Pacific Fishery Management Council

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

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Glenn P. Casamassa, Regional Forester
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Pacific Northwest Region
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Dear Ms. Liberatore and Mr. Casamassa:

The Pacific Fishery Management Council (Council) is writing to the Bureau of Land Management (BLM) and U.S. Forest Service (USFS) in response to the proposed amendments to their resource management plans ("Plan" or "Plans") that were developed in response to the Jordan Cove Pacific Connector Gas Pipeline LP project (CP 17-494-000) as a measure to ensure the project is consistent with the agency's Plans.

The Council is concerned that the essence of the USFS and BLM amendments is to exempt the Pipeline project from adhering to most Plan standards. Specifically, the USFS proposes to amend its Land and Resource Management Plans for the Umpqua, Rogue River-Siskiyou, and Winema National Forests (Federal Regulatory Energy Commission [FERC] Draft Environmental Impact Statement [DEIS] Appendix F, 2019). In addition, the BLM proposes to amend its Resource Management Plans for the Roseburg, Medford and Lakeview Districts (DEIS Appendix F, 2019).

The Council is concerned that these Plan amendments may substantially affect the essential fish habitat (EFH) of Council-managed salmon that require a high level of functional aquatic and riparian habitat on these lands. Accordingly, the Council is suggesting that the agencies identify and address the associated and cumulative effects of pipeline project activities on salmon EFH across the project area, as discussed below.

Council Authorities

To put our concerns into context, the Council is one of eight fishery management councils established by the Magnuson-Stevens Fishery Conservation and Management Act (MSA), representing a large array of stakeholders, including the sport and commercial fishing industry. The Council manages all Federal fisheries on the U.S. west coast, including more than 119 species of salmon, groundfish, coastal pelagic and highly migratory species. The MSA requires fishery management councils to describe, identify, conserve and enhance EFH for managed species that are under a fishery management plan (FMP). The Council's Pacific Coast Salmon FMP (PFMC, 2014) identifies and describes EFH for Chinook salmon, coho salmon and Puget Sound pink salmon. The FMP also describes adverse impacts[1] and conservation measures for these species. As defined at 50 CFR 600.10:

> Essential fish habitat means those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity. For the purpose of interpreting this definition of essential fish habitat: "waters" include aquatic areas and their associated physical, chemical, and biological properties that are used by fish and may include aquatic areas historically used by fish where appropriate; "substrate" includes sediment, hard bottom, structures underlying the waters, and associated biological communities; "necessary" means the habitat required to support a sustainable fishery and the managed species' contribution to a healthy ecosystem; and "spawning, breeding, feeding, or growth to maturity" covers a species' full life cycle.

The MSA further requires that each Council:

> …*shall* comment on and make recommendations to the Secretary and any Federal or State agency concerning any such activity that, in the view of the Council, is likely to substantially affect the habitat, including essential fish habitat, of an anadromous fishery resource under its authority**.** [Section 305 (b)(3)(B)]

The MSA also requires that Federal agencies respond directly to the Council on such matters, as follows:

> (4)(A) If the Secretary receives information from a Council or Federal or State agency or determines from other sources that an action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by any State or Federal agency would adversely affect any essential fish habitat identified under this Act, the Secretary shall recommend to such agency measures that can be taken by such agency to conserve such habitat.
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> (B) Within 30 days after receiving a recommendation under subparagraph (A), a Federal agency shall provide a detailed response in writing to any Council commenting under paragraph (3) and the Secretary regarding the matter. The response shall include a description of measures proposed by the agency for avoiding, mitigating, or offsetting the impact of the activity on such habitat. In the case of a response that is inconsistent with the recommendations of the Secretary, the Federal agency shall explain its reasons for not following the recommendations. [Section 305 (b)(4)]

[1] The regulatory guidance that implements the EFH provisions of the MSA (50 CFR Part 600) defines an "adverse effect" as any impact that reduces quality and/or quantity of EFH. Adverse effects may include direct or indirect physical, chemical, or biological alterations of the waters or substrate and loss of, or injury to, benthic organisms, prey species and their habitat, and other ecosystem components, if such modifications reduce the quality or quantity of EFH.

