



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northwest Region
7600 Sand Point Way N.E., Bldg. 1
Seattle, WA 98115

December 1, 2009

Phil Anderson, Director
Washington Department of Fish and Wildlife
600 Capital Way North
Olympia, Washington 98501-1091

Dear Mr. ~~Anderson~~ ^{Phil}:

Over the last few years, the Washington Department of Fish and Wildlife (WDFW) developed rules governing recreational mining in streams, including those important to salmon and steelhead listed under the Endangered Species Act (ESA). The National Oceanic and Atmospheric Administration Fisheries Service (NOAA Fisheries) appreciated participating in this process. However, our joint experience this year under the new rules causes NOAA Fisheries to reiterate its previous concerns related to the timing and location of mining activities, the potential for high numbers of participants in sensitive locations, and the need for adequate monitoring to ensure the volume of activity is within expectations. Given our joint experience, NOAA Fisheries believes these concerns with the existing rules must be addressed.

NOAA Fisheries understands the mineral prospecting rules are an attempt to balance protections for diminishing fish resources with recreational activity by the prospecting community. However, it appears that the potential under the rules for concentrated mining activity to occur in areas and at times sensitive to fish that are listed under the ESA has become a reality. NOAA Fisheries does not believe there is scientific disagreement that prospecting activities, if conducted at the wrong time and in the wrong place, can have substantial and long-term adverse effects on a spawning, incubating, or rearing salmon or steelhead population. An example where the rules did not provide adequate protective measures for listed salmonids occurred in the spring of 2009 above Skookum Creek on the South Fork of the Nooksack River. This incident was documented over KING-5 news, and showed over 35 prospectors dredging in a confined area that could have negatively impacted newly hatched fry known to occur in this area.

NOAA Fisheries is prepared to discuss in detail its concerns, as well as to assist WDFW develop specific remedies that properly protect ESA-listed fish while maintaining opportunities for recreational mining. I have asked Steve Landino, Director of the Washington State Habitat Office of NOAA Fisheries, to contact you in an effort to set up an appropriate time for this discussion.

Thank you for your attention to my concerns.

Sincerely,

Barry A. Thom
Acting Regional Administrator

cc: Steve Landino, WSHO

