

PROGRAMMATIC AGREEMENT
AMONG
THE FEDERAL ENERGY REGULATORY COMMISSION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND THE ILLINOIS HISTORIC PRESERVATION AGENCY
FOR THE MANAGEMENT OF HISTORIC PROPERTIES AFFECTED
BY THE ROCKTON HYDROELECTRIC PROJECT

WHEREAS, the Federal Energy Regulatory Commission (Commission) proposes to issue a new license to the South Beloit Water, Gas & Electric Company, a wholly-owned subsidiary of Wisconsin Power & Light Company (WP&L), to continue operating the Rockton Hydroelectric Project (Project), Project No. 2373, as authorized by Part I of the Federal Power Act, 16 U.S.C. 791(a) - 825(r); and,

WHEREAS, the Commission has determined that the Project may have an effect on properties eligible for inclusion in the National Register of Historic Places (eligible properties), and the Commission has consulted with the Advisory Council on Historic Preservation (Council) and the Illinois State Historic Preservation Officer (SHPO) pursuant to 36 CFR 800.13 of the Council's regulations implementing Section 106 of the National Historic Preservation Act, as amended, (16 U.S.C. 470f); and,

WHEREAS, WP&L (the applicant) has participated in the consultation and has been invited to concur in this Agreement;

NOW, THEREFORE, the Commission, the Council, and the SHPO (Parties) agree that the Project will be administered in accordance with the following stipulations to satisfy the Commission's Section 106 responsibilities during the term of the Project's license.

STIPULATIONS

Measures specified in this Programmatic Agreement shall apply only in the event that the Commission issues, and the applicant accepts, a license to continue operation of the Rockton hydroelectric project. The Commission will ensure that the following measures are carried out. All stipulations that apply to WP&L will similarly apply to any and all of WP&L's successors, insofar as the operation of the Project is concerned.

A. CULTURAL RESOURCES MANAGEMENT PLAN

WP&L will, in consultation with the SHPO, design and implement a Cultural Resources Management Plan (CRMP) to avoid or minimize disturbances to historical and archeological properties affected by the Rockton Project that are eligible for listing on the National Register of Historic Places. These include (1) the Rockton Water Power Plat

Historic District, (2) previously identified eligible archeological sites located adjacent to the project impoundment, and (3) any other eligible historic properties that may be identified in the course of operating the project, conducting periodical surveys, or engaging in project-related ground-disturbing activities. The CRMP shall include the following specific provisions.

1. The Rockton Water Power Plat Historic District.

a. The Rockton Water Power Plat Historic District includes a water power plat established in the mid-1800's, the plat's original millrace (power canal), and the Rockton hydroelectric powerhouse and dam, both of which were built in 1928-29. The CRMP shall include provisions for routinely operating and maintaining the Rockton hydroelectric project in accordance with the Secretary of the Interior's Standards and Guidelines (Federal Register, Vol. 48, 190, Part IV, September 29, 1983), so that the attributes which qualify the project for listing on the National Register are protected from adverse effects from such routine activities.

b. The CRMP shall stipulate that WP&L follow the Secretary of the Interior's standards when undertaking new construction associated with the project dam and powerhouse. In the event a modification or undertaking is proposed that may alter characteristics of the powerhouse or dam structure which qualify them for inclusion in the National Register, the CRMP will include provisions for consultation with the State Historic Preservation Officer to reduce or minimize the effect of the undertaking on the powerhouse or dam.

c. The CRMP will include consultation procedures in the event that WP&L proposes the demolition of the powerhouse or dam structures. The CRMP shall require WP&L to document any alternatives to demolition that were considered with an explanation of why the proposed demolition is unavoidable. WP&L shall also develop mitigation measures for the demolition in consultation with the SHPO, and shall submit this documentation to the Commission for review and approval. The CRMP will require that the Commission submit the proposed undertaking with documentation gathered during consultation to the Council for comment.

