

# Letter 4



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
WALLA WALLA DISTRICT, CORPS OF ENGINEERS  
201 NORTH THIRD AVENUE  
WALLA WALLA WA 99362-1876

December 30, 2003

Real Estate Division

Mr. Philip Sanchez  
Superintendent, Umatilla Agency  
Bureau of Indian Affairs  
PO Box 520  
Pendleton, OR 97801

Dear Mr. Sanchez:

We have reviewed the Draft Environmental Impact Statement (DEIS) for the Wanapa Energy Center near Hermiston, Oregon, and have the following comments.

All proposed transmission line footprints cross Federal property managed by the Corps of Engineers (Corps). Existing permits held by the Bonneville Power Administration (BPA) will have to be reviewed to determine their adequacy once the final footprint has been determined. Normal review process for the Corps takes approximately 120 days. It is requested that detailed plans and specifications for the transmission lines be provided as soon as possible for our review.

On page 2-25 of the DEIS, it is stated that, "The McNary substation would be expanded...on land acquired from the USACE..." This statement implies that BPA has already secured an amendment to their permit for the additional property required for the substation. BPA requested a preliminary review of their substation expansion in 2002. A copy of our response to their request is enclosed. We still require an official request to initiate the substation expansion permit amendment.

The portions of the DEIS concerning cultural resources indicate that considerable background information has been reviewed. An effort has been made to address Federal cultural resource laws; however, there seems to be a little confusion.

a. It appears that the entire project may require Federal Section 106 review under the responsibility of the Corps because the project would not be undertaken but for the cooperation of the Corps. While the Tribal HPO's will be consulting parties along with the Corps and the SHPO, they will not typically be the first contact for the Project Agency.

# Responses to Letter 4

4-1 BPA notes the conditions listed in the December 20, 2002, letter from Mr. Shampine and would submit the information requested following a decision to expand McNary Substation. The statement cited in the Draft EIS has been modified to read, "...on land to be acquired..." (Section 2.3.5.1) in the Final EIS.

## Letter 4 Continued

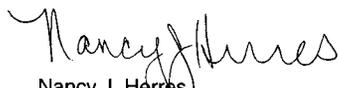
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4-2 b. The statement on page ES-8 mentions the presence of monitors, etc. This infers that part of the Section 106 review process has already been completed and decisions about mitigation requirements have been determined. The 106 process has not been initiated. That will occur when the agency receives detailed plans of proposed ground disturbance. The Corps has the responsibility to initiate and complete the review process, make a determination of effect (in consultation with others), submit the determination to the SHPO and the Tribes, and secure concurrence with the determination. Any needed avoidance measures or mitigation actions will be determined in consultation between the Project Agency, the Corps, the Tribes, and the SHPO.

4-3 c. A statement on page ES-9 says that if "ancestral remains" are discovered during the project, the CTUIR will be notified. If any human remains are inadvertently discovered on Corp property (during the project, on any property which is the responsibility of the Corps for cultural resources review) the Corps must be notified first. The only exception may be if the county coroner's office were the first to be contacted. It would then be the Corps' responsibility to initiate the appropriate inadvertent discovery protocol.

If you have any questions regarding the cultural resources comments contained above, please contact Ray Tracy, staff archaeologist, at 509-527-7286. If you have any questions regarding the permits for the transmission lines or the substation expansion, please contact me at 509-527-7331. I can also be reached by e-mail at Nancy.J.Herres@usace.army.mil.

Sincerely,

  
Nancy J. Herres  
Realty Specialist

Enclosure

## Responses to Letter 4

4-2 Cultural resource clearance surveys would be completed on USACE lands when detailed plans for proposed ground disturbance are completed. Typically, the USACE would lead the Section 106 compliance effort for any activities on USACE lands, not the entire project. However, the USACE has indicated that the BIA can take the lead on 106 compliance for USACE land within the project area.<sup>1</sup> The USACE, or county coroner, also would be notified first in the event of any unanticipated cultural resource discoveries on USACE land that would be administered under the Native American Grave Protection and Repatriation Act (NAGPRA).

4-3 A protocol would be established for the project that would include the requirement specified in the commenting agency's letter that "If any human remains are inadvertently discovered on the Corp property (during the project, on any property which is the responsibility of the USACE for cultural resources review) the Corp must be notified first, unless the county coroner's office would be the first to be contacted."

<sup>1</sup> Personal communication, Catherine Dickson, CTUIR THPO, 2/18/04.