

**LEFT IN THE DARK: EXAMINING THE
BIDEN ADMINISTRATION'S EFFORTS TO
ELIMINATE THE PACIFIC NORTHWEST'S
CLEAN ENERGY PRODUCTION**

OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON WATER, WILDLIFE AND
FISHERIES

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

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**OVERSIGHT HEARING ON LEFT IN THE DARK:
EXAMINING THE BIDEN ADMINISTRATION'S
EFFORTS TO ELIMINATE THE PACIFIC
NORTHWEST'S CLEAN ENERGY PRODUCTION**

**Tuesday, December 12, 2023
U.S. House of Representatives
Subcommittee on Water, Wildlife and Fisheries
Committee on Natural Resources
Washington, DC**

The Subcommittee met, pursuant to notice, at 2:48 p.m., in Room 1324, Longworth House Office Building, Hon. Cliff Bentz [Chairman of the Subcommittee] presiding.

Present: Representatives Bentz, McClintock, LaMalfa, González-Colón, Duarte, Hageman, Westerman; Huffman, Mullin, Hoyle, and Porter.

Also present: Fulcher, Newhouse, Rodgers, Rosendale, and Zinke.

Mr. BENTZ. The Subcommittee on Water, Wildlife and Fisheries will come to order.

Without objection, the Chair is authorized to declare a recess of the Subcommittee at any time.

Good afternoon, everyone. I want to welcome our witnesses, Members, and our guests in the audience to today's hearing. The Subcommittee is meeting today to hear testimony on a hearing entitled, "Left in the Dark: Examining the Biden Administration's Efforts to Eliminate the Pacific Northwest's Clean Energy Production."

I ask unanimous consent that all other Members' opening statements be made part of the hearing record if they are submitted in accordance with the Committee Rule 3(o).

I also ask unanimous consent that the gentlewoman from Washington, Mrs. McMorris Rodgers; the gentleman from Washington, Mr. Newhouse; the gentleman from Idaho, Mr. Fulcher; and the gentlemen from Montana, Mr. Rosendale and Mr. Zinke be allowed to participate in today's hearing.

Without objection, so ordered.

I now recognize myself for an opening statement.

**STATEMENT OF THE HON. CLIFF BENTZ, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF OREGON**

Mr. BENTZ. Again, I thank all of you for being here. As Chairman Conrad Burns said years ago regarding a somewhat similar situation, this dam case is back. And indeed, it is.

To set the stage for today's hearing, here is a narrow snapshot of the last 3 years of the 22 years of litigation and politicalization of the Columbia and Snake Rivers power navigation and salmon conflicts. On July 24, 2020, NOAA's National Marine Fisheries Service issued its final biological opinion, as required by section

7(a)(2) of the ESA on the effects of the operation and maintenance of the Columbia River system of Federal dams.

In that opinion, NMFS concluded that the operation and maintenance of the Columbia River system was not—and I repeat, was not—likely to jeopardize the continued existence of the Snake River spring, summer Chinook salmon, steelhead, sockeye salmon, fall Chinook salmon, and 11 other species of fish. The analysis upon which this opinion was based took 4 years to complete, involving an EIS that cost some \$50 million. The document is 1,400 pages long.

With total predictability, about 7 months later, in 2021, the National Wildlife Federation filed in Federal court the eighth supplemental complaint challenging NMFS's decision. Also with total predictability, NMFS, noting that there was a new president in the White House, promptly reversed course and, without a care about its credibility, issued a new report called "Rebuilding Interior Columbia Basin Salmon and Steelhead," claiming in this document, "The science robustly supports dam removal on the Snake River." It is astounding, just the opposite of what this very agency had decided a mere 24 months earlier. It is enough to give the casual observer whiplash.

Following the filing of the eighth amended complaint mentioned earlier, Federal District Court Judge Simon entered a stay of court proceedings in October 2021 based on the assertion that the parties to the lawsuit were "in good faith discussions to resolve the entire litigation." His stay of proceedings has been extended several times. The most recent stay will end in just several days, on December 15, 2023.

A few words about these "good faith discussions" upon which Judge Simon relied are in order. The so-called negotiations were closed to the public, the parties were bound by gag agreements, and the group was designed to leave out ratepayers, irrigators, navigational interests, and communities dependent upon the flow of commerce up and down the 465 miles of Columbia and Snake Rivers. Since all the parties at the table shared the same goals, it is difficult to understand why it took so long to create the so-called mediation document.

The same "good faith" discussions were the focus of a hearing this very Committee held in Richland, Washington on June 26 of this year. Sadly, the government agencies who are parties to the lawsuit and deeply involved in the so-called mediation refused to answer my questions or, for that matter, any of the questions we Congressmen and women asked about the content of the secret agreement. These officials repeatedly refused to discuss or share any part of their sue-and-settle contrivance, the product of about 2 years of backroom collusion that we now know will cost billions of dollars, if enacted, perhaps double the \$3 million Northwest ratepayers' electricity bills, cripple important parts of the Northwest economy, and decimate any number of river communities.

About 2 weeks ago, the sue-and-settle document containing the collusive efforts of this narrow group of self-dealing plaintiffs led by President Biden's Council on Environmental Quality was leaked. And we have it in front of us today. This agreement, entitled,

“Confidential Mediation Document,” is a narrow, elitist, top-down, big government, progressively burdened product of the first order. A worse approach than the one found in this instrument to solving the truly difficult and decades-long problems posed by the challenges to our communities and our fish would be hard to imagine.

So, what is this hearing for today? Here is what we hope to accomplish.

First, call out from the rooftops the incredible damage the provisions found in this mediation document will do to the billion-dollar negotiations now occurring between BPA and its millions of rate-payers as customers of the BPA, as they struggle to find certainty in an agreement that is intentionally and dangerously ambiguous.

Second, call out the absolutely undeniable fact that this agreement will and already has led to even more litigation. It is not a settlement agreement so much as a litigation cluster bomb.

Third, call out the incredible damage done by the CEQ in ignoring the APA and exceeding its statutory purpose. Director Mallory needs to re-read the provisions of NEPA that describe her CEQ’s authority. The challenge of protecting the millions of rate-payers against dramatic increases in their utility bills and the thousands of businesses and communities that rely on river commerce on the one hand, and the fish on the other is not a problem that will be solved by unelected bureaucrats hiding behind the skirts of the Federal Court.

Again, I thank all of you for being here. I look forward to your testimony.

I now recognize Ranking Member Huffman for his opening statement.

STATEMENT OF THE HON. JARED HUFFMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. HUFFMAN. Thank you, Mr. Chairman. There is something we should be shouting from the rooftops, and it is the fact that the status quo in the Columbia River Basin is not working.

We are on the verge of losing iconic salmon runs. There are orca whale populations that will blink out if that happens. And unless you are comfortable with all of this extinction, unless you are comfortable with sticking it to the tribes that have depended on these resources for millennia, unless you are comfortable sticking it to the commercial and recreational fishing interests that are going to lose big-time if we continue to be in denial about the status quo, then I would say it is long overdue to move past this failed situation and start modernizing the Federal Columbia River Power System so that it can actually balance ecological, cultural, and economic benefits across the region.

But rather than discussing ways to modernize our existing infrastructure, diversify our energy resources, and restore ecosystems, today’s hearing focuses on confidential mediation documents leaked by Republicans on this Committee between parties engaged in active litigation over the operation of the Columbia River Basin Power System.

It is important to point out that these leaked documents were drafted in early November, and may not even reflect the current state of the negotiations. I must say it is deeply inappropriate for

Members of Congress to leak confidential documents in an apparent attempt to disrupt and sabotage ongoing negotiations.

The same is true for the decision to hold today's hearing 3 days before the December 15th settlement deadline in that case. And by the way, there have been decades of litigation over this broken, dysfunctional status quo in the Columbia River Basin.

I expect today's discussion will also attempt to create a narrative that this Administration is somehow hiding its actions from the public by not being here today. I would like to remind everyone that it is standard practice to have confidential mediations in these things called lawsuits. It happens all the time. It is overseen by the courts, and there is nothing nefarious about it.

If my colleagues were serious about making progress that moves us past failed status quo management in the basin, we could have held this hearing once settlement terms were publicly released, which could be as soon as Friday. Instead, we are here today talking about confidential mediation documents, which, again, is the standard in mediation and litigation.

Not only is it concerning that my colleagues received a copy of these documents from one of the parties in the litigation, but more concerning is that they determined the best course of action was to leak them further and use this Committee's time and resources in an apparent attempt to hobble settlement negotiations that could, if they were successful, move us past this dysfunction, these decades of impasse and conditions that are trending toward extinction.

While business as usual benefits a narrow few and some select industries, it harms a lot more. This is especially true for tribal communities that bear the greatest burden from current operations. Through signed treaties, the Federal Government made promises on tribal fishing rights and continued tribal access to salmon fisheries that are of great cultural and religious significance and a key source of sustenance. These promises continue to be broken. This follows a shameful history of the Federal Government forcibly displacing and prohibiting Indigenous people from practicing their own cultures, including traditional fishing.

Today, the Columbia River Basin, which was once abundant with salmon, is facing decimated populations, with numerous tribes at risk of losing a significant component of their culture and their sustenance. The Federal Government has a legal and moral responsibility to honor the promises it made in treaties, and that is why we will hopefully see, as a result of the settlement discussions happening now between the Federal Government and tribal nations, a resolution.

As we move forward in the self-determination era, it is essential that the Federal Government work with the tribes to ensure that the future management of the Columbia River is linked with the health and well-being of these impacted fisheries and of these impacted tribes.

And finally, I should note that the management of this basin continues to be a contentious issue among many stakeholders. We may hear today that the Administration is trying to circumvent Congress through these negotiations to breach the lower Snake River dams. However, my colleagues know that breaching those

dams requires an Act of Congress. They are not going to just go around us and somehow make this happen. If they read the documents that they themselves leaked, they would know that the agencies did not propose to breach the lower Snake River dams, but rather outlined actions to take if Congress authorized such action.

I also think it is important to note that a member of the Republican Party is leading the only active proposal in Congress to remove Snake River dams, our colleague from Idaho, Congressman Simpson.

While much of today's hearing will focus on unfinalized leaked documents, I hope moving forward we can have a discussion that acknowledges the historical trauma Indigenous people have faced due to broken promises from our government.

Thankfully, mediation is being used as an alternative to costly and lengthy litigation. That is a good thing. I look forward to discussing serious solutions to modernize infrastructure, diversify our energy sources, and restore ecosystems across the basin, especially as climate change presents new management challenges in these areas.

With that, I yield back.

Mr. BENTZ. I now recognize the Full Committee Chairman, Mr. Westerman, for his opening statement.

STATEMENT OF THE HON. BRUCE WESTERMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARKANSAS

Mr. WESTERMAN. Thank you, Chairman Bentz. Good afternoon, everyone, and I want to thank the witnesses for their participation this afternoon and to the Members for their attention to this critical issue. And it is obvious, with the number of Members that asked to waive on to today's hearing, that there is a lot of interest in this hearing.

Today's hearing is this Committee's latest effort to highlight the importance of hydropower to the United States' electric grid and the Biden administration's ongoing efforts to dismantle critical parts of our infrastructure. And let me repeat that again: the Biden administration's ongoing efforts to dismantle critical parts of our infrastructure.

Who would have thought the administration that talks about green power and touts green energy would be pushing to tear out over 3,000 megawatts of the cleanest, greenest energy that we can produce, megawatts and infrastructure that is already paid for, when you look at the impact of these dams, compared to the number of windmills and solar farms it would take to produce this energy, the reliability of these dams, it is just mind boggling that we are actually having to have a hearing to talk about pushing back on the administration that is trying to tear out green energy from the Pacific Northwest.

Over the summer, Congressman Bentz led a Subcommittee field hearing in Richland, Washington, where people described the real consequences of dam removal. They talked about the critical role the lower Snake River dams play in sustaining industries like

trade and agriculture. These industries are vital to the Pacific Northwest economy.

The four lower Snake River dams are part of the 31 facilities that make up the Bonneville Power Administration's hydroelectric fleet. They play a vital role in providing carbon-free, reliable, and affordable electricity for customers across the Western United States. The hydropower generated by these dams makes up more than 80 percent of the Bonneville Power Administration's fuel mix, helping it to deliver electricity to more than 3 million people in the Northwest.

Importantly, in addition to serving its 3 million customers, the flexibility of Bonneville's power generation allows hydropower to frequently be used across the entire West, including in California, during emergencies caused by weather or grid instability. The importance of this resource, particularly at a time where so many Americans are dealing with the impacts of the higher cost of living, the importance cannot be overstated.

Unfortunately, over the last few years, this incredibly valuable public infrastructure has been placed under great threat. In a scheme that circumvents the role of Congress, and by design avoids public participation, the Biden administration ginned up a process that advances its preferred political outcome: the removal of these four dams and the expenditure of millions, if not billions, of rate and taxpayer dollars on partisan causes over sound science and real-world impacts.

Organizations representing Bonneville's customers across the region, those of other impacted sectors, and members of our states' delegations have repeatedly tried to bring their concerns to the table. Inexcusably, they have been stonewalled by Biden administration officials here in Washington. And as we sit here, according to the leaked secret mediation document which most of you have, the Biden administration is preparing to aggressively move toward breaching four of the Snake River dams.

Let me be clear. Dam removal would cause tremendous harm to the Pacific Northwest. Our witnesses here today will talk about the flawed process that the Administration has deployed and the impacts that the decision to breach would have in coming years and decades.

Rather than rushing a decision through a closed-door process, a totally opaque, self-dealing process, the Biden administration must listen to every point of view on this issue, use the best available and most up-to-date science, and take actions that recognize the vital role that the lower Snake River dams play in the Pacific Northwest.

We look forward to hearing testimony from our witnesses and our Members on this important issue, and I yield back.

Mr. BENTZ. Thank you, Mr. Chair. I will now introduce our witnesses.

Mr. Neil Maunu, Executive Director of the Pacific Northwest Waterways Association in Portland, Oregon; Ms. Humaira Falkenberg, Power Resources Manager at Pacific County PUD in Raymond, Washington; Mr. Lindsay Slater, Vice President of Government Relations with Trout Unlimited in Arlington, Virginia;

and Mr. Scott Simms, CEO and Executive Director for the Public Power Council in Portland, Oregon.

Let me remind the witnesses that under Committee Rules, you must limit your oral statements to 5 minutes, but your entire statement will appear in the hearing record.

To begin your testimony, please press the “talk” button on the microphone. We use timing lights. When you begin, the light will turn green. When you have 1 minute remaining, the light will turn yellow. And at the end of the 5 minutes, the light will turn red, and I will ask you to please end your statement.

I will also allow all witnesses to testify before Member questioning.

I now recognize Mr. Maunu for 5 minutes.

STATEMENT OF NEIL MAUNU, EXECUTIVE DIRECTOR, PACIFIC NORTHWEST WATERWAYS ASSOCIATION, PORTLAND, OREGON

Mr. MAUNU. Good morning, Chairman Bentz, Ranking Member Huffman, and members of the Subcommittee. Thank you for the opportunity to testify before you today.

My name is Neil Maunu. I serve as the Executive Director of the Pacific Northwest Waterways Association, or the PNWA. PNWA is a non-profit, non-partisan trade association that advocates for Federal policies and funding supporting regional economic development. We represent ports, public utilities, farmers, forest products, producers, and public agencies that support navigation, energy, trade, and transportation.

A subset of PNWA membership, the Inland Ports and Navigation Group, or IPNG, has been a defendant intervenor in the decades-long litigation surrounding salmon and 14 Federal dams in four Northwest states. That litigation has been under a stay since October 2021, during which time the litigants engaged in a so-called mediation process led by the White House Council on Environmental Quality and the Federal Mediation and Conciliation Service, FMCS.

Early on, the mediation broke down into a series of bilateral discussions between the U.S. Government defendants and the plaintiffs, known as private caucuses. The subject matter of private caucuses within the FMCS mediation process is kept confidential to the participants therein, so the millions of Northwest residents that we represent were effectively cut out of any negotiations.

We sought to participate in good faith and provided numerous documents outlining our concerns. Those documents are attached to my written testimony, including several letters raising process concerns, a scientific literature review regarding the controversial concept of delayed mortality, and a socioeconomic impact study regarding the devastating impacts to the Pacific Northwest if the lower Snake River dams are removed. None of these submissions appear to have had any impact on the mediation process or its outcome.

The USG commitments document was shared with us in early November, and this was the first time in nearly 18 months we were presented with any substantive information. We have been given a very brief opportunity to provide feedback on a plan that intends to significantly impact the operation of 14 dams across four states

for the next 10 years, and proposes massive new Federal programs and controversial dam breaching studies. This mediation process has been the complete opposite of the meaningful public involvement warranted for such a far-reaching and impactful plan for our region and our nation.

We are frustrated. We have made it clear to CEQ, to FMCS, and to anyone who will listen, that we are tired of not being represented in this mediation process. We are tired of not being able to take part in meaningful negotiations. But we refuse to be sidelined. We could actually get behind a lot of what is in this document, but the rest, the parts that were negotiated in secret without proper stakeholder input, input from those of us who live and work in this region, are showstoppers.

This is a failed process. I have outlined many of our primary concerns with the USG commitments document in my written testimony, but I would like to highlight a few here.

First, the USG commitments relies on the fundamentally flawed NOAA Rebuilding Interior Columbia Basin Salmon and Steelhead Report. This unauthored report lacks the support of the scientific community and directly contradicts the existing NOAA biological opinion. They pursue an objective untethered to any lawful standard and that lacks any legal foundation. “Healthy and abundant salmon populations” is a vague and undefined policy objective that is not required by the ESA.

The USG commitments failed to address river navigation as a critically impacted, congressionally-authorized purpose of the current system. They failed to consider the carbon impacts of transitioning from river navigation to roads and rail.

The USG commitments fail to ensure the many resilience needs of stakeholders across the region, and threatens the most disadvantaged populations.

Finally, the complexity of the proposed operational changes in the commitment document’s appendix B warrant a thorough study of their impacts on river navigation at the U.S. Army Corps of Engineer Research and Development Center prior to implementation. Such a study was directed by the court in 2017 out of safety concerns.

A critical reassessment of this process is essential. The USG commitments lack specificity, rely on flawed science, and completely overlook the vital transportation, supply chain, and resiliency concerns of our membership. We demand a seat at the table. The CRSO BiOP and Record of Decision exemplified a sound approach to navigating complex issues and diverse stakeholder perspectives, and we advocate using that as a benchmark for ensuring a fair and transparent process.

Beyond the immediate risks to river navigation, transportation, and safety, the very livelihoods of the hundreds of thousands reliant on this river system hang in the balance.

Thank you for the opportunity to testify. I am happy to answer the Subcommittee’s questions.

[The prepared statement of Mr. Maunu follows:]

PREPARED STATEMENT OF NEIL MAUNU, EXECUTIVE DIRECTOR, PACIFIC NORTHWEST
WATERWAYS ASSOCIATION

Good afternoon, Chairman Bentz, Ranking Member Huffman, and Members of the Subcommittee; thank you for the opportunity to testify before you today. My name is Neil Maunu. I serve as the Executive Director of the Pacific Northwest Waterways Association, or PNWA. PNWA is a non-profit, non-partisan trade association that advocates for federal policies and funding supporting regional economic development. Founded in 1934, our membership has grown to over 150 entities, including ports, public utilities, farmers, forest products producers, and public agencies that support navigation, energy, trade, transportation, and economic development throughout the Pacific Northwest.

A subset of PNWA membership, the Inland Ports and Navigation Group, or IPNG, has been a defendant-intervenor in the decades-long litigation surrounding salmon and 14 federal dams in four Northwest states. That litigation has been under a stay since October 2021, during which time the litigants engaged in a so-called mediation process led by the White House Council on Environmental Quality (CEQ) and the Federal Mediation & Conciliation Service (FMCS). Early on, the mediation broke down into a series of bilateral discussions between the U.S. Government defendants and the plaintiffs known as Private Caucuses. The subject matter of private caucuses within the FMCS mediation process is kept confidential to the participants therein. The millions of Northwest residents that we represent were effectively cut out of any negotiations.

We sought to participate in good faith and provided numerous documents outlining our concerns. Those documents are attached to my written testimony including several letters raising process concerns, a scientific literature review regarding the controversial concept of delayed mortality, and a socio-economic impact study regarding the devastating impacts to the Pacific Northwest if the Lower Snake River Dams are removed. None of these submissions appeared to have had any impact on the mediation process or its outcome.

The USG Commitments document was shared with us in early November. It was the first time in nearly 18 months we were presented with any substantive information. We have been given a very brief opportunity to provide feedback on a plan that intends to significantly impact the operation of 14 dams across four states for the next ten years, as well as proposals for massive new federal programs, and controversial dam breaching studies. This mediation process has been the complete opposite of the meaningful public involvement warranted for such a far-reaching and impactful plan for our region and nation.

Our response to the Commitments document is a letter outlining six primary concerns:

- First, the USG Commitments relies on the fundamentally flawed NOAA “Rebuilding Interior Columbia Basin Salmon and Steelhead Report” (NOAA Paper). This is an unauthored report that lacks the support of the scientific community and directly contradicts the existing NOAA Biological Opinion. It is not consensus science regarding the four Lower Snake River Dams and salmon.
- The USG Commitments pursue an objective untethered to any lawful standard, that is subjective, and that lacks any legal foundation. “Healthy and abundant” salmon populations is a vague and undefined policy objective that is not required by the Endangered Species Act (ESA).
- The USG Commitments fail to address river navigation as a critically impacted Congressionally authorized purpose of the federal projects and proposes only a paltry \$750,000 for a study. Washington state alone is spending \$5M on a similar study, and the Murray-Inslee report released last year recommended a \$10M study to fully analyze what it would take to replace transportation on the Snake River with rail and trucks. The Commitments fail to consider the carbon impacts of transitioning from river navigation to roads and rail. Removing the Snake River locks would cause diesel fuel consumption to increase by nearly 5 million gallons per year as barges are replaced by less efficient truck-to-rail shipments, dramatically increasing carbon emissions (to the tune of over 1.25M tons per year)—this is the equivalent of building one large coal-fired plant every two to three years. Assuming that barged wheat simply shifts to non-existent truck and rail, it would be unmarketable in the global market due to cost—destroying a generation-long way of life.

- The USG Commitments fail to ensure the delivery of affordable and reliable clean power as pledged by the USG in their mediation guiding principles from August 2022. While creating renewable tribal energy projects may be laudable, they cannot replace the reliability and pollution-free benefits of the four Lower Snake River Dams. Removing carbon-free hydropower in a time of increasing demand for renewable power generation is nonsensical.
- The USG Commitments fail to ensure the many resilience needs of stakeholders across the region. The loss of clean, reliable, and responsive hydropower and the removal of one of only three transportation modalities (the cleanest among them) available to support the region's economy cannot meet the resiliency needs of impacted communities. We presented a socio-economic study that found removing the four lower Snake River Dams could jeopardize over 7,000 family farms. This proposal threatens the region's most disadvantaged populations and flies in the face of any concept of community resilience.
- The complexity of the proposed operational changes in the Commitments document's Appendix B warrant a thorough study of their potential impacts on river navigation at the U.S. Army Corps of Engineers' Engineer, Research and Development Center (ERDC) in Vicksburg, MS prior to implementation, and a new NEPA analysis. Such a study was directed by the Court in 2017 out of safety concerns when operational impacts were to be adopted.

A critical reassessment of this process is essential. The USG Commitments lack specificity, rely on flawed and singular scientific data, and conspicuously overlook the vital concerns of our membership, particularly in areas of transportation, supply chain, and resilience. Active inclusion in the decision-making process is imperative; we demand a seat at the table. The CRSO BiOP and Record of Decision exemplified a sound approach to navigating complex issues and diverse stakeholder perspectives, and we advocate using it as the benchmark for ensuring a fair and transparent process. Beyond the immediate risks to river transportation, navigation, and safety, the very livelihoods of the thousands reliant on this river system hang in the balance.

Thank you for the opportunity to testify. I'd be most pleased to answer the subcommittee's questions.

The following documents were submitted as supplements to Mr. Maunu's testimony.

July 3, 2023

Council on Environmental Quality

Docket No. CEQ-2023-0002 via Federal eRulemaking Portal at <https://www.regulations.gov>

Cover Letter for Comments on Columbia River Salmon & Other Native Fish Request for Information

To Whom It May Concern:

The Inland Ports & Navigation Group (IPNG), a defendant intervenor in the litigation underlying the current mediation process, is pleased to submit the following comments regarding Columbia River Salmon & Other Native Fish. IPNG is comprised of ports, farmers, river pilots, transportation companies, terminals and water resources stakeholders who work to balance economic prosperity with environmental stewardship. They strive to protect inland navigation, hydropower, irrigation on the Columbia Snake River System (CSRS), while supporting a healthy environment and robust fish runs in the Northwest. IPNG is a subset of the Pacific Northwest Waterways Association (PNWA), a broad regional trade group representing over 150 members from Oregon, Washington, and Idaho.

The restoration of Columbia River Salmon & Other Native Fish can and must be achieved while also maintaining the maritime transportation, irrigation, hydropower, and other benefits provided by the current CSRS. The removal of the 4 lower Snake River dams (LSRD) is neither warranted nor necessary to recover ESA-listed salmon species. A comprehensive Columbia Basin-wide approach to salmon recovery including tributary habitat access and restoration, estuarine habitat restoration,

predation and competitor control, hatchery improvements, reintroduction above Grand Coulee and Chief Joseph dams, harvest reductions, ocean life stage research, minimization & mitigation of non-point source pollution, and continued fish passage improvements at all CSRS projects, will provide more benefits to salmon at a lower cost than LSRD removal. As outlined in greater detail in the attachment, a coordinated effort across these areas will cost less than removal of the 4 LSRD, provide more benefit to salmon, and result in less adverse socioeconomic impacts.

Thank you for the opportunity to submit these comments.

Sincerely Yours,

Heather Stebbings,
Inland Ports & Navigation Group
Pacific Northwest Waterways Association

July 3, 2023

Council on Environmental Quality

Docket No. CEQ-2023-0002 via Federal eRulemaking Portal at <https://www.regulations.gov>

Extended Comments on Columbia River Salmon & Other Native Fish Request for Information

To Whom It May Concern:

As mentioned in our cover letter, the restoration of Columbia River Salmon & Other Native Fish can and must be achieved while also maintaining the maritime transportation, irrigation, hydropower and other benefits provided by the current Columbia Snake River System (CSRS). The removal of the 4 lower Snake River dams (LSRD) is neither warranted nor necessary to recover ESA-listed salmon species. The principal argument for the removal of the LSRD is the theory of delayed mortality, which posits that fish passing through the CSRS dams are “beat up” when they enter the estuary and the ocean. The science associated with this theory is unproven and widely disputed.

A comprehensive Columbia Basin-wide approach to salmon recovery including tributary habitat access and restoration, estuarine habitat restoration, predation and competitor control, hatchery improvements, reintroduction above Grand Coulee and Chief Joseph dams, harvest reductions, ocean life stage research, minimization & mitigation of non-point source pollution, and continued fish passage improvements at all CSRS projects, will provide more benefits to salmon while maintaining the current federally authorized purposes of the projects, as well as the greater benefits the dams provide for the region and the nation.

The areas where we believe the biggest gains could be made for salmon without impacting the benefits of the CSRS include:

Tributary Habitat Access and Restoration

Tributary habitat restoration plays a crucial role in the recovery of salmon populations in the CSRS. Tributaries serve as critical spawning and rearing grounds for salmon. They provide important features such as clean gravel beds for spawning, cool and clean water for incubation and growth, and sheltered areas for young salmon to develop before heading out to the ocean.

Land use patterns have significantly impacted the tributary habitats basin-wide in the CSRS, resulting in blocked access to tributaries, degradation of riparian zones, and increased water pollution.

Restoring tributary habitat is crucial for the recovery of salmon populations as it:

- Provides the necessary conditions for successful salmon spawning and reproduction. By restoring gravel beds, creating off-channel habitats, and improving water quality, tributary restoration projects enhance the survival and productivity of salmon populations;
- Contributes to the overall resilience of salmon populations. By increasing the availability of diverse and high-quality habitats, salmon have more options

for spawning and rearing, which can buffer against environmental variability and improve their chances of survival; and

- Can help address the key limiting factors that salmon face in their life cycle. For example, culvert repair, replacement, or removal can restore tributary flows and connectivity, enabling salmon to access essential spawning and rearing areas that were previously blocked.

Tributary habitat restoration can have broader ecological benefits beyond salmon recovery. Restoring riparian vegetation and improving water quality can enhance overall ecosystem health, benefiting other fish species, aquatic organisms, and wildlife that depend on healthy river systems.

Tributary habitat restoration efforts can create the necessary conditions for successful salmon reproduction, enhance population resilience, and contribute to the overall health of the ecosystem.

Federal programs to help protect and restore tributary habitat such as the USDOT Culvert Repair, Replacement, & Removal Grant Program, USDA Riparian Buffer Program, suite of applicable USFWS Programs (such as but not limited to the Ecosystem Restoration Program, National Fish Habitat Partnership, Wildlife & Sportfish Restoration Program, Pacific Region Wildlife and Sport Fish Restoration Program), and NOAA Habitat Conservation Program should receive increased funding to better protect tributary habitat. A coordinated regional effort could be made to bring these dollars to the Columbia River basin.

Estuarine Habitat Restoration

Restoring the estuary and other estuarine habitats is important for salmon recovery because they:

- Serve as a transition zone between freshwater and marine environments, providing critical nursery areas for young salmon. These habitats offer food resources, shelter, and protection from predators, enabling juvenile salmon to grow and develop before entering the open ocean. By restoring estuarine habitats, we can ensure the availability of suitable rearing areas, increasing the survival rates of juvenile salmon and bolstering their overall population numbers.
- Act as crucial stopover sites during the migration of adult salmon. Adult salmon returning from the ocean to their natal rivers rely on these habitats to rest and regain energy before continuing their journey upstream to spawn. The restoration of estuarine habitats ensures that these resting areas are preserved and maintained, allowing adult salmon to successfully complete their migration and reproduce; and
- Play a significant role in the ecological connectivity of the Columbia Snake River System. They provide a link between upstream and downstream habitats, facilitating the movement of salmon populations and maintaining genetic diversity. Restoring estuarine habitats allows for natural processes and connections within the ecosystem, supporting the long-term viability of salmon populations.

By restoring these critical habitats, we provide essential rearing areas for juvenile salmon, resting sites for adult salmon during migration, and facilitate the ecological connectivity of the entire system. It is a crucial component of comprehensive efforts to restore and conserve salmon populations in the Columbia Snake River System

Federal programs to protect and restore the estuary and estuarine habitats such as the EPA National Estuary Program and NOAA National Estuarine Research Reserve System and Habitat Conservation Program, including Coastal Habitat Restoration and Resilience Grants, should receive increased funding.

Predation and Competitor Control

- **Sea Lions:** According to the Oregon Department of Fish & Wildlife, sea lions consume significant numbers of fish—up to 44 percent of the Columbia River spring Chinook run, for example. The 2023 forecast for upriver spring Chinook is 198,600 fish according to the Washington Department of Fish & Wildlife. 44% of that is 87,384 fish consumed by sea lions. While the sex ratio of returning salmon can be highly variable, they average 50% females. Therefore, sea lions will eliminate nearly 44,000 egg-producing female spring Chinook in 2023. Spring Chinook females lay between 1,500–10,000 eggs with an average of 2,500, sea lions therefore remove 110 million eggs of spring Chinook. 8% of these eggs survive to smolts that begin their migration to the

ocean for a total of nearly 9 million juvenile salmon heading downriver if not for sea lions.

In addition, the California sea lion population along the West Coast (the 'U.S. Stock') is no longer considered at risk and has likely reached its "optimum sustainable population. Similarly, the Eastern stock of Steller sea lion stock is considered healthy and has no special designation under ESA or MMPA. The population has been growing annually since the 1980s and the most recent population estimate was 52,139 non-pups and 19,423 pups. NOAA has concluded that the stock is likely at its Optimum Sustainable Population. Like California sea lions, the Steller sea lions that migrate upriver into the Columbia Basin are all male. Lethal removal of salmon-predating sea lions in the Columbia River occurs but should be a higher priority for our salmon recovery efforts. In 2020, the States and Tribes estimated that there may be up to 290 California sea lions and 130 Steller sea lions predating on salmon in the Columbia Basin, which is less than 0.1 percent and 0.18 percent of their total populations, respectively. Removal of these individuals will have no impact on the population health of either sea lion species and should therefore be expanded with increased funding and implementation.

- **Avian Predation:** Double-breasted cormorants, Caspian terns and other birds consume considerable numbers of juvenile salmon. Evans et al. (2019) estimated that avian predation accounts for 42% to 70% of total steelhead smolt mortality, suggesting that more steelhead were consumed by avian predators than died from all other mortality sources combined. Results indicate that avian predation, although not the original cause of steelhead declines in the basin, is now a factor limiting the survival of upper Columbia River steelhead.

In December 2020, the U.S. Fish and Wildlife Service (Service) established a new permit for States and Tribes for the management of double-crested cormorants. The new permit authorizes specific take activities to protect threatened and endangered species from impacts from double-crested cormorants. This permit should be used to its fullest extent by the States and Tribes and should be expanded to include the take of Caspian terns or other avian predators of salmonids;

- **Piscine Predation:** Non-native species such as the Northern Pike Minnow are known to consume juvenile salmon. Since they are a non-native species to the Pacific Northwest, management actions seeking their extirpation should be maximally implemented; and
- **Niche Competition:** In addition to direct predation, non-native species such as Smallmouth bass, Largemouth bass, Walleye, Northern pike, Brook trout, Brown trout, Channel catfish, American shad, striped bass all compete for habitat and food with native salmon species. As mentioned above, given these species non-native status, management actions seeking their extirpation should be maximally implemented.

Hatchery Improvements

Improving hatchery operations is of crucial importance to the recovery of salmon populations in the Columbia Snake River System. However, the traditional methods used in hatcheries have sometimes inadvertently contributed to the decline of wild salmon populations. Hatchery fish, bred and raised in captivity, often exhibit reduced genetic diversity, decreased fitness, and altered behavior compared to their wild counterparts. These factors can negatively impact the survival and reproductive success of hatchery-produced salmon.

To address these issues, it is essential to focus on improving hatchery operations. Two key aspects contribute to the success of hatchery programs in supporting salmon recovery:

- **Genetic Diversity:** Maintaining and enhancing genetic diversity in hatchery fish is critical. By incorporating genetic management practices such as incorporating wild broodstock, minimizing inbreeding, and using local fish populations, hatchery-produced salmon can have a higher chance of survival and adaptation to the natural environment.
- **Behavior and Fitness:** Hatchery fish often lack the natural behaviors and survival skills necessary for life in the wild. Hatchery reform efforts aim to mimic natural conditions and provide fish with opportunities for natural selection and imprinting on their natal streams. By incorporating

environmental enrichment, reducing hatchery-related domestication, and implementing programs that promote natural selection, the fitness and survival capabilities of hatchery-produced salmon can be improved.

By addressing genetic concerns, enhancing natural behaviors and fitness, hatcheries can play a more effective role in supporting the restoration and long-term sustainability of salmon populations in the region.

Reintroduction above Grand Coulee and Chief Joseph

The reintroduction of salmon above Grand Coulee Dam and Chief Joseph Dam holds significant importance for the overall recovery of salmon populations in the Columbia Snake River System. The construction of Grand Coulee Dam in the 1930s and Chief Joseph Dam in the 1950s blocked access to vast stretches of historical spawning grounds and disrupted the natural life cycle of salmon.

Reintroducing salmon above these dams will:

- Allow salmon to regain access to their historical spawning grounds. By reintroducing salmon, we can restore their natural migration patterns and provide them with the opportunity to reproduce in the upper reaches of the rivers. This is particularly significant as the upper tributaries often offer more pristine and suitable habitats for spawning and rearing;
- Help restore ecological balance within the Columbia Snake River System. Salmon play a vital role in nutrient cycling, as their carcasses provide essential nutrients to the surrounding ecosystem when they return from the ocean and spawn. The absence of these nutrients in recent decades has had cascading effects on other species, including birds, mammals, and even plants. Reintroducing salmon would revitalize this nutrient cycle, benefiting the entire ecosystem and promoting the recovery of other species.

Furthermore, the reintroduction of salmon above the dams has cultural and socio-economic significance. Indigenous communities in the region have long relied on salmon for sustenance, ceremonial practices, and cultural identity. The decline in salmon populations has disproportionately affected these communities, undermining their traditional ways of life. By restoring access to ancestral spawning grounds, we honor their rights and contribute to the preservation of their cultural heritage.

Economically, the return of healthy salmon populations can have a positive impact on the fishing industry and tourism in the region. Salmon fishing has been a significant economic driver, attracting anglers and tourists from around the world. The revival of salmon runs would not only benefit commercial and recreational fishing but also stimulate local economies through increased tourism and related industries.

Harvest Reductions

The reduction and/or elimination of both commercial and recreational non-tribal salmon harvests in the short-term with compensation to fishermen for their lost harvest opportunity would be far more cost effective and non-irrevocable when compared to removal of the 4 LSRD. Commercial fishermen could be compensated in cash while recreational fishermen might be compensated with cash, increased harvest opportunities on other non-salmonid stocks, or increased bounties on non-native fish. While dam removal would irrevocably eliminate maritime transportation and alter agricultural supply chains, forgone harvest opportunities could be restored upon salmon recovery.

Ocean Life Stage Research

The ocean life stage of salmon is a critical and complex phase yet it remains relatively understudied compared to other stages such as spawning and freshwater rearing. There is an urgent need for increased research on the ocean life stage of salmon due to several important reasons.

The ocean life stage represents a significant part of salmon's overall life cycle. During this stage, salmon undergo remarkable physiological changes, including rapid growth, adaptation to saltwater, and preparation for their return to freshwater for spawning. Understanding the factors that influence salmon survival, growth, and behavior in the ocean is therefore vital.

The ocean life stage of salmon is increasingly impacted by various environmental stressors and human activities. Climate change, ocean acidification, pollution, habitat degradation, and overfishing are among the factors that can significantly affect salmon populations during their time in the Pacific Ocean. Robust research is necessary to comprehend the specific effects of these stressors on salmon during

their oceanic journey and to develop effective conservation and management strategies.

Advancements in technology and research methodologies present new opportunities to study the ocean life stage of salmon. Techniques such as acoustic telemetry, satellite tagging, genetic analysis, and remote sensing provide unprecedented capabilities for tracking salmon movements, identifying migration patterns, studying feeding habits, and examining the impacts of environmental factors. Leveraging these technological advancements can enhance our understanding of the oceanic phase and inform evidence-based management practices.

Increased research on the ocean life stage of salmon is vital to comprehend the ecological, physiological, and environmental dynamics that shape their survival and population dynamics. By expanding our knowledge of this critical life stage, we can improve salmon recovery efforts.

Mitigation of Non-Point Source Pollution

The mitigation of non-point source pollution plays a crucial role in the recovery of salmon populations in the Columbia Snake River System. But unlike point source pollution, which originates from identifiable and controllable sources, non-point source pollution is challenging to pinpoint and regulate.

Salmon are highly sensitive to water quality. Excessive sedimentation caused by non-point source pollution can smother salmon eggs, suffocate aquatic vegetation, and hinder the ability of fish to find food. Nutrient pollution can trigger harmful algal blooms, creating low oxygen conditions that harm or kill salmon. Chemicals released by all facets of modern life can directly impact salmon by disrupting their reproductive systems, impairing their ability to navigate, and increasing their vulnerability to diseases.

To achieve salmon recovery in the Columbia Snake River System, it is crucial to address and mitigate non-point source pollution. This requires implementing effective land and water management practices that minimize the runoff of pollutants into water bodies. Much has already been accomplished in agriculture with conservation practices in such as the adoption of best management practices including implementing buffer strips, cover crops, and precision application of fertilizers and pesticides to reduce nutrient and sediment runoff and protect water quality.

Some key strategies in other areas include:

- **Urban stormwater management:** Implementing stormwater management practices in urban areas, including green infrastructure solutions such as rain gardens, permeable pavement, and retention ponds. These measures help capture and treat stormwater runoff, preventing pollutants from entering streams and rivers.
- **Riparian zone restoration:** Restoring and protecting riparian zones, the areas of land along rivers and streams, helps filter out pollutants, stabilize stream banks, and provide shade and cover for salmon. This can be achieved through tree planting initiatives and fencing off sensitive areas from livestock.
- **Education and outreach:** Raising awareness among communities, landowners, and stakeholders about the impacts of non-point source pollution on salmon and the importance of implementing pollution reduction strategies. Providing technical assistance and financial incentives can also encourage voluntary adoption of mitigation practices.

By mitigating non-point source pollution, we can improve water quality, enhance the resilience of salmon populations, and support their recovery in the Columbia Snake River System

Continued Fish Passage Improvements at All CSRS Projects

The Corps of Engineers is currently installing fish friendly turbines to units at Ice Harbor dam, and they are already seeing improved juvenile passage. Future improvements are slated for McNary and John Day dams. The Snake River projects, including Lower Monumental, Little Goose and Lower Granite, are not anticipated to receive new turbines for at least 20 years. We recommend prioritizing fish friendly turbines at all of the CSRS projects, including Snake River dams, in the near-term to ensure maximum passage at the projects as quickly as possible.

Response to Key Questions for Input

Lower Snake River

- **What constitutes “restoration” of the Lower Snake River and what steps should the Federal Government take to restore the lower Snake River?**

“Restoration” of the lower Snake River to a free-flowing river such as existed prior to the completion of the 4 LSRD is neither warranted nor justified in terms of the economic and community impacts it would impose on the region. The objective under federal law should be to increase the abundance of salmon species such that they can be delisted from the ESA while maintaining the current authorized purposes and benefits of the CSRS. In this context, “restoration” consists of:

- Continued improvements of fish passage at projects while maintaining their hydropower and transportation benefits;
- Maximizing access to and the quality of spawning habitat in the many tributaries feeding the lower Snake River;
- Maximizing reductions in predators and non-native competitive species;
- Increased and more effective hatchery practices;
- Mitigation of non-point source pollution where appropriate; and
- Water quality management while maintaining an operational transportation channel and preserving sufficient reservoir capacity to generate hydropower.

- **What considerations should inform the Federal Government’s approach to restoring the lower Snake River?**

Most importantly, the economic, climate, food security, trade, national security, and underserved & underrepresented community impacts should be fully considered before defining and achieving lower Snake River “restoration”. IPNG reiterates that the legal objective should not be some form of lower Snake River restoration but rather the recovery of ESA-listed salmon species to the point that they can be delisted.

