Confederated Tribes and Bands
the Yakama Nation

Established by the
Treaty of June 9, 1855

May 13, 2022

Calvin Terada
Director, Superfund & Emergency Management Division
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, WA 98101

Colonel Mike Helton
Commander, Portland District
U.S. Army Corps of Engineers
333 SW First Avenue
Portland, OR 97204

Dear Director Terada and Colonel Helton:

On behalf of the Confederated Tribes and Bands of the Yakama Nation, I appreciate your participation in the April 5, 2022 government-to-government consultation regarding the Bradford Island Superfund Site. This meeting was critical to confirm the United States commitments to addressing contamination at the Bradford Island Superfund Site. Bradford Island and the surrounding area are vital to Yakama enrolled members as one of many usual and accustomed treaty fishing places in the Columbia River Basin, yet due to the actions of the United States this area is also uniquely dangerous to both human health and the environment.

Throughout Yakama Nation's involvement at Bradford Island, our goal has remained the same – to sustain clean, healthy fish and a clean environment for our people. Yakama Nation is the legal successor in interest to the signatories to the Treaty with the Yakamas of June 9, 1855 (12 Stat. 951). Under Article III of the Treaty, Yakama Nation reserved the right to harvest fish at all usual and accustomed places on the Columbia River, including fishing sites at and near Bradford Island. Most of these fishing sites are regulated under tribal law. Yakama Nation is also a signatory to the 2018-2027 *U.S. v. Oregon* Management Agreement, which is an order of the court that governs the management of fisheries in the Columbia Basin. See *United States v. Oregon*, 3:68-cv-00513-KI (#2614) (D. Or. Mar. 19, 2018). Through that agreement the tribe is recognized as a co-manager of the Columbia River fisheries with the states of Washington and Oregon. *United States v. Oregon*, 699 F.Supp. 1456 (D. Or. 1988), *aff'd,* 913 F.2d 576 (9th Cir. 1990).

Our government-to-government meeting was especially important for the acknowledgement that the Bradford Island Superfund Site poses an imminent and substantial threat to tribal health and the environment. Due to this threat, the United States committed to expedite cleanup. The specific commitments discussed are as follows:

- The United States, through both the EPA and the Army Corps, agrees that it has a responsibility both to honor the 1855 Treaty and as a Trustee, and that those responsibilities are a key element of our relationship as the cleanup of the Bradford Island Site moves forward;

- EPA and the Corps are committed to moving forward expeditiously with the Bradford Island cleanup under recognized CERCLA processes;

- EPA and the Corps are committed to include Yakama Nation in all phases of the planning and implementation process;

- EPA and the Corps will develop a specific site strategy that incorporates Yakama Nation's values and the concerns; and

- EPA and the Corps are committed to follow through on the issues presented, and the statements made, by Yakama Nation Tribal Council.

The Yakama Nation made several specific requests to the United States. First, that the United States prioritize and expedite cleanup actions where possible using, as appropriate, removal actions, interim RODs, and any other authorities available to it. Second, that Yakama Nation be meaningfully involved in the development and implementation of the Federal Facilities Agreement's (FFA) Site Management Plan and that the FFA be executed within 1 year (by March 2023). Third, that the Corps commit to re-establish the Technical Assistance Group, and to convene regular monthly technical meetings among the technical staff of the Yakama Nation and all relevant government agencies. And, finally, that the United States agree to yearly government-to-government meetings to update Yakama Tribal Council on cleanup activities, and to assess the progress at the Site.

Of course, the measure of success at Bradford Island will not be in the words spoken or commitments made, but the actions of those involved. Indeed, the Corps' recent statement of their intention to completely disband the Technical Assistance Group appears inconsistent with the recent government-to-government consultation, and will be the subject of a forthcoming separate communication. It is imperative that a thorough and fully protective cleanup be performed at Bradford Island in accordance with the statutory requirements of CERCLA and the NCP, and in full consultation with Yakama Nation. We remain steadfast in our commitment to clean, healthy fish that are safe to eat, and we hope that the United States will similarly commit.

We look forward to our April 2023 government-to-government meeting on this priority topic. If you have any questions or concerns regarding this letter, please feel free to contact me at 509-865-5121 or your project staff can contact Rose Longoria at 509-865-5121 x6365.

Sincerely,

Delano Saluskin

Delano Saluskin
Chairman
Yakama Nation Tribal Council

cc: Kira Lynch, EPA Branch Chief, Remedial Cleanup Branch (letter transmittal via email)
Julie Wroble, EPA Section Chief, Site Cleanup Section (letter transmittal via email)
Helen Bottcher, EPA Remedial Project Manager (letter transmittal via email)
Robert Tan, EPA Remedial Project Manager (letter transmittal via email)
Richard Mednick, EPA Site Attorney (letter transmittal via email)
Craig Johnson, USACE Tribal Liaison (letter transmittal via email)
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