

MEMORANDUM OF AGREEMENT

AMONG THE U.S. DEPARTMENT OF ENERGY RICHLAND OPERATIONS OFFICE, THE WASHINGTON STATE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION, THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, CONFEDERATED TRIBES AND BANDS OF THE YAKAMA NATION, CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION, NEZ PERCE TRIBE, AND WANAPUM REGARDING THE ADVERSE EFFECT OF THE FINAL AREA OF POTENTIAL EFFECT DEED TRANSFER ON YAKAMA TRADITIONAL CULTURAL PROPERTY, FIRST FOODS GATHERING AREAS TRADITIONAL CULTURAL PROPERTY, ÓYKALA AYN WÉETES TRADITIONAL CULTURAL PROPERTY, SHU WIPA TRADITIONAL CULTURAL PROPERTY, HANFORD SITE PLANT RAILROAD (45BN1107), THE RICHLAND IRRIGATION CANAL (45BN1125), AND WOODED ISLAND ARCHAEOLOGICAL DISTRICT (DT31)

The purpose of this memorandum of agreement (MOA) is to establish the U.S. Department of Energy, Richland Operations Office (RL) mitigation, stipulations and actions through consultation with the Department of Archaeology and Historic Preservation (DAHP), the Advisory Council on Historic Preservation (ACHP), Confederated Tribes and Bands of the Yakama Nation, Confederated Tribes of the Umatilla Indian Reservation, Nez Perce Tribe, and Wanapum for adverse effects to the National Register eligible historic properties of the Yakama Nation Traditional Cultural Property, First Foods Gathering Areas Traditional Cultural Property, Óykala ayn wéetes Traditional Cultural Property, Shu Wipa Traditional Cultural Property, the Hanford Site Plant Railroad, the Richland Irrigation Canal and the National Register listed Wooded Island Archaeological District, in association with deed transfer actions outlined in the National Defense Authorization Act (NDAA).

WHEREAS, the NDAA for Fiscal Year 2015 includes language directing the Secretary of Energy to convey more than 1600 acres of real property to the Community Reuse Organization of the Hanford Site before the end of September 2015; and

WHEREAS, the U.S. Department of Energy, Richland Operations Office (RL) plans to convey 1,641 acres of undeveloped or minimally developed land located within the U.S. Department of Energy's Hanford Site in Benton County, Washington (Undertaking); and

WHEREAS, RL will provide that the Undertaking is in accordance with requirements and processes in the National Historic Preservation Act (NHPA) and its government-to-government relationship with the Tribes; and

WHEREAS, RL has established the Undertaking area of potential effects (APE) in accordance with Section 106 of the NHPA (16 U.S.C. § 470f) under implementing regulations at 36 CFR 800.4(a) within which the 1,641 acre Undertaking may have direct or indirect effects to historic properties in the 600 Area of the Hanford Site in Benton County, Washington, as defined in HCRC#2012-600-042; and

WHEREAS, RL has consulted with the Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Umatilla Indian Reservation, the Nez Perce Tribe, and the Wanapum (hereafter Tribes), for which, the Yakama Nation Traditional Cultural Property, First Foods Gathering Areas Traditional Cultural Property, Óykala ayn wéetes Traditional Cultural Property, and Shu Wipa Traditional Cultural Property have religious and cultural significance; and

WHEREAS, RL has invited the East Benton County Historical Society, the Franklin County Historical Society and Museum, and the Benton County Historical Society to consult on the deed transfer; and

WHEREAS, the State Historic Preservation Officer (SHPO) has concurred in the delineation of the APE; and

WHEREAS, RL completed a cultural resource inventory and investigation for the APE and made a reasonable and good faith effort to identify properties within the APE that are eligible for listing or are listed in the National Register of Historic Places; and has determined that the Undertaking will have an adverse effect to these historic properties within the APE:

Yakama Nation Traditional Cultural Property,
First Foods Gathering Areas Traditional Cultural Property,
Óykala ayn wéetes Traditional Cultural Property,
Shu Wipa Traditional Cultural Property,
Hanford Site Plant Railroad (45BN1107),
Richland Irrigation Canal (45BN1125),
Wooded Island Archaeological District (DT31), and

has consulted with the SHPO pursuant to 36 CFR Part 800 and Section 106 of the NHPA (16 U.S.C. § 470f); and

WHEREAS, RL has determined that the Undertaking will have an indirect adverse effect on the viewshed to these historic properties which are eligible for listing in the National Register of Historic Places:

