Honorable Michael D. Crapo  
United States Senate  
Washington, D.C. 20510-1204  
Via First Class Mail and electronic mail


Dear Senator Crapo:

I write to you on behalf of the Nez Perce Tribe (Tribe). The Tribe would like to emphasize the timely opportunity that exists to explore – carefully and comprehensively – solutions to the ongoing litigation over the operation of the federal dams in the Columbia River Basin.

The Tribe believes that among the lessons learned in the most recent round of this longstanding litigation are two that should strike all parties, on all sides -- and perhaps collaborative political leaders such as you even more -- as particularly significant. First, partial collaborations – operational plans that address the concerns of only a segment of stakeholders in a complex matter of litigation – do not work. In the end, the rule of law is intended to be applied by the courts disinterestedly, even if its application were demanded by only one entity.

Second, the long-term certainty that was the apparent intention of the accords signed by many state and tribal sovereigns does not exist. The Oregon District Court’s recent ruling concludes that the present plan of operations for the lower Snake River and mainstem hydro system does not satisfy the law, and offers at most the Court’s allowance of an interim period of operation, with injunctive spill, while NOAA Fisheries faces again its legal obligations with respect to the listed species.

There may be people and entities that are satisfied with this form of uncertainty. If they were to constitute the prevailing view, the Tribe and, it is confident, the State of Oregon and the fishing and conservation groups that make up the NWF plaintiffs, are prepared to
continue their demand for compliance with federal law as long as needed. But the Tribe believes this type of uncertainty will be unacceptable to people and entities that prefer comprehensive problem-solving and long-range planning. They will recognize the simultaneous opportunity presented by this litigation to carefully craft a solution that is more far-reaching, and beneficial to the entire Northwest region, than mere 10-year operational actions and biological opinions.

The Tribe believes that you possess a broader and more long-term view of these issues, and may see the opportunity presented here. The Tribe believes that among the key immediate needs, in order to even begin to take advantage of this situation, is the engagement and understanding of the relevant federal agencies at a Washington, DC level, and that you can assist with that effort.

In conjunction with the legal discussions that would be necessary between NWF, the State of Oregon, the Tribe and the United States, the Tribe believes there will be value in establishing a stakeholder “solutions table” to explore all scientifically-sound options and to help develop recommendations to the Administration and Congress that could lead to the recovery of imperiled populations of salmon and steelhead while simultaneously providing new opportunities that accommodate and even enhance the social and economic needs of affected communities and of the region at large. Again, the Tribe believes that you can assist with this concept.

None of us can predict whether such an exploration would be successful. But continuing the interim approaches of the past should be seen as risky, and the failure to even make an effort at truly long-term planning and problem-solving should be seen as unacceptable.

Thank you for your time and consideration of these issues. Please contact me by any means and at any time with thoughts or questions.

Very truly yours,

Brooklyn D. Baptiste
Chairman

cc:

Governor John Kitzhaber
Nicole Cordan, Save Our Wild Salmon
Terry D. Garcia, Deputy Secretary, Dept. of Commerce
Nancy Sutley, Chair, Council on Environmental Quality