

SOUTHEAST ALASKA Subsistence Regional Advisory Council



Carl Johnson

Thomsen Harbor with Mt. Edgecombe in the background, Sitka.

Meeting Materials
September 26–28, 2012
Sitka

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SOUTHEAST ALASKA SUBSISTENCE REGIONAL ADVISORY COUNCIL

Sitka Tribe Community House – Sitka, Alaska

September 26, 2012, 11:00 a.m. – September 28, 5:00 p.m.

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.

*Asterisk identifies action item.

- 1. Call to Order (Chair)**
- 2. Roll Call and Establish Quorum (Secretary)..... 4**
- 3. Welcome and Introductions (Chair)**
- 4. Review and Adopt Agenda* (Chair) 1**
- 5. Review and Approve Previous Meeting Minutes* (Chair)..... 5**
- 6. Reports**
 - A. Council member reports
 - B. Chair’s report
 - C. C&T Workgroup report
 - D. Fisheries harvest summary and in-season fish and wildlife action summary (Jeff Reeves)
- 7. Public and Tribal Comments on Non-Agenda Items**
- 8. Federal Subsistence Regulatory Proposals**
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A. Confirm date and location of winter 2013 meeting (Ketchikan March 12–14, 2013) *	
B. Select date and location of fall 2013 meeting*	
14. Closing Comments	
15. Adjourn (Chair)	

To teleconference into the meeting, call the toll free number: 1-866-560-5984, then when prompted enter the passcode: 12960066

The U.S. Fish and Wildlife is committed to providing access to this meeting for those with a disability who wish to participate. Please direct all requests for accommodation for a disability to the Office of Subsistence Management at least five business days prior to the meeting.

If you have any questions regarding this agenda or need additional information, please contact Southeast Alaska Council Coordinator Robert Larson at 907-772-5930 or contact the Office of Subsistence Management at 1-800-478-1456 for general inquiries.

REGION 1
Southeast Alaska Regional Advisory Council

Seat	Yr Apptd Term Expires	Member Name & Address
1	2010 2013	Timothy Charles Ackerman Haines, Alaska 99827
2	2004 2013	Frank Glade Wright Jr. Hoonah, Alaska 99829
3	1993 2013	Patricia Ann Phillips Pelican, Alaska 99832
4	2000 2013	Michael Allen Douville Craig, Alaska 99921
5	2002 2013	Harvey Kitka Sitka, Alaska 99835
6	1999 2014	Bertrand J. Adams Sr. Chair Yakutat, Alaska 99689
7	2002 2014	Floyd M. Kookesh Angoon, Alaska 99820
8	2002 2014	Donald C. Hernandez Point Baker, Alaska 99927
9	2010 2012	Frederick Archie Nielsen Sitka, Alaska 99835
10	2006 2012	Merle N. Hawkins Ketchikan, Alaska 99901
11	2010 2014	John A. Yeager Wrangell, Alaska 99929
12	2003 2012	Michael D. Bangs Petersburg, Alaska 99833
13	2009 2012	Cathy A. Needham Juneau, Alaska 99801

**MINUTES OF THE MARCH 20-22, 2012 SOUTHEAST ALASKA SUBSISTENCE REGIONAL
ADVISORY COUNCIL MEETING**

Location of Meeting:

Elizabeth Peratrovich Hall 320 W. Willoughby Avenue, Juneau, Alaska

Time and Date of Meeting:

Meeting: Tuesday, March 20, 9:00 a.m. - 5:00 p.m.

Wednesday March 21, 8:30 a.m.-5:00 p.m.

Thursday March 22, 9:00 a.m. – 11:00 p.m.

Call to order:

Meeting called to order by Chairman Bertrand Adams at 9:00 a.m. March 20, 2012.

The Council met in regular session for the entire day on Tuesday and during the morning on Wednesday. The Council met in concurrent session with the Subsistence Board at 1:00 p.m. on Wednesday to hear the staff analysis and public testimony regarding Kootznooowoo Inc. Petition to extend Federal jurisdiction into Marine waters of Chatham Strait, Icy Strait and Peril Strait. The Council was present during Tribal consultation and public testimony. The Subsistence Board recessed on Thursday afternoon for the Council to develop a recommendation for the Board regarding the Petition. The Council developed a recommendation during the evening and adjourned at 11:00 p.m. Thursday.

Roll call:

There were 12 members present for the first day and one half. Although Mr. Nielsen was present in Juneau, he became sick and unable to attend. All 13 members of the Council were present on Wednesday afternoon and Thursday.

Review and Adoption of Agenda:

The agenda was reviewed and adopted as a guide.

Welcome and introductions:

Introductory and welcoming remarks were provided by Ms. Marti Marshall, USFS Juneau District Ranger and Mr. Ed Thomas, President, Central Council of Tlingit and Haida Indian Tribes of Alaska.

Attendance:

<u>Name</u>	<u>City</u>	<u>Group/Agency Represented</u>
Sally Smith	Juneau	Senator Begich Office
Arthur Martin	Hollis	State Rep. Peggy Wilson Office
Steve Kessler	Anchorage	USFS
Terry Suminski	Sitka	USFS
Jeff Reeves	Craig	USFS
Dennis Chester	Juneau	USFS
Brian Logan	Juneau	USFS
Ben VanAlen	Juneau	USFS
Carol Mahara	Juneau	USFS
Marti Marshall	Juneau	USFS
Cal Casipit	Juneau	USFS
Jack Lorrigan	Sitka	USFS

Lillian Petershoare	Juneau	USFS
Chad VanOrmer	Juneau	USFS
Justin Koller	Sitka	USFS
Kevin McIver	Juneau	USFS
Wayne Owen	Juneau	USFS
Tricia O'Connor	Ketchikan	USFS
Ted Schenck	Ketchikan	USFS
Jennifer Berger	Juneau	USFS
Dawn Collingsworth	Juneau	USFS-OGC
Kassy Littlefield	Sitka	UAS
Zach Heathman	Sitka	UAS
Lon Garrison	Sitka	UAS
Allyson Hughes	Juneau	UAF
Bud Cribley	Anchorage	BLM
Dan Sharp	Anchorage	BLM
Glenn Chen	Homer	BIA
Pat Petrivelli	Anchorage	BIA
Kristin K'eit	Anchorage	BIA
Jim Capra	Yakutat	NPS
Nancy Swanton	Anchorage	NPS
Pete Probasco	Anchorage	USFWS-OSM
Chuck Ardizzone	Anchorage	USFWS-OSM
David Jenkins	Anchorage	USFWS-OSM
Jerry Berg	Anchorage	USFWS
Verena Gill	Anchorage	USFWS
Bill Davidson	Sitka	ADFG
Kevin Monagle	Juneau	ADFG
Dave Harris	Juneau	ADFG
Jennifer S. Yuhas	Anchorage	ADFG
Kelly Hepler	Anchorage	ADFG
Lauren Sill	Juneau	ADFG
Doug Larsen	Juneau	ADFG
Julie Bednarski	Juneau	ADFG
Ray Nowlin	Fairbanks	ADFG
Barb Sheinberg	Juneau	Sheinberg and Associates
Steve Reifentstuhl	Sitka	NSRAA
Tom Gemmell	Juneau	United Southeast Alaska Gillnetters
Julianne Curry	Petersburg	Petersburg Vessel Owners
Scott M.	Juneau	Southeast Seiners Association
Branden R.	Juneau	Southeast Seiners Association
Kathy Hansen	Juneau	Southeast Fishermen's Alliance
Bob Thorstenson	Juneau	Southeast Seiners Association
Jeremy Jensen	Petersburg	Southeast Seiners Association
Dale Kelley	Juneau	Alaska Trollers Association
Kris Norosz	Petersburg	Icicle Seafoods
Randy Lantiegne	Petersburg	Icicle Seafoods
Mark Kaelke	Juneau	Trout Unlimited
Albert Howard	Angoon	City of Angoon
Mike Peterson	Juneau	Public
Wanda Culp	Hoonah	Public
Jennie Jim	Angoon	Public

Dora Jim	Juneau	Public
John Sisk	Juneau	Public
Wally Frank Jr.	Angoon	Public
Emma Deats	Juneau	Public
Clarence Jackson	Juneau	Public
Cecilia Borbridge	Sitka	Public
Kay Simmons	Sitka	Public
Harold Frank	Juneau	Public
Eric Morrison	Juneau	Douglas Indian Association
Evelyn E. Myers	Douglas	Douglas Indian Association
Jeff Jackson	Kake	Organized Village of Kake
Delbert Kadake	Kake	Organized Village of Kake
Carrie Sykes	Juneau	CCTHITA
Edward Thomas Sr. (Ed)	Juneau	CCTHITA
Bob Sanderson Jr.	Ketchikan	CCTHITA
Yodean Armon	Klawock	CCTHITA
Alana Peterson	Juneau	CCTHITA
Laird Jones	Juneau	CCTHITA
Edward K. Thomas Jr. (Sam)	Craig	Craig Tribal Association
Peter Naoroz	Juneau	Kootznoowoo Inc.
Joseph Reeves	Ketchikan	Ketchikan Indian Community
Andre LeCornu	Ketchikan	Ketchikan Indian Community
Ronald Leighton	Kasaan	Organized Village of Kasaan
Jeff Bell	Kasaan	Organized Village of Kasaan
Robert Loescher	Juneau	ANB Grand Camp
Al McKinley Sr.	Juneau	ANB Grand Camp
Rosalie Grant	Petersburg	Petersburg Indian Association
Helaire Echohawk	Angoon	Angoon Community Association
Floyd Jim	Angoon	Angoon Community Association
Paul Young	Juneau	ANB Camp 70
Jaeleen Araiyo	Juneau	Sealaska Corporation
Lee Kadinger	Juneau	Sealaska Heritage
Louie Wagner	Metlakatla	Metlakatla Indian Community

Election of Officers:

Mr. Adams was elected Chair, Mr. Bangs as vice-chair and Mr. Kitka as Secretary.

Review and Approve Minutes from September 27, 2011 Meeting:

The minutes of the September 27-29, 2011 Council meeting were approved unanimously without correction.

Public and Tribal testimony on Agenda and Non-Agenda items:

Mr. Bob Loescher, Alaska Native Brotherhood, testified there was a promise by Congress that subsistence would be protected and recognized as an equity right. This promise was postponed in ANSCA and defined in ANILCA. Subsistence is for Alaska Natives, who have an indigenous right for food security, and rural residents. The Peratrovich Case states that the Federal government has ownership of navigable waters for purposes of subsistence. That includes extending jurisdiction into marine waters. Congress needs to revisit the issue.

There are Native groups working on the sea otter issue and a management plan is being prepared. He does not support any harvest opportunity by non-natives and there needs to be flexibility regarding what

is a pelt and what is a handicraft. Law enforcement efforts define how rules are enforced and interpreted; current practice constitutes harassment.

The ADF&G obtains considerable amount of money from the Pacific Salmon Commission and these funds should be used for genetic stock identification studies. Tribes should have a say in which studies are funded with these funds.

Mr. Thorstenson, Southeast Seiners Association, supports the subsistence priority under both State and Federal rules. Current management by the State and Federal programs is working well as evidenced by increased sockeye abundance in Kanalku and other locations. Having a genetic stock identification program that samples the commercial fishery will help identify weak stocks. Funds should be allocated from State and Federal sources for genetic stock identification studies. Efforts to ladder the falls at Kanalku started 44 years ago and the current work by the Forest Service needs to be finished. Changes in Management require proof of interception rates. He is encouraged that interest groups can work together to increase escapements and produce higher harvest limit in the subsistence fisheries.

Mr. Ron Leighton, Organized Village of Kasaan, was concerned about the density of herring eggs in West Behm Canal not being great enough for use as food. The State needs to consult with Tribes prior to opening the commercial fishery. The opportunity to harvest doe deer on Prince of Wales Island is being abused by designated hunters. Sea otters are a big concern as is a management plan that results in the maximum number of sea otters possible in Southeast Alaska. Under present rules, it is impossible to maintain a balance of predator and prey for otters and shellfish.

Sam Thomas, Craig Community Association, is concerned that heavy handed enforcement of traditional activities constitutes harassment and there needs to be a greater emphasis on education and communication with subsistence users. What to do about sea otters is the most important issue for the future and action is needed to address the growing sea otter problem. He supports recent legislation by Rep. Don Young.

Carrie Sykes, CCTHITA, reported that the Central Council was working with the Alaska Native Brotherhood on subsistence issues and have formed a customary and traditional use work group.

Mr. Joseph Reeves, Ketchikan Indian Community, reported that mining activity in British Columbia will affect all transboundary rivers. The mine in the headwaters of the Unuk River will impact subsistence and commercial fisheries and he suggests the Council intervene with State and Federal agencies to protect water quality on this side of the border. Youth need to learn subsistence practices from elders and the State needs to acknowledge the subsistence priority. ANSCA corporations are not Tribes and should not have consultation status. The Ketchikan Indian Community supports Saxman retaining rural status.

Mr. Ed Thomas, CCTHITA, testified that the community of Saxman should retain rural status. The presence of a road does not preclude subsistence use or change the priority use of resources by eligible communities.

Andre LeCornu, Ketchikan Indian Community, testified that enforcement actions by the USFWS are constraining the use of sea otters.

Chair's report

Mr. Adams, reminded the Council to always choose respect in conduct during the meeting, in our everyday lives and to our resources. This includes having respect for the process for developing a recommendation on the extended jurisdiction petition. There has been 301 inches of snow in Yakutat and more in the forecast; the record is 311 inches. The new member of the Wrangell-St. Elias Subsistence

Resource Commission is Karen Lydel from Kenny Lake. Bert remains chair. The report of Board regulatory actions (805(c) letter) was not included in the Council book and provided separately.

Council Comments

Kathy Needham attended the Central Council Tlingit and Haida Indian Tribes of Alaska sponsored forum on subsistence in Alaska and found it very informative. She will present a Council perspective on sea otters to the Board, during the joint session. Other council members were concerned about the effect the harsh winter was having on deer, particularly the deer on Chichagof Island. Sea otters are moving into Port Frederick and areas near Craig and Sitka with significant effects on local shellfish stocks. Issues regarding sea otters cannot be solved at the local level and must be addressed at the highest levels of the Federal government. There are hundreds of whales each summer in Icy Strait eating huge amounts of food. Council members are concerned about the amount of food eaten by the expanding populations of whales, sea lions, seals and sea otters. The content of the council meetings is becoming more complex and several council members were concerned that there is not enough time allocated during the council meetings to conduct the business listed on the agenda. Commercialization of subsistence resources and the effect on subsistence by commercial fisheries is a concern. Wolves on Prince of Wales Island specifically and Southeast Alaska in general is a concern with no decision on the petition for listing under the Endangered Species Act. Deer numbers are depressed in Unit 3 with a general decline in each of the past 5 years. The wolf population is healthy in this area and we may see a predator-pit situation developing. There is a lack of hunter success on north Prince of Wales Island so the Council may see proposals to close the doe season. There is record breaking snow in the Haines area with approximately 30 feet falling in some areas. Moose are suffering but the wolves and coyote seem to be doing fine. Sockeye salmon stocks in the Chilkoot and Chilkat Rivers did not achieve escapements last summer. Paralytic Shellfish Poison is at high levels in the Ketchikan area and preventing the harvest of clams. Mining activity in Canada has the potential to pollute waters in Southeast Alaska. Time at Council meetings is a valuable resource and the Council should use theirs constructively. The Council needs to be proactive in protecting the subsistence priority. The cross-border trade issue needs to be clarified as well as the subsistence harvest of sablefish in Federal waters.

Fish Regulatory Proposals

After review of the 2012 Stikine River subsistence fishery management plan, the Council approved two proposals to change Federal fishery regulations. The first was to change the guideline harvest level for sockeye salmon in the Stikine River subsistence fishery from 600 fish to 2,000 fish. The second proposal was to change the number of steelhead that can be taken from a single stream on Prince of Wales Island by a household to one during the winter fishery and two during the spring fishery.

Agency Reports

State of Alaska: Ms. Jennifer Yuhas and Mr. Doug Larson, Alaska Department of Fish and Game, reported that the ADF&G's position is that if you can hunt there, you should be allowed to pick-up animal parts in that same location on Park Service land. In allocating fishery research funds for this fiscal year, the State has a high priority for stock assessments and genetic contribution sampling projects. The Forest Service and the ADF&G will begin a wolf study on Prince of Wales Island to relate assessment techniques and trapper experience. The goal is to provide valid population assessments.

Office of Subsistence Management: Mr. Pete Probasco informed the Council that the rural-nonrural decisions by the Board from the 2000 census has been stayed and a new review, based on the 2010 census is beginning. The Federal-State MOU process and document has been reviewed and a new draft is being written. The Council will likely review the draft MOU at the fall meeting. He has been told to expect a 22% budget reduction for OSM in FY 2013; so expect all expenses to be reviewed closely. His office is looking for savings and efficiencies in scheduling council meetings. The possibility of a joint meeting with the Southcentral Council remains a possibility with adequate justification.

US Forest Service: Mr. Kessler, Mr. Casipit, Mr. Suminski, Mr. VanAlen and Mr. Schenck. Mr. Casipit informed the Council there are no funds for new Fishery Resource Monitoring Program projects for 2012. There will be a call for new studies next year. Mr. VanAlen provided a figure with a prioritized list of potential Fishery Resource Monitoring projects by location and information type. Mr. Schenck noted there are approximately 100 projects on the Forest Service Schedule of Proposed Actions (SOPA) at any one time. These are listed on the Forest Service website. The Craig Outfitter-Guide capacity analysis is complete and other similar projects are being developed. The Kanalku fish pass should be constructed by 2013. Travel Access and Transportation Management projects may be of interest to Council members and are moving forward on each District. Mr. Suminski reported the Petition to list the wolf in Southeast Alaska as a threatened or endangered species is still working through the process but we can expect the results of the 90-day finding sometime this summer. A table of in-season special actions for both fish and wildlife was included in the Council book.

Office of the Secretary, Department of Agriculture: Mr. Butch Blazer attended the Council meeting and has a greater understanding of the Subsistence Program in Alaska. He will review the subsistence budget within the Forest Service.

National Park Service Report: Mr. Jim Capra, National Park Service (NPS), Dry Bay Ranger, explained a request from the Gates of the Arctic Subsistence Resource Commission for a stipend in lieu of per diem. The Council took no action on that proposal. He also presented a request for a recommendation on a NPS environmental assessment of non-edible part of animals and plants. The NPS currently has conflicting regulations and has determined that unless it is specifically allowed, the practice of picking up this type of material is not allowed. The Council endorsed Alternative B. The NPS has determined that the use of off road vehicles on the Malaspina Forelands is prohibited except by permit.

Sea Otter Informational Report: Ms. Verena Gill, USFWS; Mr. Phil Doherty, Southeast Alaska Regional Dive Fisheries Association; and Ms. Cathy Needham, Southeast Subsistence Regional Advisory Council, presented a review of information regarding the expanding range and population of the sea otter population in the Region, the economic cost to the commercial fisheries and the extent of public concerns with sea otters. There are now approximately 20,000 sea otters in Southeast Alaska with an observed increase of 4% in the northern areas and 12% in the southern areas. The economic cost to the Region's commercial urchin, cucumber, geoduck and Dungeness crab fisheries runs in the millions of dollars. Expanding sea otter populations are affecting subsistence user's ability to gather traditional shellfish foods.

2011 Annual Report

The Council suggested the following issues as appropriate to include in the 2011 Annual Report:

Issue 1: Customary and traditional determinations

At the March 2011 Council meeting, the Council was asked to review how the current customary and traditional use determination process was working. The Council observed that the Federal customary and traditional use determination process and the eight factor analysis is a carryover from State of Alaska regulation. Now that it appears the Federal program will be permanent; it would be appropriate to develop a Federal process based on ANILCA rather than a process developed to address State regulatory authorities. Unfortunately, the Office of Subsistence Management did not provide sufficient information to the Council regarding how the current customary and traditional use determination process was being applied to allow the Council to make definitive recommendations to the Board. The Council wishes to reiterate the recommendation made to the Board during the March 2011 meeting:

Given that ANILCA does not require the Board make customary and traditional use determinations, the Council recommends the Federal Subsistence Board eliminate the current regulations for customary and traditional use determinations, and task the Office of Subsistence Management with drafting regulations which adhere to provisions contained within Section 804 of ANILCA.

The Council reiterates support for the following specific regulatory change as recommended at the March 2011 meeting:

Modify 50 CFR 100.16 (a). The regulation should read: “The Board shall determine which fish and wildlife have been customarily and traditionally used for subsistence. These determinations shall identify the specific community’s or area’s use of [~~specific fish stock and wildlife population~~] **all species of fish and wildlife that have traditionally used, in their (past and present) geographic areas**”.

Issue 2: Increased emphasis of social concerns in staff analysis

The format of the staff analysis used to describe the effects of a proposal to change either fish or wildlife regulations does not incorporate an adequate evaluation of the social and cultural issues encompassed by the proposal. The current process concentrates on a factual account of the status of the species in question (stock size, reproductive rates, life history, harvests, etc.) necessary to understand the scientific basis of the proposal. An increased emphasis on social, cultural and economic issues would facilitate dialog with Tribes and ANCSA Corporations similar to consultation but available to the Council prior to deliberations. An example of this problem is the lack of discussion of the social, cultural and economic use of bear claws by residents of Southeast Alaska and the unfortunate adoption of WP12-01 by the Board.

Issue 3: Encourage Tribes to comment on social issues in testimony

The Council recommends the Board encourage Tribes and ANCSA Corporations to discuss the social, cultural and economic issues contained in the regulatory proposal (content of the analysis) not simply the Tribes position on a specific proposal. This information must be made available to the analyst early in the process to be truly effective. The Board needs to initiate communication and provide education to Tribes regarding their opportunities to affect the regulatory process (ask the tribes for what is needed). If an ANCSA Corporation is going to be involved in management of subsistence resources, they also need to be educated and formally incorporated into the Council process. The Council is concerned that interjecting comments from the Tribes and ANCSA Corporations directly to the Board increases that group’s influence more than subsistence users.

Consultation by Tribes and ANCSA Corporations at Board meetings may contain significant new information that was not available to the Council. When that situation occurs, the proposal should be deferred and returned to the Council for additional consideration because the Council must always provide the primary “bottom-up” recommendation to the Federal Subsistence Board, consistent with ANILCA Section 805.

There will need to be a mechanism in the structure of Council meetings to accommodate testimony from Tribes and ANCSA Corporations prior to deliberations. Comments from that group must not circumvent the Council process.

Issue 4: Budget

The Council has a continuing concern with maintaining an adequate budget to support the subsistence program. Specifically, the Council has a priority need to fund wildlife resource information projects necessary for the successful management of the Region’s wildlife populations.

There should be adequate funds available to respond to the wolf listing petition. These funds could be used for studies to include population monitoring, wolf ecology and population dynamics.

Issue 5: Coordination with the State regulatory processes

The Council must increase interactions, coordination and communication with the State regulatory process – specifically the Alaska State Boards of Fish and Game. The Federal and State management staff have a good working relationship but the Council must have a greater role in participating with the State Boards process. The Council should have a greater presence and adequate funding to participate in the State of Alaska Board of Game and Board of Fish regulatory meetings.

Issue 6: Sea otters

The Council recognizes the Subsistence Board does not manage sea otters or most of the resources that they consume. However, Title VIII of ANILCA, allows the Council to hear concerns regarding subsistence uses of wild renewable resources by residents of the Region. The Council has heard approximately 64 testimonies regarding sea otters since 2004; some of which have resulted in letters from the Council to either the Board or the U.S. Fish and Wildlife Service. Concerns regarding capricious enforcement and the definition of what is considered significantly altered are being addressed by the users. It is good that those issues are being addressed through other channels; but there is a role for the Board. The Council believes there must be additional coordination between the various Federal and State Agencies to acknowledge the threat to the subsistence lifestyle of residents of this region by sea otters. Food resources available to residents and economic opportunities regarding shellfish are disappearing. That fact should be reported by the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, The Bureau of Indian Affairs and the U.S. Forest Service at every opportunity. The Council's recommendation is that the Board plan and fund a research study to quantify the impact of sea otters to subsistence users.

Other Council Actions

The Council did not provide additional comments in addition to the letter from last March and the 2011 Annual Report issues regarding a review of the Draft Tribal Consultation Policy. The Council expects to review the final draft during their September meeting.

The Council also expects to spend additional time reviewing the new Fisheries Resource Monitoring Program Strategic Priorities for 2014 during the September meeting.

Motion approved: (motion by Bangs 2nd by Kitka) to schedule the next fall Council meeting for September 26-28, 2012 in Sitka.

Motion approved: (motion by Bangs 2nd by Phillips) to schedule the winter meeting for February 25, 2013 in Ketchikan. Subsequent to the action, it was learned of a scheduling conflict and verbal approval was made to reschedule for March 12-14, 2013 in Ketchikan.

Motion approved: (motion by Needham 2nd by Bangs) to form a working group to review the customary and traditional use determination process. Members of the working group include Mr. Ackerman, Ms. Needham and Ms. Phillips.

Joint Session with Federal Subsistence Board — Extraterritorial Jurisdiction Petition

State Comments:

Mr. Kelly Hepler, Mr. Jeff Regnart, Mr. Kevin Monagle, Alaska Department of Fish and Game (written and oral testimony). The State is very aware of the complexities of dual management but recognizes the State and Federal programs have a common interest in providing for the conservation of resources and the

priority use of those resources for subsistence. It cannot be determined if there has been harm to the Federal subsistence fishery because there is a lack of information regarding a Federal subsistence fishery. The State provides for conservation and the priority for subsistence by identifying which stocks are used, establishing a sustainable harvest limit based on abundance and effort and maintaining an effective reporting system. The commercial seine fishery in Chatham Strait provides for the passage of small sockeye salmon stocks by restricting fishing time in the corridor areas until after the majority of subsistence fishing has occurred. In recent years, areas near Basket Bay (Kook Lake) and Mitchell Bay (Kanalku Lake) have been closed by emergency order. The State is also working on cooperative projects with the US Forest Service to increase passage into Kanalku Lake and conduct sockeye salmon assessment studies on several local area stocks. Future plans include improving genetic stock identification studies that would allow stock composition estimates in the commercial fishery and improved stock assessment techniques that could be useful for developing escapement goals. It may be useful to conduct supplemental production of sockeye salmon at Kanalku Lake if altering the falls is successful. The State is prepared to review the current Amounts Necessary for subsistence to address the needs specific to Angoon. A component of that analysis will be the results of a new household use survey for Angoon by the Division of Subsistence. Both the commercial and subsistence fisheries occur primarily in State waters and the State is committed to working with Angoon and other partners to resolve the issues contained within the petition. The issues are State issues and the State will continue to provide for subsistence opportunities and the conservation of small sockeye salmon stocks.

Public Testimony

Mr. Clarence Jackson: resident of Juneau. Mr. Jackson supports the petition for extraterritorial jurisdiction. The ability to engage in subsistence is the most critical aspect of people's lives in Southeast Alaska; villages were located where they are because of access to subsistence food. Different locations provided different foods and villagers sometimes had to travel long distances. Native people live off the land and off the ocean. When he was a boy, his family would harvest and dry approximately 500 dog salmon. Sharing and continuing the tradition of harvest and preparation of traditional foods must be taught to each new generation. The fish camps are gone but the traditional practices continue. As a result of high fuel prices, subsistence users must be efficient and a daily limit of 12 or 15 sockeye salmon is not adequate. At one time it wasn't difficult to get fish because there was much available. Now with overlapping fisheries, there is not enough left over for subsistence. Natives cannot continue as Natives if the limit is only 10 sockeye salmon per day and we have to compete with boat loads of tourists and sport fishermen. Managers did not ever seek advice on the number of salmon that should be allocated to the subsistence fishery. If you are fishing with a gill net, you may take more fish than allowed on a permit. That should not result in a criminal citation and a heavy fine; taking one or two fish over the limit can't be helped.

Dianne McKinley: resident of Anchorage. Ms. McKinley supports the Kootznoowoo petition and feels it is an appropriate solution based on the evidence.

Alfred McKinley Sr.: resident of Juneau. Mr. McKinley supports the petition for extraterritorial jurisdiction. Because of his long history of fishing in the northern Chatham Strait area Mr. McKinley believes most of the sockeye enter the inside waters through Icy Strait. Herring stocks in Auke Bay have disappeared due to State management. His family uses about five or six hundred salmon each year. People new to the State do not understand Native culture. House Bill 335, the Coastal Zone Management Act should be evaluated to determine if there is a detrimental effect on subsistence.

Mark Vinsel: President, United Fishermen of Alaska (written and oral testimony). Management of both the commercial and subsistence fisheries in Chatham Strait is a State of Alaska issue and not within the jurisdiction of the Federal government. The State of Alaska Board of Fish is the appropriate organization

to address this issue and not the subsistence Board. The UFA opposes the petition for extraterritorial jurisdiction in any waters of Southeast Alaska. There is no basis for this petition because both the commercial and subsistence fisheries are managed by the State and there is no evidence of interference with a Federal subsistence fishery. The sockeye salmon stocks in this area are healthy and managed for sustainable harvests. The commercial seine fishery in Chatham Strait experienced high effort in 2009 and extremely low effort in 2010. In both those years the return to Kanalku exceeded 3,000 sockeye salmon. At Kanalku, the falls was first altered in 1968 and now there are estimates that 70% of fish that enter the stream from the bay do not make the trip into the lake. What is needed is a fish ladder at the partial barrier falls. At Kook Lake, there is evidence that debris dams may have blocked access to the lake for sockeye salmon during some years. The habitat issues should be address prior to restricting the commercial fishery. There is no evidence of interception of local stock-of-origin sockeye salmon in the commercial seine harvest. Extraterritorial jurisdiction by the Federal government is an extreme measure without compelling factual or scientific reason. The State of Alaska is a world leader in fisheries management and should be given deference to manage the State's resources.

Steve Reifentstahl: General manager Northern Southeast Regional Aquaculture Association (NSRAA). The NSRAA is opposed to the petition for extraterritorial jurisdiction. Mr. Reifentstahl has lived and worked in rural communities throughout the region and understands the trials and pleasures of living off the land. Whalers Cove Lodge on Killisnoo Island is the largest private employer of Angoon residents and the lodge sends boats, crews and clients to Hidden Falls to harvest Chinook and chum salmon in the summer and coho salmon in the fall season. Shutting down Hidden Falls as proposed would have a devastating effect on the largest employer in Angoon. There is no merit to the proposal to close State fisheries. In fact, if enacted, it would hurt the very people that it purports to help. The majority of Kanalku sockeye salmon caught for subsistence are caught in State waters with perhaps five percent sockeye salmon caught in fresh water on Federal lands. Without stock identification data it would be arbitrary and capricious to shut down fisheries with no measure of success. The proposed action would cause significant and lasting harm to the residents of Hoonah, Juneau, Kake, Sitka, Wrangell and Petersburg. NSRAA has expertise and can assist and support the community of Angoon in helping rehabilitate Kanalku Lake to reach its full production potential.

Julianne Curry: Director Petersburg Vessel Owners Association (PVOA). PVOA does not support the petition for extraterritorial jurisdiction. The staff analysis clearly shows there are alternatives to Federal management. The Subsistence Board could raise household limits of sockeye salmon or close Federal waters to other users. The State has options for other solutions including stock assessment projects, monitoring streams to detect fish blockage, assessing the partial barrier at Kanalku and continuing genetic research in northern Southeast Alaska. There were 60 commercial fishing permits owned by Angoon residents in 1990 and only two in 2010. The State has programs to bring commercial fishing permits back into the Villages. Closing or restricting the commercial fishery in Chatham would have significant economic consequences and divide communities. PVOA is committed to finding a balance between the people who depend on these fish for food and those that depend on them for a livelihood. Angoon residents should attend the annual purse seine taskforce meeting to work on common issues.

Brad Fluetsch: Alaska Native Brotherhood (ANB) Executive Committee. Mr. Fluetsch is in favor of the petition for extraterritorial jurisdiction. The residents of Angoon have suffered harm because of the lack of subsistence sockeye salmon. A household limit of 15 sockeye per year is ridiculous. The seine fishery intercepts migrating sockeye salmon returning to streams near Angoon. The Federal government has a responsibility to ensure that subsistence sockeye salmon needs are met. State management has failed to protect the subsistence fishery so it is necessary for the Federal government to act. The seine fleet must be restricted for the next five years while the stocks and harvest is closely monitored. The State has a lack of information regarding these stocks and appears unwilling to do the work necessary to understand the management of this fishery.

Bob Thorstenson: President, Southeast Alaska Seiners Association (written and oral testimony). The Southeast Alaska Seiners Association does not support the petition for extraterritorial jurisdiction. The very idea of extraterritorial jurisdiction is insulting to most Alaskans. Management of fish was rightfully transferred to the State upon statehood. The Federal government first altered the falls at Kanalku Creek in 1968 and after 11 sockeye life cycles, there is still a problem with fish escaping into the lake. It was also the Federal government that allowed logging to the water's edge at Kook Lake; causing degradation to the spawning grounds and debris jams from erosion to block access to the lake in the lower stream. How ironic that this same government, which likely caused production issues in these two streams, is asked to restrict one of the best managed fisheries in the State. How can the Secretaries be asked to close the commercial pink and chum salmon fisheries if there is 70% mortality of sockeye salmon at a Federally altered falls (on Federal land) in Kanalku Creek? There was a weak return of sockeye salmon into Kanalku Lake in 2011 but there were very few adults spawning in the parent year (2007), therefore there would likely be a poor return in 2011 with or without a commercial fishery. In addition, there is absolutely no evidence of sockeye salmon interception by stock identification in the commercial fishery. The vast majority of Chatham Strait has been closed in the first three weeks of July for two decades to allow safe passage for sockeye salmon into local systems. Not fishing in the first three weeks of July is allowing 90% of the sockeye salmon transiting Chatham Strait to return to their natal streams. There has been no change in that policy and escapements into Kanalku Lake are at the highest levels on record. Science, not speculation is the correct way to evaluate fishing patterns. Genetic stock identification is the only way to estimate the stock-of-origin of sockeye salmon taken in the commercial fishery. The State plan for rebuilding Kanalku Lake sockeye salmon has been a success and should be allowed to continue. Kootznoowoo, Inc. has been invited to attend the Southeast Purse Seine Taskforce meetings and they have not attended. Issues regarding the ownership of lands is not the primary worry; fix the falls, count the fish and worry about who owns the land later. Seine fishermen including Natives and non-natives from rural communities will be negatively impacted if the seine fishery in Chatham Strait is unnecessarily restricted. The Southeast Seine Association encourages cooperation between the industry, Tribes and State and Federal managers to meet and work towards resolution of the issues identified in the petition.

