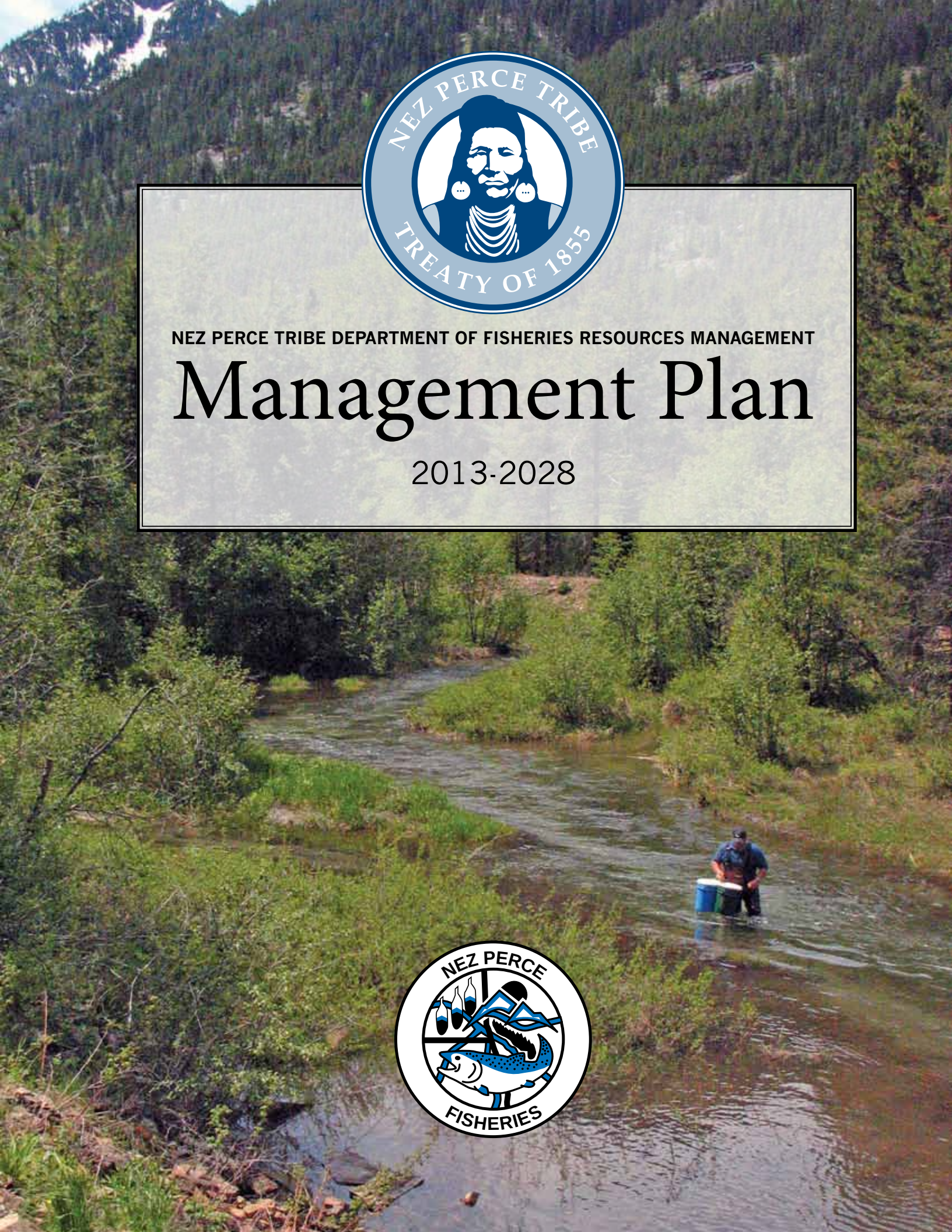

NEZ PERCE TRIBE DEPARTMENT OF FISHERIES RESOURCES MANAGEMENT

Management Plan

2013-2028

NEZ PERCE FISHERIES

Nez Perce Tribe Department of Fisheries Resources Management
Department Management Plan · 2013-2028
prepared by the Department of Fisheries Resources Management Strategic Plan Ad Hoc Team
design and layout by Jeremy FiveCrows
completed July 17, 2013

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Dedication

The Department of Fisheries Resources Management expresses its gratitude and respect to the Nimiipúu, to the original treaty signers, to the tribal leaders, and to the individual tribal members and their families for the stand they have taken and take today, to exercise the treaty right to harvest fish, and to the Nez Perce Tribe, as a nation, for its leadership and co-management responsibility for the resources upon which the rights depend. From time immemorial, to the treaty council at Walla Walla, to the confrontation at Rapid River, to today, it is the strength and perseverance of the belief in the aboriginal right and way of life of the Nimiipúu to forever exist with, and be sustained by, earth's other inhabitants that drives this program.

Introduction

The Nez Perce Tribe and this Department in particular, can be a very rewarding place to work. The cause—protecting the resource, protecting the treaty and helping to restore an environment in which the resources put here by the Creator can thrive—is a good one. And the Nez Perce, more than other resource managers, are willing to go "all in" to ensure that occurs. Persons interested in a natural resource field, because of the outdoors nature of the work, or the ethic and appreciation for this natural world, will find a good and strong ally in the Nez Perce Tribe. This is a good thing; this is good work. It is the hope of the Department for employees to grow and enjoy their time here.

Plan Purpose and Organization

Purpose

This Management Plan is designed to provide direction to the Department of Fisheries Resources Management (Department or DFRM) employees to implement a program consistent with Nez Perce treaty-reserved rights that will: restore a balance with nature, bring fish populations and their habitats to healthy conditions, and provide harvest opportunities for tribal members.

The Plan is intended to formally establish and describe the desired fishery resource conditions and the management framework that will be applied by the Department to achieve those conditions. We believe that communicating the fundamental mission and approach of the Department is important internally - within the Department and within the Nez Perce Tribe—and externally, to other fishery resource co-managers and the public-at-large.

The Plan will be applied to management of the resource in the following ways:

- It will guide the Department in the development and implementation of management recommendations and actions;
- It will provide a balanced, multidisciplinary approach for making sound management decisions based on analyses of the full range of options conducted by a staff having diverse expertise and experience;
- It will provide benchmarks to maintain management continuity over time; and
- It will function as an assessment tool for tribal policy to evaluate the performance of our Department.

Organization

The Plan is organized as three major chapters:

- Background on the Nez Perce Tribe
- Overarching Philosophy
- Management Framework[1]

The **Background** provides a brief description of some concepts of the Nimiipúu (meaning "the People," or contemporaneously, the Nez Perce), including oral traditions, cultural ethics relative to restoring and caring for fish, and Nimiipúu timpt (Nez Perce language) focusing on words for common fish species. A section of this chapter provides information on tribal fishing and treaty fishing rights. Because the treaty-reserved fishing rights of the Nez Perce form much of the foundation for how and why this Department exists, a common understanding of this topic is essential. A description and depiction of geographic areas specific to the Nez Perce Tribe and a brief sketch of the tribal government are also provided.

The **Overarching Philosophy** chapter provides a broad brush description of desired conditions, Department operational guidance, and expectations. Four subject areas addressed are the Department's:

- Mission Statement
- Vision
- Guiding Principles
- Management Goals

The **Management Framework** chapter addresses operations and functions of the Department. It discusses *Management Objectives*, focusing on management areas, focal species, and several objectives unique to and adopted by the Department that are important for employees to know. These include fish abundance objectives and thresholds, hatchery objectives, habitat conditions objectives, harvest objectives, and the Nez Perce views with respect to the Federal Columbia River Power System (dams).

Management Processes are also included in this chapter, describing how principle components of the Department operate. Discussion is provided on the Department, the Department's management team, decision framework and co-management forums pertinent to restoring salmon and other fishes to the Columbia Basin. And finally, this chapter focuses on the human dimension of employment with the Department and the Nez Perce Tribe.

1 A fourth component, "implementation actions," which would detail specific on-the-ground activities, will be the primary focus of an Implementation Plan.

Background

The land and its waters define the Nez Perce way. Over the course of thousands of years, nature has taught us how to live with her. This intimate and sacred relationship unifies us, stabilizes us, humbles us. It is what makes us a distinct people and what gives us our identity. We cannot be separated from the land or our rights without losing what makes us Nez Perce. We defend our rights to preserve who we are and what we hold sacred.

Background

Fisheries Management with a Nez Perce Point of View

The Nimiipúu fished, hunted, gathered, pastured livestock and traded over an enormously broad area that includes what is today, Idaho, Washington, Oregon, Montana and Wyoming. This land of rolling hills, towering peaks, prairies, clear mountain streams, and deep canyons has been the Nimiipúu's homeland since time immemorial. Relative to this extensive area in which they have always lived, the Nimiipúu have accumulated a deep repository of ecological knowledge and wisdom concerning the land, water, and other natural resources. Spirituality and proper respect (in the form of prayer) were incorporated into every aspect of traditional Nimiipúu life: digging roots, hunting and fishing, weaving, teaching children, or taking sweat baths. All activities were conducted according to the Nimiipúu belief system (or Indian way of life). The love and respect for the gifts of the Creator and the Creation guided Nimiipúu activities to avoid acts of greed or selfishness such that the natural resources were not depleted. These traditional guidelines have been learned and passed down over the millennia through Nimiipúu oral traditions (myths and stories), songs, prayers, dances, rituals, and ceremonies.

Oral Traditions

Oral traditions are stories that teach many of the central concepts used in contemporary natural resource management. These oral traditions remind us that we have a responsibility to the animals, just as they have a responsibility to us. (Carla HighEagle, from *Salmon and His People*. Landeen and Pinkham, 1999). And they are stories about change; some things are always changing and we must then deal with or react to the change.

We set the tone of this document with the oral tradition: "A Meeting between Creator and the Ani-

mals" and "Coyote Breaks the Fish Dam at Celilo[1]". These stories provide two central themes. First, is the idea that animals and humans are fully integrated and connected within the ecosystem; humans do not exist independent of the world and animals around them. Second, Coyote is a focal character in many oral traditions and can be viewed in a sense as analogous to humans; always messing things up and having to fix problems created by himself or others. Our role in caring for animals is demonstrated in many ways by Coyote.

1 The stories provided here are illustrations of traditional teaching methods. Flexibility in how a story is told is common and these stories are never ending, allowing specific points to be shared and taught. We acknowledge that many variations of oral traditions exist. As such, the oral traditions included in this document may differ slightly from versions known by some individuals.

A Meeting Between Creator and the Animals

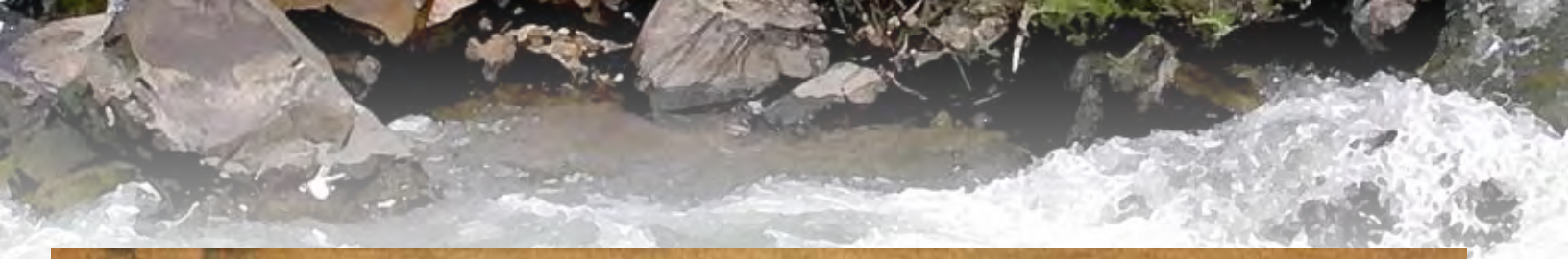
On the Clearwater River near Lewiston, Idaho are rocks of all different sizes and forms, but mostly all round and large. The Nez Perce referred to them as "large animals". These were the remains of the large animals before there were human beings. The Nez Perce have always known about the large animals that inhabited this country as many large bones were found in the ground between Clarkston and Pasco, Washington.

The Creator called everyone together to notify them of the great change which many of them wouldn't survive. The animals that were late to the meeting were turned into stone. The animals that were there had to qualify themselves to be useful to the human beings as they were going to be naked, and would have a hard time making a living. Thus, the animals came to be qualified by the Creator. [The storyteller would describe all animals, including the birds, fish and insects. It was a teaching story to tell how these different species help each other, and people, to survive.]

One by one the different species came forward. The Salmon and Steelhead came forward and stated that "we can help the human beings with our flesh." The great Salmon said, "When we come up the river we will die, so the human beings will have to catch us before that happens." "We will come up only certain times of the year to be caught." Steelhead said, "I want to come in the winter time with something special. That will be the glue from my skin. This glue can be used to make bows and spears. I'll be in the water all winter long." So, Creator qualified both the Salmon and Steelhead. Sockeye salmon said, "I don't want to be big like the other salmon and I want to be red because I will eat different foods." Trout said," I am going to look like steelhead but I am not going to the ocean. I'll stay here all year around in the water:" Finally, Eel said, "I want to be long, and be able to put my mouth on the rocks. I will come up the river every year, and they can use my flesh for food." That is how all the fish qualified.

Coyote was last to come out and was not qualified. When you hear Coyote going 'yip, yip, yip,' you knew that he could not even talk. The Creator pitied him and gave Coyote special powers. Creator said "You will have all the faults and traits that the new human beings have. You will be able to transform and change yourself and you will be able to get out of bad situations to save yourself." So Coyote was qualified but had to be a grey color.

—Modified from Allen Pinkham from Salmon and His People (Landeen and Pinkham, 1999).



Coyote Breaks the Fish Dam at Celilo

Once Coyote was walking up the river on a hot day and decided to cool himself in the water. He swam down the swift river until he came to the waterfall where the Wasco people lived. Five maidens had dwelt there from ancient times. This was the place where the great dam kept the fish from going up river.

While he was looking at the great waterfall, Coyote saw a Maiden. Quickly he went back upstream a ways and said, "I am going to look like a little baby, floating down the river on a raft in a cradle board, all laced up." As Coyote was drifting down the river, he cried"Awaaa, awaaa." The Maidens, hearing this, quickly swam over, thinking that a baby might be drowning.

The eldest Maiden caught it first and said, "Oh, what a cute baby."

But the youngest maiden said, "That is no baby. That is Coyote."

The others answered. "Stop saying that, you will hurt the baby's feelings."

Coyote put out his bottom lip as if he were about to cry.

The Maidens took the baby home and cared for it and fed it. He grew very fast. When he was crawling around one day, he spilled some water on purpose. "Oh, Mothers," he said, "Will you get me some more water?"

The youngest sister said, "Why don't you make him go and get it himself? The river is nearby". So the Maidens told Coyote to get the water himself. He began to crawl toward the river, but when he was out of sight, he jumped up and began to run. The oldest sister turned and said "He is out of sight already. He certainly can move fast." "That is because he is Coyote," the youngest said.

When the Coyote reached the river, he swam to the fish dam and tore it down, pulling out the stones so that all the water rushed free. Then he crawled up on the rocks and shouted gleefully, "Mothers, your fish dam has been broken!" The sisters ran down and saw that it was true. The youngest Maiden just said, "I told you he was Coyote."

Coyote said, "You have kept all the people from having salmon for a long time by stopping them from going upstream. Now the people will be happy because they will get salmon. The salmon will now be able to go upriver and spawn.

This is how Celilo Falls, came to be, where the Wasco people are today. As a result of Coyote tearing down the fish dam, salmon are now able to come up river to spawn on the upper reaches of the Great Columbia River and it tributaries.

—Allen Slickpoo, Sr. quote from Salmon and His People (Landeen and Pinkham, 1999).

Cultural Ethic to Restore and Care for Fish – Duty and Obligation

"Fish provide us with both physical and spiritual sustenance. Other cultures seem unable to recognize how those two concepts go hand in hand. Instead, they see them as separate, traditional beliefs on one side, science on the other. For Indian people those concepts have never been separate. Our fate and the fate of the fish are linked."

—Jaime Pinkham quote from *Salmon and His People* (Landeen and Pinkham, 1999).

The Creator placed the Nimiipúu here in this land and instructed them on how to use, honor, respect, and be humbled by it. Because the earth and its natural resources have always provided for the Nimiipúu well-being with physical and spiritual sustenance, the Nimiipúu owe an obligation to the earth and its resources to protect and preserve them forever. Future generations will only be able to enjoy the land and resources if the decisions and actions that the present-day people, both Indian and non-Indian, are made with sustainability and stewardship in mind.

To use the land and its resources wisely, one must know of the important intrinsic values that emanate from them. If people recognize and understand the interconnectedness of the land, its resources, and themselves as human users, then it is possible that a respect and humbleness may transcend from this ecological wisdom. Our role is to not just use and maintain this land and its resources, but to ensure that the ecological cycles are self-perpetuating.

The concept that it is our commitment to care for the Creator's gifts so that they are 'usable' for the present and more importantly, for future generations, is captured in the following statement:

"We did not inherit this earth or its natural resources from our ancestors, we are only borrowing them from our children's children; therefore, we are duty bound and obligated to protect them and use them wisely until such time that they get here, and then they will have the same obligations."

—Eugene Greene, Sr. quote from Columbia River Inter-Tribal Fish Commission (1995).

This underlying ethical philosophy provides a foundation for all fishery managers to shape comprehensive salmon restoration programs in the Columbia River Basin.

Consistent with this stewardship theme, the Nez Perce Tribe has voluntarily reduced fishing on salmon and steelhead that were in decline; it has supported the breaching of the dams so that fish may migrate up and down the river unimpeded; and it has instituted scientifically and biologically sound recovery actions for fish. These actions are all taken to benefit the fishery resources and the surrounding ecosystem into the future.

A theme central to the Department's programs will be the inclusion of a salmon restoration ethic that encompasses the following elements:

- An appreciation of the earth and its natural resources;
- The duties and obligations in fisheries management;
- The concept of future generations; and
- Guidance on how to use the land and resources wisely.

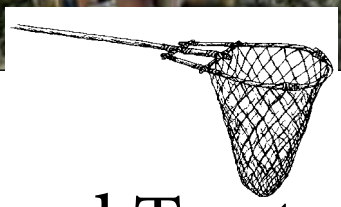
All are basic ethical elements that should be shared by any fishery manager to help protect and restore fishery resources for broader social and ecological benefits.

Use of Nimiipúu timpt

It is important for this Department that oral and written communication utilizing Nimiipúu timpt (Nez Perce language) will become familiar for internal staff use. Routine use of Nimiipúu timpt will help teach and preserve this unique cultural aspect of the Nimiipúu. Nimiipúu timpt for the most frequently used fisheries words, are provided in Table 1.

Table 1. Nimiipúu timpt (Nez Perce spelling) and pronunciation guide to common words used in Nez Perce Tribe fisheries management.

