

ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS

Raymond Watson, Chairperson | Vivian Korthuis, CEO | AVCP.org



Administration

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January 13, 2023

Gretchen Harrington
Assistant Regional Administrator
NMFS Sustainable Fisheries Division, Alaska Region, Attn. Records Office
P.O. Box 21668
Juneau, AK 99802-1668

Submitted electronically via Regulations.gov, NOAA-NMFS-2022-0094

RE: AVCP Comments on Proposed 2023 and 2024 Harvest Specifications for BSAI Groundfish

Dear Assistant Administrator Harrington,

The Association of Village Council Presidents (AVCP) is the largest tribal consortium in the Nation with 56 federally recognized Tribes as members. Our Region is approximately 55,000 square miles, with a population of 27,000 residing in 48 communities along the Yukon River, Kuskokwim River, and Bering Sea Coast. Our mission is to work together with Tribes to enhance sovereignty, self-sufficiency, and our Way of Life. As part of our mission, we have long been committed to advocating for the protection of the Bering Sea and its resources.

AVCP urges the Secretary of Commerce to review the 2023 and 2024 harvest specifications, apportionments, and prohibited species catch (PSC) allowances for the groundfish fisheries of the Bering Sea and Aleutian Islands (BSAI) management area, as proposed by the National Marine Fisheries Service (NMFS) and approved by the North Pacific Fishery Management Council (Council) at its December 2022 meeting. We specifically request an explanation of whether these proposed specifications will have significant impacts on salmon bycatch, and we request consultation with the Secretary and her staff on this issue. The harvest specifications are based on outdated environmental analyses in the Harvest Specifications environmental impact statement (EIS) and the Alaska Groundfish Fisheries programmatic supplemental EIS (PSEIS). We appreciate NMFS' and the Council's recent recognition that the PSEIS should be reevaluated and ask NMFS to take a precautionary approach to fisheries management decisions, like the harvest specifications decision, while it updates that analysis.

Our Tribes are experiencing a multi-year, multi-species salmon disaster with direct consequences to our food security, culture, and way of life. Chinook salmon have been in serious decline in the Arctic-Yukon-Kuskokwim region for over a decade, and amounts necessary for subsistence (ANS) have not been met for ten years on the Kuskokwim River and have not been met for the majority of the past two decades on

Akiachak, Akiak, Alakanuk, Andreafski, Aniak, Atmautluak, Bethel, Bill Moore's Sl., Chefornak, Chevak, Chuathbaluk, Chuloonawick, Crooked Creek, Eek, Emmonak, Georgetown, Goodnews Bay, Hamilton, Hooper Bay, Lower Kalskag, Upper Kalskag, Kasigluk, Kipnuk, Kongiganak, Kotlik, Kwethluk, Kwigillingok, Lime Village, Marshall, Mekoryuk, Mtn. Village, Napaimute, Napakiak, Napaskiak, Newtok, Nightmute, Nunakauyak, Nunam Iqua, Nunapitchuk, Ohogamiut, Oscarville, Paimiut, Pilot Station, Pitka's Point, Platinum, Quinhagak, Red Devil, Russian Mission, Scammon Bay, Sleetmute, St. Mary's, Stony River, Tuluksak, Tuntutuliak, Tununak, Umkumiut

the Yukon River. Chum salmon in Western Alaska are in their third year of extreme decline, failing to meet ANS and escapement goals. In 2022, the Yukon River experienced its lowest Chinook run and second lowest summer chum run ever.¹ In addition, our region experienced a sudden, dramatic collapse of coho salmon populations in 2022, further compounding food security crises and threats to our Indigenous Way of Life that have unfolded in the wake of Chinook and chum salmon declines.²

Recognizing cumulative salmon bycatch by the BSAI pollock fishery as part of the suite of factors negatively impacting Western Alaska salmon, our 56 federally recognized Tribes have raised concerns over Chinook and chum salmon bycatch for years. Since at least 2021, we have repeatedly called upon the Council and NMFS to lower the Chinook salmon PSC limit and to establish a PSC limit for chum salmon—which, at this time, is essentially unrestricted—as part of our ecosystem-wide efforts to minimize threats to salmon escapement and our subsistence Way of Life. While the Council recently initiated a process to reduce chum salmon bycatch, this process is likely to be lengthy. At present there is no process in place to further reduce Chinook salmon bycatch. The proposed harvest specifications, apportionments, and PSC limits do not consider the current status of Chinook and chum salmon in our region and, if approved, will continue to decimate the survival of our salmon and subsistence Way of Life throughout Western and Interior Alaska.

