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VIA e-mail to: comments@nwppc.org
With Hard Copy by Standard Mail

Mark Walker, Public Affairs
Northwest Power and Conservation Council
851 SW Sixth Ave., Suite 1100
Portland, OR 97204

RE: Doc. 2002-16: Draft Mainstem Amendments

Dear Mr. Walker:

Please accept this correspondence as the consensus comments of the five member tribes of the Upper Columbia United Tribes.

General Provisions

As a preliminary matter of scope, we want to make sure the Council recognizes that UCUT fish and wildlife mitigation is a direct result of Mainstem impacts. The Program's protection, mitigation and enhancement provisions are nowhere more applicable than in the "Blocked Area," where anadromous salmon have been entirely extirpated and wildlife habitat permanently inundated, to accommodate operation of the mainstem for power production.

Therefore, our recommendations for the Blocked Area are entirely appropriate for formal adoption into the Mainstem Amendment, and we ask the Council to use this opportunity to formally adopt into the Program the UCUT recommendations that were deferred when the Council adopted its 2000 Basinwide provisions.

We commend the "vision" language in the Council's draft, as well as the Council's habitat focus, based on protection, enhancement and restoration, and, especially, *mitigation*. We like the plan's emphasis on protecting and restoring mainstem spawning and rearing habitats and populations, particularly in the historically highly-productive mainstem and tributaries above Chief Joseph Dam, where anadromous fish runs have been extirpated.

We support objectives and performance standards to protect, enhance and restore habitat connectivity, as well as expansion of complexity and range of habitats. We request the Council specifically emphasize the need to reconnect the vast range of habitat in the Blocked Area to the rest of the mainstem. To this end, **we endorse** language in the draft **requiring, where feasible, pursuit of restoration of anadromous fish into mainstem areas blocked by dams**.

Furthermore, we **request that the Blocked Areas behind Grand Coulee and Hells Canyon be prioritized for mitigation, funding, and implementation**. The Blocked Areas are the headwaters of the system, where disproportionately large impacts have endured with disproportionately small mitigation. The Blocked Areas hold tremendous potential to boost systemwide biological productivity and ecosystem connections.

We specifically request the Council **retain the following language** from Section 10 of the 1994-95 Program:

> The substitution of resident fish to make up for losses of anadromous fish in areas now permanently blocked to salmon and steelhead reflects the Council's resolve to address complex, long-term problems. Historical records show that the Columbia River Basin Indian tribes relied extensively on salmon and steelhead, and the permanent loss of these resources has had incalculable impacts on tribal economies, cultures and religions.

Specific Measures and the Revised Transition Provisions

UCUT strongly emphasizes the necessity of maintaining specific measures adopted into the 1994-95 Program, and subsequently carried forward through the 2000 Basinwide Framework Amendment. To be explicit, **we request that all Section 10.8 and Section 11 measures that remain unfulfilled continue in full force and effect, be formally adopted into the Mainstem Amendment, and be elevated to highest priority for implementation**. These measures incorporate resident fish mitigation and substitution; habitat and passage improvements; habitat acquisition, enhancement and management; stock and population status studies; field monitoring and analysis; and related activities to address biological conditions unique to the Blocked Area.

Biological justification and rationale for these measures has been presented thoroughly in previous Program Amendment cycles. Supplemental scientific information will be provided to the Council upon request. We specifically recommended these measures during the Council's 2000 solicitation of recommendations**.** If the Council chose not to accept our recommendations, the Northwest Power Act would require the Council to fully explain, in writing, why it acted in opposition to the recommendations of the tribes.

These measures should be retained in their entirety. They should not merely remain in effect until subbasin plans have been adopted. Rather, **these essential PM&E**

measures should be the centerpiece of subbasin plans in the Blocked Area, and those plans should be built around Blocked Area mitigation principles and previously-adopted measures to move the principles into action. Subbasin planning incorporates goals broader than the Program's focused intent on addressing hydropower impacts. And subbasin plans are still out in the future, vulnerable to funding and other uncertainties. The measures previously adopted for the Blocked Area need timely implementation to avoid pushing more species onto the endangered list and losing ground in recovery and mitigation.

So, while we appreciate the Council's recognition of the need to retain measures pending the adoption of subbasin plans, we take our recommendation a step further and ask that **Blocked Area measures be amended into the program as a permanent feature until measures are made moot by complete implementation.**

Where the Council intends Mainstem Amendments to supersede provisions of the previous Program - i.e., in measures related to hydrosystem operations, water management and reservoir operations - please see our comments under separate heading in this letter.

UCUT does support the deletion of the three-year sunset clause from the 2000 Program's Transition Provisions.