- **What information should the Federal Government develop to support discussions in the Northwest and in Congress on the restoration of the Lower Snake River?**

The following information should be robustly developed and assessed:

- A definition of “restoration” which maintains hydropower, maritime transportation, irrigation and other benefits of the CSRS;
- The total cost of “restoration” for the federal government, States, and Tribes;
- The economic impact of “restoration” efforts to the region and nation;
- Any infrastructure needs and cost to mitigate for lost CSRS benefits;
- Impacts to BPA rate-payers, especially from underserved & underrepresented communities;
- Impacts to the agricultural community, including farm workers;
- Impacts to cities, counties and other municipalities, including those related to reduction in land values, tax base and municipal water supplies;
- Climate cost of deconstruction of the any federally authorized projects, as well as the costs to construct any new infrastructure needed to replace services;
- National security, food security, and international trade implications; and
- Net carbon emission changes from the “restoration” effort as well as associated mitigation measures for lost CSRS benefits.

Upper Columbia River

- **What considerations should inform the Federal Government’s approach to supporting the Upper Columbia River Tribes’ reintroduction plan?**

Reintroduction of salmonids, provided such are certain to be non-listed and non-listable species, is an appropriate and necessary step to aid in CSRS salmon recovery and to assist the U.S. in fulfilling its obligations to the Upper Columbia River Tribes. That said, the following considerations should inform reintroduction:

- As stated, the need for reintroduced species to be non-listed and non-listable under the ESA;
- The cost of up- and down-river fish passage at projects;
- The implications of LSRD removal for habitat access and restoration in the Upper Columbia; and
- The role of hatchery production.

Funding

- **What steps should the Federal Government take in response to this commitment (actions and funding to address unmitigated Tribal needs, avoiding future issues with respect to creating inequities, and actions supporting salmon & other fisheries and fish & wildlife programs and infrastructure)?**
- **What considerations should inform the Federal Government's approach to funding and actions to restore fish populations throughout the Columbia River Basin?**

As stated above, the Federal Government should be implementing a comprehensive Columbia Basin-wide approach to salmon including tributary habitat access and restoration, estuarine habitat restoration, predation and competitor control, hatchery improvements, reintroduction above Grand Coulee and Chief Joseph, harvest reductions, ocean life stage research, minimization & mitigation of non-point source pollution, and continued fish passage improvements at all CSRS projects while also maintaining the hydropower, maritime transportation, and other benefits provided by the current CSRS.

Thank you for the opportunity to submit these comments.

Sincerely,

Heather Stebbings,
Inland Ports & Navigation Group (IPNG)
Pacific Northwest Waterways Association (PNWA)

March 28, 2023

Hon. Thomas J. Vilsack, Secretary
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

Dear Secretary Vilsack:

We write to you today on behalf wheat farmers and agricultural producers to voice our concerns with the current state of the mediation regarding the Federal Columbia River Power System, which includes irrigation activity and barge transport through the dams on the Columbia Snake River System (CSRS). As you may be aware, the decades-long litigation regarding Pacific Northwest salmon in the Columbia River Basin is currently under a stay agreement until August 31, 2023. During the stay, the primary parties to the litigation entered a mediation process led by the White House Council on Environmental Quality (CEQ) and the Federal Mediation & Conciliation Service (FMCS) in the hopes of reaching a settlement. Many of us are members of an organization that has served as a defendant intervenor since the beginning of this litigation nearly 30 years ago, and we have been active participants in the case on the side of the United States Government (USG).

As part of the stay agreement, the federal government committed to "exploring" removal of the four Lower Snake River dams (LSRD). Prior to the last several months, the USG has never supported a position of dam breaching; however, we are increasingly concerned that the USG position is shifting to support a dam breaching

action that would completely devastate the Pacific Northwest agricultural community. Dam breaching would eliminate irrigation from the pool behind Ice Harbor Dam and would remove barge access for our farmers, requiring them to turn to either rail or truck to move their product. As you well know, neither form of transportation is as safe, efficient, or environmentally friendly as barge navigation.

During the last several years the U.S. rail system has faced significant congestion and supply chain bottlenecks. The Columbia Snake River System moves more than 60 percent of the nation's wheat, as well as a large amount of corn, soybeans, lumber products, and crop inputs—with harvested crops coming to the Pacific Northwest from as far as the Midwest via rail. Eliminating barging as an option for our Northwest goods would increase demand on limited Class 1 railroad capacity and exacerbate an already tenuous supply-chain balance across all cargo classes. This means further unpredictability for intermodal cargo, energy products, and agricultural movements. Additionally, the logistics of expanding rail access is not feasible in our Snake and Columbia River corridors due to the geographical landscape, cultural and historic land importance, and strict regulatory processes.

It is important to note that barging also provides an important competitive check on the rail system. Losing barge access would give railroads the power to raise rates further, which will affect the long-term competitiveness of U.S. wheat exports moving to global markets. As we saw in the April 2021 U.S. International Trade Commission report on, “The Effects of Rail Prices on U.S. Agricultural Exports” higher rail transportation costs are often transferred to the producer, reducing the incomes and profit margins of producers and negatively affecting the competitiveness of U.S. grain exports. The report estimates that rail transportation may account for more than 40 percent of the price of wheat.

These types of rising costs ultimately put small family farms out of business. As you very much understand, farmers are already facing significant increases in the cost of production. Fertilizer prices alone are up 12 percent in the last year, and while some operations can absorb increased costs, at the end of the day, smaller and family farms would bear the brunt of these increases and could be forced to shut down altogether. Increased costs to farmers due to a dam breaching scenario would only intensify the challenges we already face.

It is also important to note the role that the Snake River dams play in irrigating more than 50,000 acres of Northwest crops. The Columbia Basin is one of the most productive agricultural areas in the world. The variety of crops we produce is second only to California. Washington State alone produces more potatoes, apples, and corn per acre than any other state in the nation.

Removing acres irrigated by Ice Harbor Dam, located on the Snake River, would eliminate enough apples to feed 18 million people, sweet corn to feed 19 million people, potatoes to feed 6.4 million people, and so on. The farms irrigated by this pool directly and indirectly drive up to \$2 billion in annual economic value and support more than 10,000 jobs. You cannot measure the economic impact of dam removal solely on the impact to our irrigated land value. This has been done in the past, but land value is just a tiny fraction of the overall impact. It does not capture the devastating effect removal of these dams would have on the overall American economy and food security. In other words, any actions taken that impact these farms will have a reverberating effect on millions of Americans, not just the local community that produces the food.

We strongly request that you engage on this issue, to provide an added USG perspective at the table to CEQ, the FMCS and others. Our concern as deeply affected stakeholders is the failure of USG to take the full regional and national agricultural and economic impacts of a pro-dam removal position into account. Despite our concerns, and many others being raised repeatedly throughout this process, the USG participants appear to be looking at this issue solely through the lens of salmon recovery and not through the greater public policy objectives of the Biden Administration such as food security, clean energy, de-carbonized transportation, infrastructure capabilities, environmental justice, or international trade objectives.

We therefore respectfully ask that you consider and respond to the following questions regarding LSRD removal in as timely a manner as possible. This process is moving very quickly, and it is important for us to understand the full position of the USG, including the Department of Agriculture, on this issue.

- The removal of the 4 LSRD will inevitably result in a significant reduction in agricultural production in the Pacific Northwest (PNW) from both irrigated and unirrigated lands due to the loss of irrigation water as well as supply chain disruptions and cost increases. How are such outcomes consistent with

USDA's priority to "work every day to strengthen the American agricultural economy" (<https://www.usda.gov/farming>)?

- The removal of the 4 LSRD will by definition eliminate barging as a transportation mode for moving PNW grain into the global supply chain, forcing growers to depend on increased rail and trucking. How is such an outcome consistent with USDA's stated priority, "to transform our nation's food system to create more options for producers and consumers and improve the resiliency of our food supply chain" (<https://www.usda.gov/priorities>)?
- The Columbia Snake River System trade gateway transports 60 percent of the nation's wheat export and is part of the fully integrated inland and deep draft transportation system. An action such as dam breaching would have rippling effects throughout this trade gateway, likely resulting in export reductions. How is such a reduction consistent with USDA's stated priority of "Creating More, Better, and New Market Opportunities" including overseas markets (<https://www.usda.gov/priorities>)?
- How is such a reduction in food exports consistent with The Joint Declaration of Agriculture Exporters at the June 2022 Summit of the Americas Agricultural Producers stating that one-third of the world's food is produced in the Americas, and the current global food crisis is an opportunity and responsibility for the region to step up to supply a greater share of the world's commodities and the United States commitment during the Summit to work together to increase food production for export, increase fertilizer production and transportation, and to improve agriculture efficiency through technical solutions and information exchanges?

In closing, we feel it is important to also recognize that we strongly consider ourselves good stewards of the environment. We support broader salmon recovery throughout the Columbia River basin and are actively looking for areas where we can support science-based efforts by the states, federal government, and Tribal Nations. Our Lower Snake River dams have state-of-the-art fish passages, and the Army Corps is continuously looking at how they can improve their efforts to get the salmon returns desired by so many in our region. We support those efforts and many more throughout the basin, but we cannot support the removal of the Snake River dams and this critical trade gateway for the region's and nations agricultural products.

Thank you for your leadership on our issues in so many areas, and for considering these questions going forward. We look forward to your response.

Sincerely,

AgriNorthwest	Oregon Farm Bureau
Almota Elevator Company	Oregon Wheat Growers League
Columbia Grain	Pacific Northwest Farmers Cooperative
Highline Grain Growers	Pomeroy Grain Growers
Idaho Farm Bureau	TEMCO
Lewis and Clark Terminal Association	The McGregor Company
McGregor Land and Livestock	United Grain Corporation

Mid Columbia Producers	Washington Association of Wheat Growers
Montana Grain Growers Association	Washington Farm Bureau
Morrow County Grain Growers	Washington Grain Commission
Northwest Grain Growers	Washington State Potato Commission

April 19, 2023

Hon. Pete Buttigieg, Secretary
 U.S. Department of Transportation
 West Building
 1200 New Jersey Avenue, SE, 9th Floor
 Washington, DC 20590-9898

Dear Secretary Buttigieg:

As you may be aware, the decades-long litigation regarding Pacific Northwest salmon in the Columbia Snake River System is currently under a stay agreement until August 31, 2023. During the stay, the primary parties to the litigation have entered into a mediation process led by the Federal Mediation & Conciliation Service (FMCS) in hopes of reaching a settlement. We write on behalf of the defendant intervenors, whose members include ports throughout Oregon, Washington, and Idaho, consumer-owned utilities, farmers, s, transportation companies, terminals, and water resources stakeholders. The defendant intervenors entered the litigation on the side of the United States Government (USG) but were excluded from all negotiations leading up to the stay agreement. Nevertheless, we have remained as engaged as possible during the mediation process, although our concerns have not been prioritized to date.

The primary topic of discussion throughout the mediation has been the removal of the four Lower Snake River Dams (LSRD). While this proposal lacks consensus, it remains a topic of great consideration in this process, and we understand may be advocated for by elements of the USG. The removal of the LSRD would eliminate barging on the Columbia Snake River System (CSRS), requiring its replacement by rail and truck. As deeply affected stakeholders, our concern is the apparent failure of the USG to take freight transportation issues into consideration in any meaningful way. These issues include replacement infrastructure feasibility and cost, carbon and other pollution impacts resulting from the required mode shift, shipping rate impacts on agricultural producers and suppliers, and the impacts on underserved and underrepresented communities.

The replacement of barging would require a substantial expansion of road and rail infrastructure, the scope and scale of which has not been fully calculated but would most certainly include rail line extensions and expansion, the addition of railcar capacity, road expansion and extension, and substantial bridge modifications over the CSRS. There are real concerns regarding the geographic/topographic feasibility of such infrastructure projects in areas such as the Columbia River Gorge and the Snake River Canyon. There are also serious concerns regarding the political feasibility of such projects given state and federal permitting processes such as the National Environmental Policy Act.

We are particularly concerned that the developing USG mediation position stands in contradiction with other Administration policy objectives. For example, in February the Administration released its Blueprint for Transportation Decarbonization.¹ That Blueprint notes in Figure B (Page 5) and elsewhere that maritime transportation (including river barging) accounts for only 3% of transportation-related emissions and in Figure 6 (Page 43) that maritime transportation has the lowest emissions per ton mile for freight. The Blueprint calls for actions before 2030 (Pages 7, 78) to “provide incentives to support greater use of efficient travel modes and vehicles . . .” (underline added). Given that maritime movement of

¹ <https://www.transportation.gov/priorities/climate-and-sustainability/us-national-blueprint-transportation-decarbonization>

freight is the most efficient mode of transportation we fail to understand how removal of the 4 LSRD could be consistent with this Blueprint.

Even if a shift from barge to rail and truck were feasible, increased reliance on truck and rail will result in an increase of 23.8 million miles of travel per year on county, state, and federal highways, increasing net transportation costs substantially.²

Some of the impacts of such a shift are that:

- Total truck transit times would increase by at least 408,262 hours per year;
- The expanded trucking activity will increase fuel costs, highway maintenance costs, terminal facility and maintenance costs, driver time, and vehicle maintenance costs, to the tune of \$63.6 million per year;
- The shift in ton-miles from barge to rail and truck will increase fuel consumption by 4.67 million gallons per year, thereby reducing our nation's ability to achieve energy independence; and
- Increased transportation and storage costs will put more than 1,100 farms at risk of bankruptcy.

Shifting commodity flows from barge to truck and rail will be bad for the environment. Annual emissions will increase as follows:

- 860,000 additional tons of CO₂ per year;
- 306.5 additional tons of NO_x per year;
- 7.5 additional tons of PM per year;
- 69.7 additional tons of CO per year; and
- 7 additional tons of VOC per year.

These increased emissions would be equivalent to cumulative impact of the Boardman coal-fired power plant every 5–6 years. The region has made the collective decision to close the Boardman plant because it generates 4.6 million tons of CO₂ annually. Removing the Snake River dams would reverse the environmental progress associated with its closure. It would also have an environmental impact equivalent to:

- Adding 90,365 standard size homes;
- Adding 181,889 passenger cars; or
- Removing 6,927 acres through deforestation.

Such infrastructure projects commonly adversely impact low-income and other underserved/unrepresented communities residing adjacent or in close proximity to such projects. These communities suffer during land acquisition and construction of new projects as well as from exposure to increased pollutants from exhaust emissions, tire wear, and other environmental exposures. In addition, the agricultural impacts outlined above will not only impact landowners but also their workers, the majority of whom are Hispanic. Tribal treaty rights and environmental justice for Native Americans are crucially important, but the impacts on other underserved/underrepresented communities must also be taken into account. We therefore urge DOT and the mediation participants to engage with the White House Environmental Justice Advisory Council (<https://www.whitehouse.gov/environmentaljustice/white-house-environmental-justice-advisory-council/>) to assess the full suite of environmental justice concerns related to LSRD removal.

²National Transportation Impacts & Regional Economic Impacts Caused by Breaching Lower Snake River Dams. January 2020. www.fcsgroup.com Contracted by Pacific Northwest Waterways Association.

We believe it is imperative that DOT lean into the mediation process, as the process appears to be operating in a vacuum separate from broader public policy objectives such as these transportation issues as well as other issues like clean energy, environmental justice concerns, agricultural impacts, international trade objectives, and even national security concerns. Thank you.

Sincerely Yours,

The McGregor Company	Diversified Marine, Inc
Great Northwest Transport	Port of Longview
Tidewater	Port of Whitman
Shaver Transportation	Port of Clarkston
Port of Lewiston	Port of Benton
Port of Woodland	Port of Walla Walla
Columbia River Towboat Association	Port of Pasco


**Potential impacts of lower Snake River dams on
salmon and steelhead survival in the ocean:**
A scientific perspective about *delayed mortality*

Prepared For:
Inland Ports and Navigation Group

Prepared By:
Mount Hood Environmental

June 25, 2023

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 MOUNT HOOD
ENVIRONMENTAL
Fisheries and Aquatic Science Consulting

The full document is available for viewing at:
<https://docs.house.gov/meetings/II/II13/20231212/116632/HHRG-118-II13-20231212-SD009.pdf>

REGIONAL & NATIONAL IMPACTS TRIGGERED BY LSRD BREACHING
QUICK SUMMARY OF TRANSPORTATION, CLIMATE AND SOCIAL
JUSTICE CONCERNS

Introduction

LSR dam breaching would have detrimental economic, climate and social justice impacts for local governments, communities, property owners, farmers and businesses in Washington, Oregon and Idaho.

Pacific Northwest Waterways Association contracted with FCS GROUP (financial and economic consultants) to provide an independent and economically conservative evaluation of the social/infrastructure/transportation/farm impacts that would be caused by Lower Snake River (LSR) dam breaching and closure of four LSR locks.

With the elimination of the Snake River barge transportation option and reduction in the aquifers that over 7,640 farms in Washington, Oregon and Idaho depend upon, LSR dam breaching will fundamentally change this tri-state region. The paper evaluates the expected economic and social justice impacts on 12 counties and several cities located in the tri-state region.

Overall findings illustrate that dam breaching would exacerbate existing climate and social justice issues in a tri-state region that includes 350,183 people and 90,124 jobs. It is expected that existing social justice concerns will grow exponentially should the land be left without a reliable, consistent supply of surface water.

Social Justice Findings

- The tri-state study region includes 350,183 residents (U.S. Census, ACS, 2021). The majority of residents are White (83.5%). Other races include Latino/Hispanic (17.2%) and American Indian (2.03%).
- The share of the study region's population that is disabled (15.3%) is higher than the national average (13%).
- The median age of the region's residents is older (41.2) than the national median (38.8).
- Net cash income for farms reporting receipts averaged only \$52,695 in 2017.
- In addition to households experiencing poverty (16.5%), United Way indicates that 31% of the study region's households are Asset Limited Income Constrained and Employed (ALICE). The combination of poverty and ALICE measurements indicate that nearly half of all households in the region are living "on the edge"—going paycheck to paycheck to make ends meet relative to housing, childcare, health care and transportation costs.
- Regional income is lower and poverty rates are higher in the study region compared with the nation. In 2021, 16.5% of the study region's residents between the age of 18 and 64 were below the poverty level—compared to 11.9% for the nation. Exhibit 1 reflects Census Tracts within the region that have "Persistent Poverty."
- Home ownership rates in the region (58.7%) are lower than the national average (69.4%).
- The share of regional households experiencing severe rent burden (with over half of annual income paid towards housing) is higher (24.4%) than the national average (22.9%).
- The share of households participating in SNAP (Supplemental Nutrition Assistance Programs) is higher in the study region (13.4%) than the nation (12.3%).
- The share of unemployed civilians in the region is higher than the national average. The crucial jobs at risk of being lost include hard working haulers, planters, pruners, harvesters—all crucial for providing agricultural produce to consumers. They are already in short supply with first generation Americans, seasonal farm workers, and disadvantaged workers.
- According to current White House Climate and Social Justice data, the region is at a relative disadvantage in terms of unemployment, poverty, energy cost burdens, risk of natural hazards (such as fire), asthma and travel barriers. See Exhibit 2.

Economic Impacts

- Removal of the locks is likely to bankrupt thousands of farms (producers) as they attempt to change their freight distribution network from efficient river barges to far more costly long-haul truck or rail service.
- The existing highway and rail network would need a short-term capital investment of \$1.3 billion to handle the 4.2 million tons of annual shipments to and from the tri-state region. (Source: Appendix A, engineering cost estimates prepared for the Washington Transportation Commission, adjusted to 2023 dollars).
- If billions in federal dollars were somehow appropriated to increase the highway and rail capacity and address required local street and infrastructure needed to mitigate the impact of LSR locks/dam removal, the design and permitting time would take several years and inflationary pressure would push these cost estimates up even higher.
- Potentially shifting commodity exports from barge to truck and rail would increase the overall cost of shipping commodities to export terminals along the Pacific. Moving commodities by truck/rail would increase the cost per bushel of wheat by 8% or more. An increase in the wholesale cost of grain would push the breakeven price for grain up to nearly \$8.00 per bushel—well above the spot price of \$7.19 in today's market (per USDA, Wheat Index, July 26, 2023).
- Because the market price for grain is determined by global factors such as international demand, global supplies, and currency rates, increasing wholesale prices for commodities is not really an option and has a high probability of bankrupting over 7,600 farms, unless U.S. farm subsidies to the tri-state region increased by \$55M/year or \$1.65 billion over 30 years (FCS Group estimates).
- Removal of the LSR dams would also impact underground aquifers by requiring irrigation water for crops to be pulled from groundwater sources. Non-irrigated land in this region is inhospitable for food production. With nearly 352,000 acres of irrigated farmland in the tri-state region, the loss of irrigated farmland would potentially reduce land value by \$1.1 to \$1.6 billion (values reported by the USDA, Land Values Summary, Aug. 2022).
- As farmland valuation is reduced, local assessed values will decline in the tri-state region. This will in-turn reduce local property tax revenue by over \$17 million per year in the tri-state region—\$520 million over 30 years. The consequential negative fiscal impact would devastate local municipalities, schools and special districts—as municipal and county tax revenue is reduced by \$12M/year (\$360M over 30 years) and public-school tax revenue is reduced by \$6M/year (\$180M over 30 years) in the tri-state region.
- Regional farm and government sectors account for nearly 15% of the tri-state GDP with 15,700 jobs. The long-term permanent job losses in the tri-state region attributed to LSR breaching is difficult to quantify but would likely place 15,000 jobs at risk. The secondary and tertiary impacts of these job losses would be far greater.
- The Port of Clarkston has identified six specific businesses and cruise ship operations at risk, which support 6,811 workers. These businesses generate \$625.7 million in total annual GDP. A subset of GDP includes \$65.5 million in state and local tax payments and \$86.6 million in annual Federal tax payments.
- Multiple cruise lines would cease ALL operations if the Snake River portion of the waterway is unavailable. This would cause a ripple effect on local economies and at several ports of call along the lower Columbia River in Oregon and Washington.
- At least three cities (Clarkston, Lewiston and Asotin), regional counties and major industrial businesses have permits for discharge of treated wastewater into the river. A share of the economic contribution of these communities will be at-risk with dam breaching, with nearly \$1.5 billion in combined annual GDP. Note, this is a conservative estimate of the regional GDP, since many other communities in Washington and Idaho will also be impacted.

Transportation Impacts

- The removal of four lower Snake River dams are expected to increase transportation and related environmental costs in the U.S. by over \$8.1 billion over 30 years. This equates to a net present value of \$4.2 billion (based on standard 7.0% annual discount rate).
- Removing the Snake River locks would cause diesel fuel consumption to increase by nearly 5 million gallons per year as barges are replaced by less efficient truck-to-rail shipments.
- The current distribution of commodities moving out of the 10-county bi-state region to deep draft export ports as follows: 90% barge and 10% rail. With removal of the LSR locks, commodities transported by barge would decrease—as producers try to shift commodity freight from efficient river barge to truck and rail.
- Even if billions in federal and state transportation mitigation was appropriate, LSR dam breaching would require at least 201 additional unit trains and 23.8 million miles in additional trucking activity annually.
- Related engineering studies have concluded that over \$1.3 billion in infrastructure investments would need to be constructed in the near-term to address transportation, railroad, grain storage capacity and local infrastructure changes that would result with LSR dam breaching.
- Increased reliance on truck-to-rail or truck-to-barge terminal shipping (on Lower Columbia) is expected to result in an increase of 23.8 million miles of travel per year on county, state and federal highways. The increased trucking activity will increase fuel costs, highway maintenance costs, terminal facility maintenance cost, driver time, and vehicle maintenance costs by over \$69 million per year.
- Diesel fuel consumption will increase by nearly 5 million gallons per year; thereby reducing our nation's ability to achieve energy independence.
- An increase in unit trains of 1–2 per day enhances the probability of train related incidents and fatalities, the cost of train safety incidents has not been included in this study.

Climate Impacts

Shifting commodity flows from barge to truck and rail will result in increases in NOx, CO2 and other harmful emissions by over 1,251,000 tons per year (source: Appendix C, FCS Group).

This annual amount of harmful air emissions is equivalent to:

- Removing 6,927 acres of trees through deforestation
- Adding 181,889 passenger cars
- Adding 90,365 standard size homes
- Adding one new large coal fired power plant every 2–3 years—such as the recently decommissioned PGE plant in Boardman, Oregon.

August 13, 2023

Summary of Findings

REGIONAL & NATIONAL IMPACTS TRIGGERED BY BREACHING LOWER SNAKE RIVER DAMS: SUMMARY OF TRANSPORTATION, CLIMATE AND SOCIAL JUSTICE CONCERNS

I. SUMMARY AND OVERVIEW

The breaching and related mitigation costs of four Lower Snake River Dams are conservatively expected to range from \$10.3 to \$31.3 billion (expressed in discounted 2022 dollars).¹

This report focuses on two key elements associated with dam breaching — transportation/navigation impacts and irrigation/farm impacts.

Findings illustrate a significant direct impact on underserved populations. While this report discusses economic consequences of the economic, climate, and social justice impacts, it does not address the loss of power generation nor the financial costs of dismantling the earthen portion of the projects, nor the feasibility of funding the billions in transportation, infrastructure and other mitigation projects attributed to the consequences of dam breaching.

It is now clear that LSR dam breaching would have detrimental economic, climate and social justice impacts on local governments, communities, property owners, farmers, and businesses in Washington, Oregon, and Idaho.

Pacific Northwest Waterways Association contracted with FCS GROUP (financial and economic consultants) to provide an independent and economically conservative evaluation of the social/infrastructure/transportation/ farm impacts that would be caused by Lower Snake River (LSR) dam breaching and closure of four LSR locks.

The Columbia/Snake River system is the largest wheat export gateway in the U.S. Almost half of the wheat exports arrive by barges moving through the Columbia / Snake River system. Each year, over 4.2 million metric tons of commodities are estimated to move through the lower Snake River locks.

In 1945, Congress authorized the construction of four Lower Snake dams (Lower Granite, Little Goose, Lower Monumental, and Ice Harbor) as multiple-purpose projects to serve the Northwest's growing economy.

Report Organization
I. Summary and Overview
II. Social Justice Concerns
III. Transportation Concerns
IV. Climate Impacts

¹ Findings based on *Lower Snake River Benefit Replacement Final Report*, August 2022, a study prepared for Governor Jay Inslee and U.S. Senator Patty Murray of Washington.

The full document is available for viewing at:
<https://docs.house.gov/meetings/II/II13/20231212/116632/HHRG-118-II13-20231212-SD011.pdf>

Mr. BENTZ. Thank you. I now recognize Ms. Falkenberg for 5 minutes.

**STATEMENT OF HUMAIRA FALKENBERG, POWER RESOURCES
MANAGER, PACIFIC COUNTY PUD, RAYMOND, WASHINGTON**

Ms. FALKENBERG. Good afternoon, Chairman Bentz, Ranking Member Huffman, and members of the Subcommittee. My name is Humaira Falkenberg, and I am the Power Resource Manager at Pacific PUD. With significant weight and responsibility, I am here today to plead the case for not-for-profit utilities, including millions of consumers in communities across the Pacific Northwest.

The pending settlement between the U.S. Government and the six sovereigns just became public, and is alarming. Pacific PUD is an 80-year-old utility serving the coastal communities at the confluence of the Columbia River and the Pacific Ocean in Southwest Washington. Nearly one-third of the county's population is over the age of 65. Poverty is rampant among families in our community; 14.7 percent of all families with related children under the age of 18 live in poverty. Nearly 40 percent of all households with children under the age of 18 are headed by single women living in poverty. Over 70 percent of our total school enrollment is considered low-income. Layering on additional costs from the settlement serves as a disproportionate, regressive energy burden for our most vulnerable members in our community.

Using CEQ's climate justice tool, we rank in the 97th percentile for energy costs and 85th percentile for low-income households. Using the same exact tool over the entire Pacific Northwest reveals that vast areas of BPA's customer communities are also marginalized and under-resourced.

Currently, our coastal communities bear the brunt of climate change, and experience increasingly regular atmospheric rivers. Heavy winds routinely damage our transmission lines and other critical infrastructure.

Because we purchase 100 percent of our wholesale electricity from BPA, Bonneville power rates have the single greatest impact on our retail rates. The greatest threat to our utility and the people we serve is uncertainty.

The settlement threats come in three distinct forms: (1) lack of clarity on BPA costs; (2) lack of operational certainty; and (3) lack of meaningful litigation forbearance. We are already in an operational and cost environment that is extremely challenging from adequacy, reliability, and affordability perspectives. It becomes even more difficult as we work to meet the strict decarbonization goals of the region.

The injection of intolerable uncertainty in managing and planning future electric rates for our customers is causing us to evaluate the viability of a 20-year contract with BPA. The intergenerational impacts of uncertainty will be felt beyond 2044.

Given the poverty in our community, not surprisingly, our customers expect us to hold the line on electric rates. We are committed to the concept of restorative justice and ensuring all communities, particularly our most vulnerable, benefit from our existing renewable infrastructure as we advance our clean energy transition. In confronting the need for justice in particular situations, we

should avoid deepening injustice elsewhere. We remain empathetic to the origin story and the importance of salmon to the First Nations of Columbia River and the needs of consumers for affordable, reliable, clean power. We support scientific, cost-effective mitigation efforts for fish and wildlife that have a clear nexus to the impacts of the hydropower system.

But the U.S. Government must exercise moral courage and use principles of distributive justice while honoring BPA's organic enabling statutes, specifically, its rate-making directive, to set the lowest possible rates to ensure that potential burdens resulting from a settlement process are fair and responsive to the needs of the entire region.

Thank you.

[The prepared statement of Ms. Falkenberg follows:]

PREPARED STATEMENT OF HUMAIRA FALKENBERG, POWER RESOURCES MANAGER,
PUBLIC UTILITY DISTRICT NO. 2 OF PACIFIC COUNTY, WASHINGTON

Good afternoon, Chairman Bentz and members of the Subcommittee. My name is Humaira Falkenberg. I am the Power Resources Manager of Pacific PUD. I also serve as the Chair of the Allocation, Rates and Contract Committee of the Public Power Council and as the Vice Chair of Northwest River Partners. With significant weight and responsibility, I am here today to plead the case for not-for-profit utilities, our consumers and communities in the Pacific Northwest in light of the potential settlement between the U.S. Government (USG) and Six Sovereigns by December 15, 2023.

As Pacific County PUD's (Pacific) Power Resources Manager, I manage and oversee all wholesale power supply costs for our utility. Currently, wholesale purchase power makes up nearly 50% of our total annual operating expenses. We have a \$31.1 million operating budget where \$14.2 million is attributed to purchased power. As a Full Requirements customer of Bonneville Power Administration, we rely on BPA to provide 100% of our wholesale electricity. Therefore, BPA power rates have the single greatest impact on the rate we must charge to our customers to recover costs.

As a not-for-profit consumer owned utility for 80 years, Pacific has relied on BPA to supply reliable, affordable, and low carbon wholesale electric power. Recently, Pacific engaged with BPA on the next "Provider of Choice" 20-year contract, as our current contract expires in 2028. Accepting long-term power sales contracts is among our utility's most significant actions; we do it with utmost care and thought towards long-term intergenerational impacts that will last well beyond 2044.

Procedural Injustice

When we learned that the USG was in secret negotiations with select parties from the CRSO litigation and drafted commitments without our knowledge, we were outraged at the lack of procedural justice demonstrated by FMCS and CEQ. The Council on Environmental Quality (CEQ) engaged the Federal Mediation and Conciliation Service (FMCS) to attempt to make progress in resolving issues in the long-running CRSO litigation in the Federal District Court. Yet, those processes have not been fair, transparent or impartial and have not allowed other parties to have a voice. The collective voice of millions of people in the Pacific Northwest was silenced as the USG spent more than six months behind doors negotiating with the plaintiffs without meaningful engagement with us. As a result, any USG's potential agreement resulting from these proceedings carries a shroud of procedural injustice. Any aspirational hope of genuine mediation and conflict resolution was abandoned.

Nevertheless, we remain empathetic to both the origin story and the importance of salmon and other fish to the Columbia River Basin Tribes and the needs of stakeholders for affordable, reliable clean power. However, Pacific's customers demand decision making to be guided by impartiality, ensuring that biases and politics do not influence the decision and, ultimately, any outcomes. Under challenging negotiations, it would not be uncharacteristic for parties to sit in extreme discomfort jointly. Still, the responsibility of FMCS and CEQ would have been to preserve procedural fairness and to allow adequate time to review positions. The fruit from a procedurally unjust tree is unjust. It is with this frustration we plead with Congress.

Strategic Ambiguity

When the commitments made by the USG in the “U.S. Government Commitments in Support of the Columbia Basin Restoration Initiative and in Partnership with the Six Sovereigns” (USG Commitments) came into the public domain on November 29th, 2023, we were alarmed at the strategic ambiguity contained therein. The implications of the potential commitments by the USG in the CRSO litigation pose significant threats to the long-term value of the FCRPS. This strategic ambiguity within the USG Commitments is revealed in three key areas: 1) lack of clarity on the costs confronting BPA and its customers 2) lack of operational certainty and 3) lack of litigation forbearance.

Given the massive uncertainty regarding the future of the Federal Columbia River Power System (FCRPS), it becomes painfully challenging for us to consider signing the next 20-year contracts in light of unknown costs in the out years. The document creates intolerable ambiguity in predicting and planning future electric rates for our customers. A shorter-term contract with BPA may help us better limit an unacceptable exposure to risk, given so many unknowns created through this agreement.

Lack of Clarity on the Costs Confronting BPA and Its Customers

Many of the USG commitments made in the document do not have an underlying specific appropriations strategies or budget commitments or named federal agencies for such responsibilities, creating the concern that BPA and its ratepayers will be the default funding source if and when Congress fails to act. The document labeled as “draft” dated “11/2/2023” exposes at least \$100 million in long term additional Fish and Wildlife expenses, and \$200 million in capital investments. These costs are in addition to the \$200 million of Phase 2 Implementation Plan (P2IP), various other long-term and short-term funding agreements, the Fish Accords, and the existing Fish and Wildlife Program. Additionally, BPA could bear an undefined share of the \$200 million “Mid C Restoration Plan” costs per year. It is still being determined whether BPA would be left to fill the gap if Congress does not make the expected appropriations. BPA could be the payer of last resort.

Separately, the USG Commitments propose an Advanced Tribal Energy Sovereignty program. We want and need all communities to expand efforts to promote a clean energy future while doing so reliably and affordably. While we support Tribal Energy independence and would welcome the collaboration with LRTT to realize their goals, in the document, the Department of Energy is charged supporting tribal development of 1–3 GW of new renewable energy resources to be “accounted” for as replacement for the output of the LSRDs. The commitments presume LSRD breaching and as a remedy create the problematic optics of BPA’s role as the off taker of such “replacement” resources.

It is reckless energy policy to presume that 1–3 GW of wind or solar could be considered “replacement” of LSRD output. The LSRDs provide nearly 1,000 aMW of energy at average water and provide 25% of the ancillary services of the FCRPS. These projects are equipped with Automatic Generation Control (AGC) making them an important part of the sixty-second demand and supply balance necessary for power grid stability and operations. These projects’ operating reserves aid BPA in meetings its Balance Area Authority functions. As more intermittent and variable renewable resources are integrated into the grid, flexible and controllable hydro-electric dams become even more critical for grid reliability—removing them isn’t the answer; quite the contrary, it is their very existence that allows the abundant integration of variable fuel-saving resources and accelerates the clean energy transition.

Besides contributing to grid reliability, according to BPA, the LSRDs generate electricity at a cost of \$14 MWh, which is well below the cost of developing new renewable resources. These legacy resources are vital to maintaining affordable rates in the region and thereby contributing to economic justice for those the most financially marginalized.

In conclusion, there is great deal of ambiguity and uncertainty as how the USG commitments in the document would impact BPA’s rates. There is no plain and explicit language in the document that cabins BPA’s financial obligation; given the extreme uncertainty of funding obligations in the agreement, we estimate potential rate impacts from 5% to over 50%.

Lack of Operational Certainty

We have significant concerns pertaining to the vulnerability of hydro operations to other lawsuits, including river temperature lawsuits that the plaintiffs and their colleagues have threatened. The USG commits to developing and using a Sovereign-

driven process for “durable operations” without any protections or standards for the power system impacts. The language, “(The) USG is committed to developing and using a Sovereign driven process to focus on maintaining and adaptively implementing (managing) the durable set of operations agreed to that govern at the lower Snake River and lower Columbia River dams prior to potential breach of the lower Snake River dams,” is alarming.

That being said, ambiguity still arises with the following sentence “USG commits to working with the Six Sovereigns on potential changes such as interim project operations, more aggressive advancement of mid-Columbia River habitat restoration, and fish passage,” which can be implemented after supplemental or additional environmental compliance documents are completed.

We also reject the need to conduct a new FCRPS related Biological Opinion, conduct new USACE feasibility studies, and an EIS. The USG spent more than \$45 million on the CRSO EIS in 2020 and a related Biological Opinion.

Furthermore, the agreement does not firewall BPA from exposure to further operational changes through the CRSO claims not excluded by the agreement such as the Clean Water Act claims.

Lack of Litigation Forbearance

We have learned several lessons from the failed Columbia Basin Fish Accords. To provide a much more predictable path forward for the region, this document needs to require that the plaintiffs commit to discontinuing their ESA litigation for the ten-year duration of the agreement; they should commit to refraining from other litigation that could adversely impact FCRPS operations and BPA power customers. The plaintiffs should be bound to be co-defendants with the USG in case of lawsuits from other organizations that seek to reduce the value of the FCRPS capabilities. A piecemeal approach to litigation forbearance will invariably result in future concessions on part of BPA. BPA’s customers should only have to pay higher electric rates if they are receiving commensurate financial and legal protections in the future.

In summary, the USG commitments document is repeatedly ambiguous. The strategic ambiguity will lead to decades of litigation and represents irresponsible public policy. It is imperative that the language in the agreement be made simple, clear, and precise if it were to advance.

BPA Rates and Impacts to Pacific

The nexus of cost and operational uncertainties coupled with lack of litigation forbearance could result in BPA’s ratepayers being held responsible for undefined future liabilities. Unlike other Federal agencies, BPA funds its operations entirely through the rates it charges its customers like Pacific and BPA’s customers repay all costs associated with the production and transmission of power from the multi-purpose federal projects. This includes the costs related to mitigating the impact of federal hydropower generation on threatened and endangered fish species. About 25 percent of BPA’s Tier 1 rate, which includes foregone revenue for the cost of lost generation, is paid by BPA’s consumer owned utilities for BPA’s fish and wildlife programs; in the last ten years, we have paid an average of \$685 million per year and during the course of the current power sales contract, BPA’s Tier 1 power rates have already increased 24 percent.

While Pacific takes its obligation to fund the largest and most comprehensive environmental mitigation program in the United States seriously, BPA’s authority to undertake any costs is restrained by its organic, enabling statutes, including its ratemaking directive to set “the lowest possible rates to consumers consistent with sound business principles.” In other words, BPA is a creature of its statutes, and it cannot, despite the nobleness of the cause, improperly use ratepayer funds. The use of rate payer funds for potential USG commitments is not a matter of “ends justify the means” but rather about the impact on the people in our community, and I care deeply about the residents of Pacific County.

Our rate payer funds are not dividend checks from the shareholders of for-profit companies; instead, rate payer funds are monies that represent the sweat of labor from the vast majority of our blue-collar, working-class customers employed in sea-food processing, cranberry bogs, and agricultural farms, including those members of our community that are most marginalized like migrant workers, elderly, disabled, and Asset Limited, Income Constrained, Employed (ALICE) populations.

ALICE populations earn more than the Federal Poverty Level but not enough to afford the basics where they live. ALICE workers were celebrated as essential heroes during the COVID-19 pandemic, yet they do not earn enough to support their own families. 45% of Pacific County residents qualify as ALICE. Pacific County has the largest percentage of ALICE population in all of Washington state. ALICE popu-

lations have insufficient income. When households can't afford the basics, they are forced to make difficult choices and trade-offs every day—impossible decisions like whether to pay for prescriptions or keep enough food on the table. The larger the gap between income and expenses, the more extreme the decisions and the greater the risks to a family's immediate health, safety, and financial stability. The slightest impact to the cost of an essential service like electricity can have significant consequences for both ALICE populations and those below the federal poverty line.

Pacific County Service Territory, Demographics, and Electric Rates

Pacific County spans nearly 1,000 square miles with a population of less than 25,000 individuals sparsely dispersed (fewer than 25 people per square mile) along the mouth of the Columbia River. Nearly 70% of the county's population resides in unincorporated areas, with only four small municipalities (South Bend, Raymond, Long Beach, and Ilwaco) defined by urban growth areas. Because of the inherent costs of electrical infrastructure investment in areas lacking concentrated population centers, we face significant pressures in capital costs. Our low number of customers per mile of transmission and distribution lines means we have a higher proportion of fixed costs. Further these are precisely the areas most affected by supply chain issues and inflation. This makes any BPA rate increases more challenging for us to absorb, as there are limited opportunities in our cost structure for offsetting reductions.

Separately, the county experiences extreme weather events due to the proximity of the Pacific Ocean, and high wind events are common.¹ We are also at severe risk of disruption of roads and services by earthquake and/or tsunami² and susceptible to ever frequent impacts of climate change. Between December 3rd and 5th, 2023, Pacific County and the adjacent communities experienced 12 to 16 inches of heavy rain resulting in severe flooding due to increasing regular atmospheric rivers affecting the region. Conditions were so dire that a U.S. Coast Guard rescue swimmer was lowered by a helicopter to save a person stranded on a partially submerged vehicle in Western Wahkiakum County. In addition, winter storms typically include hours of 60–100 mph winds, causing trees to fall and damage lines and structures. Our coastal communities are taking the brunt of climate change impacts while the USG is ambiguously envisioning a future without the LSRD that provide carbon free electricity and aides the nation in clean energy transition. When we solve for climate change, we will solve for salmon.

Separately, the topography of our county includes a mountainous landscape with heavily forested terrain, dense canopy cover, numerous wetlands, and geologic hazard areas. Furthermore, there are prevalent corrosive aerial salts that degrade free-standing outdoor assets; with all these challenges, we still strive to have the most affordable rates in the state of Washington at 6.3 cents per kWh versus the state's average at 8.5 cents. But despite our best efforts to have the lowest rates for a non-generating PUD in Washington, 2,805 households are below the 200% Federal Poverty Level and hence have an energy burden of more than 6%.

