

**PROGRAMMATIC AGREEMENT
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER,
THE UNITED STATES FOREST SERVICE,
EASTERN BAND OF CHEROKEE INDIANS,
AND
THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
FOR
IMPROVEMENTS TO US 129, NC 143, AND NC 28
FROM ROBBINSVILLE TO STECOAH
PART OF THE APPALACHIAN HIGHWAY DEVELOPMENT SYSTEM
GRAHAM COUNTY, NORTH CAROLINA
STIP PROJECT A-0009C
FEDERAL AID PROJECT APD-0074(178)**

WHEREAS, the Federal Highway Administration (FHWA), in cooperation with the North Carolina Department of Transportation (NCDOT), proposes to improve the mobility and reliability of US 129, NC 143, and of NC 28 from the existing four-lane section in Robbinsville to Stecoah as part of the Appalachian Development Highway System (the Undertaking) in Graham County; and

WHEREAS, the FHWA has prepared an Environmental Assessment (EA) and intends to prepare a Finding of No Significant Impact (FONSI) for the project and has consulted with the Advisory Council on Historic Preservation (ACHP) on the practicality of developing a Programmatic Agreement (PA) to ensure compliance with Section 106 of the National Historic Preservation Act of 1966, as amended 54 U.S.C. §§ 300101-307108; and

WHEREAS, to address the known effects to historic properties and possible future effects on cultural resources, the FHWA will establish, in consultation with the consulting parties in the Section 106 process, the A-0009C Cultural Resources Task Force (CR Task Force); and

WHEREAS, the A-0009C CR Task Force will manage a phased-decision making process that responds to and plans for the challenging environment in which the Undertaking's effects are thoroughly considered; and

WHEREAS, identification of historic properties within the Undertaking's Area of Potential Effects (APE) has been carried out in accordance with the Advisory Council on Historic Preservation's (ACHP) regulations (36 CFR Part 800) for implementing Section 106 of the National Historic Preservation Act, as amended 54 U.S.C. §§ 300101-307108; and

WHEREAS, the Undertaking includes improvements to the nationally significant Appalachian National Scenic Trail (ANST), aka A.T., a property determined eligible for inclusion in the National Register of Historic Places (NRHP), and proposes to provide a long-term approach to provide safe passage for hikers that is consistent with ANST experiential and aesthetic values and wildlife across NC 143; and,

WHEREAS, this PA does not abrogate the rights, responsibilities, and obligations of the United States Forest Service (USFS) and the National Park Service (NPS) to manage the ANST pursuant to the

National Trails System Act (NTSA), 16 U.S.C. Sections 1241-1251 and 36 CFR Parts 1-7 and other relevant authorities; and

WHEREAS, the Undertaking is in proximity to resources associated with the Trail of Tears National Historic Trail, a route administered by the NPS in coordination with other federal land managers and advice from the federally recognized Tribes, and other Trail of Tears research, that follows and remembers the 1838 forced removal of more than 16,000 Cherokee Indian people from their homelands in Tennessee, Alabama, North Carolina, and Georgia by the United States government; and

WHEREAS, the FHWA has consulted with the North Carolina State Historic Preservation Officer (SHPO) and the ACHP to develop this PA pursuant to Section 14(b)(3) of 36 CFR Part 800; and

WHEREAS, the NCDOT and USFS have participated in the consultation and been invited as signatories to this PA; and

WHEREAS, the USFS will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing these objectives; and

WHEREAS, this PA does not authorize the specific work projects or activities that involve the transfer of funds, services, or property of the USFS. These specific work projects or activities will require execution of separate agreements, be contingent upon the availability of appropriated funds, and be independently authorized by appropriate statutory authority. The negotiation, execution, and administration of each such agreement must comply with all applicable statutes and regulations; and

WHEREAS, this PA in no way restricts the USFS from participating in similar activities with other public or private agencies, organizations, and individuals; and

WHEREAS, nothing in this PA may be interpreted to imply that the USFS endorses any product, service, or policy of the Signatory or Concurring parties; and

WHEREAS, the Eastern Band of Cherokee Indians (EBCI) has Tribal lands within and adjacent to the Undertaking, participated in the consultation, and been invited as a signatory to this PA; and

WHEREAS, the Cherokee Nation (CN), the United Keetoowah Band of Cherokee Indians in Oklahoma (UKB), the Muscogee (Creek) Nation (MCN), and the Catawba Nation have participated in the consultation and been invited to concur in this PA; and

WHEREAS, the Appalachian Trail Conservancy (ATC), the United States Army Corps of Engineers, (USACE), NPS, Stecoah Valley Cultural Arts Center, Graham County Historical Association, and Junaluska Memorial & Museum have participated in the consultation and been invited to concur in this PA; and

WHEREAS, this PA is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person; and

WHEREAS, by signing this PA, each Signatory or Concurring Party affirms that its provisions are appropriate means to avoid, minimize, or mitigate effects on historic properties in the event the Undertaking obtains all required approvals and is implemented;

NOW, THEREFORE, FHWA, SHPO, USFS, EBCI, and NCDOT agree that the Undertaking shall be administered in accordance with the following principles and stipulations to satisfy FHWA's Section 106 responsibilities for these actions.

PRINCIPLES

The signatories to this PA shall adhere to the following principles for the Undertaking and implementation of the A-0009C CR Task Force:

1. FHWA and NCDOT commit to plan, design, and implement the Undertaking in accordance with the best practices and Context Sensitive Solutions available at the time to avoid and minimize impacts to historic properties.
2. The signatories agree to meet the review timelines outlined in each of the stipulations. Should any party fail to respond by the deadline(s) stipulated, their failure to comment will constitute acceptance.
3. It is important that the signatory and concurring parties stay informed of the progress of the Undertaking and that they are especially informed of any information and/or circumstances, planned or unanticipated, that may invoke this PA and the Section 106 of the National Historic Preservation Act. NCDOT will monitor the Undertaking and the affected environment and inform the A-0009C CR Task Force of construction progress, minor design changes, and unanticipated information, events or conditions requiring additional studies. Monitoring and communications must be timely so that A-0009C CR Task Force may review and assess if the information, circumstances or event has any implications for the resources governed by this PA and Section 106 and then determine what, if any, management actions need to be modified and if they need to consult with the signatory and concurring parties. This shared communication and collaboration is critical to the intent and ability to avoid or minimize the adverse impacts to inadvertently discovered historic properties during the lifetime of this Undertaking
4. FHWA and NCDOT will seek, discuss, and consider the views of the Signatory and Concurring Parties to this PA concerning design and construction options throughout the planning and construction of the Undertaking.
5. Given the potential for changes in the environment and historic properties, FHWA and NCDOT will identify and evaluate any properties that are or may be eligible for listing in the NRHP.
6. FHWA and NCDOT will take into account direct, indirect, and cumulative effects on historic properties pursuant to 36 CFR 800.5(a)(1) and shall consider measures to improve existing conditions affecting historic properties.
7. Reasonableness of cost shall not be the only determining factor when selecting measures to avoid, minimize, or mitigate adverse effects to historic properties.
8. FHWA and NCDOT will to the greatest extent possible, avoid and minimize impacts associated with the Undertaking on sites associated with the forced removal of Cherokees from this area.
9. FHWA has an Emergency Relief Program that establishes protocols for coordination with NCDOT and other Federal and state agencies to deal with declared emergencies. FHWA and NCDOT will comply with 23 CFR 668 and 36 CFR 800.12, and other applicable environmental laws, when a disaster and/or emergency is declared by the appropriate authority.
10. NCDOT, with oversight by FHWA, will provide overall project management to ensure that the provisions of this PA are met throughout the life of the Undertaking. The responsibility of the

NCDOT management will be NCDOT's Division 14 Division Engineer (or his/her designee) and they are responsible with coordinating and reporting to the A-0009C CR Task Force.

11. The A-0009C CR Task Force's overall purpose is to assist in the management and the coordination and implementation of this PA and ensure the identification, evaluation, and effects assessment for any historic properties associated with the Undertaking. The task force will also ensure consistent, pro-active, and transparent communications between the signatories and concurring parties to this PA, as well as other consulting parties, as needed.
 - a. **Membership:** The A-0009C CR Task Force is comprised of representatives or their designee from the PA signatory organizations that have the responsibility and authority to make decisions and take or assign actions on behalf of their organization. Each representative or their designee shall involve and work with others within their respective organization who have subject matter expertise on an as-needed basis. The representatives are as follows:
 - FHWA, Preconstruction and Environment Director (Co-Chair)
 - NCSHPO, Environmental Review Coordinator
 - USFS, National Forests in North Carolina Archeologist and Tribal Liaison
 - NPS, National Trails Office, Cultural Resources Specialist
 - EBCI, Tribal Historic Preservation Officer (Co-Chair)
 - NCDOT, Division Engineer (Co-Chair)
 - b. **Roles and Responsibilities:** The A-0009C CR Task Force will operate in a manner that is transparent, encourages curiosity, and makes timely, informed decisions, with a focus on identifying, understanding, and addressing interests of stakeholders and fostering a collaborative approach. Members will obtain and share all relevant information and conduct reviews and assessments, so decisions are timely and transparent. The A-0009C CR Task Force's scope of decision-making responsibility includes reviewing proposed changes to the design plans, construction details, and mitigation strategies for possible effects on historic properties ; assessing or re-assessing effects; developing proper and compliant resolutions should effects be found to be adverse; and facilitating those resolutions.

The A-0009C CR Task Force will communicate consistently, pro-actively, and transparently using a variety of effective methods such as:

- Meetings – regular and special meetings (in person, via web meeting, or teleconference) with team members and decision-makers to share information, update the status of activities, resolve problems and plan for future actions or measures.
- One-On-One – communication between individuals (in person, telephone, or email) regarding the details of the work,
- Document Sharing and Control – secure electronic document storage that allows team members to upload, access and store project data, progress meeting minutes, draft text, and drawings
- Monitoring and Reporting -- provide an annual status update to the signatories and concurring parties on the implementation of the Undertaking and progress made on fulfilling the Stipulations to this PA

Decisions of the A-0009C CR Task Force will be made through written concurrence (meeting minutes, effects consultation letters, emails, and reports) and distributed to other stakeholders within five (5) business days of the decision. The NCDOT Co-Chair will be

responsible for the development and distribution of draft minutes and provide others the opportunity to review and comment prior to them being finalized.

A-0009C CR Task Force members will hold themselves and each other accountable to the responsibilities and stipulations of this PA and ensure the implementation of the agreed upon measures to avoid, minimize, or mitigate adverse effects to historic properties.

Within 90 days of executing this agreement, the A-0009C CR Task Force will develop operating procedures to specify how they will effectively carry out their roles and responsibilities. The Task Force will provide these procedures to the signatories and concurring parties to this agreement.

STIPULATIONS

FHWA and NCDOT will ensure that the following measures are carried out:

I. Additional Consultation

Although Undertaking-related decisions will be made in consultation with the Interagency NEPA/Section 404 Merger Team, consultation regarding historic properties will be made within the framework of this PA and in accord with Section 106 of the National Historic Preservation Act. FHWA and NCDOT will ensure that appropriate communication and coordination will occur as needed to address situations that may occur with resources that involve other resource agencies.