2. Project-Related Effects at Archeological Sites. Six archeological sites considered eligible for listing on the National Register of Historic Places have been identified. These sites are designated as 11-Wo-324, 11-Wo-322, 11-Wo-325, 11-Wo-327, 11Wo310, and 11Wo155. One of these sites (11Wo310) is on property owned by the applicant, and five are on privately owned lands. Accordingly, the provisions for treatment in the CRMP will consider the fact that five of the sites identified as potentially eligible are on lands not owned by the licensee.

a. The CRMP will include a provision for periodically monitoring the project reservoir shoreline, particularly at the six eligible archeological sites which are specified in the CRMP. These sites are described in a report entitled "A Cultural Resources Study of the Rockton Hydroelectric Facility in Rockton, Illinois" (Salkin 1991), and in National Park Service

10-900 forms, which have been prepared to evaluate eligibility criteria. The forms have been submitted to the Illinois Historic Preservation Agency and to the Illinois Archeological Survey.

b. The CRMP will include a provision for working with private land owners of Site 11-Wo-322, Site 11-Wo-327 [REDACTED] and Site 11-Wo-155 to pursue methods to preserve in place those attributes which contribute to the eligibility of these sites, and which may be impacted by the project, through the use of plantings or other shoreline preservation techniques.

c. The CRMP will include a provision for regular monitoring of Site 11-Wo-324 [REDACTED] Site 11-Wo-325 [REDACTED] and Site 11-Wo-310 [REDACTED] to assure that attributes qualify these sites for eligibility are not being impacted by erosion or other project-related effects.

d. The CRMP will contain the following provision for Sites 11-Wo-306 and 11-Wo-330, where permission to conduct subsurface investigation was denied. WP&L will periodically recontact private owners of these sites to request permission to conduct subsurface investigation, to determine the eligibility significance of the site.

e. The CRMP will contain the following provision for Site 11-Wo-15, which could not be located by professional archeologists. In the event that precise locational information becomes available, WP&L will conduct investigation necessary to evaluate eligibility of the site for listing on the National Register of Historic Places. Such investigation will be conducted only if the site is found to lie within the area of project-related impact.

f. Where the results of periodic monitoring indicate that a privately-owned eligible historic property has become subject to project-related effects, the CRMP will include a provision for WP&L to work with private property owners, as necessary, to implement shoreline stabilization techniques, or recover data in accordance with Stipulations B (3-6).

g. Where the results of periodic monitoring indicate that an eligible historic property owned by the applicant has become subject to project-related effects, the CRMP will include a provision for implementing shoreline stabilization techniques, or data recovery in accordance with Stipulations B (3-6).

h. Where the results of periodic monitoring indicate that a potentially eligible historic property has become subject to project-related effects, the CRMP will include a provision to request access to private lands in order to evaluate National Register eligibility, implement shoreline stabilization techniques, or recover data in accordance with Stipulations B (3-6).

i. The CRMP will include a provision for survey and evaluation of archeological areas that are normally inundated by the project reservoir. WP&L will implement this plan at such time as the opportunity to do so is afforded by the sites' exposure due to dewatering of the impoundment.

3. Unidentified Other Archeological Sites. WP&L will include in its CRMP the following provisions.

a. In planning any project-related land-clearing or ground-disturbing activities in an area which has not been subjected to an archeological survey, including recreation developments at the project, WP&L will consult with the SHPO concerning the need for survey to identify historic properties. If the survey results in the identification of historic properties, WP&L shall consult with the SHPO to develop and implement appropriate treatment measures.

b. Moreover, if previously unidentified historic properties are discovered during any project-related land-clearing or ground-disturbing activities, WP&L will immediately alert the SHPO to the discovery and ensure that all work that may affect the property is halted until WP&L in consultation with the SHPO implements a treatment plan. WP&L will be responsible for ensuring that project-related work crews are informed that they are required to report and protect historic properties that are encountered.

c. WP&L will consult with the SHPO to determine the National Register eligibility of historic properties discovered after licensing and assess the effects of the project on previously unidentified National Register and eligible properties. WP&L will also consult with the SHPO to design a plan for avoiding or mitigating adverse effects upon eligible properties.

d. If WP&L and the SHPO are able to agree on such a plan, WP&L will execute the plan. If WP&L and the SHPO disagree, WP&L will refer the matter to Dispute Resolution pursuant to the Programmatic Agreement's General Provisions.

