

Consolidated Written Comments on October 2006 Draft FCRPS PA					
Com ment No.	Date	Page & Stipulation No.	Comment	Name	Resolution
1	12/8/2006	Intro. letter, para. 2	Remove qualifiers such as "may" threaten sites and "have the potential" to adversely affect historic properties and use clear language.	Michael Marchand, Colville Business Council	See Whereas #6, which states the "undertaking has caused, is causing, and shall cause in the future direct, indirect, and cumulative effects...."
2	12/8/2006	Intro. letter, title of PA and PA itself	Various aspects of the PA and intro letter imply that the PA is an agency agreement and omits role of tribes. The ROD from the System Operation Review and the agencies' Native American policies mandate a cooperative process for cultural resources management.	Michael Marchand, Colville Business Council	Agencies fully acknowledge the role of tribes and THPOs as consulting parties. Newly added Whereas, clauses #10 & #14 also describe the importance of tribal and THPO contributions.
3	12/8/2006	Entire PA	Development of cultural resources management along the Columbia River has been overlooked. Tribes have emphasized the extent and significance of their losses and have contributed significant effort, yet tribes remain marginalized in the implementation process.	Michael Marchand, Colville Business Council	Agencies fully intend to involve tribes in implementation of this PA. See revised Stipulations IX.B and IX.C.
4	12/8/2006	General	Some agencies exhibit a lack of continuity in personnel and policy and little cultural understanding.	Michael Marchand, Colville Business Council	The agencies also recognize the importance of continuity in personnel and policy. Effective communication between all parties and dissemination of information should aid with related potential problems. See Stipulation IX.B which discusses communication between the Lead Federal Agencies and the Consulting Parties.
5	12/8/2006	General	The fed government has not spent enough money on cultural resource programs-- less than 10% of Grand Coulee Dam payment and less than 100 mill over the last 70 yrs.	Michael Marchand, Colville Business Council	This PA does not address funding for cultural resource management activities, but involves prioritization criteria which help determine how available funds are spent. See Stipulation IV. Consulting parties will participate in the prioritization process.
6	12/8/2006	General: page 3, 5 (#5), & 8 (last bullet)	Loophole statements in PA, i.e. "if feasible and cost effective"-- Agencies are not fulfilling their section 106 responsibilities when they use such loophole language. Who determines feasibility and cost effectiveness? How are feasibility and cost effectiveness determined?	Michael Marchand, Colville Business Council	"Feasible and cost effective" was deleted from Stipulation II.A.6.
7	12/8/2006	Title	Why is this version of the PA the "final draft" ? This indicates the next version will be signed regardless of comments from participants other than lead agencies.	Michael Marchand, Colville Business Council	Despite the use of "final draft," we produced another draft version of the PA, dated 9/10/07, and now are distributing the 1/31/08 draft PA, in response to comments.
8	12/8/2006	Title	All regulatory authorities should be listed in the title including THPOs for tribes with lands in the APE.	Michael Marchand, Colville Business Council	Due to the length of the title, we have moved the names of all involved parties, including THPOs, to Whereas #11.

9	12/8/2006	APE	Why aren't transmission lines included?	Michael Marchand, Colville Business Council	Transmission of power by BPA is not part of the Operation & Maintenance of the FCRPS hydropower projects, and is therefore not part of the undertaking covered by this PA.
10	12/8/2006	6th Whereas	Change "the undertaking causes or may cause direct or indirect adverse effects" to "the undertaking causes direct or indirect adverse effects."	Michael Marchand, Colville Business Council	We changed the language in Whereas #6 to "the undertaking has caused, is causing, and shall cause in the future direct, indirect, and cumulative effects..."
11	12/8/2006	II.A	Needs to stipulate (specify?) cooperating group.	Michael Marchand, Colville Business Council	Stipulation II.B was added to address this comment . It states that "...Cooperating Groups serve as the primary forum for communication and coordination with the Lead Federal Agencies about implementation of matters covered in this PA."
12	12/8/2006	II.A.2	First sentence should read, "Develop a mechanism for prioritizing <i>background research</i> , identification, evaluation, <i>identification of impacts</i> and treatments..." Italicized portions added to more accurately reflect the section 106 process.	Michael Marchand, Colville Business Council	Stipulation IV discusses prioritization for identification, evaluation, and treatment. "Background research" is considered part of the identification process, and "identification of impacts" part of the assessment of the undertaking's effects.
13	12/8/2006	II.A.2	Who determines whether the undertaking "contributes" to or is the "principal cause" of an adverse impact? Answer should include consultation and the Cooperating Groups.	Michael Marchand, Colville Business Council	Stipulation III.E.2 states that where there is uncertainty as to the sources of the effects, "Lead Federal Agencies shall discuss the uncertainty and options for resolving it with the consulting parties at the Project level."
14	12/8/2006	II.A.3	Please clarify why inventory is replaced with prioritization.	Michael Marchand, Colville Business Council	Prioritization is a process to aid in planning work during inventory, evaluation, and treatment phases of investigation. It is not a replacement for any of those actions. Prioritization of areas for inventory, as well as site evaluation and treatment prioritization, will be done with input from Cooperating Groups.
15	12/8/2006	II.A.4	Please include reference to either or both the Records of Decision and Cooperating Group.	Michael Marchand, Colville Business Council	Stipulation IV.A states that Cooperating Groups do play a role in prioritization.
16	12/8/2006	II.A.5	Who determines if an action is "cost effective"? Answer should include consultation and the Cooperating Groups.	Michael Marchand, Colville Business Council	Stipulation IV.A states that the "Lead Federal Agencies shall determine priorities for identification, evaluation, and treatment activities through discussion with Cooperating Groups." Cost would be a factor considered during the prioritization process.
17	12/8/2006	II.A.6	Please include reference to Cooperating Groups.	Michael Marchand, Colville Business Council	Stipulation II.B was revised specifically to address the role of Cooperating Groups. Stipulation VII.C also now states that a "Systemwide Research Design shall be prepared with input and assistance from the Cooperating Groups and consulting parties."

18	12/8/2006	III.B	Be cautious not to relieve other agencies of their responsibilities, i.e., a PUD suggested many impacts of their undertaking are the direct result of the Grand Coulee Dam operations.	Michael Marchand, Colville Business Council	We agree. However, the process of determining responsibility for causing effects will need to consider actions of all potential parties that may contribute to effects.
19	12/8/2006	IV.A first bullet	What is meant by "nature" of historic properties?	Michael Marchand, Colville Business Council	The word "nature" was replaced with "type." (Now Stipulation IV.B)
20	12/8/2006	IV.A second & third bullet	Statements appear redundant: "the extent to which potential effects on an historic property are the result of the undertaking" "the magnitude and nature of potential effects on historic properties caused by the undertaking"	Michael Marchand, Colville Business Council	We agree, so we deleted "the magnitude and nature of potential effects on historic properties caused by the undertaking."
21	12/8/2006	IV.B	First sentence should read, "...further discussion with interested parties <i>and as prioritized by the Cooperating Groups</i> in development of the Project-specific PAs or HPMPs." Italicized portions added to more accurately reflect the ROD from the System Operation Review and the agencies' Native American policies.	Michael Marchand, Colville Business Council	Stipulation IV on prioritization has been revised in response to comments. This section now states that priorities shall be determined "through discussion with Cooperating Groups..."
22	12/8/2006	IV.B.1(b)	Please define "unrestricted." Unrestricted access may not be necessary to do background research, inventory, evaluation, impact analysis or mitigation.	Michael Marchand, Colville Business Council	The term "unrestricted" was deleted, and Stipulation IV.C now states that "the agencies shall make a good faith effort to negotiate the necessary access." It further states "terms of access may vary" depending on the types of activity.
23	12/8/2006	IV.B.1(c), V.B.2(c), IV.B.3(c), IV.B.4(c)	There is no "public" access to collections. Please end sentence with "...allow for <i>use of the collection according to 36 CFR Part 79.10.</i> " Italicized portions added to more accurately reflect appropriate laws.	Michael Marchand, Colville Business Council	The phrase "public access to collections" was deleted and the regulatory citation was added to Stipulation IV.B. The citation is also found in Stipulation II.D.4.
24	12/8/2006	IV.C	Explain in greater detail [TCP section]. Spell out as in previous section.	Michael Marchand, Colville Business Council	The PA was revised to add a new Stipulation V, which clarifies commitments to identify evaluate, and treat TCPs.
25	12/8/2006	IV.D	Will there be times when the Lead Federal Agencies hold easements that do not require fee-title holder consent or authorization? Perhaps the statement should be modified to include acknowledgement of provisions in easements.	Michael Marchand, Colville Business Council	Language within specific easement documents would need to be reviewed to determine if consent from the fee-title holder would be required before a location could be accessed. Stipulation IV.C was changed to state that the Lead Federal Agencies will make a good faith effort to negotiate the necessary access from the fee-title holder.
26	12/8/2006	V.D	Please clarify when project-specific PAs or HPMPs must be completed and that they be reviewed or renewed whenever the systemwide PA is amended.	Michael Marchand, Colville Business Council	See schedule in Attachment 2. It does not mandate completion of PAs or HPMPs by specific dates to allow flexibility in case consultation processes require more time than expected. If the Systemwide PA was amended the Lead Federal Agencies would review existing PAs and HPMPs within 6 months of the new effective date (see Stipulation VI.E).

27	12/8/2006	VI.B	This PA does not include "professional researchers," replace with "Cooperating Groups." If it's the Lead Fed Agencies' intent to address their obligations to the general public, this is not the appropriate instrument.	Michael Marchand, Colville Business Council	Revisions were made to Stipulation VII.C so it now includes input from Consulting Parties and interested members of the public. The term "professional researchers" is no longer used.
28	12/8/2006	VIII.B footnote	This is the first mention of the role of the cooperating groups. It should be stated near the beginning of the document.	Michael Marchand, Colville Business Council	The role of Cooperating Groups is now incorporated into Stipulations I, II, IV, the new Stipulation V, and in VI, VII, VIII and IX. It is most fully discussed in Stipulation IX.B.
29	12/8/2006	VIII first sentence	Replace first sentence with wording consistent with 36 CFR Part 800.2, i.e. <i>While the Lead Federal Agencies have a statutory obligation to fulfill the requirements of section 106 and take legal and financial responsibility for compliance relating to the undertaking...</i>	Michael Marchand, Colville Business Council	The 7th Whereas states "the Lead Federal Agencies are responsible for taking into account the effects of the undertaking" and that they have documented their intent to "address adverse effects."
30	12/8/2006	VIII.B.1&2	Please insert "recommendations" into the list of Cooperating Group responsibilities.	Michael Marchand, Colville Business Council	"Recommendations" was added at IX.C.1.f.
31	12/8/2006	VIII.B last sentence	Please rephrase to, "The Lead Federal Agencies <i>remain responsible for all required findings and determinations</i> recommended by the Cooperating Groups. Italicized portions replace previous language to reflect more accurately the section 106 process.	Michael Marchand, Colville Business Council	We removed this sentence from the Stipulation (now IX.B).
32	12/8/2006	VIII.E	Remove "...and the interested public" from the participant list. These meetings reveal site locations, sensitive cultural details, and privileged contract information.	Michael Marchand, Colville Business Council	To address confidentiality concerns, we added the following language to Stipulation IX.G: "The meeting shall be open to consulting parties and interested members of the public to the extent that sensitive information (per Stipulation II.E) is protected (for example, through redacted publications, or open and closed sessions)."
33	12/8/2006	XI.A	Conflict resolution is left in the hands of the Lead Fed. Agencies, which does not comply with the ACHP recommendation. Do the Lead Fed. Agencies believe tribes will find it in their sovereign interest, find that the agencies are fulfilling their trust responsibilities, or believe the agencies are complying with the ROD and agency Native American policy if the tribes allow all final arbitration to be dictated by the Lead Fed. Agencies? A better mediation device needs to be incorporated into the PA.	Michael Marchand, Colville Business Council	Stipulation XII.A. states that agencies "shall attempt in good faith to resolve any disputes arising out of or relating to this PA through informal discussions." If no agreement can be reached, ACHP involvement can be requested to aid dispute resolution.
34	12/8/2006	XI.A.5, XI.B, XI.C	Replace "decision" with "determination."	Michael Marchand, Colville Business Council	Agencies would provide a written rationale for any "decisions" or "determinations" rendered. The use of both these terms was retained in the PA.
35	12/8/2006	XI.F first sentence	Typo--insert "of" to read: more <i>of</i> the Lead Federal Agencies...	Michael Marchand, Colville Business Council	Thank you for identifying the typo.
36	1/19/2007	I.A	Concur with general purpose statement	Kalispel Tribe	Thank you for your concurrence.

37	1/19/2007	I.B	Stipulation II.A(2) indicates that the Lead Federal Agencies seek to limit their section 106 exposure to "...for effects of their undertaking throughout the APE commensurate with the extent that their undertaking causes the effect." If the undertaking is the principal cause of the exposure of Native American graves within the APE and/or the principal contributor to the culturally enriched sediments being looted, then the FCRPS program is subject to contributory negligence. It is therefore reasonable and consistent with the best practice of law and resource management that the PA adequately redress the Lead Federal Agencies' proportional liabilities relative to the hopefully rare ARPA and NAGPRA events that may occur in the next 30 years. Stipulation I.B is deficient and needs to be corrected; without such a correction the Kalispel Tribe of Indians shall not sign this agreement and it shall encourage its peers to similarly abstain from concurring with this agreement.	Kalispel Tribe	This PA is prepared specifically to address the requirements of Section 106 of the National Historic Preservation Act. However, the Lead Federal Agencies fully recognize their responsibilities under other statutes. Please see Whereas #8, which states that "...because this PA addresses Section 106 NHPA compliance activities, compliance activities pursuant to other Federal statutes shall continue to be addressed separately commensurate with agency responsibilities and consistent with agency funding agreements." Also note Attachment 4, which states HPMPs prepared under the terms of this Systemwide PA "... may also include, as appropriate, relevant Lead Federal Agency commitments pursuant to other resource management requirements, including, for example, Section 110 of the NHPA, the Archaeological Resources Protection Act, and Section 3(d) of the Native American Graves Protection and Repatriation Act addressing inadvertent discovery or intentional excavation."
38	1/19/2007	I.C	add "or" after each subsection.	Kalispel Tribe	Thank you for the edit. This section has been revised.
39	1/19/2007	I.C	Concurs that Stipulation I.C(1)-C(4) may be legal and permissible alternatives to defined regulatory compliance; yet, strongly recommend that subpart C(4) be used in the rarest of occasions and with full consultation with the affected parties. Piecemeal management of a resource is the least desirable of stratagems and an approach most likely to be challenged by affected parties and judicially reversed. Case-by-case management fails to consider cumulative effects, often fails to consider indirect effects, and may constitute periodic unequal protection under the	Kalispel Tribe	The decision to not use this Systemwide PA for an activity or class of activities will be discussed with the relevant Cooperating Groups and notice will be provided to affected tribes, SHPOs, THPOs, and any affected land managing agencies, and their views will be considered before making a decision (Stipulation I.E).
40	1/19/2007	I.C	Stipulation I.C(2) may be permissible should both an "opt-out" and dispute resolution clause be encoded in an administrative agreement between affected parties. HPMP typically are without such mechanisms therefore cannot be seen as an equivalent document as a project specific PA.	Kalispel Tribe	If a Stand-alone HPMP is used, it will need to meet all the requirements of a Project PA (Stipulation VI.B and VI.C), and would be implemented using a letter signed by agency managers and consulting parties appropriate to the Project (Stipulation VI.D).

