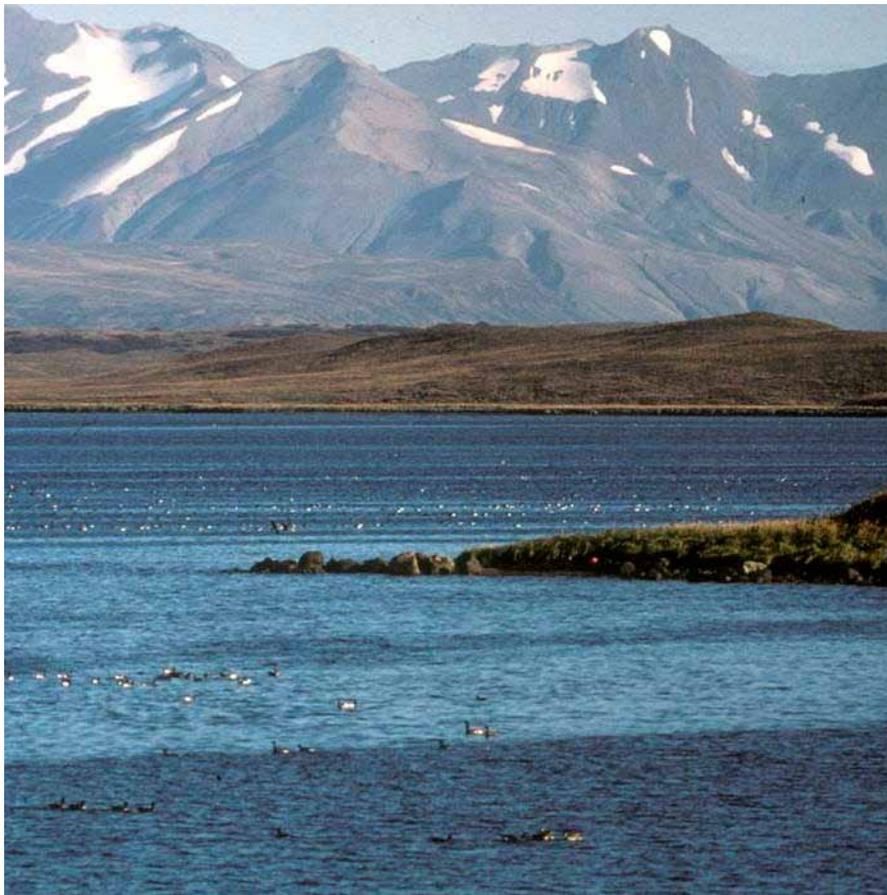


# **KODIAK/ALEUTIANS**

## **Subsistence**

### **Regional Advisory Council**



USFWS

*Izembek National Wildlife Refuge*

## **Fisheries Meeting Materials**

Sept. 23–24, 2010

Cold Bay

## **What's Inside**

Page

<b>1</b>	<b>Agenda</b>
<b>3</b>	<b>Roster</b>
<b>4</b>	<b>Meeting Minutes</b>
<b>18</b>	<b>FP11-11</b>
<b>29</b>	<b>FP11-12</b>
<b>37</b>	<b>FP11-13</b>
<b>55</b>	<b>FP11-14</b>
<b>63</b>	<b>FP11-15</b>
<b>73</b>	<b>Draft 2012 Fisheries Resource Monitoring Priority Information Needs</b>
<b>79</b>	<b>Update on the Brown Bear Claw Handicraft Working Group</b>
<b>83</b>	<b>Briefing on the New Federal Subsistence Permit System</b>
<b>84</b>	<b>Meeting Calendars</b>
<b>86</b>	<b>805(c) Letter</b>

**KODIAK/ALEUTIANS SUBSISTENCE REGIONAL ADVISORY COUNCIL**  
**Cold Bay Community Center**  
**September 23-24, 2010**  
**8:30 a.m. to 5:00 p.m.**

**DRAFT AGENDA**

*The public is invited to testify throughout the meeting. Please complete and submit a testifier's form to the Coordinator. The Coordinator will give your form to the Chair and the Chair will call on you.*

*The meeting will adjourn when business is concluded.*

- 1. **Call to Order (Mitch Simeonoff, Chair)**
- 2. **Roll Call and Establish Quorum (Pat Holmes, Secretary) ..... 3**
- 3. **Welcome and Introductions (Mitch Simeonoff, Chair)**
- 4. **Review and Adopt Agenda (Mitch Simeonoff, Chair) ..... 1**
- 5. **Review and Approve Minutes of March 23, 2010 Meeting (Mitch Simeonoff, Chair) ..... 4**
- 6. **Council Member Reports**
- 7. **Unimak Island—Unit 10 Caribou—U.S. Fish and Wildlife Service Environmental Assessment Discussion (Dave Allen)**
- 8. **Review and Make Recommendations on Fisheries Proposals**
  - Presentation Procedure for Proposals
    - 1) Introduction of proposal and analysis
    - 2) Alaska Department of Fish and Game comments
    - 3) Other Federal, State and Tribal agency comments
    - 4) Interagency Staff Committee Comments
    - 5) Subsistence Resource Commission comments
    - 6) Fish and Game Advisory Committee comments
    - 7) Summary of Written Public Comments
    - 8) Public Testimony
    - 9) Regional Council deliberation, recommendation, and justification
  - FP11-11: Reduce harvest limit of king crab (Steve Fried) ..... 18**
  - FP11-12: Establish harvest limit of herring (Steve Fried)..... 29**
  - FP11-13: Revise harvest limit of salmon (Steve Fried) ..... 37**
  - FP11-14: Clarify use of subsistence caught salmon (Pippa Kenner) ..... 55**
  - FP11-15: Revise fishing times for salmon to align with State regulations (Steve Fried) ..... 63**
- 9. **Fisheries Resource Monitoring Program**

A. Review and Make Recommendations on Priority Information Needs for 2012 Fisheries Resource Monitoring Plan (Steve Fried)..... 73

**10. Draft 2010 Annual Report to the Federal Subsistence Board**

**11. Agency Reports**

A. Office of Subsistence Management

1. Brown Bear Claw Handicraft Working Group Update..... 79

2. Briefing on the New Federal Subsistence Permit System ..... 83

B. Izembek Refuge

C. Kodiak Refuge

D. Alaska Department of Fish and Game

**12. Dates and Locations of Winter 2011 and Fall 2011 Meetings..... 84**

**13. Other Business**

**14. Adjourn**

For further information about this meeting contact Ann Wilkinson at 907-786-3676, 1800-478-1456, or go to OSM website <http://alaska.fws.gov/asm/index.cfm>

Teleconferencing is available upon request. You must call the Office of Subsistence Management at 1-800-478-1456, 786-3888 or 786-36767, at least 72 hours prior to the meeting to receive this service. Please notify the Regional Coordinator which agenda topic interests you and whether you wish to testify regarding it.

The U.S. Fish and Wildlife is committed to providing access to this meeting for all participants. Please direct all requests for sign language interpreting, Computer Aided Real-time Translation (CART) or other accommodation needs to Ann Wilkinson no later than Monday, September 27. Call 1-800-478-1456 or 907-786-3676, fax 907-786-3898, email [ann\\_wilkinson@fws.gov](mailto:ann_wilkinson@fws.gov)

If you need alternative formats or services because of a disability, please contact the Diversity and Civil Rights Manager at (907)786-3328 (Voice), via e-mail at [douglas\\_mills@fws.gov](mailto:douglas_mills@fws.gov), or via Alaska Relay (dial 7-1-1 from anywhere in Alaska or 1-800-770-8255 from out-of-state) for hearing impaired individuals with your request by close of business Monday, September 27.

***Thank you for participating in this public meeting of the Kodiak/Aleutians Regional Advisory Council.***

**KODIAK/ALEUTIANS SUBSISTENCE REGIONAL ADVISORY COUNCIL  
MEMBERSHIP ROSTER**

<b>Seat</b>	<b>Yr Apptd Term Expires</b>	<b>Member</b>	<b>Community</b>
<b>1</b>	2007 <b>2010</b>	<b>Thomas L. Schwantes</b>	Kodiak
<b>2</b>	2001 <b>2010</b>	<b>Patrick B. Holmes</b>	Kodiak
<b>3</b>	2009 <b>2010</b>	<b>Richard Koso</b>	Adak
<b>4</b>	2004 <b>2010</b>	<b>Samuel I. Rohrer</b>	Kodiak
<b>5</b>	1995 <b>2011</b>	<b>Alfred B. Cratty Jr.</b>	Old Harbor
<b>6</b>	<b>2011</b>	<b>Vacant</b>	
<b>7</b>	2008 <b>2011</b>	<b>Alexander Panamaroff, Jr.</b>	Larsen Bay
<b>8</b>	2009 <b>2012</b>	<b>Della Trumble</b>	King Cove
<b>9</b>	2000 <b>2012</b>	<b>Speridon Mitch Simeonoff Sr. Chair</b>	Akhiok
<b>10</b>	2007 <b>2012</b>	<b>Thomas R. Johnson, Jr.</b>	Kodiak

Meeting of the  
KODIAK/ALEUTIANS SUBSISTENCE REGIONAL ADVISORY COUNCIL  
March 23, 2010, Kodiak National Wildlife Refuge Visitor Center

DRAFT MINUTES

ATTENDANCE

Council Members: Sam Rohrer, Speridon M. Simeonoff Sr., Della Trumble, Richard Koso, Alexander Panamaroff, Patrick Holmes. Absent Members: Al Cratty, Tom Johnson

Federal Staff: Michelle Chivers, Stephen Fried, Maureen Clark, and Coleen Brown, OSM; Chris Peterson and Nancy Hoffman, Izembek NWR; Kent Sundseth, Gary Wheeler, and Bill Pyle, Kodiak NWR; Jerry Berg, FWS; Patricia Petrivelli, BIA

State Representatives: George Pappas, Steven Thomson, James Jackson, Jeff Walle, Lem Butler, Susan Schmidt, and Larry Van Daele, ADF&G; Mike Sirochuck, Kodiak State Parks Citizens Advisory Board; Don Fox, Kodiak Fish and Game Advisory Committee

Tribal Government Representatives: Katherine Ellanak, Sunaq Tribe of Kodiak; and Lisa Hupp, Woody Island Tribal Council

Public: Ken Murphy, Dele I (?)

Court Reporter: Salina Hile

**CALL TO ORDER**

Chair Simeonoff called the meeting to order at 9:02 a.m. and asked for the roll call.

**ROLL CALL AND ESTABLISH QUORUM**

Mr. Holmes, Council secretary, called the roll. A quorum was established with six members present and three absent. One seat is vacant.

**WELCOME AND INTRODUCTIONS**

Chair Simeonoff welcomed everyone to the meeting at the new Kodiak National Wildlife Refuge visitors' center. Council members and all others attending the meeting introduced themselves.

**ELECT OFFICERS**

Ms. Trumble moved to retain the current officers and Mr. Rohrer seconded the motion. The Chair asked whether there were any objections to the motion; hearing none, the motion carried. The officers are Mitch Simeonoff, chair; Al Cratty, vice-chair; and Pat Holmes, secretary.

## **REVIEW AND ADOPT AGENDA**

Chair Simeonoff noted that the agenda included a time certain teleconference at 1:00 p.m. concerning the caribou on Unimak Island and an opportunity for public testimony regarding expansion of the airport at Buskin. There were no additions to the agenda.

Mr. Panamaroff moved to adopt the agenda and Ms. Trumble seconded the motion. The Chair called for discussion and asked whether there was any objection to the motion. Hearing no objection, the motion carried.

## **REVIEW AND ADOPT MINUTES**

Mr. Holmes moved to adopt the minutes of the Council's March 31, 2009 meeting and Mr. Rohrer seconded the motion. There were no amendments to the minutes. The Chair asked whether there were any objections to the motion; hearing none, the motion carried.

## **COUNCIL MEMBER REPORTS**

Mr. Simeonoff said he appreciated Gary Wheeler and Tanya Lee visiting the community of Akhiok and spending a day with the kids in the school. Just as the visitors were leaving a blizzard came in. The deer started coming back around the mountain and behind them was a big old boar just following them around. The bear made a bed in front of the ridge. He was a happy bear. It has been a mild winter; the blizzard a couple of weeks ago was the worst of the winter weather. This is not the kind of winter local residents are used to.

Mr. Holmes reported that he has been working with the three local Kodiak tribes on different environmental issues and on the FAA field proposal for the Buskin airport. He said it is quite rewarding to work with the elders. He also wrote a letter recording his observations when he worked in King Cove to support the residents' efforts to get access to Cold Bay.

Ms. Trumble said that people are observing a lot more wolves around King Cove. Growing up we never saw a wolf and now people see them quite frequently. People in the area have been working on the Izembek Refuge environmental impact statement. She was at the hearing in Anchorage and in Washington D.C. That work will continue until the end of April for the five communities in the region. She has been in touch with staff from the Aleutians East Borough regarding matters that Mr. Holmes discussed. They too have had a mild winter.

Mr. Roher had nothing to report.

Mr. Panamaroff stated that he is glad to be on the Council and hopes to contribute. He reported that village people had been telling him of problems with hunters coming right into the village areas and driving game away from where people normally do their subsistence hunting, mostly on Refuge land. This is not only in the Larson Bay area but other communities as well. This forces local hunters to go farther out; they have to take a skiff and travel across one or more bays. There needs to be a buffer zone around the areas where people live. It is getting harder each year to live by subsistence hunting and fishing. Most of the fishing is in State waters; commercial fishers come and fish all the areas right around the villages so people have to go farther away to do their subsistence fishing. He would like some help to fix this problem.

The Chair encouraged Mr. Panamaroff to talk to Refuge staff during a break.

## **REVIEW AND DEVELOP RECOMMENDATIONS ON WILDLIFE PROPOSALS**

### **Proposal WP10-01**

Proposal Analysis: Ms. Brown presented the Office of Subsistence Management analysis of this proposal to add a definition of 'drawing permit' to the Federal subsistence regulations. Because this term is used in hunting regulations a definition should be provided. The proposed regulation would apply statewide. It does not affect fish and wildlife populations or subsistence or other uses of the resources, and would help clarify the regulations. The OSM preliminary conclusion is to support the proposal with modification to state that the permits will be based on a random drawing for all similarly situated Federally-qualified subsistence users.

ADF&G Comment: Mr. Pappas stated that ADF&G has no comments on the five statewide proposals but is collecting input before developing a position.

Interagency Staff Committee Comment: Mr. Berg, ISC member for Fish and Wildlife Service, reported that the ISC reviewed all the statewide proposals and all of its comments were incorporated into the analysis. He offered no additional comments.

There were no further comments brought forward (agency, tribal organization, written public comments, or public testimony).

Council Discussion and Deliberation: Chair Simeonoff opened the floor for Council discussion on the proposal. Mr. Holmes asked whether this would be used when it is necessary to limit the harvest while giving opportunity for people to continue their customary and traditional practices. Ms. Brown concurred and noted that there is currently a drawing permit for a moose hunt in Unit 19A and that there is a proposal to establish a drawing permit hunt in Southeast.

Council Action: Mr. Holmes moved to adopt the proposal with modification described in the OSM analysis. Mr. Panamaroff seconded the motion. There was no discussion on the proposal. The Chair asked whether there were any objections to the motion; hearing none, the motion carried.

### **Proposal WP10-02**

Proposal Analysis: No action is required on this proposal.

Ms. Brown noted that the Board deferred this proposal at its May 2008 meeting and voted to form a working group to develop a method of tracking brown bear claws made into handicrafts for sale. The Board stipulated that the working group would include representatives from all interested subsistence regional advisory councils and Federal and State staff. An initial scoping meeting between Federal and State staff was held in January 2009 and they developed

a draft charge. Councils were briefed during the winter 2009 meeting cycle and council representatives were selected to participate in the working group. The working group met in June 2009. Council representatives questioned whether tracking is a problem and whether the regulations need to be changed. Federal and State staff conducted further research and met twice in summer of 2009 to compare notes and follow-up on research questions. The working group attempted unsuccessfully to meet during the summer of 2009.

Another briefing was provided to the councils during the fall 2009 meeting cycle. The working group will meet during the spring or summer of 2010 to address the questions raised at the first meeting and to work toward resolution of the issues. The working group's findings will be presented to the councils during the fall 2010 meeting cycle. A full report will be provided to the Board for action at its January 2011 meeting and to the Alaska Board of Game at an appropriate meeting.

### **Proposal WP10-03**

Proposal Analysis: Ms. Brown presented the OSM analysis of this proposal which would add a general provision in Federal subsistence regulations to allow the harvest of fish and wildlife by participants in a cultural or educational program. This is a housekeeping measure to clarify and put into regulation the current procedure used by OSM to issue these permits. The OSM preliminary conclusion is to support with modification to read "A qualifying program must have instructors, enrolled students, minimum attendance requirement, and standards for successful completion of the course. Applications must be submitted to the Federal Subsistence Board through the Office of Subsistence Management and should be submitted 60 days prior to the earliest desired date of harvest. Harvest must be reported and any animals harvested will count against any established Federal harvest quota for the area in which it is harvested. Requests for follow-up permits must be submitted to the in-season or local manager and should be submitted 60 days prior to the earliest desired date of the harvest."

Council Discussion and Deliberation: The Council questioned Ms. Brown on each part of the proposed regulation. There was a general discussion regarding the review and evaluation of the original application and the follow-up applications, the 60-day turn around for applications to be approved, how harvest limits are set and by whom. Ms. Brown and Ms. Petrivelli responded to the questions. First-time applications are reviewed by OSM staff and the Interagency Staff Committee to determine whether the cultural or educational program is bona fide and how many animals or fish are requested, then the Board decides whether to approve the permit. The turn-around time can be less than 60 days, sometimes quite quickly, but 60 days allows a close review. Harvest amounts are requested by the applicant and are accepted unless necessary for conservation. Harvest is counted against any existing quota. A program's second through fifth application is processed by the local area manager unless the program has changed significantly to require review by the Board. When the cultural or educational camp involves Federal and State jurisdiction, both agencies will coordinate for the benefit of the camp.

Council Action: Mr. Holmes moved to support with the modification recommended in the OSM

preliminary conclusion. Mr. Panamaroff seconded the motion. The Chair asked whether there were any objections to the motion; hearing none, the motion carried.

#### **Proposal WP10-04**

Proposal Analysis: Ms. Brown presented the OSM analysis of this proposal to remove a number of game management units from the areas for which the assistant regional director for the Office of Subsistence Management has the delegated authority to open, close, or adjust Federal subsistence lynx seasons and to set harvest and possession limits. This is a statewide proposal because all rural residents have customary and traditional use determination for lynx. The OSM preliminary conclusion is to support with modification to delete the regulatory language in Section .26, subsection F.3 and delegate the authority to open, close, or adjust Federal lynx seasons and to set harvest and possession limits for lynx via a delegation of authority letter only.

Council Discussion and Deliberation: Mr. Holmes moved to support with the modification recommended in the OSM preliminary conclusion. Mr. Panamaroff seconded the motion. The Chair asked whether there were any objections to the motion; hearing none, the motion carried.

#### **Proposal WP10-05**

Proposal Analysis: Ms. Brown presented the OSM analysis of this statewide proposal to update, clarify, and simplify the general regulations regarding accumulation of harvest limits for both fish and wildlife. The proposed wording changes retain the general prohibition of accumulations of Federal and State harvest limits and point to unit- and area-specific regulations for details and exceptions. This proposal does not change any unit- or area-specific Federal subsistence regulations concerning the accumulation of harvest limits or the time frame for harvest limits whether it is daily, seasonal, or regulatory year. The OSM preliminary conclusion is to support the proposal.

Council Discussion and Deliberation: Council members discussed with Ms. Brown how this proposed regulation might affect specific hunts in their use areas. Members were concerned about the potential for hunters who use both Federal and State lands to become confused and about enforcement of the regulation. Office of Subsistence Management, Fish and Wildlife Service, and ADF&G staff responded to Council members' questions and hypothetical scenarios.

Council Action: Mr. Holmes moved to support the proposal and Mr. Panamaroff seconded the motion. The Chair asked whether there were any objections to the motion; hearing none, the motion carried.

#### **PROPOSAL WP10-42**

Proposal Analysis: Ms. Brown presented the Office of Subsistence Management analysis of

this proposal would close the Federal season for caribou in Unit 10, Unimak Island, during the fall and winter seasons due to decreased population and low productivity of the caribou herd. Fall composition surveys in 2008 showed an estimated 260 caribou with a bull to cow ratio of nine bulls to ten cows, which is a 71 percent decrease. The primary population limiting factor is insufficient habitat. The 2009 and 2010 population surveys found 400 caribou but no data is available for age or sex composition. The calf to cow ratio in 2009 was seven calves to 100 cows and the recruitment rate has remained insufficient. Population numbers continue to drop. While the onset of plant growing season has advanced in response to warming, the timing of caribou calving has not. There is insufficient vegetation to support calf survival and pregnancy of females. The second limiting factor is predation by brown bear, wolves, and eagles; bears are the most significant predators. A potential third limiting factor could be disease but no disease research has been conducted on Unimak Island. Since 2001 harvest under State general hunt permits has been below 21 animals per year. In 2007, 16 Federal registration permits were issued but only two caribou were reported harvested. The Alaska Board of Game closed caribou hunting on Unimak Island and subsequently the Federal Subsistence Board authorized special actions to close the fall and winter seasons for 2009. The OSM preliminary conclusion is to support this proposal; however, the Refuge manager has recently reconsidered the Refuge's submission of this proposal.

Interagency Staff Committee Comment: Mr. Berg reported that the ISC supported the OSM preliminary conclusion; however, this new information was not available. He worked with the OSM staff and the Refuge manager to draft some alternative language the Council could use rather than just voting the proposal up or down.

Public Testimony: Ruth Hoblet, president, False Pass Tribal Council: Those living on the island have seen an increased number of wolves around, a lot more than they have seen before.

Shane Hoblet, False Pass: The closure is necessary but also need predator control on wolves. He has never seen so many wolves, even right behind his house. Predator control is definitely needed.

Council Discussion and Deliberation: Council members discussed this issue at length, including agency staff and public in the discussion. Ms. Hoffman and Mr. Butler reviewed the population count information for the Council in response to Council member questions.

Ms. Trumble noted that caribou herd declines in the Region have been an issue for 14 years, yet there still is not good data. When she was growing up, people in her area never saw wolves. When she brought this up in 2004, you could see a wolf at 3:00 a.m. on the road by your house. Today you can see them at 1:00 p.m. by the clinic. She stated that the managers need to make a better effort; she is concerned that there still is not better information. She also noted that younger people no longer trap furbearers which is part of the problem; no one is harvesting these animals. It is apparent that a closure is needed but also need a management plan.

Mr. Rohrer stated that when there are only 20 bulls you cannot keep the hunting season open. He noted that for a nearby herd, 20 wolves were killed and the calf to cow ratio went from one calf per 100 cows to 39 calves to 100 cows. He stated that wolf control is necessary here.

Mr. Homes related his wolf sightings in the area over the years and noted that, although brown bears can outrun caribou, it requires more energy than for a wolf, that if habitat were the issue the population would have declined before, and that if it were brown bears, the herd population should have declined before the wolf population increased. He suggested that perhaps the Council should consider a modification to the proposal that would allow the Refuge manager to open or close the hunt, set a quota, and restrict harvest by sex.

Mr. Koso said that he has never seen a bear take a caribou when the salmon are in, but since 2005 he has seen many more wolves on Unimak Island. He also said it is common for caribou to swim across the channel from Unit 9D to Unit 10.

The Council discussed language for a modification to the proposal, population numbers needed to open a subsistence hunt, the possibility of importing bulls from the Southern Alaska Peninsula Herd, and the process of submitting proposals and special action requests.

