

**H.R. 3144, TO PROVIDE FOR OPERATIONS  
OF THE FEDERAL COLUMBIA RIVER  
POWER SYSTEM PURSUANT TO A CER-  
TAIN OPERATION PLAN FOR A SPECI-  
FIED PERIOD OF TIME, AND FOR OTHER  
PURPOSES; AND H.R. 3916, “FEDERALLY  
INTEGRATED SPECIES HEALTH (FISH)  
ACT”**

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**LEGISLATIVE HEARING**

BEFORE THE  
SUBCOMMITTEE ON WATER, POWER AND OCEANS  
OF THE  
COMMITTEE ON NATURAL RESOURCES  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED FIFTEENTH CONGRESS  
FIRST SESSION

Thursday, October 12, 2017

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**LEGISLATIVE HEARING ON H.R. 3144, TO PROVIDE FOR OPERATIONS OF THE FEDERAL COLUMBIA RIVER POWER SYSTEM PURSUANT TO A CERTAIN OPERATION PLAN FOR A SPECIFIED PERIOD OF TIME, AND FOR OTHER PURPOSES; AND H.R. 3916, TO AMEND THE ENDANGERED SPECIES ACT OF 1973 TO VEST IN THE SECRETARY OF THE INTERIOR FUNCTIONS UNDER THAT ACT WITH RESPECT TO SPECIES OF FISH THAT SPAWN IN FRESH OR ESTUARINE WATERS AND MIGRATE TO OCEAN WATERS, AND SPECIES OF FISH THAT SPAWN IN OCEAN WATERS AND MIGRATE TO FRESH WATERS, “FEDERALLY INTEGRATED SPECIES HEALTH (FISH) ACT”**

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**Thursday, October 12, 2017  
U.S. House of Representatives  
Subcommittee on Water, Power and Oceans  
Committee on Natural Resources  
Washington, DC**

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The Subcommittee met, pursuant to notice, at 10:03 a.m., in room 1334, Longworth House Office Building, Hon. Doug Lamborn [Chairman of the Subcommittee] presiding.

Present: Representatives Lamborn, McClintock, Gosar, LaMalfa, Graves, Hice, Webster; Costa, Beyer, Barragán, and Bordallo.

Also present: Representatives Newhouse and Gianforte.

Mr. LAMBORN. The Subcommittee on Water, Power and Oceans will come to order. The Water, Power and Oceans Subcommittee meets today to hear testimony on two bills: H.R. 3144, sponsored by Mrs. McMorris Rodgers of Washington State; and H.R. 3916, sponsored by Mr. Calvert of California.

Under Committee Rule 4(f), any oral opening statements at hearings are limited to the Chairman, Ranking Minority Member, and the Vice Chair. Therefore, I ask unanimous consent that all other Members' opening statements be made part of the hearing record if they are submitted to the Subcommittee Clerk by 5:00 p.m. today.

Hearing no objection, so ordered.

I also ask unanimous consent that the gentleman from Washington, Mr. Newhouse, be allowed to sit in with the Subcommittee and participate in the hearing.

Without objection, so ordered.

Welcome to the Committee.

Mr. NEWHOUSE. Thank you.

Mr. LAMBORN. You will add a lot.

We will begin with opening statements, starting with myself, for 5 minutes.

**STATEMENT OF THE HON. DOUG LAMBORN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO**

Mr. LAMBORN. Today, we will consider two common-sense bills aimed at improving the recovery of certain Endangered Species Act listed fish species, while providing certainty for water and power users.

Throughout the West, Federal and non-Federal hydropower dams have been constructed to harness the cleanest, most efficient form of energy. Hydropower is a reliable and emissions-free source of electricity that accounts for a majority of the Nation's total renewable electricity generation. Communities throughout my home state of Colorado continue to benefit immensely from this source of energy, and there are many opportunities for new hydropower development. Hydropower can and should be part of our country's all-of-the-above energy strategy.

Furthermore, with this Committee advancing bipartisan proposals, such as Ms. Herrera Beutler's H.R. 2083, we understand the importance of balancing salmon recovery and clean hydropower generation.

We will hear from one of our witnesses today that with survival rates as high as 98 percent at some dams, the choice does not have to be dams or fish. Rather, both can exist and prosper in harmony.

While dams provide clean, renewable energy throughout the West, they also provide other important benefits to their regions, including flood control, providing irrigation for some of the most productive agricultural areas of the Nation, recreation, and allowing a navigation link to international markets for American farmers.

Despite all the benefits it brings to the region, the Federal Columbia River Power System has been mired in third-party litigation, questionable judicial edicts, and onerous Federal regulations for decades. The American taxpayers and Pacific Northwest ratepayers deserve better.

The bipartisan legislation, H.R. 3144, introduced by Mrs. McMorris Rodgers of Washington, looks to provide certainty and reliability to a hydropower system thrust into a state of legal purgatory by directing Federal agencies responsible for operating the system to do so in a manner consistent with the current operation plan until certain reasonable targets are met.

It is important to mention that the current operation plan was declared by the Obama administration to be legally and scientifically sound, and is supported by the states of Washington, Idaho, and Montana, several tribes, and other regional stakeholders.

H.R. 3916, the Federally Integrated Species Health Act, or FISH Act, introduced by Mr. Calvert of California, is the second bipartisan-supported bill.

I am surprised to be saying this, but former President Barack Obama summed up the need for this bill as well as any of us here could. If you take a look at our TV screens, you will see a short clip from his 2011 State of the Union address.

[Video shown.]

Mr. LAMBORN. OK, that was well said, especially the second time around. And I have to agree with President Obama on that.

The FISH Act is a bipartisan solution aimed at clearing up regulatory confusion between two Federal agencies. As we will hear from the bill's sponsor today, this bill eliminates redundancies and overlapping jurisdiction between the Interior and Commerce Departments specific to certain Endangered Species Act listed fish species.

These two agencies currently have direct jurisdiction over the ESA, and it is clear that they cannot harmonize their views on two different fish within the same watershed. It is time for a more efficient and holistic approach to manage species under one, not two, Federal agencies.

Clearly, the ESA process is broken, and the Federal status quo is not working for species, farmers and ranchers, and rural communities that depend on our natural resources. Under the status quo, American taxpayers and ratepayers in the Pacific Northwest and elsewhere in the West spend, literally, billions of dollars each year, resulting from conflicting or duplicative Federal regulatory or judicial edicts under the guise of the Endangered Species Act.

These bills represent bipartisan pragmatic solutions, and I want to thank Representatives Calvert and McMorris Rodgers for being here today, as well as our second panel of witnesses. I look forward to hearing from all of you.

[The prepared statement of Mr. Lamborn follows:]

PREPARED STATEMENT OF THE HON. DOUG LAMBORN, CHAIRMAN, SUBCOMMITTEE ON WATER, POWER AND OCEANS

Today we will consider two common-sense bills aimed at improving the recovery of certain Endangered Species Act listed fish species while providing certainty for water and power users.

Throughout the West, Federal and non-Federal hydropower dams have been constructed to harness the cleanest, most efficient form of energy. Hydropower is a reliable and emissions-free source of electricity that accounts for a majority of the Nation's total renewable electricity generation. Communities throughout my home state of Colorado continue to benefit immensely from this source of energy, and there are many opportunities for new hydropower development. Hydropower can and should be part of our country's "all-of-the-above" energy strategy.

Furthermore, with this Committee advancing bipartisan proposals such as Mrs. Herrera-Beutler's H.R. 2083, we understand the importance of balancing salmon recovery and clean hydropower generation. We will hear from one of our witnesses today that with survival rates as high as 98 percent at some dams, the choice doesn't have to be "dams or fish," rather both can exist and prosper in harmony.

While dams provide clean renewable energy throughout the West, they also provide other important benefits to their regions, including flood control, providing irrigation for some of the most productive agricultural areas of the Nation, recreation, and allowing a navigation link to international markets for American farmers.

Despite all the benefits it brings to the region, the Federal Columbia River Power System has been mired in third-party litigation, questionable judicial edicts and onerous Federal regulations for decades. The American taxpayers and Pacific Northwest ratepayers deserve better.

The bipartisan legislation, H.R. 3144, introduced by Mrs. McMorris Rodgers of Washington, looks to provide certainty and reliability to a hydropower system thrust into a state of legal purgatory by directing Federal agencies responsible for

operating the system to do so in a manner consistent with the current operation plan until certain, reasonable targets are met. It is important to mention that the current operation plan was declared by the Obama administration to be legally and scientifically sound, and is supported by the states of Washington, Idaho, and Montana, several tribes and other regional stakeholders.

H.R. 3916, the Federally Integrated Species Health Act—or FISH Act—introduced by Mr. Calvert of California, is the second bipartisan-supported bill. I can hardly believe I am saying this, but Barack Obama summed up the need for this bill as well as any of us could here could. If you take a look at our TV screens you will see a short clip from his 2011 State of the Union address.

The FISH Act is a bipartisan solution aimed at clearing up regulatory confusion between two Federal agencies. As we will hear from the bill sponsor here today, this bill eliminates redundancies and overlapping jurisdiction between the Interior and Commerce Departments specific to certain Endangered Species Act listed fish species. These two agencies currently have direct jurisdiction over the ESA and it's clear they cannot harmonize their views on two different fish within the same watershed. It's time for a more efficient and holistic approach to manage species under one, not two, Federal agencies.

Clearly, the ESA process is broken and the Federal status quo isn't working for species, farmers and ranchers, and rural communities that depend on our natural resources. Under the status quo, that cost American taxpayers and ratepayers in the Pacific Northwest and elsewhere in the West spend literally billions of dollars each year resulting from conflicting or duplicative Federal regulatory or judicial edicts under the guise of the ESA. These bills represent bipartisan, pragmatic solutions, and I want to thank Representatives Calvert and McMorris Rodgers for being here today as well as our second panel of witnesses. I look forward to hearing from all of you.

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Mr. LAMBORN. I now recognize the Ranking Member—

Mr. COSTA. Mr. Chairman? Is it appropriate for a point of order?

Mr. LAMBORN. Yes.

Mr. COSTA. I concur with many of your comments. On the video, what the President went on to say, just to highlight that, is that when Interior and Commerce are in conflict as to the jurisdiction between salmon, whether they are in saltwater and freshwater, he went on to humorously say the salmon get smoked.

[Laughter.]

Mr. COSTA. It is nice to have the entirety of it, we didn't get the clip there.

Mr. LAMBORN. OK. Thanks for pointing that out. For the sake of time we couldn't play the whole thing, but that is a good statement. Thanks for adding that.

I now recognize the Ranking Member for 5 minutes for his statement.

**STATEMENT OF THE HON. DONALD S. BEYER, JR., A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF VIRGINIA**

Mr. BEYER. Thank you, Mr. Chairman, very much. I want to cry foul for throwing our Democratic President at us up front.

[Laughter.]

Mr. BEYER. So, to turn to today's hearing, we are going to discuss two bills that could have the consequence of undermining the Endangered Species Act. We are talking today about proposals to undermine protections for salmon and steelhead, which are extremely important to commercial, recreational, and tribal fishing interests across the country, despite the fact that our Nation's salmon runs are currently at crisis levels.



Just this week, we saw reports in the news that, for the first time in 20 years, Federal scientists surveying the Pacific Northwest salmon population have come up with empty nets. A Federal scientist said this week, and I quote, "We have never hauled that net through the water looking for salmon or forage fish and not gotten a single salmon . . . Three times we pulled that net up, and there was not a thing in it. It was alarming."

H.R. 3144 will overturn a recent Federal court decision and mandate the use of an unlawful operation plan for the Federal Columbia River Power System. The operation plan in question has already been found insufficiently protective for fisheries, and in violation of the Endangered Species Act by a Federal court.

The bill also blocks short-term spills over Federal dams on the lower Snake and Columbia Rivers that are critically important for salmon survival and the fishing industry.

Finally, the bill undercuts a full NEPA review that is already underway for the Federal system on the Columbia by restricting the study of all reasonable salmon recovery alternatives that may reduce energy production, such as additional spills or the potential breach of select dams.

Taking these options off the table before we even study the costs and benefits is misguided. The sponsor, Representative McMorris Rodgers, and I do agree that dams and fish can co-exist. I heartily agree. And the debate should not be about dams versus no dams, but about striking the appropriate balance between things like responsible hydropower development and sound fisheries protection.

For too long there has been an imbalance. Our country built thousands of dams during the 20th century before we realized the harm they can cause to our Nation's fisheries. So, today we are left with many legacy, low-value dams that do not justify their cost to our Nation's fisheries and natural resources.

As we consider what to do about these older, low-value dams, our decision making must be guided by the best-available science and a consideration of all available options.

Unfortunately, H.R. 3144 takes us in the wrong direction by blocking science-based fisheries management and the study of potential changes of the status quo, which is not working for anybody on the Columbia.

The second bill we are discussing today, H.R. 3916, would transfer all management of ESA listed anadromous and catadromous fish species from NOAA Fisheries to the Secretary of the Interior. And I am going to ask our Chairman to spell those words for me later.

[Laughter.]

Mr. BEYER. Since the Department of the Interior already has sole management authority for catadromous species, such as American eels, that part of the bill can be ignored. What cannot be ignored, though, is the significant negative impacts the bill could have on endangered salmon and steelhead.

While it is critical for Federal agencies to work together to manage these species, marine fisheries, and I think, with due respect to President Obama's State of the Union, there is nothing inherently wrong with moving NOAA and Fish and Wildlife Service together. I think the great objection we have is that it adds 40 new

fish species and populations to Interior's responsibility without moving any of the authorizations, the funding, the budget, even the authorizations on the appropriations side.

So, we are not quite sure how Fish and Wildlife Service is going to manage these new responsibilities with an incomplete bill. I respectfully ask my colleagues to collaborate with our Federal agencies who are experts in the field, rather than rushing through this legislation.

I am looking forward to a productive discussion and working toward a better balance between multiple uses on our rivers. Salmon and steelhead are really important, incredibly important, to the coastal economies. And it does a disservice to all stakeholders to ignore the science and risk extinction of these species.

Thank you, the Members, for being here today, and I look forward to all of our witnesses.

[The prepared statement of Mr. Beyer follows:]

PREPARED STATEMENT OF THE HON. DONALD S. BEYER, JR., A REPRESENTATIVE IN  
CONGRESS FROM THE COMMONWEALTH OF VIRGINIA

During today's hearing we are discussing two bills that are yet another attempt to undermine the Endangered Species Act and drive the extinction of our Nation's fish and wildlife. Specifically, we're talking about proposals today to undermine protections for salmon and steelhead, which are extremely important to commercial, recreational, and tribal fishing interests across the country, despite the fact that our Nation's salmon runs are currently at crisis levels.

Just this week we saw reports in the news that, for the first time in 20 years, Federal scientists surveying the Pacific Northwest's salmon population have come up with empty nets. A Federal scientist said this week, "We have never hauled that net through the water looking for salmon or forage fish and not gotten a single salmon. . . . Three times we pulled that net up, and there was not a thing in it. It was alarming."

And yet, here we are today to consider two bills that will do nothing but accelerate our Nation's salmon declines.

First on the agenda is H.R. 3144, which would overturn a recent Federal court decision and mandate the use of an unlawful operation plan for the Federal Columbia River Power System. The operation plan in question has already been found to be insufficiently protective for fisheries and to be in violation of the Endangered Species Act by a Federal court.

The bill also blocks short-term spills over Federal dams on the lower Snake and Columbia River that, as we'll hear in testimony today, are critically important for salmon survival and the fishing industry.

Finally, the bill undercuts a full NEPA review that's already underway for the Federal system on the Columbia by restricting the study of all reasonable salmon recovery alternatives that may reduce energy production, such as additional spills or the potential breach of select dams.

Taking these options off the table before we've even studied their costs and benefits is misguided in my view. The sponsor of this bill and I do agree on one thing, though. When talking about this bill, Rep. McMorris Rodgers recently said that "dams and fish can co-exist." I wholeheartedly agree.

This debate is not about dams versus no dams. The debate is about striking the appropriate balance between things like responsible hydropower development and sound fisheries protection. For too long, there's been an imbalance.

Our country built thousands of dams during the 20th century before we realized the harm they can cause to our Nation's fisheries. So, today we are left with many legacy, low-value dams that don't justify their cost to our Nation's fisheries and natural resources.

As we consider what to do about these older, low-value dams, our decision making must be guided by the best available science and a consideration of all available options.

Unfortunately, H.R. 3144 takes us in the wrong direction by blocking science-based fisheries management and the study of potential changes to the status quo, which is not working for anybody on the Columbia.

The second bill we are discussing today, H.R. 3916, would transfer all management of ESA listed anadromous and catadromous fish species from NOAA Fisheries to the Secretary of the Interior. Since the Department of the Interior already has sole management authority for catadromous species, such as American eels, that part of the bill can be ignored. What cannot be ignored, however, is the significant negative impacts the bill would have on endangered salmon and steelhead.

While it is critical for Federal agencies to work together to manage these species, marine fisheries, as we all know very well in this Committee, require the expertise and framework that NOAA and the regional councils provide. We can all agree that salmon recovery is a high priority, but I don't think anyone can say that managing a salmon in a river is the same as managing a salmon in the open ocean.

H.R. 3916 would also reduce Interior's already strained budget and capacity to manage and recover endangered fish. This bill would add nearly 40 new fish species and populations to Interior's responsibilities without any specifics on how this would be funded after moving out of NOAA's protected resources budget.

I'd also like to point out that because NOAA Fisheries was not informed prior to the hearing notice, we do not know the agency's position on the bill. I respectfully advise my colleagues to collaborate with our Federal agencies, who are the experts in the field, rather than rushing through partisan legislation.

In closing, I hope that today we can have a productive discussion about solutions to recover endangered fish species. We should work toward achieving a better balance between multiple uses on our rivers, including removal of low-value dams to aid salmon recovery, rather than debate a partisan ESA agenda. Salmon and steelhead are incredibly important to coastal economies, and it does a disservice to all stakeholders to ignore science and risk extinction of these species.

I'd like to thank the witnesses for being here today. I look forward to hearing from you.

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Mr. BEYER. Mr. Chairman, I yield back.

Mr. LAMBORN. OK, thank you. We just don't want the salmon to get smoked.

[Laughter.]

Mr. LAMBORN. We will now move to our first witness panel to hear testimony from our colleagues on their bills.

As a reminder, you are limited to 5 minutes, but your written statement will appear in full in the hearing record.

I now recognize Representative Calvert from California to testify on H.R. 3916, unless—

Mr. CALVERT. I would prefer that we yield to the gentlelady from Washington—

Mr. LAMBORN. OK. In that case, I recognize Representative McMorris Rodgers from Washington State for 5 minutes to testify on H.R. 3144.

After you are done, if you need to go meet other obligations, you will be excused. We will thank you in advance for your testimony. But it is up to you.

**STATEMENT OF THE HON. CATHY McMORRIS RODGERS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON**

Mrs. MCMORRIS RODGERS. Thank you. Thank you, Mr. Chairman, members of the Committee. Thank you to my colleague here with me. I appreciate the kind welcome. It is great to be back, and I appreciate the opportunity to be able to testify in front of this Committee on which I served for three terms.

It is also fitting today that we are talking about this legislation on the 80th anniversary of Bonneville Power Administration (BPA). Congress created BPA in 1937 on the heels of the Great Depression

to distribute the power generated from the development of two federally authorized dams: Bonneville and Grand Coulee Dams.

These marvels of engineering provided the Pacific Northwest with the Nation's most affordable, reliable, and renewable energy. And still today, over 70 percent of Washington State's energy is powered through hydroelectricity, powering our homes, our businesses, and our communities.

During World War II, it was the Federal power supplied by BPA that was instrumental in the ramp-up of the aluminum industry that went into Boeing's B-17 and B-29 planes and powered the production of nearly 750 large ships before the end of the war. In the words of President Harry Truman, "Without Grand Coulee and Bonneville dams it would have been almost impossible to win this war."

It is also the building of the Columbia Snake River System that transformed the Pacific Northwest from a dry, barren sagebrush land into one of the most productive agriculture regions. It also laid the foundation, because of low-cost electricity, for our economy today: manufacturing and technology.

In 1945, Congress authorized the construction of four large dams along the Snake River—Ice Harbor, Lower Monumental, Little Goose, and Lower Granite—to grow what we called the Federal Columbia River Power System (FCRPS). These four dams are able to power nearly 2 million homes, or a city the size of Seattle. They are crucial in meeting BPA's peak loads during the hottest days in the summer when the wind does not blow, or the coldest parts of winter when we have little sunlight.

This year, eastern Washington had a harsh winter with many days below freezing. During the coldest days, BPA relied on the ability of these four dams to ramp up production and meet demand. Without this reliable base load, I fear many in eastern Washington would have lost power and heat.

It is important to look back at this history when we think about BPA and the future of energy. Just last week, BPA made its 34th consecutive payment of \$1.3 billion for Fiscal Year 2017. They were able to do this because our region values low-cost, carbon-free energy. These dams average fish survival rates of 97 percent, despite what some say. Check the facts.

And while recent warming water in the Pacific Ocean is happening—scientists call it a "blob"—and has slowed salmon returns recently, more total salmon have returned this year than before many of these dams were built. Over 600,000 fall Chinook are forecasted this year—many times higher than when they were first listed.

I think it is important to note that, of the 13 fish listed under the ESA, only 4 species pass along the lower Snake River dams.

We have also invested in tremendous research and new technologies like fish-friendly turbines, habitat restoration, and local collaboration. I mention this local collaboration because I want to quote the FCRPS Adaptive Management Implementation Plan, which was produced by the Department of the Interior, BPA, the Army Corps of Engineers, and NOAA: "The Obama administration undertook an extensive effort to review the 2008 FCRPS Biological Opinion" and found that "the 2008 BiOp is biologically and legally

sound, is based on the best available scientific information, and satisfies the ESA jeopardy standard.”

This BiOp was supported by states, tribal entities, utilities, ports, irrigation districts, and other Pacific Northwest water users. This has been an unprecedented collaboration between these stakeholders. Unfortunately, the Oregon Federal District Court ignored these efforts, invalidated the BiOp, and set a course that will likely put BPA’s future and yearly investments of hundreds of millions of dollars in fish recovery in jeopardy.

BPA’s rates have gone up nearly 30 percent the last few years—5.4 percent projected for both 2018 and 2019. Unnecessary litigation and unnecessary spill requirements by this Oregon judge only add on to the cost.

