

# **Cook Inlet Salmon Fisheries Management Plan (FMP)**

## **Amendment 16**

### **Tribal Engagement Meeting**

#### **December 5, 2023**

#### **SUMMARY**

#### **Attendees**

- Tribes: Ivan Z. Encelewski, Ninilchik Tribe; Jessica Winnestaffer, Chickaloon Native Village; Debra Call, Knik Tribe
- NMFS: Richard Brenner, Sustainable Fisheries Supervisor; Doug Duncan, Fishery Management Specialist; Amilee Wilson, Tribal Liaison

**Meeting commenced @ ~1:00pm ASKT**

#### **Welcome & Logistics (*Co-facilitators: Debra Call and Amilee Wilson*)**

- Google Virtual Platform logistics; refresher on how to navigate the Google platform
- Introductions by all participants
  - Tribes thank NMFS
  - Tribal participants are familiar with the area and are looking at the action from a tribal point of view
  - Ninilchik Tribe; there are other Cook Inlet Sovereign Tribal Nations that have their own comments
  - NMFS happy to know tribal comments and have a discussion

#### **Status Update on Amendment 16 Action**

- NMFS provided a status update on the Cook Inlet Fishery Management Plan and associated timelines for completion.
  - Informed of history of EEZ fishery, formal comment process, and history of lawsuit
  - Public comment period on the proposed rule closes December 18, 2023

#### **Tribes**

- Ninilchik Tribe
  - Appreciate the ability to have this discussion with NMFS
  - The Tribe has never had to advocate because access came out of commercial and recreational needs
  - Tribe opposes any state management as the State does not operate under the Magnuson-Stevens Fishery Conservation and Management Act (MSA)
  - Federal management and permitting is fully supported
  - The tribes is interested in food security and sovereignty and want a tribal set aside
    - Tribes have the right to be identified as a user in the EEZ
    - Subsistence is one tenth of 1% of the harvest and very supportive of our Indigenous rights
    - The tribe would like the fishery management plan (FMP) to consider

- commercial and subsistence interests
  - Indigenous people have been here for thousands of years; it is our customary practice. We are federal subsistence users and it is not our fault because we were regulated out of the process. NMFS needs to find a way and process to incorporate tribal people
- One problem is that the federal government wants management within spawning areas
  - Three miles offshore is a large process; state and federal governments have one continuous management structure, which is not reasonable
  - We are back to where state cannot manage federal subsistence because it didn't comply with Alaska National Interest Lands Conservation Act (ANILCA)
  - We work with commercial fishermen, including setnetters. They are not the enemy.
- Thoughts on a tribal set-aside/subsistence fishery
  - Look at federal halibut fisheries and federal subsistence as a model.
  - There could be 1,000 users who would spend one million to get fish
  - The potential is out there alongside individual subsistence users
  - We are listed as a rural and tribal community; our preference would be tribal - not rural or nonrural designations
  - Permits would be very limited.
  - Complications include the type of fish harvested and from wherein the EEZ
  - There are a lot of logistical challenges
  - It would be easy to report fish harvested in the EEZ
  - Family need depends on how big the household is but we can work this out through discussions
  - Gear used in the EEZ would be gillnet in the 60 fathom range and mesh size is not a large concern; no need for 6 inch mesh for simple household allotments
  - Proxy fishing for a larger tribal community is a must because not all Tribal members have their own boats
  - Set the system up similar to the federal Subsistence Halibut Registration Certificate (SHARC) card permit process but for salmon
  - There can be a maximum allocation and reporting system; current fishing reporting requirements need improvement but this data has been used for our benefit
  - For timing, a subsistence fishery in the EEZ in February would not be feasible
    - Tribal boats would end up under the ice and interfering with the resident fishery
    - Ninilchik Tribe would envision a time frame of mid-June to mid-August
  - For enforcement
    - Tribes have a right to fish within their own enforcement regime
    - Subsistence harvest impacts are so minimal that there are commonly not enforcement issues because the number of subsistence fishermen is very limited

- It is the same for halibut, which has led to over-enforcement on the halibut side
  - Appreciated the comments made regarding the Tribe not being a stakeholder and the importance of and NMFS commitment to the federal-tribal trust responsibility
  - Tribes should have a seat at the table for federal subsistence
- Knik Tribe
  - A number of tribal members are or were commercial fishermen and are familiar with the EEZ
    - Tribes have the experience and understanding of the location, tribal subsistence and food security issues with ties and working knowledge of the fishery
    - One individual from their Tribe has the capability to harvest and provides fish to elders and members in need on our own terms
    - We appreciate Ivan's [Ninilchik Tribe] knowledge of marine area and are happy to work with Ninilchik on the request for a tribal subsistence set-aside
  - Educational permits
    - Helps to supply food to our native families, but it shouldn't be that way
    - Hold a limited educational permit to obtain fish for the community
    - The Tribe is not able to feed all of their families
    - With 37 people and 50 fish to share within the village, this does not provide enough for a 5 month winter supply
    - Our small tribal village is not looking for much but needs food security
  - Fish management and enhancement
    - Every Cook Inlet tribe involved
    - We have been involved in and committed to stream enhancements and studies to improve salmon populations
    - Cook Inlet Tribes are contributing to fish and their habitats while looking at it from a sustainable point of view
    - Tribes meet twice every year with hundred percent attendance to talk about what each Tribe has done with fisheries enhancement
    - Tribes are also training their young people to take care of fish stocks
    - Striving to make the Eklutna River a salmon stream again
    - Encountering increased tanker vessel traffic and effluent dumping south of Anchorage that has affected fish runs and numbers of returns
    - Working with the municipality to demolish a dam and bring water flows back to historical levels
- Chickaloon Native Village
  - Creating a subsistence fishery in the EEZ
    - Would require the use of a larger vessel that can go long distances
    - A five hour fishing window will not work based on the effort it takes to get there to access the fish; small time periods would not be feasible for the Chickaloon Native Village; this should be part of the equation
    - Historically, Tribes would go to the river and fish all summer or until needs were met.
    - Even a 12-hour opener is outside of our norm

