

## HABITAT COMMITTEE REPORT

The Habitat Committee (HC) met on Monday and Tuesday to prepare comments on agenda item G.2 (Corals and Living Substrate); H.1 (Scientific and Statistical Committee Review of Marine Reserves); and G.3 (Artificial Reefs in Southern California). Those comments will be provided during their respective agenda items. The HC also discussed the following issues:

### **Summer Spills in the Columbia River Basin**

The HC discussed the proposal by the Bonneville Power Administration (BPA) to reduce or eliminate summer spill in the Columbia River federal hydropower projects. The BPA has proposed this because they believe the revenues they could earn from the extra power generation without summer spill outweighs the survival benefits to fish from providing spill. Many juvenile salmon and steelhead, especially sub-yearling type chinook such as Snake River fall chinook, migrate through the federal hydro system during the proposed no-spill period. The BPA has done modeling and made estimates of costs and benefits, and has suggested that further cuts in harvest may be used to mitigate any effects of loss of summer spill. The states and tribes have provided comments critical of ending spill. The Columbia Basin Fish and Wildlife Authority has conducted an analysis (Bouwes 2004)\* that indicates the BPA underestimated impacts to listed stocks and overstated benefits of mitigation.

The decision on summer spill is expected to be made in the next few weeks. The HC recommends the Council provide its input into this issue. The HC has drafted a letter (Exhibit G.1, Supplemental Attachment 2) for the Council to consider for action at this meeting.

*\*Nick Bouwes, Eco Logical Research, "Review of the Bonneville Power Administration's Analysis of the Biological Impacts of Alternative Summer Spill Operations," prepared for Columbia Basin Fish & Wildlife Authority, 2004.*

### **Klamath Flow Issues**

The HC received a report regarding Klamath River hydroelectric project relicensing and river flow issues. On February 26, 2004, PacifiCorp, operator of six dams on the Klamath River, applied to the Federal Energy Regulatory Commission for a new 30-year to 50-year license to generate power; the present license expires on March 1, 2006. PacifiCorp seeks to continue operating most of the project under terms similar to present operations. The application does not address anadromous salmonid passage at the dams or evaluate dam decommissioning and removal as a project alternative. A number of stakeholders, agencies, and commissions believe threatened coho and depleted chinook salmon cannot be fully recovered within the Klamath River basin without providing access to several hundred miles of habitat found within and above PacifiCorp's project, and dam removal should be seriously considered as an option. For instance, the National Academy of Sciences National Research Council Final Report recommended removal of Iron Gate

Dam, and the California Energy Commission recommended PacifiCorp include decommissioning of all dams in their analysis. The HC concurs with this position. The deadline for commenting on the license application and for filing additional study requests is April 26, 2004. The HC will have a draft comment letter regarding the relicensing process for Council consideration at the April meeting.

Current Klamath River flows at Iron Gate Dam are being managed by the U.S. Bureau of Reclamation under the 2003 Klamath Project Operations Plan, which is effective for the April 1, 2003 to March 31, 2004 period and is based on inflow to upper Klamath Lake for the April 1 through September 2003 period (irrigation season). Currently, the water year is classified as below average, although precipitation in the upper basin is 97% of average, and the snowpack is 140% of average. In spite of this, flows at Iron Gate Dam have been below biological opinion levels for a below-average water year since December 2003. The HC is concerned the process for determining between irrigation season (October 1 - March 31) water year types is inappropriate and does not often represent true hydrologic conditions. We are further concerned that low 2004 spring flows, if implemented, may result in poor survival of brood year 2003 fall chinook and coho salmon. The HC will continue monitoring Klamath River flow conditions and give an update at the April meeting. If flow management does not improve, a draft comment letter addressing impacts of low flows on Council-managed species will be prepared for Council consideration.

### **Trinity River Flows**

Under a federal District Court ruling, Trinity Record of Decision (ROD) flows are limited to a “dry year” water volume (452,600 acre-feet) until a court-required supplemental environmental impact statement (SEIS) is completed. In December 2003, the Department of the Interior (DOI) reported to the District Court that the July 9, 2004 deadline for SEIS completion might be delayed. The DOI will likely ask for more time to complete the SEIS.