Jennie Jim: resident of Angoon. Ms. Jim supports the petition for extraterritorial jurisdiction. The current subsistence fishery sockeye limits do not provide enough fish to feed a family. She and her brother own the stream at Kanalku and give permission for others to harvest there. Ms. Jim is 93 years old and relies on subsistence foods from the local area to help feed herself, her children and grandchildren.

Albert Howard: Mayor of Angoon. Mr. Howard represents the community of Angoon and supports the petition to extend extraterritorial jurisdiction. Historically it did not take much effort to feed a large community because resources were abundant. Resources were managed by the people because the best government for the people is the government closest to the people. The People are now asking you to do something to protect these resources. The Tribe is working with the U.S. Forest Service to conduct stock assessments for local sockeye salmon streams. This is a Tribe and Federal project, not the State. Fishermen in Angoon are forced to go to the Hidden Falls hatchery to fish because fish returning to the area near Angoon have already been taken in the commercial seine fishery. As a past commercial fisherman and subsistence user, Mr. Howard understands both sides of the argument but something must be done for the sake of his children and grandchildren. It is human nature for the commercial fleet to want to catch as many fish as possible but those fish must be shared with the subsistence user. There is a day to day struggle for most people in Angoon between heat, lights and food. Some people take more than allowed by the small subsistence harvest limits because they must have food. Where are we going to be seven generations from now if the issue is not addressed; a land of hatcheries or a land with abundant natural resources? Sockeye salmon return to the local systems through northern Chatham Strait where they are intercepted by the seine fishery. Subsistence needs are not being met.

Kathy Hanson: Executive Director for Southeast Alaska Fisherman's Alliance (SEAFa). Mr. Hanson and SEAFa are very aware of the history of sockeye salmon management in Chatham Strait and do not support the petition for extraterritorial jurisdiction. They participated in the Board of Fish meetings in 2006 and 2009 and at every recent purse seine task force meeting. Angoon residents have always harvested from those stream systems where sockeye are in greatest abundance but the focus of this petition has been on Kanalku. Kanalku will never meet the subsistence salmon needs of Angoon and fishing must take place in multiple areas for different species. Altering the partial barrier at Kanalku will likely be as effective in increasing production from this stream as closing the commercial fishery. Working together through the Federal Subsistence Board, Board of Fish, State of Alaska and purse seine taskforce we can achieve more success and results than a long time in confusing inflexible Federal extraterritorial jurisdiction process.

Jeremy Jensen: resident of Petersburg. Mr. Jensen is a commercial fisherman and is opposed to the petition for extraterritorial jurisdiction. Mr. Jensen participates in the Chatham Strait commercial seine fishery and testified to the variable nature of the returns to this area and the number of fish migrating through the area. Because it is unpredictable and hard to understand, more information is needed prior to closing an important fishery. Mr. Jensen is a subsistence user and understands the importance of this activity but there needs to be more data and discussion prior to any drastic action. Possible solutions include enhancing the productivity of the sockeye lakes or adjusting fishing time according to stock abundance.

Floyd Jim: resident of Angoon. Mr. Jim supports the petition for extraterritorial jurisdiction. The community is very concerned about the seine fishery near Angoon. He does not like to use the term "subsistence" and prefers "way of life". The way of life in Angoon is to harvest a variety of wild resources. It is important because of the high cost of imported food. Seine fishermen are not limited to how many they can catch but a subsistence fisherman has a small limit. How can a family survive on 15 sockeye salmon? Fish that are caught are shared by the community. Subsistence fishing was restricted in Bristol Bay last year and that shouldn't happen in Southeast Alaska. If there were jobs available in Angoon like in Juneau, this would not be such a big issue. People do not want hatchery fish. There was a voluntary closure at Kanalku and people went elsewhere to harvest until the returns improved. If subsistence fisheries are going to be restricted, someone should pay. There should not be permits to take clams, cockles or seaweed. The Board needs to protect subsistence resources.

Rob Sanderson, Jr.: Executive Vice president, Central Council of Tlingit and Haida Indian Tribes of Alaska. Mr. Sanderson supports the petition for extraterritorial jurisdiction. Since time immemorial the Native people have lived off this land. Our ancestors, our grandparents, they were conservationists and did not overharvest an area. Native people in Southeast Alaska have lived off of this resource and now it's being taken away from them. Subsistence harvest is less than one percent of the fish harvested. Tons of Chinook salmon, chum salmon and halibut are discarded as bycatch. We are cited, we are jailed at a high cost for even taking one fish over the limit. There is something seriously wrong when that happens. All natural resources were taken for traditional ceremonies, not just for feeding our families. They were used for ceremony, for memorial potlatches, for one-year parties, to give to our families who did not live in Southeast Alaska. It is our right to share with our families that don't have access to the resource here in Southeast Alaska. Native people do not recognize the word subsistence. It is a made-up word that means less. The economy in many Villages, including Hydaburg is suffering with no jobs and few opportunities for commercial fishing. A traditional way of life is a means of gathering food for many families. Each family needs between 60 and 250 salmon each year and their needs are not being met.

Dora Jim: resident of Juneau. Ms. Jim supports the petition for extraterritorial jurisdiction. Family in Angoon share sockeye salmon with her and the rest of her family. Fifteen fish is not enough to feed a

family and there is none remaining for sharing. It is very sad to have this discussion of how to protect a way of living. Charter boats come and take the fish out of the State but the subsistence fishery is limited.

Carrie Sykes: resident of Juneau. Ms. Sykes is an employee of CCTHITA and has a considerable experience working on subsistence related issues. She supports the petition for extraterritorial jurisdiction. The people of Angoon are very traditional and take pride in their culture. Urban Natives do not have the same rights as rural natives and that is not right. Natives value subsistence foods and never waste the resource and share when they can. Having someone give you a tote of fish is not going to preserve a way of live or teach customary and traditional ways.

Paul Young: Alaska Native Brotherhood Camp 70. Camp 70 supports the petition for extraterritorial jurisdiction. There are far reaching consequences to action on this petition for all Alaskan Natives. You cannot overemphasize the significance of subsistence to the Native people of Alaska. The abundance of salmon allowed Natives to prosper and develop a complex society and unique art form. Fishing sites were controlled by clans. The commercial fishery treats salmon as a commodity and not a cultural resource. Salmon are a necessary element in ceremonial events and allow sharing. Subsistence is the core element to Native culture. The Federal government has a historic and unique relationship with Indian tribes. Federal managers manage for the public good regarding public resources. However, the United States has a special relationship with tribes. The government has made many promises. I hope the United States will honor those promises. The Board must address the inequities of the current distribution of the fishing resources and bring the subsistence priority to the forefront and correct this injustice.

Bob Loescher: Chairman Subsistence Committee-Alaska Native Brotherhood and Sisterhood Grand Camp (written and oral testimony). The Alaska Native Brotherhood (ANB) Grand Camp supports the Kootznoowoo, Inc. Extraterritorial Jurisdiction Petition. Action on this petition will provide for a preference to residents of Angoon for sockeye salmon. For the last decade the Angoon people have identified that there's been a shortage of sockeye salmon in the streams and lakes; not only on Admiralty Island, but in the surrounding areas of Baranof and Chichagof Islands. The people of Angoon have already acted and exhausted all other administrative remedies. They have: voluntarily stopped fishing at Kanalku for several years, worked with the State of Alaska and US Forest Service to conduct sockeye salmon assessment projects and failed on two attempts to find relief through the Alaska Board of Fish. Action on the petition is required for the protection of the sockeye salmon resource and the way of life for the residents of Angoon. Angoon residents have the same subsistence harvest limits in Federal Public Land as in adjacent State fisheries. It is likely that sockeye salmon returning to local systems are intercepted in the commercial seine fishery because the commercial fishery occurs in the corridor areas at the same time these stocks are present. The actual numbers are impossible to quantify because the commercial fishery catch is not sampled. It is difficult to determine whether the interception of sockeye salmon results in a failure to provide for the subsistence priority because the numbers of sockeye salmon in the harvest are not allocated to a specific stream and there is not an escapement goal for any of the systems under discussion. However it is true that the commercial seine fishery is reducing the opportunity for residents of Angoon to harvest sockeye salmon by reducing the numbers of salmon returning to the terminal area. That results in small harvest limits and escapements below optimal levels. The small harvest limits (15 fish per family at Kanalku and 35 per family in other systems) is ridiculous and does not follow the intent of the law. Harvesting thousands in the commercial fishery and handfuls in the subsistence fishery does not provide for a subsistence priority. Recent court cases have clearly stated that the United States owns and controls all submerged lands and navigable waters extending three (3) miles from shore. Once the Secretaries have agreed with the petition, it is recommended that the mitigation measures suggested in the petition be implemented during the next three years through cooperative actions by the State of Alaska, the US Forest Service, the commercial fishing industry and the Alaska Native Community (Angoon people). The result should be Federal regulations for the subsistence harvest of salmon, harvest statistics that are available for review by the public and law enforcement that is

not undertaken arbitrarily against Alaska Native and rural residents. It is the expectation of the Grand Camp that this process will result in a clear understanding of Federal law regarding the subsistence preference and a recognition that Alaska Natives and rural residents will have a “seat at the table” in future decisions. We do not anticipate Federal intervention will be, hard-handed, but will work with the Alaska Native community at the table with the State of Alaska at the table, the commercial fishermen at the table, the hatchery people at the table and the processors at the table. Together we can work forward to find a solution or approach in the management that will ensure that Title VIII of ANILCA is implemented properly.

Tribal and ANCSA Corporation Consultation

Mr. Peter Naroaz: President Kootznoowoo Inc. (written and oral testimony). The real question before this group is whether subsistence rights do exist and what do they mean. The Angoon people have traditionally hunted, fished, gathered and traded wild resources on Admiralty, Baranof and Chichagof Islands. The residents of Angoon have a right of quiet enjoyment. This is a valid right even though people do not actually own the land they are living on. Current regulations regarding subsistence uses of sockeye salmon are oppressive, do not allow for the quiet enjoyment of their land, and residents need relief. There are three source documents that we want to point to that we request each of the members of the Council and the Board to look at. One is the Carter Proclamation. Two is Section .506 of ANILCA and then the third is the 1990 Act. Residents have lost commercial fishing permits and now they are losing the fish returning to the local area. Uses must be balanced and a risk adverse policy of salmon management is necessary because the current system puts the entire burden of providing escapements on the residents of Angoon during years of poor salmon returns. In the past 10 years or so the number of sockeye and coho salmon returning the local streams are fewer in number and something must be done to protect these stocks and the subsistence fishery. The State of Alaska is overly strict in enforcement of subsistence fishing regulations. Residents of Angoon that have been cited for violating subsistence fishing regulations should be pardoned. Management of the commercial seine fishery is for the benefit of the seine fishery and does not incorporate provisions for protection of salmon resources important to subsistence or provide a priority for the subsistence use of those resources. The timing of the commercial seine fishery clearly has the potential to harvest sockeye salmon returning to Kanalku, Kook, Sitkoh, Hasselborg, and Eva Lakes. There are State and Federal statutes that require a priority for subsistence use. Those laws are not being enforced or adhered to by the managing Agencies. There is a concern for conservation at these systems as evidenced by the low fry densities in the lakes. Cooperative studies are required that would result in escapement goals for these systems. Local subsistence users do not have a place at the table when salmon management plans are being developed. The following mitigation measures are supported by clear evidence and should be supported by the Secretaries.

- The goal of the subsistence management plan is to provide 250 fish per household.
- State and Federal law regarding the subsistence priority should be enforced.
- Waters west of Point Augusta were inadvertently included in the petition.
- Federal intervention is required because salmon originate on Federal Public Land.
- The following sockeye salmon escapement goals should be established: Kanalku Lake-5,000 fish, Hasselborg River-3,000 fish, Kook Lake-10,000 fish, Sitkoh Lake-12,000 fish, and Lake Eva-6,000 fish.
- Action by the Secretaries should be initiated prior to this summer’s fishery.
- The State Board of Fish should establish Amounts Necessary for Subsistence for residents of Angoon within two years.

The people of Angoon are asking that Federal and State law be recognized and enforced. That there is a preference and priority to Alaska Native people and rural people in times of shortage and that's the law. The second most important point is that Alaska Native people will be recognized and have respect and be

able to sit at the table with the people who have to manage the resources and balance the use among the users and enforce the law as Congress has intended.

Jaeleen Araiyo: Vice-president and general counsel Sealaska Corporation. Sealaska supports Kootznoowoo Inc.'s efforts to protect their subsistence rights and the petition for extraterritorial jurisdiction. Subsistence priority is a Federally-recognized right in ANILCA but it's not always a Federally-protected right. Federal agencies are too quick to delegate or give up jurisdiction to the State and often simply adopt the State bag limits and harvest limits without making their own determinations. This is an opportunity to assert jurisdiction over certain waters; in particular, inland waterways and submerged lands. The Staff analysis asked three questions. If you talk to the people from Angoon, the answer is clear. The answer is yes to all three questions. Yes, there is a Federal subsistence priority for the residents of Angoon. Yes, the State management of the commercial purse seine industry interferes with subsistence fishing in Angoon. And, yes, this interference results in a failure to provide the subsistence priority to the residents of Angoon. Harvest limits in place do not provide the amounts necessary for subsistence and enforcement must take into account traditional practices. Sealaska supports the commercial fishing industry as well as other economic development in the Region. There are issues when a commercial act is detrimental to our way of life. The Federal Subsistence Board and the agencies can be more proactive in exercising jurisdiction over waters in Admiralty Island. Subsistence rights need to be recognized and protected in perpetuity.

Ed Thomas: President Central Council Tlingit and Haida Indian Tribes of Alaska (written and oral testimony). The Central Council Tlingit and Haida Indian Tribes of Alaska support the Kootznoowoo Inc. petition for extraterritorial jurisdiction. Understanding the migration routes and timing are very important components of the management of salmon resources. The State understands the concept of cause and effect as evidenced by the interception of sockeye salmon in June at Noyes Island and success of the pink salmon fishery in the Inian Islands. Fishing was reduced or eliminated in those areas to reduce interception and conserve stocks. It is possible to look at the data and reduce the harvest of sockeye in Chatham Strait. Angoon is a rural community for purposes of Title VIII of ANILCA and action by the Secretaries is required to protect the escapement of sockeye salmon, stop the disproportionate commercial harvest and re-establish subsistence harvest opportunities for federally-qualified rural residents. The community of Angoon has clearly documented subsistence activities and has exhausted all other administrative remedies. Secretarial action on the petition is important to the cultural survival of the people of Angoon. The Central Council recommends the following:

- Approve the Extended Jurisdiction Petition
- Initiate protective mitigation efforts over next three years.
- Enforce Title VIII of ANILCA in the Tongass Nation Forest.

All stakeholders deserve a "seat at the table" when decisions are made regarding management of subsistence resources. It is clear that Congress intended Title VIII of ANILCA would be implemented in these lands and waters. The U.S. government either owns the submerged lands or has an interest in the navigable waters in the reserved waters including Kootznoowoo Inlet and the surrounding waters of Admiralty Island and within the Icy Strait, Chatham Strait and Peril Strait areas. Does the State really want to have this particular subsistence fishery survive for the long term? We need to move beyond the issues separating the groups and look for positive action and practical solutions.

Sitka Tribe of Alaska: Lawrence Widmark, Chairman, written testimony. Sitka Tribe of Alaska supports Kootznoowoo Inc. petition for extraterritorial jurisdiction. Angoon's plight to meet subsistence needs is not an uncommon occurrence. Stream systems in Chatham Strait are often closed to subsistence fishing in mid-season in order to meet escapement goals. Subsistence needs are not being met because excessive numbers of sockeye salmon returning to local streams are being intercepted by the commercial seine fleet. This interception must be reduced to ensure adequate escapement and meet subsistence needs. There is

overwhelming evidence that the subsistence needs of Angoon are not being met and the Secretaries should agree to the petition; otherwise the Federal subsistence system is still “broken”.

Alaska Federation of Natives: Julie Kitka, President, written testimony. The Alaska Federation of Natives supports the Kootznoowoo Inc. petition to extend extraterritorial jurisdiction of the Federal government over all marine waters in the Angoon Territory. Significant evidence has been provided confirming Angoon residents’ dependence on subsistence fishing. Preliminary data demonstrate that conduct of the commercial purse seine fishery in Chatham Straits results in a failure to provide the subsistence priority to Angoon residents. The Secretaries should, at a minimum, restrict the commercial purse seine fishery. The Alaska Federation of Natives has urged Secretary Salazar to amend ANILCA to define all navigable waters in Alaska as “public lands”. There are federal reservations on submerged lands in the waters adjacent to Admiralty Island that qualifies those areas as “Federal waters” for the purposes to Title VIII of ANILCA.

Organized Village of Saxman: Lee Wallace, President, written testimony. The Organized Village of Saxman supports the Kootznoowoo Inc. petition for extraterritorial jurisdiction. The issues raised are very similar to the situations in many Villages throughout Southeast Alaska. The problem is the result of over-commercialization of various species. Subsistence users take a very small proportion of the total harvest but are subject to heavy-handed law enforcement. Commercial harvesters take record harvests and subsistence fishermen get cited for a few salmon over the limit. Alaska Natives have a deep commitment and dedication to the resource and manage resources in a responsible way. Southeast Natives are reliant on salmon and harvesting salmon is a part of the cultural, physical, spiritual and day-to-day experience. It is humiliating and bothersome to be cited for harvesting a resource we revere. The Organized Village of Saxman is in agreement with the recommendation of the Southeast Subsistence Regional Advisory Council and the Kootznoowoo Inc. petition. Adopting the provisions of the petition would provide a subsistence preference and priority to Angoon citizens.

Ron Leighton: Organized Village of Kasaan. The Kasaan Tribal government completely supports the petition for extraterritorial jurisdiction. The big issue is not the conflict between user groups, it is the fact that sockeye salmon are not returning to some of the streams in Chatham Strait and we need to work together to do something about that. The commercial fleet is promising to work with rural residents to address the issue but that is not a law, it is a promise that can be broken. In the State Constitution there is a disclaimer clause says that says, we, the people of the State of Alaska, and the State of Alaska will forever disclaim any right over Native lands or the fishing and that we give the ultimate authority to the Federal government. The Board has the authority to work with the State to protect and enhance these fisheries. The Magnuson Fisheries Act also gives Federal authority on anadromous species. Subsistence has priority over other uses. The State’s management plan is not adequate because it ignores streams that have low salmon abundance so other fisheries are not restricted.

Eric Morrison: Douglas Indian Association. The Douglas Tribal government supports the petition for extraterritorial jurisdiction. The story of the Auke and Taku people and other Natives living in Juneau is similar to many others in Southeast Alaska. Natives moved to larger communities because of economic opportunity and in the 1950s and 60s subsistence rights were taken away and cabins used for subsistence burned. The Board has heard testimony from those that represent economic interests. Those industries are good for the health of Southeast Alaska but where are the lobbyists for the subsistence users. Much like Angoon, urban Natives are fighting for a way of life. Hatchery fish are no substitute for wild fish.

Mike Jackson: Organized Village of Kake. The Kake Tribal government supports the petition for extraterritorial jurisdiction. There are similar problems with interception of sockeye salmon by the seine fishery at Gut Bay, Falls Lake and Bay of Pillars. The community has worked with the State and Federal managers to address commercial interception and subsistence fishing rules at these locations. The people

of Kake believe the word subsistence marginalizes our existence prefer to use customary and traditional gathering. We're willing to work with the Federal and State governments as charged by the Federal trust responsibility. Mr. Reifentuhl and NSRAA have helped us exist in Kake with their coho. We're not that proud to turn away anything that would help us to exist in our homeland. We have lost half of our population the last six years to Juneau, Sitka, Anchorage and Seattle. Our way of life is being marginalized also by how many subsistence fish we are allowed and how we are punished for getting two fish over and paying \$500 fines for those two fish when it cost us over \$500 to buy gas to go out.

Council recommendation to the Board on Extraterritorial Jurisdiction Petition

Motion Approved: The Council unanimously approved a motion (motion by Phillips 2nd by Bangs) to submit the following conclusion and recommendations to the Board.

Council Conclusion:

The Council suggests that the resolution of ownership of marine waters is not a requirement to address the question of whether there is a meaningful subsistence priority for the harvest of sockeye salmon on Federal public land by the residents of Angoon.

The Council feels strongly that the resolution of the questions and concerns contained within the petition is not a Secretarial responsibility alone. The ultimate solution will require cooperation between the State of Alaska, the Federal Subsistence Program and local communities.

Council Recommendations:

- Defer extending Federal jurisdiction into waters of Chatham Straits, as recommended by the petition, for three years. Deferring action by the Secretaries to extend Federal jurisdiction into the marine waters of Chatham Strait will provide an opportunity for the State of Alaska, the Federal subsistence management program, and local residents and organizations to achieve the following milestones and management actions. The Council believes these actions will address the issues raised by Kootznoowoo Inc. and facilitate a solution developed at the local level.
- Amend the Northern Southeast Alaska Seine Fishery Management Plan and the Hidden Falls Hatchery Management Plan to include accommodations for the State and Federal subsistence fisheries.
- Close the commercial seine fishery areas in regulation that have been closed by State Emergency Order near Basket Bay and Kootznoowoo Inlet.
- The Federal subsistence program and the Alaska Department of Fish and Game will assist the community of Angoon in developing a regulatory proposal for the State Board of Fish at the next regular cycle to change the Amounts Necessary for Subsistence finding to a community level rather than a Juneau management area designation.
- It is advantageous for evaluation of the success of the management plan if escapement goals for Kanalku, Kook, Sitkoh, Hasselborg, and Eva Lakes are developed. Genetic stock identification programs and escapement goal studies by the State of Alaska in cooperation with the Federal subsistence management program will be implemented within three years.
- The Federal subsistence program contact and cooperate with Kootznoowoo Inc. concerning the application of ANILCA.
- The Council requests the Secretary provide annual progress reports to the Council and the Subsistence Board regarding these recommendations.

The Council meeting adjourned at 11:00 p.m. March 22, 2012.

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

\s\ Robert Larson

April 13, 2012

Robert Larson, DFO, USFS Subsistence Management Program

\s\ Bertrand Adams

April 13, 2012

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.

PROPOSAL REVIEW PROCEDURES

1. Introduction of proposal and presentation of analysis
2. Agency comments: (a) Alaska Department of Fish and Game, (b) Federal agencies, (c) Native/Tribal/Village/Other, and (d) Interagency Staff Committee comments
3. Advisory Group Comments: (a) Neighboring Regional Advisory Council(s), (b) Local Fish and Game Advisory Committees, and (c) National Park Service Subsistence Resource Commissions
4. Summary of written comments
5. Public testimony
6. Regional Advisory Council recommendation motion (always a positive motion)
 - a. Discussion/Justification
 - i. Is there a conservation concern? How will your recommendation address the concern?
 - ii. Is your recommendation supported by substantial evidence including traditional ecological knowledge?
 - iii. How will the recommendation address the subsistence needs involved? Will it be detrimental to subsistence users?
 - iv. Will the recommendation unnecessarily restrict other uses involved?
 - b. Vote

FP13-16 Executive Summary

General Description	Proposal FP13-16 requests elimination of all requirements to remove fins to identify subsistence caught salmon in the Southeastern and Yakutat Areas. <i>Submitted by Mike Jackson of the Organized Village of Kake</i>
Proposed Regulation	<p>§ 27(i)(13)(x) You shall immediately remove both lobes of the caudal (tail) fin of all salmon when taken.</p> <p>§ 27(i)(12)(ix) You must remove both lobes of the caudal (tail) fin from subsistence-caught salmon when taken.</p>
OSM Preliminary Conclusion	Support
Southeast Regional Council Recommendation	
Interagency Staff Committee Comments	
ADF&G Comments	Oppose
Written Public Comments	None

DRAFT STAFF ANALYSIS FP13-16

ISSUES

Proposal FP13-16, submitted by Mike Jackson of the Organized Village of Kake, requests elimination of all requirements to remove fins to identify subsistence caught salmon in the Southeastern and Yakutat Areas.

DISCUSSION

The proponent believes that removing fins from subsistence caught salmon interferes with traditional means of handling, processing, and preserving fish and is an unnecessary burden on subsistence users and that the effectiveness of the requirement is outweighed by the lawful use of subsistence caught salmon and the immediate need to fin clip every single salmon that is caught. Marking fish imposes a burden on subsistence users that is not imposed on sport and commercial fishermen.

The proponent states that residents of Kake have limited access to commercial buyers. (Jackson 2012, pers. comm.) In the Southeastern Area, the subsistence limits are so low it is not economically viable to sell a catch that has cost someone gas and personal time to process (Littlefield 2012, pers. comm.). The proponent of this proposal contends that Federally qualified subsistence users are burdened with a non-traditional and disrespectful mutilation of their food. (Jackson 2012, pers. comm.).

Existing Federal Regulation

For the Southeastern Alaska Area:

§ __.27(i)(13)(x) You shall immediately remove both lobes of the caudal (tail) fin of all salmon when taken.

For the Yakutat Area:

§ __.27(i)(12)(ix) You must remove both lobes of the caudal (tail) fin from subsistence-caught salmon when taken.

Proposed Federal Regulation

~~§ __.27(i)(13)(x) You shall immediately remove both lobes of the caudal (tail) fin of all salmon when taken.~~

~~§ __.27(i)(12)(ix) You must remove both lobes of the caudal (tail) fin from subsistence-caught salmon when taken.~~

Existing State Regulation

5 AAC 01.690 and 5AAC 01.740 Subsistence fishermen must remove the dorsal fin from subsistence-caught salmon when taken.

State regulation makes it unlawful to buy or sell subsistence taken fish [5AAC 01.010 (d)].

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.

This regulation, if adopted, would apply to all Federal public waters in the Southeastern Alaska Area between a line projecting southwest from the westernmost tip of Cape Fairweather and Dixon Entrance.

The regulation would also apply to all Federal public waters in the Yakutat Area, between Cape Suckling and Cape Fairweather. Bureau of Land Management lands in these area allow subsistence fishing only on non-navigable waters. Subsistence uses are not permitted in the following National Park Service lands: Glacier Bay National Park, Klondike Gold Rush National Historical Park and Sitka National Historical Park.

Customary and Traditional Use Determinations

All salmon customary and traditional use determinations for the Southeastern Alaska and Yakutat areas apply and can be found at 36 CFR 242.24 (2) and 50 CFR 100.24 (2).

Regulatory History

Fin clipping regulations were adopted by the Federal Subsistence Board (Board) from State subsistence regulations in the fall of 1998. The fin clipping requirement for the Southeastern Alaska and Yakutat Areas were changed from the dorsal fin to the pelvic fin when Federal subsistence fisheries regulations were published in 2000. In 2006, proposal FP06-26 was submitted by John Littlefield requesting the elimination of fin clipping requirements in the Southeastern Alaska and Yakutat Areas. The Southeast Alaska Regional Advisory Council (Council) supported the elimination of fin clipping requirements. However, the Board during its deliberations during its 2006 public meeting adopted a modification to require clipping of both lobes of the caudal fin instead of the pelvic fin since testimony from the Council chairman that the pelvic fins were important in processing salmon in the Southeastern Alaska and Yakutat areas. (FSB 2006).

Federal subsistence fishing regulations require the removal of fins of subsistence taken salmon in Districts 1, 2, and 3 of the Yukon River Area, Kenai Peninsula, Bristol Bay and Upper Copper Areas.

Effects of the Proposal

If this proposal is adopted, it would have no effect on State salmon subsistence marking requirements. Most salmon harvested for subsistence purposes in the Southeastern Alaska and Yakutat Areas are harvested under State permits in State jurisdiction.

The reason for clipping fins of subsistence harvested salmon is to prevent those fish from entering the commercial marketplace. If the proposal is adopted, State and Federal regulations would further diverge in both the Southeastern Alaska and Yakutat areas. In the Yakutat Area, there are commercial and subsistence fisheries which occur simultaneously in the same area under state jurisdiction. In the Southeastern Alaska Area, State managed commercial and subsistence fisheries are geographically and temporally separated from Federal subsistence salmon fisheries. Commercial fish retailers and processors purchase salmon in the round and are aware that these fin-clipped fish cannot be commercially sold. In addition, salmon caught from Federal jurisdiction (freshwater) generally have low or no value to commercial buyers compared to salmon caught in State jurisdiction (marine waters). Forest Service law

enforcement had received a complaint in the past from the public that subsistence caught fish that were not properly marked, as required by regulation, were entering commercial markets in the Yakutat Area. However, it was unclear whether the complaint stemmed from activities undertaken under Federal or State jurisdiction (FWS 2006, FSB 2006).

Forest Service law enforcement has found general compliance by subsistence users while enforcing the current regulation (FWS 2006). The proposal to rescind the marking requirement could hamper both State and Federal law enforcement efforts to control the unlawful sale of subsistence caught salmon into the commercial market (Bryden 2012, pers. comm.).

The concern of subsistence fish entering the commercial markets could be addressed by requiring sport and commercial users to mark fish. Although this option may be feasible for sport fishermen, it is not feasible for commercial fishermen with very large catches to mark fish, and marked fish are less desirable in the commercial markets. Shifting the marking burden to other fisheries is best addressed with a proposal to the Alaska Board of Fisheries.

The Stikine River Federal subsistence salmon fishery would be affected by this proposal. Subsistence users would no longer be required to remove both lobes of the caudal fin of salmon when caught.

OSM PRELIMINARY CONCLUSION

Support Proposal FP13-16.

Justification

Federal subsistence salmon fisheries in Southeastern Alaska are temporally and geographically separated from State managed commercial and subsistence fisheries. The marking requirement does seem burdensome and disrespectful to cultural life ways; and, that the subsistence sockeye harvest limits in the Southeast Alaska Area are so low that it is not economically viable to sell a household limit of sockeye after the time and cost of harvesting them is considered, as the proponent contends. In addition, salmon caught in Federal jurisdiction (freshwater) generally are of low or no value when compared to salmon caught in State jurisdiction (marine waters)

LITERATURE CITED

Bryden, J. 2012. Lead Law Enforcement Officer, Personal Communication, Chugach National Forest, AK.

FSB 2006 Transcripts of Federal Subsistence Board Proceedings January 10-13, 2006. Office of Subsistence Management, FWS. Anchorage, AK. .

FWS. 2006. Staff Analysis FP06-26. Pages 362-369 in Federal Subsistence Board Meeting Materials January 10-13, 2006 Office of Subsistence Management, FWS. Anchorage, AK. 575 pages.

Jackson, M. 2012. Organized Village of Kake, Personal Communication , Kake , AK.

Littlefield, J. 2012. Sitka Tribe of Alaska. Personal Communication, Sitka, AK.

Alaska Department of Fish and Game
Comments to Regional Advisory Council

Fisheries Proposal FP13-16: Rescind marking requirements to remove both lobes of the caudal (tail) fin for subsistence-caught salmon when taken in Yakutat and Southeast Alaska areas.

Introduction: The Organized Village of Kake submitted this proposal to eliminate the regulations that require federally-taken subsistence-caught salmon in the Yakutat and Southeast Alaska areas to be marked by removing both lobes of the caudal (tail) fin when the fish is taken.

Impact on Subsistence Users: If this proposal is adopted, federal subsistence users in the Yakutat and Southeast Alaska areas would not be required to mark their subsistence-caught salmon. However, federally-qualified subsistence salmon users would put themselves at risk of receiving a citation if they catch salmon on state or private land and do not mark them as required by state regulation.

The proponent maintains that requiring the immediate clipping of fins from subsistence-caught salmon when taken is not needed, is inconsistent with customary and traditional practices, and is an unfair and unnecessary burden on subsistence fishers. The proponents question the effectiveness of the fin-clipping requirement and suggest that the lawful use of subsistence-caught salmon far outweighs the burden subsistence fishers face when trying to immediately cut fins from each salmon taken. In addition, they point out that there are already regulations prohibiting the commercial sale [§_ .27(c)(J3)(i)] and purchase [§_ .27(c)(13)(ii)] of subsistence-caught fish, the use of subsistence-caught fish for bait [§_ .27(c)(15)], and the possession of subsistence-taken and sport-taken salmon on the same day [§_ .27(i)(J2)(viii) and §_ .27(i)(13)(xi)]. Proponents also state that it is unlikely that individuals would comply with this fin-clipping requirement if they were planning some unlawful use for their subsistence-caught salmon. This regulation is disliked because it is difficult to cut both lobes of the caudal fin from a live salmon immediately after they are taken.

Proponents submitted this regulation change to simplify federal subsistence fishing regulations. The proposer reports that this fin-removal requirement has been a confusing and troublesome regulation for subsistence salmon users in the Yakutat and Southeast Alaska areas and the cause of needless enforcement citations in recent years.

If this proposal is adopted, subsistence users could be detrimentally affected by unethical users who catch fish under the premise of subsistence uses only for resale, which would, in turn, remove those fish from subsistence uses.

Impact on Other Users: Without a marking requirement, commercial salmon buyers would be unable to differentiate between commercially-caught salmon and subsistence-caught salmon, and may inadvertently sell a subsistence resource. The original intent of this fin-clipping regulation was to help minimize the commercial sale of subsistence-caught salmon and the mixing of subsistence-caught fish with fish from other fisheries. Unregulated and unenforceable commercial sales from subsistence fisheries could potentially reduce the quantity of fish available for spawning escapement and/or for subsistence uses.

Opportunity Provided by State: Under state regulations, subsistence is the priority consumptive use and salmon may be harvested throughout most of the Yakutat and Southeast Alaska areas. State subsistence fishing opportunity is directly linked to abundance and is not restricted unless run size is inadequate to meet escapement needs.

Conservation Issues: There are no stocks of concern in Southeast Alaska at this time.

Enforcement Issues: Without a marking requirement, enforcement officers would be unable to differentiate between commercially-caught salmon and subsistence-caught salmon, and may inadvertently allow for sale of subsistence-caught salmon to the commercial market without prosecution. The original intent of this fin-clipping regulation was to help minimize commercial sale of subsistence-caught salmon and mixing of subsistence-caught fish with fish from other fisheries.

