



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NORTHWESTERN DIVISION
PO BOX 2870
PORTLAND, OR 97208-2870

September 24, 2019

Ms. Susan Braley
Washington State Department of Ecology
Water Quality Program
P.O. Box 47600
Olympia, WA 98504-7600

Subject: Comments on the draft Environmental Impact Statement (DEIS) on the proposed changes to the Water Quality Standards for Surface Waters of the State of Washington – WAC 173-201A (Water Quality Standards)

Dear Ms. Braley:

On behalf of the U.S. Army Corps of Engineers (Corps), Bureau of Reclamation (Reclamation), and Bonneville Power Administration (Bonneville), collectively referred to as the Action Agencies (AAs), I submit the following comments on the DEIS regarding the proposed changes to the Water Quality Standards in the lower Snake and lower Columbia rivers. In addition to the comments made in this letter, the AAs are providing technical comments in an attachment (first attachment) in order to seek clarification regarding language in the DEIS and Draft Rule Implementation Plan documents. As stated in the AAs' comment letter submitted May 29, 2019 on the scope of the proposed rulemaking (second attachment), the AAs believe that Washington should align the proposed rulemaking with the scope of the *2019-2021 Spill Operation Agreement* (Agreement) for the reasons provided in that comment letter (third attachment). As described in the DEIS, Alternative 4 is the alternative that best aligns with the Agreement and is most responsive to the uncertainties of impacts of long term implementation of higher spill to aquatic species.

The AAs are committed to the principle underlying the Agreement – implementation of a flexible approach to providing spill intended to benefit salmonids while managing the fourteen dam and reservoir projects that make up the Columbia River System for multiple congressionally-authorized purposes, including hydropower generation – and appreciate Washington's efforts to facilitate continued implementation of the Agreement. The AAs have continued to work collaboratively with the other parties to the Agreement in line with this principle to develop Attachment A (third attachment), which describes spring spill operations for 2020 that incorporate spill up to 125 percent total dissolved gas (TDG) in the tailrace at certain projects for 16 hours per day during spring.

However, the AAs would like to make clear the Agreement does not contemplate 125% TDG spring spill on a 24-hour, 7-day basis simultaneously at all lower Columbia River projects and lower Snake River projects, as the proposed preferred alternative (Alternative 3) described in the DEIS does. Instead, the Agreement is aligned with Alternative 4, which provides for up to eight hours of performance standard spill in order

to balance the impacts to hydropower production from the higher levels of spill during the rest of the day. Because of this and the reasons described below, the AAs recommend Washington select Alternative 4 as the preferred alternative.

The AAs strongly support the inclusion of the requirement in the draft rule change that operations must be in accordance with “legally valid Endangered Species Act consultation documents on Columbia River System operations, including operations for fish passage.” This language is important because of required Environmental Protection Agency reviews under the Clean Water Act and associated coordination with the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (the Services) under the Endangered Species Act (ESA) that accompany a permanent rule change. Without a legally valid consultation document on Washington’s revised standards, Washington cannot ensure that promulgating the revised standards and attendant administration of the Clean Water Act complies with the ESA. Further, because the Services are the federal agencies designated as the experts on impacts to ESA-listed fish, it is imperative to have legally valid ESA consultation documents in place to ensure protectiveness to these species given the uncertainty of the potential impacts of long term implementation of this operation. Alternative 4 is subject to a legally valid ESA consultation document, i.e. the 2019 NMFS Columbia River System Biological Opinion.

In addition, the AAs recommend that Washington reconsider its conclusion that Alternative 4 only partially meets Recommendation 8 of the Southern Resident Orca Task Force Final Report (Final Report). In fact, all four bullets under Recommendation 8 align with Alternative 4. Recommendation 8 does not specify that spill levels must be 125% TDG on a 24-hour, 7-day basis, but instead seeks to “create flexibility to adjust spill regimes” that will be monitored and adaptively managed to minimize impacts to fish species. (See Recommendation 8, Bullet 1 and Implementation details). In addition, Recommendation 8 states that the Task Force should “[w]ork with tribes, salmon recovery regions, Ecology and WDFW to minimize revenue losses and impacts to other fish and wildlife program funds.” (See Bullet 4). This bullet is aligned with the principle and objectives of the Agreement in that the Agreement also seeks to minimize revenue losses to Bonneville that could impact its future ability to fund fish and wildlife programs throughout the Pacific Northwest.

Recommendation 8 of the Final Report also emphasizes the need to minimize impacts to fish species and monitor the impacts of changes in spill levels. Given the various uncertainties of the impacts to aquatic species of operating to spill levels up to 125% TDG, the AAs believe that Washington should reconsider a long term change and select Alternative 4 until more information is available on potential impacts at higher levels of spill, especially when river flows are relatively low. This includes information available after completion of the Columbia River System Operations Environmental Impact Statement process and information gained through the implementation of the Agreement in 2020. The AAs acknowledge that Ecology is attempting to balance

different types of risk through consideration of this rule change, but all of the risks would be exacerbated by choosing an indefinite duration that is made permanent by selecting Alternative 3. Recommendation 8 of the Final Report does not preclude Washington from selecting Alternative 4.

Furthermore, the AAs support Washington's continued efforts to ensure consistency with the state of Oregon's calculation methodology for TDG in the Columbia River. Washington is proposing to calculate a maximum TDG saturation level as "an average of the two highest hourly TDG measures in a calendar day during spillage for fish passage", while Oregon's current standard modification for TDG in the Columbia River utilizes a different methodology. Having a consistent methodology between the two states would streamline implementation and reporting for the AAs.

Finally, regarding the biological monitoring associated with the proposed rule change, consistent with the Agreement, the AAs fully support appropriate monitoring performed by other parties, but have limitations on their ability to increase existing monitoring efforts or increase funding to support additional biological monitoring. The Agreement states that the Corps will continue current monitoring commitments, but cannot increase funding to conduct additional monitoring, while Bonneville is limited to its existing overall Fish and Wildlife Program budget for any additional monitoring. See Agreement, Section VII.E. In addition to these limitations, the AAs have concerns that the monitoring as described in the proposed rule change is not tailored to the species that may be affected by TDG; the existing structural configuration of the Columbia River System; and the potential for additional "take" of species listed under the ESA that may result from expanded monitoring. Washington should fully account for these considerations because the AA's cannot ensure prospective implementation of the revised standards that are dependent on the AA's implementation of new monitoring procedures. Also, the Corps expects that Washington would monitor, track, and inform the Corps if biological or Gas Bubble Trauma (GBT) thresholds identified in the rule were exceeded during spill operations up to 125% TDG as well as communicate modified TDG levels either system-wide or at specific projects to bring incidence of observed GBT back in compliance with the thresholds established in the rule. See attached Technical Comments.

The AAs have greatly appreciated Washington's participation in the CRSO EIS process as a cooperating agency, as well as our collaborations on many different issues impacting the Columbia River System. We look forward to continuing to work closely with Washington as we each complete our respective EIS processes.

Sincerely,

D. Peter Helmlinger, P.E.
Brigadier General, US Army
Division Commander

Cc: Guy Norman, Maia Bellon

Attached:

Attachment I: Action Agency Technical Comments on the Draft Environmental Impact Statement and Draft Rule Implementation Plan documents

Attachment II: Helmlinger, Brigadier General D. Peter. "Environmental Impact Statement scoping comments on the proposal to amend the Numeric Criteria for total dissolved gas (TDG) in the Snake and Columbia Rivers." 29 May 2019.

Attachment III: 2019-2021 Spill Operation Agreement and Attachment A