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GENERAL COUNCIL  
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CONFEDERATED TRIBES  
of the  
*Umatilla Indian Reservation*

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October 16, 1997

The Honorable James V. Hansen  
Chairman  
Subcommittee on National Parks,  
Forests and Lands  
United States House of Representatives  
814 O'Neill House Office Building  
Washington, DC 20515

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SUBJECT: TESTIMONY OF THE CONFEDERATED TRIBES OF THE UMATILLA  
INDIAN RESERVATION CONCERNING HANFORD REACH BILLS  
H.R. 1477 AND H.R. 1811.

Dear Chairman Hansen:

I was unable to attend the October 9, 1997 hearing of the Subcommittee on National Parks, Forests and Lands concerning the Hanford Reach bills H.R. 1477 and H.R. 1811. Nevertheless, I wanted to take the opportunity of informing you and other members of the Subcommittee of the views of the Confederated Tribes of the Umatilla Indian Reservation concerning these two bills.

Enclosed are three copies of testimony of the Confederated Tribes of the Umatilla Indian Reservation concerning Hanford Reach bills H.R. 1477 and H.R. 1811. Please have the Subcommittee staff enter this testimony into the record for the October 9, 1997 hearing. If there are any questions concerning these arrangements or the testimony, please have your staff contact contact Christopher Burford, Policy Analyst, at (541) 278 - 5209.

Sincerely,

Donald G. Sampson  
Chairman  
Board of Trustees

DNR:MF:CLB

cc: Subcommittee Staff:

Todd Hall

Richard Healy

Co-sponsors of H.R. 1477, the Honorable:

Mr. Dicks

Mr. Adam Smith

Mr. Blumenauer

Mr. McDermott

Mr. DeFazio

Ms. Furse

Co-sponsors of S. 200, the Honorable:

Ms. Murray

Mr. Wyden

Other interested parties:

Yakama Indian Nation

U.S. Fish and Wildlife Service

U.S. Department of Energy



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TESTIMONY OF  
DONALD G. SAMPSON  
CHAIRMAN, BOARD OF TRUSTEES  
CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION

BEFORE THE  
SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND LANDS  
COMMITTEE ON RESOURCES  
U.S. HOUSE OF REPRESENTATIVES

CONCERNING

H.R. 1477  
AMENDING THE WILD AND SCENIC RIVERS ACT TO DESIGNATE THE HANFORD  
REACH OF THE COLUMBIA RIVER AS A RECREATIONAL RIVER

AND

H.R. 1811  
THE COLUMBIA RIVER HABITAT PROTECTION AND RECREATIONAL ACCESS  
ACT OF 1997

OCTOBER 9, 1997

I. H.R. 1477 PROVIDES A WELL UNDERSTOOD, APPROPRIATELY REPRESENTATIVE DECISION MAKING PROCESS, WHICH IS DESIGNED TO FACILITATE SUSTAINABLE USE OF THE HANFORD REACH.

H.R. 1477 and H.R. 1811 present highly contrasting approaches to the management and use of the Hanford Reach of the Columbia River. The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) urges the Subcommittee on National Parks, Forests and Lands to report H.R. 1477 to the full Resources Committee, and to actively support its passage through the House of Representatives. In comparison to H.R. 1477, the Confederated Tribes of the Umatilla Indian Reservation views H.R. 1811 to be entirely without merit.

H.R. 1477 would manage the Hanford Reach by means of a well-understood, well-established mechanism: the Wild and Scenic Rivers Act. H.R. 1477 would create a Reach management process that reflects the interests of all governments and citizens that have a stake in sustainable use of the Hanford Reach. H.R. 1477 would do what it claims to do: protect the recreational use of the Hanford Reach, as well as the Reach's outstanding natural, cultural and scenic resources.

II. H.R. 1811 ESTABLISHES A FLAWED AND UNJUSTIFIABLE DECISION MAKING PROCESS, WHICH WILL LIKELY RESULT IN THE DESTRUCTION, NOT THE PROTECTION, OF HANFORD REACH RESOURCES.

In contrast, H.R. 1811 is designed to exclude the people who make sustainable use of the resources of the Hanford Reach from being able to participate in Reach management, so that local development interests can establish a poorly reasoned development project that will likely result in the destruction of Hanford Reach resources.

A. THE COMMISSION CREATED BY H.R. 1811 WOULD HAVE VIRTUALLY UNLIMITED DISCRETION AND BE ACCOUNTABLE TO NO ONE.

H.R. 1811 provides Tribal governments, State governments and the citizens of the United States in general, no means to participate in or influence the management of the Hanford Reach.

