

H.R. 3144: Misleading Information, Misguided Legislation - July 2017

On June 29, 2017, Rep. Cathy McMorris Rodgers (R-WA) and four other members of Congress introduced H.R. 3144 asserting that this legislation would “support the Federal Columbia River Power System and the benefits it brings to our region . . .” In fact, the bill would do just the opposite: It would thwart efforts to protect endangered wild salmon, hinder development of a more efficient and reliable power system, and risk raising power rates.

How? The bill seeks to lock-in status quo hydropower operations in the Columbia-Snake River system that primarily benefit taxpayer subsidized barge transportation and continued capital investments in four expensive and unnecessary federal dams on the lower Snake River that should be removed to help save wild salmon and steelhead and the public’s money. The federal courts have rejected as illegal five different times over the past 16 years plans that would continue these business-as-usual operations. This failure has cost regional ratepayers and federal taxpayers over \$10 billion without recovering a single endangered salmon run.

Stakeholders in the Pacific Northwest are justifiably frustrated with this history of costly and ineffective measures to revive the region’s culturally and economically important salmon runs. Advocates for salmon recovery are ready to work with stakeholders to put in place a plan that will recover endangered salmon and steelhead while finding solutions to meet the needs of other interests. H.R. 3144 will not move our region in that direction; instead, it will move us away from a real search for solutions.

Here are just some of the incomplete and misleading claims the bill’s co-sponsors offer to justify the need for H.R. 3144:

Claim: Improved fish passage and record returns. “Hundreds of millions of ratepayer dollars have successfully adapted [dam operations] to accommodate record salmon runs where an average of 97% of young salmon successfully make it past the dams.”

Reality: Poor juvenile salmon survival and low adult returns. As the *Lewiston Tribune* explained in a July 10th [editorial](#), the 97% survival figure is only correct if “you look at the percentage of salmon survival at *each* dam and no more. Take the entire eight-dam system on the Snake and Columbia rivers into account, however, and fish survival falls in the 70 percent range. Factor in fish mortality in the pools of slackwater behind the dams - due to warmer water, slow currents, predators, disease and disorientation - and fish survival slips to about half.”

In fact, as the *Lewiston Tribune* further explained, the claim of “record returns” is based on an apples-to-oranges comparison. “It’s true that about 2 million salmon passed the [Bonneville] Dam in 1938. It’s also true that an equal number of fish were caught before they had a chance to reach that point. In other words, there was a base of 4 million wild fish in 1938. Seventy-six years later, 80 percent of the fish that returned to the Columbia River under strict harvesting limits were reared in hatcheries. In other words, only 400,000 wild salmon - the focus of the fish preservation efforts - made it back. That’s a decline of 90 percent since 1938.” The claim of record returns also is based on adult returns in 2014 and ignores the disastrous hot river temperatures in 2015 that killed over a quarter of a million returning adult salmon. Further, it ignores the reality of much-lower-than-predicted adult returns this year.

Claim: "To replace the energy produced by the [four lower Snake River] dams and consumed by our region, we'd need more than six coal-fired power plants or three nuclear facilities to get the reliability that clean, carbon-free hydropower provides to the Pacific Northwest."

Reality: Lower Snake dams produce far less power than alleged and that power can be replaced with clean, renewable energy. The four lower Snake River dams actually produce about one-third of the power claimed by the sponsors of H.R. 3144. That's right, BPA's own data shows that these four dams produce about 1,000 average megawatts of power per year; they never produce their maximum capacity of just over 3,000 megawatts, the basis for the sponsors' statement about what it would take to replace their power. In addition, because of their nature ("run-of-river" dams with no storage capacity), most of this electricity is produced in the spring when runoff is high and demand for electricity is low. In fact, the region's biggest challenge during the months when the dams are most productive is dealing with our [energy surplus](#) – too much power with very little market demand.

Even on an annual basis, the Northwest has an [ongoing surplus of energy](#). With the growing availability of increasingly-affordable renewables and more energy savings through added energy efficiency and demand response, the region can address any capacity needs that arise from the closure of existing coal-fired power plants in Washington, Oregon and Montana **and** removing the lower Snake River dams.

