

**MEMORANDUM OF AGREEMENT
BETWEEN THE NATIONAL PARK SERVICE AND THE
CALIFORNIA STATE HISTORIC PRESERVATION OFFICER REGARDING THE REMOVAL
OF THE CONCESSIONER HEADQUARTERS BUILDING,
YOSEMITE NATIONAL PARK,
MARIPOSA COUNTY, CALIFORNIA
Public Review Draft October 2018**

WHEREAS, Yosemite National Park Service (the park) is planning the removal of the Concessioner Headquarters Building to implement the *Merced Wild and Scenic River Comprehensive Management Plan* (Merced River Plan) in the park as approved by the Director of the Pacific West Region in the June 2014 Record of Decision, and this action constitutes an Undertaking as defined by the implementing regulations for Section 106 (36 CFR Part 800) of the National Historic Preservation Act (NHPA); and

WHEREAS, the park initiated consultation on the Merced River Plan with the California State Historic Preservation Officer (SHPO) in June 2007, in accordance with the 1999 *Programmatic Agreement Among the National Park Service at Yosemite, the California State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding Planning, Design, Construction, Operations, and Maintenance, Yosemite National Park, California* (1999 PA); and

WHEREAS, the park agreed with the SHPO, in June 2012, that the Section 106 compliance for the Merced River Plan should proceed in accordance with the standard review process under 36 CFR Part 800; and

WHEREAS, the park notified the Advisory Council on Historic Preservation (ACHP) through their electronic notification process on February 22, 2016, that the proposed Undertaking would adversely affect historic properties and that a Memorandum of Agreement (Agreement) would be developed with the SHPO; and the ACHP did not notify the park of their intention to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, the park initiated consultation by letter dated March 4, 2016, with the following traditionally associated American Indian tribes and groups in accordance with 36 CFR § 800.14(f)(2)(c)(2) and Executive Order 13175 (Consultation and Coordination with American Indian Tribal Governments): the American Indian Council of Mariposa County, Inc. (also known as the Southern Sierra Miwuk Nation), Bishop Paiute Tribe, Bridgeport Indian Colony, Mono Lake Kutzadikaa Paiute Tribe, North Fork Rancheria of Mono Indians of California, Picayune Rancheria of the Chukchansi Indians, and Tuolumne Band of Me-Wuk Indians; and

WHEREAS, per the *Programmatic Agreement Regarding Compliance with Section 106 of the National Historic Preservation Act for the Merced Wild and Scenic River Comprehensive Management Plan* (MRP PA), the park notified the National Trust for Historic Preservation (NTHP) and the Historic Bridge Foundation that the proposed Undertaking would adversely affect historic properties; and the parties did not notify the park of their intention to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, NPS recognizes that American Indian tribes and groups possess knowledge pertaining to historic properties of religious and cultural significance in the park; and

WHEREAS, the Area of Potential Effects (APE) includes the Yosemite Valley Historic District and the Yosemite Valley Archeological District, as described and shown in (Attachment A: Project Location Map and APE); and

WHEREAS, the park and SHPO agree that the Undertaking will adversely affect the Yosemite Valley Historic District because of the removal of a contributing building; and

WHEREAS, the park, SHPO, and traditionally associated American Indian tribes and groups agree that the Undertaking is not likely to adversely affect archeological historic properties within the Yosemite Valley Archeological District as a result of the removal of the building; and

WHEREAS, the park, SHPO, and traditionally associated American Indian tribes and groups agree that the Undertaking is not likely to adversely affect historic properties of religious and cultural significance to traditionally associated American Indian tribes and groups; and

WHEREAS, this Agreement provides the mechanism to resolve the adverse effects of the Undertaking and complete any and all requirements of Section 106 of the NHPA (54 U.S.C. 306108) and its implementing regulations, 36 CFR Part 800, with regard to any activities relating to the Undertaking; and

NOW, THEREFORE, the park and the SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations to take into account the effect of the Undertaking on the Yosemite Valley Historic District and that these stipulations shall govern the Undertaking until this Agreement expires.

STIPULATIONS

I. Mitigation Measures to Resolve Adverse Effects

All mitigation measures will be completed prior to expiration of this agreement.

A. Update to Yosemite Valley Historic District Nomination

The park shall update the Yosemite Valley Historic District National Register Nomination documentation to reflect the removal of the contributing Concessioner Headquarters Building. The park shall follow the established process for National Register of Historic Places updates for federal properties and in consultation with the SHPO.