The following situations require further consultation pursuant to this PA (and may require amendment to this PA) and shall require notification to the A-0009C CR Task Force:

- change in the eligibility or integrity of historic properties; or
- determination of new historic properties; or
- proposed changes to the design plans, construction details, and mitigation strategies in the vicinity of historic properties.

II. Additional Studies and Evaluations Outside the Original APE's

If after the signature of this PA there are unanticipated requirements NCDOT shall provide the A-0009C CR Task Force with information concerning the proposed changes. These could include, but are not limited to, additional detour limits, expanded construction or slope stake limits, staging areas, additional permanent easements, or any other work outside the APE's for either historic architecture or archaeology. In the notification NCDOT will provide specific locational data, an assessment of how such changes may affect historic properties, and any measures proposed to conduct further investigations or modify specific improvements contained in this PA. If after thirty (30) days of confirmed receipt of proposed changes and NCDOT's recommendations, no comments are received from the A-0009C CR Task Force, the NCDOT may assume the non-responding party has no objections.

III. Coordinated Design and Aesthetics of Land Bridge, Walls, and Fences

Along the length of the Undertaking, the appearance of land bridge, other structures, retaining walls, or fences (including wildlife fencing) adjacent to historic properties will be coordinated with the A-0009C CR Task Force and distributed to signatories, concurring parties, and relevant stakeholders (historic

property owners, municipal governmental staff, contractors). NCDOT will provide the A-0009C CR Task Force with renderings that illustrate aesthetic choices for the materials, textures, colors, and species of proposed plantings applied to the land bridge, other structures, retaining walls, or fences and request comments and preferences. If after thirty (30) days of confirmed receipt of proposed changes and NCDOT's recommendations, no comments are received from the A-0009C CR Task Force, the NCDOT may assume the non-responding party has no objections.

IV. Tree Preservation and Landscaping

- a. To increase the awareness of tree preservation along the length of the Undertaking, NCDOT will instruct the construction contractor to install temporary plastic fencing and tree preservation signage along the boundaries of historic properties with trees greater than 6" in diameter. If NCDOT plans to remove trees within the boundary of a historic property, NCDOT will survey the trees and minimize the construction footprint to decrease impacts to the greatest extent possible. However, if trees require removal or will be damaged by root disturbances, then said trees will be replaced with balled and/or burlaped trees guaranteed to survive three (3) years.
- b. At the signing of this PA, NCDOT only shows tree removal and replacement of trees at the John and Mattie Colvard House (GH0238) and tree protection measures and landscape restoration at the Cheoah Historic District (GH0347) as denoted in the Historic Architecture Effects Consultation form in Appendix A. Images illustrating the projected impacts in these areas are included with the Historic Architecture Effects Consultation form.

V. Preservation of Existing Stone Walls

At the John and Ruby Cody House (GH0261) the existing stone walls that line the driveway will be marked with temporary protective fencing during construction to prevent accidental harm. This commitment is noted on the Historic Architecture Effects Consultation form in Appendix A and images illustrating the projected impacts in this area is included with the Historic Architecture Effects Consultation form.

VI. Appalachian National Scenic Trail

The current at-grade crossing for hikers at NC 143 will be replaced by a land bridge which will separate hikers and wildlife from vehicular traffic. This will require relocating sections of the ANST to align with the land bridge and right-of-way acquisition. NCDOT, USFS, and ATC shall enter into a separate agreement for the design, construction, and maintenance of the relocation of the ANST.

- a. **Relocation of ANST Crossing at NC 143:** The ANST will require relocation on both sides of the new structure to orient with the crossing. A preliminary route has been identified, subject to final review and approval by USFS and ATC. An image showing the relocated trail study corridor is included as Appendix C. NCDOT will be responsible for construction of the land bridge and relocation of the ANST including construction of a new connecting spur trail from the existing parking area. NCDOT will fund construction of the trail relocation and engage a trail building organization acceptable to the NCDOT, USFS, and ATC. NCDOT will design and erect a sign and/or an informational kiosk at the crossing in consultation with the USFS, NPS, and ATC upon opening of the land bridge to pedestrian traffic. The design

and aesthetics of the land bridge will be reviewed by the Signatory and Concurring Parties prior to construction. The land bridge will be maintained by NCDOT Division 14 and the relocated trail will be maintained by USFS, NPS, and ATC.

- b. **Land Acquisition for the Land Bridge and ANST Relocation:** The land bridge and the ANST relocation route crosses/encroaches upon a parcel currently in private ownership. NCDOT will follow 49 CFR Code of Federal Regulations as well as NC General Statutes. The current plan indicates the private parcel will be acquired by NCDOT. NCDOT will convey any portion thereof not needed for the land bridge to the USFS. Should this plan change, NCDOT will consult with USFS, NPS, and ATC. NCDOT will survey the proposed ANST route across this parcel for impacts to historic properties.
- c. **Hikers During Construction:** The ANST is normally open 24 hours a day, 365 days a year and will require a Work Zone Pedestrian Plan prior to initiation of construction in the vicinity of the ANST. During construction, the contractor shall maintain a safe pedestrian route and environment for ANST hikers, including wayfaring signs warning of construction ahead, a clearly marked route for hikers through or around the construction site, and when appropriate, flaggers to aid hikers in the construction zone. At the discretion of the contractor, and under the supervision of the NCDOT, flaggers will assure hikers do not pass through the construction site when there is potential danger. The construction contractor shall endeavor to minimize stoppage of hikers and regulate construction for hikers while ensuring safe passage.
- d. **Trailhead Parking and ANST Access:** The current trailhead parking on the east side of NC 143 will be retained after construction for parking and access to the eastern side of the land bridge. NCDOT shall coordinate with the USFS, NPS, and ATC on any measures needed to protect these features and associated amenities during construction. The NCDOT will repair and restore any damage to these areas from construction activities. After construction NCDOT will maintain the pavement, striping, and curbs, while the USFS would maintain the grass, vegetation at the trailhead, signs, and other associated amenities.
- e. **Appalachian Trail Signs:** NCDOT will provide funding for the manufacture of new trail signs for the ANST. These signs will be manufactured, installed, and maintained by the ATC in consultation with the NPS and USFS on the new land bridge and relocated sections of trail.

VII. Tribal Coordination

The requirements to consult with federally recognized Tribes in the Section 106 review process are derived from the specific language of Section 101(d)(6)(B) of the National Historic Preservation Act. They are also based on the unique legal relationship between federally recognized Indian tribes and the federal government embodied in the U.S. Constitution, treaties, court decisions, federal statutes, and executive orders.

FHWA shall ensure that consultation provides Tribes a reasonable opportunity to identify concerns about historic properties; continue to advise on the identification and evaluation of historic properties, including those of traditional religious and cultural importance to them; articulate their views on the Undertaking's effects on such properties; and participate in the resolution of adverse effects. Accordingly, the regulations require that FHWA make a reasonable and good-faith effort to identify Tribes that may attach religious and cultural significance to historic properties that may be affected by the undertaking. FHWA shall ensure that consultation under the Section 106 review process is respectful of tribal sovereignty in conducting consultations and recognizes the government-to-government relationship that exists between the federal government and federally recognized Indian Tribes.

VIII. Archaeological Resources

The A-0009C undertaking has the potential to affect multiple archaeological sites identified within the archaeological APE defined here as the maximum limits of ground disturbing activities associated with the project including both temporary and permanent easements. As outlined in the Principles Section of this PA, the signatories agree to plan, design, and implement the Undertaking to avoid and minimize impacts to historic properties while acknowledging that adverse effects may result as the project's design and APE are refined. Refinements to the APE that occur through the design process will be the determining factor in the need for further archaeological NRHP evaluations and effects findings for the archaeological sites detailed within Appendix B of this PA. Archaeological site NRHP evaluations will be coupled with a recommendation as to whether or not the site(s) warrants preservation in place to assist FHWA in determining the applicability of 23 CFR 774 Section 4(f) requirements. Sites that through consultation as described below and in keeping with Stipulation VII's Tribal Coordination requirements, are ultimately determined to require data recovery investigations will be subjected to those investigations prior to any construction activities occurring within the site limits. Data recovery investigations will be completed within the portions of the site(s) contained within the undertakings refined APE after Right of Way acquisition. Sites that are determined eligible for the NRHP and warrant preservation in place will require FHWA and NCDOT to continue to seek alternatives or modifications to the undertaking that could avoid or minimize effects.

- a. Sites 31GH34, 31GH78, 31GH92, 31GH94, 31GH599, 31GH664, 31GH673, 31GH691, and 31GH716 have been determined eligible for the NRHP under Criterion D and do not warrant preservation in place. NCDOT and FHWA will continue to seek alternatives or modifications to the undertaking that could avoid or minimize effects to these sites. If through ongoing consultation, any of these sites are determined to be adversely affected by the undertaking and data recovery is determined to be the best course of action to mitigate the adverse effects, NCDOT will develop Data Recovery Plans (DRPs) for these nine sites through consultation with the SHPO and the THPOs (or their designee) of the EBCI, CN, UKB, MCN, Catawba Nation, and the A-0009C CR Task Force.
- b. Refinements to the design plans and APE may require that other sites be subjected to additional investigation to determine their respective NRHP eligibility. This currently includes but is not limited to sites 31GH35, 31GH45, 31GH625, 31GH703, 31GH723, 31GH729 and/or 31GH731. If Sites 31GH35, 31GH45, 31GH625, 31GH703, 31GH723, 31GH729 and/or 31GH731, and any other sites are determined eligible for the NRHP under Criterion D through further testing within the Undertaking's APE and they are determined through continued consultation to not warrant preservation in place, NCDOT and FHWA will continue to seek alternatives or modifications to the undertaking that could avoid, or minimize effects to these sites. If through ongoing consultation, any of these sites are determined to be adversely affected by the undertaking and data recovery is determined to be the best course of action to mitigate the adverse effects, NCDOT, in consultation with the SHPO and the THPOs (or their designee) of the EBCI, CN, UKB, MCN, the Catawba Nation and the A-0009C CR Task Force will develop, separate DRPs for those sites as determined appropriate.
- c. Site 31GH46 has been determined eligible for the NRHP under Criterion D and under Criterion A. NCDOT and FHWA will continue to seek alternatives or modifications to the undertaking that could avoid or minimize effects to this site.
- d. NCDOT will ensure that any required DRPs are implemented after the highway Right-Of-Way is acquired and prior to construction activities within the site's location.
- e. Upon completion of the Data Recovery field efforts, NCDOT will prepare and forward a Management Summary to the SHPO and the THPOs (or their designee) of the EBCI, CN, UKB,

MCN, Catawba Nation and the A-0009C CR Task Force detailing the results of the Data Recovery efforts for each eligible site as completed.

- f. Upon receipt of the Management Summary, the SHPO and the THPOs (or their designee) of the EBCI, CN, UKB, MCN, Catawba Nation and the A-0009C CR Task Force will respond within thirty (30) days to the recommendations contained within the Management Summary.
- g. Upon acceptance of the recommendations contained in the Management Summary, the SHPO and the THPOs (or their designee) of the EBCI, CN, UKB, MCN, and Catawba Nation and the A-0009C CR Task Force will issue NCDOT documentation that the Data Recovery field investigations have been completed.
- h. The analysis and report preparation, detailing each eligible site's investigations, will be completed by NCDOT, or their consultant(s), within eighteen (18) months after completion of the fieldwork.
- i. Some parcels within the APE (totaling approximately 59.02 acres) could not be accessed for survey due to a lack of landowner permission or their uncertain legal status. Some locations within the archaeological APE could not be adequately tested. Survey of those areas (including use of heavy equipment as appropriate to remove pavement or fill) is recommended if they are determined to be impacted by the Undertaking.
- j. Sites 31GH696 and 31GH705 have been determined eligible under Criterion A and cannot be subjected to any ground disturbing activities.

