Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384
Phone 503-820-2280 | Toll free 866-806-7204 | Fax 503-820-2299 | www.pcouncil.org
Dorothy M. Lowman, Chair| Donald O. McIsaac, Executive Director

May 6, 2014

Buck Sutter
Director, Office of Habitat Conservation
NOAA Fisheries
Office of Habitat Conservation
1315 East West Highway, SSMC3
Silver Spring, MD 20910

Dear Dr. Sutter:

The Pacific Fishery Management Council (Pacific Council) is writing to express its support for establishing a pilot project with fisheries-specific habitat conservation objectives for Pacific Council-managed species on the West Coast.

Despite the Pacific Council's efforts to rebuild depleted stocks, some stocks have shown little improvement. This may be an indication that some life stages may be limited by the quantity of available habitat or the conditions of that habitat. Scientists have yet to fully identify and quantify such relationships or determine the extent to which particular habitats are needed to maintain sustainable fisheries. Developing habitat conservation objectives for habitat-limited species through the pilot project effort proposed by the National Marine Fisheries Service (NMFS) West Coast Region and Fisheries Science Centers is something we believe can elevate the great importance of habitat protection.

The conservation objectives in recovery plans for Endangered Species Act-listed species (e.g. restore 60 percent of tidal delta habitat in the Skagit Delta) are intended to prevent extinction and recover a species to the point where it can be de-listed. However, by design these recovery goals are not intended to return stock abundances to levels that can support targeted fisheries. Developing habitat conservation objectives appropriate to this latter intent have yet to be accomplished.

From the perspective of establishing and designating essential fish habitat (EFH), very little detail is available for most managed species, such that EFH can only be described in the broadest of terms. Developing habitat conservation goals for stocks that contribute to key fisheries can strengthen formal responses to actions that impact EFH and would help focus non-regulatory restoration and conservation efforts.

The Pacific Council's July 2013 Research and Data Needs document identified several high-priority needs (under both EFH and Fishery Ecosystem Plan needs) that a pilot project could directly and immediately address:

- Explore and better define relationships between habitat, especially EFH, and stock productivity. Improved understanding of the mechanisms that influence larval dispersal

and recruitment is especially important.

- Specifically identify habitat areas of particular concern: those rare and sensitive habitats that are vulnerable to adverse fishing and non-fishing effects. Identify associated life stages and their distributions, especially for species and life stages with limited information. Develop appropriate protection, restoration, and enhancement measures.

- Assess near-shore distribution of managed species for habitat needs and fishery vulnerability during nursery and pre-reproductive life stages. Characterize the influence of nearshore marine, estuarine, and freshwater water quality on survival, growth, and productivity.

While we are aware of the limited funds available for a West Coast pilot effort, we believe the effort could inform the research items listed above by:

- identifying a few Council-managed species that are limited by the available habitat,
- identifying habitat limited life stages of these species and habitat conservation objectives for each, and
- considering how existing habitat conservation work in the region could align or be focused to meet these objectives.

We anticipate that a pilot project would demonstrate a way to quantify habitat requirements that would directly benefit stock assessment and management. Additionally, this could help the Pacific Council establish habitat objectives for other managed species, in concert with harvest objectives, and identify restoration projects and partnerships to meet those objectives, while providing a template for other regional Council bodies.

The Pacific Council supports NMFS's efforts to conduct a West Coast pilot project to develop habitat conservation objectives towards the goal of achieving and maintaining sustainable fisheries. Please keep us apprised of the process advancing this effort forward and let us know how we may assist this effort. Should you or your staff have any questions on this expression of support, please don't hesitate to contact me or Ms. Jennifer Gilden at the Pacific Council office.

Sincerely,

D. O. McIsaac, Ph.D.
Executive Director

JDG:kam

Cc: Brian T. Pawlak
Kara Meckley
Terra Lederhouse
John Stadler
Habitat Committee Members

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Jean Thurston
Renewable Energy Program Specialist
Bureau of Ocean Energy Management
Pacific Coast OCS Region
770 Paseo Camarillo, Second Floor
Camarillo, CA 93010
jean.thurston@boem.gov

April 23, 2014

Re: [Docket No. BOEM–2013–0090; MMAA104000] Potential Marine Hydrokinetic Research Lease on the Outer Continental Shelf Offshore Oregon; Request for Competitive Interest

Dear Ms. Thurston,

The Pacific Fishery Management Council has an interest in commenting on the proposal by Oregon State University's Northwest National Renewable Energy Center to build a grid-connected offshore wave energy test site, known as the Pacific Marine Energy Center South Energy Test Site (PMEC-SETS) located approximately five nautical miles southwest of Newport, Oregon. The Council is particularly interested in actions that could have negative consequences for essential fish habitat (EFH) of Council-managed species.

As this proposal is the first offshore wave energy site to test connectivity to the electric utility grid via subsea transmission cable, the cable route and its placement must be considered during project siting, scoping, impact assessment and permitting, as this sets a precedent for all future projects. To our knowledge, this important aspect of the PMEC-SETS project is not addressed in the proponent's Lease Request or in the RFCI. At this point in the Bureau of Ocean Energy Management's (BOEM) procedural process, the cable route of the PMEC-SETS project is of greatest concern to the Council and the focus of this letter. Additionally we offer comments from the wider perspective of strategic coastal and marine spatial planning at the regional scale.

To put our interests into context, the Council is one of eight Regional Fishery Management Councils established by the Magnuson-Stevens Fishery Conservation and Management Act (MSA), and recommends management actions for Federal fisheries off Washington, Oregon and California. The MSA includes provisions to identify, conserve, and enhance EFH for species managed under a Council's fishery management plan. Each Council is authorized under the MSA to comment on any Federal or state activity that may affect the habitat, including EFH, of a fishery resource under its authority.

The MSA defines EFH as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." Within the broader EFH designation, special habitat types and

geologic features may be designated as Habitat Areas of Particular Concern (HAPC). HAPCs are high priority areas for conservation, management, and research because they are rare, sensitive, stressed by development, or important to ecosystem function. The HAPC designation helps to prioritize and focus conservation efforts. Rocky reefs, estuaries, canopy kelp, seagrass, and a number of unique geological structures such as seamounts and canyons are designated as HAPCs for Council-managed groundfish species.[1]

As proposed, the PMEC–SETS is to be located approximately five nautical miles offshore of South Beach, Oregon, about 1.5 miles seaward of a large submerged rocky reef, known locally as Seal Rock Reef. The reef is comprised of two massive (12 sq. mi.) contiguous rocky benches with striking parallel high-relief bedrock ridges. The two rock benches are separated by a 200-400m wide ancient riverbed channel running perpendicular to shore. The reef complex is a unique formation on the central Oregon coast, and supports an abundance of nearshore rocky reef species. Visual observation surveys have demonstrated that rocky reef fish species often aggregate along habitat interfaces, such as the large interface created by the sand channel and rocky bench. Seal Rock Reef supports the highest fishing effort in the recreational groundfish fishery, one of the state's top two recreational fisheries.

While options are still being considered for routing the transmission cable to shore, the Council is concerned with any option that intersects the rocky reef environment. The Council prefers transmission cable routing options that bypass the reef completely, and are least likely to impact the reef habitat.

The Council's initial concerns are for both short- and long-term actions and impacts, such as the physical vibration of the reef and noise generated by subterranean drilling, direct destruction of habitat features, disturbance of species during construction and subsequent cable maintenance, scouring and plume caused by seafloor trenching and transmission cable burial, electromagnetic fields emitted by the cable when it is used, and potential restrictions imposed on fishing.

Authorizing such actions of unknown consequence in habitats formally designated as sensitive and valuable sets a precedent that is incompatible with the conservation goals of EFH/HAPC designation. Rocky reef habitats are a finite resource, comprising less than 10 percent of Oregon's nearshore environment. The Council urges BOEM to adopt a precautionary approach in this regard by establishing "no development" buffer zones encompassing rocky reef, canopy kelp, and seagrass HAPCs for both wave energy infrastructure lease sites and transmission cable routes.

