

## HABITAT COMMITTEE REPORT ON CURRENT HABITAT ISSUES

### **Minerals Management Service Letter**

The Minerals Management Service (MMS) is involved in a process to designate certain areas of the outer continental shelf in Federal waters for alternative energy testing sites, including wave energy. MMS is the permitting agency for wave energy projects in Federal waters as Federal Energy Regulatory Commission (FERC) is for projects in state waters. MMS is seeking comments on their process. A draft letter to the MMS is attached. This letter is quite similar to a letter sent by the Council to FERC in November 2007. Some minor changes have been made to the version contained in the briefing book; they are highlighted in the attached version. If the Council approves this letter, it will be sent following the Council meeting.

### **Queets/Quillayute Chinook**

Queets and Quillayute spring/summer Chinook have not made their escapement goals for at least three years. Although these stocks are not a significant contributor to Council-managed fisheries, the Council assigned the Habitat Committee (HC) to look at habitat issues associated with the decline in these stocks. The HC would like to confirm with the Council that it should examine habitat issues related to this issue. The HC is planning to coordinate with Washington coast tribes and Washington State on this effort.

### **Wave Energy Report**

The State of Washington has taken FERC to court over the conditional five-year license it issued for Finavera's Makah Bay Offshore Wave pilot project. The license was the first FERC has issued for a hydrokinetic project. Washington's Department of Ecology (DOE) argued the agency overstepped its authority by failing to demonstrate compliance with state environmental laws. On May 15, the DOE asked the Washington D.C. Circuit Court of Appeals to review FERC's decision authorizing the "conditioned" license. The DOE expects support in the lawsuit from other states and resource groups.

While FERC's pilot license policy may facilitate moving renewable energy projects forward more quickly, project developers are now caught between FERC's policy and Washington's argument that the developer must first comply with Department of Environmental Quality (DEQ) water quality 401 certification and coastal zone management consistency determination laws. Over a dozen in-water renewable energy projects, in California, Oregon, and Washington, are either in the process of obtaining state environmental permits, or about to begin this process. This issue has been brought to the forefront by the DOE lawsuit described above, and both developers and regulators have a substantial stake in the outcome.

Elsewhere in wave energy, a project proposed for Douglas County, Oregon would use a different type of technology that might help to address some environmental concerns associated with wave energy. The "oscillating water column" technology would be built on or near a jetty, rather than further out to sea. From both a habitat and fisheries perspective, placing wave energy projects on human-made structures seems preferable to placing them in a more natural ocean

environment, although it may have impacts on fisheries close to the shore that will need to be better understood. In addition, such in-jetty projects would build advocacy for jetty maintenance, which would benefit coastal communities and fisheries. The HC will learn more about this project and report back to the Council in the future.

At its April meeting, the Council requested information about letters on wave energy that have been sent by individual states. A packet of letters sent by the state of California can be found under Agenda Item H.1.a, Supplemental Attachment 2, June 2008, along with a map of coastal hydrokinetic permit sites in California.

Two hydrokinetic energy conferences are scheduled for the near future. The HydroVision 2008 ocean energy conference will be held July 14-18 in Sacramento, CA. This is primarily an industry meeting. Environmental effects of new water power technology will be discussed on July 17. The HC believes a member of the Council family should attend, if possible.

A West Coast Governors' Agreement meeting will take place in Portland, OR September 23-24 to discuss hydrokinetic energy projects.

### **Other Issues**

#### **Columbia River Liquefied Natural Gas Terminal**

FERC recently issued a final Environmental Impact Statement (EIS) on the Bradwood Landing Liquefied Natural Gas (LNG) project. Among other concerns, FERC does not require that the proponent, Northern Star, screen LNG tankers to prevent juvenile salmon from being taken in with ballast water; only that a plan to do so be developed. Northern Star has said they would "encourage" tanker owners to retrofit their tankers for ballast screens. FERC is working on an Endangered Species Act (ESA) biological assessment that may be ready for public comment this summer. The HC plans to develop comments for Council consideration in September.

#### **Northwest Fisheries Science Center Ecosystem Team**

The HC discussed ecosystem science being conducted by the Northwest Fishery Science Center. The HC plans to schedule a presentation by the NWFSC Ecosystem team at an upcoming meeting, perhaps in a joint session with SSC, to hear what work is being done and how it can apply to Council management.

#### **Olympic Coast National Marine Sanctuary Sanctuary Advisory Council**

The Olympic Coast National Marine Sanctuary (OCNMS) Sanctuary Advisory Council (SAC) met in May and discussed the importance of interacting more closely with the Council and Council review of OCNMS products. OCNMS' request for Council review of the draft OCNMS Condition Report highlighted the need for better alignment between product review times and Council processes.

In general, the National Marine Sanctuary Program is taking a hard look at how to interact with regional fishery management councils. West coast sanctuary representatives are particularly interested in improving the relationship between sanctuaries and the Council. Discussion continues about the need for a full-time liaison between west coast sanctuaries and the Council, and west coast SAC members are pressuring the Federal program to fund this position.

**Trawl net recycling**

The first-ever west coast regional trawl net recycling program began at Port of Seattle's Fishermen's Terminal on April 1, 2008. The program offers free or low cost net and metal recycling to commercial fishing customer vessels moored at Fishermen's Terminal. Nets stripped of metal chain, cable, shackles and floats and delivered free of debris will be recycled free of charge. Other nets are charged a small fee. For information on trawl net recycling, contact Fran Recht, Pacific States Marine Fisheries Commission, or Scott Brown at the Fishermen's Terminal, Seattle. Commercial gillnets continue to be accepted free of charge for recycling from customers at a number of locations. The HC believes efforts to recycle gear helps ensure gear does not end up loose, either on land or at sea.

**Warner-Lieberman Climate Security Act**

The Warner-Lieberman Climate Security Act is a "cap and trade" bill that would result in large decreases in carbon in the oceans, as well as funding state efforts (including those of fish and wildlife agencies) to adapt to climate change. The Act did not pass and will likely come before Congress next year.

PFMC

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