English	Nez Perce	Phonetic
fish (in general)	cú·y̓em	*tsu yem*
Chinook salmon	nacó?x̣	*nah tsoak*
Steelhead	hé·yey	*hey yay*
Brook trout	pí·ckatyo	*peets cut yo*
Coho salmon	ḱállay	*ka lie*
Bull trout	?í·sl̓am	*ees lamm*
Westslope cutthroat trout	waẃá·łam	*wah wah thlamm*
Lamprey (eel)	hé·su	*haa' sue*
Sturgeon	qí·lex̣	*kee lahx*
Sucker	múq̓uc	*mook ootz*
Northern Pike Minnow	qí·yex̣	*key yehx'*
Water	kú·s	*koos*
Dry creek bed	wé·le	*waah lah*
River	pí·ḱun	*pee quoon*



Tribal Fishing and Treaty Fishing Rights

Tribal Fishing

Nimiipúu culture revolved around fish and water, and many of the calendar months are named after fish species and fishing times (see Figure 1). Deward Walker's (1967) research noted that "…the Nez Perces were impressively dependent on aquatic foods in the aboriginal period. For example the Nez Perces regularly took the following types of fish: Chinook, silver, dog, and blueback [sockeye] varieties of salmon; Dolly Varden, cut throat, brooks, lake, rainbow, and steelhead varieties of trout; several kinds of suckers and white fish, sturgeon, squaw fish, lampreys, and an unidentified but numerous minnow."

Research has been conducted by a number of people in an effort to determine how many fish were historically harvested by the Nimiipúu. Two relevant estimates originate from research conducted by Walker in 1967 and elaboration by Alan Marshall in 1977. Both used similar methods in determining number of fish caught and used in 1800's. These values are represented as "pounds per capita" at a tribal population size of 5,000, and while these are rough figures, they do illustrate the general magnitude of harvest that occurred.

Example of pounds of salmon used by Nez Perce using Walker's (1967) method.

300	fish/day
×50	fishing sites
15,000	fish/day
×10	peak days
150,000	annual salmon catch
×10	lbs. average weight
1.5Mil	pounds of fish
÷5,000	tribal members
300	**lbs. of fish/tribal member**

Figure 1. Calendar of natural resource use by Nimiipúu.

Marshall's (1977) research adjusted the fish consumption value determined by Walker (1967). In Marshall's (1977) view, the 300 pounds per person per year is a minimum estimate because more fishing stations were used by the Nimiipúu. Marshall (1977) estimated annual Nimiipúu consumption at 564 lbs. of fish/tribal member.

The Nimiipúu developed ways to harvest large amounts of fish (Table 2). These were documented as proven methods to catch the substantial numbers of salmon and steelhead (as well as other species of fish) that were indicated above.

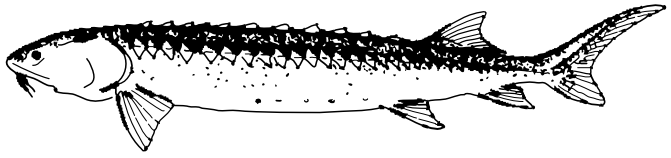
Table 2. Traditional Nez Perce fishing practices.

Season	Species	Environment	Equipment
Spring	Steelhead	Headwaters of rivers	Traps and weirs
Summer	Chinook Sockeye	Lower stretches of rivers, lake outfalls, and lakes	Natural or constructed platforms above eddies, with spears, harpoons, dip nets, and thrown nets; weirs and seines; drift nets; canoes with spears; stone walls used to create eddies
Fall	Chinook Sockeye Steelhead	Upriver tributaries, lake outfalls, and lakes	Weirs Conical fish traps used with rock or earth dams
Winter	Salmon Steelhead	Lower stretches of rivers	Harpoons
Season Unidentified	Sturgeon	Lower stretches of rivers	Large gorge hooks baited with lamprey eel

With such a reliance on fish, it is easy to understand that the Nimiipúu believe that one of "…the greatest tragedies of this century are the loss of traditional fishing sites and Chinook salmon runs on the Columbia River and its tributaries…" (Landeen and Pinkham, 1999).

The Nimiipúu practiced sound fishery resource decision-making that resembles contemporary concepts or practices commonly associated with conservation and sustainability of a natural resource. The Nimiipúu governed where fishing occurred, how many fish were to be harvested, who could participate, how to use the resource, and ways to honor and perpetuate the resource. Fishing "regulations" occurred at the local scale (tribal band/clan) according to traditional laws put in place to ensure that vital needs of the people were met and still allow fish to complete their life cycle. This stewardship of the resource and underlying obligation was upheld so that future generations would have the same opportunity to enjoy the natural resources and continue with the Nimiipúu way of life.

For the Columbia River, where use was shared, the Nimiipúu relied on a combination of tribal diplomacy, trade and commerce, family relationships, and intertribal wars to maintain the aboriginal right to fish. Many of these same factors contribute to the present-day exercise of the treaty fishing rights held by the Nez Perce and other tribal peoples.



Treaty Fishing Rights

The federal government entered into an agreement with the Nimiipúu in the Nez Perce Treaty of 1855. The treaty making was a result of increased conflict between Indians and non-Indians entering Nimiipúu and other tribal territories in the Pacific Northwest. In order to protect their people and their way of life, the Nez Perce retained a homeland of approximately 7.5 million acres and reserved rights they had exercised since time immemorial, while ceding approximately 5.5 million acres of land to the federal government.

The Nimiipúu way of life and survival depended greatly on the ability of individuals to fish, hunt, gather, and pasture animals as they had always done. With this in mind, these rights were expressly reserved in Article III of the Treaty of 1855:

"The exclusive right of taking fish in all the streams where running through or bordering said reservation is further secured to said Indians; as also the right of taking fish at all usual and accustomed places in common with citizens of the Territory; and of erecting temporary buildings for curing, together with the privileges of hunting, gathering roots and berries, and pasturing their horses and cattle upon open and unclaimed land"

— Treaty of 1855, 12 Stat, 957

The Nez Perce would not have signed this treaty without first receiving assurances that these rights, including the right to fish would be protected into the future. Additional treaties between the two sovereigns have been made, but the reserved fishing right has remained unchanged since 1855. Tribal

Arrival of the Nez Perce Indians at Walla Walla Treaty May 1855. Gustav Sohen.

members will exercise this treaty-secured fishing right at usual and accustomed (U&A) fishing areas.

During the time that the treaty was negotiated (and subsequently authorized by the Nez Perce and United States), the salmon resource reserved by the Nez Perce came from "…river systems that were biologically functional and fully productive…" (Meyers Resources, Inc. 1999). The decline of salmon productivity since the mid-1800's to present, does not alter, change, or abrogate the Nez Perce treaty right to take fish. This right to take fish represents an inherent right that the Nimiipúu have held since time immemorial. The fishing right is as important to the Nimiipúu today as it was before contact with non-Indians.

Tribal Management Area

Area of Use and Influence and Usual and Accustomed Fishing Areas

The Nimiipúu fished, hunted, gathered and traded over an enormously broad area. This includes, for example, hunting bison in what is now eastern Montana and Wyoming (areas referred to as "Buffalo Country"), and trading with peoples on the Pacific coast. As a whole, this extensive geographic area has been referred to as the Nez Perce Tribe's "area of use and zone of influence" and is set forth in Figure 2.

Nez Perce usual and accustomed (U&A) fishing places are best understood as encompassing stretches of the river (i.e. not just specific locations). Usual and accustomed fishing places may be documented by a variety of sources such as archaeology, anthropology, ethnography, oral histories, and written histories. Nez Perce U&A fishing places are located throughout the present-day States of Idaho, Oregon, Washington, Montana and Wyoming.

Figure 2. Nez Perce Tribe area of use and zone of influence including the 1855 Treaty boundary (light green), 1863 Treaty area (light blue), and Indian Claims Commission boundaries (light yellow).

History and Geography of the Nimiipúu

The Nez Perce Tribe's area of use, zone of influence, and treaty-reserved right to take fish at all U&A places are best understood by understanding the history surrounding the Nimiipúu, their lands, and the resources on which they relied and continue to rely. This history is extremely relevant to many issues that arise today. While a complete portrayal of the traditional power of the Nimiipúu and the history of the relationship between the Nimiipúu and the United States is beyond the scope of this document, it is important to appreciate the strength and perseverance of the Nimiipúu to protect and preserve their aboriginal rights and way of life.

By the early 1850's the Nimiipúu lived in a vast aboriginal domain (more than 13 million acres) encompassing most of present-day central Idaho as well as parts of southeast Washington and northeast Oregon, including the Wallowa Valley—while

also travelling extensively to places such as Buffalo Country in present-day Montana and Wyoming and to fisheries on the mainstem Columbia River in present-day Oregon and Washington (as just two examples). The Nez Perce were "the largest, most powerful and influential nation of Indians in the northwest area of the Rocky Mountains." 18 Indian Claims Commission 1, 92 (1967).

The United States had cleared title to the Pacific Northwest as against all foreign nations in its 1846 treaty with Great Britain; however, the United States shared title with the tribes, who in the words of the U.S. Supreme Court were "rightful occupants of the soil, with a legal as well as just claim to possession of it, and to use it according to their own discretion." Thus, as a matter of American real property law, the Nimiipúu had an aboriginal ownership interest in the land.

The Treaty of 1855

The 1855 Treaty Council at Walla Walla and the Treaty negotiations reflect the Nimiipuu's inherent tribal sovereignty and its rightful "aboriginal title" to land. At the Treaty Council, the United States sought to clear title to lands; the Nimiipuu sought to reserve and maintain a homeland ("Reservation") and reserve its aboriginal rights and way of life. Many tribes, in the Treaty-making process, reserved only 10-20% of their aboriginal land (ceding 80% to 90% to the United States). In contrast, in the 1855 Treaty, the Nez Perce reserved 60% of their aboriginal land (about 8 million acres). And, this Nez Perce homeland contained, as the United States recognized, many of the best fisheries. This is reflected in the treaty negotiation minutes:

Gov. Stevens said: "Here (showing a draft on a large scale) is a map of the Reservation. There is the Snake River. There is the Clear Water river. Here is the Salmon river. Here is the Grande Ronde river. There is the Palouse river. There is the El-pow-wow-wee. This is a large Reservation. The best fisheries on the Snake River are on it…"

Moreover, in addition to this homeland, Nez Perce leaders insisted on reserving expansive off-reservation hunting, fishing, gathering, and pasturing rights. The minutes of the treaty negotiations reflect Governor Stevens' repeated assurances, on behalf of the United States, that the treaty would reserve these expansive off-reservation rights to the Nez Perce Tribe:

"You will be allowed to pasture your animals on land not claimed or occupied by settlers, white men. You will be allowed to go on the roads, to take your things to market, your horses and cattle. You will be allowed to go to the usual and accustomed fishing places and fish in common with the whites, and to get roots and berries and to kill game on land not occupied by the whites; all this outside the Reservation:

Gov. Stevens said: "I will ask of Looking Glass whether he has been told of our council. Looking Glass knows that in this reservation settlers cannot go, that he can graze his cattle outside of the reservation on lands not claimed by settlers, that he can catch fish at any of the fishing stations, that he can kill game and can go to Buffalo when he pleases, that he can get roots and berries on any of the lands not occupied by settlers….

This Reservation is in his own country."

After gold was discovered on the North Fork of the Clearwater River in 1860 within the Nez Perce Reservation, the reservation rapidly became overrun with trespassing miners and entire towns (such as Orofino, Pierce, and Lewiston) established in trespass.

The Treaty of 1863

The United States response to this invasion of the 1855 Reservation was a failure to eject the trespassers and an effort to "divide and conquer" the Nez Perce people through a new treaty negotiation that would take 90% of the 1855 Reservation and create a new 1863 Reservation surrounding only the Clearwater River and its forks and comprising 770,000 acres. The 1863 Treaty represents a historical injustice (and is often referred to as the "steal treaty"). However, it is important to understand that the 1863 Treaty, by its express terms, did not abrogate the Nez Perce Tribe's off-reservation rights reserved in the 1855 Treaty; that is, the 1863 Treaty was "supplementary and amendatory" to the 1855 Treaty and preserved "all of the provisions" not "specifically changed," including the 1855 Treaty's Article III fishing and other off-reservation rights.

The 1863 Treaty purported to relieve Nez Perce bands of their lands, even though they were not represented in the 1863 Treaty and were not signatories to it. This was particularly egregious with respect to the Nez Perce who lived in the heartland of Nez Perce Country—the Wallowa country—and were led by Old Chief Joseph. In 1873 President Grant issued an executive order setting aside a portion of the Wallowa Valley as a reservation for the Nez Perce; two years later it was rescinded. The ordered removal of Nez Perces from Wallowa country, and the

combat with local settlers that broke out as Young Chief Joseph and his band were removing to the Lapwai Reservation when young Nez Perce warriors in Young Joseph's party exacted revenge for past killings and violence, led to the War of 1877. After an epic war spanning four months and 1,300 miles, including a final battle that took the lives of Looking Glass and twenty four others in the Bear Paw mountains, a depleted band of Nez Perce, three quarters of them women and children, surrendered just a short distance from the Canadian border. Some Nez Perce had made it to Canada; Joseph and the remaining survivors were imprisoned for eight years at Fort Leavenworth and in the Indian Country of Oklahoma and were then sent to the Colville Reservation in Northeastern Washington and Lapwai, Idaho. While these Nez Perce were never to return to the Wallowas, the importance of the Wallowa country to the Nez Perce has continued.

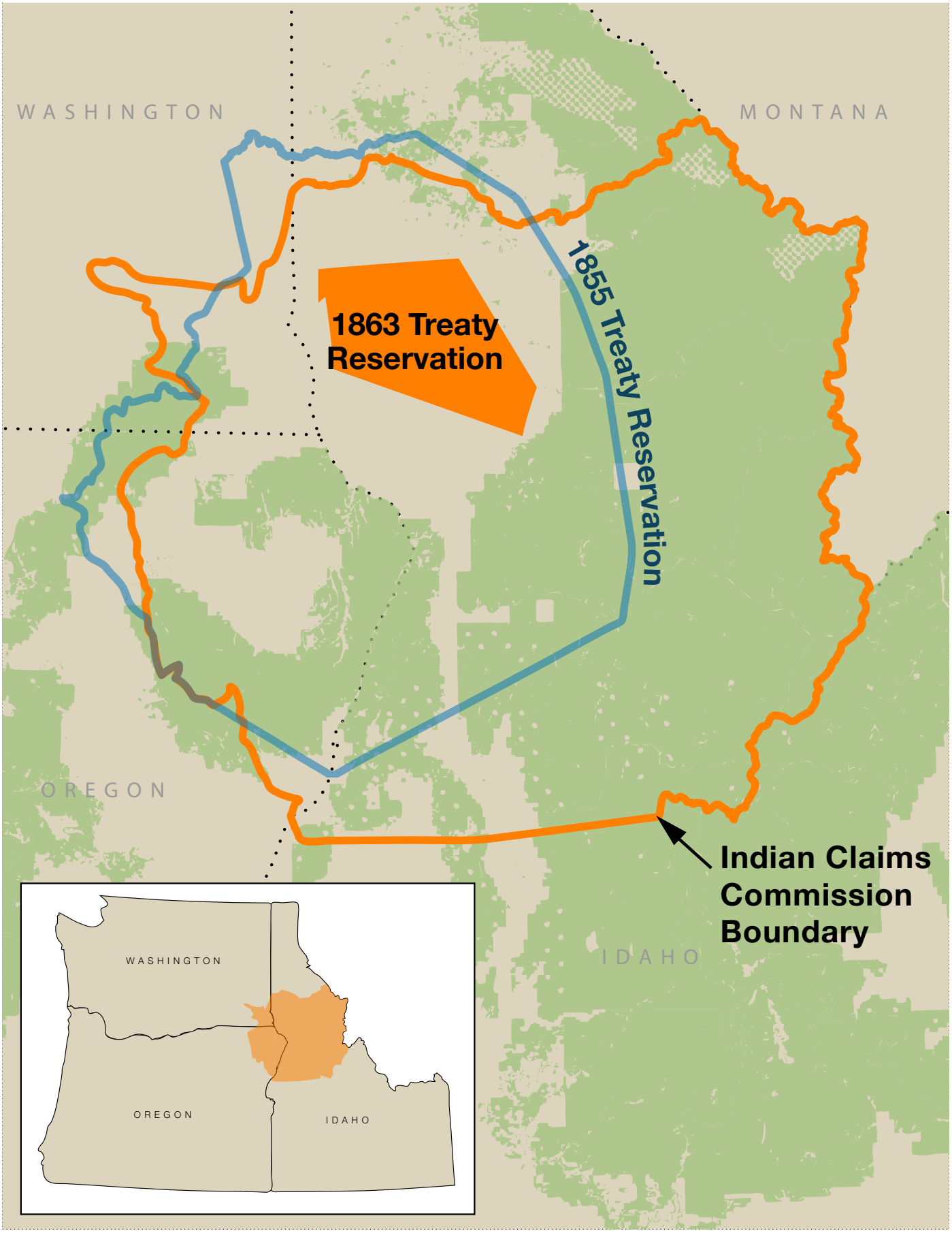


Figure 3. Important Nez Perce boundary areas: Treaty of 1855 reservation, Treaty of 1863 reservation, and Indian Claims Commission boundary. Green areas are federal lands.

The General Allotment (Dawes) Act

In 1887, Congress passed the General Allotment Act, designed to make Indians into farmers and providing every tribal member with a plot of land, usually 160 acres, carved out of the reservation. Land that was not allotted was declared "surplus" and opened for settlement by non-Indians.

The land ownership changes within the 1863 Reservation occurring as a result of the Allotment era did not affect the Nez Perce Tribe's jurisdiction within the 1863 Reservation. That is, all lands within the exterior boundaries of the 1863 Nez Perce Reservation are Indian Country with respect to the United States and the Nez Perce Tribe's jurisdiction.

Within the 1863 Nez Perce Reservation, there are three general categories of tribal lands:

- Individual Indian Trust Allotments – lands held by the U.S. for the benefit of descendents of the original owners of the tribal allotments.
- Tribal Trust Lands – lands held by the U.S. for the benefit of the Nez Perce Tribe.
- Tribal Fee Lands – non-allotment lands purchased and held by the Nez Perce Tribe and located both within and outside the reservation boundaries.

