Final Draft 10/04/06

SYSTEMWIDE PROGRAMMATIC AGREEMENT AMONG THE U.S. ARMY CORPS OF ENGINEERS, NORTHWESTERN DIVISION, BUREAU OF RECLAMATION, PACIFIC NORTHWEST REGION, BONNEVILLE POWER ADMINISTRATION, THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, THE STATE HISTORIC PRESERVATION OFFICERS FOR WASHINGTON, OREGON, IDAHO, AND MONTANA, AND OTHER CONSULTING PARTIES FOR THE MANAGEMENT OF HISTORIC PROPERTIES AFFECTED BY THE MULTIPURPOSE OPERATIONS OF THE FOURTEEN PROJECTS OF THE FEDERAL COLUMBIA RIVER POWER SYSTEM FOR COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT

WHEREAS, Congress authorized the U. S. Army Corps of Engineers, Northwestern Division (Corps) to take lands within the Columbia River Basin to construct 12 dams and their associated lakes or reservoirs, which are Libby, Albeni Falls, Chief Joseph, McNary, John Day, The Dalles, Bonneville, Dworshak, Lower Granite, Lower Monumental, Little Goose, and Ice Harbor dams and their lakes or reservoirs, and also authorized the Bureau of Reclamation (Reclamation) to construct Grand Coulee and Hungry Horse dams and their reservoirs (all hereafter called Projects); and,

WHEREAS, Congress authorized the Bonneville Power Administration (BPA) to market and distribute electrical power generated at the Projects; and,

WHEREAS, Congress defined the purposes for those Projects (hereafter called Project purposes), which include hydropower generation, navigation, flood control, irrigation water supply, municipal and industrial water supply, recreation, and fish and wildlife and other natural resources management (see Attachment 1 for Project authorizations); and,

WHEREAS, the 14 Projects are coordinated by the Corps, Reclamation, and BPA as a system (called the Federal Columbia River Power System (FCRPS)), within the operating limits developed by the Corps and Reclamation, while BPA schedules and dispatches power; and,

WHEREAS, the Corps, Reclamation, and BPA (hereafter called the Lead Federal Agencies) have determined that their coordinated implementation of these Project purposes, including FCRPS operations and other Project purposes, and implementation of land-based minor construction, maintenance, or other ground disturbing activities to support those purposes, and including future modifications to the operating regime for any or all of the Projects, collectively comprise the “undertaking” for the purposes of Section 106 of the National Historic Preservation Act (NHPA)(16 U.S.C. § 470f)

(hereafter called Section 106) for this agreement (hereafter called the Systemwide PA); and,

WHEREAS, the undertaking causes or may cause direct or indirect adverse effects (defined in the regulations of the Advisory Council on Historic Preservation (ACHP) implementing Section 106 of the NHPA, and found at 36 C.F.R. § 800.5(a)(1)) to historic properties included on, or eligible for inclusion on, the National Register of Historic Places (hereafter called the National Register) through inundation, erosion, exposure, and other factors; and,

WHEREAS, to comply with Section 106, the Lead Federal Agencies are responsible for taking into account the effects of the undertaking on historic properties as defined in 36 C.F.R. § 800.16(y), and have documented their intent to address adverse effects in the Intertie Development and Use (IDU) PA (executed 1991) and the System Operation Review (SOR) Records of Decision (RODs) (signed 1997); and,

WHEREAS, although this Systemwide PA is not a funding agreement, the Lead Federal Agencies nonetheless note that they coordinate their funding for implementation of Section 106 NHPA compliance activities for Project operations in the following manner: with ratepayer monies, BPA directly funds the power share of compliance activities, whether for hydropower specific operations or for the power share of multipurpose (joint use) operations attributed to all the Project purposes, and the Corps and Reclamation, respectively, fund the non-power share of compliance activities with appropriations from Congress. This funding coordination is the subject of direct funding agreements (DFA) for operation and maintenance of the Projects and related memoranda of agreement (MOAs) between the Corps and BPA, and Reclamation and BPA, overseen by the Joint Operating Committee (JOC) of these Lead Federal Agencies. Because this PA addresses operation of the Projects for all Project purposes, not all compliance activities taken pursuant to this PA will necessarily be co-funded by BPA. Also, because this PA addresses Section 106 NHPA compliance activities only, compliance activities pursuant to other Federal statutes (see Stipulation IB) will continue to be funded commensurate with agency responsibilities and consistent with the funding agreements; and,

WHEREAS, pursuant to 36 C.F.R. § 800.14(b), the Lead Federal Agencies wish to provide in this Systemwide PA a set of common standards, procedures, requirements, and commitments that the Lead Federal Agencies shall apply at the 14 FCRPS Projects; and,

WHEREAS, the Lead Federal Agencies have either consulted with, or provided the opportunity to consult with, the ACHP, the State Historic Preservation Officers (SHPO) of Idaho, Montana, Oregon, and Washington; and the Tribal Historic Preservation Officers (THPO) of the Confederated Tribes of the Colville Indian Reservation, the Nez Perce Tribe, and the Spokane Tribe of Indians; the National Park Service, the Bureau of Indian Affairs; and the U.S.D.A. Forest Service; as well as the Coeur d'Alene Tribe, the Confederated Tribes of the Colville Indian Reservation, the Confederated Salish and Kootenai Tribes of the Flathead Nation, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, the

Confederated Tribes and Bands of the Yakama Nation, the Kalispel Tribe, the Kootenai Tribe, the Nez Perce Tribe, and the Spokane Tribe of Indians, on the development of this PA and have offered these parties the opportunity to become a signatory party to the extent of their jurisdiction to this Systemwide PA; and,

WHEREAS, pursuant to the President's Memorandum on "Government to Government Relations with Native American Tribal Governments" (April 29, 1994) and Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments," the Lead Federal Agencies have established Government-to-Government relationships with the above named Federally recognized tribes because certain actions carried out in the operation of the Projects has the potential to affect tribal interests; and,

NOW, THEREFORE, the above named parties, each within the limits of their authority and jurisdiction, agree that, pursuant to 36 C.F.R. § 800.14(b)(iii), the Lead Federal Agencies shall take into account the effects of the undertaking on historic properties in accordance with the following stipulations, and that adherence to the terms of this PA shall satisfy the Lead Federal Agencies' Section 106 responsibilities for addressing the effects of the undertaking on historic properties.

STIPULATIONS

The Lead Federal Agencies shall ensure that the following stipulations are implemented consistent with the schedule identified in Attachment 2. The Lead Federal Agencies will together implement the Systemwide actions pursuant to this PA. Project-specific actions will be implemented by the Corps, or the Corps and BPA, at Corps-managed Projects and by Reclamation, or Reclamation and BPA, at Reclamation-managed Projects.

A glossary of definitions utilized in this PA is provided in Attachment 3.

I. PURPOSE OF THIS SYSTEMWIDE PA

Because the undertaking encompasses 14 Projects spread across four States, this Systemwide PA is designed to:

A. Set forth the Lead Federal Agency obligations, requirements, and standards pursuant to Section 106 of the NHPA that will apply to all 14 Projects.

