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Tribal Hunting Coordination

Policy number

C-3607

Effective date

Apr 2, 1998

Signed by

Signed by: Lisa Pelly, Fish and Wildlife Commission Chair

The Washington Fish and Wildlife Commission acknowledges and respects the sovereign status of Washington's federally recognized tribes. Under existing law, the overlapping nature of state and tribal jurisdiction and responsibilities creates a co-management relationship in which it is essential that the parties work together. The Commission recognizes that the preservation of healthy, robust, and diverse fish and wildlife populations is largely dependent on the state and the tribes working in a cooperative and collaborative manner. The Washington Fish and Wildlife Commission is committed to a cooperative management relationship with the tribes. In the spirit of these acknowledgments, the Commission adopts the following policies to guide Department staff in their relationships with the tribes:

1. The Department of Fish and Wildlife will work cooperatively with representatives of each tribal government in an effort to resolve all issues through direct communication and negotiation.
2. The Department of Fish and Wildlife supports tribal self-determination and meaningful self-regulation, enforcement, and prosecution.
3. The Department of Fish and Wildlife will engage tribal representatives in its decision making processes relative to wildlife management issues that affect tribal hunting.
4. The Department of Fish and Wildlife commits to work jointly with the tribes in the development of an information and data exchange system that enhances the parties' ability to effectively communicate and collectively identify resource and hunting issues and concerns.
5. The Department of Fish and Wildlife, in cooperation with tribal governments, will develop enforcement protocols to guide Department officers in their contacts with tribal hunters.



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Policy Guidelines for Negotiation and Maintenance of the Colville Agreement

Policy number

C-6001

Effective date

Oct 2, 1997

Signed by

Signed by: Lisa Pelly, Fish and Wildlife Commission Chair

Goals for the Agreement:

- Create partnerships with the Colville Tribe.
- Provide maximum non-Indian hunting and fishing recreation compatible with healthy fish and wildlife populations.

Elements for the Agreement:

The following elements will be incorporated in the agreement:

- A cooperative law enforcement element.
 - Includes access to the Colville tribal radio system.
- A commitment to cooperative fish and wildlife management.
 - Includes data collection and sharing.
 - Includes management consultation.
 - Includes access to wildlife for reintroduction efforts.
 - Includes salmon restoration.
- Hunting opportunity for upland birds, migratory birds and small game.
 - Includes pheasant and doves.
- Tribal commitment to assist landowners, especially on-reservation landowners experiencing damage from big game or problems with dangerous wildlife.
- The tribe commits to maintenance or enhancement of existing non-Indian fishing opportunities on the reservation.
- The tribe and state would recognize the state license for non-Indian fishers on boundary waters.
 - Includes revenue sharing.
- The tribe and state commit to mule deer conservation. This conservation effort will include both habitat and harvest strategies.
- The agreement shall include a dispute resolution process.
- The agreement shall include provisions for five-year review by the Colville Tribal Council and the Fish and Wildlife Commission.
- Other elements the Director deems as required to meet the goals set out above.

Delegation of Authority:

Consistent with this policy, the Commission delegates to the Director the authority to finalize a new agreement with the Colville Tribe. Subsequent changes will normally be incorporated in the "five-year review" element stated above. The Director has the authority to make changes to maintain this agreement within the framework of this policy.

**AGREEMENT BETWEEN THE CONFEDERATED TRIBES
OF THE COLVILLE INDIAN RESERVATION
AND THE
WASHINGTON STATE DEPARTMENT OF FISH AND WILDLIFE**

PARTIES

This Agreement is entered into by and between the Confederated Tribes of the Colville Indian Reservation, Nespelem, Washington (Colville Tribes), and the Washington State Department of Fish and Wildlife, Olympia, Washington (WDFW).

PREAMBLE

Colville Tribes currently occupy a reservation of approximately 1.3 million acres in north central Washington. The original reservation was created by Executive Order of President Grant in 1872. In 1892, the Tribes ceded back to the federal government approximately one-half of the original reservation ("North Half"), reserving to themselves the right to hunt and fish on the "North Half." These "North Half" rights have been affirmed by the U.S. Supreme Court.

The Colville Indian Reservation was set aside for the exclusive use of eight bands and numerous individual Indians who were not party to any treaty. This agreement addresses hunting and fishing issues on the Colville Indian Reservation and "North Half."

For many years, there were disagreements and disputes between the Colville Tribes and the state of Washington regarding the regulation of hunting and fishing by non-members on the Colville Indian Reservation. Between 1975 and 1981, the Colville Tribes and State were engaged in litigation over the competing claims of authority.

Ultimately, the District Court issued a preliminary injunction preventing the State from applying its hunting and fishing laws to non-Indians on the reservation. The Ninth Circuit Court of Appeals reviewed the District Court's decision. The Ninth Circuit Court of Appeals agreed with the District Court. In an opinion issued June 22, 1981, Ninth Circuit Court of Appeals affirmed the injunction issued against the State. In light of the Court of Appeals opinion, the state elected to negotiate with the Colville Tribes rather than to further pursue the litigation. These negotiations led to a cooperative agreement between the State and Tribe that has been in place continuously since 1982.

