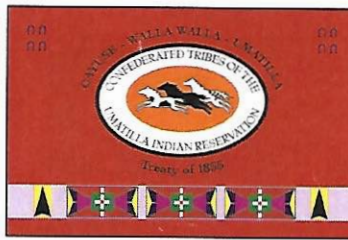


**Confederated Tribes of the
Umatilla Indian Reservation**

Board of Trustees



Agenda Item C.7.a
Supplemental Tribal Report 2
June 2022

46411 Timine Way
Pendleton, OR 97801

<https://ctuir.org>
Phone 541-276-3165 Fax: 541-276-3095

May 16, 2022

RECEIVED

MAY 23 2022

PPMC

Mr. Merrick Burden Executive Director
Pacific Fishery Management Council 7700 NE
Ambassador Place, Suite 101
Portland, Oregon 97220-1384

Re: Nomination for the PPMC Habitat Subcommittee

Dear Mr. Burden:

I write on behalf of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) in support of the Yakama Nation's nomination of Shannon Adams to serve on the Pacific Fishery Management Council's ("PPMC") Habitat Subcommittee.

Under its Treaty of June 9, 1855, 12 Stat. 945, the CTUIR reserved for itself and its members the right to take fish at all usual and accustomed areas. Pursuant to the Treaty, tribal members have fished on the Columbia River for subsistence, ceremonial and commercial purposes since time immemorial. Tribal culture reveres salmon, which is one of the First Foods, and an integral component of longhouse ceremonies and feasts.

The Supreme Court of the United States has repeatedly recognized the significance of the treaty right to fish at off-reservation usual and accustomed places, holding that the right is "not much less necessary to the existence of the Indians than the atmosphere they breathed." *Washington v. Washington State Comm'l Pass. Fishing Vessel*, 443 U.S. 658, 680, 99 S. Ct. 3055, 3071-3072 (1978), quoting *United States v. Winans*, 198 U.S. 371, 380 (1905). This treaty right to fish is a property right, protected by the Fifth Amendment to the Constitution of the United States. See *Muckleshoot Indian Tribe v. United States Corps of Engineers*, 698 F.Supp. 1504, 1510 (W.D. Wash. 1988), citing *Menominee Tribe of Indians v. United States*, 391 U.S. 404, 411-412, 88 S.Ct. 1705, 1710-1711 (1968). The right to take fish includes a right to cross private property to access those areas, "imposing a servitude" upon the land. *Winans*, 198 U.S. at 381. Since 1968, the CTUIR has also protected these treaty rights as a plaintiff in one of the longest-running cases in the federal court system, *United States v. Oregon*, CV 68-513, in the U.S. District Court for the District of Oregon.

The CTUIR has invested significant resources to restore and protect the fishery resources and the ecosystems they depend upon. It is estimated that 11 to 16 million salmonids would historically return to the Columbia River to spawn each year. Anthropogenic changes to the river and exploitation of the resource reduced that number to approximately 900,000 by 1993. Thirteen different Columbia River Basin salmon or steelhead stocks are listed as either threatened or endangered under the Endangered Species Act, 16 U.S.C. § 1531 *et seq.* ("ESA").

The CTUIR participates in many activities relating to the protection and restoration of both anadromous and resident fish stocks in the Columbia River Basin and the ecosystems on which they depend. The fisheries restoration and ecosystem work the Tribe pursues serves both the Tribe's interest and the public interest. The Tribe's dedication to these interests is reflected in the following representative sample of its efforts:

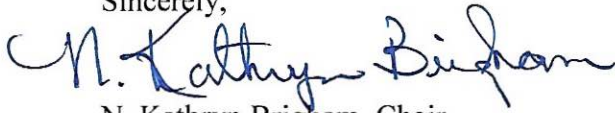
- Regular consultation and participation in ESA recovery planning processes and litigation relating to the NOAA Fisheries' administration of the ESA with respect to listed Chinook salmon, sockeye salmon and steelhead stocks;
- Restoration and recovery efforts detailed in the Columbia Basin Fish Accords;
- Implementation of the Federal Columbia River Power System Biological Opinions as a member of the Regional Implementation Oversight Group since 2008;
- Participation as a fish and wildlife manager in the development, amendment and implementation of the Fish and Wildlife Program under the Pacific Northwest Electric Power Planning and Conservation Act of 1980, 16 U.S.C. § 839 *et seq.* See *Northwest Resource Information Center v. Northwest Power Planning Council*, 35 F.3d 1371 (9th Cir. 1994);
- Member of the 15 Columbia Basin Tribes coalition that participated in the Columbia River Treaty Review process, including the Sovereign Review Team and Technical Review Team, that developed the Regional Recommendation to the U.S. Department of State on the future of the Columbia River Treaty and ecosystem function;
- Participation in a variety of committees and organizations dealing with issues related to the protection and rebuilding of salmon, steelhead, sturgeon and lamprey throughout the Columbia River Basin;
- Member of the MAFAC Columbia Basin Partnership Task Force;
- Member of the Columbia Basin Collective; and
- Development of fishing management regimes and plans, as well as artificial production management actions and plans, as a party since 1968 to *United States v. Oregon*, Civ. No. 68-513-KI (D. Or.).

It is important to the CTUIR that the Columbia River Treaty Tribes (CTUIR, Yakama Nation, Nez Perce Tribe and Confederated Tribes and Bands of the Warm Spring Reservation of Oregon) be represented on the various subcommittees of the PFMC. Given these four Tribe's significant experience and ongoing programs in habitat restoration, which command a large percentage of the fish and wildlife habitat restoration budgets in the Basin, we feel an obligation to have a seat at the table in the Habitat Subcommittee.

One of our co-managers in this work is the Yakama Nation. Our Department of Natural Resources often works closely with Yakama Nation Fisheries Program. In her many years with the Yakama Nation, Ms. Adams has demonstrated her ability to the work and her commitment to doing the work the right way.

We thank you for your consideration in this matter. If you have any questions regarding this nomination please feel free to call me at (541) 276-3165.

Sincerely,

A handwritten signature in blue ink that reads "N. Kathryn Brigham". The signature is fluid and cursive, with the first name "N." being particularly prominent.

N. Kathryn Brigham, Chair
Board of Trustees

Cc: Yakama Nation