SOUTHEAST ALASKA
Federal Subsistence
Regional Advisory Council

USFS

A misty day in the Tongass National Forest.

Fisheries Meeting Materials

September 28-30, 2010

Hoonah

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SOUTHEAST ALASKA SUBSISTENCE REGIONAL ADVISORY COUNCIL

Salvation Army Hall, Hoonah, Alaska

Address: Salvation Army Hall
725 Eagle Road
Hoonah, Alaska

Tuesday, September 28, 2010 9:00 AM – Thursday, September 30, 2010 5:00 PM

DRAFT AGENDA

Public Comments: Public comments are welcome for each agenda item and for regional concerns not included on the agenda. The Council appreciates hearing your concerns and knowledge. Please fill out a comment form to be recognized by the Council chair. Time limits may be set to provide opportunity for all to testify and keep the meeting on schedule.

Please Note: These are estimated times and the agenda is subject to change. Contact staff for the current schedule. Evening sessions are at the call of the chair.

1. **Call to Order (***Bertrand Adams, Chair)*
2. **Roll Call and Establish Quorum** *(Harvey Kitka, Secretary)* 4
3. **Review and Adopt Agenda** *(Chair)* 1
4. **Welcome and Introductions** *(Chair)*
5. **Review and Approve Minutes of March 16–18, 2010 Meeting** *(Chair)* 5
6. **Chair's Report** *(Chair)*
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7. **Council Members' Reports**
8. **Public Testimony**
9. **Northeast Chichagof Island Field Trip**
10. **Presentations**
    a. Review of Federal fishery issues and in-season special actions *(Jeff Reeves)*
    b. Summary of 2010 Fisheries Resource Monitoring Program projects *(Ben VanAlen)*
    c. Review of State fishery issues and Emergency Orders *(Bill Davidson)*
    d. Review of Southeast Region wildlife trends and issues *(Neil Barten)*

11. Fisheries Resource Monitoring Program

a. Review and make recommendations on the draft priority information needs, 2012 Fisheries Resource Monitoring Program *(Terry Suminski/Pippa Kenner)* 44

12. Review and Make Recommendations on Fishery 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

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b. FP11-18: Eulachon closure for Sections 1C and 1D, Unuk River (*Robert Larson*) 62

c. FP11-19: Customary use in District 13 (*Pippa Kenner*) 70

d. FP09-05: Deferred: Makhnati Island herring (*Terry Suminski*) 106

e. FP09-15: Deferred: customary use of Juneau road system. (*Pippa Kenner*) 125

13. Review Southeast Alaska wildlife proposals to the State Board of Game

Proposals not available at printing (*Phil Mooney*)

14. Agency/Organization Reports

a. Office of Subsistence Management *(Polly Wheeler)*

i. Update on the Brown bear claw handicraft working group 163

ii. Briefing on the new Federal subsistence permit system 167

b. U.S. Forest Service *(Steve Kessler)*

i. Forest products, firewood and timber harvest update

ii. Kootznoowoo petition for extra-territorial jurisdiction

iii. Schedule of proposed actions (SOPA)

iv. Personnel update

v. Request to provide in-season authority to all rangers

vi. Forest Service subsistence program budget

vii. Jurisdiction for fisheries adjacent to State and private property

c. U.S. Park Service

d. Bureau of Land Management

e. US Fish and Wildlife Service

f. Bureau of Indian Affairs

i. Report on Unit 2 deer uses and needs study *(Pat Petrivelli)*

15. Identify Issues for 2010 Draft Annual Report

16. Other Business

a. Council discussion of Northeast Chichagof Island field trip

i. Update on deer status and trends for Northeast Chichagof Island *(Dennis Chester)*

b. Council comments on State Board of Game proposals

c. Council comments on draft delegation of authority request by U.S. Forest Service

17. Meeting Dates and Location for 2011

a. Confirm March 22–24, 2011 in Sitka (invite SC Chair).....168

b. Fall 2011 169

18. Final review of Council communications and Council actions

19. Adjourn

Teleconferencing is available upon request. You must call the Regional Coordinator 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 and the U.S. Forest Service 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 Robert Larson no later than Monday, September 21. Call 1-907-772-5930 or fax 1-907-772-5995, email

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, 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 21.

H*ave a question* *regarding this agenda or need more information? Contact Robert Larson, Council Coordinator at (907) 772-5930 or Fax (907)772-5995.*

Southeast Alaska Subsistence Regional Advisory Council

Seat	Yr Apptd Term Ends	Member Name	Community of Residence
1	2001 ***2010***	vacant	
2	2004 ***2010***	Frank Wright Jr.	Hoonah
3	1993 ***2010***	Patricia Phillips	Pelican
4	2001 ***2010***	Michael Douville	Craig
5	2002 ***2010***	Harvey Kitka, Secretary	Sitka
6	1999 ***2011***	Bertrand Adams, Chair	Yakutat
7	2002 ***2011***	Floyd Kookesh	Angoon
8	2002 ***2011***	Donald Hernandez	Point Baker
9	2008 ***2011***	Vacant	
10	2006 ***2012***	Merle Hawkins	Ketchikan
11	2009 ***2012***	Cathy Needham	Juneau
12	2003 ***2012***	Michael Bangs, Vice-Chair	Petersburg
13	2009 ***2012***	vacant	
		Robert Larson, Coordinator 907-772-5930, robertlarson@fs.fed.us	

MINUTES OF THE SOUTHEAST ALASKA SUBSISTENCE REGIONAL ADVISORY COUNCIL

Location of Meeting: Saxman Community Center, Saxman, Alaska

Date and Time of Meeting: 9:00 AM Tuesday, March 16 through 5:00 PM Thursday, March 18, 2010

Call to order
Meeting called to order by Chairman Bertrand Adams at 9:00 AM October 16, 2010.

Roll call
The following Council members were present: Bertrand Adams, chairman; Floyd Kookesh, vice-chairman; Harvey Kitka, secretary; Michael Douville; Merle Hawkins; Patty Phillips; Cathy Needham; Jack Lorrigan; Frank Wright and Michael Bangs. Council member Richard Stokes and Don Hernandez were excused.

Review and Adoption of Agenda
The agenda was reviewed and adopted as a guide.

Election of Officers
Mr. Bert Adams was elected chair, Mr. Mike Bangs vice-chair and Mr. Harvey Kitka secretary.

Welcome and introductions
Mr. Lee Wallace provided the invocation. Welcoming remarks were presented by Lee Wallace, Saxman Tribal President, Woody Watson, Saxman vice-mayor and Jeff DeFreest USFS Ketchikan/Misty Fiords District Ranger. Mr. Larry Dickerson was presented with a plaque in appreciation of his contribution to the Federal subsistence program. The following persons were present at the start of the meeting or on subsequent days.

Name	City	Group/Agency Represented
Norman A. Arriola	Ketchikan	Self
Barry Broken	Juneau	Juneau-Douglas A.C.
Marvin L. Charles	Saxman	Kuiu Kwaan
Melvin J. Charles	Saxman	Self
Tom Copelund	Ketchikan	Self
Charles Denny	Saxman	Saxman A.C. Chair
Frank DeWitt	Saxman	OCS
Maria Dudzak	Ketchikan	KRBD Radio
William Farmer	Craig	A.C./Self
Ginger M. Fox	Saxman	IRA-Kuiu Kwaan
Steve Hendershot	Edna Bay	Self
Charles M. James Sr.	Ketchikan	Kuiu Kwaan

Daryle D. James	Ketchikan	Kuiu Kwaan
George S. James, Sr.	Kuiu	Kuiu Nation
Franklin James	Ketchikan	ANB Camp 14
James Llanos	Ketchikan	Sanya Kwaan Tekweidi
D Jay Obrien	Ketchikan	Self
Robert Sanderson Jr.	Ketchikan	Ketchikan Indian Community
Lee Wallace	Saxman	Tribe
Woodrow Watson	Saxman	Saxman A.C./Vice Mayor
Steve Bethune	Craig	ADF&G
George Pappas	Anchorage	ADF&G
Boyd Porter	Ketchikan	ADF&G
Warren Eastland	Juneau	Bureau of Indian Affairs
Pat Petrivelli	Anchorage	Bureau of Indian Affairs
George Oviatt	Anchorage	Bureau of Land Management
Jim Capra	Yakutat	National Park Service
Dianne McKinley	Anchorage	National Park Service
Douglas Burn	Anchorage	US Fish and Wildlife Service
Pippa Kenner	Anchorage	Office of Subsistence Management
Peter J. Probasco	Anchorage	Office of Subsistence Management
John Autrey	Ketchikan	USFS
Cal Casipit	Juneau	USFS
Dennis Chester	Juneau	USFS
Jeff DeFreest	Ketchikan	USFS
Melinda Hernandez	Juneau	USFS
Robert Larson	Petersburg	USFS
Brian Logan	Juneau	USFS
Steve Kessler	Anchorage	USFS
Greg Killinger	Craig	USFS
Susan Oehlers	Yakutat	USFS
Ken Pearson	Ketchikan	USFS
Jeff Reeves	Craig	USFS
Terry Suminski	Sitka	USFS
Will Young	Ketchikan	USFS

Review and Approve Minutes of October 6, 2009 Meeting
The minutes from the Yakutat meeting were approved unanimously.

Chair's report
The Chair's Report included: the results of two meetings of RAC chairs with Pat Pourchot, issues of conflicting State and Federal regulations and the lack of progress with the State becoming in compliance with ANILCA. There was general agreement with the other Council chairs that the 70:30 rule doesn't make sense. Mr. Adams highlighted the Council's concerns that Saxman should be rural and provided an observation that the subsistence Board is not providing the Councils with adequate deference. He is very concerned that the USDA Forest Service is not maintaining adequate funding to the Federal subsistence program. There is a coast-wide concern regarding the expansion of the sea otter population, Chinook salmon by-

catch, funding tribal governments to support participation in subsistence management, and the lack of eulachon in the region are additional issues that deserve attention.

The Council has received correspondence from four Fish and Game Advisory Committees regarding the wildlife proposals. The Council also received a recommendation on wildlife proposals from the Wrangell-St. Elias Subsistence Resource Commission. The Sitka Tribe of Alaska sent the Council a letter asking for help in redefining some waters of Makhnati Island as Federal jurisdiction. The Council also received replies from Council generated letters from the US Fish and Wildlife Service on sea otter management and from the Alaska Department of Fish and Game on sockeye salmon research needs in Chatham Strait. The Office of Subsistence Management provided a copy of a letter with concerns for salmon by-catch in the Bering Sea. The Office of Subsistence management also provided copies of three special actions for wildlife in the Southeast region for 2009.

Council Member's Reports

Mr. Bangs: Salmon by-catch issues are not limited to the Bering Sea. The Council should be concerned about the incidental catch of halibut and salmon, particularly Chinook salmon, in the Gulf of Alaska. The Petersburg area has had much less snow than in the previous three years which is good for deer and moose but there could be a concern with water in the streams next summer.

Mr. Douville: Snow conditions this year have been kind to deer in the Prince of Wales area. The biggest subsistence concern this year on Prince of Wales Island is the effect of proposals to transfer large parcels of Federal Public Land into either State or Sealaska Corporation ownership. There is a concern with herring in the Craig area because there has been no spawn on Fish Egg Island for three years.

Mr. Lorrigan: Mr. Lorrigan is also a member of the Sitka Fish and Game Advisory Committee representing subsistence users. He sees a need for closer cooperation and better communication between the Council and the Advisory Committee process, for the benefit of both groups. He favors the changes recently made by the Alaska Board of Game regarding the taking of big game for use in funerary purposes.

Ms. Phillips: Although the winter started with very cold weather that produced considerable ice in Lisianski Inlet, the remainder of the winter has been mild and the deer seem to be faring well. There is capelin present now in Lisianski Inlet and a bull moose was observed in Hoonah Sound last summer. Ms. Phillips is concerned that the definition of an Alaska resident for purposes of the Federal subsistence program is not well understood and is a problem for some members of the public.

Mr. Wright: The deer population in the Hoonah area has been severely reduced due to recent harsh winters but is hopeful that with continued good weather conditions, there will be rebuilding this year. There is an issue with how to accommodate residents of Hoonah that are now living in Juneau. The effects of sea otter predation are continuing for the Hoonah area with fewer subsistence shellfish resources available. The Dungeness crab stocks are disappearing

rapidly. As the humpback whale and sea lion populations continue to increase, they are impacting the not only the abundance of herring and salmon but the ability of fishermen to catch those species.

Mr. Kitka: Herring continue to be the big issue in Sitka. The ADF&G have decided to no longer work cooperatively with the Sitka Tribe of Alaska in managing the local herring resource.

Mr. Adams: Mr. Adams appreciates the Council appointing him to the Wrangell-St. Elias National Park and Preserve Subsistence Resource Committee. He was elected chair again this year. Trespass, firewood gathering, use of motorized vehicles and the use of chainsaws are the big issues discussed by the SRC this year. In Yakutat, sea otters are continuing to impact shellfish stocks and deer have been seriously affected by the recent harsh winters. There were almost no eulachon in the Situk River last year and the residents of Yakutat are concerned.

Mr. Kookesh: Mr. Kookesh thanked Lee Wallace for his past participation on the Council. Residency should not be an issue for people leaving rural communities to work. Although he lives eight months of the year in Juneau, he maintains his residency in Angoon. Mr. Kookesh informed the Council that he has been nominated for Chair of the Federal Subsistence Board. He noted that the issues brought before the Council are becoming more complicated as the program is maturing. One topic that needs attention is the lack of funding for tribal organizations to participate in subsistence management. The impacts of the expanding sea otter and sea lion populations are affecting the entire region and the Council should be prepared to act. The Sealaska lands bill should be passed by Congress as it is important to all Native residents. The Secretarial review of the subsistence program is a good thing and the residents of Angoon are looking forward to a real change in the future.

Ms. Hawkins: Ms. Hawkins is concerned about local access to herring eggs due to the reduction in the local herring population. Herring sac-roe fisheries may be too aggressive to allow the stocks to rebuild. Ketchikan has a no subsistence fishery zone surrounding the community and travel to open areas is a problem for small boat fishermen. She is encouraged that the community of Saxman has formed their own Fish and Game Advisory Committee. Ms. Hawkins recently attended the Tongass Futures Roundtable and appreciates the difficulty in finding balance between competing uses of the forest.

Ms. Needham: Residents of the community of Kasaan are concerned about the effect of the new summer commercial season on the availability of Dungeness crab for subsistence harvest. Mr. Ron Leighton is petitioning the Alaska Board of fish to close the summer crab fishery in Kasaan Inlet. This fishery has produced a gear conflict with the subsistence sockeye fishery at the mouth of the Karta River.

Public testimony

Throughout the duration of the meeting, the public was invited to testify on various issues.

Mr. Willard Jackson, Alaska Native Brotherhood Grand Camp President, reminded the Council that subsistence resources are vital to feed Native people. Herring at Kah Shakes and eulachon at the Unuk River are now gone due to overfishing. The subsistence fishery for halibut is much

appreciate and needed by local residents. Saxman is a separate community from Ketchikan, with a different history, and should remain rural. Brown bears are part of his clan emblem and there should be laws in place to protect brown bears from commercial use.

Steve Hendershot, a resident of Edna Bay testified that the Sealaska Lands Bill will prevent access to areas important to subsistence use. He noted that sea otters are depleting all local shellfish and suggested that if the Council wanted more public participation then the meetings should be better advertized.

Lee Wallace, Saxman Village Council president, reminded the Council that subsistence is more than take; it is a way of life. The residents of Saxman and Ketchikan are concerned about the decline in Unuk River eulachon and he was wondering if the cause could be the large scale salmon hatcheries in the Ketchikan area. The Council needs to proactive in protecting subsistence opportunities. It should do something about sea otters, and licensing requirements to harvest clams. Saxman has the characteristics of a rural community, including the need to boil domestic water. The Sitka herring stock is the last remaining large population and must be protected.

Melvin Charles, a resident of Saxman, is concerned that access to subsistence resources should not depend on where you live. Herring have been depleted because commercial harvest is taking too large a proportion of the stock. Alaska Natives have a history of participation in commercial fisheries and there should be a program to employ local Natives in the fisheries again.

Mr. Bob Sanderson Jr. is concerned that heavy handed law enforcement is discouraging the legitimate harvest of sea otters. The summer commercial Dungeness crab fishery is impacting the ability of local residents to harvest subsistence crab and the by-catch of salmon in the Bering Sea is impacting all of Southeast Alaska.

Mr. Franklin James claims that Alaska was stolen from Natives by the Alaska Native Claims Settlement Act. Saxman is a rural community and that is independent of actions by the Board. Sea otters must be controlled and herring must be protected.

Richard Jackson has drafted resolutions for consideration by the ANB Grand Camp regarding the protection of subsistence rights and uses. The key points of the resolution are: consultation with Native tribes is required to protect subsistence uses, there should be a Presidential Proclamation extending subsistence jurisdiction to Native allotments and Tribal corporation lands, Saxman should remain rural and excessive enforcement is not appropriate.

Charles M. James, a resident of Ketchikan, testified that deer have been declining since the arrival by the white man. Sport hunters waste deer while Native hunters are being harassed by law enforcement personnel. Natives should be provided a preference to harvest fish and wildlife.

Norman Arriola, a resident of Ketchikan, believes that the recent action by the State Board of Fish to open a summer commercial Dungeness crab season in Districts 1 and 2 was a serious mistake and will result in destroying the crab stocks in these areas.

D. Jay Obrien, a resident of Ketchikan, is concerned that the reported harvest of doe deer on Prince of Wales Island is much higher than reported. The carrying capacity for deer on Prince of Wales Island is a much higher deer numbers than current levels and doe harvest should be restricted. An August 1 opening date for non-federally qualified users would allow for more participation by youths from Ketchikan without impacting harvests by federally qualified hunters.

George James Jr. claims that the Federal and State governments do not have clear title to the land in SE Alaska. It is illegal to restrict subsistence use while commercial uses are allowed on those same stocks. It is not right that subsistence hunters are restricted while sport hunts are allowed to waste deer. The commercial herring fishery must be stopped and the by-catch in other commercial fisheries must be reduced.

William Farmer, a Craig Fish and Game Advisory Committee member, testified that the deer population on Prince of Wales is lower now than in previous years. An early doe hunting season is not supportable because fawns are dependent on their mothers till October. There is much more hunting pressure now on Prince of Wales because of increased access and the use of better equipment by hunters.

2009 Annual Report

The Council finalized the 2009 Annual report. The Council reminded the Board that it is strongly in favor of developing a strategic plan for the subsistence management of wildlife in this region and would appreciate staff support in this endeavor prior to the March 2011 Council meeting. The Council identified nine issues that should be forwarded to the Board for consideration.

1. The incidental harvest of Southeast Alaska and Yakutat origin salmon, herring and halibut by commercial fisheries in the Bering Sea and Gulf of Alaska remains a concern of the Council. The Council recommends that the Board remain vigilant in identifying and interacting with other agencies to identify and minimize this harvest.

2. There are not Federal regulations guaranteeing priority subsistence use of herring and herring spawn in the Makhnati Island area. The Council encourages the development of rules for the management of herring in the Makhnati Island area that recognizes the preference for subsistence use in waters under Federal jurisdiction.

3. The Council recommends that in-season authority (similar to the fisheries delegations) be delegated by letter from the Board to the same in-season managers that have authority for fish in that area.

4. The Council requests Board support for efforts by the Alaska Native Sea Otter Co-management Committee to clarify definitions of ‘handicraft’ and ‘significantly altered’. The Council supports a comprehensive program of outreach and education to facilitate the legal take and use of sea otters and minimize the need for enforcement actions.

5. There is concern about the effects of reduced funding by the USFS on projects funded by the Fisheries Monitoring Program. Continued funding of the monitoring projects is critical for rational management of fisheries and an important source of jobs and capacity building for local tribal governments.

6. The process for filling a vacant position on the Council is a concern. Vacancies should be filled at the first opportunity and not postponed to the next nominations cycle.

7. Council members that reside in communities where the Council meets incur uncompensated costs.

8. The Council and Federal staff biologists have been in communication with ADF&G with concerns over management of sockeye salmon in Chatham Strait for many years. The Council recommends the Board support an out-of-cycle Fisheries Monitoring Program request for proposals to obtain additional genetic samples.

9. The Council reaffirms their position that the Board erred in finding the village of Saxman non-rural. The Council requests the Board take action to prevent Saxman from transitioning to non-rural until the question can be reconsidered.

Wildlife information presentations
Ms. Susan Oehlers (USDA Forest Service) provided a summary of Federal Special Actions approved by either Federal in-season managers or the Board in 2009. Mr. Boyd Porter (ADF&G) provided a summary of recent regulatory proposal changes by the Alaska Board of Game. He informed the Council of State plans to conduct deer population assessments in the Northeast Chichagof Controlled Use Area. New technology, included a genetic mark-recapture protocol, are being evaluated. In addition to the deer study on Northeast Chichagof, the State is conducting a fawn mortality study on Prince of Wales, a black bear habitat study on Prince of Wales and a mark-recapture population assessment of study on black bears on Prince of Wales Island. The ADF&G are currently evaluating different strategies to determine deer harvests.

Consideration and Recommendations on 2010-2012 Wildlife Proposals
Proposal WP10-01: A statewide proposal to provide a definition of "drawing permit" to the federal subsistence wildlife management regulations.

Public Comments: There was no public testimony at the Council meeting. The ADF&G did not provide oral or written comments.
***OSM Preliminary Conclusion*: Support with modification**
Council Recommendation: **Support as modified by OSM**
Rationale: The Council determined that this proposal was housekeeping and provides clarity in for a term under common use.

Proposal WP10-02: A statewide proposal regarding use of bear parts for handicrafts, Deferred WP08-05 General Regulations, Bear Handicrafts *(Deferred)*

Council Recommendation: **Reaffirm previous Council action in support of use of brown bear parts for handicrafts**

Rationale: The Council agreed there is no evidence to indicate the need for a Bear Handicrafts workgroup or a proposal to limit or restrict the use of brown bear parts. There is no need to defer action.

Proposal WP10-03: A statewide proposal requests the addition of a general provision in Federal subsistence management regulation to allow the harvest of fish and wildlife for cultural or educational programs.

Public Comments: There was no public testimony at the Council meeting. The ADF&G did not provide oral or written comments.

***OSM Preliminary Conclusion*: Support with modification**, to delete the 60 day application period and allow the use of more than one animal.

Council Recommendation: **Support as modified in OSM Preliminary Conclusion**

Rationale: The Council is in favor of 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 is in favor of simplified regulations that do not include hard timelines and provide flexibility in the number of animals that could be taken.

Proposal WP10-05: would update, clarify, and simplify the regulations regarding accumulation of harvest limits for both fish and wildlife.

Public Comments: There was no public testimony at the Council meeting. The ADF&G did not provide comments.

***OSM Preliminary Conclusion*: Support**

Council Recommendation: **Support**

Rationale: The Council determined that this proposal was housekeeping and necessary to accommodate previous changes to Federal regulations.

Proposal WP10-06: Requests the Board standardize the use of terms that describe female deer in Federal regulations by referring to female deer as female and not doe or antlerless.

Public Comments: There was no written public comments testimony at the Council meeting. The ADF&G provided oral and written comments in support of this proposal. Advisory Committee comments: Juneau-Douglas support, Sitka oppose, Petersburg support.

***OSM Preliminary Conclusion*: Support with modification**, to clearly identify where in regulations the reference to antlerless deer would be substituted by female deer.

Council Recommendation: **Support as modified by OSM**

Rationale: The Council determined that this proposal would clarify intent of Federal regulations that antlerless means female. There was a dissenting vote that this definition would complicate the January deer hunt in Unit 4.

Proposal WP10-07: Requests the closure of subsistence marten trapping season on Kuiu Island.

Public Comments: There were no written public comments or testimony at the Council meeting. The ADF&G provided oral and written comments in support of this proposal. There were no Advisory Committee comments.

***OSM Preliminary Conclusion*: Support with modification**, to provide for a temporary closure that would reopen the season in 2012.

Council Recommendation: **Support as modified by OSM**

Rationale: The Council determined that this proposal was necessary to provide for conservation of marten on Kuiu Island. The modification provides for a mechanism to reopen the Federal harvest season after marten populations have a chance to recover.

Proposal WP10-08: Requests the Unit 1A, Cleveland Peninsula, annual harvest limit be reduced from four antlered deer to two antlered deer.

Public Comments: There was no public testimony at the Council meeting. The ADF&G provided oral and written comments in support of this proposal. There were no Advisory Committee comments.

***OSM Preliminary Conclusion*: Oppose**.

Council Recommendation: **Oppose**

Rationale: The Council determined that this proposal was an unnecessary restriction on subsistence uses. The low levels of subsistence harvest will have no effect on recovery of the deer population in this area.

Proposal WP10-09: Requests that the Federal program issue five draw-permits for moose in Unit 1B and 5 draw-permits in Unit 3.

Public Comments: There was no public testimony at the Council meeting. The ADF&G provided oral and written comments in opposition to this proposal. Advisory Committee comments: Wrangell oppose, Petersburg oppose.

***OSM Preliminary Conclusion*: Oppose**.

Council Recommendation: **Oppose**

Rationale: The Council determined that this proposal would reduce harvest opportunity for local hunters and may result in a conservation issue if the change in definition of legal moose to include two brow tines on each antler is supported and later determined to be unsustainable.

Proposal WP10-10: Requests the definition of legal moose in Units 1B, Unit 3 and a small portion of Unit 3 to include moose with antlers with 2 brow tines on both sides.

Public Comments: There was no public testimony at the Council meeting. The ADF&G provided oral and written comments in support of this proposal providing Proposal WP10-09 was not adopted. Advisory Committee comments: Wrangell support, Petersburg support.

***OSM Preliminary Conclusion*: Support**

Council Recommendation: **Support**

Rationale: The Council determined that Federally-qualified users can currently harvest moose in this area under State regulations. Most of the additional harvest as a result of this proposal would be due to a very small harvest by designated hunters. However, the Council is concerned for the sustainability of this regulation and encourages the staff to monitor the harvest.

Proposal WP10-11: Requests a customary and traditional use determination be made for moose in Unit 1C for all rural residents of Units 1 through 5.

Public Comments: There was no public testimony at the Council meeting. The ADF&G did not provide comments. Advisory Committee comments: Juneau-Douglas oppose, Petersburg oppose.

***OSM Preliminary Conclusion*: Support**

Council Recommendation: **Support**

Rationale: The Council determined that participation in the moose harvest in Unit 1C was controlled by the State system of drawing permits for Berners Bay. Residents of the Region would and could hunt in Unit 1C much like Unit 1B, 3 and 5 if the opportunity was available. Application of the eight criteria clearly includes all residents of Units 1-5.

Proposal WP10-12: Requests that the wolverine trapping season closing date in Units 1-5 be changed from April 30 to February 15.

Public Comments: There were no written public or oral comments. The ADF&G provided oral and written comments in support of this proposal. The Wrangell-St. Elias Subsistence Resource Commission supported the proposal.

***OSM Preliminary Conclusion*: Support**

Council Recommendation: **Support with Council modification to close the Federal subsistence wolverine trapping season in Units 1-5 on March 1.**

Rationale: The Council determined that shortening the season to protect female wolverine with young is an example of a recognized principle of game management. However the Council was very concerned that the proposal is a significant restriction on subsistence uses without a demonstrated conservation issue and did not provide for a subsistence priority. An amendment to the proposal was adopted to add two weeks to the end of the State season. This change would shorten the current subsistence trapping season by two months to protect female wolverine while providing for a subsistence preference.

Proposal WP10-13: Requests the doe harvest season be closed on January 15 in that portion of Unit 4 draining into Chatham Strait, Peril Strait and Icy Strait, including Tenakee Inlet.

Public Comments: There was no public testimony at the Council meeting. The ADF&G recommends closing the January season. Advisory Committee comments: Juneau-Douglas support, Sitka opposes.

***OSM Preliminary Conclusion*: Oppose**

Council Recommendation: **Oppose**

Rationale: The Council determined that this proposal would have a very small effect on the number of doe deer harvested because few deer were harvested during this time period. It is very difficult to identify bucks once they have dropped their antlers. In-season management authority has been delegated to the local land manager and that authority is adequate to provide for conservation when restricting the harvest is necessary.

Proposal WP10-14: Requests lands within the Northeast Chichagof Controlled Use Area be closed to the harvest of female deer by non-Federally qualified users in December.

Public Comments: There was no public testimony at the Council meeting. The ADF&G provided oral and written comments in opposition to this proposal. Advisory Committee comments: Juneau-Douglas, oppose.

***OSM Preliminary Conclusion*: Oppose**

Council Recommendation: **Oppose**

Rationale: The Council is very concerned about the deer population and reduced harvest in the Northeast Chichagof Controlled Use Area. Discussions indicate very low deer numbers at present but with a potential to rebound in five years with mild winter conditions. Restricting the harvest of doe deer will encourage rebuilding of the population, however, the harvest of doe deer by non-qualified hunters during this time period is very small. The Council

anticipates that in-season management authority will provide for conservation of deer by restricting harvests when conditions warrant.

Proposal WP10-15: Requests that the subsistence goat hunting season in that portion of Unit 5A known as the Nunatak Bench be closed by regulation.

Public Comments: There was no public testimony at the Council meeting. The ADF&G provided oral and written comments in support of this proposal. The National Park Service is in support of this proposal.

***OSM Preliminary Conclusion*: Support**

***Council Recommendation:* Support**

Rationale: The Council determined that there is a conservation concern with goats in this area that requires action. Subsistence users have other opportunities to harvest goats. Since this is a closure, the issue would be revisited every three years.

Proposal WP10-16: Requests that the harvest limit for moose in Unit 5A be modified from one bull per person to one bull per household.

Public Comments: There was no public testimony at the Council meeting. The ADF&G provided oral and written comments in opposition to this proposal. There were no Advisory Committee comments. The Wrangell-St. Elias Subsistence Resource Commission opposed this proposal because regulations should not be adopted to address actions by one person.

***OSM Preliminary Conclusion*: Oppose**

***Council Recommendation:* Oppose**

Rationale: The Council determined that this proposal was an unnecessary restriction because this is a local issue and there should be a local solution. There are also technical issues with this proposal and hunters could continue to hunt with a one bull per person harvest limit under State rules. This proposal would not facilitate management of moose in Yakutat and would produce a conflict between Federal and State regulations.

Proposal WP10-17: Requests that authority be delegated to the USFS Yakutat District Ranger to establish the moose quota for moose in Unit 5A, except Nunatak Bench.

Public Comments: There was no public testimony at the Council meeting. The ADF&G provided oral and written comments in support of this proposal provided there was a provision that the in-season manager could reduce the quota but not increase the quota.

***OSM Preliminary Conclusion*: Support**

***Council Recommendation:* Support**

Rationale: The Council determined that this proposal would benefit subsistence and non-subsistence uses by providing the in-season manager tools necessary for proper management of the moose in this area. The harvest limit in regulations does not appear to be sustainable and must be reduced according to the health of the moose herd. This action will enhance communication between management agencies. It is the intent of the Council that this authority will be included with authorities that would be delegated to the in-season manager by letter as recommended in Proposal WP10-22.

Proposal WP10-18a: Requests a positive Customary and Traditional Use designation for moose in Berners Bay for rural residents of Units 1C and 1D.

Public Comments: There was no public testimony at the Council meeting. The ADF&G did not provide comments. The Juneau-Douglas Advisory Committee opposed the proposal.
***OSM Preliminary Conclusion*: Take no action**
***Council Recommendation:* Take no action**
Rationale: The Council determined that because of previous action taken on Proposal WP10-11, it was unnecessary to take action on WP10-18a.

Proposal WP10-18b: Requests a 1 bull harvest limit for moose in Berners Bay.
Public Comments: There was no public testimony at the Council meeting. The ADF&G did not provide comments. The Juneau-Douglas Advisory Committee opposed the proposal.
***OSM Preliminary Conclusion*: Oppose**
***Council Recommendation:* Oppose**
Rationale: The Council determined that it would be very difficult to administer a hunt for this small population of moose. Proposals that result in significant changes to subsistence regulations should be accompanied by evidence that the change is supported by more than one individual. Because of the substantial evidence presented regarding the concern for conservation of the moose population in Berners Bay, the Council did not think it appropriate to open a moose hunt in this area at this time.

Proposal WP10-19: Requests the Federal subsistence season for antlerless deer in Unit 2 be changed from October 15 through December 31 to September 15 through October 15.
Public Comments: The proponent, Mr. D. Jay Obrien provided oral testimony at the Council meeting in support of the proposal. Mr. Bill Farmer, a resident of Craig, testified that he would support an October 1 through October 31 doe harvest season. The ADF&G was neutral on this proposal. Advisory Committee comments: Juneau-Douglas, oppose.
***OSM Preliminary Conclusion*: Oppose**
***Council Recommendation:* Oppose**
Rationale: There is no conservation concern with current harvest levels of doe deer in Unit 2. This proposal may adversely and unnecessarily affect subsistence users. The Council wanted to see more public support for a change in regulations of this magnitude.

Proposal WP10-20: Requests the current closure to deer harvest by non-qualified use be changed from August 1-15 be rescinded to allow State hunters to hunt on all lands August 1.
Public Comments: The proponent D. Jay Obrien testified in favor of this proposal. He felt it family friendly without any effect on subsistence users. Mr. Bill Farmer, a resident of Craig, testified the two-week closure was necessary to provide for a preference. There were no written public comments. The ADF&G suggested a review to determine whether this closure was allowable under the closure policy. The Juneau-Douglas Advisory Committee opposed the proposal.
***OSM Preliminary Conclusion*: Oppose**
***Council Recommendation:* Oppose**
Rationale: The Council has made a commitment to not change regulations regarding Unit 2 deer until after the 2011 season. Additional information is needed to determine whether the closure dates are appropriate or necessary to provide for a preference. The Council believes that it is still difficult for qualified users to meet subsistence needs for deer in Unit 2.

Proposal WP10-21: Requests that deer harvest on Federal public lands in the Northeast Chichagof Controlled Use Area be restricted to residents of Hoonah only.

Public Comments: There was no public testimony at the Council meeting. The ADF&G provided oral and written comments opposing this proposal. The Juneau-Douglas Advisory Committee opposed the proposal.

***OSM Preliminary Conclusion*: Oppose**

***Council Recommendation:* Support as modified to restrict the harvest of deer in the NECCUA to those communities identified in the staff 804 analysis (Game Creek, Hoonah, Tenakee Springs, Whitestone Camp and Gustavus)**

Rationale: The Council determined that this proposal was a necessary restriction on subsistence and non-subsistence uses because residents of this area have limited other opportunities to obtain subsistence food. The Council acknowledges there may be sufficient buck deer available for a minimal harvest by qualified and non-qualified users. However, that level of harvest does not provide for the continuation of subsistence use by local users. The most recent estimates of harvest indicated that local residents are only taking 20 % of their average subsistence harvest. Until the population rebuilds, the use of deer in this area must be restricted to local users. The closure will be reviewed in three years and regulatory changes can be made if conditions warrant. This action is not a restriction in a practical sense to other qualified users or non-subsistence users since residents of Juneau and other qualified subsistence communities must travel to hunt in the NECCUA. There are many better hunting opportunities available to them in other areas with a similar amount of effort.

Proposal WP10-22: Requests the Board standardize in-season management of fish and game in the Southeast Region by delegating in-season management authority for wildlife to the same in-season managers that currently have that authority for fish.

Public Comments: There was no public testimony at the Council meeting. The ADF&G provided oral and written comments opposing this proposal. The Wrangell-St. Elias Subsistence Resource Commission supported the OSM modification. The Sitka Advisory Committee supported the proposal as written.

***OSM Preliminary Conclusion*: Support with modification**, to delegate only the same in-season management authority for wildlife as currently identified in regulation.

***Council Recommendation:* Support as written**

Rationale: The intent of the Council is to have the Board delegate the same in-season management authority for wildlife to the same in-season managers that have that authority for fish in those areas. The Council supports the current in-season management protocols and believes this action will result in better communication with the ADF&G and subsistence users. The proposal would benefit subsistence users by encouraging management expertise in local managers. Subsistence users would benefit when the same person responsible for land management decisions effecting subsistence resources is also responsible for managing and providing a priority to subsistence uses.

Proposal WP10-23/24/25/26: Requests restrictions to the wolf hunting and trapping seasons in Southeast Alaska.

Public Comments: There was no public testimony at the Council meeting although there was one public comment in opposition to the proposals. The ADF&G provided oral and written comments opposing these proposals. The Wrangell-St. Elias Subsistence Resource

Commission opposed these proposals. The Juneau-Douglas and Petersburg Advisory Committees opposed these proposals.
***OSM Preliminary Conclusion*: Oppose**
***Council Recommendation:* Oppose**
Rationale: The Council determined that this proposal may result in a reduction in subsistence deer harvest. There is not a conservation concern with wolves and this action would result in an unnecessary restriction on subsistence uses.

Proposed changes to Federal fisheries regulations
The Council submitted two proposals to change fisheries regulations. The first proposal asked the Board to change the sockeye fishing season in Klawock River to align with the recent changes made to the State season by the Alaska Board of Fish. The second proposal was to close the subsistence eulachon fishery in Section 1D, the Unuk River.

Agency/organization reports
U. S. Fish and Wildlife Service
Mr. Doug Burn, Marine Mammal Coordinator (USFWS), provided a description of a new memorandum of understanding with the Alaska Native Sea Otter Co-Management Committee. Two of the organizations that we're working with are from Southeast Alaska, One is the Central Council Tlingit Haida Indian Tribes of Alaska and the other is the Sitka Marine Mammal Commission. The Committee is working towards co-management of sea otters and supporting a new population survey for Southeast Alaska.
The Council wrote a letter to the Director of the USF&WS recommending the Service undertake a thorough review of the current regulations, amend the definition of significantly altered, rescind the requirement to have tags remain on the hide during tanning and remove the requirement to use registered agents to transfer hides.
Mr. Geoff Haskett, USFWS Regional Director, was interested observing the characteristics of Saxman and Ketchikan and listening to concerns of the Council.

Office of Subsistence Management
Mr. Probasco, Deputy Director USF&WS, reported the Office of Subsistence Management (OSM), will be working with the Central Council to develop a Partners Program for the Southeast Region. This is an excellent opportunity for Native students and organizations to participate in the management of local fish and wildlife resources. Mr. Probasco explained the process for conducting Council meetings in locations not serviced with regular jet service, including the requirement for a comparative cost analysis. If the Southeast and Southcentral Councils wish to have a combined meeting, he will ask for agenda items that would be best discussed by a joint meeting and a comparative cost analysis.

National Park Service
Mr. Jim Capra, Glacier Bay National Park and Preserve, informed the Council of two items. The draft environmental impact statement for collecting gull eggs in Glacier Bay National Park has been completed. The preferred alternative allows residents of Hoonah to collect gull eggs on

multiple trips to multiple sites. The other is good news regarding their subsistence budget. The Park Service is able to expand existing studies in 2010 and include two additional household use studies for communities in the Copper River Basin.

U. S. Forest Service

Mr. Jeff DeFreest, Ketchikan-Misty Fiords District Ranger, reported the travel management plan is complete and maps of the open roads are available to the public. There are two active mining operations near Juneau and exploration is occurring in numerous locations. Subsistence users do not require permits to harvest special forest products but permits are required for timber harvest and any activities within "Roadless" areas require approval by the Secretary of Agriculture. Young growth management will be phased in during the next 10 years. Mr. Jeff Reeves recommended maintaining the status quo closure to the use of nets above the bridge on Sarkar River. The Council was concerned with the status of this sockeye salmon stock and decided to write a letter to the ADF&G asking for collaboration in conducting appropriate stock assessment studies for this system.

Mr. Kessler informed the Council that Ms. Beth Pendleton is the new Regional Forester and there are new rangers on the Wrangell, Ketchikan and Admiralty Districts. Mr. Kessler also provided a briefing on a proposed lack of subsistence program funding received by the Forest Service for the 2011 budget cycle. The Council wrote a letter to the Board detailing the Council's concern with a request that the Board forward the letter to the Secretaries of Agriculture and the Interior.

Bureau of Indian Affairs

Ms. Petrivelli reported that the Unit 2 deer uses and needs study was nearly finished. She presented the preliminary results to the Council. A final report should be available prior to the September 2010 meeting.

Other Business

The Council will meet in Hoonah September 28-30, 2010 and in Sitka March 22-24, 2011. The March agenda topics will be developed during the September 2010 Council meeting.

The Council meeting adjourned at 5:00 pm March 18, 2010.

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.

\S\ Robert Larson ***May 10, 2010***

Robert Larson, DFO, USFS Subsistence Management Program

\S\ Bertrand Adams ***May 10, 2010***

Bertrand Adams, Chair, Southeast Alaska Subsistence Regional Advisory Council

These minutes will be formally considered by the Southeast Alaska Subsistence Regional Advisory Council at its next meeting, and any corrections or notations will be incorporated in the minutes of that meeting.

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

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

U.S. FOREST SERVICE

FWS/OSM 10071/AW

JUL 22 2010

Mr. Bertrand Adams Sr., Chair
Southeast Alaska Subsistence
Regional Advisory Council
Post Office Box 349
Yakutat, Alaska 99689

Dear Mr. Adams:

This letter responds to the Southeast Alaska Subsistence Regional Advisory Council's 2009 Annual Report. The Federal Subsistence Board (Board) appreciates your effort in developing the Annual Report and values the opportunity to review the issues brought forward concerning your region. Annual Reports allow the Board to become more aware of the issues that fall outside the regulatory proposal process and affect subsistence users in your region.

The responsibility to respond to these reports has been delegated to the Board by the Secretaries of the Interior and Agriculture. The Board has reviewed your Council's Annual Report and offers the following responses.

Issue 1: Bering Sea/Gulf of Alaska Incidental Harvest: Stocks of Origin

The incidental harvest of Southeast Alaska and Yakutat origin of salmon, herring, and halibut by the commercial fisheries in the Bering Sea and Gulf of Alaska remains a concern of the Council. The Council is aware of the planning efforts to address the harvest of salmon in the Bering Sea Pollock fishery but it is also aware of other commercial fisheries where there is incidental harvest of salmon, herring and halibut of southeast Alaska origin. The Council recommends that the Board remain vigilant in identifying and interacting with other agencies to identify and minimize incidental harvest.

Response

During the past three years, the Board has been actively engaged in efforts to minimize salmon bycatch in the Bering Sea/Aleutian Islands (BSAI) commercial pollock fishery (approximately eight percent of Chinook salmon caught as bycatch in the BSAI Pollock fishery are of Southeast Alaska/British Columbia origin), including:

- The Board has been kept up-to-date on salmon bycatch issues through Office of Subsistence Management staff and Regional Council Advisory Council member attendance at several meetings of the North Pacific Fishery Management Council (NPFMC).
- During the recently completed Chinook Salmon Bycatch Environmental Impact Statement process, the Board submitted several comment letters to the NPFMC and the National Marine Fisheries Service, which included its recommendation that a Chinook salmon bycatch hard cap of 29,323 be adopted; the alternative with the least amount of bycatch (this hard cap amount was also recommended by the Bristol Bay, Seward Peninsula, Yukon-Kuskokwim Delta, Western Interior Alaska, and Eastern Interior Alaska Subsistence Regional Advisory Councils).
- The Office of Subsistence Management funded representatives from the five councils listed above to attend and testify at the June 2008 Kodiak and April 2009 Anchorage NPFMC meetings on salmon bycatch.
- As chair of the Federal Subsistence Board, I testified in person during the April 2009 NPFMC meeting in Anchorage, again advocating for the 29,323 hard cap. I also testified on the importance of Chinook salmon as a subsistence food source for many Federally-qualified subsistence users in Alaska.

On May 19, 2010, Secretary of Commerce Gary Locke approved a plan proposed by the NPFMC to manage Chinook salmon bycatch in the Bering Sea pollock fishery. The plan, called Amendment 91, replaced the exemption conferred under Amendment 84 with specific hard caps for BSAI Chinook salmon bycatch. Under this amendment, the pollock fleet, as a whole, can fish under a hard cap of 47,591 fish, or participate in a National Marine Fisheries Service (NMFS) approved incentive program, and fish under a higher cap level of 60,000 fish. These cap limits are allocated by season and among sectors. Once a seasonal cap for a sector is reached, pollock fishing in that sector of the Bering Sea is closed for the remainder of the season. Vessels that do not choose to fish under an incentive plan agreement (IPA) would be limited to a proportion of a lower cap of 28,496 fish. Amendment 91 goes into effect in January 2011. The Record of Decision can be viewed at:
http://alaskafisheries.noaa.gov/sustainablefisheries/bycatch/salmon/chinook/feis/amd91rod_0510.pdf

Under Amendment 91, the NMFS is committed to making additional and concerted efforts to account for all salmon bycatch. This is to be accomplished by monitoring and independently evaluating all salmon bycatch by each vessel in the pollock fishery through a census, 100 percent observer coverage, and an expanded biological sampling program.

The Board is currently monitoring efforts to reduce chum salmon bycatch in the BSAI, and is aware of the following upcoming events and actions scheduled to take place by the NPFMC:

- June 2010: In Sitka, the NPFMC finalized alternatives for staff analysis. Office of Subsistence Management staff attended the meeting.
- January 2011: The NPFMC will review preliminary data and analyses.

- February-March 2011: NPFMC members and/or staff plan to attend five Subsistence Regional Advisory Council meetings (Bristol Bay, Seward Peninsula, Yukon-Kuskokwim Delta, Western Interior Alaska, and Eastern Interior Alaska Subsistence Regional Advisory Councils) to give presentations on the proposed chum salmon bycatch management measures and solicit public comments.
- June 2011 (tentative): In Nome, the preliminary preferred alternative will be selected.
- October 2011 (tentative): In Anchorage, final action on the preferred alternative which will be provided to the Secretary of Commerce. Rule making process will follow.

Federal regulations prohibit the use of trawl gear east of 140° W longitude (most of Southeast Alaska). Halibut and herring 'prohibited species' catch mortality information for trawl fisheries is the total for all areas of the Gulf of Alaska except for east of 140° W longitude. 'Prohibited species' are those species and species groups the catch of which must be returned to the sea with a minimum of injury except when their retention is authorized by other applicable law. 'Prohibited species' include Pacific halibut, Pacific herring, salmonids, king crab, and Tanner crab. Trawl fisheries open and close based on seasonal allocation of prohibited species catch limits (e.g., halibut and crab bycatch limits). Directed fishing for a groundfish species will be closed if the prohibited species catch limit is reached, and this does typically occur for some Gulf of Alaska groundfish fisheries. The NPFMC earlier this year began looking at the issue of halibut prohibited species catch in Gulf of Alaska groundfish fisheries. At its February 2010 meeting, the NPFMC received a discussion paper explaining how halibut prohibited species catch mortality limits are established and managed in the Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries. The NPFMC subsequently tasked staff to assess the considerations for adjusting halibut prohibited species catch mortality limits for Gulf of Alaska groundfish fisheries in a second discussion paper. This discussion paper is intended to provide a preliminary assessment of those considerations and options the NPFMC may consider for making changes to the halibut prohibited species catch limit in the future. This second discussion paper was presented to the NPFMC at its June 2010 meeting.

There is no herring prohibited species catch limit in the Gulf of Alaska. Herring catch estimates in the Gulf of Alaska are based on rates from observer data. Incidental catch of herring has only been reported for trawl gear and totaled 2,280 pounds in 2008 and 18,800 pounds in 2009. In the years 1995 to 2009, halibut bycatch in Gulf of Alaska trawl fisheries ranged from 4,000,000 to 5,400,000 pounds.

