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Swinomish Tribal Community

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

P.O. Box 817 • 11404 Moorage Way
LaConner, Washington 98257

October 31, 2006

Stephen P. Reynolds
Chief Executive Officer
Puget Sound Energy
10885 NE 4th Street
P.O. Box 97034
Bellevue, Washington 98007-9734

ENERGY PRODUCTION

NOV 09 2006

AND STORAGE

Reference: Baker Flood Control Legislation Introduced by Congressman Larsen at Request of Puget Sound Energy

Dear Mr. Reynolds:

The Swinomish Indian Tribal Community reserved the right to take fish at usual and accustomed grounds and stations in Section 5 of the Treaty of Point Elliott of 1855. That right, so crucial to the Tribe's livelihood, survival, and culture are affected by Puget Sound Energy's Baker River Hydroelectric Project. The Swinomish Indian Tribal Community is also by federal court order a co-manager of the fish and wildlife resources of the Skagit River Basin along with the Sauk-Suiattle Indian Tribe, Upper Skagit Indian Tribe and Washington Department of Fish and Wildlife.

Over the past six years the Swinomish Indian Tribal Community has been extensively involved in the collaborative effort to relicense the Baker River Project and is a signatory to the Baker River Project Settlement Agreement. In the Baker Relicense process the Tribe acted in good faith and made numerous compromises to reach a comprehensive settlement with Puget Sound Energy and twenty-two other parties. An article in the Settlement Agreement that the Tribe agreed to was for future additional flood control, if directed by U.S. Army Corps of Engineers through the Skagit General Investigation Study, to satisfy Skagit County's interest. Skagit County's interest is further satisfied by the interim flow agreement that essentially provides their request for flood control for the first six years of the license until the new flow agreement starts.

Recently, Ed Schild acting on behalf of PSE, worked with Skagit County and Congressman Larsen's office to introduce legislation for additional flood control at the Baker Project that put the interest of the Tribe and many other Settlement Agreement signatories at risk. Mr. Schild did so with the full knowledge that the language was not agreeable to many of the Settlement Agreement signatories. Further, based on a conversation between our staff and Allison Dane of Congressman Larson's office, it appears that Mr. Schild represented to Congressman Larson that his agreement with the

language represented concurrence of the Settlement Agreement parties when he knew that was not the case.

Ms. Dane informed our staff that Congressman Larson met with Mr. Schild and Skagit County at their request. Ms. Dane also informed our staff that the process set up at that meeting for development of legislation was that Congressman Larson would meet only with Skagit County and PSE. It was up to Skagit County to represent the area cities and other interested parties would have to go through PSE for their input to the proposed legislation.

Shortly after the meeting between Congressman Larson, Mr. Schild, and Skagit County; the Swinomish Tribe along with other Settlement Agreement parties saw a draft of the legislation. The Tribe immediately expressed our deep concern with and opposition to this draft legislation. On May 19, 2006 the Tribe participated in a conference call that included Mr. Schild, the Army Corps of Engineers, state and federal resource agencies and non-governmental organizations. Skagit County had a consultant on the line but did not participate in the call. The purpose of the conference call was to redraft the proposed legislation to a form that did not put the interest of the settlement parties at risk while providing for an increment of additional flood control through operational means. The language developed by the group did just that. On that call Mr. Schild stated that PSE would not support language that was not agreeable to the Settlement Agreement parties. At the end of the call Mona Thompson of the Army Corps of Engineers asked if the language would be acceptable to Skagit County. Mr. Schild responded by stating that it did not matter, that this was the language that was agreeable to the Settlement Agreement parties and Skagit County would have to live with it. The consultant for Skagit County remained silent.

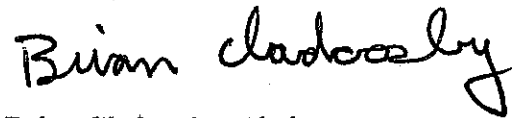
On July 26, 2006 Congressman Larson introduced legislation that was very similar to the original draft. According to Ms. Dane PSE was agreeable to the final language. She also stated that without agreement between PSE and Skagit County the legislation would not have gone forward. It appears that Mr. Schild agreed to language he told the Settlement Agreement parties he would not agree to and did not act in good faith in representing our interests in his discussions with Congressman Larson. The actions taken by Mr. Schild on behalf of Puget Sound Energy have seriously undermined the collaborative process.

It is clear from the earliest discussions the Baker Relicense groups had with the Federal Energy Regulatory Commission staff that FERC views congressional legislation as overriding FERC license articles. The proposed legislation is very general and may override the Baker River Flow Agreement that the relicense parties worked so hard to develop and was so integral to reaching settlement. This puts the fisheries resources of the Skagit River Basin that are so important to the Swinomish Tribe at risk.

In light of these developments, The Swinomish Indian Tribal Community requests that you personally call Congressman Larson and request that he withdraw the legislation or replace the language of the bill with the language developed by the Baker River Settlement Agreement parties.

The Swinomish Indian Tribal Community values its relationship with Puget Sound Energy and wants to continue to have a good long-term working partnership in the implementation of the license conditions. However, the recent actions taken by PSE seriously jeopardize this relationship. We hope that PSE is committed to repairing this relationship, and believe that supporting our request will demonstrate this commitment. I hope you agree.

Sincerely,

A handwritten signature in black ink that reads "Brian Cladoosby". The signature is written in a cursive style with a large, sweeping "y" at the end.

Brian Cladoosby, Chairman
Swinomish Indian Tribal Community

Cc: Congressman Larsen
Senator Murray
Senator Cantwell
Jeff Koenigs, WDFW
Robert Lohn, NOAA-Fisheries
Ken Berg, USFWS
Jay Manning, WDOE
Rob Iwamoto, USFS
Colonel McCormick, USACOE
Ed Schild, PSE