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January 7, 2025

MEMORANDUM

TO: Council Members

FROM: Patty O'Toole. Fish and Wildlife Division Director

SUBJECT: Overview and implementation update on the Resilient Columbia Basin Agreement

BACKGROUND:

Presenter: Kate Marckworth, Office of Legal Counsel, Yakama Nation
Jay Hesse, Director of Biological Services, Nez Perce Tribe
Austin Smith, Jr. Natural Resources General Manager, Confederated Tribes of Warm Springs
Eric Quaempts, Director, Department of Natural Resources, Confederated Tribes of Umatilla Indian Reservation
Jim McKenna, Columbia Basin Federal Policy Advisor, State of Oregon
Michael Garrity, Special Assistant for Columbia River Policy, State of Washington

Summary: Representatives of a group of two Columbia basin states and four tribes will provide an overview and an update of the Resilient Columbia Basin Agreement, a set of federal commitments related to Columbia River regional energy planning and salmon and steelhead.

Relevance: Many of these commitments overlap or intersect with the Council's responsibilities under the Northwest Power Act. As we are approaching a Fish and Wildlife Program amendment and an update for the Power Plan, understanding what the commitments are and how they are being implemented and coordinated will be important.

Background:

In late 2023 a set of commitments were made by the U.S. Government in support of Columbia River salmon and other native fish populations. Those commitments were then formalized in a Memorandum of Understanding between the United States; the states of Oregon and Washington; the Nez Perce, Umatilla, Warm Springs, and Yakama Tribes; and the environmental organizations that were plaintiffs in the ongoing Columbia River system litigation. In the MOU the parties also agreed to stay the litigation for at least five years. The agreement as a whole is known as the Resilient Columbia Basin Agreement, or RCBA, and it was based on a proposal from the states and tribes called the Columbia Basin Restoration Initiative or the CRBI.

At the January Council meeting, representatives from these states and tribes will provide an overview of the commitments and an update on their implementation. Presenters intend to address their collaboration, the RCBA, and the CBRI.

Attachments:

[Memorandum of Understanding](#)



THE COLUMBIA BASIN RESTORATION INITIATIVE

&

RESPONSIVE USG COMMITMENTS

JANUARY 14, 2025

NORTHWEST POWER & CONSERVATION
COUNCIL MEETING



TODAY'S PRESENTERS

- Michael Garrity, Special Assistant for Columbia River Policy for Washington
- Jim McKenna, Columbia River Federal Affairs Advisor to the Gov. of Oregon
- Kate Marckworth, Senior Attorney for Yakama Nation
- Jay Hesse, Director of Biological Services for Nez Perce Tribe
- Eric Quaempts, Director of Natural Resources for Umatilla Tribe
- Lyman Jim, Fisheries Department Manager for Warm Springs Tribe

AGENDA

- Background
- The Columbia Basin Restoration Initiative (CBRI)
- Initial federal commitments in support of the CBRI
- Connection to upcoming NPCC Program Amendment Process

BACKGROUND

**COLUMBIA BASIN SALMON
& TRIBAL TREATY FISHING RIGHTS**

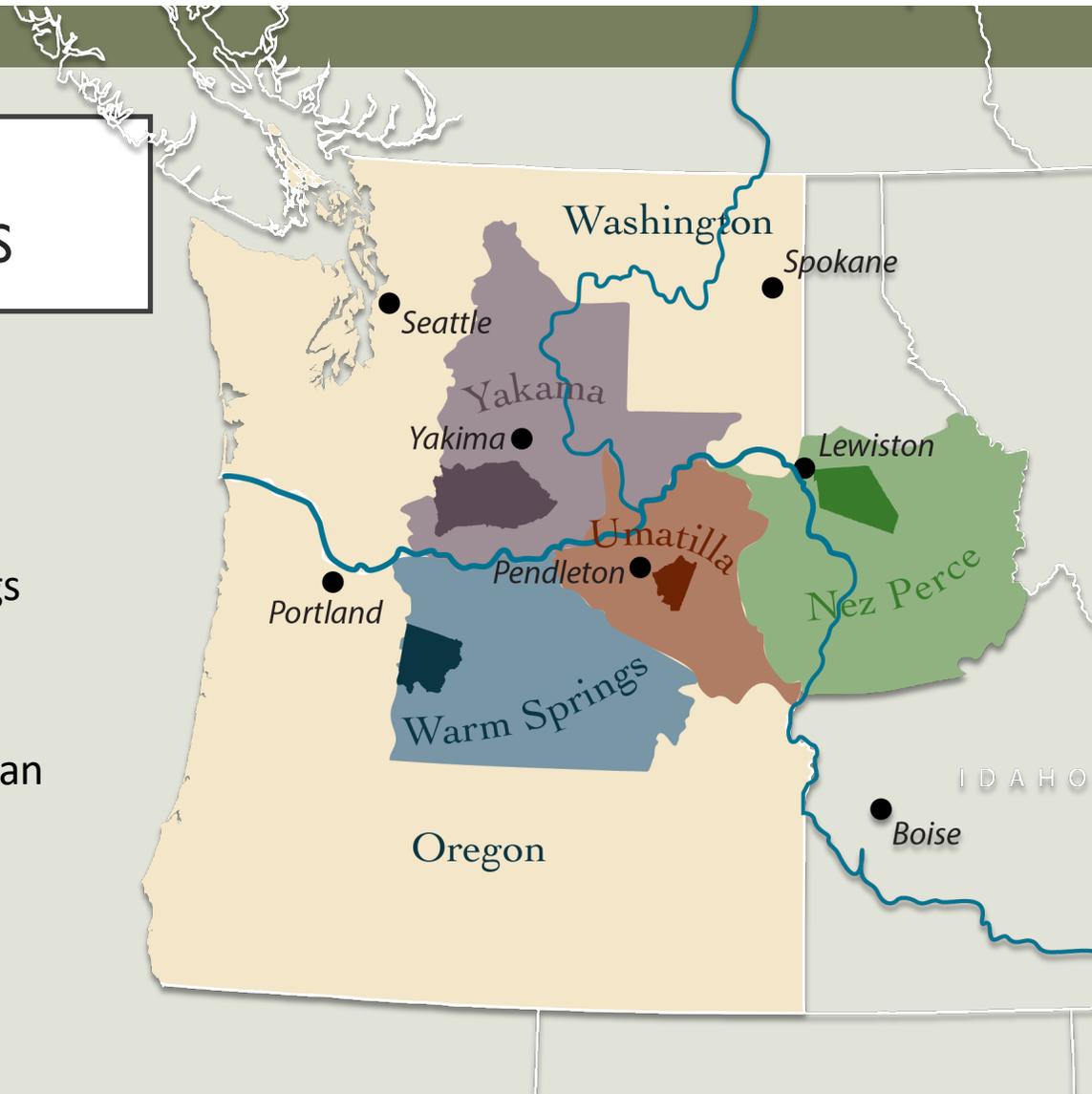
THE COLUMBIA RIVER BASIN

- Largest salmon-producing river in the lower 48 states.
- Free-flowing, cool rivers once brought ~10-18 million salmon and steelhead back to the Columbia Basin each year.
- Today, we see only ~1-2 million total, with only ~250,000 natural origin spawners.
- The NPCC assessed that hydroelectric dams reduce our salmon and steelhead runs by 5-11 million each year.



