

RECOMMENDATIONS FOR THE MAINSTEM PLAN
 PORTION OF THE FISH & WILDLIFE PROGRAM
 OF THE NW POWER PLANNING COUNCIL

Submitted by the SPOKANE TRIBE OF INDIANS
 June 15,2001

I. OBJECTIVES	II. ACTION MEASURES
<p>A. Systemwide Water Management- Systemwide water management, including flow augmentation from storage reservoirs, should balance needs of anadromous species with those of resident fish species in upstream reservoirs so that actions to advantage one species do not unnecessarily come at the expense of other species.</p>	<p>A. Lake Roosevelt Operating Conditions Maintain operating conditions in Section 10.8B (pp.10-31) of the 1994-95 Program until fisheries evaluation program data indicate criteria should be changed (see recommendation on adaptive management process). <u>Minimum Elevations and Water Retention Times:</u> January: 1270', 45 days February: 1260', 40 days Mar-April 15: 1250', 30 days April 16: 1255', 30 days May: 1265', 35 days June-Dec: 1288', 40-60 days, or max. historically achievable each month. B. Study of Alternatives- Initiate as soon as possible the study regarding reconfiguration and operation alternatives to benefit F&W on a broad scale, described in the 2000 Program (p.37).</p>
<p>B. Habitat Restoration- B.1. Rebuild populations by protecting and restoring habitats. B.2. Provide habitat suitable to recover Columbia River white sturgeon. B.3. Manage riparian areas to protect the aquatic system and form transition zones to floodplain terrestrial areas. B.4. Protect low elevation winter range habitat for wildlife. B.5. Encourage development of ecological connectivity between major habitat types.</p>	<p>B. Operations, Acquisitions & Passage Improvements - B.1. Adopt the above-described operational requirements, which will, according to the best available scientific knowledge, protect spawning and rearing habitat for fish and wildlife in and adjacent to Lake Roosevelt. B.2. Establish Spokane Tribal Water Quality Standards as targets for Lake Roosevelt water quality. B.3. Require and fund creation of littoral habitat and fish structure along shores of Lake Roosevelt to diversify food available to fish and provide additional juvenile fish rearing habitat.</p>

	<p>B.4. Immediately and fully fund the remainder of unmitigated wildlife habitat losses, enabling managers to acquire promptly the management authority necessary to restore and protect core habitat areas.</p> <p>B.5. Restore passage of anadromous fish into the blocked area ecosystem.</p>
<p>C. Restore Anadromous Species Into Blocked Areas- Reestablishing anadromous passage at artificial barriers should include passage into the vast habitat upstream of Grand Coulee dam.</p>	<p>C.Fund Studies & Facilities- The Program should approve funding for the sequence described in UCUT recommendations for the 2000 Program Framework, i.e., feasibility and engineering studies and eventual facility investments to restore anadromous fish passage above Chief Joseph and Grand Coulee dams.</p>
<p>D. Strike an Equitable Balance - Address legal, trust and moral obligations to the Basin's Tribes.</p>	<p>D. Transition & Mitigation- D.1. Until drastic habitat alterations in the connected mainstem habitats of the Columbia and Spokane Rivers are addressed, support native fish recovery efforts focused on tributary habitats to maintain genetic integrity of native assemblages.</p> <p>D.2. Recognize that drastically altered habitats currently available largely favor non-native species and stocks, which have been substituted successfully for recreational fisheries but have not addressed Tribal subsistence loss.</p> <p>D.3. If necessary, mitigate for operations to implement NMFS and USFWS Biological Opinions which adversely affect fish and wildlife in the Blocked Area.</p>

III. PROCESS FOR COORDINATION AND ADAPTIVE MANAGEMENT:

The Mainstem portion of the amended Program should include a clear description of a straightforward process by which the region makes decisions on mainstem operations. The process should be based on existing legal authorities and should provide the basis for and spell out the roles of the involved parties. The process also should be based on established standards or criteria by which decisions are made, so that participants will know how their efforts will be judged and decision-makers can be held accountable.

