

**SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION:
QUESTIONS FOR THE RECORD**

**NOMINATIONS HEARING
JUNE 16, 2020**

**Written Questions Submitted to Michael Walsh, Nominee to be General Counsel of the
Department of Commerce**

Submitted by the Hon. Dan Sullivan

The Pacific Salmon Treaty is a federal obligation to Canada. Alaska has repeatedly taken harvest reductions through the Pacific Salmon Treaty process, and worked hard to accommodate ESA concerns. FY20 appropriations provided \$35.2 million dollars (an additional \$20 million above FY19) to NOAA/NMFS for Pacific Salmon Treaty-related work. Of that, NMFS has proposed to allocate 92% of that money to themselves for ESA priorities.

Additionally, even with this huge amount of money going to ESA obligations, Wild Fish Conservancy has sued on ESA violations perceived to originate from Southeast Alaska salmon fisheries. Under NOAA's current approach, failing to supply adequate funding does not reflect the terms agreed to by both countries under the Pacific Salmon Treaty, nor does it meet the funding commitments of the Biological Opinion prepared by the NMFS West Coast Region.

Question. Why has NOAA continually not included Pacific Salmon Treaty obligation funding in their budget, instead relying on alternative sources, to meet requirements that are clearly a federal responsibility for ESA, and which the United States has agreed to?

Response: *The President's FY 2021 Budget requests \$16.2 million to implement the Pacific Salmon Treaty. This represents an increase of \$5.0 million from FY 2020 President's Request. This increase reflects NOAA and the Department's efforts to prioritize Pacific Salmon Treaty requirements within the Administration's FY 2021 Budget Request. NMFS will continue to support the ongoing Pacific Salmon Treaty implementation and provide personnel support to the Pacific Salmon Commission's technical committees, as well as a broad range of salmon stock assessment and fishery monitoring programs that produce information required to implement Pacific Salmon Treaty provisions.*

Question. How does the large amount of PCSRF funding allocated to Pacific Northwest relate to meeting the Pacific Salmon Treaty obligations? Why are other sources of funding, such as those appropriated by state governments, or appropriated through the Pacific Coastal Salmon Recover Fund (PCSRF) not accounted for in the United States Pacific Salmon Treaty obligations?

Response: *Contributions from these other sources, such as the Pacific Coastal Salmon Recovery Fund and recent funding by Washington State to increase hatchery production of Chinook salmon for Southern Resident killer whale prey, may contribute to the anticipated benefits of the conservation program considered as part of the action and environmental baseline evaluated in the following three biological opinions.*

In April 2019, NMFS completed a biological opinion on the delegation of management authority to Alaska for some Southeast Alaska fisheries. In May 2020, NMFS completed two additional biological opinions on the 2020 Pacific Fishery Management Council ocean salmon fisheries, and on the 2020 Puget Sound salmon fisheries. The Southeast Alaska biological opinion evaluated the effects of discretionary domestic actions associated with implementing the new Pacific Salmon Treaty agreement on species listed under the Endangered Species Act as well as a conservation program for threatened Puget Sound Chinook salmon and endangered Southern Resident killer whales. This conservation program includes conservation hatcheries for critical Puget Sound Chinook salmon stocks, hatchery production for increased prey for SRKW, as well as habitat improvements. The conservation program was also evaluated as part of the environmental baseline in NMFS' subsequent biological opinions on the Pacific Fishery Management Council ocean salmon fisheries, and the Puget Sound salmon fisheries. NMFS took considerable care to apply consistent approaches and the best available science in each of these three biological opinions.

Whether a given activity contributes to the conservation program will be evaluated on a case-by-case basis. These other sources of funding would be applied in addition to any congressionally appropriated funds for Pacific Salmon Treaty implementation.

Question. Why are these programmatic funding actions included in the Southeast Alaska Biological Opinion, but not in any of the Pacific Northwest Biologic Opinions?

Response: *The 2020 Pacific Fisheries Management Council ocean salmon fisheries and the 2020 Puget Sound salmon fisheries biological opinions considered the conservation program and its anticipated benefits to Puget Sound Chinook salmon and Southern Resident killer whales as part of the environmental baseline. While these consultations considered the conservation program as a whole (as opposed to focusing on specific funding details), the two May 2020 biological opinions did examine additional details on federal and state funding appropriated in FY 2020, criteria for selecting projects, and specifics of hatchery and habitat projects where currently available. NMFS believes Alaska and the southern states and tribes have a unity of interest in implementing the proposed actions in all three biological opinions to sustain fisheries coastwide consistent with the 2019 Pacific Salmon Treaty agreement.*