

CURRENT HABITAT ISSUES

The Habitat Committee (HC) will meet on Friday and Saturday, November 4 and 5, 2011. At this meeting, the HC will discuss groundfish essential fish habitat, the Integrated Ecosystem Assessment, Monterey Bay National Marine Sanctuary issues, the Ecosystem Fishery Management Plan, and other issues. Two draft letters—one on Klamath dam removal and one suggesting a Columbia Basin stakeholder forum—are attached for the Council's consideration (Agenda Item G.1.a, Attachments 1 and 2, respectively).

Council Action:

Consider comments and recommendations developed by the HC at its November 2011 meeting.

Reference Materials:

1. Agenda Item G.1.a, Attachment 1, draft letter on Klamath dam removal.
2. Agenda Item G.1.a, Attachment 2, draft letter on a Columbia Basin stakeholder forum.
3. Agenda Item G.1.b, Supplemental HC Report.

Agenda Order:

- a. Agenda Item Overview
- b. Report of the Habitat Committee
- c. Reports and Comments of Advisory Bodies and Management Entities
- d. Public Comment
- e. **Council Action:** Consider Habitat Committee Recommendations

Jennifer Gilden
Joel Kawahara

PFMC
10/07/11



Pacific Fishery Management Council

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Dan Wolford, Chairman Donald O. McIsaac, Executive Director

Ms. Elizabeth Vasquez
Bureau of Reclamation
2800 Cottage Way
Sacramento, CA 95825

Subject: Klamath Facilities Removal Public Draft Environmental Impact Statement/ Environmental Impact Report

Dear Ms. Vasquez:

This letter presents the comments of the Pacific Fishery Management Council (Council) regarding the Klamath Facilities Removal Public Draft Environmental Impact Statement/ Environmental Impact Report (EIS/EIR).

The Council would like to commend the Department of Interior and the State of California for completing this comprehensive National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA) document over a relatively short period of time. The proposed action, which includes the removal of four dams owned by PacifiCorp from the mainstem of the Klamath River, in addition to the connected action of implementing the landscape-scale restoration efforts outlined in the Klamath Basin Restoration Agreement (KBRA), comprise major steps toward addressing habitat-related problems that have plagued Klamath Basin fishery resources for decades.

The Council has previously expressed its concern, in various forums, regarding the extensive impacts of the Klamath Hydroelectric Project to the West Coast salmon fishery and dependent communities. The Council is gratified to see that an agreement to remove the dams (Klamath Hydroelectric Settlement Agreement) and to address other primary habitat problems facing the Basin's fishery (KBRA) has been reached, and that environmental studies are progressing in a timely manner.

The Council was created by the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) of 1976 with the primary role of developing, monitoring, and revising management plans for fisheries conducted within federal waters off Washington, Oregon and California. Subsequent congressional amendments in 1986, 1990, and in 1996 added emphasis to the Council's role in fishery habitat protection. Amendments in 1996 directed the National Marine Fisheries Service, as well as the regional fishery management councils, to make recommendations regarding federal or state agency activities

that may affect the “essential fish habitat” (EFH) of fisheries under their authority. The proposed action to remove the hydro-electric facilities from the Klamath River is a federal action that has an effect on EFH and will require formal EFH consultation.

The current Facilities Removal EIS/EIR and the previous FERC EIS regarding the relicensing of the Hydroelectric Project show that the Klamath Hydroelectric Project has dramatically diminished the range, quantity, and quality of habitat for Klamath Basin anadromous fish stocks, and has had other profound negative impacts on the anadromous fish of the Klamath Basin. Anadromous fish have been extirpated from several hundred miles of historic habitat above Iron Gate Dam, and habitat in the mainstem Klamath River below Link River Dam has been degraded, as a result of the Project. Our somewhat expedited review of the EIS/EIR and its large body of supporting documentation and studies confirm these observations.

