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August 12, 2005

Dennis L. Schornack, Chairman, U.S. Section
International Joint Commission
1250 23rd Street NW, Suite 100
Washington, D.C. 20440

Dear Chairman Schornack:

The purpose of this letter is to respond to your invitation to interested parties to submit views with respect to a request from the Canadian Columbia River Inter-Tribal Fisheries Commission (CCRITFC) concerning Grand Coulee Dam. Your June 28, 2005, request for views states that the Fisheries Commission asked the IJC to issue Orders of Approval for Grand Coulee Dam and Lake Roosevelt as may be necessary to require the United States Government to "make suitable and adequate provision for protection and indemnification of the interests of aboriginal peoples in Canada whose fisheries are alleged to have been damaged by the construction and operation" of Grand Coulee Dam and Lake Roosevelt. We understand these orders would be based on and in addition to the IJC's 1941 conditional order approving construction and operation of the dam and reservoir.

The Council is not going to comment on the merits of the Fisheries Commission's request or on the question of whether the IJC has jurisdiction under the 1941 Order and the Boundary Waters Treaty to consider the request. Our purpose simply is to inform the IJC about the Council and its mandate in U.S. law, as an interstate compact, to develop and oversee a basinwide program to protect, mitigate and enhance fish and wildlife affected by the construction and operation of hydropower dams in the Columbia River Basin. This includes protection against, and mitigation for, the effects on fisheries of Grand Coulee Dam and Lake Roosevelt.

The Northwest Power and Conservation Council and the Columbia River Basin Fish and Wildlife Program

In the Pacific Northwest Electric Power Planning and Conservation Act of 1980, otherwise known as the Northwest Power Act, the Congress of the United States authorized the states of Washington, Oregon, Montana and Idaho to form an interstate compact agency, today known as the Northwest Power and Conservation Council. The Council is made up of eight members, two from each state, appointed by the governors. The Council's headquarters are in Portland, Oregon, with offices in each of the four states.

The Northwest Power Act and the resulting interstate compact gave the Council three distinct and related tasks: 1) to prepare, periodically update and oversee a regional conservation and electric power plan to assure the Pacific Northwest an adequate, efficient, economical and reliable electric power supply, focusing on least-cost generating resources and conservation to meet future demand for power; 2) to prepare a program to protect, mitigate and enhance fish and wildlife of the

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Columbia River Basin, and their related spawning grounds and habitat, affected by the development of the hydropower dams and the hydrosystem as a whole; and 3) to inform and involve Northwest citizens in adopting and overseeing these plans and programs.

The Act then created a special relationship between the Council and the federal agencies that operate and sell the electricity generated at dams in the Columbia River Basin. The Administrator of the Bonneville Power Administration, the federal power marketing agency that sells the output of the Federal Columbia River Power System (a system of 31 federal dams and one non-federal nuclear power plant) is required to make decisions in a manner consistent with the Council's *Northwest Power Plan* and its *Columbia River Basin Fish and Wildlife Program*. Other federal agencies with responsibilities for dams (the U.S. Army Corps of Engineers, U.S. Bureau of Reclamation and Federal Energy Regulatory Commission) are required to take the Council's power plan and fish and wildlife program into account at every relevant stage of decisionmaking to the fullest extent practicable.

To put it simply, it is the Council's legal responsibility to determine how the Columbia hydrosystem has adversely affected fish and wildlife, to develop and oversee a program to address those effects through protection and mitigation recommendations that the federal agencies operating the system have legal responsibilities to implement or take into account; and to do all of this in a highly public manner. The Council has been performing under this mandate for 25 years. The Council's Columbia River Basin Fish and Wildlife Program is the largest regional effort in the nation to protect fish and wildlife and mitigate hydrosystem impacts. The program addresses the wide range of impacts to fish and wildlife -- hydrosystem effects in the mainstem and estuary, tributary and estuary habitat improvements, artificial and natural production, and so forth. The program directs more than \$140 million a year in direct Bonneville Power Administration expenditures of ratepayer funds to this effort, and is indirectly responsible for hundreds of millions of dollars more directed to this end, either as appropriated by Congress or as a result of revenue reductions from power sales due to system operations to benefit fish and wildlife. More information on the Council may be found on the Council's website, at <http://www.nwcouncil.org/>.

