

ATTACHMENT E

**Programmatic Agreement Regarding the
Construction of the All American Canal Lining
Project Pursuant to Title II of Public Law 100-675**

**PROGRAMMATIC AGREEMENT
AMONG
THE UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION,
AND THE BUREAU OF LAND MANAGEMENT,
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER,
AND THE IMPERIAL IRRIGATION DISTRICT**

REGARDING

**THE CONSTRUCTION OF
THE ALL AMERICAN CANAL LINING PROJECT
PURSUANT TO TITLE II OF PUBLIC LAW 100-675**

WHEREAS, the Secretary of the Interior (Secretary) was authorized by Public Law 100-675, on November 17, 1988, to line the unlined sections of the All American and Coachella canals or to pursue other means of recovering water lost from the Canals owing to seepage; and

WHEREAS, funds for the All American Canal Lining Project (Undertaking) were authorized by California Senate Bill (S.B.) 1765 during the 1998 legislative session, which amended the California Water Code and appropriated State funding for the Undertaking; and

WHEREAS, the United States Department of the Interior Bureau of Reclamation (Reclamation) is the lead federal agency for compliance with the National Environmental Policy Act (NEPA) and the National Historic Preservation Act of 1966 (NHPA), as amended, and is the owner of the All American Canal (AAC), and will issue a construction agreement and a right-of-use permit for construction; and

WHEREAS, the United States Department of the Interior Bureau of Land Management (BLM) established by Reorganization Plan Numbered 3, of 1946 (5 U.S.C. App. 519) as the federal agency that manages all federal lands as established as the agency's multiple-use mandate in the Federal Land Policy and Management Act of 1976, and the federal land through which the All American Canal Lining will occur is Reclamation withdrawn land; and

WHEREAS, the Imperial Irrigation District (IID), an irrigation district established under Division 11 of the California Water Code, Sections 20500 et seq., shall line or cause the Undertaking to be designed and constructed and shall be reimbursed for eligible Undertaking costs in accordance with the Agreement to Construct the All American Canal Lining Project dated October 1, 2002 between Imperial Irrigation District (IID) and the California Department

of Water Resources, and is acting as lead state agency for the California Environmental Quality Act review of the Undertaking; and

WHEREAS, Reclamation and IID jointly released the Final Environmental Impact Statement/Environmental Impact Report (FEIS) for the Undertaking in March 1994, and Reclamation has issued a Record of Decision (ROD) dated July 29, 1994, and has issued a Re-examination and Analysis of the FEIS and ROD dated November 22, 1999, and IID has issued the Notice of Determination on August 16, 1994; and

WHEREAS, this Programmatic Agreement (PA) is part of the Mitigation Measures in Reclamation's ROD; and

WHEREAS, owing to the scope and complexity of the Undertaking, identification of historic properties that are eligible for inclusion in the National Register of Historic Places (NRHP) cannot proceed effectively, and the Undertaking's effects to historic properties cannot be fully determined, prior to a construction design for the preferred alternative, Reclamation has therefore elected to pursue compliance with Section 106 of the NHPA, through a phased identification and evaluation process as provided for at 36 CFR Part 800.4(b)(2) [designated as §800.4(b)(2)], and through phased application of the criteria of adverse effect as provided for at §800.5(a)(3), and to execute this PA pursuant to §800.14(b); and

WHEREAS, Reclamation's Lower Colorado Regional Office has consulted with the California State Historic Preservation Officer (SHPO) pursuant to §800.6(a)(1), and has notified the Advisory Council on Historic Preservation (Council) of its intention to prepare a PA pursuant to §800.6(a)(1)(i)(C), and will execute this PA pursuant to §800.6(b)(1) because Council has informed Reclamation pursuant to §800.6(a)(1)(iii), that it declines to participate in this consultation; and

WHEREAS, the Agua Caliente Tribe of Cahuilla Indians, the Cabazon Band of Mission Indians, the Cahuilla Band of Mission Indians, the Cocopah Indian Tribe, the Quechan Indian Tribe, the Torres-Martinez Band of Mission Indians, the Colorado River Indian Tribes, and other Tribes shall be consulted throughout the implementation of this PA, pursuant to §800.3(f)(2) and §800.14(f)(1);

NOW, THEREFORE, Reclamation, BLM, the SHPO, and IID agree that, upon Reclamation's decision to proceed with the Undertaking, the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the Undertaking on historic properties.

STIPULATIONS

Reclamation, in cooperation with IID, shall ensure that the following stipulations are implemented:

I. DESCRIPTION AND SCOPE OF THE UNDERTAKING

A. The unlined portions of the AAC, beginning approximately one mile west of Pilot Knob to Drop 3, a distance of 23 miles, lie entirely within Imperial County, California (see attached Figure 1). Water conveyed along the AAC originates at Imperial Dam on the lower Colorado River.

