

Responses to comments received during Public Comment period of the Draft MOA for the fish passage at New Savannah Bluff Lock and Dam, SHEP

Comment Number	Organization/ Public	Comment	Response
1	Save The Middle River	<p>our members remain gravely concerned about the impacts to historic resources which are clearly not congruent with Section 106, requiring federal agencies to follow specific review, engagement and consultation processes to consider the effects of all relevant impacts on historic properties, specifically "sites, buildings, structures and objects of significance in American history, architecture, archaeology, engineering and culture." See Dam Removal and Historic Preservation, published by the National Park Service in conjunction with American Rivers (the NPS Report). The NPS report establishes specific engagement processes to ensure proper recognition to the importance of dams and their related impoundments to the economic history of local and regional communities.</p>	<p>Thank you for your comments. The purpose of the NPS report was not to be a primer for Section 106 of the National Historic Preservation Act (NHPA) for undertakings that affect historic dams nor a substitute for 36 CFR 800, the implementing regulation for Section 106. This document is not regulatory guidance. As the lead federal agency for the Savannah Harbor Expansion Project (SHEP), the Corps is required to comply with the NHPA, and it followed the Section 106 process for this undertaking as promulgated in 36 CFR 800. The Corps took the views of the public into consideration, however, the criteria set forth in the 2016 Water Infrastructure Improvements for the Nation Act (WIIN Act) limited the alternatives that could be developed for this project. The Corps' focus was to follow the legislation requirements of the WIIN Act as well as meet the mitigation requirements of the SHEP while preserving the functionality of the upstream pool of the New Savannah Bluff Lock and Dam (NSBLD) for the purposes of recreational navigation and water supply. Rehabilitation, restoration and reconstruction of the NSBLD were not considered in the <u>Savannah Harbor Expansion Project, Georgia and South Carolina: Fish Passage at New Savannah Bluff Lock and Dam Final Integrated Post Authorization Analysis Report and Supplemental Environmental Assessment (IPARR/SEA)</u> as they did not meet the requirements set forth in the WIIN Act.</p> <p>Engineering Circular (EC) 1105-2-409, <i>Planning in a Collaborative Environment</i> (2005) created the framework for considering Other Social Effects in USACE planning studies. The EC states that all Corps Civil Works decision documents will "evaluate, display, and compare the full range of alternative plans' effects across all four Principles and Guidelines"</p>

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			<p>accounts (National Economic Development (NED), Environmental Quality (EQ), Regional Economic Development (RED), and Other Social Effects (OSE)).” Additional guidance on how to incorporate OSE into the planning process is laid out in <i>Applying Other Social Effects in Alternatives Analysis</i> (2013-R-03, April 2013). OSE would include such key human needs as: health and safety; social vulnerability and resilience; economic vitality; social connectedness; identity; participation; and leisure and recreation. OSE considerations are included in the IPARR/SEA in Sections 2.2.11 – 2.2.14. These sections of the report discuss how the river within the Study Area is being used by the community for recreational purposes, water supply, aesthetics and economic and demographic conditions for populations in the Study Area as they pertain to Environmental Justice. The effects of the Selected Plan on these resources are found in section 3.6.11- 3.6.14 of the IPARR/SEA. The resources that are analyzed include human activities that are facilitated by the river. Consideration of these resources is not part of the Section 106 process which addresses impacts to historic properties.</p>
		<p>...indeed, all USACE published public meeting announcements and descriptions thereto related specifically to the fish passage, flooding, the drawdown, etc., and never to HPA Section 106 compliance and essential historic preservation.</p>	<p>Thank you for your comments. The Corps held a public outreach workshop on March 6, 2019, in Augusta, Georgia during the IPAAR/ SEA comment period. The open house format provided the public an opportunity to interact with Corps’ subject matter experts, one of which was Julie Morgan, Archaeologist, Planning Branch. The Corps presented a poster station with information about cultural resources and Section 106 compliance. Information provided centered on the National Register of Historic Places (NRHP) status of the lock and dam, impacts all alternatives would have on the historic property, and possible mitigation measures. Few attendees had concerns or comments regarding the historic property and effects. The implementing regulations for Section 106, 36 CFR 800 contain</p>

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			<p>a provision at 36 CFR 800.8 for coordinating the National Environmental Policy Act (NEPA) process with the Section 106 for public participation and use of maximizing the NEPA process for requesting and receiving comments and involvement of the public and consulting parties.</p>
		<p>USACE has ignored The National Park Service and American Rivers Report stating that for all parties to achieve a successful outcome, it should "commit to exploring a range of options for preservation, mitigation, interpretation and respect the viewpoints of all involved."</p>	<p>Thank you for your comments. The purpose of the NPS document was not to be a primer for Section 106 of the NHPA for undertakings that affect historic dams nor a substitute for 36 CFR 800, the implementing regulation for Section 106. This document is not regulatory guidance. As the lead federal agency for the SHEP, the Corps is required to comply with the NHPA and followed the Section 106 process for this undertaking as promulgated in 36 CFR 800. The Corps did take the views of the public into consideration, however, the criteria set forth in the WIIN Act limited the alternatives that could be developed for this project. Rehabilitation, restoration and reconstruction of the NSBLD were not considered in the Savannah IPARR/SEAAs they did not meet the requirements set forth in the WIIN Act.</p>
		<p>Indeed we ask that the proposed MOA be withdrawn and that the HPA compliance plan be updated to include reauthorization and repair of the Lock & Dam. In this way, the USACE will not only preserve this historically significant feature, but will also allow this highly functional infrastructure to continue to protect the Augusta pool, vital to drinking and industrial water supplies in the region, and to mitigate the risk to the</p>	<p>Thank you for your comments. The Corps has used the Section 106 process to comply with the NHPA. Alternatives that were considered were analyzed in the IPAAR/SEA. The Corps' focus was to follow the legislation requirements of the WIIN Act as well as meet the mitigation requirements of the SHEP while preserving the functionality of the upstream pool of the NSBLD for the purposes of recreational navigation and water supply. The Corps worked with the state and federal resource agencies to recommend a plan with the highest probability to get fish species, in particular the shortnose and Atlantic sturgeon, past the lock and dam to meet our mitigation requirements of the SHEP and comply with the endangered species act by selecting the alterative with the best chance to get sturgeon past the lock and dam to additional spawning habitat. Any of the alternatives</p>

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		<p>CSRA of upstream and backwater flooding.</p>	<p>evaluated, including 1-1 and the No Action Alternative, lower the water levels from what is there under existing conditions just by varying degrees as a result of the creation of the fish passage structure. On April 8, 2019, the National Marine Fisheries Service (NMFS) provided the Corps a letter that evaluated the effectiveness of Alternative 1-1 (which consists of repairing the NSBLD gates and piers and the riverside lock wall and has the fish passage going around the structure on the GA side) and 2-6d (the recommended plan) in passing fish. In that letter, NMFS stated that they believed that the recommended plan (Alternative 2-6d) provides a higher likelihood of passing endangered Atlantic and shortnose sturgeon without delay than Alternative 1-1. NMFS stated in this letter that Alternative 1-1 is unlikely to be as effective at passing fishes compared to Alternative 2-6d. Alternative 1-1 raises concerns regarding false attraction due to its design as well as concerns that the narrower crest and overall width of the fishway would make it more likely to have water velocities outside the preferred range of the species that would be trying to use it for passage. NMFS believes that a full-river-width nature-like fishway that the selected alternative offers eliminates the potential for poor fishway entrance siting and false attraction. A fishway spanning the entire width of the river makes entrance location irrelevant, minimizes attraction delay, and maximizes attraction efficiency. The full-river-width nature like fishway also passes all river flows during non-flood conditions. The design ensures no false attraction occurs because all flows ultimately lead to the nature like fishway structure.</p>
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2	Historic Augusta, Incorporated	Issue 1. MOA page 1, third paragraph, "Area of Potential Effect." We contend that the area of potential effect on historic resources is much broader than the lock and dam, and the 50-acre park.	<p>As per 36 CFR 800.16(d), the Area of Potential Effects (APE) is defined as "the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The APE is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking..." The APE defines that area within which the identification of historic properties will occur. The APE is determined in consultation with all consulting parties. The APE for direct physical effects to cultural resources for the construction of the fish passage at New Savannah Bluff Lock and Dam(i.e., undertaking) was defined as: the NSBLD structure (lock chamber, dam, operation building), the upstream channel to 13th Street Bridge; the downstream channel to 0.5 miles from the dam; the 50-acre park and recreation area owned by the Corps; areas required for construction, construction access and lay down on privately-owned property; and the riverbank and associated flood plain extending 500 feet (.1 miles) landward from the river bank starting at 13th Street Bridge and ending .5 miles downstream of the dam. Pages 36-38 of the IPARR/SEA discuss and illustrate the APE for the undertaking.</p> <p>The reservoir is not part of the NRHP boundary as a contributing element. Neither the Georgia nor the South Carolina State Historic Preservation Officer (SHPO) asked that the NRHP boundary be adjusted to include the reservoir.</p> <p>For the fish passage undertaking, the Corps used the best available hydraulic modeling data to determine where water level changes would occur. Hydraulic models were used to determine the pool change at each of the locations and the navigation pool. The current pool elevation at the dam is 114.5</p>
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			<p>ft. (NAVD88). The current water elevation in the middle of the channel at 5th Street Bridge is 114.2 ft. (NAVD88). Modeling results show that water elevation changes would be greatest in areas closer to NSBLD, with minor decreases in pool elevation near the 13th Street Bridge. Based on that data, the Corps determined that potential impacts to historic properties caused by lower water elevations could include bank line recession, as well as increased access or exposure that could result in vandalism or artifact looting.</p> <p>Using data from Georgia’s Natural, Archaeological and Historic Resources database and South Carolina’s ArchSite, the Corps identified cultural resources within the APE. Section 106 of the NHPA applies to historic properties, which are defined in the NHPA [54 U.S.C. § 300308] as any “prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on, the National Register of Historic Places, including artifacts, records, and material remains related to such a property or resource.”</p> <p>Using the site data and information from the hydraulic modeling, the Corps determined that several archaeological and maritime sites are located within the APE for the fish passage project, but none would be exposed or have greater accessibility caused by lower water elevations. The water depths are expected to have the greatest change at NSBLD and attenuate as one moves upstream. Additionally, changes in water velocity, or flow, in the river caused by the undertaking will be negligible and would have no effect on the two historic railroad bridges that cross the Savannah River. Correspondence from the Georgia and South SHPO’s (December 18, 2018 and December 12, 2018, respectively) shows concurrence with the Corps’ determination that there would be no effect on the previously identified historic</p>
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			<p>properties and that marking and avoiding the training wall would be appropriate. These consultation letters were inadvertently omitted from Appendix D of the IPAAR/SEA.</p> <p>The areas for construction access and lay down were surveyed in January 2020 for cultural resources in accordance with the Programmatic Agreement (PA). The draft report will be coordinated with the SHPOs for review and comment. Any historic properties that are identified during the investigation will be mitigated in accordance with the programmatic agreement. A copy of the programmatic agreement was included in the Final IPAAR/SEA.</p> <p>The Georgia and South Carolina SHPOs concurred with the Corps' definition of the APE.</p>
		<p>Issue 2. MOA page 2, fifth paragraph, "Programmatic Agreement." It seems to be a serious omission that the existing Programmatic Agreement does not include historic resources, but only "addresses compliance and mitigation strategies for archaeological resources ... " We contend that there should be an amendment to the Programmatic Agreement, or there should be a separate Programmatic Agreement that addresses historic resources.</p>	<p>The PA that was executed for the SHEP addressed archaeological resources only. The Corps discussed this constraint with the SHPOs, and all parties agreed that executing a Memorandum of Agreement (MOA) would be appropriate for mitigating adverse effects to historic structures. Execution of the MOA follows the process as outlined in 36 CFR 800 for resolving adverse effects. The MOA incorporates the PA by reference. Where there are other historic structures that were adversely affected by the SHEP undertaking, it would be appropriate to execute a MOA to mitigate for the adverse impacts. A PA lays out a process for compliance with Section 106, for example, how surveys would be conducted, how resources would be evaluated for the National Register, and how adverse effects to historic properties would be mitigated. A MOA contains very specific measures that would be applied to a specific historic property that has been determined to be adversely affected by an undertaking.</p>

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		<p>Issue 3. MOA page 3, first and second paragraphs, "Native American Tribes," and "Catawba Indian Nation." Consultations in 2006 and 2010 should not be considered current since the project has evolved in the past ten-plus years, and their responses could very well have changed with the current proposal. We further point out that the two main tribes' associates with this region were the Creeks and the Chickasaws, the latter of which has a settlement on the South Carolina side of the river in colonial times.</p>	<p>Consultation with the tribes was conducted under the SHEP umbrella for the project. Only the Catawba tribe expressed interest in Native American finds. To date, the Corps has provided the Catawba with information about the prehistoric materials that were discovered during the CSS Georgia data recovery project. No other Native American artifacts or sites have been recorded as part of the SHEP undertaking. The Corps consulted with all tribes that could be identified as culturally affiliated with lands within the Area of Responsibility for the Savannah District.</p> <p>Tribal consultation is ongoing as additional cultural resources investigations continue under the SHEP PA. The tribes will be provided copies of the cultural resources survey report for the NSBLD recreation area. Tribes that wish to be engaged in consultation pertaining to other aspects of SHEP will be included in future consultation for those particular projects.</p>
		<p>Issue 4. MOA page 3, third paragraph, "public meetings." This mentions public meetings that were held in Augusta, Georgia. Actually at least one of those meetings was held in North Augusta, South Carolina.</p>	<p>The MOA contains information about the public meetings that were formally organized by the Corps for this SHEP feature. These are the meetings during which the Corps talked specifically about the alternatives that were being considered for analysis and resources that would be analyzed in the report and potential impacts. The Corps was invited to meetings organized by local groups, consortiums and local governments to provide specific information on the progress of the modeling and reporting. Those meetings were not intended to meet the Corps' public participation/involvement process for this project and do not meet the Corps' NEPA requirements for public involvement. Information regarding public meetings that is in the MOA came from the IPAAR/SEA, Section 5.1.2. A public notice was issued informing the public of the availability of the draft report, the public meetings and the points of contact for NEPA and NHPA comments.</p>

