



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, Maryland 20910

THE DIRECTOR

January 25, 2022

Ms. Brooke Woods
Chairwoman
Yukon River Inter-Tribal Fish Commission

Dear Ms. Woods,

Thank you for your letter dated December 21, 2021, regarding bycatch of Chinook and chum salmon in the Bering Sea Pollock fishery. In your letter, Kawerak, Inc., the Association of Village Council Presidents, the Kuskokwim River Inter-Tribal Fish Commission, the Yukon River Inter-Tribal Fish Commission, the Aleut Community of St. Paul Island, and the Bering Sea Elders Group request emergency action be taken to eliminate Chinook salmon bycatch and set a cap on chum salmon bycatch in the Bering Sea pollock trawl fishery in 2022 to address the severe and unforeseen ecological, economic, social, and public health concerns affecting Western Alaska and Interior Alaska communities that depend on salmon.

I understand the people in Western Alaska have suffered significant cultural and economic losses resulting from low Chinook salmon runs since 2008 and most recently the Chinook and chum salmon failures in the Yukon River system in 2021. These losses affect critical food resources in a region that is experiencing food insecurity and the loss of opportunities to pass on traditional knowledge and ways-of-life to younger generations due to the continued poor returns in Western Alaska. In fact, U.S. Secretary of Commerce Gina M. Raimondo announced her determination, at the request of the Governor of Alaska, that multiple fishery disasters occurred from 2018 to 2021 across the State.¹ Nonetheless, for the reasons stated below, I am writing to deny the emergency petition. Please know that the NOAA Fisheries staff in the Alaska Regional Office and I are committed to working with you and the North Pacific Fishery Management Council (Council) to review and examine the impacts of salmon bycatch on Western Alaska.

I and the Alaska Regional Office engaged with Tribes during the consideration of this petition. The Alaska Regional Office held a salmon bycatch listening session on January 11, 2022 and consulted with Tanana Chiefs Council on January 21, 2022. I appreciate amount of time it took to engage with us and all the valuable information shared.

¹ NOAA Fisheries Fishery Disaster News release is available at: <https://www.noaa.gov/news-release/secretary-of-commerce-issues-multiple-fishery-disaster-determinations-for-alaska>.

THE ASSISTANT ADMINISTRATOR
FOR FISHERIES



Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) allows NOAA Fisheries to undertake emergency action in certain circumstances. While providing some exceptions to the procedural requirements of the MSA, the underlying action must still be within the statutory authority of NOAA Fisheries, including the ten national standards. Specific to this petition, the most relevant statutory authority stems from National Standard 9 [MSA Section 301(a) (9)] which requires that fishery conservation and management measures “shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.” Thus, in evaluating whether to grant the petition, NOAA Fisheries must examine whether the emergency criteria are met and whether the petition contains information indicating that the petitioned bycatch reduction measure is practicable. In this instance, the petition does not indicate that the complete elimination of Chinook bycatch would be practicable and therefore cannot be granted.

In addition, NMFS analyzed the request using NMFS’s Policy Guidelines for the Use of Emergency Rules (NMFS Policy Procedure 01-101-07 published in the Federal Register (62 FR 44421, August 21, 1997)) that, among other considerations, define three criteria that must be met to determine that an emergency exists. The phrase "an emergency exists involving any fishery" is defined as a situation that:

- (1) Results from recent, unforeseen events or recently discovered circumstances;
- (2) Presents serious conservation or management problems in the fishery; and
- (3) Can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts to the same extent as would be expected under the normal rulemaking process.

All three criteria must be met for NMFS to approve a petition for emergency action and implement emergency regulations.