B. Historic American Building Survey (HABS) Documentation

The park shall consult with the NPS Pacific West Regional Office to determine the level of HABS documentation required. The documentation will include large format photographs and negatives that follow the HABS guidelines to ensure that they are archivally stable and meet HABS photographic standards. Archival materials will be submitted to the Yosemite National Park Archives. Final HABS documentation will be submitted to SHPO for their records.

C. Interpretation

The park shall develop an interpretive product (e.g., web-based video, app, exhibit, nps.gov/yose webpage) that will contribute to a larger effort to engage all generations and virtual visitors in understanding early concessioner activities in Yosemite. The interpretive story will include specific information pertaining to the history, development, construction, and use of the Concessioner Headquarters Building.

1. Draft Outline: Within one (1) year of execution of this agreement, the park shall provide the

SHPO with a draft outline of the interpretive product for 30-day review and comment.

2. Draft Interpretive Product: Within three (3) years of execution of this agreement, the park shall provide the SHPO with a draft interpretive product for 30-day review and comment.
3. Notification: The park shall notify the SHPO upon public release of the interpretive product.

II. Standards and Special Conditions

A. Definitions

The definitions provided at 36 CFR § 800.16 are applicable throughout this Agreement.

B. Project Standards

The standards, guidelines, regulations, and codes cited below shall be followed in execution of the Undertaking:

1. Professional qualification standards: All historic preservation activities implemented pursuant to this Agreement shall be carried out by or under the direct supervision of individuals meeting the Secretary's Historic Preservation Professional Qualifications Standards (48 FR 44738-39) for the discipline appropriate to the activity.
2. Standards for inventory, evaluation, registration, and documentation: Inventory, evaluation, registration, and documentation of any changes to the Yosemite Valley Historic District shall be done in accordance with the guidance and criteria for the National Register of Historic Places.
3. Curation standards: If applicable, curation of materials and records resulting from actions stipulated by this Agreement shall be in accordance with 36 CFR § 79. Such materials and records shall be curated by the park to the extent permitted by sections 5097.98 and 5097.991 of the California Public Resources Code.
4. Disclosure of archeological site information: The signatories to this Agreement acknowledge that historic properties covered by this Agreement are subject to the provisions of section 304 of the NHPA, as amended, and section 6254.10 of the California Government Code (Public Records Act), relating to the disclosure of archeological site information. All actions and documentation prescribed by this Agreement must be consistent with these sections.

III. Monitoring, Discoveries, and Unanticipated Effects

A. Monitoring

Park cultural resource subject matter experts meeting the qualifications for the applicable discipline as described in the Secretary's Historic Preservation Professional Qualifications Standards shall monitor removal activities. Tribal cultural monitoring will occur during the course of ground disturbing activities. NPS monitor(s) shall prepare a summary report. Data from NPS monitoring will be added to the park's archeological database including GIS.

B. Discoveries and Unanticipated Effects

If the monitor(s) encounter a previously unidentified property that may be eligible for the National Register during the undertaking or if it appears that a known historic property will be affected in an unanticipated manner, the park and SHPO shall follow the following procedures:

1. The park shall halt activities in the vicinity of the previously unidentified property and take all reasonable measures to avoid or minimize harm to the property.
2. The park shall notify the SHPO and the traditionally associated American Indian tribes and groups (as applicable) within two (2) working days of the discovery.
3. NPS will provide consulting parties with a written preliminary assessment evaluating National Register eligibility of all historic properties discovered during the project. The assessment shall describe actions proposed to resolve any potential adverse effects before work continues in the vicinity of the discovery.
4. The park shall provide the SHPO with any comments received from the traditionally associated American Indian tribes and groups within two (2) working days of receipt of the comments.

C. SHPO's Concurrence Regarding Eligibility and Recommendations for Proposed Actions

1. SHPO Recommendations: The SHPO shall respond to the park within two (2) working days of the notification of an unanticipated discovery and the park's assessment of eligibility. The park shall take into account the SHPO's recommendations regarding National Register eligibility and proposed actions.
2. Dispute Resolution: If the park determines that SHPO objections to the proposal of actions cannot be resolved, the park shall proceed consistent with 36 CFR 800.2(b)(2) as outlined in Stipulation VI.C.

IV. Administrative Stipulations

A. Amendments

Either signatory party may propose amendments to this Agreement pursuant to 36 CFR § 800.6(c)(7). This Agreement may be amended only upon the written agreement of both signatories. The amended Agreement will take effect on the date it is executed by both signatories.

