3.8 Cultural Resources

Federal historic preservation legislation provides a legal environment for documentation, evaluation, and protection of ***cultural resources*** that may be affected by federal undertakings, or by private undertakings operating under federal license, permit, or approval or on federally managed lands. The NEPA of 1969 states that federal undertakings shall take into consideration impacts to the natural environment with respect to an array of disciplines, and that alternatives must be considered. The courts have made clear that cultural resources are regarded as part of the natural environment. The National Historic Preservation Act (NHPA) of 1966, as amended, established the Advisory Council on Historic Preservation and the National Register of Historic Places (NRHP) in its modern form. The NHPA mandates that federal agencies consider projects' effects on cultural resources that are ***listed*** or eligible ***for inclusion in*** the NRHP and Section 106 of the NHPA establishes a four-step review process by which cultural resources are given consideration during the conduct of federal undertakings. The four steps of the Section 106 review process are: 1) initiation of the Section 106 review process (i.e., establish the undertaking, identify appropriate SHPO and/or Tribal Historic Preservation Office ***(THPO)***, plan to involve the public, identify other consulting parties); 2) identification of historic properties ***(i.e., those cultural resources included in, or potentially eligible for inclusion on the NRHP)***; 3) assessment of adverse effects; and 4) resolution of adverse effects. The Archaeological and Historic Preservation Act of 1974 further delineates the responsibilities of federal agencies in the execution of undertakings with respect to impacts on cultural resources. The Archaeological Resource Protection Act of 1979, as amended, provides for a system of permitting for investigations on federal land which may involve looking for and the removal of artifacts or other archaeological resources. The statute also requires that agencies develop compatible regulations for the management of cultural resources.

The effects of federal undertakings on properties of religious or cultural significance to contemporary Native Americans, including traditional cultural properties (TCPs), are given consideration under the provisions of the American Indian Religious Freedom Act of 1978 (AIRFA), ***Archaeological Resource Protection Act (ARPA)***, ***Executive Order 13007 (Sacred Sites), Executive Order 12898 (Environmental Justice)***, and recent amendments to the NHPA. As amended, the NHPA now integrates Indian tribes into the Section 106 compliance process, and also strives to make the NHPA and NEPA procedurally compatible. In compliance with Section 106, federal agencies must consult with a representative designated by the tribe.

The ***NHPA*** process begins with consultation with the SHPO ***and/or THPO*** [1]**.** to determine the undertaking's area of potential effect, an identification and evaluation of cultural resources for NRHP eligibility, followed by an assessment of effect on those ***historic properties***, and concluding after the consultation process between the SHPO/***THPO,*** jurisdictional agency***, and affected Tribe(s)***. In order for a cultural resource to be ***considered an historic property,*** it must meet one or more of the following ***NRHP*** criteria of significance: a) be associated with events that have made a significant contribution to the broad patterns of our history; b) be associated with the lives of persons significant in our past; c) embody the distinctive characteristics of a type, period, or method of construction, or represent the work of a master, or possess high artistic value, or represent a significant and distinguishable entity whose components may lack individual distinction; or, d) have yielded, or may be likely to yield, information important in prehistory or history. In addition, ***historic properties*** must possess integrity of location, design, setting, materials, workmanship, feeling, and association (National Park Service [NPS] 1991).

3.8.1 Affected Environment

3.8.1.1 Plant Site

***Archaeological* Resources**

In September 2001, the ***CTUIR*** Cultural Resources Protection Program (CRPP) conducted a literature search and records review through the Oregon SHPO as part of the cultural resources investigation for the proposed Wanapa Energy Center plant site. The ***CTUIR*** CRPP reviewed all previously completed cultural resources surveys and all previously recorded archaeological sites and properties listed on the NRHP within 1 mile of the proposed plant site. Since the late 1940s, numerous cultural resources studies have been completed in the area of the plant site with the majority being inventory surveys. Excavation of individual sites also has occurred, beginning with those associated with the 1947 River Basin Surveys associated with the Columbia Basin Project.

As a result of the file search, 10 sites were identified within 1 mile of the plant site. Five sites were recorded during the McNary Reservoir surveys from the late 1940s through the 1950s; none of these sites are within the plant site boundary. Since that time five additional sites have been recorded primarily under Section 106-driven projects.

[1] ***The Tribal Historic Preservation Officer is consulted in lieu of the State Historic Preservation Officer when resources are located on reservation or on off-reservation tribal trust lands.***

On October 9 and 10, 2001, the ***CTUIR*** CRPP conducted a cultural resources field survey of the proposed Wanapa Energy Center plant site. During the survey, two isolated finds were recorded (Miller 2001). These isolated finds are not eligible for inclusion in the NRHP; therefore, there ***would*** be no effect per the NHPA (16 U. S. C. §§ 470-470x-6).

