

REQUEST FOR SHPO CONSULTATION:

Section 106 of the National Historic Preservation Act and/or the Antiquities Code of Texas

Please see instructions for completing this form and additional information on Section 106 and Antiquities Code consultation on the Texas Historical Commission website at <http://www.thc.state.tx.us/crm/crmsend.shtml>.

- This is a new submission.
- This is additional information relating to THC tracking number(s): \_\_\_\_\_

<b>Project Information</b>		
PROJECT NAME <b>Cape's Dam Removal and Habitat Restoration Project</b>		
PROJECT ADDRESS <b>San Marcos River</b>	PROJECT CITY <b>San Marcos</b>	PROJECT ZIP CODE(S) <b>78666</b>
PROJECT COUNTY OR COUNTIES <b>Hays County</b>		
PROJECT TYPE (Check all that apply)		
<input type="checkbox"/> Road/Highway Construction or Improvement	<input type="checkbox"/> Repair, Rehabilitation, or Renovation of Structure(s)	
<input type="checkbox"/> Site Excavation	<input type="checkbox"/> Addition to Existing Structure(s)	
<input type="checkbox"/> Utilities and Infrastructure	<input checked="" type="checkbox"/> Demolition or Relocation of Existing Structure(s)	
<input type="checkbox"/> New Construction	<input type="checkbox"/> None of these	
BRIEF PROJECT DESCRIPTION: Please explain the project in one or two sentences. More details should be included as an attachment to this form. <b>This project will remove Cape's Dam as it acts as a barrier to fish and other aquatic species, endangered/threatened and native, movement in the San Marcos River . The removal will be conducted under the authority of the National Fish Passage Program (NFPP). There is no plan to replace the structure. The dam is in severe disrepair and poses a safety hazard to recreational users of the San Marcos River.</b>		

<b>Project Contact Information</b>			
PROJECT CONTACT NAME <b>Mike Montagne</b>	TITLE <b>Project Leader</b>	ORGANIZATION <b>US Fish and Wildlife Service</b>	
ADDRESS <b>500 E. McCarty Lane</b>	CITY <b>San Marcos</b>	STATE <b>TX</b>	ZIP CODE <b>78666</b>
PHONE <b>512-353-0011 ext. 236</b>	EMAIL <b>mike_montagne@fws.gov</b>		

<b>Federal Involvement (Section 106 of the National Historic Preservation Act)</b>	
Does this project involve approval, funding, permit, or license from a federal agency?	
<input checked="" type="checkbox"/> Yes (Please complete this section)	<input type="checkbox"/> No (Skip to next section)
FEDERAL AGENCY <b>USEWS</b>	FEDERAL PROGRAM, FUNDING, OR PERMIT TYPE <b>National Fish Passage Program</b>
CONTACT PERSON <b>Mike Montagne</b>	PHONE <b>512-353-0011 ext. 236</b>
ADDRESS <b>500 E. McCarty Lane San Marcos, TX 78666</b>	EMAIL <b>mike_montagne@fws.gov</b>

<b>State Involvement (Antiquities Code of Texas)</b>	
Does this project occur on land or property owned by the State of Texas or a political subdivision of the state?	
<input checked="" type="checkbox"/> Yes (Please complete this section)	<input type="checkbox"/> No (Skip to next section)
CURRENT OR FUTURE OWNER OF THE PUBLIC LAND <b>The City San Marcos</b>	
CONTACT PERSON <b>Jarred Miller, City Manager</b>	PHONE <b>512-393-8100</b>
ADDRESS <b>630 E Hopkins St San Marcos, TX 78666</b>	EMAIL <b>jmiller@sanmarcostx.gov</b>

# Summary of Comments on Attachment F - 2016 THC 106 permit-marked-up.pdf

Attachment F

Page 2

Page: 1

Number: 1 Author: kelley Subject: Sticky Note Date: 9/23/2016 6:31:58 PM

**Brief Project Description 1: Capes Dam "acts as a barrier to fish and other aquatic species"**

Why is the justification that Capes Dam "acts as a barrier to fish and other aquatic species" being presented, when this "fish barrier" reasoning is never investigated or demonstrated in any published, scientific report on the San Marcos River?

