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October 7, 2013

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Re: Comments on Draft Supplemental Biological Opinion

Dear Mr. Stelle:

The Inland Ports and Navigation Group (IPNG) welcomes the opportunity to provide comments on the 2013 Draft Supplemental Biological Opinion (BiOp) for the Federal Columbia River Power System. IPNG submits the following comments in support of the approach and methodologies proposed in the 2013 Draft BiOp.

**A. Background and Interests of IPNG**

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IPNG is an entity created to protect navigation in the ongoing litigation over Biological Opinions that guide Federal government initiatives to protect ESA-listed fish runs within the Columbia-Snake basin (FCRPS). IPNG members include various public ports from the Port of Morrow and Umatilla in Oregon, several Washington river ports on the Columbia and Snake Rivers, to the Port of Lewiston, Idaho. Other members include navigation, shipper and transportation groups. Schwabe Williamson & Wyatt has represented IPNG since the earliest days of the litigation in front of Judge Redden (now Judge Simon), where we are defendant interveners. As such, we generally have supported policies, programs and projects of the defendant Federal agencies involved in salmon survival targets included in the draft 2014-2018 BiOp, as well as in some past BiOps. We work closely within the litigation context with other interveners, the three states of Washington, Montana and Idaho and several of the tribes aligned in supporting the revised BiOp now before our region during its “mid-BiOp review.” Our members also have been active in public processes aimed at finding and supporting broad-based solutions to fish recovery in the Columbia Snake basin—solutions which protect multiple uses of the river while implementing practical solutions supported by sound science.

Federal agencies have focused on the four elements of salmon survival: the Four Hs of Hydro, Habitat, Hatchery and Harvest. IPNG supports All-H recovery measures that involve each H. To that we add the H of the High Seas, and acknowledge the Human H element in this equation.

Over the years, IPNG has commented about the enormous gap in our understanding of the salmon lifecycle while the fish are in the ocean. IPNG is grateful that Federal initiatives now are producing results from increased research on impacts on salmon survival from the time smolts enter the ocean at the mouth of the Columbia River to the time the returning adults cross the bar and begin their river return to spawning grounds. The life and survival of fish in the ocean that has been the subject of these increased research projects—some which have concluded, with others now underway or planned-- are providing policymakers even more data from which to evaluate those recovery programs in the basin which are impacted by ocean conditions. IPNG supports more research into causes of fish mortality in the ocean.

## **B. Draft BiOp Meets Order of Judge Redden of August 2, 2011**

The Opinion and Order issued by Judge Redden on August 2, 2011, requires by December 31, 2013, a new or supplemental BiOp that corrects the former BiOp’s reliance on mitigation measures that are unidentified and not reasonable certain to occur; that requires further collaboration on an ongoing basis among the sovereigns (states and tribes and Federal action agencies) and others in developing mitigation actions based on sound science and with supporting technical data for such mitigation; that requires filing annual implementation reports with the Court detailing progress of RPAs; and that maintains spill regimes consistent with the court’s earlier spill orders.



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Over the course of implementing the 2008 BiOp (and subsequent additions and amendments to it), IPNG has remained fully engaged with the Action Agency efforts to meet the requirements of Judge Redden's Order, as well as the continuing initiatives to implement RPAs on the Columbia and Snake Rivers.

The new Draft Supplemental BiOp meets the requirements of Judge Redden's August 2, 1011, Opinion and Order. The shortcomings identified in the earlier version of the BiOp have been addressed fully by the Draft Supplemental BiOp upon which these comments are being offered.

IPNG comments below highlight certain issues that are critical to the continued successes in meeting the objectives of the 2008 BiOp.

**C. Smolt to Adult Returns Are Substantially Aided by Improved Hydro Performance Standards**

The Draft 2013 BiOp contains measures to continue proven efforts that have shown significant statistical improvement in the survival of smolt to adult returns. The Action Agencies have made quality investments in spill and structural improvements on major powerhouses, turbines and bypass facilities that have resulted in decreased fish travel time through the system and an overall increase in fish survival. The Action Agencies have equipped each of the eight mainstem lower Snake and lower Columbia river dams with surface passage improvements (such as spillway weirs, corner collectors and modified sluiceways) that have reduced migration delay and increased the number of smolts avoiding turbines or juvenile bypass systems. *See* Draft 2013 BiOp, p. 325.