State regulations require subsistence-taken salmon in the Yakutat (5 AAC 01.690) and Southeast Alaska (5 AAC 01.740) areas all be marked by immediate removal of the dorsal fin when taken. Passage of this proposal would put federal regulations in conflict with existing state regulations for marking of subsistence-taken salmon.

Jurisdiction Issues: The Federal Subsistence Board does not have the authority to regulate nonfederally-qualified users participating in fisheries on waters outside of federal subsistence jurisdiction. While standing on state and private lands (including state-owned submerged lands), or when fishing on state-managed marine waters persons must comply with state law and cannot harvest under conflicting federal regulations. Enforcement difficulties and user confusion -- concerning where and how federal regulations that are different than state regulations apply -- will result unless detailed maps and explanations specific to the area are provided.

Other Issues: On state or private lands or on state-managed marine waters where federal subsistence fisheries are not authorized to occur, the federal board does not have authority to supersede to state commercial and subsistence fisheries regulations unless a full closure is required for a conservation purpose within water of claimed federal jurisdiction. Proposed changes to state commercial and subsistence fisheries must be submitted to the Alaska Board of Fisheries.

In 2005, the Southeast Regional Subsistence Advisory Council supported a similar proposal (FP06-26), but it was opposed by the Interagency Staff Committee and Federal Subsistence Board. Federal staff opposed the proposal because the marking requirement is effective in preventing illegal sales of subsistence-caught fish. Federal law enforcement has also received “a number of complaints from the public” that illegal sale of unmarked fish was occurring. Passage of proposals FP06-26 and/or FP13-16 would make the situation worse.

Recommendation: Oppose.

FP13-17 Executive Summary

General Description	Proposal FP13-17 requests that unless noted on a Federal fishing permit, there would be no harvest limits for salmon that are handled without the use of refrigeration, freezing, or ice in the Southeastern and Yakutat Areas. <i>Submitted by Mr. Mike Jackson of the Organized Village of Kake</i>
Proposed Regulation	<i>§ __.27(e)(13) (xxi) Unless noted on a Federal subsistence fishing permit, the harvest limits of this section do not apply for salmon that are transported, processed, and stored without use of refrigeration, freezing or ice prior to consumption.</i>
OSM Preliminary Conclusion	Oppose
Southeast Regional Council Recommendation	
Interagency Staff Committee Comments	
ADF&G Comments	Oppose
Written Public Comments	1 Oppose

**DRAFT STAFF ANALYSIS
FP13-17**

ISSUES

Proposal FP13-17, submitted by Mr. Mike Jackson of the Organized Village of Kake, requests that unless noted on a Federal fishing permit, there would be no harvest limits for salmon that are handled without the use of refrigeration, freezing, or ice in the Southeastern and Yakutat Areas.

DISCUSSION

The proponent believes that having no limits on salmon handled without refrigeration, freezing or ice better recognizes the traditional practices of some users and better recognizes a subsistence priority for those users.

After publication of this proposal, the proponent asked to modify his proposal to make it clear that no harvest limits would apply for salmon if handled without refrigeration, freezing or ice, harvest limits listed on Federal harvest permits would also not apply. This analysis discusses the aspects of this proposal as originally proposed and published, since this is the version presented for public review. The proponent could provide comments on their proposal at the Southeast Regional Advisory Council meeting.

Existing Federal Regulations

Yakutat Area

§ __.27(e)(12) (ii) You may take salmon, trout (other than steelhead) and char only under the authority of a subsistence fishing permit. You may take steelhead trout only in the Situk and Ahrklin Rivers and only under the terms of a Federal subsistence fishing permit.

Southeastern Area

§ __.27(e)(13) (xii) If a harvest limit is not otherwise listed for sockeye in paragraph (e)(13) of this section, the harvest limit for sockeye salmon is the same as provided for in adjacent State subsistence or personal use fisheries. If a harvest limit is not established for the State subsistence or personal use fisheries, the possession limit is 10 sockeye and the annual harvest limit is 20 sockeye per household for that stream.

§ __.27(e)(13) (xiv) You may take Chinook, sockeye, and coho salmon in the mainstem of the Stikine River only under the authority of a Federal subsistence fishing permit. Each Stikine River permit will be issued to a household. Only dip nets, spears, gaffs, rod and reel, beach seine, or gillnets not exceeding 15 fathoms in length may be used. The maximum gillnet mesh size is 5 1/2; inches, except during the Chinook season when the maximum gillnet mesh size is 8 inches.

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

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

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

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

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

§ ____.27(e)(13) (xv) You may take coho salmon with a Federal salmon fishing permit. There is no closed season. The daily harvest limit is 20 coho salmon per household. Only dip nets, spears, gaffs, handlines, and rod and reel may be used. There are specific rules to harvest any salmon on the Stikine River, and you must have a separate Stikine River subsistence salmon fishing permit to take salmon on the Stikine River.

Existing State Regulation

Pink, chum, coho and sockeye salmon are managed by ADF&G under a Subsistence and Personal Use salmon permit and harvest limits are listed on the permits. Chinook salmon are not allowed to be taken for subsistence or personal use except incidentally or by Emergency Order.

Proposed Federal Regulation

Yakutat Area

§ ____.27(e)(12) (ii) You may take salmon, trout (other than steelhead) and char only under the authority of a subsistence fishing permit. You may take steelhead trout only in the Situk and Ahrklin Rivers and only under the terms of a Federal subsistence fishing permit.

Southeastern Area

§ ____.27(e)(13) (xii) If a harvest limit is not otherwise listed for sockeye in paragraph (e)(13) of this section, the harvest limit for sockeye salmon is the same as provided for in adjacent State subsistence or personal use fisheries. If a harvest limit is not established for the State subsistence or personal use fisheries, the possession limit is 10 sockeye and the annual harvest limit is 20 sockeye per household for that stream.

§ ____.27(e)(13) (xiv) You may take Chinook, sockeye, and coho salmon in the mainstem of the Stikine River only under the authority of a Federal subsistence fishing permit. Each Stikine River permit will be issued to a household. Only dip nets, spears, gaffs, rod and reel, beach seine, or gillnets not exceeding 15 fathoms in length may be used. The maximum gillnet mesh size is 5 1/2; inches, except during the Chinook season when the maximum gillnet mesh size is 8 inches.

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

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

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

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

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

§ ____.27(e)(13) (xv) You may take coho salmon with a Federal salmon fishing permit. There is no closed season. The daily harvest limit is 20 coho salmon per household. Only dip nets, spears, gaffs, handlines, and rod and reel may be used. There are specific rules to harvest any salmon on the Stikine River, and you must have a separate Stikine River subsistence salmon fishing permit to take salmon on the Stikine River.

§ ____.27(e)(13) (xxi) Unless noted on a Federal subsistence fishing permit, the harvest limits of this section do not apply for salmon that are transported, processed, and stored without use of refrigeration, freezing or ice prior to consumption.

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. This regulation, if adopted, would apply to all Federal public waters in the Southeastern Alaska Area between a line projecting southwest from the westernmost tip of Cape Fairweather to Dixon Entrance.

The regulation would also apply to all Federal public waters in the Yakutat Area, between Cape Suckling and Cape Fairweather. Bureau of Land Management lands in these areas are open to subsistence fishing only on non-navigable waters. Subsistence uses are not permitted in the following National Park Service lands: Glacier Bay National Park, Klondike Gold Rush National Historical Park and Sitka National Historical Park.

Customary and Traditional Use Determinations

All customary and traditional use determinations for salmon in the Southeastern Alaska and Yakutat areas apply and can be found at 36 CFR 242.24 (2) and 50 CFR 100.24 (2).

Regulatory History

The Board adopted FP05-24, which specified the same limit for sockeye salmon as provided for in adjacent State subsistence or personal use fisheries unless specified elsewhere in § ____.27(e)(13) and, if a harvest limit is not established for the State subsistence or personal use fisheries, the possession limit is 10 sockeye and the annual harvest limit is 20 sockeye per household for that stream.

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

The Board made a positive customary and traditional use determination for salmon, Dolly Varden, trout, smelt and eulachon for residents living in or near the communities of Wrangell, Petersburg and Meyers Chuck (FP04-29) in 2004. The Board also adopted methods, a season, and guideline harvest limits for Chinook, sockeye, and coho salmon (FP04-40). The Transboundary River Panel (TBR) and the PSC concurred with the Board and a subsistence fishery for sockeye salmon was opened during the 2004 season, but with a season starting date of July 1 instead of June 15. By action of the Board, and in coordination with the TBR and PSC, directed fisheries for Chinook and coho salmon were added prior to the 2005 season. The Board approved (with concurrence of the PSC) a change in the mesh size from 5 ½ inches to 8 inches (FSA05-01) for the new Chinook salmon fishery effective for the 2005 season. Regulatory changes for the 2006 season included an increase in the mesh size of gillnets during the Chinook fishery to 8 inch stretched mesh (FP06-27) and an earlier starting date for the sockeye fishery (FP06-28 and 29). There were no changes in subsistence fishing regulations or permit conditions for the 2007 fishing season. In 2008, two regulatory changes were made to the subsistence fishery. The first change made subsistence fishing permits valid for the length of the fishing season, May 15 through October 1. The second change moved the start date of the subsistence coho salmon fishery from August 15 to August 1 (FP08-03). Changing the coho fishery start date allowed continuous subsistence fishing between May 15 and October 1. There were no subsequent changes to the regulations for the 2009-2011 seasons.

In 2000, the Board established coho regulations in the Southeastern Alaska Area that allowed permits to be issued to take coho salmon in Sections 3(A), 3(B) and 3(C) on Prince of Wales Island. The daily harvest limit was 20 coho salmon per household and could be taken using spear, dip net, or rod and reel. Bait was allowed from September 15 through November 15 and there was no closed season.

The current regulation for coho salmon harvest was the result of the Board adopting proposal FP02-35 which broadened the fishery to the entire Southeastern Alaska Area and established an annual harvest limit.

The Taku River is closed to subsistence fishing by regulation.

Harvest History

The harvest of salmon reported on Federal permits is listed in **Table 1** (USFWS 2012).

Cultural Background

The focus of this section is salmon and how past patterns of use are influencing the pattern of use today. Continuing into the commercial era that began in 1880, salmon streams were among the most important types of property owned by Tlingit and Haida families (see Langdon 2006, Paige et al. 2009, Thornton et al. 1990, Turek et al. 2005). Salmon stream property rights, also known as tenure, were traditionally asserted and confirmed during potlatches by hosting families and audiences. Sustaining salmon runs depended on respectful practices (or right behaviors) by people. Tenure and other respectful practices contributed to long term stability of salmon returns to specific streams. Many Tlingit and Haida continue to engage salmon through respectful practices in order to sustain salmon runs (Langdon 2006).

Before 1924, Tlingit and Haida harvested salmon primarily from inland streams and lakes in late summer and fall. The salmon were easier to dry and smoke because of their lower oil content. People preserved salmon so that they would not spoil during long periods stored in underground caches. People generally harvested salmon using a variety of in-stream traps and weirs. Preservation methods depended on the oil content of the salmon, humidity and rainfall, and how long salmon were to be preserved (Langdon 2006).

Table 1. Harvest of salmon as reported on Federal subsistence permits for Southeast Alaska and Yakutat Areas by community (USFWS 2012).

Salmon Harvested by Community	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Coffman Cove											
Coho			10		18		24	81	27	26	186
Pink								8			8
Sockeye								12	2	26	40
Craig											
Chinook									26		26
Chum				13					10		23
Coho		332	108	48	11	44	245	240	369	291	1688
Pink			5	5	8		2	50	31		101
Sockeye		24		58	22	66	115	174	121	58	638
Excursion Inlet											
Coho									2		2
Sockeye				34					13		47
Hollis											
Chum								1			1
Coho		57					76	78	13	2	226
Pink						50	13	23			86
Sockeye		11					5			110	126
Hoonah											
Chum				7							7
Coho				20		36				10	66
Pink				46							46
Sockeye						50				60	110
Hydaburg											
Chum						1					1
Coho				2	6				20	8	36
Pink				47	18	11				80	156
Sockeye				4	21	50	40	45	30	10	200
Kake											
Pink						6					6
Sockeye				20							20
Kasaan											
Coho							7				7
Ketchikan											
Sockeye							9	1			10

In 1924 in-stream weirs and traps were prohibited, and Tlingit and Haida have harvested salmon primarily from marine waters since then (Wolfe 1989).

In addition to regulatory changes, beginning in about 1880, cannery employment affected salmon harvest and use patterns of Tlingit and Haida. People moved to cannery sites for summer employment. While some family members worked in the cannery, men commercial fished. Salmon were processed in smokehouses built in seasonal villages that grew around canneries (Thornton et al. 1990, Turek et al. 2005). It was while living at the canneries that people began canning salmon. Later, jars became available and are commonly used today to preserve salmon in Southeast villages. Canning allowed the preservation of the higher oil content salmon harvested from marine waters. Salmon continued to be smoked and then were canned for increased shelf life. For a number of reasons, Southeast cannery closures were common in the 1960s and 1970s. People who once gathered near the canneries in summer villages chose to stay in their more permanent villages. Salmon harvest pressure increased on inland streams and lakes as well as marine waters within the territory of their *kwaans* (Thornton et al. 1990, Turek et al. 2005).

From early in the commercial era, Tlingit and Haida have been involved in commercial salmon fishing either as crew members or boat owners. Since the 1990s, due to many factors, participation in commercial fishing has declined. As a consequence, people have been relying more on harvesting salmon within the territory of their *kwaans* (Langdon and Sanderson 2009, Turek et al. 2005). Today, Tlingit and Haida families continue to preserve salmon without refrigeration by drying, smoking, pickling, brining, and fermenting. Smoking salmon is a particularly intensive, lengthy process. Many families prefer salmon preserved using these methods. However, the use of freezers, refrigeration and ice is common in rural communities in the Southeastern and Yakutat areas.

Effects of the Proposal

This proposal has an extremely broad scope and it is impossible to analyze all the possible effects given there are about 330 sockeye and roughly 3,200 coho salmon systems in Southeast Alaska. There would likely be many unintended consequences due to the lack of specificity in the proposal. It is also unclear if establishing different harvest limits based on how the catch is processed after it is “taken” within the authority of the Board which is authorized to regulate the “taking” of fish and wildlife on Federal Public lands and waters.

The proposed regulation would have little effect in the Yakutat area since there are no salmon harvest limits in regulation; harvest limits are only on State or Federal subsistence permits. Limits are written in on Federal Permits by the Federal In-Season Manager commensurate with the individual user’s need and conservation of the salmon resource.

The proposed regulation would have no effect in the Southeast Alaska Area on Chinook (except the Stikine River), or pink and chum salmon limits since there are no limits for those species listed in regulation or on Federal permits.

The regulation would have no effect on most sockeye systems since those limits are listed on Federal permits. Sockeye systems that do not are managed by a regulation that limits the possession of sockeye salmon to 10 daily with an annual limit of 20 per system per household. That regulation would not apply if refrigeration, freezing, or ice is not used to preserve sockeye catches.

Further, a coho salmon harvest limit of 20 fish per day is specified in regulation. That regulation would not apply if refrigeration, freezing, or ice is not used to preserve coho catches.

There are harvest limits in regulation specific to the Stikine River. Those harvest limits would not apply if refrigeration, freezing, or ice is not used to preserve salmon catches. Changing the limits on the Stikine River would have US/Canada Salmon Treaty implications. In the past, all proposals for subsistence fishing regulatory changes on the Stikine River for Chinook, sockeye, and coho salmon that require changes to the Treaty are authorized by the Federal Subsistence Board (Board) with implementation contingent upon concurrence by the Pacific Salmon Commission (PSC).

The top priority of managers is to ensure the conservation of the salmon resource consistent with sound recognized scientific principles of fish management under ANILCA Sec. 802. Through the Fisheries Resource Monitoring Program (FRMP), stock assessment projects are conducted to ensure adequate spawning while providing as much harvest opportunity as possible for subsistence users. This regulation would not apply to the monitored sockeye systems since harvest limits for those systems are listed on Federal permits.

The vast majority of coho and sockeye systems are not monitored for escapement. Where there are no stock assessments, salmon harvest must be managed more conservatively. FRMP funding has diminished over the last five years—a trend likely to continue. It is unlikely that stock assessments would expand sufficiently to identify if conservation concerns are being created by this proposal, especially for coho salmon.

Managers use seasons, gear type, and harvest limits to control salmon harvest to insure conservation of the resource and to distribute the available harvest amongst multiple subsistence users. Harvest limits are not imposed to limit cultural practices. They are used to control harvest based on the productivity of each system balanced with the harvest pressure. Low harvest limits are placed on streams that produce low numbers of salmon and/or have high harvest pressure. Without harvest limits as tools, managers would be forced to limit gear types, reduce the season, or add individual systems to Federal permits. This proposal would increase the risk of conservation concerns in unmonitored systems which would negatively affect subsistence users. For salmon species which are prolific and for which there are no conservation concerns (typically pink and chum salmon) no harvest limits are imposed by Federal regulation.

Although relatively few salmon are reportedly taken in Federal jurisdiction under the Federal permit, this proposal may result in a shift from fishing in State waters to Federal jurisdiction. There are some systems where unlimited harvests could create conservation concerns resulting in more in-season actions and restrictions to users. If this shift in use does not happen, the proposal will have little effect on salmon harvests from Federal public waters since the vast majority of most salmon take by Federally qualified users occurs in waters under State jurisdiction.

This proposal would complicate law enforcement as it would require tracking the fish until they are preserved to ensure no refrigeration, freezing, or ice was used in the process.

OSM PRELIMINARY CONCLUSION

Oppose Proposal FP13-17.

Justification

This proposal has an extremely broad scope, and it is impossible to analyze all the possible effects on the approximately 330 sockeye and 3,200 coho systems in Southeast Alaska. Additionally, changing the limits on the Stikine River would have US/Canada Treaty implications. The top priority of managers is to ensure the conservation of the salmon resource consistent with sound recognized scientific principles of fish

management under ANILCA Sec. 802. Most coho and sockeye systems are not monitored for escapement. Where there are no conservation or use concerns, such as for pink and chum salmon, there are currently no harvest limits.

Managers use seasons, gear type and harvest limits to control salmon harvest to insure conservation of the resource and to distribute the available harvest amongst multiple subsistence users. Without harvest limits as tools, managers may be forced to limit gear types, reduce or close seasons, or add individual systems to Federal permits. This proposal would increase the risk of conservation concerns in unmonitored systems which would negatively affect subsistence users. This proposal would complicate law enforcement as it would require tracking the fish until they are preserved to ensure no refrigeration, freezing or ice was used in the process.

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Alaska Department of Fish and Game
Comments to Regional Advisory Council

Fisheries Proposal FP13-17: Eliminate harvest limits for subsistence-caught salmon in the Yakutat and Southeast Alaska areas.

Introduction: This proposal by the Organized Village of Kake would eliminate harvest limits in the Yakutat and Southeast Alaska areas for subsistence-caught salmon transported, processed, and stored without use of refrigeration prior to consumption.

The proponent states this proposal “better recognizes the subsistence priority need of subsistence users with strong customary, traditional, and economic dependence on salmon resources. These subsistence users fish where there are fish and take only what they need (i.e., what they can eat fresh or put away for future consumption by drying, salting, smoking, or canning). They do this without waste and without ice, refrigeration, or freezers. They depend on subsistence salmon for food and this is their way of life”.

Impact on Subsistence Users: If this proposal is adopted, federal subsistence users would have no harvest limits for subsistence-caught salmon in the Yakutat or Southeast Alaska areas. The proponent anticipates federal subsistence users would benefit from alleviation of harvest limits since citations from enforcement officers for harvest limit violations when engaged in customary and traditional (C&T) fishing for salmon would not occur.

However, the potential unintended negative impacts imposed upon subsistence users by the adoption of this regulation could reasonably manifest in the loss of sustainability of the resource as some federally-qualified subsistence users with less knowledge of the history of the resource may unfortunately exploit the resource without restraint.

Impact on Other Users: In the event of an unsustainable exploitation of this resource, all users would suffer.

Opportunity Provided by State: Under state regulations, subsistence is the priority consumptive use and salmon may be harvested throughout most of the Yakutat and Southeast Alaska areas. State subsistence fishing opportunity is directly linked to abundance and is not restricted unless run size is inadequate to meet escapement needs.

Conservation Issues: There are no stocks of concern in Southeast Alaska at this time.

Without harvest limits on the many small sockeye salmon stocks throughout the Yakutat and Southeast Alaska areas, harvests in subsistence fisheries would be expected to increase and could increase beyond sustainable levels. In that instance, for locations where salmon escapement data is available, State of Alaska fishery managers would report stock status to the Alaska Board of Fisheries (BOF) and request stock of concern designation. Action plans would be developed that would either reduce or preclude any further harvest for significant periods of time until each stock in question is rebuilt to a sustainable level.

Enforcement Issues: Federally-qualified subsistence salmon users may put themselves at risk of receiving a citation if they catch salmon on state or private land or on state-managed marine waters and do not comply with terms specified on their subsistence fishing permits. Passage of this proposal creates divergent federal and state regulations which are difficult for enforcement and a burden to users.

Jurisdiction Issues: The Federal Subsistence Board does not have the authority to regulate the nonfederally-qualified users participating in fisheries on waters outside of federal subsistence jurisdiction. While standing on state and private lands (including state-owned submerged lands), or when fishing in state-managed marine waters, persons must comply with state law and cannot harvest under conflicting federal regulations.

Enforcement difficulties and user confusion -- concerning where and how federal regulations that are different than state regulations apply -- will result unless detailed maps and explanations specific to the area are provided.

Other Issues: On state or private lands or state-managed marine waters where federal subsistence fisheries are not authorized to occur, the federal board does not have authority to supersede to state commercial and subsistence fisheries regulations unless a full closure is required for conservation purpose within water of claimed federal jurisdiction. Changes to state commercial and subsistence fisheries must be submitted to the BOF for coordination. The federal program currently provides for designated fishers to harvest for others above their personal limit. Users who expect a plentiful harvest who wish to share above their established amounts reasonably necessary for subsistence have this option available to them to avoid citation.

Recommendation: Oppose. Subsistence harvest limits are necessary. When there is a harvestable surplus, harvest limits are designed to provide for user's needs and establish guidelines to prevent unnecessary waste of the resource. During lean years, harvest limits may need to be reduced or eliminated in order to protect the resource.

WRITTEN PUBLIC COMMENTS

We **oppose** this proposal as written. We understand the desire of the proposer for a traditional way of life but unfortunately as the population of Southeast Alaska and Yakutat grows our most important concern is the safeguard of the individual systems and sustainability of the resource for the future. Salmon in Southeast Alaska is highly desired and fully utilized. While we understand and support a priority for subsistence, there also needs to be reasonable subsistence limits in order to provide for protection of the individual systems. Without limits and reporting of harvest within 24 hours of harvest it is easy to damage the run by overharvest by unexpected harvest by amount taken individually and then cumulative total harvests. Individual drainages/systems need to be looked at, not blanket regulations for the region.

*Kathy Hansen, Executive Director
Southeast Alaska Fishermen's Alliance*

FP13-18/23 Executive Summary	
General Description	Proposal FP13-18 requests that household harvest limits be placed on individual streams within the Prince of Wales (POW)/Kosciusko Islands subsistence steelhead fisheries along with removing the overall harvest quotas for the fisheries. Proposal FP13-23, submitted by James See, requests that household harvest limits be placed on the Klawock River during the POW/Kosciusko Islands subsistence steelhead fisheries. <i>Submitted by the Southeast Alaska Subsistence Regional Advisory Council</i>
Proposed Regulation	<p>§ __.27(i)(13) (xix) <i>You may take steelhead trout on Prince of Wales and Kosciusko Islands in streams designated under the terms of Federal subsistence fishing permits. You must obtain a separate permit for the winter and spring seasons.</i></p> <p><i>A) The winter season is December 1 through the last day of February, with a harvest limit of two fish per household. However, only 1 (one) steelhead may be harvested by a household from a particular drainage. You may use only a dip net, handline, spear, or rod and reel. The winter season may be closed when the harvest level cap of 100 steelhead for Prince of Wales/Kosciusko Islands has been reached. You must return your winter season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.</i></p> <p><i>(B) The spring season is March 1 through May 31, with a harvest limit of five fish per household. However, only 2 (two) steelhead may be harvested by a household from a particular drainage. You may use only a dip net, handline, spear, or rod and reel. The spring season may be closed prior to May 31 if the harvest quota of 600 fish minus the number of steelhead harvested in the winter subsistence steelhead fishery is reached. You must return your spring season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.</i></p>
OSM Preliminary Conclusion	Support Proposal FP13-18 Oppose Proposal FP13-23
Southeast Regional Council Recommendation	
Interagency Staff Committee Comments	

continued on next page

<i>WP13-18/23 Executive Summary (continued)</i>	
ADF&G Comments	FP13-18 and FP13-23 Neutral
Written Public Comments	None

DRAFT STAFF ANALYSIS FP13-18 and 23

ISSUES

Proposal FP13-18, submitted by the Southeast Alaska Subsistence Regional Advisory Council (Council), requests that household harvest limits be placed on individual streams within the Prince of Wales (POW)/Kosciusko Islands subsistence steelhead fisheries along with removing the overall harvest quotas for the fisheries. Proposal FP13-23, submitted by James See, requests that household harvest limits be placed on the Klawock River during the POW/Kosciusko Islands subsistence steelhead fisheries.

DISCUSSION

The proponent of FP13-18 believes the proposal will address potential conservation issues where a single stream may be subject to high harvest rates. The proponent's intent is provide additional conservation by preventing a person from taking their entire harvest limit from any one stream and then using the designated fishing permit system to take multiple limits from the same stream. The proponent also believes that the overall harvest quotas for the winter and spring fisheries could be removed with the proposed reduction in household harvest limits from a particular drainage.

The proponent of FP13-23 believes the proposal is necessary to provide for conservation of steelhead within the Klawock River and for the overall Federal subsistence fishery. The proponent wrote in his proposal, "*To reduce steelhead subsistence limits, POW Island for winter and spring fishery on Klawock River/POW Island.*" Clarification with the proponent on this statement revealed that although he is concerned with the Klawock River, he believed the proposal could benefit other POW drainages if the same type of regulation was in place by specific drainage. The proponent is supportive of subsistence fishing opportunity for steelhead and believes the proposal would provide for conservation while allowing for continued subsistence harvest opportunity on POW. Unlike the Council proposal, this proponent is not seeking to change the overall harvest quota.

Both proposals are a result of a situation that occurred during the 2011 winter subsistence steelhead fishery on the Klawock River. Steelhead harvests from POW drainages are managed for a ten percent harvest based on what is estimated to return to the system. Potential issues arose during the fishery due to the Federal designated fishing permit. The Federal designated fishing permit allows a Federally qualified subsistence user to fish for and harvest any species of fish on behalf of another Federally qualified user. The designated fisher may fish for any number of subsistence users, but may not have more than two harvest limits in their possession at any one time. Although the specific subsistence fishery permits are issued to households, the designated fishing permit is issued to individuals. Several individuals from the same household were noted harvesting multiple household harvest limits during the same day. Although harvesting up to two household possession limits within the same day is legal under the terms of the Federal designated fishing regulation, the potential to easily overharvest steelhead from drainages before Federal managers can act has now increased dramatically. The winter 2011 situation was discovered at the end of the fishery, which resulted in the Federal manager implementing Special Action *13-SH-02-12* during the spring fishery. This action reduced the harvest limit and instituted a bait prohibition on the Klawock River to allow for continued subsistence opportunity while providing for conservation.

Existing Federal Regulation

§ __.27(i)(13) (xix) *You may take steelhead trout on Prince of Wales and Kosciusko Islands under the terms of Federal subsistence fishing permits. You must obtain a separate permit for the winter and spring seasons.*

(A) The winter season is December 1 through the last day of February, with a harvest limit of two fish per household. You may use only a dip net, handline, spear, or rod and reel. The winter season may be closed when the harvest level cap of 100 steelhead for Prince of Wales/Kosciusko Islands has been reached. You must return your winter season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.

(B) The spring season is March 1 through May 31, with a harvest limit of five fish per household. You may use only a dip net, handline, spear, or rod and reel. The spring season may be closed prior to May 31 if the harvest quota of 600 fish minus the number of steelhead harvested in the winter subsistence steelhead fishery is reached. You must return your spring season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.

Proposed Federal Regulation

FP13-18

§ __.27(i)(13) (xix) *You may take steelhead trout on Prince of Wales and Kosciusko Islands in streams designated under the terms of Federal subsistence fishing permits. You must obtain a separate permit for the winter and spring seasons.*

*A) The winter season is December 1 through the last day of February, with a harvest limit of two fish per household. **However, only 1 (one) steelhead may be harvested by a household from a particular drainage.** You may use only a dip net, handline, spear, or rod and reel. ~~The winter season may be closed when the harvest level cap of 100 steelhead for Prince of Wales/Kosciusko Islands has been reached.~~ You must return your winter season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.*

*(B) The spring season is March 1 through May 31, with a harvest limit of five fish per household. **However, only 2 (two) steelhead may be harvested by a household from a particular drainage.** You may use only a dip net, handline, spear, or rod and reel. ~~The spring season may be closed prior to May 31 if the harvest quota of 600 fish minus the number of steelhead harvested in the winter subsistence steelhead fishery is reached.~~ You must return your spring season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.*

FP13-23

§ __.27(i)(13) (xix) *You may take steelhead trout on Prince of Wales and Kosciusko Islands in streams designated under the terms of Federal subsistence fishing permits. You must obtain a separate permit for the winter and spring seasons.*

*A) The winter season is December 1 through the last day of February, with a harvest limit of two fish per household. **However, only 1 (one) steelhead may be harvested by a household from the Klawock River.** You may use only a dip net, handline, spear, or rod and reel. The winter season may be closed when the harvest level cap of 100 steelhead for Prince of Wales/Kosciusko Islands has been reached. You must return your winter season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.*

*(B) The spring season is March 1 through May 31, with a harvest limit of five fish per household. **However, only 2 (two) steelhead may be harvested by a household from the Klawock River.** You may use only a dip net, handline, spear, or rod and reel. The spring season may be closed prior to May 31 if the harvest quota of 600 fish minus the number of steelhead harvested in the winter subsistence steelhead fishery is reached. You must return your spring season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.*

Existing State Regulations

Subsistence

5 AAC 01.730 (i) The department shall not issue a permit for the taking of steelhead trout, but steelhead trout taken incidentally by gear operated under the terms of a subsistence permit for salmon are legally taken and possessed for subsistence purposes. The holder of a subsistence salmon permit must report any steelhead trout taken in this manner on his or her permit calendar.

Sport Fishing

5 AAC 47.022 General provisions for seasons and bag, possession, annual, and size limits for the fresh waters of the Southeast Alaska Area.

(b) In the fresh waters east of the longitude of Cape Fairweather:

(4) steelhead may be taken from January 1–December 31; Bag limit of 1 fish; Possession limit of two fish; must be 36 inches or greater in length; Annual limit of two fish; A harvest record is required as specified in 5AAC 47.024(C).

Extent of Federal Public Waters

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. They include waters within the exterior boundary of the Tongass

National Forest in the Southeastern Alaska Area excluding marine waters. Federal waters involved are those of the Tongass National Forest, excluding marine waters, on POW (**Map 1**).

Customary and Traditional Use Determinations

Residents living south of Sumner Strait and west of Clarence Strait and Kashevaroff Passage have a positive customary and traditional use determination for steelhead in Districts 2, 3, and 5 and waters draining into those districts. Residents living south of Sumner Strait and west of Clarence Strait and Kashevaroff Passage; residents of drainages flowing into District 6 north of the latitude of Point Alexander (Mitkof Island); residents of drainages flowing into Districts 7 and 8, including the communities of Petersburg and Wrangell; and residents of the communities of Meyers Chuck and Kake have a positive customary and traditional use determination for steelhead in District 6 and waters draining into that district.

Regulatory History

State Regulatory History

Although there are customary and traditional use determinations for steelhead in State subsistence regulations for portions of Districts 3B and 3C, and all of Districts 7 and 8 in Southeast Alaska, State regulations prohibit issuing subsistence permits for steelhead. However, steelhead taken incidentally under the terms of a subsistence permit for salmon may be legally retained. Permit holders are required to report any steelhead incidentally taken, but are not required to mark them by clipping fins.

From 1978 through 1992, the sport fishing daily harvest and possession limit was one steelhead per day. During the 1993/94 regulatory cycle for Southeast Alaska, the Alaska Board of Fisheries modified sport and commercial fishing regulations. Region-wide sport fishing regulations were changed to allow a harvest of one fish per day and two fish per year, 36 inches or greater in length to reduce the harvest. However, the daily harvest limit was two fish if at least one has a clipped adipose fin, as evidenced by a healed scar. There was no size limit for steelhead with a clipped adipose fin. A clipped adipose fin identified a hatchery produced steelhead. The Alaska Board of Fisheries also prohibited the use of bait from Nov. 16–Sept. 14. Lastly, the sale of steelhead caught in commercial net fisheries was prohibited. In commercial purse seine and gillnet fisheries of Southeast Alaska, Commercial Fisheries Entry Commission permit holders may now retain steelhead for personal use, but not sell them. Steelhead caught in the commercial troll fishery (typically from July through September) may be sold.

During the 2003 Alaska Board of Fisheries cycle, the region-wide sport regulation for steelhead was revised. The revision was a regulatory “housekeeping” action, submitted by ADF&G, to specify that the two fish daily harvest limit would only apply to the Klawock River and Ketchikan Creek: the only two locations where adipose clipped steelhead may be found.

In January 2006, the Alaska Board of Fisheries adopted a regulation (5AAC 33.395) that gave authority to the Commissioner of ADF&G to require steelhead harvested in the commercial salmon fisheries and retained for personal use to be reported on fish tickets. The intent of the regulation was to account for the harvest of all steelhead trout. The Commissioner has only implemented this requirement in the District 8 Stikine Terminal Chinook fishery.

In February 2009, the Alaska Board of Fisheries adopted proposal 291 prohibiting retention of steelhead in 21 fall run steelhead drainages across southeast Alaska. Of these 21 drainages, ten of the drainages are located within the Prince of Wales Island management area.