Although the factual and legal landscape has changed somewhat since the above-referenced litigation, the complex legal and jurisdictional issues persist. It is the shared opinion of the Colville Tribes and the State Department of Fish and Wildlife that this complex and confusing jurisdictional framework hinders the discharge of the respective parties' obligations to maximize hunting and fishing opportunity while at the same time preserving, perpetuating, and protecting the wildlife resource.

The parties to this agreement have concluded that the resource is best protected, the federally protected rights of the Colville Indian people implemented, and reasonable recreation opportunity of the general public maximized through this cooperative agreement between the Tribes and Washington State Department of Fish and Wildlife.

RECITALS

It is a primary purpose and intent of this document to:

- Identify as clearly as possible the respective licensing, management, and regulatory responsibilities of the parties within the boundaries of the Colville Indian Reservation.
- Improve the protection of fish and wildlife on the reservation on the North Half.
- Protect and enhance recreational hunting and fishing opportunities on the reservation.
- Protect the Colville Tribe's core interest in providing ceremonial and subsistence hunting and fishing for tribal members and preserving the cultural significance of the wildlife resource on the reservation.
- Foster productive and mutually beneficial partnerships between the Washington State Department of Fish and Wildlife and the Colville Tribes.

In consideration of the mutual promises and covenants herein, the parties agree as follows:

1. **No Waiver of Rights, Claims or Arguments.** Nothing in this Agreement shall be deemed as a concession by either party as to the other party's claims, nor an admission of same, nor a waiver of the right to challenge such claims. Neither this Agreement nor the activities of the parties pursuant to this Agreement shall be utilized to affect the equitable or legal position of either party in any future litigation.
2. **No Effect on Jurisdiction or Authority.** This Agreement does not purport to declare legal rights or authorities. Nothing herein shall be deemed as enlarging or diminishing the jurisdiction or authority of the state or Colville Tribes to regulate the activities of persons within the reservation.
3. **Terms of Agreement.** This Agreement shall be for a term of one year, commencing on the effective date of this Agreement, provided, however, this Agreement shall be extended from year to year automatically thereafter until terminated by either party by delivery of written notice of termination to the other party not less than 60 days prior to the date of the desired termination.
4. **Annual Review.** The parties anticipate that this Agreement will be dynamic and that modifications may be necessary to respond to changing circumstances. Therefore, the parties, acting through the Policy Committee, agree to review this Agreement annually and to make such necessary modifications as to which the parties mutually agree.
5. **Policy Committee.** A Policy Committee, composed of one member of the Natural Resources Committee of the Business Council of the Colville Tribes, one Fish and Wildlife Commissioner, the Director of the Colville Tribes Fish and Wildlife Department, and one WDFW Regional Director, is hereby established. The purpose of the Policy Committee is to

facilitate cooperative action by the Parties and to resolve disputes which may arise under this Agreement.

The Policy Committee shall annually designate a chair and shall meet at such times as are appropriate to conduct business and/or resolve disputes as described in the Agreement.

6. **Non-Member Fishing on the Reservation.** The Colville Tribes and WDFW desire to protect and manage fishing on the reservation for conservation, subsistence and recreational purposes. Consistent with these goals, the Colville Tribes commit to maintaining non-member fishing opportunities on the reservation.

7. **Consultation on Fishing Season Setting.** Fish biologists of the Tribes and WDFW shall meet to exchange information and to develop proposed parallel non-member fishing regulations for the waters on the Reservation and Lake Roosevelt, Rufus Woods, Okanogan River and Crawfish Lake. Such proposed regulations shall include, by way of example but not limitation, seasons dates, size limits, bag limits, open and closed areas, and other conservation initiatives necessary to management and conservation of the fisheries. The objectives of these proposed parallel regulations shall be the conservation of the fishery resource and harvest for subsistence and recreational purposes.

In the event that the biologists cannot agree on proposed parallel non-member fishery regulations, such matters shall be referred to the Policy Committee established under this Agreement for resolution of any dispute.

The proposed regulations of the biologists or Policy Committee, as the case may be, shall then be forwarded to the Colville Tribes and to the WDFW for promulgation pursuant to their respective rule-making procedures. Nothing in this section, however, is intended to supersede the respective rule promulgation procedures of the parties.

8. **Boundary Waters Licensing Requirement for Non-members.** The Colville Tribes agree that possession of a valid Washington State fishing license shall be deemed possession of a valid tribal fishing permit for fishers angling by boat, on the Columbia and Okanogan Rivers where they form the boundaries of the Colville Indian Reservation and on Washburn Island Pond and on Crawfish Lake.

Anglers fishing from the Reservation shore of boundary waters should check with the Colville Tribal Fish and Wildlife Department to determine licensing and other appropriate regulations.