B. Construction methods will include constructing a concrete lined, parallel canal with tie-ins to the existing canal. When the in-place lining method is used, AAC water will be diverted around each section through the use of coffer dam/sheet-piling segregation of canal water, while the lining is installed. With the possible exception of sand and gravel quarry operations and material and equipment staging areas, construction of the Undertaking, including, but not limited to, construction vehicles and heavy equipment traffic will be restricted to the AAC itself and its existing right-of-way. This right-of-way varies between 680 and 2,000 feet from the centerline of the AAC, with additional width near the Coachella Heading and the existing drop structures.

II. AREA OF POTENTIAL EFFECTS OF THE UNDERTAKING

A. All project activities, with the possible exception of sand and gravel quarry operations and material and equipment staging areas, that have the potential to affect historic properties, will be confined to the AAC itself and its existing right-of-way. For the purpose of this PA, the Undertaking's Area of Potential Effects (APE) consists of the length of the AAC beginning one mile west of Pilot Knob to Drop 3, a distance of 23 miles, by between 680 and 2,000 feet from the centerline of the AAC, with additional width near the Coachella Heading and the existing drop structures, in addition to sand and gravel quarry operations and material and equipment staging areas.

B. As stated in the FEIS, the Undertaking shall be planned so as not to disturb the terraces and intervening arroyos on the north side of the AAC adjacent to the Pilot Knob Area of Critical Environmental Concern (ACEC). The western boundary of the Pilot Knob ACEC is Sidewinder Road. Contractor activity east of Sidewinder Road and north of the AAC within the Pilot Knob ACEC shall be restricted to the width of ground along the AAC that is already disturbed.

C. As project design progresses, it may become necessary to amend the APE based on the project design or no later than one year into this planning window. Reclamation shall amend the APE in consultation with the SHPO, IID, and BLM, if BLM-managed land is

involved. The consultation period shall not exceed seven days. Disputes arising under this provision shall be addressed pursuant to Stipulation XIV, below.

D. Reclamation may amend the APE at any time during the Undertaking in consultation with IID, the SHPO, and BLM, if BLM-managed land is involved. The consultation period shall not exceed seven days. Reclamation, IID, BLM, and the SHPO agree that the APE may be amended without amending this PA.

III. IDENTIFICATION OF HISTORIC PROPERTIES

A. Professional Standards

1. Reclamation and IID shall ensure that all cultural resource work required by this PA be carried out by or under the direct supervision of a person or persons meeting the Secretary of the Interior's Professional Qualifications Standards (PQS) in the appropriate disciplines, outlined in 36 CFR Part 61 Appendix A. However, nothing in this stipulation may be interpreted to preclude Reclamation, IID, or any agent or contractor thereof, from using services of persons who do not meet the PQS, provided such persons are directly supervised by individuals who meet the PQS.

2. IID shall ensure that its cultural resources designee applies to Reclamation for the appropriate permits to survey on Reclamation land and to BLM to survey on BLM-managed land.

B. All American Canal

1. Reclamation shall consult with the SHPO on the eligibility of the AAC for listing on the National Register of Historic Places (NRHP). Reclamation shall submit *The All-American Canal: An Historic Properties Inventory and Evaluation*, dated July 2001, prepared by ASM Affiliates for IID, to the SHPO and shall consult with the SHPO to determine the level of significance (national, state, or local) that applies to the AAC. The SHPO shall have 30 days to respond. Absent SHPO response within this time frame, Reclamation may assume SHPO concurrence with the eligibility determination. If agreement cannot be reached through Stipulation XVI, below, then Reclamation shall obtain a determination of eligibility from the Keeper of the National Register, who acts as the Secretary's representative in these matters, pursuant to §800.4(c)(2) and 36 CFR Part 63.

2. Upon completion of the consultations on the AAC's eligibility, Reclamation shall submit a finding of effect on this historic property from the Undertaking to the SHPO, with a request for concurrence. The SHPO shall have 30 days to respond. Absent SHPO response within this time frame, Reclamation may assume SHPO concurrence with the finding of effect and proceed to either Subsection 3. or 4., of this stipulation, below, as appropriate.

3. If the AAC is determined significant at the state or local level, and Reclamation and the SHPO concur in a finding of adverse effect on the AAC, Reclamation shall consult with the SHPO to determine how the adverse effect of the Undertaking on the AAC should be taken into account. Such consultation shall not exceed 30 days. If Reclamation and SHPO agree on how the adverse effect will be taken into account, Reclamation shall submit this agreement to IID, or its designee. Thereupon, IID shall ensure that a treatment plan consistent with the agreement between Reclamation and the SHPO is prepared and submitted to Reclamation and the SHPO for a 30 day review period. Upon acceptance by Reclamation and the SHPO, IID, or its designee, shall implement the treatment plan. Disputes arising under this provision shall be addressed pursuant to Stipulation XIV, below.

