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**Executive Director of Northwest Sportfishing Industry Association, Oregon
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**Before the U.S. House of Representatives Natural Resources Committee
Subcommittee on Water, Power and Oceans**

October 12, 2017

**Legislative Hearing On: H.R. 3144 "To provide for operations of the
Federal Columbia River Power System pursuant to a certain operation plan
for a specified period of time, and for other purposes."**

Chairman Lamborn, Ranking member Huffman, and subcommittee members, thank you for the opportunity to address H.R. 3144. I am the Executive Director of the Northwest Sportfishing Industry Association (NSIA), a trade organization of nearly 300 sporting goods manufacturers, wholesalers, retailers, marinas, and guides. The Northwest Sportfishing Industry Association was founded in 1993 by a collection of sport fishing industry business leaders who understood the need for a strong voice in the local, state, regional and federal governments. The majority of NSIA's member businesses are located in Oregon and Washington, as well as companies from outside the NW that sell products for the nearly 25 million annual fishing trips taken by NW residents and visitors. NSIA is dedicated to preserve, restore and enhance sport fisheries and the businesses that are dependent on them. For us, salmon and steelhead mean business.

NSIA's member businesses, our customers and clients, are apprehensive about the economic well-being of our industry and recreational fishing opportunities in the years ahead. In 2011, the sportfishing industry provided 34,500 family-wage jobs, serving over two million adult anglers, and contributed over 3.8 billion dollars in economic benefit to Washington, Oregon, and Idaho. Across America, roughly 60 million anglers support more than 828,000 jobs with a \$115 billion impact on our nation's economy. I'm pleased to be testifying before a subcommittee with so many members from states in the top ten for sport fishing expenditures such as Florida, California, Louisiana, and Virginia. We appreciate that the members understand the importance of the manufacturing, wholesale, distribution, retail and tourism jobs sustained by sportfishing in their states.

NSIA and many other businesses, fishermen, conservationists, scientists, and citizens oppose H.R. 3144 because it significantly weakens salmon restoration efforts at a time when they need to be substantially strengthened. The bill takes our businesses and the region in the wrong direction, away from the work that is needed to craft a salmon plan that works for our fisheries and our communities. H.R. 3144 takes us in the wrong direction by:

- Overturning a May 2016 court decision finding the 2014 Federal Columbia River Power System (FCRPS) Biological Opinion inadequate and illegal.

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- Blocking an April 2017 court decision that provides much-needed protective measures for salmon and steelhead migrating past the federal dams on the lower Snake River and lower Columbia River starting in 2018.
- Constraining the National Environmental Policy Act Review that is central to updating and understanding the available and reasonable options for resolving the Columbia/Snake salmon crisis by hindering the study of alternatives to status quo operation of the dams on the Columbia and Snake Rivers.

For the fishing industry, H.R. 3144 is a job-killer, plain and simple. Scores of communities and thousands of businesses in the Pacific Northwest and along the West Coast that depend on fishing, whether sport or commercial, will be directly harmed if H.R. 3144 becomes law. This legislation seeks to lock in a failed status quo that is harming our region's iconic salmon and steelhead populations and the communities that rely upon them. Existing salmon policies have already wasted more than \$10 billion on a series of insufficient measures that have failed to recover a single one of the 13 protected populations of salmon and steelhead in the Columbia Basin. The status quo is not working for anyone today, and a different approach is necessary.

We in the Northwest sport fishing industry strongly oppose this attempt to enshrine an expensive salmon policy that has failed fish, fishing businesses, energy consumers, utilities, shippers, and growers.

I. THE FEDERAL DAMS HARM SALMON AND SPILL IS OUR MOST EFFECTIVE ACTION TO HELP STABILIZE AND REBUILD IMPERILED POPULATIONS

The eight federal dams on the lower Columbia and Snake Rivers have caused tremendous harm to our salmon and steelhead fisheries and to those of us who depend on them. The operation of these dams significantly reduces the number of salmon and steelhead that return to the Columbia Basin every year. As a consequence, the dams and how they are operated, have a direct effect on our businesses' bottom lines. They have transformed a dynamic, free flowing river system into a series of reservoirs that harbor increased predator populations and cause dangerously high water temperatures.