COLUMBIA BASIN TREATY FISHING TRIBES

- Confederated Tribes and Bands of the Yakama Nation
- Confederated Tribes of the Warm Springs Reservation of Oregon
- Confederated Tribes of the Umatilla Indian Reservation
- Nez Perce Tribe



TRIBAL TREATY FISHING RIGHTS IN THE COLUMBIA BASIN



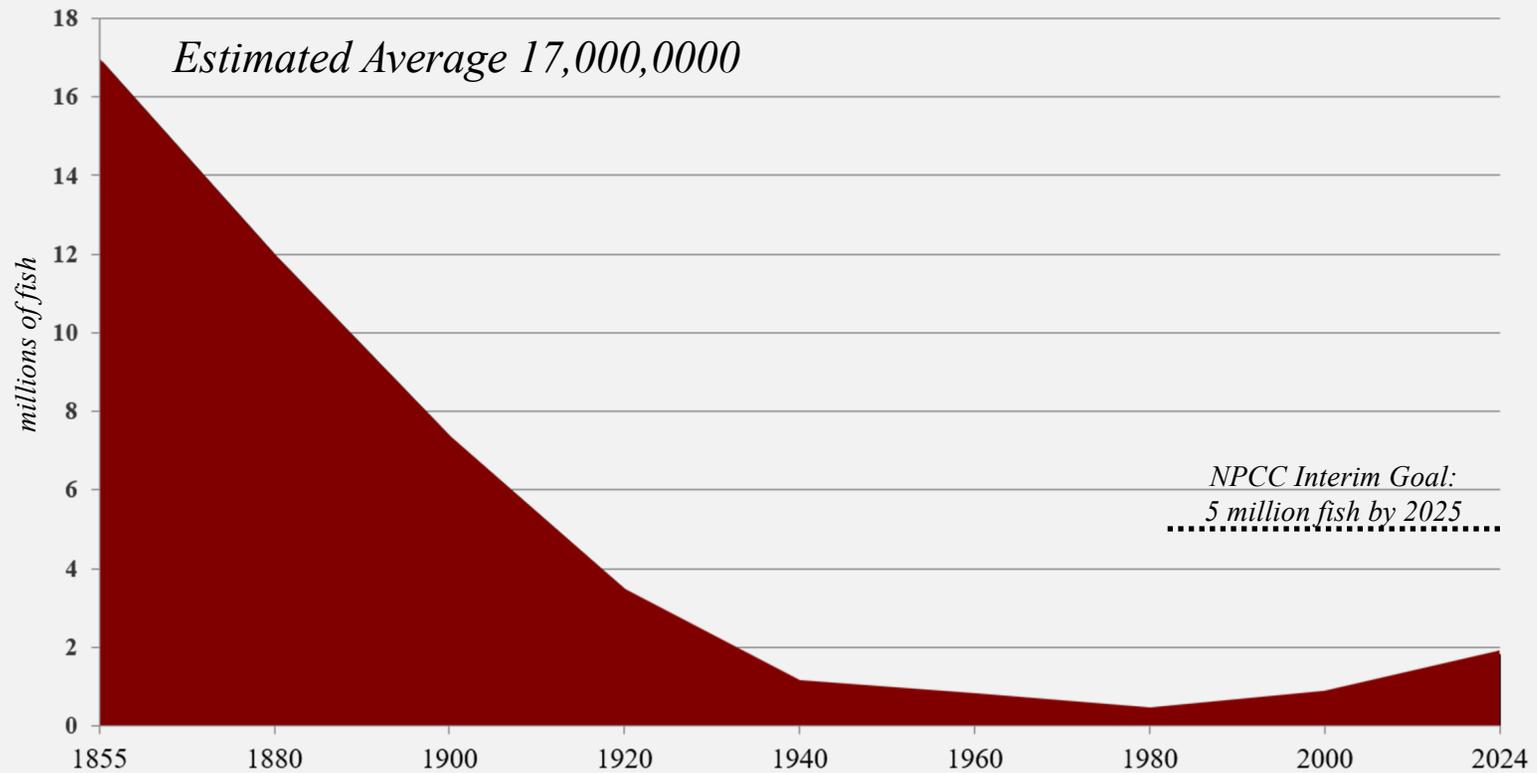
The 1855 treaties negotiated between the U.S. and the Native American groups that now comprise the Yakama, Umatilla, Nez Perce, and Warm Springs tribes contained a substantially identical provision securing to those tribes "**the right of taking fish at all usual and accustomed places in common with citizens of the Territory,**" including on the Columbia River and its tributaries.

See, Treaty of June 9, 1855, with the Yakima Tribe (12 Stat. 951); Treaty of June 25, 1855, with the Tribes of Middle Oregon (12 Stat. 963); Treaty of June 9, 1855, with the Umatilla Tribe (12 Stat. 945); Treaty of June 11, 1855, with the Nez Perce Tribe (12 Stat. 957).

Celilo Falls fishing. Photo by Ray Atkinson

SALMON DECLINE

Returning Columbia River salmon (chinook, steelhead, sockeye, coho)



Source: CRITFC. 1855 Data from NPCC historical run estimates; 1880-1920 data points extrapolated from Columbia River cannery output; 1940-present: dam counts & river mouth estimates

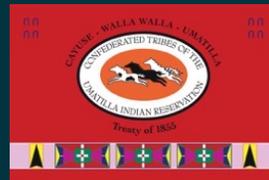
SNAKE RIVER SALMON IN CRISIS

- The Snake River is the largest tributary of the Columbia.
- It contains the largest accessible amount of pristine, protected habitat remaining in the Columbia Basin, yet wild salmon and steelhead from the Snake River Basin are in dire straits.
- As of 2021, 42% of Snake River spring/summer Chinook populations have natural origin spawner abundances at or below the Quasi-Extinction Threshold (QET) of less than 50 returning spawners per year; and
- 19% of Snake River steelhead are at or below QET.



