

**WRITTEN STATEMENT FROM
NATIONAL MARINE FISHERIES SERVICE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE
ON THE
LEGISLATIVE HEARING ON [HR 872](#) AND [HR 215](#)
BEFORE THE
SUBCOMMITTEE ON WATER, WILDLIFE, AND FISHERIES
COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES**

The West Coast Region of NOAA Fisheries (West Coast Region) is responsible for the stewardship of our nation's living marine resources and their habitats off the coasts and in the watersheds of Washington, Oregon, California, and Idaho. These responsibilities cover 317,690 square miles of the eastern Pacific Ocean's California Current Ecosystem, and over 7,000 miles of tidal coastline, as well as the ecological functions within the states' vast rivers and estuaries.

Congress passed the Endangered Species Act (ESA) on December 28, 1973, recognizing that the natural heritage of the United States was of "aesthetic, ecological, educational, recreational, and scientific value to our Nation and its people." It was understood that, without protection, many of our nation's living resources would become extinct. The Endangered Species Act of 1973 vested jurisdiction over certain species with the Department of Commerce based on Reorganization Plan No. 4 from 1970. As such, NOAA Fisheries has exercised jurisdiction over Pacific salmonids since the early 1970s. Under the ESA, our responsibilities include helping federal agencies ensure their actions do not jeopardize species or adversely modify critical habitat, reviewing species' status to determine if listing is warranted, developing protective regulations to conserve listed species, designating critical habitat to protect the ecosystems upon which the species depend, and developing and implementing recovery plans. These recovery plans serve as a roadmap to bring threatened and endangered species to the point where ESA protections are no longer needed.

The life cycle of Pacific salmon and steelhead (*Oncorhynchus* sp.) spans freshwater streams and rivers, coastal estuaries, and the great expanse of the California Current ocean ecosystem. The complex life cycle and broad geographic range expose Pacific salmon and steelhead to a diversity of threats. Many Pacific salmon and steelhead stocks have declined substantially from their historic numbers and are now at a fraction of their historical abundance. These declines collectively led to NOAA Fisheries' listing of 28 Pacific salmon and steelhead stocks in California, Idaho, Oregon, and Washington under the ESA beginning in 1989. Primary listing and recovery responsibilities for Pacific salmon and steelhead belong to NOAA Fisheries. The U.S. Fish and Wildlife Service, other federal and state agencies, and tribal governments also play important roles in recovery.

Pacific salmon are of profound importance to healthy ecosystems, cultures, and economies, making their recovery a priority for the West Coast Region and the agency as a whole. NOAA Fisheries has made great progress in recent years and completed high-quality recovery plans for every ESA listed Pacific salmon and steelhead species in California. Recovering Pacific salmon and steelhead populations will take decades to achieve, but should ultimately provide long-term economic stability, allow the United States to honor its commitment to tribal reserved fishing rights, and afford maximum regulatory flexibility. NOAA Fisheries remains committed to investing in Pacific salmon and steelhead recovery in a way that addresses all threats to the species in order to ensure our progress towards recovery remains on track.

The management priorities of the West Coast Region are to maximize productivity and sustainability of fisheries and fishing communities through effective fisheries management, and to recover and conserve protected species and their habitats. The responsibility of the West Coast Region, and the agency, to protect, conserve, and recover the Pacific's threatened and endangered anadromous and marine species is found in our authorities including the ESA, the Magnuson Stevens Fishery Conservation and Management Act, the Fish and Wildlife Coordination Act, the Federal Power Act, and the Marine Mammal Protection Act. Scientists at our Northwest and Southwest Fisheries Science Centers contribute to species recovery through research, monitoring, and analysis. These scientists provide NOAA Fisheries managers and regional stakeholders with the tools and information they need to craft and implement effective regulations and develop sustainable plans for recovery. Research supporting species' restoration and recovery includes studies of distribution and abundance, metapopulation dynamics and viability analysis, population genetics, life history tactics and strategies, spatial ecology, wild/hatchery interactions, and ocean and estuarine ecology.