We must do more with less because nearly one-third (34%) of the county's population is over the age of 65. The median household income of \$50,873 is 35% lower than the state median income of \$80,219. These earnings translate into considerable poverty across the county. Nearly 15% of the population lives at or below the poverty line, approximately 11% of the population has no health insurance and 25% of residents claim a federal disability and 17% of the people *under* the age of 65 are disabled.³

Furthermore, poverty is rampant amongst families in our community: 14.7% of all families with related children under the age of 18 live in poverty. Nearly 40% of all households with children under the age of 18 and headed by a sole female live in poverty. Every school in Pacific County qualifies for Title I federal funding. Over 70% of our total school enrollment is considered "Low Income." Layering on avoidable energy burden is a disproportionate regressive tax for our most vulnerable community members.

Per the Biden Administration's Justice 40 Initiative⁴ and CEQ's Climate and Economic Justice Screening Tool, Pacific County has multiple tracts considered disadvantaged because they meet more than one burden threshold and the associated socioeconomic threshold. Pacific County's multiple census tracts rank 97th

¹ <https://mynorthwest.com/3937904/what-is-washingtons-windiest-city/>

² <https://mil.wa.gov/asset/5ba420aa1c85c#:text=For%20example%2C%20the%20unincorporated%20areas,could%20have%20county%2Dwide%20repercussions.>

³ <https://www.census.gov/quickfacts/fact/table/pacificcountywashington/AGE775222#AGE775222>

⁴ <https://www.whitehouse.gov/environmentaljustice/justice40/>

percentile for energy costs and 85% percentile for low-income households where income is less than or equal to twice the federal poverty level. Our customers expect us to hold the line on electric rates. For us to do that, BPA costs must be kept as low as possible while continuing to responsibly fund fish and wildlife mitigation efforts that are effective and proportionately funded by all who benefit.

Separately, when using CEQ's Climate and Economic Justice Screen Tool over the entire Pacific Northwest, the geospatial mapping tool reveals vast areas of BPA's customer communities are some of the most marginalized and under resourced.⁵ In the screen shot image below, areas highlighted in blue in Washington, Oregon, Idaho, and Montana are identified as disadvantaged communities that are overburdened. The USG must be mindful of minimizing adverse rate impacts to these communities to access essential human services like electricity.

It was centuries of oppression by the USG against Native Americans under the Doctrine of Discovery and subsequent Congressional policies of allotment and termination that cost Native Americans and First Nations hundreds of millions of acres of homelands of spiritual, ceremonial, and ancestral significance. Now, the federal taxpayer should bear potential commitments made by the USG as part of the CEQ-FMCS settlement process, for the atonement of past actions.

Respectfully, the USG must reconcile the uncertain financial burden of its extensive potential commitments in support of the Columbia Basin Restoration Initiative to the ratepayers of the BPA in the Pacific Northwest considering the results presented from CEQ's geospatial map. Any rate increases on BPA's customers will result in regressive harm to the communities most disproportionately disadvantaged and overburdened.

The USG's potential assurances in the CRSO litigation also pose significant threats to the long-term value of the Federal Columbia River Power System (FCRPS). Considering the substantial financial reliability and FCRPS operational uncertainty, committing to a 20-year Provider of Choice take or pay contract is difficult when long-term intergeneration impacts that will last beyond 2044 remain unknown.

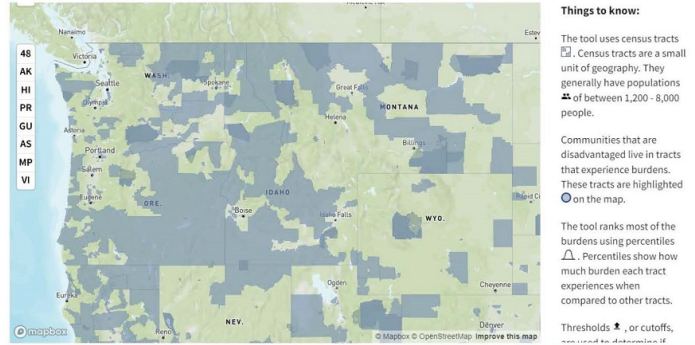
While we support scientific, cost-effective mitigation efforts for fish and wildlife impacts that have a clear nexus to the impacts of the hydropower system, I humbly request that USG exercise moral courage and use principles of distributive justice while honoring BPA's organic, enabling statutes, including its ratemaking directive to set the "lowest possible rates" to appropriately ensure that potential burdens resulting from a settlement process are squarely cabined to the federal taxpayer.

The future of an urgent clean energy transition must prioritize important procedural, distributive, and restorative justice components that embraces equity and does not leave people behind. Hydropower remains the centerpiece of the Northwest's energy infrastructure and provides reliable, affordable, carbon-free power. We can only achieve our multiple policy objectives with it.

⁵ <https://screeningtool.geoplatform.gov/en/#4.64/46.7/-114.77>

White House Council on Environmental Quality (CEQ) Climate and Economic Justice Screening Tool.

Census tracts that are overburdened and underserved are highlighted as being disadvantaged on the map. Federally Recognized Tribes are also considered disadvantaged communities.



U.S. territories note

Not all the data used in the tool are available or used for all U.S. territories.

Source: <https://screeningtool.geoplatform.gov/en/#4.64/46.7/-114.77>

Pacific PUD Average Monthly Residential Bill

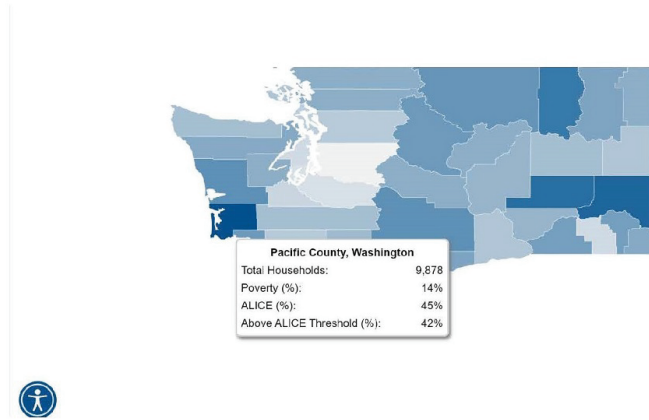
Residential Rates* of Non-Generating Washington PUDs

1,200 kWh & 30 day-average Monthly Billing Including Basic Charge and All State Taxes

Skamania PUD	\$175.77
Jefferson PUD	\$159.94
Mason PUD 1	\$159.64
Grays Harbor PUD	\$157.81
Kittitas PUD	\$152.51
Mason PUD 3	\$152.06
Klickitat PUD	\$148.50
Clallam PUD	\$141.40
Snohomish PUD	\$140.32
Ferry PUD	\$133.61
Wahkiakum PUD	\$128.38
Franklin PUD	\$122.10
Benton PUD ***	\$118.59
Lewis PUD	\$117.71
Clark PUD **	\$116.95
Pacific PUD	\$111.80

* Based on 2023 data
 ** Does not include 'Cost of Delivery' charge referenced in rate schedule
 *** Rate includes residential demand – assumed 10kW

Pacific County Asset Limited, Income Constrained, Employed (ALICE) populations.
 Source: <https://www.unitedforalice.org/national-overview>



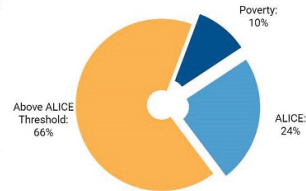
Washington State ALICE

Washington • State Overview

United For ALICE calculates the cost of household essentials for all counties in Washington. These costs, outlined in the [Household Survival Budget](#), are calculated for various household sizes and compositions.

Of Washington's 3,013,644 households in 2021...

- 10% earned **below the Federal Poverty Level (FPL)**
- 24% were **ALICE**, in households that earned above the FPL but not enough to afford the basics in the communities where they live
- Together, 34% of households in Washington were **below the ALICE Threshold** (poverty + ALICE divided by total households)

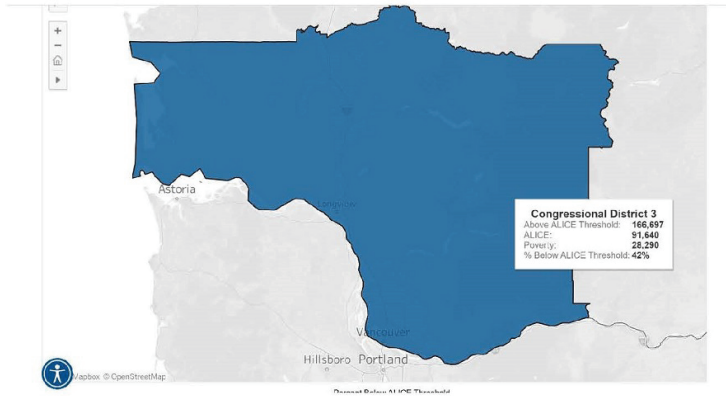


While the COVID-19 pandemic brought employment shifts, health struggles, and school/business closures in 2021, it also spurred unprecedented public assistance through pandemic relief measures. In 2019, 948,380 households in Washington were below the ALICE Threshold; by 2021, that number had changed to 1,026,988. the buttons below to switch between ALICE data over time by number and percentage.

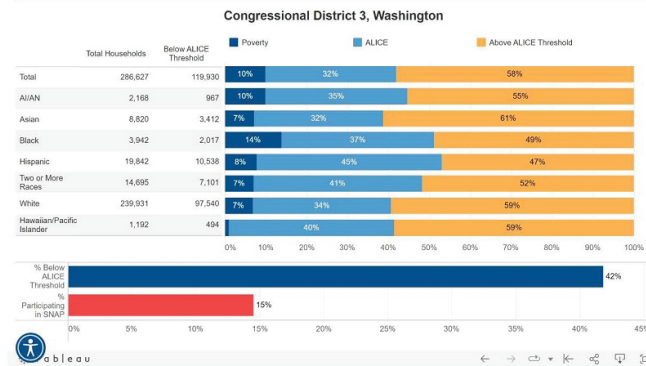
3rd Congressional District, Washington. Asset Limited, Income Constrained, Employed (ALICE) populations.

Source: <https://www.unitedforalice.org/national-overview>

This interactive tool helps policymakers and community stakeholders better understand how many households are actually struggling in their district.



Insufficient Income: When households can't afford the basics, they are forced to make difficult choices and trade-offs every day — impossible decisions like whether to pay for prescriptions or keep enough food on the table. The larger the gap between income and expenses, the more extreme the decisions and the greater the risks to a family's immediate health, safety, and financial stability.



Mr. BENTZ. Thank you. I now recognize Mr. Slater for 5 minutes.

**STATEMENT OF LINDSAY SLATER, VICE PRESIDENT OF
GOVERNMENT AFFAIRS, TROUT UNLIMITED, ARLINGTON,
VIRGINIA**

Mr. SLATER. Mr. Chairman, Ranking Member Huffman, and members of the Subcommittee, thank you for inviting me today to speak. My name is Lindsay Slater. I am the Vice President of Government Affairs for Trout Unlimited, and I am here today on behalf of our more than 300,000 members and supporters across the country. We are a bipartisan cold water conservation organization made up of members who invest in their communities through stream restoration and collaborative conservation.

I grew up in Wallowa County in Chairman Bentz's district on my family's fifth-generation farm, where salmon pass on their way up the Wallowa River. I worked for 26 years in Congress, first in Chairman Bentz's district for the late Congressman Bob Smith and then Congressman Greg Walden. I spent the next 22 years with Congressman Mike Simpson of Idaho as his chief of staff, leaving last March.

Six years ago, during another dust up in the region over salmon and dams, Congressman Simpson said, "Let's roll up our sleeves and figure out what this conflict is about." We went down a rabbit hole we could never imagine. To the extent my participation in this hearing implies familiarity or even expertise with this issue, it is because we ended up spending the next 4 years holding over 300 meetings with stakeholders across the spectrum of all relevant touch points to salmon, dams, agriculture, and energy.

We learned a few things, that wild salmon are irreplaceable, they stitch together the fabric of an ecosystem that stretches from the continental shelf to the continental divide.

We learned that not going extinct isn't a recovery goal we should be striving for, that salmon have faced many obstacles over the last 200 years, including dams, fish wheels, over-fishing, timber harvesting, predation, non-native fish, water pollution, over-production of hatcheries, climate change, and poor ocean conditions, that we have spent over \$20 billion in the last 30 years trying to address these problems and it hasn't worked.

We concluded that dams were the problem by looking at salmon populations that passed through three dams that are doing much better than salmon populations that pass through eight. Salmon need a river, not a series of warm, slow moving lakes. If we allow salmon to go extinct, we are breaking the covenant with the Pacific Northwest sovereigns. This covenant is not an implied responsibility to the tribes. It is an explicit legal obligation and treaties as enshrined in the U.S. Constitution.

So, we looked at the lower Snake dams as part of the Federal Columbia River Power System. We asked three questions: Who or what interests would be affected if the dams were removed; could the benefits from the dams be replaced; and what would it cost to replace those benefits?

Some people in this room might have seen the walls in my office covered top to bottom and corner to corner in big, laminated puzzle pieces of the Pacific Northwest that came together in a concept

that would replace energy, protect stakeholders, and provide a free-flowing river for salmon. We believed a win for each party and stakeholders was preferable to the existing status quo of lawsuits, appeals, and uncertainty.

In February 2021, Congressman Simpson released his vision as the Columbia Basin Initiative that determined the benefits of the dams could be replaced. A year later, Governor Inslee and Senator Murray came to a similar conclusion. Despite the ominous title of this hearing, “Left in the Dark,” the lights in the Northwest are not going to go out when the four lower Snake dams are removed. It has been made clear by Congressman Simpson, Senator Murray, and Governor Inslee that the energy and capacity of the dams must be replaced prior to dam removal.

Climate change is already reducing overall flow, and the Northwest must diversify its generating mix beyond snowpack-dependent hydropower, and invest in expanded and modernized transmission and distribution systems to ensure reliability. At the same time, we can take this opportunity to examine and address the Federal hydropower system’s legacy of injustice.

For almost 100 years, the Federal energy system has thrived at the expense of the Northwest tribes, whose villages and fishing grounds were submerged and salmon decimated. It is unacceptable for any administration to continue prioritizing the competitive position of BPA at the expense of tribal interests in salmon. We should all welcome any extent to which the Federal Government is contemplating a leadership position for regional tribes. They are due and ready for an elevated role in delivering a future of shared abundance through restored salmon runs and delivering a clean energy future. The government took the rivers and salmon from the tribes, but they could never figure out how to take the wind and the sun.

I will conclude with a message from our CEO, Chris Wood. We can save salmon. We can take care of stakeholders and develop and build new sources of energy while modernizing our electrical grid. But doing nothing is failing future generations in the Pacific Northwest, tribes, and salmon.

Thank you, Mr. Chairman and Ranking Member.

[The prepared statement of Mr. Slater follows:]

PREPARED STATEMENT OF LINDSAY SLATER, VICE PRESIDENT OF GOVERNMENT AFFAIRS, TROUT UNLIMITED

Chairman Bentz, Ranking Member Huffman, and Members of the Subcommittee: Thank you for the invitation to testify. My name is Lindsay Slater. I am the Vice President of Government Affairs for Trout Unlimited and I am here today on behalf of our more than 300,000 members and supporters across the country. Trout Unlimited is a bipartisan, coldwater conservation organization made up of members who invest in their communities through stream restoration, collaborative conservation, and spreading the joy of fishing and the outdoors. Our diverse membership grounds us in the places where our supporters and staff live and work, including the Snake River and Columbia River basins.

I grew up in Chairman Bentz’s district in eastern Oregon’s Wallowa County on my family’s fifth generation farm where salmon pass on their way up the Wallowa River.

Through last March, I worked for 26 years in Congress. First, in Chairman Bentz’s district for the late Congressman Bob Smith, next for Congressman Greg Walden as his Legislative Director, and then for 22 years with Congressman Mike

Simpson of Idaho as his Chief of Staff. I was fortunate to have a career working for three great men and legislators.

During my years working in Congress, I helped to develop solutions-focused legislation that created outcomes for interests and stakeholders that I believe were more favorable than the zero-sum game of picking winners and losers in the stewardship of our federal lands. The Steens bill with Congressman Walden and the Boulder White Clouds with Congressman Simpson are two examples of bills with outcomes more favorable to all parties.

I also learned from some of the best energy experts in the United States. There is an informal network of Northwest energy experts—many who are former Congressional staff—who educate the staff of the Northwest delegation through meetings and tours. I took my first PNGC power tour across Oregon and Idaho in 1998. This network is important to educate Congressional staff about very complex issues related to the Bonneville Power Administration (BPA) and the Northwest energy system. In the late 90s, the first pieces of BPA legislation I helped work on with the Northwest delegation were JOE and SLICE. We worked as a bipartisan team in those days.

Trout Unlimited has been involved in the dams and salmon discussion for decades. In conjunction with our Washington State Council, we recently held our annual meeting in Spokane, Washington, which is in Congresswoman McMorris-Rodgers's district. More than 300 people from around the country turned out to learn about Trout Unlimited's work in the Northwest and our efforts to recover wild salmon and steelhead populations. Approximately 70 people made the long bus ride to tour Lower Granite Dam to learn about what role the U.S. Army Corps of Engineers plays in trying to mitigate the impacts of the four lower Snake River dams.

Trout Unlimited has 25 chapters and nearly 10,000 members in local communities across the Pacific Northwest. Our members in Idaho, Washington and Oregon want to see wild salmon and steelhead return to their home rivers each year and want the same for their children and grandchildren. Many utilize electricity brokered by Bonneville Power Administration (BPA) through local public utility districts and electric cooperatives. They live in the very communities that rely on the agricultural economies of the fertile Palouse and Camas Prairies. They live in communities with seasonal economies that once were fueled by abundant salmon and steelhead. They want a region with a thriving economy; abundant, clean, and affordable energy, and wild salmon. And with the right investments and a strong commitment we can have all three. We can save salmon. We can develop and build new sources of energy, while modernizing our electrical grid. We can give the stakeholders the certainty they need for a strong economic future. But we cannot have all three as long as the four lower Snake River dams and the deadly reservoirs behind them remain. There is no future for wild Snake salmon and steelhead with the dams in place. So long as they block the rivers, the communities that rely on them for their well-being—especially the northwest tribes who have been sustained by wild salmon spiritually and materially for millennia and have federal treaties guaranteeing them the right to salmon harvest—will continue to be harmed.

It is important to note there are many dedicated people and organizations across the region who have spent years working to proactively solve this problem. A coalition of conservation groups has spent countless hours working with stakeholders and local communities to find solutions and provide the needed services for the region. Currently, the state of Washington—at the behest of these advocates and inspired by the work of Gov. Inslee and Sen. Murray—is leading a planning effort to design the infrastructure, irrigation, and energy services that will move the region into the 21st century.

I want to note that this hearing is driven by a leaked draft document from the settlement negotiations between the Biden Administration and the plaintiffs in a long-running court case. Trout Unlimited is not a party to those negotiations and as such I am unable to respond to any questions directly related to them. As the members of the committee are certainly aware, settlement negotiations are by their nature confidential. That said, the discussion around the need for dam removal should not come as a surprise. It has been a topic of scientific inquiry and regional discussion since the dams' authorization in the 1945 Rivers and Harbors Act. I would urge this committee to join the dialogue about the services needed to replace the benefits provided by the lower four Snake River dams.

The science of dam impacts on salmon is clear.

The Columbia River Basin once hosted the largest salmon runs on the West Coast, with 10 to 16 million fish returning to the mouth of the Columbia River from the ocean each year. Half of them returned to the Snake River watershed in Idaho,

where the thousands of miles of coldwater, high elevation forested streams that produced this remarkable abundance of fish are still largely intact.

The potential for recovery of Snake River wild salmon and steelhead is enormous. The Snake's thousands of miles of high-quality habitat and cold, clean water could support thriving wild salmon and steelhead populations if they could safely access it. Currently, Snake River spring chinook, Snake River fall chinook, Snake River sockeye and Snake River steelhead are listed as threatened or endangered and wild Snake River spring/summer Chinook runs are approaching a "quasi-extinction threshold."¹

For 50 years, we have attempted to mitigate the harmful impacts of the dams and hydro-system by barging, adult fish ladders, juvenile bypass, turbine screens, spillway modification increased spill, hatcheries, and dozens of other mitigation efforts. But since the completion of the dams, we have never reached two percent fish returns; in fact, wild Snake River salmon and steelhead are near all-time lows. Stakeholders have spent half a century of rate payer money (including \$24 billion in mitigating funds from Bonneville Power Administration) and taxpayer money in the form of the Lower Snake River Fish and Wildlife Compensation Plan (LSRFWCP) doubling down on a failed system while some of the most miraculous and prolific wild salmon and steelhead runs in the world circle the drain.

The simple fact is that the four lower Snake River dams and their deadly reservoirs kill too many salmon and steelhead. Smolt (juvenile salmon and steelhead) are forced to swim to the ocean rather than drift backward as they do in a free-flowing river, letting the current carry them. These small fish—carrying distinct genetic code thousands of generations old that will lead them back to Idaho—die in turbines or are predated on by invasive smallmouth bass, walleye, and birds. Despite our best attempts, they die in the holding tanks of barges that attempt to move them past the dams, and others fail to return as adults because their ocean entry timing is disrupted. In fact, nearly 50 percent of smolts from Idaho never make it past the 8 dams that stand between the ocean and the Snake Basin.

The best coldwater salmon habitat left in the contiguous United States is in the Snake River Basin. Within the current native distribution of salmon and steelhead on the West Coast, the Snake's 30,000 miles of stream habitat represents 40 percent of all Pacific salmon habitat in the lower 48. Take a second to think about that. The Snake River Basin makes up 40 percent of Pacific salmon and steelhead habitat on the entire West Coast. And it's blocked by four aging, fish-killing dams.

Salmon recovery requires dam removal. The upper Snake River basin is the largest piece of intact coldwater habitat left for wild salmon in the lower 48. If we want to provide salmon with access to the critical high elevation coldwater spawning grounds, the easiest path is the removal of the lower four Snake River dams. The National Oceanic and Atmospheric Administration (NOAA) noted in their September 2022 report, *"Rebuilding Interior Columbia Basin Salmon and Steelhead,"* that the four lower Snake River dams would have the most significant impact for salmon recovery.² Specifically the report noted, "For Snake River stocks, the centerpiece action is restoring the lower Snake River via dam breaching."

Removal would accomplish three important things for wild salmon.³

- Would reduce water transit time. The science is clear: a natural outmigration closer to historical norms of two days minimizes exposure to predators, reduces unmitigated energy expenditure, and results in healthier smolts when they arrive at the estuary. Outmigration time has increased by tenfold, from 2 days in a free-flowing riverine environment, to upwards of 20 days in the current system of dams and slack water.
- Would reduce lethally elevated water temperatures. The 140-mile-long chain of reservoirs created by the hydro system are a deadly heatsink for migrating adult salmon and steelhead. These elevated temperatures cause migration delays by blocking access to adult ladders. In 2015, an estimated 4,000 returning endangered Snake River sockeye were exposed to lethal thermal

¹Northwest Power and Conservation Council (2021). Nez Perce Tribe staff presentation on their analysis of Snake River Basin Chinook and Steelhead—Quasi-Extinction Threshold and Call to Action. https://www.nwcouncil.org/sites/default/files/2021_05_4.pdf

²National Oceanic and Atmospheric Administration (2022). Rebuilding Interior Columbia Basin Salmon and Steelhead. <https://www.fisheries.noaa.gov/resource/document/rebuilding-interior-columbia-basin-salmon-and-steelhead>

³Trout Unlimited (2023). Why We Need a Free-Flowing Snake River. https://www.tu.org/wp-content/uploads/2023/06/TU_SnakeRiverReport_F2-2.pdf

maximums. Only around one percent escaped to spawning grounds, compared to the annual average of 25 to 50 percent.⁴

- Would eliminate mortality from dam contact, including direct or indirect contact with turbines, spillways, and bypass facilities. The U.S. Army Corps currently estimates a 96 percent survival rate through a given dam facility but fails to account for mortality once smolt depart the tailrace. BPA and the U.S. Army Corp acknowledge that measured cumulative mortality through the hydro system is 48 percent, though latent mortality likely drives that number higher before smolt reach the ocean. Some estimates show that latent mortality through the hydro system can kill up to 67 percent of out-migrating smolt.

The impacts of the four lower Snake River dams cannot be put into any starker contrast but to compare the John Day and Grande Ronde Rivers of Oregon. Each have headwaters in the Blue Mountains, the John Day flowing west into the Columbia River, the Grande Ronde flowing east into the Snake River. The difference is that salmon and steelhead returning to the John Day River have three dam passages on the Columbia River while the Grande Ronde salmon and steelhead pass eight dams. John Day smolt-to-adult returns (SAR) are approximately three and four percent for wild Chinook salmon and steelhead, while Snake returns—including the Grand Ronde—hover at 0.7% SAR (Appendix A). Currently, the SAR goals for ESA-listed salmon populations established by the Northwest Power and Conservation Council are set at two percent to six percent, with an average of four percent.⁵

We have spent billions of dollars and it's not working. Neither of Congress' attempts to remedy the dams' long-acknowledged impacts—the Northwest Electric Power Planning and Conservation Act of 1980 and the Lower Snake River Fish and Wildlife Compensation Plan (LSRCP)—have stopped the tragic decline of wild Snake River salmon and steelhead.⁶

Since the completion of the dams in the 1970s,⁷ runs of Snake River *wild* salmon and *wild* steelhead have declined precipitously from their historical numbers, prompting each of their ESA listings throughout the 1990s. Today, both remain listed and hover ever closer to extinction.

BPA is failing to meet objectives for recovery and blocking investments for the future of the region.

These dams contribute less than 1,000 megawatts annually, but cost billions to operate and mitigate. The Bonneville Power Administration, which operates the lower four dams, has spent \$24 billion in ratepayer funds on unsuccessful mitigation efforts over the past two decades.

The current resources for the BPA grid are 87 percent hydroelectric.⁸ Drought and reduced snowpack are likely to further impact capacity. BPA must start planning a future that includes new, reliable, and robust sources of energy.

Tribal sovereignty

The tribes are the voice that must be heard and listened to. These rivers were theirs and their cultures have been devastated when the rivers and salmon were taken from them when their traditional fishing grounds, villages and cultural sites were flooded by the dams.

The tribal nations of the Pacific Northwest, have treaty rights for “*the exclusive right of taking fish in the streams running through and bordering said reservation is hereby secured to said Indians; and at all other usual and accustomed stations, in common with citizens of the United States.*” These rights were guaranteed by the United States through agreement, in the Treaties of Hellgate, Medicine Creek, Neah Bay, Point Elliott, Point No Point, Quinalt, Walla Walla, Wasco, Treaty of 1855—Yakima Nation and Treaty of 1855—Nez Perce. These agreements between the US government and the sovereign nations of the Pacific Northwest are a constitutional mandate.

⁴Northwest Power and Conservation Council (2016). Presentation on NOAA Fisheries' 2015 Adult Sockeye Passage Report. https://www.nwcouncil.org/sites/default/files/2016_0412_5.pdf

⁵Northwest Power and Conservation Council (2020). Columbia River Basin Fish and Wildlife Program: 2020 Addendum. <https://www.nwcouncil.org/reports/2020-9/>

⁶Public Law 96-501 96th Congress (1980). Pacific Northwest Electric Power Planning and Conservation Act. <https://www.Congress.gov/96/statute/STATUTE-94/STATUTE-94-Pg2697.pdf>

⁷BPA Fact Sheet. (2023) <https://www.bpa.gov/-/media/Aep/about/publications/general-documents/bpa-facts.pdf>

⁸BPA Fact Sheet. (2023) <https://www.bpa.gov/-/media/Aep/about/publications/general-documents/bpa-facts.pdf>

The guaranteed right to salmon was ratified by this body in 1859. The courts have continually upheld this right and the urgent requirement to meet our treaty obligations are not in question. We must uphold the constitutional and ethical obligations to all sovereign nations of the Pacific Northwest.

Moving Forward

Three years ago, U.S. Rep. Mike Simpson (R-ID) said what conservationists have long known: we can remove the dams, reopen hundreds of miles of rivers to recover wild salmon and steelhead, and replace all the dams' socio-economic benefits: irrigation, power, barging for agricultural products.⁹ This was later affirmed by Washington Gov. Mike Inslee and U.S. Sen. Patty Murray (D-WA).¹⁰

But other elected leaders and policymakers, building on decades of inaction, are choosing the status quo over the most promising opportunity in decades to recover imperiled Snake River salmon and steelhead, and in the process failing to make good on America's treaty obligations to tribal nations and people of the Northwest. We must seize the opportunity now and figure out how to make it work.

Representatives Simpson, Murray, and Inslee each showed that we can have our salmon and protect the Northwest energy system and river stakeholders. This is not a zero-sum game of winners and losers. We are presented with an opportunity to diversify and reset all aspects of the energy and transportation system to prepare for the next 50 years in the Columbia basin. We should seize this opportunity rather than clinging to the status quo of biological opinions, lawsuits, appeals, and Congressional hearings. If we adhere to status quo, salmon, tribes, and stakeholders lose.

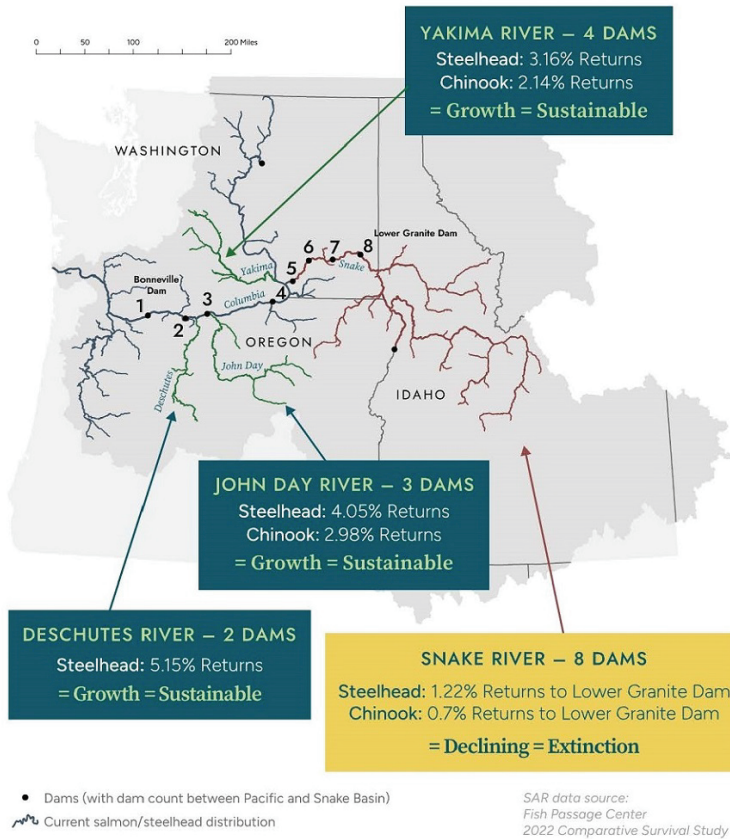
We can do better. For the salmon, the tribes, and the people of the Northwest. We can give the Snake River salmon their free-flowing river back.

⁹ Congressman Mike Simpson (2021). Columbia Basin Initiative. <https://simpson.house.gov/salmon/>

¹⁰ Lower Snake River Dams: Benefit Replacement Report (2022). https://governor.wa.gov/sites/default/files/2022-11/LSRD%20Benefit%20Replacement%20Final%20Report_August%202022.pdf

Appendix A: Smolt to Adult Returns (SARs)

**2022 Wild Steelhead & Wild Chinook Salmon
Smolt-to-Adult Returns in the Columbia River Basin**



The following document was submitted as a supplement to Mr. Slater's testimony.



The full document is available for viewing at:

<https://docs.house.gov/meetings/II/II13/20231212/116632/HHRG-118-II13-20231212-SD012.pdf>

Mr. BENTZ. Thank you. I now recognize Mr. Simms for 5 minutes.

**STATEMENT OF SCOTT SIMMS, CEO AND EXECUTIVE
DIRECTOR, PUBLIC POWER COUNCIL, PORTLAND, OREGON**

Mr. SIMMS. Good afternoon, Chairman Bentz, Ranking Member Huffman, and members of the Subcommittee. My name is Scott Simms, and I serve as the CEO and Executive Director of the Public Power Council, or PPC.

PPC is the non-partisan trade group representing the interests of non-profit, consumer-owned electric utilities in the Pacific Northwest which serve millions of people in Washington, Oregon, Idaho, western Montana, and parts of Nevada and Wyoming. PPC's member utilities in rural and urban areas of the Northwest purchase electricity and transmission services from the Bonneville Power Administration, or BPA, and they collectively pay 70 percent of BPA's \$3.9 billion annual revenue requirement.

Our utilities fund is the largest ESA effort in the nation, and we have a keen interest in ensuring that fish mitigation measures are science-based, cost-effective and have a clear nexus with the operations of the Federal Columbia River Power System, or FCRPS. We are fully committed to paying our fair share of mitigation responsibilities, no more and no less. This balance is what enables PPC members to offer affordable, reliable, clean, and environmentally responsible power to the communities they serve.

Unfortunately, as we have heard here today, the FCRPS operations have been mired in long-running litigation. Roughly 18 months ago, the Federal District Court judge overseeing litigation on the Columbia Basin System approved a stay, while the Council on Environmental Quality, or CEQ, engaged Federal mediators to resolve the issues being litigated.

We are now facing a U.S. Government agreement that could be devastating for Northwest electricity consumers. We anticipate under the best case scenario the impact to rates would be 5 percent and in the worst case it would be 50 percent. PPC entered the CEQ-led Federal mediation process with guarded optimism that it would be operated in a fair, confidential, and collaborative manner. Regretfully, it has been the contrary.

Now, this region must grapple with an agreement between the U.S. Government and six selected sovereign parties forged in secret many months ago, and only recently made public thanks to the brave acts of a few Northwest congressional leaders who are in this room today. This U.S. Government agreement shows a path toward lower Snake River dam breaching was always CEQ's master plan for the process. PPC has repeatedly raised new ideas and proposed tangible solutions. CEQ clearly wasn't interested.

The fiasco began when CEQ conveniently floated NOAA's so-called latest science as a basis to push a specific, breach-focused agenda. That new NOAA report paved over NOAA's prior decades of established record of scientific evidence. Many, including PPC, have pointed out its long list of inaccuracies, but CEQ pressed on.

Then, at the end of October, the U.S. Government abruptly signaled a package of actions and commitments that had been developed for the region with the six sovereigns. Other parties, like

us, in the process scrambled to understand the sweeping impacts of the agreement. Even both sides of the aisle in Congress were left in the dark.

With my limited time left, let me share why it is the single greatest threat to Northwest hydro in decades, which is expanded upon, by the way, in my written testimony.

No. 1, there is no limit to BPA's and Public Power's cost exposure. Again, our members anticipate that under the best case scenario the impact on power rates would be 5 percent and in the worst case 50 percent. This agreement is riddled with unacceptable risks and a range of potential extra costs for Northwest ratepayers. For example, the \$2 billion mid-Columbia restoration plan says all government sources will be pursued. BPA and its customers are in no way spared. As well, there are numerous other mitigation commitments with no defined funder.

No. 2, the agreement does not provide operational certainty for the hydro system. Within its own framework the commitments call for adaptive management driven by the six sovereigns with no protection or standards for power system impacts. As well, others outside this agreement can bring claims and apply other limitations to hydro operations.

No. 3, this agreement does not limit litigation risk or get us out of the courtroom. Other claims and lawsuits can be brought at any time. Forbearance does not exist here. Parties not bound to the agreement can bring lawsuits not barred by the agreement such as under the Clean Water Act. Parties also not in this agreement might bring forth separate agreements outlining new costs and operational constraints in a compounding effect. Other than the six sovereigns, the opportunity for more litigation concessions is endless.

The agreement implies that BPA will be induced to acquire tribal energy resources to replace lower Snake River dam output. These resources are described specifically as replacement resources and implicate BPA's statutory acquisition authority under the Northwest Power Act. This \$2-\$6 billion endeavor to bring on 1 to 3 gigawatts of renewables ignores the fact that reliable 24/7 hydro might be replaced by variable and intermittent resources, a setup for serious grid reliability problems.

This U.S. Government agreement is evidence of CEQ's failure in this process.

Thank you for your leadership and for hosting this hearing today, and I will gladly answer any questions.

[The prepared statement of Mr. Simms follows:]

PREPARED STATEMENT OF SCOTT SIMMS, CEO & EXECUTIVE DIRECTOR,
PUBLIC POWER COUNCIL

Good morning, Chairman Bentz, Ranking Member Huffman, and members of the Subcommittee. My name is Scott Simms, and I serve as the CEO and Executive Director of the Public Power Council (PPC). While it is always a pleasure to testify before this Committee, I wish it was under better circumstances. The topic we are discussing today is the single greatest threat to the Northwest's hydropower system in decades.

Background

PPC is the non-partisan trade association representing the interests of non-profit, consumer-owned electric utilities in the Pacific Northwest, which together serve

millions of people and businesses in Washington, Oregon, Idaho, western Montana, and parts of Nevada and Wyoming. These large and small utilities in rural and urban areas of the Great Pacific Northwest purchase electricity and transmission services at cost from the Bonneville Power Administration, or BPA—which is one of four U.S. federal Power Marketing Agencies (PMA). BPA is the clean energy frontrunner among these PMAs, with a 95 percent emission-free power portfolio. The consumer-owned utilities served by BPA collectively pay 70 percent of BPA's \$3.9 billion annual revenue requirement, with the remainder of BPA's budget covered by sales to others, such as through short term surplus power sales to other Western states. BPA is unique among the PMAs in that all of its revenue requirements are provided by its customers and operations. As well, all of BPA's consumer-owned utility customers are invested in BPA's success, which includes ensuring BPA complies with its statutory obligation to provide the lowest possible rates to consumers consistent with sound business principles.

BPA markets power from 31 federal hydroelectric dams on the Columbia River and its tributaries, plus the output of the Columbia Generating Station, a nuclear power plant located on the Hanford Site in Eastern Washington. BPA has more than 15,000 miles of high voltage transmission lines and 261 Substations with a footprint of about 75% of the total transmission resources in the Northwest.

The State of Salmon Today

As stewards focused on affordability and reliability, PPC member utilities also have a solid environmental interest and are committed to mitigating the impacts of Federal Columbia River Power System (FCRPS) operations. As the most significant single contributor to the nation's Endangered Species Act effort, we have a keen interest in ensuring that fish mitigation measures are science-based, cost-effective, and have a clear nexus with the operations of the FCRPS. Such actions serve dual purposes—they promote the restoration of the region's valued endangered and threatened species and, ultimately, reduce the impacts on fish and wildlife and costs associated with FCRPS operations. We are committed to paying our total mitigation share—no more and no less. This balance enables PPC members to offer their communities affordable, reliable and clean power in an environmentally responsible manner.

As a matter of perspective, BPA's total fish and wildlife expense category, supported by public power revenues, stands at an average of \$685 million a year over the past 10 years. These funds and operational concessions result in better habitat, critical land set-asides, thriving hatcheries, robust fish predation reduction programs, Tribal program partnerships that provide Tribal community jobs and the application of on-the-ground Indigenous Basin expertise, fish friendly hydro turbines and an exhaustive list of other meaningful contributions. Sadly, in today's world, these steady and extensive science-led investments in the Columbia River Basin do not grab the headlines, though the achievements over time are certainly notable and undeniable.

While these Columbia River Basin fish mitigation efforts are producing measurable improvements in certain salmon runs—especially when compared to the decimation of salmon from aggressive Columbia Basin harvesting and cannery operations in the late 1800s to early 1900s before the FCRPS dams were constructed¹—the successes of today's mitigation efforts are rejected by those who refuse to acknowledge the decades of steady progress. Even in recent years, the Columbia River Basin recorded banner years of salmon returns in 2014 and in 2022. These successes are especially notable, though, when considering the strong headwinds of continued off-shore and in-river salmon harvesting, unfavorable ocean conditions, predation and impacts from pollution that these fish face, among other factors. Interestingly, as side note, recent news coverage of the pristine Yukon River in Alaska is showing massive declines in Chinook and Chum salmon varieties.² This is very recent news on top of ongoing similar media coverage of analysis of salmon returns up and down the West Coast, which is a cause for overall concern. As context, continued Columbia River salmon returns—though varied by year given factors mentioned above—stand out as a bright spot in comparison to these other downward trending West Coast stocks.

With so much concern about the state of the world's climate and the desire among many of our nation's utilities and communities to have a clean, reliable power portfolio such as ours in the Pacific Northwest, why in the world would the US

¹Northwest Power & Conservation Council Website, "Canneries," <https://www.nwcouncil.org/reports/columbia-river-history/canneries/>

²Marlena Sloss and Dino Grandoni, "There's a crisis in the Yukon River," Washington Post, December 3, 2023.

Government set out a path to breach these highly productive, emission-free hydro projects?

FMCS Process Flawed from the Start

It's unfortunate that FCRPS operations have been mired by long-running litigation, and that a lack of logic and reason seems to prevail. Roughly 16 months ago, the federal district court judge overseeing litigation on the Columbia Basin System Operations approved a stay in that litigation. At the same time, the Council on Environmental Quality (CEQ) engaged the Federal Mediation and Conciliation Service (FMCS) to resolve the litigated issues. The stay in litigation was launched with this US Government commitment:

"The Biden Administration is committed to supporting development of a durable long-term strategy to restore salmon and other native fish populations to healthy and abundant levels, honoring Federal commitments to Tribal Nations, delivering affordable and reliable clean power, and meeting the many resilience needs of stakeholders across the region."³

Now, almost two years later, we are fully aware the US Government fell far short of that mark, failing to meet "the many resilience needs of stakeholders in this region." In fact, one could legitimately argue that the divisions between various stakeholders in the region have only worsened as a direct result of the US Government's efforts during this stay in litigation.

PPC entered these negotiations with guarded optimism that the process would finally be pursued in a fair, confidential, and collaborative way led by skilled third-party mediators. Regretfully, our experience has been to the contrary. What has resulted is a frustrating bureaucratic process with little discussion of new ideas and much less progress toward a regional compromise. Confidentiality has been conveniently used to protect "private caucuses" between CEQ and select parties. Meanwhile, many official participants in the process and their stakeholders have been left in the dark and have yet to be equal parties despite, continued efforts to advance new ideas, explore compromise solutions and share further information. Our voice was not sought out, despite the dire financial and operational consequences—and even health and human safety risks—that electric utilities and their customers would face from ill-conceived "agreements." Again, it's worth noting that public power utilities pay the lion's share of FCRPS costs. Yet, we've been walled off from CEQ and plaintiff party conversations inevitably involving future cost obligations of Northwest ratepayers either from further operational constraints; direct cash outlays—or both.

