

## HABITAT COMMITTEE REPORT ON NATIONAL MARINE FISHERIES SERVICE REPORT

### **Columbia River BiOp Process**

As the Council is aware, there has been a strong, multi-year push to find a solution to Columbia River hydropower and fish passage issues. Many stakeholders believe that the process requires a broader discussion, with more scientists and stakeholders at the table.

Recently, National Oceanic and Atmospheric Administration (NOAA) hired the William D. Ruckelshaus Center (at the University of Washington) and the Oregon Consensus Program (at Portland State University) to conduct stakeholder interviews and create a situation assessment to explore the future of Columbia River hydropower and fish management. One hundred and fifty people will be interviewed about their visions for salmon recovery, including what success should look like; challenges; the use of science; lessons from other stakeholder processes; and related issues. Interviews will be conducted over the next 60 days, with a report provided to NOAA at the end of the year. Dr. McIsaac is one interviewee; other Council members may be interviewed as well.

In NOAA's view, this stakeholder process will be used for "recovery planning," and is different from and separate from the NOAA Biological Opinion (BiOp) on hydropower operations in the Columbia Basin. However, many stakeholders feel the processes should be linked.

The Council has already taken clear positions on the Columbia River regarding hydro system management and past biological opinions in the letters below, and in letters prior to 2004.

- March 2010 – Letter to Secretary of Commerce Gary Locke on using the best available science, and commit to a goal of salmon abundance, in the remand of the 2008 BiOp. <http://tinyurl.com/bg348vu>
- May 2005 – Letter to NOAA, Bonneville Power Administration, US Army Corps of Engineers, and the Bureau of Reclamation on ameliorating low flow conditions, improving river conditions through water acquisitions, and implementing spill provisions. <http://tinyurl.com/ckvyez7>
- October 2004 – Letter to NMFS on environmental baseline (including dams) used in BiOp, urging full consideration of the effects of dam operations on salmon. <http://tinyurl.com/a95xuyg>

The HC discussed the points we feel should be made by Dr. McIsaac in his interview as part of the NOAA situation assessment, and we suggest the following.

- 1 Two parts of the recovery process need improvement.
  - a First, **the science process needs to be inclusive.**
    - i The importance of scientifically sound river management practices (including increased spill) needs to be emphasized. The current BiOp does

- not contain adequate spill. (An HC report on the Comparative Survival Study report on the effects of spill is available at <http://tinyurl.com/bsax8jr>).
- ii The science process needs to be independent of discussions about legal rights and roles, policy, and political influences. As an example of a process where the science is treated independently, the U.S. v. Oregon case is a process where parties with differing opinions about the science work out their differences through a dispute resolution process or ultimately go to a judge for timely action if resolution cannot be achieved. As observed in the challenges to the BiOp, there is concern that existing scientific review processes aren't working, and that not all relevant information is being adequately considered and applied with adaptive management.
  - iii The BiOp for the mainstem Columbia River, and other BiOps in the Endangered Species Act process, need to be linked to & supportive of recovery.
  - iv There needs to be an independent (non-BPA) administrator/decision maker to make funding decisions for science, recovery, and other processes.
  - v Recovery planning so far has looked at relatively small geographic areas. There needs to be a scientific process to assure that there is system-wide recovery, beyond individual sub-basin recovery processes. The system-wide approach should incorporate the existing sub-basin recovery planning, as there are many valuable contributions to salmon recovery in these plans.
- b **Second, broader stakeholder participation is needed.** For example, if dam breaching is on the table, there needs to be participation by ports, transportation interests, conservation groups, agricultural interests, etc.
- i US Fish and Wildlife Service and other state and tribal management entities need to be more involved in the Columbia River flow management process. They are involved in developing and reviewing the science of flow management, through the Fish Passage Center Comparative Survival Study process, but their views of the science seem to carry less weight than others in NOAA's development of the BiOp.
  - ii Giving up sovereignty is a problem in the Columbia Basin as it was in the Klamath process. Most Columbia signatories had to give up some sovereign rights, agreeing not to sue the action agencies. In the Klamath, full consensus could not be achieved because some tribes had to give up sovereignty over water rights.
  - iii NOAA needs to effectively link the stakeholder involvement process with the recovery planning and BiOp processes. However, the stakeholder process cannot be used to avoid timely action on BiOps and salmon recovery.
- 2 A broader range of options need to remain on the table, including dam breaching and expanded spill.
  - 3 The differences between the BiOp and recovery planning need to be made clear – namely that the BiOp is mandatory, to avoid jeopardy, while the recovery process is intended to create healthy, viable populations of fish.
  - 4 NOAA should use the situation assessment interviews to explore why some similar processes have not succeeded, and why others have been successful.

PFMC  
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