolving Fund
502 East 9th Street
Des Moines, IA 50319-0034

Location information provided by Veenstra & Kimm, Inc



North



Site Sketch 1

Mechanicsville Wastewater Treatment Plant Improvement Project
Mechanicsville, IA

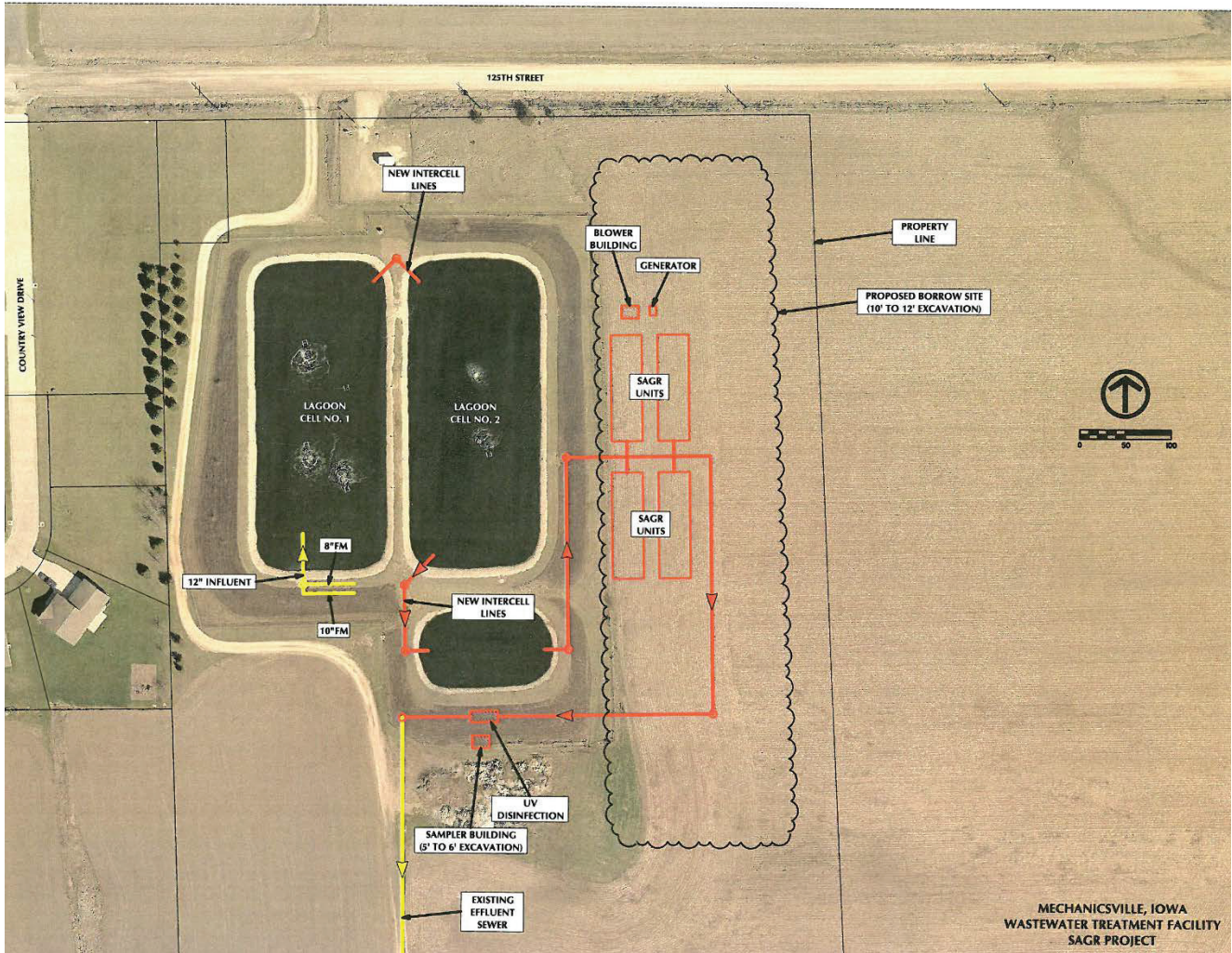


State Revolving Fund
502 East 9th Street
Des Moines, IA 50319-0034

Location information provided by Veenstra & Kimm, Inc



North



Site Sketch 2

Mechanicsville Wastewater Treatment Plant Improvement Project
Mechanicsville, IA



State Revolving Fund
502 East 9th Street
Des Moines, IA 50319-0034



OFFICE OF THE
STATE ARCHAEOLOGIST
700 Clinton Street Building
Iowa City, Iowa 52242
319-384-0732
osa@uiowa.edu
archaeology.uiowa.edu

23 March 2020

Karrie Darnell
Environmental Specialist
Iowa DNR Water Quality Bureau
502 E. 9th Street
Des Moines, IA 50319-0034
karrie.darnell@dnr.iowa.gov

RE: Phase I Archaeological Survey, WO 75 DNR Mechanicsville Project, Cedar County, OSA Technical Report 1341

Dear Karrie:

Attached please find the OSA report *Phase I Intensive Archaeological Investigation of the Proposed Mechanicsville Water Treatment Project, Section 18, T82N-R03W, Cedar County, Iowa*, by Alan Hawkins (TR 1341). As a result of the study no previously recorded archaeological sites were located within the project area and no newly recorded sites were identified. No further archaeological work is recommended in the surveyed areas. The details of our findings are provided in the attached report.

As you know, to complete your archaeological compliance obligations, copies of the enclosed report must also be provided to the appropriate state or federal agencies involved with the project and comment solicited; we assume you will handle this distribution. Keep in mind that agency comments must be received prior to ground-disturbing activities being undertaken within the project area.