Proposal FP13-18 and 23

Map 1: Prince of Wales Island and communities



In February 2012, the Alaska Board of Fisheries adopted proposal 265 removing the regulation which allowed for the retention of adipose clipped steelhead taken in the Klawock River. The proposal was a housekeeping proposal submitted by ADF&G as the local fish hatchery had ceased production of steelhead in 2005.

Also in 2012, the Alaska Board of Fisheries adopted proposal 294 to rescind the commissioner's authority to not account for steelhead taken in the commercial fisheries in southeast Alaska. As a result, a statewide provision to include steelhead retained in net fisheries will apply and steelhead taken in the net fisheries will now have to be reported on fish tickets.

Federal Regulatory History

Prior to the first Federal subsistence fishery for steelhead established in 2002, all steelhead harvest occurred under State of Alaska sport fish regulations or incidental to subsistence or commercial fisheries.

The Federal Subsistence Board (Board) adopted FP03-25 resulting in a Federal subsistence fishery for steelhead on Prince of Wales Island in 2002. The following year, the Board adopted FP04-33 to add Kosciusko Island to this fishery. This fishery has two seasons (Winter – Dec. 1–Feb. 28/29; Spring – Mar. 1–May 31) with separate seasonal harvest limits (Winter – 2 steelhead; Spring – 5 steelhead per household), permits (winter and spring), and special conditions identified by the in-season manager which are included on the permit. Legal methods and means include dip net, rod and reel, handline, and spear. The two fisheries may be closed when a harvest cap is reached (100 steelhead for winter season and 600 minus the winter harvest for the spring season). Harvest reports are due by March 15 for the winter fishery and by June 15 for the spring fishery, or within 15 days after harvest of a seasonal limit of steelhead.

Rather than implementing separate regulations by drainage in the fisheries, the Board directed that *“permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.”* This management authority to set permit conditions for conservation is delegated to local area fishery managers. Federal fisheries managers have implemented these regulations by applying stipulations to Federal subsistence fishing permits after consultation with ADF&G and local Council members. Since 2003, in the POW/Kosciusko subsistence steelhead fisheries, local Federal managers have applied special conditions to permits. Examples of special restrictions include: gear restrictions, no retention of steelhead, minimum size limits, and mandatory 24 hour reporting of harvest.

In 2009, FP09-03 was submitted by ADF&G which addressed six items: use of bait, locations of allowable harvest, use of handlines in drainages where size restrictions applied, accumulation of Federal annual harvest limits with State sport harvest limits, mandatory fin clipping of subsistence taken steelhead, and possession of subsistence and sport caught steelhead on the same day. The Board opposed the proposal as the items of concern had either been considered previously through the Federal regulatory process or within permit stipulations through the consultation process as directed by the Federal Subsistence Board.

Biological Background

Steelhead are the anadromous form of rainbow trout (*Oncorhynchus mykiss*) and are known to return to 74 drainages on POW. Peak numbers of steelhead occur in streams in late April and May. Fall and spring run fish generally spawn at the same time but residence time in streams is longer for fall run (freshwater

maturing) fish. Spring run fish (ocean maturing) are most abundant in Southeast Alaska, but it is not uncommon for the same streams to contain a smaller number of fall run fish (Lohr and Bryant 1999).

A three year steelhead assessment project (05-604), funded by the Fisheries Resource Monitoring Program, began in 2005 on POW. This was a joint Federal, State, and Tribal agency study. Investigators placed weirs on two streams each year. The goal was to study both a “small” (thought to contain <150 adult steelhead) and a “large” (>150) population each year. Road access and identified harvest were factors in choosing the study sites. Although the original goal was six different drainages, weather and road conditions only allowed for five to be studied. One drainage was assessed twice. Weirs were placed in the Harris River and Big Ratz Creek during 2005, Cable Creek and Eagle Creek in 2006, and Natuzhini Creek and Big Ratz Creek during 2007.

Steelhead were counted as they passed through the weirs. Length measurements were taken, gender recorded, scales collected for aging, and fish were marked with either a caudal clip or punch. Preliminary length data from this project suggests that 1.4 percent of the 1,229 steelhead sampled met the minimum sport size limit (Piazza 2008, pers. comm.).

Data from these projects has been used to manage the POW fishery. For example, data from the 2005 project was used to change the management of the Harris River steelhead fishery. The Harris River was thought to be a “large” system, but the weir count was lower than expected. Accordingly, in 2006, the Harris River was placed on the list of small, road accessible streams requiring extra protection measures. Big Ratz Creek, on the other hand, was originally thought to be a “small” system but weir counts indicated otherwise. This creek was removed from the list of small, road accessible streams with extra protection measures.

Harvest History

Until creation of the Federal subsistence fisheries for steelhead, documentation of contemporary harvest of steelhead by POW residents was limited. Community household subsistence harvest surveys were conducted in 1997–98. During those years, estimated steelhead harvest across all twelve POW communities was 770 fish. Most of this harvest occurred in the largest communities of Craig, Klawock, and Hydaburg. Analysis of this community household survey data suggested that total harvest of steelhead from POW Federal public waters by Federally qualified users was approximately 600 fish (ADF&G 2001).

Turek (2005) provided an assessment of the contemporary use patterns and harvests for subsistence steelhead on POW through key respondent interviews and analysis of the harvest data from ADF&G Division of Subsistence confidential household surveys conducted on POW in the late 1990s. The conclusions of the study contained the recognition that the “Federal subsistence steelhead harvest permit and reporting system was failing to record many of the steelhead harvested on Prince of Wales Island.” As a result, the *Prince of Wales Steelhead Trout Subsistence Harvest Study* (FIS Project 08-650) was funded in an attempt to determine the extent of the disparity between the harvests estimated through ADF&G Division of Subsistence household surveys and harvests reported by subsistence permit holders. This study estimated the POW subsistence steelhead harvest at 278 fish per year with the majority of the harvest occurring by the community of Klawock (Christianson et al. 2012), but did not specifically identify where the steelhead were being taken from (i.e., Federal fishery, sport fishery, retained from commercial harvests, etc.).

The POW/Kosciusko Islands fishery is divided into two seasons (Winter and Spring) under the terms of separate Federal subsistence fishing permits. Local Federal managers monitor harvest during these

fisheries. Monitoring includes visual assessments, interviews with and phone calls to anglers to determine harvest rates by fishermen, and observations using in-stream snorkel counts. Law enforcement officers check anglers to insure they have the proper permits or licenses. Using monitoring information, the local Federal managers have been delegated the authority to close these fisheries when and if conservation concerns arise. The return rate of Federal permits for the POW steelhead fisheries has been nearly 100 percent (Forest Service 2012). The two steelhead fisheries are described in more detail below.

POW/Kosciusko Spring Season Federal Subsistence Steelhead Fishery

This steelhead fishery began in 2003. Although 76 permits were issued during the first season, the average number of permits issued per season from 2004–07 has been 55. Since 2008, effort in the fishery has increased with an average of 73 permits issued. Harvest from 2003–11 averaged 29 steelhead per season. Of the 565 permits issued throughout the history of this fishery, 13 reported taking a full household harvest limit of five steelhead, and only one reported taking that limit within the same day. A summary of steelhead harvest and permit activity for this fishery by year is displayed in **Table 1** (Forest Service 2012).

In-season action has occurred twice in the history of this fishery. In April 2006, the local Federal manager closed Cable Creek to all fishing during the steelhead run when the illegal harvest of 10 steelhead was reported. In-season action occurred again in April 2012, when winter season harvest on the Klawock River was reported to be higher than anticipated. The household harvest limit was reduced to two steelhead and the use of bait was prohibited downstream of the Prince of Wales Hatchery Association weir.

POW/Kosciusko Winter Season Federal Subsistence Steelhead Fishery

This steelhead fishery began in 2003, with harvest and effort being very low. From 2003–08, Federal steelhead harvests ranged from zero to five per season, and the number of permits issued ranged from 10 to 20. Since 2009, effort in the fishery has increased, as the number of permits issued has ranged from 36 to 38, with a reported harvest ranging from one to 13. This fishery is greatly affected by weather. In 2006, 2007 and 2010, fishing effort was very minimal with zero or one steelhead reported during those seasons. This was most likely due to heavy snowfall preventing access to fishing sites. In 2011, winter snow conditions again limited where subsistence fishermen could access fishing sites which resulted in concentrating effort mainly to the Klawock River. A summary of steelhead harvest and permit activity for this fishery by year is displayed in **Table 2** (Forest Service 2012).

State Subsistence Harvest

There are no directed State subsistence fisheries for steelhead in the Southeast Alaska Area. Steelhead incidentally harvested while subsistence fishing for salmon may be retained and must be recorded on the State subsistence and personal use salmon permit. No steelhead harvest was reported from 1985 to 2001 (Zadina 2002, pers. comm.). From 2002 to 2007, eight steelhead have been reported on State fishing permits for the Southeast Area (Kelley 2008, pers. comm.).

Sport Harvest

Although the State requires sport fishers that harvest steelhead to record their fish on the back of their fishing license in ink, they are not required to submit or report the harvest directly to ADF&G. The yearly sport steelhead harvest is determined by the Statewide Harvest Survey which is mailed out randomly to fishing license holders each year. Depending on the number of responses per drainage, some estimates

Table 1 – Summary of harvest, locations, and permits from the POW/Kosciusko Island Spring Steelhead fishery, 2003 – 2011 (Forest Service 2012).

	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Alder Creek			1							1
Cable Creek			1			1				2
Eagle Creek		1	1	7	4	3	1	2		19
Flicker Creek			1							1
Harris River		3	3		2	2				10
Hydaburg River				1						2
Karta River		1	2	4	1	1	3	2		14
Klawock River	11	8	5	6	4	3	5	5	15	62
Maybeso Creek					2					2
Ratz Creek			3	3			6	7		19
Saltery Creek			2							2
St. Nicholas									2	2
Staney Creek	3	10	5	13	6	14	5	9	9	74
Thorne River	10	3	3	3	3	9	7	2	11	51
Twelvemile Creek									1	1
Totals	24	26	27	38	18	34	29	27	39	262
No. of permits	76	40	53	56	49	66	71	65	89	565
Permit w hvst	12	9	15	19	11	24	14	14	14	
Ave fish/ permit	2.0	2.6	1.7	2.0	1.6	1.6	2.1	2.3	2.4	
Permits w full hvst limit	1	3	1	1	1	1	1	1	3	
Permits w >2 from a drainage	1	4	1	1	0	2	3	2	4	

could possibly understate the harvest due to limitations in expanding low numbers of responses (ADF&G 2007).

From 1989 to 1994, the average reported steelhead harvest was 812 per year for POW (Howe et al. 2001). Since the more restrictive sport fishing regulations went into effect in 1994 the reported harvest of steelhead in the sport fishery has been relatively small on POW. The average steelhead harvest from streams on POW from 1995 to 2004 was 34 per year (Jennings et al. 2007). The average reported catch during this time was 1,911 per year (Jennings et al. 2007). To be conservative, managers commonly assume a hooking mortality of two to five percent for fish caught with artificial lures (Hooten 2001, ADF&G 2008b). If 2–5% of the fish caught died after release due to catch and release mortality, the additional mortality each year would range from 38 to 96 steelhead.

Table 2 - Summary of harvests, locations, and permits from the POW/Kosciusko Island Winter Steelhead fishery, 2003 – 2011 (Forest Service 2012)

	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Klawock River	2	5	1		1	1	2	1	13	25
Karta River						1				1
Eagle Creek							2			2
Thorne River			1				1			2
Totals	2	5	2	0	1	2	5	1	13	30
No. of permits	10	15	17	12	17	20	36	37	38	202
Permit w hvst	2	3	1	0	1	2	5	1	9	
Ave fish/ permit	1.0	1.7	2.0	0.0	1.0	1.0	1.0	1.0	1.4	
Permits w full hvst limit	0	2	1	0	0	0	0	0	3	
Permits using des. fisher	0	0	0	0	0	0	0	0	5	

Commercial Harvest

There is no directed commercial fishing for steelhead. Nevertheless, incidental harvest in commercial salmon fisheries occurs, and has ranged from a low of 533 in 1975 to a high of 11,540 in 1986 for all of Southeast Alaska. The majority of the catch (65%) occurred in the gillnet fisheries and the least (1%) in the troll fisheries (PSCNBTC 1991; Lynch 2002, pers. comm.). Since the BOF action in 1994 prohibiting the sale of net caught steelhead, there has only been a very limited commercial sale of steelhead taken in the commercial troll fishery. From 1997 until 2002, commercial fishermen in southeast Alaska sold about 50 steelhead per year (Lynch 2002, pers. comm.). From 2002 to 2007, the number of steelhead sold by trollers has ranged from three to 108 (Kelley 2008, pers. comm.).

Since 2006, the Commissioner of ADF&G has only required mandatory reporting of incidentally net-taken steelhead in the Stikine River Terminal Chinook Salmon commercial fishery. Fourteen were reported during the 2006 fishery and eight were reported during the 2007 fishery (Kelley 2008, pers. comm.). Beginning in 2012, all steelhead retained from commercial fisheries in southeast Alaska will need to be recorded on fish tickets.

Other Alternative(s) Considered

These proposals could be addressed as special restrictions within the permit conditions of the subsistence fishing permit. Both of the Federal in-season managers (Craig and Thorne Bay District Rangers) are delegated the authority to implement special restrictions within these fisheries. Every year since the inception of the fishery, special restrictions have been implemented on the small, road accessible systems and are listed in the terms and conditions of the permit (**Appendix A**). Specifically, the concerns expressed in proposal FP13-23 could be addressed in this manner, however, with the scope of proposal

FP13-18 encompassing all 74 steelhead drainages on POW, addressing the issue via permit conditions would be more problematic.

Effects of the Proposal

If these proposals were adopted, they would add additional restrictions to the Federal subsistence harvest of steelhead in both the POW/Kosciusko subsistence steelhead fisheries. Although the proposals would reduce the amount of steelhead a household may harvest from a specific drainage, they would not affect the annual harvest limit that a household may take during the fishery. While reduced harvest limits by drainage may provide for a more equitable distribution of harvest opportunity among Federally qualified users, there could be a reduction in numbers of fish received by recipients from designated fishers from those same drainages. The proposals do not affect the State managed sport fishery.

Adoption of the proposal FP13-18 would remove the fishery harvest quota currently defined under the Federal subsistence fishing regulations. This quota was established by the Board in 2002 and was intended to keep harvests within the level estimated by household harvest surveys in the late 1990s. Recent household harvest surveys (45% of quota) and Federal permit reports (5–8% of quota) indicate harvest numbers are far lower than the quotas and may not be needed.

OSM PRELIMINARY CONCLUSION

Support Proposal FP13-18 and **Oppose** Proposal FP13-23.

Justification

Implementation of annual household harvest limits by specific drainage will provide for conservation of individual steelhead stocks while providing for subsistence fishing opportunity. Adoption of FP13-18 is supported since this would set annual household harvest limits by specific drainage to all streams within the POW/Kosciusko Island fisheries, and would include the Klawock River which is the focus of FP13-23. This action will provide for conservation by preventing a person or designated fisher from taking entire harvest limits from any one stream which could easily push a system beyond desired harvest levels. Although the harvest limit by individual stream will be reduced, the action does not reduce the overall household harvest limit for the fishery. Opportunity will still exist to harvest any additional steelhead from other streams.

An overall harvest quota for the POW/Kosciusko Island fisheries is not as important as the overall steelhead harvest from the individual drainages. Conservation of individual streams will be provided for by implementing an annual household harvest limits by drainage, thus removing the need for the overall harvest quota. Additionally, both Federal in-season managers are delegated authority to implement special restrictions within these fisheries if any unforeseen conservation concerns arise.

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Appendix A. Continued

Conditions of the Permit:
 PERMIT IS VALID FOR THE FEDERAL SUBSISTENCE SPRING STEELHEAD FISHERY IN FRESHWATER ON PRINCE OF WALES ISLAND AND KOSCIUSKO ISLAND. ONLY ONE PERMIT WILL BE ISSUED PER HOUSEHOLD. PERMIT MUST BE IN YOUR POSSESSION WHILE FISHING AND ONLY ROD AND REEL, DIPNET, HANDLINES, AND SPEARS MAY BE USED. YOU MAY USE BAIT WITH ROD AND REEL TO HARVEST STEELHEAD IN ALL STREAMS EXCEPT IN THE FOLLOWING STREAMS: BAIT IS NOT ALLOWED BETWEEN NOVEMBER 16 AND SEPTEMBER 14 IN THE FOLLOWING STREAMS: BLACK LAKE/BLACK BEAR CREEK, NAUKATI CREEK, CABLE CREEK/TROCADERO CREEK, HARRIS RIVER, 12 MILE CREEK, DOG SALMON LAKE/CREEK, SAL CREEK, ROCK CREEK, 108 CREEK/CAVERN LAKE, TURN CREEK, EL CAP CREEK, RED LAKE/CREEK, BIG CREEK, YATUK CREEK, NATZUNINI CREEK, AND EXCHANGE CREEK. IN THESE STREAMS, THE DAILY HOUSEHOLD LIMIT IS ONE STEELHEAD AND THE ANNUAL HOUSEHOLD LIMIT IS TWO STEELHEAD FROM ANY STREAM ON THIS LIST. WHEN BAIT IS NOT ALLOWED, THE MINIMUM SIZE LIMIT FOR TROUT IS 11 INCHES.

IF YOU USE BAIT, YOU MUST RETAIN ALL STEELHEAD, SALMON, TROUT, AND CHAR CAUGHT. THEY WILL APPLY TO YOUR DAILY, SEASONAL, OR ANNUAL HARVEST LIMIT FOR THAT SPECIES. RECORD IF BAIT WAS USED ALONG WITH THE LENGTH AND SEX OF ANY STEELHEAD RETAINED.

In accordance with the Privacy Act (5 U.S.C. 552a) and the Paperwork Reduction Act (44 U.S.C. 3501), please note the following information. This information collection is authorized by the Alaska National Interest Lands Conservation Act and associated regulations. The Federal Subsistence Board will use this information to manage fish and wildlife resources for subsistence uses. It is our policy not to use your name for any other purpose. We will maintain this information in accordance with the Privacy Act. Your response is voluntary, but is required to obtain or retain a benefit. We may not conduct or sponsor and you are not required to respond to an information collection unless it displays a currently valid OMB control number. OMB has approved this information collection and assigned OMB Control No. 1018-0075. We estimate it will take you about 15 minutes to complete the application and record your harvest. This burden estimate includes time for reviewing instructions, gathering data, and completing and reviewing the form. You may direct comments regarding the burden estimate or any other aspect of the form to the Service Information Collection Clearance Officer, Fish and Wildlife Service, Mail Stop 222, Arlington Square, Department of the Interior, 1849 C Street, NW., Washington D.C. 20240.

U.S. Fish and Wildlife Service
 Office of Subsistence Management
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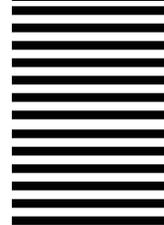
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Conditions of the Permit:
 PERMIT IS VALID FOR THE FEDERAL SUBSISTENCE SPRING STEELHEAD FISHERY IN FRESHWATER ON PRINCE OF WALES ISLAND AND KOSCIUSKO ISLAND. ONLY ONE PERMIT WILL BE ISSUED PER HOUSEHOLD. PERMIT MUST BE IN YOUR POSSESSION WHILE FISHING AND ONLY ROD AND REEL, DIPNET, HANDLINES, AND SPEARS MAY BE USED. YOU MAY USE BAIT WITH ROD AND REEL TO HARVEST STEELHEAD IN ALL STREAMS EXCEPT IN THE FOLLOWING STREAMS: BAIT IS NOT ALLOWED BETWEEN NOVEMBER 16 AND SEPTEMBER 14 IN THE FOLLOWING STREAMS: BLACK LAKE/BLACK BEAR CREEK, NAUKATI CREEK, CABLE CREEK/TROCADERO CREEK, HARRIS RIVER, 12 MILE CREEK, DOG SALMON LAKE/CREEK, SAL CREEK, ROCK CREEK, 108 CREEK/CAVERN LAKE, TURN CREEK, EL CAP CREEK, RED LAKE/CREEK, BIG CREEK, YATUK CREEK, NATZUNINI CREEK, AND EXCHANGE CREEK. IN THESE STREAMS, THE DAILY HOUSEHOLD LIMIT IS ONE STEELHEAD AND THE ANNUAL HOUSEHOLD LIMIT IS TWO STEELHEAD FROM ANY STREAM ON THIS LIST. WHEN BAIT IS NOT ALLOWED, THE MINIMUM SIZE LIMIT FOR TROUT IS 11 INCHES.

IF YOU USE BAIT, YOU MUST RETAIN ALL STEELHEAD, SALMON, TROUT, AND CHAR CAUGHT. THEY WILL APPLY TO YOUR DAILY, SEASONAL, OR ANNUAL HARVEST LIMIT FOR THAT SPECIES. RECORD IF BAIT WAS USED ALONG WITH THE LENGTH AND SEX OF ANY STEELHEAD RETAINED.

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ADF&G Comments on FP13-18
July 13, 2012, Page 1 of 3

Alaska Department of Fish and Game
Comments to Regional Advisory Council

Fisheries Proposal FP13-18: Revise steelhead harvest limits by drainage on Prince of Wales and Kosciusko islands.

Introduction: This Southeast Alaska Subsistence Regional Advisory Council proposal would make the following changes to the federal regulations for the Prince of Wales and Kosciusko islands - Steelhead Trout Fishery:

For the winter season (Dec. 1 – last day of Feb.), Season Harvest and Possession Limit, 2 steelhead trout, per household

- Delete the current text “(The winter season may be closed when harvest level cap of 100 steelhead trout for Prince of Wales/Kosciusko islands is reached)”
- Insert new text “(However, only 1 (one) steelhead may be harvested from a particular drainage.)”

For the spring season (Mar. 1 – May 31), Season Harvest and Possession Limit, 5 steelhead trout, per household

- Delete the current text “(The spring season may be closed prior to May 31 if the harvest quota of 600 steelhead trout minus the number of steelhead harvested in the winter subsistence fishery is reached)”
- Insert new text “(However, only 2 (two) steelhead may be harvested from a particular drainage.)”

The proponents state this proposal seeks to address a local concern that under the existing regulation a single stream may be subjected to high subsistence harvest rates. This proposal is designed to prevent a user from taking their entire household harvest limit from one stream. It is also designed to prevent users who fish for others with a designated harvest permit from taking multiple household limits from one stream.

Impact on Subsistence Users: If this proposal is adopted, individual federal subsistence users and users who fish for others with a designated harvest permit would not be allowed to take their entire winter or spring season steelhead trout harvest limit from the same drainage on Prince of Wales and Kosciusko islands.

Impact on Other Users: The department continues to be concerned with conservation of vulnerable steelhead populations in small streams in Southeast Alaska. The department believes that some limited harvest could occur on most streams but harvest opportunities should be focused on the larger monitored streams that support more robust steelhead populations. Dispersing the subsistence steelhead harvest amongst smaller streams could negatively impact anglers and subsistence users that may already be fully utilizing these smaller streams.

Opportunity Provided by State: In the Southeast Alaska area, state regulation 5 AAC 01.716 (a)(15) provide for subsistence harvest of steelhead trout in Section 3-B in waters east of a line from Point Ildefonso to Tranquil Point and in waters of Warm Chuck Inlet north of a line from a

ADF&G Comments on FP13-18
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point on Hecata Island at 55° 44' N. lat., 133° 25' W. long. to Bay Point, and in Section 3-C in waters of Karheen Passage north of 55° 48' N. lat. and east of 133° 20' W. long. and in waters of Sarkar Cove and Sarkar Lakes. The department does not issue a subsistence fishing permit for the taking of steelhead trout in the Southeast Alaska area, but steelhead trout taken incidentally by gear operated under the terms of a subsistence permit for salmon are legally taken and possessed for subsistence purposes. The holder of the subsistence salmon permit must report any steelhead trout taken in this manner on his or her permit calendar (5 AAC 01.730 (i)).

Conservation Issues:

Most steelhead populations in Southeast Alaska receive an annual escapement of 200 or fewer fish, and only a handful of systems regularly receive escapements over 500. Nearly all of Southeast Alaska steelhead populations are difficult or impossible to accurately assess or monitor on a regular basis. Without basic specific stock status information, steelhead populations in Southeast Alaska need to be managed conservatively and may only be sustained with very low harvest rates of 10 percent or less. The annual harvest of steelhead in Southeast Alaska between 1982 – 1991 averaged 3,461; in 1992 the department issued Emergency Orders closing 24 streams to harvest. Department managers believe that this level of harvest could not be sustained and these harvest levels may have contributed to declines in steelhead abundance that lead to the conservative management strategies adopted by the Board of Fish in 1993. Levels of harvest opportunity provided by past state and current federal regulations cannot be sustained in absence of an intensive stock assessment program. Steelhead are known to return to 331 freshwater systems in southeast Alaska (ADF&G 2001)¹. Of these 331 systems, there are 87 river systems known to contain steelhead on Prince of Wales Island (Harding and Jones 1993)². The small size of most steelhead stocks makes them susceptible to negative impacts through habitat degradation or over fishing (Lohr and Bryant 1999)³. Small populations are at greater risk of extinction than large populations because of demographic, environmental, and genetic uncertainties, and they are more susceptible to natural catastrophes (Meffe and Carroll 1994)⁴.

Snorkel counts are conducted annually by the department to monitor steelhead escapements in a number of index systems dispersed across Southeast Alaska. These snorkel surveys do not estimate total escapement but provide a peak annual escapement count for each system or a relative index of abundance. Based on these snorkel counts the relative abundance of steelhead throughout Southeast Alaska and on Prince of Wales Island was generally higher than average between 2003 and 2007, but since 2008 have generally declined and are at or near average levels. There are systems where steelhead escapement still remains below historic levels (Harding and Coyle 2012)⁵. The department believes that the current conservative sport fish regulations provide for

¹ ADF&G (Alaska Department of Fish and Game). 2001. Alaska Department of Fish and Game, Division of Subsistence, Community Profile Database.

² Harding, R., and J. D. Jones. 1993. Karta River steelhead: 1992 escapement and creel survey studies. Alaska Department of Fish and Game, Fishery Data Series No. 93-30, Anchorage.

³ Lohr, S. C., and M. D. Bryant. 1999. Biological characteristics and population status of steelhead (*Oncorhynchus mykiss*) in Southeast Alaska. USDA Forest Service, Pacific Northwest Research Station, General Technical Report PNW-GTR-407.

⁴ Meffe, G. K., and C. R. Carroll. 1994. Principles of conservation biology. Sunderland, MA: Sinauer Associates, Inc.

⁵ Harding, R. D. and C. L. Coyle. 2011. Southeast Alaska steelhead, trout, and Dolly Varden management. Alaska Department of Fish and Game, Special Publication No. 11-17, Anchorage.

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sustainability of steelhead stocks while allowing for a limited harvest opportunity. The lack of data on these stocks has hampered efforts to assess the potential effects of directed subsistence harvest and prevents the refinement of federal regulations that, when coupled with conservative state sport fishing regulations would ensure adequate conservation and allow for expanded subsistence harvest opportunities.

Enforcement Issues: Enforcement difficulties and user confusion concerning where and how federal regulations that are different than state regulations apply will result unless detailed maps and explanations specific to the area are provided.

Jurisdiction Issues: The Federal Subsistence Board does not have the authority to regulate the non-federally qualified users participating in fisheries on waters outside of federal subsistence jurisdiction.

Other Issues: During its spring 2012 meeting the Southeast Subsistence Regional Advisory Council discussed that the household limit was the original intent of a previous proposal submitted during the 2010 cycle, and the change would need to be proposed this regulatory cycle to address the discrepancy. It is unclear to department managers why the annual caps for the winter and spring fisheries were deleted as that was not specifically mentioned by the proposer.

On state or private lands where federal subsistence fisheries are not authorized to occur, the federal board does not have authority to supersede to state commercial and subsistence fisheries regulations unless a full closure is required for conservation purpose within water of claimed federal jurisdiction. Changes to state commercial and subsistence fisheries must be submitted to the Alaska Board of Fisheries for coordination.

This proposal could limit the subsistence harvest on some systems which would provide additional conservation. However, the department is concerned that if adopted, this proposal could shift subsistence steelhead harvest to the smaller and more vulnerable steelhead populations. The department could support this proposal if measures were put into place that would cap the harvest on individual systems and not shift harvest to the smaller systems without adequate monitoring, such as:

- a cap to the harvest of steelhead on larger river systems to < 10% of annual escapement, and
- a harvest limit to < 5 fish on small systems.

Recommendation: Neutral.

ADF&G Comments on FP13-23
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Alaska Department of Fish and Game
Comments to Regional Advisory Council

Fisheries Proposal FP13-23: Reduce Klawock River/Prince of Wales Island steelhead harvest limits.

Introduction: This proposal, submitted by James See of Craig, AK, reduces the seasonal harvest and possession limit for Klawock River in the Prince of Wales and Kosciusko islands steelhead trout fishery. Proposed changes include:

For the winter season (Dec. 1–last day of Feb.), Season Harvest and Possession Limit, 2 steelhead trout, per household

- Insert new text “(However, only 1 (one) steelhead may be harvested from Klawock River.)” after “household”.

For the spring season (Mar. 1–May 31), Season Harvest and Possession Limit, 5 steelhead trout, per household

- Insert new text “(However, only 2 (two) steelhead may be harvested from Klawock River.)” after “household”.

The proponent states “The reported number of fish taken is way below the actual number taken. I have seen the run strength seriously reduced in the last 6 years. I have [also] seen evidence of many fish taken (discarded gills etc.) that indicate that many more fish were harvested than reported. In periods of low water the fish stop in 2 main holes in the Klawock River and I have seen people use bait to take 8 steelhead trout in a day which completely empties the hole of fish. No more steelhead trout will move into that hole until the next tide or until the water level changes.”

Impact on Subsistence Users: If this proposal is adopted, individual federal subsistence users would not be allowed to take their entire winter or spring season steelhead trout harvest limit from Klawock River on Prince of Wales and Kosciusko islands.

Impact on Other Users: The department continues to be concerned with conservation of vulnerable steelhead populations in small streams in Southeast Alaska. The department believes that some limited harvest could occur on most streams, but harvest opportunities should still be focused on larger monitored streams that support more robust steelhead populations. Dispersing subsistence steelhead harvest amongst smaller streams could negatively impact anglers and subsistence users that already use these smaller streams.

Opportunity Provided by State: In the Southeast Alaska area, state regulation 5 AAC 01.716 (a)(15) provide for subsistence harvest of steelhead trout in Section 3-B in waters east of a line from Point Ildefonso to Tranquil Point and in waters of Warm Chuck Inlet north of a line from a point on Hecata Island at 55° 44’ N. lat., 133° 25’ W. long. to Bay Point, and in Section 3-C in waters of Karheen Passage north of 55° 48’ N. lat. and east of 133° 20’ W. long., and in waters of Sarkar Cove and Sarkar Lakes. The department does not issue a subsistence fishing permit for the taking of steelhead trout in the Southeast Alaska area, but steelhead trout taken incidentally

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by gear operated under terms of a subsistence permit for salmon are legally taken and possessed for subsistence purposes. The holder of the subsistence salmon permit must report any steelhead trout taken in this manner on his or her permit calendar (5 AAC 01.730(i)).

Conservation Issues:

Most steelhead populations in Southeast Alaska receive an annual escapement of 200 or fewer fish, and only a handful of systems regularly receive escapements over 500. Nearly all Southeast Alaska steelhead populations are difficult or impossible to accurately assess or monitor on a regular basis. Without basic specific stock status information available, fisheries managers believe that steelhead populations in Southeast Alaska need to be managed conservatively and may only be sustained with very low harvest rates of 10 percent or less. History has shown that levels of harvest opportunity provided by past state and current federal regulations cannot be sustained in absence of an intensive stock assessment program. Steelhead are known to return to 331 freshwater systems in Southeast Alaska (ADF&G 2001)¹. Of these 331 systems, there are 87 river systems known to contain steelhead on Prince of Wales Island (Harding and Jones 1993)². The small size of most steelhead stocks makes them susceptible to negative impacts through habitat degradation or overfishing (Lohr and Bryant 1999)³. Small populations are at greater risk of extinction than large populations because of demographic, environmental, and genetic uncertainties, and they are more susceptible to natural catastrophes (Meffe and Carroll 1994)⁴.

Snorkel counts are conducted annually by the department to monitor steelhead escapements in a number of index systems dispersed across Southeast Alaska. These snorkel surveys do not estimate total escapement but provide a peak annual escapement count for each system or a relative index of abundance. Based on these snorkel counts the relative abundance of steelhead throughout Southeast Alaska and on Prince of Wales Island was generally higher than average between 2003 and 2007, but since 2008, snorkel counts have generally declined and are at or near average levels. There are systems where steelhead escapement still remains below historic levels (Harding and Coyle 2012)⁵. The department believes that current conservative sport fish regulations provide for sustainability of steelhead stocks, while allowing for a limited harvest opportunity. The lack of data on these stocks has hampered efforts to assess potential effects of directed subsistence harvest and prevents refinement of federal regulations that, when coupled with conservative state sport fishing regulations, would ensure adequate conservation and allow for expanded subsistence harvest opportunities.

¹ ADF&G (Alaska Department of Fish and Game). 2001. Alaska Department of Fish and Game, Division of Subsistence, Community Profile Database.

² Harding, R., and J. D. Jones. 1993. Karta River steelhead: 1992 escapement and creel survey studies. Alaska Department of Fish and Game, Fishery Data Series No. 93-30, Anchorage.

³ Lohr, S. C. and M. D. Bryant. 1999. Biological characteristics and population status of steelhead (*Oncorhynchus mykiss*) in Southeast Alaska. USDA Forest Service, Pacific Northwest Research Station, General Technical Report PNW-GTR-407.

⁴ Meffe, G. K., and C. R. Carroll. 1994. Principles of conservation biology. Sunderland, MA: Sinauer Associates, Inc.

⁵ Harding, R. D. and C. L. Coyle. 2011. Southeast Alaska steelhead, trout, and Dolly Varden management. Alaska Department of Fish and Game, Special Publication No. 11-17, Anchorage.

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Enforcement Issues: Enforcement difficulties and user confusion concerning where and how federal regulations that are different than state regulations apply will result unless detailed maps and explanations specific to the area are provided.

Jurisdiction Issues: The Federal Subsistence Board does not have the authority to regulate the non-federally qualified users participating in fisheries on waters outside of federal subsistence jurisdiction.

