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September 20, 2019

Heather Bartlett, Water Quality Program Manager  
Washington Department of Ecology  
300 Desmond Drive SE  
Lacey, WA 98503

Sent via email to: [heather.bartlett@ecy.wa.gov](mailto:heather.bartlett@ecy.wa.gov)

Dear Heather,

It was good to meet you in person at the total dissolved gas (TDG) water quality standards hearing in Vancouver earlier this week. Columbia Riverkeeper (Riverkeeper) appreciates your attention to this important, complicated, and contentious issue. I'm writing to follow up on our previous phone conversation about the proposed rule and some issues that arose at the hearing.

Riverkeeper requests that the Department of Ecology (Ecology) reconsider using the maximum daily two-hour average approach to calculate TDG at times when the water quality standard is 125% of saturation. *See proposed rule at WAC 173-201A-200(1)(f)(ii)(B)*. As explained in comments by the Fish Passage Center and Margaret Filardo (a retired Fish Passage Center employee), this approach departs from past practice and materially decreases the benefit of the proposed rule for salmon. The negative impact on salmon survival is so significant that Tucker Jones (ODFW) testified that Oregon could deem Ecology's proposed rule a violation of the Flex Spill Agreement because the rule would undermine the fish survival benefits for which Oregon and others negotiated. It would be unfortunate to lose the Flex Spill Agreement, and incur the resulting legal uncertainty, over Ecology's failure to use an appropriate averaging period. Riverkeeper therefore requests that Ecology use a 12-hour average approach to calculating TDG when the water quality standard is 125% of saturation.

Riverkeeper applauds Ecology's desire to make 125% TDG a permanent water quality standard. However, the benefits of the proposed rule seem unlikely to survive the end of the Flex Spill Agreement. In part, this is because the 125% water quality standard will only take effect if the Army Corps both submits and carries out a biological monitoring plan. Given the Army Corps' decades of resistance to spill, I questioned this approach at the hearing. Mr. Bryson Finch responded that the Army Corps was motivated by the Flex Spill Agreement. If so, what will motivate the Army Corps to take actions that will enable spill to 125% TDG after the Flex Spill Agreement expires?

Additionally, tying the 125% TDG standard to the validity of the next CRSO Biological Opinion (BiOp) remains extremely problematic. Given the federal family's long-standing inability to produce legal CRSO BiOps, this language would likely defeat Ecology's stated goal of a permanent move to 125% TDG. This language is not, as Ecology suggested, inconsequential. I'm sure the testimony from anti-spill power interests strongly supporting linking the 125% TDG standard to a valid CRSO BiOp did not escape your notice. While one can foresee problems with NMFS' review of Ecology's 125% TDG standard, those issues are beyond Ecology's ability to control through the drafting of a water quality standard. By attempting to do so, Ecology created a different problem: a water quality standard that will cease to exist when the Army Corps, NMFS, and BPA issue the next CRSO BiOp.

Please do not hesitate to contact me if Riverkeeper can be of further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Miles Johnson', with a long horizontal flourish extending to the right.

Miles Johnson  
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