

HABITAT COMMITTEE REPORT ON CURRENT HABITAT ISSUES

Presentation on Bay/Delta Essential Fish Habitat

The Habitat Committee (HC) received a presentation from Bruce Oppenheim of National Marine Fisheries Service (NMFS') Protected Resources Division that covered the following topics related to Sacramento listed winter-run Chinook (and which is relevant to fall-run Chinook): 1) the National Academy of Sciences (NAS) independent review of the NMFS Biological and Conference Opinion on the Long-term Operations of the Central Valley Project and State Water Project; 2) an update on the essential fish habitat (EFH) consultation; 3) an update on recent, related court decisions; and 4) an update on the Biological Opinion and implementation of the reasonable and prudent alternatives (RPA) under the Endangered Species Act (ESA).

For the Council, the most relevant issue covered during the presentation was the update on the EFH consultation. The Council sent a letter on December 2, 2009 to the Bureau of Reclamation, encouraging them to respond to, and fully implement, NMFS' EFH conservation recommendations. Reclamation has since responded to the EFH conservation recommendations in a letter received by NMFS on January 26, 2010 (Agenda Item C.1.d, Attachment 2). However, in general, the recommendations that Reclamation accepted were those that were already covered under the RPA, while those recommendations that provided specific protections for Sacramento River fall Chinook (e.g., minimum temperature and flow requirements) were rejected. Moreover, it is not clear what measures Reclamation is proposing for avoiding, minimizing, mitigating, or offsetting the impact of the activity on EFH. The NMFS Guidance on EFH Regulations states,

“In the case of a response that is inconsistent with NMFS Conservation Recommendations, the Federal agency must explain its reasons for not following the recommendations, including the scientific justification for any disagreements with NMFS over the anticipated effects of the action and the measures needed to avoid, minimize, mitigate, or offset such effects.”

The HC will coordinate with NMFS staff to determine the most appropriate response, and may recommend a follow-up letter from the Council asking that Reclamation clarify why the NMFS recommendations were not followed. The HC will report back to the Council on this matter in April or June.

The NAS is expected to issue a near-term report by March 15, 2010 that will examine the potential alternatives to the RPA with the same benefits to fish but at a lower cost, and compatibility between the two Biological Opinions issued by NMFS and the U.S. Fish and Wildlife Service. Another long-term report is expected within 24 months. The HC believes this is an ambitious schedule to accomplish this type of review, especially given the political importance that has been placed on similar interim reviews in the past.

Processes of Water Allocation in California's Central Valley

Mr. Bill Kier (Pacific Coast Federation of Fishermen's Associations) provided a historical overview of the processes of water allocation in California's Central Valley, focusing on biological and political insights on Central Valley needs related to water quality, flow, and anadromous fish. The HC found this presentation relevant to the future development of an assessment of the Sacramento River fall Chinook (SRFC) stock.

In particular, the Salmon Technical Team and HC may be interested in the recommendations of the *Listen to the River* report, which was prescribed by the Office of Management and Budget (OMB) in December 2008 as part of an Independent Review of the Anadromous Fisheries Restoration Program (AFRP) of the Central Valley Project Improvement Act (CVPIA). The report finds that the Bureau of Reclamation has not dedicated and managed the Congressionally- and Court-confirmed mandate of the CVPIA (passed in 1992) as it pertains to 800,000 acre feet (800 kaf) of water from headwaters storage through the Delta for the rebuilding of Central Valley salmon stocks. Instead, Reclamation releases approximately 400 kaf from Central Valley Project storage each year aimed at supporting the needs of particular upstream life stages at particular locations. Even these reduced amounts are then pumped from the Delta system before they can reach the Bay. The HC recognizes that it will be addressing this topic as part of the SRFC overfishing report, but suggests that a letter from the Council to NMFS and the Dept. of Commerce would be more timely.