Other Issues: During its spring 2012 meeting, the Southeast Subsistence Regional Advisory Council discussed that the household limit was the original intent of a previous proposal submitted during the 2010 cycle, and the change would need to be proposed this regulatory cycle to address the discrepancy. It is unclear to department managers why annual caps for the winter and spring fisheries was deleted, as that was not specifically mentioned by the proposer.

On state or private lands where federal subsistence fisheries are not authorized to occur, the federal board does not have authority to supersede to state commercial and subsistence fisheries regulations unless a full closure is required for conservation purpose within water of claimed federal jurisdiction. Changes to state commercial and subsistence fisheries must be submitted to the Alaska Board of Fisheries for coordination.

Recommendation: Neutral. This proposal could limit the subsistence harvest on Klawock River, which would provide additional conservation to the Klawock River. However, the department is concerned that if adopted, this proposal could shift subsistence steelhead harvest to the smaller and more vulnerable steelhead populations. The department could support this proposal if measures were put into place that would cap the harvest on individual systems and not shift harvest to the smaller systems without adequate monitoring, such as:

- a cap to the harvest of steelhead in Klawock River to < 10% of annual escapement, and
- a harvest limit to <5 fish on small systems.

FP13-19 Executive Summary	
General Description	Proposal FP13-19 requests that the annual guideline harvest level (GHL) for the subsistence sockeye salmon fishery on the Stikine River be increased from 600 sockeye salmon to 2,000 sockeye salmon. <i>Submitted by the Southeast Alaska Subsistence Regional Advisory Council</i>
Proposed Regulation	§ ____.27(e)(13) (xiv) (E) <i>The total annual guideline harvest level for the Stikine River fishery is 125 Chinook, 600 2,000 sockeye, and 400 coho salmon. All salmon harvested, including incidentally taken salmon, will count against the guideline for that species.</i>
Southeast Regional Council Recommendation	
OSM Preliminary Conclusion	Support Proposal FP13-19 with modification to eliminate the subsistence sockeye salmon limit from Federal regulation. <i>§ ____.27(e)(13) (xiv) (E) The total annual guideline harvest level for the Stikine River fishery is 125 Chinook, 600 sockeye, and 400 coho salmon. All salmon harvested, including incidentally taken salmon, will count against the guideline for that species.</i>
Interagency Staff Committee Comments	
ADF&G Comments	Defer , pending consideration by the TBR and the PSC.
Written Public Comments	See comment following the analysis.

DRAFT STAFF ANALYSIS FP13-19

ISSUES

Proposal FP13-19, submitted by the Southeast Alaska Subsistence Regional Advisory Council (Council), requests that the annual guideline harvest level (GHL) for the subsistence sockeye salmon fishery on the Stikine River be increased from 600 sockeye salmon to 2,000 sockeye salmon.

DISCUSSION

Components of Federal regulations, including the GHLs, are contained in Annex IV of the U.S./Canada Pacific Salmon Treaty of 1985, as last amended in January 2009 (Treaty). Proposals for subsistence fishing regulatory changes on the Stikine River for Chinook, sockeye, and coho salmon that require changes to the Treaty are first authorized by the Federal Subsistence Board (Board) with implementation contingent upon concurrence by the Pacific Salmon Commission (PSC) through the Transboundary River Panel (TBR).

The first Stikine River subsistence fishery was approved for sockeye salmon in 2004. There was considerable uncertainty regarding the potential catch per unit effort and level of participation. However, since there is a Canadian-U.S. harvest allocation established each year for the sockeye salmon fishery, there was a management need for an annual subsistence fishery harvest estimate (GHL). The subsistence fishery is part of the total U.S. allocation and the subsistence fishery guideline harvest level provides the State of Alaska fishery managers a sense of scale of the anticipated harvest in the subsistence fishery. The GHLs specified in regulation and in Annex IV were the Federal and State manager's best estimates of potential harvest based on the information that was available at that time.

Existing Federal Regulation

§ __.27(e)(13) (xiv) You may take Chinook, sockeye, and coho salmon in the mainstem of the Stikine River only under the authority of a Federal subsistence fishing permit. Each Stikine River permit will be issued to a household. Only dip nets, spears, gaffs, rod and reel, beach seine, or gillnets not exceeding 15 fathoms in length may be used. The maximum gillnet mesh size is 5 1/2 inches, except during the Chinook season when the maximum gillnet mesh size is 8 inches.

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

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

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

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

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

Proposed Federal Regulation

§ __.27(e)(13) (xiv) *You may take Chinook, sockeye, and coho salmon in the mainstem of the Stikine River only under the authority of a Federal subsistence fishing permit. Each Stikine River permit will be issued to a household. Only dip nets, spears, gaffs, rod and reel, beach seine, or gillnets not exceeding 15 fathoms in length may be used. The maximum gillnet mesh size is 5 1/2 inches, except during the Chinook season when the maximum gillnet mesh size is 8 inches.*

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

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

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

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

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

Existing State Regulation

The Stikine River and tributaries are open to sport fishing for sockeye, pink, chum, and coho salmon with a harvest limit of 6 fish daily and 12 in possession. State of Alaska sport fishing regulations for Southeast Alaska generally prohibit fishing for Chinook salmon in freshwater, including the Stikine River. The State Board of Fisheries has made a positive customary and traditional use determination for salmon in the Stikine River but no subsistence fishery is authorized targeting sockeye salmon of Stikine River origin. The Stikine River commercial gillnet fishery encompasses the waters of District 8 surrounding the terminus of the Stikine River and not in waters under Federal jurisdiction. The directed sockeye fishery is dependent on the preseason forecast for Stikine River sockeye salmon. Subsequent openings are determined in-season based on catches and stock proportion data. The Chinook, sockeye and coho salmon commercial fisheries are managed in accordance with the Transboundary Rivers Annex of the Pacific Salmon Treaty (PSC 2011).

Extent of Federal Public Waters

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

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



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

Customary and Traditional Use Determinations

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

Regulatory History

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

The Board made a positive customary and traditional use determination for salmon, Dolly Varden, trout, smelt and eulachon for residents living in or near the communities of Wrangell, Petersburg and Meyers Chuck (FP04-29) in 2004. The Board also adopted methods, a season, and guideline harvest limits for Chinook, sockeye, and coho salmon (FP04-40). The Transboundary River Panel and the Pacific Salmon Commission concurred with the Board and a subsistence fishery for sockeye salmon was opened during

the 2004 season, but with a season starting date of July 1 instead of June 15. By action of the Board, and coordination with the TBR and PSC, directed fisheries for Chinook and coho salmon were added prior to the 2005 season. The Board approved (with concurrence of the PSC) a change in the mesh size from 5 ½ inches to 8 inches (FSA05-01) for the new Chinook salmon fishery effective for the 2005 season. Regulatory changes for the 2006 season included an increase in the mesh size of gillnets during the Chinook fishery to 8 inch stretched mesh (FP06-27) and an earlier starting date for the sockeye fishery (FP06-28 and 29). There were no changes in subsistence fishing regulations or permit conditions for the 2007 fishing season. In 2008, two regulatory changes were made to the subsistence fishery. The first change made subsistence fishing permits valid for the length of the fishing season, May 15 through October 1. The second change moved the start date of the subsistence coho salmon fishery from August 15 to August 1 (FP08-03). Changing the coho fishery start date allowed continuous subsistence fishing between May 15 and October 1. There were no subsequent changes to the regulations for the 2009-2011 seasons. The Federal subsistence fishing permit database was upgraded to a web based application for the 2011 fishing season. This change allowed subsistence fishing permits to be printed at each U.S. Forest Service District Office and subsistence reports directly entered by field staff.

Harvest History

Between 1995 and 2001, ADF&G authorized an in-river personal use fishery for sockeye salmon in the Stikine River. Participation in the personal use fishery was minimal, and only 28 sockeye salmon were reported harvested in 2001. The personal use fishery was not opened in 2002 due to conservation concerns for the Tahltan stock, a Canadian tributary to the Stikine River. Currently, there is not a personal use or subsistence fishery authorized in State regulations for the Stikine River.

Federal permits are required for subsistence fishing on the Stikine River. Weekly harvest estimates are derived from telephone interviews and fishery performance data. The use of permits and in-season reporting are designed to provide Federal, State and Canadian fishery managers with real time harvest estimates. There have not been any Federal in-season special actions to curtail harvests.

Sport fishing for Chinook salmon is prohibited on the Stikine River. There is a small harvest of other salmon by sport fishers in the U.S. in tributaries to the Stikine River, but harvest numbers are too low to be included in any site-specific sport fishing harvest estimates (Fleming 2012, pers. comm.). A small, but unknown number of sockeye, coho, and steelhead are harvested by sport fishers in Canada.

The first harvests under Federal subsistence management regulations occurred in 2004 when 40 permits were issued and 243 sockeye salmon harvested. Participation and the subsistence sockeye salmon harvest has increased with 129 permits harvesting a total of 1,755 sockeye salmon in 2011 (**Table 1**). The great majority but not all the sockeye salmon are caught during the June 21 to July 31 sockeye salmon season (**Table 2**).

Preliminary U.S. total allowable catch for the 2012 season is 31,000 sockeye salmon (ADF&G 2012).

Other Alternatives Considered

A logical alternative to changing the guideline harvest from one number to another number would be to eliminate the guideline harvest level in the Treaty Annex. Specifying any number in the Treaty prompts the question of what management actions are anticipated to attain that number. Federal managers do not consider the GHL as a target or quota. In-season management actions intended to increase or decrease the subsistence harvest to match the GHL are not anticipated. In-season actions for conservation are delegated to the U.S. Forest Service Wrangell District Ranger and will be implemented as part of an overall U.S.-

Table 1. Summary of Stikine River subsistence harvest, 2004–2011.

Year	Permits	Chinook	Chum	Coho	Trout	Dolly Varden	Pink	Sockeye	Steelhead
2004	40	12	11	0	0	1	22	243	1
2005	35	15	22	53	0	4	69	252	0
2006	48	37	20	21	0	3	23	390	0
2007	44	36	11	23	0	1	59	244	2
2008	50	25	12	42	0	5	18	428	0
2009	80	31	46	21	1	20	66	723	2
2010	107	61	37	135	0	15	60	1,653	7
2011	129	66	71	40	0	3	189	1,755	5

Table 2. Stikine River subsistence sockeye salmon harvest by fishing season.

Year	Within-season Sockeye (June 21 to July 31)	Out-of-season Sockeye (<June 21 or >July 31)
2004	243	0
2005	233	19
2006	377	13
2007	178	66
2008	426	2
2009	706	17
2010	1,554	99
2011	1,686	69

Canadian conservation strategy. Removing the GHL would prevent unrealistic in-season management expectations and allow the U.S. domestic regulatory process to allocate sockeye salmon within the total U.S. allowable catch. However, previous communications with the U.S. section of the TBR have indicated an initial preference to retain a GHL.

Effects of the Proposal

The U.S.-Canada Pacific Salmon Treaty and its annexes specify GHLs for Chinook, sockeye and coho salmon. The following section of the Treaty explains how regulatory changes to the Stikine River subsistence fishery need to be approved by the PSC.

Annex IV, Chapter 1, Paragraph 3(a)(3)(vi) “d. Any proposed regulatory changes to the fishery during the remaining years of this annex would need to be reviewed by the bilateral Transboundary River Panel and approved by the Pacific Salmon Commission.”

Changes to subsistence regulations for any transboundary river that differ from the express terms of the Treaty language require a formal process with somewhat parallel tracks within the Federal subsistence program and the Treaty process prior to implementation. To alter the text of the Treaty, the following would be the most ambitious timeline. The issue needs to be: 1) recommended for adoption by the Council at their meeting in September; 2) be considered and have concurrence by the U.S. Section of the

TBR in December; 3) the issue included on the annual work plan for the bilateral TBR; 4) reviewed by the TBR at their January meeting; 5) adopted by the Board pending concurrence by the PSC in January; and 6) approved by the PSC during their annual meeting in February. This was the process previously used to implement changes to the Stikine River sockeye and coho fishing seasons.

The stocks of sockeye salmon in the Stikine River are healthy and there is no conservation issue with increasing the subsistence fishery guideline harvest by 1,400 fish. The subsistence fishery harvest is a component of the total U.S. allowable catch and a change of this magnitude is likely insignificant and well within management error when compared to the total size of the stock and the scale of other fisheries. Compared to the average return of 184,000 sockeye salmon between 2000 and 2010, a 2,000 sockeye salmon subsistence guideline slightly exceeds 1% of the total return (**Table 3**).

The Stikine River subsistence fishery is maturing and it is obvious that managers can expect the subsistence sockeye harvest to exceed 600 fish unless there are significant in-season actions to restrict the fishery. It is anticipated that the rate of growth in this fishery will decline as there are a finite number of fishing sites and a finite number of participants with the equipment and interest that allows them to participate. Actual harvests in the future are unknown but a 2,000 sockeye salmon guideline harvest level would be much more useful to managers and be more representative of actual demand than the present guideline harvest level.

OSM PRELIMINARY CONCLUSION

Support Proposal FP13-19 with modification to eliminate the subsistence sockeye salmon limit from Federal regulation.

The modified regulation should read:

§ __.27(e)(13) (xiv) You may take Chinook, sockeye, and coho salmon in the mainstem of the Stikine River only under the authority of a Federal subsistence fishing permit. Each Stikine River permit will be issued to a household. Only dip nets, spears, gaffs, rod and reel, beach seine, or gillnets not exceeding 15 fathoms in length may be used. The maximum gillnet mesh size is 5 1/2 inches, except during the Chinook season when the maximum gillnet mesh size is 8 inches.

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

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

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

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

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

Table 3. Stikine sockeye run sizes: 1979 – 2010 (2009 and 2010 data preliminary).

Year	In-river Run Size	In-river Catch ^a	Escapement ^b	Marine Catch	Terminal Run Size ^c
i) Total Stikine Sockeye Stocks					
1979	40,353	13,534	26,819	8,299	48,652
1980	62,743	20,919	41,824	23,206	85,949
1981	138,879	27,017	111,862	27,538	166,417
1982	68,761	20,540	48,221	42,804	111,565
1983	71,683	21,120	50,563	5,782	77,466
1984	76,211	5,327	70,884	7,810	84,021
1985	184,747	26,804	157,943	29,747	214,494
1986	69,036	17,846	51,190	6,420	75,456
1987	39,264	11,283	27,981	4,085	43,350
1988	41,915	16,538	25,377	3,181	45,096
1989	75,054	21,639	53,415	15,492	90,546
1990	57,386	19,964	37,422	9,856	67,242
1991	120,152	25,138	95,014	34,323	154,476
1992	154,542	29,242	125,300	77,394	231,936
1993	176,100	52,698	123,402	104,630	280,730
1994	127,527	53,380	74,147	80,509	208,036
1995	142,308	66,777	75,531	76,420	218,728
1996	184,400	90,148	94,252	188,385	372,785
1997	125,657	68,197	57,460	101,258	226,915
1998	90,459	50,486	39,973	30,989	121,448
1999	65,879	47,202	18,677	58,735	124,614
2000	53,145	31,535	21,610	25,359	78,504
2001	103,755	29,341	74,414	23,500	127,255
2002	68,635	22,607	46,028	8,076	76,711
2003	194,425	69,571	124,854	46,552	240,977
2004	189,415	88,451	100,964	122,349	311,764
2005	167,570	88,089	79,482	92,110	259,680
2006	193,768	102,333	91,435	74,426	268,194
2007	110,132	61,121	49,011	86,408	196,540
2008	73,773	36,717	37,056	45,515	119,288
2009	116,141	50,516	65,626	64,151	180,292

^a In-river catch includes test fishery catches.

^b Escapement includes fish later captured for broodstock, sampled and/or taken in Excess Salmon to Spawning Requirement fisheries.

^c Excludes marine catches outside Districts 106 and 108.

Justification

Amending the guideline harvest level for the Stikine River subsistence sockeye fishery from 600 sockeye salmon to 2,000 sockeye salmon would provide fishery managers with a more realistic estimate of the actual harvest as compared to the 600 fish GHL in current regulation. This change would be an improvement to the current situation but not provide the benefits and opportunities for coordinated management between the U.S. fishery management agencies as would the absence of a GHL.

Eliminating the subsistence sockeye salmon guideline harvest limit in regulation allows the subsistence fishery to operate completely within the U.S. allocation; subject to the normal domestic allocation protocols. Subsistence harvest of sockeye salmon is part of the total U.S. total allowable catch and is reported through the subsistence fishing permit system. There are no conservation or fisheries management concerns with this regulatory change. The in-season manager retains the authority to close the subsistence fishery if necessary for conservation. Adopting the proposal, either as originally proposed or with the modification as suggested by the Office of Subsistence Management, would not change the Federal subsistence program's obligation to provide a weekly catch and effort report to the Canadian and ADF&G fishery managers. Implementing this change would necessitate amending the text of the Pacific Salmon Treaty and require coordination with the Transboundary River Panel and concurrence of the Pacific Salmon Commission.

LITERATURE CITED

Alaska Department of Fish and Game (ADF&G), 2012. Davidson, Bill et al. 2012 Southeast Alaska Drift Gillnet Fishery Management Plan. Regional Information Report No. IJ12-06.

Fleming, D. 2006. Wrangell/Petersburg Area Sport Fisheries Management Biologist. Personal communication: telephone (907-772-3801). ADF&G. Petersburg, AK.

Pacific Salmon Commission (PSC). 2011. Salmon Management and Enhancement Plans for the Stikine, Taku and Alsek Rivers. Report TCTR (11)-3, Pacific Salmon Commission Joint Transboundary Technical Committee. Vancouver, CA.

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Alaska Department of Fish and Game
Comments to Regional Advisory Council

Fisheries Proposal FP13-19: Revise Stikine River sockeye salmon harvest limits.

Introduction: This Southeast Alaska Subsistence Regional Advisory Council proposal would increase the total annual guideline harvest level for Stikine River sockeye salmon from 600 sockeye salmon to 2,000 sockeye salmon.

The proponent stated this change is needed because the original sockeye salmon guideline harvest levels (GHLs) were based on estimated parameters for this new fishery. The level of participation and harvest were unknown. Since its inception, the Stikine River subsistence sockeye fishery has had greater participation and much higher harvests than anticipated. Increasing the GHL to reflect actual and anticipated harvests of Stikine River sockeye salmon is recommended.

Hilsinger (2005)¹ reported the U.S. and Canada reached an agreement in February 2004 to allow subsistence fishing for sockeye salmon in lower Stikine River. The terms of the fishery included a 600 fish maximum harvest limit, a July 1–31 season, and fishing in the mainstem Stikine River. The sockeye salmon harvest limit adopted by the Transboundary River Panel (TBR) was based on results of a January 2003 analysis by the USFWS and USFS. The agreement also required all proposed regulatory changes to the fishery to be reviewed by the bilateral TBR and be approved by the Pacific Salmon Commission (PSC).

Impact on Subsistence Users: If this proposal is adopted, federal subsistence users would be able to harvest 1,400 more Stikine River sockeye salmon per year than the current total annual GHL of 600 sockeye salmon. However, in reality the annual Stikine River federal subsistence sockeye salmon harvest would not change much since the 600 fish GHL has been exceeded in each of the last three years (e.g., 792, 1653, and 1735 fish harvests for 2009, 2010, and 2011, respectively).

With a current total annual guideline harvest level of 600 Stikine River sockeye salmon and an annual limit of 40 sockeye salmon per household, one can calculate the original number of users expected to participate in this subsistence salmon fishery was around 15.

If the annual limit of 40 sockeye salmon per household remains the same, the proposed total annual GHL of 2,000 Stikine River sockeye salmon could potentially be shared by up to 50 subsistence salmon users.

Impact on Other Users: If the total annual GHL for Stikine River subsistence sockeye salmon fishery is increased 2,000 fish, there would potentially be 1,400 fewer sockeye salmon available to other users (e.g., commercial, traditional food).

¹ Hilsinger, J. 2005. 2006 Federal fisheries subsistence proposals ADF&G staff comments. Alaska Department of Fish and Game, Division of Commercial Fisheries, Subsistence Liaison Team, Anchorage.

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Opportunity Provided by State: Salmon may be harvested under state regulations throughout the majority of the Southeast Alaska area, including a liberal subsistence fishery. Fish may be taken by gear listed in 5 AAC 01.010(2), except as may be restricted under the terms of a subsistence fishing permit. Under state regulations, subsistence is the priority consumptive use. Therefore, state subsistence fishing opportunity is directly linked to abundance and is not restricted unless run size is inadequate to meet escapement needs.

Conservation Issues: None at this time.

Enforcement Issues: None noted at this time.

Jurisdiction Issues: The February 2004 agreement reached with Canada that allowed a sockeye salmon subsistence fishing in the U.S. portion of the lower Stikine River also required that any proposed regulatory changes to the fishery (e.g., increase harvest limit) would need to be reviewed by the bilateral TBR and be approved by the PSC.

Other Issues: The next bilateral meeting of the TBR at which Stikine River subsistence fishery regulatory changes could be considered, is scheduled for the week of January 14, 2013 in Vancouver, BC.

Recommendation: **Defer**, pending consideration by the TBR and the PSC.

WRITTEN PUBLIC COMMENTS

SEAFa supports the FSB working with the Pacific Salmon Treaty Panel to address this issue. Accurate accounting and understanding of the amount of harvest occurring is necessary for long-term sustainable fishery management.

*Kathy Hansen, Executive Director
Southeast Alaska Fishermen's Alliance*

FP13-20 Executive Summary

General Description	Proposal FP13-20 requests limiting the legal gear types within the Federal subsistence eulachon fishery in the freshwater drainages of Burroughs Bay to dip net, hoop net, and cast net. These waters would include: the Unuk River, the Eulachon River, the Klahini River, and Grant Creek. <i>Submitted by Stephen Huffine</i>
Proposed Regulation	<p>§ ____.27(i)(13)(ii) <i>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.</i></p> <p>§ ____.27(i)(13)(xxii) <i>In the Unuk River, the Eulachon River, the Klahini River and Grant Creek, eulachon may only be taken with dip net, hoop net or cast net gear.</i></p>
OSM Preliminary Conclusion	Oppose
Southeast Regional Council Recommendation	
Interagency Staff Committee Comments	
ADF&G Comments	Support
Written Public Comments	3 Oppose

DRAFT STAFF ANALYSIS FP13-20

ISSUES

Proposal FP13-20, submitted by Stephen Huffine, requests limiting the legal gear types within the Federal subsistence eulachon fishery in the freshwater drainages of Burroughs Bay to dip net, hoop net, and cast net. These waters would include: the Unuk River, the Eulachon River, the Klahini River, and Grant Creek.

DISCUSSION

The eulachon (*Thaleichthys pacificus*) population in the freshwaters draining into Burroughs Bay have been at critically low levels since 2006. The proponent has owned a cabin on the Unuk River since early 1980s. The proponent believes that previous commercial and subsistence fishing effort in this area caused the collapse of the eulachon returns. Since 2011, following five years of closures, eulachon started returning to the area.

The proponent is seeking the proposed change to allow for a conservative subsistence fishery to resume once the stocks are at a level that can support a limited subsistence harvest. The hoop net is not currently listed as a legal fishing gear in Federal regulations. The proponent was contacted and clarified that he meant ring net which is a round framed net, left on the bottom and then pulled by hand either horizontally or vertically when fish are directly over the net. Although legal under State regulation, ring nets are currently not a legal gear type for finfish within Federal regulation. It is, however, legal gear for shellfish under Federal regulation. Ring nets would require a formal proposal submission and Federal Subsistence Board action to be considered a legal gear type.

The above mentioned drainages flow into Section 1D of District 1 (**FP11-18 Map 1**). Although the proponent is only seeking a definition of legal fishing gear within those specific drainages, there are other areas within District 1 that have documented returns of eulachon. These areas include: the Chickamin River, the Wilson and Blossom Rivers, and Carroll Inlet/Carroll Creek. It may be highly pertinent to expand the scope of the requested action to all of District 1.

Existing Federal Regulation

Statewide—General provisions

§ __.27(c)(1)(i-xx) *Unless otherwise specified in this section or under terms of a required subsistence fishing permit (as may be modified by this section), you may use the following legal types of gear for subsistence fishing: (i) A set gillnet; (ii) A drift gillnet; (iii) A purse seine; (iv) A hand purse seine; (v) A beach seine; (vi) Troll gear; (vii) A fish wheel; (viii) A trawl; (ix) A pot; (x) A longline; (xi) A fyke net; (xii) A lead; (xiii) A herring pound; (xiv) A dip net; (xv) Jigging gear; (xvi) A mechanical jigging machine; (xvii) A handline; (xviii) A cast net; (xix) A rod and reel; and (xx) A spear.*

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) *In the Unuk River, the Eulachon River, the Klahini River and Grant Creek, eulachon may only be taken with dip net, hoop net or cast net gear.*

Existing State Regulations

Southeastern Alaska Area—General provisions

5AAC 39.105(d)(1-30) *Unless otherwise provided in this title, the following are legal types of gear: a gillnet, a set gillnet, a drift gillnet, a purse seine, a hand purse seine, a beach seine, power gurdy troll gear, hand troll gear, a fish wheel, a trawl (beam, otter, and pelagic trawls), a pot, a ring net, a longline, a shovel, a mechanical clam digger, a scallop dredge, a fyke net, a lead, an anchor, a herring pound, diving gear, a hydraulic clam digger, a grappling hook, a dip net, a mechanical jigging machine, an abalone iron, a handline, dinglebar troll gear, a sea urchin rake, and a cast net.*

5AAC 01.010(a) *Unless otherwise provided in this chapter, the following are legal types of gear for subsistence fishing:*

Gear specified in 5 AAC 39.105.

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.*

5AAC 77.678 *Smelt may be taken for personal use at any time and there are no bag or possession limits.*

Other Related Proposals

Proposal FP13-21, also submitted by the proponent, requests that an annual harvest limit of 5 gallons of eulachon (or approximately 35 pounds) per person be established for Federally qualified subsistence users that subsistence fish for eulachon in the freshwater drainages of Burroughs Bay. The proposal is specific to the same drainages listed in this proposal.

Deferred Proposal FP11-18 was submitted by the Southeast Alaska Subsistence Regional Advisory Council (Council). The proposal requests all Federal public waters draining into Sections 1C and 1D be closed to the harvest of eulachon to all users and is to be revisited during the January 2013 Federal Subsistence Board meeting.

Extent of Federal Public Waters

The extent of Federal public waters can be found in the analysis for FP11-18.

Customary and Traditional Use Determinations

The customary and traditional use determination for this area can be found in the analysis for FP11-18.

State Regulatory History

A comprehensive State regulatory history can be found in the analysis for FP11-18.

Federal Regulatory History

A comprehensive Federal regulatory history can be found in the analysis for FP11-18.

Biological Background

A comprehensive biological background can be found in the analysis for FP11-18.

Harvest History

A comprehensive harvest history can be found in the analysis for FP11-18.

Other Alternative(s) Considered

This proposal could be addressed within the terms and conditions of the Federal subsistence fishing permit for eulachon in Sections 1C and 1D. The Ketchikan/Misty Fjords District Ranger is delegated as the Federal in-season manager for this fishery and has been given authority to implement special restrictions within this fishery. The in-season manager, however, would be unable to authorize the use of hoop net as it is not included within §____.27(c)(1)(i-xx).

Effects of the Proposal

The proposal limits the allowable gear for subsistence eulachon fishing within the Federal waters of Burroughs Bay area. Currently, Federally-qualified subsistence users may use those gear types listed in the general provisions of the Federal subsistence fishing regulations to harvest eulachon. The proposal requests one gear type which is not legal under Federal regulations. The hoop net is not in the Federal general provisions as a legal gear type for the harvesting fish, thus a proposal to the Federal Subsistence Board would be required.

The harvest of eulachon in Burroughs Bay area has been closed annually since 2006 due to conservation concerns. Should eulachon returns improve enough to allow for a subsistence fishing opportunity, the proposal would allow for conservative subsistence eulachon fishing opportunity in the future.

Because of their nature to spawn in the lower portions of streams, eulachon may be available for harvest within inland water portions of streams under Federal jurisdiction, as well as the same portions of stream and in the adjacent marine waters falling under State jurisdiction. Due to the overlapping jurisdictions of these fishing areas, any management action for eulachon must be coordinated with State managers to be completely effective as unilateral action by the Federal program will not affect State actions in adjacent marine and inland waters not in Federal jurisdiction.

OSM PRELIMINARY CONCLUSION

Oppose Proposal FP13-20.

Justification

There is no need to define allowable gear types in regulation for the Burroughs Bay area. Applicable gear types, except hoop nets, can be listed as terms of the permit by the Federal in-season manager to provide for conservation of eulachon stocks in the area when subsistence fishing effort resumes. Recommended action on deferred proposal FP11-18 would expand the Federal subsistence permit requirement to include all of District 1.

Alaska Department of Fish and Game
Comments to Regional Advisory Council

Fisheries Proposal FP13-20, 21: Both proposals seek to limit eulachon harvests in Burroughs Bay river systems.

Introduction:

FP13-20, submitted by area resident Stephen W. Huffine of Unuk River, would limit the harvest of eulachon on Burroughs Bay river systems (e.g., Unuk River, Klahini River, Eulachon River, and Grant Creek) by restricting the types of legal gear for harvesting eulachon to dip nets, hoop nets, or casting nets.

FP13-21, also submitted by area resident Stephen W. Huffine of Unuk River, would limit the harvest of eulachon on Burroughs Bay river systems (e.g., Unuk River, Klahini River, Eulachon River, and Grant Creek) by establishing an annual limit of one five-gallon bucket of eulachon (approximately 35 pounds) per person.

Impact on Subsistence Users: If these proposals are adopted, federal subsistence users who fish for eulachon in Burroughs Bay river systems could only use dip nets, hoop nets, or casting nets, and their annual take will be limited to one five-gallon bucket (approximately 35 pounds) per person. These changes would limit the annual supply of eulachon available from this area for domestic consumption and food. However, the proponent hopes that these changes will help rebuild these depressed eulachon runs and produce dependable future returns of eulachon for subsistence users.

Impact on Other Users: Divergent regulations could be confusing to users. Passage of this proposal would likely conserve the resource for future use by all users.

Opportunity Provided by State: Eulachon has been closed in recent years due to conservation concerns. State commercial harvest has been closed for twelve years, and personal use and subsistence fisheries have been closed for six years. Eulachon may be harvested for subsistence under state regulations in Southeast Alaska sections 1-C and 1-D and in waters of districts 7 and 8. Fish may be taken by gear listed in 5 AAC 01.010(a), except as may be restricted under the terms of a subsistence fishing permit. Eulachon in Unuk River may only be taken under authority of a subsistence fishing permit. Under state regulations, subsistence is the designated priority consumptive use. State subsistence fishing opportunity is directly linked to abundance and is not restricted unless poor run-size dictates that management actions must be taken to sustain yield of the stock. State managers are currently considering limitations similar to those proposed here should state-managed seasons be reopened.

Conservation Issues: The state is currently concerned for the long-term sustainability of this resource as it is currently managed. Beach seine activity under federal permits is currently responsible for large quantities of harvest placing stress upon this eulachon population. The present management system used by the federal program presents potential for overharvest in small river systems. On February 2, 2012 the Alaska Department of Fish of Fish and Game,

Division of Commercial Fisheries, in Ketchikan issued a news release regarding emergency order (EO) EO 1H0212¹ which closed all waters in District 1 (includes Unuk, Klahini, Chickamin rivers, and all drainages on Revillagigedo Island, and drainages that flow into Behm Canal, including those in Smeaton Arm) to commercial, personal use, and subsistence eulachon fishing. This EO also closed commercial eulachon fishing at Stikine River, and commercial and subsistence eulachon fishing at Bradfield Canal. Justification for the eulachon fishery closures stated “Many eulachon spawning runs throughout the Pacific coast, including Southeast Alaska, have had marked declines in recent years.” Eulachon returned to several rivers in southern Southeast Alaska in 2011 for the first time in recent years; last year was the first observed return to Unuk River since 2004. Stock status information for each of the above areas is limited and the department feels a conservative approach is necessary for sustaining the health of these stocks and to allow for potential future harvests.”

The U.S. Forest Service (USFS), announced a simultaneous closure² of all federal waters draining into Southeast Alaska District 1 to the taking of eulachon by all users from February 26 through April 25, 2012. Justifications included “Few eulachon have returned to the Burroughs Bay area since 2003. The Federal subsistence fishery for eulachon in the Burroughs Bay area has been closed annually since 2006 to protect these stocks and rebuild populations for the future.”

Enforcement Issues: While passage of this proposal creates divergent federal and state regulations which are difficult for enforcement and a burden to users, the conservation benefit to the resource, in this instance, far outweighs the possible rare inconvenience which may be experienced by the users.

Jurisdiction Issues: The federal board does not have authority to supersede to state commercial, subsistence, or personal use fisheries regulations unless a full closure is required for conservation purposes within waters of claimed federal jurisdiction. Changes to state commercial and subsistence fisheries must be submitted to the Alaska Board of Fisheries for coordination and public comment.

The Federal Subsistence Board does not have the authority to regulate the nonfederally- qualified users participating in fisheries on waters outside of federal subsistence jurisdiction.

Other Issues: All harvest on Unuk River is currently closed. Should this fishery be reopened controls must be in place to preserve long-term sustainability.

Recommendation: Support.

¹ ADF&G (Alaska Department of Fish and Game). 2012. 2012 Southeast Alaska eulachon fishery announcement. Issued February 8, 2012 by ADF&G, Division of Commercial Fisheries, Ketchikan. <http://www.adfg.alaska.gov/index.cfm?adfg=cfnews.main> (Accessed May 30, 2012).

² USFWS (U.S. Fish and Wildlife Service). 2012. Federal subsistence fishery for eulachon closed in Federal waters within District 1. Issued February 9, 2012 by USFWS, Office of Subsistence Management, Federal Subsistence Board News Release, Anchorage. <http://alaska.fws.gov/asm/newsrel/r020912.pdf>. (Accessed May 30, 2012).

WRITTEN PUBLIC COMMENTS

I am writing on the proposals FP13-20 and FP13-21 that concern the ooligan fishery on the Unuk River as we know it. These proposals are detrimental to our way of life, the People's way of life.