Specifically, the total allowable catch (TAC) for the BSAI pollock fishery has remained higher than is sustainable for the Western Alaska Chinook and chum salmon that our Indigenous communities rely upon for our survival. These harvest specifications propose to increase this TAC in the 2023 and 2024 seasons, increasing the pollock fleet’s opportunities to incidentally catch salmon bound for Western and Interior Alaska without meaningful restrictions. In the Harvest Specifications EIS that informs this decision, NMFS recognized that “[s]almon bycatch is likely to be higher” when there is a “higher pollock TAC”³ Yet, the current process of establishing TAC and other harvest specifications does not account for the viability of all species dependent upon the Bering Sea ecosystem, including Western Alaska salmon.

Moreover, the establishment of new salmon bycatch avoidance measures has been relegated by NFMS and the Council to, first, the industry to employ voluntary incentives, and second, to a consensus-based committee process composed of industry and Tribal representatives that will take years to bear meaningful action. The Secretary rejected an emergency petition that AVCP, along with other regional Tribal organizations, submitted in December 2021 asking for help alleviating this crisis. In light of the food and cultural security crisis afflicting our communities, the exclusion of our salmon-dependent people and lack of urgency to restore Western Alaska salmon populations is exploitative and disastrous.

It is imperative to recognize the cumulative and coinciding effects of soaring pollock TAC and continued salmon bycatch on Western Alaska salmon populations—and therefore on our salmon-dependent

¹ A. MacArthur, *Subsistence fishing for Yukon River Chinook and summer chum will likely remain closed through the end of the season*, ALASKA PUBLIC MEDIA (July 7, 2022).

² See KRITFC, *2022 Kuskowim River Salmon Situation Report* (Dec. 2, 2022) (https://www.kuskosalmon.org/s/Salmon-Sit-Report-2022_DEC-UPDATE.pdf) (attached).

³ NMFS, *Alaska Groundfish Harvest Specifications Final EIS* at iv (2007); see also *id.* at 7-13 to 7-14 (recognizing that alternatives with lower pollock TAC will likely decrease salmon bycatch).

Indigenous families and communities. The profit gained by the BSAI pollock industry through these proposed harvest specifications, if accepted, will come at the cost of Western Alaska salmon escapement and our Way of Life. Tribes have expounded these facts on the record for several years, including to the Council, NMFS, and the Department of Commerce during in-region Tribal Consultations in the fall of 2022.

AVCP thus urges the Secretary of Commerce to review these proposed 2023 and 2024 harvest specifications and issue an explanation describing how these specifications, if accepted, will affect salmon bycatch. Additionally, in the meantime, we urge NMFS to take a precautionary approach to fisheries management decisions, including these harvest specifications, until updates have been made to the Harvest Specifications EIS and the Alaska Groundfish PSEIS upon which they are based.

It is in the Secretary's power to use her best judgement to interpret the National Standards laid out by the Magnuson-Stevens Act, which call for precautionary, sustainable management by setting optimum yield (OY) and reducing maximum sustainable yield (MSY) and TAC according to any relevant economic, social, and ecological factors. Specifically, the National Standard 1 guidelines clarify that the Council must consider social, economic, and ecological factors.⁴ Under National Standards 4 and 8, the Secretary must allocate fishery resources fairly among fishermen and adopt conservation and management measures that account for the importance of fishery resources to communities.⁵ The Secretary must also minimize bycatch, as required under National Standard 9.⁶ In the proposed harvest specifications decision, the Secretary has not provided a sufficient consideration of the ecological, economic, and social factors required under the national standards. The proposed decision prioritizes maximizing groundfish harvest above all other considerations. The failures to provide for escapement goals and subsistence opportunities for Western Alaska Native families for a decade are relevant factors that warrant a reduction to pollock MSY and TAC. There must be consideration of these factors and appropriate limits set for the 2023 and 2024 specifications.

Furthermore, in the wake of cumulative significant impacts from current commercial fishing in conjunction with climate change impacts on Western Alaska's salmon populations, we must rely on precautionary management measures to restore, maintain, and conserve our salmon stocks to protect our food security, cultural practices, and Way of Life for this and future generations. The food, ecological, economic, cultural, and social crises unraveling in our Tribal communities linked to ongoing salmon

⁴ Social factors include "the effects that past harvest levels have had on fishing communities, the cultural place of subsistence fishing, obligations under tribal treaties, proportions of affected minority and low-income groups." Economic factors include "alternate employment opportunities," of which there are few in our subsistence-dependent communities. Ecological factors include impacts to "other fisheries," which should include PSC species like Chinook and chum salmon. Additionally, the National Standard 1 guidelines state: "Species interactions that have not been explicitly taken into account when calculating MSY should be considered as relevant factors for setting OY below MSY." 50 C.F.R. § 600.310(e)(3)(iii)(B). This undoubtedly widens the scope of ecological considerations the Council must consider in setting MSY, OY, and TAC to include salmon and other species dependent upon the same BSAI ecosystem as pollock. *See* 50 C.F.R. § 600.310.e.3.iii.B National Standard 1 - Optimum Yield. *See also* 50 C.F.R. § 679.20(a)(3) (giving the Secretary authority to decrease TAC to lessen the socioeconomic impacts on fishing-dependent communities).