The decline of Klamath River Basin fisheries resources is a serious concern to the Council. Ocean fisheries along the Pacific Coast from Cape Falcon to Monterey Bay are often constrained by the need to reduce harvest impacts to Klamath River fall Chinook because of the depleted status of this stock. The Klamath Hydroelectric Project has had a significant effect on Klamath Basin fisheries and subsequently on the economies of tribal and non-tribal fishing communities within the Klamath Basin and along the Pacific Coast from Monterey Bay in California to Cape Falcon, Oregon. We are gratified to see that these effects, long ignored in other analyses, are treated with rigor and quantitative discipline in the current EIS/EIR.

The fish production modeling efforts that were developed for the socio-economic analysis of the NEPA/CEQA document support the need to implement the proposed action, as they indicate a substantial increase in both spring and fall Chinook salmon production as a result of the hydroelectric facilities’ removal and KBRA implementation. The estimated 42% increase in ocean troll and sport fishery income over the next 50 years is indeed encouraging. However, we note that the independent expert panels whose purpose is to inform the Secretary of Interior about the effects of dam removal on fish populations have cautioned that significant improvements in water quality and fisheries habitat must accompany dam removal to see the true benefits of the proposed action. We urge the Secretaries of Interior and Commerce to do everything in their power to prioritize resources and expertise to accomplish these tasks.

In light of substantial benefits to the fishery resource and dependent fishing communities along the Pacific Coast and Klamath River, the Council is supportive of proposed action, Alternative 2; complete removal of the facilities. We could also support the partial removal alternative (Alternative 3), which includes removal of enough of each dam to allow free-flowing river conditions and volitional fish passage for all anadromous species at all times, especially if cost considerations would preclude full removal. The document notes that

benefits to the fishery are expected to be similar under Alternatives 2 and 3.

In summary, we appreciate the monumental effort that has gone into development of this environmental analysis over a relatively short time period; we believe that it forms a solid foundation for a positive determination by the Secretary of Interior to remove the hydroelectric facilities and implement the KBRA.

Sincerely,

[Signature block]



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~~October~~November X, 2011

Dr. Rebecca M. Blank, Acting Secretary
U.S. Department of Commerce
[Address]

Dr. Jane Lubchenco, Administrator
National Oceanic and Atmospheric Administration
[Address]

Mr. Eric C. Schwaab, Assistant Administrator for Fisheries
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
[Address]

Dear Dr. Blank, Dr. Lubchenco and Mr. Schwaab:

We write to you today about an issue of great importance to West Coast salmon fisheries and the communities that depend on them: the protection and restoration of Columbia-Snake River Basin salmon and steelhead. As you know, these fish are a tremendous economic, cultural, and biological resource to the Pacific states and the nation. They support and contribute to ecosystems from Alaska to California, and as far inland as Idaho and Montana.

Federal efforts to craft a protection and restoration plan for these imperiled species that has ~~survived~~passed Endangered Species Act (ESA) judicial review have ~~thus far failed~~been challenging. On August 2, U.S. District Court Judge James Redden ~~invalidated~~remanded the most recent plan, NOAA Fisheries' *2010 Biological Opinion for the Federal Columbia River Power System* (BiOp). This was the fourth federal salmon plan to be ~~ruled inadequate~~remanded since 1995. As the entity charged with helping NOAA Fisheries guide the management and stewardship of Pacific salmon resources in California, Oregon, Washington, and Idaho, the Pacific Fishery Management Council believes that a new approach to addressing the challenges of Columbia Basin salmon restoration may be warranted.

To that end, we encourage NOAA Fisheries to convene a collaborative process where regional stakeholders can work alongside Tribes and Federal and state agencies to develop a salmon restoration blueprint that is legally sound and guided by science, with the goal of meeting the diverse needs of affected communities.

To be truly effective, this ~~stakeholder~~ process ~~or “solutions table”~~ must be transparent and inclusive, and must ~~place~~ include non-governmental stakeholders ~~at the table with the sovereign parties to work together in the development of a successful plan~~. We believe that by working collaboratively, the Basin’s diverse interests can craft a plan that recovers salmon, builds jobs, and enhances local and regional economies.