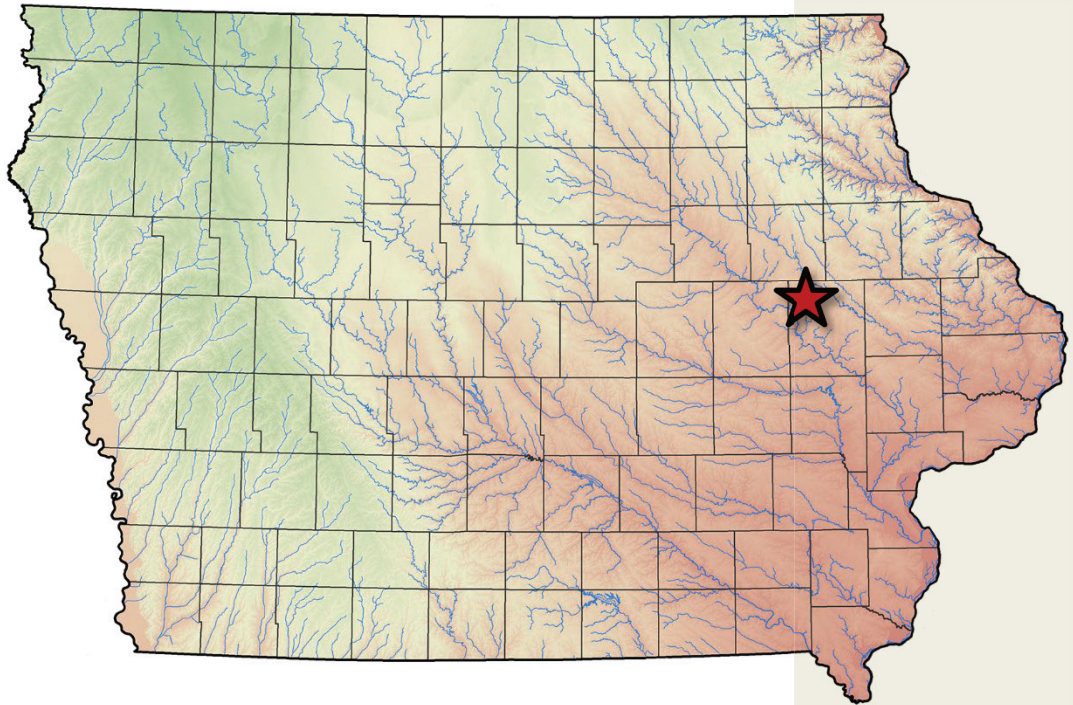
The University of Iowa Accounts Payable department will invoice you for this project in about 30 days. If you have any questions, please contact me at 319-384-0937 or via e-mail at william-whittaker@uiowa.edu. Thank you for selecting the OSA for your archaeological service needs and good luck with your project.

Sincerely,

William E. Whittaker, Ph.D., Research Director

Phase I Intensive Archaeological
Investigation of the Proposed
Mechanicsville Water Treatment Project,
Section 18, T82N-R03W,
Cedar County, Iowa

by Alan J. Hawkins



Office of the State Archaeologist
The University of Iowa
700 Clinton Street Building
Iowa City, IA 52242

Technical Report 1341
2020



Phase I Intensive Archaeological Investigation of the
Proposed Mechanicsville Water Treatment Project, Section
18, T82N-R03W, Cedar County, Iowa

by Alan J. Hawkins
Project Archaeologist

William E. Whittaker
Principal Investigator

Prepared for
Iowa Department of Natural Resources
502 E. 9th Street
Des Moines, IA 50319

Contract: 20ESDWQBSKONR-0001
DNR Work Order 075

Prepared by
Office of the State Archaeologist
The University of Iowa
700 Clinton Street Building
Iowa City, IA 52242

Technical Report 1341
March 16, 2020

Information contained in this report relating to the nature and location of archaeological sites is considered private and confidential and not for public disclosure in accordance with Section 304 of the National Historic Preservation Act (54 U.S.C. § 307103); 36 CFR Part 800.6 (a)(5) of the Advisory Council on Historic Preservation's rules implementing Sections 106 and 110 of the Act; Section 9(a) of the Archaeological Resource Protection Act (54 U.S.C. § 100707) and Chapter 22.7 § 20 of the Iowa Code

Abstract

A Phase I intensive archaeological survey was conducted by the University of Iowa Office of the State Archaeologist at the location of proposed improvements to the Mechanicsville water treatment facility, Cedar County, Iowa. The field investigation was conducted on March 5, 2020. No artifacts or archaeological features were identified in the survey of the 17.4 ac parcel. No further archaeological investigation of the area surveyed prior to the proposed project activities is recommended.

Introduction

The Office of the State Archaeologist (OSA) of the University of Iowa has prepared this report under the terms of a cultural resource survey agreement between OSA and Iowa Department of Natural Resources (DNR) of Des Moines, Iowa. This report records the results of a Phase I archaeological investigation of proposed improvements to the Mechanicsville water treatment facility. This project area is situated in Section 18, T82N-R03W, Cedar County, Iowa (Figures 1–4).

The proposed Clean Water State Revolving Fund project involves the construction of continuous aerated discharge lagoons, followed by submerged attached growth reactors and all associated underground piping and resurfacing as necessary on existing treatment plant property. A new blower building and a new sampler building will be constructed. An ultraviolet disinfection system will be installed. Project work also includes construction of an earthen berm and pit area, installing a new lagoon aeration system, filling with gravel, and topping with mulch. The proposed borrow pit will require up to a 3.6 m (12 ft) excavation depth. A standby generator will also be installed. The area surveyed includes 7 ha (17.4 ac).

The Phase I investigation was conducted on March 5, 2020, by Alan J. Hawkins, project archaeologist, and took six person hours in the field. Hawkins served as report author and William Whittaker served as project director.

The OSA is solely responsible for the interpretations and recommendations contained in this report. All records including maps and figures are curated in the OSA Archives. The National Archeological Data Base Form is included as Appendix I.

Information contained in this report relating to the nature and location of archaeological sites is considered private and confidential and not for public disclosure in accordance with Section 304 of the National Historic Preservation Act (54 U.S.C. § 307103); 36 CFR Part 800.6 (a)(5) of the Advisory Council on Historic Preservation's rules implementing Sections 106 and 110 of the Act; Section 9(a) of the Archaeological Resource Protection Act (54 U.S.C. § 100707) and, Chapter 22.7 § 20 of the Iowa Code.

