Federal Subsistence Board Public Meeting

January 21– 23, 2015
Dena'ina Civic & Convention Center
Anchorage, Alaska

January 2015

FEDERAL SUBSISTENCE BOARD
PUBLIC MEETING AGENDA
January 21 – 23, 2015
January 21: 11:00 a.m. – 5:00 p.m.; January 22-23: 8:30 a.m. – 5:00 p.m.
Dena'ina Civic and Convention Center
600 W. 7th Ave
Anchorage, Alaska

1. Call to Order and Introductions

2. Corrections/Additions to the Agenda

3. Information Sharing

4. Board Discussion of Council Topics with Regional Advisory Council Chairs or their Designees

5. Public Comment Period on Non-Agenda Items *(This opportunity is available at the beginning of each day)*

6. Public Comment Period on Consensus Agenda Items *(This opportunity is available at the beginning of each day)*

7. 2015–2017 Subparts C&D Proposals *(Fisheries Regulations)*

a. Announcement of Consensus Agenda (see list that follows)
b. Board deliberation and action on Non-Consensus Agenda items (see deliberation format that follows)
c. Adoption of Consensus Agenda

8. Briefings to the Board

a. Rural/Nonrural Determination Process update
b. Fisheries Resource Monitoring Program update
c. Kuskokwim Fishery Committee update
d. Yukon River §804 Requests and Kuskokwim River update
e. Southeastern Alaska RAC Proposal on Customary & Traditional Use update
f. Tribal Consultation Implementation Guidelines (action item)
g. Wood Bison update
h. Extraterritorial Jurisdiction update

9. Schedule of Future Federal Subsistence Board Meeting(s)

10. Other Business

11. Adjourn

Note: *To participate by teleconference, dial 1-888-455-5897, the passcode is 3344290. Updates on the Board's progress through the agenda can be obtained by calling-1-800-478-1456 or in Anchorage at 786-*3888.

FEDERAL SUBSISTENCE BOARD
REGULATORY CONSENSUS AGENDA ITEMS

The following proposals have been included on the consensus agenda. These are proposals for which there is agreement among Federal Subsistence Regional Advisory Councils, the Federal Interagency Staff Committee, and the Alaska Department of Fish and Game concerning Board action. Anyone disputing the recommendation on a proposal may request that the Board remove the proposal from the consensus agenda and place it on the regular agenda. The Board retains final authority for removal of proposals from the consensus agenda. The Board will take final action on the consensus agenda after deliberation and decisions on all other proposals.

FEDERAL SUBSISTENCE BOARD
REGULATORY NON-CONSENSUS AGENDA PROPOSALS

Procedure for considering proposals:

1) Analysis presentation (lead author)
2) Summary of written public comments (Regional Council Coordinator)
3) Summary of Tribal Consultation (Native Liaison)
4) Open floor to public testimony
5) Regional Council recommendation (Chair or designee)
6) Alaska Department of Fish and Game comments
7) Interagency Staff Committee comments (ISC Chair)
8) Board discussion with Council Chairs and State Liaison
9) Federal Subsistence Board deliberation and action

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FP15-01 Executive Summary	
General Description	Proposal FP15-01 requests that the definition of "hook" be described in regulation as "a hook with or without a barb." *Submitted by the Southcentral Alaska Subsistence Regional Advisory Council.*
Proposed Regulation	**§__.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.** *(a)* Definitions. *The following definitions apply to all regulations contained in this part:* **Hook *means a single shanked fish hook with a single eye constructed with 1 or more points with or without barbs.***
OSM Conclusion	**Support**
Southeast Alaska Subsistence Regional Advisory Council Recommendation	**Support with modification** to align Federal regulations with the current State regulatory definition of a barbless hook.
Southcentral Alaska Subsistence Regional Advisory Council Recommendation	**Support**
Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation	**Support with modification** to align Federal regulations with the current State regulatory definition of a barbless hook.
Bristol Bay Subsistence Regional Advisory Council Recommendation	**Support**
Yukon-Kuskokwim Delta Subsistence Regional Advisory Council Recommendation	**Support**
Western Interior Alaska Subsistence Regional Advisory Council Recommendation	**Support** with modification to align Federal regulations with the current State regulatory definition of a barbless hook.
Seward Peninsula Subsistence Regional Advisory Council Recommendation	**Support**
NorthwestArctic Subsistence Regional Advisory Council Recommendation	**Support**

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FP15-01 Executive Summary (continued)	
Eastern Interior Alaska Subsistence Regional Advisory Council Recommendation	**Support with modification** to align Federal regulations with the current State regulatory definition of a barbless hook.
North Slope Subsistence Regional Advisory Council Recommendation	**Support with modification** to align Federal regulations with the current State regulatory definition of a barbless hook.
Interagency Staff Committee Comments	See comments following the analysis.
ADF&G Comments	Official State comments on select proposals will be provided as a supplement at the meeting.
Written Public Comments	Two public comments were received both **supporting** a definition of a hook with or without a barb.

STAFF ANALYSIS
FP15-01

ISSUES

Proposal FP15-01 submitted by the Southcentral Alaska Subsistence Regional Advisory Council (Council) requests that the definition of "hook" be described in regulation as "a hook with or without a barb."

The proposed language would clarify the type of fishing hook that could be used under Federal subsistence fisheries regulations where hooks are an authorized methods and means to take fish.

DISCUSSION

The proponent requests a change to existing statewide Federal regulatory language to eliminate the potential for adoption of default methods and means restriction of a Federal subsistence fishery to the use of barbless hooks. This proposal was submitted in response to a recent Alaska Board of Fisheries decision (see regulatory history section) to restrict the Kenai River Chinook salmon sport fishery methods and means to the use of barbless hooks under certain conditions. If the Kenai River Chinook salmon sport fishery is restricted to the use of barbless hooks, the Federal subsistence rod and reel fishery might also be restricted to the use of barbless hooks by default.

In many parts of Alaska, stand-alone Federal subsistence fisheries regulations do not exist within §___.25 or §___.27. Federal subsistence fisheries methods and means regulations are the same for taking of fish under State of Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57), unless specifically modified in Federal regulation. In those areas where Federal subsistence fisheries regulations are absent, §___.14(a) indicates State fisheries regulations apply to public lands and are adopted as Federal subsistence fisheries regulations to the extent they are not inconsistent with, or superseded by, Federal subsistence regulations. In other words, if the State of Alaska adopts fisheries regulations, such as requiring barbless hooks in a fishery where Federal subsistence fisheries regulations do not exist or do not address what type of hook is allowed, Federal subsistence regulations would default to State regulations resulting in Federal subsistence users being restricted to barbless hooks.

Existing Federal Regulation

§__.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.

(a) Definitions. *The following definitions apply to all regulations contained in this part:*

No definintion

Proposed Federal Regulation

§__.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.

(a) Definitions. *The following definitions apply to all regulations contained in this part:*

Hook *means a single shanked fish hook with a single eye constructed with 1 or more points with or without barbs*.

Existing State Regulation

5 AAC 57.121. Special provisions for the seasons, bag, possession, and size limits, and methods and means for the Lower Section of the Kenai River Drainage Area

(1)sport fishing gear restrictions

. . .

(J) during times when the retention of king salmon is prohibited under 5 AAC 57.160(d) (2)(A) or 5 AAC 21.359(e)(1), only one unbaited, barbless, single-hook, artificial lure may be used when sport fishing for king salmon; in this subparagraph, "barbless" means the hook is manufactured without a barb or the

barb has been completely removed or compressed so the barb is in complete contact with the shaft of the hook;

5 AAC 21.359. Kenai River Late-Run King Salmon Management Plan

(e) From July 1 through July 31, if the projected inriver run of late-run king salmon is less than 22,500 fish, in order to achieve the sustainable escapement goal and provide reasonable harvest opportunity, the commissioner may, by emergency order, establish fishing seasons as follows:

(1) in the Kenai River sport fishery,

(A) the use of bait is prohibited; or

(B) the use of bait and retention of king salmon are prohibited, and only one unbaited, barbless, single-hook, artificial lure, as described in 5 AAC57.121(1)(J), may be used when sport fishing for king salmon;

Extent of Federal Public Waters

For purposes of this discussion, the phrase "Federal public waters" is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. Proposal FP15-01 was submitted to address Federal subsistence fisheries in all Federal public waters of Alaska.

Regulatory History

Over the years, numerous proposals requesting restriction of sport fisheries methods and means to barbless hooks have been submitted to the Alaska Board of Fisheries. At the January 29 – February 11, 2014 Upper Cook Inlet meeting, the Alaska Board of Fisheries deliberated Proposals 47, 48, 49, and 224 which requested restricting various Cook Inlet spot fisheries to the use of barbless hooks (ADF&G 2013 A, pages 144, ADF&G 2013 B, pages 280-286). The Alaska Department of Fish and Game (ADF&G) opposed these proposals because restricting anglers to the use of barbless hooks would have a negative effect on sport fishery opportunity without a measureable biological benefit. The ADF&G also indicated use of barbless hooks reduces angler efficiency by 11-24%, according to one study conducted by the California Department of Fish and Game in 2010, resulting in anglers fishing longer in order to achieve their bag limits, or reducing their harvest.

The Alaska Board of Fisheries adopted an amended Proposal 48 for the Kenai River Chinook salmon sport fishery, which requires barbless hooks as a conservation measure when the fishery is restricted to catch and release only. The discussions during the Alaska Board of Fisheries deliberations focused on reducing Chinook salmon handling mortality in the sport fishery when it is restricted to catch and release status. The adopted regulatory language defined "barbless hooks" in *5 AAC 57.121(1)(J)* as follows:

. . . "barbless" means the hook is manufactured without a barb or the barb has been completely removed or compressed so the barb is in complete contact with the shaft of the hook.

The Kenai River Chinook salmon sport fishery is the first fishery in Alaska with a barbless hook regulation. At their March 12, 2014 meeting, the Council was made aware of the new State sport fishery regulation and how it could, by default, impact the Federal subsistence Chinook salmon rod and reel fishery in the Kenai River. In response to the Alaska Board of Fisheries action, the Council submitted this proposal. However, the State of Alaska regulatory definition of a "barbless hook" was not available at the Council meeting and the Council was not presented with the language contained in the Proposed Federal Regulatory Language section above.

Current Events

Many Federal subsistence fisheries in Alaska allow the use of fishing hooks as a legal means of harvesting fish. Current Federal subsistence fisheries regulations reference allowing the use of a hook with a handline, jigging gear, long line, mechanical jigging gear, troll gear, hook and line attached to a rod or pole, and rod and reel. Though the use of fishing hooks is authorized, Federal subsistence regulations do not define a fishing hook and do not clearly indicate whether or not fishing hooks require a barb.

The Council indicated adoption of this proposal, if submitted as a statewide proposal, could benefit Federally qualified subsistence users throughout Alaska. Allowing the continued use of barbed hooks in all Federal subsistence fisheries, where use of hooks is authorized, will benefit Federally qualified subsistence users by reducing the chance of losing a fish hooked on a barbless hook as subsistence fishing is characterized by efficiency of harvest. Additionally, the Council transcripts state the purpose of this proposal is to legally maintain Federal subsistence fishermen's choice if they want to use a barbed or a barbless hook (SCRAC 2014).

Biological Background

The previously referenced ADF&G staff comments to the Alaska Board of Fisheries state the use of barbless hooks does not reduce mortality of released fish by a measurable amount. These staff comments stated the vast body of research conducted on catch and release mortality of fish largely suggests there is no significant difference in mortality rates between using barbed and barbless hooks (ADF&G 2013 A page 144); however, some studies supported the use of barbless hooks for specific species in some fisheries.

Other Alternates Considered

The State of Alaska has adopted regulations for the Kenai River Chinook salmon sport fishery which define a "barbless hook" under 5 AAC 57.121(1)(J)… *"barbless" means the hook is manufactured without a barb or the barb has been completely removed or compressed so the barb is in complete contact with the shaft of the hook;*. Regulatory language defining a "barbless hook" was not available for evaluation at the Council meeting when FP15-01 was submitted. An alternative for Proposal FP15-01 is to support the proposal with a modification that incorporates the regulatory language adopted by the State of Alaska. Supporting Proposal FP15-01 with the modification of mirroring the State of Alaska's statewide definition of a barbless hook will reduce regulatory complexity and enforcement concerns. The suggested modification would read:

> **§__.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.**
>
> *(a)* Definitions*. The following definitions apply to all regulations contained in this part:*
>
> **Hook** ***means a single shanked fish hook with a single eye constructed with 1 or more points with or without barbs. A hook without a "barb" means the hook is manufactured without a barb or the barb has been completely removed or compressed so the barb is in complete contact with the shaft of the hook***

Effects of the Proposal

If this proposal is adopted, it would maintain Federally qualified subsistence users' ability to select the type of fishing hooks, with or without barbs, they want to use. Once a definition of hook is in Federal regulation, Federally qualified subsistence users will not have to be concerned if the State of Alaska changes the definition of a hook or restricts other fisheries to the use of barbless hooks. Adoption of this proposal is not expected to have any effect on Federally qualified subsistence users, practices, fisheries, or fish stocks targeted. Adoption of this proposal will not result in additional impacts on Alaska's fishery resources because, where hooks are authorized, Federally qualified subsistence users most likely utilize barbed hooks to increase harvest efficiency as subsistence fishing is characterized by efficiency of harvest.

If this proposal is adopted, Federal and State regulations will be divergent in fisheries restricted to use of barbless hooks under State regulations. Adoption of FP15-01 will establish a Federal subsistence regulatory definition of hook to include both barbed and barbless hooks which will supersede both current and future State barbless hook regulations.

If this proposal is not adopted, Federally qualified users will be restricted to use the type of hook specified and defined by State regulations, as there is no Federal definition of hook. Currently, the only Federal subsistence fishery which could be impacted by not adopting FP15-01 is the Kenai River Chinook salmon fishery, where rod and reel is an authorized methods and means. Additionally, if this proposal is not adopted, potential barbless hook restrictions in other future Federal subsistence fisheries could unnecessarily decrease harvest efficiency of Federally qualified subsistence users.

OSM CONCLUSION

Support Proposal FP15-01

Justification

The proposal would add a definition of "hook" in Federal regulations, which would supersede restrictions on barbed hooks under State regulations. Initially, only the Kenai River Chinook salmon fishery would be affected, as the Alaska Board of Fisheries recently adopted barbless hook regulations for the Chinook salmon sport fishery when restricted to catch and release only. Currently subsistence users must comply with the State's methods and means when fishing with one or more hooks, even if the regulation is for barbless hooks. Restricting subsistence users from harvesting fish with barbed hooks would be an unnecessary restriction to existing fishing practices statewide and could reduce harvest efficiency.

Adoption of this proposal would protect Federal subsistence fishermen's choice to use barbed or barbless hooks. Adoption of this proposal would not result in additional impacts to Alaska's fisheries resources by Federal subsistence fishermen.

LITERATURE CITED

ADF&G 2013a. Alaska Department of Fish and Game staff comments on commercial, personal use, sport, guided sport, and subsistence finfish regulatory proposals, committee of the whole-groups 1-6 for the Upper Cook Inlet Management Area, Alaska Board of Fisheries meeting Anchorage, Alaska, January 31-Feburary 12, 2014. Alaska Department of Fish and Game, Regional Information Report No. 2A13-04, Anchorage.

ADF&G 2013b. Alaska Department of Fish and Game staff comments on commercial, personal use, sport, guided sport, and subsistence finfish regulatory proposals, Committees D, E, F, G for the Upper Cook Inlet Management Area, Alaska Board of Fisheries meeting Anchorage, Alaska, January 31-Feburary 12, 2014. Alaska Department of Fish and Game, Regional Information Report No. 2A13-05, Anchorage.

SCRAC 2014. Transcripts of the Southcentral Regional Advisory Council proceedings pages 68-72, March 12, 2014 in Anchorage, Alaska. Office of Subsistence Management, FWS. Anchorage, AK.

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southeast Alaska Subsistence Regional Advisory Council

Support Proposal FP15-01 **with modification** to define a fishing hook as with or without a barb. This wording will allow subsistence users to select the type of fishing hook they would like to use. There is no conservation concern associated with the use of barbed hooks for subsistence fishing and no reason for Federal subsistence users to use the same gear as sport fishers. This recommendation would align Federal and State definitions of a hook.

The modification should read:

> ***§__.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.***
>
> *(a) Definitions. The following definitions apply to all regulations contained in this part:*
>
> **Hook *means a single shanked fish hook with a single eye constructed with 1 or more points with or without barbs. A hook without a "barb" means the hook is manufactured without a barb or the barb has been completely removed or compressed so the barb is in complete contact with the shaft of the hook.***

Southcentral Alaska Subsistence Regional Advisory Council

Support Proposal FP15-01. There are no conservation concerns and allowing only barbless hooks would be an unnecessary restriction on subsistence users.

Kodiak/Aleutians Subsistence Regional Advisory Council

Support Proposal FP15-01 with modification to define a fishing hook as with or without a barb. This recommendation would align Federal and State definitions of a hook. There is no conservation concern and having clarity in the definition would ensure that subsistence users are not limited in their options of using whatever type of hook best suits their needs.

The modification should read:

> *Hook means a single shanked fish hook with a single eye constructed with 1 or more points with or without barbs. A hook without a "barb" means the hook is manufactured without a barb or the barb has been completely removed or compressed so the barb is in complete contact with the shaft of the hook.*

Bristol Bay Subsistence Regional Advisory Council

Support Proposal FP15-01**.** The Council noted no conservation concerns and wanted to ensure that there was no interruption of subsistence opportunity.

Yukon-Kuskokwim Delta Subsistence Regional Advisory Council

Support Proposal FP15-01. The Council agrees with the clarification and definition provided by this proposed action. There will be no negative effect on subsistence users.

Western Interior Alaska Subsistence Regional Advisory Council

Support Proposal FP15-01 **with modification** to define a fishing hook as with or without a barb. The Council supports the proposal to align with the State to maintain continuity (with or without barb); this action allows user choice and provides clarification. This recommendation would align Federal and State definitions of a hook.

The modification should read:

> *Hook means a single shanked fish hook with a single eye constructed with 1 or more points with or without barbs. A hook without a "barb" means the hook is manufactured without a barb or the barb has been completely removed or compressed so the barb is in complete contact with the shaft of the hook.*

Seward Peninsula Subsistence Regional Advisory Council

Support Proposal FP15-01. The use of barbed hooks help to prevent fish loss and a prohibition on using barbless hooks would be an unnecessary restriction on subsistence users. The Council felt the use of barbed hooks did not present a conservation concern.

Northwest Arctic Subsistence Regional Advisory Council

Support Proposal FP15-01. The Council agrees with the proponent and the OSM preliminary conclusion. This type of gear has been used in the region for years, and is in favor of options for users.

Eastern Interior Alaska Subsistence Regional Advisory Council

Support Proposal FP15-01 **with modification** to define a fishing hook as with or without a barb. The Council sees no conservation concern and the proposal would help clarify subsistence options for fishing with or without a barbed hook. This recommendation would align Federal and State definitions of a hook.

The modification should read:

> *Hook means a single shanked fish hook with a single eye constructed with 1 or more points with or without barbs. A hook without a "barb" means the hook is manufactured without a barb or the barb has been completely removed or compressed so the barb is in complete contact with the shaft of the hook.*

North Slope Subsistence Regional Advisory Council

Support Proposal FP15-01 **with modification** to define a fishing hook as with or without a barb. There is no conservation concern associated with the use of barbed hooks for subsistence fishing and no reason for Federal subsistence users to use the same gear as sport fishers. Subsistence fishers use the most effective means for harvesting fish and should have the flexibility to use whatever type of hook meets their needs or preference. This wording will allow subsistence users to select the type of fishing hook they would like to use. The Council discussed at length the details and differences of hook making (manufacture) and use across the region to ensure that all types of subsistence fish hooks used would be covered under the regulations. This recommendation would align Federal and State definitions of a hook.

The modification should read:

Hook means a single shanked fish hook with a single eye constructed with 1 or more points with or without barbs. A hook without a "barb" means the hook is manufactured without a barb or the barb has been completely removed or compressed so the barb is in complete contact with the shaft of the hook.

INTERAGENCY STAFF COMMITTEE COMMENTS

FP 15-01

The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendations and Federal Subsistence Board action on the proposal.

While the Regional Advisory Councils (Councils) were divided between supporting FP15-01 or a modification of the proposal, all Council recommendations were in support of defining "hook" in Federal regulation. The need for this Federal regulatory change is that recent regulatory action by the Alaska Board of Fisheries would impact Federally qualified subsistence users' ability to use barbed hooks under certain situations, because State regulations are incorporated into Federal regulations under §___.14(a) unless superseded. Defining hook as proposed in FP15-01, or following the modification recommended by several Councils, would ensure that Federally qualified subsistence users maintain their ability to select the type of fishing hook to use under Federal rod and reel regulations.

Instead of using the original proposal language, the language provided by councils recommending modifications incorporates the State's definition of hook, reducing regulatory complexity. Either wording, the proposed language or the modified language, would meet the intent of all the councils.

June 11, 2014

US Fish & Wildlife Service
ATTN: Theo Matuskowitz
Office of Subsistence Management
1011 East Tudor Rd., MS-121
Anchorage, Alaska 99503

To the Federal Subsistence Board:

On behalf of the Ahtna Tene Nene' Customary & Traditional Use Committee, I am pleased to submit comments to the Federal Subsistence Board on the 2015-2017 Federal Subsistence Fisheries Statewide - Proposal FP15-01.

I support Proposal 15-01 to add new definition to hook, which is defined as a single shanked fish hook with a single eye constructed with 1, 2, or 3 points with or without barbs.

Federally qualified subsistence users who fish with rod and reel do not fish recreationally for salmon. Those who choose to fish with rod and reel under federal subsistence program in the Upper Copper River District fish keep harvested salmon. They most likely do not catch and release salmon that are caught with rod and reel.

The average eleven year (2002-2013) reported Federal harvest with rod and reel of Sockeye and Chinook in the Glennallen Subdistrict of the Upper Copper River District was 5 Sockeye and 9 Chinook. Damage to the Sockeye and Chinook that would be caused by barbed hooks would minimal since the subsistence users would most likely retain all the hooked fish for consumption.

Please change federal regulation for the hook definition to allow single shanked fish hook with a single eye with 1, 2, or 3 points with or without barbs.

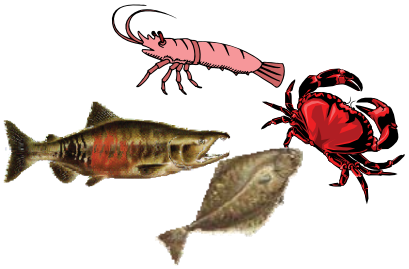
Sincerely,

Gloria Stickwan

Gloria Stickwan,
C&T/Environmental Coordinator

P.O. Box 649 – Glennallen, Alaska 99588
Phone: (907) 822-3476 – Fax: (907) 822-3495

Southeast Alaska Fishermen's Alliance
9369 North Douglas Highway
Juneau, AK 99801
Phone: 907-586-6652 Email: seafa@gci.net
Fax: 907-523-1168 Website: http://www.seafa.org



June 12, 2014

Federal Subsistence Board
Office of Subsistence Management
Attn: Theo Matuskowitz
1011 East Tudor Rd, MS-121
Anchorage, AK 99503

RE: Federal Subsistence 2015-2017 Fisheries Proposals
Sent via email: subsistence@fws.gov

Southeast Alaska Fishermen's Alliance (SEAFA) is a multi-gear/multi-species commercial fishing association representing our 300+ members involved in salmon, crab and shrimp in Southeast Alaska and longlining in the Gulf of Alaska. Many of our members also participate in subsistence, personal use and sport fisheries. Thank you for this opportunity to comment on the 2015-2017 proposed fishery regulation changes.

FP15-01: We support defining a fishing hook. This will make it very clear that a hook can have barbs in federal subsistence fisheries unless otherwise specified in regulation for a particular conservation issue.

FP15-02 Executive Summary	
General Description	Proposal FP15-02 requests at least two 48-hour fishing periods per week in Yukon River Subdistrict 5C. *Submitted by the Rampart Village Council.*
Proposed Regulation	*§100.27(e)(3) Yukon-Northern Area.* *. . .* *(i) Unless otherwise restricted in this section, you may take fish in the Yukon-Northern Area at any time. In those locations where subsistence fishing permits are required, only one subsistence fishing permit will be issued to each household per year. You may subsistence fish for salmon with rod and reel in the Yukon River drainage 24 hours per day, 7 days per week, unless rod and reel are specifically otherwise restricted in paragraph (e)(3) of this section.* *(ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.* *. . .* *(iv) During any State commercial salmon fishing season closure of greater than 5 days in duration, you may not take salmon during the following periods in the following districts:* *. . .* *(B) In District 5, excluding the Tozitna River drainage and Subdistrict 5D, salmon may not be taken from 6:00 p.m. Sunday until 6:00 p.m. Tuesday.* *(v) Except as provided in this section, and except as may be provided by the terms of a subsistence fishing permit, you may take fish other than salmon at any time.* *. . .* ***(xxii) In Subdistrict 5C, there will be a minimum of two 48-hour subsistence fishing periods per week between June 1 to October 1.***
OSM Conclusion	**Oppose**
Yukon-Kuskokwim Delta Subsistence Regional Advisory Council Recommendation	**Oppose**

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FP15-02 Executive Summary (continued)	
Western Interior Alaska Subsistence Regional Advisory Council Recommendation	**Oppose**
Seward Peninsula Subsistence Regional Advisory Council Recommendation	**Oppose**
Eastern Interior Alaska Subsistence Regional Advisory Council Recommendation	**Oppose**
Interagency Staff Committee Comments	See comments following the analysis.
ADF&G Comments	Official State comments on select proposals will be provided as a supplement at the meeting.
Written Public Comments	**None**

STAFF ANALYSIS
FP15-02

ISSUE

Proposal FP15-02, submitted by the Rampart Village Council, requests at least two 48-hour fishing periods per week in Yukon River Subdistrict 5C.

DISCUSSION

The proponent states that the community of Rampart, situated in Subdistrict 5C (**Map 1**), relies year-round on fish that is harvested for subsistence in the summer. By allowing at least two 48-hour fishing periods per week, there will be more food for Rampart families, and winter living will be easier because of food security. Further, the proponent anticipates that every subsistence user in the community would support this proposal.

It should be noted that there is never a complete closure to all subsistence fishing in the area. State regulations currently allow for two 48-hour fishing periods per week for salmon in Subdistricts 5A, 5B, and 5C. However, for salmon, in recent years the regular fishing schedule consisting of two 48-hour weekly periods was closed for long periods in June and July in order to protect Chinook salmon. The majority of Chinook salmon typically move upstream of Subdistrict 5C by late July.

Federal public waters in Subdistrict 5C are limited to about 6 miles of the Yukon River, approximately 60 miles upriver from Rampart.

Existing Federal Regulation

§___.27(e)(*3)* Yukon-Northern Area.

. . .

(i) Unless otherwise restricted in this section, you may take fish in the Yukon-Northern Area at any time. In those locations where subsistence fishing permits are required, only one subsistence fishing permit will be issued to each household per year. You may subsistence fish for salmon with rod and reel in the Yukon River drainage 24 hours per day, 7 days per week, unless rod and reel are specifically otherwise restricted in paragraph (e)(3) of this section.

(ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.

. . .

(iv) During any State commercial salmon fishing season closure of greater than 5 days in duration, you may not take salmon during the following periods in the following districts:

. . .

(B) In District 5, excluding the Tozitna River drainage and Subdistrict 5D, salmon may not be taken from 6:00 p.m. Sunday until 6:00 p.m. Tuesday.

(v) Except as provided in this section, and except as may be provided by the terms of a subsistence fishing permit, you may take fish other than salmon at any time.

Proposed Federal Regulation

§___.27(e)(*3)* Yukon-Northern Area.

. . .

(i) Unless otherwise restricted in this section, you may take fish in the Yukon-Northern Area at any time. In those locations where subsistence fishing permits are required, only one subsistence fishing permit will be issued to each household per year. You may subsistence fish for salmon with rod and reel in the Yukon River drainage 24 hours per day, 7 days per week, unless rod and reel are specifically otherwise restricted in paragraph (e)(3) of this section.

(ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.

. . .

(iv) During any State commercial salmon fishing season closure of greater than 5 days in duration, you may not take salmon during the following periods in the following districts:

. . .

(B) In District 5, excluding the Tozitna River drainage and Subdistrict 5D, salmon may not be taken from 6:00 p.m. Sunday until 6:00 p.m. Tuesday.

(v) Except as provided in this section, and except as may be provided by the terms of a subsistence fishing permit, you may take fish other than salmon at any time.

. . .

(xxii) In Subdistrict 5C, there will be a minimum of two 48-hour subsistence fishing periods per week between June 1 to October 1.

Existing State Regulation

***Yukon Area – Subsistence Regulations*5 AAC 01.210. Fishing seasons and periods.**

. . .

(b) When there are no commercial salmon fishing periods, the subsistence fishery in the Yukon River drainage will be based on a schedule implemented chronologically, consistent with migratory timing as the salmon run progresses upstream. The commissioner may alter fishing periods by emergency order, if the commissioner determines that preseason or inseason run indicators indicate it is necessary for conservation purposes. The fishing periods for subsistence salmon fishing in the Yukon River drainage will be established by emergency order as follows:

. . .

(3) District 4, Subdistricts 5-A, 5-B, and 5-C; two 48-hour fishing periods per week;

. . .

(c) When there are commercial salmon fishing periods, in the following locations, in addition to subsistence fishing periods opened by emergency order, salmon may be taken for subsistence during commercial salmon fishing periods, except that salmon may not be taken for subsistence during the 24 hours immediately before the opening of the commercial salmon fishing season:

. . .

(2) District 5, excluding the Tozitna River drainage and Subdistrict 5-D;

. . .

(d) During the commercial salmon fishing season when the department announces a commercial fishing closure that will last longer than five days, salmon may not be taken for subsistence during the following periods in the following districts:

. . .

(2) in District 5, excluding the Tozitna River drainage and Subdistrict 5-D, salmon may not be taken from 6:00 p.m. Sunday until 6:00 p.m. Tuesday.

. . .

(g) The commissioner may establish, by emergency order, additional subsistence salmon fishing periods in Subdistricts 4-B and 4-C and Districts 5 and 6 to compensate for any lost fishing opportunities due to reductions in commercial salmon fishing time.

(h) Except as provided in 5 AAC 01.225, and except as may be provided by the terms of a subsistence fishing permit, there is no closed season on fish other than salmon.

5 AAC 01.230. Subsistence fishing permits

. . .

(b) A subsistence fishing permit is required as follows:

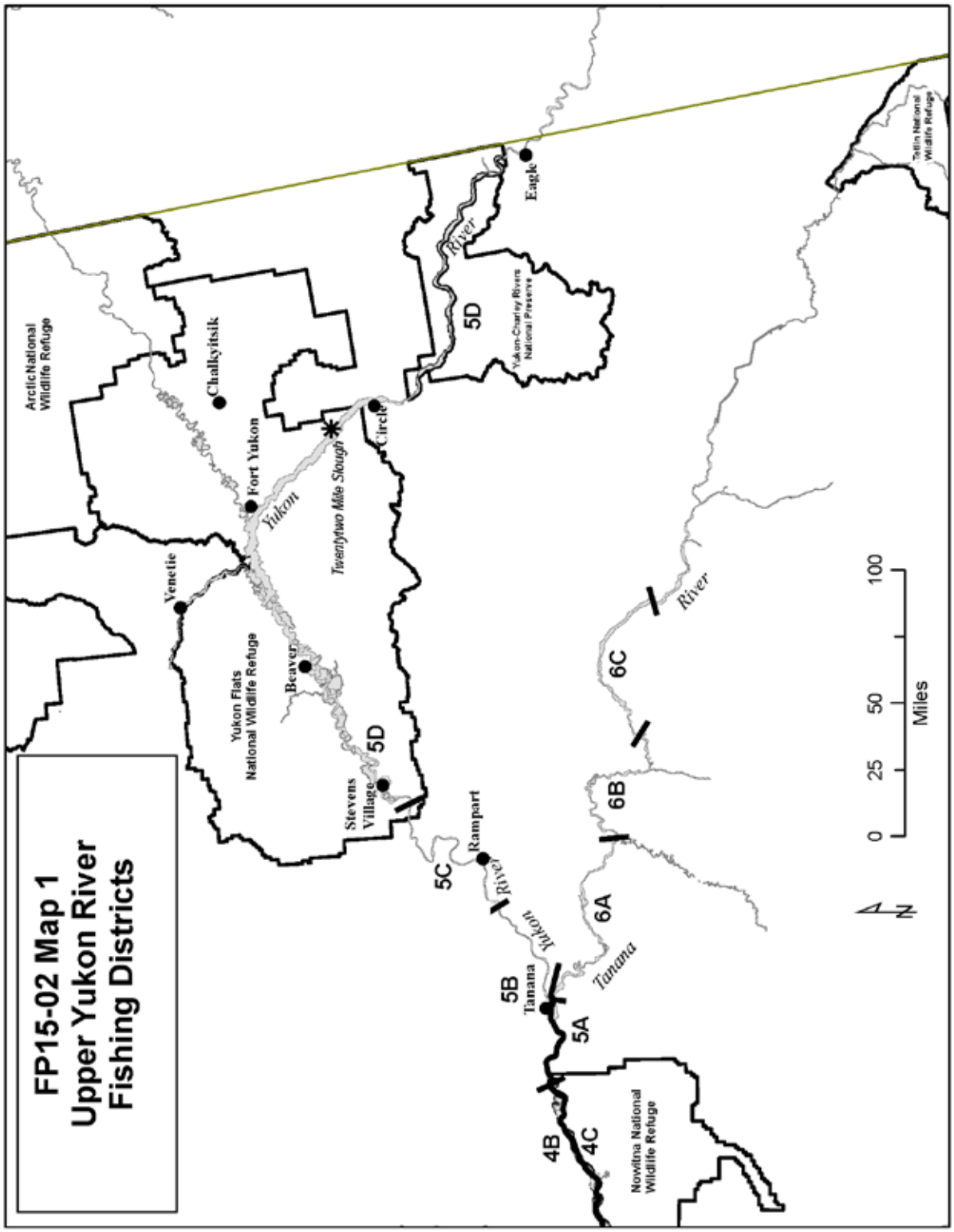
(1) for the Yukon River drainage upstream from the westernmost tip of Garnet Island to the mouth of the Dall River;

Extent of Federal Public Waters

For purposes of this discussion, the phrase "Federal public waters" is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. The Federal public waters addressed by this proposal are those portions of the Yukon River located within and adjacent to the external boundaries of the Yukon Flats National Wildlife Refuge in Subdistrict 5C. Approximately 6 river miles of Subdistrict 5C occur within Yukon Flats National Wildlife Refuge.

Customary and Traditional Use Determinations

For salmon other than fall chum salmon, residents of the Yukon River drainage, and the community of Stebbins


FP15-02 Map 1
Upper Yukon River
Fishing Districts
Arctic National Wildlife Refuge
Chalkyitsik
Fort Yukon
Yukon
Twentytwo Mile Slough
Circle
Eagle
River
5D
Yukon-Charley Rivers National Preserve
Tetlin National Wildlife Refuge
Venetie
Yukon Flats National Wildlife Refuge
Beaver
5D
Stevens Village
5C
Rampart
River
Yukon
5B
Tanana
5A
4B
4C
Nowitna National Wildlife Refuge
Tanana
6A
6B
6C
River
0
25
50
100
Miles
N

have a customary and traditional use determination. For fall chum salmon, residents of the Yukon River drainage, and the communities of Stebbins, Scammon Bay, Hooper Bay, and Chevak have a customary and traditional use determination.

Regulatory History

Since 2001, the Federal subsistence salmon fishery has operated on a schedule established by the Alaska Board of Fisheries and implemented by the Alaska Department of Fish and Game (ADF&G), which is chronologically consistent with migratory timing as the salmon runs progress upstream. Subsistence fishing is open 7 days per week until the schedule is established. The subsistence salmon fishing schedule is based on current or past fishing schedules and provides reasonable opportunity for subsistence salmon fishing during years of normal to below average runs. The objectives of the schedule are to 1) reduce harvest early in the runs when there is a higher level of uncertainty, 2) spread the harvest throughout the runs to reduce harvest impacts on any particular component of the run, and 3) distribute subsistence fishing opportunity among all users during years of low salmon runs (ADF&G 2013a). By regulation, fall season management begins in District 1 after July 15. State regulations currently allow for two 48-hour fishing periods per week in Subdistricts 5A, 5B, and 5C. Subsistence fishing schedules are announced in joint news releases from the Alaska Department of Fish and Game and the U.S. Fish and Wildlife Service.

In 2013, a subsistence fishing period was cancelled in District 1 and the northern portion of the Coastal District beginning June 20, and closures were similarly implemented in upriver districts chronologically to reduce harvest of Chinook salmon as they migrated upriver. Subdistricts 4-A and 5-D were subdivided into smaller areas to improve management precision and flexibility to ensure full protection of Chinook salmon when the reduced subsistence fishing schedule was implemented. As the 2013 Chinook salmon run progressed, in-season projections indicated that the run was very weak and would likely be insufficient to meet all escapement objectives. Each of the subsequent three pulses of Chinook salmon were protected by subsistence fishing closures as they migrated through Districts 1–5. Very limited fishing opportunity was provided in between pulses to allow harvest of chum salmon and other species. During these open subsistence fishing periods, gillnets continued to be restricted to 6-inch or smaller mesh size and in the upper river districts, the use of fish wheels was allowed with the stipulation that all Chinook salmon were to be release unharmed. In District 5, where relatively few summer chum salmon were available, subsistence fishing time was reduced even further to avoid offering opportunity that would primarily target Chinook salmon. The most reductions in subsistence fishing opportunity occurred in Subdistrict 5-D, where additional closures were necessary to increase Chinook salmon passage into Canada in an attempt to meet the Canadian Interim Management Escapement Goal (IMEG) for the Canadian stock (ADF&G 2013a).

All districts and subdistricts returned to their regulatory subsistence fishing schedules commensurate with switching over to fall management based on timing of fish migrating up river. In addition, upon switching to fall season management, subsistence fishermen were allowed to use up to 7.5 inch mesh gear. The schedules were as follows: commercial fishing continued in Districts 1 and 2 and subsistence fishing was open 7 days a week except for 12 hours before, during, and 12 hours after commercial openings. District 3 also went to a 7 day a week schedule because no commercial periods were to be announced. The Innoko River opened to 7 days a week on July 14. The entire District 4 was on a 5 day per week schedule by August 4. Subdistricts 5-A, 5-B, and 5-C went to a 5 day per week schedule effective August 6 (commercial salmon fishing periods were announced in Subdistricts 5-B and 5-C throughout the fall season), and District 6 remained on their two 42-hour periods per week for the entire fall season. The Koyukuk River went to 7 days per week on July 26 and the Old Minto area went to their 5 day per week schedule on August 2. Finally, the entire Subdistrict 5-D was returned to a 7 days per week schedule by August 14 (ADF&G 2013b).

During the 2014 summer season subsistence fishing for salmon in Subdistrict 5C was closed for the majority of June and July. On June 7, 2014, subsistence fishing for salmon in Subdistrict 5C was closed to gillnets with a mesh size greater than 4 inches in order to protect Chinook salmon. On June 30, 2014, use of 4-inch or smaller mesh size gillnets in Subdistict 5C was closed until further notice. On July 7, 2014, subsistence fishing for non-

salmon species using 4-inch or smaller mesh size gillnets re-opened in Subdistrict 5C. On July 22, 2014, the subsistence fishery for salmon returned to its regular fishing schedule consisting of two 48-hour periods per week. On July 29, 2014 subsistence fishing using a 7.5-inch or less mesh size gillnet re-opened in Subdistrict 5C. On August 5, 2014 subsistence fishing in Subdistrict 5C was liberalized to a 5 day per week schedule allowing the use of fish wheels or gillnets with a mesh size of 7.5 inches or smaller.

Biological Background

Chinook Salmon

Recent analyses indicate that Yukon River Chinook salmon stocks appear to be in the 6th year of a multi-year period of low productivity. Available data on Yukon River Chinook salmon stocks show periods of above-average abundance (1982-1997) and periods of below-average abundance (1998 onwards), as well as periods of generally higher productivity (brood years 1993 and earlier) mixed with years of low productivity (brood years 1994-1996 and 2002-2005; Schindler et al. 2013).

In 2013, Chinook salmon escapement goals for some tributaries of the Yukon River including the West Fork Andreafsky, Nulato, and Salcha rivers were achieved. However, the escapement goals for the East Fork Andreafsky, Anvik and Chena rivers were not met. The cumulative count on the Gisasa River was below average. High water conditions on the Chena River precluded counting for much of the season. Preliminary border passage based on the Eagle sonar was estimated at 30,401 Chinook salmon, which is below the lower end border passage goal of 42,500 Chinook salmon. These numbers, however, are subject to change with postseason data analysis (ADF&G 2013a).

The Chinook salmon return to the Yukon River in 2014 was expected to be extremely poor (64,000 to 121,000 Chinook salmon), and would likely be insufficient to meet all escapement goals. However, as of June 30, 2014, the run was estimated to be 137,000 Chinook salmon, based on counts taken at the Pilot Station sonar. Further, the upper end of the border passage agreement of 55,000 Chinook salmon was met on approximately July 27 based on Eagle sonar counts.

Summer Chum Salmon

Summer chum salmon runs in the Yukon River have provided a harvestable surplus in each of the last 11 years, 2003-2013. In 2013, most tributaries producing summer chum salmon experienced above average escapement. The East Fork Andreafsky River Sustainable Escapement Goal and Anvik River Biological Escapement Goal were achieved, and counts at the Gisasa and Henshaw rivers were above average. Salcha River and Chena River escapements, as assessed by tower counts, were above their historical medians. Yukon River summer chum salmon runs generally exhibit strong run size correlations among adjacent years and it should be noted that poor runs have resulted from large escapements (ADF&G 2013a). Similar to the past few years, actual harvest of summer chum has been affected by fishing restrictions implemented in response to poor Chinook salmon runs.

Fall Chum Salmon

Harvestable surplus of fall chum has been available the past 11 years (2003-2013).The total Yukon River fall chum run size is calculated, post season, and is based on individually monitored spawning escapements and estimated U.S. and Canadian harvests. Escapements were monitored using sonar in the Chandalar and Sheenjek rivers and the Canadian main stem rivers, and in the Fishing Branch River with a weir. Assessment of Tanana River stocks was based on either genetic apportionment of Pilot Station counts (both summer and fall Tanana River stocks passing after July 19) or the Delta River escapement and its relationship to the Tanana River mark–recapture estimates (ADF&G 2011). The preliminary 2013 run size estimate was greater than 1.1 million fall chum.

Coho Salmon

There are few coho salmon spawning escapement assessment projects in the Yukon River drainage. The Delta Clearwater River has the only established escapement goal for coho salmon, a Sustainable Escapement Goal of 5,200–17,000 fish (ADF&G 2011). A coho salmon index developed for the Yukon River from 1995 to 2012 (excluding 1996 and 2009) suggests that the average run size is 197,000 fish with an average escapement of 145,000 fish. The preliminary run estimate for 2013 was 137,000 coho salmon, with an estimated escapement of 51,000 fish (ADF&G 2013b). A harvestable surplus of coho salmon has been available for the past 11 years (2003 – 2013).

Harvest History

The population of Rampart has steadily declined from 68 people in 1990 to 24 people in 2010, according to the U.S. Census (ADCCED 2014). Many residents are of Koyukon Athabascan heritage. From 1991 to 2010, residents of Rampart harvested an average of 3,075 salmon annually (**Table 1**). The overall harvest of salmon has declined over the past 20 years, due in part to a decreasing population. The harvests of all species of salmon have declined. In 2011, the most recent year for which information is available, four Rampart households received State subsistence or personal use permits and reported harvesting 201 Chinook, 67 summer chum, and 340 fall chum salmon (Jallen et al. 2012).

State subsistence and personal use fishing permits are available for the Rampart Area (SR) and Haul Road Bridge Area (SY), which are in close proximity to Rampart; however, most of these permits have been issued to users from outside the area. For the Rampart Area, in 2011, the State issued a total of 29 subsistence and personal use permits, and 1,586 Chinook, 429 summer chum, 768 fall chum, and one coho salmon were reportedly harvested. The Haul Road Bridge is located 57 river miles upriver from the community of Rampart and approximately 5 miles downstream of the Federal waters of Subdistrict 5C. In 2011, people obtained 74 permits (Permit SY) and reported harvesting 1,552 Chinook, 1,139 summer chum, 1,828 fall chum, and 1 coho salmon in the Haul Road Bridge Area. Residents of Stevens Village obtained 5 of the Haul Road Bridge Area permits in 2011.

Effects of the Proposal

If this proposal is adopted, it would likely increase the opportunity for Federally qualified subsistence users to harvest salmon and/or other fish species during times of conservation. Continued harvest of salmon or other fishes during times of conservation when restrictions are necessary could result in insufficient numbers of fish for spawning and thereby threaten the continuance of subsistence uses of overharvested salmon or other fish species in the future.

OSM CONCLUSION

Oppose FP15-02

Justification

For the Yukon Area, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for subsistence taking of fish under State issued emergency orders, unless superseded by Federal special action or regulation. State regulations currently allow for two 48-hour fishing periods per week in Subdistricts 5A, 5B, and 5C. Beginning the first week of August in both 2013 and 2014 seasons, subsistence fishing schedules have been liberalized to at least a 5-day per week schedule allowing the use of fish wheels or gillnets with a mesh size of 7.5 inches or smaller. However, as cited in State regulation, the State may alter fishing periods by emergency order, if the commissioner determines that preseason or in-season run indicators indicate it is necessary for conservation purposes. Fishery managers have the ability to manage both time and area and liberalize or restrict fishing opportunities based on the abundance of salmon that enter the river. The proposed

regulatory change would likely increase the level of harvest of salmon or other fishes during times of conservation and thereby reduce the likelihood of meeting spawning needs. Failure to provide sufficient numbers of salmon or other fish species for spawning could threaten the continuance of subsistence uses of salmon or other fishes in the Yukon River in the future.

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Table 1. The harvest of salmon by residents of Rampart, 1989 to 2011.

COMMUNITY OF RAMPART					
Year	Number of fish harvested[a]				
	Chinook	Summer chum	Fall chum	Coho	Total
1989	3,177	26	2,472	87	5,762
1990	1,481	58	10,818	591	12,948
1991	988	20	5,801	58	6,867
1992	2,802	4,494	5,701	75	13,072
1993	1,956	1,489	3,272	38	6,755
1994	1,354	559	1,007	99	3,019
1995	1,461	1,168	1,403	0	4,032
1996	1,751	1,188	896	5	3,840
1997	2,203	738	645	34	3,620
1998	885	19	100	20	1,024
1999	2,018	60	4,624	126	6,828
2000	847	47	0	0	894
2001	1,857	0	183	0	2,040
2002	852	14	0	0	866
2003	1,411	9	365	0	1,785
2004	287	103	0	0	390
2005	411	315	358	10	1,094
2006	429	135	250	0	814
2007	250	25	250	50	575
2008	136	27	1,000	0	1,163
2009	528	112	1,000	0	1,640
2010	262	161	735	24	1,182
2011	201	67	340	0	608
1991 to 2000 average	1,627	978	2,345	46	4,995
2001 to 2010 average	642	90	414	8	1,155
1991 to 2010 average	1,134	534	1,380	27	3,075

Source: Jallen et al. (2012) and Whitmore et al. (1990)

[a] From 1989 to 2003, salmon harvests were estimated based on household harvest surveys. From 2004 to 2011, salmon harvests were reported on State subsistence harvest permits.

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Western Interior Alaska Subsistence Regional Advisory Council

Oppose Proposal FP15-02. Existing regulations are adequate to provide opportunity for users on the river. Current State regulatory process provides for two 48-hour periods. There are small areas of federal public waters, and they are distant from Rampart. Another concern is the 5C area (haul road bridge), lots of potential fishing pressure there.

Yukon-Kuskokwim Delta Subsistence Regional Advisory Council

Oppose Proposal FP15-02. The Council agrees with the OSM justification to oppose this proposal. Conservation of Chinook salmon is vital and the proposed action would likely increase the level of harvest, and reduce the likelihood of meeting spawning and escapement needs.

Seward Peninsula Subsistence Regional Advisory Council

Oppose Proposal FP15-02. The Council determined that providing these two 48 hour periods as requested by the proponent could cause conservation concerns for salmon during years of low salmon abundance.

Eastern Interior Alaska Subsistence Regional Advisory Council

Oppose Proposal FP15-02. The Council sees a very clear conservation concern. Evidence supported by local knowledge that this fishing period in this area would catch late run large female Chinook and overall Chinook conservation efforts would be greatly impacted. The proposal would impact all other subsistence users due to decline in Chinook stocks from overharvest in times of very low abundance.

INTERAGENCY STAFF COMMITTEE COMMENTS

FP15-02

The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Councils' recommendations and Federal Subsistence Board action on the proposal.

FP15-04 Executive Summary	
General Description	Proposal FP15-04 seeks to allow Federal subsistence users to continue using set-gillnets to harvest salmon in the Yukon River drainage when drift-gillnet salmon fisheries are closed. *Submitted by the Eastern Interior Regional Advisory Council.*
Proposed Regulation	*§___.27(e)(3)(xiii) You may take salmon only by gillnet, beach seine, fish wheel, or rod and reel, subject to restrictions set forth in this section.* *(A) In the Yukon River drainage, you may not take salmon for subsistence fishing using gillnets with stretched mesh larger than 7.5 inches.* *(B) ~~[Reserved]~~* ***In the Yukon River drainage, during times of Chinook salmon conservation, managers may restrict drift gill net gear use by time and area, while allowing for set net gear use for subsistence purposes by time and area.***
OSM Conclusion	**Take no action**
Yukon-Kuskokwim Delta Subsistence Regional Advisory Council Recommendation	**Take no action**
Western Interior Alaska Subsistence Regional Advisory Council Recommendation	**Oppose**
Seward Peninsula Subsistence Regional Advisory Council Recommendation	**Oppose**
Eastern Interior Alaska Subsistence Regional Advisory Council Recommendation	**Take no action**
Interagency Staff Committee Comments	See comments following the analysis.
ADF&G Comments	Official State comments on select proposals will be provided as a supplement at the meeting.
Written Public Comments	**None**

STAFF ANALYSIS
FP15-04

ISSUE

Proposal FP15-04, submitted by the Eastern Interior Alaska Subsistence Regional Advisory Council, seeks to allow Federally qualified subsistence users to continue using set-gillnets to harvest salmon in the Yukon River drainage (**Map 1**) when drift-gillnet salmon fisheries are closed.

DISCUSSION

The proponent's intent is to give the Federal manager the authority to independently differentiate between gear types by allowing set and/or drift gillnets during fishing periods and in areas targeting summer chum salmon, while at the same time allowing only set gillnets during fishing periods in areas targeting Chinook salmon or during times of Chinook salmon conservation. According to the proponent, this proposal would provide for some subsistence harvest of chum salmon while reducing impacts to Chinook salmon by fishing close to shore with set nets where Chinook salmon are less likely to be abundant and, if present, are usually smaller jacks. The use of set nets in place of drift nets may improve the quality of Chinook salmon escapement due to the incidental harvest of Chinook salmon being located closer to shore where smaller Chinook salmon tend to run. Avoiding mid-river deep drifts, which the proponent states tend to catch larger, more fecund Chinook salmon, should improve escapement for larger more fecund Chinook salmon.

The in-season manager currently has the delegated authority (*see* **Appendix A** in FP15-03) to manage gear types in a manner consistent with the proposed action.

Existing Federal Regulation

Yukon-Northern Area—Salmon

§___.27(e)(3)(xiii) You may take salmon only by gillnet, beach seine, fish wheel, or rod and reel, subject to restrictions set forth in this section.

(A) In the Yukon River drainage, you may not take salmon for subsistence fishing using gillnets with stretched mesh larger than 7.5 inches.

(B) [Reserved]

Proposed Federal Regulation

Yukon-Northern Area—Salmon

§___.27(e)(3)(xiii) You may take salmon only by gillnet, beach seine, fish wheel, or rod and reel, subject to restrictions set forth in this section.

(A) In the Yukon River drainage, you may not take salmon for subsistence fishing using gillnets with stretched mesh larger than 7.5 inches.

(B) ~~[Reserved]~~ ***In the Yukon River drainage, during times of Chinook salmon conservation, managers may restrict drift gill net gear use by time and area, while allowing for set net gear use for subsistence purposes by time and area.***

Other Relevant Federal Regulation

Yukon-Northern Area—Salmon

§___.27(e)(3) (xv) In Districts 4, 5, and 6, you may not take salmon for subsistence purposes by drift gillnets, except as follows:

(A) In Subdistrict 4A upstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14, and chum salmon by drift gillnets after August 2;

(B) In Subdistrict 4A downstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14;

(C) In the Yukon River mainstem, Subdistricts 4B and 4C you may take Chinook salmon during the weekly subsistence fishing opening(s) by drift gillnets no more than 150 feet long and no more than 35 meshes deep, from June 10 through July 14.

Existing State Regulation

Yukon Area—Subsistence Finfish Fishery

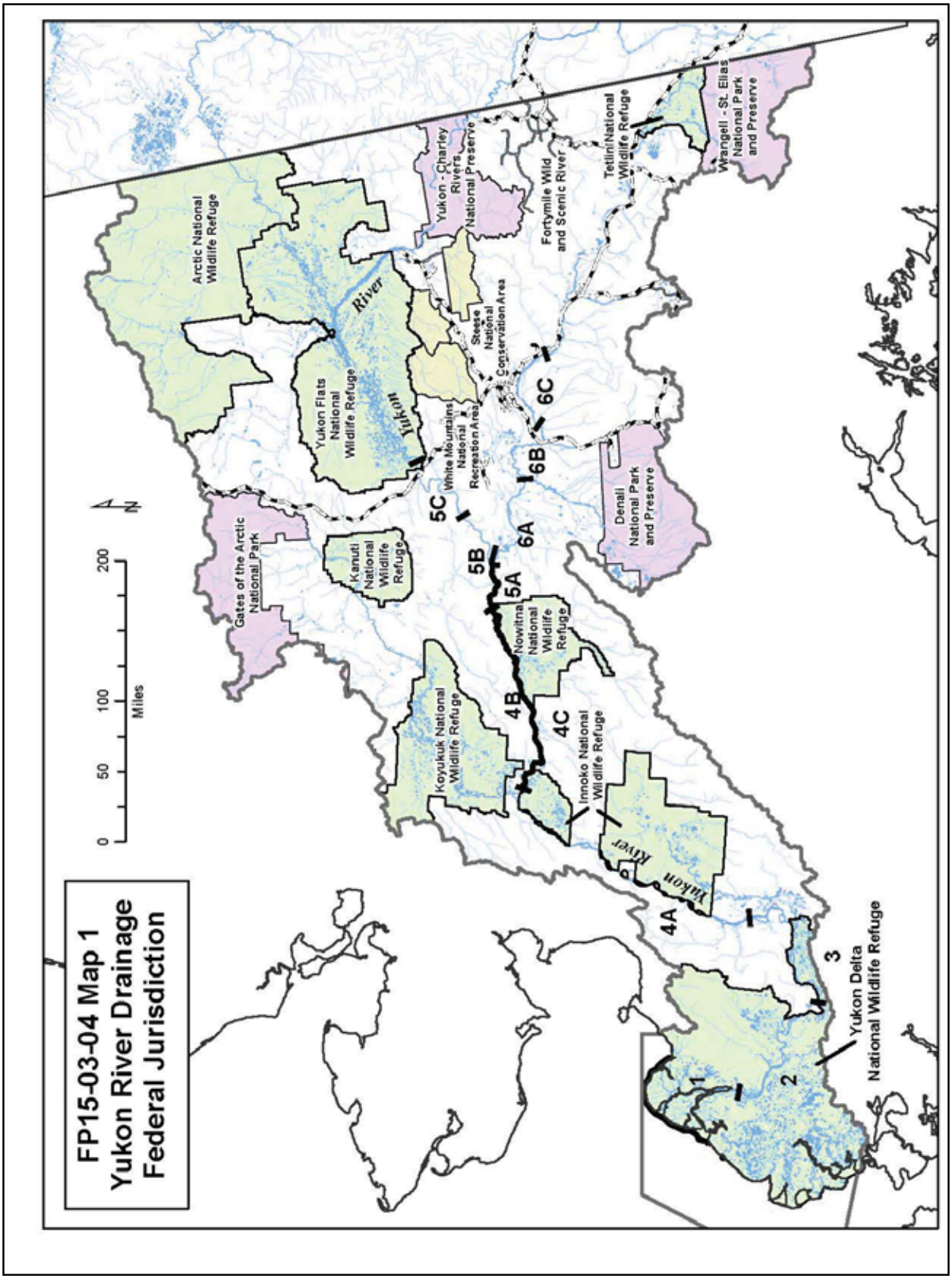
5 AAC 01.220. Lawful gear and gear specifications

(a) Salmon may be taken only by gillnet, beach seine, a hook and line attached to a rod or pole, handline, or fish wheel, subject to the restrictions set out in this section, 5 AAC 01.210, and 5 AAC 01.225–5 AAC 01.249.

(e) In Districts 4, 5, and 6, salmon may not be taken for subsistence purposes by drift gillnets, except as follows:

(1) in Subdistrict 4-A upstream from the mouth of Stink Creek, king salmon may be taken by drift gillnets from June 10 through July 14, and chum salmon may be taken by drift gillnets after August 2;

(2) in Subdistrict 4-A downstream from the mouth of Stink Creek, king salmon may be taken by drift gillnets from June 10 through July 14;


FP15-03-04 Map 1
Yukon River Drainage
Federal Jurisdiction
0
50
100
200
Miles
N
Arctic National Wildlife Refuge
Yukon Flats National Wildlife Refuge
Yukon River
Gates of the Arctic National Park
Kanuti National Wildlife Refuge
Koyukuk National Wildlife Refuge
Nowitna National Wildlife Refuge
Innoko National Wildlife Refuge
Yukon River
Yukon Delta National Wildlife Refuge
White Mountains National Recreation Area
Steese National Conservation Area
Yukon - Charley Rivers National Preserve
Fortymile Wild and Scenic River
Tetlin National Wildlife Refuge
Wrangell - St. Elias National Park and Preserve
Denali National Park and Preserve
1
2
3
4A
4B
4C
5A
5B
5C
6A
6B
6C

Extent of Federal Public Waters

For purposes of this discussion, the phrase "Federal public waters" is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. The Federal public waters addressed by this proposal are those portions of the Yukon River located within and adjacent to the external boundaries of the Yukon Delta National Wildlife Refuge in Districts 1, 2 and 3; Innoko National Wildlife Refuge in District 4; Koyukuk National Wildlife Refuge in District 4; Kanuti National Wildlife Refuge in District 4; Nowitna National Wildlife Refuge in Districts 4 and 5; Yukon Flats National Wildlife Refuge in District 5; Arctic National Wildlife Refuge in District 5; Tetlin National Wildlife Refuge in District 6; Yukon-Charlie National Park; Denali National Park in District 6; Gates of the Arctic National Park in District 4; Wrangell-St. Elias National Park in District 6; White Mountains and Steese National Recreation Areas in Districts 5 and 6; and all components of the Wild and Scenic River System located outside the boundaries of National Parks, National Preserves, or National Wildlife Refuges, including segments of the Beaver Creek, Birch Creek, Delta, and Fortymile Wild and Scenic Rivers.

Customary and Traditional Use Determinations

For salmon other than fall chum salmon, residents of the Yukon River drainage and the community of Stebbins have a customary and traditional use determination in the Yukon River drainage. For fall chum salmon, residents of the Yukon River drainage and the communities of Stebbins, Scammon Bay, Hooper Bay, and Chevak have a customary and traditional use determination in the Yukon River drainage. For freshwater fish (other than salmon) residents of the Yukon Northern Area have a customary and traditional use determination within the Yukon River drainage.

Regulatory History

State of Alaska Regulatory History

In November 1973, the Alaska Board of Fisheries prohibited the use of drift gillnets for commercial fishing in the Yukon River upstream of the confluence with the Bonasila River. This action was based on the assessment that drift gillnet use was historically low in the middle and upper Yukon River drainage and the need to prevent possible gear conflicts in the future (ADF&G 2001).

In December 1976, the Alaska Board of Fisheries prohibited the use of drift gillnets for subsistence fishing in the middle and upper Yukon Areas (Districts 4-6). The Alaska Board of Fisheries discussions at that time indicated that the possible increase in the use of drift gillnets could seriously impact both the conservation and allocation of middle and upper Yukon River salmon stocks, which were being harvested at maximum levels (ADF&G 2001). Subsistence users were allowed to continue using drift gillnets throughout the Yukon River drainage until the 1977 season.

In 1981, drift gillnets were again allowed for subsistence salmon fishing in Subdistrict 4-A upstream from Stink Creek.

In 1994, the Alaska Board of Fisheries questioned the need for drift gillnets to provide for adequate subsistence opportunity. State staff comments suggested that at that time it did not appear necessary (ADF&G 2001). The Alaska Board of Fisheries stated that the Alaska Department of Fish and Game could allow increased time for subsistence fishing with other gear types by Emergency Order, as an alternative, if subsistence needs were not being met.

In 1995, the remainder of Subdistrict 4-A, below Stink Creek, was reopened to the use of drift gillnets for subsistence fishing.

In January 2001 and 2004, the Alaska Board of Fisheries denied requests for the use of drift gillnets in Subdistrict 4-B based on concerns of increased harvests and considered the proposals to be a new and expanding fishery

that could target a stock of yield concern. Yukon River Chinook and fall chum salmon were designated as stocks of "yield concern[1]" in the fall of 2000. Summer chum salmon were designated as a stock of "management concern[2]".

In February 2007, the Alaska Board of Fisheries rejected a proposal to prohibit subsistence and commercial gillnets over 6.0-inch stretch mesh.

In March 2007, the Fairbanks Fish and Game Advisory Committee submitted an agenda change request to the Alaska Board of Fisheries requesting that it take emergency action to restrict the maximum mesh size of subsistence and commercial gillnets to 7.5-inch mesh in the Yukon River. During its October 9–11, 2007 work session, the Alaska Board of Fisheries stated that this issue was thoroughly discussed at its January/February 2007 Arctic-Yukon-Kuskokwim meeting and rejected the agenda change request (ADF&G 2007).

The Alaska Board of Fisheries met again in January 2010 to consider regulatory proposals to reduce exploitation rates, gillnet mesh size and depth to address long standing conservation concerns about decreasing trends in size and productivity of Yukon River Chinook salmon. Proposal 90 requested a prohibition of gillnets with greater than 6.0-inch stretch mesh for the Yukon River commercial and subsistence fisheries. The Alaska Board of Fisheries amended Proposal 90 and adopted regulations that limit the maximum gillnet mesh size for Yukon River commercial and subsistence fisheries to 7.5-inch stretch mesh, effective in 2011 allowing a one year phase-in period for fishermen (ADG&G 2010). In addition, the Alaska Board of Fisheries amended Proposal 94 that addressed window closure schedules and adopted a regulation that gave ADF&G managers emergency order authority to sequentially close fisheries to allow pulses (large numbers of migrating fish) to migrate with little or no exploitation (not fished) through all fisheries to their spawning grounds. Fishermen and ADF&G managers reported that this strategy had worked well during 2009 to increase the numbers and quality of escapement (larger, older female fish) reaching spawning streams (ADF&G 2010).

Federal Regulatory History

Since October 1999, Federal regulations for the Yukon-Northern Area stipulated that, unless otherwise restricted, rural residents may take salmon in the Yukon-Northern Area at any time by gillnet, beach seine, fish wheel, or rod and reel unless exceptions are noted. In Subdistricts 4-B, 4-C and District 5, subsistence regulations have mirrored those of the State, stipulating that fishers may not take salmon using drift gillnets. A less restrictive proposal (FP04-05) to allow the use of drift gillnets in the lower 16 miles of Subdistricts 4-B and 4-C was submitted to the Federal Subsistence Board in 2003. The Federal Subsistence Board rejected that proposal based on conservation concerns. However, there were many points discussed on both sides of the issue during that Federal Subsistence Board meeting. The proponent was encouraged to work with State and Federal staff and subsistence users to craft another proposal with some adjustments that may help address some of the conservation concerns (FSB 2003).

In 2002 the Federal Subsistence Board delegated some of its authority to manage Yukon River drainage subsistence salmon fisheries to the Branch Chief for Subsistence Fisheries, U.S. Fish and Wildlife Service, in Fairbanks, Alaska (*see* **Appendix A** in FP15-03). The Federal Subsistence Board's delegation allows the Federal manager to open or close Federal subsistence fishing periods or areas provided under codified regulations, and to

[1]Yield concern: a concern arising from a chronic inability, despite the use of specific management measures, to maintain expected yields, or harvestable surpluses, above a stock's escapement needs. "Chronic inability" refers to the continuing or anticipated inability to meet expected yields over a four to five year period, which is roughly equivalent to the generation time of most salmon species. "Expected yields" refers to levels at or near the lower range of the recent historic harvests if they are deemed sustainable. A yield concern is less severe than a management concern, which refers to a stock that fails to consistently achieve biological escapement or optimal escapement goals (ADF&G and BOF 2000).

[2] Management concern: a concern arising from a chronic inability, despite use of specific management measures, to maintain escapements for a stock within the bounds of the SEG, BEG, OEG, or other specific management objectives for the fishery. "Chronic inability" means the continuing or anticipated inability to meet escapement objectives over a four to five year period, which is roughly equivalent to the generation time of most salmon species. A management concern is not as severe as a conservation concern, which refers to a stock that fails to consistently meet its sustained escapement threshold (SET) (ADF&G and BOF 2000).

specify methods and means.

In 2004, fishery proposal FP05-04, submitted by the Western Interior Subsistence Regional Advisory Council, requested that drift gillnets be allowed in Subdistricts 4-B, 4-C and District 5 of the Yukon River. This gear would be restricted both in depth and length, not to exceed 35 meshes in depth and 150 feet in length. The use of drift gillnets would only be allowed during two-36-hour periods within the current subsistence fishing schedules or periods in Subdistricts 4-B, 4-C, and District 5. This proposal was adopted with modification to exclude chum salmon and to include a requirement for a registration permit (FSB 2005).

In 2013, fishery proposal FP13-01, submitted by the Koyukuk National Wildlife Refuge, requested the removal of the Federal subsistence permit requirement for the Chinook salmon drift gillnet fishery for Yukon River Subdistricts 4B and 4C. This proposal was adopted (FSB 2013).

Gear Used in the Middle and Upper Yukon River

Loyens (1966) describes the importance of salmon to the people of the Yukon River as "the staple in the native food supply…and that fishing was the most important subsistence activity" and it remains highly important today. Among salmon, Chinook salmon are foremost in importance for most people, followed by chum and coho salmon (Pope 1979).

Historically, the primary salmon fishing gear types were fish traps used together with fish fences, gillnets, and dip nets prior to the introduction of fish wheels around the turn of the century (Loyens 1966). Around 1910, people along the Yukon began to use the fish wheel almost exclusively in the middle and upper river areas, establishing large camps on the Yukon River (McFadyen Clark 1981).

Drift gillnets were historically used by the Deg Hit'an and Koyukon Athabaskan people in the middle Yukon as an alternative to fish traps or dip nets (Wheeler 2004 pers. comm., and Osgood 1940). Drift gillnets were primarily used to catch Chinook salmon and were deployed from a canoe or suspended between two canoes on the main river. During the 1950s drift gillnets became more common, facilitated in part by the introduction of power motors.

Drift gillnets have been used by some residents of Galena for many years. When drift gillnets were again allowed in the upper portion of Subdistrict 4-A in 1981, fishers from Galena began making the 16-mile trip downstream to drift for Chinook salmon. Typically, unrelated individuals fish together during the evenings for several hours at a time (Marcotte 1990). This method of salmon fishing can be effective for catching Chinook and fall chum salmon with economy of effort since separate trips are not needed to reset or pull gear at the beginning and ends of the open fishing periods (Marcotte 1990).

Drift gillnet use in the upper Yukon River, above District 4, has not been well documented and is likely to have been at very low levels when allowed. However, there has been some reported use of drift gillnets as far upstream as the Teslin River in Canada, just below the highway bridge at Johnson's Crossing (USFWS 1956). There have also been verbal reports from elders and Regional Council members of people using drift gillnets in the Alaskan portion of the middle and upper Yukon River for subsistence fishing prior to the restrictions going into place for this gear type.

