

**MEMORANDUM OF AGREEMENT
AMONG
THE U.S. FISH AND WILDLIFE SERVICE,
THE MICHIGAN DEPARTMENT OF NATURAL RESOURCES,
MICHIGAN TROUT UNLIMITED,
and THE MICHIGAN STATE HISTORIC PRESERVATION OFFICER
REGARDING
THE EAST BRANCH BIG CREEK DAM REMOVAL
OSCODA COUNTY, MICHIGAN**

WHEREAS, the U.S. Department of the Interior, Fish and Wildlife Service (“USFWS”) provided funding through the America the Beautiful Challenge Grant to the Michigan Department of Natural Resources (“MI DNR”) to remove the derelict East Branch Big Creek Dam in Greenwood Township, Oscoda County, Michigan, to alleviate thermal pollution and aquatic organism passage issues within the creek (“Undertaking”); and

WHEREAS, Michigan Trout Unlimited (“MTU”) will execute the Undertaking, including the actions outlined in this Memorandum of Agreement (“MOA”), as a subgrantee of a USFWS America the Beautiful Challenge Grant that is currently being administered by the MI DNR Fisheries Division; and

WHEREAS, East Branch Big Creek Dam Complex (archaeological site 20OD25), which includes a dam, sluiceway, and the Plank Hill Logging Camp, is determined to be a historic property (“Historic Property”) eligible for listing in the National Register of Historic Places (“NRHP”) under Criterion A,C, and D at the state level by the USFWS and the Michigan State Historic Preservation Office (“MI SHPO”); and

WHEREAS, the USFWS and the MI DNR, in consultation with the MI SHPO, have determined that the Undertaking constitutes an adverse effect on the Historic Property pursuant to 36 C.F.R. Part 800, the regulations implementing Section 106 of the National Historic Preservation Act (the “NHPA”) of 1966, as amended (54 U.S.C. § 306108); and

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

WHEREAS, the MI DNR, on behalf of the USFWS, has invited the following tribal nations to consult: the Menominee Indian Tribe of Wisconsin, The Miami Tribe of Oklahoma, The Lac Vieux Desert Band of Lake Superior, The Menominee Tribe of Oklahoma, The Red Lake Band of Chippewa Indians of Minnesota, The Saginaw Chippewa Indian Tribe of Michigan, The Sault Ste. Marie Tribe of Chippewa Indians of Michigan, and The Nottawaseppi Huron Band of the Potawatomi (collectively, the “Tribes”), for which Oscoda County, Michigan has religious and cultural significance and these tribal entities have not responded.

NOW, THEREFORE, it is mutually agreed by the USFWS, the MI DNR, MTU, and the MI SHPO (individually, a “Signatory” and, collectively, the “Signatories”) that the Undertaking shall be implemented in accordance with the following stipulations to consider the effect of the Undertaking on the Historic Property.

STIPULATIONS

The USFWS in coordination with the MI DNR, MTU, and the MI SHPO shall ensure that the following measures are carried out:

1) ROLES AND RESPONSIBILITIES

The Signatories and any concurring parties agree that the USFWS is the lead agency for administering and implementing this MOA. These responsibilities include, but are not limited to, consulting and coordinating with the concurring parties, conducting government-to-government consultation with the Tribes, overseeing all cultural resources work including any additional cultural resources inventory work and site evaluations, assembling all submissions to the Signatories and any concurring parties, and seeking MI DNR and MI SHPO concurrence with all agency compliance decisions.

