

Appendix E Agency Coordination

9/21/2023 Section 106 Concurrence from the Salt River Project

10/6/2023 State Historic Preservation Office Response to Section 4(f) Notification

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September 21, 2023

In Reply Refer To:

060-B(227)T
TRACS No. 060 MA 159 F0272 01D
35th Ave. and Indian School Road
Continuing Section 106 Consultation
No Adverse Effect

Mr. Dan Garcia
Senior Cultural Resource Management Specialist
Salt River Project
M.S. PAB 359, P.O. Box 52025
Phoenix, Arizona 85072-2025

Dear Mr. Garcia:

Thank you for the comments we received on January 20, 2023, in response to the letter we emailed to you that day about improvements the Arizona Department of Transportation is designing for the intersection of US Highway 60 (Grand Avenue), 35th Avenue, and Indian School Road in the City of Phoenix within Maricopa County, Arizona. We are writing to address the two issues you raised.

Issue 1: Identification of Consulting Parties

You pointed out that the Grand Canal is on federal land the Bureau of Reclamation (Reclamation) administers and the Salt River Project (SRP) operates and maintains, and because the canal is in the project's area of potential effects (APE) ADOT should have consulted Reclamation and SRP, but our original identification of consulting parties failed to include either SRP or Reclamation.

By way of an explanation for the oversight, the design engineers delineated a project area that did not overlap the Grand Canal, with the closest potential modification of Grand Avenue almost 200 feet northwest of the crossing of the Grand Canal. Therefore, neither SRP nor Reclamation were considered consulting parties. While evaluation of alternative designs for the improvements was ongoing, ADOT initiated an inventory of cultural resources and delineated the area of potential effects (APE) to include the project area the design engineers defined plus adjacent parcels of land (as defined by the Maricopa County assessor) to provide flexibility for design modifications and to consider potential proximity impacts. That resulted in the APE extending more than 900 feet southeast of the project area along Grand Avenue to Osborn Road to include a parcel of private land owned by the railroad adjacent to Grand Avenue (see enclosed Figure 1).

Although that delineation crossed the Grand Canal, we failed to recognize that SRP and Reclamation should be included as consulting parties when the initial cultural resource inventory and NRHP eligibility evaluation report was distributed to consulting parties for review. When we distributed a second cultural resource report that assessed project effects to the consulting parties,

we recognized that SRP should be consulted but failed to explain the initial oversight of the original consultation, and did not recognize Reclamation as administrator of the federal land on which the Grand Canal is located. This letter addresses that oversight by providing both reports to SRP and Reclamation for their review.

Issue 2: National Register Status of the Grand Canal

The two cultural resource reports indicated the Grand Canal had been determined eligible for the National Register of Historic Places (NRHP) under Criterion A. You informed us that the Grand Canal was listed in the NRHP as a contributor to the Salt River Project Diversion and Conveyance System Historic District. Because review pursuant to Section 106 of the National Historic Preservation Act considers properties eligible for the NRHP in the same manner as properties listed in the NRHP, the distinction of the NRHP status of the Grand Canal has no substantive implications for our assessment of effects on the canal. To get the facts reported correctly, we prepared the enclosed errata sheets for the two cultural resource reports prepared for the project.

Summary of Prior Consultation

The initial consultation for the project concluded six cultural resources in the APE are eligible for the NRHP, including one archaeological site, two historic buildings, and three historical in-use structures, one of which is the Grand Canal (Table 1). The subsequent consultation concluded the project would result in No Adverse Effect, pursuant to Title 36, Code of Federal Regulations part 800.5(c).

Table 1. Summary of NRHP-Eligible Cultural Resources

	Name, Number	Description	NRHP Status	Effect
1	AZ T:12:420(ASM)	buried archaeological remnant of prehistoric Hohokam irrigation canal	eligible, Criterion D, data recovery conducted, no further study recommended (Jacobs [SHPO] to Petty [FHWA] 14July 2014)	no effect
2	Santa Fe, Prescott, & Phoenix Railway	in-use railway constructed in the 1890s	abandoned segment north of Prescott listed in NRHP; other segments eligible, Criterion A segment in APE not a character-defining element (SHPO-2010-0826);	no adverse effect
3	US Highway 60/70/89	in-use highway (component of historic state highway system)	eligible, Criterion A; segment in APE not a character-defining element (Jacobs [SHPO] to Mallery [ADOT] 15 September 2008)	no adverse effect
4	Grand Canal	in-use irrigation canal, component of Salt River Project	listed as contributor to Salt River Project Diversion and Conveyance System Historic District, Criterion A	no effect
5	Mr. Lucky's Site 8	night club building and sign, 3660 Grand Ave.	eligible, Criteria A and C (Ryan [SHPO] to Rucker [ADOT]) 7 March 2023)	no adverse effect
6	Phoenix Coliseum Site 20	large indoor event venue, 3839 W. Indian School Rd.	eligible, Criterion A (Ryan [SHPO] to Rucker [ADOT]) 7 March 2023)	no effect

We request your review of the information provided in this letter and in the cultural resource reports. If you find the reports adequate and agree with ADOT's Finding of No Adverse Effect, please indicate your concurrence by signing on the line provided. If you have any questions or

concerns, please contact ADOT Historic Preservation Specialist Matt Mallery at 480-493-6059 or at JMallery@azdot.gov.