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		<p>As the above list of public meetings demonstrates, the statement that "no issues or concerns regarding cultural resources were raised in these meetings" is misleading at best, and actually false. When people were allowed to speak, which was not always the case, there were concerns.</p>	<p>The Corps has reviewed the transcript of a March 31, 2019, meeting and notes that Mr. Montgomery did comment on the historic lock and dam and the need to retain the structure to maintain the pool. This meeting was organized by the City of Augusta and was not a meeting organized or sanctioned by the Corps to meet requirements of the NEPA or USACE Civil Works study requirements for public involvement/review. The transcript for this meeting was included as a comment from the City of Augusta.</p>
		<p>Issue 5. MOA page 3, third paragraph, "cultural resources." Section 106 of the National Historic Preservation Act does not give a specific definition for "Cultural Resources," yet the term is often used when referring to National Register eligibility. The commonly accepted definition would include resources that by nature are of historic, architectural, engineering, archaeological, or traditional landscaping significance.</p>	<p>The National Park Service unofficially defines "cultural resource as "physical evidence or place of past human activity: site, object, landscape, structure; or a site, structure, landscape, object or natural feature of significance to a group of people traditionally associated with it." https://www.nps.gov/acad/learn/management/rm_culturalresources.htm is The term "cultural resource" is not defined in the National Environmental Policy Act (NEPA) or any other Federal law. The National Historic Preservation Act (NHPA) sets forth government policy and procedures regarding "historic properties" — that is, districts, sites, buildings, structures, and objects included in or eligible for the NRHP. Section 106 of NHPA requires that Federal agencies consider the effects of their actions on such properties, following regulations issued by the Advisory Council on Historic Preservation (36 CFR 800). Accordingly the MOA was created to mitigate the adverse effect to the NSBLD, a historic property. Resources that are not eligible for the NRHP would not be addressed in the MOA.</p> <p>Engineering Circular (EC) 1105-2-409, <i>Planning in a Collaborative Environment</i> (2005) created the framework for considering Other Social Effects in USACE planning studies.</p>

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			<p>The EC states that all Corps Civil Works decision documents will “evaluate, display, and compare the full range of alternative plans’ effects across all four Principles and Guidelines’ accounts (National Economic Development (NED), Environmental Quality (EQ), Regional Economic Development (RED), and Other Social Effects (OSE)).” Additional guidance on how to incorporate OSE into the planning process is laid out in <i>Applying Other Social Effects in Alternatives Analysis</i> (2013-R-03, April 2013). OSE would include such key human needs as: health and safety; social vulnerability and resilience; economic vitality; social connectedness; identity; participation; and leisure and recreation. OSE considerations are included in the IPARR/SEA in Sections 2.2.11 – 2.2.14. These sections of the report discuss how the river within the Study Area is being used by the community for recreational purposes, water supply, aesthetics and economic and demographic conditions for populations in the Study Area as they pertain to Environmental Justice. The effects of the Selected Plan on these resources are found in section 3.6.11- 3.6.14 of the IPARR/SEA. The resources that are analyzed include human activities that are facilitated by the river. Consideration of these resources is not part of the Section 106 process which addresses impacts to historic properties.</p> <p>The implementing regulations for Section 106, 36 CFR 800 contain a provision at 36 CFR800.8 for coordinating the NEPA process with the Section 106 for public participation and use of maximizing the NEPA process for requesting and receiving comments and involvement of the public and consulting parties.</p>
		<p>Issue 6. MOA pages 3-6, "Stipulations." While Historic Augusta does not object to</p>	<p>Thank you for your comments. The Corps’ focus was to follow the legislation requirements of the WIIN Act as well as meet the mitigation requirements of the SHEP while preserving the functionality of the upstream pool of the NSBLD for the</p>

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		<p>Recordation of the lock and dam, nor to interpretive displays and programs, we do not concur that these would be acceptable mitigation solutions in order to allow the demolition of the New Savannah Bluff Lock & Dam, with the construction of a rock weir and fish ladder built in its place. We believe that the New Savannah Bluff Lock and Dam is an irreplaceable historic resource in Augusta and the Central Savannah River Area, that it should be restored to the extent possible, and continue to serve the community by maintaining the reservoir that we have enjoyed since 1937.</p> <p>We do not believe it has been demonstrated that the proposed rock weir and fish ladder solution would be more cost effective than restoring the lock and dam. Indeed, cost estimates have been so varied and wide since this proposal started several years ago as to lack credibility. We do not believe it has been demonstrated that a fish ladder will achieve the goal of attracting sturgeon above a rock weir to the</p>	<p>purposes of recreational navigation and water supply. The Corps worked with the state and federal resource agencies to recommend a plan with the highest probability to get fish species, in particular the shortnose and Atlantic sturgeon above the lock and dam to meet our mitigation requirements of the SHEP and comply with the endangered species act by selecting the alterative with best chance to get sturgeon past the lock and dam to additional spawning habitat. Any of the alternatives being evaluated, including 1-1 and the No Action Alternative, lower the water levels from what is there under existing conditions just by varying degrees as a result of the creation of the fish passage structure.</p> <p>On April 8, 2019, NMFS provided the Corps a letter that evaluated the effectiveness of Alterative 1-1 (which consists of repairing the NSBLD gates and piers and the riverside lock wall and has the fish passage going around the structure on the GA side) and 2-6d (the recommended plan) is passing fish. In that letter, NMFS stated that they believed that the recommended plan (Alterative 2-6d) provides a higher likelihood of passing endangered Atlantic and shortnose sturgeon without delay than Alternative 1-1.</p> <p>NMFS stated in this letter that Alternative 1-1 is unlikely to be as effective at passing fishes relative to the Alternative 2-6d as there is concerns regarding false attraction with its design as wells concerns that the narrower crest associated with its design and overall width of the of the nature like fishway proposed under this alterative would make it more likely to have water velocities outside the preferred range of the species that would be trying to use it for passage.</p>
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		<p>shoals upriver from downtown Augusta. We understand similar fish ladders in other rivers have had limited success in accomplishing the purpose for which the one proposed will be constructed.</p> <ul style="list-style-type: none"> • We believe that the resulting lowering of the pool will have an adverse effect not only on the lock and dam itself, but on the entire historic reservoir which has shaped our two-state community since 1937. Industry, drinking water, riverfront development, water transportation, recreation and other human activities (i.e. cultural resources) will be severely affected as proven by two demonstrations that simulated lowering the pool. • A rock weir will permanently interrupt any possibility of river navigation between Augusta and Savannah, altering the historic link that has existed between Georgia's two oldest cities since colonial times. We do not accept the idea that there is no longer any need for a river link, and that there never will be again. A rock weir will make it unlikely that such a link can ever 	<p>NMFS believes that a full-river-width nature-like fishway eliminates the potential for poor fishway entrance siting and false attraction. A fishway spanning the entire width of the river makes entrance location irrelevant, minimizes attraction delay, and maximizes attraction efficiency. The full-river-width nature-like fishway also passes all river flows during non-flood conditions. The design ensures no false attraction occurs because all flows ultimately lead to the nature like fishway structure.</p> <p>The Section 106 process allows for mitigation of historic properties with development of ways to commemorate the loss of the property through documentation as a way of preserving the historic value of the resource. The mitigation measures are agreed upon in a MOA.</p>
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		<p>be reestablished between the central business districts of the two cities. We believe that a rock weir would be a bad solution in times of high water and flooding, and that it will create a maintenance problem with debris and sediment build-up. The current lock and dam can be opened to allow the river to flush such debris through.</p>	
		<p>We believe that the U.S. Army Corps of Engineers should formally nominate the New Savannah Bluff Lock and Dam, and the reservoir up through the downtown area to the National Register of Historic Places, affording it proper protections through the National Historic Preservation Act.</p>	<p>Thank you for your comment. By definition found in 36 CFR 800, the implementing regulation for Section 106 of the NHPA, a historic property is any property that is included in, or eligible for inclusion in, the National Register. Listing of a historic property does not require a federal agency to maintain or preserve the property. The Section 106 process would still apply to federal undertakings involving a NRHP-listed property. Section 106 of the NHPA requires agencies to consider the effects of undertakings on historic properties. Federal agencies are not required to nominate historic properties to the NRHP.</p>
		<p>We stand ready to serve as a consulting party, as we were invited to do in the early stages of this process, yet were never included in any discussions regarding this MOA, nor asked for any input.</p>	<p>Thank you for your comment. The Corps sent an email to Mr. Erick Montgomery, Historic Augusta, Inc. in January of 2018 regarding the fish passage project and inquired about the organization's interest in being a consulting party pursuant to Section 106. The organization responded in the affirmative that it would like to participate. In November 2018, the Corps provided a copy of the draft MOA that was being developed. No response, comments or acknowledgements of receipt were received from the organization on the MOA. During the comment period that ran from February 15 – April 16, 2019, Mr. Montgomery, representing Historic Augusta, Inc., submitted</p>

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			<p>comments regarding the eligibility of NSBLD and urged the Corps to rehabilitate the structure in order to maintain the pool to provide recreational opportunities for the community. The Corps held a public workshop during the public review period of the draft IPARR/SEA on March 6, 2019 and the public were allowed to make comments. Mr. Montgomery stood up and spoke during the meeting and provided the same comment as submitted during the public review period. Mr. Montgomery made no attempts to discuss the issue of consultation with any of the Corps staff who attended the meeting. The Corps sent an email regarding the MOA to Historic Augusta, Inc., on February 4, 2019 and no responses were received from the organization. Due to the lack of responses the Corps moved forward in the Section 106 consultation process without Historic Augusta, Inc. We apologize for the not continuing to include Historic Augusta, Inc. and will add a WHEREAS clause to the MOA stating Historic Augusta, Inc., is a consulting party to this Section 106 consultation. Further, we will continue to treat Historic Augusta, Inc. and future consulting parties regardless of whether or not we receive a response.</p>
3	Rick W. Allen, 12 th District, Georgia	<p>Since being built in 1937, the New Savannah Bluff Lock and Dam has served as an integral cultural resource to the community- and while initially only being used for commercial navigation, its use has expanded to benefit the Central Savannah River Area. It has preserved a pool of water of paramount importance to the history of the riverside communities, being utilized by cities and industries-- and</p>	<p>Thank you for your comment. Engineering Circular (EC) 1105-2-409, <i>Planning in a Collaborative Environment</i> (2005) created the framework for considering Other Social Effects in USACE planning studies. The EC states that all Corps Civil Works decision documents will “evaluate, display, and compare the full range of alternative plans’ effects across all four Principles and Guidelines’ accounts (National Economic Development (NED), Environmental Quality (EQ), Regional Economic Development (RED), and Other Social Effects (OSE)).” Additional guidance on how to incorporate OSE into the planning process is laid out in <i>Applying Other Social Effects in Alternatives Analysis</i> (2013-R-03, April 2013). OSE would include such key human needs</p>

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		<p>demolishing this structure and compromising this pool will do irreversible harm.</p>	<p>as: health and safety; social vulnerability and resilience; economic vitality; social connectedness; identity; participation; and leisure and recreation. OSE considerations are included in the IPARR/SEA in Sections 2.2.11 – 2.2.14. These sections of the report discuss how the river within the Study Area is being used by the community for recreational purposes, water supply, aesthetics and economic and demographic conditions for populations in the Study Area as they pertain to Environmental Justice. The effects of the Selected Plan on these resources are found in section 3.6.11- 3.6.14 of the IPARR/SEA. These resources that are analyzed include human activities that are facilitated by the river. Consideration of these resources is not part of the Section 106 process which addresses impacts to historic properties.</p>
		<p>Additionally, since the Corps' proposal has changed since the initial consultations with the Native American Tribes, I believe that additional consultation is needed - especially considering that per the Corps' selected alternative, the New Savannah Bluff Lock and Dam will be removed in its entirety.</p>	<p>Consultation with the tribes was conducted under the SHEP umbrella for the project. Only the Catawba tribe expressed interest in Native American finds. To date, the Corps has provided the Catawba with information about the prehistoric materials that were discovered during the CSS Georgia data recovery project. No other Native American artifacts or sites have been recorded as part of the SHEP undertaking. The Corps consulted tribes' that could be identified as culturally affiliated with lands within the Area of Responsibility for Savannah District.</p> <p>Tribal consultation is ongoing as additional cultural resources investigations continues under the SHEP PA. The most recent consultation letters were mailed to the tribes on 17 May 2018. The tribes' will be provided copies of the cultural resources survey report for the NSBLD recreation area. Tribes' that wish to be engaged in consultation pertaining to other aspects of SHEP will be included in future consultation for those particular projects.</p>

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		<p>Considering the fact that the New Savannah Bluff Lock and Dam has National Historic Register eligibility, as well as being named as one of Historic Augusta's Endangered Properties, I do not believe that only the recordation of the lock and dam is adequate to allow for the destruction of the lock and dam itself. It is an irreplaceable resource for the area and we should instead be focused on rehabilitating the structure. I believe that the Corps should pursue other options to accommodate the mitigation required by the Savannah Harbor Expansion Project that maintains the New Savannah Bluff Lock and Dam.</p>	<p>Thank you for your comment. The Corps' focus was to follow the legislation requirements of the WIIN Act as well as meet the mitigation requirements of the SHEP while preserving the functionality of the upstream pool of the NSBLD for the purposes of recreational navigation and water supply. The Corps worked with the state and federal resource agencies to recommend a plan with the highest probability to get fish species, in particular the shortnose and Atlantic sturgeon above the lock and dam to meet our mitigation requirements of the SHEP and comply with the endangered species act by selecting the alternative with best chance to get sturgeon past the lock and dam to additional spawning habitat. Any of the alternatives evaluated, including 1-1 and the No Action Alternative, lower the water levels from what is there under existing conditions just by varying degrees as a result of the creation of the fish passage structure.</p> <p>On April 8, 2019, NMFS provided the Corps a letter that evaluated the effectiveness of Alternative 1-1 (which consists of repairing the NSBLD gates and piers and the riverside lock wall and has the fish passage going around the structure on the GA side) and 2-6d (the recommended plan) is passing fish. In that letter, NMFS stated that they believed that the recommended plan (Alternative 2-6d) provides a higher likelihood of passing endangered Atlantic and shortnose sturgeon without delay than Alternative 1-1.</p> <p>NMFS stated in this letter that Alternative 1-1 is unlikely to be as effective at passing fishes relative to the Alternative 2-6d as there is concerns regarding false attraction with its design as wells concerns that the narrower crest associated with its design and overall width of the of the nature like fishway proposed under this alternative would make it more likely to have</p>
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			<p>water velocities outside the preferred range of the species that would be trying to use it for passage.</p> <p>NMFS believes that a full-river-width nature like fishway eliminates the potential for poor fishway entrance siting and false attraction. A fishway spanning the entire width of the river makes entrance location irrelevant, minimizes attraction delay, and maximizes attraction efficiency full-river-width nature like fishway also passes all river flows during non-flood conditions. The design ensures no false attraction occurs because all flows ultimately lead to the nature like fishway structure.</p>
4	Earth and Water Law LLC	<p>The Proposed Programmatic Agreement states that it only received one comment on historic resource effect during the SHEP PAAR/SEA/FONSI comment period. Proposed MOA, WHEREAS Paragraph 16. However, Augusta raised detailed comments directly related to historic properties and resources, and Augusta is aware of two other commenters raised historic resource and NHPA issues as well as public hearing comments involving historic resource issues. See Augusta Comments, Attachment A. In addition to Augusta, Historic Augusta, Inc. filed detailed comments on historic resource effects on the NSBLD and throughout the APE. Save the Savannah River also</p>	<p>During the comment period, the Corps received 461 comments from agencies and the public. The Corps categorized the comments and concerns into the following broad categories:</p> <ul style="list-style-type: none"> •Support the Fish Passage (11/461) – protect the sturgeon •Existing Municipal and Industrial Permitted Water Intakes/Water Supply (3/461) •Existing Dock Owners (16/461) – dock owners who oppose the recommended plan •Other (94/461) - no specific/overarching comment •Shoreline Properties (54/461) – concerns about shoreline, training wall exposure, and beached docks •Higher Weir Heights (59/461) – favor higher pool heights •Save the Lock and Dam/Choose Alternative 1-1 (223/461) - wan and dam regardless of the relative weir height of 2-6A. <p>The majority of comments received asked Corps to consider choosing Alternative 1-1 as the recommended plan based on what was observed during the simulation, i.e., exposed ‘mudflats’, beached docks, and lower water levels. The comments maintain that these conditions could be resolved by choosing an alternative that would maintain the current pool elevation and many of the public think that Alternative 1-1 would</p>

