

**PROGRAMMATIC AGREEMENT
AMONG
THE TENNESSEE VALLEY AUTHORITY, THE ADVISORY COUNCIL ON HISTORIC
PRESERVATION, AND THE STATE HISTORIC PRESERVATION OFFICERS OF ALABAMA,
GEORGIA, KENTUCKY, MISSISSIPPI, NORTH CAROLINA, TENNESSEE, AND VIRGINIA,
AND FEDERALLY RECOGNIZED INDIAN TRIBES, REGARDING UNDERTAKINGS
SUBJECT TO SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT OF 1966**

WHEREAS, the Tennessee Valley Authority (TVA) is a federal agency and instrumentality of the United States, created by and existing pursuant to the TVA Act (1933) to foster the social and economic welfare of the people in the Tennessee River Valley, promote stewardship of the region's natural resources, provide low cost energy, and improve flood control and navigation of the Tennessee River and its tributaries; and,

WHEREAS, TVA operates and maintains the nation's largest public power system, including hydropower, coal, gas, nuclear, solar and wind generation facilities, auxiliary structures, and electrical distribution lines and facilities; and,

WHEREAS, TVA is charged with managing approximately 293,000 acres of public lands, 38,000 acres of power and commercial lands, 30 million square feet of buildings and structures, 470,000 acres of inundated land, 11,000 miles of shoreline, 11,700 archeological sites; and with maintaining approximately 237,000 acres of transmission line rights-of-way (ROW) easements, collectively more than 16,200 circuit miles-; and,

WHEREAS, TVA's approval is required in the form of a permit under Section (§)26a of the TVA Act, 16 *United States Code* [U.S.C.] §831y-1, before the construction, operation, and maintenance of any dam, appurtenant works, or other obstruction affecting navigation, flood control, public lands, or reservations across, along, or in the Tennessee River or its tributaries; and,

WHEREAS, TVA provides economic development and renewable energy programs to qualifying eligible companies or communities; and,

WHEREAS, TVA has obligations under the TVA Act, the National Environmental Policy Act (NEPA), the National Historic Preservation Act of 1966 (NHPA) as amended, the Archaeological Resources Protection Act (ARPA), the Native American Graves Protection and Repatriation Act (NAGPRA), the Historic Sites Act of 1935, the Antiquities Act, the American Indian Religious Freedom Act, the Religious Freedom Restoration Act, Executive Order (EO) 13007 (“Indian Sacred Sites”), EO 13287 (“Preserve America”), EO 13175 (“Consultation and Coordination with Indian Tribal Governments”), and related authorities; and,

WHEREAS, TVA has determined that the operation and maintenance of its power systems, certain land management activities, projects requiring the issuance of 26a permits, and projects funded through grants and funds to third parties, are subject to review under Section 106 of the

NHPA and the regulations implementing Section 106 (36 *Code of Federal Regulations* [C.F.R.] Part 800). Each of these functional groups has numerous associated activities that may affect historic properties; and,

WHEREAS, TVA's undertakings include a large number of activities that have little or no potential to affect historic properties (Appendix A) or have the potential to affect historic properties (as defined under 36 C.F.R. §800.16(l)(1)), but that are similar or repetitive in nature or constitute routine management activities (Appendix B); and,

WHEREAS, 36 C.F.R. §800.14(b)(2) allows federal agencies to develop a Programmatic Agreement (PA) as a program alternative to govern the implementation of an agency's particular program or undertakings; and,

WHEREAS, TVA will use this PA to fulfill its Section 106 responsibilities, as may other federal agencies that designate TVA as the lead federal agency pursuant to 36 C.F.R. §800.2(a)(2) for the activities described in this PA; and,

WHEREAS, the Advisory Council on Historic Preservation (ACHP) has agreed to participate in the development and execution of this PA in accordance with 36 C.F.R. §800.14(b); and,

WHEREAS, TVA has consulted with the state historic preservation officers (SHPOs) of Alabama, Georgia, Kentucky, Mississippi, North Carolina, Tennessee, and Virginia in developing the terms of this PA; and,

WHEREAS, TVA recognizes the unique legal relationship of the federal government with sovereign federally-recognized Indian tribes as set forth in the Constitution of the United States, treaties, statutes, and court decisions; and that consultation with tribes must, therefore, recognize the government-to-government relationship between the federal government and tribes; and,

WHEREAS, TVA acknowledges that federally recognized Indian tribes possess special expertise in assessing the eligibility of historic properties that may possess religious and cultural significance to them, as provided in 36 C.F.R. §800.4(c)(1); and,

WHEREAS, TVA has consulted with those federally recognized Indian tribes that have expressed an interest in TVA's power service area (PSA), viz. Absentee Shawnee Tribe of Indians of Oklahoma, Alabama-Coushatta Tribe of Texas, Alabama-Quassarte Tribal Town, Cherokee Nation, The Chickasaw Nation, The Choctaw Nation of Oklahoma, Coushatta Tribe of Louisiana, Delaware Nation, Eastern Band of Cherokee Indians, Eastern Shawnee Tribe of Oklahoma, Jena Band of Choctaw Indians, Kialegee Tribal Town, Mississippi Band of Choctaw Indians, The Muscogee (Creek) Nation, Osage Nation, Poarch Band of Creek Indians, The Quapaw Tribe of Indians, The Seminole Nation of Oklahoma, Shawnee Tribe, Thlopthlocco Tribal Town, and United Keetoowah Band of Cherokee Indians in Oklahoma; and,

88 WHEREAS, the tribes agreed to participate in the development of this PA and have been invited
89 to be signatories (hereinafter referred to as "Tribal Signatories"); and,

90
91 WHEREAS, this PA will not apply to proposed TVA undertakings located on or affecting historic
92 properties on tribal lands as defined by 36 C.F.R. §800.16(x); and,

93
94 WHEREAS, TVA, ACHP, the SHPOs, and Tribal Signatories (collectively "the Signatories")
95 36 C.F.R. §800.6(c)(2) determined that, pursuant to 36 C.F.R. §§ 800.14(b)(1) and 800.14(b)(2),
96 the requirements of Section 106 can be more effectively and efficiently fulfilled under a PA for
97 activities that are similar and repetitive in nature by stipulating roles and responsibilities and
98 establishing protocols for consultation facilitating the identification and evaluation of historic
99 properties and determination of effects; and,

100
101 WHEREAS, TVA solicited comments from various stakeholders, affected local governments, and
102 the public by posting the draft PA on its public website for a period of at least 30 days, with
103 affirmative advance notice to individuals and organizations with known or anticipated interest in
104 undertakings within TVA's PSA; and,

105
106 WHEREAS, TVA is developing, in consultation, a *Cultural Resources Management Plan* and an
107 inventory of TVA's architectural resources that will further facilitate and support the processes laid
108 out in this PA; and,

109
110 NOW, THEREFORE, the Signatories mutually agree that TVA will meet its responsibilities under
111 Section 106 of the NHPA through implementation of this PA, rather than by following the procedure
112 set forth in 36 C.F.R. §§800.3 through 800.7.

STIPULATIONS

TVA will ensure that the following measures are carried out:

I. Purpose and Need

- A. As TVA's undertakings encompass a diverse set of projects across seven states, this PA identifies procedures that TVA will use to meet its responsibilities under Section 106 for undertakings in TVA's PSA (Appendix C), and to establish an internal review process for such undertakings.
- B. This PA addresses Section 106 NHPA compliance only, and does not address TVA's compliance with Section 110 of NHPA, or with ARPA or NAGPRA.
- C. To increase efficiency, the PA:
 - 1. Identifies categories of activities that are unlikely to affect historic properties if present, and excludes these activities from further review under Section 106. A list of these activities is in Appendix A.
 - 2. Identifies repetitive activities with foreseeable effects to historic properties that require further review by TVA cultural resources staff (CRS). A list of repetitive undertakings requiring further review is in Appendix B.

II. Roles and Responsibilities

- A. TVA: Pursuant to federal responsibilities set out in the NHPA and ACHP regulations at 36 C.F.R. Part 800, TVA shall:
 - 1. Ensure that CRS assessing TVA undertakings under Section 106, including the applicability of the exemptions noted in Appendix B, meet the Secretary of Interior's *Standards and Guidelines for Archaeology and Historic Preservation, Professional Qualifications for Archeologists and/or Historians* (48 FR 44738-44739; SOI Standards). TVA shall meet or exceed these standards in a manner commensurate with: 1) the nature and complexity of the activity, property, or resource being investigated or treated, and 2) the knowledge and expertise needed to complete the work. CRS will ensure that external contractors conducting cultural resource surveys meet SOI standards.
 - 2. Determine the Area of Potential Effects (APE).
 - 3. Make a reasonable and good faith effort to identify historic properties pursuant to 36 C.F.R. §800.4(b). The identification effort will take into account the nature and scale of the undertaking, the degree of federal involvement, the nature and extent of potential effects on historic properties within the APE, and applicable state and tribal

159 guidance. TVA shall ensure that all documentation resulting from undertakings
160 reviewed pursuant to this PA is consistent with the standards in 36 C.F.R. §800.11.