Nowhere, in any report on the San Marcos River ecosystem, endangered species, or biology/hydrology/recreation reports, nor any part of any Edwards Aquifer Authority paper or report, has it ever been shown, or research conducted, showing how Capes Dam "acts as a barrier to fish and other aquatic species."

This shows an assumed belief on the part of US Fish & Wildlife that "dams act as physical barriers to fish, therefore dams are bad & must be removed."

The conclusion that "all dams are bad and must be removed" has already been decided when there is no record in any research, current or historical, that shows that Capes Dam in harming any endangered species, or any life form at all.

Number: 2 Author: kelley Subject: Line Date: 9/23/2016 2:11:15 PM

Number: 3 Author: kelley Subject: Sticky Note Date: 9/23/2016 6:30:23 PM

**Brief Project Description 2: "The dam is in severe disrepair..."**

One normally repairs historical structures, not tear them down, especially when the owner is a municipality or other governmental agency.

Number: 4 Author: kelley Subject: Line Date: 9/23/2016 2:13:23 PM

Number: 5 Author: kelley Subject: Sticky Note Date: 9/23/2016 6:29:52 PM

**Brief Project Description 3: Capes Dam "poses a safety hazard to recreational users of the San Marcos River."**

Could the reason that Capes Dam poses a "safety hazard to recreational users" be due to the owner of Capes Dam failing to maintain Capes Dam, especially after 3 such 100-500 year historic floods events occurring 1) Halloween 2013, 2) Memorial Day 2015, and 3) Halloween 2015.

Number: 6 Author: kelley Subject: Line Date: 9/23/2016 2:24:36 PM

Number: 7 Author: kelley Subject: Line Date: 9/23/2016 6:32:12 PM

Number: 8 Author: kelley Subject: Line Date: 9/23/2016 6:32:21 PM

Number: 9 Author: kelley Subject: Line Date: 9/23/2016 6:32:17 PM

**Identification of Historic Properties: Archeology**

Does this project involve ground-disturbing activity?  
 Yes (Please complete this section)  No (Skip to next section)

Describe the nature of the ground-disturbing activity, including but not limited to depth, width, and length.  
 The removal will involve the demolition of the 100+ year old dam that is already failing. Demolition takes place within the stream bed. Approximately 300 cubic yards of concrete will be removed. The structure is approximately 100 feet wide across the river.

Describe the previous and current land use, conditions, and disturbances.  
 The dam impounded water and created power for a mill. The dam has breached many times and no longer is functioning. Structure has become a safety hazard.

**Identification of Historic Properties: Structures**

Does the project area or area of potential effects include buildings, structures, or designed landscape features (such as parks or cemeteries) that are 45 years of age or older?  
 Yes (Please complete this section)  No (Skip to next section)

Is the project area or area of potential effects within or adjacent to a property or district that is listed in or eligible for listing in the National Register of Historic Places?  
 Yes, name of property or district:  No  Unknown

In the space below or as an attachment, describe each building, structure, or landscape feature within the project area or area of potential effect that is 45 years of age or older.

ADDRESS	DATE OF CONSTRUCTION	SOURCE FOR CONSTRUCTION DATE
The dam, failing and in disrepair, unsafe	1866	TPWD
Mill Race, no longer needed.	1866	TPWD
ADDRESS	DATE OF CONSTRUCTION	SOURCE FOR CONSTRUCTION DATE

**Attachments**  
 Please see detailed instructions regarding attachments.  
 Include the following with each submission:

- Project Work Description
- Maps
- Identification of Historic Properties
- Photographs

For Section 106 reviews only, also include:

- Consulting Parties/Public Notification
- Area of Potential Effects
- Determination of Eligibility
- Determination of Effect

**Submit completed form and attachments to the address below. Faxes and email are not acceptable.**  
 Mark Wolfe  
 State Historic Preservation Officer  
 Texas Historical Commission  
 P.O. Box 12276, Austin, TX 78711-2276 (mail service)  
 108 W. 16th Street, Austin, TX 78701 (courier service)

**For SHPO Use Only**

Number: 1 Author: kelley Subject: Sticky Note Date: 9/23/2016 6:59:59 PM

**Identification of Historic Properties: Archeology: "The structure is approximately 100 feet wide across the river."**

This is a demonstrably false measurement; Capes Dam measures 168' along its linear, curved length.

