

Testimony of the Yakama Nation
Before the Senate Committee on Energy and Natural Resources
On S. 1694, the Yakama River Basin Water Enhancement Project Phase III Act of 2015
July 7, 2015

Chairman Murkowski, Ranking Member Cantwell and Honorable Members of the Senate Committee on Energy and Natural Resources

Thank you for the opportunity to testify in favor of the Yakima Basin Integrated Water Resources Management Plan and S. 1694. We greatly appreciate Senator Cantwell's leadership on this important issue and legislation.

I am Phil Rigdon, a member of the Yakama Nation. As the Superintendent of the Yakama Nation Department of Natural Resources I oversee programs dedicated to the sustainable management of the tribe's natural resource base. The Yakama people have lived in the Pacific Northwest since Time Immemorial. Throughout the millennia a bounty of natural resources has sustained our people's lives and culture. Salmon drove the first great economy of the region, and people from the coast to the Great Plains came to our homeland to trade. Celilo Falls, or Wyam as we say in my people's language, was arguably the single most prolific place of trade in the Pacific Northwest for thousands of years. It was also one of the oldest continuously inhabited settlements in North America. That changed dramatically when the Dalles Dam was constructed by the Army Corps of Engineers in 1957 inundating the great falls and the community itself and forever changing the economy of the Northwest.

When we entered into the Treaty of 1855, we ceded 12 million acres of land to the United States, most of the land that would now be described as Central Washington. In that Treaty the United States guaranteed our people the right to have and harvest salmon and other natural resources across much of what is now Washington and Oregon. The Treaty also promised a homeland including an agricultural livelihood on the Reservation. At the time of the Treaty, there were often 12-15 million salmon returning to the Columbia River every year. In some years, that figure approached 30 million returning salmon. It should be noted that the Yakima River was second only to the Snake in the numbers of salmon it contributed to the Columbia. That is a testimonial to the superb habitat that existed, and still does, in the Yakama basin. After the non-Indians constructed dams on both the main stem of the Columbia and its tributaries throughout the Northwest, engaged in farming and land use practices that blocked and dewatered streams and destroyed habitat, and allowed for overharvesting of salmon and steelhead, salmon runs dwindled to the thousands and some have gone extinct.

It would be an understatement to say that the promises – the legally binding commitments – made to my ancestors have not been met. Not so long ago our people were being arrested and prosecuted by the State of Washington for exercising their Treaty fishing Rights. Over a century of court battles beginning with the landmark *US v. Winans* decision 198 U.S. 371 (1905)¹ and the *Boldt* and *Belloni* decisions of the

¹ This case involving the Yakama Nation established two of the most fundamental principles of federal Indian law including that a "Treaty between the United States and the Indians... is not a grant of rights to the Indians, but a grant of rights from them—a reservation of those granted." This established for the first time the so-called "reserved rights" doctrine in American Indian law. The decision also established the concept that treaties were to be interpreted in the way the Indians would have understood them and contained the often quoted observation that salmon "were not much less necessary to the existence of the Indians than the atmosphere they breathed."

1960s and 70s confirmed our authority as self-regulating Treaty tribes with rights to half the fish in the Columbia River Basin and as co-managers of the resource. But half of nothing is nothing. Rather than waiting for our rights and resources to be restored, we have taken an active role in successfully rebuilding diminished fish runs and guaranteeing the existence of these Treaty fish.

In the Yakima basin, the state fisheries agencies had basically given up on salmon. The YN took a different approach. We spoke for those species that cannot speak for themselves. The Yakama Nation took the lead in securing a sweeping series of amendments to the NW Power act to make fish and wildlife an equal priority with hydropower. We developed the scientifically based programs needed to restore runs through modern fish screens and ladders. We have worked successfully with farmers and local conservation districts to remove passage barriers and restore habitat. We began supplementing runs with a scientifically based hatchery program. Our goal was to restore all historically present stocks of salmon and others species of interest to the Yakima basin. This included reintroduction of three species that were extirpated from the Yakima, coho, summer chinook and sockeye salmon. This has led to numbers of returning fish increasing from several thousand total adults in the early 1980's to over 25,00 for each of the past six years. A modern record number of over 50,000 adult salmon returned in 2014. Our efforts have led to restoration of salmon fishing seasons for Indians and non-Indians alike in the Yakima River.

An example of how far we have come and how far we still have to go is Sockeye Salmon. Sockeye were abundant in the Yakima basin historically, rearing in the glacial lakes in the headwater streams of the Yakima basin. The construction of storage dams blocked all access to Sockeye spawning and rearing grounds, and with the construction of Bumping Lake Dam in 1910, Sockeye disappeared from the basin. Through a recent history of litigation, good science, and cooperation with the Grant County PUD and the Okanogan Tribes of Canada on the Columbia River, we successfully reintroduced Sockeye Salmon in 2009. In 2013, the first year of adult returns from this reintroduction effort, 850 Sockeye successfully returned to the Yakima basin out of the 1000 that were introduced. In 2014 over 2700 adults returned from the 2500 that were released into the Cle Elum Reservoir in 2010. This is a remarkable and proud accomplishment for us after the presence of Sockeye had been missed for a hundred years.

