



HOOPA VALLEY TRIBAL COUNCIL

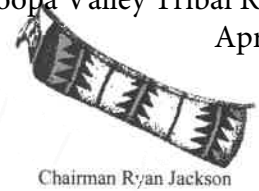
Hoopa Valley Tribe

Post Office Box 1348 Hoopa, California 95546

PH (530) 625-4211 • FX (530) 625-4594

www.hoopa-nsn.gov

Agenda Item F.1.e
Supplemental Hoopa Valley Tribal Report 2
April 2019



Chairman Ryan Jackson

March 28, 2019

Via electronic submission

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
Portland, OR 97220-1384

Re: **Tribal Supplemental Report under agendum F.1.e, Salmon Management,
“Tentative Adoption of 2019 Management Measures for Analysis”**

Dear Pacific Fishery Management Council members:

The following comments are submitted by the Hoopa Valley Tribe in advance of the PFMC’s April 9-16 meeting regarding 2019 salmon management measures. The Tribe has reviewed Preseason Report II and remains concerned that PFMC continues to evaluate and calculate incidental take impacts to SONCC coho based on the revised methodology first implemented in the 2018 management measures and without re-initiation of formal consultation.¹ The Tribe urges PFMC and NMFS to not use the revised methodology until such methodology is fully evaluated in a reinitiated formal consultation.

The Tribe has previously raised its concerns regarding the failure to reinitiate consultation in letters dated July 18, 2018 (60-day notice of intent to sue), February 7, 2019 (comments on KRFC rebuilding plan), February 25, 2019 (comments on 2019 salmon management measures), and February 28, 2019 (60-day notice of intent to sue). The Tribe also provided oral testimony to PFMC regarding this issue on March 8, 2019. Litigation brought by the Tribe regarding the use of the revised methodology without re-initiation of formal consultation remains pending in the Northern District of California.

In each year since the issuance of the 1999 Supplemental Biological Opinion and associated incidental take statement, until 2018, exploitation rates associated with incidental take of SONCC coho salmon were calculated without scaling for abundance. After nearly 20 years of evaluating compliance with the maximum 13% exploitation rate prescribed by the 1999 incidental take statement in a consistent manner, PFMC changed the way that such incidental take was calculated in order to allow a higher rate of Chinook harvest in 2018. *See* 2018 Preseason Report III. Absent the abrupt change in methodology, the approved level of Chinook harvest in 2018 would have likely resulted in an exploitation rate for SONCC coho in excess of the maximum 13% set by the incidental take statement. The increase in allowable Chinook harvest between Preseason Reports II and III in 2018 derived solely from the change in how incidental take of coho was calculated based on the STT Report. The change in methodology allowed PFMC and NMFS to arbitrarily claim that the coho exploitation rate was below 13% despite the increased Chinook harvest levels and despite the fact that the coho exploitation rate would have exceeded 13% absent the change in methodology.

In 2019, according to the alternatives proposed in Preseason Report II, the PFMC proposes

¹ The new methodology utilized in 2018 was first described in the *Salmon Technical Team Report on Tentative Adoption of 2018 Management Measures for Analysis: Investigation of Exploitation Rates on Rogue/Klamath Coho in Fisheries South of Cape Falcon* (April 2018) (“STT Report”).

ocean Chinook harvest south of Cape Falcon at increased levels as compared to 2018. Despite this increased ocean Chinook harvest, the 2019 Preseason Report II claims that the exploitation rate for SONCC coho will range from 5.8 to 6.2% depending on the alternative selected. Preseason Report II does not mention that this 5.8 to 6.2% exploitation rate is being calculated in a manner that is significantly different from how the exploitation rate was calculated between 1999 and 2017. Nor does Preseason Report II discuss what the exploitation rate for SONCC coho would be if such rate were calculated consistent with the methodology used between 1999 and 2017. Given the increased harvest levels proposed for 2019, it is likely that the exploitation rate for SONCC coho would exceed the 13% maximum set forth in the governing 1999 incidental take statement if such exploitation rates were calculated consistent with the methodology used between 1999 and 2017.

The Tribe is concerned with PFMC's failure to disclose in its Preseason Reports that the exploitation rate for SONCC coho is being calculated in a manner that differs from how it was calculated from 1999 to 2017. This lack of disclosure could mislead the public into believing that an exploitation rate of 5.8% for 2019 is comparable to a similar exploitation rate for years prior to 2018. This lack of disclosure regarding the changed methodology makes it appear that exploitation rates are comparable to or lower than years prior to 2018. At minimum, the change in methodology makes it impossible to meaningfully compare exploitation rates that occurred before and after 2018 due to the change in methodology that occurred in 2018.

The Tribe again urges the PFMC and NMFS to reinitiate formal consultation regarding the use of the new methodology and more broadly regarding the impacts of the ocean fishery on SONCC coho. The governing Biological Opinion is now 20 years old. SONCC coho have failed to recover over the past 20 years and remain at high risk of extinction. In addition to the change in methodology for calculating incidental take, there is other significant new information relevant to SONCC coho that has become known over the past 20 years relating to disease impacts, adverse ocean conditions, and climate change impacts. The governing Biological Opinion is significantly outdated and it is not apparent that a 13% maximum exploitation rate is sufficiently protective for imperiled SONCC coho in light of this new information.

The ocean Chinook fishery will result in impacts to SONCC coho that are more significant than are being disclosed by PFMC in its Preseason Report II (due to the change in methodology). In addition to immediately re-initiating formal consultation to reassess impacts and appropriate standards for protection of SONCC coho, the Tribe recommends that PFMC and NMFS manage the ocean Chinook fishery affecting SONCC coho in 2019 under Alternative 2. Selecting this management alternative for the 2019 ocean fishery affecting SONCC coho and Klamath River Fall Chinook (KRFC) would also further the goals of the KRFC rebuilding plan.

Sincerely,

HOOPA VALLEY TRIBAL COUNCIL

Alexis Billy Vice Chairman
for Ryan Jackson, Chairman

cc. Sarah Sheffield, DOJ