One aqueduct currently in use is within the plant site boundary. The aqueduct is part of the Wanaket Pump System, which received its original ROW from the USACE on May 30, 1949 (Umatilla County, Deed Volume 189, Page 174, Charles Kik). The field crew observed 22-inch-diameter ceramic pipes in 53-inch-long sections and segments of 24-inch-diameter iron pipe. Two piles of 25-gallon cans and two cement blocks also were noted. All of these features appear to be associated with the aqueduct and pumping stations. There is no evidence indicating that these features are over the 50 years old necessary to qualify them as an archaeological site; therefore, they were not recorded.

Traditional Cultural Properties

There are many definitions of the word "culture," but in the National Register programs, the word is understood to mean the traditions, beliefs, practices, lifeways, arts, crafts, and social institutions of any community, be it an Indian tribe, local ethnic group, or the people of the nation as a whole. One kind of cultural significance a property may possess, and that may make it eligible for inclusion in the NRHP, is traditional cultural significance. "Traditional" in this context refers to those beliefs, customs, and practices of a living community of people that have been passed down through the generations, usually orally or through practice. The traditional cultural significance of a historic property, then, is significance derived from the role the property plays in a community's historically rooted beliefs, customs, and practices (NPS Bulletin 38).

Some places of traditional cultural use may be eligible for inclusion in the NRHP as a ***traditional cultural property (***TCP***)*** because of their 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 (Parker and King 1989). Since ***traditional cultural properties*** identified by ***a community*** are important in each ***community's*** history, and since the resources are interconnected with places and resources, any impacts to ***traditional cultural properties*** would be regional in scope. In addition, because ***traditional cultural properties*** are tied

to communities' cultural identities, effects to ***the property*** also have an effect on the communities to which they are tied in perpetuity. Therefore, the duration of impacts to ***traditional cultural properties*** is forever.

The CRPP of the CTUIR was responsible for a TCP assessment of the proposed Wanapa Energy Center plant site. A file and literature search was conducted using ***CTUIR*** CRPP archives to identify known archaeological sites and obtain pertinent information about past and present customary and/or traditional use of the areas within and around the plant site. Past archaeological surveys and reports, ethnographic reports, reports on CTUIR ceded lands, and sensitive and confidential information were reviewed. An informational flyer regarding the Wanapa Energy Center project and site visit dates were mailed to 175 Tribal Elders requesting their assistance in this project. Two site visits to the proposed plant site were conducted during October 2001 with twenty Tribal Elders and four ***CTUIR*** CRPP staff. Oral history interviews with Tribal Elders were conducted on October 10 and 16, 2001 (Farrow 2001). The outcome of the assessment was that the area of the Wanapa Energy Center is a TCP.

The proposed Wanapa Energy Center would be located on lands ceded by representatives of the CTUIR to the U.S. Government in the Treaty of 1855. The land is now held in trust by the United States for the CTUIR as beneficial owners and is still used for hunting and resource procurement.

3.8.1.2 Transmission, Water *Supply*, and Gas*/Plant Discharge Water* Lines

In August 2003, Archaeological Investigations Northwest, Inc. conducted a literature and file search through the Oregon SHPO for the proposed transmission, water ***supply***[2], and gas***/plant discharge water*** lines. The literature search study area extends 1 mile from the transmission, water ***supply***, and gas***/plant discharge water*** alignments and encompasses 59 square miles, which also includes the proposed plant site. The literature and file search was directed primarily toward identifying previous cultural resource studies that had been conducted within the study area and previously identified cultural resources in the study area. Forty-three cultural resource surveys have been conducted in the study area since the mid-1970s and generally have been located between the cities of Umatilla and Hermiston, with the majority of the work focused near Umatilla. Previous surveys in the study area primarily cover the area around the proposed Wanapa Energy Center, 840 acres of the Wanaket Wildlife Area, the Department of Corrections prison site, the Williams

[2] ***Water supply line ROW would be utilized for potable water and sanitary sewer pipelines.***

Northwest Pipeline alignment south and west of Cold Springs Reservoir, and a north-south portion of the Level 3 fiber optic cable alignment.

Sixteen of the surveys conducted in the study area resulted in the discovery of no cultural resources. These negative surveys were conducted for highway improvement projects, wastewater facility projects, energy facility projects, improvements at Hat Rock State Park, and a water diversion project, with most situated near the city of Umatilla. All of these projects were linear surveys with the exception of the work done at Hat Rock State Park.

Twenty-seven of the surveys in the study area recorded prehistoric or historic-period resources. These surveys include a variety of projects, with most being linear surveys for transmission lines and pipelines, new roads or road improvements, or improvements at McNary Dam.

