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Portland, Oregon
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Via PFMC public comment portal and email

Brad Pettinger, Chair
Robin Ehlke, Staff Officer
Pacific Fishery Management Council (PFMC)

John North
Assistant Fish Division Administrator
Marine and Columbia River Programs
Oregon Department of Fish and Wildlife (ODFW)

Richard Heap, Chair
Salmon Advisory Subpanel
Pacific Fishery Management Council

Re: 2024 Salmon Management Alternatives

Dear Mr. Pettinger, Ms. Ehlke, Mr. North, and Mr. Heap:

Thank you for the opportunity to provide comments regarding alternatives for 2024 ocean salmon fisheries. I am a recreational angler and fish primarily out of the Port of Garibaldi, Oregon.

I support Alternative 1 for the recreational salmon fishery in the Cape Falcon to Humbug Mountain area. In addition, I request the Council and Salmon Advisory Subpanel (SAS) consider adjusting the recreational mark-selective coho season in Alternative 1 to run from June 22 to August 25.

The 2023 mark-selective coho season ran from June 17 to August 31. A season in 2024 running from June 22 to August 25 (rather than June 15 to August 18) would open 5 days later and close 6 days earlier, reducing open days on both ends of the season from last year. This would provide for balanced angling harvest opportunities in southern and northern portions of the Falcon to Humbug area. It also reflects a reasonable approach to optimize the fishery in terms of coho size (coho are significantly larger in August than in June), migration pattern (harvestable hatchery coho are often more abundant toward the southern portion of the management area early in the season and migrate north as the season progresses), hatchery mark-rate (mark-rates decline as the season progresses), and favorable weather patterns (in my experience, winds and seas are often calmer in late August than middle June).

Additional Comments:

1. Mark-selective Chinook regulation alternative

I appreciate that Sacramento River fall Chinook (SRFC) and Klamath River fall Chinook (KRFC) continue to pose significant management challenges. If reducing Falcon to Humbug recreational impacts on these stocks becomes necessary, instead of a blanket Chinook retention closure in August as proposed in Alternatives 2 and 3, I urge the Council to consider regulations that would allow the retention of marked Chinook during times when the coho season is open. I also request the Council take appropriate steps to integrate mark-selective regulations into models used to forecast Chinook impacts for South of Falcon fisheries.

I understand that, in contrast to other areas, South of Falcon Chinook harvest models do not give “credit” for released unmarked Chinook and accordingly forecast the same impacts for both mark-selective and non-mark-selective regulations. Because mark-selective regulations can be an effective management tool to address certain conservation challenges while optimizing recreational opportunity, I urge the Council to prioritize integration of mark-selective Chinook regulations into South of Falcon harvest impact models.

2. Coho allocation to commercial troll fishery

Alternative 3 for the Falcon to Humbug commercial troll fishery provides for a September 1 to 30 non-mark-selective coho season with a quota of 10,000 non-marked coho (which means total harvest may exceed 10,000 coho). To comply with the Pacific Coast Salmon Fishery Management Plan (Salmon FMP) (*see* § 5.3.2 regarding reallocation of coho unneeded by the recreational fishery), I request any coho allocation to the commercial troll fishery in September be expressly contingent upon sufficient coho quota being first allocated to the recreational fishery (including quota rolled-over from the recreational mark-selective season) to reasonably ensure completion of all scheduled recreational coho fisheries, including the September 1 to 30 ocean non-mark-selective season and in-river seasons.

3. Conservation concerns regarding Oregon Coast fall Chinook stocks

In recent years, conservation concerns for certain Oregon Coast fall Chinook stocks have prompted the Oregon Department of Fish and Wildlife (ODFW) to implement emergency regulations restricting traditional in-river recreational fisheries. For example, two years ago, retention of all wild fall Chinook in the popular and economically important Tillamook Bay Basin fishery was closed completely. And last year, reduced season and daily bag limits were implemented in both the Tillamook Bay and Nehalem Basins (including in ocean areas immediately adjacent to entrances to these Basins). Other Oregon Coast rivers and bays have seen similar restrictions.

Although abundance forecasts for Oregon Coast Chinook stocks were not available prior to preparation of Preseason Report 2, recent trends suggest “escapement goals may not be met for all stocks in 2024 under 2023 fishing seasons.” Preseason Report 1 at 78.

Under each of the three alternatives presented in Preseason Report 2, the Falcon to Humbug commercial troll fishery is open seven day-a-week for Chinook from September 1 to October 31. Oregon Coast fall Chinook are most abundant in the Falcon to Humbug area during this time period.

