

Fish and Wildlife Resource Manager Decision: SFAC Regulation Proposal 2013-01

Proposal Title: Change Status of all Fishable Lower Skeena River Tributaries to Class 2 Classified Waters

Proponent: Brian Patrick – Regional Tackle Vendor Community

Proposed Regulation Change:

Kasiks, Khyex, Exchamsiks and Exstew rivers and any other larger fish bearing tributaries on the lower Skeena River be changed to Class II waters.

Summary of issue(s) proposal is to address:

This change was proposed in order to protect populations of salmon, steelhead, coastal cutthroat and char (which are recognized as unique and special) in these systems from over-exploitation from any form of fishing. Being a classified water controls fishing via:

- a) Guided Rod Days are controlled by the Ministry to protect from overfishing
- b) Locals can access Class II waters at a reasonable cost and the proponent believes that residents respect fisheries values
- c) Non-resident aliens must pay a premium to fish these waters and a large number choose not to pay \$20/day and this protects the river from overfishing

Every tributary on the Skeena is an irreplaceable resource and we do have to look at protecting it and limiting any potential overuse.

Regulatory/ Policy Impediments: *(list & provide details)*

Policies that apply to this regulation proposal include:

- Policy 3-2-01.00 Conservation
- Policy 3-1-01.02 Angling Guide Numbers Limitation on Designated Waters
- Policy 3-1-01.01 Guiding Activities
- Policy 3-7-04.02 Allocation of Angling Opportunity
- Policy 3-1-01.03 Action When a Regional Manager Makes a Decision That Affects a Guide Licence, Permit or Guide Outfitter's Certificate or Application Therefore

The ministry seeks to achieve its conservation policy by setting conservative harvest allocations for freshwater fish species. These quotas are reflected in the Freshwater Fishing Regulations Synopsis.

There is no policy in place to outline criteria/procedures to consider/create a new Classified Water. Generally, a Class 2 Coastal Classified Water must:

- Be a quality semi-wilderness stream with wild anadromous fish
- Possesses trophy fish
- Have a rustic environment with few or many roads

Classifying a water under the *Angling and Scientific Collection Regulation* requires the following to be identified:

- The time period for classification
- The maximum number of guides and
- The maximum number of days angling guides may use during the classified period

Under the *Angling and Scientific Collection Regulation*, the Regional Manager has authority to allocate angler day quotas as per Sections 11(1.1) and (1.2) only if:

- A management plan applies to the classified water for which angler day quota is to be issued.
- An allocation process is used to allocate quota through either a bid, proposal or combination of bid and proposal.
- The period for which the angler day quota is allocated is 20 years or less

Existing Regulation & Justification Summary: (*may include biological comments*)

Regional Daily Catch Quota

- 1 trout/day, July 1 – October 31 from streams (none under 30 cm)
- Wild steelhead release
- Non-retention of Dolly Varden and Bull Trout in streams

Management Considerations: (*summarize relevant: stock status, life history information, exploitation levels/limits, information or observations from other geographic locations or jurisdictions & relevant examples / references from the literature, social issues*)

This proposal recommends increasing management measures currently in place on all fishable lower Skeena River tributaries with the goal of preventing over-exploitation (harvest) for Salmon, Steelhead, Coastal Cutthroat Trout and Char species. The proposed approach to reach this goal includes reducing angler effort to reduce sport fishing related mortality. This will be achieved via restrictions to angling guides (by limiting their effort) and price disincentives (a new fee) for anglers.

Classified Waters have proved to be effective regulatory tools for limiting angling guide effort, as they establish caps on the number of guides and number of days a guide may operate. Caution is warranted, however, in using this method for controlling non-guided angler use. Experience has demonstrated that angler effort upon popular steelhead rivers in the Skeena Region has grown (mostly non-BC anglers) despite their Classified Waters status. This has occurred since 1990 and has included several licence fee increases (they doubled in 2003 for non-BC anglers) and implementation of additional exclusionary restrictions (resident-only in 2012).

This proposal includes a number of waters and a number of fish species. If concerns exist for a particular species or on a specific water, these concerns must be clearly identified to enable over-harvesting and conservation threats to be evaluated. The SFAC

has not received previous submissions identifying conservation concerns for the systems included as part of this proposal. It is recognized that lower Skeena tributaries support small (in the order of hundreds) discrete populations of fish that are susceptible to human (i.e. over fishing) and environmental induced changes. This has necessitated the implementation of precautionary regulations in some cases (i.e. steelhead, fluvial trout and char).

