



## Director's Report to the Commission January 22-23, 2016

### Wildlife Program

The Wildlife Program's portion of the Director's Report to the Fish and Wildlife Commission for the January 2016 meeting include updates on wolf conservation and management and an update on elk hoof disease.

#### **Wolf Conservation and Management**

##### Capture and Monitoring Update

The Washington Department of Fish and Wildlife (WDFW), U.S. Department of Agriculture-Wildlife Services (USDA-WS), and tribal partners captured a total of 14 unique wolves from nine different packs (plus one loner) in 2015. Aerial captures will be attempted from late January through early March 2016 to supplement the number of collars in packs with functional radio collars.

WDFW personnel are conducting ground and aerial surveys to estimate the minimum known number of wolves and packs in Washington. This effort also helps determine reproductive success and breeding pair status. During 2015, WDFW documented one dispersal event from a known Washington pack (044m dispersed from Teanaway in August 2015). Unfortunately, his collar failed in December 2015 when he was northwest of Stehekin, Washington, and his whereabouts are presently unknown. We will search for him during upcoming telemetry flights to determine if the VHF beacon is still functioning. WDFW also lost contact with three other wolves due to radio failures (045f, 049f) or termination of collar battery life (024f) in 2015. A disperser from Oregon, OR29, arrived in the Blue Mountains in early January 2016. WDFW will continue to coordinate with Oregon Department of Fish and Wildlife to monitor this animal as long as he remains in Washington. All wolf information from 2015 will be compiled into an annual report which will be completed in late March or early April.

##### Tribal Update

The Spokane Tribe of Indians reported two additional legally harvested gray wolves on the Spokane Indian Reservation. The total to date for the 2015-2016 winter is three harvested wolves. For more information, individuals should contact the Tribe.

##### Depredation Update

No confirmed wolf depredations have been documented since October 2015.

### Wolf Advisory Group Update

The Wolf Advisory Group (WAG) met on December 13-14, 2015, in Spokane Valley. The meeting focused on process design and decision-making for the group, defining range riders, developing an individual producer plan for a domestic sheep producer in the Teanaway pack area, and exploring potential improvements for damage prevention cooperative agreements for livestock. The WAG also heard presentations from Shane Mahoney (University of Newfoundland and Labrador), Rob McCoy (Makah Tribe), and Dan McKinley (Mule Deer Foundation) on "perspectives from the hunting community." The next WAG meeting is scheduled for February 1-2 in Tumwater. All WAG meetings are open to the public.

### Staff Training

Francine Madden, with Human Wildlife Conflict Collaboration, provided training to 25 department staff from January 5-9. The training focused on capacity building to understand the levels of conflict and techniques for transforming deep-rooted conflict into opportunities for creative positive outcomes.

### Federal Court Case Ruling

On December 17, U.S. District Judge Robert Bryant ruled in response to a lawsuit filed in March by a coalition of environmental groups against the USDA-WS program. WDFW has contracted with Wildlife Services for non-lethal and lethal strategies to address wolf-livestock conflict. In 2014, Wildlife Services killed one wolf in the Huckleberry pack after the WDFW documented that members of the pack had killed 28 sheep. In 2012, Wildlife Services provided technical information to WDFW when we removed seven wolves from the Wedge pack after its members had killed or injured over a dozen cattle.

In his ruling, Judge Bryant rejected the Environmental Assessment prepared by Wildlife Services of its wolf management activities, and he barred the program from participating in the lethal removal of gray wolves in Washington. However, Wildlife Services may continue to work on non-lethal management as requested by WDFW. Those activities have included trapping and collaring wolves, investigating reports of wolf-livestock depredations, and implementing non-lethal measures.

WDFW filed a brief in support of Wildlife Services because the federal agency has been assisting WDFW with the implementation of the state Wolf Conservation and Management Plan. WDFW and Wildlife Services are considering their legal options for responding to the ruling.

As Judge Bryant noted in his order, "The decision of how to proceed – whether to prepare an EIS, renegotiate a narrower scope of involvement with WDFW, or abandon assistance efforts entirely – rests with Wildlife Services."

