



# MARINE MAMMAL COMMISSION

11 March 2024

Gretchen Harrington  
Assistant Regional Administrator  
Sustainable Fisheries Division  
Alaska Region NMFS

Attn: Susan Meyer

Dear Ms. Harrington:

On 26 January 2024, NMFS announced the availability for review of its “[draft Programmatic Environmental Impact Statement \[dPEIS\] for the expenditure of funds to increase the prey availability for endangered Southern Resident Killer Whales \(SRKW\)](#).” The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the dPEIS and offers comments and advice herein.

## Background

In 2019, NMFS established the “prey increase program” to augment funds applied and actions taken under the 2019 Pacific Salmon Treaty (PST), with the goal of achieving a “meaningful increase in prey for SRKW in the times and areas most beneficial to them (NMFS 2019).” To date this program has focused on hatchery production of Chinook salmon. The dPEIS presents analyses of the environmental and economic effects of four alternatives for allocation of federal funds allocated to NMFS as part of the PST and prey increase program: 1) “No Action” – discontinue funding; 2) continue to fund the production and release of juvenile hatchery salmon; 3) a portion of the hatchery funds would be used for habitat restoration, enhancement and protection projects designed to increase the abundance of wild Chinook salmon; and 4) a portion of the hatchery funds would be used to compensate for a reduction in fishery harvest of Chinook salmon in marine waters.

## Comments

- 1) Given the SRKW population has not recovered since systematic monitoring began in the mid-70s, the population’s substantial decline from a peak in 1995, and the large body of scientific evidence linking prey availability to SRKW health and vital rates, the Commission considers Alternative 1 unacceptable. The SRKW population is ESA-listed as Endangered and is clearly at significant risk of further decline and extirpation. Therefore, the “No action” alternative is not a course available to NMFS under the MMPA or ESA.
- 2) NMFS has not provided a sufficiently wide range of alternatives, as required by NEPA. Alternatives 2-4 offer funding largely for hatcheries **or** habitat restoration **or** reduction in fishing pressure. Numerous studies have documented the significant roles that fishing,

habitat alteration and loss, and reduced recruitment have played in making Chinook salmon less available as prey to SRKWs.

Therefore, NMFS should include alternatives in the EIS that provide for a range comprehensive, integrated efforts to increase the availability of Chinook salmon to SRKWs. Alternatives 3 and 4 would apply “a portion” of PST funds to habitat restoration. Presumably, the remaining funds would be used for hatchery production. While that would allow for two approaches to increasing prey availability, the Commission suggests that additional, integrative alternatives should include, at a minimum, reduced fishing **and** habitat restoration, **in addition to** increased recruitment (hatchery production of smolts).

Further, the “availability” of Chinook salmon to SRKWs is a function of both the regional and local abundance of the fish **and** the ability of the whales to detect and capture fish. Noise generated by boats and ships is known to limit the ability of killer whales to communicate with one another and to find and capture prey. Therefore, an integrated approach to increasing the availability of prey needs to include measures that address the impact of vessel noise on SRKW foraging.

- 3) Because the SRKW population size is so small and has been declining for over two decades, the highest priority should be given to alternatives with the potential to yield significant benefits to the population as rapidly as possible. Thus, while the Commission considers habitat improvement for Chinook salmon to be essential over the long run, that alone cannot provide immediate relief, and therefore Alternative 3 is not acceptable as a stand-alone or highest-priority alternative.
- 4) By the same logic, the Commission suggests that, of the three approaches to increasing prey availability, fishing reduction should be given the highest priority. Increasing hatchery production, while desirable, likely would take at least five years to potentially produce increases in prey availability. The link between increases in hatchery production and the availability of large Chinook salmon, the preferred prey of SRKWs, on the whales’ preferred foraging areas, is affected by several factors, including predation on smolts by other predators, predation on and fishing of juvenile fish at sea, ocean conditions, and fishing of mature fish as they return to spawning rivers. It is therefore uncertain that increased hatchery production would have the desired effect. Conversely, reduced fishing pressure would immediately affect the availability of exactly those fish that SRKWs depend on – large, mature Chinook salmon. Moreover, emergency regulations to reduce fishing pressure could be put in place within months.
- 5) Alternatives 2 and 3 appear to be carefully designed to benefit multiple Chinook stocks that are of greatest importance to SRKWs and to maintain a “portfolio” (diversity) of Chinook stocks available to the whales. In contrast, Alternative 4 would be a blunt instrument, closing all Chinook fisheries during the winter and spring, and partially closing the summer fisheries. The Commission finds two fundamental problems with

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this approach. First, large fishing reductions in summer and fall were not considered, even though these are the seasons of greatest importance to SRKWs' consumption of Chinook salmon. Second, while the modeled benefit to SRKWs, in terms of increased availability of prey, is similar between Alternatives 2 and 4, the potential costs are very different. The cost of compensating fisheries for foregone catch is several times greater than that that would be spent on hatchery production. The Commission is concerned that this result will make Alternative 4 infeasible due to the economic impact, which will likely elicit strong political opposition. The Commission finds Alternative 4 to be inadequate because it does not consider a careful reduction of fisheries take in those areas and times of greatest importance to SRKWs. Had NMFS taken a careful, targeted approach, as it did with Alternative 2, it might have found that it could achieve a lower but still highly beneficial increase in prey without such a large impact on the fisheries.

In summary, the Commission recommends that NMFS does not adopt any of the alternatives in the dPEIS, but rather that it amend the dPEIS to include alternatives that would fund approaches to increasing prey availability to SRKWs including short- and long-term actions, vessel noise abatement, fishing reductions, increased hatchery production and habitat restoration.

Please contact me if you would like to discuss the Commission's comments.

Sincerely,

A handwritten signature in blue ink that reads "Peter O. Thomas". The signature is written in a cursive style with a large, looped "P" and "T".

Peter O. Thomas, Ph.D.  
Executive Director