Council Action: Mr. Holmes moved to support proposal WP10-42 and Mr. Koso seconded the motion. Mr. Koso called for the question and the motion passed unanimously.

#### **Proposals WP10-43/44**

Proposal Analysis: Ms. Brown presented the OSM analysis of these proposals which would close wolf hunting and trapping in Unit 10. Wolves are only found on Unimak Island, except a few that have occasionally migrated to other islands west of Unimak by crossing on ice flows. These proposals would add complexity to Federal regulations with no effect on subsistence users or the resource. If the proposals are adopted, Federal and State regulations would be further out of alignment, and there would be no benefit to the resource. The OSM preliminary conclusion is to be neutral on these proposals.

ADF&G Comment: Mr. Pappas related that wolf distribution is limited to Unimak Island and that, if wolves colonize another island, that island would automatically be open to trapping. These proposals would not benefit wolf conservation or Federal subsistence use of wolves and would make wolf trapping regulations in Unit 10 unnecessarily complicated. State regulations would still allow hunting and trapping of wolves where ever they occur in Unit 10. Therefore, ADF&G opposes these proposals.

Written Public Comment: The Alaska Professional Hunters Association submitted a written statement supporting population control measures that will allow prey species to live within a balance of what their habitats will provide. Wolves have to be managed to provide maximum human benefit from the prey species. This type of management provides the best stewardship possible.

Council Discussion and Deliberation: Ms. Trumble and Mr. Holmes stated that they have never seen or heard of wolves traveling on ice flows in those waters; the waters there are too rough. Mr. Holmes asked whether the proposal could be modified to increase the harvest limit

on wolves and was told by Ms. Clark that such a recommendation would require opportunity for public review since it would be so far from the original proposals. She did agree with Mr. Holmes that a proposal could be submitted during the next wildlife cycle. Mr. Rohrer said, given the circumstances, this to be a waste of paper; he supported modifying the proposal to increase the harvest limit. Ms. Trumble suggested the Council may want to instead write a proposal they know would pass for Unit 10 and Unit 9D.

Council Action: Ms. Trumble moved to oppose these proposals and Mr. Holmes seconded the motion. The Chair asked whether there were any objections to the motion; hearing none, the motion carried.

### **FISHERIES CLOSURE REVIEW**

Office of Subsistence Management Presentation: Mr. Fried briefed the Council regarding the Federal Fisheries Closure Review, FCR10-02. The closures in the Kodiak area are Federal public waters in Womens Bay, Gibson Cove, and near-shore waters around the mouth of the Karluk River, and Afognak Island. These waters are closed to commercial harvest of king crab but open to subsistence users under Federal and State regulations. The original closure was during the 1995/1996 season. State trawl surveys continue to show that the king crab population is nowhere near the abundance threshold that would allow commercial harvest. Subsistence harvests are low, well below 100 per year. The OSM preliminary recommendation is to maintain the closure. Federal harvest limit is six per household per year and the State limit is three per household per year.

Council Discussion and Deliberation: Mr. Holmes noted that Womens Bay is the only place on this end of the island that has any crab left and it is an important nursery area. The most recent trawl survey of the Bay showed that 30 percent of the females only had half-clutches. He would prefer no harvesting in that area, but could compromise to three per household per year. Mr. Fried said that he would need to submit a proposal to do that, which Mr. Holmes agreed to do.

Council Action: Mr. Panamaroff moved to support FCR10-02 and Mr. Holmes seconded the motion. The Chair asked whether there were any objections to the motion; hearing none, the motion carried.

### **AGENCY REPORTS**

Office of Subsistence Management: Ms. Clark noted the letter from Pat Pourchot, Special Assistant to the Secretary of the Interior, which provides a status report of the **Federal Subsistence Management Program review**. Mr. Pourchot will forward the regional advisory councils' concerns to the Secretary.

Council members expressed disappointment that time was not scheduled for the ten councils to review the comments and recommendations before they were submitted to the Secretary. Mr. Holmes talked about the Federal bureaucracy has some built-in logistical difficulties that prevent problem solving at times. He said he will write a letter too, but would like the councils to be able to see the recommendations and comments that were sent to the Secretary. Chair

Simeonoff said he will probably get a copy of the recommendations before the Council's next meeting.

Council Action: Mr. Holmes moved to request that Mr. Pourchot offer the councils and opportunity to review the final recommendations he sent to the Secretary. Mr. Rohrer seconded the motion. The Chair asked whether there were any objections to the motion; hearing none, the motion carried.

Mr. Fried reported on the McLees Lake sockeye salmon project funded through the **Fisheries Resource Monitoring Program**. Funding for the project ended last season and OSM didn't receive any proposals to continue the project. However, since the run continues to be poor and the fisheries managers need the project weir in place and functioning, the Anchorage field office submitted an out-of-cycle proposal for two years of funding. That proposal was approved by the Assistant Regional Director for the Office of Subsistence Management.

Izembek National Wildlife Refuge: Ms. Hoffman presented the biannual report for the subsistence activities on the Refuge. **Unit 9 caribou** were difficult to survey because of the patchiness of snow so they were not able to complete a survey. The Alaska Department of Fish and Game did a composition survey in October and found that the bull to cow ratio has increased to 21 bulls per 100 cows. The calf to cow ratio was 43 to 100, also an increase. The Refuge funded the composition surveys. **Unit 10 caribou** surveys were more successful: they did two multi-day counts in January and one in March. They counted a minimum of 400 caribou on the northern part of Unimak Island but snow and weather conditions on the southern part of the island prevented a survey. In October 2009, ADF&G collared six caribou; five survived the winter.

Three **brown bears** were harvested on Unimak Island in October 2009. Also in October, the Refuge and ADF&G conducted a road hunt at Cold Bay; 16 permits were issued and seven hunters were successful.

The results of the midwinter **black brant** survey conducted in Izembek, the west U.S. coast, and Mexico, are not available yet. There was also a spring 2009 survey of emperor geese and the total was 92,000 birds. Ms. Hoffman summarized count numbers and other statistical data for the geese.

The Refuge continues to collect avian influenza information, but was unable to get information on swans due to weather. Hunters and guides volunteered harvest numbers. The highly pathogenic strain of avian influenza has not been detected in Alaska. 2010 will be the last year for most of the avian influenza sampling.

Responses to Council members' questions: 1) There is no harvest of emperor geese so there is no avian influenza information on them; Canada geese are not sampled either. No surveys were conducted in Mexico last year for fear of hijackers but this year a full survey was done. 2) The Refuge is working with USGS, Humboldt State University, Humboldt NWR, and Agdaagux Tribe to study black brant. The overwintering population is between 30,000 and 40,000 which is a large number of those birds. It is important to study the impacts of that

number of birds on the habitat. The study will include banding birds and sampling. 3) In previous years, insufficient funding precluded caribou surveys but recently the inability to do surveys has been because of weather and lack of snow in some areas. A contractor would not be able to do any better. Rather than only doing a winter count, the Refuge has started doing summer counts as well, which should provide more complete data. The Refuge is also checking into chartering Coast Guard helicopters for caribou surveys and avian influenza work. 4) The Council began questioning Ms. Hoffman and Ms. Brown about Unimak Island caribou. Chair Simeonoff reminded everyone that the discussion would take place when reviewing the proposal.

Kodiak National Wildlife Refuge: Mr. Pyle summarized the Refuge's activity report on wildlife. **Brown bear** surveys on southwest Kodiak Island are conducted in summer and are used to index trends in population composition. The number of females is down by 17 percent. The Refuge is doing a pilot study on bear population in the Karluk Lake vicinity to initiate a full-scale detailed study of bear habitat use and movement patterns. Last year three female bears were monitored; the goal is to collar 20 to 25 bears by early June. This study is in cooperation with the University of Idaho and ADF&G.

In April, the Refuge will conduct mortality surveys for **Sitka black tail deer** in three areas of the island and will continue the harvest assessment survey in cooperation with ADF&G. Those surveys are still coming in.

The **sea otter** critical habitat designation in the Kodiak area has not affected the subsistence harvest of sea otters and there are no anticipated impacts to commercial fishing. The Refuge, with Marine Mammals Management and the National Oceanographic Atmospheric Administration, is providing support for a study of sea otter diet.

The Refuge has been conducting the usual monitoring surveys of **migratory birds**. The **harlequin duck** population has continued to decline in the Uyak Bay area. Staff is trying to determine the cause of this decline and has encouraged hunters to restrict harvest. The Refuge will conduct a **migratory bird harvest survey** in Karluk, Larson Bay, Port Lions, Akhiok, as along the road system. The last survey was conducted in 2006 and the results are on recently available. The report is available on the Alaska Migratory Bird Co-Management Council website.

Mr. Wheeler reported on the Refuge study of Chinook salmon fry in the Karluk River. This year was the first time that this type of sampling has been undertaken. Between April and October staff sampled 23 different river sections. The traps caught 52 juvenile Chinook, 3800 Dolly Varden, 1600 steelhead or rainbow trout, 2500 sockeye, 500 coho, 500 stickleback, two lampreys, and one sculpin. The study will begin this year as soon as the river thaws.

Mr. Pyle introduced Mr. Sundseth as the new deputy Refuge manager and Jason Oles, who is the new Park ranger.

The Old Harbor Tribal Council was awarded a grant under the Fish and Wildlife Service's Tribal-

wildlife grant program to bear-proof the town's landfill and to reduce bear-human conflict. Larson Bay and Port Lions are also working to develop bear-proof landfills. The Fish and Wildlife Service is cooperating with Native corporations and the National Resource Conservation Service to conduct soil surveys on the Refuge this year, specifically in the vicinity of Old Harbor and Akhiok.

Responses to Council members' questions: 1) Distribution patterns of harlequin ducks are influenced by changes in weather patterns, ocean conditions, and food availability. 2) There needs to be discussion regarding the steep decline on harlequin numbers, the impact of guided sport hunting on the population, and the need to document harvests. 3) No permits have been issued to Homer residents and it would be illegal to do so. (A Council member reported that some Homer residents told him that they do their subsistence gathering all summer in northwest Afognak.) 4) The Refuge does not rotate guide areas, but in two years will advertise open competition for guide permits.

Alaska Department of Fish and Game: Mr. Pappas noted that a written report on the Buskin River weir and the Afognak Lake projects is included in the Council's meeting book. Ms. Schmidt reported that although a formal forecast for the Buskin is not yet ready, it looks as though there may be enough fish to reach the lower end of the escapement goal (8,000). Staff does not expect to have any closures to subsistence or sport fisheries; the harvest limit will be two and two in possession. Mr. Jackson reported that the unofficial forecast for Litnik is 36,000 sockeye.

#### HARVEST OF WOLVES IN UNIT 10

Mr. Holmes reminded the Council of his assignment to lead a discussion on the wolf harvest for Unit 10. He noted that the Federal regulations set the annual limit at five wolves and the State regulations allow a daily harvest limit of ten wolves.

Council Motion: Mr. Holmes moved that the Council submit a proposal for rural residents of Unimak Island, Alaska Peninsula, Units 9D, 9E, and 10 may harvest ten wolves per day (or whatever number the Council chooses). He noted that the proposal would eliminate confusion between Federal and State regulations, benefit caribou calf survival, provide materials for handicrafts, and would not impact other users. Mr. Koso seconded the motion.

Council Discussion and Deliberation: Ms. Trumble said that she appreciates the effort to address this issue through a proposal; however, the Council should know that people are not hunting or trapping as they used to do. The cost to go anywhere is extremely high and there is no market for furs.

Mr. Koso stated his support of the motion. He noted that because of the expenses in the region, people limit their trips and stay out for two or three days each time. This way they will be able to attain their normal harvest.

Council Action: Chair Simeonoff asked whether there were any objections to the motion. Hearing no objection, the motion carried.

## CALL FOR FISHERIES PROPOSALS

### King Crab Proposal

Council Motion: Mr. Holmes moved that the Council would submit a proposal to reduce the Federal subsistence harvest regulation for king crab for the Kodiak Management Area from a limit of six per household to a limit of three per household. The motion was seconded by Mr. Panamaroff.

Council Discussion and Deliberation: Mr. Koso asked the origin of the proposal. Mr. Holmes summarized information Dr. Fried presented earlier in the meeting. This proposal would not affect other crab species.

Council Action: Chair Simeonoff asked whether there were any objections to the motion. Hearing no objection, the motion carried.

### Fisheries Proposals from Council

Mr. Holmes suggested three proposals for the Council to submit. The first proposal would align to Federal and State harvest regulations for subsistence harvest of salmon; currently, the State harvest limit is more liberal than the Federal regulations allow. The second proposal would abolish the set fishing times. The third proposal would remove the 500-pound harvest limit for herring so that there would be no limit.

Council Action: Mr. Holmes moved that the Council would submit four proposals: 1) liberalize salmon limits, 2) recording catch, 3) set fishing times along the Kodiak road system, and 4) set a harvest limit of 500 pounds for herring. The motion was seconded by Mr. Rohrer. The Chair asked whether there were any objections. The motion carried with one objection. Mr. Koso said he would rather address the proposals individually.

### Kodiak Refuge Proposals

Mr. Wheeler brought forward a proposal for the Council's review and support. The proposal would prohibit an owner, operator, or employee of a lodge, charter vessel, or other enterprise that furnishes food, lodging, or sport fish guiding services, from furnishing a client or guest of that enterprise salmon that has been taken under subsistence fishing regulations. He noted that there is a loophole in existing regulations that allows rural residents who are guides or lodge owners to retain fish taken from a body of water where retention is not allowed for sport fishers and give those fish to clients. This would apply to the Kodiak area only. Mr. Wheeler asked the Council to submit this proposal as its own.

Council Action: Mr. Rohrer moved to submit the proposal and Mr. Koso seconded the motion. The Chair asked whether there were any objections to the motion; hearing none, the motion carried.

## **PUBLIC TESTIMONY REGARDING THE FEDERAL AVIATION ADMINISTRATION AIRPORT RUNWAY EXTENSION PROJECT**

**Mr. Sirochuck**, chair of the Kodiak State Parks Citizens Advisory Board, referred to a letter his advisory board wrote to the Council regarding the runway extension. The Buskin State Recreation Site is there. The Citizens Advisory Board is also concerned about the project's impact on subsistence fishing and the salmon runs in the Buskin River. He noted that one of the EIS alternatives would extend the north/south runway 1,200 feet and would fill in the ocean all the way toward the mouth of the Buskin River; this alternative would have a drastic negative effect on movement of the river and fish. The Citizens Advisory Board's preferred alternative extends the runway toward Jewel Beach on the Coast Guard base; the beach does not have a stream or fishery.

**Ms. Katherine Ellanak**, environmental and natural resource director for the Sunaq Tribe of Kodiak, agreed with the testimony of Mr. Sirochuck and noted that what the FAA wants to build toward the Buskin River because it is less costly than building toward Jewel Beach. If they build on the Buskin River it will be permanently damaged, but Jewel Beach is an old dump site that has already been damaged. With the fill they would put in there, they could bury what they did before.

Council Action: Mr. Holmes moved that the Council send a resolution to the FAA opposing any extension of 1836 (the north/south runway) in the direction of the Buskin River, supporting the extension in the opposite direction toward Jewel Beach and the Coast Guard base, and opposing the extension of runway 725 into Chiniak Bay. Ms. Chivers would draft the resolution for signatures. Mr. Rohrer seconded the motion. Chair Simeonoff asked whether there were any objections to the motion. Hearing no objection, the motion carried.

## **SERVICE AWARDS**

Ms. Chivers presented awards to members Sam Rohrer, Pat Holmes, and Mitch Simeonoff for length of service.

## **SCHEDULE NEXT MEETINGS**

Fall 2010: Ms. Trumble moved to hold the next meeting on September 21 in King Cove with Cold Bay as an alternative. Mr. Holmes seconded the motion. Hearing no objection the motion carried.

Winter 2011: Chair Simeonoff proposed March 22, 2011 as the meeting date and Mr. Holmes proposed Kodiak as the location. There was no objection.

## **ADJOURN**

Mr. Koso moved to adjourn and Mr. Rohrer seconded the motion. Chair Simeonoff declared the meeting adjourned at 4:40 p.m.



<b>FP11-11 Executive Summary</b>	
<b>General Description</b>	Proposal FP11-11 requests that the annual harvest limit for king crab in the Kodiak Management Area be changed from six per household to three per household. <i>Submitted by the Kodiak/Aleutians Subsistence Regional Advisory Council</i>
<b>Proposed Regulation</b>	§ __.28(k)(4)(iv) <i>In the subsistence taking of king crab: (A) The annual limit is <del>six</del> <b>three</b> crabs per household; only male king crab with shell width of 7 inches or greater may be taken or possessed;</i>
<b>OSM Preliminary Conclusion</b>	<b>Support</b>
<b>Kodiak/Aleutians Regional Council Recommendation</b>	
<b>Interagency Staff Committee Comments</b>	
<b>ADF&amp;G Comments</b>	<b>Support the proposal</b> to reduce harvest limits <b>with modification</b> to close Womens Bay and Gibson Cove to harvest of red king crab. The department proposes that Office of Subsistence Management and Alaska Department of Fish and Game coordinate with National Oceanographic and Atmospheric Administration to review recent data on the significance of Womens Bay and Gibson Cove as juvenile king crab nurseries and provide a presentation to the Regional Advisory Council. Our recommendation in support of a modified proposal is also based on concerns over handling mortality of juvenile red king crabs that are returned to Womens Bay and Gibson Cove because they are under the minimum legal size limit.
<b>Written Public Comments</b>	<b>None</b>

## DRAFT STAFF ANALYSIS FP11-11

### ISSUES

Proposal FP11-11, submitted by the Kodiak/Aleutians Subsistence Regional Advisory Council, requests that the annual harvest limit for king crab in the Kodiak Management Area be changed from six per household to three per household.

### DISCUSSION

The most abundant, widely distributed, and commonly harvested king crab species in the Kodiak Area is the red king crab *Paralithodes camtschaticus*. While Kodiak Area red king crab stocks once supported a large and valuable commercial fishery, these stocks dropped dramatically in abundance in the early 1980s and still show no indication of improvement. All Federal public waters in the Kodiak Area have been closed to the taking of red king crab by non-subsistence users since 1995, and the State-managed commercial fishery has been closed since 1983. This regulatory change would decrease the annual household harvest limit for Federally qualified users from six king crabs, which has been in place since 1990, to three king crabs. The annual household harvest limit for the State managed subsistence king crab fishery in the Kodiak Area was changed from six to three king crabs in 1997. Other Federal subsistence regulations for the taking of king crab, including minimum shell size and gear, are the same as those specified under State subsistence regulations.

#### Existing Federal Regulation

*§ \_\_.28(k)(4)(iv) In the subsistence taking of king crab: (A) The annual limit is six crabs per household; only male king crab with shell width of 7 inches or greater may be taken or possessed;*

#### Proposed Federal Regulation

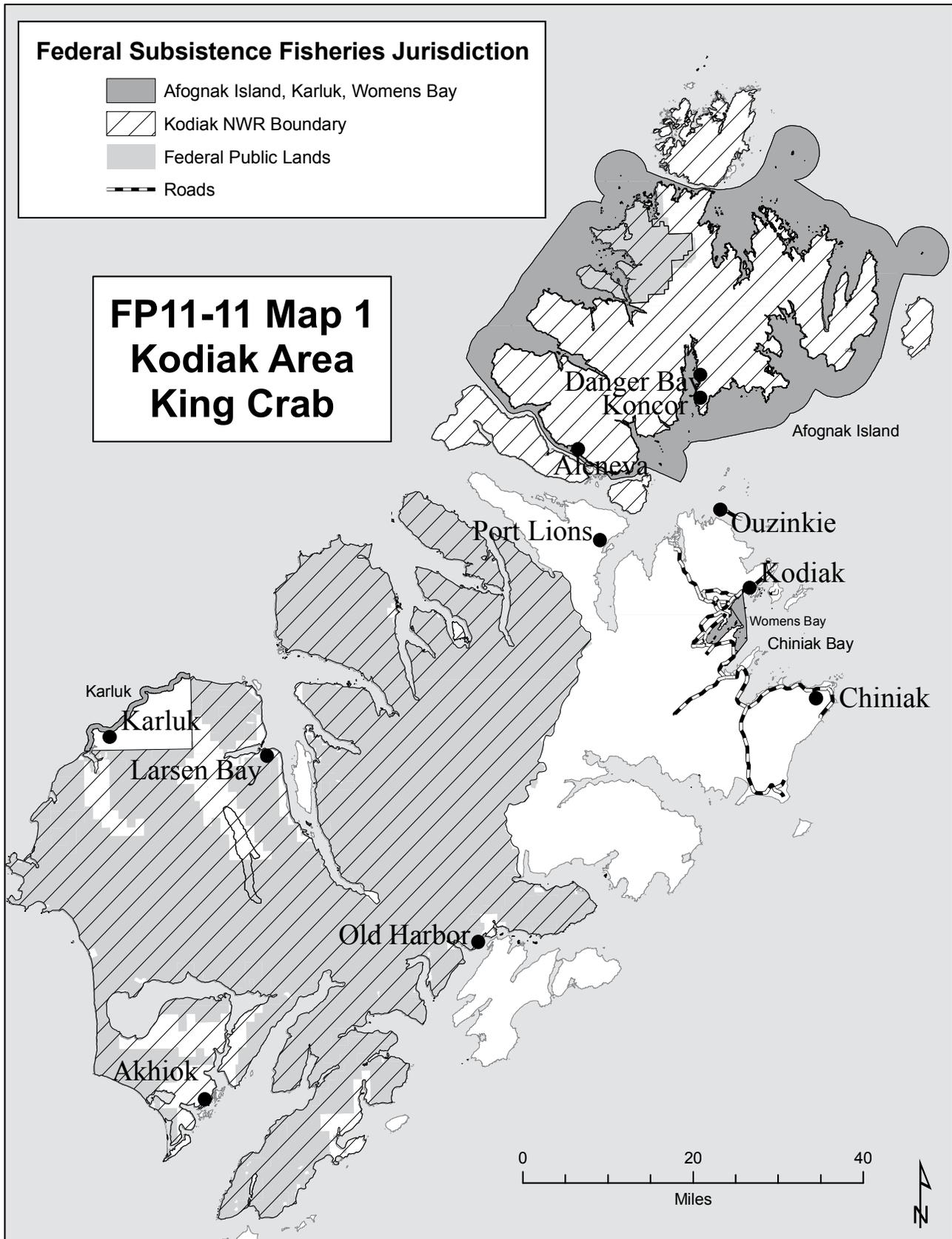
*§ \_\_.28(k)(4)(iv) In the subsistence taking of king crab: (A) The annual limit is ~~six~~ **three** crabs per household; only male king crab with shell width of 7 inches or greater may be taken or possessed;*

#### Current State Regulation

*5 AAC 02.420 Subsistence King Crab Fishery (1) the annual limit is three king crab for a household; ... (5) only male king crab seven inches or greater in width of shell may be taken or possessed.*

#### Extent of Federal Public Waters

For the purpose of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. In the Kodiak Management Area, these Federal subsistence fishing regulations apply to the submerged lands and waters within the Alaska Maritime National Wildlife Refuge that are described as the Karluk, Womens Bay, and Afognak subunits (**Map 1**).



## Customary and Traditional Use Determinations

Residents of the Kodiak Island Borough, except those residing on the Kodiak Coast Guard Base, have a positive customary and traditional use determination for king crab in the Kodiak Area.