Because the case is ongoing, WDFW will not be discussing further details at this time. For its part, WDFW will continue to implement the Wolf Conservation and Management Plan, which is the basis for WDFW's contracts with Wildlife Services. However,

following the recent ruling, WDFW will carry out any lethal removal of gray wolves that may be warranted.

As you know, WDFW carefully considers whether lethal control is necessary before taking action. Gray wolves are state listed as endangered throughout Washington and federally listed as endangered in the western two-thirds of the state. The lethal control actions in 2012 and 2014 are the only such actions taken by the state since the first wolf pack was documented in Washington. Despite these two removals, the wolf population has increased every year in Washington since 2008.

The case is also important because several of the issues are germane to the purpose of the Wolf Advisory Group (WAG). The WAG was expanded after this lawsuit was filed and has made significant progress in advising WDFW on wolf management issues on the basis of positive, constructive dialogue.

### **Update on Treponeme-Associated Hoof Disease in Elk**

- One abnormal hoof sample from an elk killed on Highway 20 in Skagit County, appears to have bacteria consistent with hoof disease bacteria found in Southwest Washington. These preliminary tests were conducted at Colorado State University (CSU).
- The findings from CSU still need to be confirmed by genetic testing at Washington State University and the U.S. Department of Agriculture lab in Iowa. These genetic tests will confirm or refute if the bacteria is *Treponema sp.* and if it is the same species of *Treponema* that is causing treponeme associated hoof disease (TAHD) in Southwest Washington. Test results will be back in February.
- Three elk from Whatcom County were also sampled and evaluated by CSU but were negative and required no further testing. These samples came from hunter-harvested animals that were obviously limping.
- In March 2014, we evaluated samples from another cow elk from nearby Day Creek area and it was also negative. Although *Treponema* were found in the sample, the hoof had a puncture wound that bacteria had invaded which is not uncommon for bacteria that live in the soil. The elk did not have the classic TAHD that we are seeing in Southwest Washington.
- Environmental conditions in the Skagit Valley are different than Southwest Washington (soils, climate, density of elk, differences in agricultural operations), so if it is indeed TAHD, we do not know at this time how the disease will behave in the Skagit.
- We will be working with Master Hunters and tribal co-managers to get additional samples from Skagit County via damage prevention permit harvest.
- Staff and co-managers have been, and will continue to "keep their eyes open" for suspicious animals or hooves.

- If necessary, staff will propose to add appropriate Game Management Units to the list of areas where hoof translocation is restricted (WAC 232-12-286).

## Fish Program

### **Hatchery Damage Assessment 11/17/15 – 1/16/16**

*\*\*Please note that all cost estimates are preliminary. Neither of these events has been declared disasters regarding Public Assistance.*

Preliminary Cost Estimates to Complete Repairs Total = \$771.7k

- 11/17/15 – Dungeness Hatchery
  - High water caused sand, gravel, and woody debris to be deposited on hatchery grounds. Rocks were pushed in front of intake channel.
  - Estimated cost to complete \$20k.
  - No fish loss.
- 11/17/15 – Eells Springs Hatchery
  - High water caused scouring in and around the trap area at trap #2.
  - Estimated cost to complete \$700.
  - No fish loss.
- 11/18/15 – Skookumchuck Hatchery
  - High water level caused scouring and gravel fill in one the screened areas near the new culvert.
  - Estimated cost to complete \$3k.
  - No fish loss.
- 11/18/15 – Washougal Hatchery
  - Landslide caused soil and rock from the road to deposit around and in the adult fish holding pond. Approximately 200' of road leading to the intake was washed out.
  - Estimated cost to complete \$10k.
  - No fish loss.
- 11/18/15 – Nemah Hatchery
  - High water caused major damage to the weir above the fish ladder making it unsafe and non-functional.
  - Estimated cost to complete \$18k.
  - No fish loss.
- 11/18/15 – Sunset Falls
  - High water caused the destruction of railings and dam boards at the water diversion/intake area and walkways. The hydraulic and sluice gates sustained

