

**PROGRAMMATIC AGREEMENT**  
among the  
**IDAHO PANHANDLE NATIONAL FORESTS**  
and  
the **IDAHO STATE HISTORIC PRESERVATION OFFICE**  
regarding  
**RECREATION RESIDENCE MANAGEMENT**  
**ON THE IDAHO PANHANDLE NATIONAL FORESTS**

**WHEREAS**, the USDA Forest Service, Idaho Panhandle Forests (IPNF) is responsible for the management of fourteen recreation residence tracts in the Coeur d'Alene River, Priest Lake, St. Joe River, and Sandpoint Ranger Districts in Bonner, Kootenai, and Shoshone Counties, Idaho. The residences in these tracts are privately owned cabins situated on public lands under the authority of the Occupancy Permits Act of 1915 (16 U.S.C. 497); and

**WHEREAS**, the IPNF has completed an initial historic inventory and determinations of eligibility of recreation residence tracts, lots and all associated buildings and structures in the IPNF Recreation Residence areas and found that recreation residence tracts included in these areas are eligible for listing on the National Register of Historic Places (NRHP) as a historic district; and

**WHEREAS**, the IPNF has prepared a narrative historic context and all the necessary supporting documentation to assess the potential for most adverse effects that may be expected to result from modification of the historic structures that contribute to the historic character and other qualities that make the tracts eligible for listing on the NRHP; and

**WHEREAS**, the IPNF has determined that actions associated with management of permitted recreation residences may have an effect upon properties included in or eligible for inclusion in the NRHP, and has consulted with the Advisory Council on Historic Preservation (ACHP), who has declined to participate in consultation, the Idaho State Historic Preservation Officer (SHPO), and appropriate Users Association pursuant to Section 800.14 of the regulations (36 CFR 800) implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470); and

**WHEREAS**, the IPNF has determined that recreation residence tracts, lots and structures eligible to the National Register of Historic Places should be managed as historic districts and individual lots following the Secretary of Interior's *Standards and For the Treatment of Historic Properties (36 CFR 68)* to identify and evaluate potential effects to the historic district, buildings, and structures;

**WHEREAS**, Tracts, lots and individual structures that are formally determined not eligible to the National Register of Historic Places following 36 CFR 800.4[c] will be managed according to the IPNF Recreation Residence Standards and Guidelines that regulate development of the IPNF Recreation Residence Tracts; and

**NOW, THEREFORE**, the IPNF and the SHPO agree that recreation residence management on the IPNF shall be performed in accordance with the following stipulations to satisfy the IPNF's Section 106 responsibility for all individual undertakings of the program.

## STIPULATIONS

The IPNF will ensure that the following measures are carried out in the course of recreation residence management on the IPNF:

### I. Principles

The following principles will guide the implementation of this Programmatic Agreement (PA):

- A. This PA is limited in scope to those undertakings that may affect the historic character of recreation residence tracts and individually eligible lots on the IPNF.
- B. All undertakings considered under the terms of this PA will be consistent with the Secretary of Interior's *Standards for the Treatment of Historic Properties (36 CFR 68)* for recreation residence management on the IPNF, unless properties are formally determined ineligible to the National Register of Historic Places following the standards set forth in 36 CFR 800.4[c].
- C. Under the terms of this PA:
  1. Adverse Effect will result from undertakings that affect, directly or indirectly, any of the characteristics (location, design, setting, materials, workmanship, feeling, or association) that qualify the historic district and/or property for inclusion in the National Register.
  2. No Adverse Effect will result when undertakings meet the Secretary of Interior's *Standards for the Treatment of Historic Properties (36 CFR 68)*, and the historic character of the recreation residence tracts, lots, or residences is maintained.
  3. No Effect will result when no character defining features of contributing properties are affected by the proposed undertaking, and the overall historic character of the district remains unaffected by the proposed undertaking.
  4. Undertaking is a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal Agency, including those carried out by or on behalf of a Federal Agency; those carried out with Federal financial assistance; those requiring a Federal permit, license or approval.
  5. In-kind replacement is the replacement of new materials that match, exactly, the existing materials, scale, dimensions, texture and color of existing improvements.
  6. The IPNF has completed all the necessary documentation to assess the potential for most adverse effects to the historic character of the recreation residence tracts.

