

**AGREEMENT BETWEEN THE CONFEDERATED TRIBES
OF THE COLVILLE INDIAN RESERVATION
AND THE
WASHINGTON STATE DEPARTMENT OF FISH AND WILDLIFE**

PARTIES

This Agreement is entered into by and between the Confederated Tribes of the Colville Indian Reservation, Nespelem, Washington (Colville Tribes), and the Washington State Department of Fish and Wildlife, Olympia, Washington (WDFW).

PREAMBLE

Colville Tribes currently occupy a reservation of approximately 1.3 million acres in north central Washington. The original reservation was created by Executive Order of President Grant in 1872. In 1892, the Tribes ceded back to the federal government approximately one-half of the original reservation ("North Half"), reserving to themselves the right to hunt and fish on the "North Half." These "North Half" rights have been affirmed by the U.S. Supreme Court.

The Colville Indian Reservation was set aside for the exclusive use of eight bands and numerous individual Indians who were not party to any treaty. This agreement addresses hunting and fishing issues on the Colville Indian Reservation and "North Half."

For many years, there were disagreements and disputes between the Colville Tribes and the state of Washington regarding the regulation of hunting and fishing by non-members on the Colville Indian Reservation. Between 1975 and 1981, the Colville Tribes and State were engaged in litigation over the competing claims of authority.

Ultimately, the District Court issued a preliminary injunction preventing the State from applying its hunting and fishing laws to non-Indians on the reservation. The Ninth Circuit Court of Appeals reviewed the District Court's decision. The Ninth Circuit Court of Appeals agreed with the District Court. In an opinion issued June 22, 1981, Ninth Circuit Court of Appeals affirmed the injunction issued against the State. In light of the Court of Appeals opinion, the state elected to negotiate with the Colville Tribes rather than to further pursue the litigation. These negotiations led to a cooperative agreement between the State and Tribe that has been in place continuously since 1982.

Although the factual and legal landscape has changed somewhat since the above-referenced litigation, the complex legal and jurisdictional issues persist. It is the shared opinion of the Colville Tribes and the State Department of Fish and Wildlife that this complex and confusing jurisdictional framework hinders the discharge of the respective parties' obligations to maximize hunting and fishing opportunity while at the same time preserving, perpetuating, and protecting the wildlife resource.

The parties to this agreement have concluded that the resource is best protected, the federally protected rights of the Colville Indian people implemented, and reasonable recreation opportunity of the general public maximized through this cooperative agreement between the Tribes and Washington State Department of Fish and Wildlife.

RECITALS

It is a primary purpose and intent of this document to:

- Identify as clearly as possible the respective licensing, management, and regulatory responsibilities of the parties within the boundaries of the Colville Indian Reservation.
- Improve the protection of fish and wildlife on the reservation on the North Half.
- Protect and enhance recreational hunting and fishing opportunities on the reservation.
- Protect the Colville Tribe's core interest in providing ceremonial and subsistence hunting and fishing for tribal members and preserving the cultural significance of the wildlife resource on the reservation.
- Foster productive and mutually beneficial partnerships between the Washington State Department of Fish and Wildlife and the Colville Tribes.

In consideration of the mutual promises and covenants herein, the parties agree as follows:

1. **No Waiver of Rights, Claims or Arguments.** Nothing in this Agreement shall be deemed as a concession by either party as to the other party's claims, nor an admission of same, nor a waiver of the right to challenge such claims. Neither this Agreement nor the activities of the parties pursuant to this Agreement shall be utilized to affect the equitable or legal position of either party in any future litigation.

2. **No Effect on Jurisdiction or Authority.** This Agreement does not purport to declare legal rights or authorities. Nothing herein shall be deemed as enlarging or diminishing the jurisdiction or authority of the state or Colville Tribes to regulate the activities of persons within the reservation.

3. **Terms of Agreement.** This Agreement shall be for a term of one year, commencing on the effective date of this Agreement, provided, however, this Agreement shall be extended from year to year automatically thereafter until terminated by either party by delivery of written notice of termination to the other party not less than 60 days prior to the date of the desired termination.

4. **Annual Review.** The parties anticipate that this Agreement will be dynamic and that modifications may be necessary to respond to changing circumstances. Therefore, the parties, acting through the Policy Committee, agree to review this Agreement annually and to make such necessary modifications as to which the parties mutually agree.

5. **Policy Committee.** A Policy Committee, composed of one member of the Natural Resources Committee of the Business Council of the Colville Tribes, one Fish and Wildlife Commissioner, the Director of the Colville Tribes Fish and Wildlife Department, and one WDFW Regional Director, is hereby established. The purpose of the Policy Committee is to

facilitate cooperative action by the Parties and to resolve disputes which may arise under this Agreement.

The Policy Committee shall annually designate a chair and shall meet at such times as are appropriate to conduct business and/or resolve disputes as described in the Agreement.

6. **Non-Member Fishing on the Reservation.** The Colville Tribes and WDFW desire to protect and manage fishing on the reservation for conservation, subsistence and recreational purposes. Consistent with these goals, the Colville Tribes commit to maintaining non-member fishing opportunities on the reservation.

