

## **The Honorable Cathy McMorris Rodgers**

- 1. The federal government filed a quarterly summary report in court that indicates the Federal Mediation & Conciliation Service ("FMCS") convened a meeting with all parties in the process. *See Attached.* Please provide me with the nature of these meetings and the parties that were invited to attend.**

In April 2022, CEQ and the other federal agencies that have equities in this matter secured the services of the Federal Mediation and Conciliation Service (FMCS) to assist with the mediation process. All participants in the mediation, including the federal participants, are bound by the rules of the mediation. One of those rules was a requirement that each participant keep the proceedings of the mediation confidential, including the list of attendees at each meeting and the topics of discussion.

To allow interested stakeholders and entities outside of the mediation process to contribute their views to the process, however, FMCS mediators hosted virtual public listening sessions on March 31, April 3, and May 25, 2023. Many of the parties to the mediation attended the listening sessions.

- 2. The MOU and agreement among the Six Sovereigns are heavily weighted on the lower Columbia River and not the entire basin. Please provide me with your outreach and record of meetings with the upper basin parties, including Idaho, Montana, and the Upper Columbia United Tribes.**

CEQ and other federal agencies that have equities in this matter—including the Department of the Interior, the Department of Energy, the Department of the Army (Civil Works), and the National Oceanic and Atmospheric Administration (the federal agency participants)—requested broad input on Columbia River salmon from members of the public through multiple channels:

- In February and March 2022, CEQ hosted a series of listening sessions with the other federal agencies and interested stakeholders and entities in order to better understand the context for our efforts.
- In March 2022, the federal agency participants jointly hosted a nation-to-nation consultation with the Tribal Nations of the Columbia River Basin. Fourteen Tribal Nations participated in the consultation.
- In March 2022, CEQ opened an email inbox ([salmon@ceq.eop.gov](mailto:salmon@ceq.eop.gov)) to receive written comments from members of the public, which remained open until June 2023. Based on a sample of emails received, more than 95 percent of the messages sent to the inbox were form letter correspondence.
- On March 31, April 3, and May 25, 2023, FMCS hosted virtual public listening sessions to allow interested stakeholders and entities to contribute views to the mediation process. Many of the parties to the mediation attended the listening sessions to hear directly from parties outside the process.
- On March 31, 2023, the federal agency participants held a briefing for Congressional staff regarding the ongoing public engagement process.
- On May 4, 2023, in response to requests from interested stakeholders and entities in the region and Members of Congress to provide additional opportunities for the public to provide

written feedback to inform the mediation process, CEQ published a Request for Information (RFI) in the Federal Register. The RFI invited members of the public to submit comments to a public docket on Regulations.gov, which remained open through August 31, 2023. During that time, members of the public submitted over [72,000 comments](#). CEQ has encouraged all participants in the mediation to review the comments in the docket closely and to give serious consideration to the public's views, as CEQ did.

- On September 21, 2023, the Biden-Harris Administration announced a historic agreement with the Confederated Tribes of the Colville Reservation, the Coeur d'Alene Tribe, and the Spokane Tribe of Indians to fund and support Tribally led efforts to restore healthy and abundant salmon populations in the Upper Columbia River Basin as part of a Phase 2 Implementation Plan.
- On December 14, 2023, the Biden-Harris Administration announced yet another historic agreement, this one between federal agencies and the Yakama Nation, Nez Perce Tribe, Warm Springs, Umatilla, Oregon, Washington, and nongovernmental organizations and described in further detail in the response to question 3 below.
- Since signing these agreements, Federal agencies have continued to engage with parties and with Tribal Nations in the Upper Basin, consistent with the direction in the Presidential Memorandum.