2) MITIGATION OF ADVERSE EFFECTS

- a) All structural documentation, as described in the Historic Resource Recordation Outline, attached as Attachment A of the single low-head dam to be removed along Big Creek, will be carried out by a qualified consultant (“Consultant”) retained by MTU prior to any removal activities.
 - i) This documentation will be submitted to consulting parties, who will then have 30 days from receipt to review and comment; if a consulting party does not comment within such 30 day period that party will waive their right to object to the sufficiency of the documentation. If recordation is deemed sufficient by all consulting parties, or if said parties waive their right to object, then removal may commence.
- b) All ground disturbing activities associated with the Undertaking will be monitored by a qualified archaeological consultant retained by MTU (“Archaeological Consultant”). This Archaeological Consultant must meet the professional qualifications as outlined in Stipulation 3. The Archaeological Consultant will document any features and other archaeological materials that may be newly discovered during Undertaking work and has the authority to slow or pause Undertaking work as needed to adequately investigate and document any finds.
 - i) The collection of any diagnostic materials will be determined in consultation with the MI DNR archaeologists.
- c) The maximum extent of activity for the Undertaking will be confined within the red and yellow lines of the Area of Potential Effects (“APE”) Map, outlined in Attachment B attached hereto. Any existing earthen abutments shall remain to the maximum extent feasible to achieve the desired environmental and safety improvements while minimizing effects to the Historic Property.
- d) MTU will ensure that no tree removal will occur along the access or staging areas, unless this activity is limited to trimming limbs or cutting at the stump to avoid soil disturbance.
- e) Once the onsite monitoring and removal is completed, the results of this work and the historic archival research conducted will be summarized by the Archaeological Consultant in a report (“Report”) which includes a revised Archaeological Site Form for the Historic Property. The Report must follow current MI SHPO reporting and GIS shapefile submittal standards. The Report will be submitted to consulting parties for a 30-day review and comment period subject to Stipulation 2.a.i, prior to finalization of the Report. Consulting parties will receive the submittal via email, except the MI SHPO will receive it through their online portal.

- f) The Consultant will prepare a MI SHPO NRHP Preliminary Questionnaire for the Historic Property to support a current evaluation of the Historic Property's NRHP eligibility.
- i) This preliminary questionnaire need not occur before the removal of the dam structure but will be completed within 6 months of having been removed. The MI SHPO may respond with additional questions, which shall be addressed by the MI DNR. A final Preliminary Questionnaire shall be completed within five years of the execution of this MOA by all Signatories.

3) QUALIFICATIONS OF CULTURAL RESOURCE PERSONNEL

The USFWS and MI DNR will ensure that all cultural resources work carried out pursuant to this MOA, including recordation, monitoring, and report writing, shall be carried out by, or under the direct supervision of, a MTU-retained consultant who meets the Secretary of the Interior's Standards for Historical Archeology per Section 112(a)(1)(A) of the NHPA and 36 C.F.R. § 800.2(a)(1).

4) UNANTICIPATED DISCOVERIES

If newly identified cultural resources are discovered, or unanticipated effects on historic properties are found during the implementation of this MOA, the project will adhere to the Human Remains Encounters and Unanticipated Discoveries Plan attached as Attachment C.

5) DURATION

This MOA will expire if its terms are not carried out within five years of the date of its execution by all Signatories. Prior to such time, the USFWS may consult the other Signatories to reconsider the terms of the MOA and amend in accordance with Stipulation 7.

6) DISPUTE RESOLUTION

- a) Should any Signatory to this MOA object ("Objecting Party") to any actions proposed or the manner in which the terms of this MOA are implemented ("Objection") the USFWS will consult with the Objecting Party to resolve the Objection. If the USFWS determines within 30 days that the Objection cannot be resolved, the USFWS will forward all documentation relevant to the Objection to the ACHP, including the USFWS's proposed resolution to the Objection. Within 30 days after receipt of all pertinent documentation the ACHP will:
 - (1) Provide the USFWS with recommendations pursuant to 36 C.F.R. § 800.2 which the USFWS will consider in reaching a final decision regarding the Objection; or
 - (2) Notify the USFWS that it will comment pursuant to 36 C.F.R. § 800.7(c) and proceed to comment. Any ACHP comment provided in response to such a request will be taken into account by the USFWS in accordance with 36 C.F.R. § 800.7(c) (4) and Section 110(1) of the NHPA; or
 - (3) Not provide comments. The USFWS may then render a decision regarding the Objection. In reaching its decision, the USFWS will consider all comments regarding the Objection from the Signatories.
- b) Any recommendation or comment provided by the ACHP will be understood to pertain only to the subject of the Objection; the responsibility of the USFWS, MI DNR, and MI SHPO to carry

out other actions pursuant to this MOA that are not the subject of the Objection will remain unchanged. The USFWS will notify all Signatories of its decision in writing before implementing that portion of the Undertaking subject to the Objection under this Stipulation 6. The USFWS decision will be final.

