

May 12, 2000

Mr. Frank Cassidy, Jr., Chairman
Northwest Power Planning Council
851 S.W. Sixth Avenue, Suite 1100
Portland, Oregon 97204-1348

Dear Chairman Cassidy:

Enclosed are the proposed Columbia River Basin Fish and Wildlife Program amendments by the Columbia River Inter-Tribal Fish Commission (CRITFC). As provided in Attachment A, the proposed amendments include and are founded upon the tribes' salmon restoration program, *WY-KAN-USH-MI WA-KISH-WIT*, (Spirit of the Salmon).

WY-KAN-USH-MI WA-KISH-WIT was adopted by the governments of the Commission's member tribes in 1996 in order to provide a comprehensive restoration plan for anadromous fish in the Columbia River Basin. This plan is based upon the cultural wisdom of the tribes and reinforced by the best available scientific knowledge. Today, the tribal restoration plan remains relevant as the only plan that addresses survival improvements at every stage of the lifecycle of salmon in the Basin or, as tribal elders call it, gravel-to-gravel management. Nonetheless, the tribal restoration plan is not a static document. New scientific findings and methods, new legal and political processes, and a better understanding of the collaborative watershed planning process provide a basis for plan refinements that coincide with the NPPC amendment process and create a higher probability of successful implementation. The proposed amendments provide the context of this refinement.

In this regard, the tribes urge the Northwest Power Planning Council (NWPPC) to lead the region by emphasizing action over process in the next Fish and Wildlife Program. Subbasin planning and scientific reviews are important, but the new Fish and Wildlife Program needs to be action-oriented and founded upon the achievement of quantitative biological objectives, which will meet the tribes' treaty rights.

Legal Framework

As mitigation for the development of the Columbia River hydrosystem, the NWPPC is responsible for ensuring that Bonneville Power Administration funding is directed towards projects that promote compliance with the 1855 treaties between the United States and tribes. In addition, we expect that the Program amendment process will be implemented in a manner that is consistent with the Northwest Power Act.

The Commission's proposed amendments to the Fish and Wildlife Program are consistent with the Northwest Power Act because:

1. The measures can be expected to be implemented by the Administrator, using authorities under this Act and other laws, and other Federal agencies to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by the development and operation of any hydroelectric project of the Columbia River and its tributaries;
2. Objectives are established for the development and operation of such hydro electric projects on the Columbia River and its tributaries in a manner designed to protect, mitigate, and enhance fish and wildlife; and,
3. Measures will provide for fish and wildlife management coordination and research and development (including funding) which, among other things, will assist protection, mitigation, and enhancement of anadromous fish at, and between, the region's hydroelectric dams.

The Commission understands that the NWPPC is not requesting recommendations at this time for specific measures to be implemented and the NWPPC will formally request proposed amendments for measures at a later date. Pursuant to the Northwest Power Act, however, the fish and wildlife managers may propose amendments for specific measures and the NWPPC must receive these proposals and fully consider them in the amendment process. The comments that we are providing under cover of this letter include specific measures to amend the Fish and Wildlife Program for implementation as well as actions for immediate implementation for FY 2001 and beyond. When the NWPPC commences Phase II of the amendment process and requests specific measures, the four CRITFC tribes (Nez Perce, Umatilla, Warm Springs and Yakama) reserve the right to amend or resubmit specific measures for implementation.

In general, the tribes oppose any broadening of the authority of the Independent Scientific Review Panel (ISRP) beyond that contained in Section 4(h)(d) of the Power Act. For this amendment process, the statutory deference to the fish and wildlife managers mandated under the Power Act

must be followed. This statutory deference cannot be subordinated in any manner to the ISRP or any other scientific review group. You are aware that the tribes' suit against the NWPPC for its misuse of the ISRP in the program funding process was dismissed without prejudice. The tribes will not hesitate to reinstate litigation if an attempt is made to again undermine the statutory deference to which the tribes are entitled.

Structure of Recommendations to Amend the Fish and Wildlife Program

The proposed amendments are in addition to those programs currently being conducted by the tribes and funded through the current Fish and Wildlife Program. All on-going tribal/CRITFC projects under the current Program are fully supported by the tribes for continuation.

The proposed amendments to the Fish and Wildlife Program are structured on the "Fish and Wildlife Program/Framework Concept: Strawman." The exception is for Part I, Section C of the Strawman, which we proposed to restructure as follows:

- C. Implementation Standards & Strategies
 - 1. Harvest
 - 2. Hydropower
 - 3. Production
 - 4. Habitat
 - 5. Coordination of Implementation, Research, Monitoring and Evaluation

Specific comments on the current Fish and Wildlife Program are also incorporated throughout these proposed amendments. Where appropriate, we have identified those sections of the Fish and Wildlife Program that should be kept or otherwise modified. We do not necessarily endorse the Council's language for those sections of the Fish and Wildlife Program that have not been addressed specifically. The proposed amendment is submitted with the understanding that there will be additional regional discussions during the comment period that may result in further modification.

