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Department of the Army  
Walla Walla District Corps of Engineers  
Attention: Lower Snake River Study  
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Re: Idaho Power Company comments to draft Lower Snake River Juvenile Salmon  
Migration Feasibility Report/Environmental Impact Statement

To U.S. Army Corps of Engineers:

The undersigned, on behalf of the Idaho Power Company ("IPC" or the "Company"), submits these comments to the draft *Lower Snake River Juvenile Salmon Migration Feasibility Report/Environmental Impact Statement (Draft Report/EIS)* issued by the U.S. Army Corps of Engineers (Corps) in December 1999. These comments must be put in context with the background of the Company's facilities, their physical location within the Snake River Basin, and the Company's current involvement with the dynamic set of processes unfolding in the region with respect to the fishery resources.

IPC is an investor owned utility formed in 1915. On October 1, 1998, IPC adopted a holding company structure with the formation of IDACORP, Inc. which serves as the parent company of IPC. IPC owns and operates 16 hydroelectric plants on the Snake River and its tributaries that are licensed by the Federal Energy Regulatory Commission (FERC). It also holds an interest in three coal-fired generating stations. IPC provides electric service to approximately 380,000 customers within a 20,000 square-mile service area covering portions of southern Idaho, eastern Oregon and northern Nevada.

The largest hydroelectric facility on the IPC system is the Hells Canyon Complex (HCC) consisting of the Brownlee, Oxbow and Hells Canyon dams. By opinion and order issued by the Federal power Commission (now FERC) on August 4, 1955, IPC was granted a license to construct and operate these three hydropower projects in the Hells Canyon reach of the Snake River. While separate applications were filed for each of the projects, the three were

consolidated in the FERC order issuing the license and have since been collectively referred to as the HCC, FERC Project No. 1971. The three facilities are located at RM 247-Hells Canyon Dam, RM 273-Oxbow Dam and RM 285-Brownlee Dam. The Brownlee facility, uppermost of the three, is the primary storage reservoir for IPC. The HCC is located on the Snake River upstream from Lewiston, Idaho and the four lower Snake River federal dams (Ice Harbor, Lower Monumental, Little Goose and Lower Granite) which are the subject of *Draft Report/EIS*.

The current FERC license for the HCC expires in 2005. IPC is presently engaged in a collaborative relicensing process with the intent of filing a final license application by July 2003. Numerous interests are represented in this collaborative process including state and federal resource agencies, Native American Indian Tribes and numerous smaller public and private interests. In preparation for the filing of a license application, IPC has initiated various aquatic studies relating to the HCC. These studies were developed in conjunction with a collaborative process with input from collaborative team members. In June of 1999, IPC distributed a report to interested participants in the relicensing process entitled *Detailed Aquatic Study Plans* which described the status of the aquatic studies underway in connection with the HCC relicensing process.<sup>1</sup> On April 10-13, 2000, IPC held an interactive workshop in Boise, Idaho to apprise interested relicensing participants of the progress of these studies.<sup>2</sup> IPC anticipates that the majority of the studies currently underway will be completed by 2001 in order to allow for the preparation of a draft license application by late that year or early 2002.

IPC is also involved in a formal consultation process, under § 7(a)(2) of the Endangered Species Act (ESA), relating to current operations of the HCC. Formal consultation was initiated at the request of the National Marine Fisheries Service (NMFS) in reaction to a *Biological Assessment of the Hells Canyon Complex Operations* (BA) issued by FERC on February 19, 1999. In that BA, FERC determined that the interim operation of the HCC, in advance of issuance of a new license, is not likely to adversely affect listed Snake River salmon, or the critical habitat of salmon, and will not result in the destruction or adverse modification of the proposed critical habitat of steelhead. Upon review of the BA, NMFS, by letter dated March 24, 1999, expressed its non-concurrence with FERC's determination and initiated formal consultation. At the request of NMFS, the completion of the consultation process was extended beyond that contemplated by the applicable regulations (50 C.F.R. § 402.14). By letter dated September 17, 1999, NMFS advised that it expected to complete consultation by February 29, 2000.