Lalfik,
Wanawish (45BN1299),
Nookshai/Nukšáy/Gable Mountain (DT102); and

WHEREAS, the Hanford Site Plant Railroad (45BN1107) has been mitigated through implementation of the Programmatic Agreement among the U.S. Department of Energy Richland Operations Office, the Advisory Council on Historic Preservation, and the Washington State Historic Preservation Office for the Maintenance, Deactivation, Alteration, and Demolition of the Built Environment on the Hanford Site, Washington; and

WHEREAS, RL, in consultation with the SHPO, has determined that the transfer of lands out of federal ownership is an adverse effect to historic properties as defined in 36 CFR 800.5; and

WHEREAS, nothing in this MOA expands or diminishes rights reserved in the Treaties with Tribes; and

WHEREAS, RL has consulted with the Tribes and has invited the Tribes to participate in the MOA as Invited Signatories; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), RL has notified the ACHP of its adverse effect determination with specified documentation, and the ACHP has chosen to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, there are Washington State laws in effect for the protection of cultural resources:

- a. Indian Graves and Records Act (RCW 27.44),
- b. Archaeological Sites and Resources Act (RCW 27.53),
- c. Abandoned and Historic Cemeteries and Historic Graves Act (RCW 68.60),
- d. Archaeological Excavation and Removal Permit process (WAC 25-48),
- e. Human Remains (RCW 68.50), and

DOE will retain ownership of pre-contact archaeological resources as DOE shall modify the Grantees' state law responsibilities for pre-contact archaeological resources; and

WHEREAS, RL will impose a deed restriction that the Grantee agrees to return all contaminated human remains and associated materials found on the premises to DOE for Tribal consultation and reburial on the Hanford Site; and

WHEREAS, the Signatories agree that this MOA may be signed in counterparts and the executed MOA, and each signature, will be effective and binding as if all Parties had signed the same document.

NOW, THEREFORE, RL, the SHPO, ACHP and Tribes agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the Undertaking on historic properties. The executed and implemented MOA evidences the federal agency's compliance with Section 106 of the NHPA and shall govern the Undertaking and all of its parts until this MOA expires or is terminated.

I. GENERAL STIPULATIONS

RL shall ensure that the following actions to avoid, minimize or mitigate adverse effects are carried out. The general stipulations apply to the entire land parcel to be transferred as part of this Undertaking.

1. If DOE becomes aware of a Grantee's non-compliance with a deed restriction, DOE will communicate with the owner of the property and bring to the owner's attention the deed restriction, and request that the owner comply with the restriction. This communication could be oral or written. If this initial communication does not result in an appropriate response, a formal demand letter will be written that places the owner on notice that they must come into compliance with the deed restriction. If the owner of the property still does not come into compliance with the deed restriction, DOE may file a lawsuit, depending on the circumstances, to force compliance with the deed restriction. RL will include two deed restrictions:

"On an annual basis Grantee shall submit a report to DOE-RL regarding their compliance with the Stipulations in this MOA and any challenges encountered during the previous year."

"In the event of non-compliance with the deed restrictions, the United States of America, the SHPO, or its authorized representative may institute a suit for damages and seek to enjoin any non-compliance. If such identified party ultimately prevails, it shall be entitled to recover all reasonable costs and expenses incurred in connection with such a suit, including, but not limited to all court costs and reasonable attorney's fees."

2. RL, in consultation with the Tribes, will finalize a protocol within 12 months of signing the MOA. The protocol will address discoveries of contaminated human remains and of contaminated pre-contact archaeological materials and define a place for final disposition.
3. RL will include in a deed restriction a listing of Washington State Laws for cultural resource protection:

"Grantee is required to comply with Washington State laws, as amended, for cultural resource protection:

- a. Indian Graves and Records Act (RCW 27.44),
- b. Archaeological Sites and Resources Act (RCW 27.53),
- c. Abandoned and Historic Cemeteries and Historic Graves Act (RCW 68.60),
- d. Archaeological Excavation and Removal Permit process (WAC 25-48), and
- e. Human Remains (RCW 68.50)."

4. Pursuant to the Atomic Energy Act of 1954, RL will impose a deed restriction that the Grantee agrees to return all contaminated human remains and associated materials found on the premises to DOE (Grantor) for Tribal consultation and reburial on the Hanford Site:

“Grantee is required to return any and all contaminated pre-contact artifacts or human remains found on the premises to Grantor for Tribal consultation and reburial on the Hanford Site.”