9. **Licensing Requirements for Non-members Fishing on Other Reservations Waters.** WDFW agrees that for purposes of enforcement, possession of a valid tribal fishing permit shall be deemed possession of a valid state fishing license for fishing activities on waters, other than boundary waters, that are within the boundaries of the Colville Reservation.

The purpose of Sections 8 and 9 above, is to avoid the conflict, confusion, and difficulty of locating the Reservation boundary in or on the boundary waters of the Columbia and Okanogan Rivers and in resolving the jurisdiction issues with regard to lakes and ponds lying wholly within the exterior boundaries of the Colville Reservation.

10. **Boundary Water Fishing by Colville Members.** While fishing by boat on boundary waters, including waters that form the boundary to the North Half, the Colville I.D. card shall be the sole document necessary for fishing.

11. **Revenues.** The Colville Tribes are engaged in Fishery Management Activities on Reservation Boundary waters. These activities benefit non-member angler and the general public through preservation and protection of the fishery resource. By accepting the licensing provisions of this agreement, potential tribal revenue is lost which would have been utilized for fishery management. The WDFW and Colville Tribes agree to assess the management impacts of lost revenue and establish mechanisms that mitigate the loss and result in the implementation of fishery management benefits.

12. **Wildlife Protection and Preservation.** The WDFW and the Colville Tribes agree to work together to protect, preserve, and enhance wildlife populations on the reservation and the North Half, through the following strategies:

- Joint and cooperative surveying of wildlife populations where feasible.
- The sharing of population and harvest statistics.
- Mutual support of supplementation efforts for species such as sharp-tailed grouse and big horned sheep.
- Development of a joint wildlife habitat protection and enhancement strategy; and a
- Commitment to mule deer conservation in north central Washington.

13. **Consultation on Hunting Season Setting.** The WDFW and Colville Tribe wildlife biologists shall meet at least twice annually to develop hunting season recommendations that meet the conservation and recreation goals of this agreement. The timing of these meetings shall be subject to the season setting process of the Colville Business Council and the Washington Fish and Wildlife Commission.

14. **Wildlife Harvest by Non-members on the Colville Reservation.** The WDFW and Colville Tribes agree to the following opportunities and restrictions for non-member hunting on the Colville Reservation.

- Non-member hunters shall have the opportunity to hunt upland birds, including pheasants, migratory birds, including dove and rabbits, within the limits of sound wildlife management and conservation practice on the portions of the Colville Indian Reservation opened by the Colville Tribes.

- Non-members will be prohibited from trapping furbearing animals and from hunting big game and grouse within the boundaries of the Colville Reservation. This section shall not apply to Colville members.

15. **Problem Wildlife.** The WDFW and the Colville Tribes agree to work together to develop a protocol and provide solutions for landowners with problems involving dangerous wildlife and/or wildlife depredation.

16. **Enforcement.** The WDFW and the Colville Tribes agree to work cooperatively to reduce violations of state and tribal fish and game laws. To that end, the parties agree to produce a joint enforcement agreement which will outline procedures for joint patrols and investigations and protocols for directing violations to the appropriate court system.

17. **Tribal and State Information.** The WDFW shall include in its fishing and hunting pamphlets and any other similar sources of information provided by the state to the public the following provision: "When fishing or hunting within the boundaries of the Colville Indian Reservation, you should contact the office of the Colville Confederated Tribes Fish and Wildlife Department to determine the Tribal permits and regulations applicable to such activities".

The Colville Tribes shall include in its fishing and hunting pamphlets and any other sources of information provided by the tribe to the public the following provision: "When fishing or hunting within the boundaries of the Colville Indian Reservation, you should contact the Washington State Department of Fish and Wildlife to determine state license and regulations applicable to such activities".

18. **Approvals.** This Agreement shall be effective upon approval by the Colville Business Council and the Director of the Washington State Department of Fish and Wildlife and ratification by the Washington State Fish and Wildlife Commission.

19. **Upon Whom Binding.** The covenants and agreement herein mentioned shall extend to and be binding upon the assigns, successors, agents and administrators of the parties and to all persons acting by or through the parties.

DATED this 4th day of April, 1998.



4-4-98



4-4-98



4-16-98

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2424

Chapter 260, Laws of 2024

68th Legislature
2024 Regular Session

COOPERATIVE FISH AND WILDLIFE MANAGEMENT AGREEMENT—CONFEDERATED
TRIBES OF THE COLVILLE RESERVATION

EFFECTIVE DATE: June 6, 2024

Passed by the House March 6, 2024
Yeas 93 Nays 3

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate March 1, 2024
Yeas 49 Nays 0

DENNY HECK

President of the Senate

Approved March 26, 2024 9:22 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2424** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 27, 2024

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2424

AS AMENDED BY THE SENATE

Passed Legislature - 2024 Regular Session

State of Washington

68th Legislature

2024 Regular Session

By House Agriculture and Natural Resources (originally sponsored by Representatives Kretz, Lekanoff, Springer, Schmick, Dent, and Chapman)

READ FIRST TIME 01/31/24.

