



Pacific Fishery Management Council

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Mark Cedergreen, Chairman Donald O. Mclsaac, Executive Director

November 22, 2010

William W. Stelle, Jr.
Regional Administrator
NMFS Northwest Region
7600 Sandpoint Way NE
Seattle, WA 98115

Re: Mitchell Act DEIS

Dear Mr. Stelle:

Thank you for the opportunity to review the Draft Environmental Impact Statement to Inform Columbia River Basin Hatchery Operations and the Funding of Mitchell Act Hatchery Programs (DEIS) and for extending the comment deadline to allow a full Council review. The results of this DEIS process will likely have a profound influence on the policy direction for all anadromous production within the Columbia Basin and will affect how mitigation requirements for impacts to Columbia River salmon and steelhead stocks from the Columbia River hydroelectric system will be met. These issues are extremely important to Pacific Fishery Management Council (Council) fishery management and to the future of ocean and inriver fisheries.

The Council discussed the DEIS over the course of two recent Council meetings, first at the September 11-16 meeting in Boise, Idaho and most recently at the November 4-9 meeting in Costa Mesa, California. Public testimony was taken at both meetings and written statements were provided by Council advisory bodies. One of the advisory bodies was a specialized ad hoc committee established to focus on this particular issue, with a membership encompassing relevant federal, state, and tribal agency representatives. The record of Council deliberations on this matter will be provided under separate cover.

The comments provided here are those of the Council and are not intended to represent the official policy positions of any of our member entities, many of whom will also separately provide additional specific comments on the DEIS. We recognize that developing the DEIS has been a laborious and complex project and that many of its descriptions and analyses are well done. In particular, we would like to recognize Mr. Robert Turner for his excellent presentations to the Council and his clear answers to questions during the Council's deliberation process. We understand and acknowledge the need for a National Environmental Policy Act (NEPA) review of the hatchery operations in the Columbia Basin related to the potential impacts on fish listed under the Endangered Species Act (ESA). However, we believe there are serious shortcomings in the DEIS that need attention before the process moves to the next step. While the primary focus of our comments has been to identify those aspects of the DEIS which we believe need to be changed or strengthened, we also offer recommendations in other associated areas.

The Council's underlying premise is that we believe the preferred alternative must achieve the Mitchell Act's original intent and purpose to address the environmental impacts and loss of salmon and steelhead spawning habitat and productivity resulting from the construction and operation of the hydro-power system in the Columbia River Basin, as well as recognizing the requirements and responsibilities of other hydro-power mitigation agreements. The devastating impacts to salmon abundance that resulted from the construction of the hydro power system that led to the passage of the Mitchell Act in 1938 have been exacerbated over time with additional dam construction. These negative environmental circumstances contributed heavily to the listings, in the late 20th and early 21st centuries, of a number of Columbia River salmon and steelhead species under the ESA. Today, there is a greater dependency than ever before on the production from Mitchell Act hatcheries by the people that participate in, and the communities that rely on, Council-managed fisheries. The Council feels strongly that the Federal Government cannot walk away from its commitments and responsibilities to the Tribes, the States, and the citizens of this region to at least partially replace the loss of salmon and steelhead production that resulted from the construction and operation of the Columbia River hydro power system.

The static funding for Mitchell Act since 1996 has crippled the ability of Mitchell Act funded programs to maintain production, and it is disturbing to see in this DEIS that a recent year status quo is now represented as the highest production possible in the DEIS. Current production does not meet the minimum Mitchell Act mitigation obligation when it is put in a historical perspective. As with other hatchery mitigation commitments in the Basin, additional Mitchell Act funding is necessary to meet both conservation and mitigation obligations associated with Columbia Basin hatcheries. The DEIS should not presume that additional funding will not be forthcoming to provide for the necessities to allow for increased production in a manner consistent with wild stock rebuilding.

Coordination and synchrony of Federal actions relating to ESA compliance is a key concern of the Council. The Council recommends that the Mitchell Act Hatchery Environmental Impact Statement Record of Decision be made concurrent with completion of all related ESA consultation processes. For example, National Marine Fisheries Service (NMFS) is evaluating the approval of the *US v. Oregon* hatchery programs under the ESA. The Council also recommends that the ESA consultation for lower river hatcheries also be made concurrently with the Record of Decision. This approach enables a preferred alternative to be informed by the policies and agreements associated with salmon and steelhead recovery that have been, and will be, developed collaboratively among the co-managers, NMFS, regional entities, and other interests in the Basin.

The DEIS time baseline is obsolete to the extent that the implementation scenarios associated with Alternatives 2-5 conflict with current regional agreements on hatchery production. These DEIS scenarios are inconsistent with the 2008–2017 *U.S. v. Oregon* Management Agreement, the 2008 Federal Columbia River Power System (FCRPS) Biological Opinion commitments, and expectations of the 2008 Pacific Salmon Treaty agreement. Alternatives 2-5 result in substantial reductions in hatchery production when compared to current hatchery production levels. The Council strongly advises NMFS to ensure the final EIS accommodates sanctioning currently existing policies and agreements that were shaped by the region over the past five years,

embraced by NMFS, and incorporated into broad recovery plans, Federal court orders, and international agreements.

The Council is concerned that none of the implementation scenarios result in an increase in hatchery production, given the potential effectiveness of combining hatchery reform practices with implementation of hatchery-selective fisheries and other adult management strategies such as enhanced weir separation of hatchery and wild origin spawners. Such increases may be possible as a result of the current and planned conservation and recovery efforts of the States and Tribes, including the lower Columbia River Recovery Plans. We believe that successful implementation of these efforts will allow for increased hatchery production in certain circumstances under all of the action alternatives in the DEIS.

