

**MEMORANDUM OF AGREEMENT
AMONG THE**

**UNITED STATES DEPARTMENT OF THE INTERIOR,
UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION,**

**UNITED STATES DEPARTMENT OF AGRICULTURE,
FOREST SERVICE, ASHLEY NATIONAL FOREST**

And the

THE UTAH STATE HISTORIC PRESERVATION OFFICER

REGARDING

THE STABILIZATION OF THIRTEEN HIGH MOUNTAIN LAKES

UINTA BASIN REPLACEMENT PROJECT

BONNEVILLE UNIT, CENTRAL UTAH PROJECT

DUCHESNE COUNTY and UINTAH COUNTY, UTAH

WHEREAS, the Central Utah Project (CUP) was authorized by the Colorado River Storage Project Act of 1956 [CRSPA; P.L. 84-485, 70 Stat. 105], including the Upalco Unit of the CUP, which purposes were to develop the flows of the Lake Fork and Yellowstone Rivers, with minor contributions from other smaller streams, for irrigation, municipal and industrial use, recreation, flood control and fish and wildlife purposes in the Uintah Basin of eastern Utah, including stabilizing 13 high mountain lakes used as storage reservoirs; and

WHEREAS, the Congress of the United States created the Utah Reclamation Mitigation and Conservation Commission (Mitigation Commission) by amending CRSPA through the Central Utah Project Completion Act of 1992 [CUPCA; P.L. 102-575, as amended] to plan, coordinate and administer the fish, wildlife and related recreation mitigation and conservation features of the CUPCA; and

WHEREAS, Section 203 of CUPCA authorized the Uinta Basin Replacement Project (UBRP) to increase efficiency, enhance beneficial uses, and achieve greater water conservation within the Uintah Basin of Utah as a replacement for features previously authorized under the Uintah Unit and Upalco Unit of the CUP; and

WHEREAS, under CUPCA, the Department of the Interior administers the completion of the CUP, including the UBRP; and

WHEREAS, a component of the UBRP is that 13 high mountain reservoirs formerly used to store water rights would be stabilized at No-Hazard Levels (as determined by the Utah State Engineer), and the water

rights transferred downstream for storage in the enlarged Big Sand Wash Reservoir, a project feature of the UBRP; and

WHEREAS, nine of the lakes (Bluebell, Drift, Five Point, Superior, Water Lily, Farmers, East Timothy, White Miller, and Deer) are located in the Upper Yellowstone River watershed and four (Brown Duck, Island, Kidney and Clements) are in the upper Lake Fork watershed and all thirteen high mountain reservoirs are located in the High Uintas Wilderness Area (HUWA) administered by the Forest Service; and

WHEREAS, the typical stabilization of these dams will require the excavation of a spillway notch, with stable side slopes, through the middle of the embankment and the removal of the low level outlet as well as the construction of an armored, stabilized low level channel would then be constructed in the notch to pass normal runoff as well as large storm events without jeopardizing the remaining structure by impounding excess water; and

WHEREAS, in some cases the embankment may be removed or rolled over on itself to decrease the height and increase the stability and ability of the remaining embankment to withstand any seismic event or overtopping during extreme events; and

WHEREAS, this work is the minimum necessary to stabilize these dam structures and restore natural hydrologic flows to the greatest extent possible, while still meeting a "No Hazard" dam safety rating; and

WHEREAS, the stabilization work will eliminate the need for operation and maintenance of the dams and will eliminate the associated impacts in the HUWA; and

WHEREAS, the Mitigation Commission has insured that archaeological surveys of the project areas were conducted in a manner that is consistent with the *Secretary of the Interior's Standards and Guidelines for Identification* (48 FR 44720-23) and taking into account NPS publication, *The Archeological Survey: Methods and Uses* (1978 GPO stock #024-016-00091); and

WHEREAS, the Mitigation Commission has determined the stabilization of the 13 reservoirs to be an adverse effect on the 13 lakes/facilities that are on or have been determined to be eligible to the National Register of Historic Places in accordance with Section 106 of the National Historic Preservation Act, as amended (16 USC 470); and

WHEREAS, stabilization of the 13 reservoirs will create an adverse effect on the six archaeological sites by exposing the sites, which are below the high water line of the reservoirs, that have been determined to be eligible to the National Register of Historic Places in accordance with Section 106 of the National Historic Preservation Act, as amended (16 USC 470).

