

Fish and Game Commission suspends steelhead fishing due to threatened lawsuit

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Fish and Game plans to reopen steelhead fishing in late winter or early spring 2019
Idaho Fish and Game Commission on Nov. 14 voted to suspend the steelhead fishing season at the end of fishing hours on Dec. 7 under threat of a federal lawsuit by six organizations for Fish and Game operating a steelhead season without a federal permit, which is currently pending.

Fish and Game has not had the permit since 2010, but has operated steelhead fishing in coordination with federal fisheries managers.

Fish and Game officials contend operating the steelhead season as it traditionally has by allowing the harvest of hatchery steelhead while requiring the release of wild steelhead is not a conservation issue, and it intends to reopen the steelhead fishing season when it gets the permit in early 2019, potentially during March.

“Having been involved in steelhead management as a professional biologist, and being a steelhead fisherman for over 40 years, I’m well aware how important steelhead fishing is to Idaho anglers and local economies,” Fish and Game Director Virgil Moore said. “The loss of that opportunity, even temporarily, due to a lawsuit over an unprocessed permit, is truly regrettable.

“For whatever reason, these groups singled out Idaho for their lawsuit threat, and because there is not a biological basis to close steelhead fisheries in the Snake River basin, fisheries in the Snake River boundary waters remain open to anglers licensed in Oregon and Washington in compliance with those states’ rules, and tribal steelhead fisheries in Idaho will also continue,” Moore said.

Fish and Game met with representatives of the organizations in an attempt to settle the lawsuit without closing steelhead fishing, but those attempts were unsuccessful.

Catch-and-release impacts to wild steelhead are minimal. The best-available science suggests that of every 100 wild steelhead that enter Idaho rivers, about three will die as a result of angler encounters. This is a low level of incidental-take mortality that does not jeopardize long-term recovery of wild steelhead populations.

In 2010, prior to expiration of the previous permit with the National Marine Fisheries Service, Idaho submitted a Fishery Monitoring and Evaluation Plan for hatchery steelhead fisheries to renew the “incidental take” permit. The necessary permit was not issued at the time due to a backlog of other permits being processed by the federal agency. Fish and Game officials have conducted these fisheries consistent with this plan and previous permits in coordination with National Marine Fisheries Service.

Questions and answers:

Why did Fish and Game suspend the steelhead season?

Six organizations sent Idaho Fish and Game Commissioners, the Director, and Fisheries Bureau Chief a legal notice of their intent to bring a federal lawsuit against state officials for alleged violations of the federal Endangered Species Act (ESA). The legal notice alleges ESA violations related to the

incidental catch of wild Snake River steelhead during Idaho's hatchery steelhead, hatchery spring/summer chinook salmon, and hatchery fall chinook salmon fisheries.

The notice is dated October 9, 2018. It states that the organizations will file a federal lawsuit after a 60-day period passes if Idaho officials do not close the steelhead fishery that they claim is violating the ESA.

Why does Fish and Game not have a Federal permit?

Idaho has received ESA permits from the National Marine Fisheries Service for the incidental take of ESA-listed wild steelhead caught and released in Idaho's hatchery steelhead fisheries since the time of listing. Various renewals, modifications, and reviews have occurred since then.

In 2010, prior to expiration of the previous permit, Idaho submitted a Fishery Monitoring and Evaluation Plan for hatchery steelhead fisheries to renew the incidental-take authorization. The necessary authorization was not issued at the time, but Fish and Game officials have conducted these fisheries consistent with this plan and previous permits.

Fish and Game has communicated the status of the fisheries annually with the National Marine Fisheries Service and provided post-season reports regarding catch that occurred in the fishery on an annual basis. State and federal agency scientific reviews to date have found Idaho's management of hatchery steelhead fisheries do not jeopardize wild steelhead populations.

Why do we need federal approval?

Wild steelhead in Idaho were listed as threatened under the federal Endangered Species Act (ESA) in 1997. The federal listing requires any "catch," which includes catch and release of wild steelhead, be authorized through the appropriate agency, in this case the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS).

Who filed the lawsuit and why?

