



KATE BROWN
Governor

April 13, 2020

D. Peter Helmlinger, P.E.
Brigadier General
Army Corps of Engineers
U.S. Army

Elliot Mainzer
Administrator and CEO
Bonneville Power Administration
U.S. Department of Energy

Lorri Gray
Regional Director
Columbia-Pacific Northwest Bureau of
Reclamation
U.S. Department of the Interior

Via electronic delivery and By First Class U.S. Mail

Dear Brigadier General Helmlinger, Regional Director Gray, and Administrator Mainzer:

I write on behalf of all Oregonians to provide comments on the Columbia River System Operations Draft Environmental Impact Statement (CRSO DEIS). While recognizing the tremendous work put into drafting the CRSO DEIS under a truncated timeline, the alternatives evaluated, including the Preferred Alternative, do not meet the standards of the National Environmental Protection Act (NEPA). Implementation of the Preferred Alternative will not meet the expectations and needs of the citizens of Oregon and the region, nor provide adequate protection for salmon and steelhead. We were expecting a document that was comprehensive, objective, transparent in analyses, and neutral in tone, but the CRSO DEIS simply does not meet these criteria. Attached are the State of Oregon's comments on the CRSO DEIS that illustrate these shortcomings. That being said, with this letter I am also proposing a path forward that can lead the region to an achievable and workable solution for future operation of the Columbia System, one that protects salmon and steelhead while assuring sustained economic growth for the region.

Some of our major concerns with the CRSO DEIS document and process are summarized as follows:

- **Unreasonable schedule that drives inadequate analyses.** The lead federal agencies (Army Corps of Engineering [ACOE], Bureau of Reclamation [BOR], and Bonneville Power Administration [BPA]) proceeded with an accelerated and

arbitrary schedule, dictated by Executive Order, to develop the CRSO DEIS by February 28, 2020, complete the public comment period by April 13, 2020, and have a Record of Decision (ROD) by September 2020. This timeline is significantly shorter than the court-ordered NEPA schedule, which the federal agencies informed the Court was the “minimum” schedule that would allow them to “do [the NEPA process] right.” *NWF v. NMFS*, 3:01-cv-00640-SI, ECF No. 2070 at 5 (June 3, 2016). This abbreviated schedule simply did not provide the lead federal agencies enough time for their technical teams to conduct thorough and robust analyses required by NEPA. Taking time to do the necessary work is essential for such a complex system of 14 dams. The rush to produce the document is evident in the technical shortcomings of the CRSO DEIS, as expressed below and in our attached technical comments.

- **Compressed public comment period; denied request for extension.** I wrote to you on March 27, 2020, and expressed concern about the national health emergency related to the Coronavirus Disease-2019, and its associated impact on the CRSO DEIS public comment schedule. In particular, the CRSO DEIS was released for public comment on February 28, 2020. Two weeks later, on March 13, 2020, President Trump declared a national emergency concerning the outbreak of COVID-19. On March 23, 2020, I issued Executive Order 20-12, which requires all Oregonians to stay home unless absolutely necessary. I have also ordered all Oregon schools closed for the remainder of this school year. President Trump declared COVID-19 Declarations of Disaster for Washington on March 22, Oregon on March 29, and Idaho on April 9.

In light of these extraordinary circumstances, the ability of all Oregonians—including Oregon state agencies—to review and provide thorough comments on the voluminous CRSO DEIS was severely constrained. Similar requests for extension to the public comment period were echoed in separate letters from the federal delegation and numerous Non-Governmental Organizations. Even before the COVID-19 crisis the ACOE recognized the likelihood of an extension in a court filing, stating “[i]n light of the public’s interest in a meaningful opportunity to comment on a draft EIS that addresses numerous complicated and potentially controversial topics, an extension of the 45 day regulatory minimum period for public comment will likely be warranted (as is often the case for complex NEPA processes).” *NWF v. NMFS*, 3:01-cv-00640-SI, ECF No. 2070 at 15 (June 3, 2016).

Despite these extraordinary circumstances, on April 7, 2020, the ACOE denied all requests for extension. I am perplexed and disappointed in this decision by ACOE, especially considering the COVID-19 pandemic is the most significant public health emergency in the past 100 years.

