

**Rahway River Basin, New Jersey
Flood Risk Management Feasibility Study**

**APPENDIX A5
Cultural Resources**



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT
JACOB K. JAVITS FEDERAL BUILDING
26 FEDERAL PLAZA
NEW YORK NY 10278-0090

October 14, 2016

Reply to Attention of

Environmental Assessment Section
Environmental Analysis Branch

Ms. Katherine Marcopul
Deputy State Historic Preservation Officer
State of New Jersey Department of Environmental Protection
Historic Preservation Office
PO Box 420
Trenton, NJ 08625-0420

REF: HPO K-2012-106
13-0094-1

Dear Ms. Marcopul:

The U.S. Army Corps of Engineers, New York District (District) is concluding the Rahway River Fluvial Flood Risk Management Feasibility Study. In recent years the District prepared a series of survey reports titled *Phase IA Cultural Resources Investigation of the Rahway River Flood Risk Management and Ecosystem Restoration Project*, *Reconnaissance-Level Cultural Resources Investigation for the Rahway River Flood Risk Management and Ecosystem Restoration Project*, and *Phase I Cultural Resources Investigation of the Orange Reservoir and Dam*. The surveys were carried out in accordance with Section 106 of the National Historic Preservation Act, as amended, and the Advisory Council on Historic Preservation Guidelines for the Protection of Cultural and Historic Properties (36 CFR Part 800) to identify significant historic properties in the study area. The reports were submitted to your office for review and comment at the time of their completion.

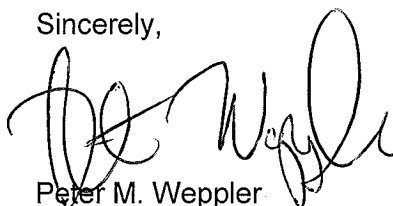
In May of this year the District met with your staff to review the Tentatively Selected Plan (TSP) and to discuss its intent to draft and execute a Programmatic Agreement (PA). To simplify coordination moving forward, two PAs have been prepared, one that addresses the plan for flood risk management measures in the Cranford Section of the project area and another that addresses the measures planned for the Robinson's Branch Section of the project area. The PAs outline the steps required to carry out the District's remaining Section 106 responsibilities including conducting additional surveys, consultation with interested parties, determining adverse effects, and, if necessary, mitigation for adverse effects. A preliminary case report has been prepared that includes a summary of the cultural resources work undertaken to date, agency coordination letters, the draft PAs, and project maps along with other relevant project information (Enclosure).

I would like to take this opportunity to invite the New Jersey State Historic Preservation Office to comment upon the draft PAs for the Rahway River Fluvial Flood Risk Reduction

Project. The PAs will be entered into at a minimum by the U.S. Army Corps of Engineers and the New Jersey State Historic Preservation Office. The Advisory Council is also invited to be a signatory to both PAs as well as a number of Tribes who have extensive cultural heritage in the region. These are the Delaware Nation, the Shawnee Tribe of Oklahoma, and the Delaware Tribe of Indians. Finally, several historical societies have been invited to participate as concurring parties to the PAs due to their heavy involvement in preservation in the area. These are the Cranford Historic Preservation Advisory Board, the Merchants and Drovers Tavern Museum Association, and the West Orange Historic Preservation Commission. Should there be any other groups who your office feels should participate in this process please include that information with your comments.

Please review the enclosed preliminary case report and draft PA and provide any comments within 30 days of your receipt of this letter. If you feel it would be beneficial to schedule a meeting or conference call amongst the consulting parties, please include that with your comments. We look forward to working with you on the Rahway River Fluvial Flood Risk Management Project.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter M. Weppeler', written over a horizontal line.

Peter M. Weppeler
Chief, Environmental Analysis Branch

Enclosure



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT
JACOB K. JAVITS FEDERAL BUILDING
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October 26, 2016

Reply to the Attention of

Environmental Assessment Section
Environmental Analysis Branch

Mr. Reid Nelson, Director
Office of Federal Agency Programs
Advisory Council on Historic Preservation
401 F Street NW, Suite 308
Washington, DC 20001-2637

Dear Mr. Nelson:

The U.S. Army Corps of Engineers, New York District (District) is concluding the Rahway River Fluvial Flood Risk Management Feasibility Study. In recent years the District prepared a series of survey reports titled *Phase IA Cultural Resources Investigation of the Rahway River Flood Risk Management and Ecosystem Restoration Project*, *Reconnaissance-Level Cultural Resources Investigation for the Rahway River Flood Risk Management and Ecosystem Restoration Project*, and *Phase I Cultural Resources Investigation of the Orange Reservoir and Dam*. The surveys were carried out in accordance with Section 106 of the National Historic Preservation Act, as amended, and the Advisory Council on Historic Preservation Guidelines for the Protection of Cultural and Historic Properties (36 CFR Part 800) to identify significant historic properties in the study area. The reports were submitted to the New Jersey State Historic Preservation Office (NJSHPO) and other interested parties for review and comment at the time of their completion.

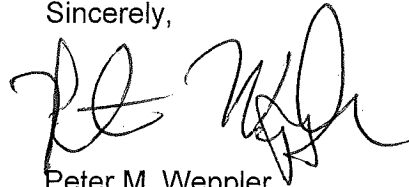
In May of this year the District met with the NJSHPO to review the Tentatively Selected Plan (TSP) and to discuss its intent to draft and execute a Programmatic Agreement (PA). To simplify coordination moving forward, two PAs have been prepared for the project, one that addresses the plan for flood risk management measures in the Cranford Section of the project area and another that addresses the measures planned for the Robinson's Branch Section of the project area. The PAs outline the steps required to carry out the District's remaining Section 106 responsibilities including conducting additional surveys, consultation with participating parties, determining adverse effects, and, if necessary, mitigation for adverse effects. A preliminary case report has been prepared that includes a summary of the cultural resources work undertaken to date, agency coordination letters, the draft PAs, and project maps along with other relevant project information (Enclosure).

I would like to take this opportunity to invite the Advisory Council on Historic Preservation to comment upon the draft PAs for the Rahway River Fluvial Flood Risk Management Project. In addition to the ACHP, a number of Tribes who have extensive cultural heritage in the region are invited to participate in the PAs as signatories as well. These are the Delaware Nation, the Shawnee Tribe of Oklahoma, and the Delaware Tribe of Indians.

Additionally, several historical societies have been invited to participate as concurring parties to the PAs due to their heavy involvement in preservation in the area. These are the Cranford Historic Preservation Advisory Board, the Cranford Historical Society, the Merchants and Drovers Tavern Museum Association, and the West Orange Historic Preservation Commission.

We invite you to consult with us on the Rahway River Fluvial Flood Risk Management Project and participate in the PAs as per 36 CFR Part 800.6. If you or your staff require additional information or have any questions, please contact Carissa Scarpa, Project Archaeologist, at (917) 790-8612.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter M. Weppeler', written over a horizontal line.

Peter M. Weppeler
Chief, Environmental Analysis Branch

Enclosures



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT
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October 26, 2016

Reply to the Attention of

Environmental Assessment Section
Environmental Analysis Branch

Cranford Historical Society
Hanson House Annex
38 Springfield Ave.
Cranford, NJ 07016

To Whom It May Concern:

The U.S. Army Corps of Engineers, New York District (District) is undertaking the Rahway River Fluvial Flood Risk Management Feasibility Study. In recent years the District prepared a series of survey reports titled *Phase IA Cultural Resources Investigation of the Rahway River Flood Risk Management and Ecosystem Restoration Project*, *Reconnaissance-Level Cultural Resources Investigation for the Rahway River Flood Risk Management and Ecosystem Restoration Project*, and *Phase I Cultural Resources Investigation of the Orange Reservoir and Dam*. The surveys were carried out in accordance with Section 106 of the National Historic Preservation Act, as amended, and the Advisory Council on Historic Preservation Guidelines for the Protection of Cultural and Historic Properties (36 CFR Part 800) to identify significant historic properties in the study area. A digital copy of all three reports are enclosed for your records (Enclosure 1).

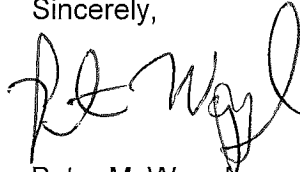
Recently the District identified a Tentatively Selected Plan (TSP) for the project. The TSP for the Cranford Section of the project consists of channelization along the Rahway River in Cranford, New Jersey, and modifications to the Orange Reservoir and Dam in West Orange, New Jersey. The TSP for the Robinson's Branch Section of the project consists of non-structural flood proofing measures in the City of Rahway, New Jersey. To address potential impacts to historic properties, a Programmatic Agreement (PA) has been prepared that outlines the steps the District will take to carry out its remaining Section 106 responsibilities including conducting additional surveys, consultation with interested parties, determining adverse effects, and, if necessary, mitigation for adverse effects. To simplify coordination moving forward, two PAs have been prepared, one that addresses the plan for flood risk management measures in the Cranford Section of the project area and another that addresses the measures planned for the Robinson's Branch Section of the project area. A preliminary case report has been prepared that includes a summary of the cultural resources work undertaken to date, agency coordination letters, the draft PAs, and project maps along with other relevant project information (Enclosure 2).

As a party with significant interest in the preservation of historic resources in the Cranford Section of the project area, I would like to take this opportunity to invite the Cranford Historical Society to comment upon the draft PA for the Rahway River Fluvial Flood Risk Reduction Project, Cranford Section, and to act as a concurring party to the PA. The PA, at a

minimum, is to be entered into by the U.S. Army Corps of Engineers and the New Jersey State Historic Preservation Office. The Advisory Council is also invited to participate as well as a number of Federally Recognized Tribes who have extensive cultural heritage in the region. These are the Delaware Nation, the Shawnee Tribe of Oklahoma, and the Delaware Tribe of Indians. The North Cranford Historic Preservation Advisory Board and the West Orange Historic Preservation Commission have been invited to participate as concurring parties as well. Should there be any other groups who your organization feels should participate in this process please include that information with your comments.

Please provide a written response within 30 days to the project archaeologist, Ms. Carissa Scarpa by mail (US Army Corps of Engineers, CENAN-PL-EA, 26 Federal Plaza, Room 2131, New York, NY 10278) or by email to Carissa.a.scarpa@usace.army.mil. If your organization requires additional information or feels it would be beneficial to schedule a meeting or conference call to discuss the terms of the agreement, please contact Ms. Scarpa at (917) 790-8612.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. M. Weppier', written over a horizontal line.

Peter M. Weppier
Chief, Environmental Analysis Branch

Enclosure



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT
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NEW YORK NY 10278-0090

October 26, 2016

Reply to the Attention of

Environmental Assessment Section
Environmental Analysis Branch

Ms. Maureen Strazdon
Chair, Cranford Historic Preservation Advisory Board
208 Holly Street
Cranford, NJ 07016

Dear Ms. Strazdon:

As you know, the U.S. Army Corps of Engineers, New York District (District) is undertaking the Rahway River Fluvial Flood Risk Management Feasibility Study. In recent years the District prepared a series of survey reports titled *Phase IA Cultural Resources Investigation of the Rahway River Flood Risk Management and Ecosystem Restoration Project*, *Reconnaissance-Level Cultural Resources Investigation for the Rahway River Flood Risk Management and Ecosystem Restoration Project*, and *Phase I Cultural Resources Investigation of the Orange Reservoir and Dam*. The surveys were carried out in accordance with Section 106 of the National Historic Preservation Act, as amended, and the Advisory Council on Historic Preservation Guidelines for the Protection of Cultural and Historic Properties (36 CFR Part 800) to identify significant historic properties in the study area. A copy of the Phase IA survey was provided to the Cranford Historic Preservation Advisory Board (Board) for review in 2013. A digital copy of all three reports are enclosed for your records (Enclosure 1).

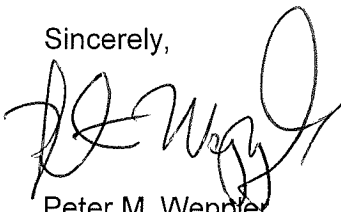
The District met with the Board in May of this year when the Tentatively Selected Plan (TSP) was identified to discuss potential impacts to historic properties and the development of a Programmatic Agreement (PA) that would outline the steps the District will take to carry out the its remaining Section 106 responsibilities including conducting additional surveys, consultation with interested parties, determining adverse effects, and, if necessary, mitigation for adverse effects. As you know there are two areas that have been part of the ongoing study, the Cranford Section and the Robinson's Branch Section. The TSP for the Cranford Section of the project consists of channelization along the Rahway River in Cranford, New Jersey, and modifications to the Orange Reservoir and Dam in West Orange, New Jersey. The TSP for the Robinson's Branch Section of the project consists of non-structural flood proofing measures in the City of Rahway, New Jersey. To simplify coordination moving forward, two PAs have been prepared, one that addresses the plan for flood risk management measures in the Cranford Section of the project area and another that addresses the measures planned for the Robinson's Branch Section of the project area. A preliminary case report has been prepared that includes a summary of the cultural resources work undertaken to date, agency coordination letters, the draft PAs, and project maps along with other relevant project information (Enclosure 2).

As a party with significant interest in the preservation of historic resources in the Cranford Section of the project area I would like to take this opportunity to invite the Board to

comment upon the draft PA for the Rahway River Fluvial Flood Risk Reduction Project, Cranford Section, and to act as a concurring party to the PA. At a minimum, the PA is to be entered into by the U.S. Army Corps of Engineers and the New Jersey State Historic Preservation Office. The Advisory Council is also invited to participate as well as a number of Federally Recognized Tribes who have significant cultural heritage in the region. These are the Delaware Nation, the Shawnee Tribe of Oklahoma, and the Delaware Tribe of Indians. The West Orange Historic Preservation Commission and the Cranford Historical Society have been invited to participate as concurring parties as well. Should there be any other groups who your office feels should participate in this process please include that information with your comments.

Please provide a written response within 30 days to the project archaeologist, Ms. Carissa Scarpa by mail (US Army Corps of Engineers, CENAN-PL-EA, 26 Federal Plaza, Room 2131, New York, NY 10278) or by email to Carissa.a.scarpa@usace.army.mil. If the Board requires additional information or feels it would be beneficial to schedule a meeting to discuss the terms of the agreement, please contact Ms. Scarpa at (917) 790-8612.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter M. Weppier', written over a horizontal line.

Peter M. Weppier
Chief, Environmental Analysis Branch

Enclosure



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT
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October 26, 2016

Reply to the Attention of

Environmental Assessment Section
Environmental Analysis Branch

Ms. Nekole Alligood
Cultural Preservation Director
Delaware Nation
P.O. Box 825
Anadarko, OK 73005

Dear Mr. Ross:

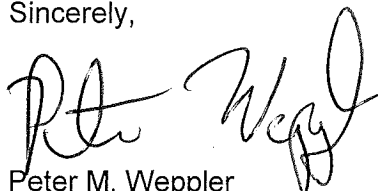
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The study is progressing and a Tentatively Selected Plan (TSP) has recently been identified. The TSP for the Cranford Section of the project consists of channelization along the Rahway River in Cranford, New Jersey, and modifications to the Orange Reservoir and Dam in West Orange, New Jersey. The TSP for the Robinson's Branch Section of the project consists of non-structural flood proofing measures in the City of Rahway, New Jersey. Due to the fact that the details of the plan are not finalized at this time and additional investigations are required the District has elected to develop a Programmatic Agreement (PA) for the project. A PA outlines the steps required to carry out the District's remaining Section 106 responsibilities including conducting additional surveys, consultation with interested parties, determining adverse effects, and, if necessary, mitigation for adverse effects. To simplify coordination moving forward, two PAs have been prepared, one that addresses the plan for flood risk management measures in the Cranford Section of the project area and another that addresses the measures planned for the Robinson's Branch Section of the project area. A preliminary case report has been prepared that includes a summary of the cultural resources work undertaken to date, agency coordination letters, the draft PAs, and project maps along with other relevant project information (Enclosure 2).

As a tribe with significant cultural heritage in the region, I would like to invite you to review and comment upon the draft PAs for the Rahway River Fluvial Flood Risk Management Feasibility Study. At a minimum the PAs are intended to be entered into by the U.S. Army

Corps of Engineers and the New Jersey State Historic Preservation Office. We also would like invite the Delaware Nation to participate in the PAs as a signatory, or if signatory is not preferred, as a concurring party which would provide the Delaware Nation with the opportunity to consult on the project and receive status updates as it proceeds. Please provide a written response within 30 days to the project archaeologist, Ms. Carissa Scarpa by mail (US Army Corps of Engineers, CENAN-PL-EA, 26 Federal Plaza, Room 2131, New York, NY 10278) or by email to Carissa.a.scarpa@usace.army.mil. If you feel it would be beneficial to schedule a meeting or conference call amongst the consulting parties, please include that with your comments. If you or your staff require additional information or have any questions, please contact Ms. Scarpa at (917) 790-8612.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter M. Weppeler", written over a horizontal line.

Peter M. Weppeler
Chief, Environmental Analysis Branch

Enclosure



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT
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October 26, 2016

Reply to the Attention of

Environmental Assessment Section
Environmental Analysis Branch

Ms. Susan Bachor
Delaware Tribe
Historic Preservation Representative
P.P. Box 64
Pocono Lake, PA 18347

Dear Ms. Bachor:

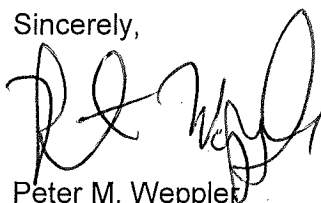
The U.S. Army Corps of Engineers, New York District (District) is undertaking the Rahway River Fluvial Flood Risk Management Feasibility Study. In recent years the District prepared a series of survey reports titled *Phase IA Cultural Resources Investigation of the Rahway River Flood Risk Management and Ecosystem Restoration Project*, *Reconnaissance-Level Cultural Resources Investigation for the Rahway River Flood Risk Management and Ecosystem Restoration Project*, and *Phase I Cultural Resources Investigation of the Orange Reservoir and Dam*. The surveys were carried out in accordance with Section 106 of the National Historic Preservation Act, as amended, and the Advisory Council on Historic Preservation Guidelines for the Protection of Cultural and Historic Properties (36 CFR Part 800) to identify significant historic properties in the study area. A copy of those reports are enclosed for your records (Enclosure 1).

The study is progressing and a Tentatively Selected Plan (TSP) has recently been identified. The TSP for the Cranford Section of the project consists of channelization along the Rahway River in Cranford, New Jersey, and modifications to the Orange Reservoir and Dam in West Orange, New Jersey. The TSP for the Robinson's Branch Section of the project consists of non-structural flood proofing measures in the City of Rahway, New Jersey. Because the details of the plan are not finalized at this time and additional investigations are required the District has elected to develop a Programmatic Agreement (PA) for the project that would outline the steps required to carry out the District's remaining Section 106 responsibilities including conducting additional surveys, consultation with participating parties, determining adverse effects, and, if necessary, mitigation for adverse effects. To simplify coordination moving forward, two PAs have been prepared, one that addresses the plan for flood risk management measures in the Cranford Section of the project area and another that addresses the measures planned for the Robinson's Branch Section of the project area. A preliminary case report has been prepared that includes a summary of the cultural resources work undertaken to date, agency coordination letters, the draft PAs, and project maps along with other relevant project information (Enclosure 2).