In 2008, BPA has to re-negotiate these contracts, and their customers are making decisions now. The needless uncertainty that continues to plague the Columbia Snake River System and the continued attacks on these lower Snake River dams have utilities looking elsewhere, and I don’t blame them.

That is why I have introduced this legislation to provide certainty. This bill would simply codify the current BiOp and reassert Congress’ authority over the dams. Dams and fish can co-exist, but we must get out of the courtroom and allow fish recovery to continue.

Thank you, and I yield back.

[The prepared statement of Mrs. McMorris Rodgers follows:]

PREPARED STATEMENT OF THE HON. CATHY MCMORRIS RODGERS, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF WASHINGTON

Thank you Chairman Lamborn.

I find it fitting today that we are talking about this legislation on the 80th anniversary of the Bonneville Power Administration (BPA). Congress created BPA in 1937 on the heels of the Great Depression to distribute the power generated from the development of two federally authorized dams: Bonneville and Grand Coulee Dams. These marvels of engineering provided the Pacific Northwest with the Nation’s cheapest and most reliable energy.

During World War II, it was the Federal power supplied by BPA that was instrumental in the ramp up of the aluminum industry that went into Boeing’s B-17 and B-29 and powered the production of nearly 750 large ships before the end of the war. In the words of President Harry Truman, “Without Grand Coulee and Bonneville dams it would have been almost impossible to win this war.”

In 1945, Congress authorized the construction of four large dams along the Snake River—Ice Harbor, Lower Monumental, Little Goose, and Lower Granite—to grow what we call the Federal Columbia River Power System (FCRPS). These four dams can power 1.8 million homes, or a city the size of Seattle, and are crucial to meet BPA’s peak loads during the hottest days in the summer when the wind doesn’t blow or the coldest part of winter when the Pacific Northwest encounters little sunlight.

This year, eastern Washington had a harsh winter with many days below freezing. During the coldest days, BPA relied on the ability of these four dams to ramp up production and meet the demand. Without a reliable base load source, I fear many in eastern Washington would have lost power and heat.

It is important to look back at this history when we think about BPA, the FCRPS, and the future of energy in our region. Last week, BPA made their 34th consecutive payment of \$1.3 billion for FY17 to the Treasury. They were able to do this because our region values low-cost, carbon-free energy that BPA sells as a result of the hydropower production along the FCRPS. In Washington State, hydropower accounts for almost 70 percent of electricity generation.

Some argue that these four dams in particular have negatively impacted migratory fish. Yet, these dams average fish survival rates of 97 percent. And while recent ocean impacts—which scientists call a “blob”—have slowed salmon returns recently, more total salmon have returned this year than before many of the dams

were in place. Over 600,000 fall Chinook are forecasted this year—many times higher than when they were first listed. It is also important to note that, of the 13 fish listed under the Endangered Species Act (ESA), only 4 species pass these dams. These fish passage rates are the result of significant Federal investments in new technologies like fish friendly turbines, habitat restoration, and local collaboration.

I mention local collaboration because I want to quote the FCRPS Adaptive Management Implementation Plan produced by the Department of the Interior, BPA, U.S. Army Corps of Engineers, and NOAA, “the Obama administration undertook an extensive effort to review the 2008 FCRPS Biological Opinion” and found that “the 2008 BiOp is biologically and legally sound, is based on the best available scientific information, and satisfies the ESA jeopardy standard.” This BiOp is supported by states, tribal entities, utilities, ports, irrigation districts, and other Pacific Northwest water users.

Unfortunately, the Oregon Federal District Court ignored these efforts, invalidated the BiOp, and set a course that will likely put BPA’s future and the yearly investments of hundreds of millions of dollars in fish recovery funding in jeopardy.

BPA’s rates have gone up roughly 30 percent the last few years with an average increase of 5.4 percent for 2018 and 2019. Unnecessary litigation and unnecessary spill requirements only add on to these untenable costs.

In 2028, BPA has to renegotiate their contracts and their customers are making decisions now. The needless uncertainty that continues to plague the FCPRS and the continued attacks on the Snake River Dams has utilities looking elsewhere—and I don’t blame them.

As a result, I introduced bipartisan legislation to provide this certainty. This bill would simply codify the current BiOp until 2022 and prevent unnecessary costs. It also reasserts Congress’ authority over the dams.

Fish and dams can co-exist, but we must get out of the courtroom and allow fish recovery to continue.

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Mr. LAMBORN. Thank you for your testimony. We will give your legislation the serious and thoughtful consideration that it deserves.

Mrs. MCMORRIS RODGERS. Thank you, Chairman.

Mr. LAMBORN. And you are excused if you wish to be. Thank you for being here.

We will now hear from Representative Calvert from California to testify on H.R. 3916.

**STATEMENT OF THE HON. KEN CALVERT, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. CALVERT. Chairman Lamborn, Ranking Member, and members of the Subcommittee, thank you for holding this hearing to discuss my legislation, H.R. 3916, the Federally Integrated Species Health Act, otherwise known as the FISH Act. It took a while to get that acronym down, but we got it.

[Laughter.]

Mr. CALVERT. This legislation makes a fairly straightforward and common-sense change to the Endangered Species Act. It is one of the few times I actually agreed with President Obama. Yet, as you all know, there is no such thing as a simple change to the Endangered Species Act.

Despite this fact, I do believe that we must not be held hostage by the status quo, and will continue to advocate for policy changes that can improve the ESA and advance our ability to achieve its worthwhile goals of species recovery.

Currently, under the ESA, the Secretary of the Interior, through the U.S. Fish and Wildlife Service, has responsibilities for plants, wildlife, and all freshwater fish. Meanwhile, the Secretary of

Commerce, through the National Marine Fisheries Service (NMFS), is responsible for implementing ESA with respect to saltwater fish. So, we have two separate agencies implementing the same law.

Our regulators fully understand which agency is responsible for each individual species. Unfortunately, these species do not live in a bubble, and often we see fish that fall under the jurisdiction of the Fish and Wildlife Service and NMFS living in the same ecosystem.

There are numerous examples of how the status quo is not working, but in order to be brief, I will focus my comments on Mr. Costa and I, our favorite subject, the California Bay Delta.

The Delta is one of two major water sources for the state of California. The complex habitat has two listed species: the delta smelt regulated by the Fish and Wildlife Service, and the Chinook salmon regulated by NMFS, the status of the delta smelt, the Chinook salmon that impacts the daily operations of the Federal Central Valley Project, and a state water project.

In the case of the California Bay Delta, we have seen the negative consequences of these two agencies enforcing the same law in the form of a series of contradictory, conflicting regulations. NMFS has increasingly held more water behind Shasta Dam, for instance, to protect salmon, while Fish and Wildlife has tried to increase flows to reduce the salinity of the delta in order to help the smelt.

The goal of the FISH Act is to eliminate bureaucratic turf wars and to ensure cohesive implementation of the Endangered Species Act. The bill consolidates all ESA regulatory functions within the Fish and Wildlife Service.

Currently, both fish and people are held hostage by two agencies that don't work well together with respect to the Endangered Species Act. My bill would end this situation. By creating a more unified approach that takes an all-encompassing view of species management, we can improve the ESA in a manner that benefits species as well as ESA stakeholders. By giving the Fish and Wildlife Service the sole authority to enforce ESA, we can have multi-species recovery plans that are written in a way that species management is done in concert, instead of in conflict. And when problems do arise, one agency can solve these problems more quickly than two agencies.

I am grateful to have a bipartisan group of co-sponsors for the FISH Act, which includes my California colleagues, Doug LaMalfa, David Valadao, Jim Costa, and my good friend and fellow appropriator, Mike Simpson. So, these issues with Appropriations I think we can resolve.

Again, thank you for holding this hearing today, and your continued leadership on this complex management of the species and water infrastructure.

With that, I yield back the balance of my time.

Mr. LAMBORN. All right. Thank you for your testimony and for being here today. You are excused, and we look forward to considering your bill thoughtfully and seriously.

I would now like to call forward our second panel of witnesses. I will introduce the panel as they come forward and take their seats, so please come and make yourselves comfortable.

Our first witness is Mr. Alan Mikkelsen, Acting Commissioner of the Bureau of Reclamation, from Washington, DC; our second witness is Ms. Beth Looney, President and CEO of PNGC Power from Portland, Oregon, and formerly Kansas; our third witness is Ms. Liz Hamilton, Executive Director of the Northwest Sportfishing Industry Association from Oregon City, Oregon; our fourth witness is Mr. Jack Heffling, President of the United Power Trades Organization from West Richland, Washington; and our final witness is Mr. Dan Keppen, Executive Director of the Family Farm Alliance from Klamath Falls, Oregon.

Thank you all for being here. Each witness' written testimony will appear in full in the hearing record, so I ask that witnesses keep their oral statements to 5 minutes, as outlined in our invitation letter to you and under Committee Rule 4(a).

I also want to explain how our timing lights work. When you are recognized, press the talk button to activate your microphone. Once you begin your testimony, the Clerk will start the timer and a green light will appear. After 4 minutes, a yellow light will appear. At that time you should begin to conclude your statement. At 5 minutes, the red light will come on. You may complete your sentence, but I would ask that you stop at that point.

Mr. Mikkelsen, you are now recognized for 5 minutes.

**STATEMENT OF ALAN MIKKELSEN, ACTING COMMISSIONER,  
BUREAU OF RECLAMATION, U.S. DEPARTMENT OF THE  
INTERIOR, WASHINGTON, DC**

Mr. MIKKELSEN. Thank you, Mr. Chairman, Mr. Beyer, and members of the Subcommittee. I am Alan Mikkelsen, Acting Commissioner for the Bureau of Reclamation. Today, I testify on behalf of Department of the Interior. I prepared a written statement on H.R. 3144 and ask that it be made part of that record, and I am here to summarize the Department's position in my brief remarks now.

First, H.R. 3144 seeks to allow the continued operation of the Federal Columbia River Power System, pending the effective date of a new biological opinion and a completion of related environmental compliance. At a time when, in our litigious society, we have practically turned over the operation of massive natural resource assets to the Federal court judges, I am pleased to testify that the Department of the Interior supports the goals of H.R. 3144.

The Federal Columbia River Power System in our Nation's Pacific Northwest consists of 31 federally owned hydroelectric power projects. This bill is focused on a subset of 14 of those dams and power plants. The largest of these is Grand Coulee Dam, the largest hydropower producer in the country, generating more than 21 billion kilowatt hours of electricity each year.

Along with Hungry Horse Dam and 12 other power facilities, our smooth operation of the entire system maximizes beneficial uses of the Columbia River by generating power, protecting fish and wildlife, mitigating flood risks, providing irrigation, navigation, and sustaining cultural resources.

Working through a cooperative effort of five Federal agencies, the system is able to contribute about 35 percent of the Pacific



Northwest's clean and renewable electric energy. It allows shipping access from the ocean inland to Lewiston, Idaho, a distance of 465 miles, and it provides 17 million acre-feet of water storage. Without question, the Federal Columbia River Power System is a vital component to the economic health not only of the Pacific Northwest, but the entire Nation.

However, since the early 1990s, biological opinions on system operations have been the subject of continuous litigation. As it stands today, the Federal Government is obligated by court order to prepare a new, interim biological opinion to replace a 2014 BiOp, and to do so by December 31, 2018.

The court also directed Federal agencies to complete a new environmental impact statement by March of 2021, and various records of decision by September of 2021. This is all in addition to a potential long-term BiOp to be adopted in 2022, which will undoubtedly also be litigated.

Managing the development of these numerous court-ordered measures puts a strain on our ongoing operations of the system. The aim of H.R. 3144 would be to reduce litigation and allow the cooperating Federal agencies to focus on the continued operation of this vital waterway system until a new biological opinion is prepared to cover the period from 2019 to 2022.

My written statement includes a section-by-section analysis of the bill. But for the sake of this testimony, let me repeat that we stand ready to work with the Committee to ensure H.R. 3144 accomplishes our shared interest in providing continued stable operations of this vital system.

The Subcommittee is also considering H.R. 3916. Unfortunately, we do not have an OMB-approved statement for the record on that legislation at this time. I understand that we will be submitting that this afternoon.

I do, of course, have extensive experience as a fishing guide in my previous retirement in our Nation's Pacific Northwest, and can even discuss the difference between anadromous and catadromous fish or species in my sleep, if necessary, and would be happy to take any generic questions in that regard.

Mr. Chairman, again, thank you. That concludes my remarks, and I would be pleased to answer any questions the Subcommittee may have on these matters.

[The prepared statement of Mr. Mikkelsen follows:]

PREPARED STATEMENT OF ALAN MIKKELSEN, ACTING COMMISSIONER, BUREAU OF RECLAMATION, U.S. DEPARTMENT OF THE INTERIOR ON H.R. 3144

Chairman Lamborn, Ranking Member Huffman, and members of the Subcommittee, my name is Alan Mikkelsen and I am the Acting Commissioner for the Bureau of Reclamation at the Department of the Interior. Thank you for the opportunity to present testimony on behalf of the Department regarding H.R. 3144, a bill that aims to allow for the continued operation of the Federal Columbia River Power System pending the effective date of a new biological opinion and the completion of associated environmental compliance. The Department supports the goals of H.R. 3144.

#### BACKGROUND

Before I begin to discuss the Department's views on H.R. 3144, I first want to touch upon the Bureau of Reclamation's (Reclamation) involvement in the Federal Columbia River Power System (System). While the entire System consists of 31

federally-owned hydroelectric power projects located on the main-stem of the Columbia River and its major tributaries, the bill is focused on a subset of 14 integrated dams and power plants.

Of the 14 federally-owned projects, two are operated by the Department of the Interior, including the Grand Coulee Dam, which began operation in 1942. It is the largest hydroelectric power producer in the United States, generating more than 21 billion kilowatt-hours of electricity each year. The 5,223 feet long dam produces nearly a fourth of the System's total generation, allows for the irrigation of approximately 671,000 acres in east central Washington, anchors flood risk management in the river basin, and provides recreational access for over 1.2 million visitors to the Lake Roosevelt National Recreation Area.

The other Reclamation facility is the Hungry Horse Dam for which construction was completed in 1953. At the time, Hungry Horse was the third largest dam, and the second highest concrete dam, in the world. Annually, Hungry Horse Dam generates 948.6 million kilowatt-hours of electric power.

Over time, Reclamation integrated its operations of Grand Coulee and Hungry Horse Dams with the operations of 12 other federally-owned hydroelectric power facilities. These System operations ensure coordination among Federal agencies to maximize beneficial uses of the Columbia River by generating power, protecting fish and wildlife, mitigating flood risks, providing irrigation and navigation, and sustaining cultural resources. All together the System contributes about 35 percent of the Pacific Northwest's electric generating capacity, allows shipping access from the Pacific Ocean 465 miles inland to Lewiston, Idaho, and provides 17 million acre-feet of water storage. Reclamation operates the System in collaboration with the Bonneville Power Administration, which was established in 1937 to market and transmit electricity produced from the federally-owned hydroelectric power facilities, and the U.S. Army Corps of Engineers, which operates and maintains 12 dams within the System for a range of purposes including flood control, power generation, and navigation.

While the System provides numerous public benefits, operation of the System is not without adverse impacts; most notably for the purposes of H.R. 3144, impacts on populations of Columbia River and Snake River salmon and steelhead. The ongoing operation of the System has resulted in over two decades of litigation focused on the protection of these fish populations.

In the 1990s, the System and its operators began to experience growing pressures associated with impacts on fish and wildlife protection. In 1991, the Snake River sockeye salmon was listed as endangered under the Endangered Species Act, followed by a dozen more endangered or threatened-listings of Columbia and Snake River salmonids over the ensuing decade. In 1992, the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries) issued its first biological opinion for this System. Since then, numerous NOAA Fisheries biological opinions on System operations have been subject to litigation.

Most recently, on May 4, 2016, the U.S. District Court for the District of Oregon ruled that NOAA Fisheries' 2014 biological opinion (2014 BiOp) was arbitrary and capricious, concluding that the operations of the System violated the Endangered Species Act notwithstanding inclusion of a comprehensive, regionally coordinated reasonable and prudent alternative based on 74 categories of protective actions, and further that the Army Corps of Engineers and Reclamation violated the National Environmental Policy Act of 1969 (NEPA) by neglecting to prepare a NEPA document in connection with their records of decision implementing the reasonable and prudent alternative described in the 2014 BiOp. The U.S. District Court ordered NOAA Fisheries to prepare a new interim biological opinion no later than December 31, 2018 (2018 BiOp). The Court's July 2016 remand order further directed the agencies to complete a new environmental impact statement (EIS) by March 26, 2021 and the agencies' respective records of decision by September 24, 2021, in addition to the interim 2018 BiOp and a potential long-term BiOp on or before the conclusion of the NEPA process. The need to balance the ongoing operations of the System and achieving compliance with environmental laws is what H.R. 3144 seeks to achieve.

#### H.R. 3144

In our view, H.R. 3144 aims to allow NOAA Fisheries and the Federal agencies responsible for System operations to focus on development of a long-term biological opinion and EIS without diverting resources for preparation of a short-term biological opinion to cover the period of 2019–2022. We believe H.R. 3144 also aims to reduce litigation over System operations during that period. The Department welcomes the opportunity to assist the bill sponsors and this Committee to ensure

H.R. 3144 accomplishes our shared interest in providing continued stable operation of the System.

Section 2 requires the Secretaries of the Interior, Energy and Army (Secretaries) to continue operating the System in compliance with the 2014 BiOp. The Secretaries would continue System operations under the 2014 BiOp until either September 30, 2022, or the date upon which a final biological opinion is in full force and effect, whichever date is later. It is our understanding that the sponsors' intent in Section 2 is to authorize continued system operations under the 2014 BiOp, thus alleviating NOAA Fisheries' obligation to complete the 2018 BiOp and the other agencies' corresponding need to produce a biological assessment. This would allow Federal agencies to focus their resources on developing a long-term BiOp.

Currently, Reclamation's Columbia-Snake Salmon Recovery Office along with their colleagues at the other agencies are responsible for conducting and implementing all aspects of the Endangered Species Act section 7 consultation processes for the System. The same staff provides support for litigation, implements compliance with the District Court's May 4, 2016, injunction, and provides analysis and data to the NEPA process through the preparation of an EIS pursuant to the Court's remand order. If the goals of Section 2 were achieved, Reclamation and its sister agencies could focus resources on compliance with the NEPA process and development of a long-term BiOp while also continuing implementation of the 2014 BiOp activities. The repositioning of these resources would accordingly benefit the effort to identify a quality long-term System solution. We look forward to working with you to ensure Section 2 adequately addresses the sponsors' intent to ensure the 2014 BiOp governs System operations until the dates identified in Section 2.

Section 3 of the bill would authorize the Secretaries to amend portions of the 2014 BiOp and operate the System in accordance with such amendments if all Secretaries concur that such an amendment is necessary for public safety or transmission and grid reliability, or that certain actions, operations or other requirements of the 2014 BiOp are no longer warranted. We look forward to working with the sponsors and the Committee to clarify the intent of this section concerning the requirements applicable to the three Secretaries.

Section 4 would prohibit any structural modification, action, study, or engineering plan that would restrict electrical generation at any System hydroelectric dam, or limit navigation on the Snake River, absent additional congressional authorization. Specifically, it is our understanding that the goal of Section 4 is to prohibit the identified agencies from studying removal of System dams through an EIS without additional congressional authorization. In this section, the terms structural modification, action, study or engineering plan could potentially limit Reclamation's ability to conduct routine operations and maintenance activities, even if the restrictions to electrical generation are incidental to the purpose of the operation and maintenance activities.

We look forward to working with you to ensure Section 4 adequately addresses the sponsors' intent without interfering with the ability of System operators to conduct operation and maintenance activities necessary to meet authorized project purposes and to evaluate a reasonable range of alternatives in the EIS.

#### CONCLUSION

In conclusion, we welcome the opportunity to work with the bill sponsors, other appropriate Federal agencies, and this Committee to ensure the System continues to provide the full range of public benefits to the Pacific Northwest and the Nation at large, while managing adverse impacts caused by System operations. This concludes my written statement. I would be pleased to answer questions at the appropriate time.

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QUESTIONS SUBMITTED FOR THE RECORD BY REP. DENHAM TO ALAN MIKKELSEN,  
ACTING COMMISSIONER OF THE BUREAU OF RECLAMATION

*Question 1. Section 3(c)(I)(A) of the bill says, that all "orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges . . . issued by the Department of Commerce . . . in effect on the effective date of this Act . . . shall continue in effect according to their terms until modified . . ." by law or the President.*

*In 2014, NMFS issued a “Recovery Plan (or Sacramento River Winter-Run Chinook, Central Valley Spring-Run Chinook and Central Valley Steelhead.” The recovery plan is regarded by local water agencies as a policy document rather than a scientific determination or a rule or regulation, but NMFS uses the plan as the basis and justification for ESA regulatory actions in the Central Valley.*

*Under Sec. 3(c)(1)(A), which agency—NMFS or USFWS—would be responsible for implementing the 2014 recovery plan? If USFWS would be responsible for implementation, when would USFWS take over from NMFS and how would that transition be accomplished?*

Answer. Should H.R. 3916 become law, the U.S. Fish and Wildlife Service (FWS) will be responsible for implementing the 2014 Recovery Plan for Sacramento River Winter-Run Chinook, Central Valley Spring-Run Chinook, and Central Valley Steelhead upon enactment. While we cannot speak to the specifics of how the transition would be accomplished at this time, the FWS would work closely with the National Marine Fisheries Service (NMFS) regarding past and current implementation of the plan in order to ensure a smooth and seamless transition of management responsibility.

*Question 2. Section 3(c)(2)(A) of the bill says, “This Act shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending on the date of the enactment of this Act before an office transferred by this Act.”*

*The section appears to allow NMFS to retain ESA jurisdiction in an ongoing FERC hydroelectric licensing proceedings where NMFS can exercise its “mandatory conditioning” authority to force FERC to require that licensees carry out certain actions, such as providing fish passage over Central Valley dams, regardless of cost.*

*Under the bill, does NMFS retain its ESA authorities in current FERC licensing proceedings? If so, when is a FERC licensing process deemed to be “pending”—underway—under the bill? For example, does the process “start” when the applicant for a hydro license files its first Notice of Intent, or when FERC issues a formal Request for Environmental Assessment (REA) to NMFS, USFWS and other agencies after the final license application is filed?*

*If NMFS-mandated fishery actions become part of a final hydro license issued by FERC, what role, if any, does NMFS have in overseeing implementation of its mandated license conditions? Does the bill anticipate post-licensing ESA authority will reside with NMFS or USFWS? If the latter, how will that transition be accomplished?*

Answer. Should H.R. 3916 become law, at the time of enactment, any Federal Energy Regulatory Commission (FERC) hydro licensing proceeding NMFS had begun work on in any way would be grandfathered and not transferred to the FWS. NMFS would continue to participate in these projects until the proceedings are concluded. Once the proceedings are concluded, FWS would assume responsibility for overseeing implementation of any license conditions that specify a role for NMFS, as well as any post-licensing monitoring. While we cannot speak to the specifics of how the transition would be accomplished at this time, FWS would work closely with NMFS to ensure a smooth and seamless transition of management responsibility.