B. Address Section 106 NHPA compliance only. Federal agency compliance with Section 110 of NHPA, and other Federal statutes such as the Archaeological Resources Protection Act or the Native American Graves Protection and Repatriation Act, will remain the responsibility of the individual Federal agencies to address as appropriate to their authority and jurisdiction.

C. Provide a mechanism for streamlining compliance with Section 106. The Lead Federal Agencies, at their discretion, will comply with Section 106 pursuant to this PA in any of the following manners:

1. Develop and implement a Project-Specific PA that meets the general principles set out in Stipulation II below and contains the standards and requirements set out in Stipulation V.F; or,

2. Develop and implement a Historic Property Management Plan (HPMP) that meets the general principles set out in Stipulation II below and contains the standards and requirements set out in Stipulation V.F below and Attachment 4; or,

3. Develop and implement both a Project-Specific PA and an HPMP at the discretion of the Lead Federal Agencies in consultation with interested parties; or,

4. The Lead Federal Agencies may comply with the ACHP's regulations on a case-by-case basis without the use of a Project-Specific PA or HPMP.

D. Provide for streamlining of the Section 106 review process through exempting certain kinds of routine actions that have limited potential to affect historic properties, or by setting up other Project-specific coordination procedures that expedite the Section 106 review process. The Lead Federal Agencies will identify exemptions and other Project-specific coordination procedures to expedite the Section 106 review process in either Project-specific PAs or HPMPs.

II. SYSTEMWIDE PA PRINCIPLES FOR SECTION 106 COMPLIANCE

A. *Address Section 106 Compliance Requirements*. Consistent with the stipulations in this Systemwide PA, the Lead Federal Agencies shall, in consultation with the appropriate consulting parties set out in the ACHP's regulations:

1. Define the Area of Potential Effects (APE) in accordance with Stipulation III.

2. Develop a mechanism for prioritizing identification, evaluation, and treatment of historic properties within the APE in accordance with Stipulation IV. The Lead Federal Agencies are responsible for effects of their undertaking throughout the APE commensurate with the extent that their undertaking causes the effect. Where the undertaking is the principal causative factor for adverse effects, the Lead Federal Agencies are responsible for addressing these effects. Where the undertaking only contributes to (and is not the principal cause of) adverse effects, the Lead Federal Agencies are responsible only for the increment of effect caused by their operations.

3. Identify and evaluate historic properties within the APE in accordance with Stipulation III and Stipulation IV. The Lead Federal Agencies do not anticipate

implementing an inventory throughout the APE, but instead will apply the prioritization process defined in Stipulation IV to guide implementation. If a property does not meet the eligibility criteria for listing in the National Register, and thus is not a "historic property" subject to Section 106, the Lead Federal Agencies shall have no further responsibility to consider it under the terms of this PA or the relevant Project-specific PA/HPMP.

4. Evaluate impacts and determine the effects of the undertaking on National Register listed or eligible historic properties (see Stipulation IV). These determinations will occur in consultation and using processes and definitions provided in 36 C.F.R. § 800.4(c) and 36 C.F.R. § 800.5.

5. Seek to avoid or minimize adverse effects on historic properties when feasible and cost effective, recognizing there may be limited opportunities to do so within the operating pool of an existing reservoir.

6. Develop a Systemwide Research Design to guide evaluation and treatment of historic properties (see Stipulation VI). Develop annual work plans to prioritize annual activities under the terms of this Systemwide PA (see Stipulation VII.B.).

7. Consult with the appropriate SHPO/THPO, tribes, and other parties that have an interest in the effects of the undertaking on historic properties at a Project, in the identification of historic properties, and development of appropriate feasible and cost effective treatment or mitigation measures when adverse effects on historic properties will occur.

8. Define procedures in the Project-specific PAs or HPMPs to address emergencies and inadvertent discoveries of historic properties associated with the undertaking.

B. *Professional Qualification Standards*. As required under Section 112 of the NHPA, the Lead Federal Agencies shall require that their employees or contractors meet professional standards under the regulations developed by the Secretary of the Interior. (62 Fed. Reg. 33707, June 20, 1997). The Lead Federal Agencies will apply the standards in a manner commensurate with the nature and complexity of the specific property or resource being investigated or treated, and consistent with procurement and other regulatory requirements of the Lead Federal Agencies.

C. *Public Benefit from Resource Management*. This Systemwide PA is designed to provide public benefit consistent with the Lead Federal Agencies' responsibilities under Sections 1 and 2 of the NHPA to preserve and protect the historical and cultural heritage of the area affected by the undertaking. Public benefit will be achieved, among other ways, by:

1. Public outreach and education.

2. The accumulation and dissemination of information to tribal communities, scientific communities, and the general public to foster an understanding of the history and cultural heritage of the Columbia Basin.

3. Illustration of accomplishments made in implementing this PA.

4. The promotion and use of collections for education and research purposes, consistent with 36 C.F.R. § 79.10.

5. Consideration of actions that seek to protect historic properties so the resources remain available for future generations.

6. Expansion of opportunities for heritage tourism using information and resources generated from actions to implement this PA.

In carrying out these responsibilities the Lead Federal Agencies will take into account the provisions of Section 304 of the NHPA, which allows Federal agencies to restrict disclosure of certain information where the disclosure may cause a significant invasion of privacy; a risk of harm to the resource; or, impede the use of a traditional religious site by practitioners (see 16 U.S.C. § 470w-3(a)).

D. *Consulting party responsibilities.* Consulting parties have an obligation to provide timely responses and comments back to the Lead Federal Agencies. Unless otherwise agreed to by the Lead Federal Agencies, consulting parties shall have 30 calendar days in which to respond to a request for comment. If the consulting party fails to respond within 30 calendar days, the Lead Federal Agencies can assume concurrence with any proposed action made in the request for comment.

E. *Term and Review of the Systemwide PA.* Unless terminated in accordance with Stipulation XIV, the term of this Systemwide PA shall run for a period of 30 years from the date of execution of this Systemwide PA, after which it will become null and void unless extended by mutual agreement of the signatory parties within their area of jurisdiction. During this period, the PA shall be reviewed by all signatories on a regular basis, at intervals not exceeding 5 years, in accordance with Stipulation X. If the term is not extended, and if no other PA or MOA is in effect at a Project, then the Lead Federal Agencies shall comply with 36 C.F.R. § 800.4-6 with respect to the undertaking.

F. The Lead Federal Agencies shall implement commitments consistent with schedules identified under the Stipulations to this agreement and summarized in Attachment 2.

III. AREA OF POTENTIAL EFFECTS (APE)

A. The APE for the undertaking includes those lands either directly or indirectly affected by the undertaking at the twelve Corps and two Reclamation Projects. This includes lands identified as being affected at the date of final signature of this agreement, lands where adverse effects are identified in the future, and lands where effects of the undertaking are reasonably foreseeable.

B. The APE encompasses both Federal fee lands and other real property where the U.S. Government has a current and future legal interest, as well as non-Federal lands where there is an adverse effect caused by the undertaking. The APE may also include lands in downstream reaches where there is no current Federal ownership or legal interest provided the Lead Federal Agencies, in coordination with appropriate consulting parties, have determined the undertaking causes adverse effects on historic properties on such lands.