4. If the AAC is determined significant on a national level, and Reclamation and the SHPO concur in a finding of adverse effect on the AAC, Reclamation shall consult with the SHPO and the Historic American Building Survey and the Historic American Engineering Record Program (HABS/HAER) to determine the appropriate level of documentation that will take the adverse effect of the Undertaking on the AAC into account. Such consultation shall not exceed 30 days. If Reclamation, the SHPO, and HABS/HAER agree on how the adverse effect will be taken into account, Reclamation shall submit this agreement to IID, or its designee. Thereupon, IID shall ensure that a treatment plan consistent with the agreement between Reclamation, the SHPO, and HABS/HAER is prepared and submitted to Reclamation, the SHPO, and HABS/HAER for a 30 day review period. Upon acceptance by the reviewing parties, IID, or its designee, shall implement the treatment plan. Disputes arising under this provision shall be addressed pursuant to Stipulation XIV, below.

C. Class I Literature Review, Historic Context, and Research Design

1. Following execution of this PA, the IID, or its designee, shall conduct a historic records review for an area one mile from the centerline on both sides of the AAC, in the area of the Undertaking, to identify known historic properties within the APE and to facilitate preparation of the historic context and research design to be included in the Class I report for the Undertaking. The Class I Report shall, at a minimum, provide information about the environmental setting, culture history, previous investigations, pertinent research themes, research questions and data requirements. The Class I report shall be completed and approved by Reclamation, BLM, and the SHPO prior to the initiation of any other cultural resource fieldwork. The Class I report shall be used by IID, or its designee, as a general guidance document during preparation of any subsequent reports, treatment plans, and other work needed for any phase of the Undertaking.

2. Reclamation shall submit the Class I Report to BLM and the SHPO for a 30 day review period prior to beginning any on the ground cultural resource inventories. Reclamation shall submit consolidated review comments to IID, or its designee, for

incorporation into a final report. Absent BLM or SHPO comment within this time frame, Reclamation may assume BLM or SHPO concurrence that the Class I Report is acceptable and proceed with the inventory. Disputes arising under this provision shall be addressed pursuant to Stipulation XIV, below.

3. Reclamation may propose that the Class I Report be amended depending upon the nature and type of the prehistoric and historic properties identified during the intensive Class III inventory(ies). Any such amendment shall be done in consultation with BLM and the SHPO. Such consultation shall not exceed 15 days. Disputes arising under this provision shall be addressed pursuant to Stipulation XIV, below. Reclamation, BLM, IID, and the SHPO agree that the Class I Report may be amended without amending this PA.

D. Identification of Historic Properties

1. Reclamation and IID shall ensure that the Undertaking's APE is inventoried at a Class III intensive survey level for historic properties pursuant to §800.4(b)(1). This survey, as well as all NRHP evaluations and other conditions of this PA, shall be completed prior to issuance of the authorization for construction to proceed in any portion of the APE, pursuant to Stipulation VII, below.

2. All prehistoric and historic sites identified during inventory shall be recorded on new or updated California Department of Parks and Recreation Form DPR 523 (Series 1/95), using the "Instructions for Recording Historical Resources" (Office of Historic Preservation, March 1995). IID, or its designee, shall obtain permanent site numbers from the appropriate Information Center of the California Historical Resources Information System (CHRIS) and shall submit the final, approved, site forms to the appropriate CHRIS. Permanent site numbers shall be used in all final reports submitted to Reclamation.

3. Traditional cultural properties identified during inventory and/or through consultations with Native Americans may be recorded on the DPR Form 523, unless a Tribe or another Native American organization or individual objects. If such objection arises, the properties may be recorded on a form and in a manner that is in accordance with the recommendations of the Tribe or of other Native American organizations or individuals, subject to the confidentiality requirements set forth in Stipulation XI of this PA.

4. The NRHP eligibility of all identified prehistoric and historic sites shall be addressed by Reclamation, in consultation with BLM, if sites are on BLM-managed land, and the SHPO, if Reclamation, in consultation with the SHPO, finds that effects to such sites cannot be avoided. NRHP evaluations, if deemed necessary, will use the Secretary of the Interior's (Secretary) criteria for evaluation as found in 36 CFR Part 60.4, and the historic themes, research questions, and data requirements identified in the Class I report. Native

American Tribes shall be consulted and their comments and concerns shall be addressed throughout the identification and evaluation process.

5. Reclamation, BLM and the SHPO here agree that all isolated artifacts shall be categorically not eligible for listing on the NRHP.

6. Properties identified during the Class III Inventory that clearly are not eligible for listing in the NRHP, shall be determined to be ineligible by Reclamation in consultation with BLM, if sites are on BLM-managed land, and the SHPO. If the SHPO concurs with Reclamation's determinations, those properties found ineligible shall receive no further review or consideration under this PA. Should the SHPO disagree with Reclamation's determinations, those properties shall continue to be considered as those properties defined in Stipulation III.D.4. above.