### II. Implementation

- A. The IPNF shall implement the terms of this PA using the review process described below:
  1. District Ranger will review for consistency with IPNF Recreation Residence Standards and Guidelines (Attachment A). If the proposal is not consistent, the proposal will not be approved.
  2. The following tracts are managed by the assigned District Rangers:
    - a. The Coeur d'Alene River District Ranger manages the Hayden Lake (Rockaway Beach) and Killarney Lake Tracts;
    - b. The Priest Lake District Ranger manages the Fish Bay, Ledgewood Bay, Luby Bay, Neopit, Neopit View, Osprey, Outlet, Promontory, and Shoshone Bay Tracts;
    - c. The Sandpoint District Ranger manages the Garfield Bay Tract; and
    - d. The St. Joe River District Ranger manages the Bird Creek and Bootleg Creek Tracts.

3. If the proposal is consistent with the Standards and Guidelines, then the District Ranger will review the proposal and determine if it is a Heritage Program Leader (HPL) screened, DR approved, interior, or minor maintenance undertaking as described in Attachment B.
  - a. All undertakings not specifically listed in Attachment B will be referred to the HPL, and reviewed as an HPL screened undertaking pursuant to item II.A.3.C, below.
  - b. The District Ranger will approve and document for the permit folders and annual report of DR approved undertakings.
  - c. Homeowner proposals that are HPL screened undertakings will be referred to the HPL. The HPL will determine if an adverse effect would result from the proposed undertaking.
    - 1) In the event that the HPL determines that the homeowner's proposal will have no adverse effect, the HPL will document the finding and report the finding to the DR. The DR will ensure that the homeowner's proposal is implemented as proposed.
    - 2) If the HPL finds that the homeowner's proposal will result in an adverse effect, then the HPL will contact the DR and recommend an alternative (HPL alternative) to the proposal that will result in no adverse effect.
      - a) If the proponent accepts the HPL alternative, the DR will inform the HPL and ensure the HPL alternative proposal is implemented.
      - b) If the proponent fails to accept the HPL alternative, then the HPL will document the finding of adverse effect of the homeowner's proposal and initiate consultation with the State Historic Preservation Officer (SHPO) per item II.A.5, below. The DR will inform the homeowner that approval of the homeowner's proposal is contingent upon completion of SHPO consultation on resolution of the adverse effect.
4. The DR may approve proposals for ground disturbing undertakings where individual lot data sheets for each tract listed in Attachment C note the archaeological resource does not contribute to the eligibility of the lot. Proposals for ground disturbing undertakings associated with new improvements or additions to existing improvements will be reviewed as an HPL Screened Undertaking.
5. Proposals that are found by the DR or HPL to have the potential to adversely affect the eligibility of the tract or district will be reviewed by SHPO at the time of the proposal and Section 106 compliance will be completed prior to implementation of the proposal. The IPNF will notify the ACHP of the finding of adverse effect. The IPNF will consult with the SHPO, the homeowner, and ACHP if participating, to determine an appropriate treatment plan to resolve adverse effects. Such treatment plans will be agreed to and codified in a Memorandum of Agreement following the process outlined in 36 CFR 800.6-7.
6. The DR will notify the HPL when a homeowner has implemented an unapproved undertaking. The HPL will determine if there is an adverse effect, and if so, report the situation to SHPO for consultation on the appropriate actions to resolve the adverse effect. Additional documentation may be necessary to resolve the adverse effect. The IPNF will notify the ACHP if the HPL has determined that there is an adverse effect.