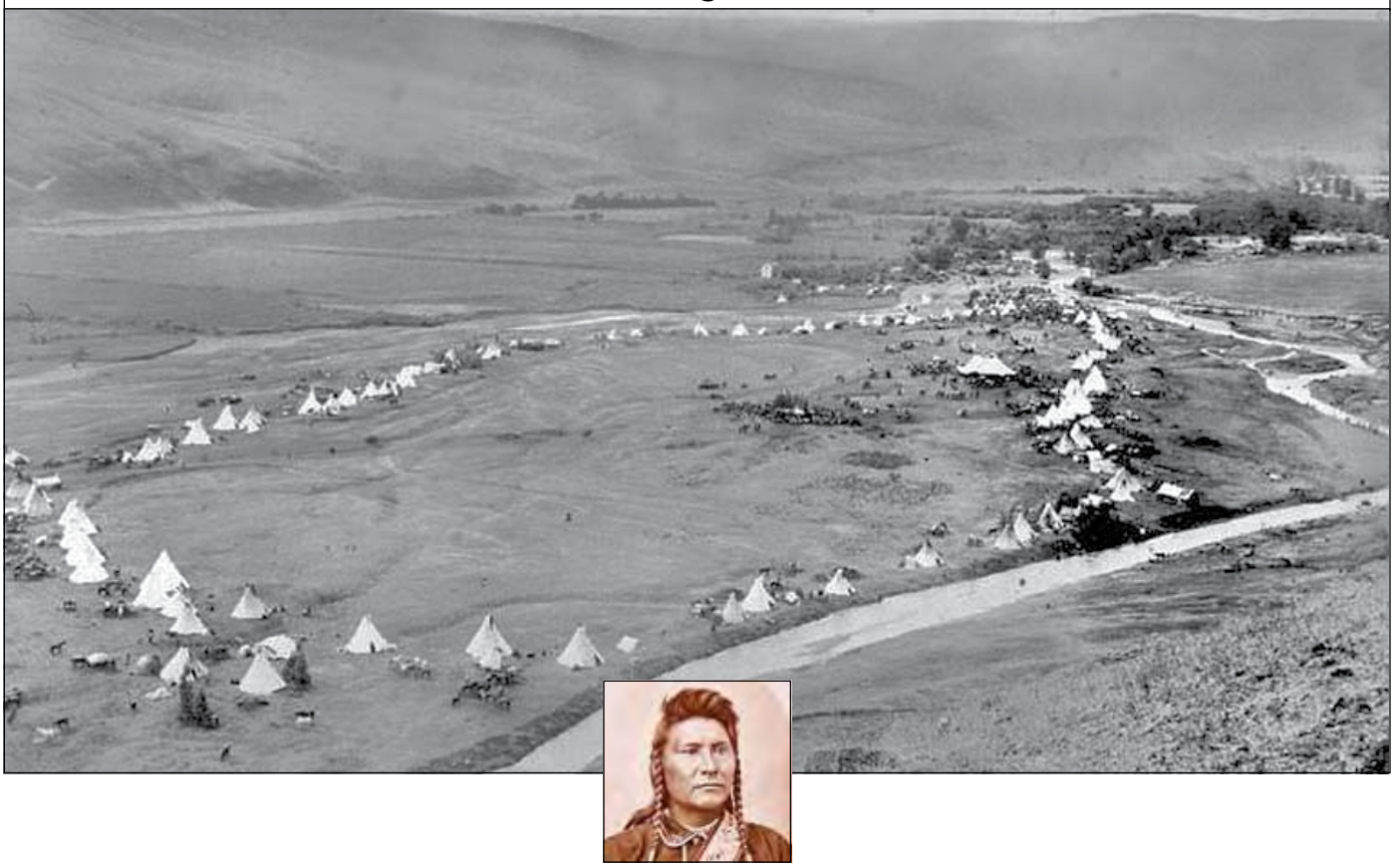
The Allotment Act and era did not alter the off-Reservation rights the Nez Perce Tribe reserved in Article III of the 1855 Nez Perce Treaty.

Indian Claims Commission

The Indian Claims Commission (ICC) was created by Congress in 1946 to hear claims by Indian tribes for, among other things, compensation for the taking of aboriginal lands by the United States without fair payment. Compensable aboriginal title was required to be based on "actual and exclusive use and occupancy 'for a long time' prior to the cession, transfer, or loss of the property." In its Nez Perce decision in 1967, the ICC made comprehensive findings based on detailed anthropological evidence from both the United States and the Nez Perce Tribe, of the area of "exclusive use and occupancy" and "aboriginal ownership" – as against any other Indian tribes[2]. The ICC determined that the Nez Perce had "exclusive use" and occupancy of 13,204,000 acres of land (Figure 3).

As Figure 3 depicts, much of the ICC Nez Perce aboriginal area is today owned by the United States and managed by different federal agencies. The fact that the lands are federally owned is important to treaty reserved rights in several ways. First, they are considered to be "open and unclaimed" relative to exercise of hunting, gathering, and pasturing rights reserved in Article III. Secondly, the land managers, as representatives of the United States, have a trust responsibility to the Nez Perce Tribe; their actions must recognize the treaties as federal commitments and their actions must be taken in support of a tribe's ability to exercise rights guaranteed in the treaties. And finally, the lands contain some of the best and most productive habitat remaining for steelhead and salmon in the Columbia River Basin.

2 In a 1994 dispute in northeast Oregon filed in the *U.S. v. Oregon* district court proceeding, the Ninth Circuit Court of Appeals used the 1967 ICC Nez Perce decision as precedent in ruling that the Nez Perce Tribe has "continually" been recognized as the entity reflected in the 1855 Treaty and in which the fishing rights were vested.



Nez Perce Tribal Government Organization

Tribal Government

The Nez Perce Tribe presently operates under a constitution and bylaws originally adopted in 1948 and which subsequently have been amended several times. The Nez Perce Constitution delegates most governmental function to the Nez Perce Tribal Executive Committee (NPTEC), which is comprised of nine tribal members elected for three-year terms. Three positions on the Executive Committee are elected each year by the General Council, which consists of all enrolled Nez Perce tribal members over the age of 18. Executive Committee members can run for reelection and serve several terms. The General Council meets twice a year, in May and September, for the purpose of hearing reports from the Executive Committee. Internal Executive Committee elections, for the position of Chairman, Vice-Chair, and other offices are held during the Committee's May meetings (Nez Perce Tribe, 2003).

As shown in the organization chart (Figure 4), the Nez Perce tribal governance structure is large and consists of different entities, boards, and commissions. The four main entities shown on the organization chart are Law and Justice, Legal Counsel, Enterprise System, and Executive Direction. In addition, Nez Perce Tribal Housing and Nimiipúu Health are two other entities associated with the Tribe that have a considerable number of employees. Their oversight is provided by the Housing Board, and Tribal Chairman, respectively. The Fisheries Department is within Executive Direction.

The organization chart for just the Tribal Government (Executive Direction) is depicted in Figure 5. The Fisheries Department reports to the Executive Director (E.D.); the E.D. reports to the Nez Perce Tribal Executive Committee (NPTEC) Chairman, who reports to the full NPTEC, and who, in turn, reports to the General Council.

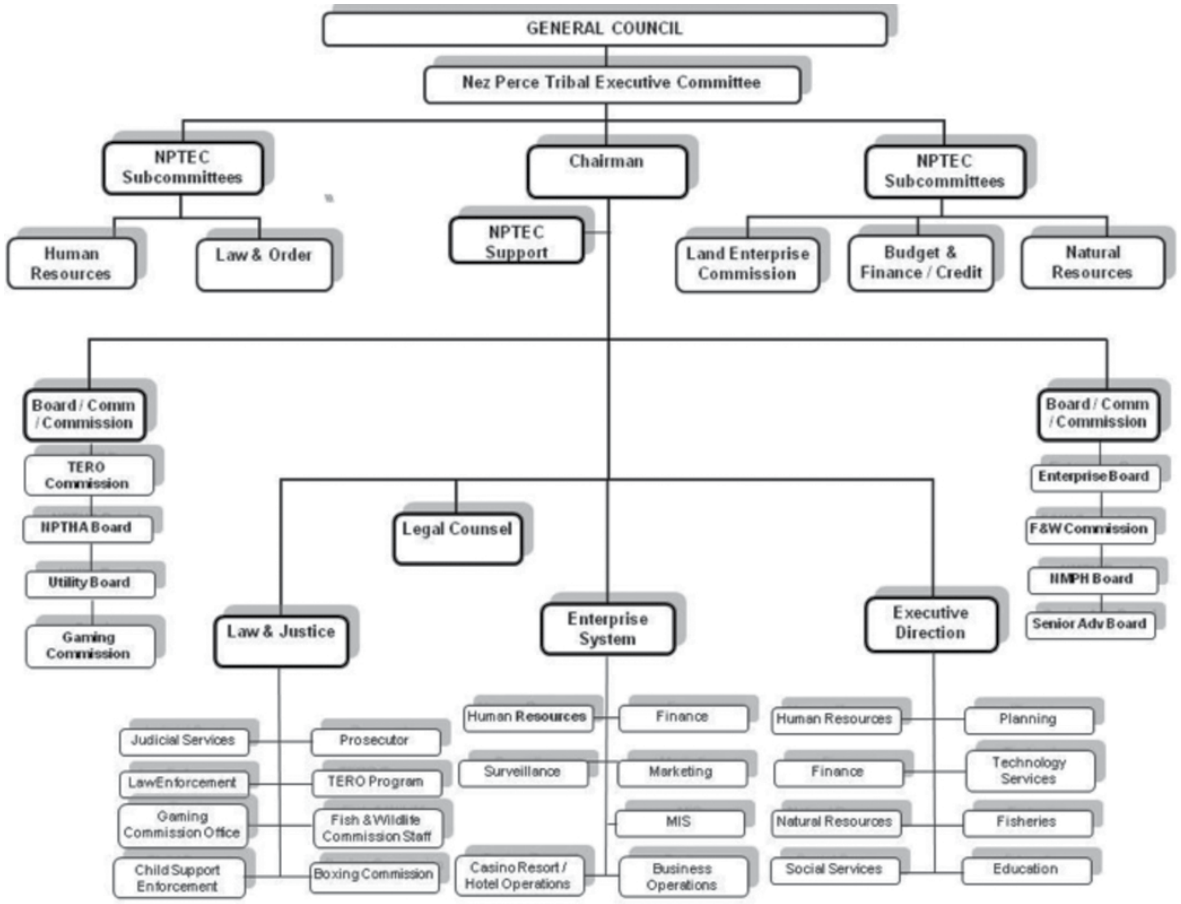


Figure 4. Organization chart for the Nez Perce Tribe.

Nez Perce Tribal Executive Committee

NPTEC has responsibility for deliberating and taking action on matters that determine tribal policy. All Department actions involving contracts between the Nez Perce Tribe and other entities and actions establishing tribal policy must be submitted to NPTEC for review and approval. The process for doing so is through the NPTEC Natural Resources (NR) Subcommittee.

The NR Subcommittee consists of eight of the NPTEC members (minus the NPTEC Chairman). They meet on the first and third Tuesday of each month. They consider natural resources related actions, including those brought to them by the Department, the Department of Natural Resources, the Fish and Wildlife Commission, and the Office of Legal Counsel. Decisions made at the subcommittee table are then deliberated at the full NPTEC meeting, which occurs on the second and fourth Tuesday of the month.

Internally, those actions requiring NPTEC review and approval are submitted from the Department Divisions through the Department Manager to the NR Subcommittee chairman. Due to the number of actions the Department brings forth, the amount of review involved, and the fact that two policy meetings are required for a final decision (NR Subcommittee and full NPTEC), any action requiring NPTEC approval requires at least a three-week lead time.

In addition to adopting actions requiring approval, informational items or presentations by guests can also be brought forth for NR Subcommittee attention. These are submitted as "FYI" items as part of the Department's agenda. Briefing materials for FYI items must be submitted following the same schedule as action items.

Occasionally, with issues requiring specific policy attention and focus, special meetings outside of the subcommittee dates or regular NPTEC dates can be called at the request of the subcommittee or NPTEC chairman.

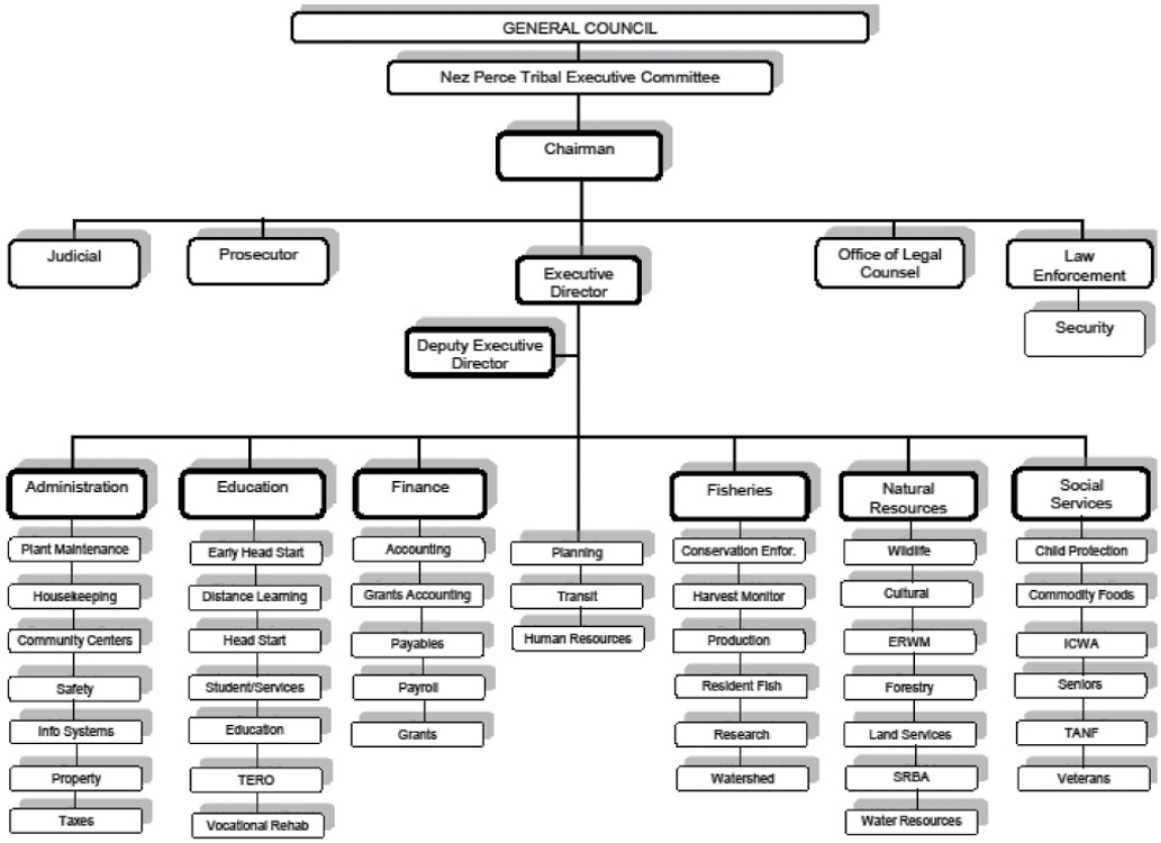


Figure 5. Organization chart for the Nez Perce Tribal governmental services.

The Fish and Wildlife Commission

The Fish and Wildlife Commission (Commission or FWC) is elected by the General Council during the September General Council meeting and appointed by NPTEC. There are five members and one alternate on the Commission. They meet typically in the evening on the second and fourth Monday of the month, but can also meet at the request of a Commission member.

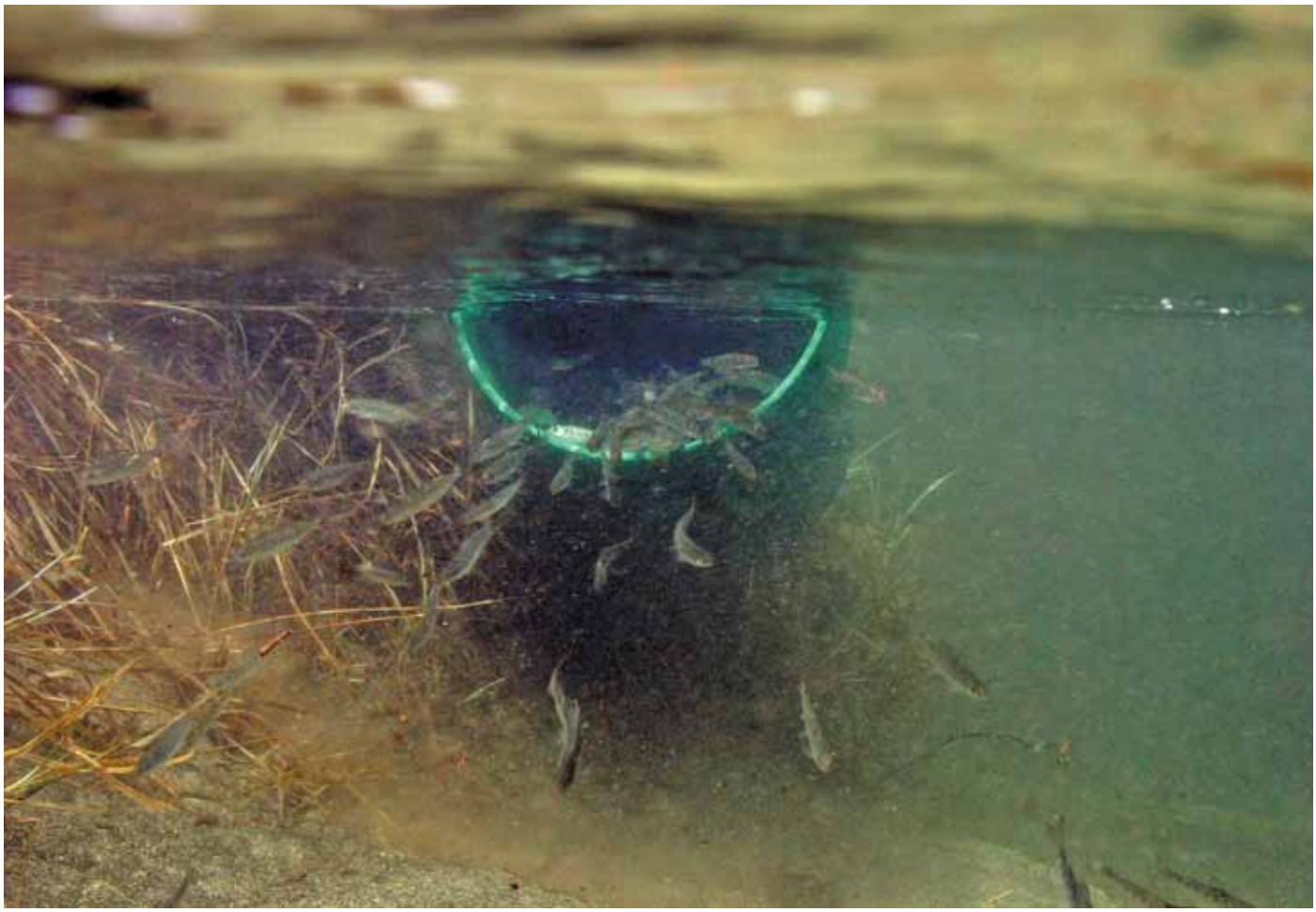
In summary, relative to the operations of the Department, the FWC has several important functions (subject to the authority of NPTEC to reject or modify any action of the Commission). Below are select subsections paraphrased from the Fish and Wildlife section of the Law and Order Code – Section 3.1.11:

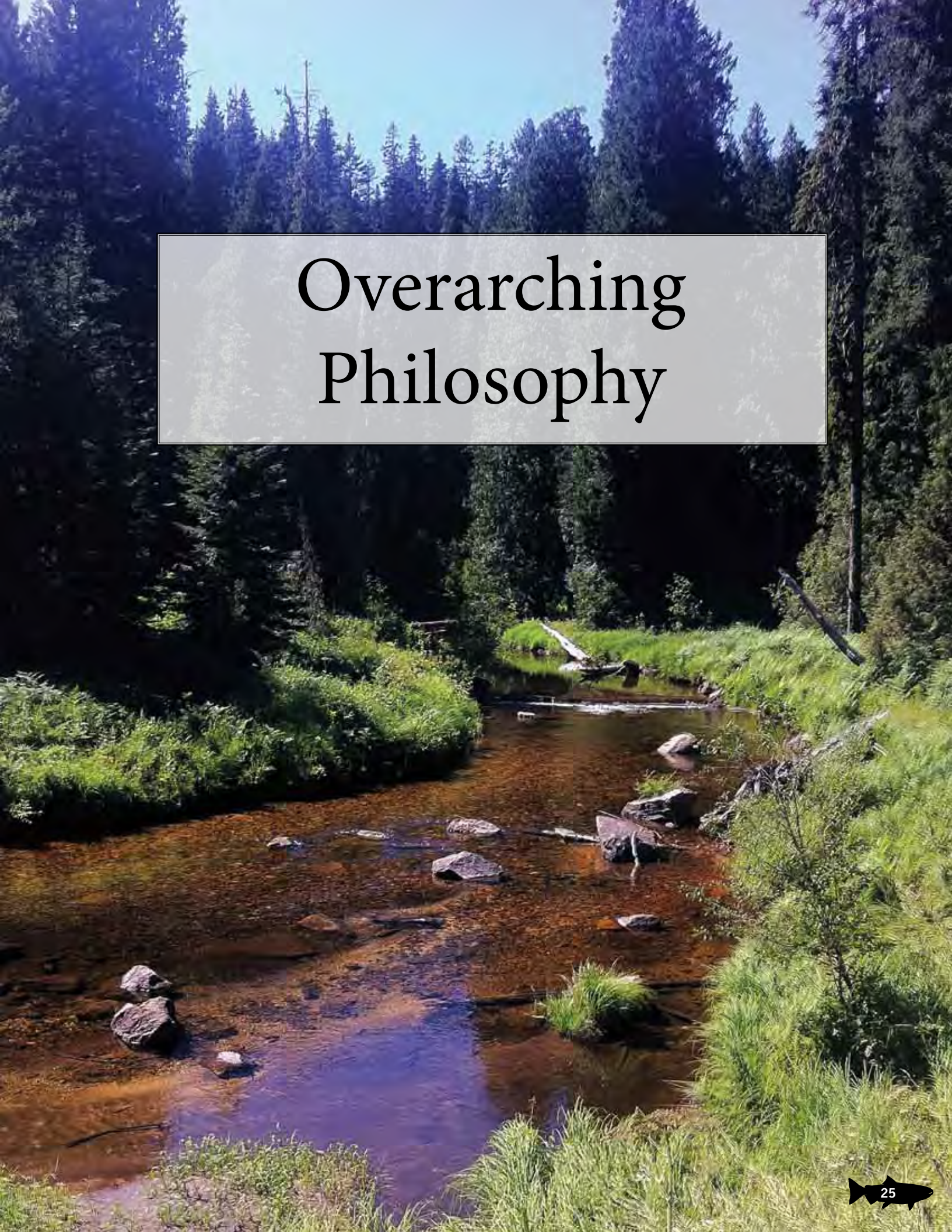
- To promulgate season fishing regulations and areas and prescribe the manner and methods which may be used to fish
- To establish regulations for the issuance and use of fishing permits or other related privileges within Nez Perce territorial jurisdiction
- To meet periodically with the Fisheries Department staff to review department programs and make recommendations for needed improvements to the department and/or NPTEC.
- To recommend to NPTEC broad policies and long-range programs for the management, preservation and harvest of fish.
- To provide for the assembly and distribution of information to the public relating to activities of the Department.
- To provide for the conservation, enhancement, and management of Nez Perce fish resources.

