



Preserving America's Heritage

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April 11, 2007

Secretary Magalie Salas
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

RE: Programmatic Agreement
Priest Rapids Hydroelectric Project (Project No. 2114-116)
Washington

Dear Secretary Salas:

The Advisory Council on Historic Preservation has executed the Programmatic Agreement (PA) for the referenced undertaking that was submitted by the Federal Energy Regulatory Commission. It is our understanding that the Commission and the Washington State Historic Preservation Office have also executed this agreement. We understand too that a number of consulting parties, including the license applicant, Grant County PUD, and the Confederated Tribe of the Colville Reservation, have concurred in this agreement. We are returning the agreement to you with our signature for your files. Execution of this PA and implementation of its terms evidences that the Commission has satisfied the requirements of Section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR Part 800).

Should you have any questions or require our further assistance, please contact Laura Dean, Ph.D., by phone at 202-606-8503 or by email at ldean@achp.gov.

Sincerely,

David J. Klima
Director
Office of Federal Agency Programs

Enclosure

**PROGRAMMATIC AGREEMENT
AMONG
THE FEDERAL ENERGY REGULATORY COMMISSION
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
AND THE
WASHINGTON STATE HISTORIC PRESERVATION OFFICER
FOR
MANAGING HISTORIC PROPERTIES THAT MAY BE AFFECTED
BY ISSUING A LICENSE TO
PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY, WASHINGTON
FOR THE CONTINUED OPERATION OF THE
PRIEST RAPIDS PROJECT
IN GRANT, YAKIMA, KITTTITAS, DOUGLAS, BENTON, AND CHELAN
COUNTIES, WASHINGTON
(FERC No. 2114-116)**

WHEREAS, the Federal Energy Regulatory Commission or its staff (hereinafter, "Commission") proposes to issue a new license to the Public Utility District No.2 of Grant County, Washington (hereinafter, "Licensee") to operate the Priest Rapids Project (hereinafter, "Project") as authorized by Part I of the Federal Power Act, 16 U.S.C. sections 791(a) through 825(r) as amended; and

WHEREAS, the Commission has determined that issuing such a license may affect properties included in or eligible for inclusion in the National Register of Historic Places (hereinafter, "historic properties"); and

WHEREAS, the associated "Final Environmental Impact Statement, Priest Rapids Hydroelectric Project Washington (FERC Project No. 2114)", dated November 2006 and the "Final Draft Historic Properties Management Plan, Priest Rapids Hydroelectric Project, FERC No. 2114-116", dated August 13, 2004, provide descriptions of the Licensee's proposal for maintaining and operating the Project, area of potential effects, historic properties, and anticipated effects identified as of the date of this Programmatic Agreement; and

WHEREAS, the U.S. Bureau of Land Management, U.S. Bureau of Reclamation (hereinafter, "Bureaus"), U.S. Department of the Army (hereinafter, "Army), and U.S. Fish and Wildlife Service (hereinafter, "FWS") manage lands within the Project boundary, and have responsibilities for the issuance of permits under the Archeological Resources Protection Act (16 U.S.C. 470aa to 470ll; hereinafter, "ARPA") to the Licensee for archeological work on their lands;

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WHEREAS, the Washington Department of Fish and Wildlife, Washington Department of Natural Resources, and Washington State Parks and Recreation Commission (hereinafter, "State Agencies") also manage lands within the Project boundary; and

WHEREAS, the Commission has consulted with the Advisory Council on Historic Preservation (hereinafter, "Council"), and the Washington State Historic Preservation Officer (hereinafter, "SHPO") pursuant to 36 C.F.R. section 800.14(b) of the Council's regulations (36 C.F.R. Part 800), implementing section 106 of the National Historic Preservation Act (16 U.S.C. 470f; hereinafter, "section 106"); and

WHEREAS, the Licensee has participated in the consultation and has been invited to concur in this Programmatic Agreement; and

WHEREAS, the Bureaus, FWS, Army, and State Agencies have participated in the consultation and have been invited to concur in this Programmatic Agreement; and

WHEREAS, the Confederated Tribes of the Colville Reservation (hereinafter, "Colville"), the Yakama Nation (hereinafter, "Yakama"), and Wanapum Indians (hereinafter, "Wanapum") have participated in the consultation and have been invited to concur in this Programmatic Agreement; and;

WHEREAS, the Commission will require the Licensee to implement the provisions of this Programmatic Agreement, including the six tasks in Attachment 1, as a condition of issuing a new license for the Project;

NOW THEREFORE, the Commission, the Council, and the SHPO agree that the Project will be administered in accordance with the following stipulations in order to satisfy the Commission's section 106 responsibilities during the term of the Project's license.

STIPULATIONS

The Commission will ensure that, upon issuing a license for this Project, the Licensee implements the following stipulations. All stipulations that apply to the Licensee will similarly apply to any and all of the Licensee's successors. Compliance with any of the following stipulations does not relieve the Licensee of any other obligations it has under the Federal Power Act, the Commission's regulations, or its license.

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I. HISTORIC PROPERTIES MANAGEMENT PLAN

- A. Within one year of issuing a license for this Project, the Licensee will file for the Commission's approval a final Historic Properties Management Plan (hereinafter, "HPMP") specifying how historic properties will be managed in the Project's area of potential effects, as defined in 36 C.F.R. section 800.16(d), during the term of this license. During development of the final HPMP, the Licensee will consult with the SHPO, Bureaus, Army, FWS, State Agencies, Colville, Yakama, and Wanapum as defined in 36 C.F.R. section 800.2.¹ The Licensee will seek concurrence of the SHPO, Bureaus, Army, FWS, State Agencies, Colville, Yakama, and Wanapum in the final HPMP.
- B. "Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines" (Federal Register, September 29, 1983, Vol. 48, No. 190, Part IV, pp. 44716-44740; hereinafter, "Secretary's Standards") and the Council and Commission's "Guidelines for the Development of Historic Properties Management Plans for FERC Hydroelectric Projects" (issued May 20, 2002) will be taken into account in developing the final HPMP. The final HPMP will be developed by or developed under the direct supervision of a person or persons who meet, at a minimum, the professional qualifications standards for architectural history and archeology in the Secretary's Standards (48 Federal Register 44738-39).
- C. The final HPMP will, at a minimum, address the tasks listed below. The final HPMP will also specify how each task will be carried out and when it will be completed.
1. Completion of identification of historic properties within the existing Project's area of potential effects, defined as the lands enclosed by the Project's boundary as delineated in the Licensee's license application for the Project, and lands or properties outside the Project's boundary where project operation or project-related recreational development or other enhancements may cause changes in the character or use of historic properties, if any historic properties exist;

¹ All consulting parties (in reference to the SHPO, Bureaus, Army, FWS, State Agencies, Colville, Yakama, and Wanapum) need to respond within 30 days of receipt of a request for review of a finding or determination involving these related tasks to the HPMP and during the interim period prior to completion and implementation of the HPMP.

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2. **Protection of historic properties threatened by project-induced shoreline erosion, other project-related ground-disturbing activities, and vandalism;**
3. **Consideration and implementation of appropriate treatment that would mitigate unavoidable adverse effects on historic properties;**
4. **Consultation with the SHPO and other involved parties regarding identification and evaluation of historic properties, determination of effects, and ways to avoid, minimize or mitigate adverse effects;**
5. **Action plan for unanticipated discoveries during project-related construction.**
6. **Treatment and disposition of any human remains that may be discovered, taking into account applicable state laws and the Native American Graves Protection and Repatriation Act (NAGPRA; 25 U.S.C. section 3001) on federal land;**
7. **Discovery of previously unidentified properties during Project operations;**
8. **Public interpretation of the historic and archeological values of the Project, including the development of procedures and protocols for training and education programs;**
9. **Identification and proposed treatment, avoidance, or mitigation of effects to traditional cultural properties through the development and implementation of a traditional cultural properties treatment plan after consultation with the Colville, Yakama, Wanapum, and SHPO; and**
10. **Formulation of a committee similar to the Hanford Reach National Monument Federal Advisory Committee to address archeological sites being affected by Project-related streambank erosion in the Hanford Reach.**

II. HPMP REVIEW AND IMPLEMENTATION

- A. **The Licensee will submit the final HPMP, along with documentation of the views of the SHPO, Bureaus, Army, FWS, State Agencies, Colville, Yakama, and Wanapum to the Commission for review and approval.**
- B. **If the SHPO, Bureaus, Army, FWS, State Agencies, Colville, Yakama, and Wanapum have concurred in the final HPMP, and the Commission determines that the final HPMP is adequate, the Commission will forward a copy of the final**

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HPMP, along with the views of the concurring parties, to the Council, which will have 30 days to review the final HPMP.

1. If the Council does not object to the final HPMP, the Commission will proceed to ensure that the Licensee implements the final HPMP.
 2. If the Council objects to the final HPMP, the Commission will consult with the Council in an effort to reach agreement on the final HPMP.
 3. If agreement cannot be reached, the Commission will request that the Council comment pursuant to Stipulation IV.B of this Programmatic Agreement.
- C. If the SHPO, Bureaus, Army, FWS, State Agencies, Colville, Yakama, and Wanapum, have not concurred in the final HPMP, or the Commission finds the final HPMP inadequate, the Commission will consult with the objecting party and seek agreement on the final HPMP. If concurrence is not reached within 45 days, the Commission will request that the Council enter into the consultation to seek agreement on the final HPMP.
1. If agreement is reached on the final HPMP, the Commission will forward a copy of the revised final HPMP to the Council for review pursuant to Stipulation II.B of this Programmatic Agreement.
 2. If agreement on the final HPMP cannot be reached among the Commission, SHPO, Bureaus, Army, FWS, State Agencies, Colville, Yakama, Wanapum and the Council, the Commission will request that the Council comment pursuant to Stipulation IV.B of this Programmatic Agreement;
- D. The Licensee will, on every anniversary of the license issuing, file a report with the SHPO, Bureaus, Army, FWS, State Agencies, Colville, Yakama, and Wanapum of activities conducted under the implemented final HPMP. The report will contain a detailed summary of any cultural resources work conducted during the preceding year; if no work was completed, a letter from the Licensee will be prepared to that effect, and will satisfy the intent of this stipulation.

III. INTERIM TREATMENT OF HISTORIC PROPERTIES

- A. After a license for the Project has been issued, but before the HPMP has been approved by the Commission (hereinafter, "the interim"), the Licensee will consult with the SHPO and consulting parties regarding the effect on historic properties of the following actions that may be implemented in the interim:

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1. All project-related activities, including recreational developments, that require ground-disturbance;
 2. Non-routine maintenance, new construction, demolition, or rehabilitation of project-related National Register-eligible structures;
 3. Project-induced shoreline erosion of archeological sites not attributable to flood flows or natural phenomena, such as wind-driven wave action and loss of vegetation.
- B. Consultation will be in accordance with 36 CFR sections 800.4 and 800.5, with the Licensee acting as the Agency Official. If the Licensee and the SHPO agree that the activity will not adversely affect historic properties, the Licensee may proceed in accordance with any agreed-upon treatment measures or conditions.**
- C. If either the Licensee or the SHPO determines that the activity will have an adverse effect on historic properties, the Licensee and the SHPO will consult with the other consulting parties to develop a strategy for avoiding or mitigating such adverse effects. If the Licensee and the SHPO can reach agreement, the Licensee will implement the agreed-upon strategy. If they disagree, the Licensee will submit the matter to the Commission, which will initiate the process set forth at 36 CFR sections 800.6 and 800.7(a) through (c)(3).**