THE COLUMBIA BASIN RESTORATION INITIATIVE

A comprehensive vision for Columbia Basin salmon restoration and community resilience.

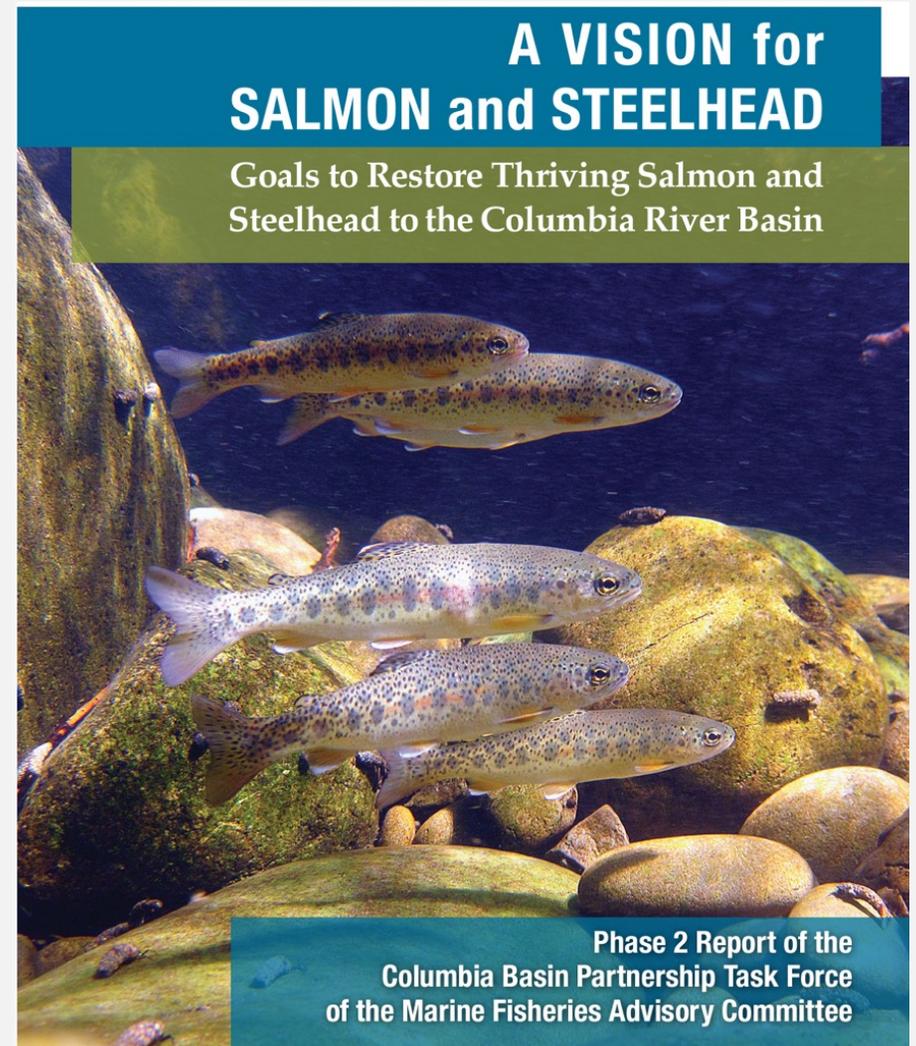


PURPOSE

Why did the Six Sovereigns develop the CBRI?

RESPONDING TO RECENT COLUMBIA RIVER BASIN EFFORTS

- Columbia Basin Partnership Task Force Goals
- Columbia Basin Initiative – Rep. Mike Simpson
- Sen. Murray / Gov. Inslee LSRD Benefit Replacement Report and Recommendations
- Biden Administration government-to-government consultations with Columbia Basin Tribes
- FMCS Mediation and Biden Administration efforts to resolve 30+ years of hydrosystem litigation
- NOAA Fisheries 2022 Report on Rebuilding Interior Columbia Salmon and Steelhead



MAKING A COLLECTIVE COMMITMENT TO A JUST AND PROSPEROUS FUTURE

1

Urgent Action

Our fish are in crisis. Economic, energy and climate conditions in the Pacific Northwest are changing rapidly.

Leadership and urgent action are needed to respond to inevitable changes while meeting regional needs.

2

Unified Approach

We must act now and implement necessary federal investments and commitments across the whole of government to be successful.

3

Obligations to Tribes

The United States has a Treaty and trust obligation to restore Columbia Basin salmon and native fish.

Tribes and their resources were left behind in the Columbia Basin's previous wave of development.

Let's get it right this time.

4

Community Resilience

We need to invest in socially just clean energy.

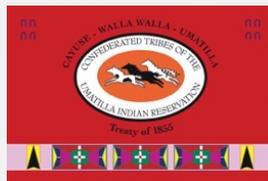
We need to modernize our transportation and agricultural infrastructure.

We can and must do this in a way that supports fish restoration and climate resilience.

A ROADMAP FOR RECOVERY & RESILIENCE

The Columbia Basin Restoration Initiative (“CBRI”) represents the collaborative effort of the Six Sovereigns to develop a comprehensive solution for shared and complex challenges. It is informed by the Six Sovereigns’ significant technical expertise as fisheries co-managers, and by their sovereign obligations to their constituents.

The CBRI is intended as a roadmap to help the Six Sovereigns and the USG work in partnership together and with others in the region to restore Columbia Basin fisheries to healthy and abundant levels, honor commitments to Tribal Nations, and deliver affordable and reliable clean power while meeting the many resilience needs of stakeholders in the Columbia River basin and the Pacific Northwest.





SECURING USG COMMITMENTS TO HELP POSITION THE COLUMBIA BASIN FOR SUCCESS

Advance “... a durable long-term strategy to restore salmon and other native fish populations to healthy and abundant levels, honoring Federal commitments to Tribal Nations, delivering affordable and reliable clean power, and meeting the many resilience needs of stakeholders across the region.”

OBJECTIVES

What does success look like?

CBRI OBJECTIVES # 1-3



1. Restore salmon and steelhead to healthy and abundant levels

Develop and advance an urgent, comprehensive strategy to: restore salmon and steelhead to “healthy and abundant levels” consistent with NOAA’s Columbia Basin Partnership Task Force (CBP) and Rebuilding reports; and complete the actions and investments necessary to secure continuity of services associated with Lower Snake River (LSR) restoration prior to LSR dam breaching.