7. Reclamation and IID, or its designee, shall ensure that all plans, reports, and other documents completed pursuant to this PA are consistent with the Secretary's "Standards and Guidelines" (48 FR 44716-44740). All inventory reports shall generally conform to the guidance contained in Preservation Planning Bulletin Number 4(a), "Archaeological Resources Management Reports (ARMR): Recommended Contents and Format" (CA SHPO, February 1990). Inventory reports shall include, at a minimum, a description of the identification efforts; a description of identified sites; a general assessment of potential site eligibility through the application of the National Register criteria pursuant to §800.4(c), if it is apparent that effects to an identified property cannot be avoided; an assessment of effects of the Undertaking on properties as defined at §800.16(1); recommendations for avoidance or, where avoidance is not possible, of treatment for properties deemed by Reclamation, in consultation with BLM, if sites are on BLM-managed land, and the SHPO, to be historic properties. Upon completion, final copies of these reports shall be distributed pursuant to Stipulation X of this PA.

8. Upon completion of the Class III Inventory, Reclamation, IID, and its designee, shall consult to avoid identified properties, whenever possible, and amend the APE to reflect these measures. Reclamation shall consult with the SHPO and BLM, if sites are on BLM-managed land, concerning amendments to the APE. The consultation period shall not exceed seven days. Disputes arising under this provision shall be addressed pursuant to Stipulation XIV, below.

9. Reclamation and IID, or its designee, shall ensure that inventory reports and other supplemental evaluation documents provide sufficient information and justifications to support determinations of NRHP eligibility pursuant to §800.11(a), whenever Reclamation in consultation with the SHPO, finds that the Undertaking's effects to inventoried properties cannot be avoided.

10. Reclamation shall apply the National Register criteria, pursuant to §800.4(c), to inventoried properties, and arrive at one of the following outcomes, through consultation with BLM, if sites are on BLM-managed land, if Reclamation in consultation with the SHPO, finds that Undertaking effects to such properties cannot be avoided:

a. If the SHPO agrees with Reclamation that the Criteria are not met, the property shall be considered ineligible for listing on the NRHP. Such properties require no further review or consideration under this PA.

b. If the SHPO agrees with Reclamation that the property is eligible under any of the criteria, the property shall be considered eligible for listing on the NRHP for purposes of this PA, and shall be included in a Treatment Plan as called for in Stipulation V, if such property will be adversely affected by the Undertaking.

c. If the SHPO disagrees with Reclamation's determination regarding the eligibility of a property, Reclamation shall consult further with the SHPO to reach agreement. The time frame for such consultation shall be established by mutual agreement between the parties. If agreement cannot be reached within this time frame, Reclamation shall obtain a determination of eligibility from the Keeper of the National Register, who acts as the Secretary's representative in these matters, pursuant to §800.4(c)(2) and 36 CFR Part 63.

IV. ASSESSMENT OF EFFECTS ON CULTURAL RESOURCES

A. If Reclamation, in consultation with BLM, if sites are on BLM-managed land, and the SHPO, finds that there are no historic properties within the APE, or finds that when effects to all unevaluated properties and historic properties (here defined as properties previously determined to be eligible for listing on or listed on the NRHP) will be avoided, Reclamation may find that there will be no historic properties affected and proceed with the Undertaking without further SHPO consultation. IID, or its designee, shall provide adequate and sufficient documentation for Reclamation to make this determination. The following protection measures shall be implemented as appropriate for avoidance of properties:

1. Avoidance means that no activities associated with the Undertaking that may affect identified properties shall occur within a property's delineated site boundaries, including any defined buffer zones.

2. Buffer zones may be established to ensure added protection and shall be defined by Reclamation on a case-by-case basis. When the use or size of protective buffers for Native American traditional cultural properties needs to be

determined, Reclamation shall consult with knowledgeable Native Americans and consider their views in the buffer size determination.

3. All properties to be avoided within the APE shall be clearly delineated prior to implementation of the Undertaking. Delineated boundaries shall include any defined buffer zones per Stipulation IV.A.2. Flagging and other markings shall be removed as soon as possible to avoid calling undue attention to the nature and location of identified properties.

4. IID, or its designee, shall be responsible for delineating and marking property boundaries for avoidance in consultation with Reclamation.

5. IID, or its designee, in consultation with Reclamation, shall provide monitoring, as necessary, to enhance the effectiveness of these avoidance measures. Monitoring reports shall be prepared by IID, or its designee, and submitted to Reclamation within seven days of completion of the monitoring. Reclamation shall submit the monitoring reports to SHPO, and BLM, if sites are on BLM-managed land, for concurrent reviews. Reclamation shall submit consolidated review comments to IID, or its designee, for incorporation into a final report. If any reviewing party fails to object or submit comments within a 30 calendar day period, Reclamation may assume concurrence. Disagreements about the monitoring reports will be resolved through consultation among the parties. If Reclamation is unable to resolve objections or conflicting comments through such consultation, Reclamation shall follow Stipulation XIV of this PA. Upon completion, Reclamation shall distribute final copies of the monitoring reports pursuant to Stipulation X, below.