7) AMENDMENTS AND NONCOMPLIANCE

If any Signatory to this MOA determines that its terms cannot be fulfilled, or that an amendment to the terms of this MOA must be made, that Signatory shall immediately consult with the other Signatories to develop an amendment to this MOA pursuant to 36 C.F.R. § 800.6(c)(7)-(8). The amendment will be effective on the date a copy signed by all of the Signatories is filed with the ACHP. If the Signatories cannot agree to appropriate terms to amend the MOA, any Signatory may terminate the MOA in accordance with Stipulation 8.

8) TERMINATION

- a) If the MOA cannot be amended following consultation as described in Stipulation 7, it may be terminated by any Signatory. Within 30 days following termination, the USFWS shall notify the Signatories if it will initiate consultation to execute another memorandum of agreement with the Signatories under 36 C.F.R. § 800.6(c)(1) or request the comments of the ACHP under 36 C.F.R. § 800.7(a) and proceed accordingly.
- b) Execution of this MOA by all Signatories, the submission of the documentation and filing of this MOA with the ACHP pursuant to 36 C.F.R. § 800.6(b)(iv) prior to USFWS approval of the Undertaking, and implementation of its terms is evidence that the USFWS has considered the effects of the Undertaking on historic properties and has afforded the ACHP a reasonable and good faith opportunity to comment.

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OSCODA COUNTY, MICHIGAN**

SIGNATORY:

United States Fish and Wildlife Service

JILLIAN COHEN Digitally signed by JILLIAN COHEN
Date: 2025.06.30 15:54:45 -04'00'

Jillian S. Cohen

Date

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SIGNATORY:

Michigan State Historic Preservation Office

DocuSigned by:

Ryan Schumaker

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Ryan M. Schumaker
State Historic Preservation Officer

6/27/2025

Date

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SIGNATORY:

Michigan Department of Natural Resources



Kristin Phillips
Chief Administrative Officer

6/26/2025

Date

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SIGNATORY:

Michigan Trout Unlimited



Bryan Burroughs
Executive Director

Date July 9, 2025

ATTACHMENT A

Historic Resource Recordation Outline

All the work described below will be completed by a qualified professional archaeologist who meets the Secretary of the Interior's standards prior to any removal activities. This recordation outline was generated in consultation between the MI DNR and the MI SHPO and will primarily follow level 1 of The Michigan State Historic Preservation Office's Historic Resource Recordation Standards and include scaled drawings.

Report Formatting:

Per level 1 of the Michigan State Historic Preservation Office's Historic Resource Recordation Standards, the consultant should follow the guidance below when formatting and generating the recordation report:

- Reports must be printed on white paper meeting the NRHP's standards for archival stability – twenty-pound, acid-free paper and be 8 ½ by 11 inches in size.
- Reports and all materials shall be unbound. A binder clip may be used to hold pages together for shipment.
- Printed materials shall be single sided.
- Reports shall include a cover page to include the following descriptive information:

- *In Upper Left-Hand Corner:*

PLACE NAME (all caps)
Alternate name(s) in parentheses (if applicable)
Address
Local unit of government (not mailing address)/vicinity
County
State
MI SHPO Project Number
MOA Number (if applicable)

- *Centered on the page, with center justification, include the specific physical materials included in the report, in all caps, for example;*

*PHOTOGRAPHS
COPIES OF COLOR TRANSPARENCIES
DIGITAL COPIES OF NEGATIVES
WRITTEN HISTORICAL AND DESCRIPTIVE DATA
REDUCED COPIES OF MEASURED & INTERPRETIVE DRAWINGS
SKETCH PLAN
RESOURCE MAPS
FIELD RECORDS*

- *In Lower Right-Hand Corner:*

*LEVEL 1 or 2 RECORDATION
Michigan State Historic Preservation Office
300 N. Washington Square*

Lansing, MI 48913 Month and Year of final product creation.

Written Description and Historical Narrative:

This should be a concise document that addresses the overall historical narrative. This document should be included as a PDF along with the photos and maps.

Project Information

This section should discuss how the recordation came to be, and what changes will be made to the resource because of the project. Please include list of the individuals who contributed to the recordation report, including names and relevant credentials, professional qualifications, associated firms/companies/entities and the City, State and ZIP Code of said firms/companies/entities.