Specific projects for implementation total \$5,930,297,000.¹ For summary purposes, the major elements of our proposed amendments are as follows:

¹ The Confederated Tribes and Bands of the Yakama Nation will be submitting separate comments with additional proposed measures that are included in this document as Attachment F. The Yakama Nation's proposed measures will be incorporated into the list of projects and provided to the NWPPC in the near future. Where differences exist, the

1. Vision: Adopt the CBFWA vision statement and include by reference the “Tribal Vision for the Future of the Columbia River Basin and How to Achieve it” which also includes the tribes salmon restoration plan, *WY-KAN-USH-MI WA-KISH-WIT*.
2. Biological Objectives: Developing sound, realistic basin and provincial biological objectives requires an iterative process that cannot be completed before draft subbasin assessments and plans are available. We do propose a number of quantitative objectives on smaller geographic scales, which can be used to inform the development of basin and provincial level objectives. We also propose in Attachment B a format for resolving inconsistencies in salmon return objectives by subbasin.
3. Harvest: Fully implement the conservation and allocation provisions of the 1999 Pacific Salmon Treaty agreement, which implements a coast-wide abundance-based management framework that includes an individual stock-based management approach for the Columbia River, and the Habitat and Restoration Agreement. Specific projects for implementation total \$34,330,000.
4. Hydrosystem: Meet the 2-6% smolt-to-adult performance standard established by the fishery agencies, including the National Marine Fisheries Service, by utilizing a normative hydrograph and appropriate passage measures, and protecting and restoring mainstem/estuary habitat. Specific FCRPS projects for implementation total \$5,143,625,000.
5. Production: Empower the tribes to fully implement a basin-wide supplementation program, which includes the transfer of several hatchery operations to tribal control. Specific projects for implementation total \$288,324,000.
6. Habitat: New directions are proposed to protect and restore habitat throughout the geographic range of anadromous fish, to enforce existing laws that protect habitat, to investigate and address water quality issues, and to acquire land, water rights, and easements. Specific projects for implementation total \$377,392,000.
7. Coordination: We offer recommendations for significantly improving coordination between institutions and programs involved with fish and wildlife restoration in the Columbia Basin. Creation of a Columbia Basin Fish and Wildlife Scientific Institute is proposed to focus

recommendations of the Yakama Nation supercede the proposed Yakama Nation measures included in the Commission’s recommendations provided herein.

coordination of research, monitoring, evaluation, and information management. Specific projects for implementation total \$86,626,000.

8. Ecological Province Level: The proposed provincial structure does not adequately account for the ecological organization of resident fish and wildlife nor the metapopulation structure of fall chinook salmon. The proposed provinces, then, are primarily administrative subdivisions that are not necessarily better than the six subregions in the present program.
9. Subbasin Plans: We support the coordinated effort through Columbia Basin Fish and Wildlife Authority to develop a subbasin planning template. However, the NWPPC must develop a new Fish and Wildlife program that is more action-oriented to meet quantitative objectives and should not retreat to an elaborate planning process that delays actions or is otherwise counter-productive. The Yakama Nation has provided an update of several subbasin plans (see Attachment F), which the Commission considers as an excellent work product from an expedited subbasin planning process.
10. Fish and Wildlife Selection Process: We clarify the role of the NWPPC, independent science groups, and the fish and wildlife managers. A summary of information is provided that explains the limited authority of the ISRP in the project selection process. The proposed selection process is to use a Columbia Basin Fish and Wildlife Science Institute that would consolidate ISRP and Independent Scientific Advisory Board functions under joint management by the federal agencies, the Council and the tribes. Immediate action criteria are also provided along with an application of the criteria to the proposed tribal measures in table format.
11. Scientific Foundation: We agree the Fish and Wildlife Program should be based on a sound scientific foundation. The draft document prepared by the Council staff is an important first step in that direction. However, the draft Scientific Foundation needs further agency and peer review before it will achieve the level of technical credibility necessary for inclusion in the Program.

Additional supporting reference material will be supplied as necessary or requested by the NWPPC. We propose a meeting within the next 30 days to resolve any questions or uncertainties your staff may have regarding the format or content of these comments. For additional information and coordination, please contact Phil Roger, Rob Lothrop or Paul Lumley at (503) 238-0667.

Sincerely,

Don Sampson
Executive Director

cc: Tribal Fish and Wildlife Committees