

WALLOWA FALLS HYDROELECTRIC PROJECT (FERC NO. 308)
 RESPONSES TO AGENCY AND TRIBE COMMENTS
 ON PROPOSED STUDY PLANS

Proposed SP Resource Area	Commenter, Document & Date of Comment	Comments	PacifiCorp Response	Comment Adopted Yes/No
Aquatic Resources	USFS (Letter Oct 20, 2011) by M. Schwalbach	USFS and ODFW request the "Relative Abundance Study" record condition factor in bypass reach fish.	PacifiCorp will record condition factor of the first 25 specimens collected per species. After 25 specimens are collected, PacifiCorp will record condition factor in a 10% subsample per species of the fish collected in the bypass reach.	Yes
Aquatic Resources	USFS (Letter Oct 20, 2011) by M. Schwalbach	USFS would like to reiterate the importance of conducting a macro invertebrate study in the bypass reach. USFS requests a macro invertebrate study be conducted to assess current effects of the Project in the bypass reach.	PacifiCorp proposes to conduct a one-time Rapid Bio-assessment for macro invertebrates in September 2012. A representative riffle will be sampled in the following three locations of the East Fork Wallowa River: 1) above the forebay, 2) in the high gradient portion of the bypass reach above the lower penstock trestle, and 3) in the low gradient portion of the bypass reach below the lower penstock trestle.	Yes
Aquatic Resources	USFS (Letter Oct 20, 2011) by M. Schwalbach	USFS requested that habitat/feature types be recorded where fish were captured in the upper segment of the bypass reach.	PacifiCorp states that fish captured in the upper segment of the bypass reach are highly migratory, that fish use all habitat/feature types and the data would not yield pertinent information on Project effects. USFS agreed with PacifiCorp's response indicating that similar data will be collected in the lower segment of the bypass reach with use of the USDA Forest Service Region 6 Stream Inventory Handbook as part of the Instream Flow Study.	No

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Aquatic Resources	USFS (Letter Oct 20, 2011) by M. Schwalbach	USFS requests we record the habitat type (per the USFS Habitat Mapping handbook) where fish were captured in the bypass reach. Identify feature type the fish were collected in.	Fish and other aquatic resources expected to be recorded during the relative abundance field survey are highly migratory. It is assumed that all species recorded utilize all habitat types. Therefore, this information would not be pertinent to the evaluation of Project effects in the bypass reach.	Yes
Geology and Soils	USFS (Letter Oct 20, 2011) by M. Schwalbach	Modify objectives in Section 2.0 to include near- and long-term soil erosion.	PacifiCorp will modify the objectives statement accordingly in the Revised Study Plan.	Yes
Instream Flow Habitat	USFS (Letter Oct 20, 2011) by M. Schwalbach	USFS requests clarification of the hydraulic variable considered in the study. USFS suggests mean-column-velocity measurements be taken for the purposes of the study.	Mean Column Velocity is the hydraulic variable PacifiCorp intends to use in the Instream Flow Study. PacifiCorp will clarify this in the revised study plan.	Yes

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Terrestrial Resources	USFS (Letter Oct 20, 2011) by M. Schwalbach	USFS requests the study area be modified to include all lands within 100 meters of Project features (powerhouse, access road, campground, etc.). This would include areas upstream of the forebay including all wetlands created by the impoundment.	PacifiCorp will adjust the study area for terrestrial resources on USFS and PacifiCorp Lands to include all lands within 100 meters of Project facilities. This would include wetlands created by the forebay impoundment. The Study area will not include the private land parcels on the west side of the West Fork Wallowa River and north of the Project tailrace.	Yes
Terrestrial Resources	USFS (Letter Oct 20, 2011) by M. Schwalbach	PacifiCorp should be using the 1990 LRMP for agency goals because the new version is still in draft form and has not yet been finalized.	PacifiCorp will refer to the goals in the 1990 Wallowa-Whitman Land and Resource Management Plan in the Revised Study Plan.	Yes
Water Resources	USFS (Letter Oct 20, 2011) by M. Schwalbach	USFS would prefer the company establish a gage just above the Royal Purple diversion but if this is not feasible, USFS agrees that the basin estimate method described in the Study Plan is an acceptable method. Mike also wanted to confirm that the company plans to establish a gage at East Fork Wallowa above the forebay.	PacifiCorp plans to establish a gage above the Royal Purple Creek diversion for the purpose of collecting flow data. If this method of data collection proves to be infeasible, PacifiCorp will use the basin estimate method as described in the study plan to estimate Royal Purple Creek flow. PacifiCorp does plan to establish a gage on the East Fork Wallowa River above the forebay.	Yes

