



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

1200 Sixth Avenue, Suite 155  
Seattle, WA 98101-3123

OCT - 1 2018

OFFICE OF  
WATER AND WATERSHEDS

Mr. Kim Kratz  
Assistant Regional Administrator  
National Marine Fisheries Service  
Oregon & Washington Coastal Area Office  
510 Desmond Drive Southeast, Suite 103  
Lacey, Washington 98503-1263

Re: Request to Reinitiate Endangered Species Act Section 7 Consultation on the Environmental Protection Agency's Approval of Washington State Department of Ecology's Sediment Management Standards (WAC 173-204-412) Regarding Marine Finfish Rearing Facilities

Dear Mr. Kratz:

On April 8, 2011, the Environmental Protection Agency and National Marine Fisheries Service completed consultation on the above-referenced matter pursuant to Section 7(a)(2) of the Endangered Species Act. At that time, NMFS concurred with the EPA's conclusion that its approval of revisions to Washington State's sediment management standards would not likely adversely affect listed species or their designated critical habitat. Prompted by the collapse of net pens near Cypress Island in August 2017, on December 14, 2017, Michael Lidgard, the Acting Director of the EPA Region 10's Office of Water and Watersheds, sent NMFS a letter explaining the EPA's determination that it did not have a legal duty pursuant to 50 C.F.R. § 402.16 to reinitiate ESA consultation on the 2011 approval action.

On August 7, 2018, in *Wild Fish Conservancy v. EPA et al.*, Case No. 2:15-cv-01731 (W.D. Wash), the Court issued an order addressing the legal duty of both agencies with regard to reinitiation and the scope of the action subject to consultation. While the EPA continues to disagree with the reasoning and outcome of that decision, in light of the August 7 ruling, the EPA now requests that NMFS reinitiate consultation on the above-referenced matter pursuant to 50 C.F.R. § 402.16.

Based on informal discussions with NMFS and the information available at this time, the EPA requests formal consultation. The EPA understands that NMFS has a significant amount of information related to this action that was used to inform the previous consultation and may be relevant for purposes of reinitiation of formal consultation, including a description of the action, and a description of the area that may be affected by the action. The EPA will coordinate with your staff to determine what additional information is needed.

If you would like to discuss further, please feel free to contact me at (206) 553-1855, or have your staff contact Matthew Szelag, Water Quality Standards Coordinator, at (907) 271-1208 or at [szelag.matthew@epa.gov](mailto:szelag.matthew@epa.gov).

Sincerely

A handwritten signature in blue ink, appearing to read "Daniel D. Opalski".

Daniel D. Opalski  
Director