As a tribe with significant cultural heritage in the region, I would like to invite you to review and comment upon the draft PAs for the Rahway River Fluvial Flood Risk Management Feasibility Study. At a minimum, the PAs are intended to be entered into by the U.S. Army

Corps of Engineers and the New Jersey State Historic Preservation Office. We would also like invite the Delaware Tribe to participate in the PAs as a signatory, or if signatory is not preferred, as a concurring party which would provide the Delaware Tribe with the opportunity to consult on the project and receive status updates as it proceeds. Please provide a written response within 30 days to the project archaeologist, Ms. Carissa Scarpa by mail (US Army Corps of Engineers, CENAN-PL-EA, 26 Federal Plaza, Room 2131, New York, NY 10278) or by email to Carissa.a.scarpa@usace.army.mil. If you feel it would be beneficial to schedule a meeting or conference call amongst the consulting parties, please include that with your comments. If you or your staff require additional information or have any questions, please contact Ms. Scarpa at (917) 790-8612.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter M. Weppeler', written over a horizontal line.

Peter M. Weppeler
Chief, Environmental Analysis Branch

Enclosure



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT
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October 26, 2016

Reply to the Attention of

Environmental Assessment Section
Environmental Analysis Branch

Mr. Alex Shipley
Director of Museum Operations
Merchants and Drovers Tavern Museum Association
P.O. Box 1842
1632 St. George Avenue
Rahway, NJ 07065

Dear Mr. Shipley:

The U.S. Army Corps of Engineers, New York District (District) is undertaking the Rahway River Fluvial Flood Risk Management Feasibility Study. In recent years the District prepared a series of survey reports titled *Phase IA Cultural Resources Investigation of the Rahway River Flood Risk Management and Ecosystem Restoration Project*, *Reconnaissance-Level Cultural Resources Investigation for the Rahway River Flood Risk Management and Ecosystem Restoration Project*, and *Phase I Cultural Resources Investigation of the Orange Reservoir and Dam*. The surveys were carried out in accordance with Section 106 of the National Historic Preservation Act, as amended, and the Advisory Council on Historic Preservation Guidelines for the Protection of Cultural and Historic Properties (36 CFR Part 800) to identify significant historic properties in the study area. A digital copy of all three reports are enclosed for your records (Enclosure 1).

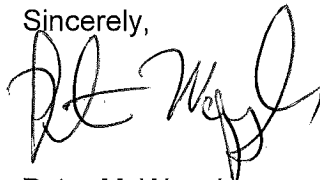
Recently the District identified the Tentatively Selected Plan (TSP). The TSP for the Cranford Section of the project consists of channelization along the Rahway River in Cranford, New Jersey, and modifications to the Orange Reservoir and Dam in West Orange, New Jersey. The TSP for the Robinson's Branch Section of the project consists of non-structural flood proofing measures in the City of Rahway, New Jersey. To address potential impacts to historic properties a Programmatic Agreement (PA) has been prepared that would outline the steps the District will take to carry out its remaining Section 106 responsibilities including conducting additional surveys, consultation with interested parties, determining adverse effects, and, if necessary, mitigation for adverse effects. To simplify coordination moving forward, two PAs have been prepared, one that addresses the plan for flood risk management measures in the Cranford Section of the project area and another that addresses the measures planned for the Robinson's Branch Section of the project area. A preliminary case report has been prepared that includes a summary of the cultural resources work undertaken to date, agency coordination letters, the draft PAs, and project maps along with other relevant project information (Enclosure 2).

As a party with significant interest in the preservation of historic resources in the Robinson's Branch Section of the project area I would like to take this opportunity to invite the

Merchants and Drovers Tavern Museum Association to comment upon the draft PA for the Rahway River Fluvial Flood Risk Reduction Project, Robinson's Branch Section, and to act as a concurring party on the PA. At a minimum, the PA is to be entered into by the U.S. Army Corps of Engineers and the New Jersey State Historic Preservation Office. The Advisory Council is also invited to participate as well as a number of Federally Recognized Tribes who have extensive cultural heritage in the region. These are the Delaware Nation, the Shawnee Tribe of Oklahoma, and the Delaware Tribe of Indians. Should there be any other groups who your organization feels should participate in this process please include that information with your comments.

Please provide a written response within 30 days to the project archaeologist, Ms. Carissa Scarpa by mail (US Army Corps of Engineers, CENAN-PL-EA, 26 Federal Plaza, Room 2131, New York, NY 10278) or by email to Carissa.a.scarpa@usace.army.mil. If the Association requires additional information or feels it would be beneficial to schedule a meeting or a conference call to discuss the terms of the agreement, please contact Ms. Scarpa at (917) 790-8612.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter M. Wepler', written over a horizontal line.

Peter M. Wepler
Chief, Environmental Analysis Branch

Enclosure



DEPARTMENT OF THE ARMY
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October 26, 2016

Reply to the Attention of

Environmental Assessment Section
Environmental Analysis Branch

Ms. Kim Jumper
Tribal Historic Preservation Officer
Shawnee Tribe of Oklahoma
29S HWY69A
Miami, OK 74355

Dear Ms. Jumper:

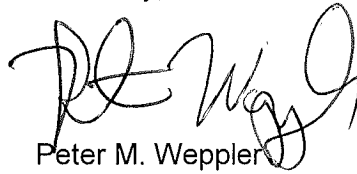
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As a tribe with significant cultural heritage in the region, I would like to invite you to review and comment upon the draft PAs for the Rahway River Fluvial Flood Risk Management

Feasibility Study. The PAs are intended to be entered into by the U.S. Army Corps of Engineers and the New Jersey State Historic Preservation Office. We also would like invite the Shawnee Tribe to participate in the PAs as a signatory, or if signatory is not preferred, as a concurring party which would provide your Tribe with the opportunity to consult on the project and receive status updates as it proceeds. Please provide a written response within 30 days to the project archaeologist, Ms. Carissa Scarpa by mail (US Army Corps of Engineers, CENAN-PL-EA, 26 Federal Plaza, Room 2131, New York, NY 10278) or by email to Carissa.a.scarpa@usace.army.mil. If you feel it would be beneficial to schedule a meeting or conference call amongst the consulting parties, please include that with your comments. If you or your staff require additional information or have any questions, please contact Ms. Scarpa at (917) 790-8612.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter M. Weppeler', written over a horizontal line.

Peter M. Weppeler
Chief, Environmental Analysis Branch

Enclosure



U.S. Army Corps of Engineers
New York District

Cultural Resources Summary and Preliminary Case Report Rahway River Fluvial Flood Risk Management Project

Prepared by
U.S. Army Corps of Engineers
New York District
Planning Division
26 Federal Plaza,
New York, NY 10278-0090

DRAFT
October 2016

Carissa Scarpa
Project Archaeologist

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- Appendix B – Coordination
- Appendix C – Draft Programmatic Agreements

I. Introduction

The US Army Corps of Engineers, New York District (District) has undertaken a feasibility study designed to identify flood risk management measures that would reduce the incidence and severity of flooding in the Rahway River Basin. The study was authorized by Section 204 of the Flood Control Act of 1965 (P.L. 89-298) and U.S. House of Representatives Resolution Docket 2548, adopted March 1998. At the beginning of the feasibility study, an assessment of the entire Basin took place for the purpose of identifying all flood risk management problems and opportunities in the Rahway River Basin. The Initial Screening Report recommended further investigation in the Township of Cranford and the City of Rahway along the Robinson's Branch, two areas within the basin that experienced regular flooding for past storm events. Due to this initial screening, and through coordination with New Jersey Department of Environment Protection (NJDEP), the non-Federal sponsor, and local stakeholders, the main focus of the ongoing study has been on fluvial flooding within Cranford and Rahway. The U.S. Army Corps of Engineers Headquarters (HQ) and Major Subordinate Command (MSC) have indicated that tidal flooding within the lower portion of the Rahway River Basin is to be investigated in a separate coastal storm risk management study. The tidal portion of the Rahway River is called the Rahway River Tidal Flood Risk Management Project.

After Tropical Storm Irene in August 2011 local stakeholders requested that the District investigate potential flood storage opportunities outside/upstream of the Township of Cranford that would benefit not only Cranford but other municipalities as well. Two of the areas analyzed for storage were the existing Orange Reservoir in West Orange and a proposed dry detention basin in South Mountain Reservation along the West Branch of Rahway River.

During preliminary analysis, the District evaluated a number of alternatives to address flooding in Cranford and the expanded study area:

- Alternative 1:** Channel work from Lenape Dam to Lincoln Ave. Bridge, and modification to Lenape Park Detention Dam.
- Alternative 2:** Channel work from Springfield Ave. Bridge to Lincoln Ave. Bridge, and modification to the Nomahegan levees and Lenape Park Detention Dam.
- Alternative 3:** Channel work from Lenape Dam to Lincoln Ave. Bridge and dredging Orange Reservoir to increase storage capacity.
- Alternative 4:** Channel work from Lenape Dam to Lincoln Ave. Bridge and new outlet at Orange Reservoir for channel flow increase mitigation.
- Alternative 4a:** Channel work from below Nomahegan Park to below South Avenue Bridge in Cranford and new outlet at Orange Reservoir.
- Alternative 5:** Channel work from Lenape Dam to Lincoln Ave. Bridge and the construction of South Mountain Regional Detention Basin.
- Alternative 5a:** Channel work from Lenape Dam to Lincoln Ave. Bridge, the construction of South Mountain Regional Detention Basin and the relocation of Brookside Drive.
- Alternative 6:** South Mountain Regional Detention Basin at South Mountain Reservation.
- Alternative 6a:** South Mountain Regional Detention Basin with the relocation of Brookside Drive.
- Alternative 7:** Nonstructural Plans with a 1% and 10% chance of annual exceedance along the Rahway River at Cranford.

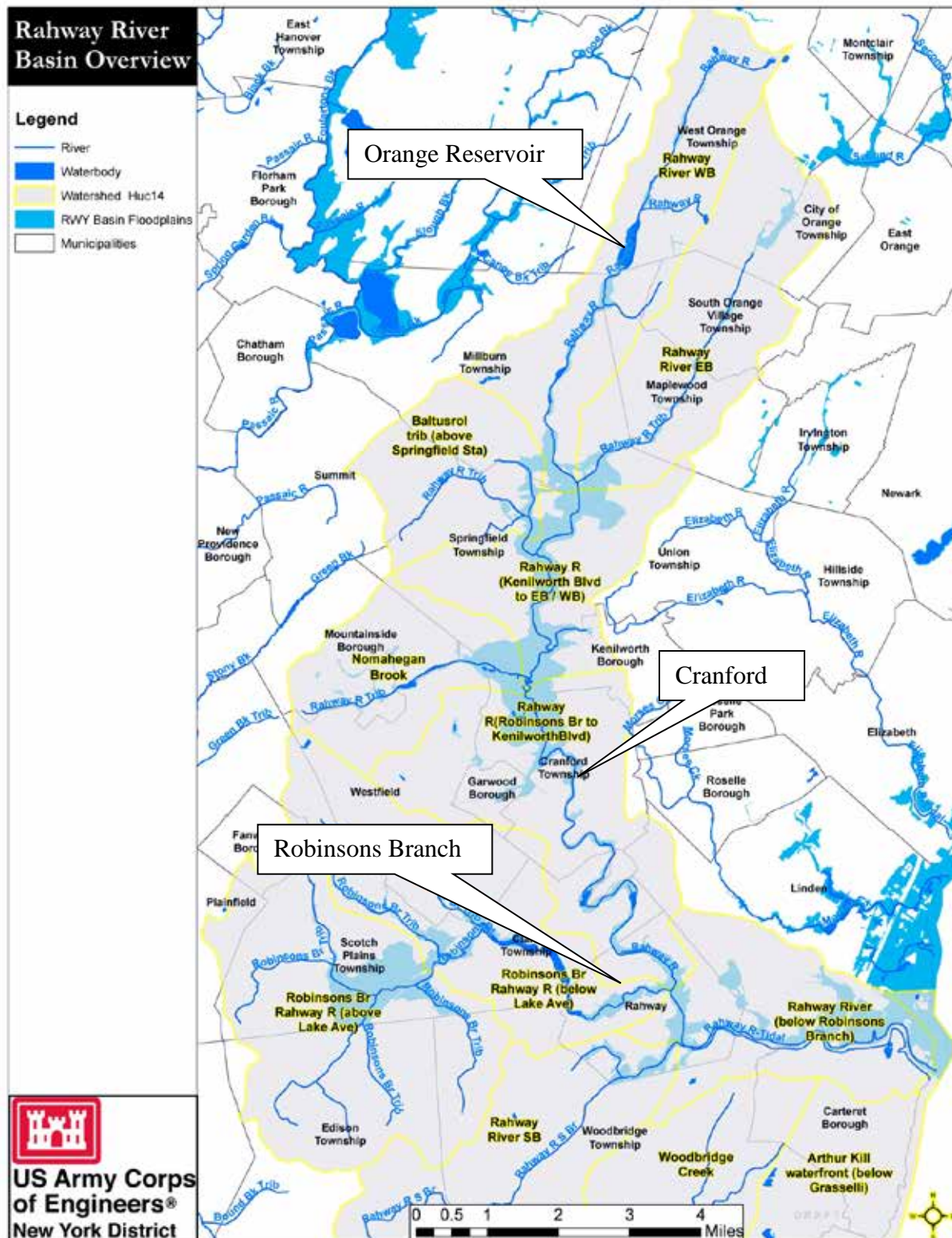


Figure 1: Rahway River Basin Overview

Alternative 8: Modification to Lenape Park Detention Dam and New Outlet at Orange Reservoir.

Alternative 9: Modification to Lenape Park Detention Dam, New Outlet at Orange Reservoir and Channel Modifications from Springfield Ave. Bridge to Lincoln Ave. Bridge in Cranford.

The District evaluated three alternatives for the Robinson's Branch Section:

Alternative 1: Combination of Levees/Floodwalls and Channel Modification.

Alternatives 2a & b: Nonstructural Plans with a 1% and 10% chance of annual exceedance along Robinson's Branch and Rahway River at Clark.

Alternative 3: Modification of Robinson's Branch Dam (Middlesex Reservoir).

II. Cultural Resources Investigations

In 2013 and 2016 cultural resources investigations were carried out for the Cranford and Robinson's Branch study areas to identify historic properties and areas of archaeological sensitivity.

Phase IA Cultural Resources Investigation of the Rahway River Flood Risk Management and Ecosystem Restoration Project, Townships of Cranford, Springfield, Union, and Westfield and Borough of Kennilworth, Union County, New Jersey. Panamerican Consultants, Inc. 2013.

A Phase IA cultural resources investigation was carried out in 2013 that addressed alternatives 1 and 2, as well as portions of alternatives 3 through 9. The plan features that were evaluated included major and minor modification to the Rahway River channel and bridges, flood walls, levees, and construction of detention basins in Lenape Park and Nomahegan Park (Figure 2). The survey consisted of a review of previous research, historic maps, and relevant National Register of Historic Places (NRHP) nomination forms and data on file at the New Jersey Historic Preservation Office (NJSHPO). An archaeological sensitivity assessment and architectural inventory were also carried out as part of the survey. The investigation of the Orange Reservoir and South Mountain Detention Basin were not part of the survey.

A total of 124 individual architectural resources were recorded within the Area of Potential Effect (APE) in the Townships of Springfield, Union, and Cranford, and the Borough of Kenilworth, Union County, New Jersey, with the majority of the resources located in Cranford. Each of the historic resources were photographed and subjected to a preliminary assessment. Four National Register-eligible (NRE) historic districts are located within the APE: the North Cranford Historic District (Identification [ID] #3838); the Central Railroad of New Jersey (CNJ) Main Line Corridor Historic District (ID #3500); the Rahway River Parkway Historic District (ID #4079); and the Union County Park System Historic District (ID #4424). Several of these historic districts overlap each other and the individually eligible Rahway River Parkway Historic District is contained within the Union County Park System Historic District. One property within the APE is individually listed on the National Register: Droscher's Mill (NR #7400192) at 347 Lincoln Avenue, Cranford, at the southern-most point of the APE. An architectural survey was recommended to evaluate many of the historic resources identified and to address the boundaries of historic districts and individual contributing elements for independent eligibility for the NRHP.



Figure 2: Phase IA Cranford Study Area

An archaeological sensitivity assessment was carried out for the study area consisting of historic map analysis, review of archaeological contexts for Union County, review of known archaeological sites in the area and surface reconnaissance in the study area. Nearly all of the study area was considered sensitive for historic and prehistoric archaeological resources. Pending selection of a design alternative, shovel testing was recommended for all areas where the project will have below-ground impacts. Deep testing strategies were recommended for areas where the ground surface has been artificially elevated with the understanding that some fill, having been added for construction of historic homes along the River, may also contain historic materials.

Phase I Cultural Resources Investigation of the Orange Reservoir and Dam, West Orange, Essex County, New Jersey for the Rahway River Flood Risk Management and Ecosystem Restoration Project. Carissa Scarpa, NY District USACE, 2016.

As the study progressed a cultural resources survey was carried out for the Orange Reservoir and Dam, an element of Alternatives 3, 4, 4a, 8, and 9. The survey focused on the dam and reservoir and their eligibility for the NRHP but also involved investigating the surrounding area for additional structures or features that could be impacted by the project. In addition, the survey evaluated the study area for archaeological sensitivity (Figure 3). The investigation included a site visit to the reservoir and research at the New Jersey State Museum (NJSM), the New Jersey Historic Preservation Office (NJHPO), the West Orange Public Library, and Essex County's Department of Parks, Recreation, and Cultural Affairs.