General Concerns

The Council is concerned that the sheer magnitude of the pipeline project activities that would be accommodated by the agency's proposed Plan amendments will result in substantial impacts of unprecedented scale on the EFH for Council-managed salmon stocks. The pipeline will traverse ecosystems that provide critical habitat for Oregon Coast coho salmon and Southern Oregon/Northern California Coastal coho salmon, which are listed under the Endangered Species Act and have been in recovery for decades. Similarly, the pipeline will affect ecosystems that support Klamath River Fall Chinook salmon, which are vitally important to the Klamath tribes as well as for recreational and commercial salmon fisheries.

The proposed Plan amendments will affect salmon EFH in all basins and sub-basins along the pipeline route. On Federal lands, watersheds within these basins with designated salmon EFH include the North Fork Coquille River, Middle Fork Coquille River and Trail Creek, and South Fork Little Butte Creek, and Upper Klamath River. On non-Federal lands, salmon EFH will be affected in the South Umpqua, Coquille, and Coos sub-basins (including the Coos Bay estuary), and waterbodies of the Upper Rogue River sub-basin (below the Lost Creek, Willow Creek, and Fish Lake Dams) and Upper Klamath River sub-basin.

Across these basins and sub-basins, impacts on salmon EFH will be direct, indirect and cumulative. Removal of riparian vegetation near streams, wetlands, and waterways will reduce nutrient inputs and shade, compromise banks, and increase sediment loading and turbidity in all watersheds within the pipeline corridor. Water quality will be further exacerbated by erosion caused by pipeline installations on steep slopes. Pipeline stream crossings will disturb and permanently alter channel beds and banks, and will degrade water quality through destabilization of substrates and sedimentation of gravels that are critical for spawning and rearing, resulting in decreased overall habitat function. An extensive network of new roads for pipeline construction and maintenance will further impact sensitive riparian habitats and increase risk of slope erosion into streams.

Hydrostatic testing of the pipeline will require 65 million gallons of water, with nearly half the amount coming from up to nine streams, including the Coos River, East and Middle Fork Coquille Rivers, Olalla Creek, South Umpqua River, Rogue River, Lost River, and the Klamath River. The discharge of the test water is also of great concern, though locations of discharge points have not been identified.

The ecosystems traversed by the pipeline route are critically interconnected, linking habitat function and fish production within and between watersheds. While much of the pipeline route is on private rather than Federal lands, the 14 perennial streams that will be directly affected on Federal lands do not function independently. Impacts from the pipeline construction and long-term corridor management on private lands (e.g., sediment production, substrate destabilization, riparian shade/nutrient loss) will have direct effects on the capacity of stream networks on Federal lands to produce fish, and thus adversely affect EFH. For example, where the majority of coho spawning and fry production occurs in a stream's headwaters on *Federal* lands, pipeline activities that occur downstream on *private* lands (and possibly in adjacent watersheds) and degrade rearing habitats will cause a direct decline in fish returning to those upper reaches on *Federal* lands. For these reasons, the agencies must address the associated and cumulative effects of

pipeline activities on salmon EFH across all affected watersheds, and mitigate for those actions accordingly (as further discussed below).

Salmon Fisheries

The Council is responsible for maintaining sustainable and productive fisheries, determined by stock assessments and with consideration for conditions affecting survival. The Council's 2018 fishery stock assessment determined that five stocks are depleted below the minimum stock threshold, including Klamath River fall Chinook salmon (PFMC, 2019). This salmon stock contributes to ocean fisheries from northern Oregon to central California, as well as tribal and recreational fisheries in the Klamath River. The MSA requires that the Council develop formal stock rebuilding plans for depleted stocks that identify factors contributing to low stock status as well as recommendations for habitat restoration and enhancement.

The draft Klamath River Fall Chinook Salmon Rebuilding Plan identifies several degraded freshwater habitat conditions including elevated river temperatures, low river flows and altered sediment regimes during critical periods of spawning, incubation and emergence (PFMC 2019). These same conditions are directly responsible for high concentrations of pathogens that have caused extreme mortality levels in juvenile salmonids in some years. Activities associated with the pipeline project will exacerbate factors already affecting fish habitat and fish health in the Klamath River and undermine the Council's stock rebuilding efforts and any subsequent habitat improvement recommendations.

