

PACIFIC FISHERY MANAGEMENT COUNCIL

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April 21, 2005

Secretary Gale Norton
United States Department of the Interior
1849 C St, NW
Washington, DC 20240

Dear Secretary Norton:

I am writing to you on behalf of the Pacific Fishery Management Council (Council) to express concerns regarding the adverse effects of ongoing flow management by the U.S. Bureau of Reclamation (BOR) Klamath Project (Project) on Essential Fish Habitat (EFH) for coho and chinook salmon in the Klamath River. The Council continues to believe that the most important factor impeding anadromous fish recovery in the Klamath River is the inadequately low flow prescribed in the 2002 Coho Biological Opinion (BO). We have previously written you regarding the impacts of low Klamath River flows on anadromous fish species in letters dated April 23, 2003 (Radtke to Norton), and December 4, 2002 (Radtke to Norton and Evans).

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

The Natural Resource Conservation Service March 15, 2005 forecast predicts that 2005 will be the second or third driest year in the past forty-five years for the upper Klamath Basin. Klamath River flow releases at Iron Gate Dam are projected by BOR to be modestly higher than those that occurred during the September 2002 adult chinook salmon fish kill, and flows this spring and summer are predicted to be lower than those of the past four years when significant juvenile chinook and coho salmon fish kills occurred. Low flows have been implicated as a major

causative factor for these recurring kills. The Council is concerned that a flow-related juvenile or adult fish kill is possible again in 2005, especially if low flows combine with hot and dry weather conditions at a time when anadromous fish concentrate in certain river reaches. This is the fifth consecutive year of crisis water management in the Klamath Basin and the fourth year in a row that chinook salmon will not be provided suitable habitat by virtue of insufficient water releases to the Klamath River from the Project. This is particularly troubling in light of the fact that the Klamath Project provided full irrigation deliveries in 2002-2004 and only plans a minimal reduction in irrigation deliveries in 2005.

Klamath River adult Chinook consists of four successive age classes. The consequence of injuring this population for four successive years, as is currently taking place, is loss of the population's resiliency to rebound when, hopefully, improved flow conditions return in future years. The impacts of the 2002 adult fish kill and several subsequent juvenile fish kills are already being felt this year. Preseason projections indicate that the number of adult fall chinook salmon returning to the Klamath Basin this year will be one of the lowest on record at a time when most other West Coast populations are thriving. Thus, harvest opportunities for both inriver tribal and recreational fisheries and ocean commercial and recreational fisheries will be greatly limited this year, causing wide-reaching economic hardship. Due to the projected low Klamath River fall chinook fish returns, the Council will need to severely limit fishing opportunities on healthy salmon stocks so that impacts on the Klamath River fall chinook stocks remain within minimal acceptable limits. This means that other fisheries will not be able to take advantage of the projected record abundance of California Central Valley fall chinook, resulting in large, lost economic opportunities for fishermen, less salmon for consumers, and the potential for significant over-escapement on the natural spawning grounds. The Council urges you to use your authority to ensure that sufficient flows are provided this year to protect anadromous fishery resources in the Klamath Basin.

The Council still recommends that the Hardy Phase II flow recommendations would be the best strategy for anadromous fish recovery. However, given the current near- unprecedented drought conditions in the upper Klamath basin, we urge that a "share the pain" approach be used this year, wherein equitable distribution of water is made between irrigation and fishery resource needs.

The Council notes that 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 Alternative and the terms and conditions of the Incidental Take Statement contained in the NOAA Fisheries 2002 Biological Opinion (BO) on the Effects of Klamath Project Operations on Coho salmon. Reinitiation of consultation was proposed by NMFS when the draft Hardy Phase II Report was completed in order to incorporate more specific flow requirements of chinook salmon. More than three years later, that report has not yet been finalized. Based on the flow-related nature of the severe fish kills that have depleted Klamath River chinook populations in the past three years, the Council believes that conservation measures prescribed in the 2002 NOAA Fisheries BO to protect coho salmon have not adequately protected chinook salmon. Therefore, the Council requests that the BOR seek reinitiation of consultation with NMFS as soon as possible on the effects of Project operation on chinook salmon EFH.