C. The APE may be discontinuous, interrupted on stretches of the river where there are essentially no effects attributable to the Federal undertaking. It is anticipated this might occur for sections of the river below the five Projects that do not release into the next component in the FCRPS system (at Hungry Horse, Libby, Albeni Falls, Dworshak, and Bonneville).

D. The Lead Federal Agencies, in coordination with appropriate consulting parties, will determine the Project-specific portion of the APE. The determination will be documented in the Project-specific PA or HPMP. The Lead Federal Agencies will make this determination utilizing the best available data, and consistent with processes for consultation defined in 36 C.F.R. § 800.4(a). Once the portion of the APE associated with each Project is defined, the Lead Federal Agencies will proceed with identification, evaluation, and treatment within that area in accordance with the priorities in Stipulation IV, and commensurate with the likelihood of there being adverse effects primarily caused by the undertaking.

IV. PRIORITY FOR IDENTIFICATION, EVALUATION, AND TREATMENT OF HISTORIC PROPERTIES

A. Because of the geographic scope and complexity of the undertaking, all compliance actions cannot occur at once. Therefore, the Lead Federal Agencies will set priorities for survey, evaluation, and treatment activities in consultation with appropriate signatory parties for each Project and document the priorities in the Project-specific PA or HPMP. The Lead Federal Agencies will set priorities based on a variety of factors, which include, but are not limited to:

- the likely nature and location of historic properties

- the extent to which potential effects on an historic property are the result of the undertaking
- the magnitude and nature of potential effects on historic properties caused by the undertaking
- the potential long-term public benefit from management of the historic property (including the curation of and public access to collections derived from investigations)
- the degree to which the undertaking endangers the historic property
- if addressing non-Federal lands, the willingness of the landowner to provide access
- the extent and nature of past investigations at a Project or at downstream lands affected by the undertaking
- the historical or cultural significance of affected historic properties
- the physical integrity of the historic property
- the potential of the property to yield important information about, or insight pertinent to, a defined research objective consistent with the Systemwide Research Design
- the Lead Federal Agencies' consideration of their authorities
- the cost to implement the actions
- the availability of funds

B. Typically, for identification, evaluation, and treatment, the Lead Agencies expect to use the prioritization process outlined below, subject to further discussion with interested parties in development of the Project-specific PAs or HPMPs.

1. The Lead Federal Agencies will give first priority to lands or historic properties where:

   a. the undertaking is the primary agent of the potential adverse effects; <u>and</u>

   b. the relevant Lead Federal Agency has or can readily obtain an unrestricted right of access; <u>and</u>

   c. collections generated by the actions will be permanently curated after analysis under conditions that allow for appropriate public access and use.

2. The Lead Federal Agencies will give second priority to lands or historic properties where:

   a. the undertaking is the primary agent of the potential adverse effects; <u>and</u>

   b. where the affected historic properties are of particular scientific or cultural importance; and

c. the landowner is unwilling to provide reasonable access or places restrictions on curation and public access to collections that significantly reduce the long-term benefit to the public from the investigations.

3. The Lead Federal Agencies will give third priority to lands or historic properties affected by the undertaking where:

a. the undertaking is not the primary agent causing the potential adverse effect; and

b. where the affected historic properties are of particular scientific or cultural importance; and

c. the landowner is willing to provide reasonable access and places no restriction on curation and public access to collections that significantly reduce the long-term benefit to the public from the investigations.

4. The Lead Federal Agencies will give the lowest priority to lands or historic properties affected by the undertaking where:

a. the undertaking is not the primary agent causing the potential adverse effect; and

b. the affected historic properties are of particular scientific or cultural importance; and

c. the landowner is unwilling to provide reasonable access or places restrictions on access or curation and public access to collections that significantly reduce the long-term benefit to the public from the investigations.

C. For the identification and evaluation of properties of traditional religious and cultural significance to Indian tribes or other groups (hereafter called traditional cultural properties, or TCPs), the Lead Federal Agencies may apply the same priorities as above. Should information or items associated with TCP values be collected, public access to such information or items will be determined on a case-by-case basis in consultation among the Lead Federal Agencies, the SHPO/THPO, and the group associated with the TCP value, consistent with the provisions of Section 304 of the NHPA.

D. The Lead Federal Agencies will implement actions on non-Federal lands only with the authorization or consent of the fee-title holder, and only when consistent with the Project-specific PA or HPMP and Federal agency authorities.

V. USE OF PROJECT-SPECIFIC PAs OR HPMPs TO COMPLY WITH SECTION 106

A. This Systemwide PA allows for the Lead Federal Agencies to meet their Section 106 responsibilities in any of three ways: through compliance with the ACHP's regulations on a case-by-case basis; through the development and implementation of a Project-specific PA; or, through the development and implementation of a signed Project HPMP. The Lead Federal Agencies may use existing Project PAs or HPMPs if they meet, or are revised to meet, the terms of this Systemwide PA.

B. Should the Lead Federal Agencies decide to meet their Section 106 responsibilities through either a Project-specific PA or through a Project-specific HPMP, rather than through case-by-case compliance with 36 C.F.R. Part 800, adherence to the terms of that PA or HPMP means the Lead Federal Agencies are in compliance with Section 106.

C. Once completed, the Project-specific PA or HPMP goes into effect in the following manner:

1. In the case of a PA, through its execution among the appropriate Lead Federal Agency (or Agencies), SHPOs, THPOs, affected or interested tribes, and affected or cooperating agencies, each within its area of jurisdiction; or

2. In the case of a HPMP, through a letter from the appropriate authority in the Lead Federal Agencies committing the agency to adhere to all the terms of this Systemwide PA and the Project-specific HPMP, and sent to the signatories to this Systemwide PA with an interest in that Project for which the HPMP was prepared.

D. Review of existing PAs/HPMPs**.**

1. If the intent is to use an existing Project PA or HPMP, then within six (6) months of the effective date of this PA, the Lead Federal Agencies shall review those existing PAs or HPMPs to determine whether they meet the terms of this Systemwide PA, or need to be updated to meet the terms of this PA. Should there be any material inconsistencies between this Systemwide PA and a Project-specific PA or HPMP that will be used to meet the requirements of this Systemwide PA, then that Project-specific PA or HPMP shall be revised or amended to be consistent with this Systemwide PA.

2. Within seven (7) years of the effective date of this PA, the Lead Federal Agencies shall, as necessary, either prepare a new draft or update existing PAs or HPMPs at each Project. See Attachment 2. An update would be necessary if an existing PA or HPMP that would be used to meet the requirements of this Systemwide PA at a Project lacked any of the common required elements for a PA or HPMP as set out

in this Systemwide PA, or if it contained processes inconsistent with the commitments or processes defined in this Systemwide PA.

E. All updates or revisions to an existing Project-specific PA or HPMP, or the development of any new Project-specific PAs or HPMPs, shall be developed by the Lead Federal Agencies in consultation with parties with an interest in the Project area.

1. At a minimum, interested parties will include the appropriate SHPO/THPO, affected or interested tribes, and affected or cooperating agencies. These parties shall also be provided the opportunity to review and comment on drafts of the proposed revised or new PAs or HPMPs, and the Lead Federal Agencies shall take these comments into account in finalizing the PAs or HPMPs.