NOW THEREFORE; the Mitigation Commission, the Department of the Interior, the Forest Service – Ashley National Forest and the Utah State Office on Historic Preservation (SHPO) agree that the following mitigation actions shall be conducted in accordance with the stipulations identified herein, to satisfy the responsibilities of the Mitigation Commission under Section 106 and Section 110 (f) and the Guidelines (a-i) of the NHPA for this project.

DESCRIPTION OF THE UNDERTAKING

The Forest Service administers the High Uintas Wilderness Area (HUWA). Thirteen lakes within the HUWA have been proposed for stabilization under the Uinta Basin Replacement Project, a component of the Central Utah Project. The Mitigation Commission is responsible for funding and overseeing the stabilization work. By necessity, the dams and tunnel features of the 13 lakes will be partially dismantled and substantially altered by the stabilization project. The stabilization of each of these 13 dams will typically require:

- The excavation of a spillway notch, approximately 10 to 20 feet wide at the bottom with stable sides of 2:1 to 3:1 slope.
- Removal of the outlet works and pipe from the wilderness area or, if impossible to do so, rendering them inoperable.
- Construction of a rock-armored, stabilized low level channel in the notch to pass normal runoff as well as large storm events without jeopardizing the remaining structure by impounding excess water.
- In some cases, removing the embankment or redistributing it to decrease the height and increase the stability and ability of the remaining embankment to withstand any seismic event or overtopping during extreme events.

The proposed work is the minimum necessary to stabilize these dam structures and restore natural hydrologic flows to the watersheds, while still meeting a "No Hazard" dam safety rating as required by the State of Utah and agreed to by the Forest Service.

Specific stabilization plans have been developed only for three lakes, located in the Swift Creek Basin of the Yellowstone River watershed. A copy of the technical memorandum describing the work to be accomplished at those three lakes (White Miller (UT-42-O), Farmers (tunnel; UT-42-G), and Water Lily (UT-42-N) is attached for information.

Inventories of the project area identified and the Mitigation Commission has determined the stabilization of the 13 reservoirs will have an adverse effect on the 13 dams and associated facilities and on six archaeological sites. Stabilization of the lakes will create an adverse effect on the six archaeological sites by exposing the sites, which are below the high water line of the reservoirs, to visibility and therefore potential vandalism during peak summer use season. The adverse effects on those facilities and sites are proposed to be mitigated in the following manner.

MITIGATION PLAN

- A. The Mitigation Commission will ensure that the following measures are carried out:
1. The 13 lakes will be documented through Historic American Engineering Record (HAER) archival procedures prior to alteration by the UBRP Project.
 2. The 13 lakes to be affected by the UBRP Project are only part of a complex irrigation network developed in northeastern Utah. A narrative report documenting the development of the irrigation networks and the role of the 13 lakes in that system will be researched and prepared.
 3. HAER documents identified in Item 1 (above) and the narrative report identified in Item 2 (above)

shall be made available through World Wide Web interface, with links to the site(s) available from the Mitigation Commission's website, the Forest Service's website, and other suitable website locations.