Department staff meets pre-season and in-season with the FWC to discuss actions and appropriate updates involving harvest, potential run sizes, and harvest rates. Briefings to the FWC are also provided on technical items involving internal activities, intertribal activities (e.g. Columbia River Inter-Tribal Fish Commission), and interagency interactions (e.g. Idaho Department of Fish and Game).

The Nez Perce Tribal Code

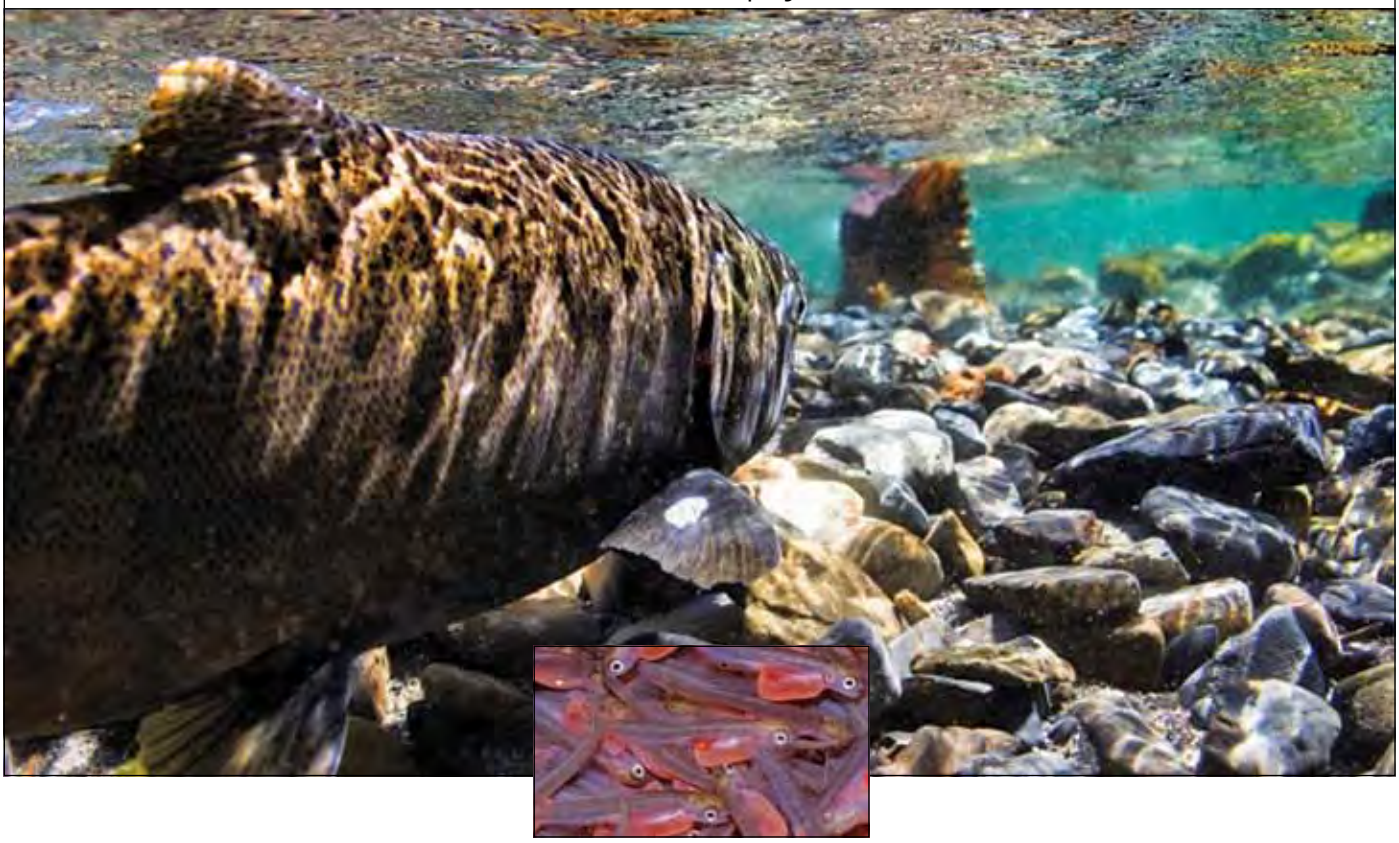
Chapter 3.1 of the Nez Perce Tribe Law and Order Code (Code) relates specifically to the regulation of fishing and hunting by the Nez Perce Tribe and its members. The Code has enforceable legal status, with adjudication occurring at Tribal Court. The Code is available on the Nez Perce Tribe's website (www.nezperce.org).





Overarching Philosophy

Philosophy



Mission

The Nez Perce Tribe Department of Fisheries Resources Management will protect and restore aquatic resources and habitats. Our mission will be accomplished consistent with the Nimiipúu way of life and beliefs, which have the utmost respect for the Creator, for all species, and for the past, present, and future generations to come. Our mission will be consistent with the reserved rights stated within the Nez Perce Tribe's 1855 Treaty.

Vision

- All species and populations of anadromous and resident fish and their habitats will be healthy and harvestable within Nez Perce Usual and Accustomed areas.
- Sound fisheries and habitat management actions will be implemented to improve survival, production, recovery and restoration of all populations of native anadromous and resident fish species and their habitats within Nez Perce Usual and Accustomed areas.
- The Nez Perce Tribe's leadership in fisheries and resource management will be recognized in professional and public forums.
- The Department shall be proactive in an ever-changing ecological and management environment.
- Tribal member use of and access to all treaty rights and resources guaranteed under the Treaty of 1855 will be respected and promoted by the Department, our co-

managers, and the public at large.

- Educational outreach will be provided that ensures comprehensive knowledge of aquatic resource values and the future state of the resource for the Nez Perce tribal members and the non-tribal public.

Guiding Principles

Guiding Principles represent core concepts or expectations that must be maintained and achieved via management actions. These are "what we keep an eye on" while engaging in our management actions. Guiding principles are organized under four categories: Cultural, Biological, Social, and Legal.

Cultural

Cultural Significance

- The traditional way of life for the Nimiipúu (e.g. gathering, harvesting, ceremonies, and traditions) depends on continuance of the circle of life for all native species (plants and animals).
- The rights reserved under the Treaty of 1855 must be protected such that the enjoyment of these rights resembles that envisioned by the treaty signers and Nimiipúu leaders.
- All native anadromous fish and resident fish have had long-standing cultural significance to the Nimiipúu, including: subsistence value, ceremonial and spiritual value, medicinal value, economic or commercial value, and intrinsic value.
- Minimizing intrusive marking and handling of fish supports cultural and spiritual beliefs, respect for the fish, and maximum survival.

Community

- The intrinsic connection between fishing activities and the perpetuation of associated customs, traditions, and family history are essential for maintaining the unique Nimiipúu identity and should be passed on to future generations.

Biological

Sustainable Harvest

- Treaty fisheries must achieve a balance between conservation needs and perpetuating the run with providing meaningful, desired annual harvest by the Nez Perce Tribe at all U&A fishing places.
- Tribal harvest recommendations will be guided by Treaty of 1855 reserved fishing rights, biological principles, cultural ethics, and conservation necessity principles.
- Apply abundance-based harvest schedules for fish stocks (hatchery and natural) consistent with the tribal ethic.

Ecosystem Approach to Management ("Ridge-top to ridge-top management")

- Native fish populations thrive best under natural or normative conditions to which they are best adapted.
- Contributions of all individual components within the ecosystem (endogenous and exogenous) are necessary for the overall productivity, functioning, and health of the ecological system.
- The biological, chemical, and physical interactions within natural productive ecosystems are complex.
- Natural ecosystems and populations are inherently variable and dynamic.
- Natural ecosystems have been and will continue to be increasingly stressed and altered by human activities and population levels.
- When historic natural conditions are not achievable, altered ecosystems should func-

tion adequately enough to maintain harvest opportunities.

Species Life History Approach to Management ("Gravel-to-gravel management")

- The entire life cycle of a species must be successfully carried out (from egg through adulthood) for that species or population to persist.
- Failure to serve a species' needs, at any life history stage, can lead to extirpation of populations.

Adaptive Management

- Complete fisheries resource information is often not available to inform management and foster policy decisions. In the absence of complete information, actions shall be implemented that are most protective of treaty resources.
- Adaptive management generally consists of monitoring the results of actions, evaluating their effectiveness, adjusting plans if necessary, and applying new or modified strategies from knowledge gained.
- Individual areas and populations have unique attributes that vary the effectiveness

of management actions. As a result, site specific management actions, consideration, and evaluation are often required.

Social

Employment

- All employees of the Department are valued for the skills, attitudes and experience they bring to management of the resource for the benefit of Nez Perce tribal members, the non-tribal public, and the resource itself.
- Tribal preference in hiring supports tribal participation in self-government, encourages tribal members to pursue higher education, and provides a pathway for members to administer matters that affect tribal life. The preference granted to tribal members is not as a racial group but as members of a sovereign tribal (i.e. political) entity.
- Indian preference in hiring within other natural resources management organizations supports the U.S. Government's trust obligations to tribes.
- A positive work environment for employees at all levels of the organization fashions a culture that values its employees and increases the productivity and quality of employment (NPT Human Resource Manual).

Education

- Early and continual education (from Head Start through college and including social, cultural, and work experience) that encompasses and expands traditional knowl-

edge as well as provides environmental and scientific knowledge will improve the recruitment of tribal members into natural resource jobs and careers.

Legal

Treaty-Reserved Rights

- Treaty-reserved fishing seasons are considered open until closed.
- The Nez Perce Tribe's Treaty of 1855 reserves the "exclusive right of taking fish in all the streams running through or bordering said reservation… as also the right of taking fish at all usual and accustomed places in common with citizens of the territory…"
- The right to fish in common has been determined, legally, to mean the right to 50% of the harvestable surplus.
- The right to fish at usual and accustomed fishing places includes an easement over private and federal lands to reach these places.
- Tribes have inherent sovereign authority to regulate members hunting and fishing on and off-reservation.
- Full and equal natural resource co-management responsibility is required to support treaty-reserved fishing rights.
- Federal governmental agencies have treaty trust responsibilities; their actions must recognize the treaties as federal commitments and their actions must be taken in support of a tribe's ability to exercise rights guaranteed in the treaties.

Management Goals

The following goals seek to secure the integrity of populations and habitat features essential to recruitment.

Biological

- Achieve and maintain diverse and productive ecosystems with species composition and productivity consistent with historical conditions.
- The importance of natural reproduction cannot be replaced but where it is compromised, it may be enhanced with measures of artificial production.
- Achieve and maintain fish abundance in tributary-specific areas at levels sufficient

to support: 1) population persistence, 2) harvest, and 3) ecological processes.

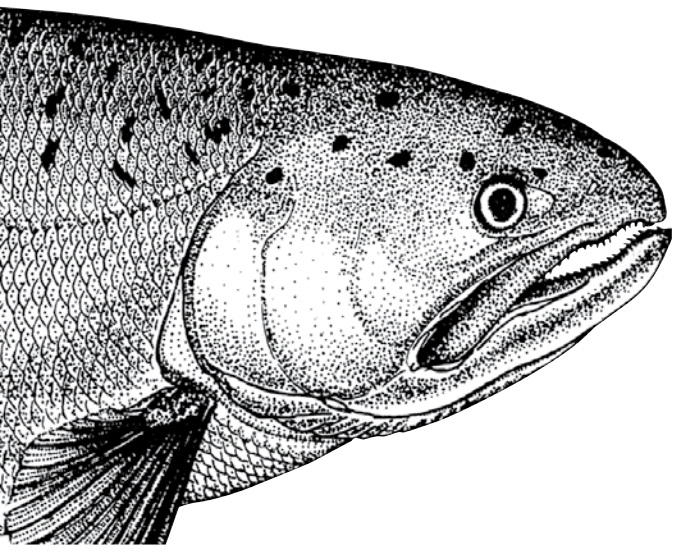
- Achieve and maintain fish abundance in mainstem migration corridors at levels sufficient to support meaningful harvest.
- Achieve and maintain adult spawner distribution consistent with historically utilized tributaries (includes within and across tributary spatial scales).
- Achieve and maintain fish population genetic diversity at levels adequate for population persistence and consistent with historic conditions.

Physical

- Achieve and maintain in-stream physical habitat structure and function to support populations self-sustained by natural reproduction and consistent with historic conditions.
- Ensure passage/access for all life stages of aquatic species in all streams and rivers.
- Achieve and maintain ridge-top to ridge-top physical structure and function to support populations self-sustained by natural reproduction and consistent with historic conditions.
- Achieve and maintain historic ridge-top to ridge-top terrestrial vegetation community and function that supports all life, such as water, plants, and animals.

Harvest

- Achieve harvest of 50% share of harvestable fish (including 50% of harvestable hatchery fish and annual harvest level of natural-origin fish considered acceptable and sustainable).
- Achieve tribal harvest in all population areas using traditional gear types and fishing methods and practices.
- Harvest opportunities currently available will be protected and enhanced.
- Mitigation goals must be met.



Management Framework

This chapter addresses operations and functions of the Department. The Management Objectives section discusses species of interest and management areas and several objectives unique to and/or or adopted by the Department that are important for employees to know. These include fish abundance objectives and thresholds, hatchery objectives, habitat conditions objectives, harvest objectives, and the Nez Perce Tribe's views with respect to the Federal Columbia River Power System (dams).

Management Processes are also included in this chapter, describing how principle components of the Department operate. Discussion is provided on the Department and its management team, decision framework, and the co-management forums pertinent to restoring salmon and other fishes to the Columbia Basin. And finally, this chapter focuses on the human dimension of employment with the Department and the Nez Perce Tribe

Management Objectives

Species of Interest

Management actions and resource utilization commonly target a single or select number of species. The intent of this Plan is to structure management decisions in a manner that considers implications on the full spectrum of animals and plant species. For management purposes, three categories of species of interest are defined:

- ***Full*** - All species of animals and plants currently present or historically occurring within the management area. No species is considered to be above another in terms of importance or value. Interactions between species and the environment occur in dynamic balance. It is important to consider those species present today, as well as historical species that have been eliminated or are close to extinction. Missing species have an effect on the balance and function of the ecosystem as a whole. Likewise, current physical habitat conditions affect which species are able to exist today.
- ***Focal Species*** – Focal species represent a subset of animals and plants that are of high interest, and/or are in need of management consideration and/or are valuable indicator species. They represent a starting point for implementing management actions and securing necessary resources. They do not represent species which are more important or of higher priority than others. We restrict focal species designation to fish species within the context of Department of Fisheries Resources Management actions.
- ***Exotic Species*** - Exotic species are invasive non-native species that pose a threat to the delicate balance of the full and stable ecosystem processes. As such, the removal of existing and preclusion of further exotic species is desirable. Native species that have been extirpated and then reintroduced are not considered exotic. Native species that have increased dramatically in abundance and distribution due to recent habitat changes are still considered a native species, but may be aggressively managed as necessary. As climate change manifests, our definition and management philosophy may require revision.

Management Areas Within the U&A Area

The identification of management areas is important for communicating goals and focusing work (although it is important to acknowledge the inherent limitations of such designations)[1]. As such, watershed boundaries, at the subbasin level, are useful for delineating management units and management goals within the U&A area. These areas serve as the core management units for fish and their habitats; they provide a geographic focus for near-term treaty fisheries and for preserving genetic and ecosystem integrity. The Department's strategy will be to continue to focus on these core management areas and ramp-up activities for other identified populations (within watersheds or among watersheds) as available resources permit. Ultimately, recovery and restoration of fully functioning ecosystems is important for all constituent populations across the entire U&A area.

1 "The definition of the conservation unit for Pacific salmon [and other species], as for any such classification, is necessarily arbitrary. Although tribal perspectives and biological principles can provide some guidance, ultimately there is not an acceptable minimum group of animals on which to target conservation efforts because extirpation of even the smallest spawning aggregate is unacceptable" (Mundy et al. 1995).

Abundance Objectives and Thresholds for Salmon and Steelhead

Healthy salmon populations require adequate abundance, survival (productivity), distribution, and diversity. But in the end, robust adult returns are central to maintaining ecological processes and a focal point for tribal member and policy level expectations. Although we may focus on abundance for the management context, we also recognize the importance of productivity, distribution, and diversity.

Abundance-based reference points (thresholds) are delineated for salmon populations in order to develop long-term management strategies and to guide the implementation of short-term management actions necessary to achieve broad and population-specific salmon rebuilding goals. Adult salmon abundance (or escapement) objectives are our primary measure for quantifying goals. Escapement is defined as the number of adults and jacks in each population that return to their river of origin.

Table 3 provides a reference of escapement and harvest objectives for several focal fish species by subbasin. These escapement and harvest objectives were derived from the Northwest Power and Conservation Council's subbasin planning process. The Nez Perce Tribe was the lead or co-lead for all subbasin plans that fell within the Nez Perce ICC boundaries. The escapement and harvest objectives that the Department used for the subbasin plans were originally described in the Tribal Restoration Plan, *Wy-Kan-Ush-Mi Wa-Kish-Wit* (Columbia River Inter-tribal Fish Commission, 1996).

