



Oregon

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8 January 2007

Kimberley St. Hilaire
Bonneville Power Administration
P.O. Box 3621
Portland OR 97208-3621



Re: FCRPS Draft PA

Dear Kimberley,

Having received the latest draft of the Federal Columbia River Power System (FCRPS) Programmatic Agreement (PA), and having our meeting scheduled for today to discuss our comments, I wanted to list a few of my initial questions/comments regarding this new document prior to our meeting. Specific questions regarding the draft PA are addressed below. A more general question, however, remains from our office's earlier response in that we still fail to comprehend the purpose of having such a large system-wide PA. The draft PA states that it is intended to streamline the 106 process but in actuality all it does is lays out the typical 106 process that is routinely followed in all 106 cases. No details regarding streamlining are mentioned. I find that the draft PA still offers no real substance, aside from acknowledging a willingness for the Lead Federal agencies and signatories to agree to work in the future and directs the signatories to await future PA development. As mentioned in our agency's earlier comments, Programmatic Agreements are first and foremost based on a needs basis that must be clearly defined. I fail to see any needs addressed by the current document. My comments below attempt to address questions regarding my agency's comments on the earlier draft and those regarding the current draft PA. I have just obtained a copy of a system-wide PA for the Missouri River system and in several cases will refer to it within my comments as an example of how issues could be approached differently.

Regarding resolutions to earlier comments made by our office (25 November 2005 letter):

Comment # Comment on proposed resolution

- 1 Streamlining of PA? Resolution provides no substance to address streamlining need. Resolution states that PA provides a framework for future streamlining. I see nothing more than the normal Section 106 process offered here. The PA remains very general in nature with no real substance.
- 9 Our office has still not received the Handbook for Federal agencies that was requested in 2005 (in spite of the resolution saying that it has been completed).
- 13 Resolution states that project-specific PA's will include specific minor activities exempted from consultation. I have no problem with this but than why again are we attempting to draft an over-all PA? I see no purpose in working on the current PA unless some streamlining processes or exemptions are included. Your answer to comment 1 provided no real response to this very important and legitimate question.

- 17 Our office continues to disagree with the need for the PA. The larger PA appears to offer no structure and consistency that is not inherently within the Section 106 process.

Revised PA General Comments

The initial portion of the PA includes a number of Whereas statements outlining the basis for the document. The 5th Whereas appears to state that the PA is only intended for coordinated projects between all three Lead Federal agencies. Is this what is intended or is the PA to address any projects within the river system conducted by any of the agencies (i.e., not necessarily only those coordinated)?

My specific review comments regarding PA stipulations are listed below:

<u>Stipulation</u>	<u>Page</u>	<u>Comment</u>
I-C	4	This PA is not needed to provide a mechanism for streamlining the Section 106 process. I think that is what the project-specific PAs are intended to do.
I-D	4	This is to be the key behind any PA. However, you offer no substance in this PA to address such streamlining. If you are indeed seeking system-wide consistency why not identify specific routine actions that are common throughout the 14 projects and include exemptions or methodologies for addressing such tasks in this PA? That would provide substance and meaning to this otherwise hollow document.
II-A	4-5	This entire section is a summation of general Section 106 principles and are nothing new to the process or special to this PA.
II-A2	4	“Principle causative factor”? How does one quantitatively acknowledge and measure such things? What is meant by this statement and how do the federal agencies intend to address it?
II-A5	5	“Seek to avoid or minimize adverse effects on historic properties when feasible and cost effective”? What does this statement mean to say? I would suggest eliminating the last portion of this statement and simply state that federal agencies will seek to avoid or minimize any adverse effects to historic properties.
II-A7	5	I suggest including evaluation under the list of tasks federal agencies will consult with appropriate SHPO/THPOs (e.g., identification, treatment).
II-A8	5	You mention the need and intention of defining procedures to address emergencies and inadvertent discoveries in the project-specific PAs. Isn't this something that can perhaps be addressed in this larger system-side PA and thus give it meaning and purpose?
II-B	5	Having federal agency staff who meet professional qualification standards has been a problem raised with the lead federal agencies often in the past. This statement is supported by federal law and not something new to this PA.
II-C	5-6	What is the public benefit offered through this PA. If this is indeed one of

- the intentions behind having the PA details on what types of outreach and education are being proposed are needed. Each of the components listed under this section appear to be things that will be addressed at more dam-specific project levels thus begging the question again of why the need for this PA in the first place.
- II-D 6 Consultation process should be better defined. There has been a history of poor coordination between federal agencies and tribes so this document should attempt to improve such a process by clearly defining when the 30 day review period begins (when notification is mailed out or received) and who would be notified (e.g., Tribal chairman, CR Program manager). Is consultation confined to letter writing or will there be other attempts through phone calls, visits, etc.? The Missouri PA (p4) includes the designation of PA representatives for each agency. Could this be a way of designating key contact personnel to coordinate future consultation? This PA also defines that review period begins upon receipt of consultation request and outlines pre-consultation actions and consultation guidelines, which I believe, should be adopted here.
- II-E 6 Oregon SHPO still believes that a 30 year period is too long and prefers no PA to extend over a 15 year period. You state that there will be a review of the PA every 5 years. How are you defining a review? Consultation and meeting with all signatories or simply a letter sent to suggest comment? The former is recommended.
- III. A-D 7 The definition of the APE should take into account all areas where an undertaking has the potential to effect historic properties, either directly or indirectly (including any cumulative effects).
- IV-A 7 [Second sentence] Priorities should be set in consultation with tribes and consulting parties. If Tribes choose not to sign PA this does not eliminate need for federal agencies to include them from the consultation process.
- IV-B 8-9 This section attempts to lay out a prioritization process based on data that I do not believe the federal agencies have. Do we know who owns what lands along the Columbia River? Are we aware of what sites retain scientific and cultural importance, and if so, to whom (e.g., academic community, tribes, nation-at-large)? Because of the sheer number of sites along the river's reach I do not believe that previous efforts have gathered sufficient information to have the data needed to establish the priority list as defined in the PA.
- IV-B(1b) 8 What process will be used to check on obtaining access to historic properties? This has largely been ignored by the Corps in the past who isn't aware of what lands they currently own along the Columbia. Priority also seems to be given based on accessibility rather than importance of site.
- IV-B(2b) 8 You are assuming that the importance (scientific or cultural) of an historic property is already known. Will there be any attempt to evaluate properties first so that we will have sufficient information to make this determination?
- IV-C 9 How do federal agencies propose evaluating TCPs as to their cultural

