



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 10**  
1200 Sixth Avenue  
Seattle, WA 98101

December 14, 2005

Reply To  
Attn of: ETPA-088

Kevin Goodson  
Conservation Planning Coordinator  
Oregon Department of Fish and Wildlife  
3406 Cherry Avenue N.E.  
Salem, Oregon 97303

Dear Mr. Goodson:

The U.S. Environmental Protection Agency (EPA) appreciates the opportunity to provide comments on the October 6, 2006 draft of the "State of Oregon Conservation Plan for the Oregon Coast Coho Evolutionarily Significant Unit" (CCP). Our comments focus primarily on elements of the CCP relative to EPA's program roles and responsibilities as described in Appendix 3, "Description of Oregon and Federal Commitments." We've also included past comment letters related to State programs that are critical to Coho recovery and water quality improvements.

EPA recognizes that the CCP is a major undertaking and commends the Oregon Department of Fish and Wildlife (ODFW) for its leadership in the developing the draft CCP. ODFW has played a major role in salmonid recovery efforts in Oregon particularly with respect to hatcheries, fish harvest, and landowner restoration efforts. We strongly support the significant improvements that have been made in these areas in Oregon. A successful CCP will also need to address key stressors and limiting factors for salmonids including water quality impairment. EPA believes that addressing issues identified below will enhance the CCP and increase its utility in both recovering Coho populations and addressing water quality problems in the State.

**General Comments**

**Water Quality as a Limiting Factor**

The CCP does not address the significance and role of water quality in Coastal Coho viability. Water quality is identified as one of the two primary Population Limiting Factors for most of the Coastal Coho populations. While water quality is identified as the secondary limiting factor for 15 of the 21 independent populations (Table 4, Page 25), impacts from primary sources of impairment, such as forest and agriculture practices, are not adequately addressed.

EPA has the overall national responsibility to implement the Clean Water Act, in partnership with states and tribes. These responsibilities include approving state Water Quality Standards, overseeing delegated state point-source permit programs, approving Total Maximum Daily

Loads (TMDLs) and states' 303(d) list of water quality impaired waters, and approving state non-point source and coastal zone management programs.

EPA works closely with the Oregon Department of Environmental Quality (DEQ) which has delegated authority for implementing the provisions of the Clean Water Act. The DEQ has established a variety of programs to prevent water quality degradation, improve degraded water quality, and protect high quality waters in the Coastal Coho ESU. Water quality is an inextricable component of habitat for Coastal Coho. Actions and measures to support DEQ's programs are often similar to or supportive of actions which enhance stream complexity or high habitat quality, the primary limiting factor identified in the CCP. DEQ programs and supportive actions are well defined, often site specific, and clearly support salmonid populations. For example, in 2004, the Oregon Department of Environmental Quality (DEQ) revised existing temperature standards and standards for inter-gravel dissolved oxygen. These standards set a new benchmark for how water quality can help protect salmon, and serve as a national model for identification of critical information on salmon and steelhead life stages and temperature needs in those life stages.

DEQ uses these standards to determine where water quality exceedances exist and where beneficial uses, such as salmonid spawning or rearing, are not being supported. As part of its 2004-06 303(d) listing process, DEQ identified several thousand reaches of rivers and streams in the Coastal Coho ESU that are not meeting state water quality standards including waters not meeting temperature, sediment, dissolved oxygen, and bacteria criteria relevant to salmonid conservation.

For waters identified on the 303(d) list, DEQ develops plans which reduce the pollutant loading to those waters. The plans, or Total Maximum Daily Loads (TMDLs), define pollutant loads to the listed waters and allocate portions of the pollutant loading to the contributing point and non-point sources. In response to the TMDLs, the entities responsible for the sources of pollutants, must develop and implement plans to ensure compliance with their load reduction requirements. TMDLs have been or are being developed for many of the listed waters in the Coastal Coho ESU along with implementation plans to address identified water quality problems. EPA has reviewed and provided comments on TMDLs and associated implementation plans. EPA documents identifying issues and problems with implementation plans are attached.