41	1/19/2007	II.A.2	Proportional liability of adverse effects may be a reasonable limiting variable to define; yet, be mindful that there are "keystone" and "cornerstone" effects. A keystone effect is one that follows a basal environmental/historical condition wherein limitations can be reasonably assessed. A cornerstone effect, however, predates other peer and/or derivative effects to a landform, then the project has a foreseeable and direct effect upon the remaining 80 percent of overburden. It is then immaterial that the overburden is overgrazed at the same time by a third party. Interestingly, seeking to define proportional liability raises the following questions; what are the baseline data that shall be used to calculate that liability? If a proportional liability doctrine is both legal and acceptable within the region (doubtful) how then shall the Lead Federal Agencies mitigate for widespread albeit "minor" effects? Remember 36 CFR 800.1(a) does not stipulate that there are degrees of effect that an agency can dismiss. Will "keystone"project induced effects of small quantity be "banked" and credited towards other off site mitigations? If so, how and who administers the mitigation	Kalispel Tribe	The agencies take responsibility for direct, indirect and cumulative effects. See 4th bullet in Stipulation IV.B, which states that one of the factors to consider in prioritization is the "extent to which known or potential effects on an identified property are or would be the result of the undertaking (causal links)." We agree that determining proportional liability may be a difficult at some Projects, and intend to determine the source of effects to the best of our ability. See Stipulation III.E.2, "When attribution of effects cannot be readily determined with the best available information, the Lead Federal Agencies shall discuss the uncertainty and option for resolving it with the consulting parties at the Project level."
42	1/19/2007	II.A.2	Note that cemeteries are categorically excluded from consideration on the National Register and as such are not Historic Properties. In accordance with stipulation II.A(2) of the PA, the Kalispel Tribe of Indians shall hold responsible the lead Federal Agencies if its undertakings unearth and/or remove Native American graves and/or cemeteries from their primary context.	Kalispel Tribe	The Lead Federal Agencies recognize their responsibilities under all Federal laws which address effects to Native American graves and cemeteries.
43	1/19/2007	II.A.2	We are mindful that this agreement is not a funding mechanism and is primarily intended to "streamline" regulatory processes, yet it behooves the FCRPS program to have a reserved/contingency fund within its annual power share allocation to be available when very bad things happen (the budgetary effects of Kennewick Man's discovery, and the government's response thereafter, forestalled the efforts of a number coop groups within the region). Any Tribal staff time devoted to the response for such an event shall have to be compensated for if not via the direct funding agreement and related services contracts what mechanisms do the lead Federal Agencies have in place for these contingencies? Creating a problem and then seeking a solution through the guise of "consultation" cannot be reasonably considered "acting in good faith."	Kalispel Tribe	The Lead Federal Agencies accept responsibility for addressing effects of our operations on burial sites. Decisions on allocation of responsibility between agencies, including responsibility or involvement by other land managing agencies, consultation processes with tribes, and allocations of funds would be determined on a case-by-case basis, consistent with authority, policy, and protocols appropriate to the specific case and the parties involved.
44	1/19/2007	II.A.4	Concur	Kalispel Tribe	Thank you for your comment.
45	1/19/2007	II.A.5	Concur	Kalispel Tribe	Thank you for your comment.
46	1/19/2007	II.A.6	Concur. See comments provided for Stipulation VII.B	Kalispel Tribe	Thank you for your comment.
47	1/19/2007	II.A.7	Concur	Kalispel Tribe	Thank you for your comment.
48	1/19/2007	II.A.8	Concur	Kalispel Tribe	Thank you for your comment.

49	1/19/2007	II.B	Generally concurs with a caveat: The guidelines cited (62 Fed. Reg. 33707, June 20, 1997) do not define the technical requirements of a professional linguist, ethnographer, and/or culturally literate practitioner of Kalispel traditions or those of peer sovereignties. These specific skill sets are essential in the development and management of TCP datasets, the development of audience appropriate educational materials, and have hitherto been heavily invested in by the Kalispel Tribe. In the absence of such explicit guidance, the Kalispel Tribe expects the Lead Federal Agencies to extend to it the full faith and credit that its anthropological and cultural experts meet and/or exceed the professional and ethical standards practiced by these above named professions/community roles.	Kalispel Tribe	Changed the language in Stipulation (now II.C) to state that the Lead Federal Agencies shall apply the standards in a manner commensurate with the nature and complexity of the specific activity being implemented, the property or resources being investigated or treated, and the knowledge and expertise needed to complete the work.
50	1/19/2007	II.C.1	Public outreach and education must be responsive to the needs of the resource and thus shall necessitate both age/audience appropriate media and a positive response loop in the educational process. As the interested publics receive program sponsored education, this should expand the recipient's worldview and spark the desire to learn more. A series of brochures (e.g., "give a hoot and don't loot") without positive and more enriching context shall be a sterile exercise destined to fail.	Kalispel Tribe	We agree that public outreach and education must be tailored to the audience and contain enriching content. The agencies value input from consulting parties and Cooperating Groups during development of program-sponsored public outreach and educational efforts.
51	1/19/2007	II.C.4	To meet the promise of this stipulation (use of collection for education and research) a thorough and thoughtful examination of the curated archaeological record currently held in the region's various depositories shall reveal both idiosyncratic and diachronic variation in archaeological analysis. In the development of the region's research design the recognition of data gaps, as anticipated in stipulation VI.A.5, should consider the development of archaeometric attributes that are consistently reported for inter-watershed analysis. Initially this will be a developmental problem that is resolvable. Thereafter re-examination of orphaned collections (existing collections) into the standard archaeometric attribute database could/should provide internship/scholarship opportunities for the next generation of technical service providers.	Kalispel Tribe	See revisions to Stipulation VII.B.2, to include an action to "Identify types of materials or data that are important to analyze and collect to address research questions." This could include collecting information from existing collections.
52	1/19/2007	II.C.6	The commercial development of heritage resources is a perilous enterprise that will have differential acceptance throughout the region and may implicitly contradict the U.S.'s commitment to the UNESCO convention (Article 2, subpart 2) by commoditizing these resources in certain circumstances. Furthermore the advocacy for eco- or heritage tourism should be a vibrant heritage tourism industry; according to recent estimates \$630 million are spent annually within WA state in this sector of the economy (DAHP 2006:3). Those expenditures are predominantly urban whereas the majority of the projects' APE are rural. In terms of social equity the advocacy of this policy appears to be problematic at the very least.	Kalispel Tribe	Executive Order 13287 requires that agencies seek Heritage Tourism opportunities. However, Stipulation II.D.5 was revised to change "Expansion of opportunities for heritage tourism" to read "Providing opportunities for heritage tourism, as appropriate."

53	1/19/2007	III.C	Do not concur. It is presumptuous to assert without a definitive peer reviewed study to make such an a prior claim. During the fall seasonal release of Albeni Falls' waters terrestrial access to lands downstream of that project are obstructed. In some cases the use of traditional cultural properties is seasonal and contingent upon access to resources. To assume that an adjoining hydro project encroaches on the federally operated project and thereby provides cover from downstream effects is an untested hypothesis.	Kalispel Tribe	The language of III.D has been significantly edited, and including deletion of specific references to lower river areas. We retained the commitment that the APE will be determined at the Project level through consultation.
54	1/19/2007	IV.B.2	The Kalispel Tribe has been diligent in assisting the Lead Federal Agencies in identifying, evaluating and treating adversely affected historic properties by project undertakings. In light of language in stipulation IV, we have a growing concern that as milestones pass and we approach the challenges inherent to historic properties located on privately owned real property, that negotiation inertia will set in. Under stipulation IV.B.2 (second priority categories) considerable real estate assistance in the form of negotiated easement access and/or the purchase of partial estates may be required to appropriately treat adversely affect historic properties. This element within the local program is the weakest performer, requires substantial financial assistance, and has the spottiest record of on time delivery relative to tight construction and ESA schedules. We do not wish to see these process milestones be reinterpreted into project milestones relative to the foreseeable inertia that shall result when we involve ourselves with Stipulation IV.B.2. This issue will be discussed at the AFD CG meetings, and will have to be clarified in the project HPMP.	Kalispel Tribe	See the new language in Stipulation IV.C which states "The Lead Federal Agencies shall make a good faith effort to negotiate the necessary access from the F60fee title holder."
55	1/19/2007	IV.B.1.a	The Lead Federal Agencies are asserting a doctrine of proportional liability. The term "the undertaking is the primary agent..." constitutes an implicit deviation from 36 CFR 800.1(a) wherein the federal agency is to "seek ways to avoid, minimize, or mitigate for any adverse effects on historic properties." Given the complexity and geographic scope of the undertaking there is latitude within the regulations (CFR 36 CFR 800.5(a)(3)) wherein the Lead Federal Agencies can use a phased in process in applying the criteria of adverse effect consistent with phased in identification and evaluation conducted in pursuant to 36 CFR 800.4(b)(2). The issue of primacy is not considered within the regulations and if the PA is to function in place of those regulations it is our expectation that it do so in a manner that is comparable to or superior than what is already permissible under the law.	Kalispel Tribe	The cited section of the regulation links that responsibility to effects of an undertaking. The agencies take responsibility for direct, indirect and cumulative effects of the undertaking. See 4th bullet in Stipulation IV.B which states that one of the factors to consider in prioritization is the "extent to which known or potential effects on an identified property are or would be the result of the undertaking (causal links)." The agencies will look critically at downstream and cumulative effects using the best available information but acknowledge that in some situations we will not be able to clearly assign liability. In those cases, discussion in the Cooperating Groups will assist the agencies in making a determination.

56	1/19/2007	IV.B.1.c	The Lead Federal Agencies appear to have set archaeological methodology as precedence in site evaluation protocol. If this is not the case and the clause applies to oral histories/literature and ethnographic datasets please clarify how intellectual property rights of these data have been accommodated and how individual civil liberties of culture bearers are assured within the "collection."	Kalispel Tribe	The definition of "historic property" encompasses all types of properties, including TCPs, and all commitments and processes defined for historic properties applies equally to TCPs. To make this equal commitment to TCPs more explicit, a new Stipulation V was added, which discusses identification, evaluation and treatment of TCPs.
57	1/19/2007	IV.B.3.c	The Lead Federal Agencies assume that a private landowner shall waive their implied property rights to a collection. If this occurs, will it be the result of an "informed consent process?" Please note that the associated documents as per 36 CFR 79.3(a)(2) would already be the property of the US government whereas the tangible analytical samples (Artifacts and debris categories) would "generally" belong to the landowner (cf 36 CFR 79.3(a)(1)). Please remember that these analytical samples only have durable scientific value if retained in whole. If an informed consent process is followed, then the transfer of ownership is for all samples collected; collections that have been "cherry picked" are of dubious value. Also this discussion of ownership does not include artifact specimens that meet NAGPRA definitions of associated/unassociated funerary objects and/or items of cultural patrimony. Such items belong to the lineal descendant or in their absence a community that can assert cultural affinity (cf 43 CFR 10.14). Furthermore, under the terms of "reasonable" access to a work site, the Lead Federal Agencies should strive to avoid commoditizing	Kalispel Tribe	We understand that private landowners may not waive their property rights to cultural materials located on their land. Any agreement proposing collection on private lands would address ownership of collected materials and would be part of the prioritization process. Since NAGPRA does not apply to private property, state burial laws would be applied.
58	1/19/2007	IV.D	Such a self-imposed restriction ignores the fact that the Lead Federal Agencies can judiciously exercise a right of eminent domain where and when it is necessary. It similarly ignores the fact that the Lead Federal Agencies, commensurate with their jurisdictional scope, may obtain a negotiated easement that grants a right of inspection and/or easement for historic properties of national significant location.	Kalispel Tribe	Agencies do not envision using eminent domain to acquire access to property for cultural resource compliance, but will make a good faith effort to acquire access through negotiations and/or easements.
59	1/19/2007	VI-intro	When will the Systemwide Research Design be completed? What processes will be used to prepare it and who will be involved?	Kalispel Tribe	The Systemwide Research Design will be a living document designed to change as we build a knowledge base and understanding, with input from Cooperating Groups and the public. A draft System Research Design will be prepared within 2 years of the effective date of the Systemwide PA. See schedule in Attachment 2.
60	1/19/2007	VI	The Kalispel Tribe submitted comments on language to implement the Systemwide Research Design. See comments for full text.	Kalispel Tribe	Development of the Systemwide Research Design will be on-going, and there will be many opportunities for input from Cooperating Groups, consulting parties, and interested members of the public.
61	1/19/2007	VI.B	Delete "at a minimum" in 5th line.	Kalispel Tribe	The phrase "at a minimum" has been deleted.

62	1/19/2007	VII.A.2	Relative to our comment to stipulation II.A.2 we require the Lead Federal Agencies to clarify what they are using as "baseline data." Since the construction of the various projects there have been and continues to be damages to historic properties; where and when quantifiable the pre-project configurations of lands should be the metric rather than some arbitrary date created by the proposed agreement. This clarification is essential in respect to the proportional liability clause the agencies seek.	Kalispel Tribe	Baseline data will be a compilation of available cultural resource data at the 14 FCRPS Projects collected up to the date when the Systemwide PA is signed. Agencies will thereafter update the information annually.
63	1/19/2007	VII.B.2	This (first report submitted after the PA becomes effective, with baseline data) is a potential problem. Given the stated priorities within Stipulation IV and the differential performance in regulatory compliance at each of the projects this PA allows for the contingency that all but minimal work will be done at projects that are further along the compliance trajectory. What assurances can be given that cooperating groups that have excelled in their taskings to date are not penalized for past success by the slower moving projects elsewhere in the region? In your response please refrain from the mantra of "this is not a funding agreement," we know this and understand it. But let us be direct and honest with each other. As projects begin to develop Annual Work Plans that are predominated by Stipulation IV.B.2 priorities, the scant financial resources allocated and/or appropriated for this resource area will be monopolized by support tasks. The reallocation of resource monies to support tasking from field capacities will result in atrophy of field capacities or potentially a loss of these capacities.	Kalispel Tribe	Priorities will be established at the Project level, with each Cooperating Group preparing annual work plans that implement the longer-term objectives defined in their HPMP to address compliance needs. We expect ongoing work to continue to occur at each Project. For example, if identification activities are fairly complete at a Project, work related to other stages of the Section 106 process would continue through prioritized evaluation and treatment activities. The agencies do not intend prioritize funding in favor of Projects that have not completed identification efforts. Instead, annual work plans at each Project should identify priority compliance actions, including completing identification and evaluation.
64	1/19/2007	VIII.A	We concur that it is prudent and reasonable that the Lead Federal Agencies should have a dedicated and deliberative body that can advocate for the resource at the regional level; articulating the common concerns and assure that the best management practices are consistently followed throughout the system. That said, we note that Ms. Miles' (Nez Perce Tribal Exec) comment of 12/27/05 on an earlier draft of the PA that "The [CRSC] functions in a vacuum...[and its deliberations are held] in secret..." has not been adequately responded to. As a philosophical issue, public service needs to concern itself with not only virtue but the appearance of virtue. Certainly a Tribal seat at the CRSC may prove problematic and may encroach upon "executive privilege" yet ultimately the issue is a matter of transparency in the decision making process. We strongly recommend that the proceedings of the CRSC be transcribed and made available to the cooperating groups and thereby maintain a clear line of sight between interested parties and insulate the CRSC participants from false claims of duplicity. We note that a variation of this recommendation has been proposed.	Kalispel Tribe	To promote transparency related to topics of discussion at CRSC meetings, meeting notes are now posted on the FCRPS web site. New language was added (see Stipulation IX.D) to better explain communicate processes between the CRSC and Cooperating Groups.