Survival rates due to these structural and operational improvements are likely close to achieving or are already achieving the 96% dam passage survival standard for yearling Chinook salmon and steelhead smolts, and the 93% survival standard for subyearling Chinook salmon smolts. Test results also indicate that at some projects survival rates may be substantially exceeding these performance standards. *See* Draft 2013 BiOp, p. 334.

IPNG strongly supports the Action Agencies continued commitment to providing safe and swift passageways for smolt and juveniles.

**D. Summer Spill**

Summer Spill has had some positive impact on the survival rates of affected species. IPNG generally supports the spill requirements in the 2013 Draft BiOp. Between 2005 and 2008, spill helped improve survival rates substantially, ranging from about 56% to 78% for individual cohorts. Beginning in 2009, when summer spill and surface passage routes became fully effective, survival rates have ranged from 72% to 89% for individual cohorts, and all but one cohort during this period exceeded the highest average survival rate expected in the 2008



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BiOp. *See* Draft 2013 BiOp, p. 338. As a result, far fewer fish have been transported than forecasted in the 2008 BiOp (Table 3.3-3, Table 3.3-4, and Figure 3.3-8). *Id.* at p. 342.

While the current summer spill regime has resulted in overall improvement of survival rates, the timing of spill can be improved by specifically tailoring spill to specific specie return patterns. “Smart Spill” would provide flexibility in maximizing the timing of spill to the presence of fish traveling through dams. Smart Spill would continue the successes of the current spill schedule but tie spill regimes to aiding the movement of fish that are present at the dams, not merely following the calendar.

#### **E. Habitat.**

IPNG supports the Action Agencies commitment of hard resources to improve habitat in tributaries and estuaries throughout the system. Together with states, tribal partners and watershed groups, the Action Agencies have already met or exceeded their tributary habitat goals for more than half the salmon and steelhead populations addressed in the BiOp. The Action Agencies have dedicated more than \$50 million per year in furtherance of their habitat commitments to affected species. Approximately 200 stream miles have been provided artificial logjams and enhanced sidechannels and meanders which provide greatly improved spawning opportunities for salmon and steelhead. More than 6800 acres of riparian habitat have also been improved, and the Action Agencies have secured more than 170,000 acre feet of water to increase flows to the Columbia River Basin.

In addition to these achievements, the Action Agencies have opened 2,053 miles of spawning and rearing habitat with “fish friendly” engineering modifications such as removing culverts and water diversions. This is more than a 200% increase since 2008. Projects have also protected or restored 3,791 acres of estuary floodplain. The data collected to demonstrate the success these measures show that they constitute one of the most effective means of benefiting fish by expanding fish habitat. For many years, for example, IPNG has called for more culvert replacement as a cost-effective and productive long-term way to open (or reopen) critical spawning and rearing habitat, particularly in the estuary and tributaries.

IPNG understands that the habitat improvement measures taken, and to be taken, are thoughtful, high-value projects selected with the guidance of an independent, peer-reviewed panel of qualified scientists. The 2013 Draft BiOp and Implementation Plan continue these efforts, and IPNG strongly supports them.

#### **F. Hatcheries.**

IPNG also supports the Action Agencies continued approach to the targeted and but necessary use of hatchery fish to maintain at-risk salmon and steelhead populations. In 2012, the Action Agencies, in partnership with hatchery operators, completed a Hatchery and Genetic Management Plan (HGMP) for all 44 hatchery programs requiring consultation under the Endangered Species Act. The HGMP strategically employs management techniques to reduce



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the unintentional commingling of hatchery fish with wild stock. IPNG supports the Action Agencies' efforts to maintain wild stock while supporting at-risk species through hatchery operations designed to taper off as wild fish become better established.

### **G. Integrating Columbia River Treaty Impacts with BiOp-Centered Fish Recovery Initiatives Impacting Navigation**

The comments on navigation elements included in the Draft Columbia River Treaty which were submitted by navigation interests should be examined and evaluated as part of the process developing the final BiOp for which these comments are submitted. Specifically, IPNG calls attention to the attached comments submitted by:

- Pacific Northwest Waterways Association,
- the Port of Vancouver, Washington, and
- the Inland Ports and Navigation Group.

IPNG requests that they be considered within the scope of comments submitted herein in the Draft Supplemental BiOp. It will be clear when examining these comments about the CRT noted above that various concurrent elements should be a part of planning and implementing the Supplemental BiOp from 2014-2018. We ask the Action Agencies to take steps to insure that these concerns are addressed in a consistent manner in both the CRT and BiOp processes.

