

Programmatic Agreement

Among
The U. S. Bureau of Land Management,
Malheur National Wildlife Refuge - U.S. Fish and Wildlife Service,
and
Oregon State Historic Preservation Officer
Regarding the North Steens 230-kV Transmission Line Project

WHEREAS, Echanis, LLC (Echanis), a subsidiary of Columbia Energy Partners (CEP), submitted Rights-of-Way (ROW) applications to the U. S. Bureau of Land Management (BLM) and Malheur National Wildlife Refuge-U.S. Fish and Wildlife Service (USFWS) for the construction, operation, and maintenance of a new double-circuit 230-kV overhead electric transmission line and ancillary facilities (referred to as the North Steens 230-kV Transmission Line Project) on Federal and private lands located in Harney County, Oregon; and

WHEREAS, the BLM, the lead federal agency for the purposes of complying with 36 CFR Part 800, has determined that the ROW, if granted by the BLM pursuant to the Federal Land Policy and Management Act of 1976 (FLPMA), is considered a federal undertaking subject to Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470f, as amended) and its implementing regulations, "Protection of Historic Properties," (36 CFR Part 800); and

WHEREAS, the USFWS has determined that the compatibility determination and special use permit for the proposed transmission line, if granted by the USFWS pursuant to the National Wildlife Administration Act of 1966 as amended, is considered a federal undertaking subject to Section 106 of the NHPA (16 USC 470f, as amended) and its implementing regulations, "Protection of Historic Properties," (36 CFR Part 800); and

WHEREAS, the North Steens 230-kV Transmission Line Project would connect CEP's proposed Echanis Wind Energy Project with Harney Electric Cooperative's existing 115 kilovolt (kV) line near Diamond Junction, Oregon. The route proposed by CEP (West Route) for the transmission line and two deviations of the proposed route (South Diamond Lane and Hog Wallow Route Options) are being considered in the Environmental Impact Statement (EIS) being prepared by BLM. This proposed route and two options would cross private lands as well as Federal lands managed by the BLM and USFWS. An additional alternative route (the North Route) is also being considered in the EIS. The North Route would cross private lands and BLM managed Federal lands but would not involve Federal lands managed by USFWS. The potential grant of a ROW by BLM and, if necessary, USFWS, for any of the transmission line routes would enable the construction of the Echanis Wind Energy Project on private lands. For this reason, all private land components of the project have been determined to be a connected action under NEPA, are being analyzed in the EIS and are subject to compliance with Section 106, NHPA; and

WHEREAS, regardless of the route ultimately selected the North Steens 230-kV Transmission Line Project Area of Potential Effect (APE) for the archaeological resources inventory will total 400 feet or 200 feet each side of the proposed transmission line, while the APE for the architectural/historical resources inventory will include an area of 1 mile or ½ mile each side of the center line of the proposed transmission line. The ½ mile APE extends to each side of the Echanis Wind Energy Project turbine sites, and proposed access roads. It also extends from the exterior boundaries of the temporary storage yards/staging areas. In instances when the boundaries of archaeological sites extend beyond the 400 foot boundary and historical features extend beyond the 1 mile APE, the entire site or features will be defined and recorded; and

WHEREAS, the BLM and the USFWS have determined that the development of the North Steens 230-kV Transmission Line Project may have an adverse effect on properties listed in or eligible for listing in the National Register of Historic Places (NRHP), and has consulted with the Oregon State Historic Preservation Officer (SHPO), pursuant to 36 CFR Part 800; and

WHEREAS, in accordance with 36 CFR §§ 800.4(b)(2) and 800.5(a)(3), the BLM and the USFWS have elected to phase identification and evaluation of historic properties, and application of the criteria of adverse effect, respectively, because access to private lands identified in Attachment A has not yet been secured by CEP; no decision has been made identifying a specific route and the cultural resource inventories of the proposed transmission line routes and access roads have not been completed due to project realignments, adjustments, or environmental conditions; and

WHEREAS, pursuant to 36 CFR § 800.14(b), the BLM and the USFWS have elected to execute this Programmatic Agreement (PA) for the North Steens 230-kV Transmission Line Project because effects on historic properties cannot be fully determined prior to issuance of the BLM ROW Grant and USFWS Determination and Special Use Permit for the undertaking; and

WHEREAS, the BLM invited the Indian tribes listed in Attachment B to participate in consultation; and only the Burns Paiute Tribe elected to participate in consultation;

WHEREAS, the Burns Paiute Tribe has participated in consultation and have been invited to concur in this PA, pursuant with 36 CFR §§ 800.2(c)(2) and 800.6(c)(3); and

WHEREAS, the Harney County Court have participated in consultation and have been invited to concur in this PA, pursuant with 36 CFR Part 800.3 and 36 CFR Part 800.6.

