

**PROGRAMMATIC AGREEMENT
AMONG
THE BUREAU OF RECLAMATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND
THE NEVADA STATE HISTORIC PRESERVATION OFFICE
REGARDING
MANAGEMENT OF CANALS, LATERALS, AND DRAINS
WITHIN THE NEWLANDS PROJECT,
CHURCHILL, LYON, AND STOREY COUNTIES, NEVADA**

Whereas, the Mid-Pacific Region, Bureau of Reclamation (Reclamation) will consider small, routine undertakings as defined in Appendix A that may affect the distribution system of the Newlands Project. Elements of the Newlands Project are considered eligible for listing on the National Register of Historic Places (National Register) based upon a report by Hardesty and Buhr (2001);

Whereas, Reclamation facilities for the distribution of water to Newlands Project lands are located largely on private lands. Reclamation maintains rights-of-way (ROW) on these lands to protect governmental interests. Urbanization of the communities of Fallon and Fernley, Nevada, as well as changes in agricultural practices have led to repeated requests for modification of Reclamation ROWs. These modifications result in modification and alteration to the setting of the Newlands Project distribution system;

Whereas, the Truckee-Carson Irrigation District (TCID) has an agreement with Reclamation to operate and maintain components of the Newlands Project, as memorialized in contract number 7-07-20-X0348. TCID has been invited to participate in consultation and has been invited to concur with this programmatic agreement (PA). Routine operation and maintenance activities may affect features of the Newlands Project. Realty actions and normal operation and maintenance activities (Appendix A) are undertakings as defined by the National Historic Preservation Act (16U.S.C.470f);

Whereas, Reclamation has consulted with the Nevada State Historic Preservation Office (SHPO) and the Advisory Council on Historic Preservation (Council) pursuant to § 800.14b of the regulations (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act and Section 110 of the same Act (16 U.S.C. 470h-2[f]) on a variety of earlier undertakings related to the Newlands Project;

Whereas, additional consultation is expected to take place regarding Reclamation undertakings affecting Newlands Project facilities. This PA intends to promote the conservation of irrigation facilities within the Newlands Project and facilitate Section 106 compliance;

Whereas, the definitions listed in 36 CFR §800.16 are applicable throughout this PA;

NOW, THEREFORE, Reclamation, SHPO, and the Council agree that implementing the

following stipulations take into account the effects of Reclamation undertakings on the Newlands Project Historic District in compliance with Section 106 of the National Historic Preservation Act.

Introduction:

The Newlands Project, originally referred to as the Truckee-Carson Project, was one of the original five irrigation projects authorized after passage of the Reclamation Act of 1902. Development of the Newlands Project began in 1903 with the release of Specification 1 of the Reclamation Service. After completion of Derby Dam and the Truckee Canal, the project was built out with additional storage dams, diversion dams, and nearly 1,000 miles of drains, laterals, and canals.

The Newlands Project remains a rural, agricultural region, despite some expansion of the communities of Fallon and Fernley. The efficient delivery of water to family and corporate farms is the prime function of the Newlands Project. The preservation and maintenance of system components is economically sound and maintains the historic character of the Newlands Project. This PA encourages TCID to operate the Newlands Project in a manner that maintains the distribution system within a sound business context.

Stipulations:

1. Responsibility:

Reclamation shall carry out the following mitigative measures for the canals, laterals, and drains of the Newlands Project. Once completed, no additional consultation shall be required for undertakings identified in Appendix A, except as noted within these stipulations. Reclamation will continue to consult with SHPO for Newlands Project undertakings that lie beyond the scope of this PA per 36 CFR §§ 800.3 through 800.7.

a. National Register Nomination: Derby Dam, Lahontan Dam and Powerhouse, Carson Diversion Dam, and Lake Tahoe Dam are Newlands Project structures currently listed on the National Register as a result of a 1978 thematic nomination or an individual nomination.