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<sup>1</sup> The *Executive Summary* and *Table of Contents* from this report are attached to the IPC's comments to the Federal Caucus *All-H Paper*, (which is attached to these comments). These excerpts from the report briefly identify the nature and scope of the aquatic studies currently underway.

<sup>2</sup> A copy of the program from that workshop (*Hells Canyon Hydroelectric Relicensing Environmental Report 2000*) is also attached.

By letter to FERC, with a copy to NMFS, dated February 8, 2000, IPC pointed out that the identification and assessment of the alleged impact of HCC operations on the listed species and habitat are, in part, influenced by a dynamic process involving other parties and events associated with (a) related administrative proceedings initiated pursuant to the Endangered Species Act with regard to the listed species, and (b) the ongoing HCC relicensing process. IPC requested that the consultation process be extended to allow for the consideration of any additional scientific or commercial data and information that might be developed through these processes. While IPC has had continuing discussions with FERC relative to these issues, NMFS has not responded to the request. It is with that general background that IPC submits these brief comments to the *Draft Report/EIS*.

In response to the NMFS 1995 Biological Opinion, the Corps initiated this feasibility study to determine how the four lower Snake dams impact fish migration and to evaluate the effectiveness, and the potential effect on the environment, of four alternatives – status quo or continued operations under existing conditions; maximizing fish transport using trucks and barging; maximizing fish transport with major system improvements; and breaching the four lower Snake dams to facilitate fish passage. The *Draft Report/EIS* is voluminous and in pursuing its intended purpose addresses numerous issues relating to the historical and present day stresses on the ESA-listed salmonids in the Snake River Basin. In its comments to the draft *All-H Paper (Conservation of Columbia Basin Fish-Building a Conceptual Recovery Plan)*, IPC cautioned the Federal Caucus to not allow theory to outstrip science, particularly with regard to issues relating to the HCC and the Upper Snake River<sup>3</sup>. In those instances where the *Draft Report/EIS* ventures beyond its intended focus, a similar caution applies.

1 In the Introduction, the *Draft Report/EIS* identifies a number of federal, state and tribal organizations that are engaged in parallel resource planning or management activities in the Columbia River Basin. (§1.4.5; pg.1-15) One of the federal agencies identified is the Federal Regulatory Commission (FERC). The *Draft Report/EIS* acknowledges that “[t]hrough a licensing process, measures are evaluated and implemented that address ESA-listed fish species affected by FERC-licensed facilities”. (§ 1.4.5.2; pp. 1-15, 16) In a later section the *Draft Report/EIS* also acknowledges the NMFS regulatory responsibilities, indicating that the NMFS will be preparing a biological opinion under § 7 of the ESA in response to the recommendations made in the *Draft Report/EIS*. (§1.4.5.4; pg. 1-16) IPC is presently engaged in each of these regulatory processes with regard to the HCC. The Corps, in addressing issues that do not necessarily relate to the intended focus of the *Draft Report/EIS*, should not ignore the dynamic, interactive character of these and other processes unfolding in the Basin and should exercise caution to not prejudice the outcome of these processes. Generalizations and prejudgment is

<sup>3</sup> A copy of IPC's comments to the *All-H Paper* is attached. The other concepts raised by those comments, the alleged efficacy of flows and responsibility counts, are also relevant to portions of the *Draft Report/EIS*.

neither good science nor prudent politics, both of which are essential in crafting an appropriate and acceptable approach to the difficult questions our region's fisheries present.

The tendency to allow theory to outstrip science is most evident in those portions of the *Draft Report/EIS* that imply that influences in the region other than the development of the four lower Snake dams have resulted in the decline in fish runs. Examples include references to the size of historic fish runs, the availability and quality of habitat, and water temperature.

2 | The *Draft Report/EIS* begins its "historical trends" section in Appendix A-Anadromous Fish" by stating that while salmon stocks were more abundant at the end of the nineteenth century, "declines" in populations had occurred as a result of "overfishing". The section then continues with an emphasis on the impacts of development in the basin, particularly hydropower development. IPC considers this emphasis misplaced, or at least over-stated. By the end of the nineteenth century over-harvest had practically decimated salmon stocks in the Columbia and Snake Rivers to a point that made some believe that extinction was imminent. Harvest was, and continues to be, a major cause of salmon decline and the *Draft Report/EIS* should not under-emphasize its impact.

