

DRAFT

Agenda Item F.1.a

Supplemental Attachment 2

November 2005

Highlighted by Stuart Ellis

Mr. John W. Keyes, Commissioner
Bureau of Reclamation
Washington, D.C. 20240

Dear Mr. Keyes:

On behalf of the Pacific Fisheries Management Council (Council), thank you for your July 7 response to our April 21 letter to Secretary Norton. The Council appreciates your concern regarding the health of the Klamath Basin ecosystem. The abundance of Klamath Basin fall chinook often limits salmon fishing seasons along the Pacific Coast, as was dramatically experienced during the 2005 salmon season. The intent of this letter is to clarify concerns the Council continues to have regarding adverse effects to essential fish habitat (EFH) for coho and chinook salmon from ongoing water management of the Bureau of Reclamation's (BOR) Klamath Project (Project) — issues that were raised in our April 21 letter, but were not addressed in your response. The Council also encourages the BOR to develop long-term solutions to address competing needs for the Basin's limited water resource.

The Council, through the Magnuson-Stevens Fishery Conservation and Management Act (MSA) of 1976 and subsequent amendments, is charged by Congress to advise the U.S. Secretary of Commerce (Secretary) on the management of Pacific Coast anadromous and marine fish stocks and to provide recommendations that minimize the impacts of federal actions on the EFH of Council-managed species.

According to section 305(b)(3)(B) of the MSA, each Council "shall comment on and make recommendations to the Secretary and any Federal or State agency concerning any such activity that, in the view of the Council, is likely to substantially affect the habitat, including essential fish habitat, or an anadromous fishery resource under its authority." The BOR is required to provide a detailed response in writing within 30 days of receiving Council recommendations.

The Council identified and described EFH for chinook and coho salmon in 1999 under Amendment 14 to the Pacific Coast Salmon Fishery Management Plan. In the Klamath Basin, EFH has been designated for the mainstem Klamath River and its tributaries from its mouth to Iron Gate Dam, and upstream to Lewiston Dam on the Trinity River, and includes the water quantity and quality conditions necessary for successful adult migration and holding, spawning, egg-to-fry survival, fry rearing, smolt migration, and estuarine rearing of juvenile coho and chinook salmon.

Since the flow releases at Iron Gate Dam are prescribed by Project annual operations plans, operation of the Project has a direct effect on maintaining EFH for fall chinook, late-run fall chinook, spring chinook, and coho salmon and, therefore, plays a major role in the viability of these salmon stocks. The Council is strongly concerned that the flow regimes prescribed under the 2002 Biological Opinion (BO) for coho salmon, which has been guiding operations of the Project, are not based on a biological analysis regarding the needs of chinook and coho salmon or the impacts to EFH.

As noted in a recent determination by the Ninth Circuit Court of Appeals, the BO contains no analysis or explanation of why the first eight years of the ten-year plan would not jeopardize the continued existence of coho salmon. Furthermore, the BO contains no analysis regarding the impacts of the plan upon chinook salmon, a species that frequently drives the management of Pacific Coast salmon fisheries. As was noted in our April 21 letter, but not addressed in your reply, the EFH consultation between the National Marine Fisheries Service (NMFS) and the BOR to assess Project effects on chinook salmon was only partially completed in 2002. EFH conservation recommendations relied solely on the Reasonable and Prudent Alternatives and the terms and conditions of the Incidental Take Statement contained in the BO. The Council recommends that BOR reinitiate consultation with NMFS as soon as possible on the effects of Project operations on chinook salmon EFH, and that the analysis and flow recommendations contained in the draft Hardy Phase II report provide the basis for this consultation.

As you mentioned in your letter, the water bank has provided additional water for river flow. The Council considers this to be a step in the right direction. However, given that the base flows to which the water bank is added are so minimal, largely because they have no biological basis, the sum of the base and water bank flows remain inadequate to sustain healthy fish populations. We also question the accountability of the water bank and whether all the water credited toward the water bank represents additional water available for the river, as was intended in the 2002 BO.