7. All proposed undertakings and subsequent actions will be entered into the IPNF Annual Report for review under the terms of this PA at the end of each fiscal year.
  - a. The Annual Report will include a listing of all undertakings approved under the terms of this agreement during the previous year.
    - 1) The list will itemize all approvals by tract, lot, and Smithsonian site number or Idaho Building number, if one has been issued, otherwise the Forest Service Heritage INFRA site number will be used.
    - 2) The list will include comments regarding any objections raised by the HPL, the DR, the homeowners, and any other parties.
    - 3) Copies of any approvals will be included as part of the report documentation.
  - b. The Annual Report will include an evaluation of the effectiveness of this agreement.
- B. This PA covers four categories of undertakings described in Attachment B.
  1. Heritage Program Leader (HPL) Screened Undertakings require HPL screening to determine if an adverse effect would result from the proposed undertaking.
  2. District Ranger (DR) Approved Undertakings require DR or, as designated, Special Use Administrator approval.
  3. Interior Undertakings: Changes to the interiors of privately owned recreation residence and buildings that do not affect the exterior of the buildings or their structural integrity are exempt from further review or consultation pursuant to this PA or 36 CFR 800.
  4. Minor Maintenance Undertakings do not require approval from the HPL or DR if they are implemented pursuant to the guidance in Attachment B.

### III. Emergency Response

- A. For the purposes of this PA, the designated District Ranger (Stipulation II.A.2) is the Agency Official responsible for the determination and declaration of an emergency. If the owner of a recreation residence proposes an emergency undertaking, the Agency Official shall consider the effects in the same manner as for an Agency response to an emergency. The DR will notify the HPL immediately when the emergency arises.
- B. As provided for in 36 CFR 800.12, the Agency Official may propose an emergency undertaking in response to an immediate threat to life or property, such as, but not limited to fire, flood, wind events, or other events where immediate action is necessary to prevent additional loss to the property, such as broken water or sewer pipes or roof damage due to falling trees, etc. In such cases, the Agency Official shall consult with the HPL on the historic district and properties.
- C. If there is no effect to the historic district or properties, then the Agency Official shall document the action and the factors considered for inclusion in the annual report and proceed.
- D. If there is no adverse or adverse effect to the historic district or properties and the action is not otherwise exempted from further consultation as outlined in Attachment B, the HPL will notify the SHPO of the planned management action and any measures to protect the historic district or properties as soon as possible after the emergency is declared, but no later than two business days from the declaration. The Agency Official will consider the following guidelines during development of an emergency action plan.

1. The emergency measures will incorporate the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR 68) to the greatest extent practicable while providing for protection of life and property.
2. The Agency Official will take into consideration timely comments received by the SHPO in order to reduce or eliminate adverse effects during the emergency.
3. If the SHPO's comments can not be incorporated into the action plan during the emergency, the HPL will consult with the SHPO and the Advisory Council, if they decide to participate, to develop a post-emergency mitigation plan for any necessary stabilization or restoration of altered features within the historic district and properties. The mitigation plan will be implemented as soon as practicable after the emergency is declared over.

#### **IV. Training and IPNF Annual Review**

- A. Prior to implementation of the PA, the HPL, designated Agency Officials and implementing personnel will meet to discuss the provisions of the PA and the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR 68) in order to correctly apply the standards outlined in this document. This training will also be mandatory for any new personnel that will implement provisions of the PA prior to designation as an Agency Official.
- B. Between October 1 and December 1 of each year the HPL will meet with the designated Agency Officials and implementing personnel to review implementation of the PA and District Ranger Approved Undertakings as described in Appendix B. The results of the meeting will be used to develop the annual report and discuss improvements or changes to the PA.

#### **V. Annual Reporting**

- A. As part of this PA, the IPNF shall submit an annual report to the SHPO describing all activities carried out during the year under the provisions of this agreement during the previous fiscal year, including but not limited to a tabular listing of all activities reviewed by the District and the HPL. The annual report will be submitted concurrently with other annual reports. When the IPNF provides its report to the SHPO it will notify other interested parties of the availability of the report. The IPNF will provide copies of the report to any other interested parties at their request; provided however, that distribution of reports to parties other than the SHPO will be subject to the limitation established by Section 304 of the National Historic Preservation Act (16 U.S.C. 470W-3).
- B. The SHPO shall have 45 calendar days to review and comment on the annual report. The SHPO may request additional time for the review, however it is understood that a timely review is essential for the IPNF to incorporate any revisions into operating plans for the subsequent field season.