One vivid example illustrates why these two major initiatives (BiOp and CRT) must be coordinated closely. The Columbia River Towboat Association has pointed out that some CRT operating regimes advanced by different parties call for a future flow at 600 KFS on the mainstem river for a period of time each year. Flows above 450 KFS, create operational problems in safe passage approaching and exiting a lock. Breaking down a barge tow would create both operational and economic issues. In addition, at 600 KFS, towboat and barge service on the Columbia could be suspended. As a result, the navigation community, and the many ports and communities served by barge service on the Columbia and Snake Rivers, have concerns when they hear about discussions for modeling and operating the system in a way that could create flows at 600 KFS. In addition, we are told that a very high Columbia River flows on the Columbia also could mean a Snake River flow correspondingly high, at which fish barging could be at risk. In short, the new BiOp and any changes in the CRT are related closely, and a mechanism for ongoing collaboration will be essential.

### **H. Integrating Comments about the Comprehensive Evaluation and the Implementation Plan**

IPNG provided earlier comments on both the Comprehensive Evaluation and the Implementation Plan, both elements of the mid-BiOp "check-in." IPNG stresses that these



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elements are important to maintaining navigation system open throughout the length of the navigation channel.

IPNG also calls attention to comments made about the draft IP by PNWA, CTRA, and the Ports of Morrow and Lewiston pertaining to specific RPAs with the potential to impact navigation.

In The Draft IP, issues of specific importance to IPNG are found in IP sections impacting navigation: Hydropower Strategy 1, RPA 5 on pages 8-9 of the Draft IP. These include:

## **1. Operating Most Reservoirs at Normal Operating Range**

From 2014 through 2018, the draft IP describes Snake River navigation pool operation as one set at MOP “with a 1-foot operating range from April 3 to approximately September 1 as described in the annual WMP-Water Management Plan. Operations outside this range during this period will be coordinated with the appropriate agencies (Corps’ Reservoir Control Center [RCC] and the TMT) using procedures described within each annual WMP (Water Management Plan)....”

IPNG supports such operations that continue existing practices. The Federal agencies understand how useful and critical recovery programs can take place while still allowing multiple uses of the river, including navigation from the mouth of the river to the Port of Lewiston and Clarkston. IPNG supports the draft language in this RPA, and also endorses maintaining maximum flexibility for needed operational changes due to safety or efficient cargo movements throughout the navigation channel. We also call attention to comments made by PNWA on this subject on the Draft IP.

## **2. Lower Granite Pool: Operating Above MOP, Dredging and PSMP**

The Draft IP addressed on pages 8-9 (Hydropower Strategy 1, RPA 5 of the Draft IP) calls for continued operation of the Lower Granite Pool at levels above MOP. This was implemented “to provide additional depth and ensure safe navigation near the confluence of the Clearwater and lower Snake Rivers where considerable silting has accumulated in the navigation channel.” It is critical that maximum flexibility continues until maintenance dredging takes place. It details steps taken to respond to changes in operations that arose during the past years of the BiOp as the navigation channel experienced silting problems that threatened safety and the ability to serve docks at ports in the Lower Granite pool.



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The Draft IP continues discussing the status of proposed maintenance dredging: “The Corps has developed a draft Programmatic Sediment Management Plan and a draft Environmental Impact Statement (EIS). It is anticipated that a Record of Decision will be issued in 2013. The Draft Plan and EIS include alternatives that implement maintenance dredging in the near term. If maintenance dredging occurs, the Lower Granite Pool will return to a MOP operation during the fish passage season.” IPNG supports maintenance dredging of the navigation channel in Lower Granite pool at the earliest time within an approved in-water fish window.

Until O&M dredging can occur, it is essential that maximum flexibility be maintained that allows safe navigation in the Lower Granite pool. Operating the pool above MOP is essential to maintaining service to the docks/piers in the pool, and will be necessary until dredging takes place—dredging which last occurred in 2006-2007.

We also call your attention to comments made by the Port of Lewiston about the Draft IP pertaining to Lower Granite pool operations above MOP until maintenance dredging can occur.

### **3. John Day Pool at Elevation Between 262.5 feet and 264 feet**

Also in Hydropower Strategy 1, RPA-5, the Draft IP states on page 9 of the Draft IP that John Day project will operate at a level where it has been operated: at an elevation between 262.5 feet and 264 feet. Operating outside these normal operating levels, if needed, would be addressed by the Corps’ RCC and the TMT. IPNG supports this strongly, and opposes any changes which would require lowering the pool to MOP or below. Operating at elevation 262.5 feet meets irrigation pump requirements within this pool. We call attention to specific comments on the Draft IP submitted by the Port of Morrow—located on the John Day pool—about this specific RPA.