Description

This section should concisely outline the site, setting, design, form, dimensions, structural character, materials, decorative details, and alterations. When discussing separate faces of the structure, please indicate geographical direction.

Statement of Significance

This section should provide a brief account of the resource's history and explain its significance in terms of the NRHP criteria.

Bibliography

Published and unpublished sources should be used as needed to document the historic place's significance. Footnotes in the Chicago Manual of Style format should be used to cite specific information where appropriate. All sources of information (including author, title, and publisher, date of publication, volume and page number) should be listed in a final reference page.

Project Location Information:

- a. USGS Topographic map with project location clearly indicated and corresponding Latitude/Longitude to six (6) decimal places.
- b. Most recent aerial image with dam structure outlined.

Photo Documentation:

Photos will be taken with a high-resolution camera and not a smartphone. Photos will be formatted as 8x10 images with a minimum of 300DPI, 2000x3000 resolution. Uncompressed TIFF files will be provided.

The MI DNR will require a minimum of 17 high-resolution photos. These photos will include:

1. Upstream photos facing the weir structure will include oblique left, centerline, and oblique right (3 photos)
2. Downstream photos facing the weir structure will include oblique left, centerline, and oblique right (3 photos).
3. Photos taken on northern embankment facing weir structure will include oblique left, centerline, and oblique right (3 photos).

4. Photos taken on southern embankment facing weir structure will include oblique left, centerline, and oblique right (3 photos).
5. Photo taken from south of dam, facing northward, which includes the maximum amount possible of the timber sluice-box and earthen embankment (1 photo).
6. Photo taken from north of dam, facing southward, which includes the maximum amount possible of the timber sluice-box and earthen embankment (1 photo).
7. Photo taken from north of Archaeological Site, facing south, which includes general overview of the Archaeological Features located on northern bank of the stream (1 photo).
8. Photo taken from the approximate area of the archaeological site on northern bank, facing east toward the dam (1 Photo).
9. Photo from southern bank, west of the Dam structure, facing north by northwest toward the approximate Archaeological site area on northern bank of stream (1 Photo).

Scaled Structural Drawings:

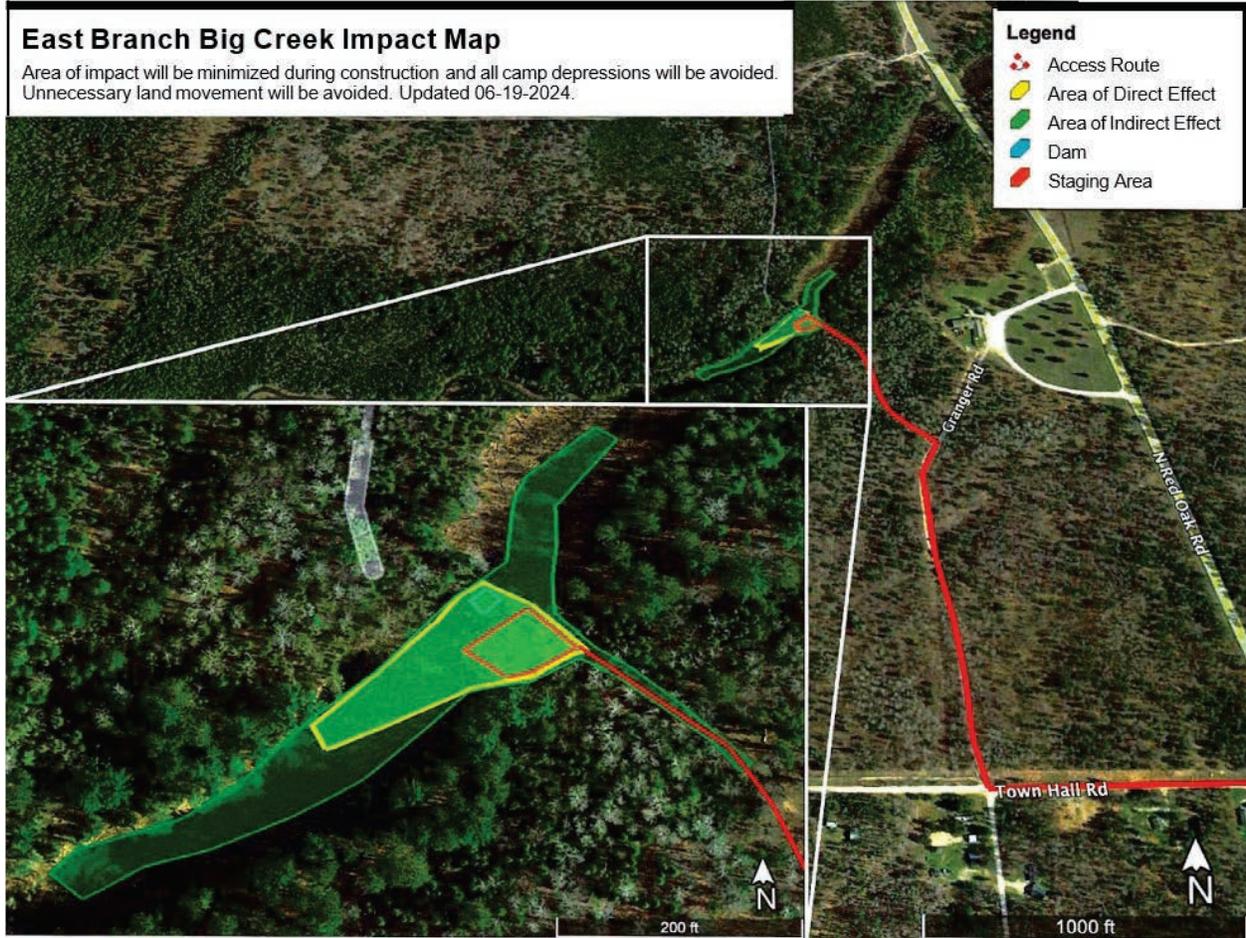
4 scaled drawings of the structure will be required. These drawings should be on 8 ½ x 11-inch paper, and will include:

1. Profile drawing of west face of structure, facing east (upstream).
2. Profile drawing of east face of structure, facing west (downstream).
3. Top-down plan view of the structure.
4. Site map of archaeological features in relation to the dam structure (if 8 ½ x 11 inch is not large enough format for this map, 11 x 17-inch can be used).

The completed documentation must be submitted to the MI SHPO prior to the commencement of any demolition activities. The MI SHPO will have thirty (30) days to review the documentation and provide comments or request additional information.

ATTACHMENT B

APE Map



ATTACHMENT C

HUMAN REMAINS ENCOUNTERS AND UNANTICIPATED ARCHAEOLOGICAL DISCOVERIES

Human Remains Encounters

Human remains are physical remains of a human body or bodies, including, but not limited to, bones, teeth, hair, ashes, and preserved soft tissues (mummified or otherwise preserved) of an individual or individuals. Remains may be articulated or disarticulated bones or teeth. Any human skeletal remains, regardless of antiquity or ethnic origin, will always be treated with dignity and respect.

1. Stop Work

In the event of an encounter with known or suspected human remains, all project work must stop and cannot resume without permission from MI DNR Archaeology.

2. Notify

The project archaeologist will immediately notify:

Oscoda County Sheriff
Non-emergency number 989-826-3214
301 S. Morenci Ave. Mio, MI 48647

MI DNR
Stacy Tchorzynski, Director of Archaeology
517-388-4657

TchorzynskiS@michigan.gov

&

Luke Pickrahn, Archaeologist

517-930-7210

Pickrahn11@michigan.gov

MI DNR Archaeology will notify:

Sgt. Mark DePew, DNR Law Enforcement District 5
989-275-5151

depewm@michigan.gov

Thomas Barnes, Grayling SF Unit Manager
231-384-7732

barnest2@michigan.gov

William Johnson, MACPRA Chairman
989-775-4750

wjohnson@sagchip.org

MI SHPO

Scott Slagor, Cultural Resource Protection Manager
517-285-5120

SlagorS2@michigan.gov

&

Sarah Surface-Evans, Senior Archaeologist
517-282-7959
SurfaceevansS1@michigan.gov

USFWS
Staci Black, Archaeologist
814-206-7470
staci_black@fws.gov

3. Next Steps

Law enforcement will determine if the remains are human. If a non-human determination is made and there is no archaeological association, MI DNR Archaeology will notify consulting parties that work can proceed.