Geomorphological Context

The project area is in the Iowan Surface area of northeast Iowa. The Iowan Surface was formed during the Wisconsin period by intense cold-climate weathering and erosion on Pre-Illinoian landscapes, and is characterized by low relief, dendritic drainage systems, stepped hillslopes, and the widespread distribution of erratic boulders. Loess thickness is variable on the highly weathered erosional landscape. In northern sections, rock outcrops and karst topography are common surface features. Prominent elongated ridges and isolated elliptical hills called paha, oriented northwest-southeast parallel to river valleys, are scattered across the southern third of the region. The paha are erosional remnants of the Pre-Illinoian landscape on which thick strata of Wisconsin loess and sand accumulated. These eolian deposits are underlain by gray

Yarmouth-Sangamon or reddish Late Sangamon paleosols developed in Pre-Illinoian till (Prior 1991:69–73).

Holocene alluvial valley fills in Iowa are subdivided based on lithology and stratigraphic relationships into the Gunder, Corrington, Roberts Creek, and Camp Creek members of the DeForest formation (Bettis and Littke 1987). Gunder member alluvium and Corrington member alluvial fans may contain Paleoindian through Woodland components; Roberts Creek member deposits may contain Late Archaic through early historic components; and Camp Creek member alluvium may contain buried and unburied historic archaeological components, and may bury older surfaces.

Environmental Context

The project area is situated on a wide ridgetop and associated side slopes just northeast of Mechanicsville, Iowa, which slope down to the south to a small unnamed tributary. The project area is in the SW $\frac{1}{4}$ of Section 18, T82N-R03W, Cedar County, Iowa, at an elevation of 840–880 ft above mean sea level (Figures 1–4). At the time of survey, the project area included groundcover of grass and harvested corn agricultural fields. The parcel consisted of a rectangular area measuring 200 x 365 m (656 x 1,198 ft) in maximum extent. Project area entrances, staging areas, and material storage areas will be within surveyed area.

Soils of the project area are mapped as Colo-Ely complex, Dinsdale silt loam, and Kenyon loam (Figure 3; Artz 2005; Dermody 2009; USDA 2020). The Colo-Ely complex consists of poorly drained soils formed in local, silty alluvium on upland drainageways and footslopes. Slopes range from 2–5% and are rarely flooded. Native vegetation includes tall grass prairies. A typical Colo-Ely complex has a pedon of Ap-A1-A2-A3-BA-Bg-BCg-Cg with the Bg horizon encountered at approximately 100 cm.

Dinsdale and Kenyon series soils consist of very deep, moderately well drained soils formed in 50–100 cm of loess and underlying glacial till on interfluvies, ridges, and side slopes on dissected till plains. Slopes range from 0–35% and are rarely flooded. Native vegetation includes tall grass prairies. A typical Dinsdale soil has a pedon of Ap-A-AB-Bt1-Bt2-2Bt3-2BC1-2BC2 with the Bt1 horizon encountered at approximately 50 cm. A typical Kenyon soil has a pedon of Ap-A-AB-2Bw1-2Bw2-2BC1-2BC2 with the 2Bw1 horizon encountered at approximately 50 cm.

Soils in upland settings, such as Dinsdale and Kenyon, have relatively shallow archaeological potential when the parent material predates the earliest human occupation of Iowa and Holocene-aged surface deposition is slow or absent. Movement of artifacts within the soil column is restricted to biologically active horizons. If there is adequate ground surface visibility, larger archaeological sites in plowed upland soils will generally display surface artifacts. Shallow subsurface deposits may exist in unplowed upland areas, and the bottoms of deep human-dug features may be preserved even in plowed areas. Subsurface archaeological testing within these upland settings is usually terminated below the biologically active zone as indicated by the presence of a pedologically formed subsoil (B horizon), relatively unaltered parent material (C horizon), or bedrock (R horizon).

The Landscape Model for Archaeological Site Suitability (LANDMASS) is a useful tool for predicting the suitability of a particular upland landform position for prehistoric habitation (Artz et al. 2006; Riley et al. 2011). The ranking is divided into three suitability rankings: low, moderate, and high, based on logistic regression statistical analysis of how often sites have been found in areas with topographically similar terrain. Based upon the model, the project area is located on a landform with a moderate prehistoric suitability ranking. It is important to note that this predictive model is limited to upland landforms and does not include alluvial settings, such as river valleys and drainages.

Historical and Cultural Context

The Iowa Site Record at OSA, records of previous archaeological surveys nearby (OSA 2020), the National Register Information System web site (National Park Service 2020), the Andreas atlas of Iowa (Andreas 1875), and Cedar County plat books (Anderson 1916; Harrison and Warner 1872; Hixson 1930; Huebinger 1901; Wells 1863) were reviewed for this survey. Other consulted resources included the 1838 General Land Office survey map (ISUGISRF 2020; U.S. Department of the Interior 2020), the Historic Indian Location Database (HILD), and the OSA Notable Locations database of cemeteries and poorly located historic or archaeological locations (Whittaker 2016, 2020).

Historic documentation revealed the only buildings or other improvements within the project area involve the existing wastewater treatment facilities and utilities (Figures 4–6). There are no archaeological sites recorded within 1.6 km (1 mi) of the project area. The nearest recorded archaeological site (13CD104) is located 1.8 km (1.1 mi) to the southeast. Site 13CD104 was recorded in 1993 as a historic scatter representing an agricultural outbuilding (Hirst 1993; OSA 2020). The site was recommended not eligible to the National Register of Historic Places (NRHP).

The nearest survey was conducted in 1981 for a grading and draining project on County Road X40, located 230 m (755 ft) to the northwest (Reed 1981). No sites were recorded near the project area in the 1981 survey. The HILD reveals no documented historic Native American use of the project area or nearby areas. The Notable Locations database shows no nearby suspected archaeological or historical locations.

Archaeological Assessment

METHODS

Ground surface visibility was adequate for pedestrian survey, at 25–50%, in the harvested corn fields. The small area in grass provided less than 25% surface visibility. The project area was investigated through 3–5 m interval pedestrian survey and the hand excavation of 14 20-cm-diameter auger tests at 15 m intervals (Figures 3 and 4). Auger test soils were removed in arbitrary 10-cm levels to examine soil stratigraphy and were screened with ¼ in hardware cloth. Soils were described using the conventions of Schoeneberger et al. (2012) and Vogel (2002). Maximum test depth was 45 cm.