B. GENERAL PROVISIONS

The following general provisions will apply in administering this agreement throughout the term of the license.

1. Approval of the CRMP. Within 12 months from the date the license is accepted, WP&L will submit a CRMP to the SHPO and the Council for 45 days' review. After the 45-day review period, WP&L will file the CRMP for Commission approval, and upon approval, will implement the CRMP. If the SHPO or the Council objects to the CRMP, or any part thereof, the Commission will consult with the SHPO and the Council to resolve the objection in accordance with Stipulation 12 of the General Provisions. The objection must be specifically identified and the reasons for any objection documented.

2. Identification and Evaluation Surveys. Results of historical and archeological survey of the project area are contained in the document entitled "A Cultural Resources Study of the Rockton Hydroelectric Facility in Rockton, Illinois" (Salkin 1991); and in National Park Service 10-900 forms prepared to evaluate National Register eligibility for seven sites designated therein as follows: Site 11-Wo-324 [REDACTED], Sites 11-Wo-322 and 11-Wo-325 [REDACTED], Site 11-Wo-155 [REDACTED], Site 11-Wo-327 [REDACTED], Site 11-Wo-310 [REDACTED] and Site 11-

Wo-306 (project dam and powerhouse).

a. The above survey has been, and all future surveys will be, conducted in a manner consistent with the Secretary of the Interior's "Standards and Guidelines for Identification" (48 FR 44720-23) and will take into account the NPS publication, "The Archeological Survey: Methods and Uses" (1978: GPO stock # 024-016-00091).

b. Surveys will be conducted in consultation with the SHPO and WP&L will provide a report on the surveys to the SHPO for review.

c. In consultation with the SHPO, WP&L will determine the National Register eligibility of historical properties which may be identified as a result of any work carried out pursuant to this Programmatic Agreement. If the SHPO agrees with WP&L's determination of eligibility, such concurrence will be deemed conclusive for purposes of this Agreement. If the SHPO fails to respond within 45 days of receipt of the request for concurrence, then WP&L's determination will be deemed conclusive for purposes of this Agreement. If the SHPO disagrees with WP&L's determination within 45 days, or if the Council or the Secretary of the Interior so request, the Commission will request a determination of eligibility from the Keeper of the National Register in accordance with 36 CFR Part 63.

d. If a survey results in the identification of properties that are eligible for listing on the National Register, WP&L will develop and implement a treatment plan in consultation with the SHPO for those properties subject to project effects.

3. Archeological Data Recovery. Where it is not practical to protect an archeological property in place, recovery of data contained in the property may be deemed an appropriate means of mitigating adverse effect. In all instances of archeological data recovery, WP&L will adhere to the following requirements.

a. WP&L will consult with the SHPO to develop and implement any plan for the recovery of archeological data, and will ensure that it is consistent with the Secretary of the Interior's "Standards and Guidelines for Archeological Documentation" (48 FR 44534-37), and will take into account the Council's publication, "Treatment of Archeological Properties" (Advisory Council on Historic Preservation, 1980).

b. At a minimum, the plan for recovery of archeological data will specify (i) the properties where data recovery is to be conducted; (ii) the research questions to be addressed through data recovery and an explanation of their relevance, importance, and data requirements; (iii) the methods to be used, with an explanation of their relevance and relationship to the research questions; (iv) the methods to be used in data analysis, management, and dissemination; (v) the proposed costs for data recovery, data analysis, and report preparation; (vi) the proposed schedule for the implementation and completion of field work, data analysis, and report preparation; and (vii) a description of how the final report will be made available to the professional archeological community and the public.