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Mr. LAMBORN. Thank you. We now recognize Ms. Looney for 5 minutes.

**STATEMENT OF BETH LOONEY, PRESIDENT AND CEO, PNGC POWER, PORTLAND, OREGON**

Ms. LOONEY. Good morning, Chairman Lamborn, Ranking Member Beyer, and members of the Subcommittee. I appreciate the opportunity to testify before you today on H.R. 3144. My name is Beth Looney. I am President and CEO of PNGC Power. PNGC is a Portland, Oregon-based electric generation and transmission cooperative created and owned by 15 electric distributive cooperatives.

As a not-for-profit electric cooperative, PNGC provides all the wholesale power requirements of 200,000 member homes, or

roughly 500,000 individuals, farms, and businesses. PNGC is also a member of the National Rural Electric Cooperative Association, the NRECA, the service organization for America's electric cooperatives.

In addition to my role at PNGC Power, I also serve on the Board of Directors of Northwest River Partners, an alliance of utilities, farmers, ports, and businesses that promote the economic and environmental benefits of the Columbia and Snake Rivers. River Partners' 120-member organization represents more than 4 million electric utility customers, 40,000 farmers, thousands of port employees, and large and small businesses that provide hundreds of thousands of Northwest jobs.

My goal in providing testimony today is to inform you of an issue that weighs heavily in my mind and the minds of those public power utilities in the Northwest.

In 1991, the first salmon species was listed endangered under the ESA in the Columbia River Basin. Since that time, the cost to mitigate for these now-13 species has been placed upon the Bonneville Power Administration, the Federal power marketing agency for the hydro dams located in the Basin. Bonneville passes through all of their costs, including these fish mitigation costs, to their power customers.

About 80 percent of PNGC's power supply comes from Bonneville. Since Bonneville makes up such a large portion of PNGC's total power supply costs, I am concerned about its rates.

In Fiscal Year 2016 alone, Bonneville reported total fish and wildlife costs of approximately \$622 million in 1 year, each year. Bonneville reported this makes up about a third of Bonneville's total cost of power—a third. In fact, Bonneville's customers fund the largest mitigation effort for threatened and endangered species in the Nation.

PNGC and Northwest River Partners are delighted that positive biological results have been attained due to these monumental efforts to mitigate for these species. However, despite these efforts, Bonneville, the U.S. Army Corps of Engineers, the Bureau of Reclamation, and NOAA are continually hauled into court by plaintiffs with an agenda who place no value on Federal science, conducted primarily under both the Bush and Obama administrations.

Now, yet again, due to plaintiff-filed motions for injunctive relief, the U.S. Court for the District of Oregon is likely to order increased spill over the dams for the 2018 migration season. It is expected that this \$40 million spill experiment will cost Bonneville customers another 2 percent power rate increase. This 2 percent is on top of a 5.4 percent rate increase ushered in last week, and on top of an additional 30 percent rate increase that was brought in over the past several years.

My rural customers cannot dig any deeper. They are already just barely getting by.

Even more concerning than the recent large rate increases is the potential for future rate increases. As outlined in my written statement, if Bonneville's rates continue to climb at their current trajectory, they will likely not be competitive with alternative power supply choices in the region.

If Bonneville's customers choose more cost-effective options, Bonneville will not have a sufficient consumer base to cover its costs, costs that include the fish and wildlife program. It also puts at risk Bonneville's ability to make its annual payment to the U.S. Treasury, which would negatively affect the Nation's taxpayers.

PNGC values the clean, carbon-free, flexible hydropower resources that Bonneville provides. However, I have a responsibility to supply power to my members at an affordable rate, whether that comes from Bonneville or elsewhere.

So, why am I supporting this bill? This bill keeps in place current biological measures vetted by the top Federal scientists that protect salmon in the Columbia and Snake Rivers until a court-ordered review of Federal hydro system operations is complete. It effectively puts a time-out on litigation so that Federal agencies can do the environmental review work the judge has asked them to do without being sidetracked and burdened with litigation expenses and activities. When this work is complete, the agencies will be positioned to adopt a new salmon plan based on a public, transparent NEPA process and the science it yields.

Thank you, and I welcome any questions you may have.

[The prepared statement of Ms. Looney follows:]

PREPARED STATEMENT OF BETH LOONEY, PRESIDENT AND CHIEF EXECUTIVE OFFICER,  
PNGC POWER ON H.R. 3144

#### INTRODUCTION

Chairman Lamborn, Ranking Member Huffman and members of the Committee, my name is Beth Looney, President and Chief Executive Officer ("CEO") of PNGC Power ("PNGC Power" or "PNGC").

I appreciate the opportunity to testify before you today on H.R. 3144, legislation to require the Federal agencies responsible for management of the Federal Columbia River Power System ("FCRPS") to operate the hydropower system in compliance with the Biological Opinion ("BiOp") approved by the National Oceanic and Atmospheric Administration ("NOAA") in 2008/2010 and supplemented in 2014. I look forward to discussing how this legislation protects PNGC Power's access to renewable, clean, and reliable Federal hydropower while mitigating hydropower impacts and protecting Endangered Species Act ("ESA") listed salmon populations.

PNGC Power is a Portland, Oregon-based electric generation and transmission ("G&T") cooperative owned by 15 Northwest electric distribution cooperative utilities. Our company creates value for its member systems by providing wholesale power supply, transmission, and other management services. PNGC Power is an aggregator of geographically diverse loads in a seven state region (Oregon, Washington, Idaho, Montana, Utah, Nevada, and Wyoming). By coming together as PNGC Power, our member cooperatives have more options than any one cooperative could have alone. PNGC Power is also a member of the National Rural Electric Cooperative Association ("NRECA"), the service organization for America's electric cooperatives.

In addition to my role at PNGC Power, I serve on the Board of Directors of Northwest RiverPartners ("RiverPartners"), an alliance of utilities, farmers, ports and businesses that promote the economic and environmental benefits of the Columbia and Snake Rivers; fish and wildlife policies and programs based on sound science; and clean, renewable, reliable and affordable hydropower. RiverPartners' 120 member organizations represent more than 4 million electric utility customers, 40,000 farmers, thousands of port employees, and large and small businesses that provide hundreds of thousands of Northwest jobs.

#### BALANCING ENVIRONMENTAL STEWARDSHIP AND ECONOMIC GROWTH

As the President and CEO of a not-for-profit, member-owned electric cooperative, I work closely with my staff and PNGC's Board of Directors to provide high quality power supply and transmission services that improve the quality of life for nearly 200,000 member homes, farms and businesses, including those in rural, underserved

communities. In the context of a rapidly changing energy environment, we seek to identify policy solutions that balance the dual priorities of environmental stewardship and a universal desire for economic growth and prosperity. We believe this legislation does just that.

In fact, how the Federal hydropower system is operated affects every single individual, family and business in the Northwest because our economy was created and continues to rely on these hydropower resources to stay healthy and thrive. Eighty percent of PNGC's power supply comes from the Bonneville Power Administration ("BPA" or "Bonneville"), a nonprofit Federal power marketing administration based in the Pacific Northwest. BPA markets wholesale electrical power from 31 Federal hydroelectric projects in the Northwest, one non-Federal nuclear plant and several small non-Federal power plants. BPA provides about one-third of the electric power used in the Northwest and its resources—primarily hydroelectric—make BPA nearly carbon free.<sup>1</sup>

On this 80th anniversary of the Bonneville Power Administration, it is worth recalling President Franklin Delano Roosevelt's ("President Roosevelt's") vision in 1937 when he signed the Bonneville Project Act into law. His goal was "to deliver the massive benefits of Columbia River hydropower—clean, inexpensive electricity—to citizens of the Pacific Northwest. It was a revolutionary and compassionate idea—to bring down the barriers between the rural poor and dreams of a better life by providing power at the cost of production, rather than for profit."<sup>2</sup>

Much has changed since 1937, but the region's desire for clean, affordable, and reliable energy remains. I am optimistic that in the 21st century, despite the challenges posed by an ever-changing energy landscape, the many stewards of the Columbia River System can work collaboratively to identify solutions that do right by both the environment and the economy.

#### BONNEVILLE'S UNSUSTAINABLE RATE TRAJECTORY

President Roosevelt's vision is in peril due to a number of cost variables that are putting BPA's financial health at risk. As Bonneville's fourth largest power customer, PNGC is concerned about BPA's unsustainable rate trajectory. In July 2017, BPA announced a 5.4 percent average wholesale power rate increase for Fiscal Years 2018 and 2019. This follows four sequential rate periods with power rate increases averaging nearly 8 percent,<sup>3</sup> meaning BPA's rates have risen roughly 30 percent in the last few years.

Even more concerning than the recent large rate increases, is the potential for future rate increases up until 2028, which marks the end of the current Bonneville contract with its customers. If BPA's rates continue to climb at their current trajectory, they will likely not be competitive with alternative power supply choices in the region at that time. If Bonneville's customers seek out other options, the agency will not have a sufficient consumer base to cover its costs, costs that include fish and wildlife program spending. It also puts at risk the agency's ability to make its annual payment to the U.S. Treasury, which would negatively affect the Nation's taxpayers. PNGC values the clean, carbon free, flexible hydropower resources that BPA provides. However, as an electric cooperative, we have a responsibility to supply power to our members at an affordable rate whether that comes from Bonneville or elsewhere.

Bonneville understands these trade-offs very well. According to the Administrator's Preface in the BP-18 Final Record of Decision, "BPA's ability to continue meeting its multiple statutory obligations and public-purpose objectives depends on maintaining cost competitiveness and financial health."<sup>4</sup> Although BPA's power rates are influenced by a variety of cost-drivers, for purposes of today's testimony, I will focus on one of the largest areas of BPA's budget: BPA's fish and wildlife program costs. Specifically, the uncertainty of ongoing litigation regarding the operations of the FCRPS for Endangered Species Act ("ESA") listed salmon and steelhead.

<sup>1</sup> BPA.gov. <https://www.bpa.gov/news/AboutUs/Pages/default.aspx>.

<sup>2</sup> BPA.gov. <https://www.bpa.gov/news/AboutUs/80thAnniversary/Pages/80th-Anniversary.aspx>.

<sup>3</sup> BP-18 Rate Proceeding. Administrator's Final Record of Decision, July 2017 (Page 2). <https://www.bpa.gov/secure/Ratecase/openfile.aspx?fileName=BP-18-A-04+Final+ROD.pdf&contentType=application%2Fpdf>.

<sup>4</sup> BP-18 Rate Proceeding. (Page 1).

## RISING FISH AND WILDLIFE COSTS DRIVEN BY THE UNCERTAINTY OF LITIGATION

In 1991, NOAA listed Snake River sockeye as endangered under the ESA. Today, 13 Columbia Basin salmon and steelhead species are listed under the Act. Driven by these listings, BPA ratepayers fund the largest mitigation program for threatened and endangered species in the Nation.<sup>5</sup> This is an important point worth repeating. BPA's fish and wildlife program is paid for through electric rates of utilities that buy power from BPA. It is not funded by U.S. taxpayers. Without these fish and wildlife costs, BPA's electricity rate to its Northwest public utility customers would be about a third lower.<sup>6</sup>

PNGC Power, in partnership with the broader consumer-owned power community in the Northwest, remains committed to cost-effective, science-based approaches to ensure ratepayer funds committed to this important endeavor produce measurable results.<sup>7</sup> In Fiscal Year 2016, Bonneville reported total fish and wildlife costs of approximately \$621.5 million.<sup>8</sup> BPA has committed nearly \$15.9 billion since 1978 to support Northwest fish and wildlife recovery.<sup>9</sup>

We are pleased that these efforts are yielding real results. More salmon are returning to the Columbia River Basin. According to BPA, performance-standard testing results range from 96 percent to 98 percent survival for Spring Chinook at the lower Columbia and Snake River dams. The BiOp performance standard is 96 percent average per dam survival for Spring Chinook. The Federal system is meeting and in some cases exceeding the targets for fish passage at the dams. Combined with refined spill operations, the installation of surface passage has reduced the percentage of fish that go through the powerhouses, decreased fish travel time through the system, and increased overall fish survival. Additionally, the large-scale structural and operational improvements for fish passage at the dams and the large-scale habitat improvement program have resulted in safer conditions for fish passing through the system and improved conditions for rebuilding capacity.

Unfortunately, positive results for returning salmon have not put an end to the ongoing court battles. For a number of years, over multiple administrations, NOAA and the Federal Action Agencies (Bonneville, the U.S. Army Corps of Engineers, and Bureau of Reclamation) have been in litigation over operations of the FCRPS for ESA listed salmon and steelhead.

Most recently, as a result of plaintiff-filed motions for injunctive relief, the U.S. Court for the District of Oregon is likely to order increased spill for the 2018 migration season. This approach is not without risk to the species,<sup>10</sup> could threaten electric reliability,<sup>11</sup> and according to hydro system modeling, result in approximately \$40 million dollars in reduced BPA revenues and/or increased power acquisition costs each year for a total of \$80 million over the 2-year period of the requested injunction.<sup>12</sup> A rough rule of thumb with BPA power rates is that rates increase 1 percent for every additional \$20 million per year in costs. Given these estimates, we expect to see a 2 percent rate increase from the spill surcharge alone.

To address the litigation-driven uncertainty and ensure cost recovery, the BPA Administrator announced the adoption of a spill surcharge in the agency's Final Record of Decision in the BP-18 Rate Proceeding. He wrote:

“Although not included in the rate increase, another source of significant rate pressure we will face this rate period is the March 27 spill ruling, amended April 3, by the U.S. District Court for the District of Oregon. The court indicated that it will order increased spill for the 2018 spring migration season. The ruling will have cost implications for BPA that we are still evaluating. Therefore, I am adopting a spill surcharge that will allow us to

<sup>5</sup> BPA.gov. <https://www.bpa.gov/news/pubs/FactSheets/fs-201305-BPAs-Fish-and-Wildlife-Program-the-Northwest-working-together.pdf>.

<sup>6</sup> BPA.gov. <https://www.bpa.gov/news/pubs/FactSheets/fs-201402-BPA-invests-in-fish-and-wildlife.pdf>.

<sup>7</sup> Public Power Council 2017 Fish Facts. [http://www.ppcpx.org/wp-content/uploads/PPCFishFactsMar17\\_003.pdf](http://www.ppcpx.org/wp-content/uploads/PPCFishFactsMar17_003.pdf).

<sup>8</sup> 2016 Columbia River Basin Fish and Wildlife Costs Report. Northwest Power and Conservation Council. <https://www.nwcouncil.org/media/7491102/2017-2.pdf>.

<sup>9</sup> BPA.gov. <https://www.bpa.gov/news/pubs/GeneralPublications/gi-BPA-Facts.pdf>.

<sup>10</sup> United States District Court District of Oregon Portland Division. 2017 Declaration of Ritchie J. Graves, National Marine Fisheries Service, West Coast Region (Page 4).

<sup>11</sup> United States District Court District of Oregon Portland Division. 2017 Declaration of Kieran Connolly, Bonneville Power Administration (Pages 5–14).

<sup>12</sup> 2017 Declaration of Kieran Connolly, Bonneville Power Administration (Page 16).



adjust rates in both FY 2018 and 2019 based on the cost associated with increased spill and lost generation relative to current spill assumptions. I recognize the uncertainty this places on our customers . . .”<sup>13</sup>

The uncertainty of a spill surcharge coupled with years of sequential rate increases is death by a thousand cuts for PNGC’s 200,000 member homes, farms and businesses.

#### A COMMON-SENSE SOLUTION

My members are frustrated that the Federal science is continually scrutinized and litigated by plaintiff groups with an agenda. For close to 20 years, over several administrations, rigorous data collection, modeling and actions have been undertaken by the Federal Government only to be litigated again and again. The 2008/2010 FCRPS BiOp (supplemented in 2014) was developed in an unprecedented collaboration among the region’s states and tribes. It triggered massive investments in salmon restoration measures and was based on the best available science.

Once and for all, the Northwest’s BPA ratepayers who fund the largest mitigation program for threatened and endangered species in the Nation, need certainty around BPA’s ongoing fish and wildlife costs. Let’s take a time-out from the courtroom and rally around a practical solution.

On behalf of PNGC Power and Northwest RiverPartners, I am pleased to support H.R. 3144. At a time when common cause across the political aisle appears elusive, a bipartisan group of Northwest lawmakers have come together to propose a common-sense solution.

Specifically, H.R. 3144 would:

- Require the Federal agencies responsible for management of the FCRPS (BPA, the Army Corps of Engineers, and the Bureau of Reclamation) to operate the hydropower system in compliance with the BiOp approved by NOAA in 2008/2010 and supplemented in 2014.
- Carry directed Federal hydropower operations through the later of September 30, 2022 or until the court-ordered, comprehensive environmental National Environmental Policy Act (“NEPA”) process concludes and judicial review is complete.
- Allow for limited agency flexibility in hydropower operations should there be a need to protect public safety, transmission and/or grid reliability and stability.
- Prohibit studies, plans or structural modifications at the dams, which would impair hydroelectric power generation or navigation on the Columbia River without the prior approval of Congress.

From a practical standpoint, this legislation provides much needed relief from the endless litigation by keeping in place a 2014 BiOp built upon the best available science from two consecutive administrations (the George W. Bush and Obama administrations). This BiOp has resulted in wild salmon numbers trending significantly upward and improved young salmon survival at dams due to changes in operations and the installation of new passage technologies.

Keeping the 2014 BiOp in place allows the relevant Federal agencies to focus on the court-ordered NEPA environmental review process without being distracted by litigation. Without this legislation, the agencies would be compelled to use their strained resources to author a new 2018 BiOp without the benefit of the updated science and public input provided by the comprehensive NEPA review. That review is looking at the entirety of Federal hydropower system operations in the Columbia River Basin (the “Columbia River System Operations Review”) as well as the suite of measures in the 2014 Biological Opinion to ensure that those measures providing the most benefit to the salmon are implemented in a new BiOp. In other words, the legislation appropriately sequences the court’s processes.

#### DAM REMOVAL IS NOT A REASONABLE ALTERNATIVE UNDER NEPA

PNGC has been actively involved in the court-ordered NEPA scoping process, and on February 3, 2017, provided public comments on the Columbia River Power System Operations Environmental Impact Statement (“EIS”). Consistent with these comments, we urge the Federal Action Agencies to evaluate *all* major Federal

<sup>13</sup>BP-18 Rate Proceeding. Administrator’s Final Record of Decision, July 2017 (Page 2). <https://www.bpa.gov/secure/Ratecase/openfile.aspx?fileName=BP-18-A-04+Final+ROD.pdf&contentType=application%2f.pdf>.

actions affecting listed salmon throughout their life cycle. This includes hydropower, habitat, harvest, and hatchery actions (the four “H’s”). An all “H” approach will give the visibility needed to ensure the highest survival gains for ESA listed salmon.

Furthermore, PNGC believes that dam removal should not be considered as an alternative under NEPA because it requires congressional authorization and appropriations for such action. Notably, in the case of the lower Snake River dams, Congress would have to reverse course on decades of funding for the operation and maintenance of the FCRPS and navigation system created by these dams.

#### CONCLUSION

The Columbia River is a cherished resource that provides the Northwest with the multipurpose benefits of affordable, reliable and carbon free electricity, flood control, navigation and recreation.

As stewards of this great asset, it is our responsibility to get off the sidelines and identify practical solutions to tough problems. The challenges discussed in my testimony are not new and there is no silver-bullet fix, but I am convinced the answer is not to be found in the courtroom. PNGC applauds the Republican and Democratic co-sponsors of H.R. 3144 for coming together to identify a carefully balanced way forward. PNGC looks forward to supporting this proposal as it moves through the legislative process.

Thank you for holding this hearing today and for the opportunity to testify. I would be pleased to respond to any questions you might have today or in the future.

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#### QUESTIONS SUBMITTED FOR THE RECORD BY HICE TO BETH LOONEY, PRESIDENT AND CEO, PNGC POWER

*Question 1. Why is it that unelected judges and special interests are determining operational decisions for dams?*

Answer. Our region’s tremendous commitment to species conservation is being undermined by Endangered Species Act (“ESA”)-driven litigation. As stewards of the Columbia River System, we are committed to cost-effective, science-based approaches to ensure utility ratepayer funds committed to fish and wildlife restoration produce measurable results. However, we are concerned that the positive outcomes for returning salmon outlined in my testimony have not put an end to the ongoing court battles.

Specifically, with respect to ESA listed salmon species and Federal Columbia River Power System (“FCRPS”) operations, we are frustrated that the Federal Government’s best available science is continually scrutinized and litigated by plaintiff groups with an agenda. For close to 20 years, over several administrations (Democratic and Republican administrations alike), rigorous data collection, modeling and actions have been undertaken by the Federal Government only to be litigated again and again.

The Northwest’s Bonneville Power Administration (“BPA”) ratepayers, who fund the largest mitigation for threatened and endangered species in the Nation, need certainty around BPA’s ongoing fish and wildlife costs. That is why we are seeking the common-sense legislative solution offered by the sponsors of H.R. 3144. This bill provides much needed courtroom relief, protects PNGC’s access to carbon-free Federal hydropower, and allows for the continued mitigation of hydropower impacts on ESA listed salmon populations provided by the National Oceanic and Atmospheric Administration (“NOAA”) 2014 Biological Opinion (“BiOp”).

*Question 2. Do you think that one judge, who is unaccountable to the people his decisions impact, handing down unilateral decisions is good governance?*

Answer. H.R. 3144 rightfully asserts Congress’ policy oversight role over the operations of eight large federally authorized multipurpose dams that supply nearly 60 percent of the energy produced in the Northwest. Through this legislative effort, our region’s elected officials are appropriately expressing their concern that in the Northwest, where affordable, plentiful hydropower is critical to our economy, environment, and way of life, a lack of action will result in unacceptable impacts to electric utility ratepayers.

