



## Department of Energy

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

TRIBAL AFFAIRS OFFICE

March 13, 2006

In reply refer to: DKT-7

Dear Tribal Leaders and Representatives:

Bonneville Power Administration is renewing its commitment to working with the tribes to identify and protect important traditional cultural resources that are valued by the tribes. This can include specific physical locations such as distinctive shapes in the landscape, subsistence or medicinal plants, traditional fisheries and wildlife, sacred, and religious sites, and places of spiritual renewal. As a first step, BPA has developed an initial draft Tribal Monitoring Guidelines (Guidelines) for your review and comment. The Guidelines are proposed mainly for those BPA funded projects with the potential to adversely affect cultural resources. More specifically, they outline a joint tribal and agency communication process and are intended to provide uniform guidance to assist BPA project managers and potentially affected tribes on obtaining tribal monitors on specific BPA projects. This letter and the attached Guidelines briefly explain BPA's proposal, provide information on how to comment and contact information if you have questions or would like to meet to discuss the Guidelines.

### **Background**

BPA's management of cultural resources takes place against the backdrop of BPA's relationships with the 52 sovereign tribal governments located in the Pacific Northwest region. Protection of cultural resources like fish and wildlife resources is of vital interest and importance to the tribes and often serves as the foundation of tribal and BPA working relationships. BPA's individual power, transmission, and fish and wildlife business practices can vary widely. Although flexibility is needed in business relationships, the need for agency wide consistency in obtaining tribal monitors is imperative.

Long-term monitoring of National Register eligible historic and traditional cultural properties located on lands BPA owns in fee title or controls is a separate, but related issue that also needs to be addressed, but is mostly outside the purview of the proposed Guidelines.

### **Comment Process**

Consistent with BPA's Tribal Policy, BPA is soliciting input from the tribes on the Guidelines over the next two months and is open to ways to improve them to better meet agency and tribal interests. Comments will be accepted through May 1, 2006. There are a number of ways for you to comment. You can mail the enclosed comment form to BPA, Tribal Affairs – DKT-7, P.O. Box 14428, Portland OR 97293-4428, fax them to 503-230-3285 or email us at [comment@bpa.gov](mailto:comment@bpa.gov). Please include the title draft Tribal Monitoring Guidelines with your comments. All comments received will be analyzed and the revised draft and a comment

document showing how comments are used will be sent back to tribal reviewers prior to the Guidelines being finalized and distributed to you in July 2006.

**For more information**

If you have questions, need more information or would like to meet to discuss these Guidelines, please contact Bob Shank, Tribal Affairs Liaison at 509-358-7357 or email [rlshank@bpa.gov](mailto:rlshank@bpa.gov).

Sincerely,



Alan L. Courts  
Vice President, Engineering and Technical Services



Gregory K. Delwiche  
Vice President, Environment, Fish and Wildlife



Sonya Tetnowski  
Tribal Affairs Manager

ENCLOSURES:  
Draft Tribal Monitoring Guidelines  
Comment Form



## **Draft Tribal Monitoring Guidelines**

*For review and comment*

March 13, 2006

### **Introduction**

Currently, the Bonneville Power Administration (BPA) Business Lines and Environment, Fish and Wildlife programs address requirements of federal cultural resource mandates on a project-by-project basis. Tribes have recently questioned how BPA makes decisions on when to contract with tribes for assistance in identifying, determining the effects on, or managing historic or cultural resources affected by BPA-funded projects (described generally as tribal monitoring). The Tribes have requested that BPA contract with tribal monitors to assist in the identification and protection of cultural resources that non-tribal cultural resource specialists may not recognize. Such resources may include, but are not limited to, tribal sacred sites, traditional plant collection areas, and other traditional use areas.

This document is intended to provide uniform guidance to assist BPA in deciding whether to contract for tribal monitors on specific BPA projects. Although each decision will be made on a case-by-case basis, the following processes and criteria are suggested for BPA-funded projects with the potential to adversely affect cultural resources. Long-term monitoring of National Register eligible cultural resources located on those properties that BPA owns in fee title or controls is a separate but related issue that also needs to be addressed, but is mostly outside the purview of this document.

### **Background**

BPA's management of cultural resources takes place against the backdrop of BPA's relationships with the 46 sovereign tribal governments located in the region. Protection of cultural resources like fish and wildlife resources is of vital interest and importance to the tribes. BPA's Tribal Policy commits the agency to consulting with potentially affected tribes prior to taking actions that could have an impact on them.

BPA is committed to working with the tribes to identify and protect where appropriate important traditional cultural resources such as distinctive shapes in the landscape, subsistence or medicinal plants, traditional fisheries and wildlife, sacred, and religious sites, and places of spiritual renewal.

To better ensure tribal concerns are respectfully addressed and in accordance with the BPA Tribal Protocol, BPA Tribal Affairs staff shall be informed prior to National Historic Preservation Act (NHPA) consultation meetings or visits to a Tribe and if not in attendance, be provided with the results of such meetings. BPA Tribal Affairs staff is responsible for providing big picture context and advice to BPA project teams. Depending on a given situation, this

includes but is not limited to clarifying tribal perspectives, helping to initiate technical consultation meetings with tribal cultural departments and/or policy meetings with tribal councils, providing briefings regarding existing issues and concerns of potentially affected tribes, and providing recommendations to better guide personal interactions with tribal members. BPA Cultural Resource staff is responsible for providing technical expertise and recommendations to BPA project teams. These staffs will work together to meet federal regulations and to enhance relationships between BPA and regional tribes.

