

**Alaska Trollers Association ♦ American Rivers  
Association of Northwest Steelheaders ♦ Backbone Campaign  
Center for Environmental Law and Policy ♦ Center for Whale Research  
Coastal Trollers Association ♦ Columbia Riverkeeper ♦ Defenders of Wildlife  
Endangered Species Coalition ♦ Fly Fishers International  
Friends of the Clearwater ♦ Idaho Conservation League ♦ Idaho Rivers United  
Idaho Wildlife Federation ♦ Natural Resources Defense Council  
National Wildlife Federation ♦ Nimiipuu – Protecting the Environment  
Northwest Resource Information Center ♦ Northwest Sportfishing Industry Association  
Orca Network ♦ Pacific Coast Federation of Fishermen’s Association ♦ Pacific Rivers  
Save Our wild Salmon Coalition ♦ Sierra Club ♦ Snake River Salmon Solutions  
Snake River Waterkeeper ♦ The Lands Council ♦ Spokane Riverkeeper  
Washington Wild Rivers ♦ Wild Steelhead Coalition**

May 17, 2017

The Honorable Cathy McMorris Rodgers  
1314 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Kurt Schrader  
2431 Rayburn House Office Building  
Washington, DC 20515

The Honorable Dan Newhouse  
1318 Longworth House Office Building  
Washington, DC 20515

The Honorable Peter DeFazio  
2134 Rayburn Office Building  
Washington, DC 20515

Dear Representatives McMorris-Rodgers, Newhouse, Schrader and DeFazio,

We are writing to share with you our concerns regarding your recent letter to Bonneville Power Administration’s Elliott Mainzer regarding United States District Court Judge Michael Simon’s ruling to grant an injunction to reduce the irreparable harm to salmon and steelhead listed under the Endangered Species Act (ESA) and adversely affected by federal dam operations in the Columbia-Snake River Basin (Columbia Basin). We appreciate your interest in better understanding the status of Columbia Basin salmon populations today and the costs and benefits of federal agency plans to protect them to date.

While we welcome the opportunity for open, inclusive, transparent discussions with sovereigns and stakeholders that can help our region achieve a legally valid, scientifically credible and fiscally responsible plan to protect these species, it appears that your May 2<sup>nd</sup> letter to Administrator Mainzer was based on incomplete or misleading information.

The restoration of abundant, self-sustaining and harvestable populations of salmon and steelhead in the Columbia Basin is of utmost importance to the thirty undersigned organizations and to countless businesses, Tribes and citizens across the Pacific Northwest. Healthy salmon populations deliver valuable and irreplaceable benefits to our region’s economy and ecology including thousands of

jobs (guiding, retail sales, manufacturing, tourism, etc.) worth hundreds of millions of dollars annually. The protection and restoration of healthy salmon populations in the Columbia Basin represents an unparalleled opportunity for our region to invest in the economy, create family-wage jobs and improve our quality of life and the health of our environment.

Unfortunately, this goal remains elusive. As you know, in May 2016, the same Court that issued the injunction addressed in your letter invalidated the federal government's 2014 Biological Opinion for the Federal Columbia River Power System (FCRPS). This was the fifth plan, including the 2008 BiOp, struck down in the last twenty years by three different federal judges. If you have not read Judge Simon's May 2016 decision, we urge you to do so. It includes a very useful summary of the history of this remarkable failure to comply with the law. Despite spending by regional electricity customers and American taxpayers totaling \$15B - under the direction and guidance of the federal agencies that manage the major Columbia and Snake river dams - not one of the thirteen salmon and steelhead populations listed in the early 1990s as threatened and endangered under the ESA has been delisted; most have shown little or no sign of significant or sustained improvement.

As your recent letter reflects, the Court's amended April 3, 2017 ruling requires the Army Corps of Engineers to work with state and tribal fishery experts to develop an expanded program for voluntary spill at eight federal dams on the lower Columbia and lower Snake rivers starting in Spring 2018 in order to increase survival of fish that must migrate through the federal hydro-system on their way to the Pacific Ocean. This increased spill will comply with all state and federal water quality standards for salmon and other aquatic life and will remain in place until the federal agencies develop a lawful, science-based salmon plan for the Columbia Basin.

This new Court Order will not take effect until the spring of 2018 to give federal, state and tribal fishery experts time to model and evaluate these operations to identify and avoid any adverse biological consequences or other identifiable risks to human safety. You may already be aware that spill levels in 2017 are, for the most part, far above what Judge Simon ordered, and real time smolt monitoring to date has shown minimal adverse effects upon juvenile salmonids.

We believe that an open, fact-based dialogue with sovereigns and stakeholders is essential to the eventual preparation and adoption of a lawful Biological Opinion that protects fish imperiled by the federal hydro-system while also preserving its substantial benefits. Therefore, we want to identify a number of specific concerns we have regarding your May 2 letter to Administrator Mainzer.

These include:

1. The set of questions and concerns expressed in the letter are directed at BPA – a key defendant in this long-running case. These questions should rightly be posed to a wider set of experts and we suggest that additional participants in this conversation should include: Fish Passage Center, Northwest Power and

Conservation Council, other relevant federal agencies (U. S. Fish and Wildlife Service and EPA), the region's fish and wildlife agencies, the Nez Perce Tribe and other Columbia Basin Tribes, the Independent Science Advisory Board and the NW Energy Coalition. Our region has truly impressive scientific, energy and economic expertise on salmon and dams in the Columbia Basin.