I wish to give my opinion to leave the ooligan fishery as it is and has been for eons. The proposed regulations are not the traditional way of ooligan harvest. My family has been the consistent user of the ooligan on the Unuk River. The ooligan fishery is already a subsistence use only harvest, there is no commercial harvest of ooligan. In 2001 we were given the right to sell this subsistence caught harvest of ooligan by the Federal Subsistence Board.

I say as loudly as this letter will allow, please vote NO on these two proposals. Allow the ooligan harvest to continue as it always has been. I have waited nearly 12 years to fish the ooligan as my family has for generations. The People have waited. Now that the mine on the Unuk River has been dosed for two years the ooligan are back, I saw them myself this spring. (Unfortunately there are plans to put an even bigger mine on the Unuk River by Canadians with the Unuk River being proposed as their tailings dump.)

My fishing gear is a small and shallow beach seine, set by hand and pulled by hand from a skiff. I know how much the People need and I need for the ooligan grease that I have for years been making as my grandmothers have. I have never wasted an ooligan.

*Louie Wagner
Metlakatla, Alaska*

Oppose Proposals FP13-20 and FP13-21.

The Metlakatla Indian Community is in strong opposition to both of these proposals. The Subsistence harvest of ooligan on the Unuk river is a traditional use that is important to the entire Community, and a decidedly valuable resource to the Tsimshian nation. It is already difficult due to distance and time, for individual Community members to participate in this fishery, therefore, it is paramount that select Community members be allowed to harvest for the remainder of the Community. Drastically limiting who can harvest, how, and how much, will have negative impacts on families and individuals abilities to enjoy this traditional native food source. The commercial harvest of ooligans has not been allowed since 2001 when the Federal Subsistence Board designated it Subsistence only. Since then the populations of ooligans in the Unuk river have fluctuated, but have been slowly recovering.

The Unuk river ooligans are a much anticipated treat to the residents of Subsistence Communities in Alaska, and a very important food source for the Tsimshian people of Metlakatla. Limiting the methods that individuals are allowed to use, and the amount that individuals can harvest is detrimental to the very purpose of subsistence regulations.

The Federal Subsistence Board, and the Office of Subsistence Management has been doing commendable job of managing for a use that is difficult to quantify, but is very important to the rural and Native Communities of Alaska. We applaud you and your actions.

*Victor C. Wellington, Mayor
Metlakatla Indian Community*

Oppose Proposals FP13-20 and FP13-21.

First: The above proposals are made by a person not eligible to participate in subsistence fisheries as described in the 2001 regulation designating ooligan fisheries as subsistence only.

Second: I am under the impression that the Federal Subsistence Board was created to protect and defend Alaskan Native's subsistence rights which we inherited by birthright. Subsistence fisheries is a reserved inherent right, not a mere privilege to be given or taken away by State or Federal Governments. Of course rights may be bargained or sold, but throughout history, you will never find that the Tsimshian Nation has ever participated in such an act. -

Third: The gear limitation and five gallon bucket of ooligans per year proposals leave me in a quandary as to how to address them with a civil tongue. I do not know Mr. Huffine personally so I will assume he is very naive about how deeply the Tsimshian Nation has been tied to the ooligan. For centuries we have used the ooligan and the grease rendered from them as a type of gold standard that gave a commercial component to inter-tribal trade all up and down the North Pacific Coast.

Last: If I am wrong and you (the board) feel it is your job to create gear and volume limits to Alaskan Natives, you must consider the principles that are involved in attempting to do so. You must establish an improved consultation process that would require a higher level of tribal involvement and debate as fisheries are clearly within the traditional jurisdiction of the tribes.

*Thomas E. Lang Sr., Chair
Tsimshian Tribal Rights Committee*

FP13-21 Executive Summary

General Description	<p>Proposal FP13-21 requests an annual harvest limit of 5 gallons of eulachon (or approximately 35 pounds) per person that may be harvested by Federally qualified subsistence users in the freshwater drainages of Burroughs Bay. These waters would include: the Unuk River, the Eulachon River, the Klahini River, and Grant Creek. <i>Submitted by Stephen Huffine</i></p>
Proposed Regulation	<p>§ __.27(i)(13)(ii) <i>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.</i></p> <p>§ __.27(i)(13)(xxii) <i>In the Unuk River, the Eulachon River, the Klahini River and Grant Creek, the annual harvest limit of eulachon is one five gallon container per fisherman.</i></p>
OSM Preliminary Conclusion	Oppose
Southeast Regional Council Recommendation	
Interagency Staff Committee Comments	
ADF&G Comments	Support <i>(See State's comments following analysis of FP13-20)</i>
Written Public Comments	3 Oppose <i>(See text of comments following analysis of FPI3-20)</i>

**DRAFT STAFF ANALYSIS
FP13-21**

ISSUES

Proposal FP13-21, submitted by Stephen Huffine, requests an annual harvest limit of 5 gallons of eulachon (or approximately 35 pounds) per person that may be harvested by Federally qualified subsistence users in the freshwater drainages of Burroughs Bay. These waters would include: the Unuk River, the Eulachon River, the Klahini River, and Grant Creek.

DISCUSSION

The eulachon (*Thaleichthys pacificus*) population in the freshwaters draining into Burroughs Bay have been at critically low levels since 2006. The proponent has owned a cabin on the Unuk River since early 1980's. The proponent believes that previous commercial and subsistence fishing effort in this area caused the collapse of the eulachon returns. Since 2011, following five years of closures, eulachon started returning to the area. The proponent is seeking the proposed change to allow for a conservative subsistence fishery to resume once the stocks are at a level that can support a limited subsistence harvest.

The above mentioned drainages flow into Section 1D of District 1 (**FP11-18 Map 1**). Although the proponent is only seeking harvest limits within those specific drainages, there are other areas within District 1 that have had documented returns of eulachon. These areas include: the Chickamin River, the Wilson and Blossom Rivers, and Carroll Inlet/Carroll Creek. It may be highly pertinent to expand the scope of the requested action to all of District 1.

Existing Federal Regulation**Statewide—General provisions**

§ __.27(e)(3)(i) You may not take more fish for subsistence use than the limits set out in the permit.

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) In the Unuk River, the Eulachon River, the Klahini River and Grant Creek, the annual harvest limit of eulachon is one five gallon container per fisherman.

Existing State Regulations

Southeastern Alaska Area—General provisions

5AAC 01.005 Finfish other than salmon, rainbow trout, and steelhead trout may be taken for subsistence purposes at any time in any area of the state by any method unless restricted by the subsistence fishing regulations in this chapter. Salmon may be taken for subsistence purposes as provided in this chapter.

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.

5AAC 77.678 Smelt may be taken for personal use at any time and there are no bag or possession limits.

Other Related Proposals

Proposal FP13-20, also submitted by the proponent, requests limiting the legal gear types that Federally-qualified subsistence users may fish within the Federal subsistence eulachon fishery in the freshwater drainages of Burroughs Bay to dip net, hoop net, and cast net. The proposal is specific to the same drainages listed in this proposal.

Deferred Proposal FP11-18 was submitted by the Southeast Alaska Subsistence Regional Advisory Council (Council). The proposal requests all Federal public waters draining into Sections 1C and 1D be closed to the harvest of eulachon to all users and is to be revisited during the January 2013 Federal Subsistence Board meeting.

Extent of Federal Public Waters

The extent of Federal public waters can be found in the analysis for FP11-18.

Customary and Traditional Use Determinations

The customary and traditional use determination for this area can be found in the analysis for FP11-18.

State Regulatory History

A comprehensive State regulatory history can be found in the analysis for FP11-18.

Federal Regulatory History

A comprehensive Federal regulatory history can be found in the analysis for FP11-18.

Biological Background

A comprehensive biological background can be found in the analysis for FP11-18.

Harvest History

A comprehensive harvest history can be found in the analysis for FP11-18.

OTHER ALTERNATIVE(S) CONSIDERED

This proposal could be addressed within the terms and conditions of the Federal subsistence fishing permit for eulachon in Sections 1C and 1D. The Ketchikan/Misty Fjords District Ranger is delegated as the Federal in-season manager for this fishery and has been given authority to implement special restrictions within this fishery.

Effects of the Proposal

This proposal will implement individual harvest limits for eulachon within the Federal waters of Burroughs Bay area. There is currently no harvest limit in Federal regulation for eulachon. Because of conservation concerns, the Burroughs Bay area has been closed annually since 2006. Should eulachon returns improve enough to allow for a subsistence fishing opportunity, the proposal would allow for conservative subsistence eulachon fishing opportunity in the future. Reduced harvest limits for eulachon may limit the ability of some Federally-qualified users to practice some cultural activities such as eulachon grease production in large quantities.

Because of their nature to spawn in the lower portions of streams, eulachon may be available for harvest within inland water portions of streams under Federal jurisdiction, as well as the same portions of stream and in the adjacent marine waters falling under State jurisdiction. Due to the overlapping jurisdictions of these fishing areas, any management action for eulachon must be coordinated with State managers to be completely effective as unilateral action by the Federal program will not affect State actions in adjacent marine and inland waters not in Federal jurisdiction.

OSM PRELIMINARY CONCLUSION

Oppose Proposal FP13-21.

Justification

There is no need to define individual harvest limits in regulation for the Burroughs Bay area. Federal subsistence permits are issued to households and the associated harvest limits can be listed as terms of the permit by the Federal in-season manager to provide for conservation of eulachon stocks in the area when subsistence fishing effort resumes. Recommended action on deferred proposal FP11-18 would expand the Federal subsistence permit requirement to include all of District 1.

FP13-22 Executive Summary	
General Description	Proposal FP13-22 requests that unless noted on a Federal fishing permit that there be no harvest limits for salmon harvested by residents of Kake. <i>Submitted by Mr. Mike Jackson of the Organized Village of Kake</i>
Proposed Regulation	<i>§ __.27(e)(13) (xxi) Unless noted on a Federal subsistence fishing permit, the harvest limits listed in this section do not apply for the residents of Kake.</i>
OSM Preliminary Conclusion	Oppose
Southeast Regional Council Recommendation	
Interagency Staff Committee Comments	
ADF&G Comments	Oppose
Written Public Comments	1 Oppose

**DRAFT STAFF ANALYSIS
FP13-22**

ISSUES

Proposal FP13-22, submitted by Mr. Mike Jackson of the Organized Village of Kake, requests that unless noted on a Federal fishing permit that there be no harvest limits for salmon harvested by residents of Kake.

DISCUSSION

The proponent believes that having no limits on salmon better recognizes a subsistence priority for the residents of Kake. The proponent asked to modify his proposal after it was published so that no harvest limits would apply for salmon for residents of Kake whether listed in regulation or on Federal subsistence fishing permits. This analysis will focus on the proposal as published, since this is the version presented for public review. The proponent could provide comments on their proposal at the Southeast Regional Advisory Council meeting.

Existing Federal Regulation

§ __.27(e)(13) (xii) If a harvest limit is not otherwise listed for sockeye in paragraph (e)(13) of this section, the harvest limit for sockeye salmon is the same as provided for in adjacent State subsistence or personal use fisheries. If a harvest limit is not established for the State subsistence or personal use fisheries, the possession limit is 10 sockeye and the annual harvest limit is 20 sockeye per household for that stream.

§ __.27(e)(13) (xv) You may take coho salmon with a Federal salmon fishing permit. There is no closed season. The daily harvest limit is 20 coho salmon per household. Only dip nets, spears, gaffs, handlines, and rod and reel may be used. There are specific rules to harvest any salmon on the Stikine River, and you must have a separate Stikine River subsistence salmon fishing permit to take salmon on the Stikine River.

Proposed Federal Regulation

§ __.27(e)(13) (xii) If a harvest limit is not otherwise listed for sockeye in paragraph (e)(13) of this section, the harvest limit for sockeye salmon is the same as provided for in adjacent State subsistence or personal use fisheries. If a harvest limit is not established for the State subsistence or personal use fisheries, the possession limit is 10 sockeye and the annual harvest limit is 20 sockeye per household for that stream.

§ __.27(e)(13) (xv) You may take coho salmon with a Federal salmon fishing permit. There is no closed season. The daily harvest limit is 20 coho salmon per household. Only dip nets, spears, gaffs, handlines, and rod and reel may be used. There are specific rules to harvest any salmon on the Stikine River, and you must have a separate Stikine River subsistence salmon fishing permit to take salmon on the Stikine River.

§ __.27(e)(13) (xxi) Unless noted on a Federal subsistence fishing permit, the harvest limits listed in this section do not apply for the residents of Kake.

Existing State Regulation

Pink, chum, coho and sockeye salmon are managed by ADF&G under a Subsistence and Personal use salmon permit. Harvest limits for pink, chum, and sockeye salmon are established by local managers based on productivity and user demand. Chinook salmon are not allowed to be taken for subsistence or personal use except incidentally or by Emergency Order.

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. This regulation, if adopted, would apply to all Federal public waters in the Customary and Traditional Use Determination Area for Kake.

Customary and Traditional Use Determinations

Residents of Kake are included in the Customary and Traditional Use Determination for salmon within District 5—north of a line from Point Barrie to Boulder Point, District 6 and waters draining into that District, District 7, and waters draining into that District, District 9—Section 9A and 9B and District 10—west of a line from Pinta Point to False Point Pybus and the remainder of Alaska where there are no specific Customary and Traditional Use Determinations.

Regulatory History

In 2000, the Board approved coho regulations in the Southeastern Alaska Area to take coho salmon in Sections 3(A), 3(B) and 3(C) on Prince of Wales Island. The daily harvest limit was set at 20 coho salmon per household that could be taken using spear, dip net, or rod and reel. Bait was allowed from September 15 through November 15 and there was no closed season. The current regulation for coho salmon harvest was the result of the Board adopting proposal FP02-35 which modified harvest limits and provided for a coho salmon fishery throughout the Southeastern Alaska area.

The Board adopted FP05-24, which set the same limit for sockeye salmon as provided for in adjacent State subsistence or personal use fisheries. If a harvest limit is not established for a State subsistence or personal use fisheries, the possession limit is 10 sockeye and the annual harvest limit is 20 sockeye per household for that stream. The sockeye salmon limits listed on the 2012 Federal Permit for residents of Kake are listed in **Table 1**.

Harvest History

The Federal Subsistence Permit Database from 2002 to 2011 shows a resident of Kake harvested 20 sockeye salmon from Kutlaku Lake in 2005 with a gillnet. (USFWS 2012) In addition, six pink salmon were reported harvested on Prince of Wales Island by a resident who later moved to Kake. For comparison, Kake residents harvested 1,652 sockeye salmon under State subsistence permits in 2005. (Naves, Turek, and Simeone, 2010) There are no other records of fish harvested by residents of Kake by Federal Subsistence Permit since most subsistence harvests occur in State jurisdiction.

Cultural Background

Harvest pressure has increased on some salmon runs near the village of Kake for several reasons. The population of Kake is 557 people living in 213 households. The *kwaans* associated with the modern community of Kake are the *Keex'kwaan*, *Shtaax'een kwaan*, and *Kooyu kwaan*. Today, the Tlingit at Kake are

Table 1. Sockeye Harvest Limits as listed on the Federal Permit for Residents of Kake.

Location	Daily Possession Limit	Annual Limit
Thoms Lake	20	40
Virginia Lake-Mill Creek	20	40
Red Bay Lake	30	30
Salmon Bay Lake	30	30
Hatchery Creek	Closed (June 21-August 13)	
Alecks Creek	50	50
Kutlaku Lake	50	50
Kushneahin	10	20
Falls Lake	25	25
Gut Bay Lake	10	20
Big Ratz Creek	10	10
Luck Lake	10	10
Sweetheart Creek (Gilbert Bay)	25	none
McDonald Lake	20	20
Fillmore Lake	12	none

commonly associated with *Keex'kwaan*. The interference of canneries in Tlingit seasonal migration patterns within their perspective *kwaan* territories has been a common theme in fisheries research in Southeast Alaska (cf. Langdon 2006, Paige et al. 2009, Thornton et al. 1990, Turek et al. 2005). It's important to note that while patterns of salmon use have evolved since the start of the commercial fishing era, *Keex'kwaan* retain a strong sense of place to their traditional territory. The fisheries used by *Keex'kwaan* have long been recognized as traditional fisheries, and *Keex'kwaan* have claimed rights to fisheries in their territories through legal venues since 1867 culminating in passage of ANILCA in 1980 (Goldschmidt and Haas 1998 [1946]). The traditional tenureship of salmon runs practiced by Tlingit, before their ownership was superseded by canneries, have evolved into demonstrated familiarity with a wide range of streams in their areas, especially by people who grew up under the tutelage of elders within traditional clan territories (Langdon 2006). While the traditional management practices that conserved salmon runs in Southeast Alaska no longer include tenureships, many *Keex'kwaan* continue to engage salmon through respectful practices in order to promote salmon sustainability. One traditional management practice is restricting people from harvesting more fish than what is needed.

Before canneries, *Keex'kwaan* harvested lower-oil-content salmon from freshwater because it was easier to smoke and preserve. It was imperative that salmon not spoil during long periods stored in underground caches. People generally harvested salmon using a variety of in-stream traps and weirs. Salmon was eaten fresh, dried, dried and half-smoked, dried and hard smoked, and fermented. Eventually, in 1924, in-stream weirs and traps used by Tlingit to harvest salmon were prohibited (Wolfe 1989) and has resulted in Tlingit taking most of their salmon from marine waters.

Keex'kwaan began staying at the early canneries at Pillar Bay, Saginaw, Pybus and Washington bays drawn by employment (Firman and Bosworth 1990). It was at this time that canning salmon became common. Canning allowed the preservation of the higher oil content salmon harvested from marine waters. Salmon continued to be smoked but then were canned for increased shelf life. Today, jars are commonly used to preserve salmon in Southeast villages.

Cannery closures in the 1960s and 1970s led to increased harvest pressure on traditional fishing sites nearest to Kake as people no longer moved to cannery sites for the summer. Additionally, in about 1990, many Kake residents found themselves unable to make adequate incomes and began selling their commercial fishing permits. The number of commercial salmon limited entry permits fell 64% in Kake between 1980 (99 permits) and 2011 (36 permits) (ACFEC 2012). Therefore, less salmon was retained from commercial catches, and as a consequence, harvest pressure again increased on salmon runs nearest to Kake.

The importance of salmon in the diet is demonstrated in the **Table 2**. In 1996, the year of the most recent household harvest survey, salmon contributed 31% to the harvest of all wild resources, in pounds edible weight, at Kake (ADF&G 2012).

Table 2. Kake 1996: the harvest and use of wild resources based on household harvest surveys.

Resource Category	Percentage of Households					Per Capita Lbs Harvested	Percentage of Total Harvest
	Using	Attempt -ing to Harvest	Harvest -ing	Giving Away	Receiv -ing		
All Resources	99%	89%	85%	75%	96%	179	
Salmon	99%	67%	62%	43%	75%	44	24%
Non-Salmon Fish	99%	62%	58%	34%	77%	42	23%
Land Mammals	80%	52%	49%	23%	41%	52	29%
Marine Mammals	48%	14%	12%	15%	37%	10	6%
Birds and Eggs	29%	23%	23%	6%	6%	1	<1%
Marine Invertebrates	86%	49%	48%	38%	78%	22	12%
Vegetation	90%	77%	74%	44%	69%	9	5%

Other Relevant Proposals

Action on one other fish proposal currently under consideration may affect decisions on this proposal. Proposal FP13-17 requests that harvest limits be eliminated for any subsistence user in Southeast and Yakutat preserving salmon without refrigeration, freezing or ice.

Effect of the Proposal

In Districts 5, 9, and 10, Kake has an exclusive customary and traditional use determination. Under ANILCA, an unlimited salmon harvest may be established by the Board for only Kake residents, for only fisheries in these parts of Districts 5, 9 and 10.

Kake's customary and traditional use determination for Districts 6, 7 and areas with no specific determination are shared with other communities and is not exclusive. The Board cannot provide a harvest limit to residents of one community with C&T that is higher than the harvest limits for residents of other communities with the same C&T unless the area has been closed to non – Federally qualified subsistence users and the Board has made findings pursuant to ANILCA section 804.

If this proposal is adopted it would have no effect on harvest limits in the Kake C&T areas for Chinook, pink and chum salmon since there are no limits for those species listed in regulation or on Federal permits.

Additionally, if adopted this proposal would have no effect on most sockeye salmon systems since those limits are listed on Federal permits. The sockeye salmon systems that do not have limits listed on Federal permits are managed by a regulation that limits the possession of sockeye salmon to 10 with an annual limit of 20 per system per household unless specified elsewhere. These sockeye salmon streams would have no harvest limit for residents of Kake.

If this proposal is adopted, Coho salmon harvest limits which are specified by regulation, would no longer be applicable to residents of Kake.

If adopted this proposed regulation would not apply to the monitored sockeye systems since harvest limits for those systems are listed on Federal permits.

Managers use seasons, gear type and harvest limits to control salmon harvest to insure conservation of the resource and to distribute the available harvest amongst multiple users. Harvest limits are not imposed to limit cultural practices; they are used to control harvest based on the productivity of each system balanced with the harvest pressure. For example, lower harvest limits are placed on streams that produce low numbers of salmon and have high harvest pressure. Without harvest limits as tools, managers would be forced to limit gear types, reduce the season or add individual systems to Federal permits. If this proposal is adopted it would eliminate harvest limits for the residents of Kake and could increase the risk of conservation concerns in unmonitored systems which would negatively affect subsistence users.

If adopted this proposal may result in a shift from fishing in State waters to Federal jurisdiction. This may or may not happen since the location of harvest is controlled more by where fish are efficiently harvested than what the harvest limit is. Because of efficiency considerations, most salmon in this area are harvested in State jurisdiction (marine waters) and under State regulations. If this shift in use does not happen, the proposal will have no effect since the vast majority of salmon taken by Kake residents are taken in waters under State jurisdiction. There are some systems where unlimited harvests could create conservation concerns resulting in more in-season actions and restrictions to users.

OSM PRELIMINARY CONCLUSION

Oppose Proposal FP13-22.

Justification

There are no closures to non-Federally qualified users within the customary and traditional use areas for Kake (Districts 5, 6, 7, 9, 10 and the areas that have no specific community determination). Some of these same areas are also within the customary and traditional use areas of other rural communities. Changes to harvest limits in these areas cannot be considered without first closing the areas to non-Federally qualified users (815 (3)) and then conducting an 804 analysis to provide a greater priority to residents of Kake.

The proposed regulation would only affect coho and sockeye salmon harvest limits since there are no limits for Chinook, pink, and chum salmon in regulation or on Federal permits issued to Kake residents.

Only 20 sockeye and no coho salmon have been reported taken by residents of Kake under the Federal permit; therefore, Kake residents do not appear to be restricted by current Federal harvest limits. Because of efficiency considerations, Kake residents prefer to harvest coho and sockeye salmon in this area in marine waters, which are under State jurisdiction and regulation.

The top priority of managers is to ensure the conservation of the salmon resource consistent with sound

recognized scientific principles of fish management under ANILCA Sec. 802. Managers use seasons, gear type and harvest limits to control salmon harvest to insure conservation of the resource and to distribute the available harvest amongst multiple users. Harvest limits are not imposed to limit cultural practices; they are used to control harvest based on the productivity of each system balanced with the harvest pressure. Without harvest limits as tools, managers may be forced to limit gear types, reduce the season or add individual systems to Federal permits.

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Alaska Department of Fish and Game
Comments to Regional Advisory Council

Fisheries Proposal FP13-22: Eliminate subsistence salmon harvest limits for Kake, AK residents.

Introduction: This proposal by the Organized Village of Kake would establish a new regulation that unless noted on a federal subsistence fishing permit, there would be no harvest limits for salmon harvested by the residents of Kake, Alaska.

The proponent states this proposal “better recognizes and accepts the subsistence priority need of individual and households in the community of Kake. This regulation helps provide residents of Kake with a meaningful priority for the customary and traditional (C&T) take of fish. These subsistence users fish where there are fish and take only what they need because they rely on salmon for food and this is their way of life”.

Impact on Subsistence Users: If this proposal is adopted, federal subsistence users from Kake would have no harvest limits for subsistence-caught salmon. The proponent anticipates federal subsistence users residing in Kake would benefit from alleviation of harvest limits since citations from enforcement officers for harvest limit violations when engaged in C&T fishing for salmon would not occur.

However, the potential unintended negative impact imposed upon subsistence users by adoption of this regulation could reasonably manifest in the loss of sustainability of the resource, as unrestrained exploitation of the resource without restraint may occur. This would result in loss of subsistence opportunity not only for subsistence users from Kake, but subsistence users that do not reside in Kake, as well.

Impact on Other Users: In the event of an unsustainable exploitation of this resource, all users would suffer.

Opportunity Provided by State: Under state regulations, subsistence is the priority consumptive use and salmon may be harvested throughout most of the Southeast Alaska area. Under the state subsistence salmon permit, limits and seasons can vary by system depending on the productivity and run-timing of the system. These limits and seasons are determined by the state to be necessary to ensure the long-term sustainability of the resource. State subsistence fishing opportunity is directly linked to abundance and is only closed to subsistence users if necessary to meet escapement needs.

Conservation Issues: There are no stocks of concern in Southeast Alaska at this time. Based on harvests reported on state subsistence salmon permits, subsistence users from Kake harvest sockeye salmon primarily at Falls Lake and Gut Bay Lake on Baranof Island, and Kutlaku Lake on Kuiu Island. These systems represent 46%, 24%, and 31% of the total sockeye harvested by Kake residents, respectively. Approximately 90% of the total Falls Lake sockeye harvest is by subsistence users from Kake. There are no escapement goals for these systems and only Falls Lake has had a long-term escapement project that began in 2001. The average escapement at

ADF&G Comments on FP13-22
July 12, 2012, Page 2 of 2

Falls Lake since 2001 was 2,867 sockeye and average harvest was 1,564 sockeye salmon. In 2002 and 2008, based on onsite creel surveys, the subsistence fishery harvested 2,600 and 1,530 sockeye salmon, respectively, while escapements were only 1,090 and 700, respectively. These two years provide examples of the potential for subsistence harvests to compromise desired escapement levels. The Falls Lake subsistence fishery was closed early by emergency order in 2002, 2004, 2010, and 2011 due to low sockeye returns.

Provided there is a continuation of healthy salmon stocks in the Southeast Alaska area, combined with responsible harvest, this proposal would present little negative impact to the long-term sustainability of the resource. However, the risk to benefit ratio associated with this proposal dictates state opposition lest our managers abrogate their responsibilities. Should one or more of these factors fall short, a long-term risk to sustainability of the resource is inherently unavoidable.

Enforcement Issues: Passage of this proposal would create divergent federal and state regulations which are difficult for enforcement and a burden to users.

Federally-qualified subsistence salmon users may put themselves at risk of receiving a citation if they catch salmon on state or private land or marine waters under state jurisdiction and do not comply with terms specified on their subsistence fishing permits. An example is adherence to harvest limits during years when there is a conservation concern for fish stocks in a particular area required by state regulation.

Jurisdiction Issues: The Federal Subsistence Board does not have the authority to regulate nonfederally-qualified users participating in fisheries on waters outside of federal subsistence jurisdiction. While standing on state and private lands (including state-owned submerged lands), persons must comply with state law and cannot harvest under conflicting federal regulations.

Enforcement difficulties and user confusion -- concerning where and how federal regulations that are different than state regulations apply -- will result unless detailed maps and explanations specific to the area are provided. At Falls Lake, Gut Bay and Kutlaku, the majority of the subsistence harvesting occurs in marine waters under state jurisdiction.

Other Issues: On state or private lands where federal subsistence fisheries are not authorized to occur, the federal board does not have authority to supersede state commercial and subsistence fisheries regulations unless a full closure is required for conservation purpose within water of claimed federal jurisdiction. Changes to state commercial and subsistence fisheries regulations must be submitted to the Alaska Board of Fisheries for coordination. The federal program currently provides for designated fishers to harvest for others above their personal limit. Users who expect a plentiful harvest who wish to share above their established amounts reasonably necessary for subsistence amount have this option available to them to avoid citation. Passage of this proposal creates divergent federal and state regulations which are difficult for enforcement and a burden to users.

Recommendation: Oppose.

WRITTEN PUBLIC COMMENTS

Oppose Proposal FP13-22. See comments on Proposal 13-17. This proposal allows for an unlimited amount of harvest by a select set of subsistence users/residents of Kake but doesn't provide for protection of the individual systems.

*Kathy Hansen, Executive Director
Southeast Alaska Fishermen's Alliance*

FP13-24 Executive Summary	
General Description	Proposal FP13-24 requests that only elders unable to fish for themselves, or people who are severely disabled, be allowed to designate another person to fish for them in the Klawock River. <i>Submitted by James See of Craig, Alaska</i>
Proposed Regulation	36 CFR 242.27 and 50 CFR 100.27(e) Subsistence taking of fish: Fishery management area restrictions <i>(13) Southeastern Alaska Area</i> <i>(xxi) In the Klawock River, only a Federally qualified subsistence user (recipient) who is either an elder who is unable to fish for him or herself, or a severely disabled person, may designate another Federally qualified subsistence user to take fish on his or her behalf.</i>
OSM Preliminary Conclusion	If Proposal FP13-18 or 23 is adopted, oppose Proposal FP13-24. If Proposal FP13-18 or 23 is not adopted, support Proposal FP13-24 with modification to delete requirements to be an elder or severely disabled and to include the requirement that designated fishers be limited to one harvest limit of steelhead in possession, rather than two harvest limits currently allowed, in the Klawock River drainage. The modified regulation should read: § __.27(e) Subsistence taking of fish: Fishery management area restrictions <i>(13) Southeastern Alaska Area</i> <i>(xxi) In the Klawock River drainage, a designated fisherman may not have more than one harvest limit of steelhead in his or her possession at any one time.</i>
Southeast Regional Council Recommendation	
Interagency Staff Committee Comments	
ADF&G Comments	Support with modification. Amend to criteria to match that of the state.
Written Public Comments	None

DRAFT STAFF ANALYSIS FP13-24

ISSUES

Proposal FP13-24, submitted by James See of Craig, Alaska, requests that only elders unable to fish for themselves, or people who are severely disabled, be allowed to designate another person to fish for them in the Klawock River.

DISCUSSION

The proponent states that, for the Klawock River, allowing designated fishers to have two harvest limits in possession is an abuse of fish populations in light of their limited numbers. Designated Fish Permits are necessary for designated fishers to take more than one harvest limit of steelhead, rainbow trout, cutthroat trout, Dolly Varden, coho salmon, or sockeye salmon from the Klawock River. Other species of fish have no harvest limits and consequently a Federal Designated Fish Permit is not necessary. The proponent clarified that his intention was to specify steelhead only and not “all fish” (see 2012, pers. comm.). The analysis focuses on the proposal as published. This analysis discusses the aspects of this proposal as originally published since this is the version presented for public review. The proponent could make comments on this proposal at the Southeast Alaska Regional Advisory Council meeting.

Action on Proposal FP13-18/23 currently under consideration may affect decisions on this proposal. The proposals are a result of a situation that occurred during the 2011 winter subsistence steelhead fishery on the Klawock River. Potential issues arose during the fishery due to the Federal Designated Fish Permit. The Federal Designated Fish Permit allows a Federally qualified subsistence user to harvest fish on behalf of another Federally qualified user. The designated fisher may fish for any number of subsistence users, but may not have more than two harvest limits in his or her possession at a time. Although the Federal *Fish* Permits are issued to households, Federal *Designated Fish* Permits are issued to individuals. Several individuals from the same household were noted harvesting multiple household harvest limits during the same day. Although harvesting up to two household possession limits within the same day is legal under the terms of the Federal designated fishing regulation, the potential to easily overharvest steelhead from drainages before Federal managers can act has now increased. The winter 2011 situation was discovered at the end of the winter fishery, which resulted in the Federal manager implementing Special Action 13-SH-02-12 during the spring fishery. This action reduced the harvest limit and instituted a bait prohibition on the Klawock River to allow for continued subsistence opportunity while providing for conservation.

Existing Federal Regulation

No regulation.

Proposed Federal Regulation

36 CFR 242.27 and 50 CFR 100.27(e) Subsistence taking of fish: Fishery management area restrictions

(13) Southeastern Alaska Area

(xxi) In the Klawock River, only a Federally qualified subsistence user (recipient) who is either an elder who is unable to fish for him or herself, or a severely disabled person, may designate another Federally qualified subsistence user to take fish on his or her behalf.

Relevant Federal Regulation

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

(d)(2) If you are a Federally qualified subsistence user, you (beneficiary) may designate another Federally qualified subsistence user to take fish on your behalf. The designated fisherman must obtain a designated harvest permit prior to attempting to harvest fish and must return a completed harvest report. The designated fisherman may fish for any number of beneficiaries but may have no more than two harvest limits in his/her possession at any one time.

§ __.25 Subsistence taking of fish: Fishery management area restrictions

(13) Southeastern Alaska Area

*(iii) In the Southeastern Alaska Area, a rainbow trout is defined as a fish of the species *Oncorhynchus mykiss* less than 22 inches in overall length. A steelhead is defined as a rainbow trout with an overall length of 22 inches or larger.*

Existing State Regulation

5 AAC 01.11. Subsistence fishing by proxy

(a) Finfish may be taken by subsistence fishing by proxy only as provided in AS 16.05.405 and in this section.

(g) In this section,

(1) "beneficiary" means a resident

(A) who is blind, is a person with physical disabilities as defined in AS 16.05.940 , or is 65 years of age or older; and

(B) on whose behalf finfish are to be taken or attempted to be taken under AS 16.05.405;

AS 16.05.940. Definitions

(26) "person with physical disabilities" means a person who presents to the department either written proof that the person receives at least 70 percent disability compensation from a government agency for a physical disability or an affidavit signed by a physician licensed to practice medicine in the state stating that the person is at least 70 percent physically disabled.

Extent of Federal Public Land

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

Customary and Traditional Use Determination

Residents living south of Sumner Strait and west of Clarence Strait and Kashevaroff Passage are included in the customary and traditional use determination for fish in the streams of Prince of Wales Island. There are 12 communities in the area: Coffman Cove, Craig, Edna Bay, Hollis, Hydaburg, Kasaan, Klawock, Naukati Bay, Point Baker, Port Protection, Thorne Bay, and Whales Pass.

Regulatory History

In 1999 the Board adopted the designated harvester regulation for fish (64 FR 1304, January 8, 1999). The Board has received no proposals to modify the regulation.

