State of Washington
DEPARTMENT OF FISH AND WILDLIFE

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May 17, 2010

Ms. Ruta Fanning
Legislative Auditor
Joint Legislative Audit and Review Committee
Post Office Box 40910
Olympia, Washington 98504

RE: Department of Fish and Wildlife Joint Legislative Audit and Review Committee Report 03-12 on the Fish Management Division – Recommendation #5 and Performance Audit of Delayed-Release Chinook Salmon – Recommendation #1.

Dear Ms. Fanning:

This letter is in response to the electronic communication from your office on May 10, 2010, to the Department of Fish and Wildlife (Department) requesting a response and resolution to the recommendation in the JLARC report in 2003. This recommendation is based in RCW 77.105 entitled: Recreational Salmon and Marine Fish Enhancement Program (PSRFE). This is a program managed by the Department in the Puget Sound intended to enhance the salmon and marine bottom fish resource in Puget Sound to assure sustained productivity. The ultimate goal of this statue is to enhance fishing opportunities for recreational fishers in the waters of Puget Sound.

The recommendation #5 stated that the "Department, OFM and the Legislature should work to reconcile the three cases of difference in state statute, Fish and Wildlife Commission policies and Fish Management activities….". This recommendation centers around the need to address what could be perceived as conflicts between RCW 77.105 related to marine bottom fish species and artificial rearing and release for the purposes of recreational fishing, the Fish and Wildlife Commission policy C-3611 Marine Fish Culture (2007) and the Puget Sound Partnership mandate to restore the environmental health of Puget Sound. It is the Department's perspective that all of these statute and policy guidance provide the same overarching goal, and that is to preserve and protect the marine fish species in Puget Sound by creating protected areas for natural populations and to use artificial rearing and release for marine fish that are designated as depleted to rebuild natural stocks. RCW 77.105 is focused on the use of artificial rearing of marine fish for the ultimate goal of recreational fishing.

The State Auditor's Office issued a performance audit report on the Department delayed-release Chinook program in early April 2010. Recommendation #1 in the Delayed-Release Chinook Salmon Performance Audit is related to the same RCW 77.105—"The Legislature should replace the statutory provision requiring the Department to release 3 million delayed-release Chinook annually with outcome-oriented goals that align with the Hatchery Scientific Review Group's (HSRG) recommendations." The Department concurs with the recommendation that the 3 million delayed-release goal was not sustainable due to environmental constraints and genetic risks posed to federal ESA-listed Puget Sound Chinook.

The Department determined to address both the JLARC Recommendation #5 in Report 03-12 and Recommendation #1 of the Delayed-Release Chinook Performance Audit in the following manner and process. The Department met with the Chair of the Oversight Committee mandated in RCW 77.105 to advise the Department on all aspects of the PSRFE Program. The Chair has agreed with the Department that revised legislative language should be proposed in the 2011 Legislative Session. The schedule for this legislative proposal will be to work with the PSRFE Oversight Committee beginning in May 2010 to discuss and develop revised statute language for both the marine bottom fish species artificial rearing section (77.105.050) and the delayed-release Chinook salmon section (77.105.040) to better reflect Fish and Wildlife Commission policy and best hatchery practices developed by the HSRG. The proposed statute language will be vetted in public meetings throughout the summer in 2010 and developed into final recommended statute language to be reviewed and approved by the Commission in August 2010 and provided to OFM for consideration in early fall 2010.

The Department will provide the JLARC with the final proposed legislative language approved by OFM for the 2011 Legislative Session.

Thank you for the opportunity to respond and provide the JLARC with the Department's plan and schedule for making the necessary changes to comply with both the recommendations of the JLARC and the State Auditor's Office Performance Audit. Please contact Jim Scott, Assistant Director, Fish Program, at (360) 902-2736 with any questions or concerns.

Sincerely,

Philip Anderson
Director

cc: Kirstan Arestad, OFM
Representative Troy Kelley, Chair, JLARC
Ann Larson, Legislative Liaison, WDFW
Jack Needham, Internal Auditor, WDFW
Jim Scott, Assistant Director, WDFW
Clint Munns, PSRFE Oversight Committee Chair

OUTSTANDING JLARC RECOMMENDATIONS

Please review the "most recent status" on each recommendation. If the status of a recommendation has changed, please provide a brief comment supporting the change. From the drop down menu select the appropriate current status, which may or may not reflect a change.

Implementation Status Categories:

No Change to Current Status: The last reported status is correct.

Implemented: Recommendation has been fully implemented.

Underlying Issue Addressed: Agency addressed the underlying issue raised in a JLARC recommendation in a different manner than suggested by the recommendation, but satisfies the concerns raised.

Action In Progress: Agency is taking steps towards implementing the recommendation and/or implementation of recommendation requires long-term or ongoing efforts.

Partially Implemented: Agency has implemented some, but not all, portions of a recommendation.

Not Implemented to Date: Agency has not implemented recommendation as of April 2010.

AGENCY RECOMMENDATIONS

Agency: Department of Fish and Wildlife

Report: Fish Management Division: Activity and Cost Analysis, 03-12

Recommendation 5: The Department, OFM, and the Legislature should work to reconcile the three cases of differences in state statutes, Fish and Wildlife Commission policies, and Fish Management Division activities and expenditures identified in this study.

Most Recent Status Category	Most Recent Comments	Update to Status Category for 2009	Comments on Status Update
4. Partially Implemented	Response from DNR: The Department will provide legislative staff with background information and an explanation of the conflicting policies presented under RCW 77.105, the legislative direction under the Puget Sound Partnership, and the current condition of marine fish stocks in Puget Sound before the next legislative session convenes. (Recommends no change in status from "partially implemented.") Re: Legislature: The DFW no longer uses warmwater fish funds to pay for Aquatic Nuisance Species activities. Legislation enacted in 2005 (SB 5869)	Action in Progress	WDFW is working with the Puget Sound Recreational Fisheries Enhancement Fund Oversight Committee to develop draft legislative language that would address the concerns regarding peceived conflicts in the RCW 77.105 language regarding bottomfish artificial rearing and the Fish and Wildllife Commission policy C3611- Marine Fish Culture and Puget Sound Partnership legislative direction regarding a mandate to restore the environmental health of Puget Sound. In addition, at the same time the Department will work with the

OUTSTANDING JLARC RECOMMENDATIONS

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	repealed RCW 77.18.070, which required costs of triploid trout fish planting activities to be covered by revenue generated from the program. The one remaining unresolved issue concerns the management of marine fish in Puget Sound. In addition to OFM and DFW, the newly created Puget Sound Partnership is a third agency now involved with this issue. The Partnership must develop and oversee the implementation of an Action Agenda, one goal of which is healthy and sustaining populations of native species in Puget Sound (RCW 90.71.300(1)(c)).		PSRFE Oversight Committee in revising the language related to the 3 million delayed-release Chinook target in the same RCW 77.105 to provide draft legislative language that would be consistent with outcome goals for fishing opportunities in Puget Sound. The draft legislative language will be sent to the Fish and Wildlife Commission for review and approval and then to OFM for review and approval for implemetation in the 2011 legislative session.