IX. Trail of Tears National Historic Trail

The Trail of Tears routes have historical, cultural, and religious significance for many Tribal nations and the Unicoi Turnpike follows a traditional, prehistoric transportation route through the southern Appalachians. The A-0009C CR Task Force will coordinate with the USFS Unicoi Turnpike and Trail of Tears Heritage Corridor Coordinator (Coordinator) to ensure that the Undertaking does not significantly impact the sites and routes in the heritage corridor. The corridor will include the Trail of Tears National Historic Trail along with resources, sites and routes associated with the removal of the Cherokee obtained from the Riggs 1998 study. Any concerns received from the Coordinator will be reviewed by the A-0009C CR Task Force and if additional studies or evaluations are required, they will follow the guidelines set forth in Stipulation I.

X. Reporting

On or before each anniversary of the fully signed PA, the A-0009C CR Task Force will provide an annual status update to the Signatories and Concurring Parties on the implementation of the Undertaking and progress made on fulfilling the Stipulations to this PA. This status update will occur, whether or not any activity occurred on the Undertaking. If important milestones have occurred on the Undertaking and/or implementation of the PA, NCDOT shall provide the status updates at shorter intervals based on deliverable actions. The reporting requirement will cease when the PA terminates as per Stipulation XIV.

XI. Dispute Resolution

Should any of the Signatory or Consulting Party(ies) object within thirty (30) days after receipt to any plans or documentation provided for review pursuant to this PA, the FHWA shall consult with the objecting party(ies) to resolve the objection. If the FHWA or objecting party(ies) determines that the objection cannot be resolved, the FHWA will forward all documentation relevant to the dispute to the ACHP. Within thirty (30) days after receipt of all pertinent documentation, the ACHP will either:

- Provide the FHWA with recommendations which the FHWA will take into account in reaching a final decision regarding the dispute, or
- Notify the FHWA that it will comment pursuant to 36 CFR Section 800.7(c) and proceed to comment.
- Any ACHP comment provided in response to such a request will be taken into account by the FHWA, in accordance with 36 CFR Section 800.7 (c) (4) with reference to the subject of the dispute.

Any recommendation or comment provided by the ACHP will be understood to pertain only to the subject of the dispute. FHWA's responsibility to carry out all the actions under this PA that are not the subject of the dispute will remain unchanged.

XII. Post-Review Discoveries

In accordance with 36 CFR 800.13(a), if NCDOT identifies additional cultural resource(s) during construction, all work will be halted within the limits of the resource(s) and the FHWA and the SHPO will be contacted. The NCDOT and FHWA will inform the A-0009C Task Force and will initiate the appropriate agency and/or Tribal coordination required for a determination of eligibility or recovery effort. If after consultation, additional mitigation is determined necessary, the NCDOT, in consultation with the Task Force and concurring parties, will develop and implement appropriate protection/mitigation measures for the resource(s). Inadvertent or accidental discovery of human remains will be handled in accordance with North Carolina General Statutes 65 and 70 and follow the EBCI protocols for human remains provided in Appendix D.

XIII. Amendments

Should any of the Signatory parties believe that any of the terms of this PA cannot be carried out or that an amendment to the terms must be made, that party(ies) shall immediately consult with the other party(ies) to develop an amendment. The amendment will be effective on the date a copy is signed by all of the original signatories. If the signatories cannot agree to appropriate terms to amend the PA, any signatory may terminate the agreement in accordance with Stipulation XIV, below. Environmental conditions will be monitored for any changes prior to permitting of subsequent phases and the A-0009C CR Task Force may provide for any amendments that may result from environmental changes and need for permits at those times.

XIV. Termination

Any Signatory may terminate this PA by providing notice to the other party(ies), provided that the party(ies) will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. Termination of this PA will require compliance with 36 CFR 800. This PA may be terminated by the execution of a subsequent PA that explicitly terminates or supersedes its terms.

In the event that FHWA and NCDOT are unable to proceed with the Undertaking as currently proposed, FHWA shall reinitiate Section 106 consultation in accordance with 36 CFR Part 800 regarding other alternatives for the Undertaking.

XV. Duration

Unless terminated pursuant to Stipulation XIV above, this PA will be in effect until FHWA, in consultation with the other Signatory and Concurring Party(ies), determines that all of its terms have

satisfactorily been fulfilled, or if NCDOT is unable or decides not to construct the Undertaking, or after fifteen (15) years, whichever is soonest.

EXECUTION

Execution of this PA by FHWA, SHPO, USFS, EBCI, and NCDOT, its subsequent filing with the ACHP, and implementation of its terms evidence that the FHWA has afforded the ACHP an opportunity to comment on the Undertaking, and that FHWA has taken into account the effect of the Undertaking on the historic properties, archaeological sites, and traditional cultural properties.

AGREE:

**U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION,
NORTH CAROLINA DIVISION**

By: CLARENCE W COLEMAN Digitally signed by CLARENCE W COLEMAN
Date: 2021.03.03 11:12:51 -05'00' Date 3/3/2021
for
John Sullivan, PE, Division Administrator

NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICE

By: Ramona M. Bartos EB0C48E18A51448 Date 2/26/2021
Ramona Bartos, Deputy State Historic Preservation Officer

U.S. FOREST SERVICE, SOUTHERN REGION

By: James Melonas D79D921183C0482 Date 3/2/2021
James Melonas, Forest Supervisor for the National Forests in North Carolina

EASTERN BAND OF CHEROKEE INDIANS

By: Chief Richard Sneed 5069782EFE41489 Date 3/2/2021
The Honorable Principal Chief Richard Sneed

STATE OF NORTH CAROLINA, DEPARTMENT OF TRANSPORTATION

By: Chris M. Werner 2AC982A09DAA485 Date 2/25/2021
Chris M. Werner, P.E., Technical Services Administrator

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CONCUR:

Cherokee Nation:

By: _____ Date _____

Chad Harsha, Secretary of Natural Resources

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FEDERAL AID PROJECT APD-0074(178)**

Execution of this PA by FHWA, SHPO, USFS, EBCI, and NCDOT, its subsequent filing with the ACHP, and implementation of its terms evidence that the FHWA has afforded the ACHP an opportunity to comment on the Undertaking, and that FHWA has taken into account the effect of the Undertaking on the historic properties, archaeological sites, and traditional cultural properties.

CONCUR:

The United Keetoowah Band of Cherokee Indians in Oklahoma:

By: _____ Date _____

The Honorable Joe Bunch, Chief

**PROGRAMMATIC AGREEMENT
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER,
THE UNITED STATES FOREST SERVICE,
EASTERN BAND OF CHEROKEE INDIANS,
AND
THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
FOR
IMPROVEMENTS TO US 129, NC 143, AND NC 28
FROM ROBBINSVILLE TO STECOAH
PART OF THE APPALACHIAN HIGHWAY DEVELOPMENT SYSTEM
GRAHAM COUNTY, NORTH CAROLINA
STIP PROJECT A-0009C
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CONCUR:

Muscogee (Creek) Nation:

By: _____ Date _____

The Honorable David Hill, Principal Chief

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CONCUR:

Catawba Nation:

By: _____ Date _____

The Honorable William Harris, Principal Chief

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CONCUR:

Appalachian Trail Conservancy:

DocuSigned by:
By: Morgan Sommerville Date 3/10/2021
AB5C5C746762455

Morgan Sommerville, Director

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CONCUR:

United States Army Corps of Engineers:

By: _____ Date _____

Benjamin A. Bennett, Colonel, U.S. Army District Commander

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CONCUR:

National Park Service:

By: **MARGARET FRISBIE** Digitally signed by MARGARET FRISBIE
Date: 2021.03.04 09:35:53 -07'00' Date _____

Margaret Frisbie, Cultural Resources Specialist, National Trails

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CONCUR:

National Park Service:

WENDY
JANSSEN
By: _____ Date _____
Digitally signed by WENDY
JANSSEN
Date: 2021.03.09 14:51:08
-05'00'

Wendy K. Janssen, Superintendent, Appalachian National Scenic Trail

**PROGRAMMATIC AGREEMENT
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CONCUR:

Stecoah Valley Cultural Arts Center:

By: _____ Date _____

Beth Fields, Executive Director

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CONCUR:

Graham County Historical Association:

By: _____ Date _____

Ed Satterfield, President

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CONCUR:

Junaluska Memorial & Museum:

By: _____ Date _____

Appendix A – Historic Architecture Effects Consultation Form (2020) and Plan Sheets

Appendix B – List of Archaeological Sites

Appendix C – Relocation of Appalachian National Scenic Trail

Appendix D – EBCI Guidelines for Human Remains

Federal Aid #: APD-0074(178)

TIP#: A-0009C

County: Graham

CONCURRENCE FORM FOR ASSESSMENT OF EFFECTS

Project Description: Appalachian Highway Development System: Corridor K Improvements from Robbinsville to Stecoah

On June 1 and July 30, 2020 representatives of the

- North Carolina Department of Transportation (NCDOT)
- Federal Highway Administration (FHWA)
- North Carolina State Historic Preservation Office (HPO)
- Other: USACE, USFS, Elizabeth Toombs (Cherokee Nation), Stephen Yerka (EBCI), NPS, AT Conservancy

Reviewed the subject project and agreed on the effects findings listed within the table attached to this signature page.

Signed:

| | |
|--|-----------|
| DocuSigned by: <i>Mary Pope Furr</i> ED3110443880438... | 8/19/2020 |
| Representative, NCDOT | Date |
| DocuSigned by: <i>Elizabeth Toombs</i> EB32DEEC5B8240F... | 8/19/2020 |
| FHWA, for the Division Administrator, or other Federal Agency | Date |
| DocuSigned by: <i>Renee Gedhill-Earley</i> C26A1558A275464 | 8/19/2020 |
| Representative, HPO | Date |

Federal Aid #: APD-0074(178)