65	1/19/2007	Attachment 4-- Treatment Plan Principles	Again we remind the Lead Federal Agencies that they have additional legal capabilities to affect positive change for the conservation of historic properties including but not limited to; condemnation of real property, permit conditioning, and negotiated easements. Although this agreement document by necessity limits itself to a range of actions that the Lead Federal Agencies can "unilaterally" take, the evolution of public policy in both the state and municipal arenas are creating additional opportunities and capacities within the region wherein team building and mutual support for problem solving tasks are becoming more common.	Kalispel Tribe	The Lead Federal Agencies will negotiate access to property on a willing seller basis. The Agencies do not envision using eminent domain to acquire access to property for compliance activities, and will make a good faith effort to acquire access through negotiations.
66	1/8/2007	General	Need for PA unclear.	Oregon SHPO (Dr. Dennis Griffin)	The decision to prepare a Systemwide PA was made in prior discussions between the ACHP and the Lead Federal Agencies. The ACHP advised, and the Agencies agreed, that this was the most efficient and effective approach to meeting the agreement document requirements of 36 CFR part 800 for an undertaking with the geographic scope, long-term effect, and complexity as for FCRPS. See also Stipulations 1.A and 1.C
67	1/8/2007	General	PA does not outline steps for "streamlining" Section 106 process.	Oregon SHPO (Dr. Dennis Griffin)	A mechanism for streamlining the Section 106 process through exempting certain kinds of routine actions has been added (see Attachment 6).
68	1/8/2007	General	Previous comments about streamlining, the Handbook, activities exempted from case by case consultation, and need for PA not addressed.	OR SHPO	The FCRPS Cultural Resources Handbook is available to the public on the internet (see Stipulation VIII.C.) Please see responses to comment numbers 66 and 67+F80 for the other elements of this comment.
69	1/8/2007	5th Whereas	Implies PA applies only to projects coordinated by three agencies. Does it also apply to projects sponsored by individual agencies?	OR SHPO	Some aspects of the FCRPS undertaking may involve a single one of the three Lead Federal Agencies, while others may involve BPA and the Corps, or BPA and Reclamation. This is now explained in Attachment 5, under Responsible Agencies.
70	1/8/2007	I-C4	Does this PA provide process for streamlining Sec. 106 or is that reserved for project specific PAs.	OR SHPO	A mechanism for streamlining the Section 106 process through exempting certain kinds of routine actions has been added (see Attachment 6). Additional processes for streamlining the Section 106 process will be addressed by Project-specific PAs, such as communication with SHPOs, THPOs, tribes, and other agencies with jurisdiction.
71	1/8/2007	I-D4	Consider including list of exemptions or methods for addressing tasks across 14 projects.	OR SHPO	A list of activities exempted from consultation is included in Attachment 6.
72	1/8/2007	II.A4-5	Section does not present new information beyond that already outline in Sec. 106 process.	OR SHPO	Thank you for your comment. However the Lead Federal Agencies think it is important to reiterate our commitment to these regulatory processes.

73	1/8/2007	II.A2-4	"Principle causative factor": How is this evaluated, measured, and quantified?	OR SHPO	Section III.E.2 was revised to state that where the APE and source of effects "cannot be readily determined with the best available information, the Lead Federal Agencies shall discuss the uncertainty and options for resolving it with the consulting parties at the Project level."
74	1/8/2007	II.A5-5	Remove "when feasible and cost effective"	OR SHPO	"Feasible and cost effective" was deleted from Stipulation II.A.6. Cost and availability of funds is still addressed in the PA at Stipulation IV.B as part of the prioritization process. Consulting parties will participate in the prioritization process.
75	1/8/2007	II.A7-5	Include "evaluation" as element of consultation with SHPO/THPOs	OR SHPO	Stipulation II.A. states that evaluation will be an element of consultation with consulting parties, which includes SHPOs and THPOs. Also see revised definition of "consulting party" in Attachment 3.
76	1/8/2007	II.A8-5	Consider including process for emergencies and inadvertent discoveries in system PA rather than project specific PAs.	OR SHPO	Because individual Projects are managed by different agencies, including the National Park Service and the U.S. Forest Service, and since the various agencies may have different policies, the decision was made to defer development of processes for emergencies and inadvertent discoveries to Project-specific PAs or HPMPs.
77	1/8/2007	II-B5	Professional qualification standards are supported by law. Statement is redundant in PA	OR SHPO	We chose to state this in the PA because in the past some questions have arisen during program planning and contractor selection related to qualification requirements for agency staff and contractors. Therefore the Lead Federal Agencies have retained the qualifications statement, now in Stipulation II.C.
78	1/8/2007	II-C5-6	Should include more detailed descriptions of what education and outreach is proposed.	OR SHPO	Stipulation II.D. expands upon how education and outreach can be accomplished.
79	1/8/2007	II-D6	Consultation process should be better defined and include information about what initiates the 30 day comment period, what constitutes consultation, and who should be primary contact for consultation.	OR SHPO	A section has been added to more clearly define Section 106 processes (see Stipulation IX.E). The 30 day consultation period begins upon receipt of documentation (Stipulation IX.E.2.a). Consultation includes a broad array of activities and is addressed in revised Stipulation IX.C. Contacts for consultation will be determined at the Project level.

80	1/8/2007	II-E6	PA should not be effective for more than 15 years.	OR SHPO	The Lead Federal Agencies have retained the proposed 30-year duration because we do not view our cultural resource management responsibilities ending in 15 years. We are committed to having a framework of compliance in place for an extended period. We believe the review required of the Systemwide PA every 5 years will ensure that the terms remain relevant and are being met. Stipulations XI (Review of the PA) and XIII (Amendment) will allow the PA to change over time, if needed.
81	1/8/2007	III.A-D7	Definition of APE should address all areas where undertaking has potential to effect historic properties directly, indirectly, or cumulatively.	OR SHPO	Stipulation III.A. has been revised to include direct, indirect, and cumulative effects.
82	1/8/2007	IV-A7, 2nd sentence	Priorities should be set in consultation with tribes and consulting parties.	OR SHPO	We agree. Stipulation IV.A. has been amended to clarify and make explicit our commitment that priorities shall be determined through discussion with Cooperating Groups.
83	1/8/2007	IV-A7, 2nd sentence	Tribes that don't sign PA must still be involved in consultation process.	OR SHPO	This is correct. Affected tribes will be involved in on-going consultation about the FCRPS undertaking regardless of whether they sign the PA.
84	1/8/2007	IV.B8-9	Federal agencies do not have data to support prioritization process as currently described.	OR SHPO	The prioritization process has been revised (see Stipulation IV).
85	1/8/2007	IV-.B(1b).8	What process will be used to gain access to historic properties and will this be based on accessibility or importance of site?	OR SHPO	Stipulation IV.C now states that "the Lead Federal F97Agencies shall make a good faith effort to negotiate the necessary access" to historic properties. Determination of the need for access is based on an array of prioritization factors in the revised Stipulation IV.B.
86	1/8/2007	IV.B(2b).8	How will properties be evaluated when not enough information is available to make an eligibility determination?	OR SHPO	This section has been deleted, and this subject is now addressed in the revised prioritization section (Stipulation IV). Evaluations (eligibility determinations) are dependent upon having collected sufficient information and completed consultations to allow the Lead Federal Agencies to make an informed decision.
87	1/8/2007	IV-C9	Restate prioritization statement to say "evaluation process will be coordinated with appropriate tribal and ethnic communities".	OR SHPO	This section has been deleted. Evaluation is addressed as part of the consultation process, and will involve consulting parties (Stipulations II.A and IX.E.2).
88	1/8/2007	V10-12	Need to include discussion of what an HPMP is. Should include timeline, design, monitoring, inadvertent discovery plan, consultation, education programs, signage, curation.	OR SHPO	The term Historic Property Management Plan is defined in the glossary (Attachment 3). Attachment 4 and Stipulation VI list components that should be in an HPMP and/or Project-specific PA. The items you indicate are included.

89	1/8/2007	V.F(1).11	Change "affected" areas to "potentially affected" areas.	OR SHPO	This reference has been deleted in association with general editing.
90	1/8/2007	V.F(3).11	Historic property prioritization process should incorporate consultation with all parties (esp. TCPs).	OR SHPO	The Lead Federal Agencies have clarified their commitment to consultations. Stipulation II.A states that consultation will take place with consulting parties. Stipulation IV.A. states that Cooperating Groups play a role in prioritization.
91	1/8/2007	V.F(4).11	Defining a process for determining what effects are caused by an undertaking and what results from other factors (e.g. periodic flooding, storm damage) is difficult.	OR SHPO	Stipulation III.E.2 was revised to state that where the APE and effects "cannot be readily determined with the best available information, the Lead Federal Agencies shall discuss the uncertainty and options for resolving it with the consulting parties at the Project level."
92	1/8/2007	VI-12	System-wide research design: Determining what type of archaeological research questions are appropriate for entire area may be difficult because the system overlaps with multiple topographic and cultural borders. How does one complete a research design	OR SHPO	The Systemwide Research Design discussion (now Stipulation VII) has been revised to more clearly indicate the purpose and anticipated content. The purpose principally is "to encourage consideration at the Project level of research and educational objectives that have application on a broader, potentially regional level" (see Stipulation VII.B). The goal is to provide tools that will ensure materials or information are collected at the Project or site level that will allow for and aid comparison of information between historic properties throughout the Columbia Basin.
93	1/8/2007	VI-12	System-wide research design: How does one complete a research design to address TCPs?	OR SHPO	Stipulation IX.C indicates that the Systemwide research design will be prepared with the input and assistance of consulting parties. We anticipate that tribes, both through the Cooperative Groups and individually, will offer guidance to the Lead Federal Agencies on how to best incorporate TCPs into a Systemwide Research Design. If it appears, after discussions with tribes, that TCPs will not comfortably fit into the research design, then we will report that conclusion to consulting parties and not seek to force this resource type into an inappropriate construct.
94	1/8/2007	VI-12	System-wide research design: Historic developmental focus is most appropriate research design topic at system-wide scale.		We concur that historic-period development is one logical research domain for the research design.

95	1/8/2007	VI-C13	Need more frequent review of PA (every 5 years) and system-wide research design (every 10 years)	OR SHPO	There will be an evaluation of progress on meeting the PA terms annually through Annual Reporting (Stipulation VIII.). This could inform signatories if there is a need for review prior to the 5 year period. Any signatory party may request that the PA be Amended (Stipulation VIII.) at any time. If annual reports, contract deliverables, discussions at the Systemwide meeting, or other factors would indicate that an update of the Systemwide Research Design is warranted before a 10-year interval, then the Lead Federal Agencies would consider advancing that target date.
96	1/8/2007	VII-A13	What is the purpose behind compiling an annual report? Should get beyond compilation of tabular site and survey data and focus on adverse effects to historic properties, how we are addressing them, and ways to more improve site conditions.	OR SHPO	The Annual Report is a means of measuring accomplishments. We revised the annual report section and stated reporting requirements (Stipulation VIII.A).
97	1/8/2007	VII-C14	SHPO would like a copy of the Handbook on consultation procedures for review and information.	OR SHPO	The FCRPS Cultural Resources Handbook is available to the public on the internet (see Stipulation VIII.C.).
98	1/8/2007	VIII-B14	PA should clearly state that consultation between agencies and tribes is different. Government-to-Government consultation takes place between tribes and agencies and should be addressed separately.	OR SHPO	We recognize that Government-to-Government consultation is a different process than consultation that takes place at the technical level (see 12th Whereas).
99	1/8/2007	VIII-B15, first sentence	An exception is definition....Unclear statement. Does this mean procurement implementation will be an exception to the consultation process with consulting parties?	OR SHPO	Development and issuance of contracts for compliance purposes is not a consultative process. However, the activities specified in these contracts will have been the subject of consultation consistent with the terms of this PA defined in a new section presented in Stipulation IX.E.
100	1/11/2007	general	An umbrella PA that defines key elements (relationships among parties, APE) consistently across system is useful.	Montana SHPO (Stan Wilmoth)	Thank you for your comment.
101	1/11/2007	5th whereas	"Coordinated implementation": phrase accurately describes that the undertaking is the integrated system, including its purposes and operations.	MT SHPO	Thank you for your comment.
102	1/11/2007	I-C	Use of word "discretion" unclear to some: Clarify that lead agencies have three options or alternatives under which they can implement their 106 responsibilities.	MT SHPO	Stipulation I.E now explains the process for deciding when activities relating to operation and maintenance of the FCRPS fall within the scope of the Systemwide PA. Project-specific PAs and HPMPs are addressed by Stipulation VI.
103	1/11/2007	I-C	Recommends striking the term "streamlining"	MT SHPO	Replaced "mechanism for streamlining" with "systemwide framework for" in first sentence of I.C.

104	1/11/2007	I-D	Clarify that "categorical exclusions" or exemptions to consultation will only be agreed upon for Project specific PA/HPMPs.	MT SHPO	Because several other parties indicated they would like the Systemwide PA to include exemptions that would apply at all Projects, the Lead Federal Agencies have defined some routine FCRPS activities that would not require Section 106 consultation at any Project (see Attachment 6). They are presented for consideration by consulting parties to this Systemwide PA. The decision as to whether any, some, or all will be retained in the final Systemwide PA, or perhaps others included, will be dependent upon comments received during consultation on this PA. Regardless, we anticipate that exemptions will be identified at the Project level (see Stipulation I.D).
105	1/11/2007	Throughout PA	Change "adverse effect(s)" to "effect(s)"	MT SHPO	We reviewed the use of this term in the PA and deleted the word "adverse" where appropriate.
106	1/11/2007	III-D	Recommend that minor changes occur to part III-D "to emphasize that the undertaking and its APE includes all system (and project) purposes and operations, and that all will be considered under the PA, specific PA's and/or the HPMP or standard 106."	MT SHPO	The definition of the APE in Stipulation III.A. has been expanded to include all geographic areas within which the undertaking may directly or indirectly cause alterations in the character or use of historic properties. Also see Attachment 5 which clarifies what is included in the undertaking.
107	1/11/2007	VII-C	Is the handbook built into individual PA/HPMPs or is it Systemwide only?	MT SHPO	The handbook describes communication protocols between the Lead Federal Agencies which are relevant at Systemwide and Project levels (see Stipulation VIII.C).
108	1/11/2007	VIII.B	Include in VIII.B: Clear statement that only lead agencies have 106 authorities for eligibility and other considerations, and consulting parties should be notified about considerations beyond the cooperating group level.	MT SHPO	See Stipulation IX.E.2, with is a newly added section to the Stipulation (previously Stipulation VIII) that discusses consultation documentation and process, includes a description of agency responsibility, and states that all documentation will be provided to consulting parties for comment.
109	1/26/2007	5th Whereas	The PA addresses the joint NHPA section 106 compliance issues. Definition given for minor construction in support of operations is specific to COE 106 compliance issues and these minor construction projects cannot be exempted by this PA. Undertakings specific only to the COE or other federal agencies must be dealt with outside of the joint PA.	Yakama	Whereas #5 has been revised and directs the reader to Attachment 5, which describes the undertaking and explains that in some cases only one of the Lead Federal Agencies might be involved in an activity implemented under the terms of this PA. References to "minor construction" projects have been removed from the PA.
110	1/26/2007	8th Whereas	PA should only address the joint compliance activities. Delete last two sentences.	Yakama	Whereas #8 has been rewritten. Whereas #5 directs the reader to Attachment 5, which describes the undertaking and explains that in some cases only one of the Lead Federal Agencies might be involved.