The aforementioned programs are examples of tangible "tools" used to improve and protect water quality and support beneficial uses, i.e., salmonid life stages, of the waters in the Coastal Coho ESU. While DEQ's programs are presented in Appendix 3 as an agency's support of the CCP, the value of these programs is understated and under utilized in defining existing water quality and habitat problems and achieving the goals and objectives of the CCP. These programs/tools should be strategically integrated into the CCP to solidify its foundation.

#### Lack of Implementation Detail

The CCP lacks detail on how the specific goals and objectives will be achieved but does state that CCP goals and objectives will be achieved using existing regulatory programs and land-use laws, and enhanced support of non-regulatory cooperative conservation and voluntary efforts.

While we strongly support non-regulatory cooperative conservation and voluntary efforts in Oregon there is a significant body of science demonstrating that regulatory programs in Oregon do not adequately protect water quality and associated beneficial uses (e.g., salmonid spawning and rearing, public water supply). In addition, although Oregon has an outstanding network of local groups such as watershed councils and soil and water conservation districts working with State and Federal agencies on voluntary habitat restoration efforts, it is not clear that financial support for these local groups and the projects they are undertaking is being increased commensurate with CCP goals.

While the CCP establishes some specific goals there is very little detail on how 1) each goal will be attained; 2) who will be responsible for meeting that specific goal; 3) where the associated funding will be obtained; 4) the geographic locations where actions will be needed to support achieving that goal; and 5) the anticipated timeframe for reaching that goal. For example, one goal listed in Appendix II is to increase the existing high quality habitat river miles by approximately 2500 miles, the targeted miles needed to support Coastal Coho viability. While the goal is commendable there are no site specific management actions defined, specific timeframes established, or associated costs defined for meeting this goal. There is also inadequate discussion on how development, land conversion, forestry practices, gravel mining, and agricultural practices affect the ability to meet high quality habitat goals.

The lack of implementation detail and the CCP's reliance on existing programs and enhanced support of cooperative conservation or voluntary efforts seems to embrace a "status-quo" strategy leaving little certainty that goals and objectives will be achieved. Greater detail on how specific goals and objectives will be achieved must be included in the CCP.

#### Use of Enhanced Voluntary Measures and Existing Regulatory Programs

EPA does not believe the CCP's use of the existing Oregon Forest Practice Act regulations (FPA) will achieve the desired status goal for the Coastal Coho ESU. We are also concerned that SB 1010 plans fall short of Coastal Coho conservation and recovery. Measure 37 and development pressure along the Oregon coast add to the uncertainty of the existing regulatory measures. To achieve the desired status goal for the Coastal Coho ESU, the CCP proposes to use enhanced voluntary measures and non-regulatory cooperative conservation along with existing land use regulations and other regulatory programs. EPA fully supports the CCP's objective of enhancing non-regulatory and voluntary programs. EPA strives to implement environmental and public health protection by engaging both the regulated and non-regulated communities in collaborative and cooperative processes. However, EPA believes the existing FPA and SB 1010 plans do not adequately support the desired CCP goals for Coastal Coho habitat.

EPA has consistently noted in testimony to the Oregon Board of Forestry that there is a substantial body of science demonstrating that Oregon's existing forest practice rules and best management practices do not consistently meet water quality standards or fully provide riparian functions important to water quality, public water supplies and fish. Expert reviews and research have identified the need for increased protection of riparian management areas and landslide prone slopes in Oregon for both fish and non-fish streams to provide functions important for fish and water quality. While the most recent revisions to the FPA rules are improvements, EPA

continues to believe that additional revisions to the rules are needed to ensure water quality standards will be met and that beneficial uses such as salmonid spawning and rearing will be fully protected.

The agricultural water quality management plans and associated rules prepared pursuant to SB 1010 are not linked to salmonid conservation and restoration. While EPA supports the general SB 1010 planning framework and believes that the dialogue the agricultural water quality management planning process generates can be beneficial, we have not seen an established, clear commitment to salmonid recovery or meeting TMDL targets on agricultural lands.

EPA wants to reemphasize that we strongly support Oregon's voluntary and cooperative efforts and believe they are an important element of an overall approach for achieving the CCP goals. However, we believe that continued implementation of the existing regulatory framework in Oregon does not adequately address widespread water quality problems and will not meet the goals in the CCP.