## Regulatory History

In 1994, the Federal Subsistence Board closed Federal public waters in the Kodiak Area to the taking of all king crab by non-Federally qualified subsistence users beginning with the 1995/1996 fishing season. The closure was adopted by the Federal Subsistence Board after deliberations on Request for Reconsideration (RFR) 94-03, which was submitted by the Alaska Department of Fish and Game. RFR94-03 sought to restrict the take of king crab to males with a shell size greater than or equal to 7 inches, a size limit that had been in place for the State subsistence fishery since 1990. While a motion to adopt a size limit failed, the Federal Subsistence Board closed Federal public waters to non-qualified users, as was recommended by the Interagency Staff Committee (FSB 1994).

In 2002, the Federal Subsistence Board considered Fisheries Proposal (FP) 03-07, submitted by the Kodiak National Wildlife Refuge, that requested a decrease in the annual harvest and possession limit from six to three male king crabs per household and adoption of a 7-inch shell width minimum size limit (FSB 2002). The State had previously adopted these size (1990) and harvest limits (1997). Following the recommendation of the Kodiak/Aleutians Subsistence Regional Advisory Council concerning FP03-07, the Federal Subsistence Board adopted the minimum shell width requirement, did not adopt the reduced harvest limit, and also adopted a gear reduction limit of one pot of any size. This action aligned Federal regulations for shell size and gear with those of the State, but maintained the greater harvest limit for Federally qualified users as well as the closure to non-Federally qualified users. The State has continued to oppose proposals seeking to increase the harvest limit for State managed subsistence fisheries, citing continued conservation concerns for this resource (ADF&G 2005 and BOF 2005).

The closure of Federal public waters in the Kodiak Area to the taking of king crab by non-Federally qualified subsistence users was reviewed by the Kodiak/Aleutians Subsistence Regional Advisory Council and the Federal Subsistence Board in 2005 (FCR05-02; OSM 2005) and again in 2010 (FCR10-02; OSM 2010). No proposals to remove the closure have been submitted, and the closure currently remains in place. Federal users are required to obtain, complete and return an Alaska Department of Fish and Game subsistence crab fishing permit (**Figure 1**).

## Biological Background

While no specific biological management objective has been set for either the Federal or State king crab subsistence fisheries in the Kodiak Area, the State has set a total threshold abundance of 5.12 million fertilized females for reopening the red king crab commercial fishery (Pengilly and Schmidt 1995). Since relatively few red king crabs are captured in the State trawl survey each year, it has not been possible to accurately determine abundance trends because small differences in catches result in large differences in population estimates (Spalinger 2010). However, these surveys do show that red king crab abundance in the Kodiak Area has remained at very low levels with no indication of rebuilding. For example, the 2009 survey estimate of the total number of adult females in the Kodiak Area was 3,997 red king crabs, and was based on a total survey catch of 16 females and 39 males (Spalinger 2010). This was the lowest estimated number of adult females reported from 2000–2009 annual surveys (range: 3,997 to 74,259 adult female red king crabs).



The Kodiak road system provides ready access to marine waters under Federal jurisdiction in Womens Bay. These waters serve as a red king crab nursery area for the larger Chiniak Bay complex, and studies have shown that Womens Bay has much higher numbers of juvenile red king crabs than nearby Anton Larson Bay and the Trident Basin (Cummiskey et al. 2008, Dew 1991, Dew et al. 1992, and FSB 2002). After first settling in Womens Bay as larvae, red king crabs tend to remain there for six or seven years before leaving for the more open waters of Chiniak and Kalsin bays. Most red king crabs leaving Womens Bay have not yet attained a carapace width of 7 inches, which is the minimum legal size limit for males that can be harvested in subsistence fisheries.

### **Harvest History**

An Alaska Department of Fish and Game subsistence permit is required to participate in the Federal subsistence king crab fishery, and reported king crab harvests in the Kodiak Area have been very small since the collapse of the red king crab stock in the 1980s (FSB 2002). Fishery managers assume that all king crabs harvested in the subsistence fishery are red king crab, since other king crab species are not widely distributed or readily available in the Kodiak Area. During the 1990s, annual estimated subsistence harvests of king crab by Kodiak Area communities ranged from 0 (Karluk) to 4,646 (Kodiak City) king crabs (**Table 1**). Harvests from three communities off the road system have continued to decline since the 1990s (Old Harbor, Port Lions and Larson Bay) and only slightly increased in one (Akhiok; **Table 1**). While king crab harvests from specific Federal public waters have not been documented, harvests from the Chiniak Area, which includes Womens Bay, have shown the same decreasing trend (**Table 2**). Chiniak Area annual total harvests were close to or above 1,000 king crab for the period 1990–1995 (range: 931–1,530 king crab), and then dropped to about 100 or less king crab for the period 1996–2009 (range: 42–204 king crab). This decline was mirrored in the harvest per permit, which was above 1.0 king crab for the period 1990–1995 (range: 1.1–4.3 king crab per permit), and then dropped below this level for the period 1996–2009 (range: 0.2–1.0 king crab per permit).

The commercial king crab fishery was closed after the 1982/1883 season, when annual harvests declined from a high of 11,061,709 red king crabs during the 1965/1966 season to a low of 1,011,109 red king crabs during the 1982/1983 season (Sagalkin 2008).

There is also currently no open season for or retention of king crab allowed in the Kodiak Area for either sport or personal use fisheries.

### **Other Alternative(s) Considered**

There may be conservation value in closing king crab subsistence fishing to all users in the Womens Bay Subunit of the Alaska Maritime National Wildlife Refuge in addition to reducing the annual household limit for Federally qualified subsistence users from six to three king crabs in the Karluk and Afognak subunits. The rationale for a Womens Bay Subunit closure would be based on 1) the continued decline of red king crab throughout the Kodiak Area and the lack of any sign of stock rebuilding (Spalinger 2010); 2) the documented use of Womens Bay as a red king crab nursery area for Chiniak Bay (Cummiskey et al. 2008, Dew 1991, Dew et al. 1992, and FSB 2002); 3) the very small average annual harvest reported for Chiniak Bay, which includes Womens Bay, of 73 king crabs (0.5 king crab per permit) since 1997 (**Table 2**); 4) the ready access to Womens Bay from the Kodiak road system of a relatively large number of Federally qualified users (**Map 1**); and 5) the continued ability of these Federally qualified users to access the remaining portion of Chiniak Bay from the Kodiak road system, where they would have to fish for king crab under State subsistence regulations. However, it is not clear that a complete closure of Womens Bay is necessary since other nursery areas within Chiniak Bay would continue to be open to fishing and the Chiniak Bay harvest, even if it was all taken in Womens Bay, is so very small. Further discussion and

**Table 1.** Kodiak Management Area estimated community king crab subsistence harvests for the 1990s and 2003 (ADF&G 2010).

Year	Community	King Crab Harvest	
		Number	Pounds
<i>Best representative data from 1990s</i>			
1993	Kodiak City	4,646	10,687
1991	Kodiak Road	2,945	6,773
1991	Kodiak Coast Guard Station	202	464
1997	Old Harbor	174	401
1993	Port Lions	92	213
1992	Akhiok	66	151
1997	Larsen Bay	9	22
1997	Ouzinkie	3	6
1991	Karluk	0	0
<i>Available data from 2003</i>			
2003	Old Harbor	45	104
2003	Port Lions	4	9
2003	Akiok	71	163
2003	Larsen Bay	6	14

**Table 2.** King crab subsistence permits and harvests reported from permits for the Chiniak Area, which includes Womens Bay, 1990–2009 (Pappas 2010, pers. comm.)

Year	Number of Permits	King Crab Harvest	
		Total	Per Permit
1990	537	1,530	2.8
1991	448	1,028	2.3
1992	392	1,671	4.3
1993	553	1,300	2.4
1994	444	931	2.1
1995	393	1,190	3.0
1996	187	204	1.1
1997	221	94	0.4
1998	230	56	0.2
1999	72	48	0.7
2000	111	63	0.6
2001	187	109	0.6
2002	143	79	0.6
2003	195	62	0.3
2004	224	77	0.3
2005	186	70	0.4
2006	150	77	0.5
2007	103	62	0.6
2008	80	42	0.5
2009	116	116	1.0

consideration of a Womens Bay closure during public meetings of the Kodiak-Aleutians Council and, subsequently, the Federal Subsistence Board would be informative.

### Effect of the Proposal

This proposal would reduce the annual king crab household harvest limit for Federally qualified subsistence users in the Kodiak Area. Since subsistence harvests are already very small, with an annual

average of less than one king crab per permit since 1997 (**Table 2**), it is difficult to predict whether this reduction in opportunity would result in a reduction in actual harvest and contribute to rebuilding of the Kodiak Area red king crab resource. Adopting this proposal could make it easier to enforce annual household harvest limits, since these would be the same for both State and Federally managed subsistence king crab fisheries in the Kodiak Area. However, it is not clear that there has been a problem enforcing different harvest limits for these user groups, particularly since average household harvests have been well below even the State's three king crab limit (**Table 2**).

## **OSM PRELIMINARY CONCLUSION**

**Support Proposal FP11-11.**

### **Justification**

There is a continuing conservation concern for king crab in the Kodiak Area, which includes Federal public waters in Womens Bay, Gibson Cove, and near shore waters around the Karluk River mouth and Afognak Island. The State has closed Kodiak Area commercial, sport, and personal use fisheries to the taking of king crab, and reduced the annual household harvest limit in the subsistence fishery from six to three crabs in 1997. Alaska Department of Fish and Game trawl surveys indicate that the Kodiak Area red king crab stock, the most abundant and widely distributed king crab species in the Kodiak Area, remains at very low levels of abundance with no indication of improvement over the near term. Marine waters under Federal jurisdiction include Womens Bay, which is a red king crab nursery area for the larger Chiniak Bay, and is easy to access from the Kodiak road system. Reducing the annual harvest limit for Federally qualified users from six to three king crabs per household would further highlight conservation efforts and provide a more realistic indication of what users should expect to harvest.

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ADF&G Comments on FP11-11  
August 24, 2010; Page 1 of 2

**Alaska Department of Fish and Game**  
***Comments to Regional Advisory Council***

**Fisheries Proposal FP11-11:** Reduce federal subsistence annual and possession limits for red king crab near Kodiak Island.

**Introduction:** The Kodiak-Aleutians Regional Advisory Council proposal was submitted to reduce household possession and annual harvest limit of red king crab in the federal subsistence fisheries near Kodiak Island from six to three male red king crabs. Adoption of this proposal would align the federal and state harvest limits, although most waters where federal subsistence jurisdiction is claimed have been closed to non-federally qualified subsistence users since 1996.

**Impact on Subsistence Users:** If adopted, federal subsistence user possession and annual harvest limits of red king crab per household would be reduced from six to three. The proposed reduction is not anticipated to have a significant impact on harvest due to the low levels of harvest reported in Chiniak Bay, which includes Womens Bay and Gibson Cove.

**Opportunity Provided by State:** The state subsistence fishery harvest limit for red king crab near Kodiak is three male crabs per year per household: *5 AAC 02.420 Subsistence King Crab Fishery (1) the annual limit is three king crab for a household;*

**Conservation Issues:** The red king crab stocks near Kodiak Island have been depressed for three decades. In 1996, the Alaska Board of Fisheries lowered the daily/possession/annual harvest limits from six per person to three crabs per household per year. The Alaska Department of Fish and Game surveys the waters near Kodiak Island on an annual basis, and the 2009 survey indicates the population is at historically low levels.

Commercial fisheries began in the 1930s and peaked in the 1960s when over 94 million pounds of crab were harvested. Harvests declined in the late 1970s. Commercial fishing closed in 1983/84 and has not reopened. Since 1988, the Alaska Department of Fish and Game conducted trawl surveys to assess king and Tanner crab populations around Kodiak Island, along the Alaska Peninsula, and in the eastern Aleutian Islands. The Kodiak Area remains closed because the abundance estimates of female king crabs are well below threshold levels. The Kodiak red king crab population remains at historically low levels. The 2009 Kodiak red king crab population was estimated at 28,257 crabs, down from an estimated 71,877 crabs in 2008.

Adoption of this proposal may benefit the depressed red king crab population near Kodiak. Ongoing research reveals that Womens Bay and Gibson Cove are important nursery areas within the greater Chiniak Bay for juvenile red king crab. Reducing the annual household bag limit may reduce injuries and mortalities to juvenile red king crabs incurred while being handled, measured, sorted, and returned to the water by federal subsistence users.

**Jurisdiction Issues:** The Federal Subsistence Board authorized a subsistence red king crab fishery near Kodiak Island in the marine waters of the Pacific Ocean enclosed by the boundaries of Womens Bay, Gibson Cove, and an area defined by a line ½ mile on either side of the mouth of the Karluk River, extending seaward 3,000 feet. Additionally, federal subsistence users can

ADF&G Comments on FP11-11  
August 24, 2010; Page 2 of 2

fish for red king crab in the marine waters within three miles of Afognak Island, and the waters within 1,500 feet seaward of the Afognak Island shoreline are closed to red king crab harvest by the non-federally qualified users. Detailed maps are needed in order to assure non-federally qualified and federal subsistence users can identify the boundaries and avoid risk of enforcement actions.

**Recommendation:** Support the proposal to reduce harvest limits with modification to close Womens Bay and Gibson Cove to harvest of red king crab. The department proposes that Office of Subsistence Management and Alaska Department of Fish and Game coordinate with National Oceanographic and Atmospheric Administration to review recent data on the significance of Womens Bay and Gibson Cove as juvenile king crab nurseries and provide a presentation to the Regional Advisory Council. Our recommendation in support of a modified proposal is also based on concerns over handling mortality of juvenile red king crabs that are returned to Womens Bay and Gibson Cove because they are under the minimum legal size limit.

<b>FP11-12 Executive Summary</b>	
<b>General Description</b>	Proposal FP11-12 requests the Federal subsistence harvest of herring for the Kodiak Management Area be limited to 500 pounds per person annually. <i>Submitted by the Kodiak-Aleutians Subsistence Regional Advisory Council</i>
<b>Proposed Regulation</b>	<i>§ __.27(9)(x) The subsistence harvest of herring has an annual limit of 500 pounds.</i>
<b>OSM Preliminary Conclusion</b>	<b>Oppose</b>
<b>Kodiak/Aleutians Regional Council Recommendation</b>	
<b>ADF&amp;G Comments</b>	<b>Support</b>
<b>Written Public Comments</b>	<b>None</b>

**DRAFT STAFF ANALYSIS  
FP11-12**

**ISSUES**

Proposal FP11-12, submitted by the Kodiak-Aleutians Subsistence Regional Advisory Council, requests the Federal subsistence harvest of herring for the Kodiak Management Area be limited to 500 pounds per person annually. The proponent requests adoption of a harvest limit for herring to close a perceived regulatory loophole that could allow the use of subsistence caught herring for commercial fishing bait.

**Existing Federal Regulation**

Currently there is no existing Federal regulation limiting the annual harvest of herring.

**Other Relevant Federal Regulation**

*§ \_\_.27(c)(15) You may not use fish taken for subsistence use or under subsistence regulations in this part as bait for commercial or sport fishing purposes.*

**Proposed Federal Regulation****Kodiak Area**

*§ \_\_.27(9)(x) The subsistence harvest of herring has an annual limit of 500 pounds.*

**Existing State Regulation**

*5 AAC 01.530 (d) A subsistence herring fishing permit holder may take no more than 500 pounds of herring in a calendar year.*

**Extent of Federal Public Waters**

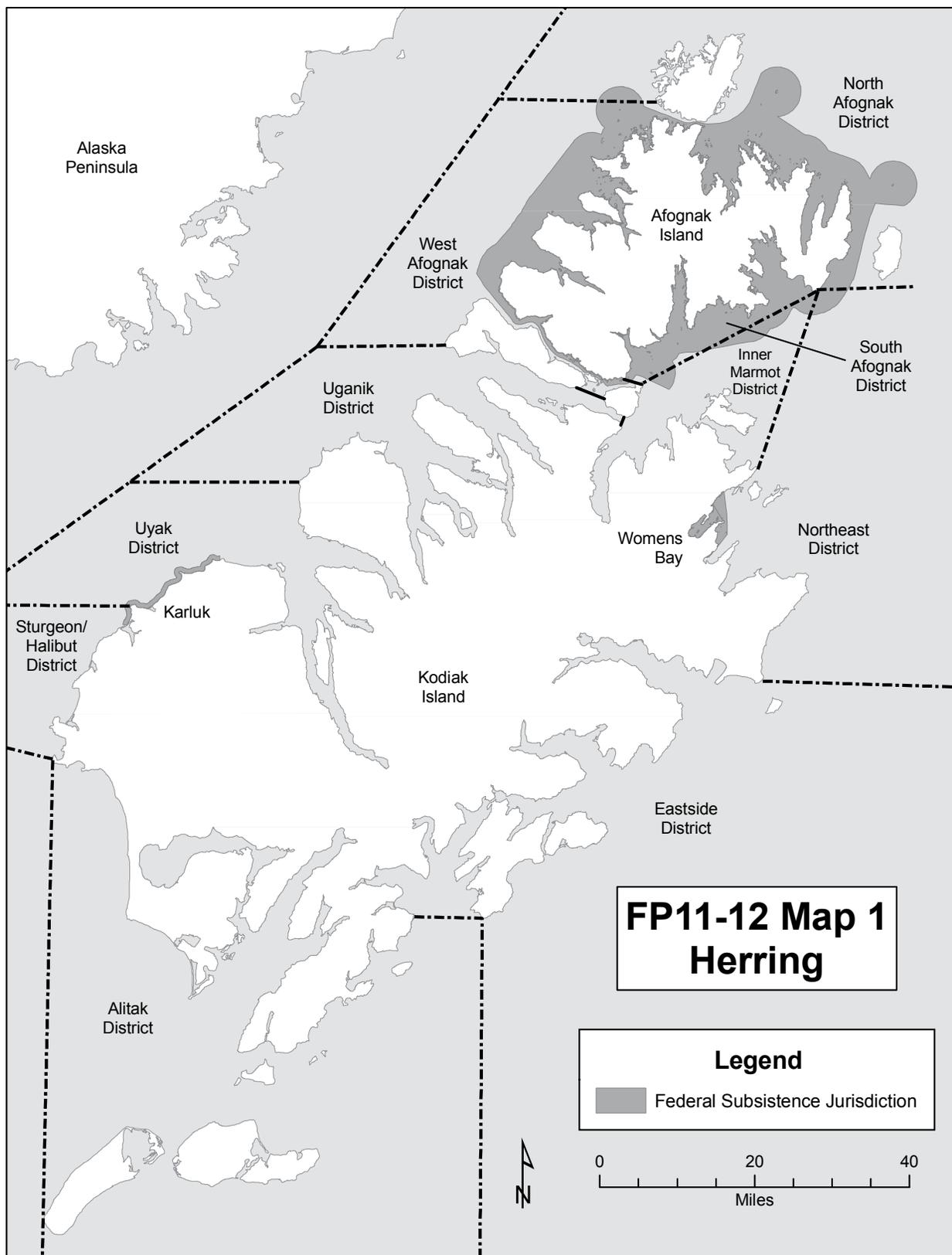
For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. The Kodiak Island Federal public waters under consideration for this proposal analysis include the waters of the Pacific Ocean enclosed by the boundaries of Womens Bay, Gibson Cove, and an area defined by a line 0.5 miles on either side of the mouth of the Karluk River, and extending seaward 3,000 feet. For Afognak Island, Federal public waters included all waters within 1,500 feet seaward of the shoreline of Afognak Island (**Map 1**).

**Customary and Traditional Use Determinations**

Residents of the Kodiak Area have a positive customary and traditional use determination for herring in the Kodiak Area.

**Regulatory History**

Prior to 1999, State subsistence fishing regulations allowed herring to be harvested with a permit during the herring sac roe season, from April 15 to June 30, with no harvest limit. Gear was limited to 25 fathom gillnets. During the remainder of the year no permit was required, and there were no harvest limit nor gear restrictions (Gretsch 2005). In 1999 the Alaska Board of Fisheries allowed a harvest of up to 500 pounds



of herring with no permit requirement, except during the sac roe fishing season. A permit continued to be required during the sac roe fishing season and for individuals harvesting more than 500 pounds of herring. The maximum annual harvest limit was set at 2,000 pounds. In 2000, herring subsistence harvests began to escalate, reportedly due to the reopening of the commercial Tanner Crab fishery in the Kodiak Management Area (Spalinger 2010a). Subsistence caught herring were being used as bait in the commercial fishery. In 2001, to better manage the herring harvest, the Alaska Board of Fisheries established new regulations to accommodate both the subsistence fishery and the commercial bait fishery. Under subsistence regulations a harvest limit of 500 pounds annually was established and fishermen were required to obtain a permit prior to fishing (5 AAC 01.530 (d)). Herring was included on the existing Kodiak Management Area salmon and crab subsistence permit. A second regulation was adopted (5 AAC 27.545) allowing for the harvest of up to 500 pounds of herring by commercial permit holders to be used as bait in the commercial fishery.

Since 1990, Federal subsistence regulations have prohibited using fish taken for subsistence use as bait for commercial or sport fishing purposes (53 FR 27114; June 29, 1990). While Federal subsistence users are allowed to harvest herring year round, a State subsistence permit is required for the taking of herring during the State commercial herring sac roe season from April 15 through June 30. Currently there is no harvest limit for herring taken under Federal subsistence regulations. No changes to these regulations have been adopted by the Federal Subsistence Board since 1990.

### **Biological Background and Harvest History**

Two commercial herring fisheries, the sac roe fishery and the food and bait fishery, occur in the Kodiak Management Area. Both fisheries are managed using guideline harvest levels (GHLs). The GHLs are established for areas that have produced consistent herring harvests in previous seasons. GHLs are established using a variety of information to determine stock status trends including past fishery performance, age composition data, spawn and juvenile herring data, aerial and hydroacoustic surveys and test fishing. In addition to establishing the GHLs, the Alaska Department of Fish and Game (ADF&G) actively manages for roe quality. During its 2005 meeting the Alaska Board of Fisheries established a regulation (5 AAC 27.535(e)(6)) requiring ADF&G to manage for the highest level of product quality.

The Kodiak Management Area is divided into 13 districts that define the herring management areas. Each district is further divided into smaller areas called sections. Sections are usually assigned to gear type with the goal of providing approximately 75% of the allocated harvest to purse seine permit holders and 25% to gillnet permit holders (Spalinger 2010b). Actual harvest in the herring sac roe fishery has generally reflected the pre-season Guideline Harvest Levels (GHLs). Herring abundance in the Kodiak Management Area has been increasing in recent years and recruitment has been strong, which is reflected in increasing GHLs over the last ten years (**Table 1**).

The herring food and bait season opens September 1 and lasts until February 28. In 2001, the Commercial Fisheries Entry Commission designated the Kodiak Management Area herring food and bait fishery a limited entry fishery and in 2002 it made a final determination to issue 5 purse seine/gillnet permits and 4 trawl permits. The GHLs for the herring food and bait fishery are based on 10% of the GHLs established for the preceding sac roe fishery by section. Since 2001, because of the low GHLs available, the purse seine permit holders have formed a cooperative fishery. One purse seine vessel has been used to target the larger GHL areas. Harvest levels for the food and bait fishery have ranged from 114-263 tons (**Table 2**).

Since 2002, total subsistence harvest has ranged from 2,180 to 5,335 pounds (**Table 3**). The majority of this harvest has occurred in Northeast, Inner Marmot, Uyak and Eastside districts. The 5-year average annual harvest of herring is less than 150 pounds per permit.

**Table 1.** Summary of season length, guideline harvest level (GHL) and harvest for the commercial herring sac roe fishery in the Kodiak Management Area by year, 2000-2009 (Spalinger 2010b).

