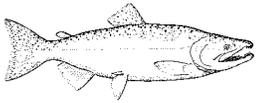
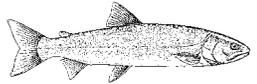


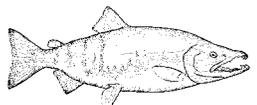
**ENDANGERED
SPECIES
ACT**



CHINOOK
Proposed Listing as
Threatened for Puget Sound



BULL TROUT
Proposed Listing as
Threatened for Puget Sound



CHUM
Depressed; Proposed Listing
as Threatened for Hood Canal



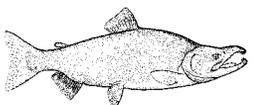
SEA-RUN CUTTROUT
Status Determination
December 1998



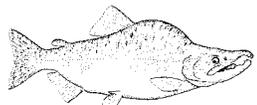
COHO
Status Determination
Mid-1999



STEELHEAD/RAINBOW
At Risk of Future Listing



SOCKEYE
Depressed; Listing Unlikely



PINK
Some Runs Extinct;
Others Still Healthy

Status descriptions are
for Puget Sound runs.



King County, WA

**ENDANGERED SPECIES ACT RESPONSE:
INTEGRATING WRIA PLANS & 4(D) RULES**

It is widely expected that the National Marine Fisheries Service (NMFS) and the US Fish and Wildlife Service (USFWS) will list Puget Sound Chinook salmon and Coastal -Puget Sound bull trout, respectively, as “threatened” species under the Endangered Species Act (ESA) in 1999. It is also expected that, at the time of their listing or soon afterward, these agencies will prohibit the “take” of these species (i.e., killing or harming them, including degradation of their essential habitat), *though this is not guaranteed*. If take is prohibited, any action proposed by any party that is likely to cause take will require a “consultation” with these agencies to identify alternatives or necessary mitigation. Take prohibitions on Puget Sound Chinook would make a wide range of economic and other activities in the region subject to potentially costly and time-consuming federal review. Federal and local authorities want to avoid the prospect of such a massive slow-down to the local economy, while meeting the goal of preserving and recovering local salmon runs. They plan to do this through protective measures enacted under a “4(d) rule” and WRIA Salmon Conservation Plans.

What is a “4(d) Rule”?

After the federal government lists a species as “threatened”, it is required to issue a rule under Section 4(d) of the ESA that specifies the protective measures necessary for that species. This “4(d) rule” commonly includes a statement that Section 9 prohibitions on take of that species are in effect. This statement is the element of 4(d) rules that brings the most extensive legal consequences to non-federal parties. Without it, these parties are affected by the listing only when their activities involve federal funding or a federal mandate or permit. Assuming take prohibitions are enacted, a 4(d) rule may specify actions that are exempt from legal sanction under the ESA, given conditions that minimize and mitigate the degree to which those actions take the threatened species. A 4(d) rule may also specify actions that are not exempt from legal sanctions related to take of the species.

What Are “WRIA Salmon Conservation Plans”?

Water Resource Inventory Areas (WRIAs) are defined under state regulations; they generally follow the watershed boundaries of major river or lake systems, such as the Snohomish and Green Rivers and Lake Washington, though coastal and Puget Sound WRIAs include neighboring minor drainages as well. WRIAs are generally considered an appropriate ecological and administrative level for prioritizing land use and other decisions that affect salmon habitat. Because of this, local governments in the Puget Sound area—in cooperation with the state, tribal governments, and others—are organizing by WRIA to develop plans to protect salmon species listed under the ESA. These WRIA Salmon Conservation Plans (“WRIA plans”) will dovetail with harvest and hatchery policies relevant to the WRIA that the state and tribal governments (who have legal authority over these issues) will generally determine for a larger geographic area, such as all of Puget Sound for Chinook salmon. Though NMFS will make some judgments of what is needed to protect Chinook salmon on a Sound-wide basis, it will also evaluate these WRIA plans for their own adequacy, particularly as they relate to habitat. If NMFS determines that a particular WRIA plan meets the conservation requirements of the ESA, it may incorporate elements of that plan into a 4(d) rule that covers that WRIA.