2. Ecosystem health

Ensure that all species, regardless of ESA-listing status, are considered in the comprehensive strategy in a way that improves ecosystem function in the Columbia River and its tributaries.



3. Halt the decline

Ensure interim fish measures [including, but not limited to hydro operations] minimize additional generational decline of fish populations.

CBRI OBJECTIVES # 4-6



4. Quick and just clean energy transition

Invest in and support communities and economic sectors in a manner that is consistent with meeting decarbonization goals and mandates and integration of renewables; delivers affordable and clean power; improves resiliency and adaptability to climate change and supports the many resilience needs of stakeholders across the region; and honors commitments to Tribal Nations.



5. Urgent and comprehensive action

Secure necessary regulatory compliance, authorizations, and appropriations for implementation of the entire strategy with an urgency reflecting the needs of the fish.



6. Honor treaty and trust obligations

Ensure that the comprehensive strategy and associated federal actions “honor Federal commitments to Tribal Nations” and address past and ongoing inequities related to Columbia Basin development to reflect and uphold federal Treaty and trust responsibilities to Columbia Basin tribes.

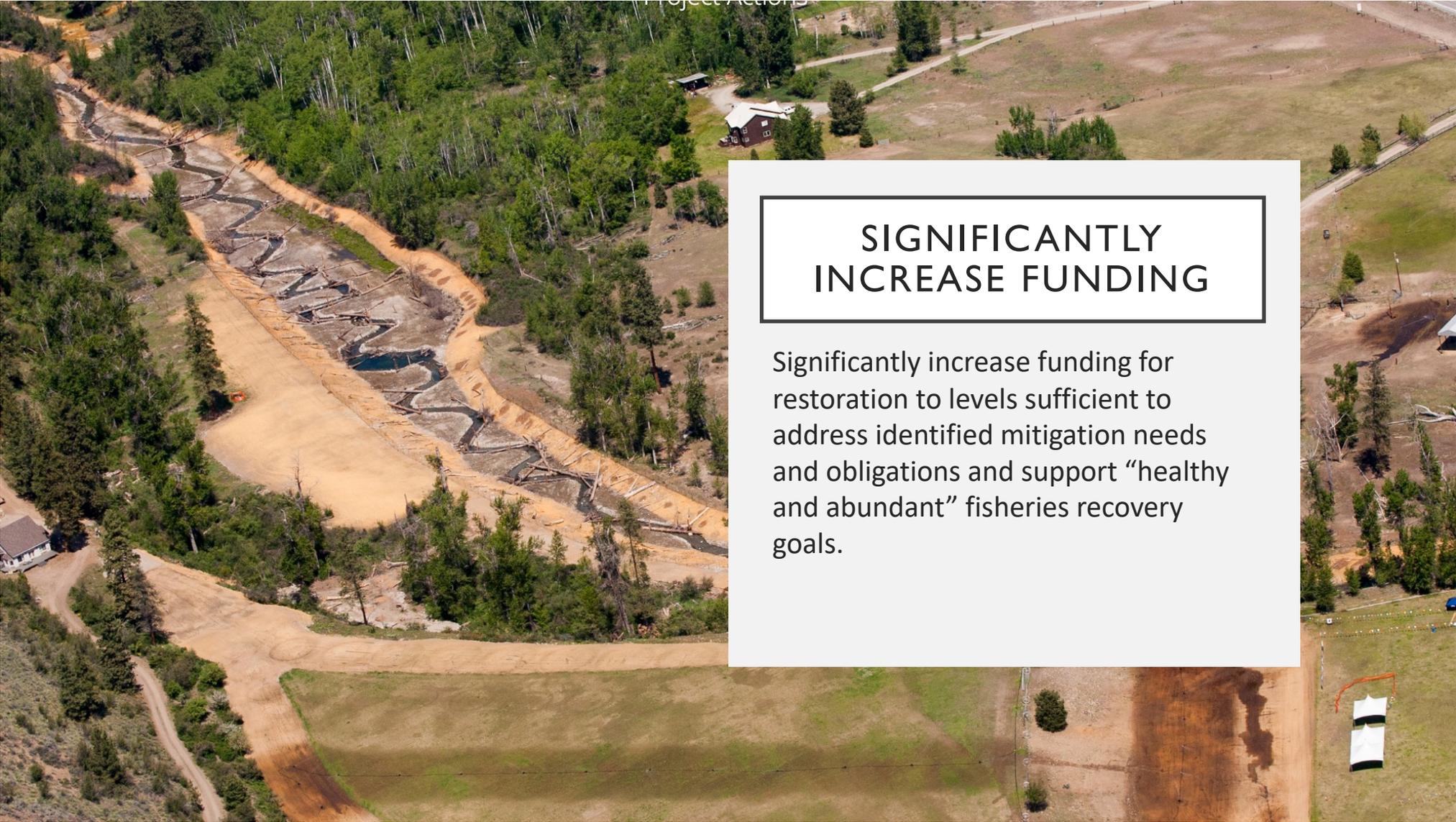
RECOMMENDED APPROACH

What is the roadmap to achieve success?