From the broader perspective of marine spatial planning and future energy development within the California current ecosystem, the Council strongly urges BOEM to embrace the science-based approach of NOAA's Coastal and Marine Spatial Planning process guided by the President's National Ocean Policy implementation plan. Currently, the approach for ocean energy siting in Federal waters is dependent on developer/project-initiated interest in a location. In contrast, we suggest an approach that prioritizes areas for development at the regional scale, and prior to soliciting interest from developers. This approach would be consistent with the

[1] Likewise, the state of Oregon also considers many of these features as habitats of particular ecological importance which are classified as Conservation Areas under Oregon's Statewide Planning Goal, Goal 19.

nation's spatial planning standard that would take into account multiple coastal and marine ecological resources (including important fish habitats), ocean uses, and oceanographic conditions. Ideally, BOEM would conduct such a coastwide spatial analysis planning effort prior to the proposal process of site selection and leasing.

The Council intends to stay abreast of the PMEC-SETS project as it develops and will provide additional comments as opportunities arise. Please note that the Council's meeting schedule and opportunities for its advisory bodies to inform the Council do not necessarily align with public comment periods of other public processes. We appreciate your consideration of our comments if issues should arise outside the public comment window.

We look forward to assisting BOEM in finding development options that avoid and minimize impacts to important ecological and fisheries resources and in achieving the long-term goal of responsible development of this new and promising industry.

Thank you for considering our comments.

Charles A. Tracy
for

D. O. McIsaac, Ph.D.
Executive Director

JDG:cat

cc: Council Members
Habitat Committee Members
Ms. Jennifer Gilden

Pacific Fishery Management Council
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June XX, 2014

Maria Brown, Superintendent
Gulf of the Farallones National Marine Sanctuary
991 Marine Drive, the Presidio
San Francisco, CA 94129
Ph. (415) 561 6622 x301

Dear Ms. Brown,

Please accept the comments below from the Pacific Fishery Management Council regarding the proposed expansion of the Gulf of the Farallones and Cordell Bank National Marine Sanctuaries. The Council appreciates the extended comment period allowed to accommodate the Council's meeting schedule.

Essential Fish Habitat

As you know, the Magnuson-Stevenson Fishery Conservation and Management Act (MSA) includes provisions to identify, conserve, and enhance essential fish habitat (EFH) for species managed under a Council fishery management plan. Its provisions deal with both fishing impacts and non-fishing impacts to EFH. The MSA requires the Council to identify and describe EFH and recommends designating habitat areas of particular concern (HAPCs) for its managed species. EFH is the habitat necessary for each Council-managed species to support a sustainable fishery and the managed species' contribution to a healthy ecosystem, while HAPCs are high priority areas for conservation, management, or research because they are rare, sensitive, stressed by development, or important to ecosystem function. Each Council is authorized under the MSA to comment on any Federal or state activity that, in the view of the Council, may affect the habitat, including EFH, of a fishery resource under its authority. In the region of the proposed sanctuary expansion, EFH for groundfish exists from the shore to the 3500 meter line. Thus, it encompasses the entire proposed expansion area.

Sanctuary management of the expanded area may add to existing habitat and ecosystem knowledge, and the Council welcomes the new information, research and mapping that Sanctuaries may provide, as it will help inform fisheries management, including periodic updates to EFH for Council-managed species.

Existing Regulations

The Council is encouraged that the Office of National Marine Sanctuaries (ONMS) has incorporated regulatory and non-regulatory programs in the proposed management plans that

may advance protections and public knowledge of ecosystem and habitat science, such as water quality education and outreach and invasive species awareness. The protections within these programs are similar to those implemented by the Gulf of Farallones and the Monterey Bay National Marine Sanctuary programs. Since there are numerous existing regulatory protections in place by other Federal and state agencies, as noted in the draft environmental impact statement (DEIS) (Sections 4.3.2 and 4.7-3), it is not clear how Sanctuary designation will improve on existing protection measures. It would be useful to include a table that summarizes all the existing and proposed protective measures and regulations for the expansion area, with an explanation of how additional protective measures benefit the resources, and the feasibility of funding these measures.

Additional Permitted Uses in the Sanctuaries

The Council notices that there is a regulation change proposed giving the Gulf of the Farallones and the Cordell Bank National Marine Sanctuaries "Authorization" capability, similar to existing regulation in the Monterey Bay National Marine Sanctuary. It appears that additional uses and discharges in the existing Sanctuary that have been prohibited in the past, as well as in the proposed expansion area, could be allowed if a proposed use or activity is approved by another Federal, state or local agency. In order for ONMS to authorize an otherwise prohibited activity that was permitted, licensed or otherwise authorized by another Federal, state or local agency, ONMS would need to make a finding that the activity would have at most short-term and negligible adverse effects on Sanctuary resources and qualities. ONMS may also require the applicant to comply with any terms and conditions deemed necessary to protect Sanctuary resources and qualities. This change may allow a welcome flexibility in considering discharges with minimum impacts, such as allowing the discharge of grey water from fishing boats. It also may allow consultation with the Council and state agencies in analyzing whether an activity is appropriate and if so, what conditions to impose to protect Sanctuary resources and qualities.

Upwelling Zone Protection

A primary stated purpose for Sanctuary expansion is to protect the resources of the important upwelling zone off Point Arena. Sections 4.2, 4.3, and 4.4 of the DEIS provide a general analysis of the environmental consequences of this action on physical and biological resources. However, it is unclear how Sanctuary expansion would protect or benefit this upwelling zone. The Council requests additional information on the benefits of the expansion with respect to protection of the upwelling zone and associated resources. The Council is pleased to see that there is a comprehensive monitoring plan proposed, the Council recommends an analysis in the final EIS regarding how the monitoring plan will further protection of the upwelling waters. This is an essential part of habitat conservation efforts in light of impacts such as ocean acidification.

Oil and Gas Development

The Council welcomes the prohibition of oil and gas development in the area of Sanctuary expansion, while noting that it is unclear that such a threat exists in the area. Since the public generally believes that Sanctuary designation would bring permanent protection from such

development, it is important that the DEIS clearly note that there are exceptions to this, and that the current prohibition is not necessarily permanent. The Council also recommends making note of what protections and prohibitions are already in place by other state and Federal agencies.

Alternative Offshore Energy

The proposal does not prohibit offshore hydrokinetic energy development as it does oil and gas development. It would be helpful to understand the Sanctuaries' policy and criteria for hydrokinetic energy development in Sanctuaries. The Council supports a comprehensive marine spatial planning effort to analyze existing uses, including fishing and habitat conservation uses, and recommends the DEIS incorporate clear direction on how Sanctuaries will evaluate wave and wind energy proposals, and what role the Council will have in this evaluation.

Department of Defense Activities

The DEIS states that ongoing Department of Defense activities occurring at the time of expansion would be exempt from the prohibitions listed in the proposed regulations, although there would be consultation with the Sanctuaries. The Council suggests that Sanctuaries develop a formal consultation process with the Department of Defense to minimize impacts and include Council and NMFS notification within this process so that impacts to EFH in the Sanctuaries can be minimized.

Fishing regulations

The Council notes that the terms of designation for this proposed action are not changed and do not propose to regulate fishing. Fishing practices, under the control of the Council, include provisions for protecting EFH from fishing. Sanctuary provisions prohibiting seabed disturbance exempt lawful fishing practices, so do not conflict with Council control.

As the proposed rule change includes only those articles proposed for amendment, and given that the "Terms of Designation" are not changed, there is no section stating that the regulation of fishing is under the Council's control. Given the sensitivity of this topic to the fishing community, the Council recommends including additional language and referencing existing laws to explain this point in the final EIS. The Council further recommends that the final EIS clearly state that the Sanctuaries' intent is to respect the Council process and authority on fishing activities, including timely advance consultations for Sanctuary actions that may affect fishing.

Wildlife Protection Zones

The DEIS and revised Management Plans describe a resource protection plan and regulations that might include designating Special Wildlife Protection Zones. The Council understands the intent is to protect areas from cargo vessels and aircraft, and that these zones were previously named "Cargo Vessel Restriction Zones" and "Overflight Restriction Zones." To avoid misunderstanding of the intended restrictions, the names and definitions of these zones should be

clearly articulated in the final EIS. Are there limitations on the types of activities that can be regulated in such a zone? The final EIS should clearly articulate under what circumstances and for what purposes these Special Wildlife Protection Zones can be used in the future. The Council further requests that the Final Rule and Management Plan clarify that these zones will not affect fishing activities.