NOAA Fisheries works with key federal, state, and tribal partners as well as public organizations, non-profit groups, and others in California's Central Valley to form strong partnerships to recover listed Pacific salmonid species. Efforts include restoring habitat, leading reintroduction programs, utilizing conservation hatchery programs, conducting science and research to closely monitor the populations, and carefully managing scarce cold water. A few key partnership programs include the Sacramento River Science Partnership, the Northern California Water Association's Sacramento Valley Salmon Recovery Program, the Interagency Ecological Program, the San Joaquin River Restoration Program and the Collaborative Science and Adaptive Management Program for the Sacramento-San Joaquin Delta. In addition, NOAA's Pacific Coastal Salmon Recovery Fund program has a long history of successful, targeted, on-the-ground habitat restoration projects that support Pacific salmon and steelhead populations that are listed as threatened or endangered, or identified by a State as at-risk to be so-listed, for maintaining populations necessary for exercise of tribal treaty fishing rights or native subsistence fishing, and for the conservation of Pacific coastal salmon and steelhead habitat.

With regard to [HR 215](#), the WATER for California Act focuses on actions related to implementation of Central Valley Project (CVP) and State Water Project (SWP) water operations pursuant to the 2019 NOAA Fisheries and U.S. Fish and Wildlife Service (FWS) biological opinions (the “2019 biological opinions”). The bill also addresses federal water allocations, infrastructure projects, and Central Valley Project Improvement Act restoration actions. The 2019 biological opinions were reinitiated in October 2021 at the request of the Bureau of Reclamation and in response to [Executive Order \(EO\) 13990](#), *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis*. In March 2022, the Eastern District of California remanded the 2019 biological opinions, without vacatur, and ongoing operations are currently governed by court order. Section 104 of HR 215 introduces confusion on the status of the reinitiation of the 2019 biological opinions because such reinitiation is already underway as a result of [EO 13990](#). HR 215 would introduce new statutory process requirements that could cause significant delays for completion of new biological opinions and could introduce regulatory uncertainty for federal water contractors until new biological opinions are completed. Operations are likely to be governed by court-orders until the completion of new biological opinions and issuance of the associated Record of Decision by the Bureau of Reclamation.

[HR 872](#), the Federally Integrated Species Health (FISH) Act, would move authority to protect endangered or threatened anadromous species from NOAA Fisheries to the FWS. For over 30 years, NOAA Fisheries has built close relationships with stakeholders to work with the regulated public, community, and interest groups to manage, conserve and protect anadromous species and their habitats in inland, coastal, and offshore waters. NOAA Fisheries partners with public and private universities to develop science critical to the recovery and management of anadromous fish and their habitats. By sharing jurisdiction under the ESA, NOAA Fisheries and FWS each have opportunities to develop creative solutions that advance the conservation of ESA-listed species (e.g., salmonid 4(d) rules). NOAA Fisheries has significant scientific expertise regarding anadromous fish. Transferring authority to the FWS would reduce opportunities for NOAA Fisheries to continue to develop creative solutions that advance the conservation of ESA listed species, and may mean delayed protections and conservation. The transfer of authority of this scale will significantly delay the processing of environmental compliance requirements creating uncertainty to business, industry and military readiness, and increased legal vulnerability to litigation. NOAA Fisheries is responsible for many integrated and coordinated efforts on behalf of ESA-listed anadromous species. Some of those authorities include the Magnuson-Stevens Act, Federal Power Act, Pacific Salmon Treaty Act, the Mitchell Act (Columbia River hatcheries), the Pacific Coastal Salmon Recovery Fund, Fish and Wildlife Coordination Act, tribal treaty rights and related cases such as U.S. v. Washington and U.S. v. Oregon the long running tribal treaty fishing rights case. Transferring authority would disrupt the integrated nature of these authorities and contribute to inefficiencies in their coordinated implementation.

The Administration is not seeking a reorganization of responsibilities under the ESA. The U.S. Fish and Wildlife Service and NOAA Fisheries collaborate closely on implementing the ESA, and each agency brings valuable experience and expertise to bear in management of different types of fish species. The Department of Commerce looks forward to working within the Administration and with the Committee to ensure that federally-listed fish species are managed as effectively, responsibly, and efficiently as possible under the ESA.