

**TESTIMONY OF**

**THE HONORABLE GARY DORR**

Before the House Subcommittee on Water, Power and Oceans

June 8, 2017

Regarding

**H.R. 2083**

**THE ENDANGERED SALMON AND FISHERIES PREDATION PREVENTION ACT**

Good morning. My name is Gary Dorr. I live in Craigmont, Idaho. I am here today as a witness in my capacity as a member of Nimiipuu Protecting the Environment. Nimiipuu is a not-for-profit organization whose mission is to protect all tribal treaty-reserved rights within the original ceded territory and the usual and accustomed hunting, fishing, gathering, and ceremonial use areas.

I am the Chairman of the Nez Perce Tribe General Council, although today I am not here to speak on behalf of the Nez Perce Tribe. I am a member of the Nez Perce Tribe and know its history and relationship to the land, the rivers and the salmon that are a part of me and the Tribe. I am an heir to the treaty provisions, and as an heir, I have a voice to speak to those specific provisions which are defined as the treaty reserved rights, retained by the Nimiipuu.

The Nez Perce, more appropriately known as the Nimiipuu, today live on 770,000 acres of our original 16 million acre homelands. The Nimiipuu saved Lewis & Clark when they arrived starving and sick at our camps in 1805. In 1877, the Nimiipuu War occurred, stretching the battlefield over 1,100 miles. After the end of the war, Chief Joseph declared "I will fight no more forever." Treaties after the 1855 treaty further reduced our reservation to 7 million acres, and once more to our present day 770,000 acres, but it did not diminish our treaty-reserved rights all across the 16 million acres we still call our territory. We retained the right to hunt, fish, gather, and hold ceremony on our lands. These rights have been upheld by decisive court actions that recognize the Treaty of 1855, like the Boldt Decision and multiple other court rulings. Today, we live on our reservation next to Lewiston, Idaho and continue to hunt in Yellowstone Territory, and fish all the Columbia, Snake, Clearwater, and Salmon river basins. We also manage fishery operations that include salmon hatchery operations to save the salmon and wild salmon retention/preservation policies.

**INTRODUCTION**

Let me start by saying that I deeply appreciate the Subcommittee's interest in protecting and restoring wild salmon in the Columbia and Snake River and the opportunity to come before you today to testify on a topic that is of critical importance to me and my Tribe as well as to many other tribal people who call the Columbia River Basin home. These fish are part of my DNA. Historically the salmon runs all

across the Columbia River Basin were so great and numerous that it was described by early white men as so plentiful that you could walk across the backs of the spawning salmon when they returned from the ocean. As a result of that, the trees have a historical relationship to the salmon. They retain salmon DNA from the resultant dying salmon along the stream banks. The salmon are part of the land in every aspect. Old Chief Joseph told his younger Chief Joseph as he lie dying, “this country holds your father’s body. Never sell the bones of your father and your mother.” We still have that salmon DNA in our bodies as we take traditional foods, and hunt and fish traditionally from our lands. We seek to preserve the land—as we are related to that land. Chief Joseph spoke to our relationship to our lands when he said “A man who would not love his father’s grave is worse than a wild animal.” Today we speak as treaty heirs to our continued existence and our continuing relationship with the land, the animals, the fish, and the waters that run across our homelands.

### **OVERVIEW OF TESTIMONY**

Unfortunately, the salmon that I and my people have depended upon since time immemorial have nearly vanished. All of the remaining salmon populations that call the Snake River basin home are listed as either threatened or endangered under the Endangered Species Act and have been for over 20 years. And as you know all too well, the federal agencies in the Northwest charged with protecting imperiled salmon populations have spent an estimated 15 billion dollars of American taxpayer and Northwest energy consumer money on efforts to protect and restore our wild salmon.

But these efforts to date have largely failed -- not just in court where the last five salmon plans have been rejected as inadequate and illegal – but more importantly they have failed in the real world too - the rivers and streams where the salmon live. The reason for this failure is that we have not yet stepped up and addressed the most significant underlying cause of the tragic loss of salmon in the Columbia Basin – the federal hydroelectric dams and their reservoirs on the lower Snake and Columbia Rivers that today stand between our salmon and their spawning grounds. Although the Nez Perce and many other Columbia Basin Tribes have worked tirelessly and carefully to restore the spawning streams of these amazing fish and to manage other programs to bring them back, including our hatchery programs, these efforts cannot succeed in restoring healthy, sustainable salmon and steelhead populations until we address directly and effectively the impacts of the hydroelectric dams on the main stems of the Columbia and Snake Rivers.

