



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

October 16, 2015

James Garrison
State Historic Preservation Officer
Arizona State Parks - State Historic Preservation Office
1300 West Washington Street
Phoenix, AZ 85007

John Schneeman
Assistant Director
Natural Resources Division
Arizona State Land Department
1616 West Adams
Phoenix, Arizona 85007

Dan Johnson
VP General Manager
Florence Copper, Inc.
1575 W. Hunt Highway
Florence, AZ 85132

**Re: Compliance with Section 106 of the National Historic Preservation Act –
Proposed Florence Copper Production Test Facility, Florence, Arizona**

Dear Messrs. Garrison, Schneeman, and Johnson:

I am writing to transmit the final Memorandum of Agreement (MOA), developed pursuant to the provisions of Section 106 of the National Historic Preservation Act for purposes of resolving potential adverse effects on historic properties from the proposed Florence Copper Production Test Facility (PTF), in Florence, Arizona. The United States Environmental Protection Agency, Region 9 (EPA) revised this MOA from the July 2014 version, in response to input received during the public review period from December 7, 2014 through April 13, 2015. In addition to the revised MOA, I am enclosing a summary of NHPA-related comments submitted during the public comment period and EPA's responses.

EPA's Section 106 consultation process for the proposed PTF dates back to May 2012, when the Agency initially offered to consult with potentially interested tribes regarding the Undertaking (i.e., the proposed Florence Copper Production Test Facility). We subsequently identified other interested parties and also invited them to consult on NHPA issues. In July 2013, EPA sent a letter to all Section 106 consulting parties and provided an opportunity for review and comment on the draft Historic Property Treatment Plan (HPTP). EPA continued its Section 106 consultation process through in-person meetings and correspondence, and incorporated input, as appropriate, on the content of the MOA and the draft HPTP. In July 2014, EPA sent the revised draft HPTP (dated June 30, 2014) and draft MOA to all Consulting Parties. The Agency has not made further revisions to the June 30, 2014 version of the HPTP, which is referenced in the final MOA.

In conjunction with the above-referenced comment period, EPA provided the public with information about the Undertaking, its potential effects on historic properties, and the measures proposed to avoid, minimize, or mitigate the potential effects. EPA provided an opportunity for members of the public to express their views on resolving adverse effects of the Undertaking, as required by Section 106 (see 36 CFR §§ 800.2(d) and 800.6(a)(4)). After an extensive 4-month comment period, EPA closed public comment on April 13, 2015 for both the Section 106 process and the 40 CFR part 124 administrative procedures for the Draft UIC Permit. At this time, EPA is still considering the comments on the Draft Permit and will make a final decision on the draft UIC permit pursuant to 40 CFR § 125.15. However, the Agency is prepared to conclude the Section 106 review process for this Undertaking with the execution of the enclosed MOA.

In accordance with guidance developed by the federal Advisory Council on Historic Preservation, EPA is sending the final MOA to the signatories and the invited signatories who will be assuming responsibilities under the agreement, prior to sending it to the ACHP for execution. As the guidance notes, after the ACHP signs, the agreement is in effect and the Agency then circulates it for the signatures of concurring parties to the agreement. Once executed, the MOA and implementation of the Undertaking in accordance with the MOA, if permitted, will satisfy EPA's responsibilities under NHPA Section 106.

Pursuant to this process, I request that each of the three addressees sign the enclosed MOA on the appropriate signature page and return a signed copy within 30 days of receipt of this letter. Please address your response to me at the following address:

David Albright
Manager, Drinking Water Protection Section
U.S. EPA Region 9, (WTR-3-2)
75 Hawthorne Street
San Francisco, CA 94105

Once we receive the three signed copies, EPA will sign the agreement and forward to the ACHP for execution. Upon execution of the MOA, EPA will forward the agreement for signature to the concurring parties, all of whom are copied on this letter. A final executed MOA will then be shared with all consulting parties.

If you have any questions regarding this letter or its enclosures, please call me at 415-972-3971 or contact Nancy Rumrill at 415-972-3293.

Sincerely,



David Albright

Manager, Drinking Water Protection Section

Enclosures

cc: John Eddins, ACHP
Ann V. Howard, Arizona Deputy SHPO
Barnaby V. Lewis, Gila River Indian Community
Leigh J. Kuwanwisiwma, The Hopi Tribe
Peter L. Steere, Tohono O'odham Nation
Greg Glassco, Yavapai-Prescott Indian Tribe
Karl M. Pierce, National Park Service
Andy Laurenzi, Archaeology Southwest
Wayne J. Costa, Town of Florence
Todd Pitezal, Arizona State Museum

