

HOOPA VALLEY TRIBAL COMMENTS ON

C.2 Fishery Management Plan Amendment 16, Annual Catch Limits and Accountability Measures

The Hoopa Valley Tribal Council (HVTC) retains sole management authority governing the HVT fishery prosecuted by Tribal members on the Hoopa Valley Reservation. Under its authority the HVTC allows for utilization of Klamath River Fall Chinook (KRFC) to meet the purposes of subsistence, ceremony, and commerce.

Today, the Pacific Fishery Management Council (Council) is developing a preferred alternative for the Environmental Assessment (EA) of FMP Amendment 16: “Annual Catch Limits and Accountability Measures”.

The HVTC has pursued direct government-to-government consultation with its federal trustee under the principles of Self-Governance to better understand the proposed Amendment 16 and its ramifications to our reserved fishing rights, held in trust by the federal government.

Our staff have participated in two technical conferences with NOAA and are appreciative of the agency’s interest in providing detailed technical insights into Amendment 16. However, we have also requested and await further policy level consultations with our federal trustee with regard to the broader implications of Amendment 16 as it overlays with prospects for Klamath Basin Restoration Agreement (KBRA) implementation. The HVTC has openly criticized the KBRA for what we believe to be an unacceptable compromise of tribal rights in exchange for a very questionable plan for restoring anadromy to the upper Klamath Basin and promoting vitality of Klamath Basin fisheries. Indeed the KBRA threatens the very success of our efforts over the past three decades to restore the Trinity River and the fishery we’ve depended upon since time immemorial. Since 2005, Trinity River restoration has cleared litigation impediments and presently is being managed under the Trinity River Record of Decision (ROD) that our Tribe concurred with former Interior Secretary Babbitt in December 2000 as mandated by the Central Valley Project Improvement Act (CVPIA), (PL 102-575). The Tribe is very protective and cautious of any initiative (including the KBRA) that may hinder the ability to ‘restore the Trinity River fishery to per-Dam levels’ as mandated by Congress in numerous federal statues including the CVPIA.

Specific to PFMC’s deliberations of the Preferred Alternative for Amendment 16, we offer the following technical recommendations:

- (1) Overall, the intent of clarifying and removing ambiguity with regard to definitions of “overfishing”, and *de minimis* fisheries is strongly embraced;
- (2) The HVTC believes that prudent management of mixed-stock marine fisheries must favor stock conservation, and in particular, protection of the genetic and racial diversity of the fishes of Klamath Basin. The Amendment recognizes Klamath River Spring Chinook (KRSC) as “in the fishery” of targeted KRFC, and our concern for adequate protection of KRSC when managing on productivity estimates specific to KRFC conforms with a prescription for management

conservatism. Hence, where shaping of the preferred alternative for Amendment 16 contemplates ranges of risk, we advocate pursuing more conservative thresholds. In particular;

(a) *Minimum Stock Size Threshold (MSST)*, the Council will narrow MSST to being 0.86, 0.75, or 0.50 of Spawning Escapement at Maximum Sustained Yield (S_{MSY}). Consistent with HVTC's aim for conservatism in Amendment 16, **we strongly advocate that MSST be set as 0.86 of S_{MSY} , or $0.86 * 40,700 = 35,000$ natural area spawners.** This closely relates to the long standing "floor level" escapement of 35,000 natural spawners, while incorporating new insights with respect to productivity of the stock pursuant the recent STT review (Klamath River Fall Chinook Stock-Recruitment Analysis, STT 2005). Further, we would condemn assignment of MSST to 0.5 of S_{MSY} ($0.5 * 40,700 = 20,350$) as this threshold would fall well below the minimum stock size identified in Amendment 15 (22,000), as a population level which could lead to dispensatory effects in the population structure for Klamath River Fall Chinook, with yet to be understood ramifications for KRSC.

(b) *Overfished definition*, the Council will need to define the trigger for determining the stock overfished as either a single year of transgression of MSST or a retrospective three-year geometric mean of S compared to MSST. **In the case that the Council does select MSST to equal $0.86 * S_{MSY}$ (35,000), we would support the three-year geometric mean of S criterion for declaring the stock overfished.**

(c) *F_{ABC} a function of F_{MSY} and Scientific Uncertainty, for tier 1 stock where MSY is empirically derived*: The preferred alternative will need to specify an approach for determining the annual Acceptable Biological Catch (ABC) for KRFC. The HVTC generally agrees that population dynamics are better understood for the KRFC than for stocks such as the Sacramento River Fall Chinook, for which age-structured cohort models are not presently derived and estimation of an empirical MSY is not possible. It is debatable however, from the perspective of accepting a 5% buffer for scientific uncertainty upon the F_{MSY} for KRFC (a "tier" 1 stock), that adequate protection is offered KRSC as specific productivity parameters estimated for KRFC can not be verified for the latter stock. Moreover, the proposed alternative would lead to an inflation of the ABC beyond what was established in Amendment 9, which capped exploitation at 2/3 (0.67) brood-wise spawner reduction. **Hence, the HVTC would advocate that the buffer for scientific uncertainty be adjusted to 7% such that the F_{ABC} results in 0.67 ($F_{ABC} = (1 - 0.07) * F_{MSY} = 0.93 * 0.72 = 0.67$) and not 0.68 as proposed in the draft EA.**

(d) *De minimis fishing limits*, Amendment 15 is ambiguous with regard to allowable rates of *de minimis* fishing at stock sizes below 22,000. The Council will now have the opportunity to define limits to *de minimis* fishing at low stock sizes. The HVTC seeks to protect the long-term productivity of both KRFC and KRSC. Accordingly, **we recommend a *de minimis* rule which would preclude fishing at natural adult spawner populations (S) of 22,000 or less.** Presently, none of the proposed *de minimis* rules capture this intent. HVTC encourages the Council to develop such a standard which would curtail *de minimis* fishing at S of 22,000 or less. If the Council pursues a MSST of 0.5 of S_{MSY} (MSST = 20,350), Alternative 2, wherein the *de minimis* rate of fishing ($F = 0.25$) declines to zero mid-way between S_{MSY} (40,700 natural spawners), and MSST, would most closely represent HVTC's intent. The other alternatives presently offered in the draft EA lead to progressively greater threats to the long-term productivity of KRFC.