Please see page 3 of this amended THC 106 permit, for documented correct measurements of Capes Dam.

Number: 2 Author: kelley Subject: Line Date: 9/23/2016 6:40:40 PM

Number: 3 Author: kelley Subject: Line Date: 9/23/2016 6:37:01 PM

Number: 4 Author: kelley Subject: Sticky Note Date: 9/23/2016 6:59:12 PM

**Describe the previous and current land use, conditions, and disturbances: "The dam ... [is] no longer is functioning"**

In what way is Capes Dam no longer functioning? It still impounds water because the one of Dr Hardy's scientific justifications for removing Capes Dam is to have a rush of water moving through the thalweg so that sediment is washed downstream in the narrow, shallower, faster moving waters. Dr Hardy has demonstrated how this will work in at least 10-12 different reports shown both at international conferences in Norway (2014) and Australia (2016) and as part of studies done for the City of San Marcos, The Rivers Institute now The Meadows Center, and TSU as part of his academic work.

Please explain how Capes Dam in no longer "functioning"? If that were a true statement, this application to remove an Historical Structure would not exist. There would be no need to remove Capes Dam, because removing it wouldn't change a single thing - and yet we know that removing Capes Dam will change the river. So again, please explain how Capes Dam in no longer "functioning" because this argument makes no logical sense.

Number: 5 Author: kelley Subject: Line Date: 9/23/2016 6:36:34 PM

Number: 6 Author: kelley Subject: Line Date: 9/23/2016 6:36:40 PM

Number: 7 Author: kelley Subject: Rectangle Date: 9/23/2016 2:23:15 PM

Number: 8 Author: kelley Subject: Sticky Note Date: 9/23/2016 6:37:49 PM

**Identification of Historic Properties: Structures:**

In answer to the question, "Is the project area or area of potential effects within or adjacent to a property or district that is listed in **or eligible for listing in the National Register of Historic Places?** USFWS representative marks "Unknown".

**How is it that the same person (USFWS representative Mike Montagne) who enters a construction date of "1866" (as shown on page 2 of this same form) not know that the structure he is proposing to remove is anything but historic?**

Number: 9 Author: kelley Subject: Sticky Note Date: 9/23/2016 6:52:05 PM

**Date of Construction: 1866**

How can any person list a Date of Construction as "1866" in the year "2016" and not know that a 150 year-old structure is obviously, by definition, eligible for listing in the National Register of Historic Places"?

Number: 10 Author: kelley Subject: Rectangle Date: 9/23/2016 6:37:22 PM

Number: 11 Author: kelley Subject: Sticky Note Date: 9/23/2016 7:00:43 PM

**Identification of Historic Properties: Structures: "Mill Race, no longer needed"**

You might reconsider the Mill Race as "no longer needed" when you review the City of San Marcos-approved Watershed Protection Plans for the adjacent 24-acre The Woods Apartment Complex, which has 2 of its 5 site-wide storm sewer drains emptying directly into the Mill Race. That certainly qualifies the Mill Race as "being needed" because where else is the stormwater run-off going to go, if the Mill Race is closed off? Do you think that might cause some future flooding, when that water that was planned to drain into the Mill Race has nowhere to go?

Please see page 4 of this amended THC 106 permit for the correct, documented measurements of Capes Dam.

