

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Policy Session Worksheet

Presentation Date: 7/19/16 **Approx. Start Time:** 1:30 p.m. **Approx Length:** 30 mins.
Presentation Title: Willamette Falls Locks Section 106 MOA
Department: Public and Government Affairs
Presenters: Gary Schmidt and Trent Wilson
Other Invitees: Gary Barth, BCS; Barb Cartmill, DTD; Danielle Cowan, Tourism

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Does the Board agree to sign the Section 106 Memorandum of Agreement (MOA) for the Willamette Falls Locks? Clackamas County is a concurring party in the MOA.

EXECUTIVE SUMMARY:

In December 2011, the U.S. Army Corps of Engineers (USACE) closed the Willamette Falls Locks under its emergency operations authority due to life safety concerns. Because the Locks were registered with the National Register of Historic Places in 1974, closure of the Locks initiated Section 106 of the National Historic Preservation Act (Section 106).

Section 106 requires the USACE to take into account the effects of the closure of the Locks as a historic property and to afford the Advisory Council on Historic Preservation the opportunity to comment. Section 106 reviews are typically done in advance of any actions on historic properties. Because the Locks were closed under emergency operations authority, Section 106 began after the Locks closure. Because closure was indefinite, the Section 106 review was used to find ways to “avoid, minimize, or mitigate any adverse effects” of the Locks.

Efforts to avoid, minimize, or mitigate adverse effects are agreed upon in a memorandum of agreement (MOA). The State Historic Preservations Office (SHPO) and the Advisory Council on Historic Preservation are signatories with USACE, but concurring parties are also invited to participate in the Section 106 process and signing. The same inclusionary efforts have been made for the Willamette Falls Locks.

Section 106 discussions have lasted four years. This most recent draft includes many of the current efforts to meet the Section 106 requirements, including the USACE pursuit of a Final Disposition Study and the formation of a State Task Force (Senate Bill 131) to study the repair and reopening of the Locks.

The Section 106 MOA included with this worksheet is the final version.

FINANCIAL IMPLICATIONS (current year and ongoing):

No financial implications by signing the Section 106 MOA.

Repairing and reopening the Willamette Falls Locks remains on the Clackamas County State and Federal Legislative Agendas.

STRATEGIC PLAN ALIGNMENT:

- This item aligns with the Public and Government Affairs Strategic Business Plan goals to provide intergovernmental connections and relationship building, strategic policy development and messaging, legislative, advocacy, and outreach services to the Board

of County Commissioners and county departments so they can build key partnerships to achieve policy goals important to Clackamas County, with special emphasis on the strategic results in the BCC Strategic Plan.

- This item aligns with County's Performance Clackamas priority to Grow a Vibrant Economy and to Honor, Utilize, Promote and Invest in our Natural Resources.

LEGAL/POLICY REQUIREMENTS:

County Counsel has reviewed the MOA and agrees the terms favor Clackamas County's interests.

PUBLIC/GOVERNMENTAL PARTICIPATION:

PGA provides support to both the Willamette Falls Locks Working Group and the Willamette Falls Locks State Task Force. Commissioner Tootie Smith is Chair of the Locks Working Group and is the Clackamas County representative on the Locks State Task Force. Business and Community Services and Tourism and Cultural Affairs have also been included in the Section 106 meetings.

OPTIONS:

1. Sign the MOA. PGA staff will notify the USACE that Clackamas County is willing to sign to the MOA as presented.
2. Provide edits to the MOA. PGA will pursue recommendations by the BCC to improve the MOA and submit to the USACE for consideration.
3. Do not sign the MOA.

RECOMMENDATION:

Staff recommends Option 1: Sign the MOA. PGA staff will notify the USACE that Clackamas County is willing to sign to the MOA as presented.

ATTACHMENTS:

- Willamette Falls Locks Closure Section 106 MOA DRAFT
- 2014 BCC Resolution

SUBMITTED BY:

Division Director/Head Approval _____

Department Director/Head Approval s/Gary Schmidt

County Administrator Approval _____

For information on this issue or copies of attachments, please contact Trent Wilson @ 503-655-8206
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**MEMORANDUM OF AGREEMENT
BETWEEN
THE U.S. ARMY CORPS OF ENGINEERS, PORTLAND DISTRICT
AND THE
THE OREGON STATE HISTORIC PRESERVATION OFFICER,
AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING THE INTERIM CLOSURE OF THE WILLAMETTE FALLS LOCKS,
WEST LINN, OREGON**

WHEREAS on December 1, 2011 the Dam Safety Officer for the Portland District, U.S. Army Corps of Engineers recommended Gates 2, 3, and 4 be red-tagged for use until the gudgeon anchors are replaced; and subsequently on December 5, 2011 the U.S. Army Corps of Engineers, Portland District (Corps), under its emergency operational authority, closed the Willamette Falls Locks (Locks) to vessel traffic (the “undertaking”) due to life safety concerns related to the potentially unsafe physical conditions of the gudgeon anchors on Gates 2, 3, and 4; and,