2. Consulting parties reviewing draft Project PAs or HPMPs will have 60 calendar days to respond to a request for comment. If a consulting party fails to respond within 60 calendar days, the Lead Federal Agencies can assume concurrence and proceed to finalize the PA or HPMP.

F. Each new or revised Project-specific PA or Project-Specific HPMP shall:

1. Define the Project-specific portion of the APE consistent with Stipulation III above, and provide maps that illustrate that affected area. The area affected by implementation of the undertaking at a Project will be prepared with the best available data, in consultation with parties that have an interest in the Project area.

2. Identify consultation procedures appropriate for the SHPO/THPO, tribes, and other parties involved, including procedures to address emergencies and inadvertent discoveries of historic properties (see Stipulation VIII).

3. Outline processes to identify and evaluate historic properties, assess effects from the undertaking, and resolve adverse effects of the undertaking on National Register listed or eligible properties. These processes will be defined using the prioritization process outlined in Stipulation IV. The PA or HPMP must also address the full range of potential historic property types present, including TCPs.

4. Define a process for determining the effects of the undertaking on historic properties, including a discussion of the nature and source of agents affecting historic properties.

5. Define a process for determining appropriate resource-specific treatments for historic properties adversely affected by the undertaking as the undertaking is implemented at that Project. The Lead Federal Agencies will consider a wide range of options for treatment of adverse effects based on the National Register criteria under which a property has been determined eligible for listing. Consideration will include, but is not limited to: site protection or stabilization;

scientific data recovery; historical or oral history research to document characteristics and cultural values; analysis of existing collections; monitoring; and, other non-invasive procedures. The Systemwide Research Design described in Stipulation VI will be used to guide the development of treatment plans.

6. Provide for streamlining of the Section 106 review process through exempting certain kinds of routine actions that have limited potential to affect historic properties, or by setting up other Project-specific coordination procedures that expedite the Section 106 review process.

7. Define thresholds for when or if changes in operations at the Project would trigger reassessment of Section 106 compliance activities already in place. Also define the assessment and consultation processes that will be implemented when that threshold is reached.

8. Define public outreach and education components.

9. Outline a schedule for completion of compliance actions for the undertaking.

10. Provide for emergency situations. In accordance with 36 C.F.R. § 800.12, define procedures for taking historic properties into account during operations which respond to a disaster or emergency declared by the President, or the Governor of a state or a tribal government within their areas of jurisdiction.

11. Provide for discovery situations involving historic properties. In accordance with 36 C.F.R. § 800.13, define procedures for actions to be taken when historic properties are discovered during the implementation of the undertaking.

12. Define processes to periodically review the effectiveness of the PAs or HPMPs.

13. If a signed Project-specific HPMP is used as the compliance document alone, it must contain the elements described in this Stipulation V.F as well as the elements described for an HPMP in Attachment 4. When both a Project-specific PA and HPMP are developed, the Project-specific PA should include the elements listed above, and the HPMP should include the elements listed in Attachment 4.

VI. SYSTEMWIDE RESEARCH DESIGN

The Lead Federal Agencies shall complete a Systemwide Research Design to aid in the development of research objectives for use in the Project-specific PAs and HPMPs.

A. The Systemwide Research Design will identify research domains or historic themes that may be applicable across the Columbia Basin or might pertain to subset geographic areas. It will also:

1. Contain a summary of significant past investigation and management activities, and a list of associated products;

2. Contain a list of historic properties, with their National Register eligibility status indicated and available information about them;

3. Define temporal range, geographic scope, and property types for each theme;

4. Synthesize theoretical models presented in the past;

5. Identify any data gaps and research opportunities; and

6. Identify systemwide public outreach, education, and heritage tourism opportunities.

B. The Systemwide Research Design will be prepared with input and assistance from the consulting parties for this PA as well as other professional researchers. Opportunity for review and comment on the draft research design will be afforded to the public. The Systemwide Research Design will build upon existing materials, and at a minimum it will address archeological, ethnographic, TCP, and historic period research domains.

C. The Lead Federal Agencies will review the Systemwide Research Design at no greater than 10-year intervals to determine if it requires revision. The Lead Federal Agencies will invite all consulting parties for this PA and other professional researchers to review and participate in any subsequent revisions.

VII. GENERAL PRODUCTS

A. *Annual Report.* The Lead Federal Agencies will prepare an annual report that will consist of a summary of accomplishments and identification of those issues needing resolution at the system level. The Lead Federal Agencies will distribute the annual report to the consulting parties to this PA, to Cooperating Group members, and to other potentially interested members of the public. The reporting period will be the Federal fiscal year (from October 1 to September 30).

1. The report will be provided to recipients by March 31 of the following year.

2. The first report submitted after the effective date of this PA will present baseline data that will be used to demonstrate annual accomplishment in succeeding reports. The baseline data will include a narrative highlights section, supported by tabular data on acres surveyed, sites recorded, sites evaluated, sites treated, and materials curated.

B. *Annual Plans*.

1. The Lead Federal Agencies, with input from consulting parties, including advice from the Project Cooperating Groups (defined below) consistent with their operating guidelines, shall prepare

2. Annual Work Plans for each Project. The Lead Federal Agencies will use the Annual Work Plans to prioritize Project compliance activities. At a minimum, the Annual Work Plan and its supporting materials will include the elements in Attachment 4.

C. *Handbook.* The Lead Federal Agencies will maintain a handbook for internal use that describes interagency communication and coordination protocols among the Lead Federal Agencies. The Handbook will be available to the public.

VIII. CONSULTATION AND COORDINATION

While the Lead Federal Agencies retain final decisionmaking authority for all actions relating to the undertaking, communication and coordination is integral to the PA's success at both systemwide and Project levels. To achieve this, PA participants need clear, agreed-upon roles and responsibilities that are consistent across staff transfers and replacements, as follows:

A. *Internal Communication and Coordination among the Lead Federal Agencies.* The principal formal forum for communication between the Lead Federal Agencies is the Cultural Resources Subcommittee (CRSC) of the Joint Operating Committee (JOC). The CRSC is an internal Lead Federal Agency group and is not open to regular outside participation. The CRSC operates using processes and protocols defined pursuant to the direct funding agreements, related memoranda of agreements, and the JOC, and are described further in the Handbook.