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Water and Aesthetic Resources	USFS (Letter Oct 20, 2011) by M. Schwalbach	The USFS suggests PacifiCorp cross-reference the Aesthetic Resources Study Plan in the Water Resources Study Plan discussion on turbidity.	PacifiCorp will cross-reference the Aesthetic Resources Study Plan in the Water Resources Study Plan discussion on turbidity.	Yes
Permitting	USFS (Letter Oct 20, 2011) by M. Schwalbach	Regarding permitting to conduct relicensing studies on Forest Service Lands, PacifiCorp should work directly with Mary Ellen Emerick at the district office to obtain an Investigative Permit to cover all studies that will be conducted on NFS Lands. Additionally, PacifiCorp will need to work with Sara Crump and/or Tony King to secure an ARPA permit for the cultural resource surveys.	PacifiCorp will contact the appropriate Wallowa-Whitman National Forest Staff to obtain the required permits before studies are conducted.	Yes

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Data Sharing	USFS (Letter Oct 20, 2011) by M. Schwalbach	The Forest Service requests PacifiCorp share all raw data collected during the studies with USFS including GIS information. There are two reasons for this: 1) to update district records for resources and 2) to allow USFS to conduct independent analysis of resources.	PacifiCorp will provide data collected during the studies to the Forest Service in the form of quality controlled data spreadsheets; GIS shape files and technical reports.	Yes
General Statement	USFWS (Letter Nov 2, 2011) Item 1 by G. Miller	The Service is in support of the study plans (in particular, aquatic, instream flow, water resources, and terrestrial) proposed to date.	Comment noted.	NA

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Aquatic Resources	USFWS (Letter Nov 2, 2011) Item 2 by G. Miller	The Service recommends a survey be conducted for amphibians in the project area to minimize impacts associated with project activities (including impacts associated with electro fishing, potential salt tracer studies, and releases of high sediment loads during flushing of forebay).	No Protocol surveys for these amphibians currently exist. There are a few general amphibian survey methods (primarily dip netting) that will be used within the Study Area.	Yes

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<p>Aquatic Resources</p> <p>Page 7 of 34 Version 12-02-2011</p>	<p>USFWS (Letter Nov 2, 2011) Item 3 by G. Miller</p>	<p>The Service is concerned with the potential use of a salt tracer study (a high concentration of salt released in the system) in place of a stream flow measurement device. This potential study was first mentioned at the meeting in Pendleton, OR on August 21, 2011 and later documented in the Agency comments response matrix presented to the agencies on October 12, 2011. The details of the salt tracer study have not been displayed in enough detail to fully understand its potential effects to the aquatic community. The potential impacts to macro invertebrates, amphibians, and native fish species (bull trout, kokanee, and rainbow trout, and other species) from this activity is not well understood.</p> <p>The Service would prefer the collection of hydrology data for this project (that may have some measure of error as a result of natural steep topography) using</p>	<p>Initial instantaneous flow measurements will be made using the area-velocity technique or volumetric measurements. However, if these methods produce problematic results due to the relatively low volume of flow, the salt dilution gaging method should be considered. If used, the tracer dilution method will adhere to specifications and procedures as required by applicable regulatory agencies. Salt dilution gaging in the East Fork bypass reach, if used, will be based on the methods of Moore (2004a, 2004b, 2005). These methods accurately measure flows in turbulent streams by using a tracer solution containing common table salt (sodium chloride, NaCl), which is injected at a point upstream of where stream flow estimates are desired. A discussion of the salt dilution method and the risks associated with its use are provided in Section 7.1.1 of the Revised Water Resources Study Plan.</p>	<p>Yes with additional qualification</p>

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Terrestrial	USFWS (Letter Nov 2, 2011) Item 4 by G. Miller	The Service is interested (as commented in June 21,2011) in a baseline survey of the East Fork Wallowa River Forebay, for aquatic plants to determine if species are native or invasive, and if invasive, determine a strategy for control.	The noxious weed survey will evaluate both aquatic and terrestrial noxious weeds. The forebay will be evaluated during the noxious weed survey. If any aquatic noxious weeds are identified, they will be removed or controlled as needed.	Yes
Aquatic Resources	USFWS (Letter Nov 2, 2011) Item 5 by G. Miller	The Service would be interested in any data of bull trout use of Wallowa Lake as well as the East Fork and West Fork Wallowa River when PacifiCorp conducts tracking of these tagged fish during the bull trout study.	All data collected over the course of the proposed studies will be submitted to the Agencies in the form of a Final Report after completion of said Studies. Please note however, PacifiCorp does not anticipate collecting any data concerning the tracking of bull trout in Wallowa Lake. The proposed study of PIT tagging bull trout will only track volitional movements of bull trout in the East Fork Wallowa River bypass reach and Project tailrace. Some data may be collected from Wallowa Lake in terms of bull trout captures, as this area is identified as a potential location to capture bull trout for tagging and then release.	Yes, with additional qualification
Aquatic Resources	ODFW (Letter Nov 4, 2011) by E. Moats	ODFW and USFS request the "Relative Abundance Study" record condition factor in Bypass Reach fish.	PacifiCorp will record condition factor of the first 25 specimens collected per species. After 25 specimens are collected, PacifiCorp will record condition factor in a 105 subsample per species of the fish collected in the bypass reach.	Yes