TIP#: A-0009C

County: Graham

| Property and Status | Alternative | Effect Finding | Reasons |
|--|------------------|---|---|
| John and Mattie Colvard House (GH0238) – DE Criterion C | Improve existing | No adverse effect <i>De minimis</i> 4(f) | 3-lane section with guardrail along US 129 could require tree removal within historic boundary. NCDOT will survey trees and minimize design to decrease impacts and removed trees will be replaced with balled/burlaped trees guaranteed to survive 3 years |
| Frank and Lenora Colvard House (GH0235) – DE Criterion C | Improve existing | Outside revised APE | Original project APE reduced after surveys due to elimination of several proposed alignments. |
| Colvard Motor Company (GH0236) – DE Criteria A&C | Improve existing | Outside revised APE | Original project APE reduced after surveys due to elimination of several proposed alignments. |
| Colvard House (GH0240) – DE Criterion C | Improve existing | Outside revised APE | Original project APE reduced after surveys due to elimination of several proposed alignments. |
| J. Boyd Crisp House (GH0242) – DE Criterion C | Improve existing | Outside revised APE | Original project APE reduced after surveys due to elimination of several proposed alignments. |
| The Hut (GH0204) – DE Criteria A&C | Improve existing | No effect | No construction activities within historic property boundary and will not impact setting or viewshed |
| Robbinsville First Baptist Church (GH0203) – DE Criterion C | Improve existing | No effect | Intersection improvements at US 129 and East Main Street will not require construction activities within historic property boundary and will not impact setting or viewshed |
| Robbinsville Downtown Historic District (GH0230) – DE Criteria A&C | Improve existing | No effect | No construction activities within historic property boundary and will not impact setting or viewshed |

| | | | |
|--|------------------|--|---|
| Old Mother Church and Cemetery (GH0048) – DE Criterion A | Improve existing | No effect | No construction activities within historic property boundary and will not impact setting or viewed |
| Delmas and Mary Ruth Shuler House (GH0257) – DE Criterion C | Improve existing | No effect | No construction activities within historic property boundary and will not impact setting or viewed |
| Patton Gwynn Denton House (GH0264) – DE Criterion C | Improve existing | No effect <i>De minimis</i> 4(f) | Permanent drainage and utility easements within historic property boundary but will not impact setting or characteristics that contribute to the significance of the site. No change in access. |
| Cody House (GH0263) – DE Criterion C | Improve existing | No adverse effect <i>De minimis</i> 4(f) | Permanent utility easements for utility pole service line within historic property boundary but will not impact setting or characteristics that contribute to the significance of the site. |
| John and Ruby Cody House (GH0261) – DE Criterion C | Improve existing | No adverse effect with environmental commitments | No construction activities within historic boundary. Stone walls that line the driveway will be marked with temporary protective fencing during construction to prevent accidental harm. |
| John A. Cody House (GH0043) – DE Criterion C | Improve existing | No adverse effect <i>De minimis</i> 4(f) | Retaining walls at each end of the historic boundary along NC 143 but will not require ROW or easements. Small permanent utility easement for utility transmission line at NE corner of property but will not impact setting or characteristics that contribute to the significance of the site. |
| Cheoah Historic District (GH0347) – DE Criterion A includes Sweetwater Baptist Church, Floyd Crisp House, Shope House, Molt Rice House Barn, Earnest Phillips Road, & Beech Creek Road | Improve existing | No adverse effect with environmental commitments <i>De minimis</i> 4(f) | Symmetrical widening of NC 143 within existing ROW but will require temporary on-site detour to replace culvert at Beech Creek (at western end of district). Staged construction methods will be investigated to minimize footprint of detour. NCDOT agrees to tie in detour to existing road prior to the driveway at the Shope House, minimize tree cutting and/or removal along detour, and restore landscape to pre-construction appearance after completion. |
| Randolph-Stewart House (GH0272) – DE Criterion C | Improve existing | No adverse effect <i>De minimis</i> 4(f) | Retaining wall with a height between 3'-6' along eastern boundary with NC 143 within existing ROW and visible from barn. Permanent utility easement and construction easement within western boundary of property but will not impact setting or characteristics that contribute to the significance of the site. |

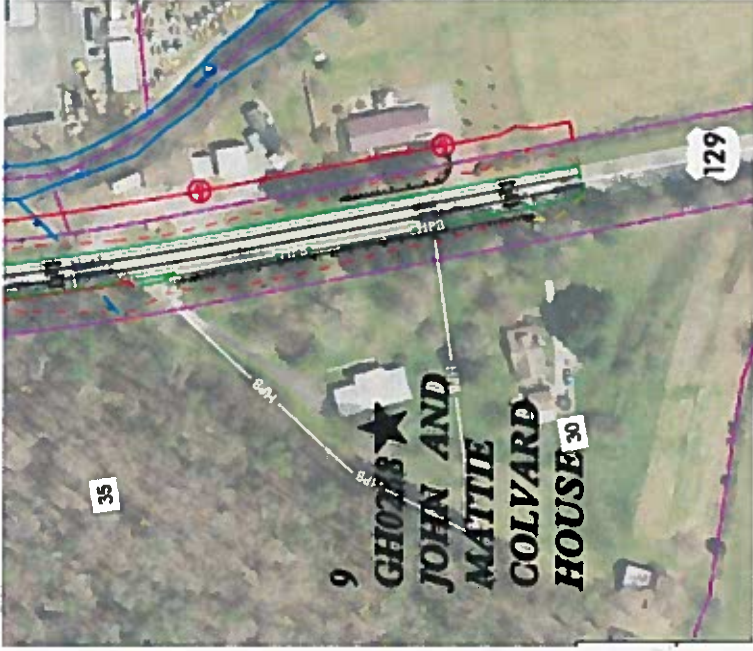
| | | | |
|--|---|---|---|
| <p>Appalachian National Scenic Trail (NC0007) – DE Criteria A,B,&C</p> | <p>Improve existing 4-lane cross section with pedestrian bridge</p> | <p>Adverse effect</p> | <p>Climbing lanes in both directions result in 4-lane section with guardrail and retaining walls on both sides of road at AT crossing of NC 143 [1600' retaining wall at the crest of Stecoah Gap with a maximum height of 30', average height of 12', height of 6' at trail, and a wall on east side of NC 143 150' long with average height of 3']. ROW impacts to USFS land 2.33 acres and .20 acres impacted at trail. AT will be relocated onto a new structure over NC 143. Visual impacts for visitors to the trail and setting impacts to the historic trail.</p> |
| | <p>Improve existing 2-lane cross section with pedestrian bridge</p> | <p>No adverse effect <i>De minimis</i> 4(f)</p> | <p>Climbing lanes reduced in length therefore at trail there is a 2-lane section with guardrail and retaining walls on one side of road at AT crossing of NC 143 [2000' retaining wall at the crest of Stecoah Gap with a maximum height of 30', average height of 10', height of 3' at trail, and only guardrail on east side of NC 143]. ROW impacts to USFS land 1.29 acres and .25 acres impacted at trail. Trail will be relocated onto a new structure over NC 143. Fewer visual impacts to trail visitors and less impact to historic setting. Visualizations and aesthetics to walls and bridge to be reviewed with HPO, NPS, and USFS.</p> |
| | <p>Improve existing 4-lane cross section with combined pedestrian and wildlife crossing land bridge</p> | <p>No adverse effect <i>De minimis</i> 4(f)</p> | <p>Climbing lanes in both directions result in 4-lane section with guardrail, tiered retaining walls, and fences on both sides of road at AT crossing of NC 143 [1146' of tiered retaining walls at the crest of Stecoah Gap with a maximum height of 63' and average height of 33']. ROW impacts to USFS land 3.27 acres and 0.23 acres impacted at trail. AT will be relocated onto a new structure over NC 143 that includes dense plantings and a wildlife crossing. The proposed land bridge is 220' wide and 78' long. Visualizations and aesthetics to walls and bridge to be reviewed with HPO, NPS, and USFS.</p> |
| <p>Stecoah School (GH0025) – DE Criteria A&C</p> | <p>Improve existing</p> | <p>No effect</p> | <p>No construction activities within historic property boundary and will not impact setting or viewshed</p> |
| <p>Stecoah Baptist Church (GH0026) – DE Criteria A&C</p> | <p>Improve existing</p> | <p>No effect</p> | <p>No construction activities within historic property boundary and will not impact setting or viewshed</p> |
| <p>Boxed House (GH0349) – DE Criterion C</p> | <p>Improve existing</p> | <p>No effect</p> | <p>No construction activities within historic property boundary and will not impact setting or viewshed</p> |

FHWA Intends to use the HPO's concurrence as a basis for a "de minimis" finding for the following properties, pursuant to Section 4(f):

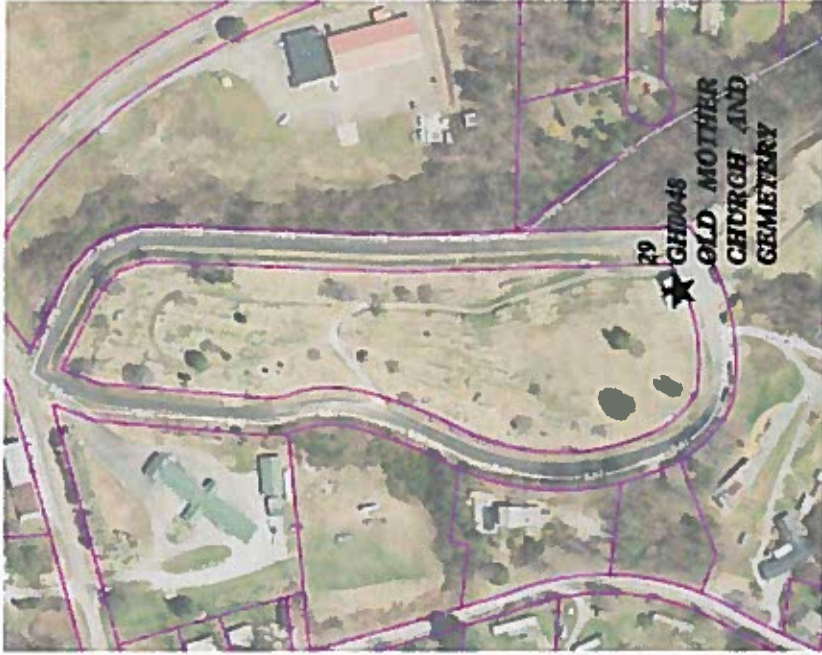
- John and Mattie Colvard House
- Patton Gwynn Denton House
- Cody House
- John A. Cody House
- Cheoah Historic District
- Randolph-Stewart House
- Appalachian National Scenic Trail (2-lane cross section with pedestrian bridge and 4-lane section with combined pedestrian and wildlife crossing land bridge)

A Programmatic Agreement between the Parties will be developed to include the Environmental Commitments agreed upon to avoid adverse effects to the historic properties.

