

*Alaska Trollers Association ♦ American Whitewater
Association of Northwest Steelheaders ♦ Center for Environmental Law and Policy
Center for Justice ♦ Coastal Trollers Association ♦ Columbia Riverkeeper
Conservation Northwest ♦ Earthjustice ♦ Endangered Species Coalition
Friends of the Clearwater ♦ Hells Canyon Preservation Council
Idaho Conservation League ♦ Idaho Rivers United ♦ Idaho Wildlife Federation
Institute for Fisheries Resources ♦ National Wildlife Federation
Natural Resources Defense Council ♦ Nimiipuu – Protecting the Environment
Northwest Guides and Anglers Association ♦ NW Energy Coalition
Northwest Sportfishing Industry Association ♦ Orca Network
Oregon Natural Desert Association ♦ Pacific Coast Federation of Fishermen’s Associations
Pacific Rivers ♦ Save Our wild Salmon Coalition ♦ Sierra Club ♦ Snake River Waterkeeper
Snake River Salmon Solutions ♦ Spokane Riverkeeper ♦ The Lands Council
WaterWatch of Oregon ♦ Wild Steelhead Coalition ♦ Whale Dolphin Conservation*

November 11, 2016

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Dear Administrator Mainzer, Commander Brigadier General Spellmon, and Regional Director Lee:

We write on behalf of our millions of members and activists to express our frustration and disappointment with your agencies’ materials for, and conduct of, regional scoping meetings for a comprehensive environmental impact statement for federal dam operations on the Columbia and Snake Rivers pursuant to the U.S. District Court’s decision in *National Wildlife Federation v. National Marine Fisheries Service*, No. 01-00640-SI (D.Or.). We ask that you immediately redesign the current open house structure of your meetings to invite oral comments and encourage public input, revise incomplete and misleading information presented at the meetings, schedule additional meetings in important stakeholder communities in northern California and Alaska, and extend the public comment period by at least 60-days.

I. The scoping meetings fail to invite meaningful public participation.

The agencies' scoping meetings frustrate and limit public involvement by design. The September 30, 2016, Notice of Intent states that the purpose of the regional public meetings is "to invite the public to comment on the scope of the EIS," 81 FR 67383,¹ but so far the opportunity for public input at the meetings is restricted to submitting typed comments on a small number of computers at the back of the room or through a single stenographer. There is no public hearing. There is no real opportunity for citizen involvement at all.

Instead, there is a deliberate one-way flow of information from the agencies to the public on poster boards supported by agency staff explaining this limited material. That is not what Congress intended when it passed the National Environmental Policy Act (NEPA). The NEPA process is meant "to help public officials make decisions that are based on [an] understanding of environmental consequences," with "high quality" information "before decisions are made." 40 C.F.R. § 1500.1. To that end, agencies preparing an environmental impact statement (or EIS) must, "to the fullest extent possible," "[e]ncourage and facilitate public involvement in decisions which affect the quality of the human environment." *Id.* at § 1500.2. The Columbia River System Operations meetings silence rather than invite any meaningful or effective exchange of information from the public to the agencies and, therefore, limit the public's ability to ensure an informed decision is made and entirely defeat the purpose and intent of NEPA.

Moreover, as you are aware, your agencies have completely failed to schedule any meetings in important stakeholder communities in northern California and Alaska that will be affected by the decisions you make through the EIS process.

II. The scoping meetings provide incomplete and misleading information.

The scoping materials you are using for the currently scheduled meetings (available on the Columbia River System Operations website) appear designed to obscure important issues regarding your failure to protect threatened and endangered salmon and steelhead and persuade the public that your agencies are doing an excellent job of managing a complex system while meeting all legal requirements. The poster boards are effective as a public relations campaign to advocate for status quo dam operations, but they fail to explain why a comprehensive EIS is necessary, describe the range of issues and trade-offs that must be addressed and resolved, let alone indicate the kinds of actions that could be considered as components of a reasonable range of alternatives for doing so.

This approach is so fundamentally at odds with the core informational purposes of the National Environmental Policy Act that we feel compelled to request you either alter your materials and approach immediately or suspend the scoping meetings until you can prepare materials and a presentation format that actually puts the current EIS process in an appropriate context, affords the public useful information about key issues you will need to address, and provides a constructive forum for soliciting public comment and input. Without such a change, you will continue to undermine the value of an important opportunity, one that, as Judge Simon

¹ Of course, the agencies are required by law to "[i]nvite the participation of . . . interested persons . . ." 40 C.F.R. § 1501.7.

observed in requiring an EIS, “allows innovative solutions to be considered and may finally be able to break through any bureaucratic logjam that maintains the status quo.”