Law enforcement has jurisdiction if the remains represent a human medicolegal case. If they determine that the encounter represents a historical or archaeological case beyond their purview, consultation must be completed with the MI DNR, the USFWS, consulting Tribes or other descendant community as applicable, and the MI SHPO to determine a plan of action and treatment.

In most cases, it is preferred that burial sites be preserved, adequately documented, and maintained in place. If this is not possible, the remains and any associated materials would need to be moved for their protection. The following sequence of steps will be employed if it is not possible to preserve and maintain an inadvertently discovered burial in place:

- a. A qualified archaeologist experienced in human remains recovery shall document and recover the remains and any related materials that may be present. Archaeological expertise is important in documenting the discovery context and evaluating whether the remains are isolated or if additional remains may be immediately present. Archaeological recovery may be completed under the auspices of law enforcement. If law enforcement chooses not to be involved, a permit for disinterment must be obtained from the local Department of Public Health, or through a court order. Documentation and recovery shall be respectful and conducted out of public view, to the extent possible.
- b. Do not separate funerary objects or possible funerary objects from human remains of any ancestry.
- c. As soon as possible, the remains shall be examined by a physical anthropologist using standard non-invasive methods and procedures to create a basic biological profile and estimate ethnicity. Known or suspected Native American Ancestors or other materials subject to the Native American Graves Protection and Repatriation Act (NAGPRA) will not be moved, touched, or further disturbed after discovery until completion of Tribal consultation or emergent circumstances arise.
- d. If it can be determined immediately that a discovery is, or has the potential to be, a Native American Ancestor and/or other materials subject to NAGPRA (i.e., associated or unassociated funerary objects, sacred objects, and objects of cultural patrimony), the consulting Tribes will be notified within 48 hours of discovery and potential identification. Tribal notification and consultation will be coordinated by MI DNR Archaeology and the USFWS.
- e. After notification and initial consultation, consulting Tribes may request that all federally recognized Tribes likely to be culturally affiliated with the discovery be notified in writing by mail or email and further consultation initiated regarding the cultural affiliation, care, handling, excavation (if necessary), and/or disposition per NAGPRA.
- f. Accommodation will be made for traditional or ceremonial practices in association with discoveries. Consulting Tribes will be afforded opportunities to employ proper traditional cultural practices and treatments during periods of non-Tribal holding of discoveries.

- g. Photographs shall not be taken, except when necessary for identification and documentation. Tribes may request that any photographs of Native American Ancestors or other materials subject to NAGPRA be destroyed or repatriated at the end of the project.
- h. Pending consultations, documentation of the discovery will include a written description, mapping and sketching, and precise GPS coordinates. This documentation will be curated with other project records and not be published or made publicly available in any way.
- i. To ensure the protection, preservation, and proper respectful treatment of any discovered materials, pursuant to applicable law, the nature and location of any discovery shall remain confidential as best as reasonably possible given the circumstances and location.
- j. The permanent care of Native American Ancestors and materials subject to NAGPRA will be determined by the appropriate Tribe(s) in consultation with the MI DNR and the USFWS.
- k. Draft and final archaeological reports, with related physical anthropological reports and law enforcement case documentation appended, will be submitted to consulting parties.

Unanticipated Archaeological Discoveries

Archaeological discoveries include both precontact period and historic period artifacts (portable objects) and features (nonportable materials such as foundation walls, hearths, middens, or other remnants of cultural activity) that are part of an archaeological site.

1. Stop Work

In the event of an unanticipated archaeological discovery (i.e., discoveries of a kind that are unexpected and potentially significant), pause project work at the location so consultation can occur.

Note that wooden pilings currently buried within the dam structure and downstream of the dam within the stream are not to be considered unanticipated discoveries, as it is known that the wooden pilings extend into the bank and streambed.

2. Notify

The project archaeologist will notify MI DNR Archaeology and the MI SHPO within 48 hours of unanticipated archaeological discoveries. MI DNR Archaeology will notify consulting Tribes if discoveries represent Tribal heritage.

3. Next Steps

Consulting parties will discuss and concur with an appropriate treatment plan. Impacts to significant resources must be avoided, minimized or mitigated as appropriate.