

**STATEMENT OF  
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**BEFORE THE  
SUBCOMMITTEE ON ENERGY, CLIMATE, & GRID SECURITY  
COMMITTEE ON ENERGY AND COMMERCE  
UNITED STATES HOUSE OF REPRESENTATIVES**

January 30, 2024

**Introduction**

Chairman Duncan, Vice Chair Curtis, Ranking Member DeGette, and distinguished Members of the Committee. Thank you for the opportunity to testify today to discuss the historic commitment that the Biden-Harris Administration has made to honor the United States' obligations to Tribal Nations; protect and restore this nation's natural wonders for future generations; support development of a reliable and affordable clean energy future for the region; and secure the important benefits that the Columbia River System provides to communities and businesses throughout the region. The ten-year framework we have agreed to creates the space, information, and investment that is needed to advance regionally-developed and deployed solutions to the conflicts the Basin has wrestled with for nearly a century. And importantly, it is responsive to work done by leaders in the region, including Pacific Northwest Tribes, Senator Patty Murray, Governor Jay Inslee, and Congressman Mike Simpson, who envision a future for the Columbia River Basin marked by partnership rather than conflict.

**Brief Historical Context**

The Columbia River Basin was once home to some of the largest salmon runs in the world. Some individual salmon grew to be more than 100 pounds in size. Salmon were so abundant—and such an essential source of food and prosperity—that they have been central to the cultures and ways of life for Tribal Nations in the Pacific Northwest since time immemorial.

For nearly two centuries, access to—and abundance of—salmon has been a source of dialogue, negotiation, and conflict between the Federal government and Tribal Nations in the Columbia River Basin. In 1854, 1855, and 1856, the United States entered treaties with several Pacific Northwest Tribal Nations, which reserved their right to take fish at all usual and accustomed places, including on the Columbia River and its tributaries.

In the decades that followed the signing of those treaties, logging, canneries, and other factors began to severely deplete the abundance of salmon in the river. In 1933, the United States began constructing the Grand Coulee Dam on the Columbia River to generate hydroelectric power, provide flood risk reduction, and water supply but without providing any means for salmon and other fish to pass upstream. In 1949, the United States began constructing the Chief Joseph Dam (named after the Nez Perce Chief), also without fish passage. Together, these dams eradicated salmon from the Upper Columbia River Basin.

Other major dams the United States constructed on the mainstem Columbia River to generate electricity, provide irrigation, and enable barge transportation included fish passage structures, meaning they did not completely block salmon passage. By radically changing river conditions, however, these dams contributed to the depletion of salmon populations. In the 1960s and 1970s, the United States constructed four dams on the lower Snake River, which is the Columbia River's main tributary, to enable barge transportation and generate electricity. The lower Snake River dams also included fish passage structures, but they also nevertheless affected salmon habitats and the way in which the fish moved through the lower Basin. Additionally, the construction of all of these major Federal dams affected habitat for other native fish and wildlife of importance to the Tribes and the region.

Today, salmon and steelhead return to the Columbia River Basin at a small fraction of their historic numbers. Since 1991, the National Marine Fisheries Service has determined that thirteen Columbia River Basin salmon and steelhead stocks need the protection of the Endangered Species Act to survive. Since being listed as threatened or endangered, not one of these thirteen salmon and steelhead stocks has yet recovered. Other important fish species in the Basin have also experienced declines, including Bull trout, Kootenai white sturgeon, Pacific lamprey, Westlope cutthroat trout, and Burbot.

In 1992, environmental organizations filed a lawsuit arguing that the United States had failed to comply with its obligations under the Endangered Species Act when it comes to Columbia River salmon and steelhead. Since that time, litigation has expanded to include Tribes, States (including the States of Oregon, Washington, Idaho, and Montana), sport and commercial fishing groups, and other parties participating to protect their interests. The District Court overseeing the litigation has repeatedly ruled against the United States, and has entered numerous injunctions directing modifications to the operations of the Columbia River hydro-system that have come at the expense of services provided by the dams, like power generation. Since 2021, the litigation has been paused, marking one of the longest stretches during which the Federal Government has been operating the river without an injunction. Recently, the United States reached an agreement for a ten-year framework, which I will discuss in more detail in a moment.

