

## STAFF SUMMARY FOR FEBRUARY 10-11, 2016

**37. KLAMATH RIVER SPORT FISHING****Today's Item**Information Action 

Receipt of public recommendations and authorization to publish notice of intent to change Klamath River System sport fishing regulations.

**Summary of Previous/Future Actions**

- Discussion hearing Dec 9-10, 2015; San Diego
- **Today's notice hearing Feb 10-11, 2016; Sacramento**
- Adoption hearing Apr 18, 2016; Teleconference

**Background**

The Klamath River System, consisting of the Klamath River Basin and the Trinity River Basin, is managed through the cooperation of state, federal and tribal management agencies. FGC annually adopts Klamath River System sport fishing regulations consistent with federal fishery management goals. Specific bag and possession limits are adopted after the Pacific Fishery Management Council reviews West Coast salmon stocks and fishery allocations have been proposed. Two tribal entities within the Klamath River System (Hoopa Valley Tribe and Yurok Tribe) maintain fishing rights for ceremonial, subsistence and commercial fisheries that are managed consistent with federal fishery management goals.

In the Sep 9, 2015 draft ISOR (Exhibit 2), Subsection 7.50(b)(91.1) is proposed for amendment to:

1. **Change quota, bag limit and possession limit.** For notice purposes, DFW recommends an allocation range of 0-67,600 adult Klamath River Ffall-run Chinook salmon (KRFC); bag limit between 0-4 KRFC with no more than 0-4 fish over 22" until the sub-quota is met, then 0 fish over 22"; possession limit between 0-12 KRFC with no more than 0-12 fish over 22" when the take of salmon over 22" is allowed
2. **Clean up for clarity and consistency.**

In the draft ISOR, no changes are proposed for the Klamath River spit; Klamath River spring-run Chinook salmon opening and closing season dates or bag, possession and size limits; or the Blue Creek closure area.

In response to the FGC request at its Dec 2015 meeting, the following options have been developed for possible inclusion in the ISOR:

- **Option 1 - Remove All Existing Blue Creek Area Closures**  
This option would remove all existing fishing closures on the main stem Klamath River near the confluence of Blue Creek. Some fishing guides and members of the public support this option.

## STAFF SUMMARY FOR FEBRUARY 10-11, 2016

- **Option 2 - Modify Existing Blue Creek Mouth Area Closure**  
This option would modify the regulations for the existing fishing closure on the Klamath River during the Jun 15 through Sep 14 closure period by offering a range for the distance closed below the mouth of Blue Creek of 0 feet to 2640 feet (½ mile) for public discussion. The distance of the closure above the mouth of Blue Creek would remain at 500 feet. The regulations for the Sep 15 through Dec 31 fishing closure on the main stem Klamath River would not change. Local angling constituents and most fishing guides support this option with a closure distance of 500 feet.
- **Option 3 – The No Change Option**  
This option would keep in place the existing fishing closures on the main stem Klamath River near the confluence of Blue Creek between Jun 15 and Dec 31. The Yurok Tribe, a few fishing guides, and some members of the public support this option.

The draft ISOR dated Sep 9, 2015 (Exhibit 2) will be revised as appropriate depending upon which options FGC selects to include in the notice.

### Significant Public Comments

1. Some stakeholders, including Del Norte and Humboldt counties, have requested that the closure at the mouth of Blue Creek be repealed or amended (exhibits 4, 5, 6, 8, 9, 10, 11, 13 and 14)
2. Some stakeholders and the Yurok Tribe have requested that the conservation closure at the mouth of Blue Creek be retained (exhibits 7 and 12)
3. Some stakeholders, including Del Norte and Humboldt counties, and the Yurok tribe support studies being done (exhibits 4, 5, 6, 7, 10 and 13)
4. The Yurok Tribe has been approved for a 10-minute presentation during the Feb FGC meeting (Exhibit 15)

### Recommendation

**FGC staff:** Authorize publication of the notice, specifying which Blue Creek area options to include in the ISOR.

**DFW:** Authorize publication of the notice. DFW does not have a preferred option regarding the Blue Creek area closures.

### Exhibits

1. [DFW memo, received Nov 24, 2015](#)
2. [Draft ISOR, dated Sep 9, 2015](#) (will be revised as appropriate based on today's discussion)
3. [Summary of Jan 12, 2016 DFW/Del Norte County Board of Supervisors public meeting](#)
4. [Petition from Humboldt County Board of Supervisors, received Jun 15, 2015](#)
5. [Petition from Del Norte County Board of Supervisors, originally received Aug 28, 2015 and resubmitted Sep 25, 2015](#)
6. [Letter from Del Norte County Board of Supervisors, received Jan 27, 2016](#)

## STAFF SUMMARY FOR FEBRUARY 10-11, 2016

7. [Letter from Yurok Tribe, received Jan 26, 2016](#)
8. [Email \(petition\) from Richard Jorgensen, sample of those recommending any closure near the confluence of Blue Creek after Sep 14 be based on water flow/temperature criteria, received Jan 26, 2016](#)
9. [Email \(petition\) from Steve Rosenberg \(recommends allowing fly fishing for steelhead\), received Jan 24, 2016](#)
10. [Email \(petition\) from Alan Borges \(supports closure Jun 15 – Dec 31 within 500 feet of the mouth of Blue Creek\), received Jan 19, 2016](#)
11. [Email \(petition\) from Chris Watkins \(recommends allowing fishing near the confluence of Blue Creek\), received Jan 19, 2016](#)
12. [Email from Rich Zellman \(supports retaining all closures near the confluence of Blue Creek\), received Jan 16, 2016](#)
13. [Letter \(petition\) from Larry De Ridder \(recommends repealing the mid-season closure near the confluence of Blue Creek\), received Jan 27, 2016](#)
14. [Email \(petition\) from Mike Kuczynski \(recommends repealing closures near the confluence of Blue Creek\), received Jan 28, 2016](#)
15. [Yurok Tribe presentation](#)

**Motion/Direction**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission authorizes publication of a notice of its intent to amend subsection 7.50(b)(91.1) related to Klamath River sport fishing as recommended by DFW in the Sep 9, 2015, ISOR, and including the following options regarding the conservation closures near the confluence of Blue Creek:

- Option 1 - Remove All Existing Blue Creek Area Closures**  
This option would remove all existing fishing closures on the main stem Klamath River near the confluence of Blue Creek.
- Option 2 - Modify Existing Blue Creek Mouth Area Closure**  
This option would modify the regulations for the existing fishing closure on the Klamath River during the Jun 15 through Sep 14 closure period by offering a range for the distance closed below the mouth of Blue Creek of 0 feet to 2640 feet (½ mile) for public discussion. The distance of the closure above the mouth of Blue Creek would remain at 500 feet. The regulations for the Sep 15 through Dec 31 fishing closure on the main stem Klamath River would not change.
- Option 3 – The No Change Option**  
This option would keep in place the existing fishing closures on the main stem Klamath River near the confluence of Blue Creek between Jun 15 and Dec 31.
- Other Option(s) to be defined**

State of California  
Department of Fish and Wildlife

## Memorandum

Date: November 18, 2015

To: Sonke Mastrup  
Executive Director  
Fish and Game Commission

From: Charlton H. Bonham  
Director



Subject: **Agenda Item for the December 9-10, 2015 Fish and Game Commission Meeting  
Re: Request for Notice Authorization to Amend Subsection (b)(91.1) of Section  
7.50, Title 14, CCR, Klamath River Basin Sport Fishing Regulations**

Please find attached the ISOR package for the 2016 Klamath basin sport fishing regulations. As in the past, specific bag and possession limits for Klamath basin adult fall-run Chinook salmon will be adopted after federal (Pacific Fishery Management Council) review of west coast salmon stocks and fishery allocations have been proposed.

If you have any questions or need additional information, please contact Stafford Lehr, Chief, Fisheries Branch, by telephone at (916) 327-8840 or by e-mail at [Stafford.Lehr@wildlife.ca.gov](mailto:Stafford.Lehr@wildlife.ca.gov). The public notice should identify Senior Environmental Scientist, Wade Sinnen as the Department's point of contact for this rulemaking. Mr. Sinnen can be reached by telephone at (707) 822-5119 or by e-mail at [Wade.Sinnen@wildlife.ca.gov](mailto:Wade.Sinnen@wildlife.ca.gov).

### Attachment

cc: Dan Yparraguirre, Deputy Director  
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November 18, 2015  
Page 2

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STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION  
(Pre-publication of Notice Statement)

Amend Subsection (b)(91.1) of Section 7.50  
Title 14, California Code of Regulations  
Re: Klamath River Sport Fishing Regulations

- I. Date of Initial Statement of Reasons: September 9, 2015
- II. Dates and Locations of Scheduled Hearings:
- (a) Notice Hearing: Date: December 10, 2015  
Location: San Diego
  - (b) Discussion Hearing: Date: February 11, 2016  
Location: Sacramento
  - (c) Adoption Hearing: Date: April 18, 2016  
Location: Teleconference
- III. Description of Regulatory Action:
- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

The Klamath River System, which consists of the Klamath River and Trinity River basins, is managed through a cooperative system of State, federal, and tribal management agencies. Salmonid regulations are designed to meet natural and hatchery escapement needs for salmonid stocks, while providing equitable harvest opportunities for ocean recreational, ocean commercial, river recreational and tribal fisheries.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of recreational and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The California Fish and Game Commission (Commission) adopts regulations for the ocean salmon recreational (inside three miles) and the Klamath River System recreational fisheries which are consistent with federal fishery management goals.

Two tribal entities within the Klamath River System, the Hoopa Valley Tribe and the Yurok Tribe, maintain fishing rights for ceremonial,

subsistence and commercial fisheries that are managed consistent with federal fishery management goals. Tribal fishing regulations are promulgated by the Hoopa and Yurok tribes.

For the purpose of PFMC mixed-stock fishery modeling and salmon stock assessment, salmon greater than 22 inches are defined as adult salmon (ages 3-5) and salmon less than or equal to 22 inches are defined as grilse salmon (age 2).

### **Klamath River Fall-Run Chinook**

Klamath River fall-run Chinook salmon (KRFC) harvest allocations and natural spawning escapement goals are established by the PFMC. The KRFC harvest allocation between tribal and non-tribal fisheries is based on court decisions and allocation agreements between the various fishery representatives.

The 2016 KRFC in-river recreational fishery allocation recommended by the PFMC is currently unknown. All proposed closures for adult KRFC are designed to ensure sufficient spawning escapement in the Klamath River Basin and equitably distribute harvest while operating within annual allocations.

### **Klamath River Spring-Run Chinook**

The Klamath River System also supports Klamath River spring-run Chinook salmon (KRSC). Naturally produced KRSC are both temporally and spatially separated from KRFC in most cases.

Presently, KRSC stocks are not managed or allocated by the PFMC. The in-river recreational fishery is managed by general basin seasons, daily bag limit, and possession limit regulations. KRSC harvest will be monitored on the Lower Klamath River in 2016 and ensuing years by creel survey.

### **KRFC Allocation Management**

The PFMC 2015 allocation for the Klamath River System recreational harvest was 14,133 adult KRFC. Preseason stock projections of 2016 adult KRFC abundance will not be available from the PFMC until March 2016. The 2016 basin allocation will be recommended by the PFMC in April 2016 and presented to the Commission for adoption prior to its April 2016 meeting.

For public notice requirements, the Department of Fish and Wildlife (Department) recommends the Commission consider an allocation range of 0 – 67,600 adult KRFC in the Klamath River Basin for the river recreational fishery. This recommended range encompasses the historical range of the Klamath River Basin allocations and allows the PFMC and Commission to make adjustments during the 2016 regulatory cycle.

The Commission may modify the KRFC in-river recreational salmon harvest allocation which is normally 15 percent of the non-tribal PFMC harvest allocation. Commission modifications need to meet biological and fishery allocation goals specified in law or established in the PFMC Salmon Fishery Management Plan otherwise harvest opportunities may be reduced in the California ocean fisheries.

The annual KRFC in-river harvest allocation is split into 4 geographic areas with subquotas assigned to each. They are as follows:

1. for the main stem Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec -- 17 percent of the recreational fishery allocation;
2. for the main stem Klamath River from downstream of the Highway 96 bridge at Weitchpec to the mouth -- 50 percent of the recreational fishery allocation;
3. for the Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat -- 16.5 percent of the recreational fishery allocation; and
4. for the Trinity River downstream from the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River -- 16.5 percent of the recreational fishery allocation.

The spit area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) closes to all fishing after 15 percent of the total Klamath River Basin quota has been taken downstream of the Highway 101 bridge.

These geographic areas are based upon the historical distribution of angler effort and ensure equitable harvest of adult KRFC in the upper Klamath River and Trinity River. The subquota system requires the Department to monitor angler harvest of adult KRFC in each geographic area. All areas will be monitored on a real time basis except for the following:

Klamath River upstream of Weitchpec and the Trinity River: Due to funding and personnel reductions, the Department will be unable to deploy adequate personnel to conduct harvest monitoring in the Klamath River upstream of Weitchpec and in the Trinity River for the 2016 season. The Department has reviewed salmon harvest and run-timing data for these areas. Based on this review, the Department has developed a Harvest Predictor Model (HPM) which incorporates historic creel survey data from the Klamath River downstream of Iron Gate Dam to the confluence with the Pacific Ocean and the Trinity River downstream of Lewiston Dam to the confluence with the Klamath River. The HPM is driven by the positive relationship between KRFC harvested in the Lower and Upper Klamath River and the Trinity River. The HPM will be used by the Department to

implement fishing closures to ensure that anglers do not exceed established subquota targets.

### **Current Recreational Fishery Management**

The KRFC in-river recreational harvest allocation is divided into geographic areas and harvest is monitored under real time subquota management. KRSC in-river recreational harvest is managed by general season, daily bag limit, and possession limit regulations.

The Department presently differentiates the two stocks by the following dates:

#### **Klamath River**

1. January 1 through August 14 - General Season KRSC.  
For purposes of clarity, daily bag and possession limits apply to that section of the Klamath River downstream of the Highway 96 bridge at Weitchpec to the mouth.
2. August 15 to December 31 - KRFC quota management.

#### **Trinity River**

1. January 1 through August 31 – General Season KRSC.  
For purposes of clarity, daily bag and possession limits apply to that section of the Trinity River downstream of the Old Lewiston Bridge to the confluence with the South Fork Trinity River.
2. September 1 through December 31 – KRFC quota management.

The daily bag and possession limits apply to both stocks within the same sub-area and time period.

### **Proposed Changes**

No changes are proposed for the general (KRSC) opening and closing season dates, and bag, possession and size limits.

The Department is not proposing any changes to the spit area or modification of the Blue Creek closure area until additional scientific information is gathered.

The following changes to current regulations are proposed:

#### **KRFC QUOTA MANAGEMENT: Seasons, Bag and Possession Limits**

For public notice requirements, a range of KRFC bag and possession limits are proposed until the 2016 Klamath River Basin quota is adopted. As in previous years, no retention of adult KRFC salmon is proposed for the following areas, once the subquota has been met.

The proposed open seasons and range of bag and possession limits for KRFC salmon stocks are as follows:

1. Klamath River - August 15 to December 31
2. Trinity River - September 1 to December 31
3. Bag Limit - [0-4] Chinook salmon – of which no more than [0-4] fish over 22 inches total length may be retained until the subquota is met, then 0 fish over 22 inches total length.
4. Possession limit - [0-12] Chinook salmon of which [0–12] fish over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

Other changes are proposed for clarity and consistency.

### **Benefits of the Proposed Regulations**

It is the policy of this State to encourage the conservation, maintenance, and utilization of the living resources of the ocean and inland waters under the jurisdiction and influence of the State for the benefit of all the citizens of the State. In addition, it is the policy of this State to promote the development of local California fisheries in harmony with federal law respecting fishing and the conservation of the living resources of the ocean and inland waters under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based Klamath River Basin salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of salmon to ensure their continued existence.

The benefits of the proposed regulations are conformance with federal law, sustainable management of Klamath River Basin salmon resources, and promotion of businesses that rely on recreational salmon fishing in the Klamath River Basin.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, 205, 215, 220, 240, 315 and 316.5, Fish and Game Code.

Reference: Sections 200, 202, 205, 215 and 316.5, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

*In-River Sport Fishing Economics Technical Report*, National Oceanographic and Atmospheric Administration, National Marine Fisheries Service, September 2011.

(e) Public Discussions of Proposed Regulations Prior to Notice Publication:

No public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed amendments.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

- i. The use of more liberal regulations for bag limits, possession limits and fishing methods. For KRFC salmon, more liberal regulations would be less desirable than those proposed because they could create risk of an intense fishery reaching or exceeding the quota in a very short time. Reaching the quota in a very short time could be damaging to the local economy. Exceeding the allowable harvest could be damaging to the KRFC salmon stocks.
- ii. Reopen the main stem Klamath River near the confluence of Blue Creek to fishing. On April 17, 2015, the Commission adopted regulations to close the main stem Klamath River near the confluence of Blue Creek between June 15 and December 31 to reduce catch and release mortality in a thermal refuge area and protect late-fall-run Chinook salmon holding prior to entering Blue Creek. Several public requests to reopen this area to fishing have been received; however, at its June 11, 2015 meeting, the Commission directed the Department to work with the Yurok Tribe on a study to evaluate catch and release angling in the vicinity of Blue Creek. The Department will report back to the Commission once the study is completed.

(b) No Change Alternative:

The No Change Alternative would leave the current 2015 regulations in place and would not conform to the PFMC Klamath River Basin quota for 2016. The change is necessary to continue appropriate harvest rates and an equitable distribution of the harvestable surplus.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations are projected to have minor impact on the net revenues to local businesses servicing sport fishermen. If the 2016 KRFC quota is reduced, visitor spending may correspondingly be reduced and in the absence of the emergence of alternative visitor activities, the drop in spending could induce business contraction. However, this will not likely affect the ability of California businesses to compete with businesses in other states. The preservation of Klamath River salmon stocks is necessary for the success of lower and upper Klamath River Basin businesses which provide goods and services related to fishing. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The proposed regulations range from no fishing of KRFC salmon in 2015; to a normal Klamath River Basin salmon season. The Commission anticipates some impact on the creation or elimination of jobs in California. The potential employment impacts range from 0 to 23 jobs which are not expected to create, eliminate or expand businesses in California. The Commission anticipates impacts on the creation, elimination or expansion of businesses in California ranging from no impact to reduced revenues to approximately 30 businesses that serve sport fishing activities. However, the possibility of growth of businesses to serve substitute activities exists. Adverse impacts to jobs and/or businesses would be less if fishing of grilse KRFC salmon is permitted than under a complete closure to all fishing. The impacted businesses are generally small businesses

employing few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable salmon stocks and, consequently promoting the long-term viability of these same small businesses.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a salmon sport fishery encourages a healthy outdoor activity and the consumption of a nutritious food.

The Commission anticipates benefits to the environment by the sustainable management of California's salmon resources.

The Commission does not anticipate any benefits to worker safety because the proposed action does not affect working conditions.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs Mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:

None.

(h) Effect on Housing Costs:

None.

## VII. Economic Impact Assessment:

The regulatory amendments of subsections of Section 7.50 under consideration will set the 2016 Klamath River Basin salmon sport fishing regulations to conform to the PFMC fall-run Chinook allocation guidelines. The Klamath River Basin is anticipated to be open for sport salmon fishing at levels similar to the 2015 quotas; however the possibility of marine fishery area closures still exists. Ocean closures may in turn result in PFMC recommendations for Klamath River Basin sport salmon fishery closures for the take of adult salmon. Adverse or positive impacts to jobs and businesses will depend on the 2016 KRFC allocation ultimately adopted by the PFMC and the specific regulations promulgated by the Commission.

### KRFC QUOTA MANAGEMENT

The proposed regulations present a range from 100 percent of last year's Klamath River Basin salmon season to 0 percent or no salmon fishing on adult Chinook salmon (greater than 22 inches) in 2016. Under all scenarios sport fishing will be allowed for grilse fall-run Chinook salmon (2 year-old salmon 22 inches or less) regardless of PFMC regulations, thus any adverse impacts to businesses would be less severe than under a complete closure of fishing.

Three projections are evaluated here are as follows: 100 percent of the 2015 Klamath River Basin catch limit; 50 percent of the 2015 basin catch limit; and 0 percent of the 2015 basin catch limit.

#### (a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

Projection 1. 100 percent of the 2015 catch limit: The Commission does not anticipate any adverse impacts on the creation or elimination of jobs, as the quotas would not decrease effort nor curtail the number of visitors and thus probable visitor expenditures in the fisheries areas.

Based on a 2011 NMFS report on In-River Sport Fishing Economics of the Klamath River, under a normal season non-resident Klamath River sport salmon anglers contribute about \$2,037,424 (2013\$) in total economic output to California businesses. This revenue supports about 35 jobs in the State.

An assumption of the NMFS report is that increases in expenditures by resident anglers associated with expanded fishing opportunities would be accommodated by reduced expenditures on other locally purchased goods and services – with no net change in local economic activity. For non-resident anglers, however, increases in local expenditures associated with increases in local fishing opportunities would be accomplished by diverting money that they would otherwise spend outside the local area. Thus the economic impact analysis focuses on non-resident angler expenditures, which represent 'new money' whose injection serves to stimulate the local economy.

The NMFS study excluded the Trinity River, the largest tributary to the Klamath. The Trinity River is allocated 33 percent of the Klamath River Basin fall-run Chinook salmon total allocation. Using the Trinity allocation as a measure of angler effort, and thus impacts on associated businesses that support anglers, the total non-resident angler contribution to the entire Klamath River Basin (including the Trinity River) is estimated to be \$2,709,774 (2013\$) in total economic output. This revenue, again using a 33 percent increase to account for the Trinity River, provides an estimated total of 47 jobs in the State (assuming that personnel costs also rise with inflation). This is a conservative estimate of total economic impact as it counts only non-resident angler expenditures. Non-resident average expenditures are estimated to be \$106.43 (2013\$) per angler day (for lodging, food, gasoline, fishing gear, boat fuel, and guide fees) based on a NMFS sponsored survey. Resident average expenditures per angler day are estimated to be 60 percent less (markedly reduced lodging, gasoline and food expenditures) which yields an estimate of \$42.60 per angler day. Resident anglers comprise about 36 percent of Klamath River Basin anglers.

Projection 2. 50 percent of the 2015 catch limit: The Commission anticipates some impact on the creation or elimination of jobs. A 50 percent catch reduction will likely reduce visitor spending by slightly less than 50 percent, given price elasticities of demand for salmon fishing activity of less than one. As the “price” of fishing per unit catch increases the demand for fishing trips declines by a lesser extent, particularly in the short-run. While difficult to predict, job losses associated with a 50 percent reduction in the catch limit are expected to be less than half of the estimated total jobs supported by angler visits (i.e. fewer than 23 jobs).

Projection 3. 0 percent of the 2015 catch limit: In the event of fisheries closures in some or all Klamath River Basin areas, the Commission anticipates less than 50 percent reduction in fishery-related jobs. As mentioned earlier, sport fishing for grilse fall-run Chinook salmon (2-year-old salmon less than 22 inches) will still be allowed, thus lessening any job losses. A closure on the take of adult Chinook salmon was instituted in 2006 and only grilse salmon could be legally harvested that year. The effect of the 2006 closure, as measured by angler days on the Klamath River, resulted in an approximate 50 percent drop in angler days, compared to the 2000- 2005 average (12,000 angler days vs. 23,300 angler days). Job creation or elimination tends to lag in adjustment to changes in consumer demand. Thus, the potential impacts of a closure on the take of adult Chinook are estimated to result in the loss of fewer than 23 jobs.

- (b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

Projection 1: 100 percent of the 2015 catch limit: The Commission does not anticipate any impacts on the creation of new business or the elimination of existing businesses, as the quotas would not decrease effort nor curtail the number of visitors and thus probable visitor expenditures in the fisheries areas.

Projection 2. 50 percent of the 2015 catch limit: The Commission anticipates a decline in visits to the fishery areas of less than 50 percent. This may result in some decline in business activity, but the Commission does not anticipate any impacts on the creation of new business or the elimination of existing businesses directly related to fishing activities. However, with less effort being expended on fishing, the possibility of substitute activities and the growth of businesses to serve those activities exists.

Projection 3. 0 percent of the 2015 catch limit: In the event of fisheries closures in some or all Klamath River Basin areas, the Commission anticipates a decline in regional spending and thus reduced revenues to the approximately 30 businesses that serve sport fishing activities with unknown impacts on the creation of new business or the elimination of existing businesses. However adverse impacts will be mitigated by the continued opportunity to harvest grilse salmon. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable salmon stocks and, consequently, the long-term viability of these same small businesses.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State

Projection 1. 100 percent of the 2015 catch limit: The Commission does not anticipate any impacts on the expansion of businesses in California as the quotas would not increase effort nor increase the number of visitors and thus probable visitor expenditures in the fisheries areas.

Projection 2. 50 percent of the 2015 catch limit: The Commission does not anticipate any impacts on the expansion of businesses in California. Decreases in expenditures by resident anglers associated with reduced fishing opportunities may be offset by increased expenditures on other locally purchased goods and services – with no net change in local economic activity. For non-resident anglers, however, decreases in local expenditures associated with decreases in local fishing opportunities may result in increases in other expenditures outside the Klamath River Basin area.

Projection 3. 0 percent of the 2015 catch limit: In the event of fisheries closures in some or all Klamath River Basin areas, the Commission does not anticipate any expansion of businesses in California. Decreases in expenditures by anglers associated with reduced fishing opportunities may be partially offset by increased expenditures on other locally purchased

goods and services as visitors fish for grilse salmon or substitute salmon fishing with other recreational pursuits.

(d) Benefits of the Regulation to the State's Environment:

Under all projections, the Commission anticipates benefits to the environment in the sustainable management of Klamath River Basin salmon resources. It is the policy of this State to encourage the conservation, maintenance, and utilization of the living resources of the ocean and inland waters under the jurisdiction and influence of the State for the benefit of all the citizens of the State. In addition, it is the policy of this State to promote the development of local California fisheries in harmony with federal law respecting fishing and the conservation of the living resources of the ocean and inland waters under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based Klamath River Basin salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of salmon to ensure their continued existence.

(e) Benefits of the Regulation to the Health and Welfare of California Residents:

Under all projections, the Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a Klamath River Basin sport salmon fishery encourages a healthy outdoor activity and the consumption of a nutritious food. Salmon sport fishing also contributes to increased mental health of its practitioners as fishing is a hobby and form of relaxation for many. Salmon sport fishing also provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of California's natural resources.

(f) Benefits of the Regulation to Worker Safety:

Under all projections, the Commission does not anticipate benefits to worker safety because the proposed regulations will not impact working conditions.

(g) Other Benefits of the Regulation:

Concurrence with Federal Law: California's sport fishing regulations need to conform to the new Federal regulations to achieve optimum yield in California. The PFMC annually reviews the status of west coast salmon populations. As part of that process, it recommends west coast adult salmon fisheries regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery

Management Plan. These recommendations coordinate west coast management of sport and commercial ocean salmon fisheries off the coasts of Washington, Oregon, and California and California inland sport salmon fisheries. These recommendations are subsequently implemented as ocean fishing regulations by the NMFS and as sport salmon regulations for State marine and inland waters by the Commission.

Sept 9, 2015 DRAFT

## **Informative Digest/Policy Statement Overview**

The Klamath River System, which consists of the Klamath River and Trinity River basins, is managed through a cooperative system of State, federal, and tribal management agencies. Salmonid regulations are designed to meet natural and hatchery escapement needs for salmonid stocks, while providing equitable harvest opportunities for ocean recreational, ocean commercial, river recreational and tribal fisheries.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of recreational and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The California Fish and Game Commission (Commission) adopts regulations for the ocean salmon recreational (inside three miles) and the Klamath River System recreational fisheries which are consistent with federal fishery management goals.

For the purpose of PFMC mixed-stock fishery modeling and salmon stock assessment, salmon greater than 22 inches are defined as adult salmon (ages 3-5) and salmon less than or equal to 22 inches are defined as grilse salmon (age 2).

### **Klamath River Fall-Run Chinook**

Klamath River fall-run Chinook salmon (KRFC) harvest allocations and natural spawning escapement goals are established by the PFMC. The KRFC harvest allocation between tribal and non-tribal fisheries is based on court decisions and allocation agreements between the various fishery representatives.

The 2016 KRFC in-river recreational fishery allocation recommended by the PFMC is currently unknown. All proposed closures for adult KRFC are designed to ensure sufficient spawning escapement in the Klamath River Basin and equitably distribute harvest while operating within annual allocations.

### **Klamath River Spring-Run Chinook**

The Klamath River System also supports Klamath River spring-run Chinook salmon (KRSC). Naturally produced KRSC are both temporally and spatially separated from KRFC in most cases.

Presently, KRSC stocks are not managed or allocated by the PFMC. The in-river recreational fishery is managed by general basin seasons, daily bag limit, and possession limit regulations.

### **KRFC Allocation Management**

The PFMC 2015 allocation for the Klamath River System recreational harvest was 14,133 adult KRFC. Preseason stock projections of 2016 adult KRFC abundance will not be available from the PFMC until March 2016. The 2016 Klamath River Basin

allocation will be recommended by the PFMC in April 2016 and presented to the Commission for adoption prior to its April 2016 meeting.

For public notice requirements, the Department of Fish and Wildlife (Department) recommends the Commission consider an allocation range of 0 – 67,600 adult KRFC in the Klamath River Basin for the in-river recreational fishery.

### **Current Recreational Fishery Management**

The KRFC in-river recreational harvest allocation is divided into geographic areas and harvest is monitored under real time subquota management. KRSC in-river recreational harvest is managed by general season, daily bag limit, and possession limit regulations.

The daily bag and possession limits apply to both stocks within the same sub-area and time period.

### **Proposed Changes**

No changes are proposed for the general (KRSC) opening and closing season dates, and bag, possession and size limits.

The following changes to current regulations are proposed:

#### KRFC QUOTA MANAGEMENT: Seasons, Bag and Possession Limits

For public notice requirements, a range of KRFC bag and possession limits are proposed until the 2016 Klamath River Basin quota is adopted. As in previous years, no retention of adult KRFC salmon is proposed for the following areas, once the subquota has been met.

The proposed open seasons and range of bag and possession limits for KRFC salmon stocks are as follows:

1. Klamath River - August 15 to December 31
2. Trinity River - September 1 to December 31
3. Bag Limit - [0-4] Chinook salmon of which no more than [0-4] fish over 22 inches total length may be retained until the subquota is met, then 0 fish over 22 inches total length.
4. Possession limit - [0-12] Chinook salmon of which [0-12] fish over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

Other changes are proposed for clarity and consistency.

### **Benefits of the Proposed Regulations**

The benefits of the proposed regulations are in conformance with federal law, sustainable management of Klamath River Basin salmon resources, and promotion of businesses that rely on recreational salmon fishing in the Klamath River Basin.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to promulgate sport fishing regulations (Sections 200, 202, 205, 315, and 316.5, Fish and Game

Code). Commission staff has searched the California Code of Regulations and has found no other State regulations related to the recreational take of Chinook salmon in the Lower Klamath River Basin.

Sept 9, 2015 DRAFT

## Regulatory Language

### Subsection (b)(91.1) of Section 7.50 is amended to read:

(91.1) Anadromous Waters of the Klamath River Downstream of Iron Gate Dam (Lower Klamath River Basin). The regulations in this subsection apply only to waters of the Klamath River system which are accessible to anadromous salmonids. They do not apply to waters of the Klamath River which are inaccessible to anadromous salmon and trout, for example, portions of the Klamath River system upstream of Iron Gate Dam, portions of the Trinity River system upstream of Lewiston Dam, and the Shasta River and tributaries upstream of Dwinneel Dam. Fishing in these waters is governed by the General Regulations for non-anadromous waters of the North Coast District (see Section 7.00(a)(4)).

#### (A) Hook and Weight Restrictions.

1. Only barbless hooks may be used. (For definitions regarding legal hook types, hook gaps and rigging see Chapter 2, Article 1, Section 2.10.)
2. During closures to the take of adult salmon, anglers ~~shall~~ may not remove any adult Chinook salmon from the water by any means, such as by dragging the fish on shore or using a net.

#### (B) General Area Closures.

1. No fishing is allowed within 750 feet of any Department of Fish and Wildlife fish-counting weir.
2. No fishing is allowed from the Ishi Pishi Road bridge upstream to and including Ishi Pishi Falls from August 15 through December 31. EXCEPTION: members of the Karuk Indian Tribe listed on the current Karuk Tribal Roll may fish at Ishi Pishi Falls using hand-held dip nets.
3. No fishing is allowed from September 15 through December 31 in the Klamath River within 500 feet of the mouths of the Salmon, the Shasta and the Scott rivers and Blue Creek.
4. No fishing is allowed from June 15 through September 14 in the Klamath River from 500 feet above the mouth of Blue Creek to 1/2 mile downstream of the mouth of Blue Creek.

#### (C) Klamath River Basin Possession Limits.

##### 1. Trout Possession Limits.

- a. The brown trout possession limit is 10 brown trout.
- b. The hatchery trout or hatchery steelhead possession limits are as follows:
  - (i) Klamath River - 4 hatchery trout or hatchery steelhead.
  - (ii) Trinity River - 4 hatchery trout or hatchery steelhead.

##### 2. Chinook Salmon Possession Limits.

- a. Klamath River downstream of the Highway 96 bridge at Weitchpec from January 1 to August 14 and the Trinity River downstream of the Old Lewiston Bridge to the confluence of the South Fork Trinity River from January 1 to August 31: 2 Chinook salmon.
- b. Klamath River from August 15 to December 31 and Trinity River from September 1 to December 31: ~~9 Chinook salmon. No more than 6 Chinook salmon over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.~~ [0-12] Chinook salmon. No more than [0-12] Chinook salmon over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

#### (D) Klamath River Basin Chinook Salmon Quotas.

The Klamath River fall Chinook salmon take is regulated using quotas. Accounting of the tribal and non-tribal harvest is closely monitored from August 15 through December 31 each year. These quota areas are noted in subsection (b)(91.1)(E) with “Fall Run Quota” in the *Open Season and Special Regulations* column.

1. Quota for Entire Basin.

The ~~2015~~2016 Klamath River Basin quota is ~~44,133~~[0-67,600] Klamath River fall Chinook salmon over 22 inches total length. The department shall inform the commission, and the public via the news media, prior to any implementation of restrictions triggered by the quotas. (NOTE: A department status report on progress toward the quotas for the various river sections is updated weekly, and available at 1-800-564-6479.)