The Orange Reservoir and Dam is potentially eligible for listing on the NRHP. Further research is required to complete a determination of eligibility on this property. An intensive-level architectural survey was recommended. A review of local histories, historic maps, survey data, and records held at the NJSHPO and the New Jersey State Museum (NJSM) indicated that the potential for prehistoric and historic archaeological resources at the Orange Reservoir is high, however, the ground within the study area has been disturbed by construction of the

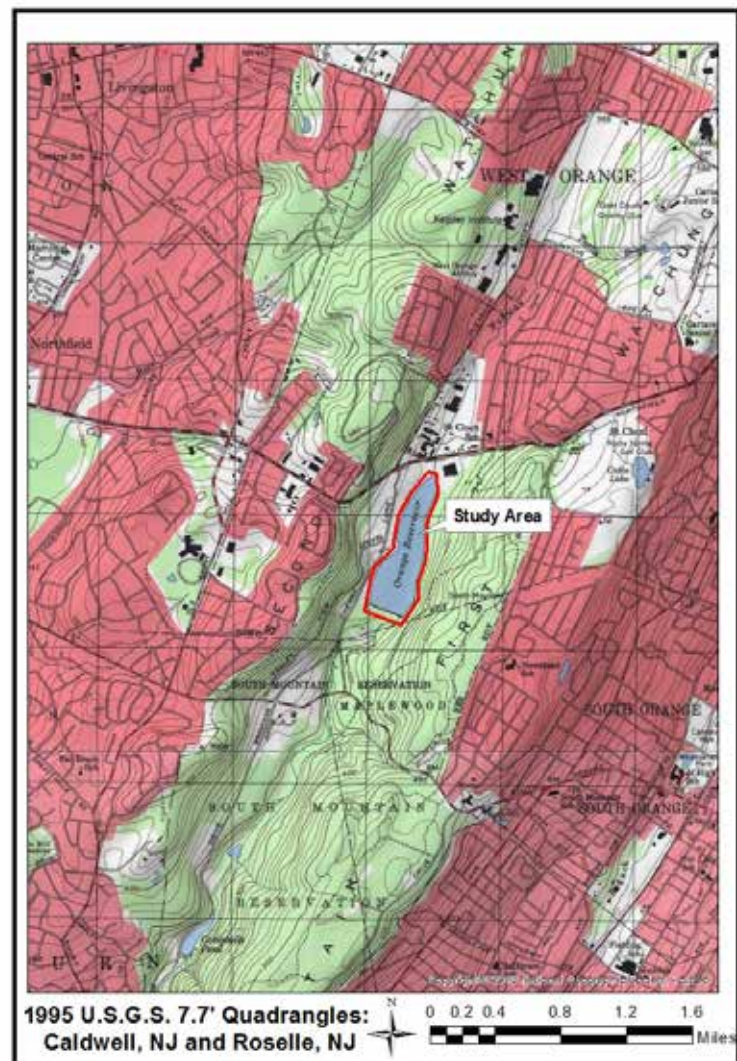


Figure 3: Orange Reservoir and Dam Study Area

reservoir itself as well as later modifications to the dam, and recent construction of the walking path surrounding the reservoir. Archaeological testing was recommended should the project plans include ground disturbance to determine the presence or absence of significant archaeological deposits. Development of a testing plan was recommended to address the potential for deeply buried prehistoric deposits beneath fill and also archaeological deposits relating to the construction of the dam and reservoir and other post construction activities centered on the reservoir.

Reconnaissance-Level Cultural Resources Investigation for the Rahway River Flood Risk Management and Ecosystem Restorations Project, Robinsons Branch Section, Township of Clark and City of Rahway, Union County, and Township of Woodbridge, Middlesex County, New Jersey. Panamerican Consultants, Inc. 2013.

In 2013 a reconnaissance-level investigation was carried out for the Robinson's Branch Section. The survey was carried out early in the development of alternatives for Robinsons Branch, therefore the study area was simply defined at that time as a 500-foot perimeter surrounding the Rahway River and the Robinson's Branch of the Rahway River. The survey involved a review of the historical and cultural contexts for the project area; the enumeration of all previously-identified cultural resources within it; an assessment of its archaeological sensitivity; and a general discussion / overview of above-ground cultural resources in the APE (Figure 4). The map analysis, prehistoric and historic contexts of Union County, the review of known nearby archaeological sites, and the results the archaeological surface reconnaissance indicate that, in general, the Rahway River Flood Risk Management and Ecosystem Restoration Project area is archaeologically sensitive.

In addition to a large number of individual historic properties, six historic districts are located within the APE: Rahway River Parkway Historic District (ID #4079), Union County Park System Historic District (ID #4424), Upper Rahway Historic District (ID #4948), Lower Rahway Historic District/Main Street (ID #2711), Regina Historic District (ID #4048), and the Pennsylvania Railroad Historic District (ID #4568). At the nexus of the Upper Rahway Historic District, the Lower Rahway Historic District, and the Regina Historic District at Irving Street, along Central Avenue, Hamilton Street and Coach Street, lies the municipally-designated "Arts District," at the heart of which lies the Rahway Theater (NR #860001509; ID #2714). Many of these historic districts overlap each other.

Six Union County parks are located within the APE: Rahway River Parkway (ID #4079); Rahway River Park (ID #2713); Milton Lake Park; Wheatena Park; Bezega Park/Allen Conservation Area; and the Clark Wildlife Preserve and Habitat. In addition, the Rahway River Scenic Trail, also a part of the Union County Park System, is located within the APE. There are also three City of Rahway municipal parks: Veterans Memorial Field complex, Berzinec Park, and Rahway Kiwanis Park. All the above mentioned parks with the exception of Clark Wildlife Preserve and Habitat are contributing elements to the National Register eligible Rahway River Parkway Historic District (ID #4079). Additional research was recommended once the alternative was selected, assessment of the individual structures within the APE as well as a review and possible updating of the historic district boundaries was suggested.

An archaeological sensitivity assessment was carried out for the study area consisting of historic map analysis, review of archaeological contexts for Union County, review of known archaeological sites in the area and surface reconnaissance in the study area. Nearly all of the study area was considered sensitive for historical and prehistoric archaeological resources.

Pending selection of a design alternative, shovel testing was recommended for all areas where the project will have below-ground impacts. Deep testing strategies were recommended for areas where the ground surface has been artificially elevated with the understanding that some fill, having been added for construction of historic homes along the River, may also contain historic materials. In addition to this, an intensive-level architectural assessment was recommended for the areas impacted by the project.

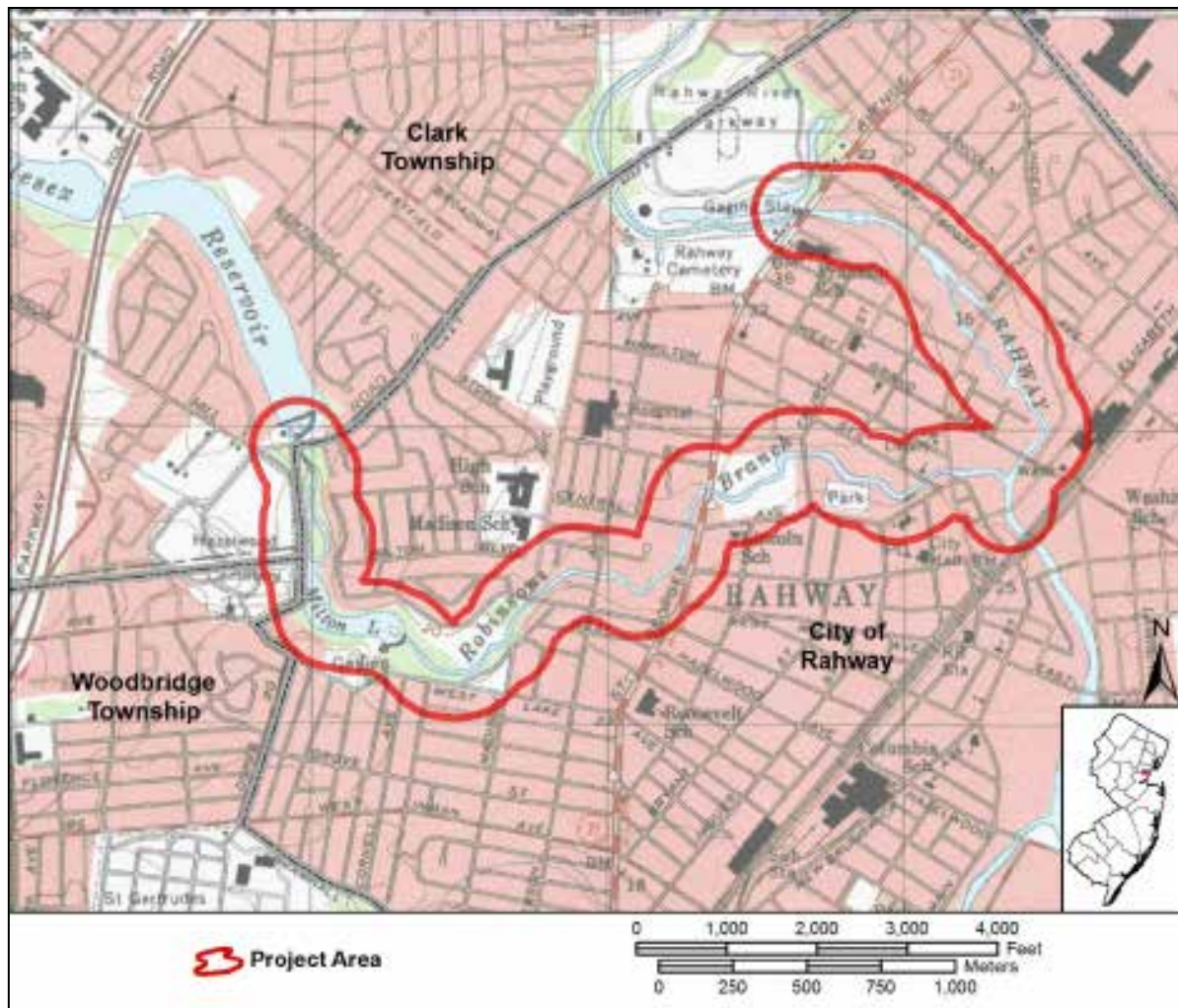


Figure 4: Robinson's Branch Cultural Resources Reconnaissance-Level Investigation Study Area

III. TSP (Tentatively Selected Plan)

Evaluation and comparison of alternatives has been carried out for the Cranford and Robinsons Branch portions of the project. Through economic analysis the alternative that maximized net benefits for each section was selected as the Tentatively Selected Plan (TSP).

Cranford TSP



Figures 5 & 6: Cranford TSP Alternative 4a

The alternative selected for the Cranford section of the TSP is Alternative 4a (Figures 5 and 6). The plan consists of modification to the Orange Reservoir and Dam and channel modification along the Rahway River in Cranford. During the Preconstruction and Engineering Design Phase investigations will be carried out to determine what modifications will be necessary to bring the Orange Reservoir Dam into compliance with U.S. Army Corps of Engineers Dam Safety standards. The scope of the modifications will therefore range from installation of two additional 36 in. diameter outlet pipes to replacement in-kind. The plan requires operation of the dam for a 10ft. to 15ft drawdown of the reservoir two days prior to a storm event.

The channel modification consists of creation of a trapezoidal channel with a natural bed along a 1.7 mile stretch of the Rahway River in Cranford Township. The segment of the River receiving channel modification begins at the footbridge crossing the Rahway River just south of Nomahegan Park and ends at the Lincoln Avenue Bridge further downstream. The new channel would have a natural bed with a 35-45 ft. bottom width. Side slopes would be one vertical on two and a half horizontal (1:2.5). The Hansel Dam and Droescher's Dam would likely be removed as well.

Robinsons Branch TSP

Table I presents the two non-structural alternatives that were analyzed for the Robinson's Branch section of the project. Non-structural flood-proofing measures were evaluated for structures located within the 10-year and the 100-year flood plains. The TSP for the Robinsons Branch Section is Alternative 2a, the 10-year (10% Annual Exceedance) non-structural plan. Approximately 21 structures would receive nonstructural flood damage

reduction measures under this plan. The majority of the structures would be elevated and a small number would receive wet flood-proofing or ringwalls.

Table 1: Robinson's Branch Nonstructural Plan for the 10% and 1% annual exceedance events

Nonstructural Flood-Proofing Measures	10% (10-yr) Annual Exceedance			1% (100-yr) Annual Exceedance		
	Residential	Non-Residential	Sub Total	Residential	Non-Residential	Sub Total
Dry Flood proofing	0	0	0	11	7	18
Wet Flood proofing	1	1	2	2	3	5
Barriers	2	4	6	3	10	13
Raise	13	0	13	188	0	188
Buyout	0	0	0	0	0	0
Total of Structures	16	5	21	204	20	224

Following selection of the TSP and prior to release of the Final EIS, the District will carrying out optimization of the selected plan to reduce risk and uncertainty with cost data, engineering effectiveness, environmental and cultural resources impacts, and economic benefits. For the Cranford Section the District is in the process of gathering additional data and carrying out further analysis to improve the accuracy of the plan and as a result some elements of the plan are subject to change. For the Robinsons Branch section the number of structures may change based on more detailed analysis and data gathered for the specific properties. Property owner participation will also be a factor in determining which structures will ultimately receive non-structural flood-proofing measures.

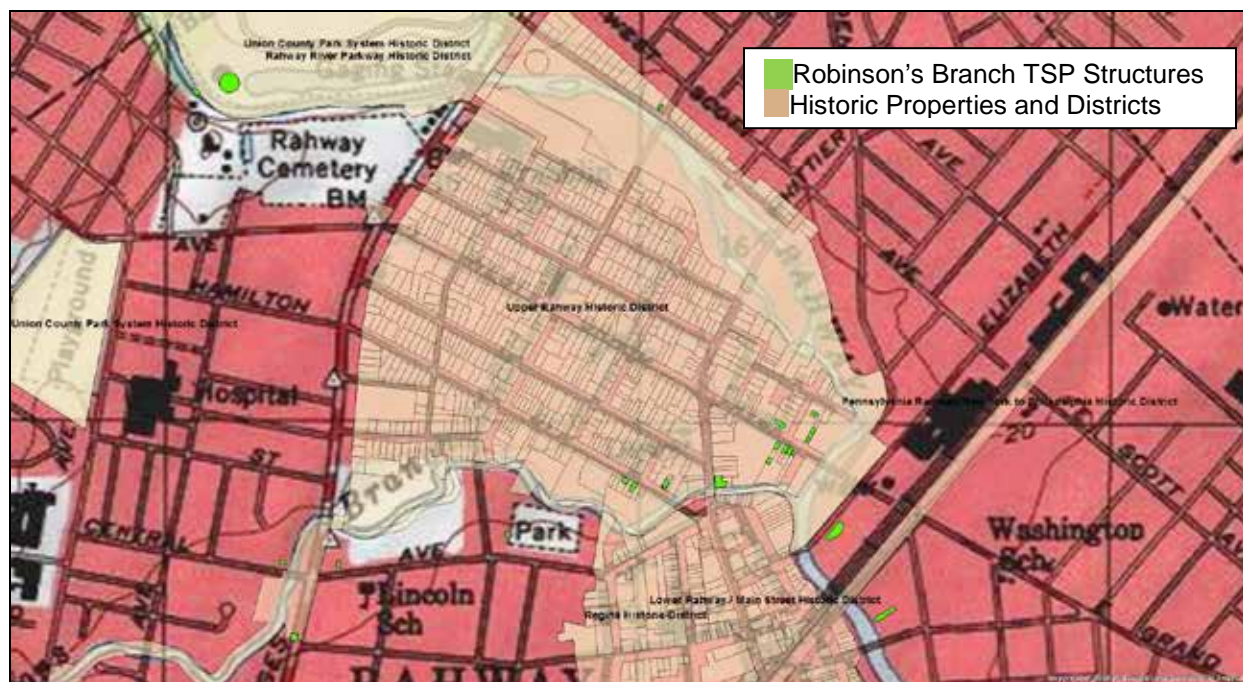


Figure 7: Robinson's Branch TSP

IV. The Area of Potential Effect and Potential Adverse Effects

The Area of Potential Effect (APE) for the Cranford section of the TSP includes areas of channel modification within the Rahway River, the Orange Reservoir and Dam, permanent and temporary construction easements along the banks of the channel and around the reservoir and any staging or mitigation areas. The study areas for the Phase IA Cultural Resources Investigation and the Phase I Cultural Resources Investigation of the Orange Reservoir and Dam addressed the APE for Alternative 4A.

The Cranford section of the APE overlaps with four NRHP-eligible historic districts. These are the North Cranford Historic District, the Rahway River Parkway Historic District, the Union County Park System Historic District, and the Central New Jersey Main Line Corridor Historic District. In addition to these, a number of historic resources are located within the APE in Cranford. Table 2 below lists the historic resources that have been identified within the APE as well as the NRHP status of the resource. Most of the resources within the APE are eligible for the NRHP as contributing elements to a historic district.

Table 2: Historic Properties within the Cranford Section TSP

Resource	NRHP Status	Approximate Date of Construction
Girl Scout Park	Eligible as a contributing element to the North Cranford Historic District (NCHD)	Unknown
Hanson Park/Hanson House	Eligible as contributing element to the NCHD	1990
McConnell Park	Eligible as contributing element to the NCHD	1919
Hampton Park	Eligible as contributing element to the NCHD and the RRPFD	1969
Memorial Park	Eligible as a contributing element to the NCHD and the RRPFD	Unknown
Sperry Park	Eligible as contributing element to the NCHD, Rahway River Parkway Historic District (RRPHD), and Union County Park System HD	1926
Lincoln Park	Eligible as a contributing element to the NCHD and the RRPFD	1917
Cranford Section of Rahway River Parkway HD	Eligible as contributing element to the Rahway River Parkway HD	Unknown
12 Hampton Road (House and Garage)	Eligible as contributing to NCHD	Ca. 1920
20 Hampton Road	Eligible as contributing element to the North Cranford Historic District	Ca. 1920
8 Hampton Street	Eligible as contributing element to NCHD	Ca. 1930
16 Hampton Street	Eligible	Unknown
18 Hampton Street	Eligible as contributing element to NCHD	Ca. 1930
204 Hampton Street (Garage)	Eligible as contributing element to the NCHD and Rahway River Parkway HD	1920

Resource	NRHP Status	Approximate Date of Construction
208 Hampton Street	Eligible as contributing element to NCHD	1914
Culvert crossing Rahway River at Hampton Street	Eligible as contributing element to the NCHD and the RRPD	1980
Eastman Street Bridge at Hampton Street	Eligible as contributing element to the NCHD, RRPD, and Union county Park System HD	2004
2 Central Ave and Garage	Eligible as contributing elements to the NCHD	1925
5 Central Ave	Eligible as contributing to the NCHD	1930
7 Central Ave	Eligible as contributing to the NCHD	Unknown
22 Central Ave	Eligible as contributing to the NCHD	Unknown
10 Central Ave and Garage	Eligible as contributing elements to the NCHD	1926
8 Central Ave and Garage	Eligible as contributing elements to the NCHD	1920
6 Central Ave and Garage	Eligible as contributing element to the NCHD	Unknown
126 Eastman Ave	Eligible as contributing elements to the NCHD	1925
122 Eastman Ave	Eligible as contributing elements to the NCHD	1923
Bridge on Eastman Avenue at Holly Street (NJDOT #2003025)	Eligible as a contributing element to the RRPD, NCHD, and Union County Park System HD	1970
9 Holly Street and Garage	Eligible as contributing element to the NCHD	1920
11 Holly Street and Shed	Eligible as a contributing element to the NCHD but the shed is not	Unknown
102 Orchard Street	Eligible as contributing element to the NCHD	1914
104 Orchard Street and Garage	Eligible as contributing element to the NCHD	1900
106 Orchard Street and Garage	Eligible as contributing element to the NCHD	1900
114 Orchard Street and Garage	Eligible as a contributing element to the NCHD, not the garage	1914
Cranford Canoe Club	Eligible as contributing element to the NCHD	Various
Bridge on Springfield Avenue at Orange Street	Eligible as contributing element to the RRPD and the Union County Park System HD	2010
107 Riverside Drive	Eligible as contributing element to the NCHD	1900
107 Riverside Drive Culvert and Walls	Eligible as contributing element to the NCHD	Unknown

Resource	NRHP Status	Approximate Date of Construction
Bridge on Union Avenue crossing the Rahway River at Sperry Park	Eligible as contributing element to the NCHD, RRP HD, and Union County Park System HD	1916
12 Forest Street	Eligible as contributing element to the NCHD	1915
18 Forest Street and Garage	Eligible as contributing element to the NCHD, garage not eligible	1930
22 Forest Street and Garage	Eligible as contributing element to the NCHD, garage not eligible	1930
26 Forest Street	House is eligible as a contributing element to the NCHD, garage is undetermined	Unknown
Bridge at North Avenue and Centennial Avenue	Eligible as a contributing element to the RRP HD, and the Union County Park System HD	1965
Central Railroad of NJ Bridge at Centennial Avenue and crossing the Rahway River	Eligible as a contributing element to the CNJ Main Line Corridor HD	1929
Central RR Storage building	Eligible as a contributing element to the CNJ Main Line Corridor HD	Unknown
Bridge at South Avenue and Centennial Ave	Eligible as a contributing element to the RRP HD and the Union County Park System HD	1983
Entry gates, walls, urns, seating area in Lincoln Park	Eligible as contributing elements to NRE Lincoln Park which is a contributing element to the RRP HD and the Union County Park System HD	1917

Alterations to the River within historic districts and parks as well as to the grounds or other features associated with NRHP-eligible historic properties has the potential to result in adverse effects, however, the boundaries of the North Cranford Historic District and the contributing structures and elements that were identified in the Phase IA survey have not been formally defined using survey forms. Additionally, the individual parks in the Union County Park System Historic District have not been evaluated for their individual eligibility as historic properties. In order to conclude identification of resources, an architectural survey will be required for the APE, this will inform the determination of adverse effects.