Responses to comments received during Public Comment period of the Draft MOA for the fish passage at New Savannah Bluff Lock and Dam, SHEP

		<p>raised NHPA historic resource issues within the APE. Augusta's comments were joined by North Augusta and the fact that the municipalities joined for the purpose of comment should not discount the fact that the two major municipalities representing hundreds of thousands of citizens in the Augusta Region, and millions in local and state investment should not be discounted, or ignored.</p>	<p>be a better selection. No comments were received pursuant to the Section 106 process or the MOA during the public review period of the draft report. Comments were focused on retaining the historic property as a means of keeping the current pool elevation for recreational and aesthetic purposes.</p> <p>Corps received the comments from Save the Middle River which discussed the rock weir, lowering water levels, the Endangered Species Act, NEPA analyses, including the destruction of the history property and the how the NSBLD continues to maintain a reliable pool for the community, and aesthetic impacts that would occur as a result of demolition. As the historic property was linked to the aesthetics and pool levels, the Corps' response was focused on the use of the navigation pool for recreational use and the river pool and not NHPA.</p> <p>The City of Augusta's concerns regarding the APE and resources located within the APE were addressed by the Corps and included in the final report.</p> <p>See response to Comment 2 for more information on the APE.</p>
		<p>Timing of Section 106/NHPA Compliance</p>	<p>Corps' Counsel and other USACE legal reviewers determined that signing the FONSI would not violate Section 106. Terrestrial archaeological surveys would be completed prior to any ground disturbing activities in compliance with the PA.</p> <p>Factors beyond USACE control affected the Section 106 process. We see the proper interpretation of Section 106 compliance differently. We accomplished consultations to the extent possible. Terrestrial archaeological surveys will be completed prior to any ground disturbing activities in</p>

Responses to comments received during Public Comment period of the Draft MOA for the fish passage at New Savannah Bluff Lock and Dam, SHEP

			<p>compliance with the existing Cultural Resources Programmatic Agreement.</p> <p>Additionally, a MOA was developed and coordinated amongst the three signatories, the Corps and the Georgia and South Carolina SHPOs. Unfortunately, there was no resolution after several iterations of final review ending in August 2020. Along with the draft report transmittal to division for review, the Corps involved the ACHP to resolve the remaining comments and concerns in October 2020. USACE consultation of the MOA with the ACHP, Georgia and South Carolina SHPO is ongoing.</p>
		<p>Area of Potential Effect</p>	<p>As per 36 CFR 800.16(d), the APE is defined as “the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The APE is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking...” The APE defines that area within which the identification of historic properties will occur. The APE is determined in consultation with all consulting parties.</p> <p>The APE for direct physical effects to cultural resources for the construction of the fish passage at NSBLD (i.e., undertaking) was defined as: the NSBLD structure (lock chamber, dam, operation building), the upstream channel to 13th Street Bridge; the downstream channel to 0.5 miles from the dam; the 50-acre park and recreation area owned by Corps in Georgia; areas required for construction, construction access and lay down on privately-owned property; and the riverbank and associated flood plain extending 500 feet (.1 miles) landward from the river bank starting at 13th Street Bridge and ending .5 miles</p>

Responses to comments received during Public Comment period of the Draft MOA for the fish passage at New Savannah Bluff Lock and Dam, SHEP

		<p>downstream of the dam. Pages 36-38 of the IPARR/SEA discuss and illustrate the APE for the undertaking.</p> <p>The reservoir is not part of the NRHP boundary as a contributing element. Neither the Georgia nor the South Carolina SHPO asked that the NRHP boundary be adjusted to include the reservoir.</p> <p>For the fish passage undertaking, the Corps used the best available hydraulic modeling data to determine where water level changes would occur. Hydraulic models were used to determine the pool change at each of the locations and the navigation pool. The current pool elevation at the dam is 114.5 ft. (NAVD88). The current water elevation in the middle of the channel at 5th Street Bridge is 114.2 ft. (NAVD88). Modeling results show that water elevation changes would be greatest in areas closer to NSBLD, with minor decreases in pool elevation near the 13th Street Bridge. Based on that data, the Corps determined that potential impacts to historic properties caused by lower water elevations could include bank line recession, as well as increased access or exposure that could result in vandalism or artifact looting.</p> <p>Using data from Georgia's Natural, Archaeological and Historic Resources database and South Carolina's ArchSite, the Corps identified cultural resources within the APE. Section 106 of the NHPA applies to historic properties, which are defined in the NHPA [54 U.S.C. § 300308] as any "prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on, the NRHP, including artifacts, records, and material remains related to such a property or resource."</p>
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Responses to comments received during Public Comment period of the Draft MOA for the fish passage at New Savannah Bluff Lock and Dam, SHEP

			<p>Using the site data and information from the hydraulic modeling, the Corps determined that several archaeological and maritime sites are located within the APE for the fish passage project, but none would be exposed or have greater accessibility caused by lower water elevations. The water depths are expected to have the greatest change at NSBLD and attenuate as one moves upstream. Additionally, changes in water velocity, or flow, in the river caused by the fish passage construction will be negligible and would have no effect on the two historic railroad bridges that cross the Savannah River. Correspondence from the Georgia and South Carolina SHPOs (December 18, 2018 and December 12, 2018, respectively) shows concurrence with the Corps' determination that there would be no effect on the previously identified historic properties and that marking and avoiding the training wall would be appropriate. These consultation letters were inadvertently omitted from Appendix D of the IPAAR/SEA.</p> <p>The areas for construction access and lay down were surveyed in January 2020 for cultural resources in accordance with the PA. The draft report will be coordinated with the SHPOs for review and comment. Any historic properties that are identified during the investigation will be mitigated in accordance with the PA. A copy of the PA was included in the Final IPAAR/SEA.</p> <p>The Georgia and South Carolina SHPO's concurred with the Corps' definition of the APE.</p>
		<p>The Corps Has Not Considered Preservation, Rehabilitation, Restoration and Reconstruction Alternatives</p>	<p>The Water Resources Development Act within the WIIN Act of 2016 (WRDA 2016) deauthorized the NSBLD and requires modifications to the fish passage in the authorized SHEP. In accordance with the WIIN Act the Corps developed and evaluated alternatives for a new configuration of the SHEP fish passage, to include either: (1) repair and modification of the</p>

Responses to comments received during Public Comment period of the Draft MOA for the fish passage at New Savannah Bluff Lock and Dam, SHEP

			<p>existing lock wall of the NSBLD or (2) removal of the entire existing structure after constructing a new water damming structure such as a weir. The SHEP fish passage mitigation feature must allow safe passage over the structure to historic spawning grounds of endangered shortnose and Atlantic sturgeon and other native migratory fish, while maintaining the functionality of the pool for navigation, water supply, and recreational activities.</p> <p>The criteria set forth in the WIIN Act Section 1319 requires “project modifications” which limited the alternatives that could be developed for this project to an “in channel” fish passage. The Corps focus was to follow the legislation requirements of the WIIN Act as well as meet the mitigation requirements of the SHEP while preserving the functionality of the upstream pool of the New NSBLD for the purposes of recreational navigation and water supply. Rehabilitation, restoration and reconstruction of the NSBLD were not considered as they did not meet the requirements set forth in the WIIN Act. Alternative 1-1 retained portions of the NSBLD, but all alternatives that were analyzed in the IPAAR/SEA had an adverse effect to the historic property. Rehabilitating the NSBLD is more costly than other alternatives, fails to allow endangered and threatened species to pass the location and it no longer serves the purpose of its construction – commercial navigation between Augusta and Savannah</p> <p>In compliance with the WRDA 2016 and HQ USACE guidance (Appendix H in IPAAR/SEA), the objective of this study was to meet the completeness and acceptability of SHEP mitigation ensuring the best possible way of passing endangered fish species in the most cost effective manner while maintaining the functionality of NSBLD pool for navigation, water</p>
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Responses to comments received during Public Comment period of the Draft MOA for the fish passage at New Savannah Bluff Lock and Dam, SHEP

			<p>supply, and recreation. Alternative 1-1 was not the recommended alternative because of possible delays due to false attraction toward the inside corner of the NSBLD lock wall and adjacent dam that could result. Also, the alternative was not the most cost effective. The complete matrix is in Section 3.7 of the Final IPAAR/SEA.</p>
		<p>Native American and Tribal Resources and Consultation</p>	<p>Consultation with the tribes was conducted under the SHEP umbrella for the project. Only the Catawba tribe expressed interest in Native American finds. To date, the Corps has provided the Catawba with information about the prehistoric materials that were discovered during the CSS Georgia data recovery project. No other Native American artifacts or sites have been recorded as part of the SHEP undertaking. The Corps consulted tribes that could be identified as culturally affiliated with lands within the Area of Responsibility for Savannah District.</p> <p>Tribal consultation is ongoing as additional cultural resources investigations continue under the SHEP PA. The most recent consultation letters were mailed to the tribes on 17 May 2018. The tribes will be provided copies of the cultural resources survey report for the NSBLD recreation area. Tribes that wish to be engaged in consultation pertaining to other aspects of SHEP will be included in future consultation for those particular projects.</p>
		<p>On Page 2, Paragraph 5, the Proposed Programmatic Agreement states that the Corps has consulted with the Georgia HPD. As of the February 2019 draft SHEP</p>	<p>Appendix D of the Final IPARR/SEA contains consultation correspondence. Correspondence from the Georgia and South Carolina SHPO's (December 18, 2018 and December 12, 2018, respectively) shows concurrence with the Corps' determination that there would be no effect on the previously identified historic properties and that marking and avoiding the training wall would</p>

Responses to comments received during Public Comment period of the Draft MOA for the fish passage at New Savannah Bluff Lock and Dam, SHEP

	<p>PAAR/SEA/FONSI, the Corps had not consulted and HPD had not reviewed the effects of the proposed removal of the NSBLD and the seventeen mile upstream area of direct effect, or indirect effects identified above. The consultation record identifies limited communications with Georgia and South Carolina historic resource officers. Georgia HPD shared Augusta's concerns in having insufficient information to determine effects on historic resources, but found an adverse historic resource effect on the limited information provided. There is no cultural resource survey report associated with the removal of the NSBLD and no consultation record. HPD and South Carolina SHPO must be consulted regarding the full scope of direct, indirect and cumulative effects of the NSBLD removal on historic properties and resources. The Corps must re-initiate consultation based upon changes to the NSBLD and their direct, indirect and cumulative effects.</p>	<p>be appropriate. These consultation letters were inadvertently omitted from Appendix D of the IPAAR/SEA.</p> <p>The areas for construction access and lay down were surveyed in January 2020 for cultural resources in accordance with the PA. The draft report will be coordinated with the SHPOs for review and comment. Any historic properties that are identified during the investigation will be mitigated in accordance with the PA. A copy of the PA was included in the Final IPAAR/SEA.</p> <p>The Corps continues to consult with the Georgia and South Carolina SHPO's to execute the MOA.</p>
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Responses to comments received during Public Comment period of the Draft MOA for the fish passage at New Savannah Bluff Lock and Dam, SHEP

		<p>Consulting Party and Public Participation</p>	<p>Certain individuals and organizations with demonstrated interest in the project may participate as a Consulting Party because of the nature of their legal or economic relationship to the project or affected properties. The Corps sent an email to Mr. Erick Montgomery, Historic Augusta, Inc. in January of 2018 regarding the fish passage project and inquired about the organization's interest in being a consulting party pursuant to Section 106. The organization responded in the affirmative that it would like to participate. In November 2018, the Corps provided a copy of the draft MOA that was being developed. No response, comments or acknowledgements of receipt were received from the organization on the MOA. During the comment period that ran from February 15 – April 16, 2019, Mr. Montgomery, representing Historic Augusta, Inc., submitted comments regarding the eligibility of NSBLD and urged the Corps to rehabilitate the structure in order to maintain the pool to provide recreational opportunities for the community. The Corps held a public workshop during the public review period of the draft IPARR/SEA on March 6, 2019 and the public were allowed to make comments. Mr. Montgomery stood up and spoke during the meeting and provided the same comment as submitted during the public review period. Mr. Montgomery made no attempts to discuss the issue of consultation with any of the Corps staff who attended the meeting. The Corps sent an email regarding the MOA to Historic Augusta, Inc., on February 4, 2019 and no responses were received from the organization. Due to the lack of responses the Corps moved forward in the Section 106 consultation process without Historic Augusta, Inc. The Corps will add a WHEREAS clause to the MOA stating Historic Augusta, Inc., is a consulting party to this Section 106 consultation process. The Corps will now ensure continued correspondence with Consulting Parties regardless of whether or not responses are received.</p>
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Responses to comments received during Public Comment period of the Draft MOA for the fish passage at New Savannah Bluff Lock and Dam, SHEP

			<p>Additionally the Corps specifically asked for comments pursuant to NHPA in the public notice that was issued for the review of the draft IPAAR/SEA. Information about impacts to historic resources was presented during the March 6, 2109 public meeting held the Corps. Graphic materials were presented. The implementing regulations for Section 106, 36 CFR 800 contain a provision at 36 CFR800.8 for coordinating the NEPA process with the Section 106 for public participation and use of maximizing the NEPA process for requesting and receiving comments and involvement of the public and consulting parties.</p>
		<p>Because no identification of historic resources has been conducted within the proper APE as required by 36 C.F.R. 800.4, Augusta is unable to fully address impacts to historic resources.</p>	<p>As per 36 CFR 800.16(d), the APE is defined as “. . .the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The APE is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking...” The APE defines that area within which the identification of historic properties will occur. The APE is determined in consultation with the SHPO.</p> <p>The APE for direct physical effects to cultural resources for the construction of the fish passage at NSBLD (i.e., undertaking) was defined as: the NSBLD structure (lock chamber, dam, operation building), the upstream channel to 13th Street Bridge; the downstream channel to 0.5 miles from the dam; the 50-acre park and recreation area owned by Corps in Georgia; areas required for construction, construction access and lay down on privately-owned property; and the riverbank and associated flood plain extending 500 feet (.1 miles) landward from the river bank starting at 13th Street Bridge and ending .5 miles</p>

Responses to comments received during Public Comment period of the Draft MOA for the fish passage at New Savannah Bluff Lock and Dam, SHEP

