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TODD YOUNG
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U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

August 6, 2014

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Lt. Gen. Thomas P. Bostick
Commanding General & Chief of Engineers
U.S. Army Corps of Engineers Headquarters
441 G Street N.W.
Washington, DC 20314-1000

Dear General Bostick:

I am writing to follow up on my telephone call I had earlier today with Northwest Division Brigadier General Kem, in which I expressed my strong concerns with the U.S. Army Corps of Engineers' litigation settlement this week with Columbia Riverkeeper, which, according to media reports, could result in the vast expansion of the Environmental Protection Agency's (EPA) authority over the Army Corps' dam operations nationwide, including eight major federal hydroelectric dams on the Columbia and Snake Rivers that make possible a major source of the Northwest's electricity, irrigation, and navigation, as well as providing vital flood control protection.

Incredibly, I understand that no one other than U.S. Department of Justice or Army Corps lawyers were made aware of the terms of this sweeping settlement before it was finalized, and signed by a judge. I later was made aware of a press release issued by the litigating plaintiff group, which touted it as a "victory" for them rather than a settlement. In an era when EPA's regulatory authority is already highly controversial and seemingly without bounds, this lack of consultation by the Obama Administration's Justice Department or Army Corps with Northwest interests that have a keen and ongoing interest in the operation and maintenance of the Columbia and Snake River hydropower dams is frankly inexcusable.

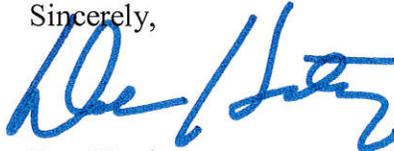
Like an increasing number of the Obama Administration's "sue and settle" agreements over the past few years, this settlement was negotiated behind closed-doors by the Justice Department with a litigious group without consultation or input from those most directly impacted. Of great concern is the likely precedent that this decision could have relating to the EPA's enforcement of the Clean Water Act, relating to the operation and maintenance of federal and non-federal dams, irrigation of hundreds of thousands of acres of agricultural cropland and application of crop protection products, and maintenance of a vital navigational link on the Columbia and Snake Rivers in Washington, Idaho and Oregon. This comes amidst the EPA's hugely controversial "Waters of the U.S." proposal, which could shut down a host of water development projects and make it easier for litigious groups to sue to block them.

According to news reports, the settlement included the Army Corps' agreement to pay over \$140,000 in taxpayer-funded attorneys' fees to a group that has filed or been a party to over 60 lawsuits against the federal government over the past decade, including litigation with the ultimate goal to remove four lower Snake River dams. This settlement would empower the EPA to enforce stringent National Pollution Discharge Elimination System permit requirements that could slow down or impede the Army Corps' operation or maintenance of the dams. It also sets a host of burdensome and fixed deadline requirements that could lead to even more litigation in the future.

I would request an immediate and thorough explanation of the Army Corps' rationale and details of its actions relative to this settlement, not just to Congress, but also to all affected state, local tribal and other stakeholders that have an interest in the Army Corps' dam operations nationwide. I am particularly interested in the Army Corps' explanation of the ramifications and potential future impacts of this settlement on ongoing litigation pending by the Columbia Riverkeeper and several other plaintiffs' involving the operation of the Columbia and Snake River system dams and irrigation projects.

If you have any questions, please contact Todd Ungerecht at the Committee on Natural Resources office at (202) 225-2761.

Sincerely,



Doc Hastings
Chairman

cc: Elliot Mainzer, Bonneville Power Administrator
Brig. Gen. John Kem, Northwest Division Commander
U.S. Attorney General Eric Holder