



Elizabeth Andrews PhD
USA

Co-Chairs

Frank Quinn
Canada

Yukon River Panel 100-419 Range Road Whitehorse, Yukon Y1A 3V1

February 20, 2009

Robert D. Mecum, Acting Administrator
National Marine Fisheries Service, Alaska Region
PO Box 21668
Juneau, AK. 99802

RE: Salmon Bycatch EIS

Dear Mr. Mecum:

This letter conveys comments and recommendations of the Yukon River Panel regarding the Bering Sea Chinook Salmon Bycatch Management Draft Environmental Impact Statement/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (DEIS/RIR/IRFA) which was filed in November 2008 (*Federal Register*, Vol. 73, No. 235, 12-05-08) for public review.

The Yukon River Panel is an international advisory body established under the Yukon River Salmon Agreement for the conservation, management, restoration, and harvest sharing of Canadian-origin salmon between the United States and Canada. This Agreement constitutes Chapter 8 of the Pacific Salmon Treaty¹, which means it has the full power and force of an international treaty between our two nations.

In December 2008, Dr. Diana Stram of the North Pacific Fishery Management Council (NPFMC) presented to Panel members an overview of the management alternatives. Members much appreciated this presentation and the opportunity to ask questions of Council members and staff about the alternatives and information presented. Since then, some Panel members have attended one or more presentations of draft reports on industry incentive-based programs, as the concept of an incentive program is a key element of the preliminary preferred alternative (PPA) described in the DEIS. These presentations were in Anchorage in December 2008 and January 2009; and in Seattle in February 2009.

¹ <http://www.psc.org/pubs/treaty.pdf> accessed February 2009

The Yukon River Panel recommends immediate action by the National Marine Fisheries Service (NMFS) to reduce salmon prohibited species bycatch in the Bering Sea pollock fishery. The Panel recommends that NMFS have emergency regulations ready to adopt until such time as the preferred alternative adopted by the North Pacific Fishery Management Council (NPFMC or Council) and associated regulations go into effect in 2011, the current estimated year for implementation. Reducing salmon bycatch is a key element in the international Yukon River Salmon Agreement and further delay is unacceptable.

The Yukon River Panel recommends immediate action to adequately fund and conduct a long-term, scientific genetic sampling program designed to fully represent, annually, the genetic contributions of the salmon bycatch. These samples need to be analyzed to provide information on the salmon stock composition in the pollock fishery prior to and after implementation of management changes for the Bering Sea fishery. It is grossly inadequate to evaluate impacts of the Pollock fishery on the salmon genetic stock using an unsatisfactory number of opportunistically collected samples during recent years. The EIS analysis indicated a moderate percentage of Pacific Northwest Chinook salmon stocks in samples collected to date. If those stocks are present at the identified levels, one would expect observers would be collecting fin-clipped (marked) hatchery fish from the Pacific Northwest. However, the analysis only identified the fin-clipped/coded-wire-tagged fish recovered for two Pacific Northwest ESA Chinook salmon stocks (p. 244). The actual or estimated coded-wire-tag recoveries for all Pacific Northwest stocks caught as bycatch should be evaluated against the estimated Pacific Northwest genetic estimates to assess concordance. Long-term genetics data collection and analysis is essential for designing a program to avoid catches of western Alaska and Canadian-origin Chinook salmon stocks and should be checked against other data sources to evaluate agreement. Techniques for in-season stock identification are now possible and should be used.

The Yukon River Panel supports final action by the Council in April 2009 to meet the goal as stated in the EIS of controlling and reducing salmon bycatch regardless of annual abundance. Any further delay would be detrimental to the salmon resource, meeting escapement objectives, and the communities and people who depend on the salmon resource, both in the US and Canada. The Panel recognizes there are deficiencies in the EIS. The public has been commenting on these and these will be included as part of the process.

The Yukon River Panel supports regulations and programs that may close areas where high Chinook bycatch rates occur; or time periods when bycatch rates are high and a hard cap is projected to be exceeded. The EIS clearly showed a trend of increased Chinook bycatch during the month of October. The Panel recognizes that some areas may change from season to season, whereas others may be closed indefinitely based on consistently high bycatch rates. Regulations and programs must be flexible enough to address existing hot spots and new hot spots during the fishing season.

The Panel supports continued efforts by the pollock industry to develop and implement programs and fishing techniques to reduce salmon bycatch. Both regulatory and non-regulatory measures are necessary in reducing salmon bycatch. We encourage incentive programs that are likely to work from the outset of implementation, recommending they be evaluated against meaningful performance measures.

The Panel supports 100% observer coverage for all sectors and vessels. It is essential to improve the salmon bycatch estimate through better accounting, location of harvest, genetic stock identification, and bycatch rate information. Full observer coverage will improve scientific genetic sampling of the salmon bycatch for all parameters and assessment of the impact of the pollock fishery on the salmon resource.

The Yukon River Panel does not support a regulatory cap of 68,392 in any scenario. Since 1991, this cap would only have effectively reduced bycatch in 2006 and 2007. Because the EIS analysis is focused on bycatch in years 2003-2007, it appears such a cap would have affected two out of five years (2003-2007). However, these are the highest years of bycatch on record. Having a hard cap based on the highest bycatch years would not serve to reduce marine catches and is contrary to the Yukon River Salmon Agreement to reduce bycatch. A cap of 68,392 has the effect of maximizing bycatch rather than minimizing bycatch as required under National Standard 9 and under the Yukon River Salmon Agreement signed in 2002. Precautionary measures are necessary to conserve Yukon River Chinook salmon.

The Yukon River Panel recommends an interim hard cap of 37,000, under Alternative 4 (PPA2). Consistent with the Panel's previous communications with the NPFMC (letters of February 5, 2008, June 3, 2008, and January 26, 2009, among others), the primary concern is when Bering Sea salmon bycatch exceeds 37,000 Chinook salmon, some portion of the Yukon River Alaskan and/or Canadian escapements or harvests have been less than expected, reduced, or restricted. The Panel is opposed to a hard cap of 47,591 as this appears to jeopardize meeting salmon escapement goals in both the US and Canada. Establishing a hard cap of 47,591, even in conjunction with triggered closures or incentive programs, essentially continues to place the burden of conservation solely on in-river managers and fishermen while the marine fishery continues unchecked. Our responsibility is to endeavor to increase in-river runs by reducing marine catches of Yukon River salmon. We recommend an immediate interim cap level of 37,000, with a subsequent reduction within five years to a hard cap of 32,482 or less. A hard cap of 32,482 is based on the 1992-2001 average prior to when the Agreement was signed in 2002.

The Yukon River Panel does not support Alternative 1: Status Quo. The annually increasing salmon bycatch amount that has been harvested since 2001, shows that the current Chinook Salmon Savings Area closures and the inter-cooperative agreement, under the BSAI Fishery Management Plan (FMP) Amendment 84, have not effectively reduced or minimized bycatch of Yukon Chinook salmon stocks. If changes in the American Fisheries Act (AFA) and associated regulations resulted in increased bycatch during the 2000s, it should not be construed as a justification to allow a higher take of prohibited species above those taken on average from 1992-2001.

The Yukon River Panel does not support the preliminary preferred Alternative 4 (PPA1), which is based on an industry incentive program to reduce Chinook bycatch. The industry incentive program cannot be analyzed historically to determine its effectiveness, nor can an analysis be done to determine its effectiveness in the future. Currently, this incentive program is tied to high bycatch levels such as 68,392. As noted above, the Yukon River Panel cannot support these high bycatch caps. If the incentive program works well then a lower cap should suffice. There is no

greater incentive to reduce bycatch than a cap that reduces bycatch to the historical average (1992-2001) prior to 2002.

The Yukon River Panel does not support a rollover of bycatch from A season to B season if the cap is 47,591 or higher, because these caps do not effectively minimize bycatch. It appears that a rollover could result in higher bycatch in the following B season. However, if the hard cap is 37,000 or lower, then a rollover provision would be more acceptable, because a lower cap will result in minimizing the overall bycatch.

The Panel makes these recommendations because the Yukon River Salmon Agreement when signed in 2002 included the provision in the Pacific Salmon Treaty, Chapter 8, paragraph 12: “the Parties shall maintain efforts to increase the in-river run of Yukon River salmon by reducing marine catches and by-catches of Yukon River salmon. They shall further identify, quantify, and undertake efforts to reduce these catches and by-catches.” At that time, Chinook salmon bycatch was roughly one-half the 2003-2007 bycatch used in the analysis. Furthermore, approximately 50 percent of Yukon River Chinook salmon are of Canadian-origin, making the international impact of marine bycatch an important element to include as a supplement to the analysis. In spite of very conservative in-river management actions since 2000, these conservative management actions, the Canadian escapement objective for Canadian-origin Chinook in 2007 and 2008 was not achieved.

We support responsibly managed and monitored, sustainable fisheries and recognize that nearly every fishery has some level of bycatch. We urge the continuation and expansion of scientifically collected and analyzed genetics data as this is essential for designing a program to avoid catches of Western Alaska and Canadian-origin Chinook salmon stocks. We support continued studies on bycatch reduction efforts, such as salmon excluder devices and studies on the effect of fishing tow speed and depth on salmon bycatch.

We urge an immediate cap of the Chinook salmon bycatch at 37,000 using emergency regulatory authority, until the preferred Council final action goes into effect. We also strongly support final action by the Council in April 2009 on an alternative that achieves protection of Chinook salmon stocks of US and Canadian-origin and provides a sustainable resource for the many people whose livelihoods and traditions depend upon them, including the people of the Yukon River drainage. We will continue our work to conserve and manage Chinook salmon in-river to meet agreed upon escapement objectives of Canadian-origin stocks. Appropriate regulatory and non-regulatory measures for reducing Chinook salmon bycatch in the marine fisheries; complete monitoring by observers; full accounting of the bycatch, and identifying stocks of origin are essential to this work.

Sincerely,



Elizabeth Andrews
Co-Chair



Frank Quinn
Co-Chair