



## Affiliated Tribes of Northwest Indians

October 26, 2004

Lynn Starnes, President  
Western Division, American Fisheries Society  
P.O. Box 308  
Albuquerque, NM 87103

Dear President Starnes:

We write today to formally request that the Western Division undertake an independent scientific review of the NOAA Fisheries draft revised **2000 Federal Columbia River Hydropower System (FCRPS) Biological Opinion on remand**. We are joined by a host of natural resource constituencies, fishery scientists and managers, and the 54 Affiliated Tribes of the Northwest Indians (ATNI), in making this request (see attached resolution).

### *Background*

Last year, environmental and fishing organizations as well as a number of tribes challenged the National Marine Fisheries Service (NOAA Fisheries) 2000 Biological Opinion (BiOP) on operation of the FCRPS for salmon and steelhead in *National Wildlife Federation et al v. National Marine Fisheries Service et al*. In June 2003, Judge James Redden remanded, or handed back, the 2000 BiOP to NOAA Fisheries to resolve several deficiencies including: reliance on federal mitigation actions that have not undergone section 7 consultations under the Endangered Species Act and reliance on range-wide off-site non-federal mitigation actions that are not reasonably certain to occur. In a subsequent "minute order," the Judge denied plaintiffs' motion to vacate the Biological Opinion and ordered that it remain in place as deficiencies are addressed.

This month, NOAA responded to the Judge's order with a new draft "no jeopardy" biological opinion for the FCRPS. NOAA management has proffered an approach that seeks to *separate* the biological effects of the existence of the dams from those of the operation of the FCRPS. We, along with a host of regional scientists and professional fishery managers, find that this represents a significant deviation from the original findings and determination of "jeopardy" in the 2000 BiOP. Our conclusion is that an objective review will help sort out fact from fiction, good science from bad, and credible policy from special interest pressure.

### *Scope of this Request*

We believe that the scientists from the ranks of the American Fisheries Society can help interpret, in an objective and disciplined manner, whether the science supports the new findings, analyses and approaches in the draft FCRPS biological opinion. The goal of this review is to provide objective review and comment on the scientific elements of the draft FCRPS BiOP and the correlation, or lack thereof, between the science and the findings of the draft plan. We have developed a set of questions to guide this review and are providing a list of potential reviewers in Attachment 1. If any additional logistical support is required, we are prepared to provide a facilitator, meeting space, administrative support and some financial resources to assist you in this review.

Specifically, we ask you to address the following questions, with an understanding that the reviewers may modify these questions to meet their time and funding constraints:

1. Have the findings in the redrafted 2000 Biological Opinion (e.g., “no jeopardy” determination and Updated Proposed Action) significantly departed from the past scientific assessments and recommendations? If so, was there new or previously unexploited information used to support a departure from past findings?
2. Is acceptance of the federal hydropower system as part of the natural environment supported by the science? Does sufficient technical capacity exist to differentiate between operation and existence of the FCRPS in a manner that fully documents all impacts to fish (lethal and non-lethal, including passage, water quality, predation, harassment, etc.)?
3. What are the limiting habitat factors for salmon and steelhead recovery in the Columbia and Snake Rivers? How does the FCRPS contribute to those limiting factors? What if anything does the updated action propose to alleviate those limiting factors? Are they adequate to stop the decline?
4. Does the proposed action adequately “spread the risk” for unknown consequences of the Updated Proposed Action? Has the Updated Proposed Action appreciably reduced the commitment or obligation of the action agencies to protect and recover anadromous fish populations in the Columbia and Snake Rivers?
5. Is the Updated Proposed Action adequate to prevent further decline of listed fish in the Columbia and Snake Rivers under all environmental conditions? Is recovery of listed fish populations possible, or understood, using the assumptions proposed in the redrafted 2000 Biological Opinion and the Updated Proposed Action?

*Schedule*

Because of the critical nature and timing of this plan, we ask that AFS respond in writing **within one week of receiving this letter**, and that your committee complete the review task no later than **January 31, 2005**. We are aware that the review time is short and thus, have intentionally focused the scope to meet this schedule and the expected product from AFS and the review team. Also, since a final draft of the BiOp is due on November 30, we would like to incorporate NOAA's updated findings in the review.

In closing, it is unmistakable that the current situation is foundering on a sea of exigent change and uncertainty. A widening chasm has emerged and interrupted the traditional and effective translation of science to policy. Thus, we are convinced that an independent review of this foundational document by AFS is necessary and that an objective analysis of the science, data, assumptions and conclusions will help reorient the region towards developing a balanced and effective policy.

Thank you and please contact Tana Klum, Tribal Coordinator for the Columbia Basin Fish and Wildlife Authority at (503) 229-0191, if you have any questions or the ATNI Office at (503) 249-5770.

Sincerely,



Ernest L. Stensgar, President  
Affiliated Tribes of Northwest Indians

Attachment 1: List of Potential Reviewers

Attachment 2: ATNI Resolution

cc: (Attachment 2 only)  
Oregon AFS Chapter  
Idaho AFS Chapter  
North Pacific Chapter  
CBFWA members  
NPCC members  
ATNI members  
Action Agencies

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