In addition to these established subbasin abundance objectives, the Department will consider and utilize other goals or abundance thresholds as well. Predetermined thresholds serve as useful decision criteria that trigger specific actions (e.g. harvest rates or initiation and management of supplementation programs). Populations depressed to critically low levels require more aggressive actions and demand a more rapid population response than populations fluctuating at higher, less risky levels of abundance. Reference abundances or population designations specified in this section include the designated

Table 3. Summary of subbasin abundance objectives from Northwest Power and Conservation Council's Fish and Wildlife Program subbasin plans.

	Species	Escapement Goals	Harvest Goal
Clearwater	Spring/Summer Chinook	60,000	45,000
	Fall Chinook	50,000	35,000
	Coho	14,000	Undefined
	B-run Steelhead	42,000-91,000	25,000-74,000
	A-run Steelhead	5,900-10,000	1,000
	Pacific Lamprey	10,000-20,000	Undefined
	Sturgeon	Undefined	Undefined
Grande Ronde	Spring/Summer Chinook	5,000-16,000	500-4,000
	Fall Chinook	10,000	2,500
	Wild Summer Steelhead	5,000-27,500	1,000-9,050
	Hatchery Summer Steelhead	1,000-10,000 (existing)	200-7,000 (existing)
	Sockeye	2,500	625
	Coho	3,500	300
Imnaha	Spring Chinook	5,740	>700
	Fall Chinook	3,000	Undefined
	A-run Steelhead	4,315	2,000
	Bull Trout	5,000	Undefined
	Pacific Lamprey	Undefined	Undefined

Table 3 (continued). Summary of subbasin abundance objectives from Northwest Power and Conservation Council's Fish and Wildlife Program subbasin plans.

	Species	Escapement Goals	Harvest Goal
Salmon	Spring Chinook	119,000-128,000	94,000
	Summer Chinook	60,200-126,000	112,000
	Fall Chinook	5,000	Undefined
	Sockeye	8,000-44,500	2,000
	Steelhead	145,000-192,900	126,000
	Coho	20,000	Undefined
	Pacific Lamprey	Undefined	Undefined
	Sturgeon	Undefined	Undefined
	Bull Trout	Undefined	Undefined
Asotin	Spring Chinook	>500	>100
	A-run Steelhead	2,000	500
	Bull Trout	Undefined	Undefined
	Pacific Lamprey		
Tucannon	Spring Chinook	2,400-3,400	1,200
	Fall Chinook	2,000	1,000
	Coho	Undefined	Undefined
	A-run Steelhead	2,200-3,400	700-1,900
	Pacific Lamprey	Undefined	Undefined

stronghold, viable threshold, the sustainable escapement objective, and the ecological escapement objective for four focal species, spring/summer Chinook, steelhead, and fall Chinook. (Tables 4, 5 and 6.)

Designated strongholds represent areas with historic high production, they are focal areas for recent tribal harvest, and are viewed as essential for long term population persistence.

Viable abundance thresholds are considered the minimum size at which a population maintains essential genetic diversity, and at which there is negligible risk of long-term extinction given contemporary levels of environmental variability. Viable threshold abundances are 500, 750, 1,000, and 2,000 for spring/summer and fall Chinook salmon populations, and 500, 1,000, 1,500, and 2,250 for selected steelhead populations.[2] The different sizes reflect the different intrinsic potentials[3] of spawning and rearing habitat for the populations.

Sustainable Escapement Objectives describe the numbers of returning adults that would annually sustain substantial spawning as well as harvest for tribal and non-tribal fisheries. It is assumed that escapement sizes reflecting these values would also encompass healthy tribal and non-tribal fisheries downriver. Sustainable Escapement Objectives were derived from the aggregate adult return objectives expressed in Snake River subbasin plans (shown in Table 3) which are broken out into the tributary populations themselves. Their abundance also reflects the relative intrinsic potentials for the given populations.

Ecological Escapement Objectives refer to the escapement level at which sustainable spawning abundance is maximized within a population, the full utilization of available spawning and rearing habitat is promoted, and the ecosystem-level processes (e.g., nutrient redistribution) for multiple species are fostered. Historical salmon and steelhead escapement to the Columbia and Snake river basins was 8-16 million and 500,000 - 2 million, respectively (NPPC 1986; CBFWA 1990; Chapman 1986; Fulton 1968). According to tribal knowledge, escapement at those historic

2 See Hatchery Objectives (p. 38) and Sliding Scales (p.39) for further discussion.

3 **Intrinsic potential** – The estimated relative suitability of a habitat for spawning and rearing of anadromous salmonid species under historical conditions inferred from stream characteristics including channel size, gradient and valley width.

levels to tributary-specific areas resulted in "fish so thick you could walk across their backs" and resulted in the smell of fish carcasses filling valleys and precluding camping near streams. Ecological objectives for populations were derived from the aggregate spawner objectives expressed in Snake River subbasin plans (Table 3) which were grouped by the relative intrinsic productivity potentials of spawning and rearing habitats for the populations in each subbasin and then raised by an order of magnitude[4]. Objectives identified in Tables 4 through 6 serve as a starting point until more precise scientific data are available.

4 For example, the Tucannon River has a subbasin plan escapement objective of 2,400 to 3,400 and a harvest objective of 1,200 fish. We applied the upper end of the subbasin plan objective (3,400) as the sustainable escapement objective, which includes 2,200 fish for natural spawning and 1,200 fish for harvest. The natural spawner objective of 2,200 fish is then raised by an order of magnitude to establish the Ecological Escapement objective of 22,000 fish.

Table 4. Designated stronghold populations, viable abundance thresholds, sustainable escapement objectives, and ecological escapement objectives for populations of spring/summer Chinook in the Snake River Basin.

Subbasin	Population	Designated Stronghold[a]	Viable Abundance Threshold	Sustainable Escapement Objective	Ecological Escapement Objective
Lower Snake R.	Tucannon River	X	750	3,400	22,000
	Asotin River		500	2,000	10,000
Grande Ronde River	Wenaha River	X	750	1,800	13,000
	Lostine/Wallowa River	X	1,000	4,800	36,000
	Minam River		750	1,900	14,000
	Catherine Creek		1,000	3,000	22,000
	Upper Grande Ronde River		1,000	4,100	31,000
	Lookingglass Creek		500	1,000	3,000
Imnaha R.	Imnaha River	X	1,000	5,700	38,000
South Fork Salmon River	Little Salmon River	X	750	5,100	14,000
	South Fork Salmon Mainstem	X	2,000	8,600	24,000
	Secesh River	X	750	5,400	15,000
	East Fork Salmon/Johnson Creek	X	1,000	6,900	19,000
Middle Fork Salmon River	Chamberlain Creek		750	3,900	11,000
	Lower Mainstem Mid-Fork		500	2,100	6,000
	Big Creek	X	1,000	6,900	19,000
	Camas Creek		500	3,000	8,000
	Loon Creek		500	3,200	9,000
	Upper Mainstem Mid-Fork		750	6,100	17,000
	Sulphur Creek		500	1,400	4,000
	Bear Valley	X	750	5,700	16,000
	Marsh Creek		500	2,600	7,000

Table 4 (continued). Designated stronghold populations, viable abundance thresholds, sustainable escapement objectives, and ecological escapement objectives for populations of spring/summer Chinook in the Snake River Basin.

Subbasin	Population	Designated Stronghold[a]	Viable Abundance Threshold	Sustainable Escapement Objective	Ecological Escapement Objective
Upper Salmon River	North Fork Salmon		500	2,200	6,000
	Lemhi River	X	2,000	15,500	43,000
	Lower Mainstem Salmon		1,000	16,500	46,000
	Pahsimeroi	X	1,000	12,800	35,000
	East Fork Upper Salmon		1,000	6,600	18,000
	Yankee Fork		500	2,400	7,000
	Valley Creek		500	3,200	9,000
	Upper Salmon Mainstem	X	1,000	8,000	22,000
	Panther Creek			extirpated	
Clearwater River	Lapwai/Big Canyon Creeks		750	6,600	15,000
	Potlatch River		500	5,700	13,00
	Lawyer Creek		500	5,500	13,000
	Upper S. Fork Clearwater	X	1,000	9,600	22,000
	Lolo Creek	X	500	6,600	15,000
	Lochsa River	X	1,000	10,200	24,000
	Meadow Creek	X	500	3,300	8,000
	Moose Creek	X	750	5,000	12,000
	Upper Selway River	X	1,000	7,600	18,000
	North Fork Clearwater			extirpated	
Snake R. above Hells Canyon				extirpated	

a Restoration of all populations, including non-stronghold populations, remains the Nez Perce Tribe's goal for maintaining healthy and harvestable escapement levels.

Table 5. Designated strongholds, viable abundance thresholds, sustainable escapement objectives, and ecological escapement objectives for populations of steelhead the Snake River Basin.

Subbasin	Population	Designated Stronghold[a]	Viable Abundance Threshold	Sustainable Escapement Objective	Ecological Escapement Objective
Lower Snake R.	Tucannon River	X	1,000	3,400	15,000
	Asotin River	X	1,000	2,000	15,000
Grande Ronde River	Upper Grande Ronde River		1,500	12,100	81,000
	Wallowa River	X	1,500	6,200	41,000
	Lower Grande Ronde River		1,000	5,700	38,000
	Joseph Creek	X	1,000	3,600	24,000

Table 5 (continued). Designated strongholds, viable abundance thresholds, sustainable escapement objectives, and ecological escapement objectives for populations of steelhead the Snake River Basin

Subbasin	Population	Designated Stronghold[a]	Viable Abundance Threshold	Sustainable Escapement Objective	Ecological Escapement Objective
Imnaha R.	Imnaha River	X	1,000	4,300	21,000
Clearwater River	Lower Mainstem Clearwater	X	1,500	26,400	45,000
	Selway River	X	1,500	32,700	55,000
	Lochsa River	X	1,500	21,900	37,000
	South Fork Clearwater	X	1,000	14,800	25,000
	Lolo Creek	X	500	4,200	7,000
	North Fork Clearwater	X			
Salmon River	Lemhi		1,000	19,400	22,000
	Upper Salmon East Fork		1,000	16,900	19,000
	Upper Salmon Mainstem		1,000	21,200	24,000
	Upper Middle Fork		1,500	25,000	28,000
	Lower Middle Fork		1,500	28,000	31,000
	Chamberlain Creek		1,000	11,300	13,000
	Pahsimeroi River		1,000	16,300	18,000
	Panther Creek		1,000	12,000	13,000
	Little Salmon River	X	1,000	14,400	16,000
	South Fork Salmon	X	1,000	17,700	2,000
	Secesh River	X	500	5,500	6,000
	North Fork Salmon River		500	5,200	6,000
Hells Canyon	Hells Canyon			extirpated	
	Powder River			extirpated	
	Burnt River			extirpated	
	Weiser			extirpated	

a Great uncertainty exists on the historic and current status, structure, and biological importance of steelhead within the Snake River basin. All populations, including non-priority populations remain the Nez Perce Tribe's goal for restoring and maintaining healthy and harvestable escapement levels.

Table 6. Designated stronghold, viable abundance threshold, sustainable escapement objective, and ecological escapement objective for the population of fall Chinook salmon in the Snake River Basin.

Subbasin	Population	Designated Stronghold[a]	Viable Abundance Threshold	Sustainable Escapement Objective	Ecological Escapement Objective
Snake River	Snake Basin Population	X	3,000	39,110	120,000
	Marsing Reach			extirpated	
	Salmon Falls			extirpated	

a All populations, including non-priority populations remain the Nez Perce Tribe's goal for restoring and maintaining healthy and harvestable escapement levels.

Hatchery Objectives

The Nimiipúu have always cared for and ensured that the fish were abundant enough to reproduce for successive generations. Today, the Nez Perce Tribe continues to protect and enhance abundance of fish through natural production and artificial production in the form of hatcheries. Hatcheries for salmon and steelhead in the Columbia Basin were developed as a necessary mitigation tool to compensate for the fishery losses that resulted from the impacts of increased human settlement that began soon after ratification of the Treaty of 1855. Accordingly, hatcheries represent a promise to those who have always depended on the salmon for culture, sustenance, and livelihood to replace the fish that are and were diminished as a result of human development of salmon habitats. As long as the dams are here, the mitigation responsibility remains.

In the Snake River Basin, all but one of the hatcheries (Kooskia), were built specifically to mitigate for the impacts of the development and operation of hydroelectric dams (Dworshak, Brownlee, Hells Canyon, Oxbow, Lower Granite, Little Goose, Lower Monumental, Ice Harbor, McNary, John Day, The Dalles, and Bonneville dams). These hatchery programs play a very important role in meeting congressionally mandated mitigation obligations and treaty trust responsibility to protect and maintain tribal treaty reserved fisheries. The mitigation obligations associated with the hydrosystem are substantial and are not contingent upon the Endangered Species Act (ESA).

There has recently been much debate about the effects of hatchery-origin fish on the productivity of naturally reproducing salmon and steelhead. It is important to remember, however, that hatcheries were built and operated to mitigate for the destruction of habitat which, in turn, drastically affected productivity. In other words, we don't have low productivity because of hatcheries, we have hatcheries because of low productivity.

The Department perspective with regard to hatcheries is:

- Hatchery production, including supplementation, is a key tool for maintaining treaty-based harvest opportunities. Without hatchery production in the Snake River Basin there would currently be no meaningful tribal harvest.
- Hatchery production (including numbers, release locations, and marking of fish) in the Snake and Columbia basins is legally mandated through the court-approved *U.S. vs. Oregon* 2008-2017 Management Agreement and is inextricably linked to providing treaty harvest.
- Not all hatchery programs are the same. Most hatchery production in the Columbia Basin occurs for harvest augmentation. Only a minor amount of that production (approximately 13%) is specifically intended for supplementation or recovery of species.
- The Department has been a leader in implementing supplementation programs and hatchery reform. Our goals for supplementation programs are:
  - Increased abundance (both total and natural-origin) and spatial structure,
  - Maintenance of culturally and economically important tribal salmon fisheries,
  - Contribution to non-Indian fisheries in the region, and
  - Restored ecosystem processes and health.

- We acknowledge there are risks associated with the hatchery tool. However, we are managing those risks through developing management strategies such as the "sliding scale" and a rigorous research, monitoring, and evaluation program.

Sliding Scales

The "sliding scale" concept is a tool the Nez Perce Tribe developed in collaboration with other fisheries managers and is currently used in the Snake River Basin for harvest and hatchery management. It is based on managing hatchery and natural origin fish to provide for conservation and rebuilding of a local population through 1) meeting natural spawning escapement thresholds; 2) attaining broodstock needs; and 3) allowing for harvest regimes.

Several populations of Snake River fish are supplemented with hatchery fish from native origin broodstock. The supplementation effort is intended to specifically increase the numbers of spawners on the spawning ground (and not just produce fish for harvest). Because hatcheries typically produce and hence return more fish than natural runs, the sliding scale was developed to balance the goals of rebuilding the runs of natural fish while controlling or minimizing any potential detrimental effects that may be caused by hatchery-origin returns.

The basic premise of the sliding scale is that at low abundance levels, all fish (hatchery and wild) are equal and needed to maintain the population – whether in the hatchery or on the spawning grounds. At higher abundances, the influence of hatchery origin fish on the spawning grounds and in the hatchery can be reduced in order to allow the wild origin fish to have a greater influence on the population. The management strategy for hatchery- and wild-origin fish relative to acquiring broodstock, composition on the spawning grounds and in the harvest, is dependent on the number of hatchery- and wild-origin fish predicted to return in any given year.

In addition, taken by itself as a harvest management tool, the sliding scale can call for relative levels of harvest based on the size of the returns. In other words, harvest rates would not be a flat percentage harvest across all levels of return, but would fluctuate depending on the ability of the return to sustain a harvest. It is important to remember that fish encounter significant mortality throughout their lives; commonly occurring from development in meeting human needs – electricity, timber, agriculture production, etc. For a fishing-based people, it is the fish as food that are required to sustain life and thus the importance of allowing a harvest rate that is tied to the variability in the runs – whether they are all wild or supplemented runs. As such, it is conceivable to have a sliding scale framework that can be tailored to each major population group, or designated population(s).

Habitat Condition Objectives

Native fish within the Nez Perce Country depend on healthy habitats, healthy watersheds, and healthy ecosystems. At the most fundamental level, both resident and anadromous species require: clean, cold and oxygen-rich flows; adequate stream depths to avoid predation and allow seasonal movement; physical habitat of sufficient complexity to meet feeding, resting and hiding requirements for all life stages; unimpeded access throughout the stream; nutrient levels adequate to support primary production and prey species; and spawning substrate sufficiently clear of silt and sand to provide for spawning, egg and alevin survival, and over-wintering habitat.

Water quality is critical. Because fish are cold-blooded and rely on their environment for temperature regulation, elevated temperatures can negatively affect growth, immunity, swimming ability, and reproduction. Sufficient levels of dissolved oxygen are also essential for fish survival. Excess nutrients and sediment in streams can reduce oxygen levels and detrimentally impact native fish populations. Conversely, the lack of marine derived nutrient input (e.g., from salmon and Pacific lamprey) to inherently infertile streams can hamper and limit biotic productivity important for food production.

Fish rely on adequate flow and unblocked access within streams to allow for seasonal migration as well as daily use of varied habitats. Diverse physical habitat may include boulders, large woody debris, root-wads, and stable stream-banks. Healthy riparian areas (the vegetation that borders a body of water such as a stream) and fallen trees (large woody debris) help provide pools, shade, cover from predators, and habitat for insects and other invertebrates upon which fish feed. The synergistic effect of key habitat features such as these are critical to the survival and rebuilding of our native resident and anadromous fish populations.

The health of entire watersheds, from ridge-top to ridge-top, is important for fish survival because watersheds contain an interconnected web of life. Water that falls as rain or snow flows down slope across the landscape and through the ground before it eventually enters a common stream or other body of water. This defines the spatial extent of a watershed. The watershed's "web of life" is comprised of many elements and impairment of any one element can destabilize the whole system affecting stream quality and fish habitat. For example, poorly maintained or densely packed roads within the upper portion of a watershed can be prone to mass failure, they can interrupt and channelize runoff, and the exposed roadbeds (and failures) can contribute elevated levels of sediment to streams, thereby degrading spawning and over-wintering habitat. As another example, anthropogenic activities (residential development, roads, logging, farming, and grazing) near streams can reduce riparian areas and the wetlands, diminishing shade, large woody debris, bank stability, flood attenuation, and runoff filtration.

Distributed across more than 20,000 square miles at elevations ranging from just over 500' to just under 10,000', fisheries habitat in Nez Perce country is located within a wide range of topographic, geologic and climatic regimes. Much of the land within Nez Perce Country is managed by the federal government. As noted in the section on ICC boundaries, this federal land nexus is critically important to implementation of treaty rights and to the resource itself. As a result, the Department has engaged in a significant body of work on federal lands throughout the U&A areas – implementing more restoration actions within the Snake River basin than perhaps any other single entity or agency.

Given the synergistic effect of watershed health on aquatic habitat quality, the Department employs a "ridge-top to-ridge-top" approach to restoration. A number of different measures can be used

to guide restoration and determine if an ecosystem is properly functioning. The following matrix (Table 7) depicts general standards that can be used to assess whether habitat condition goals are being met in most watersheds. Optimally, habitat conditions in individual watersheds would match natural conditions that existed prior to human impacts, but this goal is sometimes unattainable due to development and management activities beyond our control. Given this, and the diversity of landscapes throughout Nez Perce territory, individual habitat condition targets may vary from one watershed to the next. Regardless, our overarching habitat condition objective remains consistent: we are striving to re-establish properly-functioning, self-sustaining, healthy streams, watersheds and ecosystems that are so essential to rebuilding our runs.

Table 7. Matrix of pathways and indicators of properly functioning watershed conditions.