2. Subquota Percentages.

a. The subquota for the Klamath River upstream of the Highway 96 bridge at Weitchpec and the Trinity River is 50% of the total Klamath River Basin quota.

(i) The subquota for the Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec is 17% of the total Klamath River Basin quota.

(ii) The subquota for the Trinity River main stem downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat is 16.5% of the total Klamath River Basin quota.

(iii) The subquota for the Trinity River main stem downstream of the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River is 16.5% of the total Klamath River Basin quota.

b. The subquota for the Lower Klamath River downstream of the Highway 96 bridge at Weitchpec is 50% of the total Klamath River Basin quota.

(i) The Spit Area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) will close when 15% of the total Klamath River Basin quota is taken downstream of the Highway 101 bridge.

(E) Klamath River Basin Open Seasons and Bag Limits.

All anadromous waters of the Klamath River Basin are closed to all fishing for all year except those areas listed in the following table. Bag limits are for trout and Chinook salmon in combination unless otherwise specified.

| <b><i>Body of Water</i></b>  | <b><i>Open Season and Special Regulations</i></b>  | <b><i>Daily Bag Limit</i></b>            |
|--|--|--|
| 1. Bogus Creek and tributaries.  | Fourth Saturday in May through August 31. Only artificial lures with barbless hooks may be used. | 2 hatchery trout or hatchery steelhead** |
| 2. Klamath River main stem from 3,500 feet downstream of Iron Gate Dam to the mouth. |  |  |

|  |   |  |
|--|---|--|
| <p>a. Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec.</p> | <p>January 1 to August 14.</p>  | <p>0 Chinook salmon<br/>2 hatchery trout or hatchery steelhead**</p>   |
|  | <p>Fall Run Quota <del>2,403</del><u>[0-11,492]</u> Chinook Salmon August 15 to December 31, <del>2015</del><u>2016</u>.</p>  | <p><del>3</del><u>[0-4]</u> Chinook salmon - no more than <del>2</del><u>[0-4]</u> fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.<br/>2 hatchery trout or hatchery steelhead**</p> |
|  | <p>Fall Run Quota Exception: Chinook salmon over 22 inches total length may be retained from 3,500 feet downstream of Iron Gate Dam to the Interstate 5 bridge when the department determines that the adult fall-run Chinook salmon spawning escapement at Iron Gate Hatchery exceeds 8,000 fish. Daily bag and possession limits specified for fall-run Chinook salmon apply during this exception.</p> |  |
| <p>b. Klamath River downstream of the Highway 96 bridge at Weitchpec.</p>                                      | <p>January 1 to August 14.</p>  | <p>2 Chinook salmon<br/>2 hatchery trout or hatchery steelhead**</p>   |

|  |   |  |
|--|---|--|
|  | Fall Run Quota <del>7,067</del> <u>[0-33,800]</u> Chinook Salmon August 15 to December 31, <del>2015</del> <u>2016</u> .  | <del>3</del> <u>[0-4]</u> Chinook salmon - no more than <del>2</del> <u>[0-4]</u> fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.<br>2 hatchery trout or hatchery steelhead** |
|  | <p>Fall Run Quota Exception: Spit Area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth). This area will be closed to all fishing after 15% of the Total Klamath River Basin Quota has been taken. <del>All legally caught Chinook salmon must be retained. Once the adult (greater than 22 inches) component of the total daily bag limit has been retained anglers must cease fishing in the spit area.</del></p> <p><u>All legally caught Chinook salmon must be retained. Once the adult (greater than 22 inches) component of the total daily bag limit has been retained anglers must cease fishing in the spit area.</u></p> |  |
| 3. Salmon River main stem, main stem of North Fork downstream of Sawyer's Bar bridge, and main stem of South Fork downstream of the confluence of the East Fork of the South Fork. | November 1 through February 28.   | 2 hatchery trout or hatchery steelhead**   |
| 4. Scott River main stem downstream of the Fort Jones-Greenview bridge to the confluence with the Klamath River.   | Fourth Saturday in May through February 28.   | 2 hatchery trout or hatchery steelhead**   |
| 5. Shasta River main stem downstream of the Interstate 5 bridge north of Yreka to the confluence with the Klamath River.   | Fourth Saturday in May through August 31 and November 16 through February 28.   | 2 hatchery trout or hatchery steelhead**   |

|   |  |   |
|---|--|---|
| 6. Trinity River and tributaries.   |  |   |
| a. Trinity River main stem from 250 feet downstream of Lewiston Dam to the Old Lewiston Bridge.                             | April 1 through September 15. Only artificial flies with barbless hooks may be used.   | 2 hatchery trout or hatchery steelhead**  |
| b. Trinity River main stem downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat.              | January 1 to August 31.  | 2 Chinook salmon<br>5 brown trout<br>2 hatchery trout or hatchery steelhead**   |
|   | Fall Run Quota <del>2,332</del> [0-11,154] Chinook Salmon, September 1 through December 31, <del>2015</del> 2016.  | <del>3</del> [0-4] Chinook salmon - no more than <del>2</del> [0-4] fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.<br>5 brown trout<br>2 hatchery trout or hatchery steelhead** |
|   | Fall Run Quota Exception: Chinook salmon over 22 inches total length may be retained downstream of the Old Lewiston Bridge to the mouth of Indian Creek when the department determines that the adult fall-run Chinook salmon spawning escapement at Trinity River Hatchery exceeds 4,800 fish. Daily bag and possession limits specified for fall-run Chinook salmon apply during this exception. |   |
| c. Trinity River main stem downstream of the Highway 299 West bridge at Cedar Flat to the Denny Road bridge at Hawkins Bar. | January 1 through August 31.   | 2 Chinook salmon<br>5 brown trout<br>2 hatchery trout or hatchery steelhead**   |
|   | September 1 through December 31.   | Closed to all fishing.  |

|  |   |   |
|--|---|---|
| d. New River main stem downstream of the confluence of the East Fork to the confluence with the Trinity River.               | September 15 through November 15. Only artificial lures with barbless hooks may be used.  | 2 hatchery trout or hatchery steelhead**  |
| e. Trinity River main stem downstream of the Denny Road bridge at Hawkins Bar to the mouth of the South Fork Trinity River.  | January 1 to August 31.   | 2 Chinook salmon<br>5 brown trout<br>2 hatchery trout or hatchery steelhead**   |
|  | Fall Run Quota <del>2,334</del> <u>[0-11,154]</u> Chinook Salmon September 1 through December 31, <del>2015</del> <u>2016</u> . This is the cumulative quota for subsections 6.e. and 6.f. of this table. | <del>3</del> <u>[0-4]</u> Chinook salmon - no more than <del>2</del> <u>[0-4]</u> fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.<br>5 brown trout<br>2 hatchery trout or hatchery steelhead** |
| f. Trinity River main stem downstream of the mouth of the South Fork Trinity River to the confluence with the Klamath River. | January 1 to August 31.   | 0 Chinook salmon<br>5 brown trout<br>2 hatchery trout or hatchery steelhead**   |

Sept 9, 2015 DRAFT

|  |  |   |
|--|--|---|
|  | Fall Run Quota <del>2,334</del> [0-11,154] Chinook Salmon September 1 through December 31, <del>2015</del> 2016. This is the cumulative quota for subsections 6.e. and 6.f. of this table. | <del>3</del> [0-4] Chinook salmon - no more than <del>2</del> [0-4] fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.<br>5 brown trout<br>2 hatchery trout or hatchery steelhead** |
| g. Hayfork Creek main stem downstream of the Highway 3 bridge in Hayfork to the confluence with the South Fork Trinity River.                                  | November 1 through March 31. Only artificial lures with barbless hooks may be used.  | 2 hatchery trout or hatchery steelhead**  |
| h. South Fork Trinity River downstream of the confluence with the East Fork of the South Fork Trinity River to the South Fork Trinity River bridge at Hyampom. | November 1 through March 31. Only artificial lures with barbless hooks may be used.  | 2 hatchery trout or hatchery steelhead**  |
| i. South Fork Trinity River downstream of the South Fork Trinity River bridge at Hyampom to the confluence with the Trinity River.                             | November 1 through March 31.   | 0 Chinook salmon<br>2 hatchery trout or hatchery steelhead**  |

\* Wild Chinook salmon are those not showing a healed adipose fin clip and not showing a healed left ventral fin clip. \*\*Hatchery trout or steelhead in anadromous waters are those showing a healed adipose fin clip (adipose fin is absent). Unless otherwise provided, all other trout and steelhead must be immediately released. Wild trout or steelhead are those not showing a healed adipose fin clip (adipose fin is present). Note: Authority cited: Sections 200, 202, 205, 215, 220, 240, 315 and 316.5, Fish and Game Code. Reference: Sections 200, 202, 205, 215 and 316.5, Fish and Game Code.

California Department of Fish and Wildlife  
Summary of Department of Fish and Wildlife/Del Norte County Board of Supervisors  
January 12, 2016 Public Meeting

A public meeting was held in conjunction with a Del Norte County Supervisors meeting January 12, 2016 in Crescent City California. The object of the meeting was to receive public, Tribal and County Supervisor input regarding regulatory options for the Blue Creek area of the mainstem Klamath River for consideration for 2016 Klamath Basin sport fishing regulations.

The meeting was attended by approximately 30 members of the public, three Yurok Tribal representatives (including two council members), seven Department staff, four Del Norte County Supervisors, one Legislature representative, and one member of the Fish and Game Commission.

A number of alternatives for the Blue Creek area were recommended for consideration at the meeting including the following:

1. Status quo (retain closure).
2. Re-open with no restrictions
3. Modify the closure distance
4. Base a closure on either flow or temperature criteria

Near the conclusion of the meeting a show of hands was requested by the County Supervisors for support of the above options preferred by the audience. The Yurok Tribal representatives endorsed the status quo, several fishing guides supported complete re-opening, and the majority of the audience supported modifying the current closure distance of 1/2 mile downstream of Blue Creek, during the June 15 to September 14 time period, to 500 ft. The last option (closure based on flow or temperature criteria) was not polled in the show of hands.

The conclusion of the meeting focused on a potential study of hooking mortality in the Blue Creek area which the Department and Yurok Tribe have been discussing. The public supports this effort and would like to be involved in any way possible.



BOARD OF SUPERVISORS

**COUNTY OF HUMBOLDT**

825 5<sup>TH</sup> STREET

EUREKA, CALIFORNIA 95501-1153 PHONE (707) 476-2390 FAX (707) 445-7299

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June 3, 2015

California Fish and Game Commission  
Sonke Mastrup, Executive Director  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814

**RE: Lower Klamath River Fishing Regulations – Blue Creek Closure**

Dear Executive Director Mastrup:

On behalf of the Humboldt County Board of Supervisors, I am writing to express our concern with the lack of communication and consequences of closures related to sports fishing at the mouth of the Klamath River and Blue Creek, tributary to the Klamath River.

The proposed amendments to Subsections 7.50(b)(91.1) and (b)(195), Title 14, CCR related to the Klamath River sports fishery closure were hastily made without full consideration to the economic impacts within Humboldt County and our neighbor Del Norte County. Additionally, as supported by the California Department of Fish and Wildlife during reports given to the Commission on February 12, 2015, that science should have been explored to support the decision.

While local input was included for consideration, we feel that they were ignored and the closure of Blue Creek was not fully vetted with sport fishery stakeholders and small businesses that rely on this fishery to support 50% of their yearly revenue. The closure does not just impact fishing guides, but rather a whole host of traveling public that spends the majority of their travel budget on food, lodging and transportation, directly affecting the regional economy.

At a minimum, run timing and species specific impacts affected by this closure should have been considered. As currently suggested by proponents of the closure, do Blue Creek Chinook salmon hold at Blue Creek during this time of year or are these Chinook migrating further up the Klamath? The period impacted traditionally only impacted summer steelhead runs, which guides target at the mouth of Blue Creek, not Chinook salmon. Is there the general belief that Chinook Salmon populations on the Klamath River are in trouble? It is my understanding based on quota's set over the last five (5) years that the Klamath Chinook fishery has been robust. There has been no discussion as to how steelhead fishing fits into any of the proposed closures. As of now, the closure has tied all our hands, keeping fisheries biologists from collecting vitally important information which could help answer some of these questions.

Humboldt County wants to see our vital resources protected. We rely on our fisheries both off and on shore, on the Smith and Klamath Rivers to support our tourism driven economy, it is critical that we work together to insure all aspects of these decisions are considered carefully before we close off resources that affect our economy. As there are many questions left unanswered concerning a population of Chinook that is currently not considered threatened, we would strongly recommend the Commission reconsider the Blue Creek Conservation Closure and the economic impacts to small businesses in our region.

While we understand that the decision has been made for this season, and even if corrective action were taken today, we respectfully request that the Commission reconsider their decision and commit to removing the closure next year at the mouth of Blue Creek so the proper studies requested by the Yurok Tribe can be initiated to form the foundation for decision making processes.

Sincerely,

A handwritten signature in blue ink that reads "Estelle Fennell". The signature is written in a cursive, flowing style.

Estelle Fennell, Chair  
Humboldt County Board of Supervisors

EF:kh



## COUNTY OF DEL NORTE

Office of the County Counsel  
981 "H" Street, Suite 220  
Crescent City, CA 95531

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Phone (707) 464-7208

Fax (707) 465-0324

ELIZABETH CABLE  
INTERIM COUNTY COUNSEL

JOEL CAMPBELL-BLAIR  
DEPUTY COUNTY COUNSEL

September 22, 2015

California Fish and Game Commission  
1416 Ninth Street, Room 1320  
Sacramento, CA 95714

### Re: Lower Klamath River Fishing Regulations – Blue Creek Closure

To Whom It May Concern,

Enclosed please find the Del Norte County Board of Supervisors' Petition to Repeal or in the Alternative Amend Title 14(b)(91.1)(B)(3) and (4) of Section 7.50 of the California Code of Regulations (Blue Creek Closure).

As all of our previous correspondence has gone unaccredited, we are sending this package via certified mail with the hope that it will be received and acknowledged.

Sincerely,

Elizabeth Cable  
Interim County Counsel

cc: Jay Sarina, CAO; David Finigan, Chair, Del Norte County Board of Supervisors



County of Del Norte County  
Board of Supervisors  
981 "H" Street, Ste. 200  
Crescent City, California 95531

Phone  
(707) 464-7204

Fax  
(707) 464-1165

**Petition to Repeal or in the Alternative Amend Title 14 (b)(91.1)(B)(3) and (4) of Section 7.50 of the  
California Code of Regulations (Blue Creek Closure)**

California Fish and Game Commission  
1416 Ninth Street, Suite 1320  
Sacramento, CA 95814  
FGC@fgc.ca.gov

Requested by:

County of Del Norte  
David Finigan, Chair of the Board of Supervisors  
981 H Street, Suite 210  
Crescent City, CA 95531  
(707) 464-7204

This is a petition to repeal the regulation adopted by the California Fish and Game Commission (Commission) on April 17, 2015 and effective June 4, 2015 located at Title 14 Section 7.50(b)(91.1)(B)(3) of the California Code of Regulations (CCR). If for any reason this petition is not successful at repealing the aforementioned regulation it shall be interpreted as a petition to amend the stated regulation sections for the following fishing season (2016).

This Petition is based upon the following statutes, background information, and justifications.

**Applicable Statutes:**

Government Code 11340.6 states "Except where the right to petition for adoption of a regulation is restricted by statute to a designated group or where the form of procedure for such a petition is otherwise prescribed by statute, any interested person may petition a state agency requesting the adoption, amendment, or repeal of a regulation as provided in Article 5."

Fish and Game Code §220 states "(a) Any regulation of the commission added or amended pursuant to this article shall remain in effect for the period specified therein or until superseded by subsequent regulation of the commission or by statute. (b) Notwithstanding this article, the commission may add, amend, or repeal regulations at any regular or special meeting if facts are presented to the commission which were not presented at the time the original regulations were adopted and if the commission

determines that those regulations added, amended, or repealed are necessary to provide proper utilization, protection, or conservation of fish and wildlife species or subspecies.

Fish and Game Code §315 states "The commission may at any time close any stream, lake, or other inland waters, or portions thereof, to the taking of any species or subspecies of fish to protect and properly conserve the fish, except for the taking of fish otherwise permitted by this code under a commercial fishing license, for such time as the commission may designate, or until such time as new legislation thereon enacted by the Legislature may become effective."

Fish and Game Code §315.3 states "The commission may, at any time when facts are presented to the commission which were not presented to the commission at the time of its December meeting held pursuant to Section 209, open any stream, lake, or other inland waters, or portions thereof, to the taking of any species or subspecies of fish for the proper utilization of the fish, for such time as the commission may designate or until such time as new legislation thereon enacted by the Legislature may become effective."

Fish and Game Code §703.3 states "It is the policy of the state that the department and commission use ecosystem-based management informed by credible science in all resource management decisions to the extent feasible. It is further the policy of the state that scientific professionals at the department and commission, and all resource management decisions of the department and commission, be governed by a scientific quality assurance and integrity policy, and follow well-established standard protocols of the scientific profession, including, but not limited to, the use of peer review, publication, and science review panels where appropriate. Resource management decisions of the department and commission should also incorporate adaptive management to the extent possible."

Fish and Game Code §703.5 states "It is the policy of the state as follows: (a) That the department and the commission seek to create, foster, and actively participate in effective partnerships and collaborations with other agencies and stakeholders to achieve shared goals and to better integrate fish and wildlife resource conservation and management with the natural resource management responsibilities of other agencies. (b) That the department and commission participate in interagency coordination processes that facilitate consistency and efficiency in review of projects requiring multiple permits, including, but not necessarily limited to, joint state, federal, and local permit review teams that enable early consultation with project applicants, and provide improved sharing of data, information, tools, and science to achieve better alignment of planning, policies, and regulations across agencies."

Fish and Game Code §6920 states "(a) The department shall, with the advice of the Advisory Committee on Salmon and Steelhead Trout and the Commercial Salmon Trollers Advisory Committee, prepare and maintain a detailed and comprehensive program for the protection and increase of salmon, steelhead trout, and anadromous fisheries. (b) The department shall consult with every public agency whose policies or decisions may affect the goals of this program to determine if there are feasible means for those public agencies to help the department achieve the goals of this program."

## Background Facts:

On April 17, 2015 the Commission voted to close the fishing area of the Klamath River within 500 feet of the mouth of Blue Creek from September 15 to December 31 and to close the area from 500 feet above the mouth of the Blue Creek to ½ mile downstream of the mouth of the Blue Creek June 15 through September 14.

The closure was pursuant to an amendment of Subsections (b)(91.1) and (b)(195) of Section 7.50 Title 14 of the CCR. The amendment was noticed as three Options in the Initial Statement of Reasons for Regulatory Action and in the Final Statement of Reasons for Regulatory Action. Option 1 was the Department proposal. Option 2 was the Yurok Tribe proposal and Option 3 was a “possible combination” of Option 1 and 2.<sup>1</sup> Precipitating the Options was a letter from the Yurok Tribe formally recommending modifications of the regulations. This letter was dated November 19, 2014. The Commission then had a Notice hearing on the proposed amendments on December 3, 2014. The Initial Statement of Reasons was filed on January 12, 2014. A discussion hearing was held on February 12, 2015. The Pre-Adoption Statement of Reasons was filed March 20, 2015. The adoption hearing was held April 17, 2015. The Final Statement of Reasons was filed May 4, 2015. The regulation was approved by the Office of Administrative Law and took effect on June 4, 2015.

The closure was outlined in Options 2 and 3 but was against the recommendation of the Department.<sup>2</sup> Department staff stated “The Department cannot support that as the preferred option.”<sup>3</sup>

The closure was not based on scientific data regarding this specific location. The response to public comment by the Commission states that “The Commission adopted the proposed closure at the mouth of Blue Creek as a precautionary conservation measure” and “Scientific studies are needed to determine if, and under what criteria, alternate or additional closures may be necessary.”<sup>4</sup> The lack of scientific data was discussed by the Commission on April 17, 2015 as well as the need for such scientific data including temperature monitoring.<sup>5</sup>

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<sup>1</sup> Option 1 - No catch and release fishing in Spit Area – Department Proposal: All legally caught Chinook salmon must be retained. Once the adult Chinook component of the daily bag has been retained, the angler must cease fishing in the spit area. Option 2- Conservation closure below the mouth of Blue Creek to reduce catch and release in a thermal refuge area and protect late-fall Chinook holding to prior to entering Blue Creek. Option 3- (1) All legally caught Chinook salmon must be retained. Once the adult Chinook component of the daily bag has been retained, the angler must cease fishing in the spit area. (2) Conservation closure below the mouth of Blue Creek to reduce catch and release mortality in a thermal refugia area and protect late-fall Chinook holding prior to entering Blue Creek.

<sup>2</sup> See Memorandum dated April 1, 2015 from Charlton Bonham, Director to Sonke Mastrup, Executive Director

<sup>3</sup> Teleconference April 17, 2015 available [http://www.cal-span.org/media.php?folder\[\]=CFG](http://www.cal-span.org/media.php?folder[]=CFG) comment found at 2:01:27: 2:35:50.

<sup>4</sup> <http://www.fgc.ca.gov/regulations/2015/ktcommentsandresponses.pdf>

<sup>5</sup> Teleconference April 17, 2015 available [http://www.cal-span.org/media.php?folder\[\]=CFG](http://www.cal-span.org/media.php?folder[]=CFG) comment found at 2:34:00 – 2:34:48

Even without the scientific data supporting a closure of the Blue Creek area, the Commission voted to close the area, as one Commissioner stated at the April 17, 2015, “Why not close it and see what happens?”<sup>6</sup>

### **Justification for Repeal or Amendment**

The closure in question was arbitrary and capricious as it was not done with due regard for science, facts, and circumstances. The regulation was adopted in procedural disarray. It appears from the record several Commissioners wished to find out if, scientifically, there would be a need to close the area through temperature monitoring but could not adopt such a regulation because the noticing had not been done for such an alternative.<sup>7</sup> At the April 17, 2015 meeting, Executive Director Mastrup stated at one point during the motions “this is getting really screwed up quite honestly”<sup>8</sup> referring to the process of passing the motion on the closure of Blue Creek. The Commissioners lack of understanding of the motion they were passing, whether it was a recommendation of the Department or not, and the process needed to amend the regulation is clear from the record.

The Statement of Reasons promulgated by the Commission did not adequately estimate the impact upon County residents including impacts upon small businesses, in particular businesses consisting of sport fishing. Instead the Final Statement of Impacts states that “The impacted businesses are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of reasons.” The Commission did not adequately consider the economic impact of such actions. Del Norte County had, according to census data, 21.8% of persons living below the poverty level as compared to 15.9% of people statewide.<sup>9</sup> The effect on small businesses is a significant impact on the County.

Under Title 14 CCR 777.8(c), “Any proposed regulations for which significant adverse environmental effects have been identified during the review process shall not be approved or adopted as proposed if there are feasible mitigation measures or feasible alternatives which would avoid or substantially lessen any significant adverse effect which the proposed regulations may have on the environment, in accordance with Public Resources Code section 21081.” The method in which the Commission noticed, evaluated, and eventually adopted the regulations at issue was wholly inadequate because there were several options which were evaluated together as one proposal when, in reality, they had different consequences and different significance of effects. The Commission eventually adopted what appears to be a combination of the Options which encompassed the Blue Creek closure. “Option 1 “would have been an alternative which would have lessened the significant impact on the local economy and local businesses. Whether the Options were mutually exclusive is unclear from the documents noticing the hearings on the amended regulations, but it appears that on April 17, 2015 the Commission decided they were not mutually exclusive and appears to have adopted a combination of the Options. In a

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<sup>6</sup> Teleconference April 17, 2015 available [http://www.cal-span.org/media.php?folder\[\]=CFG](http://www.cal-span.org/media.php?folder[]=CFG) comment found at 2:03:26.

<sup>7</sup> Teleconference April 17, 2015 available [http://www.cal-span.org/media.php?folder\[\]=CFG](http://www.cal-span.org/media.php?folder[]=CFG) comment found at 2:31:00-2:49:22

<sup>8</sup> Teleconference April 17, 2015 available [http://www.cal-span.org/media.php?folder\[\]=CFG](http://www.cal-span.org/media.php?folder[]=CFG) comment found at 2:39:46

<sup>9</sup> <http://quickfacts.census.gov/qfd/states/06/06015.html>

response to the comments received by the public, the Department states “the final economic effect related to steelhead fishing will have to be assessed post season due to lack of adequate fishing effort data for this area.”<sup>10</sup> Additionally the possibility of an adverse environmental impact due to fish crowding in the Blue Creek area was not fully vetted in accordance with §777.6 of the Title 14 of the CCR. Overall, the adoption of the combination of the Options does not comport with the procedural regulations for implementation of the California Environmental Quality Act of 1970 (CEQA).

The scientific data needs to be evaluated as to whether such a closure is a necessary conservation measure or is scientifically sound. Department staff representative Stafford Lehr stated “That’s where the Department actually wanted to be with the Yurok. These points that have been raised are extremely valid and...they have expressed a concern, the Department has looked at it and said ‘we really don’t know what is the effort really, right at Blue Creek.’”<sup>11</sup> The Department staff representative went on to state the Department would like to build temperature criteria and address the issue in the coming year when there is scientific data available and explained that the proposal in front of the Commission would close the area regardless of what the temperature conditions were. Anecdotal data has indicated crowding conditions at the mouth of the Blue Creek partially due to fishing restrictions under the new regulations combined with low water levels are resulting in the deadly parasite ich which was responsible for the 2002 fish kill which caused severe damage to tribal trust resources and commercial and sport fisheries for years to come, undermining the regional economy.<sup>12</sup> Scientific data regarding this specific location as well as consequences to local resources and local economy needs to be considered rather than a “why not close it and see what happens” approach based upon political pressures. This is the exact reason why decision making by a California regulatory authority should not be arbitrary.

Through letters dated February 12, 2015 and May 29, 2015, the County via its Board of Supervisors urged the Fish and Game Commission not to adopt such regulation without supporting scientific data but to no avail. County Counsel wrote a letter on June 9, 2015 expressing the disappointment of the Board after the regulation was amended.

The County Board of Supervisors believe the Commission should collaborate with agencies and stakeholders in a meaningful manner according to its own polices and state law and should work toward solutions together rather than unilaterally denying repeated requests from the County that they reassess their decision making process as to this matter.

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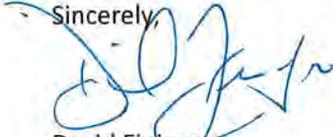
<sup>10</sup> <http://www.fgc.ca.gov/regulations/2015/ktcommentsandresponses.pdf>

<sup>11</sup> Teleconference April 17, 2015 available [http://www.cal-span.org/media.php?folder\[\]=CFG](http://www.cal-span.org/media.php?folder[]=CFG) comment found at 2:33:55

<sup>12</sup> See press release from Jared Huffman <https://huffman.house.gov/media-center/press-releases/rep-jared-huffman-insists-federal-agencies-act-to-prevent-klamath-river>

The County now calls upon the Commission to repeal such regulation or, in the alternative, amend the regulation taking into consideration the impacts on the County and all of its residents. The Commission is required to act within 30 days under Government Code §11340.7. The County looks forward to an official response to this Petition.

Sincerely,



David Finigan,  
Chairman of the Board  
Del Norte County  
Board of Supervisors

#### Attachments

1. Notice of Proposed Changes in Regulations- Jan. 13, 2015
2. Initial Statement of Reasons - January 12, 2015
3. Final Statement of Reasons – May 4, 2015
4. Summary and Response to Public Comments
5. Approved Regulatory Language (page 1)
6. Office of Administrative Law's decision: June 4, 2015
7. Letter from Yurok Tribe Chairman Thomas O'Rourke- November 19, 2014
8. Press Release "Rep. Jared Huffman insists federal agencies act to prevent Klamath River fish kill"  
– August 3, 2015
9. Blue Creek fishing closure: Parties air their grievances–July 16, 2015

# Attachment 1

**TITLE 14. Fish and Game Commission  
Notice of Proposed Changes in Regulations**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 202, 205, 215, 220, 240, 315, and 316.5, of the Fish and Game Code and to implement, interpret or make specific Sections 200, 202, 205, 215, and 316.5 of said Code, proposes to amend subsections (b)(91.1) and (b)(195) of Section 7.50, Title 14, California Code of Regulations, relating to Klamath River sport fishing.

**Informative Digest/Policy Statement Overview**

The Klamath River System, which consists of the Klamath River and Trinity River basins, is managed through a cooperative system of State, federal, and tribal management agencies. Salmonid regulations are designed to meet natural and hatchery escapement needs for salmonid stocks, while providing equitable harvest opportunities for ocean recreational, ocean commercial, river recreational and tribal fisheries.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of recreational and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service.

The California Fish and Game Commission (Commission) adopts regulations for the ocean salmon recreational (inside three miles) and the Klamath River System recreational fisheries which are consistent with federal fishery management goals.

For the purpose of PFMC mixed-stock fishery modeling and salmon stock assessment, salmon greater than 22 inches are defined as adult salmon (ages 3-5) and salmon less than or equal to 22 inches are defined as grilse salmon (age 2).

**Klamath River Fall-Run Chinook**

Klamath River fall-run Chinook salmon (KRFC) harvest allocations and natural spawning escapement goals are established by the PFMC. The KRFC harvest allocation between tribal and non-tribal fisheries is based on court decisions and allocation agreements between the various fishery representatives.

The 2015 KRFC in-river recreational fishery allocation recommended by the PFMC is currently unknown. All proposed closures for adult KRFC are designed to ensure sufficient spawning escapement in the Klamath River Basin and equitably distribute harvest while operating within annual allocations.

**Klamath River Spring-Run Chinook**

The Klamath River System also supports Klamath River spring-run Chinook salmon (KRSC). Naturally produced KRSC are both temporally and spatially separated from KRFC in most cases.

Presently, KRSC stocks are not managed or allocated by the PFMC. The in-river recreational fishery is managed by general basin seasons, daily bag limit, and possession limit regulations.

### **KRFC Allocation Management**

The PFMC 2014 allocation for the Klamath River System recreational harvest was 4,128 adult KRFC. Preseason stock projections of 2015 adult KRFC abundance will not be available from the PFMC until March 2015. The 2015 Klamath River Basin allocation will be recommended by the PFMC in April 2015 and presented to the Commission for adoption prior to its April 2015 meeting.

For public notice requirements, the Department of Fish and Wildlife (Department) recommends the Commission consider an allocation range of 0 – 67,600 adult KRFC in the Klamath River Basin for the river recreational fishery.

### **Current Recreational Fishery Management**

The KRFC in-river recreational harvest allocation is divided into geographic areas and harvest is monitored under real time subquota management. KRSC in-river recreational harvest is managed by general season, daily bag limit, and possession limit regulations.

The daily bag and possession limits apply to both stocks within the same sub-area and time period.

### **Proposed Changes**

No changes are proposed for the general (KRSC) opening and closing season dates, and bag, possession and size limits.

The following changes to current regulations are proposed:

#### KRFC QUOTA MANAGEMENT: Seasons, Bag and Possession Limits

For public notice requirements, a range of KRFC bag and possession limits are proposed until the 2015 Klamath River Basin quota is adopted. As in previous years, no retention of adult KRFC salmon is proposed for the following areas, once the subquota has been met.

The proposed open seasons and range of bag and possession limits for KRFC salmon stocks are as follows:

1. Klamath River - August 15 to December 31
2. Trinity River - September 1 to December 31
3. Bag Limit - [0-4] Chinook salmon of which no more than [0-4] fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.
4. Possession limit - [0-12] Chinook salmon of which [0-12] over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

#### SPIT AREA MANAGEMENT

Current regulations specify that the spit area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) closes to all fishing after 15 percent of the total adult KRFC quota has been taken downstream of the Highway 101 bridge.

In 2014 the Department also evaluated restrictive measures for the spit area which included a "no catch and release" regulation for Chinook salmon legally caught in the spit area to protect Chinook stocks from excessive catch and release mortality. The regulatory time frame did not allow for sufficient time to promulgate such a regulation change. The Department informed the Commission that it would consider this change for the 2015 regulatory cycle.

The following options are being provided for Commission consideration:

Option 1 - No catch and release fishing in Spit Area - Department Proposal

After internal discussion and Yurok Tribal coordination, the Department is proposing the following change to the 2015 fall Chinook spit area regulations:

All legally caught Chinook salmon must be retained. Once the adult Chinook component of the daily bag has been retained, the angler must cease fishing in the spit area.

This regulatory proposal does not preclude anglers from leaving the spit area and fishing other areas once their adult daily bag has been taken. Anglers may fish other areas outside of the spit to fill the grilse (Chinook salmon <22 inches) component of their daily bag limit. This regulation also does not preclude anglers from filling a daily bag composed entirely of grilse salmon while fishing the spit area.

Option 2 - All Chinook salmon must be kept in Spit Area with Blue Creek closure - Yurok Proposal

The Yurok tribe is proposing the following modifications to the Klamath River regulations in the spit area and on the main Klamath River below the confluence with Blue Creek:

- 1) No catch and release fishing allowed in the spit area to reduce pinniped predation on released fish, and
- 2) Conservation closure below the mouth of Blue Creek to reduce catch and release in a thermal refuge area and protect late-fall Chinook holding prior to entering Blue Creek.

The first modification is to the spit area at the mouth of the Klamath River to allow no release of Chinook salmon, regardless of whether they are legally caught or foul hooked. This option provides an exception from the general snagging prohibitions in Section 2.00. The second modification would add Blue Creek to the September 15 to December 31 stream mouth closures and add a new Klamath River main stem closure from June 15 to September 14 from 500 feet above to ½ mile downstream around the mouth of Blue Creek.

Option 3 – A possible combination of Options 1 and 2

The Commission may combine Option 1's prohibition on catch and release fishing in the spit area with Option 2's Blue Creek conservation closure.

- 1) All legally caught Chinook salmon must be retained. Once the adult Chinook component of the daily bag has been retained, the angler must cease fishing in the spit area.
- 2) Conservation closure below the mouth of Blue Creek to reduce catch and release in a thermal refuge area and protect late-fall Chinook holding prior to entering Blue Creek.

ADDITIONAL PROPOSED CHANGES

The name of the road listed in subsection (b)(91.1)(B)2. is proposed to be corrected from "Ishi Pishi Falls road" to "Ishi Pishi Road". Cross references are proposed to be corrected in subsection (b)(195) to reduce public confusion. Other changes are proposed for clarity and consistency.

