

Undertaking  
# 2010-288

**PROGRAMMATIC AGREEMENT  
AMONG  
THE DEPARTMENT OF THE INTERIOR,  
BUREAU OF LAND MANAGEMENT, ELKO DISTRICT OFFICE NEVADA  
AND  
THE NEVADA STATE HISTORIC PRESERVATION OFFICER  
AND  
THE IDAHO STATE HISTORIC PRESERVATION OFFICER**

**REGARDING THE NORTHERN PORTION OF THE SOUTHWEST INTERTIE  
PROJECT: EGAN RANGE TO MIDPOINT 500kV SUBSTATION**

WHEREAS, the BLM granted right-of-way NVN-49781/IDI-26446 to Idaho Power Company ("IPC") in 1994 for construction and operation of the Southwest Intertie Project, a 500 kV electric transmission line from Midpoint, Idaho to Dry Lake, Nevada ("SWIP"); and

WHEREAS, Great Basin Transmission, LLC ("GBT") subsequently acquired the rights to the SWIP, and is the current holder of the BLM right of way NVN-49871/IDI-26446; and

WHEREAS, the SWIP right-of-way and other BLM approval documents contain a condition that requires the right-of-way holder to develop and secure BLM approval of a construction, operation and maintenance plan ("COMP") as a condition of being issued a Notice to Proceed with construction of the SWIP; and

WHEREAS, the SWIP right-of-way and other BLM approval documents recognize that the SWIP might be constructed in segments; and

WHEREAS, GBT plans to construct the SWIP and is now preparing the COMP for the Northern Portion of the SWIP, which will run from the planned Thirtymile Substation located approximately 18 miles northwest of Ely, Nevada, north to the Midpoint Substation north of Twin Falls, Idaho, and will be located in White Pine and Elko Counties, Nevada and Twin Falls and Jerome Counties, Idaho; and

WHEREAS, the BLM determined as part of the process for 1994 approval of the SWIP right-of-way that the construction and installation of the SWIP might have an effect upon properties eligible for inclusion in the National Register of Historic Places ("NRHP"), and after consulting with the Nevada and Idaho State Historic Preservation Officers ("SHPOs"), executed a programmatic agreement for the SWIP in June of 1990; and

WHEREAS, the BLM has now determined that it would be appropriate to develop and execute this new, updated programmatic agreement ("Programmatic Agreement" or "Agreement"), in consultation with the Nevada and Idaho SHPOs under their respective BLM/SHPO National Historic Preservation Act Protocols, which is specific to that

portion of the Northern Portion of the SWIP which starts at a location just east of the Egan Range approximately 30 miles north of Ely Nevada, and runs north to the Midpoint Substation north of Twin Falls, Idaho, as more specifically described in Appendix A hereto and which Agreement will apply to GBT or to any successor or assign of GBT, whichever actually develops the Northern Portion of the SWIP (collectively the “Developer”); and

WHEREAS, the SWIP has been rerouted to avoid crossing the Minidoka National Historic Site and the footprint of the historic Minidoka internment camp; and

WHEREAS, the BLM will consult with appropriate Indian Tribes.

WHEREAS, the original programmatic agreement for the SWIP executed in June of 1990 is still in effect for the remainder of the project not covered by this Agreement; and

WHEREAS, GBT has been invited to participate in consultation and to concur in this Programmatic Agreement; and

WHEREAS, the National Park Service (NPS) manages the Minidoka National Historic Site (MNHS) and has been invited to participate in consultation and to concur in this Programmatic Agreement; and

WHEREAS, the National Trust for Historic Preservation has been invited to participate in consultation and to concur in this Programmatic Agreement; and

WHEREAS, the BLM has invited the Advisory Council on Historic Preservation (Advisory Council) to participate in consultation and in May 2008 the Advisory Council declined this invitation; and

WHEREAS, this new Programmatic Agreement covers all aspects of planning, construction, operation, installation and rehabilitation of the Northern Portion (as described above) of the SWIP, including but not limited to, electrical and communication transmission systems, staging areas and access roads, the construction zone, extra work areas, and all ancillary facilities (collectively the “undertaking” or the “project”);

NOW THEREFORE, the Nevada and Idaho SHPOs and the BLM agree that development of the Northern Portion of the SWIP shall be administered in accordance with the following stipulations to ensure that historic properties will be treated to avoid or mitigate effects to the extent practicable, regardless of surface ownership, and to satisfy the BLM’s Section 106 responsibilities for all aspects of the undertaking.