The Board will continue to monitor bycatch issues and provide further comments and recommendations, as warranted.

Issue 2: Makhnati Island Herring and Herring Spawn

There are not Federal regulations guaranteeing priority subsistence use of herring and herring spawn in the Makhnati Island area. The issue is not conservation of herring in other areas of Sitka Sound but the preferential use and the continuation of subsistence uses by qualified subsistence

users in waters under Federal jurisdiction. The Council encourages the development of rules for the management of herring in the Makhnati Island area that recognizes the preference for subsistence use in waters under Federal jurisdiction.

Response

The Board recognizes the importance of herring in Sitka Sound to subsistence users and the concern expressed by the Council. The Board clearly understands that the Council views this issue as a continuation of subsistence uses rather than as a conservation issue.

All rural residents of Alaska are eligible to harvest herring and herring eggs in the Federal waters near Makhnati Island. Due to the abundance of herring, there are no restrictions on subsistence users of herring or herring eggs in Federal waters and the Board has determined that there is no conservation issue. As a result, the threshold for restricting other users under Section 815 of ANILCA has not been met.

Creating new regulations to restrict sport, commercial or subsistence harvest is not necessary to conserve the resource or to protect the continuation of subsistence uses. If the abundance of herring declines and the Board determines restrictions are necessary, the Board can use existing regulations and authorities to protect rural subsistence uses by restricting non Federally qualified users, and if further restrictions are needed the Board can further restrict among Federally qualified users through section 804 of ANILCA.

Issue 3: In-season Management Authority

The Council recommends that in-season authority [for wildlife] (similar to the fisheries delegation) be delegated by letter from the Board to the same in-season managers that have authority for fish in that area. The in-season managers for fish are trained individuals that can be relied upon to provide rational in-season management for wildlife.

Response

During its May 18, 2010, wildlife meeting in Anchorage, the Board adopted with modification wildlife proposal WP10-22, submitted by the Council; the Board agreed to delegate current authorities for in-season management of wildlife by letter to those positions referenced in regulations. There was considerable discussion of the methods used by the board to delegate authority to in-season managers. The Board agreed that delegations of authority for the management of wildlife were more appropriately included in letters of authority rather than in regulation. A list of managers and their delegated authorities is included in the 2010-2012 booklet, the same way that information is provided in the subsistence fisheries regulation booklet. The Board was concerned with a lack of evidence demonstrating where management would improve if the Board would expand in-season authority for all wildlife. If the Council or the Forest Service identifies a further need for in-season authority for additional species or geographic

areas, the Board encourages the Council or the Forest Service to bring a request forward for consideration.

Issue 4: Sea Otter Management and Subsistence Uses

There is a significant harvestable surplus of sea otters and an opportunity for increased subsistence use of these animals. In addition, continued expansion of the range and abundance of these animals are having a serious and long-term negative impact on the Region's shellfish populations. The Council requests Board support for efforts by the Alaska Native Sea Otter Co-management Committee to clarify definitions of "handicraft' and 'significantly altered.' There is considerable uncertainty regarding the take and use of sea otters by qualified users. The Council supports a comprehensive program of outreach and education to facilitate the legal take and use of sea otters and minimize the need for enforcement actions.

Response

The Board appreciates the continued dialogue with the Council regarding sea otter management and harvest. As you know, the Board does not have management authority for sea otters, but is interested in supporting efforts that encourage responsible use and management of all subsistence resources. Further, the Board supports the efforts of the Fish and Wildlife Service to work with the Central Council of Tlingit and Haida Indian Tribes of Alaska and the Sitka Tribe of Alaska in the formation of the Alaska Native Sea Otter Co-Management Committee (ANSOCC), which is focused on addressing concerns over sea otters. We understand that the Council has recommended a number of actions to be taken by the Fish and Wildlife Service together with the ANSOCC to review and possibly change regulations and to examine the definitions for 'handicraft' and 'significantly altered.'

The Board appreciates your concerns regarding sea otters, is encouraged by the efforts of the Fish and Wildlife Service to assist subsistence users in Southeast Alaska, and supports the ongoing dialogue and collaboration. Any assistance that staff of the Office of Subsistence Management or any of the five Federal agencies can provide to this effort should be requested through the Board or any of the agencies.

Issue 5: Reduced Funding – Effects on the Fisheries Monitoring Program

There is concern about the effects of reduced funding by the USFS on projects funded by the Fisheries Monitoring Program. Continued funding of the monitoring projects is critical for rational management of fisheries and an important source of jobs and capacity building for local tribal governments. The council has a limited role in influencing budgets but encourages individual Board members to keep funding of the Fisheries Monitoring Program as a high priority within their respective agencies.

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Response

Congressional funding for the Federal Subsistence Management Program is not specific to a single purpose. For the U.S.D.A. Forest Service, expenditures are balanced between regulatory, monitoring, and other key elements. The Board is well aware of the importance of the Fisheries Resource Monitoring Program (Monitoring Program). Forest Service funding for the Monitoring Program has ranged between $1.4 million and $2.0 million since 2001. For the 2010 Monitoring Program, USDA contributed $1.4 million to the $5.3 million effort. Based on the President's budget request to Congress, the 2011 Forest Service funding for the Southeast and Southcentral regions could be significantly reduced compared to previous years. Assuming Congress appropriates the level in the President's budget request and other funds do not become available, the contribution by the Forest Service to the Monitoring Program will be substantially diminished. The Board received the Council's May 24, 2010, letter voicing concerns about the Forest Service budget. As requested, that letter was forwarded to the Secretary of Agriculture, with a copy to the Secretary of the Interior, for his consideration on July 9, 2010.

Issue 6: Regional Advisory Council Vacancies

The process for filling a vacant position on the Council is a concern. Vacancies should be filled at the first opportunity and not postponed to the next nomination cycle.

Response

The Secretaries of the Interior and of Agriculture have the authority to appoint council members, which means that the appointment process to fill a vacant seat is the same as that used for regular appointments. While out-of-cycle appointments may be made, considerations in deciding whether to forward them include: 1) the availability of qualified applicants considered but not recommended during the previous process and whether it would be necessary to advertise for new applicants, 2) the availability of the Interagency Staff Committee and the Federal Subsistence Board to develop a recommendation for the Secretaries, 3) the availability of required reviewers and the Secretaries in Washington, and 4) the time needed to process travel paperwork so a new member can travel to attend a meeting. Another consideration is the need to avoid having two appointment packets in the Washington review process.

The process for filling an out-of-cycle vacancy was recently streamlined so that the review and Secretarial appointment may require just one or two months. It is possible that the entire process may be accomplished in two to four months. When the next vacancy occurs, Office of Subsistence Management staff will consider the aforementioned factors, and if the vacancy occurs early enough in the year to allow time to complete the out-of-cycle appointment prior to the next meeting, we will move forward with the process.

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Issue 7: RAC Member Per Diem

Council members that reside in communities where the Council meets incur uncompensated costs. In order for each council member to participate fully in all the associated functions, each council member should receive per diem. In most cases, it is a serious financial obligation to participate in these meetings no matter where the meetings are held. It is unfair to ask councilors to both volunteer and pay their own way.

Response

Per diem is intended to compensate council members for travel expenses; it is not a stipend. When members attend council meetings in their own communities, the Office of Subsistence Management can reimburse them for local travel costs including mileage for their car, snow machine, or boat, and parking. After the meeting, the council member can work with their respective coordinator to complete a *Claim for Reimbursement for Expenditures on Official Business* form (SF-1164) and submit it for payment. Coordinators will have copies of the form available at council meetings to expedite the process.

Because the Office of Subsistence Management is administered by the Fish and Wildlife Service, we must comply with Department of the Interior and Fish and Wildlife Service regulations and policies. One requirement is that in order to be provided with per diem, the meeting must occur at least 50 miles from their place of residence. Therefore, when Council members attend a meeting in their home community, they are not eligible for per diem.

Issue 8: Sockeye Salmon Genetics – Chatham Strait

The council and Federal staff biologists have been in communication with ADF&G with concerns over management of sockeye salmon in Chatham Strait for many years. There is new technology available which that uses genetic markers in sockeye salmon to accurately determine stock of origin. A recent letter to the Council from ADF&G (January 15, 2010) details additional sampling needed to populate a genetic database for Chatham Straits origin of sockeye salmon. The Council recommends the Board support an out-of-cycle Fisheries Monitoring Program request for proposals to obtain these important samples.

Response

Currently, sockeye salmon population assessment projects exist in most of the major sockeye systems in Chatham Strait (Falls Lake, Kook Lake, Sitkoh Lake, Kanalku Lake, and Neva Lake). An effort is underway, in cooperation with the Alaska Department of Fish and Game, to conduct adequate genetic sampling in these systems in 2010.

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The Monitoring Program is open to out-of-cycle funding requests. However, such requests must address a high priority issue or information need; there must be a valid reason the issue or information need was either not raised or not addressed during the most recent normal funding cycle; and there must be a compelling need to do the work before the next normal funding cycle. Out-of-cycle requests are submitted to technical review before being considered for funding.

The most recent normal funding cycle process concluded earlier this year. No proposals were received concerning the issue of genetic composition of Chatham Straight sockeye salmon. The next normal funding cycle will be initiated with a request for proposals in November, 2010, culminating in project selection early in 2012 for implementation that year. As in the past, the Council will be consulted at its fall 2010 meeting on priority information needs, which will be factored into development of the request for proposals.

Forest Service support for the Monitoring Program at current funding levels is fully committed to the continuation of projects approved in 2010 for operations through 2013. Without new funding, it would be difficult to support new projects unless ongoing work was terminated. As was noted in reply to the Council's Issue 5, Department of Agriculture funding for the Monitoring Program was reduced in FY 2010, and may be further significantly reduced in FY2011, which makes funding for out-of-cycle requests more difficult.

Issue 9: Saxman Rural Determination

The Council reaffirms its position that the Board erred in finding the village of Saxman non-rural. The Council is confident that Saxman will regain rural status when rural determinations are addressed again after the 2010 census. However, Saxman is scheduled to become urban in May 2012, possibly prior to reconsideration. The Council requests that the Board take action to prevent this transition until the question can be reconsidered.

Response

Federal subsistence regulations were revised to incorporate Saxman into the nonrural Ketchikan area in the final rule for rural/nonrural determinations published in May 2007. Those determinations were based on the Year 2000 census. Consistent with regulations on the review process, this change in status will not take effect until May 2012. The Board received six requests for reconsideration on decisions associated with the review of rural/nonrural determinations. All claims regarding the status of Saxman were rejected by the Board in July 2008. The next decennial review of rural/nonrural determinations will be based on data from the 2010 census, which should be available in 2012. Outcomes from the 2000 Census review were implemented without anticipation of what may result from the 2010 Census review, and while there is a five year waiting period for implementation of changes from rural to nonrural status, changes from nonrural to rural were effective upon publication of the final rule.

In closing, I thank the members of the Southeast Alaska Subsistence Regional Advisory Council for their continued involvement and diligence in matters regarding the Federal Subsistence

Mr. Bertrand Adams Sr., 9

Management Program. I speak for the entire Board in expressing our appreciation for your efforts and our confidence that the subsistence users of the Southeast Region are well represented through your work.

Sincerely,

Michael R. Fleagle

Michael R. Fleagle
Chair, Federal Subsistence Board

cc: SEASRAC Members
Federal Subsistence Board
Interagency Staff Committee
Peter J Probasco, Office of Subsistence Management

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U.S. FISH and WILDLIFE SERVICE
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BUREAU of INDIAN AFFAIRS

U.S. FOREST SERVICE

FWS/OSM 10057/AW

JUL 1 2010

Mr. Bertrand J. Adams, Sr., Chair
Southeast Alaska Subsistence
Regional Advisory Council
Post Office Box 349
Yakutat, Alaska 99689

Dear Mr. Adams:

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 Southeast Alaska 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 Robert Larson, 1-907-586-9311.

Sincerely,

/S/ Michael R. Fleagle

Michael R. Fleagle, Chair

Enclosure

cc: Southeast Alaska Subsistence Regional Advisory Council members
Southeast USFS
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.

SOUTHEAST REGION

Proposal WP10-06

DESCRIPTION: Proposal WP10-06, submitted by the Southeast Alaska Subsistence Regional Advisory Council, requests the Federal Subsistence Board to standardize the use of terms that describe female deer in Federal regulations for the Southeast and Yakutat regions by changing all references for antlerless deer or doe deer to female deer.

COUNCIL RECOMMENDATION/JUSTIFICATION: Support with modification as described in the OSM conclusion. This proposal would clarify intent of Federal regulations that "antlerless" means "female."

BOARD ACTION/JUSTIFICATION: **Adopted with modification** to replace "antlerless deer" with "female deer" in harvest limits sections of the Federal subsistence regulations in Units 1-5. This proposal was on the consensus agenda.

Proposal WP10-07

DESCRIPTION: Proposal WP10-07, submitted by the Southeast Alaska Subsistence Regional Advisory Council, requests closure of the Federal subsistence marten trapping season on Kuiu

Island in Unit 3. The content of this proposal and much of the analysis has recently been addressed by the Federal Subsistence Board through Special Action WSA09-03.

COUNCIL RECOMMENDATION/JUSTIFICATION: Support with modification as described in the OSM conclusion. This proposal is necessary to provide for conservation of marten on Kuiu Island. The modification provides a mechanism to reopen the Federal harvest season after marten populations have a chance to recover.

BOARD ACTION/JUSTIFICATION: **Adopted with modification**, as recommended by the Southeast Alaska Subsistence Regional Advisory Council, to reopen marten trapping in this portion of Unit 3 for Federally qualified subsistence users beginning the regulatory year of July 1, 2012. The Board agreed with the Council's justification.

Proposal WP10-08

DESCRIPTION: Proposal WP10-08, submitted by the Southeast Alaska Subsistence Regional Advisory Council, requests that the harvest limit for deer in Unit 1A be reduced to two bucks.

COUNCIL RECOMMENDATION/JUSTIFICATION: Oppose. This proposal would be an unnecessary restriction on subsistence uses. The low levels of subsistence harvest will have no effect on recovery of the deer population in this area.

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

Proposal WP10-09

DESCRIPTION: Proposal WP10-09, submitted by the Southeast Alaska Subsistence Regional Advisory Council, requests five draw-permits for Units 1B and 1C and five draw-permits for Unit 3 for any bull moose.

COUNCIL RECOMMENDATION/JUSTIFICATION: Oppose. This proposal would reduce harvest opportunity for local hunters and may result in a conservation issue if the change in definition of legal moose to include two brow tines on each antler (proposal WP10-10) is adopted and later determined to be unsustainable.

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

Proposal WP10-10

DESCRIPTION: Proposal WP10-10, submitted by the Southeast Alaska Subsistence Regional Advisory Council, requests that the definition of a legally harvested moose in Units 1B and 3 be amended to include moose with two brow tines on each antler. The intent of the proposal is to change the antler definition to align with the State registration hunt RM038, which includes all of Unit 1B, Unit 3, and a small portion of Unit 1C.

COUNCIL RECOMMENDATION/JUSTIFICATION: Support. Federally-qualified users can currently harvest moose in this area under State regulations. Most of the additional harvest as a result of this proposal would be due to a very small harvest by designated hunters. However, the Council is concerned for the sustainability of this regulation and encourages the staff to monitor the harvest and health of the moose population.

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

Proposal WP10-11

DESCRIPTION: Proposal WP10-11, submitted by the Southeast Alaska Subsistence Regional Advisory Council, requests the recognition of customary and traditional uses of moose in Unit 1C for all rural residents of the Southeastern Alaska Management Area and the Yakutat Management Area, comprised of Units 1 through 5. No season and no harvest limit are requested.

COUNCIL RECOMMENDATION/JUSTIFICATION: Support. Participation in the moose harvest in Unit 1C is controlled by the State system of drawing permits for Berners Bay. Residents of the Southeast Region would and could hunt in Unit 1C much like Units 1B, 3, and 5, if the opportunity was available. Application of the eight factors clearly includes all residents of Units 1 through 5.

BOARD ACTION/JUSTIFICATION: **Adopted**, as recommended by the Southeast Alaska Subsistence Regional Advisory Council. Residents of Units 1-5 have demonstrated customary and traditional uses of moose in areas of Unit 1C since moose first migrated into the area; however, use has been restricted in the Berners Bay drainage for reasons beyond the control of the rural residents.

Proposal WP10-12

DESCRIPTION: Proposal WP10-12, submitted by the Southeast Alaska Subsistence Regional Advisory Council, requests that the wolverine trapping season in Units 1 through 5 be changed from November 10–April 30 to November 10–February 15.

COUNCIL RECOMMENDATION/JUSTIFICATION: Support with modification. Shortening the season to protect female wolverine with young is an example of a recognized principle of game management. However the Council was very concerned that the proposal is a significant restriction on subsistence uses with a demonstrated conservation issue and does not provide a subsistence priority. An amendment to the proposal is recommended to add two weeks to the end of the State season and close the Federal season on March 1. This change would shorten the current subsistence trapping season by two months to protect female wolverine while providing a subsistence preference.

BOARD ACTION/JUSTIFICATION: **Adopted with the modification** recommended by the Southeast Alaska Subsistence Regional Advisory Council. The regulation will read:

Units 1, 2, 3, 4, and 5—Wolverine (Trapping)
No limit *Nov. 10 – ~~April 30~~* ***March 1.***

Proposal WP10-13

DESCRIPTION: Proposal WP10-13, submitted by the Southeast Alaska Subsistence Regional Advisory Council, requests that the doe harvest season be closed on January 15 in that portion of Unit 4 draining into Chatham Strait, Peril Strait, and Icy Strait, including Tenakee Inlet.

COUNCIL RECOMMENDATION/JUSTIFICATION: Oppose. This proposal would have a very small effect on the number of doe deer harvested because few deer are harvested after January 15. It is very difficult to identify bucks once they have dropped their antlers. In-season management authority has been delegated to the local land manager and that authority is adequate to provide for conservation when restricting the harvest is necessary.

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

Proposal WP10-14

DESCRIPTION: Proposal WP10-14, submitted by the Southeast Alaska Subsistence Regional Advisory Council, requests the closure of Federal public lands in the Northeast Chichagof Controlled Use Area to the harvest of female deer by non-Federally-qualified users in December.

COUNCIL RECOMMENDATION/JUSTIFICATION: Oppose. The Council is very concerned about the deer population and reduced harvest in the NECCUA. Discussions indicate very low deer numbers at present but a potential to rebound in five years with mild winter conditions. Restricting the harvest of doe deer will encourage rebuilding of the population, however, the harvest of doe deer by non-qualified hunters during December is very small. The Council anticipates that in-season management authority will provide for conservation of deer by restricting harvests when conditions warrant.

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

Proposal WP10-15

DESCRIPTION: Proposal WP10-15, submitted by the Southeast Alaska Subsistence Regional Advisory Council, requests that the Federal subsistence goat hunting season in Unit 5A, that area between the Hubbard Glacier and the West Nunatak Glacier on the north and east sides of Nunatak Fjord, be closed.

COUNCIL RECOMMENDATION/JUSTIFICATION: Support. There is a conservation concern for goats in this area that requires regulatory action. Subsistence users have other opportunities to harvest goats. Since this is a closure, the issue would be revisited every three years.

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

Proposal WP10-16

DESCRIPTION: Proposal WP10-16, submitted by the Southeast Alaska Subsistence Regional Advisory Council, requests that the harvest limit for moose in Unit 5A be modified from one bull per person to one bull per household.

COUNCIL RECOMMENDATION/JUSTIFICATION: Oppose. This proposal is an unnecessary restriction; because this is a local issue, there should be a local solution. There are also technical issues with this proposal and hunters could continue to hunt with a one bull per person harvest limit under State regulations. This proposal would not facilitate management of moose in Yakutat and would produce a conflict between Federal and State regulations.

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

Proposal WP10-17

DESCRIPTION: Proposal WP10-17, submitted by the Southeast Alaska Subsistence Regional Advisory Council, requests that authority be delegated to the U.S. Forest Service Yakutat District Ranger to establish the quota for moose in Unit 5A, except Nunatak Bench, and to close the season when the quota has been filled. This quota would be established in consultation with the Alaska Department of Fish and Game, the Yakutat District Ranger for Wrangell-St. Elias and Glacier Bay National Parks and Preserves, and the chair of the Council.

COUNCIL RECOMMENDATION/JUSTIFICATION: Support. This proposal would benefit subsistence and non-subsistence uses by providing the in-season manager with the tools necessary for proper management of moose in the Yakutat area. The harvest limit in regulations does not appear to be sustainable and must be reduced according the health of the moose herd. This action will enhance communication between management agencies. The Council intends that this authority will be included with authorities that would be delegated to the in-season manager by letter as recommended in WP10-22.
BOARD ACTION/JUSTIFICATION: **Adopted**. This proposal was on the consensus agenda.

Proposal WP10-18a

DESCRIPTION: Proposal WP10-18a (deferred proposal WP08-06), submitted by Chuck Burhkardt of Gustavus, requests recognition of customary and traditional uses of moose in the Berners Bay drainage portion of Unit 1C for rural residents of Units 1C and 1D. This proposal is addressed in two analyses: WP10-18a addresses the customary and traditional use determination and WP10-18b addresses the Federal season and harvest limit.

COUNCIL RECOMMENDATION/JUSTIFICATION: No action taken. Because of its action on WP10-11, the Council considered action on this proposal unnecessary.

BOARD ACTION/JUSTIFICATION: The Board took **no action** on this proposal due to its action on WP10-11.

Proposal WP10-18b

DESCRIPTION: Proposal WP10-18b (deferred proposal WP08-06), submitted by Chuck Burhkardt of Gustavus, requests recognition of customary and traditional uses of moose in the Berners Bay drainage portion of Unit 1C for rural residents of Units 1C and 1D. This proposal is addressed in two analyses: WP10-18a addresses the customary and traditional use determination and WP10-18b addresses the Federal season and harvest limit.

COUNCIL RECOMMENDATION/JUSTIFICATION: Oppose. It would be very difficult to administer a hunt for this small population of moose. Proposals that result is significant changes to subsistence regulations should be accompanied by evidence that the change is supported by more than one individual. Because of the substantial evidence presented regarding the concern for conservation of the moose population in Berners Bay, the Council does not think it appropriate to open a moose hunt in this area at this time.

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

Proposal WP10-19

DESCRIPTION: Proposal WP10-19, submitted by D. J. O'Brien of Ketchikan, requests that the Federal subsistence season for hunting antlerless Sitka Black-tailed deer in Unit 2 be changed from October 15 through December 31 to September 15 through October 15.

COUNCIL RECOMMENDATION/JUSTIFICATION: Oppose. There is no conservation concern with current harvest levels of doe deer in Unit 2. This proposal may adversely and unnecessarily affect subsistence users.
BOARD ACTION/JUSTIFICATION: **Rejected**. This proposal was on the consensus agenda.

Proposal WP10-20

DESCRIPTION: Proposal WP10-20, , submitted by D. J. O'Brien of Ketchikan, requests the closure of Federal public land in Unit 2 to the harvest of Sitka black-tailed deer by non-Federally-qualified users be changed from August 1 through August 15 to July 24 through July 31.

COUNCIL RECOMMENDATION/JUSTIFICATION: Oppose. The Council has made a commitment to not change regulations regarding Unit 2 deer until after the 2011 season. Additional information is needed to determine whether the closure dates are appropriate or necessary to provide for a preference. It is still difficult for qualified users to meet subsistence needs for deer in Unit 2.

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

Proposal WP10-21

DESCRIPTION: Proposal WP10-21, submitted by the Southeast Alaska Subsistence Regional Advisory Council, requests that deer harvest on Federal public lands of the Northeast Chichagof Controlled Use Area in Unit 4 be restricted to residents of Hoonah.

COUNCIL RECOMMENDATION/JUSTIFICATION: Support with modification. The regulation will read:

Unit 4—Deer

6 deer; however, female deer may be taken only from Sept. 15–Jan. 31.	*Aug. 1–Jan. 31*
Federal public lands of Chichagof Island north of Tenakee Inlet and east of the drainage divide from the northwest point of Gull Cove to Port Frederick Portage, including all drainages into Port Frederick and Mud Bay are closed to the taking of deer except by residents of Game Creek, Hoonah, Tenakee Springs, Whitestone Camp, and Gustavus.	*Aug. 1–Jan. 31*

This proposal is a necessary restriction on subsistence and non-subsistence uses because residents of this area have limited other opportunities to obtain subsistence food. The Council acknowledges there may be sufficient buck deer available for a minimal harvest by qualified and non-qualified users. However, that level of harvest does not provide for the continuation of subsistence use by local users. The most recent estimates of harvest indicated that local residents are only taking 20 % of their average subsistence harvest. Until the population rebuilds, the use of deer in this area must be restricted to local users. The closure will be reviewed in three years and regulatory changes can be made if conditions warrant. This action is not a restriction, in a practical sense, to other qualified users or non-subsistence users since residents of Juneau and

other qualified subsistence communities must travel to hunt in the NECCUA. There are many better hunting opportunities available to them in other areas with a similar amount of effort.

BOARD ACTION/JUSTIFICATION: **Rejected**. The Board concluded that this proposal does not offer substantial evidence for making such a restriction that would be detrimental to some subsistence users. There are other less drastic measures that can be taken, if necessary, before imposing a closure that would deny use to Federally qualified subsistence users. The protections already in place will continue to provide for conservation and the continued ability to harvest these deer.

Proposal WP10-22

DESCRIPTION: Proposal WP10-22, submitted by the Southeast Alaska Subsistence Regional Advisory Council, requests the Board to standardize the in-season management of fish and wildlife in the Southeast Region by delegating authority for in-season management of all wildlife species in the Southeastern Alaska and Yakutat Areas. Although specific regulatory language is not provided in the proposal, the intention is to provide authority to close, reopen, or adjust Federal subsistence seasons and to set harvest and possession limits for all wildlife to a uniform set of fish and wildlife in-season managers.

COUNCIL RECOMMENDATION/JUSTIFICATION: Support. The intent of the Council is to have the Board delegate the same in-season management authority for wildlife to the same in-season managers that have that authority for fish in those areas. The Council supports the current in-season management protocols and believes this action will result in better communication with ADF&G and subsistence users. The proposal would benefit subsistence users by encouraging management expertise in local managers and by making the same person responsible for land management decisions effecting subsistence resources also responsible for managing and for providing a priority to subsistence uses.

BOARD ACTION/JUSTIFICATION: **Adopt with modification** to delegate in-season management for wildlife on a species by species basis, by letter, to the same managers as presently identified in regulation. This action is consistent with the Southeast Alaska Subsistence Regional Advisory Council.

Proposals WP10-23/24/25/26

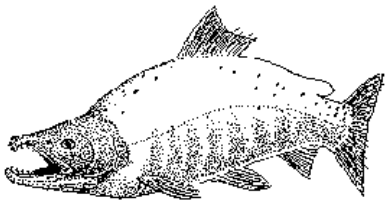
DESCRIPTION: Proposals WP10-23/24/25/26, submitted by the Alaska Wildlife Alliance, request changes in the wolf hunting and trapping seasons in Southeast Alaska.

COUNCIL RECOMMENDATION/JUSTIFICATION: Oppose. This proposal may result in a reduction in subsistence deer harvest. There is not a conservation concern with wolves and this action would result in an unnecessary restriction on subsistence uses.

BOARD ACTION/JUSTIFICATION: **Rejected**. These proposals were on the consensus agenda.

PRIORITY INFORMATION NEEDS

FEDERAL SUBSISTENCE FISHERIES



2012 FISHERIES RESOURCE MONITORING PROGRAM

Office of Subsistence Management
U.S. Fish and Wildlife Service
1011 E. Tudor Road
Anchorage, Alaska 99503-6199

1-800-478-1456 or 907-786-3888 Voice
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 including 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.

FP11-16 and 17 Executive Summary	
General Description	**Proposal FP11-16** requests that the season closing date for the Federal subsistence sockeye salmon fishery in the Klawock River be extended from July 31 to August 15 and that the Monday through Friday fishing schedule be removed. *Submitted by Michael Douville* **Proposal FP11-17** requests that the season closing date for the Federal subsistence sockeye salmon fishery in the Klawock River be extended from July 31 to August 7 but retains the Monday through Friday fishing schedule. *Submitted by Southeast Alaska Regional Advisory Council*
Proposed Regulation	**FP11-16** *§___.27(i)(13)(xiv) From July 7 through ~~July 31~~* ***August 15****, you may take sockeye salmon in the waters of the Klawock River and Klawock Lake ~~only from 8:00 a.m. Monday until 5:00 p.m. Friday~~.* **FP11-17** *§___.27(i)(13)(xiv) From July 7 through ~~July 31~~* ***August 7****, you may take sockeye salmon in the waters of the Klawock River and Klawock Lake only from 8:00 a.m. Monday until 5:00 p.m. Friday.*
OSM Preliminary Conclusion	**Support** Proposal FP11-16 **with modification** to remove the defined season and fishing schedule for subsistence sockeye fishing in the Klawock Lake/River drainage from regulation. *~~§___.27(i)(13)(xiv) From July 7 through July 31, you may take sockeye salmon in the waters of the Klawock River and Klawock Lake only from 8:00 a.m. Monday until 5:00 p.m. Friday.~~* **Take no action** on Proposal FP11-17.
Southeast Regional Council Recommendation	
Interagency Staff Committee Comments	
ADF&G Comments	**Oppose FP11-16**, elimination of the hour restriction for the subsistence sockeye salmon fishery in Klawock river and lake and oppose extension of the season fishery closure date to August 15. **Support FP11-17**, extending the subsistence sockeye salmon season to August 7.
Written Public Comments	**None**

DRAFT STAFF ANALYSIS
FP11-16 and 17

ISSUES

Proposal FP11-16, submitted by Michael Douville, requests that the season closing date for the Federal subsistence sockeye salmon (*Onchorynchus nerka*) fishery in the Klawock River be extended from July 31 to August 15 and that the Monday through Friday fishing schedule be removed. Proposal FP11-17, submitted by Southeast Alaska Regional Advisory Council, requests that the season closing date for the Federal subsistence sockeye salmon fishery in the Klawock River be extended from July 31 to August 7 but retains the Monday through Friday fishing schedule.

DISCUSSION

The proponent of FP11-16 requests the Federal season be extended to August 15, plus allow additional fishing opportunity on the weekends within the season by removing the Monday through Friday fishing schedule. The proponent indicated that the Monday-Friday fishing schedule was implemented in 1986 by State Board of Fisheries action, to address local resident's concerns that the stock was being overharvested by non-local residents (non-Federally qualified users – i.e., Ketchikan residents) travelling over on the ferry to Prince of Wales Island (when travel costs were cheaper) in order to subsistence fish sockeye in the Klawock Harbor during the weekends. The proponent believes removing the fishing schedule from Federal regulation would allow Federal qualified subsistence users, unable to fish during the work week with beach seines in marine water, to fish other gear allowed under Federal regulations within waters under Federal jurisdiction. The proponent also believes the harvest by these individuals would be minimal compared to the harvests occurring in State waters (Douville 2010).

The proponent of FP11-17 requests that the Federal season be extended by one week to August 7 to align State and Federal harvest seasons. Aligning this regulation would prevent the need for Special Action by the Federal Subsistence Board, as was the case in both 2009 and 2010.

Existing Federal Regulation

> *§___.27(i)(13)(xiv) From July 7 through July 31, you may take sockeye salmon in the waters of the Klawock River and Klawock Lake only from 8:00 a.m. Monday until 5:00 p.m. Friday.*

Also relevant to this proposal analysis is the following Federal regulation:

> *§___.27(i)(13)(viii) If you take salmon, trout, or char incidentally with gear operated under the terms of a subsistence permit for other salmon, they may be kept for subsistence purposes. You must report any salmon, trout, or char taken in this manner on your subsistence fishing permit.*

Proposed Federal Regulation

FP11-16

> *§___.27(i)(13)(xiv) From July 7 through ~~July 31~~* ***August 15****, you may take sockeye salmon in the waters of the Klawock River and Klawock Lake ~~only from 8:00 a.m. Monday until 5:00 p.m. Friday~~.*

FP11-17

> *§___.27(i)(13)(xiv) From July 7 through ~~July 31~~ **August 7**, you may take sockeye salmon in the waters of the Klawock River and Klawock Lake only from 8:00 a.m. Monday until 5:00 p.m. Friday.*

Existing State Regulations

> *5AAC 01.710(e) From July 7 through August 7, sockeye salmon may be taken in the waters of Klawock Inlet enclosed by a line from Klawock Light to the Klawock Oil Dock, the Klawock River, and Klawock Lake only from 8:00 a.m. Monday until 5:00 p.m. Friday.*
>
> *5AAC 01.730(j) Salmon, trout, or char taken incidentally by gear operated under the terms of a subsistence permit for salmon are legally taken and possessed for subsistence purposes. The holder of a subsistence salmon permit must report any salmon, trout, or char taken in this manner on his or her permit calendar.*
>
> *5AAC 01.750 In the waters of Klawock Inlet enclosed by a line from Klawock Light to the Klawock Oil Dock, no person may subsistence salmon fish from a vessel that is powered by a motor of greater than 35 horsepower.*

Extent of Federal Public Waters

For purposes of this discussion, the phrase "Federal public waters" is defined as those waters described under 36 CFR 242.3. They include waters within the exterior boundary of the Tongass National Forest in the Southeastern Alaska Area excluding marine waters.

Customary and Traditional Use Determinations

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

Regulatory History

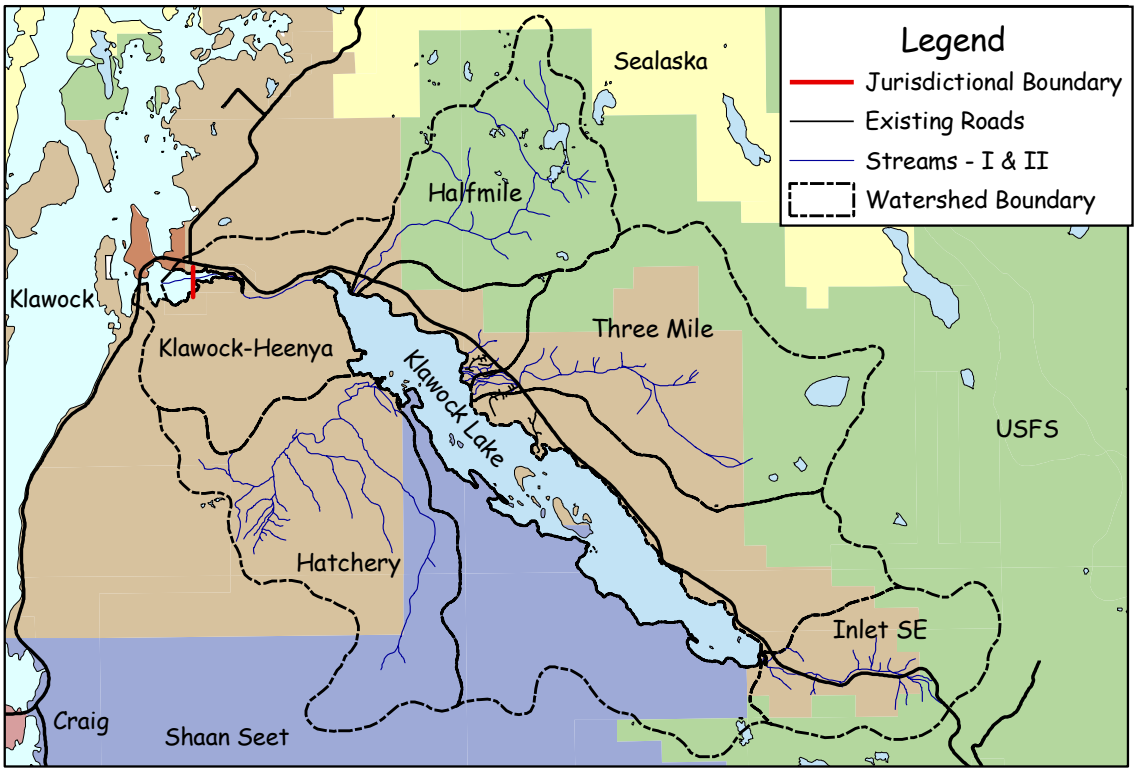
State Regulatory History

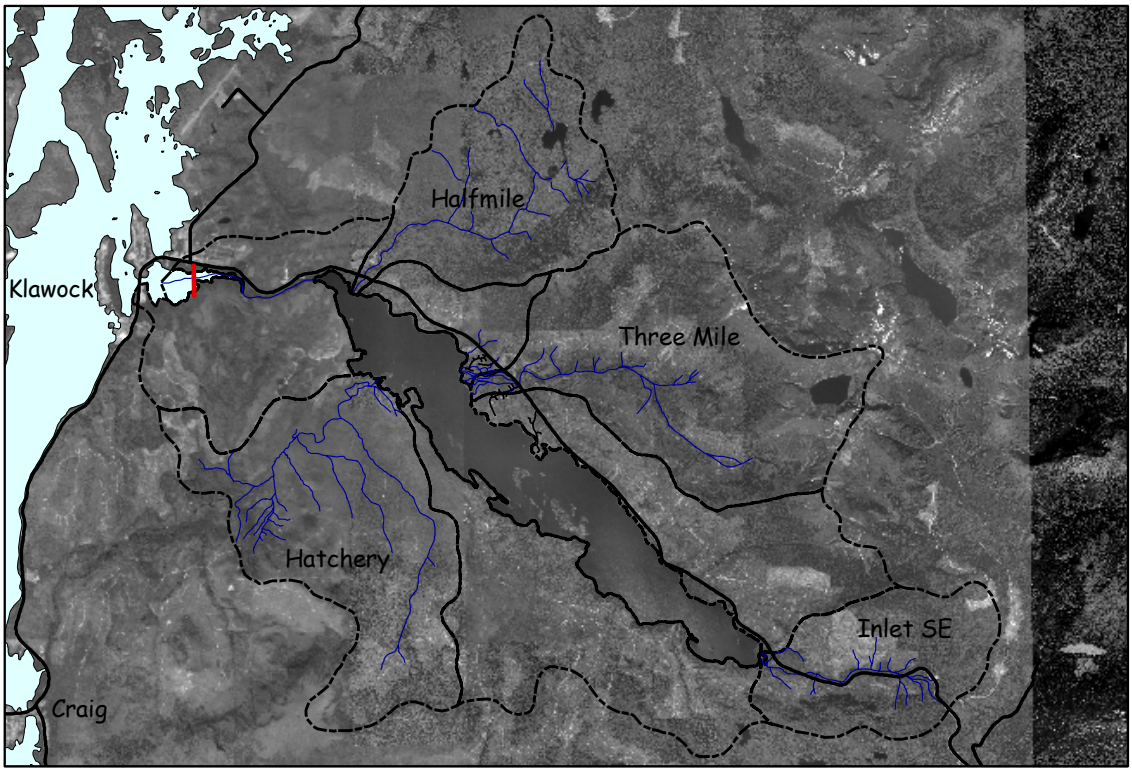
ADF&G, Division of Commercial Fisheries, Ketchikan Area Office issues subsistence salmon permits for Klawock Lake salmon. Individual and household possession limits have varied since permits were first issued in 1969. Current permit conditions allow for individual and household limits of 20 sockeye salmon daily with no annual limit. Legal subsistence fishing gear in this area includes hand purse seines, beach seines, and dip nets. State regulation also allows for the retention of incidentally taken salmon, trout, and char as long as they are recorded on the permit.

In 1986, the State managed Klawock subsistence fishery was set in State regulation with a season and fishing schedule of July 7 through July 31 from 8:00 a.m. Monday to 5:00 p.m. Friday (5 AAC 01.710). This regulation was implemented in 1986 due to concerns that too many sockeye salmon were being taken on the weekend by people from urban areas. Three additional actions in 1986, related to Klawock sockeye, also occurred. Sport fishing for sockeye salmon was closed throughout the Klawock River/Lake

Map 1

Klawock Lake Watershed





drainage, a portion of Klawock Harbor was closed to the snagging of salmon, and the restriction on the use of outboard motors greater than 35 horsepower was implemented.

In February 2009, the Board of Fisheries adopted Proposal 265 extending the closing date of the State-managed subsistence sockeye fishery from July 31 to August 7. This State fishery extends from the lake down through the river into tidal water. This proposal, submitted by the Klawock Cooperative Association, originally requested that the starting date of the State managed subsistence sockeye fishery be moved to July 15, and the closing date of the fishery be changed to August 15. The Alaska Department of Fish and Game (ADF&G) opposed Proposal 265 as written, however, ADF&G did support extending the harvest opportunity for the subsistence sockeye season through August 7.

Federal Regulatory History

In 1999, when Federal subsistence fishing management began, existing State subsistence fishing regulations were adopted for Southeast Alaska. The Klawock is the only drainage in Southeast Alaska with a specific season and fishing schedule under Federal regulations. Although the regulation defines a season and a schedule of directed subsistence fishing for sockeye, there are no Federal seasons for the remaining species of salmon within the Klawock River drainage. Federal regulations also allow for the retention of incidentally harvested salmon, trout, or char, with the requirement that any salmon, trout, or char taken in this manner be recorded on the subsistence fishing permit.

In 2001, proposal FP01-24 was submitted by the Alaska Native Brotherhood and Alaska Native Sisterhood Camp 9, in Klawock, which requested a change to the fishing schedule for sockeye salmon. The Southeast Alaska Regional Advisory Council (Council) originally tabled proposal FP01-24 until they could hear testimony from local subsistence users. After hearing testimony from a local user the proposal remained tabled (SERAC 2000). During the December 2000 Federal Subsistence Board (Board) meeting, the proposal was deferred by the Board (FSB 2000), however, the proposal was revisited in December 2001 when the Board rejected the proposal (FSB 2001).

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

During April 2009, the local Federal in-season manager submitted Special Action Request FSA09-03 to extend the Federal sockeye season on the Klawock River to August 7 to match the change implemented by the Alaska Board of Fisheries. The request was approved by the Federal Subsistence Board. Because of the current biennial fisheries regulatory cycle, the Federal manager, again, had to submit the same special action request, FSA10-01, to align the State and Federal sockeye seasons for the Klawock River for 2010 fishing season. In early July 2010, the Federal Subsistence Board approved this request.

Biological Background

The Klawock drainage is located on the western side of Prince of Wales Island. Klawock Lake is one of the few major sockeye salmon producers on Prince of Wales Island. The Klawock sockeye salmon stock has been an important subsistence resource for the people of Klawock and other nearby communities for over 100 years (Lewis and Zadina 2002; Cartwright and Lewis 2004). The Klawock River is approximately a mile and a half long and drains out of Klawock Lake. The lake is five miles long and has four major streams draining into it: Half-mile Creek and Three-mile Creek to the north, Hatchery Creek

to the south, and an unnamed creek, often referred to as "Inlet" Creek to the east. All four of these streams are important for spawning sockeye salmon. It is unknown if there are beach spawning sockeye in the lake.

The Klawock River sockeye salmon escapement has been above average in recent years (Davidson et al. 2009). The Prince of Wales Hatchery Association maintains an aluminum bipod weir on the Klawock River. Prior to 2001, the weir was utilized typically in late July to capture coho. Since 2001, the weir has been in by early July. Historic weir counts (prior to 2001) of Klawock sockeye have ranged from 872 to 65,314 sockeye with recent escapements ranging from 11,000 and 21,000 sockeye. From 2001-2009, a two-sample mark-recapture study was conducted to test the integrity of the weir and to provide an independent estimate of sockeye escapement (Lewis and Cartwright 2002). Historic weir counts and mark-recapture estimates can be found in **Table 1**.

Harvest History

State Subsistence Harvest

Subsistence harvests have been reported on permits issued by ADF&G since 1969. Although the entire Klawock Lake drainage is open for subsistence fishing, the majority of the sockeye harvested are taken in marine waters during the month of July. Directed harvest of sockeye within the river and lake is very low, as local users tend to feel that once in the river they are escapement, and the fish are of lesser quality than those in the bay. Lastly, the sediment bottom and heavy amounts of large woody debris make it nearly impossible to seine within the few large, deep holes on the river.

Since 2005, the run timing of Klawock River sockeye has seemed to be later, with larger numbers of sockeye returning near the last week of the regulatory season dates. During years of late returns, ADF&G has been asked to extend the subsistence fishery. The fishery has been extended in the past when it was determined that although late, indications are that the return will be at least of average size (Davidson et al. 2009). In February 2009, the State Board of Fisheries extended the closing date in regulation to August 7. Directed fishing effort for sockeye, during August, is not normally as high as that during July, as pink salmon are heavily abundant during this time frame.

The reported harvest of sockeye and the total number of permits issued have fluctuated annually since 1969. Reported subsistence harvests of Klawock sockeye have ranged from 238 to 6,661 sockeye with harvest between 1,700 and 3,000 fish more common (**Table 2**), occurring in marine waters outside of Federal jurisdiction. Based upon on-site harvest surveys from 2001 to 2009, the reported harvest on returned permits was, on average, only 60% of the actual harvest (Cartwright and Lewis 2004; Walker 2009).

Directed subsistence fisheries for pink, chum, and coho salmon are also allowed under State permit conditions. For all streams within the Ketchikan Management Area customary and traditional use areas, the permit allows for subsistence fishing for the following species: for pink salmon, July 1-Sept 30; for chum and coho salmon, July 1- October 31. State regulation allows for the retention of incidentally harvested salmon, trout, and char within these fisheries.

Federal Subsistence Harvest

Typically, Federal subsistence fishing regulations for Southeast Alaska do not have defined seasons for harvesting sockeye, coho, pink or chum salmon. The Klawock River/Lake drainage is the only exception, and currently has a season of July 7 to July 31 for the directed harvest of sockeye. In both 2009 and 2010,

Table 1. Historical weir counts of Klawock River sockeye. Numbers from 1968 to 2009 represent a minimum escapement estimate due to incomplete fish counts in many years (Walker 2009, pers. comm., Pappas 2010, pers. comm.).

Year	Sockeye Weir Count	Mark/Recapture Estimate
1930	7,044	
1931	34,184	
1932	57,294	
1934	16,374	
1935	20,028	
1936	65,314	
1937	33,544	
1938	15,368	
1968	13,242	
1969	1,557	
1970	7,213	
1971	11,580	
1977	4,771	
1982	4,872	
1983	872	
1985	1,042	
1986	19,636	
1987	7,844	
1988	6,453	
1999	5,310	
2000	9,428	
2001	7,236	14,000
2002	13,920	14,000
2003	6,276	21,000
2004	11,653	
2005	12,509	
2006	14,757	No estimate
2007	n/a	17,500
2008	15,600	No estimate
2009	21,165	19,701

Table 2. Subsistence permits, reported harvest, and harvest estimates by year from 1969 to 2009 (USDA Forest Service 2010; Walker 2009, pers. comm.; Pappas 2010, pers. comm.).