Current Events - Chinook Salmon

Directed commercial fishing for Yukon River Chinook salmon has been discontinued since 2007 and subsistence fishing opportunities have become increasingly more restrictive in an effort to conserve Chinook salmon. In 2013, fishery managers reduced subsistence fishing opportunity to limit harvests to approximately 25% of historical levels. However, even with very reduced subsistence harvests, most escapement objectives were not met. The 2013 Chinook salmon run was one of the poorest runs on record. The Chinook salmon return to the Yukon River

in 2014 was expected to be extremely poor and likely insufficient to meet all escapement goals. Fishermen throughout the drainage were advised ahead of the season to not expect fishing opportunity to harvest Chinook salmon and to consider using other more abundant fish resources available to them to supplement their subsistence needs. The 2014 season began with no subsistence, sport, or commercial fisheries anticipated for Chinook salmon in the U.S. portion of the Yukon River drainage. Subsistence fishing opportunities for species other than Chinook salmon were available throughout the 2014 season and the majority of subsistence fishing restrictions that occurred were during June and July to protect Chinook salmon as they moved upriver to spawning areas.

Biological Background

Chinook Salmon

Recent analyses indicate that Yukon River Chinook salmon stocks appear to be in the 6th year of a multi-year period of low productivity. Available data on Yukon River Chinook salmon stocks show periods of above-average abundance (1982-1997) and periods of below-average abundance (1998 onwards), as well as periods of generally higher productivity (brood years 1993 and earlier) mixed with years of low productivity (brood years 1994-1996 and 2002-2005; Schindler et al. 2013).

In 2013, Chinook salmon escapement goals for some tributaries of the Yukon River including the West Fork Andreafsky, Nulato, and Salcha rivers were achieved. However, the escapement goals for the East Fork Andreafsky, Anvik and Chena rivers were not met. The cumulative count on the Gisasa River was below average. High water conditions on the Chena River precluded counting for much of the season. Preliminary border passage based on the Eagle sonar was estimated at 30,401 Chinook salmon, which is below the lower end border passage goal of 42,500 Chinook salmon. These numbers, however, are subject to change with postseason data analysis (ADF&G 2013a).

The Chinook salmon return to the Yukon River in 2014 was expected to be extremely poor (64,000 to 121,000 Chinook salmon), which would likely be insufficient to meet all escapement goals. However, as of June 30, 2014, the run was estimated to be 137,000 Chinook salmon, based on counts taken at the Pilot Station sonar. Further, the upper end of the border passage agreement of 55,000 Chinook salmon was met on approximately July 27 based on Eagle sonar counts.

Summer Chum Salmon

Summer chum salmon runs in the Yukon River have provided a harvestable surplus in each of the last 11 years, 2003-2013. In 2013, most tributaries producing summer chum salmon experienced above average escapement. The East Fork Andreafsky River Sustainable Escapement Goal and Anvik River Biological Escapement Goal were achieved, and counts at the Gisasa and Henshaw rivers were above average. Salcha River and Chena River escapements, as assessed by tower counts, were above their historical medians. Yukon River summer chum salmon runs generally exhibit strong run size correlations among adjacent years and it should be noted that poor runs have resulted from large escapements (ADF&G 2013a). Similar to the past few years, actual harvest of summer chum has been affected by fishing restrictions implemented in response to poor Chinook salmon runs.

Fall Chum Salmon

Harvestable surplus of fall chum has been available the past 11 years (2003-2013).The total Yukon River fall chum run size is calculated, post season, and is based on individually monitored spawning escapements and estimated U.S. and Canadian harvests. Escapements were monitored using sonar in the Chandalar and Sheenjek rivers and the Canadian main stem rivers, and in the Fishing Branch River with a weir. Assessment of Tanana River stocks was based on either genetic apportionment of Pilot Station counts (both summer and fall Tanana River stocks passing after July 19) or the Delta River escapement and its relationship to the Tanana River mark–recapture estimates (ADF&G 2011). The preliminary 2013 run size estimate was greater than 1.1 million fall

chum.

Coho Salmon

There are few coho salmon spawning escapement assessment projects in the Yukon River drainage. The Delta Clearwater River has the only established escapement goal for coho salmon, a Sustainable Escapement Goal of 5,200–17,000 fish (ADF&G 2011). A coho salmon index developed for the Yukon River from 1995 to 2012 (excluding 1996 and 2009) suggests that the average run size is 197,000 fish with an average escapement of 145,000 fish. The preliminary run estimate for 2013 was 137,000 coho salmon, with an estimated escapement of 51,000 fish (ADF&G 2013b). A harvestable surplus of coho salmon has been available for the past 11 years (2003 – 2013).

Harvest History

Chinook salmon subsistence harvests have been approximately 50,000 fish annually in the Alaskan portion of the Yukon River over the past 20 years. However, subsistence harvest levels of Chinook salmon have declined since 2007 due to declining run abundance and resultant harvest restrictions. In recent years, subsistence fishing has increasingly targeted non-Chinook salmon species such as whitefish. In order to allow continued subsistence opportunity throughout the season, subsistence fishing activity has been managed to avoid Chinook and allow the harvest of other fish species.

Most rural residents of the Yukon River drainage (minus the Tanana River) live in 39 villages (see **Table 1**). They harvested an estimated 10-year average (2001–2010) of 45,597 Chinook salmon annually. The harvest has decreased 15% between the 2001–2005 five-year average (49,067 fish) and the 2006–2010 five-year average (42,128 fish; **Table 2**; Jallen et al. 2012). A similar decrease occurred in all 6 management districts. According to preliminary results, in 2012, 26,065 Chinook salmon were harvested by rural residents of the Yukon River drainage, and 11,000 Chinook salmon were harvested in 2013 (JTC 2013 and 2014).

In 2011, based on household harvest surveys, 4 communities (Pitkas Point, St. Mary's, Pilot Station, and Kaltag) were estimated to harvest 100% of their Chinook salmon by drift gillnets. Seven communities (Huslia, Hughes, Allakaket, Alatna, Stevens Village, Birch Creek, and Venetie) were estimated to harvest 100% of their Chinook salmon by set gillnets. Fish wheels were only used to harvest Chinook salmon in 4 communities: Ruby (68% of Chinook salmon harvested by the community), Tanana (51%), Beaver (20%), and Ft. Yukon (74%).

Household harvest surveys are not done with residents of Rampart, Circle, Central, Eagle, Manley, Minto, Nenana, and Healy. Instead, these residents must obtain a State subsistence or personal use permit. Two communities (Rampart and Healy) reported harvesting 100% of their salmon with set gillnets. Households in the other 6 communities reported using set gillnets or fish wheels as their primary gear to harvest salmon. Primary gear was determined by the larger number of salmon harvested by gear types in the household (Jallen et al. 2012).

Effects of the Proposal

If this proposal is adopted, it would likely reduce the fishing efficiency for harvesting salmon in the Yukon River. By allowing only set gillnets during fishing periods in areas targeting Chinook salmon or during times of Chinook salmon conservation, this proposal would remove a fishing gear option that is currently relied upon by one segment of the fishing community; however, it would not affect the fishing practice of others. Without a shift in allocation, the fishery manager would be required to judge how new variable combinations of time and area without use of drift gillnets might offset the previous observed harvest performance when drift gillnets were utilized.

According to the proponent, this proposal would provide for some subsistence harvest of chum salmon while reducing impacts to Chinook salmon by only fishing close to shore with set nets where Chinook salmon are less

likely to be abundant and are usually smaller jacks. The use of set nets in place of drift nets may improve the quality of Chinook salmon escapement due to the incidental harvest of Chinook salmon being located closer to shore where smaller Chinook salmon tend to run. Avoiding mid-river deep drifts, which the proponent states tend to catch larger, more fecund Chinook salmon, should improve escapement for larger more fecund Chinook salmon.

OSM CONCLUSION

Take No Action on FP15-04

Justification

The proposed action is not necessary, as the authorities delegated by the Board already allow the in-season manager to specify methods and means of harvest (*see* **Appendix A** in FP15-03). It applies to waters within the Yukon River Drainage and permits the opening or closing of Federal subsistence fishing periods, areas; specification of methods and means, permit requirements, and setting of harvest and possession limits for Federal subsistence fisheries. This delegation may be exercised only when it is necessary to conserve fish stocks or to continue subsistence uses.

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Table 1. Rural residents of the Yukon River drainage, by community and management district.

YUKON RIVER DRAINAGE					
FISHING MANAGEMENT DISTRICT/COMMUNITY					
District 1	**District 2**	**District 3**	**District 4**	**Disrict 5**	**District 6**
Nunam Iqua	Mountain Village	Russian Mission	Anvik	Tanana	Manley
Alakanuk	Pitkas Point	Holly Cross	Grayling	Rampart	Minto
Emmonak	St. Mary's	Shageluk	Kaltag	Steven Village	Nenana
Kotlik	Pilot Station		Nulato	Birch Creek	Healy
	Marshall		Koyukuk	Beaver	
			Galena	Fort Yukon	
			Ruby	Circle	
			Huslia	Central	
			Hughes	Eagle	
			Allakaket	Venetie	
			Alatna	Chalkyitsik	
			Bettles		

Table 2. The harvest of Chinook salmon by Federally qualified subsistence users, Yukon River drainage, by district, 1989 to 2011 (Jallen et al. 2012).

FEDERAL							
CHINOOK SALMON HARVEST—YUKON RIVER DRAINAGE							
Year	**Number of fish harvested[a]**						
	District 1	**District 2**	**District 3**	**District 4**	**Disrict 5**	**District 6**	**Total**
2001	7,089	13,442	6,361	10,152	12,441	2,136	51,621
2002	5,603	8,954	4,139	9,456	11,634	908	40,694
2003	6,332	9,668	5,002	12,771	17,259	1,753	52,785
2004	5,880	9,724	4,748	16,269	13,669	939	51,229
2005	5,058	9,156	5,131	13,964	14,840	857	49,006
2006	5,122	8,039	5,374	12,022	13,740	1,104	45,401
2007	6,059	10,553	4,651	11,831	16,655	1,308	51,057
2008	6,163	8,826	5,855	10,619	9,728	497	41,688
2009	4,125	6,135	2,924	9,514	7,408	889	30,995
2010	5,856	8,676	4,299	12,888	8,727	1,052	41,498
2011	6,255	8,069	4,134	9,893	8,007	1,037	37,395
2001 to 2005 average	5,992	10,189	5,076	12,522	13,969	1,319	49,067
2006 to 2010 average	5,465	8,446	4,621	11,375	11,252	970	42,128

[a] Does not include the Coastal District, does not include harvests from State personal use permits, does not include harvest by Fairbanks Sate subsistence permit holders.

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Yukon-Kuskokwim Delta Subsistence Regional Advisory Council

Take no action on Proposal FP15-04. Sometimes Regional Advisory Councils differ in opinions regarding issues before them; this Council does not want to interfere with the status quo on this proposal which originated from one of the other Councils.

Western Interior Alaska Subsistence Regional Advisory Council

Oppose Proposal FP15-04. The Council is opposed to this proposal and feels that this proposed action is not warranted and should not be re-visited. The in season manager already has this authority. Taking no action would give the FSB a neutral feeling, and that is not the position of this Council.

Seward Peninsula Subsistence Regional Advisory Council

Oppose Proposal FP15-04. There is not a conservation concern unique to the use of drift gillnets. Set gillnets also harvest Chinook salmon. If there are problems with the conservation of Chinook salmon, the in-season manager already has the authority to make changes to harvest methods, areas and weekly fishing periods.

Eastern Interior Alaska Subsistence Regional Advisory Council

Take no action on Proposal FP15-04. The Council discussed that since they had supported FP15-03 and if passed that it would override FP15-04 (also submitted by the EIRAC as an alternative to complete gill net closure). The Council referenced their discussion and justification on FP15-03.

INTERAGENCY STAFF COMMITTEE COMMENTS

FP 15-04

The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Councils' recommendations and Federal Subsistence Board action on the proposal.

FP15-05 Executive Summary	
General Description	Proposal FP15-05 submitted by Nick Carter, requests that the Federal Subsistence Board allow subsistence fishing for all fish species to occur without interruption during the month of June in the lower section of fishing Subdistrict 1-B, Kuskokwim River
Proposed Regulation	Kuskokwim Area—Fish *§100.27(e)(4)(ii). Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.* ***However, in the lower section of Subdistrict 1-B, subsistence fishing for all species is open continuously during the month of June.***
OSM Conclusion	**Oppose**
Yukon-Kuskokwim Delta Subsistence Regional Advisory Council Recommendation	**Oppose**
Western Interior Alaska Subsistence Regional Advisory Council Recommendation	**Oppose**
Interagency Staff Committee Comments	See comments following the analysis.
ADF&G Comments	Official State comments on select proposals will be provided as a supplement at the meeting.
Written Public Comments	**None**

STAFF ANALYSIS
FP15-05

ISSUES

Proposal FP15-05, submitted by Nick Carter, requests that the Federal Subsistence Board allow subsistence fishing for all fish species to occur without interruption in the lower section of fishing Subdistrict 1-B, Kuskokwim River, during the month of June.

DISCUSSION

The proponent states that he is making this request because "it is tradition" to be able to fish anytime for any and all fish species in the lower section of Subdistrict 1-B during the month of June.

All of Subdistrict 1-B is the Federal public waters within and adjacent to the exterior boundaries of the Yukon Delta National Wildlife Refuge (**Map 1**).

The lower section of Subdistrict 1-B is defined as that portion of District 1 from a line between Alaska Department of Fish and Game regulatory markers located approximately 15 miles downstream of the Johnson River to the lower boundary of District 1, defined as a line from Apokak Slough to the southernmost tip of Eek Island to Popokamiut (**Map 2**).

The implication in this proposal is that the Federal in-season fisheries manager would not have the authority to impose any restrictions during the month of June in the lower section of Subdistrict 1-B, regardless of the run size and/or population estimates of the subsistence fish species targeted for harvest.

Existing Federal Regulation

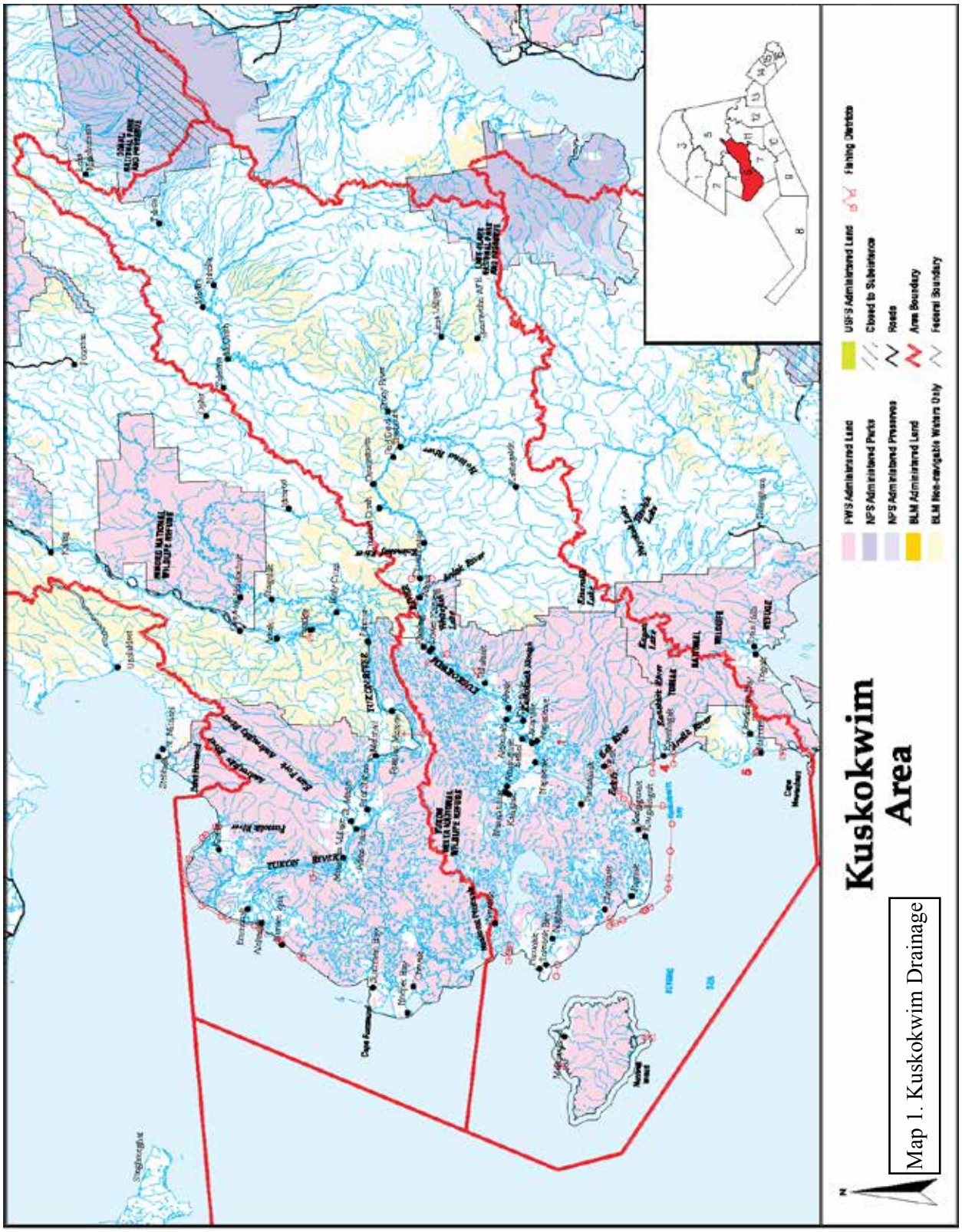
Kuskokwim Area—Fish

§100.27(e)(4)(ii). Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.

Proposed Federal Regulation

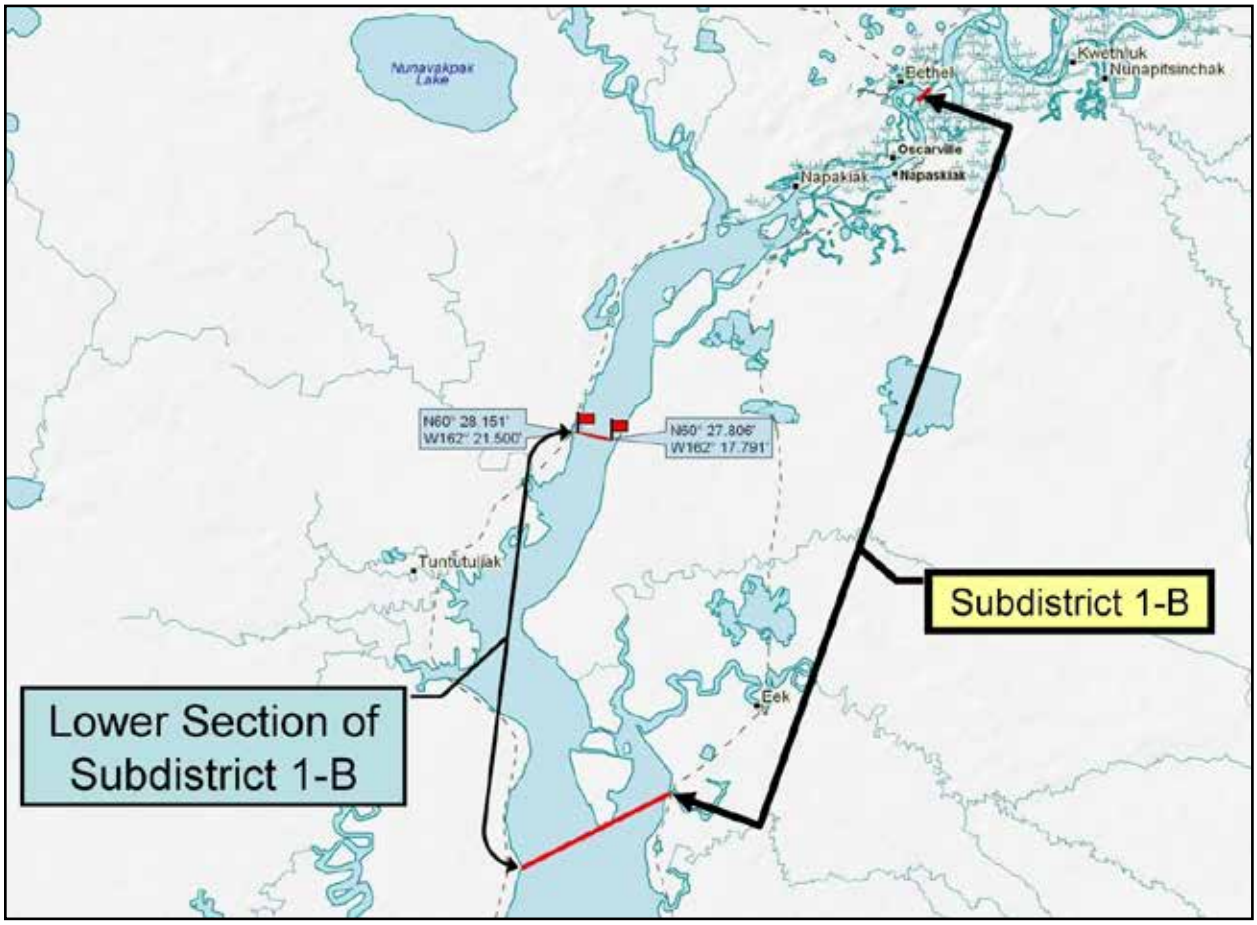
Kuskokwim Area—Fish

§100.27(e)(4)(ii). Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action. ***However, in the lower section of Subdistrict 1-B, subsistence fishing for all species is open continuously during the month of June.***



Map 1. Kuskokwim Drainage

Map 2. Fishing Subdistrict 1-B, Kuskokwim River.



Map courtesy of the Alaska Department of Fish and Game, Commercial Fish Division

Existing State Regulations

Kuskokwim Area—Subsistence Fishery

5 AAC 01.260. Fishing seasons and periods.

(a) *Unless otherwise specified in this section, 5 AAC 01.275 or 5 AAC 07.365, finfish, except rainbow trout, may be taken in the Kuskokwim Area at any time. Rainbow trout taken incidentally in other subsistence finfish net fisheries and through the ice are legally taken and may be retained for subsistence purposes.*

(b) *In the waters of Districts 1 and 2, and those waters of the Kuskokwim River between Districts 1 and 2, salmon may be taken at any time, except that the commissioner may, by emergency order, close the subsistence fishing periods in the waters of Districts 1 and 2 and those waters of the Kuskokwim River between Districts 1 and 2 and reopen those waters to commercial fishing. In Subdistricts 1-A and 1-B, the commissioner may, by emergency order, reopen fishing periods where subsistence fishing will be allowed in portions of waters adjacent to the waters of Subdistricts 1-A or 1-B open to commercial fishing under this subsection.*

5 AAC 07.365. Kuskokwim River Salmon Management Plan **(See Appendix A)**

Extent of Federal Public Land

For purposes of this discussion, the phrase "Federal public waters" is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. The affected area consists of those waters of the Kuskokwim River drainage that

are within and adjacent to the exterior boundaries of the Yukon Delta National Wildlife Refuge, including portions of the Kuskokwim Fishery Management Area Districts 1 and 2 (see **Map 1**).

Customary and Traditional Use Determination

Residents of the Kuskokwim Fishery Management Area (except those persons residing on the United States military installations located on Cape Newenham, Sparrevohn USAFB, and Tatalina USAFB) have customary and traditional use determination for all salmon in the affected area (Yukon Delta National Wildlife Refuge waters of the lower Kuskokwim River drainage).

Regulatory History

In 2002, the Office of Subsistence Management submitted fisheries regulatory proposal FP03-28 to streamline the Federal Special Action process state-wide. Specifically, in-season Special Actions would be issued only when Federal management actions differ from State management actions. State Emergency Orders would apply to Federal public waters in instances where State and Federal managers are in agreement on subsistence issues. The Federal Subsistence Board adopted FP03-28, with Modification, to utilize this streamline approach for the Yukon and Kuskokwim areas only (FWS 2002). For the Kuskokwim area, the current regulation first appeared as a special provision in the 2003-2004 Federal Subsistence Fisheries Regulations booklet provided to the public. In all subsequent Federal Subsistence Fisheries Regulations booklets, it has been listed under "Open Season" for salmon.

For the Kuskokwim Area, the default position under State regulations is that, fishing for all species, except Rainbow trout, is open until closed**.** In addition, the Kuskokwim River salmon species are managed by the Alaska Department of Fish and Game per the *Kuskokwim River Salmon Management Plan* (**Appendix A**). This plan was most recently updated in January 2013 by the Alaska Board of Fisheries after much input from Kuskokwim River stakeholders. In summary, fishing restrictions (time, area, and gear types) are put in place based on fish population estimates and run strength.

Federal management of the Kuskokwim River subsistence fisheries follow State of Alaska regulations, including the *Kuskokwim River Salmon Management Plan* (**Appendix A**)*,* unless the Federal Subsistence Board or the Kuskokwim Area Federal in-season manager deem it necessary to issue special actions *to ensure the continued viability of a fish or wildlife population, to continue subsistence uses of fish or wildlife, or for public safety reasons* not provided under State regulations for the subsistence fisheries resources in the affected Federal public waters.

Due to preseason low run forecasts for Chinook salmon, severe in-season restrictions were imposed on subsistence users during portions of the 2012 and 2014 salmon fishing seasons in order to conserve Chinook salmon.

Biological Background

The request is to have unrestricted fishing during the month of June for all fish species in Subdistrict 1-B. During the month of June, Lower Kuskokwim River subsistence users target Chinook, chum and sockeye salmon for harvest.

Chinook Salmon

Analysis of run timing data at the Bethel Test Fishery site from 2005 to 2014 showed that an average of 77% (range 63-89%) of the total Chinook salmon run passed by this site during the month of June (ADF&G 2014).

Since 2007, the Kuskokwim River Chinook salmon stocks have experienced a multi-year period of low productivity, insufficient to meet escapement levels and provide sufficient subsistence harvest opportunity

(Schindler et al. 2013). The average Kuskokwim River Chinook salmon run size from 1976–2013 was 239,000 fish, with the last five years, 2009–2013, averaging only 130,000 fish (**Table 1)**. Since 2010, the Chinook salmon runs have been some of the lowest runs on record, with the estimated 2013 run of 94,000 fish, the lowest run ever documented (Elison, Per. Comm. 2014).

Escapement objectives for Chinook salmon have not been met on the Kuskokwim River the past four years (2010-2013).

Prior to the 2012 Chinook salmon fishing season, the Federal and State in-season fisheries managers, in conjunction with the Kuskokwim River Salmon Management Working Group , agreed on managing the subsistence fishery with an escapement goal of 127,000 fish based on the Bethel Test Fishery abundance index. The estimated 2012 total run of 100,000 Chinook salmon in the Kuskokwim River was not only lower than the escapement goal, but turned out to be lowest run on record at the time, dating back to 1976. The 2012 Chinook salmon escapement is estimated to be approximately 76,000 fish (Schaberg and Elison, *in prep*).

In January 2013, the Alaska Board of Fisheries adopted a new Kuskokwim River Salmon Management Plan (5 AAC 07.365), and a new, drainage-wide Sustainable Escapement Goal of 65,000–120,000 Chinook salmon. For the 2013 Chinook salmon fishing season, with this new Sustainable Escapement Goal in place, the In-season fisheries managers, with concurrence from the Working Group, agreed on managing the subsistence fishery with an escapement goal of 85,000 fish. Due to run timing and compression, few restrictions were placed on Chinook salmon subsistence harvest throughout the 2013 fishing season which resulted in the lowest escapement on record. The 2013 Chinook salmon escapement is estimated to be approximately 47,500 fish (Elison 2014).

Chum Salmon

Analysis of run timing data at the Bethel Test Fishery site from 2005 to 2014 showed that an average of 26% (range 22-41%) of the total chum salmon run passed by this site during the month of June (ADF&G 2014).

There have been no conservation concerns for Kuskokwim River chum salmon the past decade. There are two Sustainable Escapement Goals for chum salmon in the Kuskokwim River drainage. The Kogrukluk River has a Sustainable Escapement Goal range of 15,000 to 49,000 fish and the Aniak River has a Sustainable Escapement Goal range of 220,000 to 480,000. These goals were annually achieved or exceeded from 2003 to 2011, with escapement averages during that same time period of 82,813 fish for the Kogrukluk River and 643,347 fish for the Aniak; both well above the upper range of their respective Sustainable Escapement Goal (Elison and Tiernan 2013).

Sockeye Salmon

Analysis of run timing data at the Bethel Test Fishery site from 2005 to 2014 showed that an average of 53% (range 36-73%) of the total sockeye salmon run passed by this site during the month of June (ADF&G 2014).

There have been no conservation concerns for Kuskokwim River sockeye salmon the past decade. Since 2010, annual abundance has been average. There is one SEG for sockeye salmon in the Kuskokwim River drainage. The Kogrukluk River has a SEG range of 4,400 to 47,000 fish, which was achieved each year between 2003 and 2011. The most recent ten-year escapement average is 21,866 fish for the Kogrukluk River, well above the lower range of the SEG (Elison and Tiernan 2013).

Harvest History

Chinook salmon

Historically, the Kuskokwim River has been home to the largest Chinook salmon subsistence fishery in the State of Alaska. From the early 1990s through 2011, the Chinook salmon harvest has averaged approximately 85,000

fish annually (**Table 1**). However, since 2010, the amount of Chinook salmon harvest has trended downward, due to both record low runs and corresponding increased fishing restrictions in some years.

The estimated 2010 subsistence harvest was 66,000 Chinook salmon and the 2011 estimated subsistence harvest was 59,000 Chinook salmon (**Table 1**). The estimated 2012 subsistence Chinook salmon harvest of 24,000 fish was the lowest on record. This occurred as a result of the lowest run size to date at the time, in conjunction with significant restrictions on Chinook salmon fishing throughout the 2012 fishing season. In 2013, subsistence users harvested an estimated 46,500 fish; almost twice as much as the previous year, but still well below the long-term average of 85,000 fish (Elison 2014).

Chum salmon

Average subsistence harvest from 1990 to 2011 was approximately 70,000 chum salmon. The subsistence harvest was 46,143 and 49,717 chum salmon in 2010 and 2011, respectively (Elison et. al. 2012). The estimated subsistence harvest for 2012 was 79,513 fish (Sheldon et. al. 2014), much higher than most recent years. This is likely due to mesh-size restriction of 6-inch or smaller to conserve Chinook salmon, and possibly increased harvest effort for chum salmon due to restrictions to the Chinook salmon fishery during the 2012 fishing season.

Sockeye salmon

Kuskokwim River sockeye salmon are targeted in subsistence and commercial fisheries. Average annual subsistence harvest from 1990 to 2011 was approximately 43,000 fish. The subsistence harvest was 38,120 fish in 2010 and 40,207 fish in 2011 (Elison et. al. 2012). The estimated subsistence harvest for 2012 was 47,231 fish (Sheldon et. al. 2014).

Effects of the Proposal

Fishing restrictions (time, area, and gear types) are put in place based on fish population estimates and/or run strength, and are utilized to ensure continued viability of a species and/or to address conservation concerns.

If this proposal were adopted, all Federally-qualified subsistence users in the Kuskokwim Management Area would be eligible and allowed to take all fish species during the month of June in the lower section of Subdistrict 1-B of the Kuskokwim River 24 hours per day, 7 days per week, regardless of the run size and/or population estimate of each fish species. This could lead to serious conservation concerns for those species that are experiencing weak run sizes, such as Kuskokwim River Chinook salmon stocks have since 2010. Also, if this proposal were adopted, the lower section of Subdistrict 1-B would likely have to be under Federal management for the month of June, while the rest of the river would be under State management. This could lead to confusion on the part of subsistence users.

Adoption of this proposal would remove the Federal in-season manager's authority to regulate and/or manage the Federal subsistence fisheries during the month of June in the lower section of Subdistrict 1-B of the Kuskokwim River. This could lead, at times, to severer restrictions being imposed upriver in order to ensure continued viability of a species and/or to address conservation concerns.

Adoption of this proposal could also lead to public safety concerns, as it is likely that many more subsistence fishermen than normal would congregate during the month of June in the lower section of Subdistrict 1-B of the Kuskokwim River to take advantage of unrestricted fishing.

OSM CONCLUSION

Oppose FP15-05

Justification

Fishing restrictions (time, area, and gear types) are put in place based on fish population estimates and/or run strength, and are utilized to ensure continued viability of a species and/or to address conservation concerns. Fisheries managers need to be allowed the flexibility to impose restrictions if and when necessary, based on these biological parameters. To allow unrestricted fishing in the lower section of Subdistrict 1-B during the month of June would likely be detrimental, at a minimum, to the conservation of Chinook salmon stocks throughout the Kuskokwim River basin.

In addition, it is essential that the Federal in-season manager retain his/her authority and flexibility to manage all sections of Federal public waters of the Kuskokwim area based on in-season assessments of the run strengths of all subsistence fish species.

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Table 1. Kuskokwim River Chinook salmon estimated total run, escapement, and harvest, 1976-2013 (Elison 2012)

	Estimated		Harvest				
Year	**Total Run**	**Escapement**	**Subsistence**	**Commercial**	**Sport**	**Test Fish**	**Total**
1976	233,967	143,420	58,606	30,735		1,206	90,547
1977	295,559	201,852	56,580	35,830	33	1,264	93,707
1978	264,775	180,853	36,720	45,641	116	1,445	83,922
1979	253,990	157,688	56,283	38,966	74	979	96,302
1980	300,573	203,605	59,892	35,881	162	1,033	96,968
1981	389,791	279,392	61,329	47,663	189	1,218	110,399
1982	187,354	80,353	58,018	48,234	207	542	107,001
1983	166,333	84,188	47,412	33,174	420	1,139	82,145
1984	188,238	99,062	56,930	31,742	273	231	89,176
1985	176,292	94,365	43,874	37,889	85	79	81,927
1986	129,168	58,556	51,019	19,414	49	130	70,612
1987	193,465	89,222	67,325	36,179	355	384	104,243
1988	207,818	80,055	70,943	55,716	528	576	127,763
1989	241,857	115,704	81,175	43,217	1,218	543	126,153
1990	264,802	100,614	109,778	53,504	394	512	164,188
1991	218,705	105,589	74,820	37,778	401	117	113,116
1992	284,840	153,573	82,648	46,872	367	1,380	131,267
1993	270,295	169,816	87,674	9,735	587	2,483	100,479
1994	365,246	242,616	103,343	16,211	1,139	1,937	122,630
1995	360,513	225,595	102,110	30,846	541	1,421	134,918
1996	302,605	197,092	96,415	7,419	1,432	247	105,513
1997	303,190	211,247	79,382	10,441	1,788	332	91,943
1998	213,879	113,627	81,219	17,359	1,464	210	100,252
1999	189,939	112,082	72,775	4,705	279	98	77,857
2000	136,676	65,180	70,883	444	105	64	71,496
2001	223,707	145,232	78,009	90	290	86	78,475
2002	246,297	164,635	80,983	72	319	288	81,662
2003	248,883	180,687	67,228	158	401	409	68,196
2004	388,136	287,178	97,110	2,300	857	691	100,958
2005	366,608	275,598	85,097	4,784	572	557	91,010
2006	307,671	214,004	90,094	2,777	444	352	93,667
2007	273,044	174,943	96,139	179	1,478	305	98,101
2008	237,070	128,978	98,099	8,865	708	420	108,092
2009	204,741	118,478	78,225	6,664	904	470	86,263
2010	118,504	49,073	66,053	2,732	354	292	69,431
2011	132,651	72,097	58,836	748	633	337	60,554
2012 [1]	100,818	76,000	24,000	400	0	418	24,818
2013 [2]	94,680	47,500	46,500	419	0	261	47,180
Historic Average	239,018	144,730	71,935	21,205	518	644	94,288
2004-2013 (10yr)	222,392	144,385	74,015	2,987	595	410	78,007
2009-2013 (5yr)	130,279	72,630	54,723	2,193	378	356	57,649

[1]Elison 2014

[2]Schaberg et al, *in prep*

5 AAC 07.365. Kuskokwim River Salmon Management Plan

(a) *The purpose of this management plan is to provide guidelines for management of the Kuskokwim River salmon fisheries that result in the sustained yield of salmon stock large enough to meet escapement goals, amounts reasonably necessary for subsistence uses and for nonsubsistence fisheries. The department shall use the best available data, including preseason and inseason run projections, test fishing indices, age and sex composition, harvest reports, passage escapement estimates, and recognized uncertainty, to assess run abundance for the purpose of implementing this plan.*

(b) *It is the intent of the Board of Fisheries that the Kuskokwim River salmon stocks shall be managed in a conservative manner consistent with the Policy for the Management of Sustainable Salmon Fisheries under 5 AAC 39.222 to meet escapement goals and the subsistence priority.*

(c) *In the king salmon fishery,*

1) *when the projected escapement of king salmon is below the drainagewide escapement goal range, the commissioner, by emergency order, close the commercial, sport and subsistence king salmon fisheries;*

2) *when the projected escapement of king salmon is within the drainagewide escapement goal range, the commissioner shall open and close fishing periods, by emergency order as follows:*

A. *to the extent practicable, at least one fishing period per week will be opened for a directed subsistence king salmon fishery to provide harvest opportunity on surplus king salmon in excess of escapement needs, except that when surplus king salmon in excess of the drainagewide escapement goal is limited, the commissioner may, by emergency order, close the subsistence fishery and immediately reopen a subsistence fishery during which*

i. *king salmon may be taken only be persons 60 years of age or older, and*

ii. *a person authorized to take king salmon under (i) of this paragraph may not authorize a proxy to take or attempt to take king salmon under AS 16.05.405 or 5 AAC 01.011, but the participant may be assisted by family members within the second degree of kindred; in this sub-subparagraph, "within the second degree of kindred" has the same meaning given in 5 AAC 92.990(a);*

B. *fishing may be opened for commercial and sport fisheries to provide harvest opportunity on surplus king salmon in excess of escapement and subsistence needs;*

3) *when the projected escapement of king salmon exceeds the drainagewide escapement goal range, the*

A. *directed king salmon fishery will be open seven days per week;*

and

B. *commercial and sport fisheries will be managed to provide harvest opportunity on surplus king salmon in excess of escapement and subsistence needs.*

(d) *In the subsistence fishery, in the Kuskokwim River drainage, in the waters of the mainstem of the river and other salmon spawning tributaries, unless otherwise specified by the department,*

1) *The subsistence salmon net and fish wheel fisheries will be open seven days per week, except that if the commissioner determines it is necessary in order to achieve escapement goals, the commissioner may alter fishing periods, by emergency order, based on run abundance;*

2) *Is addition to gear specifications and operations provisions of 5 AAC 01.270(n), when the commissioner determines that it is necessary to conserve king salmon to achieve escapement goals, the commissioner may, by emergency order, close the subsistence fishery and immediately reopen the fishery during which the gillnet mesh size may not exceed four inches until sockeye and chum abundance exceeds the king salmon abundance;*

3) *actions to conserve king salmon may be applied to the entire Kuskokwim River, its sections, or tributaries, consistent with harvest trends and variability in abundance of king salmon*

available for harvest as the run progresses upstream;

4) *the commissioner may alter the subsistence hook and line bag and possession limits specified in 5 ACC 01.295, by emergency order, if the commissioner determines that inseason information indicates it is necessary for conservation purposes.*

(e) *In the commercial fishery,*

1) *The guideline harvest level for king salmon and sockeye salmon is as follows:*
   A. *0 – 50,000 king salmon*
   B. *0 – 50,000 sockeye salmon*
2) *Only the waters of District 1 may be opened during the first commercial salmon fishing period;*
3) *The commissioner shall open and close the Kuskokwim River commercial salmon fishery, by emergency order, if inseason information indicates a run strength that is large enough to provide for a harvestable surplus and a reasonable opportunity for subsistence uses and for nonsubsistence fisheries.*
4) *The department shall provide, to the extent practicable, at least 24 hours advance notice of the opening of Districts 1 and 2 commercial fishing periods;*
5) *Districts 1 and 2 commercial fishing periods are from 12:00 p.m. through 6:00p.m.; when longer fishing periods are allowed, the extra time is to be divided before 12:00 p.m. and after 6:00 p.m.;*
6) *The department shall manage the commercial fishery to ensure there is no significant impact on escapement or allocations of salmon species as a result of incidental harvest in commercial fisheries directed at other salmon species;*
7) *In June and when king salmon are abundant, the department shall manage the commercial salmon fishery conservatively to ensure king salmon escapement goals are achieved and reasonable opportunity for subsistence uses is provided in consideration of harvest trends and abundance of king salmon available for the subsistence fishery as follows:*
   A. *when the projected escapement of king salmon is within the drainagewide escapement goal range,*
      i. *the first opening may not occur until after June 23;*
      ii. *only the waters of Subdistrict 1-B may be opened during the first commercial fishing period;*
      iii. *at least 72 hours must pass between the first Subdistrict 1-B opening and the first Subdistrict 1-A opening;*
   B. *when the projected escapement of king salmon exceeds the drainagewide escapement goal range, the commercial fishery will be managed to provide harvest opportunity on surplus king salmon in excess of escapement and subsistence needs;*
8) *when chum salmon abundance exceeds king salmon relative abundance, the department shall manage, to the extent practicable, the commercial salmon fishery based on chum salmon run strength;*
9) *when coho salmon abundance exceeds king salmon relative abundance, the department shall manage, to the extent practicable, the commercial salmon fishery based on coho salmon run strength;*
10) *A person may not sell salmon roe taken in Districts 1 and 2.*

(f) *In the sport fishery,*

1) *if the commissioner restricts the fishery, by emergency order, for conservation purposes, the restrictions must be based on the level of abundance;*
2) *in the Aniak River drainage, the king salmon fishery is open from May 1 through July 25, with a bad and possession limit of two fish, 20 inches or greater in length, with an annual limit of two fish, 20 inches or greater in length; the sockeye, pink, chum, and coho salmon fisheries are open year round, with a combined daily bag and possession limit of three fish, of which no more than two fish may be king salmon;*

3) *actions to conserve king salmon will only be implemented when king salmon are present, consistent with migratory timing as the run progresses upstream.*

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Yukon-Kuskokwim Delta Subsistence Regional Advisory Council

Oppose Proposal FP15-05. The Council agrees with the OSM conclusion and justifications to oppose FP 15-05. Fishing restrictions are put into place based on population estimates and run strengths. To allow unrestricted fishing as laid out in the proposal, it would be detrimental to the conservation of Chinook salmon stocks in the Kuskokwim Basin.

Western Interior Alaska Subsistence Regional Advisory Council
Oppose Proposal FP15-05. The proposed action allows privileged to people at the mouth and everyone else pays the price up river. They don't spawn at the bottom—they spawn at the top. Taking unlimited fish at the bottom is not a good practice; there needs to be equitable practice up and down the river. The harvest capacity is massive in Unit 1B. This proposed action would be extremely detrimental to the resource and subsistence users above 1B. This is a shared resource and the resource as well as all users must be protected.

INTERAGENCY STAFF COMMITTEE COMMENTS

FP15-05

The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Councils' recommendations and Federal Subsistence Board action on the proposal.

FP15-08 Executive Summary	
General Description	Proposal FP15-08, submitted by Alvin Boskofsky on behalf of the Chignik Lake Traditional Council, requests seines as a legal gear type for the taking of salmon above the weir in Chignik River. In the proposal Mr. Boskofsky states that adding seines as a gear type would allow for additional subsistence harvest opportunities of Chinook salmon while allowing release of non-targeted finfish species.
Proposed Regulation	*§___.27 Subsistence taking of fish* *(e)(8)(ii) You may take salmon in the Chignik River, with rod and reel* ***or seine,*** *from a point 300 feet upstream of the ADF&G weir to Chignik Lake from January 1 through August 9, with no daily harvest or possession limit under the authority of a Federal subsistence fishing permit. You may take salmon by gillnet in Black Lake or any tributary to Black or Chignik Lakes with a Federal subsistence fishing permit. You may take salmon in the waters of Clark River and Home Creek from their confluence with Chignik Lake upstream 1 mile. In the open waters of Clark River and Home Creek you may take salmon by snagging (handline or rod and reel), spear, bow and arrow, or capture by hand without a permit. The daily harvest and possession limits using these methods are five per day and five in possession.* *§__.27(e)(8)(ii) You may take salmon, trout, and char only under the authority of a subsistence fishing permit unless otherwise indicated in the section or as noted in the permit conditions.*
OSM Conclusion	**Oppose**
Bristol Bay Subsistence Regional Advisory Council Recommendation	**Oppose**
Interagency Staff Committee Comments	See comments following the analysis.
ADF&G Comments	Official State comments on select proposals will be provided as a supplement at the meeting.
Written Public Comments	**None**

STAFF ANALYSIS
FP15-08

ISSUES

Proposal FP15-08, submitted by Alvin Boskofsky on behalf of the Chignik Lake Traditional Council, requests seines as a legal gear type for the taking of salmon above the weir in Chignik River. In the proposal Mr. Boskofsky states that adding seines as a gear type would allow for additional subsistence harvest opportunities of Chinook salmon while allowing release of non-targeted finfish species.

DISCUSSION

The proponent requests an additional gear type for harvesting of salmon in the Chignik Area to provide additional harvest opportunities for Federally qualified subsistence users. The proponent requests, that seines be allowed in the area upstream of the Alaska Department of Fish and Game (ADF&G) weir in addition to rod and reel. The proponent states that the additional gear would allow local rural residents the opportunity to harvest Chinook salmon while allowing the release of non-target finfish species. Chinook salmon are known to spawn in approximately 80% of the 1.8 river miles that extend from the outlet of Chignik Lake downstream to the ADF&G weir (FSB 2011:410). Currently, to prevent over-harvest or harassment of these salmon as well as nonselective harvest of other species, gear type is limited to rod and reel for subsistence users fishing above the weir in the Chignik River from July 1 through August 9 under Federal regulations.

Existing Federal Subsistence Regulations

> *§__.27(e)(8)(ii) You may take salmon in the Chignik River, with rod and reel, from a point 300 feet upstream of the ADF&G weir to Chignik Lake from January 1 through August 9, with no daily harvest or possession limit under the authority of a Federal subsistence fishing permit. You may take salmon by gillnet in Black Lake or any tributary to Black or Chignik Lakes with a Federal subsistence fishing permit. You may take salmon in the waters of Clark River and Home Creek from their confluence with Chignik Lake upstream 1 mile. In the open waters of Clark River and Home Creek you may take salmon by snagging (handline or rod and reel), spear, bow and arrow, or capture by hand without a permit. The daily harvest and possession limits using these methods are five per day and five in possession.*
>
> *§__.27(e)(8)(ii) You may take salmon, trout, and char only under the authority of a subsistence fishing permit unless otherwise indicated in this section or as noted in the permit conditions.*

Proposed Federal Subsistence Regulations

> *§__.27(e)(8)(ii) You may take salmon in the Chignik River, with rod and reel* ***or seine****, from a point 300 feet upstream of the ADF&G weir to Chignik Lake from January 1 through August 9, with no daily harvest or possession limit under the authority of a Federal subsistence fishing permit. You may take salmon by gillnet in Black Lake or any tributary to Black or Chignik Lakes with a Federal subsistence fishing permit. You may take salmon in the waters of Clark River and Home Creek from their confluence with Chignik Lake upstream 1 mile. In the open waters of Clark River and Home Creek you may take salmon by snagging (handline or rod and reel), spear, bow and arrow, or capture by hand without a permit. The daily harvest and possession limits using these methods are five per day and five in possession.*
>
> *§__.27(e)(8)(ii) You may take salmon, trout, and char only under the authority of a subsistence fishing permit unless otherwise indicated in the section or as noted in the permit conditions.*

Existing State Regulations

Existing 5AAC 01.470 Lawful gear and gear specifications: Chignik Area

(a) Salmon may be taken by seines and gillnets, or with gear specified on a subsistence fishing permit, except that in Chignik Lake salmon may not be taken with purse seines. A gillnet may not be set, staked, anchored, or otherwise fixed in a stream while it obstructs more than one-half of the width of the waterway and any channel or side channel of the waterway.

5 AAC 01.475. Waters closed to subsistence fishing: Chignik Area

Salmon may not be taken

(1) from July 1 through August 31, in the Chignik River from a point 300 feet upstream from the Chignik weir to Chignik Lake;

5 AAC 01.480. Subsistence fish permit: Chignik Area

(a) Salmon, trout and char may only be taken under the authority of a subsistence fishing permit..

(b) Not more than 250 salmon may be taken for subsistence purposes unless otherwise specified on the subsistence fishing permit.

(c) A subsistence fisherman shall keep a record of the number of subsistence fish taken by that subsistence fisherman each year. The number of subsistence fish taken shall be recorded on the reverse side of the permit. The record must be completed immediately upon landing subsistence-caught fish, and must be returned to the local representative of the department by December 31 of the year the permit was issued.

State Sport Fishing Regulations

5 AAC 65.010. Fishing seasons for Alaska Peninsula and Aleutian Islands Area
(a) Except as otherwise provided in this section and 5 AAC 65.051, sport fishing is permitted year round in the Alaska Peninsula and Aleutian Islands Area.

(b) King salmon may be taken in fresh waters only from January 1 through July 25, except that king salmon may be taken in the Chignik River from January 1 through August 9.

5 AAC 65.020. Bag limits, possession limits, and size limits for Alaska Peninsula and Aleutian Islands Area

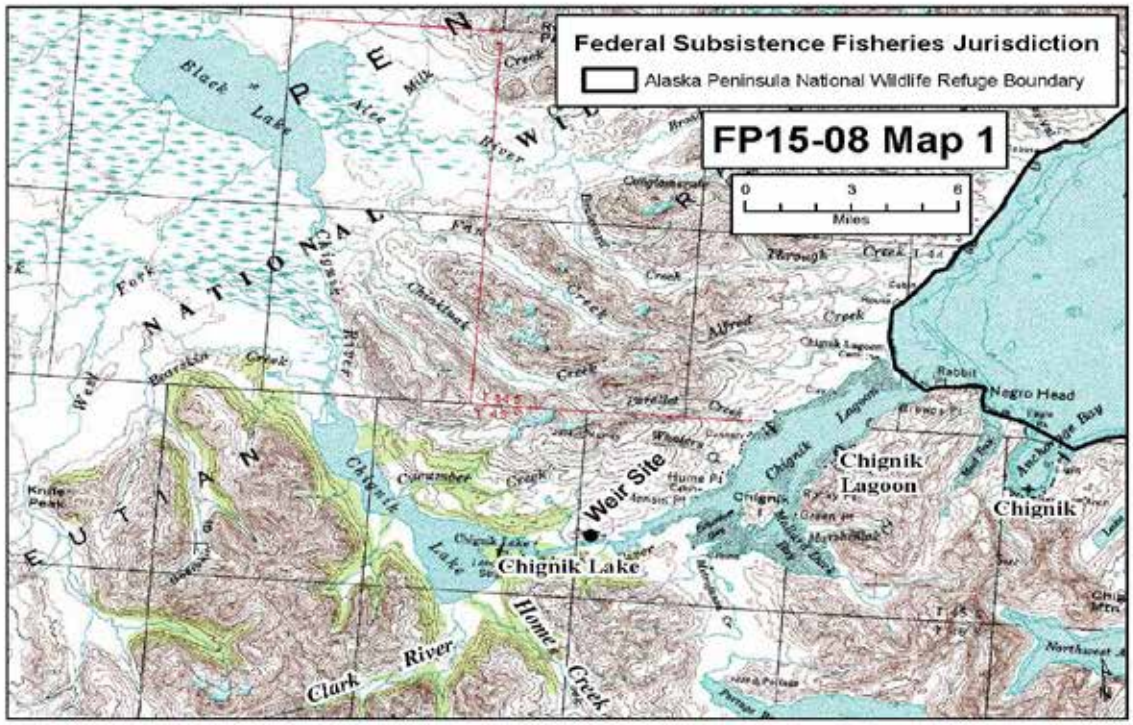
(a) Except as otherwise provide in this section, bag limits, possession limits, and size limits for finfish and shellfish in the Alaska Peninsula and Aleutian and Aleutian Islands Area are as follows:

(1) king salmon 3 per day, 3 in possession, only 2 daily and in possession 28 inches or greater in length; 5 fish annual limit.

(2) other salmon: 5 per day, 5 in possession, no size limit.

Extent of Federal Public Waters

For purposes of this discussion, the phrase "Federal public waters" is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. Federal public waters within the Chignik Management Area include all waters within or adjacent to the Alaska Peninsula National Wildlife Refuge, Aniakchak National Monument and



Map 1. Chignik River Federal Subsistence Fisheries Jurisdiction

Preserve, and Alaska Maritime National Wildlife Refuge. Chignik Lake, Chignik River, Black Lake, Clark River, and Home Creek are all within the boundary of the Alaska Peninsula National Wildlife Refuge (**Map 1**).

Customary and Traditional Use Determinations

Residents of the Chignik Area, which include the communities of Perryville, Chignik Bay, Chignik Lagoon, Chignik Lake, and Ivanof Bay, have a customary and traditional use determination to harvest salmon in the Chignik Area.

Regulatory History

Prior to 2005, the Chignik River was closed to subsistence salmon fishing by both State and Federal regulations (5 AAC 01.475, § 100.27 (e)(8)(ii)). In response to reports that subsistence users had difficulty harvesting enough salmon to meet their needs, the Alaska Board of Fisheries adopted a proposal to open the Chignik River to subsistence fishing at its fall 2004 meeting. To protect spawning Chinook salmon, a closure was maintained from a point 300 feet upstream of the ADF&G weir to Chignik Lake for July 1 through August 31. During its January 2006 meeting, the Federal Subsistence Board adopted a similar proposal (FP 06-08) to align Federal subsistence regulations with State regulations by allowing Federal subsistence users to harvest salmon in the Chignik River. The Federal Subsistence Board also adopted the July 1 to August 31 closure 300 feet upstream of the weir to protect spawning Chinook Salmon.

To allow additional harvest of late season sockeye salmon and provide a means to harvest an occasional fresh salmon for immediate consumption, the Alaska Board of Fisheries, at its 2008 meeting, adopted a proposal to open Clark River and Home Creek upstream one mile from their confluence with Chignik Lake (ADF&G 2008). Both the Clark River and Home Creek had traditionally been used by a small number of subsistence users. Opening the rivers above their confluences permitted additional subsistence fishing opportunity while still protecting spawning salmon.

In 2008, the Bristol Bay Subsistence Regional Advisory Council submitted Proposal FP 09-11, which sought to align Federal and State subsistence regulations by allowing Federally qualified subsistence users to fish for salmon in Clark River and Home Creek upstream one mile from their confluence with Chignik Lake. The Federal Subsistence Board adopted the regulatory change with a modification at its January 2009 meeting. The modification allowed the harvest of salmon in Clark River and Home Creek one mile upstream from their confluences with Chignik Lake without a permit when snagging (using handline or rod and reel), or when using spear, bow and arrow, or capture by hand. Allowing for snagging, spear, bow and arrow provides gear types not permitted under the State subsistence regulations. To address concerns over harvesting without a permit, the Federal Subsistence Board further modified the regulation to include a daily harvest limit of 5 salmon per day and 5 in possession when snagging (handline or rod and reel), or using spear, bow and arrow, or capture by hand.

During the 2011 regulatory cycle, the Chignik Lake Traditional Council submitted parallel proposals to the Alaska Board of Fisheries (Proposal 96) and the Federal Subsistence Board (FP 11-10). The proponents sought to liberalize fishing areas and methods and means to take salmon for subsistence in the Chignik Area. The Federal Subsistence Board took action on FP 11-10 during its January 2011 meeting, but the Alaska Board of Fisheries took no action on Proposals 96 at its January 2011 meeting. The Federal Subsistence Board adopted the proposal with modification. The modification opened Black Lake and its tributaries and the tributaries to Chignik Lake to Federal subsistence fishing, but prohibited the use of gill nets in those areas with the exception of the lower one mile of Home Creek and Clark River. These closures were kept in place because of a conservation concern for resident species in Black Lake and its tributaries. Additionally, public testimony indicated gillnets have not been traditionally used in Black Lake and its tributaries (FSB 2011:401). The Federal Subsistence Board elected to keep the Chignik River between the weir and Chignik Lake closed to Federal subsistence fishing from July 1 through August 31 to protect spawning Chinook salmon.

In 2012, the Chignik Lake Traditional Council submitted a proposal (FP13-13) to allow the taking of salmon by gillnet above the weir in the Chignik River from July 1 – August 31. It also requested taking salmon by gillnet in Black Lake or any tributary to Black or Chignik Lakes. During its winter 2013 meeting, the Federal Subsistence Board took action to open Black Lake or any tributary to Black or Chignik Lakes to the harvest of salmon by gillnet. The Federal Subsistence Board modified the proposal by opening Chignik River to the harvest of salmon from 300 feet upstream of the ADF&G weir, but restricting the gear type to rod and reel. During deliberations, members of the Federal Subsistence Board stated the gear restriction would allow harvest while not causing a conservation concern in the future (FSB 2013:301). There were no possession or annual harvest limits set on the rod and reel subsistence fishery.

Current Events Involving Species

Poor Chinook salmon returns to the Chignik River in 2013 resulted in restrictions to the commercial, sport, and Federal subsistence fisheries. The low escapement of Chinook salmon into the Chignik River led to the commercial fishing fleet being limited to non-retention of Chinook salmon. Beginning late in July (July 21 for Chignik Bay and July 22 for Central districts) commercial fishers were not allowed to keep Chinook salmon 28 inches or greater. In addition, from July 26 on, sport fishing for Chinook salmon in the Chignik River was closed and anglers were limited to a single hook for all sport fisheries. Any Chinook salmon caught incidentally while fishing for other species had to be released immediately. This restriction applied to the entire Chignik River drainage. To further protect spawning Chinook salmon, waters under Federal subsistence fisheries jurisdiction upstream of the ADF&G weir were closed to subsistence fishing for Chinook salmon. Chinook salmon incidentally caught while fishing for other species had to be released immediately.

Biological Background

While all five species of salmon spawn in the Chignik Area, most of the harvests for both subsistence and commercial fisheries are typically comprised of sockeye salmon (Anderson et al. 2013). Salmon escapement is

monitored at a site in the lower Chignik River using a weir and associated video equipment operated by ADF&G, while spawner distribution is documented through aerial surveys of the drainage. The Chignik River drainage produces most of the sockeye salmon in the Chignik Area, and the spawning population consists of both an early and a late run. Since the Chignik River weir is not operated throughout the duration of the late run, which extends into September, total escapement has been estimated using time-series analysis. ADF&G has set separate sustainable escapement goals for these runs (early run: 350,000–400,000 sockeye salmon; late run: 200,000–400,000 sockeye salmon) as well as in-river run goals to support subsistence fishing for the late run (August: 25,000 sockeye salmon; September: 25,000 sockeye salmon). ADF&G has not set escapement goals for individual tributaries or lakes within the system. While sockeye salmon also spawn within other Chignik Area systems, their numbers are relatively small (less than 1,000 sockeye salmon are usually counted during aerial surveys), and no escapement goals have been set. In 2013, the total escapement into the Chignik River system was 756,071 sockeye salmon, and was comprised of 386,782 early-run and 204,569 late-run sockeye salmon (Anderson et al. 2013). Both 2013 sockeye salmon escapements were within the desired escapement goal ranges.

Table 1. Annual estimates of harvest and escapement of Chignik River Chinook Salmon, 2005 - 2014 (Anderson, 2014, Tracy 2014, Anderson et al. 2013).

Return Year	Commercial Harvest[a]	Subsistence Harvest	Recreational Harvest	Escapement
2005	3,409	224	391	6,486
2006	2,256	258	245	3,535
2007	1,773	84	197	2,000
2008	970	41	65	1,730
2009	3,319	104	103	1,680
2010	10,380	188	200	3,679
2011	6,586	52	254	2,728
2012	3,687	116	61	1,449
2013	2,959	na	83	1,253
2014	8,857	na	na	2,895
Averages				
2005-2014	4,420			2,744
2010-2014	6,494			2,401

a Includes home pack and ADF&G's test fishery harvest.
na = not available

The Chignik River supports the largest Chinook salmon run in the Chignik Area, and the run extends from about mid-June to late-August with a peak in mid-July. The Chinook salmon returning to the Chignik River are known to spawn in approximately 80% of the 1.8 river miles that extend from the outlet of Chignik Lake downstream to the ADF&G weir (FSB 2011:410). ADF&G has set a biological escapement goal of 1,300–2,700 Chinook salmon for this run (Anderson et al. 2013). The Chignik commercial salmon fishery did not open until July 12, after 60% percent of the Chinook salmon escapement had passed the weir (Campbell 2014[b], ADF&G 2014). The delay of the commercial fishery resulted in a 2014 escapement of 2,895 Chinook salmon was above the upper bound of the escapement goal range (**Table 1**).

Harvest History

Residents of the Chignik Area take salmon through subsistence, commercial, and sport fishing opportunities with seines, gillnets, and/ or rod and reel. In a 2003 ADF&G subsistence survey, information collected by gear type documented that subsistence nets or seines accounted for 74% of all salmon harvested, rod and reel or hook and line gear accounted for 8%, and retention from commercial harvests accounted for 18%. While subsistence nets or seines are the preferred method of harvest for most salmon species in the Chignik Area, the survey documented only 9% of the Chinook salmon harvest was taken by this method. Most Chinook salmon were harvested by rod and reel (26%) or retained from the commercial harvest (65%), which is directed at sockeye salmon. Chignik Lagoon residents sport fish using rod and reel to harvest Chinook salmon in the Chignik River as well as the outlet into the lagoon (Hutchinson-Scarbrough et al. 2010). In interviews conducted by ADF&G subsistence staff, some respondents indicated that although they had sport fishing licenses and king salmon stamps, they consider this fishing to be subsistence fishing (Hutchinson-Scarbrough et al. 2010).

The ADF&G has conducted post-season subsistence harvest surveys to collect Chignik Area harvest information from households since 1976 (ADF&G 2008). The purpose of the surveys was to collect harvest information from households that do not obtain or return permits and to add late season harvest information not recorded on permits. The information collected on the surveys was used to adjust harvest estimates. Due to budget constraints, post-season surveys were not conducted in 2009, 2010 and 2012 (Anderson et al. 2013), so harvest estimates for those years are based only on returned permits. Comparisons of historic household survey data and permit data for 1984 and 1989 suggested that permit data underestimated subsistence harvest in the Chignik Area subsistence salmon fisheries (Hutchinson-Scarbrough and Fall 1996). This led to local outreach efforts by local vendors and ADF&G staff, resulting in more reliable estimates of total harvest in recent years (Hutchinson-Scarbrough et al. 2010). For 2012, the subsistence salmon harvest was estimated at 8,241 fish. A total of 106 State subsistence permits were issued and 87 of those permits were returned. Sockeye salmon comprised most of the subsistence harvest (5,607) while Chinook salmon accounted for the smallest portion of the harvest (116). The 2013 Chignik Area State subsistence harvest estimate is not yet available.

In 2013, the first year of implementation for the Federal subsistence rod and reel fishery, the fishery was closed by special action due to the low salmon returns.

Effects of the Proposal

If this proposal is adopted, it would allow Federally qualified subsistence users to use seine nets to harvest salmon in an area of the Chignik River that is currently closed to harvest by nets due to Chinook salmon conservation concerns. Currently under Federal subsistence regulation, there is no harvest limit for salmon in the Chignik River 300 feet upstream of the ADF&G weir. Adopting this proposal would allow unlimited harvest of salmon at a time and in a place when large numbers of Chinook salmon are aggregated on the spawning grounds. In addition, allowing subsistence users to deploy seine nets in a Chinook salmon spawning area could negatively affect the Chinook salmon population by disrupting their spawning activity. This would likely result in a conservation concern.

OSM CONCLUSION

Oppose Proposal FP15-08

Justification

Adoption of FP15-08 would allow Federally qualified subsistence users the opportunity to harvest salmon with seine nets in an area that is currently only open to those harvesting with rod and reel. During its January 2013 meeting, the Federal Subsistence Board chose to restrict gear in this area to harvest by rod and reel only. The Federal Subsistence Board stated that the restriction to rod and reel would allow the Federal subsistence user to harvest salmon while still providing for conservation.

Allowing seines to be deployed in an area and at a time, where there are large numbers of Chignik River Chinook salmon spawning would likely result in a conservation concern.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Bristol Bay Subsistence Regional Advisory Council

Oppose Proposal FP15-08. The Council expressed conservation concerns over this method of harvest at this location, and noted the need for further study as to how it could impact the resource.

INTERAGENCY STAFF COMMITTEE COMMENTS

FP15-08

The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Council's recommendation and Federal Subsistence Board action on the proposal.

FP15-09 Executive Summary	
General Description	Proposal FP15-09 requests the total cash value per household of salmon taken within the Kenai River drainage and exchanged in customary trade between rural residents and individuals other than rural residents not exceed $1,000.00 annually. Additionally, customary trades should be recorded and reported, and advertising should be regulated. *Submitted by Courtney Larsen of Cooper Landing, Alaska.*
Proposed Regulation	*§___.27 Subsistence taking of fish* *(b) Methods, means and general restrictions* *(12) Transactions between a rural resident and others. In customary trade, a rural resident may exchange fish, their parts, or their eggs, legally taken under the regulations in this part, for cash from individuals other than rural residents if the individual who purchases the fish, their parts, or their eggs uses them for personal or family consumption. If you are not a rural resident, you may not sell fish, their parts, or their eggs taken under the regulations in this part. The Board may recognize regional differences and regulates customary trade differently for separate regions of the State.* . . . ***(iv) Cook Inlet Area, Kenai River Drainage—The total cash value per household of salmon taken within the Kenai River drainage and exchanged in customary trade between rural residents and individuals other than rural residents may not exceed $1,000.00 annually. These customary trades for cash must be immediately recorded on a customary trade recordkeeping form and submitted to the federal agency. The recording requirement and the responsibility to ensure the annual cash limit is not exceeded rest with the seller. Rural residents may advertise in public postings, paper circulations, and internet media venues. Any publication must always disclose verbiage (in readable font type and size) that states that fish are federally subsistence caught and that the fish are for personal consumption only and are not to be resold (with CFR regulation section number cited).***
OSM Conclusion	**Oppose**
Southcentral Alaska Subsistence Regional Advisory Council Recommendation	**Oppose**

continued on next page

FP15-09 Executive Summary (continued)	
Interagency Staff Committee Comments	See comments following the analysis.
ADF&G Comments	Official State comments on select proposals will be provided as a supplement at the meeting.
Written Public Comments	**None**

STAFF ANALYSIS
FP15-09

ISSUES

Proposal FP15-09, submitted by Courtney Larsen of Cooper Landing, Alaska, requests the total cash value per household of salmon taken within the Kenai River drainage and exchanged in customary trade between rural residents and individuals other than rural residents not exceed $1,000.00 annually. Additionally, customary trades should be recorded and reported, and advertising should be regulated.

DISCUSSION

A "customary trade" occurs when a person legally harvests fish in a Federal subsistence fishery and then exchanges fish, their parts, or their eggs for cash. To be legal, such exchanges cannot reach the level of a "significant commercial enterprise." The proponent states that he submitted the proposal because some Cooper Landing residents look for additional sources of income to help pay for items such as gas (for transportation) and oil (for heat). The proponent states that, in Alaska, people have commonly used word-of-mouth to arrange customary trades; however, it is becoming more and more common for people in rural Alaska to communicate electronically, on Facebook® or Craig's List® for example, which law enforcement might decide is advertising for a significant commercial enterprise and therefore illegal. The proponent states that advertising customary trades should be legal. To ensure customary trades do not become significant commercial enterprises, the proponent seeks to limit the cash value of salmon per household exchanged in customary trade. The proponent is also requesting a record-keeping requirement to document exchanges of salmon for cash. To help ensure that salmon obtained through customary trade do not then enter the commercial market, advertisers must guarantee in writing that the salmon were legally harvested under Federal subsistence regulations and must communicate in writing that its only legal use is personal or family consumption. The proponent anticipates the new regulation will not impact salmon populations nor recreational or commercial users of salmon. The proponent made his request for the Kenai River "District," which is not a known designation, and he meant the Kenai River drainage (Larsen 2014, pers. comm.).

Existing Federal Regulation

36 CFR 242.27 and 50 CFR 100.27 Subsistence taking of fish

(b) Methods, means and general restrictions

(12) Transactions between a rural resident and others. In customary trade, a rural resident may exchange fish, their parts, or their eggs, legally taken under the regulations in this part, for cash from individuals other than rural residents if the individual who purchases the fish, their parts, or their eggs uses them for personal or family consumption. If you are not a rural resident, you may not sell fish, their parts, or their eggs taken under the regulations in this part. The Board may recognize regional differences and regulates customary trade differently for separate regions of the State.

