



# Chickaloon Village Traditional Council (Nay'dini'aa Na' Kayax)

December 12, 2023

Chief Gary Harrison,  
*Chairman/Elder*

Philip Ling,  
*Vice-Chair*

Cheryl Sherman,  
*Secretary*

Doug Wade,  
*Treasurer/Elder*

Emily Ling,  
*Member*

Lisa Wade,  
*Executive Director*

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*Executive Assistant*

National Oceanic and Atmospheric Administration  
National Marine Fisheries Service Sustainable Fisheries

Submitted via the Federal Register online comment portal (regulations.gov)

Re: Fisheries of the Exclusive Economic Zone Off Alaska; Cook Inlet Salmon;  
Amendment 16

Dear NOAA NMFS,

Chickaloon Native Village (CNV) or Nay'dini'aa Na' Kayax is a federally recognized Tribal Government in Alaska (Federal Register, Volume 47, Number 227, November 24, 1982, and reaffirmed in Federal Register, Volume 58, Number 202, October 21, 1993), with the full power and authority to consult and enter into agreements with local, state, and federal governments at their discretion. Chickaloon Village Traditional Council (CVTC) is the governing body of CNV as recognized by CNV Tribal citizens with the full power and authority to act for CNV. CVTC has a responsibility to provide a government for the good health and welfare of its Tribal citizens and address any needs in its community.

Actions that occur within CNV's traditional ancestral territories and customary area of use may impact our environment, our cultural resources, and the health, safety, and welfare of our Tribal citizens. Cook Inlet is within the CNV's customary area of use. Additionally, the aquatic resources of Cook Inlet have sustained CNV Tribal citizens for millennia. CVTC has a significant interest in participating in natural resource management decisions that could affect Cook Inlet. As a sovereign Tribal government, CVTC requests government to government consultation continue with National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) to ensure that any decisions affecting CNV Tribal citizens and our ancestral resources for sustenance and lifeways are made with our participation and consent.

CVTC submits this comment letter on the NOAA NMFS proposed Amendment 16 to the federal Fishery Management Plan for the Salmon Fisheries in the Cook Inlet Exclusive Economic Zone (Cook Inlet EEZ). Any and all management actions within the Cook Inlet EEZ could impact Alaska Native Tribes, including CNV, and our Tribal rights, resources, cultural lifeways, and subsistence practices. Amendment 16 is an opportunity for NOAA NMFS to partner with Cook Inlet Tribal Governments to fulfill their federal trust responsibilities including access to Tribal resources.

From the United Nations Declaration on the Rights of Indigenous Peoples, Article 26; 1:

*“Indigenous peoples have the right to the lands, territories and **resources** which they have traditionally owned, occupied, or otherwise used or acquired.” (emphasis added)*

From the US Department of the Interior’s Secretary Order No. 3335: Reaffirmation of the Federal Trust Responsibility to Federally Recognized Indian Tribes and Individual Indian Beneficiaries:

*“The United States’ trust responsibility is a well-established legal obligation that originates from the unique, historical relationship between the United States and Indian tribes. The trust responsibility consists of the highest moral obligations that the United States must meet to ensure the protection of tribal and individual Indian lands, assets, **resources** and treaty and similarly recognized rights.” (emphasis added)*

### **Tribal Fishing Opportunity and/or Set-Aside**

Federal management of salmon in the Cook Inlet EEZ provides a long overdue opportunity for a Tribal fishery ahead of all other users in the Cook Inlet EEZ. The United Nations International Covenant on Civil and Political Rights (ICCPR) Article 1.2, in common with the United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR), says, “in no case may a people be deprived of its own means of subsistence.” Following the ICCPR and the ICESCR, NOAA NMFS is obligated to provide the Indigenous Peoples of Cook Inlet a fish harvest set-aside for their own subsistence which includes the ability to barter, trade and sell the harvest. Since before the United States claimed ownership of Alaska, Alaska Native Tribal citizens, including CNV Tribal citizens, have depended upon and stewarded Cook Inlet salmon for sustenance and cultural lifeways. Federal, territorial and state regulations have dramatically reduced the fishing opportunities for Alaska Native Tribal citizens, meanwhile globally significant fishing economies have been developed to sell Alaskan fish.

Cook Inlet Tribal Governments and their Tribal citizens have an Indigenous right to fishing opportunities within the Cook Inlet Basin. Arguably, Cook Inlet Tribes deserve the first allocation of Cook Inlet fish, however, to date there is no regulation (federal or state) to denote any difference between a Cook Inlet Tribal citizen and any other Alaskan resident harvesting salmon. Compared to the Cook Inlet commercial drift gillnet fleet (which has the potential to harvest 300,000 salmon per opening) a Tribal fishing opportunity in the Cook Inlet EEZ would have a very small effect on the salmon populations and would have a notably beneficial impact on Tribal cultural perpetuation as well as Tribal citizen health and wellbeing.