111	1/26/2007	Therefore clause	Adherence to the PA would satisfy the lead federal agencies' joint 106 responsibility. Undertakings outside of the joint undertaking would not be covered.	Yakama	In some cases, non-joint activities may be covered by the PA. Attachment 5 describes the undertaking and explains that in some cases only one of the Lead Federal Agency's could be involved.
112	1/26/2007	I.B	If all federal agencies would approach the fed statutes through the auspices of Trust Responsibility, then all fed laws, regs, legislative acts, litigated decisions and executive orders.	Yakama	The Systemwide PA addresses NHPA Section 106 responsibilities, and therefore does not affect Federal trust responsibilities to tribes.
113	1/26/2007	I.C-D	State which joint section 106 issues need to be streamlined.	Yakama	A mechanism for streamlining the Section 106 process through exempting certain kinds of routine actions has been added (see Attachment 6). Additional processes for streamlining the Section 106 process, such as communication with SHPOs, THPOs, and tribes, will be addressed by Project-specific PAs/HPMPs.
114	1/26/2007	II.A.3	All fed land must be inventoried.	Yakama	We agree that under Section 110 NHPA, all Federal land should be inventoried. But under Section 106, which is the focus of this PA, only lands affected by the undertaking must be inventoried. Stipulation IV.A explains that implementation actions to address the effects of the undertaking will be phased because of the geographic scope and complexity of the undertaking. This includes identification and inventory.
115	1/26/2007	II.A.5	Will completely destroyed historic properties be addressed?	Yakama	If a property is completely destroyed we would welcome suggestions on how to evaluate it, but please note that integrity is a key factor in determining eligibility.
116	1/26/2007	II.A.7	The YN is an affected tribe, not simply an interested party.	Yakama	The Agencies recognize that the Yakama Nation is an affected tribe.
117	1/26/2007	II.D	Consulting parties have 30 days to respond to Lead Fed Agencies. Likewise, Lead Fed Agencies should have the same deadline for responding to formal tribal requests.	Yakama	The Lead Federal Agencies recognize the importance of timely response to formal requests from consulting parties. The 30-day timeframe included in the PA is taken from the regulation (36 C.F.R. part 800).
118	1/26/2007	II.E	A PA should not run for 30 years. A 10 year commitment is more acceptable. This commitment must contain a 5 year interval review along with options to review on a case-by-case basis.	Yakama	The agencies are committed to having a framework of compliance in place for an extended period. Every 5 years the PA will be reviewed to make sure the terms are relevant and are being met. Stipulations XI (Review of the PA) and XIII (Amendment) will allow the PA to change over time, if needed.

119	1/26/2007	IV.A.10	A research design is unnecessary for historic property evaluation. Analysis will be subjective.	Yakama	The Systemwide Research Design discussion (now Stipulation VII) has been revised to more clearly indicate the purpose and anticipated content. The purpose principally is "to encourage consideration at the Project level of research and educational objectives that have application on a broader, potentially regional level" (see Stipulation VII.B). The goal is to provide tools that will ensure materials or information are collected at the Project or site level that will allow for and aid comparison of information between historic properties throughout the Columbia Basin.
120	1/26/2007	IV.C	With tribes as signatory participants in this PA, the identification, evaluation, and treatment of TCP's should be a driving theme of the PA.	Yakama	The Lead Federal Agencies recognize the importance of TCP identification, evaluation and treatment and look forward to working with affected tribes to accomplish these actions. The agencies have a responsibility to address all types of historic properties, including TCPs. Please see new Stipulation V., which addresses TCPs.
121	1/26/2007	IV.D	The Federal Agencies must commit to seek authorization to complete work on affected non-federal land.	Yakama	Stipulation IV.C now states that "the Lead Federal Agencies shall make a good faith effort to negotiate the necessary access." +F134 It further states that terms of access may vary depending on the type of activity.
122	1/26/2007	V.B	Focus of PA should be compliance in regard to the joint undertaking	Yakama	The PA covers the undertaking which includes the operation of the FCRPS for all authorized purposes, including both joint agency and individual agency actions (see Attachment 5).
123	1/26/2007	V.E	Note that legally, the YN is an affected party due to the Reserved Treaty Rights that the YN reserved unto itself through the Treaty of 1855 (12 Stat. 951).	Yakama	We recognize tribal treaty rights in Whereas #12.
124	1/26/2007	V.F.5	A research design should not be used as a guide for treatment plans.	Yakama	Treatment selections will be site/case specific. In some cases, the Systemwide Research Design would be useful, and in other cases it might not be applicable. A research design does not always involve traditional archeological research approaches or excavation.
125	1/26/2007	V.F.5	Research Design may be inserted under V.F.8 ("Define public outreach and education components.") and these researchers will have the benefit of their scientific institutions and grant opportunities for their specific projects.	Yakama	Thank you for your comment. We agree that the research design could apply to public outreach and education components of FCRPS.

126	1/26/2007	VI	Delete this section (Systemwide Research Design)--it's unnecessary.	Yakama	This stipulation has been revised, with additional information provided concerning the purpose and potential benefits of the Systemwide Research Design.
127	1/26/2007	VIII.B	Provide the documentation that led to the development of the working groups. These documents may have existing NHPA section 106 implications.	Yakama	In the 7th Whereas we acknowledge the existence of the documents associated with the development of Cooperating Groups.
128	1/26/2007	XIII	If an entity never signs the PA, will the PA not impact that entity's affected area and status?	Yakama	If a THPO does not sign the PA, then the PA does not apply to tribal lands within the THPO's jurisdiction.
129	1/26/2007	general	This PA was developed unilaterally by the agencies with tribes only having ability to comment. PA should have been developed cooperatively among all affected entities. If the PA was developed cooperatively it would have satisfied tribal concerns and it would be very different than it is currently. YN Cultural Resources Program does not advise that this PA should be signed.	Yakama	Tribal input, offered through the process of the Lead Federal Agencies addressing consulting party comments on the various drafts of the PA, has considerably shaped the content and structure of the PA.
130	1/25/2007	Add whereas	Add "Whereas the Lead Federal Agencies' authorized operation and management of the FCRPS results in adverse effects to properties included in or eligible for inclusion in the National Register through inundation, erosion, exposure, vandalism, and other impacts."	Confederated Tribes of the Umatilla Indian Reservation (CTUIR)	The Lead Federal Agencies acknowledge their responsibility for adverse impacts caused by the undertaking in Whereas #6, which includes direct, indirect, and cumulative effects.
131	1/25/2007	Add whereas	Add "Whereas the impacts of system operations could eventually destroy a large percentage of the cultural resources within the APE; the cumulative effect would be the loss of heritage sites and traditional cultural resources from a river system in an entire region."	CTUIR	We acknowledge that cumulative effects on historic properties are occurring in Whereas #6. We also acknowledge that the undertaking affects historic resources of traditional religious and cultural importance to tribes in the newly added Whereas #10.
132	1/25/2007	Add whereas	Add "Whereas the Lead Federal Agencies have committed to implement, in full cooperation with affected Tribes and agencies, agreements, plans, and actions for management of the impacts to cultural resources. Individual Tribes' desired approach and preferred methods for cultural resources management will be a major consideration in the development, as well as the implementation, of each of the long-term management plans."	CTUIR	We added Whereas #10 which states the Lead Federal agencies' commitment to consult early in relevant processes to identify tribal concerns. Also, tribal concerns will be fully considered during the prioritization process.
133	1/25/2007	Add whereas	Add "Whereas it is the policy of the Lead Federal Agencies to preserve, protect, and manage significant archaeological, historical, and traditional cultural properties within the APE in accordance with the NHPA and other applicable statutes, executive orders, and regulations."	CTUIR	The agencies intend to comply with Section 106 and determine the best methods to address adverse effects through consultation. We added a reference to executive orders in Whereas #12, and added a reference to the Lead Federal Agency tribal policies in Whereas #10. The Lead Federal Agencies will comply with other statutes as appropriate to their authority and jurisdiction.

134	1/25/2007	Add whereas	Add "Whereas it is the policy of the Lead Federal Agencies to uphold the terms of treaties between the United States and Indian Tribes, and executive orders regarding Indian Tribes."	CTUIR	We added a reference to executive orders and treaties between tribes and the U.S. Government in Whereas #12.
135	1/25/2007	Add whereas	Add "Whereas the Lead Federal Agencies are required by Section 101(d)(6) of the NHPA to consult with any Indian Tribe that attaches religious and cultural significance to historic properties that may be affected by undertakings as defined in the NHPA."	CTUIR	We added Whereas #10, which acknowledges that "the undertaking affects historic properties of traditional religious and cultural importance to Indian tribes." This also states that lead Federal Agencies will consult with tribes.
136	1/25/2007	Add whereas	Add "Whereas the Federal Government has a trust responsibility to Indian Tribes, which includes the duty to act 'with good faith and utter loyalty to the best interests of the Indians'. The Lead Federal Agencies will act in accordance with the Federal trust responsibility, including government-to-government consultation whenever the Lead Federal Agencies' 'plans or actions affect trust resources, trust assets, or Tribal health and safety'. The Lead Federal Agencies will treat sacred and culturally significant places as subject to the Federal trust responsibility and therefore Tribes must be engaged in consultation before decisions are made, and Tribes expect to participate in making decisions and in carrying out decisions regarding these resources."	CTUIR	The Systemwide PA addresses NHPA Section 106 responsibilities, and therefore does not affect Federal trust responsibilities to tribes. Whereas #12 affirms the government-to-government relationship between tribes and the Federal government, and the Lead Federal Agencies intend to enter into government-to-government consultation when appropriate. Whereas #10 references Agency tribal policies, and acknowledges that the undertaking affects historic properties with traditional religious and cultural importance to tribes.
137	1/25/2007	Add whereas	Add "Whereas this PA is designed to facilitate the development of processes and strategies to minimize, avoid, or mitigate the ongoing adverse impacts the operation of the FCRPS caused."	CTUIR	Added revised language to Stipulations II.A.5 and II.A.6 that state Lead Federal Agency treatment responsibilities.
138	1/25/2007	Add whereas	Add "Whereas this PA seeks to create a shared stewardship document that will ensure that sacred and cultural places are regarded and understood from various, including Tribal, viewpoints, and that Tribal values and customs (not just archaeological values and customs) are applied to the protection of these places. Until now, archaeological values have been dominant over Tribal values, and archaeological values have contributed to the destruction of sacred places."	CTUIR	The newly added Whereas #10 acknowledges that historic properties of traditional religious and cultural importance to Indian tribes are affected by the undertaking, and tribal concerns will be identified through consultation. Please also see new Stipulation V, which addresses the identification, evaluation, and treatment of TCPs.
139	1/25/2007	Add whereas	Add "Whereas this PA's fundamental value is respect: respect for the rivers; the sacred and cultural places; Tribal values, culture, and beliefs; Tribal people and their contribution to the history and environment of the Columbia River system; for the sacrifices Tribal people have made so that newcomers can have flood control, irrigated crops, navigation, electricity, and recreational activities. When Tribal representatives talk about Tribes' cultures, needs, and issues, they will be taken as seriously as archaeologists are when they talk about Tribes' ancestors, culture, and interests."	CTUIR	References to Agency tribal policies, and acknowledgement that the undertaking affects traditional religious and cultural properties, are addressed in Whereas #10.
140	1/25/2007	III.B	APE language has been changed to "non-federal lands where there is an adverse effect." The key word that needs to be included is <i>potential</i> . Throughout the PA, it should be noted that to be within the APE, any effect is potential (direct, indirect, and/or cumulative) and it need not be adverse.	CTUIR	The Agencies acknowledge that the APE includes all areas where there are potential (and not necessarily adverse) effects.

141	1/25/2007	III	We would appreciate input from the Federal Agencies on how they propose to access properties on private land.	CTUIR	Stipulation IV.C now states that "the agencies shall make a good faith effort to negotiate the necessary access." It further states that the terms of access may vary depending on the types of activity. The types of real estate instruments available for use differ between Projects, and these differences must also be taken into consideration.
142	1/25/2007	General	Because tribes weren't able to assist in constructing the framework of the PA, tribes' ability to shape project-specific PAs will be severely limited	CTUIR	This Systemwide PA is broad enough and allows enough flexibility that the Project-specific PAs can address specific concerns and issues at the Project level.
143	1/25/2007	Signature page	To address previous comment, language has been changed to "Tribes will choose who signs." This response shows lack of understanding. THPO is not the same as the Tribal Government.	CTUIR	We added THPOs as signatories in addition to tribal government officials.
144	1/25/2007	Title	Title individually lists each SHPO, but lumps all the THPOs into "Other Consulting Parties."	CTUIR	Due to the length of the title, we have moved the names of all involved parties, including THPOs, to Whereas #11.
145	1/25/2007	II.E	30 years is too long for this PA to be in place. 10-15 years would be better.	CTUIR	The agencies are committed to having a framework of compliance in place for an extended period. Every 5 years the PA will be reviewed to make sure the terms are relevant and are being met. Stipulations XI (Review of the PA) and XIII (Amendment) will allow the PA to change over time, if needed.
146	1/25/2007	IV	PA should state that all unevaluated sites will be treated as eligible until formally evaluated.	CTUIR	In the Prioritization section (Stipulation IV), the language was changed from "historic property" to "property" to reflect that most sites have not yet been formally evaluated for eligibility to the National Register through consultation with the SHPO/THPO. The term "property" was added to the glossary (Attachment 3).

147	1/25/2007	IV	In addition to addressing mitigation/treatment of ongoing effects, the Federal Agencies will need to mitigate effects that have already occurred.	CTUIR	The Lead Federal Agencies are responsible under Section 106 to identify historic properties, assess effects, and resolve those adverse effects of their undertaking, in consultation with consulting parties. In the FCRPS instance, the undertaking is not the construction of the dams and reservoirs, but is the operation of existing dams and reservoirs and the associated effects on properties. However, the Agencies will address on-going effects to historic properties, including sites where an adverse effect began at the time of dam construction. We've made changes to Whereas #5 to make the nature of our responsibility and commitment more explicit.
148	1/25/2007	General	The definition of undertaking is unclear. It is imperative that everyone involved has an understanding of precisely what the undertaking encompasses.	CTUIR	Whereas #5 has been revised and directs the reader to Attachment 5, which describes the undertaking.
149	1/25/2007	General	Some purposes listed in the PA are not addressed in the PA but will come in the future. Why are they listed when they're not a part of this PA? (unaddressed purposes: address section 106 compliance; streamline section 106 compliance through project-specific PAs or project-specific HPMPs; exempt certain routine actions or other coordinated procedures)	CTUIR	This Systemwide PA establishes a framework for developing Project-specific compliance documents that are consistent with this PA (see Stipulation VI.C). It also includes required components for Project-specific PAs and HPMPs. Attachment 6 lists routine FCRPS activities that do not require Section 106 consultation at the Systemwide level. Additional exemptions will be identified at the Project level (see Stipulation I.D).
150	1/25/2007	8th Whereas	Will BPA be considered a lead fed agency for the subundertakings it is not involved in? Will it be clear who the lead fed agency is?	CTUIR	See "Responsible Agency" section in Attachment 5. BPA will be a Lead Federal Agency for actions classified as power or joint use. BPA will not be a Lead Federal Agency for actions that do not receive BPA direct funding. Identification of the Lead Federal Agency or agencies will be clarified at the Project level, including in Cooperating Group discussions of proposed actions.
151	1/25/2007	Therefore clause	Note that this PA will only apply to certain portions of the APE, those portions covered by the historic preservation offices that have signed.	CTUIR	We agree that SHPOs and THPOs must sign the PA for it to be effective on lands in their jurisdiction.
152	1/25/2007	I.C.3	Currently states: "Develop and implement both a Project-Specific PA and HPMP at the discretion of the Lead Federal Agencies in consultation with interested parties." Tribes should not be lumped with other parties.	CTUIR	Stipulation I has been revised and no longer contains a reference to "interested parties".