B. *Communication between the Lead Federal Agencies and Consulting Parties.* Consulting parties shall be provided the opportunity to participate in the development and implementation of agreements, management plans, and activities developed under this PA. One mechanism for communication between the Lead Federal Agencies and consulting parties to allow for this participation is the Cooperating Groups.[1] The Cooperating Groups serve as a regular forum in support of intergovernmental communications for the purpose of exchanging views, technical

[1] Cooperating Groups were established by Lead Federal Agencies following signature of the SOR RODs in 1997. The Cooperating Groups active at time of signature of this Systemwide PA are:

- One group for Bonneville, John Day, and The Dalles Projects ("Wana Pa Koot Koot")
- One group for Dworshak, McNary, Little Goose, Lower Granite, Lower Monumental, and Ice Harbor Projects ("Payos Kuus Cuukwe")
- One group each for Hungry Horse, Grand Coulee, Chief Joseph, Libby, and Albeni Falls Projects.

information, and planning advice relating to the Lead Federal Agencies Section 106 compliance. An exception is definition of procurement implementation, which remains the sole responsibility of the Lead Federal Agencies. Each group has or will prepare Operating Guidelines and meet no fewer than four times per year on a schedule agreed upon by that group. Communication within the Cooperating Groups does not replace consultation pursuant to 36 C.F.R. Part 800 or Government-to-Government consultation with tribes as appropriate. The Operating Guidelines for each group describe the scope of discussion within that group. The Cooperating Groups assist the Lead Federal Agencies by:

1. Providing suggestions and perspectives as to planning and management priorities for Section 106 compliance.

2. Providing input to aid with determining the Project-specific portion of the APE.

3. Participating in drafting plans and schedules for activities to implement this PA.

4. Helping to draft or review the PA or HPMP, and Annual Work Plans for the associated Project.

5. Drafting or reviewing other plans that may be needed to conduct interim compliance.

6. Providing data and reporting accomplishments to incorporate into the Annual Report.

The Lead Federal Agencies retain final decisionmaking authority for actions recommended by the Cooperating Groups.

C. *Cooperating Group Obligations*. All members of the Cooperating Groups have an obligation to provide timely input and responses to the group. For each product, the Cooperating Group will define a schedule for actions contributing toward preparation or review of the product. Failure by a Cooperating Group member to meet a schedule milestone will not prevent the activity from going forward. A decision by the Lead Federal Agencies to proceed in such circumstances is not a violation of this PA.

D. *Relationship of CRSC and Cooperating Groups*. Members of the CRSC, appropriate to jurisdiction, are also members of the Cooperating Groups. The CRSC will ensure that pertinent information from the Lead Federal Agencies, the JOC, as well as the other Cooperating Groups is shared at group meetings and annual meetings. Regular information exchange between the Cooperating Groups, at the Project level, and CRSC, at the system level is essential to facilitating implementation of this Systemwide PA.

E. *Annual Meeting.* The Lead Federal Agencies will continue to organize an annual meeting that serves as a forum for reporting annual accomplishments, sharing

information, and discussing common issues. Participants will typically be all parties involved in the implementation of the PA and the interested public.

IX. PARTICIPATION OF THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

The ACHP will be involved consistent with the terms of this PA and its regulations. The Lead Federal Agencies will provide the ACHP with draft copies of all Project-specific PAs and HPMPs developed under the terms of this Systemwide PA to afford the ACHP the opportunity to review and comment. The Lead Federal Agencies will offer the ACHP the opportunity to be a consulting party to Project-specific PAs.

X. REVIEW OF THE PA

A. The Lead Federal Agencies will review the PA every five years from its effective date to ensure that its terms remain relevant and are being met. The Lead Federal Agencies will review the PA as follows:

1. The Lead Federal Agencies will prepare a summary of accomplishments and identify any potential issues. The summary will be distributed to the consulting parties to the PA, to Cooperating Group members, and to other potentially interested members of the public. The Lead Federal Agencies will then coordinate a general meeting (using the regular Annual Meeting if appropriate) to discuss and resolve any identified issues.

2. Thereafter, if any signatory party provides written notice to the Lead Federal Agencies that the party wishes to consult concerning unresolved issues identified during the review, the Lead Federal Agencies will implement consultation consistent with 36 C.F.R. Part 800.

3. The Lead Federal Agencies will prepare a summary of the outcome of discussion and consultation and distribute the summary to the consulting parties and any other parties who submitted comments.

4. Following distribution of the summary, any signatory party may seek amendment, withdrawal or termination in accordance with Stipulations XII, XIII, or XIV of this PA.

XI. DISPUTE RESOLUTION

A. Should a signatory party raise an objection to or have a dispute regarding fulfillment of the terms of this Systemwide PA, that party will file a written objection with the Lead Federal Agencies. If the Lead Federal Agencies determine that the objection or

dispute is specific to a Project, and does not have systemwide program implications, then the dispute will be resolved using processes defined in the pertinent Project-specific PA or HPMP. If the Lead Federal Agencies determine that the objection/dispute has systemwide program implications, or when no Project-specific PA or HPMP is yet in place, then the objection/dispute will be addressed using the following processes:

1. Upon receipt of a written objection or dispute from a signatory party, the Lead Federal Agencies will consult with the disputant to resolve the objection or dispute. The Lead Federal Agencies will also notify the other consulting parties of the objection or dispute.

2. If the Lead Federal Agencies cannot resolve the objection or dispute in consultation with the disputing party, then within 60 calendar-days of that determination they will forward to the ACHP documentation of the objection or dispute, a written proposal for its resolution, and request the ACHP's comment.

3. Within 30 calendar-days of receipt of the written submittal, the ACHP shall exercise one of the following options:

    a. Notify the Lead Federal Agencies that it will not consider the dispute or provide recommendations, in which case the Agencies may proceed with the proposed action; or,

    b. Concur with the Lead Federal Agencies' proposed response to the objection/dispute, whereupon they may proceed in accordance with the agreed-upon response; or,

    c. Provide the Lead Federal Agencies with recommendations, which those Agencies will take into account in reaching a final decision regarding response to the objection/dispute.

4. Should the ACHP not exercise one of the foregoing options within 30 days of receipt of the written submittal, the Lead Federal Agencies may assume that the ACHP concurs with their proposed response to the objection, advise the objecting party of that response, and proceed with their action in a manner consistent with that response.

5. Upon reaching their final decision, the Lead Federal Agencies will notify the objecting party, the ACHP, and the other consulting parties under the PA of their decision and proceed with their action.

6. The Lead Federal Agencies shall take into account any ACHP recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection; the Lead Federal Agencies' responsibility to carry out all actions under this PA that are not the subject(s) of the dispute or objection shall

remain unchanged. While the dispute is being resolved, the PA continues in effect without change or suspension.

B. Should a written objection be filed by a concurring party to this Agreement, and if the Lead Federal Agencies determine the objection or dispute is specific to a Project-specific PA or HPMP and does not have systemwide program implications, then the dispute will be resolved using the processes defined in the pertinent Project-specific PA or HPMP. If the dispute has systemwide program implications, or when no Project-specific PA or HPMP is yet in place, then the Lead Federal Agencies will notify the other signatories of the objection, and provide an opportunity for comment. The Lead Federal Agencies will render a decision regarding the objection, taking into account the comments, if any, of the signatories.

C. Should a written objection be raised by a member of the public pertaining to the implementation of this Systemwide PA, if the Lead Federal Agencies determine the objection or dispute is specific to a Project and does not have systemwide program implications, then the dispute will be resolved using processes defined in the pertinent Project-specific PA or HPMP. If the dispute has systemwide implications, or when no Project-specific PA or HPMP is yet in place, and the Lead Federal Agencies determine that the objection is not frivolous, then the Lead Federal Agencies will notify the signatories to this PA. The Lead Federal Agencies will then take the objection into account, consulting with the objector and with the other signatory parties to resolve the objection. The Lead Federal Agencies will then render a decision regarding the objection. Should the Lead Federal Agencies determine that the objection is frivolous, they will so notify the objector in writing, and may proceed with no further consideration of such objection.