A Tribal fishing opportunity could be modeled after the Alaska Subsistence Halibut Program which includes a halibut fishing opportunity for members of specifically designated Alaska Native Tribes. As part of a Tribal Fishing Opportunity in the Cook Inlet EEZ, it is the responsibility of NOAA NMFS to invite Cook Inlet Tribal Governments to collectively develop the details of this Tribal Fishing Opportunity. Initially the Tribal Fishing Opportunity details could mirror the proposed commercial fishing legal gear, record keeping, reporting, and logbooks. Proxy fishing details must be developed collectively with Tribal governments, to ensure Tribal Elders and other Tribal citizens who are physically unable to harvest fish in the Cook Inlet EEZ can receive fish.

## **Precautionary Management**

NOAA NMFS repeatedly claims in Amendment 16 to pursue conservation of Cook Inlet salmon species through a precautionary salmon management approach. However, NOAA NMFS must do more to actually achieve a precautionary fishery management approach. There are numerous and increasing threats to Cook Inlet salmon populations. Within the Cook Inlet Basin, adult salmon returns currently range from robust (Kenai River and Kasilof River sockeye salmon) to stocks of concern (Susitna River Chinook salmon). In northern Cook Inlet there are numerous Chinook salmon stocks of concern and at times other species too, including Susitna River sockeye salmon which was designated a Stock of Concern by the Alaska Board of Fisheries from 2008-2020.

The Cook Inlet EEZ is a transportation corridor for adult salmon of multiple species returning to northern Cook Inlet watersheds where there are marine and freshwater users (commercial, recreational, personal use, educational, and subsistence). Additionally, and critically, many salmon stocks of northern Cook Inlet watershed have no estimates of annual escapement, no escapement goals, and no numeric data (historic or current). There are few northern Cook Inlet salmon stocks with escapement goals and there are very few annually funded salmon escapement projects (including counting towers, weirs, sonar, or video systems). Precautionary management would fund escapement data collection and genetic analysis of EEZ-harvested salmon to develop the database and better understand the fishery and the harvest implications.

## **Commercial Fishing**

Cook Inlet salmon run sizes and timing are variable and unpredictable, especially in recent years. NOAA NMFS's commercial fishing harvest levels (called Total Allowable Catch) are proposed to be based on historical harvest averages and pre-season forecasts, which is not precautionary. NOAA NMFS must develop a plan for pre-season commercial fishing closures as well as in-season commercial fishing closures based on in-season escapements.

Based on 1) precautionary management, 2) the Cook Inlet EEZ being a salmon migration corridor for northern Cook Inlet salmon populations, 3) the history of over fishing in the commercial fishing Central District including the Cook Inlet EEZ, and 4) the court rulings that there must be a commercial fishing opportunity within the Cook Inlet EEZ, the commercial fishing opportunity should be no more than one 12-hour period per week from late June to late July and drift gillnets should be a maximum of 150 fathoms per permit.

To conclude, to uphold the responsibilities developed by federal and international declarations and orders, NOAA NMFS has an obligation to develop a Tribal Fishing Opportunity. To ensure survival of the diverse Cook Inlet salmon populations for future generations, NOAA NMFS has an obligation to do better and be more thorough in the development of fishery management actions that are strongly precautionary.

May Nek'eltaeni (Creator) Guide Our Footsteps,

  
Chief Gary Harrison (Dec 12, 2023 14:42 AKST)

Chief Gary Harrison  
Chairman







# 2023.12.12 CVTC Amended Comment to NOAA on Cook Inlet EEZ Salmon FMP

Final Audit Report

2023-12-12

Created:	2023-12-12
By:	Jessica Winnestaffer (jewinnestaffer@chickaloon-nsn.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAyBCz1qiL29OvWbDJDEI9efgvcnGp4nEc

## "2023.12.12 CVTC Amended Comment to NOAA on Cook Inlet EEZ Salmon FMP" History

-  Document created by Jessica Winnestaffer (jewinnestaffer@chickaloon-nsn.gov)  
2023-12-12 - 11:12:29 PM GMT
-  Document emailed to chiefgaryharrison@chickaloon-nsn.gov for signature  
2023-12-12 - 11:12:55 PM GMT
-  Email viewed by chiefgaryharrison@chickaloon-nsn.gov  
2023-12-12 - 11:40:35 PM GMT
-  Signer chiefgaryharrison@chickaloon-nsn.gov entered name at signing as Chief Gary Harrison  
2023-12-12 - 11:42:52 PM GMT
-  Document e-signed by Chief Gary Harrison (chiefgaryharrison@chickaloon-nsn.gov)  
Signature Date: 2023-12-12 - 11:42:54 PM GMT - Time Source: server
-  Agreement completed.  
2023-12-12 - 11:42:54 PM GMT