153	1/25/2007	II.A.1	APE should be defined in this section rather than waiting until stipulation III.	CTUIR	We further developed the APE language in Stipulation III, which would be too detailed to include in Stipulation II, Principles. We prefer to defer discussion of APE rather than condense or over simplify it to avoid misinterpretation.
154	1/25/2007	II.A.2	The entire system need not approach NHPA compliance in the same manner. Rather, each coop group should determine which steps to take to comply with NHPA.	CTUIR	Stipulation IV.A states that compliance activities will be prioritized in discussion with Cooperating Groups.
155	1/25/2007	II.A.3	An inventory of the whole APE should be a long-term goal.	CTUIR	Stipulation IV.A explains that implementation actions will be phased because of the geographic scope and complexity of the undertaking. This includes inventory.
156	1/25/2007	II.A.3	Clarify that all unevaluated sites will be considered eligible until formally determined ineligible.	CTUIR	In the prioritization section (Stipulation IV), the language was changed from "historic property" to "property" to reflect that most sites have not been formally evaluated. The term "property" was added to the glossary (Attachment 3).
157	1/25/2007	II.A.3	Add language at end of paragraph: "; however, the Lead Federal Agencies may have further responsibilities toward these resources under other applicable statutes, regulations, and policies, such as NEPA."	CTUIR	Federal agencies shall comply with other statutes as appropriate to their authority and jurisdiction.
158	1/25/2007	II.A.4	Streamlining could be addressed here by changing the paragraph to "The Lead Federal Agencies acknowledge the undertaking has adversely affected and/or continues to adversely affect hundreds of historic properties. The project specific PAs will develop plans to resolve those adverse effects in consultation with affected Tribes and other consulting parties."	CTUIR	Added Stipulations II.A.5 and II.A.6 specifically to address resolution of adverse effects through treatment. "Treatment Plan Principles" in Attachment 4 lists the elements of treatment plans that will be added to Project-specific compliance documents to address adverse effects.
159	1/25/2007	II.A.5	The term "feasible and cost effective" is not in the regulations and should be completely removed from this document.	CTUIR	"Feasible and cost effective" was deleted from Stipulation II.A.6. Cost and availability of funds is still addressed in the PA in Stipulation IV.B as part of the prioritization process. Consulting parties will participate in the prioritization process.
160	1/25/2007	II.A.5	Delete the clause "recognizing there may be limited opportunities to do so within the operating pool of an existing reservoir." Add to the paragraph, "If adverse effects cannot be avoided or minimized, they will be resolved in consultation with Tribes and other consulting parties."	CTUIR	Although it may not be possible to avoid or minimize effects, Stipulation II.A.6 supports ways to mitigate adverse effects. As stated in Stipulation II.A, this will be accomplished in consultation with consulting parties.

161	1/25/2007	II.A.7	Delete "cost effective." Paragraph indicates that the Agencies will consult with Tribes and other consulting parties on identification and treatment/mitigation. Why isn't evaluation of historic properties included?	CTUIR	"Feasible and cost effective" was deleted from Stipulation II.A.6. Cost and availability of funds is still addressed in the PA in Stipulation IV.B as part of the prioritization process. Consulting parties will participate in the prioritization process. Stipulation II.A.2 states that identification and evaluation will take place in consultation with consulting parties, and that any party can request reevaluation.
162	1/25/2007	II.A.8	Use "inadvertent discovery" to refer to discovery of human remains and "unanticipated discovery" to refer to archaeological sites because the steps to follow with each will be different.	CTUIR	We changed "inadvertent discovery" to "unanticipated discovery" in Stipulation II.A.8.
163	1/25/2007	II.B	Remove this clause: "consistent with procurement and other regulatory requirements of the LFAs" because the professional qualification standards are not voluntary standards.	CTUIR	We removed this language.
164	1/25/2007	II.C	This stipulation is about public benefit and invokes sections 1 & 2 of NHPA. This contradicts claims elsewhere in PA that it addresses only 106. 106 doesn't require public benefit. MO River PA's language is better.	CTUIR	Sections 1 and 2 of NHPA provide the purpose of the Act, and therefore should inform implementation of Section 106.
165	1/25/2007	II.C.4	As written refers to "the promotion and use of collections for education and research purposes, consistent with 36CFR79.10." The PA should describe the communication process surrounding studies of collections. It is insufficient to simply cite 36 CFR 79.10 because the reg does not contain the word "promotion" or "promote."	CTUIR	We removed the word "promote." Stipulation II.C.4 now refers to the use of collections.
166	1/25/2007	II.C.3	Need clarification. what does "Illustration of accomplishments made in implementing this PA" mean?	CTUIR	This is a reference to specific accomplishments at the Project and systemwide levels. We will describe accomplishments in the Annual Report and at the FCRPS Systemwide Meeting (see Stipulation IX.A and IX.G).
167	1/25/2007	II.C.5	Need clarification. What does "Consideration of actions that seek to protect historic properties so the resources remain available for future generations" mean?	CTUIR	This language has been deleted from Stipulation II.D.
168	1/25/2007	II.C.6	If the agencies can't afford to identify, evaluate, and assess effects, how can they afford to develop heritage tourism?	CTUIR	Executive Order 13287 requires that agencies seek Heritage Tourism opportunities. The Advisory Council supports the inclusion of Heritage Tourism commitments in PAs.
169	1/25/2007	II.D	States "Consulting parties have an obligation to provide timely responses and comments back to the Lead Federal Agencies." The word "obligation" is inappropriate.	CTUIR	The word "obligation" was removed from Stipulation II.D. Responsibilities of consulting parties, including the need for timely input, was added to Stipulation IX.C.2.
170	1/25/2007	II.D	Clarify whether "30 calendar days;" is from date of receipt or of mailing?	CTUIR	The language in Stipulation IX.E.3 was revised to state that consulting parties have 30 days from receipt of a document to respond.

171	1/25/2007	II.D	This paragraph goes on to state, "If the consulting party fails to respond within 30 calendar days, the Lead Federal Agencies can assume concurrence with any proposed action made in the request for comment." Lack of response means only that there has been no response and the process can move on to the next step. Lack of response has no implication as to whether or not a consulting party agrees with a proposed action. See also Stipulation VE2.	CTUIR	We removed the language that the Lead Federal Agencies assume concurrence.
172	1/25/2007	II.D	Please clarify that the request for comment will reach the appropriate people; the Agencies have a history of sending documents only to the Chair despite requests to ensure that technical staff are copied. This document may want to include a list of key personnel titles.	CTUIR	Developing a list of appropriate tribal contacts could be a component of Project-specific PAs, or developed at the Cooperating Group level. This would ensure that lists contain names of appropriate tribal staffs and are updated regularly.
173	1/25/2007	III.A	The definition of APE provided doesn't adequately address indirect and cumulative effects. Should use 36 CFR 800 language to define APE instead.	CTUIR	We changed language of Stipulation III.A to include indirect and cumulative effects.
174	1/25/2007	III.B	Language needs to reflect that all effects are considered, not just adverse effects. APE includes lands where the undertaking has the potential to cause effects to historic properties.	CTUIR	We changed the language in Whereas #6 and Stipulation III.A to acknowledge this. This now reads "the undertaking has caused, is causing, and shall cause in the future direct, indirect, and cumulative effects..."
175	1/25/2007	III.D	Delete last sentence because it's confusing to discuss what will happen after the APE is determined in this section.	CTUIR	In Stipulation III, references to subsequent identification evaluation and treatment efforts were deleted.
176	1/25/2007	IV.A.	First sentence: replace "cannot" with "will not"	CTUIR	We rewrote the first sentence in Stipulation II.A to state that Lead Federal Agencies shall phase implementation of compliance actions.
177	1/25/2007	IV.A	indicates that agencies will set priorities in consultation with "signatory parties." Change this to "affected Tribes and other consulting parties."	CTUIR	The term "signatory parties" was removed, and this section was revised to state that Lead Federal Agencies shall determine priorities in discussion with Cooperating Groups (Stipulation IV.A)
178	1/25/2007	IV.A	Prioritization factors shouldn't be listed in PA if the priorities will be established in the site specific PAs.	CTUIR	The Systemwide PA provides a prioritization framework which will guide prioritization at the Project level.
179	1/25/2007	IV.A	Agencies should state they will comply with 106 ASAP.	CTUIR	The FCRPS undertaking has on-going effects, and so compliance with Section 106 is an ongoing process. The Lead Federal Agencies shall phase implementation of compliance actions to effectively address compliance as needs are identified.
180	1/25/2007	IV.B	Prioritization should be left to Project-specific PAs.	CTUIR	The Systemwide PA provides a prioritization framework which will guide prioritization at the Project level.
181	1/25/2007	IV.B.2	Prioritizes historic properties of "particular scientific or cultural importance." What does "particular" mean, to whom is it important, and who is deciding?	CTUIR	This language was deleted.

182	1/25/2007	IV.B.3.a	Includes properties that are not affected by the undertaking. If not affected by the undertaking, why is it covered in the PA?	CTUIR	This portion of the prioritization stipulation was revised and this reference was deleted.
183	1/25/2007	IV.C	TCPs can't be prioritized in the same way as archaeological sites. Please work closely with experts to draft acceptable TCP language.	CTUIR	Most prioritization factors apply to TCPs, such as the type, location, significance, integrity, risk of damage, etc. Therefore, applicable factors should be considered in prioritizing TCP evaluation and management needs.
184	1/25/2007	V	Would like to review an example of a completed project specific PA/HPMP before it is committed to. Has one been created that meets the Agencies' needs?	CTUIR	Some Project HPMPs have been completed and will need review to determine whether they comply with Systemwide PA requirements. HPMPs completed within the past year have followed the requirements listed in Attachment 4.
185	1/25/2007	V	Will the HPMP have similar effect as a PA or will it be different?	CTUIR	Project-specific PAs and Stand-alone HPMPs must both contain the elements of Stipulation VI.C, and will both allow the Lead Federal Agencies to meet their Section 106 responsibilities (Stipulation VI.A and VI.B).
186	1/25/2007	V	Will agencies work with tribes to decide which document to use? Who signs an HPMP?	CTUIR	The decision about whether to use a Project-specific PA or a Stand-alone HPMP will be determined by the Lead Federal Agencies in discussion with the appropriate Cooperating Groups. A Stand-alone HPMP goes into effect through a letter from the appropriate Lead Federal Agencies, following consultation with all other entities with appropriate jurisdiction and with PA signatories (Stipulation VI.D). All updated, revised, or newly developed HPMPs will be developed in consultation (Stipulation VI.F), and will not be signed until consultation is complete.
187	1/25/2007	V.C.2	Indicates that HPMP takes effect when agencies say so--does not seem to be any consultation with tribes or other consulting parties.	CTUIR	Stipulation VI.D.2 states that Stand-alone HPMPs go into effect through a letter from appropriate Lead Federal Agencies with concurrence from appropriate entities within the area of their jurisdiction, in consultation with the signatories to this Systemwide PA with an interest in the Project.
188	1/25/2007	V.D.1	If the specific PAs/HPMPs do not use the same prioritization designated in this PA they will need to be revised to match. How is this consistent with Stipulation IV which indicates there will be further discussion about the prioritization plans?	CTUIR	The Systemwide PA lays out factors that can be considered in Stipulation IV.B. Given that circumstances may vary by Project, we have included flexibility to further describe prioritization factors in the Project-specific PA/HPMP. See new language inserted at the end of Stipulation IV.B.

189	1/25/2007	V.D.2	Clarify that affected tribes and consulting parties will be consulted. What happens if the project specific PAs are not signed in 7 years?	CTUIR	Stipulation VI.F states that all updates and revisions "shall be developed with involvement of the appropriate Cooperating Group(s), in consultation with consulting parties appropriate to the Project area, and with input from interested members of the public, as appropriate." See Attachment 2 for the schedule. If Project-specific PAs are not signed in 7 years, we'll continue to work toward finalization.
190	1/25/2007	V.E.1	2nd sentence: clarify that sending tribes a document for review and comment is not consulting	CTUIR	For development, updates, or revisions of Project-specific PAs and HPMPs, the involvement of Cooperating Groups and other consulting parties will be a critical part of the process (Stipulation VI.F). The type and level of consultation will depend on specific management issues to be addressed and the preferences of consulting parties, including tribes. There may be some cases where sending a document to a tribe for review and comment is the most appropriate means of consulting under Section 106.
191	1/25/2007	V.F.1	Use term "APE" rather than "affected area" to be more consistent with regs. Important to include <i>potential</i> effects.	CTUIR	We deleted the language "affected area". See revised Stipulation VI.C.1.
192	1/25/2007	V.F.3	CTUIR wasn't consulted in developing prioritization process, so it's inappropriate to use that process in project specific PAs and HPMPs	CTUIR	The Lead Federal Agencies will determine priorities for identification, evaluation, and treatment activities through discussion with Cooperating Groups (Stipulation IV.A) and within the framework established by the Systemwide PA.
193	1/25/2007	V.F.5	First sentence states, "Define a process for determining appropriate resource-specific treatments for historic properties adversely affected by the undertaking as the undertaking is implemented at that Project." What does "as the undertaking is implemented at that Project" mean?	CTUIR	The implementation of the undertaking involves the Lead Federal Agencies carrying out all the activities needed to fulfill authorized Project purposes. See newly inserted Attachment 5 for further clarification on what constitutes the undertaking. The effect on historic properties caused by the undertaking will determine what treatment is appropriate. Also see the last bullet in Attachment 4, Treatment Plan Principles.
194	1/25/2007	V.F.5	The third sentence lists "historical or oral history research to document characteristics and cultural values" as a form of treatment. Please note that this type of research is more consistent with inventory and evaluation than resolving adverse effects.	CTUIR	We agree that oral history and historical research may be appropriate during inventory and evaluation.

195	1/25/2007	V.F.9	Project specific PAs/HPMPs will "outline a schedule for completion of compliance actions for the undertaking." What does that include?	CTUIR	This statement has been revised in Stipulation VI.C.5 to say "Provide a schedule for evaluating National Register eligibility of all unevaluated properties, including TCPs." Also see Attachment 4, Historic Property Management Plans.
196	1/25/2007	V.F.10	Regarding those who may declare an emergency, change "or a tribal government" to "or the Leader of a tribal government."	CTUIR	This language was changed to "define additional processes to take historic properties into account in emergency situations or in discovery situations" (Stipulation VI.C.6).
197	1/25/2007	VI	Don't think systemwide research design will be successful. How will Agencies address that some types of properties are valued for reasons other than the info they contain (TCPs, some built environment , cultural landscapes)? How does development of research objectives adequately value these types of sites?	CTUIR	The Systemwide Research Design discussion (now Stipulation VII) has been revised to more clearly indicate the purpose and anticipated content. Input and assistance will be requested from consulting parties and the interested public. With that assistance it should be possible to define which property types are appropriate for inclusion.
198	1/25/2007	VI.B	Will tribes and others be consulted about the research design? Will professional researchers be paid for their input? Will other contributors be paid?	CTUIR	As now clarified in Stipulation IX.C, the Systemwide Research Design will be prepared with the input and assistance of consulting parties and others+F209. The Lead Federal Agencies pay for products provided by contractors, or products that we would otherwise have had to purchase.
199	1/25/2007	VIII.A.2	Agencies are losing the big picture purpose of 106 by focusing on minutiae. The PA currently states: "The baseline data will include a narrative highlights section, supported by tabular data on acres surveyed, sites recorded, sites evaluated, sites treated, and materials curated." An alternative is "We have an undertaking which is adversely affecting many, many historic properties. The Agencies are taking those adverse effects into account and are going to resolve those adverse effects in the following manner."	CTUIR	References to baseline data have been removed. Agencies need a certain amount of metric data for annual reporting, which is described in Stipulation VIII.A.2.
200	1/25/2007	VIII	Tribes must be separate from other consulting parties. What will happen if a Tribe decides it is no longer able to attend Cooperating Group meetings? Agencies' responsibility to consult with the Tribe remains. PA states, "Communication within the Cooperating Groups does not replace consultation pursuant to 36CFR part 800 or government to government consultation with Tribes as appropriate." Expand on how exactly Agencies propose to consult.	CTUIR	Affected tribes will be involved in on-going consultation about the FCRPS undertaking regardless of whether they participate in Cooperating Groups. The need for consultation in and outside of Cooperating Groups will be determined on a case-by-case basis and depend on the parties involved and issues under discussion.
201	1/25/2007	VIII.B.5	Indicates that the Cooperating Groups will assist in "Drafting or reviewing other plans that may be needed to conduct interim compliance." Please provide an example of this.	CTUIR	This statement was deleted from the PA. But interim plans may consist of Annual Plans, draft HPMPs, technical reports, and project management plans.

