



***Southeast Alaska
Subsistence Regional
Advisory Council***

**Don Hernandez, Chairman
1011 E. Tudor Road, MS121
Anchorage, Alaska 99503**

**In Reply Refer To:
RAC/SE.23139.DP**

APR 28 2023

Anthony Christianson, Chair
Federal Subsistence Board
c/o Office of Subsistence Management
1011 E. Tudor Road, MS 121
Anchorage, Alaska 99503-6199

Dear Chairman Christianson:

The Southeast Alaska Subsistence Regional Advisory Council (Council) appreciates the opportunity to submit its FY2022 annual report to the Federal Subsistence Board (Board) under the provisions of Section 805(a)(3)(D) of the Alaska National Interest Lands Conservation Act (ANILCA). At its public meeting held on October 25-27, 2022, the Council identified concerns and recommendations for this report. The Council approved this annual report at its winter 2023 meeting. The Council wishes to share information and raise a number of concerns dealing with implementation of Title VIII of ANILCA and the continuation of subsistence uses in the Southeast Region.

1. Transboundary River Mining – Impacts to Subsistence Users

a. Communication to Alaska Lt. Governor and Secretary of State:

The Board in its FY2021 Annual Report Reply requested that the Council resubmit their concerns on transboundary mining in a new letter to the Board, which will then elevate the letter to the U.S. Department of State. The letter contains a request that the U.S. Department of State and the Alaska Lieutenant Governor take the lead in collaborating with Canada to address the impacts of transboundary mining on the Taku, Stikine, and Unuk rivers. The Council continues to receive new information on the impacts of mining on resources utilized by subsistence users, and the Council anticipates that this issue will become more complex in the future. The Council has submitted a follow-up letter to once again voice concerns to those who have the authority to take the action needed to protect the rivers that Southeast coastal communities rely on for sustainable resources.

b. Support of Salmon Beyond Borders Effort:

Most recently, the Council received notification of an effort by Salmon Beyond Borders to ask the current Biden Administration, United State government, Prime Minister Justin Trudeau, and the Canadian government for action on this issue. The Salmon Beyond Borders representative shared resolutions passed in communities across Southeast Alaska over the last year, including Pelican, Petersburg, Sitka, Craig, Wrangell, and Ketchikan. It is a concern for all of Southeast Alaska. In addition to the steps this Council has taken in the past to advocate for protection of Southeast fish and wildlife resources from the negative impacts of largescale mining in the transboundary rivers area, the Council would like to also add its voice to support this movement by Salmon Beyond Border and bring more attention to this crucial issue.

Request to the Board:

- 1) Please keep this Council informed of any responses to the Council's letter to the Board regarding its request that the U.S. Department of State and the Alaska Lieutenant Governor take the lead in collaborating with Canada to address the transboundary mining issue.
- 2) Advise how the Council may proceed in its support of the efforts of Salmon Beyond Borders, within the correspondence policy, with forwarding the transboundary mining concerns to other entities, such as:
 - Secretaries of Interior and Agriculture
 - U.S. Department of State:
 - o Assistant Secretary of State, Oceans and International Environmental Scientific Affairs and Special Envoy for Biodiversity and Water Resources
 - o Director, Office of Canadian Affairs
 - o U.S. International Joint Commission Members (Messrs. Sisson, Yohe, and Corwin)

2. Support awareness for bycatch issues

The Council is aware of the controversial issue surrounding bycatch and is distressed because this issue affects the salmon that our communities depend upon for food, their livelihood, and cultural significance. The Council received testimony at its fall 2022 meeting regarding the inaction by the North Pacific Fishery Management Council (NPFMC) this past June, regarding the bycatch issue. The Council was informed that after days of public testimony at the NPFMC meeting, ultimately there was no additional reduction to the bycatch limits of the trawl fleet and no effort was made to reduce interception. The Council also received a copy of the letter from four other Regional Advisory Councils requesting reduction in Chinook and Chum salmon bycatch in the Bering Sea/Aleutian Island commercial fishery and representation of subsistence resource users on the NPFMC. The Southeast Council would like to lend its support to their fellow Regional Advisory Councils for their specific bycatch concerns and to recognize that, although the problem may vary from region to region, this is a statewide issue.

For Southeast Alaska, one of the bycatch concerns revolves around transboundary mining and the trawl interception of Chinook Salmon in the Gulf of Alaska (of which 45% is believed by some to be Canada fish). It is anticipated that during North Pacific Salmon Treaty discussions, Canada may demand an increase in fish. The Council would also like to see information shared with National Oceanic and Atmospheric Administration – National Marine Fisheries Service (NOAA-NMFS). Even though the management of Halibut does not fall under the jurisdiction of the Board, subsistence users depend on Halibut to supplement their subsistence lifestyle and it would help spotlight the issue of bycatch across all agencies involved in the management of resources, specifically Chinook Salmon and Halibut.