The APE for the replacement of the Orange Reservoir and Dam includes the dam, the reservoir, and any construction or staging areas utilized as part of the undertaking. The Orange Reservoir and Dam have the potential to be determined eligible for the NRHP however a formal architectural survey is required to make that determination. Besides the dam and reservoir, there are no NRHP-eligible or listed properties or archaeological sites within the APE. Some portions of the APE are archaeologically sensitive, and furthermore, it is likely that staging for construction will expand to overlap with the South Mountain Reservation Historic District. The proposed modification or replacement of the Dam and its associated features has the potential to result in adverse effects and additional survey will be necessary as the plan is developed.

The APE for the Robinson's Branch section of the TSP includes the structures receiving flood-proofing measures, the areas surrounding the structures where excavation and staging are planned and areas where ring walls are planned. The Reconnaissance-Level Cultural Resources Investigation of the Robinson's Branch section addressed the APE for the TSP. Six NRHP eligible historic districts exist within the study area. The majority of the study area lies within those historic district boundaries and many of the structures identified for non-structural flood-proofing measures either have been determined eligible or are potentially eligible for the NRHP. Architectural survey will be required once the structures receiving non-structural flood-proofing measures are finalized to determine their NRHP-eligibility. Archaeological survey may also be required for staging and construction areas.

V. Section 106 Coordination

The District coordinated with the New Jersey State Historic Preservation Office (NJSHPO), the Union County Department of Parks and Community Renewal, and the North Cranford Historic Preservation Advisory Board in 2013 upon completion of the Phase IA and Reconnaissance-level cultural resources surveys for the Cranford and Robinsons Branch portions of the project. In 2016 the District coordinated with the NJSHPO upon completion of the Orange Reservoir survey report. A meeting was held with the NJSHPO in May and the Cranford Preservation Advisory Board in June of 2016 when the TSP was first identified to receive the NJSHPO and the Board's input as well as hear any concerns or recommendations relating to the project. As discussed, to simplify coordination moving forward, two Programmatic Agreements have been prepared. The Cranford Section PA addresses the channel modification along the Rahway River and the modifications to the Orange Reservoir and Dam. The Robinsons Branch Section PA addresses the structure elevation and other non-structural flood-proofing measures planned for structures in that area. The PA lays out the steps that will be taken to determine and address adverse impacts to significant historic resources when the project is authorized to move forward. The PA will be entered into by the U.S. Army Corps of Engineers and the NJSHPO. The Delaware Nation, Delaware Tribe of Indians, Shawnee and Eastern Shawnee Tribes of Oklahoma and the Advisory Council on Historic Preservation have been invited to review and participate as signatories in the PA as well. The Cranford Historic Preservation Advisory Board, the Rahway Historical Society (Mrechant and Drovers Tavern Museum Association) and the West Orange Historic Preservation Commission will be invited to comment upon the PAs. Additional public involvement will be conducted as part of the public review of the EIS and the PA under NEPA and will serve as the District's Section 106 public coordination. The final PA will incorporate comments on the draft document, as appropriate.

Appendix A – Bibliography

Nolte, Kelly, Donald A. Smith, Mark A. Steinback, and Michael Cinquino

- 2013 Phase IA Cultural Resources Investigation for the Rahway River Flood Risk Management and Ecosystem Restoration Project, Townships of Cranford, Springfield, and Borough of Kenilworth, Union County, New Jersey. Panamerican Consultants, Inc. Buffalo, NY. Prepared for U.S. Army Corps of Engineers, New York District, New York.

Nolte, Kelly, Donald A. Smith, Mark A. Steinback, and Michael Cinquino

- 2013 Reconnaissance-Level Cultural Resources Investigation for the Rahway River Flood Risk Management and Ecosystem Restoration Project, Robinson's Branch Section, Township of Clark and City of Rahway, Union County, and Township of Woodbridge, Middlesex County, New Jersey. Panamerican Consultants, Inc. Buffalo, NY. Prepared for U.S. Army Corps of Engineers, New York District, New York.

Scarpa, Carissa

- 2016 Phase I Cultural Resources Investigation of the Orange Reservoir and Dam, West Orange, Essex County, New Jersey for the Rahway River Flood Risk Management and Ecosystem Restoration Project. New York District, U.S. Army Corps of Engineers.

Appendix B – Coordination



DEPARTMENT OF THE ARMY
NEW YORK DISTRICT, CORPS OF ENGINEERS
JACOB K. JAVITS FEDERAL BUILDING
26 FEDERAL PLAZA
NEW YORK, N.Y. 10278-0090

Reply to
Environmental Analysis Branch

October 2, 2012

Mr. Daniel Saunders
Deputy State Historic Preservation Officer
Historic Preservation Office
New Jersey Department of Environmental Protection
CN 404
Trenton, NJ 08625-0404

Dear Mr. Saunders:

The U.S. Army Corps of Engineers, New York District (District), is pleased to furnish you with a copy of the draft reports *Phase IA Cultural Resources Investigation of the Rahway River Flood Risk Management and Ecosystem Restoration Project, Townships of Cranford, Springfield, Union and Westfield, and Borough of Kenilworth, Union County, New Jersey* (Enclosure 1) and *Reconnaissance-Level Cultural Resources Investigation for the Rahway River Flood Risk Management and Ecosystem Restoration Project, Robinson's Branch Section, Township of Clark and City of Rahway, Union County, and Township of Woodbridge, Middlesex County, New Jersey* (Enclosure 2). Both the Cranford and Robinson's Branch portions of the Rahway River Flood Risk Management Project are in early planning phases. Alternatives are currently being developed for the Cranford segment of the project. Alternative development has not yet begun for Robinson's Branch. The Phase IA and Reconnaissance reports were prepared in anticipation of additional cultural resources survey work when an alternative is selected.

At this time the District is not assessing project effects. The reports have been prepared in order to identify known resources in the study area and to seek input early on in the planning process from consulting parties. The reports have offered recommendations for further work. The District would welcome the HPO's comments and recommendations in accordance with 36 CFR 800.4. Thank you for your assistance in the Section 106 process. If you or your staff require additional information or have any questions, please contact Carissa Scarpa, Project Archaeologist at (917) 790-8612.

Sincerely,


Leonard Houston
Chief, Environmental Analysis Branch

Enclosures



State of New Jersey

MAIL CODE 501-04B

DEPARTMENT OF ENVIRONMENTAL PROTECTION

NATURAL & HISTORIC RESOURCES

HISTORIC PRESERVATION OFFICE

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CHRIS CHRISTIE
Governor

BOB MARTIN
Commissioner

KIM GUADAGNO
Lt. Governor

November 16, 2012

Leonard Houston, Chief
Environmental Analysis Branch
Department of the Army
Corps of Engineers, New York District
Jacob K. Javits Federal Building
New York, NY 10278-0090

Dear Mr. Houston:

As Deputy State Historic Preservation Officer for New Jersey, in accordance with 36 CFR Part 800: Protection of Historic Properties, as published in the *Federal Register* on December 12, 2000 (65 FR 77725-77739) and amended on July 6, 2004 (69 FR 40544-40555), I am providing Consultation Comments for the following proposed undertaking:

**Union and Middlesex Counties
Phase IA Cultural Resources Surveys
Rahway River Flood Risk Management and Ecosystem Restoration Project
United States Department of the Army, Corps of Engineers**

Thank you for submitting the following cultural resources reports, received at the Historic Preservation Office (HPO) on October 19, 2012 for the above-referenced undertaking:

Nolte, Kelly, Donald Smith, Mark A. Steinback, and Michael A. Cinquino
2012 *Phase IA Cultural Resources Investigation for the Rahway River Flood Risk Management and Ecosystem Restoration Project, Townships of Cranford, Springfield, Union and Westfield, and Borough of Kenilworth, Union County, New Jersey.* Prepared for David Miller & Associates, Inc. Vienna Virginia. Prepared by Panamerican Consultants, Inc. Buffalo, New York.

And

Nolte, Kelly, Donald Smith, Mark A. Steinback, and Michael A. Cinquino
2012 *Reconnaissance-Level Cultural Resources Investigation for the Rahway River Flood Risk Management and Ecosystem Restoration Project, Robinson's Branch Section, Township of Clark and City of Rahway, Union County, and Township of Woodbridge, Middlesex County, New Jersey*. Prepared for David Miller & Associates, Inc. Vienna Virginia.
Prepared by Panamerican Consultants, Inc. Buffalo, New York.

800.4 Identification of Historic Properties

*Phase IA Cultural Resources Investigation
Townships of Cranford, Springfield, Union, and Westfield, and Borough of Kenilworth*

According to the above-referenced report, the United States Army Corps of Engineers is considering several alternatives for the Rahway River Flood Risk Management and Ecosystem Restoration Project, in Union County. The alternatives being considered include: 1) No action; 2) Non-structural measures; 3) Modification of channels, bridges, and the Lenape Detention Basin; 4) Modifications and changes to levees and the Lenape Detention Basin; 6) Alterations to bridges, channels, and the Orang Reservoir; 7) Modifications to channels, bridges, and the South Mountain Reservoir. The report states that the current report addresses alternative 3 and 5, as well as the portions of alternatives 2, 4, 6, 7, and 8 that overlap with alternatives 3 and 5. In addition, the report states that Echo Lake Park, the Orange Reservoir, and the South Mountain Reservoir are parts of alternatives 4, 6, 7, and 8 and are outside the current project area. As a result, these areas will be addressed in a forthcoming investigation which will also include the areas in alternatives 3 and 5 not surveyed as part of this report.

Archaeology

According to the above-referenced reconnaissance-level report, background research has indicated that the entire area of potential effects (APE) for the Rahway River Flood Risk Management and Ecosystem Restoration is sensitive for both Native American and Historic archaeological historic properties. In light of this, the report recommends that once a specific design alternative is chosen, the entire project area should be subjected to Phase IB archaeological survey if the design alternative includes ground disturbing activities in the APE outlined in this report. The report states that Phase IB testing should include a program of standard-interval shovel testing where project activities will have below-ground impacts, as well as the development and implementation of a program for deep-testing in portions of the APE where the ground surface has been artificially elevated. *The HPO concurs with these recommendations.*

The HPO looks forward to continued consultation to identify, evaluate, avoid, and/or mitigate any project impacts on archaeological historic properties, pursuant to Section 106 of the National Historic Preservation Act.

Architecture

The consultant should address the boundaries of the North Cranford Historic District using survey forms. The recommendations section of the cultural resources report notes 44 resources are newly identified as contributing to the North Cranford Historic District, however survey forms were not provided. The HPO looks forward to receiving survey forms for the recommended contributing properties to conclude identification efforts.

The Union County Park system is recognized as a large discontinuous historic district, several Union County Parks lack individualized attention to eligibility as they were assessed as a system of Olmstead designed parks. Depending on the parks within the APE the HPO may need further information on the individual parks, their current configuration/condition, historic conditions, and their character defining features.

Reconnaissance-Level Cultural Resources Investigation, Robinson's Branch Section Township of Clark, City of Rahway, and Township of Woodbridge

According to the report, the information detailed in this reconnaissance-level survey report includes additional measures along the Robinson's Branch of the Rahway River being considered for the Rahway River Flood Risk Management and Ecosystem Restoration project.

Archaeology

According to the above-referenced reconnaissance-level report, background research has indicated that the entire area of potential effects (APE) for the Rahway River Flood Risk Management and Ecosystem Restoration is sensitive for both Native American and Historic archaeological historic properties. In light of this, the report recommends that once a specific design alternative is chosen, the entire project area should be subjected to Phase IB archaeological survey if the design alternative includes ground disturbing activities in the APE outlined in this report. The report states that Phase IB testing should include a program of standard-interval shovel testing where project activities will have below-ground impacts, as well as the development and implementation of a program for deep-testing in portions of the APE where the ground surface has been artificially elevated. *The HPO concurs with these recommendations.*

The HPO looks forward to continued consultation to identify, evaluate, avoid, and/or mitigate any project impacts on archaeological historic properties, pursuant to Section 106 of the National Historic Preservation Act.

Architecture

In order to conclude 800.4 Identification of historic properties the HPO looks forward to reviewing survey forms for the following properties within the APE:

Wheatena Company/Corporation properties
Quinn and Boden Inc.

St. Mary's Roman Catholic Church
Rahway Public Cemetery
Industrial District-Elizabeth Avenue
Robinson's Branch Sign (and other NJDOT signage)
Hazel Wood Cemetery
Potential historic district at St. George and Grand Avenues

We also look forward to receiving new survey forms presenting updated information on the Lower Rahway Historic District, as suggested in the report. In addition to that updated information, the SHPO opinion for the Regina Historic District is rather dated and needs current survey forms.

As mentioned above, although the Union County Park system is recognized as a large discontinuous historic district, several Union County Parks lack individualized attention to eligibility as they were assessed as a system of Olmstead designed parks. Depending on the parks within the APE the HPO may need further information on the individual parks, their current configuration/condition, historic conditions, and its character defining features.

Additional Comments

Thank you for providing the opportunity to review and comment on the potential for the above-referenced project to affect historic properties. The HPO looks forward to further consultation with the Army Corps of Engineers regarding the further development and implementation of the proposed project. If additional consultation with the HPO is needed for this undertaking, please reference the HPO project number 13-0094 in any future calls, emails, or written correspondence to help expedite your review and response. Please do not hesitate to contact Jesse West-Rosenthal (609-684-6019) of my staff with any questions regarding archaeology or Michelle Hughes (609-984-6018) of my staff with questions regarding historic architecture.

Sincerely,



Daniel D. Saunders
Deputy State Historic
Preservation Officer

Cc: Carissa Scarpa - USACE



DEPARTMENT OF THE ARMY
NEW YORK DISTRICT, CORPS OF ENGINEERS
JACOB K. JAVITS FEDERAL BUILDING
26 FEDERAL PLAZA
NEW YORK, N.Y. 10278-0090

Reply to
Environmental Analysis Branch

August 14, 2013

Mr. Daniel Saunders
Deputy State Historic Preservation Officer
Historic Preservation Office
New Jersey Department of Environmental Protection
CN 404
Trenton, NJ 08625-0404

Re: HPO-K2012-106
13-0094-1
Rahway River Flood Risk Management and Ecosystem Restoration Project

Dear Mr. Saunders:

Thank you for your letter, dated November 16, 2012 in which you provided Section 106 consultation comments on the draft reports *Phase IA Cultural Resources Investigation for the Rahway River Flood Risk Management and Ecosystem Restoration Project, Townships of Cranford, Springfield, Union and Westfield, and Borough of Kenilworth, Union County, New Jersey* and *Reconnaissance-Level Cultural Resources Investigation for the Rahway River Flood Risk Management and Ecosystem Restoration Project, Robinson's Branch Section, Township of Clark and City of Rahway, Union County, and Township of Woodbridge, Middlesex County, New Jersey*. The U.S. Army Corps of Engineers, New York District (District), has reviewed the HPO's comments and has made an effort to address them briefly here and in the final draft of the reports enclosed with this letter (Enclosures).

Phase IA Cultural Resources Investigation for the Rahway River Flood Risk Management and Ecosystem Restoration Project, Townships of Cranford, Springfield, Union and Westfield, and Borough of Kenilworth, Union County, New Jersey

The HPO has requested survey forms for all of the properties recommended as eligible for the National Register of Historic Places, specifically those that are considered contributing elements to the North Cranford Historic District (NCHD). Considering the early planning phase of the current project and the Cranford Historic Preservation Board's (CHPB) present work of redefining the boundaries of the NCHD, the revised report has incorporated survey forms for only those NCHD properties that were identified as a result of this survey so that the forms may be added to your records. Section 5.1.4.1 of the report lists all of the resources within the NCHD and their recommended eligibility status as it was determined by either the architectural historian

or the CHPB. As the Rahway River Flood Risk Management Project progresses, an alternative will be selected and it will be clear which resources will be impacted by the selected alternative. At that time the Corps shall carry out any additional work in consultation with your staff to determine the specific impacts and to reduce or avoid such impacts.

Reconnaissance-Level Cultural Resources Investigation, Robinson's Branch Section, Township of Clark, City of Rahway, and Township of Woodbridge

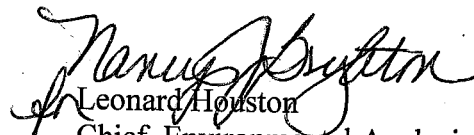
The HPO has requested survey forms for a number of resources recommended eligible for National Register of Historic Places. Because the Corps is still in an early planning phase and no specific alternatives have been proposed this reconnaissance-level survey was not designed as a formal architectural survey but instead was intended to identify known historic resources and archaeological sites within the study area. The District shall carry out a formal architectural survey when an alternative is identified to determine the potential impacts that alternative may have on significant resources.

The HPO has also suggested that many of the individual parks within the Rahway River Parkway Historic District and the Union County Parks Historic District have not been evaluated for their eligibility as individual properties. This will also be addressed at a later date when an alternative is selected and the District has identified which parks will be impacted by the selected alternative.

Finally, please note that the archaeological site registration form for PCI-RAHWAY-1 has been filed with the New Jersey State Museum, Bureau of Archaeology and Ethnology.

Thank you for your assistance in the Section 106 process. If you or your staff require additional information or have any questions, please contact Carissa Scarpa, Project Archaeologist at (917) 790-8612.

Sincerely,


Leonard Houston
Chief, Environmental Analysis Branch

Enclosures



DEPARTMENT OF THE ARMY
NEW YORK DISTRICT, CORPS OF ENGINEERS
JACOB K. JAVITS FEDERAL BUILDING
26 FEDERAL PLAZA
NEW YORK, N.Y. 10278-0090

Reply to
Environmental Analysis Branch

August 14, 2013

Daniel J. Bernier, Director
Division of Parks Planning & Environmental Services
Union County Department of Parks & Community Renewal
2325 South Avenue
Scotch Plains, NJ 07076

Dear Mr. Bernier:

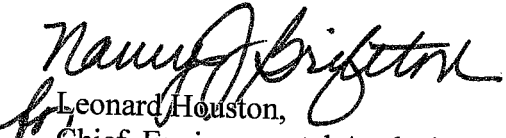
The U.S. Army Corps of Engineers, New York District (Corps)) is please to furnish you with digital copies of the reports *Phase IA Cultural Resources Investigation for the Rahway River Flood Risk Management and Ecosystem Restoration Project, Townships of Cranford, Springfield, Union and Westfield, and Borough of Kenilworth, Union County, New Jersey and Reconnaissance-Level Cultural Resources Investigation for the Rahway River Flood Risk Management and Ecosystem Restoration Project, Robinson's Branch Section, Township of Clark and City of Rahway, Union County, and Township of Woodbridge, Middlesex County, New Jersey (Enclosure)*. These surveys were carried out as part of the feasibility phase of the Rahway River Flood Risk Management and Ecosystem Restoration Project.