### **4. Total Dissolved Gas and Water Temperature**

Hydro Strategy 1, RPA 15. Total Dissolved Gas and Water Temperature, (pages 18-19 of the Draft IP) in the Columbia and Snake rivers contains a note that the draft IP includes, under “Operation of Lower Snake River projects at MOP,” a reference back to RPA 5 for specifics. We agree with this cross reference. TDG and water temperature responses can create ripple effects that could erode navigation safety. IPNG welcomes this recognition of the potential to impact navigation adversely from the “law of unintended consequences” in responding to TDG and water temperature issues.

### **5. Higher Flows or Increased Spill: Potential Adverse Safety Impacts**

From a broader perspective, and not addressed to a specific RPA, IPNG also is concerned about the potential adverse safety impacts on navigating barge tows near the locks during periods of higher flows or during periods of increased spill that could occur more frequently in the



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coming years. These could hinder safe navigation. A more complete discussion of these specific points can be found in a submission by the Columbia River Towboat Association (CRTA) in comments on the draft Columbia River Treaty solicitation of public and stakeholder views earlier in 2013. We ask that the team working on the Implementation Plan and BiOp please examine those CRTA comments and consider their impact within the new BiOp.

## **6. Operational Emergencies and Fish Emergencies**

Hydropower Strategy 1, RPA-8, Operational Emergencies, on pages 13-14 of the Draft IP, are discussed, in case they occur and a prompt response is required. The Operating Emergencies list of potential elements includes navigation, along with “power system, flood control, dam safety and other emergencies.” Operating emergencies involving navigation, we believe, will be addressed in a timely way that recognizes the often-adverse impact to navigation from such emergencies. Navigation is an integrated system, from Lewiston at the top of the navigation channel to the mouth of the Columbia, and we appreciate Federal officials’ understanding of these complexities. The absence of any pre-approved plan to address and resolve navigation-based emergencies in the future should not hinder prompt responses to resolve them.

## **I. Conclusion**

In his opinion and order of August 2, 2011, among other elements, Judge Redden ordered

“(4) During the remand period, NOAA Fisheries shall continue to collaborate with the sovereign entities, including the states of Idaho, Montana, Oregon and Washington and Washington, and the tribes who are parties or amici to this action for the purpose of developing mitigation actions to be included in the proposed action and developing scientific and technical data to support any proposed mitigation.” (Page 23 of Judge Redden opinion and order of August 2, 2011).

The Federal agencies took this requirement very seriously. The Draft Supplemental Biological Opinion is among the fruits of this increased ongoing *and strengthening* collaboration among most of the sovereigns in the region. Spurred, in part, by the Judge’s Order, this draft supplemental BiOp represents the fruits of the interagency cooperation in a way that sets the stage for more ongoing initiatives which will strengthen fish recovery measures over the next five years.

IPNG appreciates the opportunity to comment on the 2013 Draft BiOp. In addition to the above comments, IPNG incorporates its September 23, 2013 written comments to the Draft Implementation Plan. IPNG strongly supports the past and projected efforts by the Action Agencies, tribal partners, state governments, and other stakeholders in complying with, and in many cases exceeding, Judge Redden’s Orders and the 2008 BiOp.





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Sincerely,

Jay Waldron

Walt Evans

Carson Bowler

for the

INLAND PORTS AND NAVIGATION GROUP

cc: Sarah McNary, Bonneville Power Association  
Rock Peters, US Army Corps of Engineers  
Kathryn Puckett, US Bureau of Reclamation

Attachments



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September 23, 2013

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Bonneville Power Administration  
Portland, Oregon

Rock Peters  
US Army Corps of Engineers  
Portland, Oregon

Kathryn Puckett  
Columbia Snake Salmon Recovery Office  
US Bureau of Reclamation  
Boise, Idaho

Re: IPNG Implementation Plan Comments

Dear Sarah, Rock and Kate:

The Inland Ports and Navigation Group (IPNG) welcomes the opportunity to provide comments on the Draft 2014-2018 Implementation Plan (IP). We provide below our focused comments on a few elements of the Hydropower section of specific interest to navigation.