B. If Reclamation finds that the Undertaking may affect an unevaluated property, Reclamation will determine if the property is eligible for inclusion in the NRHP pursuant to Stipulation III.D.4., above, and arrive at one of the outcomes in Stipulation III.D.10., above. If the property is on BLM-managed land, Reclamation shall also consult with BLM. If it is determined not to be eligible for inclusion in the NRHP, the property will not be given further consideration under this PA. If the property is determined to be eligible for listing on the NRHP, Reclamation shall apply the Criteria of Effect and Adverse Effect found at §800.5(a) and (b), in consultation with the SHPO. IID, or its designee, shall provide Reclamation with adequate and sufficient documentation necessary to make this determination.

1. When activities from the Undertaking are planned such that effects to identified properties will be avoided by using the protection measures as defined in Stipulation IV.A.1-5, that aspect of the Undertaking will be considered to have

“no effect.” In these cases, Reclamation need not consult with the SHPO on effect before allowing that phase of the Undertaking to proceed.

2. If an identified property cannot be avoided and the property is determined, in accordance with Stipulation III.D.4. above, to qualify for listing on the NRHP, Reclamation, in consultation with the SHPO, shall follow §800.5 to find if the Undertaking's effects on the historic property will be adverse. If such consultation results in a finding that the effect on the historic property is not adverse, then Reclamation shall conclude the consultation by complying with §800.5(d)(1), and, following such compliance, may proceed with the proposed activity.

3. If the consultation results in a finding that the effect on a historic property is adverse, then Reclamation shall proceed in accordance with Stipulation V., below.

V. TREATMENT PLANS

A. Reclamation, in consultation with BLM, if sites are on BLM-managed land, the SHPO and IID, shall ensure that IID, or its designee, develops and implements a Treatment Plan(s) that takes into account the adverse effects to historic properties resulting from the Undertaking.

B. The Treatment Plan(s) shall be consistent with the Secretary of the Interior's Standards and Guidelines (48 FR 44716-44742), and take into account the Council's publication, Treatment of Archaeological Properties (1980), and the guidance, standards, and requirements offered or established by the SHPO. At a minimum, a Treatment Plan shall include: a research design with historic themes; research questions and data requirements to answer them; a data recovery plan; proposed disposition of recovered materials and records; proposed methods for involving Native Americans and the interested public; and a proposed schedule for implementation of the plan.

C. IID, or its designee, shall submit a draft Treatment Plan to Reclamation for distribution to SHPO, BLM, if sites are on BLM-managed land, IID, and Tribes for a 30 calendar day review period commencing on the date of its receipt by the reviewing party. The review by all parties may be concurrent, at Reclamation's discretion. If any reviewing party fails to object or submit comments within the 30 calendar day period, Reclamation may assume that party's concurrence. Disagreements about draft Treatment Plans will be resolved through consultation among the parties. If Reclamation is unable to resolve objections or conflicting comments through such consultation, Reclamation shall comply with Stipulation XIV, Dispute Resolution, of this PA.

D. Reclamation shall consolidate all review comments and provide them to IID, or its designee, for incorporation into a final Treatment Plan. Upon acceptance by Reclamation

and distribution to the SHPO, BLM, if sites are on BLM-managed land, Tribes and interested parties, IID, or its designee, shall implement the Treatment Plan.

E. Upon completion of the field work associated with implementation of the Treatment Plan, IID, or its designee, shall notify Reclamation of the completed work. Reclamation may then issue a notice to proceed to IID and concurrently notify all parties that commented on the Treatment Plan of such notice.

F. IID, or its designee, shall ensure that a report is prepared for each data recovery project covered in the Treatment Plan. Unless otherwise negotiated, IID, or its designee, shall submit a draft data recovery report to Reclamation within 6 months after the completion of the treatment measures. Reclamation shall provide BLM, if sites are on BLM-managed land, the SHPO, Tribes, and interested parties with an opportunity to review each draft data recovery report and submit comments back to Reclamation within 30 calendar days of receipt of the report. Reclamation shall review each draft treatment report and provide consolidated review comments to IID, or its designee, for incorporation into a final report. Unless otherwise negotiated, IID, or its designee, shall submit the final report to Reclamation within 30 calendar days after receipt of the comments.

VI. INADVERTENT OR UNANTICIPATED DISCOVERIES

A. In the event that the identification efforts in the Class III inventory indicates that historic properties or human remains are likely to be discovered during implementation of the Undertaking, IID, or its designee, shall prepare a Discovery Plan. The Discovery Plan shall include a plan of action that conforms to 36 CFR Part 800, the Native American Graves Protection and Repatriation Act (NAGPRA), and applicable State of California laws. IID, or its designee, shall submit a draft of the Discovery Plan to Reclamation. Reclamation shall submit the draft plan to BLM, the SHPO and Tribes. BLM, the SHPO and the Tribes shall review the plan and provide comments to Reclamation within 30 calendar days from receipt of the draft. Reclamation shall combine comments on the draft plan and submit them to IID, or its designee, for inclusion in a revised plan. If BLM or SHPO or Tribes do not respond within 30 calendar days, Reclamation may assume the Discovery Plan is sufficient. Disputes arising under this provision shall be addressed pursuant to Stipulation XIV, below.