Lastly, the Council wholeheartedly feels that subsistence representation on the NPFMC is vital to ensuring subsistence needs are explicitly considered in the management of commercial fisheries where management actions impact subsistence resources.

Request to the Board: The Council asks the Board to forward the Council's letter in support of the other four Councils' bycatch letter to NOAA-NMFS.

3. Unguided sports fishermen issues

The Council continues to receive information and testimony about the harmful consequences regarding unguided sport fishing. This issue is of such importance that the Council recently recommended that fisheries closures for some Southeast waters (Neva, Kah Sheets Creek) remain in place because of the increased competition with unguided sport fishing. The Council recommendation was based on the years of public testimony that unguided sport fishing is having a significant impact on resources that are used by subsistence users; however, assessing these impacts is difficult.

Through authorities given by the Board, this Council, through its local and regional participation authority in ANILCA §805, has made multiple attempts to address unguided sports fishermen issues through the Alaska Board of Fisheries process, including but not limited to:

- a. 2014: Submitted two State proposals (one for freshwater, one for marine waters) to address abuses to sport fishing bag and possession limits by nonresident anglers and the fear that this is contributing to conservation issues on some streams.
- b. 2017: Submitted two State proposals (#195 & #196) to establish nonresident annual limits for Sockeye Salmon in Southeast Alaska salt and freshwaters and to mandate recording of annual limits (mail-out statewide harvest survey is inadequate)
- c. 2018: Submitted comments on its 2017 State proposals, stating "with the growing number [of] lodges and the 'unguided' skiff rentals, the non-resident angler is taking unaccounted salmon from our streams . . . non-resident anglers have no obligation to report any amount of take . . . the Council feels strongly about this problem and would like the Alaska Board of Fisheries to address this to help make accountability more accurate."
- d. 2019: Comment letter sent to Alaska Department of Fish and Game (ADF&G) in opposition to the State's proposed elimination of the freshwater sport fish guide logbooks program in 2019, stressing the importance of gathering information and monitoring angler activity and fish harvests. The lack of data will be detrimental to management of these resources.
- e. 2020: Submitted State proposal (#143, covering both fresh and marine waters) requesting that all non-resident sport fishermen in Southeast/Yakutat areas be required to complete and submit a logbook of all fish and shellfish harvested with an evaluation of harvest data after six years to determine if the perceived increase in competition or use exists.
- f. 2021: Council's Vice Chair attended Alaska Board of Fisheries meeting to deliver in-person comments on 20 State fish proposals, including the five fish proposals submitted initially by the Council (including #143 mentioned above).

The Council has participated numerous times in the public process to effectuate change, however, the actions of the Alaska Board of Fisheries have not addressed these concerns. The Council remains concerned about the lack of data available to accurately ascertain the impacts to subsistence resources by unguided fishermen. Established limits and improved recordkeeping are sound fish and wildlife

management practices and are consistent with ANILCA Title VIII. The Council feels that absent adequate reporting, the current process of obtaining limited data from unguided fishermen is making resources vulnerable to overharvest by this user group.

Request to the Board: The Council wants to know what other mechanisms could be taken to elevate this important issue. What procedures can the Council take to address sportfishing bag and possession limits and implement harvest data log books? The Council requests the Board's help in identifying other means to collect crucial data required to accurately assess the impact of unguided sport fishing on the resources throughout Southeast Alaska.

4. Commercial fisheries impacts to subsistence fisheries

Council Engagement: The Council remains concerned about limitations on shrimp harvesting set by the State of Alaska under the guise of 'conservation concerns.' The actions by the State in recent years, such as the limit of two five-gallon buckets of shrimp per trip placed on subsistence harvesters, is negatively impacting subsistence users. As mentioned in its FY-2018 Annual Report, there seems to be a reallocation of resources from the subsistence harvester to the commercial industry. This is contrary to Tier II of the State subsistence regulations, which provides that if there is not enough resource to meet everyone's needs, then elimination/restriction starts with other user groups before the subsistence harvest is restricted. Instead of enforcing laws that prohibits illegal use of subsistence harvest, additional restrictions have been placed on the legitimate or legal subsistence harvesters in recent years, making it difficult to meet their subsistence needs.