(i) Bristol Bay Fishery Management Area—The total cash value per household of salmon taken within Federal jurisdiction in the Bristol Bay Fishery Management Area and exchanged in customary trade between rural residents and individuals other than rural residents may not exceed $400.00 annually. These customary trade sales must be immediately recorded on a customary trade recordkeeping form. The recording requirement and the responsibility to ensure the household limit is not exceeded rest with the seller.

(ii) Upper Copper River District—The total cash value of salmon per household taken within the Upper Copper River District and exchanged in customary trade between rural residents and individuals other than rural residents may not exceed $500.00 annually. No more than 50 percent of the annual household limit may be sold under paragraphs (b)(11) and (12) of this section when taken together. These customary trade sales must be immediately recorded on a customary trade recordkeeping form. The recording requirement and the responsibility to ensure the household limit is not exceeded rest with the seller.

(iii) Customary trade of Yukon River Chinook salmon may only occur between Federally qualified rural residents with a current customary and traditional use determination for Yukon River Chinook salmon.

Proposed Federal Regulation

§____.27 Subsistence taking of fish

(b) Methods, means and general restrictions

(12) Transactions between a rural resident and others. In customary trade, a rural resident may exchange fish, their parts, or their eggs, legally taken under the regulations in this part, for cash from individuals other than rural residents if the individual who purchases the fish, their parts, or their eggs uses them for personal or family consumption. If you are not a rural resident, you may not sell fish, their parts, or their eggs taken under the regulations in this part. The Board may recognize regional differences and regulates customary trade differently for separate regions of the State.

(i) Bristol Bay Fishery Management Area—The total cash value per household of salmon taken within Federal jurisdiction in the Bristol Bay Fishery Management Area and exchanged in customary trade between rural residents and individuals other than rural residents may not exceed $400.00 annually. These customary trade sales must be immediately recorded on a customary trade recordkeeping form. The recording requirement and the responsibility to ensure the household limit is not exceeded rest with the seller.

(ii) Upper Copper River District—The total cash value of salmon per household taken within the Upper Copper River District and exchanged in customary trade between rural residents and individuals other than rural residents may not exceed $500.00 annually. No more than 50 percent of the annual household limit may be sold under paragraphs (b)(11) and (12) of this section when taken together. These customary trade sales must be immediately recorded on a customary trade recordkeeping form. The recording requirement and the responsibility to ensure the household limit is not exceeded rest with the seller.

(iii) Customary trade of Yukon River Chinook salmon may only occur between Federally qualified rural residents with a current customary and traditional use determination for Yukon River Chinook salmon.

(iv) Cook Inlet Area, Kenai River Drainage—The total cash value per household of salmon taken within the Kenai River drainage and exchanged in customary trade between rural residents and individuals other than rural residents may not exceed $1,000.00 annually. These customary trades for cash must be immediately recorded on a customary trade recordkeeping form and submitted to the federal agency. The recording requirement and the responsibility to ensure the annual cash limit is not exceeded rest with the seller. Rural residents may advertise in public postings, paper circulations, and internet media venues. Any publication must always disclose verbiage (in readable font type and size) that states that fish are federally subsistence caught and that the fish are for personal consumption only and are not to be resold (with CFR regulation section number cited).

Existing State Regulation

Sport Fishery

5 AAC 75.015. Statewide Provisions, Sale of sport-caught fish unlawful

No person may buy, sell or barter sport-caught fish or their parts.

Personal Use Fishery

5 AAC 77.010. Statewide Provisions, Methods, means, and general restrictions

(b) It is unlawful to buy, sell, trade or barter fish or their parts taken under the regulations in 5 AAC 77.

Extent of Federal Public Lands

For purposes of this discussion, the phrase "Federal public waters" is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. Federal public waters of the Kenai River drainage comprise about 70 miles of the Kenai River plus its tributaries, which are situated in the Kenai Peninsula District of the Cook Inlet Fishery Management Area. Federal public waters are within and adjacent to the Kenai National Wildlife Refuge and the Chugach National Forest (see **Cook Inlet Area Map**).

Customary and Traditional Use Determinations

Only residents of Cooper Landing, Hope, and Ninilchik are allowed to harvest salmon under Federal regulations in the Kenai River drainage.

Background

There is a well-documented history of people trading wild resources for cash in Alaska (see Fienup-Riordan 1986, Ikuta et al. 2012, Krieg et al. 2007, Magdanz et al. 2007, Langdon 2012, and Moncrieff 2007). Taking cash in exchange for wild resources has become a common method for distributing wild resources. Advertising is defined as a public notice, especially in print, for the purposes of informing the public, or any action of making something generally known to get the attention of the public, which can include an announcement of goods for sale (Random House 2014). In some rural communities, households use public notices, oral or in print, to inform the public of salmon available to exchange in customary trade. Federal subsistence fishing regulations allow rural residents of Alaska to exchange in customary trade fish, their parts, or their eggs, legally taken under Federal subsistence regulations. For exchanges between rural residents and individuals other than rural residents, individuals making such exchanges must use the fish, their parts, or their eggs for personal or family consumption. The definition of customary trade does not allow a person to engage in trade that constitutes a significant commercial enterprise (§____ .4). Additionally, businesses are not allowed to purchase, receive, or sell fish, their parts, or their eggs taken under Federal subsistence regulations as part of a business transaction (§____ .27(b)(13)). As mentioned

above, further restrictions have been enacted for the Bristol Bay, Upper Copper River, and Yukon/Northern management areas.

Generally, Federal subsistence regulations apply only within and adjacent to conservation system units and other Federal public lands. However, Federal regulations governing customary trade of subsistence taken resources extend to any customary trade of legally taken fish regardless of where the actual cash transaction takes place. State officials may disagree with this (FSB 2003:12).

Regulatory History

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) specifically identifies customary trade as a legitimate subsistence use (ANILCA Sec. 803). The term "customary trade" is defined by regulation as the ". . . exchange for cash of fish and wildlife resources regulated in this part, not otherwise prohibited by Federal law or regulation, to support personal or family needs, and does not include trade which constitutes a significant commercial enterprise" (§____.4). While the exchange of subsistence resources in customary trade may involve fish, shellfish or wildlife resources, this proposal addresses only the customary trade of salmon.

Prior to October 1, 1999, Federal subsistence regulations applied only to subsistence fisheries in non-navigable waters. The regulations in effect at that time contained the same definition for "customary trade" cited above, but also included the following prohibition: "No person may buy or sell fish, their parts, or their eggs which have been taken for subsistence uses, unless, prior to the sale, the prospective buyer or seller obtains a determination from the Federal Subsistence Board that the sale constitutes customary trade" (§____.26(c)(1) (1995)).

In 2003, the Board adopted a revised set of customary trade regulations in order to provide a more enforceable regulatory framework for this long-standing subsistence practice (§____.27(b)(11) and (12)). When adopting the rule, the Board sought to accommodate customary and traditional practices to the extent reasonably practicable, while preventing abuses of the subsistence preference in the form of significant commercial transactions. The Board also recognized that it would probably be necessary to make future modifications to the final rule to accommodate regional differences in permissible customary trade transactions (FSB 2003). This proposal represents such a regional modification.

In 2003, the Board followed the recommendation of the Southcentral Alaska Subsistence Regional Advisory Council (Council) and opposed Proposal FP04-18 that would have prohibited people from exchanging for cash fish taken from Federal public waters on the Kenai Peninsula. The Board reasoned that the ANILCA provides for customary trade, and that there was no evidence that customary trade was a problem (FSB 2003:15).

In 2005, the Board followed the Council recommendation and opposed Proposal FP05-10 that would have limited the cash value of fish per household a person could harvest in the Cook Inlet Fishery Management Area and exchange in customary trade to $500.00 annually for trades between rural residents, and $400.00 annually for trades between rural residents and individuals other than rural residents. The Council recommended opposing the proposal because of people's low participation rates and small harvests in the subsistence fishery (FWS 2014).

Except for herring roe-on-kelp in Southeast Alaska and finfish in the Norton Sound-Port Clarence Area, State regulations do not allow the exchange of subsistence-caught fish for cash. However, this has not been actively enforced for small-scale traditional exchanges.

Harvest History

Until 2007, Federal regulations generally paralleled State sport fishing regulations in the Kenai River drainage. Additionally, since 2007 under Federal subsistence regulations, people have been allowed to harvest salmon with a dip net at Russian River Falls, Moose Range Meadows, and an area below Mile 48 of the Kenai River. Only sockeye salmon harvests have been reported. Federally qualified subsistence users reported harvesting 1,176 sockeye salmon annually (2007–2013 average). The majority of sockeye salmon harvested in the Federal subsistence fishery was taken in the Russian River Falls dip net fishery (**Table 1** and **Table 2**).

In State fisheries in the Kenai River drainage, the harvest of early-run sockeye salmon is primarily by sport users. Sport users harvested 28,136 fish annually from 2003 to 2012 on average. For late-run sockeye salmon, sport

users harvested 299,572 fish, dipnetters harvested 24,722 fish, and commercial users harvested 3.4 million fish annually (2003–2012 average).

Table 1. The sockeye salmon harvest reported on returned Federal subsistence fishing permits, by location and regulatory year.

KENAI RIVER DRAINAGE								
FEDERAL SUBSISTENCE FISHERY								
Location of harvest	Number of sockeye salmon harvested							
	2007	2008	2009	2010	2011	2012	2013	7-year average
Dip Net Fisheries								
Russian River Falls	527	1,281	809	804	953	1,285	1,267	989
Kenai River below Mile 48	0	0	30	0	0	0	0	4
Moose Range Meadows	12	0	0	0	0	0	0	2
Rod and Reel Fisheries								
Upper Kenai/Russian River	169	125	165	57	46	43	68	96
Moose Range Meadows	4	202	93	42	90	86	73	84
Totals	**712**	**1,608**	**1,097**	**903**	**1,089**	**1,414**	**1,408**	**1,176**

Source: Anderson 2014, pers. comm.

Table 2. The number of Federal subsistence permits issued, by year and community.

KENAI RIVER DRAINAGE				
FEDERAL SUBSISTENCE FISHERY				
Regulatory year	Number of permits issued			
	Cooper Landing	Hope	Ninilchik	Total
2013	80	28	12	120
2012	76	29	15	120
2011	69	19	19	107

Source: Anderson 2014, pers. comm.

Chinook and coho salmon runs are primarily managed for sport fisheries. Sport users harvested 2,334 early-run Chinook salmon annually (2004–2013 average), 9,916 late-run Chinook salmon annually (2004–2013 average), and 568 coho salmon annually (2003–2012 average). Commercial fishers harvested 172,716 coho salmon annually (2004 to 2013 average) (Begich 2013).

Biological Background

See Biological Background in the analysis for Proposal FP15-10.

Effects of the Proposal

If this proposal is adopted, people's customary trade of salmon on the Kenai Peninsula would be limited. A household would be limited to a $1,000.00 cap on the value of salmon its members could exchange annually. The limit would only apply to salmon harvested from the Kenai River drainage under the authority of a Federal subsistence permit. A person engaging in customary trade would have to enter all sales on a Customary Trade Record Keeping Form and would have to return the form to the Federal agency that issued it. A person would have to include language in any advertisements that the salmon (1) were taken legally under Federal subsistence regulations, (2) can only be used for personal or family consumption, and (3) cannot be resold. The proponent's intent is to limit people's exchanges with tourists and nonrural residents of Alaska, from Anchorage or Kenai for example. The dollar value limit being proposed is not directly related to current or historical amounts of salmon exchanged for cash, but is a limit the proponent has requested to prevent exchanges that could be perceived as sales that are part of a "significant commercial enterprise," which is illegal. No information is readily available describing the current level of customary trade of salmon on the Kenai Peninsula. It is likely that customary trade of salmon occurs at low levels. Adopting the new regulation would help prevent large scale sales of salmon under the customary trade regulations. The new regulation would not impact recreational or commercial users of salmon or salmon populations.

OSM CONCLUSION

Oppose Proposal FP15-09

Justification

Residents of Cooper Landing, Hope, and Ninilchik are the only Federally qualified subsistence users of salmon in the Kenai River drainage. They are allowed to harvest salmon under Federal regulations as well as exchange their salmon for cash in customary trade as long as sales do not rise to the level of a significant commercial enterprise. Currently, the definition of a significant commercial enterprise is not in regulation. This proposal seeks to establish a limit on the value of salmon exchanged for cash, require record keeping and reporting, and regulate advertising. The new regulation would only apply when exchanges occur with people who are not rural residents of Alaska. Since 2007, people have reported harvesting between 700 and 1,400 salmon annually under Federal subsistence regulations in the Kenai River drainage (**Table 1)**. This harvest has had no impact on other uses or salmon populations. It is not clear how many salmon, if any, were exchanged for cash; however, placing a dollar limit in regulation for a practice that is likely very infrequent is not necessary. Additionally, advertising salmon available for exchange in customary trade is already legal under Federal subsistence management regulations.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southcentral Alaska Subsistence Regional Advisory Council

Oppose Proposal FP15-09. The Council stated the proposal would create more administrative burden for subsistence users, and the proponent's request is currently an allowed use in Federal fishery regulations. Additionally, this proposal would set limits on the sale of fish which are not needed at this time. The Council is not aware of any current abuses that would warrant the proposal.

INTERAGENCY STAFF COMMITTEE COMMENTS

FP15-09

The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Council recommendation and Federal Subsistence Board action on the proposal.

FP15-12 Executive Summary	
General Description	Proposal FP15-12 requests that bow and arrow be added as a method to take salmon in the Southeastern Alaska Area. *Submitted by Mark Kruse*
Proposed Regulation	*§___.27(i)(13)(iv)(B) Unless otherwise specified in this paragraph (e)(13) of this section, allowable gear for salmon or steelhead is restricted to gaffs, spears, gillnets, seines, dip nets, cast nets, handlines, bow and arrow or rod and reel.* *§___.27(i)(13)(xiv) You may take coho salmon with a Federal salmon fishing permit. There is no closed season. The daily harvest limit is 20 coho salmon per household. Only dip nets, spears, gaffs, handlines, bow and arrow and rod and reel may be used. There are specific rules to harvest any salmon on the Stikine River, and you must have a separate Stikine River subsistence salmon fishing permit to take salmon on the Stikine River.*
OSM Conclusion	**Support**
Southeast Alaska Subsistence Regional Advisory Council Recommendation	**Oppose**
Interagency Staff Committee Comments	See comments following the analysis.
ADF&G Comments	Official State comments on select proposals will be provided as a supplement at the meeting.
Written Public Comments	**None**

STAFF ANALYSIS
FP15-12

ISSUES

Proposal FP15-12, submitted by Mark Kruse of Craig, Alaska requests that bow and arrow be added as a method to take salmon in the Southeastern Alaska Area.

DISCUSSION

The proponent states that allowing bow and arrow to harvest salmon would provide another opportunity to harvest subsistence salmon using a customary and traditional method. The proponent states that the precedent has been set in other regions in Alaska to allow bow and arrow as a legal method to take salmon. Indeed, Federal Subsistence Board (Board) adoption of proposals FP07-06 and FP08-11 have added bow and arrow as legal means to harvest salmon in Lake Clark (Bristol Bay Area) and the Alaska Peninsula and Chignik Areas, respectively.

Existing Federal Regulation

36 CFR 242 and 50 CFR 100

> ***§___.27(i)(13)(iv)(B)*** *Unless otherwise specified in this paragraph (e)(13) of this section, allowable gear for salmon or steelhead is restricted to gaffs, spears, gillnets, seines, dip nets, cast nets, handlines, or rod and reel.*
>
> ***§___.27(i)(13)(xiv)*** *You may take coho salmon with a Federal salmon fishing permit. There is no closed season. The daily harvest limit is 20 coho salmon per household. Only dip nets, spears, gaffs, handlines, and rod and reel may be used. There are specific rules to harvest any salmon on the Stikine River, and you must have a separate Stikine River subsistence salmon fishing permit to take salmon on the Stikine River.*
>
> ***§ ___.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.***
> *(a) Definitions.*
>
> *Bow means a longbow, recurve bow, or compound bow, excluding a crossbow or any bow equipped with a mechanical device that holds arrows at full draw.*

Proposed Federal Regulation

36 CFR 242 and 50 CFR 100

> ***§___.27(i)(13)(iv)(B)*** *Unless otherwise specified in this paragraph (e)(13) of this section, allowable gear for salmon or steelhead is restricted to gaffs, spears, gillnets, seines, dip nets, cast nets, handlines,* ***bow and arrow*** *or rod and reel.*
>
> ***§___.27(i)(13)(xiv)*** *You may take coho salmon with a Federal salmon fishing permit. There is no closed season. The daily harvest limit is 20 coho salmon per household. Only dip nets, spears, gaffs, handlines,* ***bow and arrow*** *and rod and reel may be used. There are specific rules to harvest any salmon on the Stikine River, and you must have a separate Stikine River subsistence salmon fishing permit to take salmon on the Stikine River.*
>
> ***§ ___.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.***
> *(a) Definitions.*

Bow means a longbow, recurve bow, or compound bow, excluding a crossbow or any bow equipped with a mechanical device that holds arrows at full draw.

Existing State Regulation

Bow and arrow is not an allowable gear type under State regulation for harvesting salmon in the Southeastern Alaska area.

Extent of Federal Public Waters

For purposes of this discussion, the phrase "Federal public waters" is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3.

If adopted this proposal would apply to all Federal public waters in the Southeastern Alaska Area between a line projecting southwest from the westernmost tip of Cape Fairweather and Dixon Entrance. Subsistence uses are not permitted in the following National Park Service lands: Glacier Bay National Park, Klondike Gold Rush National Historical Park and Sitka National Historical Park.

Regulatory History

Federal regulatory history

In 2004 the Southeast Alaska Subsistence Regional Advisory Council (Council) submitted proposal FP05-19 to define legal gear types for Federal subsistence salmon fisheries in the Southeast Alaska Area. At its fall meeting in 2004 the Council recommended the proposal be supported by the Board with modification to apply specifically to salmon and that gear types be inclusive of all types of seines. Bow and arrow was not among the gear types recommended by the Council for general regulations in the Southeastern Alaska Area. This is possibly due to the fact that bow and arrow was not included as a legal gear type for fish in the general Statewide regulations and that list was used by the Council as a starting point for deliberations. Although bow and arrow is a traditional method to harvest land animals and marine mammals (Emmons 1991, Suttles 1990), no literature has been found indicating that salmon or other fish were traditionally taken by bow and arrow in southeast Alaska. Title VIII of ANILCA does not restrict methods and means to customary and traditional types so the Board could allow the use of bow and arrow to take fish in southeast Alaska.

Proposal FP05-19 was adopted by the Board, with modification recommended by the Council, at its January 2005 meeting. One Board member commented that the regulation change would not be limiting because it is inclusive of gear types specific to the Southeastern Alaska Area and the Council could recommend additional gear types in the future if it desired (FSB 2005).

At its January 2007 meeting, the Board adopted proposal FP07-06, with modification, to allow the taking of salmon by snagging (by handline or rod and reel), spear, bow and arrow, and capture by hand in Lake Clark and its tributaries by residents of Nondalton, Port Alsworth, Pedro Bay, Iliamna, Newhalen, and Lime Village (FSB 2007a:91–92).

At its December 2007 meeting, the Board adopted proposal FP08-11, with modification, to allow the taking of salmon by means of spear, bow and arrow, or capturing by bare hand in the Alaska Peninsula and Chignik Areas (FSB 2007b:230-231)

State regulatory history

Under State regulations a bow used for fishing is defined as "a long bow, recurve bow, compound bow and cross bow" while the arrow used "must have a barbed tip and be attached by a line to the bow". Salmon may never be taken by bow and arrow under State regulations.

In 2005 a proposal was submitted to the Alaska Board of Fisheries to allow the use of archery and compound bow rigged for fishing as a means to take subsistence salmon in the Southeast Alaska Area. The Council opposed this proposal. ADF&G staff comments state that archery is not a traditional means for harvesting salmon in southeast Alaska (ADF&G 2006a). The Alaska Board of Fisheries rejected the proposal citing lack of public support and lack of a customary and tradition use pattern for taking fish with archery gear (ADF&G 2006b).

Other Alternatives Considered

One alternative is to support this proposal with modification to define specialized bow and arrow equipment used for taking fish. However, this does not seem necessary and if needed in the future it could be addressed as a permit condition.

Effects of the Proposal

If this proposal is adopted it would provide an additional gear type to harvest salmon in the Southeastern Alaska Area, thereby expanding subsistence opportunity for Federally qualified subsistence users. It is unknown how many harvesters would choose to use this gear type to harvest salmon because it has only recently been permitted in Federal regulation as a method to take salmon in relatively small, sparsely populated portions of Alaska. Other options are available to harvest salmon including more efficient methods and gear types that could be used in similar circumstances as a bow and arrow.

Depending on the skill of the archer this can be a selective gear type. There is the possibility for waste but perhaps no more so than with other allowable gear types like spears, gaffs and snagging with a hand line which are also dependent on the skill of the user. Furthermore, general regulations contain a provision specifically prohibiting the intentional waste or destruction of fish or shellfish. Where necessary, harvest limits for salmon are in place and there is no expectation that the use of bow and arrow would lead to an unsustainable level of harvest.

OSM CONCLUSION

Support Proposal FP15-12

Justification

This proposal is similar to proposals supported by the Board in other areas of Alaska. Adoption of this proposal would result in additional opportunity for Federally qualified subsistence users. It is unknown how many people will choose to use this gear type, however its use is not expected to lead to an unsustainable level of harvest.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southeast Alaska Subsistence Regional Advisory Council

Oppose Proposal FP15-12. The Council determined that using a bow and arrow for fishing is a recreational type of activity that is not allowed in either State or Federal regulations. This activity is not a customary and traditional method in this Region. The Council was concerned there were unknown conservation concerns due to fishing mortalities associated with wounding.

INTERAGENCY STAFF COMMITTEE COMMENTS

FP15-12

The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Council's recommendation and Federal Subsistence Board action on the proposal.

FP15-15 Executive Summary	
General Description	Proposal FP15-15 requests that the Federal public waters of the Klawock River/Lake drainage be closed to the use of seine and gillnets during July and August. *Submitted by the Southeast Alaska Subsistence Regional Advisory Council.*
Proposed Regulation	***§___.27(i)(13) (xx) The Klawock River drainage is closed to the use of seines and gillnets during July and August.***
OSM Conclusion	**Support**
Southeast Alaska Subsistence Regional Advisory Council Recommendation	**Support**
Interagency Staff Committee Comments	See comments following the analysis.
ADF&G Comments	Official State comments on select proposals will be provided as a supplement at the meeting.
Written Public Comments	**1 Support**

STAFF ANALYSIS
FP15-15

ISSUES

Proposal FP15-15, submitted by Southeast Alaska Subsistence Regional Advisory Council (Council), requests that the Federal public waters of the Klawock River/Lake drainage be closed to the use of seine and gillnets during July and August.

DISCUSSION

The proponent notes that recent escapements of sockeye salmon (*Onchorynchus nerka*) into Klawock Lake have been very low, and that fishing effort is occurring in the lower portion of the river where sockeye are easier to catch. The proponent contends that the use of seine and gillnet gear in this area poses an unacceptable risk of overharvest as the fish accumulate while awaiting appropriate tidal conditions to navigate the first water fall just above the tidal area (SERAC 2014). With a State managed subsistence fishery in the same area, both the proponent and the Craig Fish and Game Advisory Committee have also submitted proposals to the Alaska Board of Fisheries requesting similar action within the State fishery. The Alaska Board of Fisheries will meet in February 2015.

Existing Federal Regulations

§___.27(i)(13)(ii) You must possess a subsistence fishing permit to take salmon, trout, grayling, or char. You must possess a subsistence fishing permit to take eulachon from any freshwater stream flowing into fishing District 1.

§___.27(i)(13)(iv) (B) Unless otherwise specified in this paragraph (e)(13) of this section, allowable gear for salmon or steelhead is restricted to gaffs, spears, gillnets, seines, dip nets, cast nets, handlines, or rod and reel.

Proposed Federal Regulation

§___.27(i)(13)(ii) You must possess a subsistence fishing permit to take salmon, trout, grayling, or char. You must possess a subsistence fishing permit to take eulachon from any freshwater stream flowing into fishing District 1.

§___.27(i)(13)(iv) (B) Unless otherwise specified in this paragraph (e)(13) of this section, allowable gear for salmon or steelhead is restricted to gaffs, spears, gillnets, seines, dip nets, cast nets, handlines, or rod and reel.

§___.27(i)(13) (xx) The Klawock River drainage is closed to the use of seines and gillnets during July and August.

Existing State Subsistence Regulations

5AAC 01.710(e) From July 7 through August 7, sockeye salmon may be taken in the waters of Klawock Inlet enclosed by a line from Klawock Light to the Klawock Oil Dock, the Klawock River, and Klawock Lake only from 8:00 a.m. Monday until 5:00 p.m. Friday.

5AAC 01.730(j) Salmon, trout, or char taken incidentally by gear operated under the terms of a subsistence permit for salmon are legally taken and possessed for subsistence purposes. The holder of

a subsistence salmon permit must report any salmon, trout, or char taken in this manner on his or her permit calendar.

5AAC 01.750 In the waters of Klawock Inlet enclosed by a line from Klawock Light to the Klawock Oil Dock, no person may subsistence salmon fish from a vessel that is powered by a motor of greater than 35 horsepower.

Extent of Federal Public Waters

For purposes of this discussion, the phrase "Federal public waters" is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. They include waters within the exterior boundary of the Tongass National Forest in the Southeastern Alaska Area excluding marine waters. Although the majority of the Klawock watershed is private land, nevertheless these waters are Federal public waters.

Customary and Traditional Use Determinations

The Klawock Lake drainage (**Map 1**) drains into District 3. Residents living south of Sumner Strait and west of Clarence Strait and Kashevaroff Passage (Prince of Wales and Kosciusko Island residents) have a positive customary and traditional use determination for salmon in District 3.

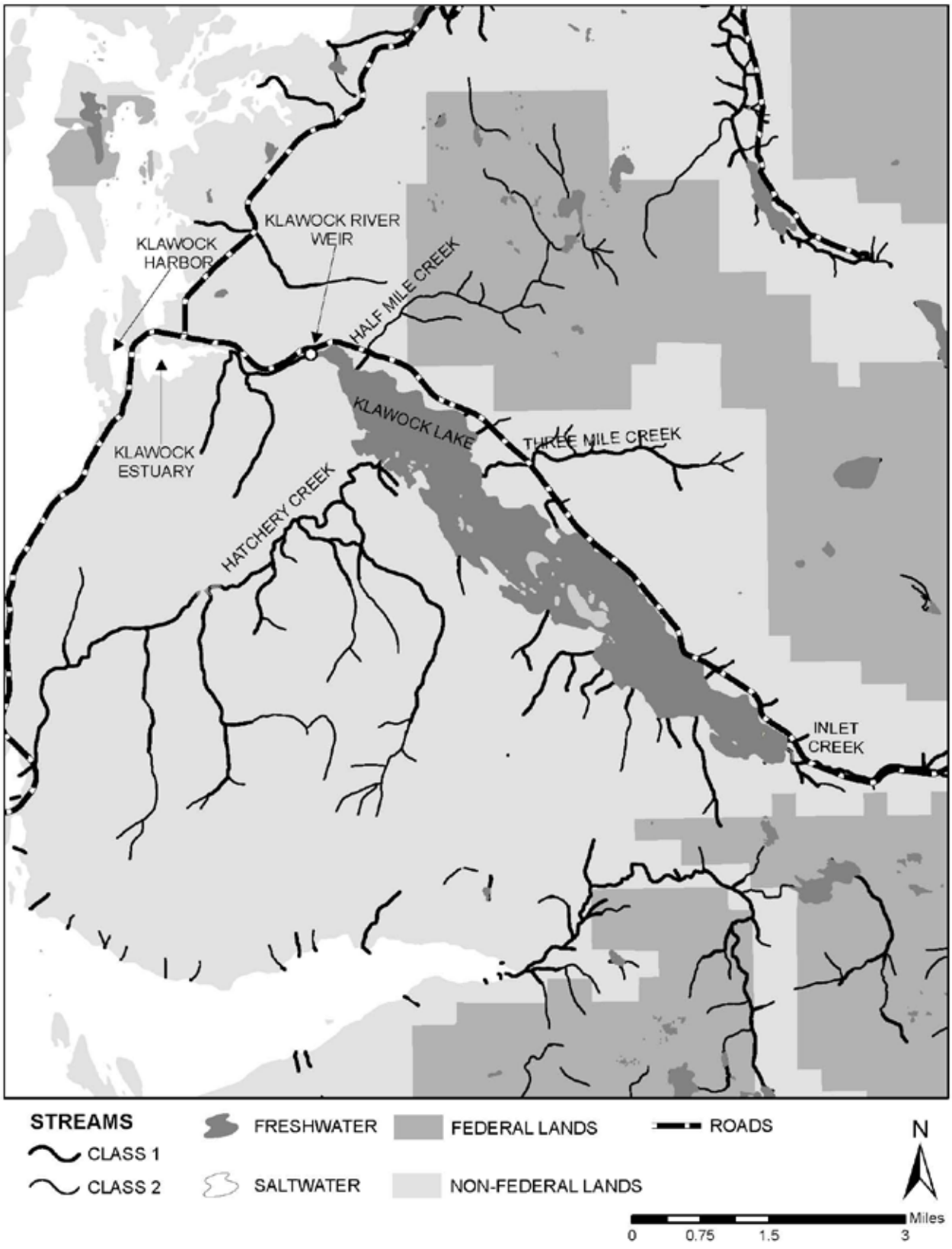
Regulatory History

State Regulatory History

The Alaska Department of Fish and Game (ADF&G) issues subsistence salmon permits for the Klawock watershed. The permitted fishery extends from the lake down the river into tidal water. Current permit conditions allow for individual and household limits of 20 sockeye salmon daily with no annual limit. Legal subsistence fishing gear in this area includes hand purse seines, beach seines, and dip nets. Normally, State regulation allows for the retention of incidentally taken salmon, trout, and char as long as they are recorded on the permit. Since 2012, a condition prohibiting the retention of sockeye incidentally taken during the pink, chum, and coho fisheries has been placed on the subsistence fishing permit.

In 1986, the State managed subsistence sockeye fishery season and fishing schedule was established by the Alaska Board of Fisheries. This regulation was implemented due to concerns that too many sockeye salmon were being taken on the weekend by people from off-island areas. The State took three additional actions related to Klawock sockeye: sport fishing for sockeye salmon was closed throughout the Klawock River/Lake drainage, a portion of Klawock Harbor was closed to the snagging of salmon, and a restriction on the use of outboard motors greater than 35 horsepower was implemented.

In February 2009, the Alaska Board of Fisheries adopted Proposal 265 extending the closing date of the State-managed subsistence sockeye fishery from July 31 to August 7. The proposal originally requested that the starting date of the State managed subsistence sockeye fishery be moved to July 15, and the closing date of the fishery be changed to August 15. ADF&G opposed the proposal as written, but did support extending the harvest opportunity for the subsistence sockeye season through August 7.



Map 1. Klawock Lake drainage

Federal Regulatory History

The Klawock subsistence sockeye season and fishing schedule established under State regulation was adopted into Federal regulation with the inception of Federal management in 1999. In 2000, proposal FP01-24 requested a change to the fishing schedule for Klawock sockeye salmon. The Southeast Alaska Subsistence Regional Advisory Council (Council) originally tabled the proposal until they could hear testimony from local subsistence users. After hearing testimony from a local user the proposal remained tabled (SERAC 2000). During the December 2000 Federal Subsistence Board (Board) meeting, the proposal was deferred by the Board (FSB 2000). The proposal was revisited in December 2001 when the Board rejected the proposal (FSB 2001).

In 2007, proposal FP07-20 requested a change to the fishing schedule for sockeye salmon. The Council opposed this proposal, because subsistence fishing was occurring under the terms of a State permit in waters under State jurisdiction. The Council felt that the proponent needed to further pursue action through the Alaska Board of Fisheries process (SERAC 2006). At the January 2007 meeting, the Board took no action on this proposal (FSB 2007).

During 2009 and 2010, the local Federal in-season manager submitted Special Action Requests FSA09-03 and FSA10-01 to extend the Federal sockeye season on the Klawock River to August 7 to match the change implemented by the Alaska Board of Fisheries in February 2009. Both requests were approved by the Board.

During 2010, two proposals were submitted specific to the sockeye season for the Klawock River. FP11-16 requested that the season closing date for the Federal subsistence sockeye salmon fishery in the Klawock River be extended from July 31 to August 15 and the Monday through Friday fishing schedule be removed. Proposal FP11-17 requested the season closing date be extended to August 7 but retained the fishing schedule. Both the Council and the Board supported FP11-16 with modification removing both the season and fishing schedule. No action was taken by either entity on FP11-17 (SERAC 2010; FSB 2011).

Biological Background

The Klawock drainage is located on the western side of Prince of Wales Island and is one of the few major sockeye salmon producers on Prince of Wales Island. The Klawock sockeye salmon stock has been an important subsistence resource for the people of Klawock and other nearby communities for over 100 years (Lewis and Zadina 2002; Cartwright and Lewis 2004). The Klawock River is approximately a mile and a half long and drains out of Klawock Lake. The lake is five miles long and has four major streams draining into it: Half-mile Creek and Three-mile Creek to the north, Hatchery Creek to the south, and an unnamed creek, often referred to as "Inlet" Creek to the east. All four of these streams are important for sockeye salmon spawning. There has been recent concern over habitat issues in these streams due to effects from past timber harvest practices. It is unknown if beach spawning occurs in the lake.

Klawock Lake flows through the Klawock River into a 160 acre estuary, and then into Klawock Bay through a small constricted opening under the highway bridge. Historically, the estuary flushed in two locations, the present opening and one that was blocked until recently by construction of a causeway in 1962. The Klawock River has three falls, one near the mouth of the river, a second about midway, and the third falls just below the lake and above the site of the fish hatchery. During periods of low water, salmon may not be able to get over these falls (Ratner et al. 2006).

Klawock sockeye salmon weir counts have been declining in recent years (**Figure 1**). The Prince of Wales Hatchery Association (POWHA) maintains an aluminum bipod weir on the Klawock River just below the lake.

From 2001-2011, weir operation began in early July to specifically count sockeye. Prior to 2001 and since 2012, the weir was typically utilized beginning in late July to capture coho. Weir counts of Klawock sockeye during the 1930's averaged just over 35,000 sockeye. During the period of 2000 through 2010, weir counts ranged from 6,198 to 22,739. Since 2011, weir counts have been less than 5,000 sockeye. Historic weir counts and percentage of returns by month are found in **Table 1** which shows that 64-97 percent of the historic sockeye returns occurred during July and August (Heinl 2014; Lundberg 2014). Fisheries Resource Monitoring Program project 14-606 will begin four more years of sockeye assessment utilizing POWHA's weir starting July 1.

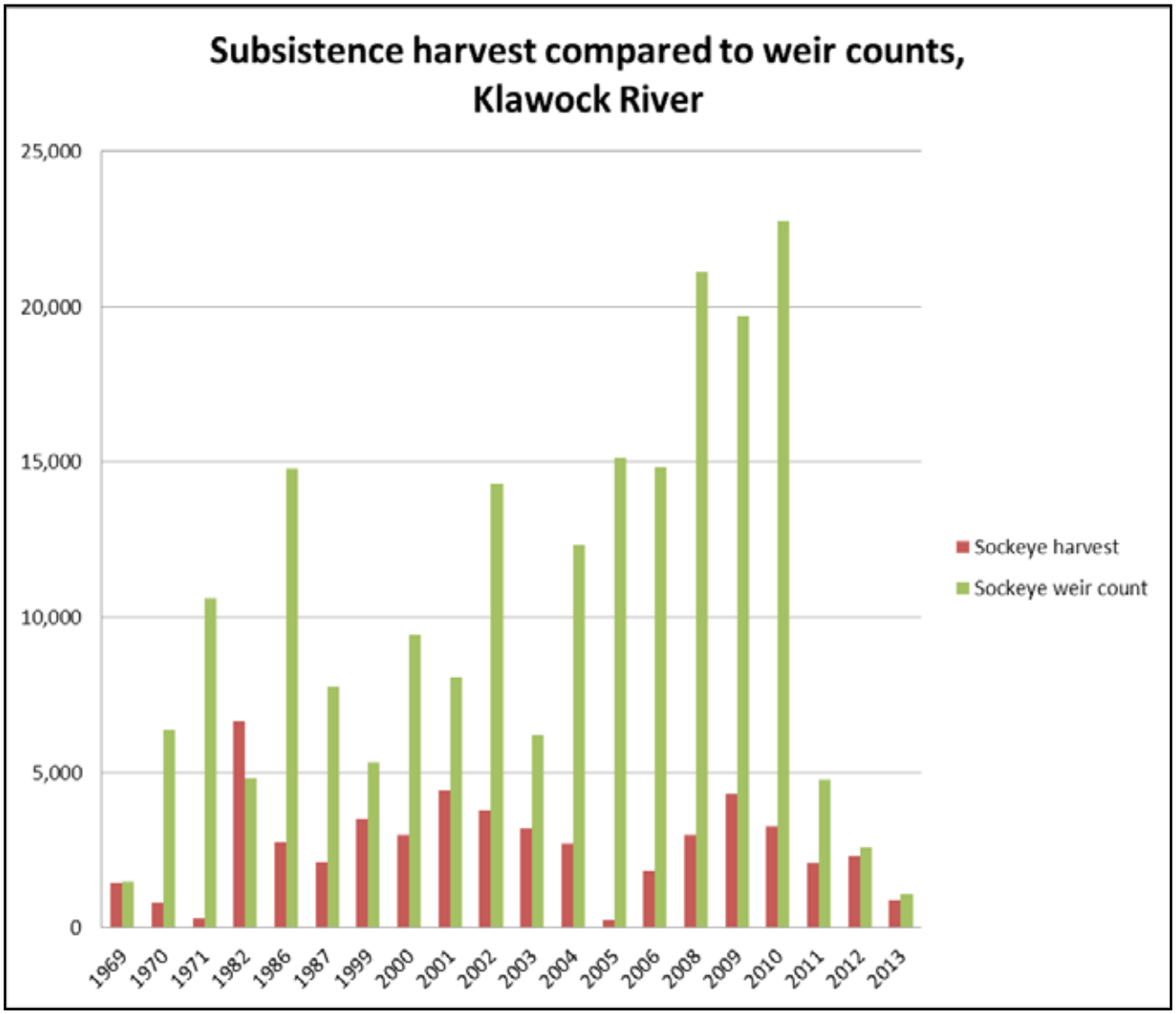


Figure 1. Subsistence harvests of Klawock sockeye as reported on State subsistence fishing permits compared to yearly weir counts (Walker 2009, pers. comm.; Walker 2014, pers. comm.).

Harvest History

State Subsistence Harvest

Subsistence harvests have been reported on permits issued by ADF&G since 1969. Although the entire Klawock Lake drainage is open for subsistence fishing, the majority of the sockeye is harvested from marine waters during the month of July. Directed harvest of sockeye within the river and lake is not common, as many users believe that fish within the river and lake should be left alone (Ratner et al. 2006) and the silt bottom along with heavy amounts of large woody debris make it tough to seine within the few large, deep holes on the river. However, during lower abundance fishing years, it is not uncommon to see subsistence fishing within the mouth of the river upstream of the highway bridge. Numerous key-respondent interviews in 2002 thought the mouth of the river should be closed to seine nets to ensure escapement into the river and lake (Ratner et al. 2006)

The reported harvest of sockeye and the total number of permits issued has fluctuated since 1969. Reported subsistence harvests have ranged from 238 to 6,661 sockeye (**Table 2**) with an average harvest of 2,750 occurring mostly in the marine water outside of Federal jurisdiction. Harvest since 2009 seems to have declined (**Figure 1**). On-site harvest surveys have suggested the reported harvest from the returned permits is, on average, 60% of the actual harvest (Cartwright and Lewis 2004; Walker 2009; Walker 2014).

Directed subsistence fisheries for pink, chum, and coho salmon are also allowed under State permit conditions. Within the Ketchikan Management Area, the permit allows subsistence fishing for pink salmon (July 1-Sept 30) and for chum and coho salmon (July 1- October 31). Although State regulation typically allows for the retention of incidentally harvested salmon, trout, and char within these fisheries, conditions since 2012 on the Ketchikan Management area permit have prohibited retention of incidentally taken sockeye at Klawock.

Federal Subsistence Harvest

Prior to 2006, the only sockeye harvest reported on Federal subsistence fishing permits from the Klawock Lake/River drainage was seven incidentally taken during the Federal coho salmon fishery. Since 2006, directed harvest of sockeye has been reported on Federal permits. Harvests reported from 2006-2013 have ranged from 9 to 301 sockeye, with dip net, gillnet, seine and handline gear being used. Seine and gillnets have comprised 81 percent of the total harvest reported on Federal permits (Forest Service 2014). Although Board action in 2010 allowed year-round sockeye harvest, nearly all of the Federal harvest occurs from July 7 to August 7.

Sport Harvest

There is no directed sport fishing for sockeye salmon in the Klawock River/Lake drainage. State regulations prohibit sport fishing for sockeye within both the freshwater portion of the drainage and also within a defined area of saltwater from the Klawock cannery south to the mouth of the river. State regulation also prohibits snagging salmon within the same defined saltwater area.

Table 1. Historical weir counts of adult Klawock River sockeye. Counts by month are number followed by percent of total return within parentheses. Numbers from 1968 to 2013 represent minimum escapement estimates due to incomplete fish counts in many years. (Heinl 2014; Lundberg 2014)

Year	Sockeye weir count	Before July 1	July	August	September	After October 1
1931	34,184	n/a	n/a	n/a	n/a	n/a
1932	57,294	n/a	n/a	n/a	n/a	n/a
1934	16,374	n/a	n/a	n/a	n/a	n/a
1935	20,028	n/a	n/a	n/a	n/a	n/a
1936	65,314	n/a	n/a	n/a	n/a	n/a
1937	33,544	n/a	n/a	n/a	n/a	n/a
1938	15,368	n/a	n/a	n/a	n/a	n/a
1968	12,068	n/a	6,376 (53)	5,679 (47)	11(<1)	0
1969	1,498	73 (5)	333 (22)	1,092 (73)	1 (<1)	0
1970	6,376	149 (2)	3,442 (54)	2,395 (38)	391 (6)	0
1971	10,627	132 (1)	976 (9)	9,448 (89)	71 (<1)	0
1982	4,812	7 (<1)	288 (6)	1,968 (41)	2,546 (53)	3 (<1)
1986	14,800	n/a	252 (2)	11,097 (75)	3,369 (23)	79 (<1)
1987	7,763	n/a	315 (4)	400 (5)	7,027 (91)	21 (<1)
1999	5,310	n/a	2,177 (41)	2,806 (53)	325 (6)	2 (<1)
2000	9,428	n/a	1,453 (15)	7,759 (82)	213 (2)	3 (<1)
2001	8,066	16 (<1)	1,272 (16)	6,542 (81)	163 (2)	66 (<1)
2002	14,296	22 (<1)	753 (5)	6,889 (48)	4.955 (36)	1,590 (11)
2003	6,198	1 (<1)	317 (5)	4,191 (68)	1,449 (23)	240 (4)
2004	12,326	n/a	615 (5)	9,439 (77)	2,270 (18)	2 (<1)
2005	15,123	n/a	2,519 (17)	8,087 (53)	4,393 (29)	123 (<1)
2006	14,808	4 (<1)	1,174 (8)	8,240 (56)	5,180 (35)	176 (<1)
2008	21,132	42 (<1)	1,076 (5)	14,886 (70)	4,730 (22)	398 (2)
2009	19,699	0	3,706 (19)	11,874 (60)	3,984 (20)	135 (1)
2010	22,739	0	2,572 (11)	13,345 (59)	6,546 (29)	276 (1)
2011	4,755	n/a	718 (15)	3,702 (78)	325 (7)	10 (<1)
2012	2,562	n/a	0 (0)	1,756 (69)	806 (31)	1 (<1)
2013	1,086	n/a	22 (2)	1,029 (95)	35 (3)	0
2014	5,905	n/a	299 (5)	3,528 (60)	2,020 (34)	58 (<1)

Commercial Harvest

Commercial harvest of sockeye occurs within both fishing Districts 3 and 4. District 4 effort typically begins in early July, with the majority (60-80%) of the harvested sockeye being of Canadian origin (PSCNBTC 2003). The District 3 fishery typically begins in late July/early August. District 3 is broken into three sub-districts. Sub-district 3B is located immediately in front of the Craig/Klawock area where sockeye must migrate through to the Klawock River. Harvests from these areas can be found in Table 3. The amount of Klawock Lake origin sockeye harvested from these areas is unknown

Table 2. State subsistence permits, reported harvest, and Federal harvest by year from 1969 to 2013 (Forest Service 2014; Walker 2014).

Year	State permits fished	Sockeye reported on State permits	Federal Harvest
1969	35	1,455	
1970	32	798	
1971	38	314	
1972	79	1,978	
1973	64	755	
1974	60	1,362	
1975	59	1,377	
1976	71	1,108	
1977	63	1,286	
1978	87	1,017	
1979	111	2,980	
1980	159	3,522	
1981	152	4,183	
1982	225	6,661	
1983	130	1,736	
1984	235	2,366	
1985	138	2,336	
1986	156	2,762	
1987	117	2,118	
1988	96	1,851	
1989	122	3,088	
1990	100	2,361	
1991	77	1,989	
1992	133	4,322	
1993	162	5,763	
1994	133	4,848	
1995	118	3,489	
1996	159	5,553	
1997	126	4,746	
1998	125	4,670	
1999	123	3,509	
2000	112	3,000	
2001	130	4,433	
2002	116	3,778	7
2003	91	3,195	
2004	80	2,697	
2005	34	238	
2006	65	1,859	15
2007	57	2,042	45
2008	70	3,000	9
2009	127	4,296	301
2010	99	3,260	247
2011	76	2,079	137
2012	67	2,307	63
2013	44	901	53

Table 3. Commercial harvests of sockeye salmon in District 3, Sub-district 3B, District 4, and proportion of Sub-district 3B harvest to overall District 3 harvest (Walker 2009; Walker 2014).

Year	District 3	Sub-district 3B	% of District 3 harvest	District 4
1970	6,621	1,963	31	14,597
1971	9,991	488	5	11,588
1972	5,426	1,509	28	85,153
1973	2,859	389	14	115,511
1974	7,952	5,556	70	119,124
1975	11,290	664	6	27,178
1976	4,783	426	9	104,575
1977	5,903	0	0	209,910
1978	1,382	571	41	104,232
1979	4,684	1,280	27	316,730
1980	9,127	796	9	407,611
1981	37,229	11,416	31	288,548
1982	898	90	10	283,358
1983	10,455	8,635	83	644,768
1984	3,384	1,825	54	294,162
1985	26,263	15,308	58	431,653
1986	13,689	7,105	52	444,671
1987	1,435	0	0	170,979
1988	2,377	673	28	591,285
1989	21,487	12,048	56	516,601
1990	19,350	8,237	43	796,798
1991	18,862	12,134	64	849,831
1992	4,457	1,258	28	1,072,039
1993	50,670	34,813	69	945,285
1994	15,292	5,058	33	1,136,138
1995	10,245	6,660	65	497,145
1996	24,187	5,371	22	860,439
1997	29,972	28,347	95	1,244,680
1998	17,455	12,872	74	487,230
1999	7,956	6,793	85	164,857
2000	16,624	5,541	33	227,039
2001	26,959	24,876	92	536,634
2002	5,725	2,963	52	34,187
2003	24,654	22,285	90	329,719
2004	23,920	22,467	94	349,139
2005	48,594	45,464	94	521,854
2006	28,251	27,540	97	242,034
2007	116,398	95,713	82	770,666
2008	5,448	3,956	73	41,154
2009	21,046	11,741	56	109,371
2010	4,312	694	16	17,851
2011	19,139	15,053	79	202,504
2012	3,317	2,029	61	72,393
2013	8,092	6,376	79	82,882

Effects of the Proposal

The proposal would restrict the use of seine and gillnets in the Federal sockeye fishery in the Klawock drainage during July and August, but would not affect the State managed subsistence sockeye fishery in the same area. A proposal has been submitted to the Alaska Board of Fisheries that if approved, would implement the same restrictions in the State managed fishery. Restricting seines and gillnets through both Federal Subsistence Board and Alaska Board of Fisheries action, should allow for more sockeye to escape into Klawock Lake.

OSM CONCLUSION

Support Proposal FP15-15

Justification

Returns of sockeye salmon to the Klawock drainage have declined since 2011. Restricting the use of seine and gillnets during July and August should allow for more sockeye to enter into Klawock Lake. A restriction during July and August should protect 64 to 97 percent of the sockeye return once they have entered the river. Restricting seines and gillnets will not create an undue burden as Federally-qualified subsistence users can fish with other legal gear types during these months. Klawock River sockeye returns can be easily monitored with the POWHA weir. Should sockeye escapements improve over time, the Federal Subsistence Board could easily reinstitute use of these gear types in Federal waters through the Special Action and regulatory process.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southeast Alaska Subsistence Regional Advisory Council

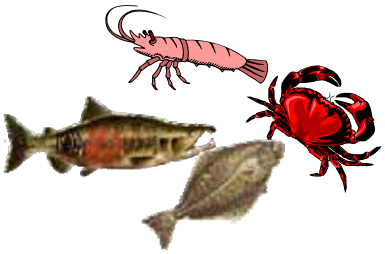
Support Proposal 15-15. Recent escapements of sockeye salmon into Klawock Lake have been very low, and increased fishing effort, primarily with seines, is occurring in the lower portion of the river where sockeye are easier to catch. The use of seine and gillnet gear in this area poses an unacceptable risk of overharvest at current escapement levels.

INTERAGENCY STAFF COMMITTEE COMMENTS

FP15-15

The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and Federal Subsistence Board action on the proposal.

Southeast Alaska Fishermen's Alliance
9369 North Douglas Highway
Juneau, AK 99801
Phone: 907-586-6652 Email: seafa@gci.net
Fax: 907-523-1168 Website: http://www.seafa.org



June 12, 2014

Federal Subsistence Board
Office of Subsistence Management
Attn: Theo Matuskowitz
1011 East Tudor Rd, MS-121
Anchorage, AK 99503

RE: Federal Subsistence 2015-2017 Fisheries Proposals
Sent via email: subsistence@fws.gov

Southeast Alaska Fishermen's Alliance (SEAFA) is a multi-gear/multi-species commercial fishing association representing our 300+ members involved in salmon, crab and shrimp in Southeast Alaska and longlining in the Gulf of Alaska. Many of our members also participate in subsistence, personal use and sport fisheries. Thank you for this opportunity to comment on the 2015-2017 proposed fishery regulation changes.

FP15-01: We support defining a fishing hook. This will make it very clear that a hook can have barbs in federal subsistence fisheries unless otherwise specified in regulation for a particular conservation issue.

FP15-13 & FP15-14: These proposals submitted by the Petersburg and Wrangell Fish and Game Advisory Committees are so similar that we are addressing them together. SEAFA supports the additional regulations suggested for the federal Stikine Chinook, Sockeye and Coho subsistence salmon fisheries.

First, the addition of an overall cap or guideline harvest of 2,000 sockeye, 400 coho and 125 Chinook is important for the management of the fishery under the international Pacific Salmon Treaty. SEAFA believes for the management of the treaty that it is important to have an overall cap on the amount of fish that can be taken in this fishery so that the fishery by all users can be managed to stay within our treaty quota allowances for Alaska. Since the subsistence fishery does not have real time accounting, an overall cap would allow the State of Alaska fishery managers to better able to manage within the yearly Pacific Salmon Treaty limits. If the fishery grows in the future, the overall fishery caps can be re-evaluated without leaving U.S. fish on the table due to an unknown subsistence harvest in season. Developing in regulation the ability to

adjust the yearly household limits to maintain the catch within the guideline harvest level will help facilitate our obligations under the Pacific Salmon Treaty.

The addition in regulation of attending the nets in the water with the current explosion of marine mammals is consistent with traditional subsistence values to prevent the wastage of salmon due to predation. Establishing hours of operation for the nets to be in the water goes hand in hand with the requirement for the net to be attended.

It is our obligation under the Pacific Salmon Treaty that accurate catch accounting occur in all treaty fisheries and that should include the Stikine subsistence fishery that was bilaterally approved by the Pacific Salmon Commission.

FP15-15: We listened to the discussion of this proposal at the SE RAC meeting and support the proposal for the reasons given during the discussion generating and approving the submittal of this proposal to prevent the use of seines and gillnets within the Klawock River for the conservation of sockeye salmon during July and August. This restriction from the use of gillnets or seines while still allowing other types of subsistence gear to be used in the Klawock River for the harvest of sockeye salmon.

FP15-17: SEAFA opposes proposal FP15-17. The Alaska Board of Fisheries took action during the winter of 2011-2012 and closed an area to commercial fishing that was designated as the high subsistence use area by the subsistence users and tribe members attending the meeting. This proposal is nearly identical to proposals heard by the subsistence board numerous times.

We do not agree with the authors assessment that the Sitka herring stock is depleted based on available ADF&G biological data.

SEAFA does not believe that this proposal has provided any new information to cause the Federal Subsistence Board to take a new action.

Thank you for considering our comments

Sincerely,

Kathy Hansen
Executive Director

FP15-03 Executive Summary	
General Description	Proposal FP15-03 requests the elimination of the use of drift gillnet fishing gear for the targeting of Chinook salmon in Yukon River Districts 1– 4. *Submitted by the Eastern Interior Regional Advisory Council.*
Proposed Regulation	*§___.27 Subsistence taking of fish* *(e)(i)(3) (xiii) You may take salmon only by gillnet, beach seine, fish wheel, or rod and reel, subject to restrictions set forth in this section.* *(xv) In Districts **1, 2, 3,** 4, 5, and 6, you may not take **Chinook** salmon for subsistence purposes by drift gillnets, ~~except as follows:~~* *~~(A) In Districts 1, 2, and 3, you may take salmon other than Chinook salmon by drift gillnets. In Subdistrict 4A upstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14, and chum salmon by drift gillnets after August 2;~~* *~~(B) In Subdistrict 4A downstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14;~~* *~~(C) In the Yukon River mainstem, Subdistricts 4B and 4C you may take Chinook salmon during the weekly subsistence fishing opening(s) by drift gillnets no more than 150 feet long and no more than 35 meshes deep, from June 10 through July 14.~~*
OSM Conclusion	**Oppose**
Yukon-Kuskokwim Delta Subsistence Regional Advisory Council Recommendation	**Oppose**
Western Interior Alaska Subsistence Regional Advisory Council Recommendation	**Oppose**
Seward Peninsula Regional Council Recommendation	**Oppose**
Eastern Interior Alaska Subsistence Regional Advisory Council Recommendation	**Support**
Interagency Staff Committee Comments	See comments following the analysis.
ADF&G Comments	Official State comments on select proposals will be provided as a supplement at the meeting.
Written Public Comments	**None**

STAFF ANALYSIS
FP15-03

ISSUE

Proposal FP15-03, submitted by the Eastern Interior Alaska Subsistence Regional Advisory Council, requests the elimination of the use of drift gillnet fishing gear for the targeting of Chinook salmon in Yukon River Districts 1–4 (**Map 1**).

DISCUSSION

This proposed regulatory change is intended to eliminate the use of drift nets for the targeting of Chinook salmon in the Yukon River. The proponent states that escapement goals have not been met for Chinook salmon in recent years, and this change in regulation should provide additional protections for Chinook salmon that will improve overall escapement throughout much of the Yukon River drainage.

Existing Federal Regulation

Yukon-Northern Area

§___.27(e)(i)(3)(xiii) You may take salmon only by gillnet, beach seine, fish wheel, or rod and reel, subject to restrictions set forth in this section.

(xv) In Districts 4, 5, and 6, you may not take salmon for subsistence purposes by drift gillnets, except as follows:

(A) In Subdistrict 4A upstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14, and chum salmon by drift gillnets after August 2;

(B) In Subdistrict 4A downstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14;

(C) In the Yukon River mainstem, Subdistricts 4B and 4C you may take Chinook salmon during the weekly subsistence fishing opening(s) by drift gillnets no more than 150 feet long and no more than 35 meshes deep, from June 10 through July 14.

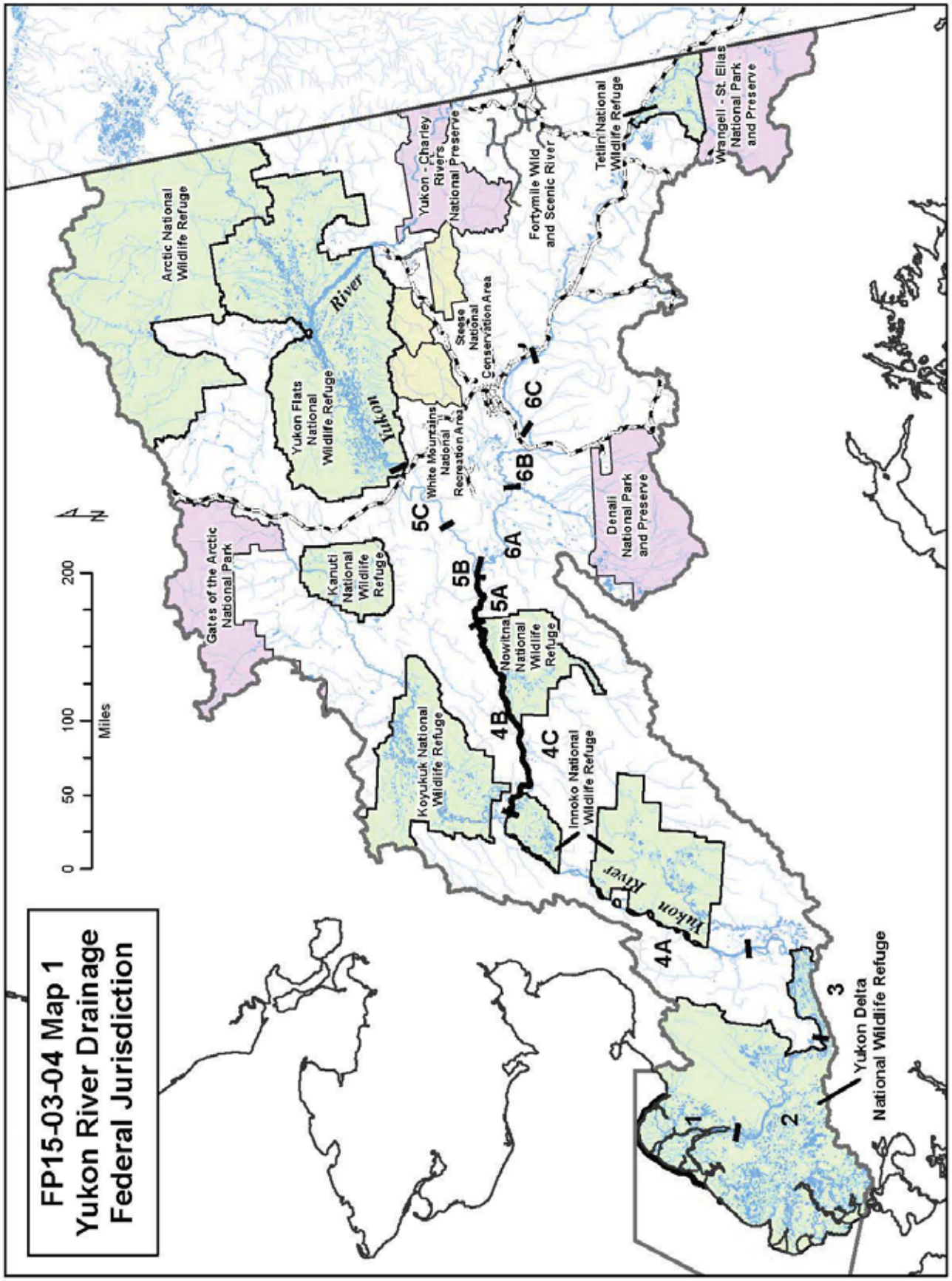
Proposed Federal Regulation

Yukon-Northern Area

§___.27(e)(i)(3)(xiii) You may take salmon only by gillnet, beach seine, fish wheel, or rod and reel, subject to restrictions set forth in this section.

*(xv) In Districts **1, 2, 3,** 4, 5, and 6, you may not take **Chinook** salmon for subsistence purposes by drift gillnets~~, except as follows~~:*

~~(A) In Districts 1, 2, and 3, you may take salmon other than Chinook salmon by drift gillnets. In Subdistrict 4A upstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14, and chum salmon by drift gillnets after August 2;~~


FP15-03-04 Map 1
Yukon River Drainage
Federal Jurisdiction
0
50
100
200
Miles
N
Arctic National Wildlife Refuge
Yukon Flats National Wildlife Refuge
Yukon River
Gates of the Arctic National Park
Kanuti National Wildlife Refuge
Koyukuk National Wildlife Refuge
Nowitna National Wildlife Refuge
Innoko National Wildlife Refuge
Yukon River
Yukon Delta National Wildlife Refuge
White Mountains National Recreation Area
Steese National Conservation Area
Yukon - Charley Rivers National Preserve
Fortymile Wild and Scenic River
Tetlin National Wildlife Refuge
Wrangell - St. Elias National Park and Preserve
Denali National Park and Preserve
1
2
3
4A
4B
4C
5A
5B
5C
6A
6B
6C

~~*(B) In Subdistrict 4A downstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14;*~~

~~*(C) In the Yukon River mainstem, Subdistricts 4B and 4C you may take Chinook salmon during the weekly subsistence fishing opening(s) by drift gillnets no more than 150 feet long and no more than 35 meshes deep, from June 10 through July 14.*~~

Existing State Regulation

Subsistence Finfish Fishery—Yukon Area

5 AAC 01.220. Lawful gear and gear specifications

(a) Salmon may be taken only by gillnet, beach seine, a hook and line attached to a rod or pole, handline, or fish wheel, subject to the restrictions set out in this section, 5 AAC 01.210, and 5 AAC 01.225–5 AAC 01.249.

(e) In Districts 4, 5, and 6, salmon may not be taken for subsistence purposes by drift gillnets, except as follows:

(1) in Subdistrict 4-A upstream from the mouth of Stink Creek, king salmon may be taken by drift gillnets from June 10 through July 14, and chum salmon may be taken by drift gillnets after August 2;

(2) in Subdistrict 4-A downstream from the mouth of Stink Creek, king salmon may be taken by drift gillnets from June 10 through July 14;

Extent of Federal Public Waters

For purposes of this discussion, the phrase "Federal public waters" is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. The Federal public waters addressed by this proposal are those portions of the Yukon River located within and adjacent to the external boundaries of the Yukon Delta National Wildlife Refuge in Districts 1, 2 and 3; Innoko National Wildlife Refuge in District 4; Koyukuk National Wildlife Refuge in District 4; Kanuti National Wildlife Refuge in District 4; Nowitna National Wildlife Refuge in Districts 4 and 5; Yukon Flats National Wildlife Refuge in District 5; Arctic National Wildlife Refuge in District 5; Tetlin National Wildlife Refuge in District 6; Yukon-Charlie National Park; Denali National Park in District 6; Gates of the Arctic National Park in District 4; Wrangell-St. Elias National Park in District 6; White Mountains and Steese National Recreation Areas in Districts 5 and 6; and all components of the Wild and Scenic River System located outside the boundaries of National Parks, National Preserves, or National Wildlife Refuges, including segments of the Beaver Creek, Birch Creek, Delta, and Fortymile Wild and Scenic Rivers.

Customary and Traditional Use Determinations

For salmon other than fall chum salmon, residents of the Yukon River drainage, and the community of Stebbins have a customary and traditional use determination. For fall chum salmon, residents of the Yukon River drainage, and the communities of Stebbins, Scammon Bay, Hooper Bay, and Chevak have a customary and traditional use determination.

Regulatory History

State of Alaska Regulatory History

In November 1973, the Alaska Board of Fisheries prohibited the use of drift gillnets for commercial fishing in the Yukon River upstream of the confluence with the Bonasila River. This action was based on the assessment

that drift gillnet use was historically low in the middle and upper Yukon River drainage and the need to prevent possible gear conflicts in the future (ADF&G 2001).

In December 1976, the Alaska Board of Fisheries prohibited the use of drift gillnets for subsistence fishing in the middle and upper Yukon Areas (Districts 4-6). The Alaska Board of Fisheries discussions at that time indicated that the possible increase in the use of drift gillnets could seriously impact both the conservation and allocation of middle and upper Yukon River salmon stocks, which were being harvested at maximum levels (ADF&G 2001). Subsistence users were allowed to continue using drift gillnets throughout the Yukon River drainage until the 1977 season.

In 1981, drift gillnets were again allowed for subsistence salmon fishing in Subdistrict 4-A upstream from Stink Creek.

In 1994, the Alaska Board of Fisheries questioned the need for drift gillnets to provide for adequate subsistence opportunity. State staff comments suggested that at that time it did not appear necessary (ADF&G 2001). The Alaska Board of Fisheries stated that the Alaska Department of Fish and Game could allow increased time for subsistence fishing with other gear types by Emergency Order, as an alternative, if subsistence needs were not being met.

In 1995, the remainder of Subdistrict 4-A, below Stink Creek, was reopened to the use of drift gillnets for subsistence fishing.

In January 2001 and 2004, the Alaska Board of Fisheries denied requests for the use of drift gillnets in Subdistrict 4-B based on concerns of increased harvests and considered the proposals to be a new and expanding fishery that could target a stock of yield concern. Yukon River Chinook and fall chum salmon were designated as stocks of "yield concern[1]" in the fall of 2000. Summer chum salmon were designated as a stock of "management concern[2]".

In February 2007, the Alaska Board of Fisheries rejected a proposal to prohibit subsistence and commercial gillnets over 6.0-inch stretch mesh.

In March 2007, the Fairbanks Fish and Game Advisory Committee submitted an agenda change request to the Alaska Board of Fisheries requesting that it take emergency action to restrict the maximum mesh size of subsistence and commercial gillnets to 7.5-inch mesh in the Yukon River. During its October 9–11, 2007 work session, the Alaska Board of Fisheries stated that this issue was thoroughly discussed at its January/February 2007 Arctic-Yukon-Kuskokwim meeting and rejected the agenda change request (ADF&G 2007).

To address long standing conservation concerns about decreasing trends in size and productivity of Yukon River Chinook salmon, the Alaska Board of Fisheries met again in January 2010 to consider regulatory proposals to reduce exploitation rates, gillnet mesh size and depth. State Proposal 90 requested a prohibition of gillnets with greater than 6.0-inch stretch mesh for the Yukon River commercial and subsistence fisheries. The Alaska Board of Fisheries amended Proposal 90 and adopted regulations to limit the maximum gillnet mesh size for Yukon River commercial and subsistence fisheries to 7.5-inch stretch mesh. The regulations became effective in 2011

[1] Yield concern: a concern arising from a chronic inability, despite the use of specific management measures, to maintain expected yields, or harvestable surpluses, above a stock's escapement needs. "Chronic inability" refers to the continuing or anticipated inability to meet expected yields over a four to five year period, which is roughly equivalent to the generation time of most salmon species. "Expected yields" refers to levels at or near the lower range of the recent historic harvests if they are deemed sustainable. A yield concern is less severe than a management concern, which refers to a stock that fails to consistently achieve biological escapement or optimal escapement goals (ADF&G and BOF 2000).

[2] Management concern: a concern arising from a chronic inability, despite use of specific management measures, to maintain escapements for a stock within the bounds of the SEG, BEG, OEG, or other specific management objectives for the fishery. "Chronic inability" means the continuing or anticipated inability to meet escapement objectives over a four to five year period, which is roughly equivalent to the generation time of most salmon species. A management concern is not as severe as a conservation concern, which refers to a stock that fails to consistently meet its sustained escapement threshold (SET) (ADF&G and BOF 2000).

and allowed a one year phase-in period for users (ADG&G 2010). In addition, the Alaska Board of Fisheries amended Proposal 94 to address the window closure schedules and adopted a regulation to give ADF&G managers the authority to sequentially close fisheries via emergency order in order to allow pulses (large numbers of migrating fish) to migrate with little or no exploitation (not fished) to their spawning grounds. Fishers and ADF&G managers reported that this strategy had worked well during 2009 to increase the numbers and quality of escapement (larger, older female fish) to spawning streams (ADF&G 2010).

