

BRIEF HISTORY OF TRIBAL FIGHT TO PRESERVE TREATY RIGHTS

Article III, Treaty of 1855

Privileges Secured To Indians

The Exclusive Right Of Taking Fish In All Of The Streams, Where Running Through Or Bordering Said Reservation, Is Further Secured To Said Confederated Tribes And Bands Of Indians, As **Also The Right Of Taking Fish At All Usual And Accustomed Places, In Common With Citizens Of The Territory . . .**

- Bolded Language Led To Six Trips To U.S. Supreme Court, Beginning In 1905 And Ending In 1979.
- Final Determination That “In Common” Reserved To The Tribes The Right To Catch 50% Of The Harvestable Fish.
- Rule Throughout The Northwest, Columbia River, Pacific Ocean, Puget Sound.



- During those 75 years, tribes and states tried hundreds of cases, many of which went to Ninth Circuit Court of Appeals.
- Fighting mainly over how to divide a dwindling resource.
- “Allocation Phase” of the controversy, i.e. Who Gets to Catch What?
- Harvest Issues expanded to ocean fisheries, including British Columbia and Alaska – both of whom catch huge numbers of lower 48 fish.
- Led to first U.S. – Canada interception treaty in 1985 – significant cuts in harvest in Alaska and Canada.



ENVIRONMENTAL PHASE

- U.S.-Canada Treaty required “rebuilding” of salmon runs.
- Tribes were watching 50% share of fish dwindle to 50% of zero.
- Well before 1985, Yakama was active in restoration – N.W. Power Act, FERC relicensing, etc.
- ESA listings started in 1991 with Snake River Sockeye. Now nearly all Columbia River stocks are listed.
- Listing restrict tribal rights to access other abundant fish.



ENDANGERED SPECIES ACT (“ESA”)

- 12 Stocks Columbia River salmon and steelhead listed as “threatened” or “endangered” under ESA from 1991-2000.
- 4 Of those stocks in Snake River. 8 Stocks in Mainstream Columbia and non-Snake tributaries.
- ESQ requires federal agencies – i.e. hydro dam operators – to prepare a biological opinion – a biology based document- showing how dam operation does not damage fish.



ESA con't.

- Since 1994, 4 out of 5 of these opinions have been rejected by federal court. Yakamas have been key player in this litigation.
- Satisfying to win, but tribe in 2007 decided winning was not providing more fish.
- Decided to negotiate and not litigate for the next 10 years.



COLUMBIA BASIN SALMON ACCORD

- 10 Year agreement between Yakama, Umatilla and Warm Springs Tribes, and BPA, COE, and Bureau of Reclamation.
- Suspends litigation for 10 years, consolidates tribal gains from prior tribal litigation – water spill at dam for better transport, imposed dam operations, and provides \$900 million to the tribes for fish restoration projects.
- Three prong effort to restore fish:
 - (1) Maintain benefits from prior litigation such as spill for passage and improved dam efficiency;
 - (2) Significant habitat restoration in Klickitat through Methow River Basins;
 - (3) Use of supplementation hatchery methods to recover wild/natural stocks.



Supplementation

- The tribal concept of supplementation involves the use of appropriate hatchery stocks and methods to boost and/or maintain abundance of salmon and steelhead until such time as the productivity problems (commonly hydro and habitat) can be addressed so that fish populations can recover.



Supplementation

- In general terms hatchery fish (often with at least some natural origin parentage) are acclimated and released away from the hatchery and when they return as adults are allowed to spawn when, where, and with whom they choose.
- Properly designed, supplementation programs can provide harvest benefits at the same time they support natural populations.
- Supplementation programs are not designed to “recover” populations by themselves.