Given recent conservation concerns, and associated restrictions on recreational fisheries, I request all commercial troll fisheries in September and October in the Falcon to Humbug area be adopted subject to potential additional management measures being implemented that are designed to address conservation concerns (if any) regarding Oregon Coast fall Chinook stocks and the maintenance of traditional ocean and in-river fall recreational fisheries.

I understand that Council-area commercial and recreational fisheries do not harvest large numbers of Oregon Coast fall Chinook. My request is simply to expressly provide State and Federal managers with flexibility in managing fall commercial seasons should the need arise.

4. Request for NMFS to clarify recommendation regarding SRFC

In its annual guidance letter, NMFS recommends that the Council “develop alternatives for 2024 ocean salmon fisheries that result in escapement [of SRFC] at or above the upper end of the escapement range, i.e., 180,000 Chinook spawners.”¹

I interpret NMFS’s guidance letter to recommend the Council develop alternatives that result *in a preseason projected escapement forecast* of 180,000 or above. This approach appears appropriately precautionary as NMFS’s minimum recommended escapement represents a 48% buffer above the Salmon FMP MSY minimum escapement objective of 122,000; a 97% buffer over the minimum stock size threshold (MSST) escapement of 91,500; and provides for a modest approximately 16% exploitation rate (based on a preseason abundance forecast of 213,606 SRFC). Thus, notwithstanding past pre-season forecasts over-estimating abundance and escapement numbers, NMFS’s recommendation appears to provide a sufficient management buffer to reasonably ensure that the minimum MSY escapement objective is met or exceeded.

The alternatives presented in Preseason Report 2 seem to adhere to the above interpretation of NMFS’s guidance letter by providing for projected preseason escapements of 181,000 to 188,000.

A significant number of stakeholders, however, have provided comments to the Council suggesting that SRFC are in serious peril (especially the upper Sacramento River component²)

¹ See Agenda Item C.5.b, Supplemental NMFS Report 1, March 2024 at 5.

² See PFMC 2024, Review of 2023 Ocean Salmon Fisheries: Stock Assessment and Fishery Evaluation Document for the Pacific Coast Salmon Fishery Management Plan, at 220 (Table B-1) (showing alarmingly low recent natural area escapements for the upper Sacramento River. The proportion of natural-area escapement comprised of hatchery-origin fish is not reported). Some stakeholders suggest a threatened or endangered listing of SRFC may be looming. In this regard, it is important to keep in mind that if a significant portion of an ESUs range is at a high level of extinction risk, or likely to reach this point in the foreseeable future, the whole ESU may be

and that alternatives presented in Preseason Report 2 adhering to NMFS's guidance, as interpreted above, are not sufficiently conservative. They suggest salmon fisheries that substantially impact SRFC should be either crafted to aim for higher escapements or be closed completely.

In contrast to the way I interpret it, NMFS's guidance letter could be interpreted to recommend the Council develop alternatives that result *in an actual, realized post-season SRFC spawner escapement estimate* of 180,000 or above. In this case, given that pre-season abundance and escapement forecasts have consistently (and at times significantly) exceeded post-season estimates, it may be prudent to revisit the alternatives presented in Preseason Report 2 to consider additional buffers to increase the likelihood of a post-season realized escapement estimate of at least 180,000 SRFC.

Accordingly, I request NMFS clarify its recommendation to the Council concerning SRFC.

5. Preseason Report 2's projections of in-river recreational SRFC impacts appear to be either unrealistic and unreliable or, if reasonably accurate, result in alternatives that contravene Salmon FMP objectives

Under Alternative 3, commercial troll and recreational fisheries off California would be completely closed and commercial and recreational fisheries off Oregon would be structured to have minimal impacts to SRFC. In contrast, Alternative 3's in-river recreational impacts are projected to be 29.8 thousand, which amounts to a 97% share of total harvest impacts projected under this alternative. And due to these substantial in-river impacts, Alternative 3's escapement forecast (183,000) is actually less than the forecast under Alternative 1 (188,000), where both commercial and recreational ocean salmon seasons off California are allowed.³

Is Preseason Report 2's projection of in-river impacts under Alternative 3 realistic and reliable? While it may be theoretically possible for the State of California to adopt a recreational in-river season that could take nearly 30,000 SRFC, is this a realistic expectation under a scenario where both commercial and recreational ocean fisheries off California are completely shut down due to conservation concerns for this stock? Wouldn't that defeat the purpose of closing ocean fisheries? Do any Council members, Salmon Advisory Subpanel members, PFMC or NMFS staff, or CDFW representatives really believe this level of in-river harvest is likely to occur? And if not, how can Preseason Report 2's projection of expected in-river harvest and subsequent SRFC escapement under Alternative 3 be viewed as reliable and reflect scientific and professional integrity, as federal law mandates for data and information presented in this report?⁴

listed under the Federal Endangered Species Act. The Council should accordingly take into account the status of all significant portions of an ESU's range in formulating and adopting conservation objectives.