Two and a half years ago, some of the plaintiffs filed a new motion seeking to further alter hydropower operations in the Columbia River Basin, which could have resulted in a court order imposing significant new constraints on river operations, which in turn could have had severe impacts on power generation, navigation, and other services.

Therefore, the United States Government had a choice: it could defend and face the prospect of another injunction, or, it could work with the plaintiffs and others in the region to try to find a path forward that could break the cycle of litigation and lay the groundwork for an enduring partnership with the Tribes and States and open the door to mutually beneficial solutions that are not possible in litigation.

The Government chose to try to find common ground and partnership. The proceedings were stayed in order to allow the parties to pursue a mediation process that would preserve options; build stronger relationships with Tribal leaders and meet our treaty and trust responsibilities;

respond to regional leaders' concerns; and ensure that Congress has the information it needs to most effectively invest in and increase the resilience of the Pacific Northwest.

### **CEQ's Role in the Mediation**

In October of 2021, CEQ convened an interagency group to determine the best course forward in the litigation and mediation. The group includes leaders from the Department of the Interior, including the Bureau of Indian Affairs, the Bureau of Reclamation, and the Fish and Wildlife Service; the National Oceanic and Atmospheric Administration; the Department of the Army, including the Army Corps of Engineers; and the Department of Energy, including the Bonneville Power Administration. Recognizing the challenge and complexity of the litigation and the issues it presents, in 2022, CEQ engaged the Federal Mediation and Conciliation Service (FMCS) to provide a team of experienced mediators to facilitate dialogue with States, Tribal Nations, and stakeholders in the region participating in the mediation.

CEQ invited all of the litigants and other affected States and Tribal Nations to participate, and most chose to do so. Like the litigation itself, the mediation included representatives from a broad range of Columbia River Basin stakeholders, including public power interests, navigation, environmental and fishing organizations, and agriculture.

The Government knows how important these issues are to the many residents and stakeholders in the region, and accordingly CEQ worked with the FMCS mediators to also provide opportunities for public engagement and comment. Among other things, CEQ hosted six listening sessions with different stakeholder groups in 2022, and FMCS hosted three public listening sessions in 2023. CEQ also published a Request for Information in the *Federal Register* that allowed every member of the public to provide input into the mediation process. In response, CEQ received over 72,000 comments, which we published on Regulations.gov so that all of the parties in the mediation, as well as members of the public and other regional and national leaders could independently take a look at what members of the public had to say.

### **Progress Toward Solutions**

In the fall of 2023, the President issued a *Memorandum on Restoring Healthy and Abundant Salmon, Steelhead, and Other Native Fish Populations in the Columbia River Basin*, which directs Federal agencies to work with the Congress and with 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 CRS, including those necessary to address changing hydrological conditions due to climate change. There is much to do to meet that directive.

In September, the United States Government signed an historic agreement with the Spokane, Coeur d'Alene, and Colville Tribes to support their plan for the next twenty years to study reintroduction of salmon into the Upper Columbia River, where salmon have been blocked and

extirpated for nearly a century. The signatory agencies are hard at work on implementing that agreement.

## **Historic Agreement and 10-Year Partnership**

On December 14<sup>th</sup>, the Biden-Harris Administration announced another historic agreement to work in partnership with the States of Oregon and Washington; the Nez Perce, Umatilla, Warm Springs, and Yakama Nation Tribes; and environmental non-profit organizations to restore wild salmon populations and other native fish, expand Tribally sponsored clean energy production, and provide stability for communities that depend on the Columbia River System.

The final agreement establishes what we hope will be an evolving and enduring partnership with the Tribes, States, and stakeholders in the Basin.

