

MITCHELL ACT COMMITTEE PROPOSED COMMENTS ON THE MITCHELL ACT
HATCHERY DRAFT ENVIRONMENTAL IMPACT STATEMENT

The Pacific Fishery Management Council's ad hoc Mitchell Act Committee (MAC) met on November 3 and 4, 2010 to develop proposed comments on the Draft Environmental Impact Statement to Inform Columbia River Basin Hatchery Operations and the Funding of Mitchell Act Hatchery Programs (DEIS). The MAC reviewed the management entity and advisory body response to specific questions developed by the Council at its September meeting, took public comment, and developed a draft letter (MAC Attachment 1) for Council review and approval.

The MAC appreciates the responses and suggestions for comments provided by the management entities, Council advisory bodies, and public. These reports and comments are available in the Council record and should be considered in the National Marine Fisheries Service (NMFS) review of comments on the DEIS.

The management entity comments by representatives of the US Fish and Wildlife Service, Oregon Department of Fish and Wildlife, Alaska Department of Fish and Game, and NMFS are contained in Agenda Items F.4.b, Management Entity Comments; and F.4.b, Supplemental Management Entity Comments. Comments of the Scientific and Statistical Committee regarding the economic analysis are contained in Agenda Item F.4.b, Supplemental SSC Report. Comments of the Salmon Technical Team are contained in Agenda Item F.4.b, Supplemental STT Report. Comments of the Salmon Advisory Subpanel are contained in Agenda Item F.4.b, Supplemental SAS Report. Written public comments are contained in Agenda Item F.4.c, Public comment.

PFMC
11/05/10

Proposed Draft Comment Letter

November 5, 2010

William W. Stelle, Jr.
Regional Administrator
NMFS Northwest Region
7600 Sandpoint Way NE
Seattle, WA 98115

Re: Mitchell Act EIS

Dear Mr. Stelle:

Thank you for the opportunity to review the Draft Environmental Impact Statement to Inform Columbia River Basin Hatchery Operations and the Funding of Mitchell Act Hatchery Programs (DEIS) and for extending the comment deadline to allow a full Council review. The results of this DEIS process will likely have a profound influence on the policy direction for all anadromous production within the Columbia Basin and will affect how mitigation requirements for impacts to Columbia River salmon and steelhead stocks from the Columbia River hydroelectric system will be met. These issues are extremely important to Pacific Fishery Management Council (Council) fishery management and to the future of ocean and inriver fisheries.

The comments provided here are those of the Council and are not intended to represent the official policy positions of any of our member entities who will also separately provide additional specific comments on the DEIS. We recognize that developing the DEIS has been a laborious and complex project and that many of its descriptions and analyses are well done. We understand and acknowledge the need for a National Environmental Policy Act (NEPA) review of the hatchery operations in the Columbia Basin related to the potential impacts on fish listed under the Endangered Species Act (ESA). The focus of our comments has been to identify those aspects of the DEIS which we believe need to be changed or strengthened.

The Council's underlying premise is that we believe the preferred alternative must achieve the Mitchell Act's original intent and purpose, as well as recognize the requirements and responsibilities of other agreements, in addressing the environmental impacts and loss of salmon

and steelhead spawning habitat and productivity resulting from the construction of the hydro power system in the Columbia River Basin. The devastating impacts to salmon productivity that resulted from the construction of the hydro power system that led to the passage of the Mitchell Act in 1938 have only been exacerbated over time with additional dam construction. Today, there is even a greater dependency on the production from Mitchell Act hatcheries by fishers that participate in Council managed fisheries. In addition, environmental pressures in the Columbia Basin have increased. Circumstances that resulted in passage of the Mitchell Act also contributed to the listings, in the late 20th and early 21st centuries, of a number of Columbia River salmon and steelhead species under the ESA. The Federal Government cannot walk away from its commitments and responsibilities to the Tribes, the States, and the citizens of this region to at least partially replace the loss of salmon and steelhead production that resulted from the construction of the Columbia River hydro power system.

The static funding for Mitchell Act since 1996 has crippled the ability of Mitchell Act funded programs to maintain production, and now status quo is represented as the highest production possible in the DEIS. Current production does not meet the minimum Mitchell Act mitigation obligation when it is put in a historical perspective. As with other hatchery mitigation commitments in the Basin, additional Mitchell Act funding is necessary to meet both conservation and mitigation obligations associated with Columbia Basin hatcheries.

Coordination of Federal actions is a key concern of the Council. For example, National Marine Fisheries Service (NMFS) is evaluating the approval of the *US v Oregon* hatchery programs under the ESA. The Council recommends that the Mitchell Act Hatchery Environmental Impact Statement (EIS) Record of Decision be made concurrent with completion of that ESA consultation process. In addition, the Council recommends that the ESA consultation for lower river hatcheries also be made concurrently with the Record of Decision. This approach enables a preferred alternative to be informed by the policies and agreements associated with salmon and steelhead recovery that have been, and will be, developed collaboratively among the co-managers, NMFS, regional entities, and other interests in the Basin.

The implementation scenarios associated with Alternatives 2-5 result in substantial reductions in hatchery production when compared to current hatchery production levels. These levels are

inconsistent with the 2008 – 2017 *U.S. v. Oregon* Management Agreement, the 2008 Federal Columbia River Power System (FCRPS) Biological Opinion commitments, and expectations of the 2008 Pacific Salmon Treaty agreement. The Council strongly advises NMFS to ensure the final EIS provides broad environmental coverage for existing policies that were shaped by the region over the past five years, embraced by NMFS, and incorporated into broad recovery plans, federal court orders, and international agreements.