3 | Also in Appendix A (§5.1), the *Draft Report/EIS* states that the existing naturally spawning fall chinook population is a remnant of a larger run that averaged 41,000 fish annually from 1957 to 1960, "most of which spawned above the Hells Canyon Complex of dams". This run estimate is over-stated. In a petition filed with FERC in 1976 relating to mitigation issues associated with the construction of the HCC, NMFS and the states of Oregon and Washington alleged that a fall chinook run of a approximately 17,000 had been "eliminated" by the HCC construction.<sup>4</sup> This estimate is considerably less than 41,000 and yet, while still perhaps subject to some dispute, is closer to the actual fall chinook run when the HCC was constructed. The *Draft Report/EIS* time reference to 1957 to 1960 also seems too short. Fall chinook runs actually continued at a relatively high rate of return until the 1970s when they began to consistently drop below 10,000 at Ice Harbor Dam. In fact, between 1962-1971 fall chinook returns past Ice Harbor Dam averaged 16,000 fish annually. While undeniable that the construction of Brownlee Dam and the HCC blocked upstream migration, sufficient habitat was available downstream of the Complex to maintain a healthy population of Snake River fall chinook until the early 1970s. This suggests there is currently sufficient habitat below the HCC to sustain the recovery of fall chinook to at least 1970 levels.

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<sup>4</sup> *Petition for Declaratory Order Amending and Supplementing Orders Prescribing Fish Facilities*, filed February 9, 1976, FERC Docket #E-9579, Project No. 1971. The filing of this petition initiated a proceeding that culminated in a settlement agreement that constitutes full and complete mitigation for all numerical losses of salmon and steelhead caused by the construction of the HCC and its operations during the current license term.

4 In various portions of the *Draft Report/EIS*, including §5.1, reference is made to the extent of fall chinook habitat blocked by the construction of the HCC and infers that efforts to restore fall chinook runs to their “historic” levels would be enhanced by reintroduction above HCC. These statements are unsupported and disregard critical issues relating to the quantity and quality of the habitat available in the Upper Snake River immediately prior to the construction of the HCC as well as whether the habitat may have changed since construction. Moreover, they illustrate the scientific vacuum that exists and the tendency to fill that vacuum with theory. Prior to 1958, large portions of tributary and mainstem habitat in the upper Snake River had been blocked to upstream fall chinook migration through the construction of various dams associated with upstream development projects. IPC is currently conducting several studies in connection with ongoing relicensing efforts that relate to these issues.<sup>5</sup> One of those studies (*Feasibility of Reintroduction of Anadromous Fish Above or Within the Hells Canyon Complex*) will offer a chronology of the decline of anadromous fish in the Snake River above the HCC, including an analysis of the factors leading to the destruction or loss of access to habitat within the historic distribution area. It will also assess the production potential for the area above the HCC prior to the development era (pre-1860) as well as immediately prior to the HCC construction. This study will be completed in 2001. The attached draft map, which will be part of the final study, graphically illustrates the extent of habitat available at the time of the construction of the HCC. Statements that the HCC blocked significant fall chinook habitat or that presupposes that passage and reintroduction above the HCC could benefit recovery efforts are inappropriate; such judgments should await the outcome of these studies.

5 IPC has similar concerns with regard to the manner in which the *Draft Report/EIS* deals with temperature issues. The *Draft Report/EIS* concludes that prior to the construction of the lower Snake dams, the lower Snake River (downstream from Lewiston, Idaho) warmed faster and reached higher temperatures than after construction. (The result of there being less water (volume) in a free-flowing river system – so the temperature of the water changes faster and is more affected by the ambient air temperature.) With the construction of the Lower Snake dams, the larger volume of water created by the dam and reservoir system stays warm longer, leading some to conclude that cooler water is needed to bring the temperature, particularly in Lower Granite Pool, down. The *Draft Report/EIS* generally discusses the potential for using water from Brownlee Reservoir for this purpose, but also recognizes that “water released from the upstream Hells Canyon Complex dams would likely reach ambient temperatures by the time it reaches the lower Snake reach approximately 160 miles downstream”. This again illustrates the risk in replacing science with theory. It is inaccurate and inappropriate to suggest that the use of HCC releases could help relieve a problem created by federal dams over 160 miles downstream and then recognize that such releases would be of no benefit because of the distances the water must travel.

