

SECTION 106 COMPLIANCE STUDY REPORT

THE FIELD STUDIES AND REPORTS ASSOCIATED WITH THE SECTION 106 COMPLIANCE STUDY ARE COMPLETE AND NEBRASKA SHPO HAS CONCURRED WITH THE FINDINGS. NATIVE AMERICAN TRIBES HAVE BEEN AFFORDED AN OPPORTUNITY FOR REVIEW AND HAVE PROVIDED NO COMMENTS TO DATE.

THE REPORTS AND SHPO CONCURRENCE LETTERS WERE SUBMITTED TO FERC AS PRIVILEGED INFORMATION ON SEPTEMBER 24, 2010, AND ARE NOT PROVIDED HEREIN.

THE ETHNOGRAPHIC DOCUMENTATION IS COMPLETE AND IS PROVIDED HEREIN.

LOUP RIVER HYDROELECTRIC PROJECT FERC PROJECT No. 1256

ETHNOGRAPHIC DOCUMENTATION



Loup Power District
Hydro Project



**Loup River Hydroelectric Project
FERC Project No. 1256**

Study 11.0 Section 106 Compliance Ethnographic Documentation

August 26, 2011

© 2011 Loup River Public Power District

Prepared by:

Loup Power District
2404 15th Street
Columbus, NE 68602

With assistance by:

HDR Engineering, Inc.
8404 Indian Hills Drive
Omaha, NE 68114

STUDY 11.0 SECTION 106 COMPLIANCE ETHNOGRAPHIC DOCUMENTATION 1

- 1. INTRODUCTION 1
- 2. GOALS AND OBJECTIVES OF STUDY 1
- 3. STUDY AREA 2
- 4. CONSULTATION EFFORTS 2
- 5. PAWNEE AFFILIATIONS 6
- 6. RECOMMENDATIONS AND CONCLUSIONS 7
- 7. REFERENCES 8

List of Tables

Table 2-1. Letters Sent to Elicit Tribal Participation..... 3

STUDY 11.0 SECTION 106 COMPLIANCE ETHNOGRAPHIC DOCUMENTATION

1. INTRODUCTION

The Loup River Hydroelectric Project (Project) is located in Nance and Platte counties, Nebraska, where water is diverted from the Loup River and routed through the 35-mile-long Loup Power Canal, which empties into the Platte River near Columbus. The Project includes various hydraulic structures, two powerhouses, and two regulating reservoirs.

The Section 106 Compliance study plan, approved by the Federal Energy Regulatory Commission (FERC) in its Study Plan Determination on August 26, 2009, specifies that an Ethnographic Documentation report be developed that identifies any known properties of traditional religious and cultural importance to Native American tribes. The report is to document meetings with and written correspondence provided by the tribes. Any such properties will be evaluated for listing on the National Register of Historic Places (NRHP), and effects will be assessed by FERC in consultation with the tribes, the Loup River Public Power District (Loup Power District or the District), and the Nebraska State Historic Preservation Office (SHPO).

The efforts made to consult with relevant tribes and elicit responses regarding the presence of properties of traditional religious and cultural importance are documented herein. This is part of the District's obligation to identify cultural resources that may be eligible for listing on the NRHP and is subject to the review process established under 36 CFR 800, the regulations implementing Section 106 of the National Historic Preservation Act.

2. GOALS AND OBJECTIVES OF STUDY

The goal of the Section 106 compliance study is to achieve NHPA Section 106 compliance through a programmatic, ongoing consultation relationship between the District and the Nebraska SHPO.

The objectives of the Section 106 compliance study are as follows:

1. To review existing information with FERC and the Interested Parties (Nebraska SHPO, the Pawnee Tribe, the Iowa Tribe of Kansas and Nebraska, the Omaha Tribe, the Santee Sioux Tribe, and the Ponca Tribe of Nebraska) to identify consultation needs and additional archival and field data collection requirements.
2. To gather sufficient information to identify any historic properties that may be affected by the Project.

3. To conduct field studies to identify and evaluate historic properties, including archaeological properties and elements of the standing structure/built environment as well as properties of traditional religious and cultural value important to Native American tribes.
4. To document the historic properties in the Area of Potential Effects and, as applicable, present management recommendations in technical reports, an ethnographic memorandum, and a historic district documentation package.
5. To develop, in consultation with Nebraska SHPO, Native American tribes, and the Advisory Council on Historic Preservation (ACHP), a Historic Properties Management Plan (HPMP) in accordance with FERC guidelines.
6. To develop a Programmatic Agreement (PA) to complete the Section 106 compliance process and to incorporate in the Project license (this is a standard procedure carried out by FERC).

Development of the ethnographic documentation was intended to help facilitate identification and documentation of cultural resources to fulfill the objectives of the Section 106 compliance study.

3. STUDY AREA

The study area is the Area of Potential Effects (APE), or Project Boundary, which encompasses the entirety of the District's holdings that are subject to the relicensing effort described in the District's Pre-Application Document (PAD) (October 16, 2008).

4. CONSULTATION EFFORTS

The following six tribes are known to have historic affiliation to the Project vicinity:

- Omaha Tribe of Nebraska
- Pawnee Nation of Oklahoma
- Ponca Tribe of Nebraska
- Ponca Tribe of Oklahoma
- Santee Sioux Tribe of Nebraska
- Winnebago Tribe of Nebraska

Efforts to consult with these tribes and assess their interest in the Project are summarized below. Letters that were sent to the tribes to initiate Section 106 consultation and to provide notice of availability of documents for tribal review are listed in Table 2-1. In addition, the District attempted to reach tribal contacts by telephone in a less formal context to ascertain their interest in the Project; however, most of these attempts were unsuccessful in reaching the tribal contact.

Table 2-1. Letters Sent to Elicit Tribal Participation

From	Date	Purpose	To	Response
HDR	September 5, 2008	Invite tribes to participate in planning	Tony Provost, NAGPRA Coordinator, Omaha Tribe of Nebraska	None
			Francis Morris, Pawnee Nation of Oklahoma	None
FERC	October 23, 2008	Initiate Section 106 consultation	Ansley Griffin, Chairman, Omaha Tribe of Nebraska	None
			George Howell, President, Pawnee Nation of Oklahoma	None
			Larry Wright, Jr., Chairperson, Ponca Tribe of Nebraska	Received from Gary Robinette, THPO, on October 29, 2008 – No comment on relicense approval
			Trey Howe, Chairman, Ponca Tribe of Oklahoma	None
			Roger Trudell, Chairman, Santee Sioux Tribe of Nebraska	None
			John Blackhawk, Chairman, Winnebago Tribe of Nebraska	Received from Louis C. Houghton, Jr., secretary, on December 9, 2008 – Will not participate; no property in project area
Loup Power District	March 26, 2009	Invite tribes to participate in planning	Ansley Griffin, Chairman, Omaha Tribe of Nebraska	None
			George Howell, President, Pawnee Nation of Oklahoma	None
			Larry Wright, Jr., Chairperson, Ponca Tribe of Nebraska	None
			Trey Howe, Chairman, Ponca Tribe of Oklahoma	None
			Roger Trudell, Chairman, Santee Sioux Tribe of Nebraska	None
			John Blackhawk, Chairman, Winnebago Tribe of Nebraska	None

From	Date	Purpose	To	Response
Loup Power District	October 16, 2009	Provide notice of availability of Phase IA Archaeological Overview report for review and comment	Ansley Griffin, Chairman, Omaha Tribe of Nebraska	None
			Amen Sheridan, Chairman, Omaha Tribe of Nebraska	None
			George Howell, President, Pawnee Nation of Oklahoma	None
			Julia Sage, Environmental Director, Ponca Tribe of Nebraska	None
			Larry Wright, Jr., Chairperson, Ponca Tribe of Nebraska	None
			Trey Howe, Chairman, Ponca Tribe of Oklahoma	None
			Douglas Rhodd, Chairman, Ponca Tribe of Oklahoma	None
			Roger Trudell, Chairman, Santee Sioux Tribe of Nebraska	Received from Cora L. Jones, secretary, on November 2, 2009 – No objection unless places of cultural, traditional cultural, or natural importance to the Dakota culture are found
John Blackhawk, Chairman, Winnebago Tribe of Nebraska	None			
Loup Power District	August 26, 2010	Provide notice of availability of Phase I/II Archaeological Inventory and Evaluation for review and comment	Ansley Griffin, Chairman, Omaha Tribe of Nebraska	None
			Amen Sheridan, Chairman, Omaha Tribe of Nebraska	None
			George Howell, President, Pawnee Nation of Oklahoma	None
			Larry Wright, Jr., Chairperson, Ponca Tribe of Nebraska	None
			Douglas Rhodd, Chairman, Ponca Tribe of Oklahoma	None
			Roger Trudell, Chairman, Santee Sioux Tribe of Nebraska	None

From	Date	Purpose	To	Response
Loup Power District	November 1, 2010	Provide copy of Phase I/II Archaeological Inventory and Evaluation for review and comment	Gary Robinette, Director of Cultural Affairs, Ponca Tribe of Nebraska	None
Loup Power District	November 3, 2010	Provide copy of Phase I/II Archaeological Inventory and Evaluation for review and comment	Emily Smith, Winnebago Tribe of Nebraska	None

The general lack of responses from the tribes to several requests for their participation in the review of the Project and the cultural resources reports should not be viewed as indicative of a lack of concern among the tribes regarding the Project. The Ponca Tribe of Nebraska offered no comment on the approval of the new license, the Winnebago Tribe indicated that it would not participate in the process, and the Santee Sioux Nation responded with no objection provided that resources of importance were not found. Although the remaining tribes—the Omaha Tribe of Nebraska, Pawnee Nation of Oklahoma, and Ponca Tribe of Oklahoma—did not respond to the District’s requests, their silence may be interpreted in several ways. For example, it is possible that the tribes have no concerns about the relicensing project if no land alterations are being deliberated. In some instances involving Section 106 reviews, however, tribes prefer to remain silent rather than risk divulging sensitive traditional cultural information that should not be shared outside traditional communities regarding the location or nature of significant traditional cultural properties and practices. Tribal governments and traditional practitioners are often hesitant to share such information, even when properties of importance are threatened by land alterations.

For this relicensing project, no land alterations are proposed as part of the Federal undertaking under review. However, the Phase IA Archaeological Overview established that previous archaeological investigations of Pawnee village sites situated in the immediate vicinity of Genoa, Nebraska, were partially investigated and severely damaged or destroyed when the Project was constructed in the 1930s. These investigations included the excavation and recovery of habitation structures and human remains, which may continue to be held traditionally valuable among the Pawnee people. Consequently, some tribes may be ambivalent about taking an active role in the review process at this time, pending an actual perceived threat to the known properties in the vicinity of the Project, at which time they may feel compelled to voice their concerns. The Section 106 review process should proceed with the recognition that tribes may come forward at a later time with information relevant to the identification of properties of traditional cultural and religious importance.

5. PAWNEE AFFILIATIONS

Although Omaha, Ponca, Santee Sioux, and Winnebago peoples are known to have occupied and used the general Project vicinity historically, the Project is within the traditional territory of the Pawnee, which centered on the Loup, Platte, and Republican river valleys. Unlike many of the more nomadic Plains tribes, the Pawnee were semi-sedentary horticulturalists living in semi-permanent villages comprised of earth lodges. They raised a variety of crops, and their ceremonies tended to emphasize the importance of agriculture rather than bison procurement, a pattern distinctive from other more nomadic tribes on the Plains. This distinction may render a greater sense of historical and cultural affinity for these specific village site locations.

As indicated in the Phase I/II Archaeological Inventory and Evaluation for the Project, several earth-lodge villages attributable to Pawnee occupation are known in the vicinity. Sites 25NC06/25NC20, 25NC03, 25NC04, 25PT1, and 25PT18 may be Pawnee village sites that may still be known and valued by the Pawnee Tribe. Although these sites were either damaged or destroyed during Project construction in the 1930s, it is unknown whether some portions may remain intact and whether the Pawnee Tribe, which appears to be most closely affiliated with these sites, value them as places of traditional religious and cultural importance.

6. RECOMMENDATIONS AND CONCLUSIONS

The apparent lack of interest by the tribes regarding the Project may represent reluctance, by some, to divulge sensitive information pending an actual perceived threat to properties of traditional importance. As the tasks involved in the Section 106 process proceed for the Project, the District will continue to provide tribes with ongoing opportunities to identify any concerns or interests they may have. Specifically, the following recommendations should be considered to ensure that tribes receive adequate opportunities to express their interests with regard to any effects the Project may have on properties of traditional religious and cultural importance:

1. An invitation will be extended to the Pawnee Tribe to provide a representative knowledgeable in tribal history and traditional cultural properties, to participate in an on-site review of properties identified during the archaeological survey effort, and to provide any insights relevant to the NRHP evaluation of traditional cultural values retained by any identified properties within the Area of Potential Effects (APE).
2. The Historic Properties Management Plan will provide mechanisms for ensuring that tribes are kept informed of any future land-altering activities that may affect properties of interest to them and for extending opportunities during its implementation to participate in the review of proposed actions or documents that may be relevant to their interests.
3. The tribes should be invited to participate in the development of the Project Programmatic Agreement for purposes of compliance with Section 106 and should be invited to sign it as concurring parties. This would represent a good-faith effort evidencing that tribes continue to be provided a meaningful role in the review and approval process, even if they may choose not to participate at any particular stage.

7. REFERENCES

FERC. August 26, 2009. Letter from Jeff C. Wright, Director, Office of Energy Projects, FERC, to Neal D. Suess, President/CEO, Loup Power District, regarding Study Plan Determination for the Loup River Hydroelectric Project.

Loup Power District. October 16, 2008. Pre-Application Document. Volume 1. Loup River Hydroelectric Project. FERC Project No. 1256.