Update on Klamath River Issues

The Habitat Committee received a briefing on the signing of the Klamath Basin Restoration Agreement (KBRA) and the Klamath Hydroelectric Agreement (KHA). After several years of negotiations, the KBRA and the KHA were recently signed by the Governors of California and Oregon, the Secretary of Interior, NOAA, and more than 30 other groups including Tribes, irrigators, environmentalists, fishermen, and other groups. It was noted that the two agreements are closely linked, in that the restoration agreement is based upon removal of the four dams from the mainstem Klamath River. The agreements include landscape-scale restoration of the Klamath Basin, such as removal of the dams, reintroduction of anadromous fish to the Upper Basin, resolution of water allocation/flow issues, habitat restoration, and water quality improvements.

The Secretary of Interior is scheduled to make a determination by March 31 2012, following the development of an environmental impact statement, regarding whether to proceed with dam removal. This determination will be based upon whether, in the Secretary's judgment, the conditions of the KHA have been satisfied, and whether facilities removal 1) will advance restoration of the salmonid fisheries of the Klamath Basin, and 2) is in the public interest, which includes, but is not limited to, consideration of potential impacts on affected local communities and Tribes. If the determination is affirmative, dam removal is scheduled to occur in 2020, following further analysis and NEPA/California Environmental Quality Act processes.

The Habitat Committee suggests that the Council write a letter of acknowledgement and congratulations for this landmark collaborative effort on the part of many competing interests.

Western Straits of Juan de Fuca Overfishing Report

The HC received an update of the work that has been accomplished to date on this overfishing report. The HC will continue to work on this report and will present the draft to the Council in June, for possible action in September.

Habitat Assessment Improvement Plan

The HC received an update on the NMFS National Habitat Assessment Improvement Plan (HAIP). The HAIP establishes the framework for NMFS to coordinate habitat research, monitoring, and assessments, and to increase support for habitat science.

In May 2010 the first NMFS National Habitat Assessment Workshop (NHAW) will be convened in conjunction with the 11th NMFS National Stock Assessment Workshop. The meeting will include joint sessions on using habitat science to improve stock assessments. Another topic of the workshop will be the use of habitat science in management.

The report of the HAIP team will be published by NMFS in the coming months. NMFS is developing a rollout for this report which will include presentations across a range of science and management venues. The team would like to give formal presentations to each of the Fishery Management Councils and their relevant committees.

The HC would like to have a briefing from the Chair of the HAIP team at the September Council meeting, and suggests that the Council also receive a briefing at that time.

Letter on Columbia River Biological Opinion

The HC's draft letter to the Dept. of Commerce on the Columbia River Biological Opinion is attached for the Council's review. Changes made by the HC at this meeting are highlighted. This letter comes at a crucial decision time and is in line with numerous past comments made by the Council. In order to allow time for the Dept. of Commerce to address this letter, it should be sent in March.

Update on Pacific Marine Estuarine Fish Habitat Partnership (PME-FHP)

The HC received an update on the PME-FHP. This partnership received Candidate Status in September 2009 from the National Fish Habitat Board. Partnerships do strategic planning to identify regional priorities for action to conserve fish habitat. The partnership will prioritize projects leveraging funds with other partners and integrate with other partnerships such as those focused on waterfowl habitat.

A Federal funding bill with a five year lifespan has been introduced in Congress. Recognized partners will be eligible for funding support.

The West Coast Governors Agreement on Ocean Health has a stated goal of improving the health of coastal habitat, but unlike other stated goals, no implementation team had been established. This PME-FHP is seen as a way to advance this goal.

Further work to enlarge the partnership, establish mission and goals and begin strategic planning work will occur at a workshop in May. A webinar to be scheduled before the workshop will summarize regional habitat assessment work to date.

Ecosystem Management Plan Development

The HC received an update of the work that has been accomplished to date on ecosystem management plan development. The inaugural meeting for this effort was held on February 10-11th. A presentation from the plan development team is tentatively scheduled for the June Council meeting.

PFMC
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