WHEREAS the repairs to address the immediate dam safety and operational safety concerns has been estimated to cost between three to five million dollars; and,

WHEREAS the decline of commercial tonnage through the Locks from 1990 to 1997 caused more than a 99% decline in navigational benefits causing in a commensurate decline in funding for Operations, Maintenance, Repair, Replacement, and Rehabilitation activities to support the navigation authority of the Locks which led to Caretaker funding for minimal maintenance activities of the facility starting in 2006; and as the decline in commerce has persisted for more than 15 years, the repairs to the underground gudgeon anchors at Gates 2, 3 and 4 are deemed not economically justified; and,

WHEREAS the Locks are a historic property that was listed in the National Register of Historic Places in 1974, and therefore, pursuant to 36 C.F.R. § 800.5(1), the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f), the Corps notified the Oregon State Historic Preservation Officer (SHPO) on May 15, 2014 that the undertaking posed an adverse effect to the features and qualities that made the Locks eligible for listing, (Appendix A) to which the SHPO agreed; and,

WHEREAS the Corps has defined the undertaking’s area of potential effects (APE) as the Locks, associated structures, and environs, to include the Lock Operator and Administration buildings, dock, and park easement along the west side of the Locks chambers (map of APE is attached as Appendix B); and,

WHEREAS the undertaking resulted in adverse effects to historical associations, specifically, associations with transportation and navigation history, and with tribal access to the Willamette Falls via the Locks to conduct traditional cultural practices; and,

WHEREAS, although no immediate or additional adverse effect to the physical engineering qualities of the Locks was realized by the undertaking, further examination of materials and operating components of lock walls and gudgeon anchors on Gates 2, 3, and 4 would be necessary to determine if, and to what degree, further decline may have occurred since closure; and,

WHEREAS the Corps acknowledges that, since 2011, there has been continued impact on certain cultural, economic, and recreational goals of the proposed Willamette Falls National Heritage Area, the 2015-designated State Heritage Area, the 2012-designated National Water Trail, and the 1999-designated American Heritage River; to all of which the Locks is a significant and contributing resource; and,

WHEREAS the Corps acknowledges that the undertaking has eliminated the potential of commercial navigation through the Locks, resulting in a loss of economic opportunity for some sectors of the community; and,

WHEREAS the Corps considers the undertaking to be an essential and immediate response to an emergency condition threatening both life and property; the Corps has, through this consultation, notified SHPO, the Council, and the tribes within the time and resources available (36 C.F.R. § 800.12 (b)(2)) so that comments and suggestions on how to appropriately mitigate for the subject undertaking could be provided. Stipulations provided in this agreement address adverse effects that resulted from the undertaking in 2011, although the last vessel permitted through the Locks occurred in July 2013. No data or information has been identified or presented to demonstrate that the mitigation needs have changed since the date of closure; and,

WHEREAS the Locks chambers and environs are no longer publicly accessible on a regular basis due to safety concerns and budgetary constraints, the Corps has provided supervised, infrequently scheduled opportunities for on-site viewing to requesting parties and has supported various events such as the Willamette Falls Heritage Foundation's Lock Fest; and,

WHEREAS the Corps invited participation of the Confederated Tribes of Grand Ronde (CTGR), the Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes of Siletz Indians who attach religious and cultural significance to lands within the Willamette Falls Locks and around the Willamette Falls; and,

WHEREAS the Corps has invited the West Linn Certified Local Government, National Trust for Historic Preservation (NTHP), Willamette Falls Heritage Foundation (WFHF), Clackamas County (CC), Clackamas County Historical Society, Willamette Falls Heritage Area Coalition (WFHAC), Metro, Oregon Marine Board, Oregon City, Portland General Electric Company, Wilsonville Concrete LLC, Marine Industrial Construction LLC, WCP INC, Pacific Northwest Waterways Association (PNWA), Restore Oregon, City of Wilsonville and other identified stakeholders to participate as concurring parties; and,

WHEREAS many of the consulting parties endorse the repair and reopening of the Locks in order to achieve potential cultural, economic, commercial and recreational goals of state and local stakeholders; and acknowledge since closure of the Locks, the Corps' annual requests for Congressionally appropriated funding for repairs have not been successful because the costs of rehabilitation outweigh the commercial navigation benefits to the nation and therefore, agree, although not part of the current undertaking or this Section 106 consultation, the most viable long term disposition of the Locks may be through a transfer of ownership to another agency or via alternative management of the facility through cost-sharing of repairs, leasing the facility, or other arrangement; and,

WHEREAS the Corps serves as an ex-post participant in the Senate Bill 131 Task Force whose purpose is to: 1) compile information related to the Willamette Falls Locks and Canal; 2) consider means of facilitating the repair and reopening of the facility; 3) develop a plan for its sustainable operation; and 4) deliberate the future disposition of the facility via either the future lease or transfer from the Corps to a specified non-federal entity. It is anticipated much of the future Federal investigation described in Stipulation III below will be helpful to the Task Force when developing the future governance model and funding mechanism for the long term repair and operation of the facility.