On November 27, 2023, PPC and other parties in the region⁴ received a copy of the 34-page confidential document titled "U.S. Government Commitments in Support of the Columbia Basin Restoration Initiative and Partnership with the Six Sovereigns" (US Government Commitments). Simply put, PPC believes these commitments are egregious and put into question our utilities' core mission of system reliability and affordability. Further, PPC continues to be gravely concerned about the ambiguity surrounding these obligations and the continued uncertainty and associated risks that jeopardize the long-term value of the Federal Columbia River Power System. The level of concern in the region has risen in recent weeks as a group of Congressional offices posted the U.S. Commitments document on November 29, 2023,⁵ widening the aperture to the greater public and uncovering the secrecy surrounding the development of these commitments over many months and involving a very small number of interests in conjunction with the US Government.

US Government Commitments Are Problematic In Many Ways

From the perspective of BPA customers, what the US Government has proposed is an unthinkable venture with no upsides, only downsides. Imagine being expected to sign a 20-year commercial real estate lease when the landlord and the adjoining tenant negotiated the terms—you, as the funder, were not present. The deal says the square footage can be dramatically reduced at any point in the future. You may

³"United States Commitments," Case 3:01-cv-00640-SI, Document 2423-2, Filed August 4, 2022.

⁴PPC received a copy of the USG Commitments from an email forwarded by a reputable media organization on Nov. 27, 2023. Other regional stakeholders stated they received a similar email that same day.

⁵Washington Reps. Cathy McMorris Rodgers and Dan Newhouse, Oregon Rep. Cliff Bentz, and Idaho Rep. Russ Fulcher published the draft mediation document Wednesday . . ."; Jennifer Yachnin, "GOP leaks draft settlement in Pacific Northwest dam dispute," E&E Daily, November 30, 2023.

show up at the space 1 day and find out that it's no longer wired for internet. With vague initial lease price estimates and unknown hidden fees, you are told the lease rate can change at any point, with the landlord loading on even more additional costs later. Also, the adjoining tenant can sue you at any moment, whether you've violated your lease terms or not. No one would sign such a lease, yet the US Government expects PPC member utilities and their customers to do so. Adding insult to injury, the US Government keeps telling us and the rest of the region that it's a "good deal." Clearly, this agreement is anything but that.

The foundation for the US Government Commitments is built on sand. On the first page, the agreement cites a 2022 report by the National Oceanic and Atmospheric Administration (NOAA) titled "Rebuilding Interior Columbia Basin Salmon and Steelhead" and says the "science is clear"—in reality, the opposite is true. Over a year ago, PPC submitted (and has received no response to date) a detailed letter citing official technical and scientific documents that pointed out the many inaccuracies and shortcomings of the report.

Essentially, the NOAA report ignores the substantial increases in salmon and steelhead abundance observed since ESA protections were established in the 1990s—including some stocks returning in numbers not marked before the construction of the dams. Abundance goals also neglect to account for millions of adult anadromous and non-native fish that are now part of the Basin's ecosystem. The report ignores substantial contributions, neglecting to cite the considerable contrary research from organizations that did not contribute to the report's development. PPC remains committed to scientific and cost-effective mitigation for the effects of the CRSO, but this single, unattributed NOAA report should not be the foundation.

The US Government agreement itself is not an agreement at all. Public power has no certainty or benefits from its sweeping actions yet is poised through seemingly purposeful ambiguous language to leave the door open to nearly all the costs and risks to be borne by public power ratepayers. The deal features a "Partnership with the Six Sovereigns." The Six Sovereigns include the State of Oregon, the State of Washington, the Nez Perce Tribe, Confederated Tribes and Bands of the Yakama Nation, Confederated Tribes of the Umatilla Indian Reservation, and the Confederated Tribes of the Warm Springs Reservation.

No Forbearance = No Certainty

The basis for the mediation was to bring to an end the decades long CRSO litigation. While the US Government Commitments seek to hold the parties accountable for this specific litigation, there is no legal forbearance for BPA, and it is unlikely to result in regional certainty. Specifically, there is no protection in the agreement for BPA and its customers from exposure to further operational changes through CRSO claims not barred by the contract. For example, a claim through the Clean Water Act would trigger a different court to order new functional changes to address LSRDs' water temperature impacts that could result in additional operational changes. The fact that the US Government is settling with six parties does not preclude other non-signatory parties or non-parties from bringing claims. As well, this agreement does not rule out the prospect of other agreements the US Government might accept from other parties, which could saddle Northwest public power ratepayers with additional cost or operational impacts—or, again, both.

The US Government Selects A Chosen Few Among Many Interests

This agreement also calls into question the US Government's secret and prejudiced approach to recognizing certain interests and ignoring others, notably the majority of federally-recognized Tribes and multiple Northwest states—who are their own sovereign entities—along with a long list of other interests that include navigation, water users, recreation, ports, farmers, and—the party that has been historically expected to pick up the majority of costs from such ventures as this agreement—our non-profit, community-owned public power utilities and their customers.

It's notable how few Tribes in our region were included by the US Government as part of this agreement, considering the wide array of sovereign Tribes and their lands that cover the Pacific Northwest. Specifically, the US Government agreement describes that only four federally recognized Tribes were part of this agreement out of a total of well more than 40 Tribes and other Tribal interests in the Pacific Northwest. To that end, as the secret agreement is starting to get more exposure in the public domain, we are hearing more and more news from other Tribes in the region who are expressing concern about this narrowly-structured agreement that was developed in the absence of consultation or consideration of other Tribes' interests.

Additionally, the two sovereign states of Oregon and Washington in BPA's service territory were apparently involved in the formulation of the agreement with the US Government, but the other sovereign states in BPA service territory—Idaho, Montana, Wyoming and Nevada—were left out. Interestingly, though the states of Oregon and Washington are part of this agreement, ironically, many of these state's residents—including low income and economically disadvantaged citizens in both rural and urban areas—would likely see the most severe negative impacts from increased electricity rates if this proposed agreement moves forward.

BPA And Ratepayers Largely On The Hook For Costs

Among the most appalling components of the US Government Commitments are the costs borne by ratepayers and the operational impacts that will inevitably impact system reliability. The definite BPA cost commitments are approximately \$370 million. It breaks down to:

- \$20 million in combined capital and expense increases for Fiscal Year 2024–2025,
- \$100 million for expenses over ten years for additional projects,
- \$200 million in capital over ten years for Lower Snake hatchery improvements, and,
- \$50 million for funding “backlog” projects from the U.S. Army Corps of Engineers.

Additional cost implications are unknown and could have a heavy price tag borne by ratepayers, as there are references to other federal agencies providing support, but no details on the appropriations and budgeting strategy. There are also sizable and ambiguous cost commitments, including an estimated \$2 billion responsibility for a 10-year “Mid-Columbia Restoration Plan.” Again, promises like this one in the document are undefined and do not have a funding source.

The concerns continue to compound with the US Government committing in this proposed agreement to develop between 1–3 GW of Tribal-owned renewable “replacement” generation for the Lower Snake River Dams. While the costs are unknown, initial estimates are that such an investment could range from \$2–6 billion in overnight capital costs without addressing capacity replacement for dispatchable resources. While the encouragement of Tribal-owned energy projects is a positive and noble policy goal in its own right, the implication in this agreement is that BPA would ultimately be the off-taker of these resources, despite limitations in the Northwest Power Act allowing it to do so. The agreement does not state that BPA shall NOT be compelled to acquire the replacement resources. If the agreement did not intend to compel BPA to acquire the replacement resources, then the agreement should very specifically say so.

Energy and Environmental Economics Consulting (E3) conducted an analysis on behalf of BPA that puts replacing the Lower Snake River Dams at \$415 million to \$860 million annually by 2045. Rash decisions to remove these hydro projects pose devastating consequences. The LSRDs regularly are the defining line between keeping the power flowing and parts of the West or being plunged into rolling blackouts. This was certainly the case during the massive heatwave that gripped California on Labor Day Weekend of 2022, when surplus electricity—including from the Lower Snake River Dams—was sent to California just in time, helping the state narrowly escape blackouts from its new historic peak of 51 gigawatts of demand. We need more stable, available generation capacity in the West, not less of it. And remember this point: as our nation explores policy decisions that will require electricity to play an even more prominent role in our lives, such as through vehicle electrification, we will depend even more on the clean, reliable capacity generation produced by our emission-free Northwest hydro projects as part of the overall electricity supply in the West.

Conclusion

In total, BPA's cost exposure is significant. **Our members anticipate that under the best-case scenario, the impact on rates would be 5%, and in the worst case, it would be 50%.** Again, the costs and operational uncertainty in this agreement as-is represents unacceptable risks and a range of potential extra costs for Northwest ratepayers. Because of so many encumbrances, quite simply, this proposed agreement as it exists should be scrapped.

What we must do is return to the government's official record on this matter. The September 2020 Record of Decision (ROD) from the US Government on the CRSO Environmental Impact Statement is the decisional document developed after a multi-year, transparent engagement overseen by US Government officials who are

based in the Northwest and who engaged a wide array of stakeholders from the Northwest. The outcome of this ROD arrived at a non-dam breaching solution, but outlined helpful steps that can be taken for fish and for river operations.

This established CRSO ROD is the blueprint we should be following, not a half-baked proposal developed in secret between federal agencies in DC and just a handful of sovereign parties in the Northwest, and then released to the public only after members of Congress—who also had been kept in the dark—received a copy and shared it in the interest of the public at large. This CEQ-led process was clearly a failure from the start, throughout the duration, and now to this unfortunate cross-roads in which we grapple with this untenable proposed US Government agreement.

The utilities I represent need to understand what the unknown provisions and vague references in the USG Commitments mean, and we need assurances that protect regional electricity consumers from bearing the brunt of national policy commitments by their US Government. Let's scrap this agreement as it stands, and do the hard work necessary in a truly transparent and inclusive way that engages all of us and our full range of perspectives in the Great Pacific Northwest.

Thank you for your leadership and for hosting this hearing today. We greatly appreciate the Committee's attention to this critical topic.

Mr. BENTZ. Thank you. I will now recognize Members for 5 minutes for questions. The Chair recognizes Mr. McClintock for 5 minutes.

Mr. McCLINTOCK. Thank you, Mr. Chairman.

Mr. Simms, hydroelectric power is one of the cheapest possible ways to produce electricity, is it not?

Mr. SIMMS. Yes, sir.

Mr. McCLINTOCK. It produces zero emissions, does it not?

Mr. SIMMS. Yes, sir.

Mr. McCLINTOCK. And it can be added or withdrawn from the grid at a moment's notice. And since electricity depends on an integrated grid, having such reliable electricity available at a moment's notice is essential to support intermittent power such as wind and solar, is it not?

Mr. SIMMS. Absolutely, sir. We always say that when the wind doesn't blow and the sun doesn't shine, at least we have hydro.

Mr. McCLINTOCK. And you have to have something to immediately replace that hydro or the grid collapses. The alternative is intermittent blackouts, is it not?

Mr. SIMMS. That is correct, sir.

Mr. McCLINTOCK. And we are seeing that more and more wherever green energy is imposed on consumers, are we not?

Mr. SIMMS. Correct, sir. The capacity resources are becoming even more important.

Mr. McCLINTOCK. So, what is to replace the lost hydroelectricity when these dams are destroyed?

Mr. SIMMS. We don't quite know the blueprint of what would be replacing these resources, frankly. There are talks.

Mr. McCLINTOCK. So, we are replacing the cheapest, cleanest, and most reliable power, and have no idea how we are going to replace it.

Mr. SIMMS. That is the concern, sir.

Mr. McCLINTOCK. And you said the potential cause for this could be as high as a 50 percent increase in consumers' electricity bills. Is that correct?

Mr. SIMMS. Adding \$1 billion a year annually. Yes, sir.

Mr. MCCLINTOCK. How much is that going to cost, just for an average consumer's electricity bill every year? Have you figured that out?

Mr. SIMMS. Well, I would easily ask Ms. Falkenberg for, potentially, a consumer bill breakdown. But certainly, you could see prices skyrocketing for families.

We know from northwestern Montana, Northwestern Energy just had a 28 percent increase in their residential rates. And families are really struggling to get by in that situation. They don't have access to Bonneville's clean hydropower.

Mr. MCCLINTOCK. California has now paid twice the rate for electricity as the national average, precisely because of this kind of environmental lunacy. And the result is that the state's manufacturing base is disappearing, families and businesses are now leaving. And one of the principal reasons given is the outrageous price for electricity. The population is now shrinking for the first time in the state's history.

This is the hell that the environmental left produces wherever it seizes control. They obsess over a 1 degree increase in global temperatures over the next century, but they couldn't care less that they are making it impossible for working families to heat their homes in freezing winters. It seems to me there is a nihilistic vision of rationing, shortages, skyrocketing electricity costs.

Let me ask you, what is your vision for the future, and how do we get there?

Mr. SIMMS. My vision for the future is that we need every resource that we can get in terms of clean, reliable power like hydro. We don't need less of our hydro. We need more of it.

We have a situation in which we are seeing more electrification across the country, more demands for electricity as a basic human need, and we are needing every kind of resource out there. Wind and solar have been certainly a helpful addition; they are by no means the mover of the big electrons.

Mr. MCCLINTOCK. Well, when you say a helpful addition, at enormous expense. Aren't those two of the most expensive ways we have ever discovered to produce electricity?

Mr. SIMMS. A diversified portfolio of power is best, but you need baseload resources like hydro, nuclear, and natural gas.

Mr. MCCLINTOCK. Well, but those are precisely the sources of electricity that the left is forbidding, are they not?

Mr. SIMMS. If I may, sir.

Mr. MCCLINTOCK. What does this mean?

Mr. SIMMS. I have a California example for you.

Mr. MCCLINTOCK. Yes, sure.

Mr. SIMMS. When California gets in trouble, they often call upon us to receive our hydropower in exchange.

Mr. MCCLINTOCK. Yes.

Mr. SIMMS. Recently, on Labor Day of 2022, California turned on every available natural gas generator, diesel generators. They asked folks to take ships from the ports out to sea to get rid of them so they didn't have to be in shore power, and they desperately asked for every megawatt we could provide from the Northwest Power System, which we did.

Mr. MCCLINTOCK. In fact, we have depended for years on surplus Bonneville hydroelectricity, have we not?

Mr. SIMMS. Absolutely, sir, and you still do.

Mr. MCCLINTOCK. So, what does this mean to California consumers?

Mr. SIMMS. California's consumers and Southwest consumers absolutely depend on BPA hydro from the surplus reserves.

Mr. MCCLINTOCK. We are told this is all for the salmon, but we are about to tear down the iron gate to dam on the Klamath River under this exact same kind of lunacy. The interesting thing about that is when the Iron Gate dam goes, so goes the Iron Gate fish hatchery that produces 5 million salmon smolts every year, with 17,000 returning to the Klamath every year to spawn. All of that will be gone. And then you do have a catastrophic decline in the salmon population.

Why can't we just build a fish hatchery to replace these fish?

Mr. SIMMS. If I may just answer the question very quickly, Federal dams do provide the revenues to support a myriad of things, including habitat production, hatcheries, and other estuary actions that make the fish stronger.

Mr. MCCLINTOCK. And the cold water that is necessary for those fish hatcheries. Thank you very much.

Mr. SIMMS. Thank you.

Mr. BENTZ. Thank you. The Chair recognizes Mr. Huffman, Ranking Member Huffman, for 5 minutes.

Mr. HUFFMAN. Thank you, Mr. Chairman.

Mr. Slater, I know we don't have an actual settlement proposal yet. We are shadow boxing here with a hypothetical. But is it your understanding of that potential settlement that any lost hydro-power capacity would have to be replaced before dam removal could happen?

Mr. SLATER. Yes. Congressman Simpson, Governor Inslee, Senator Murray, conservation community, everybody agrees that those dams could not be removed. The power cannot be taken off-line until the power was replaced.

Mr. HUFFMAN. And since Congress would have to authorize the dam removal, Congress would have an opportunity to make sure that that is a prerequisite. Correct?

Mr. SLATER. Absolutely. It has always been my position that Congress, only Congress, can authorize the removal of those dams.

Mr. HUFFMAN. So, all of this end-of-the-world, nihilist hysteria is not only hypothetical, but not even possible, given the way this type of deal would have to come together.

Mr. SLATER. Yes, the lights are not going to go out in the Pacific Northwest because those dams are removed.

Mr. HUFFMAN. Do you feel it is appropriate to talk about these leaked documents from a confidential settlement negotiation?

Mr. SLATER. Trout Unlimited is not a party to the settlement. I don't know if the documents that were leaked are accurate or what is going to come out in a couple of days. Ironically, I think if it was a reverse, the Democrats leaked it, I think we would be in Chairman Jordan's Committee right now talking about this.

Mr. HUFFMAN. Yes, I think there is about a 100 percent chance of that.

Mr. Slater, I have been in your office with your former boss, Mr. Simpson. I have seen that crazy wall that you have, the beautiful mind wall where you have it all worked out. You have clearly thought about every aspect of this, including the complex challenges of making it work for all of the stakeholders, and all of the interests, and all the considerations that have been discussed here today. It is not simple, but you and others have been giving a lot of thought to this for a long time.

How should Congress engage in this discussion about the future management of the Columbia River, including these lower Snake River dams?

Mr. SLATER. Congress needs to have an open and honest discussion about the Northwest energy system, about the Bonneville Power Administration, about fish recovery.

What we saw was that, in my belief, we need to reset the Bonneville Power Administration. In 1937, the Bonneville Act started building Bonneville Dam. It took whoops in the late 1970s to create the Northwest Power Planning Act. That was about 50 years after the original. We are 50 years later now, and we are trying to make this system work now. We should reset it for the next 50 years, and instead we are trying to force everything to work.

And it is absurd that this is the Bonneville fact sheet. Those of us in the energy world love it. Best thing Bonneville produces, as far as I am concerned. And when you look at it, Bonneville is spending \$932 million this year on fish costs. And that is both direct, replacement, and purchased power.

Mr. HUFFMAN. I was going to ask you about that. There have been decades of litigation. Each new court order seems to require some new attempt to keep these salmon runs on life support, and it is not working so well, but it is hugely expensive, right?

And is it fair to assume that those costs are only going to increase, especially if the salmon populations continue to decline because of inherent impacts from these lower Snake River dams?

Mr. SLATER. If salmon were doing well, we wouldn't be spending that much money a year, nearly \$1 billion. That is 20 percent of Bonneville's revenue that is going to fish and wildlife costs.

Mr. HUFFMAN. And it is not working.

Mr. SLATER. It isn't working, and it is going to get more expensive. And I contend the last salmon that goes to Idaho, they are going to spend \$1 billion trying to save it.

Mr. HUFFMAN. Thank you, Mr. Slater.

I yield back.

Mr. BENTZ. The Chair recognizes Mr. LaMalfa.

Mr. LAMALFA. Mr. Slater, from testimony of colleagues and others' letters and comments, et cetera, there is indeed substantial opposition in the local area for a wide variety of reasons. As was mentioned earlier, we can expect power rates to increase up to 50 percent in an already strapped economy. People are already struggling. So, that will just be passed right along to them. As what my colleague, Mr. McClintock, was speaking about, reliable, baseload, the cleanest possible power at the lowest possible price, we are going to eliminate that in order to breach these dams as is currently happening on the Klamath in my own district, and part in

Mr. Bentz's district, to replace it with an unknown source of power. In this case here that we are talking about, we will probably bankrupt nearly 8,000 farms and lose \$2 billion in revenue that farms provide, as well as the food that people need and 15 percent of the local workforce. So, it seems like the locals are being run over in this process.

In the preamble of the Declaration of Independence, "Governments are instituted among men, deriving their just powers from the consent of the governed." Mr. Slater, when you hear these sorts of things and say, oh, we have all the stakeholders at the table and such, and environmental community and the tribes, it sounds like the local residents who really have an expensive stake in this are not part of this.

So, if the obligation to get the consent of the governed was removed, would you advocate for removing the dams tomorrow?

Mr. SLATER. Well, the dam should come out. The salmon need a river to get from the high elevation mountains of Idaho, northeast Oregon to the ocean.

Mr. LAMALFA. At what price?

Mr. SLATER. Well, I have a hard time with the premise that power rates are going up that much when we are taking, at most, 15 percent of Bonneville's hydro off the system.

Mr. LAMALFA. But they don't build back the power.

Mr. SLATER. But we can replace the power. It is already being done.

Mr. LAMALFA. With expensive, unreliable solar or, even worse, wind.

Mr. SLATER. Frankly, it is being done—

Mr. LAMALFA. That is the only thing they will allow.

Mr. SLATER [continuing]. In your state, California.

Mr. LAMALFA. Yes, and my state is a freaking disaster.

Mr. SLATER. It is a freaking disaster. And Elliot Mainzer, the former Bonneville Power Administrator, is now in charge of CAISO, the California Independent System Operator, and Elliot Mainzer in the last 3 years has put in 6,000 megawatts of battery storage and 3,000 megawatts of solar.

Mr. LAMALFA. Something has to charge the batteries.

Mr. SLATER. Wind and solar do. If you are on the east side of the Cascades, you get a lot of sun and very good wind.

Mr. LAMALFA. God, this place.

All right, Mr. Simms, Moody's credit rating agency downgraded BPA's outlook to negative. In their analysis, Moody's noted that the risk of a potential removal of the four lower dams of the Snake River played a notable part in the downgraded outlook. Annual costs associated with the compliance, we have heard a number as much as \$900 million. We see at least \$500 million.

The radicals have not yet succeeded in their desire to breach the dams. But let's just skip to this, can you tell us how the Public Power Council views this downgraded outlook? Is it a small bump in the road, or is it a red flag warning for power not only there, but for everywhere else?

Mr. SIMMS. Congressman, thank you for the question. Obviously, Moody's downgraded BPA because they explicitly said, "We are concerned about the lower Snake River dams and the loss of that

resource.” The uncertainty presented caused Moody’s to put forth that downgrade.

If I may also just quickly address the issue around California resources, I think that Mr. Slater conveniently left out that there are new natural gas plants that have been added and an emergency authorization for those plants. There is a system to dispatch diesel generation there. There is a plan to retire natural gas plants, and that was shelved, as well as a nuclear plant that has been shelved because they need those resources. Thank you.

Mr. LAMALFA. Barely. We barely, with aspirations by certain individuals in California, they are looking at the numbers and our grid is going to be in bad shape without 9 percent of the whole grid being Diablo Canyon. We already lost 9 percent in San Onofre. And we are finding out we are going to pay the price.

Mr. Chairman, I yield back.

Mr. BENTZ. Thank you. The Chair recognizes Congresswoman Hoyle for 5 minutes.

Ms. HOYLE. Thank you, Mr. Chair. I have a comment as opposed to a question.

I represent southwest Oregon, so the Columbia River and the Snake River are not my district. But the issue we are discussing today is a big deal for everyone in the Pacific Northwest. The U.S. Government has been using confidential mediation to reach a settlement following decades of litigation on the Federal Columbia River Power System’s impact on endangered salmon, steelhead.

And normally we would have a more public process that we would engage in with stakeholders. And that hasn’t happened because this is a response to litigation, which is problematic for people that are impacted, but it is what it is. It is the nature of things.

I do support salmon recovery in the Columbia River Basin. I also recognize the need for affordable, reliable, clean energy, as well as a strong regional supply chain so farmers can efficiently get their products to market.

We need to find a way to power the grid and balance those things, but we need to pick something to power the grid and then move forward with that, because we can’t just keep saying no.

I am looking forward to seeing the results of the mediation when they are released on Friday. And I hope that there is a balance, because there really is a need to balance all of these things. But I haven’t seen the settlement, I have seen leaked documents, but no one from the Federal Government or the state of Oregon can speak to that yet. So, until Friday I am going to wait and, hopefully, when we see what comes out on Friday, it will be something that balances all of these needs.

And I don’t envy anyone that has been in the position to have to balance this, because it is very difficult. Thank you.

Mr. BENTZ. The Chair recognizes Ms. Hageman for 5 minutes.

Ms. HAGEMAN. Thank you.

Mr. Simms, I have long expressed concern with the sue-and-settle process, where third parties enter litigation in hopes of reaching a certain outcome. However, this process often occurs behind closed doors, outside of public view, and without the input of all stakeholders. In your testimony, you note that the Biden admin-

istration has engaged in private caucuses between the Council on Environmental Quality and select parties, while leaving other official participants and stakeholders in the dark.

Mr. Simms, can you talk about the dangers of this process, and what its results could be?

Mr. SIMMS. Yes, thank you for the question, Representative.

As Chairman Bentz outlined in the beginning of this discussion, we did have a public process that culminated in 2020 with a Record of Decision. We do know the blueprint and the template for good public process. It was more than 2 years in the making. It was tens of millions of dollars. But it was a process in which it was run from the Northwest for the Northwest, and citizens had opportunities to turn out in community meetings, they had a chance to go to meetings after work, because there are a lot of working citizens out there where every day and every dollar counts. And we had a terrific process that came about with a resolution that was a non-breach solution with some additional tactics and strategies that need to be taking place.

As Chairman Bentz outlined, folks didn't like that answer. So, now we find ourselves in litigation with the closed room door exercise where six parties, the U.S. Government, and some advice from the plaintiffs have apparently been involved in creating this U.S. Government agreement that is now in the public domain. And it is highly concerning.

I would add as well that the projections around costs not are just from power, but from additional costs that would be ladled upon BPA and its ratepayers from, again, the program like the Mid-Columbia Restoration Program, which identifies some government entity is going to pay for it. And in our region, typically, the default, unfortunately, is Bonneville and its customers.

Ms. HAGEMAN. Well, and that segues into my next question, which is what kind of opportunity cost economic analysis was done in relation to this proposal to breach the lower Snake River dams? Was there any?

Mr. SIMMS. To my knowledge, I do not know of any cost analysis that was conducted by the U.S. Government for release in this document.

Ms. HAGEMAN. OK. That is one of the things that is so bizarre to me in the entire discussion about global warming and the climate crisis and all of the nonsensical words that are thrown at us, is that nobody ever talks about the opportunity costs associated with going down that road.

Do you believe in energy poverty?

Mr. SIMMS. Absolutely.

Ms. HAGEMAN. Do you think energy poverty is a good thing?

Mr. SIMMS. I absolutely believe in energy poverty, and I know it absolutely exists in the communities that my utilities serve, both urban and rural. Absolutely.

Ms. HAGEMAN. Would this proposal exacerbate energy poverty?

Mr. SIMMS. It would massively exacerbate it.

Ms. HAGEMAN. Mr. Slater, do you believe in energy poverty? Do you think that is a good thing?

Mr. SLATER. There must be energy poverty where people are paying higher prices, yes. Energy poverty couldn't be a good thing.

Ms. HAGEMAN. Do you think that is a good thing?

Mr. SLATER. No.

Ms. HAGEMAN. You don't think that is a good thing? Well, I don't, either.

Ms. Falkenberg, do you believe energy poverty is a good thing?

Ms. FALKENBERG. No. And the impacts for those that are most marginalized, that make the least amount of income, it ends up being a regressive burden.

Ms. HAGEMAN. Yes, it does.

And for our last witness, do you think that energy poverty is a good thing?

Mr. MAUNU. Not a good thing. No, ma'am.

Ms. HAGEMAN. Almost every policy that this Administration pursues results in energy poverty. In fact, they have adopted and are pursuing policies that are intended to increase the cost of energy because it is the only way that they can make wind and solar appear to be cost effective.

I am going to read something here, because I think it is very important for us to keep going back to the moment that we are living in. This is a quote from an article that I read a couple of years ago. "The notion that government should impoverish actual human beings as a means of promoting 'the welfare of humanity' is a pagan superstition on par with sacrificing individuals to the sun god." I think that kind of describes where we are at this moment in time.

I will read it again. "The notion that government should impoverish actual human beings as a means of promoting 'the welfare of humanity' is a pagan superstition on par with sacrificing individuals to the sun god."

I have one final question. Mr. Simms, do you think prosperous countries do a better job of protecting the environment than poor countries?

Mr. SIMMS. That is a great question. I think that we have energy problems throughout the world, frankly. And I think that for us and this country, I think we have great opportunity if we don't squander it like removing the lower Snake River dams.

Ms. HAGEMAN. Well, let's compare the Congo and the United States. Who do you think does a better job of protecting their environment?

Mr. SIMMS. The Congo or the United States?

Ms. HAGEMAN. Yes.

Mr. SIMMS. I think presently I would say that right now we have the United States, but we could lose that if we don't watch it.

Ms. HAGEMAN. And we would lose it because, if we lose our prosperity and adopt and pursue policies that destroy our economy, is that right?

Mr. SIMMS. We absolutely could have that prospect if we don't watch our energy system closely.

Ms. HAGEMAN. Thank you very much, and I yield back.

Mr. BENTZ. Thank you. The Chair recognizes Congressman Duarte for 5 minutes.

Mr. DUARTE. Thank you, Mr. Chairman. Thank you to the panelists today.

I represent a district in California's Central Valley that is a farm district. We have our water challenges there. We also have some of the lowest income populations in the country. Our poverty rate is the 18th highest in the country. We would like that to be different, but it is not.

We know in California, well throughout the United States, the lowest 20 percent income earners are spending about 33 percent or so on their food right now. You would think, with food inflation the way it is, that would have gone up, but it simply can't. So, we may well be the first generation in the history of the United States to have our working families taking produce, protein, dietary diversity, and nutrition off their dinner plate in favor of a starch diet simply to make ends meet.

We know that water scarcity is not only food scarcity, we know it is energy scarcity. We have talked about that a lot. It is also housing scarcity. We can't meet our housing needs in California because we simply don't have the water resources to permit new home building to meet market demand. Therefore, our homeless rate is going through the roof, working families are exodus.

We think tech entrepreneurs and government retirees are retiring elsewhere with their pensions following them, but a great deal of our exodus is actually working families simply seeking the American dream someplace more welcoming than California.

Now, we come here and we see in Washington, I guess California sends us our immigrants as well as our policies, but this isn't the first regulatory hurdle you have had. We live in an area with a lot of reservoirs.

Tell me, if you will, Mr. Maunu, Mr. Simms, or Ms. Falkenberg, are you going through FERC re-licensing?

Are you already seeing other water grabs, other hindrances on these dams?

We just heard that, hey, nothing is going to happen to these dams until Congress allows it. But I think there is quite a lot happening to our water energy resources without Congress allowing it. So, I will take response from any of you on that.

Mr. SIMMS. Yes, it is a great question, and I would say it goes back to the issue of we need more of what we have. Essentially, you asked the FERC licensing question. The Federal facilities that we are involved with, they have a little bit of a different process than the other dams that are FERC federally licensed. But I would say that, in general, licensing is becoming more difficult. It is becoming much more of an impediment. There are many more challenges than there used to be.

So, all of those things add costs, they add time. And we desperately need every resource we can, given, again, that we have weather patterns that are changing, we have the needs of electricity for fleets, we have a dramatic amount of needs that, frankly, we need a wide array of electricity resources.

Mr. DUARTE. I often find myself posing these arguments similar to Representative Hageman's here, as the champions of abundance are kind of in a death struggle right now on behalf of the working families, mainly in America with the lords of scarcity. Do you see yourself taking up sides in that battle?

Mr. SIMMS. I will tell you one that I watch very carefully that I am very worried about is, and it is a world away from us, but the African state of South Africa, they have been plunged into blackouts and darkness because they did not invest in their energy infrastructure. They are having rotating blackouts where families with means are able to go to each other's homes on a rotating basis, but their kids don't want to stay there, they want to go to other countries where they have a reliable system. And the poor folks, the impoverished folks, they are the ones that are suffering the most.

Mr. DUARTE. And that is a developing country. That is one of our BRICs, right?

But even in the modern world today, I was reading an article a few weeks ago in one of the major papers titled, "Europe is Getting Poorer," and we have modern nations, Germany and northern European nations, that were once rich nations 30 years ago, kind of matching us here in the United States, following these green energy policies, coming down to a very human level, where young women are literally, at a very, very alarming rate, freezing their eggs in their 20s and 30s so that they can hope to afford to have children in their 40s and 50s. This is where these lords of scarcity policies get us.

And I thank you, three of you, for being the champions of abundance. I won't give up our future generations. I won't give up working family affordability. I won't give up on championing for abundance so that somebody can try to save a few fish that we may well be able to save through the efforts you are already undertaking.

You are welcome to respond.

Mr. MAUNU. Congressman, if I could just add one point to the economic piece that you mentioned, and it was mentioned earlier around any economic or socioeconomic studies that were completed in this process.

I submitted in our record a report that the IPNG Group had commissioned this summer. We believe it is the only socioeconomic study done which really outlines and focuses on potential poverty. It focuses on the 7,600 farms that would go out of business just because the water table would drop, and so many other points. Your point hit home on how much this impacts farmers, and how much those secondary and tertiary effects can reach. Thank you.

Mr. DUARTE. Thank you very much.

Mr. BENTZ. Mr. Mullin, you are recognized for 5 minutes.

Mr. MULLIN. Thank you, Mr. Chair. Hello, all. Thank you for taking the time to be here today.

I have been relieved to hear several witnesses acknowledge the importance of clean energy, and I look forward to discussing how diversifying clean energy sources can help our country's needed transition. My question is for Mr. Slater.

In your testimony, you brought up a point that decades of inaction have led us to where we are today in the Columbia River Basin, and briefly mentioned what is at stake if we don't look towards diversifying the energy and transportation system. I wonder if you could further elaborate on the need to look towards the future to plan new, reliable, and robust energy sources, and

how diversifying energy sources would positively impact the entire region.

Mr. SLATER. Thank you. I just really quick would like to interject. I do think we have to recognize that the tribes in the Northwest have also faced social economic impacts, and that shouldn't be forgotten, either, in this conversation.

On diversification of the Northwest Power System, especially Bonneville, when I was young, a long time ago, in northeast Oregon, I would go up to the fair in early August, and you would look at the mountains, the Wallowa Mountains at Enterprise, there would be snowpack at the top of the mountains, and it was always there. And now when you go there in July, 3 weeks, 4 weeks earlier, the snowpack is nearly gone.

And we have a critical problem in the Northwest that, with climate change, the snowpack is leaving earlier, a couple of weeks, 3 weeks earlier than it used to. And I think the greatest threat to Bonneville Power Administration and the Northwest Energy System is not taking out these four dams. It is the fact that 80 percent of Bonneville's generation is hydropower, and that is all your eggs in one basket. And if we have really, really short water years, the water comes out by end of June, you can have serious problems come September, October, November, well, it starts raining again around September, October in Oregon. But that is a huge problem.

I actually think what the Biden administration is trying to do with the renewable program is what we need. We need more wind and solar. We especially need storage. That is what is finally coming around. We have had the wind and solar. It is the storage so that we can have firm power to deliver when the wind isn't blowing and the sun is not shining. So, the diversification of the portfolio is critical.

Mr. MULLIN. Thank you, sir.

I yield back.

[Pause.]

Mr. MULLIN. I yield back the balance of my time to Mr. Huffman.

Mr. HUFFMAN. I thank the gentleman for giving me just a little bit of time, and I wanted to follow up with Mr. Slater because we just heard some interesting hyperbolic flourishes about pagan human sacrifice and lords of scarcity, young women freezing their eggs because of radical environmental policies.

Mr. Slater, did you have any response to some of these?

They are giving hyperbole a bad name at this rate, but 15 percent, at most, of BPA's hydropower generating capacity if these four lower Snake River dams are removed, and all of it would have to be replaced before a single shovel breaks ground. I mean, seriously? Do you think there may be hyperventilating here?

Mr. SLATER. Hydropower? Congressman Simpson, like myself, hydropower is a good energy source. In this case, it doesn't work. It doesn't work for the tribes, it doesn't work for the salmon.

These four dams wouldn't be built today. They are not the right place. And when we look at salmon going to the ocean, they can get through four dams up to Yakima Basin and live in sustainable growing numbers. John Day Basin does even better. But the Snake

River Basin, less than 1 percent of the salmon return because of the smolt to adult ratio. So, that is not sustainable.

And we can definitely replace the power of these dams.

Mr. HUFFMAN. Without human sacrifice or forcing women to freeze their eggs?

Mr. SLATER. Yes, and we would probably be better off diversifying about half of Bonneville's power to other sources.

Mr. HUFFMAN. Thank you.

I yield back.

Mr. BENTZ. The Chair recognizes Congressman Fulcher for 5 minutes.

Mr. FULCHER. Thank you, Mr. Chairman, and to the panelists, thank you for your testimony. I thought it was really good. And, quite frankly, I don't have a lot of questions. I think, between what you submitted in writing and your testimony, it was very thorough and very good. We just all, obviously, don't agree.

I would make some observations, however. Mr. Chairman, I think it is really unfortunate that the guests that you invited, the other guests, didn't appear. Yes, I had invited one from NOAA, one from Council on Environmental Quality and, obviously, they didn't come. I am not surprised, given the circumstances. I know confidentiality, supposedly, is the issue, but there are other issues, too. It would be awkward to be in their situation. NOAA has flipped on this issue before. There are some personnel transfers between one of the plaintiffs, Earthjustice, and CEQ that would be awkward to discuss. So, I understand why they are not here.

But what we have is a sue-and-settle mediation process. And, yes, it is designed to bypass Congress. And it may not be in the traditional breach of the dams or removal, but in how the water is managed and controlling the flow or bypassing and going around.

I am concerned about that. This is, in my view, another attempt by the current Administration to promote an unreasonable and irrational agenda for their energy policy. The problem with this one is it would gut the Pacific Northwestern economy as we know it.

Consider some facts. In year 2000, NOAA, National Oceanic and Atmospheric Administration, basically said we needed to breach these dams in order to save the salmon. Yet, in 2008, 2014 they reversed that position. In year 2022, the Biden administration goes back to the notion that we have to do a breach. So, what changed? Nobody told the fish.

What changed is the administration and the energy agenda. It was political.

Some ramifications, and some of this has been touched on but not all of it, 3,000 megawatts of hydropower right now, if that were to go away, that is about 3 million solar panels or 1,830 windmills. We did some mapping. There is a poster that my staff put together on that where just within Idaho, where that would have to be, just geographically, and you see that referenced on the map behind me, 1,830 windmills. And even then, as has been pointed out, that is expensive peaking power. That is not reliable baseload and water-stored energy.

Irrigation has not been talked about, or at least not in any substantial degree. But the Columbia Basin, the Ag base there is

approximately 1 million irrigated acres. Removing that control would be devastating for that.

Flood control, we haven't talked about that. What happens during runoff with flood control? In Lewiston and Clarkston, which are ports, Lewiston is within my district, Clarkston is right across the border in Washington. Burgeoning industry for recreation, cruising in particular, 25,000 passengers in 2019. Tens of millions of dollars in industry. That would be gone.

Barging. We haven't talked about that in any great level of detail, the impact on the barging. The Ag in the West exports with barges across the country. That would have to be replaced with about 200 train loads or 23 million miles of trucking. Think of the carbon impact of that.

So, this idea of the breach is not good for people.

And there is one other thing. The science says there is not even confirmation that it will work for salmon. That is why NOAA has flipped on this issue. There have been studies of the Fraser River system, which is just north, without dams with similar fish flows. So, the ocean conditions and predators and pollution, wildfire, the whole thing. There are so many factors here.

To gut an economy, Mr. Chairman, to gut an economy with no assurance of success is just a really bad bet for the taxpayers, and for the ratepayers, and for people.

I yield back.

Mr. BENTZ. Thank you. The Chair recognizes Mr. Rosendale for 5 minutes.

Mr. ROSENDALE. Thank you very much, Mr. Chair. Chairman Bentz and Ranking Member Huffman, I appreciate you holding this hearing, and allowing me the opportunity to address these extremely harmful policy decisions from the Biden administration.

This issue is not just important, it is a slap in the face of the hard-working people of Montana and the entire Northwest. I find it fascinating that our colleagues across the aisle were perfectly comfortable with the information about a pending U.S. Supreme Court decision putting our justices in grave danger, and potentially inciting hundreds, if not thousands to violate the law by using intimidation tactics to try to change a pending judicial decision, but are aghast by information which affects the dismantling of critical infrastructure, and feel it should be kept secret.

The secretive mediation surrounding litigation and potential removal of these dams is an outright betrayal of the citizens who depend upon this infrastructure. It is another example of the Biden administration's cowardly attempt to conceal its extremist agenda under the cover of darkness. Their consistent denial of meaningful public feedback reveals a blatant disregard for the public will, a will they are well aware stands firmly against their destructive extremist policies.

The Administration's exclusion of Montana, Idaho, Wyoming, and Nevada from the agreement, confining negotiations to Oregon and Washington, exposes the purely partisan nature of their decision-making. The Administration's willingness to let politically-aligned states dictate terms on behalf of others with conflicting interests is a testament to their favoritism, prioritizing political allies over the well-being of the entire region.

There is no other country in the world that would spend billions of dollars that have been invested in the improvement of these dams which would provide affordable, reliable electricity, irrigation for productive farm ground, feeding millions, flood control to protect local communities, locks for the transportation of products that we export around the world, and, yes, fish passage both upstream and downstream to protect fisheries, and then even have a conversation or consider destroying all of that. It is insanity. No other country in the world would do it.

The Administration's purported concern for the Columbia Basin salmon and the steelhead trout lacks scientific consensus, and their continued refusal to consider contrary scientific evidence is infuriating and irresponsible. Their continued usage of the phrase "the science is clear" reflects their manipulative strategy trying to convince the public to support their disastrous policies, dismissing any scientific evidence that challenges their agenda. Despite strong salmon returns in 2014 and 2022, the Administration continues to disregard the resilience of these species.

Curiously, while claiming a policy of environmental protection and reducing reliance on fossil fuels, breaching these dams would exponentially increase fossil fuel usage in our region, leading to an astronomical increase in truck transit hours, soaring costs, and countless farms on the brink of bankruptcy. The repercussions for producers, particularly the increased cost and reduced marketability of crops like wheat, will further disrupt the fragile supply chain, causing potential catastrophe with elevated prices and decreased availability nationwide.

Removal of irrigation capabilities from the river will directly impact farms that contribute more than \$2 billion to the economy annually, and provide over 10,000 agriculture jobs. Replacing these dams through alternative transportation modes is projected to cost up to \$860 million annually until 2045, with an estimated total cost of \$18 billion for the region.