RESULTS

No artifacts were observed on the surface. No artifacts were recovered in the auger tests. Auger tests throughout the project area revealed surfaces comparable to Dinsdale and Kenyon silt loam. The auger tests also revealed that a majority of the project area has experienced considerable erosion leaving a very shallow dark brown (10YR 3/3) silt loam Ap horizon of only 5–15 cm (2–6 in) over dark yellowish brown (10YR 4/6) silty clay loam B horizons to depths of up to 45 cm (18 in). Subsurface tests adjacent to the small drainage at the south end of the project area encountered highly oxidized light brownish gray (10YR 6/2) silty clay Bg horizons at depths of 30–45 cm (12–18 in). None of the auger tests encountered buried A horizons or other buried surfaces suitable for habitation. The Iowa One Call locate request and the City of Mechanicsville identified multiple underground utilities across the project area (Figures 3, 4, and 5 lower). All subsurface excavations remained at least 8 m (25 ft) from the underground utilities.

Management Recommendations

The Phase I archaeological survey by the OSA of a proposed Mechanicsville Water Treatment project revealed no archaeological material or other cultural deposits. The project area was surveyed through 3–5-

m interval pedestrian survey and the hand excavation of 14 20-cm-diameter auger tests. Because of this absence of cultural resources and the lack of potential for intact deposits, no further archaeological work for this project is recommended.

No technique is completely adequate to locate all archaeological materials, especially deeply buried ones. Therefore, should any cultural, historical, or paleontological resources be exposed as part of proposed project activities, the responsible agency must be notified immediately in accordance with the Protection of Historic Properties regulations of the Advisory Council on Historic Preservation [36 CFR Part 800.13(b)]. If human remains are accidentally discovered, Iowa burial law [Code of Iowa, Sections 263B, 523I.316(6), and 716.5; IAC 685, Ch.11.1] requires that all work in the vicinity of the finding be halted, the remains protected, local law enforcement officials notified, and the Bioarchaeology director at the OSA contacted immediately (319-384-0740). Archaeologists with the OSA (319-384-0937) and the State Historical Society of Iowa (515-281-8744) are also available to consult on issues of accidental discovery.

References Cited

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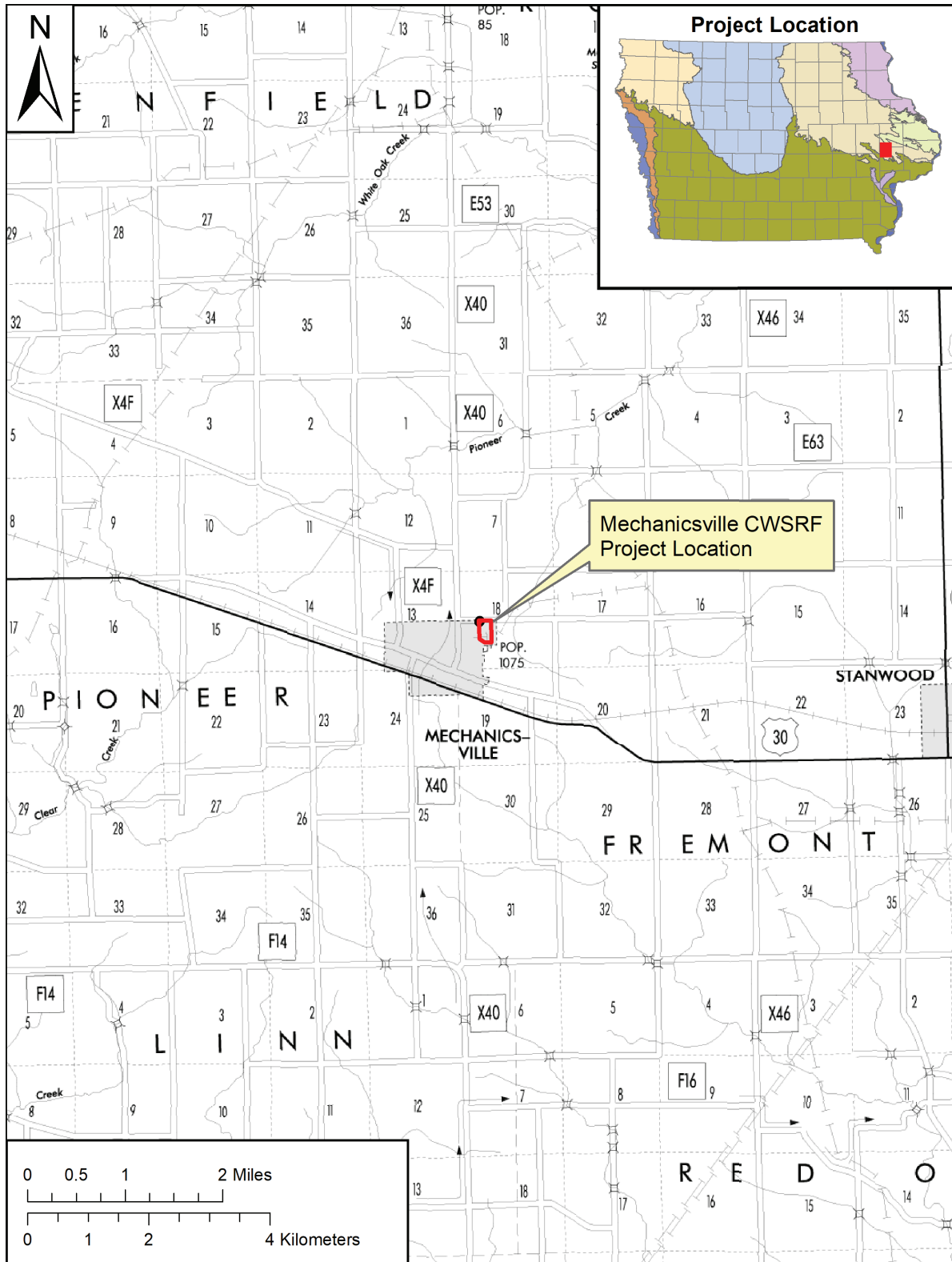


Figure 1. Project location.
From ISUGISSRF (2020).

