SYSTEMWIDE PROGRAMMATIC AGREEMENT

FOR THE MANAGEMENT OF HISTORIC PROPERTIES

AFFECTED BY

THE MULTIPURPOSE OPERATIONS OF FOURTEEN PROJECTS OF THE

FEDERAL COLUMBIA RIVER POWER SYSTEM

FOR COMPLIANCE WITH

SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT

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List of Acronyms

ACHP – Advisory Council on Historic Preservation
APE – Area of Potential Effect
ARPA – Archeological Resources Protection Act
BPA – Bonneville Power Administration
CRSC – Cultural Resources Subcommittee
FCRPS – Federal Columbia River Power System
HPMP – Historic Properties Management Plan
HPRCSIT – Historic Properties of Religious and Cultural Significance to Indian Tribes
IDU – Intertie Development and Use
JOC – Joint Operating Committee
MOA – Memorandum of Agreement
NAGPRA – Native American Graves Protection and Repatriation Act
NHPA – National Historic Preservation Act
PA – Programmatic Agreement
ROD – Record of Decision
SHPO – State Historic Preservation Officer
SOR – System Operation Review
TCP – Traditional Cultural Property
THPO – Tribal Historic Preservation Officer

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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 take lands and 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 these 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 [part of 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 implementation of these Project purposes comprise the "undertaking" for the purposes of Section 106 of the National Historic Preservation Act (NHPA)(16 U.S.C. § 470f) for this programmatic agreement (PA)(hereafter called the Systemwide PA); (see Attachment 5 for additional details regarding Project purposes and the scope of the undertaking); and,

WHEREAS, the undertaking has caused, is causing, and shall cause in the future direct, indirect, and cumulative 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 properties included on, or eligible for inclusion on, the National Register of Historic Places (hereafter called historic properties) 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 and for addressing adverse effects in accordance with the Intertie Development and Use (IDU) PA (executed 1991) and the

System Operation Review (SOR) Records of Decision (RODs) (signed 1997), which remain in effect; 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. Also, because this PA addresses Section 106 NHPA compliance activities, compliance activities pursuant to other Federal statutes shall continue to be addressed separately commensurate with agency responsibilities and consistent with agency funding agreements; and,

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

WHEREAS, the undertaking affects historic properties of religious and cultural significance to Indian tribes, the Lead Federal Agencies, consistent with the NHPA and its implementing regulations, shall consult with such tribes consistent with their respective tribal policies (for the Corps http://www.usace.army.mil/cw/tribal/index.html, and for BPA http://www.bpa.gov/corporate/About_BPA/Tribes/Trblpolicy.pdf), and Reclamation consistent with its internal program processes, and shall seek to engage with affected tribes early to identify tribal concerns. The Lead Federal Agencies seek to give special consideration to tribal views and concerns consistent with the Lead Federal Agencies' respective Tribal Policies, through Government to Government consultation and careful review of tribal concerns when making decisions; 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 Coeur d'Alene Tribe, the Confederated Tribes of the Colville Reservation, the Nez Perce Tribe, the Spokane Tribe of Indians, the Confederated Tribes of the Warm Springs Reservation of Oregon, the Confederated Tribes and Bands of the Yakama Nation, and the Confederated Tribes of the Umatilla Indian Reservation; 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 Reservation, the Confederated Salish & Kootenai Tribes of the Flathead Reservation, 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 of Indians, the Kootenai Tribe of Idaho, the Nez Perce Tribe, and the Spokane Tribe of Indians, on the development of this Systemwide PA and have offered these entities the opportunity to become a signatory party; 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," as well as executive orders and treaties between the United States and tribes, the Lead Federal Agencies have established Government to Government relationships with the above named Federally

recognized tribes. In implementing this Systemwide PA, effective Government to Government consultation will require mutually defined consultation processes and objectives; and,

WHEREAS, the Lead Federal Agencies have notified and provided an opportunity for members of the public to participate by commenting on the drafts of this Systemwide PA; and,

WHEREAS, the Lead Federal Agencies recognize the importance of historic properties to affected tribes, SHPOs, THPOs, and the public, and value the past and current participation of these entities in the on-going management of the FCRPS historic property program.

NOW, THEREFORE, pursuant to 36 C.F.R. § 800.14(b), the Lead Federal Agencies shall take into account the effects of the undertaking on historic properties in accordance with the following stipulations, and adherence to the terms of this Systemwide 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 shall together implement the systemwide actions pursuant to this Systemwide PA. Project-specific actions shall 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 (see Attachment 5).

A glossary of definitions of terms used in this Systemwide PA is provided in Attachment 3.

I. PURPOSE OF THIS SYSTEMWIDE PA

A. Because the undertaking encompasses 14 Projects across four states, this Systemwide PA is designed to set forth a systemwide framework of standards, requirements, and obligations for compliance with Section 106. This Systemwide PA thus serves as the overarching or umbrella agreement applicable to all 14 Projects.

B. This Systemwide PA addresses Section 106 NHPA compliance only. Federal agency compliance with Section 110 of NHPA, and other Federal statutes such as the Archaeological Resources Protection Act (ARPA) or the Native American Graves Protection and Repatriation Act (NAGPRA), shall remain the responsibility of the individual Federal agencies to address as appropriate to their authority and jurisdiction.

C. This Systemwide PA allows for the Lead Federal Agencies to meet their Section 106 responsibilities through one of the following mechanisms, consistent with the terms of this PA:

1. Development and implementation of a Project-Specific PA,

2. Through the development and implementation of a signed Project Historic Property Management Plan (HPMP) that meets the requirements of a Project-Specific PA (hereafter Stand-Alone HPMP), or

3. Through the standard review process set out in the ACHP's regulations at 36 CFR part 800.

D. Specific provisions for use of Project-Specific PAs to comply with Section 106 are set out in Stipulation VI below.

E. Provide for streamlining of the Section 106 review process through identifying certain categories of routine activities that have little or no potential to affect historic properties, or by setting up other Project-specific coordination procedures that expedite the Section 106 review process. Attachment 6 is a list of categories of routine activities that have little or no potential to affect historic properties and are excluded from further consultation provided they meet the criteria identified in the review process. The Lead Federal Agencies, in consultation with parties appropriate to that Project, may identify further Project-specific categories of routine activities or coordination procedures to expedite the Section 106 review process in either Project-Specific PAs or HPMPs.

F. The undertaking for this Systemwide PA is broad, such that most activities relating to operation and maintenance of the FCRPS fall within its scope. A Lead Federal Agency or Agencies can, however, elect not to utilize the terms of this Systemwide PA for an activity that would otherwise come within the scope of this PA, and instead treat that activity as a separate undertaking subject to the standard Section 106 regulatory procedures of 36 C.F.R. part 800. If the Lead Federal Agency or Agencies is/are considering not utilizing this Systemwide PA for a specific activity or class of activities, the Agency or Agencies shall discuss the option with the relevant Project-specific Cooperating Group(s) and give notice to the affected tribes, SHPO/THPOs, and any affected land managing agencies, and shall consider their views before making a decision. Additional processes for determining when it may be appropriate not to use this Systemwide PA may be developed in a Project-Specific PA and/or HPMP.

II. SYSTEMWIDE PA PRINCIPLES FOR SECTION 106 COMPLIANCE

The Lead Federal Agencies shall adhere to the following principles in order to meet their Section 106 obligations:

A. *Principle 1: Address Section 106 Compliance Requirements*. Consistent with the stipulations in this Systemwide PA, the Lead Federal Agencies shall, in consultation with the consulting parties (as defined in Attachment 3 of this PA) to a Project in accordance with Stipulation IX:

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

2. Identify and evaluate each potentially affected property within the APE to assess eligibility to the National Register. All types of potentially affected properties shall be addressed, including those that are historic properties of religious and cultural significance to Indian tribes (HPRCSITs) or are traditional cultural properties (TCPs) important to other groups. All stipulations and references in this Systemwide PA to "historic properties" also apply to HPRCSITs and TCPs. In making determinations of eligibility, all four criteria for eligibility [36 C.F.R. §§ 60.4(a)-60.4(d)] and the integrity of the property, shall be considered. In cases where criterion (d) was the only criterion applied in making a prior determination of eligibility, such properties may be reevaluated under the other criteria. Any consulting party may recommend reevaluation.

3. If a property does not meet the eligibility criteria for listing on the National Register, and thus is not an "historic property" subject to Section 106, the Lead Federal Agencies shall have no further responsibility to consider it under the terms of this Systemwide PA or the relevant Project-Specific PA/HPMP. The exception is that the passage of time, changing perceptions of significance, or incomplete prior evaluations may require the Lead Federal Agencies to re-evaluate properties previously considered eligible or not eligible [36 C.F.R. § 800.4(c)(1)].

4. Determine the effect of the undertaking on those qualities that make the property historically significant.

5. Seek to avoid or minimize adverse effects to historic properties. Given FCRPS operational requirements, there may be limited opportunities to avoid some adverse effects.