**Benefits of the Proposed Regulations**

The benefits of the proposed regulations are in conformance with federal law, sustainable management of Klamath River Basin salmon resources, and promotion of businesses that rely on recreational salmon fishing in the Klamath River Basin.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to promulgate sport fishing regulations (Sections 200, 202, 205, 315, and 316.5, Fish and Game Code). Commission staff has searched the California Code of Regulations and has found no other State regulations related to the recreational take of Chinook salmon in the Lower Klamath River Basin.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Resources Building Auditorium, 1416 Ninth Street, Sacramento, California, on Thursday, February 12, 2015, at 8:00 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a teleconference originating in the Fish and Game Commission conference room, 1416 Ninth Street, Suite 1320, Sacramento, California, on Friday, April 17, 2015, at 8:30 a.m., or as soon thereafter as the matter may be heard. Interested persons may also participate at the following locations: Department of Fish and Wildlife, Conference Room, 50 Ericson Court, Arcata, California; Department of Fish and Wildlife, Conference Room, 20 Lower Ragsdale Drive, Suite 100, Monterey, California; Department of Fish and Wildlife, Conference Room, 1933 Cliff Drive, Suite 9, Santa Barbara, California; and Department of Fish and Wildlife, Conference Room, 4665 Lampson Avenue, Los Alamitos, California. Written comments may be submitted at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on April 16, 2015. All comments must be received no later than April 17, 2015, at one of the teleconference hearing locations listed above. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Sonke Mastrup or Sherrie Fonbuena at the preceding address or phone number. **Stafford Lehr, Chief of Fisheries Branch, Department of Fish and Wildlife, (916) 327-8840 or [Stafford.Lehr@wildlife.ca.gov](mailto:Stafford.Lehr@wildlife.ca.gov), has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

#### Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person

interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

### **Impact of Regulatory Action/Results of the Economic Impact Analysis**

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) **Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations are projected to have some impact on the net revenues to local businesses servicing sport fishermen. Visitor spending may be reduced and in the absence of the emergence of alternative visitor activities, the drop in spending could induce business contraction. However, this will not likely affect the ability of California businesses to compete with businesses in other states. The preservation of Klamath River salmon stocks is necessary for the success of lower and upper Klamath River Basin businesses which provide goods and services related to fishing. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

(b) **Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:**

The proposed regulations range from no fishing of KRFC salmon in 2015; to a normal Klamath River Basin salmon season. The Commission anticipates some impact on the creation or elimination of jobs in California. The potential employment impacts range from 0 to 23 jobs which are not expected to create, eliminate or expand businesses in California. The Commission anticipates impacts on the creation, elimination or expansion of businesses in California ranging from no impact to reduced revenues to approximately 30 businesses that serve sport fishing activities. However, the possibility of growth of businesses to serve substitute activities exists. Adverse impacts to jobs and/or businesses would be less if fishing of grilse KRFC salmon is permitted than under the complete closure to all fishing. The impacted businesses are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable salmon stocks and, subsequently, the promotion and long-term viability of these same small businesses.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a salmon sport fishery encourages consumption of a nutritious food.

The Commission anticipates benefits to the environment by the sustainable management of California's salmon resources.

The Commission does not anticipate any benefits to worker safety.

(c) **Cost Impacts on a Representative Private Person or Business:**

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) **Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:** None.

(e) **Nondiscretionary Costs/Savings to Local Agencies:** None.

(f) **Programs Mandated on Local Agencies or School Districts:** None.

(g) **Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:** None.

(h) **Effect on Housing Costs:** None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Dated: January 13, 2015

Sonke Mastrup  
Executive Director

# Attachment 2

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION  
(Pre-publication of Notice Statement)

Amend Subsections (b)(91.1) and (b)(195) of Section 7.50  
Title 14, California Code of Regulations  
Re: Klamath River Sport Fishing Regulations

- I. Date of Initial Statement of Reasons: January 12, 2015
- II. Dates and Locations of Scheduled Hearings:
- (a) Notice Hearing: Date: December 3, 2014  
Location: Van Nuys
- (b) Discussion Hearing: Date: February 12, 2015  
Location: Sacramento
- (c) Adoption Hearing: Date: April 17, 2015  
Location: Teleconference
- III. Description of Regulatory Action:
- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:
- The Klamath River System, which consists of the Klamath River and Trinity River basins, is managed through a cooperative system of State, federal, and tribal management agencies. Salmonid regulations are designed to meet natural and hatchery escapement needs for salmonid stocks, while providing equitable harvest opportunities for ocean recreational, ocean commercial, river recreational and tribal fisheries.
- The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of recreational and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).
- The California Fish and Game Commission (Commission) adopts regulations for the ocean salmon recreational (inside three miles) and the Klamath River System recreational fisheries which are consistent with federal fishery management goals.
- Two tribal entities within the Klamath River System, the Hoopa Valley Tribe and the Yurok Tribe, maintain fishing rights for ceremonial,

subsistence and commercial fisheries that are managed consistent with federal fishery management goals. Tribal fishing regulations are promulgated by the Hoopa and Yurok tribes.

For the purpose of PFMC mixed-stock fishery modeling and salmon stock assessment, salmon greater than 22 inches are defined as adult salmon (ages 3-5) and salmon less than or equal to 22 inches are defined as grilse salmon (age 2).

### **Klamath River Fall-Run Chinook**

Klamath River fall-run Chinook salmon (KRFC) harvest allocations and natural spawning escapement goals are established by the PFMC. The KRFC harvest allocation between tribal and non-tribal fisheries is based on court decisions and allocation agreements between the various fishery representatives.

The 2015 KRFC in-river recreational fishery allocation recommended by the PFMC is currently unknown. All proposed closures for adult KRFC are designed to ensure sufficient spawning escapement in the Klamath River Basin and equitably distribute harvest while operating within annual allocations.

### **Klamath River Spring-Run Chinook**

The Klamath River System also supports Klamath River spring-run Chinook salmon (KRSC). Naturally produced KRSC are both temporally and spatially separated from KRFC in most cases.

Presently, KRSC stocks are not managed or allocated by the PFMC. The in-river recreational fishery is managed by general basin seasons, daily bag limit, and possession limit regulations. KRSC harvest will be monitored on the Lower Klamath River in 2015 and ensuing years by creel survey.

### **KRFC Allocation Management**

The PFMC 2014 allocation for the Klamath River System recreational harvest was 4,128 adult KRFC. Preseason stock projections of 2015 adult KRFC abundance will not be available from the PFMC until March 2015. The 2015 basin allocation will be recommended by the PFMC in April 2015 and presented to the Commission for adoption prior to its April 2015 meeting.

For public notice requirements, the Department of Fish and Wildlife (Department) recommends the Commission consider an allocation range of 0 – 67,600 adult KRFC in the Klamath River Basin for the river recreational fishery. This recommended range encompasses the historical range of the Klamath River Basin allocations and allows the PFMC and Commission to make adjustments during the 2015 regulatory cycle.

The Commission may modify the KRFC in-river recreational salmon harvest allocation which is normally 15 percent of the non-tribal PFMC harvest allocation. Commission modifications need to meet biological and fishery allocation goals specified in law or established in the PFMC Salmon Fishery Management Plan otherwise harvest opportunities may be reduced in the California ocean fisheries.

The annual KRFC in-river harvest allocation is split into 4 geographic areas with subquotas assigned to each. They are as follows:

1. for the main stem Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec -- 17 percent of the recreational fishery allocation;
2. for the main stem Klamath River from downstream of the Highway 96 bridge at Weitchpec to the mouth -- 50 percent of the recreational fishery allocation;
3. for the Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat -- 16.5 percent of the recreational fishery allocation; and
4. for the Trinity River downstream from the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River -- 16.5 percent of the recreational fishery allocation.

The spit area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) closes to all fishing after 15 percent of the total Klamath River Basin quota has been taken downstream of the Highway 101 bridge.

These geographic areas are based upon the historical distribution of angler effort and ensure equitable harvest of adult KRFC in the upper Klamath River and Trinity River. The subquota system requires the Department to monitor angler harvest of adult KRFC in each geographic area. All areas will be monitored on a real time basis except for the following:

Klamath River upstream of Weitchpec and the Trinity River: Due to funding and personnel reductions, the Department will be unable to deploy adequate personnel to conduct harvest monitoring in the Klamath River upstream of Weitchpec and in the Trinity River for the 2015 season. The Department has reviewed salmon harvest and run-timing data for these areas. Based on this review, the Department has developed a Harvest Predictor Model (HPM) which incorporates historic creel survey data from the Klamath River downstream of Iron Gate Dam to the confluence with the Pacific Ocean and the Trinity River downstream of Lewiston Dam to the confluence with the Klamath River. The HPM is driven by the positive relationship between KRFC harvested in the Lower and Upper Klamath River. The HPM will be used by the Department to implement fishing

closures to ensure that anglers do not exceed established subquota targets.

### **Current Recreational Fishery Management**

The KRFC in-river recreational harvest allocation is divided into geographic areas and harvest is monitored under real time subquota management. KRSC in-river recreational harvest is managed by general season, daily bag limit, and possession limit regulations.

The Department presently differentiates the two stocks by the following dates:

#### **Klamath River**

1. January 1 through August 14 - General Season KRSC.  
For purposes of clarity, daily bag and possession limits apply to that section of the Klamath River downstream the Highway 96 bridge at Weitchpec to the mouth.
2. August 15 to December 31 - KRFC quota management.

#### **Trinity River**

1. January 1 through August 31 – General Season KRSC.  
For purposes of clarity, daily bag and possession limits apply to that section of the Trinity River downstream of the Old Lewiston Bridge to the confluence with the South Fork Trinity River.
2. September 1 through December 31 – KRFC quota management.

The daily bag and possession limits apply to both stocks within the same sub-area and time period.

### **Proposed Changes**

No changes are proposed for the general (KRSC) opening and closing season dates, and bag, possession and size limits.

The following changes to current regulations are proposed:

#### **KRFC QUOTA MANAGEMENT: Seasons, Bag and Possession Limits**

For public notice requirements, a range of KRFC bag and possession limits are proposed until the 2015 Klamath River Basin quota is adopted. As in previous years, no retention of adult KRFC salmon is proposed for the following areas, once the subquota has been met.

The proposed open seasons and range of bag and possession limits for KRFC salmon stocks are as follows:

1. Klamath River - August 15 to December 31
2. Trinity River - September 1 to December 31

3. Bag Limit - [0-4] Chinook salmon – of which no more than [0-4] fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.
4. Possession limit - [0-12] Chinook salmon of which [0-12] over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

**SPIT AREA MANAGEMENT:**

Regulations adopted in 2014 specify the spit area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) will close to all fishing after 15 percent of the total Klamath River Basin quota has been taken downstream of the Highway 101 bridge. At the same time, the Commission removed language (special note in the regulations for the spit fishery) that allowed the Department to keep the spit fishery open if the Department projected the Klamath River Basin adult fall Chinook would not be met.

In 2014 the Department also evaluated restrictive measures for the spit area which included a “no catch and release” regulation for Chinook salmon legally caught in the spit area to protect Chinook stocks from excessive catch and release mortality. The regulatory time frame did not allow for sufficient time to promulgate such a regulation change. The Department informed the Commission that it would consider this change for the 2015 regulatory cycle.

At issue is the perception of mortality associated with Chinook salmon which are caught and released by anglers trying to fill their daily grilse bag limit. Typically the fall Chinook bag limit is composed of an adult portion and grilse portion. In 2014 the daily fall Chinook bag limit was three fish, no more than one adult. Thus, anglers fishing the spit area would often catch and keep their one adult and continue fishing for the grilse portion of their daily bag. Some anglers would catch multiple adult fall Chinook and have to release these fish since they already had retained their one adult. Some released Chinook were observed floating downstream, thus becoming easy prey for the marine mammals that congregate in this area.

The following options are being provided for Commission consideration:

**Option 1 - No catch and release fishing in Spit Area - Department Proposal**

After internal discussion and Yurok Tribal coordination, the Department is proposing the following change to the 2015 fall Chinook salmon spit area regulations:

All legally caught Chinook salmon must be retained. Once the adult Chinook component of the daily bag has been retained, the angler must cease fishing in the spit area.

This regulatory proposal does not preclude anglers from leaving the spit area and fishing other areas once their adult daily bag has been taken. Anglers may fish other areas outside of the spit to fill the grilse (Chinook salmon <22 inches) component of their daily bag limit. This regulation also does not preclude anglers from filling a daily bag composed entirely of grilse salmon while fishing the spit area.

Option 2 - All Chinook salmon must be kept in Spit Area with Blue Creek closure - Yurok Proposal

The Yurok tribe approached the Commission at the notice hearing for additional proposed modifications to the Klamath River regulations in the spit area and the main Klamath River below the confluence with Blue Creek. The Commission directed the Department to add a regulatory option to allow further consideration of the Yurok proposal:

- 1) No catch and release fishing allowed in the spit area to reduce pinniped predation on released fish, and
- 2) Conservation closure below the mouth of Blue Creek to reduce catch and release in a thermal refuge area and protect late-fall Chinook holding to prior to entering Blue Creek.

The first modification is to the spit area at the mouth of the Klamath River to allow no release of Chinook salmon. This revision would add a new subarea on the spit area by adding a new subsection (b)(91.1)(E) for the spit area.

The difference between the Yurok Tribe's proposed regulation and the Department's proposal is that the Tribal proposal requires the retention of all fish caught, regardless of whether they are caught legally or foul hooked. The proposed regulations therefore provide, in this one instance, an exception from the snagging prohibitions in subsections (b) and (c) of Section 2.00. The rationale for this is that a substantial proportion of fish caught in this area are foul hooked due to the nature of the fishery. Given that these fish are exhausted when released, and there is a relatively large presence of sea lions and seals that feed upon these released fish, the Tribe recommends that all fish caught (even those foul hooked) be retained and counted toward an angler's daily bag limit.

The second modification would expand subsection (b)(91.1)(B)3. to add Blue Creek to the September 15 to December 31 stream mouth closures and add a new Klamath River main stem closure from June 15 to September 14 from 500 feet above to ½ mile downstream around the mouth of Blue Creek.

This proposed conservation area has two purposes, depending on the time of year:

- 1) Mid-June to mid-September: The intent of this closure to fishing is to protect the large numbers of adult summer steelhead, as well as spring

and fall-run Chinook salmon (thousands during some years), that are seeking thermal respite from the excessively warm Klamath River main stem temperatures. The intent is to prevent these fish from being caught by anglers, played for an extended period of time in the ambient river conditions that are several degrees warmer (sometimes near lethal levels) than the thermal refuge, and then eventually released. Forcing fish to go through such abrupt temperature changes, while putting them through excessive stress, results in physiological trauma that can lead to death.

2) Mid-September through December: The intent of this closure is to protect the genetically unique late-fall run chinook salmon that hold at the mouth of Blue Creek prior migrating upstream to spawn in Blue Creek, similar to the protections that are currently given at the mouths of the Salmon, Scott and Shasta Rivers.

### Option 3 – A possible combination of Options 1 and 2

The Commission may combine Option 1's prohibition on catch and release fishing in the spit area with Option 2's Blue Creek conservation closure.

- 1) All legally caught Chinook salmon must be retained. Once the adult Chinook component of the daily bag has been retained, the angler must cease fishing in the spit area.
- 2) Conservation closure below the mouth of Blue Creek to reduce catch and release in a thermal refuge area and protect late-fall Chinook holding prior to entering Blue Creek.

### ADDITIONAL PROPOSED CHANGES

The name of the road listed in subsection (b)(91.1)(B)2. is proposed to be corrected from "Ishi Pishi Falls road" to "Ishi Pishi Road". Cross references are proposed to be corrected in subsection (b)(195) to reduce public confusion. Other changes are proposed for clarity and consistency.

### **Benefits of the Proposed Regulations**

It is the policy of this State to encourage the conservation, maintenance, and utilization of the living resources of the ocean and inland waters under the jurisdiction and influence of the State for the benefit of all the citizens of the State. In addition, it is the policy of this State to promote the development of local California fisheries in harmony with federal law respecting fishing and the conservation of the living resources of the ocean and inland waters under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based Klamath River Basin salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of salmon to ensure their continued existence.

The benefits of the proposed regulations are in conformance with federal law, sustainable management of Klamath River Basin salmon resources, and promotion of businesses that rely on recreational salmon fishing in the Klamath River Basin.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, 205, 215, 220, 240, 315 and 316.5, Fish and Game Code.

Reference: Sections 200, 202, 205, 215 and 316.5, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

*In-River Sport Fishing Economics Technical Report*, National Oceanographic and Atmospheric Administration, National Marine Fisheries Service (NMFS), September 2011.

- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:

No public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed amendments.

#### IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

The use of more liberal regulations for bag limits, possession limits and fishing methods. For KRFC salmon, more liberal regulations would be less desirable than those proposed because they could create risk of an intense fishery reaching or exceeding the quota in a very short time. Reaching the quota in a very short time could be damaging to the local economy. Exceeding the allowable harvest could be damaging to the KRFC salmon stocks.

- (b) No Change Alternative:

The No Change Alternative would leave the current 2014 regulations in place and would not conform to the PFMC Klamath River Basin quota for 2015. Nor would it address the excessive catch and release mortality within the spit area. The change is necessary to continue appropriate harvest rates and an equitable distribution of the harvestable surplus.

(c) **Consideration of Alternatives:**

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

V. **Mitigation Measures Required by Regulatory Action:**

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. **Impact of Regulatory Action:**

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) **Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations are projected to have some impact on the net revenues to local businesses servicing sport fishermen. Visitor spending may be reduced and in the absence of the emergence of alternative visitor activities, the drop in spending could induce business contraction. However, this will not likely affect the ability of California businesses to compete with businesses in other states. The preservation of Klamath River salmon stocks is necessary for the success of lower and upper Klamath River Basin businesses which provide goods and services related to fishing. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

(b) **Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:**

The proposed regulations range from no fishing of KRFC salmon in 2015; to a normal Klamath River Basin salmon season. The Commission anticipates some impact on the creation or elimination of jobs in California. The potential employment impacts range from 0 to 23 jobs which are not

expected to create, eliminate or expand businesses in California. The Commission anticipates impacts on the creation, elimination or expansion of businesses in California ranging from no impact to reduced revenues to approximately 30 businesses that serve sport fishing activities. However, the possibility of growth of businesses to serve substitute activities exists. Adverse impacts to jobs and/or businesses would be less if fishing of grilse KRFC salmon is permitted than under the complete closure to all fishing. The impacted businesses are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable salmon stocks and, subsequently, the promotion and long-term viability of these same small businesses.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a salmon sport fishery encourages consumption of a nutritious food.

The Commission anticipates benefits to the environment by the sustainable management of California's salmon resources.

The Commission does not anticipate any benefits to worker safety.

(c) **Cost Impacts on a Representative Private Person or Business:**

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) **Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:**

None.

(e) **Nondiscretionary Costs/Savings to Local Agencies:**

None.

(f) **Programs Mandated on Local Agencies or School Districts:**

None.

(g) **Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:**

None.

(h) **Effect on Housing Costs:**

None.

VI. Economic Impact Assessment:

The regulatory amendments of subsections of Section 7.50 under consideration will set the 2014 Klamath River Basin salmon sport fishing regulations to conform to Pacific Fishery Management Council (PFMC) Fall Chinook allocation guidelines. The Klamath River Basin is anticipated to be open for sport salmon fishing at levels similar to the 2014 quotas; however the possibility of marine fishery area closures still exists. Ocean closures may in turn result in PFMC recommendations for Klamath River Basin sport salmon fishery closures for the take of adult salmon. Adverse or positive impacts to jobs and businesses will depend on the exact regulations ultimately adopted by PFMC and the Fish and Game Commission (Commission).

The Commission is considering proposed changes to Klamath River Fall Chinook (KRFC) quota management and the management of the Klamath River Basin spit area which is the area within 100 yards of the channel through the sand spit formed at the Klamath River mouth:

1) KRFC QUOTA MANAGEMENT

The proposed regulations range from 100% of last year's Klamath River Basin salmon season to 0% or no salmon fishing on adult Chinook salmon (greater than 22 inches) in 2015. Under all scenarios sport fishing will be allowed for grilse fall-run Chinook salmon (2 year-old salmon 22 inches or less) regardless of PFMC regulations, thus any adverse impacts to businesses would be less severe than under a complete closure of fishing.

The projections evaluated here are as follows: 100% of the 2014 Klamath River Basin catch limit; 50% of the 2014 basin catch limit; and 0% of the 2014 basin catch limit.

A. Effects of the Regulation on the Creation or Elimination of Jobs

Projection 1. 100% catch limit: The Commission does not anticipate any adverse impacts on the creation or elimination of jobs, as the quotas would not decrease effort nor curtail the number of visitors and thus probable visitor expenditures in the fisheries areas.

Based on a 2011 NOAA National Marine Fisheries Service (NMFS) report on In-River Sport Fishing Economics of the Klamath River, under a normal season non-resident Klamath River sport salmon anglers contribute about \$2,037,424 (2013\$) in total economic output to California businesses. This revenue supports about 35 jobs in the state.

An assumption of the NMFS report is that increases in expenditures by resident anglers associated with expanded fishing opportunities would be accommodated by reduced expenditures on other locally purchased goods and services – with

no net change in local economic activity. For non-resident anglers, however, increases in local expenditures associated with increases in local fishing opportunities would be accomplished by diverting money that they would otherwise spend outside the local area. Thus the economic impact analysis focuses on non-resident angler expenditures, which represent 'new money' whose injection serves to stimulate the local economy.

The NMFS study excluded the Trinity River, the largest tributary to the Klamath. The Trinity River is allocated 33% of the Klamath Basin fall-run Chinook salmon total allocation. Using the Trinity allocation as a measure of angler effort, and thus impacts on associated businesses that support anglers, the total non-resident angler contribution to the entire Klamath Basin (including the Trinity River) is estimated to be \$2,709,774 (2013\$) in total economic output. This revenue, again using a 33% increase to account for the Trinity River, provides an estimated total of 47 jobs in the state (assuming that personnel costs also rise with inflation). This is a conservative estimate of total economic impact as it counts only non-resident angler expenditures. Non-resident average expenditures are estimated to be \$106.43 (2013\$) per angler day (for lodging, food, gasoline, fishing gear, boat fuel, and guide fees) based on a NMFS sponsored survey. Resident average expenditures per angler day are estimated to be 60% less (markedly reduced lodging, gasoline and food expenditures) which yields an estimate of \$42.60 per angler day. Resident anglers comprise about 36% of Klamath Basin anglers.

**Projection 2. 50% catch limit:** The Commission anticipates some impact on the creation or elimination of jobs. A 50% catch reduction will likely reduce visitor spending by slightly less than 50%, given price elasticities of demand for salmon fishing activity of less than one. As the "price" of fishing per unit catch increases the demand for fishing trips declines by a lesser extent, particularly in the short-run. While difficult to predict, job losses associated with a 50% reduction in the catch limit are expected to be less than half of the estimated total jobs supported by angler visits (i.e. fewer than 23 jobs).

**Projection 3. 0% catch limit:** In the event of fisheries closures in some or all Klamath River basin areas, the Commission anticipates less than 50% reduction in fishery-related jobs. As mentioned earlier, sport fishing for grilse fall-run Chinook salmon (2-year-old salmon less than 22 inches) will still be allowed, thus lessening any job losses. A closure on the take of adult Chinook salmon was instituted in 2006 and only grilse salmon could be legally harvested that year. The effect of the 2006 closure, as measured by angler days on the Klamath River, resulted in an approximate 50% drop in angler days, compared to the 2000- 2005 average (12,000 angler days vs. 23,300 angler days). Job creation or elimination is assumed to lag in adjustment to changes in consumer demand as is characteristic of the labor market. Thus, the potential impacts of a closure on the take of adult Chinook are estimated to result in the loss of fewer than 23 jobs.

**B. Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses**

Projection 1: 100% catch limit: The Commission does not anticipate any impacts on the creation of new business or the elimination of existing businesses, as the quotas would not decrease effort nor curtail the number of visitors and thus probable visitor expenditures in the fisheries areas.

Projection 2. 50% catch limit: The Commission anticipates a decline in visits to the fishery areas of less than 50%. This may result in some decline in business activity and no business creation for businesses directly related to fishing activities. However, with less effort being expended on fishing, the possibility of substitute activities and the growth of businesses to serve those activities exists.

Projection 3. 0% catch limit: In the event of fisheries closures in some or all Klamath River basin areas, the Commission anticipates a decline in regional spending and thus reduced revenues to the approximately 30 businesses that serve sport fishing activities. However adverse impacts will be mitigated by the continued opportunity to harvest grilse salmon. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable salmon stocks and, subsequently, the long-term viability of these same small businesses.

#### C. Effects of the Regulation on the Expansion of Businesses in California

Projection 1. 100% catch limit: The Commission does not anticipate any impacts on the expansion of businesses in California as the quotas would not increase effort nor increase the number of visitors and thus probable visitor expenditures in the fisheries areas.

Projection 2. 50% catch limit: The Commission does not anticipate any impacts on the expansion of businesses in California. Decreases in expenditures by resident anglers associated with reduced fishing opportunities may be offset by increased expenditures on other locally purchased goods and services – with no net change in local economic activity. For non-resident anglers, however, decreases in local expenditures associated with decreases in local fishing opportunities may result in increases in other expenditures outside the Klamath River basin area.

Projection 3. 0% catch limit: In the event of fisheries closures in some or all Klamath River basin areas, the Commission does not anticipate any expansion of businesses in California. Decreases in expenditures by anglers associated with reduced fishing opportunities may be partially offset by increased expenditures on other locally purchased goods and services as visitors substitute salmon fishing with other recreational pursuits.

#### D. Benefits of the Regulation

##### Concurrence with Federal Law:

California's sport fishing regulations need to conform to the new Federal regulations to achieve optimum yield in California. The PFMC annually reviews the status of west coast salmon populations. As part of that process, it

recommends west coast adult salmon fisheries regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery Management Plan. These recommendations coordinate west coast management of sport and commercial ocean salmon fisheries off the coasts of Washington, Oregon, and California and California inland sport salmon fisheries. These recommendations are subsequently implemented as ocean fishing regulations by the NMFS and as sport salmon regulations for state marine and inland waters by the Commission.

Promotion of businesses that rely on Klamath River basin sport salmon fishing. Adoption of scientifically-based inland and ocean salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of salmon to ensure their continued existence and future salmon sport fishing opportunities, and subsequently the long-term viability of businesses that rely on Klamath River Basin sport fishing. Under a normal season, Klamath River Basin (including the Trinity River) sport salmon anglers contribute about \$2,709,774 (2013\$) in total economic output to the State's business sector. This is based on a 2011 NOAA National Marine Fisheries Service (NMFS) report on In-River Sport Fishing Economics of the Klamath River Basin. This revenue provides for about 47 jobs in the state.

**Benefits to the environment: sustainable management of Klamath River basin salmon resources**

**Projection 1. 100% catch limit:** The Commission anticipates benefits to the environment. It is the policy of this state to encourage the conservation, maintenance, and utilization of the living resources of the ocean and inland waters under the jurisdiction and influence of the state for the benefit of all the citizens of the state. In addition, it is the policy of this state to promote the development of local California fisheries in harmony with federal law respecting fishing and the conservation of the living resources of the ocean and inland waters under the jurisdiction and influence of the state. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based Klamath River Basin salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of salmon to ensure their continued existence.

**Projection 2.** The Commission anticipates benefits to the environment similar to as stated in Projection 1.

**Projection 3.** The Commission anticipates benefits to the environment similar to as stated in Projection 1.

**Benefits to the health and welfare of California residents**

**Projection 1.** The Commission anticipates benefits to the health and welfare of California residents through the protection of aquatic and riparian habitats and

the fish and wildlife resources that depend upon them. Providing opportunities for a Klamath River Basin sport salmon fishery encourages consumption of a nutritious food. Salmon sport fishing also contributes to increased mental health of its practitioners as fishing is a hobby and form of relaxation for many. Salmon sport fishing also provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of California's natural resources.

Projection 2. The Commission anticipates benefits to the health and welfare of California residents similar to as stated in Projection 1.

Projection 3. The Commission anticipates benefits to the health and welfare of California residents similar to as stated in Projection 1.

#### **Benefits to worker safety**

Projection 1. The Commission does not anticipate benefits to worker safety because the proposed regulations will not impact worker conditions.

Projection 2. The Commission does not anticipate benefits to worker safety as stated in Projection 1.

Projection 3. The Commission does not anticipate benefits to worker safety as stated in Projection 1.

## **Informative Digest/Policy Statement Overview**

The Klamath River System, which consists of the Klamath River and Trinity River basins, is managed through a cooperative system of State, federal, and tribal management agencies. Salmonid regulations are designed to meet natural and hatchery escapement needs for salmonid stocks, while providing equitable harvest opportunities for ocean recreational, ocean commercial, river recreational and tribal fisheries.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of recreational and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The California Fish and Game Commission (Commission) adopts regulations for the ocean salmon recreational (inside three miles) and the Klamath River System recreational fisheries which are consistent with federal fishery management goals.

For the purpose of PFMC mixed-stock fishery modeling and salmon stock assessment, salmon greater than 22 inches are defined as adult salmon (ages 3-5) and salmon less than or equal to 22 inches are defined as grilse salmon (age 2).

### **Klamath River Fall-Run Chinook**

Klamath River fall-run Chinook salmon (KRFC) harvest allocations and natural spawning escapement goals are established by the PFMC. The KRFC harvest allocation between tribal and non-tribal fisheries is based on court decisions and allocation agreements between the various fishery representatives.

The 2015 KRFC in-river recreational fishery allocation recommended by the PFMC is currently unknown. All proposed closures for adult KRFC are designed to ensure sufficient spawning escapement in the Klamath River Basin and equitably distribute harvest while operating within annual allocations.

### **Klamath River Spring-Run Chinook**

The Klamath River System also supports Klamath River spring-run Chinook salmon (KRSC). Naturally produced KRSC are both temporally and spatially separated from KRFC in most cases.

Presently, KRSC stocks are not managed or allocated by the PFMC. The in-river recreational fishery is managed by general basin seasons, daily bag limit, and possession limit regulations.

### **KRFC Allocation Management**

The PFMC 2014 allocation for the Klamath River System recreational harvest was 4,128 adult KRFC. Preseason stock projections of 2015 adult KRFC abundance will not be available from the PFMC until March 2015. The 2015 Klamath River Basin allocation

will be recommended by the PFMC in April 2015 and presented to the Commission for adoption prior to its April 2015 meeting.

For public notice requirements, the Department of Fish and Wildlife (Department) recommends the Commission consider an allocation range of 0 – 67,600 adult KRFC in the Klamath River Basin for the river recreational fishery.

### **Current Recreational Fishery Management**

The KRFC in-river recreational harvest allocation is divided into geographic areas and harvest is monitored under real time subquota management. KRSC in-river recreational harvest is managed by general season, daily bag limit, and possession limit regulations.

The daily bag and possession limits apply to both stocks within the same sub-area and time period.

### **Proposed Changes**

No changes are proposed for the general (KRSC) opening and closing season dates, and bag, possession and size limits.

The following changes to current regulations are proposed:

#### KRFC QUOTA MANAGEMENT: Seasons, Bag and Possession Limits

For public notice requirements, a range of KRFC bag and possession limits are proposed until the 2015 Klamath River Basin quota is adopted. As in previous years, no retention of adult KRFC salmon is proposed for the following areas, once the subquota has been met.

The proposed open seasons and range of bag and possession limits for KRFC salmon stocks are as follows:

1. Klamath River - August 15 to December 31
2. Trinity River - September 1 to December 31
3. Bag Limit - [0-4] Chinook salmon of which no more than [0-4] fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.
4. Possession limit - [0-12] Chinook salmon of which [0-12] over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

#### SPIT AREA MANAGEMENT

Current regulations specify that the spit area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) closes to all fishing after 15 percent of the total adult KRFC quota has been taken downstream of the Highway 101 bridge.

In 2014 the Department also evaluated restrictive measures for the spit area which included a "no catch and release" regulation for Chinook salmon legally caught in the spit area to protect Chinook stocks from excessive catch and release mortality. The regulatory time frame did not allow for sufficient time to promulgate such a regulation change. The Department informed the Commission that it would consider this change for the 2015 regulatory cycle.

The following options are being provided for Commission consideration:

Option 1 - No catch and release fishing in Spit Area - Department Proposal

After internal discussion and Yurok Tribal coordination, the Department is proposing the following change to the 2015 fall Chinook spit area regulations:

All legally caught Chinook salmon must be retained. Once the adult Chinook component of the daily bag has been retained, the angler must cease fishing in the spit area.

This regulatory proposal does not preclude anglers from leaving the spit area and fishing other areas once their adult daily bag has been taken. Anglers may fish other areas outside of the spit to fill the grilse (Chinook salmon <22 inches) component of their daily bag limit. This regulation also does not preclude anglers from filling a daily bag composed entirely of grilse salmon while fishing the spit area.

Option 2 - All Chinook salmon must be kept in Spit Area with Blue Creek closure - Yurok Proposal

The Yurok tribe is proposing the following modifications to the Klamath River regulations in the spit area and on the main Klamath River below the confluence with Blue Creek:

- 1) No catch and release fishing allowed in the spit area to reduce pinniped predation on released fish, and
- 2) Conservation closure below the mouth of Blue Creek to reduce catch and release in a thermal refuge area and protect late-fall Chinook holding prior to entering Blue Creek.

The first modification is to the spit area at the mouth of the Klamath River to allow no release of Chinook salmon, regardless of whether they are legally caught or foul hooked. This option provides an exception from the general snagging prohibitions in Section 2.00. The second modification would add Blue Creek to the September 15 to December 31 stream mouth closures and add a new Klamath River main stem closure from June 15 to September 14 from 500 feet above to ½ mile downstream around the mouth of Blue Creek.

Option 3 – A possible combination of Options 1 and 2

The Commission may combine Option 1's prohibition on catch and release fishing in the spit area with Option 2's Blue Creek conservation closure.

- 1) All legally caught Chinook salmon must be retained. Once the adult Chinook component of the daily bag has been retained, the angler must cease fishing in the spit area.
- 2) Conservation closure below the mouth of Blue Creek to reduce catch and release in a thermal refuge area and protect late-fall Chinook holding prior to entering Blue Creek.

### ADDITIONAL PROPOSED CHANGES

The name of the road listed in subsection (b)(91.1)(B)2. is proposed to be corrected from "Ishi Pishi Falls road" to "Ishi Pishi Road". Cross references are proposed to be corrected in subsection (b)(195) to reduce public confusion. Other changes are proposed for clarity and consistency.