Reclamation will prepare a multiple property nomination to the National Register based upon the Hardesty and Buhr (2001) Newlands Project report. This submittal amends the existing thematic nomination. The nomination will contain a historic context of the Newlands Project. Reclamation's Civilian Conservation Corps (CCC) program within the Newlands Project and settlement of the Newlands Project will also be described. The main nomination will be submitted by November 1, 2002. The irrigated lands around the Fallon and Fernley, Nevada areas will be combined to form one district, submitted under the main nomination. This district nomination is planned for completion by June 30, 2004.

b. Documentation: Reclamation will perform the following mitigative measures to offset the effect of Reclamation undertakings to the canals, laterals, and drains of the Newlands Project.

Once these measures have been implemented and approved by SHPO, then standard, routine undertakings, as identified in Appendix A, may be implemented without initial SHPO consultation. Notification of all activity under this programmatic agreement shall be identified in an annual report provided to the signatories of this agreement, as described in stipulation 1.g.

(1) The location, distance and position of each canal, lateral, and drain will be depicted on an appropriately scaled map using Geographic Information System (GIS) technology delivered and viewed through ArcView software. Copies of these ArcView files will be available upon request to Reclamation. An overall project map will be developed as well as maps that highlight specific main canal distribution systems, including the location of individual structures, if possible. Other GIS maps will be developed in consultation with SHPO.

(2) Representative headworks for main canals, sub-main canals, and lateral diversions will be photographed to illustrate details and the setting of the mechanisms. Typical structures associated with Newlands Project drains will be photographed. Such structures include drops, checks, drop and checks, weirs, turnouts, flumes, and other control features, as identified in consultation with TCID. All photographs will be taken with a mid-format, 120 mm camera using black and white film.

(3) Typical photographic views of main canal, sub-main canals, laterals, and drains shall be taken to illustrate the condition, setting and characteristics of the feature. The location of these photographic stations will be documented and recorded on an appropriate USGS quadrangle and captured on a GIS photograph coverage layer, if possible. Photographs will be taken with a mid-format, 120 mm camera using black and white film.

(4) Representatives of each type of structure from throughout the Newlands Project will be photographed to illustrate details and the setting of the mechanism. Reclamation will coordinate with TCID to identify the range of structures found within the Newlands Project. Representative CCC structures will be documented. Unique features, such as one-of-kind structures will be photographed and documented as appropriate. Where available, historic drawings from original 1905 construction specifications that depict individual structures will be reproduced and matched to this photographic effort. Original drawings will be consulted to document the fall of at least one sub-main canal line.

(5) Historic photographs depicting the construction of canals, laterals, and other aspects of Newlands Project construction will be collected and reproduced, as appropriate. Historic photographs are available at Reclamation, TCID, Churchill County Museum and Archives (Museum), and the Nevada Historical Society (NHS).

(6) Data for drains in the Fernley, Nevada area will be collected by October 1, 2003. These results will be used to complete the GIS maps, as above, and incorporated into Appendix 1 of the Hardesty and Buhr report (2001).

c. Archives: Newlands Project records exist at TCID and NHS. These records consist of photographs, memos, reports, correspondence, drawings, maps, and various forms that document development and operation of the Newlands Project. Reclamation will assist the Museum to develop an index of TCID records. Reclamation will also assist with archival storage of these materials. Reclamation will assist NHS in preparing an index to their Newlands Project holdings.

d. Inventory: Portions of the Newlands Project have been farmed for nearly 100 years and if any archaeological sites are present within agricultural fields, then they are disturbed. Nonetheless, Reclamation will conduct archeological inventories of undertakings that have the potential to affect intact cultural deposits. These results will be included in the annual report as identified in Stipulation 1.g. If archeological resources are encountered during any such inventory, then Reclamation shall consult with SHPO per 36 CFR §§ 800.3 through 800.7.

e. Public Interpretation: Reclamation supports interpretation of the Newlands Project. Several efforts are currently in place. The Museum maintains a standing exhibit and film on the development and importance of the Newlands Project. The following efforts are designed to augment existing resources.

(1) Web Site: Reclamation, in cooperation with TCID, SHPO, NHS, and the Museum, will develop an interpretive web site for the Newlands Project. The web-based interpretive site will include text, historic photographs, original construction drawings, and geographical information system maps. Themes planned for the web site include construction, settlement, productivity, drainage, the role of the Civilian Conservation Corps at the Newlands Project and, Senator Francis Newlands, co-sponsor of the Reclamation Act of 1902.

(2) Centennial Celebration: Reclamation will support the Museum and Fallon community efforts to commemorate the anniversary of the Newlands Project. Reclamation supports republishing and updating the book, "Turn This Water Into Gold." Reclamation will coordinate and cooperate with the Fallon community to develop a celebration to mark the 100th anniversary of Derby Dam. Reclamation will consider additional interpretive efforts as they arise.

f. Reporting Requirements: The draft National Register Multiple Property nomination and the draft Newlands Project Historic District nomination will be submitted to SHPO for a 60-day review. Final copies of nominations will be submitted to SHPO for processing and signature. Copies of final reports will be provided to the NHS, Nevada State Museum, the Museum, TCID, and other repositories agreed to with the SHPO. The Pacific Great Basin Support Office of the National Park Service (NPS) will be offered a copy of both nominations. Consultations with SHPO will determine the number of archival quality photographs and who should receive them.

As mentioned above in stipulation 1.a, the Newlands Project Historic District nomination is planned for submittal by June 30, 2004. During the interim while measures of this PA are being implemented, Reclamation will continue to consult with SHPO on a case-by-case basis. Once

the documentation identified in Stipulation 1 is completed for the Newlands Project canals, laterals, or drains and SHPO concurs, additional consultation for Reclamation undertakings affecting these features will not be necessary on a case-by-case basis. All undertakings within the scope of this PA will be tracked and reported as noted in stipulation 1.g.

Reclamation is documenting a wide-range of structures as part of this PA. Reclamation shall review all undertakings through procedures identified in the National Environmental Policy Act (NEPA) of 1969 (42 United States Code [U.S.C.] 4321, et seq.), the Council of Environmental Quality's Regulations for Implementing the Procedural Provisions of NEPA (40 Code of Federal Regulations [CFR] Parts 1500-1508), and the Department of the Interior's Manual (DM) 516 DM 1-7 to determine if previously undocumented structures or features of the Newlands Project are going to be affected. During the life of this PA, if any structures are encountered that have not been formally recorded, then Reclamation shall conduct the appropriate level of documentation, consistent with the products of this PA and provide such documentation to SHPO. Any new documentation will also be included in the annual report identified in Stipulation 1. ~~h.g.~~ *AB*

g. Annual Reports: Reclamation will prepare an annual report that covers the Federal fiscal year from October 1st to the following September 31st. Reclamation will submit this annual report by November 1st of each year to document the activity conducted under the auspices of this PA and submit it to each signatory. The annual report will list all undertakings identified in Appendix A. The annual report will list undertakings that have affected both contributing and noncontributing elements of the Newlands Project Historic District. The report will include an evaluation of the effectiveness of the PA and make recommendations for amendments.

2. Duration of Agreement:

This PA will remain in force and effect until terminated by either Reclamation, SHPO, or the Council. Prior to termination, the parties will consult in an effort to amend the PA to seek a resolution to the conflict.

3. Dispute Resolution:

Should any party to this PA object within 30 days of receipt of a product identified in this PA, Reclamation shall consult with the objecting party to resolve the objection. If Reclamation determines that the objection cannot be resolved, Reclamation shall forward all documentation relevant to the dispute to the Council. Within 30 days after receipt of all pertinent documentation, the Council will either:

- a. Provide Reclamation with recommendations, which Reclamation will take into account in reaching a final decision regarding the dispute; or
- b. Notify Reclamation that it will comment pursuant to 36 CFR § 800.6(b), and proceed to comment. Any Council comment provided in response to such a request will be taken into account by Reclamation in accordance with 36 CFR § 800.6(c)(2) with reference to the subject of the dispute.

Any recommendation or comment provided by the Council will be understood to pertain only to the subject of the dispute; Reclamation's responsibility to carry out all actions under this PA that are not subjects of the dispute will remain unchanged.

4. Review of Public Objections:

At any time during implementation of the measures stipulated in this PA, should an objection to any such measure or its manner of implementation be raised by a member of the public, Reclamation shall take the objection into account and consult as needed with the objecting party, SHPO, or the Council to resolve the objection.

5. Amendments:

Any part to this PA may request that it be amended, whereupon the parties will consult in accordance with 36 CFR § 800.14 to consider such amendment

6. Termination:

Any party to this PA may terminate it by providing thirty (30) days notice to the other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, Reclamation will comply with 36 CFR §§ 800.3 through 800.7 with regard to individual undertakings covered by this PA.

7. Failure to Carry Out Terms of the Agreement:

In the event Reclamation does not carry out the terms of this PA, Reclamation will comply with 36 CFR §§ 800.3 through 800.7 with regard to individual undertakings covered by this PA.

Reference:

Hardesty, Don and Larry Buhr

2001 The Newlands Project: Evaluating National Register Eligibility. Unpublished manuscript on file at the Mid-Pacific Region, Bureau of Reclamation, Sacramento, California.

Execution and implementation of this PA evidences that Reclamation has satisfied its Section 106 responsibilities for all individual undertakings of the program.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____ Date: _____
John M. Fowler, Executive Director

U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF RECLAMATION

By:  _____ Date: 11/14/02
Kirk C. Rodgers, Regional Director, Mid-Pacific Region

NEVADA STATE HISTORIC PRESERVATION OFFICER

By:  Deputy for _____ Date: 12/13/02
Ronald M. James, State Historic Preservation Officer

Concurring Partner:

TRUCKEE-CARSON IRRIGATION DISTRICT

By: _____ Date: _____
Lyman McConnell, Project Manager

Appendix A: Canal, lateral, and drain undertakings addressed by this PA subdivided by effect.

(A.1) No Effect: These actions are routine and will result in no effect to Newlands Project components.

1. Replacement of concrete panels or relining existing concrete canals.
2. Spraying and mowing for weed control.
3. Canal access road maintenance.
4. Painting structures and repair and replacement of existing electrical equipment, if such painting and repairs use "in kind" colors and/or materials. New electrical equipment can be used if such work is not externally visible.
5. Repair and replacement of canal structure components; e.g., concrete for a turnout, replacing gate parts, or entire gates and other structures.
6. Fence repair or replacement where no new fence holes are dug/drilled, or where new holes are dug/drilled on fill.
7. Installation of instruments and new measuring devices within canal prisms, or on associated features (e.g., gates).
8. Grading or dredging within the canal prism and drilling within the canal prism, or drilling on fill.
9. Installation of wildlife crossing or escape ramp.
10. New landscaping (not to include removal of mature trees) and rodent control.
11. Repair and maintenance of existing bridges.
12. Cleaning trash racks and existing fish screens.

(A.2) No Adverse Effect: These actions will result in no adverse effect if mitigation measures identified above are instituted and approved by SHPO. Undertakings will be reported in the annual report.

1. Pipe and closure of a specific segment when the total pipe and closure is less than 1 kilometer (Km).
2. Relocation of a portion of a specific component when the total relocation is less than 1 Km.
3. A new bridge, driveway, or utility crossing.
4. Concrete lining an unlined canal.
5. Placement of rip-rap when the total length of the rip rap measures less than 1 Km.
6. Installation of new fish screen.

(A.3) Adverse Effect: This adverse effect will be mitigated if the measures identified above are implemented and approved by SHPO. All such undertakings will be reported in the annual report.

1. Abandonment of a portion of a specific component when the abandoned segment measures more than 1 Km.