### **Roles and Responsibilities**

1. The signatories agree that BLM Elko will be the Lead Federal Agency for implementing this Programmatic Agreement in accordance with the Nevada BLM/SHPO Protocol and the Idaho BLM/SHPO Protocol for implementing Section 106 of the NHPA,

except as amended here. The Nevada BLM/SHPO and Idaho BLM/SHPO Protocols for implementing Section 106 of the NHPA are incorporated by reference. Copies of the Protocols are attached as Appendix B.

BLM Elko is responsible for administering this Agreement. This includes but is not limited to: ensuring that all signatories carryout their responsibilities; overseeing all cultural resource work; assembling all submissions to the Nevada SHPO and to other signatories – including reports, determinations of eligibility and effect, and treatment or data recovery plans in Nevada; and for seeking Nevada SHPO concurrence with all agency compliance decisions. The BLM Ely Office will make determinations of eligibility and project effect and assist in developing treatment options on those portions of the project located on public and private lands within Ely District boundaries. BLM Elko will be responsible for consultation with Nevada Indian Tribes regarding the Nevada portion of SWIP.

The BLM Twin Falls Office will make determinations of eligibility, project effects and develop treatment options on BLM administered and private lands within the Twin Falls District boundaries. They will assemble and transmit all BLM submissions to the Idaho SHPO – including reports, determinations of eligibility and effect, and treatment or data recovery plans in Idaho; and seek Idaho SHPO concurrence with all agency compliance decisions. BLM Twin Falls will be responsible for consultation with Idaho Indian Tribes regarding the Idaho portion of SWIP.

The Twin Falls BLM District will consult as appropriate with concurring or interested parties, such as the National Park Service - National Trails System Office, National Park Service – Minidoka National Historic Site, and the National Trust for Historic Preservation, regarding cultural resources identification, evaluation, assessment of effects and treatment of effects for the Idaho portion of SWIP. The Elko BLM District will have the same consultation responsibilities for Nevada.

BLM Elko will be the responsible point of contact for reviewing reports, and collating BLM Elko and BLM Ely responses to project products, including but not limited to, inventory reports, determinations of eligibility, treatment options, and determining effects, etc.

BLM Elko will be responsible for all submissions to Nevada SHPO and any other interested parties identified during this undertaking. Any submission to Nevada SHPO or interested parties not from BLM Elko will be considered as informational only and will not trigger any compliance timelines or other actions.

2. Developer will be the responsible point of contact for the project and provide BLM Elko with any and all information needed to implement this Agreement.

3. The BLM shall ensure that historic, architectural, and archaeological work conducted pursuant to this Agreement is carried out by, or under the direct supervision of, persons meeting qualifications set forth in the Secretary of the Interior's Professional

Qualification Standards (36 CFR 61) and who have been permitted for such work on public lands by the BLM.

4. Developer, in cooperation with the BLM and SHPOs, shall ensure that all its personnel, and all the personnel of its contractors, are directed not to engage in the illegal collection of historic and prehistoric materials. Developer shall cooperate with the BLM to ensure compliance with the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470) on public lands and with statute NRS 381 in Nevada and with Code Sections 67-4114 through 67-4118 in Idaho for state and private lands.

5. Should damage to cultural resources inside or outside the APE occur during the period of construction, operation or rehabilitation due to the unauthorized, inadvertent or negligent actions of the Developer, their employees, contractors or any other project personnel, the Developer shall be responsible for costs of rehabilitation or mitigation, and may be subject to criminal penalties.

6. Developer shall bear the expense of identification, evaluation, and treatment of all historic properties directly or indirectly affected by SWIP project-related activity within the APE. Such costs shall include, but not be limited to, pre-field planning, fieldwork, post-fieldwork analysis, research and report preparation, interim and summary report preparation, and artifact/records curation. If the Developer abandons or withdraws its request for a Notice to Proceed, then Developer shall incur no further expense for identification, evaluation or treatment for any historic properties except for completing work (fieldwork and post-fieldwork activities including production of final inventory, testing and data recovery reports covering the description and analysis of all data collected up to that point, and curation of project materials) that is ongoing as of the date of withdrawal or disapproval.