Federal Regulatory History

Since October 1999, Federal regulations for the Yukon-Northern Area stipulated that, unless otherwise restricted, rural residents may take salmon in the Yukon-Northern Area at any time by gillnet, beach seine, fish wheel, or rod and reel unless exceptions are noted. In Subdistricts 4-B and 4-C and District 5, Federal subsistence regulations have mirrored those of the State, stipulating that fishers may not take salmon using drift gillnets. A less restrictive proposal (FP04-05) was submitted to the Federal Subsistence Board (Board) in 2003 to allow the use of drift gillnets in the lower 16 miles of Subdistricts 4-B and 4-C. The Board rejected that proposal based on conservation concerns. However, there were many points discussed on both sides of the issue during the meeting, and the proponent was encouraged to work with State and Federal staff and subsistence users to craft another proposal with some adjustments that may help address some of the conservation concerns (FSB 2003).

In 2002 the Board delegated some of its authority to manage Yukon River drainage subsistence salmon fisheries to the Branch Chief for Subsistence Fisheries, U.S. Fish and Wildlife Service, in Fairbanks, Alaska (**Appendix A**). The Board's delegation allows the Federal manager to open or close Federal subsistence fishing periods or areas provided under codified regulations, and to specify methods and means.

In 2004, fishery proposal FP05-04, submitted by the Western Interior Alaska Subsistence Regional Advisory Council, requested that drift gillnets be allowed in Subdistricts 4-B and 4-C and District 5 of the Yukon River. This gear was restricted to not exceed 35 meshes in depth and 150 feet in length. The use of drift gillnets was only allowed during two-36-hour periods within the current subsistence fishing schedules or periods in Subdistricts 4-B and 4-C and District 5. This proposal was adopted with modification to exclude chum salmon and to include a requirement for a registration permit (FSB 2005).

In 2013, fishery proposal FP13-01, submitted by the Koyukuk National Wildlife Refuge, requested the removal of the Federal subsistence permit requirement for the Chinook salmon drift gillnet fishery for Yukon River Subdistricts 4B and 4C. This proposal was adopted (FSB 2013).

Gear Used in the Middle and Upper Yukon River

Loyens (1966) describes the importance of salmon to the people of the Yukon River as "the staple in the native food supply…and that fishing was the most important subsistence activity" and it remains highly important today. Among salmon, Chinook salmon are foremost in importance for most people, followed by chum and coho salmon (Pope 1979).

Prior to the introduction of fish wheels around the turn of the century, the primary salmon fishing gear types were fish traps used together with fish fences, gillnets, and dip nets (Loyens 1966). Around 1910, people along the Yukon began to use the fish wheel almost exclusively in the middle and upper river areas, establishing large camps on the Yukon River (McFadyen Clark 1981).

Drift gillnets were historically used by the Deg Hit'an and Koyukon Athabaskan people in the middle Yukon River as an alternative to fish traps or dip nets (Wheeler 2004 pers. comm., and Osgood 1940). Drift gillnets were primarily used to catch Chinook salmon and were deployed from a canoe or suspended between two canoes on the main river. During the 1950s, drift gillnets became more common, facilitated in part by the introduction of power motors.

Drift gillnets have been used by some residents of Galena for many years. When drift gillnets were again allowed in the upper portion of Subdistrict 4-A in 1981, fishers from Galena began making the 16-mile trip downstream to drift for Chinook salmon. Typically, unrelated individuals fish together during the evenings for several hours at a time (Marcotte 1990). This method of salmon fishing can be effective for catching Chinook and fall chum salmon with economy of effort since separate trips are not needed to reset or pull gear at the beginning and ends of the open fishing periods (Marcotte 1990).

Current Events - Chinook Salmon

Directed commercial fishing for Yukon River Chinook salmon has been discontinued since 2007 and subsistence fishing opportunities have become increasingly restrictive in an effort to conserve Chinook salmon. In 2013, fishery managers reduced subsistence fishing opportunity to limit harvests to approximately 25% of historical levels. However, even with reduced subsistence harvests, most escapement objectives were not met. The 2013 Chinook salmon run was one of the poorest runs on record. The Chinook salmon return to the Yukon River in 2014 was expected to be extremely poor and likely insufficient to meet all escapement goals. Fishers throughout the drainage were advised ahead of the season to not expect fishing opportunity to harvest Chinook salmon and to consider using other more abundant fish resources available to them to supplement their subsistence needs. The 2014 season began with no subsistence, sport, or commercial fisheries anticipated for Chinook salmon in the U.S. portion of the Yukon River drainage. Subsistence fishing opportunities for species other than Chinook salmon were available throughout the 2014 season and the majority of subsistence fishing restrictions that occurred were during June and July to protect Chinook salmon as they moved upriver to spawning areas.

Biological Background

Chinook Salmon

Recent analyses indicate that Yukon River Chinook salmon stocks appear to be in the 6th year of a multi-year period of low productivity. Available data on Yukon River Chinook salmon stocks show periods of above-average abundance (1982-1997) and periods of below-average abundance (1998 onwards), as well as periods of generally higher productivity (brood years 1993 and earlier) mixed with years of low productivity (brood years 1994-1996 and 2002-2005; Schindler et al. 2013).

In 2013, Chinook salmon escapement goals for some tributaries of the Yukon River including the West Fork Andreafsky, Nulato, and Salcha rivers were achieved. However, the escapement goals for the East Fork Andreafsky, Anvik and Chena rivers were not met. The cumulative count on the Gisasa River was below average. High water conditions on the Chena River precluded counting for much of the season. Preliminary border passage based on the Eagle sonar was estimated at 30,401 Chinook salmon, which is below the lower end border passage goal of 42,500 Chinook salmon. These numbers, however, are subject to change with postseason data analysis (ADF&G 2013a).

The Chinook salmon return to the Yukon River in 2014 was expected to be extremely poor (64,000 to 121,000 Chinook salmon), which would likely be insufficient to meet all escapement goals. However, as of June 30, 2014, the run was estimated to be 137,000 Chinook salmon, based on counts taken at the Pilot Station sonar. Further, the upper end of the border passage agreement of 55,000 Chinook salmon was met on approximately July 27 based on Eagle sonar counts.

Summer Chum Salmon

Summer chum salmon runs in the Yukon River have provided a harvestable surplus in each of the last 11 years, 2003-2013. In 2013, most tributaries producing summer chum salmon experienced above average escapement. The East Fork Andreafsky River Sustainable Escapement Goal and Anvik River Biological Escapement Goal were achieved, and counts at the Gisasa and Henshaw rivers were above average. Salcha River and Chena River

escapements, as assessed by tower counts, were above their historical medians. Yukon River summer chum salmon runs generally exhibit strong run size correlations among adjacent years and it should be noted that poor runs have resulted from large escapements (ADF&G 2013a). Similar to the past few years, actual harvest of summer chum has been affected by fishing restrictions implemented in response to poor Chinook salmon runs.

Fall Chum Salmon

Harvestable surplus of fall chum has been available the past 11 years (2003-2013).The total Yukon River fall chum run size is calculated, post season, and is based on individually monitored spawning escapements and estimated U.S. and Canadian harvests. Escapements were monitored using sonar in the Chandalar and Sheenjek rivers and the Canadian main stem rivers, and in the Fishing Branch River with a weir. Assessment of Tanana River stocks was based on either genetic apportionment of Pilot Station counts (both summer and fall Tanana River stocks passing after July 19) or the Delta River escapement and its relationship to the Tanana River mark–recapture estimates (ADF&G 2011). The preliminary 2013 run size estimate was greater than 1.1 million fall chum.

Coho Salmon

There are few coho salmon spawning escapement assessment projects in the Yukon River drainage. The Delta Clearwater River has the only established escapement goal for coho salmon, a Sustainable Escapement Goal of 5,200–17,000 fish (ADF&G 2011). A coho salmon index developed for the Yukon River from 1995 to 2012 (excluding 1996 and 2009) suggests that the average run size is 197,000 fish with an average escapement of 145,000 fish. The preliminary run estimate for 2013 was 137,000 coho salmon, with an estimated escapement of 51,000 fish (ADF&G 2013b). A harvestable surplus of coho salmon has been available for the past 11 years (2003 – 2013).

Harvest History – Chinook Salmon

Chinook salmon subsistence harvests have been approximately 50,000 fish annually in the Alaskan portion of the Yukon River over the past 20 years. However, subsistence harvest levels of Chinook salmon have declined since 2007 due to declining run abundance and resultant harvest restrictions. In recent years, subsistence fishing has increasingly targeted non-Chinook salmon species such as whitefish. In order to allow continued subsistence opportunity throughout the season, subsistence fishing activities have been managed to avoid Chinook salmon and allow the harvest of other fish species.

Most rural residents of the Yukon River drainage (minus the Tanana River) live in 39 villages (see **Table 1**). Between 2001 and 2010, they harvested an estimated 45,597 Chinook salmon annually. Looking further, the average annual harvest decreased by approximately 15% between 2001–2005 (49,067 Chinook salmon) and the 2006–2010 (42,128 Chinook salmon; **Table 2**; Jallen et al. 2012). A similar decrease occurred in all 6 management districts. According to preliminary results, 26,065 Chinook salmon were harvested by rural residents of the Yukon River drainage in 2012, and 11,000 Chinook salmon were harvested in 2013 (JTC 2013 and 2014).

In 2011, household harvest surveys estimated that 4 communities (Pitkas Point, St. Mary's, Pilot Station, and Kaltag) harvested 100% of their Chinook salmon by drift gillnets. Seven communities (Huslia, Hughes, Allakaket, Alatna, Stevens Village, Birch Creek, and Venetie) were estimated to harvest 100% of their Chinook salmon by set gillnets. Fish wheels were only used to harvest Chinook salmon in Ruby (68% of Chinook salmon harvested by the community), Tanana (51%), Beaver (20%), and Ft. Yukon (74%).

Household harvest surveys were not conducted in Rampart, Circle, Central, Eagle, Manley, Minto, Nenana, and Healy. Instead, these residents must obtain a State subsistence or personal use permit. Two communities (Rampart and Healy) reported harvesting 100% of their salmon with set gillnets. Households in the other 6 communities reported using set gillnets or fish wheels as their primary gear to harvest salmon. Primary gear was determined by

the larger number of salmon harvested by gear types in the household (Jallen et al. 2012).

Effects of the Proposal

If this proposal were adopted, it would remove drift gillnets as a gear type for the Federal subsistence harvest of Chinook salmon in Yukon River Districts 1-4 and could reduce the fishing efficiency for harvesting Chinook salmon in the U.S. portion of the Yukon River in these Districts. Eliminating the use of drift nets for the targeting of Chinook salmon in Yukon River Districts 1-4 could benefit Chinook salmon during times of conservation concerns, if it effectively reduced harvest efficiency to the extent that it reduced overall harvest. However, the elimination of this gear type could also be a detriment to subsistence users whose harvest of Chinook salmon, during years of strong Chinook salmon runs, may be more effective with the use of drift nets.

State regulations allow the taking of salmon with drift gillnets in state waters within districts 1-4. Therefore, Federally qualified subsistence users fishing under state regulations could still utilize gillnets.

OSM CONCLUSION

Oppose FP15-03.

Justification

This proposal would remove a fishing gear option that is currently relied upon by one segment of the fishing community and would not affect the fishing practice of others. Additionally, if the intention is to reduce the harvest of Chinook salmon during times of conservation need, this could be achieved through existing regulatory authorities that allow in-season managers to open or close Federal subsistence fishing periods or areas provided under codified regulations, and to specify methods and means (**Appendix A**).

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Table 1. Rural residents of the Yukon River drainage by community and management district.

YUKON RIVER DRAINAGE					
FISHING MANAGEMENT DISTRICT/COMMUNITY					
District 1	**District 2**	**District 3**	**District 4**	**Disrict 5**	**District 6**
Nunam Iqua	Mountain Village	Russian Mission	Anvik	Tanana	Manley
Alakanuk	Pitkas Point	Holly Cross	Grayling	Rampart	Minto
Emmonak	St. Mary's	Shageluk	Kaltag	Steven Village	Nenana
Kotlik	Pilot Station		Nulato	Birch Creek	Healy
	Marshall		Koyukuk	Beaver	
			Galena	Fort Yukon	
			Ruby	Circle	
			Huslia	Central	
			Hughes	Eagle	
			Allakaket	Venetie	
			Alatna	Chalkyitsik	
			Bettles		

Table 2. The harvest of Chinook salmon by Federally qualified subsistence users, Yukon River drainage, by district, 1989 to 2011 (Jallen et al. 2012).

FEDERAL							
CHINOOK SALMON HARVEST—YUKON RIVER DRAINAGE							
Year	**Number of fish harvested[a]**						
	District 1	**District 2**	**District 3**	**District 4**	**Disrict 5**	**District 6**	**Total**
2001	7,089	13,442	6,361	10,152	12,441	2,136	51,621
2002	5,603	8,954	4,139	9,456	11,634	908	40,694
2003	6,332	9,668	5,002	12,771	17,259	1,753	52,785
2004	5,880	9,724	4,748	16,269	13,669	939	51,229
2005	5,058	9,156	5,131	13,964	14,840	857	49,006
2006	5,122	8,039	5,374	12,022	13,740	1,104	45,401
2007	6,059	10,553	4,651	11,831	16,655	1,308	51,057
2008	6,163	8,826	5,855	10,619	9,728	497	41,688
2009	4,125	6,135	2,924	9,514	7,408	889	30,995
2010	5,856	8,676	4,299	12,888	8,727	1,052	41,498
2011	6,255	8,069	4,134	9,893	8,007	1,037	37,395
2001 to 2005 average	5,992	10,189	5,076	12,522	13,969	1,319	49,067
2006 to 2010 average	5,465	8,446	4,621	11,375	11,252	970	42,128

[a] Does not include the Coastal District, harvest from State personal use permits, or harvest by Fairbanks Sate subsistence permit holders.

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Yukon-Kuskokwim Delta Subsistence Regional Advisory Council

Oppose Proposal FP15-03. This is the only method of harvesting subsistence salmon for many users in the region to provide food for families for the winter. Eliminating this tool would be detrimental to some federally qualified users.

Western Interior Alaska Subsistence Regional Advisory Council

Oppose Proposal FP15-03. The Council believes this proposed action is detrimental to subsistence users. Mechanisms already exist for in-season managers to eliminate drift gillnets if necessary and the Council feels the existing system is adequate to address the conservation concerns of this resource. If the Chinook run is not strong, Federally qualified users should retain the opportunity to utilize drift gillnets as a tool. In times of severe restrictions, the in season managers should look at elimination of drift gillnet (beach oriented) to protect salmon to the highest degree.

Seward Peninsula Subsistence Regional Advisory Council

Oppose Proposal FP15-03. Eliminating drift gillnets would be detrimental to some subsistence users as drift gillnets are a tool that some subsistence users need to have an opportunity to fish. This regulatory change is unnecessary for conservation because, the in-season manager can make adjustments to how and when drift gillnets may be used.

Eastern Interior Alaska Subsistence Regional Advisory Council

Support Proposal FP15-03. This proposal to eliminate the use of drift gill net gear for the targeting of Chinook salmon in Yukon River districts 1 – 4 was submitted by the Eastern Interior RAC. The Council supports this proposal due to overriding conservation concerns for Yukon River Chinook declines and cited the efficiency of drift gill nets to catch larger, older and female salmon. The Council discussed that elimination of drift gill nets during the Chinook run in the lower river will allow greater passage of Chinook and increase overall escapement to support rebuilding the population which will benefit all subsistence communities on the Yukon in the long run. The Council noted that efforts for Chinook salmon conservation are needed by all users all along the Yukon River. The Council discussed that the upper river has long since experienced the declining numbers and smaller kings for many years and have been making strong efforts to reduce king harvest with very limited fishing periods in recent years.

INTERAGENCY STAFF COMMITTEE COMMENTS

FP15-03

The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Councils' recommendations and Federal Subsistence Board action on the proposal.

Federal Subsistence Board

3601 C Street, Suite 1030
Anchorage, Alaska 99503

FISH and WILDLIFE SERVICE
BUREAU of LAND MANAGEMENT
NATIONAL PARK SERVICE
BUREAU of INDIAN AFFAIRS

FOREST SERVICE

FWS/OSM/C:/HolderInSeasonLtr

MAY -3 2002

Mr. Russ Holder, Branch Chief for Subsistence Fisheries
U. S. Fish & Wildlife Service
Fairbanks Fishery Resources Office
101 12th Avenue, Room 222
Fairbanks, Alaska 99701

Dear Mr. Holder:

This letter delegates specific regulatory authority from the Federal Subsistence Board to you as Branch Chief for Subsistence Fisheries to issue special actions when necessary to assure the conservation of healthy fish stocks and to provide for subsistence uses of fish in Federal waters subject to ANILCA Title VIII (Federal waters) in the Yukon River Drainage, including the Arctic National Wildlife Refuge.

Overview

Federal managers are responsible for local management of subsistence fishing by qualified rural residents in Federal waters; this includes the authority to restrict all uses in Federal waters if necessary to conserve healthy fish stocks or to provide for subsistence uses in Federal waters. State managers are responsible for in-season management of State subsistence, commercial, recreational, and personal use fisheries in all waters.

It is the intent of the Federal Subsistence Board that subsistence fisheries management by Federal officials be coordinated with the Alaska Department of Fish and Game and involve Regional Advisory Council representatives to conserve healthy fish stocks while providing for subsistence uses. Federal managers are expected to cooperate with State managers and minimize disruption to resource users and existing agency programs, as agreed to under the Interim Memorandum of Agreement for Coordinated Fisheries and Wildlife Management for Subsistence Uses on Federal Public Lands in Alaska.

FEDERAL FISHERIES MANAGEMENT
DELEGATION OF AUTHORITY

1. Delegation: The Branch Chief for Subsistence Fisheries is hereby delegated authority to issue emergency regulations (special actions) affecting fisheries in Federal waters as outlined under **3. Scope of Delegation**.

2. Authority: This delegation of authority is established pursuant to 36 CFR 242.10(d)(6) and 50 CFR 100.10(d)(6), which states: "The Board may delegate to agency field officials the authority to set harvest and possession limits, define harvest areas, specify methods or means of harvest, specify permit requirements, and open or close specific fish or wildlife harvest seasons within frameworks established by the Board."

3. Scope of Delegation: The regulatory authority hereby delegated is limited to the issuance of emergency special actions as defined by 36 CFR 242.19(d) and 50 CFR 100.19(d). Such an emergency action may not exceed 60 days, and may not be extended. This delegation permits you to open or close Federal subsistence fishing periods or areas provided under codified regulations. It also permits you to specify methods and means; to specify permit requirements; and to set harvest and possession limits for Federal subsistence fisheries. This delegation also permits you to close and re-open Federal waters to non-subsistence fishing, but does not permit you to specify methods and means, permit requirements, or harvest and possession limits for State-managed fisheries. This delegation may be exercised only when it is necessary to conserve fish stocks or to continue subsistence uses.

All other proposed changes to codified regulations, such as customary and traditional use determinations, shall be directed to the Federal Subsistence Board.

The Federal waters subject to this delegated authority are those within the Yukon River Drainage, including the Arctic National Wildlife Refuge (as described in the Subsistence Management Regulations for the Harvest of Fish and Shellfish on Federal Public Lands and Waters in Alaska). The Branch Chief will coordinate all local fishery decisions with all affected Federal land managers.

4. Effective Period: This delegation of authority is effective until superseded or rescinded.

5. Criteria for Review of Proposed Special Actions: The Branch Chief will use the following considerations to determine the appropriate course of action when reviewing proposed special actions.

1. Does the proposed special action fall within the geographic and regulatory scope of delegation?

2. Does the proposed special action need to be implemented immediately as a special action, or can the desired conservation or subsistence use goal be addressed by deferring the issue to the annual regulatory cycle?

3. Does the supporting information in the proposed special action substantiate the need for the action?

4. Are the assertions in the proposed special action confirmed by available current biological information and/or by other affected subsistence users?

5. Is the proposed special action supported in the context of available historical information on stock status and harvests by affected users?

6. Is the proposed special action likely to achieve the expected results?

7. Have the perspectives of ADF&G managers and Regional Advisory Council representatives been fully considered in the review of the proposed special action?

8. Have the potential impacts of the proposed special action on all affected subsistence users within the drainage been considered?

9. Can public announcement of the proposed special action be made in a timely manner to accomplish the management objective?

10. After evaluating all information and weighing the merits of the special action against other actions, including no action, is the special action reasonable, rational and responsible?

6. **Guidelines for Delegation:**

1. The Branch Chief will become familiar with the management history of the fisheries in the region, with the current State and Federal regulations and management plans, and be up-to-date on stock and harvest status information.

2. The Branch Chief will review special action requests or situations that may require a special action and all supporting information to determine (1) if the request/situation falls within the scope of authority, (2) if significant conservation problems or subsistence harvest concerns are indicated, and (3) what the consequences of taking an action may be on potentially affected subsistence users and non-subsistence users. Requests not within the delegated authority of the Branch Chief will be forwarded to the Federal Subsistence Board for consideration. The Branch Chief will keep a record of all special action requests and their disposition.

3. The Branch Chief will immediately notify the Federal Subsistence Board through Tom Boyd, Assistant Regional Director for Subsistence, U.S. Fish and Wildlife Service, and notify/consult with local ADF&G managers, Regional Advisory Council members, and other affected Federal conservation unit managers concerning special actions being considered.

4. The Branch Chief will issue timely decisions. Users, affected State and Federal managers, law enforcement personnel, and Regional Advisory Council representatives should be notified before the effective date/time of decisions. If an action is to supersede a State action not yet in effect, the decision will be communicated to affected users, State and Federal managers, and Regional Advisory Council representatives at least 6 hours before the State action would be effective. If a decision is to take no action, the requestor will be notified immediately.

5. There may be unusual circumstances under which the Branch Chief will determine that he/she should not exercise the authority delegated, but instead request that the Federal Subsistence Board should handle the special action request. In a similar vein, the Federal Subsistence Board may determine that a special action request should not be handled by the delegated official but by the Board itself (i.e. rescind the delegated authority for that specific action only). These options should be exercised judiciously and may only be initiated where sufficient time allows. Such decisions should not be considered where immediate management actions are necessary for fisheries conservation purposes.

7. Reporting: The Branch Chief must provide to the Federal Subsistence Board a report describing the pre-season coordination efforts, local fisheries management decisions, and post-season evaluation activities for the previous fishing season by November 15.

8. Support Services: Administrative support for local fisheries management activities of the Branch Chief will be provided by the Office of Subsistence Management, U. S. Fish and Wildlife Service, Department of the Interior.

This delegation of authority will provide subsistence users in the region a local point of contact and will facilitate a local liaison with State managers and other user groups. Timely local management decisions optimize the opportunity for users to harvest fish when and where they are available, without jeopardizing spawning escapement goals for specific stocks.

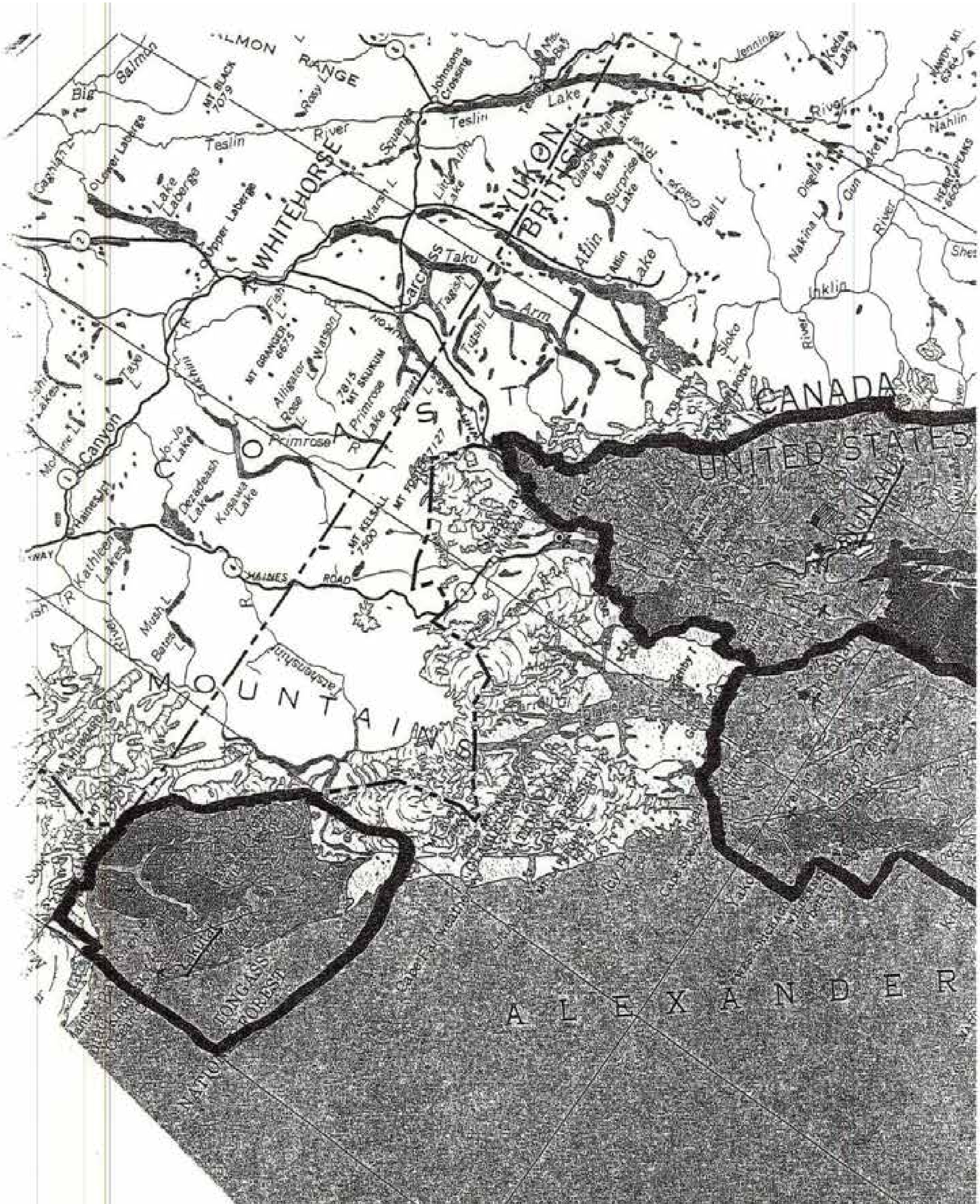
Should you have any questions about this delegation of authority, please feel free to contact Mr. Thomas H. Boyd, Assistant Regional Director for Subsistence, U. S. Fish and Wildlife Service, Office of Subsistence Management at toll-free 1-800-478-1456 or (907) 786-3888.

Sincerely,

Mitch Demientieff, Chair
Federal Subsistence Board

Attachment: Map of the Yukon River Drainage, including the Arctic NWR

cc: Members of the Federal Subsistence Board
Mr. Harry Wilde, Sr., Chair, Yukon-Kuskokwim Delta Subsistence Regional Advisory Council
Mr. John Hanson, Member, Yukon-Kuskokwim Delta Subsistence Regional Advisory Council
Mr. Ronald Sam, Chair, Western Interior Subsistence Regional Advisory Council
Mr. Benedict Jones, Member, Western Interior Subsistence Regional Advisory Council
Mr. Mickey Stickman, Member, Western Interior Subsistence Regional Advisory Council
Mr. Gerald Nicholia, Sr., Chair, Eastern Interior Subsistence Regional Advisory Council
Mr. Craig Fleener, Member, Eastern Interior Subsistence Regional Advisory Council
Mr. Dave Mills, Superintendent, Gates of the Arctic National Park and Preserve and Yukon-Charley Rivers National Preserve
Mr. Michael Rearden, Manager, Yukon Delta National Wildlife Refuge
Mr. Steve Martin, Superintendent, Denali National Park and Preserve
Mr. Bill Schaff, Manager, Innoko National Wildlife Refuge
Mr. Eugene Williams, Manager, Koyukuk/Nowitna National Wildlife Refuge
Mr. Bob Schulz, Manager, Kanuti National Wildlife Refuge
Mr. Ted Heuer, Manager, Yukon Flats National Wildlife Refuge
Mr. Edward Merritt, Manager, Tetlin National Wildlife Refuge
Mr. Richard Voss, Manager, Arctic National Wildlife Refuge
Mr. Greg Siekaniec, Manager, Alaska Maritime National Wildlife Refuge
Mr. Stanley Pruszenski, Assistant Regional Director - Law Enforcement, U.S. Fish and Wildlife Service
Mr. Robert Schneider, Field Manager, Bureau of Land Management, Northern District Office (Steese National Conservation Areas and White Mountain National Recreation Area)
Mr. Frank Rue, Commissioner, Alaska Department of Fish and Game
Mr. Thomas H. Boyd, FWS Office of Subsistence Management


RANGE
Teslin
Lake
Johnsons Crossing
Squanga
Marsh L
Little Atlin Lake
YUKON
BRITISH
Gladys Lake
Surprise Lake
Atlin
Lake
Bell L
Nakina L
River
Inklin
Nahlin
Teslin River
Big Salmon
Lake Laberge
Upper Laberge
WHITEHORSE
Taku
Arm
Tagish L
Tutshi L
Fish L
Watson
MT GRANGER 6675
Alligator Lake
Rose L
Primrose Lake
7815 MT SKUKUM
Primrose
Canyon
Jo-Jo Lake
Dezadeash Lake
Kusawa Lake
MT KELSALL 7500
Kathleen Lakes
HAINES
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Bates L
COAST
MOUNTAINS
CANADA
UNITED STATES
JUNEAU
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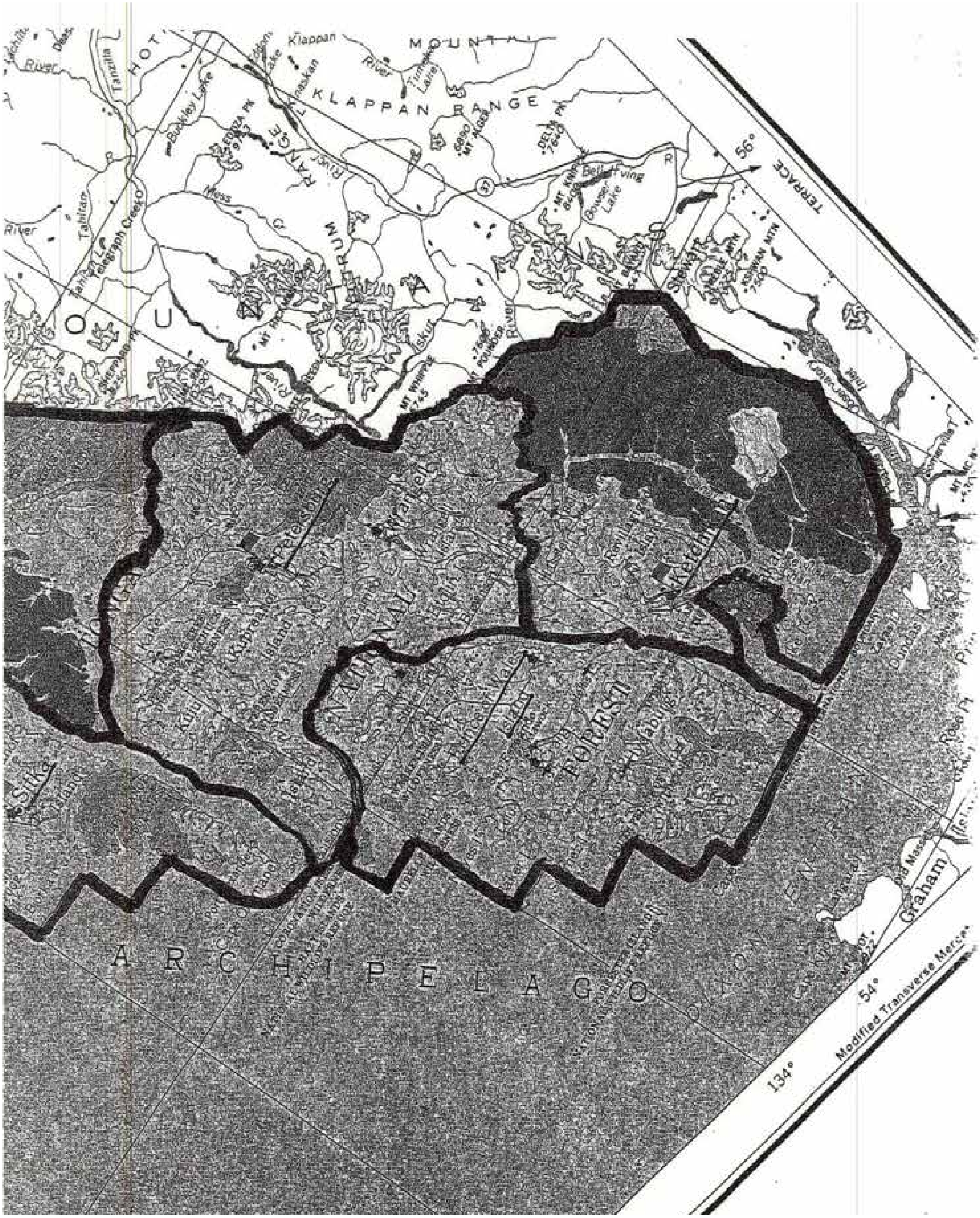
Klappan
KLAPPAN RANGE
TERRACE
56°
Bowser Lake
ARCHIPELAGO
Graham
54°
134°

FP15-06/FP15-07 Executive Summary	
General Description	Proposal FP15-06, submitted by the Yukon Delta National Wildlife Refuge, and Proposal FP15-07, submitted by Lisa Feyereisen, request that dip nets be authorized as legal gear for the harvest of salmon in the Kuskokwim River drainage. Additionally, FP15-07 requests inclusion of the following provision: "All king [Chinook] salmon captured with a dip net must be immediately released back to the water."
Proposed Regulation	**FP15-06** Kuskokwim Area—Fish *§___.27(e)(4)(ix). You may only take salmon by gillnet, beach seine, fish wheel,* ***dip net*** *or rod and reel subject to the restrictions set out in this section, except that you may also take salmon by spear in the Kanektok, and Arolik River drainages, and in the drainage of Goodnews Bay.* **FP15-07** Kuskokwim Area—Fish *§___.27(e)(4)(ix). You may only take salmon by gillnet, beach seine, fish wheel, or rod and reel subject to the restrictions set out in this section, except that you may also take salmon by spear in the Kanektok, and Arolik River drainages, and in the drainage of Goodnews Bay.* ***You may also take salmon by dip net in the Kuskokwim River drainage with the provision that all king [Chinook] salmon captured with a dip net must be immediately released back to the water.***
OSM Conclusion	**Support** FP15-06; **Take no action** on FP15-07.
Yukon-Kuskokwim Delta Subsistence Regional Advisory Council Recommendation	**Support** FP15-06; **Take no action** on FP15-07.
Western Interior Alaska Subsistence Regional Advisory Council Recommendation	**Support** FP15-06; **Take no action** on FP15-07.
Interagency Staff Committee Comments	See comments following the analysis.
ADF&G Comments	Official State comments on select proposals will be provided as a supplement at the meeting.
Written Public Comments	**None**

STAFF ANALYSIS
FP15-06 / FP15-07

ISSUES

Proposal FP15-06 submitted by the Yukon Delta National Wildlife Refuge, and proposal FP15-07 submitted by Lisa Feyereisen, request that dip nets be authorized as legal gear for the harvest of salmon in the Kuskokwim River drainage. Additionally, FP15-07 requests inclusion of the following provision: "All king [Chinook] salmon captured with a dip net must be immediately released back to the water." Since both proposals seek similar regulatory action, they are consolidated and analyzed together.

DISCUSSION

The proponent of FP15-06 states that "…the Kuskokwim [River] Salmon Management Working group and the State of Alaska successfully petitioned the Alaska Board of Fisheries to implement dip nets as a legal gear type in the Kuskokwim management area for the 2014 salmon fishing season. This proposal if passed would place the allowance of dip nets in the Kuskokwim management area regulations [under Federal regulations]."

The proponent for FP15-07 states that "…dip nets will likely only be used when restrictions for king salmon are implemented; consequently, the harvest of chum and sockeye salmon with dip nets will be much lower than in typical years when gill nets are the preferred method, because dip nets are a very inefficient means of fishing."

Existing Federal Regulations

Kuskokwim Area—Fish

§___.27(e)(4)(ix). You may only take salmon by gillnet, beach seine, fish wheel, or rod and reel subject to the restrictions set out in this section, except that you may also take salmon by spear in the Kanektok, and Arolik River drainages, and in the drainage of Goodnews Bay.

Subsistence taking of fish, wildlife, and shellfish: general regulations.

§___.25(a) - Definitions. Dip net means a bag-shaped net supported on all sides by a rigid frame; the maximum straight-line distance between any two points on the net frame, as measured through the net opening, may not exceed 5 feet; the depth of the bag must be at least one-half of the greatest straight-line distance, as measured through the net opening; no portion of the bag may be constructed of webbing that exceeds a stretched measurement of 4.5 inches; the frame must be attached to a single rigid handle and be operated by hand.

Proposed Federal Regulation – FP15-06

Kuskokwim Area—Fish

§___.27(e)(4)(ix). You may only take salmon by gillnet, beach seine, fish wheel, ***dip net*** *or rod and reel subject to the restrictions set out in this section, except that you may also take salmon by spear in the Kanektok, and Arolik River drainages, and in the drainage of Goodnews Bay.*

Proposed Federal Regulation – FP15-07

Kuskokwim Area—Fish

§___.27(e)(4)(ix). You may only take salmon by gillnet, beach seine, fish wheel, or rod and reel subject to

the restrictions set out in this section, except that you may also take salmon by spear in the Kanektok, and Arolik River drainages, and in the drainage of Goodnews Bay. ***You may also take salmon by dip net in the Kuskokwim River drainage with the provision that all king [Chinook] salmon captured with a dip net must be immediately released back to the water.***

Existing State Regulations

Kuskokwim Area—Subsistence Fishery

5 AAC 01.270. Lawful gear and gear specifications and operation
(a) Salmon may be taken only by gillnet, beach seine, a hook and line attached to a rod or pole, handline, or fish wheel subject to the restrictions set out in this section and 5 AAC 01.275, except that salmon may also be taken by spear in the Holitna River drainage, Kanektok River drainage, Arolik River drainage, and the drainage of Goodnews Bay.

5 AAC 07.365(d)(2) *(part of the Kuskokwim River Salmon Management Plan)*

(C) a person may fish for salmon with a dip net, as defined in 5 AAC 39.105, and all king salmon caught by a dip net must be returned immediately to the water unharmed; This is an emergency regulation, effective date of April 18, 2014, with an expiration date of August 15, 2014 unless made "permanent" by the adopting agency.

5 AAC 39.105 (d)(24). Types of legal gear - Definition of Dip Net

... a dip net is a bag-shaped net supported on all sides by a rigid frame; the maximum straight-line distance between any two points on the net frame, as measured through the net opening, may not exceed five feet; the depth of the bag must be at least one-half of the greatest straight-line distance, as measured through the net opening; no portion of the bag may be constructed of webbing that exceeds a stretched measurement of 4.5 inches; the frame must be attached to a single rigid handle and be operated by hand.

Extent of Federal Public Land

For purposes of this discussion, the phrase "Federal public waters" is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. The affected area consists of those waters of the Kuskokwim River drainage that are within and adjacent to the exterior boundaries of the Yukon Delta National Wildlife Refuge, including portions of the Kuskokwim Fishery Management Area Districts 1 and 2. These waters are generally known as the lower Kuskokwim River drainage, from the mouth of the Kuskokwim River upriver to, and including, about 30 miles of the lower portion of the Aniak River (see **Map 1**).

Customary and Traditional Use Determination

Residents of the Kuskokwim Fishery Management Area (except those persons residing on the United States military installations located on Cape Newenham, Sparrevohn USAFB, and Tatalina USAFB) have customary and traditional use determination for all salmon in the affected area (Refuge waters of the lower Kuskokwim River drainage).

Regulatory History

The current Federal regulation has been in place since 2000, when the Federal Government provided a subsistence priority in the management of subsistence fisheries in Federal public waters, and adopted State of Alaska regulations as a starting point.

In February 2014, the Kuskokwim River Salmon Management Working Group (Working Group) submitted Fishery Special Action Request FSA14-01, requesting that the Federal Subsistence Board (Board) to add dip nets as legal gear for the harvest of salmon in the Kuskokwim River drainage for the 2014 subsistence salmon fishing

season, with an effective start date of May 24, 2014. Part of the request included the following provision: "All king [Chinook] salmon caught with a dip net must be released alive to the water." The Board adopted FSA14-01, with a modification that all Chinook salmon caught with a dip net must be released *immediately* to the water, and to leave the effective date to the discretion of the in-season manager (FSB 2014).

Concurrent with its special action request to the Board, the Working Group also submitted an emergency petition to the Alaska Board of Fisheries to add dip nets as legal gear for the taking of salmon other than Chinook salmon in the Kuskokwim Area during times of Chinook salmon conservation. State of Alaska regulations only allowed for the use of gillnets, fish wheels, beach seines, and hook and line attached to a rod or pole for the harvest of salmon in the Kuskokwim River drainage.

The Alaska Board of Fisheries met in March 2014 and approved the use of dip nets to harvest salmon in the Kuskokwim River drainage during the 2014 salmon fishing season. In conjunction with approving the emergency petition, the Alaska Board of Fisheries also gave the Commissioner of the Alaska Department of Fish and Game the authority to put this into regulation (Alaska Board of Fisheries 2014).

Biological Background

Run Size

Since 2007, the Kuskokwim River Chinook salmon stocks have experienced a multi-year period of low productivity, insufficient to meet escapement levels and provide sufficient subsistence harvest opportunity (Schindler et al. 2013). The average Kuskokwim River Chinook salmon run size from 1976–2013 was 239,000 fish, with the last five years, 2009–2013, averaging only 130,000 fish (**Table 1)**. Since 2010, the Chinook salmon runs have been some of the lowest runs on record, with the estimated 2013 run of 94,000 fish, the lowest run ever documented (Elison 2014, Pers. Comm).

Escapement

Escapement goals for Chinook salmon were not met for the years 2010, 2011, 2012 and 2013.

Prior to the 2012 Chinook salmon fishing season, the Federal and State in-season fisheries managers, in conjunction with the Kuskokwim River Salmon Management Working Group, agreed on managing the subsistence fishery with an escapement goal of 127,000 fish based on the Bethel Test Fishery abundance index. The estimated 2012 total run of 100,000 Chinook salmon in the Kuskokwim River was not only lower than the escapement goal, but turned out to be lowest run on record at the time, dating back to 1976. The 2012 Chinook salmon escapement is estimated to be approximately 76,000 fish (Schaberg et. al, *in prep*).

In January 2013, the Alaska Board of Fisheries adopted a new Kuskokwim River Salmon Management Plan (5 AAC 07.365), and a new, drainage-wide Sustainable Escapement Goal (SEG) of 65,000–120,000 Chinook salmon. For the 2013 Chinook salmon fishing season, with this new SEG in place, the In-season fisheries managers, with concurrence from the Working Group, agreed on managing the subsistence fishery with an escapement goal of 85,000 fish. Due to run timing and compression, few restrictions were placed on Chinook salmon subsistence harvest throughout the 2013 fishing season which resulted in the lowest escapement on record. The 2013 Chinook salmon escapement is estimated to be approximately 47,500 fish (Elison 2014).

Historical Use of Dip Nets in the Kuskokwim River drainage

Historically, people living in the Kuskokwim River drainage harvested fishes using methods including gillnets, fish spears, fish traps, fish wheels, and dip nets (Ikuta et al. 2013, Jacobson 1984, Kilbuck 1988, Oswalt 1959, VanStone 1984). Currently, people use dip nets to harvest fish, where allowed, at particular times and places when dip nets provide an advantage over other methods. People commonly report using dip nets to take smelts

during springtime runs or to harvest whitefishes from behind fence-like weirs for example. The Yup'ik Eskimo Dictionary defines a *qalu* as a dip net, and further provides an example of its use, *Kusquqvagmiut canglartut qusuurnek qalunek aturluteng,* or "Kuskokwim people catch smelt using dip nets."

Local fishers have also used dip nets to take salmon in the past. For example, in the mid-1800s, Zagoskin (1967) observed people using dip nets to harvest salmon, "The bag-nets, that is, nets mounted on a hoop, are a sort of shallow bag with a pole for a handle and are used exclusively for taking king salmon when they first appear traveling upriver in the deep water in midstream. The hoop is up to 4 feet in diameter and the pole as much as 1.5 *sazhens* [10-1/2 feet] long. The bag-nets may be floated in the same way as other nets." In 2009, several elders from the lower Kuskokwim River recalled that in their youth, salmon were harvested primarily with dip nets and set nets. The elders explained that they traditionally used dip nets because the Kuskokwim River was narrower than it is now near their fish camps, salmon were more abundant, and they could take salmon in dip nets in near shore water (Ikuta et al. 2013).

Harvest History

Historically, the Kuskokwim River has been home to the largest Chinook salmon subsistence fishery in the State of Alaska. From the early 1990s through 2011, the Chinook salmon harvest has averaged approximately 85,000 fish annually (**Table 1**). However, since 2010, the amount of Chinook salmon harvest has trended downward, due to both record low runs and corresponding increased fishing restrictions in some years.

The estimated 2010 subsistence harvest was 66,000 Chinook salmon and the 2011 estimated subsistence harvest was 59,000 Chinook salmon (**Table 1**). The estimated 2012 subsistence Chinook salmon harvest of 24,000 fish was the lowest on record. This occurred as a result of the lowest run size to date at the time, in conjunction with significant restrictions on Chinook salmon fishing throughout the 2012 fishing season. In 2013, subsistence users harvested an estimated 46,500 fish; almost twice as much as the previous year, but still well below the long-term average of 85,000 fish (Elison 2014, Pers. Comm.).

Effects of the Proposal

If this proposal is adopted, Federally-qualified subsistence users would be allowed to utilize dip nets to harvest salmon within and adjacent to the boundaries of the Yukon Delta National Wildlife Refuge. This addition could broaden fishers' opportunity to provide for their families by allowing them to attempt to harvest salmon when gillnet restrictions are in place.

The Federal Subsistence Board and the Alaska Board of Fisheries authorized dip nets as a legal gear type in the Kuskokwim Management Area for the 2014 subsistence salmon fishing season. These proposals, if adopted by the Board, would add dip nets as a legal gear type for the harvest of salmon in the Kuskokwim Management Area in Federal subsistence salmon fishing regulations.

The provision requested in FP15-07, "All king [Chinook] salmon captured with a dip net must be immediately released back to the water," is unnecessary. The in-season manager has the authority to implement that provision, if necessary, such as in times of Chinook salmon conservation.

It is expected that there will be minimal, if any, negative affects to Chinook salmon caught in a dip net and then immediately released.

OSM CONCLUSION

Support FP15-06; **Take no action** on FP15-07.

Justification

Dip nets have been utilized historically to harvest salmon in the Kuskokwim River drainage and are currently a legal gear type to harvest non-salmon species of fish.

The Federal Subsistence Board authorized the use of dip nets to harvest salmon in the Kuskokwim River drainage for the 2014 fishing season under a special action. The Alaska Board of Fisheries recently authorized the use of dip nets to harvest salmon in the Kuskokwim River drainage under State of Alaska regulations.

The provision requested in FP15-07, "All king [Chinook] salmon captured with a dip net must be immediately released back to the water," is unnecessary. The in-season manager has the authority to implement that provision, if necessary, such as in times of Chinook salmon conservation.

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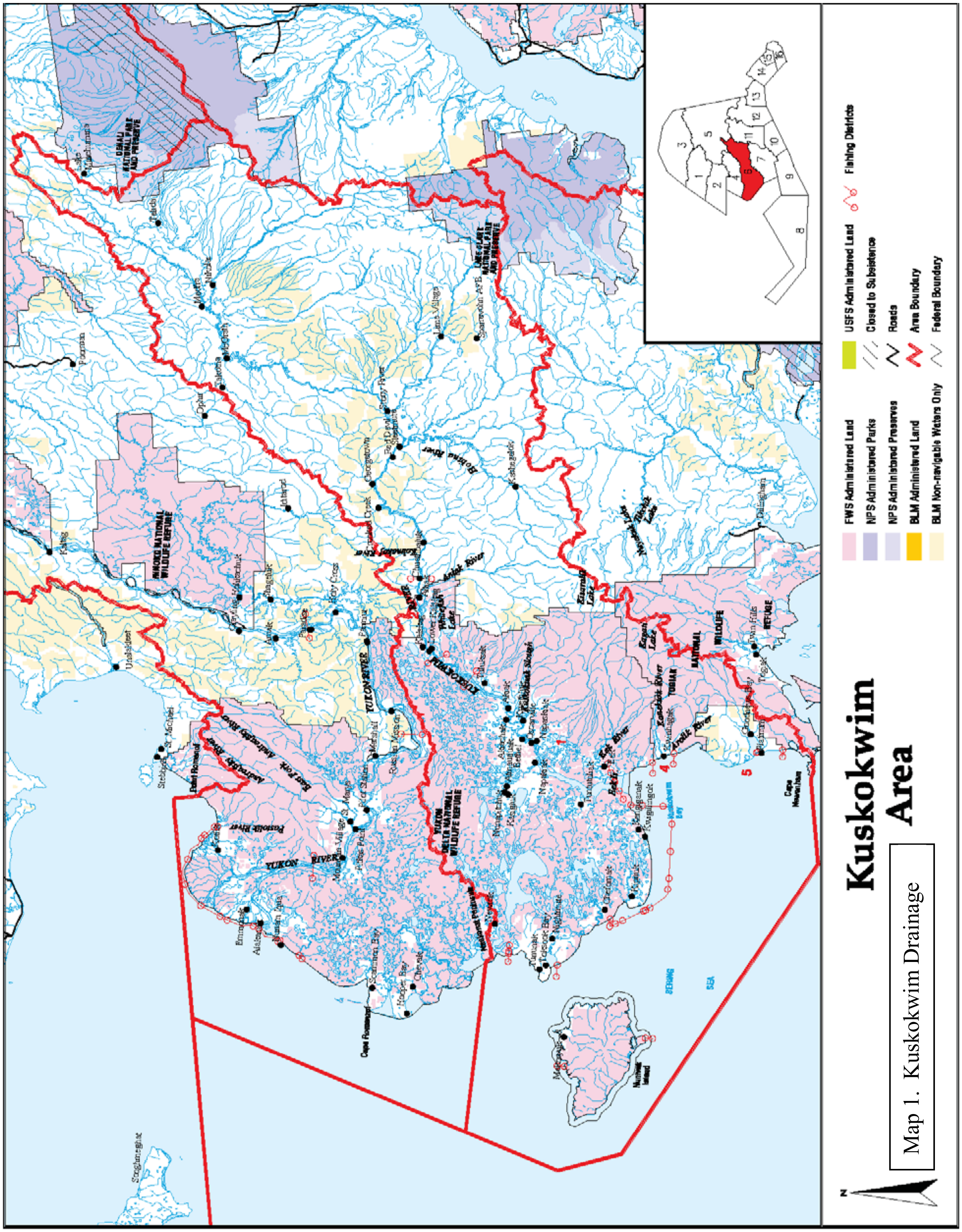
Table 1. Kuskokwim River Chinook salmon estimated total run, escapement, and harvest, 1976-2013 (Elison, et. al. 2012)

	Estimated		Harvest				
Year	**Total Run**	**Escapement**	**Subsistence**	**Commercial**	**Sport**	**Test Fish**	**Total**
1976	233,967	143,420	58,606	30,735		1,206	90,547
1977	295,559	201,852	56,580	35,830	33	1,264	93,707
1978	264,775	180,853	36,720	45,641	116	1,445	83,922
1979	253,990	157,688	56,283	38,966	74	979	96,302
1980	300,573	203,605	59,892	35,881	162	1,033	96,968
1981	389,791	279,392	61,329	47,663	189	1,218	110,399
1982	187,354	80,353	58,018	48,234	207	542	107,001
1983	166,333	84,188	47,412	33,174	420	1,139	82,145
1984	188,238	99,062	56,930	31,742	273	231	89,176
1985	176,292	94,365	43,874	37,889	85	79	81,927
1986	129,168	58,556	51,019	19,414	49	130	70,612
1987	193,465	89,222	67,325	36,179	355	384	104,243
1988	207,818	80,055	70,943	55,716	528	576	127,763
1989	241,857	115,704	81,175	43,217	1,218	543	126,153
1990	264,802	100,614	109,778	53,504	394	512	164,188
1991	218,705	105,589	74,820	37,778	401	117	113,116
1992	284,840	153,573	82,648	46,872	367	1,380	131,267
1993	270,295	169,816	87,674	9,735	587	2,483	100,479
1994	365,246	242,616	103,343	16,211	1,139	1,937	122,630
1995	360,513	225,595	102,110	30,846	541	1,421	134,918
1996	302,605	197,092	96,415	7,419	1,432	247	105,513
1997	303,190	211,247	79,382	10,441	1,788	332	91,943
1998	213,879	113,627	81,219	17,359	1,464	210	100,252
1999	189,939	112,082	72,775	4,705	279	98	77,857
2000	136,676	65,180	70,883	444	105	64	71,496
2001	223,707	145,232	78,009	90	290	86	78,475
2002	246,297	164,635	80,983	72	319	288	81,662
2003	248,883	180,687	67,228	158	401	409	68,196
2004	388,136	287,178	97,110	2,300	857	691	100,958
2005	366,608	275,598	85,097	4,784	572	557	91,010
2006	307,671	214,004	90,094	2,777	444	352	93,667
2007	273,044	174,943	96,139	179	1,478	305	98,101
2008	237,070	128,978	98,099	8,865	708	420	108,092
2009	204,741	118,478	78,225	6,664	904	470	86,263
2010	118,504	49,073	66,053	2,732	354	292	69,431
2011	132,651	72,097	58,836	748	633	337	60,554
2012 [1]	100,818	76,000	24,000	400	0	418	24,818
2013 [2]	94,680	47,500	46,500	419	0	261	47,180
Historic Average	239,018	144,730	71,935	21,205	518	644	94,288
2004-2013 (10yr)	222,392	144,385	74,015	2,987	595	410	78,007
2009-2013 (5yr)	130,279	72,630	54,723	2,193	378	356	57,649

[1]Elison 2014
[2]Schaberg et al, *in prep*



Map 1. Kuskokwim Drainage

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Yukon-Kuskokwim Delta Subsistence Regional Advisory Council

Support Proposal FP15-06**, Take No Action** on Proposal **FP15-07.** Some areas of the river were more successful than others at using a dipnet this year. This proposal adds another tool in the toolbox, with adding dipnet as a legal gear type for those who wish to use it.

Western Interior Alaska Subsistence Regional Advisory Council

Support Proposal FP15-06**, Take No Action** on Proposal **FP15-07.** The Council recognizes there was reluctance in some portions of the river to the new gear type, but it is important to have the dip net as an additional tool. This Council is inclined to align with YKD recommendations and actions since they spent so much time deliberating on these proposals.

INTERAGENCY STAFF COMMITTEE COMMENTS

FP15-06

The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Councils' recommendations and Federal Subsistence Board action on the proposal.

FP15-11 Executive Summary	
General Description	Proposal FP15-11, submitted by Ninilchik Traditional Council requests a community set gillnet fishery be established within the Kasilof River for salmon. Currently, Kasilof River salmon may be harvested with dip net, rod and reel and fish wheel from the outlet of Tustumena Lake to Silver Salmon Rapids. An operational plan would be submitted to and approved by the Federal in-season fishery manager. Salmon harvested from the gillnet fishery will be included as part of each household's annual limit for the Kasilof River. Gillnet catches would be reported to the Federal in-season manager within 72 hours of leaving the fishing location.
Proposed Regulation	*§___.27 Subsistence taking of fish* *(i)(10)(iv) You may take only salmon, trout, Dolly Varden, and other char under authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally for Federally managed waters of the Kasilof and Kenai River drainages:* *(A) through (G)* ***(H) Residents of Ninilchik may harvest sockeye, Chinook, coho, and pink salmon through a community gillnet in the Federal public waters of the upper mainstem of the Kasilof River. Residents of Ninilchik may retain other species incidentally caught in the Kasilof River.*** ***(1) Only one community gillnet can be operated on the Kasilof River. The gillnet cannot be over 10 fathoms in length, and may not obstruct more than half of the river width with stationary fishing gear. Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.*** ***(2) One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife refuge manager, based on the merits of the operation plan. The registration permit will be issued to an organization that, as the community gillnet owner, will be responsible for its use in consultation with the Federal fishery manager.***

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FP15-11 Executive Summary (continued)	
Proposed Regulation (continued)	***(i) Prior to the season, provide a written operation plan to the Federal fishery manager including a description of fishing method, fishing time and how fish will be offered and distributed among households and residents of Ninilchik;*** ***(ii) After the season, provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation and number of each species caught and retained or released.*** ***(3) The gillnet owner (organization) may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:*** ***(i) Identifies a person who will be responsible for fishing the gillnet;*** ***(ii) Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.*** ***(4) Fishing for sockeye, Chinook, coho and pink salmon will be closed by Federal Special Action prior to the operational plan end dates if the annual total harvest limits for that species is reached or suspended.*** ***(5) Salmon taken in the gillnet fishery will be included as part of dip net/rod and reel fishery annual total harvest limits for the Kasilof River. All fish harvested must be reported to the in-season manager within 72 hours of leaving the fishing location.*** ***(6) After 200 rainbow/steelhead trout have been taken in the dip net and gillnet fishery, or after August 15, all rainbow/steelhead trout must be released unless otherwise provide.*** ***(7) Failure to respond to reporting requirements or return the completed harvest permit by the due date listed on the permit may result in issuance of a violation notice and will make you ineligible to receive a subsistence permit during the following regulatory year.***
OSM Conclusion	**Support** FP15-11 **with modification**
Southcentral Alaska Subsistence Regional Advisory Council Recommendation	**Support**

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FP15-11 Executive Summary (continued)	
Interagency Staff Committee Comments	See comments following the analysis.
ADF&G Comments	Official State comments on select proposals will be provided as a supplement at the meeting.
Written Public Comments	**None**

STAFF ANALYSIS
FP15-11

ISSUES

Proposal FP15-11, submitted by Ninilchik Traditional Council requests a community set gillnet fishery be established within the Kasilof River for salmon. Currently, Kasilof River salmon may be harvested with dip net, rod and reel and fish wheel from the outlet of Tustumena Lake to Silver Salmon Rapids. An operational plan would be submitted to and approved by the Federal in-season fishery manager. Salmon harvested from the gillnet fishery will be included as part of each household's annual limit for the Kasilof River. Gillnet catches would be reported to the Federal in-season manager within 72 hours of leaving the fishing location.

DISCUSSION

The proponent requests establishment of a community set gillnet fishery in the Kasilof River to add additional subsistence harvest opportunities for residents of Ninilchik. The proponent states that only one community gillnet would be utilized in the Kasilof River. The community gillnet will be limited to 10 fathoms in length or less. An operational plan would be developed and approved by the Federal in-season fishery manager. This operational plan would include deployment locations, fishing time and a methodology for distributing the catch. All salmon taken in the Kasilof River gillnet fishery would be included as part of each households' limit. Currently the household limit for Chinook salmon is 10 for the permit holder and two additional fish for each additional household member with a total annual harvest limit of 500 fish. The fishing season is from June 16th through August 15th. The household limit for sockeye salmon is 25 for the permit holder and each additional household member is allowed five additional fish. The total annual harvest limit for sockeye salmon is 4,000 and the season runs from June 16th through August 15th.

The proponent asserts that harvest by dip net, fish wheel and rod and reel in the Kasilof River does not allow sufficient subsistence fishing opportunities for Ninilchik residents. Efforts to establish a meaningful Federal subsistence fishery on the Kasilof River using a fish wheel have not been successful. The proponent states that historically fish wheels were not used in lower Cook Inlet, because they never worked well enough to be used as a traditional gear type. While the Ninilchik Traditional Council has made a good faith effort to operate the fish wheel under the current Federal subsistence regulations, Ninilchik residents have not yet been successful in harvesting salmon using this method.

Existing Federal Regulation

> *§___.27(i)(10)(iv) You may take only salmon, trout, Dolly Varden, and other char under authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally for Federally managed waters of the Kasilof and Kenai River drainages:*
>
> ***(A)** Residents of Ninilchik may take sockeye, Chinook, coho, and pink salmon through a dip net and a rod and reel fishery on the upper mainstem of the Kasilof River from a Federal regulatory marker on the river below the outlet of Tustumena Lake downstream to a marker on the river approximately 2.8 miles below the Tustumena Lake boat ramp. Residents using rod and reel gear may fish with up to two baited single or treble hooks. Other species incidentally caught during the dip net and rod and reel fishery may be retained for subsistence uses, including up to 200 rainbow/steelhead trout taken through August 15. After 200 rainbow/steelhead trout have been taken in this fishery or after August 15, all rainbow/steelhead trout must be released unless otherwise provided for in this section. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Harvests must be reported*

within 72 hours to the Federal fisheries manager upon leaving the fishing site.

(1) Fishing for sockeye and Chinook salmon will be allowed June 16-August 15.

(2) Fishing for coho and pink salmon will be allowed June 16-October 31.

(3) Fishing for sockeye, Chinook, coho, or pink salmon will end prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action.

(4) Each household may harvest their annual sockeye, Chinook, coho, or pink salmon limits in one or more days, and each household member may fish with a dip net or a rod and reel during this time. Salmon taken in the Kenai River system dip net and rod and reel fishery will be included as part of each household's annual limit for the Kasilof River.

(i) For sockeye salmon—annual total harvest limit of 4,000; annual household limits of 25 for each permit holder and 5 additional for each household member;

(ii) For Chinook salmon—annual harvest limit of 500; annual household limit of 10 for each permit holder and 2 additional for each household member;

(iii) For coho salmon—annual total harvest limit of 500; annual household limits of 10 for each permit holder and 2 additional for each household member; and

(iv) For pink salmon—annual total harvest limit of 500; annual household limits of 10 for each permit holder and 2 additional for each household member.

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(H) Residents of Ninilchik may harvest sockeye, Chinook, coho, and pink salmon with a fishwheel in the Federal public waters of the upper mainstem of the Kasilof River. Residents of Ninilchik may retain other species incidentally caught in the Kasilof River except for rainbow/steelhead trout, which must be released and returned unharmed to the water.

(1) Only one fish wheel can be operated on the Kasilof River. The fish wheel must have a live box, must be monitored when fishing, must be stopped from fishing when it is not being monitored or used, and must be installed and operated in compliance with any regulations and restrictions for its use within the Kenai National Wildlife Refuge.

(2) One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife refuge manager, based on the merits of the operation plan. The registration permit will be issued to an organization that, as the fish wheel owner, will be responsible for its construction, installation, operation, use, and removal in consultation with the Federal fishery manager. The owner may not rent or lease the fish wheel for personal gain. As part of the permit, the organization must:

(i) Prior to the season, provide a written operation plan to the Federal fishery manager including a description of how fishing time and fish will be offered and distributed among households and residents of Ninilchik;

(ii) During the season, mark the fish wheel with a wood, metal, or plastic plate at least 12 inches high by 12 inches wide that is permanently affixed and plainly visible, and that contains the following information in letters and numerals at least 1 inch high: registration permit number; organization's name and address; and primary contact person name and telephone number;

(iii) After the season, provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation and number of each species caught and retained or released.

(3) People operating the fish wheel must:

(i) Have a valid Federal subsistence fishing permit in their possession;

(ii) If they are not the fish wheel owner, attach an additional wood, metal or plastic plate at least 12 inches high by 12 inches wide to the fish wheel that is plainly visible, and that contains their fishing permit number, name, and address in letters and numerals at least 1 inch high;

(iii) Remain on site to monitor the fish wheel and remove all fish at least every hour;

(iv) Before leaving the site, mark all retained fish by removing their dorsal fin and record all retained fish on their fishing permit; and

(v) Within 72 hours of leaving the site, report their harvest to the Federal fisheries manager.

(4) The fish wheel owner (organization) may operate the fish wheel for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:

(i) Identifies a person who will be responsible for operating the fish wheel;

(ii) Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.

(5) Fishing will be allowed from June 16 through October 31 on the Kasilof River unless closed or otherwise restricted by Federal special action.

(6) Salmon taken in the fish wheel fishery will be included as part of dip net/rod and reel fishery annual total harvest limits for the Kasilof River and as part of dip net/rod and reel household annual limits of participating households.

(7) Fishing for each salmon species will end and the fishery will be closed by Federal special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action.

Proposed Federal Regulation

§___.27(i)(10)(iv) You may take only salmon, trout, Dolly Varden, and other char under authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally for Federally managed waters of the Kasilof and Kenai River drainages:

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(I) Residents of Ninilchik may harvest sockeye, Chinook, coho, and pink salmon through a community gillnet in the Federal public waters of the upper mainstem of the Kasilof River. Residents of Ninilchik may retain other species incidentally caught in the Kasilof River.

(1) Only one community gillnet can be operated on the Kasilof River. The gillnet cannot be over 10 fathoms in length, and may not obstruct more than half of the river width with stationary fishing gear. Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.

(2) One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife refuge manager, based on the merits of the operation plan. The registration permit will be issued to an organization that, as the community gillnet owner, will be responsible for its use in consultation with the Federal fishery manager.

(i) Prior to the season, provide a written operation plan to the Federal fishery manager including a description of fishing method, fishing time and how fish will be offered and distributed among households and residents of Ninilchik;

(ii) After the season, provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation and number of each species caught and retained or released.

(3) The gillnet owner (organization) may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:

(i) Identifies a person who will be responsible for fishing the gillnet;

(ii) Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.

(4) Fishing for sockeye, Chinook, coho and pink salmon will be closed by Federal Special Action prior to the operational plan end dates if the annual total harvest limits for that species is reached or suspended.

(5) Salmon taken in the gillnet fishery will be included as part of dip net/rod and reel fishery annual total harvest limits for the Kasilof River. All fish harvested must be reported to the in-season manager within 72 hours of leaving the fishing location.

(6) After 200 rainbow/steelhead trout have been taken in the dip net and gillnet fishery, or after August 15, all rainbow/steelhead trout must be released unless otherwise provide.

(6) Failure to respond to reporting requirements or return the completed harvest permit by the due date listed on the permit may result in issuance of a violation notice and will make you ineligible to receive a subsistence permit during the following regulatory year.

Existing State Regulations

No existing State regulations apply.

Extent of Federal Public Water

Federal public waters are defined and described under 36 CFR 242.3 and 50 CFR100.3. For the Kasilof River, Federal public waters under consideration include all waters of the Kasilof River within and adjacent to the exterior boundaries of the Kenai National Wildlife Refuge (**Cook Inlet Area Map)** This includes approximately the upper 7 miles of the Kasilof River from the outlet of Tustumena Lake downstream to Silver Salmon Rapids.

Customary and Traditional Use Determinations

Only Residents of the community of Ninilchik have a positive customary and traditional use determination for all fish in the Kasilof River.

Regulatory History

Pre- and Early Statehood Fisheries

Until 1952 freshwater streams in the Kenai Peninsula were open to subsistence fishing, but poorly managed commercial fisheries decimated salmon runs. In 1952, as part of efforts to rebuild salmon runs, all streams and lakes of the Kenai Peninsula were closed to subsistence fishing under Territory of Alaska regulations. Only rod and reel fishing was allowed for "personal use" (Fall et al. 2004).

Contemporary State Fisheries

A State regulatory management plan for Upper Cook Inlet salmon (5 AAC 21.363) provides the Alaska Board of Fisheries guiding principles and provisions to use when adopting management plans for specific stocks. The State classified most of the Cook Inlet Area, including the Kenai and Kasilof River drainages, as a nonsubsistence area in 1992 (5AAC 99.015(3)). The only State subsistence fisheries in Cook Inlet occur in areas that are not accessible from the road system, including the Tyonek, Windy Bay, Port Chatham, Kyuktolik, and Port Graham subdistricts, as well as portions of Seldovia Bay and the Yentna River drainage.

Commercial and sport fisheries are complex and intensively managed by the State of Alaska. There are six management plans that apply to Kenai and Kasilof river salmon stocks: *Upper Cook Inlet Salmon Management Plan* (5 AAC 21.363), *Kenai River and Kasilof River Early-Run King Salmon Conservation Management Plan* (5 AAC 57.160), *Kenai River Late-Run King Salmon Management Plan (5 AAC 21.359), Kenai River Late-Run Sockeye Salmon Management Plan (5 AAC21.360)*, *Kasilof River Salmon Management Plan* (5 AAC 21.365) and *Kenai River Coho Salmon Management Plan* (5 AAC 57.170). These plans provide State of Alaska management goals for sustained yield, guidance for mixed-species and mixed-stock fisheries, and instructions for allocation between competing fisheries.

