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June 4, 2024

**MEMORANDUM**

**TO: Council Members and Staff**

**FROM: Brian Dekiep, Senior Energy Analyst,  
NWPCC Montana Office**

**SUBJECT: Montana Electric Cooperative Presentation**

**BACKGROUND:**

**Presenters:** Mark Lambrecht, Director of Government Relations, Montana Electric Cooperatives' Association and Montana Electric Cooperative Guests.

**Summary:** Mr. Lambrecht and guests will have a discussion with Council members about electric power issues they're facing in the State of Montana.



Montana Electric  
Cooperatives' Association

## Priority Issues:

### Lower Snake River Dams

### Wildfire Liability

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Northwest Power &  
Conservation Council



# Terms of the Settlement Agreement

- Establishes/funds Pacific Northwest Tribal Energy Program to replace hydropower.
- Planned operational changes at 8 dams.
- \$200 million to tribal nations of Six Sovereigns.
- Shifts decision-making and spending authority on fish wildlife restoration to Six Sovereigns.

## CONFIDENTIAL MEDIATION DOCUMENT – NOT FOR DISTRIBUTION

(DRAFT 11/2/2023)

input from communities, Tribes, and stakeholders across the Northwest. With respect to the Lower Snake River (LSR) dams, they recommended that the dams' services would need to be replaced or mitigated before any breach should occur. They further recommended that the Federal and state governments initiate a program to replace the services of the dams and develop additional information on the dams and the services they provide to enable Congress to consider dam breaching in the future. They also recommended immediate action to deploy the scale of clean energy infrastructure necessary to confront the climate crisis regardless of whether Congress authorizes the breaching of the Lower Snake River dams. They recognized, as does the Administration, that significant Federal investment is necessary to support this transition, which will require substantial federal budget support.

We agree that business as usual – and the consequential disappearance of salmon and other native fish populations in the Columbia River Basin – is unacceptable. And while there is still time to save these fish, there is no time to waste. The NOAA report clarified the urgency of the situation, stating that, given the current status of salmon populations, “[t]he science robustly supports riverscape-scale process-based stream habitat restoration, dam removal (breaching), and ecosystem-based management, [and] overwhelmingly supports acting and acting now.”

The science is clear, and now so too must be our path forward.

As stated in Exhibit 2 of the August 2022 litigation stay agreement, the Biden Administration is “committed to supporting development of a durable long-term strategy to restore salmon and other native fish populations to healthy and abundant levels, honoring Federal commitments to Tribal Nations, delivering affordable and reliable clean power, and meeting the many resilience needs of stakeholders across the region.” In carrying out this commitment, the Administration understands that no single action is a “silver bullet,” and progress will necessitate a comprehensive suite of management actions to make progress towards our goal of healthy and abundant fish populations in the Basin.

The NOAA Rebuilding Report, for example, sets out a suite of centerpiece actions “needed to provide the highest likelihood of reversing near-term productivity declines and rebuilding towards healthy and harvestable runs in the face of climate change.”

Although the science is clear and the urgency real, there remain important social and economic factors to consider and address before the full suite of actions laid out by the NOAA report could move forward. As highlighted throughout the Murray/Inlee recommendations, these considerations must be expedited and addressed on a timeline that meets this urgency and some will require congressional



# MECA's Concerns

- Western Montana electric cooperatives receive 329 MW from the Columbia River Basin system.
- Serves more than 200,000 Montanans.
- Agreement paves the way for operational changes, reducing availability of carbon-free hydroelectricity.
- Replaces it with less reliable, more expensive wind/solar.
- Requires BPA to purchase more expensive replacement power, increasing costs for customers such as co-ops.

# Operational Changes Already Underway

- Is this legal?
- Federal law requires Congressional authorization for breaching of dams authorized by Congress for specific purposes.
- U.S. Army Corps of Engineers: any major structural or operational changes require Congressional authorization.
- Major operational changes began March 1, without Congressional authorization.



# MECA Toured the Dams

- Ice Harbor and Lower Granite Tours – May 2024
- Power is no longer the first priority of dam operations.
- Dams now controlled by fish passage plan and Columbia River Settlement Agreement.
- “We don’t make a decision without considering fish.”