WHEREAS the Corps has received initial funding to conduct an investigation for the final disposition / divestiture report.

WHEREAS in accordance with 36 C.F.R. § 800.6(a)(1), the Corps has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effects determination with specified documentation, and the ACHP has chosen to participate in the consultation pursuant to 36 C.F.R. § 800.6(a)(1)(iii); and,

WHEREAS the parties acknowledge additional Section 106 consultations will be required prior to a future decision regarding the permanent long term disposition of the facility;

NOW, THEREFORE, the Corps, SHPO, and the ACHP agree that the Corps will implement the following stipulations in order to mitigate adverse effects to the Locks caused by the undertaking:

STIPULATIONS

The Corps shall ensure that the following measures are carried out:

- I. Conduct regular informational meetings no less than twice a year with signatories and concurring parties to report on progress made toward accomplishing Stipulations III-V.
- II. Conduct a meeting with signatories, concurring parties, and other Federal and non-Federal stakeholders a minimum of every two months, or as required, to discuss possible options for the long term disposition of the Locks. Such a meeting would be with local interests that have organized under the leadership of the Clackamas County (identified as the Willamette Falls Locks Working Group) to study issues relating to repair, reopening and operation of the Locks. The goal of the process is to develop a report described in Stipulations IIIA or IIIB. This meeting can be accomplished during one of the meetings described in Stipulation I.
- III. Future investigations, which shall include but not be limited to:
 - A. Beginning in Fiscal Year 2017, will conduct a three year, 100% federally funded engineering investigation of the Locks' essential operating materials and components in order to identify the condition of the facility and/or repairs needed to meet standards established by the Corps that would support either the deauthorization, decommissioning, and divestment of the Locks or a complete change in management of the facility, whereby reopened operations result from contributed funds and provide the future owner and/or operator guidance in mid and long-term capital needs. This investigation may include the following:

1. A forensic investigation of the operating components (gudgeon anchors, masonry, and wood materials of the lock walls) using minimally invasive techniques and technologies to probe non-visible conditions and substrates;

2. An updated technical condition of the facility;

3. An updated economic analysis to identify the least cost alternative to decommission the facility; an environmental condition of the property to assess the presence, abundance and cleanup requirements resulting from hazardous and toxic materials exposed within the locks and ship canal.

4. Pertinent structural repairs to the locks so that the locks are returned to a safe and operable condition

5. May include pertinent assessments identified in Stipulation IIIB.

B. Will pursue with the Willamette Falls Locks Working Group a 50/50 cost share study to identify the necessary analysis and administrative steps necessary for alternate ownership or management of the Locks. The study, if pursued, may include the following:

1. An updated technical condition of the facility to assess the rate of deterioration, the risks and potential liabilities associated with the facility, and the need, if any, for dredging and proper disposal of dredge materials;

2. Consideration, including an economic assessment, of transfer of ownership and/or operations of the facility to an identified transferee;

3. An economic evaluation of potential reauthorization of the facility to a different mission;

4. An economic analysis of the status quo closure condition;

5. Evaluation, including economic assessment, of de-authorization, decommissioning and divestment of the facility;

6. A current cost estimate to repair and return the Locks to safe operability;

7. An economic opportunity analysis of reopening and continued operation;

8. A full investigation of all environmental and regulatory requirements, including addressing NEPA and Section 106 requirements of both repair and final disposition options;

9. An assessment of the real estate title and boundary issues, resulting in a detailed scope, schedule, and budget to resolve any potential real estate issues;

10. An environmental condition of the property to assess the presence, abundance and cleanup requirements resulting from hazardous and toxic materials exposed within the locks and ship canal; and,

11. Assessment of any continued Corps regulatory oversight requirements that may transfer to a new third-party operator.

Should a cost shared study be of mutual interest, the Corps shall execute a separate agreement with the appropriate non-federal sponsor.

IV. Continue current caretaker activities commensurate with obligations under Section 110 of the National Historic Preservation Act to preserve and protect significant character defining features of the property, defined herein as the inspection and monitoring of the Locks' status through scheduled operation of gates to identify mechanical changes in performance; surface observation and monitoring of condition and potential deterioration of gudgeon anchors and lock walls; removal of intrusive objects or plant material that may cause harm to operating components; the monitoring of any geophysical activities that may pose harm to the resource; and the prevention of public access that may result in vandalism or other deliberately imposed harm.

V. Continue support of public outreach endeavors, including, but not limited to:

A. In cooperation with any volunteers, permit public tours of the Locks concurrent with Corps personnel on-site inspections and minimal maintenance activities, and continue to support local endeavors to heighten public awareness and appreciation of the Locks, as exemplified by the Willamette Falls Heritage Foundation's Lock Fest.