Management and Enforcement Resources

Given the current uncertainties in Federal funding, the Council has concerns that the resources required to manage this large new area could detract from the protection of existing resources in already designated Sanctuaries. The final EIS should identify what additional enforcement capabilities—beyond existing state and federal law enforcement agencies—will come with Sanctuary designation. An analysis of these questions would be appreciated, with an assurance that the management of existing Sanctuaries will not be compromised.

The Council appreciates the opportunity to comment on the proposed expansion of the Gulf of the Farallones and Cordell Bank National Marine Sanctuaries. The Council looks forward to other opportunities to comment on Sanctuary proposals, and to coordinate and collaborate on shared goals for ocean resource management.

Sincerely,

[Signature block]

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384
Phone 503-820-2280 | Toll free 866-806-7204 | Fax 503-820-2299 | www.pcouncil.org
Dorothy M. Lowman, Chair| Donald O. McIsaac, Executive Director

Bill Bradbury, Council Chair
Northwest Power and Conservation Council
851 SW Sixth Avenue, Suite 100
Portland, OR 97204-1348

May 22, 2014

Dear Chairman Bradbury,

In August 2013, the Pacific Fishery Management Council (PFMC) submitted a set of recommendations as part of the Northwest Power and Conservation Council's (NPCC) Fish and Wildlife Program (Program) amendment process. Overall, the Program reflects many of the recommendations important to PFMC. Provided below are refined recommendations to the Draft Program that we believe will strengthen it and help ensure fish and wildlife impacts are adequately mitigated for in the Columbia Basin.

As you may know, the PFMC is one of eight Regional Fishery Management Councils established by the Magnuson-Stevens Fishery Conservation and Management Act (MSA) of 1976, and recommends management actions for Federal fisheries off Washington, Oregon, and California. The MSA includes provisions to identify, conserve, and enhance essential fish habitat (EFH) for species regulated under a Federal fishery management plan. Each Regional Fishery Management Council is authorized under MSA to comment on any Federal or state activity that may affect the habitat, including EFH, of a fishery resource under its authority. Furthermore, for activities that a Fishery Management Council believes are likely to substantially affect the habitat of an anadromous fishery resource under its authority, that Council is obligated to provide comments and recommendations (MSA §305(b)(3)).

Role of the NPCC: The Draft Program has effectively articulated the NPCC's role in funding mitigation, and the inclusion of an investment strategy is forward-thinking. However, there are two areas that have been significantly reduced in the Draft Program: quantitative goals and objectives, and direction regarding monitoring, data management and, in particular, Coordinated Assessments. Without quantitative goals, a comprehensive monitoring framework and clear reporting, it is unclear how the NPCC will apply adaptive management. Although the Draft Program articulates the process by which quantitative objectives will be developed, it relegates existing goals to increase salmon and steelhead runs to an average of five million fish annually; and the targeted smolt-to-adult return rate goal of 2-6 percent (average 4 percent) to an appendix. Until the NPCC revises and adopts alternatives, these two goals should remain upfront in the section titled "Program goals and quantitative objectives."

In addition, the NPCC's section on Regional Coordination does not reflect the changing coordination landscape that has evolved over the last few years. Without a regional coordinating body, the NPCC needs to take a larger role in convening relevant conversations and coordinating

with all fish and wildlife managers. We reiterate our recommendation that the NPCC should create an annual forum to prioritize Basin issues such that all managers can help craft and be responsive to emerging conversations, policy issues and concerns. The Draft Program does not, yet should, provide sufficient detail to guide BPA's funding decisions. Conversations with managers can serve to inform and guide those decisions.

Hatcheries: PFMC previously recommended that the Program support hatchery program reviews to ensure compliance with regional mitigation, conservation and recovery goals, using performance indicators and adaptive management measures, and a structured monitoring, evaluation, and research program.

The NPCC supported a balanced hatchery approach based on mitigation, science, and integration with habitat restoration. It affirmed the use of hatcheries to meet mitigation goals, recommended hatchery effectiveness monitoring, marking all hatchery fish and implementation of Hatchery Scientific Review Group recommendations.

The Draft program is consistent with PMFC recommendation but relies on processes such as the NPCC Research Plan to address critical uncertainties, hatchery review by co-managers 3-5 years, and additional hatchery reporting requirements. The Program should clearly describe how the additional hatchery process recommended by NPCC will be funded. The NPCC should continue to fund, develop, maintain and expand terminal off-channel select area fishing opportunities and mark-selective fisheries designed to harvest sufficient numbers of returning hatchery fish in a fashion so that they do not impact naturally spawning fish.

Test the Efficacy of Higher Spill Levels: The NPCC's continued interest in improving spill and mainstem operations as a tool to improve smolt-to-adult return rates is in keeping with the PFMC's perspective. The NPCC previously outlined necessary next steps including full engagement of NOAA Fisheries and the Basin's fish and wildlife managers' expertise. Providing criteria for review in the Draft Program is a constructive step forward as the Basin continues to understand how to implement a spill experiment.

In addition, PFMC recognizes the important role played by the Fish Passage Center in providing data products and analysis, which is consistent with the Draft Program's recommendations.

Water Quality and Toxics: The NPCC's amendment for toxics is an improvement over the 2009 Program, and strengthens engagement in this issue. We agree with the additional research suggested and the role of the NPCC in helping to bring in funding under EPA's Large Aquatic Ecosystem designation that has been provided to other EPA-designated water bodies (Puget Sound, Chesapeake Bay, Great Lakes, etc.).

Climate Change: The climate change section is strong and specific. However, the amendment lacks a cohesive vision or the development of a plan to guide the actions. We reiterate our recommendation to convene a working group to ensure that efforts are coordinated and effective.

Estuary: The estuary section is well-developed, and we support the recommended focus on habitat restoration and support monitoring the effectiveness of habitat actions. We also support the additional section focused on eulachon, which is identified in the Unmanaged Forage Fish

Protection Initiative of the PFMC's Fishery Ecosystem Plan. PFMC supports a concerted effort to address lamprey vulnerability with respect to accumulation of toxins, chemical spills, stranding due to drop in reservoir levels, timing of migration, and dredging near dams and navigation facilities.

The PFMC appreciates the opportunity to provide comments on the NPCC's Fish and Wildlife Program amendment process.

Signature Block

CURRENT HABITAT ISSUES

The Habitat Committee (HC) will meet on Monday and Tuesday, June 23 and 24, 2014, to discuss the proposed boundary expansion of the Gulf of the Farallones and Cordell Bank National Marine Sanctuaries, California drought issues, the KZO Sea Farms aquaculture project, and other issues.

At the April Council meeting, the Council approved three letters drafted by the Habitat Committee:

- Attachment 1, a letter to NOAA Fisheries in support of establishing a pilot project with fisheries-specific habitat conservation objectives for Council-managed species,
- Attachment 2, a letter to the Bureau of Ocean Energy Management on the Pacific Marine Energy Center South Energy Test Site, and
- Supplemental Attachment 3, a letter on the Sacramento Bay/Delta Conservation Plan.

The Council also directed the HC to draft the following two draft letters:

- Attachment 4, commenting on the Gulf of the Farallones and Cordell Bank National Marine Sanctuaries' proposed boundary expansion for Council consideration, and
- Attachment 5, commenting on the Northwest Power and Conservation Council's Fish and Wildlife Program.

Council Action:

1. **Consider comments and recommendations developed by the HC.**
2. **Provide guidance on the two draft letters provided.**

Reference Materials:

1. Agenda Item H.1.a, Attachment 1: Letter to NOAA on fisheries-specific habitat objectives.
2. Agenda Item H.1.a, Attachment 2: Letter to Bureau of Ocean Energy Management.
3. Agenda Item H.1.a, Supplemental Attachment 3: Letter regarding the Bay/Delta Conservation Plan.
4. Agenda Item H.1.a, Attachment 4: Draft Letter to Gulf of the Farallones National Marine Sanctuary.
5. Agenda Item H.1.a, Attachment 5: Draft letter to the Northwest Power and Conservation Council on their Fish and Wildlife Program.
6. Agenda Item H.1.b, Supplemental HC Report.