5. After approval of this MOA and consistent with and supportive of DOE's Native American Indian Policy and Order 144.1, DOE-RL shall consult individually with each Tribe, on a government-to-government basis, to establish any additional and appropriate mitigation to resolve adverse effects to historic properties and the removal of the conveyed lands from federal ownership. DOE-RL shall initiate the aforementioned consultation with each of the Tribes as soon as possible but in no event later than October 30, 2015.

II. MINIMIZE

1. RL will impose a deed restriction on noise as follows:

“Grantor requires Grantee’s acoustic and noise signature on the Premises will not exceed current Washington State standards and exemptions for Class C Industrial Areas.”

2. RL will impose a deed restriction on vibration, magnetic interference, and electric field as follows:

“By acceptance of this Deed, the Grantee, its successors and assigns, covenants and agrees to restrict or prohibit activities on the Premises that generate vibration in excess of the PNNL Vibration Standard and the LIGO Vibration Standard described below:

- a. PNNL Vibration Standard. The parties are in agreement that, after the date of this deed transfer, vibration impacts arising from the Premises shall be limited such that:

- i. Any Heavy Reciprocating Machinery must be at least three (3) kilometers from the PNNL Site boundary.
- ii. Any Balanced Non-Reciprocating Industrial Machinery must be at least one (1) kilometer from the PNNL Site boundary.
- iii. Activities on the Premises that result in vibrations created by continuous and/or routine blasting are prohibited. To the extent any uncertainty arises with respect to the application of this vibration standard for non-routine blasting, Article 12, Periodic Discussions and Development Plans, of Exhibit H of this Quitclaim Deed shall be utilized to mitigate those non-routine blasting activities.

- b. LIGO Vibration Standard. The parties are in agreement that, after the date of this deed transfer, vibration (dependent on frequency) emanating from the Premises shall be consistent with non-reciprocating power plant machinery or balanced industrial machinery operating above 300 RPM (5Hz) or must meet the following specifications below 300 RPM (5 Hz):

- i. In the frequency range from 0.3 Hz to 1.5 Hz, ground vibration levels as measured 100 meters from the source should not exceed 0.3 micrometers/sec/root (Hz). For example, in the frequency band from 0.5 Hz to 1.5 Hz this would be equivalent to a vibration level of 0.3 micrometers/sec RMS.
- ii. In the frequency range from 1.5 Hz to 2.5 Hz, ground vibration levels as measured 100 meters from the source should not exceed 0.3 micrometers/sec/root (Hz). For example, in the frequency band from 1.5 Hz

to 2.5 Hz this would be equivalent to a vibration level of 0.3 micrometers/sec RMS.

- iii. In the frequency range from 2.5 Hz to 3.5 Hz, ground vibration levels as measured 100 meters from the source should not exceed 0.5 micrometers/sec/root (Hz). For example, in the frequency band from 2.5 Hz to 3.5 Hz this would be equivalent to a vibration level of 0.5 micrometers/sec RMS.
- iv. In the frequency range from 3.5 Hz to 5 Hz, ground vibration levels as measured 100 meters from the source should not exceed 2.5 micrometers/sec/root (Hz). For example, in the frequency band from 3.5 Hz to 5 Hz this would be equivalent to a vibration level of 3 micrometers/sec RMS.
- v. These vibration levels should be compatible with operation of motor vehicles driven on smooth pavement. However trucks driven off-pavement, over pavement in poor repair, or over speed bumps would likely cause these vibration levels to be exceeded.
- vi. Reciprocating power-plant machinery, rock crushers and heavy machinery would likely cause these vibration levels to be exceeded."

3. RL will impose a deed restriction on magnetic and electrical interference as follows:

"Grantee agrees to restrict or prohibit activities on the Premises that generate electrical field (EF) and magnetic (M) interferences in excess of the EF/M Interference Standard described below.

- a. "EF/M Interference Standard. The parties are in agreement that, after the date of this deed transfer, all Intentional Radiators on the Premises shall not exceed the Federal Communications Commission Standard at 47 CFR Part 15, Subpart C."

4. RL will impose a deed restriction on prohibition of mining:

- a. "Grantee is prohibited from mining the Premises including extraction or production of any coal, oil, gas, geothermal steam, associated geothermal resources, aggregate and any other minerals."