NOW, THEREFORE, the BLM, USFWS, and SHPO agree that the following stipulations will be implemented in order to take into account the effect of the undertaking on historic properties and to satisfy all responsibilities under Section 106 of the NHPA.

STIPULATIONS

The BLM, USFWS, and SHPO as appropriate, will ensure that the following measures are carried out.

I. STANDARDS

A. Identification and evaluation studies and treatment measures required under the terms of this PA will be carried out by or under the direct supervision of a professional(s) who meets, at a minimum, the Secretary of the Interior's Historic Preservation Professional Qualification Standards (48 FR 44716, September 29, 1983).

B. In developing scopes of work for identification and evaluation studies and treatment measures required under the terms of this PA, CEP will take into account the following guidance documents and regulations:

1. Advisory Council On Historic Preservation's (ACHP) guidance on conducting archaeology under Section 106 (2007);
2. ACHP's Policy Statement Regarding the Treatment of Burial Sites, Human Remains and Funerary Objects (February 23, 2007);
3. applicable Oregon SHPO guidance;
4. Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716-42, September 29, 1983);

5. "Treatment of Archaeological Properties" (ACHP 1983);
6. BLM Guidelines for Conducting Tribal Consultation Handbook (H-8120-1, formerly H-8160-1);
7. Federal Land Policy and Management Act of 1976;
8. National Wildlife Refuge System Administration Act of 1966 as amended;
9. Section 404 of the Clean Water Act (334 U.S.C. § 344);
10. Executive Order No. 13007: Indian Sacred Sites (1996);
11. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments (2000);
12. Presidential Memorandum on Government-to-Government Relations with Native American Tribal Governments (1994);
13. Executive Memo Government-to-Government Relationship with Tribal Governments (2004);
14. Archaeological Resources Protection Act (1979);
15. OAR 736-051-0090, Process for Applying for an Archaeological Permit on Private Lands in the State of Oregon;
16. Programmatic Agreement between the U. S. Fish and Wildlife Service Region 1, the Advisory Council on Historic Preservation, and the Oregon State Historic Preservation Officer Regarding the Administration of Routine Undertakings in the State of Oregon (1997);
17. Memorandum of Understanding on Human Remains between the U. S. Fish and Wildlife Service and the Oregon State Historic Preservation Office and the Burns Paiute Tribe (1991).

II. CONFIDENTIALITY

The BLM and USFWS will safeguard information about historic properties of religious and cultural significance to the Burns Paiute Tribe, including location information, or information provided by The Burns Paiute Tribe to assist in the identification of such properties, to the extent allowed by Section 304 of NHPA [16 U.S.C. 470w3] and other applicable laws.

III. PROJECT CONSTRUCTION

A. Identification and Evaluation of Historic Properties

1. For those areas not previously surveyed due to a lack of access, as listed in Attachment A of this PA, for areas added to the APE due to Project modifications or other reasons, CEP, with oversight and review from BLM and USFWS and in consultation with the signatory and concurring parties, will complete the identification and evaluation of historic properties within the APE, assess effects, and resolve any adverse effects to those historic properties prior to the initiation by CEP of construction in the vicinity of an un-surveyed property in accordance with 36 CFR 800.4 through 800.6. If areas previously not surveyed are private lands ORS 358.905-358.962 and OAR 736-051-0090 will be the guiding statutes.

2. The BLM and USFWS remain responsible for conducting government-to-government consultation with the Burns Paiute Tribe. The BLM and USFWS shall continue to seek tribal views on the identification and evaluation of historic properties, including historic properties of religious and cultural significance to the Burns Paiute Tribe, and the treatment of affected historic properties, in connection with the construction of the North Steens 230-kV Transmission Line Project.