Collaborative processes have proven successful in addressing other natural resource challenges across the West Coast, including on the San Joaquin River, in the Klamath Basin, and on the Elwha River. A similar effort in the Columbia-Snake Basin – one that includes all parties with a stake in salmon restoration, and that is committed to exploring all scientifically-credible recovery options – would help move the salmon debate beyond the courtroom while greatly improving the resulting plan’s probability of success.

Existing, ongoing processes such as the Salmon Recovery Planning process, Regional Implementation Oversight Group and the court-ordered remand of the 2010 BiOp could help inform and strengthen the work of a collaborative stakeholder effort by bringing additional scientific, economic, and technical expertise to bear on stakeholders’ policy discussions and decisions. By leveraging the work that Federal, state, and Tribal agencies are doing at a BiOp-specific level, regional stakeholders could then expand the dialogue to help address the broader needs and priorities of affected communities. A collaborative process for the Columbia Basin, like similar efforts elsewhere, would likely be funded by a blend of state and federal support. This type of process could produce a regional plan that is beneficial to both fish and affected communities.

After more than twenty years of Endangered Species Act listings and litigation, a fully inclusive, basin-wide, solutions-oriented collaborative stakeholder process ~~has never truly been attempted~~ is needed in the Columbia Basin. Previous tiered approaches that ~~excluded~~ have not included ~~non-sovereign~~ regional stakeholders ~~from~~ in crucial discussions and decisions have so far failed to yield a plan judged sufficient to meet ESA legal requirements, creating more uncertainty for the region. The Pacific Fishery Management Council strongly urges NOAA to make the most of the two year period provided by the Court before a new BiOp is due, and to begin collaborative talks as soon as possible.

We hope NOAA, in cooperation with their co-managers at U.S. Fish and Wildlife Service who collectively administer the ESA program for aquatic and terrestrial species, will convene this collaborative stakeholder process in the months ahead; we stand ready to assist in any way.

Thank you very much for your consideration of our request.

Sincerely,

HABITAT COMMITTEE REPORT ON CURRENT HABITAT ISSUES

Klamath letter

A draft Environmental Impact Statement/Environmental Impact Report has been released in regard to the Secretarial Determination on whether to move forward with the removal of four dams from the mainstem Klamath River. Comments are due November 21. As directed by the Council in September, the Habitat Committee (HC) has prepared a comment letter, Agenda Item G.1.a Attachment 1, for the Council's consideration.

Columbia letter

The HC has submitted a supplemental letter on the Columbia River Biological Opinion for the Council's consideration (Agenda Item G.1.a, Supplemental Revised Attachment 2). We understand that the letter was unclear in regard to the role of the stakeholders, in that non-sovereign stakeholders would not have equal footing with state, tribal and Federal sovereigns. Instead, they would be collaborative partners in the development of a regionally acceptable plan.

The HC clarified these points, and made other minor changes, in the supplemental version of the letter.

Deep Sea Corals

The HC received a presentation from Elizabeth Clarke, National Marine Fisheries Service/Northwest Fisheries Science Center, with an update on the Deep Sea Coral Research and Technology Program, and research efforts of the first two years of the three-year program. The program's primary research objectives are to: 1) understand factors that influence deep sea coral distribution and condition, 2) characterize distribution and abundance of deep sea coral communities, and 3) inform proposed changes to EFH and Sanctuary boundaries.

The Program focused its at-sea research efforts on the West Coast in 2010 and 2011 at Gulf of Farallones, Cordell Bank National Marine Sanctuary (NMS), Olympic NMS, Channel Islands and the Southern California Bight. Dr. Clark stressed the difficulty of finding coral and sponge habitat and that the success of the research efforts are strongly enhanced by multi-beam sonar mapping of the seafloor prior to coral surveys. Surveys confirmed the presence of deep-sea coral and sponge communities with numerous rockfish species in some areas. Notably, new species and a new genus have been identified at Channel Islands NMS. An interactive image database for this cruise is posted at <http://swfsc.noaa.gov/DeepseaCoralImageDatabase/>.