Pathway	Indicator	Properly Functioning
Watershed Conditions	Road Density	<1 mi of roads/sq mi within each watershed (Cottonwood BLM, Clearwater NF, and Nez Perce NF, 1997)
	Floodplain Connectivity	Off-channel areas are hydrologically linked to main channel; overbank flows occur regularly and maintain wetland functions, riparian vegetation and succession. (Cottonwood BLM, Clearwater NF, and Nez Perce NF 1997)
	Riparian Areas	Percent similarity of riparian vegetation to the potential natural community composition is >75% (Cottonwood BLM, Clearwater NF, and Nez Perce NF, 1997). Extent of the riparian area is at or near natural conditions as determined by comparison with historic information, oral histories and/or best judgment based on soil types (Neil et al 2006).
Flow/ Hydrology	Peak/ Base Flows	Watershed hydrograph indicates peak flow, base flow, and flow timing characteristics comparable to a watershed with similar hydrologic characteristics functioning within its natural disturbance regime. Daily flow is not subject to extreme variation (e.g. power peaking).
Channel Conditions	Streambank Condition	Bank stability is >95% for A and B type streams, >90% for C type streams, and 100% for E type streams (Cottonwood BLM, Clearwater NF, and Nez Perce NF, 1997)
	Channel Geometry	Near natural conditions as determined by comparison to an undisturbed reference reach with similar geomorphology, vegetation and climatic characteristics.
	Width/Depth Ratio	A channel types <10 B channel types <20 C channel types <40 E channel types <7 F channel types <35 G channel types <9 (Cottonwood BLM, Clearwater NF, and Nez Perce NF, 1997)
In-stream Habitat	Substrate	Cobble embeddedness <20% in salmonid spawning habitat and <30% in salmonid rearing habitat (CRITFC, 1996) or at natural levels as determined by comparison to an undisturbed reference reach with similar stream characteristics and bedrock geology.
	Surface Fines (<6 mm)	Pool tailouts and riffles with gradients <4 % are comprised of <10% surface fines in A and B channel types and <20% surface fines in C and E channel types (Cottonwood BLM, Clearwater NF, and Nez Perce NF, 1997).

Table 7 (cont.). Matrix of pathways and indicators of properly functioning watershed conditions.

Pathway	Indicator	Properly Functioning
In-stream Habitat (continued)	Large Woody Debris	Near natural conditions as determined by comparison to an undisturbed reference reach with similar stream characteristics and natural vegetation community.
	Pools (quality and frequency)	Near natural conditions as determined by comparison to an undisturbed reference reach with similar stream characteristics.
	Macro-invertebrates (species richness and diversity)	Near natural conditions as determined by comparison to an undisturbed reference reach with similar natural habitat conditions.
Habitat Connectivity	Barriers	100% habitat connectivity. Culverts and all other man made barriers will simulate natural stream conditions, and provide for passage of all life history stages for all aquatic species and at least 100-year flow events. The Lower Snake River dams are removed for the purposes of allowing the rebuilding and recovery of anadromous fish runs in the Clearwater, Snake and Salmon Rivers (NPTEC Resolution NP 99-140).
Water Quality	Temperature	**Summer Maximum Temperature:** 7 day average of the daily maximum values is <12°C (55°F) in streams which historically supported bull trout and <16°C (64°F) in streams which historically supported salmon and/or trout (US EPA, 2003) **Spawning Season Maximum Temperatures:** 7 day average of the daily maximum values is <9°C (48°F) in streams which historically supported bull trout, <13°C (55°F) in streams which historically supported salmon, and <14°C in streams which historically supported steelhead and/or trout (US EPA, 2003)
	Suspended Sediment	≤ 10 days ≥ 25 mg/l and ≤ 5 days ≥ 80 mg/l in a one year period (Cottonwood BLM, Clearwater NF, and Nez Perce NF, 1997)
	Dissolved Oxygen Salmon/Steelhead Spawning Period	Seven day mean minimum DO >11 mg/l. However, if the minimum intergravel DO (measured as a spatial median), is ≥8.0 mg/l, then DO criteria is >9.0 mg/l. Where conditions of barometric pressure, altitude, and temperature preclude attainment of the 11.0 mg/l or 9.0 mg/l criteria, DO levels shall be ≥95% of saturation. Intergravel DO shall not be ≤ 8 mg/l.
	Dissolved Oxygen Bull Trout	**Rivers and Streams**: DO ≥11 mg/L in the water column at all times. **Lakes**: DO ≥6 mg/L in the water column at all times.
	Dissolved Oxygen Cold Water Aquatic Life	**Rivers and Streams**: DO ≥8 mg/L in the water column at all times. **Lakes**: DO ≥6 mg/L in the water column at all times.
	Total Dissolved Gas	Maintain chronic exposure <103% Maintain acute exposure <115%
	pH	6.5 to 9.0

Pathway	Indicator	Properly Functioning
Water Quality (continued)	*Escherichia. coli*	*The Nez Perce Tribe has designated all water bodies as Primary Contact Recreation (Resolution #NP03-136).* **Geometric Mean Criterion**. Waters designated for primary contact recreation are not to contain *E. coli* bacteria in concentrations exceeding a geometric mean of 126 colony forming units per 100 m/L based on a minimum of five samples taken every three to seven days over a 30-day period. A single water sample exceeding the 406 colonies per 100 m/L indicates a likely exceedance of the geometric mean criterion, but is not alone a violation of water quality standards. If a single sample exceeds 406, then additional samples must be taken For waters designated as Religious and Ceremonial, the criterion is a single sample maximum of 100 *E. coli* organisms per 100 m/L.
	Nitrogen-Ammonia	The following criteria are not to be exceeded dependent on the temperature (in °C) and pH of the water body. **Acute Criterion Maximum Concentration** (CMC). The one-hour average concentration of total ammonia nitrogen (mg/L) is not to exceed, more than once every three years, the value calculated using the following equation: $$CMC = \frac{0.275}{1 + 10^{7.204-pH}} + \frac{39.0}{1 + 10^{pH-7.204}}$$ **Chronic Criterion (Criterion Continuous Concentration)** (CCC). The 30-day average concentration of total ammonia nitrogen (mg/L) is not to exceed, more than one every three years, the value calculated using the following equations: When fish early life stages are likely present: $$CCC = \left(\frac{0.0577}{1 + 10^{7.688-pH}} + \frac{2.487}{1 + 10^{pH-7.688}} \right) \cdot \min(2.85, 1.45 \cdot 10^{0.028 \cdot (25-T)})$$ When fish early life stages are likely absent: $$CCC = \left(\frac{0.0577}{1 + 10^{7.688-pH}} + \frac{2.487}{1 + 10^{pH-7.688}} \right) \cdot (1.45 \cdot 10^{0.028 \cdot (25-T)})$$ The highest four-day average within the 30-day period should not exceed 2.5× the CCC.
	Total Phosphorous	<0.03 mg/L (US EPA 2000)
	Other Pollutants including Pesticides, Herbicides, and Metals	Meets state water quality standards (refer to Idaho DEQ, 2005)

Harvest Policy, Harvest Management, and Harvest Sharing

The Nimiipúu have always coexisted with and harvested fish. Use of fishery resources depended upon the season, species, and tributary location specific to a tribal band. This dependence on fish to meet dietary, spiritual, and basic subsistence needs is still a prevailing necessity of Nez Perce life.

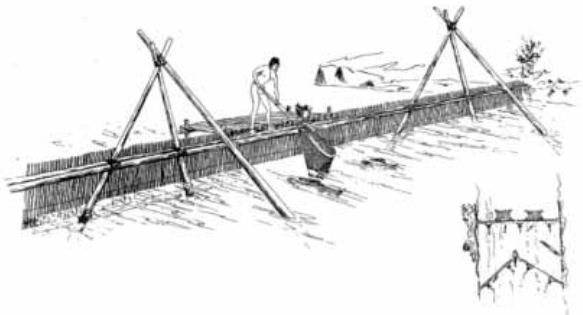
To this day, a "fair share" of the salmon harvest by the Nez Perce Tribe does not occur because of the "takings" of fish by non-Indian activities and development in the Columbia Basin. The environment and water that support fish has been altered due to human development and enterprise over the past century and a half. This human progress has come at a cost to the fish species and "salmon people." Current productivity of salmon-producing streams is much lower than it was historically. Many of the fish species either face extinction or are in seriously depressed conditions. As a result, tribal harvest in the present day is only a very small fraction of what the Nez Perce harvested in the mid-1800's. Although hard to quantify, it is probable that current harvest is less than 1% of historical harvest levels prior to the Treaty of 1855.

Now, of course, Snake River Chinook salmon (fall and spring/summer), steelhead, and sockeye are all listed under the ESA. The Nez Perce Tribe's ability to implement meaningful treaty fisheries does not exist and tribal culture and members have had to adapt to this forced circumstance. These circumstances have forced tribal fisheries to be concentrated on those specific tributaries with runs strongly influenced by hatchery programs.

Harvest Policy

While carefully managed harvest is considered critical to salmon rebuilding, the Nez Perce Tribe maintains that some level of tribal harvest should always occur and that treaty fishing is governed by the conservation necessity principles resulting from the treaty rights case law, including *U.S. v. Oregon* and *U.S. v. Washington*. These principles find that treaty fishing can **only** be regulated if the following conservation necessity principles are met:

1. That they are reasonable and necessary for species preservation,
2. They are the least restrictive available to achieve the required conservation purpose,
3. They do not discriminate against Indian activities, either on their face or as applied,
4. Their purpose cannot be achieved solely through the regulation of non-Indian activity, and
5. Voluntary tribal conservation measures are not adequate to achieve the conservation purpose.



The Nez Perce Tribe believes that the conservation burden, and ultimately the contribution to improving survival and rebuilding the Snake River salmon and steelhead runs, be broadly and proportionally shared across the human-caused mortalities affecting salmon. Further, tribal harvest is not to be viewed as a "new" action that incrementally increases the survival gap of diminished Columbia and Snake River runs, but rather as a baseline that the fish runs have always encountered and that the United States secured by treaty.

With respect to treaties, it must be understood and embraced by others in the Pacific Northwest that treaty harvest is a first priority to achieve. The agreement to guarantee the Nez Perce Tribe the "right to take" fish was made in 1855. Any later federal action – including the Homestead Act, the establishment of National Forests, the development of the Columbia River for a power and transportation system, and the ESA, are pre-dated by the United States agreement that the Nimiipúu would have the right to take fish at all U&A fishing places.

Harvest Management[5]

The Nez Perce Tribe intends to increase and expand the level of harvest or fishing areas for salmon and steelhead at all Nez Perce U&A areas in the Snake Basin in a way that balances conservation needs of the fish with the right to take fish. This can be achieved through a biologically-sound harvest management philosophy and harvest rate schedules keyed to the status and trends in abundance and productivity of the fishery resource. Generally, abundance-based tribal harvest strategies can be designed to account for annual variation in total fish run size and run composition so that treaty fishery harvest will not appreciably reduce the ability to collect adequate hatchery broodstock or progress towards natural spawning targets for particular tributaries. This is illustrated in Figure 6.

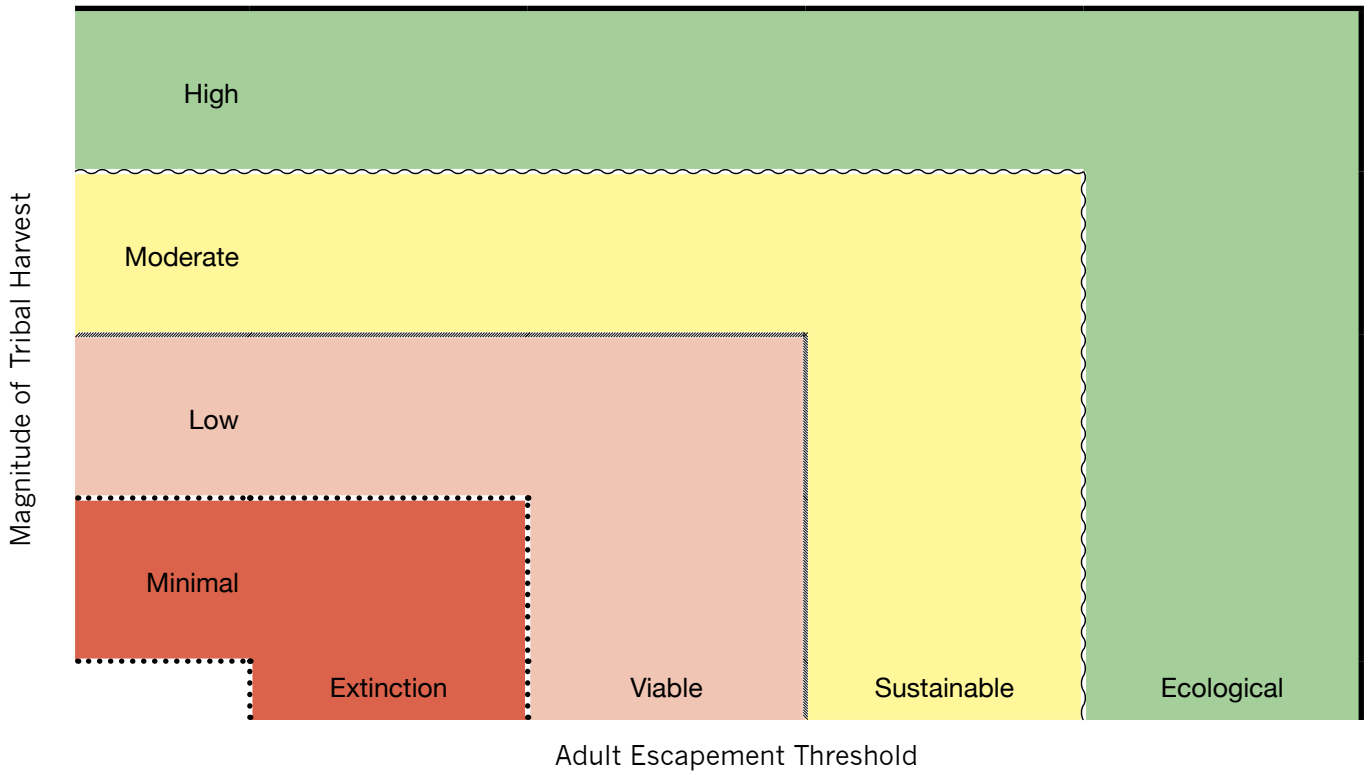
As returns increase, the Nez Perce Tribe expects to increase the relative magnitude of tribal harvest and fishing effort. When there is a low fish abundance or productivity, there will be a "minimal" tribal fishery. Conversely, when adult runs begin to meet "sustainable abundance" and "ecological abundance" objectives, tribal fishery seasons will be adjusted upwards to "moderate" or "high" levels of harvest and fishing effort. Within each broad adult escapement range and corresponding harvest category, the Nez Perce Tribe will determine how many hatchery and wild fish will be targeted for harvest. These harvest actions will ensure long-term allocation of adult returns between tribal and state sport harvest, hatchery broodstock, and natural spawning escapement requirements.

It is important to note that the graph does not depict that an increase in adult fish will translate into an equal increase in harvest (i.e., it is not a linear relationship; the axis values are not the same). The graph however does portray the tribal philosophy for structuring treaty fisheries based on the relative health of the fishery resource.

Because Snake River fish are listed under the ESA, the Nez Perce Tribe currently operates treaty fisheries at very low adult escapement thresholds

5 This section and the Harvest Sharing section focus on Snake River basin harvest, not on Nez Perce treaty harvest implemented in the Columbia River mainstem. Harvest management and sharing for those fisheries are described in the *US v Oregon* court-approved Columbia River Fish Management Plan.

Figure 6. Magnitude of tribal harvest related to abundance thresholds and objectives.



and fishing effort and take levels are thus "minimal" to "low." Treaty harvest is still expected to occur even at these adult escapement thresholds.

Ultimately rebuilding efforts will need to be successful to move Snake River fish populations into the "sustainable abundance" and "ecological abundance" levels of adult escapement. Eventually, the goal would be to achieve a harvest consistent with pre-Treaty harvest levels.

Harvest Sharing

It is well-established that the 1855 Treaty provides Nez Perce fishers the opportunity to take a fair share (or up to 50 percent of the harvestable surplus) of the fish passing through or destined to reach its U&A fishing places. A fundamental element of harvest planning for fisheries that are jointly shared and managed by the Nez Perce Tribe and the States of Oregon, Idaho and Washington is to determine and agree to share the harvest. This section describes how the harvest share will be allocated for supplemented and hatchery returns.

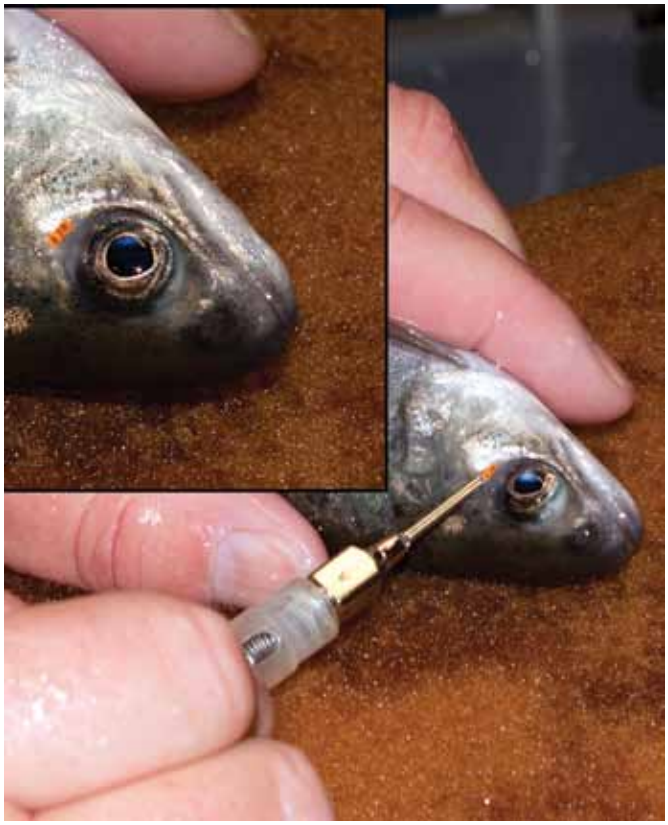
Supplemented Populations Harvest

Tribal fishery managers will first use the abundance-based harvest sliding scales (tiered to the hatchery sliding scales) to determine broodstock and escapement needs and the total tribal catch in each subbasin. Determining the overall Nez Perce treaty allocation of total harvestable fish in these subbasins will then be evaluated against the appropriate level of ESA impacts for these subbasins.

A general principle of the allocation framework is that natural fish harvest impacts are shared between the tribally regulated treaty fishery and state-regulated sport fishery and that the Nez Perce will always have the prerogative to have some level of treaty harvest. For purposes of harvest allocation (between Nez Perce and non-Indian fishers), the Nez Perce Tribe expects that at all return sizes, the tribal harvest on natural origin fish will be greater than that set forth in the state's fishing regime[6]. This, in turn, results in the non-Indian fishers having a

6 The Nez Perce Tribe generally expects that total allowable wild fish impacts for fishery harvest be determined using an 85:15 harvest sharing framework (or some similar arrangement) to allocate wild fish impacts between treaty and state-regulated sport fisheries that occur in Snake Basin tributaries to achieve an equitable harvest share between treaty and non-treaty fisheries.

higher allocation of the hatchery returning fish (see Figure 7 as an example of how the Nez Perce Tribe and Oregon Department of Fish and Wildlife dealt with allocation relative to preseason and in-season management in the Imnaha River in 2010). The difference in allocation is due to differing fishing methods used by non-Indian and Nez Perce fishers. Non-Indian fishers are allowed to use only hook-and-line gear with barbless hooks; while Nez Perce fishers use an assortment of gear types, from hook-and-line to dipnets, spears, gaffs, and other traditional gears.