3. The BLM and USFWS will conduct consultation with the Burns Paiute Tribe for the areas of BLM Burns District and Malheur National Wildlife Refuge crossed by the Project right-of-way or its alternatives.

B. Coordination Plan

1. BLM and USFWS will make a reasonable and good faith effort to complete the identification and evaluation of historic properties, and the mitigation of adverse effects to them in accordance with Stipulations III.A and III.C prior to CEP's initiation of vegetative clearing and construction.

2. The identification and evaluation of cultural resources within the Project APE may not be completed prior to the start of vegetative clearing and construction activities because of unforeseen minor changes in the construction footprint and incomplete inventory due to difficulties in retaining land owner permission. CEP shall develop and provide to BLM and the USFWS a detailed Coordination Plan describing how the requirements of Stipulations III. A and C - identification, evaluation and treatment - will be completed in conjunction with vegetative clearing and construction activities in such a way that historic properties will not be adversely affected prior to the implementation of any mitigation measures. The Coordination Plan would detail the steps for completion of the identification, evaluation and avoidance/mitigation of historic properties. If the Coordination Plan is deemed necessary by BLM and once developed and approved it would be incorporated into this agreement as Attachment E.

3. The Coordination Plan would include a schedule for all proposed construction activities and recommended measures for the protection of unanticipated discoveries in accordance with Stipulation IV and/or Attachment C.

4. The BLM shall make the Coordination Plan available to consulting parties for a thirty (30) day review period once it has received the plan from CEP. BLM shall take into account comments received prior to approving the plan for implementation. The BLM-approved Plan will be incorporated into all construction documents and implemented accordingly.

C. Treatment of Historic Properties

1. Whenever feasible, avoidance of adverse effects to historic properties will be the preferred treatment. In consultation with the BLM, USFWS, SHPO and other consulting parties, CEP may elect to consider and implement avoidance measures prior to completing the evaluation of historic properties.

2. When historic properties are identified in the APE pursuant to Stipulation III.C, BLM will apply the criteria of adverse effect in accordance with 36 CFR § 800.5(a) and ORS 358.905 and ORS 390.235 in consultation with the SHPO, USFWS and other consulting parties. If BLM finds that historic properties might be adversely affected by transmission line construction, BLM and USFWS will consult with the SHPO and other consulting parties to determine prudent and feasible ways to avoid adverse effects.

3. If BLM and the USFWS determine that the adverse effect cannot be avoided, BLM and USFWS will consult with the SHPO and other consulting parties to determine those measures to be implemented by CEP to minimize and mitigate adverse effects on identified historic properties.

4. If adverse effects to historic properties are identified, CEP with BLM oversight, and review by all consulting parties, will draft a comprehensive Treatment Plan that describes the measures to minimize and mitigate the adverse effect of transmission line construction activities on historic properties, the manner in which these measures will be carried out and a schedule for their implementation. If the Treatment Plan is deemed necessary by BLM and once developed and approved it would be incorporated into this agreement as Attachment F.

- a. When mitigation consists of or includes data recovery, the Treatment Plan also will identify the specific research questions to be addressed by data recovery with an explanation of their relevance, the archaeological methods to be used, and will be encouraged to make provisions for public interpretation and education, subject to Stipulation II restrictions, if any.
- b. CEP will submit the draft Treatment Plan to the BLM, SHPO, USFWS and other consulting parties for a fifteen (15) day review. CEP shall address timely comments and recommendations submitted by consulting parties in preparation of the Final Treatment Plan.
- c. When it has addressed all of the comments and recommendations, CEP will submit the Final Treatment Plan to BLM and USFWS for review and approval.

5. CEP shall complete implementation of the Final Treatment Plan approved by BLM, SHPO, USFWS, and other consulting parties prior to beginning construction in areas occupied by historic properties. If it is not possible to meet this schedule, CEP will develop a plan that establishes how appropriate treatment will be determined and implemented during construction activities.

