
BAKER RIVER PROJECT RELICENSE

Cultural & Historical Resources Working Group

December 10, 2002
9:00-3:00

Baker River Project & Baker Lodge
Concrete, WA

AGENDA

9:00a.m. – 12:00p.m. FIELD MEETING - Meet at PSE Visitors Center in Concrete
12:00p.m. – 1:00 p.m. LUNCH AT BAKER LODGE
1:00p.m. – 3:00p.m. REGULAR WORKING GROUP MEETING AT BAKER LODGE

1. Introductions
2. Review Minutes/Agenda
3. Review Action Items
4. Debrief from PME Session (December 9)
5. Question & Answer/FERC - FERC Relicensing Timeline
6. Erosion Study Results
7. UDP Status
8. Set January 14 agenda
9. Evaluate Meeting

Distribution List
Baker River Cultural & Historical Resources Working Group

Organization	Name	Email
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Distribution List
Baker River Cultural & Historical Resources Interested Parties *

Organization	Name	Email
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Swinomish Tribal Community	Martin Loesch	mloesch@swinomish.nsn.us
Swinomish Tribal Community	Charlie O'Hara	cohara@swinomish.nsn.us
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National Park Service	Susan Rosebrough	susan_rosebrough@nps.gov
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Skagit System Cooperative	Stan Walsh	swalsh@skagitcoop.org
Louis Berger Associates	Pat Weslowski	weslowski@louisberger.com

* Non--confidential communications only (Meeting Agenda and Meeting Notes, announcements, etc)



BAKER RIVER PROJECT RELICENSE

Cultural & Historical Working Group

December 10, 2002

1:00 p.m. – 4:00 p.m.

Baker Lodge

MEETING NOTES

Mission: *“To develop alternatives and recommendations addressing cultural, historical and archeological resources for the Baker River Project relicensing process.”*

Team Leader: Jessie Piper (425) 462-3609, jessie.piper@pse.com

PRESENT: Jessie Piper (Puget Sound Energy), Connie Freeland (Puget Sound Energy), Jan Hollenbeck (US Forest Service), Bob Mierendorf (National Park Service), Frank Winchell by phone (FERC), Rob Whitlam by phone (WA Office of Archaeology and Historical Preservation), Chris Miss and Ken Juell, (Northwest Archaeological Associates), Lyn Wiltse (PDSA Consulting, Inc.)

2003 MEETING DATES

January 14, February 11, March 11, April 8, May 13, and June 10. All meetings will be at the PSE office in Mt. Vernon unless otherwise specified.

All regular attendees are encouraged to let Jessie know if they are unable to attend a meeting.

AGENDA FOR DECEMBER 10 - BAKER LODGE

FIELD TRIP from 9:00 – 12:00

LUNCH AT THE LODGE from 12:00 – 1:00

REGULAR WORKING GROUP MEETING AT LODGE from 1:00 – 3:00

1. Introductions
2. Review Minutes/Agenda
3. Action Items
4. Debrief from PME Session (December 9)
5. Questions and Answers/FERC – FERC Relicensing timeline
6. Erosion Study Results

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7. UDP Status
 8. Set January 14 Agenda
 9. Evaluate Meeting

INTRODUCTIONS

We welcomed Ken Juell from Northwest Archaeological Associates (NWAA), who has been supervising field crews for the archaeological work. He walked us through a prehistoric site for our field trip.

NEW ACTION ITEMS

- Chris: Follow up re: status of archaeology survey previously done on Baker Lake Trail.
- Jessie: Send out revised version of HRA's Historical Resources Study Request.
- Jessie: Schedule HYDROPS model demonstration at a future meeting- February or March?
- Jessie: Send out initial draft of APE map and rationale (include disclaimer re: changeability).
- All: Review UDP high-level flow chart job aid and give Jessie Feedback at January meeting.
- Jessie: Send out final APE map and rationale to participants so we can discuss and possibly give a final nod at our January 14 meeting.
- Chris: Talk with Kelly re: doing a TCP presentation a tribal representative.
- Jessie: Make changes we discussed today and send out UDP for formal review (letterhead, etc).
- Jessie: Email reminder to Frank re: PA.
- Frank: Sent Jessie sample Programmatic Agreements (PAs) to share with this group.

REPORT FROM FIELD TRIP

The field trip was in the reservoir drawdown, where there was a prehistoric lithic scatter. During the site tour, we observed both erosional and depositional effects to the site; we had an opportunity to examine a variety of lithic raw material types and chipped stone artifact categories; and we were shown an undisturbed portion of the site above the high pool, including an intact soil sequence.

NWAA has also found four historic sites and two isolates. They are also surveying above the drawdown in the trees. They have several more weeks to go. They will conclude the drawdown survey next February or March, as they are hoping for a low reservoir level at that time. Fourteen of the seventeen localities recorded by HRA are currently under water. Chris Miss' folks are re-visiting those sites to determine if further investigation is required as they become exposed.

REPORT ON OLD ACTION ITEMS

- ALL: By November 20, gave Jessie feedback on HRA's Historical Resources Study Request. She incorporated the feedback she received and passed it on to HRA to include in a revised version of the study plan which should be out prior to our next meeting.
- Jessie: Checked with Joel Molander re: doing HYDROPS model demonstration for the Upper Skagit Tribe by end of the year. Kris Olin (PSE) is following up.

DEBRIEF FROM PME SESSION (DECEMBER 9)

We agreed that it was a good session. Dee will be updating the list of culturally/historically relevant issues and sending them out for our review prior to the next meeting. At that meeting (Jan. 14), Bruce and Dee will share with us the potential PMEs that are being considered by other resource working

groups. We will review these lists to see if there are potential conflicts or synergistic opportunities to explore at our March cross-resource workshop.

QUESTIONS & Answer /FERC – FERC Relicensing Timeline

Frank clarified our question from the PME meeting re: NAGPRA. NAGPRA procedures apply to federal lands and any artifacts being stored/curated in a federal facility. State regulations R.C.W. 27.53 (artifacts) and R.C.W. 27.44 (human remains) apply to private lands.

