



Connecting whales and people
in the Pacific Northwest

January 5, 2018

Dear Orca/Salmon Alliance,

I have some news that will break on Sunday morning.

A full page ad will appear in the Sunday Seattle Times, asking Senator Murray and Gov. Inslee to urge the Army Corps of Engineers and the Bonneville Power Authority to begin immediately to remove the four lower Snake River dams.

This may create a bit of a stir because almost nobody thinks this is possible in the short term, but in fact the Army Corps has the legal authority under their 2002 Final Feasibility Report/Environmental Impact Statement (FR/EIS), and breaching can be financed through existing debt reduction and credits mechanisms as a fish mitigation action under the ESA by BPA. New appropriations are not needed, and there is no need for another EIS, or Congressional approval or funding to breach the earthen berms alongside each of the dams. All that's legally needed is a decision by the Assistant Sec. of the Army for Civil Works, but although it would save the Corps millions of dollars and endless litigation, politically they won't do it without support from Washington political leaders.

Unbeknownst to most people, the Army Corps of Engineers has had the authority to remove the 4 lower Snake River dams without congressional approval or funding, or any other administrative hurdle, since completion of their 2002 EIS and report on how best to avoid extinction of salmon and steelhead.

Now the So. Resident orca community also faces extinction unless those four dams are removed in the very short term.

It is said that the Army Corps would have to get approval from the Water Resources Development Board, but the Act (WRDA) says:

"The WRDA authorizes...projects for the removal of dams that otherwise meet Act requirements." <https://www.congress.gov/bill/110th-congress/house-bill/1495>

This may seem like diving into the weeds, but given that it's almost universally believed that it would literally take an act of Congress to bring down those dams, it's important to have some documented backup. We have it. For example, the then assistant secretary of the Army for Civil Works (in charge of the Army Corps) Jo-Ellen Darcy wrote in January, 2017: "[The Corps] is also committed to following the guidance in the 2002 FR/EIS as a framework for its actions, which includes ongoing assessments as to the efficacy of the alternatives it has implemented to date; the

results of those assessments will inform our next steps while the NEPA process is underway, and the NEPA process itself."

Rep. McMorris Rodgers must have realized this possibility, because she sponsored HR3144 in part to try to create congressional authority to remove the dams. Hopefully it won't become law.

The Army Corps authority has been vetted and reality-checked with the major responsible parties, and none of the relevant generals or NOAA officials, nor anyone else, has shown any other authority needed to remove the dams.

The problem is that it has been commonly believed for about 50 years that only Congressional approval and/or a new study and/or a new EIS, and/or a court order, are needed to begin dam breaching, which would probably take decades and cost \$100s of millions. That may have been true until the 2002 EIS but since then the Army Corps has had that authority, but nobody noticed, or wanted to notice. The Corps is still operating under the authority of that EIS to this day, but so far have chosen a different alternative, which was to try every other possible mitigation at great expense and without recovering endangered salmon. The EIS states that only Alternative #4, dam removal, has any prospect of recovering salmon.

Virtually all elected officials, most media, other experts and authorities and academics, have believed this misconception - that Congressional approval is needed - and it is also generally believed by our colleagues and partners in environmental organizations, including almost all the members of the Orca/Salmon Alliance, or OSA. Orca Network is a founding member of the OSA so that puts us in a tricky position, trying to convince them, including many very large organizations, that they have been laboring under a major misconception all these years. Hopefully this ad will start those needed conversations, because they are needed to help create the political support required to convince the Army Corps to begin dam breaching in 2018.

Documentation of Army Corps authority is online at www.damsense.org, including the letter from Sec. Darcy.

Please see attached news release, and let me know if you have any questions.

Cheers,

Howard