D. If the ACHP or a SHPO/THPO is contacted by a consulting party or by a member of the public to discuss a significant concern or objection about implementation of the terms of this PA, the contacted entity will notify the Lead Federal Agencies of the issue.

E. Disputes or objections that are Project-specific and do not implicate systemwide issues shall not be a basis for termination of this Systemwide PA. If the outcome of Project-specific dispute resolution results in proposed changes to the terms of the Systemwide PA, then the process of Amendment under this Systemwide PA shall be followed.

F. Disputes or objections among the Lead Federal Agencies that are not resolved by the Lead Federal Agencies internally and that are determined by one or more the Lead Federal Agencies to affect implementation of this PA will be documented in writing and will be provided to all signatory parties. Once distributed to the signatory parties, the Lead Federal Agencies will seek to resolve the dispute using the dispute resolution processes of Stipulation XI. If the dispute remains unresolved after completion of this process, a Lead Federal Agency may terminate this PA in accordance with Stipulation XIV.

XII. AMENDMENT

A. Any signatory party to this PA may request in writing to the Lead Federal Agencies that the PA be amended. If the Lead Federal Agencies determine that the request is pertinent to this Systemwide PA, as opposed to a Project-specific PA or HPMP, then the Lead Federal Agencies will initiate consultation with the consulting parties to this PA to consider such amendment.

B. If the Lead Federal Agencies decide to propose an Amendment to this Systemwide PA, the Lead Federal Agencies will consult with the signatory and concurring parties in accordance with the procedures of 36 C.F.R. § 800.14(b)(2) for developing PAs. If the request is determined to be specific to a Project, then the requesting party will be directed to use the Amendment process defined in the appropriate Project-specific PA or HPMP.

XIII. WITHDRAWAL OF PARTICIPATION

A. Any signatory or concurring party to this PA may withdraw from the PA by providing the Lead Federal Agencies 90 calendar-days written notice, stating the reasons for withdrawal. During the 90 days that precede withdrawal, the Lead Federal Agencies will consult with the party to identify any mutually acceptable measures that would avoid the party's withdrawal. If mutually agreeable measures are identified, then they will be presented to the signatory parties for consideration. If needed, there would then be broader consultation involving consulting parties to the Systemwide PA in accordance with the Amendment procedures for this PA.

B. If mutually acceptable measures are not identified and a party withdraws, the Lead Federal Agencies and ACHP will review this PA to determine if it needs to be amended. If amendment is needed, processes defined in Stipulation XII would apply. Withdrawal by a signatory party shall only terminate application of the Systemwide PA within the area of jurisdiction of that entity.

XIV. TERMINATION

A. This Systemwide PA may be terminated by mutual agreement of the Lead Federal Agencies at any time upon written notification to all consulting parties. It may also be terminated by any signatory party within its area of jurisdiction, in accordance with the withdrawal stipulation. The ACHP can also terminate the agreement pursuant to 36 C.F.R. § 800.14(b)(2)(v), if it determines that the Lead Federal Agencies are not carrying out the terms of the PA.

B. If this agreement is terminated, the Project-specific PAs created under the umbrella of this Systemwide PA would be reviewed by the Lead Federal Agencies and the ACHP in consultation with the consulting parties to the Project-specific PA to determine if it

could remain in effect. If a Project-specific PA does not remain in effect, and if no other appropriate PA or MOA is in effect at a Project, then the Lead Federal Agency with Project jurisdiction, or the Lead Federal Agency with Project jurisdiction and BPA, shall comply with 36 C.F.R. Part 800 with respect to all undertakings at that Project that would otherwise have been addressed by this PA.

XV. AUTHORITIES, EFFECTIVE DATE, AND OTHER PROVISIONS

A. This PA does not supersede or replace pre-existing Section 106 agreements relevant to the 14 Projects.

B. Nothing herein shall be construed as obligating the Lead Federal Agencies to expend funds or involve the United States in any contract or other obligation for future payment of money in excess of or in advance of appropriations authorized by law and administratively allocated for this work. Nothing herein shall be construed as obligating the Lead Federal Agencies to implement actions or expend funds other than as authorized by NHPA or other applicable law, or to utilize processes other than those approved for the agency. Authorities to expend funds or to conduct other activities may differ between the Corps, Reclamation, and BPA.

C. Nothing herein diminishes or affects tribal treaty rights or rights reserved by tribes under Executive Orders, nor does it alter or affect any governmental authority, jurisdictional rights, or property boundaries of the States, any Indian tribe, or other governmental agency or entity, nor does it affect the property rights of landowners. Nothing herein shall be construed as a waiver of sovereign immunity by a tribal party to this Systemwide PA. Nothing herein precludes tribes from seeking Government-to-Government consultation with the Lead Federal Agencies independent from the processes defined in Systemwide PA.

D. Execution of this Systemwide PA, and implementation of its terms, evidences that the Lead Federal Agencies have taken into account the effects of the undertaking on historic properties and have afforded the ACHP a reasonable opportunity to comment on the undertaking.

E. This Systemwide PA will become effective on the date that it has been signed by the Lead Federal Agencies and the ACHP. The Lead Federal Agencies will ensure that each consulting party is provided a copy of the fully executed PA. This PA may be executed in any number of counterparts, each of which when executed shall be deemed to be an original, and all of which when taken together shall constitute one and the same agreement.

F. All actions taken by the Lead Federal Agencies in accordance with this Systemwide PA are subject to the availability of funds, and nothing in this PA shall be interpreted as constituting a violation of the Anti-Deficiency Act.

SIGNATORIES TO THE SYSTEMWIDE PROGRAMMATIC AGREEMENT:

U.S. Army Corps of Engineers, Northwestern Division

By_____ Date_____
Title:

Bonneville Power Administration

By_____ Date_____
Title:

Bureau of Reclamation, Pacific Northwest Region

By_____ Date_____
Title: Regional Director

Advisory Council on Historic Preservation

By_____ Date_____
Title:

Idaho State Historic Preservation Office

By_____ Date_____
Title:

Montana State Historic Preservation Office

By_____ Date_____
Title:

Oregon State Historic Preservation Office

By_____ Date_____
Title:

Washington State Historic Preservation Office

By_____ Date_____
Title:

Tribal Historic Preservation Office, Confederated Tribes of the Colville Reservation

By_____ Date_____
Title:

Tribal Historic Preservation Office, Nez Perce Tribe

By_____ Date_____
Title:

Tribal Historic Preservation Office, Spokane Tribe of Indians

By_____ Date_____
Title:

Bureau of Indian Affairs

By_____ Date_____
Title:

U.S.D.A. Forest Service, Region 1

By_____ Date_____
Title:

U.S.D.A. Forest Service, Region 6

By_____ Date_____
Title:

National Park Service, Lake Roosevelt National Recreation Area

By_____ Date_____
Title:

Coeur d'Alene Tribe

By_____ Date_____
Title:

Confederated Tribes of the Colville Reservation

By_____ Date_____
Title:

Confederated Salish and Kootenai Tribes of the Flathead Nation

By_____ Date_____
Title:

Confederated Tribes of the Umatilla Indian Reservation

By_____ Date_____
Title:

The Confederated Tribes of the Warm Springs Reservation of Oregon

By_____ Date_____
Title:

The Confederated Tribes of the Yakama Nation

By_____ Date_____
Title:

Kalispel Tribe

By_____ Date_____
Title:

Kootenai Tribe

By_____ Date_____
Title:

Nez Perce Tribe

By_____ Date_____
Title:

Spokane Tribe of Indians

By_____ Date_____
Title:

ATTACHMENTS

Attachment 1: Authorized Purposes for the Columbia River Mainstem Projects

Attachment 2: Schedule to Implement Commitments in this Systemwide PA

Attachment 3: Glossary of Definitions for this Systemwide PA

Attachment 4: Checklists for Project-specific Historic Property Management Plans, Treatment Plans, and Annual Plans

Attachment 1

Authorized Purposes for the Columbia River Mainstem Projects And Lead Federal Agency with Jurisdiction

Project	Operator/ Agency of Jurisdiction	Location	Year Completed	Type of Project	Authorized/ Operating Purposes
Libby	Corps	Kootenai near Libby, MT	1973	Storage	Flood Control, Power, Recreation
Hungry Horse	Reclamation	S. Fork Flathead, near Hungry Horse, MT	1953	Storage	Flood Control, Power, Irrigation, Navigation, Stream Flow Regulation, Recreation
Albeni Falls	Corps	Pend Oreille, near Newport, WA	1955	Storage	Flood Control, Power, Navigation, Recreation
Grand Coulee	Reclamation	Columbia, at Grand Coulee, WA	1942	Storage	Flood Control, Power, Irrigation, Recreation
Chief Joseph	Corps	Columbia, near Bridgeport, WA	1961	Run-of-River	Power, Recreation
Dworshak	Corps	N. Fork Clearwater, near Orofino, ID	1973	Storage	Flood Control, Power, Navigation, Recreation, Fish & Wildlife
Lower Granite	Corps	Lower Snake, near Almota, WA	1975	Run-of-River	Power, Navigation, Irrigation, Recreation, Fish & Wildlife
Little Goose	Corps	Lower Snake, near Starbuck, WA	1970	Run-of-River	Power, Navigation, Irrigation, Recreation, Fish

					& Wildlife
Lower Monumental	Corps	Lower Snake, near Kahlotus, WA	1970	Run-of-River	Power, Navigation, Irrigation, Recreation, Fish & Wildlife
Ice Harbor	Corps	Lower Snake, near Pasco, WA	1962	Run-of-River	Power, Navigation, Irrigation, Recreation, Fish & Wildlife
McNary	Corps	Lower Columbia, near Umatilla, Oregon	1957	Run-of-River	Power, Navigation, Irrigation, Recreation, Fish & Wildlife
John Day	Corps	Lower Columbia, near Rufus, OR	1971	Run-of-River and Storage	Flood Control, Power, Navigation, Irrigation, Water Quality, Recreation, Fish & Wildlife
The Dalles	Corps	Lower Columbia, at The Dalles, OR	1960	Run-of-River	Power, Navigation, Irrigation, Water Quality, Recreation, Fish & Wildlife
Bonneville	Corps	Lower Columbia, at Bonneville, OR	1938	Run-of-River	Power, Navigation, Water Quality, Recreation, Fish & Wildlife

Attachment 2

Schedule to Implement Commitments in this Systemwide Programmatic Agreement

The Lead Federal Agencies will seek to implement actions under this PA consistent with the following schedule. Schedules for completion of Project-specific PAs or HPMPs may be modified in consultation with signatories to this Systemwide PA with an interest in that Project.

ACTION	SCHEDULE
Annual Report to consulting parties	March 31 following performance year
Annual Meeting	Annually
Assess existing Project-specific PAs or HPMPs, and set schedule to update existing or prepare new PAs, as needed	Six months after effective date of Systemwide PA
Complete drafts or revisions of Project-specific PAs or HPMPs and circulate for review and comment	Two annually after effective date of Systemwide PA
Complete a draft Systemwide research design	Two years after effective date of Systemwide PA
Review the Systemwide research design	Every ten years after finalized
Review the Systemwide PA	Every five years after effective date

Attachment 3

Glossary of Definitions for this Systemwide PA

Adverse Effect – an effect of an undertaking that "may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling or association. Consideration shall be given to all qualifying characteristics of an historic property, including those that may have been identified subsequent to the original evaluation of the property's eligibility for the National Register. Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative." 36 C.F.R. § 800.5(a).

Advisory Council on Historic Preservation (ACHP) – an independent agency created by Title II of the National Historic Preservation Act (NHPA), 16.U.S.C. § 470f. The review process established by NHPA Section 106, 16 U.S.C. § 470f, is conducted according to regulations issued by the ACHP, 36 C.F.R. Part 800, as authorized by 16 U.S.C. § 470s.

Area of Potential Effects (APE) – "the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking." 36 C.F.R. § 800.16(d).

Concurring Party—An entity with an interest in the subject matter of the PA and which executes the PA to signal its concurrence with the terms of the PA, but which does not have any authority or responsibility under the terms of the PA.

Consultation – "means the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the Section 106 process." 36 C.F.R. § 800.16.

Consulting Party—Any entity that has a consulting role in the Section 106 process for the PA, as defined by 36 C.F.R. § 800.2(c). This may be a signatory party or a concurring party.

Cooperating Groups—Intergovernmental groups established by the Lead Federal Agencies to provide assistance to the Lead Federal Agencies in implementing Section 106 compliance activities in accordance with the provisions of each group's operating guidelines.

Cultural Resources Subcommittee (CRSC)— A subcommittee of the Joint Operating Committee comprised of authorized representatives of BPA, the Corps, and Reclamation.

Historic Property – "any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria." 36 C.F.R. § 800.16(l)(1), providing elaboration on the statutory definition codified at 16 U.S.C. § 470w(5).

Historic Property Management Plan – plans that are technical, substantive frameworks for describing and prioritizing Section 106 compliance activities and processes at the Project-specific level and which at a minimum contain the elements described in Attachment 4. When a Historic Property Management Plan is also serving as a Project-specific compliance document in lieu of a Project-specific PA, it must also contain the elements described in stipulation V.F.

Indian Tribe or Tribe – "an Indian tribe, band, nation, or other organized group or community, including Native village, Regional corporation or Village Corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. § 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." 16 U.S.C. § 470w(4).

Interested Party— An entity who either is a consulting party or who participated or was consulted in the development of this PA; an interested party can include members of the public. See 36 C.F.R. § 800.14(b)(2)(ii).

Joint Operating Committee—the committee comprised of authorized representatives of BPA, the Corps, and Reclamation that coordinate the direct funding agreements between BPA and the Corps and BPA and Reclamation, respectively.

Lands (Federal Fee) - any lands, other than tribal lands, where the United States holds fee title to the property.

Lands (With Federal Legal Interest) – easement lands, leased lands, or any land where the U.S. Government has a right to use property for a specific purpose, but does not own fee title to the property.