### **Benefits of the Proposed Regulations**

The benefits of the proposed regulations are in conformance with federal law, sustainable management of Klamath River Basin salmon resources, and promotion of businesses that rely on recreational salmon fishing in the Klamath River Basin.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to promulgate sport fishing regulations (sections 200, 202, 205, 315, and 316.5, Fish and Game Code). Commission staff has searched the California Code of Regulations and has found no other State regulations related to the recreational take of Chinook salmon in the Lower Klamath River Basin.

# Attachment 3

**STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION**

**Amend Subsections (b)(91.1) and (b)(195) of Section 7.50  
Title 14, California Code of Regulations  
RE: 2015 Klamath River Basin Sport Fishing Regulations**

- I. Date of Initial Statement of Reasons: January 12, 2014
- II. Date of Pre-adoption Statement of Reasons: March 20, 2015
- III. Date of Final Statement of Reasons: May 4, 2015
- IV. Dates and Locations of Scheduled Hearings:
  - (a) Notice Hearing: Date: December 3, 2014  
Location: Van Nuys
  - (b) Discussion Hearing: Date: February 12, 2015  
Location: Sacramento
  - (c) Adoption Hearing: Date: April 17, 2015  
Location: Teleconference
- V. Update:

At the April 17, 2015 teleconference, the Fish and Game Commission (Commission) adopted the following Klamath Basin bag and possession limits, adult quota, and conservation measures:

- (1) A daily bag limit of 3 Chinook salmon of which no more than 2 fish greater than 22 inches in length may be taken when the take of adults is allowed.
- (2) A possession limit of 9 Chinook salmon of which no more than 6 fish greater than 22 inches in length may be retained when the take of adults is allowed.
- (3) A basin quota of 14,133 adult Chinook salmon greater than 22 inches in length.
- (4) A closure of the main stem Klamath River near the confluence of Blue Creek between June 15 and December 31. The main stem Klamath River will be closed to sport fishing from 500 feet upstream of the mouth of Blue Creek to ½ mile downstream from the mouth of Blue Creek from June 15 through September 14 and within 500 feet of the Blue Creek confluence from September 15 through December 31.
- (5) A mandatory retention of all legally hooked and landed Chinook salmon in

the spit area (mouth of the Klamath River). Additionally, once anglers have retained the adult component of the daily Chinook bag limit, they must cease fishing in the spit area. Anglers may continue to fish other areas of the Klamath River after leaving the spit if they have not retained their daily bag limit.

Sport fishing seasons for KRFC remain unchanged and are as follows:

- (1) Klamath River - August 15 through December 31
- (2) Trinity River - September 1 through December 31

The Klamath Basin quota of 14,133 adult KRFC aligns with federal regulations which provide guidance on allocations between ocean sport and commercial fisheries, inland sport fisheries, and recognized tribal fisheries.

The Commission adopted non-substantive changes for clarity and consistency.

VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations:

See Attachment 1 titled "Summary of Public Comments and Responses."

VII. Location and Index of Rulemaking File: A rulemaking file with attached file index is maintained at:

California Fish and Game Commission  
1416 Ninth Street  
Sacramento, CA 95814

VIII. Location of Department of Fish and Wildlife files:

Department of Fish and Wildlife  
1416 Ninth Street  
Sacramento, CA 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

The use of more liberal regulations for bag limits, possession limits, and fishing methods. For KRFC, more liberal regulations would be less desirable than those proposed because they could create risk of an intense fishery reaching or exceeding the quota in a very short time. Reaching the quota in a very short time could be damaging to the local economy. Exceeding the allowable harvest could be damaging to the KRFC stocks.

(b) No Change Alternative:

The No Change Alternative would leave the current 2014 regulations in place and would not conform to the Pacific Fishery Management Council Klamath River Basin quota for 2015, nor would it address the excessive catch and release mortality within the spit area. The change is necessary to continue appropriate harvest rates and an equitable distribution of the harvestable surplus.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

X. Impact of Regulatory Action:

The potential for significant Statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant Statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations are projected to have some impact on the net revenues to local businesses servicing sport fishermen. Visitor spending may be reduced and in the absence of the emergence of alternative visitor activities, the drop in spending could induce business contraction. However, this will not likely affect the ability of California businesses to compete with businesses in other states. The preservation of Klamath River salmon stocks is necessary for the **long-term sustainability and success of lower and upper Klamath River Basin businesses that provide goods and services related to fishing.** The proposed changes are necessary for the continued preservation of the resource and, **in the long-term, prevention of adverse economic impacts.**

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The proposed regulations range from no fishing of KRFC in 2015 to a

normal Klamath River Basin salmon season. The Commission anticipates some impact on the creation or elimination of jobs in California. The potential employment impacts range from 0 to 23 jobs which are not expected to create, eliminate, or expand businesses in California. The Commission anticipates impacts on the creation, elimination, or expansion of businesses in California ranging from no impact to reduced revenues for approximately 30 businesses that serve sport fishing activities. However, the possibility of growth of businesses to serve substitute activities exists. Adverse impacts to jobs and/or businesses would be less if fishing of grilse KRFC is permitted than under the complete closure to all fishing. The impacted businesses are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable salmon stocks and, subsequently, the promotion and long-term viability of these same small businesses.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a salmon sport fishery encourages outdoor recreational activity and consumption of a nutritious food.

The Commission anticipates benefits to the environment by the sustainable management of California's salmon resources.

The Commission does not anticipate any benefits to worker safety.

**(c) Cost Impacts on a Representative Private Person or Business:**

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:**

None.

**(e) Nondiscretionary Costs/Savings to Local Agencies:**

None.

**(f) Programs Mandated on Local Agencies or School Districts:**

None.

(g) **Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:**

**None.**

(h) **Effect on Housing Costs:**

**None.**

## **Updated Informative Digest/Policy Statement Overview**

The Klamath River System which consists of the Klamath River and Trinity River basins is managed through a cooperative system of State, federal, and tribal management agencies. Salmonid regulations are designed to meet natural and hatchery escapement needs for salmonid stocks, while providing equitable harvest opportunities for ocean recreational, ocean commercial, river recreational, and tribal fisheries.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of recreational and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service.

The California Fish and Game Commission (Commission) adopts regulations for the ocean salmon recreational (inside three miles) and the Klamath River System recreational fisheries which are consistent with federal fishery management goals.

For the purpose of PFMC mixed-stock fishery modeling and salmon stock assessment, salmon greater than 22 inches are defined as adult salmon (ages 3-5) and salmon less than or equal to 22 inches are defined as grilse salmon (age 2).

### **Klamath River Fall-Run Chinook**

Klamath River fall-run Chinook salmon (KRFC) harvest allocations and natural spawning escapement goals are established by the PFMC. The KRFC harvest allocation between tribal and non-tribal fisheries is based on court decisions and allocation agreements between the various fishery representatives.

The 2015 KRFC in-river recreational fishery allocation recommended by the PFMC is currently unknown. All proposed closures for adult KRFC are designed to ensure sufficient spawning escapement in the Klamath River Basin and equitably distribute harvest while operating within annual allocations.

### **Klamath River Spring-Run Chinook**

The Klamath River System also supports Klamath River spring-run Chinook salmon (KRSC). Naturally produced KRSC are both temporally and spatially separated from KRFC in most cases.

Presently, KRSC stocks are not managed or allocated by the PFMC. The in-river recreational fishery is managed by general basin seasons, daily bag limit, and possession limit regulations.

## **KRFC Allocation Management**

The PFMC 2014 allocation for the Klamath River System recreational harvest was 4,128 adult KRFC. Preseason stock projections of 2015 adult KRFC abundance will not be available from the PFMC until March 2015. The 2015 Klamath Basin allocation will be recommended by the PFMC in April 2015 and presented to the Commission for adoption prior to its April 2015 meeting.

For public notice requirements, the Department of Fish and Wildlife (Department) recommended the Commission consider an allocation range of 0 - 67,600 adult KRFC in the Klamath River Basin for the river recreational fishery.

## **Current Recreational Fishery Management**

The KRFC in-river recreational harvest allocation is divided into geographic areas and harvest is monitored under real time subquota management. KRSC in-river recreational harvest is managed by general season, daily bag limit, and possession limit regulations.

The daily bag and possession limits apply to both stocks within the same sub-area and time period.

No changes are proposed for the general KRSC opening and closing season dates, and bag, possession, and size limits.

## **Proposed Changes**

The following changes to current regulations are proposed:

### **KRFC QUOTA MANAGEMENT: Seasons, Bag, and Possession Limits**

For public notice requirements, a range of KRFC bag and possession limits are proposed until the 2015 Klamath Basin quota is adopted. As in previous years, no retention of adult KRFC is proposed for the following areas once the subquota has been met.

The proposed open seasons and range of bag and possession limits for KRFC salmon stocks are as follows:

1. Klamath River - August 15 to December 31
2. Trinity River - September 1 to December 31
3. Bag Limit - [0-4] Chinook salmon of which no more than [0-4] fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.
4. Possession limit - [0-12] Chinook salmon of which [0-12] over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

## SPIT AREA MANAGEMENT

Current regulations specify that the spit area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) closes to all fishing after 15 percent of the total adult KRFC quota has been taken downstream of the Highway 101 bridge.

In 2014, the Department also evaluated restrictive measures for the spit area which included a "no catch and release" regulation for Chinook salmon legally caught in the spit area to protect Chinook stocks from excessive catch and release mortality. The regulatory time frame did not allow for sufficient time to promulgate such a regulation change. The Department informed the Commission it would consider this change for the 2015 regulatory cycle.

The following options are being provided for Commission consideration:

### **Option 1: No catch and release fishing in spit area – Department Proposal**

After internal discussion and Yurok Tribal coordination, the Department is proposing the following change to the 2015 fall Chinook spit area regulations:

All legally caught Chinook salmon must be retained. Once the adult Chinook component of the daily bag has been retained, the angler must cease fishing in the spit area.

This regulatory proposal does not preclude anglers from leaving the spit area and fishing other areas once their adult daily bag has been taken. Anglers may fish other areas outside of the spit to fill the grilse (Chinook salmon  $\leq 22$  inches) component of their daily bag limit. This regulation also **does not** preclude anglers from filling a daily bag composed entirely of grilse salmon while fishing the spit area.

### **Option 2: All Chinook salmon must be kept in spit area with Blue Creek closure – Yurok Tribe Proposal**

The Yurok Tribe is proposing the following modifications to the Klamath River regulations in the spit area and on the main Klamath River below the confluence with Blue Creek:

- (1) No catch and release fishing allowed in the spit area to reduce pinniped predation on released fish, and
- (2) Conservation closure below the mouth of Blue Creek to reduce catch and release **mortality** in a thermal **refugia** area and protect late-fall Chinook holding prior to entering Blue Creek.

The first modification is to the spit area at the mouth of the Klamath River to allow no release of Chinook salmon, regardless of whether they are legally caught or foul hooked. This option provides an exception from the general snagging prohibitions in section 2.00. The second modification would add Blue Creek to the September 15 to December 31 stream mouth closures and add a new Klamath River main stem closure

from June 15 to September 14 from 500 feet above to ½ mile downstream around the mouth of Blue Creek.

### **Option 3: A possible combination of Options 1 and 2**

The Commission may combine Option 1's prohibition on catch and release fishing in the spit area with Option 2's Blue Creek conservation closure:

- (1) All legally caught Chinook salmon must be retained. Once the adult Chinook component of the daily bag has been retained, the angler must cease fishing in the spit area.
- (2) Conservation closure below the mouth of Blue Creek to reduce catch and release **mortality** in a thermal **refugla** area and protect late-fall Chinook holding prior to entering Blue Creek.

### **ADDITIONAL PROPOSED CHANGES**

The name of the road listed in subsection (b)(91.1)(B)(2) is proposed to be corrected from "Ishi Pishi Falls road" to "Ishi Pishi Road." Cross references are proposed to be corrected in subsection (b)(195) to reduce public confusion. Other changes are proposed for clarity and consistency.

### **Benefits of the Proposed Regulations**

The benefits of the proposed regulations are in conformance with federal law, sustainable management of Klamath River Basin salmon resources, and promotion of businesses that rely on recreational salmon fishing in the Klamath River Basin.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to promulgate sport fishing regulations (Sections 200, 202, 205, 315, and 316.5 of the Fish and Game Code). Commission staff has searched the California Code of Regulations and has found no other State regulations related to the recreational take of Chinook salmon in the Lower Klamath River Basin.

**At the April 17, 2015 teleconference the Commission adopted the following Klamath Basin bag and possession limits, adult quota, and conservation measures:**

- (1) **A daily bag limit of 3 Chinook salmon of which no more than 2 fish greater than 22 inches in length may be taken when the take of adults is allowed.**
- (2) **A possession limit of 9 Chinook salmon of which no more than 6 fish greater than 22 inches in length may be retained when the take of adults is allowed.**
- (3) **A basin quota of 14,133 adult Chinook salmon greater than 22 inches in length.**

- (4) A closure of the main stem Klamath River near the confluence of Blue Creek between June 15 and December 31. The main stem Klamath River will be closed to sport fishing from 500 feet upstream of the mouth of Blue Creek to ½ mile downstream from the mouth of Blue Creek from June 15 through September 14 and within 500 feet of the Blue Creek confluence from September 15 through December 31.**
- (5) A mandatory retention of all legally hooked and landed Chinook salmon in the spit area (mouth of the Klamath River). Additionally, once anglers have retained the adult component of the daily Chinook bag they must cease fishing in the spit area. Anglers may continue to fish other areas of the Klamath River after leaving the spit if they have not retained their daily bag limit.**

**Sport fishing seasons for KRFC remain unchanged and are as follows:**

- (1) Klamath River- August 15 through December 31.**
- (2) Trinity River- September 1 through December 31.**

**The Basin quota, 14,133 adult KRFC, aligns with federal regulations which provide guidance on allocations between ocean sport and commercial fisheries, inland sport fisheries, and recognized tribal fisheries.**

**The Commission adopted non-substantive changes for clarity and consistency.**

# Attachment 4

**Attachment 1**  
**Summary of Public Comments and Responses**

| <b>Name of Commenter</b>                      | <b>Type/Date</b>                                      | <b>Summary of Comments</b>  | <b>Response</b>  |
|---|---|---|--|
| 1<br>Jim Newton                               | Faxed letter received 10/8/14                         | Requests repeal of the regulation that prohibits filleting of salmonids until at a place of permanent residence (section 1.45).   | Reject: Filleting of salmon in the field creates enforcement issues concerning threatened and endangered species in coastal waters including the Klamath River.  |
| 2<br>Xai Her                                  | Email received 10/17/14                               | Recommends a regulation that only single point barbless hooks be used for salmon in both inland and saltwater.  | Reject: The use of barbless hooks is already required when fishing in anadromous waters of the Klamath River system, and further requiring single point hooks will not measurably reduce hooking mortality. The portion of the recommendation regarding other inland waters and ocean waters is outside the scope of this rulemaking.  |
| 3<br>Thomas O'Rourke,<br>Chairman Yurok Tribe | Letter c/o e-mail from Diane Bowers received 11/20/15 | <p>a. Letter documenting Yurok Tribe proposals for Klamath river regulations including:</p> <p>b. All Fall Chinook caught in the spit area must be retained (no catch and release fishing of Fall Chinook regardless of whether the fish is legally taken). Once an angler's daily bag limit (regardless of whether it is an adult or jack) is obtained in the spit area, they must stop fishing for the day.</p> | <p>a. The Yurok Tribe's proposed conservation closure and a modified version of the Yurok Tribe's proposal for the spit area were included in the ISOR as potential options for the 2015 sport fishing season.</p> <p>b. Reject: The Commission adopted the Department alternative for the Klamath River mouth that prohibits catch and release fishing of Chinook salmon for all legally hooked fish. Once the adult component of the total daily bag limit has been retained, anglers must cease fishing in the spit area. The Department option was a compromise option to alleviate catch and release concerns while retaining anti-snagging regulations. The Yurok Tribe's proposal to require anglers to fully stop fishing for entire day unnecessarily reduces fishing opportunities in other river areas.</p> |

**Attachment 1**  
**Summary of Public Comments and Responses**

| <b>Name of Commenter</b> | <b>Type/Date</b>  | <b>Summary of Comments</b>   | <b>Response</b>   |
|--------------------------|---|--|---|
|                          |   | <p>c. Sport fishing conservation closure of the main stem Klamath River near Blue Creek. No fishing from June 15 to September 14 from 500 feet upstream of the mouth of Blue Creek to ½ mile downstream of the mouth of Blue Creek, and no fishing from September 15 through December 31 within 500 feet of the mouth of Blue Creek.</p>                 | <p>c. The Commission adopted the Yurok Tribe's recommended conservation option for a sport fishing closure in the vicinity of Blue Creek.</p> |
| 4                        | Mindy Natt<br>Yurok Tribal Council                            | <p>Verbal comment 12/3/14</p> <p>States that there should be no catch and release fishing in the spit area and that Commission should adopt a conservation closure at the mouth of Blue Creek during mid-June through November for Chinook salmon upstream migration. Notes that Blue Creek and the Klamath River are within reservation boundaries.</p> | <p>See Responses 3b and 3c.</p>   |
| 5                        | Dave Hillemeier,<br>Fisheries Program<br>Manager, Yurok Tribe | <p>Verbal comment 12/3/14</p> <p>a. Stated that given the unique nature of the fishery at the mouth and the severity of seal and sea lion predation, the Yurok Tribe supports the option to require all Chinook salmon caught at the spit, whether foul hooked or not, be retained.</p> <p>b. States that the Blue Creek conservation area is very</p>   | <p>a. See Response 3b.</p> <p>b. Comment noted.</p>   |

**Attachment 1  
Summary of Public Comments and Responses**

| <b>Name of Commenter</b> | <b>Type/Date</b> | <b>Summary of Comments</b>   | <b>Response</b>  |
|--------------------------|------------------|--|--|
|                          |                  | <p>important both culturally and biologically.</p> <p>c. States that the late Fall Chinook salmon in Blue Creek are genetically different (a separate evolutionarily significant unit) than other Fall Chinook in the Klamath.</p> <p>d. States that the Yurok Tribe closes the Klamath River from the third week of September to the end of November from 500' upstream to half a mile below Blue Creek. States that the Yurok Tribe supports a similar closure (500' upstream and downstream) of mouth of Blue Creek (like is in place for the Salmon, Shasta and Scott Rivers) from September 15 through December.</p> <p>e. Supports a conservation closure mid-June through the end of September when Klamath River water temperatures are an issue in order to prevent catching fish in cold water and dragging them into water 6°C warmer which causes extreme stress leading</p> | <p>c. Comment noted.</p> <p>d. See Response 3c.</p> <p>e. See Response 3c.</p> |

**Attachment 1  
Summary of Public Comments and Responses**

| <b>Name of Commenter</b> | <b>Type/Date</b>   | <b>Summary of Comments</b>  | <b>Response</b>   |
|--------------------------|--|---|---|
| 6                        | Stephen Rosenberg<br>2 Emails received<br>1/29/15          | to mortality.<br>a. Does not support the full closure at Blue Creek.<br>b. Recommends a closure in the vicinity of Blue Creek only when undue concentrations of fish occur - and then only in August.<br>c. Recommends artificial flies and lures only for the Blue Creek area. | a. The Commission adopted the proposed closure at the mouth of Blue Creek as a precautionary conservation measure.<br>b. Reject. See Response 6a. Scientific studies are needed to determine if, and under what criteria, alternate or additional closures may be necessary.<br>c. Reject. The recommendation will not reduce the loss of stressed fish released into high water temperatures.  |
| 7                        | Phoebe Lenhart<br>Letter dated 2/7/15 but received 3/10/15 | a. Requests no catch and release fishing at all on the Klamath River.<br>b. Requests daily bag of 2 fish per adult.<br>c. Requests no snagging.<br>d. Requests fishing closure  | a. Reject. The recommendation to prohibit catch and release fishing on the Klamath River unnecessarily reduces fishing opportunities. Catch and release fishing is an important recreational pursuit on the Klamath and the regulations are promulgated recognizing some amount of catch and release mortality.<br>b. Reject: The Commission adopted a three fish daily bag for Chinook salmon based on quota size and Department's recommendation. It is infeasible and discriminatory to adopt separate bag limit based on the angler's age.<br>c. Sport fishing regulations already prohibit snagging in all waters of the State.<br>d. Reject. See Response 6b. |

**Attachment I**  
**Summary of Public Comments and Responses**

| Name of Commenter | Type/Date                     | Summary of Comments  | Response   |
|-------------------|-------------------------------|--|--|
|                   |                               | <p>when water temperatures exceed 70 degrees.</p> <p>e. Requests closure of Blue Creek and any other location viable for the preservation of fish stocks.</p> <p>f. Requests all gill net fishing be ruled illegal.</p> <p>g. Requests re-evaluation of hatchery management.</p> <p>h. Provide adequate enforcement of regulations with appropriate penalties.</p> | <p>e. Blue Creek is already closed to fishing. See Response 3c. Commenter did not propose specific closure locations for evaluation.</p> <p>f. Current sport fishing regulations do not allow gill net fishing. The tribal fishery is not regulated by the Commission.</p> <p>g. Hatchery management is outside the scope of the Commission's authority.</p> <p>h. Enforcement and penalties are outside the scope of the Commission's authority. The Klamath River has a high level of enforcement and penalties are set by the county judicial system.</p> |
| 8                 | Faxed letter received 2/8/15  | <p>a. Opposes the proposed closure at the mouth of Blue Creek.</p> <p>b. Suggests further scientific investigation before a decision is made regarding Blue Creek closure.</p>   | <p>a. See Response 6a.</p> <p>b. Reject. See Responses 6a and 6b.</p>  |
| 9                 | E-mail letter received 2/8/15 | <p>a. Opposes the proposed closure at the mouth of Blue Creek.</p> <p>b. Opposes tribal net fishery.</p>   | <p>a. See Response 6a.</p> <p>b. Commission does not have regulatory authority</p>   |

**Attachment 1**  
**Summary of Public Comments and Responses**

| <b>Name of Commenter</b> | <b>Type/Date</b> | <b>Summary of Comments</b>  | <b>Response</b>  |
|--------------------------|------------------|---|--|
| 10                       | Fred Johansen    | <p>c. States that the economic impact to the area would be disastrous.</p> <p>d. Believes that the Commission's position is that sport fishing is a major decline of a fishery.</p> <p>a. States that the Klamath River is a navigable waterway.</p> <p>b. States that the purpose of the Commission is to improve and provide for fishing for all or our State residents, native and others.</p> <p>c. Requests opportunity for all stakeholders to participate in the discussion.</p> | <p>over tribal fishery.</p> <p>c. Comment noted. Most of the lower Klamath River (&gt;95%) will remain open to salmon and steelhead fishing which will still provide significant fishing opportunities. The final economic effect related to steelhead fishing will have to be assessed post season due to the lack of adequate fishing effort data for this area.</p> <p>d. The Commission recognizes multiple factors contributing to fishery declines.</p> <p>a. Comment noted.</p> <p>b. Adoption of sport fishing regulations is one of the many powers and duties of the Commission. One objective of the Commission is the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use. The Commission does not have authority over tribal fisheries.</p> <p>c. All proposed Klamath regulatory options were vetted at three publicly accessible Fish and Game Commission meetings. The proposed regulations were made available to the public pursuant to the requirements of Government Code Section 11346.4. The comment period was January 23 to</p> |

**Attachment 1**  
**Summary of Public Comments and Responses**

| Name of Commenter   | Type/Date   | Summary of Comments   | Response  |
|---|---|---|---|
| 11<br>David Finigan, Chair,<br>Board of Supervisors<br>Del Norte County | Letter c/o e-mail from Kylie Heriford received 2/10/15, same letter handed in at 2/12/15 meeting, and by U.S. mail on 2/18/15 | <p>d. Opposes the proposed closure at the mouth of Blue Creek.</p> <p>e. States that the proposed closure at the mouth of Blue Creek will have adverse economic impacts to the Yurok Tribe.</p> <p>a. Believes that the concept of a Lower Klamath River main stem closure was not vetted with stakeholders.</p> <p>b. States that no information has been made available suggesting Blue Creek Chinook salmon are present in the proposed closure area before September 15.</p> <p>c. Believes the proposed Blue Creek conservation closure is arbitrary and unscientific.</p> <p>d. States that the economic impacts (of the proposed closure at the mouth of Blue Creek) to small businesses was not fully considered.</p> <p>e. Urges the Commission to not</p> | <p>April 17, 2015.</p> <p>d. See Response 6a.</p> <p>e. See Responses 9b and 9c.</p> <p>a. See Response 10c.</p> <p>b. Comment noted. See Response 6a.</p> <p>c. Comment noted. See Response 6a.</p> <p>d. Comment noted. See Response 9c.</p> <p>e. The Commission adopted the Klamath River</p> |

**Attachment 1**  
**Summary of Public Comments and Responses**

| Name of Commenter | Type/Date                              | Summary of Comments   | Response   |
|-------------------|--|---|--|
| 12                | Mike Aughney<br>Email received 2/11/15 | <p>take action on this issue before the 2015 Klamath River Basin allocation is presented to the Commission in April – allowing additional time for public comment and opportunities to develop alternative proposals.</p> <p>f. Requests that the Commission ensure that all new or amended regulation proposals that affect Del Norte County be sent directly to the Del Norte County Board of Supervisors.</p>  | <p>sport fishing regulations on April 17, 2015 – after receiving the 2015 Klamath River Basin allocation.</p> <p>f. The Commission mails all its notices of proposed changes in regulations to the Del Norte County Board of Supervisors and the Del Norte County Fish and Game Advisory Commission. The Klamath River notice was mailed on January 21, 2015.</p> <p>a. See Response 6a.</p> |
| 13                | William Toth<br>Email received 2/11/15 | <p>a. Opposes the proposed closure at the mouth of Blue Creek.</p> <p>b. States closing the waters around Blue Creek to sport fishing does nothing to protect the fishery in low water years unless they were also closed to all netting.</p> <p>c. Supports Department working with tribal biologists and Bureau of Reclamation staff to develop water management strategies beneficial to salmonids.</p> <p>a. Asks for information about tribal regulations.</p> | <p>b. Comment noted. See Response 9b.</p> <p>c. This comment is outside the scope of the proposed regulations. The Department is actively engaged in water management strategies with tribal and federal partners.</p> <p>a. See Response 9b.</p>  |

**Attachment 1  
Summary of Public Comments and Responses**

| Name of Commenter    | Type/Date                                     | Summary of Comments  | Response  |
|----------------------|---|--|---|
| 14<br>Craig Bradford | Email with letter attachment received 2/11/15 | <p>b. Suggests a catch and release tagging study to determine mortality rates.</p> <p>a. Does not support the proposed closure at the mouth of Blue Creek.</p> <p>b. States that non-Native Americans have a prescriptive right to fishing for steelhead and salmon in the proposed closure area.</p> <p>c. States that sport fishermen contribute much to the vitality of the river.</p> <p>d. States that Native Americans abused anadromous and catadromous fish populations via illegal netting practices and snagging.</p> <p>e. States that Department enforcement officials are reluctant to cite Native Americans when fishing regulations are blatantly violated.</p> <p>f. States that steelhead fishermen are not interested in taking salmon and therefore</p> | <p>b. See Response 6b.</p> <p>a. See Response 6a.</p> <p>b. Reject. The ability to fish on public waters depends upon legal access and regulations adopted by the Fish and Game Commission as prescribed in the Fish and Game Code.</p> <p>c. Comment noted.</p> <p>d. See Response 9b.</p> <p>e. See Response 9b.</p> <p>f. Comment noted.</p> |

**Attachment 1  
Summary of Public Comments and Responses**

| Name of Commenter | Type/Date | Summary of Comments   | Response  |
|-------------------|-----------|---|---|
|                   |           | <p>break the tippet for quick disconnection if a salmon grabs one of their flies.</p> <p>g. States that most fly fishermen pursue summer steelhead on a catch and release basis.</p> <p>h. States that almost no guided clients or bank fishermen target salmon at the mouth of Blue Creek.</p> <p>i. States that closing the mouth of Blue Creek to protect salmon unfairly impacts steelhead fishermen.</p> <p>j. States that steelhead fishermen do not snag steelhead in the Blue Creek area. They use small barbless hooks to assure the steelhead's survival upon release and all fish are returned to the river.</p> <p>k. Hopes that all Commissioners conflicted by previous tribal employment or Native American ancestry will recuse themselves from the docketed process.</p> | <p>g. Comment noted.</p> <p>h. Comment noted.</p> <p>i. Reject. Because it is difficult to prevent bycatch of salmon while steelhead fishing, all fishing must be prohibited to protect salmon.</p> <p>j. Comment noted.</p> <p>k. The Commission is guided by Government Code Section 19990 and Sections 81000, et seq., regarding conflicts of interest. Commissioner Hostler-Carmesin is a current employee of the Trinidad Tribe. The Trinidad Rancheria and Commissioner Hostler-Carmesin will not gain financially from the promulgation of the Klamath</p> |

**Attachment 1  
Summary of Public Comments and Responses**

|    | <b>Name of Commenter</b>  | <b>Type/Date</b>       | <b>Summary of Comments</b>  | <b>Response</b>  |
|----|---|------------------------|---|--|
| 15 | Frank Galea, Del Norte County Fish and Game Advisory Commission | Verbal comment 2/12/15 | <p>a. States that options concerning a conservation closure at the mouth of Blue Creek exceed original intent of minimizing catch and release mortality.</p> <p>b. States that the concept of a lower Klamath main stem closure was not vetted with sport fishery stakeholders and no information was made available suggesting presence of Blue Creek Chinook salmon in the proposed closure area before September 15.</p> <p>c. States that the proposed Blue Creek conservation closure is arbitrary and unscientific and does not fully take into consideration economic impacts to small business, and does not take into consideration how steelhead fishing fits into any of proposals.</p> <p>d. States that not enough notice or time was given to stakeholders to address</p> | <p>River sport fishing regulations and therefore, appear not to have any conflicts of interest.</p> <p>a. Comment noted. See Response 10c.</p> <p>b. Comment noted. See Responses 6a and 10c.</p> <p>c. Comment noted. See Responses 6a, 9c and 14i.</p> <p>d. See Responses 10c, 11e and 11f.</p> |

**Attachment 1**  
**Summary of Public Comments and Responses**

| Name of Commenter | Type/Date   | Summary of Comments   | Response  |
|-------------------|---|---|---|
| 16                | Ken Cunningham,<br>resident fishing guide<br>on Klamath River | <p>proposals. Requests any and all proposed changes to regulations are sent directly to Del Norte County Board of Supervisors so that they may adequately represent their constituents.</p> <p>e. States that early coordination is essential.</p> <p>f. Appreciates the efforts to communicate with the Board of Supervisors and the Del Norte County Fish and Game Advisory Commission.</p> | <p>e. Comment noted. See Response 10c.</p> <p>f. Comment noted.</p>   |
|                   | Verbal<br>comment<br>2/12/15                                  | <p>a. Opposes the proposed closure at the mouth of Blue Creek.</p> <p>b. States that the proposed closure at the mouth of Blue Creek will be devastating to people who fish there.</p> <p>c. Opposes snagging.</p> <p>d. States that other river mouths are closed only 500 feet and that it isn't right to close more than that at the mouth of Blue Creek.</p>                              | <p>a. See Response 6a.</p> <p>b. See Response 14i.</p> <p>c. Sport fishing regulations already prohibit snagging in all waters of the State.</p> <p>d. See Response 6a.</p> |

**Attachment 1**  
**Summary of Public Comments and Responses**

|    | <b>Name of Commenter</b>  | <b>Type/Date</b>   | <b>Summary of Comments</b>   | <b>Response</b>  |
|----|---|--|--|--|
| 17 | Dave Hillemeier,<br>Fisheries Program<br>Manager, Yurok Tribe<br>and Thomas O'Rourke,<br>Chairman Yurok Tribe | Verbal<br>comment<br>2/12/15,<br>email and<br>letter<br>received<br>2/5/15 | <p>a. States that the Yurok Tribe feels these conservation concerns are important to bring forward to the Commission and appreciates that the Yurok Tribe's alternatives made it into the public process.</p> <p>b. States that in the spit fishery, due to presence of sea lions and seals, the Yurok Tribe thinks retaining all fish caught, whether foul hooked or not is very important. States that the Yurok Tribe does not want to close the fishery, but that it doesn't want the released fish wasted.</p> <p>c. States that there is a half mile of thermal refugia against the north bank at the mouth of Blue Creek and that boats are out in the channel. States that during mid-June through the first week in September, water temperatures are 23-24°C. States that catch and release fishing is taking place – fish are played through 18°C water into 23°C water. States that there is excessive mortality when fish are caught and released in those conditions and that is the</p> | <p>a. See Response 3a.</p> <p>b. See Responses 3b and 7a. The released fish are not wasted. If the released fish die or are eaten by seals, they are still an important food source in the ecosystem.</p> <p>c. See Response 3c.</p> |

**Attachment 1  
Summary of Public Comments and Responses**

| Name of Commenter   | Type/Date                 | Summary of Comments   | Response   |
|---|---------------------------|---|--|
| 18<br>Thomas Willson, Yurok Tribal Council – Weitchpec District | Verbal comment<br>2/12/15 | Yurok Tribe's greatest concern. States that literature is available that says at 20°C, mortality increases excessively.<br>States that traditionally his people don't play with their fish. States that catch and release fishery is basically playing with your food and if you play with your food, it will leave us. States that we have to look seven generations down. | Comments noted.  |
| 19<br>Ron Britschgi, Rivers West Lodge                          | Verbal comment<br>2/12/15 | a. Opposes the proposed closure at the mouth of Blue Creek.<br>b. Believes that economy and guides will suffer economic impact from Blue Creek closure.   | a. See Response 6a.<br>b. See Response 9c.                                   |
| 20<br>Richard Arimoto   | Verbal comment<br>2/12/15 | a. Supports proposed Option 1 changes to the spit (mouth of Klamath River).<br>b. Opposes the proposed closure at the mouth of Blue Creek.  | a. Support noted. The Commission adopted this option.<br>b. See Response 6a. |
| 21<br>Dave Axt  | Email received<br>2/8/15  | Recommends that the Department conduct fishery research on Blue Creek area of Klamath River prior to any closures.  | See Responses 6a and 6b.   |
| 22<br>Andy Pozzi, Sonoma County Fish and                        | Letter received           | Request to abolish Section 1.45, Title 14, CCR, (filleting of   | See Response 1.  |

