

Draft Memorandum

To: Washington State and Tribal Co-Managers

From: Rob Jones, NWIFC, on behalf of the Joint Policy and Technical Workgroup

Cc: Joint Policy and Technical Workgroup

Date: November 15, 2022

Re: Development of a Co-Managers Joint Policy Agreement for the Management of Anadromous Salmon and Steelhead Hatcheries

Pages: 3 plus attachment

Attached for your information and review is a draft Joint Policy Agreement for the Management of Anadromous Salmon and Steelhead Hatcheries between Treaty Tribes and the Washington Department of Fish and Wildlife.

During Co-Managers consultations regarding Washington Fish and Wildlife Commission Anadromous Salmon and Steelhead hatchery Policy C-3624, many Tribes saw C-3624 as an improvement over the previous state hatchery policy but felt it still lacked all the necessary elements of co-management. At the request of Tribes, the final version of the Policy adopted by the Washington Fish and Wildlife Commission (WFWC) committed to development of a co-manager hatchery policy soon thereafter that would supersede C-3624 where applicable. The attached draft Policy reflects recommendations of a Joint Policy and Technical Workgroup for a policy that would supersede C-3624 where applicable.

This draft will soon be presented to the full WFWC to begin their public process and SEPA review. A briefing for Tribal representatives will be provided at the upcoming NWIFC monthly Commission Meeting.

Action requested: Please provide preliminary tribal comments on the draft to me by December 6, 2022. The workgroup will reconvene to consider any comments received during WDFW's public review and SEPA process, and those provided by Treaty Tribes, likely in the spring of 2023. If an EIS is not required as per the SEPA process, and once agreement has been reached within the workgroup, the Hatchery Policy will be submitted for consideration and adoption by the WFWC and individual tribal governments. Upon adoption by the WFWC, the signed Co-Manager Policy will be distributed to all applicable Tribes in Puget Sound, Washington Coast and Columbia River regions.

Significance

This draft represents the first ever policy that reflects a commitment to develop agreements among affected Co-Managers for the operation of salmon and steelhead hatcheries on a watershed, or as appropriate, regional basis.

Intent of the Policy

The Hatchery Policy is written to act as an overarching policy that confirms the commitment to co-management in hatcheries and defers details of specific management questions to individual hatchery plans. It outlines the types of hatcheries, the logical and legal reasons for hatchery operations, as well as some of the considerations and principles for co-managing hatcheries in the state.

It is intended to provide flexibility in how Co-Managers might craft or operate in accordance with individual hatchery plans. Individual hatchery plans include Hatchery Genetic Management Plans

required by NOAA under the Endangered Species Act, those developed under watershed or regional plans and those developed consistent with court decisions (e.g., United States v. Washington, United States v. Oregon, and Hoh v. Baldrige).

Provisions

The Policy begins with a Purpose Statement outlining the commitment to co-management and the reasons hatchery programs are necessary. The Scope of the Policy describes how it will be applied, including the interaction with the existing State Policy C-3624. It also commits Co-Managers to either develop specific, individual hatchery plans in cases where none exist or defaults to existing legal requirements of co-management. Hatchery Genetic Management Plans already in existence that have been agreed to by Co-Managers will not require updating, reconsultation, or replacement under this Policy.

The Policy lists 6 Guiding Principles and Policy Positions. These Principles represent a foundation for understanding the need for and considerations in operating hatcheries. Principle 1 is Tribal Treaty Rights are supreme law of the land; Principle 2 is that hatcheries are necessary to support the treaty rights of Tribes; Principle 3 is that hatcheries provide for state-managed fisheries—both commercial and recreational; Principle 4 is that Co-Managers will operate hatcheries according to agreed-upon plans or they will develop such plans at the watershed or regional level according to an integrated “all-H” approach; Principle 5 is that hatcheries will be operated using sound science and adaptive management; and Principle 6 is that Co-Managers agree to secure funding necessary to support agreed-upon production levels.

Finally, the Policy has a Dispute Resolution provision to allow for third-party, neutral mediation of disputes as well as a Disclaimer section outlining that the Policy isn’t intended to conflict with any laws, does not create or diminish any legal rights, and that the Policy is intended to reflect a spirit of cooperation. There is also a Signatory section for those Co-Managers that choose to adopt the policy.

Development

In August of 2021, leads for WDFW and NWIFC developed a plan to convene Co-Managers to begin development of a co-manager Hatchery Policy. The first Co-Manager Hatchery Policy Meeting was held September 15, 2021. The Co-Managers requested technical volunteers to begin drafting the various components of a policy for review by policymakers at subsequent Co-Manager Hatchery Policy Meetings.

The technical writing group was made up of WDFW staff, Tribal staff, NWIFC staff, and CRITFC staff with a great deal of organizing and recordkeeping help from a Washington Sea Grant fellow working with NWIFC. The group attempted to meet bi-weekly as schedules allowed between May and July 2022. The writing group developed their final draft for policy consideration on July 21, 2022.

Co-Manager Hatchery Policy Meetings were convened on September 1, 2022, and on September 19, 2022, where they considered a couple redrafts of the writing team’s July 21 product. One of the main outcomes of those two meetings was a decision to end the parallel technical and policy tracks for drafting and request a small Joint Policy and Technical Workgroup to finalize the draft.

That Joint Policy and Technical Workgroup included Washington Fish and Wildlife Commissioners Barbara Baker, Molly Linville, Jim Anderson, and Don Mclsaac as policy representatives for the State and Ed Johnston, Lisa Wilson, G.I. James, Jason Gobin, and David Troutt as policy representatives for the Tribes along with staff from WDFW, NWIFC, CRITFC, and Tribal natural Resource Departments. They met on October 3 and November 4, 2022, though not all members were present at both meetings. At the conclusion of the November 4 meeting, the Workgroup agreed that the policy differences had been resolved and the language reflected the consensus of those most directly involved in development of the Policy.