# HABITAT COMMITTEE REPORT ON CURRENT HABITAT ISSUES

## Central Valley Project Biological Opinion

The Habitat Committee (HC) discussed the final biological opinion (BiOp), released on October 21, for the long-term operations of the Central Valley Project and State Water Project, as well as the pending National Marine Fisheries Service (NMFS) analysis of project impacts to essential fish habitat (EFH). Several proposed changes to operations deserve the attention of the Council. The final BiOp, executive summary, and appendices can be found at the following link:

https://www.fisheries.noaa.gov/resource/document/biological-opinion-reinitiation-consultation-long-term-operation-central-valley

The BiOp concludes that the project will not jeopardize the survival of winter run Chinook, spring run Chinook, summer steelhead, or Southern Resident killer whales. However, elsewhere the BiOp states, "[b]ased on the analyses of expected effects of the proposed action to ESA-listed CV (Central Valley) Chinook salmon populations, reductions in the survival and productivity of all CV Chinook salmon populations (including fall-run and late fall-run Chinook salmon) are expected to occur throughout the proposed action, and the greatest effects will occur during the drier water years when effects of the proposed action are most pronounced." (NMFS BiOp, page 683). The HC identified several issues in the BiOp, including cold water storage in Lake Shasta, pumping in the delta, and temperature management, that could significantly impact the survival and populations of Endangered Species Act (ESA)-listed salmon that constrain Council-managed fisheries, as well as the status and designated EFH of species harvested by Council-managed fisheries.

The HC recommends that the Council send a letter to NMFS Assistant Administrator Chris Oliver and West Coast Regional Manager Barry Thom, as well as the Mid-Pacific Regional Director Ernest Conant of the U.S. Bureau of Reclamation (BOR), highlighting these concerns about the BiOp and the impacts of the project on EFH and Council-managed and constraining species. In order to raise concerns prior to the implementation of this BiOp, the HC recommends the Council task Council staff and the HC with developing a comment letter before the end of 2019.

## Klamath Dam Removal

Federal and state biologists (U.S. Fish and Wildlife Service, NMFS, California Department of Fish and Wildlife and Oregon Department of Fish and Wildlife) met recently to discuss issues related to the removal of the four lower Klamath River dams, their associated infrastructure, and the Iron Gate Hatchery. They identified factors that will directly affect fall Chinook and coho salmon production, field methodologies, abundance estimates, and harvest.

Upon removal of all four dams, fish will freely disperse into hundreds of miles of streams. This will require that new data collection strategies be developed to estimate escapement well before 2021, when the dams are slated for demolition. Water quality issues adjacent to the dam, which

were also identified as a consequence of demolition, will need to be addressed, and salmon spawning habitat in many miles of rivers and tributaries above the dams will require restoration or enhancement after the dams are removed.

Project biologists have offered to meet with the Salmon Technical Team (STT) to discuss the technical and methodological considerations for post-dam removal abundance estimates, and would like to discuss habitat issues at the March HC meeting. In addition, they have offered to lead a tour of the project area for the STT and HC prior to the March meeting if the committees feel this will be instructive.

**Upcoming Five-Year Review of the California Eelgrass Mitigation Policy**

The California Eelgrass Mitigation Policy (CEMP), first published in October 2014, states that it is National Oceanic & Atmospheric Administration (NOAA) Fisheries' intent to conduct a review every five years to evaluate new science and information on eelgrass, and potentially update the CEMP implementation guidelines. NMFS has begun to develop plans (process, timelines, etc.) to initiate the review. The HC is pleased to learn that these discussions are underway and looks forward to engaging in the review. We ask that NMFS incorporate the Council's annual meeting schedule into the planning for the review so that documents are made available to the HC and Council with sufficient time to meet comment deadlines.

**Jordan Cove LNG Export Terminal and Pipeline Project**

At the September meeting, the Council approved letters commenting on the draft environmental impact statement (EIS) of the Jordan Cove Energy Project. The Federal Energy Regulatory Commission (FERC) released the Final EIS (FEIS) for the project on November 15th with a 30-day comment period. Oregon state agencies will be providing technical comments on the effects of the project on state resources, including fish habitat, with state-required mitigation measures, and NMFS will conduct its EFH effects analysis with conservation recommendations. Considering the short comment window and scale of the project, the HC does not have adequate time to prepare constructive technical comments on the FEIS. The Council's letters included general comments to FERC (Agenda Item D.1 Att. 1, September 2019) on the draft EIS as well as specific comments to the U.S. Forest Service (USFS) and the Bureau of Land Management (BLM) (Agenda Item G.1 Attachment 1) on the pipeline project. In its letters, the Council requested direct responses by the agencies pursuant to Magnuson-Stevens Act authorities. In response, FERC referred the Council to their existing EFH analysis. The HC has been notified that USFS and BLM plan to respond jointly to the Council letters in the near future. Should the Council decide that an additional letter regarding the FEIS is warranted, Council staff with HC assistance could use a subset of the concerns in these existing letters to craft a response to the FEIS.