importance? Are they going to assume that they can rate tribal feelings? You are wading into sticky ground here and I would suggest caution when attempting to outline prioritization of TCPs. I would simply include that this process will be coordinated with appropriate tribal and ethnic communities and avoid any mention of the federal agencies attempting to rate them as to their importance.

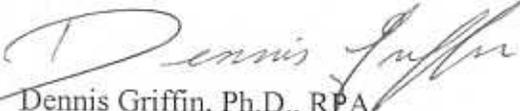
- V 10-12 Participating agencies (including federal, state and tribal) really needs to discuss what an HPMP is. Past examples have been less than worthwhile in many instances. If focus is to be placed on their construction and evaluation (& I believe this should happen) better structure needs to be provided for system-wide use. I believe the Missouri PA discussion on CRMPs provides a good example as the type of details we should include in this PA. Rather than simply mention that the issue needs to be addressed why not lay out some design and timeline fundamentals that can be used for the entire reach? All essential criteria that needs to be addressed within the river system is being put off to the project-specific PAs. If you are going to demand that a system-wide PA exists, some of these topics may be more appropriate for this larger PA. Monitoring? Inadvertent Discovery Plan? Consultation? Education programs? Signage? Curation?
- V-F(1) 11 This section focuses on "affected" areas when by law it should be including "potentially affected" areas. I believe that we should be erring on the side of caution rather than arguing about whether something is truly an effect or not.
- V-F(3) 11 The issue of prioritization of historic properties is again a sticky wicket and needs to be better defined in consultation with all parties rather than simply relying on the prioritization outline included in this PA – especially in regards to TCPs. I believe this PA is too much a product of federal agencies pulling something together rather than really consolidating input from others. More emphasis should be placed on modeling existing PAs such as Missouri's.
- V-F(4) 11 Previous discussions with other FERC dam related projects (e.g., Hells Canyon) has shown that defining a process for determining what is an effect of an undertaking and what is due to other factors (e.g., periodic flooding, storm damage) is an extremely difficult and contentious one to make.
- VI 12 System-wide research design: While this may sound like a laudable task, and may be easy to conceptualize when addressing above-ground historic resources, what type of archaeological research questions can realistically be posed that would be appropriate for the entire reach? None but the most general and not very noteworthy topics come to mind. The system crosses major topographic and cultural borders and has more differences rather than commonality over time. How does one complete a research design to address TCPs? If you want to use this to focus on historic development I can see merit in such an approach but it should be more clearly defined as such.

- VI-C 13 Review of the Missouri PA (p15) is conducted on an annual basis. Here you are proposing every 5 years and the system-wide research design be reviewed every 10. The way staff changes appear to affect all participating agencies I would think we should be stressing the need for more frequent review rather than less.
- VII-A 13 What is the purpose behind compiling an annual report? To provide tables of acres surveyed and sites recorded or to address issues that are found to be affecting historic properties throughout the system and the methods employed (successfully or unsuccessfully) to address their identification, evaluation, enhancement, monitoring, and/or protection? I think both have their place but believe that we need to get beyond a simple compilation of tabular data and begin to focus on what we are trying to accomplish. If we simply list numbers in tables we will never achieve a sense of accomplishment nor benefit from other's experiences. That is what we have been trying to address at the annual FCRPS meetings but have yet to find an effective method of distilling the process for such a large area affecting so many different agencies and tribes. This though is what we should be focusing on! What are the adverse effects to historic properties along the river system and how are we addressing them? In what ways should our approach be changed or modified?
- VII-C 14 Here is mention of the Handbook on consultation procedures that our office requested a copy of in our earlier comments. We would still like to obtain a copy for review and information.
- VIII-B 14 Consultation between consulting agencies and tribes should be different. Your relationship to them is on a government-to-government basis and should be discussed separately from that with other consulting agencies. This is mentioned later on page 15 but it should be clarified in the beginning of the section.
- VIII-B 15 (1st full sentence) An exception is definition I think you mean that an exception to the consultation process with consulting parties is how it deals with procurement implementation. This should be clarified. It is confusing as written.

In summary, I regret that I find that the need for a system-wide PA is still not adequately addressed and that the current PA offers little of value. If a system-wide PA is needed some streamlining of processes should be included to provide it merit rather than simply a regurgitation of normal Section 106 procedures. If the focus on any noteworthy discussion is to be put off until the design of project-specific PAs then that is where our efforts should be placed and not on attempting to push through a larger PA that serves no real purpose.

If you have any questions regarding any of the above comments or would like additional information from our office concerning my review, feel free to contact me at your convenience.

Sincerely,

A handwritten signature in cursive script that reads "Dennis Griffin". The signature is written in dark ink and is positioned above the typed name.

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cc. Roger Roper, OR SHPO
Sarah Jalving, OR SHPO