All of the provincially managed species identified in this application are subject to non-retention regulations. If additional conservation measures are desired or warranted, the remaining management options include no fishing regulations or the restriction of certain user groups (via no fishing, lottery access etc). This proposal would achieve the latter by implementing angling guide restrictions on all lower Skeena River tributaries. This would enable catch and release mortality impacts created by this user group to be managed through controls on effort and catch (if warranted). Unless similar controls are developed over time to manage other users, however, a net conservation benefit to the fishery will not be reached.

The Skeena Quality Waters Strategy (QWS) process has proved that management of Classified Waters is expensive, controversial and time consuming. This process began in 2007 and recommended changes to rod day allocations on specific systems (i.e. Zymoetz River). As of 2014, these allocations have still not been completed and have been subject to multiple appeals to the Environmental Appeal Board. The time invested toward this work has taken away from the ministry's ability to achieve other important projects.

Classifying all fishable lower Skeena River tributaries would require allocations of guided angler day quota. As explained earlier, this step requires the creation of publicly vetted Angling Management Plans and changes to the *Angling and Scientific Collection Regulation* under the *Wildlife Act*. As Cabinet approval is required for such changes, the time and energy required for this are significant. Given the controversial impact of the Skeena QWS process, it is also possible that the public requires a recharge period before another process of this scale is undertaken again.

It is important to note that Salmon are managed by the federal government. All proposals regarding this species should be forwarded to the Sport Fish Advisory Board.

Available Options: *(where appropriate, incorporate biological information above that supports an alternative approach to achieve the same outcome more effectively)*

1. Request the proponent to re-submit this proposal clarifying the conservation concerns on a species and water specific basis
2. Defer on this decision until the ministry has sufficient resources and background information to initiate a planning process to develop Angling Management Plans on the lower Skeena River
3. Initiate a public process to develop an Angling Management Plans for all fishable waters on the Lower Skeena River
4. Reject the proposal

Rationale

Summary of SFAC Issues and Concerns:

The proponent felt that the Kasiks had been negatively impacted by too much guided effort. One committee member indicated that the Zymagotitz was certainly a problem. Another committee member, also a guide, noted that this proposal, if accepted would negatively impact guides and in particular, new entrants to guiding. The committee vote on this proposal included:

- Support: 3
- Against: 3
- Abstain: 1

Resource Manager Decision: The Classified Waters legislation is a tool to primarily address the uncontrolled expansion of guided effort and angler effort that creates angler crowding issues on specific rivers. It is not a tool to address conservation or stock or population abundance concerns. Abundance and conservation issues are generally addressed through angling regulations such as quotas, time and area closures and gear restrictions. Current trout and char harvesting regulations in the Skeena Region are some of the most conservative in the province. The classification of these streams would require the completion of Angling Management Plans for these specific waters. The scope of the proposal as submitted is too broad (i.e. all fish bearing streams in the Lower Skeena).

I encourage the proponent to contact fisheries section staff to discuss his specific stock status concerns for these waterbodies. This proposal has implication to salmon fisheries that are the jurisdiction of the Department of Fisheries and Oceans. At this time I do not support forwarding this regulation proposal to the F&W Director for his consideration. Regulations changes such as this would be advanced upon the development and completion of Angling Management Plan(s) for these tributaries of the lower Skeena River.

Signed by:

Resource Manager Dana Atagi

Date March 10, 2014

Fish and Wildlife Resource Manager Decision: SFAC Regulation Proposal 2013-02

Proposal Title: No fishing in areas of the Skeena watershed where catch and release regulations exist

Proponent: Brian Patrick – Regional Tackle Vendor Community

Proposed Regulation Change:

All areas in the Skeena watershed which are considered catch and release only be made no fishing until studies have proven that catch and release is not detrimental to the health and survival of the species being targeted.

Summary of issue(s) proposal is to address:

The proponent believes that catch and release should not be considered a management tool until testing positively shows no harm to fish from this practice in light of studies that show a high mortality in salmonids which have been released by fishermen with the best of intentions.

The proponent submits that a modest harvest would be less wasteful than releasing a fish that will perish from stress or oxygen deprivation or gill damage a few weeks later.

Regulatory/ Policy Impediments: *(list & provide details)*

This proposal would require significant cooperation from the Department of Fisheries and Oceans in light of their overlapping jurisdiction in the management of salmon fisheries. BC's recreational angling policy direction is to provide a diverse range of angling opportunities allowing for a variety of angling methods and consumptive as well as non-consumptive fisheries. Catch and release as a management tool has increased angling opportunities in some fisheries that would otherwise have been closed for conservation and precautionary (where the capacity to obtain stock assessment data is lacking) purposes.