The Conservation Angler (Portland, OR), Idaho Rivers United (Boise, ID), Friends of the Clearwater (Moscow, ID) Wild Salmon Rivers (Edmonds, WA), Snake River Waterkeeper (Boise, ID), Wild Fish Conservancy (Duvall, WA) sent Idaho Fish and Game Commissioners, the Director, and Fisheries Bureau Chief a legal notice of their intent (NOI) to bring a federal lawsuit against state officials for alleged violations of the federal Endangered Species Act (ESA). The legal notice alleges ESA violations related to the incidental catch of wild Snake River Basin steelhead during Idaho's hatchery steelhead, hatchery spring/summer chinook salmon, and hatchery fall chinook salmon fisheries.

Did Fish and Game attempt to settle the lawsuit to keep the fishery open?

An accompanying letter from the organizations outlined several fishery restrictions the department should implement as an alternative to litigation. The additional restrictions the groups proposed included no fishing with bait, additional barbless hook restrictions, prohibition of removal of wild steelhead from the water, prohibition of fishing from watercraft and, complete closure of the steelhead fishery after January 1.

Department staff met with the organizations representatives and failed to reach an agreement. Most of the restrictions proposed would result in a disproportionate loss of angling opportunity for a particular user group, while preserving fishing opportunity for another.

Will shutting down steelhead fishing help to improve wild steelhead numbers?

The closure of Idaho's steelhead fisheries is not based on low steelhead returns but is a direct result of the threat of a lawsuit resulting from an expired federal permit. While this year's adult steelhead return was low (both hatchery and wild fish), we have seen steelhead numbers rebound in past following several years of low returns. Angling has minimal impacts to wild steelhead and the majority

(~85%) of the 5,000 miles of wild steelhead spawning and rearing habitat is closed to fishing. The majority of fishing related impacts to wild steelhead occur in downriver fisheries and populations are largely driven by environmental factors (migration and ocean conditions), not sport fisheries in Idaho.

Are Oregon or Washington being sued as well? What about Indian Tribes?

Only Idaho is named in this lawsuit.

Does this mean I can still fish for steelhead in the Snake River?

If Oregon and Washington continue their steelhead fisheries, anglers with a valid fishing license issued by Oregon or Washington may fish for steelhead consistent with the rules of those states.

What is the timeline for getting a federal authorization and when will we be able to steelhead fish again?

IDFG's steelhead fishing seasons will be closed until the necessary federal authorization are received. This will affect the steelhead fishing in December 2018 and in early 2019. The National Marine Fisheries Service's Sustainable Fisheries Division is currently taking public comment on IDFG's Steelhead Fisheries Monitoring and Evaluation Plan and they continue to work on related biological opinions and documentation as required by the National Environmental Policy Act. The process will take a few months and may be completed in time to reopen the spring steelhead fishery.

Why will we not be allowed to at least catch and release steelhead if harvest is closed?

Idaho Law prevents catch and release fishing for steelhead unless a steelhead fishery is specifically open for that body of water. Additionally a catch and release steelhead season (even for hatchery fish) could result in the incidental catch of wild Snake River Basin steelhead.

What sort of impact does catch and release of wild steelhead have on their populations?

Catch and release impacts to wild steelhead are minimal and do not have an effect at the population level. The best-available science suggests that of every 100 wild steelhead that enter Idaho rivers, about three will die as a result of angler encounters. This is a low level of mortality that does not jeopardize long-term recovery of wild steelhead populations.

Does closing the steelhead fishery mean all fishing is closed in the Snake, Salmon and Clearwater rivers?

No, these rivers remain open for other types of fishing (sturgeon, trout, whitefish etc.). However fishing for or targeting steelhead is illegal. see Idaho fishing regulations.

Why is this year's return so low when we have had good to great water years for a few years now?

Salmon and steelhead populations are still heavily influenced by issues outside of Idaho, including things like ocean conditions. While we did see increases in juvenile outmigration survival due to good water years/flows, the initial period after entering the ocean is when mortality is highest for juvenile salmon and steelhead. Ocean conditions, primarily temperature and nutrient supplies, are critical to juvenile salmon and steelhead survival, and the resulting number that will return to Idaho as adults.

In general, cold ocean conditions are good for salmon and steelhead, whereas warm conditions are not. Ocean temperatures have remained warmer than normal and nutrients have been limited, which has resulted in lower than normal juvenile salmon and steelhead survival.

Can I get a refund for my steelhead permit/fishing license? Also, if we can't fish this coming spring, will permits be reduced in price for fall 2019?

No refunds will be issued. The spring 2018 steelhead fishery was open as scheduled running from January 1 through April or May dependent on river section and the fall steelhead season was open for over four months. At this time, there are no plans to adjust the cost of a 2019 Steelhead Permit.