Designated Harvesters

Designated harvester provisions provide recognition of the customary and traditional practices of sharing and redistribution of harvests. A host of research supports a need for a designated harvester system in Federal subsistence regulations to harmonize fundamental harvesting characteristics of rural Alaska communities with the Federal Subsistence Management Program. Sahlins (1972) observed that 20% to 30% of households in “family-based production” could be expected to fail to produce enough food to feed themselves. Family-based production is the foundation of the mixed subsistence-cash economy found in most rural Alaskan communities (cf. Wolfe 1981, 1987; Wolfe and Walker 1987; Wolfe et al. 1984). Family-based production is when households linked by kinship distribute the responsibility to harvest, process, and store wild resources based on factors such as skills and abilities, availability of able workers, sufficient income to purchase harvesting and processing technology, and other factors. Sahlins’ (1972) observation has been repeated in subsistence studies conducted in rural Alaska communities (see Andrews 1988; Magdanz, Utermohle, and Wolfe 2002; Sumida 1989; Sumida and Andersen 1990). On a statewide basis it was not uncommon for about 30% of the households in a community to produce about 70% or more of the community’s wild food harvest. Households in the higher harvesting third of households were called “super-households” because they produced surpluses of wild foods (Wolfe 1987). Inequalities in individual and household production levels were equalized via processes of distribution (sharing and feasting) and exchange (trade and barter).

More recently, Wolfe et al. (2007) looked at 67 rural Alaska communities representing Aleut, Athabascan, Inupiat, Tlingit-Haida, and Yup’ik cultural groups to test the super-household hypothesis. Klawock, Kasaan, and Hydaburg on Prince of Wales Island were included in the analysis. Wolfe et al. studied mainly Alaska Native households (households with at least one Native head of household) except in Southeast Alaska where ethnically-mixed communities were used. The common variables that affected household food production were commercial fishing involvement, males over 15 years of age, the age of elders, and single person households. Commercial fishing involvement and three or more males over 15 years of age correlated with households with relatively high wild food production. Older elders and single person households correlated with households with relatively low wild food production. High producers were also high givers, and giving to other households may be a primary motivation for over-production by super-households. Additionally, increased household income was associated with increased subsistence productivity by households within a community. Wolfe et al. (2007) conclude:

The findings about the concentration of subsistence harvests also have social policy implications for the management of hunts and fisheries. Annual and daily bag limits that require that individuals or households harvest at equal levels, as is common for sport fishing and sport hunting, operate from different principles from those operating in subsistence systems. In the subsistence system, individuals and households commonly are not equivalent producers. Instead,

a relatively small segment of high-producers harvest most of the fish or game. The average harvests among community households may be in line with bag and harvest limits required for conservation reasons, but the actual production is concentrated in a small number of households. Flexible regulations that allow for this type of concentrated harvest would be most compatible with the actual patterns of subsistence production (Wolfe et al. 2007:29).

The Designated Harvester System used by the Federal Subsistence Management Program was intended to provide some flexibility in harvest regulations to make legal the activities of super-households in rural communities. Supporting the distribution of wild foods in villages allowed people to continue their subsistence way of life.

Customary and Traditional Uses

The subsistence way of life is very much a part of the social fabric of Alaskan rural communities. Within Alaska Native cultures, the harvesting of subsistence foods is inextricably intertwined with social interactions. Social interactions may be in the form of extended families spending time at fish camps during the summer, young hunters learning harvesting skills from their older relatives, or individuals sharing their harvest successes with community members. Subsistence includes a cultural value system of sharing, which Alaska Natives have maintained since before contact with Russians and Europeans (Wolfe and Ellana 1983).

The *kwaans* associated with the modern community of Klawock are the *Hinyaa*, *Tlawah*, and *Kooyu* (Langdon 2006). Klawock is one of two predominantly Native communities on Prince of Wales Island, the other being Hydaburg. A company from outside of Alaska opened a cannery at Klawock in about 1880, attracted by the largest sockeye salmon run on Prince of Wales Island. Later a saltery and a cannery opened at the present location of Craig. Today, many *Hinyaa* live in Craig (Langdon 2006, Ratner et al. 2006). The Tlingit and Haida fisheries on Prince of Wales Island have long been recognized as traditional fisheries, and tribes have claimed rights to fisheries in their territories through legal venues since 1865 culminating in passage of ANILCA in 1980 (Goldschmidt and Haas 2000 [1946], Price 1990). Significantly for fisheries, the population of Prince of Wales Island almost doubled between 1980 and 2000 due in part to the influx of loggers to harvest timber. Since then the population has decreased almost 13% from 4,653 people in 2000 to 4,067 people in 2010 (**Table 1**) (U.S. Census 2012). Some communities that sprang up in the 1980s probably as logging camps, such as Dora Bay and Labouchere Bay, are no longer included in the census. Other communities remain, such as Coffman Cove, Hollis, and Thorne Bay. The influx of people in the 1980s and 1990s can be seen in **Table 2**. A minority of household heads have lived in the newly established communities since birth. Conversely, the majority of Klawock and Hydaburg household heads have lived there since birth, reflecting the persistence of these communities (Christianson et al. 2012).

Klawock and Craig are nearest to the Klawock River, and only Klawock, Craig, and Hollis residents have reported harvesting steelhead in the Federal subsistence fishery that opened in 2003; however, Hollis's contribution to the harvest has been small (FWS 2012). Klawock and Craig are the larger communities on the island. Residents of the two communities have been shown to rely on a wide variety of subsistence resources. Household harvest surveys were conducted in both communities in 1997, and harvests were converted into pounds per person (ADF&G 2012b). Fish made up the majority of subsistence harvests. The majority of salmon were sockeye that were harvested primarily with nets in marine waters. Small amounts of chum salmon were also harvested with subsistence nets in marine waters (Ellanna and Sherrod 1986, Ratner et al. 2006). Other species of salmon were harvested primarily with rod and reel. Trout and char made up smaller but important portions of subsistence harvests in the two communities. Patterns of resource use often vary from year to year because of severe winter weather or regulatory restrictions; however, the patterns of use of fish in 1997 generally agree with the more recent patterns of use and

Table 1. Human population of Prince of Wales archipelago.

Community	2010 U.S. Census	
	Number of Households	Number of People
Coffman Cove	89	176
Craig	470	1,201
Edna Bay	18	42
Hollis	44	112
Hydaburg	128	376
Kasaan	23	49
Klawock	297	755
Naukati Bay	49	113
Point Baker	8	15
Port Protection	26	48
Thorne Bay	214	471
Whale Bay	20	31
Remainder	231	678
Total	1,617	4,067

Table 2 Head of households living in community since birth, 2008-2010.

Community	Number	Percentage
Coffman Cove	5	5%
Craig	43	21%
Hollis	0	0
Hydaburg	40	77%
Kasaan	3	14%
Klawock	53	60%
Point Baker	2	11%
Naukati Bay	1	4%
Port Protection	1	4%
Thorne Bay	0	0

harvests reported on Federal Subsistence Harvest Permits or during on-site creel surveys, described later in the analysis, and during house to house harvest surveys conducted with residents of the island between 2008 and 2010 (Christianson et al. 2012). The harvest of steelhead based on house to house harvest surveys is described in **Table 3**.

In 1984, 56% of Klawock households reported using steelhead (**Table 3**). The use of steelhead was higher than in 1997 when only 10% of households reported using steelhead. This may be because steelhead regulations were more liberal in 1984 compared to 1997. In 1997, the State sport fishery had a 36-inch or greater allowable size limit, and such fish were rarely harvested (**Table 4**). For Craig, steelhead harvests have significantly decreased in recent years from 1997 harvest levels.

Table 3. Steelhead: the use and estimated harvest by residents of Craig and Klawock based on household harvest surveys.

Steelhead Trout									
Community	Study Year	Percentage of Households					Low Harvest Estimate	Estimated Harvest	High Harvest Estimate
		Using	Attempting to Harvest	Harvesting	Giving Away	Receiving			
Craig	1997	9	8	6	2	2	86	211	335
	2010		18	3			7	28	54
Klawock	1984	56	44	39	14	25	150	338	526
	1997	10	11	9	2	2	93	226	359
	2008		22	14			64	133	203

Blank cell=question not asked.

Table 4. Steelhead: regulation history in the Klawock River drainage.

Year	State Sport Fishery		Federal Subsistence Fishery	
	Season	Harvest Limit and Gear	Season	Harvest Limit and Gear
2005–2012	Nonretention		Winter season	2 fish, dip net, handline, spear, and rod and reel
			Spring season	5 fish, dip net, handline, spear, and rod and reel
2003–2004	Bait allowed Sept. 15–Nov. 15	2 fish per year, 36 inches or greater, rod and reel	Winter season	2 fish, dip net, handline, spear, and rod and reel
			Spring season	5 fish, dip net, handline, spear, and rod and reel
1994–2002	Bait allowed Sept. 15–Nov. 15	2 fish per year, 36 inches or greater, rod and reel		
Pre-1994		2 fish per year (at least one must be marked as hatchery origin)		

Since 2003 when the Federal subsistence fishery opened, Klawock and Craig residents have harvested most of the steelhead that were reported on Federal Fish Permits from the Klawock River drainage. However, the harvest from the Klawock system was only a portion of the overall steelhead harvest by residents of Klawock and Craig (FWS 2012). Klawock residents report harvesting steelhead from eight other drainages. Craig residents report harvesting steelhead from 21 other drainages.

While trout and char have been harvested with spears and gaffs, since 1950 rod and reel have also been used to harvest trout and char in the subsistence fishery, except in small creeks where spears, gaffs, dip nets, and handlines are preferred (Turek 2005).

While steelhead are eaten by residents of Klawock and some residents of Craig, many residents of the island choose to catch and release steelhead only, and killing them is not part of their pattern of use (Christianson et al. 2012).

Biological Background

The Klawock River is located on the west side of Prince of Wales Island. Four main tributaries flow into Klawock Lake. The lake empties into a large estuary via the Klawock River. The Klawock River is less than 3 km long. The nonprofit Prince of Wales Hatchery Association operates a hatchery near the Klawock River. The hatchery was built in 1977 and has released coho and sockeye salmon and steelhead into the Klawock system. Currently, only coho salmon are released into the Klawock system (Vercesi 2012). The hatchery weir is located about 300 m below the lake (Cartwright and Conitz 2006).

With the exceptions of coho and sockeye salmon, the size of fish populations in the Klawock River drainage are by and large unknown, and management decisions are often based on observations of the harvest of fish.

Steelhead (*Ashut, Tayang*)

Steelhead are the anadromous form of rainbow trout. Federal regulations define a steelhead as a rainbow trout with an overall length of 22 inches or larger (§ ____.25(13)(iii)).

The Klawock River is one of 74 drainages known to contain steelhead on Prince of Wales Island. Most are believed to contain 200 or fewer spawning adults. Fishery managers and the fishing public noticed lower steelhead populations and in 1994 implemented harvest restrictions across Southeast Alaska. Subsequently, the Forest Service and ADF&G have monitored steelhead escapement in some Prince of Wales Island streams, but not the Klawock River. These counts have shown that steelhead escapement is highly variable from one year to the next (Harding and Coyle 2011). Each year, adult returns consist of both first time and repeat spawners (referred to as kelts), each consisting of multiple age classes. Spawning occurs in the spring. No predictive models have been developed to identify years when harvestable surplus of steelhead may be available (Lohr and Bryant 1999). Therefore, local Federal managers monitor harvests through interviews with and phone calls to anglers to determine harvest rates by fishermen. Law enforcement officers check anglers to insure they have the proper permits or licenses. The local Federal managers have the authority to restrict fishing, including in the Klawock River drainage, if conservation concerns arise.

The Klawock hatchery released steelhead into the Klawock River drainage beginning in the 1980s (Bentz et al. 1996, Freeman and Hoffman 1989). Sport fishers were allowed to keep 2 fish per day if at least one had a clipped adipose fin, indicating hatchery origin, as evidence by a healed scar. Public reports and one on-site creel survey conducted in 1987/88 indicated that 25% to 50% of the harvest in Klawock River were hatchery fish. However, biologists were unable to tell if the enhancement was creating more steelhead or replacing wild steelhead (Bentz et al. 1996, Freeman and Hoffman 1989). Steelhead enhancement ceased in 2005 (Goodness 2012, pers. comm.). Since then, Chilcote et al. (2011) have shown that hatchery steelhead have a high likelihood of causing harm to wild stocks.

Rainbow Trout, Cutthroat Trout, and Dolly Varden (in Tlingit, collectively, *x'wáat'*)

There is limited information on the status of trout and char populations known to exist in the Klawock River.

Coho Salmon (*L'uk, Táay*)

The total escapement of coho salmon through the weir was estimated to be 10,838 fish in 2003 (Cartwright and Conitz 2006). Reliable escapement estimates for other years is not available (Cartwright and Conitz 2006, Lewis and Zadina 2001).

The Klawock hatchery has conducted coho salmon enhancement since the 1980s. In 2011, the hatchery released about 4.5 million coho salmon into the Klawock River drainage (POWHA 2012). The hatchery harvests 3,500 adult coho salmon at its weir on the Klawock River. The eggs, or brood stock, are needed for spawning at the hatchery. Additionally, every summer a seafood company is contracted to purchase coho salmon for cost recovery, extra fish that come back to the facility each summer above the 3,500 fish needed for brood stock and escapement. However, in 2011, hatchery staff were not able to harvest the necessary number of coho salmon for brood stock or cost recovery. The low return was not predicted and could be due to several factors, including poor ocean conditions and feed availability. Returning coho salmon are usually 3 year olds, and most are caught by commercial salmon fishers. The hatchery is expecting almost 228,000 hatchery-produced coho salmon to return in 2012 (Goodness 2012, pers. comm.; POWHA 2012).

Sockeye Salmon (*Gaat, Sgwáagaan*)

From 2001 to 2009 sockeye salmon were counted at the weir before entering Klawock Lake and escapement ranged from an estimated 11,333 fish in 2004 to 21,300 fish in 2003 (**Table 5**) (Bednarski 2010). Reliable escapement estimates for other years are not available (Lewis and Zadina 2001). The hatchery released sockeye salmon into the Klawock system beginning in the 1980s until 2005.

Table 5. Sockeye salmon: estimated escapement into Klawock Lake.

Sockeye Salmon Escapement	
Year	Escapement
2009	^b 19,699
2008	21,165
2007	17,500
2006	14,757
2005	14,800
2004	11,333
2003	21,300
2002	12,600
2001	13,109
^b Minimum estimate	

Harvest History

Steelhead (*Ashut, Tayang*), Rainbow Trout, Dolly Varden, and Cutthroat Trout

In the Klawock River drainage, the steelhead harvest has ranged from 4 steelhead in 2008 to 28 steelhead in 2003 and 2011 (**Table 6**). The rainbow trout harvest has ranged from zero rainbow trout in 2008,

Table 6. Steelhead: Federal subsistence and State sport fishery harvests, Klawock River drainage.

Steelhead Harvest				
Year	Federal Subsistence		State Sport	Total Harvest
	Number of households that fished	Steelhead harvest	Steelhead harvest	
2011	24	28	Not available	28
2010	6	6	9	15
2009	5	6	0	6
2008	4	4	0	4
2007	4	5	0	5
2006	5	6	0	6
2005	6	6	0	6
2004	11	13	8	21
2003	12	13	15	28
2002	No season	No season	0	0
2001	No season	No season	0	0

2010, and 2011 to 42 rainbow trout in 2002 (**Table 7**). The Dolly Varden harvest has ranged from zero Dolly Varden in 2001, 2004, 2006, 2010, and 2011 to 594 Dolly Varden in 2003 (**Table 8**). The Federal subsistence harvests were reported on Federal Subsistence Fish Permits (FWS 2012). The State sport harvests were estimated from the Statewide Harvest Survey (ADF&G 2012a). There is no directed commercial fishery for trout in Southeast Alaska. There are no State subsistence fisheries for trout and char in Southeast Alaska. The State steelhead sport fishery is catch and release only.

Cutthroat trout have been harvested in the State sport fishery but none have been reported in the Federal subsistence fishery since a season was opened in 2003.

Coho Salmon (*L'uk, Tāay*)

Klawock River coho salmon are taken in Federal and State subsistence fisheries, the State sport fishery, and State commercial fisheries as shown below in **Table 9**. The harvest of coho salmon in the Federal subsistence fishery ranged from 29 coho salmon in 2006 to 402 in 2002 (**Table 9**). (The estimated harvest of coho in the State subsistence fishery 2007–20011 is not readily available at this time.) A natural run of coho salmon returns to the Klawock system and the Klawock hatchery releases large numbers of Klawock coho salmon annually. These coho salmon are released primarily for the benefit of the commercial fishery. On **Table 9**, the Federal subsistence harvest was reported on Federal Subsistence Fish Permits (FWS 2012). The State subsistence harvest was estimated from reports on State Subsistence and Personal Use Salmon Permits (Naves et al. 2011). The State sport harvest was estimated from reports on the Statewide Harvest Survey (ADF&G 2012a). The State commercial harvest was estimated from tagged and fin clipped coho salmon reported in the commercial harvest (Vercessi 2012).

Table 7. Rainbow trout: Federal subsistence and State sport fishery harvests, Klawock River drainage.

Rainbow Trout Harvest				
Year	Federal Subsistence		State Sport	Total Harvest
	Number of households that fished	Rainbow trout harvest	Rainbow trout harvest	
2011	0	0	Not available	0
2010	0	0	0	0
2009	5	18	13	31
2008	0	0	0	0
2007	1	1	12	13
2006	3	6	11	17
2005	2	8	22	30
2004	3	6	0	6
2003	0	0	32	32
2002	No season	No season	42	42
2001	No season	No season	8	8

Table 8. Dolly Varden: Federal subsistence and State sport fishery harvests, Klawock River drainage.

Dolly Varden Harvest				
Year	Federal Subsistence		State Sport	Total Harvest
	Number of households that fished	Dolly Varden harvest	Dolly Varden harvest	
2011	0	0	Not available	0
2010	0	0	0	0
2009	1	2	55	57
2008	0	0	99	99
2007	1	1	21	22
2006	0	0	0	0
2005	0	0	132	132
2004	0	0	0	0
2003	0	0	594	594
2002	No season	No season	389	389
2001	No season	No season	0	0

Sockeye Salmon (*Gaat, Sgwáagaan*)

Klawock Lake sockeye salmon are taken in Federal and State subsistence fisheries, the State sport fishery, and State commercial fisheries as shown below in **Table 10**. The harvest of sockeye salmon in the Federal subsistence fishery ranged from zero in 2004 and 2005 to 301 in 2009 (**Table 9**). The Federal subsistence harvest was reported on Federal Subsistence Fish Permits (FWS 2012). The State subsistence sockeye

Table 9. Coho salmon: the estimated harvest of Klawock-bound fish.

Coho Salmon Harvest					
Year	Federal		State		
	Subsistence		Subsistence	Sport	Commercial
	Number of households that fished	Coho salmon harvest	Coho salmon harvest	Coho salmon harvest	Coho salmon harvest
2011	33	219	Not available	Not available	93,709
2010	46	346	Not available	1,148	3,031
2009	8	44	Not available	1,500	8,680
2008	30	215	Not available	3,997	35,457
2007	9	34	Not available	2,792	29,531
2006	9	29	94	2,540	13,318
2005	6	73	57	717	61,738
2004	28	140	65	1,687	20,273
2003	67	402	13	1,246	39,446
2002	No season	No season	34	961	12,148
2001	No season	No season	72	367	18,893

Table 10. Sockeye salmon: the estimated harvest of Klawock-bound fish.

Sockeye Salmon Harvest					
Year	Federal		State		
	Subsistence		Subsistence	Sport	Commercial
	Number of households that fished	Sockeye salmon harvest	Sockeye salmon harvest	Sockeye salmon harvest	Sockeye salmon harvest
2011	6	57	Not available	Not available	Unknown
2010	13	247	Not available	0	Unknown
2009	25	301	5,900	0	Unknown
2008	3	9	6,700	0	Unknown
2007	4	45	2,600	0	Unknown
2006	6	15	3,100	0	Unknown
2005	0	0	175	0	Unknown
2004	0	0	4,500	0	Unknown
2003	3	7	6,000	0	Unknown
2002	No season	No season	6,000	0	Unknown
2001	No season	No season	6,400	0	Unknown

salmon harvest was estimated after on-site creel surveys (Bednarski 2010). The State sport harvest was estimated from reports on the Statewide Harvest Survey (ADF&G 2012a). The number of Klawock sockeye salmon harvested in commercial fisheries is not known but is assumed to be a small, incidental component of mixed stock fisheries, mainly along the west coast of Prince of Wales Island (Bednarski 2010).

In 2005, the sockeye salmon subsistence harvest in the Klawock area was particularly low compared to other years. The run was very late. It was not until mid-August that sockeye salmon started moving through the weir (Reeves 2012, pers. comm.). While Klawock residents are known to harvest most of their salmon from returning Klawock runs, people may also go to the Sarkar River, particularly in years of low abundance in the Klawock system (Ratner et al. 2006)

Current Events

In 2011, a separate Federal *Designated* Fish Permit was available for the first time in Southeast Alaska. Previously, designated fishers were required to have the general Federal Fish Permit only. Therefore, the number of designated fishers and the harvest of fish by designated fishers in past years is unknown. In 2011, two island residents obtained Federal Designated Fish Permits from the Craig office of the Forest Service and used them to harvest steelhead during the winter season, December 1, 2011–February 28, 2012. The harvest limit was two steelhead per household per season. A designated harvester can have two harvest limits in possession. In this case, together they could have up to eight steelhead in possession. They were observed with eight steelhead in possession and reported to law enforcement. Law enforcement concluded that the designated harvesters did not violate regulations (Reeves 2012, pers. comm.). Consequently, during the spring season, March 1, 2012–May 31, 2012, due to conservation concerns the Forest Service reduced the harvest limit in the Klawock River drainage from five to two steelhead per household. Additionally, no bait was allowed downstream of the weir. The action was justified because of the higher than expected harvest of steelhead during the winter fishery (USFS 2012).

Other Relevant Proposals

Action on Proposal FP13-18/23 currently under consideration may affect the decision on this proposal. Proposal FP13-18 requests that household harvest limits for steelhead be placed on individual streams located on Prince of Wales and Kosciusko islands, and that the overall harvest quota be removed. Proposal FP13-23 requests that household harvest limits for steelhead be placed on the Klawock River.

Effects of the Proposal

This was the second year that designated fishers were required to get a separate Federal Designated Fish Permit from the Craig Ranger District, and five people got permits. Because the number of designated fishers and the harvest of fish by designated fishers in past years is unknown, it is unclear if making a separate permit available increases the number of designated fishers in the future. At this time, very few fishers obtained Federal Designated Fish Permits.

A Federally qualified user must obtain a Designated Fish Permit before taking more than one harvest limit of steelhead, rainbow trout, cutthroat trout, Dolly Varden, coho salmon, or sockeye salmon from the Klawock River. Other species of fish have no harvest limits and consequently a Federal Designated Fish Permit is not necessary.

If this proposal is adopted, only elders unable to fish for themselves, or people who are severely disabled, would be allowed to designate another person to fish for them in the Klawock River. Definitions of elder and severely disabled would have to be created in Federal regulations.

Further, if this proposal is adopted, populations of rainbow trout, cutthroat trout, Dolly Varden, coho salmon, and sockeye salmon are not likely to be affected because there are no conservation concerns at this time. However, the Forest Service has some conservation concerns for steelhead. If the proposal is adopted, there may be some protection for steelhead; however, a conservation concern remains that designated fishers would continue to be allowed to have up to 2 harvest limits in possession from the Klawock River, that is, up to 4 steelhead during the winter fishery and up to 10 steelhead in the spring fishery. While allowing any Federally qualified subsistence user to obtain a designated harvester permit supports the traditional practice of fishing for others, opportunities for other qualified users to harvest

steelhead may be diminished if the Forest Service must limit the fishery preseason or inseason due to concerns that steelhead will be overharvested.

If this proposal is not adopted, subsistence users and steelhead populations would possibly be affected if subsistence harvests remain high or increase. As a consequence, Federal managers would likely restrict the steelhead fishery on the Klawock system for all eligible subsistence users.

OSM PRELIMINARY CONCLUSION

If Proposal FP13-18 or 23 is adopted, **oppose** Proposal FP13-24.

If Proposal FP13-18 or 23 is not adopted, **support** Proposal FP13-24 **with modification** to delete requirements to be an elder or severely disabled and to include the requirement that designated fishers be limited to one harvest limit of steelhead in possession, rather than two harvest limits currently allowed, in the Klawock River drainage.

The modified regulation should read:

§ __.27(e) Subsistence taking of fish: Fishery management area restrictions

(13) Southeastern Alaska Area

(xxi) In the Klawock River drainage, a designated fisherman may not have more than one harvest limit of steelhead in his or her possession at any one time.

Justification

Proposals FP13-18 and 23 request limiting the harvest of steelhead by further restricting harvest and possession limits. If neither proposal is adopted, Proposal FP13-24 would provide steelhead some protection from overharvest. The proposal has been modified for several reasons. The Federal subsistence harvest of fish, except steelhead, from the Klawock River is not a conservation concern and thus species other than steelhead are not included in the modification. Concerning steelhead, the reported harvest was 28 fish in 2011, up from 4 to 6 fish annually between 2005 and 2010 (**Table 6**). While the size of the run of steelhead into the Klawock system is unknown, it is likely to be small, under 300 adults per year (Reeves 2012, pers. comm.). Consequently, Federal managers found it necessary to place restrictions on the harvest of steelhead from the Klawock River during the spring steelhead fishery in 2012. Tools to reduce harvests include lowering harvest limits, shortening seasons, and not allowing bait; Federal

managers have been delegated authority to use these tools preseason and inseason. Federal managers do not have the authority to modify the designated fisher regulation. The proponent's concern is justified concerning steelhead, but limiting designated fishers to one harvest limit in possession would likely be more effective at reducing the harvest than limiting who can be a beneficiary, as requested by the proponent. This is because reducing the allowable possession limit has the direct effect of limiting the number of steelhead any person can harvest at one time from the Klawock system while maintaining opportunity for other subsistence users. The ability to fish for others makes legal the activities of super-households in rural communities, providing flexibility in harvest regulations.

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ADF&G Comments on FP13-24
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Alaska Department of Fish and Game
Comments to Regional Advisory Council

Fisheries Proposal FP13-24: Restrict designated fishers on Klawock River to only be allowed to fish for elders who are unable to fish for themselves or people who are severely disable.

Introduction: This proposal, brought by James See of Craig, AK, requests that designated harvest permits for those who want another to fish for them on Klawock River be issued only to elders who are unable to fish for themselves and people who are severely disabled.

The proponent's justification for this change is "[There is a] very limited resource on the Klawock River and I believe it is being abused. [He hopes] this regulation change will help sustain the run of fish [steelhead trout]."

Impact on Subsistence Users: If this proposal is adopted, individual federal subsistence users who fish for others with a designated harvest permit would only be allowed to fish for elders who are unable to fish for themselves and people who are severely disabled.

Impact on Other Users: Since the intent of this proposal is to reduce the designated fish permit harvest and eliminate a perceived abuse, in theory, adoption of this proposal would provide greater opportunities for other federally-qualified subsistence users and sport/recreational users to catch fish.

Opportunity Provided by State: Alaska Statute (AS) 16.05.405 allows a resident to take fish or game harvested primarily for food on behalf of another person and outlines the requirement that must be met in order to do so. AS 16.05.404(c) states a resident holding a valid noncommercial fishing license may take fish on behalf of a person who is blind, a person with physical disabilities, or a person who is 65 years of age or older if the resident possesses, on the resident's person, a document signed by the person on whose behalf the fish is taken, stating that the resident possesses the person's sport fishing license, subsistence fishing permit, personal use fishing permit, or permanent identification card in order to take fish on behalf of that person. AS 16.05.404(e) states a resident who takes, or attempts to take, fish on behalf of a person may also engage in fishing for the resident's use; however, the resident may not take or attempt to take fish by proxy for more than one person at a time.

Alaska regulation 5 AAC 01.011 specifies conditions whereby finfish may be taken by subsistence fishing by proxy.

Conservation Issues: Little historical or current information is available to document steelhead trout population sizes, characteristics, run timing, and spatial distribution in the majority of the 85 Prince of Wales Island streams that contain this species Hoffman (2008). Lack of data on these stocks has hampered efforts to assess the potential effects of directed subsistence harvest and prevents refinement of federal regulations that, when coupled with conservative state sport fishing regulations, would ensure adequate conservation and allow for expanded subsistence harvest opportunities.

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Enforcement Issues: Enforcement difficulties and user confusion -- concerning where and how federal regulations that are different than state regulations apply -- will result unless detailed maps and explanations specific to the area are provided.

Jurisdiction Issues: The Federal Subsistence Board does not have the authority to regulate nonfederally-qualified users participating in fisheries on waters outside of federal subsistence jurisdiction.

Other Issues: Should the board move forward with further qualifying requirements for designated harvesters, the qualifications adopted should be the least divergent from that of the state and neighboring areas to reduce user confusion and enforcement complications.

Recommendation: Support with modification. Amend to criteria to match that of the state.

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 to all users. <i>Submitted by the Southeast Alaska Subsistence Regional Advisory Council</i>
Proposed Regulation	<p>§ __.27(i)(13)(ii) <i>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.</i></p> <p>§ __.27(i)(13)(xxii) <i>All drainages of fishing Sections 1C and 1D are closed to the harvest of eulachon for all users.</i></p>
OSM Preliminary Conclusion	<p>Support Proposal FP11-18 with modification to not implement the closure in Federal regulation, but to expand the Federal subsistence fishing permit requirement from Sections 1C and 1D to include the entirety of fishing District 1.</p> <p>The modified regulation should read:</p> <p>§ __.27(i)(13)(ii) <i>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 District 1.</i></p>
Southeast Regional Council Recommendation	
Interagency Staff Committee Comments	
ADF&G Comments	Support with modification to be “no Federal season” for the harvest of eulachon in Sections 1-C and 1-D. <i>(See full comments following the analysis)</i>
Written Public Comments	None

**DRAFT STAFF ANALYSIS
FP11-18 (DEFERRED)**

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 to all users.

DISCUSSION

The eulachon (*Thaleichthys pacificus*) population in waters draining into Sections 1C and 1D (East Behm Canal and Burroughs Bay area) have been at critically low levels and there has not been a harvestable surplus for a number of years. The area has been closed yearly to eulachon fishing by State and Federal managers since 2006. With stock sizes at this level, there are few options available for conservation other than closing the fishery. The intent of the proposed regulation is to provide clear direction to the public that the area will be closed to fishing for eulachon for all users.

This proposal was brought before the Federal Subsistence Board (Board) during its January 2011 meeting. The Board deferred action on the proposal requesting that discussions with the affected tribes occur before the Board revisited the proposal; any closures for conservation be accomplished through the Special Action process, and for staff too continue to monitor the eulachon returns to the Unuk River.

Since deferral of the proposal, eulachon have returned not only to Sections 1C and 1D, but also to other locations in District 1, albeit in lower numbers. Although two seasons (2011 & 2012) of eulachon returns have occurred, Federal managers currently believe that it will still be some time before there is a harvestable surplus to re-open the area for the subsistence harvest of eulachon.

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 for all users.

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.

5AAC 77.678 Smelt may be taken for personal use at any time and there are no bag or possession limits.

Other Related Proposals

Proposals FP13-20 and FP13-21 were submitted by Stephen Huffine. Proposal FP13-20 requests limiting gear types allowed in the Federal subsistence eulachon fishery in the freshwater drainages of Burroughs Bay. Proposal FP13-21 requests limiting the number of eulachon that may be harvested by a Federally qualified subsistence user to one five gallon bucket (approximately 35 pounds) per person in the freshwater drainages of Burroughs Bay. The specified drainages include: the Unuk River, the Eulachon River, the Klahini River, and Grant Creek.

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.). In 2012, following the surprise return of eulachon to Carroll Inlet, the Ketchikan Area Management Biologist extended the eulachon closure to include all of District 1.

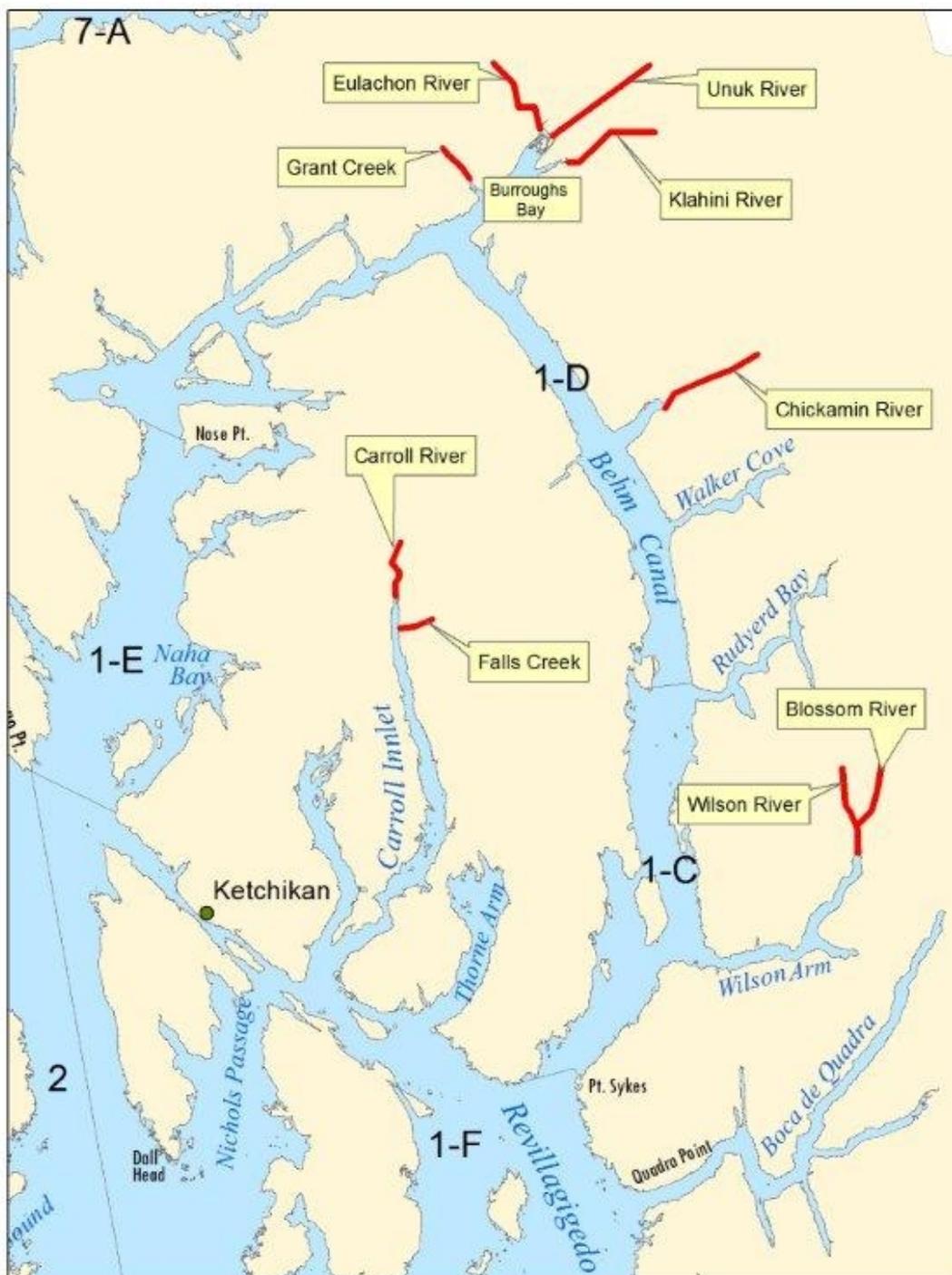
Federal Regulatory History

The Board adopted a regulation to require a Federal subsistence fishing permit for eulachon in Sections 1C and 1D in 2002 (FSB 2001; SEASRAC 2001). In 2002, proposals FP02-42 and FP02-43 were submitted that requested establishment of harvest limits for subsistence eulachon fishing. Although the proponents and the Alaska Department of Fish and Game (ADF&G) were concerned about not having

Proposal FP11-18

Map 1

Ketchikan area and the Behm Canal/Burroughs Bay drainages known to contain eulachon.



harvest limits, both the Council and Board rejected the proposals (FSB 2001; SEASRAC 2001). Since 2006, the area has been closed annually by special action due to stock failure.