6. Encourage creative and innovative ways to mitigate adverse effects to historic properties (see Treatment Plan Principles in Attachment 4).

7. Develop a Systemwide Research Design to support consideration of broad scale research domains or themes (see Stipulation VII).

8. Implement procedures in the event of emergencies or unanticipated discoveries consistent with 36 C.F.R. § 800.12 and 13. Procedures specific to individual Projects may be defined in Project-Specific PAs.

9. Curate archeological collections in a manner consistent with 36 C.F.R part 79.

B. *Principle 2: Promote Communication, Coordination, and Consultation*. Effective communication, coordination, and consultation between consulting parties are critical to the successful implementation of this Systemwide PA. As a general principle, the Lead Federal Agencies shall seek to involve consulting parties in an open and interactive manner in the planning for and implementation of activities pursuant to this PA. The primary mechanism

for accomplishing this objective is the Project-level Cooperating Groups. As further detailed in Stipulation IX.B, the Cooperating Groups serve as the principal mechanism for communication and coordination with the Lead Federal Agencies about implementation of matters covered in this Systemwide PA. Communication within the Cooperating Groups contributes toward and facilitates consultation pursuant to 36 C.F.R. part 800, as do the documentation processes described below. Communication within the Cooperating Groups also facilitates, but does not replace, Government to Government consultation with tribes. Effective Government to Government consultation will require mutually defined consultation processes and objectives.

C. *Principle 3: Adhere to Professional Qualification Standards*. As required by 36 C.F.R. § 800.2(a)(1), 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 shall apply the standards in a manner commensurate with (1) the nature and complexity of the specific activity being implemented or the property or resource being investigated or treated, and (2) the knowledge and expertise needed to complete the work.

D. *Principle 4: Provide Public Benefit from Resource Management*. Lead Federal Agencies shall provide for public benefits from implementation of this Systemwide PA by, among other ways:

1. Public outreach and education.

2. Accumulating and disseminating information to tribal communities, interested members of the public, and the general public to foster an understanding of the history and cultural heritage of the Columbia Basin. Dissemination may include, but is not limited to: visual media presentations, books, and CDs distributed to schools, libraries, and museums; distribution of reports to libraries and repositories consistent with 36 C.F.R. § 800.6(a)(5) and 800.11(c); and, presentation of FCRPS-funded research analyses and results in professional venues such as peer reviewed publications and regional and national conferences.

3. Illustrating accomplishments made in implementing this PA (as described in Annual Reports).

4. Using collections for educational and research purposes, consistent with 36 C.F.R. § 79.10.

5. Providing opportunities for heritage tourism, as appropriate, using information and resources generated from actions to implement this PA.

E. *Principle 5: Confidentiality*. In carrying out their responsibilities under this Systemwide PA, the Lead Federal Agencies shall restrict disclosure of information in accordance with Section 304 of NHPA and implementing regulations, and other applicable non-disclosure provisions.

The Lead Federal Agencies will consider restricting, consistent with the law, disclosure of specific information provided by a tribe upon request by that tribe.

F. *Principle 6: Term and Review of this Systemwide PA.* Unless terminated in accordance with Stipulation XV, the term of this Systemwide PA shall be for a period of 20 years from the effective date (see Stipulation XVI.E), after which it shall become null and void unless extended through an amendment per Stipulation XIII. If the 20-year term is not extended, and if no other appropriate PA or memorandum of agreement (MOA) is in effect at a Project, then the Lead Federal Agencies shall comply with 36 C.F.R. part 800 with respect to the undertaking, in accordance with Stipulation XV.B. This Systemwide PA shall be reviewed on a regular basis, at intervals not exceeding five years, in accordance with Stipulation XI.

III. DETERMINE AND DOCUMENT THE AREA OF POTENTIAL EFFECTS (APE)

The standards, processes, and products described in this Stipulation shall be incorporated within Project-Specific PAs and/or HPMPs, and may be further refined or tailored to meet Project-specific conditions, as appropriate.

A. The APE for the undertaking includes all geographic areas within which the undertaking may directly or indirectly cause alterations in the character or use of historic properties. This includes geographic areas identified as being affected at the date of final signature of this agreement and geographic areas where adverse effects are identified in the future. 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.

B. The APE can include lands held in fee by the United States, lands held in trust by the United States for a tribe or an allottee, lands in which the United States holds a real property interest other than fee title, as well as private or public lands for which the United States currently holds no property interest or access rights. See Stipulation IV.C regarding access.

C. The Lead Federal Agencies shall address the effects of the undertaking throughout the APE, commensurate with the extent that the undertaking causes the effect.

1. Where the undertaking is the principal causative factor, the Lead Federal Agencies are responsible for addressing the effects.

2. 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.

D. The APE may be discontinuous or interrupted, excluding geographic areas where the undertaking does not cause effects. Where there are effects attributable to the undertaking, the Lead Federal Agencies shall conduct a phased implementation, applying the prioritization process defined in Stipulation IV to guide implementation.

E. The Lead Federal Agencies, in consultation with consulting parties at the Project level, shall determine the Project-specific portion of the APE and provide maps depicting the APE.

1. The APE determination shall be documented in the Project-Specific PA or HPMP. The Lead Federal Agencies shall make this determination utilizing the best available data, and consistent with processes for consultation defined in 36 C.F.R. § 800.4(a). In order to minimize delays, identification, evaluation, and treatment may proceed in areas where the Lead Federal Agencies conclude effects are clearly attributable to the undertaking.

2. Where delineation of the APE, including attribution of effects, cannot be readily determined with the best available information, the Lead Federal Agencies shall discuss the uncertainty and options for resolving it with the consulting parties at the Project level.

3. Disputes regarding a Lead Federal Agency proposal for resolving uncertainty shall be addressed via the dispute resolution provisions in Stipulation XII.

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

The standards, processes, and products described in this Stipulation shall be incorporated within Project-Specific PAs and/or HPMPs, and may be further refined or tailored to meet Project-specific conditions, as appropriate.

A. Because of the geographic scope and complexity of the undertaking, the Lead Federal Agencies may phase implementation of compliance actions. The Lead Federal Agencies shall determine priorities for identification, evaluation, and treatment activities through discussion with Cooperating Groups using the factors listed in Stipulation IV.B.

B. Factors to be considered when prioritizing compliance activities include, but are not limited to (in no particular order) the list that follows. These factors can be further described or refined in the Project-Specific PA or HPMP:

- Probability of historic properties being present and of the area being adversely affected by the undertaking
- Extent and reliability of past identification efforts in the area, with a higher priority likely for areas where identification efforts are incomplete or lack reliability
- The likely type and location of properties
- Potential for loss of tribal knowledge and expertise that might contribute to identification, evaluation, or definition of treatments for HPRCSITs
- Potential for an area or property to be historically significant as a HPRCSIT or TCP
- The extent to which known or potential effects on an identified historic property are or would be the result of the undertaking
- The potential benefit from management of the historic property, including access to collections derived from investigations (consistent with 36 C.F.R. part 79)
- The current integrity of the property

- The risk of loss of integrity to the property caused by the undertaking, including imminence of the threat
- The nature of restrictions placed by the landowner for access, when addressing non-Federal lands
- The relative uniqueness of the 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 or a Project research design
- The cost and the availability of funds to implement the actions

Not all factors are applicable or relevant for each property or compliance action. Priority compliance actions shall be described in Annual Work Plans (see Attachment 4).

C. The Lead Federal Agencies shall identify, evaluate, and treat historic properties affected by the undertaking on lands where the Agencies have access. This includes lands where a Lead Federal Agency has jurisdiction (i.e., United States fee title under Lead Federal Agency management) or has successfully obtained necessary access from the fee title holder or from a tribe or other agency with jurisdiction.

1. When implementing actions on lands that are not under the jurisdiction of any of the Lead Federal Agencies, actions shall be implemented with the authorization or consent of the fee title holder or other agency with jurisdiction given on a voluntary or willing seller basis. In the case of tribal trust lands, authorization or consent would be from the tribe, or from the Bureau of Indian Affairs if appropriate in the specific case. The Lead Federal Agencies shall make a good faith effort to negotiate the necessary access from the fee title holder or, in the case of Federally-owned lands managed by other Federal agencies, from the agency with jurisdiction.

2. Terms of access may vary depending on whether the activity to be conducted is identification, evaluation, or treatment. Access terms shall address ownership and control of any collections made during compliance activities. When considering properties for evaluation or treatment, priority will be given to properties where materials collected will be permanently curated under conditions that allow for appropriate care, use, and access consistent with 36 C.F.R. part 79.

D. Typically, the Section 106 compliance process is carried out in three sequential steps: identification of historic properties, assessment of effects to historic properties, and resolution of adverse effects. This is so that treatment decisions can be made in a context of a full understanding of the undertaking's effects on those qualities that make the property historically significant. However, because of the large size of the APE, the large number of affected and potentially affected historic properties, and the on-going effects to them, the Lead Federal Agencies do not propose to strictly sequence compliance activities. Instead, at the Project level, prioritization can allow for actions at all points in the process to go forward simultaneously. For example, treatment can proceed at specific historic properties before evaluation of all affected properties at that specific Project.