			<p>downstream of the dam. See pages 36-38 in the IPARR/SEA which discuss and illustrate the APE for the undertaking.</p> <p>For the fish passage undertaking the Corps used the best available hydraulic modeling data to determine where water level changes would occur. Hydraulic models were used to determine the pool change at each of the locations and the navigation pool. The current pool elevation at the dam is 114.5 ft. (NAVD88). The current water elevation in the middle of the channel at 5th Street Bridge is 114.2 ft. (NAVD88). Modeling results show that water elevation changes would be greatest in areas closer to NSBLD, with minor decreases in pool elevation near the 13th Street Bridge. Based on that data, the Corps determined that potential impacts to historic properties caused by lower water elevations could include bank line recession, as well as, increased access or exposure that could result in vandalism or artifact looting.</p> <p>Using data from Georgia's Natural, Archaeological and Historic Resources database and South Carolina's ArchSite, the Corps identified cultural resources within the APE. Section 106 of the National Historic Preservation Act applies to historic properties, which are defined in the NHPA [54 U.S.C. § 300308] as any "prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on, the National Register of Historic Places, including artifacts, records, and material remains related to such a property or resource."</p> <p>Using the site data and information from the hydraulic modeling, the Corps determined that several archaeological and maritime sites are located within the APE for the fish passage project, but none would be exposed or have greater accessibility caused by lower water elevations. The water depths are expected to have</p>
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			<p>the greatest change at NSBLD and attenuate as one moves upstream. Additionally, changes in water velocity, or flow, in the river caused by the fish passage construction will be negligible and would have no effect on the two historic railroad bridges that cross the Savannah River. Correspondence from the Georgia and South Carolina SHPO's (December 18, 2018 and December 12, 2018, respectively) shows concurrence with the Corps' determination that there would be no effect on the previously identified historic properties and that marking and avoiding the training wall would be appropriate. These consultation letters were inadvertently omitted from Appendix D of the IPAAR/SEA.</p> <p>The areas for construction access and lay down were surveyed in January 2020 surveyed for cultural resources in accordance with the PA. The draft report is in preparation and will be coordinated with the SHPOs for review and comment. Any historic properties that are identified during the investigation will be mitigated in accordance with the PA. A copy of the PA was included in the Final IPAAR/SEA.</p> <p>The Georgia and South Carolina SHPO's concurred with the Corps' definition of the APE.</p>
		<p>Additional Comments on the Proposed MOA – HAER Documentation. The City of Augusta or its designee, Historic Augusta, Inc., and the Augusta Museum of History should also be afforded an opportunity to review and comment on the Draft HAER documentation.</p>	<p>The Corps will send the materials for review to Historic Augusta, Inc., and Augusta Museum of History for review and comment.</p>

Responses to comments received during Public Comment period of the Draft MOA for the fish passage at New Savannah Bluff Lock and Dam, SHEP

		<p>Mapping. In addition to an adequate map of the entire APE and location of specific historic resources (following cultural resource survey and identification in consultation with consulting parties), the site plan should include a detailed map of the current site, and well as the original site plan, because some of the original features of the Lock and Dam project are now gone, such as the Lock Keepers residence, etc.</p>	<p>Thank you for your comment. A cultural resources survey of the NSBLD park will record the locations of any archaeological sites that are identified during the survey.</p> <p>Architectural resources will be recorded as part of the cultural resources investigation. A map of the locations will be in the cultural resources report.</p>
		<p>As Built Drawings Memorandum of Agreement (MOA), Page 4, Stipulation I.D.2. The as-built drawings should be based on records or from actual field measurements, including the original structure, later alterations (including gate actuation changes {circa 1995} and with later changes), the original navigation approach channel downstream and later changes (gravel bar, etc.)</p>	<p>The National Park Service (NPS), as the agency that administers and oversees the Nation's Heritage Documentation Programs such as the Historic American Engineering Record sets the requirements for documentation. The Corps followed the guidelines provided by the NPS.</p>
		<p>Interpretive Displays Memorandum of Agreement (MOA), Page 5, Stipulation II.A. The interpretive displays should not be limited to an on-line exhibit. It should include placing wayside</p>	<p>Thank you for your comment. The Corps contacted Ms. Nancy Glaser of the Augusta History Museum to discuss the possibility of the museum hosting the exhibit but as the photographs are not property of the museum Ms. Glaser determined it to be inappropriate to have the exhibit created and hosted on the museum's website. The website that will be created by the</p>

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		exhibits on the site in the park, similar to National Park Service standard waysides using permanent porcelain enamel plaques. Online exhibits should not be hosted solely on the Corps website, as it is subject to change. It should be placed on and archived by an academically permanent site.	Corps will be accessible to the public and museums and other organizations will be able to embed the link directly into their websites. The exhibit can remain on the Corps' webpage in perpetuity.
		Local Historical Public Access Memorandum of Agreement (MOA), Page 5, Stipulation II.A.3. The exhibit should be linked to local history museums, which should include, but not be limited to, the Augusta Museum of History, Historic Augusta, Inc., North Augusta Arts and Heritage Center, Beech Island Historical Society, Aiken Historical Museum, and Augusta Recreation and Parks Department.	Thank you for your comment. Additional organizations may link to the website.
		Additional items Memorandum of Agreement (MOA), Page 6, Stipulation II.C.2. The brochure should be also given to the City of Augusta.	Thank you for your comment. Organizations may request copies of the brochures.
		ACHP regulations require special procedures and requirements for properties listed or eligible for listing on the National Register such as the NSBLD. For such	Thank you for your comment. There are no National Historic Landmarks that are affected.

Responses to comments received during Public Comment period of the Draft MOA for the fish passage at New Savannah Bluff Lock and Dam, SHEP

		properties, Section 110(f) of the NHPA requires that the Corps to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to any National Historic Landmark that may be directly and adversely affected by an undertaking.	
		Section 4(f) Analysis - The project is funded in part by the Georgia Port Authority and Federal Department of Transportation which is subject to transportation laws relating to impacts on historic resources, commonly identified as Section 4(f). 49 U.S.C. 303.	<p>In the Water Resources Development Act (WRDA) of 1999 (Section 101(b)(9)), the US Congress conditionally authorized deepening the Savannah Harbor navigation channel to a maximum depth of -48 feet Mean Low Water (MLW). This legislation provided the legal authority for the US Army Corps of Engineers to perform the studies and analyses to develop a General Re-evaluation Report (GRR) and accompanying Environmental Impact Statement (EIS) fulfill the conditions of the conditional authorization granted in WRDA 1999, and together, assemble the information and analysis required by NEPA.</p> <p>Section 4(f) of the Department of Transportation Act of 1966, applies to Department of Transportation projects and does not apply to work carried out by the US Army Corps of Engineers.</p>
5	South Carolina Department of Archives and History	Please provide additional information about the public meeting. Was a comparable meeting held in South Carolina for South Carolinians to express their views? Do you know how many attendees at the March 6, 2019 meeting were from South Carolina?	<p>Thank you for your comment. No, the Corps did not hold meetings in South Carolina, but did hold them in downtown Augusta, Georgia which the Corps considered to be a central and easily accessible area.</p> <p>There was no sign in sheet for the meeting, but the Corps estimated more than 300 people attended the meeting. The Corps is unable to determine how many South Carolinians attended.</p>

Responses to comments received during Public Comment period of the Draft MOA for the fish passage at New Savannah Bluff Lock and Dam, SHEP

		Were comments and concerns about the historic property provided at other stations or to other staff at this workshop?	Thank you for your comment. The Corps held regular internal meetings with the project team and all members had working knowledge of the historic property and Section 106 compliance. Had a team member received a comment regarding the historic property, the public would have been given basic knowledge with the instruction to visit the cultural resources poster for further information.
		Thank you for updating us on the status of the Savannah River Below Augusta Training Wall Section 216 Disposition Study and for clarifying its status in the revised MOA. We understand this study is ongoing but has been hampered by current weather and resulting river conditions.	Thank you for your comment. Fieldwork is anticipated to start in early June 2020 weather permitting.
		We do not know how many South Carolina entities may have received these notices or how widely the Press Release was publicized. Please provide information documenting which media outlets published/broadcast the request for comments and documentation about the Corps' efforts to reach South Carolina historic and preservation organizations.	Thank you for your comment. The Corps used the standard processes for notifying and soliciting comments for the MOA in March 2020. This included placed a press/media release for the MOA comment period on the Savannah District website on the SHEP Fish Passage page with links to the MOA. This release was available to media outlets, but there are no records that it was used by an outside entity.
		Also given the unprecedented and evolving situation with the COVID-19 pandemic, we believe that the ability of some entities or	Thank you for your comment. While the timing of this review with COVID-19 is unfortunate, the Corps has met the spirit and intent of public involvement pursuant to 36 CFR 800 for review and comment on the MOA through the 15-day time frame.

Responses to comments received during Public Comment period of the Draft MOA for the fish passage at New Savannah Bluff Lock and Dam, SHEP

		<p>individuals to respond to the Public Notice may be reduced. We therefore believe that the 15-day time frame for comments (April 1, 2020) should be extended.</p>	
		<p>In addition to extending the comment period, we request that all consulting parties be provided with copies of all comments received and the Corps' plans to address those comments.</p>	<p>Thank you for your comment. The Corps will make comments and responses available to the public and consulting parties.</p>
		<p>We are concerned that the Corps has proceeded to carry out the proposed mitigation described in the draft MOA before the agreement is signed. Our office has received draft copies of the HAER documentation (Stipulation I), and outline for an online exhibit (Stipulation II.A). We are concerned that this has precluded the public's ability to suggest other forms of mitigation during the public comment period.</p>	<p>The Corps has not taken any actions that would preclude the public from requesting additional mitigation. The HAER documentation and online exhibit development that the Corps has undertaken will help the agency meet the schedule for fish passage construction start that is mandated in the Biological Opinion.</p>

COMMITTEE ON AGRICULTURE

SUBCOMMITTEE ON
CONSERVATION AND FORESTRY

SUBCOMMITTEE ON
GENERAL FARM COMMODITIES
AND RISK MANAGEMENT

COMMITTEE ON
EDUCATION AND LABOR

RANKING MEMBER, SUBCOMMITTEE
ON EARLY CHILDHOOD, ELEMENTARY, AND
SECONDARY EDUCATION

SUBCOMMITTEE ON
HEALTH, EMPLOYMENT, LABOR,
AND PENSIONS



RICK W. ALLEN

12TH DISTRICT, GEORGIA

Congress of the United States
House of Representatives

March 31, 2020

U.S. Army Corps of Engineers, Savannah District
Planning Division
ATTN: Ms. J. Morgan (PM-P)
5625 Anderson Highway
Hartwell, Georgia 30643

Via Electronic Delivery (CESAS-PD@usace.army.mil)

Re: Proposed Memorandum of Agreement among the U.S. Army Corps of Engineers, Savannah District, the Georgia State Historic Preservation Officer, the South Carolina State Historic Preservation Officer, and the Advisory Council on Historic Preservation regarding the New Savannah Bluff Lock and Dam

To Whom It May Concern:

Thank you for allowing the opportunity to comment on the proposed National Historical Preservation Act, Section 106 Memorandum of Agreement regarding the New Savannah Bluff Lock and Dam. I write today to underscore the historical significance of the New Savannah Bluff Lock and Dam and the need for a more comprehensive Memorandum of Agreement that would preserve this critical structure.

Since being built in 1937, the New Savannah Bluff Lock and Dam has served as an integral cultural resource to the community— and while initially only being used for commercial navigation, its use has expanded to benefit the Central Savannah River Area. It has preserved a pool of water of paramount importance to the history of the riverside communities, being utilized by cities and industries— and demolishing this structure and compromising this pool will do irreversible harm.

Additionally, since the Corps' proposal has changed since the initial consultations with the Native American Tribes, I believe that additional consultation is needed - especially considering that per the Corps' selected alternative, the New Savannah Bluff Lock and Dam will be removed in its entirety.

Considering the fact that the New Savannah Bluff Lock and Dam has National Historic Register eligibility, as well as being named as one of Historic Augusta's Endangered Properties, I do not believe that only the recordation of the lock and dam is adequate to allow for the destruction of the lock and dam itself. It is an irreplaceable resource for the area and we should instead be focused on rehabilitating the structure. I believe that the Corps should pursue other options to accommodate the mitigation required by the Savannah Harbor Expansion Project that maintains the New Savannah Bluff Lock and Dam.

Sincerely,

Rick W. Allen
Member of Congress

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April 16, 2020

Kimberly L. Garvey
Chief, Planning Branch
Savannah District, Corps of Engineers
100 W. Oglethorpe Avenue
Savannah, GA 31401-3604

Re: Savannah Harbor Expansion Project (SHEP) New Savannah Bluff Lock and Dam
(NSBLD) Fish Passage Construction
Aiken County, South Carolina
SHPO Project No. 14-ED0108/03-VM0063

Dear Ms. Garvey:

Thank you for your letter of March 16, 2020, which we received on March 18, regarding the above-referenced undertaking. We also received the four enclosures referenced in the letter – Supplemental Information Regarding Public Involvement and Training Wall, Public Notice Requesting Comment on an MOA, Revised MOA, and News Release dated March 11, 2020 - as supporting documentation for this undertaking. The State Historic Preservation Office (SHPO) is providing comments to the Corps of Engineers pursuant to Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations, 36 CFR 800. Consultation with the SHPO is not a substitution for consultation with Tribal Historic Preservation Offices, other Native American tribes, local governments, or the public.

Enclosure 1: Supplemental Information Regarding Public Involvement and Training Wall

Thank you for attempting to address our concerns about the public involvement in consultation under Section 106 for this project. As stated in our letter of August 23, 2019, given the significant public interest in retaining the historic property, the public must be able to express their views on resolving the adverse effects of the undertaking. As noted in the enclosure, public meetings and notices in early 2019 resulted in 461 comments, nearly half of which supported Alternative 1-1, the continued use of the lock and dam. While the enclosure notes that no comments specifically mentioned Section 106 of the National Historic Preservation Act (NHPA) or the MOA, we consider that the 223 comments in support of Alternative 1-1, the continued use of the lock and dam, to express a significant overall concern for and interest in the historic property.

The enclosure also describes a March 6, 2019 public outreach workshop held in Augusta, GA. It included a poster station staffed by Julie Morgan, Archaeologist, with information about cultural

resources and compliance with Section 106 of the NHPA. The enclosure states that few had concerns or comments regarding the historic property and effects. Please provide additional information about the public meeting. Was a comparable meeting held in South Carolina for South Carolinians to express their views? Do you know how many attendees at the March 6, 2019 meeting were from South Carolina? Were comments and concerns about the historic property provided at other stations or to other staff at this workshop?

Thank you for updating us on the status of the Savannah River Below Augusta Training Wall Section 216 Disposition Study and for clarifying its status in the revised MOA. We understand this study is ongoing but has been hampered by current weather and resulting river conditions.

