

CURRENT HABITAT ISSUES

The Habitat Committee (HC) will meet Monday and Tuesday, November 1 and 2, 2004, to develop recommendations on the following Council agenda items:

- H.1 Federal Waters Portion of Channel Islands National Marine Sanctuary (NMS)
- H.2 Cordell Banks NMS
- H.3 Monterey Bay NMS
- H.4 Krill Harvest Ban
- E.5 Bycatch Programmatic Environmental Impact Statement (EIS)
- E.7 Groundfish Essential Fish Habitat - Preferred Alternatives

In addition, a fast-track letter sent by the Council to National Marine Fisheries Service (NMFS) regarding NMFS' Biological Opinion on Columbia River operations is attached.

The HC's complete agenda is provided in Ancillary G.

Council Action:

Consider comments and recommendations developed by the HC at the November meeting.

Reference Materials:

1. Agenda Item I.1, Biological Opinion Letter: Letter to NMFS on Columbia River Biological Opinion.
2. Agenda Item I.1.b, Supplemental HC Report.

Agenda Order:

- a. Report of the HC
- b. Reports and Comments of Advisory Bodies
- c. Public Comment
- d. **Council Action:** Consider HC Recommendations

Stuart Ellis

PFMC
10/14/04

PACIFIC FISHERY MANAGEMENT COUNCIL

7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384

CHAIRMAN
Donald K. Hansen

EXECUTIVE DIRECTOR
Donald O. McIsaac

Telephone: 503-820-2280
Toll Free: 866-806-7204
Fax: 503-820-2299
www.pcouncil.org

October 8, 2004

Ms. Joyce Howard
National Marine Fisheries Service
525 NE Oregon Street
Portland, Oregon 97232

Re: September 9, 2004 draft Biological Opinion on the operations of the Federal Columbia River Power System

Dear Ms. Howard:

In response to the request for co-manager comments sent September 9, 2004, the Pacific Fishery Management Council (Council) would like to comment on the referenced draft Biological Opinion regarding the operations of the Federal Columbia River Power System (FCRPS). Our comments are based on discussions held at the September 13-17, 2004 Council meeting in San Diego, including deliberations by the Council's Habitat Committee, comments generated by the typical Council process and dialogue on the Council floor. Due to the short comment period, we offer only broad comments of general principle; we will be happy to send more detailed comments of technical nature at a future date if provided the opportunity.

The Council is seriously concerned about policy changes in the draft Biological Opinion, as Columbia River salmon populations are very important to fisheries under the jurisdiction of the Council. For example, Snake River fall chinook are currently a key stock that constrain West Coast salmon fisheries, with significant negative impacts to fishing families, fish processors, and the economies of coastal communities.

The Council's essential comment is that the foundational approach of the Biological Opinion is flawed. The Council feels the proposed environmental baseline, which includes the existing hydropower system and much of its operation as an existing condition beyond Action Agencies discretionary action and, therefore, not subject to consultation under the Endangered Species Act, is an inappropriate basic approach from both scientific and policy perspectives. Development and operation of the FCRPS over the past seven decades coincides with the decline of many salmon population groups in the Columbia River Basin. Data within the Biological Opinion indicate that the FCRPS currently has mean mortality rates of 86% on downstream migrating juvenile Snake River fall chinook and 20% on upstream migrating adult Snake River fall chinook. There is no question that FCRPS operations are a significant causative factor in Endangered Species Act listings; they should be more fully considered for adjustments as a solution for recovery in any final Biological Opinion.