Year	Season Length (Days)	GHL (Tons)	Total Harvest (Tons)	Harvest by Gear Type	
				Seine (Tons)	Gillnet (Tons)
2000	37	1735	1370	1290	80
2001	47	1540	1694	1412	282
2002	46	1860	1677	1274	403
2003	42	2600	1992	1738	254
2004	42	2850	3167	2894	273
2005	31	3475	1463	2932	531
2006	34	3705	2643	2617	26
2007	28	4000	2546	2510	36
2008	38	4290	3099	3086	13
2009	54	4765	4759	4549	210
Average 2005-2009	37	4047	2902	3139	163

**Table 2.** Kodiak Management Area commercial herring food and bait fishery guideline harvest level and harvest by year, 2001-2008 (Caldentey 2009, Spalinger 2010a, Spalinger 2010c, pers. comm.).

Year	GHL (Tons)	Harvest (Tons)
2001	107	114
2002	134	135
2003	197	199
2004	225	190
2005	302	168
2006	342	169
2007	370	154
2008	351	202
2009	420	263

**Table 3.** Kodiak Management Area estimated herring subsistence harvest, permits issued, and permits returned by year, 1991-2009 (Spalinger 2010a, Spalinger 2010c, pers. comm.).

Year	Permits Issued	Permits Returned	Estimated Harvest (lbs)
1991	50	9	6600
1992	45	10	1940
1993	47	16	7600
1994	20	14	4380
1995	23	6	1090
1996	16	10	1460
1997	18	7	1925
1998	15	10	1290
1999	39	9	975
2000	48	21	24250
2001	32	19	15390
2002	a	23	3843
2003	a	16	2180
2004	a	22	4148
2005	a	37	5335
2006	a	30	4535
2007	a	36	4887
2008	a	21	4024
2009	a	36	3966
Average 2005-2009		32	4549

<sup>a</sup> Beginning in 2002 herring was added to the Kodiak subsistence salmon and crab permit: no separate subsistence permit was required.

## **Effects of the Proposal**

If this proposal were adopted, a 500 pound herring harvest limit would be established for Federally qualified subsistence users. This would limit Federal subsistence users while herring stocks in the Kodiak Management Area are increasing in abundance and commercial harvests are increasing. The proponent raises concern about a perceived loophole in Federal subsistence regulations that could allow the use of subsistence caught herring for commercial fishing bait. Currently, Federal subsistence regulations prohibit the use of subsistence caught fish for commercial bait. If this proposal were adopted, it would result in an unnecessary restriction to Federally qualified subsistence users.

## **OSM PRELIMINARY CONCLUSION**

**Oppose** Proposal FP11-12

### **Justification**

The Kodiak Management Area herring stocks are healthy and increasing in abundance. There is no conservation concern. Therefore, it is not necessary to limit Federal subsistence harvest for conservation purposes and adopting this regulation would unnecessarily restrict Federally qualified subsistence users. Currently, the average annual harvest of subsistence caught herring is less than 150 pounds per permit. This is well below the proposed harvest limit of 500 pounds per person. In addition, regulations currently exist to prohibit the use of subsistence caught herring for commercial bait. It is not necessary to limit the Federal subsistence herring harvest to discourage the use of herring for commercial bait.

## **LITERATURE CITED**

Caldentey, I. O. 2009. Kodiak management area commercial herring food and bait fishery harvest strategy, 2009. Alaska Department of Fish and Game, Fishery Management Report No. 09-37, Anchorage, AK.

Gretsch, D. 2005. Kodiak management area annual herring fisheries management report, 2004. Alaska Department of Fish and Game, Fishery Management Report No. 05-17, Anchorage, AK.

Spalinger, G. 2010a. Kodiak management area herring fishery harvest annual management report, 2008. Alaska Department of Fish and Game, Fishery Management Report No. 10-11, Anchorage, AK.

Spalinger, G. 2010b. Kodiak management area herring sac roe fishery harvest strategy for the 2010 season. Alaska Department of Fish and Game, Fishery Management Report No. 10-13, Anchorage, AK.

Spalinger, G. 2010c. Assistant Kodiak Area Salmon/Herring Management Biologist. Personal communication. Alaska Department of Fish and Game. Kodiak, AK.

ADF&G Comments on FP11-12  
August 24, 2010; Page 1 of 2

**Alaska Department of Fish and Game**  
***Comments to Regional Advisory Council***

**Fisheries Proposal FP11-12:** Establish annual harvest limit for the federal subsistence herring fishery near Kodiak Island.

**Introduction:** The Kodiak-Aleutians Regional Advisory Council proposes to establish an annual limit for herring harvested in a Kodiak federal subsistence fishery of 500 pounds per person. The Council submitted this proposal due to concerns about misuse of herring harvested in the federal subsistence fishery as bait in a commercial fishery. Federal subsistence regulations prohibit commercial use of subsistence harvested herring for commercial use<sup>1</sup> but establish no limit on the amount of herring harvested by federally qualified subsistence users.

**Impact on Subsistence Users:** If adopted, federal subsistence users in Kodiak will be allowed to harvest 500 pounds of herring per year and will be required to record their cumulative annual harvest to ensure it does not exceed the 500-pound annual limit. Due to low reported subsistence harvest of herring over the last eight years, this proposal would not negatively affect subsistence.

**Opportunity Provided by State:** State herring fishery subsistence regulations and permit stipulations require a permit, establish a harvest limit of 500 pounds per calendar year, prohibit use of subsistence caught herring as bait for commercial fishing, and establish a maximum net length of 25 fathoms. The department also issues commercial herring bait permits and restricts the amount of herring harvested under this permit to 500 pounds in order to limit the amount of bait herring taken by commercial fishermen prior to the Kodiak commercial tanner crab season.

**Conservation Issues:** None. Kodiak herring stocks are not currently in decline.

**Jurisdiction Issues:** The federal subsistence herring fishery near Kodiak Island can take place in marine waters that are enclosed by the boundaries of Womens Bay, Gibson Cove, and an area defined by a line ½ mile on either side of the mouth of the Karluk River, extending seaward 3,000 feet. Federal subsistence users can fish for herring in marine waters of Afognak Island within three miles of the shoreline. A federal subsistence permit is required from April 15 through June 30, concurrent with the state commercial sac roe herring fishing season. Detailed maps are needed that depict land ownership and specific boundaries of areas where federal regulations are claimed to apply in order for federal subsistence fishermen to identify boundaries and reduce risk of enforcement action.

**Other Information:** The proponent desires the federal program adopt a proposal parallel to #48, adopted as amended at the January 7—14, 2002, Alaska Board of Fisheries meeting, which established an annual limit of 500 pounds of herring per person and required a subsistence fishing permit in the Kodiak area to provide accurate harvest reporting. The 2002 regulation

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<sup>1</sup> § 100.27 *Subsistence taking of fish.*

(c) *Methods, means, and general restrictions.*

(15) You may not use fish taken for subsistence use or under subsistence regulations in this part as bait for commercial or sport fishing purposes.

ADF&G Comments on FP11-12  
August 24, 2010; Page 2 of 2

change was intended to reduce or eliminate the amount of herring harvested in the state subsistence fishery used for bait in the commercial fisheries.

**Recommendation:** Support.

FP11-13 Executive Summary	
<b>General Description</b>	<p>Proposal FP11-13 requests that no harvest limit be associated with subsistence permits issued to Federally qualified subsistence users who fish for salmon in Federal public waters of the Kodiak Management Area that cannot be accessed from the Kodiak road system, except the Mainland District. It also requests that recording of harvests on all permits be done prior to leaving the fishing site rather than immediately upon landing fish. <i>Submitted by the Kodiak/Aleutians Subsistence Regional Advisory Council</i></p>
<b>Proposed Regulation</b>	<p>§ __.27(i)(9) (iv) <del>You must have a</del> <b>A subsistence fishing permit is required for taking salmon, trout, and char, and herring for subsistence purposes. You must have a subsistence fishing permit for taking herring and bottomfish for subsistence purposes during the State commercial herring sac roe season from April 15 through June 30.</b></p> <p>(v) <del>With a subsistence salmon fishing permit you may take 25 salmon plus an additional 25 salmon for each member of your household whose names are listed on the permit. You may obtain an additional permit if you can show that more fish are needed</del> <b>The annual limit for a subsistence salmon fishing permit holder is as follows:</b></p> <p style="padding-left: 40px;"><b>(A) In the fresh waters of Kodiak Island, east of the line from Crag Point south to the westernmost point of Saltery Cove, including the waters of Woody and Long Islands, and the salt waters bordering this area within one mile of Kodiak Island, excluding the waters bordering Spruce Island, 25 salmon for the permit holder plus an additional 25 salmon for each member of the same household whose names are listed on the permit: an additional permit may be obtained if it can be shown that more fish are needed;</b></p> <p style="padding-left: 40px;"><b>(B) In the remainder of the Kodiak area not described in (A) of this subsection, there is no annual limit.</b></p> <p>(vi) <del>You must</del> <b>Subsistence fishermen shall keep a record on your subsistence permit of the number, or if for herring, the number of pounds, of subsistence fish taken by that subsistence fisherman each year. The number or pounds of subsistence fish taken shall be recorded on the reverse side of the permit. You</b> <del>The catch must be complete the recorded prior to leaving the fishing site immediately upon landing subsistence-caught fish, and the permit must be returned to the local representative of the department</del> <b>it by February 1 of the year following the year the permit was issued.</b></p>

*continued on next page*

**WP11-13 Executive Summary (continued)**

<p><b>OSM Preliminary Conclusion</b></p>	<p><b>Support Proposal FP11-13 with modification</b> to retain existing wording for § __.27(i)(9)(iv) since suggested changes would not alter the meaning of the existing regulation, change the proposed wording for § __.27(i)(9)(v)(A) from “if it can be shown that more fish are needed” to “an additional permit may be obtained upon request;” to retain most of the existing wording for § __.27(i)(9)(vi) with changes to when harvests need to be recorded on permits and when permits need to be returned, and to omit proposed wording for § __.27(i)(9)(vi) concerning where information needs to be recorded on permits and to whom recorded permits must be returned.</p> <p>The modified proposed regulation should read:</p> <p><i>§ __.27(i)(9)(iv) You must have a subsistence fishing permit for taking salmon, trout, and char, for subsistence purposes. You must have a subsistence fishing permit for taking herring and bottomfish for subsistence purposes during the State commercial herring sac roe season from April 15 through June 30.</i></p> <p><i>(v) <del>With a subsistence salmon fishing permit you may take 25 salmon plus an additional 25 salmon for each member of your household whose names are listed on the permit. You may obtain an additional permit if you can show that more fish are needed</del><b>The annual limit for a subsistence salmon fishing permit holder is as follows:</b></i></p> <p><b><i>(A) In the fresh waters of Kodiak Island, east of the line from Crag Point south to the westernmost point of Saltery Cove, including the waters of Woody and Long Islands, and the salt waters bordering this area within one mile of Kodiak Island, excluding the waters bordering Spruce Island, 25 salmon for the permit holder plus an additional 25 salmon for each member of the same household whose names are listed on the permit: an additional permit may be obtained upon request;</i></b></p> <p><b><i>(B) In the remainder of the Kodiak Area not described in (A) of this subsection, there is no annual harvest limit for a subsistence salmon fishing permit holder.</i></b></p> <p><i>(vi) You must record on your subsistence permit the number of subsistence fish taken. You must <del>complete the record</del> <b>all harvested fish prior to leaving the fishing site</b>, and must return <del>it</del> <b>the permit by the date marked on February 1 of the year following the year the permit was issued.</b></i></p>
<p><b>Kodiak/Aleutians Regional Council Recommendation</b></p>	

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<b>WP11-13 Executive Summary (continued)</b>	
<b>Interagency Staff Committee Comments</b>	
<b>ADF&amp;G Comments</b>	Support the proposed limits of fish that can be harvested on and off the Kodiak road system. Support the proposed requirement to record herring harvested in federal subsistence fisheries on a permit. Oppose reporting requirements that allow subsistence fishermen to be in possession of harvest but not record it until they leave the fishing site.
<b>Written Public Comments</b>	<b>None</b>

## DRAFT STAFF ANALYSIS FP11-13

### ISSUES

Proposal FP11-13, submitted by the Kodiak/Aleutians Subsistence Regional Advisory Council, requests that no harvest limit be associated with subsistence permits issued to Federally qualified subsistence users who fish for salmon in Federal public waters of the Kodiak Management Area that cannot be accessed from the Kodiak road system, except the Mainland District. It also requests that recording of harvests on all permits be done prior to leaving the fishing site rather than immediately upon landing fish.

### DISCUSSION

Federal subsistence salmon harvest limits and reporting requirements are more restrictive than subsistence regulations recently adopted by the State for people fishing in Federal public waters that cannot be accessed from the Kodiak road system. This proposal seeks to align Federal with newly adopted State regulations that allow subsistence users fishing in waters not accessible from the Kodiak road system to harvest and report all salmon they take in a season on a single fishing permit. Federally qualified and State subsistence users fishing in waters accessible from the Kodiak road system would still be limited to a harvest of 25 salmon for each household member listed on the permit, but they could obtain another permit to harvest additional salmon. Maintaining a permit salmon harvest limit for waters accessible from the Kodiak road system allows fishery managers to better gauge harvest potential in relation salmon run abundance for these intensively managed salmon runs and does not appear to be limiting subsistence fishing opportunities or affecting the accuracy of harvest reporting. Additionally, the proposal would allow Federally qualified users in the Kodiak Management Area to record their harvests on permits at any time before leaving the fishing site rather than immediately upon landing fish.

#### Existing Federal Regulation

*§ \_\_.27(i)(9) (iv) You must have a subsistence fishing permit for taking salmon, trout, and char for subsistence purposes. You must have a subsistence fishing permit for taking herring and bottomfish for subsistence purposes during the State commercial herring sac roe season from April 15 through June 30.*

*(v) With a subsistence salmon fishing permit you may take 25 salmon plus an additional 25 salmon for each member of your household whose names are listed on the permit. You may obtain an additional permit if you can show that more fish are needed.*

*(vi) You must record on your subsistence permit the number of subsistence fish taken. You must complete the record immediately upon landing subsistence-caught fish, and must return it by February 1 of the year following the year the permit was issued.*

#### Proposed Federal Regulation

*§ \_\_.27(i)(9) (iv) ~~You must have a~~ subsistence fishing permit **is required** for taking salmon, trout, **and char, and herring** for subsistence purposes. You must have a subsistence fishing permit for taking herring and bottomfish for subsistence purposes during the State commercial herring sac roe season from April 15 through June 30.*

*(v) With a subsistence salmon fishing permit you may take 25 salmon plus an additional 25 salmon for each member of your household whose names are listed on the permit. You may obtain an additional permit if you can show that more fish are needed. The annual limit for a subsistence salmon fishing permit holder is as follows:*

*(A) In the fresh waters of Kodiak Island, east of the line from Crag Point south to the westernmost point of Saltery Cove, including the waters of Woody and Long Islands, and the salt waters bordering this area within one mile of Kodiak Island, excluding the waters bordering Spruce Island, 25 salmon for the permit holder plus an additional 25 salmon for each member of the same household whose names are listed on the permit; an additional permit may be obtained if it can be shown that more fish are needed;*

*(B) In the remainder of the Kodiak area not described in (A) of this subsection, there is no annual limit.*

*(vi) You must Subsistence fishermen shall keep a record on your subsistence permit of the number, or if for herring, the number of pounds, of subsistence fish taken by that subsistence fisherman each year. The number or pounds of subsistence fish taken shall be recorded on the reverse side of the permit. You The catch must be complete the recorded prior to leaving the fishing site immediately upon landing subsistence-caught fish, and the permit must be returned to the local representative of the department by February 1 of the year following the year the permit was issued.*

## **Current State Regulation**

### *5 AAC 02.530 Subsistence fishing permits*

*(a) A subsistence fishing permit is required for taking salmon, trout, char, and herring for subsistence purposes.*

*(b) The annual limit for a subsistence salmon fishing permit holder is as follows:*

*(1) in the fresh waters of Kodiak Island, east of a line from Crag Point south to the westernmost point of Saltery Cove, including the waters of Woody and Long Islands, and the salt waters bordering this area within one mile of Kodiak Island, excluding the waters bordering Spruce Island, 25 salmon for the permit holder plus an additional 25 salmon for each member of the same household whose names are listed on the permit; an additional permit may be obtained if it can be shown that more fish are needed;*

*(2) in the remainder of the Kodiak Area not described in (1) of this subsection, there is no annual limit.*

*(c) A subsistence fishermen shall keep a record of the number, or if for herring, the number of pounds, of subsistence fish taken by that subsistence fisherman each year. The number or pounds 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 February 1 of the year following the year the permit was issued.*

## **Extent of Federal Public Waters**

For the purpose of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. In the Kodiak Management Area, these Federal subsistence fishing regulations apply on fresh waters within or adjacent to Kodiak National Wildlife Refuge and the submerged lands and waters within the Alaska Maritime National Wildlife Refuge that are described as the Karluk, Womens Bay, and Afognak subunits (**Map 1**).

## **Customary and Traditional Use Determinations**

Residents of the Kodiak Island Borough, except those residing on the Kodiak Coast Guard Base, have a positive customary and traditional use determination for salmon in the Kodiak Area.

## **Regulatory History**

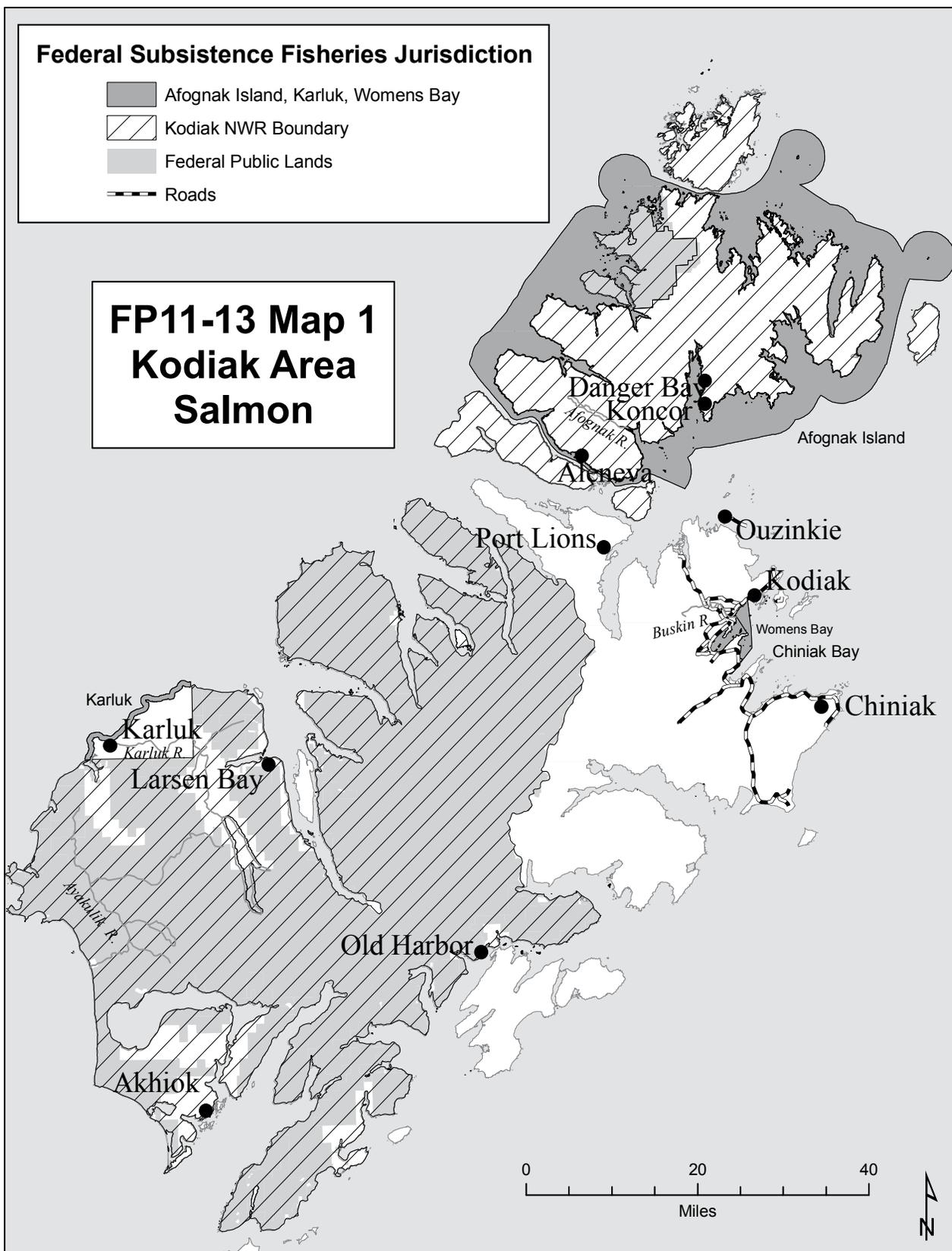
Federal regulations for subsistence fisheries were first established in 1999 and were based on existing State regulations. Until 2008, the only significant difference between Federal and State subsistence salmon fishing regulations for the Kodiak Area concerned fishing times, since Federally qualified users were allowed to fish 24 hours per day while State users were allowed to fish only from 6:00 a.m. until 9:00 p.m. During its January 14–18, 2008 meeting, the Alaska Board of Fisheries (BOF 2008) adopted a regulatory proposal submitted by the Alaska Department of Fish and Game that eliminated salmon harvest limit requirements on subsistence permits for people fishing in waters of the Kodiak Management Area that were not accessible from the Kodiak road system. Although another permit could be obtained to take additional salmon after the harvest limit on the original permit was reached, it has been difficult for people fishing and living off the road system to get additional permits. The Alaska Department of Fish and Game expected that eliminating the harvest limit from permits issued to people that fish for salmon off the road system would result in more accurate subsistence harvest reporting. All Federally qualified users are required to obtain an ADF&G subsistence permit to fish for salmon in the Kodiak Area.

## **Biological Background**

While salmon stocks in the Kodiak Management Area are generally healthy, there have been some recent run declines that have resulted in commercial, sport, and subsistence fishery restrictions. Most notably, salmon run declines have been documented for sockeye salmon in the Afognak and Buskin river drainages and Chinook salmon in the Karluk and Ayakulik river drainages. For the Afognak River drainage, spawning escapements since 2001 have been either just below or just above the lower bound of the current goal of 20,000 to 50,000 sockeye salmon, ranging from 15,181 in 2004 to 31,358 in 2009 (Baer 2010). For the Buskin River drainage, spawning escapements were within or above the current goal of 8,000 to 13,000 sockeye salmon during 2000–2007, but dropped below the range in both 2008 (5,900) and 2009 (7,757) (Schmidt and Evans 2010). For the Karluk River drainage, spawning escapements have been below the goal of 3,600 to 7,600 Chinook salmon since 2006. For the Ayakulik River drainage, spawning escapements have been below the goal of 4,800 to 9,600 Chinook salmon for three of the past four years.

## **Harvest History**

Most subsistence salmon fishing in the Kodiak Management Area occurs on the north end of Kodiak Island, the Buskin and Pasagshak rivers, and the southeast side of Afognak Island in the vicinity of the Afognak (also referred to as Litnik) River (Dinnocenzo et al. 2010). Federally qualified subsistence users fishing in Federal public waters harvest most of their salmon within the marine waters of the Alaska



Maritime Wildlife Refuge near the mouth of the Buskin River on Kodiak Island and Afognak River on Afognak Island. Residents of the six off-road Kodiak Island communities of Akhiok, Karluk, Larsen Bay, Old Harbor, Ouzinkie, and Port Lions harvest most salmon in locations off the Kodiak road system (ADF&G 2008). The mean annual Kodiak Management Area subsistence harvest for the 10-year period 1999–2008 based on permit data was 36,795 salmon, and annual harvests ranged from 27,947 salmon in 2008 to 42,622 salmon in 2002 (**Table 1**). Most of the subsistence harvest was comprised of sockeye and coho salmon, and mean annual subsistence harvests for 1999–2008 for these salmon species were 28,678 sockeye and 5,904 coho salmon.