B. Upon requests and invitations, the Corps shall provide public presentations of the Locks' Past, Present and Future to interested organizations.

C. Corps shall conduct on-going conditions assessment of interpretive displays and shall inventory historical items, photographs, archives, and artifacts on display at the Lock Operator's Building and Museum, and seek professional services within the USACE or other curation facilities to inventory and conserve artifacts, archives and photos, and upgrade interpretive exhibits, so long as the Locks is in caretaker status. SHPO shall be afforded 30 days to review and comment on revisions and/or layout and content when interpretive elements are modified or replaced. The Corps shall review requests and facilitate the temporary loan of historic artifacts and resources to qualified local museums for public education purposes.

D. In consultation with signatories to this agreement, the Corps shall contract the development of a book, website, or video documentary to commemorate the history of the Willamette Falls Locks.

E. The Willamette Falls Locks and Navigation Canal will be documented for submittal to the Historic American Engineering Record (HAER) by a qualified professional meeting National Park Service Standards (36 C.F.R. part 61) in coordination with appropriate NPS staff. HAER documentation will incorporate, expand upon, and complete HAER documentation previously prepared for the Willamette Falls Locks Chamber No. 1 (completed in 1980). Draft documentation will be submitted to Oregon SHPO and the NPS for review and approval. The Corps will assure that any required modifications or revisions necessary for NPS approval of the HAER submittal are accomplished in a timely manner. Once NPS has reviewed and accepted the final documentation, it will be duplicated in either digital or hardcopy as preferred and supplied to NPS, SHPO, University of Oregon and the Oregon Historical Society. Proof of submittal of the NPS-approved HAER documentation to each of the above repositories will be provided to SHPO, completing this stipulation within four years of the final signature of this Memorandum of Agreement (MOA).

F. Within one of year of execution of this MOA, the Corps will further consult with the tribes to develop a mutually agreeable plan to enable means for conducting traditional cultural practices at Willamette Falls Locks.

G. Within twelve months of execution of this MOA, the Corps will have investigated and discussed the results of their investigation with the Willamette Falls Working Group the need for the Locks to be repaired and operational prior to transfer.

VI. ANTI-DEFICIENCY ACT

A. The Corps shall make reasonable and good faith efforts to secure the necessary Federal funds to implement this MOA. The parties agree that any requirement for obligation of funds arising from the terms of this agreement shall be subject to inclusion in the President's Budget and the availability of congressionally appropriated funds for that purpose. This agreement shall not be interpreted to require the obligation or expenditure of funds in violation of the Anti-Deficiency Act.

B. If compliance with the Anti-Deficiency Act alters or impairs the Corps' ability to implement the stipulations of this MOA within the term of this agreement, the Corps shall conduct supplementary consultation with the signatories and concurring parties in accordance with Stipulations VII and VIII below.

VII. DURATION

This MOA will expire upon completion of requirements in the above Stipulations, or if its terms are not carried out, within ten years from the date of its execution. Prior to such time, the Corps may consult with the other signatories and concurring parties to reconsider the terms of the MOA and amend or renew it in accordance with Section IX below.

VIII. MONITORING AND REPORTING

Each year following the execution of this MOA until it expires or is terminated, the Corps shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the Corps' efforts to carry out the terms of this MOA. In addition to an annual report, per Stipulation I above, the Corps will conduct meetings as required with signatories, concurring parties and other stakeholders to report on progress made toward accomplishing the terms of this agreement.

IX. DISPUTE RESOLUTION

Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the Corps shall consult with such party to resolve the objection. If the Corps determines that such objection cannot be resolved, the Corps will:

1. Forward all documentation relevant to the dispute, including the Corps' proposed resolution, to the ACHP. The ACHP shall provide the Corps with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Corps shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories, and concurring parties, and provide them with a copy of this written response. The Corps will then proceed according to its final decision.

2. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the Corps may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Corps shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.

3. The Corps shall carry out all other actions subject to the terms of this MOA that are not the subject of the dispute.

X. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

XI. TERMINATION

A. If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment per Section IX above. If, within thirty (30) days (or another time period agreed to by all signatories), an amendment cannot be reached, any signatory may terminate their interest in the MOA upon written notification to the other signatories.

B. If the MOA is terminated, and, prior to work continuing on the undertaking, the Corps must either (a) execute an MOA pursuant to 36 C.F.R. § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 C.F.R. § 800.7. The Corps shall notify the signatories as to the course of action it will pursue.