- 161 4. Assess the eligibility of historic properties within an undertaking's APE for listing on
162 the National Register of Historic Places (NRHP), and seek concurrence on eligibility
163 determinations with the appropriate SHPO(s) and tribes.
164
- 165 5. Seek to avoid adverse effects to historic properties, realizing that given TVA's
166 operational requirements, some adverse effect may be unavoidable. If adverse effects
167 cannot be avoided, TVA would develop appropriate minimization or mitigation
168 measures in consultation with the appropriate SHPO(s) and tribes.
169
- 170 6. Provide the Signatories with an annual report, as outlined in Stipulation IV.
171
- 172 7. Not grant a loan, loan guarantee, permit, license, or other assistance to an applicant
173 who has intentionally, significantly, and adversely affected a historic property, pursuant
174 to 36 C.F.R. §800.9(c)(1), to which the grant would relate; or having legal power to
175 prevent it, has allowed a significant adverse effect to occur. However, if after
176 consultation with the SHPO(s), tribes, and ACHP, TVA determines that extraordinary
177 circumstances justify granting such assistance despite the adverse effect created by
178 the applicant, TVA shall complete consultation for the undertaking pursuant to the
179 terms of this PA and Section 106 of the NHPA.
180
- 181 8. Identify additional consulting parties, including any communities, organizations, or
182 individuals that may have an interest in a specific undertaking and its effects on historic
183 properties as outlined under Stipulation XI.
184
- 185 9. Plan and lead annual effectiveness reviews of this PA (Stipulation IV).
186
- 187 10. Provide updated site file information to the states following state guidelines.
188
- 189 11. Design and administer training and subsequent guidance to appropriate TVA staff and
190 contractors. The training will address, at a minimum, the procedures to be used for
191 meeting TVA's obligations under Section 106 and other preservation laws for activities
192 covered in this PA. TVA will consult with the Signatories on this training. Updates on
193 the training will be provided in the annual report under Stipulation IV.
194
- 195 12. Consult with all tribes with an interest in the TVA PSA on a government-to-government
196 basis.
197
- 198 13. Comply with Section 304 of NHPA (54 U.S.C. §307103) and Section 9 of ARPA
199 (16 U.S.C. §470hh).
200

201 14. Integrate the PA in a manner that meets its historic preservation responsibilities as fully
202 as possible along with its other responsibilities under the TVA Act, TVA's *Natural*
203 *Resource Plan* (NRP), other executed PAs, NEPA, and other statutory authorities,
204 executive orders, and federal policies.
205

206 B. SHPOs: Pursuant to responsibilities set out in NHPA and ACHP regulations at
207 36 C.F.R. Part 800, the appropriate SHPO(s) shall:
208

209 1. Review TVA's determination of APE, identification level efforts, National Register
210 eligibility determinations, and effect findings for undertakings subject to the "Standard
211 Review Process" outlined under Stipulation III.D, and provide comments within the
212 periods prescribed in the 36 C.F.R. Part 800 regulations.
213

214 2. Participate in reviews of the effectiveness of this PA.
215

216 3. Coordinate with and assist TVA in identifying consulting parties, including any
217 communities, organizations, or individuals that may have an interest in a specific
218 undertaking and its effects on historic properties for undertakings subject to the
219 "Standard Review Process" outlined under Stipulation III.D.
220

221 4. Each state may designate a lead to act on their behalf for TVA undertakings involving
222 multiple states (36 C.F.R. §800.3(c) (2)).
223

224 C. ACHP: Pursuant to responsibilities set out in the NHPA and 36 C.F.R. Part 800, ACHP
225 shall:
226

227 1. Provide technical guidance, and participate in dispute resolution and reviews of the
228 effectiveness of this PA.
229

230 2. Participate as a consulting party in reviewing select undertakings that meet one or
231 more of the *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*
232 (36 C.F.R. Part 800 Appendix A) for undertaking outlined in Stipulation III.D.
233

234 3. Inform TVA of emerging issues, policies, training, working groups, or guidelines
235 applicable to Section 106 of the NHPA and the stipulations of this PA.
236

237 D. Tribal Signatories:
238

239 1. Review TVA's determination of APE, National Register eligibility determinations, and
240 effect findings for undertakings subject to the "Standard Review Process," provide
241 comments within the periods required prescribed in the 36 C.F.R Part 800 regulations
242 and identify concerns about historic properties of traditional religious and cultural
243 significance.
244

245 2. Provide comments on TVA's findings in accordance with the PA.

246
247 3. Participate in reviews of the effectiveness of this PA.

248
249 **III. Section 106 Review Process**

250
251 A. Categories of Undertakings for Purposes of This PA:

252
253 1. Appendix A: Activities determined, in consultation between TVA and the Signatories,
254 to be unlikely to affect historic properties, and therefore excluded from further
255 Section 106 review.

256
257 a) No further review or consultation is required so long as activities fall within the
258 parameters described in Appendix A and are not a component of a larger project.

259
260 b) Activities carried out by TVA that fall in Appendix A will be listed in the annual report
261 under Stipulation IV.

262
263 2. Appendix B: Activities that will be reviewed by TVA CRS, but will not require
264 consultation with the Signatories as long as they fall within the parameters described
265 in Appendix B.

266
267 a) For activities determined by TVA CRS to fall under Appendix B, TVA will follow the
268 review process described in Stipulations III.B and III.C.

269
270 b) If an activity under Appendix B cannot be implemented in accordance with the
271 requirements described in Stipulation III.C, or constitutes only a component or
272 multiple activities as part of a larger project, TVA will follow the "Standard Review
273 Process" outlined under Stipulation III.D.

274
275 c) Undertakings carried out by TVA that fall under the activities listed in Appendix B
276 will be listed in the annual report under Stipulation IV.

277
278 3. All activities that are not listed under Appendix A or B will proceed under
279 Stipulation III.D.

280
281 B. Determine APE

282
283 1. For undertakings under Appendix B, TVA CRS will make APE determinations without
284 consultation with the SHPO(s) or Tribal Signatories. The documentation for APE
285 determination will be included in the annual report under Stipulation IV. For
286 undertakings subject to Stipulation III.D. TVA will consult with SHPO(s) and Tribal
287 Signatories regarding the APE determination.

2. If an activity falls under an Appendix B category, TVA will determine the APE, consistent with 36 CFR § 800.16(d), to include all geographic areas within which the undertaking may directly, indirectly, or cumulatively alter the character or use of historic properties.
3. The APE can include lands held in fee by the U.S. government, lands in which the U.S. government holds a real property interest other than fee title, as well as private or public lands over which the U.S. government currently holds no property interest or access rights.
4. The APE shall include the area of potential physical ground disturbance and any property, structure, or portion thereof that will be physically altered, destroyed, or changed in use by the undertaking.
5. The APE shall be delineated to include visual, audible, and atmospheric effects where the undertaking has potential to introduce visual, audible, or atmospheric elements that diminish or alter characteristics an eligible or listed historic property including the setting and landscape that represent a contributing quality to an eligible or listed that property.
6. When assessing the effects of an undertaking, TVA shall take consider effects that will occur immediately and directly, as well as those that are reasonably foreseeable and may occur later in time or be farther removed in distance, or be cumulative.
7. Unless otherwise established through consultation with the SHPO(s) and Tribal Signatories, the presumed APE for visual effects for construction of new facilities 200 feet or less in overall height would be a half-mile-radius within the visual line of sight from the proposed activity.

C. Identification, Evaluation, and Consultation Process for Appendix B Activities

1. Background Review Process:

CRS will conduct background research consistent with 36 C.F.R. §§800.4(a)(2–4) to determine the likelihood that historic properties are within the APE.

- a) Background research can include, but is not limited to, survey records of past identification efforts and other information on previously identified resources in the area, topographic maps, satellite/aerial images, historic maps, tax records, state site- and architectural-files, soil maps, TVA land-acquisition maps, local informants, oral histories, the potential for an area to be historically significant as a “Traditional Cultural Property” (TCP) based on information provided by federally recognized Indian tribes or other descendant communities, photographs and documentation depicting past and current land conditions, and other relevant resources.

- 333
- 334 b) CRS will find that no historic properties would be affected, if background research
- 335 indicates that:
- 336
- 337 i. For undertakings that could potentially affect archaeological or sites that could
- 338 be of religious and cultural significance to Indian tribes, one of the following
- 339 conditions are met:
- 340
- 341 a. Adequate archaeological surveys meeting current archaeological
- 342 standards were previously performed within the APE, and no
- 343 archaeological sites have been identified in the APE with the exception of
- 344 previously determined (in consultation) NRHP-ineligible sites. If previously
- 345 identified archaeological sites are located within the APE and not
- 346 previously determined in consultation to be ineligible, the undertaking
- 347 would be reviewed under the "Standard Review Process" in accordance
- 348 with Stipulation III.D.
- 349
- 350 b. The land within the APE has been subject to significant ground disturbance,
- 351 such as strip mining, extensive grading, trenching, major construction, or
- 352 severe erosion within the vertical APE.
- 353
- 354 c. The review of the environmental context of the APE suggests little potential
- 355 for intact archaeological deposits or TCPs. For example, the APE lacks
- 356 stable land surfaces, buried Holocene deposits, caves, rock shelters, and
- 357 other conditions that could allow a prehistoric or historic occupation, Indian
- 358 removal routes, stone features, or other resources that could be of religious
- 359 and cultural significance to federally recognized Indian tribes to be present.
- 360
- 361 ii. For undertakings that have the potential to directly or indirectly affect historic
- 362 structures or districts:
- 363
- 364 a. Adequate architectural surveys were performed previously in the APE
- 365 within the past five years by individuals meeting the Secretary of the Interior
- 366 "Qualification Standards" for historic preservation, and no eligible or listed
- 367 historic structures were identified, in concurrence with the SHPO(s).
- 368
- 369 b. Comparison of maps, tax records, and aerial imagery (aerial photographs
- 370 or satellite images) with clear unobstructed views to the resource location
- 371 and current project location photos, indicate a lack of extant structures
- 372 older than 50 years in the APE, and not within, or within the viewshed, of a
- 373 historic district.
- 374
- 375 iii. The basis of TVA's "no historic properties affected" finding will be included in
- 376 the annual report in accordance with Stipulation IV.A–B.