At the same time, the judicial branch is an important part of our government, and H.R. 3144 respects the role of the court on this issue. With respect to the ongoing ESA-related FCRPS litigation, H.R. 3144 primarily re-sequences events that the Court itself has already ordered: First, a full National Environmental Policy Act (“NEPA”) review of the impacts of the Federal hydropower system operations on the

region's iconic fish by September 2022. Then, adoption of a new biological opinion based on the public, transparent environmental review process and the science it yields. The legislation would prevent the court from ordering changes in hydropower system operations in the interim, until the NEPA process and a new biological opinion based on it is complete.

*Question 3. Who should be making these decisions and who is best situated to determine what is best for the local environment?*

Answer. We are supportive of the Federal Government's role in preserving, protecting and recovering domestic species as mandated by the Endangered Species Act. However, we are concerned that the ESA is failing to achieve its key purpose of species recovery and instead has become a mechanism for litigation.

As stewards of the Columbia River System we are committed to cost-effective, science-based approaches to ensure electric utility ratepayer funds committed to fish and wildlife recovery produce measurable results. As noted in my testimony, the Bonneville Power Administration, through electric rates of utilities that buy BPA power, has committed nearly *\$15.9 billion since 1978* to support Northwest fish and wildlife recovery.

In the context of a rapidly changing energy environment, we seek to identify policy solutions that balance the dual priorities of environmental stewardship and a universal desire for economic growth and prosperity. H.R. 3144 does just that, it protects the region's access to carbon-free, reliable Federal hydropower while mitigating hydropower impacts and protecting ESA listed salmon populations.

*Question 4. What recommendations do you have to restore operational decision making to experts and local stakeholders who are best situated to understand the conditions of the local environment?*

Answer. In the near term, specific to FCRPS operations and the continued protection of ESA listed salmon, we recommend the swift passage of H.R. 3144.

We also support immediate congressional efforts to update and modernize the ESA so that it works better for both species and people. This should include a comprehensive review of policy options to make the ESA less vulnerable to litigation likely to sidetrack species conservation and recovery.

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Mr. LAMBORN. All right, thank you.

Ms. Hamilton, you are now recognized for 5 minutes.

**STATEMENT OF LIZ HAMILTON, EXECUTIVE DIRECTOR,  
NORTHWEST SPORTFISHING INDUSTRY ASSOCIATION,  
OREGON CITY, OREGON**

Ms. HAMILTON. Thank you, Chairman Lamborn and Ranking Member Beyer, Subcommittee members. I appreciate the opportunity to speak with you this morning regarding H.R. 3144. It is really an honor to testify before a Subcommittee with members from the top sportfishing states in the Nation. It means you recognize and appreciate the economic value and the tens of thousands of jobs that it sustains.

I have the good fortune of serving as the Executive Director of the Northwest Sportfishing Industry Association, a trade group of over 300 members. Our businesses are concentrated in the Northwest, but include many companies from across the country. Northwest sportfishing sustains 34,500 family wage jobs, serves over 2 million adult customers and children, and contributes nearly \$4 billion in economic activity.

While salmon and steelhead mean business in the Pacific Northwest, our clients are apprehensive about the future, and this bill is a part of that concern. If it becomes law, it will lock in an expensive status quo that has failed salmon, it has failed fishery-dependent businesses, and rural economies. It entrenches an

approach that is not working for fish, fishing businesses, or, for that matter, energy consumers, shippers, or growers.

The eight Federal dams on the Columbia and Snake Rivers inflict tremendous harm to salmon and steelhead fisheries, affecting the bottom line for the businesses that depend on this valuable and renewable resource. We know dams and their reservoirs are the salmon's main cause of human-caused mortality, the main source.

As far back as the 1990s, though, NSIA and the fishermen we worked with recognized that spilling water over the tops of dams, rather than sending it through the turbines, led to higher adult returns. So, in 2005, we secured guaranteed spill through a court order. The fish responded immediately and delivered big benefits to our industry. By 2012, Snake River fall Chinook returns had tripled. In 2013, 1.2 million fall Chinook returned to the Columbia and business was booming.

Columbia River fall Chinook fed fisheries from Alaska to California in the ocean, and inland from Oregon to Washington and Idaho. The evidence was indisputable that spill works. Science shows that additional spill can triple returns. We want to repeat this success of the fall Chinook with the Snake River spring Chinook, which are currently in deep decline.

As the first salmon of the season, spring Chinook are highly prized by anglers who want to get out on the water after being cooped up all winter. They buy licenses, they buy new gear, they fill their gas tanks, load their coolers, book a guide, book a hotel, and hit the river, spending roughly \$115 each in trip expenditures. But what is so remarkable about spring Chinook is that it takes eight anglers on the water for one to go home in a creel.

This makes one spring salmon worth \$900 in direct trip expenditures. These fish are worth their weight in gold. They are sending money to rural communities from Astoria, Oregon to Riggins, Idaho.

The recent judge's order to put a process in place is finally breaking through the logjam. Parties are collaboratively working together on sensible river operations that will help fish and our businesses. Hundreds of thousands of citizens have actively engaged with their government through the NEPA process.

Unfortunately, H.R. 3144 goes in reverse, rolling back protections and poisoning this collaborative effort. It locks into place the old illegal plan through 2022 denying citizens their day in court.

H.R. 3144 would also hamstring processes that allow citizens to protect their interest in these fish. It undermines the current NEPA review by prohibiting Federal agencies from fully studying true costs and benefits of all the recovery alternatives.

Salmon need more help now, not less. Poor ocean conditions, combined with poor river conditions, are hammering some of these stocks. We cannot control the ocean, but we can take steps to improve river conditions for salmon, and spill is our most effective near-term tool.

NSIA business members, leaders focused on the bottom line, are frustrated by a bill that limits options, reverses the courts, and is bad for business. It is a bad ROI. Again, our industry members oppose H.R. 3144 because it interferes with a process that is working at a time when salmon declines are on the front page.

Salmon restoration has been an expensive failure, but we are finally getting on the right track to address harmful dam operations. We respectfully urge this Committee to reject a bill that ignores the science, does not solve the problem, throws good money after bad. The fish and our sportfishing businesses hope we deserve better.

And I appreciate any questions you may have.

[The prepared statement of Ms. Hamilton follows:]

PREPARED STATEMENT OF LIZ HAMILTON, EXECUTIVE DIRECTOR, NORTHWEST  
SPORTFISHING INDUSTRY ASSOCIATION ON H.R. 3144

Chairman Lamborn, Ranking Member Huffman, and Subcommittee members, thank you for the opportunity to address H.R. 3144. I am the Executive Director of the Northwest Sportfishing Industry Association (NSIA), a trade organization of nearly 300 sporting goods manufacturers, wholesalers, retailers, marinas, and guides. The Northwest Sportfishing Industry Association was founded in 1993 by a collection of sportfishing industry business leaders who understood the need for a strong voice in the local, state, regional and federal governments. The majority of NSIA's member businesses are located in Oregon and Washington, as well as companies from outside the Northwest that sell products for the nearly 25 million annual fishing trips taken by Northwest residents and visitors. NSIA is dedicated to preserve, restore and enhance sport fisheries and the businesses that are dependent on them. For us, salmon and steelhead mean business.

NSIA's member businesses, our customers and clients, are apprehensive about the economic well-being of our industry and recreational fishing opportunities in the years ahead. In 2011, the sportfishing industry provided 34,500 family wage jobs, serving over 2 million adult anglers, and contributed over \$3.8 billion in economic benefit to Washington, Oregon, and Idaho. Across America, roughly 60 million anglers support more than 828,000 jobs with a \$115 billion impact on our Nation's economy. I'm pleased to be testifying before a Subcommittee with so many members from states in the top 10 for sportfishing expenditures such as Florida, California, Louisiana, and Virginia. We appreciate that the members understand the importance of the manufacturing, wholesale, distribution, retail and tourism jobs sustained by sportfishing in their states.

NSIA and many other businesses, fishermen, conservationists, scientists, and citizens oppose H.R. 3144 because it significantly weakens salmon restoration efforts at a time when they need to be substantially strengthened. The bill takes our businesses and the region in the wrong direction, away from the work that is needed to craft a salmon plan that works for our fisheries and our communities. H.R. 3144 takes us in the wrong direction by:

- Overturning a May 2016 court decision finding the 2014 Federal Columbia River Power System (FCRPS) Biological Opinion inadequate and illegal.
- Blocking an April 2017 court decision that provides much-needed protective measures for salmon and steelhead migrating past the Federal dams on the lower Snake River and lower Columbia River starting in 2018.
- Constraining the National Environmental Policy Act Review that is central to updating and understanding the available and reasonable options for resolving the Columbia/Snake salmon crisis by hindering the study of alternatives to status quo operation of the dams on the Columbia and Snake Rivers.

For the fishing industry, H.R. 3144 is a job-killer, plain and simple. Scores of communities and thousands of businesses in the Pacific Northwest and along the West Coast that depend on fishing, whether sport or commercial, will be directly harmed if H.R. 3144 becomes law. This legislation seeks to lock in a failed status quo that is harming our region's iconic salmon and steelhead populations and the communities that rely upon them. Existing salmon policies have already wasted more than \$10 billion on a series of insufficient measures that have failed to recover a single one of the 13 protected populations of salmon and steelhead in the Columbia Basin. The status quo is not working for anyone today, and a different approach is necessary.

We in the Northwest sportfishing industry strongly oppose this attempt to enshrine an expensive salmon policy that has failed fish, fishing businesses, energy consumers, utilities, shippers, and growers.

I. THE FEDERAL DAMS HARM SALMON AND SPILL IS OUR MOST EFFECTIVE ACTION TO HELP STABILIZE AND REBUILD IMPERILED POPULATIONS

The eight Federal dams on the lower Columbia and Snake Rivers have caused tremendous harm to our salmon and steelhead fisheries and to those of us who depend on them. The operation of these dams significantly reduces the number of salmon and steelhead that return to the Columbia Basin every year. As a consequence, the dams and how they are operated, have a direct effect on our businesses' bottom lines. They have transformed a dynamic, free flowing river system into a series of reservoirs that harbor increased predator populations and cause dangerously high water temperatures.

The dams themselves also pose formidable barriers to migrating salmon—particularly to juveniles that must struggle to survive the passage through deadly turbines or complex bypass systems. The combination of deadly impacts posed by the dams is responsible for up to 70 percent of all human-caused mortality for some salmon and steelhead populations.

Because of the serious trouble that many of these stocks continue to face as a result of the Federal hydro system, we will not see healthy, sustainable, consistently fishable stocks of salmon until the Federal agencies implement meaningful lasting changes in the operation of the dams that comprise the FCRPS. That is why NSIA has stood with the state of Oregon, the Nez Perce Tribe, and a broad coalition that includes other sport and commercial fishing advocates, conservationists, and clean energy organizations for nearly 20 years in an effort to protect and restore these magnificent and irreplaceable fish.

NSIA and its allies have been engaged in litigation over the National Marine Fisheries Service's (NMFS) biological opinions (BiOps) for the FCRPS since 2000. Since 1994, three different Federal judges have rejected five BiOps as unlawful for a variety of reasons, but the consistent themes include the agencies' refusal to use the best available science and their persistent reliance on speculative actions with unproven results rather than address the known problems with the dams and management of the hydro system.

In addition to successfully challenging failed BiOps, we have fought hard to hold on to improvements for migrating salmon and steelhead through increased spill since 2005. For juvenile salmon and steelhead migrating in the Snake and Columbia Rivers, "spill"—the practice of releasing water over the dams' spillways during the juvenile migration in spring and summer, rather than sending it all through the hydroelectric turbines—indisputably provides the safest passage over the FCRPS dams.

Releasing water over spillways at these eight Federal dams increases the survival of juvenile salmon and steelhead by allowing them to avoid traveling through the power turbines, a passage route that increases mortality by subjecting these fish to life-threatening pressure changes and extremely high water velocities. 'Spilled' fish also survive at higher levels than the fish diverted from turbine intakes and "bypassed" through a series of Rube Goldberg-like pipes and tunnels before being ejected at the lower side of the dam.

The increased spill levels in place through court order since 2005 have helped produce better adult returns at a time when other West Coast rivers have seen steep declines. The fisheries protected by the court-ordered spill in the Snake and Columbia rivers have provided a rare measure of security for the businesses of NSIA, and indeed, some hope for the future. Fall Chinook salmon, for example, benefited immediately from court-ordered spill. The U.S. Army Corps of Engineers began aiding juvenile fall Chinook through increased spill in the summer of 2005. The investment in spill paid off within 2 years, but within 8 short years, two generations for fall Chinook, our industry saw the substantial, direct benefits of that protection. By 2012, Snake River wild fall Chinook numbers had tripled since Federal Judge Redden's spill order. Hatchery and wild stocks of fall Chinook alike benefited and our fall fisheries were world class attractions.

In 2013, for example, over 1.27 million fall Chinook entered the Columbia after significant ocean harvest, and provided a tremendous benefit to our businesses. Hotels were full, marinas had a 1-year waiting list, key tackle items such as Pro Troll flashers made in California and Brad's Superbait made in Washington were on backorder. Boat orders were on 6-month wait lists. These returns, aided by spill during the juvenile outmigration fed sport, commercial and tribal ocean fisheries in Alaska, Canada, Washington, Oregon and California, as well as freshwater sport, commercial and tribal fisheries in Oregon, Washington, and Idaho. Other stocks have also seen some increase in both juvenile survival and adult returns. For the past 12 years, the fish have been telling us one thing over and over again: spill works.

II. SALMON NEED HELP NOW AND OUR REGION NEEDS SOLUTIONS THAT WILL RECOVER  
OUR FISHERIES

Our sportfishing businesses and many others in the region had hoped that the 2014 BiOp would finally provide a framework that would protect and restore salmon and steelhead in the Columbia River basin. Unfortunately, the Federal Government missed another opportunity to get this right. The 2014 BiOp maintained the same dam operations that have been in place since 1995 and that have failed to restore salmon and steelhead and the recreational, commercial, and tribal economies that rely on them. NMFS and the other Federal agencies made this decision despite their access to more than two decades of peer-reviewed scientific evidence demonstrating that increasing spill levels increase salmon and steelhead survival. Rather than build on the success of spill, the 2014 BiOp allowed the Federal dam agencies to actually reduce in some circumstances the spill levels that have been in place under Court injunction for the last 12 years. In other words, it allowed them to cut back on investments with the highest returns.

In May of 2016, the U.S. District Court for the District of Oregon ruled that the Federal agencies' approach to salmon protection in the 2014 BiOp was, like its predecessors, inadequate and illegal. In a thorough 150-page opinion, the Court addressed in detail the Federal Government's multiple violations of the Endangered Species Act and the National Environmental Policy Act. The Court ordered the Federal agencies to develop a new plan that considers all relevant information and then carefully evaluates a full range of reasonable dam management alternatives, including removal of four Federal dams on the lower Snake River. It also required the Federal agencies to both assess *and* address the intensifying effects of climate change on wild salmon and the Federal hydro system. As proposed by the Federal agencies (we advocated for a 2½ year time frame), the Court allowed the agencies until March 2021 to complete this analysis. Not a single one of the parties supporting the 2014 BiOp—including the Federal agencies, states, or the navigation and electric utility interests—have pursued an appeal of this decision: it is the accepted “law of the land” in the Northwest.

Importantly, the Court found that current dam operations under the 2014 Biological Opinion cannot ensure the survival or recovery of the fish and are vastly unresponsive to their current biological needs. That is why NSIA and its allies in the tribal, sport, and commercial fishing communities asked the Court this past winter—as an interim measure—to order the agencies to increase spill, our most effective, near-term measure to boost survival for these species, from April through June for spring Chinook.

After a detailed review of the evidence and thousands of pages of scientific and technical testimony, the Court in April of 2017 ordered Federal dam operators to incrementally increase spill starting in the spring of 2018. The Court specifically required Federal, state, and tribal fishery scientists to work together to develop a near-term plan for dam operations that will release more water over the dams' spillways to improve juvenile salmon survival from April to June, while also complying with all state water quality standards and ensuring navigation safety. That work among the fishery and technical experts has been underway since this spring and the new annual spill operations are scheduled to begin in April 2018.

This order is a tremendously encouraging development for our industry: the increased spill required by the Court's order for 2018 means that we are poised to repeat the success we have seen with fall Chinook for several other stocks, including Snake River spring Chinook, sockeye and steelhead. Currently, Snake River spring Chinook do not return in numbers sufficient to replace the previous generation's spawning adults. Decades of monitoring and data demonstrate that adding spill for baby spring Chinook could triple the number of returning adults.

NSIA members are seeking increased spill for spring Chinook which are among the most prized sportfish in the region. Because they are the first salmon run of the year, anglers have been waiting all winter and are eager to get out fishing. Anglers buy their licenses, pack the bearings on their trailers, repair and replace their gear, buy the latest, greatest in terminal gear, fill their gas tanks, load their coolers and hit the river. The lucrative Columbia River spring Chinook fishery tees up the entire year for our industry. And the economic benefits of these fish to rural communities from Astoria, Oregon to Riggins, Idaho are huge. This is because on average, it takes eight-plus angler trips to land just one spring Chinook. For every eight anglers out fishing, only one springer goes home. Research has shown that the trip expenditures in the Columbia spring fishery average \$115 per trip. This makes a springer in the creel worth over \$900 just in direct trip in expenditures—not counting the purchase of fishing tackle or other durables such as boats, motors, trailers or electronics, for example. These fish are worth their weight in gold!

III. WE OPPOSE THIS BILL BECAUSE IT LOCKS IN A PLAN THAT HARMS SALMON AND FISHING BUSINESSES

At a time when our region has a chance to help struggling salmon populations and break through the costly log jam that has held back salmon recovery in the Northwest for more than two decades, H.R. 3144 seeks to roll back protections for fish and enshrine a status quo that has brought massive expenditures, but few actual results. We finally have the opportunity to break free from 25 years of failed salmon policies. Rather than nurturing this opportunity, H.R. 3144, will make it much more difficult.

**H.R. 3144:**

- (1) *Overturns a May 2016 court decision finding the 2014 FCRPS Biological Opinion inadequate and illegal.*

The bill seeks to deny citizens their day in court by reversing the district court's sound decisions rejecting the 2014 BiOp. This decision, issued 18 months ago and reached after thorough and extensive consideration of the evidence, is settled law. None of the multiple interests and parties contests the Court's well-reasoned decision and no party has pursued an appeal. In over-riding a Federal court decision, H.R. 3144 would feed a damaging trend for undermining laws that allow citizens from across the political spectrum to go to court to hold the government accountable for its actions. Access to a court of law is a cornerstone of American democracy and fundamental part of our functioning government. The courts are essential for enforcement of our laws and serve as a "check and balance" to the failure of executive branch to enforce the law. Over-riding independent Federal court review of agency actions, as this bill would do, stymies this access to justice principle.

- (2) *Blocks an April 2017 court decision that expands spring spill over the Federal dams on the lower Snake River and lower Columbia River starting in 2018.*

The bill would lock in status quo dam operations through at least 2022. As our fishermen, and anyone who is reading the headlines are keenly aware, salmon need more help *now*. Cyclically poor ocean conditions have joined perennially poor river conditions as a result of current dam operations to put fish populations back into a death spiral. Because we can't control the ocean, it is all the more important that we take effective actions available to us now in the part of the salmon lifecycle where humans have the most influence. Spill is exactly that. Increasing spill in the spring is exactly the kind of prompt measure that we can and must take to boost salmon survival in the near-term. Businesses will prosper and the salmon's future will be more secure.

- (3) *Restricts the National Environmental Policy Act Review that is central to updating relevant information, considering all reasonable salmon recovery alternatives, and engaging the public in decision making. If passed into law, H.R. 3144 would prohibit the study of any alternatives that may have the effect of reducing energy production by the Federal hydro system (increased spill, lower Snake River dam removal, and others).*

This bill would undercut a bedrock process that allows citizens to protect their interests in these fish. The NEPA process allows citizens to speak their minds and to provide their input to help inform the government's decisions. It also requires agencies to examine the costs and benefits of their decisions and allows the region to make decisions based on facts. But in order to do this, the agencies must objectively evaluate all reasonable alternatives. H.R. 3144 would undermine this by erecting roadblocks to considering river operations that both science and the courts have determined to be reasonable alternatives and worthy of full and fair consideration.

The NEPA process has now been underway for a year. So far over 400,000 citizens across the region and the country have weighed in to support robust consideration of strong and effective salmon protection measures.

An approach that severely limits options at a time when salmon are most in need of our help is very difficult and frustrating for my members—business owners, business leaders, people who have focused on the bottom their whole adult life—to understand. When viewed through the lens of a return-on-investment, H.R. 3144 is simply not defensible.

In short, our fishing business members oppose H.R. 3144 because it enshrines a status quo that ensures that we as tax and rate-payers get back far less money than we spend. The Federal Government's extensive use of ratepayer money for salmon restoration has been an expensive failure because it does not focus on the core



problem for salmon recovery—altering Federal dam operations on the Snake and Columbia Rivers. With the intensifying impacts of climate change, a continuation of the failed status quo for even a few years will doom our endangered salmon runs, harm sport and commercial industries in communities throughout the Pacific Northwest and saddle Northwest ratepayers with billions in added costs for measures that have failed to protect salmon. Perpetuating this failed status quo is the true definition of insanity. At a time when we should be doing everything we can to help imperiled fish and struggling fishing communities, we urge this Committee to reject a bill that would prevent our region from doing what the science and the fish are telling us is needed most—making significant improvement in dam operations starting now with increased spring spill. Our fish—and sportfishing businesses—deserve far better than H.R. 3144.

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The following documents were submitted as supplements to Ms. Hamilton's testimony. These documents are part of the hearing record and are being retained in the Committee's official files:

- Economics of Northwest Sportfishing
- Sportfishing in America
- Trip Expenditures for Columbia River Spring Salmon Fishing

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Mr. WEBSTER [presiding]. Thank you.  
Mr. Heffling, you are recognized for 5 minutes.

**STATEMENT OF JACK HEFFLING, PRESIDENT, UNITED POWER TRADES ORGANIZATION, WEST RICHLAND, WASHINGTON**

Mr. HEFFLING. Chairman Lamborn, Ranking Member Beyer, Subcommittee members, thank you for allowing me to testify. I am honored to speak on behalf of United Power Trades Organization, which represents over 600 highly skilled operation and maintenance employees who work at the U.S. Army Corps of Engineers' hydroelectric projects in Portland, Seattle, and Walla Walla Districts of the Northwest Division.