When the Council initially announced its intention to develop a plan for the Columbia mainstem, the terminology used was "Mainstem Coordination Plan." The 2000 Program Framework included a strategy for balancing system water management: Where flow management needs conflict with this program, system operators should identify potential conflict and seek recommendations from the Council, fish and wildlife agencies and tribes on how best to balance different needs. (p. 35) **The Spokane Tribe recommends that the Council remain focused on a participatory process to coordinate decision-making, rather than lock into a fixed operational strategy for the hydrosystem.**

III.A. Adaptive Management Is Needed to Update Grand Coulee Operations Criteria:

1. In Response to Information From Lake Roosevelt Fisheries Evaluation Program

The Program currently includes an ongoing monitoring and evaluation project on Lake Roosevelt. This project is broad in scope and is producing data and analysis on a wide range of impacts of reservoir operations (including native and hatchery fish survival, fish nutrients, water quality, and bathymetric shifts). The wealth of information being collected through this effort can serve as the basis for Integrated Rule Curves for Grand Coulee operations. As we learn more about impacts of reservoir operations, the operations should be adjusted in response, to minimize impacts on the Tribe's resources.

2. In Response to Systemwide Flood Control Alternatives Study

The 2000 Biological Opinions call on the Corps of Engineers to fund appropriate studies of the potential for reconfiguration of the federal hydrosystem facilities and/or operating strategies, to better manage for flood control with reduced impacts on fish and wildlife. As knowledge is gained through these studies, operations should be adjusted in response.

3. In Response to Cultural Resource Surveys

Tribal and State cultural resources managers have been attempting to survey cultural sites and resources along the river basin, to collect information and develop historic management plans. As ground-truthed information from these surveys becomes available, computer-simulated impact scenarios should be put aside and operations should be adjusted to minimize damage to cultural resources.

III.B. **Current System Operations Decision Processes Are Inadequate:**

The NMFS Regional Forum process revolves around operational impacts on ESA-listed fish species. The System Configuration Team focuses on physical plant configuration to minimize impacts on listed fish. Although the Bureau of Reclamation and Army Corps bring their agencies' multi-purpose operational mandates to the discussions, those mandates are for flood control, navigation, irrigation and recreation. Existing processes do not provide an adequate outlet for true consideration of operational impacts on non-listed fish and wildlife and cultural resources.

In its new (2000) Program, the Council adopted a provision that, before the federal operating agencies undertake in-season changes, the agencies shall provide a written statement of the estimated cost or benefit and impact on the power system, and then the FPC, in consultation with F&W managers, shall provide a written statement of incremental benefit or detriment to fish and wildlife. This provision would not apply to an operation in response to a BiOp requirement if the requirement is so specific it leaves essentially no discretion to the operating agencies. (p.35)

As we have observed this year, the operating agencies have made decisions within the enormous lack of specificity in the BiOps' "flexibility" for "power emergencies." Although operation of the system has been under a requirement that is anything but specific, the required cost/benefit impact statements have not been publicized. The FPC, in fulfilling its role, has retained its primary anadromous-fish focus. Elevating decisions to the "Federal Executives" has not satisfied the need for meaningful consultation with the Tribes.

The time allowed before the Council adopts its Mainstem Amendment may be insufficient to resolve the differences between the agencies' "flexibility" expectations for system emergencies and the managers' expectations for "flexibility" to enhance fish and wildlife. **The Spokane Tribe recommends that the Council involve State and Tribal fish and wildlife managers in focused discussions with NMFS and USFWS to reconcile specific measures, with the goal of having NMFS & USFWS declare that federal operating agencies can avoid jeopardy by complying with the Council's Fish and Wildlife Program.**

III.C. Enhance the Regional Process to Be Broader Than ESA

In its 2000 Program, the Council proposed that in-season management coordination be jointly sponsored by the Council and federal agencies and allow for effective participation by affected entities in a highly public forum. The Spokane Tribe & UCUT have proposed an Upper Columbia Basin Forum to implement a proposed Memorandum of Agreement for full and meaningful participation of the upper Basin's Tribes during in-season decision-making. It is clear that the Council and the Spokane Tribe agree that the in-season process needs improvement. This year's operations have illustrated an authoritarian approach that arose in the absence of a pre-planned alternative.

The Council's program should provide for the establishment of a central hydro-operations analysis office, charged with interjecting the concerns and solutions of stakeholders in the upper Columbia and Snake Rivers. Water management plans should be developed with public participation, and then should be used to guide seasonal spill/release targets conducive to fish migration without being devastating to other fish and wildlife. Decisions by the operating agencies should be informed by and responsible to this office, which in turn should be responsible to the Council and the Basin's federal, state and Tribal governments. Debate should be encouraged. Opposing views should be welcomed so that solutions can mature in an environment of conflict resolution. Each participant should retain its own legal authorities and responsibilities, yet be committed to seek a balance between ESA recovery and mitigation.

