

**Statement of Alan Mikkelsen
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Bureau of Reclamation
U.S. Department of the Interior
Before the**

**Water, Power, and Oceans Subcommittee
Committee on Natural Resources
U.S. House of Representatives**

HR 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.

October 12, 2017

Chairman Lamborn, Ranking Member Huffman, and Members of the Subcommittee, my name is Alan Mikkelsen and I am the Acting Commissioner for the Bureau of Reclamation at the Department of the Interior. Thank you for the opportunity to present testimony on behalf of the Department regarding H.R. 3144, a bill that aims to allow for the continued operation of the Federal Columbia River Power System pending the effective date of a new biological opinion and the completion of associated environmental compliance. The Department supports the goals of H.R. 3144.

Background

Before I begin to discuss the Department's views on H.R. 3144, I first want to touch upon the Bureau of Reclamation's (Reclamation) involvement in the Federal Columbia River Power System (System). While the entire System consists of 31 federally-owned hydroelectric power projects located on the main-stem of the Columbia River and its major tributaries, the bill is focused on a subset of 14 integrated dams and power plants.

Of the 14 federally owned projects, two are operated by the Department of Interior, including the Grand Coulee Dam, which began operation in 1942. It is the largest hydroelectric power producer in the United States, generating more than 21 billion kilowatt-hours of electricity each year. The 5,223 feet long dam produces nearly a fourth of the System's total generation, allows for the irrigation of approximately 671,000 acres in east central Washington, anchors flood risk management in the river basin, and provides recreational access for over 1.2 million visitors to the Lake Roosevelt National Recreation Area.

The other Reclamation facility is the Hungry Horse Dam for which construction was completed in 1953. At the time, Hungry Horse was the third largest dam, and the second highest concrete

dam, in the world. Annually, Hungry Horse Dam generates 948.6 million kilowatt-hours of electric power.

Over time, Reclamation integrated its operations of Grand Coulee and Hungry Horse Dams with the operations of 12 other federally-owned hydroelectric power facilities. These System operations ensure coordination among federal agencies to maximize beneficial uses of the Columbia River by generating power, protecting fish and wildlife, mitigating flood risks, providing irrigation and navigation, and sustaining cultural resources. All together the System contributes about 35 percent of the Pacific Northwest's electric generating capacity, allows shipping access from the Pacific Ocean 465 miles inland to Lewiston, Idaho, and provides 17 million acre-feet of water storage. Reclamation operates the System in collaboration with the Bonneville Power Administration, which was established in 1937 to market and transmit electricity produced from the federally-owned hydroelectric power facilities, and the U.S. Army Corps of Engineers, which operates and maintains 12 dams within the System for a range of purposes including flood control, power generation, and navigation.

While the System provides numerous public benefits, operation of the System is not without adverse impacts; most notably for the purposes of H.R. 3144, impacts on populations of Columbia River and Snake River salmon and steelhead. The ongoing operation of the System has resulted in over two decades of litigation focused on the protection of these fish populations.

In the 1990s, the System and its operators began to experience growing pressures associated with impacts on fish and wildlife protection. In 1991, the Snake River sockeye salmon was listed as endangered under the Endangered Species Act, followed by a dozen more endangered or threatened-listings of Columbia and Snake River salmonids over the ensuing decade. In 1992, the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries) issued its first biological opinion for this System. Since then, numerous NOAA Fisheries biological opinions on System operations have been subject to litigation.