The Phase IA investigation was partially an update to a cultural resources survey conducted in 1977. The current survey enumerated all previously identified cultural resources, identified areas of archaeological sensitivity, and identified above-ground cultural resources within the areas of potential effect (APE). The survey identified 124 architectural resources and four National Register-eligible (NRE) historic districts as well as one archaeological site and made recommendations for archaeological testing. The Robinson's Branch Reconnaissance survey was also an update to a survey conducted in 1983. It consisted of enumerating all previously-identified cultural resources within the study area, assessment of archaeological sensitivity, and a reconnaissance-level assessment of above-ground cultural resources. The survey identified six National Register-eligible historic districts and a number of individual resources and made recommendations for archaeological testing.

The Corps is considering a number of alternatives for flood risk management along the Rahway River and Robinson's Branch, some which may impact the historic resources identified in these studies. The Corps is looking forward to the opportunity to consult with the Union County Department of Parks as the project moves forward. Please retain these reports for your

records and if you wish to share information or have questions or suggestions pertaining to our proposed work and the resources of concern please contact Ms. Carissa Scarpa, Project Archaeologist, at (917)790-8612.

Sincerely,


Leonard Houston,
Chief, Environmental Analysis Branch

Enclosure



DEPARTMENT OF THE ARMY
NEW YORK DISTRICT, CORPS OF ENGINEERS
JACOB K. JAVITS FEDERAL BUILDING
26 FEDERAL PLAZA
NEW YORK, N.Y. 10278-0090

Reply to
Environmental Analysis Branch

August 16, 2013

Maureen Strazdon, Chair
Cranford Historic Preservation Advisory Board
208 Holly St.
Cranford, NJ 07016

Dear Ms. Strazdon:

The U.S. Army Corps of Engineers, New York District (Corps) is please to furnish you with a copy of the report *Phase IA Cultural Resources Investigation for the Rahway River Flood Risk Management and Ecosystem Restoration Project, Townships of Cranford, Springfield, Union and Westfield, and Borough of Kenilworth, Union County, New Jersey (Enclosure)*. This survey was carried out as part of the feasibility phase of the Rahway River Flood Risk Management and Ecosystem Restoration Project.

The Phase IA investigation was partially an update to a cultural resources survey conducted in 1977. The current survey enumerated all previously identified cultural resources, identified areas of archaeological sensitivity, and identified above-ground cultural resources within the areas of potential effect (APE). The survey identified 124 architectural resources and four National Register-eligible (NRE) historic districts as well as one archaeological site and made recommendations for archaeological testing.

The Corps is considering a number of alternatives for flood risk management along the Rahway River and Robinson's Branch, some which may impact the historic resources identified in these studies. The Corps is looking forward to the opportunity to consult with the Cranford Historic Preservation Advisory Board as the project moves forward. Please retain this report for your records and if you wish to share information or have questions or suggestions pertaining to our proposed work and the resources of concern please contact Ms. Carissa Scarpa, Project Archaeologist, at (917)790-8612.

Sincerely,

Leonard Houston,
Chief, Environmental Analysis Branch

Enclosure



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT
JACOB K. JAVITS FEDERAL BUILDING
26 FEDERAL PLAZA
NEW YORK NY 10278-0090

REPLY TO
ATTENTION OF

May 17, 2016

Environmental Analysis Branch

Mr. Daniel Saunders
Deputy State Historic Preservation Officer
Historic Preservation Office
New Jersey Department of Environmental Protection
CN 404
Trenton, NJ 08625-0404

RE: HPO K-2012-106
13-0094-1
Rahway River Flood Risk Management and Ecosystem Restoration Project

Dear Mr. Saunders,

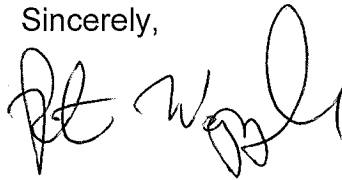
The U.S. Army Corps of Engineers, New York District (District) is continuing to evaluate alternatives for the Rahway River Flood Risk Management and Ecosystem Restoration Project. Recently, the District carried out two reconnaissance level cultural resources investigations to determine the presence of potentially significant cultural resources within the Area of Potential Effect (APE) for a number of alternatives being considered at the time. The resulting reports, entitled *Phase IA Cultural Resources Investigation of the Rahway River Flood Risk Management and Ecosystem Restoration Project, Townships of Cranford, Springfield, Union and Westfield, and Borough of Kenilworth, Union County, New Jersey and Reconnaissance-Level Cultural Resources Investigation for the Rahway River Flood Risk Management and Ecosystem Restoration Project, Robinson's Branch Section, Township of Clark and City of Rahway, Union County, and Township of Woodbridge, Middlesex County, New Jersey*, were submitted to your office for review in October of 2012. The surveys identified resources within the study areas that are either listed or are eligible for listing on the National Register of Historic Places (NRHP). In addition, many previously unidentified cultural resources were identified as potentially eligible for listing on the NRHP as a result of these investigations.

At this time a number of the alternatives under consideration include modifications to the Orange Reservoir and Dam, located in West Orange, New Jersey, for flood water storage. The District has carried out a survey of the Orange Reservoir in order to assess the reservoir's significance and eligibility for listing on the NRHP and a brief report has been prepared which summarizes the results of that survey (Enclosed).

Research was conducted at the New Jersey State Museum (NJSM), the New Jersey Historic Preservation Office (NJHPO), the West Orange Public Library, and Essex County's Department of Parks, Recreation, and Cultural Affairs.

The District would welcome the NJHPO's comments and recommendations in accordance with 36 CFR 800.4. Should the selected project alternative include modifications to the Orange Reservoir, the District will carry out additional work, in consultation with your office, in order to determine the potential impacts of the project and to avoid impacts to this resource. Thank you for your assistance in the Section 106 process. If you or your staff require additional information or have any questions, please contact Carissa Scarpa, Project Archaeologist at (917) 790-8612.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Weppeler", written in a cursive style.

Peter Weppeler
Chief, Environmental Analysis Branch

Enclosures



State of New Jersey

MAIL CODE 501-04B

DEPARTMENT OF ENVIRONMENTAL PROTECTION

NATURAL & HISTORIC RESOURCES

HISTORIC PRESERVATION OFFICE

P.O. Box 420

Trenton, NJ 08625-0420

TEL. (609) 984-0176 FAX (609) 984-0578

CHRIS CHRISTIE

Governor

BOB MARTIN

Commissioner

KIM GUADAGNO

Lt. Governor

June 23, 2016

Peter M. Wepler
Chief, Environmental Analysis Branch
U.S. Army Corps of Engineers
New York District
Jacob K. Javits Federal Building
New York, New York 10278-0090

Dear Mr. Wepler:

As Deputy State Historic Preservation Officer for New Jersey, in accordance with 36 CFR Part 800: Protection of Historic Properties, as published in the *Federal Register* on December 12, 2000 (65 FR 77725-77739) and amended on July 6, 2004 (69 FR 40544-40555), I am providing continuing Consultation Comments for the following proposed undertaking:

**Essex County, West Orange Township
Orange Reservoir and Dam
Rahway River Flood Risk Management and Ecosystem Restoration Project
United States Department of the Army, Corps of Engineers**

800.4 Identification of Historic Properties

Thank you for providing the Historic Preservation Office (HPO) with the opportunity to review and comment on the potential for the above-referenced project to affect historic properties. These comments are in response to the following Phase I cultural resources survey report, received at this office on May 24, 2016, for the above-referenced undertaking:

Scarpa, Carissa

2016 *Phase I Cultural Resources Investigation of the Orange Reservoir and Dam, West Orange, Essex County, New Jersey for the Rahway River Flood Risk Management and Ecosystem Restoration Project.* Prepared by the United States Department of the Army, Corps of Engineers, New York District.

According to the above-referenced report, the Orange Reservoir and Dam are located along the Rahway River in West Orange Township, Essex County. The reservoir is surrounded to the east, south and west by the South Mountain Reservation Historic District, which was determined eligible for listing on the New Jersey and National Registers of Historic Places on November 18, 2008. The report states that the

Orange Reservoir Dam was built in 1883 during a period of intense urbanization in northeastern New Jersey in the late 19th century. The reservoir supplied 1.7 million gallons of gravity-fed water to the City of Orange along a 16-inch pipeline over a distance of 170,811 feet. This source of water supplied 183 street hydrants for fire protection and later drinking water. Use of the reservoir for water supply was discontinued in 1999.

According to the report, improvements were made to the reservoir and dam in 1958 and again in 1995. Improvements made in 1958 included raising the spillway one foot, placement of a four inch reinforced concrete slab on the downstream spillway apron and placement and grouting of riprap on the upper portion of the upstream face of the dam. Other modifications that predated 1958 but which do not appear on the 1958 plans included placing fill on the eastern side of the dam adjacent to the spillway, construction of a dike along the spillway channel, addition of a by-pass valve, stilling chamber and screens for the water supply outlet, and introduction of an aerator. The 1958 plans also indicate that the reservoir was also lined with a masonry wall. In 1995, improvements included repairing the existing concrete spillway and retaining wall and armoring of the downstream face of the dam with gabion lining. Additional work was carried out on the crest of the dam including clearing trees and vegetation and repaving the surface of the dam crest. During this work, the gatehouse was demolished and the brick masonry pipe gallery under the dam was filled with pea gravel.

Based on background research regarding the Orange Reservoir and Dam, as well as site inspection, the report concludes that although the reservoir and dam have been subject to recent modifications, including repair and reshaping of the embankments and the spillway as well as the demolition of the gate house, the core of the dam and most of the original embankment remain in the same configuration. Additionally, the intake structure, pipes and pipe gallery remain in situ and the stone masonry retaining wall along the banks of the reservoir is found to be in good condition. The report recommends that the Orange Reservoir and Dam is eligible for listing on the New Jersey and National Registers of Historic Places under Criterion A for its connection to the rapid development of suburbs in New Jersey and the transition of the area from rural to suburban. The report also states that the Orange Reservoir and dam are significant under Criterion D for its potential to yield valuable information pertaining to the construction and operation of the dam. *The HPO does not have enough information to concur with assessment at this time.*

Based on the information presented, the HPO finds that additional information and clarifications are needed before the HPO can reach a conclusion regarding the eligibility of the property for listing on the New Jersey and National Registers of Historic Places. Specific questions the HPO has include:

- How does the Orange Reservoir and Dam compare to other reservoirs and dams in New Jersey of this period? New Jersey has at least 4 other reservoirs/dams that have been determined eligible for or are listed on the New Jersey and National Registers of Historic Places that may be used for comparative purposes.
- Why are the Orange Reservoir and Dam significant? What role this the Orange Reservoir and Dam play during its construction and use? Is there anything technologically distinct about the reservoir/dam? Is this the best example of a particular type of engineering and/or construction? Are there any notable people associated with the development of the Orange Reservoir and Dam?
- What was the City of Orange's water supply, prior to the construction of the Orange Reservoir and Dam?
- How does the Orange Reservoir and Dam relate to the South Mountain Reservoir Historic District?

In addition to the questions above, the HPO also recommends contacting the Olmsted Center for Landscape Preservation. The report references that while the Orange Reservoir and Dam were constructed

prior to the development of the ~~South Mountain~~ Mountain Reservation, it was included in the original plans for the park. While the original documentation for the Orange Reservoir and Dam could not be located as part of this review, the Olmsted Center may have more information on the Orange Reservoir and Dam and its original development.

Additional Comments

Report Comments

The following issues were noted with the submitted survey report:

1. The report submitted does not include the qualifications of the authors who prepared the report. At this point in time, it is unclear whether the Principal Investigator sufficiently meets the Secretary of the Interior's Professional Qualifications Standards for archaeology (48 FR 44738-9). The report should include the qualifications of the Principal Investigator, in the form of a resume or curriculum vitae should be included as an appendix. Inclusion of this document will assist the HPO in properly evaluating whether the Principal Investigator sufficiently meets the National Park Service's Professional Qualifications Standards for archaeology. Please submit a copy of the author's resume or curriculum vitae so that it can be appended to the report.
2. The report submitted did not include a digital copy of the report. The HPO requests that a copy of the final report on the data recovery be submitted in PDF format and be included on a CD.

Thank you for providing the opportunity to review and comment on the potential for the above-referenced project to affect historic properties. Please do not hesitate to contact Jesse West-Rosenthal of my staff at (609) 984-6019 with any questions regarding archaeology or Michelle Craren (609) 292-0032 with questions regarding historic architecture. Please reference the HPO project number 13-0094, in any future calls, emails, or written correspondence to help expedite your review and response.

Sincerely,



Katherine J. Marcopul
Deputy State Historic
Preservation Officer

Cc: Carissa Scarpa, USACE

KJM/MMB/JWR



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT
JACOB K. JAVITS FEDERAL BUILDING
26 FEDERAL PLAZA
NEW YORK NY 10278-0090

REPLY TO
ATTENTION OF

August 12, 2016

Environmental Analysis Branch

Ms. Katherine Marcopul
Deputy State Historic Preservation Officer
Historic Preservation Office
New Jersey Department of Environmental Protection
CN 404
Trenton, NJ 08625-0404

RE: HPO K-2012-106
13-0094-1
Rahway River Flood Risk Management and Ecosystem Restoration Project

Dear Ms. Marcopul,

Thank you for providing Section 106 consultation comments regarding the report, titled *Phase I Cultural Resources Investigation of the Orange Reservoir and Dam, West Orange, Essex County, New Jersey for the Rahway River Flood Risk Management and Ecosystem Restoration Project*. As you know, the U.S. Army Corps of Engineers, New York District (District) has been evaluating a number of alternatives for flood risk management including modifications to the Orange Reservoir and Dam. The survey evaluated the Orange Reservoir and Dam for archaeological sensitivity and National Register of Historic Places (NRHP) eligibility. The report concluded that the Orange Reservoir and Dam was eligible for the National Register of Historic Places (NRHP) under Criterion A for its connection to the rapid development of suburbs in New Jersey and the transition of the area from rural to suburban and Criterion D for its potential to yield valuable information pertaining to the construction and operation of the dam. The New Jersey State Historic Preservation Office (HPO) has indicated that in order to concur with this assessment additional information is required. The District concurs with the HPO's recommendation that additional information and clarifications are needed to reach a determination of eligibility.

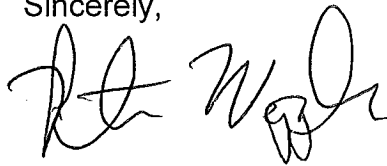
Modification to the Orange Reservoir and Dam along with channel modification along the Rahway River in Cranford, NJ has recently been identified by the District as the Tentatively Selected Plan (TSP) and the District is proceeding with preparation of an Environmental Impact Statement (EIS) in accordance with the National Environmental

Policy Act (NEPA) to address environmental impacts. Due to funding and scheduling constraints, additional research on the Orange Reservoir and Dam will not be carried out at this time, therefore, the District has revised its recommendations regarding the property to potentially eligible for the NRHP.

In accordance with the Section 106 of the National Historic Preservation Act of 1966, as amended, the District is in the process of preparing a Programmatic Agreement (PA) for the Rahway River Fluvial Flood Risk Management Project that will be coordinated with the HPO, Federally Recognized Tribes, and local interested parties. The PA will outline in detail the activities and tasks that must be carried out to conclude identification of significant resources, determine adverse effects and mitigate for those adverse effects. These activities include carrying out additional archaeological and architectural investigations based on the locations of project elements in coordination and consultation with the HPO, interested parties and Federally Recognized Tribes. The District shall include stipulations in the PA for carrying out an intensive-level architectural survey of the Orange Reservoir and Dam.

Enclosed is a revised copy of the draft report. As requested, the report includes a copy of the author's resume and a digital copy of the report. Thank you for your assistance in the Section 106 process. If you or your staff require additional information or have any questions, please contact Carissa Scarpa, Project Archaeologist at (917) 790-8612.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter Weppeler', with a stylized, cursive script.

Peter Weppeler
Chief, Environmental Analysis Branch

Enclosures

Appendix C – Draft Programmatic Agreements

DRAFT
PROGRAMMATIC AGREEMENT
AMONG
THE U. S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT
AND
THE NEW JERSEY STATE HISTORIC PRESERVATION OFFICE
REGARDING
THE RAHWAY RIVER FLUVIAL FLOOD RISK MANAGEMENT PROJECT
CRANFORD SECTION
UNION COUNTY, NEW JERSEY

WHEREAS, the U.S. Army Corps of Engineers, New York District, (New York District) plans to carry out the Rahway River Fluvial Flood Risk Management Project (Undertaking) pursuant to the U.S. House of Representatives Resolution Docket 2548, adopted 24 March 1998; and

WHEREAS, the Undertaking consists of two sections, the Cranford section that is the subject of this PA and the Robinson's Branch section that is addressed in another Programmatic Agreement; and

WHEREAS, the Undertaking for the Cranford section, the details of which have not been finalized at this time, consists of channel modification along the Rahway River in Cranford and modification to the Orange Reservoir and Dam in West Orange, NJ (Appendix A); and

WHEREAS, the New York District has defined the "Area of Potential Effect" (APE) for this Undertaking to consist of the areas of channel modification within the Rahway River, the Orange Reservoir and Dam, permanent easements along the banks of the channel and near the Orange Reservoir and Dam and any construction staging and mitigation areas associated with the Undertaking; and

WHEREAS, the New York District is applying the National Register of Historic Places (NRHP) Criteria to properties identified within the APE on a phased basis, and to date has completed a Phase IA cultural resources survey within the APE with the recognition that additional identifications and evaluations are required for project actions which have not yet been finalized (Appendix B); and

WHEREAS, the New York District has conducted a survey of the Orange Reservoir and Dam and has determined that it is potentially eligible for the National Register of Historic Places (NRHP); and

WHEREAS, the APE overlaps with portions of the North Cranford Historic District, the Rahway River Parkway Historic District, the Union County Park System Historic District, and the Central New Jersey Main Line Corridor Historic District as well as many other NRHP-eligible and potentially eligible historic resources; and

WHEREAS, the New York District has determined that the Undertaking has the potential to have an adverse effect on the identified historic properties and districts within the APE; and

WHEREAS, the New York District has not carried out the surveys necessary to conclude identification of historic properties for the selected alternative; and

WHEREAS, the New York District has invited the Advisory Council on Historic Preservation (ACHP), the Delaware Nation, The Delaware Tribe of Indians, the Shawnee Tribe of Oklahoma, the North Cranford Historic Preservation Advisory Board, the Union County Department of Parks, Planning and Community Renewal, the West Orange Historic Preservation Commission, and the Essex County Department of Parks, Recreation, and Cultural Affairs to participate in the Section 106 process; and

WHEREAS the New York District plans to make this Draft PA available for public review in the Draft Environmental Impact Statement prepared under the National Environmental Policy Act which will serve as the District's Section 106 public coordination for this undertaking; and

WHEREAS, the New York District shall implement the provisions of this PA as funding for the Undertaking is appropriated in future years; and

WHEREAS, in accordance with 36 CFR Part 800.14, the New York District and the NJSHPO have determined that execution of this PA will establish alternative procedures to streamline the coordination of the Project as plans are developed and the project moves forward; and

NOW, THEREFORE, the New York District and the signatories agree that the Undertaking shall be administered in accordance with the following stipulations to satisfy the New York District's Section 106 responsibilities for all individual actions of the Undertaking.