C. Execution of this MOA by the Corps, SHPO, and ACHP, and implementation of its terms evidences that the Corps has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES:

**U.S. ARMY CORPS OF ENGINEERS,
PORTLAND DISTRICT**

**OREGON STATE HISTORIC
PRESERVATION OFFICER**

Jose L. Aguilar
Colonel, Corps of Engineers
District Commander

Date: _____

Ms. Christine Curran
Deputy

Date: _____

**ADVISORY COUNCIL ON
HISTORIC PRESERVATION**

Mr. John M. Fowler
Executive Director

Date: _____

CONCURRING PARTIES:

Signing as a concurring party is primarily a way to express agreement with the contents of the MOA and acceptance of the outcome of the process (36 CFR 800.6(c)(3). Concurring parties do not have the rights of signatories; their approval is not needed to execute, amend, or terminate the MOA.

CONFEDERATED TRIBES OF GRAND RONDE

Reynold L. Leno, Chair

Date: _____

CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON

[insert name and title]

Date: _____

CONFEDERATED TRIBES AND BANDS OF THE YAKAMA NATION

[insert name and title]

Date: _____

NATIONAL TRUST FOR HISTORIC PRESERVATION

_____ Date: _____
[insert name and title]

CLACKAMAS COUNTY

_____ Date: _____
[insert name and title]

METRO

_____ Date: _____
[insert name and title]

OREGON CITY CERTIFIED LOCAL GOVERNMENT

_____ Date: _____
[insert name and title]

WEST LINN CERTIFIED LOCAL GOVERNMENT

_____ Date: _____
[insert name and title]

ONE WILLAMETTE RIVER COALITION

_____ Date: _____
[insert name and title]

WILLAMETTE FALLS HERITAGE FOUNDATION

_____ Date: _____
[insert name and title]

WILLAMETTE FALLS HERITAGE AREA COALITION

[insert name and title]

Date: _____

RESTORE OREGON

[insert name and title]

Date: _____

PORTLAND GENERAL ELECTRIC

[insert name and title]

Date: _____

CITY OF WILSONVILLE

[insert name and title]

Date: _____

PACIFIC NORTHWEST WATERWAYS ASSOCIATION

[insert name and title]

Date: _____

CLACKAMAS COUNTY HISTORICAL SOCIETY

[insert name and title]

Date: _____

WILSONVILLE CONCRETE / MARINE INDUSTRIAL CONSTRUCTION LLC

[insert name and title]

Date: _____

WEST LINN PAPER

[insert name and title]

Date: _____

WILLAMETTE RIVER KEEPERS

[insert name and title]

Date: _____

eNRG KAYAKING

[insert name and title]

Date: _____



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, PORTLAND DISTRICT
PO BOX 2946
PORTLAND OR 97208-2946

MAY 15 2014

Planning, Programs and Project
Management Division

Mr. Roger Roper
Deputy State Historic Preservation Officer
Oregon Parks and Recreation Department
State Historic Preservation Office
725 Summer Street NE, Suite C
Salem, OR 97301-1266

RE: Continued Section 106 Consultation Regarding the Caretaker Status of the Willamette Falls Locks, Oregon City, Clackamas County, Oregon

Dear Mr. Roper:

The U.S. Army Corps of Engineers, Portland District (Corps) is writing to notify you of its finding, pursuant to Section 106 (16 U.S.C. § 470f; 36 C.F.R. part 800) of the National Historic Preservation Act (Act), regarding the closure in November 2011 of the Willamette Falls Lock (locks), a property listed in the National Register of Historic Places (National Register). Please recall we previously notified you on August 21, 2013 about the potential for this action to cause effects on the resource in order to initiate compliance with the Corps' responsibilities under the Act. We have since determined that the closure of the locks to vessel traffic has had – and may continue to have – adverse effects on the character defining features and qualities that made the locks eligible for listing in the National Register.

Following our initial letter regarding this action, the Corps convened a Section 106 information meeting for consulting and invited parties wherein the Corps outlined the status of compliance, and sought input about the effects of the closure. The meeting took place February 25, 2014 at the Corps' Portland District office. A number of parties identified over the past year were invited to participate, including representatives from the Oregon State Historic Preservation Office, Certified Local Governments, historical organizations, elected officials, tribes, and leaders from the industrial, commercial, and recreation sectors. The Corps asked for comment specifically about the effects of the closure on the aspects of integrity that originally made the locks eligible for listing in the National Register, and also requested suggestions for developing the Area of Potential Effects (APE). Comments were recorded on paper and compiled for the record. At the conclusion of the meeting, the Corps explained that further comments would be received until March 28, 2014, at which time the Corps would communicate its findings of effects to the SHPO.

The following is a summary of considerations made by the Corps in developing an APE, and a rationale for a finding of adverse effects for the locks closure as regards National Register criteria and integrity guidelines.

Area of Potential Effects

Based upon review of comment letters and its own investigations, the Corps recommends that the APE for the closure action is defined by the entirety of the Corps owned resource, including the adjacent park land that includes buildings and structures incidental to the historic period. A map of the proposed APE is attached for your reference. While there are clearly a number of contemporary recreational and commercial uses that have relied upon the locks throughout the years, as well as potential cultural activities that may realize future benefits from a functioning locks, none of these interests – even if potentially historic – has lost measurable integrity due to closure.