**3. The federal government is seeking a stay of the litigation, and the Administration is insisting that the agreement provide the region legal certainty. Yet the federal government has indicated that it intends to implement the Memorandum of Understanding regardless of a stay decision from the court because the commitments and measures are beyond the litigation and were a result of the Columbia Basin Restoration Initiative. How will a stay of the litigation provide certainty and resolve the litigation if the federal government has not reached a consensus with the parties and MOU implementation is beyond the scope of the litigation?**

On December 14, 2023, the Biden-Harris Administration announced a historic agreement (the December 14<sup>th</sup> Agreement) that breaks the logjam of nearly 30 years of litigation and charts a course to restore wild salmon, steelhead, and other native fish populations; expand Tribally sponsored clean energy production; and provide stability for communities that depend on the Columbia River System for agriculture, energy, irrigation and water supply, recreation, and transportation. This Agreement was reached in partnership with the States of Oregon and Washington; the Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Yakama Nation; and environmental non-profit organizations.

The December 14<sup>th</sup> Agreement reflects specific commitments that the United States is making in support of these goals, including funding commitments that, when combined with other funding that the Administration expects to deliver to the region, will bring more than \$1 billion in new Federal investments to the Columbia River Basin over the next decade. Furthermore, the December 14<sup>th</sup> Agreement will facilitate the development of at least one to three gigawatts of Tribally sponsored clean energy production.

Accordingly, the December 14<sup>th</sup> Agreement both addresses the matters at issue in the litigation and advances the achievement of historic objectives that go beyond the scope of the litigation.

On February 8, 2024, the Court granted a stay of the litigation through December 13, 2028, which reflects the progress that the December 14<sup>th</sup> Agreement represents towards a consensual resolution of long-running litigation.

**4. How does the MOU provide certainty about river operations and fish programs given that parties or new plaintiffs can still raise separate complaints given the MOU is beyond the scope of the initial lawsuit?**

On February 8, 2024, the Court granted a stay of the litigation through December 13, 2028, which reflects the progress that the December 14<sup>th</sup> Agreement represents towards a consensual resolution of the long-running lawsuit.

The federal agency participants are now implementing the Presidential Memorandum of September 27, 2023, on *Restoring Healthy and Abundant Salmon, Steelhead, and Other Native Fish Populations in the Columbia River Basin* (the Presidential Memorandum); the Phase 2 Implementation Plan Agreement of September 21, 2023; and the December 14<sup>th</sup> Agreement described above.

For example, the Bureau of Reclamation and the National Oceanic and Atmospheric Administration have awarded funds to the Spokane, Coeur d'Alene, and Colville Tribes to carry out studies under the Phase 2 Implementation Plan, and the Bonneville Power Administration is working to disburse its portion of the funds.

Likewise, agencies are now implementing the operational changes at four Lower Snake River dams and four Lower Columbia River dams described in Appendix B of the December 14<sup>th</sup> agreement.

We continue to meet with sovereigns in the region to explore developing an intergovernmental partnership to carry out the policy of the Presidential Memorandum.

CEQ is committed to honoring the United States' obligations to Tribal Nations and to protecting and restoring the nation's natural wonders for future generations, while also recognizing the important benefits that the Columbia River System provides to communities and businesses throughout the region. Continued implementation of the Presidential Memorandum and the two agreements will develop and diversify the region's options for affordable, clean, and reliable energy. Investments under the Presidential Memorandum and the agreements will help to ensure continued energy reliability and affordability, transportation, recreation, irrigation, and other key services.

**5. The MOU commits the Bonneville Power Administration to \$200 million in hatchery upgrades and \$100 million over 10 years for additional projects identified by the Six Sovereigns. Are these funding commitments being addressed through the Northwest Power and Conservation Council? And if so, how does the Council address the fact that the federal government has only resolved issues with Washington and Oregon?**

CEQ respectfully refers questions about the Bonneville Power Administration's commitments to the Bonneville Power Administration; and about the Northwest Power and Conservation Council to the Northwest Power and Conservation Council.