Year	State Permits	Sockeye Reported on State Permits	Harvest Estimate[1]	Federal Harvest
1969	35	1,455		
1970	32	798		
1971	38	314		
1972	79	1,978		
1973	64	755		
1974	60	1,362		
1975	59	1,377		
1976	71	1,108		
1977	63	1,286		
1978	87	1,017		
1979	111	2,980		
1980	159	3,522		
1981	152	4,183		
1982	225	6,661		
1983	130	1,736		
1984	235	2,366		
1985	138	2,336		
1986	156	2,762		
1987	117	2,118		
1988	96	1,851		
1989	122	3,088		
1990	100	2,361		
1991	77	1,989		
1992	133	4,322		
1993	162	5,763		
1994	133	4,848		
1995	118	3,489		
1996	159	5,553		
1997	126	4,746		
1998	125	4,670		
1999	123	3,509		
2000	112	3,000		
2001	130	4,433	6,400	
2002	116	3,778	6,000	7
2003	91	3,195	6,000	
2004	80	2,697	4,500	
2005	34	238	175	
2006	65	1,859	3,100	15
2007	57	2,042	2,600	45
2008	70	3,000	6,700	9
2009	109	3,777	5,520	321

[1] This estimate was generated from on-site creel surveys as a part of the FIS funded Klawock sockeye assessment project.

the local in-season manger has submitted Special Action requests to extend the Federal season to August 7. Federal regulation allows for the retention of incidentally taken salmon, trout, and char and requires that any incidental harvest be recorded on the permit.

Until 2006, the only sockeye harvest reported under Federal subsistence fishing permits from the Klawock Lake/River drainage was seven taken incidentally during the Federal coho salmon fishery in 2002. Since 2006, some directed harvest of sockeye has been reported on Federal permits. Harvests reported from 2006-09 have ranged from 9 to 321 sockeye, with dip net, seine and handline gear being used (USDA Forest Service 2010).

Effects of the Proposal

Adoption of either proposal will provide additional fishing time to the Klawock River Federal subsistence sockeye fishery during peak run timing. FP11-16 will create differing State and Federal regulations for subsistence sockeye fishing, while FP11-17 will re-align State and Federal regulations for subsistence sockeye fishing within this drainage. Extending the season as requested by both proposals would result in additional sockeye being harvested. This additional harvest should not cause any conservation concerns for this salmon stock since the Federal harvest would be minimal compared to the subsistence harvest occurring in marine waters under State regulations. Removal of the Monday-Friday fishing schedule may increase fishing pressure on the weekend days, but would only be limited to Federally qualified users.

OSM PRELIMINARY CONCLUSION

Support Proposal FP11-16 **with modification** to remove the defined season and fishing schedule for subsistence sockeye fishing in the Klawock Lake/River drainage from regulation.

> ~~*§___.27(i)(13)(xiv) From July 7 through July 31, you may take sockeye salmon in the waters of the Klawock River and Klawock Lake only from 8:00 a.m. Monday until 5:00 p.m. Friday.*~~

Take no action on Proposal FP11-17.

Justification

Removal of the Klawock fishing season and schedule for sockeye will bring consistency in the Federal management of subsistence sockeye fisheries within the Southeast Alaska management area. With both State and Federal regulations allowing for incidental harvest of sockeye taken during other State or Federally managed subsistence fisheries, there is no need for a defined sockeye season in Federal regulations.

Removal of the season from Federal regulation will remove the need for the Federal in-season manager to submit formal Special Action Requests to the Federal Subsistence Board.

Removal of the fishing schedule, will allow only Federally qualified users some extra time to harvest sockeye. With the majority of the subsistence sockeye harvest occurring in State managed marine waters, the harvest in Federal waters will be minimal in comparison. Sockeye escapements since 2001 have been considered above average. The Klawock sockeye return can be easily monitored with the fish hatchery's weir, and if sockeye escapements appear to be below average during the season, Federal managers can easily take special action within Federal Jurisdiction.

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ADF&G Comments on FP11-16 and FP11-17
August 31, 2010; Page 1 of 2

Alaska Department of Fish and Game
Comments to Regional Advisory Council

Fisheries Proposal FP11-16 and FP11-17: Eliminate daily hour restrictions for the Klawock river and lake federal subsistence sockeye salmon fishery and extend the closure date of the Klawock River sockeye salmon fishery to August 15.

Introduction: FP11-16, submitted by Michael Douville, would remove the daily hour restrictions and season closure date for the federal subsistence sockeye salmon fishery in Klawock river and lake, rescinding hour restrictions implemented in 1986 at the request of local Klawock area residents. If adopted, the proposal would allow all federally-qualified subsistence users to continually fish 24 hours per day, seven day per week through August 15, in Klawock river and lake. Current federal subsistence fishery hours are from 8:00 am Monday until 5:00 pm Friday during the July 7 through July 31 season.

FP11-17, submitted by the Southeast Regional Advisory Council, proposes to change the federal subsistence fishery season closing date for sockeye salmon in the Klawock river and lake fishery from July 31 to August 7 in order to match the state subsistence fishing season regulations adopted by the Alaska Board of Fisheries during the February 17 through 26, 2010, meeting. The department supported both FSA09-03 and FSA10-01, which were identical requests also approved by the Federal Subsistence Board.

Impact on Subsistence Users: If FP11-16 is adopted, federal subsistence users will be allowed to participate in the federal subsistence fishery for sockeye salmon during evenings and weekends and during an extended federal subsistence fishing season. The restriction to the hours of the fishery was originally put in place to provide subsistence fishing opportunities for local residents during the week. If adopted as proposed, all residents of Prince of Wales Island will be able to fish for sockeye salmon in those waters of the Klawock River where federal jurisdiction is claimed. This may increase competition for local residents who harvest sockeye salmon for subsistence in the Klawock River. If FP11-16 is adopted, the federal and state subsistence users would have a different fishing season closure dates. Adjusting the closure date of the federal subsistence sockeye salmon fishery to a date different than the state subsistence fishery will create inconsistency between state and federal regulations and increase risk of enforcement actions on subsistence users fishing under different regulations.

If FP11-17 is adopted, federal subsistence users will have the same fishing season as state subsistence users participating in the state subsistence fishery, which extends the opportunity to fish for one additional week past the federal season, to August 7. Adjusting the closure date of the sockeye salmon fishery will provide consistency between state and federal regulations and reduce risk of enforcement actions on subsistence users fishing under different regulations.

Opportunity Provided by State: Salmon may be harvested under state subsistence regulations in the Klawock River from 8:00 am Monday until 5:00 pm Friday, from July 7 through August 7. The time limitations were adopted in 1986 by the Alaska Board of Fisheries in response to a proposal submitted by local residents of Klawock, who expressed concern that sockeye salmon were being taken on weekends by people from urban areas. The sockeye salmon harvest limit in

the state—managed subsistence fishery is 20 sockeye salmon per day, per household, there is no annual limit. Legal subsistence fishing gear in this area includes hand purse seines, beach seines, and dip nets. State regulations for this fishery include other time, area, and gear provisions as follows:

> *5AAC 01.710(e) From July 7 through August 7, sockeye salmon may be taken in the waters of Klawock Inlet enclosed by a line from Klawock Light to the Klawock Oil Dock, the Klawock River, and Klawock Lake only from 8:00 a.m. Monday until 5:00 p.m. Friday.*
>
> *5AAC 01.750 In the waters of Klawock Inlet enclosed by a line from Klawock Light to the Klawock Oil Dock, no person may subsistence salmon fish from a vessel that is powered by a motor of greater than 35 horsepower.*

Conservation Issues: No salmon stocks in this area have been determined by the Alaska Board of Fisheries to be a stock of conservation or management concern, and adoption of these proposals will not likely cause a conservation or management concern. Adoption of these proposals, however, is expected to increase federal subsistence harvest of sockeye salmon to an unknown degree. Currently, approximately 95% of the subsistence harvest effort takes place in the state subsistence fishery in state marine waters.

Jurisdiction Issues: While standing on state and private lands (including state-owned submerged lands and shorelands), persons must comply with state laws and regulations regarding subsistence harvest. The department requests that federal subsistence administrators provide detailed maps that depict land ownership and specific boundaries of areas where federal regulations are claimed to apply. The maps provided with FP07-20, FSA 09-03, and FSA 10-01 federal analyses are not detailed enough for use by fishermen in the field.

Recommendations: Oppose FP11-16, elimination of the hour restriction for the subsistence sockeye salmon fishery in Klawock river and lake and oppose extension of the season fishery closure date to August 15. Support FP11-17, extending the subsistence sockeye salmon season to August 7.

FP11-18 Executive Summary	
General Description	Proposal FP11-18 requests all waters draining into Sections 1C and 1D be closed to the harvest of eulachon. *Submitted by the Southeast Alaska Subsistence Regional Advisory Council*
Proposed Regulation	*§___.27(i)(13)(ii) You must possess a subsistence fishing permit to take salmon, trout, grayling, or char.* ~~*You must possess a subsistence fishing permit to take eulachon from any freshwater stream flowing into fishing Sections 1C or 1D*~~ ***§___.27(i)(13)(xxii) All drainages of fishing Sections 1C and 1D are closed to the harvest of eulachon.***
OSM Preliminary Conclusion	**Support** Proposal FP11-18 **with modification** to clarify the applicable area, and to make explicit that the closure applies to all users**.** The modified proposed regulation should read: *§___.27(i)(13)(ii) You must possess a subsistence fishing permit to take salmon, trout, grayling, or char.* ~~*You must possess a subsistence fishing permit to take eulachon from any freshwater stream flowing into fishing Sections 1C or 1D*~~ ***§___.27(i)(13)(xxii) All freshwater streams flowing into Sections 1C and 1D are closed to the harvest of eulachon by all users.***
Southeast Regional Council Recommendation	
ADF&G Comments	**Support with modification** to be "no federal season" for the harvest of eulachon in sections 1C and 1D. This modification would remove the procedural burden of opening a closed fishery when eulachon numbers rebound in these sections. Because the waters in which eulachon move include intermixture of state waters with waters where federal regulations are claimed to apply, it would be less onerous for federal subsistence users if the modification read: *§___.27(i)(13)(xxii) All drainages of fishing Sections 1C and 1D – No federal season for eulachon.* Thus, if eulachon numbers rebound sufficiently that the state is able to open a subsistence fishery, opportunity to all subsistence users could occur without a delay due to the process necessary to reopen areas closed to federally-qualified and non-federally qualified users. If the waters are closed where federal jurisdiction is claimed and the state opens a fishery, all fishermen would need to assure they are fishing in state waters below mean high tide.
Written Public Comments	**None**

DRAFT STAFF ANALYSIS
FP11-18

ISSUES

Proposal FP11-18, submitted by the Southeast Alaska Subsistence Regional Advisory Council (Council) requests all waters draining into Sections 1C and 1D be closed to the harvest of eulachon.

DISCUSSION

The eulachon (*Thaleichthys pacificus*) population in waters draining into Sections 1C and 1D (the Unuk River area) is at a critically low level and there is not a harvestable surplus. It is likely there will not be a harvestable surplus in the foreseeable future. The area has been closed to all fishing for eulachon during the past five years, essentially one eulachon life-cycle, without any signs of stock recovery. With a stock size at this level, there are few options available for conservation other than closing the fishery. This regulation will provide clear direction to the public that the area will be closed to fishing for eulachon for all users.

Existing Federal Regulation

Southeastern Alaska Area—General provisions

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

Proposed Federal Regulation

> *§___.27(i)(13)(ii) You must possess a subsistence fishing permit to take salmon, trout, grayling, or char. ~~You must possess a subsistence fishing permit to take eulachon from any freshwater stream flowing into fishing Sections 1C or 1D~~*
>
> ***§___.27(i)(13)(xxii) All drainages of fishing Sections 1C and 1D are closed to the harvest of eulachon.***

Existing State Regulations

Southeastern Alaska Area—General provisions

5AAC 01.716(a) The Alaska Board of Fisheries finds that the following fish stocks are customarily and traditionally taken or used for subsistence:

(22) Eulachon in Sections 1-C and 1-D and in the waters of Districts 7 and 8.

5AAC 01.730(a) Eulachon in the Unuk River, and salmon, trout, char, and herring spawn on kelp may only be taken under the authority of a subsistence fishing permit.

Extent of Federal Public Waters

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

Customary and Traditional Use Determinations

Rural residents of both the Southeastern Alaska and Yakutat Areas have a positive customary and traditional use determination for Dolly Varden, trout, smelt, and eulachon in waters draining into Sections 1C and 1D (**Map 1**).

State Regulatory History

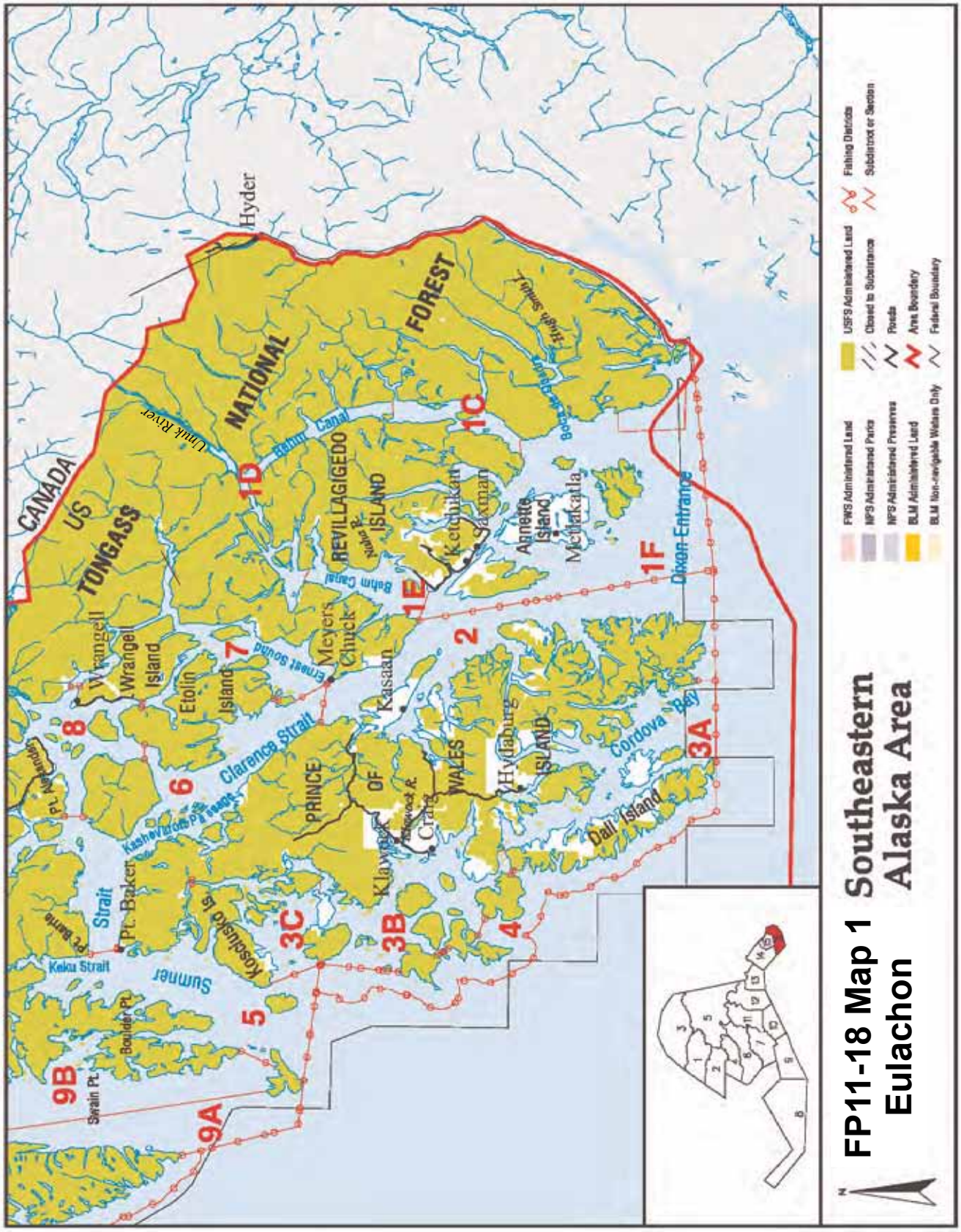
The commercial eulachon fishery in the Unuk River has been closed since 2001. The Alaska Board of Fisheries made a positive customary and traditional use determination for eulachon in the Unuk River area in 2003. The State subsistence fishery required permits beginning in 2004 and has been closed since 2005 (Walker 2010, pers. comm.).

Federal Regulatory History

The Board adopted a regulation to require Federal subsistence fishing permits for eulachon in Sections 1C and 1D effective in 2002 (FSB 2001; SEASRAC 2001). During the 2002 fisheries regulatory cycle, Proposals FP02-42 and FP02-43 were submitted by two residents of Ketchikan, requesting harvest limits for subsistence eulachon fishing. Although the proponents and the ADF&G were concerned about not having harvest limits, both the Council and Board rejected the proposals (FSB 2001; SEASRAC 2001). Due to stock failure, the area has been closed annually by special action since 2006.

Biological Background

The eulachon, also known as "ooligan" or "candlefish" is a small, silvery fish of the smelt family that ranges from Bodega Head, California north along the coast of North America to Bristol Bay, Alaska, and westward in the Bering Sea to the Pribilof Islands. Eulachon are anadromous. They spawn and hatch in fresh water streams. The larvae drift immediately down-stream into marine waters to grow to maturity. After three to six years at sea, they return as adults to spawn. As the spawning season approaches, eulachon gather in large schools off the mouths of their spawning streams. Eulachon do not strictly "home" to a particular stream like salmon, but appear to use streams in the general area where they were spawned that have the best habitat conditions. The abundance in a particular stream can vary greatly from year to year depending on stream water conditions and overall ocean survival. In Southeast Alaska, the main spawning migration can occur as early as late March and April; while in central and western Alaska, it generally takes place in May. Certain drainages like the Chilkat, Alsek, and Copper Rivers, have occasional winter runs in January and February if temperature conditions are right. Some streams can have two separate but overlapping migrations. Eulachon spawning rivers are typically slow moving waterways since eulachon are weak swimmers that cannot travel through long stretches of high water velocity. Spawning sites are in the lower elevations of the river or stream, but in some rivers with long flat deltas spawning sites may be many miles upstream. Eggs are "broadcast" over sandy gravel bottoms, and once fertilized; a sticky substance allows them to attach to sand particles. The eggs hatch in 21 to 40 days, depending on the water temperature. Newly hatched young are carried to the sea with the river currents where they feed mainly on copepod larvae and other plankton. After spawning, the majority of eulachon die (Hart 1973; Morrow 1980; ADF&G 2008).


FP11-18 Map 1
Eulachon
Southeastern
Alaska Area
FWS Administered Land
NPS Administered Parks
NPS Administered Preserves
BLM Administered Land
BLM Non-navigable Waters Only
USFS Administered Land
Closed to Subsistence
Roads
Area Boundary
Federal Boundary
Fishing Districts
Subdistrict or Section
CANADA
US
TONGASS
NATIONAL
FOREST
Hyder
Unuk River
Bahm Canal
REVILLAGIGEDO
ISLAND
Ketchikan
Saxman
Annette Island
Metlakatla
Dixon Entrance
Wrangell
Wrangell Island
Etolin Island
Meyers Chuck
Ernest Sound
Kasaan
Clarence Strait
PRINCE
OF
WALES
ISLAND
Hydaburg
Cordova Bay
Dall Island
Craig
Klawock
Kashevarof Passage
Pt. Baker
Strait
Keku Strait
Sumner
Kosciusko Is.
Boulder Pt.
Swain Pt.
1C
1D
1E
1F
2
3A
3B
3C
4
5
6
7
8
9A
9B

Eulachon population levels in the Unuk River system have been monitored by the USFS since 2001. In 2008, a three-year eulachon stock assessment project (OSM08-607) was funded by the Fisheries Resource Monitoring Program for the Unuk River. The results of these monitoring and assessment studies indicate that almost no eulachon have returned to spawn in the Unuk River since 2004.

Harvest History

The eulachon has long had an important role in the economy of the Pacific Northwest, British Columbia, and Alaska Native populations. Until the early 1900s, large numbers of Natives gathered on rivers with major migrations of eulachon to dry them and extract oil from their flesh with simple presses. The eulachon was important as a food staple and as barter with inland tribes, thus the famous "kleena" or grease trails of Southeast Alaska and British Columbia. In modern times in Alaska, the eulachon is important as a personal use and subsistence species. Eulachon are taken with dip nets, gillnets, and seines. They are frozen, dried, and smoked mostly for human consumption. Eulachon have been harvested commercially and sold for human consumption, and as food fishes for captive sea mammals (ADF&G 2008).

Sections 1-C and 1-D include the Burroughs Bay area (Unuk and Klahini Rivers) and Chickamin River, located approximately 110 km northeast of Ketchikan, Alaska. There has been a long history of local use of eulachon from the Unuk River which was poorly documented prior to 1969. From 1969 –2000, Unuk River eulachon were sold under State managed commercial fishery provisions which allowed dockside sales of eulachon. Between 1969 and 2000, commercial harvests ranged from zero to a high of 34,900 pounds. There was no commercial harvest of eulachon in 2000 and the commercial fishery was closed in 2001. Prior to 2003, personal use eulachon harvest did not require a permit and harvest levels were not recorded. From 2003 to 2004, a small amount of subsistence fishing occurred under State issued permits. Since 2005, there has been no State subsistence or personal use harvest as the fishery was closed pre-season (**Table 1**) (Walker 2010, pers. comm.).

Eulachon were first harvested under Federal subsistence regulations in 2001 because the State commercial fishery was closed and Federal customary trade regulations allowed the continued sale of eulachon. Eulachon harvested in the Federal fishery were typically harvested by the same individuals that participated in the State commercial fishery. Since 2001, harvests have ranged from a high of 18,000 pounds in 2001 to a low of zero pounds in 2005. The Federal fishery has been closed pre-season by the Federal in-season manager annually since 2006 (**Table 1**) (USDA Forest Service 2010).

Effects of the Proposal

This proposal will prohibit the harvest of eulachon from any waters draining into fishing Sections 1C and 1D by all users, although the applicable area could be clarified with a slightly different description, and the scope of the closure could made explicit by adding the phrase "by all users." Should eulachon returns improve enough to allow for a subsistence fishing opportunity, a proposal to open a subsistence fishery could be submitted to the Federal Subsistence Board. In accordance with the Board policy on closures, the closure will be reviewed by the Board no more than three years from establishment of the closure and at least every three years thereafter. Because of their nature to spawn in the lower portions of streams, eulachon may be available for harvest in waters within the fresh water portions of the streams under Federal jurisdiction and in the adjacent marine waters under State jurisdiction. Due to this shared jurisdiction, any management actions must be coordinated with the State managers to be completely effective.

Table 1 – Harvests of eulachon by fishery type, 1969-2010 (Walker 2001; Pappas 2010; US Forest Service 2010).

Year	Comm. Harvest (lbs)	No. of permits	State PU/subsist Harvest (lbs)	No. of permits	Federal Harvest (lbs)	No. of permits	Total Harvest (lbs)
1969	15,800	2	unknown	unknown	n/a	n/a	15,800
1970	0	0	unknown	unknown	n/a	n/a	0
1971	0	0	unknown	unknown	n/a	n/a	0
1972	0	0	unknown	unknown	n/a	n/a	0
1973	14,207	3	unknown	unknown	n/a	n/a	14,207
1974	2,100	1	unknown	unknown	n/a	n/a	2,100
1975	3,120	1	unknown	unknown	n/a	n/a	3,120
1976	720	1	unknown	unknown	n/a	n/a	720
1977	0	0	unknown	unknown	n/a	n/a	0
1978	0	0	unknown	unknown	n/a	n/a	0
1979	0	0	unknown	unknown	n/a	n/a	0
1980	3,200	1	unknown	unknown	n/a	n/a	3,200
1981	8,000	2	unknown	unknown	n/a	n/a	8,000
1982	14,400	2	unknown	unknown	n/a	n/a	14,400
1983	16,746	3	unknown	unknown	n/a	n/a	16,746
1984	34,900	3	unknown	unknown	n/a	n/a	34,900
1985	15,000	2	unknown	unknown	n/a	n/a	15,000
1986	0	0	unknown	unknown	n/a	n/a	0
1987	0	0	unknown	unknown	n/a	n/a	0
1988	0	0	unknown	unknown	n/a	n/a	0
1989	0	0	unknown	unknown	n/a	n/a	0
1990	31,000	3	unknown	unknown	n/a	n/a	31,000
1991	20,800	3	unknown	unknown	n/a	n/a	20,800
1992	0	0	unknown	unknown	n/a	n/a	0
1993	27,000	3	unknown	unknown	n/a	n/a	27,000
1994	28,000	3	unknown	unknown	n/a	n/a	28,000
1995	19,700	4	unknown	unknown	n/a	n/a	19,700
1996	8,000	2	unknown	unknown	n/a	n/a	8,000
1997	15,000	4	unknown	unknown	n/a	n/a	15,000
1998	0	0	unknown	unknown	n/a	n/a	0
1999	10,200	5	unknown	unknown	n/a	n/a	10,200
2000	0	12	unknown	unknown	n/a	n/a	0
2001	0	closed	700	4	18,000	2	18,700
2002	0	closed	350	unknown	4,302	4	4,652
2003	0	closed	4,300	unknown	14,420	5	14,720
2004	0	closed	100	7	1,800	3	1,900
2005	0	closed	0	closed	0	3	0
2006	0	closed	0	closed	0	closed	0
2007	0	closed	0	closed	0	closed	0
2008	0	closed	0	closed	0	closed	0
2009	0	closed	0	closed	0	closed	0
2010	0	closed	0	closed	0	closed	0

Closing the area to all users could facilitate the development of future regulations necessary to reopen the area while providing for a Federal subsistence priority, if stocks recover. However, unilateral action by the Federal program will not affect State actions in adjacent marine and intertidal waters not in Federal jurisdiction.

OSM PRELIMINARY CONCLUSION

Support Proposal FP11-18 **with modification** to clarify the applicable area, and to make explicit that the closure applies to all users**.**

The modified proposed regulation should read:

> *§___.27(i)(13)(ii) You must possess a subsistence fishing permit to take salmon, trout, grayling, or char. ~~You must possess a subsistence fishing permit to take eulachon from any freshwater stream flowing into fishing Sections 1C or 1D~~*
>
> ***§___.27(i)(13)(xxii) All freshwater streams flowing into Sections 1C and 1D are closed to the harvest of eulachon by all users.***

Justification

Eulachon returns to the rivers flowing into Sections 1C and 1D, particularly the Unuk River, have been at critically low levels and will be without a harvestable surplus in the foreseeable future. Closing this area will provide clear direction that there will be no eulachon fishery allowed within Federal jurisdiction, and will eliminate the need for annual in-season special actions. Modification to clarify the applicable area and make explicit that the closure applies to all users is consistent with the intent of the proposal.

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ADF&G Comments on FP11-18
August 31, 2010; Page 1 of 1

Alaska Department of Fish and Game
Comments to Regional Advisory Council

Fisheries Proposal FP11-18: Close fisheries Sections 1C and 1D in Southeast Alaska to the federal subsistence harvest of eulachon in Southeast Alaska.

Introduction: The Southeast Regional Advisory Council proposes to close federal subsistence fisheries for eulachon in all drainages of sections 1C and 1D in Southeast Alaska to provide clear direction that the eulachon fisheries are closed due to recent stock trends in the area.

Impact on Subsistence Users: If adopted, federal subsistence users could not harvest eulachon in the drainages of sections 1C and 1D until stocks rebuild and the fishery is reopened. In recent years, the federal and state fisheries for eulachon have been restricted or closed by special actions due to low returns.

Opportunity Provided by State: The state eulachon fisheries in sections 1C and 1D have been closed by emergency order since 2006 due to conservation concerns.

Conservation Issues: Many eulachon spawning runs throughout the Pacific Coast, including Southeast Alaska, have had marked declines in recent years. Since 2004, there have been minimal returns in the Burroughs Bay and Behm Canal area. The eulachon stocks within sections 1C and 1D are at critically low levels. The personal use, commercial, and subsistence fisheries have been closed for several years in anticipation of rebuilding. Stock status information for each of the above areas is limited, and a conservative approach is necessary for sustaining the health of these stocks.

Jurisdiction Issues: While standing on state and private lands (including state-owned submerged lands and shorelands), persons must comply with state laws and regulations regarding subsistence harvest. The department requests federal subsistence administrators provide detailed maps that depict land ownership and specific boundaries of areas where federal regulations are claimed to apply.

Recommendation: Support with modification to be "no federal season" for the harvest of eulachon in sections 1C and 1D. This modification would remove the procedural burden of opening a closed fishery when eulachon numbers rebound in these sections. Because the waters in which eulachon move include intermixture of state waters with waters where federal regulations are claimed to apply, it would be less onerous for federal subsistence users if the modification read: *§___.27(i)(13)(xxii) All drainages of fishing Sections 1C and 1D – No federal season for eulachon.* Thus, if eulachon numbers rebound sufficiently that the state is able to open a subsistence fishery, opportunity to all subsistence users could occur without a delay due to the process necessary to reopen areas closed to federally-qualified and non-federally qualified users. If the waters are closed where federal jurisdiction is claimed and the state opens a fishery, all fishermen would need to assure they are fishing in state waters below mean high tide.

FP11-19 Executive Summary	
General Description	Proposal FP11-19 requests that the Federal Subsistence Board recognize the customary and traditional uses of all marine species of fish and shellfish within the Federal public waters of District 13 for the residents of the City and Borough of Sitka. *Submitted by the Sitka Tribe of Alaska*
Proposed Regulation	*See the analysis for the proposed regulation.*
OSM Preliminary Conclusion	**Support** Proposal FP11-19.
Southeast Alaska Regional Council Recommendation	
Interagency Staff Committee Comments	
ADF&G Comments	The Department tentatively supports the customary and traditional use finding described in the Federal analysis but will wait to finalize a recommendation until after further evidence is provided, if any, at the Regional Advisory Council meeting.
Written Public Comments	**None**

DRAFT STAFF ANALYSIS
FP11-19

ISSUES

Proposal FP11-19, submitted by Jeff Feldpausch with the Sitka Tribe of Alaska, requests that the Federal Subsistence Board (Board) recognize the customary and traditional uses of all marine species of fish within the Federal public waters of District 13 for the residents of the City and Borough of Sitka only.

DISCUSSION

The proponent states that the intent of the proposal is to recognize the customary and traditional uses of marine fish and shellfish by residents of Sitka. Through conversations with the proponent, it was clarified that the proponent's intent was to include the residents of Sitka in the request, and not other communities in Southeast Alaska. The proponent suggested, however, that other communities may be eligible, specifically in the customary and traditional use determination for herring. Further, the proponent's request is for the Makhnati Island area Federal public waters only (**Map 1)** (Feldpausch 2010, pers. comm.).

The requested customary and traditional use determination for "marine fish" needs clarification. The most relevant definition in Federal subsistence management regulations is for that of "groundfish or bottomfish" meaning any marine fish except halibut, osmerids (smelt), herring, and salmonids (e.g., salmon, Dolly Varden, and trout).

> **36 CFR 242.25(a) and 50 CFR 100.25(a) General provisions—definitions**
>
> Groundfish *or* bottomfish *means any marine fish except halibut, osmerids, herring and salmonids.*

Thus, groundfish or bottomfish consist of all other marine fish species not listed above. Customary and traditional uses of osmerids, salmon, Dolly Varden, and trout are already recognized for residents of Sitka; and the Federal Subsistence Management Program does not manage the subsistence harvest and use of halibut. Consequently, for the purposes of this analysis, the requested customary and traditional use determination is for groundfish or bottomfish and herring. Furthermore, because other freshwater salmonids, such as whitefish species and grayling, are not found in the freshwaters of District 13, the proposed customary and traditional use determination will read "all fish." The proposed regulation as presented in the proposal book, for District 13 in its entirety, is included in the **Appendix**.

In Federal subsistence management regulations, groundfish or bottomfish species include, but are not limited to, bass, Pacific cod, Pacific tomcod, black cod or sablefish, flounder, greenling or lingcod, perch, rockfish, and sole.

Finally, the analysis reviews the customary and traditional uses of groundfish and herring in the Makhnati Island area by all rural residents, not just residents of Sitka, as is Federal Subsistence Management Program policy when no customary and traditional use determination has been adopted by the Board.

The customary and traditional uses of shellfish in the Makhnati Island area will be analyzed for the residents of the Southeastern Alaska Area. Sitka is included in the customary and traditional use determination for shellfish in District 13, including the Makhnati Island area, but the proponent is

requesting the Board to recognize only Sitka's customary and traditional uses of shellfish in the Makhnati Island area.

Existing Federal Regulation

Districts 12, 13, and 14—Fish—Customary and traditional use determinations*

Area	Species	Determination
District 12–Section 12A, excluding the area south of a line from Fishery Point to South Passage Point	*All fish*	*Residents of drainages flowing into Districts 12 and 14.*
District 12–Section 12A, the area south of a line from Fishery Point to South Passage Point	*Salmon, Dolly Varden, trout, smelt, and eulachon*	*Residents of the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 134°30'W. Long., including Killisnoo Island*
Section 12B	*All fish*	*Residents of drainages flowing into Districts 12 and 14.*
District 13–Section 13A, excluding the area south of the latitude of Cape Edward	*All fish*	*Residents of drainages flowing into Sections 13A, 13B, and District 14*
District 13—Section 13A south of the latitude of Cape Edward	*Salmon, Dolly Varden, trout, smelt, and eulachon*	*Residents of the City and Borough of Sitka in drainages that empty into Section 13B north of the latitude of Dorothy Narrows.*
District 13—Section 13B north of the latitude of Redfish Cape	*Salmon, Dolly Varden, trout, smelt, and eulachon*	*Residents of the City and Borough of Sitka in drainages that empty into Section 13B north of the latitude of Dorothy Narrows.*

Area	Species	Determination
District 13—Section 13C	*Salmon, Dolly Varden, trout, smelt, and eulachon*	*Residents of the City and Borough of Sitka in drainages that empty into Section 13B north of the latitude of Dorothy Narrows.*
District 13–Section 13C, east of the longitude of Point Elizabeth	*Salmon, Dolly Varden, trout, smelt, and eulachon*	*Residents of the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 134°30'W. Long., including Killisnoo Island*
District 14	*All fish*	*Residents of drainages flowing into Sections 12A, 13A, and District 14*

*NOTE: All of the customary and traditional use determinations for fish and shellfish in Districts 12, 13, and 14 are presented here. This is because the Federal fish and shellfish regulation booklet, published for the public, contains errors.

District 13—Shellfish—Customary and traditional use determinations

Area	Species	Determination
District 13—Section 13B Makhnati Island area Federal public waters	*Shellfish*	*Residents of the City and Borough of Sitka in drainages that empty into Section 13B north of the latitude of Dorothy Narrows.*
District 13—remainder area	*Dungeness crab, shrimp, abalone, sea cucumbers, gum boots, cockles, and clams, except geoducks*	*Residents of the Southeast Area*

Proposed Federal Regulation

Districts 12, 13, and 14—Fish—Customary and traditional use determinations

Area	Species	Determination
District 12–Section 12A, excluding the area south of a line from Fishery Point to South Passage Point	*All fish*	*Residents of drainages flowing into Districts 12 and 14.*

Area	Species	Determination
District 12–Section 12A, the area south of a line from Fishery Point to South Passage Point	*Salmon, Dolly Varden, trout, smelt, and eulachon*	*Residents of the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 134°30'W. Long., including Killisnoo Island*
Section 12B	*All fish*	*Residents of drainages flowing into Districts 12 and 14.*
District 13–Section 13A, excluding the area south of the latitude of Cape Edward	*All fish*	*Residents of drainages flowing into Sections 13A, 13B, and District 14*
District 13—Section 13A south of the latitude of Cape Edward	*Salmon, Dolly Varden, trout, smelt, and eulachon*	*Residents of the City and Borough of Sitka in drainages that empty into Section 13B north of the latitude of Dorothy Narrows.*
District 13—Section 13B Makhnati Island area Federal public waters	***All fish***	***Residents of the City and Borough of Sitka in drainages that empty into Section 13B north of the latitude of Dorothy Narrows.***
District 13—Section 13B north of the latitude of Redfish Cape	*Salmon, Dolly Varden, trout, smelt, and eulachon*	*Residents of the City and Borough of Sitka in drainages that empty into Section 13B north of the latitude of Dorothy Narrows.*
District 13—Section 13C	*Salmon, Dolly Varden, trout, smelt, and eulachon*	*Residents of the City and Borough of Sitka in drainages that empty into Section 13B north of the latitude of Dorothy Narrows.*

Area	Species	Determination
District 13–Section 13C, east of the longitude of Point Elizabeth	*Salmon, Dolly Varden, trout, smelt, and eulachon*	*Residents of the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 134°30'W. Long., including Killisnoo Island*
District 14	*All fish*	*Residents of drainages flowing into Sections 12A, 13A, and District 14*

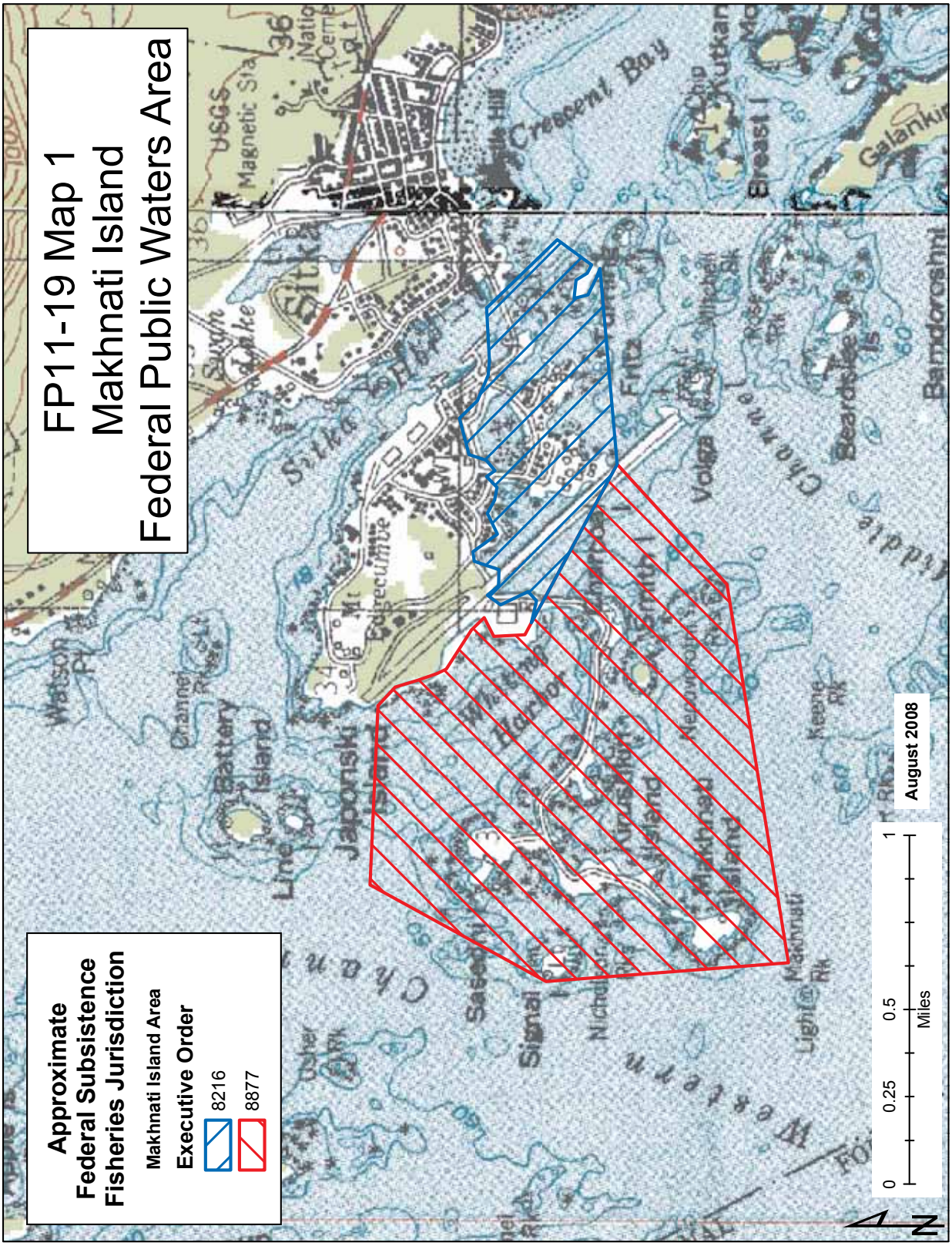
District 13—Shellfish—Customary and traditional use determinations

Area	Species	Determination
District 13—Section 13B Makhnati Island area Federal public waters	***Shellfish***	***Residents of the City and Borough of Sitka in drainages that empty into Section 13B north of the latitude of Dorothy Narrows.***
District 13–Section 13A, excluding the area south of the latitude of Cape Edward	*Shellfish*	*Residents of drainages flowing into Sections 13A, 13B, and District 14*
*District 13—**remainder area***	*Dungeness crab, shrimp, abalone, sea cucumbers, gum boots, cockles, and clams, except geoducks*	*Residents of the Southeast Area*

Extent of Federal Public Waters

For purposes of this analysis, only the Federal public waters in the Makhnati Island area will be discussed. The Federal subsistence program has jurisdiction of the waters near Makhnati Island as described in 36 CFR 242.3(b)(5) and 50 CFR 100.3(b)(5). The Makhnati area was described in two Executive Orders, EO 8877 (August 29, 1941), approximately 610 acres, and EO 8216 (July 25, 1939), approximately 190 acres, for a total of approximately 800 acres (**Map 1**). The Makhnati Island area is described in regulation (74 FR 34696) as follows:

> Southeastern Alaska—Makhnati Island Area: Land and waters beginning at the southern point of Fruit Island, 57°21′35″ north latitude, 135°21′07″ west longitude as shown on United States Coast and Geodetic Survey Chart No. 8244, May 21, 1941; from the


FP11-19 Map 1
Makhnati Island
Federal Public Waters Area
Approximate
Federal Subsistence
Fisheries Jurisdiction
Makhnati Island Area
Executive Order
8216
8877
August 2008
0
0.25
0.5
1
Miles
N
Crescent Bay
Sitka
Japonski Island
Battery Island
Makhnati Island
Volga
Fritz
Bamdoroshni
Beardslee Is
Kutkan
Breast I
Galankin
Watson Pt
Channel
Sasedni
Signal
Nichols
Light
Makhnati Rk
Keene Rk
Usher Rk
Edgecumbe
Sitka Hill
Magnetic Sta
USGS
Sugar Lake
Chip
Mt

point of beginning, by metes and bounds; S. 58° W., 2500 feet, to the southern point of Nepovorotni Rocks; S. 83° W., 5600 feet, on a line passing through the southern point of a small island lying about 150 feet south of Makhnati Island; N. 6° W., 4200 feet, on a line passing through the western point of a small island lying about 150 feet west of Makhnati Island, to the northwestern point of Signal Island; N. 24° E., 3000 feet, to a point, 57°03′15″ north latitude, 135°23′07″ west longitude; East, 2900 feet, to a point in course No. 46 in meanders of U.S. Survey No. 1496, on west side of Japonski Island; Southeasterly, with the meanders of Japonski Island, U.S. Survey No. 1496 to angle point No. 35, on the Southwestern point of Japonski Island; S. 60° E., 3300 feet, along the boundary line of Naval reservation described in Executive order No. 8216, July 25, 1939, to the point beginning, and that part of Sitka Bay lying south of Japonski Island and west of the main channel, but not including Aleutski Island as revoked in Public Land Order 925, October 27, 1953, described by meets and bounds as follows: Beginning at the southeast point of Japonski Island at angle point No. 7 of the meanders of U.S. Survey No. 1496; thence east approximately 12.00 chains to the center of the main channel; thence S. 45° E. along the main channel approximately 20.00 chains; thence S. 45° W. approximately 9.00 chains to the southeastern point of Aleutski Island; thence S. 79° W. approximately 40.00 chains to the southern point of Fruit Island; thence N. 60° W. approximately 50.00 chains to the southwestern point of Japonski Island at angle point No. 35 of the U.S. Survey No 1496; thence easterly with the meanders of Japonski Island to the point of beginning including Charcoal, Harbor, Alice, Love, Fruit Islands and a number of smaller un-named islands.

Regulatory History

In 1998, the Board adopted the State's customary and traditional use determinations for fish in Southeast Alaska, excluding herring (63 FR 35343–35344, June 29, 1998), and then modified them to include, at the request of the Southeast Alaska Subsistence Regional Advisory Council (Council), all species of salmon and Dolly Varden, trout, smelt, and eulachon (64 FR 1300–1301, January 8, 1999).

In 2007, the Board determined that residents of Sections 13A and 13B and District 14 have exhibited customary and traditional uses of "all fish" (including shellfish) in the northern portion of Section 13A (72 FR 12677, March 16, 2007; cf. FSB 2007:146–190).

In 1999, the Board adopted the State's customary and traditional use determinations for shellfish (64 FR 1283, January 8, 1999). Currently, Federal subsistence shellfish regulations contain the statement that no marine waters are identified under Federal subsistence management jurisdiction for the Southeastern Alaska Area (36 CFR 242.28(k)(1) and 50 CFR 100.28(k)(1)). This statement is in error and is corrected at 36 CFR 242.3(b)(5) and 50 CFR 100.3(b)(5), described above. The Makhnati Island area has been included in Federal subsistence management jurisdiction since 2006.

Community Characteristics

Sitka is located on western Baranof Island along the outer coast of southeastern Alaska, about 90 air miles southwest of Juneau. A major community of Sitka Tlingit has lived in villages throughout the area. Sitka was the major center of Russian activity and settlement until Alaska was purchased by the United States in 1867, and was the capital of the Alaska Territory until 1906 when Juneau became the capital. Sitka is served by the Alaska Marine Highway ferry system, Alaska Airlines, and by air taxi services. In 2000 there were 8,835 people living in 3,278 households (US Census 2010). The islands and marine waters of Sitka Sound directly in front of the community have an unusual history. Prior to 1940, many types of

cultural and subsistence activities occurred on the islands (Mann *in prep*). The islands were a preferred herring egg harvest area for the community because of the ease of access and the rocky substrate. Other marine fish species and shellfish were also harvested. In the early 1940s, the U.S. military occupied the islands, built a causeway, or road, from the mainland to and over several islands ending at Makhnati Island, and built an airplane runway (**Map 1**). This use of the area prevented residents from using the islands. Currently, civilians are allowed to conduct subsistence activities in the area, but there is no public road access. The islands are accessed by boat. As a consequence of the military occupation, the waters surrounding the islands connected by the causeway from the mainland to Makhnati Island are Federal public waters.

Eight Factors for Determining Customary and Traditional Uses

A community or area's customary and traditional use is generally exemplified through the following eight factors: (1) a long-term, consistent pattern of use, excluding interruptions beyond the control of the community or area; (2) pattern of use recurring in specific seasons for many years; (3) a pattern of use consisting of methods and means of harvest which are characterized by efficiency and economy of effort and cost, conditioned by local characteristics; (4) the consistent harvest and use of fish or wildlife as related to past methods and means of taking: near, or reasonably accessible from the community or area; (5) a means of handling, preparing, preserving, and storing fish or wildlife which has been traditionally used by past generations, including consideration of alteration of past practices due to recent technological advances, where appropriate; (6) a pattern of use which includes the handing down of knowledge of fishing and hunting skills, values, and lore from generation to generation; (7) a pattern of use in which the harvest is shared or distributed within a definable community of persons; and (8) a pattern of use which relates to reliance upon a wide diversity of fish and wildlife resources of the area and which provides substantial cultural, economic, social, and nutritional elements to the community or area.