<sup>5</sup> A brief overview of the aquatic studies initiated as part of the relicensing process is attached to IPC’s comments to the “All-H Paper” (attached).

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The construction of the HCC may have affected historic water temperatures. But, as generally recognized by the *Draft Report/EIS*, dams and reservoir systems moderate drastic temperature changes. In the case of the HCC, it has likely taken the peaks off of otherwise higher and lower seasonal water temperatures, making releases slightly cooler in the summer and warmer in the winter. There is not evidence, however, that these slight temperature changes have adversely affected fall chinook below the HCC. In fact, preliminary data suggests that fall chinook spawning upstream from the confluence with the Salmon River migrate earlier, retain better condition through the life cycle, and have a higher survival rate than progeny of fish spawning lower in the Hells Canyon reach even though closer to Lower Granite Pool. Again, IPC is considering the effects of temperature and other water quality issues in the context of its relicensing studies and the consideration of whether and how water releases from the HCC may affect species below the HCC should wait until those studies are concluded.

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Finally, the *Draft Report/EIS*, like the *All-H Paper*, suggests that flow augmentation from the upper Snake River may somehow reverse the decline or assist in the recovery of the listed species. As IPC pointed out in its comments to the *All-H Paper*, such an assertion is wrong - it is wrong both generally, in terms of the alleged correlation between flows from all of Idaho and fish survival, and specifically in its assertion that the HCC operations could substantially assist salmon survival in the lower Snake and Columbia rivers. This is not to say that flows immediately below the HCC, and operations at the HCC, may not affect anadromous and native fish in the Hells Canyon reach of the Snake River. To address flow and operational issues that might affect fall chinook habitat below the HCC, in 1991 IPC implemented a *Fall Chinook Recovery Plan*, which has been favorably received by state and federal resource agencies. IPC is also presently conducting a study in connection with relicensing (*Hells Canyon Instream Flow Assessment*) to explore issues relating to flows and operations at the HCC. This study will consider potential effects upon not only fall chinook but also white sturgeon and native salmonids (bull and redband trout) present in the Hells Canyon reach. The study, together with other studies and analysis, will be completed through the HCC relicensing process and will provide a scientific and reasoned basis upon which to assess the effects of the HCC on fishery resources.

Moreover, the *Draft Report/EIS* fails to recognize the significant legal and political constraints that relate to the acquisition of flows from the Upper Snake river for flow augmentation purposes. In recent years, the State of Idaho and Idaho waterusers, including IPC, have cooperated with federal agencies in providing some level of flow augmentation as part of a "regional coordinated effort to enhance salmon migration". I. C. § 42-1763A (1992) A critical component of this cooperative effort was the understanding that the federal agencies would develop a plan that properly balanced upstream and downstream measures for salmon protection and properly assessed the benefit, if any, of flow augmentation. There is concern among Idaho

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interests that neither has been accomplished. In March of 2000, the Idaho Legislature passed legislation authorizing the rental of water from Idaho water banks for flow augmentation for another year. Idaho extended its cooperation for one more year to facilitate discussions currently underway that are intended to resolve tribal and ESA fishery and related flow issues. If those discussions are not successful, Idaho water users, including IPC, may be forced to undertake actions to protect their property and water right interests.

IPC appreciates having the opportunity to review and comment on the *Draft Report/EIS* and looks forward to working with the Corps and other federal, state and tribal interests in the region to resolve these important resource issues.

Respectfully Submitted,



James C. Tucker

Attachments:

Hells Canyon Hydroelectric Relicensing Environmental Report 2000  
Idaho Power Company's comments to the draft "All-H Paper"  
Idaho Power Company's Detailed Aquatic Study Plans Executive Summary  
Distribution of Chinook Prior to Closure of the Hells Canyon Complex Map