

Meeting Date: November 14 , 2018

Agenda Item No. 5I

Agenda Item: 2018 & 2019 Steelhead Seasons

Bureau Chief Approval: 

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Background:

Six organizations sent Idaho Fish and Game Commissioners, the Director, and Fisheries Bureau Chief a legal notice of their intent to bring a federal lawsuit against state officials for alleged violations of the federal Endangered Species Act (ESA). The legal notice alleges ESA violations related to the incidental catch of wild Snake River Basin steelhead during Idaho's hatchery steelhead, hatchery spring/summer chinook, and hatchery fall chinook fisheries.

The notice is dated October 9, 2018. It states that the organizations will file a federal lawsuit after a 60-day period passes if Idaho officials do not close the fisheries that they claim are violating the ESA.

The ESA and related federal laws have both biological and procedural requirements, and the ESA allows private citizens to sue entities to stop biological or procedural violations of the Act if the federal regulatory agency does not address alleged violations. The ESA requires private citizens to give 60 days' notice before filing a lawsuit.

Department and federal agency review processes to date have found Idaho's management frameworks for hatchery steelhead and chinook fisheries do not jeopardize wild steelhead populations. The Department has monitoring and evaluation frameworks in place for hatchery steelhead and chinook fisheries, with annual reporting to NOAA's National Marine Fisheries Service.

Spring/Summer Chinook Fisheries are not open at this time. Fall Chinook seasons opened in Idaho on August 18, 2018, and the seasons in the Clearwater, Salmon and downstream Snake River have closed. The only remaining Fall Chinook season in the Snake River closes by November 18, 2018 at the latest. It will be several months before Fisheries staff provide the Commission salmon run information for making decisions for any 2019 chinook season.

At the November meeting, staff will update the Commission on the status of steelhead fisheries currently open for December 2018, and of steelhead fisheries proposed for 2019-2021 as part of the 3-year season setting process. Earlier this year the Director reduced the bag limit to one steelhead because of relatively low steelhead returns.

Staff will also update the Commission on the status of ESA compliance documents for ongoing and proposed hatchery steelhead fisheries. The Department and federal agencies have been actively engaged for most of 2018 in updating analyses and federal environmental documents for Idaho's hatchery steelhead fisheries.

The renewal/updating of ESA compliance documentation related to fishery impacts on ESA-listed wild steelhead and salmon populations is a complex process because of the life cycles of these populations and the intertwined nature of multi-state and tribal fisheries in the Columbia River and Snake River basins.

Because there is a legal notice threatening litigation, the Commission may wish to confer with legal counsel in executive session, as allowed by Idaho Code 74-206(1) (f), before discussing this subject or deliberating as to action in open session.