

Southeast and Yakutat Finfish and Shellfish Meeting

January 23, 2018

MISCELLANEOUS BUSINESS**Topic: Clarification of the working relationship between the State of Alaska Board of Fisheries Process and Pacific Salmon Commission Process**

Comment submitted by Deborah A. Lyons, former member of the Board of Fisheries and Pacific Salmon Commission Northern Panel.

Issue: The current Pacific Salmon Commission process may be pre-empting the Board of Fisheries process in areas of the Board's authority to allocate, manage and conserve the State's fisheries resources. The Pacific Salmon Commission develops catch limits and related provision to present to the governments of the United States and Canada. Each country's domestic management authorities then implement these recommendations, which become effective upon approval by both governments. However, the Commission does not assert a Treaty authority to manage, allocate and conserve Alaska fisheries subject to the Treaty.

The Board of Fisheries may wish to request an opinion of the Office of the Attorney General, or designate some other process, to research and clarify the working relationship between the Federal Pacific Salmon Commission process of recommending catch limits for Chinook and the State of Alaska's domestic management authority. Examples illustrate some of the grey areas.

In addition, a review of the expectations and history of the Pacific Salmon Chinook Rebuilding program could be requested by the Board.

Management Authority**Implementation of Mass Marking (MM) and Mark Selective Fisheries (MSF)**

The concept of implementing Mass Marking of Chinook and Mark Select Fisheries in the Southeast Alaska has advanced to a degree that the Board of Fisheries may find concerning. The issue is that the Treaty Commissioner has been advancing the concept of MM and MSF, even to the point of lobbying for funding to implement the programs. Fishing groups have concerns about the MM and MSF programs. MSF was incorporated into the 2017 Summer Troll Management Plan but no ADFG generated proposal on MSF was submitted to be included in the Boardbook to allow the public and the Board the opportunity to evaluate these programs. What precedent is set when the Federal Treaty Commissioner advances and agrees to fisheries management proposals within the context of the Pacific Salmon Commission, outside of the Board of Fisheries process?

Attachments:

1. January 11, 2018 letter from ADFG Deputy Commissioner Swanton to the Northern Southeast Regional Aquaculture Association and the Alaska Trollers Association.
2. RC 137 NSRAA Board Resolution 2017-11 adopted November 16, 2017.

Because of the 5 page limit the attachments must be requested by a board member

3. ATA Association letter to Commissioner Swanton November 20, 2017

Allocative Authority

Elimination of the August Summer Troll fishery in 2018

The Pacific Salmon Treaty presentation to the Board of Fisheries RC 3 Tab 23 page 35 "SEAK Fishery Performance 2009 Agreement" shows a cumulative overage of 137,928 Chinook harvested during the years 2009-2016. The Treaty Commissioner discussed the overage in conjunction with a discussion of conditions when the August Troll fishery might "not be allowed to occur" in order to reduce the overage. This conversation was concerning to Trollers present at the January 20th meeting with the Commissioner.

Would a decision by the Treaty Commissioner to cancel the August Summer Troll fishery to achieve a savings of fish to reduce the cumulative overage be appropriate? What aspects of the State Board's management authority is involved? Closure of the August fishery to repay an overage in the PST process is a management action, inconsistent with the Summer Troll Management Plan. If an overage were to be deducted shouldn't it be deducted from the All-Gear quota rather than one of the gear types within the allocation framework of the King Salmon Management plan? If model or management error had produced a cumulative **underage** of Chinook harvested, there is no carry over provision to restore those fish to Alaska within the PSC process.

Conservation Authority

The Board of Fisheries has just engaged in the implementation of the Policy for the Management of Sustainable Salmon Fisheries Stocks of Concern. This process balances the State's responsibility to manage to achieve escapements while taking into account the impacts to users and weighing which measures are more or less effective at contributing to the desired escapement goals. The SSFP is comprehensive in its evaluation of environmental influences and other factors that affect escapements, along with impacts of the harvesters. Could the Treaty Commissioner take actions in 2018 to require further reductions to fisheries in order to increase escapements, above and beyond the actions the Board has already taken? (By citing Alaska's obligation to manage for escapements of the Chinook stocks listed as indicator stocks within the Pacific Salmon Commission process.) Specifically could areas closed to retention of commercial or recreational fisheries harvesting Chinook be expanded, or fisheries closed?

The Board of Fisheries may wish to request that the language of Article IV-Fishing Regimes, Chapter 3-Chinook be reviewed with an eye towards clarification of the State's authority to manage fisheries through the Board process preserved.

Historical Review of the Pacific Salmon Chinook Rebuilding program

Alaska entered into the Treaty in 1985 and the State agreed to reduce Southeast Alaska historic harvest share of Chinook by about 20%. Early regulatory language of the Board of Fisheries anticipated the Chinook rebuilding program would be complete in 15 years or three salmon life cycles. Thirty-three years later the number of king salmon allocated to SE Alaska (209,700) represents a 49% reduction in harvest share of king salmon. Clearly the program is not performing as hoped.

