

DOES THE  
DEPARTMENT OF  
FISH & GAME  
PROTECT  
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A REPORT OF THE  
SENATE NATURAL RESOURCES COMMITTEE  
SENATOR TOM HAYDEN, CHAIR  
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# DOES FISH AND GAME PROTECT SALMON?

## Summary

The State of California has a public trust responsibility to act as the steward of our wildlife, including wild salmon. Statutes specifically direct the Department of Fish and Game to double the salmon populations. Yet DFG policies instead have the State presiding over a succession of extinctions among our wild salmon runs.

## Background

Wild Salmon were once so plentiful in California rivers that horse-drawn nets could haul loads out of the water. Early settlers joked about being able to walk across rivers on the backs of California salmon. Packing houses sprang up along river banks to can California Salmon shipped the world over.

That changed after World War II as dams were built to store water to accommodate agriculture and urban development, with dramatic effects. Only 191 Winter-run Chinook Salmon returned in 1991 to spawn in what remains of their historic habitat on the Sacramento River between Keswick Dam and the Red Bluff Diversion Dam. The Spring-run Chinook once numbered more than one million and inhabited 24 creeks in the Sacramento/San Joaquin River system. Now, only 4 creeks sustain fewer than a few thousand Spring-run spawners. Coho Salmon are even closer to extinction and were nearly listed as endangered by the federal government until a Congressional moratorium ended the expenditure of funds on new listings, irrespective of the scientific evidence of dwindling populations.

From this mismanagement of one of our most biologically and spiritually important species comes the exhibit at the Steinhart Aquarium in San Francisco where 261 Chinook circle in a large holding tank. A nearby placard informs the public that the aquarium is attempting "to preserve the genetic material of this imperiled salmon. We are only buying time until the [Sacramento] River improves. Like the condor, the last of this race will disappear in captivity unless we save their habitat."

## Legal Responsibilities of DFG

Current law makes clear that "It is the policy of the state to significantly increase the natural production of salmon and steelhead trout by the end of the century. The department shall develop a plan and program that strives to double the current natural production of salmon and steelhead trout resources." (Fish & Game Code Section 6902a) And further, "It is the policy of the state that existing natural salmon and steelhead trout habitat shall not be diminished further without offsetting the impacts of the lost habitat (6902c).

Also, Section 5937 prohibits water diversions from harming fish migrations, "The owner of any dam shall allow sufficient water at all times to pass...to keep in good condition any fish that may...exist below the dam." DFG is directed to implement these policies in Section 702. The Fish and Game Commission adopted as its binding policy "Salmon shall be managed to protect, restore and maintain the populations and genetic integrity of all identifiable stocks."

Those are the laws. It would be an understatement to say that they are not being enforced.

### The Record of Not Protecting Salmon

**SPRING-RUN PETITION DENIED.** Spring-run Chinook Salmon have declined from over a million wild fish to fewer than 10,000. DFG biologists testified to this Committee last year under oath that "The Spring-run would qualify for [endangered] listing, based on the numbers and habitat conditions." But the Commission undertook no such effort. Senator Hayden filed a 47-page petition, detailing the scientific evidence which pointed to the fish's endangered status. DFG biologists concurred in their formal analysis that the petition was accurate and should be adopted. Fisheries biologists from across the country supported the petition; not a single fisheries scholar held to the contrary. But the Commission again ignored its own biologists and the scholarly community to deny the petition. Commissioner Frank Boren again dissented, urging his colleagues to obey the law and avoid yet another embarrassing court reversal.

**SALMON ARE NOT PROTECTED BY THE BAY-DELTA AGREEMENT.** When the Winter-run Chinook Salmon was listed as endangered, permits were issued by to the State Water Project and the federal Central Valley Project pumps to kill up to 1% of the salmon fish returning to the sea from their spawning grounds. That kill limit was doubled after the CalFed Bay-Delta plan was established. Last month, it was disclosed that over 2% of the remaining Winter-run Chinook had been killed in the pumps. While no public announcement was made, representatives for the water exporters and the wildlife protection agencies that should oversee them convened. They agreed to describe the killed fish not as endangered Winter-run, but instead Spring-run that have yet to be listed. Like the act of merely changing the kill limits, this redefinition of which fish were killed was designed not to protect fish, but to fashion a legal defense for collective inaction.

**LOGGING IN SALMON HABITAT.** Logging operations can have profound impacts on salmon habitat by removing the forest canopy that shades and nourishes streams, by raising the temperature of stream waters and by causing erosion into streambeds that cover salmon spawning gravels. Under the California Environmental Quality Act (CEQA), Timber Harvest Plans (THPs) are not subject to Environmental Impact Reports (EIRs) under a so-called "functional equivalency" process where DFG reviews the plans for their likely damage to salmon habitat. But as another chapter of this report describes in greater detail, fewer than 1 in 10 THPs is analyzed by DFG wildlife biologists. Further, DFG biologists recommended a series of improvements to the forestry regulations in order to better protect salmon habitat. Their recommendations were ignored. Lastly, DFG may appeal a THP approved by the Department of Forestry to the Resources Secretary, yet such an appeal on behalf of salmon has never once occurred.

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STUDYING SALMON TO DEATH. The history of California Salmon management has been rather than restore, study. In 1970, a citizen's advisory committee was formed to study salmon and steelhead declines. In 1971, the committee issued a report called An Environmental Tragedy, calling for habitat restoration. In 1972, there was a second report A Conservation Opportunity. In 1975, the report was titled The Time is Now. In 1982, a new Committee was formed. It published five more reports, including The Tragedy Continues. After the 1988 report, the state adopted the doubling of the population of salmon and steelhead by the year 2000 as an official goal.

Rather than enforce the law to protect Coho Salmon, the Resources Agency again proposes to establish discussion panels and do more studies. In the attached April 10, 1996 letter, Resources Secretary Wheeler responds to criticism that timber regulations inadequately protect the coastal streams Coho Salmon need to survive. Nowhere is the state mandate to double the fish population mentioned. Instead, the letter is a recitation of internal bureaucratic tasks:

"A final compilation of survey results was provided to the Board at its November meeting and has been referred to the Board's Ecosystem Management Committee for review."

"Given current information and funding, the Board and review team agencies have adopted a multi-pronged approach to this kind of review. It consists of the survey cited above, the development of a Watershed Academy by Fish and Game and CDF to provide training in watershed analysis, and the implementation of a long term monitoring program."

"In addition, the design and feasibility assessment for the longer-term Coastal Salmon Initiative is now underway... We have now had three meetings of a Policy Committee that consist of representatives from 11 government entities and 18 economic and environmental stakeholders."

All these feasibility assessments and Watershed Academy meetings transpire while the Coho Salmon continues toward extinction. We are studying the Salmon to death.