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October 1, 2003

MEMORANDUM

TO: Council Members
FROM: Mark Walker, Director of Public Affairs
SUBJECT: FY 2004 Federal Appropriations Update for NOAA Fisheries

The following is a comparison of the proposed budgets for NOAA Fisheries' Pacific Salmon activities as represented in the House and Senate versions of the Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Bill for FY 2004. The House version passed on July 23 by a vote of 400 to 21. The Senate version was approved in Committee on September 4 and is awaiting consideration by the full Senate. Elements of some of the line items listed below pertain broadly to Pacific salmon activities, and are not necessarily focused solely on Columbia River Basin stocks (e.g., "ESA Pacific Salmon Recovery").

The primary points to note are that neither the House nor Senate recommended funding for fish screens under the Columbia River (Mitchell Act) hatchery program; unlike the House, the Senate agreed with the Administration's request for \$15.1 million for the new biological opinion implementation initiative; and both Houses of Congress recommended \$90 million for the Pacific Coastal Salmon Fund. In addition, both the House and Senate included report language that indicates significant dissatisfaction with the management and direction of Pacific salmon recovery activities.

NOAA Fisheries - Pacific Salmon

**Fisheries Research & Management Services
Conservation and Management
(\$\$ in millions)**

	<u>FY 2004 Budget</u>	<u>FY 2004 House</u>	<u>FY 2004 Senate</u>
Columbia River Hatcheries Operations	11,457	12,000	11,485

Facilities (screens)	3,365	-0-	-0-
Monitoring, Evaluation & Reform	1,700	1,700	1,700
Pacific Salmon Treaty (base)	5,612	5,576	5,612

**Protected Resources Research & Management Services
Science and Technology
(\$\$ in millions)**

	<u>FY 2004 Budget</u>	<u>FY 2004 House</u>	<u>FY 2004 Senate</u>
Columbia River Endangered Species Studies	299	299	299
Columbia River Biological Opinion Implementation	11,600	-0-	11,600
ESA Pacific Salmon Recovery	17,450	15,450	-0-

**Protected Resources Research & Management Services
Conservation and Management Services
(\$\$ in millions)**

	<u>FY 2004 Budget</u>	<u>FY 2004 House</u>	<u>FY 2004 Senate</u>
Columbia River Biological Opinion Implementation	3,500	-0-	3,500
ESA Pacific Salmon Recovery	20,500	20,368	21,197

**Pacific Coastal Salmon Recovery
(\$\$ in millions)**

	<u>FY 2004 Budget</u>	<u>FY 2004 House</u>	<u>FY 2004 Senate</u>
Pacific Coastal Salmon Fund	90,000	90,000	90,000

House Report Language

Habitat Conservation and Management. -- *The Committee is deeply concerned that a significant percentage of habitat conservation grants made by NOAA are for restoration of Pacific coastal salmon habitat. The Committee reminds NOAA that it has included \$90,000,000 for this purpose under the "Pacific Coastal Salmon Recovery" heading. Therefore, the*

Committee directs NOAA to emphasize other habitat restoration efforts under this heading, including Chesapeake Bay and Great Lakes habitat restoration efforts.

Pacific Salmon Funding. -- The Committee notes the lack of accountability and performance standards for resources distributed to restore endangered and threatened salmon through the Pacific Coastal Salmon Recovery Fund. The Committee continues to allow up to one percent of these amounts to be made available to NOAA to improve the measurement of program performance.

Pacific Coastal Salmon Recovery. -- The Committee recommendation includes \$90,000,000, which is the same as the current year and the request, for salmon restoration grants. Of the amounts provided to the State of Washington, \$4,000,000 is for the Washington State Department of Natural Resources and other State and Federal agencies for purposes of implementing the State of Washington's Forest and Fish report, and \$1,600,000 is for the purchase of mass marking equipment used at federal hatcheries in Washington State to promote selected fisheries and protect threatened and endangered species.

The Committee notes that the authorization for this program has expired. The Committee recommendation provides funds according to the most recent authorization. The Committee would entertain a reprogramming of funds under this heading, should new authorization language be enacted, to include the State of Idaho.