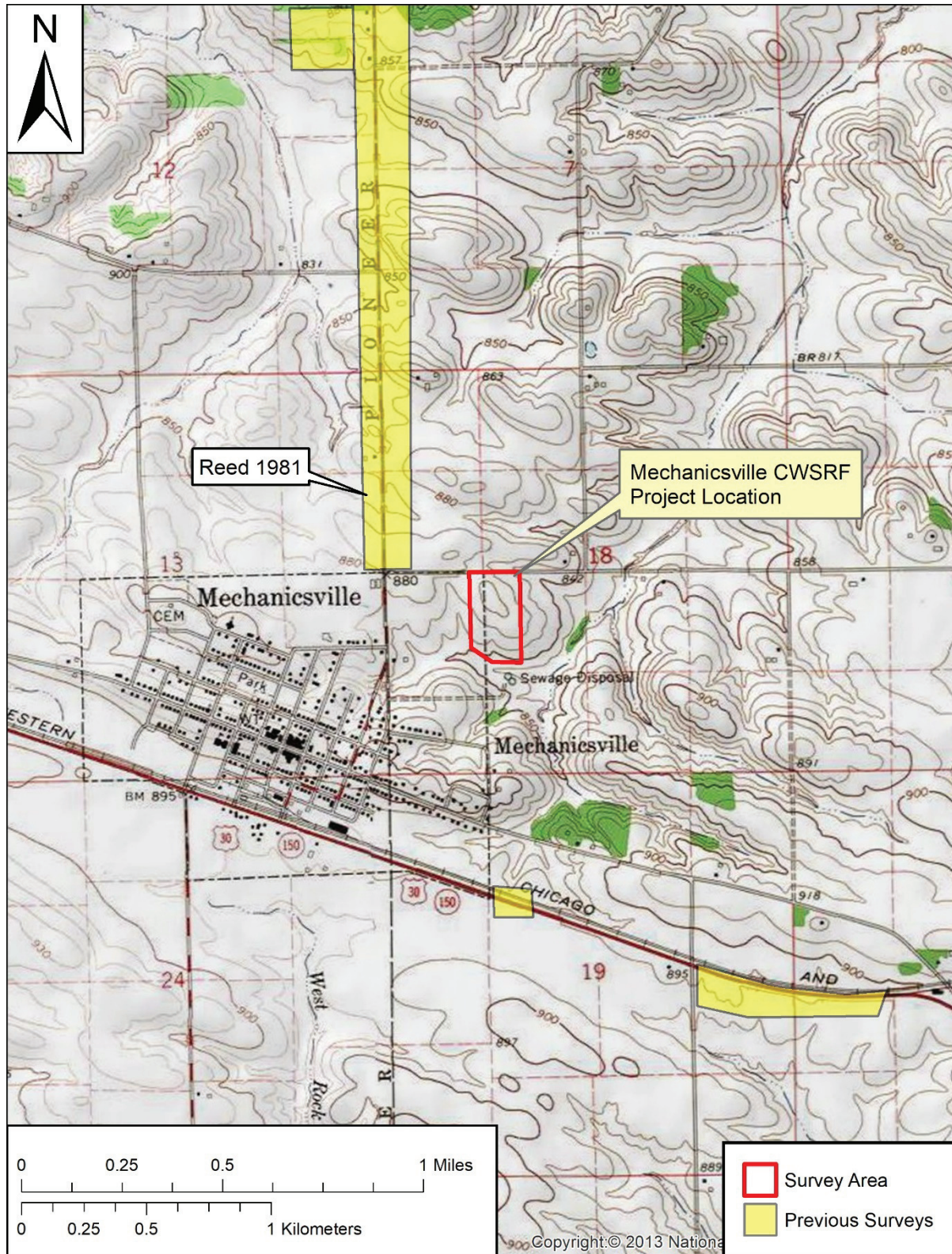


Figure 2. Project location in relation to surrounding topography.
From USGS Mechanicsville (1965) and Stanwood (1965), 7.5' series quadrangle maps. Scale 1:24,000.

