

I am Bill Tweit, with the Directors Office of the Washington Department of Fish and Wildlife, and I am the designee for the Washington state seat on the NPFMC. As my colleague, Doug Vincent-Lang has described in his comments, the Governors of both states reacted with concern when the draft BiOp was released. Governor Gregoire expressed her concern that much of the scientific foundation of the BiOp was in dispute, and specifically recommended a peer review process to provide her with an accurate assessment of the science behind the BiOp. Washington is familiar with controversial BiOps; for instance we are a very active participant in the implementation of the BiOp concerning the impact of the Federal hydropower system on Columbia River salmonids. The Columbia BiOp is controversial scientifically, politically and economically; Washington relies on independent science, adaptive management and regional collaboration to frame our participation. In contrast, our initial assessment of this BiOp was that it was produced with no independent science review, no regional collaboration, and appeared to have little in the way of adaptive management. For that reason, Governor Gregoire supported a state-driven process for independent review of the SSL BiOp. WDFW and ADFG agreed to jointly sponsor that review, and took considerable care to ensure that the results were completely independent of any state positions or concerns about the BiOp.

ADFG and WDFW relied on four mechanisms to ensure that the panel would reach its conclusions independently. First, the states each chose two panelists to jointly lead the panel, with strict criteria that neither panel co-chair could have any role in development of the BiOp or agency positions regarding the BiOp. Both panel co-chairs, Dave Bernard and Steve Jeffries, met those criteria well. Second, we asked the co-chairs to make their own selection of two additional panel members, to provide a panel with a broad range of expertise. Third, while ADFG and WDFW provided the panel with an initial draft for a Terms of Reference, we asked the panel members to finalize their own TOR. Fourth, the panel worked autonomously, with the only state role to provide administrative support for the public input session and for the public review of the draft. Neither agency reviewed the work of the panel prior to the release of the draft, nor did either agency edit the final report other than providing a preface. We are satisfied that this panel provided us with an independent review. With that, I'll turn the presentation over to one of the panel co-chairs, Dr. David Bernard.

### Concluding remarks

In my opening remarks, I contrasted this BiOp with another controversial BiOp that Washington is very familiar with, the BiOp regarding effect of the operation of the Federal hydropower system on Columbia River salmonids, and noted that we were concerned by some substantive differences in the agency approach to the two BiOps. In concluding, I'll cite another BiOp process, one that is still underway, and that is the analysis of the effects of fisheries on the listed southern resident DPS of Killer Whales. Development of that BiOp began with formation of an independent review panel, as well as a regional collaborative process to assist the agency in BiOp preparation. The issues are fundamentally similar, examining the effects of fisheries on a prey base that is clearly crucial to a listed population of fish-eating marine mammals. The process is very different, the SRKW process incorporates early independent science review and formation of a regional collaboration. The SSL process delayed the independent review to the end, and was produced with fairly minimal input from regional interests such as the Council, the states, native interests, and fishery stakeholders. We believe that the SSL BiOp is scientifically

flawed, and that many of the errors in the BiOp result from the rigid, top-down process that lacked independent review. For that reason, we are eagerly awaiting the results of your review.