Enclosures 2 and 4: Public Notice and Press Release

Enclosure 1 summarized previous efforts by the Corps to gather input from the public on the project. The current Public Notice and Press Release are soliciting additional public input. Our office anticipated a much more robust effort to gather public input about the historic property and the proposed mitigation beyond the 15-day comment period announced by the Public Notice. This could include efforts to re-contact historical and cultural organizations and local governments to solicit feedback. We are particularly interested in those entities located in South Carolina. We note that in a previous Corps response to our July 3, 2019 letter that the Corps contacted Historic Augusta Foundation, Augusta History Museum, and the Augusta/Richmond Historical Society, but provided no information regarding similar contacts with organizations in North Augusta and Aiken County. We do not know how many South Carolina entities may have received these notices or how widely the Press Release was publicized. Please provide information documenting which media outlets published/broadcast the request for comments and documentation about the Corps' efforts to reach South Carolina historic and preservation organizations.

Also given the unprecedented and evolving situation with the COVID-19 pandemic, we believe that the ability of some entities or individuals to respond to the Public Notice may be reduced. We therefore believe that the 15-day time frame for comments (April 1, 2020) should be extended. In addition to extending the comment period, we request that all consulting parties be provided with copies of all comments received and the Corps' plans to address those comments.

Enclosure 3: Revised MOA

We are concerned that the Corps has proceeded to carry out the proposed mitigation described in the draft MOA before the agreement is signed. Our office has received draft copies of the HAER documentation (Stipulation I), and outline for an online exhibit (Stipulation II.A). We are concerned that this has precluded the public's ability to suggest other forms of mitigation during the public comment period.

Please refer to SHPO Project Number 4-ED0108/03-VM0063 in future correspondence regarding this project. If you have any questions, please contact Elizabeth Johnson, Deputy State Historic Preservation Officer, at 803-896-6168, ejohnson@scdah.sc.gov.

Sincerely,

A handwritten signature in black ink that reads "W. Eric Emerson". The signature is written in a cursive style with a large, stylized initial "W".

W. Eric Emerson, Ph. D.
Director and
State Historic Preservation Officer

Responses to comments received during Public Comment period of the Draft MOA for the fish passage at New Savannah Bluff Lock and Dam, SHEP

Comment Number	Organization/ Public	Comment	Response
1	Save The Middle River	<p>our members remain gravely concerned about the impacts to historic resources which are clearly not congruent with Section 106, requiring federal agencies to follow specific review, engagement and consultation processes to consider the effects of all relevant impacts on historic properties, specifically "sites, buildings, structures and objects of significance in American history, architecture, archaeology, engineering and culture." See Dam Removal and Historic Preservation, published by the National Park Service in conjunction with American Rivers (the NPS Report). The NPS report establishes specific engagement processes to ensure proper recognition to the importance of dams and their related impoundments to the economic history of local and regional communities.</p>	<p>Thank you for your comments. The purpose of the NPS report was not to be a primer for Section 106 of the National Historic Preservation Act (NHPA) for undertakings that affect historic dams nor a substitute for 36 CFR 800, the implementing regulation for Section 106. This document is not regulatory guidance. As the lead federal agency for the Savannah Harbor Expansion Project (SHEP), the Corps is required to comply with the NHPA, and it followed the Section 106 process for this undertaking as promulgated in 36 CFR 800. The Corps took the views of the public into consideration, however, the criteria set forth in the 2016 Water Infrastructure Improvements for the Nation Act (WIIN Act) limited the alternatives that could be developed for this project. The Corps' focus was to follow the legislation requirements of the WIIN Act as well as meet the mitigation requirements of the SHEP while preserving the functionality of the upstream pool of the New Savannah Bluff Lock and Dam (NSBLD) for the purposes of recreational navigation and water supply. Rehabilitation, restoration and reconstruction of the NSBLD were not considered in the <u>Savannah Harbor Expansion Project, Georgia and South Carolina: Fish Passage at New Savannah Bluff Lock and Dam Final Integrated Post Authorization Analysis Report and Supplemental Environmental Assessment (IPARR/SEA)</u> as they did not meet the requirements set forth in the WIIN Act.</p> <p>Engineering Circular (EC) 1105-2-409, <i>Planning in a Collaborative Environment</i> (2005) created the framework for considering Other Social Effects in USACE planning studies. The EC states that all Corps Civil Works decision documents will "evaluate, display, and compare the full range of alternative plans' effects across all four Principles and Guidelines"</p>

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			<p>accounts (National Economic Development (NED), Environmental Quality (EQ), Regional Economic Development (RED), and Other Social Effects (OSE)).” Additional guidance on how to incorporate OSE into the planning process is laid out in <i>Applying Other Social Effects in Alternatives Analysis</i> (2013-R-03, April 2013). OSE would include such key human needs as: health and safety; social vulnerability and resilience; economic vitality; social connectedness; identity; participation; and leisure and recreation. OSE considerations are included in the IPARR/SEA in Sections 2.2.11 – 2.2.14. These sections of the report discuss how the river within the Study Area is being used by the community for recreational purposes, water supply, aesthetics and economic and demographic conditions for populations in the Study Area as they pertain to Environmental Justice. The effects of the Selected Plan on these resources are found in section 3.6.11- 3.6.14 of the IPARR/SEA. The resources that are analyzed include human activities that are facilitated by the river. Consideration of these resources is not part of the Section 106 process which addresses impacts to historic properties.</p>
		<p>...indeed, all USACE published public meeting announcements and descriptions thereto related specifically to the fish passage, flooding, the drawdown, etc., and never to HPA Section 106 compliance and essential historic preservation.</p>	<p>Thank you for your comments. The Corps held a public outreach workshop on March 6, 2019, in Augusta, Georgia during the IPAAR/ SEA comment period. The open house format provided the public an opportunity to interact with Corps’ subject matter experts, one of which was Julie Morgan, Archaeologist, Planning Branch. The Corps presented a poster station with information about cultural resources and Section 106 compliance. Information provided centered on the National Register of Historic Places (NRHP) status of the lock and dam, impacts all alternatives would have on the historic property, and possible mitigation measures. Few attendees had concerns or comments regarding the historic property and effects. The implementing regulations for Section 106, 36 CFR 800 contain</p>

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			<p>a provision at 36 CFR 800.8 for coordinating the National Environmental Policy Act (NEPA) process with the Section 106 for public participation and use of maximizing the NEPA process for requesting and receiving comments and involvement of the public and consulting parties.</p>
		<p>USACE has ignored The National Park Service and American Rivers Report stating that for all parties to achieve a successful outcome, it should "commit to exploring a range of options for preservation, mitigation, interpretation and respect the viewpoints of all involved."</p>	<p>Thank you for your comments. The purpose of the NPS document was not to be a primer for Section 106 of the NHPA for undertakings that affect historic dams nor a substitute for 36 CFR 800, the implementing regulation for Section 106. This document is not regulatory guidance. As the lead federal agency for the SHEP, the Corps is required to comply with the NHPA and followed the Section 106 process for this undertaking as promulgated in 36 CFR 800. The Corps did take the views of the public into consideration, however, the criteria set forth in the WIIN Act limited the alternatives that could be developed for this project. Rehabilitation, restoration and reconstruction of the NSBLD were not considered in the Savannah IPARR/SEAAs they did not meet the requirements set forth in the WIIN Act.</p>
		<p>Indeed we ask that the proposed MOA be withdrawn and that the HPA compliance plan be updated to include reauthorization and repair of the Lock & Dam. In this way, the USACE will not only preserve this historically significant feature, but will also allow this highly functional infrastructure to continue to protect the Augusta pool, vital to drinking and industrial water supplies in the region, and to mitigate the risk to the</p>	<p>Thank you for your comments. The Corps has used the Section 106 process to comply with the NHPA. Alternatives that were considered were analyzed in the IPAAR/SEA. The Corps' focus was to follow the legislation requirements of the WIIN Act as well as meet the mitigation requirements of the SHEP while preserving the functionality of the upstream pool of the NSBLD for the purposes of recreational navigation and water supply. The Corps worked with the state and federal resource agencies to recommend a plan with the highest probability to get fish species, in particular the shortnose and Atlantic sturgeon, past the lock and dam to meet our mitigation requirements of the SHEP and comply with the endangered species act by selecting the alterative with the best chance to get sturgeon past the lock and dam to additional spawning habitat. Any of the alternatives</p>

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		<p>CSRA of upstream and backwater flooding.</p>	<p>evaluated, including 1-1 and the No Action Alternative, lower the water levels from what is there under existing conditions just by varying degrees as a result of the creation of the fish passage structure. On April 8, 2019, the National Marine Fisheries Service (NMFS) provided the Corps a letter that evaluated the effectiveness of Alternative 1-1 (which consists of repairing the NSBLD gates and piers and the riverside lock wall and has the fish passage going around the structure on the GA side) and 2-6d (the recommended plan) in passing fish. In that letter, NMFS stated that they believed that the recommended plan (Alternative 2-6d) provides a higher likelihood of passing endangered Atlantic and shortnose sturgeon without delay than Alternative 1-1. NMFS stated in this letter that Alternative 1-1 is unlikely to be as effective at passing fishes compared to Alternative 2-6d. Alternative 1-1 raises concerns regarding false attraction due to its design as well as concerns that the narrower crest and overall width of the fishway would make it more likely to have water velocities outside the preferred range of the species that would be trying to use it for passage. NMFS believes that a full-river-width nature-like fishway that the selected alternative offers eliminates the potential for poor fishway entrance siting and false attraction. A fishway spanning the entire width of the river makes entrance location irrelevant, minimizes attraction delay, and maximizes attraction efficiency. The full-river-width nature like fishway also passes all river flows during non-flood conditions. The design ensures no false attraction occurs because all flows ultimately lead to the nature like fishway structure.</p>
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2	Historic Augusta, Incorporated	Issue 1. MOA page 1, third paragraph, "Area of Potential Effect." We contend that the area of potential effect on historic resources is much broader than the lock and dam, and the 50-acre park.	<p>As per 36 CFR 800.16(d), the Area of Potential Effects (APE) is defined as "the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The APE is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking..." The APE defines that area within which the identification of historic properties will occur. The APE is determined in consultation with all consulting parties. The APE for direct physical effects to cultural resources for the construction of the fish passage at New Savannah Bluff Lock and Dam(i.e., undertaking) was defined as: the NSBLD structure (lock chamber, dam, operation building), the upstream channel to 13th Street Bridge; the downstream channel to 0.5 miles from the dam; the 50-acre park and recreation area owned by the Corps; areas required for construction, construction access and lay down on privately-owned property; and the riverbank and associated flood plain extending 500 feet (.1 miles) landward from the river bank starting at 13th Street Bridge and ending .5 miles downstream of the dam. Pages 36-38 of the IPARR/SEA discuss and illustrate the APE for the undertaking.</p> <p>The reservoir is not part of the NRHP boundary as a contributing element. Neither the Georgia nor the South Carolina State Historic Preservation Officer (SHPO) asked that the NRHP boundary be adjusted to include the reservoir.</p> <p>For the fish passage undertaking, the Corps used the best available hydraulic modeling data to determine where water level changes would occur. Hydraulic models were used to determine the pool change at each of the locations and the navigation pool. The current pool elevation at the dam is 114.5</p>
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			<p>ft. (NAVD88). The current water elevation in the middle of the channel at 5th Street Bridge is 114.2 ft. (NAVD88). Modeling results show that water elevation changes would be greatest in areas closer to NSBLD, with minor decreases in pool elevation near the 13th Street Bridge. Based on that data, the Corps determined that potential impacts to historic properties caused by lower water elevations could include bank line recession, as well as increased access or exposure that could result in vandalism or artifact looting.</p> <p>Using data from Georgia’s Natural, Archaeological and Historic Resources database and South Carolina’s ArchSite, the Corps identified cultural resources within the APE. Section 106 of the NHPA applies to historic properties, which are defined in the NHPA [54 U.S.C. § 300308] as any “prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on, the National Register of Historic Places, including artifacts, records, and material remains related to such a property or resource.”</p> <p>Using the site data and information from the hydraulic modeling, the Corps determined that several archaeological and maritime sites are located within the APE for the fish passage project, but none would be exposed or have greater accessibility caused by lower water elevations. The water depths are expected to have the greatest change at NSBLD and attenuate as one moves upstream. Additionally, changes in water velocity, or flow, in the river caused by the undertaking will be negligible and would have no effect on the two historic railroad bridges that cross the Savannah River. Correspondence from the Georgia and South SHPO’s (December 18, 2018 and December 12, 2018, respectively) shows concurrence with the Corps’ determination that there would be no effect on the previously identified historic</p>
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			<p>properties and that marking and avoiding the training wall would be appropriate. These consultation letters were inadvertently omitted from Appendix D of the IPAAR/SEA.</p> <p>The areas for construction access and lay down were surveyed in January 2020 for cultural resources in accordance with the Programmatic Agreement (PA). The draft report will be coordinated with the SHPOs for review and comment. Any historic properties that are identified during the investigation will be mitigated in accordance with the programmatic agreement. A copy of the programmatic agreement was included in the Final IPAAR/SEA.</p> <p>The Georgia and South Carolina SHPOs concurred with the Corps' definition of the APE.</p>
		<p>Issue 2. MOA page 2, fifth paragraph, "Programmatic Agreement." It seems to be a serious omission that the existing Programmatic Agreement does not include historic resources, but only "addresses compliance and mitigation strategies for archaeological resources ... " We contend that there should be an amendment to the Programmatic Agreement, or there should be a separate Programmatic Agreement that addresses historic resources.</p>	<p>The PA that was executed for the SHEP addressed archaeological resources only. The Corps discussed this constraint with the SHPOs, and all parties agreed that executing a Memorandum of Agreement (MOA) would be appropriate for mitigating adverse effects to historic structures. Execution of the MOA follows the process as outlined in 36 CFR 800 for resolving adverse effects. The MOA incorporates the PA by reference. Where there are other historic structures that were adversely affected by the SHEP undertaking, it would be appropriate to execute a MOA to mitigate for the adverse impacts. A PA lays out a process for compliance with Section 106, for example, how surveys would be conducted, how resources would be evaluated for the National Register, and how adverse effects to historic properties would be mitigated. A MOA contains very specific measures that would be applied to a specific historic property that has been determined to be adversely affected by an undertaking.</p>

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		<p>Issue 3. MOA page 3, first and second paragraphs, "Native American Tribes," and "Catawba Indian Nation." Consultations in 2006 and 2010 should not be considered current since the project has evolved in the past ten-plus years, and their responses could very well have changed with the current proposal. We further point out that the two main tribes' associates with this region were the Creeks and the Chickasaws, the latter of which has a settlement on the South Carolina side of the river in colonial times.</p>	<p>Consultation with the tribes was conducted under the SHEP umbrella for the project. Only the Catawba tribe expressed interest in Native American finds. To date, the Corps has provided the Catawba with information about the prehistoric materials that were discovered during the CSS Georgia data recovery project. No other Native American artifacts or sites have been recorded as part of the SHEP undertaking. The Corps consulted with all tribes that could be identified as culturally affiliated with lands within the Area of Responsibility for the Savannah District.</p> <p>Tribal consultation is ongoing as additional cultural resources investigations continue under the SHEP PA. The tribes will be provided copies of the cultural resources survey report for the NSBLD recreation area. Tribes that wish to be engaged in consultation pertaining to other aspects of SHEP will be included in future consultation for those particular projects.</p>
		<p>Issue 4. MOA page 3, third paragraph, "public meetings." This mentions public meetings that were held in Augusta, Georgia. Actually at least one of those meetings was held in North Augusta, South Carolina.</p>	<p>The MOA contains information about the public meetings that were formally organized by the Corps for this SHEP feature. These are the meetings during which the Corps talked specifically about the alternatives that were being considered for analysis and resources that would be analyzed in the report and potential impacts. The Corps was invited to meetings organized by local groups, consortiums and local governments to provide specific information on the progress of the modeling and reporting. Those meetings were not intended to meet the Corps' public participation/involvement process for this project and do not meet the Corps' NEPA requirements for public involvement. Information regarding public meetings that is in the MOA came from the IPAAR/SEA, Section 5.1.2. A public notice was issued informing the public of the availability of the draft report, the public meetings and the points of contact for NEPA and NHPA comments.</p>