The State also has a regulatory management plan for Upper Cook Inlet personal use salmon fisheries (5 AAC 77.540). This plan established four personal use fisheries in Cook Inlet: Kasilof River dip net, Kasilof River set gillnet, Kenai River dip net, and Fish Creek dip net. Unlike subsistence fisheries, personal use fisheries do not have a priority over other existing uses. Personal use fisheries are open to all residents of Alaska, require a household permit, and occur in marine and intertidal waters outside of Federal public lands. These fisheries target sockeye salmon, the species of greatest abundance and for which the best stock assessment information is available. Annual harvest limits are 25 salmon for the head of each household and 10 salmon for each additional household member. The limit is combined for all four fisheries. Incidentally caught coho, pink, and chum salmon may be retained as part of the annual limit. Each household is limited to one Chinook salmon in the Kenai River dip net fishery. No retention of Chinook salmon is allowed in the Kasilof River or the Deep Creek dip net fishery, but any Chinook salmon caught in the Kasilof River personal use set gillnet fishery may be retained as part of the annual limit.

Finally, the State administers several educational fisheries in Cook Inlet under the provisions of 5 AAC 93.200 – 93.235 (Nelson et al. 1999 and Fall et al. 2004). The purpose of educational fisheries is to allow groups to practice traditional harvest and use methods so that these practices and knowledge are not lost. Educational fisheries, unlike subsistence fisheries, do not have priority over other fisheries. Therefore, during times of resource shortages, educational fisheries could be restricted before or at the same time as commercial, sport and personal use fisheries are restricted. For the Kasilof River, the Kenaitze Tribe, Kasilof Regional Historical Association, and Ninilchik Traditional Council have each been issued educational permits to fish one set gillnet in marine waters

near the mouth of the river. The Kenaitze Tribe has participated in an educational fishery since 1989, and for the Kasilof River is allowed to harvest 25 Chinook salmon.

Three educational fisheries have been issued to three Ninilchik area groups, Ninilchik Traditional Council (NTC), Ninilchik Native Decedents (NND) and Ninilchik Emergency Services (NES). The Ninilchik Traditional Council has participated in an educational fishery since 1993 for the Ninilchik area fisheries and since 2007 for the Kasilof area fisheries. In 1998, a group of NTC members formed a new organization called Ninilchik Native Decedents and the allocation was divided evenly between the two groups. In 2003, Ninilchik Emergency Services received the third permit for the area. Below lists the current stipulations of the permits:

- Area and gear stipulations:
    - NTC is permitted to harvest salmon using one or two set gillnets in marine waters near the Ninilchik River mouth and other traditional methods in freshwaters of the Ninilchik River below the Sterling Highway Bridge. In addition they are also permitted to use one gillnet in marine waters near the Kasilof River.
    - NND, is permitted to use one set gillnets in marine waters near the Ninilchik River mouth and other traditional methods in freshwater of the Ninilchik River below the Sterling Highway Bridge.
    - NES is permitted to use one set gillnets in marine waters near the Ninilchik River mouth.
- Quotas:
    - NTC is permitted a combined harvest quota up to 2,800 salmon for the Ninilchik and Kasilof area, of which there is also an individual coho and king salmon harvest quota: the quota for coho salmon is 500 (200 for the Ninilchik area and 300 for the Kasilof area); the quota for king salmon is 200 (100 for the Ninilchik area and 100 for the Kasilof area.)
    - NND is permitted a combined harvest quota up to 2,800 salmon from the Ninilchik area, of which there is a coho and king salmon harvest quota: the quota for coho salmon is 150 and the quota for king salmon is 150.
    - NES is permitted a combined harvest quota up to 250 salmon from the Ninilchik area, of which there is a coho and king salmon harvest quota: the quota for coho salmon is 50 and the quota for king salmon is 25.

Federal Subsistence Fisheries in the Cook Inlet Area

In 2002, Federal subsistence regulations for harvest in the Cook Inlet Area were established for salmon, trout, and Dolly Varden and other char. A Federal subsistence permit was required and seasons, harvest and possession limits, and methods and means for take were the same as those in Alaska sport fishing regulations. This fishery was established as an interim measure to provide some subsistence opportunity in the Cook Inlet Area for Federally qualified rural residents. Initially, there were no customary and traditional use determinations for salmon, trout, Dolly Varden, and char in Cook Inlet; so all rural residents of Alaska could harvest under Federal regulations.

In January 2006, the Federal Subsistence Board made positive customary and traditional use determinations for Hope and Cooper Landing residents for all fish in the Kenai River Area, and for Ninilchik residents for all fish within the Kasilof River drainage within the Kenai National Wildlife Refuge. In November 2010, the Board made a final positive customary and traditional use determination for Ninilchik residents for all fish in the Kenai River Area.

During their May 2007 meeting, the Federal Subsistence Board adopted proposals that established dip net/rod and reel salmon fisheries on the Kasilof and Kenai Rivers; increased previously established harvest, possession, and annual limits for salmon and selected resident species for existing rod and reel fisheries on the Kasilof and

Kenai River drainages; and allowed use of up to two single or treble hooks and bait for rod and reel fishing during specified dates for both systems. Also during the May 2007 meeting, the Federal Subsistence Board adopted a proposal to establish a winter season subsistence fishery at Tustumena Lake with jigging through the ice and gillnets fished under the ice for lake trout, rainbow trout and Dolly Varden/Arctic char.

In 2007, the Southcentral Alaska Subsistence Regional Advisory Council submitted Proposal FP08-09 to establish a temporary community fish wheel on both the Kenai and Kasilof Rivers. The Council contended that the fish wheels would provide a more effective means for Federally qualified subsistence users to harvest salmon. They requested a temporary establishment of fish wheels as a gear type be temporary to evaluate the feasibility of operating this type of gear. The Federal Subsistence Board, at its January 2008 meeting, adopted the proposal with modification to allow fish wheels to be classified as a gear type, but only in the Kasilof River. The Federal Subsistence Board specified that only one fish wheel with a live box was be allowed in the upper mainstem of the Kasilof River. A permit was required to use the fish wheel and that an operation plan must be submitted to and approved by the Federal in-season manager, before the permit would be awarded. A National Wildlife Refuge General Special Use Permit to operate the fish wheels within the Kenai National Wildlife Refuge boundaries was required. Individuals operating the fish wheel would need to have a Federal subsistence fishing permit and all harvest limits on the permit would apply to the fish wheel. Salmon harvested by the fish wheel would be included as part of each household's annual limit and all fish harvested must be reported to the in-season manager within 72 hours of leaving the fishing location. The Federal Subsistence Board at its January 2012 meeting supported FP13-15 to remove the expiration date for the community fish wheel salmon fishery on the Kasilof River allowing continued operation of the fish wheel.

Alaska Department of Fish and Game, Subsistence Division completed a study (OSM study 03-045) documenting past, present and potential noncommercial harvests and uses of fish in waters of the Cook Inlet Management Area. One of the project objectives was to identify potential areas and gear types for Federal subsistence fishing opportunities. Subsistence Division personnel completed key respondent interviews and held focus group meetings to gather public input. Community fish wheels were among the ideas suggested for potential Federal subsistence fisheries in the Cook Inlet Management Area. According to interviews conducted in the study most of the households agreed that current seasonal limits in the State personal use fisheries were adequate and most respondents supported basing any future Federal subsistence fishing regulations on State sport fishing rules. Many supported the status quo; were only interested in opportunities in State waters (especially marine waters) or expressed concern about the consequences of net fisheries in fresh water (Fall et al. 2004).

Current Events Involving Species

Anticipated poor late-run Chinook salmon returns to the Kasilof River and high harvest potential resulted in restrictions to the late-run Chinook salmon sport fishery by Alaska Department of Fish and Game (ADF&G). Beginning July 31, 2014 sport fishing for late-run Chinook salmon in the Kasilof River was restricted to catch-and-release (Begich 2014). ADF&G sought to minimize any increased pressure on the Kasilof River Chinook salmon due to the closure of the late-run Chinook salmon in the Kenai River by restricting harvest.

Biological Background and Harvest History

Sockeye Salmon

Sockeye salmon are the most abundant salmon species in the Kasilof River drainage, and the State's *Kasilof River Salmon Management Plan* (5 AAC 21.365) establishes escapement objectives (160,000-390,000 fish) and provides guidelines for the management of fisheries harvesting this run. Kasilof River sockeye salmon are harvested in large numbers in mixed-stock commercial salmon fisheries in Cook Inlet (Shields 2013). The Upper Cook Inlet commercial sockeye salmon harvest has ranged from 2,045,794 to 3,402,450 sockeye salmon during 2004–2013, with a 10-year average harvest of 3,402,459. The sport fishery harvest in the mainstem Kasilof River has ranged from 3,693 to 7,834 sockeye salmon during 2004–2013, with a 10-year average harvest of 6,203. Sport

fishing for sockeye salmon is not permitted within Tustumena Lake or its tributaries. The personal use gillnet and dip net fisheries harvests of Kasilof River salmon have ranged from 59,690 to 102,920 sockeye salmon during 2004–2013, with an 10-year average harvest of 84,544. Educational fisheries harvests have ranged from 12 to 300 sockeye salmon during 2004-2013, with a 10-year average harvest of 93. In 2013, the Kasilof River sockeye salmon escapement was estimated at 489,654, which exceeded the optimal escapement goal range of 160,000 – 390,000.

Chinook Salmon

Chinook salmon are harvested during mixed-stock commercial salmon fisheries in the upper Cook Inlet. The 2013 upper Cook Inlet harvest of 5,398 Chinook salmon was the fifth smallest since 1966 (Shields 2013) and was 63% less than the previous 10-year (2003-2012) average annual harvest of 14,450. The decline in Chinook salmon harvest observed during the 2013 season was likely caused by a decreased abundance of Chinook salmon in the Upper Cook Inlet and subsequent restrictions placed on the commercial fisheries for Chinook salmon conservation.

The Kasilof River supports both early and late runs of Chinook salmon. The early-run supports the larger recreational fishery. The State's *Kenai River and Kasilof River Early-Run King Salmon Conservation Management Plan* (5 AAC 56-070) establishes escapement objectives and guidelines for the management of fisheries harvesting this run. No management plan exists for Kasilof River late-run Chinook salmon. The late-run Kasilof River Chinook salmon compose a wild stock and abundance and run timing of the population is unknown (Reimer 2012). Sport fishing for Chinook salmon occurs on the mainstem Kasilof River, is focused on the enhanced early run of Crooked Creek Chinook salmon, which can be identified by an adipose fin clip, and is not allowed above the Sterling Highway Bridge after 30 June. Sport fish harvest of wild Chinook salmon (with an adipose fin), above the bridge prior to July 1, is restricted to Tuesdays, Thursday and Saturdays by regulation.

In 2012, Kasilof River Chinook sport harvest was 927. The total Chinook salmon sport fishery harvest in the Kasilof River has ranged from 927 to 4,234 during 2003–2012, with an average harvest of 3,224 (Begich 2013). Estimates of the number of late-run Chinook salmon within these harvests from 2003 - 2012, and range from 55 to 2,164, with an average harvest of 1116. In 2013, 64 Chinook salmon were harvested in the Kasilof River personal use fishery. Harvests from the personal use gillnet and dip net fishery, which is directed at Kasilof River sockeye salmon, have ranged from 103 to 457 Chinook salmon during 2003–2012, with an average harvest of 232. In 2013 the Kasilof area educational fisheries harvested 3 early run Chinook salmon. The historical harvest ranged from 2 to 13 Chinook salmon during 2003-2012, with an average harvest of 4.

Early-run Chinook salmon, including the hatchery-produced component, spawn in Crooked Creek during late May and June. Only the headwaters of Crooked Creek lie within the Kenai National Wildlife Refuge, so early-run Chinook salmon are not generally available for harvest in Federal public waters. Late-run Chinook salmon spawn in the upper mainstem Kasilof River, including the outlet of Tustumena Lake, during August and September, and would be available for harvest by Federally qualified subsistence users.

Coho Salmon

Coho salmon are likely the second most abundant salmon species in the Kasilof River drainage, and are harvested during mixed-stock commercial salmon fisheries in Cook Inlet. Total annual harvest within these fisheries is usually hundreds of thousands of coho salmon. The contribution of Kasilof River coho salmon to these harvests is not known. The sport fishery harvest in the mainstem Kasilof River ranged from 1,740 to 4,217 coho salmon during 2003–2013, with an average harvest of 3,158 (Begich 2013). The sport fishery harvest in Tustumena Lake is much less and has ranged from 0 to 338 coho salmon during this same time period, with an average harvest of 96. Kasilof area educational fisheries harvests have ranged from 0 to 44 coho salmon during 2004-2013, with an average harvest of 23.

Federal Harvest

Rural residents of Ninilchik have been allowed to harvest fish under Federal subsistence regulations since 2007. From the inception of the Kasilof River Federal Subsistence Fishery sockeye salmon composed over 99% of the total harvest. Two Chinook salmon were harvested in 2008. For the period of 2007 through 2013 the total harvest of sockeye salmon has ranged from 1 to 108 fish (**Table 1**).

Table 1. Total Harvest of Sockeye Salmon by Ninilchik Community, Kasilof River Federal Subsistence Fishery.

2007-2013 Kasilof Federal Subsistence Sockeye Salmon Harvest

	Total Number of Sockeye Salmon Harvested						
	2007	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**
Dip Net Fisheries	30	108	7	40	1	24	107
Rod/ Reel and Fish Wheel Fisheries	0	0	0	0	0	0	0
Total	30	108	7	40	1	24	107

Harvest estimates for 2014 Federal Subsistence fishery will not be available until early 2015.

Other Alternatives Considered

A set gillnet fishery in Tustamena Lake with a fishing season through late summer or early fall would allow additional opportunity for Federal subsistence users to harvest sockeye and coho salmon while minimizing the harvest of both Chinook salmon and steelhead trout. Early-run Chinook salmon, including the hatchery-produced component, spawn below Tustamena Lake in Crooked Creek during late May and June and likely do not migrate up to Federal waters. The majority of late-run Chinook salmon spawn in the mainstem of the Kasilof River, with significant spawning areas at mouth of Crooked Creek and between river mile 9 and river mile 18 (Reimer 2012). Steelhead trout returning to the Kasilof River watershed are considered fall-run fish, entering freshwater between mid-August and November and over-wintering before spawning in Crooked Creek and tributaries of Tustumena Lake during May and June. A gillnet fishery in Tustamena Lake would provide additional harvest opportunity for while still protecting the Chinook salmon and steelhead trout which continue to be species of concern.

A beach seine fishery could be implemented on the Kasilof River and Tustamena Lake under the same restrictions as the proposed gillnet fishery. Using seines instead of gillnets would allow for non-targeted species to be released unharmed. In addition, fishers could avoid an overharvest of Chinook salmon and steelhead trout.

Effects of the Proposal

If this proposal is adopted it would provide additional subsistence harvest opportunity for Federally qualified subsistence users living in Ninilchik. Currently Ninilchik is the only community with customary and traditional use determination for the Kasilof River. The proposed gillnet fishery along with ongoing existing fisheries could lead to a harvest of Chinook salmon and steelhead trout in the Kasilof River that would be above sustainable harvest levels. Gillnets do not lend themselves well to selective harvest of species or stocks. Incidental catch of resident species would occur in any gillnet fishery for salmon resulting in mortality of non-targeted species.

In addition to developing an operational plan for approval by the in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager, the proponent must also apply for a National Wildlife Refuge System General Special Use Permit. Both the operational plan and National Wildlife Refuge General Special Use Permit must be updated yearly.

OSM PRELIMINARY CONCLUSION

Oppose Proposal FP15-11.

Justification

Gillnets do not allow for species, stock and size selective management or control of harvest. Introduction of gillnets as a gear type in the Kasilof River could lead to a Chinook salmon conservation concern, and could result in an over-harvest of resident species. Of particular concern is the potential incidental catch of stocks or species that are spawning, less abundant and prone to over harvest, or of critical size. Currently, subsistence users from the community of Ninilchik may harvest salmon with a community fish wheel, dip nets and rod and reel, these gear types provide a selective method of harvesting salmon while protecting species of concern.

ANALYSIS ADDENDUM

OSM CONCLUSION

Support Proposal FP15-11 **with modification** to remove the language addressing the release of rainbow/steelhead trout after the annual total harvest limit of 200 fish is exceeded. The ability of these fish to survive once captured in gillnets is unknown. It is possible that majority of the rainbow/steelhead trout caught in the community gillnet would die before they could be released. Therefore, releasing any rainbow/steelhead trout exceeding the 200 fish annual total harvest limit could be problematic. To alleviate this concern, the fishery will be closed when 200 rainbow/steelhead trout are harvested. The operational plan should describe how any gillnet harvest of rainbow/steelhead trout over 200 fish are be handled. The community gillnet could be fished during a window in July when sockeye salmon harvest can be maximized while minimizing the harvest late-run Chinook salmon and rainbow/steelhead trout. The operation plan can address conservation concerns with timing, quotas, mesh size and depth restrictions.

The modified regulation should read:

> *§___.27(i)(10)(iv) You may take only salmon, trout, Dolly Varden, and other char under authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally for Federally managed waters of the Kasilof and Kenai River drainages:*
>
> *****
>
> ***(G) Residents of Ninilchik may harvest sockeye, Chinook, coho, and pink salmon through a community gillnet in the Federal public waters of the upper mainstem of the Kasilof River. Residents of Ninilchik may retain other species incidentally caught in the Kasilof River.***
>
> ***(1) Only one community gillnet can be operated on the Kasilof River. The gillnet cannot be over 10 fathoms in length, and may not obstruct more than half of the river width with stationary fishing gear. Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.***
>
> ***(2) One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife refuge manager, based on the merits of the operation plan. The registration permit will be issued to an organization that, as the community gillnet owner, will be responsible for its use in consultation with the Federal fishery manager.***

(i) Prior to the season, provide a written operation plan to the Federal fishery manager including a description of fishing method, fishing time and how fish will be offered and distributed among households and residents of Ninilchik;

(ii) After the season, provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation and number of each species caught and retained or released.

(3) The gillnet owner (organization) may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:

(i) Identifies a person who will be responsible for fishing the gillnet;

(ii) Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.

(4) Fishing for sockeye, Chinook, coho and pink salmon will be closed by Federal Special Action prior to the operational plan end dates if the annual total harvest limits for that species is reached or suspended.

(5) ~~Salmon~~ Fish taken in the gillnet fishery will be included as part of dip net/rod and reel fishery annual total harvest limits for the Kasilof River and Kenai. All fish harvested must be reported to the in-season manager within 72 hours of leaving the fishing location.

(6) ~~After 200 rainbow/steelhead trout have been taken in the dip net and gillnet fishery, or after August 15, all rainbow/steelhead trout must be released unless otherwise provide.~~

(7) After 200 rainbow/steelhead trout have been take in the dip net and gillnet fishery, or after August 15, the gillnet fishery will be closed.

(8) Failure to respond to reporting requirements or return the completed harvest permit by the due date listed on the permit may result in issuance of a violation notice and will make you ineligible to receive a subsistence permit during the following regulatory year.

Justification

Support for this proposal is warranted considering that the community of Ninilchik has a customary and traditional use determination for all fish in the Kasilof River. Allowing Ninilchik to use a single community gillnet will provide the community with an additional traditional means of harvesting fish within the Kasilof River. Concerns over the conservation of different fish populations such as late-run Chinook, which are currently experiencing low returns in the Kasilof River, would be addressed through two management strategies associated with the allowed use of a community gillnet for the harvesting of : 1) the community of Ninilchik would continue to be subject to annual household and total community limits by species; and, 2) an annual operational plan which could address specific conservation concerns would be subject to approval by the in-season fishery manager and Kenai National Wildlife Refuge Manager prior to the use of the gillnet that season.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southcentral Alaska Subsistence Regional Advisory Council

Support Proposal FP15-11. The Council stated that the proposal, if enacted into regulation, would provide for a meaningful subsistence preference. Chinook and rainbow trout harvest will be limited and conservation concerns can be addressed through an operational plan. The operational plan, with review by the in-season manager, would require prior approval with the land managing agency prior to any fishing. The proponent provided public comments and stated that gillnet is a customary and traditional use method.

INTERAGENCY STAFF COMMITTEE COMMENTS

FP15-11

The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and Federal Subsistence Board action on the proposal.

The OSM conclusion is similar to the Southcentral Alaska Subsistence Regional Advisory Council's recommendation, but it provides a recommendation that gillnets would not be allowed once the rainbow/steelhead limit is reached. The release of rainbow/steelhead would not be a viable option with the gear type, as released fish will likely result in mortalities. As stated by the Council, other conservation concerns with Chinook salmon and rainbow/steelhead trout could be addressed by the operation plan that must be approved by the Federal in-season manager and the manager of the Kenai National Wildlife Refuge.

INTERAGENCY STAFF COMMITTEE COMMENTS
FP15-11

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FP15-10 Executive Summary	
General Description	Proposal FP15-10, submitted by Ninilchik Traditional Council requests a community set gillnet fishery be established within the Kenai River for salmon. Currently, Federal subsistence users may harvest late-run Chinook, sockeye, coho and pink salmon with dip nets in the Kenai River at Moose Range meadows (approximate River Mile 26.5 to River Mile 29). They may also harvest salmon with dip net in the Kenai River at approximate River mile 45.5 to 48. Early-run and late-run Chinook, sockeye, coho and pink salmon may be harvested in all Federal public waters in the Kenai River drainage with rod and reel.
Proposed Regulation	*§___.27 Subsistence taking of fish* *(i)(10)(iv) You may take only salmon, trout, Dolly Varden, and other char under authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally for Federally managed waters of the Kasilof and Kenai River drainages:* **(***A) ****** ***(I) Residents of Ninilchik may harvest sockeye, Chinook, coho, and pink salmon with a gillnet in the Federal public waters of the Kenai River. Residents of Ninilchik may retain other species incidentally caught in the Kenai River except for rainbow trout and Dolly Varden 18 inches or longer. Rainbow trout and Dolly Varden 18 inches or greater must be released.*** ***(1) Only one community gillnet can be operated on the Kenai River. The gillnet cannot be over 10 fathoms in length to take salmon, and may not obstruct more than half of the river width with stationary fishing gear. Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.*** ***(2) One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife refuge manager, based on the merits of the operation plan. The registration permit will be issued to an organization that, as the community gillnet owner, will be responsible for its, use, and removal in consultation with the Federal fishery manager. As part of the permit, the organization must:*** ***(i) Prior to the season, provide a written operation plan to the Federal fishery manager including a description of how fishing time and fish will be offered and distributed among households and residents of Ninilchik;***

continued on next page

FP15-10 Executive Summary (continued)	
Proposed Regulation (continued)	***(ii) After the season, provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation and number of each species caught and retained or released.*** ***(3) The gillnet owner (organization) may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:*** ***(i) Identifies a person who will be responsible for fishing the gillnet;*** ***(ii) Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.*** ***(4) Fishing will be allowed from June 15 through August 15 on the Kenai River unless closed or otherwise restricted by Federal special action.*** ***(5) Salmon taken in the gillnet fishery will be included as part of the dip net/rod and reel fishery annual total harvest limits for the Kenai River and as part of dip net/rod and reel household annual limits of participating households.*** ***(6) Fishing for each salmon species will end and the fishery will be closed by Federal special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action.***
OSM Conclusion	**Oppose** FP15-10
Southcentral Alaska Subsistence Regional Advisory Council Recommendation	**Support**
Interagency Staff Committee Comments	See comments following the analysis.
ADF&G Comments	Official State comments on select proposals will be provided as a supplement at the meeting.
Written Public Comments	**None**

STAFF ANALYSIS
FP15-10

ISSUES

Proposal FP15-10, submitted by Ninilchik Traditional Council requests a community set gillnet fishery be established within the Kenai River for salmon. Currently, Federal subsistence users may harvest late-run Chinook, sockeye, coho and pink salmon with dip nets in the Kenai River at Moose Range meadows (approximate River Mile 26.5 to River Mile 29). They may also harvest salmon with dip net in the Kenai River at approximate River mile 45.5 to 48. Early-run and late-run Chinook, sockeye, coho and pink salmon may be harvested in all Federal public waters in the Kenai River drainage with rod and reel.

DISCUSSION

The proponent requests establishment of a community set gillnet fishery in the Kenai River to add additional subsistence harvest opportunities for residents of Ninilchik. The proponent requests only one community gillnet would be utilized in the Kenai River. The community gillnet would be limited to 10 fathoms in length or less. An operational plan would be developed and approved by the Federal inseaon fishery managers. This operational plan would include deployment location, fishing times and a methodology for distributing the harvest. All salmon taken in the Kenai River gillnet fishery would be included as part of the annual households' limit for Ninilchik. Currently, the household limit for Chinook salmon is 10 for the permit holder and each additional household member is allowed two additional fish. The total annual harvest limit is 500 Chinook salmon with a fishing season from June 16th through August 15th. The household limit for sockeye salmon is 25 for the permit holder and each additional household member is allowed five additional fish. The total annual harvest limit for sockeye salmon is 4,000. The season runs from June 16th through August 15th.

The proponent asserts that current Federal subsistence fisheries do not allow sufficient subsistence fishing opportunities for Ninilchik residents. Currently, Federal subsistence users may harvest salmon in the Russian River Falls, Kenai River below mile 48, and in Moose Range meadows with dip nets and rod and reel. They may also harvest salmon in the Kenai River watershed with a rod and reel in all Federal public waters open to sport fishing.

The proponent indicates efforts to establish a meaningful Federal subsistence fishery on the Kenai River have not been successful. The proponent originally asked for a subsistence gillnet fishery (FP 07-27) based on the local knowledge of the area and experience of the users. An interim measure was provided through (FP 08-09 and FP11-15) for a community fish wheel. While the Ninilchik Traditional Council has made a good faith effort to operate the fish wheel under the current Federal subsistence regulations, they have not been successful in harvesting any salmon to date.

Existing Federal Regulation

> *§___.27(i)(10)(iv) You may take only salmon, trout, Dolly Varden, and other char under authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally for Federally managed waters of the Kasilof and Kenai River drainages:*
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> ******

Proposed Federal Regulation

§___.27(i)(10)(iv) You may take only salmon, trout, Dolly Varden, and other char under authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally for Federally managed waters of the Kasilof and Kenai River drainages:

*(A) ******

(D) Residents of Hope, Cooper Landing, and Ninilchik may take only sockeye salmon through a dip net and a rod and reel fishery at one specified site on the Russian River, and sockeye, late-run Chinook, coho, and pink salmon through a dip net/rod and reel fishery at two specified sites on the Kenai River below Skilak Lake and as provided in this section. For Ninilchik residents, salmon taken in the Kasilof River Federal subsistence fish wheel, and dip net/rod and reel fishery will be included as part of each household's annual limit for the Kenai and Russian Rivers' dip net and rod and reel fishery. For both Kenai River fishing sites below Skilak Lake, incidentally caught fish may be retained for subsistence uses, except for early-run Chinook salmon (unless otherwise provided for), rainbow trout 18 inches or longer, and Dolly Varden 18 inches or longer, which must be released. For the Russian River fishing site, incidentally caught fish may be retained for subsistence uses, except for early- and late-run Chinook salmon, coho salmon, rainbow trout, and Dolly Varden, which must be released. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Harvests must be reported within 72 hours to the Federal fisheries manager upon leaving the fishing site, and permits must be returned to the manager by the due date listed on the permit. Chum salmon that are retained are to be included within the annual limit for sockeye salmon. Only residents of Cooper Landing, Hope, and Ninilchik may retain incidentally caught resident species.

(1) The household dip net and rod and reel gear fishery is limited to three sites:

(i) At the Kenai River Moose Range Meadows site, dip netting is allowed only from a boat from a Federal regulatory marker on the Kenai River at about river mile 29 downstream approximately 2.5 miles to another marker on the Kenai River at about river mile 26.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks June 15-August 31. Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56 and 5 AAC 57 and 5 AAC 77.540).

(ii) At the Kenai River Mile 48 site, dip netting is allowed while either standing in the river or from a boat, from Federal regulatory markers on both sides of the Kenai River at about river mile 48 (approximately 2 miles below the outlet of Skilak Lake) downstream approximately 2.5 miles to a marker on the Kenai River at about river mile 45.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks June 15-August 31. Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56, 5 AAC 57, and 5 AAC 77.540).

(iii) At the Russian River Falls site, dip netting is allowed from a Federal regulatory marker near the upstream end of the fish ladder at Russian River Falls downstream to a Federal regulatory marker approximately 600 yards below Russian River Falls. Residents using rod and reel gear at this fishery site may not fish with bait at any time.

(2) Fishing seasons are as follows:

(i) For sockeye salmon at all fishery sites: June 15-August 15;

(ii) For late-run Chinook, pink, and coho salmon at both Kenai River fishery sites only: July 16-September 30; and

(iii) Fishing for sockeye, late-run Chinook, coho, or pink salmon will close by special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action.

(3) Each household may harvest their annual sockeye, late-run Chinook, coho, or pink salmon limits in one or more days, and each household member may fish with a dip net or rod and reel during this time. Salmon taken in the Kenai River system dip net , rod and reel and gillnet fishery by Ninilchik households will be included as part of those household's annual limits for the Kasilof River.

(i) For sockeye salmon—annual total harvest limit of 4,000 (including any retained chum salmon); annual household limits of 25 for each permit holder and 5 additional for each household member;

(ii) For late-run Chinook salmon—annual total harvest limit of 1,000; annual household limits of 10 for each permit holder and 2 additional for each household member;

(iii) For coho salmon—annual total harvest limit of 3,000; annual household limits of 20 for each permit holder and 5 additional for each household member; and

(iv) For pink salmon—annual total harvest limit of 2,000; annual household limits of 15 for each permit holder and 5 additional for each household member.

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(I) Residents of Ninilchik may harvest sockeye, Chinook, coho, and pink salmon with a gillnet in the Federal public waters of the Kenai River. Residents of Ninilchik may retain other species incidentally caught in the Kenai River except for rainbow trout and Dolly Varden 18 inches or longer. Rainbow trout and Dolly Varden 18 inches or greater must be released.

(1) Only one community gillnet can be operated on the Kenai River. The gillnet cannot be over 10 fathoms in length to take salmon, and may not obstruct more than half of the river width with stationary fishing gear. Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.

(2) One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife refuge manager, based on the merits of the operation plan. The registration permit will be issued to an organization that, as the community gillnet owner, will be responsible for its, use, and removal in consultation with the Federal fishery manager. As part of the permit, the organization must:

(i) Prior to the season, provide a written operation plan to the Federal fishery manager including a description of how fishing time and fish will be offered and distributed among households and residents of Ninilchik;

(ii) After the season, provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation and number of each species caught and retained or released.

(3) The gillnet owner (organization) may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:

(i) Identifies a person who will be responsible for fishing the gillnet;

(ii) Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.

(4) Fishing will be allowed from June 15 through August 15 on the Kenai River unless closed or otherwise restricted by Federal special action.

(5) Salmon taken in the gillnet fishery will be included as part of the dip net/rod and reel fishery annual total harvest limits for the Kenai River and as part of dip net/rod and reel household annual limits of participating households.

(6) Fishing for each salmon species will end and the fishery will be closed by Federal special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action.

Existing State Regulations

No existing State regulations apply.

Extent of Federal Public Water

Federal public waters are defined and described under 36 CFR 242.3 and 50 CFR100.3. For the Kenai River, Federal public waters under consideration include all waters of the Kenai River within and adjacent to the exterior boundaries of the Kenai National Wildlife Refuge and Chugach National Forest (**Cook Inlet Area Map).** This includes Kenai Lake and its tributaries and all water downstream to the confluence of the upper branch of the Killey River (approximately RM 45.5) and approximately 2 miles of the mainstem Kenai River between RM 26.5 and RM 29 (known locally as Moose Range Meadows), and most of the upper reaches of tributaries below Skilak Lake including the Moose, Killey and Funny Rivers.

Customary and Traditional Use Determinations

Residents of the communities of Cooper Landing, Hope and Ninilchik have a positive customary and traditional use determination for all fish in the Kenai River except burbot and grayling.

Regulatory History

Pre- and Early Statehood Fisheries

Until 1952 freshwater streams in the Kenai Peninsula were open to subsistence fishing, but poorly managed commercial fisheries decimated salmon runs. In 1952, as part of efforts to rebuild salmon runs, all streams and lakes of the Kenai Peninsula were closed to subsistence fishing under Territory of Alaska regulations. Only rod and reel fishing was allowed for "personal use" (Fall et al. 2004).

Contemporary State Fisheries

A State regulatory management plan for Upper Cook Inlet salmon (5 AAC 21.363) provides the Alaska Board of Fisheries guiding principles and provisions to use when adopting management plans for specific stocks. The State classified most of the Cook Inlet Area, including the Kenai and Kasilof River drainages, as a nonsubsistence area in 1992 (5AAC 99.015(3)). The only State subsistence fisheries in Cook Inlet occur in areas that are not accessible from the road system, including the Tyonek, Windy Bay, Port Chatham, Kyuktolik, and Port Graham subdistricts,

as well as portions of Seldovia Bay and the Yentna River drainage.

Commercial and sport fisheries are complex and intensively managed by the State of Alaska. There are six management plans that apply to Kenai and Kasilof river salmon stocks: *Upper Cook Inlet Salmon Management Plan* (5 AAC 21.363), *Kenai River and Kasilof River Early-Run King Salmon Conservation Management Plan* (5 AAC 57.160), *Kenai River Late-Run King Salmon Management Plan (5 AAC 21.359), Kenai River Late-Run Sockeye Salmon Management Plan (5 AAC21.360)*, *Kasilof River Salmon Management Plan* (5 AAC 21.365) and *Kenai River Coho Salmon Management Plan* (5 AAC 57.170). These plans provide State of Alaska management goals for sustained yield, guidance for mixed-species and mixed-stock fisheries, and instructions for allocation between competing fisheries.

The State also has a regulatory management plan for *Upper Cook Inlet personal use salmon fisheries* (5 AAC 77.540). This plan established four personal use fisheries in Cook Inlet: Kasilof River dip net, Kasilof River set gillnet, Kenai River dip net, and Fish Creek dip net. Unlike subsistence fisheries, personal use fisheries do not have a priority over other existing uses. Personal use fisheries are open to all residents of Alaska, require a household permit, and occur in marine and intertidal waters outside of Federal public lands. These fisheries target sockeye salmon, the species of greatest abundance and for which the best stock assessment information is available. Annual harvest limits are 25 salmon for the head of each household and 10 salmon for each additional household member. The limit is combined for all four fisheries.

Incidentally caught coho, pink, and chum salmon may be retained as part of the annual limit. Each household is limited to one Chinook salmon in the Kenai River dip net fishery. No retention of Chinook salmon is allowed in the Kasilof River or the Fish Creek dip net fishery, but any Chinook salmon caught in the Kasilof River set gillnet fishery may be retained as part of the annual limit.

Commercial and sport fisheries are complex and intensively managed by the State of Alaska. There are six management plans that apply to Kenai and Kasilof river salmon stocks: *Upper Cook Inlet Salmon Management Plan* (5 AAC 21.363), *Kenai River and Kasilof River Early-Run King Salmon Conservation Management Plan* (5 AAC 57.160), *Kenai River Late-Run King Salmon Management Plan (5 AAC 21.359), Kenai River Late-Run Sockeye Salmon Management Plan (5 AAC21.360)*, *Kasilof River Salmon Management Plan* (5 AAC 21.365) and *Kenai River Coho Salmon Management Plan* (5 AAC 57.170). These plans provide State of Alaska management goals for sustained yield, guidance for mixed-species and mixed-stock fisheries, and instructions for allocation between competing fisheries.

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Incidentally caught coho, pink, and chum salmon may be retained as part of the annual limit. Each household is limited to one Chinook salmon in the Kenai River dip net fishery. No retention of Chinook salmon is allowed in the Kasilof River or the Fish Creek dip net fishery, but any Chinook salmon caught in the Kasilof River set gillnet fishery may be retained as part of the annual limit.

Finally, the State administers several educational fisheries in Cook Inlet under the provisions of 5 AAC 93.200 – 93.235 (Nelson et al. 1999 and Fall et al. 2004). The purpose of educational fisheries is to allow groups to practice traditional harvest and use methods so that these practices and knowledge are not lost. Educational fisheries, unlike subsistence fisheries, do not have priority over other fisheries. Therefore, during times of resource shortages, educational fisheries could be restricted before or at the same time as commercial, sport and personal use fisheries are restricted. For the Kasilof River, the Kenaitze Tribe, Kasilof Regional Historical Association, and

Ninilchik Traditional Council have each been issued educational permits to fish one set gillnet in marine waters near the mouth of the river. The Kenaitze Tribe has participated in an educational fishery since 1989, and for the Kasilof River is allowed to harvest 25 Chinook salmon.

Three educational fisheries have been issued to three Ninilchik area groups, Ninilchik Traditional Council (NTC), Ninilchik Native Decedents (NND) and Ninilchik Emergency Services (NES). The Ninilchik Traditional Council has participated in an educational fishery since 1993 for the Ninilchik area fisheries and since 2007 for the Kasilof area fisheries. In 1998, a group of NTC members formed a new organization called Ninilchik Native Decedents and the allocation was divided evenly between the two groups. In 2003, Ninilchik Emergency Services received the third permit for the area. Below lists the current stipulations of the permits:

- Area and gear stipulations:
    - NTC is permitted to harvest salmon using one or two set gillnets in marine waters near the Ninilchik River mouth and other traditional methods in freshwaters of the Ninilchik River below the Sterling Highway Bridge. In addition they are also permitted to use one gillnet in marine waters near the Kasilof River.
    - NND, is permitted to use one set gillnets in marine waters near the Ninilchik River mouth and other traditional methods in freshwater of the Ninilchik River below the Sterling Highway Bridge.
    - NES is permitted to use one set gillnets in marine waters near the Ninilchik River mouth.
- Quotas:
    - NTC is permitted a combined harvest quota up to 2,800 salmon for the Ninilchik and Kasilof area, of which there is also an individual coho and king salmon harvest quota: the quota for coho salmon is 500 (200 for the Ninilchik area and 300 for the Kasilof area); the quota for king salmon is 200 (100 for the Ninilchik area and 100 for the Kasilof area.
    - NND is permitted a combined harvest quota up to 2,800 salmon from the Ninilchik area, of which there is a coho and king salmon harvest quota: the quota for coho salmon is 150 and the quota for king salmon is 150.
    - NES is permitted a combined harvest quota up to 250 salmon from the Ninilchik area, of which there is a coho and king salmon harvest quota: the quota for coho salmon is 50 and the quota for king salmon is 25.

Federal Subsistence Fisheries in the Cook Inlet Area

In 2002, Federal subsistence regulations for harvest in the Cook Inlet Area were established for salmon, trout, and Dolly Varden and other char. A Federal subsistence permit was required and seasons, harvest and possession limits, and methods and means for take were the same as those in Alaska sport fishing regulations. This fishery was established as an interim measure to provide some subsistence opportunity in the Cook Inlet Area for Federally qualified rural residents. Initially, there were no customary and traditional use determinations for salmon, trout, Dolly Varden, and char in Cook Inlet; so all rural residents of Alaska could harvest under Federal regulations.

In January 2006, the Federal Subsistence Board made positive customary and traditional use determinations for Hope and Cooper Landing residents for all fish in the Kenai River Area, and for Ninilchik residents for all fish within the Kasilof River drainage within the Kenai National Wildlife Refuge. In November 2010, the Board made a positive customary and traditional use determination for Ninilchik residents for all fish in the Kenai River Area.

During their May 2007 meeting, the Federal Subsistence Board adopted proposals that established dip net/rod and reel salmon fisheries on the Kasilof and Kenai Rivers; increased previously established harvest, possession, and annual limits for salmon and selected resident species for existing rod and reel fisheries on the Kasilof and Kenai River drainages; and allowed use of up to two single or treble hooks and bait for rod and reel fishing during specified dates for both systems. Also during the May 2007 meeting, the Federal Subsistence Board adopted a

proposal to establish a winter season subsistence fishery at Tustumena Lake with jigging through the ice and gillnets fished under the ice for lake trout, rainbow trout and Dolly Varden/Arctic char.

In 2007, the Southcentral Alaska Subsistence Regional Advisory Council submitted Proposal FP08-09 to establish a temporary community fish wheel on both the Kenai and Kasilof Rivers. The Council contended that the fish wheels would provide a more effective means for Federally qualified subsistence users to harvest salmon. They requested the establishment of fish wheel as a gear type be temporary to evaluate the feasibility of operating this type of gear. The Federal Subsistence Board, at its January 2008 meeting, adopted the proposal with modification to allow fish wheels to be classified as a gear type, but only in the Kasilof River. The Federal Subsistence Board specified that only one fish wheel with a live box would be allowed in the upper mainstem of the Kasilof River. A permit would be required to use the fish wheel and that an operation plan must be submitted to and approved by the Federal inseason manager, before the permit would be awarded. Individuals operating the fish wheel would need to have a Federal subsistence fishing permit and all harvest limits on the permit would apply to the fish wheel. Salmon harvested by the fish wheel will be included as part of each household's annual limit and all fish harvested must be reported to the in-season manager with 72 hours of leaving the fishing location. The Federal Subsistence Board at its January 2012 meeting supported FP13-15 to remove the expiration date for the community fish wheel salmon fishery on the Kasilof River allowing continued operation of the fish wheel.

Alaska Department of Fish and Game, Subsistence Division completed a study (OSM study 03-045) documenting past, present and potential noncommercial harvests and uses of fish in waters of the Cook Inlet Management Area. One of the project objectives was to identify potential areas and gear types for Federal subsistence fishing opportunities. Subsistence Division personnel completed key respondent interviews and held focus group meetings to gather public input. Community fish wheels were among the ideas suggested for potential Federal subsistence fisheries in the Cook Inlet Management Area. According to interviews conducted in the study most of the households agreed that current seasonal limits in the State personal use fisheries were adequate and most respondents supported basing any future Federal subsistence fishing regulations on State sport fishing rules. Many supported the status quo, were only interested in opportunities in State waters (especially marine waters) or expressed concerns about the consequences of net fisheries in fresh water (Fall et al. 2004).

Current Events Involving Species

Anticipated poor early-run Chinook salmon returns to the Kenai River resulted in restrictions to the Chinook salmon sport fishery by Alaska Department of Fish and Game (ADF&G). Beginning May 1, 2014 sport fishing for early-run Chinook salmon in the Kenai River was closed (Begich 2014[a]). No Chinook salmon could be targeted and any Chinook salmon caught incidentally while fishing for other species could not be removed from the water and had to be released immediately. Projected low returns of late-run Chinook salmon on the Kenai River resulted in ADF&G imposing area and bait restriction on the harvest of late-run Chinook salmon beginning July1(Begich 2014[b]). On July 24, 2014 ADF&G closed the late-run Chinook salmon sport fishery in the Kenai River and the salt waters of Cook Inlet to ensure the sustainable escapement goal of 15,000-30,000 fish was achieved (Begich 2014[c]). Efforts to conserve Chinook salmon extended to the personal use dipnet fishery. Chinook salmon retention was prohibited in the Kenai River personal use dipnet fishery when it opened July 10, 2014 (Begich 2014[d]). Through these restrictions late-run Chinook salmon escapement goal was achieved with the DIDSON sonar estimating an escapement of 16, 671 fish (ADF&G 2014).

Biological Background and Harvest History

All Pacific salmon species spawn within the Kenai River drainage, and the runs are harvested in State commercial, sport, personal use, subsistence and educational fisheries and Federal subsistence fisheries (Begich 2013). The State's *Upper Cook Inlet Salmon Management Plan* (5 AAC 21.363) establishes long-term direction for the management of Upper Cook Inlet salmon stocks. It provides mandatory criteria that the Alaska Board of Fisheries must consider when adopting management plans for specific fish stocks, and establishes a set of guiding principles for the adoption of regulations governing salmon fisheries. The plan focuses the commercial fisheries

take on late-run sockeye salmon, while early-run sockeye, early- and late-run Chinook, and coho salmon runs are primarily managed for sport fisheries. Considerable information has been compiled on abundance and distribution of sockeye, Chinook, and coho salmon runs, but little information is available on either pink or chum salmon runs. Spawning escapement goals have been set for sockeye and Chinook salmon runs, and sustainable harvest levels have been estimated for sockeye, Chinook, and coho salmon.

Early-Run Sockeye Salmon

Most early-run sockeye salmon spawn within the Russian River; the State's *Russian River Sockeye Salmon Management Plan* (5 AAC 57.150) establishes escapement objectives and provides guidelines for the State of Alaska management of fisheries harvesting this run. The primary harvest of this run occurs within the sport fishery, and the State manages other fisheries to minimize the harvest of early run sockeye. The biological escapement goal range set by this plan is 22,000 to 42,000 early-run sockeye salmon, which are counted through a weir.

Sport fishing for early-run sockeye salmon primarily occurs within the Russian River. This fishery includes the lower Russian River up to a marker 600 yards below Russian River Falls, and the mainstem Kenai River from the confluence down to the powerline crossing. The allowable gear in this fishery is restricted to fly fishing only, and the fishery opens June 11 at the conclusion of the spawning season closure for rainbow trout. Bag and possession limits for sockeye salmon throughout the Kenai River drainage are 3 per day and 6 in possession. Sport fishery harvests of early-run Russian River sockeye salmon during 2003–2012, the most recent 10 year period for which data are available, have ranged from 15,231 to 59,097 with an average harvest of 34,375 (Begich 2013). On average, the sport fishery harvested about 46% of the early-run that enters the Russian River area during this period.

The Kenaitze Tribe educational fishery currently consists of one set gillnet that is fished May 1 – June 30 in marine waters just south of the Kenai River mouth and two set gillnets that are fished July 1-November 30 in marine waters just south of Kenai River mouth. The net can be fished from 1 May through 30 November, and there is an annual harvest limit of 8,000 salmon, as well as species and stock restrictions. Annual harvests of early-run Russian River sockeye salmon during 2004–2013, the most recent 10 year period, have ranged from 275 to 2,374 sockeye salmon, with an average of 1,405.

Escapement into the Russian River system is estimated using a weir below the outlet of Upper Russian Lake. Early-run sockeye salmon enter the Kenai River from about mid-May through mid-July. During 2004–2013, spawning escapements have ranged from 24,115 to 80,524 sockeye salmon, with an average escapement of 41,656 (Begich 2013).

Late-Run Sockeye Salmon

Late-run sockeye salmon is the most intensively managed and utilized Kenai River salmon resource; these fish spawn throughout the drainage. The State's *Kenai River Late-run Sockeye Salmon Management Plan* (5 AAC 21.360) and *Russian River Sockeye Salmon Management Plan* (5 AAC 57.150) establish escapement objectives and provides guidelines for the management of all fisheries harvesting the late run. The optimum escapement goal range for the total drainage, including the Russian River system, is set at 700,000 to 1,400,000 late-run sockeye salmon, which is estimated with sonar equipment installed in the lower Kenai River. The sustainable escapement goal range for the Russian River is set at 30,000–110,000 late-run sockeye salmon, which is monitored with a weir. While primary harvest of the late-run occurs within the commercial fishery, the State manages the commercial fishery to provide for harvests within other fisheries as well as to achieve spawning goals.

The harvest of late-run sockeye salmon is monitored in all existing commercial, personal use, sport, and educational fisheries (Begich 2013). Commercial fisheries are conducted in the marine waters of Cook Inlet using both drift and set gillnets. During 2003–2012, the commercial harvest has ranged from 204,579 to 5,277,995 late-

run sockeye salmon, with an average of 3,445,684. About half of the commercial harvest is generally taken within a few days centered on 20 July. A personal use dip net fishery occurs at the mouth of the Kenai River and extends upstream as far as the Warren Ames Bridge. Dip nets can be fished from boats in the section of river from the City Dock upstream to the Warren Ames Bridge. To target effort on late-run sockeye salmon, and reduce harvests of late-run Chinook salmon and coho salmon, this dip net fishery is only open 10–31 July. All Alaska residents may participate, permits are required, and the annual household

limit is 25 salmon for the permit holder and 10 additional salmon for each household member. About 25,000 to 30,000 households days for all fisheries each year. Annual sockeye salmon harvests have ranged from 127,630 to 537,765 late-run sockeye salmon during 2004–2012, with an average of 333,960. The Kenaitze educational fishery annual harvests have ranged from 2,246 to 5,278 late-run sockeye salmon during 2004– 2013, with an average of 3,505. Sport fishery bag and possession limits for late-run sockeye salmon throughout the Kenai River drainage are 3 per day and 6 in possession. Total sport fish harvests have ranged from 203,602 to 470,547 late-run sockeye salmon during 2003–2012, with an average of 320,122. For the Russian River component, sport harvests have ranged from 9,331 to 33,935 late-run sockeye salmon during this time period, with a mean of 21,200.

The late-run sockeye enter the Kenai River from about early July through mid-August. The total drainage spawning escapement has ranged from 703,979 to 1,876,180 late-run sockeye salmon during 2003–2012, with an average of 1,258,861 (Begich 2013). While many of these sockeye salmon spawn within Skilak, Kenai, and Hidden lakes and their tributaries, large numbers also spawn in the Russian River system. The Russian River spawning escapement has ranged from 31,364 to 110,244 late-run sockeye salmon during 2004–2013, with an average of 60,520.

Early-Run Chinook Salmon

Most early-run Chinook salmon spawn in Kenai River tributaries, and the State's *Kenai River and Kasilof River Early-Run King Salmon Conservation Management Plan* (5 AAC 57.160) establishes escapement objectives and guidelines for the management of all existing fisheries harvesting this run. This plan also tries to ensure that the age and size composition of the harvest closely approximates that of the run. The primary harvest of this run occurs within the sport fishery. Most of the sport harvest is taken within the Kenai River, although the Deep Creek marine sport fishery takes an undetermined, but likely small number, of Kenai River early-run Chinook salmon based on tag recoveries (King and Breakfield, 2002). The State manages other fisheries to minimize the harvest of this run. The commercial and personal use fisheries open after most early-run Chinook salmon have entered the Kenai River, and the personal use fishery has a seasonal limit of 1 Chinook salmon per household. The Kenaitze Tribe's educational fishery has historically had a seasonal limit of 300 Chinook salmon, but in 2014 the limit was decrease to 50 Chinook salmon to conserver returning fish. The optimal escapement goal range set by this plan is 5,300 to 9,000 early-run Chinook salmon, which is estimated with sonar equipment installed in the lower Kenai River. To achieve the escapement goal, daily sonar estimates of Chinook salmon passing the sonar site and estimates of the sport harvest from creel surveys are used in a run timing model to project total inriver return, total harvest and final spawning escapement. If escapement is projected to fall below the lower end of the goal's range, the fishery is restricted by steps to catch-and-release only and ultimately to closure. Bait cannot be used until escapement is projected to fall within the OEG range. To help prevent the harvest of 5-ocean fish, there is a slot limit that specifies the size of Chinook salmon that may be retained. The slot limit is in effect from 1 January to 30 June from the Kenai River mouth upstream to the outlet of Skilak Lake, and from 1 to 14 July from the Slikok Creek upstream to the outlet of Skilak Lake.

All sport fishing for early-run Chinook salmon in the Kenai River occurs below Skilak Lake. The bag and possession limit is 1 Chinook salmon per day and 1 in possession. Additionally, there is an annual limit of 2 Chinook salmon from the Kenai River. Only Chinook salmon less than 42 inches or greater than 55 inches can be retained. Sport fishery harvests of early-run Kenai River Chinook salmon during 2004-2013 have ranged from 0 to 4,693, with an average of 2,334 (Begich 2013). These harvests do not include the estimated hook-and-release mortality that ranges from 0 to 257 fish. The Kenaitze Tribe's educational fishery harvest has ranged from 11 to 76 early-run

Chinook salmon during 2004–2013, with an average of 42. No estimates of the number of early-run Kenai River Chinook salmon harvested in commercial or personal use fisheries are available, but due to the timing of these fisheries these harvests are assumed to be negligible.

Estimated early-run Chinook salmon escapement into the Kenai River system is estimated using sonar equipment. Early-run Chinook salmon enter the Kenai River from about late-May through late-June. Most early-run Chinook salmon spawn in Kenai River tributaries below the outlet of Skilak Lake, and most of these spawners are bound for the Killey and Funny rivers. On average, only about 7% of all early-run Chinook salmon spawn in tributaries within and above Skilak Lake (Bendock and Alexandersdottir 1992 and Burger et al. 1983). Spawning escapements from 2004-2013 have ranged from 2,033 to 19,817 early-run Chinook salmon, with an average of 9,449 (Begich 2013).

Late-Run Chinook Salmon

Most late-run Chinook salmon spawn in the mainstem Kenai River, and the State's *Kenai River Late-Run King Salmon Management Plan* (5 AAC 21.359) establishes escapement objectives and guidelines for the management of all existing fisheries harvesting this run. While this run is primarily managed for use by the sport fishery, the incidental harvest in commercial fisheries is substantial. Most of the sport harvest is taken below the Soldotna Bridge within the Kenai River, although some are taken in marine waters in the Deep Creek sport fishery. The bag and possession limit is 1 Chinook salmon per day and 1 in possession. Additionally, there is an annual limit of 2 Chinook salmon from the Kenai River. Most of the commercial harvest is taken in the East Side set gillnet fishery. The personal use fishery has a seasonal limit of 1 Chinook salmon per household, and the Kenaitze Tribe's educational fishery had a seasonal limit of 50 Chinook salmon in 2014. The sustainable escapement goal range set by this plan is 15,000 to 30,000 late-run Chinook salmon, which is estimated with sonar equipment installed in the lower Kenai River. To achieve the escapement goal, daily sonar estimates of Chinook salmon passing the sonar site and estimates of the sport harvest from creel surveys are used in a run timing model to project total inriver return, total harvest and final spawning escapement. If escapement is projected to fall below the lower end of the goal's range, the fishery is restricted by several steps, including prohibiting use of bait, to catch-and-release only and ultimately to closure.

The harvest of late-run Chinook salmon is monitored in all existing commercial, personal use, sport, and educational fisheries (Begich 2013). Commercial fishery harvests during 2004–2013 have ranged from 640 to 16,925 Kenai River late-run Chinook salmon, with an average of 7,380. Harvests in the Deep Creek marine sport fishery have ranged from 30 to 996 Kenai River late-run Chinook salmon during 2003–2012, with an average of 446. Sport fishery harvests in the Kenai River have ranged from 103 to 18,214 late-run Chinook salmon during 2003-2012, with an average of 9,926. These in-river harvests do not include the estimated hook-and-release mortality that ranges from 79 to 1,267 fish.

Personal use dip net fishery harvests have ranged from 11 to 1,509 late-run Chinook salmon during 2004–2013, with an average of 904. Kenaitze Tribe's educational fishery harvests have ranged from 0 to 21 late-run Chinook salmon during 2004–2013, with an average of 9.

The late-run Chinook salmon escapement estimate into the Kenai River system is estimated using sonar equipment. Late-run Chinook salmon enter the Kenai River from about late-June through late-July. Most late-run Chinook salmon spawn in the mainstem Kenai River between the Soldotna Bridge and the outlet of Skilak Lake, and about 8.6% of the total late run spawns within or above Skilak Lake (Bendock and Alexandersdottir 1992, Hammarstrom et al. 1985, Burger et al. 1983).

Coho Salmon

The State manages Kenai River coho salmon primarily for take in sport fisheries, and the *Kenai River Coho Salmon*

Management Plan (5 AAC 57.170) establishes management actions and guidelines for sport harvest of Kenai River coho salmon. There are no escapement goals for Kenai river coho salmon. Although genetics studies have shown differences between and within early and late returning spawning components (Olsen et al. 2003 and Crane et al. 2007), the entire run is currently managed as a unit by the State.

The harvest of coho salmon is monitored in all existing commercial, personal use, sport, and educational fisheries, but stock specific information for commercial fisheries, based on coded-wire tag returns, is only available through 2003 (Lafferty et al. 2005). While total harvests of coho salmon in Upper Cook Inlet commercial fisheries are generally several hundreds of thousands each year, harvests of Kenai River coho salmon are only a small component of the total. Commercial fishery harvests have ranged from 95,215 to 311,058 coho salmon during 2004–2013, with an average of 172,716. Total sport fishery harvests have ranged from 36,407 to 65,952 coho salmon during 2003–2012, with an average of 47,371.

Federal Harvest

Rural residents of Ninilchik, Hope and Cooper Landing have been allowed to harvest fish under Federal subsistence regulations since 2007. From the inception of the Kenai River Federal Subsistence Fishery sockeye salmon composed over 99% of the total harvest. For the period of 2007 through 2013 the total harvest of sockeye salmon has ranged from 712 to 1,608 fish with the majority of the sockeye salmon being harvested by residents of Cooper Landing (**Table 1**).

Table 1. Total and Percent Harvest of Sockeye Salmon by Community, Kenai River Federal Subsistence Fishery.

2007-2013 Kenai Federal Subsistence Sockeye Salmon Harvest

	Total Number of Sockeye Salmon Harvested						
	2007	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**
Cooper Landing Residents	606	1068	752	679	840	1052	1057
Hope Residents	85	286	121	172	159	287	271
Ninilchik Residents	21	254	224	52	84	51	80
Total	712	1608	1097	903	1083	1390	1408

	Percent Sockeye Salmon Harvested						
	2007	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**
Cooper Landing Residents	85%	66%	69%	75%	78%	76%	75%
Hope Residents	12%	18%	11%	19%	15%	21%	19%
Ninilchik Residents	3%	16%	20%	6%	8%	4%	6%
Total	100%	100%	100%	100%	100%	100%	100%

Harvest estimates for 2014 Federal Subsistence fishery will not be available until early 2015.

Effects of the Proposal

Adopting this proposal as submitted does not provide subsistence harvest opportunities for residents of Cooper Landing and Hope. Limiting the fishing opportunity to residents of Ninilchik is problematic because Cooper Landing and Hope have customary and traditional use determination for all fish within the Kenai National Wildlife Refuge and the Chugach National Forest, including the Kenai River. All three communities have shown a history of participating in the Federal subsistence fishery. Currently, Federal subsistence regulations must provide opportunity for all eligible rural residents; therefore, if this proposal was adopted Hope and Cooper Landing could participate with community gillnets.

Both early and late-run Chinook salmon have been experiencing a period of low productivity and below average run strength. Low returns have resulted in closures of both the sport and personal use fisheries to the taking of Chinook salmon in the Kenai River. Allowing the proposed gillnet fishery could result in a harvest of Chinook salmon that would be above sustainable harvest levels. In addition, there are currently size limits imposed on rainbow/steelhead trout and Dolly Varden/Arctic char harvested in the Kenai River rod and reel and dipnet fisheries. In addition, daily /possession limits are one to two fish. The nonselective nature of a gillnet fishery on the harvest of resident species would make imposing any size restrictions and conservative daily/possession limits difficult and could possibly result in an over harvest of resident species. Because of overlapping migration timing for the early-run and late-run Chinook salmon and rainbow/steelhead trout, there is no time window when gillnets could be deployed to miss both species.

Finally, allocating sockeye salmon harvest, the most commonly harvested species, between the dipnet, rod and reel and proposed community gillnets could pose challenging. Currently, the number of sockeye salmon harvested is less than half of the annual total harvest limit of 4000, with Cooper Landing harvesting the majority of those fish. It would be difficult to determine total gillnet annual harvest limits by community while still ensuring maximum opportunity for both the dipnet and rod and reel fisheries.

OSM CONCLUSION

Oppose Proposal FP15-10.

Justification

Gillnets do not allow for species, stock and size selective management or control of harvest. Introduction of gillnets as a gear type in the Kenai River could exacerbate an existing Chinook salmon population concern, and could result in an over-harvest of resident species. Currently, residents of Ninilchik, Cooper Landing and Hope have a positive customary and traditional use determination for all fish in the Kenai River. Without a Section 804 analysis justifying a preference for the community of Ninilchik, there is no reason to exclude the other communities. If this proposal were to be adopted, multiple community gillnets would be allowed in Kenai River. Since both early and late-run Chinook salmon are experiencing a period of low productivity and below average run strength, allowing an inriver gillnet harvest opportunity would be inconsistent with conserving healthy fish populations. Of particular concern is the Chinook salmon which are experiencing below average returns and the potential incidental harvest of stocks or species that are spawning, less abundant and prone to over harvest.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southcentral Alaska Subsistence Regional Advisory Council

Support Proposal FP15-10. The Council stated that the proposal, if enacted into regulation, would provide for a meaningful subsistence preference. Chinook and rainbow trout harvest will be limited and conservation concerns can be addressed through an operational plan. The operational plan, with review by the in-season manager, would require prior approval with the land managing agency prior to any fishing. The proponent provided public comments and stated that gillnet is a customary and traditional use method.

INTERAGENCY STAFF COMMITTEE COMMENTS

FP15-10

The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and Federal Subsistence Board action on the proposal.

If the Board rejects the Council's recommendation, it could do so based on exceptions in Section 805(c) of ANILCA. Allowing the use of gillnets in the Kenai River could be viewed as a violation of recognized principles of fish and wildlife conservation, as gillnets do not allow for species, stock, and size selective harvest. Unlike the situation on the Kasilof River (FP15-11), there is no distinct time period when gillnets could be used to address concerns with stocks or species that are spawning, less abundant or prone to overharvest, or of critical size. The proposed regulation states that rainbow trout and Dolly Varden 18 inches or greater must be released; however, any fish caught in a gillnet would likely result in a mortality. There are conservation concerns with Chinook salmon in the Kenai River and early and late-run Chinook salmon are in the Kenai River during the proposed season.

FP15-13/FP15-14 Executive Summary	
General Description	Proposal FP15-13 requests several changes to the Stikine River subsistence salmon fisheries. Submitted by the Petersburg Fish and Game Advisory Committee. Proposal FP15-14 requests the same changes to the Stikine River subsistence salmon fisheries as the Petersburg Advisory Committee's proposal except they propose the permit holder remain at the fishing site while the net is fishing. Submitted by the Wrangell Fish and Game Advisory Committee
Proposed Regulation	*§___.27(e)(13) (xiii) You may take Chinook, sockeye, and coho salmon in the mainstem of the Stikine River only under the authority of a Federal subsistence fishing permit. Each Stikine River permit will be issued to a household. Only dip nets, spears, gaffs, rod and reel, beach seine, or gillnets not exceeding 15 fathoms in length may be used. The maximum gillnet mesh size is 51/2; inches, except during the Chinook season when the maximum gillnet mesh size is 8 inches.* *(A) You may take Chinook salmon from May 15 through June 20. The annual limit is 5 Chinook salmon per household.* *(B) You may take sockeye salmon from June 21 through July 31. The annual limit is 40 sockeye salmon per household.* *(C) You may take coho salmon from August 1 through October 1. The annual limit is 20 coho salmon per household.* *(D) You may retain other salmon taken incidentally by gear operated under terms of this permit. The incidentally taken salmon must be reported on your permit calendar.* *(E) The total annual ~~guideline harvest~~ level* ***harvest quota*** *for the Stikine River fishery is 125 Chinook, 600 2,000 sockeye, and 400 coho salmon. All salmon harvested, including incidentally taken salmon, will count against the guideline harvest quota for that species.* ***(F) If these quotas [caps] are exceeded in any year the number of fish per permit will be reduced for the next year.*** ***(G) Before any fish, or part of a fish, is removed from the fishing site they must be recorded on the Federal Subsistence permit. The number of fish caught by species,*** **day of catch, and location of catch must be recorded.** ***(H) Nets shall only be in the water from 4:00 AM until 9:00 PM daily.***

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FP15-13/FP15-14 Executive Summary (continued)	
Proposed Regulation (continued)	***(I alternative as proposed by FP15-13) All nets must be closely attended while they are in the water. Either the permit holder or a member of their household shall do this. While a net is in the water the Federal Subsistence permit must be available for inspection by law enforcement personnel within 2 hours.*** ***(I alternative as proposed by FP15-14) All nets must be closely attended while they are in the water. Either the permit holder or a member of their household shall do this. While a net is in the water the Federal Subsistence permit must be available for inspection by law enforcement personnel.***
OSM Conclusion	**Support** Proposals FP15-13 and 14 - **with modification** to eliminate the subsistence Chinook, sockeye and coho salmon annual guideline harvest levels from Federal regulation (and the Treaty); not require changing household annual harvest limits; not change existing Federal regulation that require recording fishery harvest information on permits; not establish a daily fishing schedule; and do require nets be checked at least once each day. The modified regulation should read: *§___.27(e)(13) (xiv) You may take Chinook, sockeye, and coho salmon in the mainstem of the Stikine River only under the authority of a Federal subsistence fishing permit. Each Stikine River permit will be issued to a household. Only dip nets, spears, gaffs, rod and reel, beach seine, or gillnets not exceeding 15 fathoms in length may be used. The maximum gillnet mesh size is 51/2; inches, except during the Chinook season when the maximum gillnet mesh size is 8 inches.* *(A) You may take Chinook salmon from May 15 through June 20. The annual limit is 5 Chinook salmon per household.* *(B) You may take sockeye salmon from June 21 through July 31. The annual limit is 40 sockeye salmon per household.* *(C) You may take coho salmon from August 1 through October 1. The annual limit is 20 coho salmon per household.* *(D) You may retain other salmon taken incidentally by gear operated under terms of this permit. The incidentally taken salmon must be reported on your permit calendar.* ~~*(E) The total annual guideline harvest level for the Stikine River fishery is 125 Chinook, 600 sockeye, and 400 coho salmon. All salmon harvested, including incidentally taken salmon, will count against the guideline for that species.*~~ ***(E) Fishing nets must be checked at least once each day.***

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FP15-13/FP15-14 Executive Summary (continued)	
Southeast Alaska Subsistence Regional Advisory Council Recommendation	**Support** FP15-13 **with modification** to eliminate the subsistence Chinook, sockeye and coho salmon annual guideline harvest levels from Federal regulation and require nets be checked at least twice each day. **Take no action** on FP15-14. Proposed regulatory language: *§___.27(e)(13) (xiv) is the same as OSM Conclusion except paragraph (E) is amended to say* ~~*(E) The total annual guideline harvest level for the Stikine River fishery is 125 Chinook, 600 sockeye, and 400 coho salmon. All salmon harvested, including incidentally taken salmon, will count against the guideline for that species.*~~ ***(E) Fishing nets must be checked at least twice each day.***
Interagency Staff Committee Comments	See comments following the analysis.
ADF&G Comments	Official State comments on select proposals will be provided as a supplement at the meeting.
Written Public Comments	**4 Support; 2 Oppose; 1 Support with modification**

STAFF ANALYSIS
FP15-13/14

ISSUES

Proposal FP15-13, submitted by the Petersburg Fish and Game Advisory Committee, requests several changes to the Stikine River subsistence salmon fisheries. These changes include:

1. establishing harvest quotas of 125 Chinook salmon, 2,000 sockeye salmon and 400 coho salmon
2. specifying that the annual individual harvest limit in subsequent years would be reduced if the total fishery annual harvest exceeds the quota
3. requiring the day, location, species and number of fish harvested be recorded prior to leaving the fishing location
4. establishing a 4:00 a.m. to 9:00 p.m. daily fishing schedule; and
5. requiring nets be closely attended with the permit holder or member of the household listed on the permit present at the fishing site with the permit available for inspection while the net is in the water. Closely attended is defined as "a member of a household listed on the permit must be available within two hours."

Proposal FP15-14, submitted by the Wrangell Fish and Game Advisory Committee, requests the same changes to the Stikine River subsistence salmon fisheries as the Petersburg Advisory Committee's proposal except they propose the permit holder remain at the fishing site while the net is fishing.

DISCUSSION

The current Stikine River subsistence salmon fishery guideline harvest levels are 125 Chinook salmon, 600 sockeye salmon and 400 coho salmon. Both proposals request the elimination of the guideline harvest levels and instead establish quotas or harvest caps of 125 Chinook salmon, 2,000 sockeye salmon and 400 coho salmon. The intent of the remaining regulatory changes is to facilitate accurate accounting of the total subsistence fishing mortality. It is the opinion of the proponents that these regulatory changes will minimize predation of salmon captured in gillnets by seals. Reducing the number of fish taken or maimed by seals would result in additional fish to fishermen and a more accurate accounting of the total fishery mortality. Because the Stikine River subsistence salmon fishery targets non-Alaska origin (Canadian) stocks and takes place on a Transboundary River, it is regulated by Federal subsistence fishing rules and conditions contained within the Pacific Salmon Treaty (Treaty) between the U.S. and Canada.