Impacts created by commercial fisheries on subsistence shrimp continue, and the State should recognize shrimp as a subsistence resource when managing it. This Council continues to support proposals submitted by Southeast communities for commercial closures of shellfish to help protect access to resources vital to subsistence users. The Council has submitted and commented on State proposals and has sent representatives to Alaska Board of Fisheries meetings to deliver the Council's perspective on numerous issues regarding State management in hopes that the State would appreciate the relationship between users and resources. This approach resulted in successful outcome, as mostly recently, the Alaska Board of Fisheries adopted one of the proposals supported by the Council.

Request to the Board: The Council asks the Board to continue its support and funding for the Council's engagement in the State regulatory process, including attendance at Alaska Board of Fisheries/Game meetings.

Research Needed to Document Commercial Fishery Impacts to Subsistence Resources: The Council heard testimony about commercial boats setting crab pots in bays, which negatively affect the amount of crab available for subsistence. According to anecdotal evidence, this practice has been ongoing for several years. The Council would like to know if research can be done to document effects of the commercial fishing fleets on key subsistence resources. It would be helpful to identify the user groups that are setting pots and how much is being harvested so that there can be effective management of the resource. As mentioned previously in this report, the Council has spent a lot of time supporting proposals for commercial closures for shellfish around communities to protect Federally qualified subsistence users' access to subsistence resources; however, further action needs to be taken to document perceived impacts. Additional studies and research may be the only way to gather this data.

Request to the Board: The Council would like to learn of any opportunities through the Federal Subsistence Management Program (FSMP) to document the commercial fishery impacts on subsistence resources and identify available means to gather the data and vital information necessary to effectively manage these resources for all user groups.

5. Youth input/representation on Regional Advisory Councils

The Council has raised the subject of youth engagement with FSMP in its FY-2018 and FY-2019 Annual Reports and would like to reiterate its importance once again. This Council has received public testimony from young people at its meetings for years. Students from the University of Alaska Southeast Procedures and Practicum Class from Sitka have attended the Council meetings for several years and also attended Board meetings to better understand the role that the public has in the FSMP. The Council has enjoyed engaging with these young people and have benefited from their insight on a variety of subsistence, resource, and climate crisis matters. The Council feels it is essential for younger subsistence users to learn about the Federal regulatory process so that this new generation of emerging leaders can understand and participate in the public decision-making process effectively. The Council would like funding to be set aside to support groups of youth, such as the Sitka students, for continued travel and attendance to FSMP meetings.

Further, the Council would like to advocate for a ‘youth representative seat’ on Regional Advisory Councils. This would allow an interested student to participate in the work of his/her Regional Advisory Council. Currently, well-qualified applicants who may, because of their age, have fewer years of experience so far in his/her career/leadership, are unable to compete with the older candidates for a seat on the Councils. Are we ignoring an opportunity to add more generational diversity on the Council, which would help train the next group of leaders and provide additional perspectives? The current Council member selection criteria may be a hurdle for achieving age diversity on the Council, and the Council would like FSMP to remove barriers, as appropriate, to allow for youth engagement in the Regional Advisory Council work.

- 1) *Request to the Board:* Please explore and identify sources for funding student groups to participate in the work of the FSMP, including but not limited to travel and associated costs to attend subject-specific subsistence meetings (such as special actions, etc.), Regional Advisory Council meetings, and Board meetings
- 2) Please explore options for younger people to serve as Council members and/or consider allowing them to participate in a non-voting, developmental position on the Council
- 3) Advise the Council how they may implement youth representation on the Council

The remainder of this report is for informational purposes only and the Council does not require a response; however, the issues are significant and important, and the Board may benefit from this knowledge.

Pursuant to Title VIII §805 and 50 CFR §100.11 (Subpart B of the regulations), the Council wishes to inform the Board of issues/actions by this Council that are not generally addressed by the normal regulatory process, such as:

- An evaluation of current and anticipated subsistence needs of fish and wildlife populations from the public lands within the region;
- A recommended strategy for the management of fish and wildlife populations within the region to accommodate such subsistence uses and needs related to public lands; and
- Recommendations concerning policies, standards, guidelines, and regulations to implement the strategy

6. Meaningful Priority and the Interpretation of ANILCA §804 and §815(3)

At its winter 2023 meeting, the Council formed a working group to draft a position statement on what ‘meaningful priority’ means to the Council as it deals with matters relating to subsistence uses. The Council continues to receive testimony that subsistence users in Southeast communities are not meeting their subsistence needs. The Council has drafted proposals to change State and Federal regulations in a way that would provide meaningful priorities for the subsistence uses of fish and wildlife resources. The Council has observed that the Alaska Board of Game and the Alaska Board of Fisheries oftentimes align their regulations to match those Federal season regulations that provide priorities to Federally qualified subsistence users (for instance, having additional fishing/hunting days in a harvest season). These actions negate meaningful priorities for Federally qualified subsistence users. The Council will explore ANILCA and its legislative history to seek solutions to these actions of aligning State seasons and bag limits for fish and wildlife in an effort to better provide or maintain meaningful priorities to Federally qualified subsistence users, as granted under ANILCA.