- damage. Concrete was broken off the walls on the downstream side of the intake. Currently it is unsafe for personnel to work in this area.
- High water at the attraction channel tore away all the guards and railings. Multiple fish entrance gates were damaged or torn off their tracks. A chain hoist used for gate removal has been torn away. The attraction box and secondary settling box are now filled with sand, rock and debris and will need sediment removal in order to function correctly.
  - High water at the fish release chute tore away a 30' slide which is attached to the end of the chute.
  - Fish Program has met with CAMP to begin working on the repairs for this site. Estimated cost to complete \$85k.
  - No fish loss, although due to the damage at the facility it has been closed for the season and no more fish will be trapped and hauled until the repairs are completed.
- 11/25/15 – Hurd Creek Hatchery
    - High water caused flooding from the Dungeness River onto the hatchery grounds, office and incubation room.
    - The concrete ponds were topped, depositing silt into the ponds and allowing juvenile Elwha Chinook to escape.
    - Estimated cost to complete \$206k. Fish Program is working with CAMP to develop a long term solution.
    - No fish loss in incubation or the ponds were noted. 41,673 Elwha Chinook escaped into the river.
  - 12/8/15 – North Toutle Hatchery
    - Landslide brought down debris and trees and washed ~1/2 mile of the gravel from the intake road.
    - High water tore out and damaged intake hand railings, gripstrut, and dam boards. Rock filled the hole at the base of the waterfall.
    - Estimated cost to complete \$28k.
    - No fish loss
  - 12/8/15 – Fallert Creek
    - Flooding and landslides caused large woody debris to lodge in the creek culvert directly upstream of the main hatchery building. The creek inundated the entire facility overtopping all ponds and raceways and cutting off access to the hatchery building.
    - Nearly all raceways and ponds had large amount of sediment deposits.
    - The large earthen pond was covered in debris and appears to have been filled in significantly.
    - Staff addressed the debris issue. The grounds in general were either buried in mud or scoured out and will need significant work to restore.
    - The footing of the access bridge to the creek intake was damaged and is unsafe to drive across.
    - There is large debris on the creek intake that will need to be removed and there is some damage to the road itself.

- A number of slides are readily apparent upstream of the creek culvert and present an ongoing concern.
  - Estimated cost to complete \$327k.
  - 2.4 million fall Chinook fry were lost in incubation. Approximately 250k Spring Chinook (50% of production) vacated during flood event or were volitionally released (recommendation from fish health) due to debris and sediment deposited into the pond.
- 12/8/15 – Issaquah Hatchery
    - High water and wind caused a large log to get stuck on the lower intake dam. Large tree limbs broke and are hanging in the tree above the viewing dock.
    - A power outage caused a filter system failure and caused some electrical damage.
    - Hatchery staff repaired the damaged site to pre-disaster conditions.
    - Estimated cost to complete are \$10k.
    - No fish loss.
- 12/8/15 – Soos Creek Hatchery
    - A high water event caused substantial flooding to the hatchery building and surrounding areas.
    - A battery of water chiller units tipped over and became submerged in 2+ feet of standing water.
    - Substantial amounts of sand and silt were deposited in the back raceways.
    - The hatchery grounds are covered in mud and debris.
    - Estimated cost to complete \$40k.
    - No fish loss.
- 12/8/15 – Tokul Creek Hatchery
    - High water and wind caused debris to become lodged in the middle of the intake dam.
    - Estimated cost to complete \$6k.
    - No fish loss.
- 12/9/15 Hurd Creek Hatchery
    - High water caused the logs that were placed along the Dungeness River bank to protect the hatchery from flooding were undermined.
    - Estimated cost to complete \$10k. Fish Program is working with CAMP to develop a long term solution to stabilize the bank.
    - No fish loss.
- 12/18/15 – Modrow Trap
    - High water caused the erosion of the gravel driveway and deposit of a large amount of silt.
    - Estimated cost to complete \$8k.
    - No fish loss.