Sincerely,

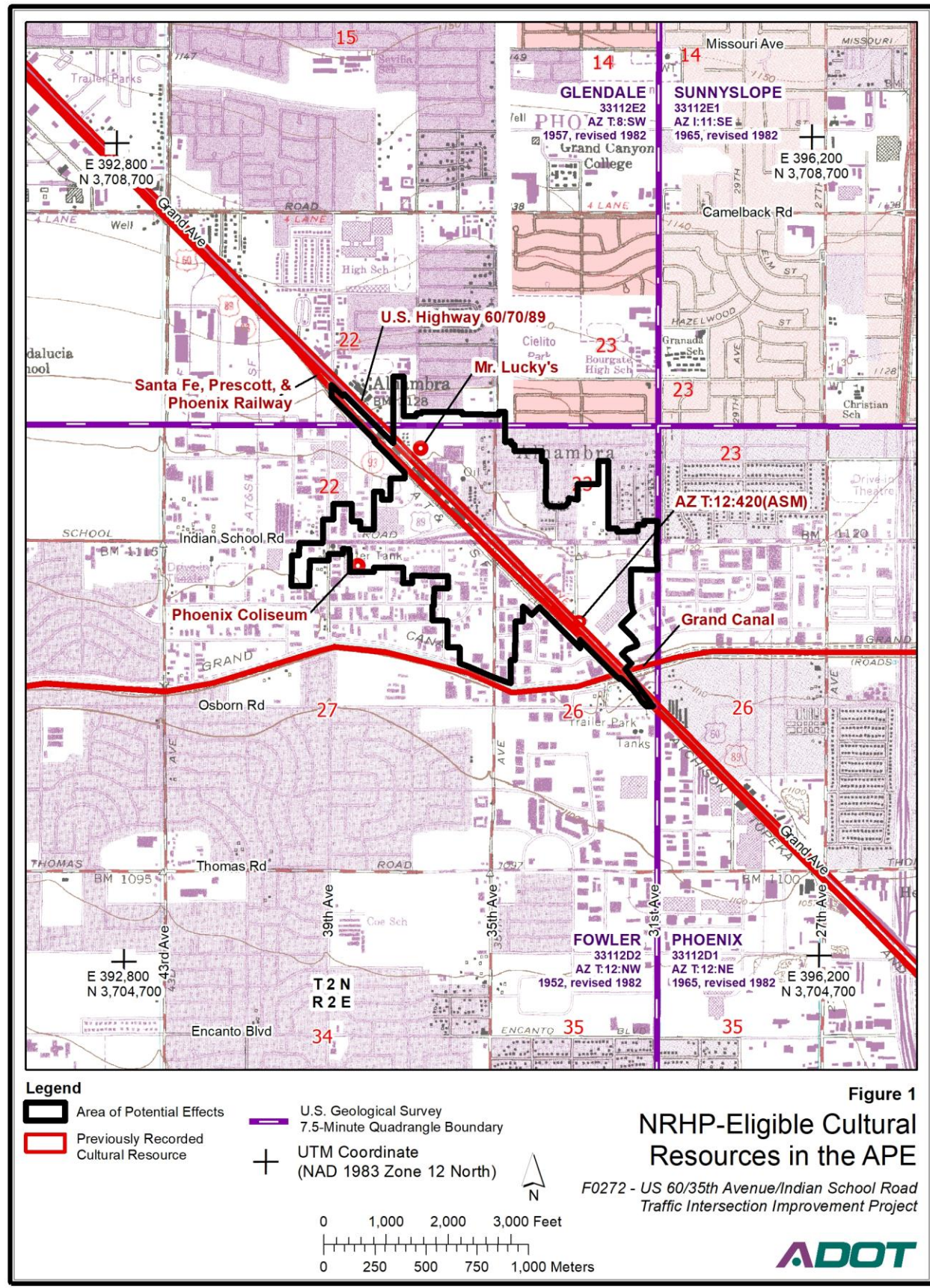
A handwritten signature in black ink, appearing to read "Danny Rucker", with a long, sweeping horizontal stroke extending to the right.

Danny Rucker, MA, RPA
Cultural Resources Program Manager

Signature for SRP Concurrence
087-A(213)T

Date

Enclosures



Rec: 10-06-23

Katie M. Hobbs, Governor

Jennifer Toth, Director

Gregory Byres, Deputy Director/State Engineer

October 6, 2023

In Reply Refer To:

060-B(227)T

TRACS No. 060 MA 159 F0272 01D

35th Ave. and Indian School Road

Section 4(f) Notification

De Minimis Impact.