The Federal Subsistence Board makes customary and traditional use determinations based on a holistic application of these eight factors (36 CFR 242.16(b) and 50 CFR 100.16(b)). In addition, the Board takes into consideration the reports and recommendations of any appropriate Regional Advisory Council regarding customary and traditional use of subsistence resources (36 CFR 242.16(b) and 50 CFR 100.16(b)). The Board makes customary and traditional use determinations for the sole purpose of recognizing the pool of users who meet the eight factors. The Board does not use such determinations for resource management or restricting harvest. If a conservation concern exists for a particular population, the Board addresses that concern through the imposition of harvest limitations or seasonal restrictions rather than by limiting the customary and traditional use finding.

Knowledge of fishing skills, values, and lore are transmitted from generation to generation in ways common throughout Southeast Alaska. Among Native residents, clan and family ties continue to provide important vehicles for transmission of knowledge. Traditionally the new generation learns subsistence ways from key matrilineal kinsmen. In Native society, knowledge of subsistence is closely related to knowledge of place as well as clan and tribal history. Important learning about subsistence takes place at potlatches and other traditional celebrations where subsistence foods figure importantly.

Non-Natives in Southeast Alaska sometimes participate in Native subsistence practices and Native learning through friendships, attendance at Native celebrations, or through traditional adoption. More typically non-Natives learn the fishing skills, values, and lore from relatives and friends as they participate in harvesting activities.

Subsistence foods are widely shared in family and community networks. **Table 1** presents data from household surveys conducted in Sitka showing the percentage of households who said they received or

Table 1. The harvest and use of subsistence resources, Sitka 1996 (ADF&G 2010).

	Percentage of Households				
Resource Category	Using	Attempting to harvest	Harvesting	Receiving	Giving
All Resources	97%	85%	83%	93%	74%
Fish	95%	67%	65%	82%	67%
Salmon	89%	60%	58%	64%	51%
Non-Salmon Fish	92%	60%	57%	67%	47%
Land Mammals	64%	44%	36%	41%	24%
Marine Mammals	17%	8%	8%	12%	10%
Birds and Eggs	8%	9%	8%	1%	5%
Marine Invertebrates	72%	45%	44%	61%	32%
Vegetation	70%	61%	60%	30%	28%

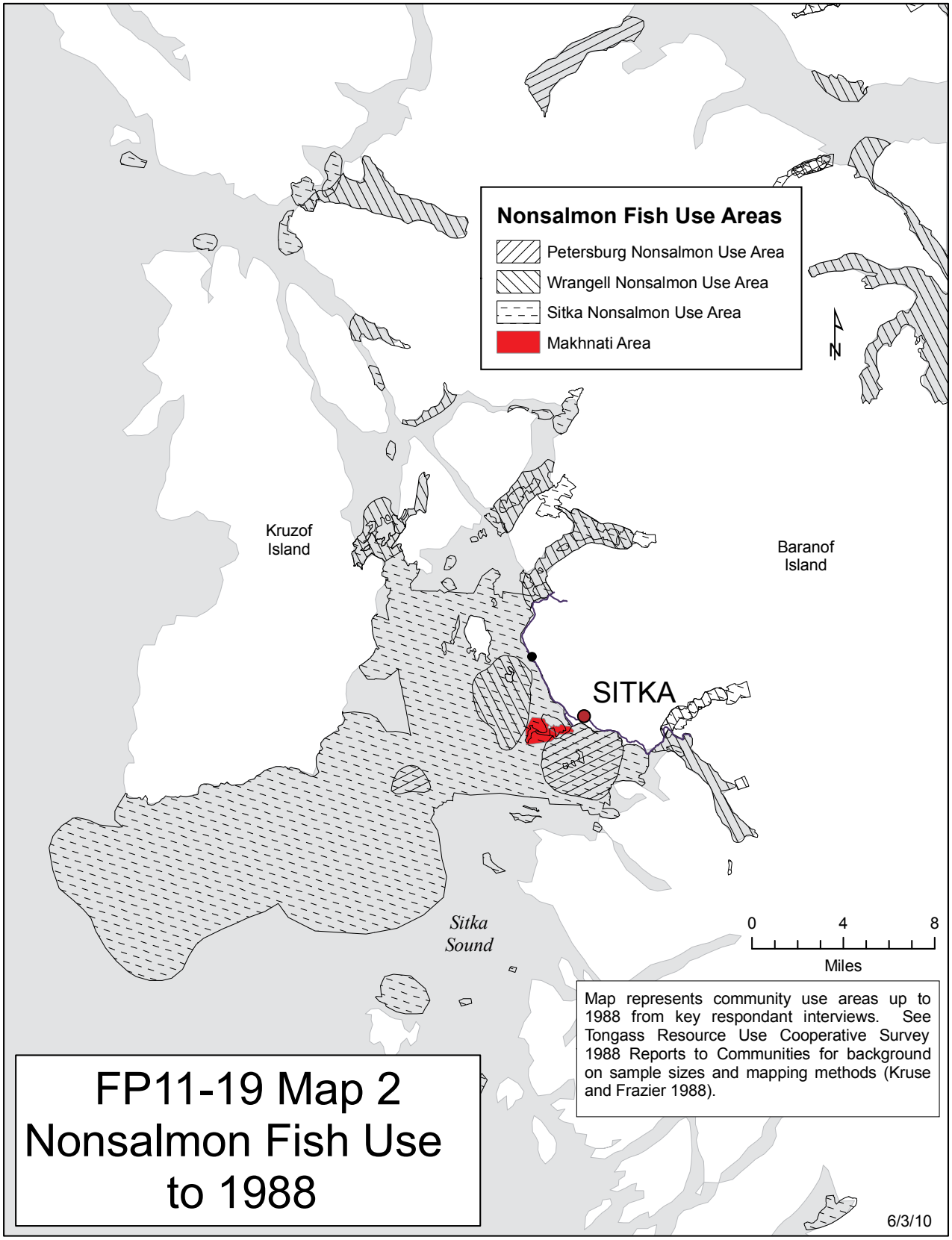
gave subsistence foods. Data show receiving and giving for a number of resource categories: salmon, non-salmon fish, land mammals (such as moose and deer), marine mammals, birds, marine invertebrates, and plants and berries. A large portion of respondents said that they had received and given subsistence foods in the previous year. Especially for elders of the community and other individuals who cannot harvest themselves, the wild foods they receive are vital to their households, especially salmon and deer meat. They depend on active harvesters and hunters, especially as the winter seasons approach. There is sharing and distribution of resources outside the community as well. This pattern has been demonstrated by way of household harvest surveys in most rural communities in Southeast Alaska (ADF&G 2010). Herring eggs from the Sitka area are distributed throughout the state (ADF&G 2010; Schroeder and Kookesh 1990).

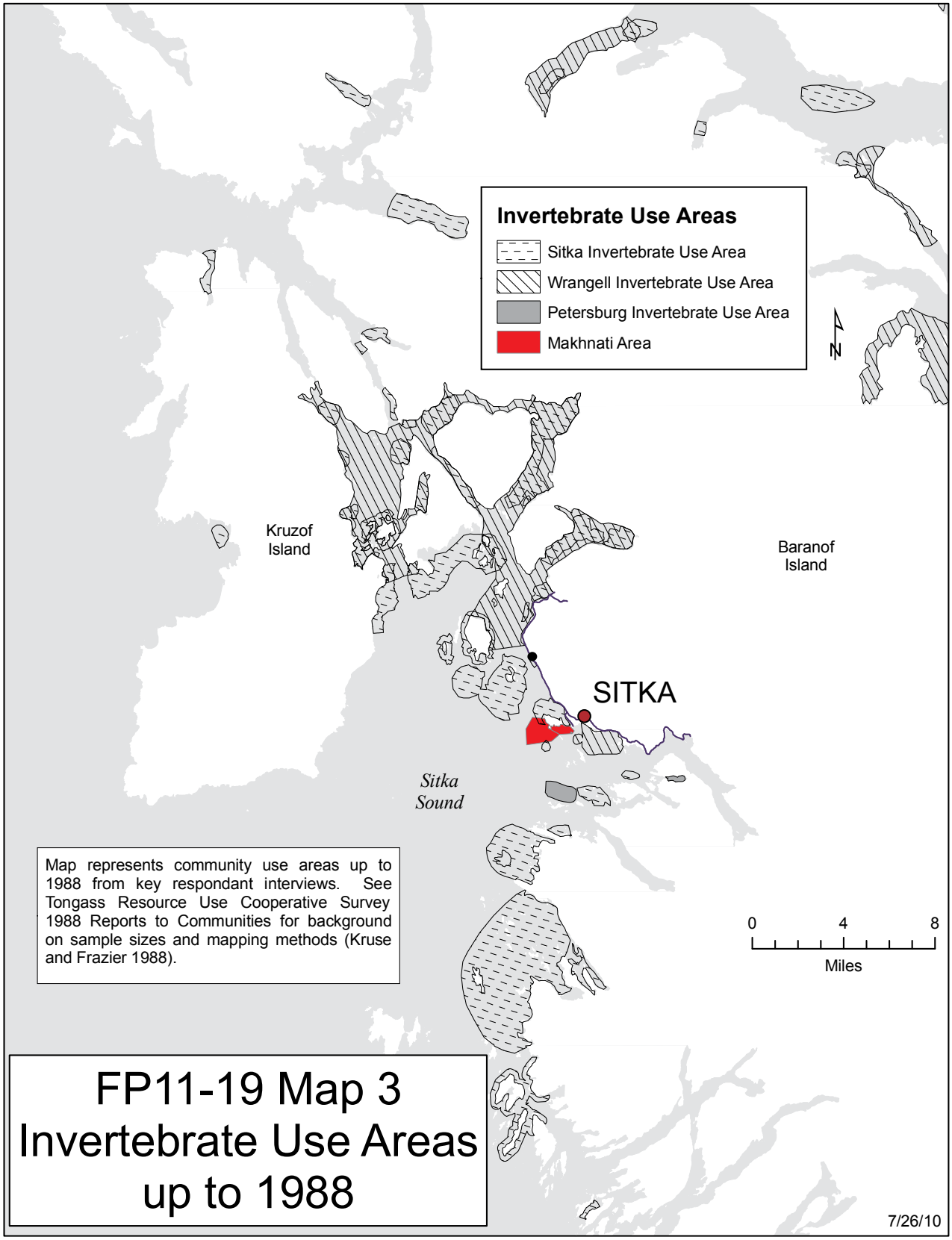
The community of Sitka is located on Sitka Sound and is situated adjacent to the Makhnati Island area. The use of the Makhnati Island area to harvest bottomfish, herring, and shellfish has been documented for residents of Sitka through subsistence use studies (ADF&G 2010; Betts et al. 1998b; Gmelch and Gmelch 1985; Mann *in prep*.; Page 2002; Schroeder and Kookesh 1990; Turek and Ciccone *in prep.*; Turek et al. 2009), while not surprisingly, information concerning the use of the area by other rural residents is much more limited and is based almost entirely on the information from research conducted in the mid 1980s, shown on **Map 2** and **Map 3.** Additional information may be provided at the Southeast Council meeting in September 2010.

The following sections describe the uses of bottomfish species, herring, and shellfish in the Makhnati Island area based on available information. The uses of other marine species of fish are not discussed, as mentioned previously, due to the fact that a customary and traditional use determination for marine species of fish other than bottomfish and herring for residents of Sitka only already exists.

Rockfish

In addition to salmon, Sitka Tlingit relied on marine fish species including bottomfish. Bottomfish species were used especially as supplemental winter food. Before 1900, rockfish were harvested primarily with hand lines and hooking gear (Turek et al. 2009). They were targeted in sheltered areas of Sitka Sound from winter to spring because the open ocean was too rough during winter for the smaller vessels. Fishers


Nonsalmon Fish Use Areas
Petersburg Nonsalmon Use Area
Wrangell Nonsalmon Use Area
Sitka Nonsalmon Use Area
Makhnati Area
N
Kruzof Island
Baranof Island
SITKA
Sitka Sound
0
4
8
Miles
Map represents community use areas up to 1988 from key respondant interviews. See Tongass Resource Use Cooperative Survey 1988 Reports to Communities for background on sample sizes and mapping methods (Kruse and Frazier 1988).
FP11-19 Map 2
Nonsalmon Fish Use
to 1988
6/3/10


Invertebrate Use Areas
Sitka Invertebrate Use Area
Wrangell Invertebrate Use Area
Petersburg Invertebrate Use Area
Makhnati Area
N
Kruzof Island
Baranof Island
SITKA
Sitka Sound
Map represents community use areas up to 1988 from key respondant interviews. See Tongass Resource Use Cooperative Survey 1988 Reports to Communities for background on sample sizes and mapping methods (Kruse and Frazier 1988).
0
4
8
Miles
FP11-19 Map 3
Invertebrate Use Areas
up to 1988
7/26/10

fished from many different harvest locations so that they did not take too many fish from one area. Rockfish were eaten fresh fried and made into soup, and every part was eaten except the backbone and the skin. Based on fieldwork in Sitka in 2006, the preferred method of harvesting rockfish currently is rod and reel, however the use of hand lines continues. In 2006, harvesters reported targeting rockfish over pinnacles. Harvest areas mentioned in the findings of the study include the "seven-ten pinnacles," a pair of 49–50 fathom pinnacles between Middle Island and the Old Sitka Rocks, Thompson Harbor, and Silver Bay—all located in Sitka Sound, but outside of Makhnati Island area waters. Additionally, respondents reported that quillback rockfish were found in shallow habitat. Sitka is the home port for numerous commercial halibut long liners, and rockfish are harvested while commercial fishing. These harvests occur primarily outside of Federal public waters (Turek et al. 2009).

For estimates of community rockfish harvests, there are the findings of two Division of Subsistence, ADF&G, household harvest surveys conducted in 1987 (Gmelch and Gmelch 1985) and 1996 (Betts et al. 1998b; Page 2002). In 1987, the estimated rockfish harvest was 22,764 fish of which 4,753 were retained from commercial catches (**Appendix Table 1**). In 1996, the estimated rockfish harvest was 13,260 fish of which 5,515 were retained from commercial catches (**Appendix Table 2**).

Other Groundfish Species

According to household harvest surveys, other groundfish species were harvested by Sitka residents, including bass, Pacific cod, Pacific tomcod, flounder, greenling or lingcod, perch, and black cod or sablefish (**Appendix Table 2**). As indicated in **Appendix Table 2**, most were harvested with rod and reel. The harvest estimates do not provide information on the location where these marine species of fish were taken.

Herring Spawn

During the pre-colonial era, Sitka Sound was the preferred spawn collecting area for Sitka Tlingit and others with clan and family ties, and Sitka was considered the herring egg capital of the northern portion of southeast Alaska. This is due to the large abundance of herring and the length of the spawning period, about two weeks. It is hard to predict when herring will spawn and harvesters had a better chance of getting good quality spawn in the quantity needed from the longer spawning period at Sitka. In the early historic period, most Sitka Tlingit clan houses participated in the fishery and spawn was highly prized for food and trade. Sitka Tlingit traded herring spawn with people as far away as the Canadian Interior (Schroeder and Kookesh 1990).

Herring eggs were taken to preservation areas and air dried. In the historic period islands were the preferred preservation areas used by all Sitka Tlingit clans and as well as visitors. The islands in Sitka Sound were close to the harvesting areas and usually had the breezes necessary for drying herring eggs. Spawn were hung from the branches of trees, taking about four days to dry adequately. Dried eggs were stored in boxes for trade. In the 1880s fish buying schooners introduced salt as a preservation method. Cold storage was built locally in 1915, and freezers were rented to hold herring spawn. Home freezers were common by the 1940s. Over time, use of the islands declined due to the use of power boats that made it possible for people to return to locations closer to home to process spawn. With home refrigeration, island camps were no longer necessary or generally used (Schroeder and Kookesh 1990).

Herring eggs were harvested using several types of substrates. Herring eggs on macrocystis kelp and on hair seaweed were generally harvested from naturally occurring beds. It was gathered by hand or with a short rake, or a long rake or a grapple was used to reach submerged kelp and seaweed, and brought ashore by canoe for processing. Hemlock branches were also used. Trees and branches were usually cut

and placed in the water in advance of herring spawn in places that herring were known to spawn, and weighted to hang vertically in water (Schroeder and Kookesh 1990).

In the 1980s, Gmelch and Gmelch (1985) described contemporary harvesting methods. Harvesters, travelling by boat, go to kelp and seaweed beds containing herring spawn to harvest it with grappling hooks, by hand, and by hand while diving. Another method is to bring kelp or seaweed into an area before herring begin to spawn. Hemlock branches are also used. Fresh herring eggs are eaten after being briefly blanched in boiling water.

Multiple years of household harvest surveys have been conducted in Sitka between 1987 and 2008 (ADF&G 2010; Turek and Ciccone *in prep.*). The findings for the subsistence harvest of herring and herring spawn are described in **Appendix Table 3** and **Appendix Table 4** for 1987 and 1996. Additionally, Sitka Tribe of Alaska and the Division of Subsistence, ADF&G, have conducted herring spawn household harvest surveys for eight years, 2002–2009. The results of the 2002–2008 surveys are still under review (Simeone 2010, pers. comm.) and are described in **Appendix Table 5.** Turek and Ciccone (*in prep.*) indicate that in 2006, Sitka residents reported harvesting 1,550 lbs of spawn from Makhnati Island area Federal public waters, 2% of the overall harvest of spawn by the community (**Appendix Table 6**).

An estimate of the area used by Sitka residents to harvest herring eggs is described on **Appendix Map 1**. The areas indicated on this map are in Section 13B and include the Federal public waters of the Makhnati Island area.

It has been estimated that 50% of the herring spawn harvest is shared outside of Sitka (ADF&G 2010, Schroeder and Kookesh 1990). Schroeder and Kookesh (1990), after reviewing literature on Tlingit society (cf. de Laguna 1960,1972; Krause 1979; Landon 1977; Oberg 1980; Swanton 1908), noted that while we know that large quantities of eggs were harvested by both local and non-local Tlingits for both their own consumption and for trade, we have no quantitative measures for the historical period (1990:13). A review of harvest estimates from household harvest surveys conducted in the mid 1980s in 30 Southeast Alaska communities found that while many communities reported receiving herring eggs from Sitka Sound, it was not clear how many communities harvested herring eggs from Sitka Sound (Schroeder and Kookesh 1990; cf. Kruse and Frazier 1988). ADF&G distributes permits allowing the harvest of herring spawn on kelp in the Sitka Sound subsistence fishery; however, the residency of permit holders is not reported on a regular basis. Available information is reported below (**Table 2**). As shown, from 2001 to 2010, most of the reported use of subsistence spawn on kelp was by residents of Southeast Alaska. Some use was demonstrated by residents from outside the area, such as residents of Anchorage and Homer. The level of compliance with the permit system is not known at this time, but use not reported by the permit system does occur.

Crabs

Crabs were commonly harvested by Sitka residents (**Appendix Table 7** and **Appendix Table 8**), usually taken with crab pots, and were often taken incidental to other activities, e.g., while fishing or on an overnight camping trip (Gmelch and Gmelch 1985). Dungeness crabs were harvested by raking during a minus tide in late spring and summer. Additionally, there were an estimated 60 divers in Sitka harvesting crabs in the early 1980s. Reported in research conducted in the mid 1980s, Sitka residents harvest crabs near the heads of protected bays and sounds including Krestoff Sound, Hayward Strait, Nakwasina Sound located in Section 13B, and bays in the western portion of Peril Strait located in Section 13C. These areas do not include the Makhnati Island area.

Table 2. Number of Sitka Sound subsistence spawn-on-kelp permits issued by community, 2001–2010 (Gordon 2010, pers. comm.)

Community	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Anchorage				1						
Angoon			2	3						1
Craig									1	
Douglas										1
Haines		1					1			
Homer	3	2		1					1	1
Hoonah			1	1						
Hydaburg		1								
Juneau	6	1		8	1	1	3	2	6	
Kake										1
Ketchikan	2	1	1	2			1		4	1
Klawock	1	2				4				
Metlakatla						1		1	1	1
Petersburg		1	1		1					
Sitka	41	38	35	36	39	26	37	38	50	51
Wasilla									3	3
Wrangell									1	
Total	53	47	40	52	41	32	42	41	67	60

An estimate of the entire extent of the area used by Sitka residents to harvest crab in the lifetime of interviewed residents is described on **Appendix Map 2**. Use areas on this map are located in Sections 13A, 13B, and 13C, and include the Federal public waters of the Makhnati Island area.

Clams

Clams, after crab, were the most commonly harvested shellfish, as indicated in both the 1987 and 1996 surveys (**Appendix Table 7** and **Appendix Table 8**) and in Gmelch and Gmelch (1985:83). In 1996, 43% of Sitka households that were interviewed reported using clams and 32% reported harvesting clams. Clams were usually harvested during low tides with a pitchfork. “Many people, especially those without a boat, dig clams close to town” (Gmelch and Gmelch 1985:88). Clams were prepared by steaming or frying them. Some people put up canned clams or froze them. The harvest estimates do not provide information on the location where clams were taken; however, it is likely that clams were harvested from the Makhnati Island area because of its close proximity to Sitka.

Abalone

Abalone were the next most commonly used shellfish after crab and clams in 1987 (**Appendix Table 7**) and large numbers were harvested in 1996 also (**Appendix Table 8**). They were collected throughout the year by handpicking in the intertidal zone and in deep water by scuba diving. “Some abalone rocks such as those at Halibut Point and John Brown’s Beach can be reached from Sitka’s road system, but the best can only be reached by boat,” in areas such as Redoubt Bay and Middle Island (Gmelch and Gmelch 1985:93, 96).

An estimate of the area used by Sitka residents to harvest abalone is indicated on **Appendix Map 3.** Use areas shown on this map are located in Section 13B, and include the Federal public waters of the Makhnati Island area.

Shrimp

Shrimp were harvested by Sitka residents but not as widely as crabs (Gmelch and Gmelch 1985). However, in 1996 shrimp were harvested in relatively large numbers compared to other shellfish species, almost 7,000 lbs or 6 lbs per capita (**Appendix Table 8**). The harvest estimates do not provide information on the location where shrimp were taken.

Cockles

Cockles were collected at the same time as clams by Sitka residents; they occupy the same general beach habitat. Traditionally they were smoked and dried (Gmelch and Gmelch 1985:89). In modern times they were pounded to tenderize and fried, like abalone. The harvest estimates do not provide information on the location where cockles were taken.

Other Shellfish

Appendix Table 7 and **Appendix Table 8** indicate the estimated harvest by Sitka residents of the other species of shellfish in 1987 and 1996 based on household harvest surveys. These include chitons or bidarkies, mussels, octopus, and scallops. The harvest estimates do not provide information on the location where these shellfish species were taken.

Summary

Studies of the harvest and use of bottomfish, herring, and shellfish indicate that residents of Sitka customarily and traditionally used these resources, especially in the Sitka Sound area of Section 13B. Harvest and use information based on household harvest surveys exist but do not indicate the area from where resources were harvested. Use area maps exist showing areas used to harvest nonsalmon fish species and marine invertebrates by rural residents of Southeast Alaska (**Map 2** and **Map 3**), and specifically herring eggs (**Appendix Map 1**), crab (**Appendix Map 2**), and abalone (**Appendix Map 3**) by residents of Sitka. These maps indicate that some nonsalmon fish and shellfish were harvested from the Makhnati Island area Federal public waters by residents of Sitka. While some information exists, demonstrated use of the area by other rural residents, other than residents of Sitka, is slim. The information on **Map 2** and **Map 3** was collected in the mid 1980s and additional uses may have occurred since then. Additional information may be provided at the Southeast Council meeting in September 2010.

Effects of the Proposal

If this proposal is adopted, residents of the City and Borough of Sitka would be eligible to harvest marine species of bottomfish, herring, and shellfish from the Makhnati Island area Federal public waters of District 13B under Federal subsistence regulations, and other rural residents of the state would no longer be eligible. For the remainder area of District 13, the customary and traditional use determination would remain “all rural residents” for most bottomfish and herring and “residents of the Southeast Area” for most shellfish.

OSM PRELIMINARY CONCLUSION

Support Proposal FP11-19.

Justification

Residents of the community of Sitka have customarily and traditionally used the Makhnati Island area Federal public waters to harvest bottomfish, herring, and shellfish. All fish and shellfish species available in the area have been harvested, either through targeted methods or incidental to other harvests and activities. For the remainder area of District 13, the customary and traditional use determination would remain unchanged. Demonstrated use of the Makhnati Island area by other rural residents is slim, therefore, during the next meeting of the Southeast Council in September, additional information may be sought on other uses to be considered in the analysis.

Prior to 2007, the determinations for fish in the Southeastern Alaska Area were adopted from State regulations, with some modification, and were community based; an area surrounding a community was defined as the community's customary and traditional use area for fish. In 2007, the customary and traditional use determinations for the communities in Districts 12A, 13A, and 14 were modified. The analysis was based on community use areas documented in previous research, permitting systems, and community consultation (FSB 2007: 146–190). The analysis defined the geographic area of the customary and traditional use determination by management districts and it defined eligibility by residency along drainages running into management districts. The use of fish by rural residents other than the communities in the area of the request were not considered in the analysis, nor by the Council; fish were considered evenly distributed in the region, more so than deer and moose for example, and in general, fish were harvested nearer to home than deer and moose.

The request in Proposal FP11-19 encompasses an area of less than 800 acres of marine waters that have been designated Federal public waters, and for the Southeast Alaska area, they are an idiosyncrasy. These few acres are located in an area directly adjacent to the community of Sitka, and although possibly used by others, the waters are not in the traditionally-described use area of another rural community.

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APPENDIX

Proposed Federal Regulation—as presented in the proposal book

District 13—Fish—Customary and traditional use determinations

Area	***Species***	***Determination***
District 13	***All fish***	***Residents of the City and Borough of Sitka in drainages that empty into Section 13B north of the latitude of Dorothy Narrows.***
~~*District 13—Section 13A, excluding the area south of the latitude of Cape Edward*~~	~~*All fish**~~	~~*Residents of drainages flowing into Sections 13A, 13B, and District 14*~~
~~*District 13—Section 13A south of the latitude of Cape Edward*~~	~~*Salmon, Dolly Varden, trout, smelt, and eulachon*~~	~~*Residents of the City and Borough of Sitka in drainages that empty into Section 13B north of the latitude of Dorothy Narrows.*~~
~~*District 13—Section 13B north of the latitude of Redfish Cape*~~	~~*Salmon, Dolly Varden, trout, smelt, and eulachon*~~	~~*Residents of the City and Borough of Sitka in drainages that empty into Section 13B north of the latitude of Dorothy Narrows.*~~
~~*District 13—Section 13C*~~	~~*Salmon, Dolly Varden, trout, smelt, and eulachon*~~	~~*Residents of the City and Borough of Sitka in drainages that empty into Section 13B north of the latitude of Dorothy Narrows.*~~
~~*District 13—Section 13C, east of the longitude of Point Elizabeth*~~	~~*Salmon, Dolly Varden, trout, smelt, and eulachon*~~ *Freshwater fish*	~~*Residents of the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 134°30'W. Long., including Killisnoo Island*~~

District 13—Shellfish—Customary and traditional use determinations

Area	**Species**	**Determination**
District *13*	***Shellfish***	***Residents of the City and Borough of Sitka in drainages that empty into Section 13B north of the latitude of Dorothy Narrows.***

Area	Species	Determination
~~*District 13—Section 13A excluding the area south of the latitude of Cape Edward*~~	~~*Shellfish*~~	~~*Residents of drainages flowing into Sections 13A, 13B, and District 14*~~
~~*District 13—remainder area*~~	~~*Dungeness crab, shrimp, abalone, sea cucumbers, gum boots, cockles, and clams, except geoducks*~~	~~*Residents of the Southeast Area*~~

Appendix Table 1. Harvest and use of bottomfish species (excluding halibut) based on household harvest surveys, Sitka, 1987 (ADF&G 2010).

	Percentage of Households					Fish Harvest					
Species [Method]	Using (%)	Attempt-ing to Harvest (%)	Harvest-ing (%)	Giving (%)	Receiving (%)	Reported		Expanded to Households Not Surveyed	Lower Estimate	Upper Estimate	Per Capita Harvest (edible pounds)
Cod	23		23			680	Individual	6,596	4,750	8,442	2.6
Cod [CF Retention]			3			86	Individual	834	115	1,553	0.3
Cod [Rod and Reel]			21			591	Individual	5,732	4,016	7,448	2.3
Cod [Other Gear]			<1			3	Individual	29	3	82	<0.1
Flounder	4		4			114	Individual	1,106	304	1,908	0.4
Flounder [CF Retention]			<1			30	Individual	291	30	830	0.1
Flounder [Rod and Reel]			3			84	Individual	815	214	1,416	0.3
Flounder [Other Gear]			0			0		0	0	0	0
Rockfish	34		34			2,347	Individual	22,764	15,847	29,681	5.7
Rockfish [CF Retention]			6			490	Individual	4,753	884	8,622	1.2
Rockfish [Rod and Reel]			29			1,747	Individual	16,945	12,017	21,873	4.2
Rockfish [Other Gear]			1			110	Individual	1,067	110	2,873	0.3

Black cell=not asked

Appendix Table 2. Harvest and use of bottomfish species (excluding halibut) based on household harvest surveys, Sitka, 1996 (ADF&G 2010).

	Percentage of Households					Fish Harvest				
Species [Method]	Using (%)	Attempt-ing to Harvest (%)	Harvest-ing (%)	Giving (%)	Receiving (%)	Reported[a]	Expanded to Households Not Surveyed	Lower Estimate	Upper Estimate	Per Capita Harvest (edible pounds)
Bass	1	1	1	0	0	Individual	270	-101	642	0.0
Bass [Rod and Reel]			1			Individual	270	-101	642	<0.1
Bass [Other Gear]			0			Individual	0	0	0	0
Sea Bass	1	1	1	0	0	Individual	270	-101	642	<0.1
Sea Bass [Rod and Reel]			1			Individual	270	-101	642	<0.1
Sea Bass [Other Gear]			0			Individual	0	0	0	0
Cod	2	1	1	1	1	Individual	240	-30	510	0.1
Cod [CF Retention]	0	0	0	0		Individual	0	0	0	0
Cod [Rod and Reel]			1			Individual	240	-30	510	0.1
Cod [Other Gear]			0			Individual	0	0	0	0
Pacific Cod (gray)	1	1	1	0	0	Individual	126	-41	293	0.1
Pacific Cod (gray) [CF Retention]	0	0	0	0		Individual	0	0	0	0
Pacific Cod (gray) [Rod and Reel]			1			Individual	126	-41	293	0.1
Pacific Cod (gray) [Other Gear]			0			Individual	0	0	0	0
Pacific Tom Cod	<1	<1	<1	<1	0	Individual	114	-102	331	<0.1
Pacific Tom Cod [CF Retention]	0	0	0	0		Individual	0	0	0	0
Pacific Tom Cod [Rod and Reel]			<1			Individual	114	-102	331	<0.1
Pacific Tom Cod [Other Gear]			0			Individual	0	0	0	0
Unknown Cod	<1	0	0	<1	<1	Individual	0	0	0	0
Flounder	1	1	1	1	0	Individual	3,246	-3,043	9,535	1.1
Flounder [CF Retention]	0	0	0	0		Individual	0	0	0	0
Flounder [Rod and Reel]			1			Individual	3,246	-3,043	9,535	1.1
Flounder [Other Gear]			0			Individual	0	0	0	0
Unknown Flounder	1	1	1	1	0	Individual	3,246	-3,043	9,535	1.1
Unknown Flounder [CF Retention]	0	0	0	0		Individual	0	0	0	0
Unknown Flounder [Rod and Reel]			1			Individual	3,246	-3,043	9,535	1.1
Unknown Flounder [Other Gear]			0			Individual	0	0	0	0

(continued)

Appendix Table 2. Continued.

Species [Method]	Percentage of Households: Using (%)	Attempt-ing to Harvest (%)	Harvest-ing (%)	Giving (%)	Receiving (%)	Fish Harvest: Reported[a]	Expanded to Households Not Surveyed	Lower Estimate	Upper Estimate	Per Capita Harvest (edible pounds)
Greenling	32	25	25	7	7	Individual	3,967	2,301	5,632	2.9
Greenling [CF Retention]	5	5	5	1		Individual	1,174	-54	2,402	0.9
Greenling [Rod and Reel]			21			Individual	2,792	1,610	3,975	2.1
Greenling [Other Gear]			0			Individual	0	0	0	0
Lingcod	32	25	25	7	7	Individual	3,967	2,301	5,632	2.9
Lingcod [CF Retention]	5	5	5	1		Individual	1,174	-54	2,402	0.9
Lingcod [Rod and Reel]			21			Individual	2,792	1,610	3,975	2.1
Lingcod [Other Gear]			0			Individual	0	0	0	0
Perch	1	0	0	0	1	Individual	0	0	0	0
Unknown Perch	1	0	0	0	1	Individual	0	0	0	0
Rockfish	45	29	28	10	20	Individual	13,260	4,258	22,261	5.1
Rockfish [CF Retention]	5	5	5	1		Individual	5,515	-2,186	13,216	2.4
Rockfish [Rod and Reel]			23			Individual	7,687	2,926	12,449	2.6
Rockfish [Other Gear]			0			Individual	57	-51	165	<0.1
Black Rockfish	14	11	11	5	4	Individual	3,447	41	6,853	0.6
Black Rockfish [CF Retention]	<1	<1	<1	0		Individual	69	-61	198	<0.1
Black Rockfish [Rod and Reel]			10			Individual	3,379	-25	6,783	0.6
Black Rockfish [Other Gear]			0			Individual	0	0	0	0
Red Rockfish	37	24	24	8	16	Individual	8,668	2,605	14,730	4.1
Red Rockfish [CF Retention]	5	5	5	1		Individual	4,301	-1,299	9,902	2.0
Red Rockfish [Rod and Reel]			19			Individual	4,309	1,892	6,725	2.0
Red Rockfish [Other Gear]			0			Individual	57	-51	165	<0.1
Unknown Rockfish	3	<1	<1	0	2	Individual	1,145	-1,016	3,306	0.4
Unknown Rockfish [CF Retention]	<1	<1	<1	0		Individual	1,145	-1,016	3,306	0.4
Unknown Rockfish [Rod and Reel]			0			Individual	0	0	0	0
Unknown Rockfish [Other Gear]			0			Individual	0	0	0	0

(continued)

Appendix Table 2. Continued.

Species [Method]	Percentage of Households					Fish Harvest				
	Using (%)	Attempt-ing to Harvest (%)	Harvest-ing (%)	Giving (%)	Receiving (%)	Reported[a]	Expanded to Households Not Surveyed	Lower Estimate	Upper Estimate	Per Capita Harvest (edible pounds)
Sablefish (black cod)	13	3	3	4	11	Individual	1,601	-609	3,810	0.7
Sablefish (black cod) [CF Retention]	2	2	2	0		Individual	1,377	-813	3,567	0.6
Sablefish (black cod) [Rod and Reel]			1			Individual	52	-49	153	<0.1
Sablefish (black cod) [Other Gear]			<1			Individual	172	-152	496	<0.1
Sculpin	0	0	0	0	0	Individual	0	0	0	0
Shark	1	0	0	0	1	Individual	0	0	0	0
Dogfish	1	0	0	0	1	Individual	0	0	0	0
Skates	1	2	0	0	0	Individual	11	-10	33	<0.1
Skates [Rod and Reel]			<1			Individual	11	-10	33	<0.1
Skates [Other Gear]			0			Individual	0	0	0	0

Black cell=not asked

[a] Reported harvest amount is not available.

Appendix Table 3. Harvest and use of herring and herring roe based on household harvest surveys, Sitka, 1987 (ADF&G 2010).

	Percentage of Households					Fish Harvest				
Species [Method]	Using (%)	Attempt-ing to Harvest (%)	Harvest-ing (%)	Giving (%)	Receiving (%)	Reported	Expanded to Households Not Surveyed	Lower Estimate	Upper Estimate	Per Capita Harvest (edible pounds)
Herring	8		8			1,143 Pounds	11,088	5,104	17,072	1.4
Herring [CF Retention]			2			228 Pounds	2,211	228	4,670	0.3
Herring [Rod and Reel]			0			0	0	0	0	0
Herring [Other Gear]			7			915 Pounds	8,877	4,342	13,412	1.1
Herring Roe	9		9			2,113 Pounds	20,495	2,113	39,235	2.5
Herring Roe [CF Retention]			0			0	0	0	0	0
Herring Roe [Rod and Reel]			0			0	0	0	0	0
Herring Roe [Other Gear]			9			2,113 Pounds	20,495	2,113	39,235	2.5
Herring Spawn on Kelp	9		9			2,113 Pounds	20,495	2,113	39,235	2.5
Herring Spawn on Kelp [CF Retention]			0			0	0	0	0	0
Herring Spawn on Kelp [Rod and Reel]			0			0	0	0	0	0
Herring Spawn on Kelp [Other Gear]			9			2,113 Pounds	20,495	2,113	39,235	2.5

Black cell=not asked

Appendix Table 4. Harvest and use of herring and herring roe based on household harvest surveys, Sitka, 1996 (ADF&G 2010).

	Percentage of Households					Fish Harvest				
Species [Method]	Using (%)	Attempt-ing to Harvest (%)	Harvest-ing (%)	Giving[b] (%)	Receiving (%)	Reported[a]	Expanded to Households Not Surveyed	Lower Estimate	Upper Estimate	Per Capita Harvest (edible pounds)
Herring	37	27	25	11	15	Pounds	50,330	24,641	76,019	5.9
Herring [CF Retention]	0	0	0	0		Pounds	0	0	0	0
Herring [Rod and Reel]			11			Pounds	9,511	2,146	16,875	1.1
Herring [Other Gear]			15			Pounds	40,819	16,841	64,797	4.8
Herring Roe	37	16	15	20	26	Pounds	127,174	35,131	219,217	14.9
Herring Roe [CF Retention]	<1	0	<1	0		Pounds	11	-10	33	<0.1
Herring Roe [Rod and Reel]			0			Pounds	0	0	0	0
Herring Roe [Other Gear]			15			Pounds	127,162	35,119	219,206	14.9
Herring Roe/Unspecified	1	0	0	0	1	Pounds	0	0	0	0
Herring Roe/Unspecified [CF Retention]	0	0	0	0		Pounds	0	0	0	0
Herring Roe/Unspecified [Rod and Reel]			0			Pounds	0	0	0	0
Herring Roe/Unspecified [Other Gear]			0			Pounds	0	0	0	0
Herring Spawn on Kelp	15	10	10	7	8	Pounds	8,849	2,784	14,914	1.0
Herring Spawn on Kelp [CF Retention]	<1	0	<1	0		Pounds	11	-10	33	<0.1
Herring Spawn on Kelp [Rod and Reel]			0			Pounds	0	0	0	0
Herring Spawn on Kelp [Other Gear]			10			Pounds	8,838	2,773	14,903	1.0
Herring Roe on Hair Seaweed	11	7	7	5	4	Pounds	8,942	4,459	13,425	1.1
Herring Roe on Hair Seaweed [Rod and Reel]			0			Pounds	0	0	0	0
Herring Roe on Hair Seaweed [Other Gear]			7			Pounds	8,942	4,459	13,425	1.1
Herring Roe on Hemlock Branches	33	12	12	18	23	Pounds	109,383	19,462	199,303	12.8
Herring Roe on Hemlock Branches [Rod and Reel]			0			Pounds	0	0	0	0
Herring Roe on Hemlock Branches [Other Gear]			12			Pounds	109,383	19,462	199,303	12.8

Black cell=not asked

[a] Reported harvest amount is not available.

[b] An estimated 50% of herring roe is distributed outside of Sitka.

Appendix Table 5. Total estimated harvest of herring spawn, in pounds, by residents of Sitka, 2002-2008 (Turek and Ciccone *in prep*.).

	Harvest of herring spawn in pounds						
Type of estimate	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**
Expanded to households not interviewed	151,707	278,799	379,148	83,985	219,355	87,210	71,936
Lower estimate	124,248	NA	NA	76,771	NA	67,762	67,764
Upper estimate	179,166	NA	NA	91,199	NA	106,719	71,694

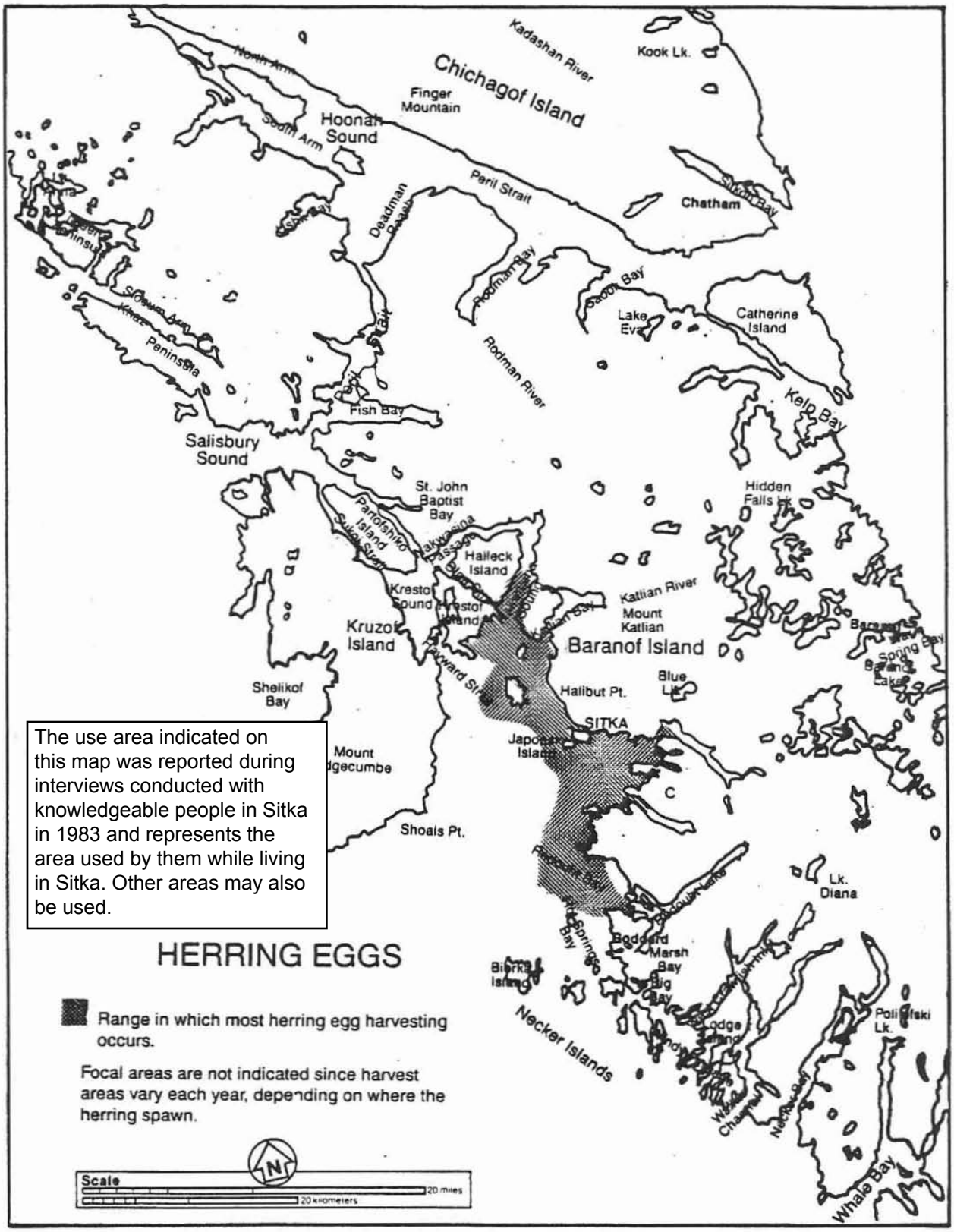
NA=data not available

Appendix Table 6. Reported harvest locations, Sitka Sound subsistence herring spawn fishery, 2006 (Turek and Ciccone *in prep*.).

Location	**Number of households using each location**	**Percentage of harvesting households using location**	**Reported pounds harvested**
Kasiana Islands group	42	33%	95,165
South Middle Island	22	17%	28,640
Crow/Gagarin islands	19	15%	16,891
North Middle Island	14	11%	22,346
Big/Little Gavinski islands	5	4%	2,835
Eastern/Promise Bay	3	2%	500
Apple/Parker group	2	2%	950
North Halibut Point Road	2	2%	3,690
North Japonski/Whiting Harbor	**2**	**2%**	**1,550**
Redoubt/Kanaga Bay	1	1%	0
Other location	5	4%	990
Total	117	93%	173,557

Bold=Makhnati Federal public waters

Appendix Map 1
Herring Eggs



Source: Gmelch and Gmelch 1985

Appendix Table 7. Harvest and use of marine invertebrates based on household harvest surveys, Sitka, 1987 (ADF&G 2010).

	Percentage of Households					Marine Invertebrate Harvest					
Species [Method]	Using (%)	Attempt-ing to Harvest (%)	Harvest-ing (%)	Giving (%)	Receiving (%)	Reported		Expanded to Households Not Surveyed	Lower Estimate	Upper Estimate	Per Capita Harvest (edible pounds)
Marine Invertebrates	45		45			14,994	Pounds	145,433	111,989	178,877	18.0
Abalone	21		21			1,855	Pounds	17,992	10,112	25,872	2.2
Chitons (bidarkis, gumboots)	4		4			45	Gallons	436	61	811	0.4
Clams	31		31			1,585	Gallons	15,373	10,705	20,041	5.9
Crabs	30		30			2,910	Individual	28,225	21,194	35,256	6.9
Dungeness Crab	29		29			2,212	Individual	21,455	15,852	27,058	3.5
King Crab	10		10			458	Individual	4,442	2,320	6,564	2.9
Tanner Crab	6		6			240	Individual	2,328	934	3,722	0.5
Octopus	6		6			80	Individual	776	305	1,247	0.6
Scallops	3		3			154	Pounds	1,494	410	2,578	0.2
Sea Cucumber	3		3			60	Gallons	582	186	978	0.6
Sea Urchin	4		4			120	Gallons	1,164	179	2,149	0.3
Shrimp	7		7			727	Pounds	7,051	3,349	10,753	0.9
Unknown Marine Invertebrates	1		1			52	Pounds	504	52	1,189	0.1

Black cell=not asked

Appendix Table 8. Harvest and use of marine invertebrates based on household harvest surveys, Sitka, 1996 (ADF&G 2010).