The Council will also explore provisions in ANILCA that pertain to providing a meaningful priority to the Federally qualified rural resident through the continuation of subsistence uses. The Board recently rejected three controversial deer proposals that were intended to provide subsistence priorities for Federally qualified subsistence users. One of the Board’s justifications for not providing deference to this Council’s recommendations on these proposals were that there were no conservation concerns for the deer and the proposed regulation changes therefore did not meet the criteria for closures or restrictions to non-subsistence uses.

The Council believes that instead of relying on the ‘conservation concern’ reason for rejecting a Council’s recommendation for restrictions or closures to the harvest of subsistence resources, that the Board should consider the importance of the resource to the subsistence user and this should afford the subsistence users a priority for the resource. ANILCA §804 states that ‘Whenever it is necessary to restrict the taking of populations of fish and wildlife on such lands for subsistence uses in order to protect the continued viability of such populations, or to continue such uses, such priority shall be implemented through appropriate limitations based on the application of the following criteria: (1) customary and direct dependence upon the populations as the mainstay of livelihood; (2) local residency; and (3) the availability of alternative resources.’ Using this criterion, the Council would like the FSMP to recognize that restrictions placed on resources do not hinge solely on the ‘no conservation concern’ argument. The Council believes the intent behind ANILCA §804 was to recognize the strong reliance on fish and wildlife resource for subsistence purposes and to place restrictions on other users appropriately to ensure the continuance of subsistence uses.

The Council believes that the Board, in some instances, did not fully consider §815(3) of ANILCA when it acted on proposals. ANILCA provides a subsistence priority on Federal public lands if:

- It is necessary for the conservation of healthy populations of fish and wildlife;
- To continue subsistence uses of such populations;
- Or for health and human safety reasons

Section 815(3) gives the Board the authority to allow restrictions ‘to continue subsistence uses of such [fish and wildlife] populations,’ but within the FSMP, it has become the norm for subsistence users to have to prove beyond a shadow of a doubt that there is a conservation concern before a restriction to non-subsistence users could take place. On behalf of the subsistence users in Southeast Alaska, the Council would like to advocate the preservation of the ‘continuation of subsistence uses’ and would like to know if specifically including on the criteria of ANILCA §815(3) in its recommendations and justifications would help them be more effective and successful in insuring that the Board considers this prong of ANILCA §815(3) when the Board makes future decisions.

As part of the overall consideration in the ability to continue subsistence uses, the Council also takes note of §801(3). This section provides for the continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska when they are threatened by the increasing population of Alaska, with resultant pressure on subsistence resources, by sudden decline in the populations of some wildlife species which are crucial subsistence resources, by increased accessibility of remote areas containing subsistence resources. The increased competition from non-subsistence hunters and fishers impacts Federally qualified subsistence users’ abilities to continue customary and traditional uses of subsistence fish and wildlife. The intent of ANILCA 801(3), 804, and 815(3) was to grant the Board the authority to deliberate more factors than threats to conservation of species.

Through its working group the Council will draft a position statement letter, similar to its position statement for indigenous co-management support, to outline a Southeast Alaska subsistence users’ comprehensive interpretation of ANILCA Title VIII. The working group and supporting staff will be gathering information and researching legislative history to explore more fully the intent of ANILCA Title VIII as it specifically relates to providing meaningful priority and promoting the continuation of subsistence uses of fish and wildlife resources.

7. Indigenous co-management of resources

The Council continues to support indigenous co-management of subsistence resources and has completed its position statement mentioned in this Council’s FY-2021 Annual Report (previously forwarded to the Board). The Council is excited to hear about co-management opportunities, including those of the Seacoast Indigenous Guardians network and the many projects funded by USDA-Forest Service under the Southeast Alaska Sustainability Strategy. The Council hopes that these types of opportunities will provide long-term community involvement and actual community/indigenous co-management of resources. The Council will continue to support efforts to protect food sovereignty, address climate change, and empower Native Alaskans to collaborate and work with Federal and State groups for resource management.