Agenda Order:

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

PFMC
05/28/14

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384
Phone 503-820-2280 | Toll free 866-806-7204 | Fax 503-820-2299 | www.pcouncil.org
Dorothy M. Lowman, Chair| Donald O. McIsaac, Executive Director

June 22, 2014

Ryan Wulff, NMFS
BDCP Comments
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814
BDCP.Comments@noaa.gov

Dear Mr. Wulff,

Thank you for accepting the comments of the Pacific Fishery Management Council regarding the Bay Delta Conservation Plan (BDCP) and associated Draft Environmental Impact Report/ Environmental Impact Statement (DEIR/DEIS). The Council is concerned that essential fish habitat (EFH) for Council-managed species will be impacted by proposed BDCP activity.

As you know, the Pacific Council is one of eight Regional Fishery Management Councils established by the Magnuson-Stevens Fishery Conservation and Management Act (MSA) of 1976, and recommends management actions for Federal fisheries off Washington, Oregon, and California. The MSA includes provisions to identify, conserve, and enhance EFH for species regulated under a Pacific Council fisheries management plan. Each Council is authorized under MSA to comment on any Federal or state activity that may affect the habitat, including EFH, of a fishery resource under its authority. Furthermore, for activities that the Pacific Council believes are likely to substantially affect the habitat of an anadromous fishery resource under its authority, the Pacific Council is obligated to provide comments and recommendations (MSA §305(b)(3)).

The Council believes the BDCP will negatively impact EFH for Council-managed species. Adverse effects on habitat for Chinook salmon of all runs race—fall, late fall, winter, and spring—particularly concern the Council. The in-river conditions for all life phases of Chinook salmon are currently marginal at best, as described throughout the Operations Criteria and Plan (OCAP) Biological Opinion for management of the State Water Project and Central Valley Project. Lindley et al. (2009) point to the ultimate causes of the collapse of Sacramento River fall-run Chinook in 2008-2009 as primarily anthropogenic, with the end result being severe truncation in the diversity of the fall- and late-fall run salmon populations. The tenuous state of California's salmon populations listed under the Federal Endangered Species Act (ESA), is beyond dispute; further degradation to the habitat they depend on will simply worsen their condition. Further, impacts to the Central Valley fall and late-fall runs reduce the number of fish that can be taken in public fisheries without mitigation. The Council views such impacts to these four runs as unacceptable.

The Council's examination of the effects of the alternatives, Section 11.3.4 of the BDCP EIR/EIS, reveals many examples of what are characterized in the analytical documents as "slight" reductions in the quality of habitat for Central Valley fall Chinook salmon. They are particularly frequent in the spawning and rearing habitat of fall Chinook salmon. In light of existing marginal conditions for fall Chinook salmon in the Central Valley, these "slight" impacts are not viewed as harmless by the Council. While individually each degradation might be small, when taken in total, the impacts are unacceptable. The Council is highly concerned that further reduction in the habitat-related diversity of fall Chinook will lead to the loss of the fall run as a sustainably harvested resource, and to the very survivability of the two ESA-listed runs (winter and spring).

The Council is also highly concerned that ultimately, the flow of fresh water through the Delta will continue to be unreasonably constrained by the project's overall water withdrawals. The mitigations described in the EIR/EIS (mostly unfunded, and therefore unlikely to be implemented) cannot compensate for ecological degradation resulting from the diversion of water from the system. The Council requests that the BDCP incorporate and fund the ecological mitigations throughout the project area; and that their impacts to all salmon be analyzed in the EIR/EIS to demonstrate how the mitigations can be reliably expected to result in no further degradation to the habitat which, under the MSA, has been designated as essential fish habitat for salmon.

Salmon Essential Fish Habitat

The EFH description of the Pacific Coast Salmon Fishery Management Plan (FMP) lists known threats to salmon habitat such as dam construction, reducing in-river flow, levee construction, logging riparian habitat, and pollution from both agricultural and urban runoff. These threats lead to loss of water quality as listed in the EFH description, including elevated water temperatures, increased turbidity and suspended solids, flooding and dewatering of spawning areas, and alteration of the natural flow regime. The EFH description identifies beneficial habitat factors listed as EFH including side channel habitat, channel margin shading, high riffle/pool ratio and structure, and presence of large woody debris.

The Council is greatly concerned that almost none of these beneficial EFH elements presently exist in the Central Valley. While the BDCP contemplates some EFH conservation effort, there is no assurance of funding. Even though BDCP purports to address entrainment in the pumps and Delta habitat, Lindley et al. (2009) state, "…from this perspective the biggest problem with the state and Federal water projects is not that they kill fish at the pumping facilities, but that by engineering the whole system to deliver water from the north of the state to the south while preventing flooding, salmon habitat has been greatly simplified."

In addition, the BDCP should take notice of any changes to salmon EFH including the descriptions of non-fishing activities that may adversely effect EFH.

Groundfish and Coastal Pelagic Species Essential Fish Habitat

In addition to EFH for salmon, the BDCP would affect EFH for other Council-managed species. Section 11.2.1.3 of the DEIR/DEIS notes that EFH for salmon, but not for groundfishes or coastal pelagic species, occur in the plan area. However, Section 11.1.1 identifies Suisun Bay as

being in the plan area, and San Pablo Bay and San Francisco Bay as areas that may be affected by the plan. These three areas contain estuarine and marine habitats that have been identified as EFH and habitat areas of particular concern for various species and life stages of groundfishes (e.g., starry flounder, English sole, rockfishes) and coastal pelagic species (e.g., northern anchovy, Pacific sardine). Appendix B to the West Coast Groundfish FMP and Appendix D to the coastal pelagic species FMP identify the species and life stages that occur in these areas and types of habitats. Therefore, the Council recommends that the DEIR/DEIS be revised to address these additional species.

The bullets under Section 11.2.1.3 do not accurately reflect the status or FMPs of the species identified. For example, the first bullet states that starry flounder and northern anchovy are "monitored species" under the groundfish FMP; however, the groundfish FMP (2011) does not distinguish between "managed" and "monitored" species, and northern anchovy are managed under the coastal pelagic species FMP, not the groundfish FMP. As noted above, the species listed do not represent a comprehensive list of species with EFH in these areas.

Central Valley Project Improvement Act

The Council notes that the 1992 Central Valley Project Improvement Act (CVPIA) and the recommendations of the independent audit of compliance and performance (Department of Interior, "Listen to the River"[1]) have not been incorporated into the BDCP except as references. The Council believes that fish and wildlife resources have not been receiving equal prioritization with irrigation and domestic uses of Central Valley Project water. The Council believes that robust EFH in all categories should result from implementing the recommendations of the CVPIA. The Council recommends the BDCP incorporate and fully fund the recommendations of the CVPIA and the independent audit "Listen to the River" into the BDCP and analyze those actions in the DEIR/DEIS.

Central Valley Hatchery and Wild Salmon

Due to the lack of habitat to support abundant natural spawning of Chinook salmon since dam construction, Council fisheries are dependent on salmon hatcheries in the Central Valley. Hatchery mitigation programs are designed to mitigate for the loss of habitat above the dams, but they cannot replace the natural production of an entire river. In order to reduce straying of hatchery-produced salmon, the juveniles from some hatcheries are typically released and allowed to migrate naturally to the Delta and out to the ocean. As is especially apparent in this drought year, the lack of adequate flows in the Sacramento River can prevent salmon from having even a vestige of their natural river life cycle, with the possible loss of even the hatchery stocks as well as nearly all naturally-spawned fish. The Council believes in-river flows must be adequate and continuous through the Delta and into San Francisco Bay to provide for proper exercise of the mitigation function of the hatcheries. The Council believes that CVPIA (b)(2) flows are a minimum requirement, and recommends using flows above (b)(2) where necessary to adequately mitigate the damage to fisheries resources caused by development of Central Valley water resources.