	Percentage of Households					Marine Invertebrate Harvest				
Species [Method]	Using (%)	Attempt-ing to Harvest (%)	Harvest-ing (%)	Giving (%)	Receiving (%)	Reported[a]	Expanded to Households Not Surveyed	Lower Estimate	Upper Estimate	Per Capita Harvest (edible pounds)
Marine Invertebrates	72	45	44	32	61	Pounds	234,496	156,452	312,541	27.5
Marine Invertebrates [CF Retention]	1	1	1	1		Pounds	923	-697	2,542	0.1
Marine Invertebrates [Non Commercial Gear]	72	45	44	32	61	Pounds	233,574	155,511	311,637	27.4
Abalone	25	13	13	6	14	Gallons	2,131	837	3,426	0.5
Abalone [Non Commercial Gear]	25	13	13	6	14	Gallons	2,131	837	3,426	0.5
Chitons (bidarkis, gumboots)	15	9	9	7	9	Gallons	1,224	420	2,029	1.1
Chitons (bidarkis, gumboots) [Non Commercial Gear]	15	9	9	7	9	Gallons	1,224	420	2,029	1.1
Red (large) Chitons	2	1	<1	1	2	Gallons	11	-10	33	0
Red (large) Chitons [Non Commercial Gear]	2	1	<1	1	2	Gallons	11	-10	33	0
Black (small) Chitons	14	9	9	7	9	Gallons	1,213	411	2,014	1.1
Black (small) Chitons [Non Commercial Gear]	14	9	9	7	9	Gallons	1,213	411	2,014	1.1
Clams	44	32	32	13	14	Gallons	9,564	6,294	12,834	4.7
Clams [CF Retention]	0	0	0	0		Gallons	0	0	0	0
Clams [Non Commercial Gear]	44	32	32	13	14	Gallons	9,564	6,294	12,834	4.7
Butter Clams	33	26	26	11	10	Gallons	7,079	4,484	9,673	3.7
Butter Clams [Non Commercial Gear]	33	26	26	11	10	Gallons	7,079	4,484	9,673	3.7
Horse Clams (Gaper)	<1	0	0	0	<1	Gallons	0	0	0	0
Horse Clams (Gaper) [Non Commercial Gear]	<1	0	0	0	<1	Gallons	0	0	0	0
Pacific Littleneck Clams (Steamers)	20	13	13	6	7	Gallons	2,033	923	3,144	0.7
Pacific Littleneck Clams (Steamers) [CF Retention]	0	0	0	0		Gallons	0	0	0	0
Gear]	20	13	13	6	7	Gallons	2,033	923	3,144	0.7
Razor Clams	<1	<1	<1	0	0	Gallons	46	-41	132	2.0
Razor Clams [Non Commercial Gear]	<1	<1	<1	0	0	Gallons	46	-41	132	2.0
Unknown Clams	2	1	1	1	2	Gallons	406	-350	1,163	0.2
Unknown Clams [Non Commercial Gear]	2	1	1	1	2	Gallons	406	-350	1,163	0.2
Cockles	18	14	14	8	4	Gallons	6,227	-1,431	13,886	0.2
Cockles [Non Commercial Gear]	18	14	14	8	4	Gallons	6,227	-1,431	13,886	2.3
Basket Cockles	6	5	5	3	1	Gallons	645	141	1,149	0.2
Basket Cockles [Non Commercial Gear]	6	5	5	3	1	Gallons	645	141	1,149	0.2
Heart Cockles	4	3	3	3	1	Gallons	533	-45	1,111	0.2
Heart Cockles [Non Commercial Gear]	4	3	3	3	1	Gallons	533	-45	1,111	0.2
Unknown Cockles	9	7	7	3	2	Gallons	5,049	-2,582	12,680	1.8
Unknown Cockles [Non Commercial Gear]	9	7	7	3	2	Gallons	5,049	-2,582	12,680	1.8

(continued)

Appendix Table 8. Continued.

Species [Method]	Percentage of Households: Using (%)	Attempting to Harvest (%)	Harvesting (%)	Giving (%)	Receiving (%)	Marine Invertebrate Harvest: Reported[a]	Expanded to Households Not Surveyed	Lower Estimate	Upper Estimate	Per Capita Harvest (edible pounds)
Crabs	59	32	31	20	40	Individual	44,092	26,096	62,088	11.8
Crabs [CF Retention]	0	0	0	0		Individual	0	0	0	0
Crabs [Non Commercial Gear]	59	32	31	20	40	Individual	44,092	26,096	62,088	11.8
Dungeness Crab	53	28	27	14	30	Individual	27,705	12,985	42,426	4.3
Dungeness Crab [CF Retention]	0	0	0	0		Individual	0	0	0	0.0
Dungeness Crab [Non Commercial Gear]	53	28	27	14	30	Individual	27,705	12,985	42,426	4.3
King Crab	39	15	15	10	27	Individual	9,921	4,677	15,166	6.3
King Crab [CF Retention]	0	0	0	0		Individual	0	0	0	0
King Crab [Non Commercial Gear]	39	15	15	10	27	Individual	9,921	4,677	15,166	6.3
Red King Crab	39	15	15	10	27	Individual	9,921	4,677	15,166	6.3
Red King Crab [CF Retention]	0	0	0	0		Individual	0	0	0	0
Red King Crab [Non Commercial Gear]	39	15	15	10	27	Individual	9,921	4,677	15,166	6.3
Tanner Crab	15	10	10	7	6	Individual	6,465	1,585	11,345	1.3
Tanner Crab [CF Retention]	0	0	0	0		Individual	0	0	0	0
Tanner Crab [Non Commercial Gear]	15	10	10	7	6	Individual	6,465	1,585	11,345	1.3
Unknown Tanner Crab	15	10	10	7	6	Individual	6,465	1,585	11,345	1.3
Unknown Tanner Crab [Non Commercial Gear]	15	10	10	7	6	Individual	6,465	1,585	11,345	1.3
Unknown Crab	1	0	0	1	1	Individual	0	0	0	0
Unknown Crab [Non Commercial Gear]	1	0	0	1	1	Individual	0	0	0	0
Geoducks	4	<1	<1	0	4	Gallons	29	-25	83	1.0
Geoducks [CF Retention]	0	0	0	0		Gallons	0	0	0	0
Geoducks [Non Commercial Gear]	4	<1	<1	0	4	Gallons	29	-25	83	1.0
Limpets	1	1	1	0	0	Gallons	13	-12	38	0
Limpets [Non Commercial Gear]	1	1	1	0	0	Gallons	13	-12	38	0
Mussels	3	3	3	<1	0	Gallons	362	-162	886	6.0
Mussels [Non Commercial Gear]	3	3	3	<1	0	Gallons	362	-162	886	6.0
Blue Mussels	3	3	3	<1	0	Gallons	362	-162	886	6.0
Blue Mussels [Non Commercial Gear]	3	3	3	<1	0	Gallons	362	-162	886	6.0
Unknown Mussels	0	0	0	0	0	Gallons	0	0	0	0
Unknown Mussels [Non Commercial Gear]	0	0	0	0	0	Gallons	0	0	0	0
Octopus	9	6	6	4	5	Individual	563	114	1,013	0.4
Octopus [CF Retention]	1	1	1	1		Individual	130	-122	381	0.1
Octopus [Non Commercial Gear]	9	5	5	3	5	Individual	434	58	809	0.3
Scallops	7	2	2	0	4	Gallons	148	-105	400	3.0
Scallops [CF Retention]	0	0	0	0		Gallons	0	0	0	0

(continued)

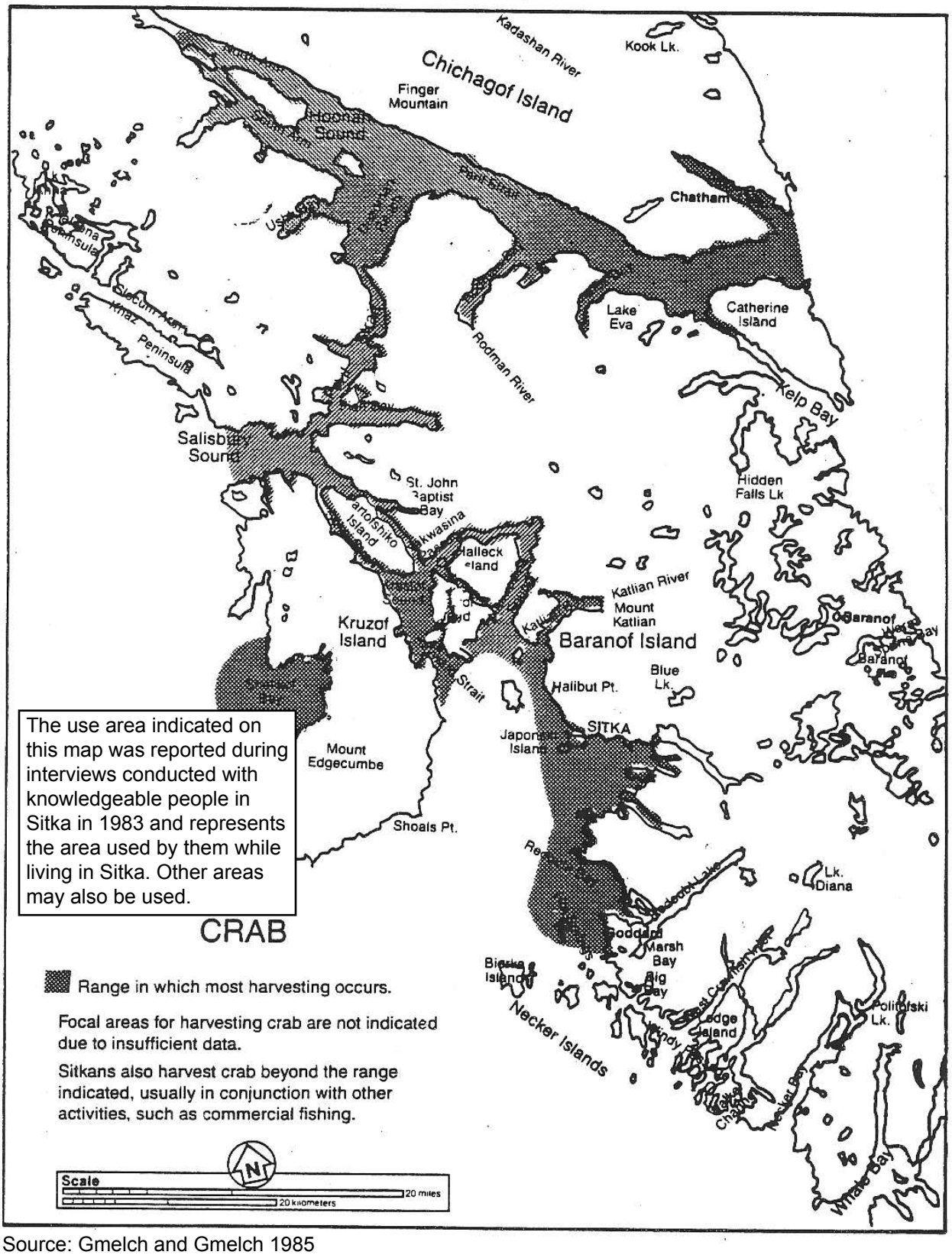
Appendix Table 8. Continued.

Species [Method]	Percentage of Households: Using (%)	Attempting to Harvest (%)	Harvesting (%)	Giving (%)	Receiving (%)	Marine Invertebrate Harvest: Reported[a]	Expanded to Households Not Surveyed	Lower Estimate	Upper Estimate	Per Capita Harvest (edible pounds)
Scallops [Non Commercial Gear]	7	2	2	0	4	Gallons	148	-105	400	<0.1
Weathervane Scallops	1	0	0	0	1	Gallons	0	0	0	0
Weathervane Scallops [CF Retention]	0	0	0	0		Gallons	0	0	0	0
Weathervane Scallops [Non Commercial Gear]	1	0	0	0	1	Gallons	0	0	0	0
Rock Scallops	5	2	2	0	3	Gallons	148	-105	400	<0.1
Rock Scallops [CF Retention]	0	0	0	0		Gallons	0	0	0	0
Rock Scallops [Non Commercial Gear]	5	2	2	0	3	Gallons	148	-105	400	<0.1
Unknown Scallops	<1	0	0	0	<1	Gallons	0	0	0	0
Unknown Scallops [CF Retention]	0	0	0	0		Gallons	0	0	0	0
Unknown Scallops [Non Commercial Gear]	<1	0	0	0	<1	Gallons	0	0	0	0
Sea Cucumber	5	4	4	2	1	Gallons	253	45	461	0.2
Sea Cucumber [CF Retention]	0	0	0	0		Gallons	0	0	0	0
Sea Cucumber [Non Commercial Gear]	5	4	4	2	1	Gallons	253	45	461	0.2
Yein Sea Cucumber	5	4	4	2	1	Gallons	253	45	461	0.2
Yein Sea Cucumber [CF Retention]	0	0	0	0		Gallons	0	0	0	0
Yein Sea Cucumber [Non Commercial Gear]	5	4	4	2	1	Gallons	253	45	461	0.2
Unknown Sea Cucumber	<1	0	0	0	<1	Gallons	0	0	0	0
Unknown Sea Cucumber [CF Retention]	0	0	0	0		Gallons	0	0	0	0
Unknown Sea Cucumber [Non Commercial Gear]	<1	0	0	0	<1	Gallons	0	0	0	0
Sea Urchin	3	2	2	0	1	Gallons	271	-83	626	5.0
Sea Urchin [Non Commercial Gear]	3	2	2	0	1	Gallons	271	-83	626	5.0
Green Sea Urchin	1	1	1	0	0	Gallons	52	-49	153	<0.1
Green Sea Urchin [Non Commercial Gear]	1	1	1	0	0	Gallons	52	-49	153	<0.1
Red Sea Urchin	1	1	1	0	0	Gallons	89	-63	242	<0.1
Red Sea Urchin [Non Commercial Gear]	1	1	1	0	0	Gallons	89	-63	242	<0.1
Purple Sea Urchins	2	1	1	0	1	Gallons	130	-122	381	<0.1
Purple Sea Urchins [Non Commercial Gear]	2	1	1	0	1	Gallons	130	-122	381	<0.1
Unknown Sea Urchin	<1	0	0	0	<1	Gallons	0	0	0	0
Unknown Sea Urchin [Non Commercial Gear]	<1	0	0	0	<1	Gallons	0	0	0	0
Shrimp	44	17	17	12	36	Gallons	6,778	2,471	11,085	6.4
Shrimp [CF Retention]	0	0	<1	0		Gallons	11	-10	33	<0.1
Shrimp [Non Commercial Gear]	44	17	17	12	36	Gallons	6,767	2,461	11,072	6.3
Starfish	3	3	3	0	0	Gallons	1,039	-506	2,584	0
Starfish [Non Commercial Gear]	3	3	3	0	0	Gallons	1,039	-506	2,584	0

Black cell=not asked.

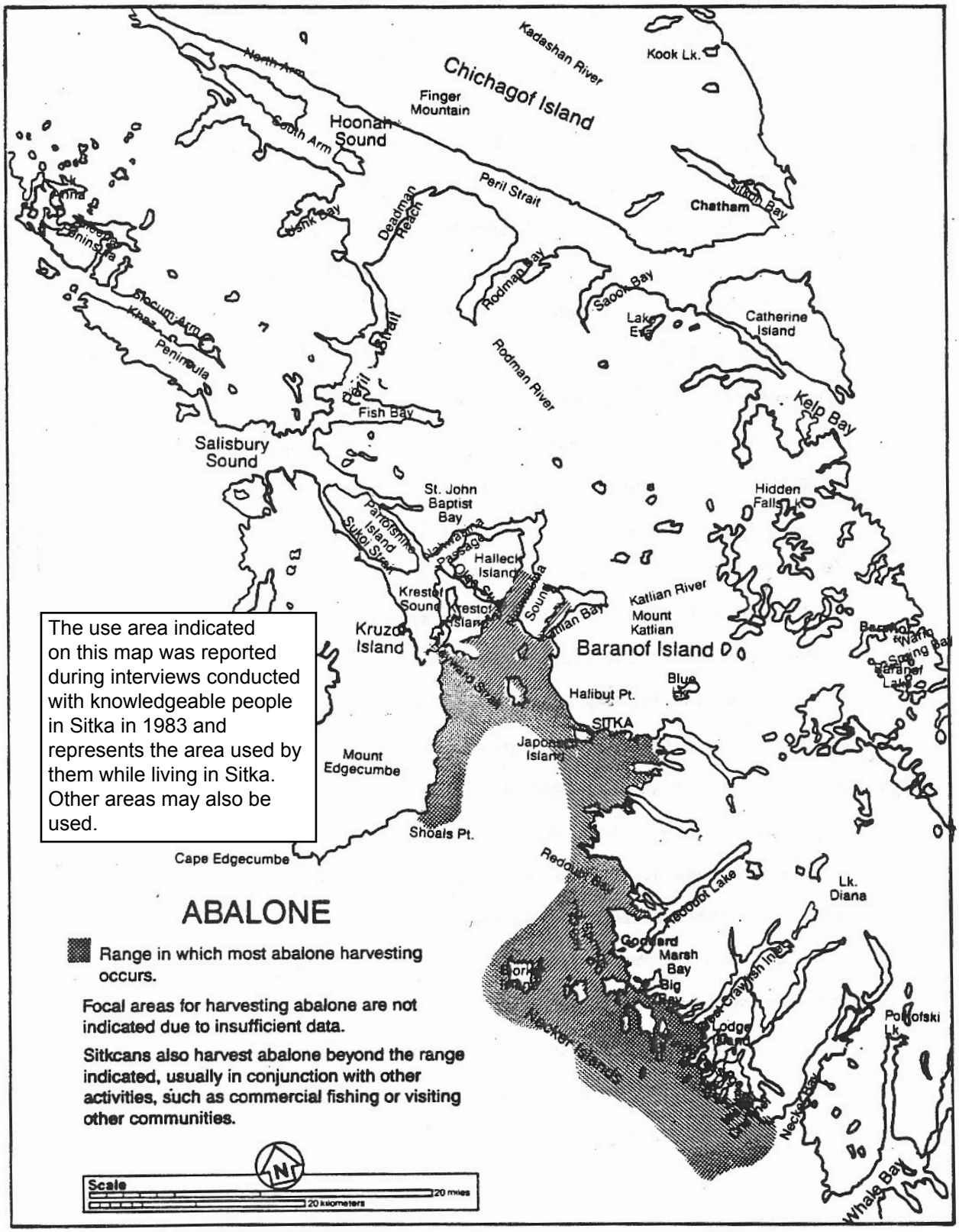
[a] Reported harvest amount is not available.

Appendix Map 2
Crab



Source: Gmelch and Gmelch 1985

Appendix Map 3
Abalone



Source: Gmelch and Gmelch 1985

Appendix Table 9. Survey sampling and participation summary by survey year, Sitka (ADF&G 2010; Turek and Ciccone *in prep.*)

		Survey Results			
Survey Year	Type of Sample	Total identified households in community	Households in sampling universe	Surveyed housholds	Percentage of households in sampling universe that were surveyed
1987	[a]Random	2,871	2,871	286	10%
1996	Stratified random	3,053	3,053	150	5%
	STA households	NA	NA	58	NA
	All other households	NA	NA	92	NA
2002	[b]Chain referral		108	86	80%
2003	[b]Chain referral		163	118	72%
2004	[b]Chain referral		197	144	73%
2005	[b]Chain referral		182	159	87%
2006	[b]Chain referral		160	127	79%
2007	[b]Chain referral		168	126	75%
2008	[b]Chain referral		131	128	98%

NA=data not available

STA=Sitka Tribe of Alaska

[a] 1987 survey sample included only Sitka residents contacted by telephone and may not be representative of the Sitka community harvest.

[b] For each survey year, the list of harvesting households was updated by removing households that were known to have moved. Non-harvesting households were removed from the list after three years of no harvest activity.

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

Fisheries Proposal FP11-19: City and Borough Sitka – Customary and Traditional Use Determination for marine species (including groundfish) in Fisheries District 13.

Introduction: The Sitka Tribe of Alaska requested the Federal Subsistence Board demonstrate customary and traditional (C&T) findings for residents of the City and Borough of Sitka for marine species, including groundfish stocks within Fisheries District 13 of Southeast Alaska. Waters subject to a federal determination constitute a very small portion (560 acres) of Fisheries District 13 and are limited to the waters of Makhnati Island and Whiting Harbor, which are subject to federal claims of jurisdiction.

Evidence of customary and traditional subsistence use: The Alaska Department of Fish and Game reviewed the draft federal analysis of available evidence of customary and traditional use by residents of the City and Borough of Sitka for marine species within Fisheries District 13 of Southeast Alaska. Application of the September 23, 2008, Ninth Circuit Court opinion in *State of Alaska v. Federal Subsistence Board*, 544 F.3d 1089, makes it clear that an adequate record to support a customary and traditional determination for fisheries must be supported by substantial evidence of a specific rural community or area's demonstrated customary and traditional taking of a specific fish stock, not general species, within specific geographic locations. *Alaska v. Federal Subsistence Board*, at 1094-99. The Board's determination must have a "substantial basis in fact." *Id*. at 1094. The Court held: "Under 50 C.F.R. §100.16, C & T determinations should "identify the specific community's or area's use of specific fish stocks and wildlife populations,' . . . and not Chistochina's use of moose in general." *Id*. at 1096. The Court added that the Federal Board's "regulations clearly tie C & T determinations to the specific locations in which wildlife populations have been taken" and "each C & T ***determination*** must be tied to a specific community or area and a specific wildlife population." *Id.* at 1097 (emphasis in original). The Court further emphasized: "Specific communities and areas and specific fish stocks and wildlife populations are, by definition, limited to specific geographic areas" and "a C & T determination is a determination that a community or area has taken a species for subsistence use ***within a specific area***." *Id*. at 1097-98 (emphasis in original). The Ninth Circuit pointed out that six of the Federal Board's eight C&T factors refer to a "pattern of use" of "specific fish stocks or wildlife populations," and a seventh factor also imposes explicit geographic limitations by directing the Board to consider whether there is "consistent harvest and use of fish or wildlife . . . near, or reasonably accessible from the community or area." *Id.* at 1098; *see also* 50 C.F.R. 100.16(b).

The draft federal analysis provides sufficient information to support a determination that the residents of the Sitka community have a "pattern of use" of specific fish stocks in Makhnati waters and a "consistent harvest" of specific fish stocks by Sitka residents in those waters.

Recommendation: The department tentatively supports the customary and traditional use finding described in the federal analysis but will wait to finalize a recommendation until after further evidence is provided, if any, at the Regional Advisory Council meeting.

FP09-05 (Deferred) Executive Summary	
General Description	Proposal FP09-05 seeks to close the Federal public waters in the Makhnati Island area near Sitka to the harvest of herring and herring spawn except for subsistence harvests by Federally qualified subsistence users. This proposal was deferred for a period not to exceed two years by the Federal Subsistence Board in January 2009. *Submitted by the Sitka Tribe of Alaska*
Proposed Regulation	***§___.27(i)(13)(xxii) The Federal public waters in the Makhnati Island area, as defined in 36 CFR 242.3(b)(5) and 50 CFR §100.3(b)(5) are closed to the harvest of herring and herring spawn except for subsistence harvests by Federally qualified subsistence users.***
OSM Preliminary Conclusion	**Oppose**
Southeast Regional Council Recommendation	
ADF&G Comments	**Oppose**
Written Public Comments	**None**

DRAFT STAFF ANALYSIS
FP09-05 DEFERRED

ISSUES

Proposal FP09-05 was submitted by the Sitka Tribe of Alaska (STA) and seeks to close the Federal public waters in the Makhnati Island area near Sitka (**Maps 1 and 2**) to the harvest of herring and herring spawn except for subsistence harvests by Federally qualified subsistence users. This proposal was deferred for a period not to exceed two years by the Federal Subsistence Board (Board) in January 2009.

DISCUSSION

The proponent believes a closure of these waters is necessary to ensure the continuation of subsistence uses by Federally qualified subsistence users and to provide a meaningful preference for qualified subsistence users of herring. The proponent states that under the current State management plan which has been in effect since 2002, the commercial herring fishery is to be dispersed if the local fisheries manager believes it is necessary to ensure that subsistence users have a reasonable opportunity to harvest the amount of herring spawn necessary for subsistence uses. The proponent states that despite this regulation, subsistence users were unable to harvest the amount of herring spawn necessary for subsistence uses in 2005 and 2007. In these same years, the commercial fishery met its quota.

The proponent believes that the commercial fishing effort in and near subsistence herring spawn harvest sites and its adverse effect on subsistence harvests cannot be overstated. The proponent believes that herring have not been consistently spawning in traditional subsistence areas. The proponent states that traditional ecological knowledge and local observation support that the commercial harvest of herring displaces subsistence users from traditional harvesting sites, disrupts herring spawning such that good quality deposition of herring eggs does not take place at traditional sites, causes herring to spawn away from subsistence sites, and may seriously reduce the biomass of spawning herring upon which subsistence users depend.

The proponent also believes that a closure is necessary to ensure subsistence uses can continue in the Federal public waters because in-season management to protect subsistence uses is virtually impossible because the commercial fishery precedes the subsistence fishery so that by the time subsistence users realize they are unable to harvest herring eggs, the commercial fishery is already completed.

Existing Federal Regulation:

Under existing Federal regulations, all rural residents of Alaska are eligible to harvest herring and herring spawn from Federal public waters in southeast Alaska. There is no season or harvest limit in regulation.

Proposed Federal Regulation

> ***§___.27(i)(13)(xxii) The Federal public waters in the Makhnati Island area, as defined in 36 CFR 242.3(b)(5) and 50 CFR §100.3(b)(5) are closed to the harvest of herring and herring spawn except for subsistence harvests by Federally qualified subsistence users.***

Extent of Federal Public Waters

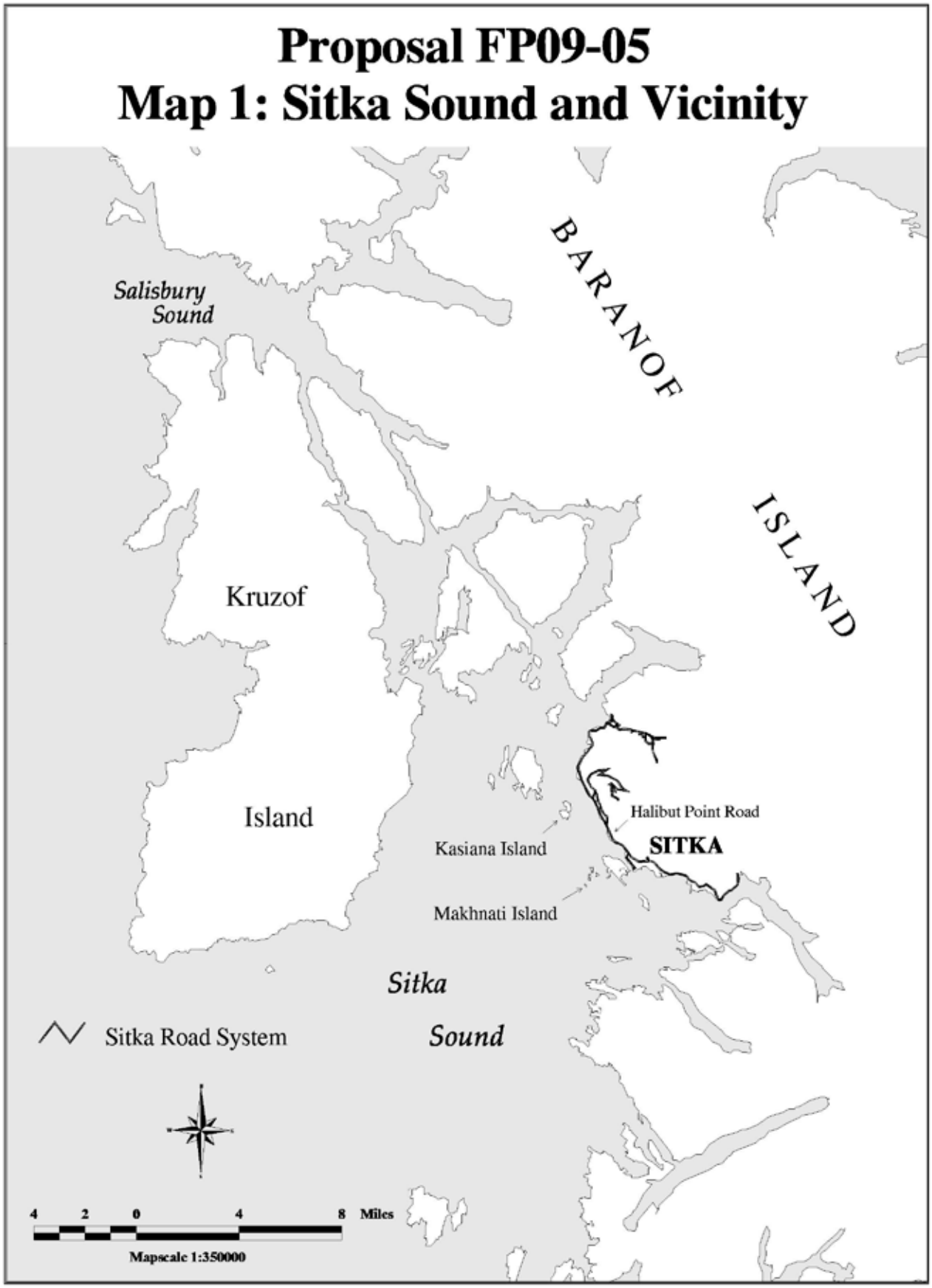
The Federal subsistence program has jurisdiction of the waters near Makhnati Island as described in 36 CFR 242.3(b)(5) and 50 CFR 100.3(b)(5). The Makhnati area was described in two Executive Orders, EO 8877 (August 29, 1941), approximately 610 acres, and EO 8216 (July 25, 1939), approximately 190 acres, for a total of approximately 800 acres **(Map 2)**. The Makhnati Island area is described in the Federal Register (74 FR 34696) as follows:

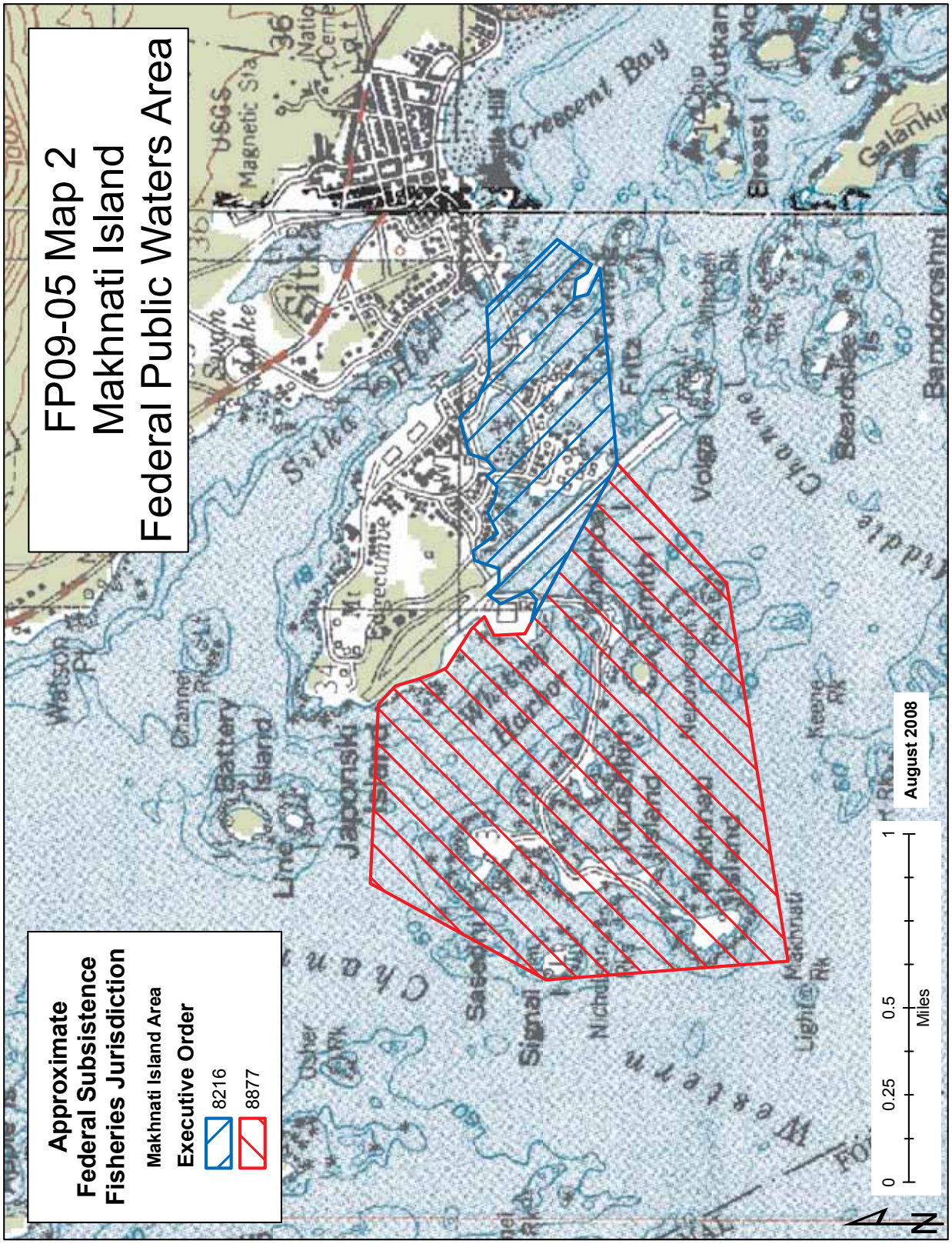
> Southeastern Alaska—Makhnati Island Area: Land and waters beginning at the southern point of Fruit Island, 57°21′35″ north latitude, 135°21′07″ west longitude as shown on United States Coast and Geodetic Survey Chart No. 8244, May 21, 1941; from the point of beginning, by metes and bounds; S. 58° W., 2500 feet, to the southern point of Nepovorotni Rocks; S. 83° W., 5600 feet, on a line passing through the southern point of a small island lying about 150 feet south of Makhnati Island; N. 6° W., 4200 feet, on a line passing through the western point of a small island lying about 150 feet west of Makhnati Island, to the northwestern point of Signal Island; N. 24° E., 3000 feet, to a point, 57°03′15″ north latitude, 135°23′07″ west longitude; East, 2900 feet, to a point in course No. 46 in meanders of U.S. Survey No. 1496, on west side of Japonski Island; Southeasterly, with the meanders of Japonski Island, U.S. Survey No. 1496 to angle point No. 35, on the Southwestern point of Japonski Island; S. 60° E., 3300 feet, along the boundary line of Naval reservation described in Executive order No. 8216, July 25, 1939, to the point beginning, and that part of Sitka Bay lying south of Japonski Island and west of the main channel, but not including Aleutski Island as revoked in Public Land Order 925, October 27, 1953, described by meets and bounds as follows: Beginning at the southeast point of Japonski Island at angle point No. 7 of the meanders of U.S. Survey No. 1496; thence east approximately 12.00 chains to the center of the main channel; thence S. 45° E. along the main channel approximately 20.00 chains; thence S. 45° W. approximately 9.00 chains to the southeastern point of Aleutski Island; thence S. 79° W. approximately 40.00 chains to the southern point of Fruit Island; thence N. 60° W. approximately 50.00 chains to the southwestern point of Japonski Island at angle point No. 35 of the U.S. Survey No 1496; thence easterly with the meanders of Japonski Island to the point of beginning including Charcoal, Harbor, Alice, Love, Fruit Islands and a number of smaller un-named islands.

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.

Customary and Traditional Use Determinations

> *Sec. 100.24 Customary and traditional use determinations.*
>
> > *(a) The Federal Subsistence Board has determined that rural Alaska residents of the listed communities, areas, and individuals have customary and traditional use of the specified species on Federal public land in the specified areas. Persons granted individual customary and traditional use determinations will be notified in writing by the Board. The Fish & Wildlife Service and the local NPS Superintendent will maintain the list of individuals having customary and traditional use on National Parks and Monuments. A copy of the list is available upon request. When there is a determination for specific communities or areas of residence in a Unit, all other communities not listed for that species in that Unit have no Federal subsistence priority for that species in that Unit. If no determination has been made for a species in a Unit, all rural Alaska residents are eligible to harvest fish or wildlife under this part.*


Proposal FP09-05
Map 1: Sitka Sound and Vicinity
Salisbury Sound
BARANOF
ISLAND
Kruzof
Island
Halibut Point Road
SITKA
Kasiana Island
Makhnati Island
Sitka
Sound
Sitka Road System
4 2 0 4 8 Miles
Mapscale 1:350000


FP09-05 Map 2
Makhnati Island
Federal Public Waters Area
Approximate
Federal Subsistence
Fisheries Jurisdiction
Makhnati Island Area
Executive Order
8216
8877
August 2008
0
0.25
0.5
1
Miles
N
Crescent Bay
Japonski Island
Battery Island
Sitka
Volga
Fritz
Beardslee Is
Bamdoroshni
Galankin
Breast I
Kutkan
Watson Pt
Channel Rk
Edgecumbe
Mt
Nichols
Signal
Light
Makhnati Rk
Keene Rk
Western

The Board has not made a customary and traditional use determination for herring in this area; therefore, all rural residents of Alaska may harvest herring and herring spawn under Federal subsistence regulations in this area. It should be noted that the Customary and Traditional uses of marine fish species, including herring, in the Makhnati Federal public waters is addressed in Proposal FP11-19.

Regulatory History

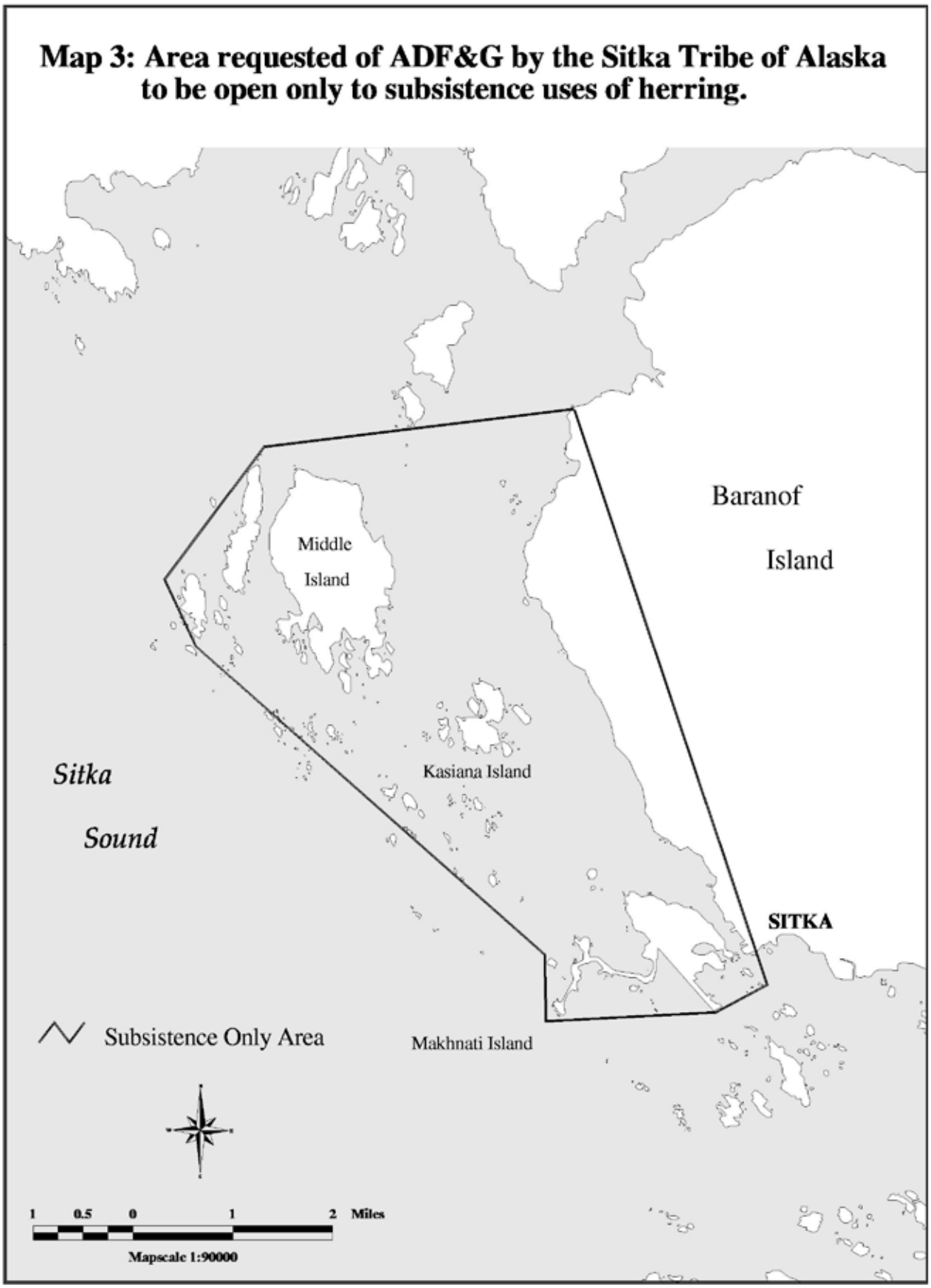
Federal Regulatory History

In January 2007, the Board considered two proposals regarding the subsistence herring egg harvest in the Makhnati Federal public waters near Sitka (FSB 2007a). FP07-18 was submitted by the Southeast Alaska Subsistence Regional Advisory Council (Council) and FP07-19 was submitted by the STA. Both proposals sought to close the Makhnati Federal public waters to commercial herring fishing during the months of March and April. The proponents believed that the closure would be a constructive step toward ensuring that adequate harvests of herring and herring spawn for subsistence would be obtained. The Board deferred action on proposal FP07-18 and took no action on FP07-19 (FSB 2007a). The Board asked the Council to form a subcommittee to recommend criteria which would govern decisions to open or close the commercial herring fishery in the Makhnati Federal public waters and possible alternate solutions. The subcommittee did not reach consensus on all recommendations. However its report was presented to the Council in September 2007. The Council accepted the report and distributed it to the public. At its September meeting, the Council developed closure language for the Makhnati Island area based on the subcommittee report. The Council recommended the closure of Federal public waters near Makhnati Island to non-Federally qualified subsistence users when the forecast herring biomass is less than 35,000 tons for the Sitka Sound area or when Amounts Necessary for Subsistence (ANS) are not met for two consecutive years (SESRAC 2007). In comparison, the State of Alaska's herring management plan uses a threshold level of 20,000 tons, below which no commercial sac roe harvest would occur. The Board considered the Council's recommendation during a December 2007 public meeting as part of proposal FP08-18. Following considerable oral testimony from Tribal representatives, professional managers and staff, the Board rejected the Council's recommendation. The Board's rationale for rejection was that there was not substantial evidence of a conservation concern or a need for a closure to insure the continuance of subsistence uses (FSB 2007b).

On March 25, 2008 a special action request was received by the Board from the STA requesting that he Federal public waters in the Makhnati Island area, as defined in 36 CFR 242.3(b)(5) and 50 CFR §100.3(b)(5) be closed to the harvest of herring and herring spawn except for subsistence harvests by Federally qualified subsistence users from March 24, 2008 through April 30, 2008. The Board responded by letter dated April 3, 2008. The Board informed the STA that the commercial fishery was completed prior to the Board action and consequently the matter was moot.

Also on March 25, 2008 a letter was received by the Secretaries of Agriculture and the Interior from STA requesting that they exert extra-territorial jurisdiction authority to close the commercial herring fishery in the area shown in **Map 3**. In a letter to the STA, the Secretaries denied STA's request, and stated that the Secretaries "only exercise their authority to impose Federal jurisdiction outside of Federal public land under extraordinary circumstances. The threshold for such a decision is extremely high, and is not met in this case. With such a healthy herring biomass, there is clearly no conservation concern with regard to the herring stocks and the associated fishery in Sitka Sound. Given the spawning characteristics of herring, closing State marine waters as is being requested would not significantly increase the likelihood of Fedeally qualified users harvesting their desired amounts in the Makhnati Island Federal public waters."

In January of 2009, the Board deferred proposal FP09-05 until the next fisheries cycle.


Map 3: Area requested of ADF&G by the Sitka Tribe of Alaska to be open only to subsistence uses of herring.
Baranof
Island
Middle
Island
Kasiana Island
Sitka
Sound
SITKA
Subsistence Only Area
Makhnati Island
1 0.5 0 1 2 Miles
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Reasons for Board Deferral

In January of 2009, the Board deferred this proposal until the next fisheries cycle to allow pending research to be completed and peer reviewed and also to wait until the Alaska Board of Fisheries considered a variety of proposals that could change the regulations for the Sitka Sound herring fisheries.

The Board deferred action on this proposal to consider the results of a study conducted by Heather Meuret-Woody of the STA and Nate Bickford of the University of Great Falls (Meuret-Woody and Bickford 2009). The study was published in 2009. The study attempted to use trace chemical signatures of adult herring otoliths to identify discrete spawning areas within Sitka Sound. The Board was particularly interested in whether herring spawning in Federal waters are a distinct population or stock. The sampling strategy was very limited, but the study seemed to detect a difference between adult herring in Salisbury Sound and Sitka Sound. The study was not able to distinguish any stock differences amongst spawning herring within Sitka Sound which includes the Federal waters.

The Board was also interested in the results of a study conducted by the Sitka Tribe of Alaska (FRMP 08-651 Makhnati Island Subsistence Herring Fishing Assessment) to determine the amount of subsistence use of herring roe in the Federal Waters near Makhnati Island.

State Regulatory History

In response to a poor subsistence herring egg harvest in 2001, the STA submitted a proposal to the Alaska Board of Fisheries in 2002. The proposal requested that the herring sac roe fishery be dispersed to avoid concentrating the commercial harvest in traditional subsistence egg harvesting areas. The Alaska Board of Fisheries amended the proposal by removing a suggested requirement for a subsistence permit for all subsistence harvest in favor of face to face surveys to estimate subsistence herring egg harvest. The Alaska Board of Fisheries also established the ANS for herring roe in Sitka Sound, Section 13-A and13-B north of the latitude of Aspid Cape at 105,000 to 158,000 pounds (5AAC 01.716(7) (b)) (Turek 2003). Regulations limit customary trade in herring roe on kelp (5AAC 01.717 and 5 AAC 01.730 (g)). Other than spawn on kelp, there are no harvest limits for herring or herring spawn. When issuing a herring spawn on kelp subsistence fishing permit, the annual possession limit for herring spawn on kelp is 32 pounds for an individual or 158 pounds for a household of two or more persons. There are no regulations regarding subsistence reporting requirements, or specific allocations for subsistence (Turek 2006).

In November of 2002 a Memorandum of Agreement (MOA) was signed by the Chairman of the Alaska Board of Fisheries, the Commissioner of the Alaska Department of Fish and Game (ADF&G) and the STA Chairman. The State and the STA agreed to collaborate, communicate, and collect and share data (STA 2006). The MOA contains provisions for in-season collaboration which includes daily contact between the STA and ADF&G and stipulates that the STA will be consulted whether a proposed commercial opening might affect subsistence opportunity. If the STA concludes there is potential for the subsistence fishery to be adversely effected by a proposed opening, the STA will provide this conclusion and reasoning to ADF&G verbally and in writing. A formal objection to a proposed opening does not necessarily result in a commercial closure, as ADF&G maintains discretion whether or not to open the commercial fishery. In June of 2009 the ADF&G sent a letter to STA withdrawing from the MOA because of the perception that the STA had access to information and input into decision making that was not readily available to the general public and other user groups.

The ADF&G is required to “distribute the commercial harvest by fishing time and area if the department [ADF&G] determines that is necessary to ensure that subsistence users have a reasonable opportunity to harvest the amount of herring spawn necessary for subsistence uses” (5AAC27.195(a)(2)). Additionally,

commercial herring vessels, permit holders, and crew members may not take or possess herring for subsistence 72 hours prior to or following a commercial herring fishing period.

In February of 2009 the Alaska Board of Fisheries created new regulations for the Sitka Sound herring fisheries which were in effect beginning with the 2010 season. The new regulations are as follows:

- Section 13-A south of the latitude of Point Kakul (57°21.75' N. lat) in Salisbury Sound will formally be included in the Sitka Sound sac roe seine area [5AAC 27.110(b)(1)(d)].

- The threshold mature biomass below which no fishery would occur in Sitka Sound was increased from 20,000 tons to 25,000 tons. The harvest rate when the biomass is above 25,000 tons does not change from the harvest rate previously established in regulation except that the minimum harvest rate, when the forecast biomass is at 25,000 tons, will be 12% [5AAC 27.160(g)].