H.R. 1811 would manage the Reach via an ad hoc mechanism called the "Hanford Reach Protection and Management Commission" (H.R. 1811, § 5(b)). The sole statutory duty imposed upon the Commission by H.R. 1811 would be that the Commission produce a plan which "protect[s] and enhance[s] plant resources, fish and wildlife resources, cultural resources, recreational access, and other uses of resources" (H.R. 1811, § 5(b)(7)(A), emphasis added). Such a mandate places no practical legal limits on the Commission's discretion in deciding what activities will take place in the Reach.

Moreover, H.R. 1811 does not state what the legal status of the Commission would be. The Commission would apparently not be an agency of the federal government (See H.R. 1811 § 5(b)). But H.R. 1811 does not clarify if the Commission would be an agency of the state government, or even a public entity. As a result, it is not clear whether the Commission would have to comply with state or federal administrative procedure laws or with open meetings laws. Likewise, it is not clear if, or to what extent, the Commission would have to comply with federal or state laws regarding fish and wildlife protection, water pollution control, etc. H.R. 1811 is silent on all of these points. In short, H.R. does not make it clear what rights, if any, the public may have to monitor, participate in, or appeal Commission decisions.

H.R. 1811 bars American Indian tribal governments, the states of Washington, Oregon, Idaho, and Alaska, and all agencies of the United States government from membership on this Commission. While the State of Washington and two federal departments would each get to appoint a Washington citizen to serve on the Commission, H.R. 1811 makes it clear that the people appointed serve only as individuals, and not as representatives of their state government or any federal agency (H.R. 1811, § 5(b)(1)). Indeed, H.R. 1811 bars federal employees from membership on the Commission -- even in their capacity as citizens (H.R. 1811, § 5(b)(4); see H.R. 1811, § 5(b)(1).).

Sovereign tribal governments which have legal interests in the Hanford Reach, such as the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes and Bands of the Yakama Indian Nation, and others, would not even have the power to appoint people to the Commission. Neither would Northwest states that have manifest interests in the management of the Hanford Reach, such as Oregon, Idaho and Alaska.

In addition to barring Tribal and state governments, federal agencies, and the public at large from having any role in the operation of the Commission, H.R. 1811 does not even require the Commission to consult with affected Tribal and state governments or federal agencies. H.R. 1811 does not even require the Commission to hold public meetings.

In summary, H.R. 1811 creates a Commission, consisting of seven citizens, acting as individuals, apparently accountable only to themselves, and empowers them with essentially unlimited authority to make decisions about how the Hanford Reach will be used.

**B. H.R. 1811 TRANSFERS 140 SQUARE MILES OF FEDERAL LANDS THAT LIE OUTSIDE THE HANFORD REACH TO THREE COUNTIES, AT NO COST AND WITH NO RESTRICTIONS ON THE COUNTIES' USE OF THE LAND.**

H.R. 1811 transfers a total of 190 square miles of land out of federal ownership (H.R. 1811, § 4). Only 50 square miles of this land is actually located within the Hanford Reach. The remaining 140 square miles of land is located on the Wahluke Slope, north of the Hanford Reach. H.R. 1811 would convey this 140 square miles of federal land to three counties in

central Washington (H.R. 1811, § 4(b)(2)-(4)). H.R. 1811 would transfer this land at no cost and with no conditions (H.R. 1811, § 4(a)). These lands would not even be under the control of the H.R. 1811's Commission (See H.R. 1811, § 5(b) and § 4(b)(1)). Rather, they would be owned and managed by the individual counties in which they lie (H.R. 1811, § 4(b)(2)-(5)). In comparison, H.R. 1477 only addresses the 50 square miles of the Hanford Reach, and makes no changes to current land ownership, either within the Reach or on the Wahluke Slope. H.R. 1811 devotes one half of its substantive provisions to discussing the terms and conditions whereby this land transfer would take place (See H.R. 1811, § 4(a), § 4(b)(2)-(5), § 5(a)(2)-(3), § 5(f)).

The fact that three quarters of the land transferred by H.R. 1811 is outside the Reach, and would not be managed by the Commission, the fact that the land would be transferred free of charge and without condition, and the fact that H.R. 1811 devotes much more space to describing this transfer than it does to describing the management of the Reach, reveals H.R. 1811's true purpose. H.R. 1811 is not about protection sustainable use of the Hanford Reach. H.R. 1811 is simply a vehicle to allow the counties to acquire free federal land and to change that land's current land use, while avoiding the scrutiny of those governments and citizens whose sustainable use of the Hanford Reach would be threatened by that land use change.