As background, IPNG consists of public ports from the Port of Morrow in Oregon, includes some Washington river ports on the Columbia and Snake, as well as the Port of Lewiston, Idaho. Other members include navigation, shipper and transportation groups. Schwabe Williamson & Wyatt has represented IPNG since the earliest days of the litigation in front of Judge Redden (now Judge Simon), where we are defendant interveners. As such, we have generally supported policies, programs and projects of the defendant Federal agencies involved in salmon survival targets included in the draft 2014-2018 BiOp, as well as in some past BiOps. We work closely within the litigation context with other interveners, the three states of Washington, Montana and Idaho and several of the tribes aligned as supporters of the revised BiOp now before our region during its “mid-BiOp review.” Our members also have been active in public processes aimed at finding and supporting broad-based solutions to fish recovery in the Columbia Snake basin—solutions which protect multiple uses of the river while implementing practical solutions supported by sound science.

Federal agencies have focused on the four elements as elements of salmon survival: the Four Hs: Hydro, Habitat, Hatchery and Harvest—and IPNG supports all-H recovery measures that involve each of those Hs. To that we add the H of the High Seas, and acknowledge the Human H element in this equation.

Over the years, IPNG has opined about the enormous gap in our understanding of the salmon lifecycle while the fish are in the ocean—the “High seas” H. Thankfully, Federal initiatives now are producing results from stepped up research on impacts on salmon survival from the time smolts enter the ocean at the mouth of the Columbia River to the time the returning adults cross the bar and begin their river return to spawning grounds. The life and survival of fish in the ocean that has been the subject of increased research now underway will give policymakers even more data from which to evaluate what recovery programs in the basin are impacted by ocean conditions. IPNG supports more research into causes for fish mortality in the ocean.

Based on our review of the Draft BiOp now out for public comment, and the Draft IP which is the subject of these comments, it appears to us that implementation of the RPAs set out in this Draft IP help meet the legal requirements of the Order issued by Judge Redden on August 2, 2011. The specifics in his order appear on pages 23 and 24 of that opinion and order.

Those elements include issuing a new or supplemental BiOp that corrects the former BiOp’s reliance on mitigation measures that are unidentified and not reasonable certain to occur; further collaboration on an ongoing basis among the sovereigns (states and tribes and Federal action agencies) and others in developing mitigation actions based on sound science and with supporting technical data for such mitigation; filing annual implementation reports with the Court detailing progress of RPAs; and maintaining spill regimes consistent with the court’s spill orders.

We are pleased at the progress to date reflected in the Draft IP, and in the proposed roadmap for the next phase of the amended BiOp.

In addition, IPNG salutes the collaboration and cooperation among the Federal agencies, three states and several tribes to produce such programs and projects that appear to us to meet the standards needed for effective fish programs. These sovereigns worked together to decide upon and implement RPAs over the past years of the BiOp, and, based on this draft IP, have shown results upon which they will build to continue and expand the effective elements. In the estuary and tributary habitat programs, for example, we expect that successful projects will be scaled up to expand the results to more projects. In addition, they have shown that useful RM&E efforts should continue to strengthen effective programs and rejigger or move on from projects that are not proving effective. IPNG supports strengthened RM&E efforts.

Our broader comments and observations will be included in comments about the recently released 2014-2018 Draft Revised Biological Opinion. Here, our comments about the Draft IP



and its RPAs focus on addressing navigation issues in specific RPAs. We conclude with a few broader observations about some related issues in the Draft IP.

Issues of specific importance to IPNG are found in sections impacting navigation: Hydropower Strategy 1, RPA 5 on pages 8-9 of the Draft IP. These include:

### **Operating Most Reservoirs at Normal Operating Range**

From 2014 through 2018, the draft IP describes Snake River navigation pool operation set at MOP “with a 1-foot operating range from April 3 to approximately September 1 as described in the annual WMP-Water Management Plan. Operations outside this range during this period will be coordinated with the appropriate agencies (Corps’ Reservoir Control Center [RCC] and the TMT) using procedures described within each annual WMP (Water Management Plan)...”

IPNG supports such operations that continue existing practices. We believe that Federal agencies understand how useful and critical recovery programs can take place while still allowing multiple uses of the river, including navigation within the navigation channel from the mouth of the river to the Port of Lewiston and Clarkston, both located on the shores of the Lower Granite pool. IPNG supports the draft language in this RPA, and also endorses maintaining maximum flexibility for needed operational changes due to safety or efficient cargo movements throughout the navigation channel.