B. If a previously undiscovered or undocumented cultural resource is encountered during implementation of the Undertaking, all work in the immediate vicinity of the resource, except that necessary to secure and protect the resource, shall cease and IID, or its designee, shall immediately inform Reclamation and BLM, if the discovery is on BLM-managed land. Reclamation shall ensure that the notifications and procedures identified in the Discovery Plan are carried out.

C. IID, or its designee, shall immediately provide an oral notification to Reclamation and BLM, if the discovery is on BLM-managed land, of the inadvertent discovery of human remains during implementation of the Undertaking and shall forward a written report of their findings to Reclamation and BLM, if the discovery is on BLM-managed land, within 48 hours by certified mail. IID, or its designee, shall cease all activity in the immediate vicinity of the discovery, except that necessary to stabilize, and protect such discoveries until authorized to proceed by Reclamation. Reclamation shall ensure that the notifications and procedures identified in the Discovery Plan are carried out.

VII. AUTHORIZATION TO PROCEED WITH CONSTRUCTION

A. Reclamation may authorize IID to begin construction of each phase of the Undertaking, provided that the requirements of this PA have been completed for the phase(s):

1. If the Undertaking phase(s) has been inventoried in accordance with this PA and the inventory report submitted to Reclamation documents that no historic properties are present and Reclamation concurs with that determination; or
2. If after Reclamation has consulted with the SHPO, cultural resources located in the Undertaking phase(s) are determined to be not eligible to the NRHP; or
3. If avoidance measures outlined in Stipulations IV.A. and IV.B.1. are implemented; or
4. If the Undertaking phase(s) contains historic properties and field work as specified in the accepted Treatment Plan has been completed to Reclamation's satisfaction; or
5. If Undertaking activities were halted due to an inadvertent or unplanned discovery, and the actions defined in Stipulation VI have been completed.

B. In the event that a portion of the Undertaking phase(s) is redesigned, rerouted, or otherwise relocated after Reclamation has authorized construction, IID will promptly notify Reclamation of the proposed alterations and comply with the terms of this PA. Upon completion of all activities related to identification, evaluation, and treatment, Reclamation may re-authorize the construction of that portion of the Undertaking phase(s).

VIII. TREATMENT OF HUMAN REMAINS

A. Reclamation and IID shall ensure that all human remains encountered during the course of this Undertaking are treated in a respectful manner and in accordance with applicable Federal and State laws. No construction activities shall be allowed in the vicinity of the encountered human remains until a notice to proceed is provided by Reclamation.

B. If human remains are encountered on Federal lands, IID, or its designee, shall immediately provide an oral notification to Reclamation and BLM, if the discovery is on BLM-managed land, and shall forward a written report of their findings to Reclamation and BLM, if the discovery is on BLM-managed land, within 48 hours by certified mail. IID, or its designee, shall cease all activity in the immediate vicinity of the discovery, except that necessary to stabilize, and protect such discoveries until authorized to proceed by Reclamation. Reclamation shall ensure that the procedures and notifications identified in the Discovery Plan, if prepared, are carried out. In the event that a Discovery Plan is not prepared, Reclamation shall comply with the inadvertent discovery and disposition procedures outlined in 43 CFR Parts 10.4 and 10.6.

C. If human remains are encountered on State or private lands, IID, or its designee, shall immediately notify Reclamation. IID, or its designee, shall cease all activity in the immediate vicinity of the discovery, except that necessary to stabilize, and protect such discoveries until authorized to proceed by Reclamation. Reclamation shall ensure that the procedures and notifications identified in the Discovery Plan, if prepared, are carried out. In the event that a Discovery Plan is not prepared, Reclamation shall comply with the applicable provisions of State of California law, including Public Resources Code Section 5097.98 and 5097.991.

IX. CURATION OF MATERIALS AND DATA

A. Reclamation and IID shall ensure that all records and materials resulting from activities carried out pursuant to this PA are curated in a facility meeting the standards set forth in 36 CFR Part 79.

B. Reclamation and IID shall ensure that all records and materials are maintained in accordance with 36 CFR Part 79 from the time of collection until they are turned over to the facility stated in Stipulation IX.A.

