



# COLUMBIA BASIN FISH AND WILDLIFE AUTHORITY

851 SW Sixth Avenue, Suite 300 | Pacific First Building | Portland, OR 97204-1339  
Phone: 503-229-0191 | Fax: 503-229-0443 | Website: [www.cbfwa.org](http://www.cbfwa.org)

Coordinating and promoting effective protection and restoration of fish, wildlife, and their habitat in the Columbia River Basin.

**The Authority is comprised of the following tribes and fish and wildlife agencies:**

Burns Paiute Tribe

Coeur d'Alene Tribe

Confederated Salish and Kootenai Tribes of the Flathead Reservation

Confederated Tribes of the Colville Reservation

Confederated Tribes of the Umatilla Indian Reservation

Confederated Tribes of the Warm Springs Reservation

Confederated Tribes and Bands of the Yakama Nation

Idaho Department of Fish and Game

Kootenai Tribe of Idaho

Montana Fish, Wildlife and Parks

National Marine Fisheries Service

Nez Perce Tribe

Oregon Department of Fish and Wildlife

Shoshone-Bannock Tribes of Fort Hall

Shoshone-Paiute Tribes of Duck Valley

U.S. Fish & Wildlife Service

Washington Department of Fish and Wildlife

**Coordinating Agencies**

Columbia River Inter-Tribal Fish Commission

Upper Columbia United Tribes

Compact of the Upper Snake River Tribes

October 13, 2008

## Public Comment Processing

Attention: 1018-AT50

Division of Policy and Directives Management

US Fish and Wildlife Service

4401 North Fairfax Drive, Suite 222

Arlington, VA 22203

## To Whom It May Concern:

The Columbia Basin Fish & Wildlife Authority (CBFWA) is an organization whose membership consists of the four state and two federal fish<sup>1</sup> and wildlife management entities and eleven Indian Tribes of the Columbia River Basin. As members of the CBFWA, whose mission is to protect, mitigate, and enhance the fish and wildlife resources and the ecosystems on which they depend, we want to submit our comments on the new regulations proposed by the Department of Interior (DOI) on August 15, 2008 that would modify the consultation requirements under section 7 of the Endangered Species Act (Act).

The Act was designed to protect critically imperiled species from extinction as a “consequence of economic growth and development untended by adequate concern and conservation,” and to protect species and “the ecosystems upon which they depend.” The Act also provides a regulatory framework that guides consultations. The DOI indicates that the new modifications to the Act are proposed to: 1) provide greater clarity and certainty to the consultation process and, 2) respond to the new challenges presented with regard to global warming and climate change. However, the proposed changes potentially eliminate the need for concurrence from the U.S. Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS) jeopardizing the scientific oversight to determine if listed species will be harmed by activities such as logging, mining, or filling of wetlands.

The proposed rule includes explicit language under “Government-to-Government Relationship with Indian Tribes” section that the regulatory changes ‘apply only to Federal agencies, not Indian Tribes.’ That ‘the regulations are intended to streamline the administration of the Act; not change any substantive requirements concerning protection of listed species, so any indirect effect would be minimal.’


<sup>1</sup> The U.S. Fish and Wildlife Service (USFWS), National Oceanic and Atmospheric Administration/National Marine Fisheries Service (NOAA/NMFS), and Idaho Department of Fish and Game (IDFG) are members of Columbia Basin Fish and Wildlife Authority; however, the USFWS, NOAA/NMFS, and IDFG did not participate in the development of this letter, take no position on the content, and have abstained.

Public Comment Processing  
Attention: 1018-AT50  
Division of Policy and Directives Management  
US Fish and Wildlife Service  
October 13, 2008  
Page 2 of 2

The Members of CBFWA would argue that these proposed rule changes do affect Tribal resources and that Tribal consultation is warranted. Listed species do not recognize geographical boundaries and proposed Federal actions that affect populations in areas where Tribal lands are involved require DOI to comply with the Federal-Tribal trust responsibilities.

The fish and wildlife managers of CBFWA request that DOI initiate the consultation process with the Tribes on these proposed modifications to the Act and that the consultation be completed prior to the adoption of the regulations.

Sincerely,

A handwritten signature in cursive script that reads "Larry B. Peterman".

Larry Peterman, Chairman  
Columbia Basin Fish & Wildlife Authority

cc: CBFWA Members