Existing Regulation & Justification Summary: *(may include biological comments)*

Regional Daily Catch Quota

- 1 trout/day, July 1 – October 31 from streams (none under 30 cm)
- Wild steelhead release
- Char release from streams

Management Considerations: *(summarize relevant: stock status, life history information, exploitation levels/limits, information or observations from other geographic locations or jurisdictions & relevant examples / references from the literature, social issues)*

Richard *et al.* (2013) concluded that catch and release is an effective conservation and management tool towards maintaining the socio-economic benefits from recreational fishing while ensuring a minimal impact on the exploited population, pending appropriate practices. Whoriskey *et al.* (2000), Nelson *et al.* (2005) and a number of others concur. Appropriate practices refer specifically to high water temperatures and air exposure; at higher summer water temperatures, in excess of 20 degrees Celsius, mortality rates for handled/stressed Pacific salmon increased to near 100% (Robinson *et al.* 2013). Similarly, Ferguson and Tufts (1992) documented high mortality rates for angled fish removed from the water after exhaustive exercise (72% mortality for a 60 second air exposure).

Cooke and Suski (2005) recommended species-specific guidelines for catch and release recreational angling to effectively conserve diverse fisheries resources. This is particularly applicable where terminal tackle can lead to high mortality rates (e.g. cutthroat trout mortalities as high as 48% for catch and release with natural baits)(Mongillo 1984; Wright 1992; Taylor and White 1992; Pauley and Thomas 1993).

Perhaps the most comprehensive meta analysis was conducted by Arlinghaus *et al.* (2007), where the authors outline both positive and negative social and biological benefits, they acknowledge that catch and release is and will continue to be an important fisheries management tool. They also recommend that managers should be careful to avoid alienating anglers by the appearance of valuing one type of resource use over another and to continue to recognize that keeping fish is a valid use of fisheries resources in many cases.

Available Options: *(where appropriate, incorporate biological information above that supports an alternative approach to achieve the same outcome more effectively)*

1. No change
2. Close all streams where catch and release regulations are currently in place pending species specific guidelines for catch and release recreational angling
3. Status quo with continued monitoring of available science and empirical data to determine if stocks are at risk from incidental mortality associated with catch and release fisheries with appropriate conservative regulation changes

Rationale

Summary of SFAC Issues and Concerns:

One committee member was concerned that creating only harvest fisheries would lead to more hatchery releases, and that enhancement has been demonstrated to cause declines in wild fish populations.

- Support: 0
- Against: 6
- Abstain: 0

Resource Manager Decision: Current scientific literature indicates that catch and release is an effective management/regulatory tool which balances both socio-economic benefits associated with recreational fisheries (as long as it is practiced responsibly) and providing a precautionary measure of protection for stocks and populations of concern. Non-retention regulations are widely used and accepted in many fisheries in British Columbia. Alternative regulations like time and area closures are considered when conservation objectives cannot be achieved by catch and release regulations alone. For example, the catch and release rainbow trout fishery on the Horsefly River is closed when water temperature reaches a level that has been shown to be detrimental to fish health. I do not support forwarding this proposal to the F&W Director for consideration. I support option 3 which proposes the status quo with continued monitoring of the available science related to the effectiveness of catch and release fisheries as a management tool.

Signed by:

Resource Manager: Dana Atagi

Date

Fish and Wildlife Resource Manager Decision: SFAC Regulation Proposal 2013-3

Proposal Title: No Fishing in the Lakelse River Upstream of the CNR Bridge

Proponent: Brian Patrick – Regional Tackle Vendor Community

Proposed Regulation Change:

No fishing in the upper Lakelse River (upstream of the CNR Bridge). Alternate proposal: No Fishing during steelhead egg brood seasons

Summary of issue(s) proposal is to address: *(as stated in the proposal)*

To curb damage in easily accessible spawn beds (e.g. Herman’s Hole – the area where Herman Creek enters the Lakelse River) by anglers wading and fishing in the gravel beds where eggs are laid and to stop the targeting of pre-spawning and spawning fish. The proponent stated that has witnessed anglers kicking redds to chum resident rainbow trout. Also to reduce unknown damage (if any) to fish from the practice of catch and release until positive studies have been conducted to determine effects.

NB: This is a modification of SFAC 2012-1 – the previous proposal was meant to be applicable to the same spatial area (upstream of the CNR bridge rather than upstream of Herman Creek) as this proposal.