X. REPORT DISSEMINATION

A. Reclamation and IID, or its designee, shall ensure that all plans, reports, and other documents completed pursuant to this PA are consistent with the Secretary of the

Interior's "Standards and Guidelines" (48 FR 44716-44740). Reclamation shall be responsible for their distribution and shall ensure that all parties to this PA receive copies of all final documents produced pursuant to this PA. Reclamation shall also ensure that final documents are provided to Tribes and other interested persons, as appropriate and subject to Stipulation XI, Confidentiality, of this PA. The number of copies of all plans, reports, and other documents shall be determined by Reclamation in consultation with the parties to this PA.

XI. CONFIDENTIALITY

A. The signatories to this PA acknowledge that all cultural resources covered herein or in subsequent documentation prepared as a result of this PA shall be subject to confidentiality per §800.11(c). Reclamation and IID shall ensure that such information is maintained on a need-to-know basis that is limited to Reclamation, BLM, IID, or its designee, and SHPO staff involved in planning, reviewing, and implementing the Undertaking.

XII. FUNDING

A. IID shall bear the expense of identification, evaluation, and treatment of all historic properties directly or indirectly affected by the Undertaking, provided that such expense is reimbursed to IID from the Department of Water Resources (DWR) in accordance with the October 1, 2001, Agreement to Construct the All American Canal Lining Project, No. 4600002001 between IID and DWR. Such costs are: preparation of the All American canal historic context; record and literature searches; preparation of a historic context and research design; pre-field work planning; preparation of a Treatment Plan(s); preparation of an Inadvertent Discovery Plan, if needed; inventory and data recovery/treatment; post-field work analysis; research and report preparation; report production; and costs associated with the curation of materials and data.

XIII. ANNUAL REPORTS

A. No later than January 31, 2004, and annually thereafter, Reclamation shall provide an annual report to the signatories to this PA that describes the actions Reclamation has taken to fulfill the terms of this PA, problems encountered in fulfilling its terms, and suggestions for amendments to the PA. Also, Reclamation shall describe work proposed for the upcoming year to fulfill the PA. Finally, Reclamation shall provide to the SHPO documentation of historic properties identified in the conduct of this PA, including negative survey data. A summary of this documentation shall be provided to the other signatories to this PA.

XIV. DISPUTE RESOLUTION

A. Should any signatory to this PA object in writing to Reclamation regarding the manner in which the terms of this PA are carried out, or to any documentation or plan prepared in accordance with and subject to this PA, Reclamation shall consult with the objecting party to address the objection. If resolution is not reached, Reclamation shall forward documentation relevant to the objection to the Council, including Reclamation's proposed response to the objection. Within 30 calendar days after receipt of all pertinent documentation, the Council shall exercise one of the following options:

- 1.** Concur with Reclamation's proposed response to the objection, whereupon Reclamation may proceed with its action in accordance with the agreed-upon response; or
- 2.** Provide Reclamation with recommendations, which Reclamation shall take into account in reaching a final decision regarding its response to the objection. Upon reaching its final decision, Reclamation will notify the objecting party and Council of its final decision and proceed with its action; or
- 3.** Notify Reclamation that the objection will be referred for comment pursuant to §800.7(a)(4), and proceed to refer the objection and comment. In this event, the agency head shall take the resulting comment into account in accordance with §800.7(c)(4) and Section 110(l) of the NHPA. Thereafter, Reclamation shall notify the objecting party and the Council of its final decision, regarding the objection and may thereafter proceed with its action. Thereafter, the Council shall comment and Reclamation shall respond in accordance with §800.7(c).

B. Should the Council not exercise one of the foregoing options within 30 days of receipt of all pertinent documentation, Reclamation may assume that the Council concurs with its proposed response to the objection, advise the objecting party of that response, and proceed with its action in a manner consistent with that response.

C. At any time during the implementation of this PA, should an objection be raised by a member of the public, Reclamation shall immediately notify the other signatories in writing of the objection and take the objection into account. Reclamation shall render a decision regarding the objection, taking into account the views of the signatories to the PA.

D. Reclamation's responsibility to carry out all other actions under this PA that are not the subject of the objection will remain unchanged.

XV. AMENDMENTS AND TERMINATION

A. If any signatory believes that this PA should be amended, that signatory may at any time propose amendments, whereupon the signatories will consult to consider the amendment pursuant to §800.6(c)(7) and §800.6(c)(8). This PA may be amended only upon the written concurrence of the signatory parties.

B. Any signatory party may terminate this PA. Termination of this PA shall proceed in accordance with the applicable provisions of 36 CFR Part 800.

C. If this PA is terminated and Reclamation elects to proceed with the Undertaking, Reclamation shall comply with §800.14(b)(2)(v).

XVI. EFFECTIVE DATE

A. This PA shall take effect on the date that it has been fully executed by Reclamation, BLM, IID, and the SHPO.

EXECUTION of this PA by Reclamation, BLM, the SHPO, and IID, and implementation of its terms, evidence that Reclamation has afforded the Council a reasonable opportunity to comment on the Undertaking and its effects on historic properties, and that Reclamation has taken into account the effects of all aspects of the Undertaking on historic properties.