[1] https://www.usbr.gov/mp/cvpia/docs_reports/indep_review/FisheriesReport12_12_08.pdf

The Council notes the extreme importance of Sacramento River fall-run Chinook salmon to the economic well-being of California and Oregon coastal communities. Due to ESA conservation constraints, Sacramento winter run are of equal importance. Conservation actions to protect the Sacramento River winter-run Chinook at times highly constrain the ocean harvest of fall-run Chinook by commercial and recreational stakeholders. With this in mind, the Council strongly recommends that the goal of BDCP be not simply to minimize impacts to salmon resources, but to fully support and fund measures to increase salmon and other Central Valley anadromous fish populations through habitat restoration, including increased freshwater flow through the Delta and into San Francisco Bay.

Harvest Management

The Council recommends permit applicants contact Council staff regarding the description of all fisheries impacts described in the BDCP document to assure that they clearly and accurately describe Council salmon management policy. For example, the subsection "Overfishing" in Chapter 11.1.5.4 (Harvest and Hatchery Management) is generally true; however, because the BDCP concerns only Central Valley-origin salmon, the mark-selective fisheries statements do not apply to Council-managed fisheries South of Cape Falcon, Oregon, and only one to three percent of the overall harvest of Central Valley-origin Chinook occurs North of Cape Falcon, Oregon. Furthermore, the Council sets conservative spawning escapement goals for Central Valley Chinook to allow for sustainable production of natural spawning Chinook, and naturally spawning Chinook in the Central Valley are not overfished under the terms of the MSA.

As a start, the following paragraph briefly describes salmon fisheries South of Cape Falcon, Oregon.

> The Pacific Coast Salmon FMP describes the harvest policy objectives used to craft seasons within all conservation and ESA Reasonable and Prudent Alternative constraints. The salmon FMP allows mark-selective fisheries for both coho salmon and Chinook; however to date, mark-selective fisheries for Chinook have only been used in the area north of Cape Falcon, Oregon. The Council also carefully addressed the impacts of release mortality in the mark-selective fisheries. The Council estimates the release mortality in recreational fisheries north of Point Arena, California as 14%. South of Point Arena, the release mortality is calculated as an average of two release mortalities, 42.2% for mooching-style fishing and 14% for trolling-style fishing. The average release mortality is based on the proportion of the recreational fishery using the two styles of fishing. In 2013, the average was 17%. The release mortality of 26% for legal and sub-legal Chinook is used in commercial fisheries. The Council also uses models of encounter rates of marked and unmarked fish, as well as the fraction of sublegal fish in all of our fisheries, in order to calculate the appropriate impacts to all runs in Council-area fisheries.

NMFS Incidental Take Permit; Reasonable and Prudent Alternatives

Regarding the National Marine Fisheries Service (NMFS) Incidental Take Permit (Section 1-25), the Council is largely in agreement with the comments of the California Advisory Council on Salmon and Steelhead Trout (Attachment 1). The Council is also aware that the NMFS California Central Valley Area Office has been in consultation with the Bureau of Reclamation

concerning implementation of Operational Criteria and Plan ESA Reasonable and Prudent Alternatives (RPAs) and EFH conservation recommendations. It is clear from communications between NMFS and the Bureau of Reclamation (Attachment 2) that the EFH conservation recommendations for Sacramento fall and late fall Chinook salmon have not been fully implemented.

The Council recommends the BDCP explicitly allocate resources for the implementation of EFH recommendations as well as ESA Reasonable and Prudent Alternatives in the OCAP Biological Opinion.

Research, Monitoring, and Evaluation

The Council appreciates the extensive monitoring and research program proposed in the BDCP, and has the following recommendations.

First, the Council has identified escapement and harvest monitoring as its primary data need in terms of salmon management. Specifically, the Council notes in its Research and Data Needs document that "escapement and fishery monitoring should be maintained and expanded where appropriate, and data collection should include information on age and sex composition, mark rates, coded wire tag recovery, and include spawning ground carcass enumeration and sampling. Sampling programs in some systems have been expanded and new escapement estimation methods developed such as genetic mark-recapture techniques." California Central Valley stocks are identified as the top priority under this topic. This data could be used to develop an age-specific cohort reconstruction for the stock, which, among other things, would allow for estimating contribution of hatchery origin Chinook to ocean harvest, river harvest, and spawning escapement.

Centralized documentation and monitoring of habitat restoration programs, particularly with GIS technology, is also essential to evaluation of program progress and success. The Council recommends that the database described in Appendix 3.D include projects not specifically funded by BDCP in order to monitor the affected ecosystem as a whole. This could enable BDCP conservation activities to work within a larger effort such as a NOAA Habitat Blueprint for the Central Valley. The Council stresses the need to know what other agencies and efforts are doing so that duplication and working at cross purposes do not occur.

Some monitoring activities in the BDCP are described as not expected to be needed for more than a few years. One example of this is the CM14 Tidal Natural Communities Restoration, (Appendix 3.D, page 13, "Conduct a site-level asessment of use by native and non-native fishes"). BDCP will monitor this restoration project for one year and then rely on existing programs for monitoring. The Council recommends that the BDCP continue to fund existing programs in this case, and to look throughout the BDCP monitoring program and ensure that the BDCP collaborates with other agencies to ensure that monitoring of the effectiveness of BDCP conservation programs continues to provide high-quality data that will enable program-level decision making and adaptive management of Bureau of Reclamation and California Department of Water Resources (DWR) operations.

Research planned for the BDCP will investigate the effectiveness of many elements of the conservation program. The Council notes that in the Columbia River Basin, research into fish passage has been ongoing since the first dams were built in the 1930s. The Bureau of

Reclamation and DWR should plan to continue to invest in research and applied science programs to understand the changing relationship of the Delta ecosystem and its fish populations, especially as climate change adds increased stressors. Change will occur, and continued research will enable the Bureau of Reclamation and DWR to mitigate the impacts to fish and wildlife affected by the BDCP and other programs.

The Council encourages state and Federal water managers and resource managers to consider implementing Passive Induced Transponder (PIT) tag technology in the BDCP and Central Valley Project in the context of additional monitoring and evaluation strategies. PIT tag technology has been highly useful in the Columbia River Basin, where it has revolutionized how hydro-system management is evaluated and managed in order to help protect and recover ESA-listed and other important salmon and steelhead stocks in the Basin. The data available from PIT tag technology provide real-time information on juvenile abundance, emigration timing, reach passage survival, adult return timing, tributary and hatchery return timing, adult abundance, and early indications of straying. These data are valuable for monitoring and assessing all phases of salmon recovery programs. PIT technology has application to a broad suite of fishes in the freshwater environment, but has generally been targeted towards salmon and steelhead. Recognizing that significant funding and additional monitoring capabilities will be needed in the Sacramento River system to fully utilize PIT tag technology, the benefits gained from this applied science and its use in real-time adaptive management have far exceeded the costs.

Regional Oversight

The Council recommends giving the public a voice and visibility into BDCP fish and wildlife conservation programs, as these directly impact public resources. In the Pacific Northwest the Northwest Power and Conservation Council (NPCC) Fish and Wildlife Program provides a public forum to give policy guidance to the Bonneville Power Administration in terms of coordinating, reviewing, and guiding fish and wildlife program development and project spending. The NPCC forum enables all interested management entities, sovereigns, the interested public, and others to work together to develop and periodically amend a fish and wildlife program for natural resource protection and recovery, including monitoring and evaluation programs that track the progress of the program towards achieving its goals and objectives.

Funding for Fish and Wildlife Conservation

Chapter 8 of the DEIR/DEIS describes potential funding sources for the BDCP, including Federal, state, and local sources; matching grants, and income from water contracts. These sources are simply potential sources, as the document clearly states. However, the Council has the following concerns. First, state and Federal funding is finite, and allocation to BDCP may re-allocate funding from existing programs the Council relies on. Second, reliable sources and levels of funding to carry out the BDCP must be identified by the permit applicants before NMFS will be able to issue an ESA Section 10 Incidental Take Permit. The Council recommends BDCP demonstrate funding certainty, particularly for fish and wildlife conservation programs, and also ensure that other programs will not lose funding as BDCP gains funding.

The Council appreciates your attention to these comments. We recognize that our comments are subject to our Council process, and thus may not be finalized within the BDCP comment period. Therefore, we ask that these comments be accepted out of consideration of our public processes.

