

THE HONORABLE JAMES A. REDDEN

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*Attorneys for Amicus Curiae Confederated  
Tribes of the Colville Reservation*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

NATIONAL WILDLIFE FEDERATION *et al.*,

Plaintiffs,

vs.

NATIONAL MARINE FISHERIES SERVICE  
*et al.*,

Defendants.

Civ. No. 01-640-RE

**DECLARATION OF MICHAEL  
RAYTON IN SUPPORT OF  
COLVILLE TRIBES'  
SUPPLEMENTAL *AMICUS* BRIEF**

I, MICHAEL RAYTON, hereby declare as follows:

1. I am currently employed by the Colville Tribes' Fish and Wildlife Department as the salmon harvest biologist and have been in this position since August 2009. My primary responsibilities include administering the Tribes' salmon harvest program contract with the BPA, tracking and analyzing tribal harvest data, and providing management advice for the Tribes' selective harvest project. I am competent to make this declaration based on my personal knowledge.

**DECLARATION OF MICHAEL RAYTON IN  
SUPPORT OF COLVILLE TRIBES'  
SUPPLEMENTAL *AMICUS* BRIEF -- 1**

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2. A key project of the Fish Accords for UCR salmon and steelhead is the Colville Tribes' development, testing and deployment of live-capture, selective fishing gears that allows the tribal membership to conduct ceremonial and subsistence fisheries. *See* Colville MOA (Corps AR A.394) at B-7 to B-8 (Projects 9, 10). Selective fishing offers the opportunity to harvest hatchery-origin Chinook and steelhead while releasing wild, or natural-origin fish for escapement. Implementing selective fisheries does not preclude the harvest of abundant wild stocks, like Okanogan sockeye, while releasing wild Chinook captured with the gear.

3. Selective fishing in the Columbia River Basin may positively affect ESU productivities by reducing the numbers and proportion of hatchery-origin fish in the natural spawning population while simultaneously increasing the numbers and proportions of wild fish in these populations. These critical actions will allow the populations to better adapt to their habitats and become more productive.

4. Results of gear testing to date have been dramatically positive. The Colville Tribes are harvesting increasing numbers of hatchery-origin Chinook and natural-origin sockeye while releasing wild Chinook and steelhead with about 1% direct mortality. For example, during test fisheries using purse seine technology in 2009 and 2010, the Colville Tribes were able to harvest a total of 3,163 hatchery Chinook while releasing 2,346 wild (unmarked/natural-origin) Chinook with only 1.4% direct or immediate mortality. During this summer Chinook fishery, over 30,000 sockeye salmon were also harvested in the mixed-stock fishery.<sup>1</sup> During the two years of testing, 103 steelhead have also been captured, of which 10 were natural origin (unmarked); all of these wild fish were released unharmed, 100% survival. The immediate and significant success of the Colville Tribes' fisheries has led the states of Washington and Oregon

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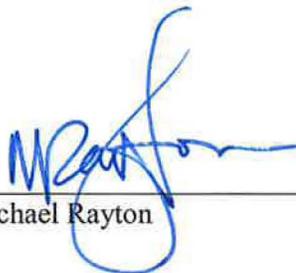
<sup>1</sup> The Okanogan River sockeye population is not listed under the ESA and in fact had record returns in 2010.

to accelerate similar tests of selective fishing gears in the non-Treaty commercial fisheries in the lower Columbia River. Continued positive results should lead to adoption of selective gears in additional ocean and freshwater fisheries. The Colville selective fishing techniques can be viewed on a short, BPA-produced video at: [www.youtube.com/watch?v=Ir8QiLqPhjY](http://www.youtube.com/watch?v=Ir8QiLqPhjY) (search: "friendliest catch").

5. The Colville Tribes, using Accord funds, have recently purchased the purse seine vessel for permanent deployment based on the success of these test fisheries to date. Additionally, a semi-permanent weir on the lower Okanogan River is also progressing through the planning and environmental compliance stages. Consistent with the goals of the Chief Joseph Hatchery program, this weir is to be constructed, in part, to provide another means to selectively harvest hatchery-origin Chinook and steelhead while releasing wild fish for spawning escapement.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 21<sup>st</sup> day of December, 2010.

  
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Michael Rayton

CERTIFICATE OF SERVICE

Pursuant to Local Civil Rule 100.13(c) and FRCP 5(d), I hereby certify that on the 23rd day of December, 2010, the foregoing Declaration of Michael Rayton in Support of Colville Tribes' Supplemental *Amicus* Brief was filed with the Court's electronic filing system which will generate automatic service upon all parties enrolled to receive such service. In addition, a true and correct copy of the foregoing was manually served via first class U.S. mail to the following at the addresses set forth below:

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