Deferred Proposal FP13-19 suggests changing the sockeye salmon guideline harvest level from 600 fish to 2,000 fish. The Southeast Alaska Subsistence Regional Advisory Council (Council) recommended the eliminating the guideline harvest level for sockeye salmon and the Federal Subsistence Board deferred action on the proposal to this fishery regulatory cycle.

Existing Federal Regulation

§___.27(e)(13) (xiii) You may take Chinook, sockeye, and coho salmon in the mainstem of the Stikine River only under the authority of a Federal subsistence fishing permit. Each Stikine River permit will be issued to a household. Only dip nets, spears, gaffs, rod and reel, beach seine, or gillnets not exceeding 15 fathoms in length may be used. The maximum gillnet mesh size is 51/2; inches, except during the Chinook season when the maximum gillnet mesh size is 8 inches.

(A) You may take Chinook salmon from May 15 through June 20. The annual limit is 5 Chinook salmon per household.

(B) You may take sockeye salmon from June 21 through July 31. The annual limit is 40 sockeye salmon per household.

(C) You may take coho salmon from August 1 through October 1. The annual limit is 20 coho salmon per household.

(D) You may retain other salmon taken incidentally by gear operated under terms of this permit. The incidentally taken salmon must be reported on your permit calendar.

(E) The total annual guideline harvest level for the Stikine River fishery is 125 Chinook, 600 sockeye, and 400 coho salmon. All salmon harvested, including incidentally taken salmon, will count against the guideline for that species.

Proposed Federal Regulation

§___.27(e)(13) (xi*ii) You may take Chinook, sockeye, and coho salmon in the mainstem of the Stikine River only under the authority of a Federal subsistence fishing permit. Each Stikine River permit will be issued to a household. Only dip nets, spears, gaffs, rod and reel, beach seine, or gillnets not exceeding 15 fathoms in length may be used. The maximum gillnet mesh size is 51/2; inches, except during the Chinook season when the maximum gillnet mesh size is 8 inches.*

(A) You may take Chinook salmon from May 15 through June 20. The annual limit is 5 Chinook salmon per household.

(B) You may take sockeye salmon from June 21 through July 31. The annual limit is 40 sockeye salmon per household.

(C) You may take coho salmon from August 1 through October 1. The annual limit is 20 coho salmon per household.

(D) You may retain other salmon taken incidentally by gear operated under terms of this permit. The incidentally taken salmon must be reported on your permit calendar.

*(E) The total annual ~~guideline harvest level~~ **harvest quota** for the Stikine River fishery is 125 Chinook, ~~600~~ **2,000** sockeye, and 400 coho salmon. All salmon harvested, including incidentally taken salmon, will count against the ~~guideline~~ **harvest quota** for that species.*

(F) If these quotas [caps] are exceeded in any year the number of fish per permit will be reduced for the next year.

(G) Before any fish, or part of a fish, is removed from the fishing site they must be recorded on the Federal Subsistence permit. The number of fish caught by species, day of catch, and location of catch must be recorded.

(H) Nets shall only be in the water from 4:00 AM until 9:00 PM daily.

(I alternative as proposed by FP15-13) All nets must be closely attended while they are in the water. Either the permit holder or a member of their household shall do this. While a net is in the water the Federal Subsistence permit must be available for inspection by law enforcement personnel within 2 hours.

(I alternative as proposed by FP15-14) All nets must be closely attended while they are in the water. Either the permit holder or a member of their household shall do this. While a net is in the water the Federal Subsistence permit must be available for inspection by law enforcement personnel.

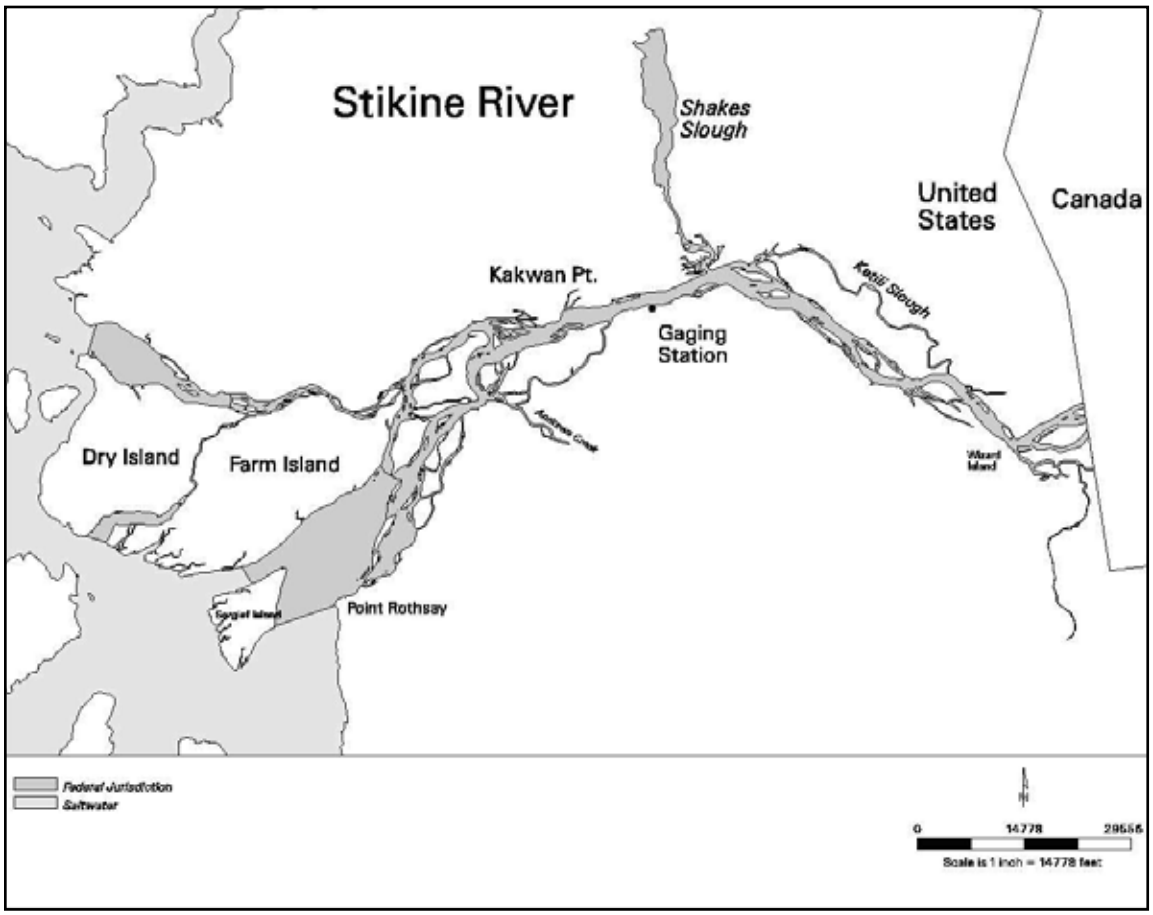
Existing State Regulation

The Stikine River and tributaries are open to sport fishing for sockeye, pink, chum, and coho salmon with a harvest limit of six (6) fish daily and 12 in possession. Sport fishing for Chinook salmon is prohibited in the Stikine River and tributaries. The State Board of Fisheries has made a positive customary and traditional use determination for salmon in the Stikine River but subsistence salmon fishing permits are not issued for Stikine River origin salmon. The Stikine River terminal area commercial gillnet fishery encompasses the waters of District 8 surrounding the terminus of the Stikine River but not in waters under Federal jurisdiction. The State managed directed Chinook, sockeye and coho salmon sport and commercial fisheries are dependent on whether there is an Allowable Catch as determined by the pre-season forecast of Canadian origin Stikine River salmon stocks. Subsequent openings are dependent on in-season abundance estimates determined by test fisheries and fishery performance information and stock of origin calculations. Methods of determining harvest sharing for the Chinook, sockeye and coho salmon fisheries between Canada and the United States are contained within the Treaty (PSC 2014).

Extent of Federal Public Waters

For purposes of this discussion, the phrase "Federal public waters" is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3.

Federal public waters comprise all waters of the Stikine River downstream from the Canadian border are within the exterior boundaries of the Tongass National Forest and are considered Federal public waters for the purposes of Federal subsistence fisheries management. For the Stikine River, non-marine waters include all portions of the Stikine River inland from the point of Federal jurisdiction at Point Rothsay to the Canadian border (**Map 1**). All portions of the Stikine watershed in the United States are part of the Stikine-LeConte Wilderness Area.



Map 1. Stikine River, Federal Public Waters and prominent features.

Customary and Traditional Use Determinations

The Stikine River drains into commercial fishing District 8. Residents of drainages flowing into District 6 north of the latitude of Point Alexander (Mitkof Island); residents of drainages flowing into Districts 7 and 8, including the communities of Petersburg and Wrangell; and residents of the community of Meyers Chuck have a positive customary and traditional use finding for salmon, Dolly Varden, trout, smelt and eulachon.

Regulatory History

The Stikine River subsistence salmon fishery is regulated by Federal subsistence fishing regulation and within the terms of Annex IV of the U.S./Canada Pacific Salmon Treaty of 1985, as last amended in January 2009 (Treaty). There is a Total Allowable Catch for Chinook and sockeye salmon proportioned between Canada and the United States; the Federal subsistence fisheries harvest is a component of the total U.S. harvest allocation.

The original proposal to establish a Federal subsistence salmon fishery on the Stikine River (FP01-27) was submitted in 2000 by Mr. Dick Stokes, a resident of Wrangell. That proposal specified a Chinook salmon fishery from June 1 to August 1, a sockeye salmon fishery from June 15 to September 1, and a coho salmon fishery from July 15 to October 1. The Federal Subsistence Board (Board) deferred action on this proposal, pending coordination with the Transboundary Panel of the Pacific Salmon Commission (TBR) and the Pacific Salmon Commission (PSC).

The Board made a positive customary and traditional use determination for salmon, Dolly Varden, trout, smelt and

eulachon in District 8 for residents living in or near the communities of Wrangell, Petersburg and Meyers Chuck (FP04-29) in 2004. The Board also adopted methods, a season, and guideline harvest limits for Chinook, sockeye, and coho salmon (FP04-40). The TBR and the PSC concurred with the Board and a subsistence fishery for sockeye salmon was opened during the 2004 season, but with a season starting date of July 1 instead of June 15. The original guideline harvest levels (GHLs) were identified because there was a management need for a subsistence fishery harvest estimate and it was unknown whether in-season reporting was going to be successful. There was also considerable uncertainty regarding the potential harvest (catch per unit effort and level of participation) when the Stikine River subsistence sockeye salmon fishery was approved in 2004. The GHLs specified in regulation and in the Treaty were the Federal and State managers best estimates of potential harvest based on the information that was available at that time and were never intended as harvest allocations or quotas.

By action of the Board, and coordination with the TBR and PSC, directed fisheries for Chinook and coho salmon were added prior to the 2005 season. The Board approved (with concurrence of the PSC) a change in the mesh size from 5 ½ inches to 8 inches (FSA05-01) for the new Chinook salmon fishery effective for the 2005 season. Regulatory changes for the 2006 season included an increase in the mesh size of gillnets during the Chinook fishery to 8 inch stretched mesh (FP06-27) and an earlier starting date for the sockeye fishery (FP06-28 and 29). There were no changes in subsistence fishing regulations or permit conditions for the 2007 fishing season. In 2008, the Board adopted a proposal making subsistence fishing permits valid for the length of the fishing season, May 15 through October 1. The Board also changed the start date of the subsistence coho salmon fishery from August 15 to August 1 (FP08-03). Changing the coho fishery start date allowed continuous subsistence fishing between May 15 and October 1. There were no subsequent changes to the regulations for the 2009-2014 seasons. Because of low forecast estimates of abundance, the Chinook salmon subsistence season was closed pre-season in both 2013 and 2014.

There are management controls applied to the aboriginal food fishery in Canada. The following information was provided by letter to the Board by the PSC (Sprout 2005).

> *"You should know that the aboriginal fishery for food, social and ceremonial purposes is monitored on a daily basis, with individual daily catch records submitted weekly for inclusion in the Stikine River sockeye management model. The fishery is sampled for age, size and stock identification each week, the catches are included in the Canadian sockeye harvest sharing provisions and catch levels for management purposes are annually set out in cooperative management agreements between the First Nations and the Department of Fisheries and Oceans in accordance with our policy and practices."*

Biological Background

All species of pacific salmon return to spawn in the Stikine River with the majority of fish produced in the Canadian section. Stocks are generally healthy. There is an in-season stock assessment program for Chinook and sockeye salmon. For the 2014 season, the pre-season Chinook salmon abundance estimate was 26,000 large (>30") Chinook salmon. The Treaty requires a minimum of 28,100 large Chinook salmon in the forecast before there is sufficient salmon for a directed fishery "Allowable Catch." There was a similar situation in 2013 and the Board closed the subsistence Chinook salmon fishery prior to the beginning of the Chinook salmon season in both 2013 and 2014. The 2014 season's terminal area return forecast was less than the 1996-2012 average of 42,000 large Chinook salmon **(Table 1)** (PSC 2014). The 2014 season pre-season sockeye salmon abundance estimate was 152,000 sockeye salmon. According to the terms of the harvest sharing agreement with Canada, the U.S. Allowable Catch was 44,000 sockeye salmon. The subsistence fishery is a component of the U.S. catch allocation. The 1993-2012 average U.S. catch allocation is about 68,000 sockeye salmon **(Table 2)**. It was not necessary for Federal management actions for the U.S. to remain within their allocation. Coho salmon are abundant in the Stikine River watershed as demonstrated by the terminal area commercial gillnet harvest **(Table 3)**. There is not a formal terminal area abundance estimate for coho salmon nor is there a directed fishery U.S. catch allocation; there is a 5,000 coho salmon catch limit for the Canadian fisheries.

Table 1. Stikine River Chinook salmon pre-season run forecasts vs. post season run size estimates

Year	Pre-season Forecast	Post Season Run Size	Forecast Performance
1996	32,747	34,203	-4%
1997	37,662	33,978	10%
1998	25,760	30,337	-18%
1999	26,833	25,547	-5%
2000	42,049	32,675	22%
2001	72,638	71,868	1%
2002	50,530	57,570	-14%
2003	46,325	46,917	-1%
2004	65,877	62,137	6%
2005	80,258	89,444	-11%
2006	60,605	67,187	-11%
2007	37,355	39,429	-6%
2008	46,100	35,740	22%
2009	31,928	16,734	48%
2010	22,900	20,085	12%
2011	30,000	20,363	32%
2012	40,800	31,228	23%
Average	44,139	42,085	

Table 2. Stikine River sockeye salmon run size

Year	In-river Run Size	In-river Catch (CA)	Escapement	Marine Catch (US)	Terminal Run Size
1993	176,100	50,946	125,154	104,630	280,730
1994	127,527	46,528	80,999	80,509	208,036
1995	142,308	56,037	86,271	76,420	218,728
1996	184,400	75,593	108,807	188,385	372,785
1997	125,657	65,804	59,853	101,258	226,915
1998	90,459	43,993	46,466	30,989	121,448
1999	65,879	43,951	21,928	58,735	124,614
2000	53,145	29,846	23,299	25,359	78,504
2001	103,755	28,881	74,874	23,500	127,255
2002	71,253	21,706	49,547	8,076	79,329
2003	194,425	62,140	132,285	46,552	240,977
2004	189,392	86,356	103,036	122,592	311,984
2005	167,570	87,541	80,030	92,362	259,932
2006	193,768	102,333	91,435	74,816	268,584
2007	110,132	61,121	49,011	86,652	196,784
2008	74,267	36,717	37,550	45,942	120,209
2009	116,141	50,516	65,626	69,749	185,890
2010	118,801	55,089	63,712	40,002	158,803
2011	144,571	61,386	83,185	73,117	217,688
2012	90,014	34,509	55,505	20,228	110,242
Average	126,978	55,050	71,929	68,494	195,472

Table 3. Stikine River terminal area, District 8, coho salmon commercial gillnet harvest

Year	Coho Salmon Harvest
2004	26,617
2005	42,203
2006	34,430
2007	19,880
2008	34,479
2009	30,860
2010	42,772
2011	20,720
2012	20,100
2013	43,669
Average	31,573

Source: (PSC 2014)

Harvest History

The historical harvest of salmon by aboriginal peoples in the Stikine River is well documented in a number of ethnographic reports and publications. There were Tlingit fishing and hunting camps and villages at various sites at the mouth, along the middle and upper reaches, and along the tributaries of the Stikine River as far upriver as Telegraph Creek. The methods of harvesting fish in the Stikine River and its tributaries depended on the physical features and requirements of the locations where fishing occurred (Paige 2009).

> *"Fishing sites were located on the main stem, on the middle and south arms, and along the sloughs, creeks and rivers draining into the main stem. Key respondents described fishing with set and drift gillnets, dip nets, spears, and hook and line."*

With the introduction of contemporary materials, gillnets were often used for subsistence fishing. One of the respondent interviews (from Paige 2009) describes subsistence fishing in the 1930s at a location on the lower Stikine River.

> *"[But when you were fishing for your own use, you usually just used a setnet?]* Oh, yes, just a little setnet. Right above our place, like a hundred yards. There was a big rock pile out there, the river came down around there, and there was a big eddy behind it. Dad put a great big rock there with a buoy on it to rope off that rock, and then we just tied up to it and it stayed there all the time, until it'd have to be cleaned out. *[Would you be catching sockeyes that way at all?]* Yeah, you could. Starting in March, you'd get a king or two. They're the first ones to show up, and then the sockeyes follow them. Every once in a while you'd get a humpy or two. [The net was] about sixty-five feet. *[And it was just attached to the shore?]* Yes, we'd set it out and put an anchor on the other end, so it had a nice hook in it, so that when the fish came in they couldn't get through, so they'd hit the net. Then we'd go out and take the fish out of the net. It was angled down the river a ways, and they'd swim up along the shore and hit that net and get caught. *[Were there any rules in those days, or could you put your net out (on the river) any time?]* You could put it out any time, whenever we needed to start canning our salmon and stuff."

Between 1995 and 2001, ADF&G authorized an in-river personal use fishery for sockeye salmon in the Stikine River. Participation in the personal use fishery was minimal, and only 28 sockeye salmon were reported harvested in 2001. The personal use fishery was not opened in 2002 due to conservation concerns for the Tahltan stock, a

Canadian tributary to the Stikine River.

The State of Alaska Board of Fisheries adopted a customary and traditional use determination for the Stikine River but the ADF&G does not issue subsistence fishing permits for the Stikine River.

Sport fishing for Chinook salmon is prohibited on the Stikine River. There is a small harvest of other salmon by sport fishers in the U.S. in tributaries to the Stikine River, but harvest numbers are too low to be included in any site-specific sport fishing harvest estimates (Fleming 2014, pers. comm.). A small, but unknown number of sockeye, coho, and steelhead are harvested by sport fishers in Canada.

Subsistence fishing permits for the Stikine River are required and are issued by the U.S. Forest Service (USFS) offices in Wrangell and Petersburg. Weekly harvest estimates are developed by USFS personal and derived from telephone interviews and fishery performance data. The use of permits and in-season reporting are designed to provide Federal, State and Canadian fishery managers with real time harvest estimates.

There have been special actions closing the Chinook salmon fishery pre-season in 2013 and 2014 (the fishing season was opened by the in-season manager in each instance) but there have not been any Federal in-season special actions to curtail harvests of either sockeye or coho salmon.

The first harvests under Federal subsistence management regulations occurred in 2004 when 40 permits were issued and 243 sockeye salmon harvested (OSM 2014). Participation and harvest increased through the 2011 season and have remained fairly steady the past three years **(Table 4)**. The harvest reported to the TBR includes only the salmon taken during the directed fishing seasons; that means that for reporting purposes, the total Chinook catch in 2013 was two fish, with another 49 fish as incidental harvest **(Table 5)**. Within the context of the Treaty, the forecast in-season return estimates and catches reference only Chinook salmon greater than 30 inches. Catches within the season are the portions of the subsistence catch that applies to the total "Allowable Catch" in the U.S. allocation for each species. Chinook salmon taken outside the season or less than 30 inches in length are reported separately. The sockeye salmon fishery has taken over the 600 fish guideline harvest limit in each of the past five years **(Table 6).** There were no special actions issued as the catches remained well within the U.S. Allowable Catch. The 2013 season coho salmon harvest was the largest to date **(Table 7)**.

Table 4. Total Number of Permits and Total Annual Catch, Stikine River Subsistence Fishery

Stikine River Total Subsistence Harvest by Year

Year	Permits	Chinook	Chum	Coho	Dolly Varden	Pink	Trout	Sockeye	Steelhead
2004	40	12	11	0	1	22	0	243	1
2005	35	15	22	53	4	69	0	252	0
2006	48	37	20	21	3	23	0	390	0
2007	44	36	11	23	1	59	0	244	2
2008	50	25	12	42	5	18	0	428	0
2009	80	31	46	21	20	66	1	723	2
2010	107	61	37	135	12	60	0	1,653	7
2011	129	66	74	40	3	189	0	1,755	5
2012	130	53	47	112	1	32	0	1,302	0
2013	124	51	78	180	15	113	0	1,596	2

Table 5. Total Chinook Salmon Catch by Season, Stikine River Subsistence Fishery

Stikine River Chinook Salmon Season Subsistence Harvest

Chinook Salmon Season (May 15 through June 20)

Year	Chinook	Chum	Coho	Dolly Varden	Pink	Trout	Sockeye	Steelhead
2004	No Chinook salmon season in 2004							
2005	13	0	0	2	4	0	18	0
2006	13	1	0	0	0	0	8	0
2007	24	0	0	0	0	0	61	0
2008	8	0	0	1	0	0	2	0
2009	9	0	0	2	0	1	17	2
2010	14	0	0	1	0	0	65	3
2011	16	0	0	0	0	0	64	0
2012	16	0	0	0	0	0	137	0
2013	2	0	0	0	0	0	32	0
Average	13							

Table 6. Total Sockeye Salmon Catch by Season, Stikine River Subsistence Fishery

Stikine River Sockeye Salmon Season Subsistence Harvest

Sockeye Salmon Season (June 21 through July 31)

Year	Chinook	Chum	Coho	Dolly Varden	Pink	Trout	Sockeye	Steelhead
2004	12	11	0	1	22	0	243	1
2005	2	22	1	2	65	0	233	0
2006	24	19	0	3	23	0	377	0
2007	12	11	0	1	57	0	178	1
2008	17	5	0	4	0	0	426	0
2009	22	46	0	18	66	0	706	0
2010	44	33	13	11	38	0	1,554	4
2011	48	64	1	3	189	0	1,686	0
2012	34	40	2	1	23	0	1,155	0
2013	49	75	6	15	106	0	1,457	2
Average							802	

Table 7. Total Coho Salmon Catch by Season, Stikine River Subsistence Fishery

Stikine River Coho Salmon Season Subsistence Harvest Coho Salmon Season (August 1 through October 1)								
Year	Chinook	Chum	Coho	Dolly Varden	Pink	Trout	Sockeye	Steelhead
2004	No Coho salmon season in 2004							
2005	0	0	52	0	0	0	1	0
2006	0	0	21	0	0	0	5	0
2007	0	0	23	0	2	0	5	1
2008	0	7	42	0	18	0	0	0
2009	0	0	21	0	0	0	0	0
2010	3	4	122	0	22	0	34	0
2011	2	10	39	0	0	0	5	5
2012	3	7	110	0	9	0	10	0
2013	0	3	174	0	7	0	107	0
Average			67					

Source: (OSM 2014)

Seals are present in the Stikine River during the subsistence fisheries and some salmon captured in gillnets are either taken or maimed by seals. Some fishers report all fishing mortalities, whether or not the fish are salvageable and some fishers do not report fish they do not harvest. Some fish are mortally wounded by the nets themselves but "drop out" prior to harvest. The numbers of fish killed and not recovered during the conduct of the fishery and therefore not reported on permits is unknown and very difficult to determine. Constantly changing local environmental conditions, river stage height, tide level, alternate food sources for seals, location of nets, the length of time between the occurrences when nets are cleaned and checked, and the abundance of seals and salmon are variables that influence seal predation and drop-outs. There is also the question of identifying the appropriate standard of accountability; the commercial gillnet fishery harvests the greatest majority of sockeye salmon and little is known of predation by seals, drop outs or other sources of mortalities in that fishery. Fish that are lost to seal predation or maimed to the extent that they do not have a commercial value are not recorded on a fish ticket. Fish taken from the commercial fishery for personal use are recorded on fish tickets but the level of compliance is unknown.

The total catch in the Chinook and coho salmon sport fishery is a calculation based on the results of a creel census sampling program. Stock of origin for Chinook salmon taken in the District 8 terminal area by the sport, commercial gillnet and commercial troll fisheries is determined by a genetic stock identification sampling program.

Other Alternatives and Considerations Related to Deferred Proposal FP13-19

Deferred Proposal FP13-19, submitted by the Southeast Alaska Subsistence Regional Advisory Council, requested changing the sockeye salmon guideline harvest level to 2,000 sockeye salmon. The final recommendation from the Council was to eliminate the guideline harvest level from Federal regulations and the Treaty because it served no purpose. The Board has deferred final action on this proposal to the regular fishery regulatory meeting in January 2015. A similar recommendation to FP15-13/14 would be to eliminate the subsistence guideline harvest levels for Chinook, sockeye and coho salmon from Federal regulations and the Treaty. Specifying any number in the Treaty prompts the question of what management actions are anticipated to attain that number. Federal managers do not consider the guideline harvest level as a target or quota. The in-season manager does not anticipate any

actions intended to increase or decrease the subsistence harvest to match the current guideline harvest levels, providing there is a U.S. Allowable Catch. Removing the guideline harvest levels would prevent unrealistic in-season management expectations and allow the U.S. domestic regulatory processes to allocate Chinook, sockeye and coho salmon within the total U.S. allowable catch.

The U.S./Canada Pacific Salmon Treaty Process

The Stikine River subsistence fishery annual household harvest limits and gear restrictions are only contained in Federal regulations. Fishing seasons and annual guideline harvest levels are described in Federal regulations and in the Treaty. The requirements for a weekly harvest report and an annual summary report are only specified in the Treaty. The following section of the Treaty explains how regulatory changes to the Stikine River subsistence fishery are implemented.

> *Annex IV, Chapter 1, Paragraph 3(a)(3)(vi) "d. Any proposed regulatory changes to the fishery during the remaining years of this annex would need to be reviewed by the bilateral Transboundary River Panel [TBR] and approved by the Pacific Salmon Commission."*

This requirement references changes to the Treaty and requires a formal process with somewhat parallel tracks within the Federal subsistence program and the PSC prior to implementation. The following is a generalized protocol to alter the text of the Treaty: 1) a proposal to change the subsistence fishing regulations on the Stikine River is provided to the Office of Subsistence Management, 2) the proposal is deliberated and a recommendation for a regulatory change is provided by the Council, 3) there is concurrence by the U.S. Section of the Northern and Transboundary Panels of the PSC, 4) the proposed change is included in the annual work plan for the bilateral TBR, 5) a recommendation is developed by the bilateral TBR, 6) the recommendation from the Council (with possible modification from the TBR) is adopted by the Federal Subsistence Board pending concurrence by the PSC, 7) final approval of the regulatory change by the PSC, and 8) Annex IV of the Treaty is amended by the Parties through an Exchange of Notes between the Government of Canada and the Government of the United States of America. This is not a process that is expected to result in regulatory changes on an annual basis. The Treaty is scheduled for renegotiation in 2018 with implementation in 2019. It is unlikely the PSC would be willing to consider any changes to the Stikine River subsistence fishery out-of-cycle for implementation prior to 2019.

Because of the dual nature of the regulatory process, the Board must decide what fishery conditions should be included in Federal regulations and which are more appropriate for inclusion in the Treaty. Fishery specific instructions are best suited as regulations and general processes or authorizations are best suited to be included in the Treaty.

The question of how best to manage the subsistence fishery according to obligations of the Treaty and Title VIII of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA) remains somewhat unclear. The Treaty addresses the issue of working with the laws of each country as follows:

> ***Article XI: Domestic Allocation***
> *1. This Treaty shall not be interpreted or applied so as to affect or modify existing aboriginal rights or rights established in existing Indian treaties and other existing federal laws.*
> *2. This Article shall not be interpreted or applied so as to affect or modify any rights or obligations of the Parties pursuant to other Articles and Annexes to this Treaty.*

ANILCA predates the Treaty and mandates a preference for subsistence uses on Federal public land and waters. The Treaty provides the framework for sharing the Canadian origin salmon stocks on the Stikine River between the U.S. and Canada. It has been the Board's intent to work within the framework of the Treaty to implement the subsistence preference as required by ANILCA.

The Stikine River subsistence salmon fishery is authorized for the period 2009 through 2018 by the following provisions of the Treaty, Annex IV: (amended June 30, 1999; December 4, 2002; February 18, 2005 and January 1, 2009); Chapter 1: Transboundary Rivers:

3. Recognizing the objectives of each Party to have viable fisheries, the Parties agree that the following arrangements shall apply to the United States and Canadian fisheries harvesting salmon stocks originating in the Canadian portion of:

(a) The Stikine River:

(1) Sockeye salmon

(iv) Pursuant to this agreement, a directed U.S. subsistence fishery in U.S. portions of the Stikine River will be permitted, with a guideline harvest level of 600 sockeye salmon to be taken between June 19 and July 31. These fish will be part of the existing U.S. allocation of Stikine River sockeye salmon. For this fishery:

a. The fishing area will include the main stem of the Stikine River, downstream of the international border, with the exception that fishing at stock assessment sites identified prior to each season is prohibited unless allowed under specific conditions agreed to by both Parties' respective managers.

b. Catches will be reported weekly, including all incidentally caught fish. All tags recovered shall be submitted to the Alaska Department of Fish and Game.

c. A written report on the fishery summarizing harvests, fishing effort and other pertinent information requested by the Transboundary Panel will be submitted by the management agency for consideration by the Panel at its annual post season meeting.

d. Any proposed regulatory changes to the fishery during the remaining years of this annex would need to be reviewed by the bilateral Transboundary panel and approved by the Pacific Salmon Commission.

(2) Coho salmon:

(iii) Pursuant to this agreement, a directed U.S. subsistence fishery in U.S. portions of the Stikine River will be permitted, with a guideline harvest level of 400 coho salmon to be taken between August 1 and October 1. For this fishery:

a. The fishing area will include the main stem of the Stikine River, downstream of the international border, with the exception that fishing at stock assessment sites identified prior to each season is prohibited unless allowed under specific conditions agreed to by both Parties' respective managers.

b. Catches will be reported weekly, including all incidentally caught fish. All tags recovered shall be submitted to the Alaska Department of Fish and Game.

c. A written report on the fishery summarizing harvests, fishing effort and other pertinent information requested by the Transboundary Panel will be submitted by the management agency for consideration by the Panel at its annual post season meeting.

d. Any proposed regulatory changes to the fishery during the remaining years of this annex would need to be reviewed by the bilateral TBR Panel and approved by the Pacific Salmon Commission.

(3) Chinook salmon:

(i) This agreement shall apply to large (greater than 659 mm mid-eye to fork length) Chinook salmon originating in the Stikine River.

(v) Pursuant to this agreement, a directed U.S. subsistence fishery in U.S. portions of the Stikine River will be permitted, with a guideline harvest level of 125 Chinook salmon to be taken between May 15 and June 20. For this fishery:

a. The fishing area will include the main stem of the Stikine River, downstream of the international border, with the exception that fishing at stock assessment sites identified prior to each season is prohibited unless allowed under specific conditions agreed to by both Parties' respective managers.

b. Catches will be reported weekly, including all incidentally caught fish. All tags recovered shall be submitted to the Alaska Department of Fish and Game.

c. A written report on the fishery summarizing harvests, fishing effort and other pertinent information requested by the Transboundary Panel will be submitted by the management agency for consideration by the Panel at its annual post season meeting.

d. Any proposed regulatory changes to the fishery during the remaining years of this annex would need to be reviewed by the bilateral TBR Panel and approved by the Pacific Salmon Commission.

(x) Directed fisheries may be implemented based on preseason forecasts only if the preseason forecast terminal run size equals or exceeds the midpoint of the MSY escapement goal range plus the combined Canada, U.S. and test fishery base level catches (BLCs) of Stikine River Chinook salmon. The preseason forecast will only be used for management until inseason projections become available.

(xi) For the purposes of determining whether to allow directed fisheries using inseason information, such fisheries will not be implemented unless the projected terminal run size exceeds the bilaterally agreed escapement goal point estimate (NMSY) plus the combined Canada, U.S. and test fishery BLCs of Stikine River Chinook salmon. The Committee shall determine when inseason projections can be used for management purposes and shall establish the methodology for inseason projections and update them weekly or at other agreed intervals.

(xii) The allowable catch (AC) will be calculated as follows:

Terminal run = total Stikine Chinook run size minus the US troll catch of Stikine Chinook salmon outside District 108.

base terminal run (BTR) = escapement target + test fishery BLC + U.S. BLC +Cdn BLC Terminal run – (BTR) = AC

(xiii) BLCs include the following:

a. U.S. Stikine BLC: 3,400 large Chinook;

b. Canadian Stikine BLC: 2,300 large Chinook;

c. Test fishery: 1,400 large Chinook.

Effects of the Proposal

If provisions of these proposals were adopted, the total annual guideline harvest levels would become harvest quotas. Special actions to close or restrict the subsistence fisheries could be expected in times of high abundance if fishers were very successful in attaining the quota. Deferred Proposal FP13-19 requests the guideline harvest level for sockeye be increased to 2,000 sockeye salmon. The Council recommended the guideline harvest level be eliminated from both Federal regulations and the Treaty because it serves no purpose. It is conceivable that the sockeye salmon fishery could be closed if the incidental harvest of Chinook exceeds 125 Chinook salmon or the coho season closed if the incidental sockeye salmon harvest exceeds 2,000 salmon.

Specifying a fishery harvest quota at an arbitrary number does not account for the subsistence preference in either State or Federal law. The Treaty provides harvest sharing protocols that allocate the harvests of Chinook, sockeye and coho salmon between the U.S. and Canada. It is inappropriate to further allocate the U.S. Allowable Catch between the State and Federal programs through this proposal.

Unless harvest quotas are established, there is no need to automatically reduce individual harvest limits. If harvest quotas are specified, reducing individual harvest limits is one of several options that could be used to reduce subsistence harvest. Because harvest quotas would apply to fish taken within the harvest season and as incidental harvest, the harvest limit for sockeye would be reduced if the incidental harvest of Chinook exceeds the quota.

The Federal subsistence fishing permit for the Stikine River salmon subsistence fishery already requires a fisher to record number of each species of fish taken by date and location. Amending the current regulations or adopting a new Stikine River specific regulation is not necessary to implement this requirement.

The rationale for establishing a daily fishing window from 4:00 am to 9:00 pm is to reduce the predation by seals, facilitate accurate accounting of the total fishing mortality and require a person to check the net at least once a

day. There is no question that seals do remove some salmon from nets or render them unusable by their foraging behavior. There is a question when seals are most active and how many fish are either taken or maimed to the extent that they are not salvageable. There is also a question on what effect this provision would have on accounting for fishing mortalities as some (unknown number) of fishers already record total fishing mortalities, without regard to whether the fish is salvageable. If the fishing day is reduced by seven hours, a fisher would need to invest more days to catch what they need.

Fishers check their nets on a variable schedule according to their own needs. Requiring a minimum time schedule for checking nets will minimize wastage and allow enforcement to seize abandoned or lost nets. Requiring a net be closely attended is directed at accounting for all fishing mortalities and minimizing the number of fish taken by seals. The proposed language from the Wrangell Advisory Committee requires a person to remain at the net site when the net is fishing and the proposed language from the Petersburg Advisory Committee defines "closely attended" as monitoring the net to the extent that the permit would be available for inspection within two hours. This provision does not require a person to check a net; rather, they simply must be present. There does not appear to be an obvious need for a regulation that forces a fisher to remain within close proximity to the net for more accurate accounting of fishing mortalities. Catch rates in this fishery are generally low and dependent on run-timing, run-strength and river discharge. Forcing a person to remain with a net at locations where there is not beach access could be dangerous to the fisher and would sharply reduce the use of those highly valued sites for subsistence fishing (**Figure 1**). Requiring a permit holder to remain within some proximity where they are able to monitor the net would facilitate enforcement but would not necessarily result in a person checking the net more frequently. Some form of a net tending requirement may be beneficial to subsistence users because it would encourage the harvest of good quality salmon and specify a minimum level of harvest activity. The USFS has participated in two Tribal Consultation sessions with the Wrangell Cooperative Association, May 21 and June 4. These consultations where open to the public and it was clear that it was not acceptable to leave a net fishing for extended periods of time.

Figure 1. Subsistence fishing net at Kakwan Point, Stikine River.

OSM CONCLUSION

Support Proposals FP15-13 and -14 **with modification** to eliminate the subsistence Chinook, sockeye and coho salmon annual guideline harvest levels from Federal regulation (and the Treaty); not require changing household annual harvest limits; not change existing Federal regulation that require recording fishery harvest information on permits; not establish a daily fishing schedule; and do require nets be checked at least once each day.

The modified regulation should read:

§___.27(e)(13) (xiv) You may take Chinook, sockeye, and coho salmon in the mainstem of the Stikine River only under the authority of a Federal subsistence fishing permit. Each Stikine River permit will be issued to a household. Only dip nets, spears, gaffs, rod and reel, beach seine, or gillnets not exceeding 15 fathoms in length may be used. The maximum gillnet mesh size is 51/2; inches, except during the Chinook season when the maximum gillnet mesh size is 8 inches.

(A) You may take Chinook salmon from May 15 through June 20. The annual limit is 5 Chinook salmon per household.

(B) You may take sockeye salmon from June 21 through July 31. The annual limit is 40 sockeye salmon per household.

(C) You may take coho salmon from August 1 through October 1. The annual limit is 20 coho salmon per household.

(D) You may retain other salmon taken incidentally by gear operated under terms of this permit. The incidentally taken salmon must be reported on your permit calendar.

~~*(E) The total annual guideline harvest level for the Stikine River fishery is 125 Chinook, 600 sockeye, and 400 coho salmon. All salmon harvested, including incidentally taken salmon, will count against the guideline for that species.*~~

(E) Fishing nets must be checked at least once each day.

Justification

The subsistence harvests of Chinook, sockeye and coho salmon are a component of the U.S. Allowable Catch. Because there is a process for allocating fish within the U.S. domestic fisheries, there is no need to have either subsistence guideline harvest limits or harvest quotas as part of either Federal regulations or Treaty language. The total subsistence harvest is reported each week and in an end of the season annual subsistence fishing summary. There is no conservation or fishery management concern with eliminating the guideline harvest level and it is clearly inappropriate to include domestic allocations in the Treaty.

Automatically reducing the annual household harvest limits is unnecessary for conservation, is not beneficial for subsistence users and introduces unnecessary management complexity. This provision would result in reducing subsistence harvests in subsequent years after times of abundance.

There are existing regulations that already require recording catches prior to leaving the harvesting location. As this seems to be a communication and education issue, it is more appropriate to include a reminder on the permit rather than make a regulatory change directed at only the Stikine River.

There is no evidence that a daily fishing schedule would discourage predation by seals. A night-time closure will extend the length of time a person needs to be present on the river to harvest what they need. A daily fishing schedule is not necessary for conservation and does not provide a clear benefit for subsistence users.

Although a net tending requirement will add management complexity to the subsistence fishery, it is important that the fishery has a standard for describing appropriate fishing practices that promote harvest of good quality fish and minimize losses due to seal predation or drop-outs. A requirement for checking the net each day would not be a burden to subsistence users because it is already standard practice for responsible fishers to check their nets often enough to maximize catch rates and minimize the loss of salmon. Catch rates are generally low and requiring on-site monitoring would result in a much greater time commitment to participate than is the current norm.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southeast Alaska Subsistence Regional Advisory Council

Support Proposal FP15-13 with modification to eliminate the subsistence Chinook, sockeye and coho salmon annual guideline harvest levels from Federal regulation and require nets be checked at least twice each day. The subsistence salmon harvest is a component of the total U.S. Allowable Catch and there is no allocation or conservation concern that would be addressed by changing guideline harvest levels to quotas. The guideline harvest levels themselves are outdated and unnecessary for in-season management. Federal regulations already require fishers to record harvests before they leave the fishing location. Harvest rates are often better at night and having daily fishing periods would add management complexity to the fishery without benefiting subsistence users. Manning the nets while they are fishing is not a realistic requirement because of the nature of the fishing locations nor is it necessary for enforcement or minimizing unaccounted for fishing mortalities due to drop-outs or seal predation. Requiring fishers to check their nets twice each day would not be an imposition on subsistence users and would facilitate enforcement if anyone is thought to be fishing in a fashion that results in wasting salmon or not accounting for fishing mortalities.

The modified regulation should read:

> §___.27(e)(13) (xiv)
> ~~(E) The total annual guideline harvest level for the Stikine River fishery is 125 Chinook, 600 sockeye, and 400 coho salmon. All salmon harvested, including incidentally taken salmon, will count against the guideline for that species.~~
> **(E) Fishing nets must be checked at least twice each day.**

Proposal FP15-14

DESCRIPTION: Proposal FP15-14, submitted by the Wrangell Fish and Game Advisory Committee, requests the same changes to the Stikine River subsistence salmon fisheries as the Petersburg Advisory Committee's proposal except they propose the permit holder remain at the fishing site while the net is fishing.

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southeast Alaska Subsistence Regional Advisory Council

No action taken on Proposal FP15-14. The Council took no action on FP15-14 based on action taken on FP15-13.

INTERAGENCY STAFF COMMITTEE COMMENTS

FP15-13 / FP15-14

The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Council's recommendations and Federal Subsistence Board action on the proposal.

WRITTEN PUBLIC COMMENTS

Support Proposal FP15-13/14:

Dear Chair Towerak and Members of the Board,

Having sat through four Wrangell Advisory Committee meetings, one Petersburg Advisory Committee meeting, a Wrangell Cooperative Association meeting and talking with many users on this subject, along with having family that participate in this fishery and witnessing nets being hauled I would like to offer some of the pertinent points on this issue. I have witnessed first hand and heard much testimony to the fact some of these nets are in the water large portions of the summer. There are relatively few good back eddies on the Stikine where users can have fair success. Because individuals are not tending and hauling their nets sometimes as many as 4 or 5 nets within 10 to 20 feet of each other are left in these back eddies for long periods of time. Many users are recreating on the river and even go back to town while their nets are soaking. A large number of seals frequent the Stikine this time of year and these unattended nets become known feeding areas. I have seen these nets with more heads than useable fish in them. This is not an uncommon occurrence.

The intent of these proposals is to curtail this loss of fish so users can retain them for their own use by working their net and recovering the fish before they are consumed by seals. The two federal enforcement officers in attendance at our Advisory committee meeting stated these seal eaten fish count towards a users possession limit. By having unattended dirty nets full of sticks left in these prime back eddies it actually hinders subsistence users who take a weekend or lot of time to try to harvest their annual needs. They simply cannot get their nets in the good spots. State subsistence, personal use and commercial regulations all require a user to be in attendance of their net. The difference between the Wrangell and Petersburg AC's proposal has to do with closely attended, the Wrangell AC left this definition up to the FSB, while the Petersburg AC defined it as two hours. I personally feel it should be within sight of the net, this allows the user to harvest salmon as they are caught. Many individuals today do not have a respect for the land as they should and take this resource for granted. In todays scope of the amount of users verses the amount of natural resources available to us it is irresponsible to ask another individual to give up their current share of a fully utilized international resource so another can allow it to be wasted.

I urge the Federal Subsistence Board to support this proposal or find another responsible solution to the abuse in this fishery.

Thank you for taking the time to consider my comments.

Chris Guggenbickler

Oppose Proposal FP15-13/14:

Members of the Federal Subsistence Board,

Thank you for requesting comments on the proposed changes to subsistence fishing. I fish the Stikine river primarily for sockeye and wish to comment on the above listed proposals.

I agree with the proposition that there needs to be scientifically based limits on fish harvests. If that means lowering limits or closing fishing all together as has occurred for the chinook fishing in the Stikine, then so be it. However, I disagree with both of the above proposals in that they would prohibit leaving one's net in the water overnight. It has been my experience that is the time when the nets are the most productive. If overnight fishing is abolished, it will take longer to get close to the annual limits of fish and perhaps would require multiple trips back up the river.

If the goal is to stop a few from not diligently attending to their nets and causing waste, then part of proposal FP-13 which in essence would require the nets to be checked every two hours would accomplish that task. I've been going up the Stikine since 2008 and only rarely have I seen evidence of predators eating fish in a net and that was during the day and not on the overnight soak. Another requirement which would seem to work would be that the nets be checked at least every eight hours and that a log be kept on an end of the net where the owner would record when the net was checked.

If a "closely attended" requirement is going to be imposed, then it should be defined. The definition is FP 15-13 is better than the lack of one in FP15-14. There is concern from members of the Petersburg community that the requirement would be that one would have to "sit on the net or the float." In some places this is not only not practical , but dangerous as the float is often set at the edge of or in swift current and in some locations there is no safe way to stay right on the net.

I do realize that regulations are often adopted to cure the bad practices of a few, but in this case it seems that less draconian restrictions than banning over- night fishing could accomplish the desired purpose of ensuring that nets are diligently attended.

Thanks for considering my comments.

John Hoag

Comments Concerning FP15-13 and FP15-14

After reading the proposal submissions numbers FP15-13 and FP15-14 I have identified a few personal concerns and also a few concerns that these proposals go against regulations that are in place for the Forest Service to follow in matters concerning subsistence fishing.

The regulations say that federal subsistence plans should "grant a preference for subsistence uses" and should be "a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations." FP15-14 from Wrangell and FP15-13's submission from Petersburg does not support that mind set. They are proposing "caps" on fish harvests that have penalties of reduced fish harvest the following year. I understand and support "restriction of fish catches to conserve healthy fish and wildlife populations" but I do not see that setting a "cap" with restrictions to future subsistence users grants a preference for subsistence users. For example, May and June subsistence Chinook fishing on the Stikine was closed for both 2014 for subsistence BUT there were no restrictions on commercial trollers, gillnetters or sport fishermen. In 2014, as I am typing this, I am not allowed to catch a subsistence Chinook (with a harvest limit of 5 annually) but the state has allowed sport fishers 3 Chinook/day with 2 rods in the water per person with no annual limit. I realize that the Stikine is Federally managed but the sport and commercial caught numbers of fish are part of the Salmon Treaty as well. Capping subsistence fishing before restricting Sport and Commercial is not appropriate and, I believe, is illegal.

Raising a sockeye harvest limit from 600 to a "cap" of 2000 seems, on the surface, like a good idea since the 600 number has been exceeded in the last few years. However, the collection data does not imply that the "cap" needs to be set at 2000. I see a growing trend **not** a place to stop. Since 2004-2014 there has been a growing trend and that trend needs to be supported and other fisheries adjusted, if necessary, according to the Pacific Salmon Treaty until the necessity to "conserve healthy fish" populations occurs. There **must** be a provision for this cultural fishery to grow. The historical tradition is there but was restricted for many years - now, the cultural traditions are allowed and should be encouraged not restricted. Please consider that the fish harvested in this subsistence fishery should still be in the data collection phase and that growth should be expected and "preferentially" encouraged.

In a discussion/ workshop attended by the Native Organization WCA, myself, and Chris Guggenbickler, it came to light that nighttime restriction of fishing and also attending nets while fishing was to prevent waste. It was unclear to me whether or not there is any data collected by the state or feds that support that nighttime fishing is wasteful or that attending a net makes fishing less wasteful? This is a difficult issue for me because I would choose not to support a wasteful activity but I also see that there is a lack of data as to the true impact when one's purpose is to directly feed a family. In the past I have received at least one phone call a week from the Forest Service each concerning subsistence fishing data - part of that data this year and the following year could be "fish caught at night." The only foreseeable benefit of closing fishing between sunset and sunrise is that it would ensure that nets would be checked once per day minimum - thus showing a level of responsibility for your personal net that a few individuals may have not been doing in years past. Putting specific times on the fishing is not as appropriate due to the varying hours of daylight in the summer.

One aspect of the appearance of "wastefulness" that was described in the workshop was seal predation. It was stated that attending a net would prevent seal predation: I have seen personally that attending nets has only a moderate impact on seal predation - also, approving a regulation that encouraged harassment of a Marine Mammal by a non-native would encourage an illegal activity (approaching or harassing of a marine mammal).

If a regulation concerning attended nets is to be passed, please consider carefully defining the proximity or duration of attendance - Proposal FP15-13 and FP15-14 uses the words "closely" and only one defines it further that a person should respond within 2 hrs if requested by Law Enforcement. I would only like to suggest that there are other subsistence fisheries on international rivers in Alaska (like the Yukon) that support fishing unattended gear.

36034 Federal Register/Vol. 70, No. 119/Wednesday, June 22, 2005/Rules and Regulations
Title VIII of the Alaska National Interest Lands Conservation Act requires that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands in Alaska, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA.

Federal Register/Vol. 70, No. 119/Wednesday, June 22, 2005/Rules and Regulations 36035
The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. A Section 810 analysis was completed as part of the FEIS process. The final Section 810 analysis determination appeared in the April 6, 1992, ROD, which concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting hunting and fishing regulations, may have some local impacts on subsistence uses, but the program is not likely to significantly restrict subsistence uses.

Lack of appropriate and immediate conservation measures could seriously affect the continued viability of fish populations, adversely impact future subsistence opportunities for rural Alaskans, and would generally fail to serve the overall public interest.

Thank you,
James Edens

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June 11, 2014

Mr. Tim Towerak
Chair, Federal Subsistence Board
Office of Subsistence Management
1011 East Tudor Rd., MS-121
Anchorage, AK 99503

Via email: subsistence@fws.gov

RE: FP 15-13 and FP 15-14: Stikine River Subsistence Chinook, Sockeye, and Coho Regulations and FP 15-17: Fishing District 13, Makhnati Island Herring Regulations

Dear Chair Towerak and Members of the Board,

The Petersburg Vessel Owners Association (PVOA) is a diverse group of commercial fishermen that participate in a variety of fisheries throughout the State of Alaska.

PVOA is in **SUPPORT** of the proposals submitted by both the Petersburg and Wrangell Advisory Committees in regard to the Stikine River fishery, including the 2,000 sockeye cap. We are specifically in support of the need to closely attend nets and prohibit overnight fishing. These two provisions are meant to avoid wastage of fish due to seal consumption as well as dropouts while the nets are unattended. Fishing practices that reduce wastage of fish in fully utilized fisheries should be a primary goal of the Board. We also believe that the US Forest Service should also provide annual estimates of wastage to allow for full accounting of all salmon removals. Wastage in fisheries that are managed under provisions of the Pacific Salmon Treaty may put the Federal government in an awkward conservation negotiating position with Canada.

PVOA is in **OPPOSITION** of proposal FP 15-17 in regard to Makhnati Island herring regulations. We believe that the basic assumption of this proposal, that the Sitka Sound herring stock is depleted is erroneous. We believe that recent spawning biomass and the current commercial harvest regulations have allowed for sufficient opportunity for subsistence harvest of herring eggs.

Thank you for the opportunity to comment on these proposals and your consideration of our concerns.

Sincerely,

Brian Lynch

Brian Lynch
Executive Director

SOUTHEAST HERRING CONSERVATION ALLIANCE

P.O. BOX 61
Sitka, Alaska 99835
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June 11, 2014

Federal Subsistence Board
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1011 East Tudor Rd., MS 121
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Email: subsistence@fws.gov

Re: Oppose Proposal FP 15-17

Dear Chairman Towarak and Federal Subsistence Board members,

Southeast Herring Conservation Alliance (SHCA) opposes Proposal FP 15-17 for the reasons outlined below. This proposal requests the closure of the marine waters near Makhnati Island to non-federal users.

In March 2012, the State of Alaska Board of Fish closed an area in Whiting Harbor and near Makhnati Island to commercial fishing in recognition of subsistence users. Half of the area requested in proposal FP 15-17 is now closed due to the 2012 Board of Fish action. In addition, the Alaska Board of Fish closed a much larger area that is contiguous with the Makhnati area requested in FP 15-17. This area delineated in attachment B of the proposer, continues north along Kasiana and Middle Islands, where the vast majority of subsistence herring egg harvest occurs, including the 30,000 to 40,000 pounds collected by SHCA and provided to the community of Sitka each year. The Makhnati area is rarely used for collection of herring eggs on branches and therefore not the true purpose of this proposal.

Contrary to the first point in **#3, first paragraph,** the Makhnati area is not where herring spawn in many years and closing it could have a detrimental effect on subsistence harvest by shifting fishing effort toward more important and heavily used subsistence harvest beaches. Reasonable opportunity has been demonstrated the past six years when traditional harvesters working with SCHA boats have harvested 20,000 to 70,000 pounds of herring eggs on branches. Greater effort would yield even larger harvests. Harvests beyond 40,000 pounds satiate the demand we have experienced each year at Eliason Harbor in Sitka; the balance of the eggs collected has been transported to outlining communities from Hoonah to Wrangell. Currently ADF&G manages the fishery in such a way to conduct openings away from or outside the 'Core Area' for subsistence and Makhnati is not in the Core Area.

Paragraph 2 in the section #3: It is true the subsistence survey numbers have not met the ANS number as pointed out by the proposer. There are two serious problems with the 'numbers' used and SHCA's efforts can shed considerable light. The ANS range referenced is 136,000 to 227,000 pounds of herring eggs on branch weight. These weights were not arrived at by actual weight and measures. They are not based on valid scientific or mathematical calculations. Second, the weights harvested each year are based on a survey, not measurement.

In 2009, when SCHA launched its effort to help provide herring eggs to the community of Sitka and learn more about harvesting eggs, we worked with several local egg gatherers that had a long history of working with 'big boat' herring egg harvesters – Enloe, Hamilton, Skeek, Kerr, and others. The SHCA effort differed in one distinct fashion, it employed State certified scales, a strict protocol of weighing methodology, data collection, and data entry including when sets were made, where made, and when harvested. An interesting finding is the traditional harvesters who had been participating in egg collection for 30 and 40 years, estimated the weights as they had always done, but not checked against actual scale weighing. The estimated weight or guesses were found to be 2.5 to 3.5 times the empirical weights. Every branch with herring eggs collected is first weighed at point of harvest from the ocean prior to distribution to the community.

Therefore, it is evident, as in commercial fisheries or sport fisheries that to get valid data there needs to be a systematic protocol if you are to establish defensible regulatory thresholds, and account for actual annual harvests. Even the years cited that the ANS was met are doubtful.

The empirical data derived from herring egg collection using an industrial boat demonstrates that on average it takes a single hemlock tree with a minimum 4 inch bole to yield a thousand pounds of eggs. Weights are not taken until all branches with eggs are cut from the tree bole, with no branch larger than ½" diameter included in the weight measurement. In order to harvest 100,000 pounds it takes a hundred large trees set in correct locations. The participation necessary to yield a hundred thousand pounds or more is not occurring. ADF&G's Subsistence surveys demonstrate a year after year trend of declining participation. This decline was noted as far back as 1985 by researchers Gemelch and Gemelch.

Paragraph 2, last sentence: "destined to repeat itself...." Destiny is not management and this comment by the author is hyperbole. The previous sentence states that the ANS was met 50% of the time in the past thirteen years. The primary reason the 'ANS number' hasn't been met is the number isn't real as referenced above. Further, in SHCA's experience in the past six years if 30,000 to 40,000 pounds of herring eggs are delivered to the dock in Sitka there will be hundreds of visitors that partake in the distribution, but the final few thousand pounds will be difficult to distribute due to meeting the communities needs.

Paragraph 3, "significantly smaller closure area..." Contrary to the proposer's statement, ADF&G staff did not support any area for closure, the record shows they were neutral. The smaller area was a political compromise that the Board of Fish supported on a split vote. It is true FP 15-17 would augment the area of closure but it would not increase subsistence harvest. The core area of Middle Island, Kasiana, and Crow Pass are the areas that consistently produce large quantities of herring eggs on branches because

that is the area where herring have consistently spawned year after year since the 1960s and before. The issue is not the area or the commercial fishery, the issue is low participation. It requires significant effort by many, many participants to harvest over a hundred thousand pounds of herring eggs.

Paragraph 4, "former population levels ...." There was likely a larger herring population in southeast Alaska one hundred and two hundred years ago. The herring reduction plants (1930s) and high seas foreign fleets (1950s & 60s) were estimated to have taken 130,000 tons annually. Herring populations certainly benefited from industrial whaling in the 18th and 19th centuries when humpbacks and other baleen whales, primary predators, were nearly driven to extinction.

However, we don't manage populations based on their size centuries in the past. Similarly, deer populations continue to have a harvest management plan even though there is good evidence populations were larger prior to logging in the sixties to the eighties. No one is suggesting we cease deer harvest until the old growth returns. Rather, State and Federal managers, manage existing populations on a sustained yield basis. Finally, the Sitka Sound herring population in the mid 1970s was on the order of 5,000 tons and has grown consistently through the years. Currently the population biomass is in the 80,000 ton range or sixteen times the 1970s biomass.

Point 4., paragraph 1 "would only have positive impact on rebuilding the depleted..." The Sitka Sound herring population is not depleted and has shown consistent growth. The ADF&G survey data available in numerous reports, contradict this statement. SHCA's herring eggs on branch harvest data also contradict the statement. Herring eggs have been plentiful in the core area in years when there were commercial harvests (2009 when SHCA collected 70,321 lbs) in the core area and years when there were not (2014 when 41,466 lbs were collected by SHCA).

Point 6., paragraph 1 "impact on sport fishers by increasing prey..." Certainly there is a predator-prey dynamic between herring and Chinook, coho, and halibut. Herring also consume Chinook fry, it goes both ways and generally the State or the Feds do not manage for a single species. To be consistent the proposer might want to consider that sea otters, which Sitka Tribe of Alaska is proposing to kill at a greater harvest rate than current management allows, are responsible for significantly increasing herring spawning habitat in Sitka Sound. The USFWS has called sea otters a keystone species. We believe that is incorrect but the moniker is in their literature. Removal of ocean grazers (urchins in particular) by sea otters in the past twenty years may be contributing to the increase in herring biomass.

The Sitka Sound herring stock remains healthy and robust, and there is no reason or benefit to preclude the herring fishery from the Makhnati area beyond what is already closed. Subsistence needs are being met as evidenced by delivery of herring eggs to the dock in Sitka during 2009, 2010, 2012, 2013, and 2014; seasons when some 30,000 to 40,000 pounds of weighed and measured herring eggs were provided. Each year eggs were delivered to the dock until community members stopped coming. It is important to note that eggs were provided to supplement what individual harvesters gathered on their own, or to people who could not harvest for themselves. Herring eggs on hemlock branches were distributed to anyone that wanted them and denied to no one.

Proposal FP 15-17 is nearly identical to proposal FP 09-05 which has been heard numerous times. We agree with ADF&G's comments of December 2, 2008 and updated on August 31, 2010, pages 122 – 124 in the FSB proposal comment document. No new information has been provided that justifies closing the Makhnati Island area; and therefore the proposal should be denied and no changes made to the federal waters.

Please contact me if you have comments or questions.

Best regards,

Chip Treinen,
President SHCA

WRANGELL COOPERATIVE ASSOCIATION

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June 6, 2014

Federal Subsistence Board
Office of Subsistence Management
Attn: Theo Matuskowitz
3601 C Street, Suite 1030
Anchorage, AK 99503

Re: Wrangell Fish and Game Advisory Committee Proposal to the Subsistence Board Stikine River Subsistence Fishery.

The Wrangell Cooperative Association respectfully submits this letter of comment regarding the proposal for the Stikine River Subsistence Fishery submitted to the Federal Subsistence Board by the Wrangell Fish and Game Advisory Committee.

After meeting as a Board and holding a public workshop for Tribal Members and members of the community of Wrangell, we have identified objections regarding the current proposal along with components of this proposal we support.

According to Alaska state law, a reasonable opportunity for subsistence users must be given first, before providing for other users of any harvestable surplus of a fish or game population [AS 16.05.258 (b)]. In addition, federal regulation directs the Federal Subsistence Board to give priority for subsistence users and retain the authority to restrict or eliminate such activities which occur on land or waters in Alaska, when necessary to provide subsistence priority [36 CFR 242.10 (a)].

After conversation with United States Forest Service Southeast Regional Advisory Council Coordinator, Robert Larson and Wrangell District Ranger, Robert Dalrymple, we understand that the subsistence fishery on the Stikine River for the species addressed in the proposal, accounts for approximately two percent of the total fishery harvest. We feel the subsistence harvest guidelines for this fishery, estimated at two percent, is less than preferential treatment as it currently stands.

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It is our understanding that a *guide-line* is necessary to implement successful management of this fishery. The Tribe would like to see a *guide-line* set as a percentage of the expected annual return rather than the current number lacking scientific data or rationale. The tribe would like to work closely with the management team in order to determine a subsistence priority percentage that manages the fishery effectively to maintain harvest levels for all users.

The submitted proposal seeks to place a *cap* on the number of Sockeye, Coho and Chinook Salmon that are harvested annually. The tribe objects to any *cap* on subsistence fisheries and believes this portion of the proposal to be in violation of State and Federal Regulations.

Furthermore, the Tribe opposes the following language, "*If these caps are exceeded in any year the number of fish per permit will be reduced for the next year*" [Wrangell Fish and Game Advisory Committee Proposal to the Subsistence Board Stikine River Subsistence Fishery (2)]. Limiting the harvest of future years based upon carry-overs from the preceding year would further limit the subsistence priority as outlined in both state and federal regulations.

The proposal seeks to set a time restriction of 4:00 AM until 9:00 PM daily, eliminating overnight fishing. Subsistence users often fish at night because this is when the fish are running. The Tribe opposes the limited fishing hours and believes the time restriction and elimination of overnight fishing is also in violation of State and Federal regulations. The Tribe supports the establishment of reasonable time durations for a net to sit in the water before having to be checked.

The consensus of the two workshops held identified two major concerns regarding the Subsistence Fishery on the Stikine River; unattended nets and waste. The Tribe supports limiting waste and the tending of nets in a timely manner. The Tribe supports the goals of the submitted proposal, *"to discourage predation on fish in the set gillnets and to encourage full accountability of the fish harvested"* [Wrangell Fish and Game Advisory Committee Proposal to the Subsistence Board Stikine River Subsistence Fishery (3)]. The Tribe does not support unattended, rather feels subsistence users need to tend nets in a timely

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manner to limit seal predation and waste. There are limited subsistence fishing locations on the Stikine River and the tending of nets would help ensure all subsistence users have equal/fair access to the fishing sites.

The Tribe would like to follow State regulations for personal use, applied to owner identification of gear and net attendance polices. We also request more frequent visits by Federal officals on the river during the fishing season to monitor and enforce compliance of current regulations, such as catch count and gear ownership identification. In addition, the Tribe would like to see systems set in place to collect data on waste. The Tribe supports counting seal predation of fish, but this count should not affect the number of fish that can be caught by the subsistence user.

Gunalchéesh, háw'aa, thank you, for your consideration regarding the management of our resources.

Sincere Regards,

Ernie C. Christian

Vice President
Wrangell Cooperative Association

UNITED SOUTHEAST ALASKA GILLNETTERS

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June 12, 2014

Submitted via email to: subsistence@fws.gov

Mr. Tim Towerak
Chair
Federal Subsistence Board
Office of Subsistence Management
1011 East Tudor Rd., MS-121
Anchorage, Alaska 99503

Dear Chair Towerak and Members of the Board,

Re: FP15-13 and FP15-14: Stikine River Subsistence Chinook, Sockeye, and Coho Regulations

We **SUPPORT** the two proposals submitted by the Petersburg and Wrangell ADFG Advisory Committees regarding the Stikine fishery, including the 2,000 sockeye cap.

We want to highlight the need to closely tend nets to avoid wastage as we noted in our letter to you of January 15, 2013:

A requirement should be in place to require that nets be tended at all times to avoid wastage of fish (e.g. seal consumption). The Board should not condone practices that result in the wastage of fish in fisheries that are fully utilized. This puts the United States Government in an awkward position regarding conservation when it comes to negotiating with our treaty partners. In summer 2012, two of our board members transited the Stikine and on the upriver transit they observed a setnet site and the operator was not present; on the downriver transit, they stopped and talked to the operator- they observed one sockeye in the net and six heads (all that was left after the seals had fed). The Forest Service should provide an estimate of wastage so there is full accounting of removals.

We agree with both Advisory Committees that overnight fishing should not be allowed.

United Southeast Alaska Gillnetters Association represents the common interests of 473 gillnet permit holders in the fishery.

We appreciate you taking the time to consider our comments.

Sincerely,

Thomas M. Gemmell

Thomas M Gemmell
Executive Director

USAG letter January 15, 2013 FSP 13-19 Subsistence Sockeye GHL on the Stikine River

Copy: Commissioner Cora Campbell, ADFG
Alaska Trollers Association
Petersburg Vessel Owner's Association
Southeast Alaska Seiners Association
Southeast Alaska Fishermen's Alliance

FP13-19 Executive Summary	
General Description	Proposal FP13-19 requests the annual guideline harvest level (GHL) for the subsistence sockeye salmon fishery on the Stikine River be increased from 600 sockeye salmon to 2,000 sockeye salmon. At their fall 2013 meeting, the Council recommended the sockeye salmon subsistence fishing GHL be eliminated from both Federal regulations and the Pacific Salmon Treaty. The Board deferred the proposal to the current fishery cycle for final action. *Submitted by the Southeast Alaska Subsistence Regional Advisory Council*
Proposed Regulation	*§___.27(e)(13) (xiv) (E) The total annual guideline harvest level for the Stikine River fishery is 125 Chinook, ~~600~~ **2,000** sockeye, and 400 coho salmon. All salmon harvested, including incidentally taken salmon, will count against the guideline for that species.*
OSM Conclusion	**Support** Proposal FP13-19 **with modification** to eliminate the subsistence sockeye salmon annual guideline harvest level from Federal regulation. The modified regulation should read: *§___.27(e)(13) (xiv) You may take Chinook, sockeye, and coho salmon in the mainstem of the Stikine River only under the authority of a Federal subsistence fishing permit. Each Stikine River permit will be issued to a household. Only dip nets, spears, gaffs, rod and reel, beach seine, or gillnets not exceeding 15 fathoms in length may be used. The maximum gillnet mesh size is 5 1/2; inches, except during the Chinook season when the maximum gillnet mesh size is 8 inches.* *(A) You may take Chinook salmon from May 15 through June 20. The annual limit is 5 Chinook salmon per household.* *(B) You may take sockeye salmon from June 21 through July 31. The annual limit is 40 sockeye salmon per household.* *(C) You may take coho salmon from August 1 through October 1. The annual limit is 20 coho salmon per household.* *(D) You may retain other salmon taken incidentally by gear operated under terms of this permit. The incidentally taken salmon must be reported on your permit calendar.* *~~(E) The total annual guideline harvest level for the Stikine River fishery is 125 Chinook, 600 sockeye, and 400 coho salmon. All salmon harvested, including incidentally taken salmon, will count against the guideline for that species.~~*

continued on next page

FP13-19 *Executive Summary (continued)*	
Southeast Alaska Subsistence Regional Advisory Council Recommendation	**Support** Proposal FP13-19 **with modification** to eliminate Paragraph (E) consistent with action taken previously on Proposal FP15-13. *(See OSM Conclusion for regulation language.)*
Interagency Staff Committee Comments	See comments following the analysis.
ADF&G Comments	***Defer**, pending consideration by the Transboundary River Panel and the Pacific Salmon Commission.
Written Public Comments	**1 Support**

Staff Analysis
FP13-19

ISSUES

Proposal FP13-19, submitted by the Southeast Alaska Subsistence Regional Advisory Council (Council), requests that the annual guideline harvest level (GHL) for the subsistence sockeye salmon fishery on the Stikine River be increased from 600 sockeye salmon to 2,000 sockeye salmon.

DISCUSSION

Components of Federal regulations, including the GHLs, are contained in Annex IV of the U.S./Canada Pacific Salmon Treaty of 1985, as last amended in January 2009 (Treaty). Proposals for subsistence fishing regulatory changes on the Stikine River for Chinook, sockeye, and coho salmon that require changes to the Treaty are first authorized by the Federal Subsistence Board (Board) with implementation contingent upon concurrence by the Pacific Salmon Commission (PSC) through the Transboundary Panel (TBR).