The potential loss of jobs and industries further compounds this damage. Energy costs could be skyrocketed up to 50 percent, as has already been mentioned, affecting over 100,000 Montanans relying on the Bonneville Power Administration and jeopardizing the essential baseload power for many Montana co-ops, especially during harsh winter months, when temperatures remain below freezing for extended periods of time.

Mr. Chair, I see that I am out of time. I am going to yield back. I have much more that I could say about this disastrous idea, but I hope that we can, as they say, kill it in the cradle. Thank you very much.

Mr. BENTZ. Thank you. The Chair recognizes Mrs. González-Colón for 5 minutes.

Mrs. GONZÁLEZ-COLÓN. Thank you, Mr. Chair. I understand that this is the district of my good friend, Mr. Newhouse, and I do have questions, and I agree with the statements that have been made.

My first question will be to my new Executive Director of the Pacific Northwest Waterways Association. In your testimony, you stated one of the primary concerns with the proposed U.S. Government commitment documents is that it fails to address river navigation as a critically impacted, congressionally authorized

purpose. Can you tell me the difference or elaborate and discuss the potential impacts that breaching or removing the lower Snake River dams could have on transportation emissions supply chains, among other implications?

Mr. MAUNU. Sure, thank you for the question, Congresswoman.

The short answer is it is drastic, it is dramatic. It is hard to quantify. We have heard some numbers already around economic impacts to farmers, to citizens.

I think the biggest, when you look at the document that is public now, that has been leaked, it is clear that navigation is missing from that document. If you do a word search for how many times “navigation” and “infrastructure” are brought up, I don’t know that it is even once that navigation is discussed.

So, when we look at a 37-page document, and we look at all the money that is thrown at this plan, and again, it is out there in public, anyone can read it, it is disheartening. And it just points to the fact, as I said in my testimony, that transportation and barging in particular has been completely left out of this process.

Just as the Congressman from Montana said, as Idaho and Montana have not been included, we, though we are defendant intervenors, have not been included in this process. And it is devastating to our members, from farmers, to barge operators, to cruise ship lines, to ports. It is up and down, up and down the area.

Mrs. GONZÁLEZ-COLÓN. Thank you.

Ms. Falkenberg, could you tell us how the proposed agreement or settlement will impact the affordability and reliability of electrical power on your customers?

Ms. FALKENBERG. Thank you, Congresswoman, for the question.

The uncertainty in the delivery of power has significant impacts to us as we negotiate with BPA our 20-year contract. We take something called a take-or-pay contract for the duration of 20 years with a fixed system size. Should that system size diminish, we are still on the hook to pay for the costs associated with that. That is first.

Second, there is an issue of reliability, particularly related to the lower Snake River dams. I understand that some of my colleagues associate the production from renewable resources as being the same as the production from the lower Snake River dams. In fact, they are not. Twenty-five percent of ancillary services come from the lower Snake River dams. Those ancillary services provide operating reserves. Those are emergency services in order to keep the grid stable. Those are laws of physics to balance 60-second demand and load curve. Those are absolutely necessary.

And that is not to diminish the value of fuel-saving resources like wind and solar. They are just different. They provide a different form of energy.

Mrs. GONZÁLEZ-COLÓN. And they will be more expensive.

Ms. FALKENBERG. Yes. The lower Snake River dams, according to Bonneville, cost about \$14 to \$15 a megawatt hour, which is 1.4, 1.6 cents a kilowatt hour. Our retail customers pay 6.3 cents a kilowatt hour. That is a considerable value to having them in our resource portfolio to help reduce the overall cost for purchased

power. It is a significant impact, especially for those that are most marginalized.

Mrs. GONZÁLEZ-COLÓN. I totally agree with you. Having said that, I will yield the rest of my time to the Chairman.

Mr. BENTZ. Thank you for yielding.

I just want to mention how odd it is that folks would be flailing out at the fact that we have this document in front of us when it is of such importance to all of those that are here. Thank goodness we have it. I am not sure what value would occur to those who developed it by keeping it hidden for another 3 days, but I am very happy we have it in front of us.

The Chair recognizes Mr. Zinke for 5 minutes.

Mr. ZINKE. Thank you, Mr. Chair, and thank you for showing up.

As was just discussed with my colleague from Idaho, dams are not just power, although much of the discussion has been power. But dams provide water, irrigation, flood control, recreation, and infrastructure. In fact, it is a system, transportation being one of them. And we built a system over years to do just that, provide a system.

In one case on fish, when the lower Columbia, I believe, needed more water, they took water out from Hungry Horse Dam in 2001. So, it is a system. When one part of the system needs more water because we store it, we can. And I don't think there is any question that hydropower is reliable, it is affordable, it is abundant.

And affordability should not be overlooked, not just for those communities that are in the poverty line, but also manufacturing. You can't build anything in this country unless you have cheap power, because we pay about the same price for commodities, but we pay a higher price for labor, and we have to make up the difference to be competitive with power.

I guess my concern really is sue, settle, and seal. And when I was Secretary, there was a policy in place previous that sometimes the Department would make a rule that perhaps would invite a lawsuit. Those lawsuits were immediately met by colleagues on the radical side, and would sue. And then what would be most disturbing is that sue would then be settled and sealed.

I recall one time, the President of the United States and I had a discussion. "Mr. President, what is this settlement? I would like to see it, sir. It came from seal by the Department of Justice."

And the President of United States did not have the authority to see it. Not only the President and executive not have an authority to see it, but neither did Congress. And such acts of sue, seal, and settle, to me, is a violation of the Constitution, particularly Article I, section 9 that says no money should be withdrawn for the Treasury unless by Consequence of appropriations.

So, now what I smell is, if not by law, we are going to develop a lawsuit with a path to settle and seal. That is disturbing. It is disturbing because it breaks that transparency of stakeholders, and there are many stakeholders in a dam, and not just the fish. And believe me, I respect and love the salmon. But salmon is not the only interest in our dam system.

So, I guess my question to you, Mr. Slater, is because you are an expert, and you worked with Chairman Simpson. I have long enjoyed his remarks. Sometimes we agree, sometimes we don't

agree. But I know where his heart is, and I deeply respect Chairman Simpson. And you, as the chief of staff, have an enormous knowledge, and this is not your first rodeo. So, given that you are an expert in this field, and CEQ came up with this document, did you or Trout Unlimited participate in this formation of this document?

Mr. SLATER. Nobody asked me what I thought, and Trout Unlimited was not a participant in that document at all.

Mr. ZINKE. Do you know anyone that is in the non-profit world which we deal with that participated in this?

Mr. SLATER. I know that the plaintiffs were Idaho Conservation League and National Wildlife Foundation. And Sierra Club might have been a part of that, as well.

Mr. ZINKE. Isn't it troubling that the Congress of the United States is not a participant, that we have energy, we have transportation, we have recreation, none of these bodies were in participation. Does it bother you?

Because you are an expert. I would have figured as a SEAL, I can tell you I was never the best jumper, diver, explosive expert, but I always knew who was. And the art of leadership is you find the best people. And I always said on this issue, I can't think of anyone that is more competent in knowing the ground, the history, the goals, and the consequences than you. So, do you find it strange that Trout Unlimited was not at the table?

Mr. SLATER. Well, we are not plaintiffs to the lawsuit.

Mr. ZINKE. But even to the advice of what is going on?

Mr. SLATER. No, they are secret. I mean, they are not secret, they are settlement talks.

Mr. ZINKE. Well, the trouble I have, they are secret.

Mr. SLATER. They are settlement talks, yes. And we are not included in those discussions. They are legal discussions.

Mr. ZINKE. Well, what bothers me is we weren't, either. And we are a branch, and we have reasonable people on both sides of the aisle, believe it or not. But we should be a part of it. To me, it is skirting the law.

So, let me ask Ms. Falkenberg, and thank you for coming. Do you know of anyone that was involved with it? Were you ever called and said, well, maybe we should have some data on this before they put this draft out?

Ms. FALKENBERG. Thank you, Congressman. The plaintiff intervenors include Northwest River Partners and Public Power Council. However, the information shared with the plaintiff intervenors was extremely limited. The procedural justice demonstrated between FMCS and CEQ essentially precluded direct communication between the plaintiff intervenors to nearly 3 million people in the Pacific Northwest.

We were unable to speak to our ratepayers. It wasn't until November 27, when the document became into the public domain related to the U.S. commitments that we actually learned what was in the documents. And it was at that time, upon reading the content of the document, that I actually became quite alarmed. Up until that point, I was like maybe this isn't such a big deal. But when I read those documents, and they are one of three, the other two are not public yet, the commitments, I was significantly

alarmed for the future uncertainty of our ratepayers in Pacific County and the Northwest.

Mr. ZINKE. Thank you. It doesn't sound like we, the people.

And thank you, Mr. Chairman, for the extension of time.

Mr. BENTZ. Thank you. The Chair recognizes Mr. Newhouse for 5 minutes.

Mr. NEWHOUSE. Chairman Bentz, Ranking Member Huffman, I appreciate the chance to be a part of this hearing. I also appreciate the other Members and guests, both questions and answers on something that is very, very important to me and to my constituents.

The Columbia River System, the operation of that system, including the lower Snake River dams, I can't think of anything more critical to central Washington and the rest of the Pacific Northwest. If these dams were breached, either literally or functionally, those that would be negatively impacted would be electricity customers, transportation stakeholders, river-dependent ports, communities up and down the Pacific Northwest, farmers, recreationalists, practically everyone living in the region.

Back in September, I participated in another hearing by the Natural Resources Committee, Mr. Chairman, on this very issue, and I asked Mr. Simms questions about the CEQ, or the Council for Environmental Quality, their lack of transparency regarding the litigation and the inadequate solicitation of stakeholder input, something that Mr. Zinke was just asking some good questions about.

So, Mr. Maunu, I wanted to ask you a similar question.

Going into the mediation, tell me some of the expectations that your organization had for this process and for how CEQ handled it.

And then, in addition to that, in your testimony, you stated that the intervenors were effectively excluded, the defendant intervenors were, and I think Ms. Falkenberg just said that too, from the litigation negotiations that were taking place in this process.

So, how early in the process did this mediation break down to the point where you and fellow stakeholders were excluded? A couple questions there.

Mr. MAUNU. Sure, thanks for the questions, Congressman.

I think as far as for expectations, first and foremost, our organization, like was mentioned previously, we looked at this as an opportunity for a collaborative process, for a fair process, and a transparent process. That is not too much to expect. If you are in a court-ordered mediation, a normal mediation is a negotiation. It may be confidential, but there is give-and-take, there is sharing of information, there is collaboration toward an end goal.

And very early on, though, there were some working groups, I guess they called them at the time. There were some working groups that really quickly dissolved within the first few months into the private caucuses. And as was mentioned in some of our testimonies here, those private caucuses are 100 percent just between CEQ and FMCS and either the defendant intervenor or plaintiff intervenors. And anything that is shared in those is not shared, nor discoverable, or anything else.

We, as I mentioned, throughout that process kept submitting information. We have a lot of records of the studies that we did and what we submitted. And we heard nothing back on our side.

Mr. NEWHOUSE. Thank you.

Mr. Simms, prior to the December 15 deadline, this draft settlement agreement was released. And shortly thereafter, a handful of Northwest public power utilities published a press release where they threatened to pause discussions with BPA, or Bonneville Power, over the post-2028 contracts because of the contents of the settlement agreement.

Specifically, you expressed concerns regarding the impact the draft settlement would have on taxpayers. Could you tell us a little bit of detail about that, and how ratepayers might be negatively impacted?

Mr. SIMMS. Sure, Congressman, and thank you for the question.

I think what you see from the utilities is a response to this overwhelming uncertainty that was essentially foisted upon them from seeing this agreement in public, realizing the massive expanse of exposure from costs, from operational uncertainty, from other commitments that the U.S. Government was making on behalf of the U.S. Government writ large, but no express provisions of how different agencies might take on that burden.

And I think you, Congressman, know well that in our region often the BPA ratepayers and BPA become beholden to U.S. Government commitments. And this was definitely one of those concerning elements.

So, the utilities very quickly formed a strategy to say to Bonneville we need a 5-year contract option on the table so we can compare it to the 20-year contract option. And our Chairman at PBC, Bear Prairie from Idaho Falls, said it very well, "Why would I write a 20-year blank check when I could write a 5-year blank check?"

And the point is the utilities are facing such extreme uncertainty that they want to make sure that they can keep Bonneville a little bit more on a short leash and see what is coming at them.

Mr. NEWHOUSE. Thank you for that.

And I appreciate you allowing me to go over time, Mr. Chairman.

Thank you guys for your testimony today.

Mr. SIMMS. Thank you.

Mr. BENTZ. The Chair recognizes Chair McMorris Rodgers for 5 minutes.

Mrs. RODGERS. Thank you, Mr. Chairman. Thank you for allowing me to join today on a very important discussion, a very important topic for the people that I represent in eastern Washington and the Pacific Northwest.

Hydropower accounts for more than 80 percent of the energy in our region and yet "dam breach" or "dam breaching" is mentioned 11 times through this exclusionary and secretive package of commitments, which I would like to submit for the record, Mr. Chairman.

The package also calls for including and advancing an "urgent, comprehensive strategy to restore salmon and steelhead to healthy and abundant levels." Mr. Maunu, from your understanding, how

is the Administration defining the terms “healthy” and “abundant?”

Do you think that this is the correct measure to be using?

Mr. MAUNU. Thank you for the question, Congresswoman. A super short answer is no, I don't know.

We think everyone can agree that healthy and abundant sounds great. It is the goal, one of the goals that our organization has is to invest in healthy habitat restoration and to see salmon runs flourish. But for this specific litigation, it is around the ESA, and it is around jeopardy. It is not around healthy and abundant.

Mrs. RODGERS. Thank you. And I would just note that term is not included in ESA, that term has never been defined by Congress.

Mr. MAUNU. Right.

Mrs. RODGERS. Last month, we wrote a letter to the President asking questions to help us determine exactly what this agreement means for those whose livelihoods depend on the dams. And although we have yet to receive a response, it seems that the U.S. Government plans to replace 24/7 baseload energy provided by the dams with intermittent renewable energy under a new Pacific Northwest Tribal Energy Program.

Ms. Falkenberg, in his testimony Mr. Slater states that, “These dams contribute less than 1,000 megawatts annually.” Is that accurate?

And can you speak to the value these dams bring to the region?

Ms. FALKENBERG. Thank you for the question, Congresswoman.

At average water, a thousand average megawatts of electricity is generated out of the lower Snake River dams. The nameplate capacity for these projects is between 2,500 to maybe 3,000 megawatts. These projects provide, as I mentioned earlier, 25 percent of ancillary services, specifically the Automated Generation Control, AGC. These are operating reserves that trigger on demand on an emergency-need basis.

Mrs. RODGERS. Thank you.

Ms. FALKENBERG. So, when there is a polar vortex, we need to turn them on, they go on.

Mrs. RODGERS. Thank you.

Mr. Simms, in a recent statement you said, “This package of commitment poses the single greatest threat to the viability of the region's hydropower system we have ever faced.” Would you briefly explain what you mean by that?

Mr. SIMMS. Absolutely. Thank you for the question, Congresswoman. It is a package of issues between the operational side and the uncertainty it faces, the monstrous costs that would be foisted upon public power, and, of course, the litigation uncertainty that would continue to pervade. There is no forbearance, meaning other parties could simply pile on lawsuits and other operational constraints for BPA and its customers.

I might quickly add, as well, today there was a mention of the Endangered Species Act elements and mitigation work. We take our mitigation investments very seriously, and folks were sort of downplaying what have we gotten. We have gotten tribal employment, we have gotten habitat set-asides, we have gotten hatcheries, we have predation reduction programs with the local employment.

We have a lot of things that are coming out of that \$700-million-a-year investment.

Mrs. RODGERS. Thank you.

Mr. Slater, I would like to ask what Trout Unlimited has done to help clean up water pollution in places like Puget Sound, which, according to GAO, is a mass contributor to the lethal and non-lethal effects on salmon most critical to the endangered orca.

Mr. SLATER. Trout Unlimited, we are doing significant conservation projects and work in the Puget Sound. You are right to point out the rivers became disconnected from the sound, and we have to reconnect it. We have to get the culverts replaced with salmon, safe, passable passage. And there is a lot of work to be done. And we are doing it.

Mrs. RODGERS. What salmon runs are most important to the orcas?

Mr. SLATER. Snake River runs are apparently important to the orcas.

Mrs. RODGERS. Which ones are most important?

Mr. SLATER. Well, on a scientific basis I couldn't tell you which exact one.

Mrs. RODGERS. OK, I believe it is Puget Sound.

Mr. SLATER. OK.

Mrs. RODGERS. And those salmon runs are on decline because of the mass lethal and non-lethal effects of pollution on the salmon in Puget Sound. Those are the most important salmon to the endangered orca, and the salmon runs on the lower Snake are improving.

I yield back, Mr. Chairman. Thank you.

Mr. BENTZ. I thank you. The Chair recognizes himself for 5 minutes.

I am annoyed by this constant reference to the fact that it is Congress and only Congress that can authorize breaching of the dams, because I take that as a red herring. Probably the wrong word in this hearing.

But the point of the matter is there is a memo floating about which I had the opportunity to look at before we held our hearing up in June. And the memo was utilized and is being utilized in the litigation that led to this mediation document. The memo suggests that, if Judge Simon so desires, he can operationally reduce the pools behind the dam, reduce the ability to generate power, and reduce the ability to use the river for navigation. And that would not be an Act of Congress, would it?

So, it irks me that there is this constant repetition of the fact that everything is fine because Congress will have to act, when in point of fact there are already memos floating about that suggest that the dams can be basically prevented from operating through judicial fiat. So, really, what I see when I saw the so-called secret document, and someone else leaked it, we didn't. When I saw it, I thought, well, this is merely a means of creating a framework so when the judge does choose to operate, and I hope he doesn't, in that fashion, there are things in place to try to dampen the unfortunate effects of such a thing.

But I am going to set that aside and go back to the healthy and abundant standard, because I find that so amazing. It is not in the

leaked document, is it? It is in the document that was cranked out just a few months after NMFS had found that there was no jeopardy. And then suddenly we see this document that rebuilding interior Columbia Basin salmon and steelhead to healthy and abundant levels. And as Chairwoman McMorris Rodgers pointed out, that has no business in this particular litigation.

But my real question to you, Mr. Simms, is who pays? Who pays to re-establish these runs to a level probably not seen in the last couple of hundred years, given the nature of the fish?

Please put up the chart that has the fish runs in it.

[Chart.]

Mr. BENTZ. But the point is, who pays? Isn't it the ratepayers of the Northwest that are now going to be saddled with the burden of bringing these fish back to these healthy and abundant levels? Is that correct?

Mr. SIMMS. It is certainly our concern that it could be the default, as I have said before, that when appropriations are not outlined, when agencies don't step up for budgets, and we clearly did not see any of that in the documents that were made public, that very often Bonneville and its ratepayers are put on the hook for all of those costs.

Mr. BENTZ. Yes, but this is what we would call a progressive goal to achieve, healthy and abundant. It is not certainly to avoid jeopardy.

Mr. SIMMS. That is right.

Mr. BENTZ. So, what is going on? It is kind of a means of imposing an obligation upon the people of the Northwest to pay millions, if not billions to reach healthy and abundant. What is going on with that?

Mr. SIMMS. Congressman, it is an unachievable standard, and it is not a defined standard, I think, as Neil from PNWA outlined earlier. It is one in which it is an aspirational and not at all rooted in the ESA.

Mr. BENTZ. And forgive me for interrupting, but you also used the phrase "BPA induced to acquire" some of the electricity that is going to be generated by these green sources that would be paid for under the so-called mediation agreement, "induced to acquire."

Now, I know there is a law that suggests that the power needs to be purchased from tribes in certain situations.

Mr. SIMMS. Right.

Mr. BENTZ. But this document goes quite a bit further than that. Can you share your thoughts?

Mr. SIMMS. Sure, absolutely, yes. As I said in my written and oral testimony, basically the induced to acquire and the replacement resource label seems very highly inappropriate, given that the Northwest Power Act clearly defines Bonneville's acquisition authority for additional resources. There are many hoops that Bonneville must go through and many processes that it must go through in order to acquire energy.

My belief, having looked at the document, is it is very muddy, and walks right up to the edge, and will potentially harness a future administrator or the current administrator to have to look myopically at one source.

Mr. BENTZ. Right. And forgive me, but I need to go to Ms. Falkenberg for just a moment.

Mr. SIMMS. Yes.

Mr. BENTZ. You mentioned in our pre-hearing discussion that the lack of certainty was already creating difficulties in how you are representing your ratepayers. Can you share your thoughts?

Ms. FALKENBERG. Yes, thank you for the question, Mr. Chairman. When we have uncertainty on our power supply, that has downstream implications to how we are going to create our tariffs for our customers.

If the proposed rate increase is anywhere from 5 percent to 50 percent, our wholesale power supply makes up 50 percent of our total budget. So, if that is making up 50 percent of our budget, then we need to pass on those direct costs to our ratepayers. And it creates an untenable uncertainty for us, sir.

Mr. BENTZ. I am going to have to stop you there. And I want to share all of it. We have to go vote, but I have to read a few things in before we can run out the door. I want to thank all of you for your testimony. I truly want to thank you for traveling here and, of course, the Members for their questions.

Members may have additional questions for witnesses. I ask you to please respond to them in writing. Under Committee Rule 3, members of the Committee must submit questions to the Subcommittee Clerk by 5 p.m. Eastern Time on Thursday, December 14. The hearing record will be held open for 10 business days for those responses.

I ask unanimous consent to enter into the record documents received by the Committee which are: a letter to President Biden from Montana Governor Greg Gianforte expressing concern over the far-reaching implications of the Biden administration's commitment document for Montana residents; a letter to Secretary Granholm from the American Public Power Association and the National Rural Electric Cooperative Association expressing concern that the Biden administration's commitments would jeopardize electric reliability and increase costs for millions of Americans throughout the Pacific Northwest; a letter from the Pacific County PUD to DOE Deputy Secretary David Turk expressing concerns with the mediation process; a letter from the Public Power Council members to NOAA from June of this year talking about the importance of the lower Snake River dams; and finally, a letter from the Pacific Northwest Waterways Association to the Federal Mediation and Conciliation Service and Council on Environmental Quality expressing concern regarding the Biden administration's proposed commitments.

Without objection, so ordered.

[The information follows:]

**OFFICE OF THE GOVERNOR
STATE OF MONTANA**

December 8, 2023

President Joe Biden
1600 Pennsylvania Ave NW
Washington, DC 20500

Dear President Biden:

I am concerned that the recently proposed settlement with the Nez Perce and other lower Columbia River Treaty tribes has negative, far-reaching implications for Montana residents and the economy of the entire northwest United States. This proposed settlement will impact the operations of federal dams located in the Columbia River system and thereby impact the Montana citizens that rely on these dams for reliable, low-cost electricity. Montanans simply cannot afford higher electricity rates.

I am frustrated that the negotiations for this settlement were carried out in secret. Both the states of Montana and Idaho, as well as the Bonneville Power Administration (BPA) were locked out of these discussions and were not given a chance to defend their respective interests in the matter. This closed-door process excluded the State of Montana despite our long-term status as an intervenor-defendant supporting the federal government, public power interests, and BPA itself. It is impossible to have confidence that this proposed settlement reflects an honest balancing of the interests at stake here.

The result of this flawed negotiation process is a proposed settlement that will likely have significant negative economic impacts across the region. The operational changes in the settlement by the federal government entities will likely reduce electricity supply at a time when the region is facing ever increasing demand and reliability concerns. This almost guarantees that rates will rise for Montanans that purchase power from BPA. Over the long term, this settlement proposal could pave the way for breaching the Lower Snake River Dams (LSRD), which would be catastrophic for Montana electricity consumers and the agriculture industry in the northwest United States. The cost of replacing the clean, reliable electricity produced by these dams would be staggering, not to mention the loss of such a key shipping corridor for Montana agricultural products.

For these reasons, I request that your administration take the steps necessary to rescind this proposed settlement and reopen negotiations on these critical issues. The State of Montana has been heavily involved in the discussions surrounding salmon recovery and the operations of the federal dams in the Columbia River drainage for decades. It is unacceptable that Montana is locked out of decisions that will impact its citizens.

Sincerely,

GREG GIANFORTE,
Governor

**National Rural Electric Cooperative Association
and
American Public Power Association**

December 1, 2023

Hon. Jennifer Granholm, Secretary
U.S. Department of Energy
1000 Independence Ave. SW
Washington, DC 20024

Secretary Granholm:

The National Rural Electric Cooperative Association (“NRECA”) and American Public Power Association (“APPA”) are alarmed by the Draft Mediated Agreement, entitled “U.S. Government Commitments in Support of the Columbia Basin Restoration Initiative and in Partnership with the Six Sovereigns” (“Draft Agreement”) recently released by Congress. If this Agreement is ratified, it would jeopardize electric reliability and increase costs for millions of Americans throughout the Pacific Northwest.

The Draft Agreement clearly shows that the Administration’s goal is dam breaching, a conclusion that runs counter to decades of studies, science, and governmental actions, and an outcome that would destabilize the economy of an entire region of the nation. Not only does this expose a severe lack of understanding about the importance of keeping the lights on, it also reveals a misplaced desire to undermine our nation’s essential emissions-free hydropower system without considering the cost.

The Draft Agreement would weaken the Administration’s stated greenhouse gas reduction goals by undermining hydropower, an always available, emissions-free source of electric generation critical to grid stability. As our nation depends on electricity to power more of the economy, we need more generating resources—not fewer. This proposal flies in the face of common sense and would make hydroelectric operations unnecessarily costly and unstable. BPA’s hydropower system forms the backbone of reliability in the region. Communities across the West, including those in rural America, many of which are located in persistent poverty counties, would suffer the brunt of these impacts.

In addition to the severely questionable obligations of the Draft Agreement, NRECA and APPA also have significant concerns about the lack of transparency inherent in this Columbia River System Operations (CRSO) mediation, as well as the Council on Environmental Quality’s (CEQ) Request for Information on the management of the CRSO (Docket No: CEQ-2023-0002). This process has shut critical stakeholders and parties out of this Agreement and the administrative process. It has deprived our members in the Northwest, intimate stakeholders in CRSO operations, and millions of their customers of having fair representation in these proceedings.

We strongly oppose the ratification of the Draft Agreement. The reliability of the Western electric grid is critical to continued national security, stability of our domestic food and mineral supplies, national economic stability, and our nation’s energy security. Reliability should be prioritized as the U.S. Government moves forward in assessing the legality and appropriateness of these proposed obligations.

Moreover, the Administration should engage in an open and transparent process with our members, all CRSO stakeholders, and Congress to address our concerns going forward.

Respectfully,

Jim Matheson, CEO
National Rural Electric Cooperative
Association

Scott Corwin, CEO
American Public Power Association

**PUBLIC UTILITY DISTRICT NO. 2
OF
PACIFIC COUNTY**

November 22, 2023

David Turk, Deputy Secretary
U.S. Department of Energy

Dear Deputy Secretary Turk:

I had the pleasure of meeting you and your staff twice this year. Our first meeting on March 8th, 2023, convened at U.S. Department of Energy headquarters with Public Power Council (PPC). Our second meeting on June 14th, 2023, held with Senior Policy Advisor John Podesta at Bonneville Power Administration offices in Vancouver convened for the Pacific Northwest meeting on the Federal Columbia River Hydropower System.

As Pacific County PUD's (Pacific) Power Resources Manager, it is my responsibility to manage and oversee all wholesale power supply costs. Pacific is a full requirements customer of Bonneville Power Administration (BPA), and we are members of Public Power Council (PPC) and Northwest River Partners (NWRP). We are a not-for-profit consumer owned utility. For the past 80 years, Pacific has relied on BPA to supply reliable, affordable, and low carbon wholesale electric power. For the past few years, Pacific has in earnest engaged with BPA on the next "Provider of Choice" 20-year contract as our current contract expires in 2028. Accepting long-term power sales contracts is amongst the most significant actions our utility undertakes; we do it with utmost care and thought towards long-term intergenerational impacts that will last well beyond 2044.

Also, as an Officer and Vice Chair of Allocations, Rates and Contracts Committee for PPC, I'm concerned at the lack of *procedural* and *distributive* justice on part of the concealed negotiations between the U.S. Government (USG) and the select parties from the Columbia River System Operation litigation (CRSO). Council on Environmental Quality (CEQ) engaged Federal Mediation and Conciliation Service (FMCS) to attempt to make progress in resolving issues in the long-running CRSO litigation in the Federal District Court. Yet, those processes have not been fair, transparent, impartial and have not allowed for the intervenor defendants to have a voice. Our collective voice was silenced as USG spent five months behind doors negotiating with the plaintiffs without meaningful engagement with us. Any aspirational hope of genuine mediation and conflict resolution was abandoned.

As a result, any USG's potential commitments resulting from these proceedings will carry a shroud of procedural injustice. Nevertheless, we remain sympathetic to both the origin story and importance of salmon and other fish to the Columbia River Basin Tribes and the needs of stakeholders for affordable, reliable clean power. However, Pacific's customers demand decision making to be guided by impartiality, ensuring that biases and politics do not influence the decision and ultimately any outcomes. It would not be uncharacteristic in difficult negotiations for parties to sit in extreme discomfort jointly but the responsibility on part of FMCS and CEQ would have been to hold separate, independent, and concurrent caucuses with both the plaintiffs, defendants, and intervenor defendants to preserve procedural fairness and to allow for adequate time to review of positions. The fruit from a procedurally unjust tree is unjust.

With respect to distributive justice, it was centuries of oppression by the USG against Native Americans under the Doctrine of Discover; and subsequent Congressional policies of allotment and termination that cost Native Americans and First Nations hundreds of millions of acres of homelands of spiritual, ceremonial, and ancestral significance. Now, potential commitments made by the USG as part of the CEQ-FMCS settlement process, for the atonement of past actions should be borne by the federal taxpayer, and/or fees on non-Tribal harvest and/or pursue private grants and/or advance Corporate Social Responsibility program.

Unlike other Federal agencies, BPA funds its operations entirely though the rates it charges its customers like Pacific and BPA's customers repay all costs associated the production and transmission of power from the multipurpose federal projects. This includes the costs associated with mitigating the impact of federal hydropower generation on threatened and endangered fish species. About 25 percent of BPA's Tier 1 rate, which includes foregone revenue for the cost of lost generation, is paid

by BPA's consumer owned utilities for BPA's fish and wildlife programs; in the last 10 years, we have paid an average of \$685 million per year.

While Pacific takes its obligation to fund the largest and most comprehensive environmental mitigation program in the United States seriously, BPA's authority to undertake any costs is restrained by its organic, enabling statutes, including its ratemaking directive to set "the lowest possible rates to consumers consistent with sound business principles." In other words, BPA is a creature of its statutes, and it cannot, despite the nobleness of the cause, improperly use ratepayer funds. Use of ratepayer funds for potential USG commitments is not a matter of "ends justify the means" but rather about the impact to the people in our community and I care deeply about the residents of Pacific County.

Our ratepayer funds aren't dividend checks from the shareholders of for-profit companies; rather, ratepayer funds are monies that represent the sweat of labor from vast majority of our blue-collar working-class customers employed in seafood processing, cranberry bogs, and agricultural farms, including those members of our community that are most marginalized like migrant workers, elderly, disabled, ESL, and undocumented populations.

Pacific County spans nearly 1,000 square miles with a population of less than 25,000 individuals sparsely dispersed (fewer than 25 people per square mile) along the mouth of the Columbia River. Nearly 70% of the county's population resides in unincorporated areas, with only four small municipalities (South Bend, Raymond, Long Beach, and Ilwaco) defined by urban growth areas. Because of the inherent costs of electrical infrastructure investment in areas that lack concentrated population centers, we face significant pressures in capital costs.

Separately, the county experiences extreme weather events due to proximity of the Pacific Ocean, high wind events are common.¹ We are at severe risk of disruption of roads and services by earthquake and/or tsunami.² Winter storms typically include hours of 60–100 mph winds, causing trees to fall and damage lines and structures. The topography of the county includes a mountainous landscape, with heavily forested terrain, dense canopy cover, numerous wetlands, and geologic hazard areas. In addition, there are prevalent corrosive aerial salts that degrade free standing outdoor assets; with all these challenges, we still strive to have the most affordable rates in the state of Washington. But despite our best efforts to have the lowest rates for a non-generating PUD in Washington, 2,805 households are below the 200% Federal Poverty Level and hence have an energy burden of more than 6%. We must do more with less because nearly one-third (34%) of the county's population is over the age of 65. The median household income of \$50,873 is 35% lower than the state median income of \$80,219. These earnings translate into considerable poverty across the county. Nearly 15% of the population lives at or below the poverty line, approximately 11% of the population has no health insurance and 25% of residents claim a federal disability and 17% of the people *under* the age of 65 are disabled.³

Furthermore, poverty is particularly widespread amongst families in our community: 14.7% of all families with related children under the age of 18 live in poverty. Nearly 40% of all households with children under the age of 18 and headed by a sole female live in poverty. Every school in Pacific County qualifies for Title I federal funding. Over 70% of our total school enrollment is considered "Low Income." Layering on avoidable energy burden increases serves as a disproportionate regressive tax for our most vulnerable community members.

Per the Biden Administration's Justice 40 Initiative⁴ and CEQ's Climate and Economic Justice Screening Tool, Pacific County has multiple tracts that are considered disadvantaged because it meets more than 1 burden threshold and the associated socioeconomic threshold. Pacific County's multiple census tracts rank 97th percentile for energy costs and 85% percentile for low-income households where income is less than or equal to twice the federal poverty level.

Separately, when using CEQ's Climate and Economic Justice Screen Tool over the entire Pacific Northwest, the geospatial mapping tool reveals vast areas of BPA's customer communities are some of the most marginalized and under resourced.⁵ In the screen shot image below, areas highlighted in blue in Washington, Oregon, Idaho, and Montana are identified as disadvantaged communities that are

¹ <https://mynorthwest.com/3937904/what-is-washingtons-windiest-city/>

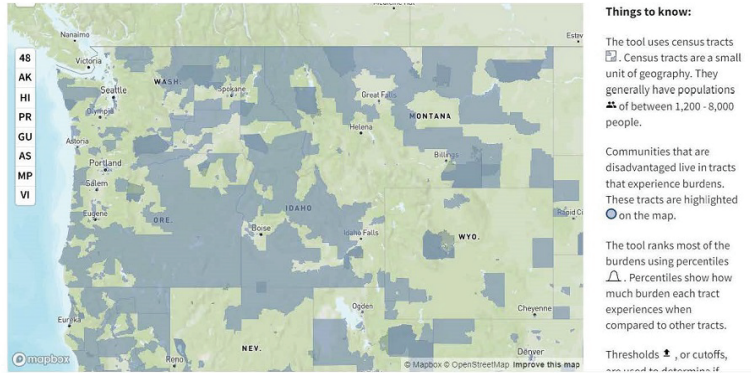
² <https://mil.wa.gov/asset/5ba420aa1c85c#:text=For%20example%2C%20the%20unincorporated%20areas,could%20have%20county%2Dwide%20repercussions.>

³ <https://www.census.gov/quickfacts/fact/table/pacificcountywashington/AGE775222#AGE775222>

⁴ <https://www.whitehouse.gov/environmentaljustice/justice40/>

⁵ <https://screeningtool.geoplatform.gov/en/#4.64/46.7/-114.77>

overburdened. The USG should be mindful to minimize adverse rate impacts to these communities to access an essential human service like electricity.



U.S. territories note

Not all the data used in the tool are available or used for all U.S. territories.

Source: <https://screeningtool.geoplatform.gov/en/#4.64/46.7/-114.77>

Respectfully, the USG must reconcile the uncertain financial burden of its extensive potential commitments in support of the Columbia Basin Restoration Initiative to the ratepayers of BPA in the Pacific Northwest considering the results presented from CEQ's own geospatial map. Any rate increases on BPA's customers will result in regressive harm to the communities most disproportionately disadvantaged and overburdened.

The USG's potential assurances in the CRSO litigation also poses significant threats to the long-term value of the Federal Columbia River Power System (FCRPS). Considering the significant financial, reliability and FCRPS operational uncertainty, it's difficult to commit to a 20-year Provider of Choice take or pay contract when long term intergeneration impacts that will last beyond 2044 remain unknown.

While we support scientific, cost-effective mitigation efforts for fish and wildlife impacts that have a clear nexus to the impacts of the hydropower system, I humbly request that USG exercise moral courage and use principles of distributive justice while honoring BPA's organic, enabling statutes, including its ratemaking directive to set the "lowest possible rates" to appropriately ensure that potential burdens resulting from a settlement process are squarely cabined to the federal taxpayer, and/or fees on non-Tribal harvest and/or pursue private grants and/or advance Corporate Social Responsibility program.

The future of an urgent clean energy transition must prioritize important procedural, distributive, and restorative justice components that embrace equity and don't leave people behind. We need remarkable partnerships to fight the existential threat of climate change. Hydropower remains the centerpiece of the Northwest's energy infrastructure and it provides reliable, affordable, and clean power. We can't achieve our multiple policy objectives without it.

Thank you for your consideration.

Sincerely,

HUMAIRA FALKENBERG, She/her
Power Resources Manager
Pacific County PUD

**PUBLIC POWER COUNCIL
Portland, OR**

June 9, 2023

Richard Spinrad, Administrator
NOAA
1401 Constitution Avenue NW, Room 5128
Washington, DC 20230

Janet Coit, Assistant Administrator
NOAA Fisheries
1315 East-West Highway, 14th Floor
Silver Spring, MD 20910

Michael Tehan, Assistant Regional Administrator
NOAA Fisheries
Interior Columbia Basin Office
1201 Northeast Lloyd
Portland, OR 97232

Dear Dr. Spinrad, Ms. Coit, and Mr. Tehan:

The Public Power Council (PPC) represents the interests of non-profit, consumer-owned electric utilities that rely on the Federal Columbia River Power and Transmission System to deliver reliable, economic, and environmentally responsible power to their communities. PPC member utilities repay all the costs the Bonneville Power Administration (BPA) incurs in generating and transmitting the power from the federal hydro system. Indeed, Northwest public power utilities fund approximately 70 percent of BPA's \$3.9 billion annual revenue requirement through their power and transmission rates and—given their nonprofit nature—have a keen interest in ensuring that BPA complies with its statutory obligation to offer “the lowest possible rates to consumers consistent with sound business principles.”¹

However, the cost of Federal power is not a matter of dry economics for us. PPC members are community-owned utilities delivering an essential human service of electricity to their consumers. In many cases, PPC members serve some of the most economically vulnerable, underserved, and underrepresented communities in the Pacific Northwest. In the last 15 years, BPA's Tier 1 power rates have already increased 24 percent, requiring PPC members to figure out how to continue to deliver affordable electric power to ratepayers who already struggle with their electric bills. There are no shareholders, investors, or profit margins to absorb increasing power costs—every cost must ultimately be recovered from the ordinary folks in our region, including those who must choose between feeding their children, purchasing life-saving medication, or heating their homes in subzero temperatures. Some see the latter as a luxury they simply cannot afford.

At the same time, PPC and its members have an abiding and vital interest in the recovery of the endangered fish species because many of PPC's members have declared their commitment to environmentally-friendly and sustainable power generation and usage. This commitment stems in part from the genuine environmental interests and values of the communities they serve, who desire environmentally-responsible but also affordable and reliable power. Through BPA's Fish and Wildlife Program, consumer-owned utilities have funded all of BPA's costs for mitigating the impacts of federal hydropower generation on threatened and endangered fish species. Over the last 10 years, the consumer-owned utilities have paid on average \$685 million per year for BPA's program, which constitutes one quarter to one third of their BPA power rates. In total, over the last 10 years, the consumer-owned utilities in the Pacific Northwest have paid more than \$6.8 billion for fish and wildlife mitigation measures.

We know that the National Oceanic and Atmospheric Administration Marine Fisheries Service (NOAA Fisheries) is currently under intense pressure to succumb to single-issue advocates demanding the removal of the Lower Snake River Dams, without either offering credible scientific evidence of the benefits to the endangered species or addressing the massive consequences to the communities and businesses served by public power. The inconvenient truth that these NGOs simply refuse to acknowledge because it counters the narrative they have created is that the survival rates at the Lower Snake River Dams are at their record highs right now. Indeed,

¹ 16 U.S.C. § 838(g).

as was recently reported, for adult fish swimming upstream, the survival rate is above 90% and 75 of every 100 young chinook and steelhead that head downstream and past the four dams survive.²

We applaud NOAA Fisheries, and specifically Mr. Ritchie Graves, the Columbia Hydropower Branch Chief, for doing what NOAA Fisheries does best—sticking to science and using fact-based data, research, and analysis—to acknowledge that the Lower Snake River Dams are achieving required performance standards. In reference to the tremendous passage rates at the Lower Snake River dams on the Columbia River, Mr. Graves said that: “In a lot of river systems, that would be something they would shoot for.”³ The truth is that the mitigation measures we have invested so heavily in are working and contrary to the claims that the endangered species are at the brink of extinction, we appreciated Mr. Grave’s recognition of the real fact that “we haven’t lost any populations in 25 to 30 years of listing, either.”⁴

NOAA Fisheries has a long and established history of conducting research and analysis designed to help scientists understand the variety of conditions affecting the nation’s oceans and their inhabitants. The NOAA Fisheries scientists have historically been protected from politics allowing them to focus on the facts and pursue endangered species mitigation strategies that were truly scientifically driven. That is why we were so surprised when on July 11, 2022, NOAA Fisheries released a “Regional Fishery Co-manager Review Draft” of a report entitled “Rebuilding Interior Columbia Basin Salmon and Steelhead.” That report was out of character for NOAA Fisheries and not consistent with the agency’s historical practices. It was unusual in its process, having been prepared in consultation with fishery managers for the Nez Perce tribe and the State of Oregon, and unattributed in terms of authorship within NOAA. In response to that report, PPC sent NOAA Fisheries a letter raising science-based concerns and laying the report’s shortcomings. That letter is attached. To this day, PPC has not received a response from NOAA Fisheries.

We urge you to resist the undue political pressure to endorse actions not supported by the facts and the science and to protect NOAA Fisheries and its scientists from unprecedented and increasing attacks by environmental extremists to censor their official, science-based findings.