- The range of the amount of herring roe reasonably necessary for subsistence in Section 13-A and Section 13-B north of Aspid Cape was increased from 105,000–158,000 pounds to 136,000–227,000 pounds [5AAC 01.716(b)].

Biological Background

Excerpted from the ADF&G Wildlife Notebook Series (ADF&G 2000):

> Pacific herring generally spawn during the spring. In Alaska, spawning is first observed in the southeastern archipelago during mid-March. Spawning is confined to shallow, vegetated areas in the intertidal and subtidal zones.
>
> The eggs are adhesive, and survival is better for those eggs which stick to intertidal vegetation than for those which fall to the bottom. Milt released by the males drifts among the eggs and fertilizes them. The eggs hatch in about two weeks, depending on the temperature of the water.
>
> Herring spawn every year after reaching sexual maturity at 3 or 4 years of age. The number of eggs varies with the age of the fish and averages 20,000 annually. Average life span for these fish is about 8 years in Southeast Alaska.
>
> Mortality of the eggs is high. Young larvae drift and swim with the ocean currents and are preyed upon extensively by other vertebrate and invertebrate predators. Following metamorphosis of the larvae to the juvenile form, they rear in sheltered bays and inlets and appear to remain segregated from adult populations until they are mature.
>
> Herring are located in distinctly different environments during different periods of the year. After spawning, most adults leave inshore waters and move offshore to feed primarily on zooplankton such as copepods and other crustaceans. They are seasonal feeders and accumulate fat reserves for periods of relative inactivity. Herring schools often follow a diel vertical migration pattern, spending daylight hours near the bottom and moving upward during the evening to feed.

The biomass of herring returning to spawn in Sitka Sound has been trending higher over the last 30 years of commercial fishing **(Figure 1)**. The 2010 forecast estimate of herring biomass in the Sitka Area was higher than any previously recorded biomass estimate at 91,467 tons. However; the total return estimate will not be available until the fall of 2010.

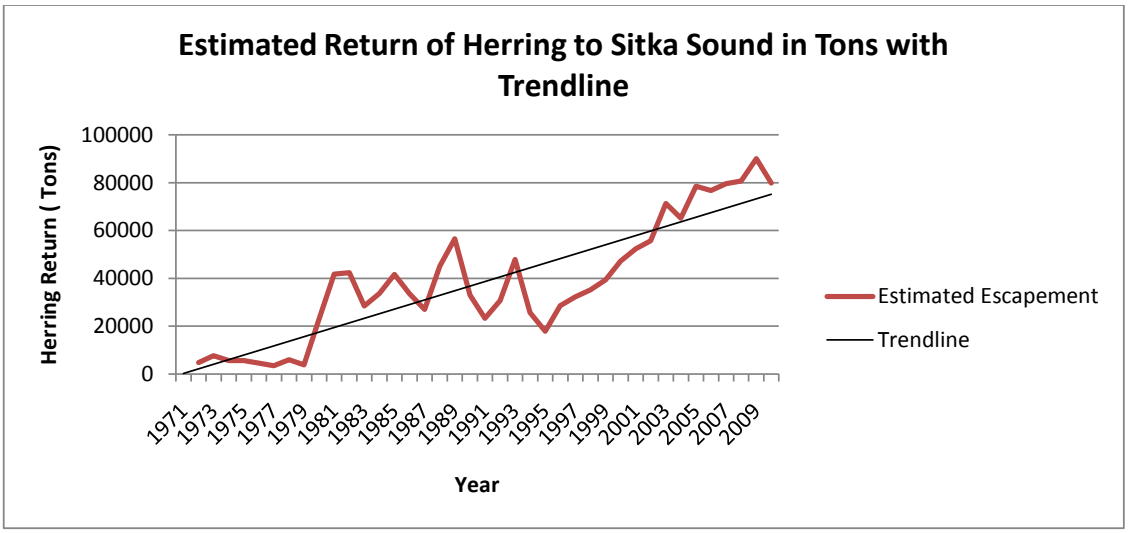

Figure 1. Estimated return of herring to Sitka Sound from 1971 through 2009 showing upward trend (Gordon 2010).

Harvest History

Subsistence Harvest Methods

The subsistence herring egg harvest is a complex and time intensive process. According to Schroeder and Kookesh (1990), this customary and traditional harvest is conducted using a variety of egg deposition strata including hemlock branches and trees, kelp, seaweed and occasionally man-made materials. In the spring (late March–April), seal, sea lion, and sea gull feeding activity are indicators for subsistence harvesters that the herring have arrived in Sitka Sound. There are many "superhouseholds" who harvest herring eggs for multiple households in addition to their own. Herring eggs are a highly valued item in subsistence trade and sharing networks. Detailed examination of the subsistence herring egg harvest is described by Schroeder and Kookesh (1990).

Subsistence Harvest

The ADF&G Division of Subsistence conducted research on the subsistence harvest of herring eggs in Sitka Sound as part of household harvest surveys conducted in Sitka in 1997. These studies included herring egg harvest estimates (ADF&G 2003). At the January 2002 meeting, the Alaska Board of Fisheries requested that ADF&G Division of Subsistence work with the STA and conduct harvest surveys for the Sitka Sound herring egg fishery. In 2002 and 2003, the ADF&G provided field survey and interview project support, and data analysis. The STA, working with ADF&G staff conducted interviews in person with harvesters and provided harvest data to ADF&G for analysis in 2002 and 2003. Research conducted by ADF&G and the STA in 2002 and 2003 produced harvest estimates of the total pounds of herring eggs-on-hemlock-branches and the total pounds of herring eggs harvested on *Macrocystis*, hair seaweed and other substrate. The STA also collected harvest data from 2004 through 2008 (STA 2006 and Turek 2008). In 2008 a project (FRMP 08-651 Makhnati Island Subsistence Herring Fishing Assessment) was funded through the Fisheries Resource Monitoring Program to determine the contribution of Federal public waters to the total harvest of herring spawn in Sitka Sound.

Subsistence users are allowed to harvest herring and herring eggs anywhere in and around Sitka Sound. The location and intensity of herring spawn in Sitka Sound varies from year to year. From 1978 to 2010, the amount of spawn deposition has varied from 13 to 104 nautical miles of beach per year and has not occurred in the same areas every year. Spawn deposition is more consistent in some areas, but spawning is not assured in any area every year. Spawn and subsistence harvest occurs in most years within Federal public waters. However, where people harvest herring eggs is ultimately determined by where the herring spawn. In 2010 the observed spawn deposition was quite extensive in the traditional subsistence harvest areas **(Figure 2)**.

For the available years of data (1997, 2002–2009), the average annual total harvest of eggs in Sitka Sound on all substrates was 179,457 pounds (**Table 1)**. When compared to the amounts necessary for subsistence established by the Alaska Board of Fisheries, subsistence needs were not met in 2005, 2007 and 2008. In 2009 needs were met and preliminary reports indicate that needs were met in 2010 **(Table 1).**

Commercial Harvest

The following is excerpted from Woodby et al. 2005:

> Sac roe fisheries harvest herring just before spawning using either purse seine or gillnet. The roe is salted and packaged as a product that sometimes sells for over $100/lb ($220/kg) in Japan. In recent years the Alaska sac roe harvest has averaged about 50,000 tons (45,500 mt), almost all of which ends up in the Japanese marketplace.

The 2008 Southeast Alaska Sac Roe Herring Fishery is managed by ADF&G under a management plan (Gordon et al. 2010). **Table 2** displays the fisheries statistics for the Sitka Sound commercial sac roe herring fishery from 1971 through 2009 (Gordon 2010).

The area where the commercial sac roe herring fishery occurs varies widely from year to year. From 1992 to 2008, the Federal public waters near Makhnati Island have made up part of the areas open to commercial sac roe herring fishing 6 out of 17 years (1993, 1999, 2001, 2003, 2005 and 2006). In 1993, the entire area was part of a larger area open to commercial fishing. In 1999, 2001 and 2005, only the Whiting Harbor side (north side) was included and in 2003 and 2006, only the Nepovorotni side (south side) was included. Since the area of Federal public waters has been a part of larger areas open to commercial fishing, there is no way to apportion harvest from only Federal public waters. No commercial harvest occurred in Federal public waters in 2007 or 2008 and the vast majority of commercial harvest occurred well away from traditional subsistence harvest areas yet subsistence adequate harvests were not obtained (in 2007 and likely in 2008). For example, **Figure 3** displays the relationship of the 2008 commercial harvest compared to the area that STA requested that ADF&G avoid commercial harvest.

Effects of the Proposal

This proposal would close the Federal public waters in the Makhnati Island area near Sitka to all uses of herring and herring spawn except for subsistence harvest by Federally qualified users. All rural residents of Alaska would be eligible to harvest herring and herring spawn for subsistence purposes, but there would be no sport or commercial harvest in Federal public waters.

A Federal closure of a fishery may only be exercised when it is necessary to conserve fish stocks or to continue subsistence uses. The Board determined in December of 2007 that there was no conservation concern with herring in this area at recent biomass levels and that closing Federal public waters to non-Federally qualified users may not be effective in benefiting subsistence users (FSB 2007b).

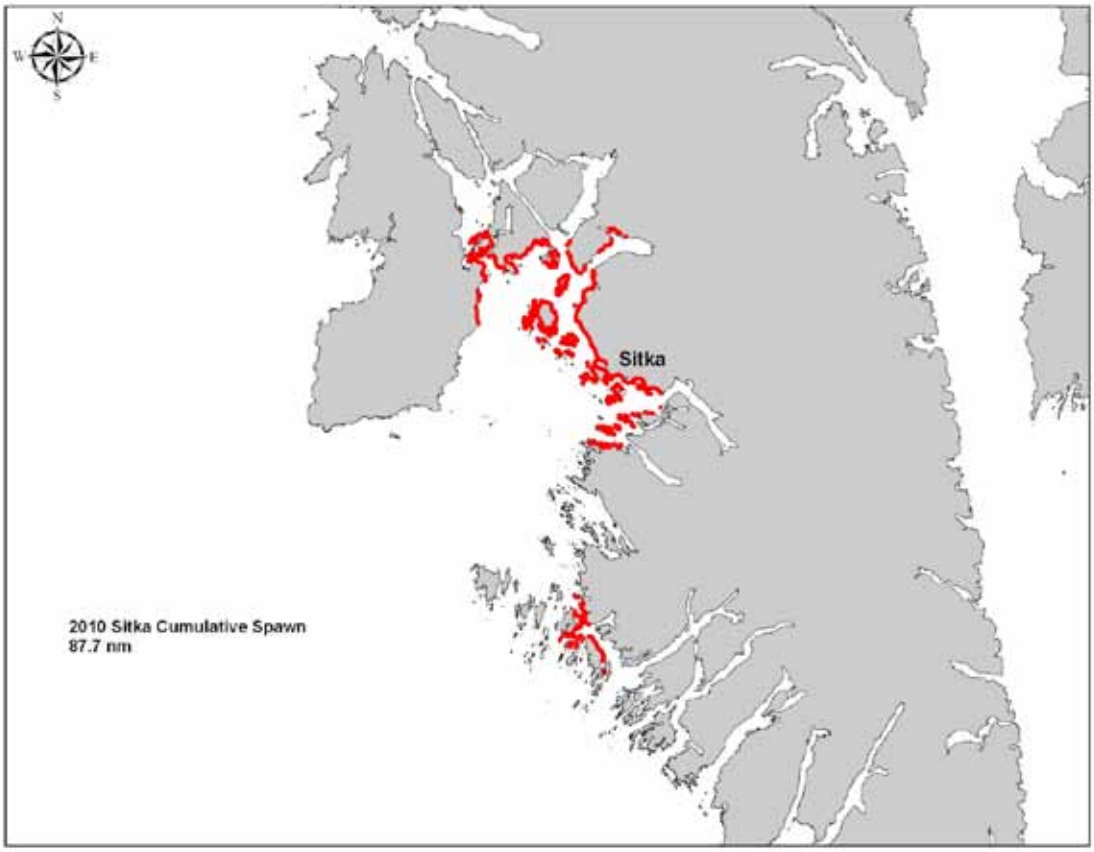

Figure 2. Cumulative spawn observed in 2010 (Coonradt 2010).

Table 1. Subsistence Harvest of Herring Roe on All Substrates, Sitka Sound (STA 2006 and Gordon 2010).

Year	Total Roe Harvest (lbs.)
1997	127,174
2002	151,717
2003	278,799
2004	381,226
2005	83,985
2006	219,356
2007	87,211
2008	71,936
2009	213,712
2010	Pending
Average	179,457

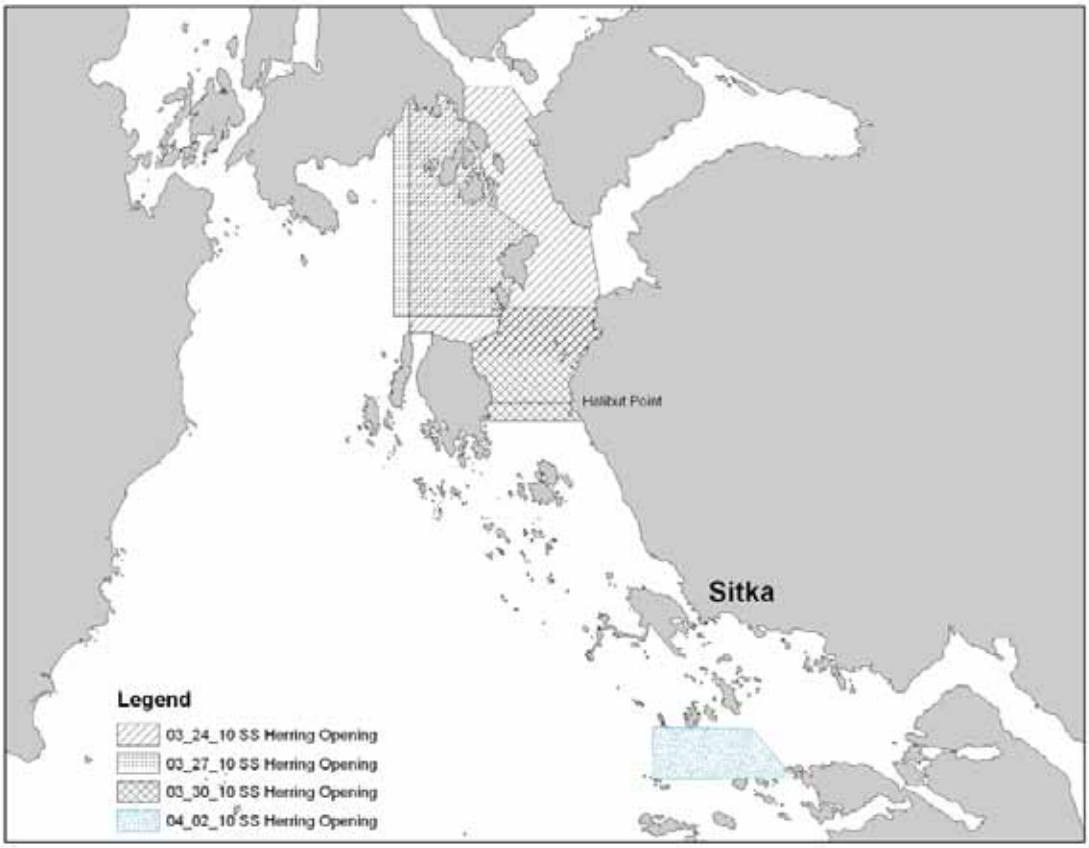

Figure 3. Location of the four commercial sac roe herring openings in 2010 (Coonradt 2010).

Federal fisheries managers have been delegated the authority to close or re-open Federal public waters to non-subsistence fishing. This delegation may be exercised only when it is necessary to conserve fish stocks or to continue subsistence uses. In-season action would be nearly impossible to justify by a Federal manager in this case. Although the ADF&G forecasts the herring biomass before the season starts, the actual return and spawning success of herring is not known until after the commercial and subsistence fisheries are completed. Since the commercial fishery takes place well before the subsistence fishery, managers would not know that the subsistence fishery was poor until long after the commercial fishery ended.

Adequate subsistence harvests were obtained in 2009 and likely in 2010. In years when subsistence harvests were less than adequate, it is unlikely that a closure to other users in Federal public waters would have made a difference. For example, in the Federal public waters in 2008, no commercial harvest occurred and the spawn deposition was extremely minimal; therefore, a closure would not have been effective. Spawn location is a prime factor affecting harvesters' success. Additionally, inclement weather, spawn timing, loss of sets, and the amount of participation by high harvesters are other likely contributors to subsistence harvesters not meeting their desired harvest level. The size of the stock, the conservative commercial harvest levels, and the effective dispersion of the commercial fishery necessitates identifying other factors responsible for subsistence harvesters not meeting their desired harvest level. Closing Federal marine waters, as is being requested, would do little to help Federally qualified users meet their desired harvest levels for herring.

Table 2. Sac Roe Herring Harvest and Herring Spawn Information, Sitka Sound (Gordon 2010).

Year	Forecast Biomass	Quota (tons)	Sac Roe Harvest (tons)	Roe Percent	*Estimated Escapement	Fishing Dates	Date of First Spawn	Nautical Miles Spawn
1971	-	750	278	8.3	4,798	-	6-Apr	9.0
1972	-	850	603	-	7,620	-	28-Apr	14.0
1973	-	600	537	8.5	5,645	-	11-Apr	10.0
1974	-	600	712	12	5,645	-	13-Apr	10.0
1975	6,400	550	1,484	11	4,516	-	18-Apr	8.0
1976	7,300	780	795	10.2	3,477	4/16	15-Apr	13.0
1977	5,650	0	0	-	5,904	-	8-Apr	11.0
1978	4,500	250	238	11	3,850	4/5	8-Apr	13.0
1979	20,300	2,000	2,559	9.3	23,144	4/12	13-Apr	41.0
1980	39,500	4,000	4,445	10.8	41,750	4/4, 4/5	3-Apr	63.0
1981	27,000	3,000	3,506	11.0	42,306	3/24, 3/26	22-Mar	60.0
1982	30,000	3,000	4,363	11.7	28,478	3/30	24-Mar	40.8
1983	32,850	5,500	5,416	11.1	33,673	3/26, 3/29	21-Mar	68.0
1984	30,550	5,000	5,830	11.1	41,628	3/26 - 3/28	21-Mar	65.0
1985	38,500	7,700	7,475	11.3	33,417	3/29, 4/1, 4/5	29-Mar	60.5
1986	30,950	5,029	5,443	11.9	27,025	4/2, 4/8	27-Mar	51.6
1987	24,750	3,600	4,216	9.9	45,133	3/31	21-Mar	86.0
1988	46,050	9,200	9,390	9.5	56,544	4/4 - 4/14	23-Mar	104.0
1989	58,500	11,700	11,831	9.4	33,052	3/31 - 4/8	19-Mar	65.5
1990	27,200	4,150	3,804	10.6	23,311	4/5 - 4/6	31-Mar	39.1
1991	22,750	3,200	1,838	8.9	30,693	4/10 - 4/13	1-Apr	44.5
1992	23,450	3,356	5,368	9.4	47,833	4/6	28-Mar	72.5
1993	48,500	9,700	10,186	10.7	25,702	3/27 - 4/3	24-Mar	55.3
1994	28,450	4,432	4,758	11.0	17,824	3/29, 3/31	28-Mar	58.1
1995	19,700	2,609	2,908	11.8	28,546	3/25, 3/27	21-Mar	37.3
1996	42,265	8,144	8,144	9.6	32,251	3/23. 3/31-4/8	22-Mar	45.6
1997	54,500	10,900	11,147	11.5	35,175	3/18-21, 23	19-Mar	41.0
1998	39,200	6,900	6,638	10.2	39,398	3/16,3/18,3/19	19-Mar	64.5
1999	43,600	8,476	9,217	10.7	47,226	3/22, 3/24, 3/26-27	22-Mar	59.5
2000	33,365	5,120	4,630	9.9	52,360	3/19, 3/22	19-Mar	54.5
2001	52,985	10,597	11,974	11.3	55,732	3/22, 3/26, 3/27	23-Mar	61.0
2002	55,209	11,042	9,788	10.9	71,358	3/27-4/15	24-Mar	42.6
2003	39,378	6,969	7,051	10.7	65,142	3/22,3/23,3/26	23-Mar	47.1
2004	53,088	10,618	10,490	10.8	78,546	3/21,3/25,3/27	27-Mar	79.8
2005	55,962	11,192	11,366	11.5	76,718	3/23,3/25,3/27-29	24-Mar	39.5
2006	52,059	10,412	9,967	10.5	79,580	3/24,3/26,3/27,3/29	23-Mar	57.4
2007	59,519	11,904	11,571	11.4	80,683	3/26,3/30,4/1,4/3	28-Mar	50.2
2008	87,715	14,723	14,386	11.5	90,102	3/25,3/26,3/31	27-Mar	55.3
2009	72,521	14,504	14,776	11.8	79,862	3/22,3/24,3/28,3/31,4/2	2-Apr	65.6
2010	91,467	18,293	17,874	12.5		3/24,3/27,3/30,4/2	30-Mar	87.7
Average 1971-2010	39,047	6,284	6,425	10.6	38,606			48.8

*Pre-1980 Estimated Escapement based on either hydroacoustic surveys or applying a conversion of approximately 450-500 tons/nm of spawn.

*1980 to present estimated escapement from current year ASA model

The Alaska Board of Fisheries took action to increase the minimum biomass threshold for conducting a commercial sac roe fishery from 20,000 to 25,000 tons. This action adds a measure of conservation if the biomass decreases. It has no effect currently since biomass levels are more than three times that amount. Formally adding Salisbury Sound to the commercial fishery area has little or no effect on subsistence users since no subsistence harvest of herring eggs occurs there. Additionally, the Salisbury Sound area has been part of the commercial Sac Roe fishery before this action so little change will result in how the fishery is prosecuted. The Alaska Board of Fisheries did raise the ANS range for the subsistence harvest of herring roe in recognition of historical use.

OSM PRELIMINARY CONCLUSION

Oppose Proposal FP09-05.

Justification

This proposal is effectively the same as the proposal considered by the Board in December of 2007. At that time the Board determined there was no conservation concern in this area for herring at recent biomass levels and that closing Federal public waters to non-Federally qualified users may not be effective in benefiting subsistence users. The biomass in Sitka Sound has been trending higher since 1971 with the highest estimated biomass forecast in 2010. There have been no restrictions on subsistence uses. No commercial harvest occurred in Federal public waters in 2007 through 2010 and the vast majority of commercial harvest was taken well away from Federal public waters and traditional subsistence harvest areas. Adequate subsistence harvests were obtained in 2009 and likely in 2010. In years when subsistence harvests were not adequate it is unlikely that a closure to other users in Federal public waters would have made a difference. Adoption of this proposal would result in an unnecessary closure to non-Federally qualified users.

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ADF&G Comments FP09-05
August 31, 2010 (update of December 2, 2008, comments to FSB), Page 1 of 3

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

FP09-05 deferred: Close Makhnati Island Area to herring harvest by non-federally qualified users.

Introduction: Proposal FP09-05[1] requests closure of marine waters of Makhnati Island and Whiting Harbor, which are subject to federal claims of jurisdiction, to harvest of herring by non-federally qualified users. The closure would only allow subsistence herring fishing by federally-qualified users and would bar state subsistence, sport, and commercial fisheries for herring or herring spawn in the area. The proposed closure area is not where the primary subsistence herring fishing has occurred, and commercial harvest rarely occurs in the area. In addition, no new information has been provided that would support the proposed closure.[2]

Impact on Subsistence Users: Adoption of this proposal would be potentially detrimental to subsistence fisheries, depending upon where and when herring spawn each year. The commercial fishery is managed to minimize harvests near heavily used subsistence areas. Actions by the Alaska Department of Fish and Game (Department) commercial fishery managers must be taken in a timely manner to be effective. The proposed closure would limit options for where a commercial fishery could occur, potentially resulting in adding a commercial fishery in other areas important to subsistence users. The proposed closure would also prohibit subsistence and sport harvest in this area by non-federally qualified individuals. A closure in this small area (560 acres) would have little or no impact on the total subsistence, sport, or commercial harvests.

Opportunity Provided by State: For the majority of subsistence herring egg harvest, the Department does not restrict fishing periods, seasons, or amounts of herring harvested for subsistence purposes in this area. Harvest of spawn on hemlock boughs or spawn on hair kelp is unrestricted, and no state permit is required. Post-season evaluation of subsistence harvest is accomplished by a harvest monitoring program conducted by Sitka Tribe of Alaska in cooperation with the Department's Division of Subsistence. The Alaska Board of Fisheries found that 105,000 to 158,000 pounds of herring spawn is the amount reasonably necessary for subsistence uses in Section 13-A and Section 13-B north of Aspid Cape. The Department requires a permit that may limit harvest of spawn on Macrocystis kelp and requires harvest reporting following the season. (*See* 5 AAC 01.730(g)) Harvest of spawn on Macrocystis kelp accounts for an average of only two percent of the subsistence harvest on all substrate types, so state requirements for spawn on kelp harvest is not a significant limitation.

The limited non-commercial exchange for cash of subsistence-harvested herring roe on kelp, harvested in Districts 1-16 under terms of a permit, is allowed as customary trade. The annual possession limit for spawn-on-kelp is 32 pounds for an individual and 158 pounds for a household of two or more people. The Department has authority to issue additional permits for herring spawn-on-kelp above the annual possession limit if harvestable surpluses are available. Commercial

[1] Proposal FP09-05 was deferred by the Federal Subsistence Board at its January 2009 meeting. FP09-05 was originally Proposal FP07-18, which was deferred by the Federal Subsistence Board at its January 2007 meeting, renumbered, and resubmitted for consideration at the Federal Board's December 2007 meeting, where it was rejected, 1-5.
[2] Information presented to the Southeast Regional Advisory Council meeting on September 24, 2008, did not provide evidence that closing Makhnati Island area to non-federally qualified users would meet the requirements of the Federal Subsistence Board's closure policy (i.e., necessary for conservation or provide subsistence uses).

herring vessels, permit holders, and crew members may not take or possess herring 72 hours prior to or following a commercial herring fishing period.

Conservation Issues: There are no conservation or management concerns for the Sitka Sound herring stock that potentially spawn in waters of the Makhnati area. From 1979 through present, the Sitka Sound herring resource has been above the current 20,000 ton threshold every year, with only one exception, and the run has averaged 75,342 tons per season in the five-year period (2003–2007). Herring are managed under a conservative management strategy that sets threshold biomass levels below which commercial harvest is not allowed and limits harvest rates to 10-20 percent of total mature spawning biomass. This is a time-proven strategy that provides for conservation of the resource. The area proposed for closure is so small that it is unlikely to provide conservation benefits above the threshold level and harvest rate, especially given the highly variable nature of herring spawning behavior.

Jurisdiction Issues: The Federal Subsistence Board does not have authority to close this area solely to commercial herring fishing as suggested by some closure proponents. Instead, the Federal Board would have to close the area to herring harvest by all non-federally qualified users, which would include all subsistence, personal use, sport, commercial, or other harvests occurring under state regulations. Such a closure is not necessary to provide for continued federal subsistence and would violate section 815 of ANILCA. Such a closure may also be detrimental to subsistence uses by unnecessarily limiting options for management of commercial fisheries and, thereby, potentially increasing impacts to areas that are more important as subsistence use areas.

Other Issues: Herring biomass in Sitka Sound has shown a long-term increase and is considered healthy. The 55.3 total nautical miles of spawn in Sitka Sound in 2008 was consistent with the 2003-2007 recent five-year average of 54.8 nautical miles and above the long-term (1964-2007) average of 42.4 nautical miles. The estimated average spawning biomass from 1964-2007 is estimated at 30,617 tons, and the five-year average spawning biomass (2003–2007) is estimated at 75,342 tons. The spawning biomass after the 2008 fishery, as estimated by spawn deposition surveys, was 90,100 tons which was a record high level. In contrast to the 2007 spawning event, in 2008 a significant portion of the biomass spawned on Kruzof Island shoreline on the west side of Sitka Sound. The Kruzof Island shoreline is not considered a viable opportunity for setting subsistence branches due to the distance from town, exposure to ocean surge, and generally unfavorable shoreline structure for setting branches. Significant spawning also occurred along islands near the road system, including heavily used subsistence areas of Kasiana and Middle Islands. Unlike the 2007 season, very limited spawning occurred within the federally claimed waters of Makhnati Island in 2008. During the 2008 season, bad weather generally did not impact subsistence users from accessing fishing sites, and commercial harvests during the 2008 season occurred well away from the Makhnati area. The 2008 commercial sac roe Guideline Harvest Level (GHL) of 14,723 tons was harvested on three separate days. Two openings occurred March 25, harvesting 1,147 tons in an area over 4 nautical miles distant from the Makhnati area. On March 26, two one-half hour openings occurred harvesting 9,380 tons. The fishery boundaries for the March 26, 2008, openings were just over 3 nautical miles from the Makhnati area, though the actual harvesting occurred over 7 nautical miles west on Kruzof Island shoreline. The third opening

occurred March 31 harvesting 3,973 tons with the nearest open waters being 5.5 miles distance from the Makhnati area.[3]

The 2009 herring biomass in Sitka Sound forecast was 72,521 tons. The commercial fishery GHL was 14,504 tons resulting in a commercial harvest of 14,776 tons taken during 5 openings. The spawning biomass after the 2009 fishery, as estimated by spawn deposition surveys, was 96,170 tons which again was a record high level. Spawn was recorded from April 2 through April 22. Total recorded spawn was 65.5 nautical miles with peak spawning of 38.7 nautical miles of active spawn on April 10, 2009. An estimated 1.7 nautical miles of spawn occurred within the Makhnati area. No commercial fisheries occurred within the Makhnati area.

The 2010 herring biomass forecast was 91,467 tons. The commercial GHL was 18,293 tons resulting in a commercial harvest was 17,874 tons taken during 4 openings. The spawning biomass after the 2010 fishery, as estimated by spawn deposition surveys, is not available at this time. Spawn was recorded from April 2 through April 13. Total recorded spawn was 87.7 nautical miles with peak spawning of 49 nautical miles of active spawn on April 10. An estimated 3.0 nautical miles of spawn occurred within the Makhnati area. No commercial fisheries occurred within the Makhnati area. Permits for subsistence spawn on kelp do not provide information on location of harvest and there are no permits for subsistence branch harvests, thus information for subsistence harvests within the Makhnati area is not available.

Recommendation: Oppose.

[3] Further information about recent commercial fisheries management of Sitka Sound herring stocks was included in the Department comments for Proposal FP08-18, at pages 272-274 of the December 12, 2007, Federal Board meeting materials and the Federal Board December 12, 2007, meeting transcripts (pages 92-200).

FP09-15 (Deferred) Executive Summary			
General Description	Proposal FP09-15 requested that a "no Federal subsistence priority" customary and traditional use determination be made for all fish in the Juneau road system area (all waters crossed by or adjacent to roads connected to the City and Borough of the Juneau road system). In January 2009, the Federal Subsistence Board deferred Proposal FP09-15 to allow time to develop an analysis of the customary and traditional uses of fish in Districts 11 and 15. *Submitted by the Alaska Department of Fish and Game*		
Proposed Regulation	***District 11—Juneau Road System Area (all waters crossed by roads connected to the City and Borough of Juneau)***	***All fish***	***No Federal subsistence priority***
	District 15—Juneau Road System Area (all waters crossed by roads connected to the City and Borough of Juneau)	***All fish***	***No Federal subsistence priority***
	Remainder of the Southeastern Alaska Area	*Dolly Varden, trout, smelt, and eulachon*	*Residents of Southeastern Alaska and Yakutat areas.*
	Remainder of the Southeastern Alaska Area	*All other fish*	*No determination—all rural Alaska residents*
OSM Preliminary Conclusion	**Support** Deferred Proposal FP09-15 **with modification** to address customary and traditional use determinations for all fish in Districts 11 and 15 and to define the area the "No Federal Subsistence Priority" applies to within the Juneau road system area as the Juneau road system within the Juneau Nonrural Area. *See the analysis for the modified regulation language.*		
Southeast Regional Council Recommendation			
ADF&G Comments	**Support**		
Written Public Comments	**None**		

DRAFT STAFF ANALYSIS--REVISED
DEFERRED FP09-15

ISSUES

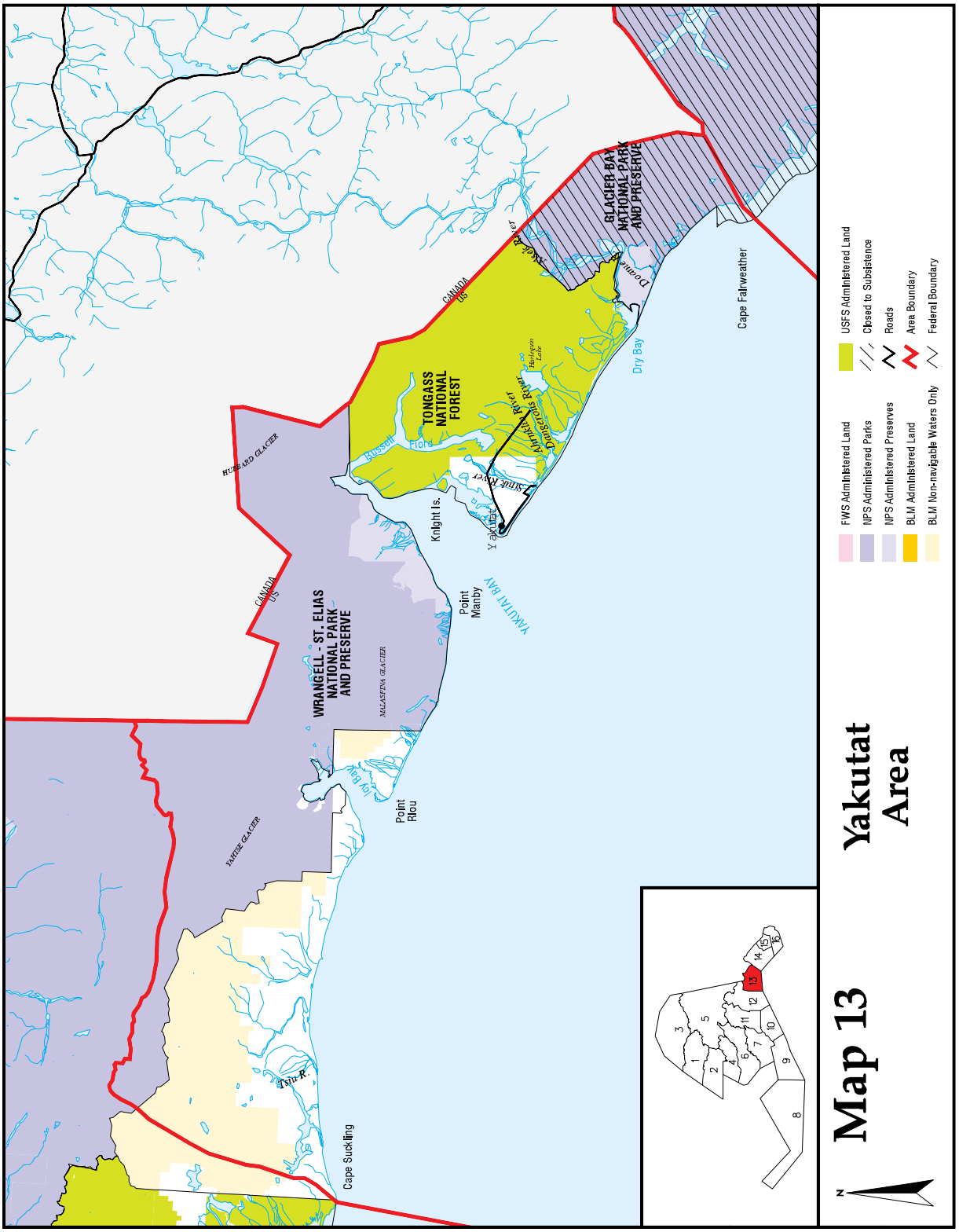
Proposal FP09-15, submitted by the Alaska Department of Fish and Game (ADF&G), requested that a "no Federal subsistence priority" customary and traditional use determination be made for all fish in the Juneau road system area (all waters crossed by or adjacent to roads connected to the City and Borough of the Juneau road system). In January 2009, the Federal Subsistence Board (Board) deferred Proposal FP09-15 to allow time to develop an analysis of the customary and traditional uses of fish in Districts 11 and 15.

DISCUSSION

Proposal FP09-15 is the second proposal submitted by ADF&G to address its request for a "no subsistence priority" for the Juneau road system area. Their initial request for a "no Federal subsistence priority" determination for the Juneau road system area (FP08-04) was rejected by the Board. ADF&G subsequently submitted Proposal FP09-15 because, in its view, the Board did not evaluate the eight factors describing customary and traditional use for each fish stock used by specific rural communities when considering Proposal FP08-04. At its January 2009 meeting, the Board deferred Proposal FP09-15, and directed that an analysis be developed that examined customary and traditional uses of fish by rural residents of Districts 11 and 15 in all of Districts 11 and 15, rather than just the Juneau road system area (FSB 2009a:123-125).

Southeast Alaska consists of two different fisheries management areas: (1) the Southeastern Alaska Area and (2) the Yakutat Area (see **Southeastern Alaska Area and Yakutat Area Maps**). The Juneau road system area is within fishing Districts 11 and 15 (**Map 1**). Currently, all rural residents of Southeastern Alaska and Yakutat areas are included in the customary and traditional use determinations for Dolly Varden, trout, smelt, and eulachon for Districts 11 and 15. No determination has been made for salmon in Districts 11 and 15; therefore all rural residents of Alaska may harvest salmon under Federal subsistence regulations. Districts 11 and 15 currently are in the "remainder of the Southeastern Alaska Area" in the regulations. The proposal removes these districts as well as the Juneau road system out of the remainder area.

The populated area of the Juneau road system area is designated as nonrural under the Federal Subsistence Management Program. The Juneau Nonrural Area includes the communities of Douglas and Auke Bay. However, the nonrural area does not extend the entire length of the road north of Juneau (**Map 1**). As a result of the nonrural designation, Juneau residents are not eligible to harvest fish and wildlife under Federal subsistence regulations. As is true of all state residents, however, they may fish the streams of the Juneau road system under sport fishing regulations. The Juneau road system has expanded in recent years, continues to expand, and has the potential for expansion to the Haines/Skagway area. For this reason, a boundary needs to be delineated as to what constitutes "the Juneau road system."


Map 13
Yakutat Area
FWS Administered Land
NPS Administered Parks
NPS Administered Preserves
BLM Administered Land
BLM Non-navigable Waters Only
USFS Administered Land
Closed to Subsistence
Roads
Area Boundary
Federal Boundary
GLACIER BAY NATIONAL PARK AND PRESERVE
TONGASS NATIONAL FOREST
WRANGELL - ST. ELIAS NATIONAL PARK AND PRESERVE
CANADA
US
HUBBARD GLACIER
MALASPINA GLACIER
YAHTSE GLACIER
Russell Fiord
Knight Is.
Yakutat
Point Manby
YAKUTAT BAY
Point Riou
Cape Suckling
Cape Fairweather
Dry Bay
Doame
Tsiu R.
Ahrnklin River
Dangerous River
Stink River
Harlequin Lake
Aisek River
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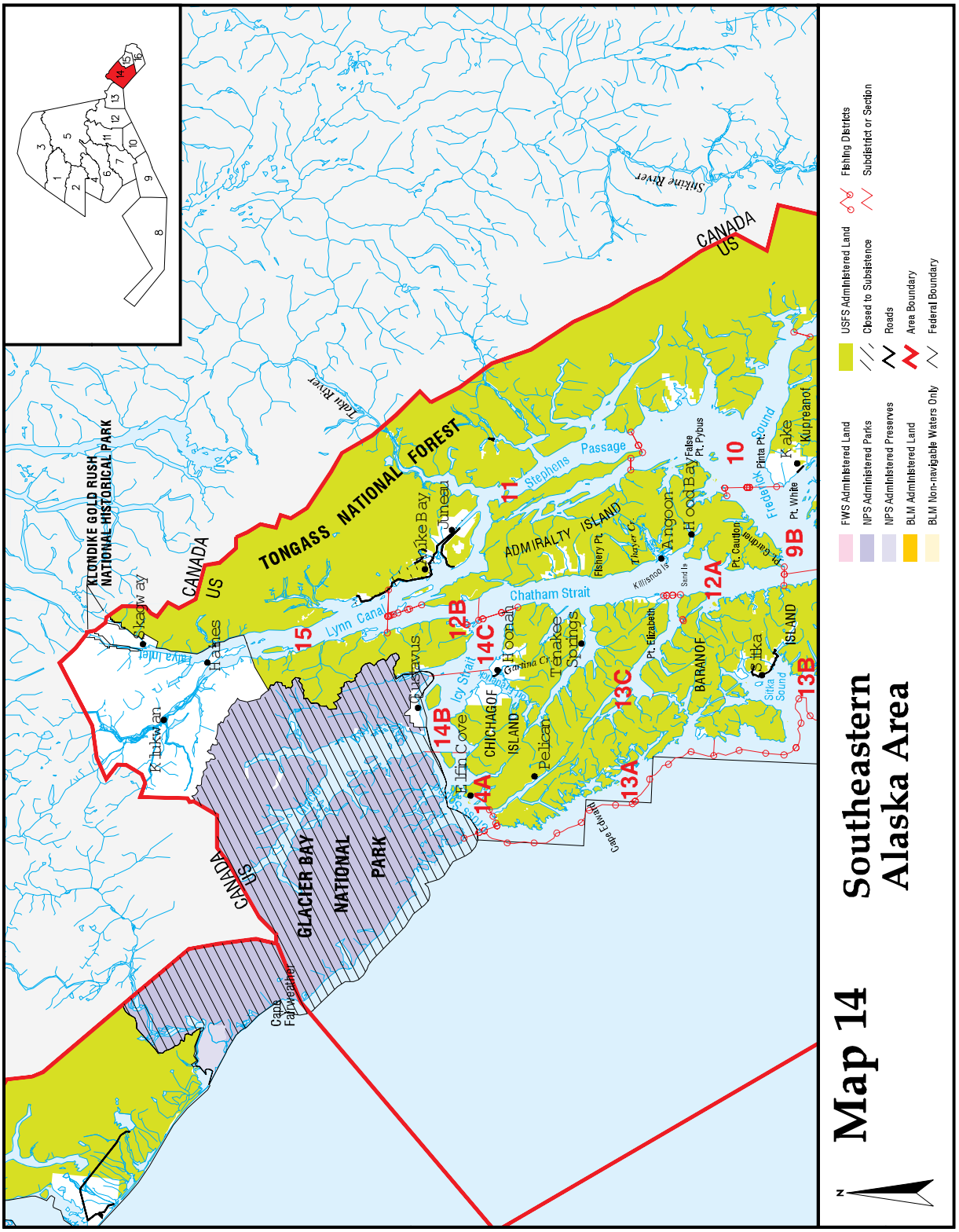
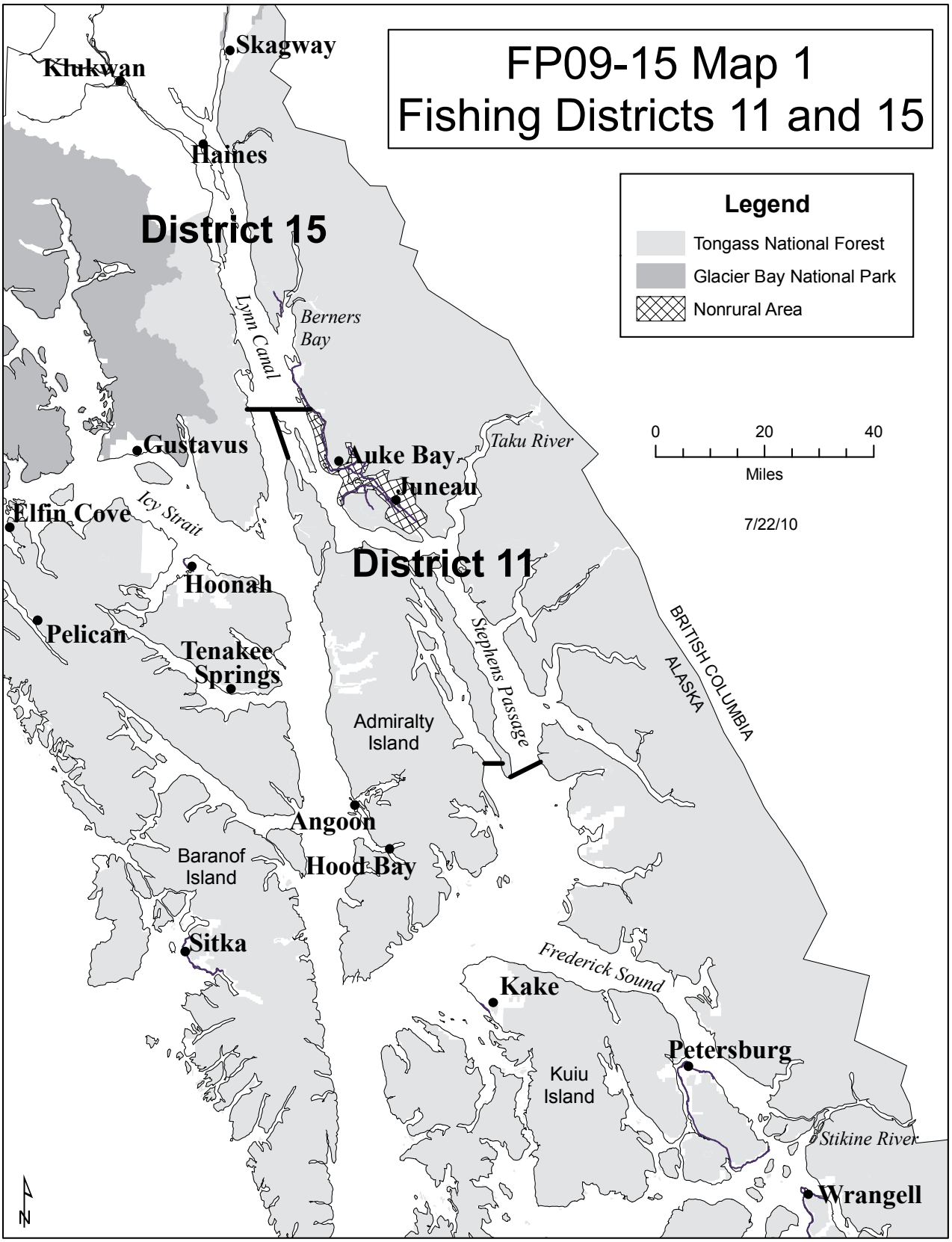

Map 14
Southeastern Alaska Area
FWS Administered Land
NPS Administered Parks
NPS Administered Preserves
BLM Administered Land
BLM Non-navigable Waters Only
USFS Administered Land
Closed to Subsistence
Roads
Area Boundary
Federal Boundary
Fishing Districts
Subdistrict or Section
TONGASS NATIONAL FOREST
GLACIER BAY NATIONAL PARK
KLONDIKE GOLD RUSH NATIONAL HISTORICAL PARK
CANADA
US
Taku River
Stikine River
Stephens Passage
ADMIRALTY ISLAND
Chatham Strait
Lynn Canal
Icy Strait
CHICHAGOF ISLAND
BARANOF ISLAND
Sitka Sound
Frederick Sound
Skagway
Haines
Klukwan
Juneau
Mike Bay
Gustavus
Hoonah
Tenakee Springs
Pelican
Elfin Cove
Angoon
Hood Bay
Kake
Kupreanof
Sitka
Cape Fairweather
Cape Edward
Pt. Elizabeth
Pt. Caution
Pt. White
Pt. Pybus
False
Fishery Pt.
Thayer Cr.
Killisnoo Is
Sand Is
Pinta Pt.
Gartina Cr.
Kalya Inlet
15
14A
14B
14C
13A
13B
13C
12A
12B
11
10
9B


FP09-15 Map 1
Fishing Districts 11 and 15
Legend
Tongass National Forest
Glacier Bay National Park
Nonrural Area
0
20
40
Miles
7/22/10
District 15
District 11
Skagway
Klukwan
Haines
Lynn Canal
Berners Bay
Gustavus
Auke Bay
Juneau
Taku River
Icy Strait
Elfin Cove
Hoonah
Pelican
Tenakee Springs
Stephens Passage
BRITISH COLUMBIA
ALASKA
Admiralty Island
Angoon
Hood Bay
Baranof Island
Sitka
Frederick Sound
Kake
Petersburg
Kuiu Island
Stikine River
Wrangell
N

Existing Federal Regulations

Southeastern Alaska Area—All fish—Customary and traditional use determinations

Remainder of the Southeastern Alaska Area	*Dolly Varden, trout, smelt, and eulachon*	*Residents of Southeastern Alaska and Yakutat areas.*
Remainder of the Southeastern Alaska Area	*All other fish*	*No determination—all rural Alaska residents*

Proposed Federal Regulations

Southeastern Alaska Area—All fish—Customary and traditional use determinations

District 11—Juneau Road System Area (all waters crossed by roads connected to the City and Borough of Juneau)	***All fish***	***No Federal subsistence priority***
District 15—Juneau Road System Area (all waters crossed by roads connected to the City and Borough of Juneau)	***All fish***	***No Federal subsistence priority***
Remainder of the Southeastern Alaska Area	*Dolly Varden, trout, smelt, and eulachon*	*Residents of Southeastern Alaska and Yakutat areas.*
Remainder of the Southeastern Alaska Area	*All other fish*	*No determination—all rural Alaska residents*

Extent of Federal Public Waters

For purposes of this discussion, the phrase "Federal public waters" is defined as those waters described under 50 CFR 100.3 and 36 CFR 242.3. All fresh waters on the Juneau road system area are within the exterior boundaries of the Tongass National Forest and are considered Federal public waters.

