



CALISTA CORPORATION
www.calistacorp.com

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Art Nelson, Executive Director
Alaska Department of Fish and Game
Board of Fisheries
P.O. Box 115526
Juneau, AK 99811-5526

Via Online submission: boardoffisheries.adgf.alaska.gov

Re: Calista Corporation's Submission for Board of Fish

Dear Mr. Nelson:

Calista Corporation is an Alaska Regional Corporation, created pursuant to the Alaska Native Claims Settlement Act ("ANCSA"). The Calista Region encompasses about 57,000 square miles and is the second largest Alaska Native Claims Settlement Act region in land size, roughly the size of the state of New York. Calista serves over 36,000 Shareholders and thousands more Descendants of Shareholders. The Calista region hosts approximately 30,000 residents. A substantial number of Calista's Shareholders and Descendants live in the Calista Region and rely upon salmon for financial, social, and cultural support.

The Calista Region is isolated; there are no roads nor rail connecting it with outside communities. Consequently, all necessities must be flown or barged to each community. The cost of food, fuel, transportation, and energy in the Calista Region is extraordinarily high – often the highest in the nation; the cost of heating fuel in the Calista Region is currently seven times the national average. The community members of the Calista region depend primarily on a subsistence way of life, as jobs are scarce, and until recently, commercial fishing in the Yukon Kuskokwim region was a pivotal part of the economy. With the collapse of the commercial fishing industry and recent limits on subsistence living, numerous communities within the Calista region have sustained outmigration of the communities, primarily among the younger generation. When outmigration occurs, the communities suffer. Language is lost and tribal members' connection to their community, culture, and traditional way of life is eroded.

While organized as a for-profit corporation under Alaska state law, Calista, along with all of the other Alaska Native Corporations ("ANCs"), has a broad social and cultural mission. ANCSA expressly provides that ANCs are to act as vehicles for the provision of various benefits to their shareholders, such as financial distributions (dividends), elder benefits, homesite lots, education scholarships, cultural preservation, land and subsistence protection, and community economic development programs.¹ These benefits and programs can be provided to non-shareholders (i.e., family members of shareholders) and "on a basis other than pro rata based on

¹ See 43 U.S.C. § 1606(r).

share ownership.”² As the United States Supreme Court has recognized, “ANCs are *sui generis* entities created by federal statute and granted an enormous amount of special federal benefits as part of a legislative experiment tailored to the unique circumstances of Alaska and recreated nowhere else.”³

As an ANC created under ANCSA, Calista exists to serve the interests of the Alaska Native people of the Calista Region through profitability, celebration of rich heritage and ownership of the traditional Native lands transferred to Calista under ANCSA. Calista is guided by an overarching vision of intergenerational prosperity for its Shareholders and Shareholder Descendants. Calista’s mission is to increase Shareholder benefits and economic opportunities through innovation, growth, leadership, partnership, execution and financial discipline. Calista furthers this mission through a variety of strategic support for Shareholder communities and provides financial and non-financial benefits and assistance to its Shareholders and Descendants. For example, in 2021, Calista spent over \$22,000,000 on direct financial assistance for its Shareholders and Descendants, including Shareholder and Descendant employment, scholarships, internships/apprentices, donations, distributions, and funeral assistance. Calista also provides numerous non-financial benefits and services to its Shareholders and Descendants. This includes management of its lands to permit Shareholders and Descendants to hunt and fish and to facilitate the maintenance of a traditional subsistence lifestyle for Shareholder communities.

The Decline of AYK Salmon and its effects.

Starting in 1993 with the collapse of the chum salmon run on the Kuskokwim River, the commercial salmon fishing industry has been struggling, and continued to decline until all commercial fishing ceased. Even then, the commercial fishermen spoke of the intercept of the salmon in Area M. This decline continued and eventually subsistence fishing on the Kuskokwim and Yukon rivers was limited, and eventually closed altogether.

Historically, salmon sustained the population of the Calista region year-round. Salmon runs were strong enough for the population to dry or freeze enough salmon to sustain the population through the winter, mitigating the high cost of living in the region while providing a healthy food staple for the people. With the decline of salmon, the population was forced to rely on alternative sources of food, consisting of protein from other fish and game stocks, and from the grocery store. Until recently, it was common to see fish racks and smokehouses filled with salmon along the Yukon and Kuskokwim Rivers. Today, those fish racks are filled with other species of fish, such as red salmon, northern pike, whitefish, and other animals. Harvest of local game such as moose and caribou have increased considerably as well. As a result, these species are beginning to show signs of distress as well. Reports of poaching have increased as well, including members of the Yukon and Kuskokwim region openly defying a recent ban on subsistence fishing. It is important to note that subsistence and a traditional way of life are key components to Tribes’ and Native Alaskans’ self-determination and sovereignty. Additionally, in the wake of Typhoon

² *Id.*

³ *Yellen v. Confederated Tribes of the Chehalis Reservation*, 141 S. Ct. 2434, 2443 (2021) (“*Chehalis*”).

