

Congress of the United States

Washington, DC 20510

February 20, 2018

The Honorable Paul D. Ryan
Speaker of the House
United States House of Representatives
Washington, D.C. 20515

The Honorable Nancy Pelosi
Democratic Leader
United States House of Representatives
Washington, D.C. 20515

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Charles E. Schumer
Democratic Leader
United States Senate
Washington, D.C. 20510

Dear Speaker Ryan, Leader Pelosi, Majority Leader McConnell, and Leader Schumer:

We write to express our opposition to H.R. 3144, legislation relating to the operation of the Federal Columbia River Power System (FCRPS). If enacted, this bill would undermine an important, ongoing process concerning the management of the Columbia and Snake Rivers, which support a complex system of interrelated uses, including fish and wildlife management, salmon recovery, irrigation, navigation, power generation, flood protection, recreation, and more.

In accordance with the Endangered Species Act, NOAA Fisheries issued a supplemental Biological Opinion (BiOp) for the FCRPS in January 2014. In May 2016, the U.S. District Court for the District of Oregon ruled that this BiOp did not fully satisfy the requirements of the Endangered Species Act and was in violation of the National Environmental Policy Act (NEPA). The court ordered the federal “action agencies,” consisting of the U.S. Army Corps of Engineers (Army Corps), Bureau of Reclamation (BOR), and Bonneville Power Administration (BPA), to conduct a NEPA-compliant comprehensive analysis of the FCRPS and NOAA Fisheries to develop a new BiOp. As the court notes, completing a NEPA process on the FCRPS would require “all reasonable alternatives to be analyzed,” enable the action agencies, the public, and public officials to “evaluate the costs and benefits of various alternatives,” and “may elucidate an approach that will finally move the listed species out of peril.”¹

In September 2016, the action agencies began work on the court-mandated Environmental Impact Statement (EIS) for the Columbia River system, which spans 14 federal, multi-purpose dams and related facilities in Washington, Oregon, Idaho, and Montana. The public comment period for scoping, where the action agencies solicited information on “the issues, concerns, and the scope of alternatives to be addressed in the EIS,”² included 18 public meetings throughout the Pacific Northwest, and 412,016 comments were received. The action agencies are now developing alternatives for detailed evaluation, which we understand range from no changes in operations to “breaching, bypassing, or removing one or more of the four Lower Snake River

¹ May 4, 2016 Opinion and Order by U.S. District Judge Michael H. Simon, District of Oregon, page 145.

² September 30, 2016 [Letter](#) from the U.S. Army Corps of Engineers, Bureau of Reclamation, and Bonneville Power Administration announcing the Columbia River System Operations Environmental Impact Statement.

Dams”³ as mandated by the court. Based on the schedule set by the court, the EIS will move through an essential deliberative process, with additional public comment opportunities, over the next few years to reach a Record of Decision by September 2021. We expect engagement with tribal governments to occur throughout this process to fulfill longstanding tribal trust obligations for natural and cultural resources.

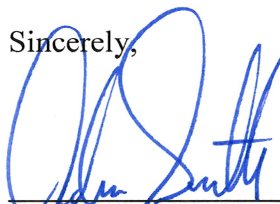
While the 2014 BiOp currently remains in place, NOAA Fisheries is working with the action agencies on a new BiOp that must be completed by December 2018 to comply with the court order. Further, in accordance with the EIS process, a new BiOp must be developed and put into place by September 2021.

H.R. 3144 would undermine the important, ongoing work on the EIS and BiOp by forcing the use of the 2014 BiOp, which has been found flawed by the court, until September 2022 or until the EIS process is completed. This would undercut the action agencies’ ability to properly review and consider the river system operations, configuration, and the full range of alternatives relating to fish and wildlife conservation, water supply for irrigation, navigation, power generation, flood risk management, municipal and industrial use, cultural resources, and recreation. The bill would also dictate the outcome of the EIS process by prohibiting an assessment of the full array of possible changes unless such changes are authorized by Congress. At its core, H.R. 3144 is a one-size-fits-all congressional approach in place of a vital deliberative and judicial process meant to account for all uses of the FCRPS.

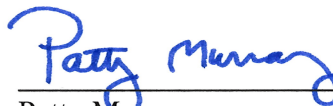
The Columbia and Snake River system is essential to the Pacific Northwest’s culture, environment, and economy. Therefore, we have made clear to the Army Corps, BOR, BPA, and NOAA Fisheries our expectation that the federal government conducts an open and transparent process on the EIS and BiOp. Unfortunately, H.R. 3144 would prevent this by circumventing the judicial branch and ignoring bedrock environmental laws. We urge you not to advance H.R. 3144 and not to include H.R. 3144 or individual elements of the bill as part of a final Fiscal Year 2018 appropriations bill or any other legislation considered this Congress.

Thank you for your consideration of our requests.

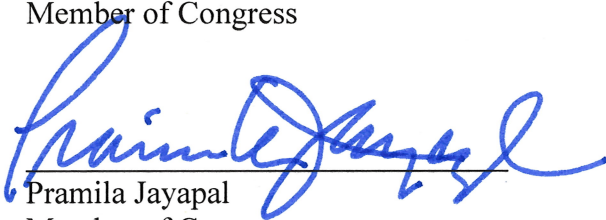
Sincerely,



Adam Smith
Member of Congress



Patty Murray
United States Senator



Pramila Jayapal
Member of Congress

³ May 4, 2016 Opinion and Order by U.S. District Judge Michael H. Simon, District of Oregon, page 136.