³ See Preseason Report 2 at 57 (Table 5).

⁴ Preseason Report 2 constitutes one part of NMFS's environmental assessment for approval of 2024 pacific coast ocean salmon seasons. NMFS is responsible for the accuracy, reliability, and

Furthermore, how are stakeholders supposed to make informed comments regarding the relative merits and trade-offs of the alternatives presented if projected impacts and associated escapements are not realistic?

Moreover, if Preseason Report 2's projection of a 97% in-river share of total impacts is taken at face value, then Alternative 3 represents a grossly unfair and inequitable allocation of harvest opportunity that fails to maintain traditional ocean seasons and fisheries. As such, it would be inconsistent with Salmon FMP objectives and likely violate the Magnuson-Stevens Act (MSA).⁵

Although not as egregious, Alternative 2 presents similar concerns. While I wholly support a robust and equitable allocation to in-river recreational fisheries, if the in-river fishery is allocated 50% of total SRFC harvest impacts as Preseason Report 2 indicates,⁶ it too may be viewed as inconsistent with Salmon FMP objectives and run afoul of the MSA. A 50% share of total harvest impacts would be more than double any final preseason allocation adopted by the Council for the in-river fishery for at least the last decade (if not longer).⁷ Moreover, CDFW Representative Ms. Marci Yaremko reported to the Council on March 8 that the historical average realized in-river share of total harvest has been 9.2%.⁸ A 50% allocation would be more than five times the historical average and would be difficult to rationally justify as being fair and

scientific and professional integrity of its contents. *See* 42 U.S.C. § 4332; 40 CFR 1506.5 (agency responsible for accuracy of environmental documents); 40 CFR 1502.23 (agency shall ensure the professional integrity, including scientific integrity, of the discussion and analyses in environmental documents and shall make use of reliable data and resources).

⁵ *See* Salmon FMP §5.1.3 at 50 (FMP objective to “[m]aintain ocean salmon fishing seasons supporting the continuance of established recreational and commercial fisheries while meeting salmon harvest allocation objectives among ocean and inside recreational and commercial fisheries that are fair and equitable . . .”); *see also* 16 U.S.C. § 1851(a)(4) (allocation shall be fair and equitable); 50 C.F.R. § 600.325 (regulation implementing requirement that allocation shall be fair and equitable among user groups).

⁶ *See* Preseason Report 2 at 57 (Table 5).

⁷ *See* past Preseason Report 3s available on PFMC's website. Apparently, default SRFC modelling projections allocate 14% of the *in river run* to in-river fisheries irrespective of ocean and in-river sharing of total harvest impacts. While this default approach may be acceptable under certain abundance forecast scenarios, it does not produce a fair and equitable allocation of harvest opportunity in years such as this when abundance forecasts and conservation objectives result to significantly constrain total available harvest impacts. Recognizing this, the Council in past years has adjusted allocations based on a sharing of *total harvest impacts*. *See e.g.*, PFMC 2018 Preseason Report 3 at 37 (Council guidance allocating 15% of total harvest to in-river fishery), available at <https://www.pcouncil.org/documents/2018/04/2018-preseason-report-iii.pdf/>.

⁸ PFMC Proceedings, Mar. 8, 2024, at 6:26:00 to 6:31:00 available at <https://www.youtube.com/watch?v=OM2ZwqrNbas>.

equitable, especially against the backdrop of another year of significant restrictions to traditional ocean fishing seasons.

Here again, however, I question whether a 50% allocation, which amounts to harvest impacts of 16,800, is a realistic projection of likely in-river impacts given the conservation concerns facing SRFC. Indeed, some stakeholders have suggested that in-river harvest projections under Alternatives 2 and 3 implicitly incorporate additional conservation buffers for SRFC escapement because in-river fisheries are unlikely to be implemented which realize Preseason Report 2's projected harvest levels. If this is the case, any anticipated buffers (and their impact on conservation objectives) should be explicitly discussed to foster a transparent public process.

Management of ocean and in-river fisheries must be integrated to achieve applicable conservation and fishery objectives. To make informed decisions concerning 2024 ocean salmon fisheries impacting SRFC, the Council (and stakeholders) need realistic and reliable projections of in-river fishery impacts and associated SRFC escapements under each alternative.

I urge the Council (and Salmon Advisory Subpanel) to clarify expected in-river impacts and to utilize reliable projections of those impacts and associated SRFC escapements in evaluating and adopting final salmon seasons.

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Thank you for considering my comments.

Best regards,

Brian McLachlan