5. RL will impose a deed restriction on Concentrating Solar Power (CSP) Farms to eliminate glint and glare:

- a. "Grantee is prohibited from constructing and operating a CSP Solar Farm System on the Premises."

6. RL will impose a deed restriction on criteria for buildings with natural color that is consistent with the surrounding natural landscape and native landscaping:

- a. "The Grantee agrees that the height of buildings that are constructed on the conveyed land will not exceed the height limits that are authorized pursuant to Chapter 23.28.030 of the Richland Municipal Code (RMC); as amended. Grantee agrees that it shall not seek a waiver of the height limitations contained in these provisions of the RMC by utilizing the variance provisions of RMC 23.70.150, or by application of any other process that may allow the Grantee to construct a building with a height greater than that explicitly allowed by RMC Chapter 23.28.030."

- b. "The Grantee agrees that buildings (including roofs) will be finished in colors that are non-reflective and that emulate those of the natural surroundings."
- c. "The Grantee agrees to xeriscaping utilizing native plants to lessen impacts to adjacent plant communities and eliminate need for supplemental watering."

III. MITIGATE

1. RL will impose a deed restriction requiring implementation of a Cultural Resource Protection Protocol:
 - a. "The Grantee shall implement the attached Cultural Resource Protection Protocol. The Cultural Resource Protection Protocol can be amended as agreed to by Tribes." (See Appendix B).
2. RL will impose a deed restriction providing access to the conveyed land by tribal members prior to its development for tribal activities:
 - a. "Grantee is required to provide access to the Premises prior to its development to members of the Confederated Tribes and Bands of the Yakama Nation, Confederated Tribes of the Umatilla Indian Reservation, the Nez Perce Tribe, and the Wanapum Band of Indians (collectively "Tribes") for tribal activities. An access agreement will be developed between the Tribes and the land owners to facilitate access."
3. RL will impose a deed restriction retaining ownership of all pre-contact archaeological materials. All archaeological materials will be returned to DOE (Grantor) for relocation in consultation with Tribes:
 - a. "Grantor retains ownership of all pre-contact archaeological materials. Grantee is required to return all pre-contact archaeological material to Grantor for relocation in consultation with Tribes."
4. RL will approve use of Tribal cooperative agreement funds to participate in implementation of mitigation and deed restriction activities associated with this MOA and RL will seek to identify supplemental funding for cooperative agreements to cover additional expenses associated with this MOA.

IV. MITIGATIONS FOR ADVERSE EFFECTS TO INDIVIDUAL HISTORIC PROPERTIES AND TRADITIONAL CULTURAL PROPERTIES

The following stipulations and mitigations apply to the individual historic properties:

1. **Wooded Island Archaeological District (DT31)**
 - a. RL will **AVOID** the 1860 trail location and associated artifacts considered to be contributing elements of the Wooded Island Archaeological District (DT31). These elements are also elements of the Shu Wipa Traditional Cultural Property, First Foods Gathering Areas Traditional Cultural Property, Óykala ayn wéetes Traditional Cultural Property, and Yakama Nation Traditional Cultural Property. The northern boundary of the APE was adjusted to avoid the 1860 trail features and associated artifacts located within Cluster 1.
 - i. RL will update site form/archaeological district form within 3 months of deed transfer.
 - b. RL, in consultation with the SHPO and Tribes, will collect and relocate the archaeological materials in Cluster 2 and 3 considered to be associated with the Wooded Island Archaeological District that are located in the 1,641 acres to be transferred out of

federal ownership in order to **MINIMIZE** the adverse effect. The artifacts may be stored in a temporary storage location. These actions will take place prior to deed transfer.

- c. RL will ensure that all records resulting from collection and relocation are curated in a Tribal repository or museum that meets 36 CFR 79. Any agreements concerning curation will be retained by RL. RL will ensure the final relocation of collected artifacts is on DOE lands and the location will be determined in consultation with the Tribes within 3 months of deed transfer.
- d. The following sites and isolated finds are included in the collection and relocation activities:
 - i. 45BN535
 - ii. 45BN1121
 - iii. 45BN1775
 - iv. 45BN1778
 - v. 45BN1795
 - vi. 45BN1796
 - vii. 45BN1797
 - viii. 45BN1780
 - ix. 45BN1801
- e. RL will complete documentation for the relocated archaeological materials within 6 months of deed transfer.

