

ORIGINAL

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OFFICE OF THE  
SECRETARY  
2005 SEP 28 P 3:59  
FEDERAL ENERGY REGULATORY COMMISSION

**PROGRAMMATIC AGREEMENT  
AMONG  
THE FEDERAL ENERGY REGULATORY COMMISSION  
THE  
THE WASHINGTON STATE HISTORIC PRESERVATION OFFICER  
AND THE  
CONFEDERATED TRIBES OF THE COLVILLE RESERVATION  
TRIBAL HISTORIC PRESERVATION OFFICER  
FOR  
MANAGING HISTORIC PROPERTIES THAT MAY BE AFFECTED BY A  
LICENSE ISSUING TO  
PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY  
FOR THE CONTINUED OPERATION OF THE  
LAKE CHELAN HYDROELECTRIC PROJECT  
IN CHELAN COUNTY, WASHINGTON  
(FERC No. 637-022)**

**WHEREAS**, the Federal Energy Regulatory Commission or its staff (hereinafter, "Commission") proposes to issue a new license to Public Utility District No. 1 of Chelan County (hereinafter, "Licensee") to continue operating the Lake Chelan Hydroelectric 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 on the National Register of Historic Places (hereinafter, "Historic Properties"); and

**WHEREAS**, the attached *Lake Chelan Historic Properties and Cultural Resources Management Plan*, dated October 8, 2003 (hereinafter, HPCRMP) provides a description of the Project, area of potential effects, historic properties identified as of the date of this Programmatic Agreement, anticipated effects, and the Licensee's proposed measures to protect historic properties; and

**WHEREAS**, the USDA Forest Service, Wenatchee National Forest (hereinafter, "WNF") and USDI National Park Service, North Cascades National Park (hereinafter, "NCNP") manage lands within the Project, 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 excavation on Forest Service and National Park Service lands; and

**WHEREAS**, the Washington State Parks and Recreation Commission (hereinafter, "WSP") also manages lands within the Project; and

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**WHEREAS**, the Commission has consulted with the Washington State Historic Preservation Officer (hereinafter, "SHPO") pursuant to 36 C.F.R. Section 800.14(b) of the Advisory Council's on Historic Preservation (hereinafter, "Council") 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 Commission has consulted with the Confederated Tribes of the Colville Reservation Tribal Historic Preservation Officer (hereinafter, "CCT THPO") 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**, WNF, NCNP, and WSP have agreed to participate in the Section 106 consultation regarding the Project under the term of this Programmatic Agreement and have been invited to concur in this Programmatic Agreement; and

**WHEREAS**, the Project may affect other lands important to both the CCT and the Yakama Nation (hereinafter, "YN"), and where the Bureau of Indian Affairs (hereinafter, "BIA") has tribal trust responsibilities, and the CCT, YN, and BIA 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 as a condition of issuing the new license for the Project;

**NOW THEREFORE**, the Commission, the SHPO, and the CCT THPO 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 a license issuing 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.

## **I. HISTORIC PROPERTIES MANAGEMENT PLAN**

- A. Upon license issuing for this Project, the Licensee will implement the HPCRMP.<sup>1</sup>
- B. The Licensee will, within 30 days of every anniversary of the license issuance, file a report with the Commission, SHPO, CCT THPO, WNF, NCNP, WSP, YN, and BIA of activities conducted under the implemented HPCRMP. 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.

## **II. DISPUTE RESOLUTION**

- A. If at any time during implementation of this Programmatic Agreement and the resulting HPCRMP, SHPO, CCT THPO, WNF, NCNP, WSP, YN, BIA, Licensee, or the Council objects to any action or any failure to act pursuant to this Programmatic Agreement or the HPCRMP, they may file written objections with the Commission.
  - 1. The Commission will consult with the objecting party, and with other parties as appropriate, to resolve the objection.
- 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:
  - 1. Provide the Commission with recommendations, which the Commission will take into account in reaching a final decision

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<sup>1</sup> All consulting parties need to respond within 30 days of receipt of a request for review of a finding or determination involving the HPCRMP.

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) and Section 110(a)(1) of 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.