### **Lower Granite Pool: Operating Above MOP, Dredging and PSMP**

The Draft IP addressed on pages 8-9 (Hydropower Strategy 1, RPA 5) calls for continued operation of the Lower Granite Pool at levels above MOP. This was implemented “to provide additional depth and ensure safe navigation near the confluence of the Clearwater and lower Snake Rivers where considerable silting has accumulated in the navigation channel.” We believe it is critical that maximum flexibility continues until maintenance dredging takes place. It details steps taken to respond to changes in operations that arose during the past years of the BiOp as the navigation channel experienced silting problems that threatened safety and the ability to serve docks at ports in the Lower Granite pool.

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### **John Day Pool at Elevation Between 262.5 feet and 264 feet**

Also in Hydropower Strategy 1, RPA-5, the Draft IP states on page 9 that John Day project will operate at a level where it has been operated: at an elevation between 262.5 feet and 264 feet, as the RPA makes clear. Operating outside these normal operating levels, if needed, would be addressed by the Corps' RCC and the TMT. IPNG supports this strongly, and opposes any changes which would require lowering the pool to MOP or below. Operating at elevation 262.5 feet meets irrigation pump requirements within this pool, so this elevation sometimes is referred to as Minimum Irrigation Pool, or "MIP."

IPNG next turns from these specific navigation concerns to broader elements of importance to navigation interests:

### **Operational Emergencies and Fish Emergencies**

Hydropower Strategy 1, RPA-8, Operational Emergencies, on pages 13-14. are discussed, in case they occur and a prompt response is required. The Operating Emergencies list of potential elements includes navigation, along with "power system, flood control, dam safety and other emergencies." Operating emergencies involving navigation, we believe, will be addressed in a timely way that recognizes the often-adverse impact to navigation from such emergencies. Navigation is an integrated system, from Lewiston at the top of the navigation channel to the mouth of the Columbia, and we appreciate Federal officials' understanding of these complexities. The absence of any pre-approved plan to address and resolve navigation-based emergencies in the future should not hinder prompt responses to resolve them.

### **Total Dissolved Gas and Water Temperature**

Hydro Strategy 1, RPA 15. Total Dissolved Gas and Water Temperature, (pages 18-19) in the Columbia and Snake rivers contains a note that the draft IP includes, under "Operation of lower Snake River projects at MOP," a reference back to RPA 5 for specifics. We agree with this cross reference. TDG and water temperature responses can create a ripple effect that could impact navigation safety. IPNG welcomes this recognition of the potential to impact navigation adversely from the "law of unintended consequences" in responding to TDG and water temperature issues.



## **Higher Flows or Increased Spill: Potential Adverse Safety Impacts**

From a broader perspective, and not addressed to a specific RPA, IPNG also is concerned about the potential adverse safety impacts on navigating barge tows near the locks during periods of higher flows or during periods of increased spill that could occur more frequently in the coming years. These could hinder safe navigation. A more complete discussion of these specific points can be found in a submission by the Columbia River Towboat Association (CRTA) in comments on the draft Columbia River Treaty solicitation of public and stakeholder views earlier in 2013. We ask that the team working on the Implementation Plan and BiOp please examine those CRTA comments.

### **Conclusion**

In his opinion and order of August 2, 2011, among other elements, Judge Redden ordered

“(4) During the remand period, NOAA Fisheries shall continue to collaborate with the sovereign entities, including the states of Idaho, Montana, Oregon and Washington and Washington, and the tribes who are parties or amici to this action for the purpose of developing mitigation actions to be included in the proposed action and developing scientific and technical data to support any proposed mitigation.” (Page 23 of Judge Redden opinion and order of August 2, 2011).

In IPNG’s opinion, the Federal agencies took this to heart, and the Draft Implementation Plan is among the fruits of this increased and ongoing collaboration.

IPNG appreciates the enormous effort made by committed Federal officials in preparing the draft Implementation Plan. In addition to collaborating with the other sovereigns, the federal action agencies worked to resolve any disagreements as professionals committed to a strong BiOp. Within the region, countless meetings, collaboration with other sovereigns, and outreach all addressed the very complex—and often interwoven—issues that many RPAs can create as they are implemented.

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In summary, IPNG believes that the Draft IP, in nearly all elements, responds to concerns raised by Judge Redden in his August 2, 2011 order, and provides a framework for a stronger FCRPS BiOp to guide the region through the next phase of the BiOp.

Lastly, IPNG also welcomes the opportunity to present our views, and thanks the Federal agencies for considering our concerns.

Very truly yours,

Jay T. Waldron

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