As I said earlier, I appreciate the Subcommittee’s interest in protecting and restoring these salmon that are so important to me and my people. But I have to tell you that the bill you are considering today, HR 2083, the Endangered Salmon and Fisheries Predation Prevention Act, is not focused on the real problem for salmon restoration. You can kill all the sea lions you want to – and we have already been killing the most problematic sea lions – but unless we summon the courage to act on the best scientific information and finally address the very significant impacts of the hydroelectric dams on our salmon, they will not come back. They will continue their slow, steady slide towards extinction until they are gone. That will be a far bigger loss for me and my family and my community than just the disappearance of a food source we have relied on for many thousands of years. In fact, the loss of these fish will hurt everyone in the Pacific Northwest from sport and commercial fishermen to people who

never see or touch a wild salmon but believe in the iconic magic of these fish to define the character and spirit of an entire region.

For more than two decades, some of the best, smartest fisheries biologists in the Northwest and elsewhere have said the single biggest step we can take to bring back our salmon is to bypass the four hydroelectric dams on the lower Snake River. If your subcommittee is serious about your commitment to protect and restore salmon in the Columbia basin, that's the issue you would be focused on today, not killing more sea lions.

### **ARE SEA LIONS A PROBLEM?**

As a member of the Nez Perce Tribe, heir to the treaty of 1855, and a member of Nimiipuu Protecting the Environment, I support the current federal statute that already allows for the selective killing of particularly problematic salmon-eating sea lions. This tool has been debated in our region and in Congress and it has been adopted into law. Nimiipuu Protecting the Environment does not see any need to alter that statute today or increase the allowable number of sea lions to be removed and/or killed. Doing so will only serve to further distract people from addressing the most significant cause of decline for salmon and steelhead: the expansive system of federal dams and reservoirs on the Columbia and Snake Rivers.

I know that we all agree that protecting and restoring our salmon and steelhead populations is important to the ecology, economy and culture of our region. And that it requires an approach that is comprehensive and grounded in science and law. It is important to note here that many causes of decline – harvest pressure, hatchery practices, habitat degradation – have been addressed and are being addressed through ongoing programs established by our region over the last several decades. These efforts should continue and be refined over time based on new information and need.

This is true for the issue of sea lion predation too. Our region recognizes this as a problem and we have established tools today to address it.

Let me mention one other point about the bill you are considering today: Section 4, subsection (f)(6) of the bill eliminates environmental review under the national Environmental Policy Act (NEPA) for actions taken under the bill. NEPA is one of our most important environmental laws because it requires that we “look before we leap,” evaluate and disclose to the public and decision-makers the effects of federal actions and consider alternatives. Waiving the requirements of NEPA is like taking the batteries out of a smoke alarm – it's not a good idea. I would urge you to remove this section from the draft bill. The situation is not so urgent that we cannot take the time to examine the effects of any actions the bill might authorize.

### **IMPACT OF FEDERAL DAMS, RATHER THAN SEA LIONS, REQUIRES GREATER ATTENTION**

Unfortunately, the recognition of and need for a comprehensive approach to salmon restoration in the Columbia Basin falls apart when it comes to addressing the harms inflicted by the federal system of

dams on salmon and steelhead populations, and I would like to make several comments to the subcommittee on this important topic.

First, a scientific analysis by federal, state and tribal salmon biologist in 2007 shows us that 70% or more of the human caused mortality for Columbia basin salmon is a result of their passage through the system of dams and reservoirs on the Columbia and Snake Rivers. These impacts dwarf those of sea lion predation. This study is far from the only scientific analysis that tells us the hydroelectric dams are the elephant in the room when it comes to salmon restoration. This is the most important, most pressing, and most unaddressed issue that our region must tackle.

The time has come to address this problem. Our federal courts have been telling the agencies that manage these dams that they need to address the impacts of the dams on salmon. More than twenty years ago federal Judge Malcolm Marsh in Portland said the system of dams and reservoirs “literally cries out for a major overhaul” if our salmon are to recover and thrive. But we are still waiting for this overhaul to happen. In the last 20 years, we have spent billions of dollars to little effect: our salmon populations are not recovering and indeed are still teetering on the edge of extinction.

