

## Norman Peck

I find it distressing that the U.S. Environmental Protection (USEPA) Region X has withdrawn the draft water quality standards previously put out for public and state comment without consideration of comments. I in fact wonder if USEPA may not be in Contempt of Court for failing to comply with the Order of the 9th Circuit Docket No. 140-1.

In the Supreme Court (U.S.) decision last year following on litigation regarding the responsibility of the State to remove barriers to fish (salmon) passage following from the Boldt Decision (United States v. Washington, 384 F. Supp. 312 (W.D. Wash. 1974) i.e, No. 13-35474 (9th Cir. May 19, 2017) (Docket No. 140-1)), I find it interesting that the same standard does not apply to Corps of Engineers, PUD and Bureau of Reclamation dams on the Columbia and Snake Rivers, inasmuch as the U.S. was a litigant with the Tribes against Washington State. It would seem that the federal government should hold itself to the same standard it has sought to hold the State of Washington to in removing or mitigating negative impacts to fish passage.

While the comment period Ecology is holding on this matter is with regards to water temperature only, it is my opinion that broader issues should be at question. Washington State statute (RCW 90.48) defines a pollutant as any change in the physical, chemical or biological conditions in Waters of the State (all surface and ground waters within the state). Dams on the Columbia and Lower Snake Rivers certainly affect all three classes of properties of these water bodies. Perhaps the most relevant in terms of salmonid recovery (as well as other anadromous fish including whitefish and lampreys) is the physical barrier to fish passage they represent, which has unquestionably had and continues to have deleterious effects on fish passage and fish populations. These impacts include both impediments to passage per se and concentration of fish below dam that increase susceptibility to predation by marine mammals and avian predators, as well as damage/injury/mortality to out-migrating juvenile fish due to dam operations. Dams also impact not only water temperature, but also dissolved gases, both due to the effects of temperature on dissolved gas concentrations in water but also due to the physical impact of water turbulence on dissolved gas concentrations. Water quality standards should necessarily balance these impacts to minimize impacts on fish migration and if possible correct historic injuries to fish populations.

USEPA/Region X should proceed with the promulgation of at least the minimal thermal TMDLs proposed, with response to public comments, and meet state standards for water quality, and should in fact expand the scope of the NPDES permit(s) to fully meet state as well as federal water quality criteria for all observed and potential pollution from dam operations. They should also have competent Spill Prevention, Contingency and Countermeasures (SPCC) Plans. For example the discharge of PCB-contaminated transformer oil into the Columbia River from a poorly designed containment structure for a stored (out-of-service) transfer at the Dalles Dam in or about 2013 should not have occurred. An engineering review should have identified the shortcomings of the containment drainage design.