202	1/25/2007	VIII.B.6 (now VIII.C.6)	Indicates the Cooperating Groups will provide "data and reporting accomplishments to incorporate into the Annual Report." What will the process for this be? This sounds like a considerable amount of work.	CTUIR	This is now stipulation VIII.C.1.e. It is the responsibility of the Lead Federal Agencies to produce annual reports. Because Cooperating Group members have an integral role in the process, we assume they will want to contribute or at least be informed of Agency findings. The annual report format will be distributed to Cooperative Groups in 2008.
203	1/25/2007	VIII.C	Indicates that members of the Cooperating Groups have an "obligation to provide timely input and responses to the group." "Obligation" is not an appropriate word.	CTUIR	The section, now Stipulation IX.C.2, now reads "For the Lead Federal Agencies to effectively consider the advice and recommendations of the Cooperating Groups, timely input from the Cooperating Groups is needed."
204	1/25/2007	VIII.C	The second sentence states "For each product, the Cooperating Group will define a schedule for actions contributing toward preparation or review of the product." What is a product? What does this mean?		This language was deleted.
205	1/25/2007	X.A.2	Indicates that upon request, a signatory party can identify unresolved issues during review of the PA and then consultation will take place under 36CFR800. Stipulation VIII.B suggested that there was going to be parallel consultation through 36CFR800 under the PA. Please clarify.	CTUIR	Consultation under Stipulation IX is ongoing consultation related to cultural resource compliance activities. Stipulation XI.A.2 only refers to unresolved issues related to review of the Systemwide PA.
206	1/25/2007	X.A.3	Indicates that the outcome of discussions will be shared with anyone who submitted comments. Note that it may be inappropriate to share the contents of government to government consultation with other governments or the public.	CTUIR	Confidentiality requirements defined in 800.6(a)(5) and 800.11(c) shall be observed as a part of all Section 106 actions under this PA, including the development, review, and amendment of this Systemwide PA.
207	1/25/2007	XI	Tribes should be consulted if any changes to the PA are considered. It would be inconsistent with 36CFR800.14 not to include affected Tribes in consultation regarding changes to a document that required consultation in the first place.	CTUIR	See Stipulation XIII.A which states that any amendment to the Systemwide PA would require consultation with the consulting parties to the PA.
208	1/25/2007	XI.A.2	Do the agencies write the written proposal for resolution of problems? Can an objecting party write its own? Will Tribes and other consulting parties get a copy of the proposal?	CTUIR	The Lead Federal Agencies are responsible under ACHP process standards for providing a written proposal for resolution. There is nothing in the described process that would prohibit a disputing party from providing the Lead Federal Agencies and ACHP a proposal as well. In the specific case the Lead Federal Agencies might decide to include the dissenting party's statement along with the Agencies' own proposal.
209	1/25/2007	XII.B	Should specify that agencies will consult with Tribes regarding amendments.	CTUIR	See Stipulation XIII.A which states that any amendment to the Systemwide PA would require consultation with the consulting parties to the PA.

210	1/25/2007	XII.B	The PA states that if an issue is specific to a Project, the requesting party will be referred to the Project-specific agreement. What will happen if the request for amendment is determined to be specific to a project but the project-specific document has not been completed?	CTUIR	If the request for amendment is for a Project where a Project-specific PA has not been yet finalized, the requestor would be encouraged to raise concerns at the Project level either within the Cooperating Group or through a request for specific consultation.
211	1/25/2007	XV.E	Indicates that PA will be effective even if HPOs don't sign. How does that work with the clause that if any of the HPOs pull out, the PA is not valid on lands in their jurisdiction? Also, how does this clause fit with 36CFR800.14(b)(2)(iii): "Effect. The programmatic agreement shall take effect when executed by the Council, the agency official, and the appropriate SHPOs/THPOs" ?	CTUIR	If no THPO/SHPOs sign, it would be highly unlikely that the ACHP would sign.
212	1/25/2007	signature page	The Confederated Tribes of Warm Springs Reservation of Oregon, Yakama Nation, and CTUIR THPOs (at a minimum) must be added.	CTUIR	We have added the Confederated Tribes of Warm Springs Reservation of Oregon, the Confederated Bands and Tribes of the Yakama Nation, and the Confederated Tribes of the Umatilla Indian Reservation THPOs to the signature block page of PA.
213	1/25/2007	Attachment 2	Who will assess and set the schedule?	CTUIR	The schedule is shown in Attachment 2. The Lead Federal Agencies are ultimately responsible for completing the activities in accordance with the schedule. Accomplishments for Project activities at the Cooperating Group level, and track accomplishments for Systemwide activities at the CRSC level.
214	1/25/2007	Attachment 2	The attachment's heading indicates the schedules may be "modified in consultation with signatories to this Systemwide PA with an interest in that Project." Please clarify that affected Tribes will be consulted regardless of whether or not they sign the PA.	CTUIR	Added "and other consulting parties" to clarify that consultation will not be limited to signatories of the PA.
215	1/25/2007	Attachment 3	Citation to regs for "interested party" definition is incorrect. "Interested party" isn't used in 36 CFR 800.	CTUIR	The definition for interested party was deleted and replaced with "interested member of the public" (36 CFR 800.14(b)(2)(ii)).
216	1/25/2007	Attachment 4	HPMPs will include a list of historic properties. How will that work when information regarding TCPs is not shared?	CTUIR	Properties for which tribes share information will be listed in the HPMP. A decision will be made at the Cooperating Group level as to which portions of the HPMP may be shared with the public and which portions cannot be distributed. The confidential portions may be put in a separate volume or an appendix.

217	1/25/2007	Attachment 4	HPMPs will contain "A process for integrating TCP research with the archaeological and historical site identification and evaluation activities." Explain what this means.	CTUIR	During property identification efforts, the inventory process may include appropriate investigations to identify TCPs, as well as other property types. Additionally, when documenting or evaluating a property known to have multiple components (TCP, archeological, or historic materials) actions may include appropriate investigations to determine the relationship between the TCP and the other components.
218	1/25/2007	Attachment 4	HPMPs will include "A process to update records to reflect new data." What do the Agencies mean by records?	CTUIR	Examples are databases of recorded sites, or maps showing areas surveyed and site boundaries, or HPMP information related to properties and priorities, etc.
219	1/25/2007	Attachment 4	HPMPs will include "A process for peer review of potentially significant research or educational products." What does significant mean here?	CTUIR	This language has been changed to "A process for determining when and how to conduct peer review of research or educational products.
220	1/25/2007	Attachment 4	HPMPs will provide "General standards for fieldwork, analysis, reporting, and site treatment." How will these tie into SHPO/THPO standards?	CTUIR	General standard should incorporate SHPO/THPO standards or be agreed to by the appropriate SHPO/THPO.
221	1/25/2007	Attachment 4	HPMPs will include "A general schedule for long-term completion of compliance requirements." Do the Agencies see these documents as products to be contracted out? How will anyone outside the Agencies/Cooperating Groups do this?	CTUIR	To date, FCRPS HPMPs or portions of HPMPs have been drafted by Cooperating Groups, by tribal contractors, by private contractors, and/or agency staff. Depending on the content of a specific section of the HPMP, the appropriate specialist will be enlisted to complete that section.
222	1/25/2007	Attachment 4	Do properties have to be formally determined eligible before treatment will be prepared? How will this work for TCPs?	CTUIR	Treatment will be considered for properties eligible for inclusion on the National Register. See new Stipulation V concerning documentation and evaluation processes for TCPs under this PA.
223	1/25/2007	Attachment 4	Will affected Tribes be consulted in preparation of treatment plans?	CTUIR	Plans shall be prepared with input and assistance from Cooperating Groups and consulting parties, including affected tribes. See Attachment 4, Treatment Plan Principles, bullet 4.
224	1/25/2007	Attachment 4	Selection of sites for treatment should be left to individual PAs.	CTUIR	Selection of sites for treatment will be determined at the Project level using the prioritization process defined in Stipulation IV, with input and assistance of the Cooperating Groups (Stipulation IX.C.1), and would be included in Project HPMPs and Annual Work Plans (Attachment 4).
225	1/25/2007	Attachment 4	Annual Work Plans will require "An estimated level of effort for each activity and proposed cost." What does level of effort mean here?	CTUIR	Level of effort refers to estimated time to complete tasks in a Statement of Work or Work Plan or Proposal, which relates to the budget.

226	1/25/2007	General	The PA would look different if tribes were more involved. Rather than discuss individual items in the PA, we would prefer to step back and look at the big picture from new angles.	CTUIR	Tribal involvement has improved the cohesiveness of the PA. Continued consultation and coordination with tribes will continue to shape the program.
227	1/26/2007	General	What is the purpose of the PA? It only says that the agencies will follow 106 as it pertains to the defined undertaking and if it doesn't pertain to the undertaking, each agency will conduct its 106 process separately.	Confederated Tribes of the Warm Springs Reservation of Oregon (CTWSRO)	The PA provides a framework for Section 106 compliance. Please see Stipulation I. which explains the purpose of the PA. The PA also contains processes not in the statute or regulations, one example of which is the prioritization process (Stipulation IV).
228	1/26/2007	General	It doesn't define an APE.	CTWSRO	Geographic boundaries of the APE will be defined at the Project level.
229	1/26/2007	General	Roles and responsibilities of agencies and signatory parties should be defined.	CTWSRO	See revised Stipulation IX, Consultation, Communication, and Coordination, for clarification of roles and responsibilities.
230	1/26/2007	General	How will the 3 agencies be identifying cultural resources? There is no specific delegation of authority to a particular agency for 106 compliance as to project specific PAs and HPMPs.	CTWSRO	See newly added language in Attachment 5, under the heading "Responsible Agency."
231	1/26/2007	General	Who is accountable for 106 and how is their performance measured?	CTWSRO	See newly added language in Attachment 5, under the heading "Responsible Agency." We would expect that we will receive ongoing feedback from SHPOs, THPOs, and tribes in the Cooperating Groups. The Lead Federal Agencies will assess their performance on an annual basis in the annual report.
232	1/26/2007	General	How are agencies planning to meet their 106 responsibilities? Will a specific agency official be responsible for 106 compliance with defined responsibilities in his/her position description and performance standards?	CTWSRO	For this undertaking, the agencies propose to meet their Section 106 responsibilities through compliance with the terms of this PA.
233	1/26/2007	VI	Do not support the concept of a systemwide research design --"defining Native cultures through the archaeological record is not a very respectful and well thought out topic for this PA."	CTWSRO	The Systemwide Research Design discussion (now Stipulation VII) has been revised to more clearly indicate the purpose and anticipated content. The purpose principally is "to encourage consideration at the Project level of research and educational objectives that have application on a broader, potentially regional level" (see Stipulation VII.B). The goal is to provide tools that will ensure materials or information are collected at the Project or site level that will allow for and aid comparison of information between historic properties throughout the Columbia Basin.
234	1/26/2007	VIII	The tone of this section indicates that the agencies make the decision and that coordination and cooperation isn't a focus. This probably isn't the intent so it should be redrafted.	CTWSRO	Stipulation IX has been revised to recognize Cooperating Groups as the principal+F296 mechanism for communication between the Lead Federal Agencies and consulting parties (Stipulation IX.B).

235	1/26/2007	General	PA needs to acknowledge time invested and contributions to program creation by tribes. Tribes have invested significant amounts of time and money into this process. The historical and ongoing importance of the tribes to this process should be noted throughout the document.	Nez Perce Tribe, Rebecca A Miles, Chairman	The Agencies recognize and appreciate the contributions of tribes to the FCRPS program and development of the PA. Whereas # 14 was created to acknowledge these significant contributions.
236	1/26/2007	General	At meetings, Tom McCulloch (ACHP) indicated that tribes and the agencies can agree on categories or classes of properties that will be considered eligible for the NR under the terms of the PA. In our experience the agencies are extremely reluctant to do this and prefer to spend substantial time and money on individually evaluating properties.	Nez Perce Tribe	The Lead Federal Agencies will consider identifying categories or classes of properties that are considered eligible in Project-specific PAs.
237	1/26/2007	General	Agencies need to agree that sites that are buried under the reservoirs can still be considered eligible for the NRHP and that the fact that they are buried can be construed as an adverse effect.	Nez Perce Tribe	Buried sites may be considered eligible if there is sufficient means of making a determination of eligibility. This will be deemed on a case-specific basis.
238	1/26/2007	General	Agencies say that discussion of topics including the PA and the research design would have to occur at the system-wide level, but there is no mechanism to do this. This is problematic for accomplishing some of the larger goals of the FCRPS cultural resources program.	Nez Perce Tribe	Activities being implemented in compliance with the PA will be discussed at the systemwide level through the annual report and through the FCRPS systemwide meeting. Stipulation VII, Systemwide Research Design, has been revised to clarify that the research design will be prepared with input and assistance from consulting parties and interested members of the public.
239	1/26/2007	General	800.3(a) and 800.3(b) require the agency official to consult with the SHPO/THPO "in identifying additional consulting parties." Additional discussion needed on the role of consulting parties other than SHPO/THPO.	Nez Perce Tribe	Consistent with 800.3(f), if a SHPO/THPO indicates any additional parties may wish to be consulting parties, then the agency shall invite them to participate as such in the Section 106 process. Notification could also occur either during consultations with SHPO/THPOs for this Systemwide PA or during consultation for a Project-specific PA or Stand-alone HPMP.
240	1/26/2007	Title	The signature block should individually list all of the full signatories to the PA. The Nez Perce THPO should be specifically identified rather than listed as a consulting party.	Nez Perce Tribe	The Nez Perce THPO has been added to the signature block page.
241	1/26/2007	3rd Whereas	1st line--change "those" to "these"	Nez Perce Tribe	This change was made.
242	1/26/2007	5th Whereas	This section is confusing because only the operation of the power system can be characterized as truly "coordinated." Other undertakings addressed here are coordinated either between BPA and the Corps or BPA and BOR. If other projects involve BPA and Corps funding or BPR and BOR funding will they still be "coordinated"?	Nez Perce Tribe	We deleted the word "coordinated" because some activities under this undertaking involve only one Lead Federal Agency while others involve two Lead Federal Agencies. See further clarification in Attachment 5.

