



Why Your Organization Needs to Know About the “Simpson Concept” to Breach the Lower Four Snake River Dams

Proposal would exchange breaching dams for suspending bedrock environmental laws

We strongly support removal of the lower four Snake River dams to rebuild the wild salmon and steelhead populations they have harmed—for the fish, the orcas, and the people who depend on those fish. However, we do not support suspending the nation’s most important environmental laws for an entire generation across the vast expanse of the Columbia River Basin as part of a deal to breach these four dams. This proposed deal will not protect native species in the Columbia Basin. Rather, the proposed deal will put the entire region’s salmon and steelhead—along with numerous other species and human health—at great risk. We stand ready to work with those who recognize the need to remove the lower four Snake River Dams without sacrificing the nation’s most important environmental laws across the Columbia Basin.

Recently, Rep. Mike Simpson (R) Idaho released a “concept” proposing to breach (but not remove) the lower four Snake River dams. Breaching these dams, along with addressing the impacts of breaching, are needed and welcome, and we appreciate Rep. Simpson’s willingness to entertain this possibility.

However, missed in the understandable enthusiasm about this long-overdue recognition of the need to remove these dams is that Simpson’s Concept includes far more, including suspension of federal environmental laws, eliminating the federal role in the region’s science, and spending about 34 billion dollars across the Northwest for a variety of largely undefined projects. *This Concept is rapidly moving towards being written into either the Infrastructure Bill expected in Summer 2021 or the next Budget Reconciliation measure that would be passed before the end of 2021.*

The basic *quid pro quo* in the Simpson Concept is this: the lower four Snake River dams would be breached and, in return, essential national environmental laws would be suspended across the basin for a generation, along with buying off special interests. While still vague, the Concept is exceptionally broad in reach and stunning for its potential to adversely impact wild fish, wildlife, human health and the laws that protect them in the Columbia Basin. Here's what you need to know.

The Simpson Concept, as written, proposes to:

→ **Lock in the Status Quo for all Other Qualifying Dams and Hydropower Projects for up to 50 Years:**

The Concept would lock in ALL other public and private hydropower dams licensed by the Federal Energy Regulatory Commission (FERC) over 5 megawatts in the Columbia Basin in the U.S. with a 35-year license extension (up to 50 years total on the license). These dams harm salmon and steelhead and other aquatic and marine species, such as Puget Sound's resident orcas that eat these salmon. Restoration of salmon to historic habitat would be severely compromised. Providing an automatic extension of FERC licenses would:

- Eliminate FERC's "public interest" review—including preservation of anadromous fish for commercial and recreational purposes, protection of wildlife, preservation of wilderness, and evaluating future and alternative sources of power—and prohibit states and federal natural resource agencies from imposing conditions to protect water quality, fish, and wildlife; and
- Seriously complicate the return of salmon and steelhead in the Upper Columbia basin above Chief Joseph and Grand Coulee Dams by locking in existing FERC licenses for private dams on the Spokane River that otherwise would be reopened to address fish passage if passage is obtained at Chief Joseph and Grand Coulee.

→ **Waive Bedrock Federal Environmental Laws at These Dams for 35 Years:** The Concept would suspend widely supported environmental laws at ALL of these dams with respect to anadromous fish for 35 years. Species, habitat, and water quality would no longer be protected by the Endangered Species Act (ESA), Clean Water Act (CWA), or National Environmental Policy Act (NEPA) at any such dams across the Columbia Basin. The Concept would stop all ongoing litigation for 35 years. The number of dams ensnared in this massive exemption from the nation's environmental laws is approximately 82 in Oregon, Washington, Idaho, and Montana. This proposal, as we understand it:

- Would stop ongoing cases that allocate fisheries in the basin among tribal and other interests, such as *U.S. v. Oregon*;
- Would stop fish passage projects in many parts of the basin;
- Would stop ongoing cases to protect salmon and steelhead, and water quality from dams on the Columbia, Willamette, and Deschutes Rivers; and
- Would eliminate enforcement of any ESA and CWA conditions in the licenses and permits—and requirements stemming from ESA consultations—that allow these dams to operate. This raises substantial questions as to whether dam owners and operators would be required to comply with their permits and licenses, thereby putting at risk for 35 years provisions that ensure protection of water quality and species.

→ **Waive Bedrock Environmental Laws with Respect to Agriculture and Water for 25 Years:** The Concept would allocate 3 billion dollars for "voluntary" agricultural watershed partnerships. Wherever a partnership is located—likely across the entire Columbia Basin that includes large parts of Idaho, Oregon, Washington, and Montana—the Concept exempts "agricultural interests" from the CWA and the ESA for 25 years with respect "to water issues in their basin." Thus, the Concept would eliminate protections for rivers, streams, wetlands, aquifers, species and human health as follows:

- Water quality standards, clean-up plans, pesticide discharge permits, and other forms of protection and accountability would be beyond ESA and CWA review or enforcement;
- Impacts to ESA-listed species, sensitive species from water use and water pollution—whether from pesticides, herbicides, temperature, or nutrients—would be beyond legal review;
- Protection of wetlands and wetland species under the CWA from agriculture would vanish; and
- This doesn't just threaten species; It also threatens human health because it would suspend CWA protections from pesticides and nutrients that harm public drinking water supplies and result in chemical exposure to agricultural workers.