The mean 1999–2005 subsistence harvest reported for all six off-road Kodiak Island communities based on permit data was 8,275 salmon and ranged from 6,299 salmon in 2000 to 10,172 salmon in 2005 (**Table 2**). This represented about 22% of the mean 1999–2005 subsistence harvest reported for the entire Kodiak Area (37,845 salmon). The mean 1999–2005 subsistence harvest per returned permit for all six off-road Kodiak Island communities was 56 salmon and ranged from 46 salmon in 2004 to 69 salmon in 2005 (**Table 3**). This was almost three times greater than the mean 1999–2005 subsistence harvest per permit for the remainder of Kodiak Island (19 salmon per permit). When comparative information was available, salmon harvests, participation, and average salmon harvest per fishing household were all considerably lower when estimated from returned permits than from household surveys (ADF&G 2008 and Williams et al. 2010). For example, there were two years for which salmon harvest information from five of the six off-road communities were available for comparison, 2003 and 2004 (**Table 4**). The harvest reported on returned permits in 2003 (8,626 salmon) was about 39% less than that estimated from household surveys (14,241 salmon), while the harvest reported from returned permits in 2004 (7,839 salmon) was about 64% less than that estimated from household surveys (21,509 salmon). Similarly, the mean household harvest for all six off-road communities estimated from surveys (128 salmon) was almost two times greater than that estimated from returned permits (67 salmon).

Subsistence fishing for sockeye and Chinook salmon returning to some Kodiak Management Area drainages has been restricted by time and area or closed for the season due to poor runs and failure to meet escapement goals (Dinnocenzo et al. 2010). The two largest subsistence salmon fisheries, which target sockeye salmon returning to the Buskin and Afognak river drainages, have been restricted or closed during some years. The Afognak River sockeye salmon subsistence fishery was closed most of each season during 2002–2004, remained open all season in 2005 with only a small reported harvest, was restricted in 2006 and 2007, and then remained open all season in both 2008 and 2009. To date, the 2010 Afognak River sockeye salmon run appears to be large, and the area open to subsistence fishing has been expanded (ADF&G and USFWS 2010a). The Buskin River sockeye salmon subsistence fishery was restricted in 2009 by closing a large portion of the Buskin River Section, including Womens Bay, from June 15 until July 16 (ADF&G and USFWS 2009a), and was closed in 2010, from June 15 until June 30, to ensure that the lower end of the escapement goal range would be reached (ADF&G and USFWS 2010b and c). The Karluk River Chinook salmon subsistence fishery, including the lagoon, was closed in 2009, from June 15 until December 31 (ADF&G and USFWS 2009b), and 2010, from April 30 until December 31 for State subsistence users and from May 15 until July 13 for Federal public waters (ADF&G and USFWS 2010d). The Ayakulik River Chinook salmon subsistence fishery was closed in 2009, from July 4 until December 31, due to poor escapement (ADF&G and USFWS 2009c).

Most salmon harvested in the Kodiak Management Area are taken in commercial fisheries. The mean 1999–2008 commercial harvest was 23,637,817 salmon, and the total harvest in 2009 was 30,627,685 salmon (Dinnocenzo et al. 2010). A very small commercial harvest of Buskin River sockeye salmon sometimes occurs in Chiniak Bay, and the commercial fishery targeting sockeye salmon returning to the Afognak River drainage was closed from 2001–2009, due to poor runs, except for a five day opening in

**Table 1.** Subsistence salmon harvests for Kodiak Management Area based on ADF&G permit data, 1999–2008 (Dinnocenzo et al. 2010).

Year	Permits		Number of Salmon Harvested					Total
	Issued	Returned	Sockeye	Coho	Pink	Chinook	Chum	
1999	1,845	1,437	26,534	4,974	1,229	397	388	33,522
2000	1,711	1,679	31,667	6,383	977	351	375	39,753
2001	2,378	2,009	33,878	5,920	1,158	275	427	41,656
2002	2,277	2,068	33,844	6,175	1,665	588	350	42,622
2003	2,272	2,052	32,193	6,098	1,509	510	388	40,698
2004	2,241	2,063	30,503	5,857	1,403	379	261	38,403
2005	2,290	1,958	27,664	7,703	2,350	434	592	38,743
2006	2,095	1,911	22,985	6,640	1,827	280	441	32,173
2007	2,096	1,929	22,656	4,715	1,585	207	266	32,429
2008	2,037	1,745	21,852	4,570	1,180	159	186	27,947

2005. Commercial fishing for sockeye salmon returning to the Afognak River drainage has been allowed in 2010 due to a large run (ADF&G 2010a, and ADF&G and USFWS 2010b).

Sport fishing effort in the Kodiak Management Areas is much greater in freshwater drainages and marine waters accessible from the road system than in more remote locations, and the two most heavily utilized sport fishing locations on the road system, Buskin River drainage and Chiniak Bay, account for about 33% of all sport fishing effort each year (Schwarz et al. 2007). The mean 1997–2006 sport fishery salmon harvest was 34,230 coho, 11,510 sockeye, 8,450 pink, and 8,390 Chinook salmon. In 2010, the Karluk River Chinook salmon fishery was closed on March 15 (ADF&G 2010b); the Ayakulik Chinook salmon fishery was restricted to catch-and-release on March 15 (ADF&G 2010c), closed on June 26 (ADF&G 2010d), and reopened on July 7 when lower end of the escapement goal was reached (ADF&G 2010e); the Buskin River sockeye salmon fishery was closed on June 15 (ADF&G 2010f).

### Effect of the Proposal

This proposal would allow Federally qualified users fishing in Federal public waters not accessible from the Kodiak road system to harvest and report all salmon taken by their household each year on one subsistence fishing permit. While current Federal subsistence regulations do not set an upper limit on annual household salmon harvests, they do limit the number of salmon a household may take with a fishing permit to 25 salmon per head of household and 25 salmon per each additional household member. Once this number is reached, the permit holder is required to return the permit and obtain a new one before additional salmon can be harvested. The State has already adopted regulations that allow State residents who subsistence fish for salmon in waters not accessible from the Kodiak road system to use a single permit to harvest and report all salmon taken each year. The Alaska Department of Fish and Game expects that this change will result in more accurate salmon harvest reporting. Most people fishing in these remote waters also live in communities that are not accessible from the Kodiak road system and do not have easy access to State offices or vendors that issue subsistence permits. Studies done by the Alaska Department of Fish and Game have shown that harvest estimates for these off-road communities based on returned permits have generally been much less than those based on household surveys (ADF&G 2008 and Williams et al. 2010). While adopting the proposal should not affect the actual number of salmon being harvested, it could improve the accuracy of salmon harvest estimates based on permit data, would not jeopardize the health and sustainability of salmon populations, and would reduce confusion and simplify enforcement by having the same permitting requirements for both Federal and State subsistence regulations.

**Table 2.** Subsistence salmon harvests by community based on permit returns for Kodiak Management Area, 1999–2005 (ADF&G 2008).

Year	Number of Salmon Harvested						Off-Road Community Total			Remainder		Grand Total
	Akhiok	Karluk	Larsen Bay	Old Harbor	Ouzinkie	Port Lions	Community Total	Kodiak Island <sup>a</sup>	Other Alaska Communities <sup>b</sup>			
1999	300	77	556	1,194	2,275	2,070	6,472	26,028	1,080	33,580		
2000	105		459	1,139	2,110	2,486	6,299	23,648	1,681	31,628		
2001	51	565	841	2,022	2,269	3,286	9,034	30,407	2,170	41,611		
2002	260	317	628	2,506	2,467	3,208	9,386	30,206	2,050	41,642		
2003	408	88	917	2,710	2,346	2,245	8,714	29,396	2,458	40,568		
2004	113	0	1,021	2,204	2,265	2,242	7,845	28,983	1,243	38,071		
2005	107	0	1,453	3,303	3,416	1,893	10,172	29,099	1,544	37,815		
Mean	192	175	839	2,154	2,450	2,490	8,275	28,252	1,747	37,845		

<sup>a</sup> May include a small number of permits from remote locations, but most are from Kodiak City, Kodiak Coast Guard Base, and Kodiak on-road communities.

<sup>b</sup> Alaska residents not residing in Kodiak Island Borough and for which community of residence was not known.

**Table 3.** Average subsistence salmon harvest per returned permit by community for Kodiak Management Area, 1999–2005 (ADF&G 2008).

Year	Average Number of Salmon Harvested per Permit						All six off-Road Communities			Remainder		Grand Total
	Akhiok	Karluk	Larsen Bay	Old Harbor	Ouzinkie	Port Lions	Community Total	Kodiak Island <sup>a</sup>	Other Alaska Communities <sup>b</sup>			
1999	60	77	56	66	71	45	58	22	9	24		
2000	53		46	54	81	61	63	21	10	23		
2001	9	63	32	41	50	61	48	18	7	19		
2002	24	63	26	63	62	68	56	17	6	18		
2003	58	18	44	66	59	44	53	17	7	18		
2004	14	0	36	57	53	46	46	17	4	17		
2005	21	0	61	87	95	44	69	18	5	20		
Mean	34	37	43	62	67	53	56	19	7	20		

<sup>a</sup> May include a small number of permits from remote locations, but most are from Kodiak City, Kodiak Coast Guard Base, and Kodiak on-road communities.

<sup>b</sup> Alaska residents not residing in Kodiak Island Borough and for which community of residence was not known.

**Table 4.** Comparisons of subsistence salmon harvests based on permit returns (P) and household surveys (S) for Kodiak Management Area off-road communities, 1989-1993, 1998, and 2003-2005 (ADF&G 2008).

Year	Number of Salmon Harvested													
	Akhiok		Karluk		Larsen Bay		Old Harbor		Ouzinkie		Port Lions		Total	
	P	S	P	S	P	S	P	S	P	S	P	S	P	S
1989	120	1,342		2,549	350	1,765	591	5,210	555	296	969	1,870	2,585	13,032
1990			997	4,723	1,598	2,382			2,002	2,093			4,597	9,198
1991			1,227	2,907	883	2,597	2,966	6,138	2,261	2,408			7,337	14,050
1992					577	3,018			2,518	3,924			3,095	6,942
1993	389	2,253			661	5,380			2,038	3,640	4,278	7,414	7,366	18,687
1998					637	2,641	661	3,669	2,051	4,789			3,349	11,099
2003	408	1,604			917	1,556	2,710	3,637	2,346	4,479	2,245	2,965	8,626	14,241
2004	107	1,498			1,021	4,384	2,204	7,286	2,265	4,616	2,242	3,725	7,839	21,509
2005					1,453	2,478	3,303	5,500	3,416	4,815	1,893	4,153	10,065	16,946
2005					1,453	2,478	3,303	5,500	3,416	4,815	1,893	4,153	10,065	16,946
Mean	49	129	222	238	56	186	71	128	64	99	54	94	67	128
	<u>Harvest per Household</u>													

This proposal would also allow Federally qualified users in the Kodiak Management Area to record their harvests on fishing permits before leaving the fishing site rather than immediately upon landing fish, would require them to record harvest information on the reverse side of the fishing permit, and would require them to return completed permits to an Alaska Department of Fish and Game representative. Allowing users to record harvests prior to leaving the fishing site rather than immediately upon landing fish should be less burdensome to users. However, including regulatory requirements concerning where to record information on permits and where to return completed permits is not necessary since these types of instructions are already printed on the permit (**Figure 1**).

## OSM PRELIMINARY CONCLUSION

**Support** Proposal FP11-13 **with modification** to retain existing wording for § \_\_.27(i)(9)(iv) since suggested changes would not alter the meaning of the existing regulation, change the proposed wording for § \_\_.27(i)(9)(v)(A) from “if it can be shown that more fish are needed” to “an additional permit may be obtained upon request;” to retain most of the existing wording for § \_\_.27(i)(9)(vi) with changes to when harvests need to be recorded on permits and when permits need to be returned, and to omit proposed wording for § \_\_.27(i)(9)(vi) concerning where information needs to be recorded on permits and to whom recorded permits must be returned.

The modified proposed regulation should read:

*§ \_\_.27(i)(9)(iv) You must have a subsistence fishing permit for taking salmon, trout, and char, for subsistence purposes. You must have a subsistence fishing permit for taking herring and bottomfish for subsistence purposes during the State commercial herring sac roe season from April 15 through June 30.*

*(v) With a subsistence salmon fishing permit you may take 25 salmon plus an additional 25 salmon for each member of your household whose names are listed on the permit. You may obtain an additional permit if you can show that more fish are needed. **The annual limit for a subsistence salmon fishing permit holder is as follows:***

***(A) In the fresh waters of Kodiak Island, east of the line from Crag Point south to the westernmost point of Saltery Cove, including the waters of Woody and Long Islands, and the salt waters bordering this area within one mile of Kodiak Island, excluding the waters bordering Spruce Island, 25 salmon for the permit holder plus an additional 25 salmon for each member of the same household whose names are listed on the permit: an additional permit may be obtained upon request;***

***(B) In the remainder of the Kodiak Area not described in (A) of this subsection, there is no annual harvest limit for a subsistence salmon fishing permit holder.***

*(vi) You must record on your subsistence permit the number of subsistence fish taken. You must complete the record **all harvested fish prior to leaving the fishing site**, and must return **it the permit by the date marked on February 1 of the year following the year the permit was issued.***

## Justification

Adopting the proposal with the modifications noted here would achieve the outcome sought by the proponent by 1) removing household salmon harvest limit restrictions from fishing permits issued to Federally qualified subsistence users that harvest salmon from Federal public waters not accessible from



the Kodiak road system, and 2) allowing Federally qualified subsistence users in the Kodiak Management Area to record their harvests on fishing permits before leaving the fishing site rather than upon landing fish. The modified proposal does not include any portion of the proposed regulatory language that could be addressed as specifications on fishing permits or on instructions provided with fishing permits.

All Federally qualified subsistence users in the Kodiak Management Area are currently required to obtain additional permits whenever the harvest limit specified on the permit is reached. Federally qualified subsistence users fishing in Federal Public waters accessible from the Kodiak road system can accomplish this relatively easily since old permits can be returned and new ones can be obtained at the Alaska Department of Fish and Game office in the City of Kodiak. This process is more difficult for Federally qualified subsistence users fishing in Federal public waters that are not accessible from the Kodiak road system, particularly since most of these people also live in communities that are not accessible from the Kodiak road system. People fishing in these remote areas do not have easy access to the City of Kodiak, and there are usually no agency representatives or vendors in these remote communities to issue permits. Adoption of the proposal with modifications noted here should not affect the number of salmon harvested by Federally qualified subsistence users in the Kodiak Area, and may improve the accuracy of harvest reporting by people harvesting salmon in remote locations not accessible from the Kodiak road system. Removing a specified harvest limit from permits issued to Federally qualified subsistence users fishing for salmon in remote areas should not jeopardize the health and sustainability of the salmon populations being exploited since managers have the authority to restrict subsistence harvests during the fishing season to protect these salmon populations. Since the State has already made a similar change to permitting and reporting requirements for State subsistence users, adopting similar requirements for Federally qualified users would be less confusing to users as well as enforcement agents. The current Alaska Department of Fish and Game permit already specifies the harvest limits adopted by the State in 2008 (**Figure 1**), and these are now different from those in Federal regulations for people fishing for salmon in Federal public waters not accessible from the Kodiak road system.

Federally qualified subsistence users living in the Kodiak Management Area are currently required to record their harvests on fishing permits immediately upon landing fish. Adoption of the modified proposal would instead require these Federally qualified subsistence users to record their harvests on fishing permits before leaving the fishing site. This would be less burdensome to these users and should not affect the accuracy of harvest reporting or hinder enforcement.

Federally qualified subsistence users living in the Kodiak Management Area are currently required to return their fishing permits by February 1, and adoption of the original proposal would also require them to return completed permits to an Alaska Department of Fish and Game representative as well as to record harvest information on the reverse side of the fishing permit. Adoption of the modified proposal would not specify a receiving entity for submission of completed permits or where to record information on permits, and it would also remove the February 1 return date specified in current regulations. It is not necessary to include regulatory language specifying where to record information on permits, the agency to which permits are to be returned, and the date by which permits must be returned. These types of requirements are already specified on fishing permits (**Figure 1**). There do not appear to be any benefits in placing them into regulation.

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ADF&G Comments on FP11-13  
August 24, 2010; Page 1 of 2

**Alaska Department of Fish and Game**  
***Comments to Regional Advisory Council***

**Fisheries Proposal FP11-13:** Remove harvest limit for non-road system federal subsistence salmon fisheries on Kodiak Island, require a permit and recording of Pacific herring harvested under federal subsistence regulations, and require harvest recording prior to leaving the fishing site.

**Introduction:** A total annual household limit for salmon harvested in any Kodiak federal subsistence salmon fisheries exists in federal regulations. The Kodiak-Aleutians Regional Advisory Council submitted this proposal to remove the annual limit for salmon harvested in federal subsistence fisheries on Kodiak Island from waters that are not adjacent to the Kodiak Island road system. This proposal also requires herring harvest be recorded on the subsistence fishing permit, consistent with state regulations. It proposes to change reporting requirements to allow fishermen to record harvest prior to leaving the fishing site, whereas the state requirement is to record harvest “immediately.” Except for the reporting requirement, the proposed federal regulations would be consistent with existing state regulations.<sup>1</sup>

**Impact on Subsistence Users:** If adopted, federal subsistence users who choose to fish in waters of Kodiak not adjacent to the road system will no longer have an annual harvest limit for salmon, consistent with state regulation. Federally qualified subsistence fishers fishing in waters where federal subsistence jurisdiction is claimed will be required to record subsistence-harvested herring. The requirement to record harvest “prior to leaving the fishing site” is inconsistent with state regulations and may put fishermen at risk of citation, depending on location of harvest.

**Opportunity Provided by State:** State subsistence regulations for Kodiak salmon fisheries have different annual household limits depending upon location of harvest. Subsistence fishermen who harvest fish from road system streams are limited to 25 salmon for those named on the permit, and an additional permit is available based on needs of the permit holder. There is no annual harvest limit for subsistence fishermen that harvest in waters that are not adjacent to the road system, but fishermen are required to record harvest and submit the permit to agency

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<sup>1</sup> 5AAC 01.530 Subsistence Fishing Permits

- (a) A subsistence fishing permit is required for taking salmon, trout, char, and herring for subsistence purposes.
- (b) The annual limit for a subsistence salmon fishing permit holder is as follows:
  - (1) in the fresh waters of Kodiak Island, east of a line from Crag Point south to the westernmost point of Saltery Cove, including the waters of Woody and Long Islands, and the salt waters bordering this area within one mile of Kodiak Island, excluding the waters bordering Spruce Island, 25 salmon for the permit holder plus an additional 25 salmon for each member of the same household whose names are listed on the permit; an additional permit may be obtained if it can be shown that more fish are needed;
  - (2) in the remainder of the Kodiak Area not described in (1) of this subsection, there is no annual limit.
- (c) A subsistence fishermen shall keep a record of the number, or if for herring, the number of pounds, of subsistence fish taken by that subsistence fisherman each year. The number or pounds 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 February 1 of the year following the year the permit was issued.
- (d) A subsistence herring fishing permit holder may take no more than 500 pounds of herring in a calendar year.

ADF&G Comments on FP11-13  
August 24, 2010; Page 2 of 2

staff by February 1 of the following year. Subsistence fishermen may harvest up to 500 pounds of herring in a calendar year under the same state subsistence permit.

**Conservation Issues:** Kodiak currently has no designated salmon stocks of concern. However, the Karluk River Chinook salmon stock has not met its minimum escapement goal (3,600) and has had commercial, sport, and subsistence fishery restrictions for the past three seasons. The Karluk River early-run sockeye salmon stock has not met its minimum escapement goal (110,000) and had commercial, sport, and subsistence restrictions for the past two seasons. The Ayakulik River Chinook salmon stock has not met its minimum escapement goal (4,800) and had commercial, sport, and subsistence restrictions for three of the past four seasons. Subsistence harvest from both the Karluk and Ayakulik rivers is minimal or has been restricted.

**Jurisdiction Issues:** The federal subsistence salmon fisheries on or near Kodiak Island can take place in the fresh and marine waters of the Pacific Ocean enclosed by boundaries of Womens Bay, Gibson Cove, and an area defined by a line ½ mile on either side of the mouth of the Karluk River extending seaward 3,000 feet. Additionally, federal subsistence users can fish for salmon in marine waters of Afognak Island within three miles seaward of shoreline.

**Recommendations:** Support the proposed limits of fish that can be harvested on and off the Kodiak road system. Support the proposed requirement to record herring harvested in federal subsistence fisheries on a permit. Oppose reporting requirements that allow subsistence fishermen to be in possession of harvest but not record it until they leave the fishing site.

<b>FP11-14 Executive Summary</b>	
<b>General Description</b>	Proposal FP11-14 requests that in the Kodiak Area a Federally qualified user of salmon that is also an owner, operator, or employee of a lodge, charter vessel, or other enterprise that furnishes food, lodging, or sport fishing guide services may not furnish to a client or guest of that enterprise who is not a rural resident of the state, salmon that has been taken under Federal subsistence fishing regulations. <i>Submitted by the Kodiak Aleutians Subsistence Regional Advisory Council</i>
<b>Proposed Regulation</b>	<b>Kodiak Area—Fishery management area restrictions</b>  <i>§ _____.27(i)(9)(x) An owner, operator, or employee of a lodge, charter vessel, or other enterprise that furnishes food, lodging, or sport fishing guide services may not furnish to a client or guest of that enterprise salmon that has been taken under subsistence fishing regulations.</i>
<b>OSM Preliminary Conclusion</b>	<b>Support</b> Proposal FP11-14 <b>with modification</b> to delete “sport fishing” but retain guide services. The modified regulation would read:  <b>Kodiak Area—Fishery management area restrictions</b>  <i>§ _____.27(i)(9)(x) An owner, operator, or employee of a lodge, charter vessel, or other enterprise that furnishes food, lodging, or guide services may not furnish to a client or guest of that enterprise salmon that has been taken under subsistence fishing regulations.</i>
<b>Kodiak/Aleutians Regional Council Recommendation</b>	
<b>Interagency Staff Committee Comments</b>	
<b>ADF&amp;G Comments</b>	Support adoption of this proposal if this activity is determined to be legal under existing federal statutes and regulations, but modify the proposal to be applicable to all commercial operations, not just sport fishing guides. If this activity is not legal under federal statutes and regulations, then this proposal is not necessary.
<b>Written Public Comments</b>	<b>None</b>

## DRAFT STAFF ANALYSIS FP11-14

### ISSUES

Proposal FP11-14, submitted by the Kodiak Aleutians Subsistence Regional Advisory Council (Council), requests that in the Kodiak Area a Federally qualified user of salmon that is also an owner, operator, or employee of a lodge, charter vessel, or other enterprise that furnishes food, lodging, or sport fishing guide services may not furnish to a client or guest of that enterprise who is not a rural resident of the state, salmon that has been taken under Federal subsistence fishing regulations.

### DISCUSSION

The proponent states that existing Federal subsistence management regulations do not prohibit a commercial service operator (such as, an owner, operator, or employee of a lodge, charter vessel, or other enterprise that furnishes food, lodging, or sport fishing guide services) who has a subsistence permit, from providing subsistence-caught salmon to clients who are not rural residents of the state, and that this results in additional fish being removed from systems that may already be experiencing low returns. The proponent suggests that the new regulation would protect salmon populations in areas that are experiencing low returns, such as Chinook salmon stocks in the Karluk and Ayakulik river drainages. Therefore, the proposed regulation would enhance escapement and assist recovery efforts. The term “furnish to a client or guest” in the proposed regulation is intended to mean feeding or giving subsistence-caught salmon to a client or guest.