#### **VI. Public Involvement**

Where a historic district or property will be adversely affected by an undertaking pursuant to this PA, comments will be sought from the public as required at 36 CFR 800.6(a)(4). If individuals or organizations (e.g., neighbors, historic societies, or other Forest users) are known or have expressed an interest in the resolution of effect to a lot or tract their comments will be sought and considered in the development of the final management decision and any mitigation measures. In general, the public will be involved through the appropriate NEPA process, however, additional scoping, public outreach, meetings or other public contacts may be necessary commensurate with the public interest, significance of the effects, and limitation established by Section 304 of the National Historic Preservation Act (16 U.S.C. 470W-3).

## **VII. Dispute Resolution**

- A. Should a dispute or objection arise regarding implementation of this PA, the IPNF will consult with the disputing or objecting party, the SHPO, and other interested persons, if any, to resolve the dispute. If such consultation fails to resolve the dispute, the IPNF shall submit all relevant documentation pertaining to the dispute or objection with IPNF's proposed solution to the ACHP. Within 30 calendar days of receipt of all pertinent documentation, the ACHP will either:
  - 1. Notify the IPNF that it will consider the dispute pursuant to the applicable provisions of 36 CFR 800.6(b), and proceed to comment; or
  - 2. Provide the IPNF with recommendations, which IPNF will take into account in reaching a final decision on the matter.
- B. Failure by the ACHP to respond formally or informally with 30 calendar days shall be taken as evidence of ACHP's concurrence with the IPNF's proposal for resolution of the dispute or objection.

## **VIII. Review and Revision**

The parties to this PA shall consult on an annual basis to review the implementation of its terms, and determine whether revisions are warranted. The annual review shall be initiated by the IPNF as soon as feasible after the submission of the annual report required under Stipulation VII. The annual review shall be based on the information provided by the IPNF in the annual report, and on any additional information provided by the SHPO relevant to its terms. If any party determines that revisions are needed, the parties shall consult to consider such revisions. Any party to this PA may request that it be amended, whereupon the parties will consult in accordance with 36 CFR 800.14 to consider such amendment.

## **IX. Expiration and Termination**

This PA will expire five years from the date of the last signature. Any party to this PA may terminate it by providing 30 days written notice to the other parties, provided that the parties will consult during the period prior to the termination to seek agreement or other actions that would avoid termination prior to the date of expiration. In the event of termination, the IPNF will comply with 36 CFR 800.3-6.

## **X. NHPA Compliance**

Execution and implementation of this Programmatic Agreement evidences that the Idaho Panhandle National Forests has satisfied its Section 106 responsibilities for all individual undertakings of the IPNF Recreation Residence Management program.

## **XI. Administration**

**It is mutually agreed and understood by and between the said parties that:**

- A. This agreement in no way restricts the Forest Service or the SHPO from participating in similar activities with other public or private agencies, organizations, and individuals.
- B. Nothing in this PA shall obligate the Forest Service to expend appropriations or to enter into any contract or other obligation. Specific work projects or activities that involve the transfer of funds, services or property between the parties to this PA will require the execution of separate agreements or contracts, contingent upon the availability of funds as appropriated by the Congress. Each subsequent agreement or arrangement involving the transfer of funds,

services or property between the parties to this PA must comply with all applicable statutes and regulations, including those statutes and regulations applicable to procurement activities, and must be independently authorized by appropriate statutory authority.