**6. Please describe what actions are being taken by the Federal Government and the State of Washington to address pollution and other threats to Puget Sound salmon.**

The 2023 agreements focus on Columbia River Basin salmon, steelhead, and other native fish, and are consistent with the Federal Government's overall commitment to salmon, steelhead, and other native fish in the Puget Sound, the State of Washington, and the Pacific Northwest.

Pursuant to Congress's direction in the National Defense Authorization Act (NDAA) for Fiscal Year 2023, the government has convened the Puget Sound Federal Leadership Task Force to coordinate the federal government's efforts to restore Puget Sound and address Tribal treaty rights. The Task Force originated as an interagency effort under the Obama-Biden Administration to foster interagency coordination on Puget Sound issues at the regional and national level.

As part of President Biden's Investing in America agenda, the Administration has made record investments of \$106 million in Inflation Reduction Act (IRA) funds to support the Pacific Coastal Salmon Recovery Fund and \$27 million in IRA funds for transformational science to support Pacific salmon.

In addition, the Administration recently announced \$12 million to reduce the impact of 6PPD-quinone and other stormwater pollutants affecting salmon in the Puget Sound, and also announced plans to award up to \$30 million in Bipartisan Infrastructure Law (BIL) funding for a new Puget Sound Climate Resilient Riparian System Lead program, a collaborative conservation program that provides financial incentives for landowners to protect and restore riparian areas that support salmon recovery, climate resiliency, and other benefits.

These efforts are a non-exhaustive list of the Biden-Harris Administration's commitment to salmon, steelhead, and other native fish in the Puget Sound, the State of Washington, and the Pacific Northwest. For additional actions, please reach out to NOAA and EPA for further details on their actions in the region.

**7. It appears that the Biden Administration and Governor Jay Inslee are distracted by misguided efforts to breach the Lower Snake River dams and failing to address pollution and runoff negatively impacting Puget Sound salmon. Please describe the status of Puget Sound salmon and explain whether you believe the level of attention they are receiving is adequate.**

Restoring Puget Sound salmon is an important priority of the Biden-Harris Administration. CEQ has coordinated an interagency effort with the National Marine Fisheries Service and the Department of the Army to improve the review and processing of nearshore permit applications in the Puget Sound and Salish Sea while better safeguarding vital salmon habitats.

In addition to the amounts described above, the Administration has invested record amounts in Puget Sound salmon restoration as part of the Howard A. Hanson Dam project, including \$220 million in BIL funding, and is seeking an additional \$500 million for construction of a downstream fish passage facility in the President's Fiscal Year 2025 Budget Request.

The Puget Sound and Salish Sea stocks are of tremendous importance, biologically and culturally, and also face significant risk. The Columbia River agreements of 2023, and the Administration's

goal to restore healthy and abundant salmon, steelhead, and other native fish in the Columbia River Basin, are consistent with and complement the Administration's commitment to Puget Sound restoration.

The Biden Administration has not taken a position on removing dams on the Lower Snake River, as it is a question that only Congress could decide.

**8. Please describe the status of Snake River salmon in comparison to other salmon found in the Puget Sound and Columbia River Basin.**

The National Marine Fisheries Service would be best positioned to describe the status of Pacific salmon.

**9. Do you believe that removal of the Lower Snake River Dams is necessary for "healthy and abundant" salmon? The Administration has stated that all of the lost hydropower will be replaced with other renewable energy like wind. Are wind and hydropower the same from a reliability perspective?**

The Biden Administration has not taken a position on removing dams on the Lower Snake River. Only Congress could authorize breaching of the dams.

The December 14<sup>th</sup> Agreement does not endorse or commit to breaching any of the Lower Snake River dams. We have been clear that only Congress, not the Executive Branch, could decide whether to breach any of the Lower Snake River dams. Rather, the December 14<sup>th</sup> Agreement commits the federal government to providing Congress, the region, and other interested stakeholders and entities with the information, research, and studies that they will need to make the best decision for the region.

