

Rep. Simpson's Concept for the Lower Snake River Dams and Environmental Justice

Proposal would breach the four lower Snake River dams at the cost of suspending bedrock environmental laws and exposing communities across the Columbia River basin to environmental and health hazards.

Rep. Mike Simpson (R-ID) has proposed a legislative concept to breach the four Lower Snake River dams in exchange for, among other things, suspending the Clean Water Act, Endangered Species Act, National Environmental Policy Act, and FERC licensing for dams and agriculture across the vast Columbia River basin for 25–35 years.

Rep. Simpson's far-reaching concept calls for breaching the dams in ten years. Its other provisions, however, will also expose vulnerable and under-resourced communities across the region to environmental and health hazards by increasing contamination of fish and drinking water; harming fish populations in other parts of the region; increasing harmful agriculture practices that fail to protect the health and conditions for agricultural workers and their families; and eliminating access to courts of justice.

Removing the Lower Snake River dams is vital to restoring wild salmon and steelhead populations on the Columbia and Snake Rivers and honoring the treaty and human rights of Northwest Tribes. Urgent action is needed to prevent the extinction of salmon and the orcas that depend upon them for survival, and removing these dams is a necessary and long overdue first step toward correcting historic injustices inflicted upon Indigenous people who have stewarded salmon in this region for centuries. There are, too, another 78 hydroelectric dams across the Columbia River basin that continue to have negative impacts on cultures and economies that rely on healthy rivers and abundant salmon.

Environmental justice must be ensured throughout the Columbia River basin so that no communities suffer additional water pollution, air pollution, exposure to toxics, or other adverse impacts, and that communities and cultures have access to healthy waters across the basin with self-sustaining runs of wild salmon and other wild fish.

SIMPSON'S CONCEPT HAS FAILED TO ENGAGE IMPACTED COMMUNITIES

– OUTSIDE OF THOSE DIRECTLY IMPACTED BY THE REMOVAL OF THE FOUR LOWER SNAKE RIVER DAMS – IN THE DECISION-MAKING PROCESS

The scope of Simpson's Concept is vast, with implications for millions of people across Idaho, Washington, and Oregon. Efforts to find solutions to the problem of plummeting wild salmon populations in the Columbia and Snake Rivers have focused largely on stakeholders and communities directly impacted by removing the four lower Snake River dams. However,

Simpson's proposal will decrease environmental protections and increase environmental hazards for people throughout the Columbia River basin. It is important for people in all impacted communities to be informed and engaged in efforts to shape any regional solution to restore wild salmon.

SIMPSON'S CONCEPT REMOVES EXISTING PROTECTIONS FROM ENVIRONMENTAL AND HEALTH HAZARDS AND SUBSIDIZES ACTIVITIES THAT WILL INCREASE THOSE HAZARDS

The Simpson Concept would freeze current requirements for 48 hydroelectric dams licensed by the Federal Energy Regulatory Commission (FERC) across Washington, Oregon, Idaho, and Montana for up to 50 years. The Concept would also suspend the Endangered Species Act (ESA), Clean Water Act (CWA), and National Environmental Policy Act (NEPA) at all of these dams, plus another 30 federal hydroelectric dams, with respect to salmon for 35 years. That means that species, habitat, and water quality would no longer be protected by these bedrock environmental laws at any of these 78 dams across the Columbia Basin.

The Concept would also establish "voluntary" agricultural watershed partnerships across the entire Columbia Basin in which "agricultural interests" would be exempt from the CWA and the ESA for 25 years with respect "to water issues in their basin." This would effectively eliminate protections for rivers, streams, wetlands, aquifers, species and human health. While granting unprecedented exemptions from environmental laws to the agriculture industry, the Simpson Concept encourages development of highly-polluting concentrated animal feeding operations (CAFOs) in the Columbia River basin.

- **Species that provide vital food sources for communities will be compromised and will suffer population declines.**
 - People who depend upon fish and shellfish need plentiful populations of these species to harvest. The CWA and ESA are charged with ensuring protection and recovery of these species. Without these laws, there is no protection of these species, nor do people have the right to protect themselves.
 - The CWA and ESA have resulted in more protective water quality standards for toxics that protect species populations in Oregon, Washington, and Idaho. The Simpson Concept puts those standards and the species that depend upon them at greater risk.

- **People who consume fish and shellfish will be at increased risk from chemical and pesticide contamination.**
 - People who depend upon fish and shellfish for cultural, subsistence, or employment reasons consume higher levels of tissues contaminated by industrial and agricultural

chemicals and pesticides. Some fish species, such as carp, sturgeon, and lamprey, are particularly dangerous because of their accumulation of chemicals and pesticides. Other species, such as salmon, are regularly consumed at very high levels, and continuous dietary exposure magnifies human health risks. By eliminating the applicability of the CWA and ESA to agriculture, it is likely that the Simpson Concept would increase toxic contamination of fish and shellfish.