The Spokane Tribe strongly encourages the Council to revive and support the Columbia Basin Forum (previously known as the Three Sovereigns) as the template for a workable solution. The Columbia Basin Forum organizational and functional approach provides the Basin's governmental and non-governmental stakeholders the open process and public forum needed to resolve issues of the magnitude and complexity the region faces in determining wise and equitable mainstem operations.

IV. RECOGNIZE TRIBAL WATER RIGHTS

In the rush to ensure an adequate water supply for fish passage and power production, agencies and entities in the basin have failed to give due consideration to priority rights of Tribes to the water resources in the Basin. Tribal ownership of water - in most instances not quantified - is prior in time and right to subsequent water owners. Trade in water must be consistent with Tribal law, as well as state law. Water acquisitions, leases, and other exchanges of property rights in water must be reviewed and approved by Tribes. Likewise, Tribes must be given the opportunity and resources to determine the impacts of water-right negotiations on their resources and sovereign authorities. All in-stream flow calculations must be made with Tribal participation.

V. **FUNDING AND BUDGET**

V.A. **Provide Adequate Funding**

Efforts to mitigate for lost anadromous fish and wildlife in the Blocked Areas have been largely inadequate. Although managers are making progress toward mitigation goals, achieving full mitigation is not likely, and achieving conservation targets is impossible, at current funding levels. Additional resources must be committed to achieve mitigation goals and actively pursue conservation and restoration.

V.B. **Adopt a Definite Fish and Wildlife Budget**

The federal MOA for F&W funding terminates this year, with no plans for renewal or replacement. Although BPA has established some planning targets for F&W funding in its rate cases, the terms of access and revision have not been broached. The Spokane Tribe recommends the Council adopt a requirement for a definite fish and wildlife budget for a minimum five-year period, with clear terms of access to funds for a range of purposes and a clearly-defined process for reallocating monies to address changing needs over the budget period. **F&W managers should be given the opportunity to participate, beginning in the early stages of the development of this budget.**

V.C. **Require Equitable Distribution of Funds**

A minimum of 20% of the Direct Fish & Wildlife Program budget, or \$36 million, whichever is greater, should be allocated to the Upper Columbia Blocked Area. This budget target is based on F&W needs identified during the Council's last Program amendment cycle.

V.D. **Provide Participation Funds, As Well As Project Funds**

Tribal fish and wildlife managers, with no independent source of funds for participating in regional processes, need ratepayer funding proportionally comparable to the budgets for BPA and NWPPC regional fish and wildlife management coordination. Without participation dollars, the Tribes are faced with unfunded mandates. For example, the Council's 2000 Program provides that F&W managers should indicate conflicts to FPC and recommend remedies (p. 35). This requires manager participation, which requires funding. Numerous other examples can be provided to authenticate the need for funds for Tribes to participate in regional decision-making.

VI. **COUNCIL'S KEY ISSUES IN AMENDMENT SOLICITATION:**

VI.A. **Consistency with Program Framework of Multi-Species, Habitat-Based Program**

The Spokane Tribe's recommendations benefit multiple species and emphasize the restoration and protection of habitat. The near-term objectives and measures sustain habitats and ecological functions for the Tribe's substitution fisheries and wildlife

mitigation projects. Long-term, the recommendations include research and analysis leading to restoring natural ecological diversity in the upper Columbia basin.

The Spokane Tribe strongly recommends that the Council's program focus on multi-species habitats, and not place emphasis on habitats important only to anadromous fish. Although we recognize ESA mandates and the need to restore habitat for listed species, sound scientific principles support the concept of restoring broader habitat, benefiting all species, listed and unlisted.

VI.B. Power Supply Considerations

As an overarching goal, the Council should move toward removing energy-production pressure from the Basin's rivers, and encourage environmentally-sound energy alternatives and large-scale permanent energy conservation.

The protocols and criteria for emergency actions developed through the Regional Forum process this year were created under duress and have been unsatisfactory to many regional entities. The protocol for spill for fish passage was targeted at only ESA-listed anadromous fish. Generally, the protocols were not evaluated through the filters of NEPA or NHPA analysis. Despite rhetoric to the contrary, the first and final filters were the financial viability of BPA and BPA's Treasury repayment probability. The Power Act mandate is not for the Council to protect BPA. BPA has its own mandate under the Act to decide how much it can do for fish and wildlife and still meet its Treasury payment.