2. Shu Wipa Traditional Cultural Property

- a. RL will ensure that portions of Shu Wipa Traditional Cultural Property are **AVOIDED** through retention of DOE owned and managed land.
- b. RL will develop and initiate implementation of a plan to remove miscellaneous debris from within Shu Wipa Traditional Cultural Property, outside the 1,641 acres, in consultation with the Wanapum within 6 months from the date of deed transfer. This action will **MITIGATE** for the adverse effect to the TCP.
- c. RL will develop and initiate implementation of a native revegetation plan within Shu Wipa Traditional Cultural Property, outside the 1,641 acres, in consultation with the Wanapum within 6 months from the date of deed transfer. This action will **MITIGATE** for the adverse effect to the TCP.
- d. RL, in consultation with the Wanapum, will collect and relocate the archaeological materials considered to be associated with the Shu Wipa Traditional Cultural Property that are located in the 1,641 acres to be transferred out of federal ownership in order to **MINIMIZE** the adverse effect. The artifacts may be stored in a temporary storage location. These actions will take place prior to deed transfer.
- e. RL will ensure that all records resulting from data recovery are curated in a Wanapum repository or museum that meets 36 CFR 79. Relocation of archaeological material will be determined by RL in consultation with the Wanapum.

3. First Foods Gathering Areas Traditional Cultural Property

- a. RL will develop and implement a native revegetation plan on DOE lands outside the 1,641 acres in consultation with the CTUIR following 18 months of the date of deed transfer. This action will **MITIGATE** for the adverse effect to the TCP.

4. Óykala ayn wéetes Traditional Cultural Property

- a. RL will develop and initiate implementation of a rehabilitation plan for a culturally significant area outside but near the 1,641 acres in consultation with the Tribes within 18 months of deed transfer. This action will **MITIGATE** for the adverse effect.

5. Yakama Nation Traditional Cultural Property

- a. Consistent with and supportive of DOE's Native American Indian Policy and Order 144.1, DOE-RL will consult on a government-to-government basis with Yakama Nation (see General Stipulation I.5).

6. Richland Irrigation Canal (45BN1125)

- a. RL will make historic contexts and history information available to the general public through a variety of mechanisms, including by working with local historical societies and Hanford history organizations, utilizing existing educational partnerships, and assisting interactive web-based platforms and/or tools no later than 18 months from the date of deed transfer.
- b. RL will provide information collected for 45BN1125 to local historical societies, Hanford history organizations, and partnering educational institutions for their exhibit use or public dissemination no later than 18 months from the date of the deed transfer.
 - i. RL will consult with the historic society, history organizations and/or partnering educational institutions to determine the information needs and interests.
 - ii. RL will update the site form for 45BN1125, as needed within 18 months from the date of deed transfer.

7. Hanford Site Plant Railroad (45BN1107)

- a. RL will take photographs of the current condition of the Hanford Site Plant Railroad (45BN1107) within the final APE. Copies of the photographs along with explanatory text shall be provided to the DAHP no later than 18 months following deed transfer.
- b. RL will provide historic context statements to local historical societies for their use in a publically available format no later than 18 months following deed transfer.

8. State Historic Preservation Office Mitigation

Within 60 days of MOA signature, RL will approve use of DOE-RL's state of Washington Comprehensive Environmental Response, Compensation, and Liability Act grant funds for the DAHP to create an online e-archaeological site/isolate form application for use by DOE staff and secure online e-traditional cultural property application for use by the consulted tribal governments. DAHP shall provide the applications' beta version to professional cultural resource staff of DOE and the consulted tribal governments.

V. ANTI-DEFICIENCY ACT

RL's obligations under this MOA are subject to the availability of appropriated funds, and the stipulations of this MOA are subject to the provisions of the Anti-Deficiency Act 31 U.S.C. § 1341. RL shall make reasonable and good faith efforts to secure the necessary funds to implement this MOA in its entirety. If compliance with the Anti-Deficiency Act alters or impairs RL's ability to implement the stipulations of this agreement, RL shall consult in accordance with the amendment and termination procedures found at Stipulation VIII and IX of this agreement.

VI. DURATION

This MOA will expire when its terms and stipulations are complete or Signatories mutually agree to amend the stipulation. Prior to such time, RL may consult with the other Signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII below.