D. Construction Monitoring

1. In consultation with the BLM, USFWS and SHPO, CEP with participation of the Burns Paiute Tribe will monitor construction in selected areas of the APE as a supplement to identification efforts. Any unanticipated discoveries made during construction will be treated in accordance with Stipulation IV and/or Attachment C.
2. Construction monitoring will be performed by a professional who either meets or is under the direct supervision of an individual who meets the qualification standards established in Stipulation I.A. Traditional cultural knowledge may possibly serve as a substitute for some forms of experience outlined in Stipulation I.A. The Burns Paiute Tribe in consultation with BLM and USFWS will determine the qualifications of the cultural monitors relative to any traditional cultural knowledge that they may possess.
3. BLM and USFWS shall consider information provided by the Burns Paiute Tribe in completing the identification of historic properties before construction commences. CEP will consider input from the BLM, USFWS, SHPO and the Burns Paiute Tribe in preparing a construction monitoring plan provided for under Stipulation III.D.4. CEP shall provide the Burns Paiute Tribe an opportunity to participate as monitors during project construction and shall seek approval of the Burns Paiute Tribe of all persons assigned as construction monitors.
4. CEP, with direction and oversight by BLM and USFWS will develop a Construction Monitoring Plan which will be approved by BLM after review by USFWS and the SHPO and other consulting parties. Once developed and approved the Construction Monitoring Plan would be incorporated into this agreement as Attachment G.
5. CEP will implement the Final Monitoring Plan after review and input from all consulting parties and approval by BLM and USFWS.

E. Construction

1. Environmental Inspector (EI): Prior to initiating vegetative clearing or construction, CEP will employ an EI whose responsibilities will include ensuring compliance with the terms of this PA. In meeting this responsibility, the EI will rely on the technical expertise of professionals who meet the standards established in Stipulation I.A. The EI shall have training in archaeology unless a professional archaeologist is on-site advising and working with the EI.

a. The EI will monitor construction activities on-site and prepare a daily log reporting to BLM and USFWS on activities performed to implement the terms of this PA, as appropriate. CEP will make the daily log available to the BLM, USFWS and other consulting parties upon request.

b. CEP will ensure through the construction contract that the EI will possess the authority to stop construction in the event of an inadvertent discovery in accordance with Stipulation IV and/or Attachment C.

2. Training: CEP will ensure that if the EI does not meet the professional qualification standards established in Stipulation I.A, the EI receives appropriate training in historic preservation from a professional who meets the standards established in Stipulation I.A in order to perform the requirements of this PA. The EI will remain under the direct supervision of an individual who meets the qualification standards established in Stipulation I.A. CEP also will provide an appropriate level of training in historic preservation conducted by a professional who meets the standards established in Stipulation I.A to all construction personnel (including new, added, or replaced workers) so that PA requirements are understood and unanticipated discoveries quickly identified. CEP will offer this training prior to initiating vegetative clearing or construction activities and conduct periodic refresher training during transmission line construction.

3. The BLM and USFWS will ensure that the Burns Paiute Tribe is afforded a reasonable opportunity to provide information about historic properties of religious and cultural significance to them prior to transmission line construction.

4. Construction Contract: CEP will incorporate the terms of Stipulation IV.A and Attachment C into construction contracts to ensure that its EI and construction contractors meet their responsibility for notification of the unanticipated discoveries.

F. Scheduling

BLM and USFWS may authorize the start of vegetative clearing and transmission line construction when the scheduling plans prepared in accordance with Stipulations III.B, III.C and III.D, as appropriate, have been submitted by CEP and approved by BLM and USFWS in accordance with the terms of this PA.

IV. UNANTICIPATED DISCOVERIES DURING PROJECT CONSTRUCTION

A. Unanticipated Discoveries (not including human burials, remains, or funerary goods)

1. "Applicable federal agency" is the BLM and the USFWS that has jurisdiction for the land on which construction is occurring.

2. If previously unidentified historic properties are discovered unexpectedly as construction activities are carried out, the construction contractor will immediately halt all construction activity within a one-hundred (100) foot radius of the discovery, notify CEP's EI of the discovery and implement interim measures to protect the discovery from looting and

vandalism. Within twenty-four (24) hours of receipt of this notification of the discovery, the EI (if a qualified archaeologist) or a qualified archaeologist shall:

- a. inspect the work site to determine the extent of the discovery and ensure that construction activities have halted;
- b. clearly mark the area of the discovery;
- c. implement additional measures, as appropriate, to protect the discovery from looting and vandalism; and
- d. notifies the applicable federal agency, the SHPO and other consulting parties, including The Burns Paiute Tribe, of the discovery.

3. The BLM and USFWS will have seven (7) calendar days following notification provided in accordance with Stipulation IV.A.2 to determine the NRHP eligibility of the discovery after considering the timely filed views of the SHPO, the Burns Paiute Tribe, and other consulting parties. The BLM and USFWS may assume the newly discovered property to be eligible for the NRHP for the purposes of Section 106 pursuant to 36 CFR § 800.13(c) and ensure that construction activities will avoid adverse effects to NRHP eligible properties.

4. For properties determined eligible pursuant to Stipulation IV.A.3, the applicable federal agency will notify the SHPO and other consulting parties of those actions that it proposes to resolve adverse effects.

- a. Consulting parties will have seven calendar days to provide their views on the proposed actions.
- b. The applicable federal agency will ensure that the timely filed recommendations of consulting parties are taken into account prior to granting approval of the measures that CEP will implement to resolve adverse effects.
- c. CEP will carry out the approved measures prior to resuming construction activities in the location of the discovery.

B. Unanticipated Discovery of Human Burials and Remains, and Funerary Objects

1. When Native American human remains, funerary objects, or objects of cultural patrimony are unexpectedly discovered during construction of the Project on federal lands within the APE, CEP shall notify immediately the federal agency with jurisdiction. For remains found on private lands, CEP shall follow the procedures set forth in Attachment C.

2. Consistent with the Native American Graves Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001 et. seq.] and its implementing regulations in 43 C.F.R. Part 10, the federal agency shall be responsible, in consultation with the applicable Indian tribe and with the professional assistance of an archaeologist that meets the Standards outlined in I.A., for making the determination regarding the Native American or non-Native American status of the human remains. A forensic anthropologist should be consulted in cases where one cannot rule out a more recent non-Native burial.

3. Non-Native American human burials and remains, and funerary objects discovered on federal lands within the APE will be treated by the applicable federal agency in accordance with applicable federal law, taking into account the ACHP's Policy Statement on

the Treatment of Burial Sites, Human Remains and Funerary Objects (February 23, 2007) as well as other agency Treatment Plans and policies, as appropriate.

V. CURATION

- A. CEP will work with BLM, USFWS and the Burns Paiute Tribe to curate any artifacts, materials or records resulting from archaeological identification and mitigation conducted on federal lands under their jurisdiction in accordance with 36 CFR Part 79, "Curation of Federally-Owned and Administered Archaeological Collections."
- B. CEP will return all artifacts recovered from private lands to the respective landowner after analysis is complete, unless applicable state law requires (OAR 736-051-090) otherwise. CEP and BLM, USFWS and the Burns Paiute Tribe will encourage and assist landowners in donating any returned artifacts to a curation facility that meets the Secretary of Interiors Standards and identified by the BLM, USFWS, or the Burns Paiute Tribe.
- C. The BLM and the USFWS will determine the disposition of human burials, human remains and funerary objects in accordance with applicable federal and state law (ORS 97.740-97.760 and ORS 358.905-358.962) and existing Memorandum of Understandings (MOUs) between the applicable Indian tribe and the BLM and USFWS.

VI. REPORTING

- A. Within one year of completion of transmission line construction, CEP will submit a comprehensive draft report to BLM and USFWS describing the results and findings of the implementation of the actions and plans specified in Stipulations III.B through D, IV.A and B, and Attachment C.
- B. CEP will submit a draft comprehensive report to the BLM, USFWS, SHPO and other consulting parties for a thirty (30) day review and comment. CEP shall address timely comments and recommendations submitted by consulting parties in preparation of the Final Comprehensive Report. CEP will submit the final report to BLM for review and approval. BLM will send the final report to the SHPO for review and concurrence.

VII. MONITORING IMPLEMENTATION OF THE PROGRAMMATIC AGREEMENT

Each quarter following the execution of this PA until it expires or is terminated, CEP with BLM and USFWS oversight and review will provide the consulting parties to this PA a progress report summarizing the work carried out pursuant to its terms. The report will include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the efforts to carry out the terms of this PA. CEP and BLM will maintain and update a list of the current contacts for the consulting parties to be distributed each quarterly report.

VIII. DISPUTE RESOLUTION

- A. "Appropriate federal agency" refers to the BLM or USFWS as applicable.
- B. Should any signatory or concurring party to this PA object at any time to any actions proposed or the manner in which the terms of this PA are implemented, the appropriate federal agency will consult with such party to resolve the objection. If the appropriate federal agency determines that such objection cannot be resolved, the appropriate federal agency will:
1. Notify the signatory and concurring parties that an objection cannot be resolved.

2. Forward all documentation relevant to the dispute, including the applicable federal agency's proposed resolution, to the ACHP, signatory parties, and concurring parties for comment. The ACHP, signatory parties, and concurring parties will provide the appropriate federal agency 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, the appropriate federal agency will prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The appropriate federal agency will then proceed according to its final decision.

3. If the dispute involves a disagreement on NRHP eligibility, the federal agency shall follow the process for resolving such disagreements found in 36 CFR 800.4(c) (2) and 36 CFR part 63.

4. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the applicable federal agency may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the appropriate federal agency will prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the PA, and provide them and the ACHP with a copy of such written response.

C. The appropriate federal agency's responsibility is to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remaining unchanged.

IX. DURATION

This PA will be null and void if all of its stipulations have not been carried out within four (4) years from the date of its execution or until all of its stipulations that require action by the signatories have been carried out, whichever occurs first. If work on this Project is not completed within four (4) years, BLM may consult with other signatory parties to either amend the PA to extend its duration or modify the terms of the PA, as appropriate in accordance with Stipulation X. The BLM will notify the signatory and concurring parties as to the course of action it intends to pursue at least ninety (90) days before the PA would expire.

X. AMENDMENT

Any signatory party to this PA may propose in writing to the other signatory parties that it be amended. The signatory parties will consult in an effort to reach agreement on an amendment. Any amendment will be effective on the date it is signed by all of the signatories and filed with the ACHP.

XI. TERMINATION

A. If any signatory to this PA determines that its terms will not or cannot be carried out, that party will immediately consult with the other parties to attempt to develop an amendment per Stipulation XI. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other signatories.

B. Once the PA is terminated, and prior to work continuing on the undertaking, the BLM and USFWS shall request, take into account, and respond to comments of the ACHP in accordance with 36 C.F.R. 800.7(a). Following consultation with the ACHP, the BLM and USFWS will notify the signatory and concurring parties as to the course of action it intends to pursue.

C. In the event that the selected alternative for the transmission line route does not extend across USFWS lands, USFWS participation in this programmatic agreement will be terminated. All signatory and concurring parties will be informed in writing by USFWS of its withdrawal from participation in this agreement.

XII. ANTI-DEFICIENCY PROVISION

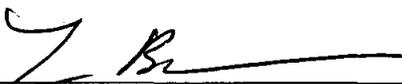
Any obligation of the BLM or USFWS set forth in this PA is subject to and dependent on appropriations by Congress and allocation of sufficient funds for that purpose.

XIII. SCOPE OF THE PROGRAMMATIC AGREEMENT

This Agreement is limited in scope to actions that will facilitate the construction of the North Steens 230-kV Transmission Line Project and related facilities, and is entered into solely for that purpose.

EXECUTION of this PA by the BLM, USFWS and SHPO have taken into account the effects of the North Steens 230-kV Transmission Line Project on historic properties and implementation of its terms is evidence that the BLM and USFWS have afforded the ACHP an opportunity to comment.

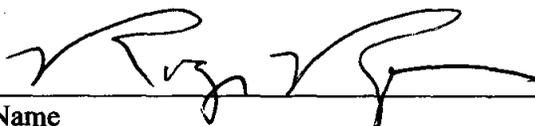

Name _____ Date 11/30/11
Title DM Burns
Bureau of Land Management, Burns District Office



Name Tim Bodeen
Title Refuge Manager

Date Dec 1, 2011

Malheur National Wildlife Refuge - U. S. Fish and Wildlife Service


Name

Oregon State Historic Preservation Officer

12.8.11
Date

Mariette Snel

07 Dec. 2011

Name

Date

Title

Burns Paiute Tribe
(Concurring party)

Steven S. Gandy *Dec 6, 2011*

Name

Date

Title

Harney County Court
(Concurring party)

A handwritten signature in black ink, appearing to read "Guy Piazza". The signature is written in a cursive style with a large initial "G" and "P".

