

Richard Devlin
Chair
Oregon

Ted Ferrioli
Oregon

Guy Norman
Washington

Patrick Oshie
Washington



Northwest Power and Conservation Council

Bo Downen
Vice Chair
Montana

Jennifer Anders
Montana

Jim Yost
Idaho

Jeffery C. Allen
Idaho

February 28, 2020

Mr. Jerome Ford
Assistant Director, Migratory Birds
c/o Public Comments Processing
Attn: FWS-HQ-MB-2019-0103
U.S. Fish and Wildlife Service Headquarters
MS: JAO/1N, 5275 Leesburg Pike
Falls Church, VA 22041-3803

Dear Mr. Ford:

The Northwest Power and Conservation Council is an interstate compact agency of the four Northwest states of Idaho, Montana, Oregon, and Washington authorized in the Northwest Power Act of 1980 and charged with planning for an adequate, efficient, economical, and reliable electric power supply for the Northwest region and mitigating the impacts of hydropower dams on fish and wildlife of the Columbia River Basin.

The Council's Columbia River Basin Fish and Wildlife Program includes measures to protect salmon and steelhead from predation by marine mammals, and by piscivorous fish and birds. Recently, scientists who conduct research on piscivorous birds reported the alarming conclusions of 12 years of study, 2008-2019. Fish-eating birds, including Caspian terns, double-crested cormorants, and gulls, are killing half, or more, of the juvenile salmon and steelhead during their annual outmigration down the Columbia River to the Pacific Ocean.

This predation occurs over more than 500 miles of the river, from central Washington state to the ocean, affects all species of juvenile salmonids (some more than others depending on the length and timing of their migration), and coincides with the birds' breeding season. Smolts being consumed by these avian predators include at least five Endangered Species Act (ESA)-listed species, Snake River sockeye, Upper Columbia Steelhead and Spring Chinook, and Snake River Steelhead and Spring/Summer Chinook.

In February, Allen Evans, a research scientist who studies bird predation on Columbia River fish, told the Council he was surprised to learn from his own research that bird predation is the dominant source of mortality for some fish species, such as Upper Columbia Steelhead, adding that the numbers demonstrate that "more fish are dying from birds than from passing through the dams, or consumed by pikeminnow, or dying from disease."

Therefore, we read with interest your January 2020 Federal Register notice proposing to increase the allowable depredation of Double-crested Cormorants in 37 Central and Eastern U.S. states and the District of Columbia – but not in West. We note that the protection of threatened and endangered species is specifically named within the scope of the depredation permits included in this environmental assessment's proposed rulemaking. The purpose of this comment letter is to bring to your attention the fact that avian predation on ESA-listed and non-listed salmon and steelhead species in the Columbia River Basin is a serious problem that needs to be addressed. Electricity ratepayers in the Northwest have invested in excess of \$17 billion over the past 40 years to protect and enhance anadromous fish, and this investment is being undermined by the continued – and growing – predation by cormorants in the Columbia River estuary and inland on the Columbia and Snake rivers.

In late 2018, President Trump signed into law a bipartisan-supported measure that increases the ability of the Northwest states and Columbia River Indian tribes to lethally remove the most aggressive marine mammals in the lower Columbia and its tributaries that annually kill large numbers of the spring-migrating adult salmon and steelhead, and also sturgeon and lamprey. This enhanced legal authority is important not only to the Council, but also to fishery managers including the states of Idaho, Oregon, and Washington, and the Columbia River Inter-Tribal Fish Commission, whose member tribes have treaty-reserved rights to fish in the Columbia River.

From 2015 to 2017, the Fish and Wildlife Service authorized the lethal removal of Double-crested Cormorants in the Columbia River estuary. More than 5,000 cormorants were removed and more than 6,000 nests were destroyed. We know that this action, combined with natural predation by other bird species, helped to significantly reduce cormorant predation on juvenile fish. But since that time, only non-lethal methods of harassment have been available, and they only have had the effect of moving cormorants from one place to another in the estuary. The predation continues and, in fact, is increasing.

We are working hard to protect and rebuild salmon and steelhead populations in the Columbia River Basin, but we see a conflict between the Migratory Bird Treaty Act and the Endangered Species Act. We believe this conflict can be resolved. The federal agencies that implement these laws in the Columbia River, primarily the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, and NOAA Fisheries, need to work and with state and tribal partners to find a comprehensive and unified solution and implement actions to control the growing problem of cormorant predation on anadromous fish, including ESA-listed species. This is critical to our success, and to the success of the fisheries and harvest management activities of treaty tribes and the states.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Devlin". The signature is stylized and cursive.

Richard Devlin, Chair