V. HISTORIC PROPERTIES OF RELIGIOUS AND CULTURAL SIGNIFICANCE TO INDIAN TRIBES

Historic properties may include those properties of religious and cultural significance to an Indian tribe. In order for the Lead Federal Agencies to determine the most appropriate processes to address HPRCSITs, the Agencies shall implement the following activities to define minimum standards and processes for their identification, documentation, and evaluation. These standards and processes shall be defined in consultation with affected tribes, SHPOs, THPOs, and other agencies with jurisdiction. The standards, processes, and products developed in Stipulation V.A through D shall be incorporated within Project-Specific PAs and/or HPMPs, and may be further refined or tailored to meet Project-specific conditions as appropriate.

A. *Study status.* The Lead Federal Agencies shall compile a list and description of previous and current efforts to identify, evaluate, and treat HPRCSITs related to the undertaking. See Stipulation VIII.A and Attachment 2.

B. *Documentation Processes.* Within one year of execution of this Systemwide PA, the Lead Federal Agencies shall initiate meetings with affected tribes, SHPOs, THPOs, and other agencies with jurisdiction to define standard data-sets to be used to identify, document, and evaluate HPRCSITs. Minimum documentation standards and requirements established shall be of a nature to be applied at a systemwide level. The initial meeting may be held as part of the Systemwide Meeting described in Stipulation IX.I.

C. *Process to Determine National Register Eligibility*. The Lead Federal Agencies, in consultation, shall seek to establish a process to determine National Register eligibility for HPRCSITs that will provide the Lead Federal Agencies or other agency with jurisdiction with sufficient information to demonstrate integrity of the property and the basis for eligibility under any of the four National Register criteria. The process shall address tribal concerns about confidentiality of data (taking into account expressed tribal desires to minimize disclosure of sensitive information) consistent with Stipulation II.E. This process will be developed concurrently with the development of documentation processes in Stipulation V.B.

D. When the Lead Federal Agencies, in consultation, make determinations of adverse effect to HPRCSITs, they shall resolve adverse effects in accordance with the terms of this Systemwide PA. Specific treatment plans shall be developed at the Project-specific level, as prioritized through appropriate Cooperating Groups, in consultation (pursuant to Stipulation IX), and consistent with the Treatment Plan Principles in Attachment 4.

VI. SECTION 106 COMPLIANCE THROUGH PROJECT-SPECIFIC PAs AND/OR HPMPs

A. This Systemwide PA allows for the Lead Federal Agencies to meet their Section 106 responsibilities through the development and implementation of a Project-Specific PA, or through the development and implementation of a signed Project HPMP that meets the requirements of a Project-Specific PA (Stand-Alone HPMP). The Lead Federal Agencies may fulfill this Project-specific compliance requirement through the use of existing Project PAs or Stand-Alone HPMPs if, in the estimation of the appropriate Lead Federal Agencies, they meet or are revised to meet the terms of this Systemwide PA in accordance with Stipulation VI.E below. The Lead Federal Agencies shall notify the other consulting parties to this Systemwide PA of their decision whether an existing Project PA or Stand-Alone HPMP is consistent with the terms of this Systemwide PA. The schedule for preparation of drafts of these documents is in Attachment 2.

B. Project-Specific PAs must be consistent with this Systemwide PA and contain the elements in Stipulation VI.C. Stand-Alone HPMPs must be consistent with this Systemwide PA, contain the elements of Stipulation VI.C, and also contain the elements identified in Attachment 4. HPMPs that have an accompanying Project-Specific PA (HPMPs that are not Stand-Alone HPMPs) need only be consistent with this Systemwide PA and contain the elements identified in Attachment 4.

C. For each Project, the new or revised Project-Specific PA or Stand-Alone HPMP shall:

1. Define the Project-specific portion of the APE consistent with Stipulation III.

2. Identify consultation procedures appropriate for the Project.

3. Refine the prioritization process described in Stipulation IV and describe additional Project-specific processes.

4. Provide for additional streamlining of the Section 106 review process through identifying categories of routine activities that have limited or no potential to adversely effect historic properties in addition to the list described in Attachment 6, and/or by setting up other Project-specific coordination procedures that expedite the Section 106 review process.

5. Provide a schedule to identify and evaluate each potentially affected property, including HPRCSITs or TCPs, to assess eligibility to the National Register.

6. 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 shall be implemented when that threshold is reached.

7. Define additional processes to take historic properties into account in emergency situations or in discovery situations.

8. Define processes to periodically review the effectiveness of the Project-Specific PA, concurrent with review of this Systemwide PA.

D. Once completed, the Project-Specific PA or Stand-Alone HPMP goes into effect in the following manner:

1. In the case of a Project-Specific PA, through its execution by the Lead Federal Agency (or Agencies), other applicable Federal agencies invited to sign by the Lead Federal Agency (or Agencies), affected entities with jurisdiction, including applicable SHPOs/THPOs, and the ACHP if it has formally entered into consultation per Stipulation X, or,

2. In the case of a Stand-Alone HPMP, after consultation with the signatories to this Systemwide PA with an interest in that Project, through a letter from the appropriate Lead Federal Agencies committing the Agencies to adhere to all the terms of the HPMP, with written concurrence from the appropriate entities within the area of their jurisdiction, including applicable SHPOs/THPOs, and the ACHP if it has formally entered into consultation per Stipulation X.

E. *Review of existing PAs/HPMPs*. If the intent is to use an existing Project PA or HPMP for compliance, then within 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 Systemwide PA. Existing Project PAs or HPMPs shall remain in effect during this review process. Should there be any material inconsistencies between this Systemwide PA and an existing Project PA or HPMP that would be used as a Project-Specific PA or Stand-Alone HPMP, then that Project PA or HPMP shall be revised or amended to be consistent with this Systemwide PA in accordance with the schedule in Attachment 2.

F. All updates or revisions to an existing Project PA or HPMP, or the development of any new Project-Specific PAs or Stand-Alone HPMPs, shall be developed with involvement of the appropriate Cooperating Group(s), in consultation with consulting parties appropriate to the Project area, and with input from interested members of the public as appropriate.

G. Consulting parties shall be provided the opportunity to comment on drafts of the revised or new Project-Specific PAs or Stand-Alone HPMPs, and the Lead Federal Agencies shall take these comments into account in finalizing the Project-Specific PAs or Stand-Alone HPMPs. Consulting parties shall 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 shall proceed to finalize the Project-Specific PA or Stand-Alone HPMP.

VII. SYSTEMWIDE RESEARCH DESIGN

A. To date, the Lead Federal Agencies have largely focused Section 106 compliance efforts at the Project level, particularly on localized measures to address adverse effects to historic properties. While this focus remains a priority, the Lead Federal Agencies also agree that, given the geographic scope of the undertaking, it is important to facilitate an understanding of the history and culture of the Columbia Basin and its peoples on a broader scale than at the Project level. In order to facilitate a broader view as this Systemwide PA is implemented, the Lead Federal Agencies shall prepare a Systemwide Research Design.

B. The Systemwide Research Design will encourage consideration at the Project level of research, cultural, and educational objectives that have application on a broader, potentially regional level. The Systemwide Research Design could be used, for example, in updating Project HPMPs and research designs. It could also aid in defining priorities at a Project, preparing historic contexts for evaluating sites for the National Register, designing site treatment plans or evaluating contract proposals. The Systemwide Research Design will not replace Project-specific research designs, but it could:

1. Define broad ranging themes, study domains, and context statements that span the region and pose associated research questions that would contribute to understanding those themes and domains. They would encompass a full array of potential property types, including but not limited to prehistoric and historic period archeological properties and TCPs.

2. Identify types of materials or data that are important to analyze and collect to address research questions.

3. Define methods to enable data synthesis and comparison between properties and across geographic areas.

4. Identify potential audiences for the information, and means to make the information accessible and meaningful.

C. The Systemwide Research Design shall be prepared by the Lead Federal Agencies with input and assistance from the Cooperating Groups and consulting parties. Opportunity for input and assistance during preparation shall also be afforded to interested members of the public. The Lead Federal Agencies shall review and revise the Systemwide Research Design as needed. Any substantive revisions will be prepared with the same opportunities for input and assistance as for the initial design.

VIII. GENERAL PRODUCTS

A. *Annual Report.* The Lead Federal Agencies shall prepare an Annual Report documenting actions and planning efforts that demonstrate their good faith efforts to satisfy the terms of this Systemwide PA. The reporting period shall be the fiscal year from October 1 to September 30. The Annual Report shall be distributed to consulting parties to this PA.

1. The first Annual Report after the effective date of this Systemwide PA shall present baseline data against which future progress is measured.