377
378 2. Field Reconnaissance Process:
379

380 If, after conducting background research, TVA determines none of the above
381 conditions are met, then CRS will conduct a field reconnaissance survey for
382 Appendix B activities in accordance with the *Secretary of Interior's Standards for*
383 *Archaeology and Historic Preservation* and relevant state-recommended minimum
384 guidelines and standards. If TVA conducts a reconnaissance, it will be completed by
385 CRS or TVA-approved contractors. The results of the reconnaissance will be evaluated
386 as follows:
387

- 388 a) If the field reconnaissance does not identify any cultural resources that would
389 indicate the presence of archaeological sites, historic structures, or potential Indian
390 removal routes, stone features, caves, or other properties that may be of religious
391 and cultural significance, TVA will make a finding of "no effect to historic
392 properties."
393
394 b) If the field reconnaissance identifies one or more archaeological sites or historic
395 structures, and/or identifies a potential for the presence of buried archaeological
396 sites in the APE, TVA shall complete one of the following steps:
397
398 i. Modify the project such that the undertaking meets requirements for an
399 Appendix A activity.
400
401 ii. Consult on the eligibility of the identified resource and the undertaking's effects
402 to historic properties using the "Standard Review Process" (Stipulation III.D).
403
404 c) CRS will provide updated site file information to the SHPO(s) following CRS
405 review.
406
407 d) TVA will consult with Indian tribes regarding properties that are potentially of
408 religious and cultural significance to the tribes, and update TVA's database to
409 ensure that the locations of identified resources are maintained.
410

- 411 3. The basis of TVA's finding of "no historic properties affected" for Appendix B activities
412 will be documented in TVA's 800.11(d) "Documentation Form" (Appendix D), and will
413 be provided to the Signatories in the annual report under Stipulation IV.
414

415 D. Standard Review Process for Undertakings Not Covered by Appendix A or B.
416

- 417 1. If an activity does not fall within Appendix A or B, or falls within Appendix B, and newly
418 identified archaeological sites, artifacts, or above-ground resources (including
419 properties potentially of religious and cultural significance to the tribes) are identified,
420 and the undertaking cannot be modified such that the undertaking meets requirements

for an Appendix A activity, TVA will follow the review process set out in 36 C.F.R. §§800.3-800.7. These steps will include delineation of the APE, identification of historic properties, determination of effects, and avoidance/minimization of adverse effects where possible, or resolution of adverse effects through consultation with the appropriate SHPO(s) and tribes.

2. TVA, at its discretion, may use a consolidated consultation process pursuant to 36 C.F.R. §800.3(g) for non-controversial projects, and provide the SHPO(s) and tribes with documentation and a request for concurrence with findings and recommendations that address multiple steps in 36 C.F.R. §§800.3–800.6. When using consolidated consultation, TVA will provide documentation in accordance with C.F.R. §800.11 and applicable SHPO standards.
3. Where the undertaking under consideration involves corridors (such as for transmission lines) or large land areas, TVA may, at its discretion, use a phased process to identify and evaluate effects to historic properties, as provided for in 36 C.F.R. §§800.4(b)(2) and 800.5(a)(3). Under a phased approach, TVA may proceed with the implementation of certain phases of the project for which the Section 106 process has been completed, provided that proceeding with one phase of a project does not preclude the possibility of avoidance of known and as-yet-unidentified or -evaluated historic properties within the APE during additional phases of the project. TVA will provide the SHPO(s) and tribes written notification that TVA is proceeding under this approach.

IV. Reports

TVA shall provide the Signatories an annual report by January 30 for each fiscal year (October 1–September 30) that this PA remains in effect.

- A. The annual report will include a table with an entry for each activity listed in Appendix A and reviewed pursuant to Stipulation III.A.1. The table will include:
 1. name/title of the undertaking
 2. applicable activity listed in Appendix A
 3. state and county location
 4. geographic coordinates
- B. The report will summarize each activity undertaken during the fiscal year for which TVA relied on the Appendix B categories for fulfilling its Section 106 obligations. The report will contain digital optical-character-recognition PDF and spatial data for each activity. The report will incorporate other TVA cultural resource stewardship activities. The report will

also include updates on training, staff changes, and procedures that are developed because of the PA. The annual report will include an entry for each activity listed in Appendix B and reviewed pursuant to Stipulation III.C during the fiscal year, including:

1. project name, site and description and size
2. APE depicted on a United States Geological Survey (USGS) map with coordinates and ArcGIS shapefiles
3. reference to any previous surveys
4. environmental and topographical description
5. photo documentation
6. current land use and previous disturbance
7. environmental and historical context information sources
8. known archaeological sites, historic structures, or significant landscapes near the location
9. methodology of field reconnaissance
10. location of any shovel tests
11. survey results
12. basis of "no historic properties affected" finding
13. whether, after an initial background research and reconnaissance survey, the undertaking was elevated to the "Standard Review Process"

C. Signatories will have forty-five (45) calendar days to submit comments on the annual report. TVA will respond to comments within forty-five (45) calendar days.

D. TVA and the signatories to this PA shall consult within six months upon execution of the PA and annually thereafter to review implementation of the terms of this PA. TVA will also develop and provide to the Signatories a questionnaire to help evaluate the effectiveness of the PA.

506 **V. Lead Federal Agency**

- 507
- 508 A. TVA may use this PA to fulfill its Section 106 responsibilities and those of other federal
- 509 agencies that have designated TVA as the lead federal agency pursuant to
- 510 36 C.F.R. §800.2(a)(2) for the undertakings described in this PA. Identification of the lead
- 511 federal agency shall be provided to the appropriate SHPO(s) and tribes via e-mail.
- 512
- 513 B. If another federal agency has concluded its Section 106 review during the previous three
- 514 years, TVA has no further obligation under Section 106 to review a TVA undertaking of its
- 515 own that would be subject to this PA, if TVA confirms that the scope and effect (defined by
- 516 TVA per 36 C.F.R. §800.16[i]) are the same as that of the undertaking reviewed by the
- 517 previous agency; that the passage of time does not require any new or additional
- 518 identification of historic properties; and if the previous agency's consultation and
- 519 concurrence is documented consistent with 800.11(d) or 800.11(e). TVA shall provide
- 520 documentation of these occurrences in the annual report accordance with TVA's 800.11(d)
- 521 or 800.11(e) "Documentation Form" (Appendix D) of these occurrences in the annual
- 522 report. Should TVA determine that the previous Section 106 review was insufficient, or
- 523 involved interagency disagreements about eligibility, effect, and/or treatment measures,
- 524 or does not follow TVA's procedure for delineating APE, then TVA shall conduct additional
- 525 Section 106 consultation for its undertaking in accordance with the terms of this PA.
- 526

527 **VI. Curation**

- 528
- 529 A. TVA shall ensure that any archaeological material and associated records recovered from
- 530 TVA land will be permanently curated in one of its primary repositories, and in accordance
- 531 with the requirements in 36 C.F.R. Part 79.
- 532
- 533 B. If archaeological materials are recovered from private lands as a result of a TVA
- 534 undertaking, TVA shall encourage the curation of those archaeological materials collected
- 535 from private lands (with the exception of NAGPRA human remains and NAGPRA cultural
- 536 items, which are addressed in Stipulation IX) at a repository that meets the requirements
- 537 in 36 C.F.R. Part 79.
- 538
- 539 C. For data recovery projects under Stipulation III.D, specific curation facilities will be
- 540 determined during development of a memorandum of agreement for that specific
- 541 undertaking in consultation with the appropriate SHPO(s) and tribes.
- 542

543 **VII. Coordination with TVA's *Cultural Resource Management Plan***

544

545 To the extent practicable, TVA will incorporate the provisions of this PA and those of other TVA

546 agreements relative to the NHPA, ARPA, and NAGPRA into TVA's internal guidance

547 documents to be developed as part of TVA's *Cultural Resource Management Plan* and will

548 include these activities in the annual report (Stipulation IV).

549

VIII. Emergency Procedures

During emergencies at TVA, TVA actions necessary to protect human health or property are not subject to Section 106 requirements. However, TVA will notify the appropriate SHPO(s) and tribes of emergency management activities, and staff will work with emergency responders to, whenever reasonable, minimize the overall effect of such activities to historic properties. TVA will evaluate the effects of emergency-related activities. TVA CRS will assess any effects to historic properties and allow consulting parties seven business days to comment, if circumstances permit. TVA will provide to the consulting parties a report of actions taken after they have been completed, and will include these activities in the annual report (Stipulation IV).

IX. Treatment of Human Remains and NAGPRA Cultural Items

A. Federal Lands

TVA shall ensure that any human remains and NAGPRA cultural items discovered on federal lands during implementation of the terms of this PA are treated respectfully and in accordance with NAGPRA.

B. Non-Federal Lands

If verified human remains are identified within the APE on non-federal or non-tribal lands as a consequence of a TVA undertaking, TVA shall:

1. Ensure that the treatment of any human remains discovered within the APE complies with applicable state laws and is respectful of tribal or other descendent communities.
2. Ensure the cessation of ground-disturbing activities within a 328-ft-radius of human remains or NAGPRA cultural items, and protection of the site with temporary fencing or other natural barricades, until the appropriate state and local officials can be consulted.

