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Ms. Susan Braley
Washington State Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

RE: Comments on Scope of EIS for Revisions to Chapter 173-201A WAC, Water Quality Standards for Surface Water of the State of Washington

Dear Ms. Braley:

Thank you for the opportunity to comment on behalf of Northwest RiverPartners (“RiverPartners”) regarding the Scoping for a Rulemaking for Revisions to Chapter 173-201A WAC, Water Quality Standards for Surface Water of the State of Washington. RiverPartners is an alliance of farmers, utilities, ports and businesses that promotes 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 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. The focus of this letter, is Ecology’s consideration of amending the numeric criteria for total dissolved gas in the Snake and Columbia rivers (WAC 173-201A-200(1)(f)(ii)).

Background

On March 29, 2019, Ecology issued an Administrative Order to modify TDG criteria at lower Columbia River and lower Snake River dams, in accordance with a 2019-2021 Spill Operation Agreement (“Spill Agreement”). The Administrative Order was a short-term modification of the adjusted criteria for areas on the lower Snake and lower Columbia rivers during the spring spill season that typically occurs April 3 through June 20 (April 3-June 20 on the lower Snake River and April 10-June15 on the lower Columbia River). This Administrative Order is effective for the spring spill seasons in 2019, 2020, and 2021 unless and until the short-term modification is superseded by a rulemaking or other action that revises WAC 173-201A-200 (1)(f) TDG criteria prior to the end of the 2021 spring spill season.¹

Description of Current Scoping Proposal

Per Ecology’s May 7, 2019 scoping letter, “Ecology has determined that amending the numeric criteria for total dissolved gas (“TDG”) in the Snake and Columbia rivers may have a significant adverse impact on the environment. This rulemaking is considering amending the TDG limit to allow for greater water flow through

¹ Washington State Department of Ecology Administrative Order to Modify TDG criteria at lower Columbia River and lower Snake River dams, in accordance with the 2019-2021 Spill Operation (March 29, 2019).

spillways for improved salmon migration, while ensuring that TDG limits minimize negative impacts to all aquatic life through sufficient biological monitoring.”

Specifically, “revisions to the TDG criteria would:

- Provide a new adjusted TDG criteria that could be applied at dams that operate increased spills for the purpose of improving downstream juvenile salmon and steelhead migration in the Snake and Columbia rivers.
- Establish biological thresholds that must be met to apply an adjusted criteria up to 125% TDG.”

Proposed Scope

Given the ongoing Columbia River System Operations Environmental Impact Statement (“CRSO EIS”) process and recently adopted Spill Agreement, **the scope of this EIS should be limited specifically to the terms of the Spill Agreement based on well supported science and not pre-empt the findings of the National Environmental Policy Act (“NEPA”) analysis.**

- **Revisions to state water quality standards should be informed by the CRSO EIS NEPA analysis.** The U.S. Army Corps of Engineers (“the Corps”), the Bureau of Reclamation (“Reclamation”), and the Bonneville Power Administration (“BPA”) are midway through a multi-year effort to update a plan for long-term system operations, maintenance, and configuration of the Columbia River System. Considering the significant breadth of this analysis, evidenced by the wide range of alternatives being contemplated, it would be premature to permanently adjust TDG criteria for the Snake and Columbia rivers. According to the Army Corps of Engineers, “The EIS will look at new information, such as that associated with implementing flexible spill in 2019, so that this information could be incorporated into our future decision making and used in the EIS.”

Indeed spill is a tool utilized in all four CRSO EIS alternatives, and is also utilized in the no-action alternative, which follows the 2016 Fish Operations Plan. Significantly however, there is only one multi-objective alternative that contemplates juvenile fish passage spill up to 125% TDG at the four lower Columbia and four lower Snake River dams – the eight fish passage projects, from March 1 to August 31.² Ecology should let the NEPA review process run its course before making a final, permanent decision on a significant state water quality adjustment.

- **Revisions to state water quality standards being contemplated in this EIS should be temporary, limited to the terms of the Spill Agreement, and based on well supported science. Additionally, revisions should take into consideration Ecology’s findings from its 2009 TDG evaluation.** Washington State played a key role in the recently adopted Spill Agreement. In support of this work, Ecology should narrow environmental review of the water quality standards in question to the terms of the “2020 and 2021 Fish Passage Spill Operations,” monitoring and reporting outlined in the Spill Agreement. Any changes in TDG standards – even those within the operational confines of the Spill Agreement – should be based well supported science.

An important data point to flag as Ecology considers the scope of this rulemaking, is that in the agency’s “Evaluation of the 115 Percent Total Dissolved Gas Forebay Requirement” document from 2009, Ecology stated:

² U.S. Army Corps of Engineers Northwest Division. <https://www.nwd.usace.army.mil/Media/News-Stories/Article/1850311/webcast-outlines-reasonable-range-of-alternatives/>

“The weight of all the evidence from available scientific studies clearly points to detrimental effects on aquatic life near the surface when TDG approaches 120%. The detrimental effects ranged from behavior changes to high levels of mortality after a few days. There were fewer effects on aquatic life at 115% TDG. Ecology strongly encourages implementing actions that increase salmonid survival without further increasing total dissolved gas.”³

With this prior evaluation’s warning against TDG increases firmly in mind, the scoping for future increases up to 125% should only be as broad as recommended to meet the requirements of the Spill Agreement. This review process’s consideration of spill levels beyond those imagined by the Spill Agreement could be detrimental to aquatic life as determined by Ecology’s own 2009 analysis.

Along the way, RiverPartners has expressed cautious optimism around the out-year implementation of the Spill Agreement. Specifically, we have advocated for a steadfast commitment to good science, insisted on a two-step regulatory process – separating the evaluation of 120% TDG from the more environmental significant 125% TDG threshold, and asked for fidelity to the three objectives outlined at the Agreement’s outset – provide additional fish benefits by increasing spill; manage power system costs and preserve hydro system flexibility; and retain operational flexibility. As long as these three objectives are met consistent with sound science, Ecology should conform its rulemaking process to allow for the implementation of the narrowly crafted Spill Agreement. Any step further would be premature.

Thank you again for the opportunity to comment. RiverPartners looks forward to working with Ecology throughout this and other key regulatory processes.

Best,



Kurt Miller
Executive Director
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³ Adaptive Management Team Total Dissolved Gas in the Columbia and Snake Rivers: Evaluation of the 115 Percent Total Dissolved Gas Forebay Requirement. Washington State Department of Ecology and State of Oregon Department of Environmental Quality. January 2009, Publication no. 09-10-002. Page 60.