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Lieutenant General Todd T. Semonite
Commanding
Headquarters, U.S. Army Corps of Engineers
441 G Street NW Washington, DC 20314-1000

Dear General Lieutenant Semonite,

Over twenty years ago the U.S. Army Corps of Engineers (“Corps”) recognized the need to undertake a careful analysis of the costs and benefits of further investment in the lower Snake River waterway. The analysis then and now shows that the dams waste money, harm endangered species, and pose a significant litigation risk.

With all due respect, your letter did not respond to the extensive and compelling information set forth, but rather states what appears to be the Corps’ basic position on the issue. This pre-determined response conveys a lack of familiarity with the issue that we know to be inaccurate.

In preparation for a productive meeting, I kindly request a prompt and detailed explanation of your reasoning and policy statements based on the following information in this letter.

Your letter states: *“Therefore, the Corps must make decisions regarding operations and maintenance of these dams consistent with its mandate for fulfilling all the authorized missions it has been tasked to accomplish.”*

The Corps does not need Congressional authorization to breach the dams.

There is no mandate that the Corps *continue* to operate the lower Snake River dams. The Corps received only permissive authority to build the four lower Snake River dams. A project “authorization” is not a mandate. The Corps may place the dams in “non-operational” or “caretaker” status. Doing so does not change the purpose of the project, and neither Congressional authorization nor de-authorization is required.

The Corps has a history of placing projects comparable to the lower Snake River dams in non-operational status. The Willamette locks are one example. Indeed, it is in the Corps’ best interest that it maintains the flexibility to place projects in “non-operational” status where required by the circumstances. The idea that the Corps would need an authorization to reduce or stop operations at a project is simply unworkable given the constraints imposed by the appropriations process.

In this case, not only can the Corps place the dams in “non-operational” status, it must do so. Congressional authorization gives permission to build and operate projects only if they provide

economic benefit, conform to other applicable laws and policies, such as the Endangered Species Act, and receive sufficient appropriations or direct funding from Bonneville Power Administration. When one or more of these criteria is not met, the Corps does not have permission to build or to continue operation.

The 5 means paper (sent with first letter, attached again) further explains how the Corps can place the dams in “non-operational” status without an act of Congress:

“It is important to note that discussions surrounding the lower Snake Dams are often couched in terms adhering to the “purpose and needs” as authorized by Congress. This is an unnecessary argument on the part of the regional federal agencies, primarily the Corps, to say that the “purpose” of a project cannot be changed without Congressional authorization. Of course, it can’t. However, placing a project into a “caretaker” or “non-operational” status does not change the purpose. Hence, the Corps is not constrained in any way from considering breaching as a means of securing the safety of a non-operational dam by routing river flows around the concrete structure. Furthermore, the “needs” for these four dams never has been economically demonstrated. Once a project is in a “non-operational” status, it is Corps’ policy to undertake a study, using its Section 216 study authority, to determine the final disposition of lands, structures and equipment.

The 2002 EIS is an operable document, and Alternative 4 analyzing dam removal can be supplemented in a matter of months.

In a letter dated January 17, 2017, Assistant Secretary of the Army (Civil Works) Jo-Ellen Darcy correctly acknowledged that the 2002 EIS is the operable document governing the lower Snake River dams, and that the Corps “is also committed to following the guidance in the 2002 FR/EIS as a framework for its actions[.] As you are aware, and as Darcy acknowledged: “The 2002 Lower Snake River Feasibility Report (FR/EIS) also mentions dam removal as an alternative; the other alternatives from that FR/EIS are the basis for ongoing mitigation actions.”

Moreover, the Corps has a fiduciary responsibility ultimately derived from the Public Trust Doctrine to protect the public interest and to fund only beneficial projects as measured by National Economic Development benefit-to-cost ratios (BCR) that exceed 1. The 4 LSRDs have a combined BCR of 0.15 compared to the Breach Alternative in in 2002 Feasibility Study/EIS. Once this BCR went below 1, the Corps can (and must) place an underperforming project, such as the 4 LSRDs, into a “caretaker” or “non-operational” status.

The Corps has spent nearly \$1 billion on Systems Improvements for salmon passage on these dams since completion of the 2002 EIS with virtually no gain in overall survival or abundance. Especially over the last five years. In contrast, the Corps with BPA funding can breach all four dams through channel bypass for approximately \$340 million and perhaps \$70 million for irrigation and railroad mitigation.

Your letter also mentions: “A lot of data and analysis has been prepared regarding these facilities over the past couple of decades, but those materials are not up-to-date.”

I agree that a lot of data and analysis has been prepared regarding these facilities over the past couple of decades. That data includes a comprehensive study (see 2002 EIS, Alternative 4) of how to breach the lower Snake River dams. This detailed study only needs a few months of updating, not years as would occur with the continuation of the CRSO for the evaluation of the lower Snake River dams. At the very

least, NEPA review can be done in months, not years, and preparation of a supplemental EIS will save millions of dollars.