- **Dismissal of Snake River dam removal option without thorough analysis.** As you know, Oregon is actively engaged in a long-standing effort to recover salmon and steelhead in the Columbia Basin as a vital part of our ecological, cultural and economic heritage and prosperity. The science is clear that removing the earthen portions of the four lower Snake River dams is the most certain and robust solution to Snake River salmon and steelhead recovery. No other action has the potential to improve overall survival two- to three-fold and simultaneously address both the orca and salmon recovery dilemma. This option reduces direct and delayed mortality of wild and hatchery salmon associated with dam and reservoir passage and provides the most resilience to climate change (e.g., reduced thermal loading in the lower Snake and Columbia rivers and better access to and from the alpine headwaters most resilient to shrinking snowpacks). These likely benefits to salmon and steelhead need to be assessed along with the impacts to power generation, irrigation, flood control, and river-dependent commerce, and how these sectors can be made whole or provided reasonable offsets associated with potential removal of the Snake River dams. The Northwest Power and Conservation Council can provide the necessary assessment of long-term costs to the power section and how they may be mitigated. Additional studies will be needed to address impacts to and offsets for irrigation, flood management, and river-dependent commerce. The CRSO DEIS does not include this comprehensive and robust assessment of the removal of the Snake River dams, and hence does not meet the standards of NEPA.
- **Additional technical shortcomings.** NEPA requires utilization of high quality information and accurate scientific analysis, as well as professional integrity, including scientific integrity, of the discussions and analyses within an EIS. Oregon state agencies have identified numerous errors and deficient analyses in the draft EIS, as detailed in our comments, which the action agencies must address in the final EIS to appropriately disclose and *objectively* analyze potential significant environmental impacts. The CRSO DEIS fails to identify an environmentally preferred alternative; identify a preferred alternative that satisfies the purpose and need statement; utilize high quality information and accurate scientific analyses; adequately and equitably analyze water quality, climate, and socioeconomic impacts across resources; and identify and implement reasonable mitigation measures.

Proposed Path Forward

The State of Oregon is actively engaged with and providing leadership in multiple initiatives associated with the Columbia Basin, included but not limited to the Columbia River Treaty renewal (Department of State), Columbia Basin Partnership (National Oceanographic and Atmospheric Administration, NOAA), the 2019-2021 Spill Operations Agreement for the Columbia River, and the 2019 Hells Canyon Complex Agreement. These commitments and agreements are a high priority for the State of Oregon and the CRSO should be an opportunity to further the objectives identified in the agreements.

The CRSO DEIS can be used to evaluate a bridge to a more sustainable future for salmon and steelhead, while concurrently maintaining economic growth, necessary flood management for the Pacific Northwest, and protecting the viability of the hydropower system that has long provided the foundation of affordable energy for the region. If the EIS is modified to comply with NEPA as described herein, subsequent implementation of the Preferred Alternative with more robust fish measures can be an acceptable interim step if matched with a commitment and funding from the lead federal agencies to timely perform all necessary studies and analyses for refinement and clarity related to adaptive management and long-term plans for the CRSO, including preparing for potential removal of the lower Snake River dams. The process must be based on established science and have enough specificity to assure a long-term solution for salmon and steelhead, while maintaining operation of the CRS in a manner that recognizes the importance of the hydropower system to meeting the state's economic and climate goals.

This vision of the future can only be realized with leadership from and strong collaboration with the four states (Oregon, Washington, Montana and Idaho). It must include a formal partnership with the federal lead agencies, NOAA Fisheries, and the federally recognized tribal governments. The process to formulate that vision must also provide meaningful engagement with and input from the public and others who depend on the Columbia River System, including the energy sector, agriculture, and navigation interests. It can draw upon the work of NOAA's Columbia Basin Partnership that seeks a collaborative approach to comprehensive, integrated solutions for salmon management with full consideration of energy, agriculture, transportation, recreation, and other community needs.

I will be discussing this approach with the Governors of Washington, Idaho, and Montana. The State of Oregon, via my staff and representatives of various State agencies, will continue to coordinate and collaborate with the lead federal agencies, tribal representatives, and the respective offices of governors to help develop a framework for this process over the next few months. The future operations of the Columbia River system impact each and every citizen of the region, and continue to have profound effect on the environment. I stand ready to work with the lead federal agencies to ensure the social, cultural, economic, and environmental impacts are fully considered and addressed.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kate Brown", with a long horizontal flourish extending to the right.

Governor Kate Brown