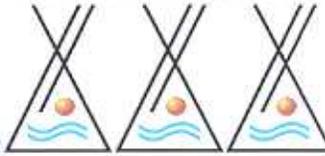


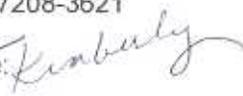
THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON



Warm Springs, Oregon 97761 / (541) 553-2001/2002

January 26, 2007

Kimberly St. Hilaire
Cultural Resource Manager
Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

Dear Ms. St. Hilaire: 

This letter is in response to the October 4, 2006 DRAFT Federal Columbia River Power System (FCRPS) Programmatic Agreement (PA) request for comments. First I would like to thank the U.S. Army Corps of Engineers (USACE), Bonneville Power Administration (BPA), and the Bureau of Reclamation (BOR) (the Agencies) for hosting the technical consultation meeting in Richland, Washington on December 13, 2006. The meeting proved to be a positive experience and helped define the perspectives of all parties in attendance. Again, I thank the Agencies and commend you all on your hard work.

As the cultural resource technical representative for the Confederated Tribes of the Warm Springs Reservation of Oregon (CTWSRO) I have reviewed the FCRPS PA draft and would like to provide comment as to the content of the document. Due to the complexity of this document and as a result of the December meeting where the Agencies stated that sections within the PA would need additional rewording and possible rewrite, I will refrain here from a line by line response. In addition, I do not wish to belabor the terminology utilized within the PA; however, I would like to make suggestions and comments that I feel, when answered, may help to further clarify the Agencies position. I would also like to have the opportunity to discuss specifics in another face-to-face technical meeting with the affected tribes and parties with the Agencies to review the document in detail, either the current document, or dependent on the language and content, the next draft.

A main concern is what the real intent of this PA is. Please let me make it clear that we understand that there are three diverse Agencies with three distinct missions and that there is a need to define each Agency's role and responsibility under the National Historic Preservation Act (NHPA) as it pertains to section 106; however, in our opinion the document says nothing more than we, the Agencies, are going to follow the section 106 process as it pertains to the defined *undertaking* and if it doesn't pertain to the *undertaking* each lead federal land manager will conduct their 106 responsibility separately from the FCRPS responsibility. Thus, the document is general in nature and doesn't describe if there is a delegation of authority from the Lead Federal Agencies down to the Project or District levels. This document, also, does not define an area of potential effect (APE). The Agencies leave this up to the individual Project Cooperating Working Groups to later define.

As stated in my January 17, 2006 comment letter, a system-wide PA should include those stipulations that are pertinent to the project as a whole, in this case the multi-state component of 36 CFR 800 § 800.14(b)(1)(i) is applicable. This should be a simple process defining those roles and responsibilities of the federal agencies with jurisdiction over the undertaking; the roles of signatory parties should be defined and included in the decision making process of the FCRPS as an undertaking that will affect those parties. This office believes that this is still not clearly defined within the Draft PA as it is currently written. The document could be much simpler by clearly defining roles and responsibilities and combining sections. Therefore, I would like to discuss those items that we feel are not clearly defined, are missing, or may be unnecessary.

1. How will the three Agencies be *identifying* cultural resources? There is mention that within each Project individual PAs or Historic Properties Management Plans (HPMP) will be developed that will define the area of potential effect (APE), but there appears to be no delegation of authority to the individual Projects as the responsible party for compliance with section 106 of the NHPA?

If the intent is to have the delegation of authority on specific items, such as the Project PAs or HPMPs, which includes the APE, determination of eligibility, etc., state that in one location. This would include Stipulations III A, B, C, and D; IV A, B, C, and D; V A, B, C, and D,

2. *Accountability* – who is accountable for the actions under section 106 for the FCRPS? There is a general discussion of the three Lead Agencies – but what is the measure of their performance to section 106 compliance and who's performance is being measured?

3. *Responsibility* – who is responsible for section 106 compliance? How are the Agencies planning on meeting these responsibilities? Will there be a specific agency official that is responsible for the FCRPS 106 compliance who has specific responsibilities in his or her position description and performance standards?

For example: under Stipulation V. A. of the PA the Lead Federal Agencies will meet their section 106 responsibilities in any of three ways...; however, it is unclear as to who and in what capacity they are meeting their responsibilities. It is also unclear if the intent is to delegate the authority to the Project or District level.

