# PACIFIC FISHERY MANAGEMENT COUNCIL

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April 23, 2003

Secretary Gale Norton
United States Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Secretary Norton:

The Pacific Fishery Management Council (Council) is concerned the Klamath Project 2003 Operations Plan proposed by the U.S. Bureau of Reclamation (USBR) will not provide the flows necessary for sustaining healthy anadromous fish populations in the Klamath River. We urge you to reconsider the 2003 plan and use your authority to ensure that sufficient flows are provided this year and that long-term solutions are implemented to ensure that in future years flows are adequate to protect and recover all anadromous fish species in the Klamath River.

The Council, through the Magnuson-Stevens Fishery Conservation and Management Act of 1976 and subsequent amendments, is charged by Congress to advise the U.S. Secretary of Commerce in the management of Pacific West Coast anadromous and marine fish stocks and provide recommendations that minimize the impacts of federal actions on the essential fish habitat (EFH) of Council-managed species. The Council identified and described EFH for chinook and coho salmon in 1999 under Amendment 14 to the Pacific Coast Salmon Fishery Management Plan. In the Klamath Basin, EFH has been designated for the mainstem Klamath River and its tributaries from its mouth to Iron Gate Dam and upstream to Lewiston Dam on the Trinity River, and includes the water quantity and quality conditions necessary for successful adult migration and holding, spawning, egg-to-fry survival, fry rearing, smolt migration, and estuarine rearing of juvenile coho and chinook salmon.

Operation of the Project has a direct effect on maintaining EFH for fall chinook, late-run fall chinook, spring chinook, and coho salmon and, therefore, plays a major role in influencing the population viability of these salmon stocks. Ocean salmon fisheries are constrained from Cape Falcon, Oregon to south of San Francisco in order to minimize harvest of depleted Klamath salmon stocks. Thus, there is a direct effect of Project operations on the economies of numerous coastal fishing communities.

This year marks the third consecutive year in which inflows to the Upper Klamath Basin will be substantially below normal. The Natural Resource Conservation Service April 1 streamflow forecast at 70% exceedance predicted inflow to Upper Klamath Lake for the April-September, 2003 period (irrigation season) would only be 238,000 acre-feet for river flow operational criteria. Based on this forecast, the USBR proposes to manage flows at Iron Gate Dam under a "Dry Year" water year type that would result in the lowest possible flows allowed under the five

water-year-type management approach prescribed by the National Marine Fisheries Service 2002 coho biological opinion. The 2003 Operations Plan would result in flows lower than occurred throughout the late spring and summer of 2002 and flows only slightly greater than those present when the largest known adult anadromous salmonid fish kill occurred on the Klamath River last year. The proposed flows are approximately one third of those recommended in the Hardy Phase II Report for a dry year. The Council is concerned that under these flow conditions, another adult or juvenile fish kill has a high probability of occurring in 2003.

The Council is aware that the Department of the Interior (DOI) has submitted potential fishery flow recommendations to the U.S. District Court for Eastern California. These flows are explained in a report entitled "Recommendations for Averting Another Adult Salmonid Die-Off," dated March 18, 2003. This report, prepared by fishery biologists of the USBR and the U.S. Fish and Wildlife Service, scientists of the Trinity River Restoration Program, sets out three water supply scenarios which could provide needed protection for fish within the lower Klamath. However, the report stops short of providing long-term solutions to the Klamath River's low flow and water quality problems.

Recently the Eastern District Court issued its final order in the Westlands litigation which, among other things, potentially provides up to 50,000 acre feet of additional Trinity River water to address lower Klamath fishery needs while leaving the balance of the Klamath River above the Trinity River confluence with no relief. This reach of the Klamath River would still be subject to potential juvenile and adult fish kills. The court ruling has also capped the 2003 water release to Trinity River at 453,000 acre-feet. This is an unfortunate outcome given that the current Trinity Basin water year is classified as "normal" and would have been allocated 646,500 acre-feet under the Trinity Record of Decision. Recognizing the severely impacted adult spawning population of fall chinook in 2002, restored flows in the Trinity River would have assured optimal rearing for the relatively few juvenile fish produced.

The Council recognizes the efforts being made by the USBR to create a 50,000 acre-feet water bank this year through a four million dollar voluntary acreage set-aside program (this year only). Unfortunately, given the low flows proposed for the river, the 50,000 acre feet is entirely inadequate to meet the needs of the fishery resource. In addition, we are concerned that this short-term approach to solving the Klamath water shortage problem may not be sustainable in the event of funding reductions or participant disinterest. We suggest that a more prudent long-term approach would be to reduce irrigation water demand through such tools as land retirement, conservation easements, and increased storage.

To adequately address the flow needs of Council managed fish species in the Klamath River, we refer you to a November 2002 letter (Radtke to Norton) in which the Council provided six recommendations that we felt needed implementation.

1. Reinitiate Endangered Species Act, Section 7 consultation as soon as possible (DOI and Department of Commerce [DOC]).
2. Reinitiate coho and Chinook salmon EFH consultation (DOI and DOC).
3. Establish a flow management advisory committee as soon as possible (DOI).
4. Complete the Supplemental Environmental Impact Statement (SEIS) and implement the Trinity River ROD in a timely fashion (DOI).
5. Provide the Council opportunity to comment on the EIS for the Klamath Project Long-Term Operations Plan (DOI).
6. Finalize the Hardy Phase II Report and incorporate its flow recommendations in future consultation and Klamath Project operations plans (DOI).

Thus far, we are unaware of any progress that has been made towards accomplishing these

recommendations.

In summary, the Council recommends that the Klamath Project be operated to provide the flows necessary to support all life history stages of all anadromous fish species of the Klamath River. While relief for the lower Klamath may be provided in the form of augmented Trinity River flows, the potential for disastrous fish kills extends to the middle and upper reaches of the Klamath, well above the confluence of these two rivers. Finally, we ask that you please provide for our review a copy of the final Klamath Project 2003 Operations Plan.

Sincerely,

Hans Radtke

Hans Radtke, Ph.D.
Chairman

JDG:rdh

c: Mr. Donald Evans, U.S. Secretary of Commerce
Senator Dianne Feinstein
Senator Barbara Boxer
Senator Ron Wyden
Senator Gordon Smith
Congressman Mike Thompson
Congressman Wally Herger
Congressman Peter DeFazio
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Dr. William T. Hogarth, Assistant Administrator for Fisheries
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Mr. Robert Hight, Director of California Department of Fish and Game
Mr. Kirk Rodgers, Acting Regional Director for Bureau of Reclamation's Mid-Pacific Region