



CONFEDERATED TRIBES

Of the

Umatilla Indian Reservation

*Fish & Wildlife Commission*

P.O. Box 638

Pendleton, Oregon 97801

June 12, 2008

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

Dear Chairman Booth:

My name is Jay Minthorn. I am a member of the governing body of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), and am also the Chairman of the Umatilla Fish and Wildlife Commission.

Our Treaty of 1855 is the foundation document upon which our relationship with the United States and the states themselves is based. The Treaty of 1855 states:

That the exclusive right of taking fish in the streams running through and bordering said reservation is hereby secured to said Indians, and at all other usual and accustomed stations in common with citizens of the United States, and of erecting suitable buildings for curing the same....

In order to enjoy the right to take fish you need fish and water. For tribes as far inland as the Umatilla, there are many obstacles the fish must overcome to get to our tribal members; ocean fishing, dams, fishing by Canada, Washington, Oregon, habitat destruction and innumerable other sources of salmon mortality.

*We've gone from litigation to collaboration.*

In the 1960s the fish runs had not yet completed their dramatic decline, but were on the brink of doing so. In addition, tribal fishermen were constantly battling animosity, including arrests and worse, from the regulatory and enforcement arms of our neighboring states. It was a bleak time for tribes and the treaty right to fish. It was a point where there was no common ground to be found between the federal government, the states and the tribes.

So began decades of litigation, negotiation and legislation to protect the right to fish, and to try to make sure there would be fish for the next seven generations for everyone. From the outset, it was obvious that each party intended to protect their people's rights and interests. With so many players involved, it was equally obvious that the complexities of the case would dictate a drawn out fight.

I grew up learning the lessons about the how the natural world is interrelated and that my livelihood depends on that relationship. In the early days of conflict the CTUIR knew that restoring the salmon would require a broad, yet interconnected effort. The CTUIR used this approach in successfully restoring salmon to the Umatilla River, where the salmon extirpated. The Umatilla Basin Project restored water and fish to the Umatilla Basin and runs continue to improve. The Umatilla Basin Project was undertaken with the understanding that litigation could accomplish our goal, but it was only through partnership that we achieved success. The CTUIR has taken this same partnership approach to the Walla Walla, Grande Ronde and other watersheds. In the Walla Walla we are seeing summer flows that had disappeared for a 100 years thanks to the local irrigators.

Today though on going litigation and negotiation efforts we have three ten year agreements that are based on building relationships and collaborations to restore salmon to the Columbia River and its tributaries. Our goal is to protect, restore and enhance our salmon runs for the next seven generations, which some of the Parties in the Columbia Basin Fish Accord, the *United States v. Oregon* Fish Management Plan, and the Chinook management agreement under the Pacific Salmon Treaty US are beginning to understand and accept.

In 1973, in *Confederated Tribes of the Umatilla Indian Reservation v. Calloway*, the court agreed that the federal government's operation of the hydro-system had an adverse impact on the tribal fishing stations on the Columbia River. We were also supported by state and federal scientists who expressed concern on the hydro proposal's impact to fish migration and survival. Right after the *Calloway* decision, BPA Administrator Don Hodel met with us to develop a Memorandum of Understanding (MOU) to help satisfy the court's order. We used *Calloway* and the MOU to help us shape a tribal co-management in the region, which included the Northwest Power Act.

The Power Act was designed to settle long-standing conflict over allocating river benefits. It was intended to strike a balance between fish and power. In the beginning, the member tribes of the Columbia River Intertribal Fish Commission (CRITFC) opposed the bill, and found ourselves working with Congress to firmly secure provisions for tribal involvement in fish and wildlife. The CTUIR still supports the equitable treatment concept because it is an important step in

rebuilding fish populations. It is our hope that with collaboration our efforts will be successful.

In another successful court foray, *Yakama v. Baldrige*, tribes challenged the United States for its failure to properly regulate the marine salmon fisheries in a manner that protected our treaty fishery in the Columbia Basin. This issue carried considerable clout in framing and securing agreement of the US - Canada Pacific Salmon Treaty. Under the Treaty, the US and Canada are guided by two principles: conservation to prevent over-fishing, and optimum protection and equity to allow each Party to receive benefits equivalent to the production of those salmon originating in its waters. A key element of the Treaty continues to be the Chinook rebuilding program. Further, through the Habitat and Restoration Agreement we've acknowledged the critical need to focus on conserving and restoring habitat which compliments the NPCC's efforts.

The CRITFC member tribes have shown persistence in developing the most comprehensive and talented fish and wildlife programs in the nation. These tribes are able managers in the Umatilla, Walla Walla, John Day, Yakima, Clearwater, Hanford Reach and Deschutes River basins, to name a few. These programs, enabled by tribal Treaty Rights, do not stand in isolation when it comes to rebuilding fish populations. They are part of a region wide fabric, that includes the Power Act, and as such your Fish and Wildlife Program, the *United States v. Oregon* process, and regional and international efforts through the Pacific Salmon Commission.

***These long-term Agreements are connected and deserve your support.***

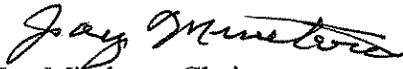
For the CTUIR, the three agreements recently reached represent momentous steps to not only strengthen Treaty Rights, but to enhance, protect and improve infrastructure to restore fish and water while concurrently improving habitat and the ecosystems upon which salmon depend. They operate together seamlessly by design:

- The Treaty Tribes' Fish Accord, is an extension of your Fish and Wildlife Program's subbasin planning efforts, and provides important on-the-ground actions that will help restore fish runs.
- The *US v. Oregon* agreement provides for a harvest management plan that has been adopted by the Federal Court that includes a sliding scale mechanisms that reduce harvest when runs are low, and production actions that are integral to that harvest and stock restoration.
- The Pacific Salmon Treaty provides for reductions in northern ocean fisheries that will increase annual returns of summer and fall Chinook to the Upper Columbia River with a goal to return up to three to seven percent more to the river.

Under these agreements, and especially the Treaty Tribes' Fish Accord, the tribes can undertake additional efforts throughout the entire Columbia River basin, along with our watershed partners, to help protect and rebuild the salmon runs that are a fundamental resource for the Northwest.

We ask for your support in implementing these agreements in the most efficient manner possible. We also request that you direct your staff to work with the staffs of the Tribes and CRITFC to ensure that the Program amendments meet the intent of the Northwest Power Act and the Columbia Basin Fish Accords.

Sincerely,



Jay Minthorn, Chairman  
Fish and Wildlife Commission,  
Confederated Tribes of the Umatilla Indian Reservation

Cc:

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