

STAFF SUMMARY FOR FEBRUARY 6, 2019

20B. UPPER KLAMATH-TRINITY RIVER SPRING CHINOOK SALMON**Today's Item**Information Action

If FGC finds that listing Upper Klamath-Trinity River (UKTR) spring Chinook salmon (also referred to as Upper Klamath-Trinity Spring Chinook Salmon (UKTSCS)) may be warranted, consider adopting emergency regulations regarding Klamath River Basin sport fishing.

Summary of Previous/Future Actions

- **Today consider adopting emergency regulations Feb 6, 2019, Sacramento**

Background

Acceptance of a petition under CESA initiates a one-year review by DFW for determining the species' status. During the status review period, the species is considered a "candidate" species, which confers CESA take prohibition measures to protect the species.

If FGC accepts the petition to list UKTSCS under agenda item 20A, DFW requests FGC adopt emergency regulations to protect UKTSCS during the status evaluation period. The proposed emergency regulations are necessary to better ensure reduced take of both migrating and spawning populations of UKTSCS in the Klamath River Basin for which recreational harvest is authorized under the current regulatory framework.

As specified in the DFW memo (Exhibit 1), the emergency regulations would amend Section 7.50 relating to Klamath River Basin sport fishing. The recommended actions will supersede existing regulations for spring Chinook salmon (subsections (b)(91.1)(E)2.a., 2.b., 6.b., 6.c., 6.e., and 6.f. of Section 7.50). The recommended actions concerning subsection (b)(91.1)(E)6.b. will also impact Klamath River fall Chinook salmon (KRFC) regulations by prohibiting the take of any Chinook salmon in a segment of the Trinity River until October 15. (KRFC quota management applies September 1 through December 31 on the Trinity River.)

Additionally, Klamath River Basin Chinook salmon possession limits (subsections (C)2.a. and (C)2.b.) are proposed to be changed from 2 to "Closed to salmon fishing. No take or possession of Chinook salmon" for the river segments and dates listed in the DFW memo.

Significant Public Comments (N/A)**Recommendation**

FGC staff: If FGC accepts the UKTSCS petition for further evaluation during Agenda Item 20A, adopt emergency regulations as recommended by DFW.

DFW: If FGC accepts the UKTSCS petition for further evaluation during Agenda Item 20A, adopt emergency regulations specified in the DFW memo.

Exhibits

1. [DFW memo, received Jan 30, 2019](#)

STAFF SUMMARY FOR FEBRUARY 6, 2019

Motion/Direction

- Moved by _____ and seconded by _____ that the Commission finds, pursuant to Section 399 of the Fish and Game Code, that adopting the proposed emergency regulation is necessary for the immediate conservation of Upper Klamath-Trinity River spring Chinook salmon.
- The Commission further determines, based on the record, that this approval is exempt from the California Environmental Quality Act as an action necessary to prevent or mitigate an emergency as specified in Section 15269(c), Title 14 and Public Resources Code Section 21080(b)(4), as well as to protect a natural resource pursuant to the guidelines in Title 14, Section 15307.
- The Commission further determines, pursuant to Section 11346.1 of the Government Code, that an emergency situation exists and finds the proposed regulation is necessary to address the emergency.
- Therefore, the Commission adopts the emergency regulation to amend Section 7.50, Title 14, California Code of Regulations, as recommended by the California Department of Fish and Wildlife.

Date: January 24, 2019

To: Melissa Miller-Henson
Acting Executive Director
California Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Protective Emergency Regulations Needed in the Event of Candidacy
Determination of Upper Klamath-Trinity Spring Chinook Salmon**

On February 6, 2019, the Commission is expected to make a decision on acceptance of a petition to list Upper Klamath-Trinity Spring Chinook Salmon (UKTSCS) as endangered. Acceptance of the petition initiates a one-year review by the Department for determining the species' status, which will include a recommendation to the Commission that the petitioned action is not warranted or a recommendation that the species be listed as threatened or as endangered. During the status review period, the species is considered a "candidate" species which confers California Endangered Species Act (CESA) take prohibition measures to protect the species.

Therefore, if the Commission finds there is sufficient information to accept the petition for a formal status review, the Department requests the Commission authorize emergency regulations for protecting UKTSCS during the status evaluation period pursuant to Fish and Game Code subdivision 399(a).

The emergency regulations would amend Section 7.50 of Title 14, CCR, relating to Klamath River Basin sport fishing. The recommended actions will supersede existing regulations for Spring Chinook Salmon (Title 14, Section 7.50, subsections (b)(91.1)(E)2.a., 2.b., 6.b., 6.c., 6.e., and 6.f.). The recommended actions concerning subsection (b)(91.1)(E)6.b. will also impact Klamath River Fall Chinook Salmon (KRFC) regulations by prohibiting the take of any Chinook Salmon in a segment of the Trinity River until October 15. (KRFC quota management applies September 1 through December 31 on the Trinity River.) Specific proposed regulatory changes are shown in the following table.

Proposed Changes to Klamath River Basin Chinook Salmon Regulations (in bold).