243	1/26/2007	5th Whereas	PA states the undertaking includes "future modifications to the operating regime." Needs to be more specific. The PA would no longer be in effect if the regime shifted away from the preferred alternative identified in the SOR EIS and stipulated in the RODs.	Nez Perce Tribe	The PA will still cover the same geographic area even if the operating regime changes. If there are monumental changes, the effects of the undertaking may change, but this PA provides the framework for addressing those effects and also provides an option for not using this PA.
244	1/26/2007	6th Whereas	Change "the undertaking causes or may cause" to "the undertaking has caused, is causing, and will cause "adverse effects. The RODs and SOR EIS note that adverse effects have resulted from the undertaking.	Nez Perce Tribe	Thank you for your comment, we adopted your language.
245	1/26/2007	10th Whereas	Agencies must consult with THPOs from CTUIR, the Yakama Nation, and the CTWRS in addition to the three listed, because these tribes have tribal lands within the APE as defined in the PA. Agencies don't seem to fully understand the difference between a THPO and a tribe under regs.	Nez Perce Tribe	We added the THPOs as signatories and understand the differentiation between tribes and THPOs in terms of jurisdiction and consulting roles.
246	1/26/2007	11th Whereas	Why are these two EOs referenced, but treaties, other EOs, laws, regs and agency policies aren't? Section needs to be more inclusive of the reasons tribes are consulted.	Nez Perce Tribe	We added language which encompasses relevant EOs and treaties. We also included agency tribal policies in Whereas #10 and #12.
247	1/26/2007	Therefore clause	Should add sentence at the end that states what will result if the agencies fail to follow the PA: "Failure to follow the provisions and stipulations of this PA will result in the federal agencies following the regulations at 36 CFR 800 for each aspect of the undertaking."	Nez Perce Tribe	If Lead Federal Agencies elect not to utilize the terms of this PA for an activity that would otherwise come within the scope of the PA, regulatory procedures at 36 C.F.R. part 800 will apply (Stipulation I.E).
248	1/26/2007	I-B	"Address section 106 NHPA compliance only." This sentence is problematic because other parts of the PA reference other sections of the NHPA. If the agencies want to address other sections of the NHPA then all applicable sections should be addressed.	Nez Perce Tribe	Lead Federal Agencies will comply with all relevant aspects of NHPA and other applicable laws regardless of whether they are addressed in the Systemwide PA. Reference to other sections of NHPA are those that define the overall Act.
249	1/26/2007	I-C(2)	Change "Historic Properties Management Plan" to "Cultural Resources Management Plan." Addressing all properties and not just eligible properties will enable land managers conducting undertakings on the APE to have a better understanding of each project's resources and will in the long run save time and money.	Nez Perce Tribe	Regardless of terminology, the Project HPMPs will define processes to manage properties that have been determined eligible as well as processes to evaluate properties where evaluation has not yet occurred or needs to be reconsidered. It is advisable to also consider processes for interim management of properties where evaluation has not yet occurred.
250	1/26/2007	I-C(4)	Define what a "case-by-case basis" is.	Nez Perce Tribe	We deleted "case-by-case basis" and replaced it with the language at Stipulation I.E.
251	1/26/2007	I-D	This section should note that exempt practices will only be exempt as long as the other signatory parties concur.	Nez Perce Tribe	We included a list of exempt practices in Attachment 6 for consulting party review.

252	1/26/2007	II-A(3)	Identification of historic properties includes evaluation. Identification and evaluation are not two separate things. Some level of identification will be necessary throughout the entire APE. This may include a variety of methodologies to identify historic properties. Also, undertaking is dynamic and ongoing so some properties may be determined eligible at a later date.	Nez Perce Tribe	We use evaluation as described in 36 CFR 800.4(c), which we agree is part of the overall identification process in 800.4. In some cases it may be appropriate to separate identification and evaluation activities for the purposes of prioritizing work or implementing contracts. Properties that have been identified may not yet have been evaluated, which is a very common management practice.
253	1/26/2007	II-A(3)	The 11th whereas contradicts the notion that properties found to be ineligible for the NR will receive no further consideration under the PA.	Nez Perce Tribe	This language in this whereas (now Whereas #12) has been revised to list broader authorities beyond NHPA that influence tribal and agency relationships.
254	1/26/2007	II.A.5	Clarify "cost effective" to avoid future debate in implementation.	Nez Perce Tribe	"Feasible and cost effective" was deleted from Stipulation II.A.5. Cost and availability of funds is still addressed in the PA in Stipulation IV.B as part of the prioritization process. Consulting parties will participate in the prioritization process.
255	1/26/2007	II.A.5	Add statement that says "the agencies recognize they still need to resolve adverse effects if they cannot be avoided."	Nez Perce Tribe	See new language in Stipulation II.A.7, which states that we will "encourage creative and innovative ways to mitigate adverse effects to historic properties."
256	1/26/2007	II.A.7, first sentence	Insert "consulting" after "other" in first sentence.	Nez Perce Tribe	The statement in Stipulation II.A.7, was expanded upon and relocated to Stipulation II.B, Communication, Coordination, and Consultation.
257	1/26/2007	II.B	Need to better define applicability of professional qualification standards. Since PA addresses Section 106, should cite 800.2(a)(1), rather than Section 112 of NHPA, regarding professional qualifications.	Nez Perce Tribe	See Stipulation II.C where we use the citation you suggest.
258	1/26/2007	II.C	If public benefit is a mitigation alternative (Lynne's comment in PA meeting), should move to mitigation section.	Nez Perce Tribe	Public benefit is broader than mitigation alone and could flow from the full array of compliance activities.
259	1/26/2007	II.C	Delete references to other NHPA sections.	Nez Perce Tribe	Sections 1 and 2 provide the purpose of the NHPA and should be read in conjunction with the rest of the statute. While Section 106 does not explicitly state that it is designed to provide public benefit, we use the term public benefit in a general sense to describe the cultural resource protection principles in Section 106, which we perceive as beneficial to society.
260	1/26/2007	II.C	Mitigation section should pointedly state that mitigation should be related to the criteria for eligibility for inclusion on the NR.	Nez Perce Tribe	Attachment 4, Treatment Plan Principles, lists the National Register criteria under which a property has been determined eligible as one factor that may be considered in selecting a mitigation option.

261	1/26/2007	II.C.2	Define "tribal communities" and "scientific communities." Aren't scientific communities part of the general public?	Nez Perce Tribe	Please see "Indian Tribe or Tribe" in the glossary for a definition of tribal communities. The PA has been revised to delete usage of the term "scientific community" as we agree that they are a subgroup of the interested members of public, as defined in the glossary, Attachment 3.
262	1/26/2007	II.C.6	"Expansion of opportunities for heritage tourism" is something the agencies should be doing in their recreation departments and not as part of their management of cultural resources.	Nez Perce Tribe	Executive Order 13287 requires that agencies seek Heritage Tourism opportunities. The ACHP supports the inclusion of Heritage Tourism commitments in PAs.
263	1/26/2007	II.C, final paragraph	Last paragraph: Section 304 of the NHPA is incorporated by reference at 800.6(a)(5), so should use the regs cite rather than the section 304 cite rather than NHPA Section 304.	Nez Perce Tribe	See Stipulation II.C where we use the citation you suggest.
264	1/26/2007	II.C, final paragraph	In first sentence use "requires" rather than "allows for."	Nez Perce Tribe	This section has been revised, and confidentiality is now in Stipulation II.E, which states that Lead Federal Agencies shall restrict disclosure of information consistent with 36 C.F.R. 800(6)(a)(5).
265	1/26/2007	II.C, final paragraph	The reference to restriction of information would be more ingrained in the sections dealing with public involvement.	Nez Perce Tribe	Confidentiality is discussed in Stipulation II.E, as a principle that will apply systemwide.
266	1/26/2007	II.D	Need to add reference to ability of the tribes to request Govt to Govt consultation.	Nez Perce Tribe	Stipulation II.D was deleted. Government to government consultation can be requested at any time by tribes. The government to government relationship is recognized in Whereas #12, and Stipulation II.B acknowledges that communication with Cooperating Groups does not replace government to government consultation. Stipulation IX.B further states that communication with Cooperating Groups contributes toward and facilitates consultation pursuant to 36 C.F.R. part 800.
267	1/26/2007	II.E	BPA has committed funding to support activities under this PA until 2012. Need to add a commitment of funding consistent with 30-year term of PA.	Nez Perce Tribe	This document is not a funding document. The level of ongoing funding for compliance activities will be determined by the Lead Federal Agencies.
268	1/26/2007	II.F	Insert "and signatory parties" after Lead Fed Agencies	Nez Perce Tribe	We consider it the responsibility of Lead Federal Agencies to comply with Section 106 with respect to the effects of the undertaking, although signatory parties will be involved.
269	1/26/2007	III.A, 1st sentence	first sentence: Delete "either" and replace with "that are potentially."	Nez Perce Tribe	We revised Stipulation III.A., and the language used there in the definition of APE was taken from 36 C.F.R. 800.16(d).

270	1/26/2007	III.B, 1st sentence, line 3	Delete "adverse" from 1st sentence, 3rd line. Application of the criteria for adverse effects (36 CFR 800.5(a)) occurs after the APE has been established (800.4(a)(1)) and after the identification of historic properties (800.4(b)). Determining adverse effects before determining the APE is not consistent with the regs.	Nez Perce Tribe	Stipulation III.B. was completely revised and no longer contains references to "adverse effects".
271	1/26/2007	III.D, 1st sentence	In 1st sentence, change "coordination" to "consultation." Insert "SHPO/THPO, affected tribes" in front of "appropriate consulting parties."	Nez Perce Tribe	This language is now in Stipulation III.E., which states that the APE will be determined in consultation with consulting parties at the Project level.
272	1/26/2007	IV.A, last sentence, 1st paragraph	Last sentence of 1st paragraph: delete "The Lead Federal Agencies will set priorities" and replace with "priorities will be."	Nez Perce Tribe	See new language in Stipulation IV which states "The Lead Federal Agencies shall determine priorities for identification, evaluation, and treatment activities through discussion with Cooperating Groups..."
273	1/26/2007	IV.A	5th bullet: replace "endangers" with "affects"	Nez Perce Tribe	This bullet was deleted and replaced with "the risk of loss of integrity to the property caused by the undertaking..." (see Stipulation IV.B, 6th bullet).
274	1/26/2007	IV.A	7th bullet: This priority should be irrelevant with respect to whether or not an agency is required to resolve adverse effects	Nez Perce Tribe	This bullet was edited and now reads "Extent and reliability of past identification efforts in the area, with a higher priority likely for areas where identification efforts are incomplete or lack reliability."
275	1/26/2007	IV.A	8th bullet: Are "historical and cultural significance" different than NR eligibility? If so, how are they defined and who defines what is historically and/or culturally significant?	Nez Perce Tribe	We deleted "historical and cultural significance." The criteria used to prioritize work are now listed in Stipulation IV.B.
276	1/26/2007	IV.A	9th bullet: Integrity is linked to the type of historic property under consideration and by what criteria the property is eligible for the NR.	Nez Perce Tribe	We changed this language to reference "degree" of integrity rather than "physical" integrity.
277	1/26/2007	IV.A	10th bullet: This is solely linked to criterion D and should be broadened to reflect all 4 criteria.	Nez Perce Tribe	Prioritization factors apply to all types of properties, regardless of the criterion under which they are evaluated as eligible.
278	1/26/2007	IV.A	13th bullet: Agencies are required to comply with law whether or not they have funds available. Delete "funds availability" factor.	Nez Perce Tribe	This statement acknowledges that the amount of work that can be accomplished in a single year is linked to available funds.
279	1/26/2007	IV.B. last line	last line: Delete "interested parties" and replace with "SHPO/THPOs, affected tribes, and other appropriate consulting parties."	Nez Perce Tribe	Stipulation IV has been revised and we no longer use the term "interested parties" in that section.
280	1/26/2007	IV.C	Need to reference 800.6(a)(5) in this section.	Nez Perce Tribe	Confidentiality is addressed as a Systemwide Principle in Stipulation II.E. It contains a reference to provisions in 800.6(a)(5) and 800.11(c).
281	1/26/2007	IV.B.2.b	Who defines "of particular... cultural importance"? Historical importance should also be considered.	Nez Perce Tribe	To address comments this section was rewritten and the phrase was not used.
282	1/26/2007	IV.C, 2nd sentence	2nd sent: Delete "values."	Nez Perce Tribe	We deleted all reference to "values" in relation to TCPs throughout the PA.
283	1/26/2007	IV.C, 2nd sentence	Replace Section 304 citation with 800.6(a)(5)	Nez Perce Tribe	We replaced reference to Section 304 with the confidentiality provisions from the regulations at 800.6(a)(5) and 800.11(c).

284	1/26/2007	V.C.2	HPMPs must have concurrence of applicable PA signatories to be an actual compliance document	Nez Perce Tribe	Stipulation VI.D.2 states that Stand-alone HPMPs go into effect through a letter from the appropriate Lead Federal Agencies committing the agencies to adhere to all the terms of the Project-specific HPMP, with the concurrence from the appropriate entities within their area of jurisdiction.
285	1/26/2007	V.D.1	Agencies should review existing PA/HPMPs in consultation with the applicable signatory/consulting parties.	Nez Perce Tribe	Review will be conducted by Lead Federal Agencies, but all updates and revisions to existing Project-specific PAs/HPMPs, and creation of new Project-specific PAs/HPMPs shall be developed in consultation with appropriate consulting parties, with input from interested members of the public, as appropriate (see Stipulation VI.E and F).
286	1/26/2007	V.D.2	Why did agencies choose 7-year period for executing new PA/HPMPs?	Nez Perce Tribe	Agencies assessed that, given other commitments in this PA, it is a reasonable timeframe to draft two of these documents annually across the FCRPS. Note that the deadline is 7 years to draft and circulate for review and comment. The schedule does not prevent us from working faster if circumstances allow.
287	1/26/2007	V.E and V.E.1	The word "interest" should be changed. The tribes are involved in this process for other reasons besides interest.	Nez Perce Tribe	We removed the term "interested parties" from Stipulation VI.
288	1/26/2007	V.E.1, 1st sentence	Rephrase 1st sentence. SHPOs/THPOs and tribes re not simply "interested parties." Clarify difference between an affected tribe and an interested tribe, or affected agency and a cooperating agency.	Nez Perce Tribe	We removed the term "interested parties" from Stipulation VI.
289	1/26/2007	V.E.1, 1st sentence	800.14(a)(2) requires consultation, not "review and comment" from SHPO/THPOs and tribes, in development of PA. BPA committed in their ROD to developing PAs in full cooperation with tribes.	Nez Perce Tribe	The term "review and comment" has been replaced with "in consultation with consulting parties appropriate to the project area."
290	1/26/2007	V.F.5	Replace "scientific data recovery" with "archeological data recovery."	Nez Perce Tribe	References to scientific data recovery have been removed from the PA. This term was changed to "data recovery", and now appears in Attachment 4, Treatment Plan Principles.

