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Swinomish Indian Tribal Community

A Federally Recognized Indian Tribe Organized Pursuant to 25 U.S.C. § 476

11404 Moorage Way
La Conner, WA 98257

November 17, 2011

Governor Christine Gregoire
PO Box 40002
Olympia, Washington 98504

Dear Governor Gregoire:

chris,

I am very sad that I have to write a response to a letter from the Skagit County Commissioners to you dated November 15, 2011. The County's Prosecuting Attorney's Office recently sent landowners a similarly inaccurate and divisive piece. Because the letter you received had a number of statements that are completely false, I must set the record straight.

I am sure you are familiar with the theory of the Big Lie – if you tell a lie big enough for long enough, eventually people will accept it as the truth. Unfortunately, County Commissioners and staff appear to be using that tactic against the Swinomish Tribe in order to deflect blame for the foreseeable – indeed, known and intended – results of obligations that the County itself voluntarily assumed in 2006.

It is a lie for the County to say that the Swinomish Tribe intends to control off-Reservation land use in the Skagit River basin by controlling water supply, and it is a lie to say that I told the County Commissioners any such thing. These repeated lies can only confuse and inflame the public. So let there be no doubt: the Swinomish Tribe **does not** want to control off-Reservation land use in Skagit County. But it **does** want the County and Ecology to follow the law and live up to their agreements.

Our efforts to protect off-Reservation instream flows are intended only to protect salmon. As you know, we are committed to ensuring that there are always salmon for our diets, our ceremonies, and our economy. That requires that we today be good stewards of salmon and their habitat for the generations of tomorrow. We have a long history of working collaboratively with willing partners – including the County – to meet this goal. In fact, we have worked with the County on various projects in recent years to restore salmon habitat throughout the Skagit River basin, and we hope to continue this important work.

It also is a lie to say that Swinomish litigation, or threats of litigation, brought about an unexpected closure of the Carpenter/Fisher subbasin and the promised closure of the Nookachamps subbasin. In 1996, the County signed an agreement with the three Skagit

River tribes, Skagit PUD #1, the City of Anacortes, and the State of Washington to stop issuing building permits in these areas, among others, if further depletion of instream flows would be harmful to salmon. This is a fact. WDFW and Ecology have both stated categorically that further reductions in streamflows in these areas, among others, will harm salmon. This is a fact as well. The County entered into that 1996 agreement willingly and we expect the County to live up to its promises.

As for lawsuits, it was the County and not the Tribe that started litigation over Skagit River basin instream flow issues in 2003. It was the County and not the Tribe that chose to settle that litigation by cutting a secret deal in 2006 with Ecology. In that deal, the County negotiated and agreed to allocations of water for new exempt wells in tributary subbasins. The County also knew and agreed that the tributary subbasins will close automatically when the allocations are exhausted. Both Ecology and the County were well aware in 2006 that the allocations in the Carpenter/Fisher and Nookachamps subbasins would not be sufficient to supply exempt wells on every undeveloped lot in the subbasins, and both knew that those allocations would soon be exhausted and that the basins would be closed. Now, the County is simply living with the deal it cut in 2006.

It is another lie to suggest that the Tribe opposes the development of alternative water supply sources or efforts to mitigate the effects of new exempt wells. The fact is that since the 1996 agreement was signed, the Tribe has advocated for, and even intervened *on behalf of Skagit County* to defend, the extension of public water supply lines, which can serve rural properties without adversely affecting streamflows in small Skagit River tributaries that are critical to salmon populations. And the fact is the Tribe would support in-kind, in-place water-for-water mitigation proposals that meet the scientific and other criteria in the Skagit River Basin Instream Flow Rule.

I am not going to respond to every one of the County Commissioners' lies and half-truths, and I do not expect anyone to just accept my word. But the true history of Skagit River instream flow issues is set out in a fact sheet and supporting documents, both of which are available on our website at <http://www.swinomish.org/news/skagit-river-basin-tributary-stream-closures.aspx>.

In closing, I want to point out that the County's recent shenanigans, as well as the 15 years of multi-party negotiations and litigation that preceded them, reflect a serious crisis over water allocation in the Skagit River basin. The simple fact of the matter is that there is not enough water in the Skagit River and its tributaries both to sustain salmon populations (and therefore satisfy the Tribe's Treaty fishing right and senior water right) and also to support current, let alone future, out-of-stream appropriations. This is a Skagit River crisis now, but it reflects circumstances that will be repeated across the State. Ultimately, the State must decide how to respond to this crisis, and must do so in a way that fully respects the Tribe's Treaty rights and lives up to State law and State agreements.

Thank you for your attention to this matter. As always, if you need more information, please feel free to contact me.

Sincerely,



M. Brian Cladoosby
Chairman

cc: Swinomish Indian Senate
Skagit County Commissioners
Skagit County Prosecuting Attorney's Office
Washington Department of Ecology
Washington State Attorney General's Office
Skagit River Basin Flow Management Committee
Northwest Indian Fisheries Commission
Center for Environmental Law and Policy