VII. DISPUTE RESOLUTION

1. RL, the SHPO, and the ACHP will work together to collaborate and resolve any differences or disputes informally. If necessary, RL, the SHPO and the ACHP will elevate significant disputes to the appropriate management levels of the organization for resolution.
 - a. Forward all documentation relevant to the dispute, including RL's proposed resolution, to the ACHP. The ACHP shall provide RL with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, RL shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and Signatories and provide them with a copy of this written response. RL will then proceed according to its final decision.
 - b. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, RL may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, RL shall prepare a written response that takes into account any timely comments regarding the dispute from the Signatories to the MOA, and provide them and the ACHP with a copy of such written response.
2. Public Objections: If an objection pertaining to this MOA is raised by a member of the public at any time during implementation of the stipulations contained in this MOA, DOE shall notify the Consulting Parties and take the objection into account, and consult with Signatories and Invited Signatories to resolve the objection if DOE decides that such consultation is appropriate.

VIII. AMENDMENTS

The Signatories and Invited Signatories may propose, in writing, and will consider amendments to this MOA. This MOA may be amended when such an amendment is agreed to in writing by all Signatories. The amendment will be effective on the date a copy signed by all of the Signatories is filed with the ACHP.

IX. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other Signatories to attempt to develop an amendment per Stipulation VIII, above. If within thirty (30) days (or another time period agreed to by all Signatories) an amendment cannot be reached, any Signatory may terminate the MOA upon written notification to the other Signatories.

Once the MOA is terminated, RL must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. RL shall notify the Signatories as to the course of action it will pursue.

Execution of this MOA by RL, SHPO, and ACHP and implementation of its terms evidence that RL has taken into account the effects of this Undertaking on historic properties and afforded the ACHP an opportunity to comment.

X. SIGNATORY:

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AMONG THE U.S. DEPARTMENT OF ENERGY RICHLAND OPERATIONS OFFICE, THE WASHINGTON STATE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION, THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, CONFEDERATED TRIBES AND BANDS OF THE YAKAMA NATION, CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION, NEZ PERCE TRIBE, AND WANAPUM REGARDING THE ADVERSE EFFECT OF THE FINAL AREA OF POTENTIAL EFFECT DEED TRANSFER ON YAKAMA TRADITIONAL CULTURAL PROPERTY, FIRST FOODS GATHERING AREAS TRADITIONAL CULTURAL PROPERTY, OYKALA AYN WÉETES TRADITIONAL CULTURAL PROPERTY, SHU WIPA TRADITIONAL CULTURAL PROPERTY, HANFORD SITE PLANT RAILROAD (45BN1107), THE RICHLAND IRRIGATION CANAL (45BN1125), AND WOODED ISLAND ARCHAEOLOGICAL DISTRICT (DT31)

U.S. Department of Energy, Richland Operations Office

By: Stacy Charboneau
Stacy Charboneau, Manager

Date: 9/15/15

SIGNATORY:

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AMONG THE U.S. DEPARTMENT OF ENERGY RICHLAND OPERATIONS OFFICE, THE WASHINGTON STATE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION, THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, CONFEDERATED TRIBES AND BANDS OF THE YAKAMA NATION, CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION, NEZ PERCE TRIBE, AND WANAPUM REGARDING THE ADVERSE EFFECT OF THE FINAL AREA OF POTENTIAL EFFECT DEED TRANSFER ON YAKAMA TRADITIONAL CULTURAL PROPERTY, FIRST FOODS GATHERING AREAS TRADITIONAL CULTURAL PROPERTY, OYKALA AYN WÉETES TRADITIONAL CULTURAL PROPERTY, SHU WIPA TRADITIONAL CULTURAL PROPERTY, HANFORD SITE PLANT RAILROAD (45BN1107), THE RICHLAND IRRIGATION CANAL (45BN1125), AND WOODED ISLAND ARCHAEOLOGICAL DISTRICT (0131)

Washington State Department of Archaeology and Historic Preservation

By: 
Dr. Alyson Brooks, Washington State Historic Preservation Officer/Director

Date: 9/21/15

SIGNATORY:

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Advisory Council on Historic Preservation

By: 
John M. Fowler, Executive Director

Date: 9/28/15

INVITED SIGNATORY:

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Confederated Tribes and Bands of the Yakama Nation

By: _____
JoDe L. Goudy, Chairman, Yakama Nation Tribal Council

Date: _____

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Confederated Tribes of the Umatilla Indian Reservation

By: _____
Gary Burke, Chairman, Board of Trustees

Date: _____

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Nez Perce Tribe

By: *Anthony D. Johnson*
Anthony D. Johnson, Chairman, Nez Perce Tribal Executive Committee