SIGNATORY PARTIES:

U.S. DEPARTMENT OF INTERIOR, BUREAU OF RECLAMATION

By: *Lain Gray* Date: 6/16/03
Title: Assistant Regional Director

U.S. DEPARTMENT OF INTERIOR, BUREAU OF LAND MANAGEMENT

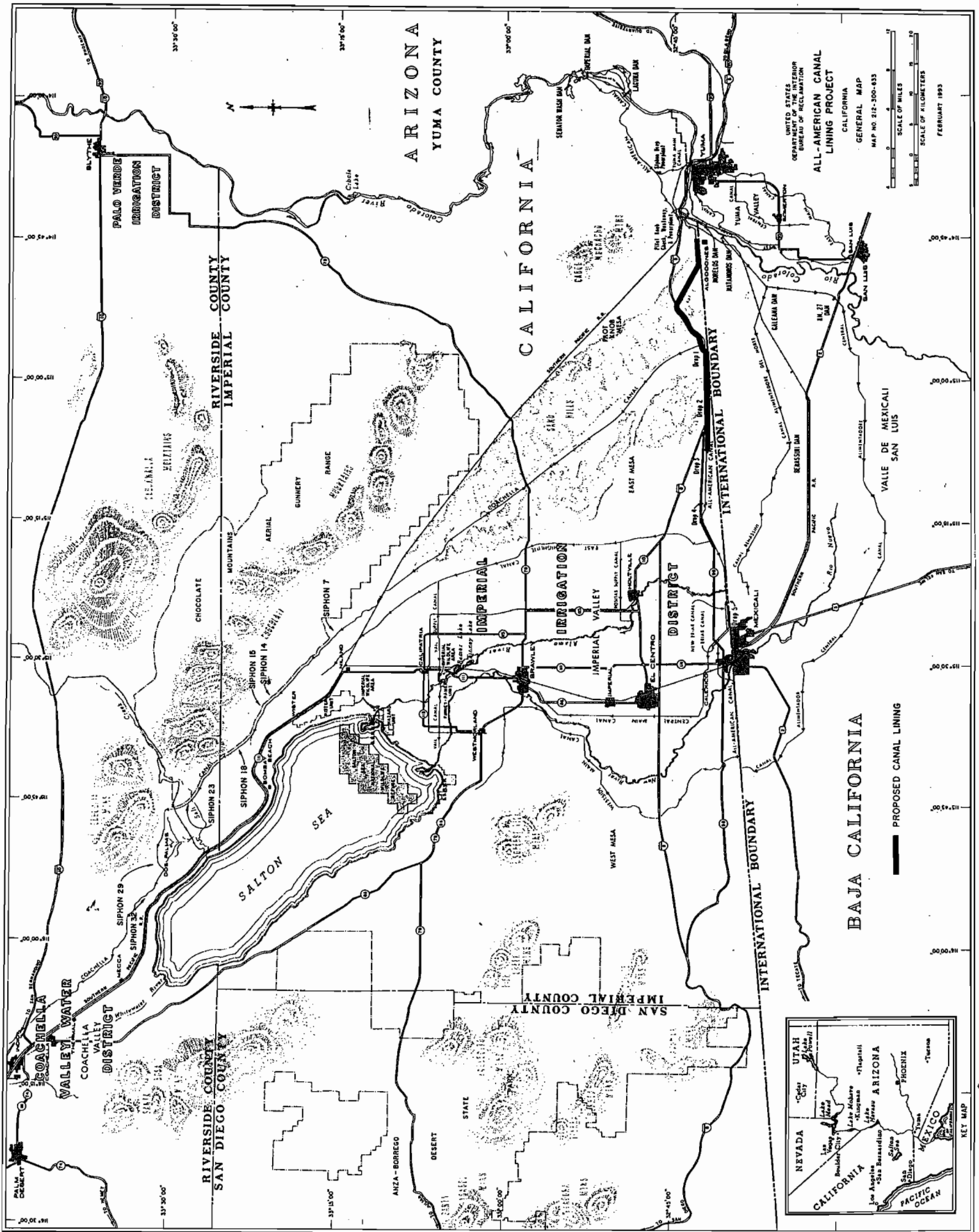
By: *Meg Thomsen* Date: 6/4/03
Title: Field Manager

IMPERIAL IRRIGATION DISTRICT

By: *Scott Ash* Date: 6-4-03
Title: GM.

CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

By: *Steph D. Mittero* Date: 6-26-03
Title: Deputy State Historic Preservation Officer



UNITED STATES
DEPARTMENT OF AGRICULTURE
BUREAU OF RECLAMATION
**ALL-AMERICAN CANAL
LINING PROJECT**
CALIFORNIA
GENERAL MAP
MAP NO 312-300-633
SCALE OF MILES
SCALE OF KILOMETERS
FEBRUARY 1993



— PROPOSED CANAL LINING

KEY MAP