

December 5, 2005

VIA Email and USMail

Mr. Garth Griffin
Branch Chief, Protected Resources Division
National Marine Fisheries Service
1201 NE Lloyd Blvd., Suite 1100
Portland, OR 97232

Re: Request for Comment on Alternative Approach to Delineating 10 Evolutionarily Significant Units of West Coast Oncorhynchus mykiss

Dear Mr. Griffin,

Thank you for the opportunity to comment on the November 4, 2005 request for comment on a new alternative approach to delineating 10 evolutionarily significant units of West coast *Oncorhynchus mykiss*. (70 Fed. Reg. 67130). Enclosed for the record and your consideration are the comments from Clark Skamania Flyfishers, Federation of Fly Fishers Steelhead Committee, Greywolf Fly Fishing Club, Magic Tailout Media, LLC, Native Fish Society, Northern California Council of the Federation of Fly Fishers, Northwest Women Flyfishers, Oregon Council Trout Unlimited, Rainland Flycasters and Trout Unlimited on NOAA Fisheries' "Request for Comment on Alternative Approach to Delineating 10 Evolutionarily Significant Units of West Coast Oncorhynchus mykiss."

The undersigned organizations represent a geographically diverse group of concerned citizens working to conserve and restore wild steelhead populations throughout their native range. Many of our members are sportfishers who, over many years of fishing, boating and wading rivers in pursuit of steelhead, have amassed an extraordinary level of knowledge about these fish and a reverence for this truly remarkable animal.

Many of the organizations have previously commented on the multiple requests for information on the relationship between *O. mykiss* resident (rainbow) and anadromous (steelhead) trout from both a policy and biological perspective. We have argued that under both the Evolutionarily Significant Unit (ESU) Policy (56 Fed. Reg. 58612, Nov. 20, 1991) and the Distinct Population Segment (DPS) Policy (61 Fed. Reg. 4722, Feb. 7, 1996), there were policy and biological justifications for separating resident rainbow and steelhead trout under the Endangered Species Act (ESA), with certain exceptions. Many of the undersigned went on to elaborate the policy and biological justifications for separating resident rainbow trout and steelhead in the comments on the proposed hatchery policy, listing decisions, and relevant extensions (Trout Unlimited et al., 2004;

SSA, 2004; Trout Unlimited, 2005). We will not repeat those comments here in detail, but incorporate the relevant parts by reference.

NOAA Fisheries' "Request for Comment on Alternative Approach to Delineating 10 Evolutionarily Significant Units of West Coast Oncorhynchus mykiss" addresses many of the concerns raised in our previous comments. While the final rule could better explain the justification for using the DPS concept over the ESU concept in this case, the proposed new approach clearly recognizes the importance of the behavioral and life history differences between the resident and anadromous forms of *O. mykiss*. These differences are impressive and essential to the continued survival and future recovery of the species. 70 Fed. Reg. at 67132. These behavioral and life history differences also underlie the differences in fitness and persistence. Trout Unlimited and others submitted numerous studies for the record that indicate anadromy is hereditary and that the productivity of anadromous x resident crosses and resident x resident crosses is significantly reduced relative to anadromous x anadromous crosses. (Blouin, 2004; RSRP, 2004; Hey *et al.*, 2005; ISAB, 2005). Because of these behavioral and long-term persistence differences, the Independent Science Advisory Board concluded that "the likelihood of long-term persistence would be substantially compromised by the loss of anadromy in the *O. mykiss* ESU." (ISAB, 2005). Notably, the ISAB and other studies are not cited in the most recent Federal Register notice, but each serves to further biologically justify separating rainbow trout and steelhead under the ESA. See 70 Fed. Reg. 37219-37220 (June 28, 2005) (describing these reports). We applaud NOAA Fisheries for recognizing the critical importance of the anadromous life history and other biological differences to the overall survival and recovery of *O. mykiss*, and proposing to protect steelhead accordingly.

We also applaud NOAA Fisheries for extending the DPS boundaries for Central California Coast and Northern California Steelhead DPSs. We respectfully request NOAA Fisheries examine the rule with respect to Southern California DPSs. The Recovery Science Review Panel convened by NOAA Fisheries recommended that rainbow trout and steelhead may be considered the same conservation unit in very limited circumstances:

[R]esident and anadromous (or polymorphic) populations can be considered part of the same ESU if it can be demonstrated, *through careful experimentation*, that (i) resident fish still have the genetic capability to develop anadromy when faced with poor growth opportunity, (ii) anadromous offspring of resident parents have the ability to complete seaward migration successfully and return for reproduction and (iii) that the fitness of anadromous fish derived from resident parents is sufficiently high to make a positive contribution to the overall viability of the population in a fluctuating environment, rather than acting as a demographic drain on the population.