Sincerely

Signature block

Attachments:

- Letter from the California Advisory Council on Salmon and Steelhead Trout (Attachment 1) dated February 26, 2014.
- Letter from NMFS to the Bureau of Reclamation (Attachment 2), dated July 28, 2010.

Agenda Item H.1.a
Supplemental Attachment 6
June 2014

DRAFT LETTER

The Honorable Sally Jewell, Secretary
U.S. Department of the Interior
1849 C Street, NW
Washington, D.C. 20240

RE: Action Requested to Prevent Klamath River Fish Kill

Dear Secretary Jewell:

The Pacific Fishery Management Council (Council) is concerned that potential low flows in the Klamath River will substantially affect salmon essential fish habitat (EFH) and potentially create conditions leading to a fish kill in the Klamath River during the fall Chinook migration in late summer of 2014, such as occurred in 2002. The purpose of this letter is to recommend, as we did last year, that the Department engage in advance planning for stored water releases this fall to prevent such an occurrence.

As you know, the Council is one of eight regional fishery management councils established by the Magnuson-Stevens Fishery Conservation and Management Act of 1976 (MSA), and recommends management actions for Federal fisheries off Washington, Oregon and California. The MSA includes provisions to identify, conserve, and enhance EFH for species regulated under a Council fisheries management plan. Each Council is authorized under MSA to comment on any Federal or state activity that may affect the habitat, including EFH, of a fishery resource under its authority. Furthermore, for activities that the Council believes are likely to substantially affect the habitat of an anadromous fishery resource under its authority, the Council is obligated to provide comments and recommendations (MSA §305(b)(3)).

Forecasted Flows

Precipitation and resultant water supply in the Klamath Basin this year are most likely to continue a trajectory toward extreme drought, perhaps the worst on record. This is indicated by the fact that precipitation has been substantially lower than average since January of 2013 and that flows at several gauging stations throughout the Basin today stand at levels at or below those seen during the drought of 1997-98. Precipitation between now and August will most likely be insufficient to mitigate adverse habitat conditions. There are water management decisions to be made between this point and September, and we remain concerned that sufficient water supplies be provided for now so that the Bureau will be in a position to prevent conditions that may appear in the lower river similar to those that led to the September 2002 fish kill, when more than 33,000 adult salmon died in the Lower Klamath River.[1]

[1] Guillen, G.J. 2003. Klamath River Fish Die-off: September 2002: Report on Causative Factors. AFWO 03-03. USFWS. Arcata, California

The hydrologic data for June 2014 provides evidence that flow levels in the lower Klamath River will likely fall below minimum thresholds developed collaboratively by the Trinity River Restoration Program (TRRP) and the Bureau of Reclamation's Klamath Basin Area Office under the guidance of the TRRP's Fall Flow Subgroup for protection of adult fall Chinook migrants.[2] Specifically, flows no lower than 2,500 cfs as measured at USGS gage "Klamath River near Klamath" are needed commencing in August and continuing at least through September 21. The Subgroup determined that this minimum discharge would be recommended regardless of projected run size for Klamath fall Chinook salmon. Additional supplementations would be necessary, should disease outbreaks or unseasonably warm late-September water temperatures come to pass.

Requested Action

The Council requests that you weigh allocations of water for adult returns in the current year, and pursue all necessary measures to ensure an adequate amount of supplemental water be available for release from the Trinity and/or Upper Klamath basins during the peak migration and holding timeframe for the fall Chinook return. Such flow augmentation should be designed to maintain the quality of salmon EFH and minimize the likelihood of another fish kill, by alleviating the river flow patterns and adverse conditions that resulted in the 2002 fish kill. Therefore, we recommend that the Department of Interior work with Klamath Basin scientists, the TRRP, and co-managers to determine the best manner for minimizing the potential for another fish kill.

The Council also recognizes that actions taken this year may impact available water management strategies in the coming year, and that those impacts must be evaluated.

In closing, the Council is concerned that planning efforts be initiated now to ensure protection of EFH. This recurring issue leads us to recommend, as we have in the past, that the Department of Interior finalize a permanent and comprehensive plan to address the needs of lower Klamath fish passage.

We are prepared to assist with this effort in any way possible. We would appreciate hearing about such planning, and offer our assistance in any way possible.

Thank you for your attention to this important matter.

Sincerely,

D. O. McIsaac, Ph.D.
Executive Director

[2] Hayden, T. 2012. Memorandum to the fall flows subgroup. Re: 2010 and 2011 Fall flow release criteria and evaluation process. Available from the Trinity River Restoration Program. http://odp.trrp.net/Data/Documents/Details.aspx?document=1608

Agenda Item H.1.a
Supplemental Attachment 7
June 2014

Sanctuary Nomination Process

Summer 2014

For the first time in twenty years, NOAA has re-established a process for the public to nominate nationally significant marine and Great Lakes areas as potential new national marine sanctuaries. This community-based process addresses a growing number of requests for new national marine sanctuaries from diverse interests around the country.

This action will help fulfill NOAA's mandate under the National Marine Sanctuaries Act to identify marine areas of special national significance and supports the administration's goals of ensuring healthy coastal communities and economies. The agency received nearly 18,000 comments on the June 2013 proposal, the vast majority of which were in strong support. NOAA is not designating any new national marine sanctuaries with this action, a step towards addressing the growing number of requests for new national marine sanctuaries from a variety of interested constituents from around the country.

The Next Steps

NOAA's website (www.nominate.noaa.gov) describes the nomination process, including the list of criteria and considerations that NOAA will use to evaluate nominations. NOAA expects the review process for each incoming nomination to take approximately three to six months. After each review is complete, successfully nominated sites will be placed in an inventory of areas NOAA could consider for national marine sanctuary designation.

Once an area is placed in the inventory, NOAA may consider beginning the separate multi-year, highly participatory designation process for that area. The national marine sanctuary designation process is described in the National Marine Sanctuaries Act. Being in the inventory does not guarantee that NOAA will designate that area as a national marine sanctuary in the future, and it does not establish any regulations or limit activities in the area.

Typically, marine sanctuary designations take three to five years. The designation process depends on a range of factors, including the complexity of the area, the proposed regulations, the level of support from current user groups, and agency resources.

Anticipated Benefits

Across national marine sanctuaries, NOAA economists estimate about $6 billion annually is generated in local coastal and ocean-dependent economies from diverse activities like commercial fishing, research, and recreation-tourist activities.

Photo: Ari Friedlaender

Sanctuary designations provide many diverse benefits for coastal communities including the opportunity for the protection of nationally significant marine and cultural resources; social and economic benefits; increased opportunities for management, research, and education; and community engagement.

National Marine Sanctuaries
National Oceanic and Atmospheric Administration

Sanctuary Nomination Process

Questions & Answers

Why is NOAA re-establishing a process to nominate new sites now?

NOAA is re-establishing the process in response to numerous requests from communities and stakeholders, political leaders, and other interests from across the country. These requests often reference the many and diverse benefits communities realize from a national marine sanctuary. This action also fulfills NOAA's mandate under the National Marine Sanctuaries Act to identify marine and Great Lakes areas of special national significance and supports NOAA's goals of ensuring healthy coastal communities and economies.

How do I nominate a new site? What types of information do I need to provide?

Once the final rule is published in the Federal Register establishing the Sanctuary Nomination Process, it will provide more information on the community-based sanctuary nomination process, including what to include in a nomination. NOAA will also have more information once the rule is published on the Sanctuary Nomination Process website (www.nominate.noaa.gov) which will include a guide to help prepare a nomination.

When should I submit a nomination?

A nomination should be submitted when a community believes that a marine or Great Lakes area meets the national significance criteria and management considerations, and would benefit from becoming a national marine sanctuary.

Is there a nomination deadline?

There are no deadlines for submissions. Nominations will be reviewed as they are received by NOAA.

How will the nomination process affect uses of the marine environment?

Re-establishing the sanctuary nomination process conveys no direct regulatory protections, nor does it establish any new national marine sanctuaries. NOAA would implement regulations only after a nominated area has gone through the sanctuary designation process, a separate activity that is highly public and participatory and typically takes years to complete.

Where can I find more information about NOAA's sanctuary system?

More information about NOAA's national marine sanctuary system can be found at: sanctuaries.noaa.gov

Whom do I contact with questions?