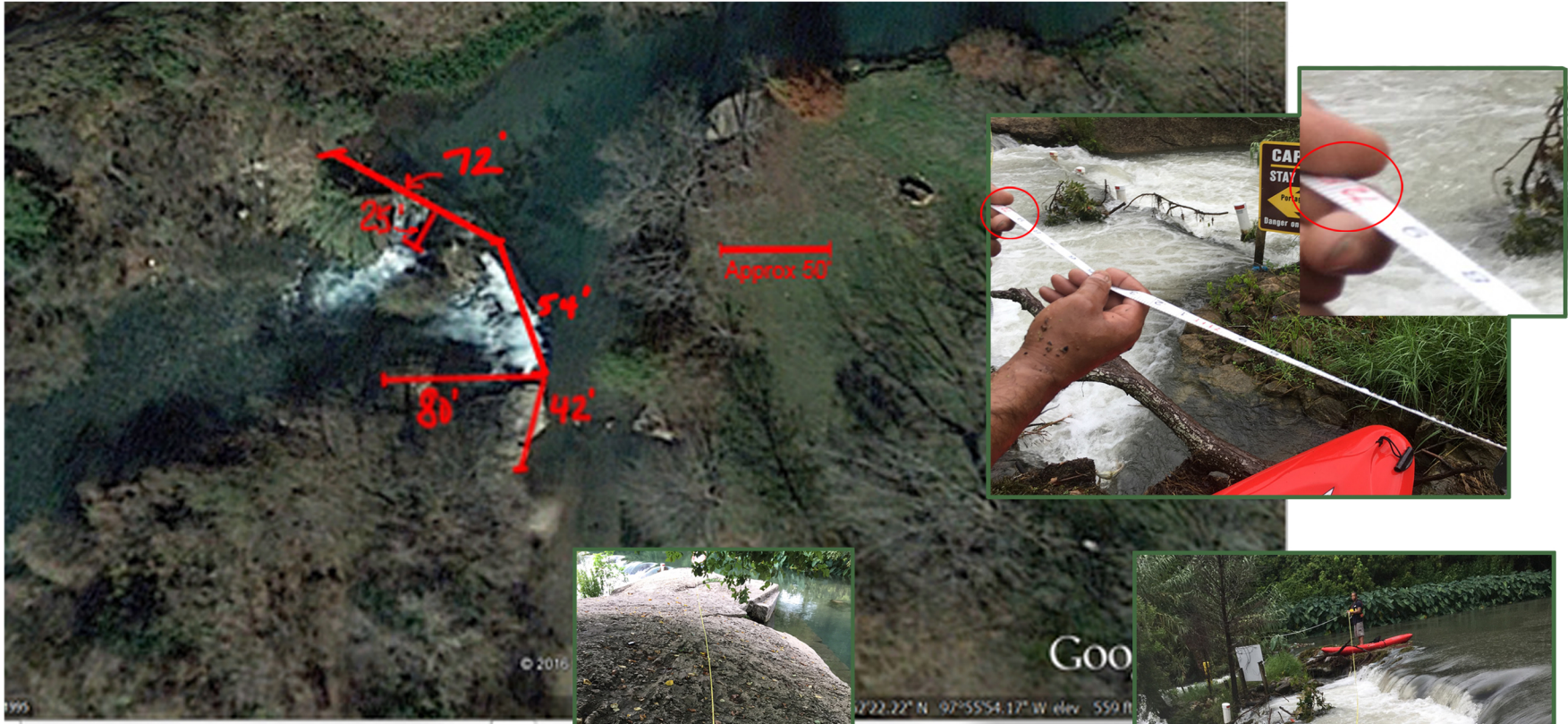
Number: 12 Author: kelley Subject: Line Date: 9/23/2016 2:22:47 PM



# Capes Dam Measurements

Capes Dam was measured by Ben Kvanli and crew on Tuesday, August 16, 2016 at 3pm.