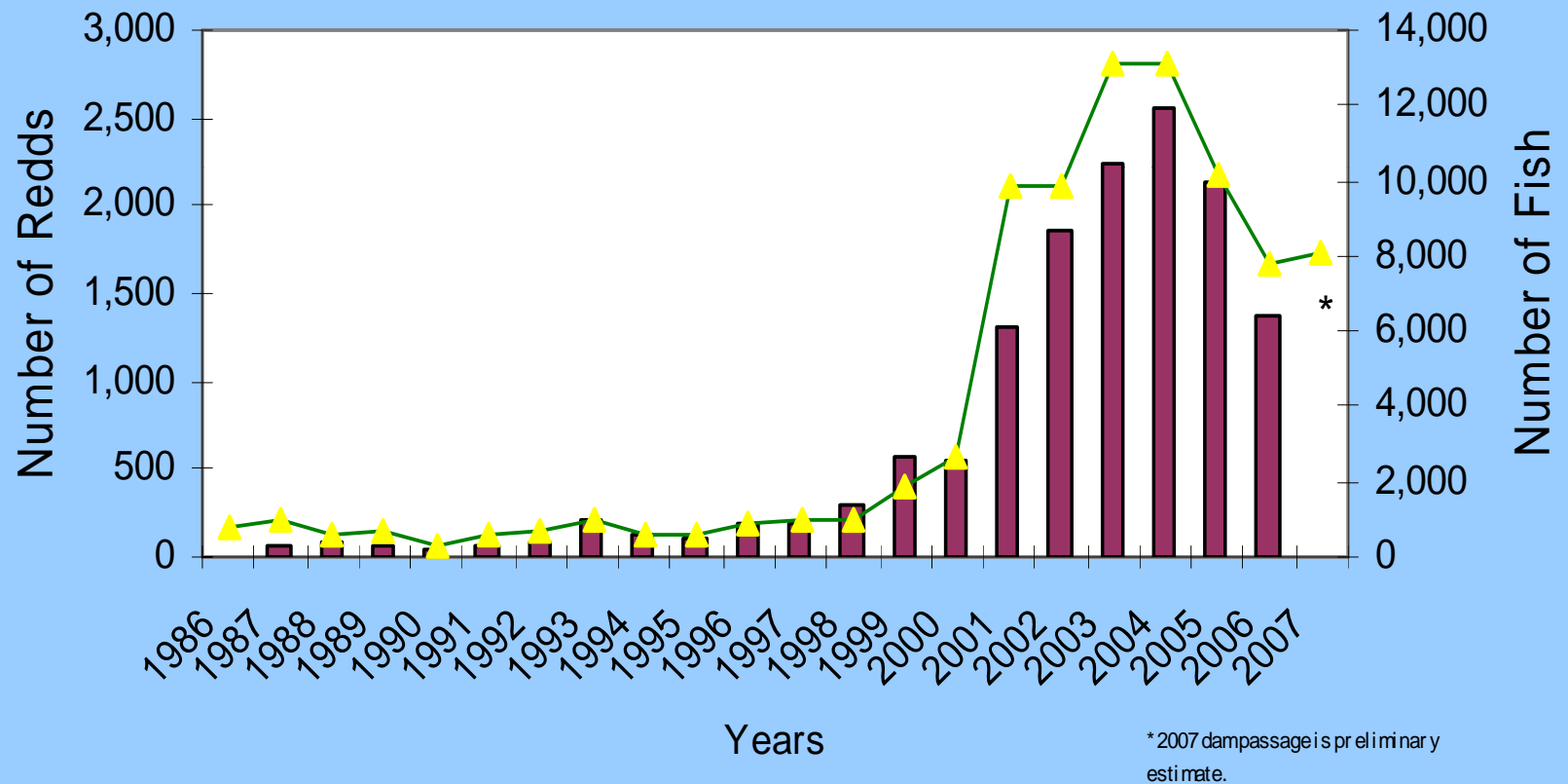


Snake River Fall Chinook

- Since supplementation fish have been released above Lower Granite, fall Chinook have expanded their range into:
 - More use of the Grande Ronde
 - More use of the Imnaha
 - Farther up the Clearwater River
 - The Lower Salmon River
 - Asotin Creek
 - Fall Chinook also use the Tucannon (below Lower Granite)