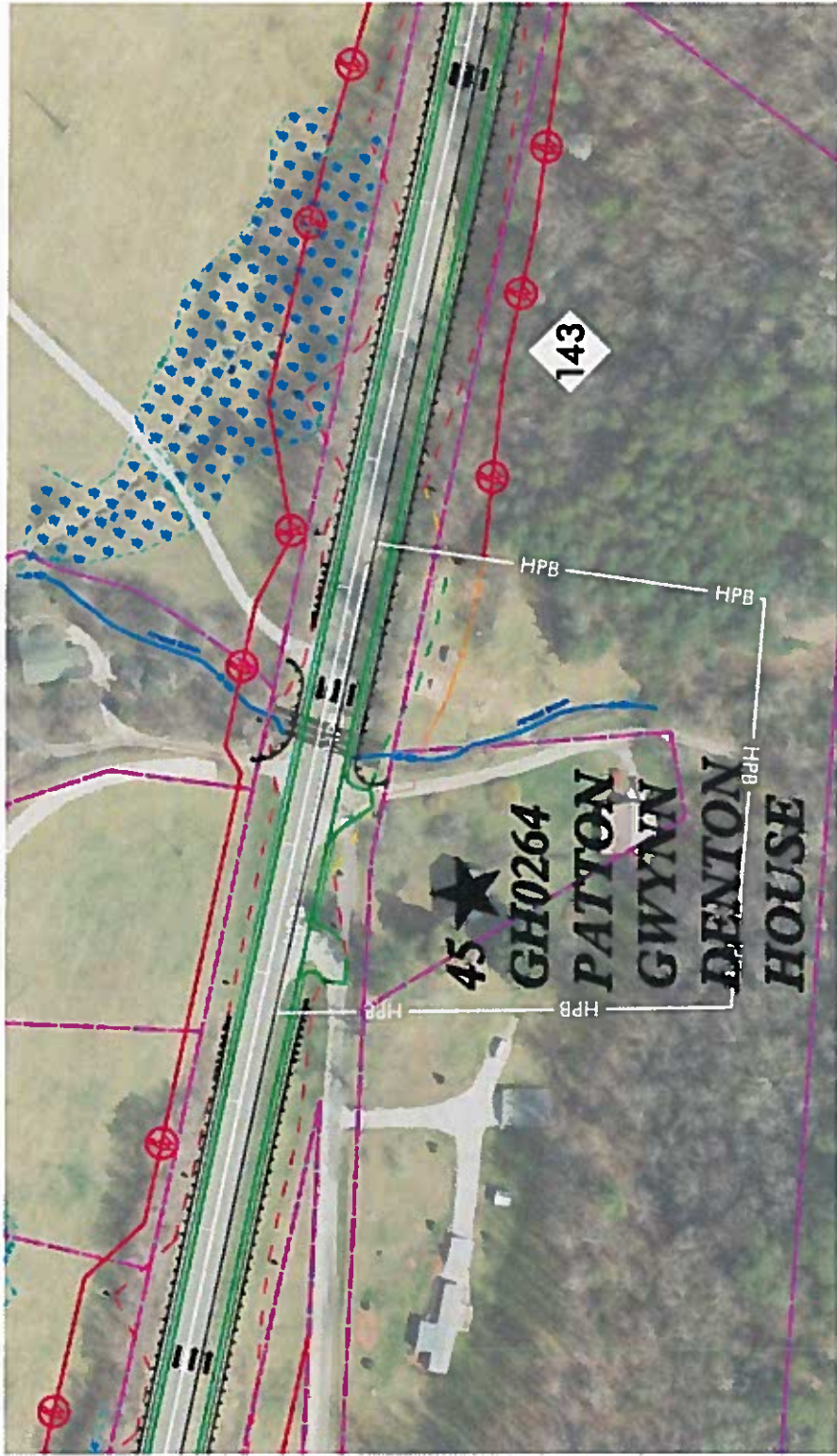
Initialed: MPF DS CWC DS RG
 NCDOT FHWA HPO