C. TVA will develop a guidance document on the treatment of human remains, in consultation with the SHPOs and Tribal Signatories as part of the implementation of this PA

X. Post-Review Discoveries

TVA shall ensure that unidentified historic properties or unanticipated effects to historic properties discovered during the implementation of an undertaking are subject to the following measures:

- A. TVA will consult with the ACHP and relevant SHPOs and tribes in accordance with 36 C.F.R. §800.13(b).

- 594 B. All ground-disturbing work within a 328-foot-radius of the discovery, or work within a
595 historic structure, will be immediately stopped and the discovery location secured against
596 further disturbance, pending completion of the consultation.
597
598 C. If the post-review discovery includes human remains, then TVA will follow Stipulation IX.
599
600 D. TVA will develop a guidance document for post review discoveries, in consultation with the
601 SHPOs and Tribal Signatories as part of the implementation of this PA.
602

603 **XI. Public Outreach and Consulting Parties Involvement**

604

- 605 A. In fulfilling its obligations for undertakings subject to the “Standard Review Process,”
606 (Stipulation III.D), TVA shall seek the views of the public in a manner that reflects the
607 nature, complexity, and effect(s) of the undertaking, likely public interest, and any
608 confidentiality concerns of tribes, private individuals, or businesses. Public participation
609 must be undertaken by TVA in a manner consistent with the confidentiality provisions of
610 36 C.F.R. §800.11(c). TVA may use the agency’s procedures developed pursuant to NEPA
611 to solicit and respond to public comments obtained either via public involvement or through
612 announcement of the availability of TVA’s environmental reviews on TVA’s public website,
613 and thereby satisfy NHPA public involvement requirements. TVA shall consider comments
614 provided by the public regarding the effect of the undertaking on historic properties.
615
616 B. Certain individuals, organizations, or descendent groups with a demonstrated interest in
617 an undertaking may also be invited to participate as consulting parties, due to their legal
618 or economic relation to the undertaking or the affected historic properties. TVA shall,
619 except where appropriate to protect confidentiality under 36 C.F.R. §800.11(c), provide
620 consulting parties with information regarding the undertaking and its effects on historic
621 properties.
622

623 **XII. Administrative Conditions**

624

625 A. Duration

626

627 This PA will be in effect for ten (10) years from the date the PA becomes effective, unless
628 terminated in accordance with Stipulation XII.E. One year before the expiration of the PA,
629 TVA will consult with all parties to seek to renew or revise the PA as needed. The duration
630 of the PA may be extended for an additional ten (10) years upon obtaining signatures of
631 the parties. Extensions shall be established through the amendment process outlined in
632 Stipulation XII.C.
633

634 B. Dispute Resolution

635

- 636 1. Should a dispute arise, the signatories to this PA shall attempt in good faith to resolve
637 the dispute relating to this PA by negotiating amongst themselves. If the dispute cannot

- 638 be resolved, TVA shall forward all relevant documentation and the views of all parties
639 relating to the dispute to the ACHP, along with TVA's proposed resolution.
640
- 641 2. Within thirty (30) calendar days after receipt of all pertinent documentation of the
642 dispute from TVA, the ACHP shall exercise one of the following options:
643
- 644 a) Advise TVA that the ACHP concurs with TVA's proposed resolution; in this case,
645 TVA may proceed with implementing its proposed resolution; or,
646
- 647 b) Provide TVA with recommendations, which TVA shall take into account in reaching
648 a final resolution to the dispute.
649
- 650 3. Should the ACHP not exercise one of the above options within thirty (30) calendar
651 days after receipt of all pertinent documentation, TVA may move forward with its
652 proposed resolution of the dispute.
653
- 654 4. TVA shall take into account any ACHP recommendation provided (in accordance with
655 Stipulation XII.B) when making its final determination to resolve the dispute, and TVA
656 shall communicate this determination in writing to all signatories. TVA's responsibility
657 to carry out all actions under this PA that are not subject to the dispute shall remain
658 unchanged.
659
- 660 C. Amendments
661
- 662 The signatories may request that this PA, including appendices, be amended or modified
663 as needed. The signatories will consult to consider such amendments or modifications.
664
- 665 1. An amendment to this PA, exclusive of Appendices A and B, shall be effective upon
666 the date a copy of the amended PA signed by the signatories is filed with the ACHP.
667
- 668 2. If a modification to Appendices A and B is requested:
669
- 670 a) TVA shall consult with the signatories regarding the proposed modifications.
671
- 672 b) If no signatory objects within thirty (30) calendar days to the proposed
673 modifications, TVA shall provide a revised copy of the PA to the signatories.
674
- 675 c) If a signatory objects to the proposed modification, TVA shall follow the dispute
676 resolution process in Stipulation XII.B.
677
- 678 D. Withdrawal from Participation
679
- 680 Any SHPO or Tribal Signatory may withdraw from this PA after providing TVA written notice
681 ninety (90) calendar days prior to its withdrawal. TVA shall consult with the withdrawing

party to identify any mutually acceptable measures that would avoid the party's withdrawal. If mutually acceptable measures are identified that would require amendment to the PA, TVA will go through the amendment procedures outlined in Stipulation XII.C. In the case of SHPO withdrawal, the PA would no longer apply within that SHPO's state and TVA would comply with 36 CFR Part 800 for all undertakings previously subject to this PA in that state. In the case of a Tribal Signatory withdrawing from the PA, TVA would consult with that Tribe pursuant to 36 CFR Part 800 for all undertakings previously subject to this PA that would have the potential to affect historic properties of religious and cultural significance to the Tribe. This PA would remain in effect in all other jurisdictions and for all other parties.

E. Termination

If any signatory to this PA determines that its terms cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment per Stipulation XII.C. If an amendment cannot be reached within ninety (90) days (or another period agreed upon by the signatories), TVA or the ACHP may terminate this entire PA. Once the PA has been terminated, and before continuing work on any undertaking subject to its terms, TVA must either (a) execute a new PA pursuant to 36 C.F.R. 800.14, or (b) follow 36 C.F.R. Part 800 for each individual undertaking. TVA shall notify the signatories as to the course of action it will pursue.

Execution of the PA by the TVA, the SHPOs of Alabama, Georgia, Kentucky, Mississippi, North Carolina, Tennessee, and Virginia, and the ACHP, and implementation of its terms is evidence that TVA has taken into account the effects of these undertakings on historic properties and afforded the ACHP an opportunity to comment.

708
709 TENNESSEE VALLEY AUTHORITY

710
711 By: Rebecca C. Tolene Date: 10-18-19

712
713 Rebecca Tolene
714 Vice President, Environmental

715
716

717
718 ADVISORY COUNCIL ON HISTORIC PRESERVATION

719
720 By: Aimee Jorjani Date: 11/27/19

721
722 Chairman Aimee Jorjani
723 Advisory Council on Historic Preservation
724

725
726 ALABAMA STATE HISTORIC PRESERVATION OFFICER

727
728 By: Lisa D. Jones Date: 11.5.2019
729 Lisa D. Jones
730 Executive Director, State Historic Preservation Officer

731

732
733
734
735
736
737
738
739
740
741

Title: State Historic Preservation Officer

GEORGIA STATE HISTORIC PRESERVATION OFFICER

By:  Date: 15 NOV 2019

David Crass
Division Director and Deputy State Historic Preservation Officer

KENTUCKY STATE HISTORIC PRESERVATION OFFICER

By:  Date: 12-19-19

Craig Potts, Executive Director and State Historic Preservation Officer,
Kentucky Heritage Council

Approved as to form and legality:


By:  Date: Dec. 2, 2019

William H. Adams II, Legal Counsel to the State Historic Preservation Officer
Tourism, Arts, and Heritage Cabinet

757

758 MISSISSIPPI STATE HISTORIC PRESERVATION OFFICER

759

760 By:  Date: 11-18-19

761 For:

762 Katherine Blount

763 State Historic Preservation Officer

764 NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER

765

766 By: Kevin Cherry Date: 11-14-2019

767

768 Kevin Cherry

769 Deputy Secretary of Department of Cultural Resources and State Historic Preservation Officer

770

771
772
773
774
775
776
777
778
779

TENNESSEE STATE HISTORIC PRESERVATION OFFICER

By: E. Patrick McIntyre, Jr. Date: 10/31/19

E. Patrick McIntyre, Jr
Executive Director and State Historic Preservation Officer

VIRGINIA STATE HISTORIC PRESERVATION OFFICER

By: Julie Langan Date: 11-7-19

Julie Langan
DHR Director and State Historic Preservation Officer

790

791 ABSENTEE SHAWNEE TRIBE OF OKLAHOMA

792

793 By: _____ Date: _____

794

795

796 Name:

797 Title:

798

799

798 ALABAMA-COUSHATTA TRIBE OF TEXAS

799

800 By: *Caitlin Floss* Date: *01/07/2020*

801

802 Title: *Alabama-Coushatta Tribe of Texas*
Tribal Council Chairperson

806 ALABAMA-QUASSARTE TRIBAL TOWN

807

808 By: _____ Date: _____

809

810 Name:

811

812 Title:

813 CHEROKEE NATION

814

815 By: _____ Date: _____

816

817 Chuck Hoskin Jr.

818 Principal Chief

814 THE CHICKASAW NATION

815

816 By: Bill Anoatubby Date DEC 16 2019

817

818 Bill Anoatubby

819 Governor

820

821 Nothing construed in this Agreement shall be construed to waive the sovereign rights of the Chickasaw
822 Nation, its officers, employees or agents.

