

US EPA ARCHIVE DOCUMENT

**MEMORANDUM OF AGREEMENT BETWEEN
THE U.S. ENVIRONMENTAL PROTECTION AGENCY,
THE NEVADA STATE HISTORIC PRESERVATION OFFICER AND
THE LAS VEGAS PAIUTE TRIBE
REGARDING MITIGATION REQUIREMENTS ARISING FROM THE
LAS VEGAS PAIUTE TRIBE COLONY WATER AND SEWER UPGRADE PROJECT**

THIS MEMORANDUM OF AGREEMENT (“MOA”) is made and entered by and between the U.S. Environmental Protection Agency, (“EPA”), the Nevada State Historic Preservation Officer (“SHPO”), and the Las Vegas Paiute Tribe.

RECITALS:

WHEREAS, the EPA is considering funding the Las Vegas Paiute Tribe to upgrade the colony water and sewer lines in downtown Las Vegas pursuant to Public Law 111-88, Department of Interior, Environment and Related Agencies Appropriation Act 2010, and EPA’s award of a grant for the proposed project is a federal action requiring compliance with the National Environmental Policy Act (NEPA), 42 USC §§4321-4370f and constitutes an undertaking under the National Historic Preservation Act (NHPA). The EPA is responsible for NHPA compliance and the Section 106 review process for the replacement of water mains, water lines, fire hydrants, water meters, backflow assemblies, sewer mains, manholes and sewer service lines for the Las Vegas Paiute Tribe’s Colony in Las Vegas, Clark County, Nevada and commonly known as the Colony Water and Sewer Project within the Area of Potential Effect (“APE”) on the map attached as Exhibit A; and

WHEREAS, the EPA has determined that the proposed upgrade and replacement of the existing water and sewer infrastructure which were constructed on the Colony sometime in the 1960s and are more than 50 years old will result in adverse effects to the existing sewer and water lines which are historic properties for this undertaking; and

WHEREAS, the EPA has consulted with SHPO pursuant to 36 CFR Part 800, the federal regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 401); and

WHEREAS, in accordance with 36 C.F.R § 800.6(a)(1), the EPA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination providing the specified documentation, and the ACHP has chosen not to participate in the consultation pursuant to 36 C.F.R. § 800.5(a)(1)(iii); and

WHEREAS, the EPA has consulted with the Las Vegas Paiute Tribe regarding the effect of the Undertaking on historic properties pursuant to Section 106; and and they will be an Invited Signatory to this Agreement; and

NOW, THEREFORE, the EPA, the Las Vegas Paiute Tribe and SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of said undertaking on historic properties.

I. DOCUMENTATION

A. Recording and Reporting Activities

1. The EPA will prepare a report to include, at a minimum, color digital images documenting representative sections of the existing sewer and water pipelines as they are uncovered during the project and a narrative to accompany the images explaining their location, including the name of the street/property, the date rendered, the name of the photographer or renderer, and orientation of the photograph. The EPA will require the Las Vegas Paiute Tribal grant recipient to take the required digital images and provide the images and corresponding narrative to the EPA Project Officer as a term and condition of the grant agreement.
2. The EPA will submit the final documents described in Stipulation I.A.1. to SHPO no later than 90 days after the completion of the ground-disturbing portion of the Colony Water and Sewer Project.

II. MUTUAL REPRESENTATIONS AND WARRANTIES

A. The EPA and SHPO and the Las Vegas Paiute Tribe represents and warrants to each other that:

1. All parties have requisite power and authority to enter into and perform their obligations under this MOA; and
2. The person signing this MOA on each party's behalf have been duly authorized to execute and deliver this MOA and to legally bind that party to the terms and conditions of this MOA; and

- 3. The execution and performance of this MOA by the parties does not violate any provision of any other agreement in which the EPA, or the SHPO, or the Las Vegas Paiute Tribe is a party.
- 4. If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment. If within thirty (30) days, an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

EXECUTION of this MOA by the EPA, the Las Vegas Paiute Tribe, and SHPO and implementation of its terms evidence that the EPA has taken into account the effects of this undertaking on historic properties, and that the EPA has afforded SHPO, the ACHP, the Las Vegas Paiute Tribe, and the public an opportunity to comment.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Agreement as of the date set forth below.

U.S. Environmental Protection Agency

By: _____
 Jane Diamond, Director
 Water Division

Date: _____

Nevada State Historic Preservation Officer

By: _____
 Rebecca Lynn Palmer
 Acting State Historic Preservation Officer

Date: _____

Las Vegas Paiute Tribe

By: _____
 Benny Tso
 Tribal Chairman

Date: _____

