

Non-Federal U.S. Commissioners
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**UNITED STATES SECTION
of the
PACIFIC SALMON COMMISSION**

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Lance Kruzic
Project Coordinator
National Marine Fisheries Service
2900 NW Stewart Parkway Roseburg, Oregon 97471

Submitted electronically via: hatcheries.public.comment@noaa.gov

Re: Comments on the Draft Programmatic Environmental Impact Statement for the Expenditure of Funds to Increase Prey Availability for Southern Resident Killer Whales

Dear Mr. Kruzic:

We appreciate the opportunity to submit comments on the draft Programmatic Environmental Impact Statement (PEIS) for the “*Expenditure of Funds to Increase Prey Availability for Southern Resident Killer Whales*” (SRKW). For the reasons clearly presented in the PEIS, we strongly support the preferred alternative (Alternative 2. Hatchery Prey Increase Program) as the best approach to immediately increase prey for SRKW. We offer the following perspectives to provide additional context as the National Marine Fisheries Service (NMFS) reviews public comments and finalizes the selection of the preferred alternative.

As the U.S. non-federal Commissioners appointed to implement the Pacific Salmon Treaty (PST) we recognize that the PST is critical to meet the provisions of the federal Endangered Species Act (ESA), address tribal fishing rights, and maintain sustainable U.S. fisheries. Thriving salmon populations are a significant part of the culture and economy coastwide, and we are working to preserve that culture and rebuild that economy. The states and the tribes are united in our commitment to maintaining healthy salmon stocks and contributing to the recovery of ESA-listed Pacific salmon and SRKW. We have implemented, with funding from Congress, a multi-pronged and coordinated effort to restore and protect habitat, reduce fishery impacts, increase prey for SRKW, and conserve the genetic diversity of at-risk Chinook salmon populations.

Background on Pacific Salmon Treaty

The PST, signed by U.S. and Canada in 1985, provides a framework for the two countries to cooperate on the management of Pacific salmon. The U.S. and Canada agreed in 2019 to a revised set of coast-wide salmon fishing management actions and targets under the PST. During talks to revise the PST, Commissioners were confronted with dynamic environmental conditions such as wide swings in salmon survival rates, changes in salmon migration patterns, and

continued declines in the productivity of wild Chinook salmon in the Salish Sea, as well as the needs of ESA-listed SRKW, which depend on Chinook salmon for prey.

In response, the U.S. and Canada agreed to fishery reductions for both nations, new conservation objectives for several salmon populations, and enhanced stock assessments to inform decision-makers in both countries. Domestically, state and tribal Commissioners have worked diligently with NMFS to develop a Treaty annex that would efficiently and effectively promote conservation and sustainable resource utilization, to benefit all users. And we continue to implement Treaty provisions to conserve and allocate our shared resources.

We recognized, however, the value of integrated and complementary habitat and hatchery actions to further advance the conservation and recovery of ESA-listed Chinook salmon and SRKW. The integrated approach that we developed was described in the 2019 Biological Opinion (BiOp) and included programmatic actions to protect and restore habitat for Puget Sound Chinook salmon, conserve the genetic diversity of at-risk Chinook salmon through conservation hatcheries, and to increase hatchery production of Chinook salmon to provide prey for SRKW.

Over the course of the first four years of the 2019 PST Agreement, we have worked diligently with the tribes, states, and recovery partners to implement those actions. We have sought and allocated more than \$73 million to implement the 2019 BiOp including \$12.3 million to conserve Puget Sound at-risk stocks, \$35 million to protect and restore Puget Sound habitat, and \$25.6 million to increase prey for SRKW and we intend to continue these important investments for the foreseeable future.

Proposed EIS Alternatives

The draft PEIS identifies the factors limiting SRKW recovery as reduced prey availability and quality, high levels of contaminants from pollution, and disturbances from vessels and sound. Southern Resident Killer Whales consume a wide variety of fish species but salmon and, in particular, Chinook salmon, have been frequently identified in diet studies. The PEIS also identifies oil spills, disease, and the small population size/inbreeding as risk factors.

We are committed to conserving and recovering SRKW. Recognizing that fisheries affect the abundance of Chinook salmon available to SRKW, the 2019 PST Agreement provisions include meaningful reductions to all Chinook salmon fisheries in both the U.S. and Canada to support survival and population growth of SRKWs as well as other ESA-listed Chinook salmon ESUs. As discussed above, it also includes a programmatic action for a meaningful increase in Chinook salmon hatchery production as an additional risk reduction measure. Congress has supported the annual funding requests since the inception of the program and the U.S. Section has allocated over \$25 million over a 4-year period, more than the amount required by the BiOp. Funding is distributed through grants from NMFS to federal, local, tribal, and state hatchery operators in Washington and Oregon annually.

Alternative 1 - No Action

Alternative 1 would halt funding for the Hatchery Prey Increase Program without replacement with other actions.

The PEIS states that Alternative 1 would have a Medium adverse impact on SRKW. We agree with this conclusion and find the projected outcome unacceptable. Therefore, we do not support Alternative 1.

Alternative 2 (Proposed Action/Preferred Alternative) – Hatchery Prey Increase Program

The Preferred Alternative identified in the DEIS is the annual distribution of funding by NMFS to select hatchery programs to increase the availability of prey for SRKWs up to the stated goals of the prey increase program.

The draft PEIS concludes that the Hatchery Prey Increase Program would, with hatchery production equal to the program goals, have Medium to High benefits to SRKW. This benefit, however, would be achieved through increased releases from hatchery programs which, as the DEIS correctly identifies, can have positive, negligible, or negative effects on the population viability of naturally-produced salmon and steelhead. It is important, therefore, that the DEIS identifies appropriate safeguards to ensure that the benefits to SRKW are not secured through hatchery programs that are operated in a manner inconsistent with the requirements of the ESA.