830 THE CHOCTAW NATION OF OKLAHOMA

831

832 By: _____ Date: _____

833

834 Gary Baton

835 Chief

823 COUSHATTA TRIBE OF LOUISIANA

824

825

826

827

By:

Title: Tribal Chairman

Name: David Sickey

Date:

11-20-19

836 DELAWARE NATION

837

838 By: Deborah Dotson Date: 12/06/2019

839

840 Deborah Dotson

841 President

842

833 EASTERN BAND OF CHEROKEE INDIANS

834
835
836
837

By: 

Date: 1/30/2020

Richard Sneed
Principal Chief

850 EASTERN SHAWNEE TRIBE OF OKLAHOMA

851

852 By: Glenna Wallace Date: 12-10-2019

853

854 Glenna Wallace

855 Chief

856

864 JENA BAND OF CHOCTAW INDIANS

865

866 By: _____ Date: _____

867

868 Cheryl Smith

869 Chief

870 KIALEGEE TRIBAL TOWN

871

872 By: _____ Date: _____

873

874 Tiger Hobia

875 Mekko

876

877 MISSISSIPPI BAND OF CHOCTAW INDIANS

878

879 By: _____ Date: _____

880

881 Cyrus Ben

882 Chief

THE MUSCOGEE (CREEK) NATION

By: David W. Hill Date: 2/14/2020

David W. Hill

Principal Chief

PROGRAMMATIC AGREEMENT AMONG THE TENNESSEE VALLEY AUTHORITY, THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND THE STATE HISTORIC PRESERVATION OFFICERS OF ALABAMA, GEORGIA, KENTUCKY, MISSISSIPPI, NORTH CAROLINA, TENNESSEE, AND VIRGINIA, AND FEDERALLY RECOGNIZED INDIAN TRIBES, REGARDING UNDERTAKINGS SUBJECT TO SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT OF 1966

889 THE OSAGE NATION

890

891 By: _____ Date: _____

892

893 Geoffrey M. Standing Bear

894 Principal Chief

886 POARCH BAND OF CREEK INDIANS

887

888 By: Larry D. Haikey Date: 1-30-2020

889

890 Larry Haikey

891 Tribal Historic Preservation Officer

892

902 THE QUAPAW NATION

903 By: _____ Date: _____

904

905 John Berrey

906 Chairman

907

898 THE SEMINOLE NATION OF OKLAHOMA

899

900 By: Greg Chilcoat Date: 11/20/19

901

902 Greg Chilcoat

903 Chief

1

SHAWNEE TRIBE

By: 

Date: 1-16-2020

Ben Barnes

Chief

909 THLOPTHLOCCO TRIBAL TOWN

910

911 By:  Date: 11/25/11

912

913 Ryan Morrow

914 Mekko

926 UNITED KEETOOWAH BAND OF CHEROKEE INDIANS IN OKLAHOMA

927

928 By: _____ Date: _____

929

930 Joe Bunch

931 Chief

Appendix A - Activities Unlikely to Affect Historic Properties

Activities within Appendix A, in consultation between TVA and the signatories, have been determined as unlikely to affect historic properties, if present, and are therefore excluded from further review. Work associated with Appendix A activities would be done by hand or involve lightweight vehicles (e.g., all-terrain vehicles [ATVs], light-duty and standard trucks) or low ground-pressure equipment (e.g., using rubberized tracks or weight-dispersing tires). Matting could be used to prevent ground disturbance when using heavy-duty equipment, as warranted. Visual inspections of soil and hydraulic conditions will be used to determine work times, adhering to working in dry conditions when practicable. All work on historic structures would be performed in accordance with Secretary of the Interior's Standards. If these conditions cannot be met, these activities would be included under Appendix B. Should any of these activities have unanticipated effects on historic properties, work shall stop and the procedures in Stipulation X shall be followed. CRS will be contacted if work is proposed in areas previously delineated as highly sensitive archaeological sites (e.g., previously identified sites with known human remains and Trail of Tears/removal routes).

A. Land Management and Improvements

1. in-kind repair of existing concrete or asphalt curbs, or gutters where no new ground disturbance is proposed
2. installing curb cuts in accordance with the American Disabilities Act
3. activities establishing and maintaining vegetation, limited to broadcast or no-till seeding, with minimal seedbed preparation; grass plugs, aeration, spreading mulch, fertilization, mowing, bush hogging, chain sawing, applying herbicides, removing vegetation by hand using a weed wrench, and hand pruning, with the exception of activities occurring within cemeteries or other previously delineated highly sensitive archaeological sites maintenance and in-kind, in-place repair of existing fencing and installation of a post or fencing
4. installing gates within existing fences, or repairing and replacing gates on access roads or along corridors within the zone of initial disturbance
5. mitigating hazard trees or removing individual trees, cutting at the base of the trunk, or trimming branches
6. installing new single-post signs (channel, T-post, or Carsonite posts) four inches in diameter or less
7. installing, replacing, or maintaining floating buoys
8. maintaining an existing trail that does not result in additional ground disturbance beyond the established trail
9. maintenance or replacement of park or playground equipment involving no new ground disturbance
10. road maintenance (surface water control, soil erosion control, regrading, resurfacing, and maintenance of ditches, guardrails, culverts, bank/cut slopes) that does not result in additional ground disturbance beyond that incurred when the road and associated appurtenant works were established

11. using existing gravel pits, including further materials-extraction and stockpiling within the pit, where no horizontal expansion of the pit area will occur
12. in-kind repair and replacement of exterior lighting less than 50 years old and not eligible under Criteria Consideration G
13. in-kind repairs and replacement of walks, steps, and retaining walls, that are less than 50 years old and not eligible under Criteria Consideration G
14. removing and restoring littered, trash, and dump sites with no new ground disturbance, provided dump sites can be reasonably demonstrated to be recent occurrences
15. temporary actions not involving modification of an existing structure nor ground disturbance (e.g., placement of traffic cones, racing events, obstacle courses)
16. plugging and abandoning boreholes and groundwater monitoring wells
17. establishing and using a temporary material-laydown yard on paved, graveled, compacted, or fill-covered surfaces
18. removing silt and debris from catch basins, drainage systems, and sumps
19. acquiring commercial fill (less than 25 cubic yards) from approved sites holding valid permits that does not lead to horizontal expansion of the site
20. applying low-intensity controlled fire in previously burned locations and which CRS has previously determined contain no above-ground resources

B. Building Maintenance and Rehabilitation (all work would be confined within existing facilities)

1. except for construction of new additions, all renovation, maintenance, or internal changes to an existing facility less than 50 years old and not meeting Criteria Consideration G, or properties greater than 50 years old and which have been previously determined (in consultation within the last 10 years) to be ineligible for the National Register or non-contributing buildings within a district or property listed in or eligible for the National Register
2. demolition, removal, and/or disposal of temporary buildings (e.g., trailers, mobile units, or similar structures) involving no ground disturbance, and where removal would be completed with minimal ground disturbance
3. maintaining, installing, relocating, removing, and repairing equipment (including motors, valves, shredders, compressors, pumps, castors, power supplies, lathes, saws, shears, presses, welding equipment, dust collectors, dry boxes and vent systems) not requiring the removal of historic walls and floor coverings, and (except for within public spaces) the modification or addition of permanent or temporary ladders
4. repair or in-kind replacement of non-historic, existing, safety-required signs that meet OSHA and other safety requirements
5. replacing or installing caulking and weather stripping around windows, doors, walls, and roofs (*NOTE: Replacing caulking applied to masonry joints instead of properly repointing deteriorated joints would not be considered routine maintenance.*)
6. removing exterior or interior paint by non-destructive means, limited to hand scraping, low-pressure water-wash (<200 pounds per square inch [psi]), use of a needle gun (on metal surfaces only), or paint-removal chemicals (provided that careful testing was previously

- done under CRS supervision), to assure that the method selected will not affect the building materials, and that the removal follows *National Preservation Brief No. 6*
7. installing, replacing, or repairing existing plumbing, electrical wiring, and fire-protection systems, provided no alterations are made to character-defining features, spaces, or historic fabrics
 8. maintaining, repairing, removing, modifying, upgrading, or replacing plant and building electrical systems (e.g. arc-flash testing, building conduit, wiring, lighting fixtures, etc.), provided no alterations are made to character-defining features or historic fabric
 9. siting, installing, maintaining, repairing, removing, or replacing communications and computer systems (including facsimile systems, internal microwave and radio systems, fiber-optic cables, and phone systems), where no ground disturbance would occur and the activity would not affect the historic fabric of the structure or character-defining features and spaces
 10. repairing underground utilities in the documented area of disturbance
 11. except within public spaces, routine installation, upgrades, replacements, and/or modifications to the interior of safety structures, including fire dampers, exit lights, fire-protection systems, sprinkler systems, anti-freezing devices in existing sprinkler systems, corridors, stairways, fire-alarm systems, smoke detectors, motion detectors, security devices, fire hydrants and associated piping, and emergency generators
 12. in-kind repair or replacement of non-character-defining hydroelectric equipment (character-defining equipment including but not limited to turbines, generators, intake valves, surge tanks, pumps, spillway gates, sluice and radial gates, trash removal equipment [rakes, racks, and hoists], jib and gantry cranes, and control panels) found both in the interior and on the exterior of hydroelectric facilities
 13. installation or modification of personnel safety systems and devices, including safety showers, eye washes, fume hoods, radiation monitoring devices, sprinkler systems, emergency exit-lighting systems; surveillance systems; protective additions to electrical equipment; personnel accountability/assembly systems and stations; improvement to non-historic walking and working surfaces or areas; anchoring floor mats, fabrication and temporary ladders or platforms installed for a particular project, shields and guards, and non-historic stairway modifications
 14. adding new dam-safety instruments within private spaces not visible externally
 15. adding communication hardware to existing dam-safety instruments not requiring conduit within private spaces that are not visible externally
 16. testing existing instrumentation using water, where no ground disturbance is required
 17. cutting a slot (see "slot cut" in Appendix G, "Glossary") in a concrete dam that is exhibiting concrete growth, in cases where a slot had previously been installed
 18. construction or installation of underground features within a documented area of disturbance, or entirely within fill, including trenching, test pits, or borings
 19. in-kind underwater repairs to concrete structures at an elevation below normal operating lake elevations
 20. in-kind replacement of dam-safety instrumentation, or a component of an instrument
 21. except in public spaces, welding steel features where repairs are needed to restore equipment to its original loading capacity.