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Soils and Geology	ODFW (Letter Nov 4, 2011) by E. Moats	ODFW requests PacifiCorp clarify the scope and study area for the soils/geology study. How will sediment issues be addressed in the lower reach and Wallowa River from the East Fork confluence to Wallowa Lake?	PacifiCorp has revised the Study Plan to include a qualitative discussion of the following: an overview of systemic geomorphic processes from the Project forebay to Wallowa Lake, a discussion of the Project's potential sediment contribution in the context of the larger basin geomorphology, the potential sedimentation to affect aquatic habitat in the lower East Fork Wallowa River and Wallowa River from the confluence of the East Fork and West Fork to Wallowa Lake, and seasonal changes in sediment transport capacity.	Yes
Water Resources	ODFW (Letter Nov 4, 2011) by E. Moats	ODFW is concerned with Dissolved Oxygen (DO) concentrations in the bypass reach for the duration of the bull trout spawning period, and requests PacifiCorp consider additional DO sampling in October.	PacifiCorp is open to the possibility of adding a third 72-hour monitoring period in October for a total of 3 samples (August, September and October). Any final decision on sampling schedule will be made after consultation with ODEQ on the Proposed SP.	Yes
Water Resources	ODFW (Letter Nov 4, 2011) by E. Moats	ODFW and USFWS suggest additional consultation with ODEQ is necessary to identify possible effects of salt tracer studies on aquatic resources.	PacifiCorp will consult with Oregon DEQ regarding the possible effects of salt tracer studies on aquatic resources prior to incorporating this method into prior studies.	Yes

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Instream Flow and Habitat	ODFW (Letter Nov 4, 2011) by E. Moats	PacifiCorp has recommended against specific studies to address invertebrate habitat as a function of flow. ODFW recommends two general methods that can be used to evaluate potential impacts to invertebrates. Wetted width vs. flow: On PHABSIM riffle transects, PacifiCorp should generate output on wetted width vs. flow. This output is readily available with standard PHABSIM modeling.	The Revised SP will reflect this recommendation.	Yes

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Instream Flow and Habitat	ODFW (Letter Nov 4, 2011) by E. Moats	Indicators of Hydrologic Alteration (IHA): in preparation for PHABSIM interpretation, PacifiCorp will need to produce daily flow files for various project alternatives. These hydrological files can be easily incorporated into the IHA program. The output produced by IHA will be useful for making general comparisons among different project alternatives, including natural flows.	The Water Resources Study Plan describes how mean daily flows (in addition to certain other flow statistics) will be calculated from collected stream flow data values taken at five gaged sites in the Project area. This information can be used to identify “natural flows” as mentioned by ODFW. PacifiCorp does not plan to produce daily flow files for various Project alternatives or use the IHA program as indicated in ODFW’s letter, because no other Project alternatives are proposed at this time. If other Project alternatives are identified in the future, including those in consultation with ODFW or others, PacifiCorp will consider producing associated flow files for such alternatives. PacifiCorp assumes that producing such files would involve straightforward spreadsheet-based calculations using the datasets of mean daily flows from the gaged sites as mentioned above. In a teleconference with Tim Hardin of ODFW, Mr. Hardin indicated this was an acceptable approach.	No
Instream Flow and Habitat	ODFW (Letter Nov 4, 2011) by E. Moats	Include redband trout in the study. They are on the ODFW sensitive species list. Project diversions will affect their habitat during most months.	Redband (rainbow) trout will be included in the study.	Yes

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Instream Flow and Habitat	ODFW (Letter Nov 4, 2011) by E. Moats	Habitat survey – Extend to the waterfall, making the total distance surveyed – 4700 ft. I don't think we should rule out transects in the 3200 ft downstream of the waterfall.	PacifiCorp plans to include the bypass reach from the confluence of the East Fork and West Fork Wallowa Rivers to the natural fish barrier waterfall (approximately 4700 feet upstream).	Yes
Instream Flow and Habitat	ODFW (Letter Nov 4, 2011) by E. Moats	Turbulence and flow meters: The Flow-Tracker may have problems on higher gradient transects. But this is not a reason to restrict the transect selection process. We can either test the Flow-Tracker in more turbulent areas, or just use a different meter in those areas.	PacifiCorp is open to the potential use of alternative technology or methods to meter flow during the study.	Yes

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Instream Flow and Habitat	ODFW (Letter Nov 4, 2011) by E. Moats	Transect location: A single study reach may not be the best approach. It may be better to distribute transects in several locations to cover all the habitat types desired. This is especially true for any transects placed upstream of the 1500-ft lowest-gradient reach.	PacifiCorp is open to the possibility of distributing transects in several locations in the study reach as described above.	Yes
Instream Flow and Habitat	ODFW (Letter Nov 4, 2011) by E. Moats	Transect number: 12 transects seems like an adequate number. Transect selection, including any key spawning areas, should be guided by the habitat survey and fish sampling.	PacifiCorp proposes to sample approximately 12 transects for the study.	Yes

