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Wildlife Heritage and Conservation
Since 1870

Melissa Miller-Henson
Executive Director
P.O. Box 944209
Sacramento, CA 94244-2090
(916) 653-4899
fgc@fgc.ca.gov
www.fgc.ca.gov

November 3, 2022

Martha Williams, Director
U.S. Fish and Wildlife Service
1849 C Street, NW
Washington, DC 20240

Sent via email to fws_director@fws.gov

Re: Support for listing Clear Lake hitch under the Endangered Species Act on an emergency basis

Dear Director Williams:

On behalf of the California Fish and Game Commission (Commission), I write to bring your attention to a matter that, if unaddressed, poses a significant risk to the well-being and long-term sustainability of an iconic and culturally significant species and to California's tribal communities. ***We urge you to use your authority to offer immediate, emergency protections to Clear Lake hitch.***

Background

Clear Lake hitch (*Lavinia exilicauda chi*) is endemic to Clear Lake, California (Lake County) and its tributaries. It grows to be 35 centimeters in length and spawns over shallow, clean gravel in tributary streams and possibly in limited areas of the lakeshore itself. Until recent decades, Clear Lake hitch supported a subsistence fishery of central cultural importance to several Clear Lake tribes. The hitch's decline since then now prevents its traditional use.

Oral histories describe large spawning runs that crowded Clear Lake's tributaries and found the hitch to be, "...common and the most abundant fish in Clear Lake during the late nineteenth and early twentieth centuries."¹ In recent years, the number of spawning tributaries has decreased due to lack of water flow, and recent consecutive dry years have limited spawning potential.² Clear Lake hitch's population index for 2020 and 2021 ranged from

¹ California Department of Fish and Wildlife. 2014. Report to the Fish and Game Commission, A Status Review of Clear Lake Hitch (*Lavinia exilicauda chi*). May 2014.

² California Department of Fish and Wildlife. 2022. 2022 Clear Lake Hitch (*Lavinia exilicauda chi*) Visual Surveys on Clear Lake Tributaries. July 2022.

approximately 13,000 to 25,000 individuals.³ However, the last observed, successful spawning of Clear Lake hitch was in 2017. In 2018, the proportion of juvenile Clear Lake hitch collected in U.S. Geological Survey monitoring decreased substantially and was equal to or near zero in 2019, 2021 and 2022, coinciding with a decrease in adult catch.⁴ The fish is estimated to have a six-year lifespan, indicating that successful 2023 spawning could be critical to its persistence.

Key threats to Clear Lake hitch include spawning habitat loss, fish passage barriers, streambed degradation, reduced or lack of flow in tributaries, predation and competition with introduced species, poor water quality, harmful algal blooms, hypoxia, and contaminants. More recently, the threats have been exacerbated by drought and climate change. Clear Lake hitch can spawn in a wide range of conditions, but cessation of tributary flow through combined drought and water withdrawals has interrupted reproduction for multiple consecutive years.

Recent Events at the State Level

At the Commission's August 2014 meeting, it determined that listing Clear Lake hitch as threatened under the California Endangered Species Act (CESA) was warranted, and subsequently adopted regulations at its February 2016 meeting listing the fish as threatened. State efforts to recover hitch have included rescues of stranded fish from drying streams, planned and initiated control of introduced predators and competitors, and a range of measures to improve water and habitat quality.

At the Commission's August 2022 meeting, representatives from several federally-recognized Indian tribes in the Clear Lake region, including Big Valley Rancheria of Pomo Indians, Elem Indian Colony Pomo Tribe, Robinson Rancheria Band of Pomo Indians, and the Habematolel Pomo of Upper Lake, reported a crisis in the status of the Clear Lake hitch, citing climate change, severe drought conditions, chronic pollution, and overuse of existing water resources. The Commission requested a status report from the California Department of Fish and Wildlife at our October 2022 meeting.

Following the August meeting, tribes have held government-to-government consultations with the California Department of Fish and Wildlife (CDFW). The tribes reiterated the crisis-level status of Clear Lake hitch and its causes, have called for tribal co-management, and have expressed gratitude for recent FGC and CDFW engagement with tribes.

Finally, at the Commission's October 2022 meeting, several representatives, elders and citizens of the tribes offered testimony describing their fear of imminent loss of the hitch without action prior to the 2023 spring spawning season and to underscore the profound community and cultural effects such a loss would have. Elders compared the importance of the hitch for Clear Lake tribes to that of salmon for Pacific northwest tribes. Tribal citizens described continued water withdrawals from spawning streams and requested assistance to halt illegal withdrawals and secure instream flows in conjunction with state, county and municipal water agencies. The Commission asked CDFW to organize a summit in the Clear Lake area this winter to assemble involved parties and attempt a short-term solution to the crisis in reproduction of the aging hitch population; that summit is scheduled for early December.

³ California Department of Fish and Wildlife. 2021. Summary of the 2021 Clear Lake Hitch Survey on Clear Lake. July 2021.

⁴ Fred Feyrer, U.S. Geological Survey (personal communication, October 7, 2022, and October 11, 2022).

Federal Timeline and Benefits/Timing of Additional Protections

As you know, the U.S. Fish and Wildlife Service (USFWS) is working to make a 12-month finding under the federal Endangered Species Act (ESA) for Clear Lake hitch. A final listing decision may not occur until after January 2026, which would likely be too late for protecting this species. We are in an emergency situation to save this native species. We reach out to you because of this emergency and as a partner for decades with CDFW and USFWS to conserve California's fish and wildlife.

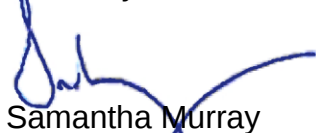
USFWS has the authority to list Clear Lake hitch on an emergency basis, which would afford the fish immediate, additional, necessary protections well ahead of the 2026 timeline. Federal protections would offer additional financial and agency resources, require ESA Section 7 consultation on federal actions by the U.S. Environmental Protection Agency and others, and require consideration of critical habitat. ESA listing would also prohibit harassment as a part of take, which is not currently prohibited by the "take" prohibition under CESA. Finally, it is a violation of the ESA to "cause" take, which could apply to actions currently negatively affecting Clear Lake hitch.

Conclusion

The Commission asks USFWS to act on this issue promptly to ensure that this iconic species and California tribal communities are protected into the future. We urge you to use your authority to offer immediate, emergency protections to Clear Lake hitch to secure an adequate level of 2023 spring spawning for the species.

If you have any questions or need additional information, please do not hesitate to contact Commission Executive Director Melissa Miller-Henson at FGC@fgc.ca.gov or (916) 653-4899.

Sincerely,



Samantha Murray
President, California Fish and Game Commission

cc: Wade Crowfoot, Secretary, California Natural Resources Agency
Charlton Bonham, Director, California Department of Fish and Wildlife
Chad Dibble, Deputy Director, Wildlife and Fisheries Division, California Department of Fish and Wildlife