8. Adaptive management techniques to be used for young growth harvests

The Council would like to encourage the Forest Service to think strategically about young growth harvest and take steps to prevent replication of the conditions that occur during old growth harvest, which

exacerbate landscape management problems. There are initiatives in the Southeast Alaska Sustainability Strategy where it would be pertinent to re-emphasize the importance of strategy once harvest begins again. Timber harvest and young growth management decisions should always consider impacts to wildlife habitat. This has been a longstanding issue. The Council made strong recommendations through the Council's deer working subcommittee on Prince of Wales about 15 years ago, stressing the need for more habitat restoration on the island. Moving forward, especially with the transition from old growth to young growth harvests, the Council would like to see the Forest Service support harvest strategies that improve stands and allow for wood to be taken without further damage to the habitat.

9. Lack of law enforcement for fisheries

The Council has heard concerns from Southeast Alaska subsistence users about the need for enforcement of closures of the subsistence fisheries. There have been numerous observations of Alaska State Troopers, Fish and Wildlife officers, and Forest Service enforcement personnel who are lenient or absent in exercising enforcement for closures in fisheries designated for Federally qualified subsistence users only. The Council's deliberation regarding a closure review for the Neva systems included the reports that non-Federally qualified users are fishing in these closed areas because they know there is no enforcement. This unnecessary competition restricts access to and the number of fish that subsistence users can harvest.

The Council would like to see more effort by the various agency law enforcement entities to protect subsistence fisheries for Federally qualified subsistence users by enforcing Federal fisheries closures. The Council also noted the need for increased interaction between law enforcement officials and subsistence users to establish positive connections between officers and members of the communities.

10. Analyses Content – Improvement Suggestions

The Council would like to offer constructive suggestions for improvements to the analyses prepared for the Council's consideration when performing proposal evaluations.

Declining user-ship: Placing an emphasis on declining user-ship may inaccurately reflect declines in subsistence user effort. For instance, the concept of 'reduced hunters' can minimize or negate a competition issue. If subsistence users are having a hard time meeting their subsistence harvest needs because of competition, they may limit the amount of time they spend in trying to hunt because their likelihood of success is greatly impacted by that competition. The lack of participation is because of competition, not because of interest.

Social Issues Section: The Council encourages analysts to look beyond what seems obvious to describe in the social issues section of the analysis. Subtle issues can be just as important for a Council to consider when evaluating proposals and including a more comprehensive social issues section will aid the Council in reviewing issues holistically.

Research – Data Collection: The Council reminds the Board of the importance of relevant data. The Council would like the Board to consider funding studies to collect data that is relevant to analyses and

critical for the Council to know when providing recommendations on proposals. The Board should consider supplementing data collection through funded research, especially in instances where State data is incomplete or is limited for a specific issue/species.

11. Climate Change

This Council remains concerned about climate change and the effect that global warming, ocean acidification, extreme weather events, and other climate crises have on fish and wildlife resources in Southeast Alaska. The Council has routinely informed the Board of various issues and some of the most recent observations by Southeast subsistence users are:

- Brittle cockle shells – these shells are very thin and break very easy and there has been no explanation
- Water quality – increased temperatures, acidification, something is happening in the ocean
- Spruce beetle, budworm impacts due to warmer summers resulting in tree die-offs
- Scouring of streams due to heavy rainfall – effect on spawning beds and fry

12. Current Status of Fish and Wildlife Resources in Southeast

Pursuant to ANILCA Title VIII §805, this Council recognizes the importance of providing the Board with regional information so that it can make informed regulatory decisions. This Council continues to routinely report on the status of fish and wildlife populations and the harvests within the region by enclosing the reported harvest of subsistence resources in Southeast Alaska. Please see enclosed population and harvest information on fish and wildlife resources.

The Southeast Alaska Subsistence Regional Advisory Council appreciates the Board's attention to these matters and the opportunity to assist the Federal Subsistence Management Program in meeting its charge of protecting subsistence resources and uses of these resources on Federal public lands and waters. The Council looks forward to continuing discussions about the issues and concerns of subsistence users in the Southeast Alaska Region. If you have any questions regarding this report, please contact me via DeAnna Perry, Subsistence Council Coordinator, USDA – Forest Service, at deanna.perry@usda.gov or 1-800-478-1456 or 907-209-7817.

Sincerely,



Don Hernandez
Chair

Enclosures

cc: Federal Subsistence Board
Southeast Alaska Subsistence Regional Advisory Council
Office of Subsistence Management
Interagency Staff Committee
Deputy Commissioner, Alaska Department of Fish and Game
Special Projects Coordinator, Alaska Department of Fish and Game

Administrative Record