RSRP, 2004 (internal citations omitted) (emphasis added). We believe that this exception may apply to the Southern California DPS, but are not aware of evidence showing that it may apply to other populations at this time.

The undersigned also take issue with the inclusion of hatchery populations with the proposed listings, pursuant to the Hatchery Listing Policy, 70 Fed. Reg. 37204, June 28, 2005. We have commented extensively on the inappropriateness of this policy and many of the undersigned are involved in litigation over the policy. We will not reiterate those comments and concerns in detail here, but do not support the inclusion of hatchery steelhead in the proposed DPSs. 70 Fed. Reg. 67132 (Nov. 4, 2005).

Finally, the undersigned support the continued listing of the 10 steelhead DPSs, pursuant to the status reviews. (Trout Unlimited, 2003; Good *et al.*, 2005). However, we do not support the down listing of the Upper Columbia Steelhead DPS from endangered to threatened. In order to change a listing status of a species, the agency must demonstrate either extinction, recovery, or an error in the original data for classification. 50 C.F.R. § 424.12 (d). Further, any decision to downlist a species must be based on changes in the five factors in 16 U.S.C. § 1533(a)(1), namely, habitat modification, overutilization of the species, disease or predation, adequacy of regulatory control schemes, or other natural or manmade factors. The agency has not shown adequate improvement in the species' status, or demonstrated how the impacts from habitat, utilization, disease and predation threats, regulatory mechanisms or other factors responsible for the listing have been mitigated. Indeed, NOAA Fisheries acknowledges the lack of protective efforts for this DPS. 70 Fed. Reg. 67133 (Nov. 4, 2005). In fact on September 2, 2005, NOAA Fisheries foreclosed the opportunity for considerable recovery by eliminating the protection of habitat behind currently impassible barriers in known historical steelhead habitat. 70 Fed. Reg. 52629 (Sept. 2, 2005).

We do support the listing of Puget Sound steelhead consistent with the new proposal. Thank you for your consideration of these comments. Please don't hesitate to contact any of us if you have further questions.

Respectfully submitted,

Ed Wickersham
Clark Skamania Flyfishers

Bill Redman, Chair
Federation of Fly Fishers, Steelhead Committee

Larry Doyle, Trustee
Greywolf Fly Fishing Club

Jon Bial
Magic Tailout Media LLC

Bill Bakke, Executive Director
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Phil Greenlee, President
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Stacy Stratton, President
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Tom Wolf, Chair
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Rainland Fly Casters

Kaitlin Lovell, Salmon Policy Coordinator
Trout Unlimited

REFERENCES

American Rivers et al. (SSA). Nov. 12, 2004. Letter to Garth Griffin re: Re: 040525161-4161-01- Proposed Pacific Salmon Hatchery Policy and Pacific Salmon and Steelhead Status Determinations.

Blouin, Michael, Hitoshi Araki. 2004. "Reproductive success – steelhead in the Hood River" 2003-2004 Annual Report, Project No. 200305400, 12 electronic pages, (BPA Report DOE/BP-00015883-1).

Good, T.P., R.S. Waples, and P. Adams (editors). 2005. Updated status of federally listed ESUs of West Coast salmon and steelhead. U.S. Dept. of Commer., NOAA Tech. Memo. NMFS-NWFSC-66, 598 pp.

Hey, Jody, E.L Brannon, D.E. Campton, R.W. Doyle, I.A. Fleming, M.T. Kinnison, R. Lande, J. Olsen, D.P. Philipp, J. Travis, and C. C. Wood. Considering Life History, Behavioral, and Ecological Complexity in Defining Conservation Units for Pacific Salmon. 32 pp. Submitted to NOAA Fisheries on May 16, 2005.

Independent Scientific Advisory Board. 2005. Viability of ESUs Containing Multiple Types of Populations. Northwest Power and Conservation Council. Portland, OR. 38 pp. Available at: <http://www.nwppc.org/library/isab/isab2005-2.htm>

Recovery Science Review Panel (RSRP). 2004. Report for the meeting held December, 2004. Southwest Fisheries Science Center, National Marine Fisheries Service. Santa Cruz, CA. 18 pp. Available at: http://www.nwfsc.noaa.gov/trt/rsrp_docs/rsrpreportdec04finalwbios.pdf

Trout Unlimited. Feb. 15, 2003. Letter to James Lecky and Donna Darm re: Comments on Information Request for Nine ESUs of West Coast Steelhead.

Trout Unlimited et al. Nov. 12, 2004. Letter to Garth Griffin re: 040525161-4161-01: Proposed Hatchery Policy and Listing Determinations.

Trout Unlimited. July 28, 2005. Letter to Garth Griffin re: 6-Month Extension on the Final Listing Determinations for Ten Evolutionarily Significant Units of West Cost *Onchorynchus mykiss*.