The dams themselves also pose formidable barriers to migrating salmon—particularly to juveniles that must struggle to survive the passage through deadly turbines or complex bypass systems. The combination of deadly impacts posed by the dams is responsible for up to 70 percent of all human-caused mortality for some salmon and steelhead populations.

Because of the serious trouble that many of these stocks continue to face as a result of the federal hydrosystem, we will not see healthy, sustainable, consistently fishable stocks of salmon until the federal agencies implement meaningful lasting changes in the operation of the dams that comprise the FCRPS. That is why NSIA has stood with the State of Oregon, the Nez Perce Tribe, and a broad coalition that includes other sport and commercial fishing advocates, conservationists, and clean energy organizations for nearly 20 years in an effort to protect and restore these magnificent and irreplaceable fish.

NSIA and its allies have been engaged in litigation over the National Marine Fisheries Service's (NMFS) biological opinions (BiOps) for the FCRPS since 2000. Since 1994, three different federal judges have rejected five BiOps as unlawful for a variety of reasons, but the consistent themes include the agencies' refusal to use the best available science and their

persistent reliance on speculative actions with unproven results rather than address the known problems with the dams and management of the hydrosystem.

In addition to successfully challenging failed BiOps, we have fought hard to hold on to improvements for migrating salmon and steelhead through increased spill since 2005. For juvenile salmon and steelhead migrating in the Snake and Columbia Rivers, “spill” – the practice of releasing water over the dams’ spillways during the juvenile migration in spring and summer, rather than sending it all through the hydroelectric turbines -- indisputably provides the safest passage over the FCRPS dams.

Releasing water over spillways at these eight federal dams increases the survival of juvenile salmon and steelhead by allowing them to avoid traveling through the power turbines, a passage route that increases mortality by subjecting these fish to life-threatening pressure changes and extremely high water velocities. ‘Spilled’ fish also survive at higher levels than the fish diverted from turbine intakes and “bypassed” through a series of Rube Goldberg-like pipes and tunnels before being ejected at the lower side of the dam.

The increased spill levels in place through court order since 2005 have helped produce better adult returns at a time when other West Coast rivers have seen steep declines. The fisheries protected by the court-ordered spill in the Snake and Columbia rivers have provided a rare measure of security for the businesses of NSIA, and indeed, some hope for the future. Fall chinook salmon, for example, benefitted immediately from court-ordered spill. The U.S. Army Corps of Engineers began aiding juvenile fall chinook through increased spill in the summer of 2005. The investment in spill payed off within two years, but within eight short years, two generations for fall chinook, our industry saw the substantial, direct benefits of that protection. By 2012, Snake River wild fall chinook numbers had tripled since Federal Judge Redden’s spill order. Hatchery and wild stocks of fall chinook alike benefitted and our fall fisheries were world class attractions.

In 2013, for example, over 1.27 million fall chinook entered the Columbia after significant ocean harvest, and provided a tremendous benefit to our businesses. Hotels were full, marinas had a one year waiting list, key tackle items such as Pro Troll flashers made in California and Brad’s Superbait made in Washington were on back order. Boat orders were on 6 months wait lists. These returns, aided by spill during the juvenile outmigration fed sport, commercial and tribal ocean fisheries in Alaska, Canada, Washington, Oregon and California, as well as freshwater sport, commercial and tribal fisheries in Oregon, Washington, and Idaho. Other stocks have also seen some increase in both juvenile survival and adult returns. For the past 12 years, the fish have been telling us one thing over and over again: spill works.