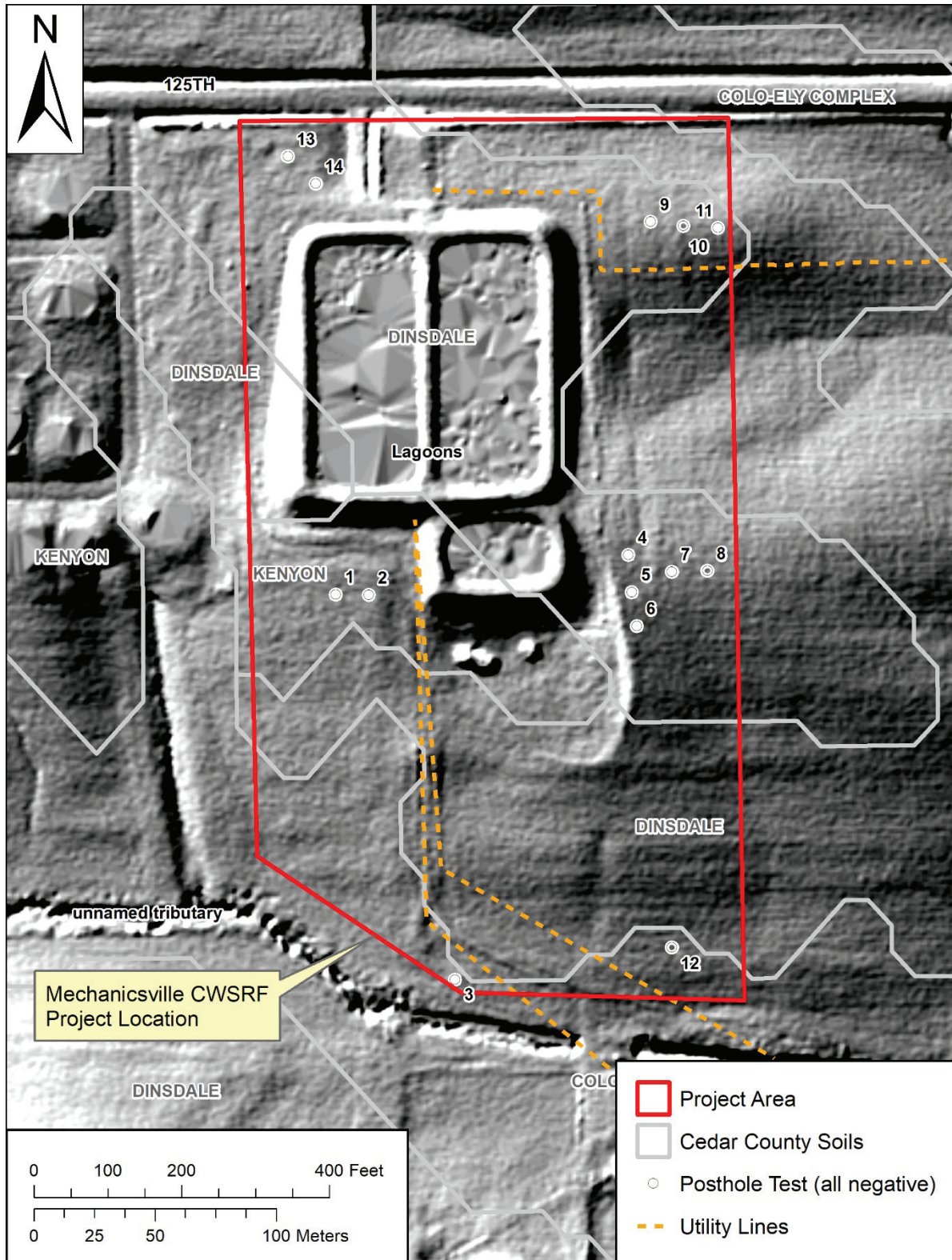


Figure 3. Project location in relation to mapped soil types and subsurface test locations.
 From Iowa Cooperative Soil Survey digitization of Cedar County, base image is lidar 1-m hillshade map (ISUGISSRF 2020).

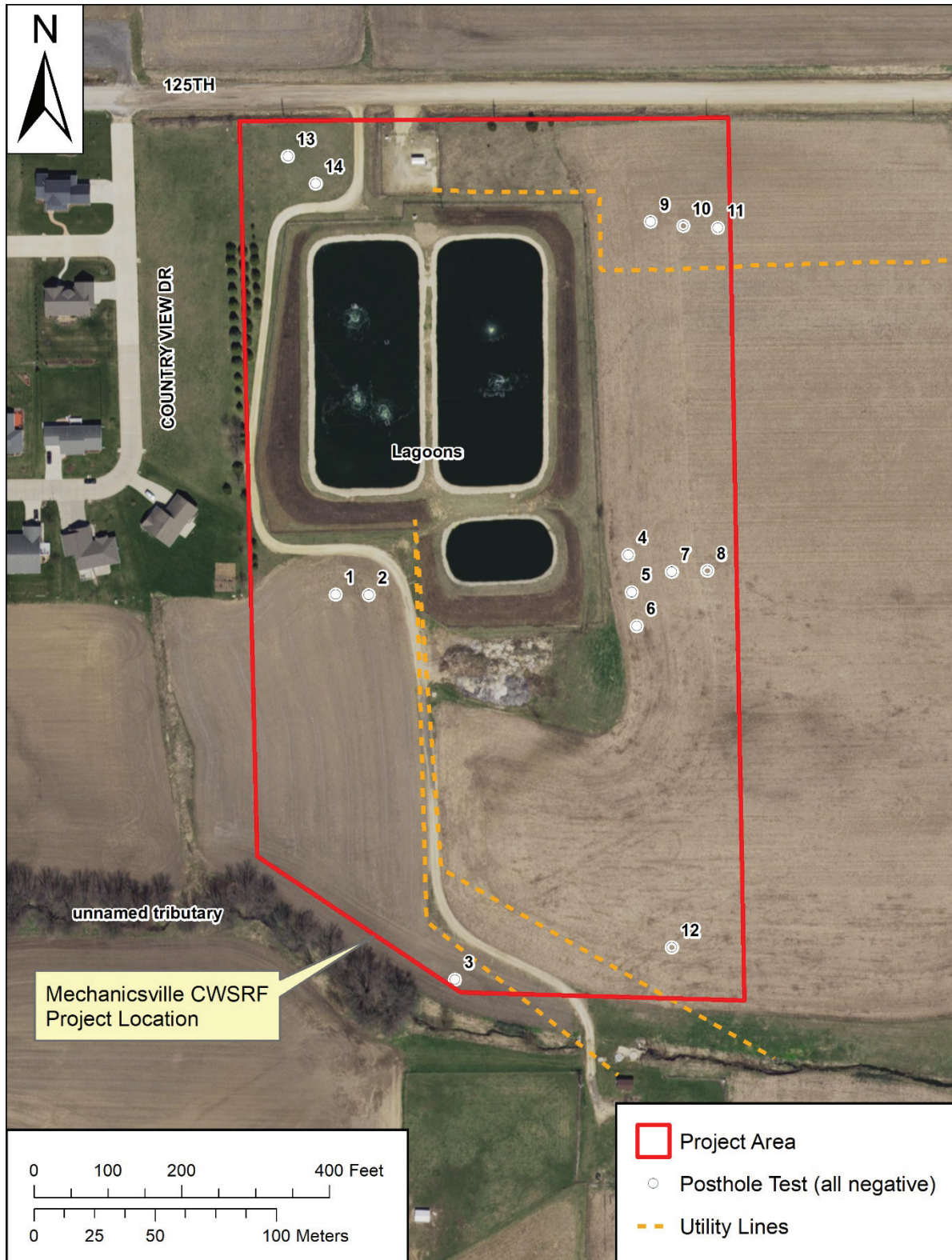


Figure 4. Detail map of project area showing subsurface test locations.
Base aerial image: ISUGISRF (2020).



*Figure 5. Project area photographs.
Upper: southern project area, facing north. Lower: northern project area, note yellow pin flags marking subsurface natural gas line, facing south.*



Figure 6. Project area photographs.