B. Termination

The following process will be followed to terminate this Agreement:

1. Proposed termination: A signatory party can propose termination of this Agreement in writing to the other signatory, explaining the reasons for proposing termination. The signatories shall consult for 30 days to seek alternatives to termination.
2. Amendment in lieu of termination: If the consultation results in an agreement on an

alternative to termination, the signatories shall proceed to amend this Agreement in accordance with Stipulation VI.A.

3. Failure to agree: If consultation does not result in agreement on an alternative to termination, the party proposing termination may terminate this Agreement by promptly notifying the other party in writing. Such termination will remove all force and effect from this Agreement.
4. Process to terminate: Should this Agreement be terminated, the park shall consult with SHPO to develop a new agreement in accordance with 36 CFR § 800.14(b). Until and unless a new agreement is executed for the Undertaking, the park shall consult with SHPO in accordance with 36 CFR §§ 800.4 - 6.

C. Dispute Resolution

Should any party to this Agreement object at any time to any actions proposed or the manner in which the terms of this Agreement are implemented, all work that is the subject of the dispute will stop until the dispute is resolved according to the procedures in this stipulation and the park shall consult with the objecting party(ies) to resolve the objection. If the park determines, within 30 days, that such objections(s) cannot be resolved, the park shall:

1. Notification and Comment: Forward all documentation relevant to the dispute to the ACHP in accordance with 36 CFR § 800.2(b)(2). Any comment provided by the ACHP, and all comments from the parties to this Agreement, will be taken into account by the park in reaching a final decision regarding the dispute.
2. No Comments: If the ACHP does not provide comments regarding the dispute within 30 days after receipt of adequate documentation, the park may render a decision regarding the dispute. In reaching its decision, the park shall take into account all comments regarding the dispute from the parties to the Agreement.
3. Park Responsibility: It is the park's responsibility to carry out all other actions subject to the terms of this Agreement that are not the subject of the dispute. The park shall notify all parties of its decision in writing before implementing that portion of the Undertaking subject to dispute under this stipulation. The park's decision will be final.

D. Reporting Requirement for this Agreement

The park shall submit an annual report on the progress made toward the completion of the requirements of this Agreement and the Undertaking as part of the park's annual Section 106 reporting requirements.

1. Content: Reporting will include updates on progress of actions called for in Stipulations I-III of this Agreement and any agreed upon changes to this Agreement. The report will also include consultation history on monitoring, discoveries, and any associated consultation efforts.
2. Distribution: The annual report will be provided to the SHPO, ACHP, and traditionally associated American Indian tribes and groups. Reports are also posted to the public on the park's planning website.

E. Duration of this Agreement

Unless terminated pursuant to Stipulation VI.B, the duration of this Agreement is five (5) years from execution of the Agreement or until the signatories confirm that the Undertaking and associated mitigations are complete, whichever comes first. An extension of the agreement may be made through an amendment in accordance with Stipulation VI.A.

F. Effective Date of this Agreement

This Agreement will take effect on the date that it is executed by the park and SHPO.

G. Anti-Deficiency Act Statement

The Anti-Deficiency Act (31 U.S.C. 1341), prohibits federal agencies from incurring an obligation of funds in advance of or in excess of available appropriations. Accordingly, the parties agree that any requirements for the obligation of funds arising from the terms of this Agreement shall be subject to the availability of appropriated funds, and that this agreement shall not be interpreted to require the obligation or expenditure of funds in violation of the Anti-Deficiency Act.

**MEMORANDUM OF AGREEMENT
BETWEEN THE NATIONAL PARK SERVICE AT YOSEMITE NATIONAL PARK AND
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER, REGARDING THE
REMOVAL OF THE TUOLUMNE MEADOWS GAS STATION,
YOSEMITE NATIONAL PARK,
MARIPOSA COUNTY, CALIFORNIA**

SIGNATORIES

National Park Service

**Michael T. Reynolds
Superintendent, Yosemite National Park**

Date

California Office of Historic Preservation

**Julianne Polanco
State Historic Preservation Officer**

Date

**MEMORANDUM OF AGREEMENT
BETWEEN THE NATIONAL PARK SERVICE AND
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER, REGARDING THE
REMOVAL OF THE CONCESSIONER HEADQUARTERS BUILDING,
YOSEMITE NATIONAL PARK,
MARIPOSA COUNTY, CALIFORNIA**

CONCURRING PARTIES

For the American Indian Council of Mariposa County, Inc. (aka Southern Sierra Miwuk Nation):

William Leonard, Chairperson

Date

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For the Bishop Paiute Tribe:

Allen Summers, Sr., Tribal Chairman

Date

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For the Bridgeport Indian Colony:

John Glazier, Chair

Date

DRAFT

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For the Mono Lake Kutzadikaa Tribe:

Charlotte Lange, Chair

Date

DRAFT

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For the North Fork Rancheria of Mono Indians of California:

Gary Walker, Chairperson

Date

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For the Picayune Rancheria of the Chukchansi Indians:

Jennifer Ruiz, Chair

Date

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For the Tuolumne Band of Me-Wuk Indians:

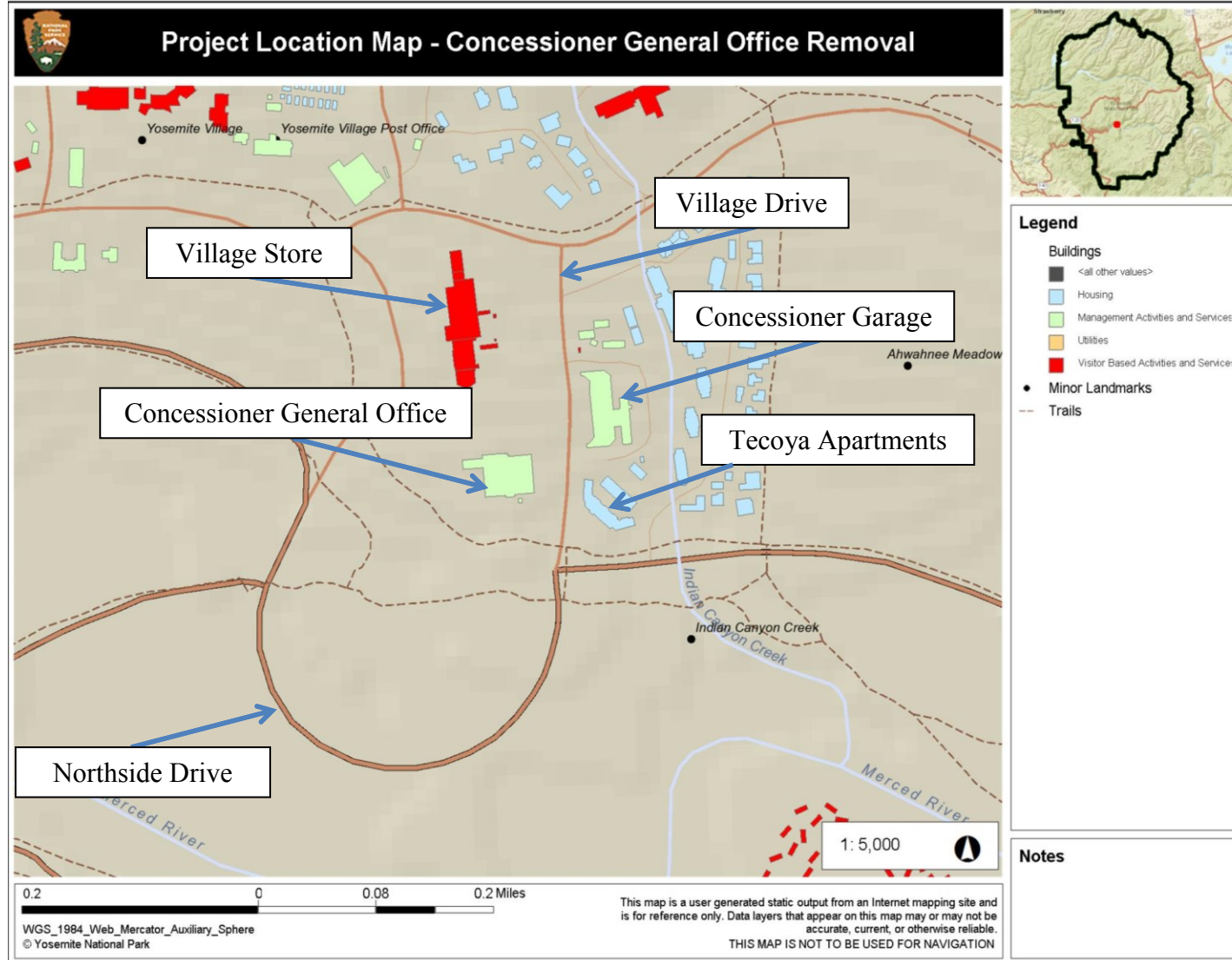
Kevin Day, Chair

Date

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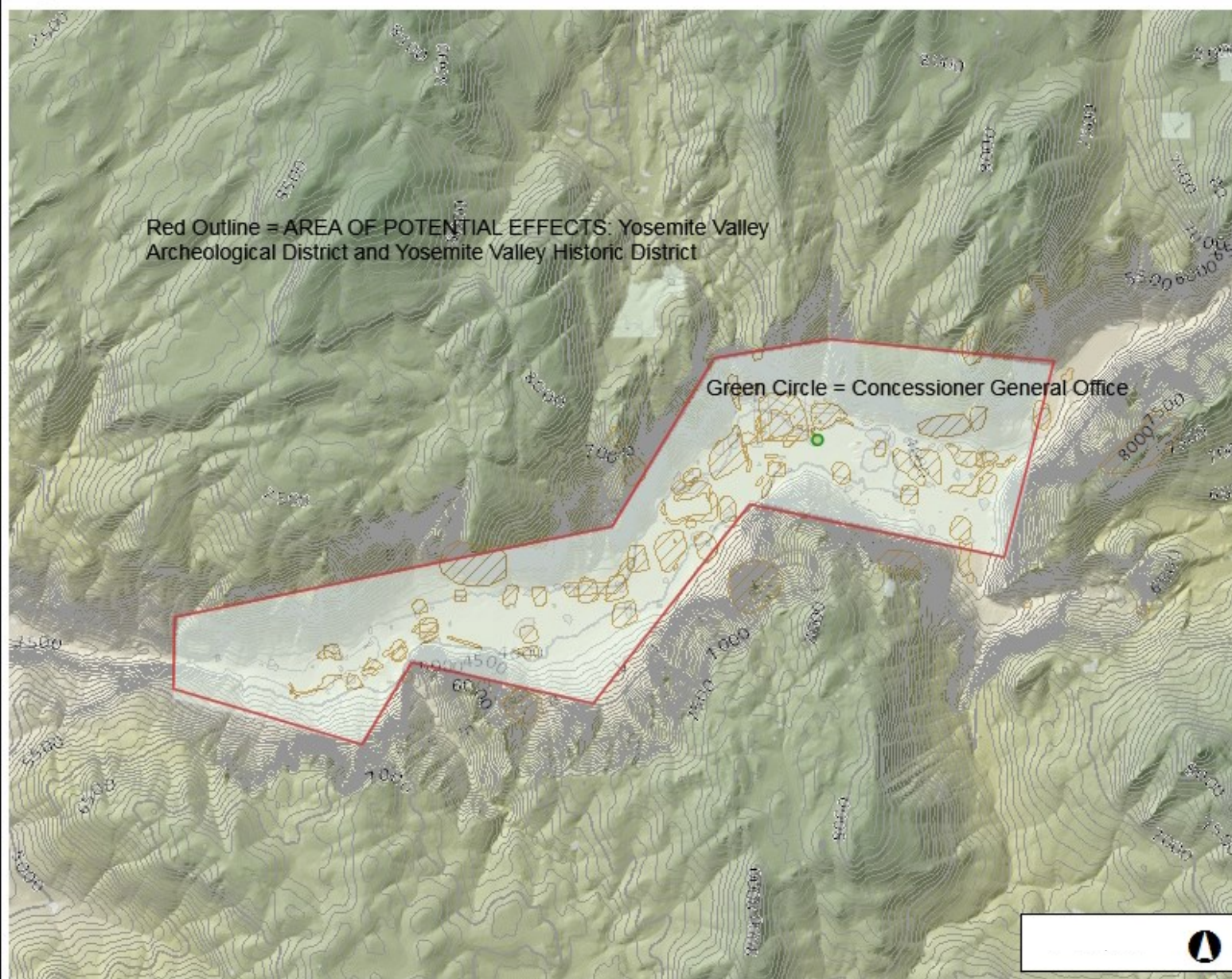
Attachment A – Project Location Map, Removal of the Concessioner Headquarters Building

The area of potential effects (APE) for the project includes the area surrounding the Concessioner General Office within the boundaries of the Yosemite Valley Historic District and the Yosemite Valley Archeological District. The depth of the potential disturbance extends to 1 meter below grade in previously disturbed soils.





Area of Potential Effects (APE): Concessioner Headquarters (General Office)



Red Outline = AREA OF POTENTIAL EFFECTS: Yosemite Valley Archeological District and Yosemite Valley Historic District

Green Circle = Concessioner General Office

Legend

- Ethnography - All Types
- Archeology Sites
- Archeological Districts
- Combined boundary of the Yosemite Valley Historic District and the Yosemite Valley Archeological District

Notes

3.2 0 1.58 3.2 Miles

WGS_1984_Web_Mercator_Auxiliary_Sphere
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This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION