

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

OFFICE OF ENERGY PROJECTS

DEC - 4 2006

Project No. 2145-060 - Washington
Rocky Reach Hydroelectric Project
Public Utility District No. 1 of Chelan County

John M. Fowler, Executive Director
Advisory Council on Historic Preservation
1100 Pennsylvania Ave., N.W., Suite 809
Washington, D.C. 20004

Re: Final Signed Programmatic Agreement

Dear Mr. Fowler:

Enclosed is the final signed two-party Programmatic Agreement (PA) for the Rocky Reach Hydroelectric Project, operated by Public Utility District No. 1 of Chelan County.¹ The project is located in Chelan County, Washington and involves lands managed by Wenatchee National Forest, Bureau of Land Management, and the Washington State Parks.

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

Sincerely,



Jennifer Hill
Chief
Hydro West Branch 1

¹ Chelan County PUD has distributed copies of the Historic Properties and Cultural Resource Management Plan to the consulting parties involved with this PA, and we gave a copy to the Council when we were seeking signatures to the PA in June of 2006.

Enclosures: Final signed Programmatic Agreement

cc letter with signed PA:

**Allyson Brooks, SHPO
Department of Archeology and Historic Preservation
1063 South Capitol Way, Suite 106
Olympia, WA 98501**

**V. Kate Valdez, THPO
Yakama Nation
P.O. Box 151
Toppenish, WA 98948**

**James Boynton, Forest Supervisor
US Forest Service
Wenatchee National Forest
215 Melody Lane
Wenatchee, WA 98801**

**Rex Derr, Director
WA State Parks & Rec. Comm.
7150 Cleanwater Lane
P.O. Box 42650
Olympia, WA 98504-2650**

**Stanley Speaks, Regional Director
US Bureau of Indian Affairs
Northwest Regional Office
911 NE 11th Avenue
Portland, OR 97232-4128**

**Elaine Brong, Director
US Bureau of Land Management
Oregon State Office
333 SW 1st Ave.
Portland, OR 97204**

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

**Richard Riazzi, General Manager
PUD No. 1 of Chelan County
327 North Wenatchee Ave.
Wenatchee WA 98801**

**Public Files
Service List**

ORIGINAL

**PROGRAMMATIC AGREEMENT
AMONG
THE FEDERAL ENERGY REGULATORY COMMISSION
AND THE
THE WASHINGTON STATE HISTORIC PRESERVATION OFFICER
FOR
MANAGING HISTORIC PROPERTIES THAT MAY BE AFFECTED
BY ISSUING A LICENSE TO
PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY
FOR THE CONTINUED OPERATION OF THE
ROCKY REACH HYDROELECTRIC PROJECT
IN CHELAN COUNTY, WASHINGTON
(FERC Project No. 2145-060)**

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SECRETARY
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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 Rocky Reach 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 associated *Rocky Reach Historic Properties and Cultural Resource Management Plan*, dated February 3, 2006 (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 U.S. Forest Service, Wenatchee National Forest (hereinafter, "WNF") and U.S. Bureau of Land Management (hereinafter, "BLM") manage lands within the Project area, 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 federal lands; and

WHEREAS, the Washington State Parks and Recreation Commission also manages lands within the Project area; and

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,

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“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 licensee has participated in the consultation and has been invited to concur in this Programmatic Agreement; and

WHEREAS, WNF and BLM have agreed to participate in the section 106 consultation regarding the Project under the terms of this Programmatic Agreement and have been invited to concur in this Programmatic Agreement; and

WHEREAS, the Project may affect lands important to the Confederated Tribes of the Colville Reservation (hereinafter, “CCT”) and the Yakama Nation (hereinafter, “YN”), and where the U.S. 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 and 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.

I. HISTORIC PROPERTIES AND CULTURAL RESOURCE MANAGEMENT PLAN

- A. Upon issuing a license for this Project, the licensee will implement the HPCRMP.

- B. The licensee will, within 30 days of every anniversary of the license issuing, file a report with the SHPO, WNF, BLM, BIA, CCT, and YN 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, the SHPO, WNF, BLM, BIA, CCT, YN, or the licensee 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 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 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, WNF, BLM, BIA, licensee, CCT, or YN 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 or SHPO may terminate this Programmatic Agreement by providing 30 days written notice to the other parties, provided that the Commission, SHPO, and the Council 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, WNF, BLM, BIA, licensee, CCT, and YN 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: 6/5/06
Ann F. Miles, Director
Division of Hydropower Licensing

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WASHINGTON STATE HISTORIC PRESERVATION OFFICER

By:  _____ Date: 6/22/06
Allyson Brooks, Ph.D.
Washington State Historic Preservation Officer

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CONCUR: PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY

By:  Date: 6/9/06
Richard Riazzi
General Manager

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CONCUR: U.S. BUREAU OF LAND MANAGEMENT

By: Elaine M. Brong Date: 6/16/06
Elaine Brong
Director

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CONCUR: U.S. FOREST SERVICE, WENATCHEE NATIONAL FOREST

By: Law R. Mollander Date: 7/13/06
for James L. Boynton
Forest Supervisor

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CONCUR: U.S. BUREAU OF INDIAN AFFAIRS

By: _____ Date: _____

Stanley Speaks

Regional Director, Northwest Region

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CONCUR: CONFEDERATED TRIBES OF THE COLVILLE RESERVATION

By: _____ Date: _____

Camille Pleasants
Tribal Historic Preservation Officer

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CONCUR: YAKAMA NATION

By: _____ Date: _____

Lewis Cloud
Chairman