Frank also reviewed the relicensing schedule with us. The license application is due April 30, 2004. The official draft license application and draft PDEA would go out for review September 30, 2003. The schedule shows us submitting a draft Historic Properties Management Plan (formerly referred to as CRMP) also by then. Frank stressed the importance of sticking to this schedule. He said it would be helpful if we had a first draft plan to review by May of 2003.

EROSION STUDY RESULTS

These results are expected by the end of this year. Jessie will keep us posted.

UDP STATUS

Jessie hasn't heard anything from the Tribes on this. She asked how we might most appropriately refer to former working group members such as the Concrete Heritage Museum. We agreed to amend the language on the UDP to include only current working group participants. Further, we agreed to update the contact list by listing NW Archaeological Associates and Equinox.

A memo went out to Baker Project personnel and relicense contractors re: this plan. Once it is officially approved, training for PSE crew members will follow. Jessie distributed a high-level flow chart for what to do/who to call in the event of an unanticipated discovery.

INFORMATION SHARING

It may be a good time to share information with the Tribes about the current status of the cultural work. We might do this in February of 2003, preferably at a tribal location(s).

HANDOUTS

- FERC Guidelines for the Development of Historic Properties Management Plans for FERC Hydroelectric Projects
- Nov. 26 2002 Version of the Relicensing Schedule
- High level flow chart to accompany UDP

PARKING LOT

- "How do we address upland areas?" (importance of mountain goats)
- Develop "Area of Potential Effects" Map
- Coordinate with Terrestrial and Recreation Working Groups
- Glossary of terms: what are "protection," "mitigation," and "enhancement"?
- Develop TCP (Traditional Cultural Properties) studies
- Rotate meeting locations to tribal facilities?

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- Possibility of transplanting young cedar trees/Availability of downed cedar for tribal use
 - Determine criteria for “livingness” of APE

MEETING EVALUATION

Well-Dones

- Wonderful field trip!
- Appreciate the Lodge. Nice change in surroundings - feels good to get out of town
- Great food!
- Nice to have Ken here (field perspective)
- Onsite experience with one of the resources that will be managed - lots to learn!

Opportunities for Improvement

- Few participants (meeting and field trip)
- Would have liked to also take a boat field trip

What’s Hot?

- Field work that is ongoing- getting preliminary evaluations done now!
- PMEs
- APE- getting it finalized even though it’s a living thing!

AGENDA FOR JANUARY 14

PSE OFFICE IN MT. VERNON

12:00 – 12:10 Introductions

- Kelly Bush (Equinox) and Pat Weslowski (Louis-Berger Group)

12:10 – 12:15 Review Minutes/Agenda

12:15 – 12:25 Action Items

- Erosion study results?
- TCP meeting report

12:25 – 12:40 Questions and Answers/FERC – FERC Relicensing timeline

12:40 – 1:00 PDEA Status re: Cultural Resources

1:00 – 1:25 Historic Properties Management Plan (HPMP)

1:25 – 2:55 PMEs

- Review from Dec. 9 session
- PMEs being considered by other Resource Working Groups

2:55 – 3:10 BREAK

3:10 – 3:15 UDP Status

3:15 – 3:40 APE “Final” Review before distribution for comment

3:40 – 3:50 Set February 11 Agenda

3:50 – 3:55 Evaluate Meeting

Guidelines for the Development of Historic Properties Management Plans For FERC Hydroelectric Projects

I. INTRODUCTION AND PURPOSE OF THIS GUIDANCE

Section 106 of the National Historic Preservation Act (NHPA) requires the Federal Energy Regulatory Commission (FERC or Commission) to take into account the effect of its undertakings on historic properties and to afford the Advisory Council on Historic Preservation (Council) a reasonable opportunity to comment. An undertaking includes any project, activity, or program requiring a federal permit, license, or approval. Therefore, many FERC actions, such as issuance of new and original licenses, license amendments, surrenders, and terminations, are undertakings that are subject to Section 106. Section 106 is implemented through the Council's regulations, "Protection of Historic Properties" (36 CFR Part 800).¹ For hydropower licensing actions, FERC typically completes Section 106 by entering into a Programmatic Agreement (PA) or Memorandum of Agreement (MOA) with the license applicant, the Council, and the State and/or Tribal Historic Preservation Officer (SHPO/THPO).² This agreement is then incorporated by reference into the project license when it is issued.

Because it is not always possible for FERC to determine all of the effects of various activities that may occur over the course of a license, the PA or MOA typically provides, and FERC typically requires as a license condition, that the licensee develop and implement a Historic Properties Management Plan (HPMP).³ Through an approved HPMP, FERC can require consideration and appropriate management of effects on historic properties throughout the term of the license. In so doing, FERC meets the requirements of Section 106 for its undertakings.

¹ These regulations became effective on January 11, 2001.

² The 1992 amendments to the NHPA include provisions for Indian tribes to assume the responsibility of the SHPO on tribal lands. The Council's regulations use the term Tribal Historic Preservation Officer (THPO) to mean the THPO under Section 101(d)(2) of the NHPA for undertakings occurring on or affecting tribal lands.

³ In past hydropower relicensing PAs, FERC has required licensees to develop "Cultural Resources Management Plans" (CRMPs). In this guidance, however, the term HPMP is used, because it more accurately reflects the requirements of Section 106 of the NHPA.

The HPMP should be:

- ☐ Integrated into the licensee's Project decision-making process so that historic preservation needs are considered during Project planning and operation;
- ☐ Written in plain English with historic property management terms clearly defined;
- ☐ A stand-alone document (not dependent on access to previous studies, although incorporation by reference may be desirable in some cases); and
- ☐ Consistent with any other Project management plans, settlement agreements and/or long-range planning documents.

What does the HPMP propose to manage?

The HPMP should provide for the management of properties listed in or eligible for listing in the National Register of Historic Places, the National Park Service's official list of properties recognized for their significance in American history, architecture, archeology, engineering, and culture. Such places, are referred to as **historic properties** and may include the project facilities, such as the dam, powerhouse and substations; other kinds of buildings and structures; prehistoric and historic archeological sites; and properties of traditional religious and cultural significance to Indian tribes.⁵

The management of historic properties involves both the long term preservation of historic values of historic properties and consideration of the effects of a licensee's actions on historic properties. Hydroelectric projects may affect historic properties in a number of ways.⁶ Modes of Project operation that cause erosion can result in the loss of archeological sites located along shorelines. Likewise, constructing recreational developments and providing greater public access can damage archeological sites. Even actions which initially seem fairly routine can undermine the integrity of a historic

⁵ An applicant may develop a management plan dealing with all cultural resources (a CRMP, for example) as part of a settlement agreement, or based on the needs of Indian tribes, federal land managers, and other agencies. This approach is not required for Section 106 review, but can improve understanding between parties, and facilitate better coordination of all the applicable laws and regulations relating to cultural resources.

⁶ "Effect" as defined in the Council's regulations means "alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register" [36 CFR § 800.16(j)]

A three year time frame during the prefiling stage—from the notice of intent to filing an application—allows for plenty of time to coordinate, consult, and draft a HPMP. Prefiling consultation involving the licensee and the various stakeholders and Indian tribes is already required through the Federal Power Act, and provides a good opportunity for completing a draft HPMP at this time. In addition, the revised implementing regulations for Section 106 allow FERC to authorize the licensee to initiate Section 106 consultation on its behalf, pursuant to 36 CFR §800.2(C)(4). This means that the licensee can begin early formal Section 106 consultation with the SHPO/THPO, Indian tribes, and other stakeholders at the time it files notice of intent to file a license application with the Commission. Another factor to consider is that, during the prefiling stage, FERC staff can freely consult with the licensee and other stakeholders without violating the Commission's rules concerning off-the-record communications—which take effect after a license application has been filed with the Commission and becomes contested due to interveners.

A HPMP should not be concluded without the involvement of FERC, as the responsible Federal agency for purposes of Section 106. It is, therefore, advisable to involve FERC in resolving questions or issues that arise in drafting a HPMP, even when the document is drafted prior to filing a license application.

If it is not possible to complete a HPMP before license issuance, the PA will typically require that a HPMP be developed within one year of the issuance of the FERC license.

II. HOW TO DEVELOP A HPMP

Who should prepare a HPMP?

The preparer of the HPMP should be knowledgeable about:

- ☐ Hydropower project operations and maintenance;
- ☐ Historic preservation law, policy and practice; and
- ☐ Management and treatment issues pertaining to all the types of historic properties that may be affected by Project operations.

Standards for Professional Qualification in the areas of archeology, history, architecture and architectural history have been established.¹⁰

¹⁰ See the Secretary of the Interior's Professional Qualification Standards [48 FR 44738-9]. Although the Secretary of the Interior published draft revised standards on June 1, 2000, these standards are not yet final.

- State and local governments, other federal and state agencies, non-governmental organizations, property owners, and other individuals-- These parties may wish to participate in the development of a HPMP based on the nature of their legal or economic interest in the undertaking or affected historic properties, or their concern with the undertaking's affects on historic properties. For example, the Project may be constructed on lands owned by or under the jurisdiction of the Forest Service or the Bureau of Land Management; and
- The Council--The Council oversees the Section 106 process, and may be asked to help resolve disagreements and provide guidance, advice, or technical assistance to FERC, license applicants, licensees, and other consulting parties in completing Section 106 consultation in developing a HPMP.

III. CONTENTS OF A HPMP

A Project's HPMP should be organized in a logical manner, so that information is easy to find and appropriate procedures can be quickly identified. It is only a guide, and is not meant to be rigidly applied to every Project. The following is an example of how the HPMP might be organized.

1. Overview and Executive Summary

The HPMP should begin with a statement of purpose describing the scope of the plan, how it will be used, and the authority under which it is developed (the statutory and regulatory context). This section should also identify who participated in the plan's development, as well as any ongoing commitment and procedures or protocols to continue consultation with Indian tribes, the SHPO/THPO, and other organizations in implementation of the plan. In addition, this section should summarize the contents of the HPMP.

2 Background Information

The HPMP should include:

- A description of the Project facilities and operation, its location, and the APE;
- The historic context (time, place, and theme);
- A description of surveys and/or inventories that have been completed, with maps and other graphics, as needed (including analysis of the scope and

- ☐ Include procedures to evaluate the effects of actions such as project-induced shoreline erosion, construction of fish passage facilities, construction of recreation facilities, and other Project activities on historic properties, and provide for consideration and treatment of adverse effects, as appropriate, in consultation with others;
- ☐ Consider relevant future, ongoing, and past effects, as appropriate;
- ☐ Include a monitoring protocol and provisions for enforcement, as appropriate;
- ☐ Provide for the treatment of human remains (distinguishing between Native American Grave Protection and Repatriation Act (NAGPRA)), if applicable, and State law requirements);
- ☐ Describe provisions for public interpretation; and
- ☐ Describe procedures to address effects when unanticipated historic properties are discovered and during project emergencies.

5. Implementation Procedures

The HPMP should include provisions for:

- ☐ Designating a HPMP coordinator;
- ☐ Training project personnel;
- ☐ An internal decision-making process (Refer to Principle #6 in Section IV);
- ☐ Consultation with the SHPO/THPO and others, including the Council if National Historic Landmarks are affected;
- ☐ Periodic reporting and meetings;
- ☐ Periodic review and revision of the HPMP;
- ☐ Actions requiring consultation with the SHPO/THPO, Indian tribes, Federal land managers, and others; and
- ☐ Dispute resolution, if not already provided in the PA or MOA.

IV. PRINCIPLES OF HPMP DEVELOPMENT AND IMPLEMENTATION

License applicants and licensees are encouraged to apply the following principles in developing and implementing a HPMP for a hydroelectric project.

complete identification of each and every historic property within the APE before licensing. The HPMP should also specify whether additional identification and evaluation of historic properties are needed, and when they should be done. The HPMP should:

- Identify what additional surveys and evaluation are needed and provide a schedule for their completion;
- Establish procedures to ensure that the pertinent information will be obtained (for example, consultation with Indian tribes regarding properties of traditional religious and cultural significance), and considered prior to the implementation of any action that might affect historic properties; and
- Provide for re-evaluation of historic properties during the term of the license due to changing circumstances, such as the passage of time or changes in the property's integrity.

Principle 4: The HPMP should establish achievable and realistic goals and targets for completing specified tasks that can serve as the basis for budget decisions, staff assignments, and performance measures.

It is important to establish management goals and objectives, and to identify who will carry out the HPMP and how they will do so. In order to facilitate implementation of the HPMP, the licensee might find it useful to develop a field operations manual to provide procedures for staff. This should include a description of how staff will be trained to ensure that the HPMP is properly implemented.

Principle 5: The HPMP should establish management priorities and steps to be taken to ensure long-term preservation of historic properties.

Where historic properties of particular importance to stakeholders have been identified in the APE, the plan should provide for their consideration, avoidance of adverse effects, and, if necessary, treatment. The HPMP should also provide for and establish a schedule for implementing the protective measures, such as monitoring or stabilization; and for public education and interpretation of the historic and archeological values of the project.

Principle 8: The HPMP should provide for an appropriate level of consultation with others before decisions are made.

The HPMP should establish procedures to identify when and how others, such as the SHPO, the THPO, and Indian tribes, will be consulted in review and decision-making about the management of historic properties. The communication protocol developed for the Alternative Licensing Process might be a useful place to start developing such procedures. It is most useful to consult with others early, before decisions are made, to allow consideration of a range of available options. The HPMP should establish procedures for reaching decisions through consultation, including resolving disputes when they occur.

Principle 9: The HPMP should consider other applicable federal, state, and local laws and regulations that provide authority for its implementation and may affect its scope.

Although the focus of a HPMP is the preservation of “historic properties” and compliance with the NHPA, the treatment of historic properties and review procedures included in the HPMP should be consistent with other applicable laws and regulations. For example, if the Project is located on Federal or tribal lands, the HPMP should take into account the requirements of NAGPRA and its implementing regulations, which provide procedures for determining the treatment of Native American human remains intentionally excavated or discovered during ground disturbing activities. The HPMP should therefore:

- Identify applicable Federal, state and local laws and regulations; and
- Establish how the HPMP will be implemented in conjunction with other legal responsibilities.

This is especially important when dealing with the treatment and disposition of any human remains that may be discovered, so that the HPMP is consistent with applicable Federal, state, and local laws, and the Council’s policy on the treatment of human remains.

Principle 10: The HPMP should provide Project staff with ready access to pertinent information, but should also include mechanisms to protect sensitive data and to establish an appropriate level of security to discourage abuses.

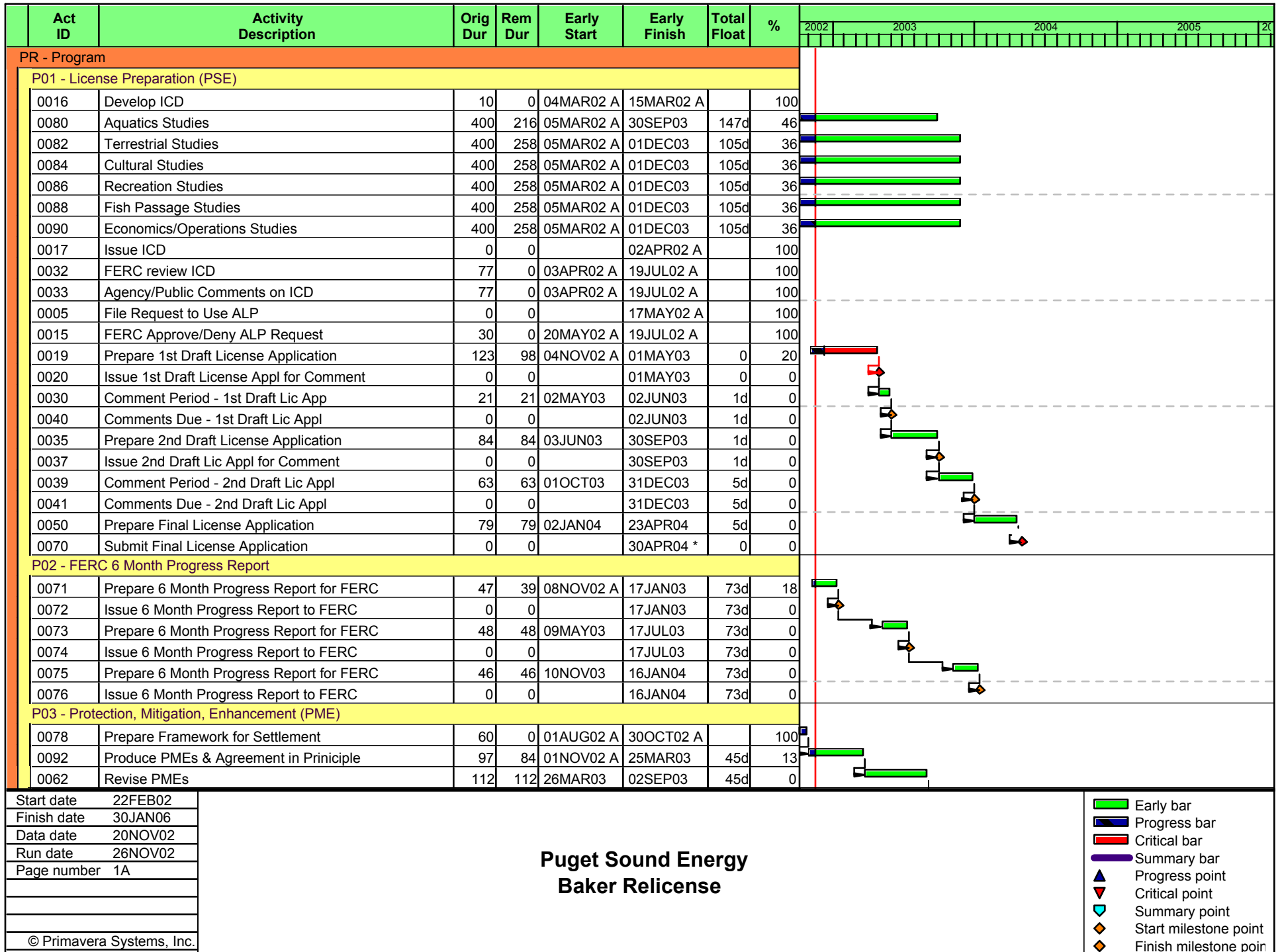
Access to relevant information—such as survey data, standards and guidelines, and points of contact for consultation—is important for the effective implementation of

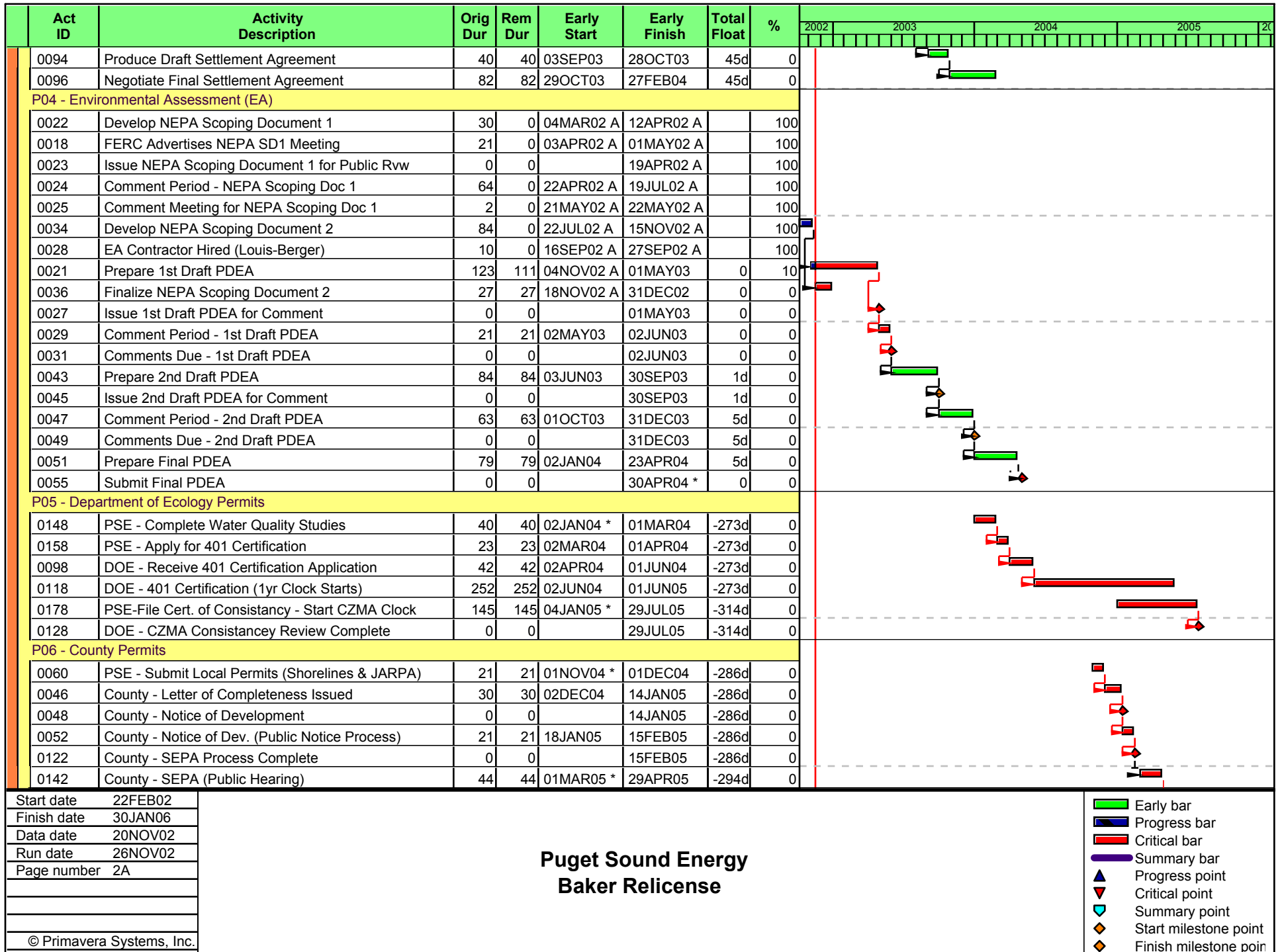
References

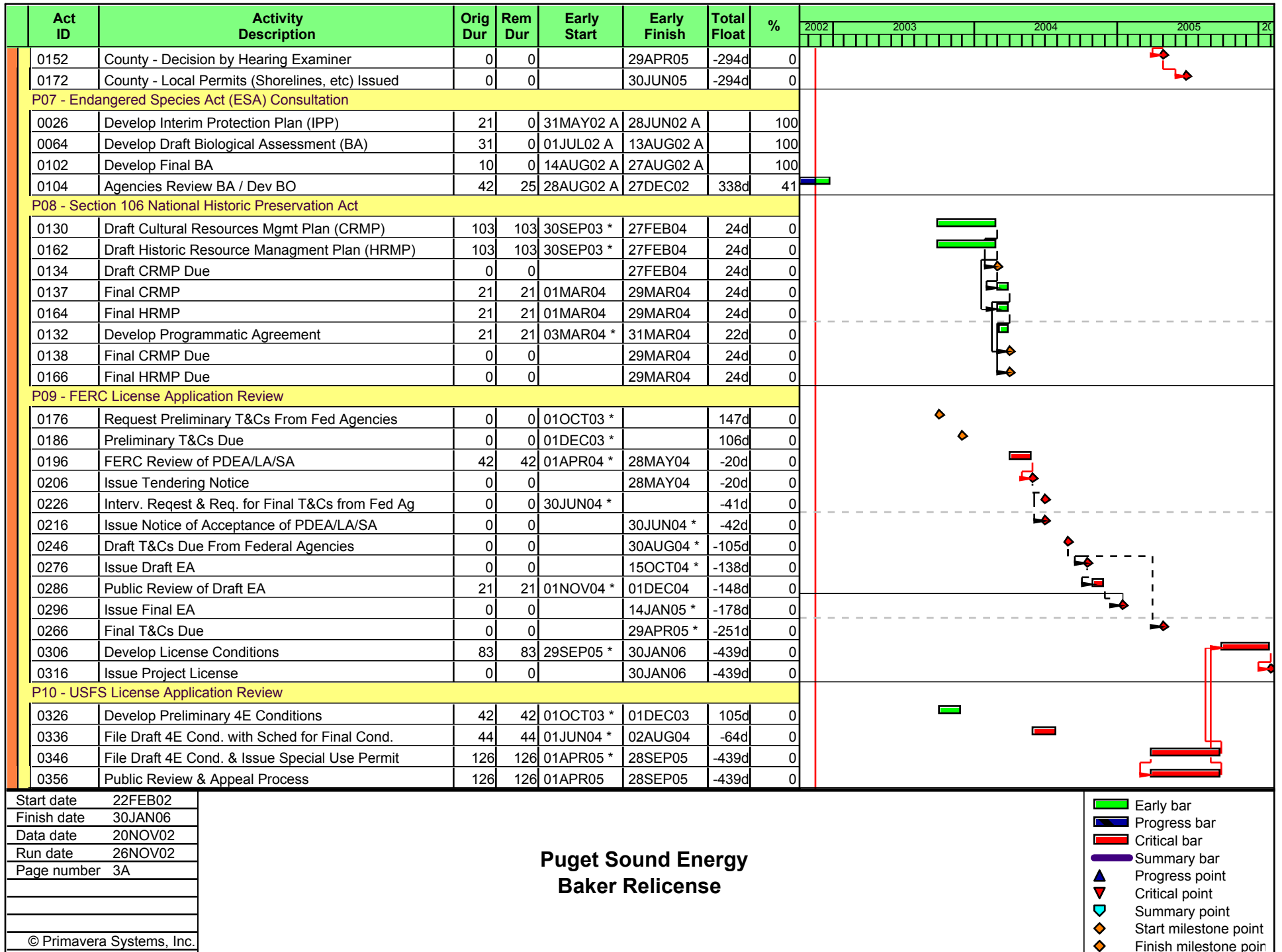
U.S. Department of Defense Legacy Resource Management Program, Draft Principles of Cultural Resource Management Planning in the Department of Defense.

Tom King, Cultural Resource Laws & Practice: An Introductory Guide, Alta Mira Press

- n.d. Advisory Council on Historic Preservation, "Proposed Council Guidelines: Historic Resource Management Plans" (draft).

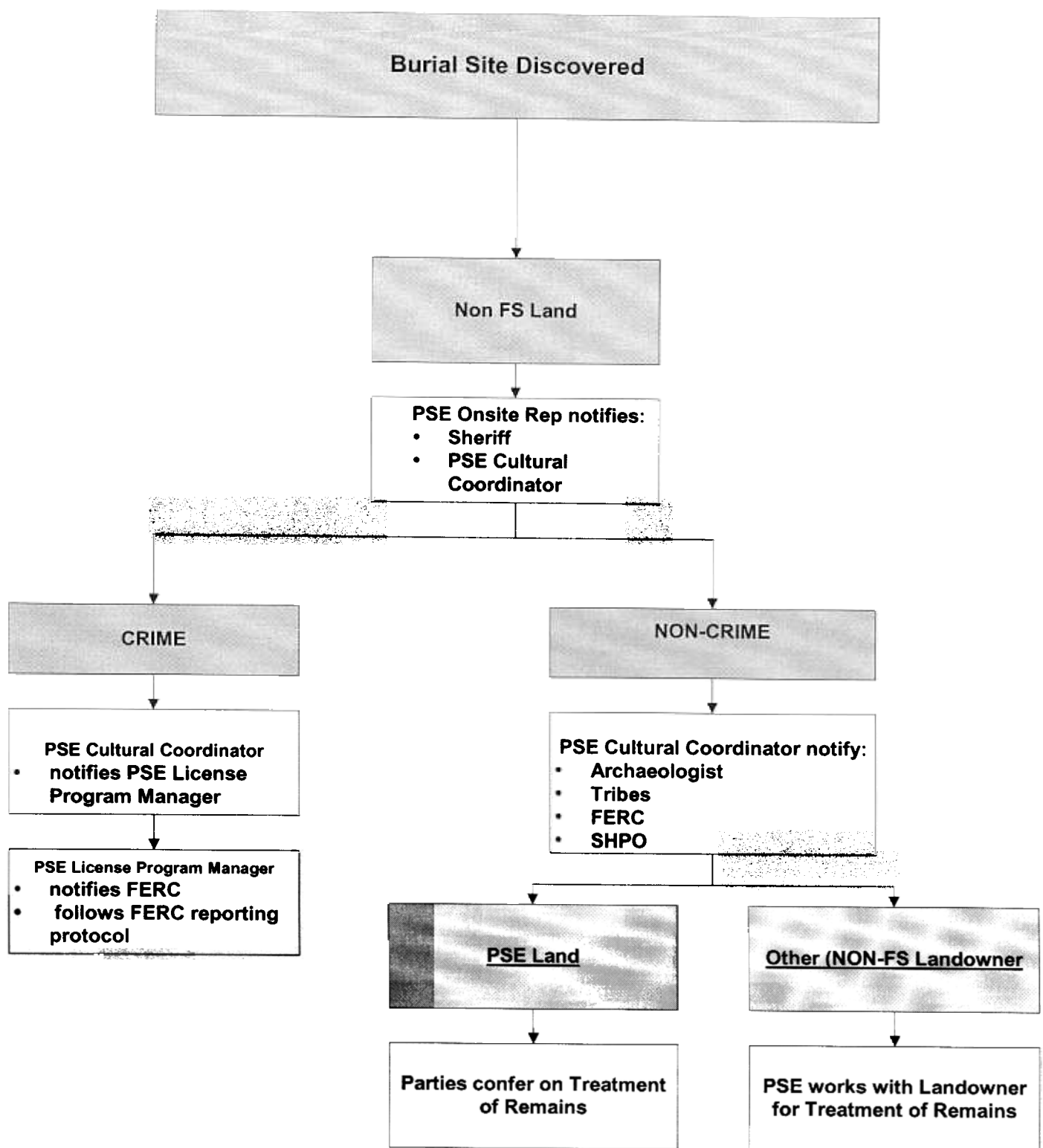


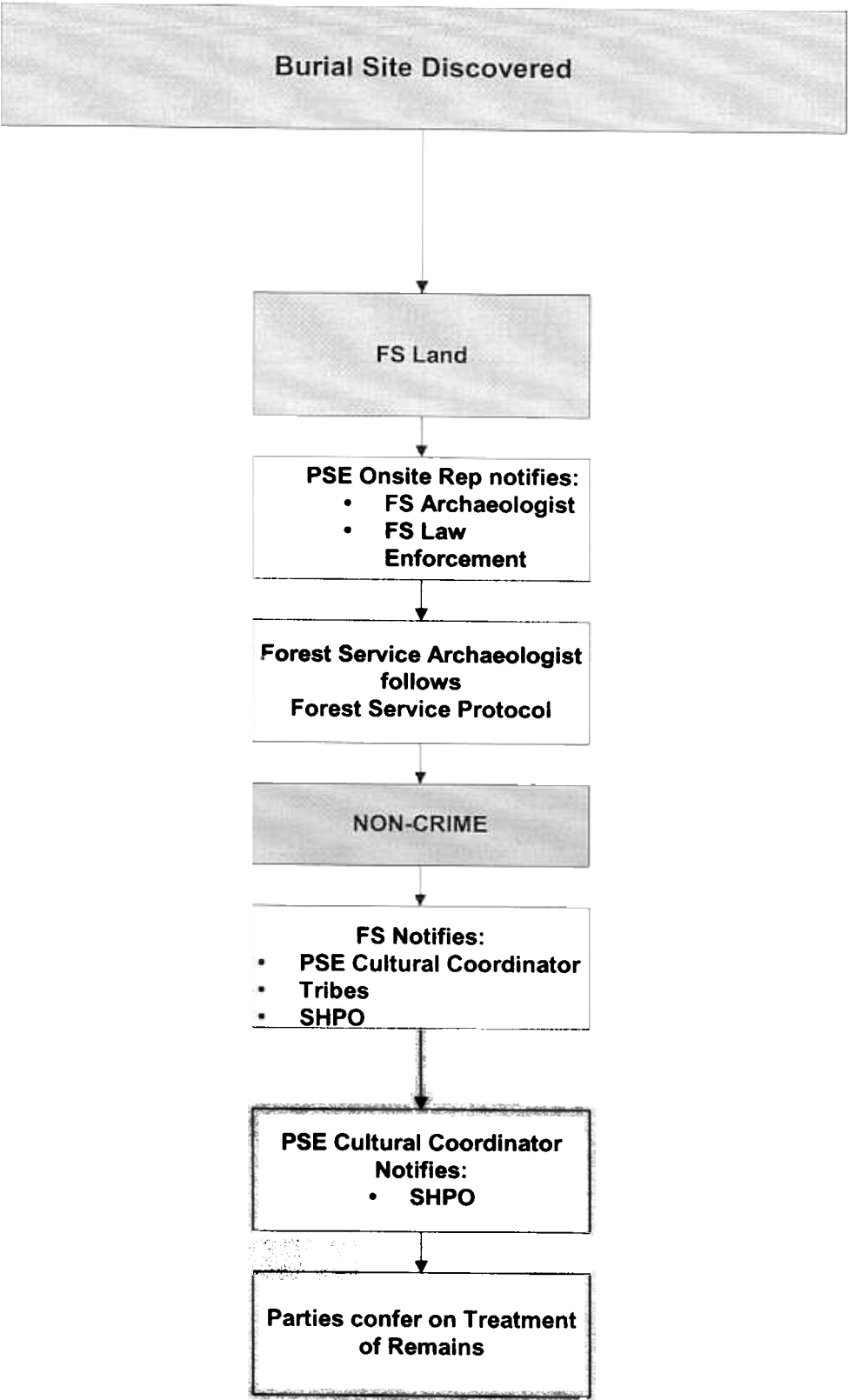




Act ID	Activity Description	Orig Dur	Rem Dur	Early Start	Early Finish	Total Float	%	20022003200420052006																																															
0366	File Final 7A Conditions	0	0		30SEP05 *	-358d	0																																																
P11 - USFWS/NMFS License Application Review																																																							
0376	Develop Preliminary Section 18 Mandatory Cond.	42	42	01OCT03 *	01DEC03	105d	0																																																
0386	File Draft Section 18 Mandatory Conditions	45	45	01JUN04 *	03AUG04	-65d	0																																																
0406	Public Review Process - Draft Section 18 Presc	45	45	03AUG04 *	05OCT04	-207d	0																																																
0426	Formal ESA Consultation Process	98	98	06OCT04	28FEB05	-207d	0																																																
0416	File Final Section 18 Mandatory Conditions	0	0		01DEC04 *	-148d	0																																																
0436	Issue Biological Opinions	0	0		28FEB05 *	-207d	0																																																

Puget Sound Energy Baker Relicense





**PROGRAMMATIC AGREEMENT
AMONG
THE FEDERAL ENERGY REGULATORY COMMISSION
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
AND THE
THE WASHINGTON STATE HISTORIC PRESERVATION OFFICER**

**FOR
MANAGING HISTORIC PROPERTIES THAT MAY BE AFFECTED BY A LICENSE
ISSUING TO
XXXXXX
FOR THE CONTINUED OPERATION OF THE**

**XXXXXX HYDROELECTRIC PROJECT
IN XXXXX COUNTY, WASHINGTON
(FERC No. xxx)**

WHEREAS, the Federal Energy Regulatory Commission or its staff (hereinafter, "Commission") proposes to issue a new license to XXXXX (hereinafter, "Licensee") to continue operating the XXXXX Hydroelectric Project (hereinafter, "Project") as authorized by Part I of the Federal Power Act, 16 U.S.C. Sections 791(a) through 825(r) *as amended*; and

WHEREAS, the Commission has determined that issuing such a license may affect properties included in or eligible for inclusion on the National Register of Historic Places (hereinafter, "Historic Properties"); and

WHEREAS, the attached *XXXXX Historic Properties Management Plan*, dated XXXX, XXX, 2002 (hereinafter, HPMP) provides a description of the Project, Area of Potential Effects, Historic Properties identified as of the date of this Programmatic Agreement, anticipated effects, and the Licensee's proposed measures to protect Historic Properties; and

WHEREAS, the USDA Forest Service, Wxxxxxx National Forest (hereinafter, "XNF"), USDI National Park Service, XXXXXXXXX (hereinafter, "XNP") manages lands within the Project, and have responsibilities for the issuance of permits under the Archeological Resources Protection Act (16 U.S.C. 470aa to 470ll; hereinafter, "ARPA") to the Licensee for archeological excavation on Forest Service lands; and

WHEREAS, the Washington xxx xxx (hereinafter, "WXX") also manages lands within

the Project; and

WHEREAS, the Commission has consulted with the Advisory Council on Historic Preservation (hereinafter, "Council"), and the Washington State Historic Preservation Officer (hereinafter, "SHPO") pursuant to 36 C.F.R. Section 800.14(b) of the Council's regulations (36 C.F.R. Part 800), implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f; hereinafter, "Section 106"); and

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

WHEREAS, XNF, XNP, and WXX have agreed to participate in the Section 106 consultation regarding the Project under the term of this Programmatic Agreement and have been invited to concur in this Programmatic Agreement; and

WHEREAS, the Project may affect lands important to the Confederated Colville Tribes of the xxxxx and the xxxxx Nation (hereinafter, "the Tribes"), and where the Bureau of Indian Affairs (hereinafter, "BIA") has tribal trust responsibilities, and the Tribes and BIA have participated in the consultation and have been invited to concur in this Programmatic Agreement; and

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

NOW THEREFORE, the Commission, the Council, and the SHPO agree that the Project will be administered in accordance with the following stipulations in order to satisfy the Commission's Section 106 responsibilities during the term of the Project's license.

STIPULATIONS

The Commission will ensure that, upon a license issuing for this Project, the Licensee implements the following stipulations. All stipulations that apply to the Licensee will similarly apply to any and all of the Licensee's successors. Compliance with any of the following stipulations does not relieve the Licensee of any other obligations it has under the Federal Power Act, the Commission's regulations, or its license.

I. CULTURAL RESOURCES MANAGEMENT PLAN

- A** Upon license issuing for this Project, the Licensee will implement the HPMP.¹
- B** The Licensee will, within 30 days of every anniversary of the license issuing, file a report with the Commission, SHPO, XNF, XNP, WXX, BIA, and Tribes of activities conducted under the implemented HPMP. The report will contain a detailed summary of any cultural resources work conducted during the preceding year; if no work was completed, a letter from the Licensee will be prepared to that effect, and will satisfy the intent of this stipulation.

II. DISPUTE RESOLUTION

- A** If at any time during implementation of this Programmatic Agreement and the resulting HPMP, the SHPO, XNF, XNP, WXX, BIA, Tribes, Licensee, or the Council objects to any action or any failure to act pursuant to this Programmatic Agreement or the HPMP, they may file written objections with the Commission.

The Commission will consult with the objecting party, and with other parties as appropriate, to resolve the objection.

- B.** If the Commission determines that the objection cannot be resolved, the Commission will forward all documentation relevant to the dispute to the Council and request that the Council comment. Within 30 days after receiving all pertinent documentation, the Council will either:

¹ All consulting parties need to respond within 30 days of receipt of a request for review of a finding or determination involving the HPMP.

Provide the Commission with recommendations, which the Commission will take into account in reaching a final decision regarding the dispute; or

2. Notify the Commission that it will comment pursuant to 36 C.F.R. Section 800.7(c)(1) through (c)(3) and Section 110(a)(1) of National Historic Preservation Act, and proceed to comment.
- C. The Commission will take into account any Council comment provided in response to such a request, with reference to the subject of the dispute, and will issue a decision on the matter. The Commission's responsibility to carry out all actions under this Programmatic Agreement that are not the subject of dispute will remain unchanged.

III. AMENDMENT AND TERMINATION OF THIS PROGRAMMATIC AGREEMENT

- A. The Commission, SHPO, XNF, XNP, WXX, BIA, Licensee, Tribes, or the Council may request that this Programmatic Agreement be amended, whereupon these parties will consult in accordance with 36 C.F.R. Section 800.14(b) to consider such amendment.
- B. The Commission, the SHPO, or the Council may terminate this Programmatic Agreement by providing 30 days written notice to the other parties, provided that the Commission, the SHPO and the Council consult during the 30-day notice period in order to seek agreement on amendments or other actions that would avoid termination. In addition, the Commission will seek comments from the SHPO, XNF, XNP, WXX, BIA, Licensee, and Tribes on the termination during the 30-day notice period. In the event of termination, the Commission will comply with 36 C.F.R. Sections 800.3 through 800.7(c)(3), with regard to individual actions covered by this Programmatic Agreement.

Execution of this Programmatic Agreement and subsequent implementation is evidence that the Commission has satisfied its responsibilities pursuant to Section 106 of the National Historic Preservation Act, *as amended*, for all individual actions carried out under the license. Provided, however, that unless and until the Commission issues a license for the Project and this Programmatic Agreement is incorporated by reference therein, this Programmatic Agreement has no independent legal effect for any specific

license applicant or Project.

FEDERAL ENERGY REGULATORY COMMISSION

By: _____ Date: _____

Richard R. Hoffmann

Director, Division of Environmental and Engineering Review

WASHINGTON STATE HISTORIC PRESERVATION OFFICER

By: _____ Date: _____

Allyson Brooks, Ph.D.

Washington State Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____ **Date:**
John M. Fowler
Executive Director

CONCUR: PUBLIC UTILITY DISTRICT NO. 1 OF XXXXX COUNTY

By: _____ Date: _____
xxxx
Director

CONCUR: USDA FOREST SERVICE, xxxxxxxx NATIONAL FOREST

By: _____ **Date:**
xxxx
Forest Supervisor

Programmatic Agreement
FERC Project No. xxx
Washington

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**CONCUR: USDI, NATIONAL PARK SERVICE, xxxxxxxx
NATIONAL PARK**

By: _____ Date: _____

xxxxxx

Superintendent

CONCUR: USDI, BUREAU OF INDIAN AFFAIRS

By: _____ **Date:**
xxxx
Regional Director, xxxx Area Office

CONCUR: WASHINGTON STATE xxx xxxxx

By: _____ **Date:**
xxxx
Director

CONCUR: xxxxxxxxxxxxxxxx

By: _____ **Date:** _____
xxxxxxxxxx
Tribal Historic Preservation Officer

CONCUR: xxxxx NATION

By: _____ **Date:** _____
xxxx
Chairman