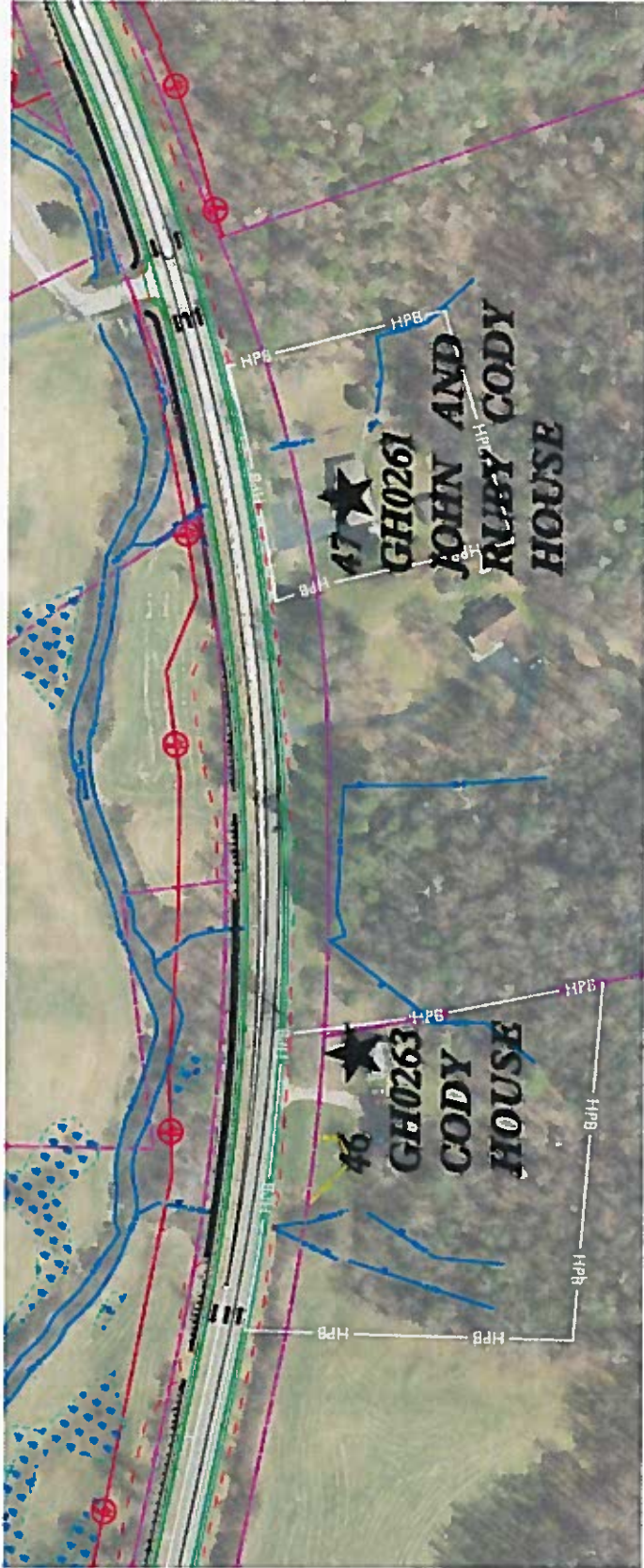




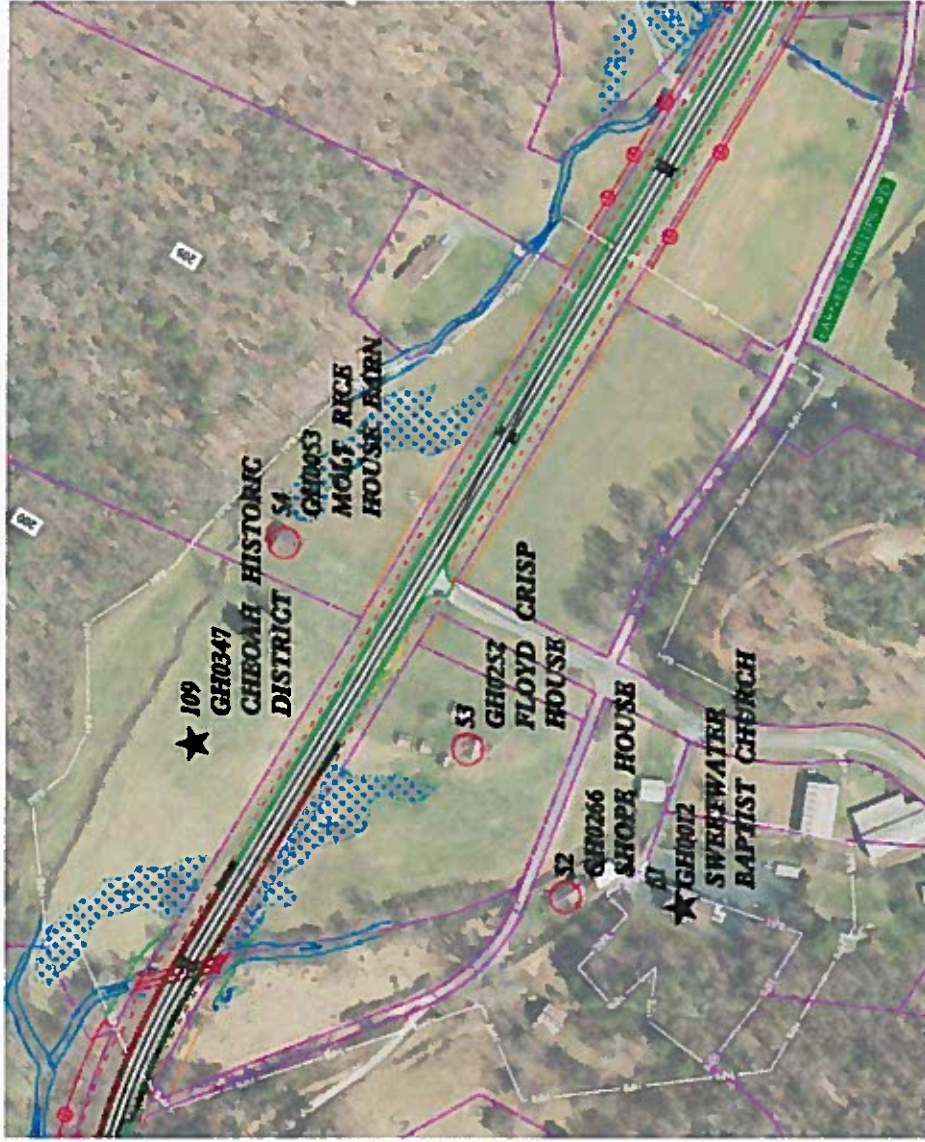






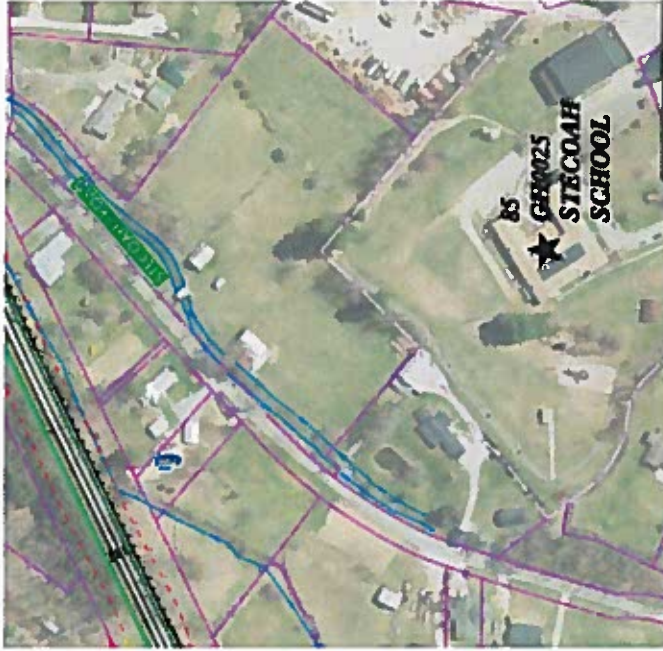


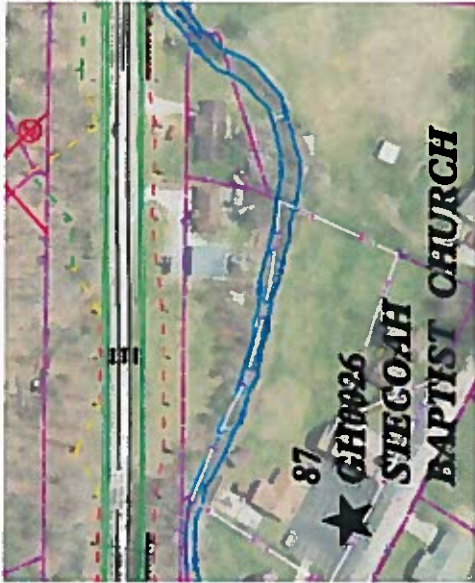


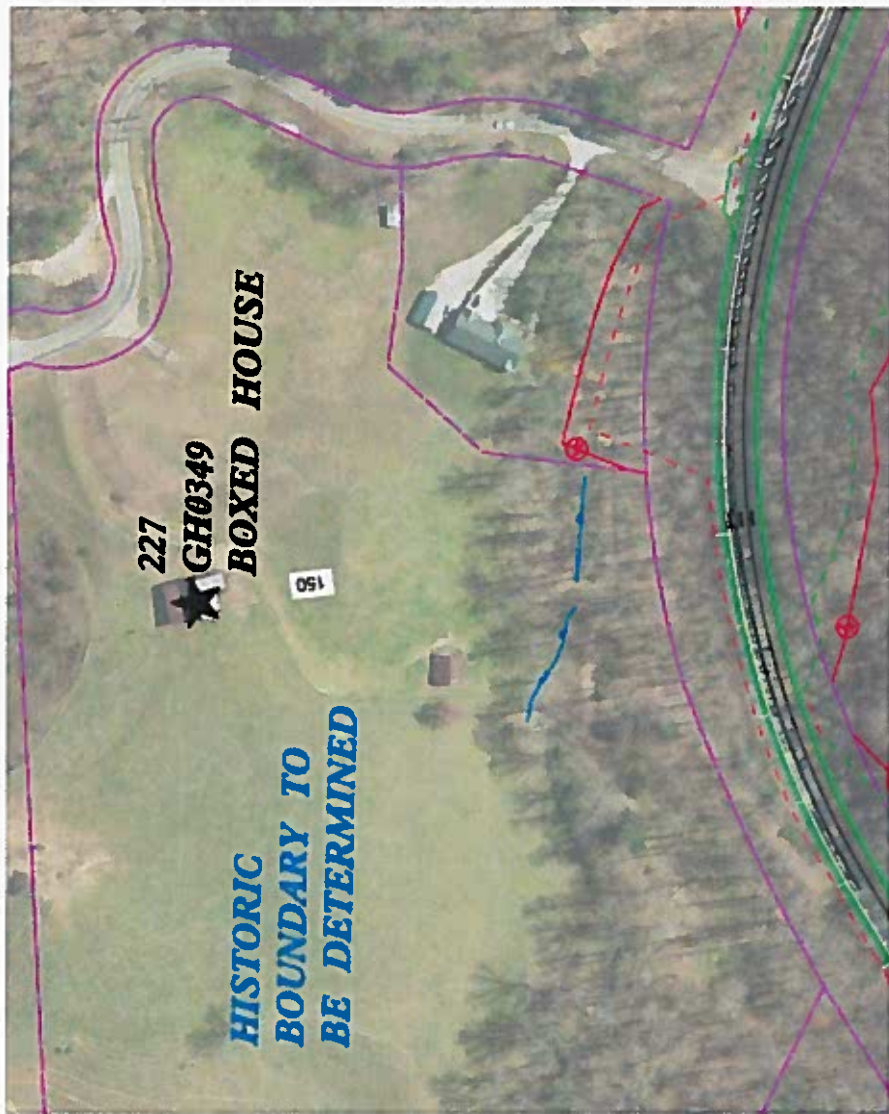


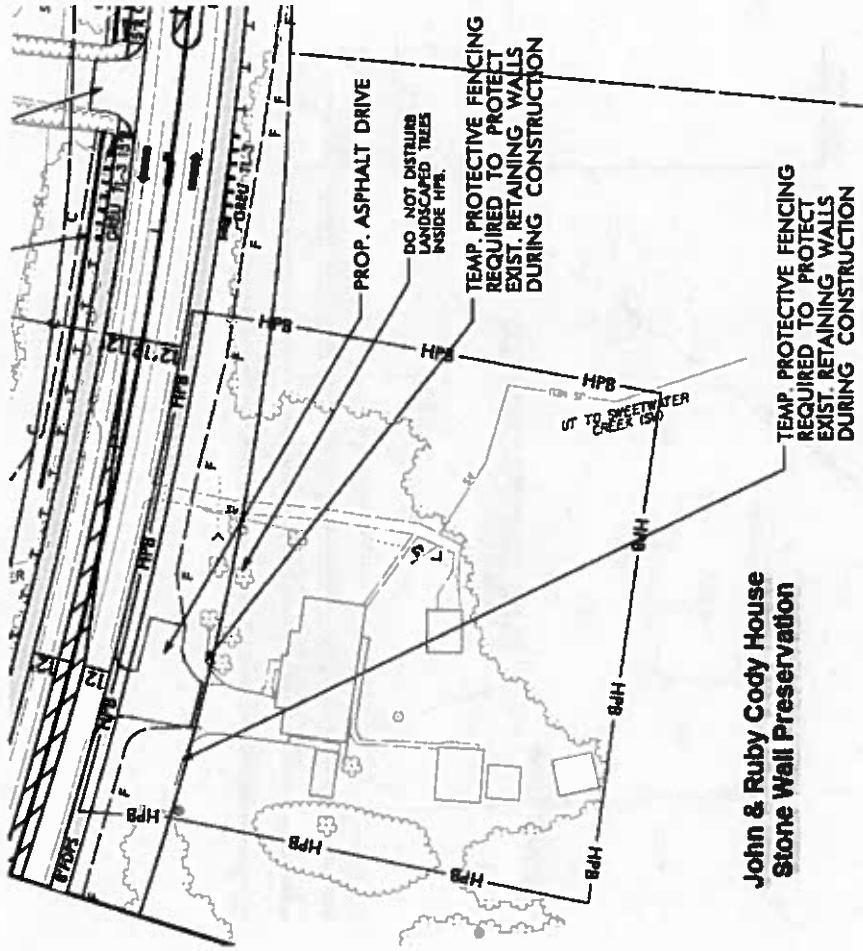












**John & Ruby Cody House
Stone Wall Preservation**

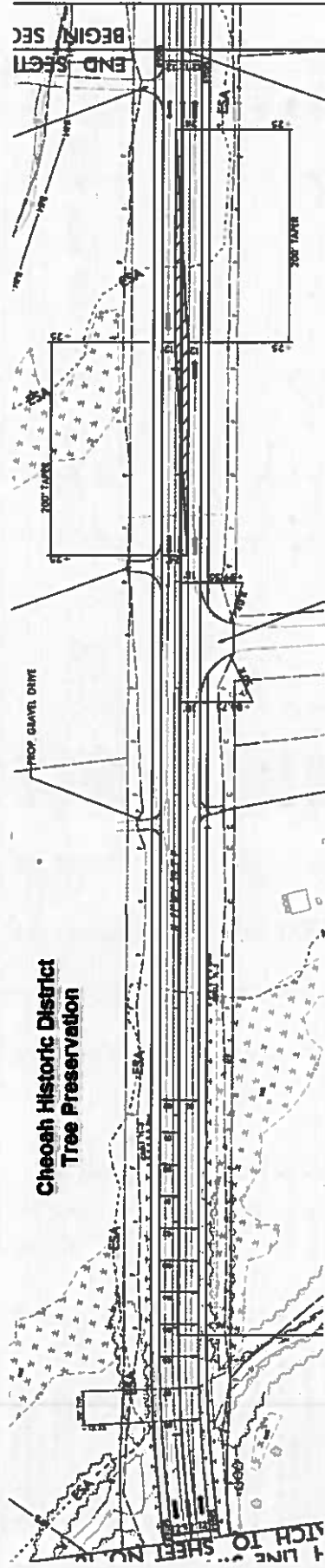


Table 1. Archaeological Sites within the 2019-2020 STE A-0950C Alternatives (preceding east to west).