The dams of the Columbia Snake River System are considered multi-purpose in that they provide—

Mr. LAMBORN. Sir, could you put the microphone just a little bit closer?

Mr. HEFFLING [continuing]. Hydropower, flood control, navigation, irrigated agriculture, and recreation to the areas where they are located.

Hydropower is clean, renewable, and plays a significant role in Pacific Northwest power production. Only hydropower has the instantaneous capability to meet peak demands.

Navigation is a major benefit of the Columbia Snake River System of dams, and provides a vital transportation link for the states of Idaho, Montana, Oregon, and Washington. Irrigated agriculture is the economic powerhouse of the West, with a net value to all western states of over \$60 billion. It is the dams that provide the water for irrigation, and, as a direct result, helps sustain the economy of the Northwest.

Removal of the Snake River dams would be a detriment to a large amount of irrigated agriculture, would eliminate barging from Pasco, Washington to Lewiston, Idaho, and would damage the electrical infrastructure that relies on the generating units not only for

power production, but for reactive support to help stabilize the electrical grid of the Northwest.

Studies have shown that the survival rate of salmon migrating through the lower Snake River dams is equal to or sometimes even better than the survival rate of fish migrating rivers without dams. These studies have also shown that juvenile salmon transported by fish barges survive at five times the rate of those that were not barged. This information strongly contradicts any claims by environmental groups that the removal of the dams is necessary for fish to survive, and that barging juvenile salmon through the dams is ineffective.

Studies have shown that the vast majority of juvenile fish migrating downstream are near the surface, so screens at the intakes of the generators are positioned to direct them into bypass channels, where they are collected for barge transport, or bypassed back to the river. Weirs are in place on spillways that allow for spilling water directly from the surface, thus providing another effective bypass for juvenile fish traveling downstream.

It is existence of these spillway weirs that make any additional spilling unnecessary and, in fact, can have an adverse effect on fish due to the increase, and dissolve gases that result when spilling from bays that don't have spillway weirs. Because of the pressure from outside interests, additional spill is ordered that requires spill through spill gates that don't have the fish slides installed. This forces the fish down through restricted openings at the bottom of the spill gates, which is not only harmful to the fish in transition, but causes significant increase in the super-saturation of nitrogen in the water, resulting in gas bubble trauma.

Fish passage plans, also known as the fish biological opinion, or BiOp, are in place at each facility and overseen by Federal and state biologists to assure that hydro plants are operated in criteria most advantageous to fish passage. It is extremely important that the current BiOp is not deviated from in order to continue the success that has been the result of this fish passage plan.

H.R. 3144 would ensure that it does remain in place, and until replaced by a new BiOp that is based on science. The residents of the Northwest have made their opinion clear. Results of the poll administered in 2015 show that they recognize hydropower generated by the Northwest dams is a renewable energy source, and that dams and salmon can co-exist.

In summary, the BiOp is working, is the most scientifically sound plan that can be incorporated, and no pressure from outside interest groups should change that. The Snake River dams are irreplaceable, and are important not only to the people that live in our area, but to the Northwest as a whole.

It took an Act of Congress to get these dams constructed. It should require an Act of Congress to remove them.

Thank you again for this opportunity to testify and I look forward to any questions.

[The prepared statement of Mr. Heffling follows:]

## PREPARED STATEMENT OF JACK W. HEFFLING, PRESIDENT, UNITED POWER TRADES ORGANIZATION ON H.R. 3144

Thank you for this opportunity to testify. The United Power Trades Organization represents the Trades and Crafts non-supervisory employees at U.S. Army Corps of Engineers hydroelectric projects in Washington, Oregon, Idaho and Montana. These hydroelectric projects make up a portion of the Northwest Division of the U.S. Army Corps of Engineers and are divided up into the Portland, Seattle and Walla Walla Districts. The Walla Walla District includes four hydroelectric projects on the lower Snake River that seem to be the target of most dam removal proponents.

The Northwest Division of the U.S. Army Corps of Engineers is a major employer and a huge contributor to the economy of the Pacific Northwest with an annual budget of over \$3 billion and a professional workforce of nearly 4,800. The members of the United Power Trades Organization include the men and women who maintain and operate the equipment at the hydroelectric projects and number over 600. But this number doesn't include the engineers, administrators, biologists, park rangers and the hundreds of others whose jobs are directly connected to the dams, associated lands and reservoirs. Nor does it include the many private companies who by contract, also rely on the existence and operation of the dams for their employment.

High technology firms such as Apple, Amazon, Intel, Google and Facebook have located facilities in the Northwest because of the availability of reliable, clean hydropower, creating jobs and boosting local economies. Traditional energy-intensive industries, such as timber, paper, chemical, food processing, aluminum and manufacturing all representing hundreds of thousands of Northwest jobs, continue to rely on low-cost hydro to stay in business and prosper.

The dams of the Columbia-Snake River system are multipurpose in that they provide hydropower, flood control, navigation, irrigated agriculture and recreation. The benefits of the dams cannot be measured by megawatts alone but in the overall value they provide the region.

Hydropower is clean, renewable and plays a significant role in Pacific Northwest power production. Northwest residents and businesses enjoy lower power bills when compared to other regions of the United States which is directly attributable to hydropower. The dams of the Columbia-Snake River system alone produce enough power to meet the needs of more than 13 million homes with the surplus exported, providing additional economic importance to the Northwest. Only hydropower has the instantaneous capability to meet peak demands and provide power for heat when temperatures are frigid or sustain power for cooling on exceptionally hot days. Hydropower costs much less to produce than any other source such as nuclear, coal or natural gas and is pollution free, with zero emissions. The firm power alone provided by the dams of the Columbia-Snake River system keeps close to 30 metric tons of CO<sub>2</sub> out of the air. This is similar to taking nearly 6 million cars off the road.

Hydropower is clean, carbon-free, renewable and reliable. Hydro supports wind and other renewables by providing the peaking power necessary to meet demand. Hydropower turbines are capable of converting 90 percent of available energy into electricity, which is more efficient than any other form of generation. Even the best fossil fuel power plant is only about 50 percent efficient. Wind has about 30 percent efficiency. After hydropower, 83 percent of the region's energy production is from fossil fuels coal or natural gas.

Considering the four lower Snake River dams alone, it would take 2 nuclear, 3 coal-fired, or 6 gas-fired power plants to replace their annual power production. It would take 3 nuclear, 6 coal-fired, or 14 gas-fired power plants to provide the peaking capacity of these four dams. It has been estimated that the cost to replace these dams with natural gas-fired generation would be \$444 million to \$501 million a year. It has also been estimated that it would cost \$759 million to \$837 million a year if these dams were replaced with a combination of wind, natural gas and energy efficiency. Electricity from the Northwest hydropower facilities typically cost 3 to 10 times less (per megawatt hour) than nuclear, coal and natural gas. It is also cheaper than wind and solar.

Hydropower is not only measured by the total energy produced. It also stabilizes the transmission system and keeps it reliable. High-voltage transmission lines require a steady back and forth electric flow, and flexible hydro generation meets the changing conditions to ensure reliability.

Navigation is a major benefit of the Columbia-Snake River system of dams. They provide 365 miles of navigable water from Portland/Vancouver to Lewiston, Idaho. Barging is the lowest cost, most fuel efficient and least polluting transportation mode. Each year, barging keeps 700,000 trucks off the highways through the Columbia River Gorge. The facts speak for themselves. The Columbia-Snake River

system is the Number one wheat export gateway in the United States and the third largest grain export gateway in the world, with over 10 million tons of wheat exported annually through Columbia River ports. It is the Number one barley export gateway in the United States. It is Number one in West Coast paper and paper products exports. It is Number one in West Coast mineral bulk exports and Number two in West Coast auto imports. Every year, more than 50 million tons of commercial cargo moves up and down the Columbia and Snake rivers between Astoria, Oregon and Lewiston, Idaho.

Navigation through the Columbia-Snake River system provides a vital transportation link for the states of Idaho, Montana, Oregon and Washington. The economies of these four states rely on the trade and commerce that flows up and down the most important commercial waterway of the Northwest. Navigation is fuel efficient. A ton of commodity goods can move 524 miles by barge on 1 gallon of fuel, compared to 202 miles by rail and 59 miles by truck. The average barge can transport 3,500 tons of wheat which would require 35 jumbo rail cars or 134 trucks. The economic benefit of the Columbia-Snake River system cannot be doubted. A study by the Columbia River ports identified 40,000 port-related Northwest jobs. Firms that ship cargo via the Columbia River employ an additional 59,000 workers annually. Cruise ships carry 15,000 passengers a year on 5- to 7-day tours on the river, bringing an estimated \$15 million to \$20 million in revenue to local economies. A total volume of waterborne trade is expected to expand at an average annual rate of 1.7 percent per year through 2030.

Irrigated Agriculture is the economic powerhouse of the West. The net value of irrigated agriculture to all western states is over \$60 billion. Net earned income from agricultural production in the three Northwest states exceeds \$8 billion annually. Northwest states are the leading U.S. producers of apples, potatoes, raspberries, blackberries, asparagus, currants, hops, lentils, concord grapes, sweet cherries, spearmint and peppermint oil, pears, sweet corn, and frozen peas. All of these crops are grown on irrigated land. Northwest exports of irrigated agricultural products exceed \$1.4 billion annually. Food processing in the Northwest adds another \$6 billion in sales value just for fruit, vegetables and specialty products. Food processing is the largest manufacturing employment sector in the state of Idaho and the second largest in both Washington and Oregon. The net direct value to the economy of one-acre foot of water, when used for irrigation is over \$60 per acre-foot. The Columbia Basin Project alone supplies about 2.6 million acre feet per year. It is the dams that provide the water for irrigation and as a direct result help sustain the economy of the Northwest.

Annual net earned income from agricultural production in the Northwest states exceeds \$8 billion and Pacific Northwest food processing is the third-largest manufacturing sector, with annual revenues of \$17 billion and more than 100,000 employees.

The Walla Walla District employs over 800 people, with over 400 working at the hydroelectric projects McNary, Ice Harbor, Lower Monumental, Little Goose, Lower Granite and Dworshak. In addition to being a major employer, the District pumps millions of dollars into the local economies. The anticipated Fiscal Year 2012 budget for the District is \$193 million with 57 percent of this funding coming directly from the Bonneville Power Administration (BPA). The power produced by the District dams, like other projects in the Northwest, is sold by BPA who, in turn, direct funds the operation and maintenance of the dams, plus provides additional funding for major work. This means that over \$100 million annually is provided the area economy as a result of the power sales of these District hydroelectric projects.

Removal of the Snake River dams would be a detriment to a large amount of irrigated agriculture, would eliminate barging from Pasco to Lewiston, Idaho, and would damage the electrical infrastructure that relies on these generating units not only for power production, but for reactive support that helps to stabilize the electrical grid of the Northwest. While BPA markets power from 31 Federal dams, only the 10 largest dams keep the Federal power system operating reliably through Automatic Generation Control (AGC) which includes the four lower Snake River projects. Under AGC, when total generation in the power system differs from the total load being consumed, automatic signals go to these few dams to increase or decrease generation. This is especially critical when generating facilities are suddenly added or dropped from the system. Removal of the dams would cost hundreds if not thousands of jobs. Jobs at the dams themselves would be lost, contracting jobs would be lost, farm jobs would be lost as a result of a large decrease in the amount of irrigated agricultural lands, and jobs related to the barging of commodities would be lost. The impact on the region would be devastating.

The fact is that science does not support the position that the lower Snake River dams need to be removed in order to aid in fish survival. Scientists using special

acoustic tags planted in fish found that the survival rate of Idaho juvenile salmon reaching the ocean identical to migrating salmon that originate in the Yakima drainage in Washington. In other words, juvenile salmon passing through the four Snake River dams suffered no higher mortality rate than those that did not. Even more surprising is findings that show the survival rate of both Yakima and Clearwater fish was the same as survival measured in the Fraser River in British Columbia, a river with no dams. In addition, another finding from the research revealed that juvenile salmon transported by fish barges survived from Lower Granite Dam to the northern tip of Vancouver Island at five times the rate of fish that were not barged. This information strongly contradicts any claims by environmental groups that the removal of the dams is necessary for fish to survive and that barging juvenile salmon through the dams is ineffective.

It is time to eliminate dam removal from the discussion on the best way to support migrating fish. Studies have shown that adult fish have no problem passing through the dams at extremely high survival rates. Studies have also shown that the vast majority of juvenile fish migrating downstream are near the surface, so screens at the intakes of generators are positioned to direct them into bypass channels where they are collected for barge transport or bypassed back to the river. Weirs are in place on the spillways that allow for spilling water directly from the surface, thus providing another effective bypass for juvenile fish traveling downstream. It is the existence of these spillway weirs that make any additional spilling unnecessary and, in fact, can have an adverse effect on fish due to the increase in dissolved gases that result when spilling from bays that don't have the spillway weir. Fish passage plans are in place at each facility and overseen by Federal and state biologists to assure that hydro plants are operated in criteria most advantageous to fish passage.

"The utter disappearance of the salmon fishery of the Columbia is only a question of a few years." That prediction was made by Hollister McQuire, Oregon Fish and Game Protector in '94. What makes this quote newsworthy is that it was made in 1894, long before the first dam was constructed on the Columbia-Snake River system. The decline of Columbia River salmon began in the 1800s and was originally attributed to two factors: overfishing and environmental degradation from such human activities as mining and logging. Millions of dollars have been spent during the last couple of decades studying the problem and millions more have been spent on making hydroelectric facilities as fish friendly as possible, even though studies have shown very little difference, if at all, between the decline of salmon runs on rivers with and without dams. Too much blame has been placed on the dams when it is obvious that no single factor caused the salmon decline.

And no single factor will solve the problem. Solutions must look at all factors impacting salmon decline, including dam operations, fish harvest levels, hatchery practices, degradation of habitat where salmon lay their eggs and the impact of ocean conditions. R. Hilborn from the University of Washington was quoted as saying, "Any attempts to understand the impact of in-river action on survival will be confounded by changes in ocean conditions. The poor returns of Chinook salmon in the early 1990s are to a large extent almost certainly due to poor ocean survival, whether or not they encounter dams." My point here is that increasing and maintaining fish runs is a multifaceted problem that requires solutions to many different factors. Since studies have shown that the survival rate of migrating fish is the same on rivers with dams as they are without, the focus should be on ocean conditions and their impact rather than dam removal which would provide no benefit.

The dams have been upgraded extensively at great cost and the improvements work. Dam operation now maximizes attraction water for adult fish and improves downstream migration due to flow augmentation that also serves to cool the reservoirs during low water months. Rotating screens at the turbine intakes direct fish to bypass channels where they are collected for barging or bypassed back to the river. And spillway weirs are strategically placed to provide a gentle "slide" for juvenile fish to travel downstream unharmed. Since removal of the dams would provide no benefit to fish survival, it makes absolutely no sense to continue studying or considering a non-solution.

The residents of the Northwest have made their opinion clear. The results of a poll administered in 2015 shows that three-quarters of the people recognize that hydropower generated by the Northwest dams is a renewable energy source. Forty-five percent agree hydropower is the region's most practical source for meeting energy needs, with wind trailing at 17 percent and solar at 9 percent. Two-thirds favor hydropower being declared a renewable resource by state legislatures and Congress, similar to wind and solar energy. A large and increasing majority (70 percent) agree that the dams on the lower Snake River are critical to the

Northwest's energy picture and 77 percent agree that it is critical that dams and salmon co-exist.

As president and spokesman for the United Power Trades Organization, I can say our organization overwhelmingly supports H.R. 3144. But I am not only just a dam employee representative. I am a Senior Power Plant Operator and have been working at one of the lower Snake River Dams, Lower Monumental, since 1986. As a power plant operator, I run the turbine generator units, the spill gates, plus the adult and juvenile fish passage equipment.

As a power plant operator for over 30 years, I have personally seen all of the improvements made at our facility to increase fish survival and been the recipient of instructions to operate the dam in accordance with the fish passage plan or Biological Opinion (BiOp). Unlike most outside interests, I actually understand how the new technologies installed had benefited fish passage and how the BiOp works to maximize fish survival. Almost every operation performed requires adherence to the fish passage plan, including which generating units to run, at what power load they are operated at, what spill pattern to use and how much spill to release through those spill gates.

It is troublesome to those of us that know what works to receive operating instructions that are not beneficial to fish and may even be detrimental. For example, it is a scientific fact that migrating juvenile fish travel close to the surface of the river. That is why the fish slides installed are so successful in providing a means that allow the fish a gentler transition from the pool at the top of the dam to that below. Rotating screens are installed in the intakes of all of the turbine generators that direct the fish into a collection channel where ultimately they can be loaded onto barges for transport or bypassed back to the river far below the dam. However, because of pressure from outside interests, additional spill is ordered that requires spill through spill gates that don't have the fish slides installed. This forces the fish down through restricted openings at the bottom of the spill gates which is not only harmful to fish in the transition but causes significant increases in supersaturation of nitrogen in the water resulting in gas bubble trauma.

In addition, when fish are transitioned via spill, less are collected at each dam's fish facility for transport via the barge transport program which has proved highly successful. Fish transported by barge survive at five times the rate as those that traverse the river. Additional water spilled not only is detrimental to the fish because of the non-fish slide transition but this results in less water available for generation, less generating units running and less fish collected for transport via fish barge. Spilled fish are also more susceptible to predatory birds and fish that congregate below the spillway areas. More spill does not make sense economically in that generating revenues are lost, it doesn't help the fish, and may even have a negative effect on fish survival.

H.R. 3144 is important in that it continues the programs that have proven extremely successful in migrating fish survival. The BiOp is working despite faulty non-scientific reports given by outside interests. The radical changes proposed make absolutely no sense. Fish returns are higher than what they were prior to the first dam built on the Columbia-Snake river system and although hatchery fish are returning in large numbers, natural fish return is increasing as well. Fish survival through the Columbia-Snake River dams are at levels that meet or exceed those on rivers that don't have dams.

The current BiOp is the most science-based, comprehensive and expensive effort to restore and endangered species in the Nation. \$1.6 billion have been invested in new technologies and the eight Federal dams on the Columbia-Snake system and operational changes are helping young salmon survive at very high rates and helping adult fish return to their spawning grounds. This unprecedented and massive program has also restored more than 10,000 acres of habitat in the Columbia Basin that has been providing incredible results.

Despite the plan's demonstrated success, environmental and commercial fishing groups continue to challenge the plan in court, as they have done for over two decades. These groups thrive on lawsuits and they will continue to sue, no matter what the facts say. They continue to press for extreme changes in dam operations, including requiring more spill which would increase Northwest energy costs and provide no additional benefit to fish. It is increasingly important that Congress take action to insure that the current fish passage plan (BiOp) remain in place without changes until a new BiOp is provided that uses science as the basis for fish survival. H.R. 3144 would ensure this happens.

H.R. 3144 would also require an Act of Congress to allow any structural modification to the Snake River dams that would restrict electrical generation or limit navigation. It's about time that the extreme proposals via lawsuits of outside interests be taken off the table. Enough already! It has already been scientifically proven that

the dams and fish can co-exist. The improvements made and the operational changes have shown to be extremely successful for fish survival.

In 1992, a drawdown of Snake River Dam Lower Granite was performed to simulate a return to a natural river state. The drawdown had disastrous effects including damaging road, docks and the levee system at Lewiston, Idaho. The resulting mud flats were ugly, plus temperature and velocity measurements showed no substantial benefit because of lower river levels. This kind of study needs to never happen again though outside interests would like to see it as a regular occurrence. You will find no more vocal proponent of the "Save the Dams" movement than the good citizens of Lewiston, Idaho as they got to see this atrocity in person.

In summary, the BiOp is working, is the most scientifically sound plan that can be incorporated, and no pressure from outside interest groups should change that. The Snake River dams are irreplaceable and are important not only to the people that live in our area, but to the Northwest as a whole. Removal would be disastrous, not only economically, but to the lifestyles of those who enjoy the recreational benefits they offer. No further money should be wasted on studying their removal or taking any actions that even simulate natural river flow. It took an Act of Congress to get these dams constructed. It should require an Act of Congress to remove them.

Thank you again for this opportunity to testify before the Committee.

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The following documents were submitted as supplements to Mr. Heffling's testimony. These documents are part of the hearing record and are being retained in the Committee's official files:

- Bonneville Power Administration, Graph showing adult salmon returns to the Bonneville Dam from 1938–2014.
- Northwest River Partners, Irrigated Agriculture: Growing Food for Families, October 2014.
- Northwest River Partners, Snake River Dams: Valuable Assets, October 2014.
- Pacific Northwest Waterways Association, Columbia Snake River System Facts.
- Pacific Northwest Waterways Association, The Value of Hydropower in the Northwest.
- Salmon Passage Survival Rate map.
- U.S. Army Corps of Engineers, Spillway Weirs: Celebrating 10 years of service to the Nation, January–December 2015.

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QUESTIONS SUBMITTED FOR THE RECORD BY REP. HICE TO JACK HEFFLING,  
PRESIDENT, UNITED POWER TRADES ORGANIZATION

*Question 1. Why is it that unelected judges and special interests are determining operational decisions for dams?*

Answer. The short answer is because they can. Supposedly, the judges are enforcing the requirements of the Endangered Species Act. However, the problem is that these judges are appointed and have political ideologies of their own. Whether they are influenced by special interests or just using twisted data provided by these special interests to justify their decisions is hard to say. But the bottom line is that scientific study, analysis, and direction is discarded in favor of decisions that are biased toward the special interests and the ideological background of the judge. The resulting judicial decisions are then incorporated into the dams operational requirements, often counter to scientific recommendation or even harmful to fish passage.

For example, data shows that salmon returns through the Columbia-Snake River system are higher now than even before the dams were constructed. This success is a result of many factors including habitat restoration, favorable oceanic conditions, hatchery production, fish barging, improvement of dam fish passage equipment, and the operational changes required by fish passage plans. A part of those operational changes are voluntary spill requirements. I believe that voluntary spill is more harmful than beneficial to migrating fish. It has been made part of our operational requirements, I believe, just to placate the special interests and a Federal judge who has constantly rejected scientific fish recovery plans.