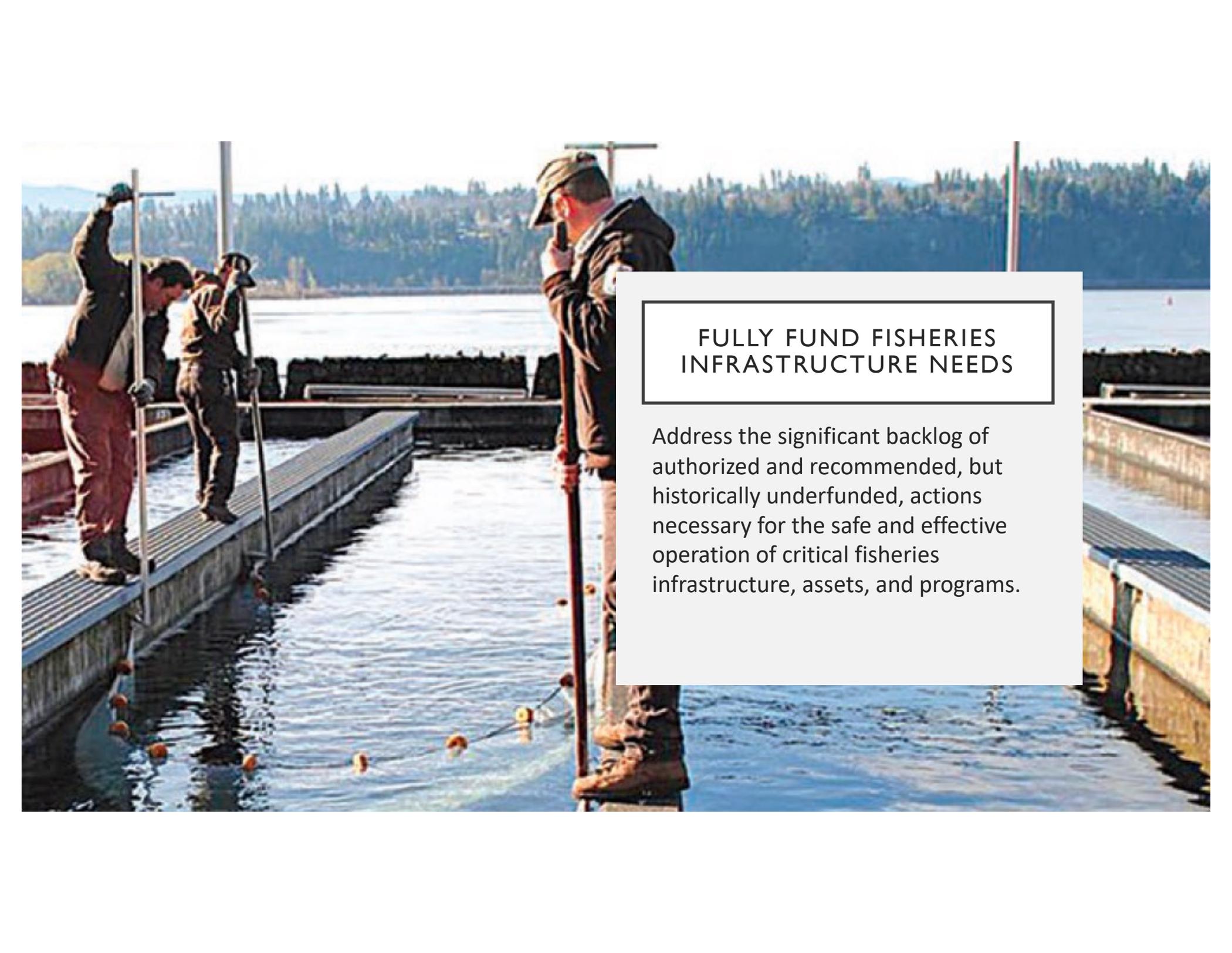
EMPOWER TRIBAL & STATE FISHERIES CO-MANAGERS

Ensure that federal hydropower mitigation efforts in the Columbia Basin are directed by joint recommendations of tribal and state fish management entities in coordination with federal fisheries services.



SIGNIFICANTLY INCREASE FUNDING

Significantly increase funding for restoration to levels sufficient to address identified mitigation needs and obligations and support “healthy and abundant” fisheries recovery goals.



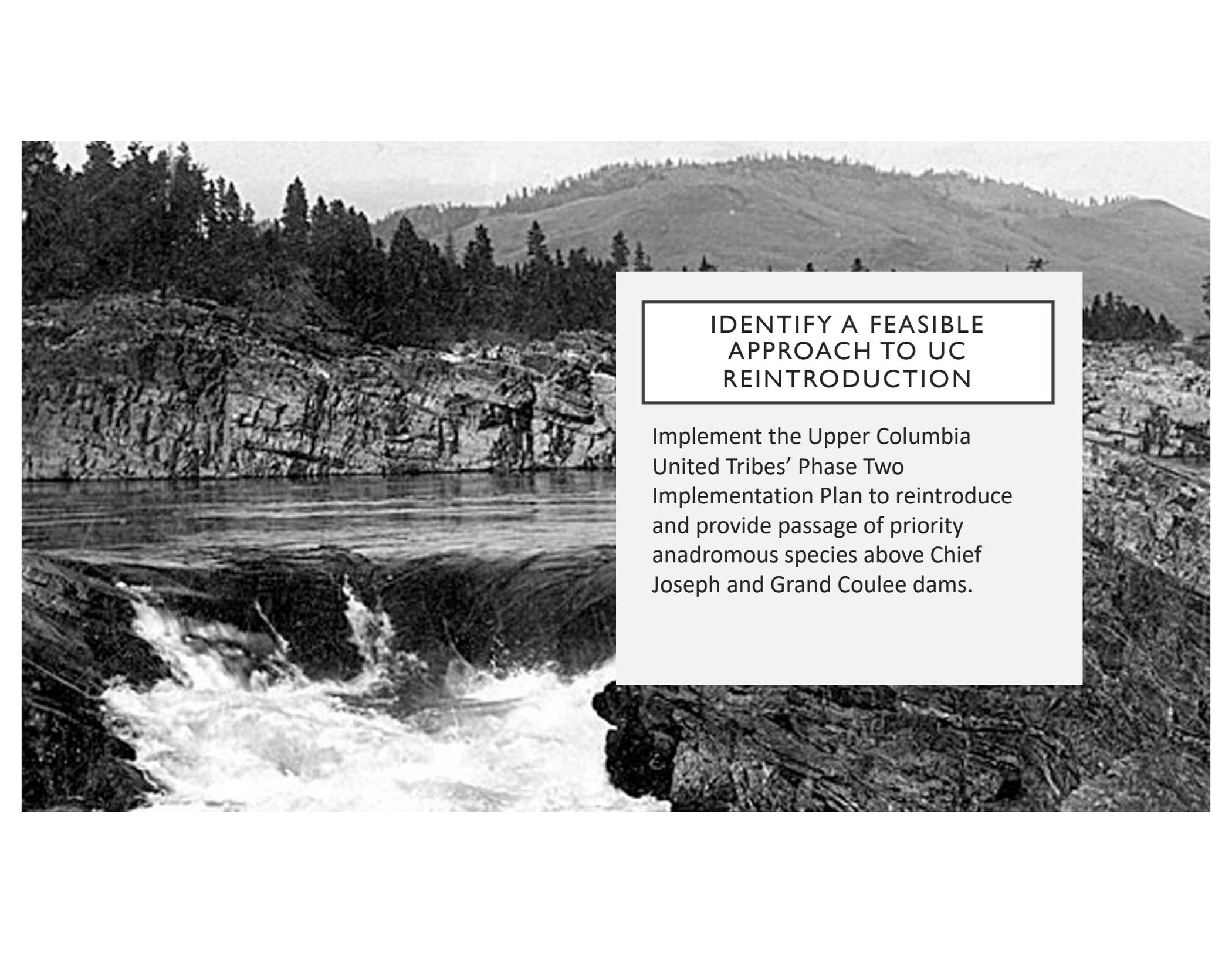
FULLY FUND FISHERIES INFRASTRUCTURE NEEDS

Address the significant backlog of authorized and recommended, but historically underfunded, actions necessary for the safe and effective operation of critical fisheries infrastructure, assets, and programs.

