

**PART III – SECTION J, ATTACHMENT M-10**

PROGRAMMATIC AGREEMENT BETWEEN  
THE DEPARTMENT OF ENERGY, IDAHO OPERATIONS OFFICE,  
THE IDAHO HISTORIC PRESERVATION OFFICE AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
CONCERNING MANAGEMENT OF CULTURAL RESOURCES  
ON THE IDAHO NATIONAL LABORATORY  
ENGINEERING AND ENVIRONMENTAL LABORATORY

*Effective September 15, 2004*

PROGRAMMATIC AGREEMENT  
BETWEEN  
THE DEPARTMENT OF ENERGY IDAHO OPERATIONS OFFICE  
THE IDAHO STATE HISTORIC PRESERVATION OFFICE  
AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
CONCERNING MANAGEMENT OF CULTURAL RESOURCES ON  
THE IDAHO NATIONAL ENGINEERING AND ENVIRONMENTAL LABORATORY

**WHEREAS**, the United States Department of Energy, Idaho Operations Office (DOE) shall continue to operate and maintain the Idaho National Engineering and Environmental Laboratory (herein referred to as "INEEL") located within Butte, Bingham, Clark, Fremont, and Bonneville Counties, in Idaho; and,

WHEREAS, DOE recognizes the rich history that exists on the INEEL, the importance of properties associated with this history (herein referred to as "historic properties") that are included in or eligible for nomination to the National Register of Historic Places and their legal responsibility to identify, protect, and preserve such properties on or under their jurisdiction, consistent with the mission and mandates of the INEEL; and

WHEREAS, DOE, in consultation with the Idaho State Historic Preservation Office (herein referred to as the SHPO) and the Advisory Council on Historic Preservation (herein referred to as the Council), has determined that some INEEL activities (herein referred to as undertakings) may adversely affect INEEL historic properties; and

WHEREAS, Section 110 of the National Historic Preservation Act (NHPA) sets out the broad historic preservation responsibilities of Federal agencies and is intended to ensure that historic preservation is fully integrated into the ongoing programs of all Federal agencies; and

WHEREAS, DOE intends to satisfy their NHPA Section 110 responsibilities;

NOW, THEREFORE, in order to satisfy the responsibilities of DOE for complying with Section 106 of the NHPA, DOE, the SHPO, and Council agree that upon signature of this Agreement by all parties, the undertakings performed at the INEEL will be accomplished in accordance with the following stipulations.

STIPULATIONS

The DOE shall ensure the following measures are carried out:

- I INEEL Cultural Resources Management Plan**
  - A. DOE will incorporate the "INEEL Historic Architectural Properties Management Plan" (HAPMP) dated October 2003 into, and finalize, its Cultural Resources Management Plan (CRMP) in consultation with the SHPO, National Park Service, Council, and Shoshone-Bannock Tribes. In so doing, DOE shall take into consideration Council comments on the INEEL HAPMP, dated October 16, 2003 and earlier SHPO and Shoshone-Bannock Tribes comments. The CRMP will include, at a minimum, the components outlined in Attachment A.
  - B. DOE shall provide the draft CRMP to the SHPO, National Park Service (NPS), and Council for review and comment by April 15, 2004. The draft CRMP and comment response document will also be provided to the Shoshone-Bannock Tribes.
  - C. The SHPO, NPS, and Council shall review the CRMP and provide comments to DOE by May 15, 2004. If comments are not received by this date, DOE shall assume concurrence with the CRMP as written.

- D. DOE shall, as appropriate, resolve and incorporate SHPO, NPS, and Council comments into the final CRMP and provide it to the SHPO and Council for final review by May 28, 2004.
- E. If no further SHPO, NPS, and/or Council comments are provided to DOE by June 30, 2004, DOE shall assume acceptance by the Council and SHPO. If DOE receives comments from the SHPO or Council meriting further review and revisions to the CRMP, DOE will consult with the parties to this agreement to resolve these issues. If the issues cannot be resolved within 15 (fifteen) days to the mutual satisfaction of the parties, DOE will initiate dispute resolution, as described in Stipulation IV, to this agreement.
- F. Upon finalization of the CRMP, the Council and SHPO shall provide DOE with a letter of acceptance. DOE shall then implement the CRMP in lieu of compliance with 36 CFR 800.3-800.7.
- G. DOE shall consult with the Council, SHPO, Shoshone-Bannock Tribes and interested parties annually, or as needed, to consider revisions to the CRMP.