Regards,

Bear Prairie, General Manager
Idaho Falls Power
Chair, PPC Executive Committee

Joe Morgan, General Manager
Modern Electric Water Company
Vice Chair, PPC Fish & Wildlife
Committee

Jim Anderson, General Manager
Midstate Electric Cooperative

Max Beach, General Manager
Idaho County Light and Power
Cooperative

Libby Calnon, General Manager
Hood River Electric & Internet Co-op

Megan Capper, Energy Resource Mgr
Eugene Water and Electric Board

Rick Dunn, General Manager
Benton PUD

Scott Rhees, General Manager
Franklin PUD

Jason Zyskowski, Asst General Mgr
Snohomish County PUD

Scott Simms, CEO & Exec Director
Public Power Council

²Matthew Weaver, *Amid a Battle Over Snake River Dams, a Look at How the Salmon Are Doing*, CAPITAL PRESS, May 18, 2023, retrieved from https://www.capitalpress.com/ag_sectors/grains/amid-a-battle-over-snake-river-dams-a-look-at-how-the-salmon-are-doing/article_c76c740a-dadd-11ed-ad18-9fb96a214c52.html.

³*Id.*

⁴*Id.*

Pacific Northwest Waterways Association (PNWA)

November 21, 2023

Mr. Gregory Goldstein
 Acting Director
 Federal Mediation & Conciliation
 Services
 2100 K Street NW
 Washington, DC 20427

Ms. Brenda Mallory
 Chair
 Council on Environmental
 Quality
 730 Jackson Place NW
 Washington, DC 20503

Subject: Concerns Regarding Proposed Commitments for the CRSO EIS Litigation
 Mediation Process

Dear Mr. Goldstein and Ms. Mallory,

I am writing on behalf of the Inland Ports and Navigation Group (IPNG), a group of thirty-one entities that includes barge operators, farmers, ports, cruise ships, and many other businesses within the Pacific Northwest Waterways Association (PNWA, www.pnwa.net). As one of the defendant intervenors—who have the same rights as defendants (USG)—in the Columbia River Systems Operations Environmental Impact Statement (CRSO EIS) litigation, whose members will be devastated, we are obliged to voice our serious concerns over the secretly negotiated, recently circulated, confidential proposed commitments (Exhibit 2, United States Government (USG) Commitments) set forth by the U.S. Government.

Our members are the experts on Columbia River system navigation, river-based commerce, river system safety, and irrigated farming. The USG Commitments disregard our expertise on river operations, threaten human life, ignore studies necessary to ensure spill will provide safe fish passage, and risk environmental disasters from unsafe cargo passage. The USG Commitments are founded on directing action toward an assumption of future dam breaching that will devastate the rural communities in which nearly 50% of households are living paycheck to paycheck, according to the United Way and the White House Climate and Economic Justice Screening Tool, without any concern for these social justice impacts. We will not be co-opted into a process that has left us out of negotiations for the past 18 months by providing detailed proposed edits to the proposed USG Commitments. Further, our objections to those commitments are not just in the details but rather stem from fundamental overarching assumptions and untenable positions. These overarching assumptions and an initial response to Appendix B of the USG Commitments are included below.

Before we discuss these concerns, there are components of the USG Commitments that we strongly support. We have embodied a spirit of finding opportunities for solutions. However, we have been given virtually no opportunity to do so, so we want to make clear that there are provisions in the USG Commitments that PNWA would likely support upon seeing a final proposed agreement. PNWA supports many of the objectives in the USG Commitments, such as energy resiliency, bolstering Columbia River Basin salmon and steelhead populations, meeting decarbonization goals, supporting tribal energy initiatives, and investment in rural communities. Contingent upon final negotiations, PNWA would potentially support the list of measures in the USG Commitments for which Northwest River Partners voiced detailed support. (Northwest River Partners Letter the USG via FMCS, pages 3-7 (Nov. 17, 2023)). PNWA will not reproduce an exhaustive list of those numerous areas of potential agreement.

Unfortunately, this flawed process has produced a USG Commitments document that we cannot agree with due to the following overarching assumptions and positions.

- The USG Commitments rely on the fundamentally flawed NOAA “Rebuilding Interior Columbia Basin Salmon and Steelhead Report” (NOAA Paper). This is a political report that lacks the support of the scientific community. It is not consensus science regarding the four Lower Snake River Dams (LSRD) and salmon. Rather, the science is strongly disputed. The USG Commitments pursue an objective untethered to any lawful standard, that is subjective, and that lacks any legal foundation. “Healthy and abundant” salmon populations is a vague and undefined policy objective not required by the Endangered Species Act (ESA).

- The USG Commitments fail to address river navigation as a critically impacted benefit of the current system, providing only a paltry \$750,000 for a study of impacts. This is inadequate to account for impacts that could be as much as \$30 billion, according to one study.
- The USG Commitments fail to ensure the delivery of affordable and reliable clean power as pledged by the USG on the August 8, 2022, Commitments commonly referred to as Exhibit 2.
- The USG Commitments fail to ensure the many resilience needs of stakeholders across the region will be met as pledged by the USG in the August 8, 2022, Commitments commonly referred to as Exhibit 2.
- The complexity of the proposed operational changes warrants a thorough study of their potential impacts on river navigation by the U.S. Army Corps of Engineers Research and Development Center (ERDC) in Vicksburg, MS, prior to implementation, as well as a completely new NEPA analysis.

The Science is Not Clear

The 2022 NOAA Paper calls for breaching the four LSRD in direct contradiction of the findings of the 2020 Final Environmental Impact Statement (FEIS) and Record of Decision (ROD), despite the paper itself stating there is no new science. The NOAA Paper is based on a new, undefined, policy-driven objective of “healthy and abundant” salmon populations instead of the ESA jeopardy standard (further discussed below). The 2022 NOAA Paper also suddenly endorses the scientific hypothesis of delayed mortality, again with no new science, which was rejected in the FEIS and ROD for not being adequately demonstrated. IPNG submitted a scientific analysis by well-regarded PNWA scientist, Mr. Ian Coulter, concluding that the evidence supporting delayed mortality is contradictory and inconclusive. Mr. Coulter outlined the significant deficiencies in the delayed mortality hypothesis, including the mechanism(s), scale, and lack of significance of delayed mortality.

Until these deficiencies in the research are addressed, delayed mortality cannot be the basis for decisions or commitments by the USG.

“Healthy and Abundant” has no Enforceable Legal Basis

The proposed USG Commitments establish the goal of “healthy & abundant” salmon populations without a quantitative definition. What constitutes “healthy & abundant”? Who is the judge of when it is achieved? These questions have gone unanswered. Further, there is no legal justification for the modification of the goal. The ESA requires agency actions that do not “jeopardize the continued existence of the species.” “Healthy and abundant” is an undefined standard with no enforceable legal basis. We cannot agree to its adoption as an objective.

Navigation is a Critically Impacted Authorized Purpose of the Current System

The USG Commitments propose river-system operational changes that raise serious safety concerns, as discussed below. It also treats the replacement of river-based transportation as barely a footnote, failing to acknowledge the harmful emissions and nationwide economic impact that will result if navigation is eliminated. The river-based transportation system cannot be replaced with alternatives if the four LSRD are removed while still meeting the USG’s clean energy goals. Removal of the four LSRD will increase transportation and related environmental costs in the U.S. by well over \$7.3 billion over 30 years. (FCS Group, Aug. 13, 2023). Removal of the four LSRD would require at least 23.8 million miles in additional trucking activity annually and more than 201 additional unit trains. (FCS Group, Aug. 13, 2023). This would increase harmful greenhouse gas emissions by the equivalent of adding one new coal-fired power plant to the grid every 2–3 years. The USG Commitments also fail to account for the likelihood that the river-based navigation system cannot be replaced by train and truck transit due to geographic constraints and environmental concerns in the region.

River barging and river cruising would disappear along with the jobs and economic contributions they make to the regional and national economy. Farms will be bankrupted by the shift in freight costs and the lack of irrigation water caused by removal of the locks and dams. These impacts will devastate local schools and emergency services-reducing local tax revenue by \$18 million annually and likely eliminating 15% of the regional workforce. (FCS Group, Aug. 13, 2023).

Despite these devastating impacts, the USG Commitments recommend a paltry \$750,000 for transportation infrastructure impact studies. It is imperative that the US Government conduct a thorough and complete study that includes all the region’s stakeholders and experts and analyzes numerous factors, including

engineering and permitting of new infrastructure; environmental impacts from greenhouse gases; environmental justice; rail and road safety; and workforce accessibility and readiness. The pragmatic consequences of impeding the movement of goods via the Columbia Snake River System—integral to our national trading efficacy—are being overlooked. The intricate network of river barging, which is pivotal for thousands of farms and a vast twelve-county region across three states, is integral to our economy and global, national, and regional food security. The proposed USG Commitments ignore these concerns.

Affordable and Reliable Energy Cannot be Assured Under these Commitments

The USG Commitments fail to address how new renewable energy will replace hydropower reliability and responsiveness. The Commitments also fail to address how newly proposed power sources will be effectively integrated into the regional power system nor how such massive infrastructure projects and associated high-voltage transmission lines will get permitted.

We had some assurances through the August 8, 2022 Commitments that the region's and nation's clean power needs would be adequately addressed. Public Power Council's and Northwest River Partners' comments demonstrate the impossibility of meeting these USG Commitments. The failure of the USG to meet these objectives compels us to reject much of the USG Commitments document as it relates to energy production.

Resiliency for Impacted Communities cannot be Assured

The loss of clean, reliable, and responsive hydropower and the removal of one of only three transportation modalities (and the cleanest among them) available to support the region's economy cannot meet the resiliency needs of impacted communities, as committed to by the USG on August 8, 2022.

IPNG submitted a well-researched paper (FCS Group) outlining the adverse impacts on underserved and underrepresented communities along the Snake River if the four LSRD were breached. The paper also outlined the damaging effects of their energy replacements. The failure of these USG Commitments to seriously estimate the aftermath of dam breaching compels us to reject the overall document.

Safety of CSRS River Operators

We have serious concerns about the proposed spill and operational changes in the Commitments document on the eight Federal Columbia Snake Hydropower Projects. The proposed operational changes do not contain information like spill patterns and scheduled times of new spills, which is critical information that is standard in these types of operational changes. Even more concerning is that these changes are not undergoing any study at the U.S. Army Corps of Engineers' Engineer Research and Development Center (ERDC). Expert river Captains and Pilots with decades of experience have reviewed the proposed changes and they have safety concerns related to the lack of modeling of these significant changes. These proposed operational changes pose a genuine threat to life and property and effective fish passage if these changes are implemented without first being fully understood. The river system changes in Appendix B of the USG Commitments ignore Judge Simon's previous Order requiring that operational and spill changes be modeled at ERDC because the Court's "concerns for both human safety and the listed species require calculating appropriate spill patterns in advance of increasing spill." The Judge's rationale in 2017 holds true to the changes being proposed in Appendix B.¹

Some of the proposed changes are also unlawful because they would eliminate the congressionally authorized Federal navigation channel. The proposed reservoir elevations at McNary Pool and The Dalles Dam will prevent the maintenance of the

¹ In his 2017 Order [ECF No. 2194, Amended Opinion and Order, Apr. 3, 2017] Judge Simon stated "The Court recognizes that concerns for both human safety and the listed species require calculating appropriate spill patterns in advance of increasing spill. As Defendants describe, the Corps implements spill using particular spill patterns at each dam, and any change to spill can change the spill pattern and result in eddies or other flow issues that might delay or preclude juveniles from downstream migration, prevent adults from upstream migration, and negatively affect navigation through the lock systems.

The Court also recognizes that each dam is unique and an "across-the-board" approach to spill is not the most effective means to increase salmonid survival at each dam. There are specific considerations at each dam that affect both juvenile and adult migration, and providing time to study and prepare for the increase in spill will allow proper analyses on the best methodology for each dam. Additionally, it also allows sufficient time to consider whether there may be other unintended negative consequences unrelated to salmonid survival."

Congressionally required 14-foot navigation channel due to natural shoaling and will prevent river operators from accessing their docks in the McNary Pool. The USG cannot modify the Flood Control Act of 1962, by which Congress authorized the Federal navigation channel, and yet knowingly or unknowingly, Appendix B of the USG Commitments unlawfully does just that.

Further, these changes are so significant as to warrant a new NEPA process and Environmental Impact Statement (EIS) before implementation.

It is imperative to reassess the proposed USG Commitments to account for the substantial economic, infrastructure, and environmental ramifications that might ensue. We advocate for a balanced approach that honors our environmental responsibilities while safeguarding the region's economic viability. We are discouraged that agriculture, water-borne commerce, and rural economies, which depend so heavily on the LSRD, are not accounted for in the proposed USG Commitments.

We urge the Federal Mediation and Conciliation Service and the White House Council on Environmental Quality to reconsider the proposed USG Commitments, with a realigned focus on achieving a robust, clean power system and valuing all the region's stakeholders. Our commitment to a sustainable and thriving Pacific Northwest remains resolute, and we request, with respect, that our position be given serious consideration in your ongoing deliberations.

Sincerely,

NEIL MAUNU,
Executive Director
Pacific Northwest Waterways Association (PNWA) &
Inland Ports and Navigation Group (IPNG)

Mr. BENTZ. If there is no further business, without objection, the Subcommittee stands adjourned.

[Whereupon, at 4:39 p.m., the Subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

Submissions for the Record by Rep. Huffman**NATIONAL CONGRESS OF AMERICAN INDIANS****RESOLUTION #AK-21-009****TITLE: Calling On The President and Congress to Invest in Salmon And River Restoration In The Pacific Northwest**

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States and the United Nations Declaration on the Rights of Indigenous Peoples, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, many of the Tribal Nations of NCAI are united by salmon; by the Northwest rivers that salmon, steelhead, lamprey, and other native fish depend upon; and by the interconnectedness of salmon with their ecosystems—from the orca in the ocean and Puget Sound, to the nutrients salmon supply to the furthest inland streams; and

WHEREAS, through legislation and executive orders, the United States took land from tribal peoples. Tribal Nations also ceded lands through treaties, but in so doing reserved certain rights to protect their cultural way of life; and

WHEREAS, Tribal cultures and lifeways are deeply rooted in place and tied to their homelands. As such Tribal Nations cannot simply relocate to access traditional resources or ceremonial places; and

WHEREAS, beginning in the 1930s, and through the use and destruction of the lands, rivers, and fisheries Tribal Nations have lived with for thousands of years, the modern Northwest is a maze of massive irrigation, hydropower, and storage systems built on the backs of Tribal peoples; and

WHEREAS, the United States has a unique political relationship with Tribal Nations. Through this special relationship, the United States is bound to honor the obligations it has made in Treaties, Executive Orders, adjudicated through numerous federal court decisions, and its trust responsibility to sovereign Tribal Nations; and

WHEREAS, the fate of many Tribal Nations and the Northwest salmon are intertwined; and

WHEREAS, in the Columbia Basin, the Northwest Power Act and its promise of “equitable treatment” for energy and fish and wildlife did prevent the mid-Columbia fall chinook from being listed under the Endangered Species Act (ESA) but failed to prevent the subsequent listings of salmon and steelhead under the ESA; and

WHEREAS, U.S. District Court for Oregon in its 2016 ESA and National Environmental Policy Act (NEPA) ruling (*Nat'l Wildlife Fed'n v. Nat'l Marine Fisheries Serv.*, 186 F.Supp 3d. 861 (D. Or. 2106))—rejecting the federal government’s salmon plan for the Columbia River System dams for the fifth time emphasized that the Federal Columbia River System remains a system literally crying out for a major overhaul, as that Court observed twenty years earlier in the same case; and

WHEREAS, the prior Administration’s 2020 salmon plans in response to Oregon District Court’s 2016 ruling—the 2020 Columbia River System Environmental Impact Statement (EIS), Biological Opinion (BiOp), and Record of Decision (ROD)—were politicized with election-driven timelines, and used the prior Administration’s

weakened NEPA and ESA regulations to justify flawed conclusions and attempt to lock in inadequate dam operations for the next 15 years; and

WHEREAS, Columbia Basin Tribes expressed special concerns with the prior Administration’s Columbia River System EIS with respect to its inadequate consideration of Tribal rights, interests, resources, trust lands; its failure to reveal environmental and social justice system impacts on Tribes; its failure to address fish restoration above dams that block fish passage; and its inadequate consideration of the impacts of climate warming; and

WHEREAS, Tribal Nations and Congress has a once-in-a-lifetime opportunity—a historical legacy moment—to secure funding to invest in salmon recovery and river restoration throughout the Northwest; and

WHEREAS, Tribal Nations throughout the Columbia Basin have supported legislative proposals that:

- Engage with Tribal Nations directly and regularly;
- Emphasize the very real and imminent salmon extinction crisis;
- Recognize a singular, generational legislative moment, because of the current Administration and current leadership in the Senate and the House, and that this is a moment for action, not for more process;
- Offer a comprehensive framework that embraces actions that have been long-standing priorities for Tribes throughout the Basin: restoring the lower Snake River by breaching the four lower Snake River dams and optimizing spill to benefit salmon at the mainstream federal Columbia River Dams; restoring salmon behind blocked areas in the Upper Columbia and Upper Snake basins; and ensuring that Tribes and State co-managers become responsible for implementing salmon restoration;
- Offer a solution that invests in a stronger, better Northwest that goes beyond salmon, ensuring that communities impacted by river restoration are made whole—and in doing so offering additional opportunities for Tribes within other sectors—from infrastructure and technology development to energy production;
- Highlights that an interest-based solution will involve legal certainty;
- Engages in a bipartisan manner against the backdrop of these foundational elements;
- Speaks the truth that failure to act this critical historical moment will be looked back on as the tragedy of the extinction of Snake River salmon populations; and

WHEREAS, the status of Columbia Basin salmon and steelhead species are dire and getting worse. Many populations of Snake River spring Chinook salmon and steelhead at the tipping point of extinction—identified by biologists as the Quasi-Extinction Threshold (QET);

- 42% of the Snake Basin spring/summer Chinook populations are at or below the QET; that is, 50 natural origin spawners or less on the spawning grounds for four consecutive years;
- 77% of the populations are predicted to drop below the QET level by 2025; and

WHEREAS, climatic warming shortens the time to act. Restoring the lower Snake (now a series of slow-moving, easily warmed lakes) to a naturally flowing river that connects fish to cold, high-altitude, near-pristine Salmon and Clearwater Basin habitat is the best possible solution for ecological resilience to warming temperatures; and

WHEREAS, the initiatives of Tribal Nations to restore salmon behind dams that block fish passage in the Upper Columbia and Upper Snake River have been limited by availability of funding and assertions of inadequate authorizations; and

WHEREAS, on April 14–15, 2021, the Columbia River Tribes gathered and reached agreement on a set of “common ground” principles underlying their support for Congressman Simpson’s Columbia Basin Initiative:

- The true wealth of our region begins with the health of our rivers, fish, and the ecosystem they support, which is our culture, history and future;
- Agriculture is an important part of our region’s economy;

- Affordable and reliable power is important to regional families and businesses, tribal and non-tribal;
- Providing legal certainty for the vast majority of federal dams in the Columbia/Snake River basins is a necessary element of a lasting solution;
- Providing legal certainty for the vast majority of federal dams in the Columbia/Snake River basins is a necessary element of a lasting solution;
- A significant federal infrastructure investment in alternative energy and transportation provides a unique opportunity to restore salmon while keeping power affordable and maintaining agricultural commerce;
- A comprehensive legislative solution is preferable to all other avenues and is urgently needed;
- The time for action is now. The Columbia Basin cannot become another Klamath Basin crisis; and

WHEREAS, the Southern Resident orcas of Puget Sound that are sacred to many Northwest Tribes, are starving to death because culverts and dams block and impair Chinook salmon migrations and limit the orcas' food source; and Governor of the State of Washington's Orca Recovery Task Force recommended—in addition to other dam and culvert removals—reviewing the need to breach the four lower Snake River dams to help recover the struggling Puget Sound orcas, which resulted in the Lower Snake River Dams Stakeholder Engagement Report and informed Washington States' statement of management goals and principles for the Columbia and Snake rivers:

- Protecting and restoring abundant, harvestable salmon and steelhead and other native fish species, including contributing to a reliable source of prey for southern resident orcas;
- Honoring Tribal rights, including a future for salmon that supports Tribal cultural, spiritual, ceremonial, subsistence, and economic needs;
- Providing for a clean, affordable, and reliable energy system that meets our clean energy and climate goals;
- Ensuring affordable and reliable transportation alternatives for wheat farmers in the Palouse and Tri-Cities areas;
- Ensuring reliable irrigation supplies for eastern Washington farms; and

WHEREAS, implementation of federal court rulings upholding Treaty-reserved fishing rights and ordering the state of Washington to replace culverts that block fish passage require funding to implement, as do Tribal habitat, hatchery, and salmon restoration efforts; and

WHEREAS, NCAI stands united in supporting investment in salmon and river restoration in the Northwest and throughout Indian Country.

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians (NCAI) calls on the Executive Branch and Congress to ensure that funding is set aside now at this critical ecological juncture for salmon and orca, to implement the bold actions for salmon and river restoration identified in the framework of the Columbia Basin Initiative legislative proposal, including restoring the lower Snake River by breaching the four lower Snake River dams; and

BE IT FURTHER RESOLVED, that NCAI requests the Executive Branch and Congress ensure that Tribal species restoration actions are prioritized and fully funded; and

BE IT FURTHER RESOLVED, that NCAI calls for the timely convening of a Tribal Salmon and Orca Summit, at an NCAI location, with invitations to Executive Branch Officials and to Congressional Members, to meet and take timely action with respect to the salmon and orca restoration priorities of Tribal Nations; and

BE IT FURTHER RESOLVED, that NCAI requests the Executive Branch and Congress prioritize working on actions to protect salmon, and other culturally and economically important fish and wildlife, and river restoration actions, and withdraw any federal court defense of the prior Administration's 2020 Columbia River System EIS, BiOp, and ROD's and other environmental decisions that are inconsistent with Tribal environmental principles and priorities; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2021 Mid Year Conference of the National Congress of American Indians, held June 20, 2021–June 24, 2021, with a quorum present.

Fawn Sharp, President

ATTEST:

Juana Majel Dixon, Recording Secretary

AFFILIATED TRIBES OF NORTHWEST INDIANS
2021 Virtual Mid-Year Convention
RESOLUTION #2021-23

“CALLING ON THE PRESIDENT OF THE UNITED STATES AND THE 117TH CONGRESS TO SEIZE THE ONCE-IN-A-LIFETIME CONGRESSIONAL OPPORTUNITY TO INVEST IN SALMON AND RIVER RESTORATION IN THE PACIFIC NORTHWEST, CHARTING A STRONGER, BETTER FUTURE FOR THE NORTHWEST, AND BRINGING LONG-IGNORED TRIBAL JUSTICE TO OUR PEOPLES AND HOMELANDS”

PREAMBLE

We, the members of the Affiliated Tribes of Northwest Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants rights secured under Indian Treaties, Executive Orders and benefits to which we are entitled under the laws and constitution of the United States and several states, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the welfare of the Indian people, do hereby establish and submit the following resolution:

WHEREAS, the Affiliated Tribes of Northwest Indians (ATNI) are representatives of and advocates for national, regional, and specific tribal concerns; and

WHEREAS, ATNI is a regional organization comprised of American Indians/Alaska Natives and tribes in the states of Washington, Idaho, Oregon, Montana, Nevada, Northern California, and Alaska; and

WHEREAS, the health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of ATNI; and

WHEREAS, the Tribes of ATNI are united by salmon; by the Northwest rivers that salmon, steelhead, lamprey, and native fish depend upon; and by the interconnectedness of salmon with their ecosystems—from the orca in the ocean and Puget Sound to the nutrients salmon supply to the furthest inland streams; and

WHEREAS, the United States used federal legislation and executive orders to take land from tribal peoples, and tribes ceded most of their land through treaties but reserved certain rights to protect their cultural way of life; and

WHEREAS, tribal cultures and lifeways are rooted in place and tied to their homelands, but tribes cannot just relocate to access traditional resources; and

WHEREAS, the modern Northwest with its massive irrigation, hydropower, and storage systems was built on the backs of tribal peoples from the 1930s on, through the use and destruction of the lands, rivers, and fisheries we have lived with for thousands of years; and

WHEREAS, the United States shares a unique relationship with the Tribes of ATNI, with the United States being bound to honor the obligations to tribes made in Treaties, Executive Orders, adjudicated through numerous federal court decisions and its trust responsibility to tribal sovereign nations; and

WHEREAS, the fate of our Tribes and the Northwest salmon are intertwined; and

WHEREAS, in the Columbia Basin, the Northwest Power Act and its promise of “equitable treatment” for energy and fish and wildlife did prevent the mid-Columbia fall chinook from being listed under the Endangered Species Act (ESA) but failed to prevent the subsequent listings of salmon and steelhead under the ESA; and

WHEREAS, U.S. District Court Judge Michael Simon in his 2016 ESA and National Environmental Policy Act (NEPA) ruling—rejecting the federal government’s salmon plan for the Columbia River System dams for the fifth time—emphasized that the Federal Columbia River System remains a system literally crying out for a major overhaul, as Judge Marsh observed twenty years earlier; and

WHEREAS, the prior Administration’s 2020 salmon plans in response to Judge Simon’s ruling—the 2020 Columbia River System Environmental Impact Statement (EIS), Biological Opinion (BiOp), and Record of Decision (ROD)—were politicized with election-driven timelines, and used the prior Administration’s weakened NEPA and ESA regulations to justify flawed conclusions and attempt to lock in inadequate dam operations for the next 15 years; and

WHEREAS, Columbia Basin Tribes expressed special concerns with the prior Administration’s Columbia River System EIS with respect to its inadequate consideration of Tribal rights, interests, resources, trust lands; its failure to reveal environmental and social justice system impacts on Tribes; its failure to address fish restoration above dams that block fish passage; and its inadequate consideration of the impacts of climate warming; and

WHEREAS, the new Administration and the 117th Congress face a once-in-a-lifetime opportunity—a historical legacy moment—to secure congressional funding to invest in salmon recovery and river restoration throughout the Northwest; and

WHEREAS, Tribes throughout the Columbia Basin have supported Congressman Mike Simpson’s initiative and his “Columbia Basin Initiative” legislative proposal for:

- Identifying this historic moment and opportunity;
- Engaging with Tribes directly and regularly;
- Emphasizing the very real and imminent salmon extinction crisis;
- Recognizing a singular, generational legislative moment, because of the current Administration and current leadership in the Senate and the House, and that this is a moment for action, not for more process;
- Offering a comprehensive framework that embraces actions that have been long-standing priorities for Tribes throughout the Basin: restoring the lower Snake River by breaching the four lower Snake River dams and optimizing spill to benefit salmon at the mainstem federal Columbia River Dams; restoring salmon behind blocked areas in the Upper Columbia and Upper Snake basins; and ensuring that Tribes and State co-managers become responsible for implementing salmon restoration;
- Offering a solution that invests in a stronger, better Northwest that goes beyond salmon, ensuring that communities impacted by river restoration are made whole—and in doing so offering additional opportunities for Tribes within other sectors—from infrastructure and technology development to energy production;
- Highlighting that an interest-based solution will involve legal certainty;
- Engaging in a bipartisan manner against the backdrop of these foundational elements;
- Speaking the truth that failure to act this critical historical moment will be looked back on as the tragedy of the extinction of Snake River salmon populations; and

WHEREAS, the status of Columbia Basin salmon and steelhead species is dire and getting worse, with many populations of Snake River spring Chinook salmon and steelhead on a steep slope to extinction; the point where populations become doomed to extinction is identified by biologists as the Quasi-Extinction Threshold (QET); and

- right now, 42% of the Snake Basin spring/summer Chinook populations are at or below the QET; that is, 50 natural origin spawners or less on the spawning grounds for four consecutive years; and
- 77% of the populations are predicted to drop below the QET level by 2025; and

WHEREAS, time may be even shorter as climate warming advances, and restoring the lower Snake (now a series of slow-moving, easily warmed lakes) to a naturally flowing river that connects fish to cold, high-altitude, near-pristine Salmon and Clearwater Basin habitat is exactly what is needed for the best possible ecological resilience to warming temperatures; and

WHEREAS, tribal initiatives to restore salmon behind dams that block fish passage in the Upper Columbia and Upper Snake River have been limited by availability of funding and assertions of inadequate authorizations; and

WHEREAS, on April 14–15, 2021, the Columbia River Tribes gathered and reached agreement on a set of “common ground” principles underlying their support for Congressman Simpson’s Columbia Basin Initiative:

- The true wealth of our region begins with the health of our rivers, fish, and the ecosystem they support, which is our culture, history and future;
- Agriculture is an important part of our region’s economy;
- Affordable and reliable power is important to regional families and businesses, tribal and non-tribal;
- Providing legal certainty for the vast majority of federal dams in the Columbia/Snake River basins is a necessary element of a lasting solution;
- A significant federal infrastructure investment in alternative energy and transportation provides a unique opportunity to restore salmon while keeping power affordable and maintaining agricultural commerce;
- A comprehensive legislative solution is preferable to all other avenues and is urgently needed;
- The time for action is now. The Columbia Basin cannot become another Klamath Basin crisis; and

WHEREAS, the Southern Resident orcas of Puget Sound, a being sacred to many Northwest Tribes, are starving to death because culverts and dams that block and impair Chinook salmon migrations are limiting the orcas’ food source; and Governor Inslee’s Orca Recovery Task Force recommended—in addition to other dam and culvert removals—reviewing the need to breach the four lower Snake River dams to help recover the struggling Puget Sound orcas, which resulted in the Lower Snake River Dams Stakeholder Engagement Report and informed Washington’s statement of management goals and principles for the Columbia and Snake rivers:

- Protecting and restoring abundant, harvestable salmon and steelhead and other native fish species, including contributing to a reliable source of prey for southern resident orcas;
- Honoring tribal rights, including a future for salmon that supports tribes’ cultural, spiritual, and economic needs;
- Providing for a clean, affordable, and reliable energy system that meets our clean energy and climate goals;
- Ensuring affordable and reliable transportation alternatives for wheat farmers in the Palouse and Tri-Cities areas
- Ensuring reliable irrigation supplies for eastern Washington farms; and

WHEREAS, implementation of federal court rulings upholding Treaty-reserved fishing rights and ordering the state of Washington to replace culverts that block fish passage require funding to implement, as do other Tribal habitat, hatchery, and salmon restoration efforts; and

WHEREAS, ATNI stands united in supporting investment in salmon and river restoration in the Northwest; now

THEREFORE BE IT RESOLVED, that ATNI calls on the President of the United States (POTUS) and the 117th Congress to ensure that funding is set aside now at this critical ecological juncture for salmon and orca, to implement the bold actions for salmon and river restoration identified in the framework of Congressman Simpson’s Energy and Salmon legislative proposal, including restoring the lower Snake River by breaching the four lower Snake River dams; and

BE IT FURTHER RESOLVED that ATNI requests the POTUS and 117th Congress to ensure that the salmon restoration priorities of the Tribes of ATNI are prioritized and funded; and

BE IT FURTHER RESOLVED that ATNI calls for the timely convening of a Northwest Tribal Salmon and Orca Summit, at an ATNI location, with invitations to Presidential Administration Officials and to Northwest Congressional Delegation Members, to meet and take timely action with respect to the salmon and orca restoration priorities of the Tribes of ATNI; and

BE IT FURTHER RESOLVED, that ATNI requests the POTUS to prioritize working on the actions for salmon and river restoration identified as the framework of Congressman Simpson’s Energy and Salmon legislative proposal, and withdraw any federal court defense of the prior Administration’s flawed 2020 Columbia River System EIS, BiOp, and ROD as otherwise a defense of methods and conclusions

inconsistent with the new Administration's environmental and tribal principles and priorities; and

BE IT FINALLY RESOLVED, that this resolution be forwarded to the National Congress of American Indians.

CERTIFICATION

The foregoing resolution was adopted at the 2021 Virtual Mid-Year Convention of the Affiliated Tribes of Northwest Indians, Portland, Oregon, on May 24-May 27, 2021, with a quorum present.

Leonard Forsman, President

Norma Jean Louie, Secretary

Statement for the Record**American Rivers
Tom Kiernan, President and CEO**

Thank you for the opportunity to share American Rivers' perspective on the Pacific Northwest economic, energy, and ecological future. Since 1973, American Rivers has protected wild rivers, restored damaged rivers, and conserved clean water for people and nature. With headquarters in Washington, D.C. and 355,000 supporters, members, and volunteers across the country, we are the most trusted and influential national river conservation organization in the United States. As the nation's leading river advocate, American Rivers seeks to ensure our nation's rivers and floodplains are protected.

The lower four Snake River dams, which stretch between Tri-Cities, WA and Lewiston, ID, were constructed between 1957 and 1972. These dams provide around 900 average megawatts of power—around 4% of the Northwest's energy generation. They also provide irrigation for crops grown around the Tri-Cities, as well as transportation for barge traffic between the Tri-Cities and Lewiston. While the services the lower four Snake River dams provide are valuable to surrounding communities, those services can be replaced with alternative, and less damaging to the river, technologies. Science shows us that “breaching the four lower Snake River dams is necessary to (1) substantially improve the probability of recovering these cultural and ecological keystone species to healthy and harvestable populations and (2) safeguard those fishes from extinction.” (American Fisheries Society 2023 citing Williams et al. 1989; Nehlsen et al. 1991; Thurow 2000; NOAA 2017, 2022; Isak et al. 2018; Storch et al. 2022; TU 2022). Losing these iconic keystone species of the Pacific Northwest would be an economic, cultural, and ecological disaster with long-ranging implications for Columbia Basin Tribes, and for the coastal communities of Oregon and Washington, to the uppermost reaches of the Salmon River in the Sawtooth Mountains of Idaho.

American Rivers applauds the Biden administration for working with the Yakama, Nez Perce, Umatilla and Warm Springs Tribes and the states of Washington and Oregon to develop solutions to end the decades-long logjam of litigation over operation of the Snake River dams. We have moral, ethical, and environmental obligations to follow the science and honor our Tribal treaty obligations in pursuit of a solution in the Snake Basin.

According to fisheries scientists and government agencies, including the American Fisheries Society and the National Oceanic and Atmospheric Administration, the only way to save ESA-listed populations of salmon and steelhead in the Snake River Basin from extinction and return them to abundance, is to breach the lower four Snake River dams. The Columbia Basin Partnership Task Force, a collaboration of states, Tribes, federal agencies, and stakeholders across the region, adopted targets for achieving abundant and harvestable salmon and steelhead in the Columbia Basin. The only way to achieve these agreed upon targets is to breach the lower four Snake River dams.

The financial burden of recovering of Snake River salmon and steelhead must not fall only on ratepayers in the Pacific Northwest. Much like recovery of the Florida Everglades, the Great Lakes, and Chesapeake Bay, recovering salmon populations in the Snake Basin is a national responsibility that should be borne by the U.S. Government. Only the U.S. Government has the obligations and resource ability to honor Tribal treaties, support communities who will be impacted by the transition of services, and restore the basin to support salmon populations.

Efforts to scare the public with outsized estimates of impacts on utility bills are both misleading and disingenuous. If costs of replacing the power provided by the lower four Snake River dams are borne by the US Government, the results will be minimal impacts on utility bills and greater certainty for utility providers for decades to come. We have already seen a transformation in our energy portfolio with new wind, solar, and storage resources that seemed impossible 20 years ago. With unprecedented federal funding available through the Inflation Reduction Act and the bi-partisan Infrastructure Investment and Jobs Act, there has never been a better time to invest in a bold new vision for the future of power in the Pacific Northwest.

The longer we continue to delay, obfuscate, and distract with misinformation, the more drastic becomes the need, and more urgent the timeline, for action to invest in a sustainable economic future to save these fish from extinction. We have an opportunity to come together as a region to develop solutions to large-scale

challenges involved with replacing the services provided by the lower four Snake River dams, in a manner that will keep stakeholders and impacted communities whole and position the region to move boldly into the next century. American Rivers stands with Tribal Nations of the Northwest, our NGO partners, local communities, and impacted stakeholders to help make that vision a reality. The actions and commitments from the Biden Administration are a meaningful step in that direction.

American Fisheries Society 2023. Statement of the American Fisheries Society (AFS) and the Western Division AFS (WDAFS) About the Need to Breach the Four Dams on the Lower Snake River. <https://fisheries.org/policy-media/recent-policy-statements/statement-of-the-american-fisheries-society-afs-and-the-western-division-afs-wdafs-about-the-need-to-breach-the-four-dams-on-the-lower-snake-river>

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**American Fisheries Society (AFS)
Bethesda, MD**

December 23, 2023

Hon. Cliff Bentz, Chairman
Hon. Jared Huffman, Ranking Member
Committee on Natural Resources
Subcommittee on Water, Oceans and Wildlife
1324 Longworth House Office Building
Washington, DC 20515

Re: Examining the Biden Administration's Efforts to Eliminate the Pacific Northwest's Clean Energy Production

Dear Chairman Bentz and Ranking Member Huffman:

On behalf of the American Fisheries Society (AFS), we submit this information for the record in follow-up to the December 12 hearing of the Water, Wildlife and Fisheries Subcommittee of the U.S. House of Representatives Committee on Natural Resources entitled "Examining the Biden Administration's Efforts to Eliminate the Pacific Northwest's Clean Energy Production."

AFS is the world's oldest and largest professional society of fishery scientists and resource managers. At its core, AFS is a science organization. AFS promotes the conservation and sustainability of fishery resources and aquatic ecosystems through dissemination of fisheries science via scientific journals on fisheries, conferences, and continuing education. Many of AFS' members live and work in the western United States and have long-studied salmon and their declining populations.

The science is indeed clear and compelling, supported by decades of rigorously peer-reviewed published reports and manuscripts, and demonstrates removing the four lower Snake River dams is essential to restore critically at-risk populations of wild Snake River salmon and steelhead. Snake River populations are currently hovering on the brink of extinction and action is urgently needed.

After carefully reviewing the science on this issue, AFS adopted a policy statement in support of breaching the lower four Snake River dams in January 2023 (Winters 2023). We attach it here for your consideration. The policy statement concludes that "[i]f Snake River basin salmon and steelhead are to be saved, then policymakers and stakeholders at all levels will need to implement appropriate processes and funding provisions to breach the four dams on the Lower Snake River, as well as implement all necessary habitat rehabilitation."

Today, only 1–2% of formerly abundant, historic wild salmon and steelhead return to the Snake River to spawn (Winters 2023). Despite billions of dollars spent to date on Snake River anadromous fish restoration (including hatchery stocking), recovery efforts have not been effective (Hatch Magazine 2021; Storch et al. 2022; Jaeger and Scheuerell 2023; Winters 2023). Recent reports demonstrate that 42% of Snake River wild spring/summer Chinook Salmon and 19% of steelhead populations have declined to the threshold where extinction is highly likely (O'Toole 2021) and will continue to decline without breach.

The climate crisis increases the urgency for action and will continue to worsen conditions for these and other coldwater species. Ensuring access to the Snake River basin's intact and high elevation habitat provides the best opportunity for broadscale population recovery and persistence in the face of the climate crisis (Storch et al. 2022).

In the 1990s, 30 scientists from state, federal, tribal, and other entities participated in the PATH (Plan for Analyzing and Testing Hypotheses) process that evaluated smolt-to-adult ratios and the probability of achieving the interim survival and recovery standards of the National Oceanic and Atmospheric Administration (NOAA) Fisheries (Marmorek et al. 1998). The PATH analyses concluded that the Natural River option to restore the Snake River (via breaching the four lower Snake River dams) was the only option that would provide recovery. This option was found to have the "highest certainty of success and the lowest risk of failure." (Storch et al. 2022). The PATH conclusions have been reaffirmed by scientific review panels, agencies, and scientists for the past 25 years (ISAB 2019, Hatch Magazine 2021, NOAA Fisheries 2022).

In 2020, the Northwest Power and Conservation Council "reaffirmed the prior benchmark of smolt-to-adult returns (SAR) averaging 4% (range: 2%–6%) for spring/summer Chinook Salmon . . . (A) minimum SAR of 2% is required to consistently maintain existing populations, whereas SARs greater than 2% indicate degrees of

population growth . . . Smolt-to-adult return rates equal to or greater than 4% achieved on a regular basis should promote a high likelihood of recovery (i.e., consistent generational increases in abundance . . . The Independent Scientific Advisory Board . . . has reviewed . . . the 2–6% SAR objective and identified extensive evidence to support these goals . . .”

The need to breach the four lower Snake River dams is further confirmed by comparisons of SARs versus the number of dams anadromous fish must pass. Recent SARs for Snake River wild spring/summer Chinook Salmon have averaged 0.7% above eight dams, in comparison to SARs for non-ESA listed, wild spring Chinook Salmon that pass fewer dams in the mid-Columbia River and continue to meet sustainable SAR objectives (McCann et al. 2019). From 2000–2017, wild Chinook Salmon SARs averaged 3.6% in the John Day River above three dams, 2.5% in the Yakima River above four dams, and 0.7% in the Snake River above eight dams (McCann et al. 2019). Importantly, temporal analysis also demonstrates that the productivity of Snake River Chinook salmon declined much more precipitously after construction of the Federal Columbia River Power System compared to productivity of Chinook salmon in the John Day River (Schaller et al. 2014). The John Day, Yakima, and Snake River populations experience the same treaty and nontreaty fisheries, pinniped predation, and ocean conditions; the primary difference among them is the number of dams they must pass (Storch et al. 2022). Wild, Snake River anadromous salmon above eight dams are unable to meet SAR goals and are declining toward extinction. Importantly, recent models also demonstrate the population’s ability to recover and grow with SARs approaching 2% (Jacobs et al. 2023).

The Columbia Basin Partnership established healthy and harvestable levels as the population goal for wild Chinook salmon and steelhead recovery (NMFS 2020). During the December 12 hearing, recent salmon returns were falsely characterized as “strong.” Clearly, returns are not meeting established healthy and harvestable populations. Indeed, 2022 was a very low return year for wild Chinook salmon in Central Idaho. The Middle Fork Salmon River total redd count was n=322. That number is only 1.3% of estimated wild Chinook salmon returns to the drainage that occurred into the mid-1960s. Many areas with exceptionally high quality and connected natal habitat had zero fish return to spawn. These very low returns emphasize the severe threat of extinction and the urgency of restoring the Snake River migration corridor.

Hatcheries can provide harvest opportunities, especially in ensuring Treaty-protected tribal harvest that would not exist otherwise with the dams in place. However, a recent science review of Snake River spring/summer Chinook Salmon Hatchery Programs confirms hatchery mitigation efforts are unable to produce sufficient adult returns to meet goals and, often, basic broodstock needs (Independent Scientific Review Panel Review of the Lower Snake River Compensation Plan for Spring/Summer Chinook, 2022–2023).