The power generated by the four lower Snake River dams is of limited value today and will be even less important tomorrow. The Northwest has an historic opportunity to economically replace this power with clean, renewable solar and wind energy, increased efficiency and smarter grid management – and restore wild Snake River salmon.

Claim: "The 2014 BiOp plan represents the best possible path forward . . . which is why it had such broad support from . . . stakeholders across our region."

Reality: A broad coalition of stakeholders successfully opposed the 2014 BiOp. A broad coalition that includes the State of Oregon, the Nez Perce Tribe, commercial fishing, sportfishing, clean energy and conservation organizations opposed the 2014 Federal Salmon Plan and each of its predecessors since 2001 in federal court. After hearing in exhaustive detail the arguments from these groups -- and from the federal agencies and industrial river users that have supported these failed plans, the U.S. District Court concluded that the 2014 plan, like each of its predecessors, is illegal and fails to protect wild salmon and steelhead from extinction. During the most recent NEPA scoping public comment period, nearly 400,000 people submitted comments calling for the removal of the four lower Snake River dams. While the bill's sponsors say, "It is time for science, not politics, to drive our energy and salmon restoration policies," their approach would do the exact opposite by substituting politics for the rule of law, science and objectivity.

Claim: In June, BPA "noted \$15.28 billion in total spending since 1978 on fish recovery and mitigation in the FCRPS."

Reality: Yes, BPA and other federal agencies have spent over \$10 billion taxpayer and ratepayer dollars since 1978. Unfortunately, this massive expenditure has failed to recover a single salmon run. BPA's extensive use of ratepayer money for salmon restoration has been -- and continues to be -- a large and expensive failure because it does not focus on the core problem for salmon recovery – a major overhaul of federal dam operations on the Snake and Columbia Rivers that includes removal of the four

lower Snake River dams. With intensifying impacts from climate change, a continuation of the failed status quo will doom our endangered salmon runs, while saddling Northwest ratepayers with billions in added costs.

H.R. 3144 - Legislative Overreach

The actual purpose of H.R. 3144 is never stated or acknowledged: to overturn two carefully-considered decisions by the U.S. District Court in Portland, Oregon. The first of these [decisions](#), issued in May of 2016, found the most recent plan for managing the federal dams on the Columbia and Snake Rivers violated the Endangered Species Act and the National Environmental Policy Act and would not protect wild salmon and steelhead from extinction.

This court's 2016 decision orders the federal agencies to develop a new plan that carefully considers all reasonable dam management alternatives, including removal of four federal dams on the lower Snake River. It also requires the federal agencies to examine the effects of climate change on wild salmon and the federal hydro-system. As proposed by the federal agencies, the court gave the agencies until 2021 to complete this analysis and plan.

The [second decision](#), issued this past April, found that current dam operations based on the illegal 2014 plan – would cause “irreparable harm” to salmon and steelhead already facing extinction. The court required federal, state and tribal fishery scientists to work together to develop a near-term dam operations plan that would release more water over the dams’ spillways to improve juvenile salmon survival. That work among the fishery experts is underway and the new annual operations are scheduled to begin in Spring 2018. These new “spill” operations will comply with all state water quality standards and are widely considered the most effective near-term measure available to bring immediate benefits to salmon. And while the sponsors of H.R. 3144 quote a BPA letter that says these new spill operations “could cause ‘biological, physical, and/or structural and potential adverse consequences for the combined federal power and transmission system,’” the court has already required that any new spill operations be designed and implemented to explicitly avoid such adverse consequences.

Without ever mentioning them, H.R. 3144 would block both judicial decisions by requiring that, until 2022, dam operations must follow the illegal dam management plan rejected by the Court in 2016.

Finally, H.R. 3144 would seek to prevent any study, analysis or consideration of dam management alternatives, such as additional increases in spill or removal of the four lower Snake River dams.

This legislative effort to circumvent the courts and the requirements of our nation’s environmental laws is contrary to the way the rule of law is intended to work in a democracy. Sadly, it would also protect a failed and costly status quo while blocking the opportunity to create a new plan that both reflects regional stakeholder input and works to achieve salmon recovery.

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