A review of the performance of the Pacific Salmon Chinook Rebuilding program and the development of recommendations to improve the State's success at securing harvest share may also be of benefit to the SEAK fisheries and the communities that rely on them.



THE STATE
of **ALASKA**
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January 11, 2018

Mr. Steve Reifentstahl
NSRAA
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Ms. Dale Kelley
Alaska Trollers Association
130 Seward #205
Juneau, AK 99801

Subject: Mark Select Fishing and Mass Marking of hatchery produced Chinook salmon.

Dear Mr. Reifentstahl and Ms. Kelley:

Initially, please accept my apology for this untimely response to the correspondence received from your respective organizations on November 17th and 20th, 2017. I am hopeful that the following information will address and perhaps quell some of the angst that has surfaced relative to this subject, specific to the commercial fishery user groups represented by your organizations.

Mass marking of hatchery-produced fish isn't a new trend. As you are aware and was noted in the Chinook Salmon Coalition's briefing prepared for Alaska's Senators Murkowski and Sullivan in early November, mass marking of federally funded Chinook hatchery production was congressionally mandated in 2003 to improve estimates of these stocks' contributions to coast-wide abundance. This was a part of the Department of Interior's appropriation bill to facilitate improved mark rates on hatchery produced fish. Many of these Chinook, and those produced within the Columbia River basin migrate far north and, within the Pacific Salmon Treaty context, are susceptible to fisheries prosecuted within Southeast and Canadian waters.

The practice of mass marking is likely to increase for these areas. As further insight and discussions progress within the treaty arena, it has become evident that in order to address ESA-listed Chinook salmon stocks within Puget Sound and Southern Resident Killer Whale foraging shortfalls, mitigation will be necessary. This will likely come in the form of millions of additional hatchery-produced Chinook. Preferably, these additional Chinook will be mass marked. My goal, which can be achieved through various means, is to secure access to these fish for Alaskans to harvest with one avenue being mark-selective fishing.

Securing access to these fish is essential as we look toward the future. The current horizon, given the pervasive problems in Puget Sound, West Coast of Vancouver Island, and Georgia Strait, does not offer an optimistic picture, but rather one steeped in additional harvest restrictions and reduced overall abundance of wild Chinook. Please keep in mind that large scale degradation of freshwater habitat in its many forms, even with a focused and concerted effort to address it, does not get fixed in the short term. It was an issue in 1999, again in 2008, and still pervades our current discussions. With this said, I am attempting to impart a level of certainty while trying to plan and anticipate a landscape that includes current levels of access for Alaskans to harvest Chinook.

Our data suggests that, including Alaska production, there are about 75 million hatchery-produced Chinook salmon smolts that are currently not mass marked. When combining these numbers with what is likely to be substantial mitigation production specific to ESA listed populations, the need for greatly improved marking coverage becomes imperative to the coast-wide Chinook salmon regime. This does not mean that a mark-selective fishery must occur, but that if one did, the marked encounter rates would be vastly improved and thus would substantially reduce the current concern regarding incidental mortality of both wild and hatchery fish. It is our present understanding that if monies were made available to the respective parties, coupled with timely and comprehensive marking programs, marked fractions could be substantially improved within 2-3 years of implementation. The conversations with Alaska's congressional delegation and appropriations staff in early November 2017 essentially outlined this information and the internal discussions that had transpired over the last year.

Additionally, in preparation for this eventual scenario, we have had three discussions with a large composite of the Pacific Coast states' congressmen, senators, and appropriations staff. The focus of these discussions has been on federal funding to respective states for treaty implementation for the next annex and most recently on the concept of a capital fund located at the secretariat. This fund would be made available to the parties, states, tribes, and organizations such as NSRAA, SSRAA, and DIPAC for equipment purchase, sampling, and mass marking implementation. It has been my observation that to be successful in securing federal funds, one needs to proffer the request early, often, and with an unflappable diligence; thus far we have experienced success (\$3.1 million increase over last two federal fiscal years) and have indications of additional progress moving forward.

I am hopeful that you and your respective organizations are mindful of both the timeliness of these conversations and the sensitivity that currently exists due to negotiations between the respective parties. The topic of mass marking and increased mark-selective fishing has not had substantial discussion thus far. I can assure you that, well in advance of any formalized decision on this subject, a full bilateral discussion and commitment will be sought.

As discussions continue, I will endeavor to keep your respective organizations informed of our progress. I will be in Sitka next week attending the Board of Fisheries Southeast Finfish meeting, and I look forward to meeting with you in person.

Respectfully,



Charles O. Swanton
Deputy Commissioner

cc: The Honorable Byron Mallott, Lieutenant Governor
The Honorable Sam Cotten, Commissioner
Mr. David Landis, General Manager, SSRAA
Mr. Eric Prestegard, Executive Director, DIPAC
Ms. Frances Leach, Executive Director, UFA
Ms. Samantha Weinstein, Executive Director, SEAGO