



## Pacific Fishery Management Council

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Dorothy M. Lowman, Chair | Donald O. McIsaac, Executive Director

December 6, 2014

The Honorable Jered Huffman  
United States House of Representatives  
1630 Longworth House Office Building  
Washington, D.C. 20515

Dear Mr. Huffman:

Thank you for your letter of November 17 and follow-up on December 3 requesting Pacific Fishery Management Council (Pacific Council) comment on legislation related to operation of the State Water Project and Central Valley Project in California (HR 5781) and its potential impacts to fisheries. Although the timing of the bill did not allow for full Council deliberation, we present the following concerns, which are consistent with previous comments the Council has made on similar legislation. Absent changes in the legislation to address these concerns, the Pacific Council does not support HR 5781 moving forward.

HR 5781 would override Endangered Species Act protections for salmon, steelhead, and other species in the Bay-Delta in order to allow increased pumping from the Delta in excess of scientifically justified levels. These measures also protect salmon stocks not currently listed under the ESA, which are a primary source of healthy sport and commercial fisheries from Central California to Northern Oregon. The bill introduces a new standard for implementing the Endangered Species Act concerning Central Valley salmon and Delta smelt, a keystone species in the Bay-Delta ecosystem. (See Sec 101(3), and 102(b)(2)(a).) It is unclear how severe the negative effects of this new standard might be, but it would certainly impact current water management policy that protects ESA listed salmon stocks from further decline and helps prevent currently healthy stocks from becoming listed under the ESA.

The bill contains several provisions that override the salmon and Delta smelt biological opinions (for example Section 103(d)(2), Section 103(c), and others). Section 103 could result in dramatically higher pumping than is authorized under the biological opinions, and would cause significant harm to migrating salmon and steelhead and other native species. The 1:1 inflow to export ratio for the San Joaquin at Vernalis overrides the 'reasonable and prudent alternatives' to standard operations that were set out in the 2009 Central Valley biological opinion in order to protect Sacramento River winter-run Chinook and other salmonid species. Further degradation of salmon habitat is contrary to the provisions of the Magnuson Stevens Act (Sec. 305(b)(1)(D)) and something the Pacific Council strongly opposes.

Section 103(f)(2) provides exemptions for mitigation of negative effects on listed fish species, which alleviates the project from compensating fisheries for negative effects of its operations; it is unclear if there is an exemption for mitigation of negative effect on non-listed salmon stocks. Exempting mitigation responsibility for harm to salmon populations provides the exact opposite

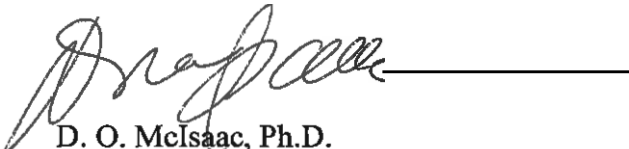
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incentive to the kind of salmon protection and enhancement advocated by the Council, and essentially amounts to redistributing the value of salmon fisheries to agricultural or municipal interests, as well as increasing the risk to ESA listed fish stocks threatened with extinction. Additionally, the Pacific Council is concerned about whether Central Valley projects are achieving their current mitigation responsibility, and providing these exemptions could preclude seeking remedy. If this bill moves forward, it should provide direct mitigation for the proposed actions and risks to which it would subject fish populations and fishing communities, not avoiding this appropriate responsibility.

In 2008 and 2009, \$158 million in Congressional aid was provided to deal with the disaster of the closure of ocean salmon fisheries off California and Oregon south of Cape Falcon due to a collapse of the Sacramento River salmon stocks. These fisheries are an important source of jobs for coastal communities, which cannot be replaced simply through disaster relief. Without adjustments to this bill, we fear such a disaster could be repeated in the reasonably near future.

Thank you again for the opportunity to comment on this legislation; please don't hesitate to contact me or Ms. Jennifer Gilden of the Pacific Council office if you have any further questions.

Sincerely,



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

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