1 AN ACT Relating to updating cooperative agreements between the
2 state and federally recognized tribes for the successful
3 collaborative management of Washington's wildlife resources; and
4 creating new sections.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that the
7 Washington state department of fish and wildlife has entered into
8 cooperative agreements with various tribal governments in the state,
9 including the confederated tribes of the Colville reservation, to
10 work on a government-to-government basis to collaboratively manage
11 the state's fish and wildlife. The legislature further finds that the
12 cooperative agreement between the confederated tribes of the Colville
13 reservation and the Washington state department of fish and wildlife,
14 as ratified by the fish and wildlife commission representing the
15 state in the government-to-government cooperative process, addresses
16 cooperative wildlife management on a portion of land ceded to the
17 United States by the Colville tribes, often referred to as "the north
18 half." The cooperative agreement recognizes that resource protection,
19 tribal rights, and recreational opportunities of the general public
20 are maximized through cooperative management of wildlife and habitats
21 on the north half. The cooperative agreement provides that the

1 department and the tribe will work together to protect, preserve, and
2 enhance wildlife populations on the reservation and the north half
3 through: Joint and cooperative surveying of wildlife populations,
4 sharing population and harvest statistics, and development of a joint
5 wildlife habitat protection and enhancement strategy. The agreement
6 further provides that the department and tribe will work together to
7 develop protocols and provide solutions for managing dangerous
8 wildlife and/or wildlife depredation and will work cooperatively to
9 reduce violations of state and tribal fish and game laws including
10 procedures for joint patrols and investigations. The legislature
11 finds that the department of fish and wildlife has broad authority
12 under the cooperative agreement to work cooperatively with the
13 Colville tribes. The cooperative agreement established the policy
14 committee, which is composed of representatives of the tribe and the
15 department, to facilitate cooperative action and resolve disputes
16 that may arise under the agreement. The agreement stipulates that the
17 policy committee review the agreement annually and recommend
18 modifications as to which the parties may mutually agree pursuant to
19 approval by the confederated tribes and ratification by the
20 commission in the government-to-government process.

21 (2) It is the intent of the legislature to affirm the goals and
22 provisions established in the 1998 cooperative agreement between the
23 department and the confederated tribes of the Colville Indian
24 Reservation, and to direct the department to review and recommend
25 modifications as necessary to the policies and practices implemented
26 under the cooperative agreement, including management of the gray
27 wolf in the "north half."

28 NEW SECTION. **Sec. 2.** (1) The department shall, upon approval of
29 a plan of engagement by the commission that includes elements in
30 subsection (2) of this section to be considered in the engagement,
31 engage on a government-to-government basis with the confederated
32 tribes of the Colville reservation for the purpose of identifying
33 potential updates to management practices under, and recommended
34 modifications to the 1998 cooperative fish and wildlife management
35 agreement.

36 (2) The department must submit the agreed upon recommendations
37 for updates or modifications to the agreement to the commission for
38 their approval that identifies:

- 1 (a) Recommended updates or modifications to existing management
2 strategies;
- 3 (b) Recommended updates or modifications to the "Wildlife
4 Protection and Preservation" section of the cooperative agreement;
- 5 (c) Challenges to implementing the "Problem Wildlife" section of
6 the cooperative agreement and recommended protocols to provide
7 solutions for landowners with problems involving either dangerous
8 wildlife or wildlife depredation, or both; and
- 9 (d) Recommendations for management of gray wolf and other species
10 listed under the state endangered species act since adoption of the
11 1998 agreement as practiced by the tribe and the department.
- 12 (3) Subsequent to approval by the confederated tribes of the
13 Colville and ratification by the commission, the department must
14 report to the legislature, in accordance with RCW 43.01.036, on
15 updates to or modifications to the 1998 cooperative fish and wildlife
16 management agreement.
- 17 (4) The definitions in this subsection apply throughout this
18 section unless the context clearly requires otherwise.
- 19 (a) "Commission" means the Washington state fish and wildlife
20 commission.
- 21 (b) "Department" means the Washington state department of fish
22 and wildlife.
- 23 (c) "The north half" means the portion of land that was
24 originally part of the Colville Indian reservation that the tribes
25 ceded to the federal government in 1892.

Passed by the House March 6, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 26, 2024.
Filed in Office of Secretary of State March 27, 2024.

--- END ---

**AGREEMENT BETWEEN THE CONFEDERATED TRIBES OF THE COLVILLE
RESERVATION AND THE WASHINGTON DEPARTMENT OF FISH AND WILDLIFE**

PARTIES

This Agreement is entered into by and between the Confederated Tribes of the Colville Reservation, Nespelem, Washington (CCT or Colville Tribes), and the Washington Department of Fish and Wildlife, Olympia, Washington (WDFW).