2. The second Annual Report after the effective date of this PA shall present a listing and description of all previous and current efforts to identify, evaluate and treat HPRCSITs or TCPs related to the undertaking, to be updated annually.

3. In subsequent reporting years, the Annual Report shall address issues and describe accomplishments at the systemwide and Project levels, including:

    a. *Narrative Summary*. This will describe systemwide accomplishments, systemwide issues, actions taken to resolve issues, and on-going work. For each Project, the Annual Report will:
        i. Summarize accomplishments for that reporting year, with reference to the Project's Annual Work Plan
        ii. Describe identification efforts
        iii. Describe properties under evaluation in the current year
        iv. Describe treatments
        v. List deliverables
        vi. Summarize collections management activities
        vii. Describe on-going and completed public education activities
        viii. Summarize activities that relate to objectives or processes defined in the Systemwide Research Design
        ix. Summarize routine activities for which no consultation occurred, pursuant to Attachment 6 of this Systemwide PA and the pertinent Project-Specific PA
        x. Describe issues that are affecting or may affect the ability of the Lead Federal Agencies to meet the terms of this Systemwide PA
        xi. Describe lessons learned.

    b. *Tabular Data*. Project accomplishments displayed as tabular data will include accomplishments in the categories of inventory, evaluation, treatment, and curation.

4. Each Annual Report will name any additional parties who have become signatory or concurring parties to this Systemwide PA after the date of the prior Annual Report (see Stipulation XVI.F).

B. *Annual Work Plans.* The Lead Federal Agencies, with input and assistance from Cooperating Groups, shall prepare Annual Work Plans for each Project. The Lead Federal Agencies shall use Annual Work Plans to describe priority Project compliance activities for the coming fiscal year. At a minimum, the Annual Work Plan and its supporting materials shall include the elements in Attachment 4.

C. *FCRPS Cultural Resource Handbook.* The Lead Federal Agencies shall maintain a handbook for internal use that describes interagency communication and coordination protocols among the Lead Federal Agencies. The FCRPS Cultural Resource Handbook shall be available to the public. At time of signature of this Systemwide PA the Handbook is it available at http://www.efw.bpa.gov/environmental_services/Handbook2007.pdf.

IX. CONSULTATION, COMMUNICATION, AND COORDINATION

Communication, coordination, and consultation are integral to the successful implementation of this Systemwide PA 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 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 and related memoranda of agreements, which are described further in the FCRPS Cultural Resource Handbook.

B. *Communication and Consultation between the Lead Federal Agencies and Consulting Parties: Cooperating Groups.* The principal mechanism for communication between the Lead Federal Agencies and consulting parties is the Cooperating Groups. The Cooperating Groups serve as a regular forum in support of intergovernmental communications for the purpose of exchanging views, technical information, and planning advice relating to the Lead Federal Agencies' Section 106 compliance, with the exception of procurement implementation (development and issuance of contracts for compliance activities) which remain the sole responsibility of the Lead Federal Agencies. Communication within the Cooperating Groups contributes toward and facilitates consultation pursuant to 36 C.F.R. part 800, and often will precede the consultation and documentation processes described in Stipulation IX.G. Communication within the Cooperating Groups also facilitates, but does not replace, Government to Government consultation with tribes.

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

- One group for Bonneville, John Day, and The Dalles Projects ("Wanapa 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, Chief Joseph, Libby, and Albeni Falls Projects
- Two groups for Grand Coulee

C. *Cooperating Group Responsibilities.* Each Cooperating Group has or shall prepare Operating Guidelines and meet no fewer than four times per year on a schedule agreed upon by that group. The Operating Guidelines for each group will describe the scope of discussion and the internal processes for the Group.

1. The Cooperating Groups may assist the Lead Federal Agencies by, among other things:

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

   b. Helping Lead Federal Agencies determine the appropriate priorities and phasing for compliance activities per Stipulation IV.

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

   d. Helping to draft or review Project-Specific PAs and/or HPMPs, and Annual Work Plans for the associated Project.

   e. Providing data and reporting accomplishments to incorporate into Annual Reports.

   f. Providing information or recommendations to Lead Federal Agencies on other matters relating to the implementation of this Systemwide PA.

2. Timely input from the Cooperating Groups is essential to allow the Lead Federal Agencies to effectively consider offered information, advice, and recommendations. Timely input is particularly important on Annual Work Plans, review of systemwide documents, and other discrete action items. Failure by a Cooperating Group to establish a schedule, or failure by the Group or its members to meet an established schedule, shall not prevent the Lead Federal Agencies from proceeding with an action. A decision by the Lead Federal Agencies to proceed when the Cooperating Group is unable to provide input in a timely or agreed upon manner is not a violation of this Systemwide PA.

D. *Relationship of the CRSC and Cooperating Groups.* Members of the CRSC, appropriate to jurisdiction, are also members of the Cooperating Groups. CRSC members of a Cooperating Group are responsible for ensuring that pertinent information from the Lead Federal Agencies, the JOC, the CRSC, as well as the other Cooperating Groups is shared at

Cooperating Group meetings and Systemwide 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. *Inability to Attend Cooperating Group Meetings*. A governmental entity who participates in a Cooperating Group may be unable to attend Cooperating Group meetings. It is the Lead Federal Agencies' responsibility to provide a reasonable opportunity for that governmental entity to continue to provide input on activities listed in Stipulation IX.C.1. These processes would be defined in Project-Specific PAs, HPMPs, or Cooperating Group Operating Guidelines.

F. *Failure of a Cooperating Group to Meet on a Regular Basis or Dissolution of a Cooperating Group.* If a Cooperating Group ceases to meet on a regular basis or is dissolved, the Lead Federal Agencies will identify alternative processes to meet the Cooperating Group purposes listed in Stipulation IX.C.1. These processes may be further refined in Project-Specific PAs, HPMPs, or Cooperating Group Operating Guidelines. At a minimum, the Lead Federal Agencies will:

1. Provide draft plans identified in Stipulation IX.C.1, for input and comment.

2. Request input to aid in defining annual priorities for the Annual Work Plan.

3. Request input and comment on eligibility, effect, and treatment activities using processes identified in Stipulation IX.G.

G. *Section 106 Consultation Documentation*

1. *Project-Specific PAs and HPMPs*. Determinations of the Project-specific APE shall be documented and provided for comment as part of the development of a Project-Specific PA and/or HPMP. Stipulation VI and Attachment 4 set forth the requirements for Project-Specific PAs and HPMPs. Lead Federal Agencies will consult on Project-Specific PAs and Stand-Alone HPMPs and offer those documents for signature to consulting parties with an interest in the Project, consistent with processes defined in Stipulation VI.D.

2. *For specific historic properties affected by an undertaking.* Except when another agency is the land manager as qualified in Stipulation IX.G.3 below, the Lead Federal land managing agency (Corps or Reclamation) and BPA shall prepare written documentation of the following findings and provide this documentation to the appropriate consulting parties for comment:

    - Determinations of National Register eligibility of a property, including any reevaluations under additional criteria.
    - Determinations of the undertaking's effect on the historic property.
    - Proposed treatment measures to resolve the undertaking's adverse effects on the historic property.

a. The consulting parties shall have 30 calendar days to comment after receipt of this property-specific documentation. The Lead Federal land managing agency and BPA shall consider the comments.

b. If objections are raised, the Lead Federal land managing agency and BPA shall continue consultation in an effort to resolve the objection. If unable to resolve disputes, the dispute resolution procedures in Stipulation XII will be followed.

c. If no comments are received, the Lead Federal land managing agency and BPA may proceed with their proposed plan.

d. In the case of an adverse effect determination, the Lead Federal Agencies shall notify the ACHP and invite its participation in the resolution of adverse effects only if the applicable SHPO/THPO and/or other land manager with jurisdiction disagrees with the determination of the Lead Federal Agencies.

3. When another agency is the Federal Land Manager at a Project (e.g., the National Park Service for portions of Lake Roosevelt), the Lead Federal Agencies shall consult with the other Federal Land Manager to determine the best process for coordinating determinations of eligibility, effect, and appropriate mitigation for adverse effects, and the process for submitting such findings for comment by the appropriate SHPO, THPO, affected tribes, and other affected parties. Such processes may be described in a Project-Specific PA and/or HPMP, or in a separate agreement between the Lead Federal Agencies and the other Federal Land Manager.

4. The specific procedures for providing documentation may be further detailed in a Project-Specific PA or HPMP, since it may vary between Projects.

H. *Communication with the Public.* The Lead Federal Agencies may involve interested members of the public in the implementation of this Systemwide PA in a variety of ways, including opportunities to provide input or comment on planning documents, as appropriate, as well as standard procedures to inform the public, such as the posting of CRSC agendas on the web and invitation to the Systemwide Meeting described in Stipulation IX.I. In addition, interested members of the public may attend Cooperating Group meetings, though they may not be standing members of a Cooperating Group. They would be invited to Cooperating Group meetings on a case-by-case basis through procedures described in a Cooperating Group's Operating Guidelines. Other mechanisms for involving the interested public could be developed in the Project-Specific PA or HPMP.