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Instream Flow and Habitat	ODFW (Letter Nov 4, 2011) by E. Moats	Flow: We suggest aiming for flow measurements at approximately 2, 8, and 20 cfs. This would allow simulation over the range 1 to 50 cfs, which would cover the ~ no spill condition up to about a median June runoff flow.	The Revised SP will reflect this recommendation.	Yes
Instream Flow and Habitat	ODFW (Letter Nov 4, 2011) by E. Moats	Habitat duration curves are a good method of data interpretation. Ultimately, these rely on development of a time series of daily flows with various project operation alternatives. ODFW would like to be kept informed as PacifiCorp develops these time series.	The Revised SP will reflect this recommendation.	Yes

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Instream Flow and Habitat	ODFW (Letter Nov 4, 2011) by E. Moats	Regarding habitat duration, ODFW advises caution in incorporating WUA results that show decreasing WUA at higher flows. Currently, prevailing practice is to flatten off the WUA curve at its peak (for example, if the peak value occurs at 20 cfs, this WUA value is extended to all flows above 20 cfs).	Comment noted; this will be an important consideration during the WUA curve selection process. PacifiCorp looks forward to additional discussion with stakeholders on the WUA curves available for species of concern, curve selection, and interpretation of model results.	NA
Instream Flow and Habitat	ODFW (Letter Nov 4, 2011) by E. Moats	Hydraulic variables: PacifiCorp should collect velocities at the Mid and High flows, assuming this can be done safely. This will allow much better simulation of the 10 to 50 cfs range. Velocity measurements at the low flow are useful but not critical. The 8 cfs velocities will probably do an adequate job for the low-flow simulations.	The Revised SP will reflect this recommendation.	Yes

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Terrestrial Resources - Section 3.S Wildlife Studies	ODFW (Letter Nov 4, 2011) by E. Moats	The proposed terrestrial survey methodology is insufficient to survey for amphibians. The survey method should include disturbing rocks and leaf litter to find concealed animals, as well as the use of dip nets to capture and identify larvae and adult amphibians in the forebay.	No protocol surveys for these amphibians currently exist. There are a few general amphibian survey methods that will be used within the Study Area. These include use of dip nets and visual inspection to survey for presence/absence of amphibians within the aquatic habitats of the Study Area. The Revised Study Plan provides a detailed description of the methods proposed.	Yes
Water Resources - Dissolved Oxygen	ODFW (Letter Nov 4, 2011) by E. Moats	PacifiCorp's proposal to monitor dissolved oxygen (DO) for three 72-hour monitoring periods is insufficient to adequately describe water quality conditions. ODFW recommends monitoring DO for 72 hours every other week from mid-August to mid-October for a total of five periods.	PacifiCorp plans to conduct three 72-hour periods of DO monitoring to cover the August through October period. PacifiCorp believes that this level of data collection is ample to characterize DO conditions for this period, particularly in light of the relatively pristine nature of the watershed. Additionally, the DO data collected in 2012 will be reviewed with DEQ (and other interested agencies) in January 2013, with the option of additional DO data collection during the same period in 2013, if warranted based on this review.	No

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Water Resources - Dissolved Oxygen	ODEQ (Letter Oct 31, 2011) by J. Dadoly	Dissolved oxygen (~O) monitoring should be performed during four 72-hour periods conducted approximately every-other week from late August to the end of October 2012. This schedule is proposed to include the over-lapping spawning periods for Bull Trout and Kokanee Salmon, and to include more monitoring time to define DO conditions during flow variations. These fisheries are sensitive beneficial uses of the impacted water bodies, and the two proposed 72-hour monitoring events are insufficient to determine if they are being protected.	PacifiCorp plans to conduct three 72-hour periods of DO monitoring to cover the August through October period. PacifiCorp believes that this level of data collection is ample to characterize DO conditions for this period, particularly in light of the relatively pristine nature of the watershed. Additionally, the DO data collected in 2012 will be reviewed with DEQ (and other interested agencies) in January 2013, with the option of additional DO data collection during the same period in 2013, if warranted based on this review. In a teleconference with ODEQ on November 8, 2011, and a subsequent email, Mr. Dadoly of ODEQ indicated he was agreeable with this approach.	No