### Specific Comments

p. 3, first paragraph under Introduction: A sentence in the first paragraph provides that "A key element of this Plan is to provide a higher and more effective level of support to local conservation groups and private landowners...". It is not clear what is meant by a "higher and more effective level of support", where that support will be directed, or how the CCP anticipates obtaining the resources for the support. Please explain.

p. 6, second paragraph under Oregon's Coho Conservation Strategy: This paragraph seems to infer that the need to develop conservation and restoration strategies at scales within populations will rest with watershed level entities. EPA agrees that it is often at the watershed scale where some of the most effective and targeted restoration occurs. However, facilitating the establishment of strategies, priorities, and schedules for implementing strategies in mixed ownership watersheds can be extremely difficult where differing positions and agendas exist. How does the CCP propose to facilitate the discussion on developing and implementing these strategies at the finer resolution?

P 6. third bullet, Accountability, under Key Conservation Commitments: The last sentence states that an Oregon Plan Regional Implementation Team will be responsible for the tracking and preparation of reports described as part of Oregon's adaptive management commitment to this Plan. It is not clear if a Team currently exists or if there is support for a team, what reports will be required, and what is meant by "Oregon's adaptive management commitment to this Plan". Please explain.

P 7. second paragraph under Implementation: There is an inference that the plan will be implemented by adding more effective financial and technical support into the existing voluntary initiatives. It is not clear how or where more "effective financial support" will be attained or how priorities will be set to ensure key projects are implemented. Please explain.

p. 17. the second sentence under Conservation Plan Considers the ESU as Viable: The sentence indicates that populations demonstrate sufficient abundance, productivity, distribution, and diversity to be sustained under a current and foreseeable range of environmental conditions. The bases for this statement are not clear when one considers that 1) the greatest amount stream reaches for highest potential Coho production are on private forest, agricultural and urban lands, which are the dominate sources of non-point pollution; 2) Several thousand stream reaches in the ESU are included on the State's 303(d) list with the majority of the listings caused by temperature violations; and 3) a body of information shows that the Oregon Forest Practice Regulations do not support Oregon water quality standards. Please explain the bases for this statement.

p. 18 Table 3: Table 3 lists conclusions from the 2005 OCCA viability analysis for Oregon Coast Coho at the population, strata and ESU level. While EPA is not providing comments on each geographic stratum, population, or population criteria conclusion, it would appreciate information on how the population criteria conclusion of "PASS" was reached for Tenmile Lake in light of the following information.

DEQ issued the draft Tenmile Lake Watershed TMDL and Water Quality Management Plan for public review. Monitoring has shown that water quality in the Tenmile Watershed does not meet water quality standards and is on the State's 303(d) list for nuisance aquatic weeds and algae problems. The TMDL proposes to address this issue by reducing sources of phosphorus to the lake by reducing sediment inputs.

As part of this study, DEQ also reported that lake productivity is affected not only by inputs from the watershed, but also by biological activity within the lake. Specifically, the altering of fish populations in the lake can promote major changes in the zooplankton community which can in turn alter the grazing rate of phytoplankton. Planktivorous fish such as bluegill feed by sight. Size-selective predation occurs with planktivorous fish preferentially removing the largest zooplankton species. The reduction of large zooplankton, in turn, reduces grazing on phytoplankton which allows phytoplankton biomass to increase. (Page 24, TMDL).

DEQ reported that the current fishery at Tenmile Watershed is dominated by exotic species such as largemouth bass, bluegill, yellow perch and crappie which are all highly planktivorous. Largemouth bass are also very efficient at consuming juvenile Coho salmon which feed on phytoplankton. In addition to preferential grazing impacts, populations of introduced fish can further stimulate phytoplankton growth by increasing nutrient availability via increases in biomass.

This problem has been illustrated most recently in another Oregon lake. To quote from page 25 of the Tenmile Watershed TMDL, "Excessive zooplankton grazing following introduction of the exotic tui chub into Diamond Lake has been identified as the primary mechanism for the deterioration of water quality in Diamond Lake. This recent assessment conducted on Diamond Lake implicates the biomass of exotic fish species as the primary driver of nuisance algae blooms even in the absence of significantly increased upland nutrient loading. (Eilers et. Al., 2001 and 2004)."