From North to South, 3 segments were measured: 72 ft + 54 ft + 42 ft = **168 feet-Length of Capes Dam**

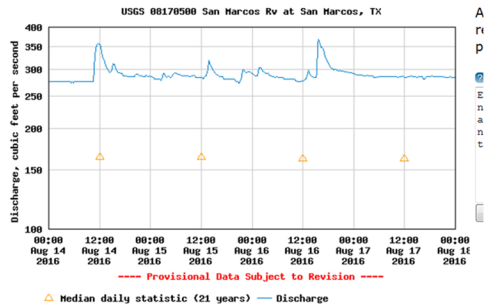


USGS 08170500 San Marcos Rv at San Marcos, TX

Average discharge for 8/16/2016 was 280 CFS

Discharge, cubic feet per second

Most recent instantaneous value: 265 09-18-2016 19:45 CDT





TEXAS HISTORICAL COMMISSION  
*real places telling real stories*

Attachment F

Page 6

July 11, 2016

Mike Montagne  
Project Leader  
US Fish and Wildlife Service  
500 East McCarty Lane  
San Marcos, TX 78666

Re: Project review under Section 106 of the National Historic Preservation Act of 1966  
Cape's Dam Removal and Habitat Restoration Project (US Fish and Wildlife/106, THC #  
201607405)

Dear Mr. Montagne:

Thank you for your correspondence describing the above referenced project. This letter serves as  
comment on the proposed undertaking from the State Historic Preservation Officer (SHPO), the Executive  
Director of the Texas Historical Commission (THC).

The History Programs Division staff, led by Justin Kockritz, has completed their review of the above-  
referenced project. In 1985, the Thompson/Cape Dam and Ditch Engineering Structure (41HY164) was  
determined eligible for listing in the National Register of Historic Places (NRHP) under Criterion A for its  
significance to commerce and Criterion C for its engineering and design. Based upon the submitted  
photographs and the site visit made on June 21, 2016, THC believes that the property retains sufficient  
historic integrity and remains eligible for listing in the National Register, with the dam, mill race, waste ways,  
and wheel pit each considered contributing features. Remnants of other features associated with the dam  
or mill, including, but not limited to, the foundations of head gates, are also contributing resources.  
Additional features in the area, such as the concrete bridge on Thompson's Island or the remnants of Home  
Farm Dam in the San Marcos River, that are not associated with the Cape Dam and are considered non-  
contributing resources and are not eligible for listing in the National Register individually.

The Division of Architecture staff, led by Michael Robb, has completed its review of the documentation  
provided for the above-referenced project. Based on submitted documentation and a site visit made June  
21, 2016, the THC anticipates the proposed project will constitute an adverse effect on a NRHP listed-or-  
eligible resource. Section 106 regulations require ongoing consultation with the SHPO and the public to  
develop and evaluate alternatives to avoid, minimize, or mitigate adverse effects to historic resources. As  
completed plans become available, please submit them to THC for review in order to evaluate them for the  
extent of the adverse effect as well as to evaluate potential mitigation measures.

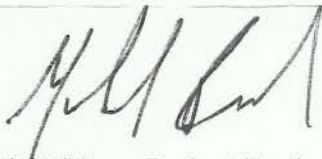
The Archeology Division staff, led by Tiffany Osburn, has completed their review of the proposed project.  
Based on the submitted general plans, the site visit made on June 21, 2016, and discussion



with USACE, the Archeology Division requires additional information to determine the level of archeological investigation that will be required in areas that will be affected by the proposed project. Additional information is necessary regarding the anticipated direct and indirect effects of dewatering the mill race channel including bank erosion and instability due to loss of vegetation, etc. We also need detailed information regarding the location of additional project impacts such as proposed points of ingress and egress, grading, plantings, vegetation/tree removal etc. At a minimum we anticipate the need for archeological survey along the mill race.

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this federal review process, and for your efforts to preserve the irreplaceable heritage of Texas. If you have any questions concerning our review or if we can be of further assistance, please contact Michael Robb at 512/463-6083.

Sincerely,



Michael Robb, Military Project Reviewer, Central and West Texas Project Reviewer  
for: Mark Wolfe, State Historic Preservation Officer

cc: Kate Johnson, Chair, County of Hays Historical Commission

MW/mr