- 22. grouting in a concrete dam to repair small leaks
- 23. installation of temporary floating-caissons or trash booms for the duration of a particular project
- 24. installation of rock bolts in a rock slope at a dam

C. Permitting

- 1. above-ground fiber-optic cable and broadband on existing transmission or communication structures
- 2. renewal or transfer of permit ownership, where TVA's Section 106 compliance requirements have been previously met, and where the vertical and aerial footprint of the project and associated actions has not changed
- 3. issuance of new or renewed easements and leases that do not authorize any new activities outside of Appendix A, and where TVA's Section 106 compliance requirements have previously been met

D. Operation and Maintenance of Substations and Switchyards

- 1. maintenance, testing, removal, relocation, conveyance, exchange (within an existing substation), and replacement of substation equipment including (but not limited to) propane tanks, transformers, arresters, fuses, relays, transducers, regulators, converters, isolators, piping, wave traps, batteries, breakers, bushings, valves, switches, wiring, or capacitor banks at a substation or switching station, provided this work is within the confines of the documented area of previous disturbance, is less than 50 years old, and any new structure does not exceed the current maximum height
- 2. placement of temporary transformers or mobile substations within an existing substation
- 3. excavation in documented, previously disturbed areas of substations and switchyards

E. Operation and Maintenance of Transmission Lines

- 1. inspections and maintenance of hardware on transmission line (TL) structures
- 2. replacement of in-kind (or functionally similar for wood pole structures only) transmission line assets such as cross arms, insulators, lightning arrestors, lighting systems, spacers, vibration dampers, markings, structural knee-braces, or miscellaneous bent, damaged, or worn steel-tower members
- 3. installation of wildlife avoidance/shielding systems, reflectors, aerial marker-balls, navigation, or aircraft warning systems on existing structures (excluding strobes)
- 4. use of herbicides (except for aerial applications), bush hog, mulcher, mower, and other light-duty equipment to control vegetation and establish or maintain ROW width that involve no new ground disturbance, with the exception of activities occurring within cemeteries or other previously flagged sensitive archaeological sites
- 5. repair or replacement of above-ground conductors, ground wire, or fiber-optic cable using bucket trucks and truck-mounted spools; placement of fill or rocks around existing towers, structures, or culverts when the fill/rock comes from a commercial source or a previously

- 1108 reviewed and approved location, provided the work does not expand the original project
1109 footprint
- 1110 6. application of paint, coatings, or preservatives to transmission structures less than 50
1111 years old
 - 1112 7. removal or replacement of wood poles that do not require additional horizontal ground
1113 disturbance and/or additional height greater than seven to 10 feet
 - 1114 8. removal or replacement of TL structures that are less than 50 years old that do not require
1115 additional horizontal ground-disturbance or increased height
 - 1116 9. line modifications, including conductor slides, cuts, and floating dead-ends, to modify
1117 ground clearance
 - 1118 10. pull points for line re-conductoring on existing, previously paved, graveled, compacted, or
1119 fill-covered surfaces
 - 1120 11. reinforcement of wood transmission structures with steel bracing-assemblies
1121 (e.g., PoleEnforcer brand)
 - 1122 12. co-locate small wire telecommunication, electric distribution, or related hardware on
1123 existing transmission line structures where no ground disturbance is necessary
 - 1124 13. maintenance, repair, or in-kind or functionally similar replacement of equipment or devices
1125 such as footings, grillage, and anchors inside the footprint on an existing TL structure
1126

1127 **F. New Construction**

1128

- 1129 1. construction of methane gas or electric generating-systems using commercially available
1130 technology installed within an existing landfill that has no potential to cause a visual effect
1131 an historic property
- 1132 2. construction or installation of water intakes within a documented area of disturbance that
1133 does not cause additional ground disturbance
- 1134 3. installation of temporary construction-related structures that would be in place for the
1135 duration of a project, including scaffolding, sediment-capture devices, barriers, screening,
1136 fences, protective walkways, signs, office trailers, or restroom facilities, which would cause
1137 no ground disturbance, and would not damage historic buildings/structures
1138

1139 **G. Administrative Actions and Grants**

1140

- 1141 1. property-protection activities that do not physically alter facilities or grounds
- 1142 2. administrative actions that do not involve, or result in, physical work on the part of TVA or
1143 any other party
- 1144 3. nondestructive and/or non-altering site characterization, data collection, study, inventory,
1145 and monitoring
- 1146 4. financial and technical assistance to promote energy efficiency or water conservation,
1147 including assistance in installing or replacing energy efficient appliances, insulation, HVAC
1148 systems, plumbing fixtures, and water heating systems, that does not alter the building
1149 exterior or historic fabric of the structure or interior character-defining spaces, and does
1150 not disturb the ground

- 1151 5. financial assistance, including approving and administering grants, loans, and rebates that
1152 are strictly financial in nature to state, local, and private organizations and entities that are
1153 strictly financial in nature
- 1154 6. financial assistance to purchase or replace equipment, so long as installation or use of the
1155 equipment would not affect historic properties and is not a part of a larger undertaking
- 1156 7. agreements for the sale, purchase, or interchange of electricity not resulting in the
1157 construction and operation of new generating facilities, or modifications to existing
1158 generating facilities and associated electrical transmission infrastructure
- 1159 8. the purchasing or leasing, and subsequent operation, of existing combustion turbine or
1160 combined-cycle plants located in or near a TVA transmission system for which existing
1161 adequate transmission and interconnection to the power service area are available,
1162 provided that planned TVA operation of such facilities is within existing TVA environmental
1163 permit limits
- 1164 9. conducting or funding minor research and development projects or programs that do not
1165 result in ground disturbance.

Appendix B - Activities that Require Additional TVA Internal Review

Activities described in Appendix B will be reviewed by TVA CRS, but will not initially require consultation with the Signatories. If CRS identifies a cultural resource and finds that conditions of Appendix B cannot be met as outlined in Stipulation III.C, TVA will proceed under Stipulation III.D. ("Standard Review Process"). All work on historic properties would be performed in accordance with SOI Standards. Any activities in Appendix B would not be within a known or identified National Register eligible, potentially eligible or undetermined archaeological resource or constitutes multiple activities as part of a larger project.

A. Land Management and Improvements

1. placing less than 500 linear feet of bank stabilization materials (e.g., gravel, riprap, etc.), where either no bank-shaping or bank-shaping less than or equal to a slope of 2:1 is required
2. demolition of permanent building, equipment, structures, and recreational facilities, less than 50 years old that have not achieved exceptional historic significance during this period, or that have been previously determined (in consultation within the past 10 years) not to contribute to the significance of historic properties, and do not fall within a listed or eligible historic district, and where removal would be completed with minimal ground disturbance
3. installation of new fencing and gate supports when the size of the pole is four inches or less in diameter
4. prescribed burns in areas where the activity is contained entirely in open fields that do not have exposed cultural features
5. planting bare rootstock in stands smaller than two acres
6. trenching less than 12-inches-wide and 200-feet-long using a Ditch Witch® or similar equipment, where the trench depth does not exceed two feet
7. preliminary on-site engineering and environmental studies, including (but not limited to) geotechnical borings and monitoring stations and groundwater test wells entailing a footprint of fewer than seven such locations clustered within two acres
8. new culvert installation and berm construction of less than 20 feet in diameter industrially-modified areas, using on-site or commercially available soil, but excluding large, poured, box culverts
9. installation of guardrails and exterior lighting using supports four inches or less in diameter within the existing right of way
10. installation of habitat enhancement features, such as wildlife nesting or roosting boxes, that require ground disturbance
11. activities to restore and enhance wetlands and riparian (i.e., aquatic) habitats, including minor revegetation and removal of debris and sediment following a natural or human-caused disturbance affecting less than two acres
12. fill placement, excavation, or dredging (less than 25 cubic yards) in areas with no known, previously identified inundated sites
13. ash-pond drain installations

- 1209 14. trail maintenance (including re-benching and trenching to restrict access) involving
1210 previously unreviewed areas that would require disturbance of less than two acres, and
1211 which are not part of a larger expansion or improvement to the recreational area
1212 15. removal and disposal of temporary buildings (such as trailers, command centers, and
1213 mobile units) where removal will be completed with minimal ground disturbance
1214

1215 **B. Building Maintenance and Rehabilitation on Buildings ≥50 Years Old, or Those That**
1216 **Have Been Identified As Achieving Exceptional Significance within The Past 50 Years**
1217