⁵ *See* 50 C.F.R. §§ 600.325, 600.345.

⁶ 50 C.F.R. § 600.350.

shortages are economic, social, and ecological factors that the Secretary must address through reductions in MSY. They warrant the Secretary's immediate reevaluation of these proposed harvest specifications.

The need for precautionary management is particularly critical because NMFS has not analyzed any of these significant changes related to climate, declining salmon populations, or their impacts on Tribal communities in an up-to-date environmental analysis. While the Council recognized, in an October 11, 2022 motion, that the environmental analysis that guides its groundfish fishery management plan for the BSAI and implementing decisions—including the annual harvest specifications decision—needs to be revisited to consider these and other significant ecosystem changes, the Council and NMFS continue to make decisions based on that outdated analysis. The annual Harvest Specifications EIS, completed in 2007, provides the basis for annual decisions about TAC, apportionments, time and area restrictions, and other critical fisheries management decisions. That EIS, in turn, relies on the outdated PSEIS. As explained in our October 8, 2022 letter to the Council and NMFS, in the last decade, the North Pacific ecosystem has experienced extreme warming and other climate-related changes not expected to occur until mid-century.⁷ These changes include shifts in physical oceanography, such as the loss of sea ice, a general decrease in the size of the “cold pool,” and increased salinity and acidification. The ecology of the ocean is changing as well. Productivity in the Northern Bering Sea has decreased, and many forage fish populations are in decline.

As changes in climate continue to affect the marine ecosystem, studies project a general decrease in fish productivity as well as a decrease in overall biomass in the North Pacific for a number of key groundfish species.⁸ The Bering Sea snow crab and Bristol Bay red king crab fisheries have collapsed.⁹ These changes are interconnected and relevant to the decisions the Council and NMFS make in managing groundfish fisheries. NMFS cannot continue to make management decisions based on outdated analyses that do not consider the effect of continuing to set TAC at high levels in light of these significant changes. NMFS should take a precautionary approach in its fisheries management measures until it provides an updated, comprehensive environmental analysis to guide those decisions.

We request an opportunity to consult with you to discuss this at your earliest convenience.

⁷ See Association of Village Council Presidents *et al.*, Letter to Council and NMFS re: E Staff Tasking – PSEIS/SIR (Oct. 8, 2022), including attached K.K. Holsman *et al.*, *Ecosystem-based Fisheries Management Forestalls Climate-Driven Collapse*, NATURE COMMUNICATIONS at 2 (2020) (attached); C. J. Markon *et al.*, *Alaska, in Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment, Volume II* (2018) (https://nca2018.globalchange.gov/downloads/NCA4_Ch26_Alaska_Full.pdf) (attached).

⁸ See J. C. P. Reum *et al.*, *Ensemble Projections of Future Climate Change Impacts on the Eastern Bering Sea Food Web Under a Multispecies Size Spectrum Model*, 7 FRONTIERS IN MARINE SCIENCE at 7-8, 13 (2020) (attachment to Association of Village Council Presidents *et al.*, Letter to Council and NMFS re: E Staff Tasking – PSEIS/SIR (Oct. 8, 2022)) (attached).

⁹ Y. Rosen, *Alaska Crab Fishery Collapse Seen as Warning About Bering Sea Transformation*, ALASKA BEACON (Dec. 19, 2022).

Sincerely,

ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS

A handwritten signature in cursive script that reads "Vivian Korthuis".

Vivian Korthuis
Chief Executive Officer

CC:

Jon Kurland, Regional Administrator – Alaska, National Oceanic and Atmospheric Administration

Janet Coit, Assistant Administrator, National Marine Fisheries Service

Rick Spinrad, Under Secretary of Commerce for Oceans and Atmosphere, National Oceanic and
Atmospheric Administration

Zach Penney, Senior Advisor, National Oceanic and Atmospheric Administration

Bryan Newland, Assistant Secretary for Indian Affairs, Department of the Interior

Raina Thiele, Senior Advisor for Alaska Affairs and Strategic Priorities, Department of the Interior