



Affiliated Tribes of Northwest Indians

2004 Annual Conference Polson, Montana

RESOLUTION #04 - 89

“FINDING THAT NOAA FISHERIES’ DRAFT REVISED 2000 BIOLOGICAL OPINION FOR THE FEDERAL COLUMBIA RIVER POWER SYSTEM IS INADEQUATE AND INSUFFICIENT”

PREAMBLE

We, the members of the Affiliated Tribes of Northwest Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants rights secured under Indian Treaties and benefits to which we are entitled under the laws and Constitution of the United States and several states, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the welfare of the Indian people, do hereby establish and submit the following resolution:

WHEREAS, the Affiliated Tribes of Northwest Indians (ATNI) consists of representatives of and advocates for national, regional, and specific Tribal concerns; and

WHEREAS, the Affiliated Tribes of Northwest Indians is a regional organization comprised of American Indians in the states of Washington, Idaho, Oregon, Montana, Nevada, northern California, and Alaska; and

WHEREAS, the health, safety, welfare, education, economic and employment opportunities, and preservation of cultural and natural resources are primary goals and objectives of Affiliated Tribes of Northwest Indians; and

WHEREAS, since time immemorial, our economy, culture, religion and way of life have centered around our fishing, hunting and gathering resources, and the lands and waters on which they depend; and

WHEREAS, our natural and cultural resources have suffered greatly, from damage and diminishment to outright loss, as a result of many harmful non-Indian activities and actions, causing substantial harm to tribal people and communities; and

WHEREAS, mistaken and misguided resource management decisions have impacted our inherent tribal sovereignty, which is based in part on the free exercise of our rights to fish, hunt and gather, and the United States has a duty, based on treaties, executive orders, the federal Trust Responsibility and numerous court opinions, to ensure that those rights are honored; and

WHEREAS, to address salmon populations listed under the Endangered Species Act, NOAA Fisheries has developed Biological Opinions for the federal hydrosystem, the most recent of which fails to comply with the ESA according to the U.S. District Court for the District of Oregon; and

WHEREAS, NOAA Fisheries has issued a Draft Revised 2000 Biological Opinion in response to orders of the federal court remanding the original Opinion back to the agency; and

WHEREAS, NOAA Fisheries has used the remand period to create a new Biological Opinion rather than modify the 2000 Biological Opinion to address the specific concerns of the court regarding mitigation measures; and

WHEREAS, the Draft Revised 2000 Biological Opinion differs markedly from the 2000 Biological Opinion in both its analytical approach and its conclusions, seemingly contravening the direction of the court; and

WHEREAS, there appears to be no legal authority or scientific evidence for NOAA fisheries to revisit its original jeopardy analysis which required a Reasonable and Prudent Alternative (RPA), or for NOAA Fisheries to change the environmental baseline in the Draft Revised 2000 Biological Opinion; and

WHEREAS, the Draft Revised 2000 Biological Opinion does not include an RPA, despite the court's direction that NOAA Fisheries modify the RPA in the 2000 Biological Opinion so that it relies on mitigation measures reasonably certain to occur; and

WHEREAS, there is no basis for NOAA Fisheries to assert that mitigation measures proposed in the 2000 Biological Opinion's RPA are now reasonably certain to occur and would otherwise comply with the requirements outlined in the court's opinions and orders; and

WHEREAS, the Draft Revised 2000 Biological Opinion adopts a new jeopardy standard and analysis that no longer includes recovery of the listed species, contrary to the mandates of the ESA and fulfillment of the Trust Responsibility to protect, recover and rebuild tribal trust assets; and

WHEREAS, in earlier communications with tribes, NOAA Fisheries had committed to the twin goals of complying with the ESA and working toward the achievement of healthy, productive sustainable fisheries for harvest; now

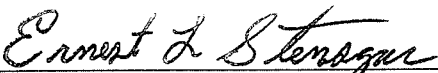
THEREFORE BE IT RESOLVED, that ATNI finds that NOAA Fisheries' Draft Revised 2000 Biological Opinion for the Federal Columbia River Power System is inadequate and insufficient; and

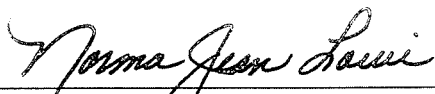
BE IT FURTHER RESOLVED, that ATNI finds that NOAA Fisheries' Draft Revised 2000 Biological Opinion fails to promote the recovery and rebuilding of fisheries resources harmed by the federal hydrosystem, contrary to tribal treaties, executive orders, and the Trust Responsibility; and

BE IT FINALLY RESOLVED, that ATNI requests that the American Fisheries Society conduct an independent scientific review and assessment of the Draft Revised 2000 Biological Opinion.

CERTIFICATION

The foregoing resolution was adopted at the Annual Conference of the Affiliated Tribes of Northwest Indians, held at the KwaTaqNuk Resort in Polson, Montana, on September 30, 2004, with a quorum present.


Ernest L. Stensgar, President


Norma Jean Louie, Secretary