

NORTHWEST ENVIRONMENTAL ADVOCATES



May 15, 2015

Patrick Lizon
Water Quality Program
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Via e-mail only: 303d@ecy.wa.gov

Re: Washington's Draft Integrated Report and Section 303(d)(1) List of Impaired Waters – ADDENDUM

Dear Mr. Lizon:

In our previous comment letter, we unfortunately neglected to provide comments on Ecology's proposed changes to the segmentation of the Columbia and Snake Rivers.

We applaud Ecology's decision to make this much-needed change. The previous assessment units were illogical. The Columbia River certainly has some "natural" segmentation, from the influences of hydroelectric dams for example. But the previous segmentation scheme, in which the Columbia River was cut up into innumerable tiny pieces, simply hampered every regulatory action that depends upon the assessment and 303(d) list.

One example of its illogic is demonstrated by tiny segments of the river corresponding to the Columbia River Dioxin TMDL, an EPA-promulgated TMDL that applied to the entirety of the Columbia River. *See e.g.*, Water Quality Assessment Map Viewer 2 (attached). Another example is the pollutant of temperature. It defies imagination that the temperature of this huge river changes from one tiny block to another yet that is how the data are currently interpreted. *See e.g.*, Water Quality Assessment Map Viewer 3 (attached). In this example, the yellow block indicates a temperature assessment based on a single day of data. Listing ID: 7887. The upstream red block indicates a temperature assessment, leading to an impairment decision, based on 47 days of exceedance. Listing ID: 6293. There is nothing to suggest that the temperature of the Columbia River changes—or could ever change— between those two points. Yet the current segmentation scheme would suggest it could.

Moreover, to use the existing segmentation scheme is to suggest that any Clean Water Act regulatory action based on 303(d) listing, such as the most obvious establishment of Total Maximum Daily Loads, would either apply solely to these tiny patches or, alternatively, that EPA or Ecology or the State of Oregon would have to test the water quality of each tiny patch in order to address the Columbia River as a whole. It is both ludicrous to entertain the latter notion and obviously well outside the budget of any agency to accomplish. Likewise, it would not be protective of overall water quality of the river to establish a TMDL that applied solely to tiny patches.

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Finally, the 303(d) list is, as our previous comments pointed out and Ecology itself has noted, relevant to the issuance of NPDES permits that comply with federal law. It would be highly arbitrary to issue such permits based on whether a point source discharges into an assessed tiny patch or an un-assessed tiny patch when there is no basis for finding that the assessment should not apply more broadly, outside the tiny patches. For example, few temperature influences could have much of a cooling impact on the Columbia River. Therefore, there is no basis to treat small portions of the river as impaired and the large majority of the river as meeting temperature standards for permitting purposes. Likewise, toxic contamination in the Columbia, found in depositional areas of sediment and in tissue of fish and wildlife, is far broader than the individual locations where data have been gathered. The current system has only one obvious benefit: to those permittees that are fortunate enough to discharge to un-assessed patches. This, however, is not a matter of protecting the public interest in clean water and fully supported designated uses but, rather, the belief that some polluters have a vested right to continue to pollute. As the Clean Water Act does not support that policy, the segmentation of the Columbia and Snake Rivers should be based on what supports the goals of the federal statute.

NWEA is highly appreciative of this change in the segmentation scheme for the Columbia and Snake Rivers.

Sincerely,

A handwritten signature in black ink, appearing to read "Nina Bell", with a stylized, cursive flourish at the end.

Nina Bell
Executive Director

Attachments: Water Quality Assessment Map Viewer 2
Water Quality Assessment Map Viewer 3

CC: David Croxton, EPA