| Site # | Component(s) | Alt | B-1E | B-2 | SW-1A | IE-S | IE-B | Crap | Bund | Keown Updated Surface Disturb? | Keown Surface Disturb? | Keown Cultural Features? | Keown Subsidence Cultural Features? | Prior Eligibility Disturbance** | Eligibility for Current Disturbance** | 2019-2020 Work Only | | | | | | | | | | | | | |
|---------|--|-----|------|-----|-------|------|------|------|------|---|------------------------------|--------------------------------|--|------------------------------------|---|---------------------|---------------------|-----------------------------------|---------|----------|-------|-----------|-------|-----|------|-----|-----|------|-----|
| | | | | | | | | | | | | | | | | Shovel Tests | | | T1a | | | Artifacts | | | | | | | |
| | | | | | | | | | | | | | | | | Total Excavated | Positive Results | Max Artifact Density per 5T | Lithics | Ceramics | Flint | Other | Total | | | | | | |
| 31GH683 | Precontact: nondiagnostic lithic | X | X | X | X | X | X | No | No | No | No | No | No | N/A | Not Eligible | 13 | 2 | 4 | 1 | 14 | 3 | 1 | 21 | 22 | 0 | | | | |
| 31GH684 | Precontact: nondiagnostic lithic; Postcontact: 20th century | X | X | X | X | X | X | No | No | No | No | No | No | N/A | Not Eligible | 13 | 2 | 4 | 1 | 14 | 3 | 1 | 21 | 22 | 0 | | | | |
| 31GH685 | Precontact: Late Archaic; Quedo phase; Postcontact: 20th century | X | X | X | X | X | X | No | No | No | No | No | No | N/A | Not Eligible | 135 | 32 | 13 | 2 | 40 | 16 | 29 | 2 | 11 | 69 | 29 | | | |
| 31GH686 | Precontact: Late Archaic; Postcontact: 20th century | X | X | X | X | X | X | No | No | No | No | No | No | N/A | Not Eligible | 56 | 19 | 13 | 17 | 3 | 73 | 2 | 31 | 104 | 0 | | | | |
| 31GH687 | Precontact: nondiagnostic lithic; Postcontact: 20th century | X | X | X | X | X | X | No | No | No | No | No | No | N/A | Not Eligible | 29 | 2 | 1 | 3 | 2 | 2 | 5 | 5 | 7 | 0 | | | | |
| 31GH688 | Precontact: nondiagnostic lithic; Postcontact: late 19th (19th century) | X | X | X | X | X | X | No | No | Yes | No | No | No | N/A | Not Eligible | 11 | 8 | 5 | 11 | 10 | 57 | 22 | 79 | 0 | | | | | |
| 31GH689 | Precontact: late 19th to early 21st centuries (Dunlap Century) | X | X | X | X | X | X | No | No | Yes | Yes | No | No | N/A | Not Eligible | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | | | | |
| 31GH690 | Precontact: nondiagnostic lithic | X | X | X | X | X | X | No | No | No | No | No | No | N/A | Not Eligible | 90 | 27 | 13 | 4 | 50 | 1 | 9 | 87 | 50 | 0 | | | | |
| 31GH691 | Precontact: Early Archaic; Middle Archaic; Late Archaic/Early Woodland; nondiagnostic ceramic; Postcontact: 20th century | X | X | X | X | X | X | Yes | Yes | Yes | No | No | No | N/A | Eligible (C.R. D) | 28 | 14 | 1 | 45 | 1 | 3 | 113 | 366 | 1 | 1 | 114 | 368 | | |
| 31GH692 | Precontact: 20th century | X | X | X | X | X | X | No | No | No | No | No | No | N/A | Not Eligible | 12 | 1 | 1 | 5 | 3 | 3 | 5 | 5 | 5 | 0 | | | | |
| 31GH693 | Precontact: nondiagnostic lithic; Postcontact: 20th century | X | X | X | X | X | X | No | No | No | No | No | No | N/A | Not Eligible | 60 | 18 | 11 | 5 | 3 | 38 | 21 | 59 | 0 | | | | | |
| 31GH694 | Precontact: nondiagnostic lithic; Postcontact: 20th century | X | X | X | X | X | X | No | No | No | No | No | No | N/A | Not Eligible | 57 | 40 | 14 | 10 | 3 | 146 | 102 | 21 | 5 | 187 | 107 | | | |
| 31GH695 | Precontact: nondiagnostic lithic | X | X | X | X | X | X | No | No | No | No | No | No | N/A | Not Eligible | 9 | 4 | 4 | 21 | 3 | 13 | 353 | 222 | 654 | 1114 | | | | |
| 31GH696 | Precontact: Early Archaic; Middle Archaic; Late Archaic; Postcontact: late 19th to 20th century | X | X | X | X | X | X | Yes | Yes | Yes | No | No | No | N/A | Eligible (C.R. D) | 113 | 77 | 72 | 38 | 21 | 3 | 299 | 892 | 13 | 0 | | | | |
| 31GH697 | Precontact: nondiagnostic lithic | X | X | X | X | X | X | No | No | No | No | No | No | N/A | Not Eligible | 15 | 3 | 4 | 4 | 11 | 1 | 1 | 13 | 0 | | | | | |
| 31GH698 | Precontact: nondiagnostic lithic | X | X | X | X | X | X | No | No | No | No | No | No | N/A | Not Eligible | 67 | 41 | 13 | 17 | 11 | 2 | 188 | 122 | 1 | 6 | 39 | 1 | 228 | 129 |
| 31GH699 | Precontact: 20th century | X | X | X | X | X | X | No | No | No | No | No | No | N/A | Not Eligible | 54 | 28 | 3 | 14 | 2 | 95 | 5 | 100 | 0 | | | | | |
| 31GH700 | Precontact: nondiagnostic lithic; Postcontact: 20th century | X | X | X | X | X | X | No | No | No | No | No | No | N/A | Not Eligible | 63 | 32 | 23 | 10 | 16 | 101 | 60 | 181 | 0 | | | | | |
| 31GH701 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | No | No | No | No | No | No | N/A | Not Eligible | 8 | 3 | 3 | 3 | 6 | 6 | 6 | 6 | 0 | | | | | |
| 31GH702 | Precontact: nondiagnostic lithic | X | X | X | X | X | X | No | No | No | No | No | No | N/A | Not Eligible | 33 | 3 | 4 | 1 | 2 | 3 | 6 | 9 | 0 | | | | | |
| 31GH703 | Precontact: nondiagnostic lithic | X | X | X | X | X | X | No | No | No | No | No | No | N/A | Not Eligible | 8 | 3 | 1 | 1 | 2 | 3 | 3 | 3 | 0 | | | | | |
| 31GH704 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | No | No | No | No | No | No | N/A | Not Eligible | 15 | 4 | 1 | 1 | 3 | 1 | 7 | 8 | 0 | | | | | |
| 31GH705 | Precontact: nondiagnostic lithic; Postcontact: 20th century | X | X | X | X | X | X | No | No | No | No | No | No | N/A | Not Eligible | 4 | 1 | 1 | 1 | 3 | 1 | 4 | 5 | 0 | | | | | |
| 31GH706 | Precontact: nondiagnostic lithic; Postcontact: late 19th (19th century) | X | X | X | X | X | X | No | No | Yes | No | No | No | N/A | Not Eligible | 12 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 0 | | | | |
| 31GH707 | Precontact: mid-20th century (19th century) | X | X | X | X | X | X | No | No | Yes | No | No | No | N/A | Not Eligible | 13 | 3 | 7 | 1 | 7 | 12 | 12 | 12 | 0 | | | | | |
| 31GH708 | Precontact: nondiagnostic lithic; Postcontact: 20th century | X | X | X | X | X | X | No | No | Yes | No | No | No | N/A | Not Eligible | 5 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 0 | | | | |
| 31GH709 | Precontact: nondiagnostic lithic; Postcontact: 20th century | X | X | X | X | X | X | No | No | Yes | No | No | No | N/A | Not Eligible | 15 | 8 | 1 | 21 | 1 | 37 | 59 | 6 | 7 | N/A | N/A | | | |
| 31GH710 | Precontact: nondiagnostic lithic; Postcontact: 20th century | X | X | X | X | X | X | No | No | Yes | No | No | No | N/A | Not Eligible | 21 | 3 | 17 | 3 | 28 | 1 | 9 | 152 | 241 | 181 | 241 | | | |
| 31GH711 | Precontact: mid-19th to 20th century | X | X | X | X | X | X | No | No | No | No | No | No | N/A | Not Eligible | 14 | 6 | 3 | 1 | 11 | 0 | 21 | 21 | 0 | | | | | |
| 31GH712 | Precontact: nondiagnostic lithic | X | X | X | X | X | X | No | No | No | No | No | No | N/A | Not Eligible | 11 | 1 | 3 | 1 | 11 | 1 | 21 | 21 | 0 | | | | | |
| 31GH713 | Precontact: nondiagnostic lithic; Postcontact: 20th century | X | X | X | X | X | X | No | No | Yes | No | No | No | N/A | Not Eligible | 18 | 6 | 1 | 7 | 6 | 6 | 6 | 6 | 0 | | | | | |
| 31GH714 | Precontact: nondiagnostic lithic; Postcontact: 20th century | X | X | X | X | X | X | No | No | Yes | No | No | No | N/A | Not Eligible | 10 | 3 | 4 | 1 | 7 | 4 | 18 | 20 | 0 | | | | | |
| 31GH715 | Precontact: nondiagnostic lithic | X | X | X | X | X | X | No | No | No | No | No | No | N/A | Not Eligible | 17 | 5 | 1 | 1 | 5 | 5 | 5 | 5 | 0 | | | | | |
| 31GH716 | Precontact: Archaic to Mississippian-Qualla; Postcontact: 20th century | X | X | X | X | X | X | Yes | Yes | No | No | No | No | N/A | Not Eligible | 88 | 47 | 19 | 31 | 26 | 1 | 314 | 177 | 132 | 54 | 446 | 231 | | |
| 31GH717 | Precontact: Archaic to Woodland; Postcontact: 20th century | X | X | X | X | X | X | Yes | Yes | No | No | No | No | N/A | Eligible (C.R. D) | 181 | 127 | 12 | 105 | 14 | 5 | 1232 | 838 | 5 | 8 | 36 | 2 | 1273 | 848 |
| 31GH718 | Precontact: non-diagnostic lithic; Postcontact: late 19th to 20th century | X | X | X | X | X | X | No | No | Yes | No | No | No | N/A | Not Eligible | 90 | 6 | 24 | 1 | 13 | 6 | 107 | 113 | 0 | | | | | |

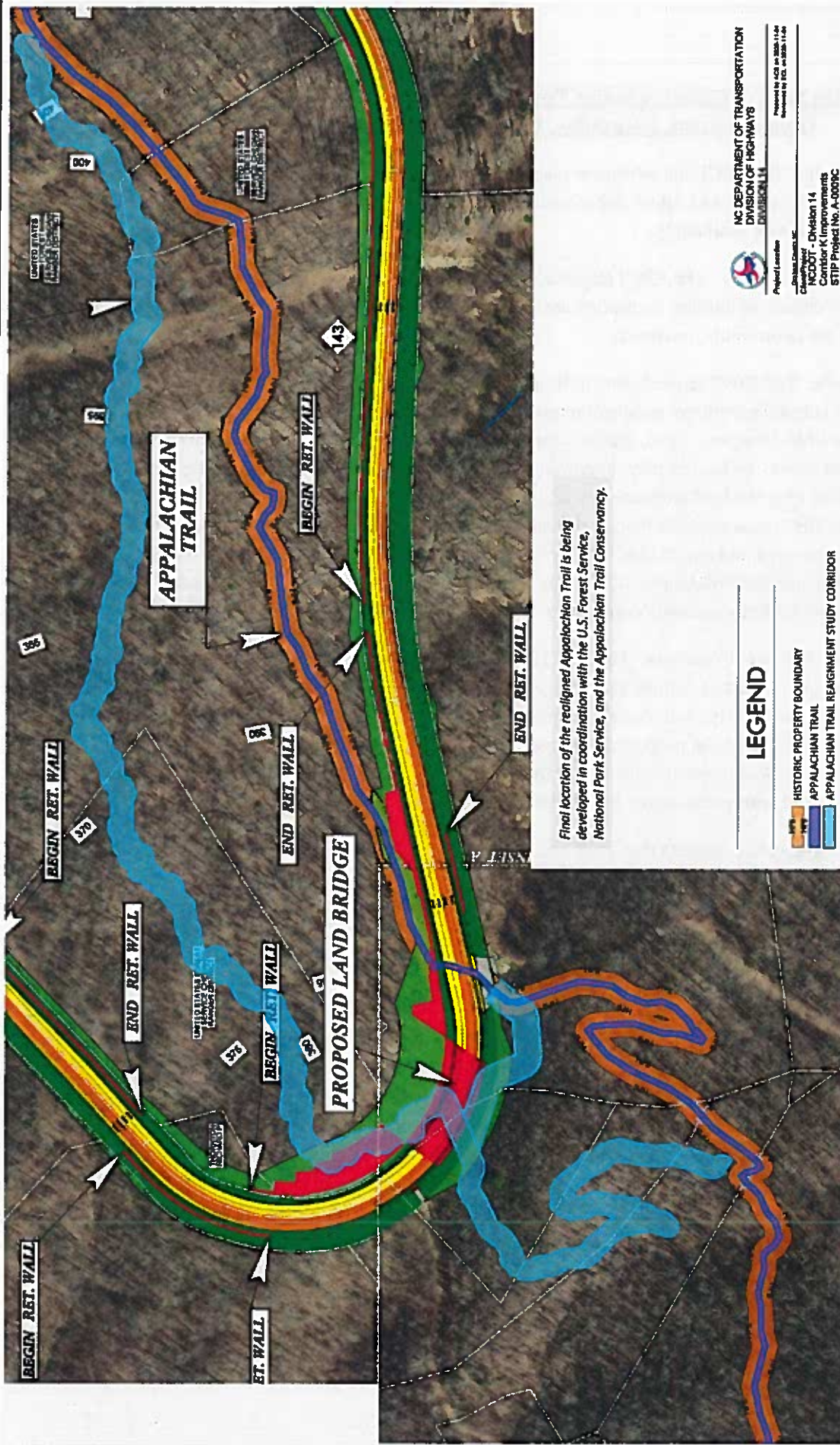
Table 1. Archaeological Sites within the 2019-2020 STTP A-0095C Alternatives (preceding east to west).