An aerial photograph of a large dam structure with multiple spillways. Water is cascading over the spillways, creating white rapids. The dam is situated in a valley with steep, forested hillsides. A road or railway line runs along the base of the dam.

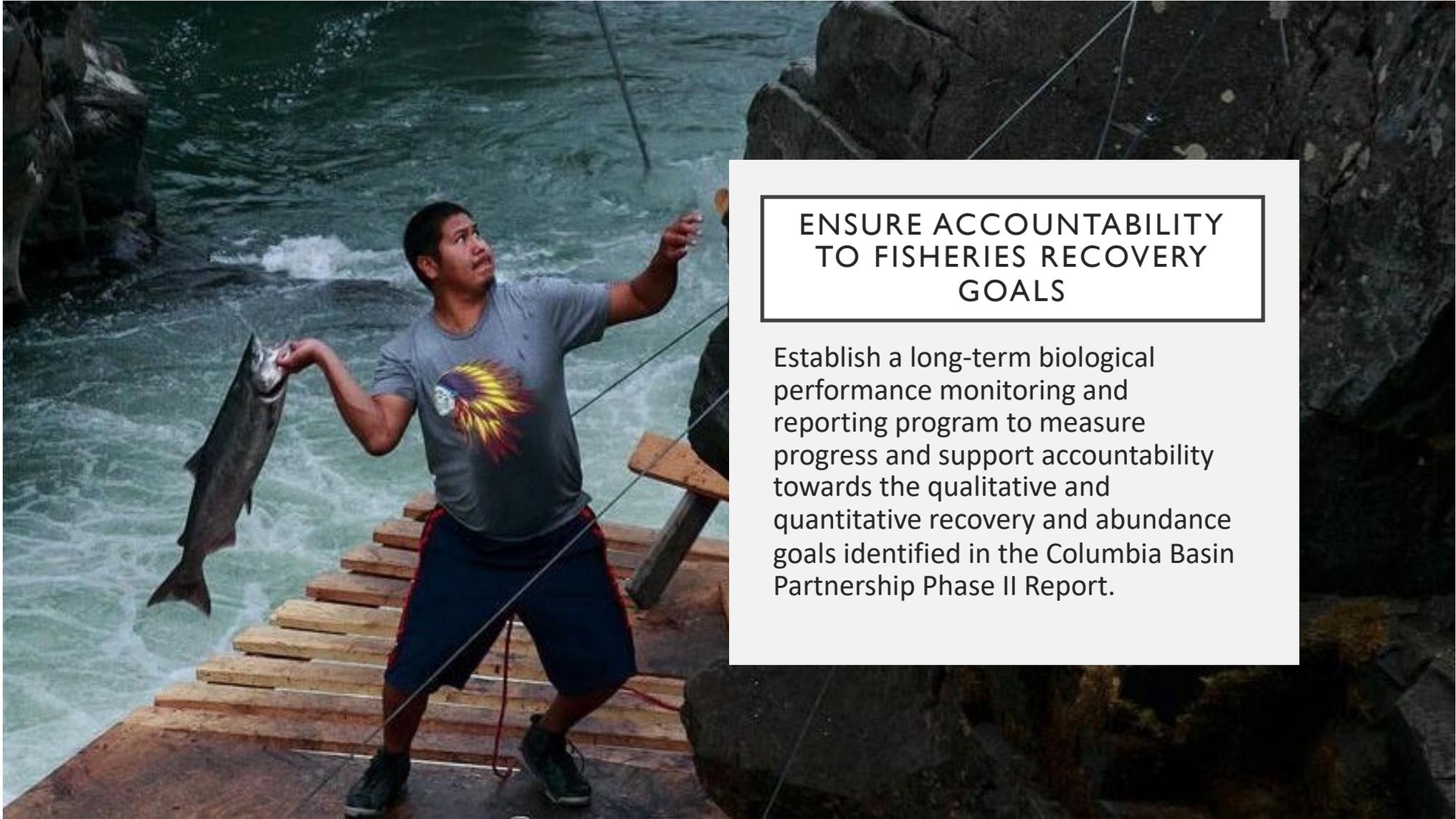
LOWER SNAKE RESTORATION & CONTINUITY OF SERVICES

Replace the benefits of the LSR dams with due urgency to enable breaching to move forward, and ensure interim fish measures are adequate to minimize additional generational decline of fish populations.



IDENTIFY A FEASIBLE
APPROACH TO UC
REINTRODUCTION

Implement the Upper Columbia
United Tribes' Phase Two
Implementation Plan to reintroduce
and provide passage of priority
anadromous species above Chief
Joseph and Grand Coulee dams.



ENSURE ACCOUNTABILITY TO FISHERIES RECOVERY GOALS

Establish a long-term biological performance monitoring and reporting program to measure progress and support accountability towards the qualitative and quantitative recovery and abundance goals identified in the Columbia Basin Partnership Phase II Report.

TRANSPARENT 'WHOLE-OF-GOVERNMENT' APPROACH



Federal agencies coordinate to use their funds and authorities with maximum effect to prevent salmon extinction and restore healthy and abundant Columbia Basin fisheries.



Use all available funding tools to implement the elements of a comprehensive approach.

BPA should be accountable for meeting its obligations within its affordable power mandate, but Congressional appropriations will also be necessary for success.

Funds that are collected by BPA from ratepayers to meet fish and wildlife obligations should be fully spent on fish and wildlife actions.



ADVANCE KEY ELEMENTS CONCURRENTLY & IMMEDIATELY

- Some parts of the CBRI can and should be advanced by the President and federal agencies under existing authorities and appropriations.
- Others will require Congressional support through additional appropriations or legislation, or both.
- Time is of the essence in both cases to meet the urgent needs of Columbia Basin fisheries and communities, and to address the inevitable changes facing our region.

THE RESILIENT COLUMBIA BASIN AGREEMENT AND USG COMMITMENTS

Effective date: December 14, 2023

Parties: USG, Six Sovereigns, NWF Plaintiffs

Acronym: "RCBA"

Context: Enabled a long-term stay of ESA and NEPA litigation over the Columbia River hydrosystem, which had been going on for the past 30 years

INITIAL FEDERAL COMMITMENTS IN SUPPORT OF THE CBRI



In December 2023, the USG signed an historic 10-year Memorandum of Understanding (the “RCBA”) with the Six Sovereigns and the NGO plaintiffs in the *NWF v NMFS* litigation.