The analysis of current research will summarize densities and species composition of corals and sponges, and will quantify associations of fish with sponges and corals. Analysis results are being folded into the current Groundfish Essential Fish Habitat review process. A final report will be available after the three-year field effort is completed. Summarized coral and sponge data from the 2007 coral report is now hosted on the OSU-PaCOOS (www.pacoos.coas.oregonstate.edu/MarineHabitat) interactive GIS website. The Deep Sea Coral Research and Technology Program asked the HC for input into research priorities for FY2012;

the HC suggested focusing on areas off Cape Mendocino because of the presence of rocky habitat in that area.

Proposed Housing Development in San Francisco Bay

In Redwood City, California, Cargill Salt is proposing filling in approximately 1436 acres of unused salt evaporation ponds in order to build 12,000 new homes. These salt evaporation ponds offer an opportunity for habitat restoration and are in an area that is susceptible to sea level rise. The HC will continue to track this issue.

PFMC

11/6/11

SALMON ADVISORY SUBPANEL REPORT ON CURRENT HABITAT ISSUES

Draft Letter on Klamath Dam Removal

The Salmon Advisory Subpanel (SAS) has reviewed and discussed the content of the draft letter from the Council to the Bureau of Reclamation regarding the Environmental Impact Statement/Environmental Impact Review (EIS/EIR) being developed to support the Interior Secretary's decision to make a determination as to whether, in his judgment, removal of four privately owned dams on the Klamath River: 1) will advance restoration of salmonid fisheries in the Klamath Basin; and (2) is in the public interest, which includes but is not limited to consideration of potential effects on local communities and tribes. The Klamath Hydropower Settlement Agreement (KHSA) requires the Secretary to make this determination by March 31, 2012.

Accordingly, the SAS makes the following comments to the draft letter including:

1. In order to implement both the Klamath Basin Restoration Agreement (KBRA) and KHSA, Federal legislation is required. The draft letter should reflect this requirement.
2. The letter should speak to positive benefits of dam removal or fish passage which are the two most likely outcomes of either the National Environmental Policy Act/California Environmental Quality Act (NEPA/CEQA) or Federal Energy Regulatory Commission (FERC) process.
3. There is significant controversy associated with effects of implementation of the KBRA which are not included in the draft letter including: lack of quantifiable restoration goals, lack of analysis of all Klamath origin fish stocks (e.g., steelhead, Pacific lamprey, green sturgeon), an imbalance in the priority water allocation from fishery protection to stability of irrigation water for the Klamath irrigation project, and most importantly the Federal government's waiver of its responsibilities to protect all Klamath basin tribes' fishery and water rights.

Regarding the latter, the SAS recommends that given high level of public opinions (controversy) regarding the two agreements, the Council include a short statement in support of the positive benefits of dam removal or fish passage and note the requirement that Federal legislation will be required in order for the Secretary of Interior to make a determination for dam removal in March 2012. In order to be objective about the NEPA/CEQA process, we urge the Council to avoid controversial statements about the KBRA such as the balancing of water demands amongst fish and water users. Finally, the Council has until November 21 to provide its comments to the Secretary.

Columbia Basin Stakeholder Forum

The SAS offers the following comments regarding the proposed draft letter:

1. Convening a stakeholder group of the type suggested is not a quick process, nor will the collaborative process “to develop a salmon restoration blueprint” happen rapidly. Those with experience involving such groups recognize that it takes time to overcome animosities, prejudices and become familiar enough with different points of view so that dialogue can take place. The period for judicial review is two years, and it is questionable as to whether the “blueprint” envisaged could be accomplished in so brief a period of time in a process with so many potential participants on an issue of this complexity.
2. The letter makes no mention of recovery plans, such as the Lower Columbia Fish Recovery Plan, the Oregon Salmon Recovery Plan, and others, which did have stakeholder input and have been in place for a period of years, in some cases. National Marine Fisheries Service is currently in the process of “rolling up” these plans into one, but implementation of the Lower Columbia River plan has continued for nearly a decade. The draft letter does not account for these efforts, nor set forth a scenario of including that work in the proposed “collaborative process.”
3. We cannot determine whether tribal input was sought in drafting this letter. As “sovereign parties,” their opinion needs to be solicited.

PFMC
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