## **AREA OF POTENTIAL EFFECT**

The Area of Potential Effect (APE) shall be defined to include all potential direct effects, including visual effects, and indirect effects to historic properties, including Traditional Cultural Properties, from any Developer activities associated with the undertaking. The initial APE is described and mapped in Appendix A. The BLM, in consultation with the SHPOs, may amend the APE as needed and any amendments will be handled under the terms of this Agreement.

## **STIPULATIONS**

### **A. Identification**

1. The BLM shall identify interested parties and Indian tribes pursuant to the BLM/SHPO Protocols and involve them, as appropriate, in all activities associated with the undertaking.

2. BLM shall have the consulting archaeologists conduct records searches of GLO plat maps, the BLM's Master title Plats/Historic Index, the GLO Land Records website (<http://www.glorerecords.blm.gov/>), the Nevada State Lands Patent Database Query (<http://www.lands.nv.gov/patents/patents.htm>), the Nevada Cultural Resources Information System (NVCRIS), Idaho State Historical Society (<http://www.idahohistory.net/history.html>), the National and State Register of Historic Places, National Trail System, historic maps, and BLM and SHPO cultural resources records, and pertinent historic records/publications and maps to identify historic resources within the APE which could be directly and indirectly affected by the project. The Nevada Department of Cultural Affairs website ([www.nevadaculture.org](http://www.nevadaculture.org)) has links to a number of historic maps sources.

3. The BLM shall ensure that Developer funds and completes appropriate cultural resource Class I and Class III inventories, including reports, ethnographic studies, visual impact assessments/simulations (i.e., when historic properties such as the Minidoka Relocation Center, historic linear resources, ranches, cemeteries, areas of traditional cultural importance, etc. might be affected) of the APE for all activity areas, or portions thereof, in a manner consistent with the BLM/SHPO Protocols, and BLM approved Historic Properties Identification Plan (HPIP) and Cultural Resource Use Permits (CRUP). Class III inventory of all proposed project facilities or segments shall be completed prior to construction of that facility or segment. Specifics regarding inventory methodology and recording standards and methods used to evaluate visual effects to historic properties will be provided in a HPIP.

4. The required inventory shall be completed regardless of the ownership (public or private) of the lands involved and Developer shall be responsible for pursuing commercially reasonable efforts to gain access to privately held lands for the purpose of the inventory. If access cannot be obtained to private land after reasonable efforts are made, and after consulting with the BLM, the Developer shall use existing data to determine the types of resources that might be present and anticipated effects. This will include consulting county assessor's records and aerial photographs to identify standing structures.

5. The BLM shall consult with appropriate Indian tribes to identify properties considered to be of traditional religious and cultural importance. BLM shall consult with any such tribe on assessment of effects and options to avoid, minimize or mitigate any adverse effects of the undertaking to any such property.

6. The BLM shall insure that the developer funds ethnographic studies as needed to assist in identification and evaluation of areas of importance to affected Indian tribes.

7. The HPIP will also define the methods used to evaluate visual effects to historic properties such as but not limited to, the Nevada Northern Railroad, the Minidoka National Historic Site, National Historic Trails, and protohistoric

pronghorn traps.

## **B. Eligibility**

1. The BLM, in consultation with the SHPOs, shall evaluate all cultural resources located within the APE for eligibility to the NRHP during the early stages of project planning.
2. To the extent practicable, eligibility determinations shall be based on inventory information. In Nevada limited subsurface probing is allowed during the inventory for purposes of determining eligibility. If the information gathered in the inventory is inadequate to determine eligibility, the Developer (through contractors) may be required to conduct limited subsurface testing, or other evaluative techniques, to determine eligibility. Subject to approval by the BLM, in consultation with the SHPOs, evaluative testing is intended to provide the minimum data necessary to define the nature, density, and distribution of materials in potential historic properties, to make final evaluations of eligibility, and to devise treatment options responsive to the information potential of the property. Idaho BLM requires Developer be approved for a testing Cultural Resources Use Permit (CRUP) prior to subsurface probing, testing, data recovery or surface material collection (Non-Collection CRUP [SPECIAL CONDITIONS 4 and 14]).
3. If the SHPOs and BLM disagree regarding eligibility of a historic property the BLM shall seek a formal determination of eligibility from the Keeper of the National Register in accordance with 36 CFR § 63.2. The Keeper's determination will be considered final. If any of the other parties disagree regarding the BLM's determination of eligibility, the party may request in writing that the BLM, in consultation with SHPOs, reconsider the determination. If the result is not satisfactory to the objecting party they may ask the Advisory Council on Historic Preservation to request the BLM to obtain a determination from the Keeper of the National Register.