There were 22 sites identified as a result of the literature and file search, including 12 prehistoric sites, 7 historic period sites and 3 multi-component sites (sites containing both prehistoric and historic period resources) (Baker and Ellis 2003). Three of the sites are considered significant; one is listed in the NRHP, one has been recommended as eligible, and one has been ***formally*** determined eligible. In addition, two historic-period structures have been recorded as significant resources, the Cold Springs Dam and major associated elements of this irrigation system and McNary Dam.

Extending across the study area are both active and abandoned segments of irrigation systems developed between 1900 and 1930 by private interests and by the BOR as part of the Umatilla Basin Project. ***On October 12, 1999, the BOR and SHPO concurred that the Umatilla Project is eligible to the NRHP as a linear and discontinuous historic district***. Five elements of the Cold Springs portion of the Umatilla Basin Project (the Cold Springs Dam, the Furnish Ditch, the Feed Canal, the Feed Canal Diversion Dam, and the A-Line Canal) ***are contributing features to this historic district*** (Baker and Ellis 2003). ***In March 2000 the I-Line Canal was determined to be a contributing feature***. In addition, the Three Mile Diversion Dam on the Umatilla River and the West Extension Irrigation Canal, which also were constructed by the BOR as part of the Umatilla Basin Project, ***also are contributing elements to this historic District***.

Those portions of the proposed action for the proposed transmission and plant discharge water/gas lines located on public lands have been surveyed. (For the proposed transmission line this includes the area around McNary Substation and the line through Township 5 North,

Range 28 East, Section 13 and Township 5 North, Range 29 East, Section 18, WM. For the proposed plant discharge water/gas line, the area surveyed was located in Township 5 North, Range 29 East, Section 18, WM as well as the segment along the Feed Canal in Township 4 North, Range 29 East, Sections 3 and 4, WM.) Field surveys would be conducted by the CTUIR CRPP for the remaining portions of the proposed action prior to project-related construction.

As a result of the survey on public lands, one pre-contact isolated find, one eligible historic property and one potential site were located. The historic property is the Feed Canal, which was discussed earlier as an eligible property and part of the NRHP eligible Umatilla Basin Project. One aqueduct was located along the transmission line corridor. Additional research is necessary to determine whether or not the aqueduct is greater than* 50 *years of age and therefore, a potential historic property. Results of the field surveys for the transmission and water/gas line alternatives would be reviewed by the SHPO.

3.8.2 Environmental Consequences and Mitigation

3.8.2.1 Plant Site

Two isolated finds were located during the cultural resources field survey of the plant site. Isolated finds are not eligible for inclusion in the NRHP; therefore, there ***would*** be no effect to cultural resources in accordance with the NHPA, as amended. The aqueduct, currently in use, and remnants of piping and cement slabs from earlier use of the aqueduct are located within the plant site. However, there is no evidence indicating that these features are over the 50 years old necessary to qualify them as an archaeological site. ***Subsurface cultural resource testing would be conducted prior to construction authorization.***

The CTUIR CRPP considers the Wanapa Energy Center plant site to be a TCP.

Burials and subsurface cultural material may be encountered during project construction on tribal trust lands. If human remains or subsurface cultural material are inadvertently discovered, all work in the vicinity of the find would cease, the THPO and SHPO would be notified, and in the case of ancestral remains, the NAGPRA procedures would be followed, and the CTUIR's Policy and Procedure Manual for the Repatriation of Ancestral Human Remains and Funerary Objects would be implemented.

Recommended Mitigation

C-1. The CTUIR CRPP considers the Wanapa Energy site to be a Traditional Cultural Property (TCP). Therefore, the CTUIR CRPP would: 1) ensure that a CTUIR CRPP Tribal Monitor is present during all ground disturbing activities; 2) the CTUIR CRPP would be consulted throughout the entire planning and construction process until the project is completed; and 3) the CTUIR CRPP would participate in appropriate mitigation planning to maintain traditional uses of the site and/or develop appropriate mitigation plans, as necessary.

3.8.2.2 Transmission*, Water Supply,* and *Plant Discharge* Water/Gas Lines

Based on the file search data, the proposed ***plant discharge*** water and gas lines would cross one previously recorded historic site, which was previously recommended as not eligible to the NRHP, and three NRHP-eligible elements of the Cold Springs irrigation system: the A-line Canal, the Feed Canal, and the Furnish Ditch. ***One isolated find and the Feed Canal were identified during the cultural resources field survey of those portions of the proposed action for the transmission and gas/water line on public lands. Isolated finds are not eligible for inclusion in the NRHP; therefore, there would be no effect to cultural resources in accordance with the NHPA, as amended. Prior to construction, a determination would be made regarding the age of the aqueduct identified along the proposed action of the gas/water line and whether or not it is an historic property and therefore, whether mitigation measures are necessary.***

Burials and subsurface cultural material may be encountered during project construction on federal, state, and private lands. If human remains or subsurface cultural material are inadvertently discovered, all work in the vicinity of the find would cease, the THPO and SHPO would be notified. In the case of ancestral remains, the NAGPRA procedures would be followed and the CTUIR's Policy and Procedures Manual for the Repatriation of Ancestral Human Remains and Funerary Objects would be implemented.