- 1218 1. lead-paint abatement conducted in accordance with Chapter 18 of HUD guidelines for
1219 evaluating and controlling lead-based-paint hazards (“Lead Hazard Control and Historic
1220 Preservation,” and carried out in accordance with *National Park Service (NPS)*
1221 *Preservation Brief No. 37, “Appropriate Methods for Reducing Lead Paint Hazards in*
1222 *Historic Housing”*)
1223 2. in-kind repair or replacement of roof cladding and sheeting, flashing, gutters, soffits, and
1224 downspouts on historic buildings or structures involving no change in roof pitch or
1225 configuration
1226 3. in-kind repair or replacement of siding or trim
1227 4. repair or repointing of chimneys or other masonry features on historic buildings or
1228 structures with the design, size, shape, mortar materials, and joint profiles matching the
1229 original in color, texture, hardness, composition and tooling; and, for historic properties,
1230 the approaches recommended in *NPS Preservation Brief No. 2, “Repointing Mortar Joints*
1231 *in Historic Brick Buildings”*
1232 5. securing or mothballing a historic property following *NPS Preservation Brief No. 31,*
1233 *“Mothballing Historic Buildings”*
1234 6. modifications necessary to comply with earthquake and hurricane codes following *NPS*
1235 *Preservation Brief No. 41, “The Seismic Retrofit of Historic Buildings: Keeping*
1236 *Preservation in the Forefront”*
1237 7. general clean-up, encapsulation, and removal or disposal of asbestos-containing
1238 materials from buildings and structures, provided no historic fabric is involved
1239 9. installation of new hydroelectric equipment including but not limited to turbines,
1240 generators, intake valves, surge tanks, pumps, spillway gates, sluice and radial gates,
1241 trash removal equipment (rakes, racks, and hoists), jib and gantry cranes, and control
1242 panels found both in the interior and on the exterior of hydroelectric facilities
1243 10. application of exterior paint to previously painted surfaces, when no historic decorative
1244 paint schemes or colors (e.g., graining, stenciling, marbling) will be covered by paint
1245 11. in-kind patching and resurfacing of exterior surfaces, such as stucco and concrete, to
1246 match existing materials with regard to material composition, consistency, texture, and
1247 color
1248 12. automating existing instrumentation anywhere on a dam where new conduit is needed
1249 13. cutting a new slot in a dam exhibiting concrete growth
1250 14. adding new interior or exterior safety and directional signs
1251 15. installing new post-tensioned anchors in a dam
1252 16. adding survey monuments and control points in a dam

17. drilling a hole to install a seal in a concrete dam
18. adding new dam-safety monitoring-instruments within public spaces of a dam, powerhouse, or facility
19. installing platforms or ladders within public spaces within a facility
20. routine installation, upgrades, replacements and/or modifications to structures in public spaces, including fire dampers, exit lights, and fire-protection, -alarm, and sprinkler systems; anti-freezing devices in existing sprinkler systems; corridors, stairways, smoke and motion detectors, security cameras, fire hydrants and associated piping, and emergency generators
21. in-kind replacement of non-historic windows with new replacement windows
22. renovations to restrooms and interior, non-public spaces (i.e., offices, break rooms, etc.) that have been previously renovated and which lack historic fabric
23. in-kind repairs and replacement of walks, steps, and retaining walls at historic properties.
24. installation, replacement, or repair of HVAC systems, provided no alterations are made to character-defining features, spaces, or historic fabrics

C. Permitting

1. easements, ROW, licenses, land use permits, and leases authorizing new individual activities listed in Appendix B
2. approvals for minor structures located along the shoreline, such as single- or double-slip boat docks, boathouses, single ramps, and facilities such as steps, benches, and closed-loop heat exchangers, to be used by a single residence (excluding requests for water-use facilities associated with a new subdivision or other residential-complex development)

D. Transmission Line and Associated Infrastructure Operation and Maintenance

1. replacement of footings, grillage, and anchors outside the existing footprint of an existing TL structure
2. tower extensions and replacement of existing structures, when the size of the increase is no more than 20 percent of the height of the existing structure
3. installation of pull points for line re-conductoring, where the 100-foot-radius surrounding the pole needs improvement beyond adding gravel or ground covering for stabilization
4. demolition of abandoned transmission-line assets on structures less than 50 years old
5. replacement of wood transmission-line structures of any age that would require additional ground disturbance
6. modifications and improvements to informal corridors (such as farm and logging roads) to establish access corridors, excluding paving

E. Administrative Actions

1. modifications to land use plans to rectify administrative errors, or to incorporate new information consistent with previously approved decisions included in the plan, or minor changes to land use allocations to a more restrictive or protective allocation, provided it is

1297 consistent with other TVA plans and policies; or amendments to land use allocations to
1298 implement TVA shoreline-management or land-use policies, and provided no restrictions
1299 were previously placed during Section 106 consultation

1300 2. transfer of ownership or control of equipment or land rights involving less than two acres

1301

1302 **F. New Construction**

1303

1304 1. installation of minor structures along the shoreline, such as single- or double-slip boat
1305 docks, single ramps, and facilities such as steps and benches

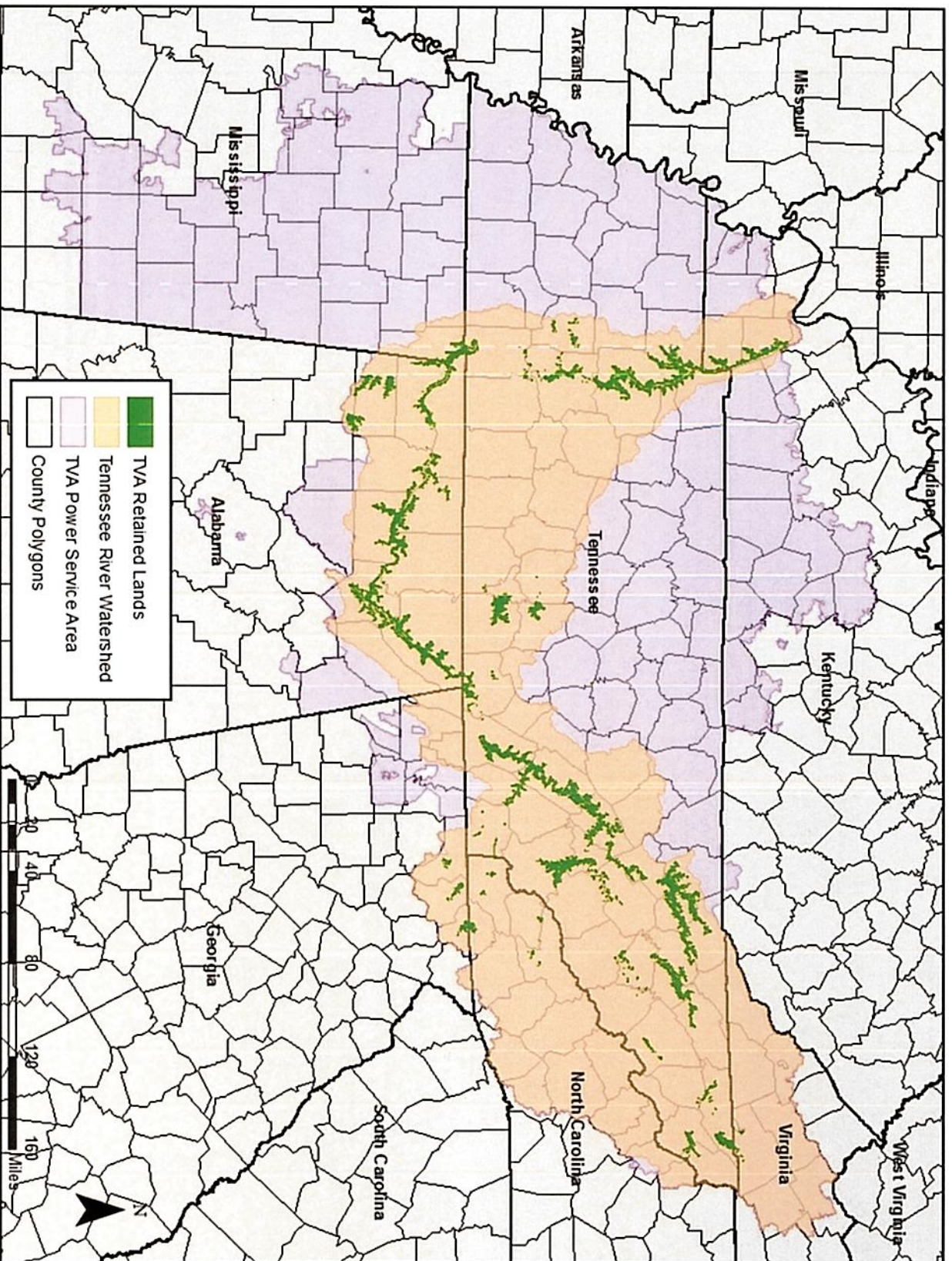
1306 2. installation of fish attractors in areas where no previously identified, inundated,
1307 archaeological resources have been identified

1308

Appendix C

1309

TVA Power Service Area Map, with Lands and Generation Facilities



1310
1311

Appendix D
TVA 800.11(d) or 800.11(e), “Documentation Form”



Tennessee Valley Authority

**Finding of No Historic Properties Affected Documentation Pursuant to
36 CFR 800.11(d)**

REPORT TITLE

REPORT DATE

**Tennessee Valley Authority
400 West Summit Hill Drive
West Tower 11D
Knoxville, Tennessee 37902**

Finding of No Historic Properties Affected Documentation Pursuant to 36 CFR 800.11(d)