Additionally, detrimental effects of hatcheries to wild populations are well documented (McMillan et al. 2023). For example, hatchery fish reduce subsequent reproductive capacities by up to 40% of hatchery fish and wild-born fish from hatchery parents (Araki et al. 2009). Nonetheless, in the short term, hatcheries serve as a means for tribes to harvest salmon for cultural, social, and economic reasons and for states to provide angling opportunities. However, a long-term solution requires restoring wild populations via breaching the four lower Snake River dams followed by reduced dependence on hatcheries.

Breach of the lower Snake River dams will also help meet broader ecological benchmarks for migratory fish rehabilitation (Storch et al. 2022). The lower Snake River dams and reservoirs produce lower and warmer flows that negatively affect adult immigration and juvenile emigration. Consequently, increased connectivity in the lower Snake River is critical for steelhead, Bull Trout, White Sturgeon, and Pacific Lamprey (Storch et al. 2022). Restoring the Snake River migration corridor will reestablish opportunities for repeat spawning to enhance populations (Vadas 2000; Vadas et al. 2016; Storch et al. 2022). This approach has been successfully used in Maine, where dam breaching increased abundances of repeat spawning Atlantic Salmon and non-salmon species (Winters 2023).

Despite often considered a “green energy” source, hydropower dam/reservoir systems have profound negative effects on water quality, cyanobacteria, instream flow, habitat blockage, and greenhouse-gas (methane/nitrous oxide) emissions (Storch et al. 2022; Winters 2023).

AFS supports actions to breach the four dams on the Lower Snake River and we further support a clear roadmap for ameliorating the economic (energy/transportation/irrigation) impacts of breach on those who rely on the dams (Hatch Magazine 2021; Storch et al. 2022; Winters 2023). To safeguard Snake River salmon and steelhead for future generations, we urge policymakers to embrace the science,

implement urgent actions to breach the four lower Snake River dams, and to take additional actions to replace dam services. As a precedent, similar actions have recently been implemented to recover Klamath River fishes and to assist the diverse sets of stakeholders collaborating to restore that system (Davidson 2023; FERC 2022).

Thank you for your consideration. For additional questions, please contact Drue Banta Winters, dwinters@fisheries.org.

Sincerely,

DOUGLAS J. AUSTEN, PH.D.,
Executive Director

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AFS NEWS

Statement of the American Fisheries Society and the Western Division of AFS About the Need to Breach the Four Dams on the Lower Snake River

Drue Banta Winters | AFS Science Communication and Government Affairs Consultant. E-mail: dwinters@fisheries.org

INTRODUCTION

In the Pacific Northwest, the Columbia River basin dominates the landscape stretching across 250,000 square miles and seven states. The Snake River, the main tributary of the Columbia River, was once free flowing and teeming with Pacific salmon *Oncorhynchus* spp. and steelhead *Oncorhynchus mykiss*. Indeed, nearly 50% of these fish in the basin were found in the Snake River. Between 1961 and 1975, the U.S. Army Corps of Engineers constructed four dams on the lower Snake blocking the fish from vast high-quality spawning and nursery habitat and altering habitat to the detriment of the fish. Today, only 1–2% of the historic numbers of wild fish return to the Snake River. Despite billions spent on habitat improvement and fish passage, extinction is looming for the once abundant anadromous fish.

Calls to remove the four lower Snake River dams have a long history, but the proposal is fraught with political complications. Many stakeholders rely on the services of the locks and dams that supply low-cost hydroelectric energy to the region, irrigation water for agriculture, and low-cost barge transport of agricultural products. These stakeholders have made their voices heard.

In early 2021, U.S. Representative Mike Simpson (R-Idaho) proposed a US\$34 billion plan for dam removal spurring serious conversations in Washington, D.C. This was the first time a member of Congress called for removing the dams and finding a path forward for the stakeholders who rely on the services of those dams.

This national dialogue created a renewed opportunity for AFS to be a voice for the fish on this issue. The Western Division of the American Fisheries Society (WDAFS) has long expressed support for breaching the dams with a 2011 resolution and a 2020 letter to Oregon Governor Kate Brown. The WDAFS and AFS discussed the possibility of a joint statement for years, but for many reasons including conflicts of interest, opposition to policy engagement, and fear of reprisals for state employees who contributed to a statement, an agreement was elusive.

The statement broke after a spirited dialogue late last summer at the AFS Annual Meeting in Spokane. Following the meeting, the WDAFS and AFS agreed that it was important to reach consensus on a formal statement. The WDAFS reviewed the most current science on breaching of the four lower Snake River dams. The science is clear and compelling: the lower Snake River dams must be breached in order to protect those fishes from extinction and to provide the potential for healthy and harvestable populations. Breaching the Snake

River dams provides more certainty of achieving long-term survival and recovery for anadromous fish than would any other option. With that foundation, a joint statement was drafted for approval.

In December 2022, the WDAFS adopted an official statement in support of breaching the dams. Shortly thereafter, in a unanimous vote, the AFS Governing Board adopted the statement at its mid-year meeting in January 2023. It is reproduced here.

The American Fisheries Society will conduct outreach this year with a briefing on Capitol Hill in partnership with other conservation organizations working towards dam removal and a broader distribution of the statement to decision makers at the national and regional levels.

STATEMENT OF THE AMERICAN FISHERIES SOCIETY AND THE WESTERN DIVISION OF AFS ABOUT THE NEED TO BREACH THE FOUR DAMS ON THE LOWER SNAKE RIVER

Formally Adopted by WDAFS December 2022 and the AFS Governing Board January 2023

The Columbia River ecosystem was once a network of complex, interconnected habitats that supported the most prolific salmon habitat in the world. Its Snake River basin once supported nearly 50% of the Chinook Salmon and steelhead in the entire Columbia River basin. Now, decades after their initial Endangered Species Act listings, native fish populations in the Snake River basin including salmon, migratory trout, sturgeon, lamprey, and others have not recovered, and many are alarmingly low and trending towards extinction. The once free-flowing river has been transformed into reservoirs by a series of dams that impede the movement of these fishes and greatly decreases their survival. The four dams on the lower Snake River (Lee Harbor, Lower Monumental, Little Goose, and Lower Granite) significantly reduce access to the cold-water, high-quality spawning and nursery habitat that are essential for fish sustainability (Storch et al. 2022).

When the body of scientific evidence is considered (Williams et al. 1989; Nehlsen et al. 1991; Thruow 2000; NOAA 2017, 2022; Isaak et al. 2018; Storch et al. 2022; TU 2022), it is clear that breaching the four lower Snake River dams is necessary to (1) substantially improve the probability of recovering these cultural and ecological keystone species to healthy and harvestable populations and (2) safeguard those fishes from extinction.

Salmon and other anadromous fish move between the upriver spawning and rearing habitats and the ocean and back

again. Today, only 1–2% of historic wild salmon and steelhead numbers return to the Snake River to spawn above the four lower dams (Thurow et al., 2020). Climate change has (NWPC 2015; Storch et al. 2022) and will continue to worsen the outlook for these coldwater species. Access to this habitat is the best opportunity to promote broad-scale population recovery and persistence in the face of climate-change induced warming.

Restoring healthy and harvestable salmon and steelhead populations will require a change in approach. Since the 1980s, many fisheries recovery strategies (e.g., supplementing with hatchery-raised fish, transporting fish, fish passage improvements, and rehabilitating habitat) have been attempted with little or no success. Despite spending billions on recovery, these species continue to decline, affecting both aquatic and terrestrial ecosystems, other imperiled species, tribal rights, and commercial and recreational fishing.

Scientific studies continue to show that breaching the four lower Snake River dams would provide greater certainty of achieving long-term survival and recovery of native wild fishes more than any other measure or combination of measures without dam breaching. Breaching the dams to restore riverine habitats in the lower Snake River will also benefit ecosystem processes, entire biological communities, and increase climate change resilience of anadromous fishes. Dam breaching has shown success towards recovering migratory fish species, notably in the Elwha River, WA (Hess et al. 2020; Storch et al. 2022) and Kennebec and Penobscot rivers, ME (Johnston et al. 2019; Kober 2019; Prosek 2020; Sharma and Waldman 2021; Wippelhauser 2021; NRCM 2022). Notably, the Penobscot River project was accomplished by a combination of breaching, fish passageways, and increased power production for different dams, such that total hydropower production was maintained while restoring diadromous fish runs.

Although the four lower Snake River dams and reservoirs provide hydroelectric energy for western states, irrigation water for agriculture, and allow commercial navigation to move grain and other goods efficiently, they have led to significant declines in fish populations. The best available science suggests that a significant portion of the lower Snake River must be returned to a free-flowing condition to restore Snake River salmon populations. Proposals to breach the four lower Snake River dams have a long history, but the subject has become more critical as these iconic fish populations approach extinction. The WDAFS unanimously passed a resolution in 2011 and a subsequent letter to Oregon Governor Kate Brown in 2020 saying that breaching these dams will be required if these runs are to be recovered. Likewise, U.S. Representatives Simpson (R-Idaho) and Blumenauer (D-Ore.) have proposed breaching these dams while also addressing the needs of stakeholders and tribal rightsholders who depend on the river. In summer 2022, Washington Governor Jay Inslee and Senator Patty Murray (D-Wash.) released a final report for the government to move forward to provide replacements of these dams' benefits (e.g., wind and solar power production and truck and railway transportation of goods [SOS 2022]), so that breaching is a credible pathway for policymakers to consider. The Biden Administration is also working to develop a comprehensive salmon restoration plan to settle longstanding litigation with Tribes, the state of Oregon, and conservation organizations.

If Snake River basin salmon and steelhead are to be saved, then policymakers and stakeholders at all levels will need to implement appropriate processes and funding provisions to

breach the four dams on the lower Snake River, as well as implement all necessary habitat rehabilitation. There are other services that must be accounted for if dam breaching were to occur. Dam removals often take decades of comprehensive planning and implementation, and replacing those services provided by the dams will also take time. This will require Congress, the Biden Administration, regional rightsholders, and stakeholders, to negotiate an agreement soon for the dam removal to proceed expeditiously.

The AFS represents over 7,500 professional fishery scientists and resource managers across the world. The WDAFS includes U.S. states west of the Mississippi River basin and Pacific Canada. Our common mission is to improve the conservation and sustainability of fishery resources and aquatic ecosystems by (1) advancing fisheries and aquatic science and (2) promoting the development of fisheries professionals. Our members represent a holistic array of fisheries experts who are employed in academia, government agencies, nongovernmental organizations, and private consulting.

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Submission for the Record by Rep. Rodgers

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U.S. Government Commitments in Support of the Columbia Basin Restoration Initiative and in Partnership with the Six Sovereigns

The Columbia River and its tributaries are the lifeblood of the Pacific Northwest, providing the region with an abundance of natural resources, water, power, recreation, and opportunity which have sustained cultures, livelihoods, commerce, and economic growth. An estimated 7.5 to 16 million adult salmon and steelhead once returned to the Columbia River Basin each year. In 1855, the United States entered treaties with the Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Nez Perce Tribe, in which these Tribes reserved, among other rights, the right to harvest fish at all usual and accustomed places. Salmon, steelhead, and other native fish are essential to the culture, economy, and ways of life of these Tribes, as they are for other Tribal Nations in the region and First Nations and other Indigenous Peoples in Canada.

Since the late 1800s, the Columbia River Basin ecosystem has changed at the expense of salmon and ecosystem function. Historically, sixteen different stocks of salmon and steelhead spawned above Bonneville Dam, as well as broadly distributed populations of bull trout, lamprey, sturgeon and other aquatic species. Of the sixteen historic salmon and steelhead stocks, four are now extinct, and seven are listed under the federal Endangered Species Act—including one reliant on a captive breeding program. Of the remaining five, only one approaches its historical numbers. Bull trout are also listed under the ESA and historic anadromous populations in the Columbia River are no longer present. Pacific lamprey have also experienced a precipitous decline in the basin.

The Biden Administration recognizes the indisputable value and importance of salmon – and other native fish – to Columbia River Basin Tribes, as well as to the economy and overall ecological health of the region, throughout the Basin and from the Oregon coast to the Gulf of Alaska. In the face of climate change, urgent action is needed to restore their populations to healthy and abundant levels.

According to the 2022 report by the National Oceanic and Atmospheric Administration (NOAA), “Rebuilding Interior Columbia Basin Salmon and Steelhead,”¹ the hydrosystem is a primary limiting factor in the recovery of ten of the sixteen salmon and steelhead stocks in the interior Columbia River Basin. For three others, the limiting factor is blocked historic habitat due to large dams that lack fish passage. Tributary habitat is another important limiting factor for salmon and steelhead in much of the Basin, particularly for middle Columbia River stocks. NOAA found the risk of extinction for all ESA-listed stocks in the interior Basin to be moderate-to-high, and, considering the status of all limiting factors for the species, NOAA does not expect the current risk status of these listed stocks to improve in the short term without immediate attention.

To address the critical status of these fish – especially listed salmon and steelhead in the Snake River Basin, Senator Patty Murray and Governor Jay Inslee released [recommendations](#) on Columbia River salmon recovery in August 2022, after a year-long process compiling existing information and soliciting

¹ [Rebuilding Interior Columbia Basin Salmon and Steelhead | NOAA Fisheries](#)

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input from communities, Tribes, and stakeholders across the Northwest. With respect to the Lower Snake River (LSR) dams, they recommended that the dams' services would need to be replaced or mitigated before any breach should occur. They further recommended that the Federal and state governments initiate a program to replace the services of the dams and develop additional information on the dams and the services they provide to enable Congress to consider dam breaching in the future. They also recommended immediate action to deploy the scale of clean energy infrastructure necessary to confront the climate crisis regardless of whether Congress authorizes the breaching of the Lower Snake River dams. They recognized, as does the Administration, that significant Federal investment is necessary to support this transition, which will require substantial federal budget support.

We agree that business as usual – and the consequential disappearance of salmon and other native fish populations in the Columbia River Basin – is unacceptable. And while there is still time to save these fish, there is no time to waste. The NOAA report clarified the urgency of the situation, stating that, given the current status of salmon populations, “[t]he science robustly supports riverscape-scale process-based stream habitat restoration, dam removal (breaching), and ecosystem-based management, [and] overwhelmingly supports acting and acting now.”

The science is clear, and now so too must be our path forward.

As stated in Exhibit 2 of the August 2022 litigation stay agreement, the Biden Administration is “committed to supporting development of a durable long-term strategy to restore salmon and other native fish populations to healthy and abundant levels, honoring Federal commitments to Tribal Nations, delivering affordable and reliable clean power, and meeting the many resilience needs of stakeholders across the region.” In carrying out this commitment, the Administration understands that no single action is a “silver bullet,” and progress will necessitate a comprehensive suite of management actions to make progress towards our goal of healthy and abundant fish populations in the Basin.

The NOAA Rebuilding Report, for example, sets out a suite of centerpiece actions “needed to provide the highest likelihood of reversing near-term productivity declines and rebuilding towards healthy and harvestable runs in the face of climate change.”

Although the science is clear and the urgency real, there remain important social and economic factors to consider and address before the full suite of actions laid out by the NOAA report could move forward. As highlighted throughout the Murray/Inslee recommendations, these considerations must be expedited and addressed on a timeline that meets this urgency and some will require congressional authorization. In the meantime, interim actions can help minimize the potential for productivity declines and help achieve some population growth during periods of favorable environmental conditions.

It is apparent from the Columbia Basin Restoration Initiative (CBRI) that the Six Sovereigns share the Administration's understanding that a comprehensive and urgent approach is necessary to achieving our shared objectives, and the Administration thanks them for their work in developing this framework, consistent with the science undergirding the NOAA Rebuilding Report, to drive coordinated action. While this United States Government (USG) response does not constitute a decision by the USG to support legislation to authorize dam breaching, the USG continues to be committed to exploring

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restoration of the Lower Snake River, including dam breach, and views Governor Inslee and Senator Murray's recommendations as providing important guidance. To that end, the USG is prepared to deliver the commitments below, in partnership with the Six Sovereigns and other stakeholders in the region, to make headway on the objectives in the CBR.

Lower Snake River Restoration

Responsive to CBRI Objectives 1(a), 1(b), 4, 5, & 6

- **Objective 1(a) and (b):** *“Develop and advance an urgent, comprehensive strategy to (a) restore salmon and steelhead to “healthy and abundant levels” consistent with NOAA’s Columbia Basin Partnership Task Force (CBP) and Rebuilding reports; and (b) complete the actions and investments necessary to secure continuity of services associated with Lower Snake River (LSR) restoration prior to LSR dam breaching.”*
- **Objective 4:** *Invest in and support communities and economic sectors (e.g., energy, transportation, agriculture, and recreation) in a manner that is consistent with meeting decarbonization goals and mandates and integration of renewables, delivers “affordable and clean power”, improves resiliency and adaptability to climate change and supports “the many resilience needs of stakeholders across the region”, and “[honors] commitments to Tribal Nations”*
- **Objective 5:** *Secure necessary regulatory compliance, authorizations, and appropriations for implementation of the strategy with an urgency reflecting the needs of the fish.*
- **Objective 6:** *Ensure that the strategy proposed in Objective 1 and associated federal actions “honor Federal Commitments to Tribal Nations” and address past and ongoing inequities related to the federal hydrosystem to reflect and uphold federal Treaty and trust responsibilities to Columbia Basin Tribes.*

USG Commitments

- **Tribal Energy Sovereignty – Pacific Northwest Tribal Energy Program.** The Department of Energy (DOE) and U.S. Department of Agriculture (USDA) will provide targeted technical assistance, planning, and funding to the Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Nez Perce Tribe (together, the “LRTT’s”), to develop and deploy clean, renewable, socially-just energy resources (to include distributed energy resources (including efficiency and demand response, other generation, storage, and transmission resources)) in the region. DOE will work with LRTTs individually and collectively to support quantified goals for energy project development, presumed to be at least 1,000-3,000 MW of clean energy resources, and to determine the role LRTTs want to take with regard to various projects (e.g., individual or collective ownership, leasing, power procurement, etc.). DOE will work with LRTTs to develop a written agreement documenting and guiding this process. This new, clean Tribally-sponsored energy will be planned as “replacement” power for the lower Snake River dams if Congress authorizes the breach of those dams. This Pacific Northwest (PNW) Tribal Energy Program will run in parallel with

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ongoing DOE assistance and resources related to tribally supported projects that are under development outside of the PNW Tribal Energy Program and nothing in this USG commitment is intended to be exclusive to PNW Tribal Energy Program projects or limit the allocation of resources to tribally-supported projects that are not identified by a Tribe as part of the PNW Tribal Energy Program. See Appendix A for more information on this proposal and respective DOE and USDA contributions.

- **Tribal Engagement & Implementation Support.** The USG is committed to supporting Columbia Basin Tribes in regional energy planning and energy project review processes in the Pacific Northwest, and to advance the development of a renewable, clean, and socially just energy portfolio in the region. By February 1, 2024, DOE, USDA, and the Department of the Interior (DOI) will identify additional federal resources (e.g., from the DOE LEAP program²) that could support the LRTT's capacity regarding clean energy resource development, energy project management, and ability to engage in regional energy planning and energy project review processes, including without limitation the capacity of the Tribes' natural and cultural resource staff to engage in such planning.
- **Accounting for "replacement" power.** In coordination with the Six Sovereigns, the USG and DOE will develop a means of "accounting" for the region's development of resources available to serve as "replacement" energy services for the lower Snake River dams, based on the particular services needed in the event Congress authorizes dam breach.³ This accounting mechanism will be developed no later than February 1, 2024. This accounting mechanism will track and count all regional resources that can contribute to replacement of the dams' services developed or under development as of the date of these commitments and beyond.⁴ The Regional Energy Needs Planning Process described in Appendix A, specifically its scenarios for regional clean energy development that include replacement power in the event Congress authorizes breach of the LSR dams, will identify portfolios of potential replacement resources (as well as new energy resource options, e.g., storage, efficiency, or transmission, that could enable greater grid management flexibility to manage the hydropower system for greater fish benefit, as well as reliability, affordability, decarbonization and other regional goals during the interim period before breach is authorized). The "accounting" approach would provide regular updates on the region's development of clean energy resources, including the type of resources needed to replace the specific energy services of the LSR dams, as compared to the portfolios identified in the energy analysis.
- **Assistance to Support Tribally-Owned Clean Energy Projects through USDA's energy programs, such as the Powering Affordable Clean Energy (PACE) Program and at Least 10 Tribal Projects through USDA's Rural Energy for America Program (REAP).** Yakama has applied for USDA's

² Noting that various programs, including C-LEAP, are subject to competitive funding procedures and nothing in this agreement over-rides those standards and procedures.

³ In the event that Bonneville considers acquisition of these or any other resources, such acquisition of resources will be governed by applicable statutory requirements. See e.g., 16 U.S.C. § 839d et seq.

⁴ In the event that Bonneville considers acquisition of these or any other resources, such acquisition of resources will be governed by applicable statutory requirements. See e.g., 16 U.S.C. § 839d et seq.

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PACE partially forgivable loan program for utility scale clean energy generation, and the USDA Rural Utilities Service (RUS) will continue to work with them through the process. USDA will also work with tribes to access funding for clean energy development through the RUS core program. Additionally, USDA will work to provide technical assistance to tribes to apply to the REAP program and will work with Columbia River Basin tribes to identify, develop and fund at least 10 REAP clean energy projects. REAP offers grants and guaranteed loans to agricultural producers and small businesses, including Tribes and Tribal businesses, in rural areas. REAP funds can be used for Tribally-owned renewable energy systems or energy-efficient infrastructure upgrades and provide grants for up to 50 percent of the total project costs for Tribes. Grants for clean energy and energy efficiency projects can be anywhere from \$1,500 to \$1 million in size.

- **Energy Analysis** – DOE will provide [\$5 million] to the Pacific Northwest National Laboratory (PNNL) and potentially other DOE Labs to complete the Regional Energy Needs Planning Process, as outlined in Appendix A. This analysis will identify the best ways to meet the region's resource adequacy needs and decarbonization goals, and support meeting Washington and Oregon's power sector statutory requirements as well as state and LRTT energy strategies, while also accounting for any long-term actions necessary to ensure abundant and healthy salmon populations throughout the Basin, including breach of the Lower Snake River dams.
- **Transportation Upgrades** – The Department of Transportation (DOT) will prioritize work with the Six Sovereigns to address rail, road, and culvert upgrades necessary for improving transportation infrastructure in the region while also protecting and rebuilding salmon and steelhead populations. DOT Assistant Secretary for Tribal Affairs, Arlando Teller, and the White House will hold a workshop in Fall of 2023 with the Six Sovereigns to scope, plan, and design projects that would meet DOT program requirements. This will include DOT providing information about opportunities for federal funding, including grant and loan requirements for transportation and culvert removal projects. DOT will provide ongoing guidance and specific technical assistance to help identify the right grant and loan programs to fund these projects. For example, the new DOT [Rural and Tribal Assistance Pilot Program](#) will provide grants – up to \$360,000 each – for early project development-phase activities such as hiring staff, feasibility studies, or environmental review; the \$3.4 million funding opportunity began to accept [applications](#) on a first-come, first-served basis beginning on August 14, 2023.
- **Transportation Analysis** – The U.S. Army Corps of Engineers (the Corps), using its authority through the Planning Assistance to States and Tribes Program, will provide up to \$750,000 to partner with a non-federal cost-share sponsor (potentially the State of Washington) to analyze what other transportation infrastructure, including rail, could provide regional benefits and also replace services should Congress authorize dam breach. This funding will further existing work at the State of Washington and will include stakeholder engagement from DOT and other relevant agencies as well as the Six Sovereigns input.
- **Recreation and Public Access Analysis** – The Corps will allocate through its Planning

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Assistance to States and Tribes authority up to \$2 million⁵ to develop a blueprint for investments in replacement and enhancement of recreation along the LSR that would offset the loss of recreation opportunities associated with the drawdown of reservoirs if Congress were to authorize LSR dam breach. The Corps will work with the State of Washington and other entities as appropriate as cost-share sponsors. The blueprint will be informed by the DOI Tribal Circumstances analysis, and by consultation with the LRTTs, to ensure protection of cultural resources.

- **Water Supply Analysis – BOR working with USDA** will provide \$4.2 million to fund a water supply replacement study, in coordination with ongoing analyses by the State of Washington. This study will address the irrigation, municipal, and industrial withdrawals associated with the potential breach of the four LSR dams, if authorized by Congress.
- **Tribal Circumstances Analysis – DOI** will, in consultation and cooperation with Columbia River Basin Tribes, review the 1999 Tribal Circumstances Report (as amended in 2019) and the Tribal Perspective Reports submitted in 2019, together with information acquired in consultation with the Columbia River Basin Tribes in March 2022, to compile and complete an analysis of the historic, cumulative, and ongoing impacts the Federal dams on the Columbia River, including the lower Snake River dams, have on Columbia River Basin Tribes. This analysis will also inform any environmental compliance documents discussed below.
- **Study Timelines and Results – The U.S. Government (USG)** will complete the aforementioned outreach and analyses by late-2024, in cooperation with the Six Sovereigns, except that the Tribal Circumstances Analysis will be completed by DOI by June 1, 2024 and the Transportation Analysis will be completed within 12 months of execution of a cost-share agreement, and the Recreation and Public Access Analysis timeline will be coordinated with the cost-share sponsor. The USG, in cooperation with the Six Sovereigns, will provide the information obtained from the analyses above, and any recommendations that may result from those analyses, to Congress to inform budget and non-reimbursable appropriations requests. The information obtained from the analyses above will also inform environmental compliance documents and the Corps will use this information where relevant as well as other pre-existing analyses to expedite any Feasibility Study.⁶

Reintroduction of Salmon in the Upper Columbia River Basin

Responsive to CBRI Objective 1(a)

- **Objective 1(a):** *“Develop and advance an urgent, comprehensive strategy to (a) restore salmon and steelhead to “healthy and abundant levels” consistent with NOAA’s Columbia Basin*

⁵ Unless previously agreed to by Bonneville and the appropriate agency, other than Columbia River Fish Mitigation and O&M costs associated with the CRS project funds provided by the Corps, all funds committed by the agencies other than BPA through this agreement are non-reimbursable funds by BPA, whether or not expressly stated.

⁶ The USG commits to reviewing time and cost-efficient opportunities to use information and analysis from prior LSR reports, including but not limited to the 2002 (Corps) Final Lower Snake River Juvenile Salmon Migration Feasibility Report / Environmental Impact Statement.

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*Partnership Task Force (CBP) and Rebuilding reports.***USG Commitments**

- **Phase 2 Implementation Plan (P2IP)** – On September 21, the USG entered into an agreement with the proponent sovereigns to support the implementation of the P2IP. This agreement included \$200 million from BPA over 20 years and a commitment from the rest of the USG to work with the Upper Basin Tribes as necessary and appropriate to ensure full funding – currently estimated at \$300 million – of the P2IP if additional investment is needed.
- **Enloe Dam Removal** – NOAA provided \$2.3 million in FY 2023 for Enloe Dam removal analysis. NOAA will continue to seek opportunities to align its competitive grant programs with Columbia Basin fish recovery needs providing fish passage into the Upper Columbia River Basin. This project continues to be a priority. The USG will work with the Sovereigns to find resources to ensure the completion of the alternative analysis and the accompanying sediment management plan, both within ongoing non-federal feasibility analysis.

Mid-Columbia River Salmon Improvements**Responsive to CBRI Objective 1(a)**

- **Objective 1(a):** “Develop and advance an urgent, comprehensive strategy to (a) restore salmon and steelhead to “healthy and abundant levels” consistent with NOAA’s Columbia Basin Partnership Task Force (CBP) and Rebuilding reports.

USG Commitments

Mid-Columbia Restoration Plan – The Six Sovereigns and the USG will work together (with other sovereigns as appropriate) to develop recommended actions to rebuild mid-Columbia stocks as described in the Rebuilding Interior Columbia Salmon and Steelhead report, including, but not limited to, appropriately managing predation and protecting and restoring instream flows, water quality, and fish passage and habitat improvements in low- to mid-elevation tributary and mainstem habitats.⁷ NOAA will coordinate with the appropriate USG agencies/departments and the Six Sovereigns to develop, by June 30, 2024, an agreed upon 10-year suite of mid-Columbia actions for implementation beginning FY 2026, understanding that these actions will likely require at least doubling current levels of mitigation and restoration funding.⁸ To support this agreed upon suite of actions, the USG will identify available funding across agencies and departments, as well as other sources; and consistent with the September 27, 2023 Presidential Memo will evaluate new appropriations needs, and, as appropriate, potential future Congressional legislation necessary for implementation.

- **Mid-C Subset of Near-Term Priority Actions.** The Six Sovereigns have identified and

⁷ This reflects the habitat components of the NOAA Rebuilding Report’s Mid-C centerpiece action recommendations, but does encompass the universe of actions necessary for rebuilding.

⁸ The Six Sovereigns have provided the USG with documentation that indicates that a 10-year suite of mid-Columbia mitigation actions would likely cost upwards of \$200M/year in additional funding over the next ten years.

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provided to the USG a short-list of high-priority mid-Columbia habitat actions, implementable in the near term. The USG, using a whole-of-government approach, will identify opportunities to provide funding to implement these projects beginning in FY 2024-2025.

- **Cold Water Refuge Projects – The Environmental Protection Agency (EPA) and the Corps** will work with the Tribes to identify and seek funding, as appropriate, to study and complete 3 to 5 projects to enhance or protect existing cold water refuge or provide additional cold water refuge in the Columbia Basin. At least two of the five projects will be accomplished in Oregon. Special emphasis will be made toward reducing both warm waters and predation in tributary mouths. At least 2 of 5 projects will be focused on Mid-Columbia (Zone 6 and its tributaries) salmon and steelhead populations. Projects will be identified by June 30, 2024 for implementation beginning in FY 2024-2025.

Other Native Fish

Responsive to CBRI Objective 1(a) and 2

- **Objective 2: Ensure that all native species, regardless of listing status, are considered in the comprehensive strategy in a way that improves ecosystem function in the Columbia River and its tributaries.**

USG Commitments

- **Pacific Lamprey Mitigation – The Corps** has expressed a capability of an additional \$5 million in non-reimbursable funding for FY 2025 to support Pacific lamprey, and will continue to work with state and tribal fish managers to identify and seek appropriations, as appropriate, for funding needs moving beyond FY 2025, including needs expressed by the fish managers for a regional supplementation/augmentation plan, and for modernizing and funding passage structures at artificial barriers and obstructions, as associated with Corps facilities. The Corps received \$20 million in FY 2020 to make Pacific lamprey passage improvements consistent with commitments described within the 2018 Columbia Basin Fish Accords extension. The Corps has been working closely with the Tribes to ensure funding is allocated to the highest priority Pacific lamprey projects and expect the available funds to be expended by the end of FY 2024. **BPA** will continue the current level of funding to support passage for Pacific lamprey. **FWS** will provide \$785,000 in FY 2024 to support Pacific lamprey conservation. FWS funding will be used for projects including passage implementation in the Yakima Basin and Upper Columbia Basin, monitoring of translocation efforts, and assessment of Pacific lamprey distribution in the Snake River Basin.
- **White Sturgeon Mitigation – BPA** will continue the current level of funding to support white sturgeon recovery efforts through FY 2024 to implement NPCC Regional White Sturgeon Framework recommendations and the White Sturgeon Hatchery Master Plan, and provide support for monitoring and evaluation needs.
- **Bull Trout – The FWS** commits to providing \$700,000 in FY 2024 in support of bull trout recovery

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in the Columbia River Basin. Funding will be used for projects including population monitoring and assessment, genetic analysis of native salmonids in Idaho and western Montana, and technical assistance to Tribes and other partners on bull trout recovery. The Corps will provide \$74 million in funding for a design build contract for the Albeni Falls fish passage project to benefit bull trout. Additional funding (\$13 million) is required prior to contract award

- **Native Resident Fish & Shellfish** – The USG recognizes that the key elements of the CBRI, consistent with the Rebuilding Report, are important to restore native fish and the ecosystems supporting them. The FWS commits to working with USGS, regional sovereigns, and other partners to develop monitoring plans and restoration actions that would allow for better understanding of native resident fish (e.g., sculpin) and other native species' distribution and recovery needs, including the Western Ridged Mussel, which is currently petitioned for listing under the ESA. The USG will work with the Six Sovereigns, and other regional sovereigns as appropriate to update plans, funding needs, and priorities necessary to restore native resident fish and shellfish in concert with the efforts to rebuild salmon runs. Funding will be identified for native resident fish and shellfish in the development of appropriations requests and budgets that support implementing the CBRI.

Improved Ecosystem Function**Responsive to CBRI Objective 1(a)**

- **Objective 1(a):** *“Develop and advance an urgent, comprehensive strategy to (a) restore salmon and steelhead to “healthy and abundant levels” consistent with NOAA’s Columbia Basin Partnership Task Force (CBP) and Rebuilding reports.*

USG Commitments

- **Improved Ecosystem Function Commitments** – The USG commits to rebuild salmon and steelhead runs to improve ecosystem function by restoring marine nutrient transport into interior habitats and providing prey for other native fish and for marine mammals, and by restoring watershed functions that provide essential ecosystem services enhancing resilience to climate change and associated heat, drought, fire, water scarcity and invasive species. River restoration work in the Basin will help deliver this ecosystem function improvement. Examples include, but are not limited to:
 - **Enloe Dam Removal** – See NOAA commitment above for “Enloe Dam Removal.”
 - **Culvert Removal on Federal Lands** – The Bureau of Land Management (BLM) will provide \$508,000 for 23 culvert removals in the region to reconnect rivers and stream and provide improved fish habitat on federal lands.
 - **Culvert Removals in WA** – DOT has the ability to offer opportunities for competitive discretionary grants that recognize fish passage as an important component of the grant. These include FHWA’s Culvert Aquatic Organism Passage Program, Bridge

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- Investment Program, Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) Program, and Wildlife Crossings Pilot Program.
- **Fish passage improvements** – For FY 2024, FWS plans to adjust criteria in the Notice of Funding Opportunity (NOFO) to give additional weight to project proposals that leverage other BIL investments and significantly contribute to watershed-scale restoration efforts. In addition, FWS will add selection factors in the NOFO that will facilitate FWS directing funding towards projects in priority geographic areas identified by DOI (e.g., Columbia River Basin; Klamath; Appalachia; Yukon, Kuskokwim, and Norton Sound region).
 - **Cold Water Refuge** – EPA's 2021 Cold Water Refuge Plan identifies various actions to protect cool tributaries and reduce temperatures in specific tributaries to enhance their function as a cold-water refuge. For example, a priority action in many watersheds is to restore stream riparian areas and geomorphology to cool streams and improve salmon habitat, especially on agricultural lands. These stream restoration projects can be implemented through grant funding and federal, state, Tribal, and local partnerships. Costs could run to as much as \$50 million over 10 years. FWS recognized the need for additional coldwater refuge assessments within the Columbia and Snake River basins in the 2020 FWS Biological Opinion and will work with sovereigns and other federal agencies to identify methods and funding mechanisms to develop the assessments and implementation plans. The USG will work with states and Tribes to agree on a timeline and further refine cost estimates for these projects. In addition to funding from the USG, EPA will partner with the states to assist them in understanding how to leverage EPA Clean Water Act (e.g., State Revolving Fund and Section 319) funding for these same projects. EPA will work to identify thermal pollution, both point source and non-point source, and larger sources of warm water will be investigated and remedied to protect cold water habitat in the mainstem and tributaries to the Columbia River.
 - **Ecosystem Restoration Projects** – The Corps has expressed a capability of over \$20 million in non-reimbursable funding over the next 2 years for several new ecosystem projects throughout the Basin.⁹ The Corps will work with the Six Sovereigns and, where appropriate, other sovereigns in the region to prioritize these projects.
 - **Ocean and Estuary Actions** – NOAA will work on developing decision support tools to track ocean productivity in a stock specific manner and on developing indicators that provide valuation for nearshore, estuary, and tributary habitat that can be used for restoration planning and prioritization.

⁹ Some of these projects will be in partnership with Tribes, and others are still being scoped. Projects include: Columbia River Zone 6 Delta Assessment; Owyhee River Restoration; Hangman Creek Channel / Floodplain Restoration; Sweetwater Creek Restoration; Meadow Creek, Idaho Restoration Study; Barber Pool, Idaho Restoration Study; Nursery Reach, Idaho Study; Hood River Confluence Ecosystem Restoration Study; Deer Gulch, Idaho Restoration Study.

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Interim Fish Operations

Responsive to CBRI Objectives 1(a) & 3

- **Objective 1(a):** *“Develop and advance an urgent, comprehensive strategy to (a) restore salmon and steelhead to “healthy and abundant levels” consistent with NOAA’s Columbia Basin Partnership Task Force (CBP) and Rebuilding reports.*
- **Objective 3:** *Ensure interim fish measures are adequate to minimize additional generational decline of fish populations.*

USG Commitments

- **Commitment to Resolve Fish Operations:** The USG has engaged collaboratively with the Six Sovereigns regarding the Interim Fish Operations, using the Interim Fish Operations identified in the CBRI as the basis for discussions, to develop agreed-upon interim hydro system operations commitments.
 - The USG and the Six Sovereigns developed an action plan (see Appendix B for details) for implementing interim fish operations beginning in 2024 and beyond.
 - It is intended that these agreed-upon, durable operations will commence upon finalization of a long-term resolution of interim operations and would remain in place until decisions are made and implemented regarding whether to breach the LSR dams in a timeline that meets the needs of the fish. If this decision is deferred beyond a reasonable timeline, then additional CRS operations for the fish will likely be needed.
- **Implementation of Durable Operations, as well as Monitoring and Adaptive Management.** The USG is committed to developing and using a Sovereign-driven process to focus on maintaining and adaptively implementing (managing) the durable set of operations agreed to that govern at the lower Snake River and lower Columbia River dams prior to potential breach of the lower Snake River dams. The USG is committed to refine the Regional Forum processes (e.g., Technical Management Team Regional Implementation Oversight Group, etc.) by September 30, 2024 to ensure that the implementation of the agreed-to operations and any adaptive management adjustments:
 - Minimize degraded fish operations resulting from scheduled and unscheduled maintenance/outages;
 - Equally consider fish operations relative to other authorized purposes when making in-season adaptive management decisions; and
 - Follow a fish and wildlife manager developed framework for mainstem research, monitoring, and evaluation; addressing both reach-specific and life-cycle metrics for anadromous and resident aquatic species.
- **Backlog in Salmon Projects – The Corps** will provide at least \$50 million in funding to the Columbia River Fish O&M and construction funding in FY 2024 to begin addressing and prioritize the backlog of projects identified by the Columbia River Inter-Tribal Fish Commission (CRITFC) at

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Columbia and Snake River facilities for fish passage and survival.¹⁰ These funds will be used, in consultation with the Six Sovereigns and Idaho, to address backlog projects both at LSR dams and in the mainstem Columbia River. The USG and the Six Sovereigns agree to work collaboratively on identifying high priority needs and potential funding sources for the Corps' O&M and CRFM budgets for FY 2025 and beyond to address the backlog of infrastructure needs that constrain fish operations. Examples of high priority projects that are currently and/or likely to soon be impacting fish passage operations include: McNary adult fish ladder repair and maintenance, McNary spillway crane and hoist replacement, and spillway repair and maintenance at Lower Monumental, John Day, The Dalles, and Bonneville dams.

Modernization of Energy & Other Economic Sectors for Resiliency**Responsive to CBRI Objective 4**

- **Objective 4:** *Invest in and support communities and economic sectors (e.g., energy, transportation, agriculture, and recreation) in a manner that is consistent with meeting decarbonization goals and mandates and integration of renewables, delivers "affordable and clean power", improves resiliency and adaptability to climate change and supports "the many resilience needs of stakeholders across the region", and "[honors] commitments to Tribal Nations."*

USG Commitments

- **Fish and Economic Sector investments** – The USG will ensure actions that benefit fish and watershed health are coupled with investments to secure affordable and reliable decarbonized energy, efficient commodity transport and adequate water supply. Please see items identified in "Lower Snake River Restoration" section for specifics.
- **Reduce Local and Regional Burdens** – The USG will include investments complementary to this shifting energy landscape, as well as modernization of other economic sectors, and help reduce associated local and regional economic burdens. Please see items identified in "Lower Snake River Restoration" section for specifics.
- **Siting Consultations with Tribal Nations** – The USG will address siting considerations to help address long-standing Tribal inequities and help minimize ecological harm.
 - **Siting for Clean Energy Resources.** DOE, DOI, and USDA are committed to meaningfully engaging with Tribes on clean energy planning and siting to support the sustainable build out of transmission and clean energy resources in the region, including the projects that stand to be developed through the PNW Tribal Energy Program Proposal (see Appendix A).
 - **CWA Permit Implementation** – Federal agencies (e.g., Corps and BOR, as permittees), where possible, will collaborate with the relevant states, Tribes, and EPA to

¹⁰ <https://critfc.org/documents/critfc-overview-of-columbia-river-usace-fish-budget-needs/>

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assess/develop required temperature-focused water quality attainment plans per the state and Tribe's Clean Water Act Section 401 certifications reflected in EPA's National Pollutant Discharge Elimination System (NPDES) permits. This will facilitate more effective and efficient review of these water quality attainment plans. For example, a potential near-term action under evaluation to improve conditions for migrating salmon is installing systems to cool the fish ladders at the federal dams. Other potential actions that the agencies can evaluate include CRS operational changes to reduce warm summer temperatures, especially during times of predicted excessively warm temperatures.

- o **CWA Modeling for 401 Certifications** – The Corps will use its modeling, as needed, to simulate certain potential water quality impacts in order to provide that information to the states and EPA as it complies with its existing 401 water quality certifications.