Given the above water quality concerns, the CCP should include measures that address the issues that are both troublesome to sustaining Coho salmon and contribute to water quality degradation. The draft plan only identifies predation on Coho from birds and marine mammals as in need of further investigation. It fails to address the issues associated with stocking lakes with predatory fish such as largemouth bass. Tenmile watershed was a significant producer of Coho salmon until the introduction of largemouth bass.

EPA recognizes this is a controversial issue since largemouth bass are a popular sport fish. However, the challenge of restoring the water quality to Tenmile Watershed may not be achievable without a more balanced and cooperative approach between all interests.

p. 20 – the second paragraph under Oregon’s Vision for ESU Desired Status: The paragraph lists some characteristics of the ESU, the watersheds, the fish, and the communities that should be observable when the desired status goal is achieved. There is no mention of the water quality conditions, achieving water quality standards, or protecting existing high quality water. Failure to mention water quality seems to infer that the desired status goal can be achieved in the absence water quality conditions that meet water quality standards and support beneficial uses. As stated in our general comments, water quality is a critical component of fish habitat. It is one of the barometers of watershed health. At a minimum, improved water quality should be listed as an observable condition when the desired status goal is achieved.

p. 23, the fourth sentence in the second full paragraph: The fourth sentence states that “These regulatory changes did not completely remediate conditions created by historical practices but have reduced the threat of future impacts”. With the existing body of science showing that Oregon Forest Practice Regulations do not support water quality standards, it is not clear to EPA how implementing the FPA reduces the threat of future impacts. (See EPA’s general comments). Please explain the basis for this statement.

p. 25, Limiting Factors for Coastal Coho Populations: Water quality is identified as the secondary limiting factor for 15 of the 21 independent populations in the Oregon Coast Coho ESU (Table 4, page 25). However, the importance of water quality is not addressed in this section. Please explain.

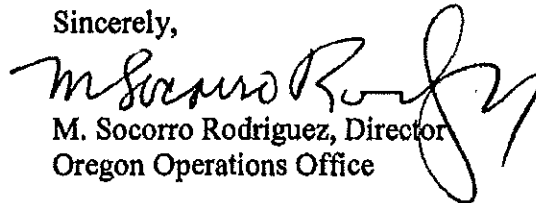
p. 26, the first paragraph: This paragraph repeats the CCP’s stated position that Oregon will be relying on the existing regulatory programs and non-regulatory cooperative conservation work to achieve the desired status goal for this ESU. While EPA fully supports non-regulatory and voluntary efforts for implementing public health and environmental protection programs, it is concerned that reliance on some of the existing regulatory programs will fall short of attaining the desired status goals. See EPA’s General Comment on Use of Enhanced Voluntary Measures and Existing Regulatory Programs for a detailed explanation.

ppgs. 26&27, Prioritizing Conservation Investments in Coast Coho ESU: This paragraph lists many factors to consider in prioritizing conservation investments related to the CCP and achieving the desired status goal for the ESU. The paragraph states that the listed factors would tend to indicate conservation investments that particularly merit funding. The factors are

described in terms of "Work to be done", i.e., "work that will improve viability status of a coho population...". There is no mention of "work" to improve and protect water quality, or "work" to attain water quality standards and support beneficial uses. This seems especially limited since both EPA and DEQ implement a number of grant programs which provide funds to non-regulatory and voluntary entities for watershed restoration projects. These projects are typically water quality focused, but often offer the dual benefit of restoring and improving fish habitat. "Work" on water quality/watershed restoration projects in the Coastal Coho ESU should be mentioned in this section. Please see EPA's General Comment on Water Quality as a Limiting Factor.

Again, we appreciate the opportunity to comment on the draft CCP and would welcome further discussion on our comments with you and others in your agency. If you have questions please feel free to contact EPA representative Alan Henning (541-687-7364).

Sincerely,

A handwritten signature in black ink, appearing to read "M. Socorro Rodriguez". The signature is fluid and cursive, with a large loop at the end.

M. Socorro Rodriguez, Director  
Oregon Operations Office

Enclosures