WRIA plans will be based on analyses of factors limiting salmon survival in each WRIA. The plans will incorporate research developed by the Washington Department of Fish and Wildlife and the Treaty Tribes in each WRIA and will be reviewed by an independent panel of scientists participating in the regional ESA response. The plans will specify actions to be

undertaken to aid the recovery of the species; these will generally be prioritized based on the relative importance of the limiting factor(s) they address, their likelihood of success and their benefits relative to costs. WRIA plans will contain monitoring programs and will also identify key remaining uncertainties and information gaps, and research programs to address them. WRIA plans are expected to evolve over time, improving in their effectiveness and increasing in their level of detail and supporting documentation. The initial goal is to make them good enough to be substantially incorporated into the first 4(d) rule issued by NMFS or USFWS in that WRIA, in such a way that provides legal protections to a broad range of local activities. They will therefore target the individual species to be covered by that 4(d) rule, though they are ultimately intended to be multi-species in scope and address other species that are likely to receive protection through the ESA in the future.

When Will a 4(d) Rule and WRIA Plans Be Developed for Puget Sound Salmon?

Puget Sound Chinook salmon could be listed as early as March 9, 1999; bull trout in this area could be listed as early as June 10, 1999. Both of these listings could be delayed by as much as six months, given sufficient scientific uncertainty. In the ESA's most straightforward cases, a 4(d) rule should be in place roughly 75 days after a final listing decision. Given the complexity of the context for salmonid listings in Puget Sound, no one can say definitively how long after a final decision to list Chinook or bull trout the federal government will issue a 4(d) rule or apply take prohibitions. Local governments in King, Pierce and Snohomish counties hope to have initial WRIA plans prepared for negotiation of a Chinook or bull trout 4(d) rule by mid-1999.

How Does a WRIA Salmon Conservation Plan Differ from a Habitat Conservation Plan?

WRIA plans and Habitat Conservation Plans (HCPs) differ most prominently in the nature of the legal assurances they provide for those who develop them. WRIA plans are intended primarily to secure short-term legal assurances under 4(d) rules. Habitat Conservation Plans (HCPs) can provide long-term (up to 50 or 100 years) protection from legal sanctions under Section 10 of the ESA, through "incidental take permits" negotiated between NMFS and the applicant. Further extending this protection, HCPs usually cover multiple species, including not only endangered and threatened species but also species that have not yet been listed under the ESA but which may be listed in the future. Because HCPs require a more involved approval process and are potentially so long-term and broad in scope, they are substantially more expensive and time-consuming to develop and negotiate than the WRIA plans. It is a practical impossibility for affected governments and private parties in this area to have an HCP in place by the time Puget Sound Chinook salmon or bull trout are listed under the ESA, unless they have already been working on such an HCP for several years. Governments and private parties may undertake HCPs for themselves while receiving protection under 4(d) rules, if they decide that the extra protection provided by an HCP is worth the extra time and cost.

Who Benefits from a WRIA Salmon Conservation Plan Under a 4(d) Rule?

To be incorporated into a 4(d) rule, WRIA plans must include guarantees of implementation. An implementing agreement will therefore be written for each WRIA plan, binding the governments that sign it to implementing their responsibilities under the plan, including whatever funding mechanisms it specifies. The legal protections provided under its 4(d) rule that are based on the WRIA plan would then extend only to those governments that have signed the agreement, and to those private parties that comply with the resulting requirements. Those governments that have not signed the agreement for the WRIA plan, and the private parties within their jurisdiction, would not receive these legal protections. They would be free to undertake their own negotiations with NMFS or USFWS for protections under the 4(d) rule or HCPs, but at their own expense and on a schedule that would probably take longer than the WRIA plans. Due to staffing limitations and interest in supporting salmon conservation at an appropriate ecological scale, NMFS is encouraging local public and private stakeholders to use WRIA plans as the foundation of their efforts to comply with the ESA and achieve legal protections under it.