



December 2, 2014

Dan Hull, Chairman
North Pacific Fishery Management Council
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Re: Agenda Item C-2 BSAI Salmon Bycatch

Dear Mr. Hull:

TBC thanks the Council for prioritizing its efforts to improve the Amendment 91 Chinook bycatch reduction program in order to address program effectiveness at low abundance levels. TBC is a tax exempt, charitable, education foundation with a long history of operating in southeast Alaska. Although genetic stock research and analyses do not show that large numbers of southeast Alaska Chinook salmon are intercepted in the Bering Sea fisheries, TBC has significant concerns about the well-being of Chinook populations across the species' range. TBC thus requests that the Council recognize the uniqueness of Yukon and Kuskokwim River Chinook populations and dependent local subsistence and commercial fisheries and implement measures that provide the maximum level of protection for Chinook populations affected by bycatch and the western Alaska residents who depend on them.

Amendment 91 to the Bering Sea and Aleutian Islands FMP addresses Chinook salmon bycatch under a system of two Prohibited Species Catch (PSC) limits beginning with a 47,591 fish limit (also characterized as a performance standard) that can increase to a 60,000 fish limit for sectors that participate in an Incentive Plan Agreement (IPA) and meet the sector's allocation of the performance standard. [EA at 29]. As the Council's Purpose and Need statement recognizes, Amendment 91 has not been adequate to ameliorate concerns about the impacts of PSC at low levels of Chinook abundance, particularly in light of "continued concerns with extremely low returns to western Alaska Chinook stocks" and the high proportion of these stocks taken as bycatch in the pollock fisheries. [EA at 23].

TBC supports the Council's efforts to move forward with adjustments to the Amendment 91 bycatch reduction program. A fundamental problem is that the existing bycatch limit and performance standard do not reflect the current condition of the Chinook salmon resource. NMFS' approval of Amendment 91 in 2010 immediately preceded a period of record lows for Yukon and Kuskokwim River stocks. Then, after the Council adopted its June 2014 motion for this action, Chinook returns reached a new low, resulting in complete closures of subsistence fisheries.

Alternative 5, Option 2 appears to be the most important program element needed to improve the effectiveness of Amendment 91. Alternative 5 would lower the existing performance standard in years of low abundance based on ADF & G assessments of run strength, while maintaining the same overall PSC limit.¹ Option 1 would reduce the performance standard 25% (35,693 fish) and Option 2 would reduce the standard 60% (19,036 fish). Even the 60% reduction may be too small to fully achieve the Council's objectives – the Alternative 5 analysis ultimately concludes that estimated impacts to Chinook under this alternative may be similar to the status quo “with the *possibility* of a reduced adverse impact to Chinook salmon and chum salmon stocks under option 2 (annual reduction of 60%).” [EA at 119 (emphasis added)]. As the analysis explains, only the 60% reduction of the annual limit would actually reduce PSC, and then even only in one year for one sector. There is also, however, the potential that a lower performance standard in place throughout both seasons could increase the incentive to avoid Chinook PSC. [EA at 119]. Thus, while TBC supports Alternative 5, Option 2 as the most critical element of this action under analysis, the Council could also consider whether to revisit the Tanana Chiefs Conference's September 2014 request for a performance standard of 15,000 fish in light of the even lower returns in 2014.²

TBC also supports Alternative 3, which would revise federal regulations so as to require that IPAs include five additional provisions aimed at reducing Chinook salmon PSC. [EA at 35]. In general, TBC encourages the Council to move forward with these options, but believes that the effectiveness of some of these options will be limited unless accompanied by a substantial downward adjustment to the performance standard as proposed in Alternative 5, Option 2. The most effective provision may be Option 1, which would require provisions for restrictions or penalties targeted at vessels that have consistently and significantly higher PSC rates. Option 1 would address the problem of outlier vessels with significantly higher PSC rates than other vessels. In general, TBC encourages the Council to consider in-season or subsequent season penalties for outlier vessels as described on page 99 of the EA rather than penalties based on PSC rates over multiple seasons as proposed by IPA representatives. [See EA at 98]. Using multiple seasons would delay or reduce the effectiveness of a penalty program even when outlier vessels had sustained periods of high bycatch. [*Id.*]. As noted in the EA, the strength of the penalty imposed bears directly on whether the option can reduce impacts to Chinook salmon relative to the existing program and TBC encourages the Council to develop penalties that provide for a substantial deterrence for outlier vessels.³ In light of the precarious status of

¹ Although TBC strongly supports reducing the performance standard, the overall 60,000 fish limit remains problematic. The analysis raises some uncertainties about whether the relationship between the standard and cap, and delay in implementation, could reduce the program's effectiveness in incentivizing Chinook avoidance. The Council's efforts to prioritize addressing the Chinook crisis should include future and timely consideration of reducing the 60,000 fish limit.

² See October 2014 Agenda Item B1, Petition for Emergency Action and Rulemaking to Protect Chinook Salmon in Western Alaska (explaining that “[e]nsuring that bycatch remains below 20,000 Chinook salmon is critical for the conservation and sustainability of Western Alaska Chinook salmon. In reality, a much lower bycatch amount is needed.”).

³ See EA at 20 (identifying an “incremental improvement” in incentives relative to the status quo, but noting that larger penalties would provide a stronger incentive).

affected Chinook populations, whatever incentive penalty provisions would provide needs to be effective within at most one season.

TBC also strongly supports Option 2, which would add provisions to require the use of salmon excluder devices. [EA at 101]. As noted in the EA, recent test results show significant reduction in Chinook salmon bycatch (38% average), modest reductions in chum bycatch (7%) and less than 1% pollock loss. [EA at 102; *see also* n. 15 (linking to June 2013 Salmon EFP Report which indicated pollock escapement rates of .3% in several test results)]. Given these results, and the prevalent use of excluders by most of the fleet, [EA at 102 (100% excluder usage by motherships, 75% by catcher vessels)], requiring the use of excluders should be a component of the Council's efforts to improve the effectiveness of Amendment 91.

The EA's analysis of Options 3 and 4 (mandating a rolling hotspot program operating throughout entire A and B seasons and reducing the duration of salmon saving credits from five to three years) shows that these program components are of limited effectiveness at low Chinook abundance levels. [EA at 103 (implementation of the rolling hot spot program has been limited); EA at 104 (savings credits not valuable at current performance standard)]. Thus, while TBC encourages the Council to move forward with these options, it seems clear their effectiveness will require a significant adjustment to the performance standard. Finally, TBC also believes the Council should move forward with Option 5, which would establish restrictions or performance criteria that would make fishing in October when Chinook PSC rate are highest contingent on vessels meeting PSC performance criteria.

In sum, TBC requests that the Council identify the performance standard reduction in Alternative 5, Option 2 as the critical program component in its preferred alternative that best meets the Council's precautionary management approach and FMP management objectives pertaining to bycatch reduction. TBC also supports moving forward with other program incentives, particularly stringent penalties for outlier vessels and salmon excluder requirement.

Sincerely,

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