IV. DISPUTE RESOLUTION

- A. If at any time during implementation of this Programmatic Agreement and the resulting final HPMP, the SHPO, Licensee, Bureaus, Army, FWS, State Agencies, Colville, Yakama, Wanapum or the Council object to any action or any failure to act pursuant to this Programmatic Agreement or the final HPMP, they may file written objections with the Commission.**
1. The Commission will consult with the objecting party to resolve the objection. The Commission may initiate on its own such consultation to remove any of its objections.
- B. If the Commission determines that the objection cannot be resolved, the Commission will forward all documentation relevant to the dispute to the Council and request that the Council comment. Within 30 days after receiving all pertinent documentation, the Council will either:**

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- 1. Provide the Commission with recommendations, which the Commission will take into account in reaching a final decision regarding the dispute; or
 - 2. Notify the Commission that it will comment pursuant to 36 C.F.R. section 800.7(c)(1) through (c)(3) of the National Historic Preservation Act, and proceed to comment.
- C. The Commission will take into account any Council comment provided in response to such a request, with reference to the subject of the dispute, and will issue a decision on the matter. The Commission's responsibility to carry out all actions under this Programmatic Agreement that are not the subject of dispute will remain unchanged.

V. AMENDMENT AND TERMINATION OF THIS PROGRAMMATIC AGREEMENT

- A. The Commission, Licensee, SHPO, Council, Bureaus, Army, FWS, State Agencies, Colville, Yakama, Wanapum, or the Council may request that this Programmatic Agreement be amended, whereupon these parties will consult in accordance with 36 C.F.R. section 800.14(b) to consider such amendment.
- B. The Commission, the SHPO, or the Council may terminate this Programmatic Agreement by providing 30 days written notice to the other parties, provided that the Commission, Licensee, SHPO, Council, Bureaus, Army, FWS, State Agencies, Colville, Yakama, and Wanapum consult during the 30-day notice period in order to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the Commission will comply with 36 C.F.R. sections 800.3 through 800.7(c)(3), with regard to individual actions covered by this Programmatic Agreement.

Execution of this Programmatic Agreement evidences that the Commission has satisfied its responsibilities pursuant to section 106 of the National Historic Preservation Act, *as amended*, for all individual actions carried out under the license. Provided, however, that unless and until the Commission issues a license for the Project and this Programmatic Agreement is incorporated by reference therein, this Programmatic Agreement has no independent legal effect for any specific license applicant or Project.

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FEDERAL ENERGY REGULATORY COMMISSION

By: Edward A. Thomas Date: 11/29/06

for

Ann F. Miles
Director, Division of Hydropower Licensing

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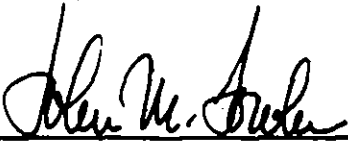
WASHINGTON STATE HISTORIC PRESERVATION OFFICER

By: _____ Date: _____
Allyson Brooks, Ph.D.
Washington State Historic Preservation Officer

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ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:  Date: 4/12/07
John M. Fowler
Executive Director

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**CONCUR: PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY,
WASHINGTON**

By: _____ Date: _____

Tim Culbertson
General Manager

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**CONCUR: U.S. BUREAU OF LAND MANAGEMENT, OREGON STATE
OFFICE**

By: _____ **Date:** _____
Elaine Brong
Director

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CONCUR: U.S. BUREAU OF RECLAMATION, EPHRATA FIELD OFFICE

By: _____ **Date:** _____
Bill Gray
Manager

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CONCUR: U.S. DEPARTMENT OF THE ARMY, YAKIMA TRAINING CENTER

By: _____ Date: _____

Lt. Col. Frederick J. Nohmer
Commander

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**CONCUR: U.S. FISH AND WILDLIFE SERVICE, HANFORD REACH
NATIONAL MONUMENT**