- Mercury—a known neurotoxin—in fish tissue poses a hazard to fish consumers. In the Willamette River basin, the Oregon Department of Environmental Quality (DEQ) and EPA have determined—in a Clean Water Act-required clean-up plan—that mercury levels from agricultural runoff must be reduced by 88 percent to protect human health and meet water quality standards established to protect those who consume large amounts of fish. In addition, this same Total Maximum Daily Load (“TMDL”) clean-up plan finds that dams in the Willamette basin produce low oxygen conditions that encourage the methylation of mercury, thereby increasing its toxicity. By suspending the CWA with regard to agriculture, the Simpson Concept could limit the ability of DEQ to control agriculture’s contribution of mercury contamination to Willamette River fish.
- **Public drinking water and private wells will be degraded.**
 - Public drinking water and private wells are degraded by a range of pollution sources, including agriculture. While groundwater wells are not covered by the CWA, they are frequently contaminated by liquid and solid wastes from industrial and municipal NPDES-permitted sources. In addition, the lack of enforcement ability for nutrient management plans will increase leaching of nutrient pollution to groundwater. The Simpson Concept would likely reduce existing regulation of agricultural sources of drinking water contamination.
- **Pollution from industrialized agriculture will increase.**
 - Suspension of the CWA with regard to agriculture would preclude use of this law to ensure human health protection from toxics through water quality standards, TMDL clean-up plans, NPDES discharge permits, and nonpoint source controls for farmers expressed as best management practices (“BMPs”).
 - Agriculture is a common source of nutrient pollution—from fertilizer use and lack of streamside buffers that filter pollution—that results in increasingly more frequent hazardous algal blooms (“HABs”) in public waters where people recreate. Lower income people are often more dependent upon such waters.
 - Under the CWA, the Environmental Protection Agency issues a pesticide general permit that covers pesticide discharges on federal and tribal lands. This permit, in turn, has restrictions due to the ESA that apply to significant portions of Washington

and Idaho, along with smaller portions of Oregon, because these pesticides threaten a range of threatened and endangered species. Under the terms of the Simpson Concept, this permit and its protections for people and species may be voided.

- Irrigation districts that provide water for agriculture must comply with CWA discharge permits that are intended protect human health and salmon when they discharge toxic herbicides into irrigation canals. The Simpson Concept would likely exempt these polluters across the entire Columbia River basin.
- **Agricultural workers and their families will lose necessary safeguards and protections.**
 - Agricultural workers often have inadequate protections, are exposed to agricultural chemicals, and may bring the chemicals home to their families. Any increase of chemical allowed by the broad exemptions to the CWA in the Simpson Concept would very likely increase exposure to these at-risk populations.
 - The CWA protects all human uses of waters even if they were not intended for human use. For example, it requires protection of water quality in irrigation ditches if people are using them – for washing and/or recreation – because they have no other source of water. This protection will likely be compromised under the Simpson Concept.
- **Highly polluting Confined Animal Feeding Operations (CAFOs) will be increased and subsidized at taxpayer expense.**
 - Confined animal feeding operations (CAFOs), such as mega-dairies, contribute to groundwater nitrate (that causes “blue baby syndrome”) and pathogen contamination in rural communities that are often dependent on well water as their sole source of water by overapplication of waste on fields. Promoting CAFOs will increase the risk of exposures for communities that are often socio-economically disadvantaged, communities of color, or disenfranchised where impacted residents may not be able to access or afford well testing or alternative sources of clean drinking water.
 - Encouraging mega-dairies will result in increased exposure of workers and rural residents to antibiotic-resistant pathogens when CAFO water and air pollution carry bacteria into the surrounding environment. CAFOs routinely feed livestock medically important antibiotics to prevent disease in crowded, stressful confinement conditions, a practice known to breed antibiotic-resistant bacteria.
 - The Simpson Concept’s promotion of CAFOs will strain already limited water resources. For example, mega-dairies’ attempts to use the stock watering exemption in Oregon water law—the proposed Easterday Day dairy with 30,000 cows has a water footprint the size of the City of Bend—are in areas of declining and

- contaminated groundwater, thereby increasing pressures on other farms and towns and the pressure to remove more surface waters from rivers critical to salmon.
- Manure digesters create waste product that the U.S. Department of Agriculture (USDA) has found more susceptible to run off into waterways than undigested waste. Subsidizing digester technology that is only viable for large CAFOs will both increase water pollution and incentivize construction of more, larger facilities in the Columbia Basin, further concentrating CAFOs' water pollution impacts in disadvantaged communities.

SIMPSON'S CONCEPT DEPRIVES COMMUNITIES OF THEIR RIGHT TO EQUAL PROTECTION AND EQUAL ENFORCEMENT OF ENVIRONMENTAL LAWS

Environmental justice prioritizes impacted and traditionally underrepresented communities and embraces the principle that all people and communities have the right to equal protection and equal enforcement of environmental laws of regulations. The Simpson Concept rejects this principle by depriving vulnerable communities of the protections of the CWA, ESA, and NEPA, and exposing them to greater harm as described above. However, it also deprives these communities of their access to federal courts – one of the few tools available for communities to ensure equal protection and enforcement of environmental laws.

Blue Mountains Biodiversity Partnership, Cascadia Wildlands, Center for Biological Diversity, Center for Food Safety, Deschutes River Alliance, Friends of the Earth, Food & Water Watch, Native Fish Society, Northwest Center for Alternatives to Pesticides, Northwest Environmental Advocates, Nuclear Information and Resource Service, Orca Conservancy, Oregon Wild, The Conservation Angler, Waste Action Project, WaterWatch of Oregon, Wild Fish Conservancy, Willamette Riverkeeper, WildEarth Guardians

4/27/2021