Date: 9/17/15

INVITED SIGNATORY:

MEMORANDUM OF AGREEMENT

AMONG THE U.S. DEPARTMENT OF ENERGY RICHLAND OPERATIONS OFFICE, THE WASHINGTON STATE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION, THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, CONFEDERATED TRIBES AND BANDS OF THE YAKAMA NATION, CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION, NEZ PERCE TRIBE, AND WANAPUM REGARDING THE ADVERSE EFFECT OF THE FINAL AREA OF POTENTIAL EFFECT DEED TRANSFER ON YAKAMA TRADITIONAL CULTURAL PROPERTY, FIRST FOODS GATHERING AREAS TRADITIONAL CULTURAL PROPERTY, OYKALA AYN WÉETES TRADITIONAL CULTURAL PROPERTY, SHU WIPA TRADITIONAL CULTURAL PROPERTY, HANFORD SITE PLANT RAILROAD (45BN1107), THE RICHLAND IRRIGATION CANAL (45BN1125), AND WOODED ISLAND ARCHAEOLOGICAL DISTRICT (DT31)

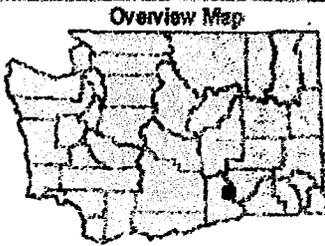
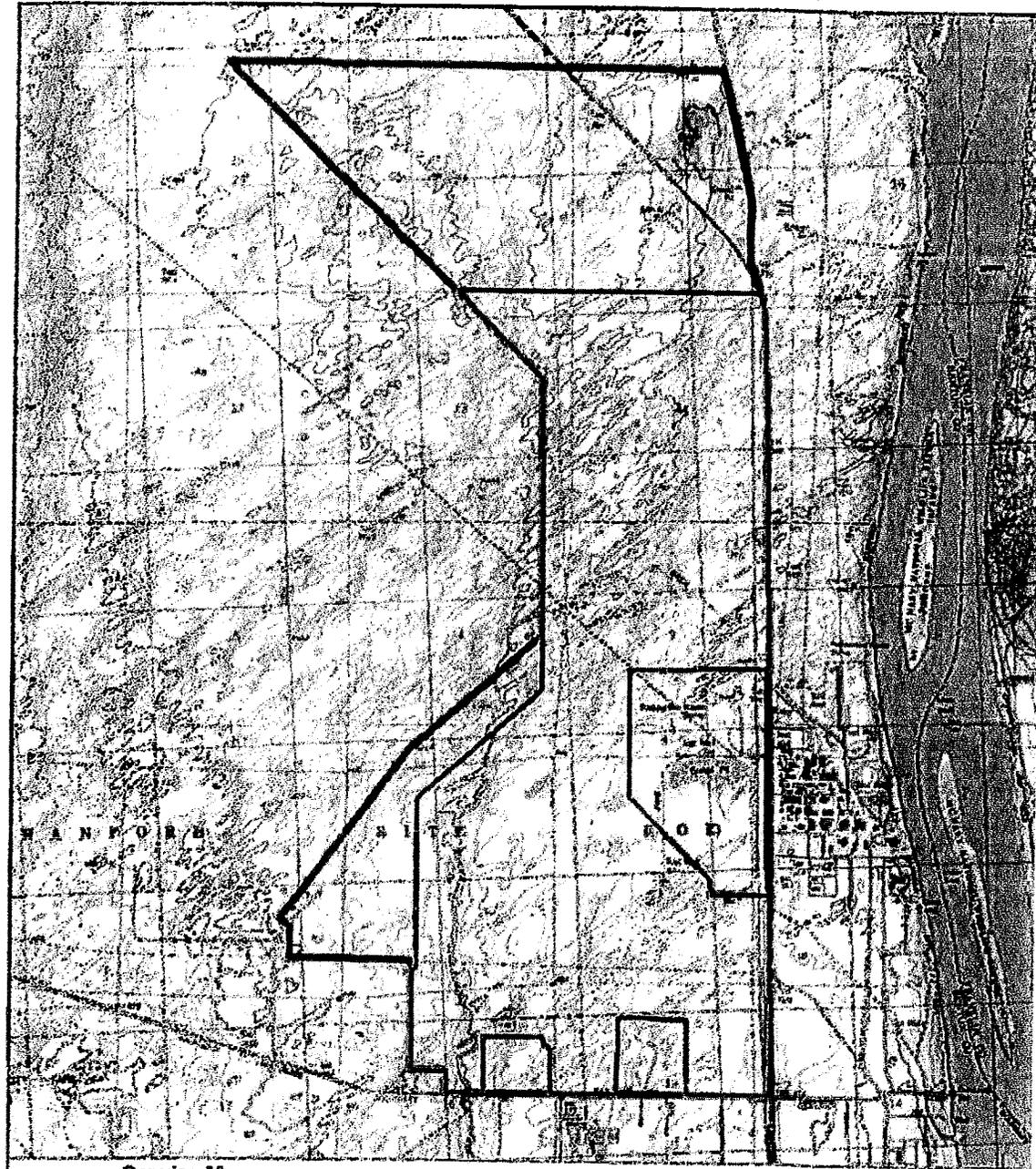
Wanapum