**Attachment 1**  
**Summary of Public Comments and Responses**

|    | <b>Name of Commenter</b>                                      | <b>Type/Date</b>  | <b>Summary of Comments</b>  | <b>Response</b>  |
|----|---|---|---|--|
|    | Wildlife Commission   | 3/5/15  | salmonids)  |  |
| 23 | Thomas O'Rourke,<br>Yurok Tribal Chair                        | Email with<br>attached<br>letter<br>received<br>4/13/15 | Reiterates support for the Yurok<br>Tribe's proposed sport fishing<br>options (No catch and release<br>fishing at the mouth of the<br>Klamath River and conservation<br>closure near Blue Creek).   | See Responses 3a, 3b and 3c.   |
| 24 | Bill Bowman, Friends of<br>Del Norte                          | Letter<br>received<br>4/14/15.                          | a. Supports the Yurok Tribe's<br>proposal for catch and release<br>at the spit and Tribe's proposed<br>closure at the mouth of Blue<br>Creek.<br><br>b. States that recent studies<br>have shown catch and release<br>mortality to be surprisingly high.  | a. See Responses 3b and 3c.<br><br>b. Comment noted.   |
| 25 | Dave Hillemeier,<br>Fisheries Program<br>Manager, Yurok Tribe | Verbal<br>comment<br>04/17/15                           | a. Presented additional<br>information about thermal<br>refugia and catch and release<br>fishing.<br><br>b. Supports the mandatory<br>retention in the spit fishery, but<br>reiterates the foul-hooked<br>option.<br><br>c. Suggests consideration of an<br>alternative such as mandatory<br>retention of fish if they are<br>hooked in the head. | a. Information noted.<br><br>b. See Response 3b.<br><br>c. Reject. See Response 3b.<br><br>d. See Response 3c. |

**Attachment 1  
Summary of Public Comments and Responses**

| Name of Commenter | Type/Date                                | Summary of Comments  | Response   |
|-------------------|--|--|--|
| 26                | Ed Salsedo<br>Verbal comment<br>04/17/15 | <p>Creek conservation closure.</p> <p>a. States that the economic impacts are not addressed.</p> <p>b. States that he does not believe the Commission or Department has jurisdiction on U.S. Trust Lands or the Yurok Tribe Reservation.</p> <p>c. States that the Coastal Commission has the right to weigh in on the spit fishery since the proposed regulations make a major change to activities there.</p> <p>d. States that the barbless hook requirements are not enforced on Native American anglers.</p> <p>e. States that people have a right to fish. Quotes Article 1, Section 25, of the California Constitution.</p> | <p>a. See Response 9c.</p> <p>b. Non-tribal anglers fishing the Klamath River within the Yurok Tribe Reservation are regulated by Commission authority (Fish and Game Code Sections 16500-16541)</p> <p>c. The Coastal Commission has no authority over sport fishing regulations, but it had the opportunity to weigh in on the proposed regulations.</p> <p>d. See Response 9b.</p> <p>e. The so-called "right to fish" is neither absolute nor fundamental, but has been characterized by the courts as only a "privilege" or a "qualified right" subject to the Legislature's regulation of fishing. The California Supreme Court has long declared that the power to regulate fishing has always existed as an aspect of the inherent power of the Legislature to regulate the terms under which a public resource may be taken by private citizens (in re Quinn [1973] 35 Cal.App.3d 473; State of California v. San Luis Obispo Sportsman's</p> |

**Attachment 1**  
**Summary of Public Comments and Responses**

| Name of Commenter                      | Type/Date                  | Summary of Comments   | Response  |
|--|----------------------------|---|---|
| 27<br>Stephen Rosenberg, fly fisherman | Verbal comment<br>04/17/15 | <p>a. States that he has kept a diary of his fishing activities at Blue Creek since 1978.</p> <p>b. States that he has never seen a constant thermal refugia problem with excessive concentrations of fish but that he has only seen excessive concentrations of fish in 5 years between 1978 – 2014. States that in 1982-83, 1991 and 1994, the excessive concentrations only occurred in mid to late August, and that by Sept 4 the fish were gone upstream; in 1978, the excessive concentration of fish started in mid-July and by Labor Day the fish were gone; in 2000-2002, the excessive concentration of fish started in late July and by Labor Day the problem was over; and in 2014, the excessive concentration of fish started but as soon as water flows were increased, the fish immediately moved upstream.</p> | <p>Association [1978] 22 Cal.3d 440; Paladini v. Superior Court [1918] 178 Cal. 369; California Gillnetters Association v. Department of Fish and Game [1995] 39 Cal.App.4th 1145.”</p> <p>a. Comment noted.</p> <p>b. Comment noted.</p> |

**Attachment 1  
Summary of Public Comments and Responses**

| Name of Commenter | Type/Date   | Summary of Comments   | Response  |
|-------------------|---|---|---|
|                   |   | <p>c. States that he has never seen excessive hooking mortality.</p> <p>d. States that the degree to which the thermal refugia occurs depends on the geomorphology of the river at the confluence of Blue Creek and Klamath and that the situation only sets up every 10 years or so.</p> <p>e. Opposes the proposed closure at the mouth of Blue Creek. Questions the tribe's motives.</p> | <p>c. Comment noted.</p> <p>d. Comment noted.</p> <p>e. See Response 6a.</p>                                      |
| 28                | John Stokes,<br>recreational fisherman<br><br>Verbal<br>comment<br>04/17/15 | <p>a. Opposes the proposed closure at the mouth of Blue Creek.</p> <p>b. States that the proposed closure at the mouth of Blue Creek will gut the entire steelhead fishery.</p> <p>c. Supports comments made by Stephen Rosenberg concerning how often excessive concentrations of fish occur.</p> <p>d. States that steelhead are far less impacted by the phenomena than salmon</p>       | <p>a. See Response 6a.</p> <p>b. See Response 9c and 14i.</p> <p>c. See Response 27.</p> <p>d. Comment noted.</p> |

**Attachment 1**  
**Summary of Public Comments and Responses**

| <b>Name of Commenter</b> | <b>Type/Date</b>  | <b>Summary of Comments</b>   | <b>Response</b>  |
|--------------------------|---|--|--|
| 29                       | Eileen Cooper<br>Verbal comment<br>04/17/15                   | <p>e. Suggests using a low flow or temperature closure for regulating the Blue Creek area as is in place for many of the other coastal streams.</p> <p>a. Supports no catch and release fishing at all when river temperatures are high.</p> <p>b. Supports the Yurok Tribe's proposed catch and release regulations at spit and Blue creek area.</p>                                    | <p>e. See Response 6b.</p> <p>a. See Response 6b.</p> <p>b. See Responses 3b and 3c.</p> |
| 30                       | Ted Souza, Friends of Del Norte<br>Verbal comment<br>04/17/15 | <p>States that catch and release fishing is a problem. States that a study by Dr. Bruce Tufts, Queen's University, Canada, shows that 7 out of 10 fish die when out of water more than 30 seconds. States that while he has practiced catch and release fishing in the past, he now believes anglers should keep what they catch or not fish at all in order to protect the fishery.</p> | <p>Comments noted. The Department research does not support this comment.</p>            |

# Attachment 5

## Regulatory Language

### Subsection (b)(91.1) of Section 7.50 is amended to read:

(91.1) Anadromous Waters of the Klamath River Downstream of Iron Gate Dam (Lower Klamath River Basin). The regulations in this subsection apply only to waters of the Klamath River system which are accessible to anadromous salmonids. They do not apply to waters of the Klamath River which are inaccessible to anadromous salmon and trout, for example, portions of the Klamath River system upstream of Iron Gate Dam, portions of the Trinity River system upstream of Lewiston Dam, and the Shasta River and tributaries upstream of Dwinell Dam. Fishing in these waters is governed by the General Regulations for non-anadromous waters of the North Coast District (see Section 7.00(a)(4)).

#### (A) Hook and Weight Restrictions.

1. Only barbless hooks may be used. (For definitions regarding legal hook types, hook gaps and rigging see Chapter 2, Article 1, Section 2.10.)

2. During closures to the take of adult salmon, anglers shall not remove any adult Chinook salmon from the water by any means, such as by dragging the fish on shore or using a net.

#### (B) General Area Closures.

1. No fishing is allowed within 750 feet of any Department of Fish and Wildlife fish-counting weir.

2. No fishing is allowed from the Ishi Pishi Falls ~~road~~ Road bridge upstream to and including Ishi Pishi Falls from August 15 through December 31. EXCEPTION: members of the Karuk Indian Tribe listed on the current Karuk Tribal Roll may fish at Ishi Pishi Falls using hand-held dip nets.

3. No fishing is allowed from September 15 through December 31 in the Klamath River within 500 feet of the mouths of the Salmon, the Shasta and the Scott rivers and Blue Creek.

4. No fishing is allowed from June 15 through September 14 in the Klamath River from 500 feet above the mouth of Blue Creek to ½ mile downstream of the mouth of Blue Creek.

#### (C) Klamath River Basin Possession Limits.

##### 1. Trout Possession Limits.

a. The brown trout possession limit is 10 brown trout.

b. The hatchery trout or hatchery steelhead possession limits are as follows:

(i) Klamath River - 4 hatchery trout or hatchery steelhead.

(ii) Trinity River - 4 hatchery trout or hatchery steelhead.

##### 2. Chinook Salmon Possession Limits.

a. Klamath River downstream of the Highway 96 bridge at Weitchpec from January 1 to August 14 and the Trinity River downstream of the Old Lewiston Bridge to the confluence of the South Fork Trinity River from January 1 to ~~August 31.~~ August 31: 2 Chinook salmon.

~~(i) 2 Chinook salmon.~~

b. Klamath River from August 15 to December 31 and Trinity River from September 1 to ~~December 31.~~ December 31: 9 Chinook salmon. No more than 6 Chinook salmon over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

~~(i) 9 Chinook salmon. No more than 3 Chinook salmon over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.~~

#### (D) Klamath River Basin Chinook Salmon Quotas.

The Klamath River fall Chinook salmon take is regulated using quotas. Accounting of the tribal and non-tribal harvest is closely monitored from August 15 through December 31 each year. These quota areas are noted in subsection (b)(91.1)(E) with "Fall Run Quota" in the *Open Season and Special Regulations* column.

##### 1. Quota for Entire Basin.

The ~~20142015~~ Klamath River Basin quota is ~~4,128-14,133~~ Klamath River fall Chinook salmon over

# Attachment 6

STD. 400 (REV. 01-2013)

|                  |   |  |                  |
|------------------|---|--|------------------|
| OAL FILE NUMBERS | NOTICE FILE NUMBER<br><b>Z-2015-0113-08</b> | REGULATORY ACTION NUMBER<br><b>2015-0528-025</b> | EMERGENCY NUMBER |
|------------------|---|--|------------------|

For use by Office of Administrative Law (OAL) only

|   |  |
|---|--|
| <p style="text-align: center;">NOTICE</p> | <p style="text-align: center;">REGULATIONS</p> |
|---|--|

2015 MAY 28 PM 4:19

OFFICE OF ADMINISTRATIVE LAW

**ENDORSED - FILED**  
in the office of the Secretary of State  
of the State of California

JUN 04 2015

2:00 PM

|  |                             |
|--|-----------------------------|
| AGENCY WITH RULEMAKING AUTHORITY<br>Fish and Game Commission | AGENCY FILE NUMBER (if any) |
|--|-----------------------------|

**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

|   |  |   |  |   |
|---|--|---|--|---|
| 1. SUBJECT OF NOTICE<br>Klamath River sport fishing   |  | TITLE(S)<br>14                                | FIRST SECTION AFFECTED<br>7.50                 | 2. REQUESTED PUBLICATION DATE<br>January 23, 2015 |
| 3. NOTICE TYPE<br><input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other |  | 4. AGENCY CONTACT PERSON<br>Sherrie Fonbuena  |  | TELEPHONE NUMBER<br>(916) 654-9866                |
|   |  |   |  | FAX NUMBER (Optional)<br>(916) 653-5040           |
| OAL USE ONLY  | ACTION ON PROPOSED NOTICE                      |   |  | NOTICE REGISTER NUMBER                            |
| <input type="checkbox"/> ONLY   | <input type="checkbox"/> Approved as Submitted | <input type="checkbox"/> Approved as Modified | <input type="checkbox"/> Disapproved/Withdrawn | PUBLICATION DATE                                  |

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

|   |  |
|---|--|
| 1a. SUBJECT OF REGULATION(S)<br>Klamath River sport fishing | 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) |
|---|--|

|   |               |
|---|---------------|
| 2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)   |               |
| <b>SECTION(S) AFFECTED</b><br>(List all section number(s) individually. Attach additional sheet if needed.) | ADOPT         |
|   | AMEND<br>7.50 |
| TITLE(S)<br>14  | REPEAL        |

|   |   |   |   |
|---|---|---|---|
| 3. TYPE OF FILING   |   |   |   |
| <input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)   | <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. | <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) | <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) |
| <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) | <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)   | <input type="checkbox"/> File & Print                               | <input type="checkbox"/> Print Only   |
| <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))   |   | <input type="checkbox"/> Other (Specify) _____                      |   |

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))  Effective on filing with Secretary of State  \$100 Changes Without Regulatory Effect  Effective other (Specify) **6/4/15 202F&GC, 11343.4(b)(4) Govt Code**

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660)  Fair Political Practices Commission  State Fire Marshal

Other (Specify) \_\_\_\_\_

|                                       |                                    |                       |  |
|---------------------------------------|------------------------------------|-----------------------|--|
| 7. CONTACT PERSON<br>Sherrie Fonbuena | TELEPHONE NUMBER<br>(916) 654-9866 | FAX NUMBER (Optional) | E-MAIL ADDRESS (Optional)<br>Sherrie.Fonbuena@fgc.ca.gov |
|---------------------------------------|------------------------------------|-----------------------|--|

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

|  |                 |
|--|-----------------|
| SIGNATURE OF AGENCY HEAD OR DESIGNEE<br> | DATE<br>5/28/15 |
| TYPED NAME AND TITLE OF SIGNATORY<br>Sonke Mastrup, Executive Director   |                 |

For use by Office of Administrative Law (OAL) only

**ENDORSED APPROVED**

JUN 04 2015

Office of Administrative Law

## Regulatory Language

Subsection (b)(91.1) of Section 7.50 is amended to read:

(91.1) Anadromous Waters of the Klamath River Downstream of Iron Gate Dam (Lower Klamath River Basin). The regulations in this subsection apply only to waters of the Klamath River system which are accessible to anadromous salmonids. They do not apply to waters of the Klamath River which are inaccessible to anadromous salmon and trout, for example, portions of the Klamath River system upstream of Iron Gate Dam, portions of the Trinity River system upstream of Lewiston Dam, and the Shasta River and tributaries upstream of Dwinell Dam. Fishing in these waters is governed by the General Regulations for non-anadromous waters of the North Coast District (see Section 7.00(a)(4)).

### (A) Hook and Weight Restrictions.

1. Only barbless hooks may be used. (For definitions regarding legal hook types, hook gaps and rigging see Chapter 2, Article 1, Section 2.10.)
2. During closures to the take of adult salmon, anglers shall not remove any adult Chinook salmon from the water by any means, such as by dragging the fish on shore or using a net.

### (B) General Area Closures.

1. No fishing is allowed within 750 feet of any Department of Fish and Wildlife fish-counting weir.
2. No fishing is allowed from the Ishi Pishi Falls Road bridge upstream to and including Ishi Pishi Falls from August 15 through December 31. EXCEPTION: members of the Karuk Indian Tribe listed on the current Karuk Tribal Roll may fish at Ishi Pishi Falls using hand-held dip nets.
3. No fishing is allowed from September 15 through December 31 in the Klamath River within 500 feet of the mouths of the Salmon, the Shasta and the Scott rivers and Blue Creek.
4. No fishing is allowed from June 15 through September 14 in the Klamath River from 500 feet above the mouth of Blue Creek to 1/2 mile downstream of the mouth of Blue Creek.

### (C) Klamath River Basin Possession Limits.

#### 1. Trout Possession Limits.

- a. The brown trout possession limit is 10 brown trout.
- b. The hatchery trout or hatchery steelhead possession limits are as follows:
  - (i) Klamath River - 4 hatchery trout or hatchery steelhead.
  - (ii) Trinity River - 4 hatchery trout or hatchery steelhead.

#### 2. Chinook Salmon Possession Limits.

- a. Klamath River downstream of the Highway 96 bridge at Weitchpec from January 1 to August 14 and the Trinity River downstream of the Old Lewiston Bridge to the confluence of the South Fork Trinity River from January 1 to August 31. August 31: 2 Chinook salmon.

#### ~~(i) 2 Chinook salmon.~~

- b. Klamath River from August 15 to December 31 and Trinity River from September 1 to December 31: 9 Chinook salmon. No more than 6 Chinook salmon over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

~~(i) 9 Chinook salmon. No more than 3 Chinook salmon over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.~~

### (D) Klamath River Basin Chinook Salmon Quotas.

The Klamath River fall Chinook salmon take is regulated using quotas. Accounting of the tribal and non-tribal harvest is closely monitored from August 15 through December 31 each year. These quota areas are noted in subsection (b)(91.1)(E) with "Fall Run Quota" in the *Open Season and Special Regulations* column.

#### 1. Quota for Entire Basin.

The ~~20142015~~ Klamath River Basin quota is ~~4,128~~ 14,133 Klamath River fall Chinook salmon over

22 inches total length. The department shall inform the commission, and the public via the news media, prior to any implementation of restrictions triggered by the quotas. (NOTE: A department status report on progress toward the quotas for the various river sections is updated weekly, and available at 1-800-564-6479.)

**2. Subquota Percentages.**

a. The subquota for the Klamath River upstream of the Highway 96 bridge at Weitchpec and the Trinity River is 50% of the total Klamath River Basin quota.

(i) The subquota for the Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec is 17% of the total Klamath River Basin quota.

(ii) The subquota for the Trinity River main stem downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat is 16.5% of the total Klamath River Basin quota.

(iii) The subquota for the Trinity River main stem downstream of the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River is 16.5% of the total Klamath River Basin quota.

b. The subquota for the Lower Klamath River downstream of the Highway 96 bridge at Weitchpec is 50% of the total Klamath River Basin quota.

(i) The Spit Area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) will close when 15% of the total Klamath River Basin quota is taken downstream of the Highway 101 bridge.

**(E) Klamath River Basin Open Seasons and Bag Limits.**

All anadromous waters of the Klamath River Basin are closed to all fishing for all year except those areas listed in the following table. Bag limits are for trout and Chinook salmon in combination unless otherwise specified.

| <b>Body of Water</b>  | <b>Open Season and Special Regulations</b>   | <b>Daily Bag Limit</b>  |
|---|--|---|
| 1. Bogus Creek and tributaries.   | Fourth Saturday in May through August 31. Only artificial lures with barbless hooks may be used. | 2 hatchery trout or hatchery steelhead**  |
| 2. Klamath River main stem from 3,500 feet downstream of Iron Gate Dam to the mouth.                    |  |   |
| a. Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec. | January 1 to August 14.  | 0 Chinook salmon<br>2 hatchery trout or hatchery steelhead**  |
|   | Fall Run Quota 7022,403 Chinook Salmon August 15 to December 31, 2014-2015.                      | 3 Chinook salmon - no more than 42 fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.<br>2 hatchery |

|  |   |  |
|--|---|--|
|  |   | trout or hatchery steelhead**  |
|  | Fall Run Quota Exception: Chinook salmon over 22 inches total length may be retained from 3,500 feet downstream of Iron Gate Dam to the Interstate 5 bridge when the department determines that the adult fall-run Chinook salmon spawning escapement at Iron Gate Hatchery exceeds 8,000 fish. Daily bag and possession limits specified for fall-run Chinook salmon apply during this exception.  |  |
| b. Klamath River downstream of the Highway 96 bridge at Weitchpec.   | January 1 to August 14.   | 2 Chinook salmon<br>2 hatchery trout or hatchery steelhead**   |
|  | Fall Run Quota <u>2,064,067</u> Chinook Salmon August 15 to December 31, <u>2014-2015</u> .   | 3 Chinook salmon - no more than <u>42</u> fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.<br>2 hatchery trout or hatchery steelhead** |
|  | Fall Run Quota Exception: Spit Area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth). This area will be closed to all fishing after 15% of the Total Klamath River Basin Quota has been taken.<br><u>All legally caught Chinook salmon must be retained. Once the adult (greater than 22 inches) component of the total daily bag limit has been retained anglers must cease fishing in the spit area.</u> |  |
| 3. Salmon River main stem, main stem of North Fork downstream of Sawyer's Bar bridge, and main stem of South Fork downstream of the confluence of the East Fork of the South Fork. | November 1 through February 28.   | 2 hatchery trout or hatchery steelhead**   |
| 4. Scott River main stem downstream of the Fort Jones-Greenvlew bridge to the confluence with the Klamath River.   | Fourth Saturday in May through February 28.   | 2 hatchery trout or hatchery steelhead**   |
| 5. Shasta River main stem  | Fourth Saturday in May through August   | 2 hatchery   |

|   |  |  |
|---|--|--|
| downstream of the Interstate 5 bridge north of Yreka to the confluence with the Klamath River.                              | 31 and November 16 through February 28.  | trout or hatchery steelhead**  |
| <b>6. Trinity River and tributaries.</b>  |  |  |
| a. Trinity River main stem from 250 feet downstream of Lewiston Dam to the Old Lewiston Bridge,                             | April 1 through September 15. Only artificial flies with barbless hooks may be used.   | 2 hatchery trout or hatchery steelhead**   |
| b. Trinity River main stem downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat.              | January 1 to August 31.  | 2 Chinook salmon<br>5 brown trout<br>2 hatchery trout or hatchery steelhead**  |
|   | Fall Run Quota <del>6842,332</del> Chinook Salmon September 1 through December 31, <del>2014</del> 2015.   | 3 Chinook salmon - no more than 42 fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.<br>5 brown trout<br>2 hatchery trout or hatchery steelhead** |
|   | Fall Run Quota Exception: Chinook salmon over 22 inches total length may be retained downstream of the Old Lewiston Bridge to the mouth of Indian Creek when the department determines that the adult fall-run Chinook salmon spawning escapement at Trinity River Hatchery exceeds 4,800 fish. Daily bag and possession limits specified for fall-run Chinook salmon apply during this exception. |  |
| c. Trinity River main stem downstream of the Highway 299 West bridge at Cedar Flat to the Denny Road bridge at Hawkins Bar. | January 1 through August 31.   | 2 Chinook salmon<br>5 brown trout<br>2 hatchery trout or hatchery steelhead**  |
|   | September 1 through December 31.   | Closed to all fishing.   |
| d. New River main stem downstream of the confluence of the East Fork to the confluence with the Trinity River.              | September 15 through November 15. Only artificial lures with barbless hooks may be used.   | 2 hatchery trout or hatchery steelhead**   |
| e. Trinity River main stem downstream of the Denny Road   | January 1 to August 31.  | 2 Chinook salmon   |

|  |  |   |
|--|--|---|
| bridge at Hawkins Bar to the mouth of the South Fork Trinity River.  |  | 5 brown trout<br>2 hatchery trout<br>or hatchery<br>steelhead**   |
|  | Fall Run Quota <del>684</del> <u>2,331</u> Chinook Salmon September 1 through December 31, <del>2014</del> <u>2015</u> . This is the cumulative quota for subsections 6.e. and 6.f. of this table. | 3 Chinook salmon - no more than <del>4</del> <u>2</u> fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.<br>5 brown trout<br>2 hatchery trout<br>or hatchery<br>steelhead** |
| f. Trinity River main stem downstream of the mouth of the South Fork Trinity River to the confluence with the Klamath River.                                   | January 1 to August 31.  | 0 Chinook salmon<br>5 brown trout<br>2 hatchery trout<br>or hatchery<br>steelhead**   |
|  | Fall Run Quota <del>684</del> <u>2,331</u> Chinook Salmon September 1 through December 31, <del>2014</del> <u>2015</u> . This is the cumulative quota for subsections 6.e. and 6.f. of this table. | 3 Chinook salmon - no more than <del>4</del> <u>2</u> fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.<br>5 brown trout<br>2 hatchery trout<br>or hatchery<br>steelhead** |
| g. Hayfork Creek main stem downstream of the Highway 3 bridge in Hayfork to the confluence with the South Fork Trinity River.                                  | November 1 through March 31. Only artificial lures with barbless hooks may be used.  | 2 hatchery trout or hatchery steelhead**  |
| h. South Fork Trinity River downstream of the confluence with the East Fork of the South Fork Trinity River to the South Fork Trinity River bridge at Hyampom. | November 1 through March 31. Only artificial lures with barbless hooks may be used.  | 2 hatchery trout or hatchery steelhead**  |
| i. South Fork Trinity River downstream of the South Fork   | November 1 through March 31.   | 0 Chinook salmon  |

|   |  |  |
|---|--|--|
| Trinity River bridge at Hyampom to the confluence with the Trinity River. |  | 2 hatchery trout or hatchery steelhead** |
|---|--|--|

Subsection (b)(195) of Section 7.50 is amended to read:

|  |  |
|--|--|
| <u>(195) Trinity River and tributaries downstream of Lewiston Dam.</u> | See Klamath River Regulations subsection <del>(b)(91.1)(F)</del> <u>67.50(b)(91.1)</u> . |
|--|--|

\* Wild Chinook salmon are those not showing a healed adipose fin clip and not showing a healed left ventral fin clip.

\*\* Hatchery trout or steelhead in anadromous waters are those showing a healed adipose fin clip (adipose fin is absent). Unless otherwise provided, all other trout and steelhead must be immediately released. Wild trout or steelhead are those not showing a healed adipose fin clip (adipose fin is present).

Note: Authority cited: Sections 200, 202, 205, 215, 220, 240, 315 and 316.5, Fish and Game Code. Reference: Sections 200, 202, 205, ~~206~~, 215 and 316.5, Fish and Game Code.

# Attachment 7



# YUROK TRIBE

190 Klamath Boulevard • Post Office Box 1027 • Klamath, CA 95548

November 19, 2014

California Fish and Game Commission  
1416 Ninth St.  
Room 1320  
Sacramento CA, 95814

Re: Lower Klamath River fishing regulations

Dear Commissioners:

The Yurok Tribe formally recommends modifications to the Lower Klamath River recreational fishery regulations. Yurok typically does not become involved with the management of State fisheries unless we consider an issue to be a conservation concern that affects the health of our fishery resource. We propose two modifications to the lower Klamath River regulations within the boundaries of the Yurok Reservation: 1) there should be no catch-and-release fishing allowed in the spit area, where the Klamath River flows through the sand bar to meet the ocean, due to high levels of pinniped predation upon released fish, and 2) we recommend adoption of a conservation closure at the confluence and immediately downstream of Blue Creek (approximately river mile 17) to minimize catch and release fishing for fish that are seeking thermal respite, and to protect late fall-run Chinook that are holding prior to entering Blue Creek.

As you may recall, we provided comments to the Commission during the February and April meetings last year (see attachments) regarding these proposed regulatory modifications, but learned that we were too late to affect change for the 2014 regulation process. Per recommendation of your staff, we are providing recommendations for consideration at your December 2014 meeting, with the hope that these proposed regulations will comprise at least one of the options for public consideration/comment as you move through your 2015 regulatory process.

**Recommendation 1** *Catch and Release fishing in the spit-area*

Previous regulations have allowed catch-and-release fishing in the spit area that has resulted in unquantified, but substantial predation upon released fish by the numerous pinnipeds occupying this area. During some previous years, the most successful anglers have released dozens of fish within a given day.

We recommend the Commission adopt regulations requiring all fall Chinook caught within this area be retained, and that there be no catch and release fishing of fall Chinook. Once an

angler’s daily bag limit for Chinook (regardless of whether it is an adult or jack) is obtained, they must stop fishing for the day. We propose the following:

| Body of Water  | Open Season and Special Regulations   | Daily Bag Limit                         |
|--|---|---|
| Klamath River Spit (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) | All Chinook salmon (regardless of size) captured must be harvested (i.e. no releasing Chinook salmon). Once the daily bag limit for Chinook is obtained, fishing must stop for the day. | “x” Chinook salmon (regardless of size) |

Such a regulation would allow the fishery to continue—which is important for shore-based anglers as well as the local economy—while minimizing excessive mortality associated with releasing fish in the presence of sea lions, such predation is a problem that undeniably needs to be addressed and we hope to work with the Commission in doing so.

Yurok are well aware that many of the fish caught in this fishery are not legally hooked, but snagged outside of the mouth. I appreciate the concern this causes for some regarding the retention of fish that are snagged, because of the perceived precedent this may have to other areas of the state where snagging occurs. However, it’s important to realize the uniqueness of this fishery given the presence of pinnipeds preying upon released fish. It is also important to realize that this fishery takes place within the boundaries of the Yurok Reservation, a sovereign nation and Co-Manager of the resource. The wasting of fish is contrary to our culture and a violation of our own Fishing Rights Ordinance.

**Recommendation 2 *Blue Creek Conservation Closure***

We recommended the Commission adopt a conservation closure at the mouth of Blue Creek. This conservation closure would serve two purposes: 1) it would provide thermal refugia—free of catch-and-release fishing—for adult salmon (spring and fall Chinook) and summer-run steelhead that migrate up the Klamath River during the summer months (mid-June through mid-September) when ambient water temperatures are excessively warm, and 2) during mid-September through November, it would protect late-run fall chinook that are staging to enter Blue Creek, similar to the closures that are currently in place at the mouths of the Salmon, Scott, and Shasta Rivers.

During the summer months, especially during years of low flow, water temperatures in the mainstem Klamath River often reach 73 - 79° F, well above the optimal migration range and near the acute lethal limit for adult Chinook salmon (Bell 1990, Strange 2010<sup>1</sup>). At these times, adult salmon and steelhead will stop migrating and hold in the cold water effluent

<sup>1</sup> Bell, M.C. 1991. Fisheries Handbook of Engineering Requirements and Biological Criteria. Strange, J.S. 2010. *Upper Thermal Limits to Migration in Adult Chinook Salmon: Evidence from the Klamath River Basin*. Transactions of the American Fisheries Society 139: 1091 – 1108.

from the mouth of Blue Creek to approximately half mile downstream. During many low flow years, such as we just experienced in 2014, this area holds up to several thousand adult salmonids (steelhead and Chinook), that are escaping the intolerably warm Klamath River. Video footage of a 100 meter stretch of the 2,000 meters these fish in during August 2014 is available at: <https://www.youtube.com/watch?v=jpX6lCJZeuA>

We believe fish that make it to the thermal refugia should be allowed respite. It is inappropriate to harass (via hook and line) these fish at a time when they are so physiologically vulnerable. Furthermore, often these fish (steelhead and/or salmon) will be hooked while holding in the thermal refugia, then played for an extended period of time in the ambient river conditions that are several degrees warmer (sometimes at lethal levels), and then eventually released. Forcing fish to go through such dramatic temperature changes, while putting them through excessive stress, is contrary to fish culture practices associated with rearing and/or releasing fish, and undoubtedly results in excessive stress and mortality. We recommend that this thermal conservation closure extend from the mouth of Blue Creek to half mile downstream of the wetted channel of Blue Creek.

The second reason for the conservation closure at the mouth of Blue Creek is to protect the genetically unique adult late-fall run Chinook salmon that return to spawn from mid-October through December. These fish are known to hold in the confluence pool in the Klamath River until substantial rains stimulate their migration up Blue Creek. Blue Creek late-fall run Chinook are the stronghold of the Lower Klamath and likely the source population for other Lower Klamath Tributaries. We request that fish holding in this area be given protection from harvest pressure similar to what is given to Chinook returning to the Salmon, Scott, and Shasta Rivers. California regulations currently provide the protection for these stocks:

“No fishing is allowed from September 15 through December 31 in the Klamath River within 500 feet of the mouths of the Salmon, the Shasta and the Scott rivers.” We recommend adding Blue Creek to this provision.

In summary, we recommend the Commission allow the above-mentioned regulatory changes be considered during the upcoming public hearing process for Klamath River sport fishing regulations, and we hope this process results in the adoption of such regulations to conserve the resource that is so important to our people. If you have any questions regarding this letter, or would like to schedule a meeting with our Council, please don't hesitate to contact myself or Dave Hillemeier (Fisheries Program Manager) at the address in the letterhead.

Finally, I would like to reiterate my invitation to the Commission We would welcome the Commission to visit the Yurok Reservation and meet with our Tribal Council. Such a meeting would allow us to discuss issues of mutual concern in regard to the management of the Klamath River fishery and provide you an opportunity to visit the Lower Klamath River via a boat ride if your schedules allow.

*Yurok Tribe – Klamath River fishing regulations, November 19 2014*

Sincerely,

A handwritten signature in blue ink, appearing to read 'T. O'Rourke', with a stylized flourish at the end.

**Thomas O'Rourke, Chairman**



# YUROK TRIBE

190 Klamath Boulevard • Post Office Box 1027 • Klamath, CA 95548

April 8, 2014

California Fish and Game Commission  
1416 Ninth St.  
Room 1320  
Sacramento CA. 95814

Re: Klamath River fishing regulations

Dear Commissioners:

I am writing to express concern with proposed sport fishing regulations for the "spit area" in the Lower Klamath River, which is located within the boundaries of the Yurok Reservation. While we support the continuation of the spit fishery (i.e. we oppose the closure of the spit fishery, as proposed in Option #3 that is being considered by the Commission), we believe it is essential that catch and release fishing in this area be prohibited, to minimize the excessive predation upon released fish by marine mammals. We request that the Commission adopt regulations prohibiting catch and release fishing in this area for the upcoming 2014 season.

We typically do not comment on the management of other fisheries, unless we consider an issue to be a conservation concern. The unquantified, but obviously excessive loss of caught and released fish to marine mammal predation in the spit area is a conservation concern. This problem was most pronounced last year, when fish spent an unusual amount of time within the spit area, resulting in some anglers catching and releasing several dozen fish per day. While catch and release fishing in the presence of marine mammals has been a concern of the Tribe for the past couple decades, as noted in a white paper we presented to the Commission in 1996<sup>1</sup>, the problem escalated far beyond acceptable levels during 2013.

As noted in the testimony and handout (attached) that was submitted to you on behalf of the Tribe on February 5, 2014, we are concerned that excessive mortality from marine mammal predation is associated with catch and release fishing in this area. Therefore, we recommend that all fish caught in this area be retained, and that catch and release fishing be prohibited. When our Fisheries Program Manager, Dave Hillemeier, recommended such a regulation at

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<sup>1</sup> The following quote is from an issues paper the Yurok Tribe submitted to the Fish and Game Commission on March 6, 1996: "In addition to hooking mortality, a major concern the Yurok Tribe has with the catch and release fishery in the lower river is the mortality associated with sea lion and seal predation after fish are released. Over 300 seals and several sea lions were seen by Yurok Tribal net harvest monitors in the estuary while fish were being caught and released by sport fishermen.."

