

Reforming Fisheries to Recover Puget Sound Chinook

Wild Fish Conservancy Challenges Salmon-Harvest Management in Puget Sound

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Federal, state, and Tribal managers are allowing salmon fisheries to catch 30 percent, 50 percent, or even 70 percent of threatened Puget Sound chinook salmon that are attempting to return to spawn in rivers around the Sound. Puget Sound chinook have been listed as threatened under the Endangered Species Act since 1999. Impacts this high are jeopardizing the recovery of PS chinook, and they are violating the ESA.

In October 2006, Wild Fish Conservancy, the Salmon Spawning & Recovery Alliance, the Native Fish Society, and the Clark-Skamania Flyfishers filed a complaint in Federal District Court against NOAA Fisheries Service, challenging the federal agency's approval of the Puget Sound Comprehensive Chinook Management Plan, intended to guide salmon harvest activities that impact PS Chinook until 2010.

NOAA evaluated the harvest plan against the requirements of the Endangered Species Act and found them acceptable. But the agency's own analysis shows that the harvest rates are too high for chinook from several rivers to take advantage of even currently available habitat. NOAA also acknowledges that harvest impacts are too high to allow many PS chinook populations to fully recover.

NOAA has grouped 22 Puget Sound chinook populations into a single evolutionarily significant unit, or ESU, and set general criteria for approving harvest plans that can impact the individual populations or the ESU as a whole. Primarily, harvest may not slow progress toward viable salmon populations, or toward recovery of the ESU. Simply put, the Puget Sound plan does not meet those criteria. Despite the protections that the ESA is supposed to provide, NOAA is allowing harvest under this plan to kill from 20 to 70 percent of the PS chinook returning to individual Puget Sound rivers. This leaves many important chinook populations at risk of being wiped out

NOAA approved the harvest plan by redefining a key concept that is central to its regulations: what constitutes a "viable" population of salmon. Under NOAA's own regulations, "viable" means a population has a negligible risk of extinction. But in evaluating the harvest plan,

NOAA defined "viable" to mean the carrying capacity of current habitat conditions – which has nothing to do with extinction risk, and produces a "viable" threshold an order of magnitude smaller than intended by the regulations. Improper use of the viable population concept infects all of NOAA's analyses, and skews its assessment of acceptable harvest rates. In fact, NOAA's own analysis shows that, even using the wrong target population levels, harvest rates are too high for chinook from key regions of the Sound to make any progress toward recovery, and several important populations will remain at risk of extinction.

Wild Fish Conservancy and its partners are challenging two NOAA decisions that authorize continuation of this level of harvest. The first is NOAA's decision that the Comprehensive Chinook Management Plan, developed by the state of Washington and Puget Sound Tribes, meets the agency's criteria for harvest plans. The second is the Biological Opinion, developed under section 7 of the ESA, in which NOAA determined that by approving the harvest plan, the agency would not itself jeopardize the survival and recovery of Puget Sound chinook. NOAA's approval of the Harvest Plan could not meet this test.

The same salmon populations that are subjected to harvest plan fisheries in Washington waters also are subject to Canadian fisheries, and some are caught in Alaska as well. When NOAA's analysis showed that these combined fisheries would prevent key populations of PS chinook from making progress toward recovery, the agency should have rejected the harvest plan, or found that its own approval of the plan would jeopardize the listed chinook. A jeopardy finding would have necessitated identification of "reasonable and prudent alternatives," like reducing the harvest in the US or Canada. Instead, NMFS brushed the problem under the rug and approved the plan.

NOAA is also required by the ESA to re-evaluate its Biological Opinion when new information indicates that more listed animals are being killed than expected, or the listed species is being impacted in a manner not considered during the initial analysis. In this case, there have been several new developments, including: new evidence that

Canada's fisheries are having a much greater impact than previously understood; NOAA's new policy regarding hatchery-origin salmon, which should have caused the agency to revisit the need for mark-selective fisheries in Puget Sound; NOAA's approval of a recovery plan for PS Chinook, which should have triggered a re-evaluation of NOAA's "viable population" targets, and finally; data from the first several years of fishing under the harvest plan shows that the PS chinook populations most at risk are not improving, and indeed, remain at or below critical thresholds.

NOAA appointed a Technical Recovery Team, or TRT, to identify criteria for recovery of PS chinook. The TRT's preliminary recovery criteria were that there be two to four viable populations in each of five Puget Sound regions, and that the remaining populations improve from their current status. The target population levels NOAA used to evaluate harvest rates on PS chinook are inconsistent with the recovery criteria set by the TRT and now incorporated into the Puget Sound chinook recovery plan developed by Shared Strategy. The agency's own analysis shows that under the harvest plan, two of five regions will not make progress toward even a grossly deflated "current conditions" viability goal, and that key populations in other regions – such as the Cedar and Sammamish River populations in the Lake Washington basin, and the Skykomish River population in the Snohomish basin – will remain at risk.

Wild Fish Conservancy and its partners are seeking a determination from the court that NOAA's decision to approve the harvest plan was arbitrary and capricious, and violated section 7 of the ESA, by failing to ensure that the agency's actions would not appreciably reduce the likelihood of survival and recovery of Puget Sound chinook.

Wild Fish Conservancy hopes that this suit will help bring about escapement goals and harvest rates that are more consistent with ESA recovery goals. While the suit targets the management plan for Puget Sound fisheries, it could also influence the ongoing Pacific Salmon Treaty talks regarding Canada's harvest on the same salmon stocks. Briefing in the case began in April 2007, and a ruling is possible before the end of the year.

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