### **III. AMENDMENT AND TERMINATION OF THIS PROGRAMMATIC AGREEMENT**

- A. The Commission, SHPO, CCT THPO, WNF, NCNP, WSP, YN, BIA, or Licensee, 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, SHPO, or CCT THPO may terminate this Programmatic Agreement by providing 30 days written notice to the other parties, provided that the Commission, SHPO, and CCT THPO consult during the 30-day notice period in order to seek agreement on amendments or other actions that would avoid termination. In addition, the Commission will seek comments from the SHPO, CCT THPO, WNF, NCNP, WSP, YN, BIA, and Licensee on the termination during the 30-day notice period. 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 and subsequent implementation is evidence 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**

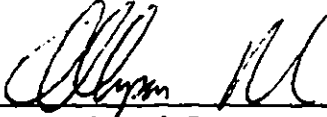
By: Ann F. Miles Date: 2/17/04

Ann F. Miles

Director, Division of Hydropower – Environment and Engineering

Programmatic Agreement  
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Washington

**WASHINGTON STATE HISTORIC PRESERVATION OFFICER**

By:  Date: 2/19/04  
Allyson Brooks, Ph.D.  
Washington State Historic Preservation Officer

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**CONFEDERATED TRIBES OF THE COLVILLE RESERVATION TRIBAL  
HISTORIC PRESERVATION OFFICER**

By: CPleasant Date: 4/16/04  
Camille Pleasants  
Tribal Historic Preservation Officer

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Washington


**CONCUR: PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY**

By: Charles J. Hosken Date: 4/7/2004  
Charles J. Hosken  
Director



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**CONCUR: USDA FOREST SERVICE, WENATCHEE NATIONAL FOREST**

By:  Date: 4/19/04  
James L. Boynton  
Forest Supervisor

Programmatic Agreement  
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Washington

**CONCUR: USDI, NATIONAL PARK SERVICE, NORTH CASCADES  
NATIONAL PARK**

By:  Date: 3-29-04  
William F. Paleck  
Superintendent

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Washington

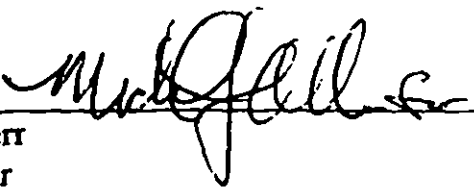
**CONCUR: USDI, BUREAU OF INDIAN AFFAIRS**

By: \_\_\_\_\_ Date: \_\_\_\_\_

Stanley Speaks  
Regional Director, Portland Area Office

Programmatic Agreement  
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**CONCUR: WASHINGTON STATE PARKS AND RECREATION  
COMMISSION**

By:  Date: 3/19/04  
Rex Derr  
Director

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FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

OFFICE OF ENERGY PROJECTS

SEP 28 2005

Project No. 637-022 - Washington  
Lake Chelan Hydroelectric Project  
Public Utility District No. 1 of Chelan County

Don Klima, Director  
Office of Planning and Review  
Advisory Council on Historic Preservation  
12136 West Bayaud Avenue, Suite 330  
Lakewood, CO 80226

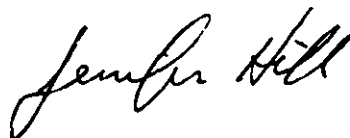
**RE: Final Signed Programmatic Agreement and Historic Properties and Cultural Resources Management Plan.**

Dear Mr. Klima:

Enclosed are the final signed Programmatic Agreement (PA) and associated Historic Properties and Cultural Resources Management Plan (HPCRMP) for the Lake Chelan Hydroelectric Project, operated by Public Utility District No. 1 of Chelan County. The project is located in Chelan County, Washington and involves lands managed by Wenatchee National Forest, North Cascades National Park, Bureau of Land Management, and the Washington State Parks and Recreation Commission. This PA will be implemented as part of any new license for this project.

If you have any questions, please contact Dr. Frank Winchell at (202) 502-6104.

Sincerely,



Jennifer Hill, Chief  
Hydro West Branch 1

Enclosures: Final signed Programmatic Agreement and HPCRMP.

cc letter with final signed Programmatic Agreement:

Allyson Brooks, SHPO  
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1063 South Capitol Way, Suite 106  
Olympia, WA 98501

Camille Pleasants, THPO  
Confederated Tribes of the Colville Reservation  
P.O. Box 150  
Nespelem, WA 99155

Joseph Pakootas, CBC Chairman  
Confederated Tribes of the Colville Reservation  
P.O. Box 150  
Nespelem, WA 99155

Lewis Cloud, Chairman  
Yakama Nation  
P.O. Box 151  
Toppenish, WA 98948-0151

William Paleck, Superintendent  
North Cascades Nat. Park Service  
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Sedro-Woolley, WA 98284-1799

James Boynton, Forest Supervisor  
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Ardis Bynum  
Forest Service, RHAT Recreation  
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Winthrop WA 98862

Dan Meatte  
Washington State Department of Parks and Recreations Commission  
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Wenatchee, WA 98807-1231

Public Files (without HPCRMP)  
Service List