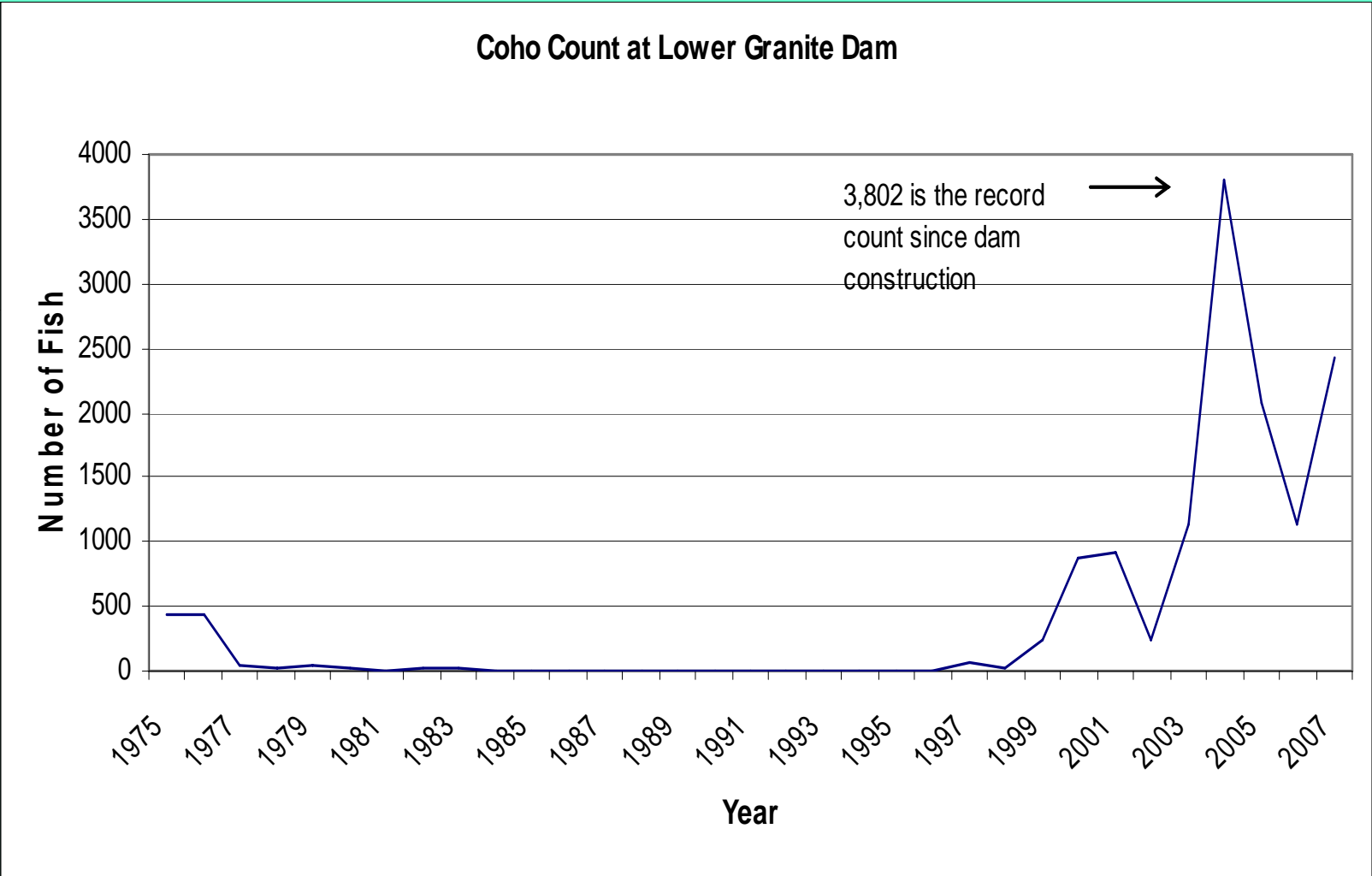
Snake River Adult Fall Chinook Above Lower Granite Dam