However, because this voluntary spill has coincided with a multitude of other factors that have increased fish survival, it seems to be the only factor that is

presented by the special interests to the Federal judges. The special interests claim, wrongly I might add, that the spill is responsible for increased fish survival and the judges seem to agree as all we hear is more spill may be ordered by the judge. Whether the judge is influenced by this faulty interpretation of the science or it is his own ideology, I don't know. But it is a broken system that needs to be repaired.

*Question 2. Do you think that one judge, who is unaccountable to the people his decisions impact, handing down unilateral decisions is good governance?*

Answer. Absolutely not! I work for the U.S. Army Corps of Engineers at Lower Monumental Dam on the Snake River. At our facility, we have a crew of fish biologists who study and oversee the fish passage systems at our location. In addition to our agency experts, there are additional biologists from the state of Washington, the state of Oregon and the state of Idaho. There are experts from National Marine Fisheries plus various contractors that are hired by the agencies because they are experts in fish passage. This is true at all of the dams on the Columbia-Snake River system. How can it be good governance for one person who is not an expert to override the operational guidance and recommendations of hundreds of experts?

The last Federal dam on the Columbia-Snake River system was completed over 40 years ago. The clean, renewable power, irrigation, navigation system and recreational benefits are the norm and have become a way of life for the residents of the Northwest and especially those that live and work along the rivers. The vast majority of those that live in the Northwest support these dams and believe they can co-exist with fish. That an unelected judge in response to lawsuits by out-of-area special interests is making decisions concerning how the dams are operated or even if they will continue to exist defies logic.

A judge does not represent the thousands whose decisions he impacts. These are the Northwest power ratepayers, recreational river users, and the thousands whose job relies on the continuation of the river system as-is or on the continued abundance of low cost power. If a judge is making the decisions biased toward special interests, who is going to represent the interests of the majority of the Northwest?

*Question 3. Who should be making these decisions and who is best situated to determine what is best for the local environment?*

Answer. In reference to H.R. 3144, I have two different answers. One, the operation of the Columbia-Snake River system in a way that allow fish and dams to co-exist should be left to the experts who have the experience and knowledge on the subject. The Biological Opinion (BiOp) for the Federal Columbia River Power System should be adhered to without outside interference of any judge or special interest group. The BiOp is created cooperatively by the U.S. Army Corps of Engineers, the Bonneville Power Administration, and the U.S. Bureau of Reclamation with input by NOAA's National Marine Fisheries Service. The BiOp is a result of extensive scientific study and should not be deviated from for any reason other than updates by those same experts or a new BiOp to replace the old.

Second, it has been proven that dams and salmon can co-exist. Studies on the removal of any of the Federal dams on the Columbia-Snake River system are a large waste of money. In addition, court ordered deviation from operational norms that negatively affect navigation or generation is also a waste of money and/or results in increases for electrical ratepayers. It was Congress that authorized construction of the dams for the purpose of providing low cost, renewable power for the people of the Northwest, water for irrigated crops, and an inland waterway that is critical to commerce to Washington, Oregon, Idaho and Montana. Therefore, no studies or actions that negatively affects the purpose of the existence of these Northwest dams should be undertaken except when authorized by Congress.

*Question 4. What recommendations do you have to restore operational decision making to experts and local stakeholders who are best situated to understand the conditions of the local environment?*

Answer. I believe H.R. 3144 takes a good step forward. This would require adherence to the current BiOp without outside interference until a new BiOp takes its place. It would also require congressional approval to even study the removal of the Snake River dams or for any structural modifications that would affect navigation or power production.

However, I would go even farther. While the BiOp would remain in place to facilitate fish migration, flexibility should be allowed to adjust operating criteria based on situational conditions. For example, the juvenile fish migrating downstream is not a constant. Due to hatchery releases and migration timing, there can be thousands of fish passing on a daily basis or a handful. Yet, because of the strict requirement to adhere to the BiOp, the dams are operated the same if there are thousands



of fish passing through or none. We are talking millions of wasted generation dollars. Fish traffic can be easily tracked and predicted ahead of time. When no fish are running, the dams should not be providing voluntary spill, so give the agency that operates the dams that flexibility. Thousands of dollars in cost should be saving thousands of fish, not a handful.

Also, the opinions of those that are local to the Columbia-Snake river areas should be heard. Their opinions are certainly not considered when a judge is making a decision or special interest groups that really have no stake in the decisions, but make money through litigation, express their biases.

Yes, sound science needs to be considered when operational decisions are made. But also, economic balance needs to be considered. Thousands, whose jobs are river-related are affected by these decisions. And millions are impacted by the effect on power rates. H.R. 3144 helps by making sure extreme measures can only be taken when approved by the representatives of the people.

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Mr. LAMBORN [presiding]. Thank you.

Mr. Keppen, you are now recognized for 5 minutes.

**STATEMENT OF DAN KEPPEEN, EXECUTIVE DIRECTOR, FAMILY FARM ALLIANCE, KLAMATH FALLS, OREGON**

Mr. KEPPEEN. Chairman Lamborn, Ranking Member Beyer, and Subcommittee members, good morning. Mr. Chairman and Mr. Costa kind of stole my thunder. I am going to restate the President's State of the Union quote. It is my attention-getting device for my statement today.

Mr. LAMBORN. Sorry about that.

Mr. KEPPEEN. So what he said, again, was, "The Interior Department is in charge of salmon while they're in freshwater, but the Commerce Department handles them when they're in saltwater. And I hear it gets even more complicated once they're smoked." That was the full quote. I remember it. This moment may have provided the first widespread public awareness of the absurdity in having multiple Federal agencies responsible for enforcing the Federal Endangered Species Act.

The Family Farm Alliance, who I represent, supports H.R. 3916. This bill would combine the ESA responsibilities of both the National Marine Fisheries Service and the Fish and Wildlife Service under one Federal roof. This would promote more efficient, effective, and coordinated management of all ESA responsibilities for anadromous and freshwater fish in western watersheds, from the highest reaches of our headwaters to the Pacific Ocean.

Many western irrigators operate in watersheds that provide habitat for threatened and endangered species protected by the ESA. These producers could be significantly impacted by decisions made by the fisheries agencies. Western watersheds that drain to the Pacific Ocean are home to many species of fish. Some of these species are listed as endangered or threatened under the ESA.

However, within this group some fall under the responsibility of National Marine Fisheries Service, and others are overseen by Fish and Wildlife Service. Because they can have different migration patterns or life histories, what can result is duplicative and sometimes overlapping actions by each of the agencies under the Endangered Species Act.

The scope of similar or identical ESA actions performed by each agency could be extensive: designation of critical habitat, development of species recovery plans and conservation programs, consultation activities, to name just a few. These functions would most effectively and efficiently be conducted under the roof of one government agency.

Instead, as things currently stand, they appear to be arbitrarily split between two different agencies housed in two completely different Federal departments. So, up and down the West Coast, duplicative bureaucracies are generating ESA plans that sometimes compete with one another. In my written testimony, I touch on specific examples, including the Klamath Project in California and Oregon, where I live; California's Central Valley Project, where I used to live; and the Upper Snake River in Idaho.

In the Klamath example, the two Federal regulatory agencies each adopted a single-minded and uncoordinated approach of focusing on Klamath Project operations. One sought to artificially create high reservoir levels for endangered suckers. The other called for artificially high reservoir releases for threatened salmon. Unfortunately, both agencies did so independent of one another. Based on those regulatory actions, the Bureau of Reclamation announced in 2001 that, for the first time ever, no water would be available from Upper Klamath Lake to supply project irrigators or the national wildlife refuges.

The combined lake level and outflow regulatory requirements equated to a volume of water that was more than what was available. The resulting impacts to the local community were immediate and far-reaching, as detailed in my written testimony.

A Klamath Lake situation with potential dire consequences for Idaho water exists in the Snake River Basin. National Marine Fisheries Service biological opinion, or BiOp, for the Upper Snake River Basin projects requires that water be sent downstream for salmon flow augmentation. The Fish and Wildlife Service BiOp for bull trout critical habitat requires bank full reservoirs in one of the Upper Snake projects. When push comes to shove, Idaho water users wonder how they will do both and still provide water for farms and communities.

Water users served by California's Central Valley Project, or CVP, face a similar dilemma. Simply put, the delta smelt BiOp prepared by the Fish and Wildlife Service requires flushing flows released from storage to influence smelt habitat. At the same time, the National Marine Fisheries Service BiOp for salmon requires keeping water in storage for temperature control.

A committee convened by the National Research Council studied this matter a few years ago. The NRC found that the lack of a systematic, well-framed, overall analysis between the two services is "a serious scientific deficiency, and it likely is related to the ESA's practical limitations as to the scope of actions that can or must be considered in a single biological opinion."

H.R. 3916 addresses these limitations and clears the way for improved Bay Delta ESA management. This bill is an important step in reducing wasted time and money, and represents a practical, common-sense approach to ESA that my membership strongly supports.

Family Farm Alliance stands ready to aid the Committee on advancement of H.R. 3916 and other measures to update and modernize the ESA.

Thank you, and I would be happy to answer any questions.

[The prepared statement of Mr. Keppen follows:]

PREPARED STATEMENT OF DAN KEPPEM, EXECUTIVE DIRECTOR, FAMILY FARM ALLIANCE ON H.R. 3916

Chairman Lamborn, Ranking Member Huffman, and Subcommittee members, thank you for this opportunity to present testimony on behalf of the Family Farm Alliance (Alliance). My name is Dan Keppen, and I serve as the executive director for the Alliance, which advocates for family farmers, ranchers, irrigation districts, and allied industries in 17 western states. The Alliance is focused on one mission—To ensure the availability of reliable, affordable irrigation water supplies to western farmers and ranchers.

In his 2011 State of the Union speech, President Obama caught the attention of many Westerners when he remarked that “The Interior Department is in charge of salmon while they’re in freshwater, but the Commerce Department handles them when they’re in saltwater. And I hear it gets even more complicated once they’re smoked.”

While the President’s freshwater/saltwater distinction may not have been *legally* correct, the moment may have provided the first, wide-spread public acknowledgement of the nonsensical reality associated with having multiple Federal agencies responsible for enforcing the Endangered Species Act of 1973 (ESA).

The Alliance supports H.R. 3916, the “Federally Integrated Species Health (FISH) Act.” This bill would amend the ESA to vest in the Secretary of the Interior functions under that Act with respect to species of fish that spawn in fresh or estuarine waters and migrate to ocean waters (anadromous fish), and species of fish that spawn in ocean waters and migrate to fresh waters (catadromous fish). We believe that by combining the ESA implementation responsibilities of both NMFS and FWS under one Federal roof, we would promote more efficient, effective, and coordinated management of all ESA responsibilities for anadromous and freshwater fish in western watersheds, from the highest reaches of our headwaters to the Pacific Ocean.

IMPORTANCE OF WESTERN IRRIGATED AGRICULTURE AND KEY CHALLENGES

Irrigated agriculture in the West not only provides a \$172 billion annual boost to our economy, it also provides important habitat for western waterfowl and other wildlife, and its open spaces are treasured by citizens throughout the West. Family farmers and ranchers are willing to partner with constructive conservation groups and government agencies, especially if there are opportunities to both help strengthen their businesses and improve the environment.

Still, many western producers face significant regulatory and policy related challenges, brought on—in part—by Federal agency implementation of environmental laws like the ESA. The challenges are daunting, and they will require innovative solutions. The Family Farm Alliance and the farmers and water management organizations we work with are dedicated to the pragmatic implementation of actions that seek to find a sustainable balance of environmental protection and economic prosperity. The foundation for some true, collaborative solutions will be driven from the constructive “center,” one that steers away from the conflict that can ensue between new regulatory over-reach and grassroots activism intended to resist any changes to existing environmental and natural resource laws, regulations, and policies.

NMFS AND FWS NEXUS WITH WESTERN FARMERS AND RANCHERS

The very significant presence of the Federal Government in the West presents unique challenges that agricultural producers may not face in other parts of the United States, particularly with respect to the reach of the ESA. The Federal multi-agency implementation of this law has had very significant impacts on how producers manage land and water. Importantly, once-nearly guaranteed Federal water supplies that were originally developed by the Bureau of Reclamation (Reclamation) primarily to support irrigation projects have been targeted and redirected to other uses in recent years. So, in the West, the certainty of promised federally developed water supplies has now been added to the long list of existing “uncertainties.”

Many western irrigators—especially those who operate in watersheds that provide habitat for threatened and endangered species protected by the ESA—are

significantly impacted by decisions made by FWS and NMFS. ESA consultation decisions made by either or both agencies regarding operations plans for Federal water projects like those in the Deschutes River Basin (OR), Columbia River Basin (WA/OR/ID/MT), California's Central Valley and the Klamath Basin have significantly impacted historic operations by rededicating water once used to support agricultural irrigation to the perceived needs of fish, frogs and other species protected under the ESA. Similarly, non-Federal projects developed by local agencies increasingly find themselves constrained by the "take" prohibition of section 9 of the ESA and accompanying regulatory oversight, demands, and permitting system operated by FWS and NMFS.

INEFFICIENT AND WASTEFUL ESA IMPLEMENTATION IN WATERSHEDS TRIBUTARY  
TO THE PACIFIC

Western watersheds that drain to the Pacific Ocean are home to many species of fish, some of which are listed as "endangered" or "threatened" under the ESA and fall under the responsibility of NMFS and FWS but have different migration patterns or life histories, often leading to duplicative and sometimes overlapping actions by each of the agencies under the ESA. Several of these species—like the Lost River and Short Nose suckers in the Upper Klamath Basin, the Delta Smelt in the Sacramento-San Joaquin River & San Francisco Bay-Delta, and the bull trout in the Upper Snake River—spend their entire lives in freshwater. Other anadromous species—such as the coho salmon in the lower Klamath River, Chinook salmon in California's Central Valley, and salmon and steelhead in the Columbia River—spawn in freshwater, migrate to the ocean to mature, and return to spawn in freshwater. Still other species are polymorphic: an individual *O. mykiss* may live its entire life in freshwater, in which case the fish is a rainbow trout, or that fish may ultimately spend part of its life in the ocean, in which case it is a steelhead and potentially subject to NMFS jurisdiction if listed under the ESA.

The scope of similar or identical ESA actions performed by each agency can be extensive:

- Section 4 of the ESA requires the listing agency to designate critical habitat for endangered and threatened species.
- Section 4(f) of the Act requires the listing agency to develop and implement a "recovery plan" for endangered and threatened species.
- Section 7(a)1 requires all Federal agencies, through consultation with the listing agency, to use their authority to carry out programs for the "conservation" of endangered and threatened species.
- Section 7(a)(2) requires all Federal agencies, through consultation with the listing agency, to ensure that actions carried out, funded, or authorized by them do not "jeopardize" the continued existence of endangered and threatened species and do not result in "adverse medication" of their critical habitat.
- Section 9(a)(1) prohibits all persons subject to U.S. jurisdiction from "taking" endangered species unless authorized by the listing agency pursuant to appropriate provisions of the ESA; and section 4(d) allows the listing agency to extend the same level of protection to threatened species.
- Section 10, particularly 10(a)(1)(B), provides a regulatory mechanism by which FWS or NMFS may authorize parties not connected to a Federal project to obtain authorization for incidental take if the agency makes certain findings.

It would seem intuitive to many that these functions would most effectively and efficiently be conducted under the roof of one government agency and not be arbitrarily split between two different agencies housed in two completely different Federal departments. In fact, up and down the West Coast, duplicative bureaucracies are generating ESA plans that sometimes compete with one another, as explained in the following three examples. I will start with a more detailed treatment of an example that I am most familiar with—operations of the 112-year old Klamath Irrigation Project, located on the California-Oregon state line.

*1. Klamath Irrigation Project (CALIFORNIA/OREGON)*

For its first 80 years of operation, Klamath Project irrigation supplies proved sufficient to meet the needs of the area's burgeoning farming and ranching communities. Although there were some very extreme years where Mother Nature and Klamath Project storage capacity proved insufficient to meet 100 percent of irrigation demands, shortages were small at most as the local community managed to

stretch thin supplies and make things work. Beginning in the early 1990s, steadily more restrictive government agency decisions made to meet ESA goals began to steadily chip away at the stored water supply originally developed for irrigation. Two sucker species were listed (1988) as endangered and coho salmon were listed (1997) as threatened under the ESA. Since then, competing biological opinions rendered by FWS (for the suckers) and NMFS (for the coho), increasingly emphasized the reallocation of Project water as the sole means of avoiding jeopardizing these fish.

In essence, the two Federal regulatory agencies each adopted a single-minded and uncoordinated approach of focusing on Klamath Project operations to artificially create high reservoir levels and high reservoir releases. Unfortunately, both agencies did so independent of one another.

The net result of increasing restrictions on Klamath Project water users was fully realized on April 6, 2001, when Reclamation announced its water allocation for the Project after FWS and NMFS officials independently finalized their biological opinions (BOs) for project operations in a critically dry year. Based on those regulatory actions, Reclamation announced that—for the first time in Project's 95-year history—no water would be available from Upper Klamath Lake to supply Project irrigators or the national wildlife refuges (also managed by FWS). The combined lake level and outflow regulatory requirements equated to a volume of water that was more than what was available in the system.

The resulting impacts to the local community were immediate and far-reaching. Thousands of acres of valuable farmland were left without water. In addition to harming those property owners, managers, and farm workers, the decision also imparted a negative economic “ripple” effect throughout the broader community. The wildlife benefits provided by those farms—particularly the food provided for area waterfowl—were also lost with the water.

Severe business losses echoed the hardship endured by farmers and farm employees. As farmers and laborers attempted to deal with the loss of jobs, a year's worth of income, and in some cases loss of the land itself, referrals for mental health counseling increased dramatically. The Tulelake school district lost around 50 students after farm families sold their land and moved on. Students were under stress, understandably confused as to why three species of fish were more important than their lifelong homes. Veteran homesteaders, who 50 years ago were promised reliable federally developed water, felt betrayed by that same Federal Government, which chose to provide water to fish instead of farmers in 2001.

It's difficult to envision that the 2001 Klamath Project water crisis would have occurred had the two fisheries agencies been housed in the same department that also includes the Bureau of Reclamation. Plus, FWS also has jurisdiction over the national wildlife refuges served by the Klamath Project. FWS managers faced a big enough challenge trying to balance the water needs of endangered suckers in Klamath Project waterways with those required to support waterfowl, bald eagles and other species in its refuges. To this date, it remains to be seen who acts as the mediator to balance the water requirements of the birds and salmon, the latter of which are overseen by another agency—NMFS.

The National Academy of Sciences (NAS) stepped in after Klamath Irrigation Project supplies from Upper Klamath Lake were cut off by Federal biological opinions under the ESA in 2001. Sadly, the NAS' initial objective scientific review (NAS 2002)<sup>1</sup> concluded that there was insufficient evidence to support these biological opinions in restricting agricultural diversions from the Klamath system, which had led to the near collapse of the local agricultural community. Here were the actions identified in the top recommendation included in the final NAS Klamath Report:<sup>2</sup>

- NMFS and USFWS should inventory all governmental, tribal and private actions that are causing unauthorized “take” (or killing) of ESA listed fish and seek either to authorize this take with appropriate mitigative measures or eliminate it.
- NMFS and USFWS should consult not only with Reclamation, but also with other Federal agencies (e.g. U.S. Forest Service) under ESA Section (7).

<sup>1</sup>Scientific Evaluation of Biological Opinions on Endangered and Threatened Fishes in the Klamath River Basin: Interim Report (2002), NAS Board on Environmental Studies and Toxicology (<http://dels.nas.edu/Report/Scientific-Evaluation-Biological-Opinions/10296>).

<sup>2</sup>Endangered and Threatened Fishes in the Klamath River Basin: Causes of Decline and Strategies for Recovery (2004), NAS Board on Environmental Studies and Toxicology.

- NMFS and USFWS should use their full authority to control the actions of Federal agencies that impair federally managed lands, not only within but also beyond the Klamath Project.
- Within 2 years, NMFS and USFWS should prepare and promulgate species recovery plans.
- NMFS and USFWS should pursue opportunities for non-regulatory stimulation of recovery actions through the creation of demonstration projects, technical guidance, and extension activities that are intended to encourage and maximize the effectiveness of non-governmental recovery efforts.

These five general key actions applied to both agencies when it appears obvious that one combined agency might do the job better. Admittedly, after the 2001 water shutoff, better coordination occurred between Federal agencies on Klamath Project operations, ultimately leading to the 2013 development of a joint, coordinated Biological Opinion by NMFS and FWS. Reclamation and the Services participated in extensive interagency coordination over a 2-year period, with the purpose of “collaboratively developing a water management approach that has the flexibility to optimize the benefits of available water for federally listed species while providing irrigation deliveries to the Project.”

While the joint BO was an encouraging development, the amount of work required for two separate agencies housed in different departments to develop Reasonable and Prudent Alternatives (RPAs) to avoid jeopardizing the continued existence of different individual fish species was incredibly inefficient compared to what it would take for one agency to oversee the effort. Months of time were dedicated to simply addressing edits bouncing back and forth between the two agencies. While both agencies attempted to streamline efforts wherever possible, each agency had its own internal protocol and authorities to satisfy, and those differences required tremendous time and efforts to reconcile.

Consolidating the NMFS functions under the Interior Department umbrella, as proposed by H.R. 3916, would put the Secretary of Interior in charge of a much more unified approach to managing threatened and endangered species in the Klamath River watershed.

### 2. Snake River (IDAHO)

A “Klamath-like” situation with potential future dire consequences for Idaho water exists in the Snake River Basin. The NMFS BO for the Upper Snake River Basin Projects (above Hells Canyon) requires that water be sent downstream for flow augmentation for salmon. On the other hand, the FWS BO for bull trout critical habitat requires “bank full” reservoirs in the Boise Project, one of the Upper Snake Projects. When push comes to shove—similar to what happened in the Klamath Basin—Idaho water users wonder, “how do we do both, and still provide water for our farms and communities?”

### 3. Central Valley Project (CALIFORNIA)

Water users served by the Central Valley Project (CVP) at one time had a fairly assured sense—early in the year, before planting and other farm management decisions needed to be made—of what their water supplies would be for the upcoming year. At the beginning of the year, the Bureau of Reclamation and the California Department of Water Resources (DWR) issues a water supply forecast and anticipated allocations for the various state urban, agricultural, and environmental water users based on snowpack in the mountains and anticipated weather conditions. However, in recent years, those once-reliable forecasts have been complicated by new regulations, litigation, and agency administrative directives. Farmers now regard water allocations with a sense of uncertainty which has helped to destabilize some agricultural decision making and profitability within the CVP.