RECITALS

WHEREAS, the Colville Tribes declare that they have always relied on the wildlife and fisheries resources of the Columbia Plateau and the Okanogan Highlands to the north for their subsistence, culture, trade, and ceremonies, and this way of life was preserved by the 1891 Agreement, which secured for all time the right of Colville tribal members "to hunt and fish in common with all other persons on lands not allotted to said Indians" in the North Half of the Colville Reservation and guaranteed that such rights "shall not be taken away or in anywise abridged"; and

WHEREAS, the Colville Tribes, Colville tribal member C. Vernon Johnson and WDFW are engaged in litigation in the United States District Court for the Eastern District of Washington entitled *Confederated Tribes of the Colville Reservation et al. v. Phil Anderson et al.*, No. CV-09-342-EFS ("*Colville v. Anderson*"), in which CCT and Mr. Johnson challenge WDFW's authority to enforce certain public safety statutes and regulations of the State of Washington against Colville members exercising federal reserved hunting rights under the 1891 Agreement between CCT and the United States in the North Half of the Colville Indian Reservation ("North Half"); and

WHEREAS, independent of *Colville v. Anderson*, CCT has challenged WDFW's law enforcement presence on the Colville Reservation by the Colville Business Council's enactment of Resolution 2011-168 on March 17, 2011, which purports to ban WDFW Enforcement Officers acting in their official capacity from entering the sovereign territories of the Reservation; and

WHEREAS, the Colville Tribes desire to enter into a settlement agreement that furthers their sovereignty by protecting tribal members hunting in the North Half and ensuring that Colville tribal law governs such hunting; and

WHEREAS, the parties wish to resolve these issues in a manner which preserves their respective legal positions, promotes trust and understanding among the parties, enhances their mutual and cooperative efforts to protect public safety and manage wildlife resources, and eliminates the need for further proceedings in this litigation.

NOW, THEREFORE, in consideration of the mutual promises and covenants below, the parties hereby agree as follows:

AGREEMENT

I. Scope of Settlement

A. Laws Regarding Hunting Safety

Except as expressly provided herein, this Agreement is limited to the enforcement of six public safety laws, described in greater detail in Part III below, against CCT members hunting in the North Half. These public safety laws are:

1. Possession of a loaded firearm in a motor vehicle;
2. Negligent shooting across a roadway;
3. Hunting while intoxicated;
4. Spotlighting;
5. Hunting Hours; and
6. Hunter Orange.

Enforcement of any other public safety law, including the state's reckless endangerment provision, RCW 9A.36.050, is outside the scope of this Agreement.

B. Colville Business Council Resolution 2011-168

This Agreement includes CCT's commitment to repeal Resolution 2011-168 and the parties' commitment to work together in good faith to develop written protocols for WDFW Enforcement Officers on the Colville Reservation, as described in Part X below.

C. 2007 Lake Rufus Woods Agreement

This Agreement includes one modification to the December 17, 2007, agreement between WDFW and CCT regarding management and regulation of fisheries at Lake Rufus Woods ("Lake Rufus Woods Agreement"), as described in Part XI below.

II. Reservation of Rights

- A. Nothing in this Agreement shall be deemed to be a concession or admission by either party as to any claim, defense or legal argument with respect to the nature or scope of hunting rights, state or tribal jurisdiction or management authority; or a waiver of the right to refile the litigation or challenge such claims, defenses or legal arguments upon expiration or termination of this Agreement. Except as provided in Part VIII.C, neither this Agreement nor the activities of the parties pursuant to this Agreement shall be utilized to affect the equitable or legal position of either party in any future litigation.

- B. By approving this Agreement, no party waives its sovereign immunity. However, as provided in Part IX.B, below, the parties agree that they will not raise the defense of sovereign immunity in any action to interpret or enforce this Agreement under Part IX, provided that such action does not seek any money award, damages, or attorneys fees.

III. Enforcement Protocols

During the term of this Agreement, the following protocols shall govern WDFW enforcement of the state public safety laws and regulations set forth below against CCT members exercising hunting rights on the North Half. These protocols shall be the only action taken to enforce such laws and regulations.

- A. **Loaded Firearm in Vehicle** *RCW 77.15.460(1) and WAC 232-12-828(6) prohibit possession of rifle or shotgun in a vehicle when a shell or cartridge is either in the chamber or the attached magazine; CCT Tribal Code 4-1-249 prohibits possession of a weapon in a vehicle with a bullet in the chamber.*

If a WDFW Enforcement Officer encounters a CCT member who is hunting and possesses a rifle or shotgun in a vehicle, the WDFW Enforcement Officer may conduct a routine weapons check pursuant to RCW 77.15.080(1) and, following the routine weapons check, shall handle the matter as follows:

1. If the WDFW Enforcement Officer determines that there is a shell or cartridge in the magazine, but not in the chamber of the rifle or shotgun, WDFW shall take no further enforcement action with respect to the loaded firearm in vehicle issue.
2. If the WDFW Enforcement Officer determines that there is a shell or cartridge in the chamber of the rifle or shotgun, WDFW shall refer the matter of the loaded firearm in vehicle to CCT to process as a violation of tribal law.

