

**PROGRAMMATIC AGREEMENT
AMONG THE BUREAU OF RECLAMATION AND THE
NEVADA STATE HISTORIC PRESERVATION OFFICE
REGARDING
PROPOSED HABITAT MANAGEMENT PROJECTS AT THE
MASON VALLEY WILDLIFE MANAGEMENT AREA**

Whereas, the Bureau of Reclamation (Reclamation) is the lead federal agency for a series of habitat improvement projects at the Mason Valley Wildlife Management Area (MVWMA). These projects, identified in Appendix A, have been inventoried for the presence of cultural resources (Welch and Leigh 2004). Additional engineering work will change the location of some projects, modifying the area of potential effect (APE). These projects may affect historic properties;

Whereas, Reclamation signed a finding of no significant impact based on an environmental assessment (EA) prepared for this project before the Section 106 process could be completed. Mitigating measures within the EA, however, stated that cultural resources will either be avoided through project redesign or mitigated if redesign is not feasible;

Whereas, the Nevada Department of Wildlife (NDOW) manages MVWMA and they will implement the water conservation projects. NDOW signs this agreement as a concurring party;

Whereas, additional consultation is expected to take place regarding the location of redesigned water conservation projects. This Programmatic Agreement facilitates Section 106 compliance;

Whereas, the definitions listed in 36 CFR §800.16 are applicable throughout this Memorandum of Agreement (MOA);

Whereas, the Yerington Paiute and the Walker Lake Paiute Tribes have been contacted by mail and phone about this project and their involvement is continuing;

Whereas, Reclamation consulted with the Nevada State Historic Preservation Office (SHPO) pursuant to Section 800.13 of the regulations (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act (16 USC 470f) through this agreement;

Whereas, Reclamation consulted with the Advisory Council on Historic Preservation (Council) pursuant to the same regulations and the Council has decided not to participate in this programmatic agreement;

NOW, THEREFORE, Reclamation and SHPO agree that implementing the following stipulations take into account the effects of water conservation projects at MVWMA in compliance with Section 106 of the National Historic Preservation Act.

Stipulations:

1. Reclamation's Responsibility:

Reclamation will ensure that the water conservation projects at MVWMA comply with section 106 per 36 CFR 800 in consultation with SHPO. The known sites that existing projects will affect will be assessed for their possible inclusion in the National Register of Historic Places (National Register) per 36 CFR 800.4(c). Reclamation will consult with the Yerington Paiute and the Walker Lake Paiute Tribes regarding eligibility per 36 CFR 800.4(c) and consider information regarding "sites of religious or cultural significance". A permit for any subsurface evaluations will be obtained from the Nevada State Museum.

Projects redesigned for engineering purposes or because of conflicts with previously recorded archeological sites will be inventoried for the presence of additional cultural resources. If any cultural resources found during this effort cannot be avoided and if they will be subjected to impacts, then they shall be evaluated for inclusion in the National Register, as above. Reclamation will consult with SHPO on the final APE and consider any discovered cultural resources as noted below.

Reclamation shall ensure that eligible properties discovered within the area of potential effect shall receive a determination of effect in consultation with SHPO and interested Tribes. Historic properties subject to impacts shall be mitigated through a mapping and excavation program, or other appropriate methods, that shall be agreed to by SHPO and any of the above interested Tribes per 36 CFR 800.6. It shall not be necessary to prepare a memorandum of agreement since this programmatic agreement ensures that all the requirements of 36 CFR 800.6 as well as the Secretary of Interior's Standards and Guidelines for Archeological Documentation shall be complied with.

Reclamation shall issue notices to proceed for the specific water conservation projects identified in Appendix A. Reclamation may authorize work to commence on those projects that lack any conflicts with cultural resources. If mitigation is required for historic properties, then Reclamation will consult with SHPO regarding proposed mitigating measures. Reclamation will prepare a plan to implement these measures that will treat the entire site, as appropriate, and include provisions for analysis and curation of recovered objects, a schedule for reporting and other elements consistent with the Secretary of Interior's Standards and Guidelines. Reclamation will consult with SHPO about the adequacy of this plan to fulfill the proposed mitigating measures.

2. Nevada Division of Wildlife Responsibilities:

NDOW will coordinate with Reclamation to ensure that no historic properties are impacted before the implementation of mitigation measures, if any. NDOW will obtain written notices to proceed from Reclamation to avoid any inadvertent impacts to cultural resources.

NDOW will notify Reclamation if any previously undiscovered cultural resources are identified

during project construction. Reclamation will evaluate the discovery and consult with SHPO, as appropriate.

3. Duration of Agreement

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

4. Dispute Resolution

Should any party to this Programmatic Agreement object within 30 days of receipt of a product identified in this Programmatic Agreement, Reclamation shall consult with the objecting party to resolve the objection. If Reclamation determines that the objection can not be resolved, Reclamation shall forward all documentation relevant to the dispute to the Council. Within 15 days after receipt of all pertinent documentation, the Council will either:

- a. provide Reclamation with recommendations, which Reclamation will be taken 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 Programmatic Agreement that are not subjects of the dispute will remain unchanged.

5. Review of Public Objections

At any time during implementation of the measures stipulated in this Programmatic Agreement, 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.

6. Amendments

Any part to this Programmatic Agreement may request that it be amended, whereupon the parties will consult in accordance with 36 CFR § 800.13 to consider such amendment

7. Termination

Any party to this Programmatic Agreement 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 §§ 800.4 through 800.6 with regard to individual undertakings covered by this Programmatic Agreement.

8. Failure to Carry Out Terms of the Agreement

In the event Reclamation does not carry out the terms of this Programmatic Agreement, Reclamation will comply with 36 CFR §§ 800.4 through 800.6 with regard to individual actions covered by this Programmatic Agreement.

References:

Welch, Patrick and Anastasia Leigh
2004 Archeological Inventory of Water Conservation Projects at the Mason Valley Wildlife Management Area, Nevada Division of Wildlife, Lyon County, Nevada. Unpublished report on file at Bureau of Reclamation, Mid-Pacific Region, Sacramento, California.

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

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

By: *Doran A. Romer* Date: 9/30/04
for Kirk C. Rodgers, Regional Director, Mid-Pacific Region

NEVADA STATE HISTORIC PRESERVATION OFFICER

By: *Allen M. Baldwin, Deputy* Date: 11/9/04
for Ron James, State Historic Preservation Officer

Concurring Partner:

NEVADA DEPARTMENT OF WILDLIFE

By: _____ Date: _____
Laura Richards, Nevada Department of Wildlife

Appendix A
Proposed Projects at the Mason Valley Wildlife Management Area
Nevada Department of Wildlife Lyon County, Nevada

1. Mason Valley Hatchery to Joggles Ditch: pump and pipeline
 - a. 6,500 feet of 18" plastic pipe
 - b. One 30 HP electric pump
 - c. Above ground power supply: 1,200 feet

2. North Pond to North Joggles Ditch: pump and pipeline
 - a. 7,500 feet of 18" plastic pipe
 - b. One 30 HP electric pump
 - c. Underground power supply: 2.6 miles

2. Alternate: (2c, underground power, will not be constructed with this alternative.)

 - a. 18" Pipeline across North Pond
 - b. 18" Pipeline around south end of North Pond

3. Underground pipe to transport water from Swan Lake and North Pond to the Walker River
 - a. 10,000 feet of 24" plastic pipe

4. Drill well at south end of Sceirine Unit
 - a. Drill 250' deep well
 - b. Install 150 HP pump
 - c. Electrical supply to pump

5. Pull pumps on existing wells and recondition: a. Three wells

6. Move Sandridge well to the east side of Walker River
 - a. Drill 250' deep well
 - b. Move motor and pump from old well

7. Pond leveling to improve water use efficiency
 - a. Upper Pintail Pond: 46 acres
 - b. Butterball Pond: 15 acres
 - c. South Ruddy Pond: 25 acres
 - d. Goldeneye Pond: 78 acres

8. Water efficiency Facility
 - a. Build structure on an existing concrete slab

9. Water treatment system at Fort Churchill Cooling Pond
 - a. Add structure to existing cooling pond

10. Fish Barrier at Fort Churchill Cooling Pond
 - a. Add barrier to existing cooling pond