Existing Regulation & Justification Summary: *(may include biological comments)*

Regional Daily Catch Quota:

- 1 trout/day, July 1 – October 31 from streams (none under 30 cm)
- Wild steelhead release
- Non-retention of Dolly Varden and Bull Trout in streams
- Cutthroat trout release above CNR bridge, March 1- April 30

- Fly fishing only between Lakelse lake and CNR bridge Mar 1- May 31
- Bait ban; no power boats
- Class I water all year ; Steelhead stamp mandatory Sept 1 – May 31
- Canadian residents only upstream of the power line crossing

Management Considerations: *(summarize relevant: stock status, life history information, exploitation levels/limits, information or observations from other geographic locations or jurisdictions & relevant examples / references from the literature, social issues)*

Please refer to SFAC 2012-1 Fish and Wildlife Section Head Decision

Available Options: *(where appropriate, incorporate biological information above that supports an alternative approach to achieve the same outcome more effectively)*

Please refer to SFAC 2012-1 Fish and Wildlife Section Head Decision

Rationale

Summary of SFAC Issues and Concerns:

One committee member stated that steelhead actively spawn in the upper Lakelse River in mid-May and trout fishing occurs after steelhead have spawned. This committee member also expressed concerns that there would be a large social implication if this area was closed to angling. Another committee member stated that there should be no fishing for steelhead from January 1 to June 15 and that this would reduce the amount of both angling pressure and wading that occurs. One member disagreed with this proposal stating that steelhead spawn in Herman's Pool. Another felt that this closure would be ineffective until river boats and bait are banned on the Lakelse River.

The committee vote on this proposal included:

- Support: 1
- Against: 6
- Abstain: 0

Resource Manager Decision: This proposal is similar to the proposal (SFAC 2012-1) however a different area or zone has been proposed for closure. The information and issues identified in the response to 2012-1 and the 2013 proposals are similar. The management considerations and responses identified by Fisheries staff in 2012 are still relevant to the discussion of proposal 2013-3. As no new information has been submitted, the Regional Manager does not recommend forwarding this proposal to F&W Director for consideration. An appropriate non-regulatory action may be to undertake an angler information and education approach to improve the level of knowledge and understanding of anglers about the potential consequences of wading and redd disturbance.

Signed by:

Resource Manager: Dana Atagi

Date

Fish and Wildlife Resource Manager Decision: SFAC Regulation Proposal 2013-4

Proposal Title: Change Status of Zymagotitz River to Class 2 Classified Water

Proponent: Brian Patrick – Regional Tackle Vendor Community

Proposed Regulation Change:

Change status of Zymagotitz River to Class 2 Classified Water

Summary of issue(s) proposal is to address: *(as stated in the proposal)*

Zymagotitz River being a very special river is being fished indiscriminately by guides & others as a NO CLASSIFIED WATERS. This river should be classified as a special waters/Class II waters in order to restrict indiscriminant guiding for Steelhead, cutthroat, char & coho. Also enabling Ministry to allocate days in total for guides (if any) to restrict the overfishing of this unique little coastal river system. My own thoughts are that this system is so unique it should be the same as the unique & larger Lakelse system on the opposite bank of the Skeena.

Make it a class II & no guide days. At the very least any river systems in danger of overfishing of any sort be class II waters in order to allow the Ministry to decide how much pressure can be put on a small river system. We all remember what became of the Kasiks Coho runs being almost completely fished out due to being unclassified and therefore targeted by unscrupulous guides due to unregulated fishing. Some local guides have focused on the Zymagotitz as a no-charge (not classified) place to take clients especially for coho, even though runs are small. The main reason being it is such a small valley river system it is the very first river to clear up after the heavy rains we experience in the fall.

Regulatory/ Policy Impediments: *(list & provide details)*

Policies that apply to this regulation proposal include:

- Policy 3-2-01.00 Conservation
- Policy 3-1-01.01 Guiding Activities

The ministry seeks to achieve its conservation policy by setting conservative harvest allocations for freshwater fish species. These quotas are reflected in the Freshwater Fishing Regulations Synopsis.

