

MEMORANDUM OF UNDERSTANDING

Between the Confederated Tribes of the Umatilla Indian Reservation
and
Washington Department of Fish and Wildlife
and
Oregon Department of Fish and Wildlife
Regarding Tribal Fishing Below Bonneville Dam

Recitals

On August 11, 2008, the US District Court for the District of Oregon entered an Order of the Court approving a ten-year Agreement reached among the parties to *United States v. Oregon*, Civil No. 68-513KI (Ten-year Agreement). The Ten-year Agreement provides that the parties may enter into additional agreements that provide for tribal harvest outside of the Zone 6 area of tribal harvest described in the Agreement. Additionally, the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) maintains a claim of right to pursue Treaty fishing activities outside of the Zone 6 area, including areas west of Bonneville Dam. The Tribes have submitted information to the States of Oregon and Washington identifying their historic interest in fishing west of Bonneville Dam. The CTUIR, and the states of Oregon and Washington (collectively, "Parties") enter into a Memorandum of Understanding (MOU) for subsistence fishing in areas west of Bonneville Dam as described herein. This MOU does not constitute an adjudication or resolution of claims to usual and accustomed fishing stations, but rather reflects the Parties' interest in managing the Columbia River salmon fishery in a cooperative and practical way.

For the purpose of this MOU only, the Washington Department of Fish and Wildlife will refrain from enforcing WAC 220-32-055 (identifying a western limit for tribal subsistence harvesting on the Columbia River located approximately ¼ mile upstream of Bonneville Dam) against enrolled members of the CTUIR fishing downstream of Bonneville Dam, provided those enrolled tribal members are fishing according to the terms of this MOU. Oregon will adopt specific regulations consistent with this MOU.

Terms

During the term of this MOU:

1. CTUIR members may take salmon and steelhead in the area covered by this MOU for subsistence purposes. Retention of incidental catch is addressed in paragraph 6. The geographic scope of this MOU covers the banks of the Columbia River in the area

bounded by a deadline marker on the Oregon bank approximately four miles downstream from Bonneville Dam Powerhouse No. 1 in a straight line through the western tip of Pierce Island, to a deadline marker on the Washington bank at Beacon Rock up the river to a point 600 feet below the Bonneville dam, but excluding the following four areas: (1) between markers located 150 feet upstream and 450 feet downstream from the mouth of Tanner Creek out to the center of the Columbia River, during the period August 16 to October 15; (2) inside the south navigation lock at the Bonneville Dam from a marker on the western-most point of Robins Island to a marker on the Oregon mainland shore; (3) from Bradford Island below Bonneville Dam from the south shore between the dam and a line perpendicular to the shoreline marker at west end of riprap and from north shore between fishway entrance and a line perpendicular to the shoreline marker 850 feet downstream; and (4) from Robins Island below Bonneville Dam downstream to a line perpendicular to the shoreline marker on mooring cell.

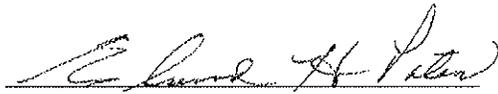
2. The CTUIR shall issue subsistence regulations for fisheries in the prescribed area below Bonneville Dam that are consistent with this MOU. During the 2010 fishery year, tribal subsistence regulations shall close the subsistence fishery in the MOU area for Thursday through Saturday of each week (Sunday - Saturday) when non-tribal fishing is open in the MOU area.
3. Tribal harvest pursuant to this MOU shall be restricted to the use of subsistence gear as defined in the Ten-year Agreement.
4. Tribal catch in the area covered by this MOU shall be counted against the tribal harvest allowed by the Ten-year Agreement in Zone 6. The CTUIR shall timely and accurately report its catch in accordance with the Ten-year Agreement.
5. The sale of salmon and/or steelhead harvested from within the prescribed area below Bonneville Dam shall only occur when expressly permitted by an in-season tribal subsistence regulation adopted under the Columbia River Compact in the same manner as for Zone 6 fisheries. The CTUIR agrees to prohibit the sale of fish on US Army Corps of Engineers property downstream of the Bonneville Dam.
6. Given current sturgeon conservation concerns, retention of any sturgeon that may be caught incidentally while fishing for salmon or steelhead within the prescribed area shall be prohibited during the term of this MOU. Incidental catch of species other than sturgeon may be retained.
7. Tribal subsistence fisheries undertaken pursuant to this MOU will be monitored by the CTUIR or its delegates with generally recognized harvest monitoring means and methods.

8. Enforcement of fishing regulations will be addressed in a manner consistent with the provisions of section I.E. of the Ten-year Agreement. The CTUIR will bear primary responsibility for enforcing its respective tribal regulations in the fishing area described in this MOU. The State's enforcement powers as set forth in state law and the Ten-year Agreement are not affected by this MOU.

9. CTUIR members fishing below Bonneville Dam pursuant to this MOU shall carry an official tribal enrollment card and produce it upon request by state or tribal enforcement officers. A person who produces a CTUIR tribal enrollment card will not be required to produce a state fishing license.

10. The Parties agree to meet no later than December 2010, to discuss whether the MOU should be amended, continue without amendment, or expire. In the absence of any written agreement by all Parties to amend or continue the MOU, the MOU shall lapse on December 31, 2010. The Parties enter into this MOU with the aspiration and expectation that the MOU will be successful and continue.

For the Confederated Tribes of the Umatilla Indian Reservation:


Elwood H. Patawa
Chairman, Board of Trustees

Date: 4-14-10

For Oregon Department of Fish and Wildlife:


for Roy Elicker, Director

Date: 4/14/10

For Washington Department of Fish and Wildlife:


Phil Anderson, Director

Date: APRIL 14, 2010