Merbok in 2022, communities were offered additional subsistence openings in GMU 19 to replace food lost in the Typhoon, leading to additional stress on the local wildlife.

Though the Alaska Department of Fish & Game area reports for the Yukon and Kuskokwim rivers state that the commercial fishing industries for the Yukon and Kuskokwim rivers were closed due to a lack of a buyer, this explanation is a political spin of a harsher reality. If there are no fish to buy, there is no point in being or sending a buyer.

The Causes of the Salmon Collapse.

Though there are numerous theories encompassing the collapse of the salmon stocks of the Yukon and Kuskokwim Rivers, there is one thing all experts agree on. The source of this collapse does not arise within the fresh waters of the Yukon and Kuskokwim Rivers. However, once the fish hit the oceans, they suffer from poor marine survival rates.⁴ While fisheries in the Yukon and Kuskokwim region have limped along or closed for decades, Area M Fisheries are recording record catches. Adding to the harvest burden, Arctic Yukon Kuskokwim salmon (“AYK salmon”) are forced to compete with an ever-increasing stock of Asia originated hatchery salmon for a limited North Pacific biomass. As a result of this increased competition from Asian hatchery fish, chinook and chum salmon are suffering high mortality rates and returning earlier and smaller.

As Area M Fisheries are a mixed stock of Asian hatchery salmon and AYK salmon, among other stocks, both species are harvested indiscriminately in certain areas of the Area M Fishery. When hatchery fish are introduced into an ecosystem alongside indigenous salmon and harvest increases among the mixed stock, the indigenous stock tends to suffer because their reproduction rates are not artificially supplemented. Based on this information, the reduction of salmon numbers from the previously produced WASSIP study are unsurprising.⁵ Increased salmon fishing in the mixed stock fishery, driven primarily by hatchery fish, compounds the impact on the AYK salmon, as their decline is not as recognizable in the mixed stock fishery. As a result, the mixed stock fishery will show high numbers due to support of the hatchery fish, but the increased fishing will stress the indigenous AYK salmon. As a result, the predictable outcome of increased harvest of a mixed stock fishery is unsurprising.

Subsistence Priority

Section 17 of article VIII of Alaska’s Constitution provides:

Laws and regulations governing the use or disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law or regulation.

The sustained yield clause of the Alaska constitution provides:

⁴ <https://www.ktoo.org/video/gavel/senate-resources-committee-2023011102/?eventID=2023011102>

⁵ The author of this letter learned of the raw numbers of the South Peninsula Fisheries, but was unable to obtain to find the study prior to this letter’s submission.

Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.

In 1992 the Alaska legislature adopted AS 16.05.251(h), which required the Board of Fish to “adopt by regulation a policy for the management of mixed stock fisheries consistent with sustained yield of wild fish stocks.” In response, the Board adopted 5 AAC 39.220. That regulation requires that “conservation of wild salmon stocks consistent with sustained yield shall be accorded the highest priority,” and that “[a]llocation of salmon resources will be consistent with the subsistence preference in AS 16.05.258, and the allocation criteria set out [in the Board's regulations].” AS 16.05.258 mandates the Board “adopt regulations that eliminate other consumptive uses in order to provide a reasonable opportunity for subsistence uses.”

In addition to the statutory and constitutional requirements, Calista holds that the Board of Fish should also consider the importance of subsistence to the Native Alaskans. Initially included in the Alaska Native Claims Settlement Act (ANCSA), last minute adjustments to ANCSA led to the removal of the protection of subsistence rights for Native Alaskans. Congressional intent was for the Secretary of Interior and state of Alaska to “take any action necessary to protect the subsistence needs of the Natives.” Many believed this would be sufficient, but it soon became apparent that more concrete protections were needed. Congress next attempted to correct this injustice and enshrine subsistence guarantees to Native Alaskans through the Alaska National Interest Lands Conservation Act (ANILCA). ANILCA initially contained a Native Alaskan subsistence priority, but this provision was changed to a rural subsistence priority at the urging of the State of Alaska, contending that a Native Alaskan Priority would be unconstitutional. Despite this concession and the adoption of ANILCA, the State of Alaska held the rural subsistence priority unconstitutional, nonetheless.⁶ More than 50 years after relinquishing their sovereignty and control of 70% of the state of Alaska, native Alaskans continue to be denied the benefits of their bargain. Subsistence is a way of life, and salmon harvest is central to all cultures within the Calista region. Religion revolved around balance with the environment and harmony with animals captured. Many tribes within the Calista region were nomadic and traveled depending on the seasons to suit the animals harvested. Many animals, including salmon, play integral parts in cultural and religious ceremonies to this day.