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		<p>As the above list of public meetings demonstrates, the statement that "no issues or concerns regarding cultural resources were raised in these meetings" is misleading at best, and actually false. When people were allowed to speak, which was not always the case, there were concerns.</p>	<p>The Corps has reviewed the transcript of a March 31, 2019, meeting and notes that Mr. Montgomery did comment on the historic lock and dam and the need to retain the structure to maintain the pool. This meeting was organized by the City of Augusta and was not a meeting organized or sanctioned by the Corps to meet requirements of the NEPA or USACE Civil Works study requirements for public involvement/review. The transcript for this meeting was included as a comment from the City of Augusta.</p>
		<p>Issue 5. MOA page 3, third paragraph, "cultural resources." Section 106 of the National Historic Preservation Act does not give a specific definition for "Cultural Resources," yet the term is often used when referring to National Register eligibility. The commonly accepted definition would include resources that by nature are of historic, architectural, engineering, archaeological, or traditional landscaping significance.</p>	<p>The National Park Service unofficially defines "cultural resource as "physical evidence or place of past human activity: site, object, landscape, structure; or a site, structure, landscape, object or natural feature of significance to a group of people traditionally associated with it." https://www.nps.gov/acad/learn/management/rm_culturalresources.htm is The term "cultural resource" is not defined in the National Environmental Policy Act (NEPA) or any other Federal law. The National Historic Preservation Act (NHPA) sets forth government policy and procedures regarding "historic properties" — that is, districts, sites, buildings, structures, and objects included in or eligible for the NRHP. Section 106 of NHPA requires that Federal agencies consider the effects of their actions on such properties, following regulations issued by the Advisory Council on Historic Preservation (36 CFR 800). Accordingly the MOA was created to mitigate the adverse effect to the NSBLD, a historic property. Resources that are not eligible for the NRHP would not be addressed in the MOA.</p> <p>Engineering Circular (EC) 1105-2-409, <i>Planning in a Collaborative Environment</i> (2005) created the framework for considering Other Social Effects in USACE planning studies.</p>

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			<p>The EC states that all Corps Civil Works decision documents will “evaluate, display, and compare the full range of alternative plans’ effects across all four Principles and Guidelines’ accounts (National Economic Development (NED), Environmental Quality (EQ), Regional Economic Development (RED), and Other Social Effects (OSE)).” Additional guidance on how to incorporate OSE into the planning process is laid out in <i>Applying Other Social Effects in Alternatives Analysis</i> (2013-R-03, April 2013). OSE would include such key human needs as: health and safety; social vulnerability and resilience; economic vitality; social connectedness; identity; participation; and leisure and recreation. OSE considerations are included in the IPARR/SEA in Sections 2.2.11 – 2.2.14. These sections of the report discuss how the river within the Study Area is being used by the community for recreational purposes, water supply, aesthetics and economic and demographic conditions for populations in the Study Area as they pertain to Environmental Justice. The effects of the Selected Plan on these resources are found in section 3.6.11- 3.6.14 of the IPARR/SEA. The resources that are analyzed include human activities that are facilitated by the river. Consideration of these resources is not part of the Section 106 process which addresses impacts to historic properties.</p> <p>The implementing regulations for Section 106, 36 CFR 800 contain a provision at 36 CFR800.8 for coordinating the NEPA process with the Section 106 for public participation and use of maximizing the NEPA process for requesting and receiving comments and involvement of the public and consulting parties.</p>
		<p>Issue 6. MOA pages 3-6, "Stipulations." While Historic Augusta does not object to</p>	<p>Thank you for your comments. The Corps’ focus was to follow the legislation requirements of the WIIN Act as well as meet the mitigation requirements of the SHEP while preserving the functionality of the upstream pool of the NSBLD for the</p>

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		<p>Recordation of the lock and dam, nor to interpretive displays and programs, we do not concur that these would be acceptable mitigation solutions in order to allow the demolition of the New Savannah Bluff Lock & Dam, with the construction of a rock weir and fish ladder built in its place. We believe that the New Savannah Bluff Lock and Dam is an irreplaceable historic resource in Augusta and the Central Savannah River Area, that it should be restored to the extent possible, and continue to serve the community by maintaining the reservoir that we have enjoyed since 1937.</p> <p>We do not believe it has been demonstrated that the proposed rock weir and fish ladder solution would be more cost effective than restoring the lock and dam. Indeed, cost estimates have been so varied and wide since this proposal started several years ago as to lack credibility. We do not believe it has been demonstrated that a fish ladder will achieve the goal of attracting sturgeon above a rock weir to the</p>	<p>purposes of recreational navigation and water supply. The Corps worked with the state and federal resource agencies to recommend a plan with the highest probability to get fish species, in particular the shortnose and Atlantic sturgeon above the lock and dam to meet our mitigation requirements of the SHEP and comply with the endangered species act by selecting the alterative with best chance to get sturgeon past the lock and dam to additional spawning habitat. Any of the alternatives being evaluated, including 1-1 and the No Action Alternative, lower the water levels from what is there under existing conditions just by varying degrees as a result of the creation of the fish passage structure.</p> <p>On April 8, 2019, NMFS provided the Corps a letter that evaluated the effectiveness of Alterative 1-1 (which consists of repairing the NSBLD gates and piers and the riverside lock wall and has the fish passage going around the structure on the GA side) and 2-6d (the recommended plan) is passing fish. In that letter, NMFS stated that they believed that the recommended plan (Alterative 2-6d) provides a higher likelihood of passing endangered Atlantic and shortnose sturgeon without delay than Alternative 1-1.</p> <p>NMFS stated in this letter that Alternative 1-1 is unlikely to be as effective at passing fishes relative to the Alternative 2-6d as there is concerns regarding false attraction with its design as wells concerns that the narrower crest associated with its design and overall width of the of the nature like fishway proposed under this alterative would make it more likely to have water velocities outside the preferred range of the species that would be trying to use it for passage.</p>
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		<p>shoals upriver from downtown Augusta. We understand similar fish ladders in other rivers have had limited success in accomplishing the purpose for which the one proposed will be constructed.</p> <ul style="list-style-type: none"> • We believe that the resulting lowering of the pool will have an adverse effect not only on the lock and dam itself, but on the entire historic reservoir which has shaped our two-state community since 1937. Industry, drinking water, riverfront development, water transportation, recreation and other human activities (i.e. cultural resources) will be severely affected as proven by two demonstrations that simulated lowering the pool. • A rock weir will permanently interrupt any possibility of river navigation between Augusta and Savannah, altering the historic link that has existed between Georgia's two oldest cities since colonial times. We do not accept the idea that there is no longer any need for a river link, and that there never will be again. A rock weir will make it unlikely that such a link can ever 	<p>NMFS believes that a full-river-width nature-like fishway eliminates the potential for poor fishway entrance siting and false attraction. A fishway spanning the entire width of the river makes entrance location irrelevant, minimizes attraction delay, and maximizes attraction efficiency. The full-river-width nature-like fishway also passes all river flows during non-flood conditions. The design ensures no false attraction occurs because all flows ultimately lead to the nature like fishway structure.</p> <p>The Section 106 process allows for mitigation of historic properties with development of ways to commemorate the loss of the property through documentation as a way of preserving the historic value of the resource. The mitigation measures are agreed upon in a MOA.</p>
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		<p>be reestablished between the central business districts of the two cities. We believe that a rock weir would be a bad solution in times of high water and flooding, and that it will create a maintenance problem with debris and sediment build-up. The current lock and dam can be opened to allow the river to flush such debris through.</p>	
		<p>We believe that the U.S. Army Corps of Engineers should formally nominate the New Savannah Bluff Lock and Dam, and the reservoir up through the downtown area to the National Register of Historic Places, affording it proper protections through the National Historic Preservation Act.</p>	<p>Thank you for your comment. By definition found in 36 CFR 800, the implementing regulation for Section 106 of the NHPA, a historic property is any property that is included in, or eligible for inclusion in, the National Register. Listing of a historic property does not require a federal agency to maintain or preserve the property. The Section 106 process would still apply to federal undertakings involving a NRHP-listed property. Section 106 of the NHPA requires agencies to consider the effects of undertakings on historic properties. Federal agencies are not required to nominate historic properties to the NRHP.</p>
		<p>We stand ready to serve as a consulting party, as we were invited to do in the early stages of this process, yet were never included in any discussions regarding this MOA, nor asked for any input.</p>	<p>Thank you for your comment. The Corps sent an email to Mr. Erick Montgomery, Historic Augusta, Inc. in January of 2018 regarding the fish passage project and inquired about the organization's interest in being a consulting party pursuant to Section 106. The organization responded in the affirmative that it would like to participate. In November 2018, the Corps provided a copy of the draft MOA that was being developed. No response, comments or acknowledgements of receipt were received from the organization on the MOA. During the comment period that ran from February 15 – April 16, 2019, Mr. Montgomery, representing Historic Augusta, Inc., submitted</p>

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			<p>comments regarding the eligibility of NSBLD and urged the Corps to rehabilitate the structure in order to maintain the pool to provide recreational opportunities for the community. The Corps held a public workshop during the public review period of the draft IPARR/SEA on March 6, 2019 and the public were allowed to make comments. Mr. Montgomery stood up and spoke during the meeting and provided the same comment as submitted during the public review period. Mr. Montgomery made no attempts to discuss the issue of consultation with any of the Corps staff who attended the meeting. The Corps sent an email regarding the MOA to Historic Augusta, Inc., on February 4, 2019 and no responses were received from the organization. Due to the lack of responses the Corps moved forward in the Section 106 consultation process without Historic Augusta, Inc. We apologize for the not continuing to include Historic Augusta, Inc. and will add a WHEREAS clause to the MOA stating Historic Augusta, Inc., is a consulting party to this Section 106 consultation. Further, we will continue to treat Historic Augusta, Inc. and future consulting parties regardless of whether or not we receive a response.</p>
3	Rick W. Allen, 12 th District, Georgia	<p>Since being built in 1937, the New Savannah Bluff Lock and Dam has served as an integral cultural resource to the community- and while initially only being used for commercial navigation, its use has expanded to benefit the Central Savannah River Area. It has preserved a pool of water of paramount importance to the history of the riverside communities, being utilized by cities and industries-- and</p>	<p>Thank you for your comment. Engineering Circular (EC) 1105-2-409, <i>Planning in a Collaborative Environment</i> (2005) created the framework for considering Other Social Effects in USACE planning studies. The EC states that all Corps Civil Works decision documents will “evaluate, display, and compare the full range of alternative plans’ effects across all four Principles and Guidelines’ accounts (National Economic Development (NED), Environmental Quality (EQ), Regional Economic Development (RED), and Other Social Effects (OSE)).” Additional guidance on how to incorporate OSE into the planning process is laid out in <i>Applying Other Social Effects in Alternatives Analysis</i> (2013-R-03, April 2013). OSE would include such key human needs</p>

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		<p>demolishing this structure and compromising this pool will do irreversible harm.</p>	<p>as: health and safety; social vulnerability and resilience; economic vitality; social connectedness; identity; participation; and leisure and recreation. OSE considerations are included in the IPARR/SEA in Sections 2.2.11 – 2.2.14. These sections of the report discuss how the river within the Study Area is being used by the community for recreational purposes, water supply, aesthetics and economic and demographic conditions for populations in the Study Area as they pertain to Environmental Justice. The effects of the Selected Plan on these resources are found in section 3.6.11- 3.6.14 of the IPARR/SEA. These resources that are analyzed include human activities that are facilitated by the river. Consideration of these resources is not part of the Section 106 process which addresses impacts to historic properties.</p>
		<p>Additionally, since the Corps' proposal has changed since the initial consultations with the Native American Tribes, I believe that additional consultation is needed - especially considering that per the Corps' selected alternative, the New Savannah Bluff Lock and Dam will be removed in its entirety.</p>	<p>Consultation with the tribes was conducted under the SHEP umbrella for the project. Only the Catawba tribe expressed interest in Native American finds. To date, the Corps has provided the Catawba with information about the prehistoric materials that were discovered during the CSS Georgia data recovery project. No other Native American artifacts or sites have been recorded as part of the SHEP undertaking. The Corps consulted tribes' that could be identified as culturally affiliated with lands within the Area of Responsibility for Savannah District.</p> <p>Tribal consultation is ongoing as additional cultural resources investigations continues under the SHEP PA. The most recent consultation letters were mailed to the tribes on 17 May 2018. The tribes' will be provided copies of the cultural resources survey report for the NSBLD recreation area. Tribes' that wish to be engaged in consultation pertaining to other aspects of SHEP will be included in future consultation for those particular projects.</p>

