



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT

National Headquarters  
Washington, DC 20240  
<https://www.blm.gov>



November 25, 2024

The Honorable Sara C. Bronin  
Chair, Advisory Council on  
Historic Preservation  
401 F Street NW, Suite 308  
Washington, DC 20001

Dear Chair Bronin:

I am in receipt of your final comments dated October 17, 2024, regarding termination of the Section 106 of the National Historic Preservation Act (NHPA) process for the Lava Ridge Wind Project (Project). I appreciate the time and effort the Advisory Council on Historic Preservation (ACHP) has invested in consultation under Section 106 of the NHPA for this project. As required by 36 C.F.R. § 800.7(c)(4), this letter serves as my response to your final comments and summarizes how a Bureau of Land Management (BLM) decision for the Project will incorporate your recommendations.

In general, the BLM agrees with the ACHP's representation of the facts and process leading up to termination of the Section 106 process, which is consistent with the BLM's detailed explanation provided to ACHP on August 22, 2024. The BLM also agrees with ACHP's findings as adequately reflecting the BLM's considerable effort to consult in good faith to analyze the potential adverse effects of the Project on significant historic properties, as well as to develop alternatives to minimize those effects consistent with the requirements of Section 106 of the NHPA and the National Environmental Policy Act. Importantly, your findings also acknowledge the BLM's obligation to manage public lands under a multiple use mandate, requiring a balancing of the protection of historic properties with the need for renewable energy development. Overall, the BLM acknowledges the importance of its role as a steward of the Nation's land and our heritage.

The BLM is disappointed in the outcome of the Section 106 process for the Project. Not only does the Idaho State Historic Preservation Officer's (SHPO) termination of the process mean there is no executed programmatic agreement (PA) between the required signatories, invited signatories, and other consulting parties to promote preservation outcomes, but it simply removes the Idaho SHPO's significant role and expertise. Termination is the least desirable procedural outcome. The BLM understands the consequences of termination of the Section 106 process under 36 C.F.R. § 800.7, including that it has completed and fulfilled the requirements of Section 106 without an executed PA. In this situation, there are no formal roles or responsibilities for the ACHP or the Idaho SHPO. Despite these circumstances, the BLM recognizes the importance of considering and determining how to appropriately address effects of the Project on historic properties such as the Minidoka National Historic Site and Wilson Butte Cave. Additionally, throughout this process, the BLM has been and remains committed to continuing its outreach and consultation with Native American Tribes, the National Park Service

(NPS), the Japanese American communities, and other affected groups to understand the breadth and scope of their concerns and to develop mitigation that honors their input and provides long-term social benefits.

The BLM proposes to adopt the ACHP's recommendation to adapt and largely implement the terms of the draft PA. If the Project is approved, the BLM will include in its record of decision (ROD) a requirement for the proponent to satisfy as a term and condition of approval a process that closely parallels the draft PA, which the BLM, the ACHP, the Idaho SHPO, and other consulting parties negotiated. The BLM remains committed to the processes and documents agreed to in the draft PA in structuring how the BLM will identify historic properties, evaluate their potential eligibility for the National Register, assess effects, communicate with consulting parties when developing appropriate mitigation to resolve adverse effects, and outline how pre- and post-construction monitoring would occur for the duration of the Project.

Specifically, if the project is approved, the BLM's continued efforts to undertake responsible management of cultural resources would include the following strategies as proposed and consulted on in the draft PA:

1. **Ongoing Identification:** The BLM will require Magic Valley Energy (MVE) to undertake class III intensive surveys in the physical area of potential effect (APE) and will use a phased approach that had been previously agreed to in the draft PA to identify and evaluate potential historic properties from the built environment within the non-physical APE. If resources cannot be fully evaluated for eligibility under the National Register of Historic Places criteria, they will be treated as eligible until proper evaluation is completed. The BLM will offer to share these data with the Idaho SHPO and interested Tribes.
2. **Determination of Eligibility and Assessment of Effect:** The BLM will continue to work with MVE, consulting parties, Tribal governments, and other experts to identify historic properties in accordance with the NHPA and to share results with the Idaho SHPO and the Tribes throughout the project to assess potential eligibility of and effects to historic properties. Properties of traditional religious and cultural importance will be given equal consideration.
3. **Historic Property Management Plan (HPMP) and Historic Properties Treatment Plans (HPTPs):** The BLM will carry over from the draft PA the concept of the HPMP as an umbrella document that consists of multiple documents (e.g., Native American Graves Protection and Repatriation Act plan of action, monitoring plan, non-physical effects assessment methodology) that will guide the preservation of historic properties throughout the Project's lifespan. The HPMP will also include HPTPs for adversely affected historic properties, which will document the nature of the property and what effects the Project will have on it. HPTPs will also include the conditions the BLM will require MVE to follow to avoid, minimize, and mitigate adverse effects. The BLM views the HPMP and associated HPTPs as a dynamic tool that will allow BLM, Tribes, and consulting parties to ensure historic preservation measures are being carried out appropriately.
4. **Government-to-Government Consultation with Tribes:** The BLM remains committed to consulting with Native American Tribes on a government-to-government basis, recognizing their unique expertise in identifying and evaluating properties of traditional religious and cultural significance that traditional cultural

- resource methods can fail to consider. The BLM recognizes the millennia-old relationship between the Tribes and this landscape, and the agency views their participation in this process as vital to developing and implementing mitigation frameworks that reflect their interests.
5. **Mitigation Measures Tailored to Resolve Adverse Effects:** Specific measures, such as setback modifications, visual effect mitigation, and strategic siting of Project infrastructure, have already been integrated into the Project to minimize effects. Where avoidance is not possible, the BLM will work with consulting parties to develop meaningful mitigation efforts.
  6. **Ongoing Consulting Party Engagement:** The BLM will continue dialogue with consulting parties, including the NPS and the Japanese American community. The BLM will provide the consulting parties with opportunities to review and comment on documents associated with the Project, including such things as monitoring plans, HPTPs, and evaluations of eligibility. Consulting parties will also be invited to participate in meetings to assist the BLM in assessing project effects on historic properties, developing mitigation strategies, and updating elements of the HPMP as needed. Cultural resource activity reports submitted to the BLM and shared with consulting parties will provide transparency and ensure that the project adheres to the terms consulted on in the draft PA.

### **Commitment to Transparent and Balanced Decision-Making**

Finally, in light of the ACHP's recommendation for additional agency support during complex consultations, the BLM will evaluate strategies to enhance our internal capacity for future projects of similar scope. This includes integrating lessons learned from the consultation process associated with the Lava Ridge Wind Project into future frameworks, ensuring that the BLM is better prepared to manage the challenges of large-scale renewable energy development alongside historic property preservation goals. The BLM would appreciate the opportunity to engage the ACHP and other parties in identifying best management practices to address future projects of this magnitude.

As we proceed with the Project, the BLM remains committed to its historic preservation goals and responsibilities in fulfilling our multiple-use mandate under the Federal Land Policy and Management Act, ensuring responsible renewable energy development while protecting significant cultural landscapes and historic properties.

Thank you again for your participation and input throughout this process. We look forward to continuing our work in a manner that respects both the importance of historic preservation and the need to address the climate crisis through renewable energy development.

Sincerely,



Tracy Stone-Manning  
Director