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Aquatic Resources – Macro Invertebrates	ODEQ (Letter Oct 31, 2011) by J. Dadoly	<p>PacifiCorp should conduct macro invertebrate population studies in the East Fork bypassed reach, Powerhouse Tailrace, and East Fork Wallowa River above the Project area. This sampling was originally proposed in the Pre-Application Document and was subsequently removed from the Aquatics Study Plan. There appear to be no previous studies that can be used to determine possible impacts to macroinvertebrates. DEQ does not agree that the lack of past data is sufficient reason to eliminate the gathering of baseline data.</p>	<p>PacifiCorp plans to conduct an analysis of macroinvertebrates using the Rapid Bioassessment Protocol (RBP) at three sites in the East Fork: (a) above the Project forebay; (b) in the upper (higher-gradient) part of the East Fork bypassed reach; and (c) in the lower (lower-gradient) part of the East Fork bypassed reach. Sampling is not planned in the Powerhouse Tailrace, as this is not a particular place of concern for aquatic resources. In a teleconference with ODEQ on November 8, 2011 Mr. Dadoly indicated he was agreeable with this approach</p>	<p>Yes, with modifications</p>

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Water Quality	ODEQ (Letter Oct 31, 2011) by J. Dadoly	After one year of monitoring, PacifiCorp should evaluate the results with Oregon DEQ and the Oregon Department of Fish and Wildlife (ODF& W) and determine if a second year of monitoring is needed to develop an adequate understanding of the Project's impacts to water quality and the support of beneficial uses of water.	Water quality data collected in 2012 will be reviewed with DEQ (and other interested agencies) in January 2013, with the option of additional DO data collection during the same period in 2013, if warranted based on this review.	Yes
Cultural Resources	OPRD – SHPO (Letter Oct 6, 2011) by J. Pouley	The Area of Potential Effects (APE) would need to include both direct and indirect effects, as stated in 36 CFR 800. Tribal input is necessary regarding the study plan and the potential for the project to adversely effect properties of religious and cultural significance.	PacifiCorp agrees that the APE should include both direct and indirect effects as stated in 36 CFR 800. The Nez Perce Tribe (NPT) and Confederated Tribes of the Umatilla Indian Reservation (CTUIR) have requested that all consultation with them occur directly with FERC. PacifiCorp will continue to work with FERC to obtain tribal input regarding the study plan and the potential for the Project to adversely affect properties of religious and cultural significance.	Yes, with additional qualification

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Cultural Resources	OPRD – SHPO (Letter Oct 6, 2011) by J. Pouley	The Ethnographic Studies section (4.1.3) did not reference tribal consultation, which may provide additional information pertinent to the project. In any event, the study plan in its current form requires input from other consulting parties identified through the 36CFR800 process. As discussed during our teleconference, a cultural resources workgroup would likely serve as a beginning point for addressing concerns of all consulting parties simultaneously. In that regard, please keep us informed as to the status of developing a workgroup.	The NPT and CTUIR have requested all consultation with them occur directly with FERC. PacifiCorp will continue to work with FERC to obtain additional information pertinent to the Project. While PacifiCorp is open to the possibility of forming a cultural resources work group, formation of such a group may be of limited value without Tribal participation.	Yes, with additional qualification

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Cultural Resources	Nez Perce Tribe Cultural Resource Program (Letter to F. Winchell, FERC-SHPO Sep 12, 2011) by K. Baird	The agency and PacifiCorp have held public meetings in Pendleton, Oregon, as a matter of convenience to their staff, the Oregon State Historic Preservation Office, and the Confederated Tribes of the Umatilla Indian Reservation. As the project is located in the Ceded lands of the Nez Perce Tribe, future meetings should be located in or near Lapwai, Idaho, so the Nez Perce Tribe can be meaningfully involved.	The Study Plan meeting was held in Pendleton, Oregon on August 31, 2011. The meeting was situated in Pendleton as a way of accommodating as many of the Project stakeholders as possible. A teleconference number was distributed to stakeholders for those who could not attend the meeting. In addition to technical specialists from PacifiCorp and consultants, representatives from the following agencies attended the meeting: FERC, Oregon Department of Fish and Wildlife (ODFW), United States Forest Service (USFS; via teleconference), and the United States Fish and Wildlife Service. Representatives from the Oregon State Historic Preservation Office (SHPO) and the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) as well as several other stakeholders were invited to, but did not attend the meeting.	NA
Cultural Resources	Nez Perce Tribe Cultural Resource Program (Letter to F. Winchell, FERC-SHPO Sep 12, 2011) by K. Baird	The restriction of the Area of Potential Effect to the FERC footprint, which is not defined, should NOT be an objective of the cultural resources study. Instead, the study should be designed to identify both direct and indirect effects on historic properties, regardless of the project footprint.	The APE that is described in the Proposed Study Plan is a <i>proposed</i> APE. The APE may be expanded following additional dialog with the Project stakeholders to allow for project flexibility (in terms of future operations and maintenance) or to take into account indirect effects to historic properties from project facilities. PacifiCorp requests the NPT identify what they consider an appropriate APE for both direct and indirect effects on Historic Properties.	Yes