Ms. Kathryn Leonard, State Historic Preservation Officer
State Historic Preservation Office
1110 West Washington Street, Suite 100
Phoenix, Arizona 85007

Dear Ms. Leonard:

The Arizona Department of Transportation (ADOT) is planning transportation improvements for the intersection of US Highway 60 (Grand Avenue), 35th Avenue, and Indian School Road in the City of Phoenix within Maricopa County, Arizona. The project area includes ADOT right-of-way, City of Phoenix rights-of-way, and private land.

The project is using federal funds and is subject to Section 4(f) of the U.S. Department of Transportation Act of 1966 (49 USC § 303 and 23 CFR 774). The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by ADOT pursuant to 23 U.S.C 327 and a Memorandum of Understanding (MOU) dated April 16, 2019, and executed by the Federal Highway Administration (FHWA) and ADOT. Under the MOU, FHWA retains responsibility for government-to-government Tribal consultation. Tribes may engage FHWA on a project at any time. As the Official with Jurisdiction, defined by Section 4(f) to be the Arizona State Historic Preservation Office (SHPO), ADOT is informing you of its intent to make a 4(f) *de minimis* determination.

Consulting parties for this project include ADOT, SHPO, Bureau of Reclamation, Burlington Northern & Santa Fe (BNSF) Railway, City of Phoenix Archaeology Office, City of Phoenix Historic Preservation Office, Salt River Project, Ak-Chin Indian Community, Fort Mojave Indian Tribe, Gila River Indian Community, Hopi Tribe, Mescalero Apache Tribe, Pascua Yaqui Tribe, Pueblo of Zuni, Salt River Pima-Maricopa Indian Community (lead for the Four Southern Tribes), Tohono O'odham Nation, Tonto Apache Tribe, White Mountain Apache Tribe, and Yavapai-Apache Nation.

ADOT initiated Section 106 consultation with a letter dated March 1, 2023, which described the project and identified the area of potential effects (APE) and the consulting parties. The letter also requested review of the adequacy of a report titled *Cultural Resource Study for the US 60 (Grand Avenue)/35th Avenue/Indian School Road Traffic Intersection Improvement Project, Phoenix, Maricopa County, Arizona* (AECOM, Johnson and Rogge 2023a). That report documented a records review and historic built environment survey. The letter requested SHPO concurrence with ADOT's determinations of the National Register of Historic Places (NRHP) eligibility of cultural resources in the APE. On March 7, 2023, SHPO concurred with ADOT's determinations of eligibility (Ryan [SHPO] to Rucker [ADOT]). After the design team selected a Preferred Alternative, ADOT continued consultation to seek concurrence with a finding of effect. SHPO concurred with a finding of "no adverse effect" on July 27, 2023 (Ryan [SHPO] to Rucker [ADOT]), and the other consulting parties did not object.

The project requires acquisition of new right-of-way from the NRHP-eligible Mr. Lucky's property. The property includes three historic-period resources, including the Mr. Lucky's nightclub building and an associated monumental sign constructed in 1966, and a storage building built circa 1973. The architecture of the nightclub building is unremarkable. The 50-foot-tall, double-sided Mr. Lucky's sign, lit with neon trim and light bulbs, features the head of a grinning joker with a court jester's hat. The storage building is a simple, one-story prefabricated metal building.

The Mr. Lucky's property is NRHP for its associations with the country music scene and as a social landmark in west Phoenix and the Salt River Valley. Local bands and visiting nationally recognized country music artists drew large crowds during operation of the nightclub between 1966 and 2004. The club was a local fixture widely known as Phoenix's most authentic Western bar, and prior to its closure, was one of the last vestiges of the Valley's Western culture, now displaced by modern development and national chains. Glen Guyette designed the Mr. Lucky's sign and other notable large neon sign for a few local businesses. The night club building is a character-defining feature of the property under Criterion A. The sign embodies distinctive characteristics of a type that is locally rare and is a character-defining feature under Criterion C, as well as Criterion A. The storage building and large paved parking lot on the property are not character-defining features of the Mr. Lucky's property.

The acquisition of approximately 0.1 acres from the Mr. Lucky's property for new right-of-way would be from the parking lot at the southeast corner of the 1.5-acre parcel. That acquisition would be a Section 4(f) use. I am writing to notify you that ADOT intends to rely on SHPO's signed concurrence of a finding of "no adverse effect" to make a Section 4(f) *de minimis* impact determination for this historic property. If you, as the Official with Jurisdiction, have any questions or concerns, please contact ADOT Historic Preservation Specialist Matt Mallery at 480-493-6059 or at JMallery@azdot.gov.

Sincerely,



Danny Rucker, MA, RPA
Cultural Resources Program Manager

ecc:

Ms. Rebecca Yedlin, FHWA Environmental Program Manager Rebecca.Yedlin@dot.gov (w/enclosures)
FHWA Arizona Division Arizona.FHWA@dot.gov

**No objection to
Section 4(f) de minimis determination**



16 October 2023

Arizona State Historic Preservation Office