The Corps considered whether a potential historic property outside of the locks boundaries, upstream or downstream, would lose its criterion A associations because the locks has ceased to pass vessels. It was determined that such a property would lose critical historical associations only if its eligibility has been visually or functionally dependent upon the operation of the locks. An example would be a river front structure fifty years of age that derived its primary significance from the servicing or outfitting of vessels before they entered the locks. The Corps has not identified properties with such associations that have been compromised by the closure. However, should specific examples of this association be presented, further investigation of property eligibility and effects can be made.

The Corps also did not find evidence that architectural or engineering values of properties located outside of the locks have been affected with respect to design, style, workmanship, or materials, though it can be asserted that the locks itself has experienced a loss of physical integrity, as discussed below.

In developing the APE, the presence of other National Register listed and eligible properties adjacent to or nearby the locks was also considered, including the Sullivan Power Plant and West Linn Paper Company, as well as the potential of a larger historic district that encompasses properties on Moore Island, as well as the locks. However, it was determined that, while certain economic relationships may have changed somewhat with the closure of the locks to vessel traffic, even if listed or eligible, these properties did not lose any critical historical associations or material integrity.

Finally, given the interest in establishing a heritage area in and around the falls, the Corps also considered the potential effects of the closure on a designation of this section of the river. While an operating locks might benefit commercial and recreational interests within a heritage corridor, the aggregate of historic properties – including a contributing, but non-active locks – could easily meet eligibility standards for such a designation. The Corps recommends that the

closure of the locks does not compromise the potential nomination and listing of a Willamette Falls heritage area. However, it can be anticipated that a broader thematic designation focused around a functioning locks could generate important benefits to the area through heritage tourism and related economic activities.

Navigation/Transportation - Criterion A

The Corps acknowledges the pivotal role the locks have played in the navigational and transportation history of the Willamette River and environs at this locale since its operation began in 1873. Certain vessels no longer congregate before the locks and cannot use the waterway as a viable avenue of transport. The ability to understand and experience the historic function the locks had in moving commerce and people around the falls was best understood by the actual operation of the gates and the passage of vessels through them. The closure has created a degree of isolation of the facility from both vehicle and foot access and thereby reduced the associative and experiential qualities of a vibrant water passage with river traffic moving through the lock chambers. Although the gates are periodically exercised, without the direct association of watercraft an understanding of the locks' mechanical operation and historical role is no longer fully understood or conveyed. It is therefore concluded that a degree of visual association with navigation and transportation history has been lost within the immediate boundaries of the resource where those activities took place and were in display.

Architecture/Engineering - Criterion C

The Corps acknowledges its obligation to meet the standard of preservation of the locks, defined as measures that stabilize, repair, and retain a property's existing form as evolved over time. Toward this goal, the Corps performs basic maintenance and exercises the gates on a regular basis, and conducted an engineering inspection and evaluation of components to identify conditions and associated costs to address critical needs. Reporting has shown the gudgeon anchors may be in decline and should be replaced, although the level of suspected deterioration is not fully known, due to limited funding to fully probe the status of these components. To date, this lack of funding has prevented the Corps from reaching definite conclusions about the condition of the anchors and their ability to support the gates, beyond the finding that safety risks are too high to continue allowing the public and vessels into the locks' chambers.

However, the Corps believes that deferring replacement of the anchors could result in some type of failure of these components at an indeterminate point in time, and that higher costs may be incurred if this work is postponed long term. Other aspects of the locks that may require future repair include the masonry walls and timber components, all of which receive basic monitoring as part of the overall custodial care of the facility. Therefore, although a complete picture of the locks' mechanical and physical status can only be speculated, the Corps recommends that without replacement of the gudgeon anchors some degree of adverse effects to the engineering values of the resource may occur.

Traditional Culture

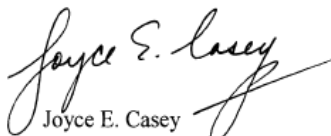
Comments from tribal representatives have shown that the locks were adapted during the historic period for various religious and cultural activities when full access to the falls was cut off by development. Though not cited in the National Register nomination, it has been demonstrated that access above the falls via the locks was essential for the continuance of traditional cultural and educational practices such as the canoe journey. Because the closure prevents native people from conducting these traditions and teachings to new generations, the Corps acknowledges the action has had an adverse effect on the tribes' ability to maintain certain aspects of their traditional culture. Non- native life ways based upon shipping and river transportation may also be viewed as aspects of traditional culture that have been curtailed to some degree by the closure action.

The Corps has determined that the closure of the Willamette Falls Locks to vessels has an adverse effect on the aspects of setting, association, and feeling that originally made the locks eligible for listing in the National Register, and that there is some potential for adverse effects to the character defining design, materials, features, and workmanship of the resource as long as the status of the gudgeon anchors and other materials and components remains partly unknown.

