



Meeting: **Joint Reservoir Committee & Authority Board
Agenda Item 3.1**

October 20, 2023

Subject: **Cultural Resources – Section 106**

Requested Action:

Receive an update on the Project’s Section 106, cultural resources compliance efforts.

Detailed Description/Background:

This staff report provides an overview of Section 106 compliance efforts to date and the anticipated commitments in the Programmatic Agreement. A Draft Programmatic Agreement has been circulated for review and comments are under review. Staff anticipates requesting Board approval at the December 2023 Board meeting authorizing the Executive Director to sign the Programmatic Agreement when completed.

Section 106 of the National Historic Preservation Act requires federal agencies to consider the effects of their actions on historic properties. Historic properties are cultural resources listed in or eligible for listing in the National Register of Historic Places and can consist of sites, districts, objects, buildings, or structures that meet these requirements. Places of traditional cultural significance to Native American tribes also qualify as historic properties.

Reclamation is the lead federal agency responsible for Section 106 compliance for the Project and will address compliance needs for both Reclamation’s and the U.S. Army Corps of Engineers’ actions related to the Project. Compliance with Section 106 is necessary prior to Reclamation signing a Record of Decision for the Project.

For the Project, the Section 106 process will be completed through execution of a Programmatic Agreement. The Programmatic Agreement is anticipated to identify a process for identifying historic properties once land access is obtained, assessing the effects of the Project on these properties, and resolving any adverse effects. As currently envisioned and drafted, the Programmatic Agreement works in conjunction with (would have functionally the same requirements as) the Final EIR/EIS Cultural Resources mitigation measures and the two would be implemented at the same time. The Final EIR/EIS Tribal Cultural Resources mitigation measures would largely also be implemented at the same time; however, some measures in the Tribal Cultural Resources section are expected to go beyond those called for in the Programmatic Agreement as the

Authority complies with AB 52 and State law. The Programmatic Agreement further adds specificity to who the Authority would consult with in the future and timelines for future consultation activities once site-specific information is developed.

Staff have worked closely with Reclamation in the preparation of the draft Programmatic Agreement. The Authority will be responsible for implementing many of the provisions of the Programmatic Agreement on behalf of Reclamation – which will also implement many of the Final EIR/EIS mitigation measures at the same time.

Reclamation submitted a draft Programmatic Agreement to the Section 106 consulting parties in March 2022. Once Reclamation has received and considered all comments, Reclamation will submit a revised Programmatic Agreement to the consulting parties for a second round of review. Reclamation will then prepare the Final Programmatic Agreement for signature. The Authority will be invited to sign the Programmatic Agreement. The Agreement is considered executed when Reclamation, the State Historic Preservation Officer, and the Advisory Council on Historic Preservation have signed.

Prior Action:

None.

Fiscal Impact/Funding Source:

None. Costs to complete the Programmatic Agreement is included in the Amendment 3 Work Plan.

Staff Contact:

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Primary Service Provider:

ICF/HDR