#### Existing Federal Regulation

*No regulation*

#### Relevant Federal Regulation

##### § \_\_.27(13)(ii) Subsistence taking of fish.

*(13) No sale to, nor purchase by, fisheries businesses.*

*(ii) If you are required to be licensed as a fisheries business under Alaska Statute AS 43.75.011 (commercial limited-entry permit or crew license holders excluded) or are a business as defined under Alaska Statute 43.70.110(1), you may not purchase, receive, or sell fish, their parts, or their eggs taken under the regulations in this part as part of your business transactions.*

#### Subsistence taking of shellfish—General provisions

*\_\_.28(j)(1) An owner, operator, or employee of a lodge, charter vessel, or other enterprise that furnishes food, lodging, or guide services may not furnish to a client or guest of that enterprise, shellfish that has been taken under this section, unless:*

*(i) The shellfish has been taken with gear deployed and retrieved by the client or guest who is a Federally qualified subsistence user;*

*(ii) The gear has been marked with the client’s or guest’s name and address; and*

*(iii) The shellfish is to be consumed by the client or guest or is consumed in the presence of the client or guest.*

*(2) The captain and crewmembers of a charter vessel may not deploy, set, or retrieve their own gear in a subsistence shellfish fishery when that vessel is being chartered.*

## **Proposed Federal Regulation**

### **Kodiak Area—Fishery management area restrictions**

**§\_\_\_\_.27(i)(9)(x) *An owner, operator, or employee of a lodge, charter vessel, or other enterprise that furnishes food, lodging, or sport fishing guide services may not furnish to a client or guest of that enterprise salmon that has been taken under subsistence fishing regulations.***

## **Existing State Regulation**

### **5 AAC 01.010. Methods, means, and general provisions**

*(d) It is unlawful to buy or sell subsistence-taken fish, their parts, or their eggs, unless otherwise specified in this chapter.*

### **AS 43.70.110. Definitions.**

*In this chapter, unless the context otherwise requires,*

*(1) “business” means a for profit or nonprofit entity engaging or offering to engage in a trade, a service, a profession, or an activity with the goal of receiving a financial benefit in exchange for the provision of services, or goods or other property.*

## **Extent of Federal Public Waters**

For the purpose of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3, including fresh waters within or adjacent to the Alaska Peninsula National Wildlife Refuge, Becharof National Wildlife Refuge, Alaska Maritime National Wildlife Refuge, and Kodiak National Wildlife Refuge, and the submerged lands and waters within the Alaska Maritime National Wildlife Refuge that are described as the Karluk, Womens Bay, and Afognak subunits (see **Kodiak Area Map**).

## **Customary and Traditional Use Determination**

The customary and traditional use determination for salmon in the Kodiak Area is for residents of the Kodiak Island Borough, except those residing on the Kodiak Coast Guard Base.

## **Regulatory History**

During the Council meeting in March 2010 (KASRAC 2010) and in the proposal book, the Ayakulik and Karluk river drainages were specifically mentioned in discussions of this proposal; the directed sport fishery for Chinook salmon closes in these drainages from July 26 to December 31 every year. During the sport fishing closures, commercial service operators at times catch fish under Federal subsistence



regulations to give to paying clients. In recent years, conservation concerns have resulted in more widespread closures in the drainages. For example, ADF&G took the additional steps in 2010 of closing the Chinook sport fisheries in the two drainages for an additional four months, beginning March 15 until July 25, 2010 (Emergency Order Nos. 2-KS-4-02-10 and 2-KS-4-01-10; ADF&G 2010). (The Ayakulik River drainage Chinook sport fishery re-opened on July 7, 2010.)

Conservation concerns for sockeye salmon populations also exist. In 2010, the directed sockeye salmon sport fishery was closed on the Karluk River drainage from June 30 to July 15, 2010 (Emergency Order No. 2-RS-4-26-10). The timing of the commercial fishery was also affected.

Subsistence fishing seasons have also been affected. ADF&G closed the Chinook salmon subsistence fishery in the Karluk River drainage from April 30 to December 31, 2010. Subsequently, the Federal Chinook salmon subsistence fishery closed from May 15 until July 13, 2010. Closures to both the State and Federal subsistence fisheries made it impossible for commercial service operators to give legally harvested salmon from the Karluk River drainage to paying clients, which is in part the intent of the proposed regulation—to clarify that this practice is prohibited.

## **Background**

Kodiak National Wildlife Refuge staff developed this proposal with ADF&G staff and presented the proposal to the Council at its March 2010 meeting in Kodiak City. Refuge staff suggested that the Council submit the proposal to the Board. Staff stated that the proposed regulation stopped a loophole in regulations “where we might have a sport fish season open with nonretention type regulations and subsistence fishery open on that same body of water” (KASRAC 2010:133).

We could have guides or lodge owners who are Alaska rural residents catching fish and retaining them under subsistence regulations and they could conceivably provide those subsistence caught fish to their clients or guests. And we feel with the addition of this regulation . . . because the systems would have low returns and that’s the reason for the nonretention regulations under sport fishing, we’d like to be able to allow as many returning fish into those systems as possible (KASRAC 2010:133).

Just how much salmon is shared with the guests and clients of lodges and guides in the Kodiak Area is not known.

The practice of a business purchasing, receiving, or selling subsistence-caught fish as part of a business transaction is prohibited under Federal subsistence management regulations, cited above (§ \_\_\_\_\_.27(13) (ii) Subsistence taking of fish). However, there is a precedent for inclusion of a specific regulation that clarifies that certain activities are prohibited. In 1999, State shellfish regulations were adopted into Federal subsistence management regulations; this included a provision that prohibits a commercial service operator from giving subsistence caught shellfish to clients or guests of the commercial service operator, cited above (§ \_\_\_\_\_.28(j)(1) Subsistence taking of shellfish—General provisions).

## **Effects of the Proposal**

Adoption of this proposal would have no effect, as the practice of commercial service operators providing subsistence-caught salmon to paying clients is already prohibited. Adoption of the proposal would provide additional clarity to commercial service operators, such as lodge owners and guides, that this practice is prohibited.

## OSM PRELIMINARY CONCLUSION

**Support** Proposal FP11-14 **with modification** to delete “sport fishing” but retain guide services. The modified regulation would read:

### **Kodiak Area—Fishery management area restrictions**

**§\_\_\_\_.27(i)(9)(x) *An owner, operator, or employee of a lodge, charter vessel, or other enterprise that furnishes food, lodging, or guide services may not furnish to a client or guest of that enterprise salmon that has been taken under subsistence fishing regulations.***

### **Justification**

Adoption of this proposal as modified would provide clarity that this practice is not allowed, and it would make it clear that all guides, not just sport fishing guides, are prohibited from engaging in this practice.

### **LITERATURE CITED**

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KASRAC. 2010. Transcripts of the Kodiak Aleutians Subsistence Regional Advisory Council proceedings, March 23, 2010, in Kodiak, Alaska. OSM, FWS. Anchorage, AK.

ADF&G Comments on FP11-14  
August 24, 2010; Page 1 of 2

**Alaska Department of Fish and Game**  
***Comments to Regional Advisory Council***

**Fisheries Proposal FP11-14:** Prohibit federal subsistence qualified owner, operator, or employee of a lodge, charter vessel, or other enterprise that furnishes food, lodging, or sport fishing guide services from furnishing salmon taken under federal subsistence regulations to a non-rural resident of the state, client, or guest of that enterprise when non-retention regulations or sport fishery closures are in place.

**Introduction:** The Kodiak-Aleutians Regional Advisory Council submitted this proposal to address concerns of the Council, Kodiak Refuge staff, and Alaska Department of Fish and Game fisheries managers. These shared concerns focused on prohibiting federally qualified subsistence users, when acting as commercial operators or their employees, from furnishing their paying clients with salmon harvested in a federal subsistence fishery, particularly when the fishery is closed to retention of salmon by other user groups for resource conservation. The local concerns are compounded because federal regulations allow rod and reel as legal gear, which permits sport fishing guides to fish alongside their clients and retain subsistence fish, which are subsequently furnished to the client while their clients are prohibited from retaining salmon.

**Impact on Subsistence Users:** If adopted, federally qualified subsistence users who are acting as commercial operators or employees will be prohibited from gifting, bartering, trading, or selling to paying clients salmon harvested under federal subsistence regulations in the Kodiak area. Data regarding federal subsistence harvest of salmon in the Kodiak area do not record the possession transfer of salmon harvested under federal subsistence regulations by commercial operators to paying clients. Therefore, the extent of this practice is difficult to determine.

**Opportunity Provided by State:** State subsistence regulations for the Kodiak salmon fisheries have two annual household limits depending upon location of the harvest, as follows:

*5AAC 01.530 Subsistence Fishing Permits*

*(b) (1) in the fresh waters of Kodiak Island, east of the line from Crag Point south to the westernmost point of Saltery Cove, including the waters of Woody and Long Islands, and the salt waters bordering this area within one mile of Kodiak Island, excluding the waters bordering Spruce Island, 25 salmon for the permit holder plus an additional 25 salmon for each member of the same household whose names are listed on the permit: and additional permit may be obtained if it can be shown that more fish are needed;*

*(b) (2) in the remainder of the Kodiak Area not described in (1) of this subsection, there is no annual limit.*

**Conservation Issues:** Kodiak has no designated salmon stocks of concern. However, the Karluk River Chinook salmon stock has not met its minimum escapement goal (3,600) during the last five years, had commercial and sport restrictions for the past six seasons, and had subsistence fishery restrictions for the past three seasons. The Karluk River early-run sockeye salmon stock has not met its minimum escapement goal (110,000) and had commercial, sport, and subsistence restrictions the past two seasons. The Ayakulik River Chinook salmon stock has not met its minimum escapement goal (4,800) during three of the last five seasons and had

ADF&G Comments on FP11-14  
August 24, 2010; Page 2 of 2

commercial, sport, and subsistence restrictions during that time. Subsistence harvests from both the Karluk and Ayakulik rivers are minimal or had been restricted.

**Jurisdiction Issues:** The federal subsistence salmon fisheries on or near Kodiak Island can take place in the fresh and marine waters of the Pacific Ocean enclosed by boundaries of Womens Bay, Gibson Cove, and an area defined by a line ½ mile on either side of the mouth of the Karluk River extending seaward 3,000 feet. Additionally, federal subsistence users can fish for salmon in the marine waters of Afognak Island within three miles seaward of the shoreline. Detailed maps are needed that depict land ownership and specific boundaries of areas where federal regulations are claimed to apply in order for federal subsistence fishermen to identify boundaries and reduce risk of enforcement action.

**Other Issue:** Based on personal communication with federal legal counsel, gifting of fish to non-rural residents, clients, or guests as part of a commercial enterprise is not a subsistence use under ANILCA and is not customary trade as defined in federal regulation. Adoption of this proposed regulation is not necessary because this activity is already prohibited. If no action is taken on this proposal by the Federal Subsistence Board, Fish and Wildlife Service staff at Kodiak National Wildlife Refuge could modify commercial operator permit stipulations to prohibit possession of any fish harvested by the operator while providing guiding and other commercial services. Alternatively, the Alaska Board of Fisheries could adopt a similar proposal to address gifting of fish by commercial operators and their employees.

**Recommendations:** Support adoption of this proposal if this activity is determined to be legal under existing federal statutes and regulations, but modify the proposal to be applicable to all commercial operations, not just sport fishing guides. If this activity is not legal under federal statutes and regulations, then this proposal is not necessary.

<b>FP11-15 Executive Summary</b>	
<b>General Description</b>	Proposal FP11-15 requests that Federally qualified subsistence users only be allowed to fish for salmon from 6:00 a.m. until 9:00 p.m. from January 1 through December 31 in Federal public waters accessible from the Kodiak road system. <i>Submitted by the Kodiak/Aleutians Regional Advisory Council</i>
<b>Proposed Regulation</b>	<p>§ __.27(i)(9)(ii) <i>You may take salmon for subsistence purposes 24 hours a day from January 1 through December 31, with the following exceptions:</i></p> <p>****</p> <p><i>(C) Salmon may be taken for subsistence purposes from 6:00 a.m. until 9:00 p.m. from January 1 through December 31, on the Kodiak road system.</i></p>
<b>OSM Preliminary Conclusion</b>	<b>Oppose</b>
<b>Kodiak/Aleutians Regional Council Recommendation</b>	
<b>Interagency Staff Committee Comments</b>	
<b>ADF&amp;G Comments</b>	<b>Support</b>
<b>Written Public Comments</b>	<b>None</b>

**DRAFT STAFF ANALYSIS  
FP11-15**

**ISSUES**

Proposal FP11-15, submitted by the Kodiak/Aleutians Regional Advisory Council, requests that Federally qualified subsistence users only be allowed to fish for salmon from 6:00 a.m. until 9:00 p.m. from January 1 through December 31 in Federal public waters accessible from the Kodiak road system.

**DISCUSSION**

Federal subsistence salmon fishing regulations generally allow Federally qualified subsistence users to fish 24 hours a day in Federal public waters of the Kodiak Area while State subsistence salmon regulations for this area only allow fishing 15 hours a day (6:00 a.m. to 9:00 p.m.). This proposal seeks to align Federal with State salmon fishing times for Federal public waters accessible from the Kodiak road system, so that both State and Federal subsistence salmon fishing occur from 6:00 a.m. to 9:00 p.m. from January 1 through December 31. The proponent thinks that adopting this proposal would benefit elders, who may not fish at night, by providing the same start time for all subsistence users; prevent waste of salmon; avoid potentially entangling marine birds and mammals in the nets being fished at night; and simplify enforcement efforts.

**Existing Federal Regulation**

*§ \_\_\_\_.27(i)(9)(ii) You may take salmon for subsistence purposes 24 hours a day from January 1 through December 31, with the following exceptions:*

**Proposed Federal Regulation**

*§ \_\_\_\_.27(i)(9)(ii) You may take salmon for subsistence purposes 24 hours a day from January 1 through December 31, with the following exceptions:*

\*\*\*\*

*(C) Salmon may be taken for subsistence purposes from 6:00 a.m. until 9:00 p.m. from January 1 through December 31, on the Kodiak road system.*

**Current State Regulation****5 AAC 01.510 Fishing seasons**

*(a) Salmon may be taken for subsistence purposes from 6:00 a.m. until 9:00 p.m. from January 1 through December 31, with the following exceptions:*

**Extent of Federal Public Waters**

For the purpose of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. In the Kodiak Management Area, Federal subsistence fishing regulations apply on fresh waters within or adjacent to Kodiak National Wildlife Refuge and the submerged lands and waters within the Alaska Maritime National Wildlife Refuge that are described

as the Karluk, Womens Bay, and Afognak subunits (**Map 1**). The only Federal public waters accessible from the Kodiak road system are those within the Womens Bay subunit of the Alaska Maritime National Wildlife Refuge.

### **Customary and Traditional Use Determinations**

Residents of the Kodiak Island Borough, except those residing on the Kodiak Coast Guard Base, have a positive customary and traditional use determination for salmon in the Kodiak Area.

### **Regulatory History**

Federal regulations for subsistence fisheries were first established in 1999 and were based on existing State regulations. Federal subsistence regulations for the Kodiak Area have always allowed salmon fishing 24 hours a day, while State subsistence regulations have only allowed salmon fishing from 6:00 a.m. until 9:00 p.m. since at least 1979. Federally qualified users have always been required to obtain, complete, and return an Alaska Department of Fish and Game subsistence permit to fish for salmon in the Kodiak Area. The Alaska Department of Fish and Game permit issued to Federally qualified subsistence users is the same one issued to State subsistence users, and the current version does not specify salmon fishing times or directly reference State regulation 5 AAC 01.510(a) that specifies fishing seasons and time (**Figure 1**).

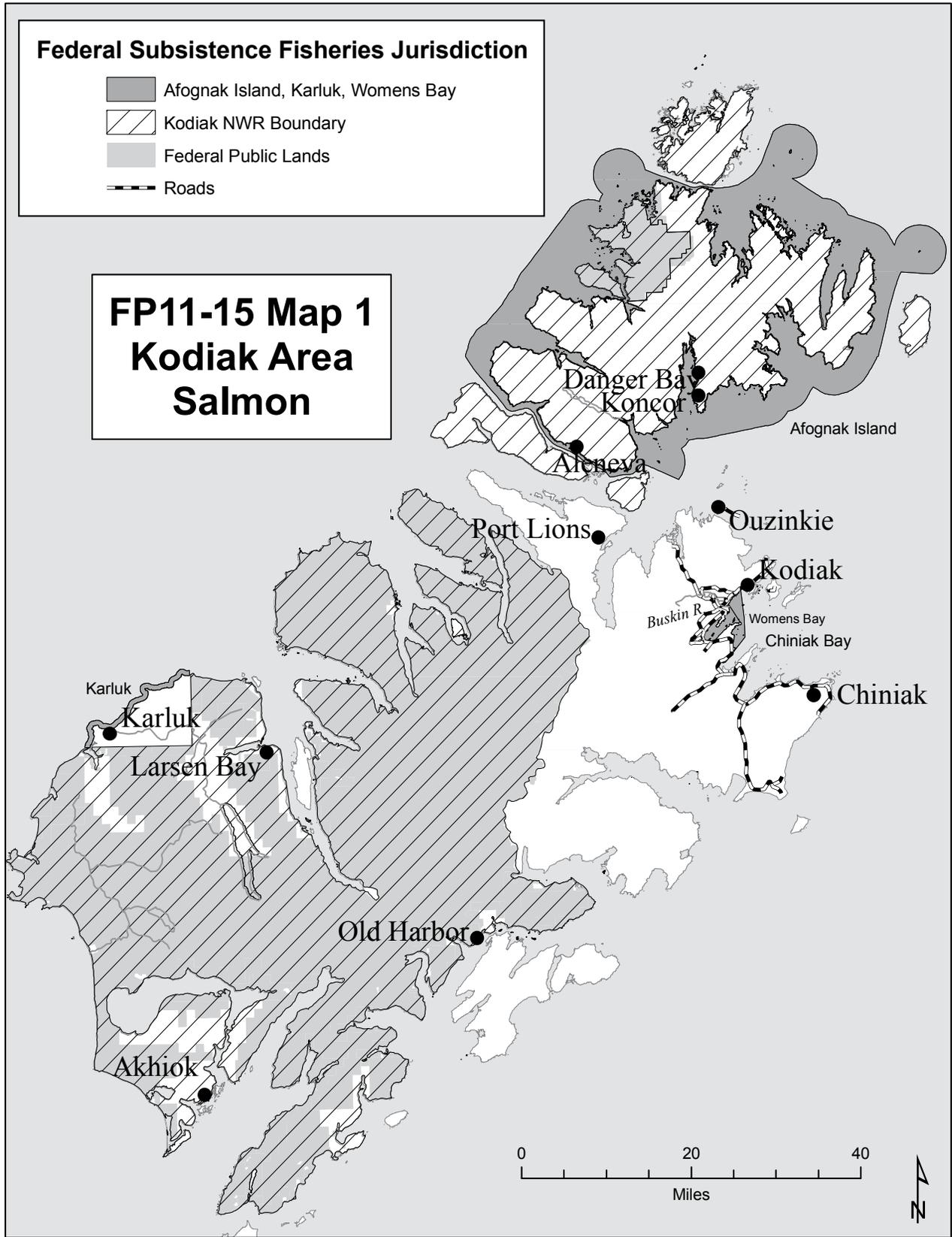
### **Biological Background**

The salmon stocks of greatest importance to Federally qualified subsistence users fishing in Federal public waters accessible from the Kodiak road system are the sockeye and coho salmon populations that spawn in the Buskin River drainage. These stocks usually account for the greatest subsistence harvests in the Kodiak Area. Sockeye salmon runs to the Buskin River drainage are generally healthy, and spawning escapements between 2000 and 2007 were within or above the current goal of 8,000 to 13,000 sockeye salmon (**Table 1**). However, run abundance has declined since 2007, and spawning escapements were below the current goal in 2008 (5,900 sockeye salmon) and 2009 (7,757 sockeye salmon). Coho salmon runs to the Buskin River drainage are healthy, and all spawning escapements between 2000 and 2009 were above the current goal of 3,200–7,200 coho salmon (**Table 2**).

### **Harvest History**

Federally qualified subsistence users fishing in Federal public waters accessible from the Kodiak road system harvest most of their salmon within the marine waters of the Alaska Maritime Wildlife Refuge near the mouth of the Buskin River. For the Buskin River sockeye salmon run, the mean subsistence harvest for 2000–2008 based on permit returns was 8,960 sockeye salmon, and annual harvests ranged from 2,664 sockeye salmon in 2008 to 13,366 sockeye salmon in 2002 (**Table 1**). The Buskin River sockeye salmon subsistence fishery was restricted in 2009, and a harvest estimate is not yet available. For the Buskin River coho salmon run, the mean subsistence harvest for 2000–2003 was 1,686 coho salmon, and annual harvests ranged from 1,247 coho salmon in 2003 to 2,011 coho salmon in 2000 (**Table 2**). Subsistence fishing has not been restricted for the Buskin River coho salmon run.

A very small commercial harvest of Buskin River sockeye and coho salmon sometimes occurs in Chiniak Bay. For the Buskin River sockeye salmon run, the annual harvest ranged between 0 and 1,098 sockeye salmon during 2000–2009, but was 30 sockeye salmon or less for nine of the 10 years (**Table 1**). For the Buskin River coho salmon run, the annual harvest ranged between 0 and 6 coho salmon during 2000–2003 (**Table 2**).





**Table 1.** Sockeye salmon weir counts and harvests, Buskin River drainage, 2000–2009 (Schmidt and Evans 2010). Harvest data were not available (NA) for all years.

Year	Weir Count	Number Harvested		
		Subsistence	Sport	Commercial
2000	11,233	7,315	2,041	0
2001	20,556	10,260	827	0
2002	17,174	13,366	2,204	0
2003	23,870	10,651	3,017	6
2004	22,023	9,421	1,379	1,098
2005	15,468	8,239	1,540	0
2006	17,734	7,577	1,577	6
2007	16,502	11,151	1,509	30
2008	5,900	2,664	1,160	0
2009	<u>7,757</u>	<u>NA</u>	<u>NA</u>	<u>0</u>
Mean	15,822	8,960	1,695	114

**Table 2.** Coho salmon weir counts and harvests, Buskin River drainage, 2000–2009 (ADF&G 2010a and b, and Clark et al. 2006). Harvest data were not available (NA) for all years.

Year	Weir Count	Number Harvested		
		Subsistence	Sport	Commercial
2000	8,048	2,011	2,631	0
2001	13,494	1,430	2,332	0
2002	10,646	1,514	2,497	0
2003	13,150	1,247	3,302	6
2004	9,599	NA	4,860	NA
2005	16,596	NA	3,010	NA
2006	13,348	NA	6,567	NA
2007	8,862	NA	5,215	NA
2008	8,645	NA	4,259	NA
2009	<u>10,624</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
Mean	11,301	1,686	3,853	2

The two most heavily utilized sport fishing locations on the Kodiak road system are the Buskin River drainage and Chiniak Bay, which account for about 33% of all sport fishing effort each year (Schwarz et al. 2007). For the Buskin River sockeye salmon run, the mean sport harvest for 2000–2006 was 1,695 sockeye salmon, and annual harvests ranged from 827 sockeye salmon in 2001 to 3,017 sockeye salmon in 2003 (**Table 1**). For the Buskin River coho salmon run, the mean sport fish harvest for 2000–2008 was 3,853 coho salmon, and annual harvests ranged from 2,332 coho salmon in 2001 to 6,567 coho salmon in 2006 (**Table 2**).