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Cultural Resources	Nez Perce Tribe Cultural Resource Program (Letter to F. Winchell, FERC-SHPO Sep 12, 2011) by K. Baird	The authors make numerous references to the Wallowa-Whitman National Forest (WWNF) Land and Resources Management Plan (LRMP), and proposed revisions anticipated in 2012. As the WWNF has not consulted with the Nez Perce Tribe on the 1990 version of the plan, or on the proposed revisions, it is premature for the project proponents to make any assumptions based on this.	As a part of the FERC relicensing process for the Wallowa Falls Project, PacifiCorp is required to evaluate existing land uses within the project area and also the resource management objectives for lands situated within the FERC boundary. A portion of the Project is situated on lands managed by the USFS and is therefore governed by the management objectives and guidelines that appear in the Wallowa-Whitman National Forest (WWNF) Land and Resource Management Plan (LRMP) (1990) or the Blue Mountains Forest Plan (BMFP) should it be completed prior to FERC's decision.	No
Cultural Resources	Nez Perce Tribe Cultural Resource Program (Letter to F. Winchell, FERC-SHPO Sep 12, 2011) by K. Baird	Please provide this office with a copy of the five cultural resource reports in the study are for our review.	The documents noted in this comment will be forwarded to the tribe.	Yes

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Cultural Resources	Nez Perce Tribe Cultural Resource Program (Letter to F. Winchell, FERC-SHPO Sep 12, 2011) by K. Baird	Although Tasa and Chappell did not located any explicit descriptions of tribal fishing at the falls, Wallowa Lake was and is an important Nez Perce fishery.	Comment noted.	NA
Cultural Resources	Nez Perce Tribe Cultural Resource Program (Letter to F. Winchell, FERC-SHPO Sep 12, 2011) by K. Baird	It is disappointing that the authors, despite describing the project area as belonging to the Nez Perce Tribe, chose to cite place names from a report prepared for the CTUIR for the Indian Claims Commission. Wallowa, the name for the river, lake, mountains, National Forest, and even the hydroelectric project itself, is a word in the Nez Perce language.	Comment noted.	NA

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Cultural Resources	Nez Perce Tribe Cultural Resource Program (Letter to F. Winchell, FERC-SHPO Sep 12, 2011) by K. Baird	Please explain what is meant by "as sanctioned by the federal government cessations of 1855 and 1863." The federal government did not cede any lands to the Nez Perce or any of its bands. The Tribe owned the land from time immemorial, and ceded parts of their homelands to the federal government and memorialized these agreements in the Treaties of 1855 and 1863.	<p>The text of the statement noted in this comment pertains to section 4.2.2 Historic Context of the Proposed Study Plan. The Revised Study Plan text has been modified to read as follows:</p> <p>"Before Euro-American settlement commenced, the Wallowa Valley was largely the territory of Chief Joseph's tribe. The tribe ceded parts of their homelands to the federal government and memorialized these agreements in the Treaties of 1855 and 1863."</p>	Yes

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Cultural Resources	Nez Perce Tribe Cultural Resource Program (Letter to F. Winchell, FERC-SHPO Sep 12, 2011) by K. Baird	Please correct the statement, "If historic properties are identified within the Project boundary, effects from Project development and operations may occur." Under the National Historic Preservation Act, FERC must consider the effects of the project on historic properties regardless of whether or not the properties are within the project footprint.	Section 5.0 (page 8) of the Revised Study Plan has been modified to read as follows: "If historic properties are identified within the Project APE, effects from Project development and operations may occur."	Yes
Cultural Resources	Nez Perce Tribe Cultural Resource Program (Letter to F. Winchell, FERC-SHPO Sep 12, 2011) by K. Baird	The project proponent is erroneously assuming that the project, as built, does not affect historic properties. This determination is only possible after a thorough cultural resource study and meaningful consultation with affected tribes. Existing conditions do not equal a no adverse effect.	The Proposed Study Plan for Cultural Resources represents PacifiCorp's <i>proposed</i> approach to the study of cultural resources which includes a thorough analysis of objects, structures, buildings, districts, and sites that are listed in or eligible for the National Register of Historic Places located within the APE. It is our understanding that FERC welcomes concerns and comments expressed through the agency's consultation with the Nez Perce Tribe and other stakeholders to ensure that direct and indirect effects to historic properties by Project operations and maintenance are appropriately analyzed.	NA