Coho salmon in these streams are subjected to these same degraded habitat conditions. Oregon Coast coho salmon spawner abundance varies annually. The mean spawner abundance from 2004 through 2014 was approximately 199,700 individuals (range 66,270 to 359,692). In comparison, mean spawner abundances for the past four years dropped by 67 percent (mean: 67,120; range 57,142 to 74,060) (ODFW, 2019). This estimate includes rivers that occur in the project area (i.e., Umpqua, Coos, and Coquille). Protecting ample and high-quality spawning habitat for these important fish stocks is particularly crucial for buffering against critically low return years in order to help seed and stabilize the population.

As Northwest climate conditions continue to follow predictions towards warmer summer and winter weather regimes, the continued restoration and preservation of EFH natal and rearing habitats is critical for recovery of fishery resources. However, pipeline construction and corridor maintenance activities will undermine recovery efforts by maintaining short vegetative conditions in riparian corridors, thereby exacerbating the effects of rising temperatures on streams. Additionally, climate models for the upcoming years predict more violent rainfall patterns. This will make pipeline-disturbed areas more susceptible to erosion than would occur under typical (historic) rainfall patterns, and thus increase sedimentation in streams and further impact salmon EFH.

Mitigation

The Council finds the project design features and mitigation measures proposed in the Plan amendments to be inadequate for protecting salmon EFH in the affected area. While the agencies operate under multi-use management frameworks and broad goals, including resource conservation goals, the mitigation measures described in the DEIS appear to be largely framed to address timber target output and fire prevention goals, and lack focus on the conservation of salmon EFH to protect fish resources.

Accordingly, the Council recommends that the agencies develop a habitat mitigation strategy that focuses on salmon habitat in direct coordination with the Oregon Department of Fish and Wildlife (ODFW) and utilizing the mitigation and fish passage recommendations submitted by ODFW on the DEIS (Oregon Department of Justice, 2019). ODFW has extensive expertise and knowledge of salmon habitat in the affected area, having led decades-long recovery efforts to restore salmon habitat in Oregon watersheds through the Oregon Coast Coho Conservation Plan (ODFW, 2007) and with other land management/regulatory agency partners to protect and mitigate for projects that affect anadromous fish habitat. All these efforts have been guided by a robust ODFW Habitat Mitigation Policy (OAR 635-415). Direct coordination with ODFW early in the project's design phase can help minimize impacts to EFH. Furthermore, a well-coordinated comprehensive strategy across *all* land ownerships would create efficiencies, identify gaps in habitat protections and address cumulative impacts to EFH across the project area; resulting in a positive outcome for commercial fisheries and the fishing public.

The Council looks forward to your expeditious and informative response to our concerns and recommendations and your proposed measures for avoiding, minimizing and mitigating impacts on salmon EFH for each Plan amendment. Please consider the Council an Interested Party on the pipeline project, and include us on future notifications of your agency's actions and processes.

Sincerely,

Charles A. Tracy
Executive Director

JDG:xxx

cc:

FERC

Kim Kratz (Assistant Regional Administrator, Oregon/Washington Coastal Area Office, NOAA Fisheries West Coast Region)

References

Federal Energy Regulatory Commission. 2019. *Draft Environmental Impact Statement for the Jordan Cove Energy Project. Docket Nos. CP17-494-000 and CP17-495-000*

Oregon Department of Fish and Wildlife. 2019. *Estimated Abundance of Wild Adult Coho Spawners in the Oregon Coast Coho ESU*. Oregon Department of Fish and Wildlife (http://tinyurl.com/y55gbbgp)

Oregon Department of Fish and Wildlife. 2007. *Oregon Coast Coho Conservation Plan for the State Of Oregon.* Oregon Department of Fish and Wildlife. 63pp.

Oregon Department of Justice. 2019. *Oregon State Agency Comments on FERC's Draft Environmental Impact Statement: for Docket Nos. CP17-494-000 and CP17-495-000) (Jordan Cove Energy Project LP and Pacific Connector Gas Pipeline LP).* Accession No. 20190703-5209. July 3, 2019

Pacific Fishery Management Council. 2014. *Appendix A to the Pacific Coast Salmon Fishery Management Plan* Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, Oregon 97220-1384 (http://tinyurl.com/y5xcttug)

Pacific Fishery Management Council. 2019. *Salmon Rebuilding Plan for Klamath River Fall Chinook_draft 12.* Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, Oregon 97220-1384.