Based on a review of the best available scientific information, the petition does not meet all three of these criteria. I recognize the ongoing decline of Chinook and chum salmon fisheries in Western Alaska. Scientific information indicates that there are changes to the marine ecosystem and environmental factors that continue to affect Chinook and chum salmon returns. I also recognize that Chinook and chum salmon bycatch, at any level, is a key concern. The best available scientific information indicates that Chinook salmon bycatch in the Bering Sea pollock fishery comprises less than three percent and chum salmon bycatch comprises less than one percent of the returns to Western Alaska river systems. Closure of the Bering Sea pollock trawl fishery in 2022 is unlikely to result in meeting escapement goals or substantively increase the likelihood of improving subsistence and commercial harvests in 2022. Additionally, other fisheries in the Bering Sea would continue to contribute to Chinook and chum salmon bycatch.

At its October 2021 and December 2021 meetings, the Council received public comments

and testimony from numerous subsistence and commercial salmon stakeholders including individuals representing Tribal organizations, fishery organizations, and individual participants requesting emergency action to eliminate Chinook salmon bycatch in the Bering Sea pollock fishery. The Council did not recommend emergency action; however, the Council requested an updated bycatch impact analysis (also known as an adult equivalency or AEQ analysis) and a stock status update from the Alaska Department of Fish and Game on the status of Western Alaska Chinook and chum salmon stocks.²

The Council also requested the staff report include recommendations to evaluate impacts of chum salmon bycatch by the pollock fishery with currently available data. These reports are currently scheduled to be reviewed by the Council in June 2022 and are the first step toward initiating action to develop long-term salmon bycatch reduction measures. I believe this is the best approach to develop such measures, ensure the long-term health of salmon stocks in Western and Interior Alaska, and meet the subsistence needs of communities in the regions. I am committed to a comprehensive review of our current salmon bycatch management measures. I understand your concerns about the current Chinook salmon bycatch limit and the lack of a chum salmon bycatch limit. I encourage you to engage in the Council process as we examine our current management approach and consider the best way to address our mandates for bycatch under the MSA.

Additionally, NOAA Fisheries continues to support a variety of research efforts in the Northern Bering Sea Region which contribute to our understanding of salmon run declines. In an annual survey, we gather information on ecosystem indicators which helps us understand the impact of sea ice loss on juvenile salmon. NOAA Fisheries also prioritizes research on ecosystem-based management, including adaptive, resilient, climate-ready fisheries management. Specific to salmon in the North Pacific, NOAA Fisheries supports a variety of research activities including genetics stock composition, salmon bycatch in federally-managed fisheries, and abundance estimation.

I continue to support and encourage participation of Tribal members in the Council process broadly and specifically as representatives from Alaska. I support the Council's Local Knowledge, Traditional Knowledge, and Subsistence (LKTKS) Task Force which was initiated by the Council in December 2018 with the goal of developing protocols for using LK and TK in management, and to understand the impacts of Council decisions on subsistence resources, users, and practices. More specifically, this Task Force aims to provide a roadmap for operationalizing LK and TK (potentially through processes like Co-Production of Knowledge) in the short- to long-term, as well as to formulate methods for assessing the likelihood a given Council action may affect subsistence resources, the ability of users to access those resources, or impact subsistence practices. NOAA Fisheries supports and participates on this Task Force.

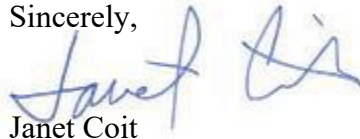
Please be assured of our full cooperation in the development of long-term management measures to limit Chinook and chum salmon bycatch and our commitment to consultation

² Draft Council motion E1 Staff Tasking – Salmon Bycatch available from <https://meetings.npfmc.org/CommentReview/DownloadFile?p=01eef937-8ca9-4187-a27e-b7730af04699.pdf&fileName=E1%20Motion%20-%20Salmon%20Bycatch.pdf>.

and engagement with Alaska Native Tribes and Tribal organizations during this forthcoming process.

If you have any questions, please contact Robert D. Mecum, Acting Regional Administrator, Alaska Region at doug.mecum@noaa.gov or (907) 586-7221.

Sincerely,

A handwritten signature in blue ink, appearing to read "Janet Coit".

Janet Coit
Assistant Administrator
for Fisheries

Attachments

Cc: Samuel Rauch, Deputy Assistant Administrator
Robert D. Mecum, Acting Administrator, Alaska Region