



CONFEDERATED TRIBES
Of the
Umatilla Indian Reservation
Fish & Wildlife Commission
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June 12, 2008

Via Electronic Mail and Regular Post

Mr. Bill Booth, Chairman
Northwest Power and Conservation Council
851 SW Sixth Avenue, Suite 1100
Portland, OR 97204-1348

Dear Chairman Booth:

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) appreciates the opportunity to comment on the Columbia River Basin Fish and Wildlife Program amendment recommendations submitted to the Northwest Power and Conservation Council (Council) on April 4, 2008. The CTUIR continues to believe that the fish mitigation components of the Columbia Basin Fish and Wildlife Authority (CBFWA) recommendations are generally consistent with the Three Treaty Tribes-Action Agency Agreement (Treaty Tribes Accord) and should be read as such. As explained in our April 4, 2008 letter to the Council, where there are conflicts between the two, the fish mitigation components of the Treaty Tribes Accord supersede and override the CBFWA recommendations. The purpose of this letter is to address specific questions about potential conflicts between the CBFWA recommendation package and the Treaty Tribes Accord that have been raised to the CTUIR.

CBFWA Recommendations Sections 2 and 3:

Certain parties questioned whether conflicts exist between the Treaty Tribes Accord and those parts of Sections 2 and 3 of the CBFWA package that address hydrosystem operations.

Sections 2 of the CBFWA recommendations address the Basinwide Provisions. Section 3 focuses on the subbasin level, and provides a framework of biological objectives, limiting factors and strategies to address those factors by ecological province. The CBFWA recommendations are "not exhaustive" nor are they "intended to override or conflict with the specific recommendations of an individual agency or Tribe." April 4, 2008 letter from CBFWA to Bill Booth. The CTUIR understands the CBFWA recommendations operate as a framework, and comanagers may submit their own recommendations.

Consistent with the CTUIR April 4, 2008 recommendations, to the extent that there are any specific hydrosystem operations recommendations in Sections 2 and 3 of the CBFWA submission that conflict with the Treaty Tribes Accord, the CTUIR does not join in those specific recommendations.

Research, Monitoring, Evaluation & Data Management Recommendations:

Questions were also raised about the RME&D portion of the CBFWA package, and whether it is too broad in scope to be consistent with the Treaty Tribes Accord. As the Accord acknowledges, new biological information will become available “that will inform the methods and assumptions used to analyze the effects of hydro operations on fish species.” (Treaty Tribes Accord, p. 2.) This is part of the adaptive management approach built into the Treaty Tribes Accord. Similarly, the Action Agencies have agreed to “implement status and effectiveness research, monitoring and evaluation sufficient to robustly track survival improvements and facilitate rebuilding actions accomplished, **in part**, through projects and programs identified in Attachment B.” (*Id.* at 3.) (Emphasis added.) Attachment B to the Treaty Tribes Accord includes those RME&D projects proposed by the Treaty Tribes. As the quoted text indicates, the Treaty Tribes expect that the RME&D components in Attachment B are only a part of the final RME&D program. The Treaty Tribes also expect that the RME&D effort will be coordinated with other implementation partners. (*See id.* at 3.) (“The Parties further agree that the Action Agency efforts should be coordinated with implementation partners including other fishery managers.”) As part of the coordinated effort contained in the Treaty Tribes Accord, the CTUIR believes the cost-effectiveness of RME&D in the region can be improved to ensure that it is an integral part of the adaptive management aspect of the Program, available to all.

Biological Objectives, Performance Standards and Limiting Factors:

Parties also questioned whether the biological objectives, performance standards and limiting factors included in the CBFWA comments are inconsistent with the Treaty Tribes Accord. The CBFWA package recommends numerical biological objectives and includes as a performance standard a measurement of progress toward meeting those numerical goals. The CTUIR believes this is not a matter of inconsistency with the Accord. Rather, it is merely a topic that the Accord does not address. The Accord focuses on measures designed to assist in recovery of listed species, and to enhance the status of non-listed species. The immediate performance standard metrics adopted in the Accord are focused on project survival, with other metrics, such as SARs, to be measured and considered. Regardless of the objectives ultimately adopted, the CTUIR agrees that the measures in the BiOp and the Accord are adequate for a period of ten years to respond to the plight of the fish.

CBFWA also recommends that limiting factors include delayed and latent mortality, and lists transportation as a “threat.” The COMPASS model utilized in the BiOp does not account for latent mortality. The Treaty Tribes Accord includes a commitment by the parties to utilize new biological information as it becomes available “to inform methods and assumptions used to analyze the effects of hydro operations on fish.” Ultimately, a new consensus model will be developed, that will build upon the analyses used in the biological opinion “as warranted.” (*Id.* at 2.) Latent mortality may or may not become a part of this part of this new model.

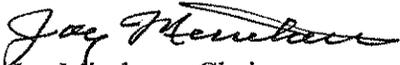
The CTUIR hopes this letter clarifies any perceived inconsistencies between the CBFWA recommendations and the CTUIR’s April 4, 2008 submission. The CTUIR continues to believe that the Treaty Tribes Accord charts the course for a new way of engaging the difficult task of protecting, mitigating, enhancing, and recovering fish and wildlife in the Columbia basin.

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Partnership between the Tribes and the Action Agencies is key. The Accord sets forth a clear and aggressive All-H plan with priorities, actions, and the funding to make them certain to occur. We continue to believe that there are compelling legal, policy, and sound science reasons to amend the fish and wildlife program in a manner that is consistent with and complementary to these plans of the Tribes, Action Agencies, and NOAA Fisheries.

We look forward to working with the Council during the development of the 2008 Program and will continue to provide our expertise and support as this process develops. Please use Mr. Gary James, Fisheries Program Manager, and Brent Hall, Tribal Attorney, as your contacts throughout this process.

Sincerely,


Jay Minthorn, Chairman
Fish and Wildlife Commission

Cc:
CTUIR Board of Trustees
Fish and Wildlife Commission
Brent Hall, Tribal Attorney
Eric Quaempts, DNR Director
Gary James, Fisheries Program Manager