## **C. Treatment**

1. The BLM, in consultation with the SHPO, shall ensure that the Developer makes a good faith effort to avoid effects to historic properties through project design, or redesign, relocation of facilities, or by other means in a manner consistent with this Agreement.
2. In avoiding or mitigating effects the BLM, in consultation with the SHPOs and interested parties as BLM deems appropriate, shall determine the precise nature of effects to historic properties identified in the APE. Any BLM action to approve the Northern Portion of the SWIP shall include as a condition of approval that measures in Section H shall be met prior to authorization of construction or

operation of the project. All treatment shall be done in a manner consistent with this Agreement.

3. When avoidance is not feasible or adverse effects cannot be effectively mitigated through avoidance the BLM, in consultation with the SHPOs, Developer, and interested parties as BLM deems appropriate, shall develop, or ensure that Developer develops and implements, an appropriate Historic Properties Treatment Plan (HPTP) designed to lessen or mitigate project-related effects to historic properties. Completion of measures in the HPTP shall be a condition of the Notice to Proceed. For properties eligible under criteria (a) through (c) (36 CFR 60.4), mitigation, other than data recovery, may be considered (e.g. HABS/HAER recordation, oral history, historic markers, exhibits, interpretive brochures or publications, etc.). Where appropriate, the HPTP shall include provisions (content and number of copies) for a publication for the general public. The HPTP shall be consistent with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716-37) and *Treatment of Historic Properties: A Handbook* (Council 1980). Developer's contractor shall procure all appropriate BLM Cultural Resources Use Permits (CRUPs) prior to initiation of any treatment.

4. The BLM shall require as a condition of approval that Developer completes through its contractor, the fieldwork portions of any final treatment plan prior to initiating any activities that may affect historic properties. Segments to be released for construction shall be mapped and provided to the BLM for approval (see Section H for conditions under which notices to proceed would be issued).

5. The BLM shall ensure that all records and materials authorized for collection by approved HPIP, HPTP, and CRUP are curated in accordance with 36 CFR 79 in BLM-approved facilities. All materials collected will be maintained in accordance with 36 CFR 79 until the final treatment reports are complete and collections are curated or returned to their owners. The BLM, Developer and Developer's archaeological contractor shall encourage private owners to donate collections obtained from their lands to an appropriate curation facility.

#### **D. Discovery Situations**

1. When previously unidentified cultural resources are discovered, all SWIP-related activities within 100 meters of the discovery will cease immediately and the Developer or its authorized representative shall secure the location to prevent vandalism or other damage. The Developer or its authorized representative shall notify the BLM authorized officer of the discovery by telephone within 24 hours, followed by written confirmation. Activity at the location shall be suspended until after the discovery has been evaluated and any necessary mitigation measures completed and BLM authorized officer has issued a written Notice to Proceed.

2. The BLM shall ensure that any human remains, funerary objects, items of cultural patrimony, or sacred objects, encountered during the undertaking, whether discovered incidentally or during treatment of historic properties, are treated with the respect due such materials. In coordination with this Agreement, Native American human remains and associated funerary objects found on public land will be handled according to the provisions of NAGPRA and its implementing regulations (43 CFR 10). Human remains and associated funerary objects found on non-federal lands will be handled according to the provisions of Nevada statute NRS 383.150 to 383.190 and Idaho Code Sections 27-501 to 27-504. If human remains, funerary objects, sacred objects or items of cultural patrimony are discovered during project implementation all SWIP-related activities within 100 meters of the discovery shall cease immediately and the Developer or its authorized representative shall secure the location to prevent vandalism or other damage. The Developer or its authorized representative shall notify the BLM authorized officer of the discovery by telephone within 24 hours, followed by written confirmation. Activity at the location shall be suspended until after the discovery has been evaluated and any necessary mitigation measures completed and BLM authorized officer has issued a written Notice to Proceed.