- It takes only 5,000 fish to feed the tribal community when commercial harvest is in the millions and recreational harvest is hundreds of thousands
  - Subsistence fisheries for Tribal Nations should have priority over commercial and recreational harvest
  - Want to work with NMFS on a subsistence fishery so communities can feed themselves and continue their traditional way of life
  - Tribes report daily for their subsistence harvest within their communities and have rigorous reporting requirements that allow one to perform in season management to ensure no over harvesting occurs
  - Tribes are good partners in fish enhancement and repair a major culvert blocking fish passage every year
  - Tribes support fish enhancement projects that do not have negative impacts wild fish such as hatchery programs
- Existing fishing rights under Alaska laws
  - The State of Alaska rural and non-rural definition eliminates a huge number of tribal fishermen from gaining access to fish for subsistence needs based on their location
  - Process is flawed and doesn't allow upper Cook Inlet Tribes to operate within the fishery to meet tribal needs
  - The Alaska government does have what seems to be a background in tribal government with the absence of a tribal set aside
  - Ninilchik is not considered a rural community and cannot participate in rural subsistence fisheries because of state designations for rural and nonrural communities
- In Washington, there appears to be a set aside for Tribes (per Google search)
  - Unlike there, Alaska Native Tribes are not asking for half of all harvestable surplus; they are asking to feed their families
- Habitat restoration work
  - CNV has been working since 2003 to secure funding for fish passage and restoration
  - Access to spawning habitat has been blocked by developments over the last 100 years
  - Repairing spawning and rearing habitat is a priority and we work with a lot of partners on it.
  - We have no access to harvesting fish except for personal use
- Federal management of subsistence fishery
  - NOAA has a positive history regarding implementing a federal program for subsistence halibut fishery that differentiates between tribal and rural communities
  - We do not want the State of Alaska to manage fisheries in their area
  - Concerns about state management of shellfish and salmon and failure to work to provide tribes access to resource or on fish enhancement
  - Federal government has a good track record and they must manage the fishery in the EEZ, but lack jurisdiction over in river fisheries
- Amount of fish needed per family
  - The Bureau of Indian Affairs provided a presentation at a local conference
  - Allocation for the Kenai Basin is 25 fish per family with slight adjustments for increasing communities
  - Tribal members are sensitive to this topic; the reporting outcomes of quantity of fish consumed by tribal communities are not adequate
  - Even being asked that question, even fish per family, is offensive because it is considered a way of life and current consumption rates are not representative of tribal family needs
- Thank you, NMFS, for asking how we would write the regulations for the marine fishery in the EEZ
  - CNV does not have experienced fisheries staff because they have not had previous access to the resource

## NMFS

- Thanked the tribes for these comments and asked that they submit them as part of action as well.
- Asked for input on how the tribes would like the regulations written.
- NMFS recognizes that, although the court order directs NMFS to manage commercial and recreational, historically there were subsistence fisheries in the area.
- Once under federal jurisdiction, the North Pacific Fishery Management Council (NPFMC) will be the policy maker for the FMP.
  - NPFMC will be open to anyone bringing different components to them to incorporate new fisheries.
- Specific details on tribal subsistence needs would be helpful; e.g, the number and percentage of fish desired for a tribal set aside, including how often and when you would like to use this resource, gear commonly used, preferred location, etc.
- Procedurally, tribal subsistence could happen by: 1) during this rulemaking process or 2) after the final rulemaking through a proposal sent to NPFMC.
- NMFS recognizes that the Tribes are not a stakeholder and that the agency has a federal-tribal trust relationship.
- There is a desire to work with Tribes, within the FMP process, to make sure NMFS is meeting our federal-tribal trust responsibility.
- There are treaties with the federal government and court cases that designate tribal and state co-management of fisheries and tribal fisheries in the NMFS West Coast Region.
- NMFS will consider a subsistence set-aside within the boundaries of the FMP process.

## Next Steps

- Will schedule a follow up in early January 2024.
- At the next meeting, NMFS will provide another update on the status of the Cook Inlet FMP Amendment 16 process and continue our discussions.

**Meeting Adjourned: 3:05 PM AKT**