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		<p>Considering the fact that the New Savannah Bluff Lock and Dam has National Historic Register eligibility, as well as being named as one of Historic Augusta's Endangered Properties, I do not believe that only the recordation of the lock and dam is adequate to allow for the destruction of the lock and dam itself. It is an irreplaceable resource for the area and we should instead be focused on rehabilitating the structure. I believe that the Corps should pursue other options to accommodate the mitigation required by the Savannah Harbor Expansion Project that maintains the New Savannah Bluff Lock and Dam.</p>	<p>Thank you for your comment. The Corps' focus was to follow the legislation requirements of the WIIN Act as well as meet the mitigation requirements of the SHEP while preserving the functionality of the upstream pool of the NSBLD for the purposes of recreational navigation and water supply. The Corps worked with the state and federal resource agencies to recommend a plan with the highest probability to get fish species, in particular the shortnose and Atlantic sturgeon above the lock and dam to meet our mitigation requirements of the SHEP and comply with the endangered species act by selecting the alterative with best chance to get sturgeon past the lock and dam to additional spawning habitat. Any of the alternatives evaluated, including 1-1 and the No Action Alternative, lower the water levels from what is there under existing conditions just by varying degrees as a result of the creation of the fish passage structure.</p> <p>On April 8, 2019, NMFS provided the Corps a letter that evaluated the effectiveness of Alterative 1-1 (which consists of repairing the NSBLD gates and piers and the riverside lock wall and has the fish passage going around the structure on the GA side) and 2-6d (the recommended plan) is passing fish. In that letter, NMFS stated that they believed that the recommended plan (Alterative 2-6d) provides a higher likelihood of passing endangered Atlantic and shortnose sturgeon without delay than Alternative 1-1.</p> <p>NMFS stated in this letter that Alternative 1-1 is unlikely to be as effective at passing fishes relative to the Alternative 2-6d as there is concerns regarding false attraction with its design as wells concerns that the narrower crest associated with its design and overall width of the of the nature like fishway proposed under this alterative would make it more likely to have</p>
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			<p>water velocities outside the preferred range of the species that would be trying to use it for passage.</p> <p>NMFS believes that a full-river-width nature like fishway eliminates the potential for poor fishway entrance siting and false attraction. A fishway spanning the entire width of the river makes entrance location irrelevant, minimizes attraction delay, and maximizes attraction efficiency full-river-width nature like fishway also passes all river flows during non-flood conditions. The design ensures no false attraction occurs because all flows ultimately lead to the nature like fishway structure.</p>
4	Earth and Water Law LLC	<p>The Proposed Programmatic Agreement states that it only received one comment on historic resource effect during the SHEP PAAR/SEA/FONSI comment period. Proposed MOA, WHEREAS Paragraph 16. However, Augusta raised detailed comments directly related to historic properties and resources, and Augusta is aware of two other commenters raised historic resource and NHPA issues as well as public hearing comments involving historic resource issues. See Augusta Comments, Attachment A. In addition to Augusta, Historic Augusta, Inc. filed detailed comments on historic resource effects on the NSBLD and throughout the APE. Save the Savannah River also</p>	<p>During the comment period, the Corps received 461 comments from agencies and the public. The Corps categorized the comments and concerns into the following broad categories:</p> <ul style="list-style-type: none"> •Support the Fish Passage (11/461) – protect the sturgeon •Existing Municipal and Industrial Permitted Water Intakes/Water Supply (3/461) •Existing Dock Owners (16/461) – dock owners who oppose the recommended plan •Other (94/461) - no specific/overarching comment •Shoreline Properties (54/461) – concerns about shoreline, training wall exposure, and beached docks •Higher Weir Heights (59/461) – favor higher pool heights •Save the Lock and Dam/Choose Alternative 1-1 (223/461) - wan and dam regardless of the relative weir height of 2-6A. <p>The majority of comments received asked Corps to consider choosing Alternative 1-1 as the recommended plan based on what was observed during the simulation, i.e., exposed ‘mudflats’, beached docks, and lower water levels. The comments maintain that these conditions could be resolved by choosing an alternative that would maintain the current pool elevation and many of the public think that Alternative 1-1 would</p>

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		<p>raised NHPA historic resource issues within the APE. Augusta's comments were joined by North Augusta and the fact that the municipalities joined for the purpose of comment should not discount the fact that the two major municipalities representing hundreds of thousands of citizens in the Augusta Region, and millions in local and state investment should not be discounted, or ignored.</p>	<p>be a better selection. No comments were received pursuant to the Section 106 process or the MOA during the public review period of the draft report. Comments were focused on retaining the historic property as a means of keeping the current pool elevation for recreational and aesthetic purposes.</p> <p>Corps received the comments from Save the Middle River which discussed the rock weir, lowering water levels, the Endangered Species Act, NEPA analyses, including the destruction of the history property and the how the NSBLD continues to maintain a reliable pool for the community, and aesthetic impacts that would occur as a result of demolition. As the historic property was linked to the aesthetics and pool levels, the Corps' response was focused on the use of the navigation pool for recreational use and the river pool and not NHPA.</p> <p>The City of Augusta's concerns regarding the APE and resources located within the APE were addressed by the Corps and included in the final report.</p> <p>See response to Comment 2 for more information on the APE.</p>
		<p>Timing of Section 106/NHPA Compliance</p>	<p>Corps' Counsel and other USACE legal reviewers determined that signing the FONSI would not violate Section 106. Terrestrial archaeological surveys would be completed prior to any ground disturbing activities in compliance with the PA.</p> <p>Factors beyond USACE control affected the Section 106 process. We see the proper interpretation of Section 106 compliance differently. We accomplished consultations to the extent possible. Terrestrial archaeological surveys will be completed prior to any ground disturbing activities in</p>

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			<p>compliance with the existing Cultural Resources Programmatic Agreement.</p> <p>Additionally, a MOA was developed and coordinated amongst the three signatories, the Corps and the Georgia and South Carolina SHPOs. Unfortunately, there was no resolution after several iterations of final review ending in August 2020. Along with the draft report transmittal to division for review, the Corps involved the ACHP to resolve the remaining comments and concerns in October 2020. USACE consultation of the MOA with the ACHP, Georgia and South Carolina SHPO is ongoing.</p>
		<p>Area of Potential Effect</p>	<p>As per 36 CFR 800.16(d), the APE is defined as “the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The APE is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking...” The APE defines that area within which the identification of historic properties will occur. The APE is determined in consultation with all consulting parties.</p> <p>The APE for direct physical effects to cultural resources for the construction of the fish passage at NSBLD (i.e., undertaking) was defined as: the NSBLD structure (lock chamber, dam, operation building), the upstream channel to 13th Street Bridge; the downstream channel to 0.5 miles from the dam; the 50-acre park and recreation area owned by Corps in Georgia; areas required for construction, construction access and lay down on privately-owned property; and the riverbank and associated flood plain extending 500 feet (.1 miles) landward from the river bank starting at 13th Street Bridge and ending .5 miles</p>

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		<p>downstream of the dam. Pages 36-38 of the IPARR/SEA discuss and illustrate the APE for the undertaking.</p> <p>The reservoir is not part of the NRHP boundary as a contributing element. Neither the Georgia nor the South Carolina SHPO asked that the NRHP boundary be adjusted to include the reservoir.</p> <p>For the fish passage undertaking, the Corps used the best available hydraulic modeling data to determine where water level changes would occur. Hydraulic models were used to determine the pool change at each of the locations and the navigation pool. The current pool elevation at the dam is 114.5 ft. (NAVD88). The current water elevation in the middle of the channel at 5th Street Bridge is 114.2 ft. (NAVD88). Modeling results show that water elevation changes would be greatest in areas closer to NSBLD, with minor decreases in pool elevation near the 13th Street Bridge. Based on that data, the Corps determined that potential impacts to historic properties caused by lower water elevations could include bank line recession, as well as increased access or exposure that could result in vandalism or artifact looting.</p> <p>Using data from Georgia’s Natural, Archaeological and Historic Resources database and South Carolina’s ArchSite, the Corps identified cultural resources within the APE. Section 106 of the NHPA applies to historic properties, which are defined in the NHPA [54 U.S.C. § 300308] as any “prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on, the NRHP, including artifacts, records, and material remains related to such a property or resource.”</p>
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			<p>Using the site data and information from the hydraulic modeling, the Corps determined that several archaeological and maritime sites are located within the APE for the fish passage project, but none would be exposed or have greater accessibility caused by lower water elevations. The water depths are expected to have the greatest change at NSBLD and attenuate as one moves upstream. Additionally, changes in water velocity, or flow, in the river caused by the fish passage construction will be negligible and would have no effect on the two historic railroad bridges that cross the Savannah River. Correspondence from the Georgia and South Carolina SHPOs (December 18, 2018 and December 12, 2018, respectively) shows concurrence with the Corps' determination that there would be no effect on the previously identified historic properties and that marking and avoiding the training wall would be appropriate. These consultation letters were inadvertently omitted from Appendix D of the IPAAR/SEA.</p> <p>The areas for construction access and lay down were surveyed in January 2020 for cultural resources in accordance with the PA. The draft report will be coordinated with the SHPOs for review and comment. Any historic properties that are identified during the investigation will be mitigated in accordance with the PA. A copy of the PA was included in the Final IPAAR/SEA.</p> <p>The Georgia and South Carolina SHPO's concurred with the Corps' definition of the APE.</p>
		<p>The Corps Has Not Considered Preservation, Rehabilitation, Restoration and Reconstruction Alternatives</p>	<p>The Water Resources Development Act within the WIIN Act of 2016 (WRDA 2016) deauthorized the NSBLD and requires modifications to the fish passage in the authorized SHEP. In accordance with the WIIN Act the Corps developed and evaluated alternatives for a new configuration of the SHEP fish passage, to include either: (1) repair and modification of the</p>

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			<p>existing lock wall of the NSBLD or (2) removal of the entire existing structure after constructing a new water damming structure such as a weir. The SHEP fish passage mitigation feature must allow safe passage over the structure to historic spawning grounds of endangered shortnose and Atlantic sturgeon and other native migratory fish, while maintaining the functionality of the pool for navigation, water supply, and recreational activities.</p> <p>The criteria set forth in the WIIN Act Section 1319 requires “project modifications” which limited the alternatives that could be developed for this project to an “in channel” fish passage. The Corps focus was to follow the legislation requirements of the WIIN Act as well as meet the mitigation requirements of the SHEP while preserving the functionality of the upstream pool of the New NSBLD for the purposes of recreational navigation and water supply. Rehabilitation, restoration and reconstruction of the NSBLD were not considered as they did not meet the requirements set forth in the WIIN Act. Alternative 1-1 retained portions of the NSBLD, but all alternatives that were analyzed in the IPAAR/SEA had an adverse effect to the historic property. Rehabilitating the NSBLD is more costly than other alternatives, fails to allow endangered and threatened species to pass the location and it no longer serves the purpose of its construction – commercial navigation between Augusta and Savannah</p> <p>In compliance with the WRDA 2016 and HQ USACE guidance (Appendix H in IPAAR/SEA), the objective of this study was to meet the completeness and acceptability of SHEP mitigation ensuring the best possible way of passing endangered fish species in the most cost effective manner while maintaining the functionality of NSBLD pool for navigation, water</p>
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			<p>supply, and recreation. Alternative 1-1 was not the recommended alternative because of possible delays due to false attraction toward the inside corner of the NSBLD lock wall and adjacent dam that could result. Also, the alternative was not the most cost effective. The complete matrix is in Section 3.7 of the Final IPAAR/SEA.</p>
		<p>Native American and Tribal Resources and Consultation</p>	<p>Consultation with the tribes was conducted under the SHEP umbrella for the project. Only the Catawba tribe expressed interest in Native American finds. To date, the Corps has provided the Catawba with information about the prehistoric materials that were discovered during the CSS Georgia data recovery project. No other Native American artifacts or sites have been recorded as part of the SHEP undertaking. The Corps consulted tribes that could be identified as culturally affiliated with lands within the Area of Responsibility for Savannah District.</p> <p>Tribal consultation is ongoing as additional cultural resources investigations continue under the SHEP PA. The most recent consultation letters were mailed to the tribes on 17 May 2018. The tribes will be provided copies of the cultural resources survey report for the NSBLD recreation area. Tribes that wish to be engaged in consultation pertaining to other aspects of SHEP will be included in future consultation for those particular projects.</p>
		<p>On Page 2, Paragraph 5, the Proposed Programmatic Agreement states that the Corps has consulted with the Georgia HPD. As of the February 2019 draft SHEP</p>	<p>Appendix D of the Final IPARR/SEA contains consultation correspondence. Correspondence from the Georgia and South Carolina SHPO's (December 18, 2018 and December 12, 2018, respectively) shows concurrence with the Corps' determination that there would be no effect on the previously identified historic properties and that marking and avoiding the training wall would</p>

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	<p>PAAR/SEA/FONSI, the Corps had not consulted and HPD had not reviewed the effects of the proposed removal of the NSBLD and the seventeen mile upstream area of direct effect, or indirect effects identified above. The consultation record identifies limited communications with Georgia and South Carolina historic resource officers. Georgia HPD shared Augusta's concerns in having insufficient information to determine effects on historic resources, but found an adverse historic resource effect on the limited information provided. There is no cultural resource survey report associated with the removal of the NSBLD and no consultation record. HPD and South Carolina SHPO must be consulted regarding the full scope of direct, indirect and cumulative effects of the NSBLD removal on historic properties and resources. The Corps must re-initiate consultation based upon changes to the NSBLD and their direct, indirect and cumulative effects.</p>	<p>be appropriate. These consultation letters were inadvertently omitted from Appendix D of the IPAAR/SEA.</p> <p>The areas for construction access and lay down were surveyed in January 2020 for cultural resources in accordance with the PA. The draft report will be coordinated with the SHPOs for review and comment. Any historic properties that are identified during the investigation will be mitigated in accordance with the PA. A copy of the PA was included in the Final IPAAR/SEA.</p> <p>The Corps continues to consult with the Georgia and South Carolina SHPO's to execute the MOA.</p>
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		<p>Consulting Party and Public Participation</p>	<p>Certain individuals and organizations with demonstrated interest in the project may participate as a Consulting Party because of the nature of their legal or economic relationship to the project or affected properties. The Corps sent an email to Mr. Erick Montgomery, Historic Augusta, Inc. in January of 2018 regarding the fish passage project and inquired about the organization's interest in being a consulting party pursuant to Section 106. The organization responded in the affirmative that it would like to participate. In November 2018, the Corps provided a copy of the draft MOA that was being developed. No response, comments or acknowledgements of receipt were received from the organization on the MOA. During the comment period that ran from February 15 – April 16, 2019, Mr. Montgomery, representing Historic Augusta, Inc., submitted comments regarding the eligibility of NSBLD and urged the Corps to rehabilitate the structure in order to maintain the pool to provide recreational opportunities for the community. The Corps held a public workshop during the public review period of the draft IPARR/SEA on March 6, 2019 and the public were allowed to make comments. Mr. Montgomery stood up and spoke during the meeting and provided the same comment as submitted during the public review period. Mr. Montgomery made no attempts to discuss the issue of consultation with any of the Corps staff who attended the meeting. The Corps sent an email regarding the MOA to Historic Augusta, Inc., on February 4, 2019 and no responses were received from the organization. Due to the lack of responses the Corps moved forward in the Section 106 consultation process without Historic Augusta, Inc. The Corps will add a WHEREAS clause to the MOA stating Historic Augusta, Inc., is a consulting party to this Section 106 consultation process. The Corps will now ensure continued correspondence with Consulting Parties regardless of whether or not responses are received.</p>
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			<p>Additionally the Corps specifically asked for comments pursuant to NHPA in the public notice that was issued for the review of the draft IPAAR/SEA. Information about impacts to historic resources was presented during the March 6, 2109 public meeting held the Corps. Graphic materials were presented. The implementing regulations for Section 106, 36 CFR 800 contain a provision at 36 CFR800.8 for coordinating the NEPA process with the Section 106 for public participation and use of maximizing the NEPA process for requesting and receiving comments and involvement of the public and consulting parties.</p>
		<p>Because no identification of historic resources has been conducted within the proper APE as required by 36 C.F.R. 800.4, Augusta is unable to fully address impacts to historic resources.</p>	<p>As per 36 CFR 800.16(d), the APE is defined as “. . .the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The APE is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking...” The APE defines that area within which the identification of historic properties will occur. The APE is determined in consultation with the SHPO.</p> <p>The APE for direct physical effects to cultural resources for the construction of the fish passage at NSBLD (i.e., undertaking) was defined as: the NSBLD structure (lock chamber, dam, operation building), the upstream channel to 13th Street Bridge; the downstream channel to 0.5 miles from the dam; the 50-acre park and recreation area owned by Corps in Georgia; areas required for construction, construction access and lay down on privately-owned property; and the riverbank and associated flood plain extending 500 feet (.1 miles) landward from the river bank starting at 13th Street Bridge and ending .5 miles</p>