The RCBA includes a package of initial federal actions (“USG Commitments”) in support of the CBRI and in partnership with the Six Sovereigns.



While the USG implements its USG Commitments and the MOU remains effective, the Parties will support the stay of the *NWF v NMFS* litigation and refrain from similar litigation.



KEY USG COMMITMENTS

- **Increased Fish Restoration Funding**

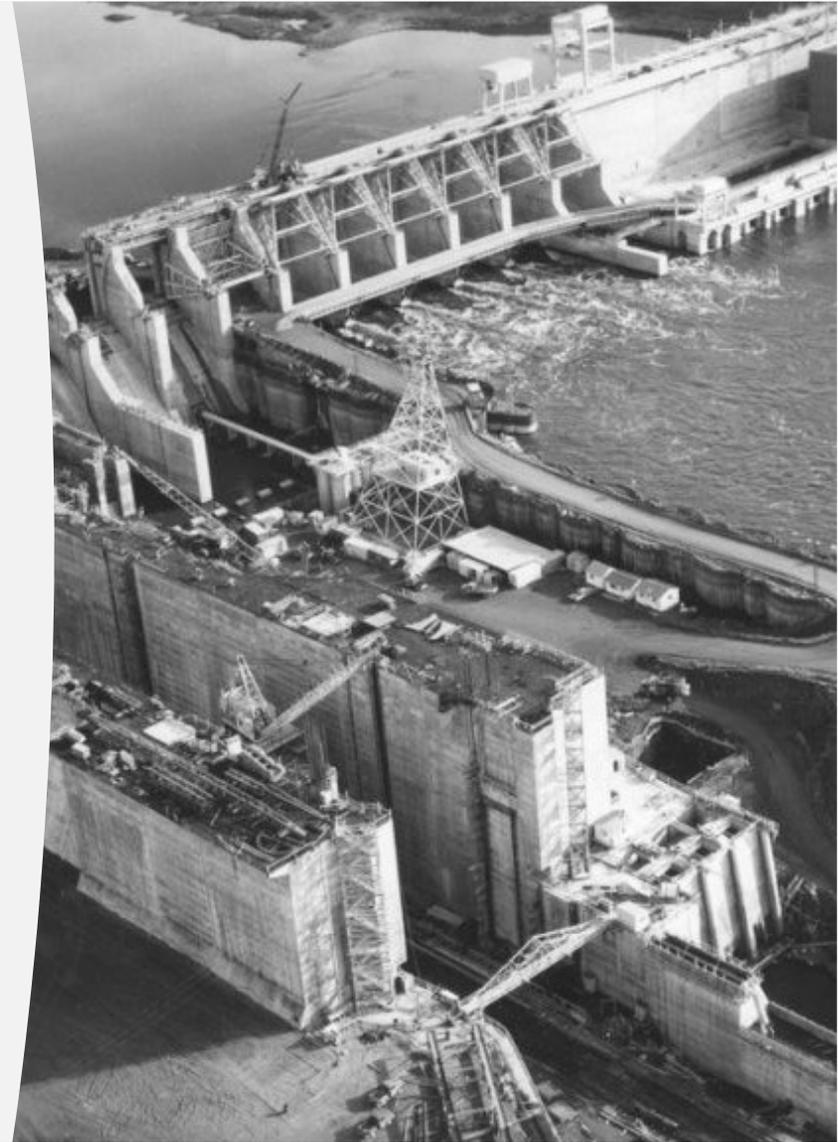
- Approximately \$530 million in new fish restoration and mitigation funds for FY23-33
- A commitment to maintain current levels of BPA Fish & Wildlife Program funding and Fish Accord funding
- Agreement to seek additional non-rate-payer funds from Congress to at least double available resources for native fish restoration projects in the Columbia Basin

- **Tools for Advancing Salmon Recovery**

- 10-Year Fish Needs Plans (Mid-Columbia and Basin-Wide)
- A Columbia Basin Salmon Crosscut Budget
- Recommendations for Fish & Wildlife Mitigation Management and Contracting Reforms

KEY COMMITMENTS CONTINUED

- **Evaluating the Replacement of Services Provided by Lower Snake River Dams**
 - USG is responsible for partnering with WA on studies for how to replace LSRD energy, transportation, recreation, and water supply services, which will then be presented to Congress
 - Six Sovereigns are partnering on the studies with opportunities for input from other stakeholders
- **A 10-year plan for interim hydro operations**
 - Provides near- to mid-term operational certainty
 - (To be renegotiated if Congress does not authorize LSRD breach)



KEY COMMITMENTS CONTINUED

- **DOI Tribal Circumstances Analysis**
 - An analysis of the historic, cumulative, and ongoing impacts the Federal dams on the Columbia River, including the lower Snake River dams, have on Columbia River Basin Tribes.
- **Regional Energy Needs Planning**
 - DOE and the Six Sovereigns will co-convene a regional energy needs planning process
 - This process will assess how we can replace the energy services of the LSRD's and protect Columbia Basin fisheries while meeting regional decarbonization goals and maintaining reliability in the face of growing energy demands
- **Support for Tribal Clean Energy Projects**



“All First Foods, all life, depends on water... Our relationship to salmon and the First Foods is a reciprocal one. The First Foods nourish the Native people, while the Native people must protect them and the habitats that support them.”



PNW TRIBAL ENERGY SOVEREIGNTY PROGRAM

- DOE & USDA will provide technical assistance for the Columbia River Treaty Tribes' clean energy projects.
- DOE will support the Tribes' implementation of at least 1000 – 3000 MW in clean energy resources. These new Tribally-sponsored energy resources will be planned as “replacement” power if Congress approves breach of the LSRDs.
- DOE will work with the Tribes individually and collectively to determine the role the Tribes want to take with regard to various clean energy projects (i.e. individual or collective ownership, leasing, power procurement, etc.)

RCBA IMPLEMENTATION: YEAR I

What have we accomplished so far?