One concern regarding the accounting for the water bank is that uncontrolled spill from Upper Klamath Lake is often credited toward the water bank. Early each spring, the distribution of the water bank is determined via consultation between BOR and NMFS. Subsequently, Upper Klamath Lake typically fills, resulting in uncontrolled spill to the river; a portion of which the BOR has accounted as contributing to the water bank. Another accounting concern is that BOR's flow requirements are identified at Iron Gate Dam, yet the hydraulic control point for the Project is Keno Dam, many miles upstream. If exceptional accretion (from storms or snow melt run-off) occurs below Keno Dam, that water is counted by BOR as water bank contribution. As a result of these accounting issues, during May 2005, when near unprecedented precipitation occurred and IGD flows exceeded 5,000 cubic feet per second, the water bank was still charged over 28,000 acre feet (more than 25% of the 100,000 acre foot water bank).

More than 60% of the water bank during 2005 consisted of groundwater pumping. While groundwater may be a tool to help address the overwhelming demands for Klamath Basin water, it is uncertain how long such pumping can be sustained, especially during several consecutive dry years.

As you mentioned in your letter, there is no carryover storage in Upper Klamath Lake, which limits the savings of water from land idling to the time of year that the water would have been used by agriculture. However, it is noteworthy that water management during one year does affect the amount of water available during the following year. The level to which Upper Klamath Lake is lowered during the summer/fall directly affects the quantity of water necessary to fill the lake for the following year, which can dramatically affect spring flows that are critical for the survival of rearing fry salmon. The spring of 2005 was an example of rearing fry salmon

being subject to extremely low flows during February and March, as Upper Klamath Lake was being filled, resulting in a substantial reduction in the quality and quantity of EFH for rearing Chinook and coho fry salmon.

Additionally, as noted in our letter of April 21 2005 to Secretary Norton, the Council remains concerned about possible future use of Trinity River water to mitigate lower Klamath flows. The Council also strongly recommends that the BOR incorporate Clean Water Act multiple-use criteria and National Environmental Policy Act (NEPA) multi-species criteria when developing the Conservation Implementation Program (CIP) and the Environmental Impact Statement for ten-year Project Operations Plan.

The Council encourages the BOR to work with all those that depend upon the Klamath Basin's resources to find long-term solutions to reduce the demand for Klamath Basin water, so the livelihoods of all those that depend upon these resources can be sustained. Perhaps the CIP that was mentioned in your letter is a vehicle to assist with the development of such solutions. However, fishing communities feel a sense of urgency that may not be met by this process, given that the CIP has yet to begin, even though it is pursuant to the BO that was finalized more than three years ago. Fishing communities need actions to address the water issues of the Klamath Basin, not processes that will delay results. Managing a limited resource among more demands than can be sustained is a difficult situation that the Council has been forced to address all too frequently; our experiences may be insightful to the BOR as you face this difficult situation. For example, the Groundfish Trawl Buyback Program was initiated to reduce demand for just such an over allocated resource.

In summary, the Council finds that the project substantially affects EFH for chinook and coho salmon in the Klamath Basin. Therefore, pursuant to section 305(b)(3)(B) of the MSA, the Council recommends that BOR:

- Reinitiate consultation with NMFS as soon as possible on the effects of Project operations on Chinook salmon EFH, and that the analysis and flow recommendations contained in the draft Hardy Phase II report provide the biological basis for this consultation.
- Implement draft Hardy Phase II recommendations as an interim measure while consultations are ongoing.
- Revise water bank accounting to reflect actual savings of water.
- Develop long-term solutions to water management problems.

Mr. John W. Keys, Commissioner ***DRAFT***

Date

Page 4 of 4

We welcome the opportunity to work with you to address these difficult issues, and look forward to your timely response.

Sincerely,

Donald K. Hansen
Chair

JDG:rdd

Mr. John W. Keys, Commissioner ***DRAFT***

Date

Page 4 of 4

We welcome the opportunity to work with you to address these difficult issues, and look forward to your timely response.

Sincerely,

Donald K. Hansen
Chair

JDG:rdd