Stipulations

The New York District shall ensure that the following measures are carried out:

I. IDENTIFICATION AND EVALUATION

- A. Prior to initiation of construction-related activities the New York District, in consultation with the NJSHPO, and the historical societies and the Tribes who have expressed an interest in participating in consultation either as signatories or as concurring parties will design and carry out surveys to complete the identification of historic properties and archaeological sites within the APE.

1. Archaeological Sites

- a. The New York District shall ensure that archaeological surveys within the uninvestigated portions of the APE are conducted in a manner consistent with the Secretary of the Interior's Standards and Guidelines for Identification (48 FR 44720-23) and the NJSHPOs Guidelines for Phase I Archaeological Investigations.
- b. The survey report will be submitted to the NJSHPO and other consulting parties for review and consultation.

2. Traditional Cultural Properties

- a. The New York District will ensure that future surveys within the APE include procedures to identify Traditional Cultural Properties and to consult with Federally Recognized Tribes and other affected parties in accordance with the guidelines provided by National Park Service Bulletin 38, Guidelines for Evaluating and Documenting Traditional Cultural Properties.
- b. In the event that a Federally Recognized Tribe or affected group contacts the New York District regarding its recognition of a Traditional Cultural Property located within the APE, the New York District will notify the NJSHPO to initiate discussions to evaluate whether the property is a Traditional Cultural Property that meets the Criteria.

3. Buildings and Structures

- a. The New York District will ensure that surveys are conducted for buildings and structures in the APE in a manner consistent with the Secretary of the Interior's Standards and Guidelines for Identification (48 FR 44720-23) and which takes into account the statewide historic contexts developed by the NJSHPO. The survey will be conducted following consultation with the NJSHPO and other signatories, and a report of the survey, consistent with the NJSHPO's Guidelines for Architectural Survey, will be submitted to the NJSHPO and all other consulting parties for review and consultation.
- b. The New York District, in consultation with the NJSHPO and the participating historical societies, will identify and evaluate buildings and structures that are located adjacent to listed or eligible NRHP Historic Districts to determine whether such properties should be considered as part of the Historic District or an expanded District.

4. Historic Landscapes and Viewsheds

- a. The New York District will consult with the NJSHPO and participating historical societies to identify and evaluate historic landscapes and viewsheds located within the APE. The New York District will consult National Park Service Bulletins 18, How to Evaluate and Nominate Designed Historic Landscapes, and 30 Guidelines for Evaluating and Documenting Rural Historic Landscapes, National Park Service Preservation Brief 36, Protecting Cultural Landscapes, and other publications and materials made available by the NJSHPO to assist in defining the criteria that should be applied to such properties.
 - b. The objective in conducting the surveys is to identify NRHP listed or potentially eligible historic landscapes and affected viewsheds within the project area that may be adversely affected by the Undertaking, and to determine whether they meet the NRHP criteria set forth in 36 CFR Part 60.4.
- B. The New York District will ensure that qualified professionals meeting the National Park Service professional qualifications for the appropriate discipline [National Park Service Professional Qualification Standards, Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44738-39)] are used to complete all identification and evaluation efforts related to this undertaking, to include geomorphological, palynological, and archaeological surveys and testing, and architectural survey.
- C. The New York District and the NJSHPO shall consider the views of the public and consulting parties in completing its identification and evaluation responsibilities. See Stipulation VI.A., below, for review periods.
- D. Application of Criteria: The New York District, in consultation with the NJSHPO, and participating historical societies will evaluate historic properties using the Criteria established for the NRHP [36 CFR 800.4(c)(1)]:
1. If the New York District and the NJSHPO agree that the Criteria apply or do not apply, in evaluating the NRHP eligibility of a property, the property shall be treated accordingly for purposes of this PA.
 2. If the New York District and the NJSHPO disagree regarding NRHP eligibility, or if the ACHP so requests, prior to the start of any project-related work at the site or in the vicinity of the property, the New York District will obtain a formal Determination of Eligibility (DOE) from the Keeper of the National Register (Keeper), National Park Service, whose determination shall be final.
- E. The New York District will maintain records of all decisions it makes related to the NRHP eligibility and determination of effects on properties.

II. TREATMENT OF HISTORIC PROPERTIES

- A. The New York District will adhere to the following treatment strategies in order to avoid adverse effect to historic properties that have been determined eligible for the NRHP.
1. Avoidance. The preferred treatment is avoidance of effects to historic properties. The New York District will, to the extent feasible, avoid historic properties that have been determine eligible for the NRHP either through project design changes, use of temporary fencing or barricades, realignments, landscaping, or other measures that will protect historic properties. The New York District, the NJSHPO, and participating historical societies shall consult to develop plans for avoiding effects to historic properties. The New York District shall incorporate feasible avoidance measures into project activities as part of the implementation of the Undertaking. If avoidance is determined to be infeasible, the New York District will develop and implement treatment/mitigation plans. Unless the NJSHPO and other consulting parties object within 30 days of receipt of any plan, the New York District will ensure that treatment plans are implemented by the New York District or its representative(s). The New York District will revise plans to address comments and recommendations provided by the NJSHPO and other consulting parties.
 2. Preservation In Place. When the New York District, the NJSHPO, and participating historical societies agree that complete avoidance of historic properties is infeasible, the New York District will explore preservation in place, if appropriate. Preservation in place may entail partial avoidance or protection of historic properties against project-related activities in proximity to the property. The New York District will preserve properties in place through project design, i.e incorporating color, texture, scale, and/or materials which are compatible with the architectural or historic character of the historic property; use of fencing, berms or barricades; and/or preservation of vegetation including mature trees, landscaping and planting which screen the property. If the New York District, in consultation with the NJSHPO and other consulting parties, determines that preservation in place is infeasible, the New York District shall develop and implement mitigation plans consistent with Stipulation III of this PA.
- B. The New York District will ensure that qualified professionals meeting the NPS' professional qualifications for the appropriate discipline [National Park Service Professional Qualification Standards, Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44738-39)] are used to develop and implement all treatment plans.
- C. Buildings and Structures and Districts

The New York District, in consultation with the NJSHPO and participating historical societies, will determine the effect the undertaking will have on NRHP-listed or eligible historic buildings, districts, and structures and ensure that a treatment plan is developed for these properties.

D. Archaeological Sites

1. Archaeological Data Recovery: The District will develop a data recovery plan for archaeological sites eligible solely under NRHP Criterion D which the New York District and the NJSHPO agree cannot be avoided or appropriately preserved in place. The data recovery plan to retrieve significant archaeological information will be developed and implemented by the New York District or its representative(s), following approval from the NJSHPO and prior to the implementation of project-related activities within or in the vicinity of the archaeological sites.
2. The New York District will ensure that the data recovery plan for each eligible site addresses substantive research questions developed in consultation with the NJSHPO, historical societies, and Federally Recognized Tribes, as appropriate. The plan will be consistent with the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation (48 FR 44734-37) and take into account the ACHP's publication, Treatment of Archaeological Properties.
3. The New York District will submit data recovery plans to the NJSHPO and relevant consulting parties for review and approval. The New York District, the NJSHPO and consulting parties shall consult to resolve any objections to the data recovery plan as proposed. The data recovery plan shall then be implemented by the New York District once approved by the NJSHPO. If no response is received from the NJSHPO or any other consulting party after 30 days of receipt of adequate documentation, the New York District may assume concurrence and proceed with implementation of the plan submitted.

E. Historic Landscapes

1. The New York District, in consultation with the NJSHPO and participating historical societies, shall develop a plan to identify and evaluate design alternatives which will avoid, minimize, or compensate for impacts when it is determined that an NRHP-eligible historic landscape will be affected by undertaking activities.
2. Treatment measures for historic landscapes shall consider, in order of priority, preservation, rehabilitation, restoration, reconstruction, and additions in accordance with The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural

III. RESOLUTION OF ADVERSE EFFECTS

- A. When the New York District, in consultation with the NJSHPO and other consulting parties, determines that the Undertaking-related activities cannot adhere to treatment plans developed in accordance with Stipulation II or would otherwise have an adverse effect, the New York District shall:
 - 1. Develop a Standard Mitigation Agreement (SMA) with the NJSHPO and the participating Tribes and historical societies as appropriate; or
 - 2. Consult with the ACHP to develop a Memorandum of Agreement (MOA) in accordance with 36 CFR Part 800.6 (c).
- B. The New York District will invite the ACHP to participate in consultation when:
 - 1. The New York District, other consulting parties, and NJSHPO determine that an agreement or a SMA cannot be reached;
 - 2. a National Historic Landmark is involved;
 - 3. human remains have been identified; or
 - 4. there is widespread public interest in a historic property or properties.
- C. Development of Standard Mitigation Agreements (SMA).
 - 1. The New York District, in consultation with the NJSHPO and other consulting parties, as appropriate, will develop SMAs for NRHP-eligible or listed historic properties that will be adversely affected by the Undertaking. The New York District will submit the SMA to the NJSHPO and consulting parties for review and approval by certified mail. The NJSHPO shall have 30 days from receipt of adequate information in which to review and comment on the SMA(s). If the NJHPO fails to respond within 30 days, or if there is disagreement, the New York District shall notify the ACHP and consult to develop the proposed SMA into an MOA and submit copies of background information and the proposed SMA to facilitate consultation to develop an MOA in accordance with 36 CFR Part 800. After signing by the New York District, the NJSHPO, and other PA signatories as appropriate, the New York District shall file all SMAs with the ACHP.
 - 2. SMAs developed between the New York District, the NJSHPO, and other consulting parties, may include one or more of the following stipulations which

address routine adverse effects that may occur to historic properties as a result of project implementation.

- a. Recordation. The New York District will consult with the NJSHPO or Historic American Building Survey/Historic American Engineering Record (HABS/HAER) to determine the appropriate level and type of recordation for affected resources. For historic properties with state and/or local significance, recordation will be consistent with the requirements and standards of the Department of the Interior (April 2003). All documentation must be submitted to NJHPO and HABS/HAER for acceptance, prior to the initiation of project activities, unless otherwise agreed to by the NJHPO.
- b. Salvage and Donation of Significant Architectural Elements. Prior to demolition, partial demolition, or substantial alteration of historic properties, the New York District, in consultation with the NJSHPO and participating historical societies, will develop a salvage and donation plan to identify appropriate parties willing and capable of receiving and preserving the salvaged significant architectural elements. The New York District shall submit the plans to the NJSHPO and the historical societies for review and approval.
- c. Alternative Treatments or Design Plan which meet the Standards. Prior to demolition, partial demolition, or substantial alteration of historic properties, the New York District, in consultation with the NJSHPO and participating historical societies, will develop a plan identifying protocols for developing treatment guidelines and evaluating design standards for new construction within historic districts in keeping with the Secretary's Standards. The New York District will submit the plans to the NJSHPO and the historical societies for review and approval.
- d. Data recovery for archaeological sites eligible under Criterion D and others and data recovery and treatment of archaeological sites where data recovery will not result in a finding of no adverse effect. The New York District will conduct data recovery on archaeological sites following agreement on the prospective data recovery and treatment plans between the New York District, the NJSHPO, and other consulting parties as appropriate, when the archaeological sites are eligible for National Register inclusion under additional Criteria than Criterion D (for the information which they contain) or when the full informational value of the site cannot be substantially preserved through the conduct of appropriate research to professional standards and guidelines. To the maximum extent feasible, data recovery and treatment plans will be developed prior to construction to take into account and mitigate for the fullest range of archaeological site values and significance. The New York District will submit the plans to the NJSHPO and other consulting parties for review and approval.

- D. The New York District, in consultation with the NJSHPO and other consulting parties, will ensure that all materials and records resulting from the survey, evaluation, and data recovery conducted for the Undertaking will be curated in accordance with 36 CFR Part 79 "Curation of Federally-Owned and Administered Archaeological Collections" and ER 1130-2- 433 "Project Operations: Collections Management and Curation of Archaeological and Historical Data." All material and records recovered from non-Federally owned land will be maintained in accordance with 36 CFR Part 79 until their analysis is complete and, if necessary, are returned to their owner(s).

IV. DISCOVERY

- A. If previously unidentified properties are discovered during Undertaking implementation, the New York District shall cease all work in the vicinity of the discovered property until it can be evaluated pursuant to the guidelines in Stipulation I of this PA. If the property is determined to be eligible, the New York District will consult with the NJSHPO, and other consulting parties to develop a treatment plan or SMA in accordance with Stipulation III of this PA.
- B. The New York District shall implement the treatment plan or SMA once approved by the NJSHPO and consulting parties.

V. TREATMENT OF HUMAN REMAINS:

- A. If any human remains and/or grave-associated artifacts are encountered, the New York District, the NJSHPO, other consulting parties, and Tribes as appropriate shall consult to develop a treatment plan that is responsive to the ACHP's "Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects" (February 23, 2007), the Native American Grave Protection and Repatriation Act, As Amended (PL 101-601, 25 U.S.C. 3001 et seq.) and the U.S. Army Corps of Engineers, Tribal Consultation Policy (October 2013).
- B. Human remains must be treated with the utmost respect and dignity. All work must stop in the vicinity of the find and the site will be secured.
- C. The medical examiner/coroner, local law enforcement, the NJHPO, and Tribes will be notified. The coroner and local law enforcement will determine if the remains are forensic or archaeological in nature.
- D. If the remains are determined to be archaeological in nature a physical anthropologist will be employed to investigate the site to determine whether the remains are Native American or of some other origin.

- E. If the human remains are determined to be Native American they shall be left in place and protected from further disturbance until a treatment plan has been developed and approved by the New York District, NJHPO and Tribes.
- F. If human remains are determined to be non-Native American, the remains will be left in place and protected from further disturbance until a plan for avoidance or removal is developed and approved by the New York District, NJHPO, Federally Recognized Tribes and other parties, as appropriate.
- G. Avoidance of human remains is the preferred treatment.

VI. COORDINATION OF REVIEWS FOR STUDY ACTIVITIES

- A. All plans, documents, reports, and materials shall be submitted by the New York District to the SHPO and other consulting parties as appropriate by certified mail, for a 30 day review period unless otherwise stipulated in this PA. If the NJSHPO and other consulting parties fail to comment within the specified time the New York District shall assume the agencies' concurrence.
- B. When consulting parties are participating in the review of activities or actions outlined in this PA the New York District shall ensure that all consulting parties are provided documentation at the time it is forwarded to the NJSHPO and afforded a 30 day review period. As appropriate, the New York District shall submit the comments of consulting parties to the NJSHPO to facilitate further consultation.
- C. If after consulting with the NJSHPO and consulting parties for a period of 90 days on any action or activity provided for in this PA, the New York District or NJSHPO concludes there is no progress in developing treatment/mitigation plans or other documents required by this PA, the New York District or NJSHPO may notify the ACHP and request the its involvement to expedite completion of the consultation process.
- D. The New York District shall ensure that all submissions to the NJSHPO, consulting parties, and the ACHP include all relevant information to facilitate their review. The New York District shall provide all additional information requested by NJSHPO, consulting parties, or ACHP within a timely manner unless the signatories to this PA agree otherwise.
- E. The New York District shall ensure that all draft and final reports resulting from actions pursuant to the Stipulations of this PA will be provided to the NJSHPO, all other consulting parties to this PA, and will identify the Principal Investigator responsible for the report. All reports will be responsive to contemporary standards, and as appropriate to the Department of the Interior's Format Standards for Final Reports of Data Recovery Programs (42 FR 5377-79) and HPO report standards. Precise locational data may be provided only in a

separate appendix if it appears that its release could jeopardize archaeological sites consistent with National Register Bulletin Number 29, Guidelines for Restricting Information about Historic and Prehistoric Resources.

- F. If the District proposes revisions or addenda to approved treatment/ mitigation plans or other documents, the New York District, the NJSHPO, and other participating parties shall consult to determine whether additional conditions or mitigation measures are appropriate.
- G. The New York District shall certify in writing that all requirements for identification and evaluation, and the implementation of treatment/mitigation plans have been satisfactorily completed prior to the initiation of construction activities for a specified portion of the navigation improvements recommended in the Study. The New York District shall submit a copy of this certification to the NJSHPO and all other consulting parties by certified mail. The NJSHPO and other consulting parties shall have 30 days to object to the certification based on a finding of incomplete compliance or inadequate compliance with the terms of this PA. If the NJSHPO or consulting parties do not object, the District may proceed with construction for the specified segment of the Study.

VII. ADMINISTRATIVE TERMS

A. DISPUTE RESOLUTION

- 1. The New York District will attempt to resolve any disagreement arising from implementation of this PA. If there is a determination that the disagreement cannot be resolved, the New York District will request the ACHP's recommendations or request the comments of the ACHP in accordance with 36 CFR Part 800.6(b).
- 2. Any ACHP recommendations or comments provided in response will be considered in accordance with 36 CFR Part 800.6(b), with reference only to the subject of the dispute. The New York District will respond to ACHP recommendations or comments indicating how the New York District has taken the ACHP's recommendations or comments into account and complied with same prior to proceeding with undertaking's activities that are subject to dispute. Responsibility to carry out all other actions under this PA that are not the subject of the dispute will remain unchanged.
- 3. If the ACHP does not provide its advice regarding the dispute within the thirty (30) calendar day time period, the New York District may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the New York District will prepare a written response that takes into account any timely comments regarding the dispute from the consulting

parties to the MOA, and provide them and the ACHP with a copy of such written response.

B. Public Involvement

1. In consultation with the NJSHPO and other consulting parties, the New York District will develop a plan to inform potential interested parties of the existence of this Agreement, and the New York District's plan for meeting the terms of this PA. Copies of this Agreement and relevant documentation prepared pursuant to the terms of this PA shall be made available for public inspection (information regarding the locations of archaeological sites will be withheld in accordance with the Freedom of Information Act and National Register Bulletin 29, if it appears that this information could jeopardize archaeological sites). Any comments received from the public under this Agreement shall be taken into account by the New York District.
2. Public Objections. The New York District will review and resolve timely substantive public objections. Public objections shall be considered timely when they are provided within the review periods specified in this PA. The New York District shall consult with the NJSHPO and other participating historical societies or Tribes, and as appropriate with the ACHP, to resolve objections. Study actions which are not the subject of the objection may proceed while the consultation is conducted.

C. Monitoring

1. The New York District will prepare annual reports summarizing the status of compliance with the terms of this PA and a summary of the completed activities and the exempt activities for the past year and proposed activities for the next fiscal year. Reports shall be submitted by January 31 of every year. The Annual Reports shall be provided to ACHP, the NJSHPO, and all other consulting parties until the Study-related activities are complete.
2. The ACHP, the NJSHPO, and other consulting parties may request a site visit to follow up on information in the annual report or to monitor activities carried out pursuant to this PA. The ACHP, the NJSHPO, or other consulting party will provide the New York District with 30 days written notice when requesting a site visit unless otherwise agreed. The New York District may also schedule a site visit with the NJSHPO, other consulting parties, and the ACHP at its discretion.