Ms. Joyce Howard

October 8, 2004

Page 2 of 2

It is our understanding the draft Biological Opinion concludes that the base mortality rates do not jeopardize the continued existence of Snake River fall chinook and requires only that certain operational actions of the FCRPS do not appreciably reduce the survival rates compared to the baseline conditions. The policy of treating most mortality associated with the FCRPS as an existing baseline condition serves to shift the responsibility for decline and recovery to other sectors, such as fisheries and hatchery operations. Fisheries, many of which pre-date FCRPS development, could easily be viewed as existing conditions by many. Hatcheries built to mitigate lost or substantially reduced populations resulting from FCRPS development could also be viewed as existing conditions. Clearly, the policy choice of including most of the FCRPS operations as part of the environmental baseline raises new questions of equity between the various sectors of human-induced mortality on Endangered Species Act-listed populations.

Finally, we stand ready to assist in the completion of the Magnuson-Stevens Fishery Conservation and Management Act and Essential Fish Habitat consultation section of the draft Biological Opinion, which were not available in the September 9, 2004 draft.

Thank you for the opportunity to comment. Please feel free to contact Dr. Donald McIsaac at the Council office if you have any questions.

Sincerely,



Donald K. Hansen
Chairman

CAT:ckc

c: Council Members
Habitat Committee
Salmon Advisory Subpanel
Salmon Technical Team

HABITAT COMMITTEE REPORT

The Habitat Committee (HC) met on Monday and Tuesday, November 1 and 2, to develop comments on marine protected area issues and essential fish habitat (EFH) for salmon and groundfish. In addition, the HC discussed the following:

California Herring

The HC heard a presentation from Mr. Eric Larsen of California Department of Fish and Game regarding the management of herring in California, with an emphasis on San Francisco Bay. Herring populations are critically low, and the age structure has been significantly affected by poor ocean conditions and harvest pressure over the past 20+ years. Although harvest alone probably does not threaten the population, the HC is troubled about the progression of California herring management. Clearly, the status of this important prey species can have a dramatic effect on the health of many Council-managed species. The HC urges the Council to recommend that the California Fish and Game Commission take a very precautionary approach to harvest until a minimum threshold population level, coupled with recovery to historic age structure, is identified and achieved.

Klamath/Trinity Issues

The Habitat Committee discussed a Memorandum of Agreement that was recently developed between the states of Oregon, California, and the federal government to collaboratively work together to solve Klamath Basin resource issues. While the agreement focuses on future collaboration, it seems to be a prelude to a Conservation Implementation Program (CIP) being developed by the Bureau of Reclamation. The CIP is intended to recover listed fish species (and hopefully address restoration of Klamath Basin fisheries resources in general), while ensuring certainty of water availability to water users of the Klamath Basin.

While the Klamath has experienced a fairly wet autumn to date, flows at Iron Gate Dam have not increased from September lows, and the Bureau of Reclamation plans to manage river flows throughout the winter based upon the dry water year-type forecast of last June. The extremely low flows planned for the upcoming months, especially during February and March—a critical time for the salmon fry survival—are problematic. The HC may recommend that a fast-track letter to the Bureau of Reclamation be developed next February. The letter would encourage the Bureau to adjust the water year type and resultant river flows based upon the hydrologic conditions of the previous months, rather than the previous spring/summer period.

It is too early to know the total basin-wide size of the 2004 Klamath fall chinook run, but preliminary indications are that the run is smaller than was predicted. As you may recall, the abundance of age-3 Klamath fall chinook was predicted to be one of the lowest on record.

However, there is good news regarding management of the Trinity River. A recent court decision has determined that the Record of Decision (ROD) regarding the restoration of the Trinity River

should be fully implemented, including flows that have been challenged by litigation since the ROD was signed in December of 2001. These flows, associated with the other components of the ROD, should dramatically influence the recovery of Trinity River fish populations.

Central Valley Water Project letter

In June, the Council directed staff to coordinate with NMFS Southwest Region to prepare a letter to the U.S. Bureau of Reclamation and California Department of Water Resources on EFH conservation recommendations relative to in-stream water management within California's Central Valley Project. This letter was delayed while waiting for the EFH recommendations to be finalized. The recommendations were released in late October, and the HC is now in the process of developing a letter on this subject to be sent between the November and March Council meetings.

PFMC
11/04/04