There is no policy in place to outline criteria/procedures to consider/create a new Classified Water. Generally, a Class 2 Coastal Classified Water must:

- Be a quality semi-wilderness stream with wild anadromous fish
- Possesses trophy fish
- Have a rustic environment with few or many roads

Classifying a water under the *Angling and Scientific Collection Regulation* requires the following to be identified:

- The time period for classification
- The maximum number of guides and
- The maximum number of days angling guides may use during the classified period

Under the *Angling and Scientific Collection Regulation*, the Regional Manager has authority to allocate angler day quotas as per Sections 11(1.1) and (1.2) only if:

- A management plan applies to the classified water for which angler day quota is to be issued.
- An allocation process is used to allocate quota through either a bid, proposal or combination of bid and proposal.
- The period for which the angler day quota is allocated is 20 years or less

Existing Regulation & Justification Summary: (*may include biological comments*)

Regional Daily Catch Quota

- 1 trout/day, July 1 – October 31 from streams (none under 30 cm)
- Wild steelhead release
- Non-retention of Dolly Varden and Bull Trout in streams

Management Considerations: (*summarize relevant: stock status, life history information, exploitation levels/limits, information or observations from other geographic locations or jurisdictions & relevant examples / references from the literature, social issues*)

This proposal recommends changing the status of the Zymagotitz River to a Class 2 Classified Water and allocating zero guided angler days. The goal of this proposal appears to be an increase in the conservation measures currently in place on the Zymagotitz River by reducing angler effort upon provincially managed Steelhead, Char and Cutthroat Trout. This goal will be achieved through the complete restriction of angling guides and price disincentives (a new licence fee) for anglers.

Classified Waters have proved to be effective regulatory tools for limiting angling guide effort, as they establish caps on the number of guides and number of days a guide may operate. Caution is warranted, however, in using this method for controlling non-guided angler use. Experience has demonstrated that angler effort upon popular steelhead rivers in the Skeena Region has grown (mostly non-BC anglers) despite their Classified Waters status. This has occurred since 1990 and has included several licence fee increases (they doubled in 2003 for non-BC anglers) and implementation of additional exclusionary restrictions (resident-only in 2012).

The SFAC has received a submission previously identifying a conservation concern for Zymagotitz River trout and char. It is recognized this river supports small (in the order of hundreds) discrete populations of fish that are susceptible to human (i.e. over fishing) and

environmental induced changes. This has necessitated the implementation of precautionary regulations (e.g. steelhead, fluvial trout and char).

All of the provincially managed species identified in this application are subject to non-retention regulations. If additional conservation measures are desired or warranted, the remaining management options include no fishing regulations or the restriction of certain user groups. The latter would be achieved by eliminating angling guide effort on this river and the catch and release mortality created by this sector. Unless controls are developed over time to manage other users, however, a net conservation benefit to the fishery will not be reached.

The Skeena Quality Waters Strategy (QWS) process has proved that management of Classified Waters is expensive, controversial and time consuming. This process began in 2007 and changes were implemented in April 2012. The time invested toward this work has taken away from the ministry's ability to achieve other important projects.

Classifying the Zymagotitz River with zero guide allocation requires the creation of publicly vetted Angling Management Plan and changes to the *Angling and Scientific Collection Regulation* under the *Wildlife Act*. Regulatory changes of this nature are the sole responsibility of Cabinet. As such, there are no options for impacted angling guides to appeal this decision.

It is important to note that Salmon are managed by the federal government. All proposals regarding this species should be forwarded to the Sport Fish Advisory Board.

Available Options: *(where appropriate, incorporate biological information above that supports an alternative approach to achieve the same outcome more effectively)*

5. Request the proponent to re-submit this proposal clarifying the conservation concerns on a species specific basis
6. Defer on this decision until the ministry has sufficient resources and background information to initiate a planning process to develop an Angling Management Plan on the Zymagotitz River
7. Initiate a public process to develop an Angling Management Plan for the Zymagotitz River
8. Reject the proposal

Rationale

Summary of SFAC Issues and Concerns:

The proponent felt that the Kasiks had been negatively impacted by too much guided effort. One committee member indicated that the Zymagotitz was certainly a problem. Another committee member, also a guide, noted that this proposal, if accepted would

negatively impact guides and in particular, new entrants to guiding. The committee vote on this proposal included:

- Support: 3
- Against: 3
- Abstain: 1

Resource Manager Decision: Classification of new waters is a complex process that requires an Order in Council amendments to legislation. It also requires a complex process to determine what the appropriate regulatory prescription should be to address the identified crowding issues. The development of an Angling Management Plan for Zymagotitz River would be the first requirement before classification would be considered. If the AMP identifies a crowding issue and proposes classification as an appropriate management action then it would be advanced to the F&W Director for consideration. This proposal requests that the river be non-guided which adds further complexity to the regulation change. Until such time as an Angling Management Plan is developed for this water (and any other water) the Regional Manager will not be forwarding these kinds of regulation changes to the Director for consideration.

Signed by:

Resource Manager: Dana Atagi

Date