**Columbia River System Operation Plan DEIS schedule**

The draft EIS of the Columbia River hydropower system operations should be available for comment in February 2020. The alternatives under consideration have been released to the public and are available at: https://www.nwd.usace.army.mil/Media/News-Stories/Article/1991414/crso-introducing-the-range-of-alternatives/.

The HC will provide an additional update at the March meeting.

**Salmon Reintroduction Upstream of Chief Joseph/Grand Coulee Dams**

Casey Baldwin, Research Scientist with the Confederated Tribes of the Colville Reservation, briefed the HC on a proposal for the reintroduction of anadromous fish upstream of Chief Joseph and Grand Coulee dams. The investigation is being conducted by the Upper Columbia United Tribes with support from the U.S. Geological Survey, Washington Department of Fish and Wildlife (WDFW) and others. Ceremonial releases of summer Chinook salmon were conducted in 2019.

The Phase 1 Report, completed in May 2019, included habitat modeling for the U.S. portion of the blocked area covering 355 miles of Chinook habitat. Life cycle modeling predictions for summer Chinook showed production potentials of 41,000 pre-harvest adults.

All options for efficient and cost-effective passage of adults across Chief Joseph and Grand Coulee dams will be investigated in Phase 2. If fish are to be re-established above the dams, the upstream extent of EFH could be greatly increased during the next salmon EFH review.

Representatives of the Colville tribe expressed an interest in presenting this project to the Council at the April meeting in Vancouver, WA. The HC believes that the potential benefits of this project justify a presentation.

**Priority Non-Fishing Actions for HC Focus**

The HC has provided guidance to NMFS EFH leads on the topics that the HC would like to be notified about. These include large-scale or otherwise substantial activities (such as ocean energy development) and changes in policy or precedent (for example, major rule changes affecting EFH). The full list is provided below.

LARGE-SCALE OR OTHERWISE SUBSTANTIAL ACTIONS OR ACTIVITIES

- Ocean energy development
- Seafloor cables or pipelines
- Navigation channel dredging
- Offshore dredge material disposal sites – new or expansions
- Artificial reefs
- Shorebased energy export/import facilities (including liquefied natural gas) located on water bodies identified as EFH
- Shoreline modifications that may affect EFH
- Proposed dams and/or hydropower actions, including
    - Operations/flows/spill/water storage
    - Management/Operation Plans, including changes to related coordination programs and conservation plans
    - Relicensing/decommissioning
    - New dams or dam removals
- Riparian habitat modifications
- Port development projects
- Jetty or levee construction/maintenance (e.g., nationwide structural vegetation removal)

- Transportation projects that cross marine or estuarine waters or major river systems (e.g., the Columbia River or the Sacramento River, San Francisco Bay)
- Desalination facilities
- Marine and estuarine aquaculture with habitat impacts
- Offshore geologic and geothermal exploration or mining (including sand mining)
- Oil and gas development
- Discharges of pollutants to rivers, estuaries, and ocean (thermal, outfall pipes, acidic discharges, biocide use)

POLICY AND PRECEDENT

- Precedent-setting technologies that may affect EFH, including those that are beneficial to EFH.
- Major policies/rule changes that may affect EFH, including those that are beneficial to EFH and including marine spatial planning, climate and ecosystem policies, and policies /rules that affect non-Council managed species with a nexus to EFH for managed species
- Major program-level changes that may affect EFH (e.g., Forest Plan amendments, Army Corps of Engineers Nationwide Permits, Coastal Zone Management Plans, Northwest Power and Conservation Council, Fishery Conservation Objectives)
- Large-scale conservation programs and partnerships (e.g., Wild and Scenic River designations, large-scale habitat restoration, Salmon Restoration Initiative)

**Channel Islands National Marine Sanctuary Management Plan Review**

The notice of intent for the Channel Islands National Marine Sanctuary (CINMS) management plan review was published on Oct 1. Public comments will be received through Nov 15. This action begins public scoping, in which NOAA is asking for public and agency scoping comments to help shape development of an updated sanctuary management plan.

Public scoping is the first phase of a two- to three-year year management plan review process which will result in the final management plan, final environmental analyses, and a final rule (if appropriate).

Currently, the Office of Marine Sanctuary (ONMS) is not proposing any regulatory changes or changes that may impact fishing activities directly or indirectly. ONMS is committed to consulting with the Council, if any proposed changes to the management of CINMS may impact fishing activities directly or indirectly.