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Cultural Resources	Nez Perce Tribe Cultural Resource Program (Letter to F. Winchell, FERC-SHPO Sep 12, 2011) by K. Baird	Again, the project footprint is not a reasonable basis for the Area of Potential Effect. It may be an appropriate starting point to discuss Direct Effects, but certainly not for Indirect Effects.	PacifiCorp requests the NPT identify what they consider an appropriate APE for both direct and indirect effects on Historic Properties.	NA
Cultural Resources	Nez Perce Tribe Cultural Resource Program (Letter to F. Winchell, FERC-SHPO Sep 12, 2011) by K. Baird	The Nez Perce Tribe Cultural Resource staff includes professional archaeologists and ethnographers. The project proponent is strongly encouraged to contract with the Tribe to conduct any archaeological inventory and evaluation to ensure that Tribal concerns are identified and addressed as it relates to archaeological resources.	Section 7.3 has been modified to address this comment. PacifiCorp is open to the possibility of retaining a tribal representative to accompany and participate with the CardnoENTRIX field crew in the archaeological field survey that is scheduled to be conducted in 2012. PacifiCorp has requested that affected tribes wishing to participate in the archaeological field survey provide a proposed scope of work, applicable billing rates, and budget for these services.	Yes, with additional qualification

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Cultural Resources	Nez Perce Tribe Cultural Resource Program (Letter to F. Winchell, FERC-SHPO Sep 12, 2011) by K. Baird	The level of effort to identify traditional cultural resources appears to be completely inadequate to the task. Contacting tribes and hoping that they will share sensitive cultural resource information is unlikely to produce meaningful results. The project proponent must commission a study with each affected tribe to identify any traditional cultural places (TCP) or Historic Properties of Cultural and Religious Significance to Indian Tribes. Once this is completed, then the tribes and the FERC can determine if the project has a direct or potential effect on any of these properties.	Section 7.4 has been modified to address this comment. PacifiCorp is open to the possibility of commissioning a study with affected tribes. PacifiCorp requests the NPT identify what they consider an appropriate study for TCP and Historic Properties of Religious and Cultural Significance. The NPT proposed study should include a scope of work and budget and meet FERC's Study Plan Criteria under 18 CFR Section 5.9(b).	Yes, with additional qualification

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Cultural Resources	Confederate Tribes of the Umatilla Indian Reservation (Letter to F. Winchell, FERC-SHPO 09-29-2011) by C. Dickson	Our first issue pertains to the APE. On page one, Cardno-Entrix indicates that the principal objective of the cultural resource work is to “establish the FERC boundary as the Area of Potential Effect” among other things. As you know, and as the document later clarifies, the APE will be determined by the lead federal agency in consultation with the SHPO and advisedly the affected tribes. The document seems to pre-determine what the APE is; see also pages 2,8,11 and 12 for confusion on this issue. We look forward to working with FERC and the SHPO on determining the APE. What is FERC’s plan for consultation regarding the APE?	Section 6.0 has been modified to address this comment. PacifiCorp agrees that the APE will be determined by the lead federal agency (FERC) in consultation with the tribes, SHPO, USFS, and PacifiCorp. The text within the study plan has been modified to clarify that “[a]t a minimum the APE should include the proposed FERC Project boundary. As a result of comments from the tribes, USFS, and SHPO, the APE may be extended in order to address direct and indirect effects that may extend beyond the FERC boundary. This expansion will be determined following additional consultation between the lead federal agency – FERC, tribes, USFS, OR SHPO, and PacifiCorp.” Changes clarifying the identification of the APE were made throughout the document.	Yes, with additional qualification

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Cultural Resources	Confederate Tribes of the Umatilla Indian Reservation (Letter to F. Winchell, FERC-SHPO 09-29-2011) by C. Dickson	Our second issue pertains to consultation. This SP talks about PacifiCorp working with tribes. It does not talk about FERC consulting with tribes. The CTUIR does not wish to consult with PacifiCorp about this undertaking; we have a government to government relationship with FERC and will consult with you	PacifiCorp does not wish to intrude on the government-to-government relationship between FERC and Indian Tribes and we will continue to respect the tribes' decision to discuss the Project only with FERC unless otherwise notified. PacifiCorp is dedicated, however, to working with all Project stakeholders to identify effective and respectful forms of communication so that cultural resources are identified, evaluated, and treated in the most sensitive and productive manner possible. The study plan has been modified to further clarify the consultation requirements of 36 CFR 800.	Yes, with additional qualification

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Cultural	Confederate Tribes of the Umatilla Indian Reservation (Letter to F. Winchell, FERC-SHPO 09-29-2011) by C. Dickson	<p>On page 3 the document should be revised as follows:</p> <p>“Prior to conducting cultural resource investigations that involve ground disturbing work, an ARPA permit is required. The USFS would also require a Special Use permit for any cultural resource investigations conducted within the Wallowa-Whitman National Forest. The USFS will consult with affected tribes prior to issuing these permits. NAGPRA provides a process for resolving the disposition of Native American human remains that may be identified during cultural resource investigations.”</p>	<p>Section 3.0 has been modified to address this comment with additional clarifications.</p> <p>“Prior to conducting cultural resource investigations that involve ground disturbing work, an ARPA permit is required. The USFS may also require a Permit for Archaeological Investigations conducted within the Wallowa Whitman National Forest. The USFS will consult with affected tribes prior to issuing these permits. NAGPRA provides a process for resolving the disposition of prehistoric human remains that may be identified during cultural resource investigations.”</p>	Yes, with additional qualification