The Administration is committed to working with Tribes, states, and key stakeholders to complete a Regional Energy Needs Planning Process, which will advance the development of clean energy resources and infrastructure to meet the region's economy-wide decarbonization goals and identify the specific resources capable of replacing the energy services of the Lower Snake River dams. This process, along with the studies that the government will carry out pursuant to the December 14<sup>th</sup> Agreement, will help inform Congress on the transportation, irrigation, and recreation services provided by the four Lower Snake River dams and how they could be replaced by other sources.

The Department of Energy (DOE) would be best positioned to comment on the comparative reliability of particular sources of energy. The Regional Energy Needs Planning Process will consider various potential sources of energy.

**10. In the final litigation agreement, there are numerous references to tasks and projects which will require congressional appropriations. Congress has not promised, agreed to, or indicated in any way, shape or form that it would fund these objectives. If Congress does not appropriate the funding, how does the Administration intend to keep this agreement implementation on track?**

The December 14<sup>th</sup> Agreement states clearly that it does not bind any Federal agency to expend any sum in excess of appropriations made by Congress, nor does it involve the United States in

any contract or other obligation for the further expenditure of money in excess of such appropriations. (See Paragraph 5.2.). The U.S. Government intends to invest funds that Congress has already appropriated in the Inflation Reduction Act, the Bipartisan Infrastructure Law (also known as the Infrastructure Investment and Jobs Act), and other existing appropriations.<sup>1</sup>

Additionally, as President Biden directed in the Presidential Memorandum, the U.S. Government will seek to work with Congress, as well as all Tribal Nations, States, local governments, and stakeholders to pursue effective, creative, and durable solutions, informed by Indigenous Knowledge, to restore healthy and abundant salmon, steelhead, and other native fish populations in the Basin; to secure a clean and resilient energy future for the region; to support local agriculture and its role in food security domestically and globally; and to invest in the communities that depend on the services provided by the Basin's Federal dams to enhance resilience to changes to the operation of the Columbia River System, including those necessary to address changing hydrological conditions due to climate change.

The President's Budget for Fiscal Year 2025 includes investments to support Columbia River Basin fish populations, including \$145 million for the U.S. Army Corps of Engineers, \$19 million for the Bureau of Reclamation, and \$34 million for the National Oceanic and Atmospheric Administration. To the extent that accomplishing the objectives in the Presidential Memorandum and the commitments in the Agreement require additional funding, the relevant agencies will convey those needs to Congress in the appropriations process.<sup>2</sup>

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<sup>1</sup> The Bonneville Power Administration intends to invest additional funds from the sources noted in the Agreement.

<sup>2</sup> Nothing in the agreement creates an obligation or contract for the further expenditure of money in excess of appropriations or to pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341. (See Paragraph 5.2.)

**The Honorable Kim Schrier**

- 1. I'd like to direct my questions on the projected rate increases for utilities who purchase power from BPA. BPA markets power to more than 120 customers, the majority of which are Northwest utilities. Utilities' contracts with BPA are up for re-negotiation in 2028, and they will be deciding whether to sign up for another contract for their service territory. I've heard from our Public Utility Districts about the uncertainty that this agreement brings to that process. PUDs have to decide whether to re-up their existing contracts to continue purchasing power at BPA.**
  - a. BPA expects rates to rise 2.7% for the next ten years as a result of this agreement and the Upper Columbia River agreement. How certain are these models, and what do you project will be impacts to ratepayers? For the US government's commitments that have funding sources unaccounted for, how could those projections change?**
  - b. What commitment can you make to the ratepayers of my district that their utility bills will not go up beyond projected rates published by BPA as a result of this mediation agreement?**

The Bonneville Power Administration (BPA) would be best positioned to respond to these questions. However, a preliminary analysis by BPA shows that BPA's commitments under the Columbia River Salmon Agreement—that is, the commitments to invest \$300 million and make certain operational changes—will affect electric rates by less than 1%. Specifically, BPA estimates the agreement will affect annual electric rates by 0.5 to 0.9% from 2026 to 2035, or by 0.7% on average each year.