## Enforcement Program

### Dungeness Crab Investigation

After receiving reports from various citizens regarding the closed season harvest of Dungeness crab and a connected vessel theft, an investigation was initiated. After a lengthy investigation, it was discovered that the operation involved primarily two individuals, Nicholas Edelman and Robert Fryberg. Both are Tulalip Tribe members. In addition to stealing small vessels (four total), the two subjects were found to be illegally harvesting large quantities of crab during a closed season. None of the crab harvests were reported to shellfish managers. Much of the crab were also found to be under size and soft, which can have a significant impact on future crab harvests. The crab were sold to various restaurants, nail salons and subjects in pre-arranged parking lot meetings throughout Snohomish County. The subject also sold crab on multiple occasions to an undercover fish and wildlife detective.

Once a substantial number of commercial non-Indian markets were identified, it was decided to take the subjects down at their next sale, which occurred at a nail salon in Marysville. During the takedown one of the subjects was apprehended, while the other subject got into a high speed pursuit with one of our officers in Marysville. The pursuit was quickly terminated. The subject was apprehended the following day by the Tulalip Tribal Police on the Tulalip Reservation. The Tulalip Police Chief informed Deputy Chief Cenci of the arrest, and arrangements were made to continue the investigation jointly.

Sgt. Olson responded and conducted the final suspect interviews. Department Officers also seized the suspect's fishing gear for evidence. The vehicle used in the crimes was ditched in Marysville and is now in Department Police custody, along with a vessel stolen by the suspects.

The subjects were transferred to Snohomish County Jail and booked for over a dozen state felonies to include possession of stolen property, trafficking in fish and wildlife, closed season harvest, attempting to elude a police vehicle, and possession of a controlled substance. There is a substantial amount of follow-up left to do in this investigation within the commercial marketplace. This was a cooperative effort with the Tulalip Police Department.

### Outreach and Education

Outreach continues to be an important part of the effort put forth by Enforcement staff. Enforcement staff worked closely with Hunter Education to assist with hunting clinics designed to retain and recruit hunters within the state. These clinics offered instruction as well as an opportunity to participate in a related, mentored hunt. Two pheasant hunting clinics were recently offered by the Department on the Sunnyside Wildlife Area, and one in Kittitas County. Captain Mann instructed and assisted with a wild turkey clinic and hunt that took place in Spokane County.

Detachment 18, central Washington, recently began an outreach effort directed at better communication and cooperation with commercial fishing guides that has been well received.





State of Washington  
DEPARTMENT OF FISH AND WILDLIFE

Mailing Address: 600 Capitol Way N, Olympia, WA 98501-1091 • (360) 902-2200 • TDD (360) 902-2207  
Main Office Location: Natural Resources Building, 1111 Washington Street SE, Olympia, WA

January 14, 2016

To: Washington Fish and Wildlife Commission  
From: Jim Unsworth, Director   
Subject: Settlement of Tarabochia lawsuit

The Commission's June 2015 general delegation of authority directs me to advise you when I approve a litigation settlement valued at more than \$50,000. I am writing to let you know that I have approved an agreement between the Washington Department of Fish and Wildlife (WDFW) and Alex and Matthew Tarabochia to settle the Tarabochias' 2010 federal lawsuit against employees of the WDFW Enforcement Program for a payment of \$130,000.

The case focused on a traffic stop in March 2007 on a public highway near Skamakowa by WDFW officers, in order to inspect the Tarabochias' commercial catch and fishing records. The trial court dismissed the lawsuit in 2011, but the Ninth Circuit Court of Appeals reinstated it in 2014.

In addition, under the terms of the settlement agreement, I state on behalf of WDFW: "The Ninth Circuit Court of Appeals has ruled that WDFW violated the constitutional rights of Alex and Matthew Tarabochia. We have settled with the Tarabochias, agreeing to pay them \$130,000."

We are pleased the suit has been resolved, and our Enforcement Program has revised its operations to ensure the issues raised in the case do not recur.