## **II. Interim Provisions**

- A. DOE shall follow 36 CFR 800.3-800.7, with the exception of 36 CFR 800.6(a)(1), until acceptance of the CRMP by the SHPO and Council. Copies of all Memoranda of Agreement that are developed between the SHPO and DOE will be filed with the Council.
- B. DOE shall notify the Council and assume their nonparticipation for each undertaking (36 CFR 800.6(a)(1)) prior to acceptance and implementation of the CRMP. However, if disagreements or questions arise between DOE and SHPO during the review of individual undertakings, DOE will notify the Council of the dispute and invite the Council to participate in its resolution pursuant to Stipulation III. (36 CFR 800.2(b)).
- C. DOE shall communicate with the Shoshone-Bannock Tribes, where they have expressed interest, and interested parties to obtain their views on each undertaking until acceptance of the INEEL Cultural Resources Management Plan (36 CFR 800.3 - 800.7).

## **III. General Provisions**

- A. Cultural resource management professionals, meeting the Secretary of interior's standards and guidelines (36 CFR 61) and referenced in DOE Headquarters' Policy "Management of Cultural Resources" (DOE P141.1), shall perform or closely oversee work toward compliance with this Agreement.
- B. In accordance with 36 CFR 800.10, DOE agrees that the NPS, as an interested party representing the Secretary of the Interior, will be provided an opportunity to comment on proposed undertakings that will affect significant features of the Experimental Breeder Reactor I National Historic Landmark and DOE will take any such comments into consideration before reaching a final decision on the matter.

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## **IV. Dispute Resolution**

Should any signatory to this Agreement or member of the public object to any action(s) or plans provided for review pursuant to this Agreement, DOE shall communicate with the objecting party within 30 days to begin resolution of the objection. The objection *must* be specifically identified, and the reasons for the objection documented. If DOE determines that the objection cannot be resolved, DOE shall forward all documentation relevant to the dispute to the Council and notify the SHPO as to the nature of the dispute. Within 30 days of receipt of all pertinent documentation, the Council shall either:

- A. provide DOE with recommendations which DOE shall take into consideration in reaching a final decision regarding the dispute; or
- B. notify DOE that it will comment within an additional 30 days. Any Council comment provided in response to such a request will be considered by DOE in accordance with 36 CFR 800.7(c)(4) with reference to the subject of the dispute; or
- C. any recommendation or comment provided by the Council will be understood to pertain only to the subject dispute. DOE's responsibility to carry out all actions under this agreement that are not the subject of the dispute will remain unchanged.

**V. Amendment**

Any signatory to this Agreement may request that it be amended, whereupon the parties will consult to consider such proposed amendment in accordance with 36 CFR 800.

**VI Termination**

DOE, the SHPO, or the Council may terminate this Programmatic Agreement by providing 30 days written notice to the other parties that DOE, the SHPO, and the Council consult during the 30 day notice period in order to seek agreement on amendments or other actions that would avoid termination. In the event of termination, DOE will comply with 36 CFR 800 for all actions otherwise covered under the terms of this agreement.

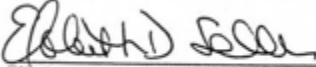
**VII Scope of Agreement**

Execution of this Agreement is limited in scope to undertakings that may adversely impact historic properties under the jurisdiction of DOE and is entered into solely for that purpose. Properties located at the Naval Reactors Facility, under the jurisdiction of the Naval Nuclear Propulsion Program are excluded under this Agreement. Execution and implementation of this Agreement by DOE, the Council, and SHPO evidences that DOE has afforded the Council an opportunity to comment on the undertakings and their effects on historic properties, and has taken into account the effects of the undertakings on those properties, and has, therefore, satisfied its Section 106 responsibilities for these undertakings.

**VIII Duration**

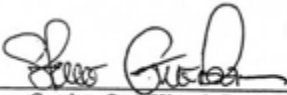
If the terms of this Programmatic Agreement have not been executed by September 30, 2005, this Programmatic Agreement shall be considered null and void. In such an event, DOE shall notify the parties to this Programmatic Agreement, and comply with 36 CFR 800 for individual undertakings.

Execution of this Programmatic Agreement by the U.S. Department of Energy, Idaho Operations Office, the Idaho State Historic Preservation Office, and, if they so choose, the Advisory Council on Historic Preservation and implementation of its terms shall constitute evidence that the U.S. Department of Energy, Idaho Operations Office has taken into account the effects of the undertakings on historic properties under their jurisdiction as per requirements of Section 106 of the National Historic Preservation Act.

  
Elizabeth D. Sellers, Manager  
Department of Energy, Idaho Operations Office

4/15/09  
Date

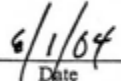
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Steve Guerber, State Historic Preservation Officer for Idaho  
Idaho State Historic Preservation Office

7/15/04  
Date

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John Fowler, Executive Director  
Advisory Council on Historic Preservation

  
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Date