The “Effect” of the Board’s Policies in Area M.

AYK Salmon escapement for the past 3 years has not been sufficient to ensure adequate escapement, let alone numbers that permit for subsistence. Even in the decades preceding that, the communities dependent on AYK salmon have suffered, including loss of commercial and subsistence opportunities despite an equal constitutional right to Alaska’s Salmon Resources.

By permitting overharvest of AYK salmon stocks within Area M, the Board of fish has failed its constitutional and statutory mandates to ensure Yukon and Kuskokwim residents’ access to salmon for commercial and residential purposes. Area M Fisheries have grown to the point that the fleet is now flooded with massive boats and non-resident fishermen, and the practices are

⁶ *McDowell v. State*, 785 P.2d 1 (1989).

opposed by several indigenous groups within Area M. Meanwhile, AYK fishermen – nearly every one an Alaskan resident - have suffered the closure of their commercial fishery, the loss of their subsistence way of life, and harm to their economic well-being. While there are other factors that may play a role in the salmon disaster, the factors within the Board of Fish's control have remained unattended. For a state that prides itself in its fisheries, this result should be nothing less than embarrassing.

Solutions

1. **Targeted harvest.** In the years since the release of the WASSIP study, many Area M fishing and processing groups have used it to create confusion, saying that nothing can be done. In reality, the WASSIP study – and the recent iteration of the same – should be used to identify which harvest areas contain higher densities of AYK distressed salmon. For those locations with higher levels of AYK salmon, harvest should be curtailed or ceased altogether depending on the level of the stocks. For the areas where there are little or no AYK salmon, harvest should be increased. Indeed, increased harvest of hatchery salmon may play a role in restoring the health of AYK stocks by way of reduced competition for limited resources.

If there is increased escapement of AYK salmon from Area M, this increased escapement can be captured at the terminal fishery on the respective Kuskokwim and Yukon rivers, permitting a more targeted and effective management of the fishery.

2. **Escapement should be increased.** To many Area M groups, escapement is a 4-letter word. Many of the proposals originating from these groups identify areas where escapement exceeds projected levels and treat such an event as an injustice. The Board of Fish and ADF&G have historically approved such proposals, and the industry has suffered.

As a proposed compromise at the AYK Board of Fish Meeting, an Area M industry representative suggested reducing escapement for AYK Salmon to allow subsistence harvest. This proposed solution only harms the salmon stocks. As late as the early 1990s, salmon levels in Yukon and Kuskokwim rivers were world class and more than enough to sustain their populations. Such levels of escapement will benefit the entire regions with increased economy through sport and commercial fishing,

If the Board does not implement a targeted fishing approach, Calista supports Proposals that reduce capture of AYK salmon stocks in Area M and oppose expansions to the fishery. Calista also supports Proposals that support the subsistence priority.

3. **Reduce harvest of fish in the salmon food chain.** The evidence clearly shows that chinook and chum salmon are struggling to thrive in the North Pacific. They are returning earlier and smaller by about 15%. This is a strong indicator that food resources are diminishing. As such, such food resources for the salmon should be preserved to ensure the salmon stocks can thrive. If possible, means of supplementing food source stocks should be explored.

4. **We Can't Wait for Studies.** The time to begin examining the sources of the problem with AYK salmon was, at the latest, in 1993. The residents of the Yukon and Kuskokwim rivers cannot wait for studies to solve this issue and immediate action is needed to prevent a total collapse of the salmon fishery. While Calista supports studying the causes of this problem to ensure the survival of the AYK salmon stocks, immediate measures must be taken in the interim.

Proposals

As a supplement to the online survey and in the absence of a targeted management plan, Calista specifically wishes to endorse Proposal 140. Calista secondarily supports Proposals 106, 110, 126, 133, 134, 136, 137, 138, 139, 140, 148 and 149.

Calista Opposes Proposals 105, 107, 108, 111, 115, 116, 119, 121 123, 124, 125, 127, 129, 130, 131, 142, 145, 146, 147 151, and 152, as they seek to increase harvest.

Respectfully,

CALISTA CORPORATION



Andrew Guy
President & Chief Executive Officer