4. Educational/Interpretive displays consisting of reproductions of selected HAER photographs and original text will be prepared and constructed at no fewer than two of the following sites: Moon Lake Trailhead, Ashley National Forest; Swift Creek Trailhead or Swift Creek Campground, Ashley National Forest; or Garfield Basin Trailhead, Ashley National Forest. The Forest Service and SHPO will be provided opportunities for review and input in the preparation of these materials.
 5. Adverse effects to six (6) archaeological sites affected by the proposed projects will be mitigated by conducting additional investigation of each site to determine the nature and extent of the site. A testing plan will be produced and provided to the SHPO for comment. The Mitigation Commission will work with SHPO to address SHPO comments, if any, prior to execution of the testing. Based on the results of those tests, the Mitigation Commission will consult with SHPO, and, depending on the results of consultation, may conduct additional data recovery on one or more sites in accordance with the findings and a plan reviewed and commented on by SHPO.
 6. Ensure that, to the extent possible within available funding and without unduly endangering visitors to the HUWA, portions of the historic features of the 13 dams are retained and preserved through the construction process.
- B. The Forest Service will ensure that the following measures are carried out:
1. After the stabilization work is complete, portions of the historic features of the 13 dams will be retained, where feasible and doing so would not unduly endanger public visitors to the HUWA, although no specific actions will be taken to protect them from the elements (wind, rain, snow, fire, insects, vandalism etc.) and they will be allowed to weather and decay without further future intervention.
 2. During the stabilization work, prehistoric sites located in the vicinity of the dams will be protected by making those areas off-limits to construction camps, staging areas, material stockpiling, storage, etc.
 3. If, during the stabilization work, previously unidentified cultural resources are encountered during project implementation, cultural properties so discovered will be recorded to a level sufficient to allow determinations of eligibility for the National Register to be made. Emergency consultations or a meeting between the Mitigation Commission, the Forest Service, and the SHPO, will be held within five working days of the cultural property's discovery. The eligibility of the cultural property will be determined in accordance with stipulations above. If the property is determined eligible, the Mitigation Commission, in consultation with the Forest Service and SHPO, will decide on a course of treatment. The course of treatment for National Register eligible cultural properties discovered during monitoring will be implemented in such a way as to minimize or avoid delays to construction, to the extent feasible and prudent.

RECOGNITION OF PRIOR CONSULTATION AND MITIGATION PRODUCTS

The long history of planning for stabilizing the 13 lakes proposed as part of the UBRP Project has resulted in substantial progress toward mitigating adverse effects of subsequent stabilization. The HAER documentation identified in Item A.1 (above) and the narrative history identified in Item A.2 (above) were

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first conducted between 1983 and 1986 by various professional archaeologists hired by the Bureau of Reclamation, which was the federal agency at the time responsible for planning the stabilization of 45 high mountain reservoirs under various units of the CUP. HAER documentation completed and filed in 1985 by Fraser and Jurale and subsequent USHS documentation by Weymouth and Christensen in 2001 (Cultural Resource Report No. 1183) and Weymouth and Pagano in 2002 (Cultural Resource Report No. 1239) complete the archival documentation of Item A.1 (above). The 1986 report *Beyond the Wasatch: The History of Irrigation in the Uinta Basin and Upper Provo River Area of Utah* was completed and fulfills Item A.2 (above).

Execution of this Memorandum of Agreement by the Mitigation Commission, Department of the Interior, the Forest Service and the Utah SHPO, its subsequent review by the Advisory Council on Historic Preservation (ACHP), and implementation of its terms, evidence that the Mitigation Commission has afforded the ACHP an opportunity to comment on the lake stabilization project of the UBRP Project and its effects on historic properties, and that the Mitigation Commission has taken into account the effects of the undertaking on historic properties.

The principal contacts for this instrument are:

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OTHER TERMS AND CONDITIONS

NON-FUND OBLIGATING DOCUMENT. This instrument is neither a fiscal nor a funds obligation document. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds between the parties to this instrument will be handled in accordance with applicable laws, regulations, and procedures including those for Government procurement and printing. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This instrument does not provide such authority. Specifically, this instrument does not establish authority for noncompetitive award to the cooperator of any contract or other agreement. Any contract or agreement for training or other services must fully comply with all applicable requirements for competition.

Modification, amendment or termination of this agreement as necessary shall be accomplished by the signatories in the same manner as the original agreement.

Disputes regarding the completion of the terms of this agreement shall be resolved by the signatories. If the signatories cannot agree regarding a dispute, any one of the signatories may request the participation of ACHP to assist in resolving the dispute.

This agreement shall be null and void if its terms are not carried out within 5 (five) years from the date of its execution, unless the signatories agree in writing to an extension for carrying out its terms.