## **Objective**

To provide guidelines to assist in the decision making process on whether to contract with tribal monitors to identify and help avoid or manage any potentially adverse effects from BPA-funded activities to tribal cultural resources, values, and sacred site areas.

## **Processes**

Whether or not tribal monitoring should be required for a given project involves two separate processes. First, BPA should consider whether monitoring work is needed to assist BPA in meeting its responsibilities under the National Historic Preservation Act (NHPA) in relation to the specific project (the undertaking). Second, if monitoring work is needed, BPA should determine whether to contract with the tribe. Consideration of tribal interests is important in both processes, but the processes should remain distinct. These processes can be summarized as follows:

### I. NHPA consultation process:

1. Initiate cultural resources consultation per the National Historic Preservation Act (NHPA) Section 106 process and BPA's Tribal Policy and Protocols:
  - a. Consult and coordinate with potentially affected Tribe(s), appropriate State Historic Preservation Officers (SHPO), and other interested parties (including local historical societies) in the earliest phase of project planning (NHPA Section 106 – 36 CFR 800.4(a)(3) and (4)). The tribal consultation shall include the identification of the Area of Potential Effect (APE) and/or locations within an APE that are most likely to have traditional cultural, historical, and archaeological resources. Identification of traditional cultural, historical, and archaeological resources shall follow standard NHPA Section 106 information gathering processes that may include, as appropriate:
    - i. Review of historic literature;
    - ii. Cultural resources surveys; or
    - iii. General tribal knowledge that is shared or freely provided.
2. If the Tribe(s) indicates during the consultation that the APE for a project may include sensitive cultural resources, the project staff will offer to meet with them and discuss monitoring recommendations. This step could include, for example:
  - a. Conducting an on-site tribal/BPA project team field review; or
  - b. Developing a consensus with affected tribe(s) regarding locations to be monitored by tribal members or their approved delegates.

3. If a consensus cannot be reached between the tribal and BPA cultural resources staff regarding the activities required under NHPA section 106, the issue should be elevated to the Tribe's cultural resource manager and /or THPO, and BPA's project manager, tribal affairs, and environmental management officials. In rare cases, specific project issues may be elevated to the Tribal Council/ BPA Vice President or Administrator level for a final decision.
4. If BPA determines that monitoring work is needed, the process moves into BPA's standard contracting procedures pursuant to the Bonneville Purchasing Instructions (BPI) (see part II below). Any disputes regarding contracting matters (whether with the tribe or others) are subject to the BPI as well.
5. Document tribal consultation in National Environmental Policy Act (NEPA) documents and Record of Decisions (as appropriate).

II. Contracting for Monitoring Work: The decision on whether BPA will contract for monitoring with the tribe rests solely with BPA. If BPA elects to contract for monitoring services, contracting procedures of BPI will be followed.

1. Criteria: When considering contracting for work relating to cultural resources, BPA should consider the following during pre-award activities to determine if contracting for tribal monitoring is appropriate, including, for example, whether the tribe constitutes a unique source (see BPI Part 11 generally):
  - a. The recommendation of the tribal cultural resources management staff and/or THPO;
  - b. The sensitivity and nature of the cultural resources;
  - c. Risk to project costs from insufficient monitoring;
  - d. Availability of tribal monitors, and
  - e. Other factors, as appropriate
2. If BPA decides to contract for cultural resource monitoring with a tribe or any other appropriate entity, it should follow its standard BPI contracting requirements. This includes the development of a Statement(s) of Work (SOW) that should include, but is not limited to, the following information:
  - i. Time period of the contract;
  - ii. Monitoring tasks to be completed;
  - iii. Negotiated work budget, including travel and salaries;
  - iv. Contact list including project monitors and supervisors;
  - v. BPA contact list including monitoring contract Contracting Officers Technical Representative , field project team, and supervisors;
  - vi. Outline of jointly agreed-upon actions to be taken;
  - vii. Dispute resolution process; and
  - viii. Deliverables (e.g., monitoring report)
3. Disputes relating to contracting matters (including contract solicitation and bidding) are subject to the BPI, see, e.g., BPI Part 21.

**Case Study/Models.** Transmission Business Line's Schultz-Wautoma infrastructure project is an example of Tribal/BPA collaboration that was used to identify tribal sensitive areas and to contract with tribal monitors. This project provided a successful means for working with tribes to avoid adverse effects to tribal cultural resources during construction activities. The identification of cultural areas to be monitored was based on data provided by a contracted cultural resource survey and BPA's consultation with the Yakama Nation and Confederated Colville Tribes prior to ground disturbing activities.

The Ellensburg-Moxee maintenance project provides another example of a transmission project that employed consultation and collaboration with Yakama Nation cultural resources personnel. The above processes were used to better determine potential areas that required tribal monitoring as project construction phases began. Case studies for successful projects such as these should be developed for use as agency models and guidelines and for internal educational purposes.

### **Comment Process**

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