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The Yakama Nation Department of Natural Resources submits these comments on the 1-17-08 draft of the Voluntary Regional Agreement between the Columbia Snake River Irrigators Association and the Washington Department of Ecology.

The third paragraph of section a, last sentence says Ecology will "mitigate for new water right permits in the order they are received". In the order what are received? Applications? Ecology does not "receive" permits. If the sentence intends to refer to applications, does it mean old (pending) applications or new VRA applications that are yet to be submitted? Does this assume that all applications will be granted in mitigation can be found? Both the sentence and the process are unclear, and the sentence should be rewritten to better describe what Ecology will receive, what they will do, and in what order. Also, please describe the relationship between Ecology's prospective conservation and acquisition and activities and the mitigation for CSRIA projects. For example, will CSRIA applications be placed ahead of and receive state mitigation ahead of pending water right applications.

Page 2 first paragraph. Apparent typo: "Sections E".
The draft VRA is still unclear regarding the relationship between the projects that would be done in Phase 1 and the requirements of Section E. It is not at all clear which, if any, of the requirements of Section E would apply to the three pilot 3rojects. Would these projects "demonstrate the potential … to fulfill … Section E" by adhering to those provisions or by some other standard? Will these projects "pay a mitigation fee"? (Section E. 2.) Will they "maintain compliance with BMP's"? (E.3.). Will the associated rights be "recalibrated"? (E.4.). If the intent is that Phase 1 will involve less than "full implementation" of Section E, then please be clear which subsections of Section E will be full implemented and which will be less than fully implemented and what that means. We object to any action on applications until mitigation issue is resolved.

Definition C.4.b relies on Appendix A to define eligibility. Appendix A was not part of the draft VRA on Ecology's web site, and there is no apparent link to it on the Ecology VRA web page. Does Appendix A exist at this time? Ecology should not terminate the comment period on the VRA until the Appendix A is complete and posted for a sufficient period of time to allow due consideration and comment. We do not consider the SEPA review to be adequate absent an enumeration of participating parties. Without this it is impossible to adequately consider impacts including cumulative impacts. We have the

identical concern with section 4c. How many applications for “drought permits” are on file as of July 1, 2007? That list should be provided as well.

In section D.5., it is not clear what happens if Ecology's efforts to provide mitigation water do not succeed. Will drought permits not be issued in that case? It should also be made clear what is meant by "to avoid curtailment during a drought condition. D.8. needs to explicitly include D.6. as a condition. We would object to any unmitigated permits being issued. For the record, we have never accepted the simplistic interpretation of the NAS report suggesting that only July and August are months of concern. The river is a river 12 months of the year and has needs all twelve months. We agree with the WDFW comment letter of 12-13-2006 that new permits have the potential to harm fish and senior water rights in the “non-critical” months. We would object to any permits we believe adversely impact fish life whether or not the July-August mitigation is met. We reserve all rights and remedies to protect our resources.

The relationship should be made clear between the “drought permits” described in the VRA and the water proposed for making Columbia River interruptible water right holders uninterruptible as part of the Lake Roosevelt “incremental releases”.

D.9. What "other means" are available.

E.14. Does this mean that the $10/af from CSRIA will be subject to the constraints of the CR Water Supply Account, i.e. 2/3 of the "mitigation" funds will be earmarked for new storage and 2/3 of the "mitigation water" thus acquired will go for new out of stream uses? We have previously submitted a study documenting the inadequacy of $10/acre foot to fund replacement mitigation water.

Thank you for the opportunity to comment.

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