Minor Construction in Support of Operations - includes construction for routine maintenance of the existing built environment and other project construction items with small annual aggregate footprints. Examples of minor construction include (but are not limited to) repair of fencing; installation and repair of traffic control features; repaving of parking lots, trails and access roads; refurbishment of plantings; repair or rebuilding of individual structures within existing footprints, replacement or installation of signs; repair of existing utility lines; repair of boat launch ramps and docks; repair of recreational

equipment; installation of check dams in existing ditches. The term excludes capital projects (large and small) and any work requiring separate authorizations, or routine construction with large annual aggregate footprints.

National Register - The National Park Service through the authority of the Secretary of the Interior maintains the National Register of Historic Places. Sites are determined eligible for listing on that Register using criteria defined in 36 C.F.R. § 60.4.

Project Boundaries/Lands—includes fee lands acquired by the U.S. Government for the construction and operation of Federal dams and reservoirs for Congressionally authorized purposes (as outlined in Attachment 1); the dams and reservoirs themselves; other lands associated with those dams and reservoirs where the U.S. Government has a legal interest; and, all facilities therein or thereon such lands.

Project Operations – see "undertaking" defined below.

Project-specific Programmatic Agreement – a Project-specific Programmatic Agreement that is focused on the process and policy of the Section 106 compliance activities and contains the elements of Stipulation V.F.

Reservoir - a body of water impounded by a dam and operated for water storage, as well as other purposes. This differs from Lakes, which is a body of water impounded by a dam and where storage is not a Project purpose. The reservoir or lake boundary fluctuates between authorized minimum and maximum pool levels.

Signatory Party – An entity who executes the PA and has authority or responsibility under the terms of the PA.

State Historic Preservation Officer (SHPO) – "the official appointed or designated pursuant to Section 101(b)(1) of the NHPA to administer the State historic preservation program or a representative designated to act for the State historic preservation officer." 36 C.F.R. § 800.16(v).

Tribal Historic Preservation Officer (THPO) – the official appointed or designated by an Indian tribe to implement the Tribal Historic Preservation Program. The term applies only for tribes on the National Park Service list that, in accordance with Section 101(d)(2) of NHPA, have formally assumed the responsibilities of the SHPO for purposes of Section 106 compliance on their tribal lands.

Traditional Cultural Property (TCP) – a property that is "eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community." The property must meet the requirements defined in 36 C.F.R. § 60.4. National Park Service, National Register Bulletin 38, Guidelines for Evaluating and Documenting Traditional Cultural Properties (1990).

Treatment – actions taken by a Federal agency to mitigate or resolve adverse effects on historic properties. 36 C.F.R. § 800.6.

Tribal Lands – "(A) all lands within the exterior boundaries of any Indian reservation; and (B) all dependent Indian communities." 16 U.S.C. § 470w(14). For the purposes of implementing this PA, the Lead Federal Agencies assume that "tribal lands" includes lands held in trust by the United States for a tribe external to the boundaries of a reservation if the lands are under Federal superintendence, but does not include allotments external to the boundaries of a reservation.

Undertaking – "a project, activity, or program funded in whole or in part under the jurisdiction of a Federal agency, including those carried out with Federal financial assistance; those requiring a Federal permit, license or approval." 36 C.F.R. § 800.16 (y). For the purposes of implementing this PA, the undertaking is defined as all project operations (reservoir management and implementation of Minor Construction in Support of Operations), including future modifications to the operating regime of the any or all of the 14 projects. The undertaking does not include non-routine maintenance and other new construction, nor does it include BPA's distribution of power (transmission system) off of Project lands.

Attachment 4

Checklists for Historic Property Management Plans, Treatment Plans, and Annual Plans

Historic Property Management Plans

At a minimum, an HPMP or its supporting materials will contain the following:

- A research design that provides an historic context for property evaluation for eligibility to the National Register. The research design will define research domains or historic themes applicable to the area (tiering from the Systemwide Research Design), define characteristics of property types associated with historic themes, and identify data gaps.
- A summary of significant past investigation and management activities, and a list of associated products.
- A list of historic properties, with their National Register eligibility status indicated.
- Information about property types present.
- Discussion of the nature and source of agents impacting resources.
- Further actions needed to identify, evaluate, and manage historic properties. General long-term priorities should be identified
- A process for integrating TCP research with the archeological and historical site identification and evaluation activities.
- Inventory and evaluation strategies for all potential property types.
- Historic property management and treatment strategies that might be used, consistent with the treatment/recovery plan principles described below
- A curation plan.
- A process to update records to reflect new data.
- A process for peer review of potentially significant research or educational products.
- A process for public outreach and education, including Heritage Tourism opportunities.
- General standards for field work, analysis, reporting, and site treatment.
- A general schedule for long-term completion of compliance requirements.

The HPMP may also include, as appropriate, relevant Lead Federal Agency commitments pursuant to other cultural resource requirements, including, for example, Section 110 of the NHPA, the Archaeological Resources Protection Act, and Section 3(d) of the Native American Graves Protection and Repatriation Act addressing inadvertent discovery or intentional excavation.

Treatment Plan Principles

- Treatment plans will be prepared for properties determined eligible to the National Register.

- Plans may be prepared for individual properties or for groups of properties, as determined most efficient and effective by the Lead Federal Agencies, in coordination with the appropriate SHPO/THPOs.

- Where there are multiple sites, selection of sites for preparation of treatment plans will be prioritized based on a consideration of an array of factors, including the potential to yield important new information about, or insight pertinent to, a defined research objective or historic context, historical or cultural significance, physical integrity, degree of endangerment from the undertaking, and land ownership. Implementation of treatments will be prioritized using these same factors.

- Except perhaps for TCPs as discussed below, plans will be prepared with input and assistance from the Cooperating Groups. Consulting parties to this PA, as well as other interested parties as determined necessary by the Lead Federal Agencies, will also be invited to provide input.

- If the property is a TCP and is on tribal land, the nature of involvement by parties other than the Lead Federal Agencies and that tribe will be determined in consultation with the tribe. The SHPO would be involved if the TCP was on lands outside of reservation boundaries. It is expected that in these cases that other interested parties would not be invited to participate in plan definition or preparation.

- The Lead Federal Agencies will consider a wide range of options for treatment for the diverse range of property types. Consideration will include, but is not limited to: site protection or stabilization; scientific data recovery; historical or oral history research to document characteristics and cultural values; analysis of existing collections; monitoring; and preparation or presentation of public educational materials or opportunities. Final selection of the option or options will be based, but not be limited to: the National Register criteria under which a property has been determined eligible for listing; feasibility; and, cost. When a property is on land not held in fee title by one of the Lead Federal Agencies, on-site treatments or treatments involving public or tribal access can occur only with permission from the landowner.

Annual Work Plans

The Annual Work Plan for each Project shall be developed by the Lead Federal Agencies in coordination with the appropriate Cooperating Group. At a minimum, the Annual Work Plan shall include:

- A prioritized list of proposed historic properties compliance activities for the year.
- An estimated level of effort for each activity and proposed cost.
- Methods to accomplish the activity (i.e., contract or in-house agency labor).
- Proposed start/finish dates.