291	1/26/2007	V.F.5	What is the difference between using historical and/or oral historical research as a method to identify historic properties vs. as a resource-specific treatment?	Nez Perce Tribe	Depending on the context, historical and/or oral historical research may be appropriate both in identification and treatment, with a different objective or focus for each.
292	1/26/2007	V.F.9	Delete "completion of."	Nez Perce Tribe	This term was deleted from Stipulation VI.
293	1/26/2007	VI	Nez Perce THPO is available to assist with rewriting this section, per agency statements in Richland meetings that it will be significantly revised.	Nez Perce Tribe	Thank you for the offer of assistance. The Lead Federal Agencies have revised the stipulation to incorporate input received from tribes, SHPO/THPOs, and other Federal agencies during the consultation meetings and the 2007 FCRPS systemwide meeting.
294	1/26/2007	VII.A. 2nd sentence	2nd sent: Sentence indicates that members of the coop groups are members of the public with respect to the PA. This is wrong. "Who are the 'potentially interested members of the public?'" Should reference 800.6(a)(5).	Nez Perce Tribe	This reference to Cooperating Groups has been removed. The Annual Report will be distributed to consulting parties to the PA and interested members of the public. This may include non-consulting parties that request information about the program (such as rate payers). Annual reports are primarily for Agency reporting and will not contain confidential information.
295	1/26/2007	VII.C	Agencies have indicated tribes had reviewed handbook in the past, but that is untrue. Tribe needs to review it.	Nez Perce Tribe	The handbook is available on the FCRPS web site (http://www.efw.bpa.gov/environmental_services/Handbook2007.pdf).
296	1/26/2007	VIII.A	Agree that agencies should meet on occasion to maintain consistency and address issues in the overall FCRPS cultural program, this group should not be formalized to the exclusion of tribes.	Nez Perce Tribe	CRSC meeting agendas and summary notes are now on the FCRPS website.
297	1/26/2007	VIII.B.2	Insert a sentence to note that the coop groups are not a substitute for consultation between agencies, SHPO/THPOs and tribes under 106.	Nez Perce Tribe	See Stipulation IX, which states that communication with the Cooperating Groups contributes toward and facilitates consultation pursuant to 36 CFR. 800.
298	1/26/2007	VIII.C, 1st sentence	Add "consistent with funding" to end of 1st sentence (statement of member responsibility to respond).	Nez Perce Tribe	This is now Stipulation IX.C. This PA is not a funding document. However, the Lead Federal Agencies do not expect Cooperating Group members to produce work products without funding. Funding to support technical support to the program will be determined separately.
299	1/26/2007	VIII.E, 1st sentence	A sentence should be added referencing the sensitivity of info discussed during annual meetings and whether that is appropriate under 800.6(a)(5).	Nez Perce Tribe	Stipulation IX.G. now includes a statement that sensitive information from Systemwide meetings will be protected from public disclosure.
300	1/26/2007	X.A	Insert "and the signatory parties" or "other signatory parties" after "Agencies" in 1st sentence (regarding PA 5-year review process).	Nez Perce Tribe	Signatory parties are welcome to review the PA at any time, but the Lead Federal Agencies are responsible for review of the PA on a set schedule.
301	1/26/2007	X.A.1	Insert "and the signatory parties" or "other signatory parties" after "Agencies" in 1st sentence (regarding PA 5-year review process).	Nez Perce Tribe	Stipulation XI.A.1 now states that the Lead Federal Agencies shall solicit comment from consulting parties in preparing summaries.

302	1/26/2007	XI.A	Insert "or ACHP" at the end of the first sentence. Insert "or ACHP" after "Agencies" in the second sentence.	Nez Perce Tribe	Parties have the ability to go to the ACHP concerning objections or disputes with respect to fulfillment of the terms of this PA at any time.
303	1/26/2007	XI.F, 2nd sentence	insert "of" after "more" in 1st sentence.	Nez Perce Tribe	We made this change in response to your comment.
304	1/26/2007	XV.E, 1st sentence	Rephrase 1st sentence to state that PA is only in effect on tribal lands if it has been signed by the agencies, ACHP and the THPO.	Nez Perce Tribe	We acknowledge that if a THPO does not sign, the PA will not be effective on Tribal lands under their jurisdiction, and did not feel it was necessary to add this language to Stipulation XVI.
305	1/26/2007	XV.E	Add statement "If the agencies cannot meet the terms of the PA due to fiscal reasons, their compliance with Section 106 must be reconsidered through consultation."	Nez Perce Tribe	We agree, but did not feel it was necessary to add specific language to this section.
306	1/29/2007	General	Should reference the IDU PA in this PA: "reflect on past commitments."	Salish and Kootenai Tribes, Marcia Pablo	IDU and SOR RODs are referenced in the 7th Whereas. We added "which remain in effect" to acknowledge that these documents are still effective. See also Stipulation XVI.A, which states "This PA does not supersede or replace pre-existing Section 106 agreements relevant to the 14 Projects."
307	1/29/2007	IV	Edit to make clear that no one type of resource (archeology/criterion d) takes priority over another type (such as TCP's or criterion a/b/c properties)	CSKT	Stipulation IV was rewritten to clarify the commitment to treat all types of properties, including TCPs, with equity. Stipulation V, was also added to specifically address TCPs.
308	1/29/2007	II, IV, V, VI	"Creative mitigation" concept proposed "with an emphasis on Criteria A, B, and C. With this in mind a research design could be developed for the Columbia River System...Water could be the main focus for it the water that connects all of us." Each tribe could contribute information and stories to share that could enrich the larger objective. Move to mitigation rather than dwell on enlarging existing archeological collections. Resources/cultural landscapes continue to be lost to erosion.	CSKT	Stipulation II.A.6, states that agencies will "encourage creative and innovative ways to mitigate adverse effects to historic properties." Also see Treatment Plan Principles in Attachment 4. The Systemwide Research Design (Stipulation VIII) could be used to identify opportunities for designing and implementing creative mitigations.
309	1/29/2007	General	Requests review of existing collections to "ensure that if any culturally sensitive material, items of cultural patrimony, be identified and placed back where it came from or repatriated on the reservation if the original area is not accessible." Address in the PA and define a process.	CSKT	The Lead Federal Agencies do not believe this PA is the vehicle to address these specific concerns since they are not Section 106 responsibilities (see Whereas #10). However, the land managing agency has the responsibility to address items of cultural patrimony under their NAGPRA requirements, and would address culturally sensitive materials consistent with their internal agency policies.
310	1/29/2007	General	Concern for agency ability to fund curation responsibilities.	CSKT	Stipulation II.A, <i>Address Section 106 Compliance Requirements</i> , has been modified to include "9. Curate collections consistent with 36 C.F.R. part 79." Stipulation VIII.A.3 also now incorporates curation accomplishments into the Annual Report.

311	1/29/2007	I.C and V	Clearly outline the relationship between the system-wide PA and Project-specific PA/HPMPs. If an issue in the systemwide PA is not specifically identified in the project-specific documents, which takes precedence.	CSKT	Stipulation I.C explains that the Systemwide PA is intended to serve as an overarching or umbrella agreement applicable to all Projects. Stipulation VI.A clarifies that Project-specific PAs/HPMPs may be developed for Section 106 compliance so long as they comply with the terms of the Systemwide PA. If a discrepancy is identified between the Systemwide and a Project-specific PA, the Project-specific PA would need to be amended to align with the terms of the Systemwide PA.
312	1/29/2007	VIII, and throughout	Identifies consultation and discussion of issues as "the only way we can present our differing word-views and come to compatible solutions and avoid misunderstandings."	CSKT	The importance of communication and consultation is acknowledged in Stipulations II.B and IX.
313	1/30/2007	Throughout PA (add a whereas)	The roles of the land-managing agencies need to be clearly expressed as more than a consulting, interested or concurring party. Land managers are responsible for the welfare of the sites under section 110; therefore, all actions that affect the site must be reviewed and approved by the land manager.	National Park Service, Debbie Bird (NPS)	In recognition of the role of a Federal Land Manager, we added a new statement (Stipulation IX.E.3) that states "When another agency is the Federal Land Manager at a Project (e.g., the National Park Service for portions of Lake Roosevelt), the Lead Federal Agencies shall consult with the other Federal Land Manager to determine the best process for coordinating determinations of eligibility, effect, and appropriate mitigation for adverse effects, and the process for submitting such findings for comment by the appropriate SHPO, THPO, affected tribes, and other affected parties. Such processes may be described in a Project-specific PA and/or HPMP or in a separate agreement between the Lead Federal Agencies and the other Federal Land Manager." Also see a new language presented in Stipulation IV.C concerning the authority of agencies with jurisdiction to permit actions.
314	1/30/2007	V.E.1	Modify to verify the role of the land managing agencies in the development of the Project-specific PA/HPMPs	NPS	The NPS or other agency with land management jurisdiction can work with the Lead Federal Agencies at a Project to ensure the processes defined in Project-specific PAs or Stand-alone HPMPs take their role and responsibilities into account. See revisions to Stipulation VI.C, that clarify that processes unique to program planning and implementation at a Project will be included in the Project-specific PA or Stand-alone HPMPs. Also see Stipulation IX.E.2 and IX.E.3.

315	1/30/2007	VIII.B	The last line states that the lead agencies "retain final decision-making authority for actions recommended by the Coop groups." This statement does not properly define the role of the land managing agencies in approving those decisions.	NPS	Stipulation IX.E.3 was added in recognition that land managing agencies have a role and authority on their lands that differs from the role of other consulting parties. The processes to integrate the Lead Federal Agency program authority and responsibility with the Federal Land Manager jurisdictional authority will be defined at the Project level and documented in the Project-Specific PA or other appropriate document.
316	1/30/2007	VIII.C	Unclear regarding land-managing agency authority. Clarify that the stipulation is only referring to technical products for review or production by the members of the Working Group.	NPS	Cooperating Group responsibilities are now more clearly developed and clarified in revised Stipulation IX.C.
317	1/30/2007	XI.5	Stipulation states that in dispute resolution, lead fed agencies can proceed with an action after notifying objecting party, ACHP and other consulting parties. Need to add that the action can't take place without approval of the land-managing agency, which has section 110 responsibilities and will often have to issue ARPA permits.	NPS	Revisions to Stipulation VI.C clarify that processes tailored to a Project should be included in the Project-specific PA or Stand-alone HPMP. A land management agency can work with the Lead Federal Agencies at a Project to ensure that dispute resolution processes take into account their roles and responsibilities.
318	2/24/2007	Title	THPOs should be included as participants.	Susan Pengilly Neitzel (ID SHPO)	The title page of the PA was changed to address this comment. THPOs have been added to Whereas #11, which recognizes consulting parties to the PA, and THPOs have been added to the signature page.
319	2/24/2007	General	The entire agreement should be revised as needed to ensure that historic buildings and structures are fully considered. As drafted, it only addresses archaeological sites and TCPs.	ID SHPO	Stipulation IV was rewritten to treat all types of properties, including historic buildings and structures with equity. Also definition of "Historic Property" in Attachment 3.
320	2/24/2007	IV.B.1.A	Determining the "primary agent," if it's even possible, can be difficult and costly.	ID SHPO	Stipulation III.E.2 states that where attribution of effects cannot be readily determined with the best available information, the Lead Federal Agencies shall discuss the uncertainty and options for resolving it with the consulting parties at the Project level.
321	2/24/2007	III.A	Cumulative effects should also be considered in the definition of APE and assessment of effects.	ID SHPO	Cumulative effects were added to address this comment.
322	2/24/2007	VIII	Support the suggestion to move the "Consultation and Coordination" section to the front of the document.	ID SHPO	We revised and clarified this section, but opted to leave it in its original location.
323	2/24/2007	II.A.5	"When feasible and cost effective" should be deleted. The 106 review process requires agencies to identify historic properties and seek ways to avoid, minimize or mitigate adverse effects on historic properties, not just when it's inexpensive. Understand that costs and effectiveness need to be in the equation, but suggest this go in a separate stipulation. Should state that the agencies will "seek ways to avoid or minimize..."	ID SHPO	"Feasible and cost effective" was deleted from Stipulation II.A.6. Cost and availability of funds is still addressed in the PA in Stipulation IV.B as part of the prioritization process. Stipulation II.A.5 states that agencies will "seek to avoid or minimize adverse effects" to historic properties.

324	2/24/2007	II.A.2	Last sentence is troublesome. How will the source or extent of effects be determined? This would likely be a time-consuming effort that could deadlock the entire program	ID SHPO	Stipulation III.E.2 states that where attribution of effects cannot be readily determined with the best available information, the lead federal agencies shall discuss the uncertainty and options for resolving it with the consulting parties at the Project level.
325	2/24/2007	Attachment 4	The HPMP checklist should specifically call for a link between the prioritization process outlined in Stipulation IV and identification, evaluation, and treatment activities outlined in an HPMP. Should also include a curation plan "consistent with 36 CFR 79." May want to include a sample table of contents for an HPMP.	ID SHPO	Stipulation VI.C.3 has been revised to state that Project-specific PAs and Stand-alone HPMPs shall "refine the prioritization process described in Stipulation IV and describe additional Project-specific processes." "A curation plan" was added to the required elements for HPMPs (Attachment 4).
326	2/24/2007	Appendices (in general)	General procedures for inadvertent discoveries and emergencies should be provided as an appendix. Would also be helpful to include appendices that offer a boiler plate for a project-level PA and an example list of exemptions (if a list is not developed as part of this PA).	ID SHPO	Stipulation II.A.8 states that procedures at 36 CFR. § 800.13(b) will be followed in the event of emergencies or unanticipated discoveries, and that procedures specific to individual Projects may be defined in Project-specific PAs. Project-specific PAs are currently being developed. Also see Stipulation VI.C.6. Attachment 6 contains a list of exemptions.
327	2/24/2007	II.A.8	Basic procedures for inadvertent discovery and emergencies should be defined in an appendix.	ID SHPO	Stipulation II.A.8 states that procedures at 36 CFR. § 800.13(b) will be followed in the event of emergencies or unanticipated discoveries, and that procedures specific to individual Projects may be defined in Project-specific PAs. Also see stipulation V.C.6.
328	2/24/2007	II.B	Not clear what it means that the agencies will apply the professional qualification standards "in a manner commensurate" with the nature and complexity of the property or resource being investigated. Need better explanation.	ID SHPO	This is now Stipulation II.C. This language was changed to read "the knowledge and expertise needed to complete the work" in order to clarify this requirement.
329	2/24/2007	V.C.1	May be difficult to execute a project level PA if signatures of all affected or interested tribes and affected or cooperating agencies are required. Sometimes tribal governments won't sign agreements even if they support the content. A "cooperating" or affected agency may not have enough interest in the project or authority to sign. Consider rewording to require only signatures of the Lead Federal Agency (or Agencies), SHPO(s), THPO(s), tribes with tribal land within the APE, and land-managing agencies with land within the APE.	ID SHPO	Stipulation VI.D was revised to indicate that Project-specific PAs would only require the appropriate Lead Federal Agencies, appropriate SHPO/THPO, and affected entities with jurisdiction to sign. Stand-alone HPMPs are put into effect by signature of the Lead Federal Agencies with "concurrence from the appropriate entities within their area of jurisdiction." We understand that tribal governments may elect not to sign these Project-specific agreements.
330	2/24/2007	II.C	Greatly appreciate the addition of this section. Key purpose is to preserve our nation's heritage for the enjoyment and appreciation of future generations. Would be helpful to provide examples of the items listed. How do you intend to fulfill item #3-- "Illustration of accomplishments made in implementing this PA"?	ID SHPO	This is now Stipulation II.D, and a list of examples is provided in II.D.2.

331	2/24/2007	Attachment 2	Item #4 would be more clear if it said "Two drafts annually..."	ID SHPO	This is clarified in the "Action" column of the table in Attachment 2, which states "Complete drafts..."
332	2/24/2007	I.C	Sentence re: streamlining should be deleted. As currently drafted the PA doesn't result in a streamlined process. It's merely an umbrella agreement under which other agreements can be negotiated. Would be willing to review a list of possible exemptions to be included in this PA, however skeptical that a worthwhile list can be agreed upon considering the scope and diversity of the region, projects, and participant. An exemption list should be developed that the project level.	ID SHPO	Attachment 6 lists routine FCRPS activities that do not require Section 106 consultation at the Systemwide level. Additional exemptions will be identified at the Project level (see Stipulation I.D).
333	2/24/2007	VI	May be worthwhile to develop a list of data to be collected in archaeological investigations so that system-wide questions can be answered.	ID SHPO	We added "identify types of materials or data that are important to analyze and collect to address research questions" to Stipulation VII.B.2.
334	2/24/2007	IV.C	Remember that some tribes define TCPs very broadly, sometimes so broadly that all archaeological sites are considered TCPs. Accordingly, the statement about restricting access to all archaeological collections associated with TCP "values" could result in restricting access to all archaeological collections associated with a project, which could conflict with the access provisions of 36 CFR 79.	ID SHPO	This section of the PA has been revised, and a new section that addresses TCP management has been added (see new Stipulation V).
335	2/24/2007	Treatment Plan Principles	Preparation of National Register nominations, HABS/HAER documentation, and historical documentation (at a level less than HABS/HAER) should be included as treatment options.	ID SHPO	See revised Attachment 4, Treatment Plan Principals, where your recommendation was incorporated.