4. *Stipulation VI. System-wide Research Design.* Understanding that there is a need for research objectives we do not feel that this is an appropriate course of action for this PA. First, the FCRPS system spans four states where a variety of geologic events have shaped the landscape creating major topographical differences. In addition there were and still are diverse cultural groups along the reach. A research design of this magnitude is overwhelming at best, there are so many differing factors that it would be a daunting task to compose research questions that would have any validity throughout the entire system. Additionally, and more importantly, this is a PA where Tribes are signatories because of their close relationship with the Columbia River system and the specific resources that are covered under the NHPA. We believe that asking to conduct a research design, which undoubtedly would include some form of defining Native cultures through the archaeological record, is not a very respectful and well thought out topic for this PA.

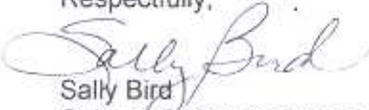
It is understood that during the December 12 and 13, 2006 meetings some tribes indicated that they would be willing to work within the parameters of a research design. With this in mind I suggest that research designs should be discussed at the Cooperating Working Group level and if it is determined that research is a reasonable avenue then this could be created at that venue. Taking it in smaller steps, defined research objectives based on region may allow for a larger review of the entire system and how the divergent groups historically co-existed. This is manageable benchmark that may provide a more comprehensive overview of the reach over time.

5. *Stipulation VIII. Consultation and Coordination.* This should have more of a tone of cooperation – instead the very first sentence states that the "Lead Federal Agencies retain final decision making authority..."; this tone does not indicate a cooperative view. It is clearly understood that the Agencies have the final decision making authority and, thus, there is no need to mention it within the PA. Furthermore, the way the section is written implies that there is no coordination or cooperation within the PA; though I don't think this is the intent.

What I would like to suggest, which I feel could make this a stronger section and would emulate consultation and coordination, is to include a good faith effort to include all parties within the PA process. Meaning, once the PA is signed there should be some mechanism to determine if this PA is meeting the needs of all the signatories not just the Agencies. I have found no mention of working with the signatories of this PA, which include Tribal, Federal, and State representatives, to discuss the compliance process and whether or not it is being met. Instead under *Stipulation X* the Agencies will review the PA every five years to insure that it remains relevant, this does not meet a cooperative agreement between signatories.

The WanaPa Koot Koot Cooperating Group has always been an exchange of ideas, working towards ensuring protection to resources that are important to Tribal communities, as well as the American public. As stated earlier the comments listed within this document are general and that in the spirit of this Cooperative Group it would be beneficial to the FCRPS process to have a second meeting with all affected parties to work through the document in a meaningful productive manner. At that time additional comments can be made and through cooperation and consultation, I believe a workable, meaningful PA could be created in very short order. Additionally, I would also like to stress that the benefit to an open and clear dialog early in the process for such a massive undertaking with such diverse groups is one that should be considered in the future for this specific document as well as like documents.

Respectfully,


Sally Bird
Cultural Resource Manager

cc: Robert Brunoe, CTWSRO GM Natural Resources
and Tribal Historic Preservation Officer
Johnson Meninick, YN, Cultural Resource Manager
Kate Valdez, YN, Tribal Historic Preservation Officer
Teara Farrow, CTUIR, Cultural Resource Manager
Carey Miller, CTUIR, Tribal Historic Preservation Officer
Vera Sonneck, Nez Perce Tribe, Cultural Resource Manager
Kevin Cannel, Nez Perce Tribe, Tribal Historic Preservation Officer
Rex Buck, Wanapum Band
Camille Pleasants, Colville Confederated Tribes,
Tribal Historic Preservation Officer
Marcia Pablo, Confederated Salish and Kootenai Tribes
Randy Abrahamson, Spokane Tribe
Kevin Lyons, Kalispell
Dennis Griffin, Oregon State Historic Preservation Office
Direlle Calica, Native American Liaison, USACE Northwest Division
Gail Celmer, USACE Northwest Division
Lynn MacDonald, U.S. Bureau of Reclamation
Chuck James, Area Archaeologist, Bureau of Indian Affairs