*Yurok Tribe Klamath River fishing regulations*

the February 5<sup>th</sup> Commission meeting, it was noted by the Commission, and their attorneys, that such a regulation is within the bounds of the three options currently being considered by the Commission; i.e. such a regulation could be adopted for the 2014 fall season. At a subsequent meeting in Eureka, the Commission's Executive Director noted that the Commission may have been incorrect, however after the meeting he did acknowledge that such a regulation may be possible, but challenging, to implement this year. Our recommendation is that the Commission adopt language similar to the following for 2014 season:

| Body of Water  | Open Season and Special Regulations   | Daily Bag Limit                         |
|--|---|---|
| Klamath River Spit (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) | All Chinook salmon (regardless of size) captured must be harvested (i.e. no releasing Chinook salmon). Once the daily bag limit for Chinook is obtained, fishing must stop for the day. | "x" Chinook salmon (regardless of size) |

Such a regulation would allow the fishery to continue, which is important to shore anglers as well as the local economy, while minimizing the excessive mortality associated with releasing fish in the presence of sea lions; a problem that undeniably needs to be addressed.

We had also recommended at your February 5<sup>th</sup> meeting (see attachment) that the Commission adopt a conservation closure at the mouth of Blue Creek, to provide thermal refuge for migrating adult salmon and steelhead, as well as to protect staging late-fall run Chinook salmon returning to Blue Creek. We learned at this meeting that we were making this proposal too late in your process for consideration in the 2014 regulations, and it did not fall within the bounds of other options already being considered. Therefore, we look forward to discussing this issue with the Commission as you are crafting regulations for 2015.

Finally, I would like to take this opportunity to invite the Commission to visit the Yurok Reservation to meet with the Yurok Tribal Council. Such a meeting would allow us to discuss issues of mutual concern in regard to the management of the Klamath River fishery. We would also welcome you for a boat ride on the Lower Klamath River to experience first-hand the beauty of our land, the fishery in progress, the spit area, and the area near Blue Creek where we are proposing a conservation closure. If you have any questions regarding this letter, or would like to schedule a meeting with our Council, please don't hesitate to contact myself or Dave Hillemeier (Fisheries Program Manager) at the address in the letterhead.

Sincerely,



Thomas O'Rourke, Chairman

## **Yurok Tribal Comments to the California Fish and Game Commission regarding Lower Klamath River Recreational Fishing Regulations**

February 5, 2014

The following recommendations are submitted on behalf of the Yurok Tribe in regard recreational fishing regulations for the Lower Klamath River. We normally do not make recommendations regarding the management of other fisheries, unless there is a conservation concern, which is the basis for these recommendations. We recommend that catch and release fishing in the estuary of the Klamath River be prohibited due to the excessive predation by marine mammals on released fish. We also request that a conservation closure be implemented within the cold water refugia at the confluence and immediately downstream of Blue Creek (river mile 17), to provide thermal refuge for adult salmon and steelhead migrating up the Klamath River when ambient river temperatures are inhospitable; we also recommend a closure during late-September through November, when late-fall chinook are staging to enter Blue Creek, similar to the closures you currently have in place at the mouths of the Salmon, Scott, and Shasta Rivers.

The Yurok reservation is located on the Lower 44 miles of the Klamath River. The fishery resource of the Klamath River is integral to the Yurok way of life for subsistence, cultural, and economic purposes. We go to great lengths to manage our fishery for future generations and request that you do the same when managing Klamath fisheries. Both of these proposed conservation measures we are recommending are for in-river sport fishing that occurs within the boundaries of the Yurok Reservation and is managed under the authority of the California Fish and Wildlife Service.

### ***Catch and Release Fishing in the Estuary of the Klamath River***

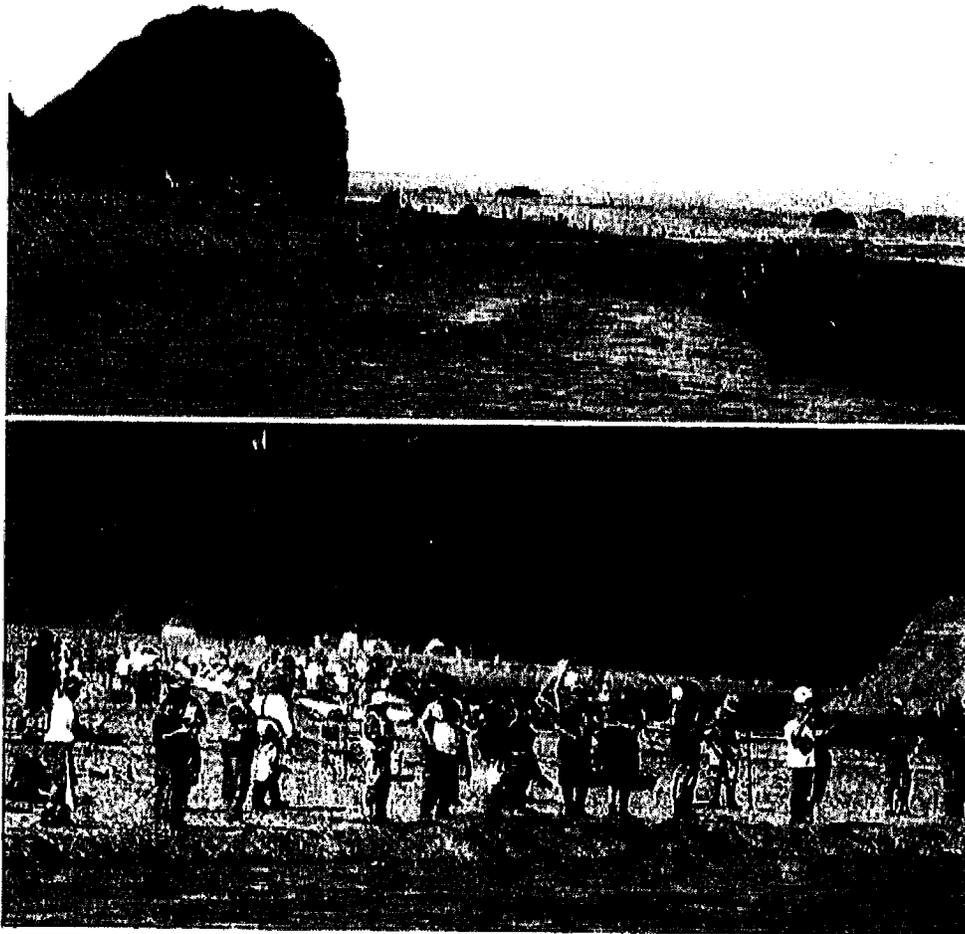
As you may be aware, hook and line fishing at the mouth of the Klamath river, in what is known as the "chute" (where the river meets the ocean), was extraordinary during the late summer of 2013. Due to apparent water quality conditions in the estuary, and the long chute that formed along the spit, the sand bar that separates the river from the ocean, adult salmon spent extended periods of time migrating up and down the chute, rather than entering the estuary. As a result, extremely large numbers of fish were caught by angling (typically by "lining" - a type of "snagging"). There were several problems that arose from this relatively unique situation, such as fish being buried and left in the sand, non-tribal anglers selling fish to Tribal members so they could then be sold in our commercial fishery (against the regulations for both fisheries); however, the worst problem from our perspective was one that has been around for years, fish being caught and released to the waiting sea lions and seals.

While fishermen are notorious for "fish stories", embellishments weren't necessary during the 2013 chute fishery, as catches were off the charts. Some anglers literally caught dozens of fish/day (some more than 60), for many days/weeks during the season. While such fishing is typically considered good, the chute fishery last year was a major conservation concern because most of these fish were released, in an exhausted condition, to a gauntlet of predatory seals and sea lions. Often times sport Fishers would catch their limit of three adults, and then continue fishing under the pretense of fishing for a jack

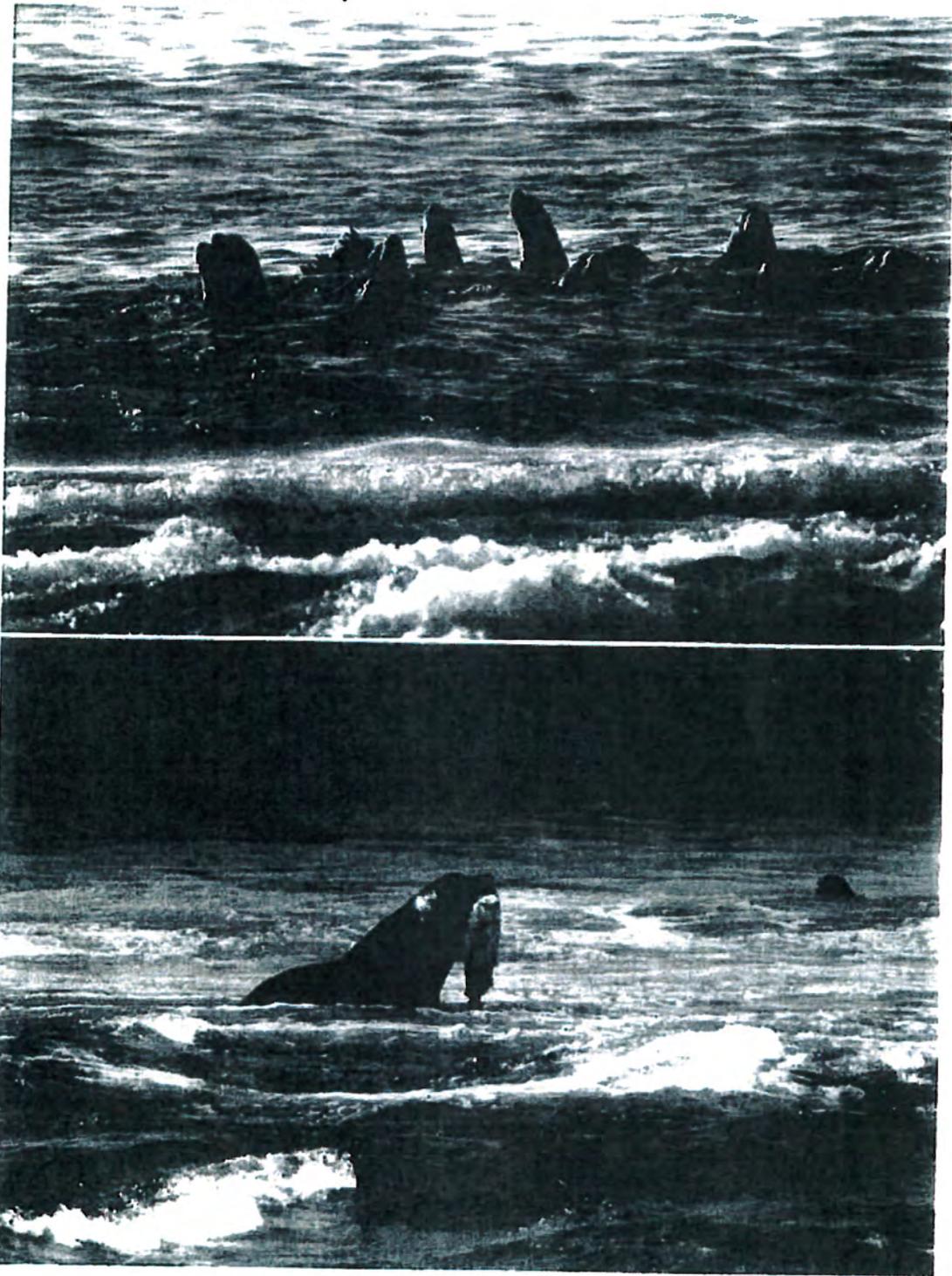
(or steelhead). All the fish that were caught while fishing for this jack had to be released, resulting in many exhausted fish being eaten by the seals and sea lions lined up near the bottom of the chute/surf interface.

We recommend, as we did back in 1996 to the Fish and Game Commission, that catch and release fishing not be allowed in the presence of marine mammals. While the problem was exacerbated in 2013 due to the relatively large number of fish that were caught, it is a problem any time that catch and release fishing occurs in the presence of pinnipeds. Any fish that are caught in the estuary should be harvested, not released to be eaten by sea lions/seals. We recommend that only "catch and keep" fishing occur in the estuary, or at least in the lower portion of the estuary (e.g. downstream of the Requa boat ramp).

**Figures 1 and 2. Pictures of the fishery in the Klamath River "chute" during late summer, 2013 (photos courtesy of Thomas Dunklin).**



**Figures 3 and 4. Pinnipeds at the lower end of the Klamath River "chute" during the 2013 fishery (photos courtesy of Thomas Dunklin).**



### ***Blue Creek Refugia***

The Yurok Tribe recommends the Fish and Game Commission adopt an additional conservation closure at the confluence and immediately downstream of Blue Creek (river mile 17). This conservation closure would serve two purposes: 1) during the summer months (mid-June through mid-September) it would provide thermal refugia for adult salmon (spring and fall Chinook) and steelhead that migrate up the Klamath River when ambient water temperatures are excessively warm, and 2) during mid-September through November, it would protect late-run fall chinook that are staging to enter Blue Creek during the fall months, similar to the closures that are currently in place at the mouths of the Salmon, Scott, and Shasta Rivers.

During the summer months, especially during years of low flow, water temperatures in the mainstem Klamath River often reach 73 - 79° F (Figure 5 – Yurok Tribal Fisheries Program data), well above the optimal migration range and near the acute lethal limit for adult Chinook salmon (Bell 1990, Strange 2010<sup>1</sup>). During these times, adult salmon and steelhead will stop migrating and hold in the cold water effluent from the mouth of Blue Creek to approximately ½ mile downstream, including “Blue Hole” which is along the bedrock outcropping just downstream of the confluence (Figure 7). During many low flow years, this area holds several hundred, up to a couple thousand, adult salmonids (steelhead and Chinook), that are escaping the intolerably warm Klamath River. These fish are basically on thermal life support.

We believe fish that make it to the thermal refugia should be allowed respite. It is inappropriate to harass (via hook and line) these fish at a time when they are so physiologically vulnerable. Furthermore, often these fish (steelhead and/or salmon) will be hooked while holding in the thermal refugia, but then played for an extended period of time in the ambient river conditions that are several degrees warmer (sometimes at lethal levels) to be eventually released. Forcing fish to go through such dramatic temperature changes, while putting them through excessive stress, is contrary to fish culture practices associated with rearing and/or releasing fish, and undoubtedly results in excessive mortality. We recommend that this thermal conservation closure extend from the mouth of Blue Creek to ½ mile downstream of the wetted channel of Blue Creek, the area where we’ve detected thermal refugia.

The second reason for the conservation closure at the mouth of Blue Creek is to protect the genetically unique adult late-fall run Chinook salmon that return to spawn from late October through December. These fish are known to hold in the confluence pool in the Klamath River until substantial rains stimulate their migration up Blue Creek. Blue Creek late-fall run Chinook are the stronghold of the Lower Klamath and likely the source population for other Lower Klamath Tributaries.

Blue Creek and other Lower Klamath (downstream of the Trinity River) late-fall run Chinook are genetically unique from other Klamath Basin stocks. The Klamath Basin chinook population upstream of

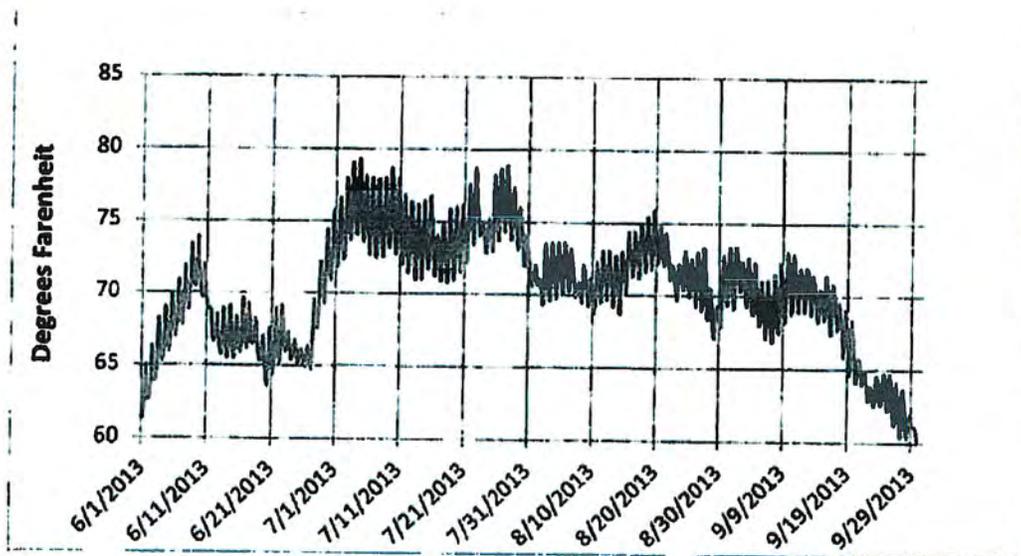
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<sup>1</sup> Bell, M.C. 1991. Fisheries Handbook of Engineering Requirements and Biological Criteria.  
Strange, J.S. 2010. *Upper Thermal Limits to Migration in Adult Chinook Salmon: Evidence from the Klamath River Basin*. Transactions of the American Fisheries Society 139: 1091 – 1108.

the confluence of the Klamath and Trinity Rivers is part of the Upper Klamath-Trinity ESU, while the Lower Klamath River Chinook population, comprised primarily of fish from Blue Creek, is part of the California Coastal Chinook Salmon ESU. We request that fish holding in this area be given protection from harvest pressure similar to what is given to Chinook returning to the Salmon, Scott, and Shasta Rivers. California regulations currently provide the following protection for these stocks:

**“No fishing is allowed from September 15 through December 31 in the Klamath River within 500 feet of the mouths of the Salmon, the Shasta and the Scott rivers.”**

**Figure 5. Water temperature in the mainstem Klamath River above Blue Creek, June 1 – September 30, 2013.**



**Figure 6. Blue Creek confluence and area of thermal influence (Google Earth, 7/30/2011)**



## FGC

---

**From:** Diane Bowers <dbowers@yuroktribe.nsn.us>  
**Sent:** Thursday, November 20, 2014 1:24 PM  
**To:** FGC  
**Cc:** Dave Hillemeier  
**Subject:** Lower Klamath river fishing regulations  
**Attachments:** SKM\_C654e14112014220.pdf

Submitted on behalf of the Yurok Tribe

**From:** [Konica-MinoltaBizhubC-654e@yuroktribe.nsn.us](mailto:Konica-MinoltaBizhubC-654e@yuroktribe.nsn.us) [<mailto:Konica-MinoltaBizhubC-654e@yuroktribe.nsn.us>]  
**Sent:** Wednesday, November 19, 2014 10:23 PM  
**To:** Dave Hillemeier; Diane Bowers  
**Subject:** Message from KM\_C654e

# Attachment 8

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# JARED HUFFMAN

## US CONGRESSMAN

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## Rep. Jared Huffman insists federal agencies act to prevent Klamath River fish kill

Aug 3, 2015 | Press Release

***Huffman: "The U.S. Bureau of Reclamation must preserve cold water in Trinity Lake to prevent a repeat of the tragic 2002 salmon run."***

WASHINGTON—Congressman Jared Huffman, D-San Rafael, has [called on](#) the U.S. Department of the Interior to act quickly to prevent a repeat of a massive fish kill on the lower Klamath River as extreme drought conditions threaten struggling salmon.

The deadly parasite that killed up to 68,000 salmon in 2002, commonly known as ich, is infecting this year's run of salmon as they try to survive hot, warm water by crowding into the lower Klamath tributary Blue Creek. The largest portion of the fall run of salmon is likely to begin within the next two or three weeks, and could drastically increase crowding and the spread of the disease.

**"I have asked Secretary Sally Jewell to work closely with the Yurok and Hoopa tribes and Humboldt County on a plan to release additional water from the Trinity River, which will boost flows on the Klamath,"** Huffman said. **"The U.S. Bureau of Reclamation must preserve cold water in Trinity Lake to**

**prevent a repeat of the tragic 2002 salmon run disaster.”**

The 2002 fish kill caused severe damage to tribal trust resources and commercial and sport fisheries for years to come, undermining the regional economy.

In a letter to Secretary Jewell, Huffman asked for up-to-date information on water diversions, temperature, and the incidence of disease on the Klamath and Trinity rivers. He also asked that the bureau minimize any additional export of water from Trinity Lake and to reexamine its future operations on the rivers in light of the unprecedented California drought. Huffman also asked that Reclamation draw on Humboldt County’s contractual right to 50,000 acre feet of water from the Trinity River as well as additional flows the tribes, county and agencies have requested to improve conditions on the Klamath.

**“Humboldt County’s allocation of 50,000 acre feet should be used to protect the fisheries our region depends on,”** said Humboldt County Fifth District Supervisor Ryan Sundberg. **“We hope the Interior Department recognizes this as an available resource and used that and other sources of water to avoid another horrible fish kill this year.”**

**“We take this threat to our fish very seriously, and we’re looking at every option to protect our fish,”** said Thomas P. O’Rourke, Chairman of the Yurok Tribe. **“We don’t want to go through another catastrophe like the fish kill in 2002, and we will do anything we can to avoid that outcome this year.”**

**“The Hoopa Valley Tribe and North Coast communities remain concerned about the health of Klamath and Trinity rivers,”** said Hoopa Valley Tribe Fisheries Director Mike Orcutt. **“We hope and pray that the Interior Department will take appropriate actions to prevent a fish kill this year.”**

###

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## Blue Creek fishing closure: Parties air their grievances

By [Laura Jo Welter, The Triplicate](#) July 16, 2015 03:34 pm



### Yurok Tribe hosts public forum to discuss recent disagreements about Blue Creek

Another dry year has the lower Klamath River crawling with tepid water and in low supply, putting its fish population in a vulnerable position — this is an issue that should be considered when making fishing policy decisions, people generally agree, but they don't agree on how the matter should be addressed.

**The cooler water from the mouth of Blue Creek enters warmer mainstem Klamath, providing thermal refugia for many fish. Courtesy Dave Jensen**

The Yurok Tribe hosted a public forum in Klamath on Monday evening to discuss these differences of opinion following the California Fish and Game Commission's controversial decision to close the Blue Creek-Klamath confluence to sportfishing, beginning last month. It was a meeting well attended by fishing guides, tribal members, public officials and environmentalists.

### "The process"

Fishers and Del Norte County supervisors criticized the commission for closing the Blue Creek confluence without due notice to make complaints. By the time supervisors Chris Howard and Gerry Hemmingsen marched their board's grievances to a June 10 Fish and Game Commission meeting in Mammoth Lakes, the decision had already been made to establish a no-fishing buffer zone near the mouth of Blue Creek, between a half mile downstream of the creek to 500 feet above it until mid-September. After that, until the end of the year, the restricted area will be reduced to 500 feet above and below.

Hemmingsen maintained Monday that in addition to the potential impacts on the county's economy if guides aren't able to pull out fish where they reside, he also objects to "the process" that led to the closure.

"This was kind of a push-through deal," he said.

In June, the commission advised the Board of Supervisors to follow pertinent issues more closely to avoid being surprised by policy changes. On Monday, Friends of Del Norte Don Gillespie called out the Board of Supervisors for spending taxpayer money on a too-late, 10-hour trek to Mammoth Lakes, when they could have spoken up earlier. Hemmingsen told the Triplicate last month, however, that the supervisors had written letters to the commission on the issue without hearing a response.

Commissioner Jacque Hostler-Carmesin, of McKinleyville, acknowledged that keeping track of Fish and Game's upcoming decisions is a considerable task.

"It's very difficult if you don't keep up with the rule-making calendar that comes out in December," she said,

adding that she only has three days to read 2,000–3,000 pages pertaining to the meeting's agenda, a feat she said was impossible.

Tribal officials were heard by the commission, however, which took their sportfishing regulation recommendations into consideration this year.

### **Supporting science**

Executive Director Troy Fletcher, who facilitated Monday's meeting, said the Yurok Tribe has been striving to address the Klamath's dwindling fishery for years now, and the closure at Blue Creek is, in part, a result of that.

Having recommended to the Fish and Game Commission a policy that disallows catch and release fishing at the mouth of Blue Creek as well as at the mouth of the Klamath, the commission opted to close the creek's confluence completely, since the state requires that all wild steelhead that are caught be released.

It's well documented that anadromous fish don't take kindly to warm water, and this was the basis for the tribe's recommendation.

Throng of cold-water fish congregate in the thermal refugia at the mouth of Blue Creek, the first cool-water haven salmonids meet, some 17 miles up the main stem, after heading inland from the chilly Pacific Ocean.

That makes for prime fishing at this spot, particularly in exceptionally hot and dry years, and the fact that it's an important refuge for fish is indisputable, Yurok Fisheries Program Manager Dave Hillemeier addressed the group.

"You know that because you know where the fish are," he said.

But once the fish are dragged on a hook into the warmer water, before being released, their chance of survival lessens with every minute of exposure, their mortality rate increasing as temperatures climb above 20 degrees Centigrade, Hillemeier said, citing a 1995 Trinity River study.

Recent main stem temperatures have been hovering around 23.5 degrees centigrade until last week's thunderstorms cooled the river some, Hillemeier said.

Mike Coopman, of Mike Coopman's Guide Service, said he appreciated the open dialogue at the meeting, but he still wanted to see specific numbers pertaining to the mortalities at Blue Creek. It's possible the stress the fish suffered when hooked could be alleviated, he suggested, if they were released in the cooler water.

"I'm going to tell you, the mortality rate is not what people were projecting — I can see the bottom of that river just like anybody else. I landed 75 fish a day in my boat alone at Blue Creek last year," Mick Thomas of Lunker Fish Trips attested. "The whole bottom of the river would be lined with fish.

Fisheries biologist Terry Roelofs, a professor emeritus at Humboldt State University, told the Triplicate that the only reason the fish are hunkered down in Blue Creek like that, and seemingly for the picking, is precisely because of the dire conditions of the low-flowing Klamath.

With virtually no snow in the Trinity Alps or the Marble Mountains this winter, Klamath's exceedingly low flows — lower even than they were in 2002, when the Klamath saw the largest fish kill on record — have officials bracing for another die-off.

"That makes perfect sense" that the commission would opt to protect the fish's singular stronghold, Roelofs said, by restricting the fishing there — the closure was warranted years ago.

“The cold water isn’t even flowing at the surface, but through the rocks at Blue Creek. And when the Klamath is almost lethally hot, hundreds and hundreds of fish are packed in there,” Roelofs said.

When fish are crowded at such high concentrations and for extended periods of time, Hellemeier pointed out, the conditions are ripe for the parasite Ich to incubate. An Ich infestation is responsible for the killing of over 68,000 salmon in 2002. By the time Ich is detected, the four days it takes for a water release to reach the lower river is too late to prevent a die-off.



Chinook salmon and other anadromous fish hang out by the thousands at the mouth of Blue Creek, making the area both an attractive fishing hole and an important area to conserve.

Courtesy Barrie Kovish

#### “It’s not our doing”

Tribal member James Dunlap lamented that inflexible policies don’t address the shifting problems at hand, though in the meantime they manage to affect the livelihood of people who rely on the fisheries for income.

“You’re trying to curtail problems with abusers and problems in our fisheries as well with a crapload of laws, but (the abusers are) not here, and they’re not going to follow the policies anyway. It is going to hurt the guys that do follow the rules,” Dunlap said.

Margaret Carlson lives on the river, near the confluence with Blue Creek. She said she had won fishing rights in 1978, along with the Yurok Tribe, and she wasn’t about to let them go.

“I’m getting too old to fish, but I will catch my catch. I will fill my smoke house, and I will see to it that my children are protected because I am an organized tribe. I organized before the Yurok ever was a tribe. And that Blue Creek there, it belongs to us, and it is our prayer ground,” she announced with authority. “I don’t like to see the fish being depleted, but it’s not our doing, and they’re not stopping the people that are farming ahead of us that are poisoning the water.”

Margaret’s grandson Pergish Carlson, of Blue Creek Guide Service, echoed Mick Thomas’ sentiment when he described diving in Blue Creek, and swimming with 500 salmon. He said he was the only Yurok living on tribal land with a guide service, and he did not intend to stop fishing and lose his way of life, though he’d already seen a loss in revenue.

Hearing all of these comments, Commissioner Hostler-Carmesin assured the group that the Fish and Game Commission was not planning an indefinite closure at Blue Creek, as fishing guides feared. It would be reassessed again in the coming year, taking the public’s remarks into consideration.

In the meantime, Yurok Tribe officials are agreeable to more studies that would measure the population of fish hiding out in the cool waters trickling from Blue Creek and the stressors that impact them, which may result in better informed policy decisions in the future.

Regular meetings, involving fishing guides, tribal members and county officials were suggested, too, as a means to keep people in the know, and ensure that everybody has a chance to be heard.

Reach Laura Jo Welter at [lwelter@triplicate.com](mailto:lwelter@triplicate.com).

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## COUNTY OF DEL NORTE

BOARD OF SUPERVISORS  
981 "H" Street, Suite 200  
Crescent City, CA 95531

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January 26, 2016

California Fish and Game Commission  
1416 Ninth Street, Suite 1320  
Sacramento, CA 95814  
FGC@fgc.ca.gov

Re: Lower Klamath Fishing Regulations- Blue Creek

Dear Commissioners,

The Del Norte County Board of Supervisors (Board) continues to respectfully recommend that Blue Creek remain open under the pre-2015 season regulations and that the 2015 regulations (Title 14 Section 7.50(b)(91.1)(B)(3)) be repealed or amended as requested by the Del Norte County Petition received by the Commission on August 28, 2015.

The Board thanks the Department's staff and Commissioner Hostler-Carmesin for coming to Del Norte County on January 12, 2015 to address the Board and to hear public comment on the issue of the Blue Creek closure. This is a step toward fulfilling the duties mandated by state law as well as the Commission's policies. The Board desires to continue to partner with Fish and Game, as well as the Yurok Tribe, in moving forward with regulations that are fairly vetted and beneficial to all Del Norte County residents and looks forward to continued cooperation and coordination.

State Law requires the Commission to consider credible science over opinion or conjecture. Fish and Game Code §703.3 states in part, "It is the policy of the state that the department and commission use ecosystem-based management informed by credible science in all resource management decisions to the extent feasible."

All stakeholders desire a study on Blue Creek. However, this study should not happen while Blue Creek remains closed, to do so only piggybacks upon an inadequately made decision by the Commission. The starting point needs to be a fair starting point. The regulation that was made in a meeting that was in disarray, without cooperation of local stakeholders or local government, needs to be reversed. The regulation that was made without attention to state law requiring cooperation, impacts to local community, or the Commission's own policies must be undone and a study of the area backing any decisions to be made should be primary to the regulation. The Board requests a seat at the table for any study that is to take place. The Board also requests this study involve the Yurok Tribe as well as any affected citizens or business entities affected by the regulation.

The Blue Creek closure, 500 feet above, and ½ mile downstream of the mouth of the Blue Creek is unprecedented. Particularly, the adoption of such an unprecedented closure without adequate science is even more cause for concern. If there is a concern regarding low water levels or temperature differences there are many options that were not considered by the Commission. As stated, by several of the guides and other interested individuals who attended the January 12, 2015 meeting, temperature monitoring could be done as well as water level monitoring and a closure could be put in place at certain levels rather than the wholesale closure that was adopted in this case. At a maximum, a closure of 500 feet below and above the mouth of Blue Creek could have been explored if there were adequate science to support such a closure. Were all stakeholders included prior to this hastily made decision, some of these options could have also been given due consideration.

Fish crowding conditions at Blue Creek as well as water levels and temperature should be considered in any study. While not the intent of the closure, the Commission could be inadvertently adding to the potential for the ich parasite to flourish due to a closure to fishing in the area. This concern was stated in scientific data as well as consequences to local resources and local economy needs to be considered rather than the “why not close it and see what happens” approach that was taken at the April 17, 2015 meeting. Such an approach figuratively puts the cart before the horse.

Our concern is not only for the fishing guides who are an integral part of the Del Norte County economy but also for the ancillary industries affected by this hastily made decision by the Commission. Those industries include hotels, restaurants, bed and breakfasts, shopping, recreation equipment rentals, as well as other various industries. Disturbingly, the Final Statement of Impacts states, “The impacted businesses are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of reasons.” This exemplifies a lack of knowledge of the local area where many businesses in this rural area are small businesses and where 21.8% of persons living below the poverty level as compared to 15.9% of people statewide.<sup>1</sup> The effect on small businesses is a significant impact on this County. Mitigation of the significant effects should have been considered under Title 14 CCR 777.8(c). The Blue Creek closure was made without regard for the local community, alarmingly demonstrated by the lack of coordination with the County, particularly the Board of Supervisors contrary to the policies of the Commission itself.

Commission policies reflect the state law regarding cooperation and coordination with local government. As stated in the Petition, these laws include Fish and Game Code §703.5; and 6920. Commission policies state that “The preservation, protection and restoration of fish and wildlife resources within the State is of significant public interest and is inseparable from the need to acquire, preserve, protect and restore fish and wildlife habitat to the highest possible level, and to maintain in a state of high productivity those areas that can be most successfully used to sustain fish and wildlife and which will provide appropriate consumptive and

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<sup>1</sup> <http://quickfacts.census.gov/qfd/states/06/06015.html>

nonconsumptive public use. To carry out these purposes, it is essential that a comprehensive program be implemented by the Department to assure that there will be close coordination with state, federal and local planning agencies, **including county boards of supervisors** and other decision-making entities in the formulation and implementation of any plans including, but not limited to, county general plans and any modifications to such plans, which may impact fish or wildlife." We urge the Commission and the Department to continue to build on recent steps forward to coordinate on this matter of local import.