I. *Systemwide Meeting.* The Lead Federal Agencies shall continue to organize a Systemwide Meeting that serves as a forum for reporting accomplishments, sharing information, and discussing common issues. Participants shall typically be all parties involved in the implementation of this Systemwide PA. The meeting shall be open to consulting parties and interested members of the public to the extent that sensitive information (per Stipulation II.E) is protected (for example, through redacted publications, or open and closed sessions). The

Systemwide Meeting shall be held at least every two years following the effective date of this Systemwide PA.

X. PARTICIPATION OF THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

A. The ACHP shall be involved as a consulting party consistent with the terms of this Systemwide PA, except as noted in Stipulation IX.G.2.d regarding adverse effects determinations.

B. The Lead Federal Agencies shall invite the ACHP to participate in the consultation on the development of Project-Specific PAs and Stand-Alone HPMPs. If within 15 days from receipt of the invitation the ACHP provides written notification to the Lead Federal Agencies that it accepts their invitation to consult, the ACHP will be deemed to have formally entered into consultation for that Project-Specific PA or Stand-Alone HPMP for purposes of Stipulation VI.D.

XI. REVIEW OF THIS SYSTEMWIDE PA

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

1. Using information from the prior five years of Annual Reports, the Lead Federal Agencies shall prepare a 5-year summary of accomplishments and identify issues that are affecting or may affect the ability of the Lead Federal Agencies to meet the terms of this Systemwide PA. The Lead Federal Agencies shall solicit comments from consulting parties in preparing this summary. The 5-year summary will be included in the relevant Annual Report. As necessary, the Lead Federal Agencies shall coordinate a general meeting (using the Systemwide Meeting if appropriate) to discuss and seek to resolve issues identified as needing attention. See Stipulation VIII.A and Attachment 2.

2. After receipt of the Lead Federal Agencies' Annual Report containing the 5-year summary, a signatory party may request, in writing, additional discussion or consultation with the Lead Federal Agencies concerning unresolved issues identified during the review. If such consultation does not resolve the issue, the signatory party may utilize the dispute resolution provisions at Stipulation XII.

XII. DISPUTE RESOLUTION

A. The Lead Federal Agencies shall attempt in good faith to resolve any disputes arising out of or relating to this Systemwide PA through informal discussions. Any disputes not resolved informally in the normal course of business shall be addressed as described below.

B. *Signatory Parties*. Should a signatory party raise an objection or have a dispute regarding fulfillment of the terms of this Systemwide PA, that party shall 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 shall be resolved using processes defined in the pertinent Project-Specific PA or Stand-Alone HPMP. If the Lead Federal Agencies determine that the objection/dispute has systemwide program implications, or when no Project-Specific PA or Stand-Alone HPMP is yet in place, then the objection/dispute shall be addressed using the following processes:

1. Upon receipt of a written objection or dispute from a signatory party, the Lead Federal Agencies shall consult with the disputant to resolve the objection or dispute. The Lead Federal Agencies shall also notify the other signatory and concurring parties of the objection or dispute. If the objection is specific to a Project that as yet has no Project-Specific PA or Stand-Alone HPMP, only the parties with an interest in that Project will be notified.

2. If the Lead Federal Agencies cannot resolve the objection or dispute in consultation with the objecting party, then within 60 calendar days of that determination they shall forward to the ACHP documentation of the objection or dispute, a written proposal for its resolution, and request comments from the ACHP. The Lead Federal Agencies shall also notify the signatory and concurring parties of the written proposal for its resolution and provide signatory parties the opportunity to comment on the proposal.

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

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

    b. Not concur with the Lead Federal Agencies' proposed response, but provide the Lead Federal Agencies with recommendations, which those Agencies shall 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 calendar 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 shall notify the objecting party, the ACHP, and the other consulting parties under this Systemwide 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 Systemwide PA that are not the subject(s) of the objection or dispute shall remain unchanged. While the objection or dispute is being resolved, this Systemwide PA remains in effect without change or suspension.

C. *Concurring Parties*. 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 Stand-Alone HPMP and does not have systemwide program implications, then the objection shall be resolved using the processes defined in the pertinent Project-Specific PA or HPMP. If the objection or dispute has systemwide program implications, or when no Project-Specific PA or Stand-Alone HPMP is in place, then the Lead Federal Agencies shall notify the other signatories of the objection and provide an opportunity for comment. If the objection is specific to a Project that as yet has no Project-Specific PA or Stand-Alone HPMP, only the parties with an interest in that Project will be notified. Comments must be provided in writing and within 60 calendar days from receipt of the invitation to comment. The Lead Federal Agencies shall render a decision regarding the objection, taking into account the comments, if any, of the signatories, and notify signatory and concurring parties of the decision.

D. *Other Objectors*. Should a written objection pertaining to the implementation of this Systemwide PA be raised by any entity which did not sign this Systemwide PA, including a member of the public, 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 shall 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 in place, and if the Lead Federal Agencies determine that the objection is not frivolous, then the Lead Federal Agencies shall notify the signatories to this Systemwide PA. If the objection is specific to a Project that as yet has no Project-Specific PA or Stand-Alone HPMP, only the parties with an interest in that Project will be notified. The Lead Federal Agencies shall then take the objection into account, consulting with the objector and with the other signatory parties to resolve the objection. The Lead Federal Agencies shall then render a decision regarding the objection and notify signatory and concurring parties of the decision. Should the Lead Federal Agencies determine that the objection is frivolous, they shall so notify the objector in writing and may proceed with no further consideration of such objection. This Systemwide PA does not alter the ability of an objector to take concerns directly to the ACHP.

E. 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 Systemwide PA, the contacted entity shall notify the Lead Federal Agencies of the issue. This is not intended to extend to notification of Lead Federal Agencies about requests from other parties for guidance, legal interpretation, or general advice from the ACHP.

XIII. AMENDMENT

A. Any signatory party to this Systemwide PA may request in writing to the Lead Federal Agencies that this Systemwide PA be amended. If the Lead Federal Agencies determine that the request is pertinent to this Systemwide PA, or if the Lead Federal Agencies are the proponent of the amendment, then the Lead Federal Agencies shall initiate consultation with consulting parties to this Systemwide PA to consider such amendment. The amendment will go into effect when signed by the Lead Federal Agencies and ACHP, and will apply to any state or tribal lands if the applicable SHPO or THPO signs the amendment. All consulting parties to this Systemwide PA shall be notified when an amendment is being considered and when it is signed or rejected.

B. If the request for amendment or a proposed amendment is determined to be specific to a Project, the requesting party shall be directed to use the amendment process defined in the appropriate Project-Specific PA or HPMP. If the Project as yet has no Project-Specific PA or Stand-Alone HPMP, the appropriate Lead Federal Agencies shall initiate consultation with the consulting parties with an interest in that Project using the processes defined in Stipulation XIII.A of this Systemwide PA.

XIV. WITHDRAWAL OF PARTICIPATION

A. Any signatory or concurring party to this Systemwide PA may withdraw from this 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 shall consult with the party to identify any mutually acceptable measures that would avoid the party's withdrawal. If mutually acceptable measures are identified that would require amendment to this Systemwide PA, then the amendment procedures of Stipulation XIII shall apply.

B. If mutually acceptable measures or amendments are not agreed to and a party withdraws, the Lead Federal Agencies and ACHP shall review this Systemwide PA to determine if it needs to be amended. If amendment is needed, processes defined in Stipulation XIII would apply. Withdrawal by a signatory party shall terminate application of this Systemwide PA as to that party.

XV. 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 as applicable to that party, 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 this PA.

B. If this Systemwide PA is terminated, the Project-specific PAs or Stand-alone HPMPs created under the umbrella of this Systemwide PA will be reviewed within 6 months from termination to determine whether the agreement will remain in force, will be terminated, or

will require amendment to meet the requirements of Section 106 of the NHPA. When a Project-Specific PA or Stand-Alone HPMP ceases to 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 activities at that Project that would otherwise have been addressed by this Systemwide PA.

XVI. AUTHORITIES, EFFECTIVE DATE, AND OTHER PROVISIONS

A. This Systemwide PA does not supersede or replace preexisting Section 106 agreements relevant to the 14 Projects. However, should there be a disagreement, the terms and provisions of this Systemwide PA take precedence.

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 the NHPA or other applicable laws, 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 this 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 shall become effective on the date that it has been signed by the Lead Federal Agencies and the ACHP. The Lead Federal Agencies shall 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. Additional parties may become a signatory or concurring party to this Systemwide PA at any time. To do so, they would sign the Additional Signatory or Concurring Party Form (Attachment 7). The Lead Federal Agencies will notify parties to this Systemwide PA of any additional signatory or concurring parties in the next Annual Report.

G. The Lead Federal Agencies shall comply with Section 106 of the NHPA in accordance with 36 C.F.R. part 800, subpart B, for undertakings that may affect historic properties, including properties of traditional religious and cultural significance to tribes, if that tribe is not a signatory to this Systemwide PA or if that tribe has withdrawn from this PA. Similarly, the Lead Federal Agencies shall comply with Section 106 of the NHPA in accordance with 36 C.F.R. part 800, subpart B, for undertakings within the extent of a SHPO's or THPO's authority if that SHPO or THPO has withdrawn from this PA.

H. 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 FCRPS SYSTEMWIDE PROGRAMMATIC AGREEMENT:

U.S. Army Corps of Engineers, Northwestern Division

By ___*/s/ William E. Rapp*_____ Date _*April 9, 2009*_____
Title: William E. Rapp, P.E.
Brigadier General, U.S. Army Corps of Engineers
Division Commander

Bonneville Power Administration

By ___*/s/ Stephen J. Wright*_____ Date _*April 3, 2009*_____
Title: Stephen J. Wright
Administrator and Chief Executive Officer

Bureau of Reclamation, Pacific Northwest Region

By ___*/s/ Timothy Personius*_____ Date _*April 16, 2009*_____
Title: Timothy Personius
Acting 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, Coeur d'Alene Tribe

By_____ Date_____
Title:

Tribal Historic Preservation Office, Confederated Tribes of the Umatilla Indian Reservation

By_____ Date_____
Title:

Tribal Historic Preservation Office, Confederated Tribes of the Warm Springs Reservation of Oregon

By_____ Date_____
Title:

Tribal Historic Preservation Office, Nez Perce Tribe

By_____ Date_____
Title:

Tribal Historic Preservation Office, Spokane Tribe of Indians

By_____ Date_____
Title:

Tribal Historic Preservation Office, Confederated Tribes and Bands of the Yakama Nation

By_____ Date_____
Title:

Bureau of Indian Affairs

By_____ Date_____
Title:

USDA Forest Service, Region 1

By_____ Date_____
Title:

USDA 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 & Kootenai Tribes of the Flathead Reservation

By_____ Date_____
Title:

Confederated Tribes of the Umatilla Indian Reservation

By_____ Date_____
Title:

Confederated Tribes of the Warm Springs Reservation of Oregon

By_____ Date_____
Title:

Confederated Tribes and Bands of the Yakama Nation

By_____ Date_____
Title:

Kalispel Tribe of Indians

By_____ Date_____
Title:

Kootenai Tribe of Idaho

By_____ Date_____
Title:

Nez Perce Tribe

By_____ Date_____
Title:

Spokane Tribe of Indians

By_____ Date_____
Title:

CONCURRING PARTIES TO THE FCRPS SYSTEMWIDE PROGRAMMATIC AGREEMENT: [Reserved section for Concurring Parties, if any are identified during consultation]

Name:

By_____ Date_____
Title:

Name:

By_____ Date_____
Title:

Name:

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: Historic Property Management Plans, Treatment Plan Principles, and Annual Work Plans

Attachment 5: Undertaking Covered by this Systemwide PA, Responsible Agencies, and Funding

Attachment 6: Routine Activities for this FCRPS Systemwide PA that do not Require Section 106 Consultation

Attachment 7: Additional Signatory or Concurring Party Form

Attachment 1

Authorized Purposes for the Columbia River Mainstem Projects And Lead Federal Agency with Operations 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/ Columbia Basin Project	Reclamation	Columbia, at Grand Coulee, WA	1942	Storage	Flood Control, Power, Irrigation, Stream Flow Regulation, Navigation, Recreation, & other beneficial uses.
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	1954	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 PA

The Lead Federal Agencies shall seek to implement actions under this Systemwide PA consistent with the following schedule. Schedules for completion of Project-Specific PAs or Stand-Alone HPMPs may be modified in consultation with signatories to this Systemwide PA and other consulting parties with an interest in that Project.

ACTION	SCHEDULE
Annual Report to consulting parties	March 31 following performance year
5-year summary report	Included in Annual Report prepared following the five year reporting period
Systemwide Meeting	Every two years at a minimum
Assess existing Project-Specific PAs or HPMPs, and set schedule to update existing or prepare new Project-Specific PAs, as needed	Within six months of effective date of this Systemwide PA
Complete drafts of new or revisions to existing Project-Specific PAs or HPMPs and circulate for review and comment	Two annually, systemwide, after effective date of this Systemwide PA
Initiate meetings with affected tribes, SHPOs, THPOs, and other agencies with jurisdiction to define standard processes to be used to identify, document, and evaluate HPRCSIT/TCPs.	Initiate within one year of effective date of this Systemwide PA
List and description of all HPRCSIT/TCP studies completed or in progress	Second Annual Report
Prepare a draft Systemwide Research Design	Within two years of effective date of this Systemwide PA
Review the Systemwide Research Design	As needed
Review this 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. § 470i. 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.

Affected Indian Tribe or Affected Tribe – consistent with 36 C.F.R § 800.14(f)(1), an affected Indian tribe includes Federally recognized tribes that attach religious and cultural significance to historic properties potentially affected by the undertaking, and Federally recognized tribes with jurisdiction over tribal lands on which the undertaking has the potential to affect historic properties.

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 this Systemwide PA and which signs this PA to signal concurrence with its terms, but has no authority or responsibility under this 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 consultative role in the Section 106 process for this Systemwide PA, as defined by 36 C.F.R. § 800.2(c). This includes, among others, the ACHP, SHPOs, THPOs, affected Indian tribes, other affected agencies, signatory parties, concurring parties, and any additional entities invited to participate due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties [see 36 C.F.R. § 800.2(c)(5)].

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. Communication within the Cooperating Groups contributes toward and facilitates consultation pursuant to 36 C.F.R. part 800. Communication within the Cooperating Groups also facilitates, but does not replace, Government to Government consultation with tribes.

Creative Mitigation – consideration and application of a full array of treatment options as mitigation for the undertaking's adverse effects. See Treatment Plan Principles in Attachment 4 for additional details.

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

Extent of Authority – the authority to implement a state or tribal historic preservation program under the NHPA. For SHPOs, this mean the area of their particular state, excluding areas governed solely by a THPO that has formally assumed the responsibilities of the SHPO for tribal lands in accordance with Section 101(d)(2) of the NHPA. For THPOs, this means tribal lands as defined under NHPA, which includes lands within a reservation boundary, and any tribal trust lands external to the boundaries of a reservation.

Federal Land Managing Agency – the Federal agency with the particular authority to manage United States-owned lands affected by the undertaking. For purposes of this Systemwide PA, the Federal Land Managing Agency shall be either the Corps or Reclamation, or in some instances it may be the National Park Service, the USDA Forest Service, or other Federal land managing agency.

Historic Properties of Religious and Cultural Significance to an Indian Tribe (HPRCSIT) – one kind of traditional cultural property. Unlike a TCP, to which any group or organization can ascribe significance, the term "historic properties of traditional religious and cultural significance to an Indian tribe" is used in Federal law and regulation to describe an historic property to which specifically an Indian tribe attaches spiritual or cultural value. Section 101(d)(6)(A) of the NHPA states that "Properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for inclusion on the National Register." As with any historic property, a HPRCSIT must be a property (i.e., be a physical place), and needs to have a history of use for traditional religious and cultural activities or association with religious or cultural beliefs in the past. However, the property does not have to have been in continual use up to the present day, and its association with beliefs may have been revitalized in recent times after a period of quiescence or suppression.

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." See 36 C.F.R. § 800.16(l)(1), providing elaboration on the statutory definition codified at 16 U.S.C. § 470w(5). Also see definition of "Property."

Historic Property Management Plan (HPMP) – plans that are technical, substantive frameworks for describing Section 106 compliance activities at the Project-specific level and which at a minimum contain the elements described in Attachment 4. When a HPMP is also serving as a Project-specific compliance document in lieu of a Project-Specific PA, it is called a "Stand-Alone HPMP" and it must also contain the elements described in Stipulation VI.C.

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 Member of the Public – an individual or entity that is not a consulting party (until invited to be so), but which the Lead Federal Agency believes may be interested in information about the undertaking and its effects on historic properties based on, for example, the Lead Federal Agency's prior experience or contact with the individual or entity, the recommendations of a SHPO or THPO, affected Indian tribes, or the individual or entity's own initiative in providing its views. See 36 C.F.R. § 800.2(d).

Joint Operating Committee (JOC) – 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 United States has a right to use property for a specific purpose, but does not own fee title to the property.

Lead Federal Agency – the U.S. Army Corps of Engineers, the Bureau of Reclamation, and/or the Bonneville Power Administration, depending on the circumstances. Unless otherwise noted, implementation or compliance actions taken pursuant to this Systemwide PA shall typically be two of the Lead Federal Agencies, depending on the locale. See Attachment 5 for further details. For the purposes of this PA, the primary points of contact for correspondence and inquiries are the Lead Federal Agency FCRPS Cultural Resources Program Managers.

National Register of Historic Places (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 the National 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 VI.C of this Systemwide PA.

Property – all historic properties and, for identification and/or evaluation purposes, all locations/sites affected by the undertaking that may contain evidence of past human use or traditional religious and cultural importance that have yet to be identified/evaluated. Also see definition of "Historic Property."

Reservoir – a body of water impounded by a dam and operated for water storage and other purposes. This differs from "lakes," which are bodies of water impounded by dams 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 that signs this Systemwide PA and has authority or responsibility according to the terms of this PA.

Stand-Alone HPMP – signed Project-specific HPMP that meets the requirements of a Project-Specific 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 may be "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." National Park Service, National Register Bulletin 38, *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (1990). The property must meet the requirements defined in 36 C.F.R. § 60.4 and Bulletin 38. Historic properties of religious and cultural significance to Indian tribes (HPRCSIT) are a type of TCP.

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 Systemwide 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 purposes of this Systemwide PA, the undertaking includes all construction (routine and non-routine) and operation and maintenance activities required for current and future operation of the 14 FCRPS Projects. See Attachment 5.

Attachment 4

Historic Property Management Plans, Treatment Plan Principles, and Annual Work Plans

Historic Property Management Plans

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

- Existing commitments from other MOAs or PAs in effect (such as the IDU PA), where applicable.
- Documentation of APE, if not already included in Project-specific agreements.
- A research design that provides an historic context for property evaluation for eligibility to the National Register. The research design shall define research domains or historic themes applicable to the area, define characteristics of property types associated with historic themes, and identify data gaps. Project-specific research designs should incorporate applicable elements of the Systemwide Research Design.
- A summary of significant past investigation and management activities, and a list of associated products.
- A list of properties, with their National Register eligibility status indicated.
- Information about historic 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 will be identified.
- A list of anticipated compliance actions forecasted for no less than the next five years.
- A process for integrating TCP research with the archeological and historical site identification and evaluation activities.
- Inventory and evaluation strategies for all potential historic 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 determining when and how to conduct peer review of research or educational products.
- A process for public outreach and education, including potential Heritage Tourism opportunities.
- General standards for field work, analysis, reporting, and site treatment.

The HPMP may also include, as appropriate, relevant Lead Federal Agency commitments pursuant to other resource management requirements, including, for example, Section 110 of the NHPA, ARPA, and Section 3(d) of NAGPRA addressing inadvertent discovery or intentional excavation.

If an HPMP also serves as the Project-specific compliance document (is a Stand-Alone HPMP), in the absence of a Project-Specific PA, the HPMP must also contain the procedures identified in Stipulation VI.C and be consistent with the terms and conditions of this Systemwide PA.

Treatment Plan Principles

- Treatment plans shall be prepared for historic properties that are being adversely affected by the undertaking, if they are determined eligible for the National Register or are already listed.

- Plans may be prepared for individual historic properties or for groups of historic properties, as determined most efficient and effective by the Lead Federal Agencies. Cooperating Groups will be involved in plan preparation, and consultation with consulting parties will occur consistent with the processes defined for that Project in the Project-Specific PA or Stand-Alone HPMP.

- Where there are multiple sites, selection of sites for preparation of treatment plans shall be prioritized based on consideration of an array of factors, consistent with Stipulation IV of this Systemwide PA and the applicable Project-Specific PA or Stand-Alone HPMP.

- Except for TCPs as discussed below, plans shall be prepared with input and assistance from the Cooperating Groups, applicable consulting parties, and other interested members of the public as determined necessary by the Lead Federal Agencies.

- 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 shall be determined in consultation with the tribe. The SHPO would be involved if a TCP is on non-tribal lands outside of reservation boundaries.

- The Lead Federal Agencies shall consider creative mitigation options. Creative mitigation includes an array of options for treatment of adverse effects for a diverse range of historic property types. Consideration may include, but not be limited to: site protection or stabilization; data recovery, including historic documentation or Historic American Engineering Record/Historic American Buildings Survey records; historical or oral history research; analysis of existing collections; monitoring; and public educational materials or opportunities. Some factors that may be considered in selecting a mitigation option include, but are not limited to, the National Register criteria under which a property has been determined eligible for listing, feasibility, and cost. Off-site treatments may be implemented consistent with Agency authorities. When a property is on land not held in fee title by one of the Lead Federal Agencies, on-site treatments can occur only with permission from the landowner or agency with jurisdiction.

- A process for determining appropriate resource-specific treatments for historic properties adversely affected by the undertaking.

Annual Work Plans

The Annual Work Plan for each Project shall be developed by the Lead Federal Agencies with input and assistance from Cooperating Groups and coordination with consulting parties. At a minimum, the Annual Work Plan shall include:

- A prioritized list of proposed historic properties compliance activities for the year, which indicates how the activities contribute toward the objectives of the Project-Specific Research Design and the Systemwide Research Design, if appropriate.
- 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.

Attachment 5

Undertaking Covered by this Systemwide PA, Responsible Agencies, and Funding

Undertaking Covered by this Systemwide PA

The undertaking covered by this Systemwide PA is the operation and maintenance of the 14 Columbia and Snake River Federal hydropower dams of the FCRPS for all of their multiple authorized purposes. For purposes of this PA, the undertaking includes all construction (routine and non-routine) and operation and maintenance activities required for current and future operation of the FCRPS.

The following non-exclusive list contains examples of activities and programs that are not covered under the terms of this Systemwide PA because, for instance, they are covered by another PA, are not part of the undertaking, or the Lead Federal Agencies comply through individual Section 106 reviews:

- Canals, ditches, and laterals and facilities (other than facilities at Grand Coulee Dam) that are associated with Reclamation's Columbia Basin Project.
- Construction and maintenance of BPA's transmission system.
- BPA Fish and Wildlife Program activities, including, for example, funding the acquisition of mitigation lands.
- Compliance with NAGPRA, Sections 5, 6 & 7.
- Corps Section 10/404 Regulatory Permits.
- Actions by agencies other than the Lead Federal Agencies, when those other agencies are implementing FCRPS Project purposes which by agreement are the responsibility of those other agencies. Examples include: implementation of recreation purposes (e.g., campground construction and maintenance by the USDA Forest Service), or fish mitigation actions by other agencies (e.g., U.S. Fish and Wildlife Service-managed fish hatcheries).

Responsible Agencies

For most of the activities encompassed by the undertaking, there will typically be two Lead Federal Agencies involved: the Project's operator (the Corps or Reclamation depending on the Project) and BPA which provides direct funding for the power portion of operations activities, including funding for operation and maintenance activities.

For some activities encompassed by the undertaking, there may be only one Lead Federal Agency involved, the Project operator. This would be the case for an activity that is not classified as "power" or "joint use" (which includes hydropower), and for which all funding associated with the activity is from Congressional appropriations (no BPA direct funding is involved). An example of this might be costs associated with navigation or maintenance of navigation locks.

It is unlikely that BPA would ever be the only Lead Federal Agency involved in an activity implemented under this Systemwide PA. This is because it does not operate the Projects, and it does not manage any Project lands relative to the undertaking. BPA does manage substation properties, but these are part of the transmission system and are not covered under this PA.

Funding

This Systemwide PA is not a funding document. Nonetheless, in response to comments and questions, the Lead Federal Agencies provide the following background regarding how they interact to provide funding for historic properties management at the Projects. The Corps and Reclamation, respectively, operate and maintain the FCRPS Projects. The costs of operation and maintenance are classified by the agencies according to the Project purposes they support: "joint use" purposes include operations and maintenance that support the multiple Project purposes (including power). With ratepayer monies, BPA directly funds the Corps and Reclamation for the power share of operation and maintenance costs—specific power-only operations and maintenance, and the power share of joint use operations and maintenance. The Corps and Reclamation, respectively, fund the non-power shares of operation and maintenance. Funding coordination is the subject of direct funding agreements for operation and maintenance of the Projects and related MOAs between the Corps and BPA, and Reclamation and BPA, overseen by the Joint Operating Committee of these Lead Federal Agencies. Historic properties compliance activities are included in the operation and maintenance of the FCRPS Projects.

As agreed by the three agencies following the System Operation Review, a specific budget of $4.5 million annually, for 15 years (apportioned at $3 million for Corps Projects and $1.428 million annually for Reclamation Projects) is allocated from the operation and maintenance budget specifically for historic properties program compliance. Please see the FCRPS Cultural Resource Handbook. This targeted allocation of $4.5 million annual is often referred to by the Lead Federal Agencies as "fenced funds" which are not intended by the Agencies to be applied to other operation and maintenance purposes. Thus, while this Systemwide PA is intended to cover multipurpose operations and is in that sense broad, such that activities of the undertaking not funded through the "fenced funding" may be covered, the reverse is not true: just because this Systemwide PA covers the broad undertaking does not mean that "fenced funding" can be expended beyond the intended historic properties program boundaries, unless otherwise agreed to by the JOC. Appropriate use of fenced funding is discussed in a separate MOA.

Attachment 6

Routine Activities Under this FCRPS Systemwide PA That Do Not Require Section 106 Consultation

Review Process Requirements

The following list of routine activities is intended for use by Corps District and Reclamation cultural resource specialists when routine activities associated with the undertaking are proposed at any of the 14 Projects. It is important to note that this list is not exhaustive and may be expanded during development of Project-Specific PAs or HPMPs. ***Corps and Reclamation cultural resource specialists who meet the Secretary of the Interior's Standards and Guidelines for Professional Qualifications (36 C.F.R. part 61) shall review specific routine activities implemented under this Systemwide PA and determine whether they fall within one of the routine activity categories defined below***.

The following categories of routine activities have little or no potential to cause effects on historic properties as long as the conditions listed below are met. If at any time during review of a specific routine activity, information becomes available that would indicate to the Lead Federal Agencies that the specific activity may have a higher potential for effects, either review processes outlined in Project-Specific PAs, or standard Section 106 review, shall be initiated.

To make the determination whether a specific routine activity has little or no potential to cause effects on historic properties, cultural resource specialists will review available materials, such as published and archival records, prior reports, and/or maps and photographs. The purpose of the review is to: determine the nature and reliability of past investigations; determine if there are known properties (including TCPs/HPRCSITs) in the area; assess the extent of any past disturbance; and determine if further investigations are warranted in order to establish if properties are present or would be affected. A determination by a cultural resource specialist that an area is disturbed or is composed of fill or other artificial materials, must be based on documentation in reports of previous investigations in the area, evidence in records or photographs, or have been agreed upon in past consultations with SHPO/THPO, tribes, or other consulting parties.

If the cultural resource specialist determines that no historic properties are located in the activity area or if there is little or no potential to cause effects on historic properties, then the Lead Federal Agency has no further obligation to consult on that activity and will document the finding of no potential to cause effects. If the cultural resource specialist finds there is insufficient information to assess if cultural resources are present, then the routine activity under review will be subject to processes outlined in the applicable Project-Specific PA or standard Section 106 review.

Documentation of a determination of little or no potential to cause effects on historic properties shall, at a minimum, consist of a written summary that describes the specific routine activity,

describes review or identification efforts and the results, identifies any avoidance/protective measures taken, indicates the reviewer and date reviewed, and provides maps showing the location of the activity and area of potential effects. Documentation shall be filed in the Corps District or Bureau of Reclamation files, as appropriate, and summarized in the Annual Report prepared under this Systemwide PA (VIII.A.a.ix).

Limitations

These limitations apply to all the categories of routine activity listed below:

- Specific routine activities will not be authorized under this process if they involve movement, removal, or alteration of culturally modified rock or culturally utilized rock, or natural rock that contribute to properties of religious and cultural significance to Indian tribes.
- Specific routine activities will not be authorized under this process within fill, when that fill is a material component of a built structure (e.g., dam, dike, roadbed) that may be an historic property.
- Re-evaluation of properties will occur as needed consistent with 36 C.F.R. § 800.4(2)(c)(1), which states "The passage of time, changing perceptions of significance, or incomplete prior evaluations may require the re-evaluation of properties that had been previously determined "eligible" or "not eligible" for the National Register of Historic Places." This re-evaluation will occur with consultation with consulting parties.
- No buildings or structures less than 50 years in age will be altered or demolished without prior assessment by a cultural resource specialist to determine if they have a level of importance that would require consultation at a lesser age to determine eligibility.
- Coordination with affected tribes will occur if there is reason to believe that past investigations did not include consultations or investigations needed
- If consultations or investigations have not occurred in the past to determine if TCPs or HPRCSITs might be present, the Lead Federal Agency will coordinate with affected tribes.

This list of categories of routine activities is not intended to preclude the Lead Federal Agencies from identifying other categories of activities as having little or no potential to cause effects. Additional routine activity categories may be identified in Project-specific agreements.

Categories of Routine Activity

1. Transfer of real estate from a Lead Federal Agency to another Federal agency with equal responsibility for compliance and that has cultural resource specialists that meet the Secretary of the Interior's standards.
2. Blading, ground clearing, or excavation that occurs entirely within fill, and the fill itself does not contribute to the historic significance of a property.
3. Blading, ground clearing, or excavation within areas where existing ground disturbance entirely encompasses the area that would be affected by the activity and where the past

disturbance was so severe as to preclude the existence of intact cultural deposits, and no known properties are present.

4. Use of existing gravel pits, including further materials extraction and stockpiling within the pit, where no lateral expansion of the previously excavated area of the pit will occur.
5. Replacement or restoration of existing rip rap within the demonstrated vertical and horizontal limits of previous construction or disturbance.
6. Adding rock fill or gravel to roads where no new ground disturbance will occur and no recorded properties are within the road bed.
7. Treatment of weed infestations that does not violate the chemical label, does not involve ground disturbance, where no features (such as pictographs or petroglyphs) that might be damaged are present, and does not occur within landscaped areas where native plant communities might be harvested.
8. Encroachment thinning using hand methods to lop branches and cut small trees and brush, where material is dropped in place, stumps are left in place, and no chemical treatments are used. This would not include areas with culturally modified trees.
9. Routine maintenance and repair to interiors or exteriors of existing buildings and structures that are less than 50 years old (subject to limitations defined above), or have been determined "not eligible" for the National Register in consultation with the SHPO/THPO, and where there are no other properties in the immediate vicinity.
10. Maintenance or repair of fence lines that are less than 50 years old, where no ground disturbance occurs, or the fence line is on fill, there will be no movement, removal, or alteration of rock, and where the fence is not located within the boundaries of an historic property, or where the property has been determined "not eligible" for the National Register in consultation with the SHPO/THPO.
11. Rodent control that does not involve ground disturbance, no movement, removal, or alteration of rock, or contamination of native or traditional foods and plant fibers.
12. Installation, repair, or replacement of signs and markers on existing buildings or structures that are less than 50 years old, where there is no visual intrusion to nearby historic properties.
13. Installation, repair, or replacement of signs and markers where no ground disturbance will occur, or where installation is confined to disturbed areas or fill, and without movement, removal, or alteration of rock.
14. Installation, repair, or replacement of monitoring equipment where no ground disturbance occurs, there will be no movement, removal, or alteration of rock, the activity is not located within the boundaries of an historic property, or where the property has been determined "not eligible" for the National Register in consultation with the SHPO/THPO. Examples of such equipment are stream flow or dissolved gas gauges, weather stations, animal traps, and security monitoring or transmitting devices.
15. Excavations for maintaining, removing, or replacing tile, ditches, fire lines, dikes, levees, pipes, pipelines, cables, telephone lines, fiber optic lines, signs, gates, or cattle guards, when the property or items are less than 50 years in age or have been determined "not

eligible" in consultation with the SHPO/THPO, where they are not within or part of an historic property, and where excavations, including heavy equipment operation, occur within the demonstrated vertical and horizontal limits of previous construction, and within previously surveyed areas.

16. Small bore (less than 6 inch diameter) drilling within areas previously surveyed and outside of known property areas.
17. Repair, replacement, and installation of energy conservation, health and life safety, accessibility, and security measures that do not affect the historic or architectural values and character-defining features of historic properties, and do not involve ground disturbance. Examples of activities that would NOT be included are: removal, replacement, reconstruction, or reconfiguring of original staircases, windows, or doors, or their openings; cutting new door or window openings on public facades; or introducing visually intrusive new materials or structures on public facades or into contributing surrounding landscapes. Any alteration of historic buildings implemented under this category will comply with the Secretary of the Interior's Standards for Rehabilitation (36 C.F.R. part 67), and will be reversible.
18. Repair or replacement of equipment or material that is not original to a historic structure and where the replacement will not cause an effect upon the historic or architectural values and defining features of historic properties.
19. Maintenance of existing trails, walks, paths, sidewalks, and associated signage, and work is conducted within the demonstrated vertical and horizontal limits of previous construction or disturbance, and no known properties are within the work area.
20. Maintenance within existing road or parking lot profiles, such as repaving, grading, cleaning inboard ditches, repairing, brushing, signing and sign maintenance or replacing guards and gates within the demonstrated vertical and horizontal limits of previous construction or disturbance.

Attachment 7

ADDITIONAL SIGNATORY OR CONCURRING PARTY

TO THE

SYSTEMWIDE PROGRAMMATIC AGREEMENT

FOR THE MANAGEMENT OF HISTORIC PROPERTIES

AFFECTED BY

THE MULTIPURPOSE OPERATIONS OF FOURTEEN PROJECTS OF THE

FEDERAL COLUMBIA RIVER POWER SYSTEM

FOR COMPLIANCE WITH

SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT

SIGNATURE BY CONSULTING PARTY:

By: _____ Date: _____
Name and Title

Representing: _____
Agency/Tribe/Entity

OR

SIGNATURE BY CONCURRING PARTY:

By: _____ Date: _____
Name and Title

Representing: _____
Agency/Tribe/Entity