4. Report Dissemination. WP&L will ensure that all archeological reports resulting from actions taken pursuant to this Agreement are provided to the SHPO and the Commission

for their review and comment, and that all such reports are responsive to contemporary professional standards, and to the Department of the Interiors "Format Standards of Data Recovery Program" (42 FR 5377-79). WP&L will, upon request, provide copies of the reports to other interested parties, but will withhold precise locational data if it appears that its release could jeopardize archeological sites.

5. Disposition of Cultural and Human Remains.

a. WP&L will ensure that all materials and records resulting from actions pursuant to this Agreement are curated within the State of Illinois in accordance with 36 FR Part 79.

b. WP&L will ensure that treatment of any human remains and grave-associated artifacts encountered during any action pursuant to this Agreement will conform to the Human Skeletal Remains Protection Act (Ill. Rev. Stat. Chap. 12.7. para 2661 et seq.), and will take into account the Council's "Policy Statement Regarding Treatment of Human Remains and Grave Goods," adopted by the Council September 17, 1988, at Gallup, New Mexico.

6. Professional Qualifications

WP&L will ensure that all historic preservation work carried out pursuant to this Agreement is carried out by or under the direct supervision of a person or persons meeting the Secretary of the Interior's "Professional Qualifications Standards" (48 FR 44738-9).

Advisor Council (202) 608-8503

7. Interim Procedures

Until the CRMP is implemented, WP&L will comply with 36 CFR 800.4 through 800.6 with respect to any ground-disturbing activities proposed by WP&L.

8. Five-Year Review

Beginning ^{After 5 years} 5 years from Commission approval of the CRMP, WP&L will prepare a summary report of the activities conducted pursuant to this Agreement, along with recommended mitigation of identified adverse effects, which WP&L will submit to the Commission and the SHPO for 45 days review. If the Commission or the SHPO does not object within 45 days of receipt of the 5-year summary report, WP&L may proceed with the measures proposed in the report. The 5-year summary report shall include the following:

a. The results of monitoring activities, including identification and assessment of the effects of vandalism and of recreational use on historic properties within the project boundary, and actions proposed to correct or mitigate identified adverse effects.

b. The results of work carried out pursuant to the Cultural Resources Management Plan and the terms of this Agreement.

9. Monitoring

The SHPO may monitor activities carried out pursuant to this Agreement. WP&L will cooperate with the SHPO in carrying out its monitoring activities.

10. Dispute Resolution

If the Commission, the SHPO, or the Council objects within 45 days to any action pursuant to this Agreement, the Commission will consult with the objecting party to resolve the objection. If the Commission determines that the objection cannot be resolved, the Commission shall request further comments of the Council pursuant to 36 CFR 800.6(b). Any Council comment provided in response to such a request will be taken into account by the Commission in accordance with 36 CFR 800.6(c)(2) with reference to the subject of dispute. The Commission's responsibility to carry out all actions under this Agreement that are not the subject of dispute will remain unchanged.

C. EXECUTION OF THE AGREEMENT

Execution and implementation of this Agreement evidences that the Commission has satisfied its Section 106 responsibilities for all individual actions of the Project.

FEDERAL ENERGY REGULATORY COMMISSION

By: 
Fred E. Springer, Director
Office of Hydropower Licensing

Date: 7/1/93

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____
Robert D. Bush, Executive Director

Date: _____

ILLINOIS STATE HISTORIC PRESERVATION OFFICER

By: 
~~Theodore Hild, Deputy State Historic Preservation Officer~~

Date: 6-29-93

CONCUR: WISCONSIN POWER & LIGHT COMPANY

By: Norman E. Boys
Norman E. Boys, Vice President, Power Production

Date: 6-16-93