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			<p>downstream of the dam. See pages 36-38 in the IPARR/SEA which discuss and illustrate the APE for the undertaking.</p> <p>For the fish passage undertaking the Corps used the best available hydraulic modeling data to determine where water level changes would occur. Hydraulic models were used to determine the pool change at each of the locations and the navigation pool. The current pool elevation at the dam is 114.5 ft. (NAVD88). The current water elevation in the middle of the channel at 5th Street Bridge is 114.2 ft. (NAVD88). Modeling results show that water elevation changes would be greatest in areas closer to NSBLD, with minor decreases in pool elevation near the 13th Street Bridge. Based on that data, the Corps determined that potential impacts to historic properties caused by lower water elevations could include bank line recession, as well as, increased access or exposure that could result in vandalism or artifact looting.</p> <p>Using data from Georgia's Natural, Archaeological and Historic Resources database and South Carolina's ArchSite, the Corps identified cultural resources within the APE. Section 106 of the National Historic Preservation Act applies to historic properties, which are defined in the NHPA [54 U.S.C. § 300308] as any "prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on, the National Register of Historic Places, including artifacts, records, and material remains related to such a property or resource."</p> <p>Using the site data and information from the hydraulic modeling, the Corps determined that several archaeological and maritime sites are located within the APE for the fish passage project, but none would be exposed or have greater accessibility caused by lower water elevations. The water depths are expected to have</p>
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			<p>the greatest change at NSBLD and attenuate as one moves upstream. Additionally, changes in water velocity, or flow, in the river caused by the fish passage construction will be negligible and would have no effect on the two historic railroad bridges that cross the Savannah River. Correspondence from the Georgia and South Carolina SHPO's (December 18, 2018 and December 12, 2018, respectively) shows concurrence with the Corps' determination that there would be no effect on the previously identified historic properties and that marking and avoiding the training wall would be appropriate. These consultation letters were inadvertently omitted from Appendix D of the IPAAR/SEA.</p> <p>The areas for construction access and lay down were surveyed in January 2020 surveyed for cultural resources in accordance with the PA. The draft report is in preparation and will be coordinated with the SHPOs for review and comment. Any historic properties that are identified during the investigation will be mitigated in accordance with the PA. A copy of the PA was included in the Final IPAAR/SEA.</p> <p>The Georgia and South Carolina SHPO's concurred with the Corps' definition of the APE.</p>
		<p>Additional Comments on the Proposed MOA – HAER Documentation. The City of Augusta or its designee, Historic Augusta, Inc., and the Augusta Museum of History should also be afforded an opportunity to review and comment on the Draft HAER documentation.</p>	<p>The Corps will send the materials for review to Historic Augusta, Inc., and Augusta Museum of History for review and comment.</p>

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		<p>Mapping. In addition to an adequate map of the entire APE and location of specific historic resources (following cultural resource survey and identification in consultation with consulting parties), the site plan should include a detailed map of the current site, and well as the original site plan, because some of the original features of the Lock and Dam project are now gone, such as the Lock Keepers residence, etc.</p>	<p>Thank you for your comment. A cultural resources survey of the NSBLD park will record the locations of any archaeological sites that are identified during the survey.</p> <p>Architectural resources will be recorded as part of the cultural resources investigation. A map of the locations will be in the cultural resources report.</p>
		<p>As Built Drawings Memorandum of Agreement (MOA), Page 4, Stipulation I.D.2. The as-built drawings should be based on records or from actual field measurements, including the original structure, later alterations (including gate actuation changes {circa 1995} and with later changes), the original navigation approach channel downstream and later changes (gravel bar, etc.)</p>	<p>The National Park Service (NPS), as the agency that administers and oversees the Nation's Heritage Documentation Programs such as the Historic American Engineering Record sets the requirements for documentation. The Corps followed the guidelines provided by the NPS.</p>
		<p>Interpretive Displays Memorandum of Agreement (MOA), Page 5, Stipulation II.A. The interpretive displays should not be limited to an on-line exhibit. It should include placing wayside</p>	<p>Thank you for your comment. The Corps contacted Ms. Nancy Glaser of the Augusta History Museum to discuss the possibility of the museum hosting the exhibit but as the photographs are not property of the museum Ms. Glaser determined it to be inappropriate to have the exhibit created and hosted on the museum's website. The website that will be created by the</p>

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		exhibits on the site in the park, similar to National Park Service standard waysides using permanent porcelain enamel plaques. Online exhibits should not be hosted solely on the Corps website, as it is subject to change. It should be placed on and archived by an academically permanent site.	Corps will be accessible to the public and museums and other organizations will be able to embed the link directly into their websites. The exhibit can remain on the Corps' webpage in perpetuity.
		Local Historical Public Access Memorandum of Agreement (MOA), Page 5, Stipulation II.A.3. The exhibit should be linked to local history museums, which should include, but not be limited to, the Augusta Museum of History, Historic Augusta, Inc., North Augusta Arts and Heritage Center, Beech Island Historical Society, Aiken Historical Museum, and Augusta Recreation and Parks Department.	Thank you for your comment. Additional organizations may link to the website.
		Additional items Memorandum of Agreement (MOA), Page 6, Stipulation II.C.2. The brochure should be also given to the City of Augusta.	Thank you for your comment. Organizations may request copies of the brochures.
		ACHP regulations require special procedures and requirements for properties listed or eligible for listing on the National Register such as the NSBLD. For such	Thank you for your comment. There are no National Historic Landmarks that are affected.

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		properties, Section 110(f) of the NHPA requires that the Corps to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to any National Historic Landmark that may be directly and adversely affected by an undertaking.	
		Section 4(f) Analysis - The project is funded in part by the Georgia Port Authority and Federal Department of Transportation which is subject to transportation laws relating to impacts on historic resources, commonly identified as Section 4(f). 49 U.S.C. 303.	<p>In the Water Resources Development Act (WRDA) of 1999 (Section 101(b)(9)), the US Congress conditionally authorized deepening the Savannah Harbor navigation channel to a maximum depth of -48 feet Mean Low Water (MLW). This legislation provided the legal authority for the US Army Corps of Engineers to perform the studies and analyses to develop a General Re-evaluation Report (GRR) and accompanying Environmental Impact Statement (EIS) fulfill the conditions of the conditional authorization granted in WRDA 1999, and together, assemble the information and analysis required by NEPA.</p> <p>Section 4(f) of the Department of Transportation Act of 1966, applies to Department of Transportation projects and does not apply to work carried out by the US Army Corps of Engineers.</p>
5	South Carolina Department of Archives and History	Please provide additional information about the public meeting. Was a comparable meeting held in South Carolina for South Carolinians to express their views? Do you know how many attendees at the March 6, 2019 meeting were from South Carolina?	<p>Thank you for your comment. No, the Corps did not hold meetings in South Carolina, but did hold them in downtown Augusta, Georgia which the Corps considered to be a central and easily accessible area.</p> <p>There was no sign in sheet for the meeting, but the Corps estimated more than 300 people attended the meeting. The Corps is unable to determine how many South Carolinians attended.</p>

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		Were comments and concerns about the historic property provided at other stations or to other staff at this workshop?	Thank you for your comment. The Corps held regular internal meetings with the project team and all members had working knowledge of the historic property and Section 106 compliance. Had a team member received a comment regarding the historic property, the public would have been given basic knowledge with the instruction to visit the cultural resources poster for further information.
		Thank you for updating us on the status of the Savannah River Below Augusta Training Wall Section 216 Disposition Study and for clarifying its status in the revised MOA. We understand this study is ongoing but has been hampered by current weather and resulting river conditions.	Thank you for your comment. Fieldwork is anticipated to start in early June 2020 weather permitting.
		We do not know how many South Carolina entities may have received these notices or how widely the Press Release was publicized. Please provide information documenting which media outlets published/broadcast the request for comments and documentation about the Corps' efforts to reach South Carolina historic and preservation organizations.	Thank you for your comment. The Corps used the standard processes for notifying and soliciting comments for the MOA in March 2020. This included placed a press/media release for the MOA comment period on the Savannah District website on the SHEP Fish Passage page with links to the MOA. This release was available to media outlets, but there are no records that it was used by an outside entity.
		Also given the unprecedented and evolving situation with the COVID-19 pandemic, we believe that the ability of some entities or	Thank you for your comment. While the timing of this review with COVID-19 is unfortunate, the Corps has met the spirit and intent of public involvement pursuant to 36 CFR 800 for review and comment on the MOA through the 15-day time frame.

Responses to comments received during Public Comment period of the Draft MOA for the fish passage at New Savannah Bluff Lock and Dam, SHEP

		<p>individuals to respond to the Public Notice may be reduced. We therefore believe that the 15-day time frame for comments (April 1, 2020) should be extended.</p>	
		<p>In addition to extending the comment period, we request that all consulting parties be provided with copies of all comments received and the Corps' plans to address those comments.</p>	<p>Thank you for your comment. The Corps will make comments and responses available to the public and consulting parties.</p>
		<p>We are concerned that the Corps has proceeded to carry out the proposed mitigation described in the draft MOA before the agreement is signed. Our office has received draft copies of the HAER documentation (Stipulation I), and outline for an online exhibit (Stipulation II.A). We are concerned that this has precluded the public's ability to suggest other forms of mitigation during the public comment period.</p>	<p>The Corps has not taken any actions that would preclude the public from requesting additional mitigation. The HAER documentation and online exhibit development that the Corps has undertaken will help the agency meet the schedule for fish passage construction start that is mandated in the Biological Opinion.</p>



Save the Middle Savannah River

March 31, 2020

VIA Electronic Delivery (CESAS-PD@usace.army.mil)

Savannah District, US Army Corps of Engineers
Planning Division, ATTN: Ms. J. Morgan (PM-P)
5625 Anderson Highway
Hartwell, Georgia 30643-5259

Re: Comments of Save the Middle Savannah River on the proposed HPA Section 106 *Memorandum of Agreement* among the US Army Corps of Engineers, Savannah District, the Georgia State Historic Preservation Officer, the South Carolina State Historic Preservation Officer, and the Advisory Council on Historic Preservation regarding potential modification of the New Savannah Bluff Lock and Dam

Dear Sirs or Mesdames:

Save the Middle Savannah River (Save the River) appreciates the opportunity to submit the following comments on the proposed National Historic Preservation Act, 54 U.S.C. 301001 *et seq.* (HPA) Section 106 *Memorandum of Agreement* among the US Army Corps of Engineers, Savannah District (USACE), the Georgia State Historic Preservation Officer, the SC State Historic Preservation Officer (SC HPO), and the Advisory Council on Historic Preservation regarding potential modification of the New Savannah Bluff Lock and Dam (Lock and Dam) (the Proposed MOA). The proposed modification to the Lock and Dam are a component of the environmental mitigation related to the Savannah Harbor Expansion Project (SHEP) and the planned construction of a rock weir at the site of the Lock and Dam (the Rock Weir). We submit these comments consistent with the public notice related thereto and within the comment period that expires on April 1, 2020.

Save the River submitted detailed comments to USACE on the Rock Weir, dated April 3, 2019, several of which comments related to the HPA requirements applicable to this project. Save the River also submitted separate comments on the NHPA Section 106 components of the Draft Report on April 16, 2019. In addition, Save the River submitted comments pursuant to the Independent Expert Panel Review (IEPR) report, which was dated in May 2019, but which came to public light in September 2019. (In its April 3, 2019 comments, Save the River had reserved rights to submit amended comments once the IEPR report should be released.) These latter comments offered a new solution to the fish passage at the Lock and Dam based on an alternative approach suggested by experts in the IEPR report. That plan proposed by Save the River is titled

“A New Consensus Solution,” dated September 10, 2019. Save the River hereby incorporates by reference all three sets of Comments into this letter, including the detailed information regarding our members’ interest in this project and our objection to the proposed HPA compliance methods.

Like the SC HPO, which reserves its overall objection to the USACE’s Proposed Rock Weir, our members remain gravely concerned about the impacts to historic resources which are clearly not congruent with Section 106, requiring federal agencies to follow specific review, engagement and consultation processes to consider the effects of all relevant impacts on historic properties, specifically “sites, buildings, structures and objects of significance in American history, architecture, archaeology, engineering and culture.” See *Dam Removal and Historic Preservation*, published by the National Park Service in conjunction with American Rivers (the NPS Report). The NPS Report establishes specific engagement processes to ensure proper recognition to the importance of dams and their related impoundments to the economic history of local and regional communities.

The Lock and Dam’s relevance to the history of Augusta, Georgia and South Carolina (and even to the published *History of the Savannah District U.S. Army Corps of Engineers*) is indisputable. At this point, despite language in the USACE’s Final MOA stating that “only one comment relating to historic preservation was received,” none of the best practices for reconciling dual objectives prescribed in Section 106 were adhered to by the USACE; indeed, all USACE published public meeting announcements and descriptions thereto related specifically to the fish passage, flooding, the drawdown, etc., and never to HPA Section 106 compliance and essential historic preservation.

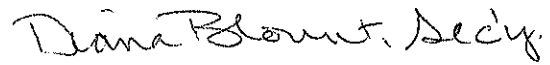
USACE has ignored The National Park Service and American Rivers Report stating that for all parties to achieve a successful outcome, it should “commit to exploring a range of options for preservation, mitigation, interpretation and respect the viewpoints of all involved.” See NPS Report. We therefore urge the federal and state agencies to consider the irreversible damage that would be caused by the Rock Weir. See MOA at 2. The New Consensus Solution for the SHEP mitigation fish passage remains clear and achievable – reauthorization and repair of the Lock and Dam and construction of a modified fish bypass or fish lift. This cost-effective, approved, and workable approach would allow the Savannah Harbor Expansion Project to stay on schedule without sacrificing the vital interests of the CSRA, including its interest in our historic resources.

We believe the proposal to demolish the historic and important Lock & Dam and to propose mitigation through paper displays and brochures violates the HPA and, of equal importance, misses a critical opportunity to maximize the value of this critical infrastructure. Where in the MOA does the USACE detail the alternative options that it considered in accordance with Section 106 (*i.e.*, No Action, Partial Preservation, Adaptive Reuse, Preservation-in-Service) other than mitigation through interpretive exhibits and documentation? Indeed, we ask that the proposed MOA be withdrawn and that the HPA compliance plan be updated to include reauthorization and repair of the Lock & Dam. In this way, the USACE will not only preserve this historically significant feature, but will also allow this highly functional infrastructure to continue to protect the Augusta pool, vital to drinking and industrial water supplies in the region, and to mitigate the risk to the CSRA of upstream and backwater flooding.

Comments of Save the Middle Savannah River
March 31, 2020

We look forward to further involvement in this important project. If you have any questions, you are welcome to contact Save the Middle Savannah River at diana@simkinsland.comcastbiz.net.

Sincerely,

A handwritten signature in black ink that reads "Diana Blount, Sec'y." The signature is written in a cursive style.

Save the Middle Savannah River

cc: Rep. Rick Allen