Name: Guy Piazza
Title : Manager
Echanis, LLC, subsidiary of Columbia Energy Partners, LLC
(Concurring party)

Date: Dec 15, 2011

ATTACHMENT A

Tables 1 and 2 showing properties for which CEP and its contractors have been denied access or unable to conduct identification and evaluation studies due to project reroutes, adjustments, or environmental conditions:

Table 1. Architectural/Historical Resources Inventory - Areas Not Surveyed Within the Project APE

| Location | Estimated Mileage | Township/Range/Section |
|--|-------------------|--|
| Alternative Route C (North Route) | 5 | T26S/R34E, S 1, 12, 13, 24, 25, 25 T27S/R34E, S 6, 7, 18, 19, 30 (Refer to APE Maps, Unit 19-20) |
| Alternative Route C (North Route) | 2.5 | T30S/R33E, S 2, 11 T29S/R33E, S 35 (Refer to APE Maps, Unit 11-12) |
| Alternative Route C (North Route) Access Roads | 2.5 | T30S/R33E, S 2, 11 T29S/R33E, S 35 (Refer to APE Maps, Unit 11-12) |
| Alternative Route C/B and Echanis Wind Farm Route | 7.5 | T30S/R33E, S 5, 6, 9, 16, 15, 22, 27, 34, 35 (Refer to APE Maps, Unit 1-4) |
| Alternative Route C/B and Echanis Wind Farm Route Access Roads | 7.2 | T31S/R33E, S 7, 8, 17, 16, 20, 21, 27, 28, 34, 35 (Refer to APE Maps, Unit 1-4) |
| Echanis Wind Energy Project Turbine Towers | 8.5 | T31S/R33E, S 14, 15, 22, 23, 26, 35 T32S/R33E, S 2, 3, 10, 15 (Refer to APE Maps, Unit 1-2) |
| <i>Total Miles</i> | 33.2 | |

Source: BLM Malheur Lake Quadrangle Map (2008) and BLM Baca Lake Quadrangle Map (2009)

Table 2. Archaeological Resources Inventory - Areas Not Surveyed Within the Project APE

| Location | Township | Range | Sections | Estimated Mileage |
|---|----------|-------|---|-------------------|
| Echanis Access Road Alternative Route B/C | 31S | 34E | 5, 6, 7, 8, 16, 17, 20, 21, 27, 28, 34, 35 | 7 |
| Echanis Access Road Alternative Route B/C | 30.5S | 34E | 31 | 0.33 |
| Echanis Access Road Alternative Route B/C | 31S | 33E | 3, 4, 10, 14, 15 | 3 |

| | | | | |
|---|-----|-----|---|-------|
| Alternative Route B/C Access Roads | 30S | 33E | 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 26, 27, 28, 34, 35, 36 | 15 |
| Alternative B Access Road | 30S | 32E | 1, 12 | 1 |
| Alternative B Access Road | 29S | 32E | 29, 30, 31, 32 | 3 |
| Alternative B - South Diamond Lane Option | 29S | 32E | 19, 20, 29, 30 | 2 |
| Alternative B - South Diamond Lane Option | 29S | 31E | 13, 14, 15, 22, 23, 24 | 2.5 |
| Alternative B Access Road | 29S | 31E | 27, 34 | 1.15 |
| Alternative B Access Road | 30S | 31E | 3, 4 | 1.25 |
| Alternative C - Access Road | 29S | 33E | 26, 35 | 2 |
| Alternative C - Access Road | 27S | 34E | 7, 18 | 0.66 |
| Alternative C - Access Road | 27S | 33E | 12 | 0 * |
| Alternative C - North Route | 27S | 33E | 1, 12 | 2 |
| Alternative C - North Route | 27S | 34E | 6, 7 | 0 ** |
| Alternative C - North Route | 26S | 33E | 1, 12, 25, 36 | 2 |
| Alternative C - North Route | 26S | 34E | 6, 7, 30, 31 | 0 ** |
| Alternative C - North Route | 25S | 34E | 30, 31 | 1.5 |
| | | | <i>Total Miles</i> | 44.39 |
| * Negligible amount to be surveyed | | | | |
| **ROW shared with adjacent Range; distance already calculated for Range 33 (previous row) | | | | |