D. Amendments

Any signatory to this PA may request that it be amended, whereupon all the parties will consult in accordance with 36 CFR Part 800.6(b) to consider such amendment.

E. Termination

Any signatory to this PA may terminate it by providing thirty (30) days' notice to the signatories, provided that the signatories will consult during the period prior to termination by certified mail to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the New York District will comply with 36 CFR Parts 800.4 through 800.6 with regard to individual Undertaking actions covered by this Agreement.

F. Sunset Clause

This PA will continue in full force and effect until the construction of the Undertaking is complete and all terms of this PA are met, unless the Project is terminated or authorization is rescinded or a period of seven (7) years from execution of the PA has passed at which time the agreement may be extended as written provided all signatories concur.

G. Anti-Deficiency Act

All requirements set forth in this PA requiring expenditure of funds by the New York District are expressly subject to the availability of appropriations and the requirements of the Anti-Deficiency Act (31 U.S.C. 1341). No obligation undertaken by the New York District under the terms of this PA shall require or be interpreted to require a commitment to extend funds not appropriated for a particular purpose. If the New York District cannot perform any obligation set forth in this PA because of unavailability of funds, that obligation must be renegotiated among the New York District and the consulting parties as necessary.

Execution and implementation of this PA evidences that the New York District has satisfied its Section 106 responsibilities for all individual Undertakings of the Project, and that the New York District has afforded the ACHP an opportunity to comment on the undertaking and its effects on historic properties.

U.S. ARMY CORPS OF ENGINEERS

By: _____ Date: _____
David A. Caldwell
Colonel, U.S. Army
Commander

NEW JERSEY STATE HISTORIC PRESERVATION OFFICE

By: _____ Date: _____
Katherine Marcopul, Deputy State Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____ Date: _____

DELAWARE NATION

By: _____ Date: _____

DELAWARE TRIBE OF INDIANS

By: _____ Date: _____

SHAWNEE TRIBE OF OKLAHOMA

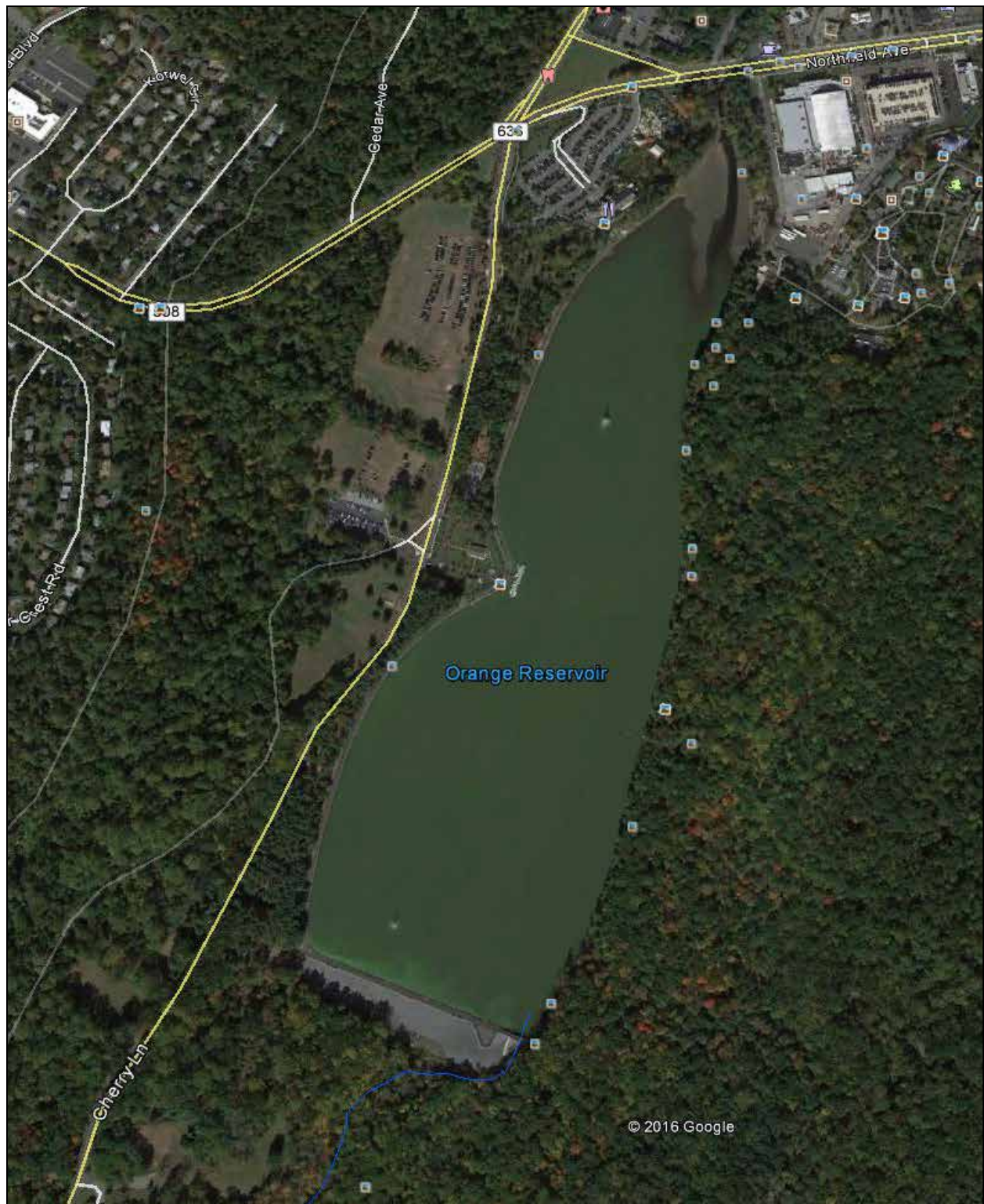
By: _____ Date: _____

Appendix A: Cranford Tentatively Selected Plan
Appendix B: Cultural Resources Survey Areas

APPENDIX A – Cranford Section Plan



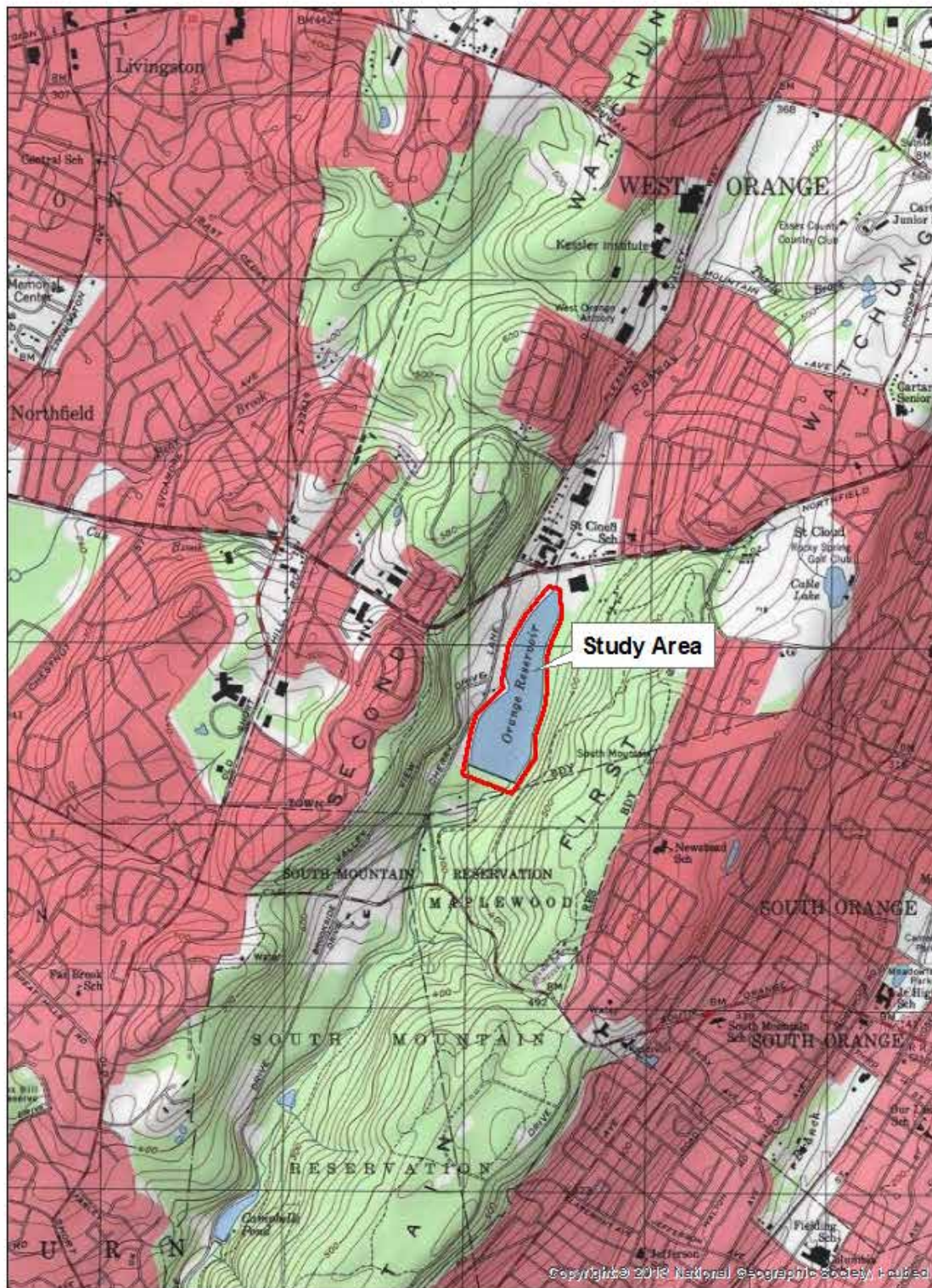
Channel Modification in Cranford, NJ



Modifications to Orange Reservoir and Dam

APPENDIX B – The Phase IA Cultural Resources Survey Study Area for Cranford and Orange Reservoir and Dam





1995 U.S.G.S. 7.7' Quadrangles:
Caldwell, NJ and Roselle, NJ



0 0.2 0.4 0.8 1.2 1.6



Miles

DRAFT
PROGRAMMATIC AGREEMENT
AMONG
THE U. S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT
AND
THE NEW JERSEY STATE HISTORIC PRESERVATION OFFICE
REGARDING
THE RAHWAY RIVER FLUVIAL FLOOD RISK MANAGEMENT PROJECT
ROBINSON'S BRANCH SECTION
UNION COUNTY, NEW JERSEY

WHEREAS, the U.S. Army Corps of Engineers, New York District, (New York District) plans to carry out the Rahway River Fluvial Flood Risk Management Project (Undertaking) pursuant to the U.S. House of Representatives Resolution Docket 2548, adopted 24 March 1998; and

WHEREAS, the Undertaking consists of two sections, the Robinson's Branch section that is the subject of this Programmatic Agreement (PA) and the Cranford section that is addressed in another PA; and

WHEREAS, the Undertaking for the Robinsons' Branch section consists of non-structural flood proofing measures that will be carried out for structures that are located within areas of flooding along the Robinson's Branch of the Rahway River. Non-structural flood-proofing measures are expected to consist of elevating structures, wet-proofing, dry-proofing, and ringwalls, however, may also involve other activities that are undetermined at this time (Appendix A); and

WHEREAS, the New York District has defined the "Area of Potential Effect" (APE) for this Undertaking as consisting of the structures selected for non-structural flood-proofing measures as well as the area surrounding the structures where excavation and staging are planned and areas where ringwalls are planned as well as any additional areas affected by the Undertaking; and

WHEREAS, the New York District is in the process of refining the plan and the exact number and location of the structures that will be receiving treatment is not yet determined; and

WHEREAS, the New York District is applying the National Register of Historic Places (NRHP) Criteria to properties identified within the APE on a phased basis, and to date has completed a Reconnaissance-level cultural resources survey for portions of the APE which will be hereafter referred to as the "Investigated Portion of the APE" with the recognition that when the plan is finalized and individual structures are selected for flood proofing further investigation will be carried out; and

WHEREAS, the New York District has determined that portions of the APE are within historic districts including the Rahway River Parkway Historic District, the Union County Parks System Historic District, the Regina Historic District, the Lower Rahway/Main Street Historic District, and the Pennsylvania RR NY to Philadelphia Historic District; and

WHEREAS, the New York District has determined that many of the structures within the APE are potentially eligible, eligible, or listed on the NRHP either as individual elements or as contributing elements to one or more historic districts; and

WHEREAS, the New York District has determined that the Undertaking has the potential to have an adverse effect on the identified historic properties and districts within the APE; and

WHEREAS, the New York District has not carried out the surveys necessary to conclude identification of historic properties within the APE; and

WHEREAS, the New York District has invited the Advisory Council on Historic Preservation (ACHP), the Delaware Nation, The Delaware Tribe of Indians, the Shawnee Tribe of Oklahoma and the Merchants and Drovers Tavern Museum Association to participate in the Section 106 consultation process; and

WHEREAS the New York District plans to make this Draft PA available for public review in the Draft Environmental Impact Statement prepared under the National Environmental Policy Act which will serve as the District's Section 106 public coordination for this Undertaking; and

WHEREAS, in accordance with 36 CFR Part 800.14, the New York District and the NJSHPO have determined that execution of this PA will establish alternative procedures to streamline the coordination of the Project; and

WHEREAS, the New York District shall implement the provisions of this PA as funding for the Undertaking is appropriated in future years; and

NOW, THEREFORE, the New York District and the NJSHPO agree that the Undertaking will be administered in accordance with the following stipulations to satisfy the New York District's Section 106 responsibility for all individual actions of the Undertaking.

Stipulations

The New York District shall ensure that the following measures are carried out:

I. IDENTIFICATION AND EVALUATION

- A. Prior to initiation of construction-related activities the New York District, in consultation with the NJSHPO, the Tribes, historical societies, and other interested parties will design and carry out surveys to complete the identification of historic properties and archaeological sites within the APE.

1. Archaeological Sites

- a. The New York District shall ensure that archaeological surveys within the APE are conducted in a manner consistent with the Secretary of the Interior's Standards and Guidelines for Identification (48 FR 44720-23) and the NJSHPO's Guidelines for Phase I Archaeological Investigations.
- b. The survey reports will be submitted to the NJSHPO, Tribes, historical societies, and all other consulting parties for review.

2. Traditional Cultural Properties.

- a. The New York District will ensure that future surveys within the APE include procedures to identify Traditional Cultural Properties and to consult with Federally Recognized Tribes and other affected parties in accordance with the guidelines provided by National Park Service Bulletin 38, Guidelines for Evaluating and Documenting Traditional Cultural Properties.
- b. In the event that a Federally Recognized Tribe or affected group contacts the New York District regarding its recognition of a Traditional Cultural Property, located within the APE, the New York District will notify the NJSHPO and the Tribes to initiate discussions with all parties to evaluate whether the property is a Traditional Cultural Property that meets the Criteria.

3. Buildings and Structures

- a. The New York District will ensure that surveys are conducted for buildings and structures in the APE in a manner consistent with the Secretary of the Interior's Standards and Guidelines for Identification (48 FR 44720-23) and which takes into account the statewide historic contexts developed by the NJSHPO. The survey will be conducted following consultation with the NJSHPO, historical societies, and other consulting parties, and a report of the survey, consistent with the NJSHPO's Guidelines for Architectural Survey, will be submitted to all consulting parties for review.

- b. The New York District, in consultation with the NJSHPO, historical societies, and other consulting parties, will identify and evaluate buildings and structures that are located adjacent to listed or eligible NRHP Historic Districts to determine whether such properties should be considered as part of the Historic District or an expanded District.

4. Historic Landscapes and Viewsheds

- a. The New York District will consult with the NJSHPO, historical societies, and all other consulting parties to identify and evaluate historic landscapes and viewsheds located within the APE. The New York District will consult National Park Service Bulletins 18, How to Evaluate and Nominate Designed Historic Landscapes, and 30 Guidelines for Evaluating and Documenting Rural Historic Landscapes, National Park Service Preservation Brief 36, Protecting Cultural Landscapes, and other publications and materials made available by the NJSHPO to assist in defining the criteria that should be applied to such properties.
 - b. The objective in conducting the surveys is to identify NRHP listed or potentially eligible Historic Landscapes and affected View Sheds within the project area that may be adversely affected by the Undertaking, and to determine whether they meet the NRHP criteria set forth in 36 CFR Part 60.4.
- B. The New York District will ensure that qualified professionals meeting the National Park Service professional qualifications for the appropriate discipline [National Park Service Professional Qualification Standards, Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44738-39)] are used to complete all identification and evaluation efforts related to this Undertaking, to include geomorphological, palynological, and archaeological surveys and testing, and architectural survey.
- C. The New York District shall consider the views of the historical societies, all consulting parties, and the public in completing its identification and evaluation responsibilities. See Stipulation VI.A., below, for review periods.
- D. Application of Criteria: The New York District, in consultation with the NJSHPO and historical societies will evaluate historic properties using the Criteria established for the NRHP [36 CFR 800.4(c)(1)]:
- a. If the New York District and the NJSHPO agree that the Criteria apply or do not apply, in evaluating the NRHP eligibility of a property, the property shall be treated accordingly for purposes of this PA.

- b. If the New York District and the NJSHPO disagree regarding NRHP eligibility, or if the ACHP so requests, prior to the start of any project-related work at the site or in the vicinity of the property, the New York District will obtain a formal Determination of Eligibility (DOE) from the Keeper of the National Register (Keeper), National Park Service, whose determination shall be final.
- E. The New York District will maintain records of all decisions it makes related to the NRHP eligibility and determination of effects on properties.

II. TREATMENT OF HISTORIC PROPERTIES.

- A. The New York District will adhere to the following treatment strategies in order to avoid adverse effect to historic properties that have been determined eligible for the NRHP.
 - 1. Avoidance. The preferred treatment is avoidance of effects to historic properties. The New York District will, to the extent feasible, avoid historic properties that have been determined eligible for the NRHP either through project design changes, use of temporary fencing or barricades, realignments, landscaping, or other measures that will protect historic properties. The New York District, in consultation with the NJSHPO, historical societies, and other consulting parties, shall develop plans for avoiding effects to historic properties. The New York District shall incorporate feasible avoidance measures into project activities as part of the implementation of the Undertaking. If avoidance is determined to be infeasible, the New York District will develop and implement treatment/mitigation plans. Unless the NJSHPO, the historical societies, and other consulting parties object within 30 days of receipt of any plan, the New York District will ensure that treatment plans are implemented by the New York District or its representative(s). The New York District will revise plans to address comments and recommendations provided by the NJSHPO and other consulting parties.
 - 2. Preservation In Place. When the New York District and other consulting parties agree that complete avoidance of historic properties is infeasible, the New York District will explore preservation in place, if appropriate. Preservation in place may entail partial avoidance or protection of historic properties against project-related activities in proximity to the property. The New York District will preserve properties in place through project design, i.e. incorporating color, texture, scale, and/or materials which are compatible with the architectural or historic character of the historic property; use of fencing, berms or barricades; and/or preservation of vegetation including mature trees, landscaping and planting which screen the property. If the New York District, in consultation with the NJSHPO and other consulting parties, determines that

preservation in place is infeasible, the New York District shall develop and implement mitigation plans consistent with Stipulation III of this PA.