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Cultural	Confederate Tribes of the Umatilla Indian Reservation (Letter to F. Winchell 09-29-2011) by C. Dickson	The American Indian Religious Freedom Act and Religious Freedom Act should be added to the list of cultural resource laws that apply on federal land (page 3).	Comment integrated into Section 3.0 of the document.	Yes
Cultural	Confederate Tribes of the Umatilla Indian Reservation (Letter to F. Winchell 09-29-2011) by C. Dickson	The last sentence on page 12 should read, "If a site requires additional analysis involving subsurface probes, this work will be coordinated with the USFS (if applicable) and the SHPO in consultation with affected tribes."	<p>Comment noted. The following text was added to Section 7.3 of the study plan with additional clarifications.</p> <p>"If a site requires additional analysis involving subsurface probes, PacifiCorp will consult with FERC and the USFS (if applicable) regarding this work. FERC and the USFS will then consult with the SHPO and the tribes as appropriate."</p>	Yes, with additional qualification

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Cultural	Confederate Tribes of the Umatilla Indian Reservation (Letter to F. Winchell 09-29-2011) by C. Dickson	<p>To the second paragraph on page 14, please add the following sentence (in red).</p> <p>“Any additional subsurface testing beyond the initial pedestrian survey to determine the National Register-eligibility of sites discovered will only be undertaken if Project development and/or operations have the potential to adversely affect the site. Such testing will be conducted pursuant to consultation with affected tribes.”</p>	<p>The comment was inserted into the Section 7.5 of the study plan with additional clarifications. The following text was added to the study plan.</p> <p>“Any additional subsurface testing beyond the initial pedestrian survey to determine the National Register-eligibility of sites discovered will only be undertaken if Project development and/or operations have the potential to adversely affect the site. Such testing will be conducted consistent with the requirements of the applicable USFS and SHPO permits and in consultation with the tribes.”</p>	Yes, with additional qualification

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Cultural	Confederate Tribes of the Umatilla Indian Reservation (Letter to F. Winchell 09-29-2011) by C. Dickson	Regarding traditional use studies, it appears that Cardno-Entrix simply anticipates “consulting” with tribes “to ascertain whether there is a potential for TCPs within the Project boundary” (p. 8). The concern is whether there are historic properties of religious and cultural significance to Indian tribes (HPRCSITs) within the APE. Simple conversations are no more likely to answer that question than asking the SHPO whether there are archaeological sites within the APE is to determine whether there are archaeological sites. The CTUIR is unlikely to discuss HPRCSITs with either Cardno-Entrix or PacifiCorp. A traditional use study should be completed by each affected tribe; the results can then be discussed with FERC.	The text noted in the comment has been removed and clarifying text has been inserted into the applicable sections of the study plan. PacifiCorp understands that tribes have unique knowledge of traditional use areas and is open to the possibility of commissioning TCP/HPRCS studies with affected tribes. PacifiCorp requests that tribes wishing to commission such a study identify what they consider an appropriate level of effort. The study request should also identify the APE, adhere to FERC’s Study Plan Criteria under 18 CFR Section 5.9(b), and include a scope of work and budget. Additional consultation between FERC, the tribes, PacifiCorp, SHPO, and USFS is needed to resolve these issues.	Yes, with additional qualification

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Cultural	Confederate Tribes of the Umatilla Indian Reservation (Letter to F. Winchell 09-29-2011) by C. Dickson	Page 15 indicated, "PacifiCorp has initiated consultation with the CTUIR..." This is not consultation. This is a corporation talking to the CTUIR about a project they want to do. On March 10, 2010 the CRPP indicated to FERC that we would like to be consulted regarding the undertaking. We look forward to government to government consultation.	PacifiCorp does not wish to intrude on the government-to-government relationship between FERC and Indian Tribes and we will continue to respect the tribes' decision to discuss the Project only with FERC unless otherwise notified. PacifiCorp is dedicated, however, to working with all Project stakeholders to identify effective and respectful forms of communication so that cultural resources are identified, evaluated, and treated in the most sensitive and productive manner possible. The study plan has been modified to further clarify the consultation requirements of 36 CFR 800.	Yes, with additional qualification
Cultural	Confederate Tribes of the Umatilla Indian Reservation (Letter to F. Winchell 09-29-2011) by C. Dickson	Should any of these changes not be made in the Study Plan, it will be necessary for FERC to discuss that decision with the CRPP. The results of the discussion would likely be more positive if the discussion happens sooner rather than later.	PacifiCorp has accepted the comments of the CTUIR with some qualifications as noted above. It is PacifiCorp understands that FERC will be consulting with both tribes on a government-to-government basis. PacifiCorp has requested additional clarifications from FERC regarding several comments made by the CTUIR and NPT. Consultation between FERC, CTUIR, and NPT is ongoing regarding comments submitted by the two tribes.	N/A