3. Prior to initiating any ground disturbing activities within the APE, Developer shall provide the parties with a list of, and schedule for, the Developer and/or other authorized employees empowered to halt all potentially destructive activities in a discovery situation and who will be responsible for notifying the BLM of any discoveries. At least one of these employees will be present during all of Developer's ground disturbing activities.

4. Upon BLM's becoming aware of a discovery situation:

- a. BLM shall notify the SHPOs and consider their initial comments on the discovery. Within seven working days of the discovery, BLM shall notify the Developer, the SHPOs, and as appropriate Indian tribes and identified interested parties, of the BLM's decision to either allow undertaking-related activities to proceed or to require mitigation.
- b. If, in consultation with the SHPOs, the BLM determines that mitigation is appropriate, the BLM shall solicit comments from the SHPOs, and as appropriate Indian tribes and interested parties, to develop mitigating measures. The SHPO, NPS, Tribes and other interested persons will be allowed seven working days to provide the BLM with comments to be considered. Any timely comments offered by the SHPO, Council, Tribes, and other interested persons will be documented, considered in dealing with the discovery, and subject to confidentiality requirements, be made available for public inspection.
- c. The BLM shall notify the SHPOs, Indian tribes, and other interested parties of its decision regarding treatment and shall ensure that treatment actions, if any, are implemented.



- d. The BLM shall ensure that reports of mitigation efforts for discovery situations are completed in a timely manner and conform to the Department of Interior's Formal Standards for Final Reports of Data Recovery Program (42 FR 5377-79). Drafts of such reports shall be submitted to the SHPO for a 30-day review and comment as stipulated in I(3). Final reports shall be submitted to the SHPOs and as appropriate to Indian tribes and interested parties for informational purposes.

## **E. Reporting**

1. Developer shall report the results of Section 106 compliance activities (planning, identification, evaluation, and treatment) to BLM by project component (study unit), as completed. BLM shall distribute pertinent reports to SHPO and NPS. BLM, NPS and SHPO agree to process these reports as they are produced (see Stipulation I, Time Frames, below).

2. The BLM shall ensure that all final archeological reports resulting from actions pursuant to this Agreement will be provided to the SHPOs, and as appropriate, made available to Indian tribes who have executed data sharing agreements and other interested parties, approved by the BLM. All such reports shall be consistent with the Department of Interior's Formal Standards for Final Reports of Data Recovery Programs (42 FR 5377-79), and include site forms and other supporting documentation.

3. In Nevada a separate report including appropriate historic contexts (date established, individuals involved, etc.) will be prepared to document historic properties with structural remains that qualify for the National Register under Criteria A, B or C in order to expedite SHPO review.

Final reports will be submitted in both hard copy and electronic format.

## **F. Other Considerations**

1. Identification, evaluation, and treatment efforts may extend beyond the geographic limits of the right-of-way when the resources being considered extend beyond the right-of-way. No identification, evaluation, or treatment efforts will occur beyond that necessary to gather data for the completion of the Section 106 process as agreed to in this document.

2. Traditional Cultural Properties (TCPs) will be identified, evaluated, and treated through consultation with Indian tribes and other interested parties as BLM deems appropriate. Developer will contract for data gathering to assist the BLM in identifying, evaluating and treating TCPs. However, formal consultation,

as needed, will be done by the BLM. TCP identification, evaluation and treatment efforts shall be consistent with BLM Manual 8120 and its associated handbook.

3. Information on the location and nature of all cultural resources, and all information considered to be proprietary by tribes, will be held confidential to the extent provided by the NHPA, the Native American Graves Protection and Repatriation Act (NAGPRA), and the Archaeological Resources Protection Act (ARPA).

## **G. Monitoring**

1. The BLM, the SHPOs and Indian tribes may monitor actions carried out pursuant to this Agreement.

2. Any areas that the BLM, in consultation with the SHPOs and Indian tribes, identifies as sensitive will be monitored by an appropriate professional cultural resource specialist approved by the BLM during any activities that may impact the area. The HPTP will contain monitoring provisions as needed. Monitors shall be empowered to stop work to protect resources if that work is inconsistent with the terms of this Agreement or any corresponding monitoring plan.