Since 1977, a multitude of government regulatory and policy decisions have reduced the average water supply for CVP South of Delta agricultural service contractors (farmers and ranchers in the San Joaquin Valley who receive water from the CVP) from 90 percent of their contracted deliveries to 40 percent of their contracted deliveries. In 2014 and 2015, agricultural contractors on the west side of the San Joaquin Valley received zero CVP supplies. In 2016, they received 5 percent supply.

In short, state and Federal regulations have reduced water supply availability. Within this mix, NMFS is responsible for a biological opinion for winter-run Chinook salmon which requires CVP operations to meet specific temperature criteria in the Upper Sacramento River. In recent years, NMFS has taken drastic measure to leave water intended for users downstream of Shasta Dam behind the dam, for fear of violating those temperature criteria. In its 2009 Salmon Biological Opinion, NMFS biologists and hydrologists concluded that water pumping

operations in the CVP and State Water Project (SWP) should be changed to ensure survival of salmon, steelhead, green sturgeon, and killer whales, which rely on salmon runs for food. Meanwhile, since 1994, FWS has issued biological opinions to avoid jeopardizing the continued existence of the Sacramento-San Joaquin River Delta (Delta) smelt.

CVP water use is further constrained by the 1997 Central Valley Project Improvement Act (CVPIA), which includes an Anadromous Fish Restoration Program that seeks to at least double the natural production of anadromous fish in Central Valley streams in the long term. CVPIA Section 3406(b)(2) provides 800,000 acre-feet of CVP water to use, in part, to achieve the fish doubling goal (which has yet to be met). The 2000 Trinity River Restoration Plan further reduced the amount of CVP water diverted from the Trinity River watershed to the Central Valley, in an effort to provide flow-driven fishery restoration actions in the Trinity system.

In general, the focus of the “reasonable and prudent” alternatives to the coordinated export operations of the CVP and SWP has been increased regulatory restrictions on water exports to farmers in the San Joaquin Valley.

In 2009 (and in 2014, 2015 and 2106), irrigation delivery restrictions—based in large part on ESA biological opinions for fishery species managed by either FWS or NMFS in the Delta—were a primary cause for the water cutbacks and rationing afflicting a multitude of communities throughout the state and the resulting economic devastation in the San Joaquin Valley. In California in 2016 alone, 21,000 jobs were lost, equating to a \$2.7 billion hit to economic activity. Over 540,000 acres of farmland were fallowed, and \$2 billion in direct farm losses were realized. The lack of surface water to such a productive agricultural region has detrimentally impacted groundwater use and the economy of those communities, as well as the state. Ironically, one of the original purposes of the CVP was to shift San Joaquin well users away from groundwater by importing stored surface water supplies. Now, 70 years later, farmers and ranchers are again looking belowground to replace once-reliable CVP surface water that has been reduced due to drought and redirection to other uses.

In very simple terms, the Delta smelt BO prepared by FWS requires flushing flows released from storage to manipulate habitat while the FWS BO for salmon requires keeping water in storage for temperature control, situation remarkably similar to the Klamath example previously discussed. The FISH Act would improve things in California, as well. There, a committee convened by the National Research Council<sup>3</sup> found that the lack of a systematic, well-framed overall analysis between NMFS and FWS is “a serious scientific deficiency, and it likely is related to the ESA’s practical limitations as to the scope of actions that can or must be considered in a single biological opinion.”

“Coordination is not integration,” the NRC committee found, and concluded, “[T]he [Reasonable and Prudent Alternatives] lack an integrated quantitative analytical framework that ties the various actions together within species, between smelt and salmonid species, and across the watershed. This type of systematic, formalized analysis, *although likely beyond the two agencies’ legal obligations* when rendering two separate biological opinions, is necessary to provide an objective determination of the net effect of all their actions on the listed species and on water users.” (*emphasis added*).

H.R. 3916 would open the doors toward such an objective determination in Bay-Delta ESA management.

#### 4. *Incidental Take Statements Pursued by Local Agencies and Farmers (WESTERN U.S.)*

Finally, although the examples above relate to watersheds where there is a Federal project operated by Reclamation, similar issues can be present in basins where local agencies and/or farmers or ranchers themselves pursue incidental take permits (ITS) under the ESA. If there are both freshwater and anadromous species in the river system, the local interests must apply to both NMFS and FWS for separate ITPs for the same project and experience duplicative or conflicting regulatory procedures and determinations in a process that is very challenging under the best of circumstances. This sort of waste of resources can be avoided if there is one decision maker applying the law.

<sup>3</sup>A Scientific Assessment of Alternatives for Reducing Water Management Effects on Threatened and Endangered Fishes in California’s Bay Delta (2010), Committee on Sustainable Water and Environmental Management in the California Bay-Delta, Water Science and Technology Board, Ocean Studies Board, Division on Earth and Life Studies, National Research Council.

## CONCLUSION

Again, the Alliance believes combining NMFS and FWS under one roof will provide for more efficient, effective, and coordinated management of all ESA responsibilities for anadromous and freshwater fish in western watersheds, from the highest reaches of headwater areas to the Pacific Ocean. Even more important is what can be accomplished in the future, as FWS further emphasizes and expands on its collaborative freshwater fish habitat conservation work with local and state interests. With NMFS ESA duties brought under the Interior Department umbrella, a partnership-driven focus can spread to areas that benefit anadromous fish. Merging the NMFS ESA duties with those of FWS and tapping into the “constructive center” will lead to practical solutions that fit for ranchers, farmers, and other landowners, as well as fish and wildlife and local communities.

The time and money wasted by Federal agencies and those impacted by their decisions is frustrating and unnecessary. H.R. 3916 is important step in reducing wasted time and money and represents a practical, common-sense change to the Act that we strongly support. The FISH Act provides an opportunity to enhance protections to threatened and endangered species by improving the efficiency and effectiveness of the Federal Government’s approach to species protection through better decision making as a result of improved communication among folks working on a range of species in the course of developing and implementing policies. Perhaps more importantly, this legislation will help lay the groundwork for more collaborative conservation that ultimately and equally will benefit communities, citizens and fish species that inhabit fresh and saltwater environments.

One additional point. While the goals of the ESA are laudable, this 44-year-old law could stand some targeted reforms, including common-sense changes to make it work better, encourage incentive-driven recovery efforts, and discourage litigation. The Family Farm Alliance for decades has worked with our members and leaders to develop specific, practical changes to the ESA that we think will make it work better in the modern era.

The Family Farm Alliance stands ready to aid the Committee on advancement of H.R. 3916 and other measures to update and modernize the ESA. I would be happy to answer any questions.

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Mr. LAMBORN. All right, thank you. And thank you all for your testimony and for being here today.

At this point we will begin our questions for the witnesses. To allow all of our Members to participate, and to ensure we can hear from all of our witnesses today, under Committee Rule 3(d), Members are limited to 5 minutes for their questions. I will begin, and then we will hear from the Ranking Member, and so on.

Ms. Looney, as we have heard today, the operations of the Federal Columbia River Power System have been clouded with uncertainty for decades. During this period, the people who are impacted the most are the region’s taxpayers, whose electricity bills continue to increase, with negative impacts on the economy and on working families.

Much of this uncertainty can be attributed to the litigation and the court mandates that have micro-managed the system’s operations. Do you believe that having the courts running the dams is good for ratepayers and species?

Ms. LOONEY. No, I do not believe that having the courts run the dam is good for ratepayers or for the species. One thing that concerns me most about this issue is the decisions that I am going to have to make in the next couple of years.

As Bonneville’s fourth-largest customer, in the next 4 to 5 years, we will be making a decision about whether we go under a new contract with Bonneville for power supply post-2028. And right now their cost trajectory is greater than the available resources that I can buy.



In my testimony, I indicated that I buy 80 percent of my power from Bonneville, and I buy the other 20 percent at a third cheaper. When you think about what is going on in the Northwest markets, all the fundamentals are there. And what is driving Bonneville's costs are predominantly the costs associated with mitigating for fish, which is about 30 percent of my total wholesale power supply cost.

Mr. LAMBORN. If I could jump in right there because I have a limited time. If Bonneville, as the fourth-biggest customer, has to buy from other sources, where does that electricity from other sources come from? Does it come from clean hydropower?

Ms. LOONEY. It can, yes. We actually buy a lot of power from Canada. So, if we pick up from their hydro systems in the north, we can buy from there. We can buy from renewable resources that are in place in the Northwest, and we can also buy from California. So, there is a plentiful supply in the region.

Mr. LAMBORN. But do you sometimes have to buy from either nuclear or fossil fuel sources?

Ms. LOONEY. Sometimes we have undesignated resources that we will purchase. But for the most part, we do know where that power supply is coming from, and it is renewable.

Mr. LAMBORN. When there are spillovers that are mandated, that is lost hydropower potential. Where does Bonneville get its replacement electricity to supply its contractual obligations when water has been flowing over, spilling over, without generating any electricity?

Ms. LOONEY. Bonneville too must buy that power from the same available sources in the region in order to cover their obligations to their preference customers.

Mr. LAMBORN. Mr. Heffling, if I could ask you a question, are the arguments in favor of species mitigation entirely reasonable on your part, or is there a possibility that some people have an ulterior motive in wanting to make dams unprofitable so they will, in their dreams, have to be torn down?

Mr. HEFFLING. Yes, I have seen testimony or talked to environmental groups that are just made up of attorneys that earn their living by suing the Federal Government, and I believe that is all there is left on tearing down these Snake River dams. It has already been proven that the fish and the dams can co-exist. And I see no reason for outside interests to influence that.

Mr. LAMBORN. Well, it sounds to me like that is an abuse of the Endangered Species Act, and it is for an ulterior, unrevealed, and hidden motive. Would you agree with that?

Mr. HEFFLING. I would agree. We have had judges, I think, that have been influenced by bad information and myths and just bad scientific data or manipulated data that does not present the facts as they are.

Mr. LAMBORN. Mr. Keppen, would you care to weigh in on that same question?

Mr. KEPPEEN. Yes. Our organization has been all about trying to find constructive ways to make the ESA work better. And the litigation and some of these sort of back-room settlements involve a lot of western species. I am glad this Committee has paid attention to that, and has offered some bills to deal with it.

Mr. LAMBORN. All right. Thank you all for being here, and for your valuable testimony. At this point, I will yield to the Ranking Member for any questions he might have.

Mr. BEYER. Thank you, Mr. Chairman. I just want to begin with a simple statement that I love hydropower. As someone who thinks that all the science in climate change is real, developing hydropower is very important for us.

Mr. Mikkelsen, we have this balance of power, the executive, the congressional, the judicial. The District Court of Oregon ruled that the 2014 BiOp was arbitrary and capricious. It said the current dam operations under the 2014 biological opinion cannot ensure the survival or recovery of the fish and are vastly unresponsive to their current biological needs. And there were thousands of pages of testimony and a long hearing.

Why was there no appeal? If the science was bad, if the ruling was bad, why not appeal to a higher court? And then why, instead, take a legislative approach for something that would probably pass this House and be dead on arrival in the Senate?

Mr. MIKKELSEN. I would have to defer the question on why there was no appeal to the Department of Justice on that, sir.

Mr. BEYER. I just find it curious.

Ms. Hamilton, in your testimony you said, "Existing salmon policies have already wasted more than \$10 billion on a series of insufficient measures that have failed to recover a single one of the 13 protected populations of salmon and steelhead." Yet, Member McMorris Rodgers talked about 96 percent recovery. Ms. Looney talks about 96 to 98 percent performance standard testing.

How do you reconcile these 96 and 98 percent numbers with your concern that they failed to—and even, in fact, your notion that you had 1.27 million salmon that is coming up. You know, you can't rent a boat for 6 months, so—

Ms. HAMILTON. Those numbers were results from a spill program that was put in place by the court. Unfortunately, we could not get the agencies to support that without presenting our science in front of the court.

I will give you an analogy about what the 97 percent means, and it is variable at the different dams. But let's say you had to go through 10 toll booths and at every toll booth I took 5 percent of your money. By the time you got to the bottom of 10 toll booths, I have quite a bit of your money in my pocket. That is one example.

The other thing is that you are running out of gas as you slow down to go through each one of those, and that is what happens to the baby salmon. They lose energy by the time they get to the ocean to go back to that.

So, when we measure concrete to concrete, it is like saying, OK, on an assembly line I put 35 bolts in your car, but I am not responsible for whether the car runs or not—so measuring babies past concrete is not measuring adults back. So, the way we get smolt-to-adult returns is by spill. It has been monitored and measured for over two decades, and that is what we know about spill and the benefits of it.

Mr. BEYER. Perfect transition, because you, in your text and your speech, write extensively about how effective spills are.

Let me quote Mr. Heffling. “When fish are transitioned via spill, less are collected for transport via the barge transport system. Fish transported by barge survive at five times the rate as those that traverse the river. Spilled fish are more susceptible to predatory birds and fish that congregate below the spillways. And it doesn’t help the fish and may even have a negative effect on fish survival.”

How do you respond to his criticisms of spills and fish?

Ms. HAMILTON. Well, again, we have a decades-long study that looks at fish that are spilled, fish that are put in barges, fish that are bypassed through these Rube Goldberg slides. And what the data shows is, year in and year out, we get more adults back by spilling them over the tops of the dams. It is just the best methodology that we have.

Mr. BEYER. And this is measuring at the end point, when they hit the ocean—

Ms. HAMILTON. I mean do you want your car to drive, or do you want 35 bolts in it, right? What we want are adults back. And when there is overwhelming evidence that spilling gets the adults back, that is the important part.

When I mentioned that we noticed this in the 1990s, it was not based on studies, it was fishermen who watched the river. And we noticed, on years of high spill from over generation mostly—which is what the spring is like in the Northwest, it is a lot of over-gen, we have a lot of dams, a lot of water—what we noticed is we got a lot of adult returns back. So, simple fishermen were noticing something that, decades later, science has really proved out.

Mr. BEYER. Great. Thank you very much.

Mr. Chairman, I yield back.

Mr. LAMBORN. Thank you.

Representative Webster.

Mr. WEBSTER. Thank you, Mr. Chair. A couple of questions that I had you have asked, and I appreciate that. I would like to go into that further, though.

Ms. LOONEY, when you have to go out and buy power from some other source other than your current source, what is the price per kilowatt difference, or percentage, or something like that?

Ms. LOONEY. On Monday, we purchased Fiscal Year 2019 around the clock for \$22.60, and Bonneville is currently at \$37, so it is about a third cheaper.

Mr. WEBSTER. So, is there a potential, I guess, if you were to, say, eliminate all that power and had to go somewhere else, is there enough surplus available? Is there potential for brown-outs, or what would be the result?

Ms. LOONEY. Being the fourth-largest customer, there is enough available for me. But if the other three large customers decide that they want to pay a third less, as well, and we all go out looking for additional power, it would put pressure on the availability in the region.

Mr. WEBSTER. From a capacity standpoint?

Ms. LOONEY. Correct.

Mr. WEBSTER. OK, thank you.

Chair, I would like to yield the rest of my time to Mr. LaMalfa.

Mr. LAMALFA. Thank you, Mr. Webster. I appreciate this legislation brought forward by Mr. Calvert, and certainly will provide clarity on how people are supposed to manage water supplies.

Indeed, Shasta Dam and Shasta Lake are in my district, and to have competing agencies with opposite missions, one saying we need to let more water out of the dam for fisheries and the other saying you need to keep more water in the dam for cold water later in the year, really puts people in conflict. And the people caught in the middle are the customers, including much of Ag. that depends on Sacramento River water.

In one of these hearing rooms a year or two ago, it was unsure how full the lake would have to be before spring releases would be released to agriculture. So, how is any farmer or any other water user supposed to make a plan with their lenders or anybody else, when the Federal Government cannot get its act together to decide whether water is going to be released or kept behind the dam for cold water?

But it is interesting on the panel today, much discussion about keeping dams in place and dam removal, fish being able to co-exist with dams. And we have a very hot issue up in the north part of my district, as well as part of Oregon in Mr. Walden's district, with the hell-bent effort to remove four dams on the Klamath River with very, I think, incomplete science—incomplete is being generous on that. Yet, we have seen little change in the direction of that in this new Administration, and my constituents are very disappointed that they are not being heard on this.

Mr. Mikkelsen, you completed another tour of the area, I think, 2 days ago, and heard from constituents. They don't feel like they are being heard. And you have sent a response letter to my initial letter that was sent to Secretary Zinke that basically said we received your letter and we all need to work together.

But some of the important topics that I brought up in that letter have to do with the process of the facilitators there for the previous Secretary's approval of the Klamath Dam removal, yet some very important information was ignored.

Did you get a chance, Mr. Mikkelsen, to review the letter that I—in our previous meeting about a week-and-a-half ago—from Mr. Paul Houser, whose credentials include being the science advisor for the Bureau of Reclamation or the Scientific Integrity Officer previously for the Bureau of Reclamation, as well? Did you get a chance to review that document?

Mr. MIKKELSEN. Yes, sir.

Mr. LAMALFA. Previously, the one from when we met? You had a chance to look at the Houser document, the subject being the allegation of scientific and scholarly misconduct and reprisal for a disclosure concerning the biased summarization of key scientific conclusions for the Klamath River Dam removal secretarial determination process, that document?

Mr. MIKKELSEN. Yes.

Mr. LAMALFA. And later on, Mr. Houser was dismissed for his role in that because it seems that his goals with that were just scientific. He wasn't biased on this, but the scientific goals did not go with Secretary Salazar's desire announced before the science to remove the dams.

So, did you get a chance to review this today or previously, when I asked you to?

Mr. MIKKELSEN. I have reviewed what Mr. Houser's allegations were, and the response of the independent science review panel.

Mr. LAMALFA. OK. My time is over for now. I yield back, Mr. Chairman.

Mr. LAMBORN. OK. Representative Costa.

Mr. COSTA. Thank you very much, Mr. Chairman and Ranking Member, for holding this important Subcommittee hearing. I also want to thank Congressman Ken Calvert for his efforts on this legislation, of which I am a co-sponsor, because it really builds upon our previous efforts that include the WIIN Act that we passed last December that provides greater flexibility for 5 years, plus authorizing four different reservoirs, storage facilities, in California, and a lot of other good things.

But let me just really explain this to the members of the Subcommittee, because the legislation that Mr. Calvert has introduced that we are co-sponsoring is all about common sense and logic, which too often gets lost in Congress. Let me give you an anecdotal story to point this out.

The legislation that created NOAA was back in 1973 during the Nixon administration. And there was bipartisan support for creating NOAA. The Secretary of the Interior at the time happened to be a Wally Hickel, who was a former governor of Alaska. The Secretary of the Interior made some comments that were in disagreement with the President on Vietnam, and the President was furious. Sound familiar? The Cabinet Secretary said something he didn't like. So, President Nixon said, "The only way I am going to approve NOAA, I don't want to see it in Interior." So, the compromise was, let's put it in Commerce. OK? That is how this happened.

So, we get stuck in our own positions here, but that is the real story. So, what we are trying to do is make some common sense out of this, common sense and logic.

Mr. Keppen, you mentioned in your testimony that many areas across the country face duplicative and often conflictive actions proposed by the U.S. Fish and Wildlife and NOAA Fisheries in an attempt to preserve and ultimately recover species that are listed under the Endangered Species Act. That is true. I have experienced that in California and other parts of the country.

The fact is that the conflicting operational decisions, for example, have impacted areas like the Sacramento/San Joaquin Delta area, as Congressman Calvert mentioned earlier, as well as in Ventura County, where we have, again, these conflicts with NOAA prioritizing, keeping water upstream in reservoirs for temperature management, while the U.S. Fish and Wildlife Service proposes releasing significant volumes of water downstream for experiments to increase the recovery of species.

I mean, they are not on the same page. The duplicative and inconsistent management we are seeing makes no logical sense, and it harms the communities in the San Joaquin Valley and across the Nation, and it does nothing—beg to differ with you—for helping the recovery of the species. It seems to me if they are in the same department, as President Obama suggested, and they are talking to

each other, they could be on the same page with the biologists and the other folks that are managing the species.

Last year alone, with the greatest rain and snowpack in California ever recorded—which came on the heels of the worst 5-year drought in history—we had these conflicting actions taking place, unfortunately, too often. Non-senior water right holders across California that ended up preventing plantings and negatively impacting the economy that I felt in my district, as well as in Congressman Denham's district. Congressman LaMalfa's constituents, as he pointed out, were impacted. Congressman Denham's constituents were impacted by the damages of this.

We argued last year between August and September, between releasing water, as to whether or not it was at 56 degrees temperature or whether it was at 55 degrees temperature, which was better for the recovery of the salmon, which then was in conflict with the other agency for the recovery of the delta smelt. It makes no sense.

So, this bill, while a far cry from what I would like to see, which is that NOAA Fisheries management budget be moved to the Department of the Interior—and that was mentioned earlier by the Ranking Member, but I think we can work that out, that is not rocket science, that is doable—which would provide consistent regulatory action for all species with a portion of their life cycle in inland waters.

Additionally, these conflicting requirements could be reduced and be eliminated through an integrated biological opinion for smelt, Chinook salmon, steelhead, which NOAA Fisheries is resistant to developing, despite, as Mr. Keppen said, the National Research Council stating that that would lead to a preferable outcome.

I have a couple questions. I don't have much time.

Mr. Keppen, can you provide an example of how the integrated biological opinion in the Klamath, as a comparison, has functioned more effectively than what we have had with separate biological opinions in the Sacramento/San Joaquin Delta?

Mr. KEPPEEN. Sure, Congressman Costa, although I believe this is kind of a new development. My testimony focused on what happened in 2001. We began to get all kinds of national attention dealing with that issue, because the National Academy of Sciences actually got involved there, too, came back and said the decisions that were made by both agencies were not completely justified.

I think, as far as—oh, I am sorry, I lost my train of thought all of a sudden. I was thinking about Klamath. Your question was?

Mr. COSTA. Instead of having one biological opinion for the Klamath—

Mr. KEPPEEN. Yes, I am sorry. So, they have done it in Klamath over the last several years. It took a couple of years to develop. I think it is actually the first joint biological opinion between the Fish and Wildlife Service and the National Marine Fisheries Service that has been conducted in the West. And my understanding is it is operating better. It has been litigated.

But even with that said, I am not quite sure that it would be as efficient as having both agencies under the same roof.

Mr. COSTA. Which you could then better more logically produce and reproduce on the life cycle of this species.

Mr. KEPPEL. Right, right.

Mr. COSTA. Absolutely. Common-sense logic.