- B. **Negligent Shooting Across Roadway** *RCW 77.15.460(2) prohibits negligent shooting of a firearm from, across, or along the maintained portion of a public highway; CCT Tribal Code 4-1-248 prohibits negligent shooting of a firearm or arrow from, across, or along the maintained portion of a public highway.*

If a WDFW Enforcement Officer encounters a CCT member negligently shooting a firearm from, across, or along the maintain portion of a public highway, WDFW shall refer the negligent shooting matter to CCT to process as a violation of tribal law upon determining that the member is hunting.

- C. **Hunting While Intoxicated** *RCW 77.15.675 prohibits hunting under the influence of intoxicating liquor or drugs; CCT Tribal Code 4-1-243 prohibits hunting with firearms or bows and arrows, or fishing, while under the influence of intoxicating liquor or drugs.*

If a WDFW Enforcement Officer encounters a CCT member hunting while intoxicated, WDFW may secure the suspect to address any immediate threat to public safety, and shall thereafter refer the hunting while intoxicated matter to CCT to process as a violation of tribal law. If detention of the suspect is reasonably necessary to protect public safety, WDFW shall promptly contact CCT Law Enforcement and, if CCT is able to take custody of the suspect within a reasonable time, transfer the suspect to CCT custody.

- D. **Spotlighting** *RCW 77.15.450 prohibits hunting big game with aid of a spotlight, artificial light, or night vision equipment, while possessing firearm, bow and arrow, or crossbow. "Big game" includes elk, deer, moose, mountain goat, caribou, mountain sheep, pronghorn antelope, cougar, and bear. CCT Tribal Code 4-1-250 prohibits hunting using any artificial light of any kind unless use of such light is approved by regulation for a specific hunt and prohibits hunting using any artificial light which is greater than 10,000 candlepower in magnitude under any circumstances.*

If a WDFW Enforcement Officer encounters a CCT member hunting big game with the aid of a spotlight, artificial light, or night vision equipment, WDFW shall refer the spotlighting matter to CCT to process under tribal law.

- E. **Hunting Hours** *WAC 232-12-289 sets lawful hunting hours for most game species as ½ hour before sunrise to ½ hour after sunset, except for bobcat and raccoon when the area is not open to modern firearm hunting of deer and elk. CCT Regulations set lawful hunting hours for most species as ½ before sunrise to ½ hour after sunset, except for black bear, cougar, bobcat, raccoon, and skunk.*

If a WDFW Enforcement Officer encounters a CCT member hunting outside of the state's established hunting hours, WDFW shall refer the hunting hours matter to CCT to process under tribal law.

- F. **Hunter Orange** *WAC 232-12-055 generally prohibits hunting during modern firearm season unless the hunter is wearing 400 square inches of hunter orange. Hunter Orange is not required for hunting upland game birds with muzzleloader, bow, or falconry. CCT Regulations highly recommend that anyone hunting in an area where there is an open deer or elk modern firearm season for non-members wear 400 square inches of hunter orange.*

If a WDFW Enforcement Officer encounters a CCT member hunting without hunter orange, WDFW will take no enforcement action with respect to WAC 232-12-055.

IV. **Referral to CCT; Reporting**

- A. Upon referral of a matter to CCT as provided for in Part III above, WDFW shall provide to CCT all relevant investigative information, work cooperatively with CCT

Enforcement Officers and prosecutors, and respond to CCT court subpoenas regarding the matter.

- B. Beginning six months from the effective date of this Agreement, and every six months thereafter while this agreement is in effect, CCT shall provide to WDFW a written report of: (1) all active matters referred to CCT under this Agreement; (2) the date of referral; (3) a description of the tribal law violation(s) at issue; (4) name(s) of the defendant(s); (5) the status of the matter; and (6) for any matter disposed during the six-month period, a summary of the disposition (including whether prosecuted or dismissed, and any penalty imposed). Upon request by WDFW, CCT shall provide such information regarding specific enforcement encounters within a reasonable time.
- C. Nothing in this Agreement shall limit the prosecutorial discretion of CCT under tribal law in any matter referred under the Agreement.