II. SALMON NEED HELP NOW AND OUR REGION NEEDS SOLUTIONS THAT WILL RECOVER OUR FISHERIES.

Our sportfishing businesses and many others in the region had hoped that the 2014 BiOp would finally provide a framework that would protect and restore salmon and steelhead in the Columbia River basin. Unfortunately, the federal government missed another opportunity to get this right. The 2014 BiOp maintained the same dam operations that have been in place since 1995 and that have failed to restore salmon and steelhead and the recreational, commercial, and tribal economies that rely on them. NMFS and the other federal agencies made this decision despite their access to more than two decades of peer-reviewed scientific evidence demonstrating that increasing spill levels increase salmon and steelhead survival. Rather than build on the success of spill, the 2014 BiOp allowed the federal dam agencies to actually reduce in some

circumstances the spill levels that have been in place under Court injunction for the last 12 years. In other words, it allowed them to cut back on investments with the highest returns.

In May of 2016, the U.S. District Court for the District of Oregon ruled that the federal agencies' approach to salmon protection in the 2014 BiOp was, like its predecessors, inadequate and illegal. In a thorough 150-page opinion, the Court addressed in detail the federal government's multiple violations of the Endangered Species Act and the National Environmental Policy Act. The Court ordered the federal agencies to develop a new plan that considers all relevant information and then carefully evaluates a full range of reasonable dam management alternatives, including removal of four federal dams on the lower Snake River. It also required the federal agencies to both assess and address the intensifying effects of climate change on wild salmon and the federal hydro-system. As proposed by the federal agencies (we advocated for a 2 ½ year timeframe), the Court allowed the agencies until March 2021 to complete this analysis. Not a single one of the parties supporting the 2014 BiOp – including the federal agencies, states, or the navigation and electric utility interests – have pursued an appeal of this decision: it is the accepted “law of the land” in the Northwest.

Importantly, the Court found that current dam operations under the 2014 Biological Opinion cannot ensure the survival or recovery of the fish and are vastly unresponsive to their current biological needs. That is why NSIA and its allies in the tribal, sport, and commercial fishing communities asked the Court this past winter – as an interim measure – to order the agencies to increase spill, our most effective, near-term measure to boost survival for these species, from April through June for spring chinook.

After a detailed review of the evidence and thousands of pages of scientific and technical testimony, the Court in April of 2017 ordered federal dam operators to incrementally increase spill starting in the spring of 2018. The Court specifically required federal, state, and tribal fishery scientists to work together to develop a near-term plan for dam operations that will release more water over the dams' spillways to improve juvenile salmon survival from April to June, while also complying with all state water quality standards and ensuring navigation safety. That work among the fishery and technical experts has been underway since this spring and the new annual spill operations are scheduled to begin in April 2018.

This order is a tremendously encouraging development for our industry: the increased spill required by the Court's order for 2018 means that we are poised to repeat the success we have seen with fall chinook for several other stocks, including Snake River spring chinook, sockeye and steelhead. Currently, Snake river spring chinook do not return in numbers sufficient to replace the previous generation's spawning adults. Decades of monitoring and data demonstrate that adding spill for baby spring chinook could triple the number of returning adults.

NSIA members are seeking increased spill for spring chinook which are among the most prized sportfish in the region. Because they are the first salmon run of the year, anglers have been waiting all winter and are eager to get out fishing. Anglers buy their licenses, pack the bearings on their trailers, repair and replace their gear, buy the latest, greatest in terminal gear, fill their gas tanks, load their coolers and hit the river. The lucrative Columbia River spring chinook fishery tees up the entire year for our industry. And the economic benefits of these fish to rural communities from Astoria, Oregon to Riggins, Idaho are huge. This is because on average, it takes eight-plus angler trips to land just one spring chinook. For every eight anglers out fishing, only one springer goes home. Research has shown that the trip expenditures in the Columbia spring fishery average \$115 per trip. This makes a springer in the creel worth over \$900 just in direct trip in expenditures – not counting the purchase of fishing tackle or other

durables such as boats, motors, trailers or electronics, for example. These fish are worth their weight in gold!

III. WE OPPOSE THIS BILL BECAUSE IT LOCKS IN A PLAN THAT HARMS SALMON AND FISHING BUSINESSES.

At a time when our region has a chance to help struggling salmon populations and break through the costly log jam that has held back salmon recovery in the Northwest for more than two decades, H.R. 3144 seeks to roll back protections for fish and enshrine a status quo that has brought massive expenditures, but few actual results. We finally have the opportunity to break free from twenty-five years of failed salmon policies. Rather than nurturing this opportunity, H.R. 3144, will make it much more difficult.