We describe below some of the critical shortcomings in your current materials and meeting process in order to make clear the basis for our concerns:

- **Your agencies do not provide any explanation in the materials we have reviewed to explain why they are undertaking the current NEPA process.** There is no mention of the Court’s decision in *NWF v. NMFS* or of the kinds of actions the agencies might consider or take to address the urgent problems that led to the need for an EIS, let alone any description of the twenty-year history of failed plans to protect ESA-listed salmon and steelhead. This absence of any relevant context for the NEPA process is at least confusing and more likely misleading, especially when combined with the additional problems discussed below.
- **The information you do provide about environmental issues is one-sided, incomplete, generic, and incorrectly suggests that current dam operations are fully successful on all fronts.** For example, your website and meetings offer two infographics on climate change that indicate the climate is generally warming, but there is no mention of how these changes may affect ESA-listed salmon and steelhead (or any other species), and no mention of the Court’s conclusion that your agencies have failed so far to “consider the potentially catastrophic impact of climate change.” There also is no explanation of how altered dam operations or other actions could potentially address and mitigate for climate impacts. Similarly, the website/meeting materials offer one infographic on water temperature that fails to mention the consistent violations of temperature water quality standards especially in the summer months, fails to mention the consequences of these problems for aquatic resources (including their lethal effects on salmon), fails to explain the connection between these issues and dam operations and generally implies that there are no water temperature problems that your agencies have not successfully addressed. Likewise, the information on dissolved gas simply explains how it occurs but fails to mention the benefits for salmon and steelhead associated with spill, or explain potential changes to spill and dissolved gas management and the benefits and costs of such changes.
- **The three meeting/website infographics for fish and wildlife are incomplete and misleading.** One of these presents graphs on salmon and steelhead juvenile survival at each dam with no context, no explanation regarding the limits of this information or credible contrary perspectives on it, and no disclosure of overall passage mortality or return rates. There also are two graphs on adult survival and Snake River fall Chinook returns, again with no context for other species, overall rates of return as compared to biologically credible benchmarks, or any acknowledgement of other scientific analyses that would place these graphs in context. Finally, there is a graph on juvenile fish travel time that appears to suggest travel time in 2015 was similar to travel time in an undammed river at low flow without disclosing or explaining the effect of court-ordered spill on travel time. Other infographics on fish and wildlife simply identify some relevant laws, show species affected by dam

operations (notably without mentioning endangered southern resident killer whales), and catalogue generic actions the agencies have taken – but with no indication that the courts have found these very actions legally inadequate to comply with the listed laws – legal rulings that are the reason for the current EIS – or any indication of additional steps that could be taken to correct this failure. The third fish and wildlife infographic is perhaps the most misleading because it summarizes many of the actions the Court in *NWF v. NMFS* concluded the agencies had arbitrarily and illegally relied on to avoid considering major dam reconfiguration actions. Indeed, the column in this infographic on fish and wildlife habitat improvements provides the same kind of summary of actions the agencies have repeatedly offered in court to no avail. Yet there is no hint of anything but full success on this front.

- **The three infographics on hydropower and navigation are similarly one-sided and obstruct any public review of alternatives.** Two of these graphics present a snapshot of current average annual power generation with no information about seasonal fluctuations, how our electrical grid is rapidly changing, how current hydropower generation affects anadromous fish, or about potential differences in the operation and management of different dams that could be more or less helpful to these species. The CRSO dams are presented as immutable, unchangeable and all equally essential when nothing could be further from a full and accurate picture of the issues your agencies face in preparing an adequate EIS. Similarly the implication in the other hydropower infographic that these dams are the only sources of generation flexibility and that the only alternative to their current configuration and operation is the release of “41 million tons” of climate pollution is a disservice to the search for alternatives that would both ameliorate climate impacts and help restore the basin’s fishery resources. The navigation infographic likewise seeks to lump all navigation activity together without any effort to identify or suggest workable alternative approaches to the status quo. For example, this infographic lumps together all navigation traffic without any distinction between traffic on the Snake and on the Columbia and then attempts to present the impression that any change to the current system would entail massive increases in truck traffic (through a pictograph of barge transport versus other modes of transport). While not acknowledged, this pictograph was originally developed by barging interests but has now apparently been adopted by the Walla Walla District of the Corps. This is simply a misleading and unhelpful picture of the alternatives to the status quo that could be available for consideration and implementation.

In sum, your approach to informing the public about the issues that must be addressed and resolved in the EIS your agencies will prepare is unhelpful and contrary to the purposes of NEPA.

III. Conclusion

In order to correct these grave shortcomings in the current scoping process, we urge you to take at least the following steps:

(1) Redesign the current open house structure of your meetings to actually encourage informed public input, provide a space for dialogue with officials, including public testimony, and not limit public input to submitting typed comments on a few computers.

(2) Add hearings in Alaska and northern California as already requested by interested parties in these states.

(3) Extend the current comment period as much as is necessary to accommodate these changes but in any event by at least 60-days to allow interested members of the public to seek out more complete and balanced information, which you are currently failing to provide, in order to offer their input to you.

(4) Immediately prepare and offer to the public new and more accurate information that will be useful for public engagement and input on the issues you actually must face before proceeding with the remaining scheduled meetings. If you are unable to prepare such materials in a timely way, we ask that you suspend the remaining scoping meetings until you develop a more balanced and informative format that actually helps the public understand why your agencies are preparing an EIS, what some of the key issues and trade-offs among different approaches to status quo system management are likely to involve, and some basic information about the potential range of consequences from these trade-offs. The information to do this is certainly available; it simply requires candid disclosure rather than a sales effort for current agency actions.

We would be happy to meet and discuss these concerns with you further but unless you address the above fundamental problems with your current scoping approach and take the steps we have identified, your agencies will yet again set a course for failure -- to the detriment of Northwest people, communities, businesses and our irreplaceable natural resources. We urge you in the strongest terms to change course and not proceed down such a path.

Sincerely,

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