For general questions regarding the sanctuary nomination process, please contact NOAA's Office of National Marine Sanctuaries: sanctuary.nominations@noaa.gov

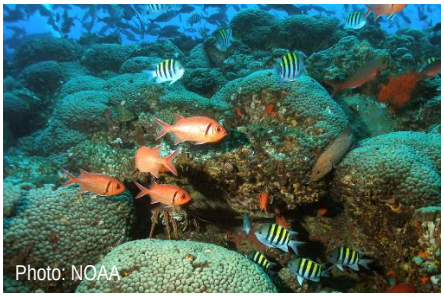
Photo: NOAA

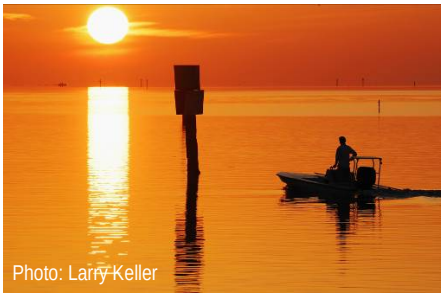
Photo: Larry Keller


Photo: Casserley

HABITAT COMMITTEE REPORT ON CURRENT HABITAT ISSUES

Items with Action Required

Klamath/Trinity Flows
Water supply in the Klamath Basin this year will likely result in extreme drought conditions for returning adult salmonids. Precipitation has been substantially lower than average since January of 2013, and precipitation between now and August will likely be insufficient to mitigate adverse habitat conditions. The Habitat Committee (HC) proposes sending the attached letter, which encourages the Department of Interior to provide sufficient water supplies to prevent conditions similar to those that led to the September 2002 fish kill, when more than 33,000 adult salmon died in the Lower Klamath River. The letter is similar to others the Council has sent in the past.

Bay Delta Letter
An earlier version of the Bay/Delta Conservation Plan (BDCP) letter (Agenda Item H.1.b, Supplemental Attachment 3) was provided at the April Council meeting and was approved by the Council for sending just prior to the June Council meeting. The letter was co-authored by the Salmon Advisory Subpanel and the HC. Since then, the deadline for the letter was extended to July 29, giving the HC, Council staff, and the Council itself additional time for review.

Apart from some minor edits, the main difference is in the paragraph advocating passive integrated transponder (PIT) tag technology, which was moved and edited. The wording on impacts to the fall and late-fall runs was strengthened, and a section was added calling for the BDCP to take notice of any pending changes to salmon essential fish habitat (EFH), including descriptions of non-fishing activities that may adversely affect EFH. Some explanatory wording on the Northwest Power and Conservation Council (NPCC) was deleted, and the "Fall Chinook Salmon" section was renamed to "Harvest Management" and moved.

NPCC Letter
A letter to the Northwest Power and Conservation Council is included in the briefing book (Attachment 5). The HC discussed the letter and suggests deleting the section on hatcheries, which are outside the scope of the committee.

Principal Power Wind Energy Scoping Period
Bureau of Ocean Energy Management (BOEM) has opened the scoping period for the environmental assessment for the Principal Power offshore wind energy project. The comment period closes on July 28; however, there is no scoping document at this time on which to develop comments. Since this is a precedent-setting application, and there is no document to respond to, the Council could submit the research questions it had previously sent to Department of Energy in October 2013 into this process if it so desires.

In May, Principle Power was one of three projects to receive an additional $46.7 million over four years for construction and deployment. The Demonstration project is not a commercial project; it would not be authorized to expand beyond the proposed five wind turbines. However, it would sell the power it generates.

In addition, BOEM's Oregon Intergovernmental Renewable Energy Task Force will meet in Portland on June 26, and Council staff may attend.

Informational Items

Sanctuary Nomination Process
National Oceanic and Atmospheric Administration (NOAA) has re-established the National Marine Sanctuary nomination process. The sanctuary designation process is a separate, formal process. Whereas sanctuary sites were previously nominated based on a top-down process, the new process defines the process as community-based, i.e., to include a broad range of stakeholder interests. The final criteria for nominations were published in the *Federal Register* on June 13. Interested communities can submit nominations starting in July. There is no deadline for accepting nominations, and each nomination will be evaluated on a rolling basis. Reviews of nominations are expected to take 3-6 months, during which they will be evaluated against the final published criteria. It is unclear to the HC how controversies over nominations will be resolved. Once the review is complete, nominated sites will either be placed on the nomination inventory or declined. Previously, candidate sanctuary sites comprised a Site Evaluation List. Sites on this list are not carried over and would need to be nominated to be placed on the new inventory. A website (www.nominate.noaa.gov) is now dedicated to the new sanctuary nomination process. A summary document by NOAA is attached.

California Drought Conditions
The HC had a brief discussion regarding the current drought conditions in California. California remains in extreme drought throughout much of the state. NOAA's June 23, 2014 El Niño Southern Oscillation prediction currently puts the chance of El Niño at 70 percent during summer and reaches 80 percent during the fall and winter; however, it is unclear whether the predicted El Niño will provide significant precipitation. Reservoirs are currently at 35 to 50 percent of capacity. For example, Trinity Lake is at 45 percent of capacity. The final manual snowpack survey of the season conducted on May 1 showed California snowpack at 18 percent of normal. Snowpack is now almost gone. California Department of Fish and Wildlife staff evacuated trout from a major hatchery on the American River last week to avoid a massive die-off of fish due to increased water temperatures in the hatchery. In all, over two million fish are being relocated and released earlier than normal by the Department due to drought conditions. Federal and state agencies continue to actively monitor and manage fish and water resources due to the drought.

KZO Sea Farms Consultation
The U.S. Army Corps of Engineers issued a permit to KZO Sea Farms on June 5, 2014, and the California Coastal Commission has also approved the permit. KZO Sea Farms accepted NMFS's EFH recommendations to avoid hard bottom habitat and conduct long-term monitoring.

Salmon EFH
On June 9, the Council transmitted to NMFS Amendment 18 of the Pacific Coast Salmon FMP and the revised Appendix A (Identification and Description of EFH for Pacific Coast Salmon). The Notice of Availability for Amendment 18 was published in the Federal Register on June 16, 2014. The 60-day public comment period closes on August 15, 2014. The modifications to salmon EFH are expected to be finalized in September, 2014.

Fisheries-Specific Habitat Objectives
In May, the Council sent a letter to NMFS in support of their pilot project to establish habitat conservation objectives for Council-managed species (Agenda Item H.1, Attachment X). Based on the proposal and the support voiced by the Council, the pilot project was funded. A two-day meeting will be held in Seattle to initiate the project. NMFS is seeking Council staff participation to ensure that the habitat objectives address Council needs. Staff from the Mid-Atlantic Fishery Management Council and the NMFS Greater Atlantic Regional Office are also developing an East Coast pilot project and will attend the meeting. The final report will be completed in the Spring of 2015.

Fish Processing Waste Offshore Disposal
The HC discussed offshore disposal of fish processing waste, brought to light by Trident Seafoods' proposal for a new and larger disposal site near Stonewall Bank. Fish waste is specifically excluded from permit requirements of the Federal Ocean Dumping Rules, unless such action is "reasonably anticipated to endanger the environment or ecological systems." The HC is concerned about the potential impacts of large volumes of fish waste on EFH quality, and the lack of adequate regulatory oversight of the activity.

The HC is encouraged to hear that EPA has recently expressed interest in pursuing approaches for more oversight on fish processing waste disposal. The HC intends to track this issue and may suggest at some point that the Council encourage EPA to use its authority to regulate fish waste disposal.

PMEC-SETS Letter
The letter on the Pacific Marine Energy Center-South Energy Test Site (PMEC-SETS) project in the Briefing Book (Agenda Item H.1.a, Attachment 2) was sent to BOEM in response to Oregon State University's (OSU's) request for a Research Lease for the wave energy test site off Newport. The Council's letter focused primarily on the cable route, which was not well addressed in the lease application.

Following the lease application, OSU initiated steps for Federal Energy Regulatory Commission (FERC) licensing. The scoping period is open now until August 4th. As this is the only opportunity for the Council to comment on project scoping, Council Executive Director approved sending an essentially identical letter to FERC as the one sent to BOEM and referred to above.