3. Upon treatment and project completion, BLM, the SHPOs, and Developer shall assess potential long term effects to historic properties attributable to SWIP. If the potential for adverse effects is identified the BLM or Developer will design, and shall ensure that Developer funds appropriate cultural resources monitoring and patrolling plans. Monitoring would be required for only those properties that are vulnerable to intensified vandalism, looting or other damage (e.g. a site containing numerous collectable artifacts), and where potential effects could be attributed to project actions (e.g. SWIP constructed/maintained roads provide new or improved public access to historic properties). Funding would include all necessary field work for monitoring and patrolling, reports, and impact trend analyses, of the APE for all activity areas, or portions thereof. Duration and intensity of monitoring would be determined in the monitoring plan. Monitoring would be consistent with BLM/SHPO Protocols and respective HPTPs and CRUPs, as well as guiding regulations of BLM Manual 8130 §§ .1 and .13; and BLM Manual 8140 § .11A3.

## **H. Notices to Proceed**

Notices to Proceed (NTP) may be issued by the BLM to Developer for individual construction activities as defined by Developer in its COMP under any of the following conditions:

- a. maps of segments to be released for construction have been provided to the BLM for approval; and

- b. the BLM and the SHPOs have determined that there are no cultural resources within the APE for the construction segment; or
- c. the BLM and the SHPOs have determined that there are no historic properties within the APE for the construction segment; or
- d. construction of the segment would not preclude reroutes of other segments; or
- e. the BLM, after consultation with the SHPOs and interested parties as BLM deems appropriate, has implemented an adequate treatment plan for the construction segment, and
  - (1) the fieldwork phase of the treatment option has been completed;
  - (2) the BLM has accepted, and the SHPO has reviewed, a summary description of the fieldwork performed and a reporting schedule for that work; and
  - (3) Developer has posted a security as stipulated in Section J. below for post-fieldwork costs of the treatment plan.

Areas that have not been released for construction will be clearly marked in the field for avoidance until the conditions outlined above have been met. A standard avoidance buffer for these areas will be 500 feet. These areas will be monitored by an appropriate professional cultural resource specialist approved by the BLM or tribal representative during any activities that may impact the area.

## **I. Time Frames**

1. Reports: The BLM will review and comment on any report submitted by Developer within 60 calendar days of receipt.
2. Consultation with Interested Parties: Prior to SHPO consultation, the BLM shall submit the results of identification and evaluation efforts and treatment plans, as appropriate to Indian tribes with data sharing agreements, and interested parties approved by the BLM for a 15-day review and comment period. Consultation for discovery situations shall be handled in accordance with Section D.
3. SHPO Consultation: The BLM shall submit the HPIP to the SHPO for a 30-day review and comment period. The BLM shall submit the results of all identification and evaluation efforts (Inventory Report) to the SHPO for a 30-day review and comment period. The BLM shall submit the HPTP to the SHPO for a

30-day review and comment period. Consultation for discovery situations shall be handled in accordance with Section D.

4. If any signatory to the Agreement fails to respond to the BLM within 30 days of the receipt of a submission, the BLM shall presume concurrence with the BLM's findings and recommendations as detailed in the submission and proceed accordingly.

5. Reports: A draft final report of all identification, evaluation, treatment or other mitigative activities will be due to the BLM within nine (9) months after the completion of the fieldwork associated with the activity, unless otherwise negotiated. Revised reports will be due 60 days after receiving BLM comments.

6. Curation: All records, data base files, photographs, negatives, maps, field notes, artifacts, reports (both a hard copy and electronic copy) and other materials collected or developed for any identification, evaluation, or treatment activities will be curated in a facility approved by the BLM at the time the final report associated with that activity is accepted by the BLM, unless materials and artifacts must be returned to the owner. The developer or their contractor shall provide proof of curation to the BLM from the curatorial facilities within two weeks of BLM's acceptance of the final report.

## **J. Financial Security**

1. The terms of any Notice to Proceed issued by the BLM for the Northern Portion of the SWIP shall provide for the posting of mutually agreeable financial security, which may be in the form of a surety bond, letter of credit, or other acceptable security ("security"), to assure funding for the completion of post-fieldwork treatment of historic properties, as set forth below. Developer will post a security with the BLM in an amount sufficient to cover all post-fieldwork costs associated with implementing a treatment plan or other mitigative activities, as negotiated by Developer when they contract for services in support of this Agreement. Such costs may include, but are not limited to post-field analyses, research and report preparation, interim and summary reports preparation, and the curation of project documentation and artifact collections in a BLM-approved curation facility. The security shall be posted prior to the BLM issuing any Notice to Proceed.