Most recently, on May 4, 2016, the U.S. District Court for the District of Oregon ruled that NOAA Fisheries' 2014 biological opinion (2014 BiOp) was arbitrary and capricious, concluding that the operations of the System violated the Endangered Species Act notwithstanding inclusion of a comprehensive, regionally-coordinated reasonable and prudent alternative based on 74 categories of protective actions, and further that the Army Corps of Engineers and Reclamation violated the National Environmental Policy Act of 1969 (NEPA) by neglecting to prepare a NEPA document in connection with their records of decision implementing the reasonable and prudent alternative described in the 2014 BiOp. The U.S. District Court ordered NOAA Fisheries to prepare a new interim biological opinion no later than December 31, 2018 (2018 BiOp). The Court's July 2016 remand order further directed the agencies to complete a new environmental impact statement (EIS) by March 26, 2021 and the agencies' respective records of decision by September 24, 2021, in addition to the interim 2018 BiOp and a potential long-term

BiOp on or before the conclusion of the NEPA process. The need to balance the ongoing operations of the System and achieving compliance with environmental laws is what H.R. 3144 seeks to achieve.

H.R. 3144

In our view, H.R. 3144 aims to allow NOAA Fisheries and the federal agencies responsible for System operations to focus on development of a long-term biological opinion and EIS without diverting resources for preparation of a short term biological opinion to cover the period of 2019-2022. We believe H.R. 3144 also aims to reduce litigation over System operations during that period. The Department welcomes the opportunity to assist the bill sponsors and this Committee to ensure H.R. 3144 accomplishes our shared interest in providing continued stable operation of the System.

Section 2 requires the Secretaries of the Interior, Energy and Army (Secretaries) to continue operating the System in compliance with the 2014 BiOp. The Secretaries would continue System operations under the 2014 BiOp until either September, 30, 2022, or the date upon which a final biological opinion is in full force and effect, whichever date is later. It is our understanding that the sponsors' intent in Section 2 is to authorize continued system operations under the 2014 BiOp, thus alleviating NOAA Fisheries' obligation to complete the 2018 BiOp and the other agencies' corresponding need to produce a biological assessment. This would allow federal agencies to focus their resources on developing a long-term BiOp.

Currently, Reclamation's Columbia-Snake Salmon Recovery Office along with their colleagues at the other agencies are responsible for conducting and implementing all aspects of the Endangered Species Act section 7 consultation processes for the System. The same staff provides support for litigation, implements compliance with the District Court's May 4, 2016, injunction, and provides analysis and data to the NEPA process through the preparation of an EIS pursuant to the Court's remand order. If the goals of Section 2 were achieved, Reclamation and its sister agencies could focus resources on compliance with the NEPA process and development of a long-term BiOp while also continuing implementation of the 2014 BiOp activities. The repositioning of these resources would accordingly benefit the effort to identify a quality long term System solution. We look forward to working with you to ensure Section 2 adequately addresses the sponsors' intent to ensure the 2014 BiOp governs System operations until the dates identified in Section 2.

Section 3 of the bill would authorize the Secretaries to amend portions of the 2014 BiOp and operate the System in accordance with such amendments if all Secretaries concur that such an amendment is necessary for public safety or transmission and grid reliability, or that certain actions, operations or other requirements of the 2014 BiOp are no longer warranted. We look

forward to working with the sponsors and the Committee to clarify the intent of this section concerning the requirements applicable to the three Secretaries.

Section 4 would prohibit any structural modification, action, study, or engineering plan that would restrict electrical generation at any System hydroelectric dam, or limit navigation on the Snake River, absent additional congressional authorization. Specifically, it is our understanding that the goal of Section 4 is to prohibit the identified agencies from studying removal of System dams through an EIS without additional congressional authorization. In this section, the terms structural modification, action, study or engineering plan could potentially limit Reclamation's ability to conduct routine operations and maintenance activities, even if the restrictions to electrical generation are incidental to the purpose of the operation and maintenance activities.

We look forward to working with you to ensure Section 4 adequately addresses the sponsors' intent without interfering with the ability of System operators to conduct operation and maintenance activities necessary to meet authorized project purposes and to evaluate a reasonable range of alternatives in the EIS.

Conclusion

In conclusion, we welcome the opportunity to work with the bill sponsors, other appropriate federal agencies, and this Committee to ensure the System continues to provide the full range of public benefits to the Pacific Northwest and the Nation at large, while managing adverse impacts caused by System operations. This concludes my written statement. I would be pleased to answer questions at the appropriate time.