By

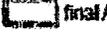

Rex Buck, Representative

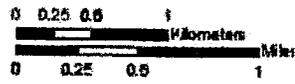
Date: _____

APPENDIX A. AREA OF POTENTIAL EFFECT



Richland, WA and Wooded Island 7.5' USGS Quad
NAD83 UTM Zone 11N

 APE
 final APE



Fort Walla Walla Museum
Heritage Research Services
4/20/2016
1:39,000

Official Use Only

APPENDIX B. CULTURAL RESOURCE PROTECTION PROTOCOL

The Inter-Tribal Advisory Board (ITAB) will consist of one representative from the Confederated Tribes and Bands of the Yakama Nation, the Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation and the Wanapum. ITAB will meet once a month with a designated representative from TRIDEC and/or potential land owners as the land is sold. The purpose of the meeting will be to discuss ground disturbing activities and coordinate how to best comply with the cultural resource protection procedures below. It is noted the land has been transferred with the intent of development. It is not the intent of the ITAB to hold up development projects. The only interest of the ITAB is to ensure the protection of cultural resources through identification, evaluation and relocation.

The land owners are responsible for funding compliance with the protocol.

1. **Project Location Planning.** Prior to the selection of potential locations the project proponent shall consider the likelihood of the project impacting burial sites and cultural resources that may be within or adjacent to the proposed project's area of potential effect. Methods to be involved in making this assessment may include but not be limited to literature reviews, oral history reviews, archaeological survey and/or testing, and remote sensing as recommended by ITAB.
2. **Selected Project Location.** Once a preferred project location (area of potential effect) has been chosen, ITAB shall recommend the appropriate level of cultural resource investigation to be conducted. Methods to be involved in this assessment may include but not be limited to literature reviews, archaeological survey and/or testing, monitoring, and/or remote sensing investigation, as recommended by ITAB.
 - a. Any cultural resources work required must comply with applicable professional standards. All contractors shall comply with the Secretary of Interior professional qualification standards at 36 CFR 61.
 - b. The associated cultural resource report must be sent to the ITAB and Department of Archaeology and Historic Preservation (DAHP) for review. The ITAB shall review and either concur or not concur with the findings of the report within 30 days.
 - c. Clearance shall be granted by the ITAB & DAHP if one of the following conditions is satisfied:
 - i. The action has no potential to cause an effect to cultural resources; or
 - ii. The action has no effect to cultural resources; or
 - iii. The action will have no adverse effect to cultural resources; or
 - iv. The action will have an adverse effect to cultural resources, then one of the following actions will be taken:
 - a). Avoid the impact to cultural resources;
 - b). Minimize the effects of the project to the cultural resource; or,
 - c). Mitigate through the development of a data recovery plan, as approved by the ITAB, to include relocation of the cultural material to resolve those effects.
3. If items suspected to be cultural resources are observed, cease activities occurring within 100 feet of the discovery in order to protect the integrity of such resources. Reasonable steps shall be taken to secure the area. No cultural resources will be further disturbed or transported from its original location, unless approved by the ITAB. Contact the ITAB to

determine the next steps. These may include, but shall not be limited to, documentation, avoidance, excavation, determining site eligibility, or no additional work needed. Activities in the area of the find may resume only after receipt of written approval from the ITAB.

4. These projects may be subject to fees based on clearance work required.
5. For projects meeting the definition of a federal undertaking as defined by 36 CFR 800.16, the National Historic Preservation Act Section 106 process will be followed.