The Board also wishes to correct several misconceptions regarding its Petition which remains pending in front of the Fish and Game Commission. First, Executive Director Sonke Mastrup stated at the December 9-10, 2015 meeting that the Petition entitled "Petition to Repeal or in the Alternative Amend Title 14(b)(91.1)(B)(3) and (4) of Section 7.50 of the California Code of Regulations (Blue Creek Closure)" was not received in time to be considered at the meeting. Second, the materials for the December 9-10, 2015 meeting stated the Petition was received on September 25, 2015.<sup>2</sup> It was actually received on August 28, 2015 as corroborated by the Commission's own meeting materials for the October 7-8, 2015 meeting.<sup>3</sup> Further, this was not simply a public comment letter as stated in the December 9-10, 2015 meeting materials<sup>4</sup> but actually a Petition under Government Code 11340.6.<sup>5</sup> As stated in the Petition, the closure was truly arbitrary and capricious as it was against the Department's recommendation, was not backed by scientific data, was questionably noticed, and did not adequately consider environmental impacts particularly local social and economic impacts of the decision<sup>6</sup> and was therefore, as an administrative decision, subject to reversal. Under the Government Code<sup>7</sup> the Petition should be, within 30 days, denied with written notification to the petitioner of the reasons indicating why the agency has reached the decision or set for a public hearing. Although not within the timeframe under the Government Code, the public hearing was set for December 9-10, 2015 according to the October 7-8, 2015 materials. However, at the December 9-10, 2015 meeting it was simply treated as a public comment.

The decision at the April 17, 2015 to close Blue Creek was made with no evidence that the closure would benefit environment, without regard to science, and without considering significant effects. It was against the recommendation of Department staff at that time.

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<sup>2</sup> Item 34, Page 68-69 of Complete Binder meeting materials

<sup>3</sup> page 3 of Public Forum Documents October 7-8, 2015

<sup>4</sup> Item 34, Page 68-69 of Complete Binder meeting materials

<sup>5</sup> Except where the right to petition for adoption of a regulation is restricted by statute to a designated group or where the form of procedure for such a petition is otherwise prescribed by statute, any interested person may petition a state agency requesting the adoption, amendment, or repeal of a regulation as provided in Article 5 (commencing with Section 11346). This petition shall state the following clearly and concisely: (a) The substance or nature of the regulation, amendment, or repeal requested; (b) The reason for the request; (c) Reference to the authority of the state agency to take the action requested.

<sup>6</sup> See Government Code 11346.3

<sup>7</sup> 11340.7(a) "Upon receipt of a petition requesting the adoption, amendment, or repeal of a regulation pursuant to Article 5 (commencing with Section 11346), a state agency shall notify the petitioner in writing of the receipt and shall within 30 days deny the petition indicating why the agency has reached its decision on the merits of the petition in writing or schedule the matter for public hearing in accordance with the notice and hearing requirements of that article."

Therefore, the Department and the Commission should not build off of the decision that was made under such conditions but should start over at a fair starting point repealing or amending the regulation to that prior to the 2015 season. From there, the Department and all the stakeholders must do the hard work of undertaking a study, meeting, collaborating, and coordinating in order to, this time, make a better decision for the entire community. As stated at the January 12, 2015 meeting in Del Norte County, these regulations, once made, are hard to undue. So this time, we urge the Commission to consider all of the options and make a decision that is not only desirable for one season but something that is also wise for all stakeholders into the future.

We further state that, there is still a Petition pending in front of the Commission and urge the Commission to follow the law and timelines in regard to that petition and not simply treat the Petition as if it is a public comment. We appreciate the Commission's time and energy and are eager to continue the positive steps forward that have been taken within the last month.

Sincerely,



Gerry Hemmingsen  
Chair, Del Norte County  
Board of Supervisors



# YUROK TRIBE

190 Klamath Boulevard • Post Office Box 1027 • Klamath, CA 95548

January 25, 2016

California Fish and Game Commission  
1416 Ninth St.  
Room 1320  
Sacramento CA, 95814

Re: Lower Klamath River fishing regulations

Dear Commissioners:

As you may be aware, the Yurok Tribe sent letters and gave testimony to the California Fish and Game Commission during 2014 and 2015 to request modification of recreational fishing regulations in the Lower Klamath River, within the boundaries of the Yurok Reservation, to conserve salmonid populations of the Klamath-Trinity Basin. Our proposed modifications were designed to minimize the mortality of fish caught and released while exposed to environmental conditions conducive to excessive mortality both at the confluence of the river with the ocean due to pinniped predation, and at the confluence of Blue Creek due to warm water temperatures. We appreciate the Commission's receptiveness to our recommendations and the resultant modifications to the Klamath-Trinity sport fishing regulations that were adopted last year.

The Tribe is aware the Commission has received public input in opposition to the Blue Creek conservation closure adopted last year, including a recommendation that this area be re-opened during the 2016 season. The Tribe recognizes that adoption of the conservation closure is not without controversy. It mirrors the healthy debate surrounding regulations the Yurok Tribal Council adopts annually to protect spring-run Chinook salmon, green sturgeon, stocks of fall-run Chinook, coho salmon, and even our own Blue Creek conservation closure.

The Yurok Tribe normally does not make recommendations regarding the management of other fisheries unless there is a conservation concern, which is the basis for the Blue Creek conservation closure. We continue to have concerns associated with catch and release fishing in this area, if it were to be re-opened to angling. The Tribe therefore requests that the Blue Creek Conservation Closure remain in effect during the 2016 season to minimize catch and release fishing for fish that are seeking thermal respite and to protect late fall-run Chinook that are holding prior to entering Blue Creek.

Given that most of the Commissioners are new since this issue was discussed during 2014 and 2015, the Tribe would like to summarize our past correspondence and rationale supporting the

Blue Creek Conservation Closure. We have also included within the text and in Appendix A data and/or findings from the literature that support our concerns in regard to excessive mortality associated with catch and release fishing when the river is excessively warm.

### **Rational for Blue Creek Conservation Closure**

#### *Thermal refugia*

We continue to support the regulations that were adopted last year to protect migrating salmon (spring and fall-run Chinook) and steelhead that rely upon thermal refugia at the mouth of Blue Creek. The regulations adopted during 2015 state: “No fishing is allowed from June 15 through September 14 in the Klamath River from 500 feet above the mouth of Blue Creek to ½ mile downstream of the mouth of Blue Creek.”

During the summer months, especially during times of low flow, water temperatures in the mainstem Klamath River often reach 24°C (Figure 1– Yurok Tribal Environmental Program, <http://exchange.yuroktribe.nsn.us/lrgsclient/stations/stations.html>), well above the optimal migration range and near the acute lethal limit for adult Chinook salmon<sup>1</sup>. Under such warm water conditions, adult salmon and steelhead will stop migrating and hold in the cold water effluent from the mouth of Blue Creek to approximately ½ mile downstream, including “Blue Hole” which is along the bedrock outcropping just downstream of the confluence (Figure 2). During many low flow years, this area holds several hundred, up to a couple thousand, adult salmonids (steelhead and Chinook), that are escaping the intolerably warm Klamath River, as can be seen at the following youtube link: <https://www.youtube.com/watch?v=jpX6lCJZeuA>. These fish are basically on thermal life support.

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<sup>1</sup> Bell, M.C. 1991. Fisheries Handbook of Engineering Requirements and Biological Criteria.

McCullough, D.A. 1999. A Review and synthesis of effects of alterations to water temperature regime on freshwater life stages of salmonids, with special reference to Chinook salmon. Prepared for the U.S. Environmental Protection Agency.

Strange, J.S. 2010. *Upper Thermal Limits to Migration in Adult Chinook Salmon: Evidence from the Klamath River Basin*. Transactions of the American Fisheries Society 139: 1091 – 1108.

Figure 1 Water temperatures in Blue Creek (somewhat representative of Blue Creek thermal refugia, however it is colder in some areas due to groundwater influence and warmer along the margins with the Klamath River) and the mainstem Klamath River near Terwer Creek (downstream of Blue Creek refugia) and the mainstem near Tully Creek (upstream of Blue Creek).

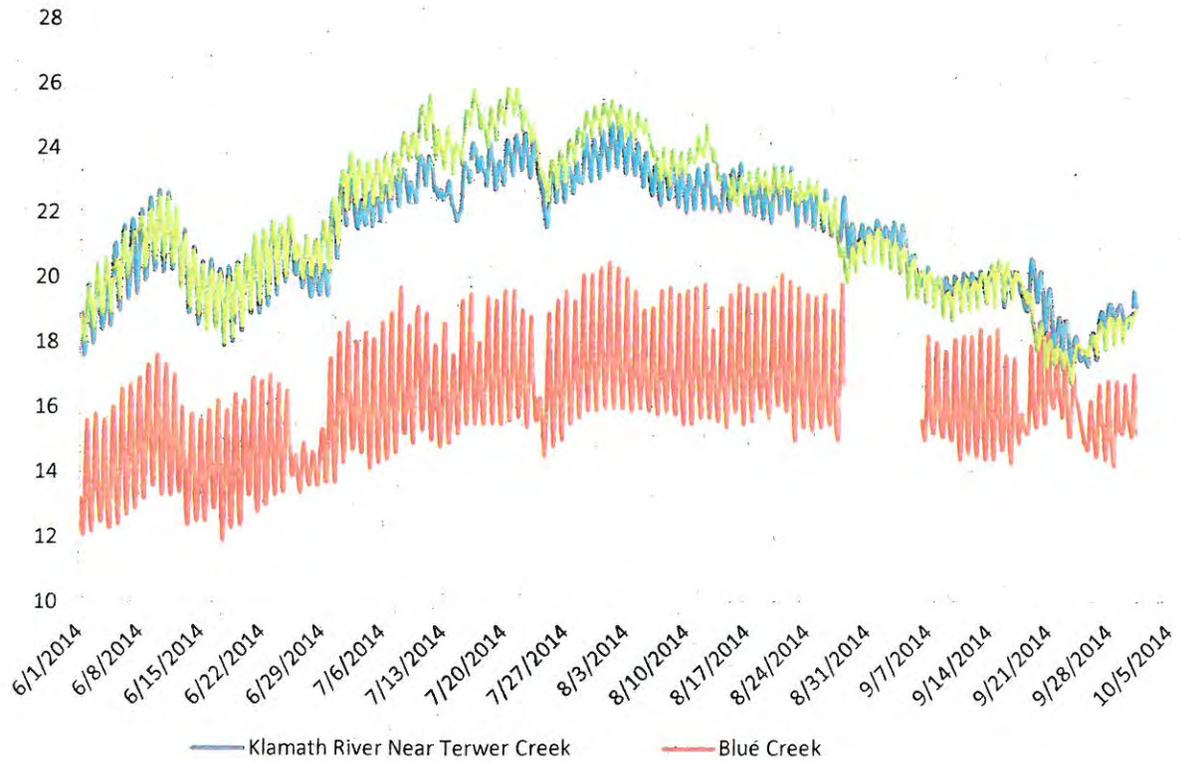
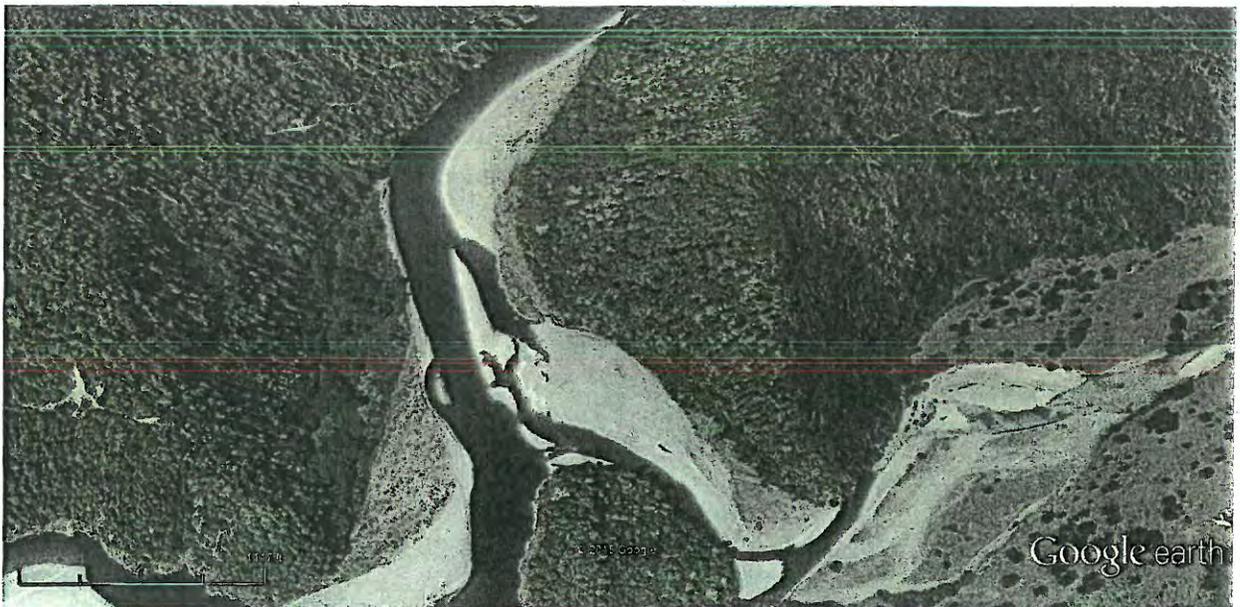


Figure 2 Thermal refugia near the mouth of Blue Creek, Lower Klamath River, CA (Google Earth image, June 2013).



We believe fish that make it to the Blue Creek thermal refugia should be allowed respire. It is inappropriate to harass these fish, via catch and release fishing, at a time when they are physiologically vulnerable; such harassment during warm water temperatures can lead to extreme physiological stress and even death (see references with pertinent data presented in Appendix A).

Typical angling techniques at the mouth of Blue Creek during the summer months include hooking steelhead and/or salmon that are holding in the thermal refugia, and then playing them for an extended period of time in the ambient river that is several degrees warmer (sometimes at lethal levels) to be eventually released, unless they are a hatchery steelhead or Chinook salmon that is harvested. Such catch and release under these conditions negatively affects the fish by exposing them to dramatic changes in water temperature over a brief time period, and by subjecting them to extreme stress while they are exposed to near lethal water temperatures; both resulting in unnecessary stress and/or death at a time that these fish are already stressed.

Fish health recommendations are to not expose fish to a change in water temperature of more than 1° C per two minutes, or put them through an immediate thermal change of more than 2-3° C at a time (Post G. 1987<sup>2</sup>). While the thermal regime within the Blue Creek thermal refugia area is variable, partially due to groundwater seeps that flow into Blue Hole downstream of Blue Creek that create refugia that is even colder than the creek itself, the refugia area is commonly at least 4-6° C colder than ambient river temperatures (Figure 5) during the warmest times of the summer. Removing fish abruptly from this refugia and then playing and subsequently releasing them into the warm Klamath River can result in extreme stress.

Catch and releasing fish within the warm river temperatures such as those experienced in the Klamath River near Blue Creek (Figure 5) causes extreme stress and/or mortality. Few studies have been conducted with salmonids at such high river temperatures, partially because salmonids have evolved to avoid such temperatures; however there are ample studies available that indicate substantially increased catch and release mortality associated with water temperatures that are substantially cooler than those of the Lower Klamath River near Blue Creek during the summer months. An overview of some of these studies is presented in Appendix A.

#### *Study at Blue Creek*

It should be noted that short-term mortality from fish being caught and released under warm water conditions is a primary concern. Due to the bioenergetics cost associated with being severely stressed from angling under such warm water conditions, we are also concerned regarding the long-term success of these fish at spawning, as well as the fate of their progeny.

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<sup>2</sup>Post, G. 1987. Text Book of Fish Health. Page 279.

Severe stress has been shown to affect reproduction, quality of gametes, and survival of progeny in fish<sup>3</sup>. We do not know whether the fish caught and released from the thermal refuge at Blue Creek experience stress levels near those in these cited studies. However, given that these fish are basically on thermal respite, in relatively crowded conditions (another stressor), we are concerned regarding the ultimate success of these fish at spawning and producing healthy progeny.

Another concern is that fish caught and released during times of warm water conditions have a suppressed immune response system. As noted in the literature, stress is known to effect the immune response of fish, making them more vulnerable to disease and eventual mortality<sup>4</sup>.

We are supportive of conducting a study to assess relatively short-term catch and release mortality impacts at the mouth of Blue Creek. While there are plenty of studies (Appendix A) that show salmonids experience excessive mortality when caught and released in warm water, the situation at Blue Creek is somewhat unique, given that there is thermal refuge nearby for fish recovery if they are able to find it. However, it must be noted up-front that there are significant challenges and limitations associated with the assessment of catch and release impacts in warm water upon the spawning/reproductive success of fish, which is our ultimate goal. Assessing short-term mortality is feasible and we are willing to participate in such an effort. However, assessing long-term effects upon reproductive success from a bioenergetics perspective is much more challenging.

Contrary to the desires of some, it is not always possible to quantify biological responses for site specific management actions; instead managers are forced to turn to the literature to guide management decisions. It is our hope that the results of a catch and release mortality study at the mouth of Blue Creek will be used in conjunction with what is known from the literature to guide future management decisions to minimize negative effects upon the spawning success of fish utilizing the thermal refuge at Blue Creek.

*Is there a problem?*

Some have questioned whether the conservation closure is addressing a problem. We believe there is a conservation concern given the magnitude of fishing that occurs when this area is open to angling and the hostile water temperatures the fish are exposed to, especially during times of

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<sup>3</sup> Shreck et al. 2000. *Effects of stress on fish reproduction, gamete quality, and progeny*. *Aquaculture* 197 (2001) 3-24.

Campbell et al. 1992. *Stress reduces the quality of gametes produced by rainbow trout*. *Biological Reproduction*. 1992 December; 47(6): 1140-50.

Nadeau et al. 2010. *The effects of experimental energy depletion on the physiological condition and survival of adult sockeye salmon (Oncorhynchus nerka) during spawning migration*. *Environ. Biol Fish* (2010) 88:241-251.

<sup>4</sup> Bonga, S.E.W. 1997. *The stress response in fish*. *Physiological Reviews*, Vol. 77, No. 3, July 1977. (pages 611-612).

dry hydrologic conditions. The magnitude of fishing in this area has been anecdotally characterized in a report<sup>5</sup> drafted by a consulting firm (Fishery Foundation of California) that was conducting survey work for the Delta Mendota water district in the Lower Klamath River during 2014. They stated the following:

“At Blue Creek on August 13, 2014 angler density was high and visibility poor, therefore catch rate was used to roughly estimate fish density. Based on visual observations of 11 anglers catching approximately one steelhead per minute for a two hour period, we estimate 440 catches. One individual angler reported landing fifty steelhead that day. Several steelhead carcasses, likely the result of angling stress, were observed in the mainstem downstream of Blue Creek”.

We fully acknowledge this type of information is anecdotal at best, however it does indicate that catch rates in the Blue Creek thermal refuge area can be quite high and that some mortality may result. The cause of the mortalities observed in this study is speculation, however it does indicate that mortality is occurring from stressful conditions, whether it be the warm water temperatures, angling, a combination of the two, or something else.

#### *Status of the species*

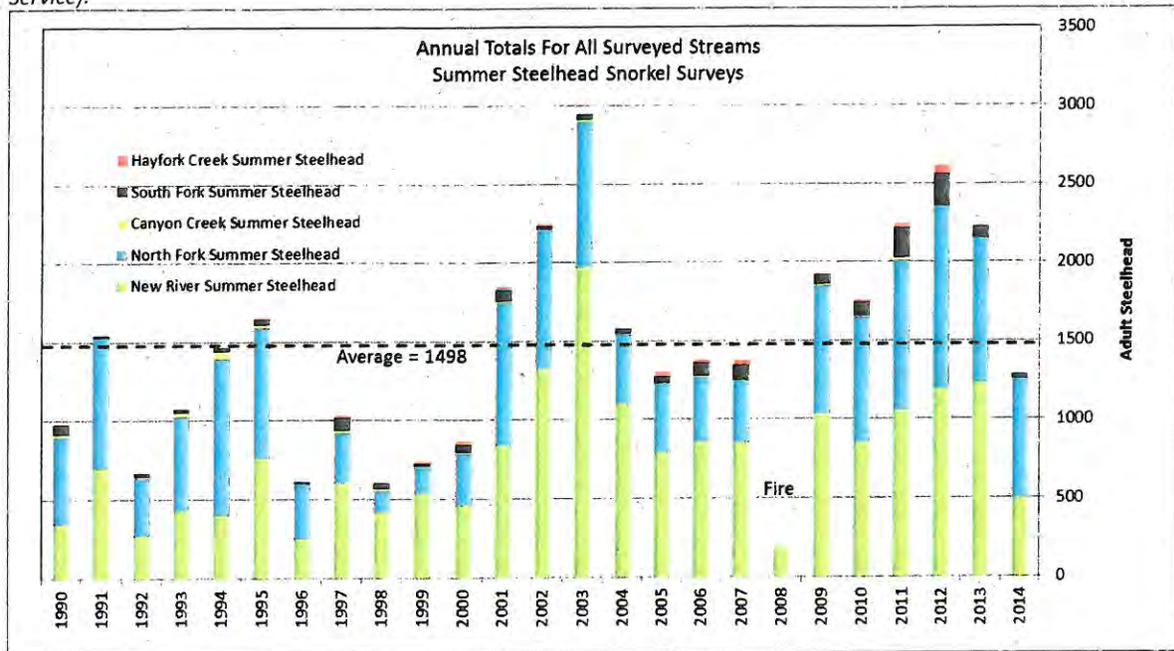
It has also been noted to the Commission previously that the fish caught in this fishery are not listed under the Endangered Species Act (ESA), so the purpose of the conservation closure is questioned. It is our hope that the co-managers of our resource will manage for healthy, robust populations for future generations, not just to prevent species from being listed under the ESA. We have repeatedly advocated for multi-species, ecosystem based management of the fisheries resources in the Klamath River.

Most the fish caught in this area are summer-run steelhead, however there are also spring Chinook and fall-run Chinook encountered. Counts from the Trinity Basin tributaries (Figure 3 - Klamath tributary counts not readily available at the time of this letter) have been relatively stable during recent years, averaging about 1,500 fish per year, however abundance has been far from robust. Wild spring-run Chinook populations have been at relatively low abundance during recent years, especially in the South Fork Trinity River, with abundance being less than 100 fish during 4 of the past 13 years; while this population is not listed under the ESA, we are concerned about its continued existence. Therefore, we ask that these populations be managed prudently by minimizing mortality associated with catch and release fishing.

---

<sup>5</sup> Kennedy, T. 2014. *Investigation of water temperature, velocity, and habitat characteristics of adult salmonid holding habitat in the Lower Klamath River, August 12 – September 11, 2014*. Prepared for the San Luis and Delta Mendota Water Authority. 15pp. (page 10).

Figure 3 Adult counts of summer steelhead from tributaries of the Trinity River, 1990 – 2014 (data obtained from the U.S. Forest Service).



Protection of Blue Creek Late Fall-run Chinook

We also support the continued addition of Blue Creek to the list of tributaries that are closed at their confluence with the Klamath River to protect fish that are holding prior to migration up their natal tributary, the current regulation last year states:

“No fishing is allowed from September 15 through December 31 in the Klamath River within 500 feet of the mouths of the Salmon, the Shasta and the Scott rivers and Blue Creek.”

Our rationale for the fall conservation closure at the mouth of Blue Creek is to protect the genetically unique adult late-fall run Chinook salmon that return to spawn from mid-October through December. These fish are known to hold in the confluence pool in the Klamath River from late September until substantial rains stimulate their migration up Blue Creek. Blue Creek late-fall run Chinook are the stronghold of the Lower Klamath and likely the source population for other Lower Klamath tributaries. We request that fish holding in this area be given protection from harvest pressure similar to what is given to Chinook returning to the Salmon, Scott, and Shasta Rivers.

In summary, the Tribe requests that the Blue Creek conservation closure that was adopted by the Commission in 2015 be continued during the 2016 season. The Tribe would also like to reiterate our invitation to the Commission to visit us on the Yurok Reservation. We would welcome the Commission to the Yurok Reservation for a meeting with our Tribal Council. Such a meeting would allow us to discuss issues of mutual concern in regard to the management and conservation of the Klamath River fishery and provide you an opportunity to visit the Lower

Yurok Tribal Comments regarding Lower Klamath Sport Fishing Regulations, January 2016

Klamath River via a boat ride if your schedules allow. Please contact Dave Hillemeier (Fisheries Director) if you would like to try to coordinate such a meeting with our schedule.

Sincerely,

A handwritten signature in black ink, appearing to read "James Dunlap". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

James Dunlap, Chairman

Cc: Chuck Bonham, CDFW Director

Stafford Lehr, CDFW Chief Fisheries Branch

## **Appendix A - Overview of Salmonid Catch and Release Related Literature at Warm Water Temperatures and Associated Findings**

**Note:** The following list some of the literature available regarding catch and release of salmonids under warm water conditions, along with the most pertinent findings from these articles. This does not represent an exhaustive literature search, but a list of what was readily available while drafting these comments. This overview is not intended to portray a specific mortality rate that is associated with catch and release fishing that occurs near the mouth of Blue Creek, but only intended to show documentation that mortality can be excessive at temperatures less than what is experienced in the mainstem Klamath River near Blue Creek during the summer months.

### **Topic : Physiological stress associated with Catch and Release Fishing Associated with Warm Water Temperature**

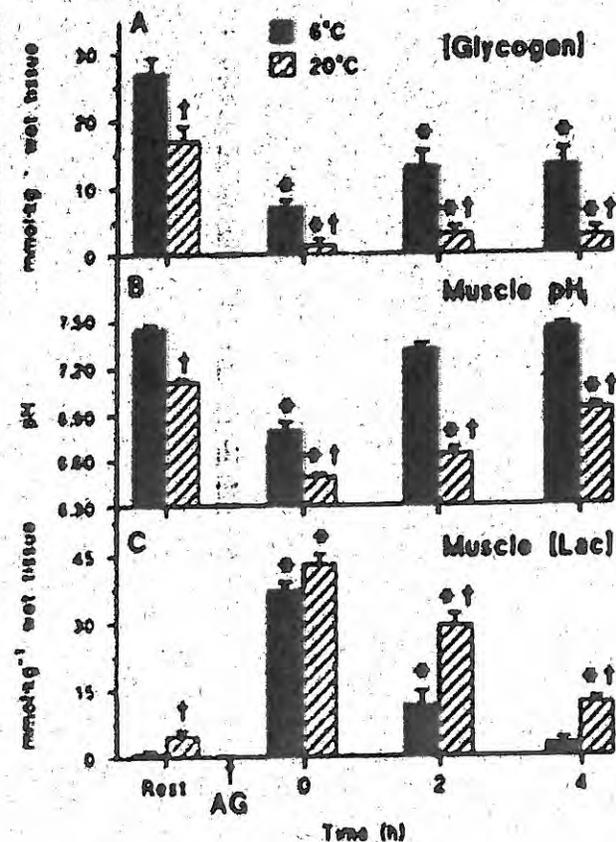
*Wilkie et al. 1996. Physiology and Survival of Wild Atlantic Salmon Following Angling in Warm Summer Waters, Transaction of the American Fisheries Society, 125:572-580.*

Tested physiological responses and mortality (n=10) of wild Atlantic Salmon angled at 22°C and compared to those angled at 6°C (Booth et al, 1994). Intramuscular glycogen stores were nearly depleted and there was marked increases in white muscle lactate and post-exercise metabolic proton load following angling at both temperatures. However, contrary to the 6°C trial, there was no glycogen re-synthesis during the 4-h recovery time and lactate elimination and proton correction were much slower in the fish caught under warm conditions. There was also significant delayed post-angling mortality (40%) of the fish caught at 22C and no mortality of the fish caught at the cooler temperature, however it should be noted this was a small sample size (n=10).

## Physiological Response of Atlantic Salmon Angled at 20°C vs 6°C

FIGURE 5.—A comparison of the changes in white muscle (A) glycogen concentration, (B) intracellular pH (pH<sub>i</sub>), and (C) lactate (Lac) concentration of Atlantic salmon that were angled during the fall at 6°C (solid bars) or during the summer at 20 ± 2°C (hatched bars). Note that for comparative purposes, concentrations are expressed as millimoles per kilogram of wet weight. An asterisk (\*) indicates a significant difference from the resting value ( $P < 0.05$ ) at each respective temperature. Daggers (†) indicate data that are significantly different from data generated for salmon angled at 6°C ( $P < 0.05$ ). The 20°C data were generated in the present study, and the 6°C data were taken from Booth et al (1995).

Mortality = 40% at 20°C (n=10); 0% at 6°C (small sample size)



**Topic: Recommendation for subjecting fish to substantial changes in water temperature over a short period of time.**

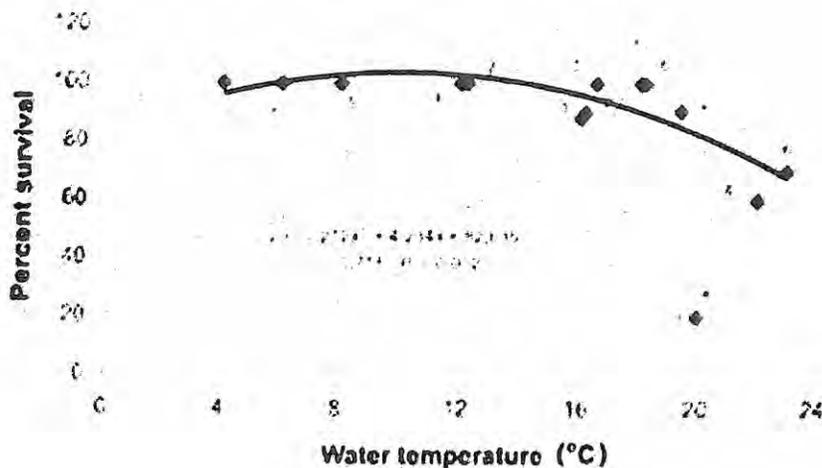
*Post, G. 1987. Textbook of Fish Health. Page # 279.*

“Thermal adaptation should be done slowly, usually no more rapidly than 1°C per two minutes. Slow adaptation will allow physiological functions to alter slowly, with a minimum of thermal stress. Also, fishes taken from one water temperature and placed into a higher or lower temperature usually should not be subjected to immediate changes of more than 2 to 3°C to reduce thermal stress.”

**Topic: Mortality Associated with Catch and Release Fishing under Warm Water Conditions**

*Dempson et al., 2002. Effects of Catch and Release Angling on Atlantic Salmon, *Salmo salar* L., of the Conne River Newfoundland*

### Survival Relative to Water Temperature for Several Studies on Atlantic Salmon



Taken from Dempson et al., 2002 Effects of Catch and Release Angling on Atlantic Salmon, *Salmo salar* L. of the Conne River, Newfoundland

*Thorstad et al., 2003. Effects of hook and release on Atlantic salmon in the river Alta, northern Norway. Fisheries Research 60 (2003) 293-307.*

NOTE: 4 of these 9 studies were also presented in Dempson 2002 above (which showed total of 7 studies).

### Catch and Release Mortality of Atlantic Salmon Summarized from Several Studies

Taken from Thorstad et al., 2003 Effect of Hook and Release on Atlantic Salmon in the River Alta, Northern Norway

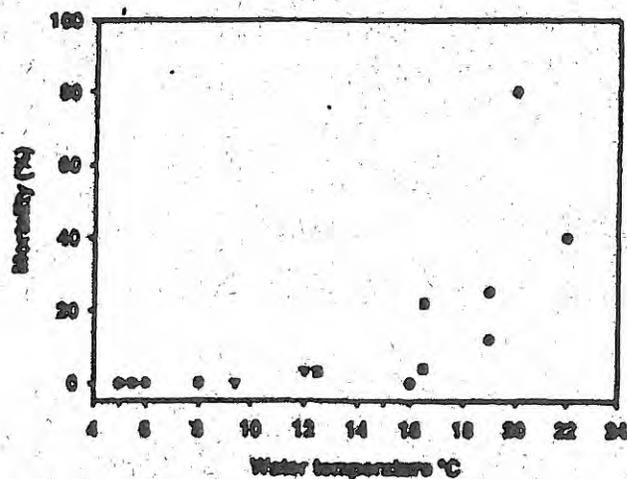


Fig. 3. Mortality after hook and release at different water temperatures (average, if given, or median) reported for Atlantic salmon (Waser, 1976, 1979; Waser and Johnson, 1976; Booth et al., 1995; Davidson et al., 1994; Bretzel et al., 1994; Wilds et al., 1994; Andersen et al., 1994; Mikkelsen et al., 2000 and this study). Mortality was in most cases recorded for salmon kept in tanks or cages after hook and release (■) and (●). Only three of these studies included control groups, and these studies concerned landlocked Atlantic salmon (■). Only two studies measured mortality for free-swimming salmon in cages (▼).

**Dotson, T. 1982. Mortalities in Trout Caused by Gear Type and Angler Induced Stress. North American Journal of Fisheries Management. 2: 60-65.**

### Relationship between Catch and Release Mortality and Temperature of Hatchery Rainbow Trout

Dotson, T. 1982. North American Journal of Fisheries Management. 2: 60-65.

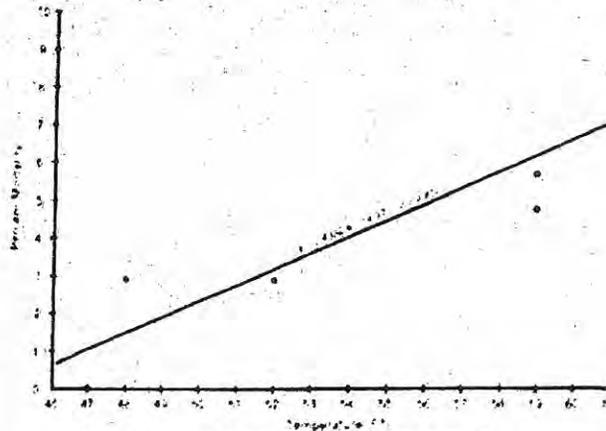


Figure 2. Regression of trout mortality on rising water temperatures.

**Schisler, G.P. and E.P. Bergerson. 1996. Post-release Hooking Mortality of Rainbow Trout Caught on Scented Artificial Baits. North American Journal of Fisheries Management.**

### Estimated Mortality Rate of a 380 mm Rainbow Trout Relative to Temperature and Bleeding Intensity

Schisler, G.P. and E.P. Bergerson. 1996. North American Journal of Fisheries Management. 16: 570-578.