At the same time, the Spokane Tribe recognizes the benefits of a federal power system and we do not wish to provide the opportunity or excuse for privatization of the system. Acquisition of the system by the private energy industry was a specter well recognized and analyzed during the Council's Comprehensive Energy Review exercise.

We recommend the Council continue to encourage regional debate, and continue to encourage thoughtful development of alternatives to reliance on the hydrosystem. Reliance on Grand Coulee for such a large proportion of the region's energy supply, capacity, and load shaping is unwise, akin to ignoring the proverbial advice to not put all one's eggs in the same basket. Using Grand Coulee as the linchpin for the system not only results in adverse impacts on the Spokane Tribe's resources, but also leaves the entire system vulnerable.

We appreciate the Council's efforts during this year's difficulties to provide system reliability and capacity analysis. We do recommend, however, that fish and wildlife managers be given adequate opportunities to comment on the Council's power-system recommendations, with sufficient technical data to analyze potential fish and wildlife impacts of power-benefiting operations.

VI.C. Relationship of Mainstem Plan to Biological Opinions

The Council should attempt to coordinate implementation of this Program with the federal BiOp Implementation Planning process. Specific BiOp implementation projects should be run through the same review processes as projects proposed for the Council's program, prior to BPA funding.

The Council's program must ensure off-site mitigation (according to established guidelines) and resident fish and wildlife needs not covered in BiOp Implementation Plans.

VI.D. Long-term Objectives and Strategies for Mainstem

As described in greater detail above, the Spokane Tribe recommends that mainstem habitat above the blocked areas be re-opened to anadromous passage, and that appropriate processes be established to encourage participation of all stakeholders in well-informed and meaningful decision-making. Among issues which should be addressed in multi-disciplinary public processes are: optimal system operations to satisfy multiple purposes; flood control alternatives; Columbia River Treaty amendments; and, a long-term strategy for reducing power system reliance on the Basin's rivers.

VII. INFORMATION AND DATA IN SUPPORT OF RECOMMENDATIONS:

On a broad scale, the Spokane Tribe's recommendations on the 2000 Program Framework, and these Mainstem recommendations, address and attempt to mitigate for the direct and indirect impacts of federal hydropower facilities in the broad sense that Congress intended, including all effects traceable to the projects' purposes (construction and inundation, operation, and secondary impacts).

The operations we have recommended for Lake Roosevelt take a conservative approach until more science is available to inform decision-making. At the same time, our recommendations are sufficiently grounded in best available science so that specific projects can be tiered to the recommended objectives and measures.

Our recommendations for both reservoir operations and habitat restoration are based on observations to-date in the Lake Roosevelt Monitoring program: The ninety-foot annual variation in lake elevation at Lake Roosevelt has left the near-shore habitat barren. In most lakes, the near-shore habitat is the most used habitat of the lake. But in Lake Roosevelt, macroinvertebrates (insects) and fish do not use the near shore, which lacks vegetation and structure (log and rock piles). Instead, Lake Roosevelt fish rely almost wholly on the water column to provide food and shelter. To mitigate for deep drawdowns and low water retention times, the littoral (near-shore) zone must be enhanced to diversify habitat and nutrient sources, and to provide additional opportunities for fish to survive the now inhospitable environment of the lake. Further, as referenced

in the NWPPC 2000 strawman document, elimination of fragmented habitats justifies reconnecting Blocked Area habitats.

Our recommendations for restoration of anadromous fish passage above Grand Coulee Dam are based in ecological fundamentals. (See Lichatowich 1999, Cederholm et al. 1989, Kline et al. 1990, Mills et al. 1993, and Willson and Halupka 1995.) Anadromous fish are the keystone component of the native ecosystem. At least eleven stocks were extirpated as a direct result of hydroelectric development throughout the upper Columbia Basin (Scholz et al. 1985). Thus, reestablishment of anadromous fish into the Blocked Area is critical to ecosystem restoration and to the cultures of the Blocked Area tribes. This recommendation also advances the Council's 2000 Program vision of achieving populations, within 100 years, that represent full mitigation for losses of resident fish (p. 19).

Additional detailed information and data in support of these recommendations is incorporated in documents referred to in the above recommendations, as well as in the previous recommendations of the Spokane Tribe and UCUT for the Council's 2000 Program Amendments, and from the InterMountain Province Review and subbasin summaries, and references cited therein. Additional supporting information can be provided in the published and unpublished reports of the Spokane Tribe from implementation projects conducted under the 1994-95 Fish and Wildlife Program.

References:

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