H.R. 3144:

(1) Overturns a May 2016 court decision finding the 2014 FCRPS Biological Opinion inadequate and illegal.

The bill seeks to deny citizens their day in court by reversing the district court's sound decisions rejecting the 2014 BiOp. This decision, issued eighteen months ago and reached after thorough and extensive consideration of the evidence, is settled law. None of the multiple interests and parties contests the Court's well-reasoned decision and no party has pursued an appeal. In overriding a federal court decision, H.R. 3144 would feed a damaging trend for undermining laws that allow citizens from across the political spectrum to go to court to hold the government accountable for its actions. Access to a court of law is a cornerstone of American democracy and fundamental part of our functioning government. The courts are essential for enforcement of our laws and serve as a "check and balance" to the failure of executive branch to enforce the law. Overriding independent federal court review of agency actions, as this bill would do, stymies this access to justice principle.

(2) Blocks an April 2017 court decision that expands spring spill over the federal dams on the lower Snake River and lower Columbia River starting in 2018.

The bill would lock in status quo dam operations through at least 2022. As our fishermen, and anyone who is reading the headlines are keenly aware, salmon need more help **now**. Cyclically poor ocean conditions have joined perennially poor river conditions as a result of current dam operations to put fish populations back into a death spiral. Because we can't control the ocean, it is all the more important that we take effective actions available to us now in the part of the salmon lifecycle where humans have the most influence. Spill is exactly that. Increasing spill in the spring is exactly the kind of prompt measure that we can and must take to boost salmon survival in the near-term. Businesses will prosper and the salmon's future will be more secure.

(3) Restricts the National Environmental Policy Act Review that is central to updating relevant information, considering all reasonable salmon recovery alternatives, and engaging the public in decision-making. If passed into law, H.R. 3144 would prohibit the study of any alternatives that may have the effect of reducing energy production by the federal hydrosystem (increased spill, lower Snake River dam removal, and others).

This bill would undercut a bedrock process that allows citizens to protect their interests in these fish. The NEPA process allows citizens to speak their minds and to provide their input to help inform the government's decisions. It also requires agencies to examine the costs and

benefits of their decisions and allows the region to make decisions based on facts. But in order to do this, the agencies must objectively evaluate all reasonable alternatives. H.R. 3144 would undermine this by erecting roadblocks to considering river operations that both science and the courts have determined to be reasonable alternatives and worthy of full and fair consideration.

The NEPA process has now been underway for a year. So far over 400,000 citizens across the region and the country have weighed in to support robust consideration of strong and effective salmon protection measures.

An approach that severely limits options at a time when salmon are most in need of our help is very difficult and frustrating for my members – business owners, business leaders, people who have focused on the bottom their whole adult life – to understand. When viewed through the lens of a return-on-investment, H.R. 3441 is simply not defensible.

In short, our fishing business members oppose H.R. 3144 because it enshrines a status quo that ensures that we as tax and rate-payers get back far less money than we spend. The federal government's extensive use of ratepayer money for salmon restoration has been an expensive failure because it does not focus on the core problem for salmon recovery – altering federal dam operations on the Snake and Columbia Rivers. With the intensifying impacts of climate change, a continuation of the failed status quo for even a few years will doom our endangered salmon runs, harm sport and commercial industries in communities throughout the Pacific Northwest and saddle Northwest ratepayers with billions in added costs for measures that have failed to protect salmon. Perpetuating this failed status quo is the true definition of insanity. At a time when we should be doing everything we can to help imperiled fish and struggling fishing communities, we urge this Committee to reject a bill that would prevent our region from doing what the science and the fish are telling us is needed most – making significant improvement in dam operations starting now with increased spring spill. Our fish – and sportfishing businesses – deserve far better than H.R. 3144.

Enclosures:

- Economics of NW Sportfishing
- Sportfishing in America
- Trip Expenditures for Columbia River Spring Salmon Fishing