Authorizations, Studies, & Timelines**Responsive to CBRI Objectives 5 & 6**

- **Objective 5:** *Secure necessary regulatory compliance, authorizations, and appropriations for implementation of the strategy with an urgency reflecting the needs of the fish.*
- **Objective 6:** *Ensure that the strategy proposed in Objective 1 and associated federal actions "honor Federal Commitments to Tribal Nations" and address past and ongoing inequities related to the federal hydrosystem to reflect and uphold federal Treaty and trust responsibilities to Columbia Basin Tribes.*

USG Commitments

- **P2IP Regulatory Compliance** – The USG has begun required environmental compliance work and hired a contractor to support reintroduction of salmon in the Upper Columbia.
- **Authorizations and Appropriations** – Information produced through the USG analyses and the recently released Presidential Memorandum will inform budget and appropriations requests, as well as inform any required authorizations.
- **Feasibility Analysis** – See, above.
- **Environmental Analysis Compliance** – The USG commits to working with the Six Sovereigns on potential changes such as interim project operations, more aggressive advancement of mid-Columbia River habitat restoration, and fish passage. The USG anticipates that supplemental or additional environmental compliance will be required to evaluate and implement some or all of these changes. If so, review and revisions to the current biological opinion and/or additional ESA consultations will likely be required. These supplemental environmental review processes will inform and be informed by the analyses identified above related to the consideration of LSR

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dam breach. The Federal Government will review existing environmental compliance documents and any additional information provided by the States, Tribes, and other stakeholders and initiate any additional environmental compliance its review determines to be necessary during the fall of 2024. The USG commits to use the 1999 Tribal Circumstances Report (as amended in 2019) and the other Tribal Perspective reports submitted in 2019 and the NOAA Rebuilding Report to inform the need for and content of any supplemental or additional environmental analysis. To the extent feasible, the Federal Government will complete any environmental compliance documents that it determines are necessary within 18 months of initiating them.

Additional Basin-Wide Funding Commitments

Responsive to CBRI Objective 1(a)

- **Objective 1(a):** *“Develop and advance an urgent, comprehensive strategy to (a) restore salmon and steelhead to “healthy and abundant levels” consistent with NOAA’s Columbia Basin Partnership Task Force (CBP) and Rebuilding reports.*

USG Commitments:

- **Backlog in Salmon Hatchery Infrastructure Projects** – Treaty and non-treaty, commercial, subsistence and recreational fish harvest for most stocks in the Columbia Basin is fueled primarily by federal hatcheries - as mitigation for actions in the basin affecting fish, including development of the dams on the Columbia River Hatchery function and maintenance are thus an essential component and responsibility of the USG in operation of the dams. Currently, the CRS has a billion dollar+ backlog in deferred hatchery maintenance (see FN 19 in CBRI). To partially address this backlog, NOAA, as [previously announced](#), will commit \$60 million for high priority Mitchell Act facility needs identified by Tribes and states in the Basin. NOAA is currently engaged in tribal consultations to determine how to also allocate an additional \$240M in IRA hatchery funding in the Pacific Northwest with treaty reserved fishing rights. NOAA will allocate this additional funding keeping in mind the fisheries those hatcheries serve.
- **Columbia River Basin Restoration Act Program** – EPA will provide, through 2026, approximately \$85 million toward grants for projects to assess and reduce toxics across the Basin. This includes the recent awards of eight multi-year grants with tribes for nearly \$17 million. These resources will support science and monitoring as well as longer term state, Tribal, and NGO program development. Though the focus of the project is to reduce toxics, EPA expects and regularly sees co-benefits to healthier and more climate resilient habitat.
- **BPA Fish and Wildlife General Funding** – BPA has already planned, through its Fish and Wildlife program, to add at least an additional \$20 million in combined Capital and Expense funding in FY 2024 and FY 2025 for fish and wildlife efforts throughout the Basin on top of commitments laid out above;
 - \$200M over 10 years in additional capital funding will be made available by

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Bonneville to the U.S. Fish and Wildlife Service (FWS) for Lower Snake River Compensation Plan (LSRCP) hatchery modernization, upgrades, and maintenance, as guided by the priorities of other fishery managers including the Six Sovereigns.

- o An additional \$100M over 10 years for projects that contribute to the restoration of salmon and other native fish populations. To implement this commitment, Bonneville will provide an annual \$10M payment to the Six Sovereigns in a manner to be agreed upon, to distribute to specific projects, as prioritized by the Six Sovereigns.
- o For the specific Bonneville funding commitments in this agreement, Bonneville will use the following approach to address inflation:
 - The \$100M for fish restoration actions will be indexed for inflation based on the GDP Deflator published by the U.S. Bureau of Economic Analysis and will be further described in the associated funding agreement with Six Sovereigns.
 - Inflationary pressures on the \$200M for LSRCP will be addressed on a project specific basis reflecting FWS' annual projected needs and will be further described in the associated funding agreement with FWS.
- **OMB Crosscut Budget** – OMB commits to developing a crosscut, all-of-government, budget that illustrates the federal funding historically targeted toward Columbia River Basin salmon and steelhead protection and restoration efforts. This crosscut budget will be completed and shared with the Six Sovereigns by January 2024. This crosscut budget analysis will then help inform prospective annual budgeting and appropriations.
- **Increased Funding in Support of Basin-Wide Restoration** – In addition to the specific additional USG funding commitments herein, which will support centerpiece actions necessary for this basin-wide effort, and continuing Reclamation, Corps, and BPA funding for fish and wildlife accords, BPA intends to continue current funding for its Fish and Wildlife Program, subject to changed circumstances and/or legal requirements. The USG commits to thoroughly evaluate the potential options for increasing non rate-payer fish restoration funding³¹ in the Basin, taking into account the CBRI's recognition that at least a doubling of basin-wide funding is needed to make meaningful progress towards "healthy and abundant" rebuilding goals. This evaluation will include a thorough assessment of all available mechanisms without rate impacts, through a whole of government approach, including direct congressional requests; increased requests in future Presidential budgets; and other avenues as they may present themselves. This funding will support those actions that the USG and Six Sovereigns agree are important, on top of the commitments already outlined in this document, for advancing the recovery of "healthy and abundant" Columbia Basin fisheries consistent with the Sept. 27, 2023 Presidential Memorandum, the NOAA Rebuilding Report, and the CBRI. The Six Sovereigns and the USG will work together (and with other sovereigns as appropriate) to develop by June 30, 2024 a 10-year basin-wide suite of actions to meet this

³¹ For clarity, "fish restoration funding" is understood broadly to include funding for any and all actions that would support the restoration of healthy and abundant native fish and shellfish consistent with the Sept. 27, 2023 Presidential Memorandum, the NOAA Rebuilding Report, and the CBRI.

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goal.

- **Budget Workshop** – As part of this work together, OMB will provide federal budget information to the Six Sovereigns to ensure that the Six Sovereigns and the USG have a common understanding of applicable federal processes, and are aligned on how the Administration's budgeting process works and on potential mechanisms available for potential future additional funding.

Fisheries Management & Other Partnership Commitments

- **Fish & Wildlife Mitigation Management Reforms** – NOAA and FWS will work with the Six Sovereigns and all other relevant regional sovereigns, and seek collaboration with the NPCC, to consider management reforms to Columbia Basin fish and wildlife mitigation programs. The conversation will identify options for increased tribal and state co-management within the scope of existing legal authorities coordination with Federal fisheries services, as well as any impediments and opportunities to maximize the beneficial impacts of available fish and wildlife funding. The conversation will be initiated no later than January 2024, and recommendations will be developed no later than September 2024.
- **Fish & Wildlife Contracting Reforms:**
 - The USG will work with the Six Sovereigns, and other regional fish and wildlife mitigation project implementers, as appropriate, to identify and implement fish and wildlife mitigation contract efficiencies and flexibilities in a manner that respects state and tribal fish and wildlife expertise regarding mitigation and restoration project implementation, subject to applicable federal law. In support of this objective, Bonneville commits to near-term changes in support of the Six Sovereigns' autonomy over fish and wildlife actions by:
 - Bonneville agrees that the Six Sovereigns shall collectively and autonomously determine their priorities for the \$100M over 10 years described above. Annual \$10M payments of these funds will be made directly as described above, vs. through the traditional Bonneville procurement process.
 - In addition, Bonneville will initiate a pilot with the Six Sovereigns to expand the use of grant and multi-year agreements within the Six Sovereigns' portfolio of projects in Bonneville's Columbia Basin Fish and Wildlife Program as appropriate, based on the type of planned work. Implementation of the pilot will begin in FY25 and would replace eligible, current agreements as they expire. Bonneville estimates that roughly a third of the current Six Sovereign portfolio could be applicable for the pilot.
 - DOI (and other federal agencies, as appropriate) will work with the tribal parties to explore opportunities for federal contracting reforms to support more appropriate

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federal-tribal funding instruments and policies to better reflect the unique relationship that occurs when the federal government provides funds to tribes working to mitigate historic impacts to their Treaty and trust resources.

- **Continued Administration Engagement.** The USG will continue to engage with the Six Sovereigns, and other regional sovereigns, regarding the CBRI's recommendations, and will ensure that EOP staff and senior Administration officials are available to coordinate and lead these discussions on behalf of the USG. As the USG advances its commitments in response to the CBRI in partnership with the Six Sovereigns, EOP staff and senior Administration officials will act as the coordinating center for advancing the Administration's comprehensive strategy for the Columbia Basin.

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Appendix A**DOE Energy Program Proposal: Advancing Tribal Energy Sovereignty in the Pacific Northwest**

The Department of Energy (DOE) is committed to Tribal Energy Sovereignty in the Pacific Northwest (PNW). To this end, DOE proposes funding and supporting a "PNW Tribal Energy Program" to provide technical assistance, planning, and funding (subject to appropriate DOE funding procedures) to the four Lower Columbia River Tribes¹² (the "LRTT's") to plan and develop clean, renewable, socially-just energy resources (to include distributed energy resources (including efficiency and demand response), other generation, storage, and transmission resources) in the region. DOE will work with LRTTs individually and collectively to support quantified goals for energy project development, presumed to be at least 1,000-3,000 MW of clean energy resources, and to determine the role LRTTs want to take with regard to various projects (e.g., individual or collective ownership, leasing, power procurement, etc.). This Pacific Northwest (PNW) Tribal Energy Program will run in parallel with ongoing DOE assistance and resources related to tribally supported projects that are under development outside of the PNW Tribal Energy Program and nothing in this USG commitment is intended to be exclusive to PNW Tribal Energy Program projects or limit resources to tribally-supported projects that are not identified by a Tribe as part of the PNW Tribal Energy Program. As conceptualized, this PNW Tribal Energy Program will work in parallel with the regional energy planning process described below, to which DOE will also contribute funding and support, to help achieve the energy goals of the Pacific Northwest and facilitate Tribally-owned clean energy resources in the region.

DOE will draw on its ability to support this proposal and regional clean energy efforts by having a dedicated Project Manager that will coordinate with the LRTT's tribal managers, DOE labs, and state energy managers. Additionally, DOE is uniquely situated to support Tribal and regional clean energy goals through the expertise and technical assistance programs available in its Grid Deployment (GDO), Energy Efficiency and Renewable Energy (EERE), Indian Energy Policies and Programs (IE), and Loan Programs (LPO) Offices, as well as the Pacific Northwest National Laboratory (PNNL), the National Renewable Energy Laboratory (NREL), and potentially other labs.

The specific scope and nature of the PNW Tribal Energy Program—for example, whether Tribal Nations prefer to work more collectively or individually, or where on the spectrum of long-term planning to specific project development they want to focus—will determine the best options for how DOE can support and structure it. This will also factor in to the timing of the Program's implementation. DOE will design the program of work in full partnership with the Tribes, resulting in [a Memorandum of Understanding (MOU)] in the fall of 2023] co-signed by Tribal and Department Leadership. After an agreed upon scope, a senior DOE official will be designated by Department Leadership to manage these efforts and work with Tribal energy counterparts to ensure the actualization of projects through the PNW Tribal Energy Program.

¹² The Confederated Tribes and Bands of the Yakama Nation, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of the Warm Springs Reservation and the Nez Perce Tribe.

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One form that this PNW Tribal Energy Program could take is described below, with two discrete but interrelated parts:

1. Tribal Energy Sovereignty Resource Planning Process

This process would be designed to meet the Tribes where they are and help them reach where they want to go. It would start with working with the Tribes to develop appropriate goals for the quantity and type of energy resources the Tribes choose to prioritize. This includes supporting long-term energy sovereignty visions that are already in development, as well as helping develop new plans for Tribal Nations that either do not have them or would like technical assistance in updating or advancing existing plans for clean energy, storage, energy efficiency, and transmission or grid reliability projects (e.g., microgrids).

This planning process and the regional energy needs planning process (below) would be funded by GDO and potentially EERE, IE, or the Office of Clean Energy Demonstrations. It would be executed by PNNL and NREL in collaboration with other regional experts.

Transmission, generation, and storage work – for both this Tribal Energy Sovereignty Resource Planning Process and the Supplemental Regional Energy Needs Planning Process (below) could be modeled in part on the **PR100** and **LA100** studies, in which the DOE leveraged its network of National Laboratories with advanced planning and modeling capabilities to serve as trusted unbiased conveners and coordinators among major energy stakeholders. With these studies, they performed engineering and economic analysis for Puerto Rico and for Los Angeles Department of Water and Power (LADWP) to identify multiple paths to achieve a 100 percent renewable and carbon-free grid. This work was led by NREL and involved PNNL and several other Labs. Another potential model for this approach is the EERE's [Clean Energy to Communities](#) program. DOE is committed to customizing a similar process for Tribal energy projects in the region.

The DOE will work with the Tribes to design a mechanism that permits them to create a portfolio of energy projects. This portfolio should be eligible for funding both by the TELGP (Tribal Energy Loan Guarantee Program) and additional funding sources, allowing tribes to route these finances through their established energy funds dedicated to supporting the portfolio.

Any (non-Tribal) projects funded by DOE will be required to develop Community Benefits Plans that include, among other elements, meaningful engagement with communities, including Tribes (and including Tribal consultation, consistent with [Presidential Memorandum](#) of November 30, 2022), and documented benefits for energy justice communities, including Tribes.

2. Tribal Energy Sovereignty Project Development

In addition to the collaborative development of a LRTT's goals for energy sovereignty and plans for meeting their goals, DOE proposes to work with the Tribes to advance energy projects (including, but not limited to, those resulting from planning processes). Development of these projects would be "parallel tracked" in that it would not wait for the regional energy planning process (other than perhaps

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for particular types of projects, e.g., where nature or location of projects is specific to the services provided by the LSR dams).

This would consist of—

Targeted technical assistance by DOE, its National Labs (specifically PNNL and NREL), and third-party experts to help advance project concepts through the development process. DOE would focus on how best the Tribes can take into account new project economics made possible by the tax credits in the IRA. This includes new direct-pay tax provisions, bonus investment and production tax credit incentives, and related policies, such as Federal preference for power from Tribal projects.

Accounting for Tribal energy projects as “replacement” power. In coordination with the Six Sovereigns, the USG and DOE will develop a means of “accounting” for the region’s development of resources available to serve as “replacement”¹³ energy services for the lower Snake River dams, based on the particular services needed in the event Congress authorizes dam breach. This accounting mechanism will be developed no later than February 1, 2024, to be coordinated with the regional energy needs planning process. This accounting mechanism will track the availability, as of the date of these commitments and beyond, of regional resources that can contribute to replacement of the dams’ services. The Regional Energy Needs Planning Process described below, specifically its scenarios for regional clean energy development that include replacement power in the event Congress authorizes breach of the LSR dams, will identify portfolios of potential replacement resources (as well as energy resource options, e.g., storage, efficiency or transmission, that could enable greater grid management flexibility to manage the hydropower system for greater fish benefit, as well as reliability, affordability, decarbonization and other regional goals during the interim period before breach is authorized). The “accounting” approach would provide regular updates on the region’s development of clean energy resources, including the type of resources needed to replace the specific energy services of the LSR dams, as compared to the portfolios identified in the energy analysis. The “accounting” approach will document the totality of clean energy development in the region, presumably including resources in development prior to and/or as of the time of signing of any agreement among the US Government and the Six Sovereigns.

DOE would also work with Tribes, if requested, to identify project structures, contracting, funding and transmission arrangements that could facilitate commercial development of energy services, such as generation, storage, demand response and transmission, that could contribute to replacement services in the event Congress authorizes breach of the LSR dams. Of particular note may be the need for structuring near-term sale of power—to ensure near-term revenues and to improve the credit-worthiness of the projects and other economic benefits to LRTTs—while allowing for future sale of power to replace the services of the LSR dams. DOE would additionally work with the Tribes to explore options for speeding interconnection of projects to the transmission grid and making such connections cost-competitive, recognizing the interconnection is under the purview of grid operators and BPA’s reforms to interconnection processes are addressed below. DOE would additionally work with the

¹³ Note that under BPA statutes, the term “replacement” has a specific statutory meaning (see, 16 USC 839a(10)(C); throughout this document, the terms “replacement” and “replacement power” are not intended to reference the statutory term.

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Tribes to fully explore legal and regulatory options for speeding interconnection of projects to the transmission grid.¹⁴

Targeted technical assistance to identify and develop funding strategies for projects. DOE would work with the Tribes to map specific projects on to all the present and future funding opportunities available to them within DOE and other federal agencies (e.g., USDA and EPA programs), including those made possible by the Inflation Reduction Act (IRA) and Bipartisan Infrastructure Law (BIL). Potential funding opportunities at DOE include but are not limited to—

- Grid resilience grant funding through the GDO provides \$2.3 million in grants to modernize the electric grid, thereby reducing the consequences of disruptive events. Through this program, DOE will provide up to \$459 million annually over five years to states and Tribes to help fund projects that modernize transmission systems and strengthen them against extreme weather and other hazards such as wildfires.
- Energy Efficiency and Conservation Block Grants from the Office of State and Community Energy Programs provides \$5.5 million of formula and competitive grants that can assist Tribes in implementing strategies to reduce energy use and fossil fuel emissions and to improve energy efficiency.
- Electric Appliance Rebates from the Office of State and Community Energy Programs provides \$225 million in formula grants to Tribes to administer rebates for installing efficient electric technology into low- and medium-income single- and multi-family homes.
- The Energy Improvement in Rural and Remote Areas program in the Office of Clean Energy Development provides \$1 billion to support improving the resilience, reliability, and affordability of energy systems in rural and remote areas.
- The Loan Programs Office has \$20 billion to lend to Tribes for energy investments (see below for more information).

Partnering with DOE's Loan Programs Office (LPO) to specifically scope, develop, and fund projects or package of projects that will benefit from the \$20 billion available through the [Tribal Energy Loan Guarantee Program](#). This is one of the only non-competitive programs at DOE that can invest in or fund project development, and DOE has recently gotten Congress to make several key changes to the program that make it far more accessible to Tribal Nations than in prior years. This low-cost capital, combined with the direct-pay tax credit option, makes ownership of energy infrastructure easier for a greater number of Tribes. Direct pay functionally reduces the overall cost of the energy project by allowing Tribal governments and other entities exempt from income tax to receive a direct payment from the IRS in lieu of a clean energy tax credit. While not a grant, the combination of a loan with direct pay functions similar to a grant.

¹⁴ BPA must follow its Open Access transmission tariff which imposes non-discriminatory terms and conditions.

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Tribes are able to use a loan from the Tribal Energy Loan Guarantee Program for a broad range of technologies and uses, including solar and wind generation, energy storage, and hydrogen conversion for community and commercial use. Tribes can apply independently or in co-ownership arrangements to develop projects on and off Tribal lands. LPO, in conjunction with other DOE Offices, would offer support to help plan, scope, and develop larger-scale clean energy, storage, and/or transmission projects that could be jointly owned by multiple tribes for this program, which specifically looks to cultivate projects or packages of projects that are eligible.

Additional Implementation Details for the PNW Tribal Energy Program Proposal

Funding. The Tribal Energy Sovereignty Resource Planning Process and the Regional Energy Needs Planning Process would be funded by GDO and potentially EERE, IE, or the Office of Clean Energy Demonstrations. The exact funding amount would be determined in further discussion and scoping with the Tribes and states.

DOE Program Leads. As stated above, DOE would designate a Project Manager to oversee this proposal. The Tribal Energy Sovereignty Resource Planning Process and the Regional Energy Needs Planning Process would be executed by PNNL and NREL in collaboration with other regional experts. Transmission assessment and planning work would be led by GDO and be based on the [National Transmission Needs Study](#), the National Transmission Planning Study, and the West Coast Offshore Wind Transmission Study.

If the Tribes choose to pursue the Tribal Energy Sovereignty long-term planning process along the lines of the work done under an MOU between the Secretary of Energy and the Navajo and Hopi Nations (see below), the Office of Indian Energy Policies and Programs would likely guide that process.

Memorandum of Understanding. DOE proposes defining and further guiding the direction of this PNW Tribal Energy Program Proposal through the co-development of an MOU. This MOU could be modeled on the MOU signed by Secretary of Energy Jennifer Granholm and Navajo Nation President in December 2022. The Navajo Nation MOU provides a framework for collaboration among the Navajo Nation, DOE, and other Federal agencies to define and energy vision and plan, including scoping specific energy transition and economic diversification projects that can take advantage of the BL and IRA competitive funding and other opportunities. To date, the work has resulted in over 30 identified projects to pursue and included interagency participation from USDA, DOT, EPA, DOI and others. The program reports that under this project, Tribal government leadership, Tribal staff, Tribal enterprises, Tribal colleges, non-profits and community members have worked together towards goals of Nation and communicated in the same room.

Sub-Appendix: Relevant Programs in Other Federal Agencies

Through the PNW Tribal Energy Program, DOE would work with other federal agencies to identify prospective funding opportunities that would help fund Tribal projects. Examples of these other federal programs are below.

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U.S. Department of Agriculture (USDA)

As stated in the USG commitments above, the USDA is dedicated to supporting Tribally-owned clean energy projects through the Powering Affordable Clean Energy (PACE) Program and Rural Energy for America Program (REAP).

The Rural Energy for America Program (REAP) offers grants and guaranteed loans to agricultural producers and small businesses, including Tribes and Tribal businesses, in rural areas. REAP funds can be used for Tribally-owned renewable energy systems or energy-efficient infrastructure upgrades and provide grants for up to 50 percent of the total project costs for Tribes. Grants for clean energy and energy efficiency projects can be anywhere from \$1,500 to \$1 million in size. USDA is prepared to provide technical assistance support to the Columbia River Basin Tribes with the goal of identifying and putting together applications for at least 10 REAP projects in the region. This assistance could be provided through the new FY 2023 competitive REAP Technical Assistance Grant (TAG) program. TAG grants can cover 100 percent of the costs of conducting energy assessments and audits and planning, building, and developing those projects. Alternatively, the Tribes could choose an entity to provide them with this technical support, and USDA can enter a cooperative agreement with that organization to complete their REAP projects.

Environmental Protection Agency (EPA)

The Solar for All grant competition makes available \$7 billion to expand the number of low-income and disadvantaged communities primed for residential solar investment. It will award up to 60 grants to states, territories, Tribal governments, municipalities, and eligible non-profits to create and expand low-income solar programs. These programs will provide financing and technical assistance to enable low-income and disadvantaged communities to deploy and benefit from residential solar. Tribes and Intertribal Consortia will need to submit a Notice of Intent (NOI) by August 28, 2023 to be eligible to apply.

The National Clean Investment Fund has \$14 billion to provide grants to 2–3 national non-profit clean financing institutions or green banks capable of partnering with the private sector to provide accessible, affordable financing for tens of thousands of clean technology projects across the country. Grantees will be required to use at least 40 percent of grant funds for the purposes of providing financial assistance in low-income and disadvantaged communities, including geographic areas within Tribal lands. While Tribes will not be direct recipients of these grants, they will be able to access this low-cost financing system to support the buildout of clean energy.

The Clean Communities Investment Accelerator competition will provide grants to 2–7 hub non-profits that will, in turn, deliver funding and technical assistance to build the clean financing capacity of local community lenders working in low-income and disadvantaged communities—so that underinvested communities have the capital they need to deploy clean technology projects. These community lenders could include community development financial institutions (including Certified Native CDFIs), credit unions, green banks, housing finance agencies, minority depository institutions, and other types of lenders. This competition will require each grantee to expend 100 percent of funds for the purposes of providing financial and technical assistance in low-income and disadvantaged communities, including geographic areas within Tribal lands. While Tribes will not be direct recipients of these grants, they will

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be able to access this low-cost financing system to support the build out of clean energy.

Department of Interior (DOI)

The Tribal Electrification Program received \$145 million in the IRA. This is a new program focused on electrifying Tribal homes and may include funding for the deployment of microgrids on Tribal lands.

DOE Energy Program Proposal: Regional Energy Needs Planning Process

DOE will jointly fund with Washington, and co-convene with LRTTs and states, a regional analysis- and stakeholder engagement-based planning process designed to advance the resource development and infrastructure investment (in generation, transmission, storage, efficiency, and demand response resources, including distributed resources) that will be required to meet the region's economy-wide decarbonization and resource adequacy requirements and goals. The process will develop one or more scenarios for potential combinations of specific resources capable of replacing the energy services of the LSR dams in the event Congress authorizes power replacement and breach of the dams. This regional planning process is a key component to accelerating the regional infrastructure investment and buildout necessary to both meet regional decarbonization goals and to identify the combination of projects that would meet regional energy needs if Congress authorizes dam breach.

This regional analysis' will be a collaboration among the U.S. Government, Tribes, States, and other key regional stakeholders (e.g., significant transmission owners and operators, utilities, clean energy developers, and NGOs). The process will be co-convened by Washington and Oregon, Tribes, and DOE. PNNL and potentially other DOE National Labs will lead the technical analysis and will partner with BPA, the Northwest Power and Conservation Council, States, and Tribes, and other key stakeholders. **DOE will seek to support adding Tribal capacity for expert engagement in this process, and will explore pathways to doing so.**

The process would focus in particular on identifying medium- and long-term transmission and grid infrastructure needs and will also develop a more granular assessment of which resources in which locations, including distributed energy resources, can best meet the region's goals, while taking account of, and assessing where appropriate, other regional energy issues such as regional market formation. It would particularly identify candidates for clean, non-emitting firm (flexible, dispatchable) resources (e.g., geothermal, long-duration storage).

Additionally, DOE will develop a detailed plan to provide targeted technical assistance, if requested, for planning and financing options for BPA customer utilities to develop new, clean energy resources and transmission.

Accounting for "replacement" power. In coordination with the Six Sovereigns, the USG and DOE will develop a means of "accounting" for the region's development of resources available to serve as "replacement" energy services for the lower Snake River dams, based on the particular services needed in the event Congress authorizes dam breach. This accounting mechanism will be developed no later than February 1, 2024, to be coordinated with the regional energy needs planning process. This accounting mechanism will track the availability, as of the date of these commitments and beyond, of

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regional resources that can contribute to replacement of the dams' services. The Regional Energy Needs Planning Process, specifically its scenarios for regional clean energy development that include replacement power in the event Congress authorizes breach of the LSR dams, will identify portfolios of potential replacement resources (as well as new energy resource options, e.g., storage, efficiency, or transmission, that could enable greater grid management flexibility to manage the hydropower system for greater fish benefit, as well as reliability, affordability, decarbonization and other regional goals during the interim period before breach is authorized). The "accounting" approach would provide regular updates on the region's development of clean energy resources, including the type of resources needed to replace the specific energy services of the LSR dams, as compared to the portfolios identified in the energy analysis.

1. **Bonneville Power Administration Work to Accelerate Clean Energy Build-Out**

In accordance with the Presidential Memorandum dated September 27, 2023 entitled Restoring Healthy and Abundant Salmon, Steelhead, and Other Native Fish Populations in the Columbia River Basin, the following commitments describe initial steps the Bonneville Power Administration and the Department of Energy will take to contribute to the goals of this agreement and the Memorandum. DOE would continue to support the Bonneville Power Administration (BPA)'s ongoing efforts to update and modernize policies and practices to enable its customers and the region to access the benefits of affordable, reliable clean energy. BPA's actions, including but not limited to the provider of choice contract policy and contracts and BPA's resource acquisition planning processes and decisions, including decisions around augmenting the amount of power sold at Tier 1 rates, will account for changes in load, new clean energy generation and transmission needs, and changing hydropower system conditions, consistent with the Presidential Memorandum as well as the Northwest Power Act and other law. This would include, but is not limited to:

- Prioritizing the acquisition of cost-effective energy efficiency and considering demand response resources, consistent with the Northwest Power Act and, as appropriate, the Northwest Power and Conservation Council's Power Plan and updates to it, and to explore, along with the Council via the regional energy planning process, ways to better take advantage of demand-side resource potential;
- Continuing BPA's recently announced transmission buildout¹⁵ using its recently increased borrowing authority and continuing to explore additional near-term transmission projects for potential use of its borrowing authority as appropriate, and looking to the regional planning process described above and to the Western Power Pool Process described below to consider and pursue where appropriate additional medium- and long-term transmission development to help the region meet transmission needs, consistent with its legal authority. BPA has led the initiation of a regional process, and will continue to participate in the process led by the Western Power Pool, to build consensus among transmission stakeholders on infrastructure priorities as well as on timelines and responsibilities for development.

¹⁵ subject to NEPA and other applicable laws

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- Continuing to advance reforms to BPA's interconnection processes to more efficiently enable new clean energy generation to gain access to the transmission system, aiming to significantly speed the interconnection process and identifying tools and means for more efficient use of existing transmission;
- Consistent with its statutory and other legal requirements and authorities: (1) as part of energy needs assessment planning processes (including considering the regional energy needs planning process) and subsequent necessary resource acquisition, BPA will consider acquisition of new clean energy resources in the region as well as new clean energy resources developed by BPA customer utilities; and (2) BPA will seek to support customer utilities meeting load growth and new and emerging needs. DOE will provide technical assistance to help address barriers to development and acquisition of clean energy resources to help meet state policy goals.
- Nothing in BPA's contract for sales of power shall limit the Administrator's authority to acquire power consistent with the NWPA, including "replacement power" as defined in this document, in the event any federal resources become unavailable.
- When considering resource acquisitions necessary to meet the Administration's obligations, BPA shall consider purchases of power generated by Tribally-owned or -sponsored power resources, as appropriate, consistent with the Tribal Preference Authority, which allows federal agencies to prioritize purchasing Tribally-owned energy.

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Appendix B

COLUMBIA RIVER SYSTEM OPERATIONS: 2024-2033

SPRING SPILL OPERATIONS

Season	Operation (2024-2033)	Implementation Comments
Season	4/3 to 6/20	
Lower Granite (LWG)	125% TDG Gas Cap (or 40% when adult passage delays are detected) ¹⁶	See adult delay protocol below.
Little Goose (LGS)	125% TDG gas cap spill for 24 hours (to adult criteria), no flexible spill; ¹⁷ 125% TDG gas cap spill for 16 hours, 30% for 8 hours	Maintain similar implementation language from 2023 FOP with operational flexibility of target timeframes to reduce spill for adult passage during lack of load conditions. LGS operations at 30% for 8 hours during daytime hours will be prioritized if adult delays occur at LWG or LMN and lack of load conditions exist (like 2023 FOP).
Lower Monumental (LMN)	125% TDG Gas Cap (or 40% when adult passage delays are detected)	See adult delay protocol below.
Ice Harbor (IHR)	125% TDG gas cap spill for 24 hours	Like operations implemented in 2023.
Season	4/10 to 6/15	
McNary (MCN)	125% TDG gas cap spill for 24 hours Maintain current minimum generation range of 50-60 kcfs for transmission services; powerhouse outflows may increase up to 30 kcfs for reserves (without a spill variance)	Increased powerhouse generation allowances will allow for one additional turbine unit to be online for a wider range of carrying and deploying reserves while operating under minimum generation and spill the rest conditions.
John Day (JDA)	Spill during daytime hours 40% and increased spill up to 125% TDG gas cap spill during nighttime hours (following 2023 FPP JDA-5 table where nighttime hours defined and generally between 2200 and 0600)	Increased powerhouse generation allowances will allow for an additional turbine unit to be online for a wider range of carrying and deploying reserves while operating under minimum generation and spill the rest conditions.

¹⁶ The agencies will use the current Columbia River DART's Reach Distribution and Delay for PIT Tag Adult Returns tool ("DART tool") to identify adult delays and passage issues.

¹⁷ LGS Adult Criteria: Within 1 business day of when the earliest of the following conditions occurs: (1) a cumulative total of 25 adult spring Chinook salmon (not including jacks) pass Lower Monumental Dam; or (2) a cumulative total of 50 adult spring Chinook salmon (not including jacks) pass Ice Harbor Dam; or (3) April 24, 2024. See 2023 FOP.

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	<p>Daytime hourly spill target of 40% river flows with ±5% variance of river flows for balancing reserves, consistent with current spill variance tolerance calculations</p> <p>The Corps sets JDA spill caps to maximize spill, up to 125% TDG in the tailwater of JDA and TDA and to maintain TDA spill at 40%</p> <p>Maintain current minimum generation range of 50-60 kcfs for transmission services; powerhouse outflows may increase up to 80 kcfs for reserves (without a spill variance)</p>	
The Dalles (TDA)	<p>40% for 24 hours</p> <p>Allocation of reserves may result in spill above 40% of river flows; maintain current minimum generation range of 50-60 kcfs for Transmission services</p>	Like operations implemented in 2023.
Bonneville (BON)	<p>125% TDG gas cap spill for 24 hours (150 kcfs cap)</p> <p>Maintain current minimum generation range of 30-40 kcfs for Transmission services; powerhouse outflows may increase up to 60 kcfs for reserves (without a spill variance)</p>	Increased powerhouse generation allowances will allow for an additional turbine unit to be online for a wider range of carrying and deploying reserves while operating under minimum generation and spill the rest conditions. BON will operate within the middle of the proposed minimum powerhouse range while staying within tailwater constraints.

Reserves: Spill reductions to maintain reliability will continue to be implemented as described in the Fish Passage Plan and when powerhouse flows exceed the ranges proposed above by the USG at each of the lower Columbia River projects, spill variances will be reported.

SUMMER SPILL OPERATIONS

	Operation (2024-2033)	Implementation Comments
Season	<p>6/21 to 7/31</p> <p>8/1 to 8/31</p>	

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Lower Granite (LWG)	18 kcfs SW flow (as river flow allows)	Reducing summer spill flows on August 1 from 18 kcfs to SW flow (as river flow allows)
Little Goose (LGS)	30% SW flow or 7 kcfs spill	Reducing summer spill flows on August 1 from 30% to SW flow (or 7 kcfs spill)
Lower Monumental (LMN)	17 kcfs SW flow or 8 kcfs spill	Reducing summer spill flows on August 1 from 17 kcfs to SW flow (or 8 kcfs spill)
Ice Harbor (IHR)	30% SW flow or 9 kcfs spill	Reducing summer spill flows on August 1 from 30% to SW flow (or 9 kcfs spill)
Season	6/16 to 7/31 8/1 to 8/31	
McNary (MCN)	57% 20 kcfs	Reducing summer spill flows on 8/1 57% to 20 kcfs Increasing minimum generation at MCN as defined in spring operations to maintain local grid reliability. USG will release 57% of river flows based on previous days average flow to minimize gate changes until spill gate/crane repairs are complete.
John Day (JDA)	Daytime spill hourly target average of 35% river flows with ±5% variance of river flows for balancing reserves, consistent with current spill variance tolerance calculations 20 kcfs	Reducing summer spill flows on 8/1 35% to 20 kcfs. Hourly spill of 35% with range of ±5% for reserves (without spill variance).
The Dalles (TDA)	40% 30%	Reducing summer spill flows on August 1 40% to 30%. Provide a target spill of 40% (or 30% in late summer) with range of ±5% for reserves.
Bonneville (BON)	95 kcfs 50 kcfs	Reducing summer spill flows on August 1 from 95 kcfs to 50 kcfs.

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FALL/WINTER SPILL OPERATIONS

	Operation (2024–2033)	Implementation Comments
Season	9/1 to 11/15, 3/1 to 3/20 3/21 to 4/2	
Lower Granite (LWG)	Surface weir (SW) spill 7 days per week, for 4 hours (9/1 to 11/15, 3/1 to 3/20) SW spill 24 hours (3/21 to 4/2)	
Little Goose (LGS)	SW spill 7 days per week, for 4 hours (9/1 to 11/15, 3/1 to 3/20) SW spill 24 hours (3/21 to 4/2)	
Lower Monumental (LMN)	SW spill 7 days per week, for 4 hours (9/1 to 11/15, 3/1 to 3/20) SW spill 24 hours (3/21 to 4/2)	
Ice Harbor (IHR)	SW spill 7 days per week, for 4 hours (9/1 to 11/15, 3/1 to 3/20) SW spill 24 hours (3/21 to 4/2)	
Season	9/1 to 11/15, 3/1 to 3/20 3/21 to 4/9	
McNary (MCN)	1 SW spill 7 days per week, for 4 hours (9/1 to 11/15, 3/1 to 3/20) 1 SW spill 24 hours (3/21 to 4/9)	
John Day (JDA)	No surface spill in fall-winter, except for 1 SW spill 24 hours (3/21 to 4/9 <i>only</i>)	Overshoot monitoring at JDA should continue to inform potential adaptive management. Not implementable to open and close SW daily.

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The Dalles (TDA)	ITS 24/7 spill of ~3-5 kcfs spill from 3/1 to 12/15; continue adult ladder spill	
Bonneville (BON)	B2CC (like 2023 coordinated spring operation); ITS full year for 24 hours	Codify recent changes to BON made through regional processes; addressing surface passage 24/7 for 365, including work with regional sovereigns to address issues and concerns on B2CC.

Additional Information/Explanation — No change to fall-winter operations at JDA, TDA or BON.

RESERVOIR ELEVATIONS

	Operation (2024-2033)	Implementation Comments
Season	4/3 to 8/14 (LGS, LMN, IHR) 4/3 to 8/31 (LWG)	No change to operations at LGS, LMN, and IHR
Lower Granite (LWG)	733-734.5'	Will operate at MOP with a 1.5 foot forebay operating range and a 1.0 foot range to the extent possible (referred to operationally as a "soft constraint").
Little Goose (LGS)	633-634.5'	See LWG explanation
Lower Monumental (LMN)	537-538.5'	See LWG explanation
Ice Harbor (IHR)	437-438.5'	See LWG explanation
Season	4/3 to 8/14	No change to operations at MCN, JDA, TDA and BON.
McNary (MCN)	337-340'	

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John Day (JDA)	262-266.5 (3/1-3/14) 262.5-266.5 (3/15-4/9) 264.5-266.5 (4/10-6/1) 262.5-266.5 (6/2-6/14) 262.5-264.5 (6/15-8/31)	
The Dalles (TDA)	157-160'	
Bonneville (BON)	71.5-76.5'	

MISCELLANEOUS

Miscellaneous	USG Operation (2024-2033)
Zero Generation.	Continue 2023 Operations

Adult Migration Delay Protocol for Spring Spill Operations at Lower Granite and Lower Monumental projects

Lower Granite and/or Lower Monumental daytime spill levels will be decreased to 40% for 8 hours per day when adult delay or passage issues are observed at both/either of these projects. An adult delay or passage issue occurs when the following three criteria are met: (1) fewer than 50% of the daily cohort of PIT tagged adult spring/summer Snake River Chinook detected at the downstream project (i.e., Ice Harbor or Little Goose dams) arrive at the upstream project (i.e., Lower Monumental or Lower Granite dams) within 3 days and this pattern persists for 3 consecutive days¹⁸, (2) a running 3-day minimum of 7 PIT tagged adult spring/summer Snake River Chinook salmon are detected at the downstream projects¹⁸, and (3) if the upstream dam's average outflow was below 160 kcfs each day of the delay.

If all three criteria are met, the Corps will implement a 40% daytime spill operation (adult daytime spill operation) and continue for 3 consecutive days. Information on the three criteria would be available on day 4 and the adult daytime spill operation would begin the following business day (day 5) with a targeted start time between 0400-0800 if feasible.

¹⁸ The agencies will use the current Columbia River DART's Reach Distribution and Delay for PIT Tag Adult Returns tool ("Running 3-day DART tool") to determine if criteria one and two have been met. See top panel, in-season graphics of Cumulative Arrival Percent by Days in Route to Lower Granite or Lower Monumental dams. https://www.cbr.washington.edu/dart/query/pitadult_reachdist

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Assuming *greater than* 50% of the daily cohort of PIT tagged adults arrive at the upstream project by day 3 (information available on day 4),¹⁹ then standard operations (125% TDG spill 24/7) would be reinstated the following business day (day 5). If greater than 50% of the daily cohort does NOT arrive at the upstream project by day 3 and project average flow was below 160 kcfs, adult daytime spill operations would continue an additional day, and would be evaluated again the following day as previously described. This would continue until the adult delay or passage issue has been resolved and the standard operations can be reinstated as described.

The Technical Management Team may consider in-season deviations from these criteria if unforeseen factors are reasonably expected to cause substantial delay (e.g., lack of load conditions, priority turbine unit outages, etc) and the Fish Passage Operations and Maintenance Committee may consider refinements to these triggers following each spring spill season.

Additional Information and Studies—Operations are supplemented with the following studies, which helps inform the risks inherent in modifying operations in ways that have not previously occurred (or been studied):

- Develop, fund, and implement adult active tag study(ies) no later than 2025 to evaluate the causal mechanism and inform adaptive management of adult passage delays under changing spill and flow conditions (e.g., passage delays, depths at fishway entrances, etc.). Study designs will be collaboratively developed in the Studies Review Work Group (SRWG) regional forum.
- Develop, fund, and implement active tag study(ies), no later than 2025, to evaluate juvenile migration through different passage routes under changing spill and flow conditions. Study designs will be collaboratively developed in the Studies Review Work Group (SRWG) regional forum.
- Develop, fund, and implement studies to improve PIT tag detection capabilities to evaluate long-term efficiency of operations at the LSR and LCR projects. These studies and proposals will focus on (1) designing and installing a spillway detector in one of the surface passage route spillways at McNary Dam; (2) designing and installing a system to detect fish passing via the spillway at Bonneville Dam; and (3) designing and implementing efforts to improve PIT tag detections in the estuary. Study designs will be collaboratively developed in the Studies Review Work Group (SRWG) regional forum.
- Develop, fund, and implement, no later than 2025, collaboratively developed studies to evaluate depth and downstream profile of TDG/GBT impacts, including estimating

¹⁹ The return to 125% TDG spill 24/7 will be triggered if 50 percent or more of the running 3-day cohort for the most recent day (e.g., day 3 of adult daytime spill) is detected at the upstream dam. The agencies will use Columbia River DART's Reach Distribution and Delay for PIT Tag Adult Returns tool for this purpose.

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population-level impacts for non-salmonid resident species (sculpin, lamprey ammocoetes, native mussels).

- Conduct ERDC modeling of alternative/modified McNary spill patterns prior to start of spring spill operations of 2025.
 - Washington and Oregon water quality agencies, under their existing delegated authority from EPA and consistent with Clean Water Act monitoring requirements, will continue to regulate total dissolved gas levels in the lower Snake and Columbia rivers. If the USG identifies additional concerns with TDG impacts to native aquatic species, the USG will continue to notify and coordinate with the Six Sovereigns, F&W managers, and the state water quality agencies to identify actions, including monitoring methodologies, sampling locations, and triggers for changes to dam operations, necessary to protect these-aquatic species.
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