



# Kalispel Tribe of Indians

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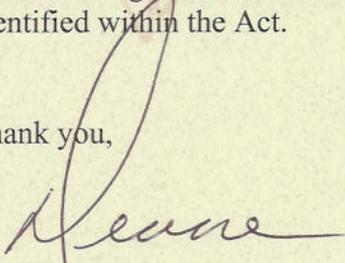
Bill Booth  
Chairman  
Northwest Power and Conservation Council  
851 S.W. Sixth Ave., Suite 1100  
Portland, OR 97204

Dear Chairman Booth,

The Kalispel Tribe would like to take this opportunity to provide further comments regarding our amendment recommendations for the Fish and Wildlife Program (Program). First, we fully endorse both the Upper Columbia United Tribes and Kalispel Tribal recommendations. Our recommendations have met all legal criteria and standards under the Northwest Power Act (Act), including being based upon the best available science, complementary with Tribal, federal and state activities, least cost alternatives, and consistent with the legal rights of the Kalispel Tribe §4(h)(6)(A – D) of the Act. In addition, as you know, our recommendations are entitled to a high degree of deference. *See, e.g., Northwest Resource Information Center, Inc. v. Northwest Power Planning Council*, 35 F.3d 1371 (9<sup>th</sup> Cir. 1994). The Council may reject our recommendations only if the reasons are set forth in the Program itself and only if the reasons have a statutory basis. *Id.* Thus we expect the Council to provide deference to the Tribe and its recommendations by adopting our amendments, consistent with its legal obligations under the Act, including all of our proposed measures, our proposed ten year plan, and our proposed funding allocation.

As for other non-manager recommendations, we urge you to consider their standing and only accept recommendations that are complementary with the Tribe's. Issues regarding implementation and project conflicts will be worked out in direct negotiation and discussions with the Bonneville Power Administration. We do not feel that the Program needs to be amended to resolve issues of mutual concern and benefit, but set forth the policies and guidelines for Program implementation consistent with the provisions identified within the Act.

Thank you,

  
Deane Osterman,  
Director  
Kalispel Natural Resources Department