The Confederated Tribes of the Colville Reservation
OFFICE OF THE COLVILLE BUSINESS COUNCIL CHAIRMAN
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December 23, 2009

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Lisa Jackson, Administrator
MC 1101A, USEPA HQ
Ariel Rios Building
1200 Pennsylvania Avenue
Washington, D.C. 20460

Re: Meaningfully Addressing Environmental Damages to the Columbia River

Dear Administrator Jackson:

I write to you as Chairman of the Colville Business Council, the governing body of the federally-recognized Confederated Tribes of the Colville Reservation (Tribes), and on behalf of all those who depend upon the Columbia River and Lake Roosevelt for a variety of cultural, traditional and recreation uses. My purpose is to ask your help in resolving an environmental problem threatens the health of Tribal members and on-members alike.

An enormous environmental hazard has been created by the Trail Smelter, the larges zinc-lead smelter in the world, located only 11 miles north of the United States border with Canada. The smelter is owned by the multi-nation corporation Teck Cominco. For more than 90 years, until 1995, Teck's Trail Smelter discharged thousands of tons of slag annually into the Columbia River, and continues to discharge liquid wastes and upset spill chemicals into the river. These upstream discharges have resulted in the release of hazardous substances into the 150-mile reach of the Columbia River. The federal Environmental Protection Agency has specifically identified Teck Cominco's Trail Smelter, located in Trail B.C., as the source of mining effluent and slag.

Despite nearly 100 years of continuous pollution from mining and smelting operation affecting the Columbia River in the US, this environmental and health threat was largely ignored. Without the Tribe's legal action against Teck Cominco, this situation may never have been investigated as a potential threat to all who use the river. It is crucial that the United States becomes a strong partner with the Tribes in addressing this serious issue.

President Obama's renewed commitment to the Indian tribal governments, as stated in his "Memorandum for the Heads of Executive Departments and Agencies" of November 5, 2009, requires "regular and meaningful consultation and collaboration" under Executive Order 13175. As a representative of thousands of tribal people, each of whom is personally vested in the ongoing cleanup of the Columbia River, I request a government-to-government consultation on the issues facing us in the Upper Columbia River.

Colville Tribal leaders would be happy to come to Washington DC to meet with you and discuss the ongoing remedial action at the Upper Columbia River (UCR) Site. Our intention is to assure that the Colville Tribes receives the federal support it requires and deserves to meaningfully address this matter. Such support is consistent with the ongoing federal obligation to the Tribes.

We request this government-to-government meeting to discuss our immediate and longer term resource and funding needs and roles of those federal agencies with regulatory responsibility at the UCR Site. Currently the Tribe receives limited funding from Teck Cominco through EPA Region 10 in accordance with the June 2006 EPA/Teck Cominco non-CERCLA agreement, to conduct sampling and oversight activities. EPA has not provided the Tribe with the additional funding needed by the Tribe to independently supplement the work performed under the EPA/Teck Cominco agreement, nor has the federal government secured adequate funds to adequately oversee the ongoing Remedial Investigation/Feasibility Study (RI/FS). To the best of our knowledge EPA Region 10 does not even have a budget plan to complete the RI/FS. To the extent Teck Cominco is permitted by EPA [by default or other means] to control this research and its resulting finding at the site, the RI/FS is at risk of being a meaningless and futile exercise. Moreover, the EPA/Teck Cominco agreement will expire at the completion of the Feasibility Study. Due to the ongoing uncertainty over Teck Cominco's commitment to fully investigate the UCR Site the Tribes must be supported as a partner in the EPA remedial action. It is important to note, that to date, Teck Cominco has made no commitment to remediate the Site. It would be inconsistent with the federal trust obligation to the Tribes for EPA to simply ignore the remedial action implementation phase. Rather, we should immediately begin working together to plan for this next phase of the work, as contemplated by the President's directive.

The Colville Tribes serves as the Lead Administrative Natural Resource Trustee for those resources which may require assessment and restoration due to the extensive history of contamination in the UCR Site. We are aware that EPA is not a trustee, but EPA does have a duty to coordinate its remedial work with the damage assessment work performed by the Trustees. Toward that end, the UCR Natural Resource Trustees are in the process of finalizing the Pre-assessment Screen for the UCR Site, and will be seeking funding for the assessment phase of this case. This complex and comprehensive process will require testing of soils, surface water, groundwater, air, and flora and fauna. The Tribe views the need for secure financial backing to properly conduct this investigation as a fundamental element of the United States' trust obligation to protect the Tribe's resources and also to seeking consultation with Secretary Salazar on this matter.

The Confederated Tribes of the Colville Reservation relies on the natural resources in the UCR Site for our livelihoods and our cultural and spiritual identity. We face an overwhelming demand on our limited resources damaged in perpetuity, for lack of proper assessment, is not an option, as it would permanently and adversely alter the fabric of Tribal existence.

Thank you on behalf of all those who will benefit from our efforts to resolve this issue. As the President acknowledged in his Memorandum, the result of failing to consider tribal voices has resulted in "undesirable and, at times, devastating and tragic results." The Tribe has suffered these tragic results, and continues to demonstrate patience with this remedial action, but now we need your help to take the next step towards a lasting solution.

Please let me know when you might be able to consult with Colville tribal representatives on this matter of great importance to both our governments.

Respectively,

Michael O. Finley, Chairman
Colville Business Council

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US POSTAGE

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