The first Stikine River subsistence fishery was approved for sockeye salmon in 2004. There was considerable uncertainty regarding the potential catch per unit effort and level of participation. However, since there is a Canadian-U.S. harvest allocation established each year for the sockeye salmon fishery, there was a management need for an annual subsistence fishery harvest estimate (GHL). The subsistence fishery is part of the total U.S. allocation and the subsistence fishery guideline harvest level provides the State of Alaska fishery managers a sense of scale of the anticipated harvest in the subsistence fishery. The GHLs specified in regulation and in Annex IV were the Federal and State manager's best estimates of potential harvest based on the information that was available at that time.

Existing Federal Regulation

> *§___.27(e)(13) (xiv) You may take Chinook, sockeye, and coho salmon in the mainstem of the Stikine River only under the authority of a Federal subsistence fishing permit. Each Stikine River permit will be issued to a household. Only dip nets, spears, gaffs, rod and reel, beach seine, or gillnets not exceeding 15 fathoms in length may be used. The maximum gillnet mesh size is 51/2; inches, except during the Chinook season when the maximum gillnet mesh size is 8 inches.*
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> *(D) You may retain other salmon taken incidentally by gear operated under terms of this permit. The incidentally taken salmon must be reported on your permit calendar.*
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> *(E) The total annual guideline harvest level for the Stikine River fishery is 125 Chinook, 600 sockeye, and 400 coho salmon. All salmon harvested, including incidentally taken salmon, will count against the guideline for that species.*

Proposed Federal Regulation

§___.27(e)(13) (xiv) You may take Chinook, sockeye, and coho salmon in the mainstem of the Stikine River only under the authority of a Federal subsistence fishing permit. Each Stikine River permit will be issued to a household. Only dip nets, spears, gaffs, rod and reel, beach seine, or gillnets not exceeding 15 fathoms in length may be used. The maximum gillnet mesh size is 51/2; inches, except during the Chinook season when the maximum gillnet mesh size is 8 inches.

(A) You may take Chinook salmon from May 15 through June 20. The annual limit is 5 Chinook salmon per household.

(B) You may take sockeye salmon from June 21 through July 31. The annual limit is 40 sockeye salmon per household.

(C) You may take coho salmon from August 1 through October 1. The annual limit is 20 coho salmon per household.

(D) You may retain other salmon taken incidentally by gear operated under terms of this permit. The incidentally taken salmon must be reported on your permit calendar.

*(E) The total annual guideline harvest level for the Stikine River fishery is 125 Chinook, ~~600~~ **2,000** sockeye, and 400 coho salmon. All salmon harvested, including incidentally taken salmon, will count against the guideline for that species.*

Existing State Regulation

The Stikine River and tributaries are open to sport fishing for sockeye, pink, chum, and coho salmon with a harvest limit of 6 fish daily and 12 in possession. State of Alaska sport fishing regulations for Southeast Alaska generally prohibit fishing for Chinook salmon in freshwater, including the Stikine River. The State Board of Fisheries has made a positive customary and traditional use determination for salmon in the Stikine River but no subsistence fishery is authorized targeting sockeye salmon of Stikine River origin. The Stikine River commercial gillnet fishery encompasses the waters of District 8 surrounding the terminus of the Stikine River and not in waters under Federal jurisdiction. The directed sockeye fishery is dependent on the preseason forecast for Stikine River sockeye salmon. Subsequent openings are determined in-season based on catches and stock proportion data. The Chinook, sockeye and coho salmon commercial fisheries are managed in accordance with the Transboundary Rivers Annex of the Pacific Salmon Treaty (PSC 2011).

Extent of Federal Public Waters

For purposes of this discussion, the phrase "Federal public waters" is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3.

All waters of the Stikine River downstream from the Canadian border are within the exterior boundaries of the Tongass National Forest and are considered Federal public waters for the purposes of Federal subsistence fisheries management. For the Stikine River, non-marine waters include all portions of the Stikine River inland from the point of Federal jurisdiction at Point Rothsay to the Canadian border (**Figure 1**). All portions of the Stikine watershed in the United States are part of the Stikine-LeConte Wilderness Area.

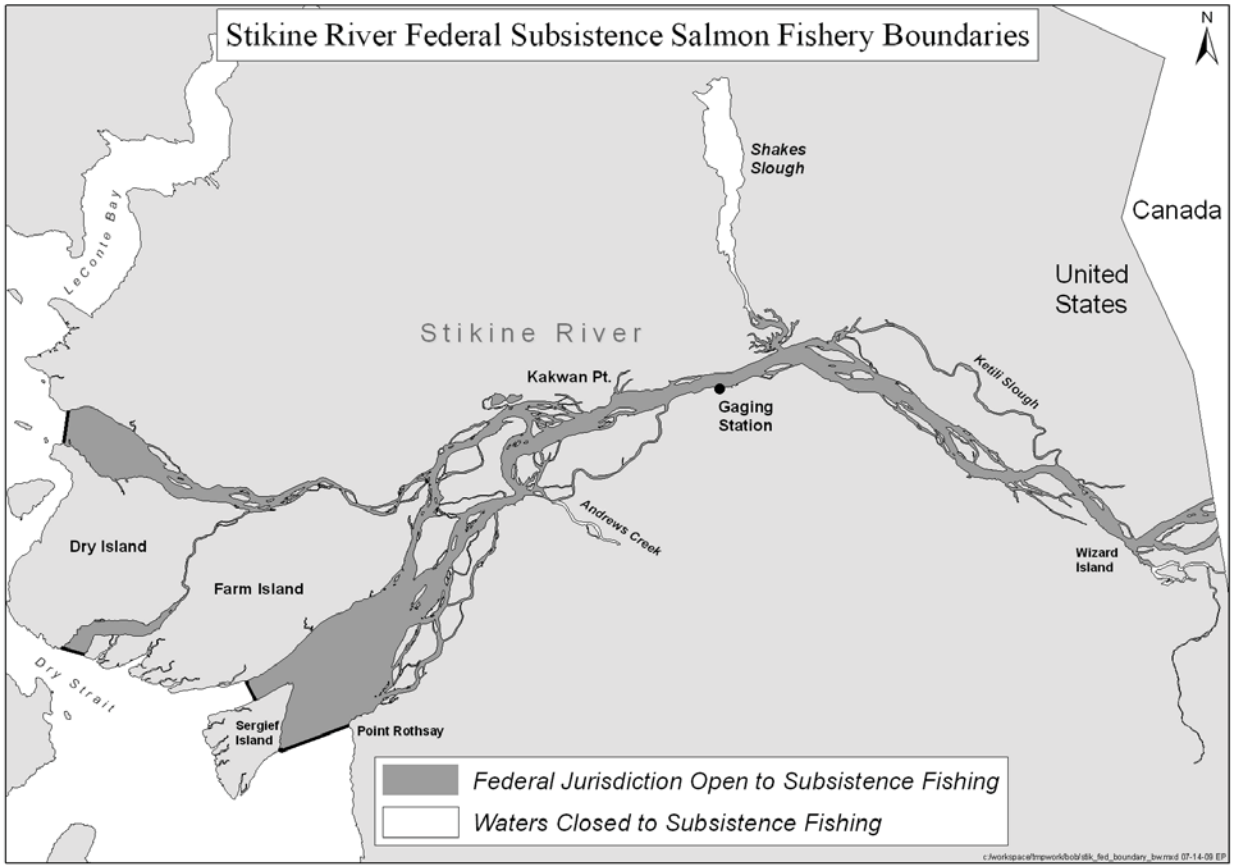

Figure 1. Stikine River, Federal public waters and prominent features.

Customary and Traditional Use Determinations

The Stikine River drains into commercial fishing District 8. Residents of drainages flowing into District 6 north of the latitude of Point Alexander (Mitkof Island); residents of drainages flowing into Districts 7 and 8, including the communities of Petersburg and Wrangell; and residents of the community of Meyers Chuck have a positive customary and traditional use finding for salmon, Dolly Varden, trout, smelt and eulachon.

Regulatory History

The original proposal to establish a Federal subsistence salmon fishery on the Stikine River, (FP01-27) was submitted in 2000 by Mr. Dick Stokes, a resident of Wrangell. That proposal specified a Chinook salmon fishery from June 1 to August 1, a sockeye salmon fishery from June 15 to September 1, and a coho salmon fishery from July 15 to October 1. The Board deferred action on this proposal, pending coordination with the PSC.

The Board made a positive customary and traditional use determination for salmon, Dolly Varden, trout, smelt and eulachon for residents living in or near the communities of Wrangell, Petersburg and Meyers Chuck (FP04-29) in 2004. The Board also adopted methods, a season, and guideline harvest limits for Chinook, sockeye, and coho salmon (FP04-40). The Transboundary River Panel and the Pacific Salmon Commission concurred with the Board and a subsistence fishery for sockeye salmon was opened during

the 2004 season, but with a season starting date of July 1 instead of June 15. By action of the Board, and coordination with the TBR and PSC, directed fisheries for Chinook and coho salmon were added prior to the 2005 season. The Board approved (with concurrence of the PSC) a change in the mesh size from 5 ½ inches to 8 inches (FSA05-01) for the new Chinook salmon fishery effective for the 2005 season. Regulatory changes for the 2006 season included an increase in the mesh size of gillnets during the Chinook fishery to 8 inch stretched mesh (FP06-27) and an earlier starting date for the sockeye fishery (FP06-28 and 29). There were no changes in subsistence fishing regulations or permit conditions for the 2007 fishing season. In 2008, two regulatory changes were made to the subsistence fishery. The first change made subsistence fishing permits valid for the length of the fishing season, May 15 through October 1. The second change moved the start date of the subsistence coho salmon fishery from August 15 to August 1 (FP08-03). Changing the coho fishery start date allowed continuous subsistence fishing between May 15 and October 1. There were no subsequent changes to the regulations for the 2009-2011 seasons. The Federal subsistence fishing permit database was upgraded to a web based application for the 2011 fishing season. This change allowed subsistence fishing permits to be printed at each U.S. Forest Service District Office and subsistence reports directly entered by field staff.

Harvest History

Between 1995 and 2001, ADF&G authorized an in-river personal use fishery for sockeye salmon in the Stikine River. Participation in the personal use fishery was minimal, and only 28 sockeye salmon were reported harvested in 2001. The personal use fishery was not opened in 2002 due to conservation concerns for the Tahltan stock, a Canadian tributary to the Stikine River. Currently, there is not a personal use or subsistence fishery authorized in State regulations for the Stikine River.

Federal permits are required for subsistence fishing on the Stikine River. Weekly harvest estimates are derived from telephone interviews and fishery performance data. The use of permits and in-season reporting are designed to provide Federal, State and Canadian fishery managers with real time harvest estimates. There have not been any Federal in-season special actions to curtail harvests.

Sport fishing for Chinook salmon is prohibited on the Stikine River. There is a small harvest of other salmon by sport fishers in the U.S. in tributaries to the Stikine River, but harvest numbers are too low to be included in any site-specific sport fishing harvest estimates (Fleming 2012, pers. comm.). A small, but unknown number of sockeye, coho, and steelhead are harvested by sport fishers in Canada.

The first harvests under Federal subsistence management regulations occurred in 2004 when 40 permits were issued and 243 sockeye salmon harvested. Participation and the subsistence sockeye salmon harvest has increased with 129 permits harvesting a total of 1,755 sockeye salmon in 2011 (**Table 1**). The great majority but not all the sockeye salmon are caught during the June 21 to July 31 sockeye salmon season (**Table 2**). The 2012 Stikine River subsistence fishery summary report prepared for the PSC is attached as **Appendix 1**.

The preliminary pre-season U.S. total allowable catch for the 2012 season was 31,000 sockeye salmon (ADF&G 2012). The in-season total allowable catch allocation for the 2012 season was approximately 22,000 sockeye salmon. The preliminary actual U.S. harvest for the 2012 season is 25,700 (24,300 commercial, 1,400 subsistence) sockeye salmon.

Other Alternatives Considered

A logical alternative to changing the guideline harvest from one number to another number would be to eliminate the guideline harvest level in the Treaty Annex. Specifying any number in the Treaty prompts

Table 1. Summary of Stikine River subsistence harvest, 2004–2011.

Year	Permits	Chinook	Chum	Coho	Trout	Dolly Varden	Pink	Sockeye	Steelhead
2004	40	12	11	0	0	1	22	243	1
2005	35	15	22	53	0	4	69	252	0
2006	48	37	20	21	0	3	23	390	0
2007	44	36	11	23	0	1	59	244	2
2008	50	25	12	42	0	5	18	428	0
2009	80	31	46	21	1	20	66	723	2
2010	107	61	37	135	0	15	60	1,653	7
2011	129	66	71	40	0	3	189	1,755	5

Table 2. Stikine River subsistence sockeye salmon harvest by fishing season.

Year	Within-season Sockeye (June 21 to July 31)	Out-of-season Sockeye (<June 21 or >July 31)
2004	243	0
2005	233	19
2006	377	13
2007	178	66
2008	426	2
2009	706	17
2010	1,554	99
2011	1,686	69

the question of what management actions are anticipated to attain that number. Federal managers do not consider the GHL as a target or quota. In-season management actions intended to increase or decrease the subsistence harvest to match the GHL are not anticipated. In-season actions for conservation are delegated to the U.S. Forest Service Wrangell District Ranger and will be implemented as part of an overall U.S.-Canadian conservation strategy. Removing the GHL would prevent unrealistic in-season management expectations and allow the U.S. domestic regulatory process to allocate sockeye salmon within the total U.S. allowable catch.

Effects of the Proposal

The U.S.-Canada Pacific Salmon Treaty and its annexes specify GHLs for Chinook, sockeye and coho salmon. The following section of the Treaty explains how regulatory changes to the Stikine River subsistence fishery need to be approved by the PSC.

> *Annex IV, Chapter 1, Paragraph 3(a)(3)(vi) "d. Any proposed regulatory changes to the fishery during the remaining years of this annex would need to be reviewed by the bilateral Transboundary River Panel and approved by the Pacific Salmon Commission."*

Changes to subsistence regulations for any transboundary river that differ from the express terms of the Treaty language require a formal process with somewhat parallel tracks within the Federal subsistence

program and the Treaty process prior to implementation. To alter the text of the Treaty, the following would be the most ambitious timeline. The issue needs to be: 1) recommended for adoption by the Council at their meeting in September 2012; 2) be considered and have concurrence by the U.S. Section of the TBR in December 2012; 3) the issue included on the annual work plan for the bilateral TBR in January 2013; 4) reviewed by the TBR at their January 2013 meeting; 5) adopted by the Board pending concurrence by the PSC in January 2013; and 6) approved by the PSC during their annual meeting in February 2013. This was the process previously used to implement changes to the Stikine River sockeye and coho fishing seasons. Progress to date includes: 1) a recommendation by the Council at their September 2012 meeting to remove the subsistence fishing annual GHL for sockeye salmon, 2) the issue has been included as an agenda topic for the U.S. Section meeting scheduled for December 13, 2012 and 3) the issue has been included on the agenda for the post-season meeting of the bilateral Panel at their January 2013 meeting in Vancouver BC.

The stocks of sockeye salmon in the Stikine River are healthy and there is no conservation issue with increasing the subsistence fishery guideline harvest by 1,400 fish. The subsistence fishery harvest is a component of the total U.S. allowable catch and a change of this magnitude is likely insignificant and well within management error when compared to the total size of the stock and the scale of other fisheries. Compared to the average return of 184,000 sockeye salmon between 2000 and 2010, a 2,000 sockeye salmon subsistence guideline slightly exceeds 1% of the total return (**Table 3**).

The Stikine River subsistence fishery is maturing and it is obvious that managers can expect the subsistence sockeye harvest to exceed 600 fish unless there are significant in-season actions to restrict the fishery. It is anticipated that the rate of growth in this fishery will decline as there are a finite number of fishing sites and a finite number of participants with the equipment and interest that allows them to participate. Actual harvests in the future are unknown but a 2,000 sockeye salmon guideline harvest level would be much more useful to managers and be more representative of actual demand than the present guideline harvest level.

OSM CONCLUSION

Support Proposal FP13-19 **with modification** to eliminate the subsistence sockeye salmon annual guideline harvest level from Federal regulation.

The modified regulation should read:

> *§___.27(e)(13) (xiv) You may take Chinook, sockeye, and coho salmon in the mainstem of the Stikine River only under the authority of a Federal subsistence fishing permit. Each Stikine River permit will be issued to a household. Only dip nets, spears, gaffs, rod and reel, beach seine, or gillnets not exceeding 15 fathoms in length may be used. The maximum gillnet mesh size is 51/2; inches, except during the Chinook season when the maximum gillnet mesh size is 8 inches.*
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>
> *(C) You may take coho salmon from August 1 through October 1. The annual limit is 20 coho salmon per household.*

Table 3. Stikine sockeye run sizes: 1979 – 2010 (2009 and 2010 data preliminary).

Year	In-river Run Size	In-river Catch[a]	Escapement[b]	Marine Catch	Terminal Run Size[c]
i) Total Stikine Sockeye Stocks					
1979	40,353	13,534	26,819	8,299	48,652
1980	62,743	20,919	41,824	23,206	85,949
1981	138,879	27,017	111,862	27,538	166,417
1982	68,761	20,540	48,221	42,804	111,565
1983	71,683	21,120	50,563	5,782	77,466
1984	76,211	5,327	70,884	7,810	84,021
1985	184,747	26,804	157,943	29,747	214,494
1986	69,036	17,846	51,190	6,420	75,456
1987	39,264	11,283	27,981	4,085	43,350
1988	41,915	16,538	25,377	3,181	45,096
1989	75,054	21,639	53,415	15,492	90,546
1990	57,386	19,964	37,422	9,856	67,242
1991	120,152	25,138	95,014	34,323	154,476
1992	154,542	29,242	125,300	77,394	231,936
1993	176,100	52,698	123,402	104,630	280,730
1994	127,527	53,380	74,147	80,509	208,036
1995	142,308	66,777	75,531	76,420	218,728
1996	184,400	90,148	94,252	188,385	372,785
1997	125,657	68,197	57,460	101,258	226,915
1998	90,459	50,486	39,973	30,989	121,448
1999	65,879	47,202	18,677	58,735	124,614
2000	53,145	31,535	21,610	25,359	78,504
2001	103,755	29,341	74,414	23,500	127,255
2002	68,635	22,607	46,028	8,076	76,711
2003	194,425	69,571	124,854	46,552	240,977
2004	189,415	88,451	100,964	122,349	311,764
2005	167,570	88,089	79,482	92,110	259,680
2006	193,768	102,333	91,435	74,426	268,194
2007	110.,132	61,121	49,011	86,408	196,540
2008	73,773	36,717	37,056	45,515	119,288
2009	116,141	50,516	65,626	64,151	180,292

[a] In-river catch includes test fishery catches.

[b] Escapement includes fish later captured for broodstock, sampled and/or taken in Excess Salmon to Spawning Requirement fisheries.

[C] Excludes marine catches outside Districts 106 and 108.

(D) You may retain other salmon taken incidentally by gear operated under terms of this permit. The incidentally taken salmon must be reported on your permit calendar.

(E) The total annual guideline harvest level for the Stikine River fishery is 125 Chinook, ~~600 sockeye,~~ and 400 coho salmon. All salmon harvested, including incidentally taken salmon, will count against the guideline for that species.

Justification

Amending the annual guideline harvest level for the Stikine River subsistence sockeye fishery from 600 sockeye salmon to 2,000 sockeye salmon would provide fishery managers with a more realistic estimate of the actual harvest as compared to the 600 fish total guideline harvest level in current regulation. However, the presence of any guideline harvest level is inconsistent with the management practices of the other fisheries targeting Stikine River origin sockeye salmon. Simply increasing the guideline harvest level would be an improvement to the current situation but not provide the benefits and opportunities for coordinated management between the U.S. fishery management agencies as would the absence of a total guideline harvest level.

Eliminating the subsistence sockeye salmon annual guideline harvest level allows the subsistence fishery to operate completely within the U.S. allocation; subject to the normal domestic allocation protocols. Sockeye salmon harvested for subsistence are part of the U.S. total allowable catch and the harvest is reported in-season, on a weekly basis, to the ADF&G fishery managers. The total subsistence harvest is reported in an end of the season annual subsistence fishing summary, once reports are obtained from the subsistence fishermen. There is no conservation or fishery management concern with adopting either the larger guideline harvest level or eliminating the guideline harvest level. The in-season manager retains the authority to close the subsistence fishery if necessary for conservation. Eliminating the guideline harvest level would require more than changing Federal regulations. Full implementation will require coordination with the Transboundary Panel and concurrence of the Pacific Salmon Commission to amend the text of the U.S./Canada Pacific Salmon Treaty.

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Stikine River Subsistence Salmon Fishery

2012 Season Summary

Robert Larson, U.S. Forest Service
December 1, 2012

Executive Summary

This report fulfills the commitment for the 2012 season Stikine River U.S. subsistence salmon fishery summary for the bilateral U.S.-Canada Pacific Salmon Commission (Commission). In 2012, 130 households harvested 16 large Chinook salmon during the Chinook salmon season, 1,155 sockeye salmon during the sockeye salmon season and 110 coho salmon during the coho salmon season.

Introduction

A subsistence fishery was established for sockeye salmon on the Stikine River in 2004 by the Federal Subsistence Board (Board), through coordination with the Transboundary River Panel (Panel) and the Commission. By action of the Board, and coordination with the Panel and Commission, directed fisheries for Chinook and coho salmon were added in 2005. Regulatory changes for the 2006 season included an increase in the mesh size of gillnets during the Chinook fishery (to 8 inch stretched mesh) and an earlier starting date for the sockeye fishery. There were no changes in subsistence fishing regulations or permit conditions for the 2007 fishing season. In 2008, two regulatory changes were made to the subsistence fishery. The first change made subsistence fishing permits valid for the length of the fishing season, May 15 through October 1. The second change moved the start date of the subsistence coho salmon fishery from August 15 to August 1. Changing the coho fishery start date allowed continuous subsistence fishing between May 15 and October 1. There were no subsequent changes to the regulations for the 2009 through 2012 seasons.

Eligibility for participation in the Federal subsistence fishery is limited to residents of Wrangell, Petersburg, Meyers Chuck, and the immediate vicinity through a positive customary and traditional use determination adopted by the Board.

Federal jurisdiction and prominent features of the Stikine River are shown in **Figure 1**.

Federal Subsistence Fishing Regulations

The Federal subsistence fisheries regulations are detailed in Subpart C and D of the Code of Federal Regulations (36 CFR part 242 and 50 CFR part 100). The sections relevant to the Stikine River are as follows:

§___.24 Customary and traditional use determinations.
(2) Fish determinations. The following communities and areas have been found to have a positive customary and traditional use determination in the listed area for the indicated species:
Southeastern Alaska Area:

> *District 8 and waters draining into that District: Salmon, Dolly Varden, trout, smelt, and eulachon. Residents of drainages flowing into Districts 7 & 8, residents of drainages*

flowing into District 6 north of the latitude of Point Alexander (Mitkof Island), and residents of Meyers Chuck.

§___.27 Subsistence taking of fish.
(i) Fishery management area restrictions.
(13) Southeastern Alaska Area.

(xv) You may take Chinook, sockeye, and coho salmon in the mainstem of the Stikine River only under the authority of a Federal subsistence fishing permit. Each Stikine River permit will be issued to a household. Only dip nets, spears, gaffs, rod and reel, beach seine, or gillnets not exceeding 15 fathoms in length may be used. The maximum gillnet mesh size is 5l/2 inches, except during the Chinook season when the maximum gillnet mesh size is 8 inches.
(A) You may take Chinook salmon from May 15 through June 20. The annual limit is 5 Chinook salmon per household.
(B) You may take sockeye salmon from June 21 through July 31. The annual limit is 40 sockeye salmon per household.
(C) You may take coho salmon from August 1 through October 1. The annual limit is 20 coho salmon per household.
(D) You may retain other salmon taken incidentally by gear operated under terms of this permit. The incidentally taken salmon must be reported on your permit calendar.
(E) The total annual guideline harvest level for the Stikine River fishery is 125 Chinook, 600 sockeye, and 400 coho salmon. All salmon harvested, including incidentally taken salmon, will count against the guideline for that species.

Pacific Salmon Treaty, Annex IV Direction

Provisions specific to the Stikine River subsistence fishery are contained within Annex IV of the Pacific Salmon Treaty and are very similar, but not exactly the same, as subsistence fishing regulations. For instance, the allowable sockeye salmon season in the Annex is two days longer than the sockeye salmon fishing season in subsistence fishing regulations.

(3)(a)(1) Sockeye Salmon:

(iv) Pursuant to this agreement, a directed U.S. subsistence fishery in U.S. portions of the Stikine River will be permitted, with a guideline harvest level of 600 sockeye salmon to be taken between June 19 and July 31. These fish will be part of the existing U.S. allocation of Stikine River sockeye salmon.

The Annex also contains three conditions common to the subsistence Chinook, coho and sockeye salmon fisheries that are not included in subsistence fishing regulations. These conditions define the subsistence fishing area, require weekly and end of season fishing reports and specify that regulatory changes must be approved by the Pacific Salmon Commission.

(3)(a)(1,2,3) For this fishery:

a. The fishing area will include the main stem of the Stikine River, downstream of the international border, with the exception that fishing at stock assessment sites identified prior to each season is prohibited unless allowed under specific conditions agreed to by both Parties' respective managers.
b. Catches will be reported weekly, including all incidentally caught fish. All tags recovered shall be submitted to the Alaska Department of Fish and Game.
c. A written report on the fishery summarizing harvests, fishing effort and other pertinent information requested by the Transboundary Panel will be submitted by the management agency for consideration by the Panel at its annual post season meeting.

d. Any proposed regulatory changes to the fishery during the remaining years of this annex would need to be reviewed by the bilateral Transboundary panel and approved by the Pacific Salmon Commission.

Subsistence Fishery Management

Federal subsistence fishing rules are published in the Code of Federal Regulations (CFR) and in a regulatory handbook summary. The regulatory handbooks are available to the public through a number of license vendors, Alaska Fish and Game offices and local U.S. Forest Service offices. The CFRs and the handbook are also available online at the Office of Subsistence Management website at: http://alaska.fws.gov/asm/index.cfml. Subsistence fishing permits are required and are available from any U.S. Forest Service District Office on the Tongass National Forest. In 2012, Stikine River subsistence fishing permits were only issued by the Wrangell and Petersburg Forest Service Ranger District offices.

The 2012 subsistence fishery in-season harvest monitoring plan focused on tracking the number of fishermen and obtaining estimates of harvest through a random selection telephone interview process. Fishery performance data that included the total number of permits issued to date and a Chinook, sockeye and coho salmon harvest estimate were reported to State fishery managers on a weekly basis.

2012 Season Fishery Performance

In-season monitoring of the subsistence fishery harvest consisted of catch-to-date estimates of Chinook, sockeye and coho salmon harvest from telephone interviews with a random subset of permit holders. In-season harvest estimates were compiled by calculating the average catch by species by permit to date and expanding by the total number of permits issued. Typically, 15 to 25 permit holders were randomly selected for interviews each week. Weekly harvest estimates from the first few weeks of the fishery and the last few weeks of the fishery were subject to increased variability because the proportion of fishermen that fished was small compared to the total number of permits issued. In those instances, fishery performance data from previous years was used to attenuate those variations. U.S. Forest Service staff from the Wrangell and Petersburg District offices and Law Enforcement officers maintained a regular presence on the river during the entire subsistence fishery.

During the 2012 Chinook salmon fishery, May 15 through June 20, a total of 16 Chinook, no coho and 137 sockeye salmon were harvested **(Table 1)**. During the sockeye salmon fishery, June 21 to July 31, a total of 34 Chinook, 2 coho and 1,155 sockeye salmon were harvested **(Table 2)**. Although the Treaty authorizes a June 19 start date of the sockeye fishing season, Federal subsistence fishing regulations specify a later June 21 sockeye salmon subsistence fishing season opening date. During the coho salmon fishery, August 1 through October 1, a total of 3 Chinook, 110 coho and 10 sockeye salmon were harvested **(Table 3)**.

In total, for the 2012 season including fish harvested incidentally outside of established fishing seasons, 130 permit holders harvested a total of 53 Chinook salmon greater than 28 inches, 47 chum salmon, 112 coho salmon, 32 pink salmon and 1,302 sockeye salmon. There were no steelhead trout, no cutthroat trout and one Dolly Varden harvested **(Table 4**). There were 23 Chinook salmon less than 28 inches harvested. The first Chinook salmon was harvested May 26, the first sockeye salmon was harvested on June 13 and the first coho salmon was harvested July 25 **(Table 5)**.

Approximately 35% of the permits issued in 2012 were issued to residents of Petersburg and 65% issued to residents of Wrangell. An end-of-season letter reminding permit holders to report subsistence harvests was sent to each permit holder at the end of the season. Any permitees that did not report by October 15 were contacted by telephone. Year-end harvest fishing reports were obtained from all except three permitees.

2012 Management and Regulatory Issues

Pre-season and post-season total return estimates were above escapement goals for Chinook, coho and sockeye salmon. There are no formal escapement goals for pink and chum salmon returning to streams in the Stikine River drainage. The statistical week 22 in-season return estimate for Chinook salmon predicted the escapement goal would not be met (assuming the baseline harvests were taken). In response, the Federal in-season manager issued a letter to permit holders requiring 48 hour reporting of any Chinook salmon harvested for the remainder of the Chinook salmon season. The letter also reminded subsistence fishers to closely monitor their nets.

The subsistence sockeye fishery has exceeded the sockeye fishery annual guideline harvest level (GHL) as specified in Federal regulations and Treaty language in each of the last four years. A formal process to address the subsistence sockeye salmon fishery (GHL) was initiated when the Southeast Subsistence Regional Advisory Council (Council) submitted a regulatory proposal (FP13-19) to the Board to change the GHL. Following public testimony and deliberation, the Council recommended eliminating the GHL entirely. The Council's rationale was that the presence of any guideline harvest level is inconsistent with the management practices of the other fisheries targeting Stikine River origin sockeye salmon. Eliminating the subsistence sockeye salmon GHL would allow the subsistence fishery to operate completely within the U.S. allocation; subject to the normal domestic allocation protocols. Sockeye salmon harvested for subsistence are part of the U.S. total allowable catch and the harvest is reported in-season, on a weekly basis, to the ADF&G fishery managers. There is no conservation or fishery management concerns with eliminating the guideline harvest level. Staff from the Office of Subsistence Management, the U.S. Forest Service, plus a member of the Council will discuss this issue and the rationale for the Council's recommendation, at the U.S. Section and the bilateral meeting of the Panel.

There were no subsistence fishery violation citations issued by fisheries enforcement officers in 2012 and no conflicts with the test fishing program or reports of subsistence fishing in clear water tributaries.

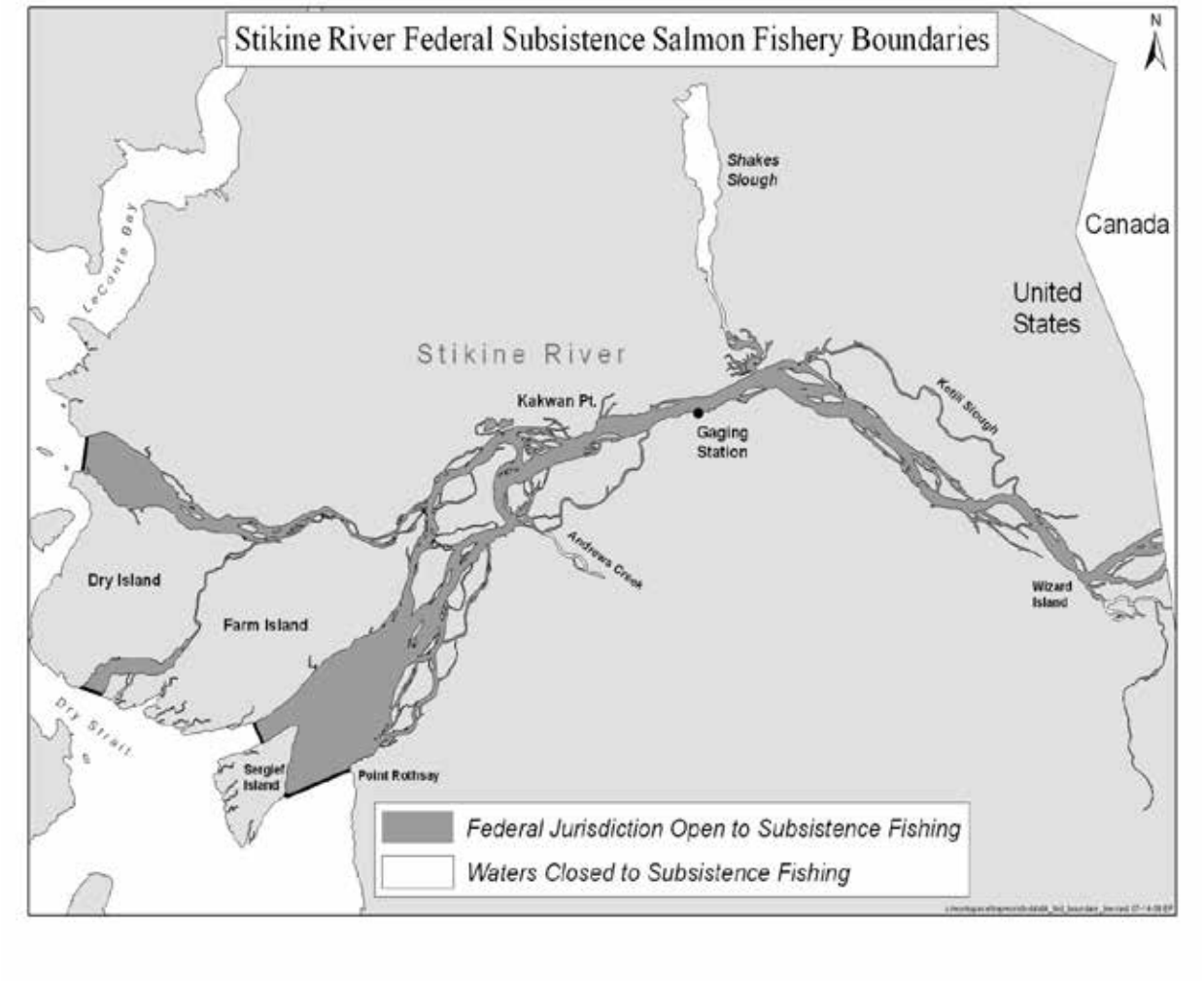

Figure 1. Prominent geographic features of the Stikine River.

Table 1. Stikine River Chinook salmon subsistence fishery, seasonal harvest by year.

Stikine River Chinook Salmon Fishery Subsistence Harvest

Chinook Salmon Season (May 15 through June 20)								
Year	Chinook	Chum	Coho	Dolly Varden	Pink	Trout	Sockeye	Steelhead
2004	No Chinook salmon season in 2004							
2005	13	0	0	2	4	0	18	0
2006	13	1	0	0	0	0	8	0
2007	24	0	0	0	0	0	61	0
2008	8	0	0	1	0	0	2	0
2009	9	0	0	2	0	1	17	2
2010	14	0	0	1	0	0	65	3
2011	16	0	0	0	0	0	64	0
2012	16	0	0	0	0	0	137	0

Table 2. Stikine River sockeye salmon subsistence fishery, seasonal harvest by year.

Stikine River Sockeye Salmon Fishery Subsistence Harvest

Sockeye Salmon Season (June 21 through July 31)								
Year	Chinook	Chum	Coho	Dolly Varden	Pink	Trout	Sockeye	Steelhead
2004	12	11	0	1	22	0	243	1
2005	2	22	1	2	65	0	233	0
2006	24	19	0	3	23	0	377	0
2007	12	11	0	1	57	0	178	1
2008	17	5	0	4	0	0	426	0
2009	22	46	0	18	66	0	706	0
2010	44	33	13	11	38	0	1,554	4
2011	48	64	1	3	189	0	1,686	0
2012	34	40	2	1	23	0	1,155	0

Table 3. Stikine River coho salmon subsistence fishery, seasonal harvest by year.

Stikine River Coho Salmon Fishery Subsistence Harvest

Coho Salmon Season (August 1 through October 1)								
Year	Chinook	Chum	Coho	Dolly Varden	Pink	Trout	Sockeye	Steelhead
2004	No Coho salmon season in 2005							
2005	0	0	52	0	0	0	1	0
2006	0	0	21	0	0	0	5	0
2007	0	0	23	0	2	0	5	1
2008	0	7	42	0	18	0	0	0
2009	0	0	21	0	0	0	0	0
2010	3	4	122	0	22	0	34	0

2011	2	10	39	0	0	0	5	5
2012	3	7	110	0	9	0	10	0

Table 4. Stikine River subsistence fishery, total annual harvest.

Stikine River Total Subsistence Harvest by Year

Year	Permits	Chinook	Chum	Coho	Dolly Varden	Pink	Trout	Sockeye	Steelhead
2004	40	12	11	0	1	22	0	243	1
2005	35	15	22	53	4	69	0	252	0
2006	48	37	20	21	3	23	0	390	0
2007	44	36	11	23	1	59	0	244	2
2008	50	25	12	42	5	18	0	428	0
2009	80	31	46	21	20	66	1	723	2
2010	107	61	37	135	12	60	0	1,653	7
2011	129	66	74	40	3	189	0	1,741	5
2012	130	53	47	112	1	32	0	1,302	0

Table 5. Stikine River total subsistence harvest by statistical week, 2012 season.

2012 Stikine River Subsistence Harvest by Statistical week

Week Ending	Catch week	Chinook	Chum	Coho	Dolly Varden	Pink	Sockeye	Steelhead
5/19	20	0	0	0	0	0	0	0
5/26	21	1	0	0	0	0	0	0
6/2	22	8	0	0	0	0	0	0
6/9	23	0	0	0	0	0	0	0
6/16	24	5	0	0	0	0	71	0
6/23	25	4	0	0	0	0	86	0
6/30	26	3	0	0	0	0	56	0
7/7	27	3	1	0	0	0	116	0
7/14	28	8	5	0	0	3	306	0
7/21	29	14	17	0	1	4	404	0
7/28	30	1	12	2	0	5	163	0
8/4	31	3	7	0	0	15	90	0
8/11	32	0	4	0	0	3	6	0
8/18	33	0	0	0	0	0	0	0
8/25	34	3	1	35	0	2	4	0
9/1	35	0	0	0	0	0	0	0
9/8	36	0	0	9	0	0	0	0
9/15	37	0	0	4	0	0	0	0
9/22	38	0	0	59	0	0	0	0
9/29	39	0	0	3	0	0	0	0

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATION

SOUTHEAST ALASKA SUBSISTENCE REGIONAL ADVISORY COUNCIL

Council Recommendation: Support Proposal FP13-19 **with modification** to eliminate the subsistence sockeye salmon annual guideline harvest level from Federal regulation.

The modified regulation should read:

> *§___.27(e)(13) (xiv) You may take Chinook, sockeye, and coho salmon in the mainstem of the Stikine River only under the authority of a Federal subsistence fishing permit. Each Stikine River permit will be issued to a household. Only dip nets, spears, gaffs, rod and reel, beach seine, or gillnets not exceeding 15 fathoms in length may be used. The maximum gillnet mesh size is 51/2; inches, except during the Chinook season when the maximum gillnet mesh size is 8 inches.*
>
> > *(A) You may take Chinook salmon from May 15 through June 20. The annual limit is 5 Chinook salmon per household.*
> >
> > *(B) You may take sockeye salmon from June 21 through July 31. The annual limit is 40 sockeye salmon per household.*
> >
> > *(C) You may take coho salmon from August 1 through October 1. The annual limit is 20 coho salmon per household.*
> >
> > *(D) You may retain other salmon taken incidentally by gear operated under terms of this permit. The incidentally taken salmon must be reported on your permit calendar.*
> >
> > *(E) The total annual guideline harvest level for the Stikine River fishery is 125 Chinook, ~~600 sockeye,~~ and 400 coho salmon. All salmon harvested, including incidentally taken salmon, will count against the guideline for that species.*

Justification: This action would eliminate the Stikine River subsistence fishery sockeye salmon annual guideline harvest level from both Federal regulations and the U.S.-Canada Pacific Salmon Treaty. The council noted there was no conservation concern with removing the annual guideline harvest level as the stocks appear healthy and the subsistence harvest relatively small. The in-season manager has the authority to close the fishery for conservation if necessary. The harvest from the subsistence fishery is already part of the total U.S. allocation and there is no need to have a separate subsistence fishing allocation. Federal regulations or the Treaty Annex are not the appropriate locations to apportion the U.S. allocation between domestic user groups. This action is in the best interests of subsistence users as it would better reflect the actual management of the subsistence fishery.

INTERAGENCY STAFF COMMITTEE COMMENTS

The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Council recommendations and Federal Subsistence Board action on the proposal.

Alaska Department of Fish and Game
Comments to Federal Subsistence Board

Fisheries Proposal FP13-19: Revise Stikine River sockeye salmon harvest limits.

Introduction: This Southeast Alaska Subsistence Regional Advisory Council proposal would increase the total annual guideline harvest level for Stikine River sockeye salmon from 600 sockeye salmon to 2,000 sockeye salmon.

The proponent stated this change is needed because the original sockeye salmon guideline harvest levels (GHLs) were based on estimated parameters for this new fishery. The level of participation and harvest were unknown. Since its inception, the Stikine River subsistence sockeye fishery has had greater participation and much higher harvests than anticipated. Increasing the GHL to reflect actual and anticipated harvests of Stikine River sockeye salmon is recommended.

Hilsinger (2005)[1] reported the U.S. and Canada reached an agreement in February 2004 to allow subsistence fishing for sockeye salmon in lower Stikine River. The terms of the fishery included a 600 fish maximum harvest limit, a July 1–31 season, and fishing in the mainstem Stikine River. The sockeye salmon harvest limit adopted by the Transboundary River Panel (TBR) was based on results of a January 2003 analysis by the USFWS and USFS. The agreement also required all proposed regulatory changes to the fishery to be reviewed by the bilateral TBR and be approved by the Pacific Salmon Commission (PSC).

Impact on Subsistence Users: If this proposal is adopted, federal subsistence users would be able to harvest 1,400 more Stikine River sockeye salmon per year than the current total annual GHL of 600 sockeye salmon. However, in reality the annual Stikine River federal subsistence sockeye salmon harvest would not change much since the 600 fish GHL has been exceeded in each of the last three years (e.g., 792, 1653, and 1735 fish harvests for 2009, 2010, and 2011, respectively).

With a current total annual guideline harvest level of 600 Stikine River sockeye salmon and an annual limit of 40 sockeye salmon per household, one can calculate the original number of users expected to participate in this subsistence salmon fishery was around 15.

If the annual limit of 40 sockeye salmon per household remains the same, the proposed total annual GHL of 2,000 Stikine River sockeye salmon could potentially be shared by up to 50 subsistence salmon users.

Impact on Other Users: If the total annual GHL for Stikine River subsistence sockeye salmon fishery is increased 2,000 fish, there would potentially be 1,400 fewer sockeye salmon available to other users (e.g., commercial, traditional food).

[1] Hilsinger, J. 2005. 2006 Federal fisheries subsistence proposals ADF&G staff comments. Alaska Department of Fish and Game, Division of Commercial Fisheries, Subsistence Liaison Team, Anchorage.

Opportunity Provided by State: Salmon may be harvested under state regulations throughout the majority of the Southeast Alaska area, including a liberal subsistence fishery. Fish may be taken by gear listed in 5 AAC 01.010(2), except as may be restricted under the terms of a subsistence fishing permit. Under state regulations, subsistence is the priority consumptive use. Therefore, state subsistence fishing opportunity is directly linked to abundance and is not restricted unless run size is inadequate to meet escapement needs.

Conservation Issues: None at this time.

Enforcement Issues: None noted at this time.

Jurisdiction Issues: The February 2004 agreement reached with Canada that allowed a sockeye salmon subsistence fishing in the U.S. portion of the lower Stikine River also required that any proposed regulatory changes to the fishery (e.g., increase harvest limit) would need to be reviewed by the bilateral Transboundary River Panel and be approved by the Pacific Salmon Commission.

Other Issues: The next bilateral meeting of the Transboundary River Panel at which Stikine River subsistence fishery regulatory changes could be considered, is scheduled for the week of January 14, 2013 in Vancouver, BC.

Recommendation: **Defer**, pending consideration by the Transboundary River Panel and the Pacific Salmon Commission.

WRITTEN PUBLIC COMMENTS

SEAFA supports the FSB working with the Pacific Salmon Treaty Panel to address this issue. Accurate accounting and understanding of the amount of harvest occurring is necessary for long-term sustainable fishery management.

Kathy Hansen, Executive Director
Southeast Alaska Fishermen's Alliance

FP15-16 Executive Summary	
General Description	Proposal FP15-16 requests that steelhead harvested in the Prince of Wales/Kosciusko Islands subsistence steelhead fisheries be immediately recorded on the subsistence fishing permit. *Submitted by the Southeast Alaska Subsistence Regional Advisory Council.*
Proposed Regulation	*§___.27(i)(13) (xvii) You may take steelhead trout on Prince of Wales and Kosciusko Islands under the terms of Federal subsistence fishing permits. You must obtain a separate permit for the winter and spring seasons.* *(A) The winter season is December 1 through the last day of February, with a harvest limit of two fish per household. However, only 1 (one) steelhead may be harvested by a household from a particular drainage.* ***Any steelhead taken must be immediately recorded on the Federal subsistence fishing permit.*** *You may use only a dip net, handline, spear, or rod and reel. You must return your winter season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.* *(B) The spring season is March 1 through May 31, with a harvest limit of five fish per household. However, only 2 (two) steelhead may be harvested by a household from a particular drainage.* ***Any steelhead taken must be immediately recorded on the Federal subsistence fishing permit.*** *You may use only a dip net, handline, spear, or rod and reel. You must return your spring season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.*
OSM Conclusion	**Support** Proposal FP15-16 **with modification.** The modification will change terminology of the regulatory language ("taken" is changed to "harvest") and will clarify that the harvest recording must occur immediately following the harvest of a steelhead.
Southeast Alaska Subsistence Regional Advisory Council Recommendation	**Oppose**
Interagency Staff Committee Comments	See comments following the analysis.
ADF&G Comments	Official State comments on select proposals will be provided as a supplement at the meeting.
Written Public Comments	**None**

STAFF ANALYSIS
FP15-16

ISSUES

Proposal FP15-16, submitted by the Southeast Alaska Subsistence Regional Advisory Council (Council), requests that steelhead harvested in the Prince of Wales/Kosciusko Islands subsistence steelhead fisheries be immediately recorded on the subsistence fishing permit.

DISCUSSION

The proponent submitted this proposal in response to concern from State and Federal law enforcement. General provisions in Subpart A of 36 CFR 242 (and parallel regulations in 50 CFR 100) require validating harvest tickets, tags, permits or other required documents "*before removing your kill from the harvest site*". Law enforcement has indicated they have had numerous contacts with active fishers in possession of steelhead where the fish had not yet been recorded on the subsistence fishing permit and the fisher had not left the fishing site. Both the proponent and law enforcement believes, that after contact, some harvesters are not recording the fish prior to leaving the fishing site. Law enforcement and the proponent believe changing to an "immediate upon harvest" recording requirement should not cause any undue burden to subsistence users as steelhead are harvested individually, harvest limits by drainage are low, and that a similar requirement exists for steelhead taken within the sport fishery.

Existing Federal Regulation

> *§___.6(d) You must validate the harvest tickets, tags, permits, or other required documents before removing your kill from the harvest site. You must also comply with all reporting provisions as set forth in subpart D of this part.*
>
> *§___.27(i)(13) (xvii) You may take steelhead trout on Prince of Wales and Kosciusko Islands under the terms of Federal subsistence fishing permits. You must obtain a separate permit for the winter and spring seasons.*
>
> *(A) The winter season is December 1 through the last day of February, with a harvest limit of two fish per household. However, only 1 (one) steelhead may be harvested by a household from a particular drainage. You may use only a dip net, handline, spear, or rod and reel. You must return your winter season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/ Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.*
>
> *(B) The spring season is March 1 through May 31, with a harvest limit of five fish per household. However, only 2 (two) steelhead may be harvested by a household from a particular drainage. You may use only a dip net, handline, spear, or rod and reel. You must return your spring season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.*

Proposed Federal Regulation

> *§___.27(i)(13) (xvii) You may take steelhead trout on Prince of Wales and Kosciusko Islands under the terms of Federal subsistence fishing permits. You must obtain a separate permit for the winter and spring seasons.*

(A) The winter season is December 1 through the last day of February, with a harvest limit of two fish per household. However, only 1 (one) steelhead may be harvested by a household from a particular drainage. ***Any steelhead taken must be immediately recorded on the Federal subsistence fishing permit.*** *You may use only a dip net, handline, spear, or rod and reel. You must return your winter season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.*

(B) The spring season is March 1 through May 31, with a harvest limit of five fish per household. However, only 2 (two) steelhead may be harvested by a household from a particular drainage. ***Any steelhead taken must be immediately recorded on the Federal subsistence fishing permit****. You may use only a dip net, handline, spear, or rod and reel. You must return your spring season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.*

Existing State Regulations

Subsistence

5 AAC 01.730 (i) The department shall not issue a permit for the taking of steelhead trout, but steelhead trout taken incidentally by gear operated under the terms of a subsistence permit for salmon are legally taken and possessed for subsistence purposes. The holder of a subsistence salmon permit must report any steelhead trout taken in this manner on his or her permit calendar.

Sport Fishing

5 AAC 47.022 General provisions for seasons and bag, possession, annual, and size limits for the fresh waters of the Southeast Alaska Area.

(b) In the fresh waters east of the longitude of Cape Fairweather:

(4) steelhead may be taken from January 1-December 31; Bag limit of 1 fish; Possession limit of two fish; must be 36 inches or greater in length; Annual limit of two fish; A harvest record is required as specified in 5AAC 47.024(C)

5AAC 47.024(C)(3) immediately upon landing a steelhead 36 inches or greater in length from the waters referred to in (1) of this subsection, the angler shall enter the date and location of the catch, in ink, on the harvest record;

Extent of Federal Public Waters

For purposes of this discussion, the phrase "Federal public waters" is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. They include waters within the exterior boundary of the Tongass National Forest in the Southeastern Alaska Area excluding marine waters. Federal waters involved are those of the Tongass National Forest, excluding marine waters, on Prince of Wales and Kosciusko Islands.

Customary and Traditional Use Determinations

Residents living south of Sumner Strait and west of Clarence Strait and Kashevaroff Passage (Prince of Wales

and Kosciusko Island residents) have a positive customary and traditional use determination for steelhead in Districts 2, 3, and 5 and waters draining into those districts. Residents living south of Sumner Strait and west of Clarence Strait and Kashevaroff Passage; residents of drainages flowing into District 6 north of the latitude of Point Alexander (Mitkof Island); residents of drainages flowing into Districts 7 & 8, including the communities of Petersburg & Wrangell; and residents of the communities of Meyers Chuck and Kake have a positive customary and traditional use determination for steelhead in District 6 and waters draining into that district.

Regulatory History

State Regulatory History

Although there are customary and traditional use determinations for steelhead in State subsistence regulations for portions of Districts 3B and 3C, and all of Districts 7 and 8 in Southeast Alaska, State regulations prohibit issuing subsistence permits for steelhead. However, steelhead taken incidentally under the terms of a subsistence permit for salmon may be legally retained. Permit holders are required to report any steelhead incidentally taken, but are not required to mark them by clipping fins.

From 1978 through 1992, the sport fishing daily harvest and possession limit was one steelhead per day. During the 1993/94 regulatory cycle for Southeast Alaska, the Alaska Board of Fisheries modified sport and commercial fishing regulations. Region-wide sport fishing regulations were changed to allow a harvest of one fish per day and two fish per year, 36 inches or greater in length to reduce the harvest. However, the daily harvest limit was two fish if at least one has a clipped adipose fin, as evidenced by a healed scar. There was no size limit for steelhead with a clipped adipose fin. A clipped adipose fin identified a hatchery produced steelhead. The Alaska Board of Fisheries also prohibited the use of bait from Nov. 16–Sept. 14. Lastly, the sale of steelhead caught in commercial net fisheries was prohibited. In commercial purse seine and gillnet fisheries of Southeast Alaska, permit holders may retain steelhead for personal use, but not sell them. Steelhead caught in the commercial troll fishery may be sold.

During the 2003 Alaska Board of Fisheries cycle, the region-wide sport regulation for steelhead was revised. The revision was a regulatory "housekeeping" action, submitted by the Alaska Department of Fish and Game (ADF&G), to specify that the two fish daily harvest limit would only apply to the Klawock River and Ketchikan Creek: the only two locations where adipose clipped steelhead may be found.

In January 2006, the Alaska Board of Fisheries adopted a regulation (5AAC 33.395) that gave authority to the Commissioner of ADF&G to require steelhead harvested in the commercial salmon fisheries and retained for personal use to be reported on fish tickets. The intent of the regulation was to account for the harvest of all steelhead trout. The Commissioner has only implemented this requirement in the District 8 Stikine Terminal Chinook fishery.

In February 2009, the Alaska Board of Fisheries adopted proposal 291 prohibiting retention of steelhead in 21 fall run steelhead drainages across southeast Alaska. Of these 21 drainages, ten of the drainages are located within the Prince of Wales Island management area.

In February 2012, the Alaska Board of Fisheries adopted proposal 265 removing the regulation which allowed for the retention of adipose clipped steelhead taken in the Klawock River. The proposal was a housekeeping proposal submitted by ADF&G as the local fish hatchery had ceased production of steelhead in 2005. Also during this meeting, proposal 294 was adopted rescinding the commissioner's authority to not account for steelhead taken in the commercial fisheries in southeast Alaska. As a result, any steelhead taken in commercial fisheries has to be reported on a fish ticket.

Federal Regulatory History

Prior to the first Federal subsistence fishery for steelhead established in 2002, all steelhead harvest occurred under State of Alaska sport fish regulations or incidental to subsistence or commercial fisheries.

The Federal Subsistence Board (Board) adopted FP03-25 resulting in a Federal subsistence fishery for steelhead on Prince of Wales Island in 2002. The following year, the Board adopted FP04-33 to add Kosciusko Island to this fishery. This fishery has two seasons (Winter – Dec. 1–Feb. 28/29; Spring – Mar. 1–May 31) with separate seasonal harvest limits (Winter – 2 steelhead; Spring – 5 steelhead per household), permits (winter and spring), and special conditions identified by the in-season manager which are included on the permit. Legal methods and means include dip net, rod and reel, handline, and spear. The two fisheries were to be closed when a harvest cap is reached (100 steelhead for winter season and 600 minus the winter harvest for the spring season). Harvest reports are due by March 15 for the winter fishery and by June 15 for the spring fishery, or within 15 days after harvest of a seasonal limit of steelhead.

Rather than implementing separate regulations by drainage in the fisheries, the Board directed that "*permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G."* This management authority to set permit conditions for conservation is delegated to local area fishery managers. Federal fisheries managers have implemented these regulations by applying stipulations to Federal subsistence fishing permits after consultation with ADF&G and local Council members. From 2003-2012, the local Federal managers applied special conditions to the POW/Kosciusko steelhead permits. Examples of special restrictions have included size limits and gear restrictions.

In 2009, FP09-03 was submitted by ADF&G addressing six items: use of bait, locations of allowable harvest, use of handlines in drainages where size restrictions applied, accumulation of Federal annual harvest limits with State sport harvest limits, mandatory fin clipping of subsistence taken steelhead, and possession of subsistence and sport caught steelhead on the same day. The Board rejected the proposal as the items of concern had either been considered previously through the Federal regulatory process or within permit stipulations through the consultation process as directed by the Federal Subsistence Board.

In 2012, two proposals were submitted for consideration. FP13-18 asked for household harvest limits on individual streams and to remove the overall harvest quotas for the individual fisheries. FP13-23 requested that household harvest limits be placed only on the Klawock River. The Board both adopted FP13-18 as this proposal added additional protection measures to all of the streams on POW by limiting the number of steelhead that may be taken from each drainage. The Board took no action on FP13-23.

Biological Background

Steelhead are the anadromous form of rainbow trout (*Oncorhynchus mykiss*). They typically return to 76 drainages on Prince of Wales/Kosciusko Islands, with peak numbers occurring in late April and May. Fall and spring run fish generally spawn at the same time but residence time in streams is longer for fall run (freshwater maturing) fish. Spring run fish (ocean maturing) are most abundant in Southeast Alaska, but it is not uncommon for the same streams to contain a smaller number of fall run fish (Lohr & Bryant 1999). Steelhead returns are typically comprised of multiple age classes, and return in far lower numbers than salmon resulting in more conservative management. Although many of the steelhead stocks on Prince of Wales/Kosciusko Islands have returns numbering in the hundreds, managers currently consider stocks to be healthy.

Harvest History

The POW/Kosciusko Islands fishery is divided into two seasons under the terms of separate Federal subsistence fishing permits. Federal managers monitor harvest during these fisheries. Monitoring includes visual

assessments, interviews with and phone calls to anglers to determine harvest rates by fishermen, and observations using in-stream snorkel counts. Law enforcement officers check anglers to insure they have the proper permits or licenses. Using monitoring information, the local Federal managers have been delegated the authority to close these fisheries when and if conservation concerns arise. The return rate of Federal permits for the POW steelhead fisheries has been nearly 100 percent (Forest Service 2014). The two steelhead fisheries are described in more detail below.

POW/Kosciusko Spring Season Federal Subsistence Steelhead Fishery

This fishery began in 2003. Since 2008, effort in the fishery has increased. Harvest from 2003-2014 has averaged 29 steelhead per season. Of the 780 permits issued throughout the history of this fishery, only 323 of the permits issued have reported fishing effort. The average harvest for permits reporting steelhead is 1.8 per permit. A summary of steelhead harvest for this fishery is displayed in **Table 1** (Forest Service 2014).

In-season action has occurred twice in this fishery. In April 2006, the local Federal manager closed Cable Creek when the illegal harvest of 10 steelhead was reported. In-season action occurred again in April 2012, when the winter season harvest on the Klawock River was reported to be higher than anticipated, resulting in reduction of the household harvest limit to two steelhead and prohibition of the use of bait downstream of the Prince of Wales Hatchery Association weir.

Table 1. Steelhead harvest and permits issued from the POW/Kosciusko Island Steelhead fisheries, 2003 – 2014 (Forest Service 2014).

	Spring Hvst	# of permits	Permit w hvst	Ave fish/ permit		Winter Hvst	# of permits	Permit w hvst	Ave fish/ permit
2003	24	76	12	2.0		2	10	2	1.0
2004	26	40	9	2.6		5	15	3	1.7
2005	27	53	15	1.7		2	17	1	2.0
2006	38	56	19	2.0		0	12	0	0.0
2007	18	49	11	1.6		1	17	1	1.0
2008	34	66	24	1.6		2	20	2	1.0
2009	29	71	14	2.1		5	36	5	1.0
2010	27	65	14	2.3		1	37	1	1.0
2011	39	89	14	2.4		13	38	9	1.4
2012	30	80	16	1.9		8	31	7	1.1
2013	25	76	17	1.5		3	41	3	1.0
2014	23	59	10	2.3		n/a	n/a	n/a	n/a
Total	340	780	175			41	274	34	

Note: The Winter 2013 and Spring 2014 numbers are incomplete as permits are still being returned from these fisheries.

POW/Kosciusko Winter Season Federal Subsistence Steelhead Fishery

This steelhead fishery began in 2003, with harvest and effort during most seasons being low. Since 2009, effort in the fishery has increased, as the number of permits issued has ranged from 36 to 41 since. Recent reported harvest has ranged as high as 13. This fishery is greatly affected by weather. In 2006, 2007 and 2010 fishing effort was very minimal with zero or one steelhead reported during those seasons. This was most likely due to heavy snowfall preventing access to fishing sites. A summary of steelhead harvest for the winter fishery is also displayed in **Table 1** (Forest Service 2014).

State Subsistence Harvest

There are no directed State subsistence fisheries for steelhead in the Southeast Alaska Area.
Steelhead incidentally harvested while subsistence fishing for salmon may be retained and must be recorded on the State subsistence and personal use salmon permit prior to leaving the fishing site. No steelhead harvest was

reported from 1985 to 2001 (Zadina 2002, pers. comm.). From 2002 to 2007, eight steelhead have been reported on State subsistence fishing permits in the Southeast Area (Kelley 2008, pers. comm.).

Sport Harvest

From 1989 to 1994, the average reported steelhead harvest was 812 per year for POW with no required harvest reporting (Howe et al. 2001). Since the more restrictive sport fishing regulations went into effect in 1994 the reported harvest of steelhead in the sport fishery has been relatively small on POW. The average steelhead harvest from streams on POW from 1995 to 2004 was 34 per year (Jennings et al. 2007). Sport harvested steelhead must immediately be recorded in ink on the back of the fisher's fishing license.

Effects of the Proposal

If this proposal were adopted, it would add the requirement in regulation to immediately record the harvest of steelhead on the Federal subsistence fishing permit for the spring and winter POW/Kosciusko subsistence steelhead fisheries. Although some subsistence users may feel immediate recording is an undue burden, it should provide for increased accountability of steelhead harvest within these fisheries, and will ease law enforcement concerns.

OSM CONCLUSION

Support Proposal FP15-16 **with modification**. The modification will change terminology of the regulatory language ("taken" is changed to "harvest") and will clarify that the harvest recording must occur immediately follow the harvest of a steelhead.

The modified regulation should read:

> *§___.27(i)(13) (xvii) You may take steelhead trout on Prince of Wales and Kosciusko Islands under the terms of Federal subsistence fishing permits. You must obtain a separate permit for the winter and spring seasons.*
>
> *(A) The winter season is December 1 through the last day of February, with a harvest limit of two fish per household. However, only 1 (one) steelhead may be harvested by a household from a particular drainage.* ***Steelhead must be recorded on the Federal subsistence fishing permit immediately upon harvest.*** *You may use only a dip net, handline, spear, or rod and reel. You must return your winter season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.*
>
> *(B) The spring season is March 1 through May 31, with a harvest limit of five fish per household. However, only 2 (two) steelhead may be harvested by a household from a particular drainage.* ***Steelhead must be recorded on the Federal subsistence fishing permit immediately upon harvest.*** *You may use only a dip net, handline, spear, or rod and reel. You must return your spring season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.*

Justification

The definition of "take" under Federal regulation includes attempting to pursue, capture, kill, etc., modifying the proposed language is necessary. The intent of the proponent was to require immediate record of steelhead harvest,

rather than the act of engaging in subsistence steelhead fishing. Modifying "take" to "harvest" will meet the proponent's intent.

Requiring immediate recording of harvest on the Federal subsistence fishing permit will provide for accountability of steelhead harvest within the winter and spring subsistence steelhead fisheries and ease law enforcement concerns regarding non-reporting. Although current provisions require record of harvest before leaving the harvest site, a change to immediately recording the harvest of steelhead upon harvest should not cause undue burden to subsistence users as they are harvested individually and the household harvest limits within the fisheries and by individual streams are very low. The modification of the proposed language will clarify any ambiguity about this requirement.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southeast Alaska Subsistence Regional Advisory Council

Oppose Proposal FP15-16. The Council previously identified a potential conservation and enforcement issue where fishers are in possession of steelhead yet have not recorded these fish on a subsistence fishing permit because they have not left the fishing location. Although the requirement to record the harvest of steelhead "immediately upon harvest" would not cause any undue burden to subsistence users, the need to change this regulation is not clear. The evidence of a conservation or enforcement concern was not apparent to the Council. The Council determined it was unnecessary to change current regulations at this time and directed the in-season manager to address specific concerns through subsistence fishing permit conditions.

INTERAGENCY STAFF COMMITTEE COMMENTS

FP15-16

The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and Federal Subsistence Board action on the proposal.

Though this proposal was submitted by the Southeast Alaska Subsistence Regional Advisory Council, the Council does not support it. Instead, the Council would prefer that the in-season manager make the decision on the need for this specific reporting requirement which would be included as a stipulation on the harvest permit. The in-season manager for the current season (2014) has made the modification, as in the proposal, on the permit.

FP15-17 Executive Summary	
General Description	Proposal FP15-17 seeks to close the Federal public waters in the Makhnati Island area near Sitka to the harvest of herring and herring spawn except for sport and subsistence herring harvest and subsistence harvest of herring spawn. *Submitted by the Sitka Tribe of Alaska.* After conferring with the proponent, the revised proposal as analyzed seeks to close the Federal public waters in the Makhnati Island area near Sitka to the harvest of herring and herring spawn except by Federally qualified subsistence users.
Proposed Regulation	*§___.27(i)(13)(xx) The Federal public waters in the Makhnati Island area, as defined in §___.3(b)(5) are closed to the harvest of herring and herring spawn except by Federally qualified subsistence users.*
OSM Conclusion	**Oppose**
Southeast Alaska Subsistence Regional Advisory Council Recommendation	**Support FP15-17 with modification** to close the Federal Public Waters of Sitka Sound to the harvest of herring with the use of commercial herring purse seine gear. The modified regulation should read: §___.27(i)(13)(xx) The Federal public waters in the Makhnati Island area, as defined in §___.3(b)(5) are closed to the harvest of herring with the use of commercial herring purse seine gear.
Interagency Staff Committee Comments	See comments following the analysis.
ADF&G Comments	Official State comments on select proposals will be provided as a supplement at the meeting.
Written Public Comments	**2 Oppose**

STAFF ANALYSIS
FP15-17

ISSUES

Proposal FP15-17, submitted by the Sitka Tribe of Alaska, seeks to close the Federal public waters in the Makhnati Island area near Sitka to the harvest of herring and herring spawn except for sport and subsistence herring harvest and subsistence harvest of herring spawn.

DISCUSSION

Title VIII of ANILCA provides that lands (and water) can be closed to non-subsistence uses to provide for the subsistence priority. However, Title VIII, associated regulations and case law do not provide the ability for the Federal Subsistence Program to regulate among the non-subsistence uses. After this was explained to the proponent, a request was made to alter the original proposal language. The revised proposal that was analyzed seeks to close the Federal public waters in the Makhnati Island area near Sitka (**Maps 1 and 2**) to the harvest of herring and herring spawn except by Federally-qualified subsistence users.

Map 1. Sitka Sound and vicinity

Map 2. Approximate Federal jurisdiction boundary of the Makhnati Island Federal Public Waters

The proponent believes a closure of these waters is necessary to provide a more reasonable opportunity for harvest by Federally qualified subsistence users to meet their subsistence needs. The proponent states that subsistence users have been unable to harvest the amount necessary for subsistence (ANS), as set by the Alaska Board of Fisheries, for more than half of the years since harvest surveys were initiated in 2002.

The proponent also believes the Sitka Sound herring stock is depleted and that the proposed closure would help protect the stock. The proponent states that scientific evidence and traditional ecological knowledge support the fact that herring populations in southeast Alaska, including Sitka Sound, were much larger prior to the existence of commercial herring fisheries. The proponent believes that the Alaska Department of Fish and Game (ADF&G) is currently managing a depleted herring stock in Sitka Sound, due to a shifted population baseline, resulting in substantial negative impacts to subsistence users. The proponent believes that fisheries managers are basing the perceived health of the stock on population numbers since the 1970s and not the true historical population.

The proponent believes that herring have not consistently spawned in traditional subsistence areas. The proponent states that traditional ecological knowledge and local observation support that the commercial harvest of herring displaces subsistence users from traditional harvesting sites; disrupts herring spawning, leading to poor quality deposition of herring eggs at traditional sites; causes herring to spawn away from subsistence sites; and may seriously reduce the biomass of spawning herring upon which subsistence users depend.

Existing Federal Regulation

Under existing Federal regulations, all rural residents of Alaska are eligible to harvest herring and herring spawn

from Federal public waters in southeast Alaska. There are no closed seasons, harvest limits or closed areas in regulation.

Proposed Federal Regulation

36 CFR 242 and 50 CFR 100

> ***§___.27(i)(13)(xx) The Federal public waters in the Makhnati Island area, as defined in §___.3(b)(5) are closed to the harvest of herring and herring spawn except by Federally qualified subsistence users.***

Extent of Federal Public Waters

For purposes of this discussion, the phrase "Federal public waters" is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3.

The Federal subsistence program exerts jurisdiction of approximately 800 acres of marine waters near Makhnati Island as described in §___.3(b)(5) **(Map 2)**. These waters are under the management authority of the Bureau of Land Management however the in-season manager is the local U.S. Forest Service, Sitka District Ranger.