All parties have appealed the District Court ruling on the Trinity ROD. The 9th Circuit Court of Appeals is expected to rule on oral arguments and briefs submitted. Meanwhile, the DOI has proposed a settlement offer relative to the pending litigation. However, the Hoopa Valley Tribe, defendant-intervenor and co-signer of the Record of Decision, has rejected DOI’s proposal, citing its failure to meet the scientific standards maintained by the Central Project Improvement Act.

Resolution of permanent flows may be held up by the need to first resolve a number of outstanding Central Valley Project water initiatives, including the renewal of long-term water delivery contracts, completion of the Central Valley Project Biological Opinion for species listed under the Endangered Species Act, and other matters. State and federal legislators may be called upon to resolve these conflicts.

## **NMFS Columbia River Biological Opinion Remand**

In 2000, NMFS issued a Biological Opinion (BiOp) on the federal hydropower system in the Columbia Basin. The BiOp found jeopardy with the hydropower system, and presented nearly 200 reasonable and prudent alternatives. In July 1999, the Council passed a resolution that found much, if not most, of the decline of Columbia Basin salmon is “due to cumulative impacts of the Federal Columbia River Hydroelectric System,” and recommended the river be returned to more normative conditions as the option “most likely to avoid extinction and recover Snake River salmon and steelhead stocks.” Five years later, the BiOp actions are not certain to be achieved, yet ocean fisheries continue to face deep constraints by Snake River fall chinook.

The HC discussed the draft letter in Exhibit G.1, Attachment 1, and considered whether and how the Council might comment on the current BiOp rewrite. The HC recommends the Council send a letter to NMFS that urges them to produce a BiOp that provides certainty of restoring listed salmon evolutionarily significant units to sustainable, harvestable levels. Because of the complexity of this issue, the HC believes a letter can be crafted that restates the Council’s 1999 resolution (Exhibit G.1, Supplemental Attachment 2); articulates support for the collaborative process upon which participants will soon embark; and suggests the new BiOp address specific habitat-related concerns, such as flow augmentation, spill, and others as necessary.

We suggest the Council consider instructing the HC to draft a letter for review and potential approval at the April meeting. Instructions for the content of that letter could be based on our suggestions, above, or other topics identified through Council discussion.

## **Reopening of Rulemaking on Essential Fish Habitat**

An advanced notice of proposed rulemaking on essential fish habitat was released last year by NMFS. NMFS is considering allowing revisions to the EFH rule. As several regional fishery management councils did not have a chance to comment on the rulemaking during the original comment period, NMFS has extended the comment period until April 26. The issue of EFH is important to the HC. The HC is interested in preparing a letter in advance of the April meeting for Council consideration in April.

## **HC Election**

The HC held elections for Chair and Vice Chair. Mr. Stuart Ellis was re-elected as Chair, and Mr. Michael Osmond was elected as Vice Chair.

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03/10/04

# PACIFIC FISHERY MANAGEMENT COUNCIL

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## RESOLUTION

WHEREAS, fishing cultures, livelihoods, economies, and recreation along the Pacific Coast from Alaska to California, and east to Idaho and Montana, have been dramatically affected by the precipitous decline and subsequent listing under the Endangered Species Act of anadromous fish in the Snake River Basin;

WHEREAS, rigorous scientific review by the Plan for Analyzing and Testing Hypotheses (PATH), has demonstrated much, if not most, of this decline is due to cumulative impacts of the Federal Columbia River Hydroelectric System, and, that retiring Ice Harbor, Lower Monumental, Little Goose, and Lower Granite dams on the lower Snake River and returning this river reach to a normative river condition is most likely to avoid extinction and recover Snake River salmon and steelhead stocks;

WHEREAS, wild Snake River salmon and steelhead are an irreplaceable genetic resource that continue to play a vital ecological role even at their currently depressed levels. If these runs are allowed to vanish, the foundation of the interior northwest's ecosystems will be severely undermined.

WHEREAS, extinction will prove ever more costly, and recovery will restore these fish to their rightful place in the cultures, economies, and hearts of Pacific Northwest peoples;

THEREFORE LET IT BE RESOLVED, that the Pacific Fishery Management Council finds the extinction of wild Snake River salmon unacceptable, and recommends implementation of the measures deemed by scientific analysis to recover wild anadromous fish in the Snake River Basin to sustainable fisheries levels. The Council recommends consideration and mitigation of negative impacts of the selected recovery option on affected individuals and their communities.

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