KEY RCBA YEAR-I DELIVERABLES



The screenshot shows a news article from the U.S. Department of the Interior. The title is "Biden-Harris Administration Releases Report Highlighting Historic and Ongoing Negative Impacts of Federal Columbia River Dams on Tribal Communities". The article is dated 06/18/2024 and was last edited on the same date. The text of the article discusses the Department's report on the impacts of federal dams on Tribal communities in the Columbia River Basin. It mentions that the report is part of a broader effort to support Tribal-led efforts to restore salmon populations. The article also notes that the report provides recommendations for how the federal government can further its treaty and trust responsibilities to Tribes by acknowledging and integrating these impacts in future actions. It marks the first time that the U.S. government has comprehensively detailed the harms that federal dams have and continue to inflict on Tribes in the Pacific Northwest. The article includes a quote from Secretary Deb Haaland, stating that the report is essential to the Department's efforts to heal and ensure that salmon are restored to their ancestral waters. It also mentions that the Department will continue to pursue comprehensive and collaborative basin-wide solutions to restore native fish populations, empower Tribes, and meet the many resilience needs of communities across the region. The article concludes by stating that the Columbia River Basin historically supported abundant wild salmon, steelhead and native resident fish, which contributed to thriving Tribal cultures and communities. Historically, up to 16 million wild salmon and steelhead returned to Pacific Northwest tributaries each year, providing food for over 130 wildlife species and sustenance to Tribal people. Since time immemorial, members of these Tribes and their ancestors stewarded these native species and relied upon their abundance as the staples of their daily diets and ceremony.

DOI Tribal Circumstances Analysis

- Considers the impacts of 11 specific dams from across the Columbia River Basin on eight of the Basin's Tribal Nations most immediately affected
- Offers recommendations to further the federal government's trust responsibility and achieve a healthy and resilient Columbia River Basin for generations to come:
 - Consider and integrate the unique inequities Tribes have suffered due to federal dam construction and operation into future NEPA reviews;
 - Pursue co-stewardship and co-management agreements;
 - Continue efforts to consolidate Tribal homelands; and
 - Incorporate Indigenous Knowledge into decision making.

KEY RCBA YEAR-I DELIVERABLES

Hydro Operations

- Implementation of negotiated RCBA operations (a compromise from both CBRI ops and prior court-ordered ops) provides certainty for operators and rate payers
 - Some additional Spring spill as compared to prior ops - earlier start time, max spill (no flex operation) at several projects
 - New Fall/Winter spill compared to prior ops - spillway weir operation for adult fallback and early/late juvenile migrants
 - Increased Spring and Summer generation reserves for power reliability
 - Curtailment of Spring spill under RCBA operations is likely in Snake River based on adult delay
 - Curtails summer spill on August 1 (2 weeks earlier than prior status quo provided)



KEY RCBA YEAR-I DELIVERABLES

- **Increased Near-Term Fish Restoration Funding**
 - BPA funding agreement with USFWS: \$200M/10yrs for Lower Snake River Compensation hatchery programs
 - BPA funding agreement with Six Sovereigns: \$100M/10yrs for Columbia Basin fisheries restoration
 - Additional funding provided by BPA, NOAA, USFWS, COE, BOR, BLM, USDA, DOT and EPA in FY23-24, and proposed for FY25
 - P2IP Agreement Implementation \$200M+/20yrs
- **Tools for Advancing Salmon Recovery for the next 10 years**
 - NOAA 10-Year Mid-Columbia River Restoration Plan
 - Basin-Wide 10-year Columbia River Restoration Plan development process initiated
 - White House Office of Management & Budget Crosscut Budget for Columbia Basin Salmon
- **Evaluation of Replacement of Services Provided by Lower Snake River Dams**
 - DOE adopted an accounting framework to track regional energy resources that could provide LSRD replacement power
 - USG has initiated LSRD replacement services studies with additional funding and support from the State of Washington
 - Studies currently underway include recreation, transportation, and water supply services

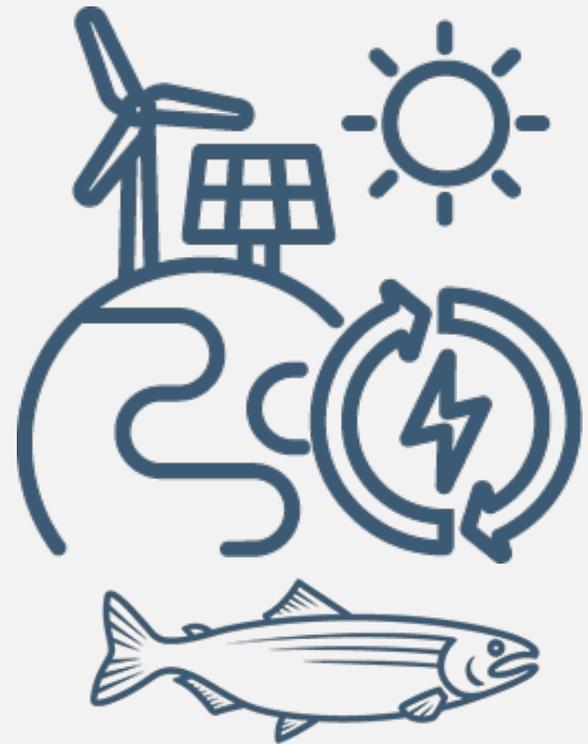
KEY RCBA YEAR-I DELIVERABLES

- **Regional Energy Needs Planning**

- DOE and PNNL, with funding from State of Washington, have launched a Pacific Northwest Regional Energy Planning Project (PREPP)
- Energy scenarios to include the objective of healthy and abundant salmon/steelhead (i.e., NMFS Task Force goals)
- Goal is to complete modeling in 2025 and have the PREPP report finalized by mid-2026

- **Support for Tribal Clean Energy Programs**

- Established a DOE point of contact
- Identified tribal capacity-building funds, and is working to make them available to the Tribes
- USG representatives met with the Tribes re: siting concerns



CONNECTION TO NPCC PROGRAM AMENDMENT PROCESS

What does all this mean for the NPCC?

NPCC PROGRAM UPDATES

Recommended actions to restore healthy and abundant native fisheries should inform updated Fish & Wildlife Program measures and Power Plan updates.

- CBRI provides a comprehensive strategy and recommended actions to achieve healthy and abundant salmon populations
- NOAA Rebuilding Report identifies centerpiece actions necessary to achieve the healthy and abundant fisheries restoration goals adopted into the 2020 Fish and Wildlife Program.
 - NOAA Mid-Columbia River Restoration Plan provides a more specific 10-year plan to advance the Mid-C centerpiece action
 - LSRD energy analysis, water supply, transportation, and recreation service replacement studies will provide relevant information
 - UCUT Phase 2 Implementation Plan advances the Upper Columbia centerpiece action
- COE and EPA have identified priority Cold-Water Refuge mainstem and Mid-C tributary actions to focus near-term restoration
- NOAA Ocean and Estuary Action Report
- Updated hydro operations

QUESTIONS ?

