ESA and the National Flood Insurance Program

Implementing a salmon friendly program.
NFIP & ESA Purposes

**NFIP**
- Better indemnify individuals for flood losses through insurance;
- Reduce future flood damages through state and community floodplain management regulations; and
- Reduce Federal expenditures for disaster assistance and flood control.

**ESA**
- To provide a means to conserve species and the ecosystems upon which they depend on.
- All federal departments and agencies shall utilize their authorities in furtherance of the purposes of the Act.
NFIP ESA Compliance

Background

- 2003 - NWF Sued FEMA for failure to comply with ESA
- 2004 - Court Ruled that FEMA must consult with NMFS
- 2006 - FEMA provided to a Biological Evaluation that stated NFIP may affect but not adversely
- September 2008 - NMFS issued Biological Opinion with Jeopardy/Adverse Modification

*NMFS offered one Reasonable and Prudent Alternative*
A Reasonable and Prudent Alternative is an action(s) that a federal agency can take to avoid violation of the ESA. It must identify alternative actions that:

1) Can be implemented in a manner consistent with the intended purpose of the NFIP,
2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,
3) Are economically and technologically feasible.
NMFS Biological Opinion

Reasonable and Prudent Alternative Elements

1. Notify PS Communities of determination
2. Map Changes to Reduce impacts
3. Require communities to consider impacts on fish habitat when issuing floodplain development permits
4. Changes to CRS program
5. Addressing levee vegetation maintenance effects
6. Mitigation to adversely affected habitat
7. Report to NMFS on progress towards meeting requirements
NMFS Biological Opinion

Response to the Biological Opinion

- Planning Process
- Collaboration
- Technical Assistance
- Facilitation
NMFS Biological Opinion

Planning Process

- Region and HQ reviewed Biological Opinion
- Formed workgroups of Regional, HQ and OCC for each RPA element
- Each workgroup debated:
  - Ability to implement the RPA
  - Options for implementation
  - Submitted a write up of options to be included in an implementation plan
- Implementation plan has been submitted to FEMA leadership at the Region and HQ
NMFS Biological Opinion

Collaboration with Local Communities

- FEMA is committed to maintaining our partnerships at the local level.
- Work with local communities to determine if existing regulations may meet the performance standards outlined in the BiOp.
- Through technical assistance offer suggestions to strengthen local regulations to meet the performance standards outlined in the BiOp.
NFIP ESA Compliance
Implementing a Reasonable and Prudent Alternative – FEMA Region 10

NMFS Biological Opinion

Technical Assistance

- FEMA offers technical assistance to communities to help implement the NFIP
- Traditional technical assistance includes:
  - Technical Bulletins
  - Model Ordinances
  - Floodplain Management Bulletins
  - Outreach Materials
NMFS Biological Opinion

Facilitation

- FEMA continues to work with NMFS and USACE to facilitate discussions and consultations with impacted communities as appropriate and as required by law.

- Met with the State Emergency Management, Floodplain Management and local officials to seek input
Conclusion

- FEMA recognizes the need to continue the successful implementation of the NFIP in the Pacific Northwest; while at the same time participate to the greatest extent possible in protecting threatened and endangered salmon species.

- FEMA recognizes and acknowledges the importance of preserving critical salmon habitat and believes that the NFIP’s core mission of reducing flood risks to life and property are not mutually exclusive.

- FEMA intends to be good partner to our States and local governments in protecting critical habitat and pledges to collaboratively assist them in this important regional value.