7. **Consultation on Fishing Season Setting.** Fish biologists of the Tribes and WDFW shall meet to exchange information and to develop proposed parallel non-member fishing regulations for the waters on the Reservation and Lake Roosevelt, Rufus Woods, Okanogan River and Crawfish Lake. Such proposed regulations shall include, by way of example but not limitation, seasons dates, size limits, bag limits, open and closed areas, and other conservation initiatives necessary to management and conservation of the fisheries. The objectives of these proposed parallel regulations shall be the conservation of the fishery resource and harvest for subsistence and recreational purposes.

In the event that the biologists cannot agree on proposed parallel non-member fishery regulations, such matters shall be referred to the Policy Committee established under this Agreement for resolution of any dispute.

The proposed regulations of the biologists or Policy Committee, as the case may be, shall then be forwarded to the Colville Tribes and to the WDFW for promulgation pursuant to their respective rule-making procedures. Nothing in this section, however, is intended to supersede the respective rule promulgation procedures of the parties.

8. **Boundary Waters Licensing Requirement for Non-members.** The Colville Tribes agree that possession of a valid Washington State fishing license shall be deemed possession of a valid tribal fishing permit for fishers angling by boat, on the Columbia and Okanogan Rivers where they form the boundaries of the Colville Indian Reservation and on Washburn Island Pond and on Crawfish Lake.

Anglers fishing from the Reservation shore of boundary waters should check with the Colville Tribal Fish and Wildlife Department to determine licensing and other appropriate regulations.

9. **Licensing Requirements for Non-members Fishing on Other Reservations Waters.** WDFW agrees that for purposes of enforcement, possession of a valid tribal fishing permit shall be deemed possession of a valid state fishing license for fishing activities on waters, other than boundary waters, that are within the boundaries of the Colville Reservation.

The purpose of Sections 8 and 9 above, is to avoid the conflict, confusion, and difficulty of locating the Reservation boundary in or on the boundary waters of the Columbia and Okanogan Rivers and in resolving the jurisdiction issues with regard to lakes and ponds lying wholly within the exterior boundaries of the Colville Reservation.

10. **Boundary Water Fishing by Colville Members.** While fishing by boat on boundary waters, including waters that form the boundary to the North Half, the Colville I.D. card shall be the sole document necessary for fishing.

11. **Revenues.** The Colville Tribes are engaged in Fishery Management Activities on Reservation Boundary waters. These activities benefit non-member angler and the general public through preservation and protection of the fishery resource. By accepting the licensing provisions of this agreement, potential tribal revenue is lost which would have been utilized for fishery management. The WDFW and Colville Tribes agree to assess the management impacts of lost revenue and establish mechanisms that mitigate the loss and result in the implementation of fishery management benefits.

12. **Wildlife Protection and Preservation.** The WDFW and the Colville Tribes agree to work together to protect, preserve, and enhance wildlife populations on the reservation and the North Half, through the following strategies:

- Joint and cooperative surveying of wildlife populations where feasible.
- The sharing of population and harvest statistics.
- Mutual support of supplementation efforts for species such as sharp-tailed grouse and big horned sheep.
- Development of a joint wildlife habitat protection and enhancement strategy; and a
- Commitment to mule deer conservation in north central Washington.

13. **Consultation on Hunting Season Setting.** The WDFW and Colville Tribe wildlife biologists shall meet at least twice annually to develop hunting season recommendations that meet the conservation and recreation goals of this agreement. The timing of these meetings shall be subject to the season setting process of the Colville Business Council and the Washington Fish and Wildlife Commission.

14. **Wildlife Harvest by Non-members on the Colville Reservation.** The WDFW and Colville Tribes agree to the following opportunities and restrictions for non-member hunting on the Colville Reservation.

- Non-member hunters shall have the opportunity to hunt upland birds, including pheasants, migratory birds, including dove and rabbits, within the limits of sound wildlife management and conservation practice on the portions of the Colville Indian Reservation opened by the Colville Tribes.

- Non-members will be prohibited from trapping furbearing animals and from hunting big game and grouse within the boundaries of the Colville Reservation. This section shall not apply to Colville members.

15. **Problem Wildlife.** The WDFW and the Colville Tribes agree to work together to develop a protocol and provide solutions for landowners with problems involving dangerous wildlife and/or wildlife depredation.

16. **Enforcement.** The WDFW and the Colville Tribes agree to work cooperatively to reduce violations of state and tribal fish and game laws. To that end, the parties agree to produce a joint enforcement agreement which will outline procedures for joint patrols and investigations and protocols for directing violations to the appropriate court system.

17. **Tribal and State Information.** The WDFW shall include in its fishing and hunting pamphlets and any other similar sources of information provided by the state to the public the following provision: "When fishing or hunting within the boundaries of the Colville Indian Reservation, you should contact the office of the Colville Confederated Tribes Fish and Wildlife Department to determine the Tribal permits and regulations applicable to such activities".

The Colville Tribes shall include in its fishing and hunting pamphlets and any other sources of information provided by the tribe to the public the following provision: "When fishing or hunting within the boundaries of the Colville Indian Reservation, you should contact the Washington State Department of Fish and Wildlife to determine state license and regulations applicable to such activities".

18. **Approvals.** This Agreement shall be effective upon approval by the Colville Business Council and the Director of the Washington State Department of Fish and Wildlife and ratification by the Washington State Fish and Wildlife Commission.

19. **Upon Whom Binding.** The covenants and agreement herein mentioned shall extend to and be binding upon the assigns, successors, agents and administrators of the parties and to all persons acting by or through the parties.

DATED this 4th day of April, 1998.



4-4-98



4-4-98



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