This successful history of cooperation has led us here today. In 2015, in the midst of the most serious drought in a decade we are able to supplement stream flows by working with the Kittitas Reclamation District to use their canal to deliver water to fish streams. While it has been necessary to use the courts to have our rights recognized, we believe that the spirit of cooperation exemplified by the Yakima Basin Integrated Plan gives us hope going forward to see full restoration of salmon runs and other natural resources vital to the Yakama people's needs, while providing sustainability to the agricultural sector.

Our work has showed some successes, but the remaining challenges are great and require us to increase the scope of our efforts. Most of the best cold water habitat in the Yakima Basin remains blocked by impassible storage dams and many impassible irrigation diversions. This habitat is mostly publically owned, and has relatively pristine habitat and streamflow conditions. As we face the growing impact of climate change, restoration of salmon access to these higher elevation areas will be critical.

The ten year average for returns of adults of all species of salmon to the Columbia River was 1,391,378 fish. The two most recent years have been much higher with 1,787,021 returning in 2013, and 2,281,321 adults returning in 2014. While these past year have been a modern day record, it is still a far cry from the actual pre-development multiple-millions that all parties now strive for. With its components of fish passage at the federal reservoirs and restoration of passage, flow and habitat in the tributaries, and increased instream flow from conservation and new storage, the Yakima Basin Integrated Plan holds the greatest

promise yet seen for restoration of harvestable levels of all native salmon species throughout their historic range as promised by our Treaty. The restoration of these runs would not only benefit the Yakama people but it offers the entire region an opportunity to diversify its economy through what could be a multi-million sports fishery and tourism industry.

On the agricultural side, the Yakama Nation's agricultural economy has been held back by decades of deferred maintenance on the BIA constructed Wapato Irrigation Project. Under YRBWEP Phase II, we developed a Priority Measures Plan to begin the long process of modernizing the irrigation projects, which promises benefits to tribal economic development and instream flow. Funding for implementation under YRBWEP III is needed to implement this project.

I am pleased to say that the State is now a full partner with the Yakama Nation in developing and implementing a plan to restore salmon while enhancing agricultural water supply. Unlike past plans that were developed with little or no opportunity for tribal involvement, the Integrated Plan was developed with full tribal participation and incorporates the measures the Yakama Nation believes are needed to solve the major fish problems in the basin. The coalition you see before you today represents a remarkable collaboration among long-time adversaries, who have come together to develop a package of solutions to the big problems facing the Yakima Basin.

We want to thank Senator Cantwell for introducing this legislation. We look forward to working with the Senators and their staffs to refine and secure passage of this vital legislation. Our written comments include some edits we believe are necessary to reflect the consensus of the Integrated Plan partners.

Yakama Nation Fisheries restoration projects include reintroduction of Sockeye Salmon to Cle Elum Lake.



In 2009, the Yakama Nation Reintroduced Sockeye to Cle Elum Lake.

1000 adults released in 2009
85,000 juvenile Sockeye outmigrated in 2011
800 adults returned in 2013
2514 adults returned in 2014

Interim passage is limited to juvenile outmigration at full pool. The Integrated Plan includes adult and juvenile passage at varied reservoir levels.



Temporary Passage



Examples of Deferred Maintenance on Wapato Irrigation Project



Main Canal Check Structure for Lateral 2 & Drain 2.

Concrete is compromised. Wooden flashboards are difficult & dangerous to adjust (no railing, spalled surface).

Structure should be rebuilt and fitted with an automated gate to adjust the water surface level in the Main Canal at an estimated cost of \$2.2million.

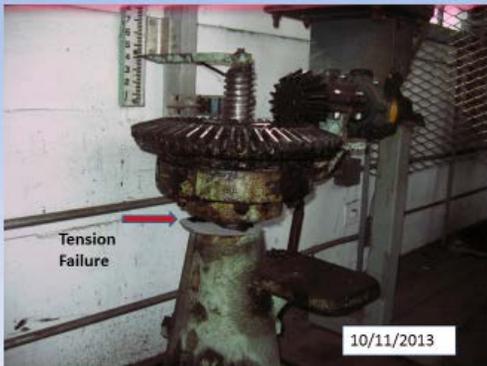
Pictures of the Wapato Irrigation Project Main Diversion which was constructed in 1916/1917



The dam crest was raised probably in the 1980's, but the trash rack was not raised and that allows debris to enter the headgate intakes.



Main Diversion Gate 4 –Broken Gate Operator-Repaired Fall 2013



Debris gets pinched between the headgates and the concrete floor as the gates are lowered at the end of the irrigation season and causes damage such as sheared gate operator pictured at left and bent gate stem in picture below.



In addition, much of the structural concrete is compromised.

Estimated cost to rebuild the trash rack and rehabilitate the Main Diversion Headworks is \$3.3 million.

← Bent gate stem