Background

Proposal FP09-15 focused on the Juneau road system area, an area situated within fishing Districts 11 and 15, and estimated to account for less than 10% of the area encompassed by these two fishing districts (**Map 1**). Federal subsistence fishing permits for salmon/trout have been in place for the Juneau road system area since 2002 and steelhead permits were established in 2005. The fisheries are closely monitored and management issues have been addressed by permit conditions such as increased minimum size limits and restricted methods and means. Permits conditions are determined by the local Federal fisheries manager in consultation with ADF&G (§____.27(i)(13)(xx)(A)) (SERAC 2005:290). As of May 2010, no fish have been reported harvested from the Juneau road system area with Federal permits (Reeves 2010, pers. comm.). All harvests from the Juneau road system have been with a State sport fishing license.

Regulatory History

In the late 1980s, the State of Alaska Joint Boards of Fisheries and Game made customary and traditional use determinations that applied to individual communities and specific fish species in particular geographic areas (FWS 2007:155). At that time, 12 Southeast Alaska communities—Angoon, Craig, Haines, Hoonah, Hydaburg, Kake, Kasaan, Klawock, Klukwan, Saxman, Sitka, and Yakutat—were recognized as having a customary and traditional pattern of use of various fish species in Southeast Alaska. The Joint Boards did not make positive determinations for 17 other rural communities: Coffman Cove, Edna Bay, Elfin Cove, Gustavus, Hollis, Hyder, Meyers Chuck, Pelican, Petersburg, Point Baker, Port Alexander, Port Protection, Skagway, Tenakee Springs, Thorne Bay, Whale Pass, and Wrangell, or for any residents of the region living outside the boundaries of any organized community.

In 1998, the Federal Subsistence Board adopted the State's customary and traditional use determinations for fish (63 FR 124, 35343–35344, June 29, 1998) and then modified them to include, at the request of the Southeast Alaska Subsistence Regional Advisory Council (Council), all species of salmon, Dolly Varden, trout, smelt, and eulachon (64 FR 5, 1300–1301, January 8, 1999). As a consequence, customary and traditional use determinations for specific species of fish were adopted in all or portions of Districts 1, 2, 3, 5, 9, 10, 12, 13, and 14, but no specific determinations were made for Districts 4, 6, 7, 8, 11, and 15—which are in the *remainder* area. Thus, in the remainder area of the Southeastern Alaska Area, all rural residents of Alaska are eligible to harvest fish under Federal subsistence regulations.

In 2000, Proposal FP01-22 requested that the customary and traditional use determinations for cutthroat trout, rainbow trout, and Dolly Varden be expanded to include all rural residents of Southeast Alaska, for the Southeastern Alaska Area geographically—as well as changes to methods, seasons, and harvest limits for these species (FSB 2000a:13). The Council recommended expanding the determination to include trout, Dolly Varden, smelt and eulachon and to include all of Southeast Alaska (SERAC 2000:178). In response, the Board expanded the customary and traditional use determination to include trout, Dolly Varden, smelt, and eulachon, but only to "the *remainder* area" of the Southeastern Alaska Area (FSB 2000b:4–15; 66 FR 30, 10146–101147). In doing so, a Board member reasoned that:

> *…retention of the existing customary and traditional use determinations would maintain opportunity for eligible subsistence users while the addition of the remainder area would recognize the uses of other eligible subsistence users until a review of existing information could be conducted to further refine the relationships between communities or areas and their uses of fish…* (FSB 2000a:7)

In 2005, Proposal FP06-31 was submitted to remove the area-wide Federal subsistence fishing regulations for steelhead, cutthroat trout, and Dolly Varden in streams on or adjacent to the Juneau road system area and replace them with State of Alaska sport fishing regulations. The stated impetus for the proposal was conservation concerns (SERAC 2005:304). At its January 2006 meeting, the Board rejected this proposal (71 FR 60, 15570, March 29, 2006).

In 2007, Proposal FP08-04 was submitted by ADF&G requesting that a "no Federal subsistence priority" determination be made for customary and traditional use of fish for the Juneau road system area. The proponent was concerned that fish stocks in Juneau area streams could be adversely affected if even a few Federally qualified rural residents chose to travel to Juneau and subsistence fish on the Juneau road system (FSB 2007:175). The Council stated that there was "no information presented that indicated that subsistence fishing in the Juneau area waters was inappropriate. . . . No need was seen to make a location-specific customary and traditional use determination for the Juneau road system" (FSB 2007:174). At its December 2007 meeting, the Board agreed with the Council and rejected this proposal (73 FR 51, 13763,

March 14, 2008). Subsequent to the Board's decision, ADF&G requested that the Board reconsider and rescind its action to reject FP08-04. At its meeting in July 2009, the Board rejected the request for reconsideration, concluding that none of the claims raised by ADF&G in its request warranted further consideration (FSB 2009a:6–10).

Based on comments made regarding Proposal FP08-04, the ADF&G submitted Proposal FP09-15. At its fall 2008 meeting, the Council recommended the Board reject Proposal FP09-15 (SERAC 2008:202–236). In explaining its recommendation, the Chair of the Council told the Board that:

> "*. . . the Council determined that subsistence fishing in the Juneau area waters was appropriate and would not result in a conservation concern for any species. The proposal would not affect nonsubsistence users, but would be potentially detrimental to subsistence users. There was no evidence presented that a conservation concern currently exists or would potentially exist in the future. . . .The narrow interpretation of the eight criteria was described by the State; we don't believe it's very valid. The Council interprets the regulation more boldly and agrees that there is sufficient evidence to support the continued customary and traditional use of this area by rural residents (FSB 2009b:91).*

In January 2009, the Board deferred the proposal. In making the motion to defer, a Board member noted that:

> *I make a motion… to defer this [Proposal FP09-15]… in opposition to the Southeast Alaska Regional Advisory Council's recommendation. But, considering all the dialogue we've had today, there are still questions and I still think that being able to look at a C&T of 11 and 15, which includes the Juneau area, … there's a reason to take a look at this … I think it's worth doing … (FSB 2009b:120).*

Community Characteristics

Studies show that fish are harvested for subsistence in Districts 11 and 15 by residents of Skagway, Klukwan, Haines, Tenakee Springs, Petersburg, and Wrangell (summarized in **Tables 1, 2, and 3 and Maps 2 and 3**). No evidence could be found for subsistence harvests of fish in Districts 11 or 15 by residents of the nearby communities of Hoonah, Gustavus, Excursion Inlet, and Angoon. Therefore this analysis only addresses the subsistence uses of fish for Skagway, Klukwan, Haines, Tenakee Springs, Petersburg, and Wrangell in Districts 11 and 15.

Historical Overview

The areas around each community in the region were originally occupied by Tlingit, either in established villages, semi-permanent villages, or seasonal camps (**Map 4**). In the eighteenth century, Russian explorers and colonizers entered Alaska from the west establishing settlements in the Aleutian and Kodiak Islands. The first Russian settlement in Southeast was the outpost at Yakutat in 1795, followed by the major settlement at Sitka in 1799 (Schroeder and Kookesh 1988:15). Attracted by the sea otter trade, Russians had limited influence on the Tlingit largely because they were unable to conquer them outside of Sitka (Schroeder and Kookesh 1988:15). Sea otters were reaching depletion at the time of the sale of Alaska to the U.S. in 1867 (George and Bosworth 1988:15).

Other settlers began arriving in the region for the purposes of mining, missionary work, and whaling (George and Bosworth 1988:15). When gold was discovered in the Klondike, Yukon Territory, in the 1890s, Skagway was at a major route into the Interior and the gold fields. Settlers began arriving in large

Table 1. Population of selected Southeast Alaska communities (2006 population, ADOL 2007; Origin, USDA 1997; and 2000 population, USDC 2007a).

Community	Origin	2000 Population	2006 Population
Skagway City	Traditional Tlingit	862	854
Klukwan CDP[1]	Traditional Tlingit	139	112
Haines Borough[2]	Traditional Tlingit	2,392	2,241
Tenakee Springs City	Settled in 1916	104	109
Juneau City and Borough	Settled in 1880	30,711	30,650
Petersburg City	Settled in 1899	3,224	3,129
Wrangell City	Traditional Tlingit	2,308	1,911

[1] CDP = Census Designated Place. The U.S. Census Bureau creates CDPs as counterparts of incorporated places. The boundaries of a CDP usually follow visible features or the boundary of an adjacent incorporated place.

[2] The City of Haines dissolved in October 2003 in favor of a boroughwide government.

numbers beginning in the 1880s with the establishment of salmon canneries in Southeast Alaska. The commercial salmon fishing industry continues to be the economic mainstay of the regional economy. When a salmon cannery was constructed, people from established communities often stayed at sites near canneries seasonally in temporary structures, some of which became permanent communities (Smythe 1988:21). Communities also came together around established schools. Fox farming added to the economy beginning in the 1920s and continued into the 1940s, when demand dropped off after World War II (Smythe 1988:26). Large scale logging began in the 1960s (Smythe 1988:21).

In the 1880s, canneries often acknowledged Tlingit clan rights in some drainages, and some canneries made payment for the right to fish in owned streams, but this practice was discontinued early in the history of the industry (George and Bosworth 1988:29–30). Over-harvesting with seines and fish traps depleted many salmon runs by the late 1930s. Commercial salmon traps, fisheries, and canneries were followed by fisheries for halibut and herring for bait, and later salted herring, red king crab beginning in the 1950s, and black cod in the 1930s and 1950s. In 1925 there was a commercial fishery for Dolly Varden (Smythe 1988:25). The introduction of large cold storage facilities at communities with room for large buying scows, in Petersburg for example, further expanded fisheries.

Community Descriptions

This section provides brief descriptions of the rural communities whose residents harvest fish in Districts 11 and 15—not specifically in the Juneau road system area—as documented in numerous studies (Betts 1994; Betts et al. 1999a, 1999b, 1999c, 1999d; Goldschmidt and Haas 1998; and Paige 2002). The Juneau area is not under consideration in this analysis because it is nonrural and residents are not eligible to harvest fish under Federal subsistence regulations. They may, however, harvest fish under State sport fishing regulations, as may all residents of Southeast Alaska.

Skagway

Skagway, located in District 15, is situated on the mainland at the extreme northern end of Lynn Canal, where the Skagway and Taiya rivers enter Taiya Inlet, approximately 15 miles north of Haines (**Map 1**) (Paige 2002:291). The location of Skagway was once the site of a Chilkat Tlingit village (Betts et al. 2000; Goldschmidt and Haas 1998:32) (**Map 5**). Other seasonal camps and smokehouses existed along the Skagway River, an area encompassed by Unit 1D. Chilkat Tlingit controlled this area that

Table 2. The estimated harvest of salmon for home use, by community, most recent harvest surveys (ADF&G 2007; Paige 2002).

	Estimated Total					
Species	**Number**	**Pounds**	**Per Household Number**	**Per Person Number**	**Per Household Pounds**	**Per Person Pounds**
Skagway 1987 (N=296)						
Salmon	2,011	10,291	9.9	3.5	50.5	17.7
Chum Salmon	333	2,063	1.6	0.6	10.1	3.5
Coho Salmon	282	2,168	1.4	0.5	10.6	3.7
Chinook Salmon	187	2,866	0.9	0.3	14.1	4.9
Pink Salmon	955	2,100	4.7	1.6	10.3	3.6
Sockeye Salmon	254	1,094	1.3	0.4	5.4	1.9
Klukwan 1996 (N=32)						
Salmon	5,460	29,715	151.7	50.6	825.4	275.1
Chum Salmon	1,008	6,975	28.0	9.3	193.8	64.6
Coho Salmon	690	3,753	19.2	6.4	104.3	34.8
Chinook Salmon	154	1,958	4.3	1.4	54.4	18.1
Pink Salmon	29	63	0.8	0.3	1.8	0.6
Sockeye Salmon	3,579	16,965	99.4	33.1	471.3	157.1
Haines 1996 (N=92)						
Salmon	22,937	125,619	29.1	10.6	159.6	57.8
Chum Salmon	2,957	20,463	3.8	1.4	26.0	9.4
Coho Salmon	3,754	20,420	4.8	1.7	26.0	9.4
Chinook Salmon	1,398	17,727	1.8	0.6	22.5	8.2
Pink Salmon	1,279	2,789	1.6	0.6	3.5	1.3
Sockeye Salmon	13,549	64,220	17.2	6.2	81.6	29.6
Tenakee Springs 1987 (N=31)						
Salmon	964	4,671	21.9	10.2	106.2	49.3
Chum Salmon	59	364	1.3	0.6	8.3	3.8
Coho Salmon	178	1,371	4.1	1.9	31.2	14.5
Chinook Salmon	89	1,357	2.0	0.9	30.8	14.3
Pink Salmon	555	1,222	12.6	5.9	27.8	12.9
Sockeye Salmon	83	358	1.9	0.9	8.1	3.8
Petersburg 2000 (N=125)						
Salmon	25,192	177,210	23.5	8.6	165.6	60.2
Chum Salmon	1,566	10,873	1.5	0.5	10.2	3.7
Coho Salmon	5,958	31,214	5.6	2.0	29.2	10.6
Chinook Salmon	9,056	106,222	8.5	3.1	99.3	36.1
Pink Salmon	4,828	12,018	4.5	1.6	11.2	4.1
Sockeye Salmon	3,784	16,883	3.5	1.3	15.8	5.7
Wrangell 2000 (N=98)						
Salmon	6,990	50,022	9.4	3.6	67.0	25.5
Chum Salmon	252	1,746	0.3	0.1	2.3	0.9
Coho Salmon	1,753	9,185	2.4	0.9	12.3	4.7
Chinook Salmon	2,424	28,430	3.2	1.2	38.1	14.5
Pink Salmon	389	968	0.5	0.2	1.3	0.5
Sockeye Salmon	2,172	9,694	2.9	1.1	13.0	5.0

Table 3. The estimated harvest and use of eulachon, Dolly Varden, cutthroat trout, rainbow trout, and steelhead[1] for home use, by community, most recent harvest surveys (ADF&G 2007, Paige 2002).

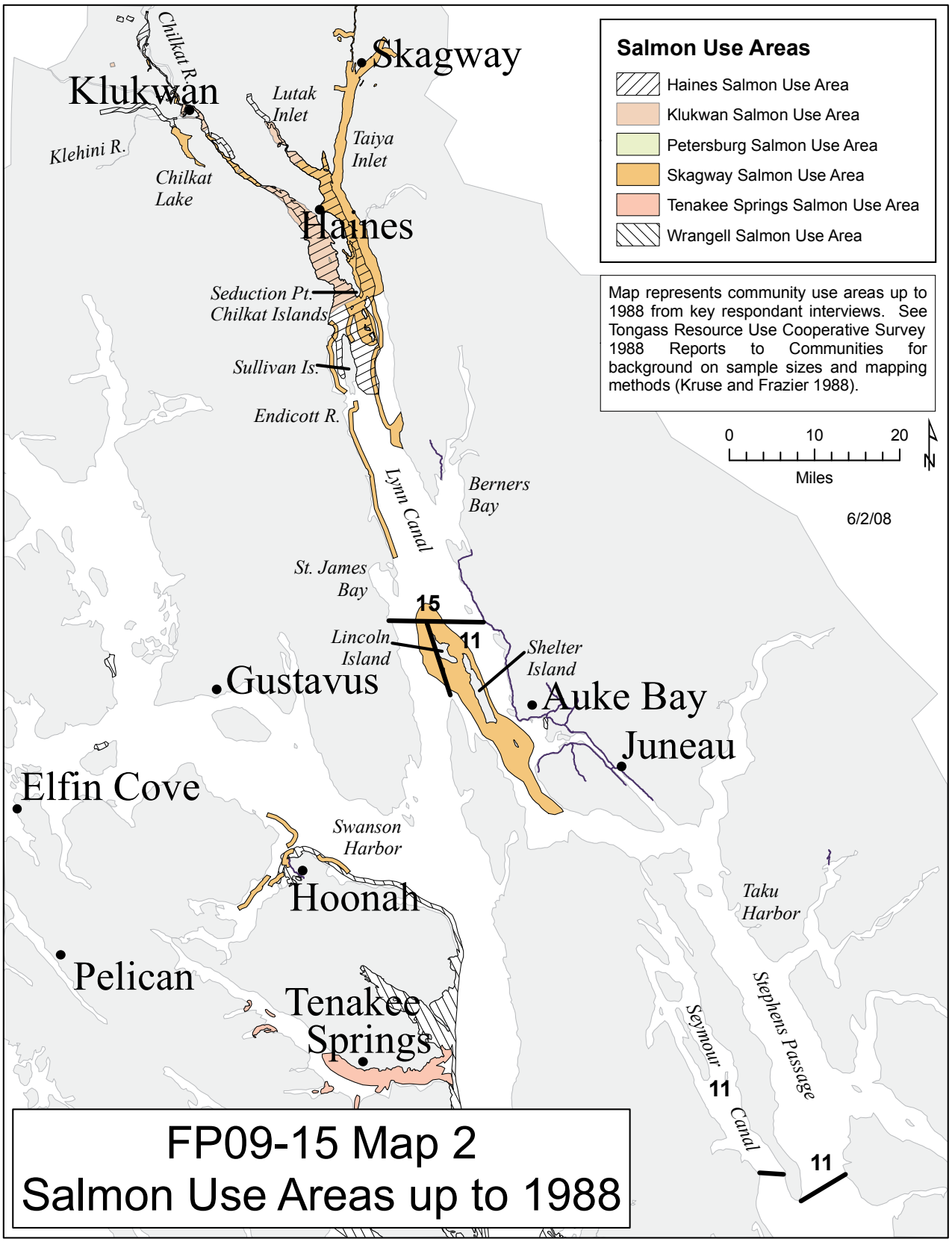
	Percentage of Households				Estimated Number Harvested			Estimated Pounds Harvested		
Species	Using (%)	Harvesting (%)	Receiving (%)	Giving (%)	Total	Per House-hold	Per Person	Total	Per House-hold	Per Person
Skagway 1987[a]										
Eulachon	8%	6%	3%	3%	1512	7.4	2.6	189	0.9	0.3
Dolly Varden	39%	24%	16%	7%	1,132	5.5	1.9	3,057	15.0	5.3
Klukwan 1996										
Eulachon	81%	61%	58%	58%	211,104	5,861.0	1,951.0	26,390	733.1	236.7
Dolly Varden	61%	58%	36%	48%	386	10.7	3.6	1,041	28.9	9.3
Cutthroat Trout	16%	16%	10%	13%	69	1.9	0.6	103	2.9	0.9
Rainbow Trout	16%	13%	10%	10%	58	1.6	0.5	116	3.2	1.0
Steelhead	7%	3%	3%	0%	1	0.0	0.0	10	0.3	0.1
Haines 1996										
Eulachon	40%	29%	14%	16%	858,960	1,094.0	396.0	107,371	136.3	49.9
Dolly Varden	47%	37%	14%	10%	6,507	8.3	3.0	17,570	22.3	8.2
Cutthroat Trout	18%	17%	1%	2%	856	1.1	0.4	1,284	1.6	0.6
Rainbow Trout	3%	2%	1%	0%	203	0.3	0.1	407	0.5	0.2
Steelhead	8%	5%	2%	1%	59	0.1	0.0	504	0.6	0.2
Tenakee Springs 1987[a]										
Dolly Varden	39%	32%	10%	19%	471	10.7	5.0	1,272	28.6	13.4
Petersburg 2000										
Dolly Varden	17%	15%	3%	5%	2,448	2.3	0.8	6,610	6.2	2.2
Cutthroat Trout	17%	15%	3%	3%	1,267	1.2	0.4	1,900	1.8	0.6
Steelhead	3%	2%	2%	0%	265	0.2	0.1	2,256	2.1	0.8
Wrangell 2000										
Eulachon	5%	1%	4%	1%	7,622	10.2	3.9	1,906	2.6	1.0
Dolly Varden	9%	7%	2%	2%	899	1.2	0.5	2,429	3.3	1.2
Cutthroat Trout	30%	24%	9%	9%	3,964	5.3	2.0	5,946	8.0	3.0
Rainbow Trout	10%	8%	3%	4%	907	1.2	0.5	1,814	2.4	0.9
Steelhead	16%	4%	13%	8%	107	0.1	0.1	907	1.2	0.5

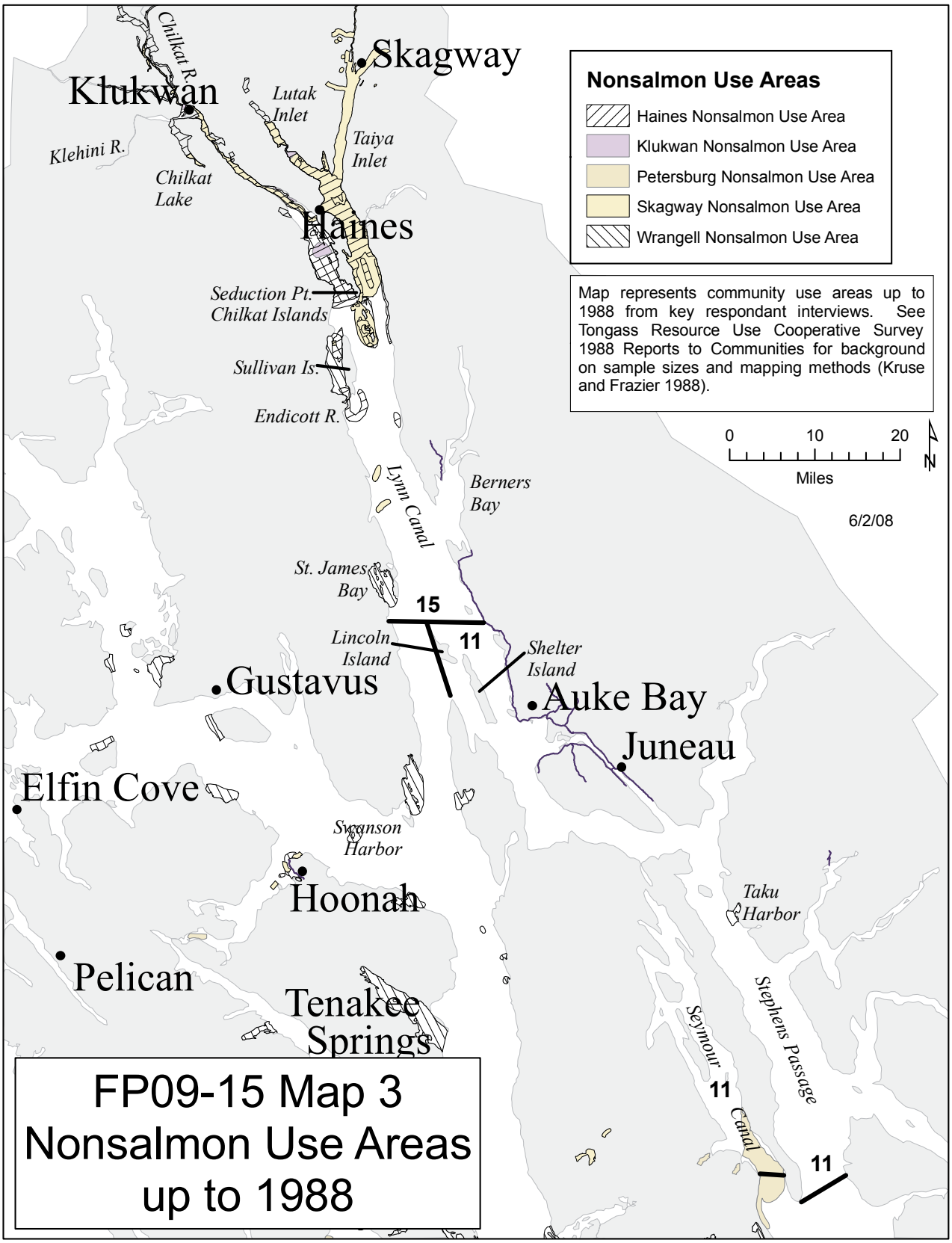
[a] The 1987 household harvest surveys for Skagway and Tenakee Springs did not collect information on cutthroat trout, rainbow trout, or steelhead (Betts et al. 1999b).

includes what is known today as the Chilkoot Trail, the trade route over Chilkoot Pass to the Canadian Interior. Trade with the Canadian Interior was supervised by Tlingit into the twentieth century. Gold was discovered in the Klondike in the 1890s and the Chilkoot Trail was the most accessible route to the gold fields. The discovery of gold attracted miners, and soon a railway over White Pass superseded the trail. Skagway became Alaska's first incorporated city in 1900. When the gold rush waned, other industries, such as independent, local mining and tourism, replaced it. Tourism has become an increasingly important factor in Skagway's economy (Betts et al. 2000). In 1978 the South Klondike Highway opened into the Interior.

Klukwan

Klukwan, located in Unit 1D, is situated on the north bank of the Chilkat River, 22 road miles north of Haines at the northern end of Lynn Canal (**Map 1**) (Paige 2002:167). Klukwan is a Chilkat Tlingit village of long standing and the principal town of the Chilkat Tlingit, whose territory generally includes the Chilkat River and its upper drainages and the Lynn Canal area to Berners Bay (Betts et al. 1999a) (**Map 5**). Several salmon canneries were located along Chilkat Inlet beginning in 1882. The nearby Dalton Trail was a route to the Canadian Interior used by many during the Klondike gold rush in the 1890s. However,

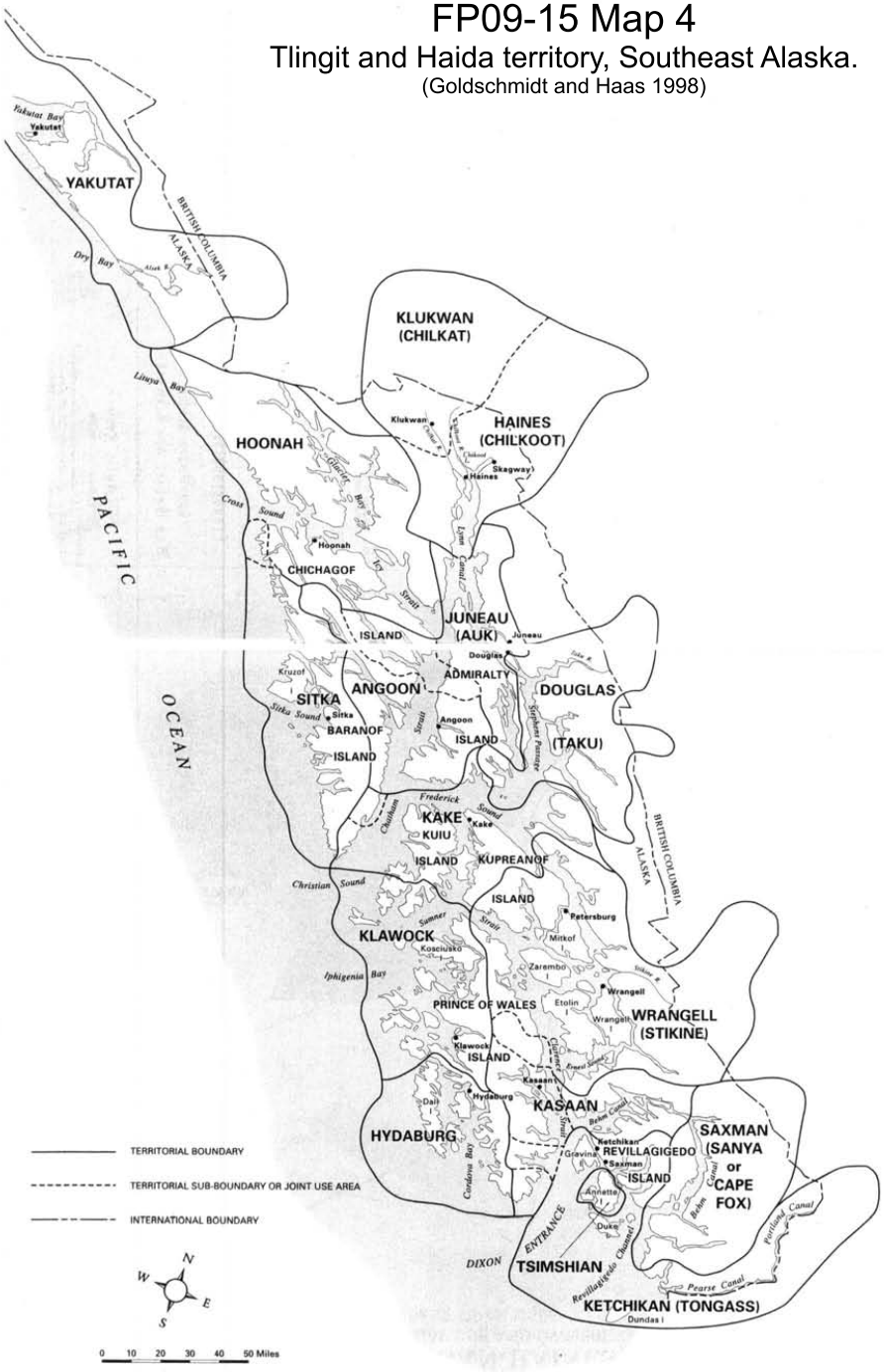

Salmon Use Areas
Haines Salmon Use Area
Klukwan Salmon Use Area
Petersburg Salmon Use Area
Skagway Salmon Use Area
Tenakee Springs Salmon Use Area
Wrangell Salmon Use Area
Map represents community use areas up to 1988 from key respondant interviews. See Tongass Resource Use Cooperative Survey 1988 Reports to Communities for background on sample sizes and mapping methods (Kruse and Frazier 1988).
0 10 20
Miles
N
6/2/08
Skagway
Klukwan
Chilkat R.
Lutak Inlet
Taiya Inlet
Klehini R.
Chilkat Lake
Haines
Seduction Pt.
Chilkat Islands
Sullivan Is.
Endicott R.
Lynn Canal
Berners Bay
St. James Bay
15
11
Lincoln Island
Shelter Island
Gustavus
Auke Bay
Juneau
Elfin Cove
Swanson Harbor
Hoonah
Taku Harbor
Pelican
Tenakee Springs
Stephens Passage
Seymour Canal
11
11
FP09-15 Map 2
Salmon Use Areas up to 1988


Skagway
Klukwan
Chilkat R.
Lutak Inlet
Taiya Inlet
Klehini R.
Chilkat Lake
Haines
Seduction Pt.
Chilkat Islands
Sullivan Is.
Endicott R.
Lynn Canal
Berners Bay
St. James Bay
15
11
Lincoln Island
Shelter Island
Gustavus
Auke Bay
Juneau
Elfin Cove
Swanson Harbor
Hoonah
Taku Harbor
Pelican
Tenakee Springs
Seymour Canal
Stephens Passage
11
11
Nonsalmon Use Areas
Haines Nonsalmon Use Area
Klukwan Nonsalmon Use Area
Petersburg Nonsalmon Use Area
Skagway Nonsalmon Use Area
Wrangell Nonsalmon Use Area
Map represents community use areas up to 1988 from key respondant interviews. See Tongass Resource Use Cooperative Survey 1988 Reports to Communities for background on sample sizes and mapping methods (Kruse and Frazier 1988).
0
10
20
Miles
N
6/2/08
FP09-15 Map 3
Nonsalmon Use Areas
up to 1988

FP09-15 Map 4

Tlingit and Haida territory, Southeast Alaska.

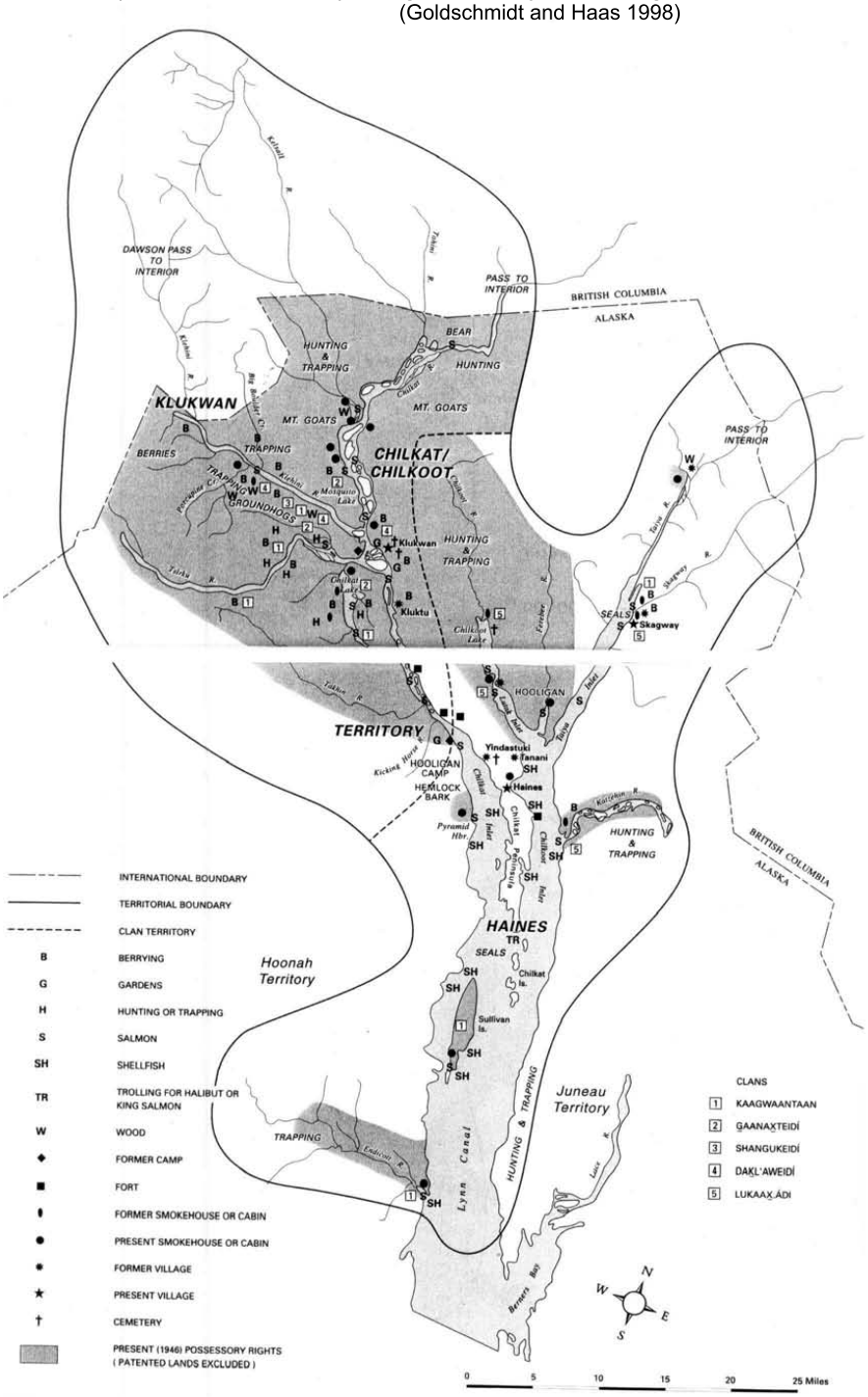
(Goldschmidt and Haas 1998)



FP09-15 Map 5

Chilkat (Klukwan-Haines) Tlingit territory, showing use and ownership, pre-1946.

(Goldschmidt and Haas 1998)



the village has remained predominantly Tlingit. In 1942 the Haines Highway was completed into the Interior, which connected Klukwan to this road system (Betts et al. 1999a).

Haines

Haines, located in Unit 1D, is situated at the mouth of the Chilkat River at the northern end of Lynn Canal, 80 air miles northwest of Juneau (**Map 1**). The communities of Haines and nearby Klukwan were originally occupied by Chilkat Tlingit who had villages located throughout the area (**Map 5**). People from Haines and Klukwan shared land and waterway ownership in the Chilkat Tlingit territory, which includes the shores of Lynn Canal and its tributaries south to Berners Bay (Paige 2002:75). A United States military base opened in Haines in 1904 and operated through 1945. By the 1990s most canneries had closed and the initial growth of the community from the timber industry had slowed as the timber industry declined. The Haines economy relies increasingly on tourism.

Tenakee Springs

Tenakee Springs, a small community noted for its natural hot spring, is located along Tenakee Inlet on the east side of Chichagof Island (**Map 1**). It is in the traditional territory of Angoon Tlingit (**Map 6**). Betts et al. (1999b) notes that the community is situated on the location of historical Tlingit settlements. There is an overland route to Hoonah from Tenakee Springs. In the late 1800s, prospectors and miners began living at this location seasonally. A permanent community of new settlers developed as salmon and crab canneries began to operate in the Tenakee area, in 1916; the economy of the community continues to be dominated by the commercial fishing industry and, to a lesser extent, logging (Betts et al. 1999b).

Juneau

Residents of Juneau are within the Juneau Nonrural Area and are not eligible to harvest fish under Federal subsistence regulations. It should be noted, however, that prior to the establishment of the community of Juneau in about 1880, Auk and Taku clans (Tlingit) resided in the area that now includes the Juneau road system and whose traditional territory stretches from the mainland at Berners Bay to portions of Admiralty Island and Lynn Canal to the north (**Map 7**). Both groups resided in numerous camps and villages in the Juneau area. One, in particular, located at Swanson Harbor, at the confluence of Icy Strait and Lynn Canal, was apparently a village jointly used by the Chilkat, Auk, and Hoonah people as a trading center. Taku also traveled inland up the Taku River. Various clans held ownership of resource harvest areas. Many within the Auk and Taku clans moved into the developing town of Juneau once gold was discovered there in 1880 (Goldschmidt and Haas 1998:37). Thus, it is clear that before the establishment of the town of Juneau, the Juneau area was used by the Tlingit for harvesting subsistence resources.

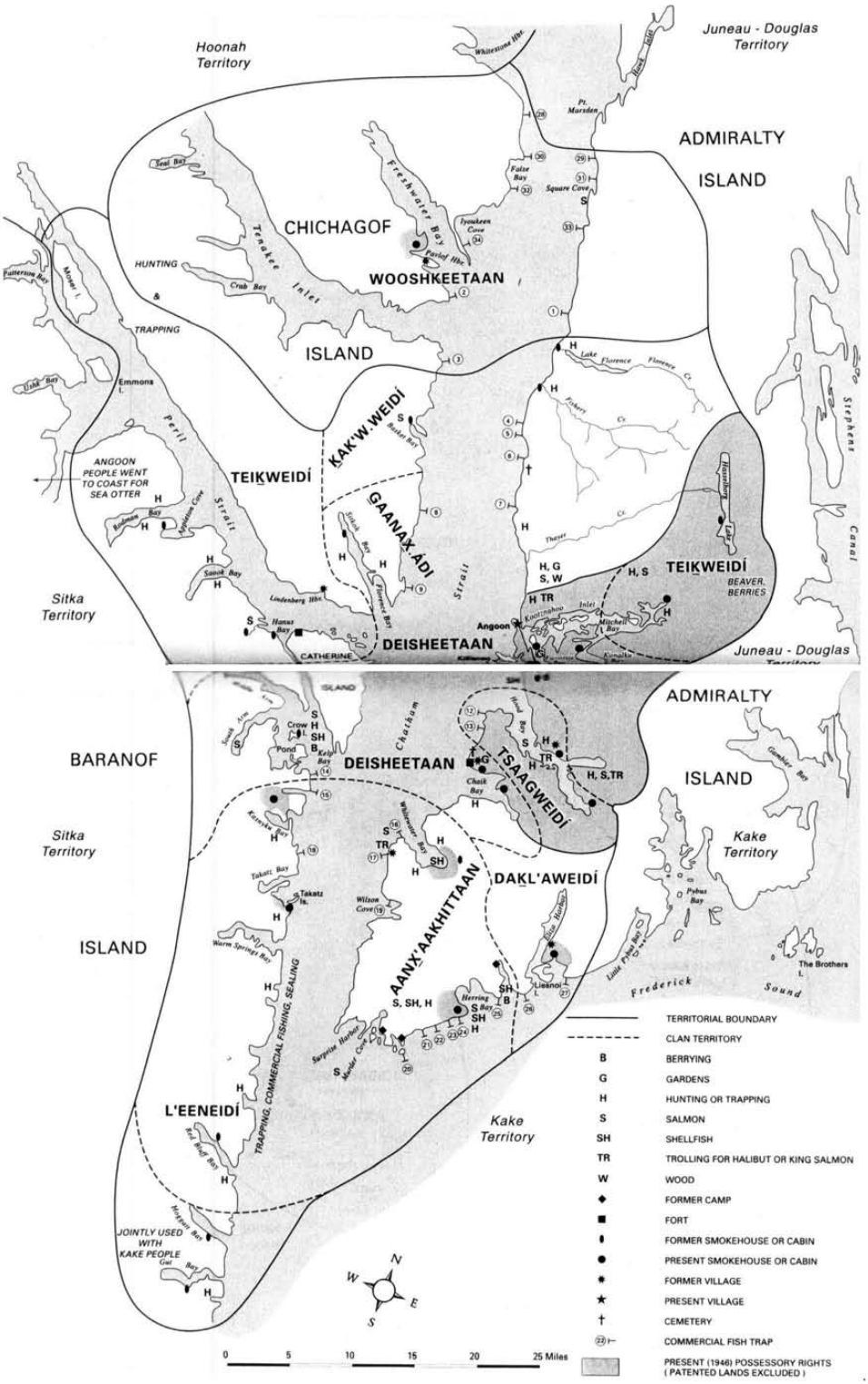
Petersburg

Petersburg is situated at the north end of Mitkof Island on Wrangell Narrows (**Map 1**). The town of Petersburg grew up around a cannery established in 1899, on the northwest shore of Mitkof Island on Wrangell Narrows (Betts et al. 1999c). The community was established predominantly by immigrants who had come directly from Europe, particularly Norwegians. Prior to Petersburg's development by homesteaders and fishermen at the turn of 20th century, Tlingit use of the area occurred at many small settlements. As fish camps or seasonal harvest and production sites, they were part of the traditional land use pattern of Tlingit society (Betts et al. 1999c; Goldschmidt and Haas 1998:73). Along with the evolution of the commercial fishing industry, in which Petersburg has always been a leader in Southeast Alaska, a larger Tlingit community developed in the expanding town. This Indian community has been

FP09-15 Map 6

Angoon Tlingit territory, showing use and ownership, pre-1946.

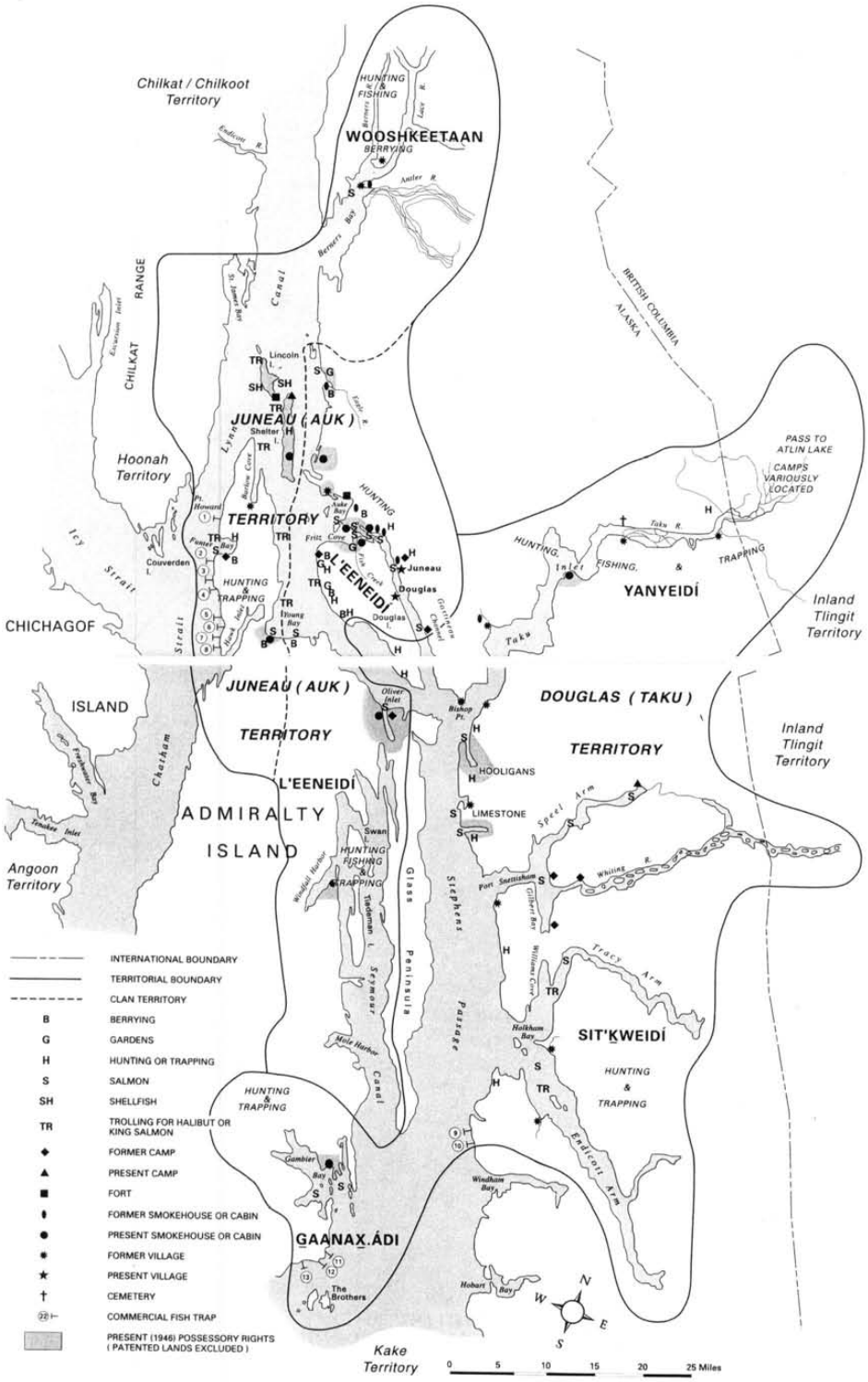
(Goldschmidt and Haas 1998)



FP09-15 Map 7

Juneau-Douglas Tlingit territory, showing use and ownership, pre-1946.