Description of The Undertaking

Project Information

TVA CID		State	
Project Lead		County	
Project Reviewer		TVA Property	
Related Project Record(s)		Latitude	
		Longitude	
Project Type	Project Number		
Project Number			

Description of the Undertaking

Short Description	
Long Description	
Federal Involvement	Area of Potential Effects (APE)
I	See Map of Geographic Scope Below

Steps Taken to Identify Historic Properties

Consultation

Consultation	
Consulting Parties	

Oral History Interviews

Oral History Interviews	
-------------------------	--

Background Research

Environmental Context

Topographic Situation	
Soil Series and Minimum Slope	
Previous Disturbance(s)	
Current Land Use(s)	
Modern Vegetation	

Archaeological Potential

Previous Archaeological Surveys within APE	
--	--

Previous Archaeological Survey References

Survey Coverage within APE

Presence of Archaeological Sites

Nature and Location of Known Archaeological Site(s)

Archaeological Potential if Survey Coverage is Partial, Unknown, or None

Likely Nature and Location of Archaeological Sites if High Potential

Survey Recommendation

Historic Structures/Landscapes Potential

Known or potential historic structures/landscapes with an unobstructed view of the project:

Existence of substantial modern visual intrusions exist within the viewshed:

If "Yes", list modern visual intrusions:

Field Survey Recommendation (Appendix B, if survey required)

Basis for Finding No Historic Properties Present or Affected

Effect Finding for the Undertaking

Map of Geographic Scope

TVA Archaeological Reconnaissance Form**Administrative Information**

Field Reviewer	
Fieldwork Dates	
Document Date	

Field Conditions

Percent Disturbed	
Surface Visibility	

Archaeological Field Methodology

Level of Effort	
Archaeological Field Methodology	
Survey Coverage	
Photographs	
Geographic Focus	

Results

Findings	
Calculated Total Acres Surveyed	
Reported Total Acres Surveyed	
Reported Total Shoreline Miles Surveyed	

Summary

--	--

Recommendation

No further archaeological work	
--------------------------------	--

External Archaeological Reconnaissance Form**Administrative Information**

Surveyor

Field Work Dates

Document Date

Archaeological Field Methodology

Level of Effort

Archaeological
Field Methodology

Survey Coverage

Geographic Focus

Results

Calculated Total Acres Surveyed

Reported Total Acres Surveyed

Reported Total Shoreline Miles Surveyed

Summary

Appendix E Glossary

aeration: Using devices (typically pulled behind a riding mower) to break up thatch and compacted soil in lawns in commercial settings.

aircraft warning devices: Devices such as lights, signs, and marker balls. Signs and lights are placed on top of transmission-line structures. Marker balls are brightly colored balls placed around overhead ground wires to make them more visible to aircraft and birds.

ash pond drainage: Ditches excavated within the footprint of an ash pond to allow water to accumulate and drain from the surrounding ash. Excavated material is placed in windrows within the pond footprint so that it can drain and dry to reduce moisture.

character-defining: Elements including the overall shape of a building, its materials, artisanship, decorative details, interior spaces and features, as well as various aspects of its site and environment that contribute to its significance.

construction matting: Mats deployed to negate ground pressure exerted by heavy equipment. Mats will be in good condition to ensure proper installation, use, and removal. Mats will be placed one at a time such that vehicle treads do not disturb the ground surface within environmentally sensitive areas. In most cases, mats will be placed along the travel area so that the individual boards are resting perpendicular to the direction of traffic. No gaps will exist between mats. Mats will be placed far enough on either side of the resource area to rest on firm ground. Matting will be removed by “backing” out of the site, removing mats one at a time from behind the equipment as it moves along the exit path, placing each mat in the truck bed as it is removed. This ensures that the ground surface within the site is not disturbed by the vehicle tracks. The mats to be used will be selected in accordance with the weight of the construction equipment to be used in each area, such that no rutting will occur.

Criteria Consideration G: Properties that have achieved exceptional significance in the last 50 years (e.g., Tellico Dam).

cultural resources: A general phrase describing a wide variety of resources, including, but not limited to, archaeological sites, features, landscapes, historical sites, historic structures, natural feature of religious and cultural significance, traditional cultural properties, etc.

cultural resources staff: Archaeologists and architectural historians employed by TVA or staff-augmented archaeological or architectural historian contractors under the direct supervision of TVA staff responsible for making determinations regarding the applicability of this PA, and for certifying that all undertakings comply with applicable PA stipulations.

curb cut: A solid ramp graded down from the top surface of a sidewalk to the surface of an adjoining street, designed for pedestrian use.

dam-safety monitoring instruments: Instruments to manage dam safety, including, but not limited to, water-level gages, piezometers, seepage and leakage gauges, level and alignment surveys, and crack and joint measuring devices.

Equipment:

Heavy-duty equipment: Motorized construction and demolition machines. Examples include cranes, trucks with more than two axles, and tracked equipment. The term “heavy-duty equipment” is synonymous with “heavy machine,” “heavy truck,” and “heavy vehicle,” as these terms are commonly used interchangeably. Examples of heavy-duty equipment commonly used in TVA actions include triple-axle trucks, crawler-dozers, crawler-loaders, four-wheel-drive loaders, cranes, power excavators (whether wheeled or tracked, except mini-excavators), and dump trucks.

Light-duty equipment: Motorized vehicles such as pickup trucks, two-axle bucket trucks, mulchers, feller-bunchers, mowers, bush hogs, skid steers, compact track-loaders, and tracked mini-excavators.

Low-pressure equipment: Motorized machines, tracked or wheeled, designed to minimize ground pressure.

Transmission-line components: Hardware that is part of a transmission line, including structures (poles or towers), insulators, conductor, lightning arrestors, and ground and guy wires.

emergency situations: A disaster or emergency declared by the president or governor of a state or other immediate threats of damage to property or loss of human life, as designated by a TVA official.

functionally similar: Components of a transmission structure that are similar in design and function but, because of modern safety requirements, may be made of different materials.

grillage: A type of foundation used to support transmission structures with below-grade steel, connecting, tower legs designed to resist uplift and thrust forces by transferring loads to the ground. Related to **grillage surcharge**, which is gravel applied over grillage to provide additional weight and stabilization.

ground disturbance: Any activity that moves, alters, compacts, or penetrates the ground surface of previously undisturbed soils and sediments. Undisturbed soils possess intact and distinct natural soil horizons. Previously undisturbed soils and archaeological resources may occur below the depth of disturbed soils.

hazard tree: Dead or dying trees, dead parts of live trees, or unstable live trees that pose an imminent risk of falling into infrastructure (i.e., transmission lines, substations, roads, buildings) or of causing personal injury or fatality to humans.

historic fabric: Building material (masonry, wood, stone, metals, asbestos siding, etc.) from the period of the structure’s potential historical significance.

historic property: Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. Historic property includes artifacts, records, and remains that are related to and located on such properties. The term includes properties of traditional religious and cultural significance to an Indian tribe or Native Hawaiian organization that meet National Register criteria (36 C.F.R. §800.16[l]).

historic structure: Any historic architectural resource that is at least 50 years old.

in-kind replacement: Replacement for a historic element (i.e., >50 years old) that is either missing or beyond repair and which matches all physical and visual aspects of existing materials, including design, form, color, finish, texture, and workmanship, to the greatest extent possible, and does not exceed the existing vertical as well as horizontal disturbance.

loading deck: A staging area for loading timber and other materials onto transport vehicles.

maintained surface: An unpaved road surface (whether surfaced with dirt, gravel, or mulch) that is periodically improved by surface grading, patching, filling in holes, adding gravel, or other means (excluding paving).

maintenance: Activities to maintain existing facilities or structures within structural or functional standards, or to comply with federal regulations or guidelines.

NAGPRA cultural items: Human remains, associated funerary objects, unassociated funerary objects, sacred objects, and cultural patrimony (25 U.S.C. 3001[3]).

post-tensioned anchors: Anchors that hold a cable under tension within the interior concrete structure of the dam to tie it to substrate to deter further movement. The anchors are housed below steel plates, and the cables are not visible as they run within the structure and footing of the dam (and not within open spaces or galleries).

public spaces: Spaces within the interior of historic facilities that are accessible or visible to the visiting public or are designed to be accessible or visible to the visiting public (e.g., reception rooms, lobbies, generator rooms, restrooms, overlooks, control rooms).

pull points: The location on the transmission-line corridor where equipment pulls or provides tension to wire during installation or removal.

re-benching: Re-leveling the trail path by shaving a small portion of the uphill slope that has eroded, to allow for the trail to be widened back to its original configuration.

rock bolts: A long anchor bolt for stabilizing rock on an embankment. Transfers load from the unstable exterior to confined and much stronger interior of the rock mass.

slot cut: a thin cut into the concrete of a dam to control concrete expansion, similar to an expansion joint on a road or concrete bridge.

Secretary's standards: Refers to *The Secretary of the Interiors Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings* (<http://www.nps.gov/hps/tps/standguide/>). Work carried out on historic properties must meet *The Secretary of the Interior's Standards for the Treatment of Historic Properties* to avoid an adverse effect to historic properties (see 36 C.F.R. §800.5[a][2][ii]).

transmission tower/pole extension: Modification to an existing structure that increases the wire-to-ground clearance.

weed wrench: a long-handled device attached to small shrubs and other woody vegetation, used to pull vegetation from the ground and remove invasive plant species.