

Tribal Consultation Between the Central Council Tlingit and Haida Tribes of Alaska (CCTHITA) and the National Marine Fisheries Service (NMFS) on the Notice of Intent for a Southeast Alaska (SEAK) Environmental Impact Statement (EIS) on the Incidental Take Statement (ITS) for Southeast Alaska fisheries

Date/Time: October 30, 2023 / 4:00 PM - 5:00 PM

Attendees:

CCTHITA: Richard Peterson (President), Jill Weitz (Government Affairs, Office of the President), and Heather Gatti (Government Affairs, Office of the President).

NOAA NMFS: Jon Kurland (Regional Administrator), Jamal Moss (Deputy Regional Administrator), Gretchen Harrington (Assistant Regional Administrator, Sustainable Fisheries), Charlene Felkley (Acting Chief of Staff), Abby Jahn (Sustainable Fisheries Management Specialist), and Amilee Wilson (Regional Tribal Relations Coordinator).

Summary Meeting Notes

Meeting Opening/Logistics *(Facilitator: Amilee Wilson)*

Handling of Meeting Notes: Amilee Wilson NMFS

- A summary from the notes of this meeting will be posted to the NMFS Alaska Region website.
- All parties will have the opportunity to review and approve the summary meeting notes from the Consultation before posting to the NMFS website.
- NMFS has limited capacity to protect the confidentiality of information provided by the Tribe consistent with the requirements of the Freedom of Information Act (FOIA).
- If tribal parties choose to share sensitive information with us that is not intended to be on record but for our working knowledge, please let us know ahead of time so we can pause our notetaking efforts.

Welcome and Introductions *(President Peterson and Jon Kurland)*

Welcome and Introductions were given by NMFS and CCTHITA leadership (President Peterson; Jon Kurland) and their respective staff.

Discussion *(Co-facilitators: President Peterson and Jon Kurland)*

Jon Kurland provided an overview on the status of the Southeast Alaska (SEAK) Environmental Impact Statement (EIS) and court order. The region was expecting to do an action through an Environmental Assessment (EA) and after long conversations they determined that an environmental impact statement was appropriate. This process was recently initiated and somewhat of a challenge for the agency because the NMFS is not the manager of the SEAK salmon fisheries. Partnering with the Alaska Department of Fish & Game was key to making

sure the fisheries were described properly, including socioeconomic impacts. NMFS needs help from CCTHITA to describe impacts to tribal communities and share their areas of expertise so that a comprehensive description of affects are captured. Gretchen Harrington is overseeing the process and can provide more details. NMFS is aware of the previous staff discussions that have taken place and the willingness to collaborate between federal and tribal governments. Kelly Cates is the project lead but was not able to join the meeting. There is an opportunity for Tribes to become a cooperating agency on development of the SEAK EIS through the NEPA process. This agreement can be done through a letter between NMFS and CCTHITA. Then tribal staff can work with Kelly to provide information on tribal impacts.

President Peterson asked the following questions: What does a cooperating agency mean to you? And, how is it different from government to government consultation?

Gretchen mentioned that being a cooperating agency is an opportunity for the tribe to be a lead agency under NEPA to work with other federal and state agencies. It is a way to work closely with other agencies in the writing of the SEAK and a way to document who has helped in preparing the federal document. The next step would be for NMFS to write a letter inviting CCTHITA to be a cooperating agency and the CCTHITA can respond in agreement to be a cooperating agency, if that is their desire. If NMFS and CCTHITA can work out an agreement, and if we can finish the EIS in time for our deadline, it would be the fastest EIS completed for the agency. NMFS welcomes additional tribal staff capacity and expertise in this endeavor. The federal and tribal governments would work together to identify which components of the SEAK EIS would be reviewed and key questions that require special expertise.

President Peterson affirmed that CCTHITA was interested in being a cooperating agency and that tribal staff could respond to NMFS' letter of request. The CCTHITA has experience working with other federal agencies as a cooperating agency. While the Wild Fish Conservancy is the "flavor of the day", CCTHITA believes they should be working with NMFS and this tribal consultation is laying the groundwork for that.

Gretchen Harrington mentioned that NMFS will write the letter and to feel free to respond with any comments or concerns.

Jon Kurland stated that the cooperating agency clearing defines and delineates the roles of each entity. NMFS will share the draft SEAK EIS and roles with the CCTHITA so there is a clear understanding of the respective responsibilities. This will minimize any chance of disconnect or misunderstanding.

Jill Weitz asked the question: What is the timeline on completion of the SEAK EIS?

Gretchen Harrington stated that the letter inviting CCTHITA to be a cooperating agency could be sent as early as this week. The CCTHITA would respond, including a description of any concerns. NMFS and tribal staff would sit down at staff level and have a discussion regarding components of the SEAK EIS and determine responsibilities for completion. NMFS' plan is to have most of the draft SEAK EIS written by the end of November. NMFS would address gaps

for publication in December. The SEAK EIS would be submitted in January. NMFS and CCTHITA would develop a strategy for what needs to be addressed.

Jill Weitz asked: What about the potential agency furlough? Would it be possible to send the letter now and have CCTHITA in the queue?

President Peterson thanked NMFS staff for allowing CCTHITA to be part of this project. They are here to participate and eager to lean into this action, review the cooperating agency agreement, and work with Kelly Cates. CCTHITA will talk with the tribal council team and use the information already compiled for amicus briefs one and two. CCTHITA appreciates the opportunity to be engaged. For the SEAK EIS in particular, how does it parallel with the new biological opinion that you are all working on?

Gretchen Harrington stated that this is a brand new process and we're currently figuring this out within the constraints of the court order. NMFS typically does not do an EIS for an Incidental Take Statement (ITS). An ITS is a typical outcome of a biological opinion. We are exploring the NEPA process on how to coordinate the SEAK EIS with the biological opinion. The Record of Decision (ROD) comes thirty days after the final EIS and response to comments on the draft. NMFS plans to publish the draft SEAK EIS in January, before issuing the biological opinion, and will be coordinating closely on these two components. Not only is this action a completely different way of doing things but NMFS is also required to accomplish this task within record time.

Jill Weitz requested that we include this information in the cooperating agency letter and any other ways CCTHITA can be supportive with outreach to other tribes.

Gretchen Harrington stated that we provided an invitation for tribal consultation to all SEAK Tribes. Currently, the CCTHITA was the only tribe to respond and show interest as a cooperating agency. This is a new process for NMFS that fulfills our goals for better collaboration with tribes and we are still learning.

Jill Weitz mentioned that she reviewed some information that Kelly Cates provided and submitted it to President Peterson for review. If President Peterson approves, she would be happy to review other components and provide additional information. The Tribes have plenty to share regarding fisheries management and their effects. Is it possible to incorporate this into the cooperating agency draft given what President Peterson authorizes?

President Peterson affirmed his authorization to work with NMFS staff on this action.

Jon thanked CCTHITA for their interest and engagement and mentioned that their collaboration is much appreciated. NMFS has a lot ahead of us to accomplish, and with tribal assistance, we are well positioned for it. Now the parties can address what needs to be done.

President Peterson shared his thanks again for the opportunity to have these discussions and coordinate on amicus briefs to demonstrate what tribal and federal governments can do when engaged and involved in federal actions. Jon Kurland agreed.

Next Steps

1. NMFS will send the cooperating agency letter to CCHITA
2. Kelly Cates will coordinate with Jill Weitz to set up a staff level meeting to discuss logistics

Note: Jill Weitz mentioned that she would be working remotely for the next couple months. She may not be able to join the next coordination meeting to discuss details but Heather Gatti may be able to assist.

Meeting Adjourned: 4:37PM AKST