*Upper: existing wastewater treatment facilities in the northern project area, facing northeast.
Lower: wastewater treatment facility lagoons in northern project area, facing southeast.*

Appendix I: National Archeological Data Base - Reports: Data Entry Form

Database Doc Number: _____

1. R and C #:
2. Authors: Alan J. Hawkins
 Publication Date: 2020
3. Title: Phase I Intensive Archaeological Investigation of the Proposed Mechanicsville Water Treatment Project, Section 18, T82N-R03W, Cedar County, Iowa
 =====
4. Report Title: Technical Report
 Report #: 1341
 Publisher: University of Iowa Office of the State Archaeologist
 Place: Iowa City, Iowa
 =====
5. Unpublished
 Sent from:
 Sent to:
 Contract #:
 =====
6. Federal Agency: STA (DNR)
 =====
7. State: Iowa
 County: Cedar
 Town:
 =====
8. Worktype: 31 [PHASE I]
 =====
9. Keyword: 0-Types of Resources/Features 1-Generic Terms/Research Questions 2-Taxonomic Names 3-Artifacts Types/Material Classes 4-Geographic names/ Locations 5-Time Periods 6-Project name/Study Unit 7-Other Keywords
17.4 acres [7] No resources [0]
Iowan Surface [4]
Wapsipinicon River [4]
 =====
10. UTM Zone: 15 Easting: Northing:
15 Easting: Northing:
15 Easting: Northing:
15 Easting: Northing:

=====
11. Township: T82N
Range: R03W

Other Publication Types

12. Monograph

Name:

Place:

13. Chapter

In: _____ First: _____ Last: _____

14. Journal

Volume: _____ Issue #: _____ First: _____

Last: _____ ISSN: _____

15. Dissertation PH.D. LL.D. M.A. M.S. B.A. B.S. Institute: _____

16. Paper

Meeting:

Place:

17. Other

Reference:

=====
18. Site#:
=====

19. Quad Map #: Stanwood (1965) 7.5' USGS

REQUEST FOR SHPO COMMENT ON A PROJECT

Submit one copy with each property for which our comment is requested. Please print or type.

Return to: State Historical Society of Iowa, State Historic Preservation Office, 600 E. Locust St, Des Moines, IA 50319-0290

I. GENERAL INFORMATION

This is a new submittal

This is more information relating to SHPO R&C #: _____

- a. Property Name: Mechanicsville WWTP
- b. Property Street & Number: see attached maps
- c. County: Cedar City: Mechanicsville Zip: 52306
- d. Federal Agency: IDNR/SRF Federal Funding Program/Permit: IDNR/SRF
- e. Agency Project No.: CS1920937 01
- f. Contact Person on Project: Karrie Darnell Phone: (515) 725-8340
- g. Contact Address: 502 E. 9th Street, Des Moines, IA Zip: 50319-0034
email: karrie.darnell@dnr.iowa.gov

II. IDENTIFICATION OF HISTORIC PLACES

Scope of Effort Applied

- As agreed in programmatic or other agency agreements with SHPO (if applicable)
- Includes the attached elements required under 36 CFR 800.4(a)
- 1) Area of potential effects, as defined in 800.16(d), is shown on map
 - 2) Existing information has been reviewed on historic properties in the property area at SHPO office and/or other locations of inventory data
 - 3) Information has been sought from parties likely to have knowledge about historic properties in the project area
 - 4) Information gathered from Indian tribes, as appropriate

Identification Results

History and Architecture

- An attached Iowa Site Inventory form is completed for each building 50 years of age or older

Archaeology

- Yes No The project will involve excavation

If yes, submit all of the following information (use attachments of necessary)

- 1) Precise project location map (preferably U.S.G.S. 7.5 min Quad with name, date, & location)
- 2) Site plan showing limits of proposed excavation
- 3) Number of acres in project 10 acres of ground disturbance
- 4) Legal location: Section(s) 18 Township(s) 82 N Range(s) 03 W
- 5) Description of width and depth of proposed excavation and current conditions of project area

III. APPLICANT CERTIFICATION (Check Either Adverse Effect or No Adverse Effect for Historic Property Affected category)

Findings (Check One)

- No historic properties will be affected** (i.e., none are present or there are historic properties present but the project will have no effect upon them) and adequate documentation under 800.11 is provided, including:
- 1) A description of the undertaking, specifying the Federal involvement, and its area of potential effects, including photographs, maps, drawings, as necessary **and**
 - 2) A description of the steps taken to identify historic properties, including, as appropriate, efforts to seek information pursuant to 800.4(b) **and**
 - 3) The basis for determining that no historic properties are present or affected.

I understand that the SHPO has 30 days from receipt to object to the finding, after which the applicant's responsibilities under Section 106 of the Historic Preservation Act are fulfilled.

- An historic property will be affected** for which documentation is provided as required in 36 CFR Part 800.11(e) and, in applying the criteria of adverse effect under 800.5, propose that the project be considered to have **(Check One)**:
- A **No Adverse Effect** under which, in consultation with the SHPO, the project will be modified or conditions imposed to avoid adverse effects. I understand that failure of the SHPO to provide a dated response within 30 days from receipt to the finding shall be considered agreement of the SHPO with the finding
- An **Adverse Effect** is found and the applicant, or other federally authorized representative, will consult with the SHPO and other consulting parties to resolve the adverse effect under 800.6

Federally Authorized Signature: 

Type name below

Karrie Darnell, Environmental Review Specialist, SRF, IDNR

Date: April 13, 2020

IV. STATE HISTORIC PRESERVATION OFFICE COMMENT

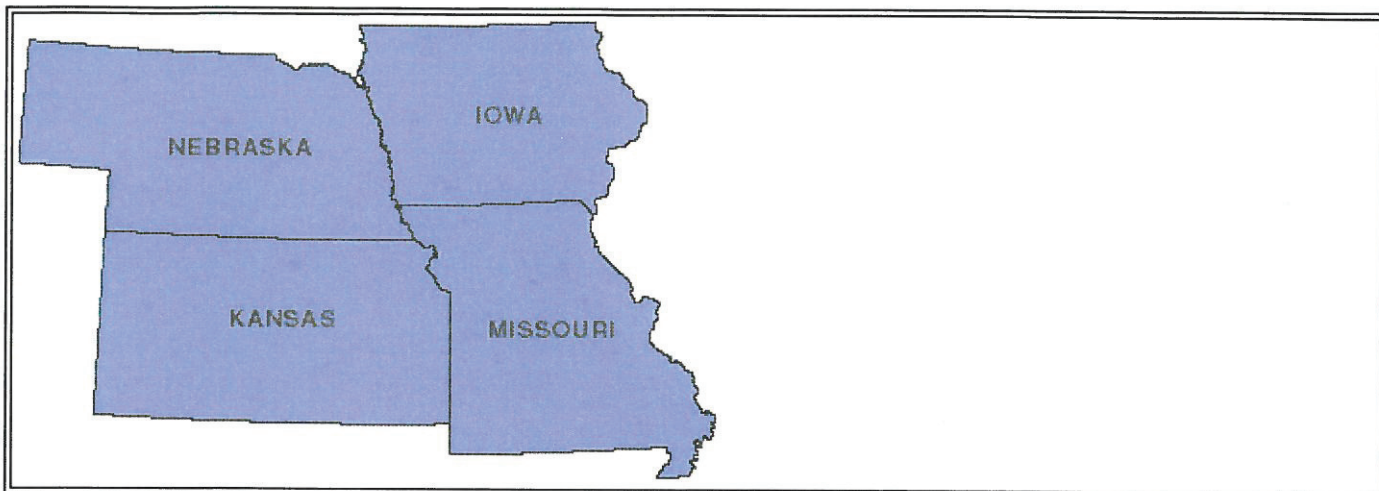
- Agree with the finding in section III above (move to reader's file) See attached follow-up letter
- Object to the finding for reasons indicated in attached letter
- Cannot review until information is sent as follows: _____