### Effect of the Proposal

If adopted, this proposal would reduce the amount of time Federally qualified subsistence users are allowed to fish for salmon in Federal public waters accessible from the Kodiak road system from 24 hours per day to 15 hours per day (6 a.m. to 9 p.m.). Adopting this proposal would align fishing times specified under Federal and State regulations for fresh and salt waters accessible from the Kodiak road system. However, Federally qualified subsistence users would still be allowed to fish for salmon 24 hours per day in all other Federal public waters of the Kodiak Area, while State subsistence fisheries throughout the Kodiak Area would continue to be open only from 6 a.m. to 9 p.m. While adopting this proposal would reduce salmon fishing opportunities for Federally qualified subsistence users on the Kodiak road system, it is not possible to determine how it would affect actual harvests and use patterns since no information is available on either the number of users fishing between 9:00 p.m. and 6:00 a.m. or the number of salmon

harvested during that time period. Although closure of subsistence fishing at night might benefit people who do not wish to fish at night, including some elders, it would disadvantage people who may prefer or only have time available to fish at night. Adopting this proposal could make it easier to enforce fishing times, since these times would be the same for both State and Federally managed subsistence salmon fisheries occurring in waters accessible from the Kodiak road system. However, it is not clear that there has been a problem enforcing different fishing times for these user groups.

Adopting this proposal is not expected to have any effect on the health or sustainability of Buskin River salmon or other fish and wildlife populations beyond what can be accomplished through inseason management actions. Managers already have the ability to restrict fishing times and areas during the season if such actions are needed to conserve salmon populations, and there appears to be no information to support the proponent's concern that marine birds and mammals are more prone to being tangled in nets fished at night in this fishery. Finally, it is difficult to determine whether adopting this proposal would reduce salmon wastage. Current regulations, 36 CFR 242 and 50 CFR 100, § \_\_\_.27(i)(9)(ix), require permit holders to be physically present at the net when the net is being fished, although it may be more difficult to enforce this regulation at night.

## **OSM PRELIMINARY CONCLUSION**

**Oppose** Proposal FP11-15.

### **Justification**

Adoption of this proposal would reduce the amount of time Federally qualified users are allowed to fish for salmon from 24 hours per day to 15 hours per day (6 a.m. to 9 p.m.) within Federal public waters accessible from the Kodiak road system. The proponent raised concerns that elders may be disadvantaged under current regulations that allow Federally qualified users to fish for salmon in Federal public waters 24 hours a day, that non-Federally qualified users may be fishing at night in Federal public waters, that nets are being fished unattended during the night causing salmon wastage, and that marine birds and mammals may be more prone to entanglement in nets at night. However, managers already have the authority to adjust fishing time and area during the season to address conservation problems, including salmon wastage or incidental take of marine birds and mammals, and there should be better ways to more directly address any problems elders have in harvesting salmon rather than reducing fishing time for all Federally qualified users by 9 hours each day. While adopting this proposal may make it easier to enforce these regulations, since Federal and State subsistence salmon fishing would only be allowed during the same hours, this does not appear to be a large problem. However, if this proposal is not adopted, it is not clear whether the current State subsistence fishing permit should continue to be used for both fisheries. It may be necessary to develop and issue either a joint permit with the State, which would specify differences in salmon fishing times and other regulations between Federally qualified and State subsistence users, or a separate Federal permit. In summary, adoption of this proposal could be detrimental to the satisfaction of subsistence needs through a reduction of salmon fishing opportunities, and is not needed to conserve subsistence resources.

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ADF&G Comments on FP11-15  
August 24, 2010; Page 1 of 1

**Alaska Department of Fish and Game**  
***Comments to Regional Advisory Council***

**Fisheries Proposal FP11-15:** Establish fishing hours for federal subsistence fishermen harvesting salmon from streams on the Kodiak road system.

**Introduction:** The Kodiak-Aleutians Regional Advisory Council submitted this proposal to establish 6:00 am to 9:00 pm daily hours for the Kodiak Island federal subsistence salmon fisheries on the road system. The existing federal subsistence salmon fisheries are unlimited.

**Impact on Subsistence Users:** If this proposal is adopted, federal subsistence users fishing for salmon in Kodiak waters would be restricted to subsistence fishing from 6:00 am to 9:00 pm daily. Adoption of this proposal may require some federal subsistence users to delay or advance their subsistence fishing times but would not impact the opportunity for customary and traditional subsistence use.

**Opportunity Provided by State:** Since before 1979, state regulations for the Kodiak salmon fisheries established a daily subsistence fishing schedule from 6:00 am to 9:00 pm. The daily fishing schedule was put into regulation to address enforcement and social issues.

**Conservation Issues:** None.

**Other Issues:** State<sup>1</sup> and federal regulations<sup>2</sup> require subsistence users to be present when a net is being fished. Leaving gillnets unattended overnight can lead to overfilled and damaged nets, may exceed the user's household salmon limit, and may attract wildlife to fishing sites.

**Jurisdiction Issues:** The federal subsistence salmon fisheries on or near Kodiak Island can take place in the fresh and marine waters of the Pacific Ocean enclosed by boundaries of Womens Bay, Gibson Cove, and an area defined by a line ½ mile on either side of the mouth of the Karluk River extending seaward 3,000 feet. Additionally, federal subsistence users can fish for salmon in marine waters of Afognak Island within three miles seaward of the shoreline. Detailed maps are needed that depict land ownership and specific boundaries of areas where federal regulations are claimed to apply in order for federal subsistence fishermen to identify boundaries and reduce risk of enforcement action.

**Recommendation:** Support

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<sup>1</sup> 5 AAC 01.520. *Lawful gear and gear specifications*

(d) *Subsistence fishermen must be physically present at the net at all times the net is being fished.*

<sup>2</sup> 50 CFR 100.27 (c)(9)

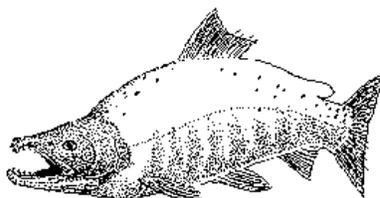
(ix) *You must be physically present at the net when the net is being fished.*



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# ***PRIORITY INFORMATION NEEDS***

## ***FEDERAL SUBSISTENCE FISHERIES***



### **2012 FISHERIES RESOURCE MONITORING PROGRAM**

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Office of Subsistence Management  
U.S. Fish and Wildlife Service  
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907-786-3612 Fax

July 23, 2010

The Office of Subsistence Management (OSM) invites the submission of proposals for fisheries investigation studies to be initiated under the 2012 Fisheries Resource Monitoring Program (Monitoring Program). Taking into account funding commitments for ongoing projects, we anticipate approximately \$2.7 million available in 2012 to fund new monitoring and research projects that provide information needed to manage subsistence fisheries for rural Alaskans on Federal public lands. Funding may be requested for up to four years duration.

Although all proposals addressing subsistence fisheries on Federal public lands will be considered, the 2012 Request for Proposals is focused on priority information needs. The Monitoring Program is administered by region, those being the Northern, Yukon, Kuskokwim, Southwest, Southcentral, and Southeast regions. Strategic plans developed by workgroups of Federal and State fisheries managers, researchers, Regional Advisory Council members and other stakeholders, have been completed for three of the six regions: Southeast, Southcentral (excluding Cook Inlet Area), and Southwest Alaska. These plans identify prioritized information needs for each major subsistence fishery and can be viewed on or downloaded from OSM's website: <http://alaska.fws.gov/asm/index.cfml>. Independent strategic plans were completed for the Yukon and Kuskokwim regions for salmon in 2005, and jointly for whitefish in 2010. For the Northern Region and the Cook Inlet Area, priority information needs were developed with input from Regional Advisory Councils, the Technical Review Committee, Federal and State managers and staff from OSM.

This document summarizes priority information needs for 2012 for all six regions and a multi-regional category that addresses priorities that may extend to more than one study region. Investigators preparing proposals for the 2012 Monitoring Program should use this document and relevant strategic plans, and the Request for Proposals, which provides foundational information about the Monitoring Program, to guide proposal development. While Monitoring Program project selections may not be limited to priority information needs identified in this document, proposals addressing other information needs must include compelling justification with respect to strategic importance.

Monitoring Program funding is not intended to duplicate existing programs. Agencies are discouraged from shifting existing projects to the Monitoring Program. Where long-term projects can no longer be funded by agencies, and the project provides direct information for Federal subsistence fisheries management, a request to the Monitoring Program of up to 50% of the project cost may be submitted for consideration. For Monitoring Program projects for which additional years of funding is being requested, investigators should justify continuation by placing the proposed work in context with the ongoing work being accomplished. For projects with broad overlap of Federal and State management authority, a substantial match in funding must be included in order to be considered for Monitoring Program funding.

Because cumulative effects of climate change are likely to fundamentally affect subsistence fishery resources, their uses, and how they are managed, investigators are requested to consider examining or discussing climate change effects as a component of their project. Investigators conducting long-term stock status projects will be required to participate in a standardized air and water temperature monitoring program. Calibrated temperature loggers and associated equipment, analysis and reporting services, and access to a temperature database will be provided. Finally, proposals that focus on the effects of climate change on subsistence fishery resources and uses, and that describe implications for subsistence management, are specifically requested. Such proposals must include a clear description of how the project would measure or assess climate change impacts to subsistence fishery resources, uses, and management.

Projects with an interdisciplinary emphasis are encouraged. The Monitoring Program seeks to combine ethnographic, harvest monitoring, traditional ecological knowledge, and biological data to aid in finding effective management approaches to fisheries. Investigators are encouraged to combine interdisciplinary methods, theories, and data to address information needs. Consideration should be given to the cultural context of key research topics.

Collaboration and cooperation with rural communities is encouraged at all stages of research planning and implementation of projects that directly affect those communities. The Request for Proposals describes the collaborative process in community-based research and in building partnerships with rural communities.

The following sections provide specific regional and multi-regional priority information needs for the 2012 Monitoring Program. They are not listed in priority order.

### **Northern Region Priority Information Needs**

The Northern Region is divided into three areas which reflect the geographic areas of the three northern Regional Advisory Councils (Seward Peninsula, Northwest Arctic, and North Slope). Together, the three areas comprise most of northern Alaska, and contain substantial Federal public lands. Since 2001, the three northern Regional Advisory Councils have identified important fisheries issues and information needs for their respective areas. The Seward Peninsula and Northwest Arctic Councils have identified salmon and char fisheries as being the most important fisheries for their areas. The North Slope Council identified char, whitefish, and Arctic grayling fisheries as most important for its area. In addition, the effects of climate change on subsistence fishery resources has been identified as a priority research need. The Multi-regional priority information needs section at the end of this document includes climate change research needs.

For the Northern Region, the 2012 Request for Proposals is focused on the following priority information needs:

- Baseline harvest assessment and monitoring of subsistence fisheries in the Northwest Arctic and North Slope regions.
- Historic trends and variability in harvest locations, harvests and uses of non-salmon fish.
- Iñupiaq taxonomy of fish species, Iñupiaq natural history of fish, land use, place name mapping, species distribution, and methods for and timing of harvests. Species of interest include sheefish, northern pike, or other subsistence non-salmon fish in the Northwest Arctic region.
- Spawning distribution, timing, and stock structure of Selawik River whitefish species.

### **Yukon Region Priority Information Needs**

Since its inception, the Monitoring Plan for the Yukon Region has been directed at information needs identified by the three Yukon River Regional Advisory Councils (Yukon-Kuskokwim Delta, Western Interior, and Eastern Interior) with input from subsistence users, the public, Alaska Native organizations, Federal and State agencies, and partner agencies and organizations. The U.S./Canada Yukon River Salmon Joint Technical Committee Plan has been used to prioritize salmon monitoring projects in the Alaskan portion of the Yukon River drainage. Additionally, a research plan for whitefish has identified priority information needs for whitefish species in the Yukon and Kuskokwim river drainages.

For the Yukon Region, the 2012 Request for Proposals is focused on the following priority information needs:

- Reliable estimates of Chinook and chum salmon escapements (e.g., weir and sonar projects).
- Effects on salmon stocks and users of fishery management practices implemented to conserve Chinook salmon (e.g. gillnet mesh size, gillnet depth, and windowed openings).
- Methods for including “quality of escapement” measures in establishing Chinook salmon spawning goals and determining the reproductive potential of spawning escapements.
- Trends in Yukon River Chinook salmon production relative to other spawning stocks of the Bering Sea and Gulf of Alaska.
- Contemporary economic strategies and practices in the context of diminished salmon runs. Topics may include an evaluation of barter, sharing, and exchange of salmon for cash, as well as other economic strategies and practices that augment and support subsistence activities. Of particular interest are distribution networks, decision making, and the social and cultural aspects of salmon harvest and use.
- Description of the use of gillnets to harvest salmon species by residents of the Yukon River drainage.
- Location and timing of Bering cisco spawning populations in the Yukon River drainage.
- Complete genetic baseline sampling and population marker development for sheefish spawning populations in the Yukon River drainage.
- Harvest, use, and associated contextual information for whitefish by species in lower Yukon River drainage communities.

### **Kuskokwim Region Priority Information Needs**

Since 2001, the Yukon-Kuskokwim Delta and Western Interior Regional Advisory Councils, with guidance provided by the Kuskokwim Fisheries Resource Coalition, have identified a broad category of issues and information needs in the Kuskokwim Region. These include collection and analysis of traditional ecological knowledge; harvest assessment and monitoring; salmon run and escapement monitoring; non-salmon fish population monitoring; and marine/coastal salmon ecology. Additionally, a research plan for salmon and a research plan for whitefish have been used to prioritize monitoring projects for salmon and whitefish. These were reviewed to ensure that remaining priority information needs were considered.

For the Kuskokwim Region, the 2012 Request for Proposals is focused on the following priority information needs:

- Reliable estimates of Chinook, chum and coho salmon escapement (e.g. weir projects).
- Harvest, use, and associated contextual information for whitefish by species in upper Kuskokwim River drainage communities. Communities of interest include McGrath, Telida, Nikolai, Takotna, and Lime Village.

- Traditional ecological knowledge of whitefish by species in central Kuskokwim River drainage communities. Communities of interest include Upper Kalskag, Lower Kalskag, Aniak, Chuathbaluk, Red Devil, Sleetmute, Stony River, and Crooked Creek. The findings from this research will supplement harvest and use information from previous research.
- Harvest, use, and associated contextual information for whitefish by species in lower Kuskokwim River drainage communities. Specific groups of communities of interest are Kwethluk, Akiachak, Napaskiak, and Tuluksak, or Chefornak, Kipnuk, Kongiganak, and Kwigillingok.
- Broad whitefish population assessment, including distribution and age structure.
- Location and timing of Bering cisco spawning populations in the Kuskokwim River drainage.
- Complete genetic baseline sampling and population marker development for sheefish spawning populations in the Kuskokwim River drainage.
- Status of sheefish spawning population in Highpower Creek, an upper tributary of the Kuskokwim River (this could be part of the genetic baseline study listed directly above).

### **Southwest Region Priority Information Needs**

Separate strategic plans were developed for the Bristol Bay-Chignik and Kodiak-Aleutians areas, corresponding to the geographic areas covered by the Bristol Bay and Kodiak/Aleutians Regional Advisory Councils. These strategic plans were reviewed to ensure that remaining priority information needs were considered.

For the Southwest Region, the 2012 Request for Proposals is focused on the following priority information needs:

- Trends in whitefish harvest and use from Lake Clark communities.
- Environmental, demographic, regulatory, cultural, and socioeconomic factors affecting harvest levels of salmon for subsistence use in the Kodiak Area. Researchers should consider evaluating factors influencing use patterns and describing the socioeconomic impacts of other fisheries.
- Harvest of salmon for subsistence use by residents of the Aleutian Islands Area, including current and traditional harvest methods and means by species, and current and traditional uses and distribution practices.

### **Southcentral Region Priority Information Needs**

A strategic plan was developed for Prince William Sound-Copper River and an abbreviated strategic planning process was employed for Cook Inlet. These sources were reviewed to ensure that remaining priority information needs were considered.

For the Southcentral Region, the 2012 Request for Proposals is focused on the following priority information need:

- Historical and current subsistence use areas for harvest of salmon and non-salmon fish species by residents of Ninilchik, Hope, and Cooper Landing. Research should include intensity of use and use on Federal public lands and waters.

### **Southeast Region Priority Information Needs**

A strategic plan was developed for Southeast Region in 2006 and was reviewed to ensure that priority information needs are identified. The 2012 Request for Proposals is focused on priority information needs for sockeye salmon and steelhead trout. It should be noted that current Department of Agriculture funding levels for the monitoring program in Southeast Alaska are fully committed to continuation of projects initiated in 2010. However, this request for proposals includes solicitation for the Southeast Region so as to maintain options for 2012 should additional funding become available.

For the Southeast Region, the 2012 Request for Proposals is focused on the following priority information needs:

- Reliable estimates of sockeye salmon escapement. Stocks of interest include: Gut Bay, Red, Kah Sheets, Salmon Bay, Sarkar, Lake Leo, and Hoktaheen.
- In-season subsistence harvest of sockeye salmon. Stocks of interest include: Hatchery Creek, Gut Bay, Red, Kah Sheets, Salmon Bay, Sarkar, Kanalku, and Hoktaheen.
- Contribute to the genetic stock identification baseline of Chatham Strait sockeye salmon.
- Reliable estimates of steelhead escapement, especially for systems on Prince of Wales Island.

### **Multi-Regional Priority Information Needs**

The Multi-regional category is for projects that may be applicable in more than one region. For the Multi-Regional category, the 2012 Request for Proposals is focused on the following priority information needs:

- Changes in subsistence fishery resources and uses, in the context of climate change where relevant, including but not limited to fishing seasons, species targeted, fishing locations, harvest methods and means, and methods of preservation. Include management implications.
- An indexing method for estimating species-specific whitefish harvests on an annual basis for the Kuskokwim and Yukon drainages. Researchers should explore and evaluate an approach where sub-regional clusters of community harvests can be evaluated for regular surveying with results being extrapolated to the rest of the cluster, contributing to drainage-wide harvest estimates.
- Evaluation of conversion factors used to estimate edible pounds from individual fish, and from unorthodox units such as tubs, sacks, or buckets.

## **UPDATE ON THE BROWN BEAR CLAW HANDICRAFT WORKING GROUP**

The Brown Bear Claw Handicraft Working Group met on July 29, 2010 in Anchorage. Representatives of seven of the ten Regional Advisory Councils participated in person, and representatives of Eastern and Southcentral Regional Advisory Councils participated by teleconference. Staff from Alaska Department of Fish and Game and Federal agencies also attended. The meeting, chaired by Larry VanDaele with ADF&G and Helen Armstrong, OSM, was held in the OSM Board Room and lasted most of the day.

To begin with, discussion focused on a central question, namely, whether or not there is a need for changes to regulations that allow the sale of handicrafts that incorporate brown bear claws; and if so, can a regulation or regulations be developed that would be non-burdensome for subsistence users.

Other related questions had to do with existing laws or requirements that may affect subsistence users wanting to sell handicrafts that incorporate bear claws, including:

- CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) is an international agreement created to ensure that international trade in wild animals and their parts does not threaten the survival of the species worldwide. Although brown bears are not endangered in Alaska, they are listed as endangered in the lower 48 states of the U.S. and worldwide. Therefore, products from brown bears require CITES permits for international trade (as well as black and polar bears). Under CITES, both tag numbers and permits can be issued.
  - When a bear is sealed, a CITES tag number is attached to the bear hide.
  - A CITES permit is needed to take a handicraft that includes a brown bear part, such as a claw, into another country. To do that, a CITES tag number would need to be provided to a law enforcement officer to get a CITES permit (cost is \$25). This is the responsibility of the buyer, not the seller, unless the seller is exporting the item out of the country (in which case they are required to pay for an export license).
- Sealing of brown bears was also discussed; of particular concern was where bears could be sealed. The existing Federal regulations require modification to allow brown bears to be sealed in villages rather than regional centers. ADF&G representatives assured the Council members that subsistence users would not have to leave the community to get a bear sealed.

Following this discussion, the working group discussed options with regard to regulatory action to bring to the Federal Subsistence Board. The working group was in consensus that:

- Deferred Proposal WP08-05 should be rejected by the Federal Subsistence Board. State representatives at the working group meeting concurred that the Deferred Proposal WP08-05 should be rejected.
- A new proposal should be submitted. The new proposed regulation would require sealing the brown bear if the subsistence user intends to sell a handicraft incorporating the claw(s). A CITES tag number, which is provided when the hide is sealed, would then accompany the handicraft. The new proposal would be submitted by OSM staff.

- Further details regarding how a CITES tag number would accompany a handicraft (a certificate or sticker or some other mechanism) are being developed by staff. These details will be provided to the working group at a later date and will be included in the proposal when it is submitted.
- The proposed regulation would apply only to Federally qualified subsistence users who sell handicrafts incorporating brown bear claw(s). There would be no change for those who take brown bears, make handicrafts for personal use, and do not intend to sell such a handicraft.
- Further details for the proposed regulation still need to be developed addressing how the CITES tag number would accompany the handicraft as well as changes to the regulations regarding the ability to seal the hide in villages rather than regional centers. The working group reached consensus on the following language (additions are bolded). For Federally qualified subsistence users:

*You may sell handicraft articles made from the skin, hide, pelt, or fur of a brown bear (including claws) taken from Units 1-5, 9A-C, 9E, 12, 17, 20, 22, 23, 24B (only that portion within Gates of the Arctic National Park), 25, and 26.*

***If you intend to sell a handicraft incorporating a brown bear claw(s), the hide must be sealed, which includes a CITES tag number. The CITES tag number must accompany the handicraft.***

The analysis of this proposal will be presented to all Councils for their recommendations at the fall 2011 meetings, and will be considered by the Federal Subsistence Board at its January 2012 meeting.

## QUESTIONS AND ANSWERS REGARDING THE BROWN BEAR CLAW HANDICRAFTS WORK GROUP

### **Why was this working group formed?**

At the May 2008 Federal Subsistence Board meeting, the idea of a working group was suggested by the State as a way to address some of their concerns with Federal regulations that allow the sale of handicrafts that include brown bear claws. The Federal Subsistence Board endorsed the formation of a working group, and clarified that its membership needed to include representatives of the Regional Advisory Councils. The Federal Board also deferred action on a statewide proposal submitted by Alaska Department of Fish and Game (ADF&G) that addressed Federal regulations, pending the outcome of the working group.

### **What is the charge of the working group?**

The draft charge of the working group was developed at a meeting of State and Federal staff in January 2009. The charge is as follows:

Develop a method(s) to recommend to the Federal Subsistence Board and the Board of Game for tracking brown bear claws made into handicrafts that is enforceable and culturally sensitive, commensurate with the need to provide conservation of this wildlife resource.

**Who is in the working group and how often has it met?**

The brown bear claws handicraft tracking working group includes representatives of the ADF&G, Alaska Wildlife Troopers, Office of Subsistence Management, US Fish and Wildlife Service, US Forest Service, and nine of the ten Regional Advisory Councils. Federal and state agency staff met five times between January and August 2009, but Council representatives were only able to attend one of these meetings by teleconference (June 2009). The working group met again in July 2010.

**What is currently allowed under Federal subsistence regulations with regard to brown bear parts?**

Under Federal subsistence regulations, Federally qualified subsistence users may sell handicraft articles made from the skin, hide, pelt or fur of a brown bear (including claws) taken from Units 1-5, 9A-C, 9E, 12, 17, 20, 23, 24B (only that portion within Gates of the Arctic National Park), 25 and 26. In Units 1-5, Federally qualified subsistence users may sell handicraft articles made from the skin, hide, pelt, fur, claws, bones, teeth, sinew or skulls of a brown bear taken in Units 1, 4 or 5. Raw claws may not be sold to anyone, including other subsistence users.