The Council adopted its first fish and wildlife program in November 1982. The Council has revised the program at least every five years since then. The current version dates to a comprehensive revision of the program framework in 2000. In 2003 the Council amended the program with a number of measures to improve fish passage and habitat in the mainstem Columbia and Snake rivers. In 2005 the Council added 58 locally developed subbasin plans that will guide future implementation of the program, including in subbasins that cross the international border, in a planning effort coordinated with responsible parties in British Columbia. The program in its entirety can be found on the Council's website at <http://www.nwcouncil.org/fw/program/Default.htm>.

One part of the program addresses the loss of anadromous fish in "blocked areas," including the area blocked to anadromous fish passage due to the construction and operation of Grand Coulee Dam. As mitigation for these losses, the program calls for and funds improvements that boost natural production of indigenous resident fish and for artificial production of other resident fish (especially trout and kokanee) through hatcheries in Lake Roosevelt operated by the Spokane Tribe of Indians, the Confederated Colville Tribes and others. The program also calls for operations at Grand Coulee, and for certain system operations associated with Grand Coulee, to benefit both resident fish in and above the reservoir and anadromous fish below the reservoir. And finally, the program calls for an evaluation of the possibility of reintroducing anadromous fish into the blocked areas, including above Grand Coulee, if feasible.

The Council's relationships with authorities and entities in Canada

The Power Act requires the Council to treat the Columbia River and its tributaries as one system for purposes of fish and wildlife mitigation and power planning. Because the power plan and fish and wildlife program are a coordinated planning effort, and because such an integral part of the Columbia basin -- the headwaters of the Columbia and major storage facilities of an integrated hydrosystem -- are in Canada, the Council also has had regular contact over time with Canadian agencies, both federal and provincial, that have responsibility for water, land, fish and wildlife, energy and the environment. We have worked closely with the provincial Ministry of the Environment (formerly the separate ministries of Sustainable Resources and Water, Land and Air Protection) to share ecological data for our respective planning. Canadian entities also provided critical information that assisted in the development of our subbasin plans for transboundary rivers. Since 1996 the Council has shared information and met at least annually with the Columbia Basin Trust, our closest counterpart agency in British Columbia. In 2000 the Council and Trust formalized the relationship with a Memorandum of Understanding.

The Council has co-sponsored scientific and ecosystem-management conferences with Canadian entities, and our panels of independent experts that offer advice to the Council (two scientific panels and one economics panel) have included Canadian members.

Our program also directs funding to transboundary species. For example, a project to rebuild the sockeye salmon population in the transboundary Okanogan River is funded through our program and managed by a Canadian First Nation. The Colville Tribes, a partner in the Okanogan project, are building a salmon hatchery through our program downstream of Chief Joseph Dam, which is the first dam downstream of Grand Coulee Dam and also blocks the passage of anadromous fish.

The Council and the IJC request

The Council recognizes that the IJC has its own particular issues to address in deciding whether it has jurisdiction to inquire further into the request from the Fisheries Commission and, if so, whether and how to take up that request. The Council expresses no opinion on these questions. But *if* the IJC's decision is to inquire anew into questions of Grand Coulee Dam fishery effects and mitigation, the Council's Fish and Wildlife Program could be significantly affected by how the IJC addresses these issues, and vice versa.

We request that you please keep the Council informed as to the progress of your deliberations and decisions. Do not hesitate to contact me or the Executive Director of the Council, Steve Crow, if you have any questions or seek further information about the Council.

Very truly yours,



Melinda S. Eden
Chair