I want to make sure that everyone on this subcommittee understands that this year, adult salmon and steelhead returns in the Columbia Basin were predicted by fisheries managers to decline by roughly 25% across all runs when compared to last year. And that was before the returns started. Now this bad news prediction has gotten worse - far fewer fish are returning than were predicted, forcing fisheries managers to further reduce run estimates and close fishing activities for both tribal and non-tribal fishermen on the lower Columbia River, on the lower Snake River, and on its tributaries in central Idaho, and eastern Oregon and Washington State.

Increasing the number of sea lions that can be killed will not fix this problem or restore our endangered wild salmon. We must follow the science, we must make some hard decisions, and we must dramatically reduce the mortality caused by the hydro-system or we will lose many of the runs that remain today.

What the scientist have been telling us for years is that we have basically two effective tools we can use to address the impacts of the dams on wild salmon: we can spill water over the dams during juvenile salmon migration season in the spring and summer and we can remove the four costly dams on the lower Snake River. We need to use both tools if our salmon are to survive and recover. First, as the federal court has ordered recently, we need to increase the amount of water spilled over the dams as much as we can under current law without hurting salmon or causing safety problems. And we need to look at changing current state water quality laws to allow us to spill even more water. Second, we need to start planning now for the removal of the four dams on the lower Snake River. This is our most effective - and most cost-effective - long-term action to bring back Snake River salmon. In 2000, NOAA Fisheries said in a dam management plan at that time that removal of the lower Snake River dams was the single most beneficial action we could take to protect and restore endangered salmon and steelhead. But the agency and its sister federal agencies did not choose that course. Instead, they announced a decision to spend billions of dollars on tributary habitat restoration and a series of other actions. Today, 17 years later, we have restored a lot of tributary habitat and are restoring more, and we

have improved hatchery management practices. But we have not materially changed the condition of Columbia Basin and Snake River salmon.

### **WHY IS BYPASSING THE FOUR LOWER SNAKE RIVER DAMS SO IMPORTANT?**

Many years of scientific research by state, federal, tribal and independent scientists confirm that removal of the lower Snake River dams is our most effective option for protecting and restoring its endangered fish populations. Restoring the 140-mile stretch of river in southeast Washington State will cut dam and reservoir-caused juvenile salmon mortality in half by cooling the river, reducing predation by pike minnow, reducing transit time to the ocean, reducing the numbers of fish that are artificially transported in barges and trucks, and by reducing by roughly half the number of fish-turbine interactions that occur.

A restored river will restore 140 miles of main stem river habitat, greatly benefiting fall Chinook, and a restored river will once again offer a healthy, more resilient river with a diversity of habitats including critically important cool water refugia in this era of climate change.

Further, restoring this river by removing its four dams will restore productive access for salmon and steelhead to more than 5,000 miles of high, cold, and largely pristine and protected river and streams in central Idaho, northeast Oregon and southeast Washington State. There is no other river and salmon restoration opportunity anywhere in the United States that comes close to this opportunity.

And in addition to the scientific support for restoring the lower Snake, there are also strong economic and fiscal reasons for removing these dams. The modest benefits that these dams provide – commercial navigation and energy production – have declined in recent years as their costs have risen. And they can be replaced today with efficient, reliable and affordable alternatives, like rail, new renewables, and conservation. At the same time, the cost of operating and maintaining these dams is growing. The evidence today suggests that the dams' costs are considerably greater than their benefits. Given this, our region and nation would be better served by taking them offline and redirecting funds to other more valuable projects in our region.

### **WHAT SHOULD THE SUBCOMMITTEE DO?**

I've explained to you why we cannot bring back our salmon by focusing on sea lions. I've also described to you the elephant in the room when it comes to salmon restoration – the four lower Snake River dams. I take you at your word that you want to see our wild salmon survive, recover and support all the people that depend on them again. So I ask you, if you are serious about achieving that goal, why not draft a bill that would lead to the removal of those dams. That would show the kind of leadership we need on this issue. Chief Joseph once said "I am tired of talk that comes to nothing;" we need to act upon the scientific research by state, federal, tribal and independent scientists and remove the dams otherwise we may find that we will have made talk that comes to nothing and the salmon will pay for our lack of due diligence.