Mr. KEPPEL. Right.

Mr. COSTA. That is what this is about.

Mr. LAMBORN. Representative Gosar.

Dr. GOSAR. Thank you, Mr. Chairman.

Ms. Hamilton, for full public disclosure, you and your association are currently one of the current plaintiffs in the Federal Columbia River Power System litigation that has challenged multiple Federal dam biological opinions over the past two decades or so. Is that correct?

Ms. HAMILTON. Yes, sir. We are.

Dr. GOSAR. Thank you. In January of this year, you said, and I quote, "Gold-plating dams may not be in our future because they are outdated, they have outlived their purpose, and are causing, most of us think, more harm than good. Then we need to stop investing in them. It is just a waste of money." I kind of find it interesting. Most of us? I am not one of them.

I understand that just four ESA listed subspecies of salmon migrate through the Snake River dams, and at least nine other populations flow through other Federal and non-Federal dams on the Columbia, including Bonneville Dam and several public utility district-owned dams. Do you believe that all the Federal and non-Federal power-producing dams on the Columbia River system are outdated and a waste of time? Do you believe that they should all be removed? And, if not, which ones should stay? And why are they the ones that are OK?

Ms. HAMILTON. Thank you for the question. Yes, when I see the four lower Snake River dams are remanded to be reviewed for costs and benefits, then I disagree and our organization disagrees with spending money for them to stay in place while the studies are in place.

That said, we are pretty optimistic about the benefits of spill. So, I am not sure that this dams-versus-salmon debate or the environment-versus-jobs debate aren't false choices.

We are keenly interested in seeing how spill works.

Dr. GOSAR. Well, for clarity here, I am also a fisherman. In fact, my first job was fly tying, as a small child. So, from that standpoint.

For the rest of the panel, we will go in reverse order, from the right to the left—the Federal dams, Federal Power Act, and a number of other laws require congressional authorization, meaning that they are long-standing policies affecting these dams. Do you believe Congress should continue to have this authority, relative to the Federal, Columbia, and Snake River Dams? Starting from the right and moving back.

Mr. HEFFLING. Yes, I agree with that position, thank you.

Dr. GOSAR. The gentleman to the right. Young lady?

Ms. LOONEY. Yes.

Mr. MIKKELSEN. Yes.

Dr. GOSAR. Thank you. I am going to yield the rest of my time to Mr. LaMalfa.

Mr. LAMALFA. Thank you, Mr. Gosar.

Coming back to Mr. Mikkelsen on that, you have told me and then several others up in the district there that you really have a pretty keen interest in the situation up at Klamath. And I think you told Secretary Zinke that you wouldn't come back to Washington, DC from retirement unless you got to handle, basically, the Klamath Project.

What is your particular interest in the Klamath Dam removal project that would hinge on taking the acting role?

Mr. MIKKELSEN. I would say that is probably a bit of a mischaracterization of any communication I had with the Secretary on that particular—

Mr. LAMALFA. Well, that is what you tell people in the district. So, OK.

Mr. MIKKELSEN. I have said that I volunteered for the Klamath, as a matter of professional interest, because I have about 35 years of experience with respect to conflict resolution on natural resource issues.

Mr. LAMALFA. Does conflict resolution involve listening closely to both sides of an issue?

Mr. MIKKELSEN. Yes.

Mr. LAMALFA. OK. The people that are opposed to dam removal still don't believe that they are being heard up there, as a result of a couple of tours recently.

I asked you about the Houser document a few minutes ago. What did you conclude from the charges brought forth by Mr. Houser, who, again, was summarily dismissed when his views didn't seem to line up with the previous administration on the science involved with the dam removal? What did you conclude from that document? It was submitted February 24, 2012.

Mr. MIKKELSEN. The Houser document referred to a criticism of a departmental press release, as I understand it. And in response to all of the allegations that were made here by Mr. Houser, the Department did institute an independent science review panel that went through that. And the science review panel did criticize the press release and how the press release was handled with respect to the specificity of some numbers.

But they also upheld the Department's action in doing so. And that was an independent science review panel.

Mr. LAMALFA. That is over a press release. Well, I will continue. I yield back, Mr. Chairman.

Mr. LAMBORN. OK, and you will have some time in a moment. But first we will hear questions from Ms. Bordallo.

Ms. BORDALLO. Thank you very much, Mr. Chairman, and thank the Committee for being here this morning.

My questions are for you, Commissioner Mikkelsen. And this is for the record.

In 1986, Congress added Texas and the insular areas as reclamation states. Commissioner Mikkelsen, are you aware that Guam is eligible for reclamation funding, and has been for three decades, 30 years?

Mr. MIKKELSEN. Yes, I am.

Ms. BORDALLO. All right.

Mr. MIKKELSEN. That Public Law 99-396 added that.



Ms. BORDALLO. All right, thank you. Question 2, can you pledge that Reclamation will provide all due consideration to any funding requests from eligible applicants on Guam, including our government agency, the Guam Waterworks Authority? Is it yes or no?

Mr. MIKKELSEN. Yes.

Ms. BORDALLO. Yes.

Mr. MIKKELSEN. To the point that, understand that Reclamation's grant program is a competitive process.

Ms. BORDALLO. Right. My third question—many are surprised to learn that tropical islands can face water supply challenges, including groundwater contamination, and even drought. Are you willing to explore how Reclamation's expertise can help Guam and other insular areas to further improve their public water systems and better manage water resources?

Mr. MIKKELSEN. The short answer to that is yes. I would note that we have had one application from a territory in the Northern Mariana Islands that was selected for our WaterSMART grants. They are using about \$300,000 in Federal funding with another \$300,000 in local funding to install 1,000 new advanced water meters for both agriculture and domestic customers.

And I would say that entities that are located in the territories listed are also eligible for all those other parts of WaterSMART title 16 cooperative watershed management programs, but we have not received applications for funding from the U.S. territories for those particular programs.

Ms. BORDALLO. Thank you. Thank you, Commissioner. I just wanted this on record.

Last, I am pleased that this Committee and our Chairman have committed to do all that we can within our jurisdiction to help Puerto Rico and the U.S. Virgin Islands as they rebuild from recent hurricanes. Will you pledge, Commissioner, that Reclamation will do its part by providing all due consideration to any funding requests from eligible applicants on the Virgin Islands? Congress made the U.S. Virgin Islands eligible for Reclamation funding back in 1986.

Mr. MIKKELSEN. That is correct, under Public Law 99-396. And as required by statute, Reclamation does use a competitive process to identify those projects for grant programs. Each application will be thoroughly reviewed and scored in a described manner that everybody has access to.

Ms. BORDALLO. Thank you. I thank the Commissioner.

Mr. Chairman, I ask these questions because many times the territories are forgotten. You have been on Guam, so you know how far we are and the needs that come about, just like any other state.

Mr. LAMBORN. Many times. And I think that has always been at your invitation.

Ms. BORDALLO. Thank you. Thank you, Mr. Chairman.

And, Mr. Chairman, I would like to enter into the record my comments on H.R. 3916.

Mr. LAMBORN. With no objection, so ordered.

Ms. BORDALLO. Thank you, and I yield back.

Mr. LAMBORN. Representative LaMalfa.

Mr. LAMALFA. Thank you, Mr. Chairman. I will resume with that letter with Mr. Mikkelsen here.

In order to get it on the record, two of the charges Mr. Houser made in submitting that letter—one was, Number one was intentional falsification.

Motivated by Secretary Salazar's publicly-stated 2009 intention to issue a secretarial determination in favor of removing four dams on the Klamath River, which was due March 31, 2012, the Department of the Interior has followed a course of action to construct support for such an outcome. An example of this intentional biased falsification reporting the scientific results is contained in the September 21, 2011, called the "Summary of Key Conclusions Draft EIS ER and Related Scientific Technical Reports." Other examples are provided by third parties.

You talk about the press release. Yes, that is included in the second portion of the letter. And I will conserve time on that. But what we have is a problem, that the science involved is not being taken into account by an unbiased party here. Indeed, it looks like a conclusion that is being carried forward, unfortunately, under this Administration's officers.

Are you aware also of another document submitted by a gentleman named Stephen Coshi that would talk about the deconstruction of the earthen dams, the Iron Gate and the J.C. Boyle Dam, that were reviewed by people that have no experience with earthen dams, with concrete dams. This document talks about the technical aspects of removing a dam, and it has a clay core with gravel and other material covering that.

The peril of removing such a dam and the expertise that was submitted by people that have no experience with that, indeed, are people that reviewed that and said it was OK, are folks that are from the—this letter was submitted to a Thomas Hepler, who is the team leader of The Waterways and Concrete Dam Group in Denver, Colorado.

The letter talks about stability of slopes in deconstructing these earthen dams, where you have 174 feet that have been under water for a very long time, and that the drawdown on that would have an effect on slope stability, therefore collapsing into the river, as well as the—I cannot go into all the technical aspects of the clay core of the dams, but the issues involved with the clay causing collapse once the water starts to inundate that, even after the dam drawdown has been completed.

Has that been taken into account in the deconstruction process of the two earthen dams on the system?

Mr. MIKKELSEN. Reclamation is not involved in the removal of these dams, so I would probably have to refer that question to the KRRC, as successor in interest to PacifiCorp, sir.

Mr. LAMALFA. OK. Well, it evidently has not been. One of my requests I made of the Secretary early on in this Administration in April in a letter was one of three things, and that would include—since science is incomplete by many different accounts, I request that the Secretary withdraw the previous Secretary's approval of the Klamath Dam removal and inform the Federal Energy Regulatory Commission of the withdrawal, so decisions are not made without all the science.

Indeed, it was 20 million cubic yards of material sitting behind the four dams that would then infect the rest of the river after they are removed. That has been completely glossed over in the process.

Now, we have had some less-than-forthright process, as well, with the formation of the removal corporation KRRC, a colleague that you mentioned, Mr. Ed Sheetz, who we had worked with to try to have our office and others be included in open hearings on what the KRRC was going to be doing, going forward. And we did not have that forthright interaction with the elected member or the general public, the way it should have. Indeed, secret meetings were held in this whole process.

So, I am going to once again ask the Secretary to withdraw the previous approval of the removal and this process, and ask the Secretary to put someone else as the facilitator up there in the Klamath system, because our people are not being heard.

With that I yield back, Mr. Chairman.

Mr. LAMBORN. Representative Gianforte.

Mr. GIANFORTE. Thank you, Mr. Chairman and Ranking Member. I want to thank the panelists for being here, for your testimony.

Mr. Mikkelsen, as a fellow Montanan, a special welcome to you. Thank you for being here.

Mr. MIKKELSEN. Thank you.

Mr. GIANFORTE. Mr. Heffling, you gave testimony today that, based on the scientific data you have, there is a 97 percent survival rate through the dams of the salmon. We have also heard that we have seen record returns of adult salmon into the rivers.

Based on the scientific data you have available to you, and your opinion, is it your belief that the dams have virtually no impact on the salmon?

Mr. HEFFLING. Yes, that would be correct. I mean they have minute impact because there are small mortality rates. But that is in any river, no matter what obstacles they come up against. And I believe that the plans we have in place now definitely facilitate—

Mr. GIANFORTE. So, virtually no impact on the salmon, from the dams as they exist?

Mr. HEFFLING. No.

Mr. GIANFORTE. Thank you.

And Ms. Looney, I have met with members of the Montana Electric Co-ops, who have talked to me about the ongoing problems with the Columbia River System. In Montana, we have about 130,000 families, farms and ranches, small businesses that get their power from the Bonneville Power Administration, just as your customers do.

These dams are one of the largest providers of carbon-free, renewable energy in the area. Yet, we continue to make them economically inefficient. And you testified yourself that costs are going up dramatically: \$600 million a year, 37 percent increase—by my calculation without compounding—in rates.

My question is, we just heard that these dams have no impact on the salmon, and yet we have continuous litigation. What do you think the point of the litigation is? Is it about long-term viability of the salmon? We just heard the scientific data says that is not

the reason. Is it that? Or is it really just an attempt to remove all the dams?

Ms. LOONEY. Thank you. Excellent question. I do have one of my members, Lincoln Electric Cooperative, in Montana.

I think it depends on which party you are looking at. I think some do have an agenda for dam removal. I think some truly believe that the science that they are referring to is the accurate science. However, I believe that the Federal science is the accurate science, and that Federal science is what we will be operating under if we can continue with this bill. We will be operating under that Federal science, as we do today, until a new biological opinion is created after the NEPA process.

Mr. GIANFORTE. OK. You also testified that an awful lot of money has been spent to improve these dams to negate any potential negative impact on the salmon. Is it also your belief that the scientific data shows that these dams have virtually no impact on the salmon?

Ms. LOONEY. Yes, that is correct.

Mr. GIANFORTE. OK, thank you.

And Mr. Keppen, Ag. is our Number one industry in Montana. And I am asking an obvious question, but for a farmer ranch that depends on irrigation water that might be diverted from one of these dams, if I run a farm and I have relied on the irrigation water—you testified that, in fact, in certain cases this water is turned off. Could you just describe the impact on a farmer of not getting irrigation water?

Mr. KEPPEL. Sure, thanks. Actually, I think the first time I ever testified before one of these committees was after the 2001 water shut-off in Klamath Falls. I used to run the Klamath Water Users Association, which represents those irrigators. And it is terrible. I kind of mentioned it in my written testimony.

Not only are the farmers impacted, but the surrounding environment, the National Wildlife Refuges, there is a ripple effect that hits, obviously, the tractor suppliers, the fertilizer dealers, the business community. There was a tremendous rise in anti-depressants that were prescribed by local pharmacists. And those were just the short-term impacts.

I think in our community it was about a \$300 million impact in 1 year. Generally Ag., right now, creates about a \$600 million boost to our economy.

And then, what I testified on back in 2002 before the Senate Energy and Natural Resources Committee was the lasting effects, when you have—

Mr. GIANFORTE. But for an individual family farm who is dependent on water, for that family, what did they experience?

Mr. KEPPEL. Oh, it is terrible. Without water, you cannot produce food. And some people were able to drill wells and have a back-up supply. That creates sort of a have versus have-nots. It creates a terrible dynamic in the community. It is something I never want to go through again.

And not only that, the following year, if you have not irrigated and produced on your land, you get weed problems, equipment that hasn't been used for a year. There is just a long range of impacts that last. Not just like a 1-year sort of an impact.

Mr. GIANFORTE. Great, thank you.  
I will yield back, Mr. Chairman.

Mr. LAMBORN. Thank you.  
Representative Newhouse.

Mr. NEWHOUSE. Thank you, Mr. Chairman. I want to thank the members of the panel for coming here this morning and helping us through this important conversation about an issue that is of primary importance to my district. I represent the central part of Washington State. Many of these dams that we are talking about, if they are not in my district, they certainly impact me directly. So, I want to thank everybody on the Committee, too, their interest in helping to solve this important issue.

And certainly to welcome one of my constituents, Mr. Heffling, I appreciate your coming here and talking directly from your knowledge of these matters. He has an extensive background that I think is very important to this conversation. Thank you for that, as well as everyone else that brings their expertise this morning.

One of the drawbacks of being the last one to ask questions is that a lot of things have been asked already. They are very important. But just to, I guess, underscore some of the points that have been made, we all know that there has been a tremendous amount of scientific research that has gone into the successful passage of fish through dam structures, monitoring processes, lots of technologies that have increased the survival rates for these listed species, particularly in the Columbia River system.

So, Mr. Heffling, you have already made the point that—I think you said that dams and salmon can co-exist. I think several people have made that point this morning. I guess I would like to give you the opportunity to talk a little bit more about this ongoing debate that we have this morning about the 97 percent or 95 or 98 percent survival rate that we are experiencing right now that demonstrate to me the very successful co-existence of the fish and the dams. Is there anything else you would like to add to that?

Mr. HEFFLING. Yes, there has been a lot of talk, with all due respect to Ms. Hamilton, about increasing spill. And, I kind of chuckle at that, because we already have spill incorporated into the current BiOp. And I talked previously about super-saturation of nitrogen into the water.

Mr. NEWHOUSE. Right.

Mr. HEFFLING. Well, this has a cumulative effect through each of the dams that spill water.

So, right now, even though we are ordered to spill water for some augmentation and fish passage, we are limited by—that dissolved gas is measured by the agency—so we are limited to our spill to where our dissolved gas levels are at. Even if there was some kind of order to increase spill, it could not be done without being incredibly dangerous to the fish.

So, I don't understand where some of this increased spill comes from, but it is not what works. The increase in fish survival has been multi-functional. It has been barging, it has been fish screens in the intakes of the turbines. It has been RSWs that are actually a simple device, they are not Rube Goldberg at all. They are very expensive devices, but they have been successful.

So, it is not spill that has really increased the survival rate, it is all the ways that we have improved the structures to pass fish, plus—I am a power plant operator, myself, and have to abide by the fish passage plan, which is based on the BiOp. Everything we do, what generator we start, at what level we run the generation, what spill we are at, all of this is according to this fish passage plan that is meant for increased survival of the fish, so we are doing everything possible to maintain that.

Mr. NEWHOUSE. The crux of the question here is the current biological opinion. Just for the record, would you agree that the current BiOp is working, that it is vital in order to support the Federal Columbia River Power System, as well as allowing salmon to continue recovering at their record rates that we see?

Mr. HEFFLING. Oh, I would definitely agree that BiOp is what has actually worked, and that is why we have an increase in returns.

Mr. NEWHOUSE. Good, I appreciate that. And there are still people talking about removal of the dams, particularly the Snake River dams. Could you talk a little bit from your experiences what it would take to replace these dams, as far as power generation? Perhaps more nuclear? What other kind of things that might be necessary?

Mr. HEFFLING. Yes, for the lower Snake River dams, it would probably take 2 nuclear, maybe 3 coal-fired, 6 gas-fired power plants, just to replace the annual power production. For peaking capacity, you are talking about 3 nuclear, 6 coal-fired, or 14 gas-fired power plants to provide just that peak capacity.

But these dams are more important than just what they can generate annually, or whatever. These plans that are on the Snake River Columbia System are run under what BPA called AGC, and that is Automatic Gain Control. Peak power is not just a certain time of year, it is daily. When everybody gets up in the morning, turns their heat up, starts making their breakfast, the need for power rises way up, and in the evening, when people come home from work.

So, that is the main function of these dams, peak power. We go to full load in the morning, we go to full load in the evening. You cannot request wind, "Come on, blow harder because we need you right now," and you cannot say, "Well, come out, sun, we need peak power right now." That can only be done by these types of projects.

Mr. NEWHOUSE. Thank you.

Mr. Chairman, my time is up, but I want to thank you for holding this hearing, and also express my appreciation to Congresswoman McMorris Rodgers for her main sponsorship of this bill. And I look forward to working with you.

Mr. LAMBORN. All right. I would like to thank all the witnesses for their valuable testimony. You have come a long way to be here, and I and all of us appreciate that.

Members of the Subcommittee may have additional questions for you, and we would ask that you respond to these in writing. Under Committee Rule 3(o), members of the Committee must submit questions to the Clerk within 3 business days following the hearing. And the hearing record will be open for 10 business days for these responses.

If there is no further business, without objection, the Committee stands adjourned.

[Whereupon, at 11:39 a.m., the Subcommittee was adjourned.]

[LIST OF DOCUMENTS SUBMITTED FOR THE RECORD RETAINED IN THE COMMITTEE'S OFFICIAL FILES]

Statement for the Record from the Department of the Interior on H.R. 3916, dated October 12, 2017.

Statement for the Record from Representative Bordallo on H.R. 3916, undated.

**Rep. Huffman Submissions**

- Letter addressed to Chairman Bishop and Ranking Member Grijalva from the Orca Salmon Alliance commenting on H.R. 3144, dated October 11, 2017.
- Letter addressed to Chairman Bishop and Ranking Member Grijalva from the Save Our Wild Salmon Coalition commenting on H.R. 3144, dated October 11, 2017.
- Letter addressed to Scott Spellmon of the Army Corps of Engineers, Elliot Mainzer of Bonneville Power Administration, and Lorri Lee of the Bureau of Reclamation from the Orca Salmon Alliance commenting on the Scoping, Columbia River System Operations Environmental Impact Statement, dated February 5, 2017.
- Letter addressed to the U.S. Army Corps of Engineers Northwestern Division from EarthJustice commenting on the Scoping, Columbia River System Operations Environmental Impact Statement, dated February 6, 2017.
- Open letter to “Policymakers” discussing H.R. 3144, signed by multiple organizations, dated August 23, 2017.
- Research article titled, “Population growth is limited by nutritional impacts on pregnancy success in endangered Southern Resident killer whales by Samuel Wasser, Jessica Lundin, Katherine Ayres, Elizabeth Seely, Deborah Giles, Kenneth Balcomb, Jennifer Hempelmann, Kim Parsons, and Rebecca Booth, published June 29, 2017.
- Opinion article written by Josh Mills titled, “Bill would rubber-stamp salmon failure,” dated August 11, 2017.
- Letter addressed to Chairman Lamborn and Ranking Member Huffman from the Pacific Coast Federation of Fishermen’s Associations commenting on H.R. 3144, dated October 9, 2017.
- Letter addressed to Chairman Bishop and Ranking Member Grijalva from the NW Energy Coalition commenting on H.R. 3144, dated October 11, 2017.
- Letter addressed to Chairman Lamborn and Ranking Member Huffman from American Rivers commenting on H.R. 3144, dated October 12, 2017.

- Letter addressed to Chairman Bishop and Ranking Member Grijalva from the Alaska Trollers Association commenting on H.R. 3144, dated October 9, 2017.
- Letter addressed to Chairman Bishop and Ranking Member Grijalva from Jeremy Brown, President of the Coastal Trollers Association commenting on H.R. 3144, undated.
- Letter addressed to Chairman Bishop, Chairman Lamborn, Ranking Member Grijalva, and Ranking Member Huffman from John Twa commenting on H.R. 3144, dated October 12, 2017.
- Letter addressed Chairman Bishop, Chairman Lamborn, Ranking Member Grijalva, and Ranking Member Huffman from the Northwest Resource Information Center commenting on H.R. 3144, dated October 12, 2017.
- Open letter from James Waddell, commenting on H.R. 3144, undated.
- Letter addressed to Chairman Bishop, Chairman Lamborn, Ranking Member Grijalva, and Ranking Member Huffman from Idaho Rivers United commenting on H.R. 3144, dated October 11, 2017.
- Open letter from multiple groups commenting on H.R. 3144 and H.R. 3916, dated October 11, 2017.