# Ice Harbor Dam

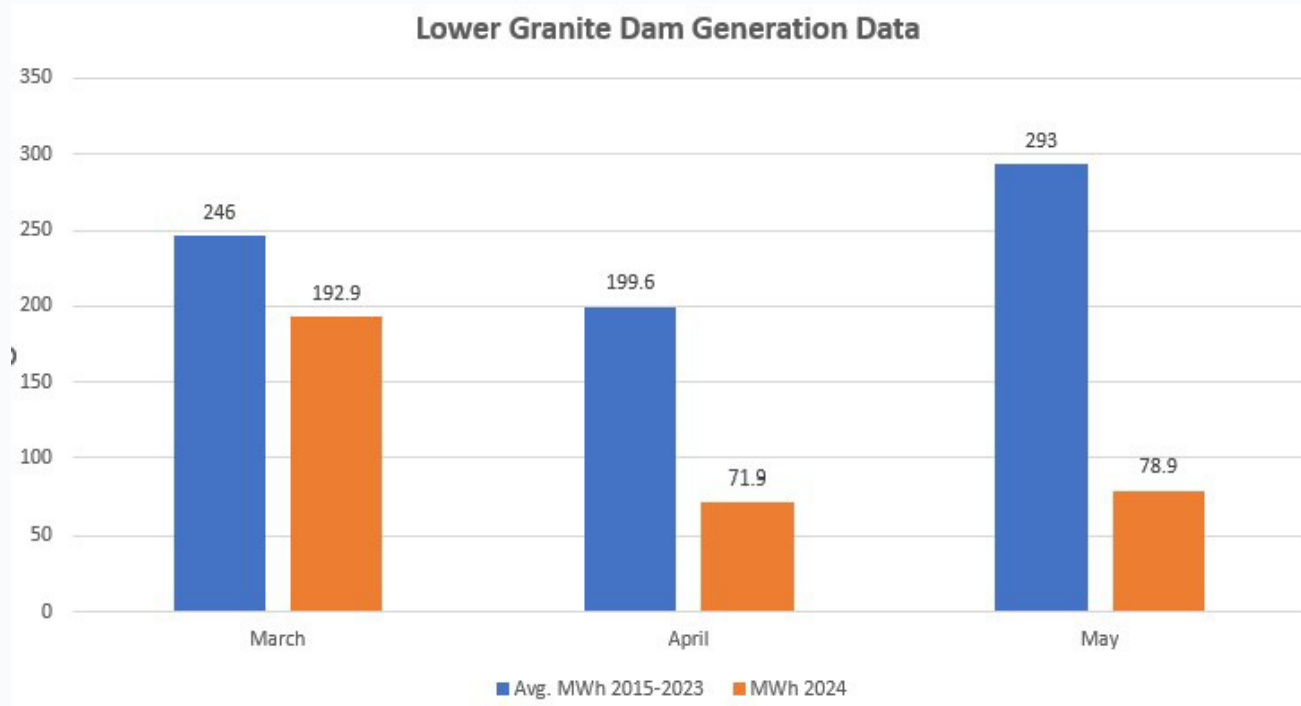
- Nameplate capacity 603 MW, 6 generating units.
- Spilling 7 times more water than it is using to produce power. 69,000 cfs being spilled. 10,000 cfs running through one of six turbines. Generating 75 MW. Capacity for turbine is 107 MW.
- Agreement requires spill up to 110,000 cfs from April to June 20 to assist fish passage.
- Required to install adjustable blade turbines. Decreased fish survival.
- Fish suffering from rapid pressure reduction and increased dissolved gas. Increased predation.





# Lower Granite Dam

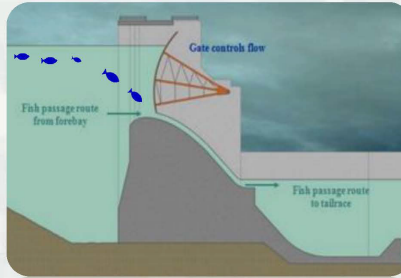
- Nameplate capacity 810 MW, 6 generating units.
- “The whole powerhouse is operated for fish attraction. Here, power is not king.”
- One unit operating at 85 MW. Normally 3 to 6 units operating.
- Last 5 years are the lowest generation levels on record.



# Removable Spillway Weirs

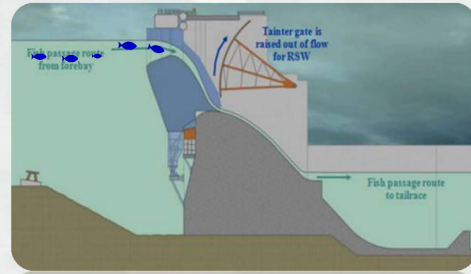
- Installed on lower Snake River dams between 2001 and 2009.
- Located higher than spillway gates.
- Allow fish to pass near water surface. Lower velocity and pressure.
- Not enough water available to operate weirs AND meet spill requirements.

