

Testimony of the Yakama Nation
Submitted to the
House Committee on Natural Resources
For the Field Hearing on HR 6247
August 15, 2012
Pasco, Washington

The Yakama Nation appreciates the opportunity to share our views on H.R. 6247, the "Saving Our Dams and New Hydropower Development and Jobs Act of 2012."

While we appreciate the role that hydropower has played in the development of the Pacific Northwest and that it represent a source of clean renewable energy, we must express significant concern with the legislation as it fails to recognize that there are any problems whatsoever with hydroelectric dams and it does not advocate for a balanced approach between hydropower and the actions needed to protect salmon and steelhead and their habitat. We are concerned that HR 6247 would unintentionally stifle ongoing productive, cooperative efforts to restore the salmon fishery of the Columbia basin through measures that still allow for a viable hydropower industry. We believe the right way to deal with endangered species is to restore the great historical salmon bounty of the Columbia basin ecosystem. By trying to eliminate valuable recovery tools, this legislation would likely lead to more, not less litigation and listings under the Endangered Species Act, thereby harming the very interests the bill aims to protect.

The Yakama Nation holds Treaty Rights to produce and harvest fish and other aquatic life from the Columbia River and its tributaries. Those natural resources have sustained the culture and lives of the Yakama people since Time Immemorial, while generating the first great regional economy of the Northwest. The Supreme Court was correct when it stated in 1905 in an 8-1 decision that salmon were, to the Yakama Indians, "no less important than the air we breathed." The decision further held that a "Treaty between the United States and the Indians... is not a grant of rights to the Indians, but a grant of rights from them—a reservation of those granted."

In the last 150 years the fishery resources, and the Indian and non-Indian people who so depend on that resources, has suffered profoundly. Tribal economies, to which salmon were paramount, have been decimated yet there is no acknowledgement of that fact in this legislation.

In recent decades we have been working cooperatively and effectively across the spectrum of interests, including with hydropower, irrigation, and non-Indian commercial and sport fisheries, to forge real solutions to the region's natural resource problems. Solving these complex problems across multiple resources requires using all available tools. Banning the use of some tools in favor of others would not only hinder recovery efforts, but would greatly hinder the spirit of cooperation that has emerged.

We are currently working effectively with hydropower interests to solve problems for anadromous fish in the context of a viable hydropower industry. As just one example we have begun reintroducing Sockeye salmon runs in the Yakima Basin that were extirpated by impassible irrigation dams a century

ago. We are achieving this restoration by working in close cooperation with one of the Mid Columbia PUD's. On another front, the Yakama Nation has our own electrical utility that works in cooperation with hydropower interests. Our success at restoring salmon runs while the region maintains a viable hydropower industry in itself testifies against the need for this bill. We fear that this bill would drive a wedge between these burgeoning partnerships.

Through our collective efforts we have seen dramatic improvements in fish runs in recent decades. The sport and tribal fisheries in the Columbia Basin are both multi-million dollar economies important to a broad cross section of citizens of Washington and other Pacific Northwest states. The Yakima basin has recently enjoyed sport fisheries on three different salmon runs that were once either extinct or severely limited. Those sport fisheries have generated jobs and helped the economy in south central Washington. This has occurred at the same time when the hydropower industry has been robust and financially successful. The two are not mutually exclusive. This economic boon for salmon has been achieved by using all available tools and it is important that none of those tools be taken off the table.

Rather than encourage innovative solutions appropriate at the local watershed level, this bill effectively treats every turbine in the west as deserving protection at the expense of all other resources. In the Yakima Basin, for example, we have achieved unprecedented consensus around an integrated plan to promote agriculture, fisheries, and drinking water supplies. The plan was developed by folks in the basin who understand the problems facing the basin's resources. One of the problems is low flows during salmon outmigration season in the bypass reaches below two small hydropower facilities operated by Reclamation, and the solution embraced by all parties to this consensus plan is subordination of hydropower at these facilities, while mitigating for the relatively small lost hydropower revenue to an irrigation district. H.R. 6247 would appear to outlaw or undermine this consensus solution during drought years, which is when the water is most needed for salmon outmigration. We believe Congress should not be passing laws that inhibit the real stakeholders in a watershed from developing creative consensus solutions to their unique set of problems. By its indiscriminate approach, this bill does just that.

A recent case in point is the removal of Condit Dam on the White Salmon River. A hundred year old dam that had been out of compliance with fish passage requirements for many decades was removed in the fall of 2011 and already salmon and steelhead are making their way to formerly inaccessible spawning grounds above the former dam. The dam removal, including the necessary studies and mitigation were a cooperative effort among the Yakama Nation, the electrical utility, environmental groups, and state and federal agencies. An agreement allowed the utility to generate sufficient revenue to fund decommissioning and mitigation in a way that was more cost effective for the utility and better for fish runs than attempting to bring the aging dam into compliance. At the breaching, a representative of the utility thanked the Yakama Nation for the privilege of borrowing the river for a hundred years.

By its one-sided approach, this bill would appear to prevent the federal government from even looking at certain potential low cost, low impact solutions to aquatic resource problems. Among the tools that must remain in the toolbox are implementation of the part of the consensus solution that includes

subordination of hydropower, spills, and dam decommissioning where those prove to be the most effective and cost effective solutions. We would be left with the current options the stakeholders have including resort to the Courts. Rather than forbid federal agencies from looking for solutions, we believe Congress should authorize and fund the agencies to work in tandem with tribes, hydropower interests, agricultural interests, and other stakeholders to study all potential solutions to the problems confronting our watersheds.

We have numerous concerns with sections of this bill including language which suggests that every individual rate payer in the Northwest be given a monthly bill essentially showing the costs of protecting salmon. Perhaps every ratepayer should also be given a bill showing the costs involved in the lack of employment among both the Indian and non-Indian fishermen who lives and communities have been destroyed as the once great salmon runs of the Columbia basin have dwindled. We are troubled by the concept of “foregone revenue” as it assumes that God created the Columbia River for the sole purpose of hydropower production and that every drop of water that is not run through a turbine (so that salmon can migrate safely) is somehow a loss. We believe that a balanced approach can and has been achieved and that various types of actions can and are being undertaken to mitigate for the damage that hydropower dams have done to the salmon runs, That is why we signed onto the Columbia Basin Fish Accords with the Bureau of Reclamation and the Bonneville Power Administration. We are concerned with the provisions that seem to prohibit the removal of any dam and that would punish entities who work toward even making dams operate in a more fish friendly fashion, even if the dam operator reached an agreement with the entity in question.

We are proud to play a continuing role in strengthening the salmon and steelhead runs of the Columbia River basin. This has been achieved through compromise on the parts of those who advocate for the fishery and those whose principal interest is hydropower. We believe the two can live together and that Congress should be taking actions encouraging cooperation and compromise. We are concerned that this legislation will curtail such cooperation and urge the Committee to reconsider it and pursue a more balanced approach.