We were pleased to see the inclusion in the PEIS of selection criteria that included the following:

“Criterion 3. Increased production cannot jeopardize the survival and recovery of any Endangered Species Act (ESA)-listed species, including salmon and steelhead.”

“Criterion 6. All increased production must have been reviewed under the ESA and NEPA, as applicable, before NMFS funding can be used.”

Accordingly, increases in hatchery production funded through the Hatchery Prey Increase Program must previously have been found by NMFS to be consistent with the requirements of ESA. We have invested substantially in this program and remain committed to maintaining this critically important contribution to the conservation and recovery of SRKW. **The U.S. non-federal Commissioners strongly support the Proposed Action (Alternative 2) as the preferred alternative.**

Alternative 3 – Habitat-based Prey Increase Program

Alternative 3, as described in the draft PEIS involves the re-allocation of the \$6.2 million currently used to increase prey availability for SRKW to habitat restoration projects.

The U.S. non-federal Commissioners are highly supportive of habitat restoration and protection activities. Many Chinook salmon stocks in both the U.S. and Canada continue to suffer in terms of overall production, largely owing to the effects of cumulative habitat degradation.

Accordingly, through our multi-pronged strategy, we have invested \$35 million to protect and restore habitat for at-risk Puget Sound Chinook salmon stocks. The 2019 BiOp identified the immediate initiation of approximately \$31 million of habitat restoration projects as a risk reduction measure for Chinook salmon in the Nooksack, Skagit, Stillaguamish, Snohomish, Mid-Hood Canal, and Dungeness Rivers. Although this commitment has now been fulfilled, the critical need to accelerate conservation and rebuilding of these stocks remains and we have continued to invest in habitat protection and restoration. More broadly, improvements in habitat conditions should contribute to prey abundance for SRKW over the long term.

However, in the short-term, the draft PEIS correctly concludes that a \$6.2 million annual investment in habitat would provide a Low benefit to SRKW. Habitat restoration simply cannot proceed rapidly enough at this funding level to provide a sufficient increase in prey. The draft PEIS notes that it is not possible to calculate the funding level that would be needed for habitat restoration that would result in abundance increases of adult Chinook salmon in marine waters to provide benefits to SRKW commensurate with Alternative 2 Hatchery Prey Increase Program. We will continue to advocate for habitat restoration and protection as essential to conserve and recover our salmon runs and SRKW, but Alternative 3 fails to provide the immediate, desired benefit to SRKW. Accordingly, we do not support Alternative 3.

Alternative 4 – Reduced Fishing to Increase Prey

The draft PEIS defines Alternative 4 as a reduction in the harvest of Chinook salmon in U.S. marine area fisheries that would have an increase in Chinook salmon prey equivalent to the Hatchery Prey Increase Program. To achieve this benefit, the PEIS analysis “modeled a Chinook fishing closure throughout all the winter and spring fishing periods and areas (i.e., a total harvest closure in winter and spring)” inclusive of commercial, recreational and tribal fisheries. Since the total closure of Chinook salmon harvest in the winter and spring periods was not sufficient to reach a 4-5% increase in prey availability, this analysis included “an additional 15% harvest reduction across all U.S. Chinook fisheries during the summer” months in each year. Funding currently used for the Hatchery Prey Increase Program would be redirected to partially mitigate for the fishery reductions. The draft PEIS states, however, that there is “currently no legal mechanism available to use funding to reduce fishing effort and catch for the purpose of increasing prey availability for SRKWs.”

The Pacific salmon fishery – the third-largest fishery in the nation – provides 26,700 full-time equivalent jobs. A recent economic study authored by two prominent fisheries economists places the value of the salmon fisheries resource coast-wide at \$3.4 billion dollars annually (including both the recreational and commercial sectors). For the Northwest Treaty tribes, there is a federal trust responsibility to consider and for all indigenous peoples affected the value of salmon is priceless when viewed from a cultural, spiritual and communal lens. Pacific salmon are a cultural icon, woven into the fabric of all of our communities and economies.

Fisheries have been reduced substantially since the PST was first ratified in 1985. There were significant reductions associated with the 1999 Agreement and again in 2009. Recognizing ongoing conservation concerns for Puget Sound Chinook salmon and SRKWs, all directed Chinook salmon fisheries were further reduced substantially in the 2019 PST Agreement. The

draft PEIS correctly notes that the substantial reductions in Chinook salmon harvest beyond existing management agreements as described in Alternative 4 would be devastating.

The draft PEIS projects that implementation of this alternative would have High negative impacts to Environmental Justice and Socio-Economics. The multi-pronged approach developed by the U.S. section is clearly a better alternative.

Conclusions

The U.S. non-federal Commissioners respectfully request that NOAA promptly proceed with the remainder of the EIS process consistent with the Proposed Action/Preferred Alternative (Alternative 2) to continue this important program contributing to SRKW population growth and recovery.

Sincerely,



Philip Anderson, Commissioner for States of Washington and Oregon



W. Ron Allen, Commissioner for Treaty Indian Tribes of Washington, Oregon, and Idaho



Douglas Vincent-Lang, Commissioner for State of Alaska



Rick Klumph, Alternate Commissioner for States of Washington and Oregon



McCoy Oatman, Alternate Commissioner for Treaty Indian Tribes of Washington, Oregon, and Idaho



William Auger, Alternate Commissioner for State of Alaska

cc: Jennifer Quan, Regional Administrator, NOAA Fisheries- West Coast Region
Jon Kurland, Regional Administrator, NOAA Fisheries- Alaska Region