## TRADITIONAL vs. SURFACE SPILLWAY



### Traditional Spillways:

- Hold back 50 feet of water
- Open from the bottom
- Fish must dive to pass under gate



### Removable Spillway Weir (RSW):

- Installed 2003
- Won National Engineering Award
- Increases spill passage efficiency
- Highest survival route
- Makes spillways easier to find
- Reduces # of juveniles passing through Turbines & Traditional Spillways

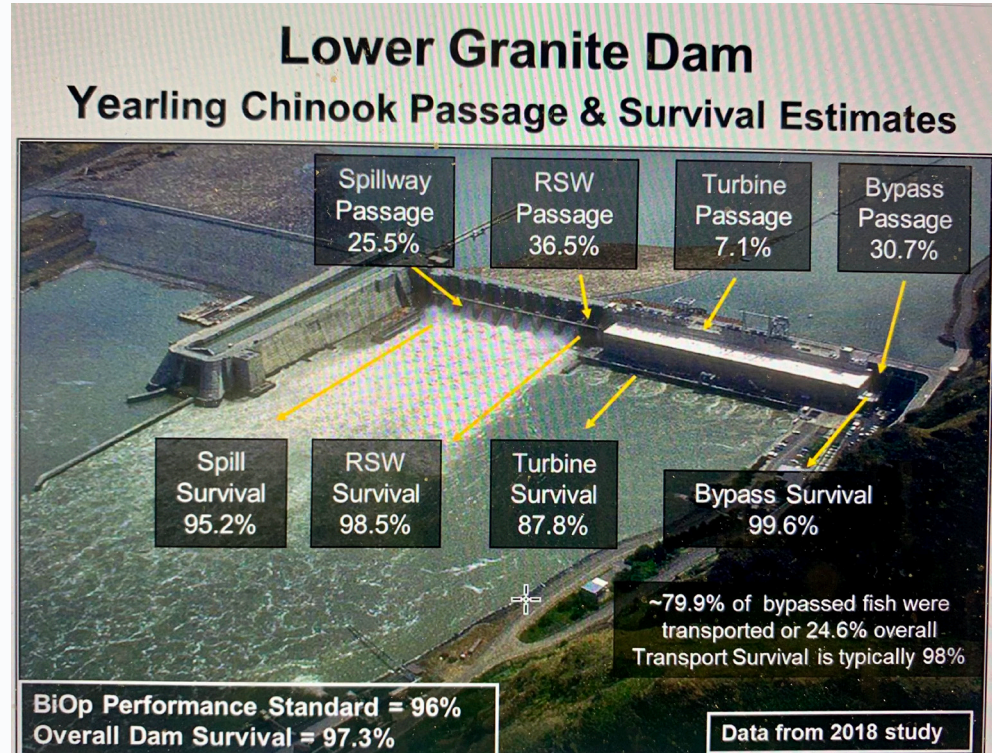


BUILDING STRONG®

# Yearling Chinook Passage & Survival Estimates

## Survival Rate

- Bypass (99.6%)
- RSW (98.5%)
- Spillway (95.2%)
- Turbine (87.8%)



# Revenue Impacts

## Lower Granite

- Average revenue prior to 2023: \$73 million.
- 2023: \$15 million

## Ice Harbor

- Average revenue prior to 2023: \$34 million.
- 2023: \$15 million.



# Settlement Agreement is Bad for Power, Bad for Revenue, Bad for Fish

## Responsibility as Co-op Trustee

- Provide safe, affordable, reliable power to members.

## Replacement Power

- Requires 1,800 acres of land, transmission to replace with wind.
- Requires 30,000 acres of land, transmission to replace with solar.
- Wind and solar play a valuable role in grid, but is intermittent, and may not be available in winter, when it's needed most.

# What Needs to Happen?

**Congress needs to assert its authority over operational changes at the lower Snake River dams and resist demands to breach them.**

# Utility Wildfire Liability



# Vigilante Electric Co - op's Story

- US Forest Service billed Vigilante Electric Cooperative for \$5.2 million for 2021 Deep Creek Fire in MT. Assigned interest and penalties.
- USFS made no claim, provided no evidence of negligence.
- 2018 Omnibus Appropriation, codified in 36 CFR 251, Sec. 512 of FLPMA
- Established Operating Plans/Agreements
  - Vegetation Management
  - Inspection, Operation and Maintenance Methods
  - Best Management Practices
  - Requests for approval for routine, non-routine and emergency vegetation management.
- Maximum liability of \$1 million for special use permits
- Maximum liability of \$500,000 if utility has approved operating agreement or plan.
- Liability cap expires March 23, 2028



# Federal Pressure

- USFS Discussions (Chief, Deputy Chief, Northern Region)
- Sen. Tester involvement (USFS Chief, USDA Secretary)
- NRECA

# Federal Legislation

- Make the \$1M and \$500,000 liability caps permanent or extended for significant time period.
- Require federal agencies administering operating plans or agreements to present claim and provide evidence of negligence if seeking damages above liability caps.
- Amend Federal Claims Collection Act of 1966 (Raise \$20,000 threshold or allow federal agency to negotiate certain settlements).
- Exempt electric cooperatives from full cost recovery for special use permits.

# Montana's Situation

- Avoid situations like California, Oregon.
- Co-ops in certain areas having difficulty obtaining insurance.

## Montana Legislation

- Strict liability does not apply.
- Considering standard of care to limit negligence.



# Contact Information

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