C. THE TRUE PURPOSE OF H.R. 1811 IS TO ALLOW THE COUNTIES TO DEVELOP IRRIGATED AGRICULTURE ON THE WAHLUKE SLOPE -- WITH THE LIKELY RESULT BEING THE DESTRUCTION OF THE HANFORD REACH -- WITHOUT HAVING TO JUSTIFY THE PLAN TO THOSE WHO MAKE SUSTAINABLE USE HANFORD REACH RESOURCES.

The entire 140 square miles of the Wahluke Slope is currently managed as wildlife refuge, as it has been for approximately the past twenty-five years or more. The eastern 25 % of these lands are contained in the Saddle Mountain National Wildlife Refuge (managed by the U.S. Fish and Wildlife Service), and the remaining 75 % are in the Wahluke Slope Wildlife Recreation Area (managed by the State of Washington Department of Fish and Wildlife). This land use is compatible with recreational use of the Hanford Reach, since the refuges themselves provide recreational opportunities, while posing no threat to the sustainable use of the Hanford Reach.

The most striking visual feature of the Hanford Reach is the White Bluffs. The White Bluffs line most of the northern and eastern boundary of the Reach, rising several hundred feet above the river. The White Bluffs are composed of volcanic ash deposits. In the past several decades several areas of the White Bluffs have collapsed into the Hanford Reach, spilling millions of tons of material into the river, and burying salmon spawning habitat. Such collapses alter the course of the Columbia River, which, in turn, causes erosion which destroys Tribal burial sites and cultural resources and mobilizes formerly stabilized Hanford contaminants. These collapses are caused by an increase in groundwater flow, which

undermines the Bluffs. The source of this increased groundwater flow is irrigated agriculture located on private lands outside of the Hanford Site. Today, the best preserved portion of the White Bluffs is located where there is very little groundwater from irrigated agriculture. That portion of the White Bluffs is adjacent to the refuge lands of the Wahluke Slope.

Despite this fact, all three counties that would benefit from H.R. 1811 have endorsed a development proposal called the "Wahluke 2000 Plan." The objective of this plan is to transfer the Wahluke Slope lands from federal to county ownership so that they can be developed for irrigated agriculture. Indeed, the Wahluke 2000 plan even proposes that a 42 square mile area which the Bureau of Reclamation has placed off limits to irrigation due to geologic hazards should be considered for development of irrigated agriculture. To date, no geological study has been conducted to support the Wahluke 2000 proposal.

As H.R. 1477 demonstrates, there is no need for a Hanford Reach protection and management bill to change the ownership or land use of the Wahluke Slope. H.R. 1811 is tailor made -- not to protect the Reach -- but to develop irrigated agriculture on the refuge lands of the Wahluke Slope. H.R. 1811 changes ownership and land use of the Wahluke Slope because doing so is necessary if the Wahluke Slope is to be developed. H.R. 1811 makes its Reach management Commission off-limits to those who make sustainable use of Reach resources, because a Commission of any other design would raise objections to the development of irrigation on the Wahluke Slope, due to the obvious hazards of such a proposal.

### III. THE CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION URGES THE SUBCOMMITTEE TO SUPPORT H.R. 1477, WHICH PROVIDES AN APPROPRIATE PROCESS FOR MAKING HANFORD REACH MANAGEMENT DECISIONS.

H.R. 1811 creates an ill-defined, ad hoc process for managing the Reach, which places no practical or enforceable limits on the power of local economic interests to exploit the Reach. H.R. 1811 would exclude Tribal, state and federal governments, and the public, from any participation in Hanford Reach management. H.R. 1811 would transfer 140 square miles of land outside the Hanford Reach from federal to county ownership, facilitating the conversion of these lands from wildlife refuges to irrigated agriculture. A likely result of such conversion would be the collapse of the White Bluffs of the Hanford Reach, causing the destruction of the Reach's recreational, historic, ecologic, cultural and scenic resources, and re-mobilizing Hanford contaminants.

In contrast, H.R. 1477 would create a fully accountable public process for making Hanford Reach management decisions, with participation of all those governments and citizens which have legitimate interest in sustainable use of the Hanford Reach. H.R. 1477 relies on well-established and well-defined legal processes to accomplish its purpose. H.R. 1477 would make no changes in the ownership or management of lands located outside of the Hanford

Reach corridor, thereby protecting Hanford Reach resources from the irreparable damage that would be caused by irrigation of the Wahluke Slope.

If the Subcommittee on National Parks, Forests, and Lands is interested in protecting the outstanding recreational, natural, cultural and scenic resources of the Hanford Reach, it has only one choice. The Confederated Tribes of the Umatilla Indian Reservation urges you to protect the resources of the Hanford Reach, as well as the interests of all people who use the Reach, by reporting H.R. 1477 to the full House Resources Committee and actively supporting H.R. 1477's passage through the House of Representatives.