→ Control Over Waters, Including Water Quality Protection, Would be Turned Over to State

Agriculture Departments: The Concept would place these watershed partnerships and federal funding under the control of the state Departments of Agriculture in each state, thus:

- Putting agencies that have a demonstrated hostility to environmental and agricultural worker protection in charge of water, water quality, fish, and wildlife;
- Upsetting and negating the current state administration of water quantity and water quality wherever a partnership is located, potentially extinguishing many beneficial state laws and programs that currently assist imperiled fish that are administered by other state agencies; and
- Rendering many existing permit and certificate conditions on water rights unenforceable and effectively voluntary by suspending federal environmental laws and eliminating accountability.

→ Fails to Meaningfully Address Salmon-Killing Water Temperatures in the Mainstem Columbia River:

Despite the rising water temperatures in the mainstem Columbia River, the Concept does nothing to reverse this existential threat to every basin salmon species that must traverse this migration corridor. The USEPA and other federal agencies have recognized the need to address these temperature impacts to salmon in a changing climate including by protecting cold-water refuges on the mainstem that rely on cooler tributary temperatures. The Concept would undermine and eliminate the best tools to address lethal water temperatures in the mainstem Columbia, including:

- Addressing the John Day pool where most of the 2015 sockeye salmon bound for Idaho perished due to high water temperatures; and
- The use of the ESA and CWA to protect and restore essential cold-water refuges.

→ Invest in Infrastructure that Harms Salmon and Steelhead: Despite scientists' recognition that hatcheries are one of the four major factors—habitat, hydropower, hatcheries, and harvest—that are causing the collapse of wild salmon and steelhead populations in the Columbia Basin, the Concept would pump hundreds of millions of dollars into basin hatcheries at the expense of the few remaining wild fish without any scientific, economic, or legal analysis of hatchery impacts. The Concept would also:

- Fail to ensure that the entire purpose of removing the Snake River dams—to fully recover wild salmon and steelhead—is not undercut by further investments in hatcheries.

→ Spend 34 Billion Dollars with Little or No Accountability: The vast funds proposed in the Concept would pay for replacement energy for power generation lost from the four breached dams; a Bonneville Power Administration (BPA) bail-out from impending financial collapse; and various agricultural, infrastructure, energy, transportation, dredging, and other projects. The Concept lacks details about this proposed spending. In addition, the Concept:

- Has no performance measures, such as salmon recovery or water quality improvement metrics, that would ensure that the public and salmon and steelhead were benefiting from the expenditure of these public funds;

- Would give factory farms billions to manage and produce energy from their animal waste, thereby encouraging more such massive animal farms that contribute to climate change, pollute air and water, and consume vast amounts of water; and
- Would possibly pay for and permit these projects without any federal environmental review—such as environmental impact statements (EIS) under NEPA, ESA consultations to protect listed species, and state CWA 401 certifications—given the elimination of these environmental laws for projects associated with salmon and the dams.

**The Viability of Salmon, Steelhead and Numerous Other Species
Across the Columbia Basin, and Human Health Protection, Must Not be
Bargaining Chips in the Negotiation to Remove the Lower Four Snake River Dams**

Scientists identify at least 43 different runs of salmon and steelhead across the Columbia Basin that are at high or moderate risk of extinction or are of special concern. At least 63 other basin runs are already extinct. Four of the 13 most endangered runs in the basin use the Snake River. Measures tied to any deal to save these runs must not eliminate the possibility of survival and recovery for the dozens of other imperiled runs of salmon and steelhead across the Columbia River Basin. Likewise, numerous other aquatic species—orcas, frogs, salamanders, birds, freshwater mussels, as well as the people who drink water and eat the fish they catch in the Columbia Basin—depend upon cold, clean water and the protections of the nation’s environmental laws.

The undersigned agree that removal of the lower four Snake River dams is necessary. We support greater jurisdiction for the other sovereigns in the basin over salmon and steelhead and the operation of the hydropower system in the Pacific Northwest. We support science-based measures and investments that address and save imperiled salmon across the Columbia Basin. We support agriculture doing its part to protect public waters and imperiled species. However, the Concept, as written, despite the welcome acknowledgment of the need to remove the lower four Snake River dams, contains too many proposals that will accelerate the extinction of salmon and steelhead and other species in the Columbia Basin and harm human health.

We stand ready to work with those who recognize the need to remove the lower four Snake River dams and address related impacts of breaching these dams. However, we cannot support a proposal that sacrifices environmental laws, sacrifices the human health and species protections provided by those laws, spends billions without requiring benefits, and will likely accelerate the extinction of salmon and steelhead runs and other species across the Columbia Basin.

Signed,

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