Authorized Signature: _____ Date: _____

APPENDIX J

Designated Sole Source Aquifers in EPA Region VII

Iowa, Kansas, Missouri, Nebraska



REGION VII (IA, KS, MO, NE)

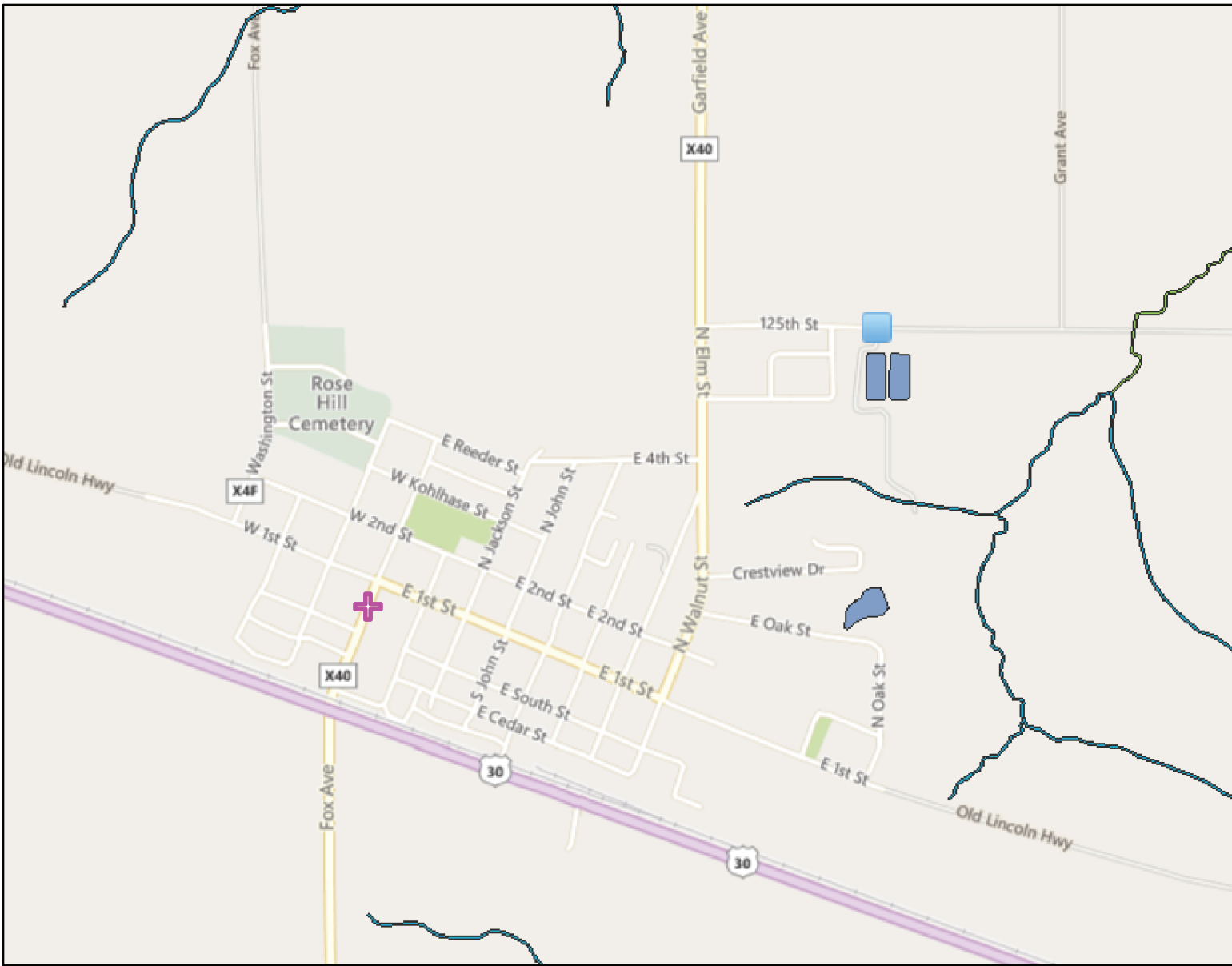
Stephanie Lindberg
Drinking Water/Ground Water Branch
EPA Region 7
901 N. 5th Street
Kansas City, KS 66101
phone: (800) 223-0425
email: lindberg.stephanie@epa.gov

There are no designated Sole Source Aquifers in Region VII. Contact the coordinator above for more information about designating SSAs in Region VII.









Return to: [Sole Source Aquifer program home page](#)

APPENDIX K

NWI Wetlands Mechanicsville, IA



June 15, 2020

- | | | |
|--|---|---|
|  Water Dischargers (NPDES) |  Estuarine and Marine Wetland |  Freshwater Pond |
| Wetlands |  Freshwater Emergent Wetland |  Lake |
|  Estuarine and Marine Deepwater |  Freshwater Forested/Shrub Wetland |  Other |



U.S. Fish and Wildlife
wetlands_team@fws.gov

APPENDIX L

Nationwide Rivers Inventory

National Park Service
U.S. Department of the Interior

This is a listing of more than 3,200 free-flowing river segments in the U.S....



