

Confederated Tribes and Bands
of the Yakama Nation

Established by the
Treaty of June 9, 1855

April 3, 2008

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

Dear Chairman Booth:

The Yakama Nation is pleased to submit recommendations for Fish and Wildlife Program amendments to the Northwest Power and Conservation Council. These are recommendations as defined at 16 U.S.C. § 839b(h)(2) and as such, are to be considered and adopted as provided under the statutory process and standards of the Act.

We expect that the Council is generally aware that the Yakama Nation, along with the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of Warm Springs, and the Columbia Inter-Tribal Fish Commission have been actively involved in two major processes over the last two years. Both of these efforts have concluded. The products are 10-year plans that define how the Action Agencies will meet their fish and wildlife obligations in the Columbia Basin, and they establish a significant component of these Tribal fishery managers' existing and future activities.¹

The first process we have completed is the collaboration process organized by NOAA Fisheries and the Action Agencies to develop new Biological Opinions for the FCRPS and Upper Snake projects. The second process was the development of a 10-year Memorandum of Agreement with the Action Agencies. This MOA complements and clarifies what we expect to be offered in the final Biological Opinions, but it goes further, building upon and expanding Action Agency and Tribal commitments over the next ten years to meet a broader array of fish and wildlife obligations and objectives.

The Yakama Nation believes that this MOA 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. The MOA establishes a new partnership between the Tribes and the Action Agencies. The MOA sets forth a clear and aggressive All-H plan that we are all committed to. The MOA cuts through ambiguity and red-tape and sets clear priorities, actions, and establishes the funding to make them certain to occur. The MOA actions are based on best available science and will use adaptive management to champion action over paralysis in the face of uncertainty. The MOA bolsters the ESA plans, but it also ensures that species and habitats that are not being addressed in the ESA efforts are not passed over or ignored - it re-balances and restores Action Agency commitments to

¹ See 16 § 839(b)(h)(6)(A).

protecting and enhancing un-listed fish and wildlife, and more fully takes into account the federal government's unique obligations to the Tribes.

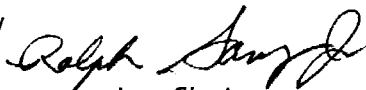
The Yakama Nation believes that the most critical and valuable task that can be accomplished by the Council and the Region in this amendment process is to amend the Program to fully embrace the commitments of these new 10-year plans and to support their expeditious and full implementation. To be clear, these new plans -- the Biological Opinions and the MOAs -- do not need to be endorsed or "ratified" in an amended program. They are firm commitments that the Action Agencies and Tribes have made and will implement. However, we believe there are compelling legal, policy, and sound scientific reasons to amend the fish and wildlife program to be consistent with and complement these plans of the Tribes, Action Agencies, and NOAA Fisheries.

There are two components to the recommendations of the Yakama Nation. The first component is the enclosed Memorandum of Agreement (which includes attachments). We recommend this MOA in its entirety for adoption into the program². To be clear, the recommendation is the MOA as presented -- we are not offering the MOA as a "source" of recommendations that might be drawn from. Further, it is important that the Council understand that the MOA is the product of extensive discussion and give-and-take between the parties establishing bi-lateral commitments. As such, the most detailed project-level element is as substantive and critical as any other provision of the MOA.

The second component of our recommendations is the package developed by the Columbia Basin Fish and Wildlife Authority. The Yakama Nation believes that the CBFWA package and MOA are consistent and should be read as such. Should the Council or any commenter identify or perceive any conflict between these components of our recommendations, it is our intent and instruction that our MOA recommendation supersede and override the CBFWA component of our recommendation. We will continue to study CBFWA recommendations and relationship and fit to our MOA. We will advise the Council in writing if we find a need to clarify or modify our recommendations after this review.

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. Steve Parker, Technical Coordinator, Fisheries Resource Management Program, and Mr. Tim Weaver, Tribal Attorney as your contacts throughout this process.

Sincerely



Ralph Sampson, Jr., Chairman
Yakama Nation Tribal Council

cc: Fish and Wildlife Committee
Tim Weaver, Tribal Attorney

² The Yakama Nation has formally approved the MOA by Resolution.