- C. Any information furnished to the Forest Service under this agreement is subject to the Freedom of Information Act (5 U.S.C. 552) pursuant to the exceptions provided for in Section 304 of the NHPA and at 36 CFR 800.11(c).
- D. The principal contacts for this agreement are:

<b>Forest Service Project Contact</b>	<b>State Historic Preservation Office</b>
Stephan Matz Forest Archeologist USDA-Forest Service, Idaho Panhandle NF 3815 Schreiber Way Coeur d'Alene, ID 83815 (208) 765-7306 Fax: (208) 765-7307 Email: smatz@fs.fed.us	Mary Anne Davis Associate State Archaeologist Idaho State Historical Society 210 Main Street Boise, ID 83702 (208) 334-3847 Fax: Email: mdavis@ishs.state.id.us

- E. Modifications: If modifications, objections, and/or amendments to this agreement are needed, the parties will consult in accordance with 36 CFR § 800.14(b) to consider such amendments.
- F. Responsibilities of Parties. The Department of Agriculture, Forest Service and the Idaho State Historic Preservation Office and their respective agencies and office will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing these objectives. Each party will carry out its separate activities in a coordinated and mutually beneficial manner.
- G. Establishment of Responsibility. This PA is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the last day written below.

IDAHO PANHANDLE NATIONAL FORESTS

By: \_\_\_\_\_ Date: \_\_\_\_\_  
**RANOTTA K. MCNAIR**, Forest Supervisor

IDAHO STATE HISTORIC PRESERVATION OFFICE

By: \_\_\_\_\_ Date: \_\_\_\_\_  
**JANET GALLIMORE**, State Historic Preservation Officer



**Attachment A**

**Idaho Panhandle National Forests  
Recreation Residence Standards and Guidelines**

The most recent version of the Idaho Panhandle National Forest Recreation Residence Standards and Guidelines will be incorporated into this section as per stipulation II.A.1. The standards may be found at: [http://www.fs.fed.us/ipnf/rec/yourplace/summerhomes/general\\_info/standards\\_and\\_guidelines.pdf](http://www.fs.fed.us/ipnf/rec/yourplace/summerhomes/general_info/standards_and_guidelines.pdf)

**Attachment B**  
**Screened Undertakings**  
**for the**  
**IPNF Recreation Residence Tracts**  
Pursuant to the Programmatic Agreement among the  
Idaho Panhandle National Forests and  
the Idaho State Historic Preservation Officer  
regarding the  
Idaho Panhandle National Forests Recreation Residence Management Program

This document can be found at the following link:

[http://www.fs.fed.us/ipnf/rec/yourplace/summerhomes/ipnf\\_rec\\_res\\_pa\\_attachment\\_b.pdf](http://www.fs.fed.us/ipnf/rec/yourplace/summerhomes/ipnf_rec_res_pa_attachment_b.pdf)

**Attachment C**  
**National Historic Preservation Act Initial Review and Eligibility Determinations**  
**IPNF Recreation Residence Tracts**

Pursuant to the Programmatic Agreement among the  
Idaho Panhandle National Forests  
and

the Idaho State Historic Preservation Officer  
regarding the

Idaho Panhandle National Forests Recreation Residence Management Program

The following Attachments, housed at the IPNF Headquarters archaeological files, are incorporated by reference into Attachment C for each recreation residence tract listed below:

1. Bird Creek, St. Joe River Ranger District, Shoshone Co., Idaho
2. Bootleg Creek, St. Joe River Ranger District, Shoshone Co., Idaho
3. Fish Bay, Priest Lake Ranger District, Bonner Co., Idaho
4. Garfield Bay, Sandpoint Ranger District, Bonner Co., Idaho
5. Hayden Lake (Rockaway Beach), Coeur d'Alene River Ranger District, Kootenai Co., Idaho
6. Killarney Lake, Coeur d'Alene River Ranger District, Kootenai Co., Idaho
7. Ledgewood Bay, Priest Lake Ranger District, Bonner Co., Idaho
8. Luby Bay, Priest Lake Ranger District, Bonner Co., Idaho
9. Neopit, Priest Lake Ranger District, Bonner Co., Idaho
10. Neopit View, Priest Lake Ranger District, Bonner Co., Idaho
11. Osprey, Priest Lake Ranger District, Bonner Co., Idaho
12. Outlet, Priest Lake Ranger District, Bonner Co., Idaho
13. Promontory, Priest Lake Ranger District, Bonner Co., Idaho
14. Shoshone Bay, Priest Lake Ranger District, Bonner Co., Idaho