Recommended Mitigation

C-2. Upon concurrence from the SHPO and THPO, adverse effects to the three NRHP-eligible canals and ditches would be avoided by horizontally boring under these features rather than trenching through them.

3.8.2.3 Cold Springs Reservoir

A detailed cultural resources assessment was not completed around the reservoir perimeter, and none was considered necessary because Wanapa Energy Center project operations would not raise the reservoir storage pool above authorized levels. No changes in existing reservoir facilities or historical operations are proposed as part of this project. If water delivery facilities (such as a new drop structure) are proposed in the future, then the BOR would conduct additional NEPA analysis, and cultural surveys and appropriate mitigation would be completed in areas proposed for disturbance prior to construction.

3.8.3 Proposed Action Impact Summary

No NRHP-eligible sites were located during the cultural resources field survey of the plant site. ***The CTUIR CRPP determined through interviews with tribal elders that the plant site is considered a traditional cultural property by the Umatilla and the Walla Walla tribes. As a consequence, the project would: 1) ensure that a CTUIR CRPP Tribal Monitor is present during all ground disturbing activities; 2) the CTUIR CRPP would be consulted throughout the entire planning and construction process until the project is completed; and 3) the CTUIR CRPP would participate in appropriate mitigation planning to maintain traditional uses of the site and/or develop appropriate mitigation plans, as necessary.***

If subsurface cultural material or human remains were located during project-related construction, all work would cease, the CTUIR ***would be*** notified, and, in the case of ancestral remains, the ***CTUIR's Policy and Procedure Manual for the Repatriation of Ancestral Human Remains and Funerary Objects would be implemented*** in consultation with the THPO. Therefore, any cultural resources excavated within the plant site would receive the appropriate level of treatment as defined by the THPO.

Based on the file search, the proposed ***plant discharge*** water and gas lines would cross two NRHP-eligible historic canals and one NRHP-eligible ditch. Upon receiving concurrence from the SHPO, adverse effects to the canals and ditch would be avoided by boring under these historic features; therefore, no impacts to the canals and ditch are expected to occur. ***One potential historic property requiring additional investigation was located during the partial field survey of the transmission and gas/water proposed action routes. Additional field surveys of those portions of the proposed action not on public lands would be required to determine the location and importance of***

cultural resources within the ROWs. Adverse impacts and mitigation procedures would be determined in consultation with the SHPO. Monitors may need to be present during construction on portions of the transmission, water ***supply***, and gas***/plant discharge water*** lines on ***federal, tribal, private, and state lands. Inadvertent discovery procedures would be the same as those described for the plant site tribal trust lands.***

There would be no adverse effects to historic properties associated with Cold Springs Reservoir because water storage levels would not exceed currently authorized levels.

3.8.4 Component Alternatives Impact Summaries

The gas supply pipeline, plant discharge water pipeline, and electrical transmission Proposed Action and alternative routes have not been field surveyed on private, state, or all federal lands. As a consequence, route comparisons based on the occurrence (number and potential eligibility) of cultural resources are not possible for these components. All the gas supply pipeline and plant discharge alternatives (Proposed Action, Alternatives 1 through 6) would require crossings of two NRHP-eligible Umatilla Irrigation System canals (A-Line Canal, Furnish Ditch), and would parallel the Feed Canal on its north side. The Alternative 6 discharge water pipeline would parallel the Feed Canal over a shorter distance (0.3 mile versus 1.3 miles) as compared to the other discharge water pipeline alternatives. As stated for the Proposed Action, all NRHP-eligible canals would be bored to avoid effects on these properties, and additional surveys may be required to determine the necessary offset between the water discharge pipeline and the adjacent Feed Canal.

The Plant Discharge Water Alternative 1 pipeline route from the plant site to the Columbia River (Figure 2.4-11) could cross potentially important archaeological sites. This conclusion is based on prior cultural resource surveys.

If an approval to construct the project is granted in the BIA, BPA, and BOR Records of Decision, then pre-construction cultural surveys must be completed within the area of potential effect. THPO/SHPO coordination for inadvertent discoveries and ancestral remains would be followed for the portions of the utility routes on tribal, federal, state, and private lands. Because the alternative discharge water pipeline to the Columbia River (Alternative 1) would be located within the boundaries of a Traditional Cultural Property (TCP), Mitigation Measure C-2 would be applied to all ground disturbing activities associated with this pipeline route.