



## Pacific Fishery Management Council

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Philip Anderson, Chair | Charles A. Tracy, Executive Director

November 30, 2017

The Honorable Jimmy Panetta  
U.S. House of Representatives  
228 Cannon House Office Building  
Washington, D.C.

Dear Mr. Panetta:

Thank you for your requests for Pacific Fishery Management Council (Council) analysis and comment on HR 3916, the FISH Act, which would transfer responsibility for anadromous and catadromous fish listed under the Endangered Species Act (ESA) from the National Marine Fisheries Service (NMFS) to the U.S. Fish and Wildlife Service.

The Council and its Legislative Committee met November 14, 2017 in Costa Mesa, California and reviewed the bill. We have the following observations.

The Council was established by the Magnuson-Stevens Fishery Conservation and Management Act of 1976 (MSA), and has jurisdiction over more than 119 fish species in Federal waters off Washington, Oregon, and California. Among other duties, the Council is responsible for managing season structures that protect ESA-listed stocks such as salmon, green sturgeon, and eulachon.

Currently the U.S. Fish and Wildlife Service has jurisdiction over terrestrial and freshwater organisms, while NMFS has jurisdiction over certain marine mammals and anadromous fish. While we recognize the potential benefits of a unified approach in managing ESA-listed stocks, this bill would eliminate many current benefits of NMFS jurisdiction over ESA-listed anadromous fish, including continuity of Federal representation across the management spectrum of Pacific salmon.

Management of Pacific salmon includes international, Federal, tribal, and state authorities. NMFS is the primary agency that represents Federal interests on the Pacific Salmon Commission and on the Pacific Fishery Management Council. In addition, NMFS plays a key role in working with tribal governments and state agencies in managing salmon and ensuring that ESA requirements are met across the international, Federal, tribal, and state arenas. Transferring ESA responsibility for anadromous fish to a Federal agency that is not directly involved from a broader management perspective loses the important continuity that is essential in protecting and rebuilding anadromous fish stocks listed under the ESA.

The Council has worked with NMFS for more than 20 years to streamline the salmon management process and has many successes to show for it, including the involvement of stakeholders in an

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open public process to help develop new consultation standards for ESA-listed Lower Columbia River coho, Lower Columbia River tule Chinook, and Sacramento River winter Chinook. NMFS has both the staff and the experience necessary to manage these species under the ESA.

In addition to its fishery management responsibilities, the Council is charged with identification, conservation, and enhancement of essential fish habitat (EFH), defined by Congress in 1996 as “those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity.” EFH is designated for all stocks managed under the Council’s fishery management plans, including ESA-listed stocks, and includes both ocean and freshwater habitats.

The current alignment of resource management and protection under the MSA and the ESA works well. If this bill were to pass, it would result in the Dept. of Interior consulting on critical habitat for ESA-listed stocks and NMFS consulting on EFH for both listed and non-listed stocks. Currently, those consultations are often conducted simultaneously, allowing for a more efficient process. The bill would require reinventing longstanding relationships between agencies, hiring additional staff, and possibly reassigning or relocating expert fisheries staff from NMFS. Such a change would likely spur new lawsuits over the management of these sensitive species, further delaying implementation of Federal actions. Transferring the management of these species to the Fish and Wildlife Service could overburden the Fish and Wildlife Service, which already has jurisdiction over 1,456 endangered animal and fish species and a backlog of candidate species. Such a shift could cause delays in important fisheries management actions and the many Federal and state infrastructure activities that affect ESA-listed salmonids.

In summary, we believe that the current approach to endangered anadromous species works well under NMFS, and that continuity of Federal representation across the management spectrum of Pacific salmon should be retained. We do not believe there is a problem here that needs to be solved.

Sincerely,



Charles A. Tracy  
Executive Director

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cc: Council Members  
Salmon Advisory Subpanel  
CCC Executive Directors  
Mr. Randy Fisher