By: _____ Date: _____

Gregory M. Hughes
Project Leader

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CONCUR: WASHINGTON DEPARTMENT OF FISH AND WILDLIFE

By: _____ Date: _____
Jeffrey P. Koenings, Ph.D.
Director

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CONCUR: WASHINGTON DEPARTMENT OF NATURAL RESOURCES

By: _____ Date: _____
Doug Southerland,
Commissioner of Public Lands

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CONCUR: WASHINGTON STATE PARKS AND RECREATION COMMISSION

By: _____ **Date:** _____
Rex Derr
Director

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CONCUR: CONFEDERATED TRIBES OF THE COLVILLE RESERVATION
TRIBAL HISTORIC PRESERVATION OFFICER

By: _____ Date: _____

Camille Pleasants
Tribal Historic Preservation Officer

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CONCUR: YAKAMA NATION TRIBAL HISTORIC PRESERVATION OFFICER

By: _____ **Date:** _____

V. Kate Valdez
Tribal Historic Preservation Officer

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CONCUR: WANAPUM INDIANS

By: _____ **Date:** _____
Rex Buck, Jr.
Chief

Attachment 1 to:

PROGRAMMATIC AGREEMENT AMONG THE FEDERAL ENERGY REGULATORY COMMISSION ADVISORY COUNCIL ON HISTORIC PRESERVATION AND THE WASHINGTON STATE HISTORIC PRESERVATION OFFICE FOR MANAGING HISTORIC PROPERTIES THAT MAY BE AFFECTED BY ISSUING A LICENSE TO PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY, WASHINGTON FOR THE CONTINUED OPERATION OF THE PRIEST RAPIDS PROJECT IN GRANT, YAKIMA, KITTITAS, DOUGLAS, BENTON, AND CHELAN COUNTIES, WASHINGTON (FERC No. 2114-116).

ADDITIONAL TASKS ASSOCIATED WITH THE HISTORIC PROPERTIES MANAGEMENT PLAN

1. Within three months of issuing a license for this Project, the Licensee will submit to the SHPO all missing and incomplete information associated with submitted site record and determination of eligibility forms.
2. Within six months of issuing a license for this Project, the Licensee, in consultation with the SHPO and other consulting parties, will develop specific protection/mitigation measures for the 20 archeological sites listed in Table 1 on the following page, and any other archeological site that contains human remains being affected by the Project.
3. Within one year of issuing a license for this Project, the Licensee will execute the specific protection/mitigation measure on the affected archeological sites stated above in Task 2.
4. Within two years of issuing a license for this Project, the Licensee, in consultation with the SHPO and other consulting parties, will determine National Register eligibility for all remaining inventoried archeological sites and other cultural resources located within the APE.
5. Within two-and-a-half years of issuing a license for this Project, the Licensee will identify all site-specific project-related effects to all National Register-eligible cultural resource within the APE.
6. Within three years of issuing a license for this Project, the Licensee, in consultation with the SHPO and other consulting parties, will develop long-term treatment plans and associated schedule for carrying out remaining site-specific protection/mitigation measures on all National Register-eligible archeological sites within the APE.

Attachment 1 to:
 Programmatic Agreement
 FERC Project No. 2114-016

Table 1. 20 High-Priority Archeological Sites in the Priest Rapids Project Boundary.
 (Adopted after Grant PUD, Washington, 2005).

Site	Potential Project Associated Effects
1. 45KT1096	Erosion
2. 45GR65	Erosion
3. 45GR685	Recreation
4. 45GR131	Recreation
5. 45DO532	Erosion
6. 45DO2	Recreation
7. 45CH4	Erosion
8. 45CH1	Recreation
9. 45KT382	Recreation
10. 45KT1	Erosion, Recreation
11. 45KT6	Erosion, Recreation
12. 45GR688	Recreation
13. 45KT44	Erosion, Recreation
14. 45KT377	Erosion, Recreation
15. 45GR50	Recreation
16. 45KT20	Recreation
17. 45GR686	Recreation
18. 45KT12	Recreation
19. 45KT372	Erosion, Recreation
20. 45KT48	Recreation