

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426  
April 13, 2011

OFFICE OF ENERGY PROJECTS

Project No. 2149-152 - Washington  
Wells Hydroelectric Project  
Public Utility District No. 1 of Douglas  
County

William Dobbins, General Manager  
Public Utility Dist. No. 1 of Douglas Co.  
1151 Valley Mall Parkway  
East Wenatchee, WA 98802

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

Dana Peterson, Acting Field Manager  
Bureau of Land Management  
Wenatchee Office  
915 N. Walla Walla Avenue  
Wenatchee, WA 98801

Allyson Brooks, SHPO  
WA State Dept. of Arch. & Hist. Preserv.  
Suite 106  
1063 South Capitol Way  
Olympia, WA 98501

Stanley Speaks, Regional Director  
U.S. Bureau of Indian Affairs  
Northwest Regional Office  
911 NE 11<sup>th</sup> Ave.  
Portland, OR 97232

John Fowler, Executive Director  
Advisory Council on Historic Preservation  
1100 Penn. Ave., NW, Suite 809  
Washington, DC 20004

**RE: Draft Programmatic Agreement and Associated Historic Properties  
Management Plan for Section 106 Compliance**

Dear Addressee:

Enclosed is the draft Programmatic Agreement (PA) and associated Historic Properties Management Plan (HPMP) for the Wells Hydroelectric Project, operated by Public Utility District No. 1 of Douglas County, Washington. The project is located in Douglas County, Washington, and involves federal land managed by the U.S. Bureau of Land Management, the U.S. Army Corps of Engineers, and lands of the Confederated Tribes of the Colville Reservation.

We propose to execute this PA with the Washington State Historic Preservation Officer and the Confederated Tribes of the Colville Reservation Tribal Historic Preservation Officer, but without the participation of the Advisory Council on Historic

Preservation (Council), in accordance with the Council's regulations at 36 C.F.R. Part 800. Although the Council may, at its discretion, participate in the execution of this PA, we have determined that the issues as they pertain to historic properties do not warrant the Council's participation. We request that the Council concur in this determination simply by not objecting to this procedure.

Please review the enclosed draft PA and associated HPMP and send us your comments within 30 days from the date of this letter.

Please send your comments to:

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, D.C. 20426

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

Sincerely,

Jennifer Hill, Chief  
Northwest Branch  
Division of Hydropower Licensing

Enclosures: draft PA and HPMP

Cc: Letter and draft PA

John Eddins  
Office of Planning and Review  
Advisory Council on Historic Preservation  
1100 Penn. Ave., NW, Suite 809  
Washington, D.C. 20004

Cc: Mailing list  
Public Files

**PROGRAMMATIC AGREEMENT  
AMONG  
THE FEDERAL ENERGY REGULATORY COMMISSION  
THE  
WASHINGTON STATE HISTORIC PRESERVATION OFFICER  
AND  
CONFEDERATED TRIBES OF THE COLVILLE RESERVATION  
TRIBAL HISTORIC PRESERVATION OFFICER  
FOR  
MANAGING HISTORIC PROPERTIES THAT MAY BE AFFECTED  
BY ISSUING A LICENSE TO  
PUBLIC UTILITY DISTRICT NO. 1 OF  
DOUGLAS COUNTY, WASHINGTON  
FOR THE OPERATION OF THE  
WELLS HYDROELECTRIC PROJECT  
IN DOUGLAS COUNTY, WASHINGTON  
(FERC PROJECT NO. 2149-152)**

**WHEREAS**, the Federal Energy Regulatory Commission or its staff (hereinafter, "Commission") proposes to issue a new license to Public Utility District No. 1 of Douglas County, Washington (hereinafter, "Licensee") for the continued operation of the Wells 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 in the National Register of Historic Places (hereinafter, "historic properties"); and

**WHEREAS** the associated *Historic Properties Management Plan, Wells Hydroelectric Project, FERC No. 2149*, dated May 2010, provides a description of the Project's area of potential effects, historic properties, and anticipated effects identified as of the date of this Programmatic Agreement; and

**WHEREAS**, the U.S.D.I. Bureau of Land Management (hereinafter, "Bureau") manages lands within the Project, and has 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;

**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 on Historic Preservation's (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 Project will affect reservation lands and other lands important to the Confederated Tribes of the Colville Reservation (Hereinafter, Colville) and the Commission has consulted with the Colville Tribal Historic Preservation Officer (hereinafter, "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; and

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

**WHEREAS**, the Bureau of Indian Affairs (hereinafter, "BIA") has tribal trust responsibilities, and the BIA has participated in the consultation and has been invited to concur in this Programmatic Agreement; and

**WHEREAS**, the Bureau has agreed to participate in the consultation regarding the Project under the terms of this Programmatic Agreement, and have been invited to concur in the Programmatic Agreement; and

**WHEREAS**, the Commission will require the Licensee to implement the provisions of this Programmatic Agreement as a condition of issuing a new license for the Project;

**NOW THEREFORE**, the Commission, SHPO, and 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 issuing a license for this Project, the Licensee will implement 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 they have under the Federal Power Act, the Commission's regulations, or its license.

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

- A. Upon issuing a new license for this Project, the Licensee will implement the Historic Properties Management Plan (hereinafter, "HPMP").
- B. The Licensee will, within 30 days of every anniversary of the issuance date of the license, file a report with the SHPO, THPO, Bureau, and BIA of activities conducted under the implemented 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.

### **II. DISPUTE RESOLUTION**

- A. If at any time during implementation of this Programmatic Agreement and the HPMP, the SHPO, THPO, Bureau, BIA, or the Council object to any action or any failure to act pursuant to this Programmatic Agreement or the HPMP, 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. 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:

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 section 110(a)(1) 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.

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

- A. The Commission, SHPO, THPO, Bureau, 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 THPO may terminate this Programmatic Agreement by providing 30 days written notice to the other parties, provided that the Commission, SHPO, THPO, Bureau, BIA, Licensee, 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 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 the 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.

Programmatic Agreement  
Project No. 2149-152  
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**FEDERAL ENERGY REGULATORY COMMISSION**

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

Ann F. Miles

Director, Division of Hydropower Licensing



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**WASHINGTON STATE HISTORIC PRESERVATION OFFICER**

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

Allyson Brooks, Ph.D.

Deputy State Historic Preservation Officer

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

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

Camille Pleasants

Tribal Historic Preservation Officer

Programmatic Agreement  
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**CONCUR: PUBLIC UTILITY DISTRICT NO. 1 OF DOUGLAS COUNTY,  
WASHINGTON**

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

William C. Dobbins  
General Manager

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**CONCUR: USDI BUREAU OF LAND MANAGEMENT, WENATCHEE OFFICE**

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

Dana Peterson

Acting Field Supervisor

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**CONCUR: BUREAU OF INDIAN AFFAIRS, NORTHWEST REGIONAL  
OFFICE**

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

Stanley Speaks  
Regional Director