I am joined at the witness table by experts from the agencies that are making key commitments under the agreement, so I won't go through every detail. In brief, however, the agreement has four critical components:

1. First, over the next ten years, the Bonneville Power Administration (BPA) will provide an additional \$300 million for fish and wildlife restoration efforts and will increase the autonomy of States and Tribes over some of the BPA fish and wildlife funding they receive.
2. Second, the United States Government will work with the Lower Columbia River Basin Tribes to facilitate the development of at least one to three gigawatts of tribally sponsored clean energy to build energy infrastructure that, if Congress authorizes breach of the Lower Snake River dams, could help replace the power generated by those dams. This collaboration will help develop the energy infrastructure necessary to replace the power currently generated by the four Federal dams on the Lower Snake River, in the event that Congress decides to authorize dam breaching. The United States Government also will work with Tribes, States, and other key stakeholders to complete a Regional Energy Needs Planning Process that will provide information on how to advance the development of clean energy resources and infrastructure required to meet the region's economy-wide decarbonization goals and also on the specific resources capable of replacing the energy services of the Lower Snake River Dams.
3. The United States Government will make adjustments to the operation of some of the Federal dams to deliver a net benefit for some fish populations, while maintaining navigation, grid reliability, and meeting health and safety requirements. The agreement also will increase the energy flexibility during two critical weeks in the summer, when the higher temperatures we are seeing due to climate change place the most acute demands on the energy system. This flexibility will enhance the reliability of the regional grid and benefit BPA ratepayers.
4. The United States Government will undertake or help fund studies to assist in evaluating alternatives to the transportation, irrigation, and recreation services provided by these dams could be replaced in the event that Congress decides to authorize dam breach. This

will allow us to advance the development of alternative services in partnership with regional sovereigns, rather than in conflict.

In return for these commitments, the parties to the agreement have agreed to extend the stay in the proceedings by five years, with the prospect of a second five-year stay when the first one expires in 2028, for a total of ten years. Put simply, if fully implemented, this agreement could secure ten years of stability for river users in the region — something that, because of this ongoing litigation, has not been the case in several decades.

### **Frequently Asked Questions**

Finally, I would like to address two frequently asked questions about this agreement and partnership. Many stakeholders have asked whether the agreement authorizes or anticipates breaching any of the dams on the Lower Snake River. The Administration has not taken a position on breaching the Lower Snake River dams and we have been clear that Congress, not the Executive Branch, must decide whether to breach any of the dams on the Lower Snake River. The December agreement does not, therefore, make a judgment on, commit to breaching, or endorse breaching any of the dams.

Additionally, electric customers in the Pacific Northwest have asked how the agreement will affect electric rates in the region. The parties to the mediation structured the agreement to balance rate impacts with maintaining energy reliability. A preliminary analysis by BPA shows that BPA's commitments under the Columbia River Salmon Agreement—that is, the \$300 million commitment and 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. We believe that impact on ratepayers is considerably smaller than could have resulted if the court had ruled in favor of the plaintiffs' motion for an injunction. This is because the court could have ordered significantly more burdensome changes to the operation of the system itself. By contrast, the agreement maintains, and in some cases expands, the Government's authority to operate the system flexibly — particularly with respect to deploying hydropower during the summer, which improves energy reliability.

It is important to note that the agreement does not address all of the issues related to salmon and other native fish that the Tribes and States in the Basin are facing. We are eager to work with the other States and Tribes, as well, to fulfill the directives of the Presidential Memorandum.

### **Conclusion**

We are now implementing the historic agreements of 2023. The Bonneville Power Administration has completed environmental compliance and is working to disburse funding to the Spokane, Coeur d'Alene, and Colville Tribes to carry out studies under the Implementation Plan at issue in the September agreement, and the Bureau of Reclamation and the National Oceanic and Atmospheric Administration have already made awards for this work. The agencies are working with nonfederal sponsors to carry out commitments under the December 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.

And importantly, I am hearing from the public and stakeholders about this issue. Since the December 14<sup>th</sup> agreement was signed, I have received hundreds of emails that express a common theme, paraphrased here: The conflict over salmon has gone on for too long, would harm fish, and yield expensive energy, and an uncertain future for the region. They request a comprehensive solution that will work to save salmon, resolve the conflict, and unite the region.

I believe the agreements of 2023 and the Presidential Memorandum reflect similar themes.

In conclusion, I am 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.

Thank you for the opportunity to testify today. I look forward to our continued partnership and welcome any questions you may have.