



Pacific Fishery Management Council

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David W. Ortmann, Chairman Donald O. McIsaac, Executive Director

April XX, 2010

Honorable Ken Salazar, Secretary
U.S. Department of the Interior
1849 C Street NW
Washington, D.C. 20240

Dear Secretary Salazar:

This letter concerns a matter of utmost urgency.

As you are aware, the Sacramento River fall-run Chinook salmon resource, the backbone of salmon fisheries off the coasts of California and Oregon south of Cape Falcon, has failed despite severe fishing restrictions in recent years. The collapse of this stock, and the resulting curtailment of offshore salmon fishing, has put unprecedented stress on fishing communities up and down the West Coast, resulting in a declaration of economic disaster and subsequent disaster relief funding for West Coast fishing communities. The Pacific Fishery Management Council is charged with reviewing the status of the essential fish habitat affecting this stock and, as appropriate, providing recommendations for restoration and enhancement measures¹.

In March, the Council received a report from our Habitat Committee informing us of what appears to be a clear violation of the intent of Congress concerning the use of federal Central Valley Project water intended for the rebuilding of California's Central Valley salmon stocks.

Title 34 of Public Law 102-575, the Central Valley Project Improvement Act (CVPIA) of 1992, at Section 3406(b)(2), directs the Secretary of the Interior to dedicate 800,000 acre-feet of Central Valley Project (CVP) water yield to the implementation of the fish and wildlife purposes and measures authorized by the CVPIA. Paramount among the purposes and measures is the rebuilding of Central Valley salmon stocks through a CVPIA Anadromous Fisheries Restoration Program.

The CVPIA specifically envisioned that this Program should double the Valley's salmon runs by 2002, largely by applying the 800,000 acre-feet of CVP water budget yield provided by Section

¹ The Magnuson-Stevens Fishery Conservation and Management Act (MSA) (as amended by the Sustainable Fisheries Act) requires fishery management plans to "describe and identify essential fish habitat..., minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat" (§303(a)(7)). The MSA defines essential fish habitat as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity."

3406(b)(2) to assure juvenile salmon safe passage on their emigration through the San Francisco Bay-Delta estuary to the sea. Maintaining safe downstream passage conditions is key to rebuilding Sacramento fall Chinook, and dedication of CVPIA storage for this purpose is one of few tools available to managers to provide immediate improvements in survival and rebuilding of this important stock.

In 2006 the White House Office of Management and Budget (OMB) noted the disparity between Congress' Central Valley salmon doubling objective and the actual condition of the Valley's salmon resource. OMB recommended that a comprehensive review of the salmon doubling program be undertaken by the responsible agencies, the Bureau of Reclamation (Reclamation) and the U.S. Fish and Wildlife Service. That review, using a panel of independent scientists, was performed in 2008.

The resulting report, Listen to the River: an Independent Review of the CVPIA Fisheries Program (December 2008), reveals that Reclamation has, contrary to Congress' direction, used up to 400,000 acre-feet of CVP storage for upstream Central Valley salmon restoration measures, but, in each case, withdrew all of that water at the CVP's Delta pumps, rather than using it to assure safe passage for juvenile salmon through the Delta to the sea.

These disturbing findings appear to have been ignored by the Central Valley water managers. In practice, this means that the will and intent of Congress has been neglected by Reclamation.

Reclamation is obligated by the CVPIA to promote the health of the Central Valley ecosystem for the benefit of fish and wildlife that rely on water—particularly anadromous fish. It appears that Reclamation believes it is meeting its obligations by conducting fish habitat restoration projects that will do little for enhancement of flows, especially in the short-term. The result of this approach for Central Valley salmon is the decline of the Sacramento River fall-run Chinook, and the devastating effects of this decline on West Coast fishing communities. Reclamation should adopt the directive of the CVPIA to include fish and wildlife protection, restoration, enhancement, and mitigation as project purposes having equal priority with power generation, irrigation, and domestic water uses. Further, Reclamation should measure the success of fish and wildlife programs in biological terms, consistent with the goals of the CVPIA.

The Council urges the Department of Interior to investigate this matter further and to urge Reclamation to use the CVPIA Section 3406(b)(2) water budget in the way that Congress intended—to help rebuild Central Valley salmon stocks. This action will be a significant step forward in restoring salmon resources in the Central Valley and helping fishing communities move toward economic recovery.

We look forward to hearing from you on this matter, and to working together with all fishery and Central Valley water user interests to address this critical issue in a positive manner.

Sincerely,

David Ortmann, Chair

cc: Dr. Jane Lubchenco, Administrator
National Oceanic and Atmospheric Administration

Hon. David J. Hayes, Deputy Secretary
Department of the Interior

Hon. Michael L. Connor, Commissioner
Bureau of Reclamation

Hon. Grace Napolitano

Mr. Donald Glaser, Regional Director, Bureau of Reclamation