Subsection	Body of Water	Open season and special regulations	Daily Bag limit
(b)(91.1)(E)2.a.	Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec.	Effective date to be inserted by the Office of Administrative Law (OAL) to August 14	Closed to salmon fishing. No take of Chinook Salmon 2 hatchery trout or hatchery steelhead**
(b)(91.1)(E)2.b.	Klamath River downstream of the Highway 96 Bridge at Weitchpec.	Effective date to be inserted by OAL to August 14.	Closed to salmon fishing. No take of Chinook Salmon 2 hatchery trout or hatchery steelhead
(b)(91.1)(E)6.b.	Trinity River mainstem downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat.	Effective date to be inserted by OAL to October 15.	Closed to salmon fishing. No take of Chinook Salmon 5 Brown Trout 2 hatchery trout or hatchery steelhead
		<i>The October 16 KRFC season start date will be included in the standard rulemaking for Klamath River Basin sport fishing, scheduled for adoption May 16, 2019.</i>	<i>The daily bag limits applicable to the KRFC season will be included in the standard rulemaking for Klamath River Basin sport fishing, scheduled for adoption May 16, 2019</i>
(b)(91.1)(E)6.c.	Trinity River main stem downstream of the Highway 299	Effective date to be inserted by OAL to August 31.	Closed to salmon fishing. No take of

Subsection	Body of Water	Open season and special regulations	Daily Bag limit
	West bridge at Cedar Flat to the Denny Road Bridge at Hawkins Bar.		Chinook Salmon 5 Brown Trout 2 hatchery trout or hatchery steelhead
(b)(91.1)(E)6.e.	Trinity River mainstem downstream of the Denny Road bridge at Hawkins Bar to the mouth of the South Fork Trinity River.	Effective date to be inserted by OAL to August 31.	Closed to salmon fishing. No take of Chinook Salmon 5 Brown Trout 2 hatchery trout or hatchery steelhead
(b)(91.1)(E)6.f.	Trinity River main stem downstream of the mouth of the South Fork Trinity River to the confluence with the Klamath River.	Effective date to be inserted by OAL to August 31.	Closed to salmon fishing. No take of Chinook Salmon 5 Brown Trout 2 hatchery trout or hatchery steelhead

Additionally, Klamath River Basin Chinook Salmon possession limits (subsections (C)2.a. and (C)2.b.) will need to reflect these changes. The possession limit is proposed to be changed from 2 to “Closed to salmon fishing. No take or possession of Chinook Salmon” for the river segments and dates listed above.

The proposed emergency regulations are necessary to protect both migrating and spawning populations of UKTSCS in the Klamath River Basin that are not already protected from harvest under the current regulatory framework.

In addition to the emergency regulations described above to protect UKTSCS inland fisheries during candidacy, the Department has identified a need to implement protections to reduce the risk of take in federally-managed ocean fisheries as well, in particular the ocean salmon and groundfish fisheries.

Melissa Miller-Henson, Acting Executive Director
Fish and Game Commission
January 24, 2019
Page 4

The Department is in the process of reviewing coded wire tag (CWT) data to evaluate the times and areas where UKTSCS have been taken in both sport and commercial ocean salmon fisheries. Importantly, NOAA Fisheries is the entity that promulgates federal fishing regulations for ocean salmon fisheries off California, based on recommendations from the Pacific Fishery Management Council (PFMC). The Department is represented on the PFMC and plans to bring recommendations for closed times and areas to protect UKTSCS to the PFMC at its next meeting, which will occur in March of 2019. Based on the outcome of review of the CWT data, the Department may recommend that no fishing be allowed in times and areas where the catch rates of UKTSCS in waters off California have historically been highest, relative to other times and areas off California. Historically, ocean salmon fishing regulations in state waters conform to these federal regulations, although the Commission retains the discretion to adopt different regulations.

California's groundfish fisheries are also regulated by NOAA Fisheries. In 2017, NOAA Fisheries revised its Biological Opinion and Incidental Take Statement (ITS) for take of federally-listed salmonids in the groundfish fishery. Since that time, the PFMC has made a number of recommendations for new regulations that ensure commercial and sport groundfish fisheries – including those off California – are complying with the ITS and minimizing take of all Chinook Salmon in groundfish fishing operations. Although UKTSCS is not federally listed, UKTSCS benefit from those protections as well. Several of these regulations took effect in January 2019.

If you have any questions or need additional information, please contact Mr. Jonathan Nelson, Environmental Program Manager at Jonathan.Nelson@Wildlife.ca.gov or at (916) 445-4506.

ec: **Department of Fish and Wildlife**

Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

Chad Dibble, Deputy Director
Ecosystem Conservation Division
Chad.Dibble@wildlife.ca.gov

Wendy Bogdan, General Counsel
Office of the General Counsel
Wendy.Bogdan@wildlife.ca.gov

Tina Bartlett, Regional Manager
Northern Region
Tina.Bartlett@wildlife.ca.gov

Melissa Miller-Henson, Acting Executive Director
Fish and Game Commission
January 24, 2019
Page 5

Craig Shuman, Regional Manager
Marine Region
Craig.Shuman@wildlife.ca.gov

Kevin Shaffer, Chief
Fisheries Branch
Kevin.Shaffer@wildlife.ca.gov

Tony LaBanca
Environmental Program Manager
Northern Region
Tony.LaBanca@wildlife.ca.gov

Marci Yaremko
Environmental Program Manager
Marine Region
Marci.Yaremko@wildlife.ca.gov

Jonathan Nelson
Environmental Program Manager
Fisheries Branch
Jonathan.Nelson@wildlife.ca.gov

Mary Loum
Office of the General Counsel
Mary.Loum@wildlife.ca.gov

Michael Yaun, Attorney
Fish and Game Commission
Michael.Yaun@fgc.ca.gov

Wade Sinnen, Senior Environmental
Scientist, Supervisor
Northern Region
Wade.Sinnen@wildlife.ca.gov

Brett Kormos, Senior Environmental
Scientist, Supervisor
Marine Region
Brett.Kormos@wildlife.ca.gov

Melissa Miller-Henson, Acting Executive Director
Fish and Game Commission
January 24, 2019
Page 6

Daniel Kratville, Senior Environmental
Scientist, Supervisor
Fisheries Branch
Daniel.Kratville@wildlife.ca.gov