The Council notes the reasons cited by NMFS for not including an implementation scenario that allows for an increase in production. Despite the obvious limitations and inadequacies to current Mitchell Act funding which supports production, the Council believes that a scientific basis exists to support increased or new production programs that can be properly aligned with preventing increased risks to the recovery of wild populations. NMFS should confirm that the scope of production for hatchery programs covered by Alternatives 1-5 in the DEIS include scenarios for increased production and the associated facilities necessary for that increased production to achieve both conservation and mitigation objectives, even if the funding for the needed facilities and production is not currently in hand. A scope of alternatives that includes properly aligned increased hatchery production will allow the identification of a preferred alternative in the final EIS that is consistent with these two primary objectives. Alternatively, NMFS should expand the scope of the DEIS alternatives to include appropriate increased production opportunities. As a programmatic approach, NMFS should consider how increased Mitchell Act funding and production can be harmonized with the overall hatchery mitigation and conservation commitments in the Basin.

The final preferred policy direction must articulate clearly how conservation goals will be met. As written, this aspect of the DEIS analysis cannot be interpreted directly without assuming that descriptive features of the implementation scenarios, such as the fixed proportionate natural influence and proportion of hatchery spawners standards, are actually the goals. The DEIS needs to provide for NEPA coverage for both conservation and mitigation hatchery plans that include appropriate strategies to support recovery of the ESA-listed populations on a watershed specific basis.

The final preferred policy direction must reflect the differences in roles played by the evolutionary significant unit/distinct population segment (ESU/DPS) populations in achieving recovery objectives. The DEIS alternatives compare actions taken regionally rather than on a population basis. This appears to contrast with NMFS' statement of the importance of incorporating site-specific management actions to achieve conservation and survival of the species. Regional approaches mask potential efficiencies of this site-specific or watershed-specific approach to hatchery reform. Efficiencies with implementing hatchery reform action plans that are based on distinguishing characteristics of primary, contributing, and stabilizing populations or other population viability designations are not clearly identified within the DEIS.

The Council recommends that NMFS define its preferred alternative considering these population and watershed differences.

Further, the Council is concerned that if standards or criteria for Mitchell Act funding are applied differentially by regions, then broad-based support for recovery plans by state, regional, tribal, local and private conservation entities will be undermined. If NMFS uses the NEPA process to define a preferred policy direction that provides umbrella environmental coverage for all Columbia Basin hatcheries, then that policy needs to embrace the entire variety of watershed approaches that are proposed to achieve recovery as well as opportunities for expanded hatchery production referenced above. These different approaches should not be applied only within a specific region, but should be associated with watershed-specific circumstances and approaches.

We recommend the preferred alternative should:

- acknowledge the different roles and priorities populations can have within an ESU/DPS (e.g., primary, contributing, and stabilizing) and then allow the hatchery programs to operate consistent with genetic and demographic risks managers are willing to take;
- recognize and factor in the Congressionally and legally mandated mitigation responsibility of hatchery programs in the Columbia Basin;
- increase conservation effectiveness while providing for sustainable fisheries into the future;
- to the extent possible, establish a bridge towards the role of harvest in the overall implementation of effectiveness;
- be consistent with legally mandated agreements governing hatchery production in the Columbia, such as the *U.S. v. Oregon* 2008-2017 Management Agreement and the Columbia Basin Fish Accords;
- be consistent with the determination and analysis of hatchery program effects in the recent 2008 FCRPS Biological Opinion and Supplemental Comprehensive Analysis;
- be consistent with adopted ESA Recovery Plans;
- be consistent with or reflect the best available science;
- be consistent with detailed hatchery genetic management plans developed by the co-managers for ESA consultation that consider hatchery science review group recommendations, Hatchery Review Team recommendations, Technical Review Team information, and state, tribal, and Federal policies that assess a hatchery program's effect (using empirical information—not models) on ESA-listed fish;
- be flexible enough to consider new, developing, and future risk management information and strategies as they become available;
- be consistent with Columbia River chinook salmon fishery mortalities and catch levels associated with the revised 2008 Pacific Salmon Treaty; and
- provide opportunity for increased hatchery production and associated hatchery facilities necessary for hatchery programs that are aligned with the needs for ESA recovery goals.

In closing, we note there are clearly important updates to the analysis that need to be considered and incorporated into a final EIS. There is confusion among the public and management entities relative to the intent and purpose of this NEPA action that needs to be clarified. NMFS needs to update the analysis in a manner that allows the Mitchell Act hatcheries to be evaluated separately

from the rest of the facilities in the Basin where there is not a direct funding linkage to NMFS. As the process continues, the Council believes NMFS must increase public understanding that the preferred alternative can accommodate increased production, even if a supplemental DEIS is required to do so. Finally, NMFS should provide an opportunity for public comment on its preferred alternative before the final EIS is completed and the Record of Decision is signed.

Thank you again for this opportunity to comment.

Sincerely,



Mark Cedergreen
Chairman

Cc: Council Members
Senator Maria Cantwell
Senator Patty Murray
Senator Jeff Merkley
Senator Ron Wyden
Senator Barbara Boxer
Senator Dianne Feinstein
Representative Norm Dicks
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Representative Doc Hastings
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