Given insufficient releases of Project water over the last two years, BOR has instituted a fish kill damage control operation consisting of increased releases of 35,000 acre-feet of water from the Trinity River Division of the Central Valley Project during late August and early September. This has temporarily ameliorated poor habitat conditions in the 44-miles of the Klamath River below the confluence of the Trinity River, but has done nothing to improve conditions in the 146-mile reach of river from the Trinity confluence to Iron Gate Dam. Use of Trinity River water should only be considered for emergency conditions, as determined by basin fishery managers, and not as a holistic or permanent solution to inadequate Klamath Project releases to the Klamath River. The 146-mile anadromous reach of the Klamath River above the Trinity confluence that is not influenced by Trinity Project flow augmentation is very important as rearing and outmigration habitat for chinook and coho salmon. Furthermore, CDFG has observed negative consequences from the highly unnatural pulsed flows from the Trinity to the lower Klamath River that have resulted in the premature upstream migration of fall chinook to the upper Trinity River. During the past two years, the fall-run has arrived during the time that spring-run chinook were spawning in the upper river and at Trinity River Hatchery, thus, potentially interbreeding and threatening the genetic integrity of both populations. The Council recommends that Trinity River water not be used in an unnatural fashion to mitigate for Klamath Project-induced low Klamath River flows. If additional water is necessary to augment Klamath River flows, then that water should not be taken from Trinity Record of Decision flow allocation, but from other sources.

It has recently come to the attention of the Council that a Government Accountability Office (GAO) investigation has raised questions regarding the funding, distribution, and accounting of the Klamath Project water bank. As you know, the water bank is mandated by the 2002 coho BO to be dedicated solely for providing additional flow to the Klamath River to avoid jeopardy to coho salmon. In 2005, the water bank totals 100,000 acre-feet. This water is required to be delivered to the river regardless of water year type; it is not drought mitigation. We ask that you ensure that the water bank be developed and distributed in a scientifically sound, fair and transparent manner.

In summary, the Council believes that extremely low flows in the Klamath River since 2002 have caused significant impacts to the quality and quantity of coho and chinook salmon EFH that has resulted in a decrease in the viability of these populations. We believe the prescriptions contained in the NMFS 2002 coho BO do not adequately protect chinook salmon EFH and that re-initiation of consultation between the BOR and NMFS is necessary. In light of the protracted drought in the upper Klamath Basin, sufficient water supplies do not exist to fully support all resource needs in 2005. However, providing near-full irrigation deliveries at the expense of fishery resource water needs is unfair and short-sighted. The Council recommends that BOR revisit the process used to allocate Project water in order to achieve a balanced allocation between irrigated lands and the river's fisheries, consisting of the full assemblage of anadromous fish both above and below the confluence of the Trinity River.

The Council recommends that any use of Trinity River water for emergency purposes in the lower Klamath River not reduce the allocation of water to the upper Trinity River per the ROD. Rather, the emergency allocation should be made available from other sources and paid for by non-Trinity River restoration monies. If Trinity River water is used, the BOR should prepare an

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Environmental Assessment that analyzes any unintended adverse consequences in Trinity River fish populations. In addition, monitoring of biological, physical, and chemical conditions in both the Klamath and Trinity Rivers should be a requirement of such an action.

The Council recommends that BOR incorporate multiple-use criteria established in the Clean Water Act and multi-species criteria required by the National Environmental Policy Act when developing the environmental impact statement for the 10-Year Project Operations Plan and the Conservation Implementation Program. Finally, we ask that you please provide for our review a copy of the Klamath Project 2005 Operations Plan.

Sincerely,



Donald K. Hansen
Chairman

c: U.S. Senator Barbara Boxer
U.S. Senator Dianne Feinstein
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