Given the potential effectiveness of combining hatchery reform practices with implementation of hatchery-selective fisheries and other adult management strategies, the Council is concerned that none of the implementation scenarios result in an increase in hatchery production. Such increases may be possible as a result of the current conservation and recovery efforts of the States and Tribes, including the lower river recovery plans. We believe that successful implementation of these efforts will allow for increased hatchery production in certain circumstances under all of the action alternatives in the DEIS.

The Council notes the reasons cited by NMFS for not including an implementation scenario that allows for an increase in production. Despite the obvious limitations and inadequacies to current Mitchell Act funding which supports production, the Council believes that a scientific basis exists to support increased or new production programs if properly aligned with wild populations to prevent increasing risks to recovery. NMFS should confirm that the scope of production for hatchery programs covered by Alternatives 1-5 in the DEIS and by the preferred alternative that would be identified in the final EIS include scenarios for increased production and associated facilities necessary for that increased production within programs addressing conservation and mitigation objectives. Alternatively, NMFS should expand the scope of the DEIS alternatives to include increased production opportunities. In the programmatic approach, NMFS should consider how Mitchell Act funding and production can be harmonized with the overall hatchery mitigation and conservation commitments in the Basin.

The preferred policy direction must articulate clearly how conservation goals will be met. As written, the DEIS analysis cannot be interpreted directly without assuming that features of the implementation scenarios, such as the fixed proportionate natural influence (PNI) and proportion of hatchery spawners (pHOS) standards, are actually the goals. The DEIS needs to provide for

NEPA coverage for both conservation and mitigation hatchery plans that include appropriate strategies to support recovery of the ESA listed populations on a watershed specific basis.

The preferred policy direction must reflect the differences in roles played by the evolutionary significant unit/distinct population segment (ESU/DPS) populations in achieving recovery objectives. The DEIS alternatives compare actions taken regionally rather than on a population basis. This appears to contrast with NMFS's statement of the importance of incorporating site-specific management actions to achieve conservation and survival of the species. Regional approaches mask potential efficiencies of this site-specific or watershed-specific approach to hatchery reform. Efficiencies with implementing hatchery reform action plans that are based on distinguishing characteristics of primary, contributing, and stabilizing populations or other population viability designations are not clearly identified within the DEIS. The Council recommends that NMFS define its preferred alternative considering these population and watershed differences.

Further, the Council is concerned that if standards or criteria for Mitchell Act funding are applied differentially by regions, then broad-based support for recovery plans by state, regional, tribal, local and private conservation entities will be undermined. If NMFS uses the NEPA process to define a preferred policy direction that provides umbrella environmental coverage for all Columbia Basin hatcheries, then that policy needs to embrace the entire variety of watershed approaches that are proposed to achieve recovery as well as opportunities for expanded hatchery production referenced above. These different approaches should not be applied only within a specific region, but should be associated with watershed-specific circumstances and approaches.

The following is a summary of the elements that the preferred alternative should accommodate:

- Acknowledge the different roles and priorities populations can have within an ESU/DPS (e.g., primary, contributing, and stabilizing) and then allow the hatchery programs to operate consistent with genetic and demographic risks managers are willing to take
- Recognize and factor in the Congressionally and legally mandated mitigation responsibility of hatchery programs in the Columbia Basin

- Increase conservation effectiveness while providing for sustainable fisheries into the future
- To the extent possible, establish a bridge towards the role of harvest in the overall implementation of effectiveness
- Be consistent with legally mandated agreements governing hatchery production in the Columbia, such as the *U.S. v. Oregon* 2008-2017 Management Agreement and the Columbia Basin Fish Accords.
- Be consistent with the determination and analysis of hatchery program effects in the recent 2008 FCRPS Biological Opinion and Supplemental Comprehensive Analysis
- Be consistent with adopted ESA Recovery Plans
- Be consistent with or reflect the best available science
- Be consistent with detailed hatchery genetic management plans (HGMP's) developed by the co-managers for ESA consultation that consider hatchery science review group (HSRG) recommendations, Hatchery Review Team recommendations, Technical Review Team information, and state, tribal, and federal policies that assess a hatchery program's effect (using empirical information – not models) on ESA listed fish
- Be flexible enough to consider new, developing and future risk management information and strategies as they become available
- Be consistent with Columbia River chinook salmon fishery mortalities and catch levels associated with the revised 2008 Pacific Salmon Treaty
- Provide opportunity for increased hatchery production and associated hatchery facilities necessary for hatchery programs that are aligned with the needs for ESA recovery goals.

There are clearly important updates to the analysis that need to be considered and incorporated into a final EIS. There is confusion among the public and management entities relative to the intent and purpose of this NEPA action that needs to be clarified. NMFS needs to update the analysis in a manner that allows the Mitchell Act hatcheries to be evaluated separately from the rest of the facilities in the Basin where there is not a direct funding linkage to NMFS. As the process continues, the Council believes NMFS must increase public understanding that the preferred alternative will accommodate increased production even if a supplemental DEIS is

required to do so. Finally, NMFS should provide an opportunity for public comment on its' preferred alternative before the final EIS is completed and the Record of Decision is signed.

Thank you again for this opportunity to comment.

Sincerely,

Mark Cedergreen
Chairman

PFMC
10/05/10