The CRSO process can continue to study and evaluate everything beyond the four Snake dams while a supplemented 2002 EIS can and should be used NOW to address the urgency of the economic and environmental situation that is the four lower Snake River dams.

I further hope that you recognize that the impending extinction of Southern Resident Killer Whale population is an emergency that should trigger deferral of NEPA review. *See generally* 40 CFR § 1506.11. The 5 means paper explains how an update on the lower Snake River dams alone does not need to take millions of dollars or the projected (at least) 5 years:

“An estimate made by knowledgeable NEPA and planning staff with Corps’ experience, indicates that about five people working full time for 4-5 months could do this. Updating is also made easier since a decision to breach would be based on the fact that the two non-breach alternatives of the 2002 Feasibility Study and EIS have largely failed to improve salmon/steelhead survival and initiate recovery. There is, of course, no need to update the nonbreach alternatives, which were time consuming and costly undertakings, other than to acknowledge their inability to recover listed species and the need to move onto the remaining alternative in the 2002 EIS, breaching through channel bypass, already deemed to be the biologically preferred alternative. Thus, the most important part of the EIS to update or supplement is the Natural River Drawdown Engineering and Economics Appendices. These were rigorously reviewed and updated by the previously mentioned group of professionals, which revealed that corrections of current costs and economics readily will show additional justification for the “reasonable and prudent” use of the breach alternative.”

The ongoing preparation of the Columbia River System Operations Environmental Impact Statement (CRSO EIS) does not excuse the Corps from taking immediate action.

Regarding the CRSO EIS process, your letter says: “As part of this effort, dam breaching is one of several alternatives being reviewed. And, if that alternative is identified as the preferred alternative, we will initiate steps to seek authorization and appropriations within the established processes for such an action.”

As addressed above, the Corps does not need to seek authorization. Your position that authorization is required is contrary to past actions and would create undesirable precedent for the Corps.

Also, the Corps does not need to wait for new appropriations. As explained in the 5 means paper:

“Breaching can be financed through existing debt reduction and credits mechanisms as a fish mitigation action by BPA. New appropriations are not needed. Since BPA is the responsible bill payer for 92% of the cost of these four dams, BPA is responsible for at least 92% of the breach cost (The 92% is an average. The cost share ranges from 98.4% for Lower Granite dam to 78% for Ice Harbor dam).

However, if BPA sought to pursue breaching the 4 LSRDs as the most cost effective “fish mitigation” measure for salmon and steelhead recovery under the 1980 Power Planning and Conservation Act, BPA can book a 22% credit against the US Treasury debt on these dams. This has the added advantage of avoiding any of the appropriation and authorization conundrums involved in attempting to get Congress to act.”

Conclusion

The fish returns over the last five years, the Southern Resident Killer Whales who consume chinook off the Snake River basin (NOAA just released a [Chinook stock prioritization](#) list for these Southern Resident Killer Whales that includes Columbia/Snake stocks high on the list), and the financial situation of Bonneville Power Administration all reinforce the urgency of breaching immediately.

I, along with Mr. Jim Waddell, welcome the opportunity to meet with the Director of Civil Works in Washington D.C., with the Brigadier General D. Peter Helmlinger in Portland, Oregon, and with other decision makers in the Corps.

Jim Waddell's unique experience in the Corps and thousands of hours of strictly volunteer efforts for this LSRD issue have provided a great deal of information to the public. Over the past five years, Mr. Waddell and other experienced engineers, economists, and biologists have participated in numerous meetings, spoke and provided written materials at six Environmental Advisory Board and two Inland Waterway User Board meetings, and authored numerous emails, letters, and studies on this topic.

Examples of his extensive correspondence include:

- A September 13, 2013 letter from Mr. Waddell, P.E., Retired USACE and others to Assistant Secretary of the Army Jo-Ellen Darcy regarding the lack of meaningful benefits of commercial navigation on the lower Snake River.
- A October 9, 2014 letter from Mr. Waddell and others to Assistant Secretary of the Army Jo-Ellen Darcy explaining the significant and understated economic losses from operating the lower Snake River dams.
- A November 3, 2015 Letter from Mr. Waddell and Mr. Carol Christianson, Biologist Retired USACE to LTG Thomas P. Bostick explaining the economics and feasibility of breaching the dams. As attachments, the November 2015 letter included several economic and environmental studies.
- A June 17, 2016 Letter from Mr. Waddell to you providing extensive background on the dams, the 2002 EIS, decades long environmental litigation, and explaining how the U.S. Corps can start breaching the dams in a matter of months. This letter contained 16 links to supporting documentation.
- In all more than 30 documents containing 100's of pages of materials almost entirely derived or sourced from U.S. Government documents.

I look forward to your prompt reply for a more in-depth discussion on these topics, followed by a meeting in the near future.

Signed,



Amy Eberling

1. Attachment: 5 Means Paper