	Nez Perce Tribe	Oregon
wild	33	11
hatchery	370	403
total	403	403

Figure 7. Example of harvest allocation between Oregon and the Nez Perce Tribe on the Imnaha River fishery in 2010.

Hatchery Populations Harvest

The Nez Perce Tribe and the other tribal, state and federal fishery managers develop annual return estimates of Snake River salmon and steelhead. Most harvest will target hatchery-origin returns, and those return estimates are the drivers – although incidental harvest rates on natural-origin returns are also determined for fish returning to ESA-listed populations in particular. In the simplest situation, with a fishery on an all-hatchery run, the broodstock needs for the hatchery of interest are accounted for which leaves the "harvestable share" of the return. That harvestable share is then split 50:50 between the non-Indian fishery and the Nez Perce Tribe. When the share is reached and updated return information does not indicate a change from the prediction, harvest by the party reaching its share is closed. Harvest can continue by the party not reaching its share.

Dams

The Nez Perce Tribe has taken a strong policy stance opposing construction and operation of hydroelectric dams because of their effect on salmon runs. With respect to the four lower Snake River Dams, NPTEC adopted resolution NP 99-140 which states the following:

NPTEC Resolution NP99-140

Whereas, the Nez Perce Tribe has relied upon the salmon resources of the Columbia River system since time immemorial as evidenced by Nez Perce history and legends; and

Whereas, salmon have a vital and primary role [to] the cultural, religious, economic and physical well-being of the Nez Perce people; and

Whereas, the Nez Perce Tribe reserved an exclusive right to take fish within the Nez Perce Reservation and at all usual and accustomed places outside the Nez Perce Reservation in the Treaty of June 11, 1855, with the United Sates and those rights continue in full force and effect today; and

Whereas, the runs of salmon and steelhead that once filled the rivers and streams of the Clearwater, Snake and Salmon Rivers have declined drastically and that decline has had a serious and adverse impact upon the people of the Nez Perce Tribe; and

Whereas, it is recognized that dams have been a major cause for the decline in salmon and steelhead runs; and

Whereas, it is further recognized that the four dams on the lower Snake River have a particularly significant adverse impact on migrating anadromous fish runs; and

Whereas, scientific evidence and research indicates that the breaching of the four lower Snake River dams is the only viable alternative that will allow recovery and rebuilding of anadromous fish runs in the upper Columbia River Basin; and

Whereas, economic analysis reflects that the adverse economic impacts of breaching the four lower Snake River dams will largely be offset by restored salmon runs and that increased costs to individual electrical users will be minimal; and

Whereas, it must be recognized that the status quo also has a significant cost – the unavailability of salmon – one which has been a heavy burden upon the people of the Nez Perce Tribe for many years; and

Whereas, the Nez Perce Tribe views the salmon as an invaluable resource that must be saved from extinction and restored;

Now therefore, be it resolved, that the Nez Perce Tribal Executive Committee hereby states its support for breaching the four lower Snake River Dams for the purpose of allowing the rebuilding and recovery of anadromous fish runs in the Clearwater, Snake and Salmon Rivers.

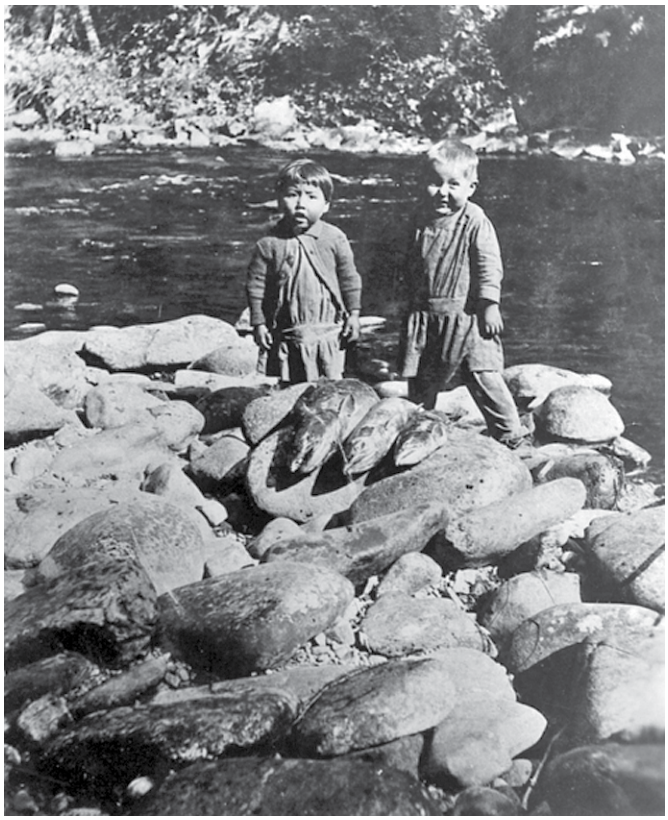
—February 23, 1999

The dams on the lower Snake River and the mainstem Columbia have had an enormous impact on salmon and steelhead, and, in turn, on the Nez Perce Tribe. The Nez Perce Reservation, and many of the Nez Perce U&A fishing places, in addition to those on the mainstem Columbia, are above the eight federal dams on the lower Snake and Columbia Rivers.

The Nez Perce Tribe's commitment to addressing the impacts of the federal Columbia and lower Snake River dams on salmon and steelhead is evident in its participation in the efforts to bring these Federal Columbia River Power System (FCRPS) dams into compliance with the ESA. This has included the Nez Perce Tribe's active participation in decades-long litigation concerning the impacts of these dams on ESA-listed salmon and steelhead.

The federal court for the District of Oregon, like the Nez Perce Tribe, has stated that "rebuilding salmon to healthy, harvestable levels will come in large part from addressing the impacts of the downriver dam operations that do the most harm to salmon." In the Nez Perce Tribe's view, the Bonneville Power Administration, the Corps of Engineers, and the Bureau of Reclamation (and NOAA Fisheries in their ESA consultation) have put the demands of river users first and the survival and recovery needs of endangered and threatened salmon and steelhead last when it comes to the FCRPS dams. The Nez Perce Tribe has participated in each round of the litigation involving the operation of the FCRPS dams and NOAA's ESA consultations, advancing the tribal perspective and supporting additional protective actions for salmon and steelhead.

In 2008, the Nez Perce Tribe decided not to enter into an "accord" with BPA, the Corps, and Reclamation, which promised to secure funding to entities implementing offsite mitigation projects over a 10-year period, because—among other things—the Nez Perce Tribe was unable to conclude that FCRPS hydro operations were adequate given the survival and recovery needs of salmon and steelhead, that aggressive actions were being taken to address the status of Pacific lamprey, and that requested silencing of the Nez Perce Tribe's prior scientific views and its advocacy for breaching the four lower Snake River dams was in the best interests of salmon and steelhead. In 2011, as in 1994, 2000, and 2004, the federal court invalidated NOAA's 2008/2010 BiOp for the FCRPS. The Nez Perce Tribe will continue to play a significant role in future decisions regarding the operation of these federal dams.



Management Process (Operations)

Fisheries Department

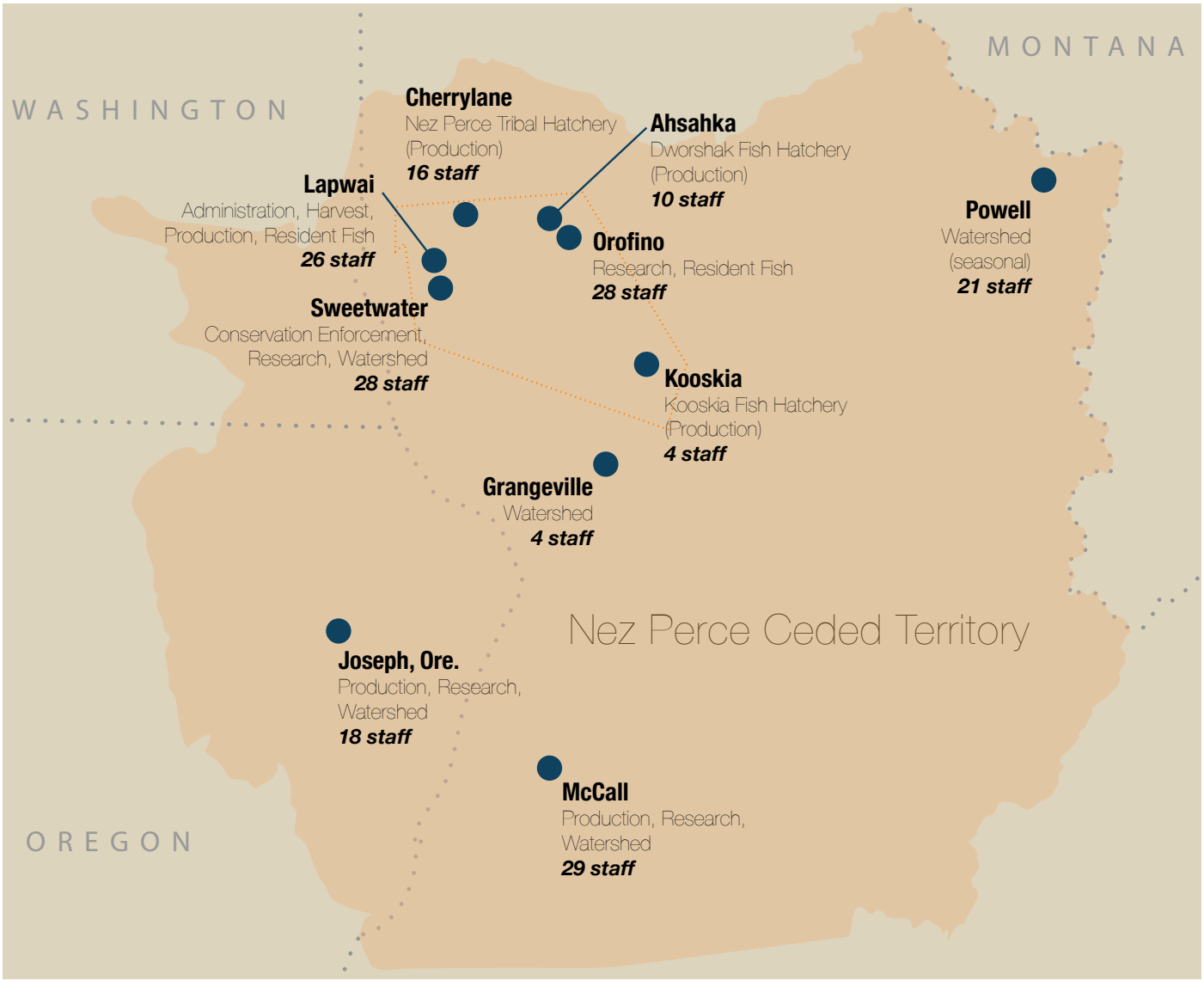
This section describes some basic functions or statistics underlying the Department. It is essentially a "snapshot" in time, reflecting our status in 2013. The Department's website provides more detailed information about our various programs (www.nptfisheries.org).

The Nez Perce Tribe's fisheries program began in 1981 with initiation of stream survey work conducted on the reservation and funded through the Pacific Northwest Electric Power Planning and Conservation Act. Prior to this time, the Nez Perce Tribe's fisheries resource support was minimal and provided by the Bureau of Indian Affairs, The U.S. Fish and Wildlife Service, and the newly formed Columbia River Inter-Tribal Fish Commission.

Currently, the Nez Perce Tribe has one of the largest tribal fisheries programs in the United States. The Department employs 135 to 185 people and the demographics of the workforce are about 50% Nez Perce tribal members, 5% members of other tribes, and 45% non-Indians. The Department consists of seven principal divisions: Administration, Conservation Enforcement, Harvest, Production, Research, Resident Fish, and Watershed. The office location, principal division using the location, and number of staff at the location is shown in Map 1.

The program has approximately 60 biologists or other class descriptions requiring a professional degree; the majority of the Department's positions do not require a degree. A quarter of the jobs are seasonal, occurring only during the field season, and most of them require extended multiple-day camping in the field where the activities occur.

The pay rate for tribal fisheries jobs is better than what an individual would make doing the same type of work with state agencies and comparable to what they would make for the Federal government (e.g. U.S. Fish and Wildlife Service or U.S. Forest Service).



Map 1: Location and number of division staff in the Department of Fisheries Resources Management.

Because of this, and because of the attractive nature of the work, the Nez Perce Tribe has developed a highly skilled workforce engaged in several different disciplines of fisheries and watershed management. In addition, turn-over in the Department is not a significant issue; many employees have worked multiple years and multiple seasons for the program.

The Fisheries Department relies on a host of funding sources, with most funding derived from contracts to implement hydrosystem mitigation actions associated with with Bonneville Power Administration's Fish and Wildlife Program. (Table 8).

Contracts are developed to address certain limiting factors in the aquatic community. For example, in response to the loss of runs caused by the mainstem dams, the Nez Perce Tribe employs hatcheries to produce fish that will return to the basin for the purposes of harvest and natural reproduction. The Nez Perce Tribe and the funding entity (in this case Bonneville Power Administration) determine the species and number of fish that will be produced. The responsibilities of the parties (Nez Perce Tribe and BPA) in producing and releasing the fish are then articulated in formal contracts.

To extend this example, both parties are also interested in determining whether a hatchery is returning fish and whether those fish are compatible with their naturally produced counterparts. Accordingly, a separate contract would be developed to monitor and evaluate whether the hatchery program is functioning as intended. Such a contract may require extended periods of field work to trap and evaluate juveniles migrating downstream (both hatchery and wild fish), as well as the returning adults.

In another example, because a dam is a blockage in the river, there may only be so much modification feasible to the dam's structure and its operations to improve fish passage conditions. Recognizing that fish passage through mainstem dams and reservoirs cannot realistically duplicate free-flowing river conditions, the fisheries management entities in the Columbia River Basin have developed a strategy to mitigate for the dams and reservoirs by improving off-site, tributary habitat. In this case, various problems would be identified within the tributary watersheds in the basin that, when fixed, could benefit the fish rearing and returning to spawn there. The Nez Perce Tribe and funding entity would then enter into a contract stipulating the problems (e.g. road derived sediment or a culvert passage barrier) to be addressed, the time frame involved, and the intended results.

Thus, the Fisheries Department "implements" actions. We are not an academic or administrative agency (as is a university or NOAA Fisheries, for example), but an entity focused on taking actions: to improve habitat, to aid fish passage, to produce fish for harvest and natural spawning, and to monitor status of the fisheries to determine the level of progress being made. It is important to recognize that the funding contracts are awarded through a competitive solicitation process; no one "gives" funding to the Department because it is a tribal program.

The contract funding received is generally allocated similarly among the three largest divisions: Watershed, Production, and Research. Each has fairly similar levels of funding and staffing.

There are two programs within the Department that are essential to the exercise of treaty fishing rights, but are not wholly funded as mitigation. These are the Conservation Enforcement and Harvest programs. The Enforcement program enforces the Nez Perce tribal regulations regarding the fish and wildlife portion of the Law and Order Code. As a sovereign, the Nez Perce Tribe has the ability and responsibility to regulate the activities of its membership and, in general, the activities occurring on its lands. Especially with regards to the resource conservation issues surrounding the exercise of fishing rights, the Nez Perce Tribe must have the ability to set and enforce its seasons in order to fish without state interference. So it is not only for purposes of resource protection, but also for the conducting of its activities as a sovereign that the Enforcement program and its staff serve a key role.

With the harvest program, there is again a critical touchstone with the legal interpretations of the exercise of a shared treaty right as a sovereign. Treaty harvest is shared (as described earlier) with the non-Indian fishers. The Nez Perce Tribe sets regulations and seasons for harvest based on run sizes that are agreed upon by tribal, state, and federal fishery managers. Commonly, when one of the parties (tribal or non-Indian) reaches its target harvest share, that party closes down its fisheries, and affords the other party a chance to complete its harvest share. The determination of the number of fish the tribal fishers have harvested relative to the target share is made based on data collected by the Harvest program. Consequently, the active implementation of the treaty language "…in common with…" is facilitated via data and data analyses derived from the Harvest program. In addition, tribal fishing is not always conducted in the same manner as non-tribal fishing (different gear types, periods and locations of fishing, etc). As a result, the Harvest program has, by necessity, developed its own statistically reliable sampling methods that go beyond "textbook" examples for non-Indian fisheries commonly taught in undergraduate or graduate school.

Table 8. Funding sources for the Nez Perce Tribe Department of Fisheries Resources Management (FY 2012).

Contracting Agency	# of Contracts	Contract Amount	% of Program Budget
Bonneville Power Administration	32	$16,885,890	81.5%
U.S. Fish and Wildlife Service	5	$1,241,636	6.0%
Other	10	$792,169	3.8%
Bureau of Indian Affairs	2	$599,328	2.9%
Nez Perce Tribe	1	$512,268	2.5%
Columbia River Inter-Tribal Fish Commission	3	$497,938	2.4%
U.S. Forest Service	3	$187,884	0.9%
Total	**56**	**$20,717,113**	

General Approaches of the Department (tools in the fisheries management toolbox)

The Nez Perce Tribe is recognized for its contributions in helping conserve and restore important fish species using a "gravel-to-gravel" approach that designs actions specific to each life stage of the fish. Generally, fish management actions occur across four main elements that affect fish at all life stages: hydrosystem, habitat, hatcheries, and harvest. Because a one size fits all application of management tools is not applicable, a varied approach to management action is required. The following section provides a description of the primary tools used to address certain conditions

a) **Prevention of future impacts** to fisheries resources is just as important as improving existing conditions. Review of fisheries resource management actions or impacts from others occurs through program administration by:

- Providing support for, objecting to, or modifying other agency proposed management actions.
- Suggesting modification of on-the-ground human activities (logging, mining, development, road construction etc.).
- Recommending or participating in the Nez Perce Tribe's litigation as technical support.

b) **Modification of human behavior** also contributes to the well being of the environment and its inhabitants. The Department can target three aspects of the human dimension:

- Societal (individual) education
- Recommending regulations and enforcement
- Access protection

c) The Nez Perce Tribe is actively involved in **implementing hatchery production programs** for mitigation, reintroduction, and restoration of depressed salmon, steelhead, and lamprey populations, while still providing for sustainable treaty fisheries. Not all hatchery programs are the same; the hatchery tool can be shaped to serve a number of purposes, including:

- Harvest augmentation (most fisheries in the Columbia Basin today are supported by hatchery runs of this type)
- Supplementation for integrated natural production and harvest (participation in evaluating several types of supplementation programs will help guide decisions or approaches in using the hatchery tool basinwide)
- Conservation via captive broodstocks
- Germplasm repositories (genebank)
- Reintroductions/fish translocation

d) **Habitat protection and restoration** can be achieved in numerous ways. The Nez Perce Tribe is actively involved in restoring and rehabilitating degraded watersheds by application of the following measures that apply "ridgetop-to-ridgetop" management:

- Road obliteration
- Culvert replacement
- Riparian re-vegetation
- Riparian fencing
- Flow restoration
- Channel restoration
- Weed control
- Conservation easements
- Ensure passage for all life stages of aquatic species
- Irrigation screening

e) **Harvest management** tools include:

- Developing run/population-based harvest targets
- Recommend harvest regulations
- Recommend harvest closures
- Assisting in providing fish for subsistence distributions
- Resident fish substitution (trout ponds)

Fisheries Department Management Team

The management team under the direction of the Department Manager guides department operations and management decisions. This team consists of division and deputy directors from the Enforcement, Harvest, Production, Research, Resident Fish, and Watershed divisions and the field office supervisors. The management team will also seek and utilize the expertise of all levels of Department staff. In addition, the management team commonly represents the Department in collaborative discussions or interactions with representatives of other fisheries management entities or agencies such as BPA, NOAA, and the Northwest Power and Conservation Council.