**Responsible Offshore Development Alliance**

Annie Hawkins, the Executive Director of the Responsible Offshore Development Alliance (RODA), spoke to the HC. RODA has been active in tracking wind energy on the East Coast and is now adding West Coast members. The organization, formed in 2018, crosses many sectors and stems from a common concern around the impacts of offshore energy to fisheries, as well as the extraordinarily fast pace of development and leasing. The HC plans to coordinate with RODA to keep track of offshore energy projects.

Fishing industry leaders believe that the National Environmental Policy Act process used by the Bureau of Ocean Energy (BOEM) needs to be updated to reflect the potential impacts of offshore wind energy projects.

**Proposed Critical Habitat Expansion for Southern Resident Killer Whales**

The HC received briefings from Lynne Barre and Penny Ruvelas (NMFS Protected Species Division) on the proposed expansion of critical habitat for certain distinct population segments of Southern Resident killer whales (SRKW). The HC also reviewed the biological and economic reports associated with the Federal notice.

NMFS is seeking comments on the geographic areas and boundaries and potential impacts of designation on existing uses, among other things. The comment period closes December 18.

Critical habitat for SRKW was designated in 2006 for most of the Salish Sea within U.S. waters (i.e., the Strait of Juan de Fuca, Puget Sound and waters around the San Juan Islands). The proposed expansion extends from the U.S.-Canada border south to Point Sur, CA, between the 6 meter (20 ft) and 200 meter (656 ft) depth contours.

As required under the ESA, within the critical habitat range, NMFS identified the habitat features that are essential to the whales' conservation: prey (quality, quantity, availability), water quality, and passage. As required under the ESA, NMFS identified specific areas within the geographic range that contain the essential features. For most of the specific areas delineated, the latitudinal boundaries correspond with salmon management boundaries as these coincide with the whale's prey (i.e. salmon).

NMFS proposed accepting the U.S. Navy's request to exclude the Quinault Range Site and 10 km buffer from the critical habitat designation in the interest of national security. This excludes a substantial portion of "very high conservation value" habitat off of Washington from the critical habitat designation.

While the designation of coastal critical habitat may require reinitiating ESA section 7(a)(2) consultation for Council-managed fisheries' impacts to SRKW, NMFS does not expect the critical habitat consultation to result in conservation measures beyond what would be needed to protect the whales themselves. Impacts to Council-managed fisheries are likely to be limited to the administrative aspects of reinitiating consultation.

While the critical habitat designation could benefit SRKW, it is unclear that it would provide any additional benefits to council-managed species (e.g., salmon). Non-regulatory benefits include identifying important habitats, raising public awareness, facilitating research, and encouraging conservation and educational opportunities.

The HC expects that it will be able to cite abundant Chinook salmon as a biological feature of critical habitat as additional justification for comments on non-fishing actions that adversely affect Chinook salmon EFH.

**Proposed Critical Habitat Designation for Humpback Whales**

NMFS is proposing to designate critical habitat for certain distinct population segments of humpback whales. In 2016, NMFS conducted a revised ESA listing for humpback whales that resulted in designating 14 distinct population segments, four of which are listed as threatened and one is listed as endangered. This triggered the ESA requirement to designate critical habitat for those segments of the humpback whale population, which was not done when the species was originally listed. Both the Mexico and Central America population segments forage off the West Coast of the U.S. where critical habitat is now proposed. For both the Central America and Mexico population segments, NMFS identified prey (krill, sardine, herring, anchovy) as the essential feature of critical habitat that is necessary for the conservation of the species.

The proposed critical habitat for the Central American distinct population segment extends from the Canadian border to the Mexican border, with three exclusion areas. The first is an economic exclusion area encompassing most of the Channel Islands extending south from Oxnard to the Mexico border; the second and third exclusion areas is for National Security at the U.S. Navy's Quinault Range Site off Washington and SOCAL Range Site off southern California . Excluding the Quinault Range Site from the critical habitat designation excludes a substantial portion of very high conservation value" habitat in the northwest part of their West Coast habitat.

The designation of critical habitat will require reinitiating ESA section 7(a)(2) consultation for fishery management plan fisheries. However, unlike with salmon and SRKW, there is not a direct ESA analysis for the effect of each coastal pelagic prey species on humpback whales. The only relevant ESA analysis is on the role of sardines in the humpback diet and not the affected distinct population segments. As such, additional analyses of the CPS fishery may be necessary for the ESA consultation of critical habitat. While the economics report anticipates that the critical habitat analysis is not likely to require changes in fisheries management, we cannot be certain until those analyses are completed. Given this designation, the HC will be able to cite abundant coastal pelagics and krill species as a biological feature of critical habitat as additional justification for comments on non-fishing actions that adversely affect EFH.

Information being solicited during this critical habitat review process are the same as those requested for SRKW. The public comment deadline is December 9.

PFMC
11/16/19