ATTACHMENT B

List of Indian Tribes Invited by the BLM and USFWS* to Participate in Consultation:

Burns Paiute Tribe*
Confederated Tribes of Warm Springs
Klamath Tribes

ATTACHMENT C

PLAN FOR THE UNANTICIPATED DISCOVERY OF HUMAN REMAINS OR BURIALS ON PRIVATE LANDS DURING THE CONSTRUCTION OF THE NORTH STEENS 230-KV TRANSMISSION LINE PROJECT

1. When an unmarked human burial or unregistered grave is encountered during construction activities and it is not clearly modern then there is a high probability that the remains are of a Native American. When encountering an unmarked burial or grave, CEP shall immediately comply with Oregon Revised Statute 97.745(4).
2. The construction contractor will immediately notify CEP's Environmental Inspector (EI) upon encountering an unmarked human burial or unregistered grave during ground disturbing construction activities.
3. Immediately following receipt of such notification, the EI shall halt construction activities within a 100 foot radius from the point of discovery and implement measures to protect the discovery from looting and vandalism until the requirements of state law have been completed.
4. The EI shall notify the State Police, SHPO, Legislative Commission on Indian Services (CIS), and all appropriate Native American Tribes within forty-eight (48) hours of the discovery. CEP should contact the CIS to determine the "appropriate Native American Tribe(s)." The contact information for these parties appears below.
5. Within seventy-two (72) hours after notification the State Police will determine jurisdiction. If the State Police refers the matter to the SHPO, CIS, applicable Indian tribes and CEP shall determine the treatment, including mitigation and disposition of the unmarked human burial or unregistered grave and shall implement a culturally sensitive plan for reburial. The human remains and any associated funerary objects should not be manipulated, or transported from the original location until a plan is developed in consultation with the above named parties. These actions will help ensure compliance with ORS 97.745 which prohibits any person willfully removing human remains and/or objects of cultural significance from its original location. All parties shall regard the find and reburial as confidential unless all parties prepare and sign an information release agreement.
6. CEP shall resume construction activities in the area of the discovery upon receipt of written authorization from the State Police, SHPO, or CIS whoever has jurisdiction under state law.
7. Agency Contacts (for Tribal and other Agency Contacts see Attachment D)

State Police

Primary Contact: Sgt. Chris Allori, Department of State Police (office: 503-731-4717) (cell: 503-708-6461)

State Historic Preservation Office

Primary Contact: Dr. Dennis Griffin, State Archaeologist (office: 503-986-0674) (cell: 503-881-5038)

Secondary Contact: John Pouley, Asst. State Archaeologist (office: 503-986-0675)

Legislative Commission on Indian Services:

Primary Contact: Karen Quigley, Director (office: 503-986-1067)

ATTACHMENT D

CONTACTS

A. FEDERAL

Bureau of Land Management, Burns District Office
Skip Renschler, District Realty Specialist
28910 Hwy 20 West
Hines, Oregon 97738
541-573-4443
rrenschle@blm.gov

Bureau of Land Management, Burns District Office
Scott Thomas, District Archaeologist
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U. S. Fish & Wildlife Service
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Refuge Manager, Malheur National Wildlife Refuge
36391 Sodhouse Lane
Princeton, Oregon 97721
541-493-2612
Tim_Bodeen@fws.gov

U. S. Fish & Wildlife Service
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B. STATE

Oregon State Historic Preservation Office
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Oregon Parks and Recreation Department
Heritage Programs Division
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C. COUNTY

Harney County Court
Steve Grasty
Harney County Judge
450 N. Buena Vista
Burns, OR 97720
541-573-6356
sgrasty@co.harney.or.us

D. CONSULTING TRIBE

Burns Paiute Tribe
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Acting Tribal Council Chairperson,
100 Pasigo Street
Burns, OR 97720
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Fax: (541) 573-2323
bpt.council@gmail.com

E. APPLICANT

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