Management Processes

Tribal management processes, including those affected by the Department, can be depicted as a three-category hierarchy that includes policy, management, and technical decisions/issues. Decisions occur at all levels, but the nature of the decisions differs at each level. These three categories of decisional processes and their components (briefings, recommendations, and decisions) are portrayed in Table 9. Those specific to the management team are shown as providing recommendations and advisory roles to decisions by the Department Manager.

Table 9. Description of roles and responsibly associated with decisions, recommendations, and briefings associated with policy, management, and technical level actions. **X** = Primary role and responsibly. **a** = Delegated or acting authority.

	Policy			Management			Technical		
	Decision	Recommendation	Briefing	Decision	Recommendation	Briefing	Decision	Recommendation	Briefing
NPTEC	X								
NPTEC Subcommittee	X	X							
FWC		X	X	X					
Executive Director	X	X	X						
Manager		X	X	X					
Deputy Manager		a	X	a	X				
Division Director		a	a	a	X	X	X		
Management Team				a	X				
Deputy Director					a	X	X	X	
Professional							X	X	X
Technician							a	a	X

Fisheries Department Decision Framework

Exercising adaptive management for fisheries resources is inherently a dynamic process. Implementing a decision framework relies on defining management objectives and selecting management option(s) that are most likely to achieve the objectives. The Department intends to follow eight core steps in decision making, targeting a balance of program content, management process, and relationships (between co-managers, resources users, and policy). The steps to follow are:

1. Define the desired resource condition
2. Determine the resource status
3. Identify limiting factor(s) and critical uncertainties
4. Develop management options
5. Select and apply management action(s)
6. Monitor and evaluate results
7. Modify/adjust management action or goals
8. Re-evaluate results

An example of application of these steps is provided in Table 10.

Table 10. Decision framework example for Lolo Creek spring Chinook salmon.

Manage Framework Step	Example: Lolo Creek Spring Chinook Salmon
1) Define desired resource condition	Adult escapement goals: 15,000 (ecological escapement), 6,600 (sustainable escapement), 500 (viable abundance threshold). Numbers consistent with Tribal Recovery Plan and Clearwater Subbasin Plan.
2) Describe current status of resource	Indigenous Chinook salmon in the Clearwater River subbasin were eliminated by Lewiston Dam. Spring Chinook salmon reintroduced after removal of the Lewiston Dam in 1973. Spring Chinook adult abundance in early 1990's was less than 100 fish annually, and were mostly hatchery-origin returns.
3) Identify limiting factors and uncertainties	• Low adult abundance (limited seeding) • High out-of-basin mortality (e.g. dams) • Watershed disturbances (mining, timber harvest, and roads) • Passage/connectivity • In-stream cover
4) Develop management options	• Hatchery supplementation (parr, presmolt, smolt, and/or adult; local or aggregate broodstock; acclimated or direct release); harvest management (take levels in tributary; no adipose fin clipping of hatchery releases) • Mainstem passage improvements (dam removal; transportation; and/or flow management); harvest management (take levels in ocean and mainstem; no adipose fin clipping of hatchery releases) • Road decommissioning; reduce suction mining; reduced timber harvest; livestock ex-closures or reduction • Culvert replacement/removal; Road decommissioning • Stream bank stabilization; restricted timber harvest in riparian zone
5) Apply selected management option(s)	• Hatchery supplementation (smolt and adult; aggregate broodstock; direct release) • *US v. Oregon* harvest management agreement • Road decommissioning; tribal action regarding support for reduced suction mining; constructed fence for livestock ex-closures • Culvert replacement/removal • Mainstem passage improvements
6) Monitor and evaluate results	• Limited ability to access primary spawning areas for smolt releases. • High prespawn mortality on adult outplants. • Unable to collect adequate local broodstock from early portion of run • Successful reestablishment of natural vegetation via livestock exclusions and stream bank stabilization. • Successful passage of fish through redesigned culverts.

Table 10 (cont.). Decision framework example for Lolo Creek spring Chinook salmon.

Manage Framework Step	Example: Lolo Creek Spring Chinook Salmon
7) Modify/adjust management action or goals	• Change from opportunistic release of smolts from aggregate stock to annual acclimated release of presmolts from local broodstock • Marked hatchery releases with CWT only (no adipose fin clip) • Continue and maintain livestock exclusions
8) Monitor and evaluate results (repeating loop with step 7).	• Disease (Ick) issues with summer acclimation of presmolts • Low survival to Lower Granite Dam of presmolts • Increased spawner abundance • CHaMP habitat monitoring

The application of this decision framework is often an informal and implied process, but at times, there is value in labeling and explicitly identifying the decision points and steps. For instance, explicit documentation would be similar to what would occur in the Structured Decision Making process recommended regionally by the Independent Scientific Review Panel (ISRP 2008-4; 2011-25). In addition, instituting such a deliberate, explicit process would be helpful in forums involving inclusive participation by scientists, managers, and other stakeholders. The decision framework aids collaboration in decision making by providing informed and transparent choices which, in turn, can reduce contention and promote proactive management over perpetuation of entrenched ideologies (Irwin et al 2011).

The following list describes some decisions considered annually by the Department and tribal policy makers. Upon reflection of the decision framework example presented above, the deciding entities may choose to apply an explicit decision framework to help make those decisions more transparent and documented.

- Harvest limits/closures (annual decision with in-season updates; three spatial scales – Columbia, Snake, tributary)
- Commercial sale regulations
- Prioritization of barrier removal
- Prioritization of roads to decommission
- Hydrosystem recommendations—flow and spill, configuration modifications
- Transportation (barging) schedule recommendations
- Decision to litigate against or for a specific management activity
- Adult Pacific lamprey numbers to collect for translocation and their disposition
- Hatchery program—release date, size at release, release sites, release numbers
- Percent hatchery-origin in natural escapement (annual application of multi-year sliding scale, or set percentage for 10-year period)
- Pass/keep and trapping rates
- Determine which types of studies are conducted and how they are implemented and coordinated
- Decide what type and intensity of management action and effectiveness monitoring to be done.

Fisheries Department Co-management Forums

The Nez Perce Tribe works with other tribes, states, and federal entities with co-management responsibilities and obligations to rebuild the Snake River salmon, steelhead, Pacific lamprey, and resident fish to harvestable levels. This restoration and rebuilding effort operates in a number of management forums and occurs at various levels, including local, regional, national, and international.

The following Table 11 is provided as a point of reference for some of the forums related to fisheries resources management in which the Nez Perce Tribe may interact. This list provides a sketch of the purpose in the "Function" column and it will change in time. In some cases, the Nez Perce Tribe may take issue with the appropriateness of a particular forum for addressing tribal issues, but this list illustrates that the breadth of co-management issues concerning the Department is vast. The Department is continuing to explore opportunities for increased involvement and effectiveness in advocating the Nez Perce Tribe's interests.

Table 11. Entities, forums, and functions of forums in which Department staff may interact.

Entity	Forum	Function
Nez Perce Tribe	NPT Executive Committee (NPTEC)	Policy decisions on DFRM action items.
	Natural Resources Subcommittee	Brief policy decision-makers, obtain policy guidance, secure approval for action items to proceed to NPTEC for final decision.
	Fish and Wildlife Commission	Fishery management policy decisions.
	Managers Meetings	Guidance and updates from Executive Director, interdepartmental coordination.
	DFRM staff meetings	Interdivisional coordination and updates.
	Integrated Resources Management Plan	Department of Natural Resources and DFRM plan for resources management on the Nez Perce reservation.
	Snake River Basin Adjudication Funding	Funds proposals related to fish and fish habitat on an annual basis.
Columbia River Inter-Tribal Fish Commission (CRITFC)	Commission meetings	Joint policy decisions by the four Lower Columbia River Tribes (Umatilla, Warm Springs, Yakama and Nez Perce).
	Technical Meetings	Technical coordination, background, and support for management and policy deliberations.
	Umatilla, Yakama, Warm Springs tribal fisheries programs	Technical coordination on tribal programs and fisheries issues in common.
Federal Court	*US v. Oregon* (Policy)	Implementation of the court supervised Columbia River Fisheries Management Plan (CRFMP).
	US v. Oregon • Technical Advisory Committee (TAC), Production Advisory Committee (PAC), Policy Committee, Regulatory Coordinating Committee (RCC) • Snake Basin Harvest Forum	Joint technical assistance to the *US v Oregon* parties for the Implementation of the court-supervised Columbia River Fisheries Management Plan. (Description of functions provided in the CRFMP.) Technical coordination body for Snake River runs specifically.
US representatives Canada representatives	US - Canada Treaty • Pacific Salmon Commission (PSC), Southern Panel (PAC), technical committees	Ocean fishery and stock management policy.

Table 11 (cont.). Entities, forums, and function of forums in which Department staff may interact.

Entity	Forum	Function
US Congress	Government-to-government meetings	Funding initiatives, federal/tribal issue resolution.
US Fish & Wildlife Service	Government-to-government meetings	Consultation between policy-level federal representatives and NPTEC relative to treaty trust responsibilities.
	Lower Snake River Compensation Program (LSRCP), Boise, ID	Implementation and evaluation of the hatchery program to compensate for fish resource losses caused by the construction and operation of the four lower Snake River hydroelectric dams.
	Region 1, Portland Office	Habitat improvement projects. Joint-management of Dworshak National Fish Hatchery and operation and management of Kooskia National Fish Hatchery. (Snake River Water Act 2004) Planning and implementation of Pacific lamprey conservation actions (Pacific Lamprey Conservation Initiative)
	Dworshak Fish Hatchery	Joint-management of Dworshak National Fish Hatchery (Snake River Water Act 2004).
	Recovery plans	Developed for resident fish federally listed as threatened or endangered.
	Biological Opinion	Consultation on the effects of activities (e.g. Federal Columbia River Power System, harvest, habitat actions, etc.) on federally listed resident fish species.
National Oceanographic and Atmospheric Administration (NOAA Fisheries)	Government-to-government meetings	Consultation between policy level federal representatives and NPTEC relative to treaty-trust responsibilities.
	Regional Executive Committee • Regional Implementation Oversight Group (RIOG) • Technical Management Team • System Configuration Team • Fish Passage Operations and Maintenance (FPOM)	Federal Columbia River Power System operations – includes NOAA, BPA, BOR and Corps of Engineers. Various subgroups (including representatives from the above as well as regional "sovereigns") convened for purpose related to FCRPS operations, studies and review.
	Recovery plans	Developed for anadromous fish federally listed as threatened or endangered.
	Biological Opinion	Consultation on the effects of activities (e.g. Federal Columbia River Power System, harvest, habitat actions, etc.) on federally listed anadromous fish species.
	Mitchell Act Program 1938	Produce fish for harvest and restoration. Mitigation for Bonneville Dam.

Table 11 (cont.). Entities, forums, and function of forums in which Department staff may interact.

Entity	Forum	Function
Bonneville Power Administration	Government-to-government meetings	Consultation between policy-level federal representatives and NPTEC relative to treaty trust responsibilities.
	Fish and Wildlife Program	Hydrosystem mitigation program developed under the Northwest Power Act. Principal interaction is related to contract administration and implementation project management on Fish and Wildlife Program actions.
U.S. Army Corps of Engineers	Government-to-government meetings	Consultation between policy-level federal representatives and NPTEC relative to treaty trust responsibilities.
	Columbia River Fish Management	Anadromous Fish Evaluation Program—Research impacts on anadromous fish from hydrosystem.
	Dworshak Dam operations	Make recommendations relative to Dworshak operations for cooling water temperatures in the Snake River, also flows reserved to the NPT under SRBA.
	Dworshak Fish Hatchery	Corps funds operations of Dworshak Fish Hatchery.
	Section 203	Tribal partnership program under Water Resources Development Act.
U.S. Bureau of Indian Affairs	Government-to-government meetings	Consultation between policy-level federal representatives and NPTEC relative to treaty trust responsibilities.
	Fish and wildlife program (Portland Area Office and Central Office)	Funding relative to implementation of Self-Determination Act, Rights Protection Initiative and Tribal Management and Development programs.
U.S. Forest Service	Government-to-government meetings	Consultation between policy-level federal representatives and NPTEC relative to treaty trust responsibilities.
	Regions 1 and 6 and 4	Co-management of federal lands and cooperation on an extensive body of work—restoration projects, fish and habitat monitoring, operation of acclimation sites, facility use, harvest access, and effects of forest management actions—on the 11 National Forests that the NPT shares a working relationship.
U.S. Bureau of Land Management	Government-to-government meetings	Consultation between policy-level federal representatives and NPTEC relative to treaty trust responsibilities.
	Various Field Offices	Co-management of federal lands and cooperation on fisheries and habitat restoration work.

Table 11 (cont.). Entities, forums, and function of forums in which Department staff may interact.

Entity	Forum	Function
U.S. Natural Resource Conservation Service	County or Regional Organizations	Co-management interactions on non-Indian, non-Federal owned lands to enhance Fishery related resources.
U.S. Bureau of Reclamation	Government-to-government meetings	Consultation between policy-level federal representatives and NPTEC relative to treaty trust responsibilities.
	Pacific Northwest Region	Involvement in irrigation projects – importantly, the Lewiston Orchards Irrigation District on the Nez Perce Reservation. Also involved with habitat restoration activities in NE Oregon.
State of Idaho	Governor/representatives meetings	Provide technical support for NPT policy representatives on fishery issues.
	Idaho Fish and Game Commission	Formal semi-annual Policy coordination meetings with NPTEC.
	Idaho Department of Fish and Game (IDFG)	Co-manager relationship in management of fishery resources; e.g. hatcheries and harvest.
	Idaho Office of Species Conservation	Administers state share of habitat fund associated with Snake River Basin Adjudication Administers state share of Pacific Coastal Salmon Recovery Fund
State of Oregon	Governor/representatives meetings	Provide technical support for NPT policy representatives on fishery issues.
	Oregon Department of Fish and Wildlife (ODFW)	Co-manager relationship in management of fishery resources; e.g. hatcheries and harvest.
	Oregon Watershed Enhancement Board	Funds watershed improvement projects.
	Grande Ronde Model Watershed	BPA funded watershed board that reviews and funds watershed improvement projects.
State of Washington	Governor/representatives meetings	Provide technical support for NPT policy representatives on fishery issues.
	Washington Department of Fish and Wildlife (WDFW)	Co-manager relationship in management of fishery resources; e.g. hatcheries and harvest.
	Snake River Recovery Board	BPA and Washington funded watershed board that reviews and funds watershed improvement projects.
Northwest Power and Conservation Council (NPCC)	Fish and Wildlife Committee 1980 Northwest Power Act	Fish and Wildlife Program Amendments, Subbasin Planning, project solicitation and prioritization, funding recommendations, briefings, updates and approval of items for the full Council for formal decision.

Fisheries Department Human Dimension

The culture and traditions of the Nez Perce Tribe are deeply embedded within the management of the Department. As such, employment by the Nez Perce Tribe and within the Department carries the responsibility to help preserve and promote tribal and community values.

The Department values and promotes diversity, teamwork and efficient decision-making for a shared vision. Our goal is to develop a highly trained, diverse, professional, and effective work force, taking advantage of new and current learning models with a commitment to educational excellence within the Department. We promote tribal member employment as well as career advancement, continuing education, and training for all employees. All employees have the opportunity to voice concerns and recommendations for advancing fisheries management on behalf of the Nez Perce and all other resource users.

Employee Interactions

Effective communications and positive working relationship between Department staff will benefit from the following commitments:

- Being open and honest in our communications.
- Treating each other the way we want to be treated.
- Talking to each other; not about each other.
- Honoring confidentiality.
- Providing a climate where we all have an opportunity for input. All ideas are equal. We take individual responsibility for participating.
- Addressing issues, not personalities.
- Respecting and tolerating differences of opinion, and supporting the Department once decisions are made.
- Accepting responsibility and accountability for our own actions and inactions, and for the ac-

tions and inactions of the Department.

- Striving to hear what others really mean, not just the words they use.
- Avoiding surprises that catch each other off-guard. We address issues before they reach crisis stage.
- Respecting each other's time and commitments. We're prompt and prepared.
- Conducting ourselves as the professionals we are.
- Using collaboration to reach informed decisions. At the same time, we recognize decision authorities.
- Respecting and recognizing each other's expertise and differences.

Policy and Procedures

Employees of the Nez Perce Tribe follow the Policies and Procedures stated in the Nez Perce Tribe's Human Resource Manual (HRM) as a condition of employment. Employees are given an HRM upon hiring; additional copies can be obtained from the Nez Perce Tribe Human Resources Department. The HRM should serve as a tool to help employees work more efficiently, guide supervisors, and answer questions toward better serving the Nez Perce Tribe as a whole.

In addition to the HRM governing general employee conduct, project leaders may also develop procedures that are specific to the safe and orderly operations of a project. These procedures can be related to operations and maintenance of living quarters (e.g. trailers), operations of four-wheelers or other all-terrain vehicles, and procedures for safely working on fish traps. In general, project leaders should try to make these types of operational procedures as consistent as possible (between and within divisions as appropriate), such that there is a common familiarity by Department employees about what is expected while being stationed out in the field. It is expected that division directors will review and approve operational procedures for the field.

And finally, directions for how policies in the HRM should be implemented or directions for how tribal employees should conduct themselves are sometimes issued by the Executive Director or Tribal Chairman. Those directions are to be understood in the parlance of the HRM as "valid work requests made by one's authorized supervisor." Directions to Department employees are also provided by the Department Manager occasionally. Those directions are concurred with or shared with the Executive Director, and again should be understood to be valid work requests made by one's authorized supervisor.

Public Relations

The Department interacts with the public in many important ways. Our education and outreach program involves community members of all ages including students, elders, landowners, and other agencies. Through education we can change attitudes and practices, get community members actively involved in our program, and get more accomplished on the ground. News stories are also widely read or seen and can be an effective media to get the message out. Our program will:

- Focus on the interconnectedness between all watershed resources and the cultural importance of fish and other natural resources to the Nez Perce Tribe;
- Educate community members on Nez Perce history, treaty rights, and fisheries and watershed issues;
- Keep tribal members informed on how the Department is advancing fisheries and watershed issues;
- Keep tribal members informed on predicted returns and expected harvest during fishing seasons;
- Coordinate with other entities to provide workshops to educators, interested public, and partner agencies;
- Work directly with schools and/or educators to determine student/teacher needs and develop appropriate curriculum and activities;
- Provide hands-on learning opportunities;
- Provide opportunities to high school and college students through internships and permanent work with the Nez Perce Tribe; and
- Recruit Nez Perce tribal members currently enrolled in college through personalized advertisement of employment opportunities.

A Closing Note on the Human Dimension

Nez Perce elder Charles Axtell has his own way of deciding the success of his tribe's work to bring coho salmon back to Idaho waters. And by his measure, there is no doubt that the work is paying off.

Axtell: "You see a lot of happy faces, they are getting their humor back you know, that's the way the Nez Perce has got good humor. You hear laughing especially when they eat, you hear that laughter continuously and that's really good to me and good to hear."

—from "Working for Idaho's Extinct Coho Salmon" by Aaron Kunz. December 7, 2012. Northwest Public Radio.

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