2. The May 2 letter states that the court order to increase spill is likely to cause "unintended consequences that will hurt fish recovery while also greatly increasing power costs." That is incorrect. These risks were raised and argued before the Court by the federal agencies and others in extensive court filings both over the winter and during a hearing in March. The extent that the Court found these concerns supported by credible scientific information, it is reflected in the decision to defer implementation of increased spring spill until 2018 to allow appropriate modeling and analysis. A clear-eyed review of the Court's order and the facts would show that any potential unintended consequences for fish will be avoided. Likewise, any increase in power costs, if they rise at all, is likely to be modest, even accepting BPA's initial estimates.

- a. Spill as a measure to help salmon survive the federal hydro-system has been studied intensively by the 20+ year-old Comparative Survival Study (CSS). The CSS is a well-established, highly credible, and collaborative scientific undertaking. Its findings are reviewed annually by the Northwest Power and Conservation Council's (NPCC) Independent Science Advisory Board (ISAB) as well as other regional groups. Independent researchers, the federal government, the states of Idaho, Washington and Oregon as well as the lower River treaty tribes (Nez Perce, Warm Springs, Umatilla and Yakama) are all actively engaged in these regional analyses. The CSS science addresses and incorporates hypothetical and empirically-based questions posed by ISAB and other regional science entities, and is associated with potential alternatives for achieving regional fish and wildlife goals and objectives. These analyses reflect the best available science and indicate that increasing voluntary spill in the spring to the levels ordered by the Court (and adjusted based on modeling to identify any additional biological constraints) will improve juvenile salmon survival significantly. The benefits of increased voluntary spill at these levels have been widely accepted by fishery experts at all levels: federal, state and tribal.
- b. Likewise, any increase in power costs, if they rise at all, is likely to be modest, even accepting BPA's initial estimates. In its declaration filed in Court during the injunction proceedings, Bonneville estimates that an injunction to expand spill per plaintiffs' request could reduce its revenues by approximately \$40M a year. Bonneville's previous analyses of the costs of increased spill dating back as far as 2005 have over-estimated rate impacts. More recent testimony in its on-going rate proceedings, Bonneville acknowledges that the actual costs of increased spill could be negligible, depending on market and other conditions. Even if one assumes that BPA's initial estimate for the Court is accurate (and Bonneville no longer claims it is), the impact on the average household would be less than \$1/month. This figure is very modest when compared to the large amounts of

ratepayer and taxpayer dollars that the federal agencies have spent on a series of inadequate and illegal salmon plans. Greater attention and scrutiny should perhaps be placed on federal agency decision-making to ensure that actions in the future will achieve a lawful, science-based plan that protects and restores wild salmon and steelhead populations while also preserving other valuable benefits of the federal hydro-system.

3. The May 2 letter expresses unwarranted skepticism about the integrity and competence of the U.S. District Court in Portland. Attacks on the judgment of the federal courts, regrettably, have become more common lately, but it is particularly damaging for one branch of our government to attack another branch's fulfillment of its responsibilities. The Court read and reviewed thousands of pages of legal briefs and expert declarations from nationally-respected federal, tribal, state fishery experts in addition to independent scientific analyses; conclusions were reached carefully and deliberately - not hastily or carelessly as your letter suggests.

4. The letter also ignores the evidence provided by the real world: the status and trends of thirteen ESA-listed populations of wild salmon and steelhead in the Columbia and Snake Rivers. Repeated assessments conducted by NOAA-Fisheries over the past twenty years have consistently found that most of the listed stocks remain at high risk of extinction and that protection of all listed species under federal law is still warranted. In 2015, a critically low snowpack and unusually high temperatures combined to kill hundreds of thousands of juvenile and adult salmon. Just 1% of the Snake River's critically endangered returning adult sockeye salmon, for example, survived to reach Redfish Lake in central Idaho's Stanley Basin. Due to a changing climate, these types of deadly climatic conditions are only predicted to become more intense and more frequent over time. Increased spill can aid juvenile survival and increase adult returns in all years and is an especially critical, albeit partial, buffer for future climate change effects.

Further, pre-season estimates earlier this year for Columbia Basin adult returns predicted declines of roughly 25% compared to last year, and the actual lower-than-expected returns so far have biologists and fishermen very worried and beginning to consider downward revisions of estimated returns. The subsequent loss of fisheries opportunities will have real economic consequences for our region.

Like you, salmon and fishing advocates are also frustrated by the pace and cost of salmon recovery efforts. We welcome the engagement of Congress to help our region finally get this right, but impugning plaintiffs and the judiciary, or asking questions that appear to be based on incomplete or misleading information, will not help us find durable, lasting solutions to assist our region's most iconic species and its fishing, farming and other communities.

Rather than posing a series of backward-looking questions designed to protect a costly and ineffective status quo, we encourage you to consider a new approach that looks forward - embracing science, honestly assessing all costs and benefits across a

range of issues, examining options and opportunities, leveraging our region's impressive expertise and bringing communities together to craft real solutions.

We would welcome the opportunity to meet with you and discuss these issues further. Thank you for your consideration.

Sincerely,

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Northwest Members of Congress

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Lorri Lee, Pacific Northwest Regional Director, ***Bureau of Reclamation***