(Goldschmidt and Haas 1998)



a permanent and stable component of the town throughout its development. Prior to the founding of the cannery, the Wrangell Tlingit shared control of Frederick Sound with Kake Tlingit (**Map 8**). Salmon were harvested at a creek, across from present-day Petersburg, which belonged to a Wrangell clan (see description of the Wrangell territory below). Commercial fishing dominates the local economy (Betts et al. 1999c; Goldschmidt and Haas 1998:73).

Wrangell

Wrangell is located on the north end of Wrangell Island on Zimovia Strait, and near the mouth of the Stikine River, which reaches into the Canadian Interior (**Map 1**). According to Betts et al. (1999d), the town dates from the construction of the Russian-American trading post in 1836. Two large villages of Wrangell existed at the locations of present-day Wrangell and Deserted Village located on Zimovia Strait (**Map 8**) (Goldschmidt and Haas 1998:73). Wrangell territory extended along the mainland approximately to Cape Fanshaw, across to Kupreanof Island, and to just south of Etolin Island, areas not in Districts 11 or 15. Descended from the Stikine clans, a riverine people with villages and camps that extended 160 miles up the Stikine River, they controlled the trade network that developed around this drainage. After the Cassiar gold rush in the 1860s permanent settlers began to arrive at Wrangell to fish and log. Both industries continue to dominate the local economy.

Eight Factors for Determining Customary and Traditional Uses

A community or area's customary and traditional use is generally exemplified through the following eight factors: (1) a long-term, consistent pattern of use, excluding interruptions beyond the control of the community or area; (2) pattern of use recurring in specific seasons for many years; (3) a pattern of use consisting of methods and means of harvest which are characterized by efficiency and economy of effort and cost, conditioned by local characteristics; (4) the consistent harvest and use of fish or wildlife as related to past methods and means of taking: near, or reasonably accessible from the community or area; (5) a means of handling, preparing, preserving, and storing fish or wildlife which has been traditionally used by past generations, including consideration of alteration of past practices due to recent technological advances, where appropriate; (6) a pattern of use which includes the handing down of knowledge of fishing and hunting skills, values, and lore from generation to generation; (7) a pattern of use in which the harvest is shared or distributed within a definable community of persons; and (8) a pattern of use which relates to reliance upon a wide diversity of fish and wildlife resources of the area and which provides substantial cultural, economic, social, and nutritional elements to the community or area.

The Federal Subsistence Board makes customary and traditional use determinations based on a holistic application of these eight factors (50 CFR 100.16(b) and 36 CFR 242.16(b)). In addition, the Board takes into consideration the reports and recommendations of any appropriate Regional Advisory Council regarding customary and traditional use of subsistence resources (50 CFR Part 100.16(b) and 36 CFR 242.16(b)). The Board makes customary and traditional use determinations for the sole purpose of recognizing the pool of users who meet the eight factors. The Board does not use such determinations for resource management or restricting harvest. If a conservation concern exists for a particular population, the Board addresses that concern through the imposition of harvest limitations or seasonal restrictions rather than by limiting the customary and traditional use finding.

FP09-15 Map 8

Wrangell Tlingit territory, showing use and ownership, pre-1946.

(Goldschmidt and Haas 1998)

Long-Term, Consistent Pattern of Use

Salmon, trout, char, smelt, and eulachon have been seasonally harvested and used by Tlingit communities in Southeast Alaska since well before historic contact to the present.[1] Non-Natives living in communities throughout the region have also established a long-term pattern of harvest and use of these fish in the streams, lakes, and marine waters where they are found. Variation from traditional patterns stem from a variety of factors, including regulatory restrictions on eligibility, seasons, daily and annual harvest limits, gear types, and bait; increased competition from out-of-state and nonrural residents; variations in resource availability for reasons, including changes in abundance related to habitat change, over harvesting, and commercial harvesting; and changes in available technology. Where able to, rural residents of the region have adopted enhanced harvest technologies, such as outboard boat motors and mechanical rod and reel gear, in addition to traditional techniques such as the use of nets, gaffs, and spears. Many aspects of the traditional pattern of use, including uses of resources obtained through gifting and exchange, continue throughout the region. Other aspects of the traditional pattern of use include various kinds of processing and preservation of fish for household consumption and customary trade, involving the gifting and sharing of fish, fresh and processed, with individuals and groups of Natives and non-Natives. Historical dependence on wild resources by both Natives and non Natives continues into the modern era. For many rural Alaskans in Southeast Alaska, the harvest and use of wild fish is a way of practicing and teaching young people important cultural values and customary rules, such as harvesting only what is needed and not wasting (Newton and Moss 2005:2).

People residing in the communities under consideration in this analysis have consistently harvested fish for home use (**Tables 2, 3, and 4)**. Numerous studies have documented the harvest and use of these resources, as presented in **Tables 2, 3, and 4.** These tables indicate the estimated harvests, based on reported harvest, of chum, coho, Chinook, pink, and sockeye salmon, as well as nonsalmon species, such as eulachon, Dolly Varden, cutthroat trout, rainbow trout, and steelhead. While the data present a one-year snap shot and harvest patterns for fish species vary annually, the underlying importance of these fish resources is clear.

People continue to harvest and use trout, even though in some locations it can only be harvested under sport regulations. Based on ADF&G studies, there is considerable variation in percentages of households using char and trout. In recent surveys the portion ranged from 17% to 61% of households using char and trout, and from 15% to 58% of households harvesting char and trout, in six communities included in this analysis (**Table 3**). Considerable variation also exists among communities in the amount of char and trout harvested (**Table 3**).

Seasons of Use

For anadromous fish species such as salmon, peak harvests of fish tend to occur during spawning runs. However, some species are stream resident and taken year-round, or at specific times of year. This varies by locality somewhat due to the availability of other resources, the timing of the harvest in conjunction with other activities, and local custom. Steelhead are generally harvested in the spring (mid-March to mid-June), though some communities reported harvest of steelhead over a much longer time period (ADF&G 1989, 1991). While published reports are somewhat inconsistent in reporting harvest seasons for specific species, it is clear that many communities have a long history of harvesting Chinook salmon

[1] Cf. Betts 1994; De Laguna 1972, 1990; Emmons and De Laguna 1991; George and Bosworth 1988; Goldschmidt and Haas 1998 (original 1946); Kookesh 2004; Langdon 2006; Mills 1982; Mills et al. 1983; Mobley and McCallum 2001; Moss et al. 1990; Newton and Moss 2005; Niblack 1890; Paige et al. 2007; Price 1990; Ratner and Dizard 2006; Ratner et al. 2006; Smythe 1988; Stewert 1977; Turek 2005; Turek et al. 2006; and Thornton et al. 1990.

Table 4. The estimated harvest and use of wild resource for home use, by resource category and community, most recent harvest surveys (ADF&G 2007, Paige 2002).

Resource Category	Percentage of Households Using	Harvest Level in Pounds Usable Weight: Pounds Per Household	Harvest Level in Pounds Usable Weight: Pounds Per Person	Percentage of Total Wild Resource Harvest
Skagway 1987				
All Resources	95.8%	137.5	48.1	100%
Fish	93.7%	94.8	33.2	68.9%
Salmon	72.8%	50.5	17.7	36.7%
Non-Salmon Fish	80.7%	44.3	15.5	32.2%
Land Mammals	36.3%	10.4	3.6	7.6%
Marine Mammals	0.5%	0	0	0%
Birds and Eggs	18.6%	1.0	0.4	0.7%
Marine Invertebrates	76.0%	25.6	9.0	18.6%
Vegetation	46.2%	5.7	2.0	4.1%
Klukwan 1996				
All Resources	100%	1,881.8	608.3	100%
Fish	100%	1,605.8	518.6	85.3%
Salmon	100%	825.4	266.5	43.9%
Non-Salmon Fish	100%	780.4	252.0	41.5%
Land Mammals	90.3%	85.2	27.5	4.5%
Marine Mammals	71.0%	8.1	2.6	0.4%
Birds and Eggs	35.5%	2.8	0.9	0.1%
Marine Invertebrates	77.4%	43.3	14.0	2.3%
Vegetation	100%	136.6	44.7	7.3%
Haines 1996				
All Resources	97.8%	534.8	195.8	100%
Fish	95.7%	380.2	139.2	71.1%
Salmon	89.2%	159.4	58.4	29.8%
Non-Salmon Fish	86.0%	220.8	80.8	41.3%
Land Mammals	78.5%	79.7	29.2	14.9%
Marine Mammals	9.7%	2.7	1.0	0.5%
Birds and Eggs	32.3%	3.8	1.4	0.7%
Marine Invertebrates	77.4%	28.7	10.5	5.4%
Vegetation	87.1%	39.7	14.5	7.4%
Tenakee Springs 1987				
All Resources	100%	701.9	329.9	100%
Fish	96.8%	279.2	131.2	39.8%
Salmon	77.4%	105.0	49.3	15.0%
Non-Salmon Fish	96.8%	174.2	81.9	24.8%
Land Mammals	87.1%	288.2	135.5	41.1%
Marine Mammals	9.7%	16.2	7.6	2.3%
Birds and Eggs	32.2%	4.4	2.1	0.6%
Marine Invertebrates	93.5%	91.4	42.9	13.0%
Vegetation	87.1%	22.5	10.6	3.2%

(Continued)

Table 4. (Continued).

Resource Category	Percentage of Households Using	Harvest Level in Pounds Usable Weight: Pounds Per Household	Harvest Level in Pounds Usable Weight: Pounds Per Person	Percentage of Total Wild Resource Harvest
Petersburg 2000				
All Resources	92.8%	444.0	161.4	100%
Fish	88.0%	281.9	102.4	64.1%
Salmon	75.2%	165.6	60.2	37.6%
Non-Salmon Fish	76.8%	116.2	42.2	26.4%
Land Mammals	52.8%	47.5	17.3	10.8%
Marine Mammals	0%	0	0	0%
Birds and Eggs	17.6%	1.7	0.6	0.4%
Marine Invertebrates	80.0%	102.1	37.1	23.2%
Vegetation	59.2%	10.9	4.0	2.5%
Wrangell 2000				
All Resources	93.9%	439.1	167.4	100%
Fish	86.7%	156.2	59.6	35.6%
Salmon	78.6%	67.0	25.5	15.3%
Non-Salmon Fish	74.5%	89.3	34.0	20.3%
Land Mammals	60.2%	102.0	38.9	23.2%
Marine Mammals	0%	0	0	0%
Birds and Eggs	15.3%	3.6	1.4	0.8%
Marine Invertebrates	80.6%	156.2	59.6	35.6%
Vegetation	64.3%	21.1	8.0	4.8%

year-round. Chum, coho, pink, and sockeye salmon are harvested in slightly staggered and overlapping spring and summer seasons. Some areas are used for longer harvest periods, with considerable variation in effort within those longer periods. Traditionally, whole families moved to their fish streams where intense harvesting and processing of salmon, meat, other fish, and berries took place (Newton and Moss 2005:36). Fish were dried in September and October (Goldschmidt and Haas 1998:114). This practice is continued by some, while many choose to harvest fish, particularly salmon, on day or over-night trips.

While the seasonal patterns of use of smelt and eulachon are not as well documented as those for salmon, trout, and char, sources (cf. Betts 1994) indicate that harvest and use of eulachon was, and continues to be, an integral part of the subsistence round of the Tlingit living in communities in proximity to the major eulachon runs in the Southeast Alaska region.

Methods and Means

Before European contact and in historic times, technologies used in harvesting finfish included, at least, weirs, spears, traps, gaff hooks, set hooks, trolling hooks, and throat gorges (Newton and Moss 1993, Stewart 1977). Later gear included gill nets, seine nets, long line, and rod and reel gear, which are all efficient methods of harvest. Current subsistence regulations allow retention of fish caught incidental to the catch of fish for which permits are required, which fits with traditional values of using all of the resources harvested, including incidental catches.

Areas of Use

Historically, people in Southeast Alaska took fish from bays and streams that they either traditionally owned or had permission to use, a practice that continues in some form today. Traditional clans owned specific streams and clan leaders controlled access and use of the resources there. Infringement on streams was a serious offense and could result in retribution. These clan-owned areas are documented in Goldschmidt and Haas' report *Haa Aani, Our Land* (1998) and other sources (cf. Langdon 2006). Not all streams that were traditionally used were adjacent to villages. People sometimes traveled long distances and harvested fish along the way while engaged in hunting or trapping. As people in Southeast Alaska began participating in commercial fisheries in the nineteenth century, subsistence fishing often took place immediately before, during, or after commercial openings. This pattern of harvest in streams closely accessible as well as farther away in conjunction with commercial fishing persists in contemporary life (cf. Paige et al. 2007).

All five salmon species are found in the region, but their spawning streams are not distributed uniformly. For instance, some residents travel 20 or 30 miles, or more, to harvest sockeye salmon at stream sites. Similarly, Chinook salmon spawning is limited to a few mainland rivers and one stream on Admiralty Island (ADF&G 1989). Local knowledge of fish behavior and life cycles and the ability to use specialized harvest methods are important for successful harvest.

Based on the State's Subsistence/Personal Use Salmon Permit system data, Districts 11 and 15 are used by residents of Southeast Alaska communities to harvest salmon (Fall, Brown, Caylor, Coffing et al. 2003; Fall, Brown, Caylor, Georgette, et al. 2003). However, community-level data exist for only two years, 2001/02 and 2002/03, when residents of Skagway, Klukwan, Haines, Gustavus, Hoonah, Tenakee Springs, Angoon, Sitka, and Petersburg reported harvesting salmon in Districts 11 and 15 on State salmon permits. Specifics on the fish harvest areas for each community are discussed below in the community-specific information.

Some data are available from the Statewide Sport Fish Harvest Survey; a mail out survey conducted by ADF&G and designed to provide statewide and regional estimates of effort and harvest of fish by sport fish license holders using sport fish gear under sport fish regulations. The survey methodology does not allow an expansion of the data to estimate harvest and effort. From 1996 to 2006 there were 107 responses to the statewide harvest survey from rural residents of Southeast Alaska who reported sport fishing in Districts 11 and 15. Of these 107 entries, 32 fished in fresh waters. Further examination of which streams were fished found that 24 of these entries were for waters crossed by the Juneau road system, including fishers from the communities of Skagway, Sitka, Wrangell, Pelican, Haines, and Gustavus (a single survey respondent may have provided more than one of the 107 entries in survey results). The survey methodology does not allow an expansion of these data to estimate harvests for these communities. Between the years 1996- 2006, most of the freshwater sport fishing effort within Districts 11 and 15 by Southeast Alaska residents was exerted by the residents of Juneau (identified as survey responders who reside within zip codes 99801, 99802, 99803, 99812, 99824, 99850). Roughly 5,000 entries of anglers fishing in Districts 11 and 15 were from Juneau residents fishing in salt water and 1,200 entries were from Juneau residents fishing in freshwater (Pappas 2007, pers. comm.). As stated earlier, no reports of fish harvests with a Federal subsistence permit have been reported through May of 2010 in the Juneau road system.

Eulachon runs occur in specific areas and are targeted for their oil for use and trade by those communities closest to those areas, including, from north to south: Situk River and Dry Bay near Yakutat; Chilkat River in District 15; Taku Harbor in District 11; Excursion Inlet near Gustavus; Stikine River near

Wrangell; Chickamin River and Unuk River near Ketchikan; and others (Goldschmidt and Haas 1998). Eulachon oil is rendered and traded.

Skagway

Skagway residents generally harvest fish close to the community. The 1987 and 1988 Tongass Resource Use Cooperative Survey (TRUCS) and subsequent reviews of mapped data by community residents in 1992 and 1993 (1991 in Petersburg and Haines; 1987 in Tenakee Springs) indicated that residents of Skagway identified salmon fishing areas (**Map 2**) within Districts 11 and 15 in Lynn Canal from Seduction Point to Sullivan Island, including waters around the Chilkat Islands as well as the waters around Lincoln, Shelter, and Douglas Islands near Juneau (Paige 2002:296). Dolly Varden and eulachon contributed to the fish harvested for home use in Skagway in 1987. The 1987 household harvest and use survey for Skagway did not collect information on cutthroat, rainbow trout, or steelhead. Residents identified nonsalmon harvest areas (**Map 3**) including waters of Lynn Canal at Sullivan and Chilkat Islands, and off the mouth of Endicott River in District 15 (Paige 2002:299).

As described in Maps 2 and 3, Skagway's mapped subsistence use area for salmon and nonsalmon does not include the Juneau road system area. Based on the Statewide Sport Fish Harvest Survey, Skagway residents have fished in the Juneau road system under sport fishing regulations. However, sport fishing by Skagway residents in the Juneau road system is not reasonably accessible from Skagway, and as such would not be considered a customary and traditional subsistence use. Additionally, Skagway residents have never reported fishing with a Federal subsistence permit in the Juneau road system.

Klukwan

The Chilkat River, from its mouth to headwaters, and its tributaries (in District 15) constituted the main salmon harvest area for Klukwan residents in 1987, however, salmon were also harvested in other areas of District 15: 1) Chilkat Inlet from Seduction Point to the mouth of the Chilkat River; 2) at Klukwan; 3) several locations upriver from Klukwan; 4) portions of Big Boulder Creek and the Kelsall River; 5) Tsirku River outlet; 6) the head of Lutak Inlet, the Chilkoot River, and Chilkoot Lake; 7) Chilkat Lake; 8) the Klehini River for Chinook, coho, and chum salmon; 9) a larger extent of Lutak Inlet, as well as Lynn Canal as far south as Bridget Cove (for rod and reel trolling); and 10) William Henry Cove (for rod and reel trolling). The heaviest levels of use are adjacent to the community, at the mouth of the Tsirku River, the Chilkat River, the Chilkat Inlet, Lynn Canal, Pyramid Harbor, and Letnikof Cove (Betts et al. 1999a).

The nonsalmon harvest area mapping had some inadequacies, only included one or two household's use areas, and therefore, did not capture many areas used by the community (**Map 3**). Review of the map shows that Klukwan harvested nonsalmon fish within District 15 in the Chilkat River at four, six, seven, and nine mile for hooligan, trout, and char; the Tsirku River outlet for trout and char; and the Chilkat Lake for trout and char (Betts et al. 1999a).

As described in Maps 2 and 3, Klukwan's subsistence use area for salmon and nonsalmon does not include the Juneau road system area.

Haines

The Chilkat territory (**Map 5**) includes Federal public lands and waters within District 15 as far south as Berners Bay. This area has been used by residents of Haines to harvest wild resources, including fish (Goldschmidt and Haas 1998:99). The Chilkat Islands located to the northwest of Sullivan Island are

located within the boundaries of District 15 and were used for trolling for nonsalmon fish (Goldschmidt and Haas 1998:34–35).

During update and review sessions with local residents in 1992 and 1993, following the initial TRUCS study, Haines respondents reported using areas (**Map 2**) in District 15 including: 1) Berners Bay for coho, by rod and reel; 2) Chilkat Lake for sockeye and coho; 3) the Klehini River up to Big Boulder Creek, and tributaries of the Klehini River including Herman Creek for chum salmon; 4) Taiya Inlet; and 5) St. James Bay for chum, pink, and coho, by rod and reel (Paige 2002:82).

As described in Maps 2 and 3, Haines's mapped subsistence use area for salmon and nonsalmon does not include the Juneau road system area. Based on the Statewide Sport Fish Harvest Survey, Haines residents have fished in the Juneau road system under sport fishing regulations. However, sport fishing by Haines residents in the Juneau road system is not reasonably accessible from Haines and as such would not be considered a customary and traditional subsistence use. Additionally, Haines residents have never reported fishing with a Federal subsistence permit in the Juneau road system.

Tenakee Springs

Tenakee Springs households identified areas used for salmon fishing on maps as part of the ADF&G's Subsistence Division 1984 household harvest survey project, but none showed use in Districts 11 and 15 (**Map 2**) (Paige 2002:306). However, according to 1991 Subsistence/Personal Use Salmon Permits, Tenakee Springs' sockeye salmon harvest area included the Taku River area in District 11 and pink and chum salmon were harvested in streams within the Juneau Management Area in District 11, but not from the Juneau road system (Betts et al. 1992:29; **Map 2**). These harvests are in marine waters. Nonsalmon fish harvest areas have not been mapped by ADF&G (Betts et al. 1992:29; Paige 2002:307–308).

As described in Map 2, Tenakee Spring's subsistence use area for salmon does not include the Juneau road system area. Based on the Statewide Sport Fish Harvest Survey, Tenakee Springs residents have fished in the Juneau road system under sport fishing regulations. However, sport fishing by Tenakee Springs residents in the Juneau road system is not reasonably accessible from Tenakee Springs and as such would not be considered a customary and traditional subsistence use. Additionally, Tenakee Springs residents have never reported fishing with a Federal subsistence permit in the Juneau road system.

Petersburg

Only a small portion of the Petersburg use area for fish is in District 11 (**Map 3**). A baseline harvest survey conducted in 1987 indicated that fish other than salmon were harvested by Petersburg residents in Seymour Canal in District 11, east of Admiralty Island off of Stephens Passage. No mention was made regarding what kinds of fish were harvested (Smythe 1988:87). These harvests are in marine waters. As described in Maps 2 and 3, Petersburg's subsistence use area for salmon and nonsalmon does not include the Juneau road system area. Petersburg

Wrangell

Wrangell households identified areas used for salmon fishing on maps as part of the ADF&G Subsistence Division's 1987 household harvest survey project (**Map 2**). Wrangell residents primarily harvested fish in areas closer to the community, but they harvested salmon in Stephen's Passage near Auke Bay in District 11 (Betts et al. 1992:28). Nonsalmon fish were harvested in Taku Harbor in District 11 and St. James Bay, Sullivan and Chilkat Island areas, Chilkat Inlet, and Lutak Inlet in Lynn Canal in District 15 (**Map 3)** (Betts et al. 1992:31). These harvests are in marine waters. As described in Maps 2 and 3, Wrangell's

subsistence use area for salmon and nonsalmon does not include the Juneau road system area. Based on the Statewide Sport Fish Harvest Survey, Wrangell residents have fished in the Juneau road system under sport fishing regulations. However, sport fishing by Wrangell residents in the Juneau road system is not reasonably accessible from Wrangell and as such would not be considered a customary and traditional subsistence use. Additionally, Wrangell residents have never reported fishing with a Federal subsistence permit in the Juneau road system.

Summary of fish harvest areas by community in Districts 11 and 15:

District 11—Salmon: Based on subsistence use studies, the residents of Skagway have harvested salmon in District 11; Skagway is located in District 15. There are no Federally qualified communities in District 11, only the nonrural Juneau Area. There may be some people in District 11 living outside of the Juneau Area, but no information is available on these individuals.

District 11—Nonsalmon: Based on subsistence use studies, there are no residents of Federally qualified communities that harvested nonsalmon in District 11, including the Juneau road system area. There may be some people in District 11 living outside of the Juneau Area, but no information is available on these individuals.

District 15—Salmon and Nonsalmon: Based on subsistence use studies, the residents of Klukwan, Skagway, and Haines have harvested salmon in District 15, but not in the Juneau road system area. These communities are located in District 15.

While the primary subsistence fish use areas for Wrangell, Petersburg and Tenakee Springs are in close proximity to their respective communities, residents of Wrangell harvested some fish in Districts 11 and 15 and Petersburg and Tenekee Springs harvested some fish in District 11. All of these harvests appear to be within marine waters. In addition, all residents of all three communities harvested fish in the Juneau road system under sport fishing regulations.

Handling, Preparing, Preserving, and Storing

Fish are handled, prepared, preserved, and stored using methods common throughout Southeast Alaska. These include drying, smoking, canning, salting, pickling, freezing, and sometimes fermenting. Occasionally subsistence products may be preserved in seal or eulachon oil. Traditional means of taking care of fish are practiced extensively today. For instance, salmon are cut and scored for efficient drying much as they were in the past. The fish are smoked in wooden smokehouses or metal smokers, air dried, canned, frozen, refrigerated, and cooked freshly caught. Although the use of fermented salmon heads and eggs is not as common as it once was, salmon heads and roe are still aged and fermented in some communities, often by traditional methods of burying the eggs or heads in containers on the beach below high tide (ADF&G 1989).

Late runs of salmon were frozen historically, but depended on cold weather instead of electric freezers. People throughout Southeast Alaska still harvest some of their fish after they have spawned because their low fat content makes them the best for dry fish. Tlingit people of the communities in Districts 11 and 15 continue to fish for eulachon on the Chilkat River and render the fish into oil in traditional ways (ADF&G 1989).

Handing Down of Knowledge of Fishing

Knowledge of fishing skills, values, and lore are transmitted from generation to generation in ways common throughout Southeast Alaska. Among Native residents, clan and family ties continue to provide important vehicles for transmission of knowledge. The learning of skills associated with harvesting and preparing fish generally derives from a process of observation and participation with elder relatives or community residents, as well as listening to stories describing fish lore and skills. Trout, in particular, are used to teach young children and grandchildren how to fish. Small children lack the coordination to use lures and flies (FSB 2000a:9). Traditionally the new generation learns subsistence methods from key matrilineal kinsmen. In traditional Tlingit culture, young boys learn virtually all lore and economic skills from their mother's brothers (ADF&G 1989). In District 11 and 15, amongst the Tlingit today, fishing skills and locations continue to be learned from uncles as well as other relatives and elders. Techniques and harvesting equipment are still generally shared among households (ADF&G 1989). Many rural communities in Southeast Alaska are characterized by large extended families with long history and experience in their local areas. Residents of rural communities in Southeast Alaska possess considerable depth of knowledge regarding resource skills, values, and cultural connections to salmon, trout, char, smelt and eulachon. Important learning about subsistence takes place at potlatches and other traditional celebrations where subsistence foods figure importantly**.** Subsistence resources may be harvested, as needed, during travel to and from these occasions.

Sharing

Giving, receiving, trading, and selling fish is ubiquitous among the Native peoples of Southeast Alaska. This tradition of distribution and exchange continues as part of the great giveaways associated with elaborate feasts and ceremonies such as the potlatch, and between individuals and families at the everyday level. Sharing occurs within and between all Southeast Alaska communities, and fish is one of the main items involved in this practice. This pattern continues, as is shown by household survey data (**Table 3**). These sharing practices are a major element of the cultures of these communities.

Reliance Upon a Wide Diversity of Fish and Wildlife Resources

Salmon were, and continue to be, the mainstay of the economy and one, if not the, most important group of subsistence species for Southeast Alaska communities. Salmon fishing has been augmented by, and is complementary to, the seasonal round of collecting other kinds of fish, hunting for terrestrial and marine mammals, collecting intertidal resources, and harvesting plants from beaches, forests, and elsewhere. The harvest and use of cutthroat trout, rainbow/steelhead trout, and Dolly Varden is widespread across the region and similarly fits in the seasonal round of subsistence activities (ADF&G 1989; ADF&G 1991).

Residents of communities who have harvested subsistence fish in Districts 11 and 15 tend to harvest significant quantities of fish and wildlife. Virtually all households use some subsistence resources, and almost all households harvest some subsistence resources for their own use. Overall harvest levels vary across the resources utilized. **Table 4** shows estimated per capita subsistence harvest levels by community, based on the most recent household surveys conducted between 1987 and 2000. These studies, some of which were part of the Tongass Resource Use Cooperative Study, show significant harvests of salmon and other finfish for the communities harvesting fish in Districts 11 and 15.

Effects of the Proposal

Adopting this proposal would likely have little effect on Federally qualified users because there is no evidence that Federally qualified users have harvested fish for subsistence from the Juneau road system

area. No harvests on Federal permits have been reported in the Juneau road system area, and subsistence use areas that have been mapped for these communities do not include the Juneau road system area. However, if this proposal is adopted, Federal subsistence regulations would preclude subsistence fishing in the Juneau road system. Federally qualified users have fished in the Juneau road system area using a state sport fishing license, and this practice can continue. Adopting this proposal would have no effect on fish populations as no change in fish harvests is anticipated.

The Board asked that full analysis of all customary and traditional uses of Districts 11 and 15 be conducted while revisiting Proposal FP09-15. Adopting this proposal as modified would recognize the customary and traditional uses of Federally qualified subsistence users who have harvested fish for subsistence in Districts 11 and 15. Skagway, Klukwan, Haines, Gustavus, Hoonah, Tenakee Springs, Angoon, Sitka, and Petersburg have harvested fish in Districts 11 and 15 under sport fishing regulations. Of these communities, only Skagway, Haines, Petersburg and Tenakee Springs have subsistence use areas mapped that indicate use of Districts 11 and 15; the remaining communities do not. In some cases, sport fish harvest information has been used to document customary and traditional uses when no other information has been available, but in this situation the subsistence use area maps for these communities do not indicate use in Districts 11 and 15 and thus the sport fish uses are not considered subsistence uses. There would be no effect of a determination that does not include Klukwan, Gustavus, Hoonah, Tenakee Springs, Angoon, Sitka, and Petersburg in the customary and traditional use determinations for fish in Districts 11 and 15 because these communities only harvest fish in these districts under sport fishing regulations and have no record of harvesting fish under Federal subsistence regulations. The residents of these communities could continue to harvest fish in Districts 11 and15 under sport fishing regulations.

OSM PRELIMINARY CONCLUSION

Support Deferred Proposal FP09-15 **with modification** to address customary and traditional use determinations for all fish in Districts 11 and 15 and to define the area the "No Federal Subsistence Priority" applies to within the Juneau road system area as the Juneau road system within the Juneau Nonrural Area.

The modified regulation should read:

Southeastern Alaska Area—All fish—Customary and traditional use determinations

District 11 and waters draining into that District, except the Juneau Road System within the Juneau Nonrural Area (all waters crossed by roads connected to the City and Borough of Juneau in the Juneau Nonrural Area)	***Salmon***	***Residents of drainages flowing into District 11 and Skagway***
District 11 and waters draining into that District, except the Juneau Road System within the Juneau Nonrural Area (all waters crossed by roads connected to the City and Borough of Juneau in the Juneau Nonrural Area)	***Nonsalmon***	***Residents of drainages flowing into District 11***

District 11—Juneau Road System within the Juneau Nonrural Area (all waters crossed by roads connected to the City and Borough of Juneau in the Juneau Nonrural Area)	***All fish***	***No Federal Subsistence Priority***
District 15 and waters draining into that District, except the Juneau Road System within the Juneau Nonrural Area (all waters crossed by roads connected to the City and Borough of Juneau in the Juneau Nonrural Area)	***All fish***	***Residents of drainages flowing into District 15***
District 15—Juneau Road System within the Juneau Nonrural Area (all waters crossed by roads connected to the City and Borough of Juneau in the Juneau Nonrural Area)	***All fish***	***No Federal Subsistence Priority***
Remainder of the Southeastern Alaska Area	*Dolly Varden, trout, smelt, and eulachon*	*Residents of Southeastern Alaska and Yakutat areas*
Remainder of the Southeastern Alaska Area	*All other fish*	*No determination—all rural Alaska residents*

Justification

Rural residents of communities in Districts 11 and 15 have a customary and traditional pattern of use of salmon and nonsalmon species in most of Districts 11 and 15. A component of that customary and traditional pattern includes harvesting in close proximity to their communities. Subsistence use areas have been mapped for the communities in Districts 11 and 15, and none of the areas includes the Juneau road system area. Thus, while there is substantial evidence for a customary and traditional pattern of use of both salmon and nonsalmon in most of Districts 11 and 15, there is no evidence to suggest that Federally qualified subsistence users from communities in Southeast Alaska customarily and traditionally harvest fish for subsistence uses from the Juneau road system. No fish harvests have been reported on Federal subsistence permits from the Juneau road system. However, residents of Skagway, Klukwan, Haines, Gustavus, Hoonah, Tenakee Springs, Angoon, Sitka, and Petersburg also have harvested fish in Districts 11 and 15, but under sport fishing regulations. Of these communities, only Skagway, Haines, Petersburg and Tenakee Springs have subsistence use areas mapped that indicate use of Districts 11 and 15; the remaining communities do not. The subsistence use area maps for Petersburg and Tenakee Springs indicate use of fish in marine waters, outside of Federal jurisdiction. In some cases, sport fish harvest information has been used to document customary and traditional uses when no other information has been available, but in this situation the subsistence use area maps for these communities do not indicate use in Districts 11 and 15 and thus the uses are not considered subsistence uses. Further information is sought from the Council whether or not the sport fish use by Klukwan, Gustavus, Hoonah, Tenakee Springs, Angoon, Sitka, and Petersburg should be considered customary and traditional use. There would likely be little effect of a determination that does not include Klukwan, Gustavus, Hoonah, Tenakee Springs, Angoon, Sitka, and Petersburg in the customary and traditional use determinations for fish in Districts 11 and 15 because these communities only harvest fish in these districts under sport fishing regulations and have no record of harvesting fish under Federal subsistence regulations. The residents of these communities could continue to harvest fish in Districts 11 and15 under sport fishing regulations.

The Juneau road system has expanded in recent years, continues to expand, and has the potential for expansion to the Haines/Skagway area. For this reason, there needs to be a boundary set for what delineates "the Juneau road system." The modified language for this proposed regulation includes language to define the area of the "no Federal subsistence priority" as the area within the Juneau Nonrural Area.

The information presented in the analysis of the eight factors shows that there is a pattern of customary and traditional use of fish in Districts 11 and 15 by Federally qualified rural residents. Based on the analysis, there is a customary and traditional pattern of use of salmon by residents of Districts 11 and Skagway in the drainages flowing into District 11, with the exception of the road system within the Juneau Nonrural Area. Further, there is a customary and traditional pattern of use of nonsalmon by residents of the drainages flowing into District 11 in District 11 and waters draining into District 11. None of the fish subsistence use areas in District 11 included the Juneau road system.

There are no Federally qualified rural communities within District 11. While there may be residents living outside of the Juneau Nonrural Area, how many residents there may be or what their subsistence uses are is not known.

As demonstrated in the analysis, there is a customary and traditional pattern of use of all fish by residents of the drainages flowing into District 15, with the exception of the road system within the Juneau Nonrural Area, in District 15 and waters draining into District 15. This includes the residents of the communities of Klukwan, Skagway, and Haines, which are located in District 15. None of the fish subsistence use areas in District 15 included the Juneau road system. All of these harvests appear to be within marine waters outside of Federal jurisdiction, and therefore are not included in the customary and traditional use determinations for Districts 11 and 15.

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

Deferred FP09-15: Juneau Road System – Customary and Traditional Use Determination

Introduction: Proposal FP09-15 requests that the Federal Subsistence Board demonstrate customary and traditional (C&T) findings for individual communities for fish stocks within Fisheries Districts 11 and 15 on waters crossed by roads within the current boundaries of the City and Borough of Juneau, as suggested by a member of the Federal Board on January 13, 2006. The proponent requests the eight regulatory factors concerning customary and traditional use of each specific fish stock by each community for each stream be evaluated and reviewed by the Federal Board. The Juneau non-rural area has no specific customary and traditional use determination and falls under the federal regulation category "Remainder of the Southeastern Alaska Area." Under this designation, the Juneau road system area is open to the federal subsistence harvest of Dolly Varden, trout, smelt, and eulachon by all rural residents of the Southeast Alaska and Yakutat areas, and the area is open to subsistence harvest of salmon by all rural residents of Alaska. These overly broad designations provide a federal subsistence preference for the far north rural residents of Barrow to fish for salmon on streams in a southeastern urban community over 1,000 air miles from home and provide a preference to rural residents of the southern southeast community of Hydaburg in an urban northern southeast community over 225 air miles from home.

Background: The waters subject to this determination constitute a very small portion (less than 10%) of the freshwater fisheries in Districts 11 and 15 of Southeast Alaska. They are very important to residents of the Juneau area but are not important to rural residents and are rarely used for any purpose by rural residents of any community. In acting on previous proposals, the Federal Board suggested it would be appropriate to adopt a determination of "no Federal subsistence priority."[1] In December 2007, the Federal Board rejected the State's proposal (FP08-04) requesting such a determination, without evaluating the eight regulatory factors concerning customary and traditional use of each fish stock by each community. As early as 2000, the Interagency Staff Committee informed the Federal Board that there was a lack of substantial evidence to show that communities in the region have customarily and traditionally harvested and used stocks of rainbow trout, cutthroat trout, and Dolly Varden along the Juneau road system. Because there is no substantial evidence for these arguments, it is clear that any use of Juneau road system fish stocks falls outside the regulatory definition of customary and traditional use, *see* 50 CFR §100.4.

Application of the September 23, 2008, Ninth Circuit Court opinion in *State of Alaska v. Federal Subsistence Board*, 544 F.3d 1089, makes it clear that an adequate record to support a C&T determination for fisheries on the Juneau road system has not been developed and cannot be established. As the Court held in its decision, Federal Board C&T determinations must be supported by substantial evidence of a specific rural community or area's demonstrated customary and traditional taking of a specific wildlife population or specific fish stock, not general species, within specific geographic locations. *Alaska v. Federal Subsistence Board*, at

[1] Federal Board's analysis of FP06-31 in January 2006 and threshold analysis of the Federal Board's denial of the State's Request for Reconsideration FRFR 06-05, dated August 22, 2006.

1094-99. The Board's determination must have a "substantial basis in fact." *Id*. at 1094. The Court held: "Under 50 C.F.R. §100.16, C & T determinations should "identify the specific community's or area's use of specific fish stocks and wildlife populations,' . . . and not Chistochina's use of moose in general." *Id*. at 1096. The Court added that the Federal Board's "regulations clearly tie C & T determinations to the specific locations in which wildlife populations have been taken" and "each C & T ***determination*** must be tied to a specific community or area and a specific wildlife population." *Id.* at 1097 (emphasis in original). The Court further emphasized: "Specific communities and areas and specific fish stocks and wildlife populations are, by definition, limited to specific geographic areas" and "a C & T determination is a determination that a community or area has taken a species for subsistence use ***within a specific area***." *Id*. at 1097-98 (emphasis in original).

The Ninth Circuit pointed out that six of the Federal Board's eight C&T factors refer to a "pattern of use" of "specific fish stocks or wildlife populations," and a seventh factor also imposes explicit geographic limitations by directing the Board to consider whether there is "consistent harvest and use of fish or wildlife . . . near, or reasonably accessible from the community or area." *Id.* at 1098; *see also* 50 C.F.R. 100.16(b). Available information cannot support a determination that any rural community has a "pattern of use" of any fish stock on the Juneau road system. There has been no "consistent harvest" of fish stocks on the Juneau road system by any rural community, and the Juneau road system fish stocks are not "near or reasonably accessible" to any rural community.

In *Alaska v. Federal Subsistence Board*, the Court upheld a C&T determination for Chistochina residents to take moose upon all federal lands within Game Management Unit 12 based on: (1) the assumption, which the Court thought had support in the record, that the populations of moose which had been historically taken by Chistochina residents within a 2500 square mile area were the same populations of moose on other federal lands within the Unit; and that (2) the alternate rationale, somewhat dependent on the first, that the Federal Board was justified by a "benefit to management" in designating a C&T area for Chistochina to take those moose within all 5,900 square miles of federal lands within the Board's pre-determined areas A, B, and C, rather than being required to carve out a new area for Chistochina limited to just the 2,500 square miles of that community's actual historic use. *Id.* at 1096-97, 1099-1100.

On the Juneau road system, the situation is far different from what the Ninth Circuit Court believed the situation to be for moose in GMU 12. First, salmon and trout stocks found in individual streams on the Juneau road system represent distinct stocks. Evidence of take of the same general species of fish in other districts, or even in other portions of the same districts, cannot be used to establish historic taking of the specific stocks on the Juneau road system. The Federal Board has not developed a customary and traditional use determination specific to fresh waters of Districts 11 or 15. It is extremely unlikely that any rural community would be able to provide substantial evidence of the customary and traditional use factors for any fish stock on the Juneau road system.

Second, there has been no historic customary and traditional taking of the specific fish stocks on the Juneau road system by any Southeast rural community. The Juneau stocks are different stocks of fish than those which any Southeast rural community has historically taken. Moreover,

federal and state fisheries management both benefit by utilizing a separate regulatory framework for these easily accessed high use waters where fish stocks must be managed through much more conservative regulations than are required in other areas of the districts. Separating out this nonrural area also allows the Federal Board to carry out its responsibilities of balancing the competing purposes of ANILCA and avoiding unnecessary restrictions on nonsubsistence users.

Impact on Subsistence Users: Although both Southeast Alaska general federal subsistence fishery permits and the Southeast Alaska spring steelhead permits allow fishing on the Juneau road system and require reporting of harvest by stream, no federal subsistence harvests by rural residents have been reported for the freshwaters of the road system within the City and Borough of Juneau boundaries. In fact, only two sport-caught fish were reported as having been caught by rural residents of Southeast Alaska on the Juneau road system by responders to the Statewide Sport Fish Harvest Survey from 2004 through 2006. There is no evidence of customary and traditional taking of specific fish stocks for subsistence use by any rural resident in freshwaters that cross the road system within the City and Borough of Juneau boundaries. Meaningful subsistence fishing priorities for rural residents exist in streams that are closer to their respective communities. Eligible rural residents would have to travel substantial distances by boat or airplane in order to fish on Juneau roads, and such harvest would not be cost effective. Based on the lack of documentation of any subsistence use, the Federal Board should exempt the fresh waters of the Juneau City and Borough road system area from region-wide regulations by making a negative customary and traditional finding for all communities for all fish stocks in freshwaters that cross the road system within the City and Borough of Juneau boundaries. This action would have no impact on federally qualified rural subsistence users.

Opportunity Provided by State: State regulations provide for a variety of sport fishing opportunities in freshwaters and adjacent shoreline areas, but these opportunities are more restricted than elsewhere in Southeast Alaska. Most people fish for subsistence and recreational use in marine waters. The Department's sport fisheries website for the Juneau road system lists only 15 freshwater streams and, although saltwater shoreline areas are also available for anglers to fish, fishing in saltwater for trout and Dolly Varden is more restricted and subject to lower bag limits than in other areas of Southeast Alaska. Nearly all freshwater sport fishing activity (roughly 80%) along the Juneau road system takes place in four primary streams (Cowee Creek, Montana Creek, Peterson Creek, and Fish Creek). Fish populations in these streams are relatively small. Given Juneau's relatively large human population and road access, the potential exists for over harvesting local fish resources if additional harvest opportunity is provided. Several small roadside streams are closed to sport fishing altogether, and others are closed to salmon or Dolly Varden fishing. Restrictive bag and possession limits are in effect for many species as well. Juneau roadside bag limits, possession limits, and size requirements differ in several respects from regional regulations. Bag and possession limits have been reduced for coho salmon, sockeye salmon, and Dolly Varden. In addition, cutthroat trout size limits are more conservative in the Juneau area than in other areas of Southeast Alaska. These restrictions on Dolly Varden and cutthroat trout are also effective in all salt water adjacent to the Juneau City and Borough road system to a line ¼ mile offshore.

Because Juneau is a non-rural area, residents of Juneau who historically used fish stocks in the area are ineligible to participate in the federal subsistence fishery and cannot qualify for a federal

customary and traditional use determination. The existing federal subsistence regulations could lead to even more restrictions on non-federally qualified users (e.g., Juneau residents) in the non-rural area along the Juneau road system on both state and federal lands. These further restrictions could potentially force Juneau residents to travel long distances to rural areas to participate in freshwater sport fisheries. They might also result in increased state subsistence and personal use participation in these areas. They could thus create increased competition and be detrimental to the satisfaction of subsistence needs in those rural areas. Further state restrictions along the Juneau road system would also impact opportunities for those who relocate from rural areas to Juneau and rely upon opportunity in the Juneau area to continue their fishing activities.

Conservation Issues: While conservation concerns are not a factor in the Federal Board's C&T analysis, they do provide a common sense rationale for separating the Juneau Road system and specific stocks in the area from other "remainder" areas of Southeast Alaska and for making sure that only communities with established customary and traditional use of the specific stocks in the area receive a federal subsistence priority on those stocks. The Department has continually expressed conservation issue concerns to the Federal Board about sustainability of highly accessible fisheries on the Juneau road system if these fisheries are subjected to any participation under liberal federal subsistence harvest regulations. This proposal specifically requests a Customary and Traditional determination for specific fish stocks in a specific area. Comments illustrating the Department's ongoing concerns and conservation issues were previously presented to the Federal Board for proposals FP06-31, FP08-04, the Department's Fisheries Request for Reconsideration 06-05, and FP09-04.

Jurisdiction Issues: According to the Department's Fish Distribution Database, the majority of fish habitat and documented fish observations in these streams are not located within federal lands. Some streams have relatively inaccessible headwaters on federal land, but they flow through State, private, and other land ownership and **are not within the Tongass Forest boundary prior to crossing Juneau roads to enter marine waters**. Other streams along the Juneau road system flow entirely on non-federally owned land. We request that the federal maps be corrected to accurately portray the Tongass Forest boundary, which specifically excludes a significant portion of the Juneau area. The Juneau area was an exclusion from the Tongass Forest long before statehood.

In order for rural residents to know where they can legally participate in federal subsistence fisheries, and to aid enforcement personnel in determining whether activities are legal, we request detailed land status maps depict specific boundaries of waters claimed to be within federal subsistence jurisdiction. Maps provided by the federal program are not accurate enough to ensure federal subsistence users do not inadvertently fish from lands not claimed under federal jurisdiction. Significant portions of lands surrounding the Juneau road system are bordered by state or private lands, where there either is no federal jurisdiction or where persons cannot participate in federal subsistence fisheries while standing on non-federal lands.

Recommendation: Support.

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

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
Aug. 21	*Aug. 22* WINDOW OPENS	*Aug. 23* NS—TBA	*Aug. 24*	*Aug. 25*	*Aug. 26*	*Aug. 27*
Aug. 28	*Aug. 29*	*Aug. 30*	*Aug. 31*	*Sept. 1*	*Sept. 2*	*Sept. 3*
Sept. 4	*Sept. 5* **HOLIDAY**	*Sept. 6*	*Sept. 7*	*Sept. 8*	*Sept. 9*	*Sept. 10*
Sept. 11	*Sept. 12*	*Sept. 13*	*Sept. 14*	*Sept. 15*	*Sept. 16*	*Sept. 17*
Sept. 18	*Sept. 19*	*Sept. 20*	*Sept. 21*	*Sept. 22*	*Sept. 23*	*Sept. 24*
Sept. 25	*Sept. 26*	*Sept. 27*	*Sept. 28*	*Sept. 29*	*Sept. 30* END OF FY2010	*Oct. 1*
Oct. 2	*Oct. 3*	*Oct. 4*	*Oct. 5*	*Oct. 6*	*Oct. 7*	*Oct. 8*
Oct. 9	*Oct. 10* **HOLIDAY**	*Oct. 11*	*Oct. 12*	*Oct. 13*	*Oct. 14* WINDOW CLOSES	*Oct. 15*