Redds

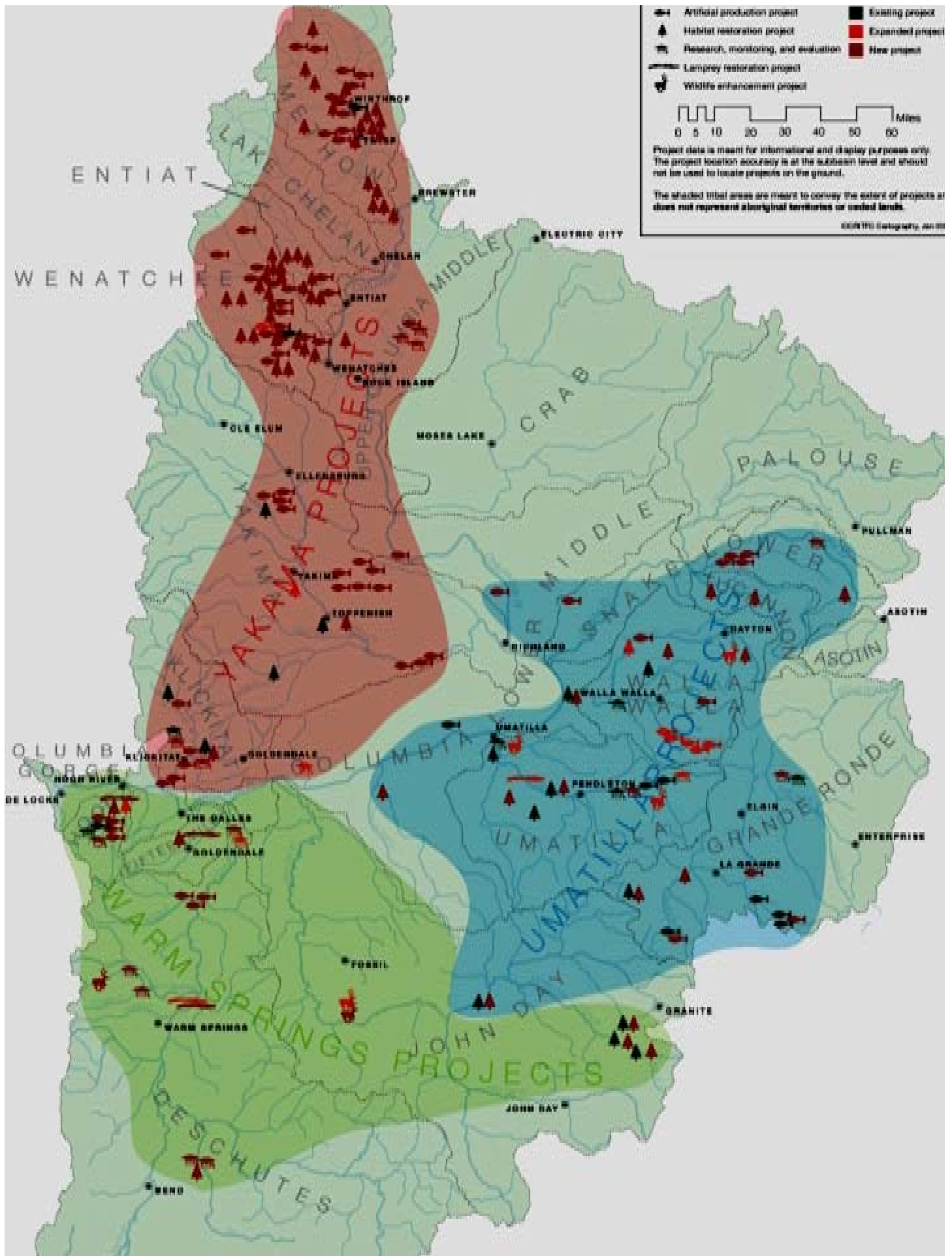
Lower Granite Count

Coho Count at Lower Granite Dam



Cle Elum Supplementation and Research Facility





ENTIAT

WENATCHE

YAKIMA PROJECTS

COLUMBIA GORGE

WARM SPRINGS PROJECTS

COLUMBIA

JOHN DAY PROJECTS

CRAB

MIDDLE

UMATILLA

UMATILLA

UMATILLA

UMATILLA

PALOUSE

MIDDLE

SNYDER

WALLA WALLA

GRANDE RONDE

GRANDE RONDE

GRANDE RONDE

GRANDE RONDE

GRANDE RONDE

GRANDE RONDE

WINTHROP

BREWSTER

ELECTRIC CITY

CHELAN

ENTIAT

WENATCHES

MOON ISLAND

OLE BLUM

ELLensburg

YAKIMA

TOPPENISH

MOREN LAKE

CRAB

MIDDLE

UMATILLA

UMATILLA

UMATILLA

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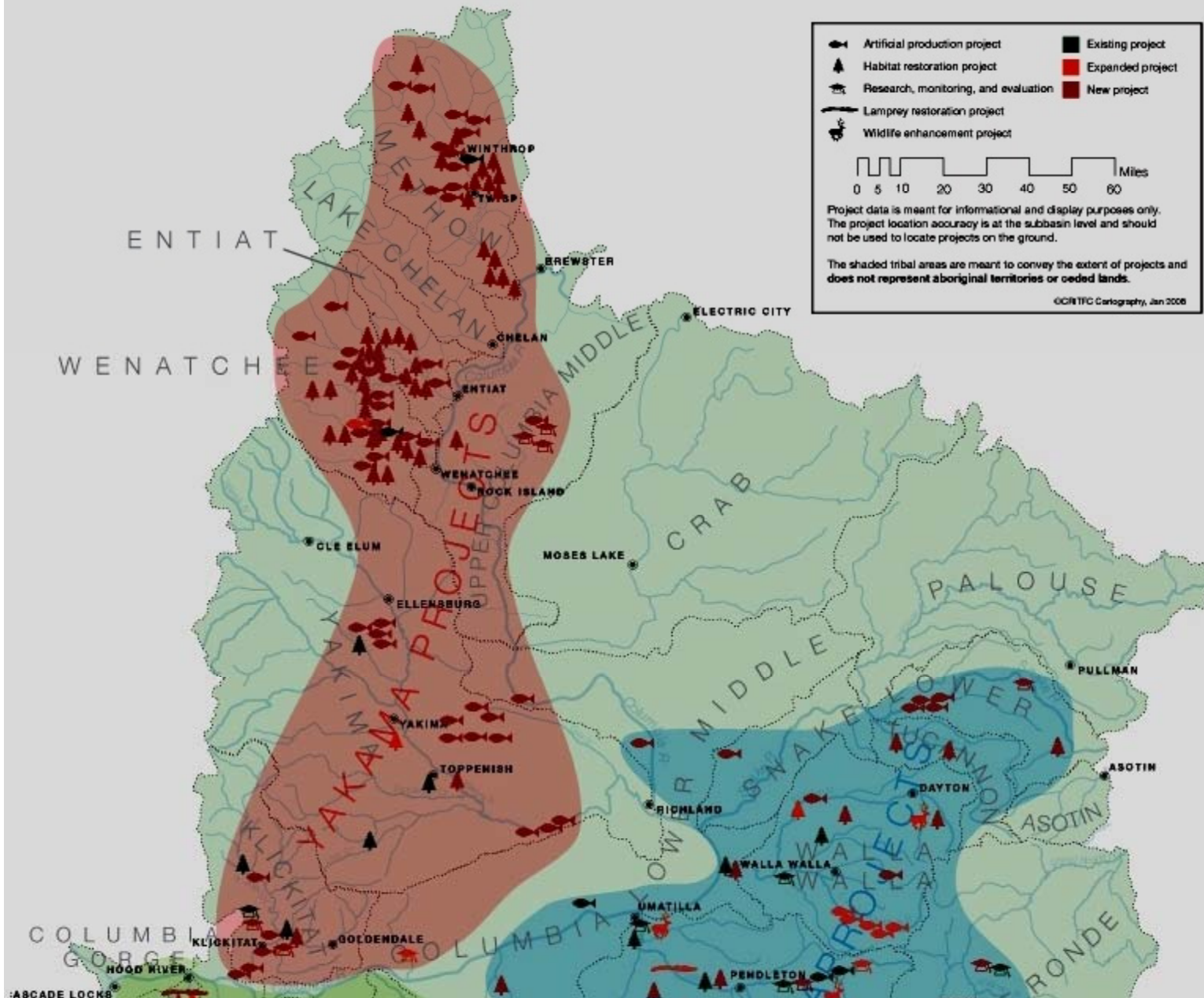
GRANDE RONDE

GRANDE RONDE

South from Geography, 2010

Existing, Expanded, and New Projects made possible by the MOA

FY2008 - FY2017



YAKAMA MOA PROJECTS

- Yakama has \$330 million dedicated to its projects over the next 10 years.
- Those projects include huge expenditures such as the complete rehabilitation of the Klickitat Hatchery and construction of a second state of the art hatchery, along with significant habitat improvement in the Basin – about \$60 million for this hatchery project alone.
- Continuation of the Cle Elum supplementation hatchery – about \$7 million.
- Small, low tech solutions such as the use of river or stream oxbows, side channels and beaver ponds for natural acculturation of fish to be out-planted.



- Includes rehabilitation of the Satus Creek, Toppenish Creek, and Ahtanum Creek corridors for both fish and wildlife restoration.
- Includes the Yakima River and Columbia River Coho restoration programs, as well as the Yakima River fall Chinook program.
- Unique Kelt restoration programs in Yakima and Snake and Upper Columbia.
- Wenatchee and Methow Basin restoration and supplementation programs.
- Not all to be done by tribes – joint ventures, contracts, cooperating agencies, land owner participation.



CHANGE IN APPROACH

- Intent is to provide both habitat for returning fish, and fish to return the improved habitat.
- Creates an amazing new partnership in the Basin which is already building optimism and cooperation between the Tribes and the Federal agencies who were sworn enemies for many years.
- Finally provides a stable source of funding for significant habitat restoration in the mid and upper Columbia – of course these funds will be spent throughout our region at the rate of \$30 million a year.