2. The security posted as provided in Section J (1) above shall be subject to forfeiture if the post-fieldwork tasks are not completed within the time period established by the treatment option selected; provided, however, that the BLM and Developer may agree to extend any such time periods. The BLM shall notify Developer that the security is subject to forfeiture and shall allow Developer 15 days to respond before action is taken to forfeit the security.

3. The security shall be released, in whole or in part, as specific post-fieldwork tasks are completed and accepted by the BLM.

#### **K. Dispute Resolution**

1. If any party to this Agreement, or an interested party, objects to any activities proposed pursuant to the terms of this Agreement, the BLM shall consult with the objecting party and the SHPO to resolve the issue.

2. An Indian tribe the public or any party to this agreement can request participation by the Advisory Council should they disagree with a BLM finding

3. The State Directors of the BLM in Nevada and Idaho will have the authority to make a final determination for any objection that cannot be resolved after taking Advisory Council comments into account, should the Advisory Council choose to participate.

4. The Parties may continue all actions under this Agreement that are not the subject of the dispute.

#### **L. Amendment**

Any signatory party to this Agreement may request that this Agreement be amended, whereupon the Parties will consult to consider such amendment.

#### **M. Termination**

Any signatory party to this Agreement may terminate the Agreement 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.

#### **N. Execution**

1. Execution and implementation of this Agreement evidences that the Parties have satisfied their Section 106 responsibilities for all actions associated with the construction and installation of the Northern Portion of the SWIP.

2. In the event that the Parties do not carry out the requirements of this Agreement or it is terminated, the BLM will comply with the provisions of the BLM/SHPO Protocols.

3. This Agreement shall become effective on the date of the last signature of the signatory parties below, and shall remain in effect for a period of ten (10) years; or until terminated as provided in Stipulation M; or until the undertaking, including mitigation and monitoring, is completed, whichever is longest. If the

project has not been initiated within the ten year period, the Agreement would automatically terminate.

4. The refusal of any party invited to concur in this Agreement does not invalidate the Agreement.

#### **O. Incorporation**

1. A copy of this Agreement and the HPIP shall be attached to and incorporated by reference into the COMP, and shall be binding upon the person or entity who is responsible to the BLM for complying with the terms of the COMP during development of the Northern Portion of the SWIP, whether that be GBT, or a successor or assign of GBT.

#### **P. Partial Termination of Prior Programmatic Agreement**

1. Upon execution of this Agreement by all Parties as provided in Section N (3), the *Programmatic Agreement Among the Bureau of Land Management, the Bureau of Reclamation, the Humboldt National Forest, the Idaho State Historic Preservation Officer, the Nevada State Historic Preservation Officer, the Utah State Historic Preservation Officer, the Advisory Council on Historic Preservation Regarding the Southwest Intertie Project (1990)*(the “1990 Agreement”) shall terminate with respect to the Northern Portion of the SWIP only. Execution of this Agreement shall have no effect on the 1990 Agreement for the remaining portion of the SWIP project and right-of-way.

**SIGNATORY PARTIES:**

**BUREAU OF LAND MANAGEMENT, ELKO DISTRICT MANAGER**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: \_\_\_\_\_

**IDAHO STATE HISTORIC PRESERVATION OFFICE**

By: *Kenneth Orin* Date: *10/5/10*  
Title: *Deputy SHPO*

**NEVADA STATE HISTORIC PRESERVATION OFFICE**

By: *Alan M. Baldwin* Date: *3/16/10*  
Title: *Deputy SHPO*

**CONCURRING PARTIES:**

**GREAT BASIN TRANSMISSION, LLC**

By: *MZ Miller* Date: *3/12/10*  
Title: *AVP*

**NATIONAL PARK SERVICE – MINIDOKA NATIONAL HISTORIC SITE**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: \_\_\_\_\_

**NATIONAL TRUST FOR HISTORIC PRESERVATION**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: \_\_\_\_\_