- B. The New York District will ensure that qualified professionals meeting the NPS' professional qualifications for the appropriate discipline [National Park Service Professional Qualification Standards, Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44738-39)] are used to develop and implement all treatment plans.

C. Buildings and Structures and Districts

The New York District, in consultation with the NJSHPO, historical societies and other consulting parties, will determine the effect the Undertaking will have on NRHP-listed or eligible historic buildings, districts, and structures and ensure that a treatment plan is developed for these properties.

D. Archaeological Sites

1. Archaeological Data Recovery: The District will develop a data recovery plan for archaeological sites eligible solely under NRHP Criterion D which the New York District and the NJSHPO agree cannot be avoided or appropriately preserved in place. The data recovery plan to retrieve significant archaeological information will be developed and implemented by the New York District or its representative(s), following approval from the NJSHPO and in consultation with other consulting parties prior to the implementation of project-related activities within or in the vicinity of the archaeological sites.
2. The New York District will ensure that the data recovery plan for each eligible site addresses substantive research questions developed in consultation with the NJSHPO and Federally Recognized Tribes, as appropriate. The plan will be consistent with the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation (48 FR 44734-37) and take into account the ACHP's publication, Treatment of Archaeological Properties.
3. The New York District will submit data recovery plans to the NJSHPO, the tribes, historical societies and other consulting parties for review and approval. The New York District shall consult to resolve any objections to the data recovery plan as proposed. The data recovery plan will then be implemented by the New York District once approved by the NJSHPO. If no response is received from the NJSHPO or other consulting parties after 30 days of receipt of adequate documentation, the New York District may assume the NJSHPO's and other consulting parties' concurrence and proceed with implementation of the plan submitted.

E. Historic Landscapes

1. The New York District, in consultation with the NJSHPO, historical societies, and other consulting parties, shall develop a plan to identify and evaluate design alternatives which will avoid, minimize, or compensate for impacts when it is determined that an NRHP-eligible historic landscape will be affected by the Undertaking.
2. Treatment measures for historic landscapes shall consider, in order of priority, preservation, rehabilitation, restoration, reconstruction, and additions in accordance with The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes (1996) and Protecting Cultural Landscapes, National Park Service Preservation Brief Number 36.

III. RESOLUTION OF ADVERSE EFFECTS

- A. When the New York District, in consultation with the NJSHPO and other consulting parties, determines that the Undertaking-related activities cannot adhere to treatment plans developed in accordance with Stipulation II or would otherwise have an adverse effect, the New York District shall:
 1. Develop a Standard Mitigation Agreement (SMA) with the NJSHPO and the other signatories; or
 2. Consult with the ACHP to develop a Memorandum of Agreement (MOA) in accordance with 36 CFR Part 800.6 (c).
- B. The New York District will invite the ACHP to participate in consultation when:
 1. The New York District, the NJSHPO, and other signatories, determine that an agreement or a SMA cannot be reached;
 2. a National Historic Landmark is involved;
 3. human remains have been identified; or
 4. there is widespread public interest in a historic property or properties.

- C. The New York District, the NJSHPO, and other consulting parties as appropriate, will consult to develop alternatives to mitigate or minimize adverse effects. The analysis of alternatives shall consider program needs, cost, public benefit and values, and design feasibility.
- D. Development of Standard Mitigation Agreements (SMA).
1. The New York District, in consultation with the NJSHPO and other signatories, as appropriate, will develop SMAs for NRHP-eligible or listed historic properties that will be adversely affected by the Undertaking. The New York District will submit the SMA to the NJSHPO for review and approval by certified mail. The NJSHPO shall have 30 days from receipt of adequate information in which to review and comment on the SMA(s). If the NJHPO fails to respond within 30 days, or if there is disagreement, the New York District shall notify the ACHP and consult to develop the proposed SMA into an MOA and submit copies of background information and the proposed SMA to facilitate consultation to develop an MOA in accordance with 36 CFR Part 800. After signing by the New York District and NJSHPO, the New York District shall file all SMAs with the ACHP.
 2. SMAs developed between the New York District and the NJSHPO may include one or more of the following stipulations which address routine adverse effects that may occur to historic properties as a result of project implementation.
 - a. Recordation. The New York District will consult with the NJSHPO or Historic American Building Survey/Historic American Engineering Record (HABS/HAER) to determine the appropriate level and type of recordation for affected resources. For historic properties with state and/or local significance, recordation will be consistent with the requirements and standards of the Department of the Interior (April 2003). All documentation must be submitted to NJHPO and HABS/HAER for acceptance, prior to the initiation of project activities, unless otherwise agreed to by the NJHPO.
 - b. Salvage and Donation of Significant Architectural Elements. Prior to demolition, partial demolition, or substantial alteration of historic properties, the New York District, in consultation with the NJSHPO, will develop a salvage and donation plan to identify appropriate parties willing and capable of receiving and preserving the salvaged significant architectural elements. The New York District shall submit the plans to the NJSHPO for review and approval.

- c. Alternative Treatments or Design Plan which meet the Standards. Prior to demolition partial demolition, or substantial alteration of historic properties, the New York District, in consultation with the NJSHPO, will develop a plan identifying protocols for developing treatment guidelines and evaluating design standards for new construction within historic districts in keeping with the Secretary's Standards. The New York District will submit the plans to the NJSHPO for review and approval.
 - d. Data recovery for archaeological sites eligible under Criterion D and others and data recovery and treatment of archaeological sites where data recovery will not result in a finding of no adverse effect. The New York District will conduct data recovery on archaeological sites following agreement on the prospective data recovery and treatment plans between the New York District and the NJSHPO when the archaeological sites are eligible for National Register inclusion under additional Criteria than Criterion D (for the information which they contain) or when the full informational value of the site cannot be substantially preserved through the conduct of appropriate research to professional standards and guidelines. To the maximum extent feasible, data recovery and treatment plans will be developed prior to construction to take into account and mitigate for the fullest range of archaeological site values and significance. The New York District will submit the plans to the NJSHPO and other signatories for review and approval.
- E. The New York District, in consultation with the NJSHPO and other signatories, will ensure that all materials and records resulting from the survey, evaluation, and data recovery conducted for the Undertaking will be curated in accordance with 36 CFR Part 79 "Curation of Federally-Owned and Administered Archaeological Collections" and ER 1130-2- 433 "Project Operations: Collections Management and Curation of Archaeological and Historical Data." All material and records recovered from non-Federally owned land will be maintained in accordance with 36 CFR Part 79 until their analysis is complete and, if necessary, are returned to their owner(s).

IV. DISCOVERY

- A. If previously unidentified properties are discovered during Undertaking implementation, the New York District shall cease all work in the vicinity of the discovered property until it can be evaluated pursuant to the guidelines in Stipulation I of this PA. If the property is determined to be eligible, the New York District will consult with the NJSHPO, the Tribes and other consulting parties to develop a treatment plan or SMA in accordance with Stipulation III of this PA.

- B. The New York District shall implement the treatment plan or SMA once approved by the NJSHPO.

V. TREATMENT OF HUMAN REMAINS:

- A. If any human remains and/or grave-associated artifacts are encountered, the New York District, the NJSHPO, other consulting parties and Tribes shall consult to develop a treatment plan that is responsive to the ACHP's "Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects" (February 23, 2007), the Native American Grave Protection and Repatriation Act, As Amended (PL 101-601, 25 U.S.C. 3001 et seq.) and the U.S. Army Corps of Engineers, Tribal Consultation Policy (October 2013).
- B. Human remains must be treated with the utmost respect and dignity. All work must stop in the vicinity of the find and the site will be secured.
- C. The medical examiner/coroner, local law enforcement, the NJHPO, and tribes will be notified. The coroner and local law enforcement will determine if the remains are forensic or archaeological in nature.
- D. If the remains are determined to be archaeological in nature a physical anthropologist will be employed to investigate the site to determine whether the remains are Native American or of some other origin.
- E. If the human remains are determined to be Native American they shall be left in place and protected from further disturbance until a treatment plan has been developed and approved by the New York District, NJHPO and the Tribes.
- F. If human remains are determined to be non-Native American, the remains will be left in place and protected from further disturbance until a plan for avoidance or removal is developed and approved by the New York District, NJHPO, and other consulting parties, as appropriate.
- G. Avoidance of human remains is the preferred treatment.

VI. COORDINATION OF REVIEWS FOR STUDY ACTIVITIES

- A. All plans, documents, reports, and materials shall be submitted by the New York District to the SHPO and signatories by certified mail, for a 30 day review period unless otherwise stipulated in this PA. If the NJSHPO and other signatories fail to comment within the specified time the New York District shall assume the agencies concurrence.

- B. When interested parties are participating in the review of activities or actions outlined in this PA the New York District shall ensure that all interested parties are provided documentation at the time it is forwarded to the SHPO and afforded a 30 day review period. As appropriate, the New York District shall submit the comments of interested parties to the SHPO to facilitate further consultation.
- C. If after consulting with the NJSHPO and consulting parties for a period of 90 days on any action or activity provided for in this PA, the New York District or NJSHPO concludes there is no progress in developing treatment/mitigation plans or other documents required by this PA, the New York District or NJSHPO may notify the Council and request the Council's involvement to expedite completion of the consultation process.
- D. The New York District will ensure that all submissions to the NJSHPO, interested parties, and the Council include all relevant information to facilitate their review. The New York District will provide all additional information requested by NJSHPO, interested parties, or Council within a timely manner unless the signatories to this PA agree otherwise.
- E. The New York District will ensure that all draft and final reports resulting from actions pursuant to the Stipulations of this PA will be provided to the NJSHPO, and upon request, to interested parties and will identify the Principal Investigator responsible for the report. All reports will be responsive to contemporary standards, and as appropriate to the Department of the Interior's Format Standards for Final Reports of Data Recovery Programs (42 FR 5377-79) and HPO report standards. Precise locational data may be provided only in a separate appendix if it appears that its release could jeopardize archaeological sites consistent with National Register Bulletin Number 29, Guidelines for Restricting Information about Historic and Prehistoric Resources.
- F. If the District proposes revisions or addenda to NJSHPO approved treatment/mitigation plans or other documents, the New York District and NJSHPO will consult to determine whether additional conditions or mitigation measures are appropriate.
- G. The New York District will certify in writing that all requirements for identification and evaluation, and the implementation of treatment/mitigation plans have been satisfactorily completed prior to the initiation of construction activities for a specified portion of the navigation improvements recommended in the Study. The New York District shall submit a copy of this certification to the NJSHPO and by certified mail. The SHPO and shall have 30 days to object to the certification based on the NJSHPO's finding of incomplete compliance or inadequate compliance with the terms of this PA. If the NJSHPO does not object, the District may proceed with construction for the specified segment of the Study.

VII. ADMINISTRATIVE TERMS

A. Dispute Resolution

1. The New York District will attempt to resolve any disagreement arising from implementation of this PA. If there is a determination that the disagreement cannot be resolved, the New York District will request the ACHP's recommendations or request the comments of the ACHP in accordance with 36 CFR Part 800.7.
2. Any ACHP recommendations or comments provided in response will be considered in accordance with 36 CFR Part 800.7, with reference only to the subject of the dispute. The New York District will respond to ACHP recommendations or comments indicating how the New York District has taken the ACHP's recommendations or comments into account and complied with same prior to proceeding with undertaking's activities that are subject to dispute. Responsibility to carry out all other actions under this PA that are not the subject of the dispute will remain unchanged.
3. If the ACHP does not provide its advice regarding the dispute within the thirty (30) calendar day time period, the New York District may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the New York District will prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.

B. Public Involvement

1. In consultation with the NYSHPO, the New York District shall develop a plan to inform the interested parties of the existence of this Agreement, and the New York District's plan for meeting the terms of this PA. Copies of this Agreement and relevant documentation prepared pursuant to the terms of this PA shall be made available for public inspection (information regarding the locations of archaeological sites will be withheld in accordance with the Freedom of Information Act and National Register Bulletin 29, if it appears that this information could jeopardize archaeological sites). Any comments received from the public under this Agreement shall be taken into account by the New York District.
2. Public Objections. The New York District shall review and resolve timely substantive public objections. Public objections shall be considered timely when they are provided within the review periods specified in this PA. The New York District shall consult with the relevant SHPO, and as appropriate

with the Council, to resolve objections. Study actions which are not the subject of the objection may proceed while the consultation is conducted.

C. Monitoring

1. The New York District shall prepare annual reports summarizing the status of compliance with the terms of this PA and a summary of the completed activities for the past year as well as ongoing and proposed activities for the next calendar year. Reports shall be submitted by January 31 of every year. The Annual Reports shall be provided to Council, the NJSHPO, and all other consulting parties until the work identified in this PA is complete.
2. The Council and the NJSHPO may request a site visit to follow up information in the annual report or to monitor activities carried out pursuant to this PA. The Council and the NJSHPO shall provide the New York District with 30 days written notice when requesting a site visit unless otherwise agreed. The New York District may also schedule a site visit with the NJSHPO's and the Council at its discretion.

D. Amendments

Any signatory to this PA may request that it be amended, whereupon all the parties will consult in accordance with 36 CFR Part 800.6(b) to consider such amendment.

E. Termination

Any signatory to this PA may terminate it by providing thirty (30) days' notice to the signatories, provided that the signatories will consult during the period prior to termination by certified mail to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the New York District will comply with 36 CFR Parts 800.4 through 800.6 with regard to individual Undertaking actions covered by this Agreement.

F. Sunset Clause

This PA will continue in full force and effect until the construction of the Undertaking is complete and all terms of this PA are met, unless the Project is terminated or authorization is rescinded or a period of seven (7) years from execution of the PA has passed at which time the agreement may be extended as written provided all signatories concur.

G. Anti-Deficiency Act

All requirements set forth in this PA requiring expenditure of funds by the New York District are expressly subject to the availability of appropriations and the requirements of the Anti-Deficiency Act (31 U.S.C. 1341). No obligation undertaken by the New York District under the terms of this PA shall require or be interpreted to require a commitment to extend funds not appropriated for the Undertaking. If the New York District cannot perform any obligation set forth in this PA because of unavailability of funds, that obligation must be renegotiated among the New York District and the signatories as necessary.

Execution and implementation of this PA evidences that the New York District has satisfied its Section 106 responsibilities for all actions associated with the Undertaking, and that the New York District has afforded the ACHP an opportunity to comment on the Undertaking and its effects on historic properties.

U.S. ARMY CORPS OF ENGINEERS

By: _____ Date: _____
David A. Caldwell
Colonel, U.S. Army
Commander

NEW JERSEY STATE HISTORIC PRESERVATION OFFICE

By: _____ Date: _____
Katherine Marcopul, Deputy State Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____ Date: _____

DELAWARE NATION

By: _____ Date: _____

DELAWARE TRIBE OF INDIANS

By: _____ Date: _____

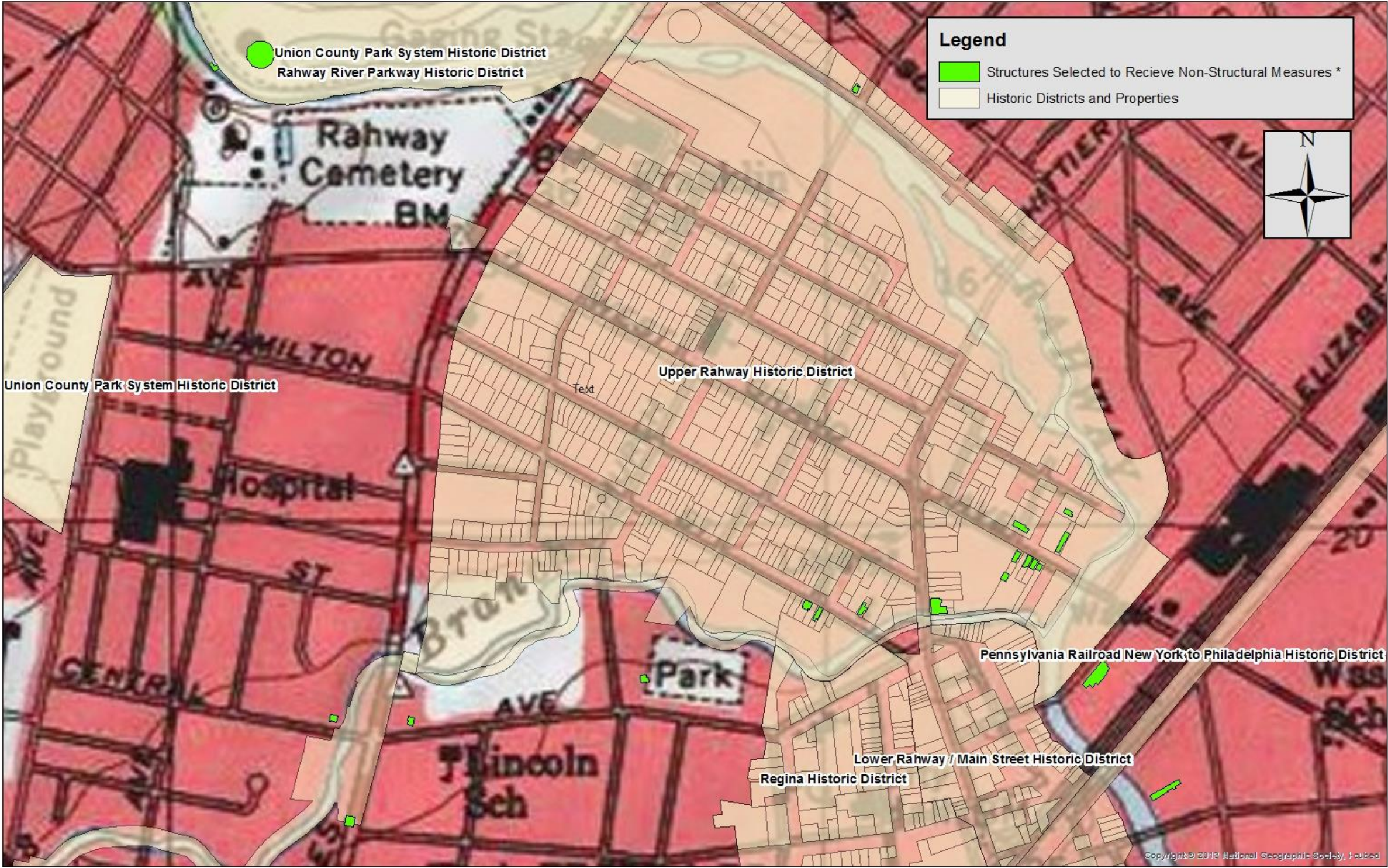
SHAWNEE TRIBE OF OKLAHOMA

By: _____ Date: _____

Appendix A: Robinsons Branch Project Area 100-Year Inundation Area and Historic Resources

Appendix B: Cultural Resources Survey Study Area

Appendix A: Robinson's Branch Project Area Showing Non-Structural Alternative and Historic Resources



* The list of structures is subject to change as plans are developed.

APPENDIX B – Cultural Resources Reconnaissance Study Area