V. Notice of Enforcement Encounters; Addressing Complaints

- A. Beginning six months from the effective date of this Agreement, and every six months thereafter while this Agreement is in effect, WDFW shall provide to CCT a list of all WDFW Enforcement Officer encounters with CCT members in the North Half in which a routine weapons inspection of any rifle or shotgun in the vehicle pursuant to RCW 77.15.080(1) occurs, the name of the CCT member(s) involved in the encounter, and a copy of the incident or dispatch report from the encounter. Upon request by CCT, WDFW shall provide such information regarding specific enforcement encounters within a reasonable time.
- B. If a CCT member submits a complaint to WDFW regarding the conduct of a WDFW Enforcement Officer during an enforcement encounter involving one or more of the public safety laws in Part III above, WDFW shall provide notice to CCT of such complaint and investigate the alleged incident on an expedited basis. Following the investigation, WDFW shall prepare a draft report summarizing the findings of the investigation and transmit the draft report to CCT for review. CCT may submit comments on the draft report within thirty days of receipt of the draft report. Upon CCT's request within this period, WDFW shall meet to discuss the investigation and/or the findings set forth in the draft report. WDFW shall consider CCT's feedback before finalizing the report, and shall transmit the final report to CCT.
- C. If a non-member submits a complaint to CCT regarding the conduct of a CCT Enforcement Officer during an enforcement encounter involving one or more of the public safety laws in Part III above, CCT shall provide notice to WDFW of such complaint and investigate the alleged incident on an expedited basis. Following investigation, CCT shall prepare a draft report summarizing the findings of the investigation and transmit the draft report to WDFW for review. WDFW may submit comments on the draft report within thirty days of receipt of the draft report. Upon WDFW's request within this period, CCT shall meet to discuss the investigation

and/or the findings set forth in the draft report. CCT shall consider WDFW's feedback before finalizing the report, and shall transmit the final report to WDFW.

- D. Any complaint transmitted to CCT or WDFW pursuant to Paragraphs B or C above shall, at CCT's or WDFW's request, be included as an agenda item at the annual meeting held pursuant to Part VI below.
- E. In light of the critical role that WDFW Enforcement Officers assigned to regular enforcement duties in the North Half will have in implementing this Agreement, the parties agree as follows:
 - 1. All newly hired or transferred WDFW Enforcement Officers assigned regular enforcement duties in the North Half shall attend a cultural sensitivity training session prepared and presented by CCT. CCT and WDFW shall coordinate the scheduling of the session to ensure WDFW Enforcement Officer availability. CCT shall provide a summary of the material for the session to WDFW, and WDFW shall have a reasonable time in which to review and comment on such material prior to attendance by WDFW Enforcement Officers. CCT shall consider WDFW's feedback before finalizing the material for the session. Current WDFW Enforcement Officers may also attend the sessions.
 - 2. WDFW and CCT shall review the effectiveness of the cultural sensitivity training at the Annual Meeting provided for in Part VI, and discuss whether to modify the foregoing Paragraph V.E.1. Such discussions will include whether to develop a joint CCT/WDFW training that would be required for both WDFW and CCT Enforcement Officers assigned regular enforcement duties in the North Half.
 - 3. WDFW and CCT shall provide a copy of this Agreement and all relevant laws and regulations to all current and future WDFW and CCT Enforcement Officers assigned regular enforcement duties in the North Half.

VI. Annual Meeting

At least ninety days prior to the anniversary date of this Agreement, the parties shall meet to discuss implementation of the Agreement. The parties are committed to addressing any concerns about implementation of the Agreement at the appropriate policy and/or staff level. Agenda items for the annual meeting shall include: (1) WDFW referrals to CCT and the status of such referred matters; (2) complaints by CCT members or by non-members arising from enforcement encounters under this Agreement; (3) implementation of written protocols for WDFW Enforcement Officers entering the Colville Reservation, as discussed in Part X; (4) issues relating to the possible joint funding, joint training, and cross-deputization of North Half enforcement officers; (5) modification of the term or any other provision of the Agreement, including but not limited to Paragraph V.E.1; and (6) any other issue related to the implementation of the Agreement. The parties may agree to meet at other times to discuss the implementation of the Agreement and related issues, and informal communications via telephone or email are encouraged.

VII. Term of Agreement; Automatic Renewal; Termination

- A. The initial term of this Agreement shall be two years from the effective date. During the initial two-year term, this Agreement shall not be terminated except by mutual written consent of the parties or except as provided for in Paragraph C below. Upon expiration of the initial two-year term, this Agreement shall automatically renew for additional one-year terms, except as provided for in Paragraph B below.
- B. During the initial two-year term or any subsequent one-year renewal term, and at least 30 days prior to expiration of the term, a party may transmit written notice of its intent to terminate this Agreement. Upon such notice, this Agreement shall terminate at the end of the term unless the parties mutually agree in writing on a different expiration date.
- C. During the initial two-year term or any subsequent one-year renewal term, WDFW may terminate this Agreement in the event that CCT adopts a resolution concerning WDFW Enforcement Officers' entry to the Colville Reservation that is inconsistent with the written protocols developed by the parties pursuant to Part X below, provided that such termination shall not take effect until WDFW provides CCT written notice that it believes CCT has adopted an inconsistent resolution and provides an opportunity for WDFW and CCT to meet in person within a reasonable time of such notice. Any termination under this Paragraph C shall not take effect less than 30 days after CCT's receipt of the notice described herein.