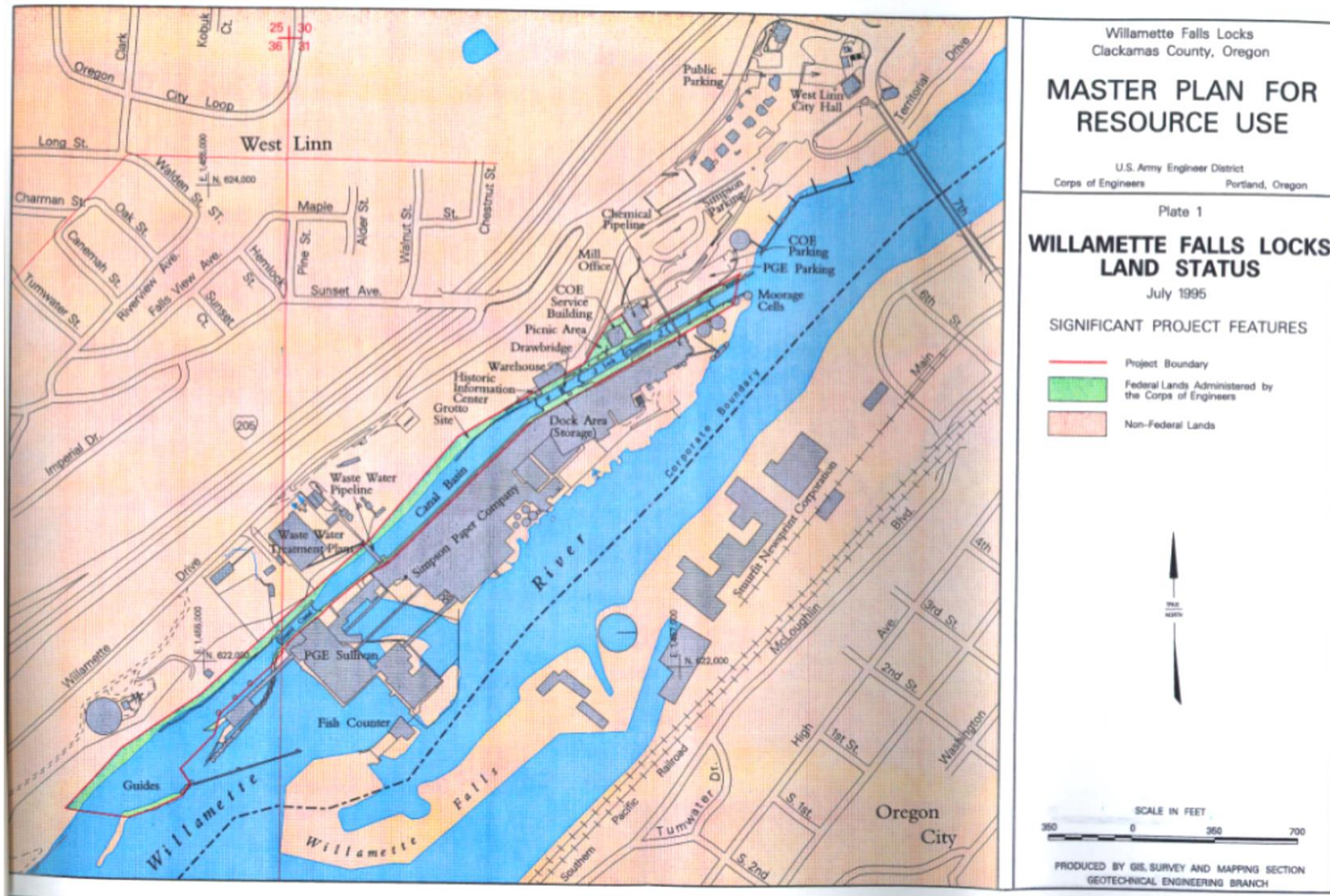
The Corps believes that continued engagement of all consulting and invited parties will be essential in crafting a meaningful resolution of adverse effects. The Corps also anticipates that all parties with cultural, historical, recreational, and commercial interests in the locks will provide valuable input into a separate Section 106 consultation if there is a future transfer of the property out of federal ownership. We look forward to further discussion of the Willamette Falls Locks closure with regard to this finding, and your advisement in developing the most appropriate means of avoiding, minimizing or mitigating the adverse effects of the closure action.

Questions regarding this evaluation may be directed to Ms. Lauren McCroskey, Program Manager, Technical Center of Expertise for the Preservation of Historic Buildings and Structures at (206) 764-3538, or by email at lauren.l.mccroskey@usace.army.mil.