Senate Report Language

Pacific Salmon Funding. -- The Committee remains concerned that it lacks assurances that funding provided for Pacific Salmon will contribute to the recovery of species listed under the Endangered Species Act (ESA). The Committee has continually noted that the Secretary could potentially face severe adverse legal consequences for failure to make progress under the ESA, and that just providing funding for habitat restoration was not enough. For a plan to have at least a modicum of certainty of success, it must address the "four H's" -- habitat, hatcheries, hydropower, and harvest -- and section 6 agreements that would set forth commitments by the Secretary, States, Treaty Tribes, and other relevant entities. Unfortunately, the Committee's warnings have been underscored by the recent district court decision finding that the Secretary's Pacific salmon recovery plans for the Columbia River, which rely solely upon off-site habitat and hatchery programs -- only two of the "four H's" that play a part in salmon recovery -- did not provide any certainty of success. In concluding NOAA failed to comply with the ESA, the court specifically noted "the absence in the record of any binding commitments by the States, Treaty Tribes, and private parties to fund or implement the responsibilities devolved upon them by NOAA as well as the lack of certainty as to the range-wide off-site mitigation actions." The Committee takes this caution seriously. Consequently, the Committee directs the National Marine Fisheries Service (NMFS) Administrator to provide no funding for any recovery program for ESA-listed salmon unless that program can be shown to be part of an effort to address the "four H's" and section 6 agreements. The Committee directs the NMFS Administrator to report to the Committees on Appropriations on each proposal for which funding is provided detailing what steps the proposal includes addressing habitat, hatcheries, hydropower, and harvest issues relating to the recovery of the stock for which the proposal has been submitted.

In addition, the Committee continues to note the lack of accountability and performance standards for resources distributed to restore endangered and threatened salmon through the

Pacific Coastal Salmon Recovery Fund. The ESA imposes substantial legal obligations on the Secretary of Commerce with regard to the not less than twenty-six runs of Pacific salmon listed as endangered. As noted above, failure to make progress toward recovery under the ESA poses adverse legal consequences for NOAA. Further, the “Executive Report for the Washington Comprehensive Monitoring Strategy and Action Plan for Watershed Health and Salmon Recovery” states that current monitoring activities are not comprehensive and are lacking in nearly every category. In light of the considerable funds that have been provided to date for salmon recovery, it is unacceptable that no mechanism yet exists for providing assurances that the stocks are, in fact, recovering. The Executive Report also noted that validation monitoring is the only type of monitoring that can establish “cause and effect” relationships between fish, habitat, water quality, water quantity, and management actions. The Committee directs that 2 percent of the funding provided through the Pacific Coastal Salmon Recovery Fund shall be used for validation monitoring. The Committee directs NOAA to provide an annual report to the Committee no later than March 30 of each year on the projects funded through the Pacific Salmon Recovery Fund and the results of the validation monitoring for funded projects.

Hatcheries. -- The Committee intends funding for the Mitchell Act hatcheries to meet production, mass marking, and monitoring and evaluation needs.

Pacific Coastal Salmon Recovery Fund. -- The Committee recommends \$90,000,000 for Pacific Coastal Salmon Recovery Fund. The recommendation is identical to the budget request. Within the funding for the Pacific Coastal Salmon Recovery Fund, the Committee recommends \$26,000,000 for the State of Washington, \$26,000,000 for the State of Alaska, \$11,000,000 for the State of Oregon, \$11,000,000 for the State of California, \$8,500,000 for the Pacific Coastal Tribes, \$5,000,000 for the State of Idaho, and \$2,500,000 for the Columbia River Tribes. Of the funds provided for the State of Alaska, \$5,000,000 is for the Arctic Yukon-Kushokwim Sustainable Salmon initiative, \$1,000,000 is for construction of salmon mitigation passes, \$1,000,000 is for the Cook Inlet Fishing Community Assistance Program, \$500,000 is for the Yukon River Drainage Association, \$500,000 is for Fort Richardson fisheries, \$500,000 is for Elmendorf AFB hatcheries, \$500,000 is for Fort Wainwright fisheries, \$450,000 is for universal quality standards, \$450,000 is for competitive analysis of global salmon, \$250,000 is to restore the king salmon runs in Coffman Cove, \$250,000 is to enable the State of Alaska to participate in discussions regarding the Columbia River hydrosystem management, and \$100,000 is for United Fishermen of Alaska’s subsistence program. Of the amount provided for the State of Washington, \$5,000,000 is for the Washington State Department of Natural Resources and other State and Federal agencies for purposes of implementing the State of Washington’s Forest and Fish Report. The funding shall be spent in accordance with the terms and conditions of the Forest and Fish Report and consistent with the requirements of the Endangered Species Act and Clean Water Act. Also with the amount provided for the State of Washington, \$1,590,000 is for the purchase of two new mass marking trailers. Of the amount provided to the State of Oregon, \$1,100,000 is for conservation mass marking at the Columbia River Hatcheries.