VIII. Dismissal of Litigation Without Prejudice; Covenant Not to Sue

- A. Concurrent with the execution of this Agreement, the parties shall stipulate to dismissal of *Colville v. Anderson* without prejudice.
- B. Each party shall bear its own attorney fees and costs.
- C. The parties covenant not to sue, and not to assist others to sue, any party with respect to any issue concerning authority to enforce the six public safety laws referenced in Part III while this Agreement remains in effect, provided that the parties may enforce this Agreement pursuant to Part IX below. This Agreement shall be an absolute defense to any litigation filed in violation of this Paragraph C, including any prosecution of CCT members for violating the six public safety laws referenced in Part III.

IX. Dispute Resolution; Enforcement of Agreement

- A. In the event of a dispute regarding interpretation of or compliance with this Agreement, the parties shall attempt to resolve the dispute informally by communication between the designated contacts or by referring the dispute to policy representatives. A party may request a meeting of policy representatives on an issue

in dispute by providing written notice of the existence and nature of the dispute to the other party. The parties may agree to refer any dispute to non-binding mediation.

B. In the event a dispute is not resolved under Paragraph A above, a party may seek to enforce this Agreement through legal action. The venue for such an enforcement action shall be either the United States District Court for the Eastern District of Washington or the Superior Court of the State of Washington for Okanogan County. The parties agree that they will not raise the defense of sovereign immunity in any action to interpret or enforce this Agreement under this Part IX provided that such action does not seek any money award, damages, or attorneys fees.

X. Repeal of CCT Resolution 2011-168

A. CCT shall repeal Colville Business Council Resolution 2011-168. The parties commit to working together in good faith to develop mutually acceptable written protocols for WDFW Enforcement Officers entering the Colville Reservation on official business. The repeal of Resolution 2011-168 shall occur within 45 days of the effective date of this Agreement.

B. Notwithstanding any other provision of this Agreement, WDFW's obligations under this Agreement are conditioned upon repeal of Resolution 2011-168, and a failure of the Colville Business Council to timely repeal the resolution will automatically terminate this Agreement.

XI. Amendment to Lake Rufus Woods Agreement

The parties agree to amend Paragraphs 2 and 8 of the Lake Rufus Woods Agreement, as specified in Appendix 1 attached hereto, to require that they conduct a minimum of two joint patrols per year. No other provision of the Lake Rufus Woods Agreement is modified by this Agreement.

XII. Effect on Existing Agreements

Except as expressly provided in Part XI above, this Agreement does not modify any other agreement between CCT and WDFW, although the parties may coordinate implementation of their various agreements. If this Agreement is terminated, no other agreements between the parties shall be affected, except that the amendment to the Lake Rufus Woods Agreement in Part XI above shall also be terminated.

XIII. Communications

Designated contact persons for each party for all matters pertaining to this Agreement shall be:

CCT

Joe Peone
Director, CCT Fish and Wildlife
P.O. Box 150
Nespelem, WA 99155
(509) 634-2113 (office)
(590) 631-0161 (cell)
(509) 634-2126 (fax)
joe.peone@colvilletribes.com

Mike Palmer
CCT Parks and Recreation Manager
P.O. Box 150
Nespelem, WA 99155
(509) 634-3147 (office)
(509) 322-8065 (cell)
(509) 634-3150 (fax)
mike.palmer@colvilletribes.com

WDFW

A Regional Director and an Enforcement Captain to be designated by the Director of WDFW.

Either party may change its designated contact persons by providing written notice to the other party.

XIV. Amendment

Any amendment to or modification of this Agreement shall be valid only if it is in writing and signed by the parties.


XV. Upon Whom Binding

This Agreement and its mutual promises and covenants shall extend to and be binding upon the assigns, successors, agents and administration of the parties and to all persons acting by or through the parties.


XVI. Signature of the Parties; Effective Date of Agreement

The undersigned persons executing this Agreement represent and warrant that they are authorized signatories of the party for which they are signing, and have sufficient legal authority to execute this Agreement. This Agreement is effective on the date of the last signature of the parties.

We the undersigned accept the provisions in this Agreement and agree to cooperate in implementing the Agreement.


Philip Anderson
Director, WDFW

2-28-12
Date


Michael Finley
Chairman, Colville Business Council

2-24-12
Date

Appendix 1

Paragraph 2 of the Agreement between Confederated Tribes of the Colville Reservation And Washington Department of Fish and Wildlife for a Pilot Project Regarding Management and Regulation of Fisheries At Lake Rufus Woods (“Lake Rufus Woods Agreement”), dated December 17, 2007, is hereby amended by adding the following sentence to the end of the paragraph:

State funding for Colville Tribes’ enforcement positions is conditioned upon the Tribes’ participation in at least two joint enforcement patrols per year pursuant to Paragraph 8.

Paragraph 8 of the Lake Rufus Woods Agreement is hereby amended by adding the following sentence to the end of the paragraph:

The parties shall conduct a minimum of two joint patrols per year.

All other provisions of the Lake Rufus Woods Agreement shall remain in effect without modification.