River/Water Management and Reservoir Operations

We whole-heartedly endorse the draft's commitment to *reasonable* storage reservoir operations that do not adversely affect ESA-listed, ESA-eligible, and non-listed resident fish and wildlife. We also remind the Council that reservoir operations are responsible for severe and irreversible adverse impacts on the tribes' tangible and intangible cultural resources. The draft's provision for weighing flow augmentation and release schedules against greater stability in reservoir elevations and retention times is appreciated.

We request that Lake Roosevelt elevations and retention times be retained within the same constraints adopted and carried forward in previous programs, until such time as proposed new operations have been thoroughly analyzed, with tribal participation in the science and analysis.

IF the Council decides to preserve status quo while evaluating flow augmentation, UCUT does not object SO LONG AS flood control is also simultaneously evaluated, monitoring of impacts on fisheries, wildlife, water quality and cultural resources is fully funded, Blocked Area mitigation is prioritized and fully funded, AND our tribes are given meaningful opportunities to be fully involved in the evaluations.

IF the Council decides to modify winter operations, to provide greater flexibility for power production, flows should be carefully designed to avoid adverse impacts to spawning migration of burbot, which would be severely affected by high power flows.

UCUT does not object to modified winter operations SO LONG AS: 1) operations are developed in consultation with the tribes to minimize adverse impacts on burbot spawning and other resource impacts; 2) the Council provides public regional discussion about the interface of proposed winter operations with flood control and flow augmentation, AND, 3) a percentage of the winter power revenues is earmarked to mitigate for impacts to fish, wildlife, water and cultural resources. *These are critical conditions on UCUT's endorsement, and the Council should consult with and thoroughly discuss this option before adopting it as an amendment.*

UCUT does NOT support eliminating the Biological Opinion provisions requiring a high probability of reservoir levels within 1/2' of upper flood control rule curve by April 10. In our previous experience with operations absent the April 10 refill constraint, we observed impacts on initial zooplankton production and nutrient retention (apparently caused by reservoir instability), and problems for migrating juvenile salmon and steelhead in the mid-Columbia. We recommend the Council abandon the draft provision and either retain the April 10 refill provision, or adopt spring operations that will assure reservoir stability and provide adequate flows for mid-Columbia early-spring migration of listed smolts. IF the Council decides to modify spring operations to eliminate the April 10 flood control elevation target, Blocked Area managers should be fully funded to patrol and monitor the impacts AND be assured full mitigation. *These are critical conditions on UCUT's endorsement, and the Council should consult with and thoroughly discuss this option before adopting it as an amendment.*

UCUT continues to endorse the Lake Roosevelt reservoir levels and water retention times adopted into the Council's existing program, as MINIMUM operational constraints to protect resident fisheries, wildlife habitat, and tribal cultural resources. IF the Council decides to modify summer flows, reservoir levels and retention times, UCUT tribes should be fully funded to monitor and evaluate the impacts AND be assured full mitigation. *These are critical conditions on UCUT's endorsement, and the Council should consult with and thoroughly discuss this option before adopting it as an amendment.*

All operational decisions must be adjusted to ensure compliance with Tribal Water Quality Standards, especially standards for temperature and dissolved gas. UCUT requests the Council adopt specific objectives and a strategy to address water quality in the Upper Columbia Mainstem. Total dissolved gas (TDG) levels violate state and tribal water quality standards, with severe impacts on Lake Roosevelt resident fisheries, and exacerbated TDG and spill limitations downstream in the mid-Columbia. We request the Council adopt a SPECIFIC MEASURE: final design and implementation of gas abatement at Chief Joseph Dam.

Decision-Making Process

River, water and reservoir operations require intensive real-time in-season decision-making. UCUT members have significant resources at stake in operations of the

hydrosystem, and must be afforded an opportunity for effective participation in decision-making. The existing "NMFS Regional Forum" (IT, TMT and Executive Committee) has not worked well for UCUT, and we encourage the Council to work with our tribes to develop an improved process that gives the tribes co-equal roles.

Criteria and Procedures for Emergency Operations

Some of UCUT's member tribes submitted comments to BPA on its principals for emergency operations, issued during the crisis summer of 2001. The Council should request and review those tribal comments. In general, the tribes insist on consultation and compliance with all procedural requirements of the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA) in both the planning and execution phases of emergency operations.

Conclusion

We will appreciate the Council's careful consideration of our comments. If for any reason the Council feels it cannot amend the Program as we have requested, please arrange consultation between Council Members and the Tribal Councils of our member tribes **prior to adoption of the final amendment**.

Sincerely,

Warren Seyler
Chairman

cc.: UCUT Member Tribes
NPCC Washington and Idaho Members and Staff
CBFWA