**Will the working group change Federal Subsistence regulations?**

Only the Federal Subsistence Board can change Federal subsistence regulations, and it is not the goal of the working group to rescind Federal regulations that allow for the sale of handicrafts that incorporate brown bear claws. The working group is looking for a non-burdensome way to track legally harvested claws that protects the artist, the buyer, and the resource, and is supported by the Councils.

**If the working group can devise a way to track brown bear claws used in handicrafts, how would this protect subsistence users?**

Illegally-harvested brown bears are resources that are being taken away from subsistence users. In some cases, poaching for bear parts is incorrectly attributed to legitimate hunters, unfairly affecting peoples' opinions of hunting and subsistence. Developing a mechanism to track legally harvested claws could protect handicraft makers by showing the claws that are used were legally harvested. It could also protect the buyer by developing a mechanism to document and track, which will allow buyers to legally import the handicrafts into other states and countries. This will protect the resource and enhance the value of legitimately obtained handicrafts by making the legal claws identifiably separate from the illegal claws on the market.

**What are some of the concerns over the sale of brown bear claws in Alaska?**

Although brown bear populations are generally healthy and productive in Alaska, this is not the case in other parts of the United States and the world. There is a demand for bear parts in foreign and domestic markets that poachers and traffickers fill by obtaining brown bears for their parts (primarily paws, claws and gall bladders) and shipping them to illegal markets. These illegal activities threaten populations of brown bears in other parts of the US and world and could eventually affect Alaskan bear populations.

**What drives the illegal trade in brown bears and their parts?**

Prices for individual claws are highly variable. There have been reports of brown bear paw soup costing \$800 per bowl in Asia, and brown bear claw necklaces costing over \$3,000. These high prices drive the trade in illegal brown bear parts. In the past ten years, agents from US Fish and Wildlife Service and the Alaska Wildlife Troopers have documented over 150 cases where they have found dead bears with

only the claws, paws or gall bladders removed. These cases do not reflect findings by other enforcement agencies that have different ways of organizing individual cases. Illegal harvests are considered poaching and are not reflective of the legal harvests of subsistence users.

### **What options are there for tracking claws?**

The Brown Bear Claw Working Group is looking at existing programs that track animal parts in different countries using such mechanisms as tags, seals, stickers or permits that stay with the animal part. While a technical solution such as individually identifiable microchips inserted in each claw would be possible, such marking and tracking is not wide spread, and such marking of individual claws might not be effective on a global scale.

### **Would it work to have documentation for claws?**

We think so, as long standing programs for other resources have worked. CITES (Convention of International Trade of Endangered Species) has an established and successful documentation and tracking program to track the legal and illegal movement of threatened or endangered species. Alaska brown bears are already protected under CITES and between 1975-2003, there were over 6,500 reports of legal brown bear claw exports.

To take advantage of this program, the Federal Subsistence Management Program could use the existing ADF&G procedures for sealing when the hunter plans on using the claws for making a handicraft to sell in the future. The existing ADF&G procedures is to attach a CITES tag to the bear hide when the bear is sealed. The appropriate forms to document and track brown bear claws taken by Federally qualified subsistence users could be incorporated into the sealing process when the hide is sealed, thereby minimizing paperwork and burden on the hunter. A numbered sticker or permit could then be issued and would stay with the handicraft as proof the claws came from a legally harvested Alaskan brown bear. The Federal government manages CITES permit distribution.

The handicrafts made from brown bear claws legally harvested in Alaska by Federally qualified subsistence users should be distinct from all other sources of brown bear claws to identify that the handicrafts came from sustainably managed bear populations and from Federally protected Alaskan subsistence users. This will protect the resource and enhance the value of legitimately obtained handicrafts. Possession of a CITES permit would allow the buyer to legally take brown bear claw handicrafts into other countries.

### **In which units is sealing of brown bear currently not required?**

Sealing brown bear skins and skulls harvested by Federally qualified subsistence users on Federal public lands is not required (unless you remove the skin or skull from the unit) in Units 5, 9B, 17, 18, portions of 19A, 19B (downstream of and including the Aniak River drainage), 21D, 22 (except 22C), 23 (except the Baldwin Peninsula north of the Arctic Circle), 24, and 26A. *These are the only units or portions of units where new sealing requirements would have an effect, and only when the intent is to sell the brown bear claw handicraft.*

### **In which units would the proposed regulation have no effect?**

The proposed regulations would have no effect on those units where sealing is already required. These units are: 1-4, 6-8, 9A, 9C—9E, 10-16, portions of 19A, 20, 21A—C, 21E, 22C, 25, 26B and 26C.

## **BRIEFING ON THE NEW FEDERAL SUBSISTENCE PERMIT SYSTEM**

The Federal Subsistence Management Program issues permits to Federally qualified subsistence users where specified in regulations.

- Recognizing limitations of the existing system, beginning in February 2010, a new Federal Subsistence Permit System (FSPS) was developed and the wildlife harvest component was brought on line in mid-April.

OSM staff undertook the project to improve efficiencies by:

- Building the latest security measures into the new FSPS in order to protect personal information of permit holders as well as the integrity of the harvest data
- Allowing for in-season tracking of harvests, thereby allowing for more responsive in-season management and conservation of species
- Standardizing terminology and improving accuracy of the issued permits and also harvest reporting data subsequently entered and managed within the system
- Allowing Federal managers to generate tailored, functional reports to provide staff biologists and anthropologists with solid basis for subsequent regulatory analyses and actions
- Streamlining the process of issuing permits to Federally qualified users, as well as tracking the returns of the harvest information reports.

Since April, OSM personnel have trained more than 96 Federal agency staff how to issue permits using the new system

- More than 3,200 permits have been issued since then

Feedback from users is overwhelmingly positive:

- Public users – much quicker process to receive permits, less time waiting in line
- Agency staff – far more useful than before

What's in store for the future?

- The fisheries management component of the permit system is under development and is expected to be available for use in the 2011 season.
- Web based harvest reporting

## Winter 2011 Regional Advisory Council Meeting Calendar

*February 15–March 24, 2011 current as of 08/02/10*

Meeting dates and locations are subject to change.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<i>Feb. 13</i>	<i>Feb. 14</i>	<i>Feb. 15</i> <i>Window Opens</i>	<i>Feb. 16</i>	<i>Feb. 17</i>	<i>Feb. 18</i> <b>NWA—Kotzebue</b>	<i>Feb. 19</i>
<i>Feb. 20</i>	<i>Feb. 21</i> <b>HOLIDAY</b>	<i>Feb. 22</i>	<i>Feb. 23</i> <b>YKD—Bethel</b>	<i>Feb. 24</i>	<i>Feb. 25</i>	<i>Feb. 26</i>
<i>Feb. 27</i>	<i>Feb. 28</i>	<i>Mar. 1</i> <b>EI—Tanana</b> <b>WI—Galena</b>	<i>Mar. 2</i>	<i>Mar. 3</i>	<i>Mar. 4</i>	<i>Mar. 5</i>
<i>Mar. 6</i>	<i>Mar. 7</i> <b>NS—Barrow</b>	<i>Mar. 8</i>	<i>Mar. 9</i> <b>BB—Naknek</b>	<i>Mar. 10</i>	<i>Mar. 11</i>	<i>Mar. 12</i>
<i>Mar. 13</i>	<i>Mar. 14</i>	<i>Mar. 15</i>	<i>Mar. 16</i> <b>SC—Anchorage</b>	<i>Mar. 17</i>	<i>Mar. 18</i>	<i>Mar. 19</i>
<i>Mar. 20</i>	<i>Mar. 21</i>	<i>Mar. 22</i> <b>SP—Nome</b> <b>SE—Sitka</b> <b>K/A—Kodiak</b>	<i>Mar. 23</i>	<i>Mar. 24</i> <i>Window Closes</i>	<i>Mar. 25</i>	<i>Mar. 26</i>

## Fall 2011 Regional Advisory Council Meeting Window

*August 30–October 15, 2011 current as of 08/04/10*

Meeting dates and locations are subject to change.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<i>Aug. 21</i>	<i>Aug. 22</i> <b>WINDOW OPENS</b>	<i>Aug. 23</i>	<i>Aug. 24</i>	<i>Aug. 25</i>	<i>Aug. 26</i>	<i>Aug. 27</i>
		<b>NS—TBA</b>				
<i>Aug. 28</i>	<i>Aug. 29</i>	<i>Aug. 30</i>	<i>Aug. 31</i>	<i>Sept. 1</i>	<i>Sept. 2</i>	<i>Sept. 3</i>
<i>Sept. 4</i>	<i>Sept. 5</i> <b>HOLIDAY</b>	<i>Sept. 6</i>	<i>Sept. 7</i>	<i>Sept. 8</i>	<i>Sept. 9</i>	<i>Sept. 10</i>
<i>Sept. 11</i>	<i>Sept. 12</i>	<i>Sept. 13</i>	<i>Sept. 14</i>	<i>Sept. 15</i>	<i>Sept. 16</i>	<i>Sept. 17</i>
<i>Sept. 18</i>	<i>Sept. 19</i>	<i>Sept. 20</i>	<i>Sept. 21</i>	<i>Sept. 22</i>	<i>Sept. 23</i>	<i>Sept. 24</i>
<i>Sept. 25</i>	<i>Sept. 26</i>	<i>Sept. 27</i>	<i>Sept. 28</i>	<i>Sept. 29</i>	<i>Sept. 30</i> <i>END OF FY2010</i>	<i>Oct. 1</i>
<i>Oct. 2</i>	<i>Oct. 3</i>	<i>Oct. 4</i>	<i>Oct. 5</i>	<i>Oct. 6</i>	<i>Oct. 7</i>	<i>Oct. 8</i>
<i>Oct. 9</i>	<i>Oct. 10</i> <b>HOLIDAY</b>	<i>Oct. 11</i>	<i>Oct. 12</i>	<i>Oct. 13</i>	<i>Oct. 14</i> <b>WINDOW CLOSES</b>	<i>Oct. 15</i>



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

FWS/OSM 10053/AW

**Federal Subsistence Board**

1011 E. Tudor Rd., MS 121  
Anchorage, Alaska 99503-6199



U.S. FOREST SERVICE

JUL 1 2010

Mr. Mitch Simeonoff Sr., Chair  
Kodiak/Aleutians Subsistence  
Regional Advisory Council  
Post Office Box 5008  
Akhiok, Alaska 99615

Dear Mr. Simeonoff:

Enclosed with this letter is a report of the Federal Subsistence Board's actions at its May 18-20, 2010, meeting regarding proposed changes to subsistence wildlife regulations. The Board used a consensus agenda on those proposals where the Regional Advisory Council(s), the Interagency Staff Committee, and the Alaska Department of Fish and Game were in agreement. The Board adopted the consensus agenda at the conclusion of the meeting. Details of these actions and the Board's deliberations are contained in the meeting transcripts. Copies of the transcripts may be obtained by calling our toll free number, 1-800-478-1456, and are available online at the Office of Subsistence Management website, <http://alaska.fws.gov/asm/index.htm>.

The Federal Subsistence Board appreciates the Kodiak/Aleutians Subsistence Regional Advisory Council's active involvement in and diligence with the regulatory process. The ten Regional Advisory Councils continue to be the foundation of the Federal Subsistence Management Program, and the stewardship shown by the Regional Advisory Council chairs and their representatives at the Board meeting was noteworthy.

If you have any questions regarding the summary of the Board's actions, please contact Ann Wilkinson, 1-907-786-3676.

Sincerely,

*/S/ Michael R. Fleagle*

Michael R. Fleagle, Chair

Enclosure

cc: Kodiak/Aleutians Subsistence Regional Advisory Council members  
Peter J. Probasco, OSM

**FEDERAL SUBSISTENCE BOARD ACTION REPORT  
MAY 18-20, 2010**

Note to Reader: 1) Changes to regulatory language are shown by strikeout ~~lettering~~ for deleted language and bolded **lettering** for new language. 2) The consensus agenda is comprised of proposals for which the Office of Subsistence Management, Regional Advisory Council(s), the Interagency Staff Committee, and the Alaska Department of Fish and Game agree on a recommended action. The Federal Subsistence Board does not address consensus agenda proposals individually unless requested to do so at the meeting.

**STATEWIDE PROPOSALS**

**Proposal WP10-01**

DESCRIPTION: Proposal WP10-01, submitted by the USFWS, Office of Subsistence Management (OSM), requests the addition of a definition for “drawing permit” to the Federal subsistence management regulations.

COUNCIL RECOMMENDATION/JUSTIFICATION:

Southeast Alaska SRAC: Support with modification as described in the OSM conclusion. This proposal is housekeeping and provides clarity for a term in common use.

Southcentral Alaska SRAC: Support with modification as described in the OSM conclusion. This proposal would not negatively affect subsistence users.

Kodiak/Aleutians SRAC: Support with modification as described in the OSM conclusion.

Bristol Bay SRAC: Support with modification as described in the OSM conclusion.

Yukon-Kuskokwim Delta SRAC: Support with modification as described in the OSM conclusion. This is a housekeeping proposal to clarify random drawing.

Western Interior Alaska SRAC: Support with modification as described in the OSM conclusion.

Seward Peninsula SRAC: Support with modification as described in the OSM conclusion. The Council agrees with clarifying definitions for “drawing permits.”

Northwest Arctic SRAC: Support. The Council supported the proposal because subsistence is a way of life and there are concerns about having to use a drawing permit.

Eastern Interior Alaska SRAC: Support with modification as described in the OSM conclusion. This proposal is housekeeping and would simplify and clarify regulations.

North Slope SRAC: Support. Subsistence is a way of life and there are concerns about having to use a drawing permit.

BOARD ACTION/JUSTIFICATION: **Adopted with modification**, as recommended by eight councils to read, “*Statewide-General Regulations §\_\_ .25(a) Definitions. **Drawing permit—a permit issued to a limited number of Federally qualified subsistence users selected by means of a random drawing.***” The definition clarifies a term that is used in the Federal subsistence hunting regulations and does not affect fish and wildlife populations, subsistence uses or other uses. The modified wording simplifies the definition and makes it clear that drawing permits are based on a random drawing for all similarly situated Federally qualified subsistence users.

## Proposal WP10-02

NOTE: The status of Proposal WP10-02 (deferred proposal WP08-05) was presented to all Regional Advisory Councils during the winter 2010 cycle of meetings. This proposal was further deferred until the assigned State-Federal workgroup completes its work and presents its findings to the Board in January 2011. The Southeast Alaska SCRAC was the only council that took action on the proposal.

### COUNCIL RECOMMENDATION/JUSTIFICATION:

Southeast Alaska SRAC: Support use of brown bear parts for handicrafts. There is no evidence to indicate the need for a bear handicrafts workgroup or a need to limit or restrict the use of brown bear parts. There is no need to defer action.

BOARD ACTION/JUSTIFICATION: The Board did not address this proposal, preferring instead to wait until the workgroup has completed its work.

## Proposal WP10-03

DESCRIPTION: Proposal WP10-03, submitted by the Office of Subsistence Management, requests the addition of a general provision in Federal subsistence management regulations to allow the harvest of fish and wildlife by participants in a cultural or educational program.

### COUNCIL RECOMMENDATION/JUSTIFICATION:

Southeast Alaska SRAC: Support with modification as described in the OSM conclusion. The Council favors removing confusing language regarding the ceremonial use of fish and wildlife. However, it is unclear to the Council how OSM would define an educational camp. The Council favors simplifying regulations that do not include hard timelines and that provide flexibility in the number of animals that can be taken.

Southcentral Alaska SRAC: Support with modification to read “§~~\_\_\_~~.27(e) §~~\_\_\_~~.25(g) Cultural/educational program permits. ~~(2)(1) The U.S. Fish and Wildlife Service Office of Subsistence Management may issue a permit to harvest fish for a qualifying cultural/educational program to an organization that has been granted a Federal subsistence permit for a similar event with the previous 5 years. A qualifying program must have instructors, enrolled students, minimum attendance requirements, and standards for successful completion of the course. Applications must be submitted to the Federal Subsistence Board through the Office of Subsistence Management and should be submitted 60 days prior to the earliest desired date of harvest. Permits will be issued for no more than 25 fish per culture/education camp. Appeal of a rejected request can be made to the Federal Subsistence Board. Application for an initial permit for a qualifying cultural/educational program, for a permit when the circumstances have change significantly, when no permit has been issued within the previous 5 years, or when there is a request for harvest in excess of that provided in this paragraph (e)(2), will be considered by the Federal Subsistence Board. Harvest must be reported and any animals harvested will be counted against any established Federal harvest quota for the area in which it is harvested. (2) A permit to harvest fish, wildlife, or shellfish for a qualifying culture/educational program which has been granted a Federal subsistence permit for a similar event with the previous 5 years may be issued by the Federal in-season manager (for fisheries) or the Federal local land manager (for wildlife). Requests for follow-up permits must be submitted to the in-season or~~

***local land manager and should be submitted 60 days prior to the earliest desired date of harvest.***” These amendments provide more clarity, especially with respect to harvest limits. The proposal will not affect existing culture camps and is consistent with existing regulations.

Kodiak/Aleutians SRAC: Support with modification as described in the OSM conclusion. The modified proposal will simplify the process.

Bristol Bay SRAC: Support with modification as described in the OSM conclusion. The proposal would simplify the current regulations to reduce confusion among the public and Federal managers.

Yukon-Kuskokwim Delta SRAC: Support with modification as described in the OSM conclusion. This is a housekeeping proposal; adding general provisions in the regulations would clarify subsistence management regulations.

Western Interior Alaska SRAC: Support with modification as described in the OSM conclusion.

Seward Peninsula SRAC: Support with modification as described in the OSM conclusion.

Northwest Arctic SRAC: Support with modification as described in the OSM conclusion. It is very important to provide opportunity for cultural/educational programs permits.

Eastern Interior Alaska SRAC: Support with modification as described in the OSM conclusion. This proposal supports subsistence uses of wildlife and retains the ability to obtain permits with less than a 60-day notice. The Council suggested further simplification by asking the Federal Subsistence Management Program to work with the Alaska Department of Fish and Game to develop a joint Federal-State permit.

North Slope SRAC: Support with modification as described in the OSM conclusion. It is very important to provide opportunity for cultural/educational programs permits.

**BOARD ACTION/JUSTIFICATION: Adopted with modification**, as recommended by nine councils, to read, §\_\_\_\_.25(g) ***Cultural/educational program permits (1) A qualifying program must have instructors, enrolled students, minimum attendance requirements, and standards for successful completion of the course. Applications must be submitted to the Federal Subsistence Board through the Office of Subsistence Management and should be submitted 60 days prior to the earliest desired date of harvest. Harvests must be reported and any animals harvested will count against any established Federal harvest quota for the area in which it is harvested. (2) Requests for follow-up permits must be submitted to the in-season or local manager and should be submitted 60 days prior to the earliest desired date of harvest.***

The harvest of fish and wildlife by participants in cultural and educational programs is generally allowed in the Federal Subsistence Management Program regulations. Proposal WP10-03 will further clarify for fish and wildlife manager, Office of Subsistence Management staff, members of the Interagency Staff Committee, and members of the Federal Subsistence Board the cultural and educational permit regulations.

### **Proposal WP10-04**

DESCRIPTION: Proposal WP10-04, submitted by the Office of Subsistence Management, would remove Units 6, 12, 20A, 20B, 20C east of the Teklanika River, 20D, and 20E from the areas for which the Assistant Regional Director for Subsistence Management has the delegated authority to open close or adjust Federal subsistence lynx seasons and to set harvest and possession limits.

#### COUNCIL RECOMMENDATION/JUSTIFICATION:

Southeast Alaska SRAC: No action taken.

Southcentral Alaska SRAC: Support with modification as described in the OSM conclusion. The proposed action would not impact subsistence users and there are no conservation concerns for the lynx population.

Kodiak/Aleutians SRAC: No action taken. The Council did not want to take action on a proposal that would affect another region.

Bristol Bay SRAC: Support with modification as described in the OSM conclusion. The Council supports Federal and State alignment of regulations that enhance the management of resources, reduce confusion for the public, and allow subsistence uses to continue.

Yukon-Kuskokwim Delta SRAC: Support with modification as described in the OSM conclusion. This is a housekeeping proposal and has no impact on the Yukon-Kuskokwim Delta Region.

Western Interior Alaska SRAC: Support with modification as described in the OSM conclusion.

Seward Peninsula SRAC: No action taken. The proposed action would not affect the Seward Peninsula Region.

Northwest Arctic SRAC: Oppose.

Eastern Interior Alaska SRAC: Support. This proposal could be considered housekeeping in that the ability to adjust seasons is still possible and this change would simplify regulations.

North Slope SRAC: Support with modification to delete the regulatory language found in § \_\_.26(f)(3) and delegate the authority to open, close, or adjust Federal lynx seasons and to set harvest and possession limits for lynx via a delegation of authority letter only.

BOARD ACTION/JUSTIFICATION: **Adopted with modification** to delete the regulatory language found in § \_\_.26 (f)(3), and delegate the authority to open, close, or adjust Federal lynx seasons and to set harvest and possession limits for lynx via a delegation of authority letter only, consistent with five of the Councils' recommendations.

### **Proposal WP10-05**

DESCRIPTION: Proposal WP10-05, submitted by the Office of Subsistence Management, seeks to update, clarify, and simplify the regulations regarding accumulation of harvest limits for both fish and wildlife.

## COUNCIL RECOMMENDATION/JUSTIFICATION:

Southeast Alaska SRAC: Support. This proposal is housekeeping and necessary to accommodate previous changes to Federal regulations.

Southcentral Alaska SRAC: Support. This is a housekeeping proposal that would not affect fish and wildlife populations and subsistence users.

Kodiak/Aleutians SRAC: Support.

Bristol Bay SRAC: Support. The proposal will not impact subsistence users and will not affect fish and wildlife populations.

Yukon-Kuskokwim Delta SRAC: Support. This is a housekeeping proposal that would benefit subsistence users.

Western Interior Alaska SRAC: Support.

Seward Peninsula SRAC: Support. The Council agrees with simplifying and clarifying wording for accumulations of harvest limits. This proposal does not affect the Seward Peninsula Region.

Northwest Arctic SRAC: Oppose. The Council expressed concerns about the State management program in relation to the Federal program.

Eastern Interior Alaska SRAC: Support. This proposal is housekeeping and would clarify current regulations.

North Slope SRAC: Support. This proposal does not change Federal subsistence regulations for the North Slope Region concerning accumulation of harvest limits or the timeframe for harvest limits.

BOARD ACTION/JUSTIFICATION: **Adopted**, as recommended by nine of the Councils. This action will simplify the regulations.

## KODIAK/ALEUTIANS REGION

### Proposal WP10-42

DESCRIPTION: Proposal WP10-42, submitted by the Izembek National Wildlife Refuge manager and the Alaska Department of Fish and Game, requests the closure of the Federal season for caribou in Unit 10 (Unimak Island) during the fall and winter seasons due to decreased population and low productivity of the caribou herd.

COUNCIL RECOMMENDATION/JUSTIFICATION: Support. Action needs to be taken to address the population decline and poor calf recruitment of the Unimak Island Caribou Herd.

BOARD ACTION/JUSTIFICATION: **Adopted**. This proposal was on the consensus agenda.

### Proposals WP10-43/44

DESCRIPTION: Proposals WP10-43/44, submitted by the Alaska Wildlife Alliance, seek to restrict wolf hunting and trapping in Unit 10 where wolves do not occur.

COUNCIL RECOMMENDATION/JUSTIFICATION: Oppose. These proposals would have no effect.

BOARD ACTION/JUSTIFICATION: **Rejected.** This proposal was on the consensus agenda.