Customary and Traditional Use Determinations

The Federal Subsistence Board (Board) has not made a customary and traditional use determination for herring in this area; therefore, all rural residents of Alaska may harvest herring and herring spawn under Federal subsistence regulations in this area.

Regulatory History

Federal regulatory history

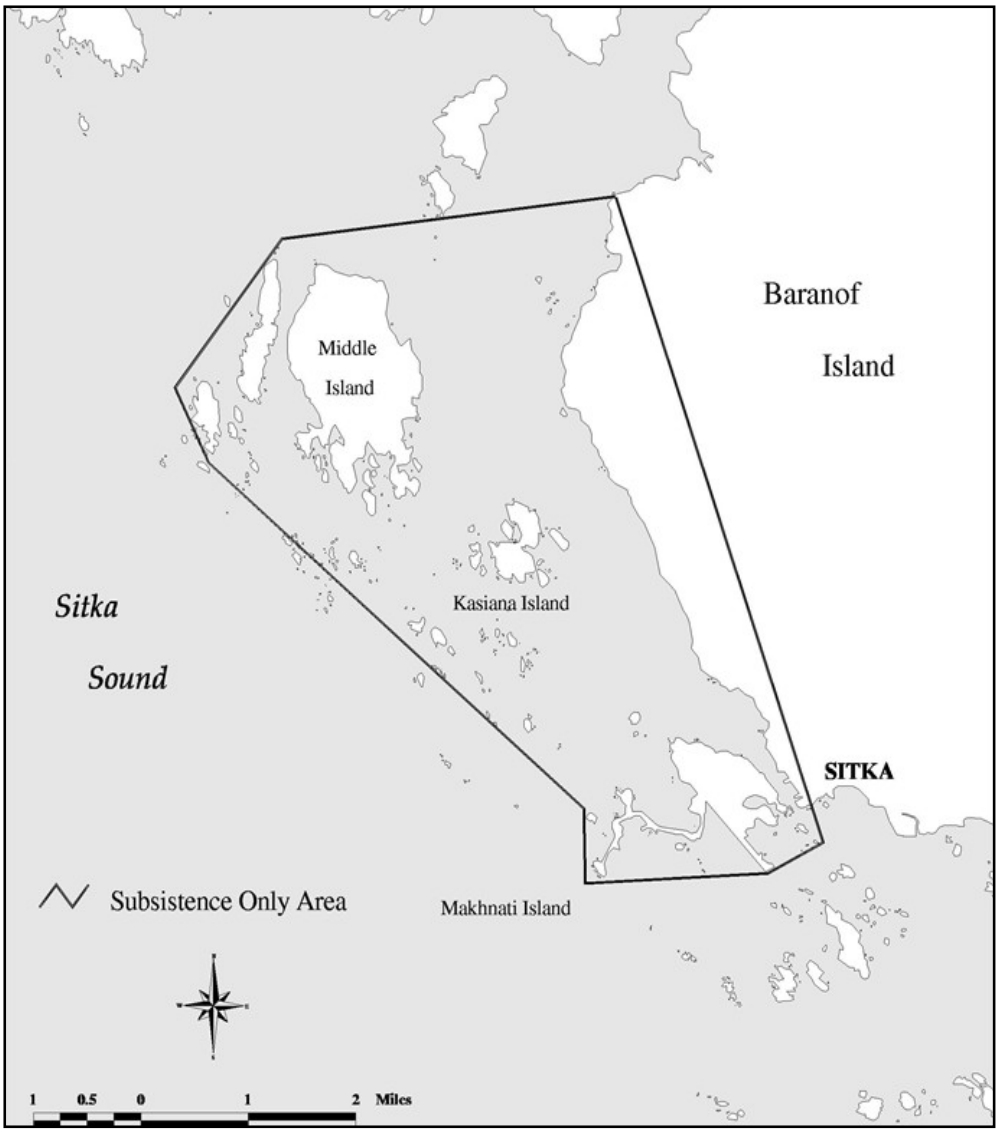
In January 2007, the Board considered two proposals regarding the subsistence herring egg harvest in the Makhnati Federal public waters near Sitka (FSB 2007a). Proposal FP07-18, submitted by the Southeast Alaska Subsistence Regional Advisory Council (Council) and FP07-19, submitted by the Sitka Tribe of Alaska both sought to close the Makhnati Federal public waters to commercial herring fishing during the months of March and April. The proponents believed the closure would be a constructive step toward ensuring adequate subsistence harvests of herring and herring spawn. The Board deferred action on proposal FP07-18 and took no action on FP07-19 (FSB 2007a). The Board asked the Council to form a subcommittee to recommend criteria which would govern decisions to open or close the commercial herring fishery in the Makhnati Federal public waters and possible alternate solutions. Although the subcommittee did not reach consensus on all recommendations, its report was presented to the Council in September 2007. The Council accepted the report and distributed it to the public. At its September 2007 meeting, the Council developed closure language for the Makhnati Island area based on the subcommittee report. The Council recommended the closure of Federal public waters near Makhnati Island to non-Federally qualified subsistence users when the forecast herring biomass is less than 35,000 tons for the Sitka Sound area or when ANS is not met for two consecutive years (SESRAC 2007). In comparison, ADF&Gs herring management plan used a threshold level of 20,000 tons, below which no commercial sac roe harvest would occur. The Board considered the Council's recommendation during a December 2007 public meeting as part of proposal FP07-18. Following considerable oral testimony from Tribal representatives, professional managers and staff, the Board rejected the Council's recommendation. The Board's rationale was that there was not substantial evidence of a conservation concern or a need for a closure to insure the continuance of subsistence uses (FSB 2007b).

On March 25, 2008, Special Action Request FSA07-03 was received by the Board from the Sitka Tribe of Alaska requesting that the Federal public waters in the Makhnati Island area, as defined in 36 CFR 242.3(b)(5) and 50 CFR §100.3(b)(5), be closed to the harvest of herring and herring spawn except for subsistence harvests by Federally qualified subsistence users from March 24, 2008 through April 30, 2008. The Board responded by letter

dated April 3, 2008 informing the Sitka Tribe of Alaska that the commercial fishery was completed prior to the Board action and consequently the matter was moot.

Also on March 25, 2008 a letter was received by the Secretaries of Agriculture and the Interior (Secretaries) from the Sitka Tribe of Alaska requesting that they exert extra-territorial jurisdiction authority to close the commercial herring fishery in the area shown in **Map 3**. The Secretaries denied the Sitka Tribe of Alaska's request stating they can "only exercise their authority to impose Federal jurisdiction outside of Federal public land under extraordinary circumstances. The threshold for such a decision is extremely high, and is not met in this case. With such a healthy herring biomass, there is clearly no conservation concern with regard to the herring stocks and the associated fishery in Sitka Sound. Given the spawning characteristics of herring, closing State marine waters as is being requested would not significantly increase the likelihood of Federally qualified subsistence users harvesting their desired amounts in the Makhnati Island Federal public waters."

Proposal FP09-05, submitted by the Sitka Tribe of Alaska in 2008, requested the closure of Federal public waters in the Makhnati Island area near Sitka (**Map 2**) to the harvest of herring and herring spawn except for subsistence harvests by Federally qualified subsistence users. In January of 2009 (FSB 2009) and again in January of 2011 (FSB 2011), the Board deferred proposal FP09-05 until no later than the next fisheries regulatory cycle.



Map 3. Area requested of ADF&G by the Sitka Tribe of Alaska to be open only to subsistence uses of herring

In January of 2009, the Board deferred this proposal until the next fisheries cycle to allow the Alaska Board of Fisheries on to act on a variety of proposals that could change State regulations for the Sitka Sound herring fisheries and to obtain results from two research projects.

One project, conducted by Heather Meuret-Woody of the Sitka Tribe of Alaska and Nate Bickford of the University of Great Falls, was based on the use of trace chemical signatures of adult herring otoliths to identify discrete spawning areas within Sitka Sound (Meuret-Woody and Bickford 2009). The Board was particularly interested in whether herring spawning in Federal waters are a distinct population or stock. While the sampling strategy was very limited, the investigators detected a difference between adult herring in Salisbury Sound and Sitka Sound, but not among spawning herring within Sitka Sound, which includes the Makhnati Federal public waters.

The other project, conducted by the Sitka Tribe of Alaska, was designed to determine the amount of subsistence use of herring roe in the Federal public waters near Makhnati Island (Fisheries Resource Monitoring Program project 08-651, Makhnati Island Subsistence Herring Fishing Assessment).

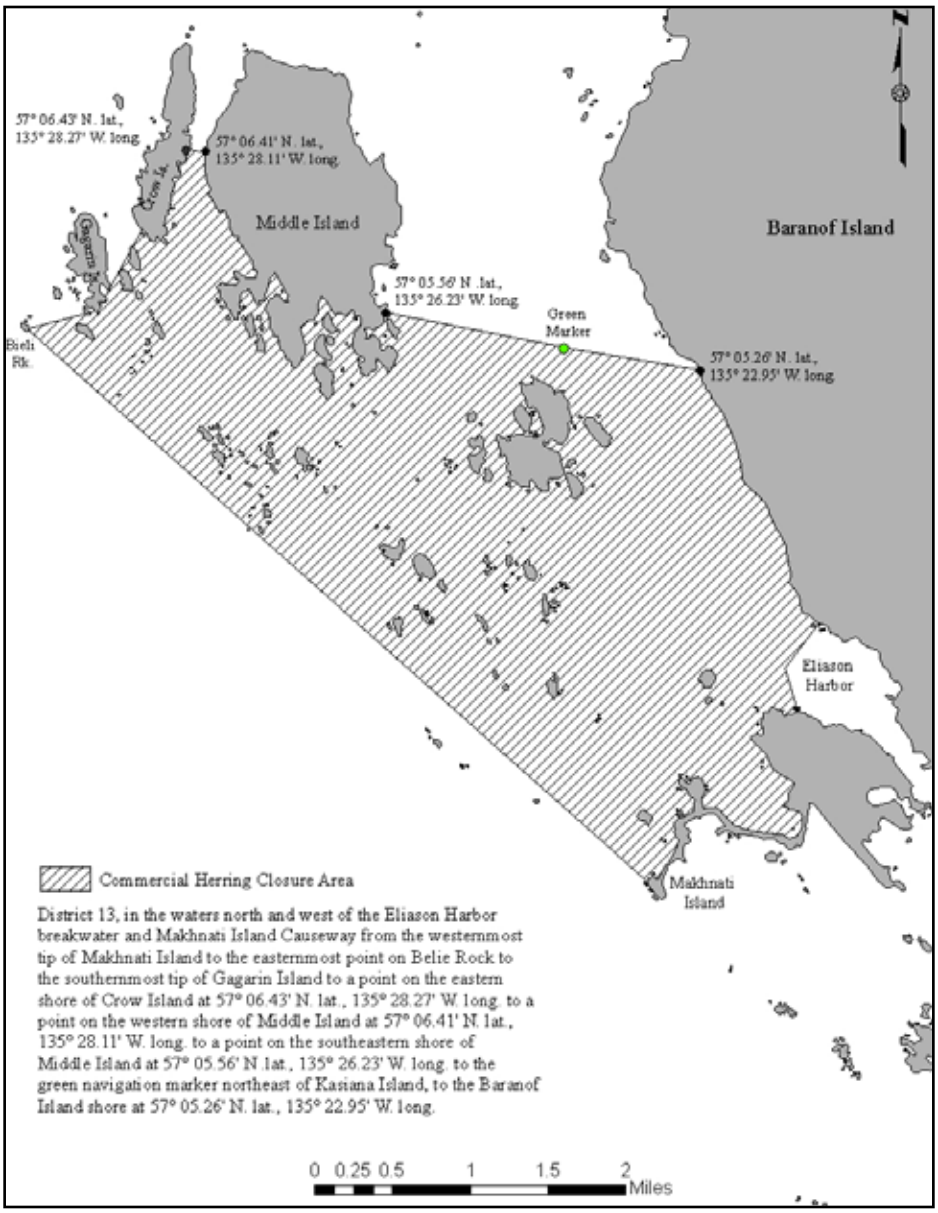
In 2010, immediately prior to the Council meeting, the Sitka Tribe of Alaska submitted a letter to Federal Subsistence Board Chairman Mr. Tim Towarak dated September 21, 2010 requesting FP09-05 be deferred. The Board agreed and deferred the proposal until no later than the next fisheries regulatory cycle. The Sitka Tribe of Alaska cited three reasons for requesting the deferral.

1. The Sitka Tribe of Alaska was conducting a study, commissioned by the Bureau of Indian Affairs, of current herring management in Sitka Sound. However, this study was not peer reviewed for publication and was not anticipated to be ready for review by the Council or by the Board before its January 2013 Board meeting (Feldpausch 2012, pers. comm.) To date, this report has not been peer reviewed.

2. The Sitka Tribe of Alaska wanted results of project 08-651 to be available to the Council and Board. According to Meuret-Woody et al. (2010), "the Makhnati area was once used by many subsistence users, but today is not used as frequently due to the development of the area and the ease of most subsistence herring egg gatherers to harvest in other areas".

3. The Sitka Tribe of Alaska had formed a Herring Planning Research Priority Group, and the work of that group was not anticipated to be ready for review by the Council or by the Board before its January 2013 Board meeting (Feldpausch 2012, pers. comm.) To date, the group has not developed any products or recommendations.

In January 2013 the Board once again considered FP09-05 and rejected the proposal consistent with the recommendation of the Council. The Board's rationale was that since the last deferment in 2011 the Alaska Board of Fisheries took "significant action to reduce conflicts between the purse seine sac roe fishery and subsistence harvesting, including closing a large area important to subsistence harvesting to commercial fishing" (FSB 2013) **(Map 4)**. This closed area already includes a large portion of the Makhnati Federal public waters. The Board also believed that a Federal closure would provide essentially no additional advantage for subsistence users (FSB 2013).



Map 4. January 2012 Board of Fisheries action to create a zone closed to commercial fishing for herring in Sitka Sound that includes part of the Makhnati Federal waters. (Gordon, 2014)

Federal fisheries managers have been delegated the authority to close or re-open Federal public waters to non-subsistence fishing. This delegation may be exercised only when it is necessary to conserve fish stocks or to continue subsistence uses. Although the ADF&G forecasts the herring biomass before the season starts, the actual return and spawning success of herring is not known until after the commercial and subsistence fisheries are completed. Therefore, Federal actions to close waters to non-Federal uses would only take place in years for which the herring biomass was forecasted to be below the threshold needed to support commercial uses. Otherwise, since the commercial fishery usually takes place well before the subsistence fishery, managers would not know that subsistence harvests were poor until long after the commercial fishery ended.

State regulatory history

In response to a poor subsistence herring egg harvest in 2001, the Sitka Tribe of Alaska submitted a proposal to the Alaska Board of Fisheries in 2002. The proposal requested the herring sac roe fishery be dispersed to

avoid concentrating the commercial harvest in traditional subsistence egg harvesting areas. The Alaska Board of Fisheries amended the proposal by removing a suggested requirement for a subsistence permit for all subsistence harvest in favor of face to face surveys to estimate subsistence herring egg harvest. The Alaska Board of Fisheries also established the ANS for herring roe in Sitka Sound, Section 13-A and13-B north of the latitude of Aspid Cape at 105,000 to 158,000 pounds (5AAC 01.716(7) (b)) (Turek 2003). Regulations limit customary trade in herring roe on kelp (5AAC 01.717 and 5 AAC 01.730 (g)). Other than spawn on kelp, there are no harvest limits for herring or herring spawn. According to the conditions of a herring spawn on kelp subsistence fishing permit, the annual possession limit for herring spawn on kelp is 32 pounds for an individual or 158 pounds for a household of two or more persons. There are no regulations regarding subsistence reporting requirements, or specific allocations for subsistence (Turek 2006).

In November of 2002 a Memorandum of Agreement was signed by the Chairman of the Alaska Board of Fisheries, the Commissioner of the ADF&G and the Sitka Tribe of Alaska Chairman. The State and the Sitka Tribe of Alaska agreed to collaborate, communicate, and collect and share data (STA 2006). The Memorandum of Agreement contained provisions for in-season collaboration which included daily contact between the Sitka Tribe of Alaska and ADF&G and stipulated that the Sitka Tribe of Alaska would be consulted as to whether a proposed commercial opening might affect subsistence opportunity. If the Sitka Tribe of Alaska concluded there was a potential for the subsistence fishery to be adversely effected by a proposed opening, the Sitka Tribe of Alaska would provide this conclusion and rationale to ADF&G verbally and in writing. A formal objection to a proposed opening did not necessarily result in a commercial closure, as ADF&G maintained discretion as to whether or not to open the commercial fishery. In June 2009 ADF&G sent a letter to Sitka Tribe of Alaska withdrawing from the Memorandum of Agreement because of the perception that the Sitka Tribe of Alaska had access to information and input into decision making that was not readily available to the general public and other user groups.

ADF&G is required to "distribute the commercial harvest by fishing time and area if the department [ADF&G] determines that is necessary to ensure that subsistence users have a reasonable opportunity to harvest the amount of herring spawn necessary for subsistence uses" (5AAC27.195(a)(2)). Additionally, commercial herring vessels and crew members may not take or possess herring for subsistence 72 hours prior to or following a commercial herring fishing period.

In February 2009 the Alaska Board of Fisheries created new regulations for the Sitka Sound herring fisheries effective beginning with the 2010 season. Descriptions of those actions follow:

1. Section 13-A south of the latitude of Point Kakul (57˚21.75' N. lat) in Salisbury Sound will formally be included in the Sitka Sound sac roe seine area [5AAC 27.110(b)(1)(d)].

2. The mature biomass threshold, below which no fishery would occur in Sitka Sound, was increased from 20,000 tons to 25,000 tons. The harvest rate when the biomass is above 25,000 tons does not change from the harvest rate previously established in regulation except that the minimum harvest rate, when the forecast biomass is at 25,000 tons, will be 12% [5AAC 27.160(g)].

3. The range of the amount of herring roe reasonably necessary for subsistence in Section 13-A and Section 13-B north of Aspid Cape was increased from 105,000–158,000 pounds to 136,000–227,000 pounds [5AAC 01.716(b)].

On February 28, 2012, the Alaska Board of Fisheries passed a regulation to close an area to commercial herring fishing in Sitka Sound [5 AAC 27.150(a)(4)] to "reduce perceived conflict between the commercial fishery and the subsistence fishery" (Thynes et al. 2013). The area is defined as north and west of the Eliason Harbor breakwater and Makhnati Island causeway from the western most tip of Makhnati Island to the eastern most point on Belie Rock to the southern-most tip of Gagarin Island to a point on the eastern shore of Crow Island at 57˚ 6.430′ W. longitude to a point on the western shore of Middle Island at 57˚ 6.407′ N. Latitude 135˚28.105′ W. longitude to a point on the southeast shore of Middle Island at 57˚5.557′ North latitude 135˚26.227′ W. longitude to the green day marker northeast of Kasiana island, to the Baranof Island shore at 57˚5.258′ N. latitude, 135˚ 22.951′ W. longitude **(Map 4).**

Biological Background

The following is excerpted from the ADF&G Wildlife Notebook Series (ADF&G 2000):

> Pacific herring generally spawn during the spring. In Alaska, spawning is first observed in the southeastern archipelago during mid-March. Spawning is confined to shallow, vegetated areas in the intertidal and subtidal zones.
>
> The eggs are adhesive, and survival is better for those eggs which stick to intertidal vegetation than for those which fall to the bottom. Milt released by the males drifts among the eggs and fertilizes them. The eggs hatch in about two weeks, depending on the temperature of the water.
>
> Herring spawn every year after reaching sexual maturity at 3 or 4 years of age. The number of eggs varies with the age of the fish and averages 20,000 annually. Average life span for these fish is about 8 years in Southeast Alaska.
>
> Mortality of the eggs is high. Young larvae drift and swim with the ocean currents and are preyed upon extensively by other vertebrate and invertebrate predators. Following metamorphosis of the larvae to the juvenile form, they rear in sheltered bays and inlets and appear to remain segregated from adult populations until they are mature.
>
> Herring are located in distinctly different environments during different periods of the year. After spawning, most adults leave inshore waters and move offshore to feed primarily on zooplankton such as copepods and other crustaceans. They are seasonal feeders and accumulate fat reserves for periods of relative inactivity. Herring schools often follow a diel vertical migration pattern, spending daylight hours near the bottom and moving upward during the evening to feed.

The annual biomass of herring returning to spawn in Sitka Sound (commercial purse seine catch + post season model estimates) has exhibited an increasing trend over the last 34 years of commercial fishing with a decline in 2012 **(Figure 1)**. In 2012 the total estimate of herring biomass returning to Sitka Sound was estimated at 84,435 tons, down from a high of 119,049 tons in 2009. There was a slight increase in 2013 with an estimate of 88,341 tons. The 2014 pre fishery forecast was 81,665 tons (Coonradt 2014).

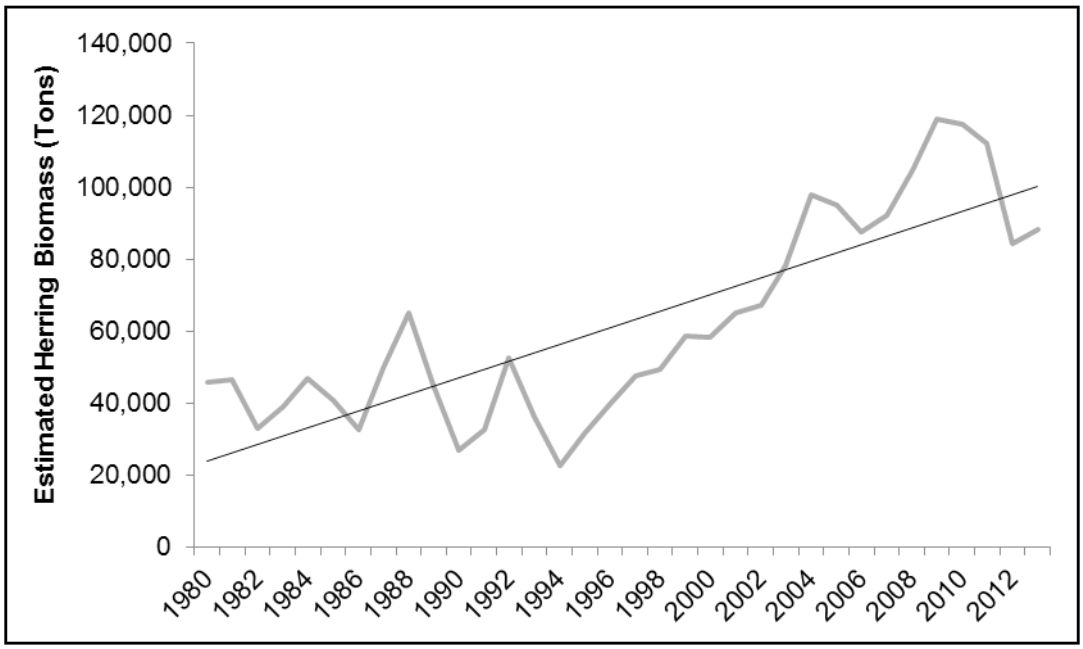


Figure 1. Annual estimated biomass of herring returning to Sitka Sound from 1980 - 2013, with trendline.

Harvest History

Subsistence harvest methods

The subsistence herring egg harvest is a complex and time intensive process. According to Schroeder and Kookesh (1990), this customary and traditional harvest is conducted using a variety of egg deposition strata including hemlock branches and trees, kelp, seaweed and occasionally man-made materials. In the spring (late March–April) seal, sea lion, and sea gull feeding activity are indicators for subsistence harvesters that the herring have arrived in Sitka Sound. There are many "superhouseholds" who harvest herring eggs for multiple households in addition to their own. Herring eggs are a highly valued item in subsistence trade and sharing networks. Detailed examination of the subsistence herring egg harvest is described by Schroeder and Kookesh (1990).

Subsistence harvest

The ADF&G Division of Subsistence conducted research on the subsistence harvest of herring eggs in Sitka Sound as part of household harvest surveys conducted in Sitka in 1997 (ADF&G 2003). At the January 2002 meeting, the Alaska Board of Fisheries requested that ADF&G Division of Subsistence work with the Sitka Tribe of Alaska and conduct harvest surveys for the Sitka Sound herring egg fishery. In 2002 and 2003, the ADF&G provided field survey and interview project support, and data analysis. The Sitka Tribe of Alaska, working with ADF&G staff conducted interviews in person with harvesters and provided harvest data to ADF&G for analysis in 2002 and 2003. Research conducted by ADF&G and the Sitka Tribe of Alaska in 2002 and 2003 produced harvest estimates of the total pounds of herring eggs-on-hemlock-branches and the total pounds of herring eggs harvested on *Macrocystis*, hair seaweed and other substrate. The Sitka Tribe of Alaska also collected harvest data from 2004 through 2013 (STA 2006; Turek 2008 and Thynes 2014). In 2008 the Fisheries Resource Monitoring Program funded project 08-651, Makhnati Island Subsistence Herring Fishing Assessment, to determine the harvest patterns of herring spawn from Federal public waters in Sitka Sound. According to Meuret-Woody et al. (2010), "the Makhnati area was once used by many subsistence users, but today is not used as frequently due to the development of the area and the ease of most subsistence herring egg gatherers to harvest in other areas".

Subsistence users are allowed to harvest herring and herring eggs anywhere in and around Sitka Sound. The location and intensity of herring spawn in Sitka Sound varies from year to year. From 1980 to 2014, the amount of spawn deposition has varied from 37 to 104 nautical miles averaging 59.4 nautical miles. Spawn deposition is more consistent in some areas, but spawning is not assured in any specific area every year. Some spawn and

subsistence harvest occurs within Federal public waters in most years. However, where people harvest herring eggs is ultimately determined by where the herring spawn. In 2014, the observed spawn deposition was quite extensive in the preferred subsistence harvest areas **(Figure 2)**.

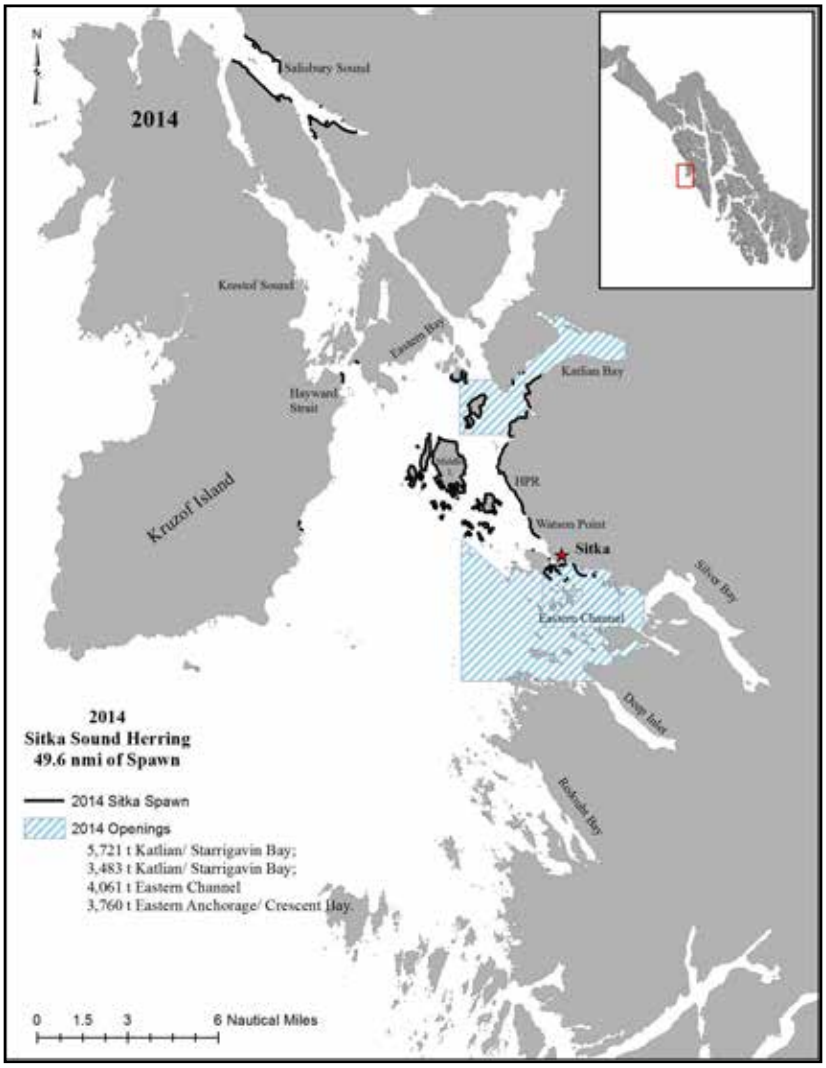


Figure 2. Cumulative herring spawn and commercial openings in Sitka Sound, 2014. (Coonradt 2014)

For the available years of data (2002–2013), the average annual total harvest of eggs in Sitka Sound on all substrates was 160,735 pounds (**Table 1)**. When compared to the amounts necessary for subsistence established by the Alaska Board of Fisheries, reported harvest indicates that subsistence needs were not met in 2005, 2007, 2008 and 2011-2013 (Holen et al. 2011; Coonradt 2014**).** There is a positive correlation between the number of households harvesting herring roe annually and the total annual roe harvest **(Figure 3)**. In recent years there has been a decline in participation that may have contributed to the decline in total annual roe harvest **(Table 1)**.

Table 1. Subsistence harvest of herring roe on all substrates in Sitka Sound, 2002-2013, compared with minimum Amounts Necessary for Subsistence as set by the Alaska Board of Fisheries (Coonradt 2014).

Year	Number of Households Harvesting	Total Roe Harvest (lbs.)	ANS minimum (lbs.)
2002	77	151,717	105,000
2003	116	278,799	105,000
2004	118	381,226	105,000
2005	95	79,064	105,000
2006	88	219,356	105,000
2007	81	87,211	105,000
2008	54	71,936	105,000
2009	91	213,712	136,000
2010	40	154,620	136,000
2011	53	83,443	136,000
2012	47	115,799	136,000
2013	50	78,090	136,000
2014	Pending	Pending	136,000
Average	**76**	**159,581**	

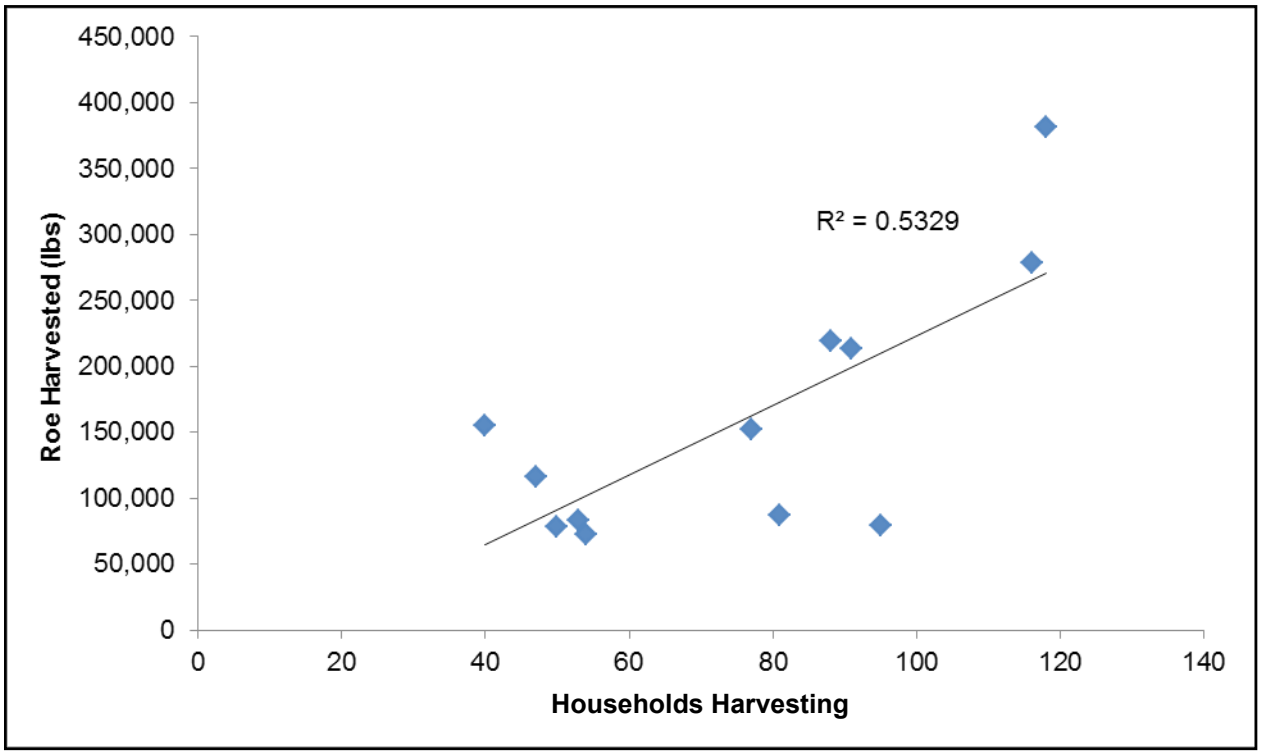


Figure 3. Plot illustrating the relationship between the number of households harvesting herring roe and the total subsistence herring roe harvest, 2002-2013.

Commercial harvest

The following is excerpted from Woodby et al. (2005):

> Sac roe fisheries harvest herring just before spawning using either purse seine or gillnet. The roe is salted and packaged as a product that sometimes sells for over $100/lb ($220/kg) in Japan. In recent years the Alaska sac roe harvest has averaged about 50,000 tons (45,500 mt), almost all of which ends up in the Japanese marketplace.

The Southeast Alaska Sac Roe Herring Fishery is managed by ADF&G under a management plan (Thynes et al. 2013). **Table 2** displays the fisheries statistics for the Sitka Sound commercial sac roe herring fishery from 1980 through 2013 (Coonradt 2014). Although the guideline harvest level (GHL) for forecasted biomasses above 45,000 tons is 20%, the commercial fishery rarely reaches that level of harvest. The forecasted annual biomass has been greater than 45,000 tons 16 of the last 34 years and the commercial harvest during those years averaged 15.8%. Between 2004-2013 when the forecasted biomass has been greater than 45,000 tons and the GHL has been 20%, commercial harvest has averaged 12.7%.

Table 2. Commercial sac roe herring harvest and herring spawn information, Sitka Sound 1971-present (Coonradt 2014).

Sitka Sound Herring Sac Roe Fishery Data - 1971 to Present

Year	Forecast Biomass	Quota (tons)	Sac Roe Harvest (tons)	*Model Current Year ASA Estimated Post-Fishery Biomass (tons)	Harvest + Post-fishery biomass	Actual % commercial harvest of pre-fishery biomass estimate	Roe Percent	2 Hr Notice In Effect	Fishing Dates	Exvessel Value (millions)	Price per Ton	Date of First Spawn	Nautical Miles of Spawn
1971	-	750	278				8.3		-			6-Apr	9
1972	-	850	603				-		-			28-Apr	14
1973	-	600	537				8.5		-			11-Apr	10
1974	-	600	712				12.0		-			13-Apr	10
1975	6,400	550	1,484				11.0		-			18-Apr	8
1976	7,300	780	795				10.2		4/16			15-Apr	13
1977	5,650	0	0				-		-			8-Apr	11
1978	4,500	250	238				11.0		4/5			8-Apr	13
1979	20,300	2,000	2,559				9.3		4/12			13-Apr	41
1980	39,500	4,000	4,445	41,409	45,854	9.7%	10.8	9AM, 4/4	4/4, 4/5	$2.15	$483.69	3-Apr	63.0
1981	27,000	3,000	3,506	43,004	46,510	7.5%	11.0	10PM, 3/23	3/24, 3/26	$2.38	$678.84	22-Mar	60.0
1982	30,000	3,000	4,363	28,475	32,838	13.3%	11.7	2AM, 3/26	3/30	$3.20	$733.44	24-Mar	40.8
1983	32,850	5,500	5,416	33,718	39,134	13.8%	11.1	4AM, 3/23	3/26, 3/29	$5.03	$928.73	21-Mar	68.0
1984	30,550	5,000	5,830	41,012	46,842	12.4%	11.1	10PM, 3/22	3/26 - 3/28	$3.73	$639.79	21-Mar	65.0
1985	38,500	7,700	7,475	33,413	40,888	18.3%	11.3	6AM, 3/24	3/29, 4/1, 4/5	$7.88	$1,054.18	29-Mar	60.5
1986	30,950	5,029	5,443	27,128	32,571	16.7%	11.9	7AM, 3/28	4/2, 4/8	$7.41	$1,361.38	27-Mar	51.6
1987	24,750	3,600	4,216	45,597	49,813	8.5%	9.9	7AM, 3/23	3/31	$4.40	$1,043.64	21-Mar	86.0
1988	46,050	9,200	9,390	55,855	65,245	14.4%	9.5	7AM, 3/25	4/4 - 4/14	$4.17	$444.09	23-Mar	104.0
1989	58,500	11,700	11,831	33,431	45,262	26.1%	9.4	6AM, 3/22	3/31 - 4/8	$1.18	$99.74	19-Mar	65.5
1990	27,200	4,150	3,804	23,217	27,021	14.1%	10.6	6AM, 4/4	4/5 - 4/6	$7.95	$2,089.91	31-Mar	39.1
1991	22,750	3,200	1,838	30,986	32,824	5.6%	8.9	7AM, 3/29	4/10 - 4/13	$0.21	$114.25	1-Apr	44.5
1992	23,450	3,356	5,368	47,177	52,545	10.2%	9.4	8AM, 3/30	4/6	$1.37	$255.22	28-Mar	72.5
1993	48,500	9,700	10,186	26,164	36,350	28.0%	10.7	8AM, 3/26	3/27 - 4/3	$3.48	$341.65	24-Mar	55.3
1994	28,450	4,432	4,758	17,787	22,545	21.1%	11.0	8AM, 3/28	3/29, 3/31	$3.63	$762.93	28-Mar	58.1
1995	19,700	2,609	2,908	28,589	31,497	9.2%	11.8	8AM, 3/23	3/25, 3/27	$3.93	$1,351.44	21-Mar	37.3
1996	42,265	8,144	8,144	31,789	39,933	20.4%	9.6	8AM, 3/23	3/23. 3/31-4/8	$14.35	$1,762.03	22-Mar	45.6
1997	54,500	10,900	11,147	36,446	47,593	23.4%	11.5	2PM, 3/18	3/18-21, 23	$4.73	$424.33	19-Mar	41.0
1998	39,200	6,900	6,638	42,905	49,543	13.4%	10.2	8AM, 3/16	3/16,3/18,3/19	$1.65	$248.57	19-Mar	64.5
1999	43,600	8,476	9,217	49,632	58,849	15.7%	10.7	8AM, 3/19	3/22, 3/24, 3/26-27	$4.91	$532.71	22-Mar	59.5

2000	33,365	5,120	4,630	53,551	58,181	8.0%	9.9	8AM, 3/13	3/19, 3/22	$2.67	$576.67	19-Mar	54.5
2001	52,985	10,597	11,974	53,280	65,254	18.3%	11.3	8AM, 3/15	3/22, 3/26, 3/27	$5.79	$483.55	23-Mar	61.0
2002	55,209	11,042	9,788	57,359	67,147	14.6%	10.9	8AM, 3/25	3/27-4/15	$4.44	$453.62	24-Mar	42.6
2003	39,378	6,969	7,051	71,081	78,132	9.0%	10.7	8AM, 3/20	3/22,3/23,3/26	$3.20	$453.84	23-Mar	47.1
2004	53,088	10,618	10,490	87,505	97,995	10.7%	10.8	8AM, 3/19	3/21,3/25,3/27	$5.16	$491.90	27-Mar	79.8
2005	55,962	11,192	11,366	83,760	95,126	11.9%	11.5	8AM, 3/20	3/23,3/25,3/27-29	$6.12	$538.43	24-Mar	39.5
2006	52,059	10,412	9,967	77,482	87,449	11.4%	10.5	12PM, 3/22	3/24,3/26,3/27,3/29	$2.64	$264.87	23-Mar	57.4
2007	59,519	11,904	11,571	80,786	92,357	12.5%	11.4	8AM, 3/24	3/26,3/30,4/1,4/3	$5.70	$492.60	28-Mar	50.2
2008	87,715	14,723	14,386	90,285	104,671	13.7%	11.5	8AM, 3/24	3/25,3/26,3/31	$8.90	$620.00	27-Mar	55.3
2009	72,521	14,504	14,776	104,273	119,049	12.4%	11.8	8AM, 3/22	3/22,3/24,3/28,3/31,4/2	$12.70	$860.00	2-Apr	65.6
2010	91,467	18,293	17,874	99,489	117,363	15.2%	12.5	12PM, 3/19	3/24,3/27,3/30,4/2	$12.15	$690.00	2-Apr	87.7
2011	97,449	19,490	19,429	92,852	112,281	17.3%	13.3	8AM, 3/28	3/31,4/1,4/4,4/7,4/9	$3.96	$266.00	3-Apr	78.3
2012	144,143	28,829	13,231	71,204	84,435	15.7%	11.8	11AM, 3/27	3/31,4/2,4/7	$8.87	$630.00	31-Mar	55.9
2013	76,988	11,549	5,688	82,653	88,341	6.4%	13.0	11AM, 3/25	3/27,3/28,3/30,4/3	$4.44	$780.00	28-Mar	61.3
Average	**49,415**	**8,966**	**8,475**	**53,626**	**62,101**	**14.1%**	**11.0**			**$5.13**	**$675.06**	**25-Mar**	**59.4**
										2013 exvessel value prelimilary			

*Pre-1980 Estimated Escapement based on either hydroacoustic surveys or applying a conversion of approximately 450-500 tons/nm of spawn
*1980 to present estimated escapement from current year ASA model.

The area where the commercial sac roe herring fishery occurs varies widely from year to year. From 1992 to 2014, the Federal public waters near Makhnati Island have made up part of the areas open to commercial sac roe herring fishing 8 out of 23 years (1993, 1999, 2001, 2003, 2005, 2006, 2011 and 2014). In 1993, the entire area was part of a larger area open to commercial fishing. In 1999, 2001 and 2005, only the Whiting Harbor side (north side) was included and in 2003, 2006 and 2011 only the Nepovorotni side (south side) was included. In 2011 one commercial opening occurred in the southern portion of the Makhnati Federal public waters **(Figure 4)**. In 2012 all commercial sac roe harvest occurred well north of the Makhnati Federal waters **(Figure 5)**. In 2013 one commercial opening included areas adjacent to but not including federal waters while all others occurred away from federal waters **(Figure 6)**. In 2014 the first three commercial openings occurred well north of the Makhnati Federal waters while the fourth and final opening occurred on the south side of the Makhnati causeway including a portion of the Makhnati Federal waters **(Figure 2)**. Since the area of Federal public waters has been part of larger areas open to commercial fishing, there is no way to apportion harvest from only Federal public waters. Most of the commercial harvest has been taken a significant distance away from Federal public waters and traditional subsistence harvest areas yet adequate subsistence harvests, in relation to Amounts Necessary for Subsistence set by the State, were not obtained in 2005, 2007, 2008 and 2011-2013.

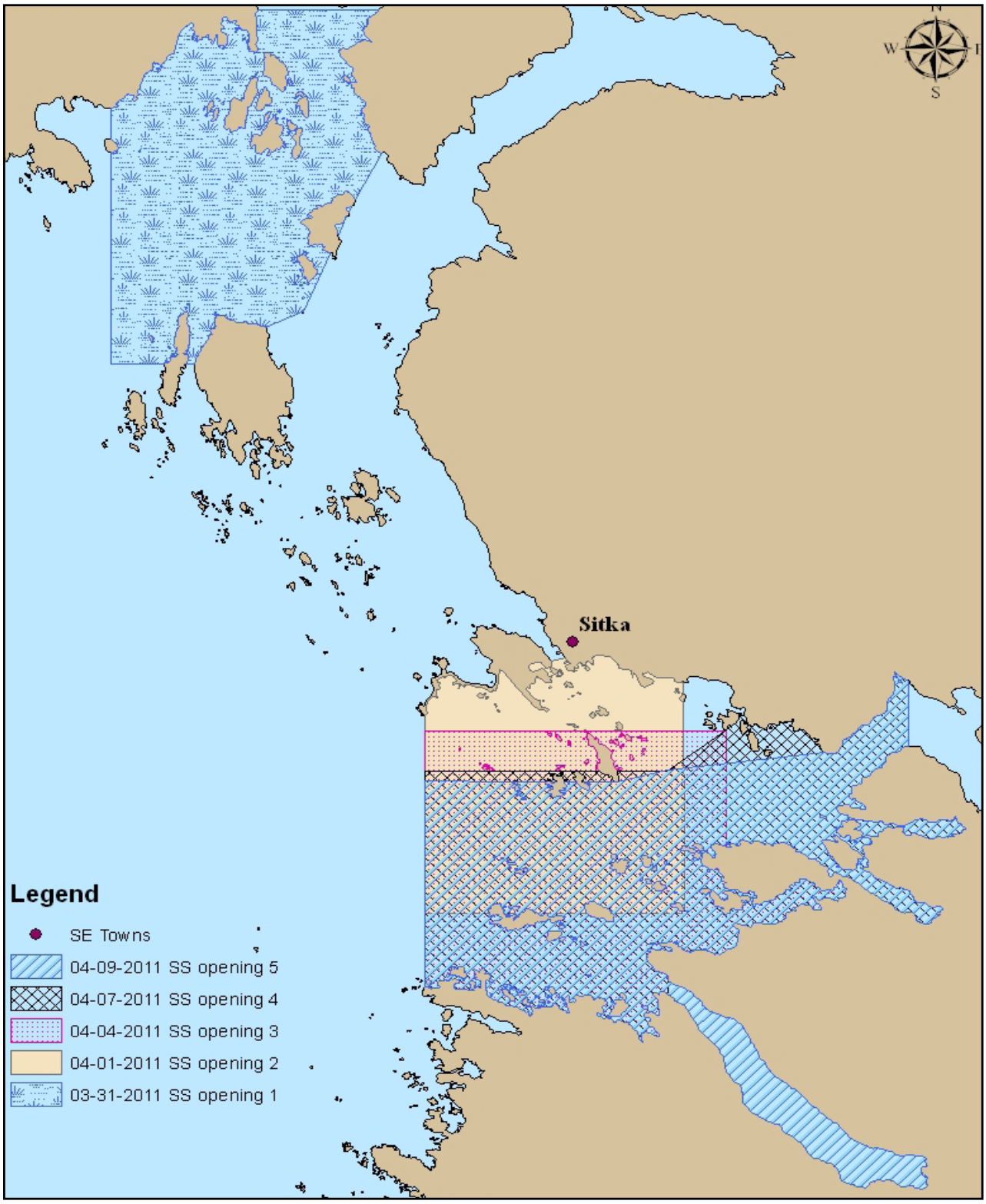


Figure 4. The second opening of the 2011 herring sac-roe fishery encompassing the southern portion of the Makhnati Federal public waters (Coonradt 2011).

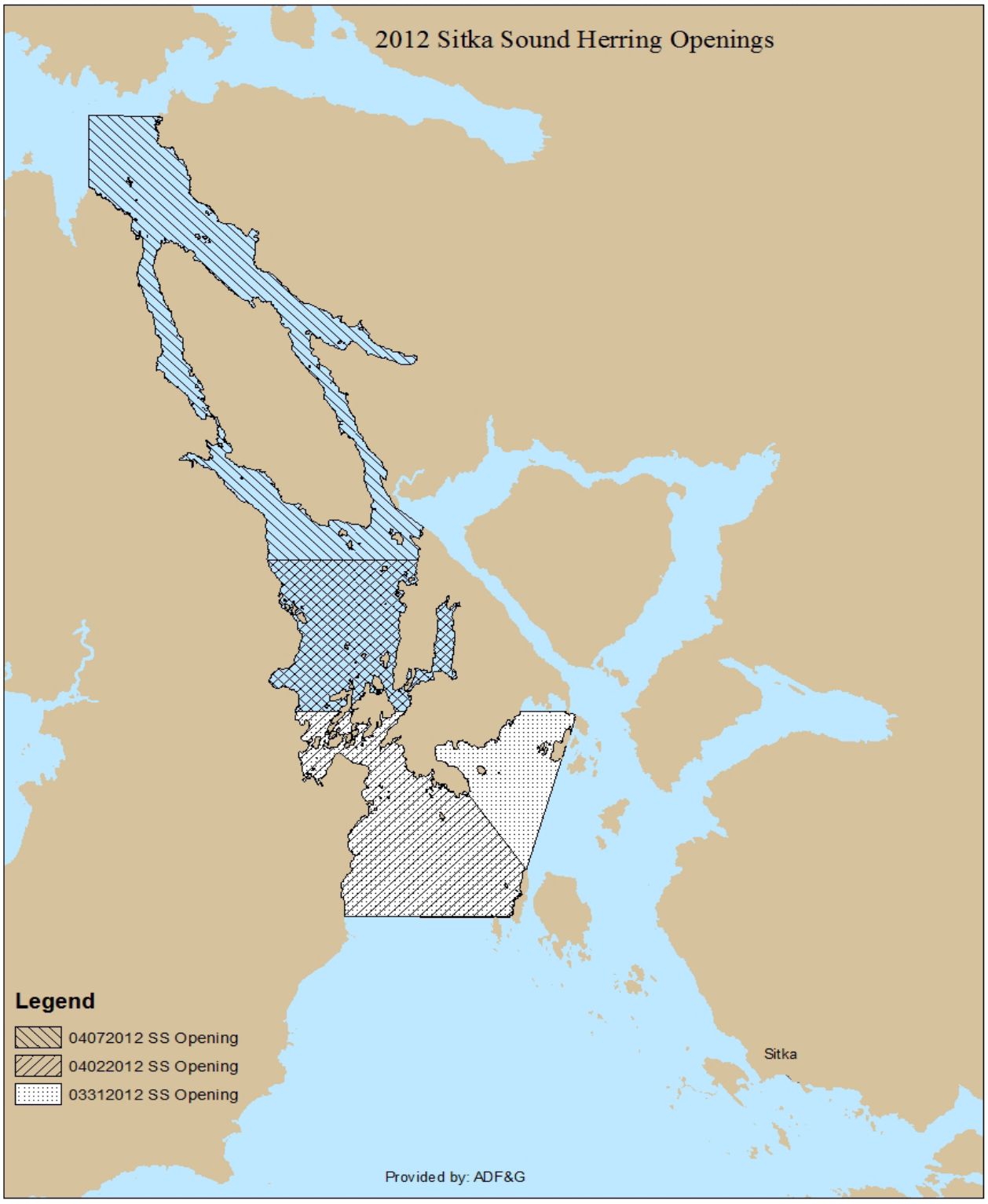


Figure 5. Sitka Sound commercial sac-roe herring openings, 2012 (Coonradt 2012).

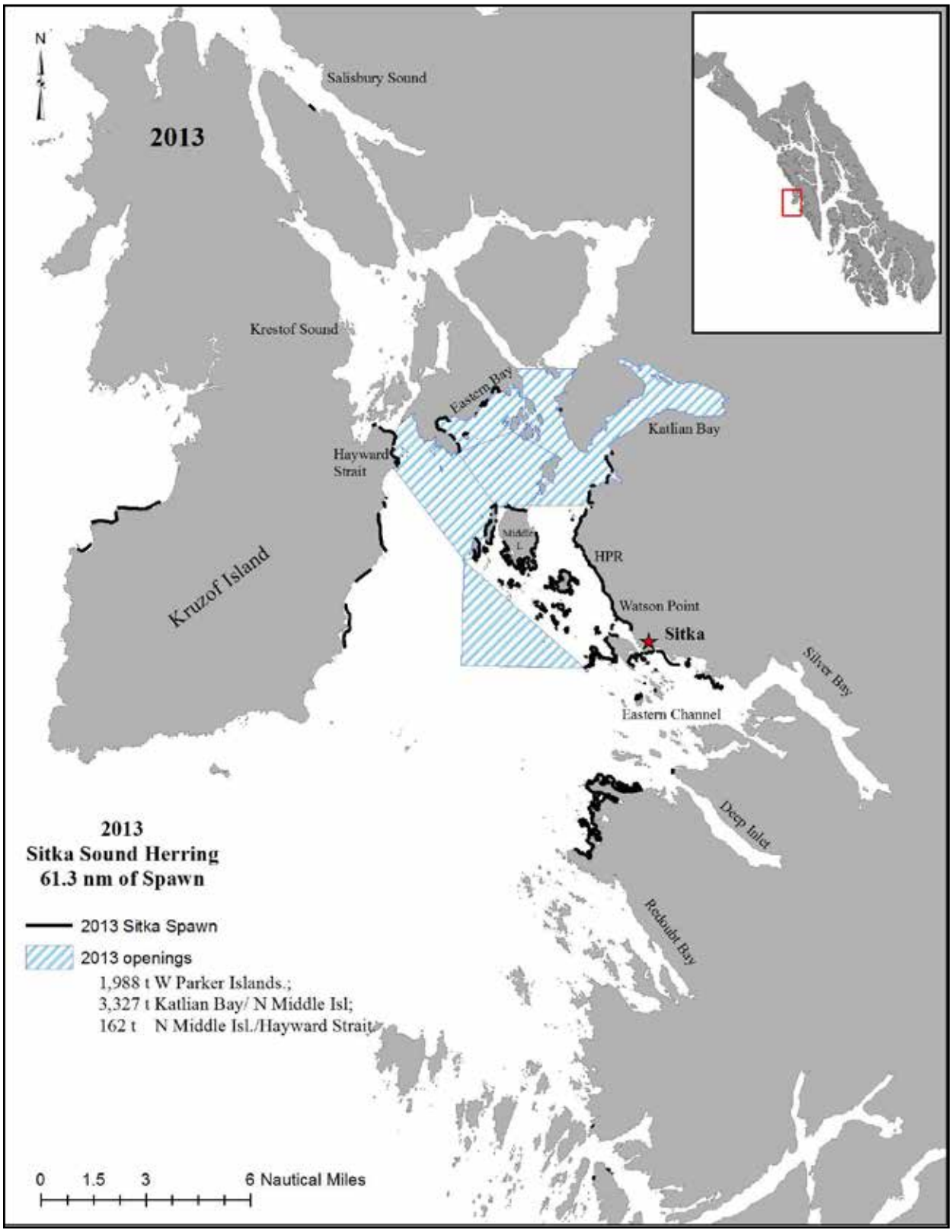


Figure 6. Cumulative herring spawn and commercial openings in Sitka Sound, 2013. (Coonradt 2014)

Effects of the Proposal

If this proposal is adopted it would close the Federal public waters in the Makhnati Island area near Sitka to all uses of herring and herring spawn except for subsistence harvest by Federally qualified subsistence users. All

rural residents of Alaska would be eligible to harvest herring and herring spawn for subsistence purposes, but there would be no State subsistence, sport or commercial harvest in Federal public waters.

According to the ANS set by the Alaska Board of Fisheries, adequate subsistence harvests were obtained in 2002-2004, 2006, 2009 and 2010. In years when subsistence harvests were less than adequate, it is unlikely that a closure to other users in Federal public waters would have made a difference. For example, in the Federal public waters in 2008 and 2012, no commercial harvest occurred and the spawn deposition was extremely minimal; therefore, a closure would not have been effective. Spawn location is a prime factor affecting harvesters' success. Inclement weather, spawn timing, loss of sets, and the amount of participation by high harvesters are other likely contributors to subsistence harvesters not meeting their desired harvest level. The size of the stock, the commercial harvest levels, and the effective dispersion of the commercial fishery necessitates identifying alternative factors responsible for subsistence harvesters not meeting their desired harvest level. Closing Federal marine waters, as is being requested, would do little to help Federally qualified subsistence users meet their desired harvest levels for herring.

Commercial sac roe herring openings rarely include Makhnati Federal Public waters. If this proposal is adopted the possibility remains that commercial sac roe herring openings would occur in adjacent waters potentially harvesting herring that were destined to spawn in Makhnati Federal Public waters. Furthermore, the annual commercial sac roe quota would be unaffected and the fleet may still harvest the full quota in other areas of Sitka Sound. The final spawning destination of herring harvested anywhere in Sitka Sound in the commercial sac roe fishery is unknown. Adoption of this proposal would do little to increase the biomass of herring spawning in Makhnati Federal Public waters or Sitka Sound because the commercial sac roe quota would remain unchanged and there is no way of knowing where the commercially harvested herring were destined to spawn.

OSM CONCLUSION

Oppose Proposal FP15-17

Justification

This proposal is similar to proposals considered by the Board in 2007 and 2013. At both times the Board determined there was no conservation concern in this area for herring and that closing Federal public waters to non-Federally qualified users would not benefit subsistence users. The biomass in Sitka Sound has been trending higher since 1971, and the greatest estimated biomass occurred in 2009. Since 2009 the annual biomass returning to Sitka Sound has remained above 80,000 tons or over three times the 25,000 ton threshold needed to conduct a commercial fishery.

Federal public waters have not been included in commercial openings from 2007 through 2010 and 2012 and 2013. Most of the commercial harvest has occurred well away from Federal public waters and there have been no restrictions on subsistence uses. In years when subsistence harvests were not adequate it is unlikely that a closure to other users in the Makhnati Federal Public waters would have made a difference in the amount of roe harvested for subsistence use.

Recent actions by the Alaska Board of Fisheries have already closed the northern portion of the Makhnati Federal Public waters to commercial sac roe herring fishing. Adoption of this proposal would result in further area closures to non-Federally qualified subsistence users, which do not appear to be needed for either conservation purposes or to protect Federally qualified subsistence uses.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southeast Alaska Subsistence Regional Advisory Council

Support Proposal FP15-17 with modification to close the Federal Public Waters of Sitka Sound to the harvest of herring with the use of commercial herring purse seine gear. There is a conservation concern for the Sitka Sound herring stock and the conduct of the commercial fishery displaces herring that would normally spawn in waters under Federal jurisdiction. Substantial evidence of the need to close all the Federal Public waters in the Makhnati Island area to the use of commercial purse seine gear was provided in public testimony. Specifically:

- Subsistence harvest in Sitka Sound in recent years has been lower.
- Conservation concern with herring stocks in Southeast Alaska.
- Commercial activity near subsistence spawn gathering areas reduces harvest by subsistence users.
- Council noted that if the Alaska Board of Fisheries expands the area closed to commercial sac roe fishing to include the rest of the Federal waters, a Federal closure would not be necessary. The Alaska Board of Fisheries will be deliberating proposals to expand the closed area in February.

The modified regulation should read:

36 CFR 242 and 50 CFR 100

§___.27(i)(13)(xx) The Federal public waters in the Makhnati Island area, as defined in §___.3(b)(5) are closed to the harvest of herring with the use of commercial herring purse seine gear.

INTERAGENCY STAFF COMMITTEE COMMENTS

FP15-17

The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Council's recommendation and Federal Subsistence Board action on the proposal.

Petersburg Vessel Owners Association

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June 11, 2014

Mr. Tim Towerak
Chair, Federal Subsistence Board
Office of Subsistence Management
1011 East Tudor Rd., MS-121
Anchorage, AK 99503

Via email: subsistence@fws.gov

RE: FP 15-13 and FP 15-14: Stikine River Subsistence Chinook, Sockeye, and Coho Regulations and FP 15-17: Fishing District 13, Makhnati Island Herring Regulations

Dear Chair Towerak and Members of the Board,

The Petersburg Vessel Owners Association (PVOA) is a diverse group of commercial fishermen that participate in a variety of fisheries throughout the State of Alaska.

PVOA is in **SUPPORT** of the proposals submitted by both the Petersburg and Wrangell Advisory Committees in regard to the Stikine River fishery, including the 2,000 sockeye cap. We are specifically in support of the need to closely attend nets and prohibit overnight fishing. These two provisions are meant to avoid wastage of fish due to seal consumption as well as dropouts while the nets are unattended. Fishing practices that reduce wastage of fish in fully utilized fisheries should be a primary goal of the Board. We also believe that the US Forest Service should also provide annual estimates of wastage to allow for full accounting of all salmon removals. Wastage in fisheries that are managed under provisions of the Pacific Salmon Treaty may put the Federal government in an awkward conservation negotiating position with Canada.

PVOA is in **OPPOSITION** of proposal FP 15-17 in regard to Makhnati Island herring regulations. We believe that the basic assumption of this proposal, that the Sitka Sound herring stock is depleted is erroneous. We believe that recent spawning biomass and the current commercial harvest regulations have allowed for sufficient opportunity for subsistence harvest of herring eggs.

Thank you for the opportunity to comment on these proposals and your consideration of our concerns.

Sincerely,

Brian Lynch

Brian Lynch
Executive Director

SOUTHEAST HERRING CONSERVATION ALLIANCE

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Sitka, Alaska 99835
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June 11, 2014

Federal Subsistence Board
Office of the Subsistence Management
1011 East Tudor Rd., MS 121
Anchorage, AK 99503
Email: subsistence@fws.gov

Re: Oppose Proposal FP 15-17

Dear Chairman Towarak and Federal Subsistence Board members,

Southeast Herring Conservation Alliance (SHCA) opposes Proposal FP 15-17 for the reasons outlined below. This proposal requests the closure of the marine waters near Makhnati Island to non-federal users.

In March 2012, the State of Alaska Board of Fish closed an area in Whiting Harbor and near Makhnati Island to commercial fishing in recognition of subsistence users. Half of the area requested in proposal FP 15-17 is now closed due to the 2012 Board of Fish action. In addition, the Alaska Board of Fish closed a much larger area that is contiguous with the Makhnati area requested in FP 15-17. This area delineated in attachment B of the proposer, continues north along Kasiana and Middle Islands, where the vast majority of subsistence herring egg harvest occurs, including the 30,000 to 40,000 pounds collected by SHCA and provided to the community of Sitka each year. The Makhnati area is rarely used for collection of herring eggs on branches and therefore not the true purpose of this proposal.

Contrary to the first point in **#3, first paragraph,** the Makhnati area is not where herring spawn in many years and closing it could have a detrimental effect on subsistence harvest by shifting fishing effort toward more important and heavily used subsistence harvest beaches. Reasonable opportunity has been demonstrated the past six years when traditional harvesters working with SCHA boats have harvested 20,000 to 70,000 pounds of herring eggs on branches. Greater effort would yield even larger harvests. Harvests beyond 40,000 pounds satiate the demand we have experienced each year at Eliason Harbor in Sitka; the balance of the eggs collected has been transported to outlining communities from Hoonah to Wrangell. Currently ADF&G manages the fishery in such a way to conduct openings away from or outside the 'Core Area' for subsistence and Makhnati is not in the Core Area.

Paragraph 2 in the section #3: It is true the subsistence survey numbers have not met the ANS number as pointed out by the proposer. There are two serious problems with the 'numbers' used and SHCA's efforts can shed considerable light. The ANS range referenced is 136,000 to 227,000 pounds of herring eggs on branch weight. These weights were not arrived at by actual weight and measures. They are not based on valid scientific or mathematical calculations. Second, the weights harvested each year are based on a survey, not measurement.

In 2009, when SCHA launched its effort to help provide herring eggs to the community of Sitka and learn more about harvesting eggs, we worked with several local egg gatherers that had a long history of working with 'big boat' herring egg harvesters – Enloe, Hamilton, Skeek, Kerr, and others. The SHCA effort differed in one distinct fashion, it employed State certified scales, a strict protocol of weighing methodology, data collection, and data entry including when sets were made, where made, and when harvested. An interesting finding is the traditional harvesters who had been participating in egg collection for 30 and 40 years, estimated the weights as they had always done, but not checked against actual scale weighing. The estimated weight or guesses were found to be 2.5 to 3.5 times the empirical weights. Every branch with herring eggs collected is first weighed at point of harvest from the ocean prior to distribution to the community.

Therefore, it is evident, as in commercial fisheries or sport fisheries that to get valid data there needs to be a systematic protocol if you are to establish defensible regulatory thresholds, and account for actual annual harvests. Even the years cited that the ANS was met are doubtful.

The empirical data derived from herring egg collection using an industrial boat demonstrates that on average it takes a single hemlock tree with a minimum 4 inch bole to yield a thousand pounds of eggs. Weights are not taken until all branches with eggs are cut from the tree bole, with no branch larger than ½" diameter included in the weight measurement. In order to harvest 100,000 pounds it takes a hundred large trees set in correct locations. The participation necessary to yield a hundred thousand pounds or more is not occurring. ADF&G's Subsistence surveys demonstrate a year after year trend of declining participation. This decline was noted as far back as 1985 by researchers Gemelch and Gemelch.

Paragraph 2, last sentence: "destined to repeat itself...." Destiny is not management and this comment by the author is hyperbole. The previous sentence states that the ANS was met 50% of the time in the past thirteen years. The primary reason the 'ANS number' hasn't been met is the number isn't real as referenced above. Further, in SHCA's experience in the past six years if 30,000 to 40,000 pounds of herring eggs are delivered to the dock in Sitka there will be hundreds of visitors that partake in the distribution, but the final few thousand pounds will be difficult to distribute due to meeting the communities needs.

Paragraph 3, "significantly smaller closure area..." Contrary to the proposer's statement, ADF&G staff did not support any area for closure, the record shows they were neutral. The smaller area was a political compromise that the Board of Fish supported on a split vote. It is true FP 15-17 would augment the area of closure but it would not increase subsistence harvest. The core area of Middle Island, Kasiana, and Crow Pass are the areas that consistently produce large quantities of herring eggs on branches because

that is the area where herring have consistently spawned year after year since the 1960s and before. The issue is not the area or the commercial fishery, the issue is low participation. It requires significant effort by many, many participants to harvest over a hundred thousand pounds of herring eggs.

Paragraph 4, "former population levels ...." There was likely a larger herring population in southeast Alaska one hundred and two hundred years ago. The herring reduction plants (1930s) and high seas foreign fleets (1950s & 60s) were estimated to have taken 130,000 tons annually. Herring populations certainly benefited from industrial whaling in the 18th and 19th centuries when humpbacks and other baleen whales, primary predators, were nearly driven to extinction.

However, we don't manage populations based on their size centuries in the past. Similarly, deer populations continue to have a harvest management plan even though there is good evidence populations were larger prior to logging in the sixties to the eighties. No one is suggesting we cease deer harvest until the old growth returns. Rather, State and Federal managers, manage existing populations on a sustained yield basis. Finally, the Sitka Sound herring population in the mid 1970s was on the order of 5,000 tons and has grown consistently through the years. Currently the population biomass is in the 80,000 ton range or sixteen times the 1970s biomass.

Point 4., paragraph 1 "would only have positive impact on rebuilding the depleted..." The Sitka Sound herring population is not depleted and has shown consistent growth. The ADF&G survey data available in numerous reports, contradict this statement. SHCA's herring eggs on branch harvest data also contradict the statement. Herring eggs have been plentiful in the core area in years when there were commercial harvests (2009 when SHCA collected 70,321 lbs) in the core area and years when there were not (2014 when 41,466 lbs were collected by SHCA).

Point 6., paragraph 1 "impact on sport fishers by increasing prey..." Certainly there is a predator-prey dynamic between herring and Chinook, coho, and halibut. Herring also consume Chinook fry, it goes both ways and generally the State or the Feds do not manage for a single species. To be consistent the proposer might want to consider that sea otters, which Sitka Tribe of Alaska is proposing to kill at a greater harvest rate than current management allows, are responsible for significantly increasing herring spawning habitat in Sitka Sound. The USFWS has called sea otters a keystone species. We believe that is incorrect but the moniker is in their literature. Removal of ocean grazers (urchins in particular) by sea otters in the past twenty years may be contributing to the increase in herring biomass.

The Sitka Sound herring stock remains healthy and robust, and there is no reason or benefit to preclude the herring fishery from the Makhnati area beyond what is already closed. Subsistence needs are being met as evidenced by delivery of herring eggs to the dock in Sitka during 2009, 2010, 2012, 2013, and 2014; seasons when some 30,000 to 40,000 pounds of weighed and measured herring eggs were provided. Each year eggs were delivered to the dock until community members stopped coming. It is important to note that eggs were provided to supplement what individual harvesters gathered on their own, or to people who could not harvest for themselves. Herring eggs on hemlock branches were distributed to anyone that wanted them and denied to no one.

Proposal FP 15-17 is nearly identical to proposal FP 09-05 which has been heard numerous times. We agree with ADF&G's comments of December 2, 2008 and updated on August 31, 2010, pages 122 – 124 in the FSB proposal comment document. No new information has been provided that justifies closing the Makhnati Island area; and therefore the proposal should be denied and no changes made to the federal waters.

Please contact me if you have comments or questions.

Best regards,

Chip Treinen,
President SHCA

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