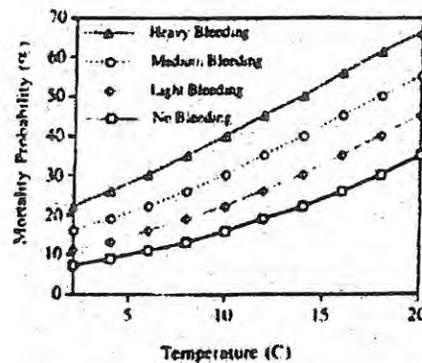


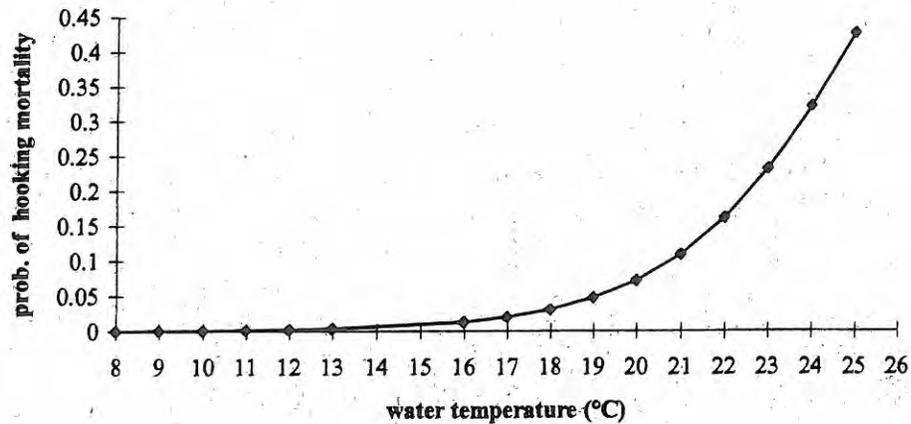
FIGURE 6.—Effect of water temperature (°C) and bleeding intensity on mortality probability of a 380-mm rainbow trout as calculated by the logistical-regression model. The fish was caught on synthetic baits fished passively, played for 60 s, held out of water for 30 s, and critically hooked with the leader not cut. Variables not shown are held constant.

*Taylor, G. and R.A. Barnhart. Mortality of Angler Caught and Released Summer Steelhead. Contract #FG5018 IF. Contract report to CDFG.*

## Probable Hooking Mortality of Adult Summer Steelhead vs. Water Temperature

Taylor, G. and R. A. Barnhart. Mortality of Angler Caught and Released Summer Steelhead. Contract #FG5018 IF. Contract report to CDFG.

Figure 5. Probability of hooking mortality of adult summer steelhead versus water temperature based on 126 summer steelhead angled from the Mad and North Fork Trinity rivers, California, 1995 and 1996.



**From:** Richard Jorgensen [REDACTED]  
**Sent:** Tuesday, January 26, 2016 10:17 AM  
**To:** FGC  
**Subject:** Klamath regulations -closure at Blue Creek

Commission Members:

I am responding to the hearing on the regulations regarding the Blue Creek fishing closure. I would like to have my comments counted for the Feb 11 meeting.

I am in favor of the closure in this reach to protect the fish while they are present. The fish typically concentrate along the Del Norte (Blue Creek) side during the mid summer/early fall period when Blue Creek cooler water provides thermal protection. However as the Klamath waters cool in the fall the fish move on and no longer concentrate in this stretch.

I would endorse a closure for the period beginning June 15 until Sept. 14. After that if flows and water temps are conducive for fish to move upstream I see no need for the restrictions.

Thank you for your consideration

Richard Jorgensen  
[REDACTED]

**From:** Steve [REDACTED]  
**Sent:** Sunday, January 24, 2016 11:16 AM  
**To:** FGC  
**Subject:** blue creek fishing closure, klamath river

dear commissioners: for generations ,klamath river flyfishermen have been practicing catch and release flyfishing of klamath steelhead in waters warmer than blue creek riffle without significant hooking mortality.i have been fishing the blue creek riffle since 1977 and have never seen significant steelhead mortality there. indeed the steelhead lay close to shore there in the cooler creek water so there is less danger of stress to them there. the klamath river summer /fall run of steelhead is healthy and unendangered relative to the small number of spring chinook salmon that seek summer refuge at blue creek. the steelhead can also endure higher temperatures than salmon. further, 95 % of our catch is half pounders and there is an abundance of them. heavy concentrations of fish occur only periodically at blue creek. most years the creeks confluence with the river is such that the cool waters are immediately mixed with the warm water in a big pool and few fish hold there. every so often the creek flows in at the head of the riffle and then fish concentrate there,but there are never excessive concentrations of salmon in the riffle, only in the pool below and then only in the last 2 weeks of august. there is no danger to salmon or steelhead from the allowance of flyfishing with unweighted flies and floating lines. this eliminates the chance of snagging the occasional salmon or adult steelhead. since 1977 i have observed high fish concentraions in less than 10 years, and never before august 10 or beyond sept 5. there is no reason for the draconian closure which was imposed last year for this type of fishing. salmon fishing from a boat is another matter,but it occurs primarily in the pool below blue creek.there is no reason to restrict flyfishermen from steelhead fishing in the blue creek area in the manner i have indicated. thank you for considering my input, steve rosenberg, [REDACTED] jan 24,2016

**From:** Alan Borges [REDACTED]  
**Sent:** Tuesday, January 19, 2016 6:28 PM  
**To:** FGC  
**Subject:** Klamath River Basin Recommendations

January 19, 2016

To Whom It May Concern,

I am writing this letter to voice my concerns and recommendations for the upcoming Commission meeting in which the Klamath River Blue Creek Closure will be discussed and reviewed.

I would like to see the 2015 adopted changes to the Klamath River Basin sport fishing regulations, in regards to the mouth of Blue Creek, changed and would recommend and agree to a 500 ft. closure above and below the Blue Creek area with the current adopted closure dates. A 500 ft. closure is the norm for every other regulated creek closure in California. This would allow plenty of room for the fish to have an area to rest without pressure from anglers. I would like to see a study done in the Blue Creek area that would include anything involving the safety and wellbeing of the fish rather than closing the area without any scientific data showing that there was any problem to begin with. I would not recommend any changes to the prohibition in the Klamath River spit area however I do believe that more enforcement of this regulation needs to be provided.

With the closure that is now in place, my losses this year were upwards of \$15,000 and 20 days of fishing. I cannot begin to even guess how much income was lost for the surrounding town of Klamath and the other fishing guides, including the tax money that the State lost as well.

I would even like to invite those in charge of the study to come onboard with me and my groups of fisherman and women to see just how our industry has adapted to catch and release and the job that we do to insure that the fish are released in a safe and proper manner. As anglers , we want nothing more than to make sure that these fish return again and again so that we can have the good times that we do catching them.

Thanks for your time and I really hope you are able to modify the closure to make it more angler friendly.

Thanks,

Alan Borges

Alan's Guide Service



[REDACTED]

**From:** Chris Watkins [REDACTED]  
**Sent:** Tuesday, January 19, 2016 2:01 PM  
**To:** FGC  
**Subject:** Blue Creek Closure - Klamath River

I had the privilege of fly fishing on the Klamath River at the mouth of blue creek a few years ago. I travelled there from the state of Utah - 20 hours for the unique fishing experience. I've fished literally thousands of times in hundreds of places, and that experience was by far the most memorable fishing trip I have ever had. It is something I will definitely do again should you allow sport fishing again in the area.

That opportunity would continue to provide a huge boost to the struggling economy out there and in Northern California in general. From what I have read, the mouth of blue creek has been successful in retaining steelhead numbers for years and years no matter the "fishing pressure" that is placed upon it.

Please don't take away this unique "Alaskan caliber" fishing experience from the state of California.

—  
Sincerely,

*President*  
*Chris Watkins*



**From:** Rich Zellman [REDACTED]  
**Sent:** Saturday, January 16, 2016 6:55 PM  
**To:** FGC  
**Subject:** Klamath Regulations

Hello,

I'm writing in regards to the Blue Creek closures on the Klamath River. As a fishing guide on the Klamath/Trinity rivers, I've seen the devastation caused by angling in and around the mouth of Blue Creek.

Anyone who has seen the fish stacked up at the mouth, nosed into the cool waters of Blue Creek can understand this is a refuge. Both salmon and steelhead seek the sanctuary of cold water offered by Blue Creek, away from the lethal temperatures of the Klamath.

The fish holding here are very vulnerable from anglers, with a majority of them being fowl-hooked and fought into the lethal temps of the Klamath and often go belly-up when released.

Fishing in and around the mouth of Blue Creek is unethical and unsporting and should remain closed.

Thank you for your time,

Rich

RECEIVED  
CALIFORNIA  
FISH AND GAME  
COMMISSION

2016 JAN 27 PM 2: 29

MLS

21 January 2016

California Dept of Fish and Game  
1416 Ninth St., Room 1320  
Sacramento, CA 95814

Re: Klamath River regulations

Dear Sirs:

If I understand correctly the regulations you imposed last year, it was to the effect that sport fishing in the vicinity of Blue Creek was too stressful on the fish, because some of the fish might die. However, gill net fishing in the area, with essentially 100% mortality to trapped fish, was permitted. Thus, sport-fishing with a rod was banned, but meat-fishing with a net was permitted. Do you detect a contradiction? If you can't demonstrate that sport fishing is more damaging than gill netting, then the regulation we endured in 2015 is irrational and should be scrapped.

Speaking for myself, I fly fish with barbless hooks, and release everything unharmed. I've never encountered a scientific study on the subject that didn't support a very high survival rate for barbless-hooked and promptly released fish. If there is a scientifically valid reason to ban fishing in a particular zone for a specific portion of the season, it should be a 100% ban. If catch-and-release sport fishing with barbless hooks is too damaging, then ALL fishing should be banned – no exceptions for any reason. Any kind of half-and-half routine is illogical. The only logical alternative is to remove the mid-season sport fishing restriction for the Blue Creek area.



Larry De Ridder



**From:** Mike Kuczynski [REDACTED]  
**Sent:** Thursday, January 28, 2016 12:39 PM  
**To:** FGC  
**Subject:** Klamath river below blue creek  
**Attachments:** commision letter.docx

To the Fish and Game commission,

In April 2015 the commission adopted changes to the Klamath River sport fishing regulations, ostensibly as an emergency measure to provide thermal refuge to steelhead and salmon downstream from the mouth of Blue Creek during the longstanding drought.

The commission took this drastic step despite the recommendation of The California Department of wildlife and their vehement opposition to such closures. The department's position was and remains that there is no scientific merit to and no data supporting such a closure.

The only support I have found for the closure of the Klamath River below blue creek last year was from tribal members, because this is a culturally sensitive area. I respect many of these individuals and their feelings on this matter however these concerns don't fall under the purview of this commission.

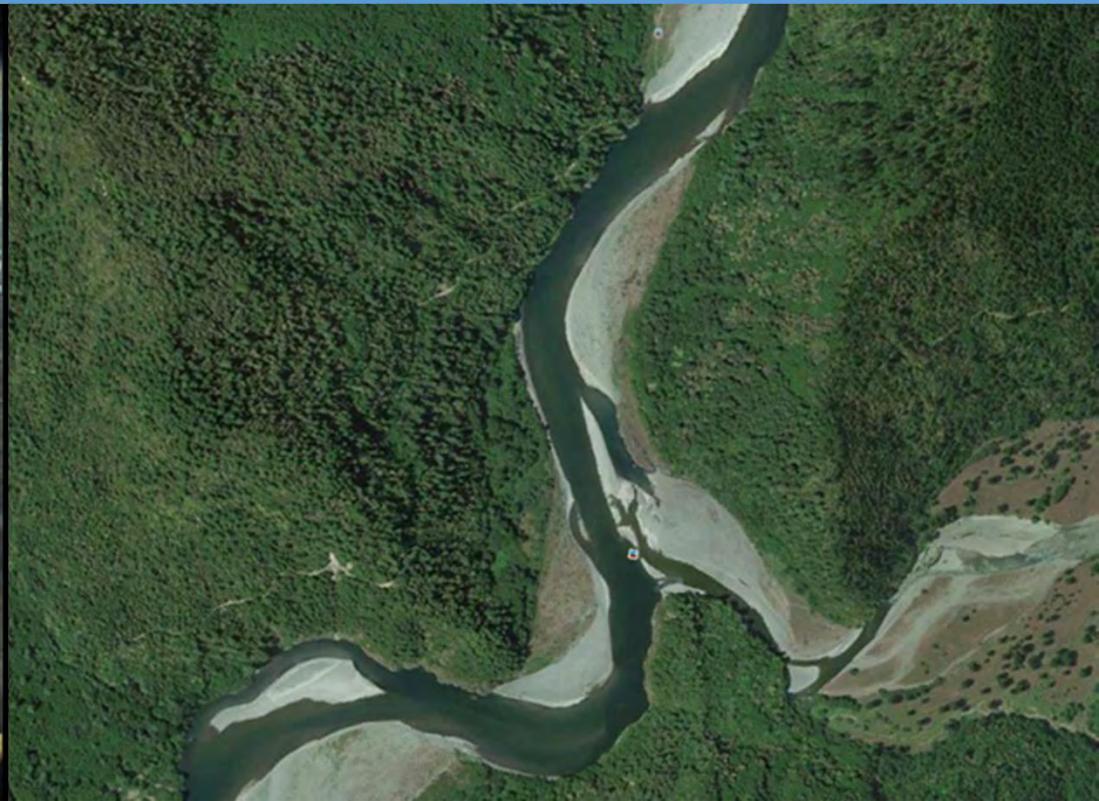
We can go on at length about reasons not to renew the emergency closure, economic impact on tribe and local businesses, ability to collect data and deter poaching. The drought seems to be ending and there is no valid reason to make such a drastic, capricious measure permanent.

Mike Kuczynski

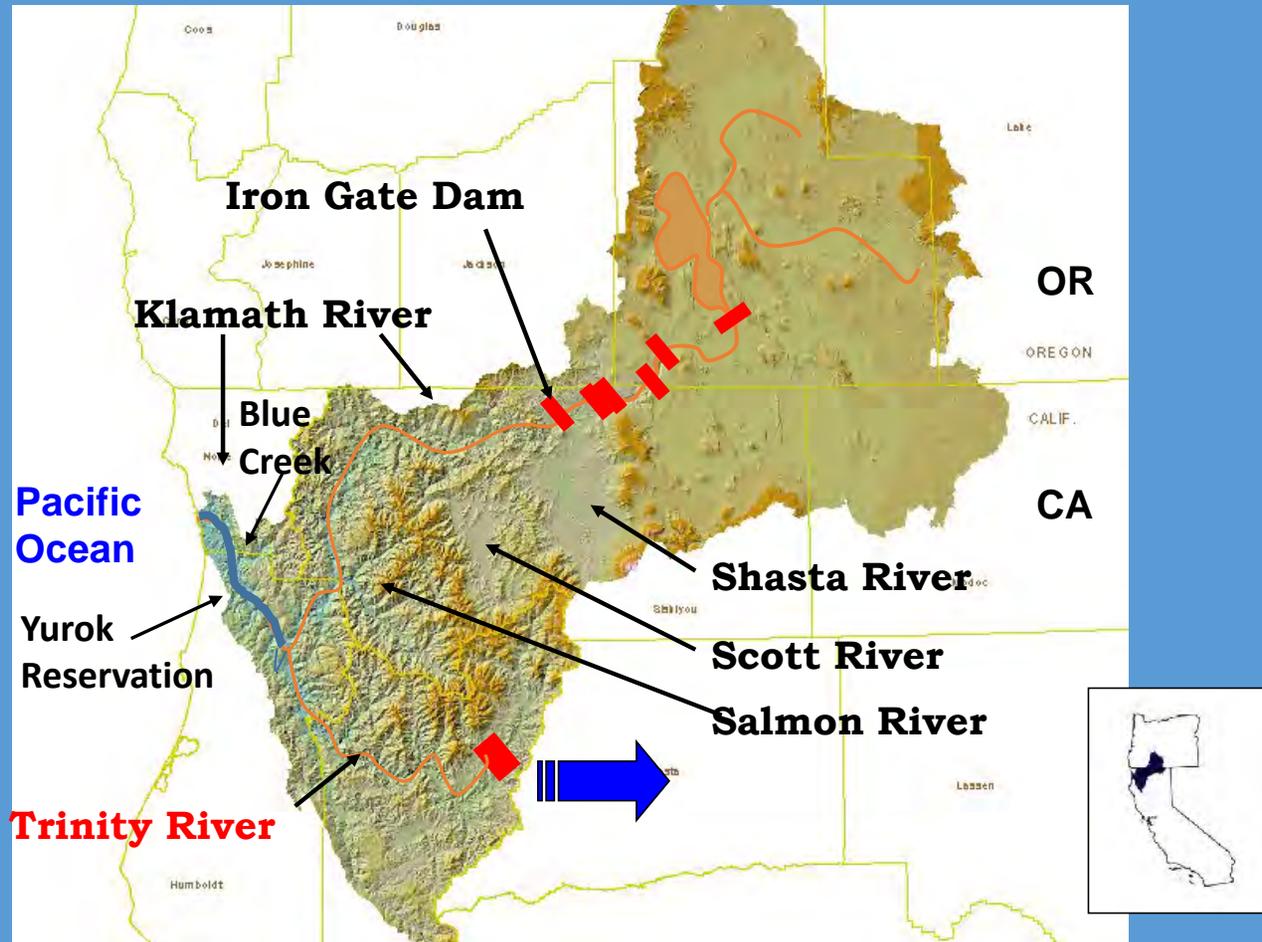
[REDACTED]

# Blue Creek Conservation Closure

On the Yurok Reservation, Lower Klamath River



# Klamath River Basin



Map Source USFWS

# The Tribe Appreciates the Commission's Receptiveness to our Recommendations during 2015



# Blue Creek Conservation Closure

- Long Term Initiative
  - Tribe first requested action by Commission in 1996
- Most Recent Effort began February 2014
  - Submitted letters and/gave testimony February, April, December 2014; February and April 2015.
  - Commission adopted closure in 2015

**Issues Presented to the California Fish and Game Commission**  
**by the Yurok Tribe**

March 6, 1996

Prepared by Dave Hillemeier

| Issue   | Page |
|---|------|
| 1. Conservation closures at the confluence of tributaries.....  | 1    |
| 2. Mortality associated with the sport catch and release fishery.....                                   | 4    |
| 3. The need to increase the marking of hatchery fish released from hatcheries in the Klamath Basin..... | 9    |
| 4. Surplus hatchery fish should be removed from the river.....  | 10   |
| 5. Inriver sport fishery routinely exceeds quota.....   | 14   |
| 6. Salmon closure in ocean waters near the mouth of the Klamath River.....                              | 15   |
| 7. Spring chinook conservation closures.....  | 16   |
| 8. Excessive marine mammal predation of anadromous salmonids in the Klamath Estuary.....                | 19   |
| 9. Hunting within ancestral boundaries for ceremonial purposes.....                                     | 21   |

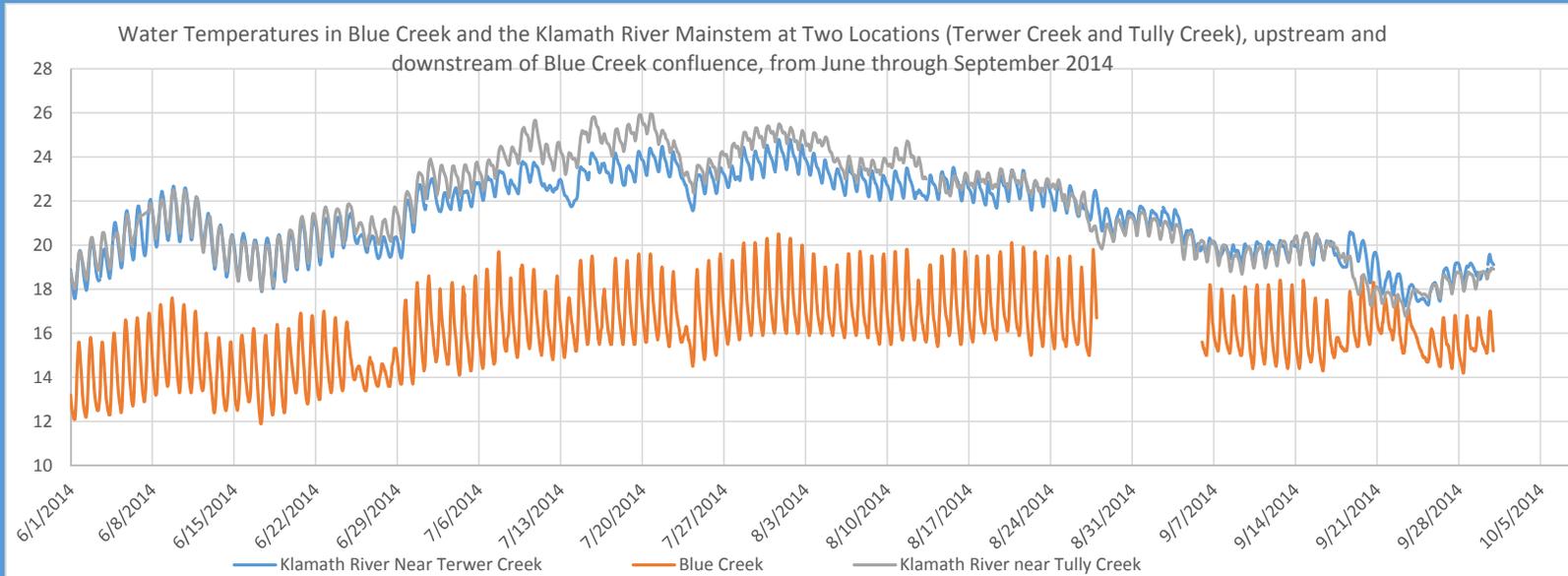
# Blue Creek Biological Significance

- Biological
  - Fish native to Blue Creek
    - Purpose of the 500' closure in the fall
      - Chinook are genetically distinct
      - Source population for rest of Lower Klamath
  - Thermal Refuge
    - Relied upon by summer steelhead, spring Chinook, fall Chinook from throughout the basin during hot times
- Cultural significance



# Rationale for Blue Creek Conservation Closure

- *Fish are captured in relatively cold water and played/released in excessively warm water that is sometimes near lethal levels.*
  - Scientific literature supports high mortality rate when catch and release fishing in warm water.
- *Fish are moved from cold water to warm water - typically 5 – 6 C difference*
  - *Fish health guidelines are to not expose fish to a change in water temperature of more than 1 C per two minutes, or put them through an immediate thermal change of more than 2-3 C at a time (Post G. 1987).*
- Also want to minimize stress to fish that are on thermal respite
  - Maximize reproductive success
    - Literature shows reduced spawning success and viability of eggs/juveniles from acutely stressed brood stock
  - Minimize chance of a disease epidemic such as 2002.





Klamath River

Blue Creek

536 ft

1988

Imagery Date: 6/6/2013 41°25'37.54" N 123°55'50.07" W elev 40 ft eye alt 3066 ft

Google earth



## Catch and Release Mortality of Atlantic Salmon Summarized from Several Studies

Taken from Thorstad et al., 2003. Effect of Hook and Release on Atlantic Salmon in the River Alta, Northern Norway.

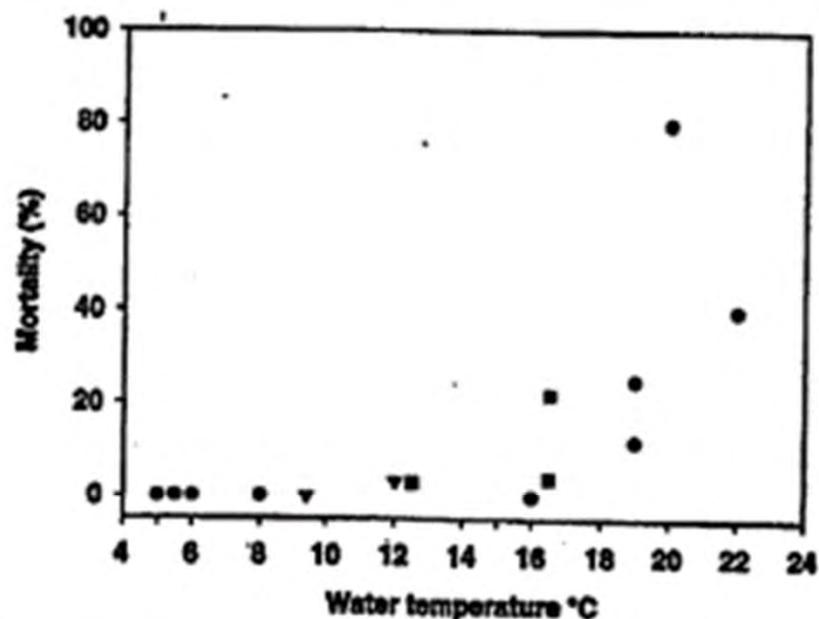
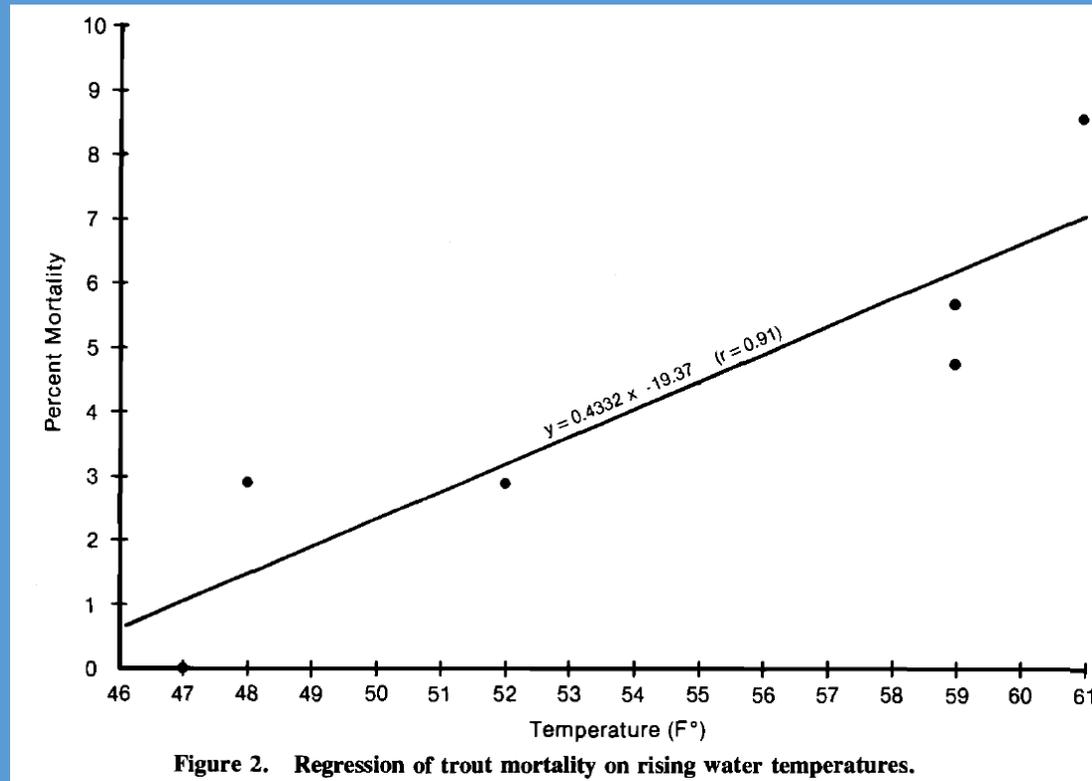


Fig. 5. Mortality after hook and release at different water temperatures (average, if given, or median) reported for Atlantic salmon (Warner, 1976, 1979; Warner and Johnson, 1978; Booth et al., 1995; Davidson et al., 1994; Brobbel et al., 1996; Wilkie et al., 1996; Anderson et al., 1998; Mikkinen et al., 2000 and this study). Mortality was in most cases recorded for salmon kept in tanks or cages after hook and release (■ and ●). Only three of these studies included control groups, and these studies concerned landlocked Atlantic salmon (■). Only two studies measured mortality for free-swimming salmon in nature (▼).

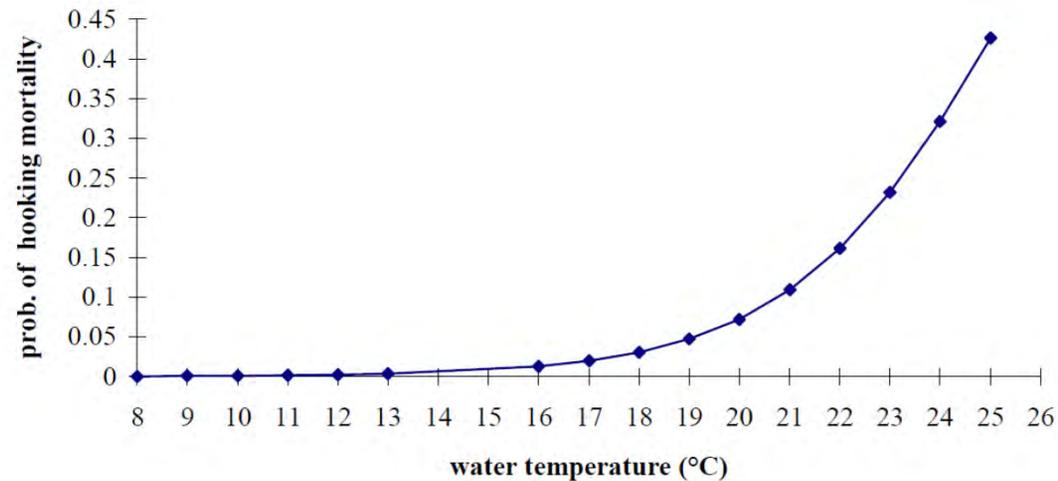
# Relationship between Catch and Release Mortality and Temperature of Hatchery Rainbow Trout

Dotson, T. 1982. North American Journal of Fisheries Management. 2: 60-65.



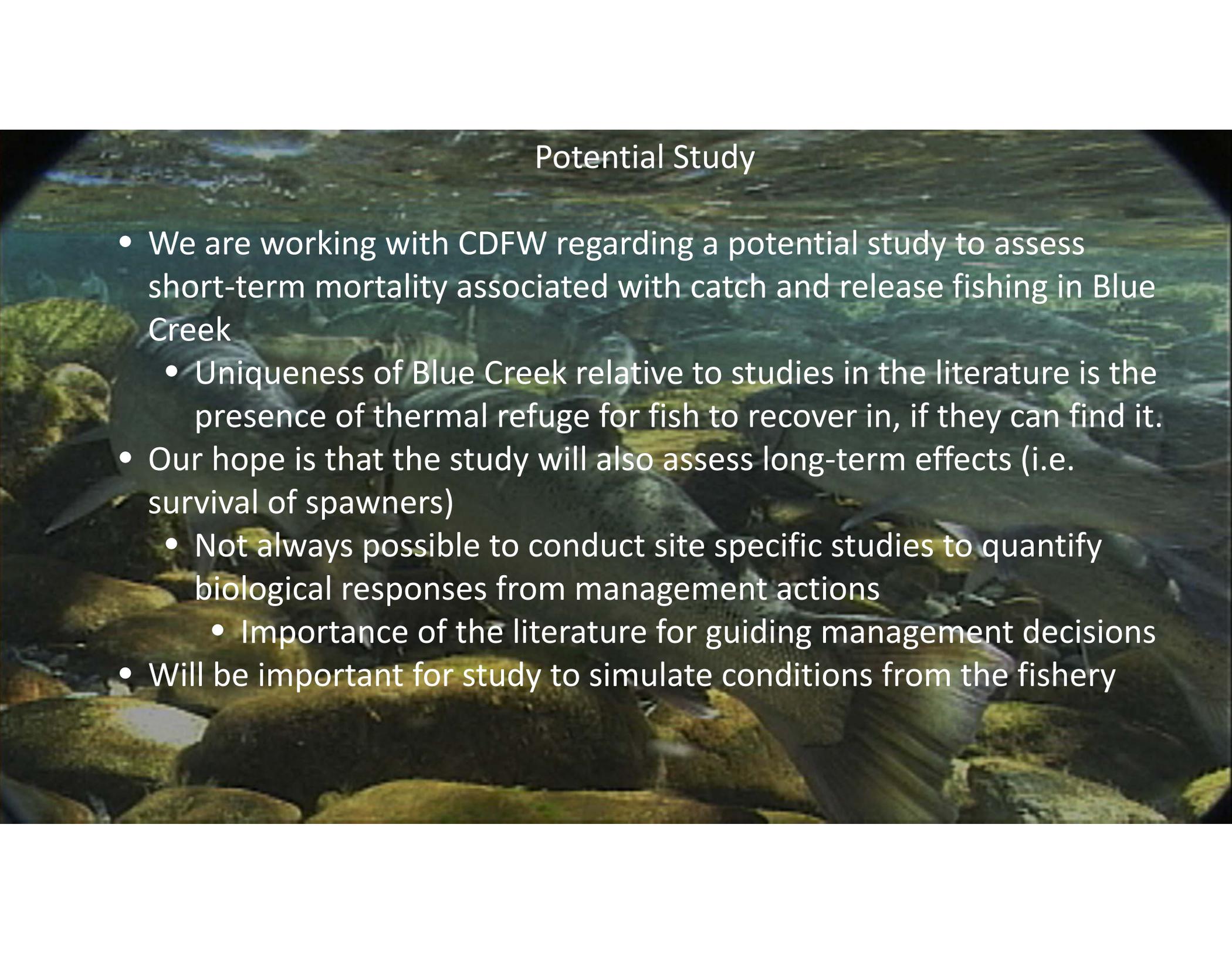
# Estimated Hooking Mortality Adult Summer Steelhead relative to Water Temperature

Figure 5. Probability of hooking mortality of adult summer steelhead versus water temperature based on 126 summer steelhead angled from the Mad and North Fork Trinity rivers, California, 1995 and 1996.



## Is there a problem?

- The literature indicates likely
- Anecdotal information indicates possibly
  - “At Blue Creek on August 13, 2014 angler density was high and visibility poor, therefore catch rate was used to roughly estimate fish density. Based on visual observations of 11 anglers catching approximately one steelhead per minute for a two hour period, we estimate 440 catches. One individual angler reported landing fifty steelhead that day. Several steelhead carcasses, likely the result of angling stress, were observed in the mainstem downstream of Blue Creek”. Taken from report (Fishery Foundation of California, 2014) conducting surveys for Delta Mendota Water District.
- Species impacted is primarily summer steelhead (numbers relatively low, but stable), spring Chinook (much concern for wild population, especially South Fork Trinity River), and fall Chinook (variable but relatively viable).



## Potential Study

- We are working with CDFW regarding a potential study to assess short-term mortality associated with catch and release fishing in Blue Creek
  - Uniqueness of Blue Creek relative to studies in the literature is the presence of thermal refuge for fish to recover in, if they can find it.
- Our hope is that the study will also assess long-term effects (i.e. survival of spawners)
  - Not always possible to conduct site specific studies to quantify biological responses from management actions
    - Importance of the literature for guiding management decisions
- Will be important for study to simulate conditions from the fishery