Cormorant Management Plan
The HC discussed the U.S. Army Corps of Engineers Draft Environmental Impact Statement (DEIS) for their proposed cormorant control program. The intent of the program is to increase salmonid survival by reducing predation on downstream-migrating juveniles.

The DEIS notes that improving downstream survival of juvenile salmonids is a "complex issue." However, the DEIS takes a simplified approach to this complex issue by ignoring habitat-relevant issues that affect salmon EFH. These include omission of habitat drivers such as changes in turbidity and dredge operations, loss of wetland habitats, and opportunities to increase survival through increased spill. To compare, spill management is expected to result in at least an order of magnitude higher survival than cormorant management (see Council letter of August 6, 2013 regarding the effects of spill).

The proposed habitat modifications include lowering the elevation of the downstream end of East Sand Island and dumping the material on two existing intertidal wetlands on the island. Intertidal wetlands are important habitat for juvenile salmonids, and the HC believes that this action would adversely affect salmon EFH. The DEIS does not provide sufficient detail on the other potential modifications to determine whether or not they would adversely affect EFH.

The HC also notes that many bird populations, including double crested cormorants, are at a fraction of their historical abundance. While management of bird populations is outside of the purview of the Council, they are an important component of the ecosystem, and managed under the Migratory Bird Treaty Act.

The HC understands that the Council is already planning to send a letter on this issue. The HC hopes that these comments will be considered as the letter is drafted, and is willing to assist in this process.

Action items for Council:

1. Approve/Disapprove Klamath flows letter (attached)
2. Approve/Disapprove BDCP letter with staff/HC edits (attached)
3. Approve/Disapprove NPCC letter with HC edits (removal of hatchery section)
4. Approve/Disapproved re-sending October 10, 2013 comments to BOEM on Principle Power project
5. Approve/Disapprove National Marine Sanctuary expansion letter (if relevant)

PFMC
06/24/14

SUPPLEMENTAL HABITAT COMMITTEE REPORT

In the event the Council wishes to append a Habitat Committee (HC) Statement to a letter to the National Marine Sanctuary (NMS) on agenda item C.2. regarding the National Marine Sanctuary expansion, the following points represent the HC's comment on habitat related matters.

HC comments on Gulf of Farallones and Cordell Bank National Marine Sanctuary expansion:

1. Essential Fish Habitat

As you know, the Magnuson-Stevenson Fishery Conservation and Management Act (MSA) includes provisions to identify, conserve, and enhance essential fish habitat (EFH) for species managed under a Council fishery management plan. Its provisions deal with both fishing impacts and non-fishing impacts to EFH. The MSA requires the Council to identify and describe EFH and recommends designating habitat areas of particular concern (HAPCs) for its managed species. EFH is the habitat necessary for each Council-managed species to support a sustainable fishery and the managed species' contribution to a healthy ecosystem, while HAPCs are high priority areas for conservation, management, or research because they are rare, sensitive, stressed by development, or important to ecosystem function. Each Council is authorized under the MSA to comment on any Federal or state activity that, in the view of the Council, may affect the habitat, including EFH, of a fishery resource under its authority. In the region of the proposed sanctuary expansion, EFH for groundfish exists from the shore to the 3500 meter line. Thus, it encompasses the entire proposed expansion area.

Sanctuary management of the expanded area may add to existing habitat and ecosystem knowledge, and the new information, research and mapping that Sanctuaries may provide will help inform updates to EFH for Council-managed species.

2. Existing Regulations Related to Habitat Protection

The HC is encouraged that the Office of National Marine Sanctuaries (ONMS) has incorporated regulatory and non-regulatory programs in the proposed management plans that may advance protections and public knowledge of ecosystem and habitat science, such as water quality education and outreach and invasive species awareness. The protections within these programs are similar to those implemented by the Gulf of Farallones and the Monterey Bay National Marine Sanctuary programs. Since there are numerous existing habitat regulations in place by other Federal and state agencies, as noted in the draft environmental impact statement (DEIS) (Sections 4.3.2 and 4.7-3), it is not clear how Sanctuary designation will improve on existing protection measures. It would be useful to include a table that summarizes all the existing and proposed protective measures and regulations for the expansion area, with an explanation of how additional protective measures benefit the resources.

3. Additional Permitted Uses in the Sanctuaries

The HC notices that there is a regulation change proposed giving the GFNMS and CBNMS "Authorization" capability, similar to existing regulation in the Monterey Bay National Marine Sanctuary. It appears that additional uses and discharges in the existing sanctuary that have been prohibited in the past as well as in the proposed expansion area could be allowed if a proposed use or activity is approved by another federal, State or local agency. In order for ONMS to authorize an otherwise prohibited activity that was permitted, licensed or otherwise authorized by another federal State or local agency, ONMS would need to make a finding that the activity will have at most short term and negligible adverse effects on Sanctuary resources and qualities. ONMS may also require the applicant to comply with any terms and conditions deemed necessary to protect sanctuary resources and qualities. This change may be useful for considering discharges with minimum impacts, such as to allow the discharge of grey water from fishing boats, a welcome flexibility. It also may allow consultation with the Council and state agencies so as to analyze whether it is appropriate to allow the activity and if so, what conditions to impose to protect sanctuary resources and qualities.

4. Upwelling Zone Protection

A primary stated purpose for Sanctuary expansion is to protect the resources of the important upwelling zone off Point Arena. Sections 4.2, 4.3, and 4.4 of the DEIS provide a general analysis of the environmental consequences of this action on physical and biological resources. However, it is unclear how Sanctuary expansion would protect or benefit this upwelling zone. The HC requests additional information on the benefits of the expansion with respect to protection of the upwelling zone and associated resources. The HC is pleased to see that there is a comprehensive monitoring plan proposed, the HC recommends an analysis in the final EIS regarding how the monitoring plan will further protection of the upwelling waters. This is an essential part of habitat conservation efforts in light of impacts such as ocean acidification.

5. Oil and Gas Development

The HC welcomes the prohibition of oil and gas development in the area of Sanctuary expansion, while noting that it is unclear that such a threat exists in this area. Since the public generally believes that Sanctuary designation would bring permanent protection from such development, it is important that the DEIS clearly note that there are exceptions to this, and the prohibition is not necessarily permanent. The HC also recommends making note of what protections and prohibitions are already in place by other state and federal agencies.

6. Alternative Offshore Energy

The proposal does not prohibit offshore hydrokinetic energy development as it does oil and gas development. It would be helpful to understand the Sanctuaries' policy and criteria for hydrokinetic energy development in Sanctuaries. The HC supports a comprehensive marine spatial planning effort to analyze existing uses, including fishing and habitat conservation uses, and recommends the DEIS incorporate clear direction on how Sanctuaries will evaluate wave and wind energy proposals, and what role the Council will have in this evaluation.

7. Department of Defense Activities

The DEIS states that ongoing Department of Defense activities occurring at the time of expansion would be exempt from the prohibitions listed in the proposed regulations, although there would be consultation with the Sanctuaries. The HC suggests that Sanctuaries develop a formal consultation process with DOD to assure minimization of impacts and include Council and NMFS notification within this process so that impacts to EFH in the Sanctuaries can be minimized.

8. Wildlife Protection Zones

The DEIS and revised Management Plans describe a resource protection plan and regulations that might include designating Special Wildlife Protection Zones. The HC understands the intent is to protect areas from cargo vessels and aircraft, and that these zones were previously named "Cargo Vessel Restriction Zones" and "Overflight Restriction Zones." To avoid misunderstanding of the intended restrictions, the names and definitions of these zones should be clearly articulated in the final EIS. Are there limitations of the types of activities that can be regulated in such a zone? The final EIS should clearly articulate under what circumstances and for what purposes these Special Wildlife Protection Zones can be used in the future.

9. Management and Enforcement Resources

Given the current uncertainties of federal funding for programs, the HC has concerns that the resources required to manage this large new area could detract from the protection of existing resources in already designated Sanctuaries. The final EIS should identify what additional enforcement capabilities—beyond existing state and federal law enforcement agencies--will come with sanctuary designation. An analysis of these questions would be appreciated, with an assurance that the management of existing sanctuaries will not be compromised.

PFMC
06/25/14