| Site No | Field # | Component(s) | Alternative | | B-1E | S-3 | SW-1A | IB-S | TE-R | CRP | Road | Known Unpublished Subsurface Deposits? | Known Subsurface Cultural Features? | Eligibility Determination** | Prior Eligibility Determination** | Eligibility Reason for Concern Abatement** | 2019-2020 Work Only | | 2019-2020 Work Only | | 2019-2020 Work Only | | Total | | | | | |
|---------|---------|--|-------------|-------|------|-----|-------|------|------|-----|------|--|-------------------------------------|-----------------------------|-----------------------------------|--|---|----------------|---------------------|----------------|---------------------|----------------|-------|------|------|------|------|----|
| | | | Alt 1 | Alt 2 | | | | | | | | | | | | | Max Excavation | Max Excavation | Max Excavation | Max Excavation | Max Excavation | Max Excavation | | | | | | |
| 31GH889 | FS-37 | Precontact: Mississippian to Qualla phase | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 16 | 4 | 2 | 2 | 5 | 5 | 35 | 0 | | | | |
| 31GH890 | FS-38 | Precontact: Early Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | Yes | No | Not Eligible | N/A | Not Eligible | 88 | 14 | 3 | 5 | 30 | 5 | 35 | 0 | | | | |
| 31GH892 | FS-41 | Precontact: nondiagnostic; Ibibic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 16 | 4 | 1 | 1 | 2 | 4 | 2 | 6 | 0 | | | |
| 31GH893 | FS-42 | Precontact: nondiagnostic; Ibibic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 15 | 3 | 3 | 3 | 6 | 6 | 6 | 0 | | | | |
| 31GH894 | FS-43 | Precontact: nondiagnostic; Ibibic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 46 | 200 | 29 | 86 | 28 | 1747 | 40 | 292 | 36 | | | |
| 31GH895 | FS-32 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | Yes | Eligible (Crt. D) | Eligible (Crt. D) | Eligible (Crt. D) | Eligible (Crt. D) | No additional excavations in 2019-2020; previous work is discussed in the text. | 1 | 103 | 33 | 4 | 7 | 109 | 2 | 2148 | 78 | | |
| 31GH896 | FS-33 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 32 | 11 | 11 | 2 | 2 | 21 | 39 | 60 | 0 | | | |
| 31GH897 | FS-34 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 70 | 20 | 2 | 8 | 7 | 5 | 8 | 43 | 0 | | | |
| 31GH898 | FS-35 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | Yes | Eligible (Crt. D) | Eligible (Crt. D) | Eligible (Crt. D) | Eligible (Crt. D) | No additional excavations in 2019-2020; previous work is discussed in the text. | 167 | 43 | 17 | 38 | 2 | 538 | 45 | 54 | 4 | | |
| 31GH899 | FS-36 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 12 | 1 | 1 | 1 | 7 | 1 | 7 | 8 | 0 | | | |
| 31GH900 | FS-37 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 8 | 1 | 1 | 1 | 3 | 1 | 0 | 1 | 23 | 0 | | |
| 31GH901 | FS-38 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 53 | 22 | 13 | 13 | 1 | 103 | 33 | 4 | 7 | | | |
| 31GH902 | FS-39 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 5 | 2 | 2 | 2 | 1 | 10 | 3 | 4 | 7 | | | |
| 31GH903 | FS-40 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 8 | 1 | 1 | 1 | 3 | 1 | 0 | 0 | 0 | | | |
| 31GH904 | FS-41 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 77 | 25 | 16 | 16 | 1 | 79 | 26 | 1 | 2 | 81 | | |
| 31GH905 | FS-42 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 4 | 1 | 1 | 1 | 3 | 1 | 0 | 0 | 0 | | | |
| 31GH906 | FS-43 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 34 | 15 | 8 | 8 | 40 | 0 | 0 | 0 | 40 | | | |
| 31GH907 | FS-44 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 71 | 25 | 16 | 16 | 1 | 79 | 26 | 1 | 2 | 81 | | |
| 31GH908 | FS-45 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 3 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | | |
| 31GH909 | FS-46 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 29 | 9 | 0 | 32 | 77 | 0 | 0 | 0 | 77 | | | |
| 31GH910 | FS-47 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 10 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | | |
| 31GH911 | FS-48 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 23 | 6 | 2 | 2 | 6 | 202 | 184 | 147 | 681 | 15 | | |
| 31GH912 | FS-49 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | Yes | No | Yes | Eligible (Crt. D) | Eligible (Crt. D) | Eligible (Crt. D) | No additional excavations in 2019-2020; previous work is discussed in the text. | 203 | 87 | 25 | 25 | 1 | 6 | 202 | 184 | 147 | 681 | 15 |
| 31GH913 | FS-50 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 29 | 9 | 0 | 32 | 77 | 0 | 0 | 0 | 77 | | | |
| 31GH914 | FS-51 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 16 | 3 | 4 | 1 | 8 | 23 | 26 | 0 | 26 | | | |
| 31GH915 | FS-52 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 6 | 2 | 4 | 4 | 5 | 5 | 5 | 5 | 0 | | | |
| 31GH916 | FS-53 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 271 | 193 | 75 | 108 | 2 | 2380 | 1449 | 26 | 25 | 4080 | | |
| 31GH917 | FS-54 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | Yes | No | Yes | Eligible (Crt. D) | Eligible (Crt. D) | Eligible (Crt. D) | No access permission during 2019-2020 work and post. Crt. A) | 21 | 193 | 75 | 108 | 2 | 2380 | 1449 | 26 | 25 | 4080 | |
| 31GH918 | FS-55 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 10 | 4 | 4 | 4 | 1 | 8 | 132 | 4 | 7 | 12 | | |
| 31GH919 | FS-56 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 5 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | | |
| 31GH920 | FS-57 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 60 | 15 | 5 | 4 | 20 | 1 | 32 | 5 | 6 | 48 | | |
| 31GH921 | FS-58 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 40 | 3 | 4 | 1 | 4 | 2 | 1 | 1 | 1 | | | |
| 31GH922 | FS-59 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 46 | 25 | 2 | 27 | 2 | 96 | 112 | 59 | 133 | | | |
| 31GH923 | FS-60 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 16 | 5 | 3 | 3 | 3 | 1 | 6 | 8 | 5 | 9 | | |
| 31GH924 | FS-61 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 46 | 25 | 2 | 27 | 2 | 96 | 112 | 59 | 133 | | | |
| 31GH925 | FS-62 | Precontact: Middle Archaic; Postcontact: 20th century | X | X | X | X | X | X | X | X | No | No | No | Not Eligible | N/A | Not Eligible | 16 | 5 | 3 | 3 | 3 | 1 | 6 | 8 | 5 | 9 | | |

Table 1: Archeological Sites within the 2019-2020 STEF A-0000C Alternatives (preexisting east to west).

| Site No | Field # | Comments | Kumam | | Kumam | | Kumam | | Eligibility | | 2019-2020 Work Only | | Artifacts | | | | | | | | | | |
|---------|---------|---|-------|---------|------------|----------|----------|-------------------|-----------------|-------------------|---------------------|-----------------|-----------------------|-----------------------------|---------|----------|------|---------|-------|----|----|-----|-----|
| | | | Used? | Surface | Subsidence | Collared | Feather? | Prior Eligibility | Determination** | Not Eligible | Eligible (Cat. D) | Total Excavated | Shovel Tests Positive | Max Artifact Density per 5T | Lithics | Ceramics | Shub | Harriet | Total | | | | |
| | | | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | | | |
| 31GH730 | PS-78 | Precontact: Archeic, Woodland | No | No | No | No | Yes | No | N/A | Unassessed | 123 | 20 | 11 | 3 | 31 | 2 | 10 | 0 | 41 | 2 | | | |
| 31GH734 | N/A | Precontact: Late Archaic, Woodland, Qualla phase; Postcontact: 20th Century | Yes | No | No | No | Yes | No | Unassessed | Eligible (Cat. D) | 184 | 121 | 22 | 3 | 621 | 136 | 172 | 54 | 0 | 85 | 21 | 878 | 215 |


* Includes all shovel tests within 15 m of positive tests; cones include surface or metal detector artifacts if present.
 **Eligibility determinations and recommendations apply only to investigated portion of sites.



Final location of the realigned Appalachian Trail is being developed in coordination with the U.S. Forest Service, National Park Service, and the Appalachian Trail Conservancy.

LEGEND

-  HISTORIC PROPERTY BOUNDARY
-  APPALACHIAN TRAIL
-  APPALACHIAN TRAIL REALIGNMENT STUDY CORRIDOR


NC DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS
DURHAM, NC

Project Location: **DURHAM, NC**
 Prepared by: **NC DOT** on behalf of **CDOT**
 Approved by: **NC DOT** on behalf of **CDOT**

CDOT - Division 14
 Center K Improvements
 STIP Project No. A-0009C
 Figure No. 1
 The Appalachian Trail Realignment Study Corridor

Disclaimer: The information has been prepared based on information provided by others. While every effort has been made to verify the accuracy of the information, the user assumes all responsibility for using the information and shall not be held responsible for any errors or omissions. The user assumes all responsibility for using the information and shall not be held responsible for any errors or omissions.

Eastern Band of Cherokee Indian Treatment Guidelines for Human Remains and Funerary Objects (Survey, Excavation, Laboratory/Analysis, and Curation Guidelines)

It is the wish of the EBCI that whenever possible, human interments be left *in situ*, unstudied, and protected from current and future disturbance. However, when these parameters cannot be met, the following guidance shall apply:

Archeological Surveys: The EBCI requests that in the event human remains, funerary objects, sacred objects, or objects of cultural patrimony are encountered, no photographs of such items be taken. Detailed drawings are permissible, however.

Excavations: The EBCI requests that in the event human remains, funerary objects, sacred objects, or objects of cultural patrimony are encountered, no photographs of such items be taken. Detailed drawings are permissible, however. Also, if after consultation with the SHPO and culturally affiliated, federally recognized tribes, the lead agency determines that the excavation of these items is required, the EBCI requests that only the lead archaeologist and a physical anthropologist participate in the removal of these items. The EBCI also requests that, in the case of full excavation of human remains, the entire burial matrix be removed and curated for future reburial. Lastly, EBCI requests to be sent the proposals and research designs that will be provided to the SHPO and State Archaeologist for review and approval prior to the initiation of any excavation activities.

Laboratory Treatment/Analysis: The EBCI requests that any human remains, funerary objects, sacred objects, and/or objects of cultural patrimony not be unnecessarily washed or cleaned, and that only dry brushing be consistently used. Again, we request that no photographs be taken of such objects for documentation or curation purposes, however detailed drawings are acceptable. Furthermore, in terms of human remains, we require that no destructive analyses be permitted, and we would like to have discussions and agreements about the kind of analyses, if any, that will be permitted.

Curation: The EBCI requests that in all cases where it is remotely feasible, that human remains, associated funerary objects, and the burial matrix be stored together. Furthermore, we ask that these types of objects, as well as sacred objects and objects of cultural patrimony, be removed from public viewing or public handling and that researchers not automatically be granted access to such items. Research requests should be submitted to the EBCI Cultural Resources office in the event someone wishes to study such items.

Avoidance/Preservation in Place/Excavation/Reburial: Remember, our preference is always avoidance/preservation in place. Unless there are very good reasons as to why this is not possible, we will not immediately enter into discussions of excavation, removal, study, reburial, etc. That being said, if remains must be moved, it is always our preference that they be out of the ground for only as long as it takes to move them to their new resting place, which should be as close to the original resting place as possible (within line of sight). Sometimes, we do allow minimal study of the remains, especially if it can be done with the remains *in situ*. If longer study is needed, we prefer a field lab to sending them off some distance to be studied in a lab. The bottom line is that the less time they are exposed to the air, the better it is for the people involved and the Tribe. If reburial is the only option, the most efficient/time sensitive reburial process is preferred. Also, capping of the burials is not typically problematic, especially if there is ample fill dirt between the individual and the foreign capping material.