Sincerely,



Joyce E. Casey
Chief, Environmental Resources Branch



Appendix B – Boundary for the Area of Potential Effect is the “Project Boundary” outlined in red, constituting the Federal ownership, including the easement right-of-way for the Picnic Area.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

A Resolution in the Matter
of Reopening the Willamette Falls Locks



Resolution No. 2014-124
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WHEREAS, On January 1, 1873, the Willamette Falls Locks opened to allow passage around the waterfall at Oregon City thereby providing access to a one river system; and

WHEREAS, in 1915, the U.S. Army Corps of Engineers purchased the Locks from the private operator thereby ensuring free public passage through the Locks; and

WHEREAS, in 1974, the Willamette Falls Locks were listed on the National Register of Historic Places; it was the first significant facility built to improve navigation on the Columbia-Snake River Inland Waterway system, and the most important through 1939; and

WHEREAS, in 1991, the Willamette Falls Locks was designated as a State Historic Civil Engineering Landmark by the American Society of Civil Engineers; and

WHEREAS, in 2006, Governor Kulongoski designated the Willamette Falls Locks as an Oregon Solutions project and formed the Willamette Falls Locks Oregon Solutions Task Force, which continues today as the One Willamette River Coalition, coordinated by the Willamette Falls Heritage Foundation, to preserve the Locks and support its continued operation; and

WHEREAS, Clackamas County is an active member of the One Willamette River Coalition, which represents a partnership of businesses, local governments, and nonprofit organizations working to ensure the Locks remain functional as a connector for the otherwise separate waterways of the Upper and Lower Willamette River; and

WHEREAS, on October 23, 2008, the Center for Economic Development Education and Research released a report under contract to the Willamette Falls Heritage Foundation, entitled *The Willamette Falls Locks: A Case Study Analysis of Potential Transfer Issues*; and

WHEREAS, from 2006 through 2010, funding provided to the Corps from the Oregon Department of Transportation, Clackamas County, and the U.S. Congress allowed for seasonal operations and selected structural upgrades, including \$2.2 million in funds from the American Recovery and Reinvestment Act of 2009 (PL 111-5); and

WHEREAS, in November, 2011, the Willamette Falls Locks were placed into "non-operational" status and on short notice were closed to vessel passage based upon an engineering assessment that identified safety concerns of potential failure; and

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

A Resolution in the Matter
of Reopening the Willamette Falls Locks



Resolution No. 2014 - 124
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WHEREAS, closure has placed a severe hardship on commercial, recreational, and tribal river users, including businesses which have used the Willamette Falls Locks for 127 years for transporting aggregate, logs, and other goods and conducting dredging and towing operations; and

WHEREAS, in March 2012, the National Trust for Historic Preservation declared the Willamette Falls Locks as one of the most threatened National Treasures, thereby providing added technical assistance; and

WHEREAS, in 2012, the Historic Preservation League of Oregon (now Restore Oregon) named the Willamette Falls Locks as one of its 10 "Most Endangered Places"; and

WHEREAS, the Locks are a primary historic asset under applications being prepared for designation of the area at the Willamette Falls as State and National Heritage Areas; and

WHEREAS, on September 23, 2013, the Corps of Engineers gave notice of their intent to initiate a public consultation process under Section 106 of the National Historic Preservation Act to determine whether the closure action had adverse effects on the historic integrity of the Locks based upon the defining qualities and features that made the Locks eligible for listing on the National Register of Historic Places; and

WHEREAS, on May 15, 2014, the Corps of Engineers released their finding of historic adverse effects under Section 106 of the Historic Preservation Act and announced their intent to proceed with development of an agreement to establish how to best "avoid, minimize or mitigate" the identified adverse effect to the historic character of the Locks; and

WHEREAS, on September 30, 2014, the economics consulting firm ECONorthwest, under contract to the Willamette Falls Heritage Foundation, published the *Willamette Locks Potential Report*, providing information on potential operating costs and community benefits of reopening the Locks; and

WHEREAS, Clackamas County has supported funding for the Locks through its federal legislative agenda and has also contributed funding toward the *Willamette Locks Economic Potential Report* conducted by ECONorthwest.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

A Resolution in the Matter
of Reopening the Willamette Falls Locks



Resolution No. 2014- 124
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**NOW THEREFORE, the Clackamas County Board of County Commissioners do hereby
resolve as follows:**

1. Clackamas County urges the Corps of Engineers to reopen the Willamette Falls Locks to general public commercial, recreational, and cultural marine traffic.
2. Clackamas County thanks the Corps of Engineers for working with local stakeholders to assess and mitigate the adverse effects of the closure and urges the Corps of Engineers to expedite the needed repairs and craft a plan for sustainable operations of the Locks.
3. Clackamas County supports recognition of the Willamette Falls Locks in the Regional Transportation Plan and inclusion of the Willamette Falls Locks as a Metro Joint Policy Advisory Committee on Transportation (JPACT) federal priority.
4. Clackamas County supports creation of a State Task Force to work with the Corps of Engineers to develop a plan for sustainable operations of the Willamette Falls Locks.
5. Clackamas County urges the Oregon Congressional delegation to support the expedited repair and reopening of the Willamette Falls Locks.

DATED this 18th day of December, 2014

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary