

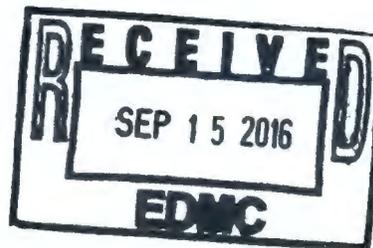


Department of Energy
 Richland Operations Office
 P.O. Box 550
 Richland, Washington 99352

13-OCE-0079

JUN 25 2013

John M. Fowler, Executive Director
 Advisory Council on Historic Preservation
 Old Post Office Building
 1100 Pennsylvania Ave, NW, Suite 803
 Washington, D.C. 20004



Dear Mr. Fowler:

ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP) REVIEW REQUESTED REGARDING OBJECTION TO TWO 'NO HISTORIC PROPERTIES AFFECTED' FINDINGS

Pursuant to Section 800.4(d)(1)(iv)(A-C) of the regulations implementing Section 106 of the National Historic Preservation Act (NHPA) at 36 CFR Part 800, the U.S. Department of Energy (DOE) Richland Operations Office (RL) requests the ACHP to review our finding of 'no historic properties affected' on two undertakings on the Hanford Site. To the extent possible, DOE also requests the ACHP to opine on the reasonableness of our identification methodology, as described further below.

DOE believes it has made a "reasonable and good faith effort" to carry out appropriate identification efforts, and support a finding of 'no historic properties affected,' with regard to the following two undertakings on the Hanford Site: 1) a 10.6 acre expansion of the active 100-H borrow pit located in the 100 H Area of the Hanford Site and 2) remedial actions at the 3.75 acre 600-279 waste site located in the 100 F Area.

Upon receiving findings of 'no historic properties affected' for these projects, the Washington State Department of Archaeology and Historic Preservation (DAHP or SHPO) objected, stating that DOE must contact the Bonneville Power Administration (BPA) for its information on Traditional Cultural Properties (TCP) it recently gathered in advance of the Midway-Benton transmission line corridor across the Hanford Site (copies of these letters enclosed). The DAHP requested further consultation but did not provide the specific reasons for the objection to our effect findings, or a way to resolve this matter.

DOE has consulted with the BPA. BPA informed us that 1) the Area of Potential Effects (APE) for our two projects (SHPO concurred with our delineation of those APEs) is not near the

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transmission line project and 2) the Tribe itself will work directly with DOE regarding the TCPs identified during the Midway-Benton transmission line project. Based on this information, we are unable to complete the Section 106 process and move forward with these cleanup projects that are extremely important in meeting the Tri-Party Agreement milestones for the Hanford Site. In our view, the SHPO's request that we contact BPA about their TCP study which is located many miles away from these small, limited projects is unreasonable. In both cases, there are no historic properties within the APE that will be affected under the Section 106 regulations. In fact, the 600-279 waste site clean-up project consists of removing soil and debris from a historic trash dump that the SHPO agreed was not eligible as an archaeological site. Attached is letters supporting DOE's 'no historic properties affected' findings in these two undertakings.

The reason for our further request of ACHP's opinion on the reasonableness of our identification methodology at the Hanford Site, as described next, is that DOE has several other projects where the SHPO has objected to our findings in letters that use the exact same language as in the mentioned two undertakings. These other projects are also on hold due to our inability to reach an agreement. In particular, we would like an opinion as to whether an effect determination for every limited project anywhere in the Hanford Site needs to be supported by either a 100% cultural resources survey over the entirety of the Hanford Site (a "Section 110 survey") and/or a TCP study of a site that is many miles away from such limited projects.

DOE has had a close working relationship with the Washington SHPO and Indian Tribes and bands in the area for many years. DOE engages the SHPO and Tribes (and other parties concerned with historic properties) in many ways:

- DOE exchanges letters and documentation on both specific projects and the long-term cleanup of hazardous materials and the restoration of the natural landscape;
- DOE hosts monthly meetings with the Tribes and SHPO to keep them informed about the status of current cleanup activities and those proposed in the future;
- Field visits are arranged and encouraged to familiarize people with the areas where DOE remediation actions are planned or ongoing;
- DOE invites participation in archaeological investigations and surveys to provide opportunities for people to provide input regarding cultural resources, and finally;
- DOE has a substantial financial arrangement (cooperative agreements) with the Confederated Bands and Tribes of the Yakama Nation (YN), the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), and the Nez Perce Tribe. DOE has funded consultation under those cooperative agreements. The Wanapum band (not federally recognized) is currently contracted to meet with Hanford Site contractors regarding concerns they may have associated with DOE clean-up projects.

DOE requests information from the Tribes about whether any historic properties are present

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including properties of traditional religious and cultural significance that are known to exist within the APE, or whether a site visit should be conducted. As with all ground-disturbing remediation projects on the Hanford Site, DOE determines whether a historic building or archaeological survey is warranted, and if so, DOE's contractors provide these services. Pursuant to Section 800.4(c)(1) of the Section 106 regulations, DOE fully acknowledges the "special expertise" these Tribes possess in identifying and assessing the National Register eligibility of historic properties that may possess religious and cultural significance to them.

If historic properties are present within the APE, we are often able to move or re-site the projects to avoid having any effect on properties. If not, determinations of no adverse effect and adverse effect are then made in consultation with the SHPO and Tribes.

One of the reasons for the SHPO's constant rejection of our 'no historic properties affected' or no adverse effect determinations is that the YN states that, in many cases, it cannot determine what effect a DOE project will have on TCPs because of the lack of a site-wide TCP survey (a "Section 110 survey"). While we agree that a site-wide inventory of historic properties (including TCPs, archaeological sites, buildings and structures) would be desirable, DOE believes such a survey is not required to meet the "reasonable and good faith effort" under the Section 106 regulations. The Tribes may use DOE funds for their oral history programs associated with the Hanford Site. The RL Manager has recently written to the Chairman of the YN clarifying that cooperative agreement funding can be used for such a study if the Tribe so desires (see enclosed letter).

The enclosed finding and supporting documentation listed below is for your use in completing the review for the 100 H Borrow Pit Expansion project.

1. August 6, 2012, DOE/RL APE notification sent to DAHP for 10 day review period from August 6 through 17, 2012;
2. August 6, 2012, DAHP letter to DOE/RL (Log No. 080612-05-DOE);
3. September 5, 2012, DOE/RL finding of 'no historic properties affected' and report titled *No Historic Properties Affected Cultural Resources Review for the Expansion of the 100-H Borrow Pit in the 100-H Area of the Hanford Site, Benton County, Washington (HCRC # 2012-100-025 Rev. 1)* sent to DAHP initiating 30 day review period September 6, 2012, through October 5, 2012;
4. September 6, 2012, DAHP letter to DOE/RL (Log No. 080612-05-DOE);
5. October 4, 2012, and October 15, 2012, electronic messages between YN Environmental Restoration/Waste Management Program and DOE/RL;
6. October 15, 2012, DAHP letter to DOE/RL (Log No. 080612-05-DOE);
7. December 6, 2012, DOE/RL letter (13-OCE-0025) to ACHP;

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8. December 6, 2012, DOE/RL letter (13-OCE-0024) to National Park Service;
9. February 22, 2013, DOE/RL letter (13-OCE-0048) to DAHP;
10. February 28, 2013, DAHP letter to DOE/RL (Log No. 080612-05-DOE);
11. February 28, 2013, DOE/RL electronic message to BPA;
12. August 2, 2011, DOE/RL finding of 'no historic properties affected' and report titled *Expansion of the 100-H Area Borrow Pit (HCRC # 2011-100-085)* sent to DAHP initiating 30 day review period August 2, 2011, through September 2, 2011;
13. June 29, 2011, DAHP letter to DOE/RL (Log No. 062911-04-DOE);
14. August 2, 2011, DAHP letter to DOE/RL (Log No. 062911-04-DOE);
15. May 17, 2013, BPA electronic message to DOE/RL;
16. May 21, 2013, DOE/RL letter (13-OCE-0065) to YN, and;
17. June 17, 2013, DOE/RL electronic message to BPA.

The enclosed finding and supporting documentation listed below is for your use in completing the review for the 600-279 waste site clean-up project.

18. February 5, 2013, DOE/RL APE notification sent to DAHP for 10 day review period from February 5, 2013, through 19, 2013;
19. February 5, 2013, DAHP letter to DOE/RL (Log No. 020513-04-DOE);
20. March 4, 2013, DOE/RL invitation to survey on March 11, 2013;
21. May 23, 2013, DOE/RL finding of 'no historic properties affected' and report titled *Remedial Actions at the 600-279 Waste Site in the 100 F Area of the Hanford Site, Washington (HCRC#2013-100-020)* sent to DAHP initiating 30 day review period May 23, 2013, through June 23, 2013;
22. May 24, 2013, electronic message from CTUIR,
23. May 28, 2013, National Register of Historic Places Registration Form with 'not eligible' determination and State of Washington Archaeological Site Inventory Form - Update;
24. May 28, 2013, DAHP letter to DOE/RL (Log No. 020513-04-DOE), and;
25. June 17, 2013, DOE/RL electronic message to BPA.

We believe the steps we are taking do meet the "reasonable and good faith effort" identification threshold as set out in the ACHP's regulations at 800.4(b)(1) and fully support our findings of effect for undertakings on the Hanford Site. We look forward to your review of these identification efforts and our finding.

These comments are based on the information available at the time of this letter and on the behalf of RL's Cultural Resource Program in conformance with Section 106 of the NHPA, as

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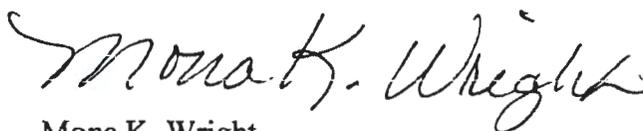
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amended, and it's implementing regulations. This correspondence is also being provided to area Tribes pursuant to 36 CFR 800.4(d)(1)(ii).

If you have any questions, please contact me on (509) 376-4069 or mona.wright@rl.doe.gov.

Sincerely,



Mona K. Wright
Cultural Resources Program Manager

Attachments

cc: w/o attach:

A. Brooks, DAHP
A. Buck, Wanapum
R. Ferri, YN
J. Mendez, MSA
D. Jackson, NPT
J. Longenecker, CTUIR
R. Jim, YN
T. McCulloch, ACHP
D. Miller, YN
J. Meyer, Colville
L. Purtzer, WCH
B. Rodriguez, CTUIR
M. Sobotta, NPT
J. Thomson, WCH
R. Whitlam, DAHP