Originally this proposal was before the Board in January 2011. However, during public testimony, residents from Metlakatla expressed concern over not knowing that the Board was addressing a proposal regarding the closure of the subsistence eulachon fishery. Following the testimony, the Board deferred action on the proposal and requested that before the proposal was revisited that: 1) any closures be accomplished through the special action process, 2) the eulachon returns to the Unuk continue to be monitored, and 3) the need for any closure to be discussed with the affected tribes (FSB 2011).

In order to continue to provide for the conservation and recovery of Unuk River eulachon in 2012, a special action was implemented by the Federal in-season manager closing Federal waters draining into the entirety of District 1. This action was implemented to coincide with a closure issued by ADF&G within the same area. Up until 2012, these closures had only affected Sections 1C and 1D. However, after the unexpected return to eulachon to Carroll Inlet in 2011; documented harvests on this return; concerns over the lack of a permit requirement coupled with no harvest limit in regulation; both State and Federal managers implemented a full district wide closure in 2012.

Prior to implementation of the special action, US Forest Service (USFS) personnel consulted with the Organized Village of Saxman (OVS), the Ketchikan Indian Community (KIC) and the Metlakatla Indian Community (MIC) tribal councils to inform them of the upcoming action. USFS personnel met with OVS on February 6, MIC on February 7, and a meeting was scheduled with KIC on February 13 of the following week. The initial KIC meeting was cancelled and rescheduled to March 12 in which the USFS personnel did attend. The MIC council members indicated support for yearly action for conservation as needed, but MIC was reticent to closing the Unuk indefinitely by regulation. No concerns or questions were directed to USFS personnel at either the February OVS or the March KIC meeting (Reeck 2012).

Biological Background

The eulachon, also known as “ooligan” is a small, silvery fish of the smelt family that ranges from Bodega Head, California north along the coast to Bristol Bay, Alaska, and westward to the Pribilof Islands. Eulachon are anadromous. After three to six years at sea, they return as adults to spawn. As the spawning season approaches, eulachon gather in 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. 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 to grow to maturity. After spawning, the majority of eulachon die (Hart 1973; Morrow 1980; ADF&G 2008).

In recent times, in the Pacific Northwest, eulachon were caught in vast quantities in both subsistence and commercial fisheries, with commercial hauls often exceeding 1,000 metric tons a year from the Columbia River. This occurred until the early 1990s when eulachon abundance collapsed, leading to the listing of the southern distinct population segment of eulachon as threatened under the U.S. Endangered

Species Act (ESA) in 2010. Eulachon stocks within British Columbia have also been under review by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) to assess their conservation status. At this point, the Fraser River and the Central Coastal Area rivers have been ruled as endangered, while the Nass/Skeena's ruling of threatened is being re-reviewed by COSEWIC (Flannery et al 2009; Levesque and Therriault 2011; Therriault 2012).

In Alaska, eulachon have not been similarly exploited, though they are a popular subsistence and personal use fishery. An ESA ruling has not been proposed for Alaskan eulachon, whose biomass has seemed to increase, but the collapse of the Behm Canal (the Unuk River drains into Behm Canal) eulachon run illustrates that Alaska eulachon are not immune to local perturbations. Though the cause of the Behm Canal crash is not clear, local managers believe the cause of the collapse may be from years of overfishing.

In Alaska, eulachon exhibit a low degree of broad geographic scale genetic population structure. This structure is largely explained by two regional groups, with collections from the Yakutat Forelands, Prince William Sound, and Cook Inlet forming a northern region and collections from upper Lynn Canal, Berners Bay, Stikine Strait, and Behm Canal forming a southern region. The regions are similarly structured, without any difference in levels of divergence, whereas the level of divergence between regions is four times greater. There is a significant correlation between genetic and geographic distance, suggesting that gene flow is geographically restricted (Flannery et al. 2009).

Eulachon population levels in the Unuk River were monitored by the USFS from 2001–2007. In 2008, a three-year eulachon stock assessment project (OSM08-607) was funded by the Fisheries Resource Monitoring Program to continue monitoring eulachon returns to the Unuk River. The results of these monitoring studies indicate that almost no eulachon returned to spawn in the Unuk River from 2004 through 2010. Upon completion of the project USFS personnel resumed monitoring efforts on the Unuk River. Since 2011, eulachon have been documented returning back to the Unuk River, however actual run strength is unknown.

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 still important as a personal use and subsistence species. Eulachon are taken with dip nets, gillnets, and seines. Although most of the harvest is typically frozen, dried, or smoked for human consumption, some harvest in Alaska is for eulachon grease production. Eulachon have been harvested commercially and sold for human consumption, and as food fishes for captive sea mammals (ADF&G 2008).

Several British Columbia First Nations have witnessed major declines in their eulachon runs and some have expressed concern that the declines are related to the use of newer fishing technologies. For example, a few Nuxalk interview participants expressed concerns regarding seine nets which were introduced to the Bella Coola eulachon fishery during the 1970s which would later collapse in 1999. The seine net also replaced the traditional conical net in the Klinaklini River and Knight Inlet during the mid-1950s. Today, however, some families of Knight Inlet have returned to the traditional conical net, as this gear is thought to capture eulachon less destructively. Some Nuxalk fishers believe the lead line of the seine net scrapes and kills recently deposited eggs when it is dragged across the river bottom (Moody 2008).

Sections 1C and 1D include the Burroughs Bay area (Unuk and Klahini Rivers) and Chickamin River, located approximately 68 miles 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 1969–1999, Unuk River eulachon were sold under State managed commercial fishery provisions which allowed dockside sales of eulachon where 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 harvests did not require a permit and harvest levels were never 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.).

Table 1. Harvests of eulachon from the Unuk River by fishery type, 1969–2012 (Walker 2010; Pappas 2010; US Forest Service 2010).

Year	Comm. Hvst (lbs)	No. of permits	State PU/subsist hvst (lbs)	No. of permits	Federal hvst (lbs)	No. of permits	Total hvst (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	closed	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	0	unknown	14,420	5	14,420
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
2011	0	closed	0	closed	0	closed	0
2012	0	closed	0	closed	0	closed	0

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. The majority of this harvest was taken with seine net gear. 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**) (US Forest Service 2010).

In 2011, eulachon were noted returning to the following waters of District 1: the Unuk River, the Wilson/Blossom Rivers, and to both the hydroelectric plant cove on the east side of Carroll Inlet and Carroll Creek at the head of the Inlet. Although the State and Federal fisheries were closed preseason on the Unuk (sections 1C and 1D), harvest did occur in both the Wilson/Blossom Rivers and from Carroll Inlet/Carroll Creek. Because of a lack of a permit requirement under both State and Federal regulations for these locations, the actual harvests are unknown. The majority of the Carroll Inlet harvest occurred in marine waters under State Personal Use regulations and is estimated at a minimum of 5,000 pounds based on observed harvest. Because of the surprise 2011 returns, State and Federal managers closed the entirety of District 1 in 2012. Eulachon did return again to both the Unuk and Carroll Inlet/Carroll Creek. There was no documented harvest in 2012 because of the pre-season closure.

Other Alternative(s) Considered

Rather than implementing a closure in regulation, the intent of this proposal could be addressed yearly via Special Action by the delegated in-season manager. Yearly closures, as needed, would not require Board action to resume subsistence fishing opportunity should eulachon returns improve in the area.

Although current regulations require a Federal subsistence fishing permit to take eulachon only from Sections 1C and 1D, expansion of this permit requirement could be taken to require a permit for the entirety of District 1. Expansion of the permit requirement would provide for additional conservation as eulachon do not necessarily home to a particular stream. An unexpected return of eulachon showed in Carroll Inlet in 2011 which is outside of Sections 1C and 1D where there is no permit requirement or harvest limit under both State and Federal regulations. Genetic analysis of the Carroll Inlet fish showed they genetically identical to those returning to the Unuk River. Action in 2012 closed the entirety of District 1 due to the unexpected return of eulachon into the Carroll Inlet area during 2011. Once again, in 2012, eulachon returned to the Carroll Inlet area.

Effects of the Proposal

If adopted, the proposal would prohibit the harvest of eulachon from any freshwater draining into Sections 1C and 1D. Should eulachon returns improve enough to allow for subsistence fishing opportunity, a Special Action Request or a regulatory proposal to open a subsistence fishery would need to be submitted to the Federal Subsistence Board. In accordance with the Board policy on closures, the closure would be reviewed by the Board no more than three years from establishment of the closure and at least every three years thereafter while the closure is in regulation.

Because of their nature to spawn in the lower portions of streams, eulachon may be available for harvest within inland water portions of streams under Federal jurisdiction, as well as the same portions of stream and in the adjacent marine waters falling under State jurisdiction. Due to the overlapping jurisdictions of these fishing areas, any management action must be coordinated with the State managers to be completely effective. Closing the area to all users could facilitate the development of future regulations necessary to

reopen the area if stocks recover, however, action on this proposal 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 not implement the closure in Federal regulation, but to expand the Federal subsistence fishing permit requirement from Sections 1C and 1D to include the entirety of fishing District 1.

The modified 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 **District 1.***

Justification

Although closing this area would provide clear direction that there will be no eulachon fishery allowed within Federal jurisdiction, local Tribal Governments and Federally qualified subsistence users have expressed a preference for yearly in-season action as needed by the delegated Federal manager rather than a closure by regulation. If Board action closed the area by regulation, action to re-open the area would have to occur through a Special Action Request or the regulatory proposal process to allow for resumption of subsistence fishing opportunity should the eulachon populations rebound to a level with a harvestable surplus.

Since 2011, eulachon have been returning to drainages within the District 1 area where fishing permits are not required under State or Federal Regulations. Expanding the permit requirement to the entirety of District 1 would provide accountability for eulachon harvests and could be used to design permit stipulations for eulachon conservation should subsistence fishing effort resume.

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Alaska Department of Fish and Game
Updated 11/30/2010 Comments to Federal Subsistence Board¹

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

Introduction: The Southeast Regional Advisory Council proposed to close federal subsistence fisheries for eulachon in all drainages of Sections 1-C and 1-D 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 and state subsistence users could not harvest eulachon in the drainages of Sections 1-C and 1-D until stocks rebuild and the fishery is reopened. In recent years, the federal and state fisheries for eulachon in Sections 1-C and 1-D have been closed to all users by special actions due to low returns.

Impact on Other Users: None noted at this time.

Opportunity Provided by State: The state commercial eulachon fisheries in Sections 1-C and 1-D have been closed by emergency order since 2001 due to conservation concerns. The state subsistence and personal use eulachon fisheries in Sections 1-C and 1-D have been closed 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. From 2001 to 2004, minimal eulachon returns to the Burroughs Bay and Behm Canal areas caused concerns that these stocks were at critical low levels. Returns in 2011 and 2012 increased in both of these sections and in Section 1-F, however it is unclear if moderate returns will continue or if stocks can handle even limited harvest. The personal use, commercial, and subsistence fisheries have been closed for several years to protect and rebuild these eulachon stocks. Stock status information for each of the above areas is limited, and a conservative approach is necessary for sustaining the health of these stocks.

Enforcement Issues: None noted at this time.

Jurisdiction Issues: While standing on state and private land (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.

Other Issues: Eulachon frequently mill in estuarial areas of a system, moving in and out of the water body with the tide. A fishery closure to all users in waters claimed under federal subsistence jurisdiction exposes participants in an open state fishery to enforcement actions by

¹ Source: USFWS (U. S. Fish and Wildlife Service). 2011. Federal Subsistence Board meeting: review of fisheries proposals January 18-20, 2011, discussion and develop approach to tribal consultation January 21, 2011. Office of Subsistence Management, Anchorage, AK, pp.253-254.

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federal officers. Determining exact locations of the mean high tide boundary of the Tongass National Forest would be challenging while fishing from a boat.

Recommendation: Support with modification to be “no federal season” for the harvest of eulachon in Sections 1-C and 1-D. 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 1-C and 1-D – 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 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 (i.e., below mean high tide).

FP09-05 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 and for another period of two years again in January of 2011. <i>Submitted by the Sitka Tribe of Alaska</i>
Proposed Regulation	<i>§ __.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.</i>
OSM Preliminary Conclusion	Oppose
Southeast Regional Council Recommendation	
Interagency Staff Committee Comments	
ADF&G Comments	Oppose
Written Public Comments	2 Oppose

DRAFT STAFF ANALYSIS FP09-05

ISSUES

Proposal FP09-05, submitted by the Sitka Tribe of Alaska, 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 and for another period of two years again in January of 2011.

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 subsistence users were unable to harvest the amount of herring spawn necessary for subsistence uses in 2005, 2007, 2008, 2011, and 2012 (Feldpausch 2012, pers. comm.).

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 consistently spawned in traditional subsistence areas. The proponent states that traditional ecological knowledge and local observation support that the commercial harvest of herring displaces subsistence users from traditional harvesting sites; disrupts herring spawning leading to poor quality deposition of herring eggs at traditional sites; causes herring to spawn away from subsistence sites; and may seriously reduce the biomass of spawning herring upon which subsistence users depend.

The commercial fishery precedes the subsistence fishery and is completed prior to the time subsistence users realize they are unable to harvest herring eggs. Therefore, in-season management to protect subsistence uses is impossible, which is the reason the proponent believes that a closure is necessary to ensure subsistence uses can continue in the Federal public waters.

Existing Federal Regulation

Under existing Federal regulations, all rural residents of Alaska are eligible to harvest herring and herring spawn from Federal public waters in southeast Alaska. There are no closed seasons, harvest limits or closed areas in regulation.

Proposed Federal Regulation

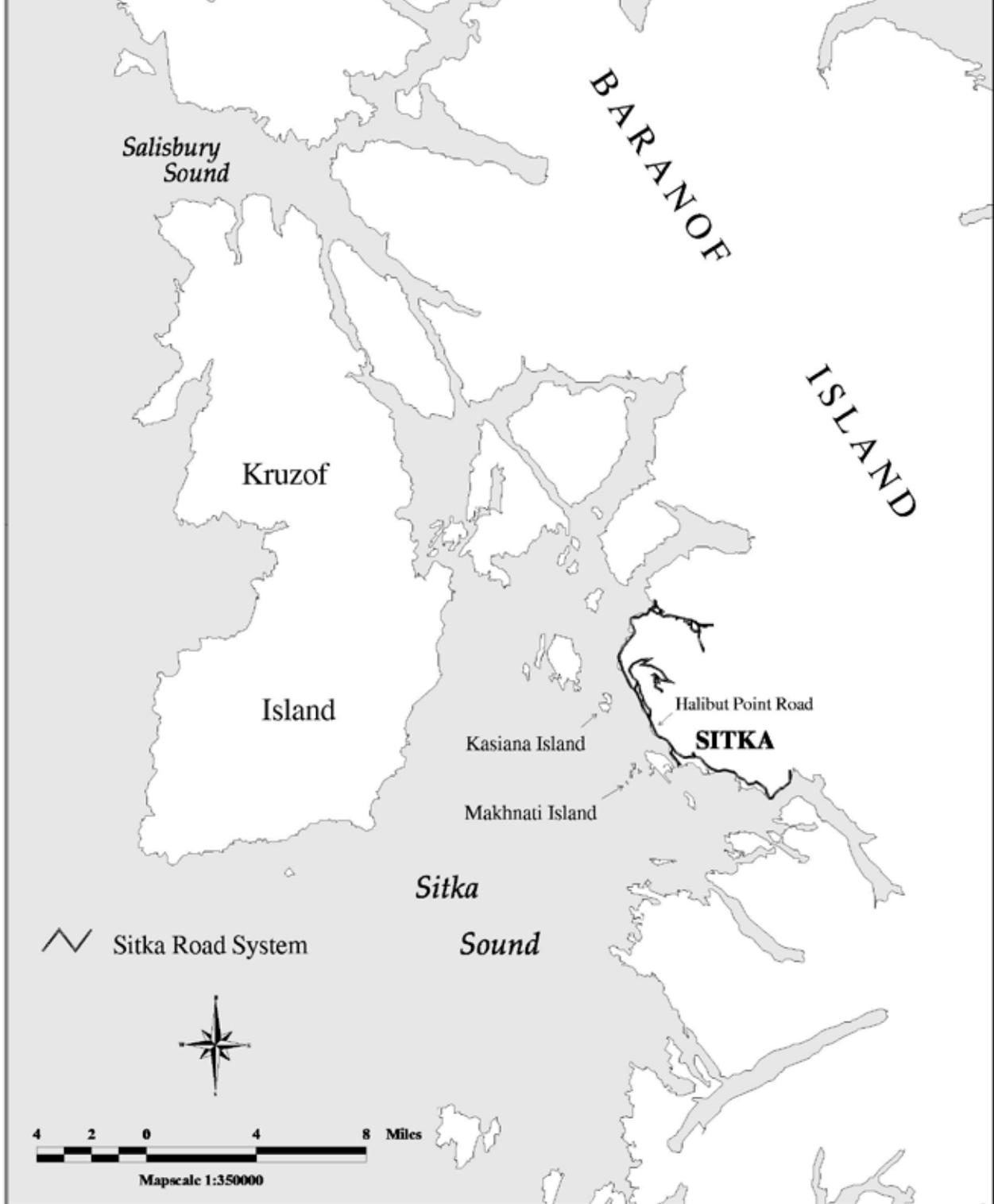
§ __.27(i)(13)(xxii) The Federal public waters in the Makhnati Island area, as defined in 36 CFR 242.3(b)(5) and 50 CFR §100.3(b)(5) are closed to the harvest of herring and herring spawn except for subsistence harvests by Federally qualified subsistence users.

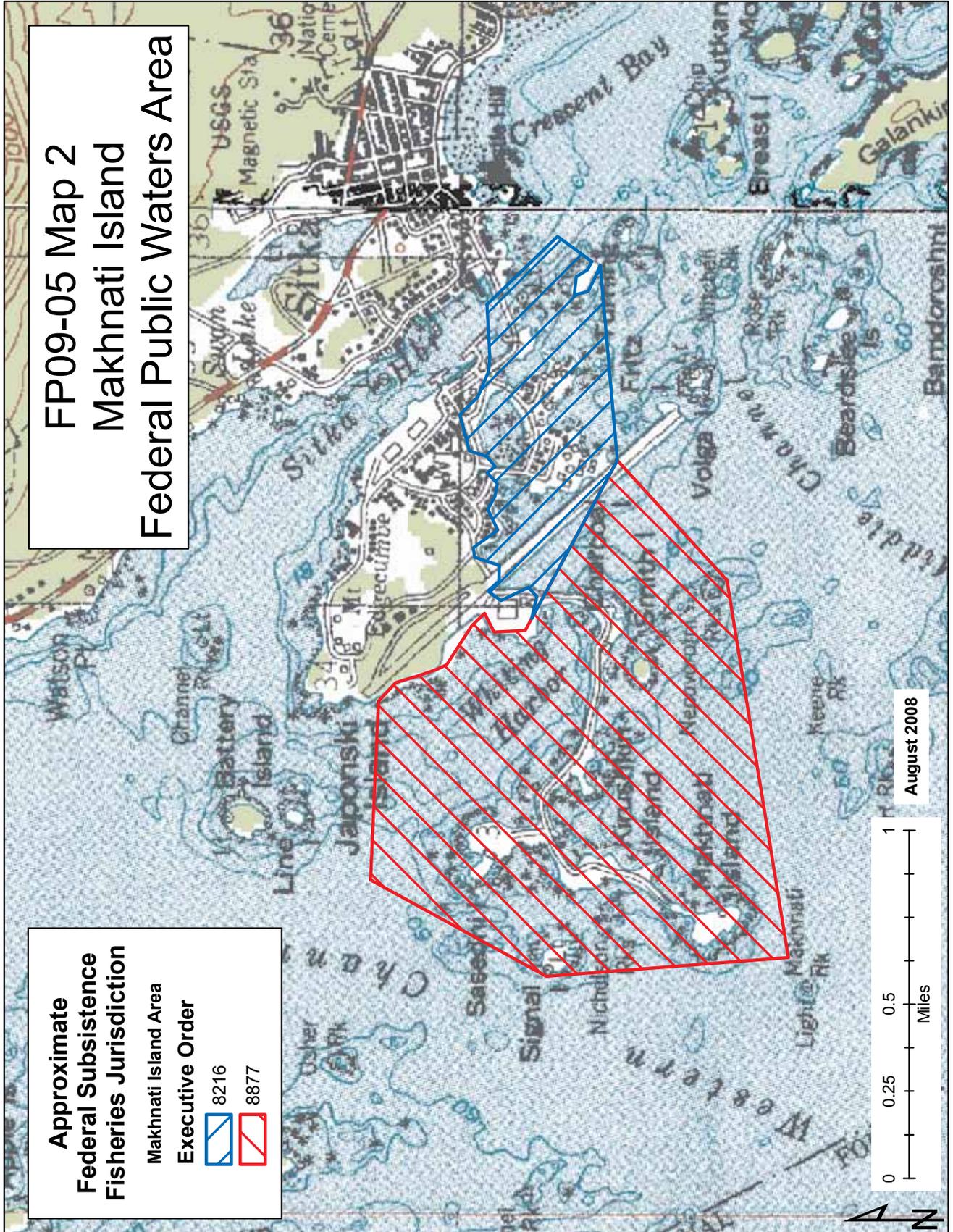
Extent of Federal Public Waters

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 Federal Waters area encompasses approximately 800 acres as described in two Executive Orders: EO 8877 (August 29, 1941), approximately 610 acres,

Proposal FP09-05

Map 1: Sitka Sound and Vicinity





**FP09-05 Map 2
Makhnati Island
Federal Public Waters Area**

**Approximate
Federal Subsistence
Fisheries Jurisdiction**

**Makhnati Island Area
Executive Order**

8216
8877

and EO 8216 (July 25, 1939), approximately 190 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 metes 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

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.

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 Sitka Tribe of Alaska. 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 adequate subsistence harvests of herring and herring spawn. The Board deferred action on proposal FP07-18 and took no action on FP07-19 (FSB 2007a). The Board asked the Council to form a subcommittee to recommend criteria which would govern decisions to open or close the commercial herring fishery in the Makhnati Federal public waters and possible alternate solutions. 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 are not met for two consecutive years (SESRAC 2007). In comparison, the State of Alaska's herring management plan used a threshold level of 20,000 tons, below which no commercial sac roe harvest would occur. The Board considered the Council's recommendation during a December 2007 public meeting as part of proposal 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 (FSA07-03) was received by the Board from the Sitka Tribe of Alaska requesting that the Federal public waters in the Makhnati Island area, as defined in 36 CFR 242.3(b)(5) and 50 CFR §100.3(b)(5), be closed to the harvest of herring and herring spawn except for subsistence harvests by Federally qualified subsistence users from March 24, 2008 through April 30, 2008. The Board responded by letter dated April 3, 2008. The Board informed the Sitka Tribe of Alaska that the commercial fishery was completed prior to the Board action and consequently the matter was moot.

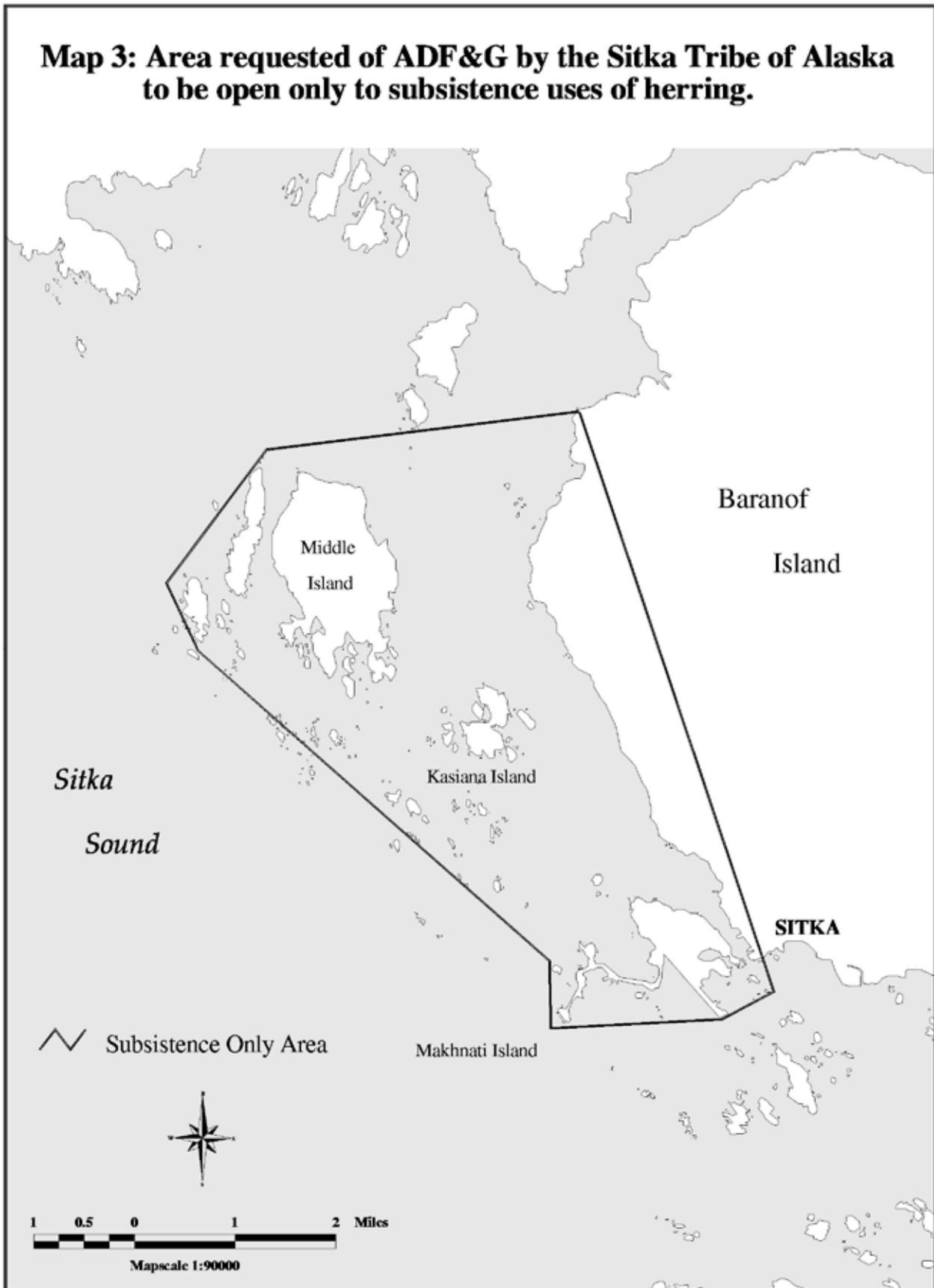
Also on March 25, 2008 a letter was received by the Secretaries of Agriculture and the Interior from the Sitka Tribe of Alaska requesting that they exert extra-territorial jurisdiction authority to close the commercial herring fishery in the area shown in **Map 3**. In a letter to the Sitka Tribe of Alaska, the Secretaries denied the Sitka Tribe of Alaska'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 Federally qualified users harvesting their desired amounts in the Makhnati Island Federal public waters."

In January of 2009 (FSB 2009) and again in January of 2011 (FSB 2011), the Board deferred proposal FP09-05 until no later than the next fisheries regulatory cycle.

Reasons for Board Deferral in 2009

In January of 2009, the Board deferred this proposal until the next fisheries cycle to allow s l the Alaska Board of Fisheries on to act on a variety of proposals that could change State regulations for the Sitka Sound herring fisheries and to obtain results from two projects.

One project , conducted by Heather Meuret-Woody of the Sitka Tribe of Alaska and Nate Bickford of the University of Great Falls, was an was based on the use trace chemical signatures of adult herring otoliths to identify discrete spawning areas within Sitka Sound (Meuret-Woody and Bickford 2009). The Board was particularly interested in whether herring spawning in Federal waters are a distinct population or stock. While the sampling strategy was very limited, the investigators detected a difference between adult herring in Salisbury Sound and Sitka Sound, but not among spawning herring within Sitka Sound ,which includes the Makhnati Federal public waters.



The other project, conducted by the Sitka Tribe of Alaska, was conducted to determine the amount of subsistence use of herring roe in the Federal Waters near Makhnati Island (Fisheries Resource Monitoring Program project 08-651, Makhnati Island Subsistence Herring Fishing Assessment).

Reasons for Board Deferral in 2011

Immediately prior to the Council meeting, the Sitka Tribe of Alaska submitted a letter to Federal Subsistence Board Chairman Mr. Tim Towarak dated September 21, 2010 requesting FP09-05 be deferred. The Sitka Tribe of Alaska cited three reasons for deferral.

1. The Sitka Tribe of Alaska was conducting a study, commissioned by the Bureau of Indian Affairs, of current herring management in Sitka Sound. However, this study has not been peer reviewed for publication and is not anticipated to be ready for review by the Council or by the Board before its January 2013 meeting (Feldpausch 2012, pers. comm.).
2. The Sitka Tribe of Alaska wanted results of project 08-651 to be available to the Council and Board.
3. The Sitka Tribe of Alaska had formed a Herring Planning Research Priority Group, and the work of that group is not anticipated to be ready for review by the Council or by the Board before its January 2013 Board (Feldpausch 2012, pers. comm.)

State Regulatory History

In response to a poor subsistence herring egg harvest in 2001, the Sitka Tribe of Alaska submitted a proposal to the Alaska Board of Fisheries in 2002. The proposal requested 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 and 13-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 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 Sitka Tribe of Alaska Chairman. The State and the Sitka Tribe of Alaska agreed to collaborate, communicate, and collect and share data (STA 2006). The Memorandum of Agreement contained provisions for in-season collaboration which included daily contact between the Sitka Tribe of Alaska and ADF&G and stipulated that the Sitka Tribe of Alaska would be consulted as to whether a proposed commercial opening might affect subsistence opportunity. If the Sitka Tribe of Alaska concluded there was a potential for the subsistence fishery to be adversely effected by a proposed opening, the Sitka Tribe of Alaska would provide this conclusion and reasoning to ADF&G verbally and in writing. A formal objection to a proposed opening did not necessarily result in a commercial closure, as ADF&G maintained discretion as to whether or not to open the commercial fishery. In June of 2009 the ADF&G sent a letter to Sitka Tribe

of Alaska withdrawing from the Memorandum of Agreement because of the perception that the Sitka Tribe of Alaska had access to information and input into decision making that was not readily available to the general public and other user groups.

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. Descriptions of those actions follow:

1. Section 13-A south of the latitude of Point Kakul (57°21.75' N. lat) in Salisbury Sound will formally be included in the Sitka Sound sac roe seine area [5AAC 27.110(b)(1)(d)].
2. The 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)].
3. The range of the amount of herring roe reasonably necessary for subsistence in Section 13-A and Section 13-B north of Aspid Cape was increased from 105,000–158,000 pounds to 136,000–227,000 pounds [5AAC 01.716(b)].

On February 28, 2012, the Alaska Board of Fisheries took action to define a subsistence only or non-commercial sac-roe zone in Sitka Sound that is north and west of the Eliason Harbor Breakwater and Makhnati Island causeway from the western most tip of Makhnati Island to the eastern most point on Belie Rock to the southern-most tip of Gagarin Island to a point on the eastern shore of Crow Island at 57° 6.430' W. longitude to a point on the western shore of Middle Island at 57° 6.407' N. Latitude 135°28.105' W. longitude to a point on the southeast shore of Middle Island at 57°5.557' North latitude 135°26.227' W. Longitude to the green day marker northeast of Kasiana island, to the Baranof Island shore at 57°5.258' North latitude, 135° 22.951' West longitude (**Figure 1**).

Biological Background

The following is excerpted from the ADF&G Wildlife Notebook Series (ADF&G 2000):

Pacific herring generally spawn during the spring. In Alaska, spawning is first observed in the southeastern archipelago during mid-March. Spawning is confined to shallow, vegetated areas in the intertidal and subtidal zones.

The eggs are adhesive, and survival is better for those eggs which stick to intertidal vegetation than for those which fall to the bottom. Milt released by the males drifts among the eggs and fertilizes them. The eggs hatch in about two weeks, depending on the temperature of the water.

Herring spawn every year after reaching sexual maturity at 3 or 4 years of age. The number of eggs varies with the age of the fish and averages 20,000 annually. Average life span for these fish is about 8 years in Southeast Alaska.

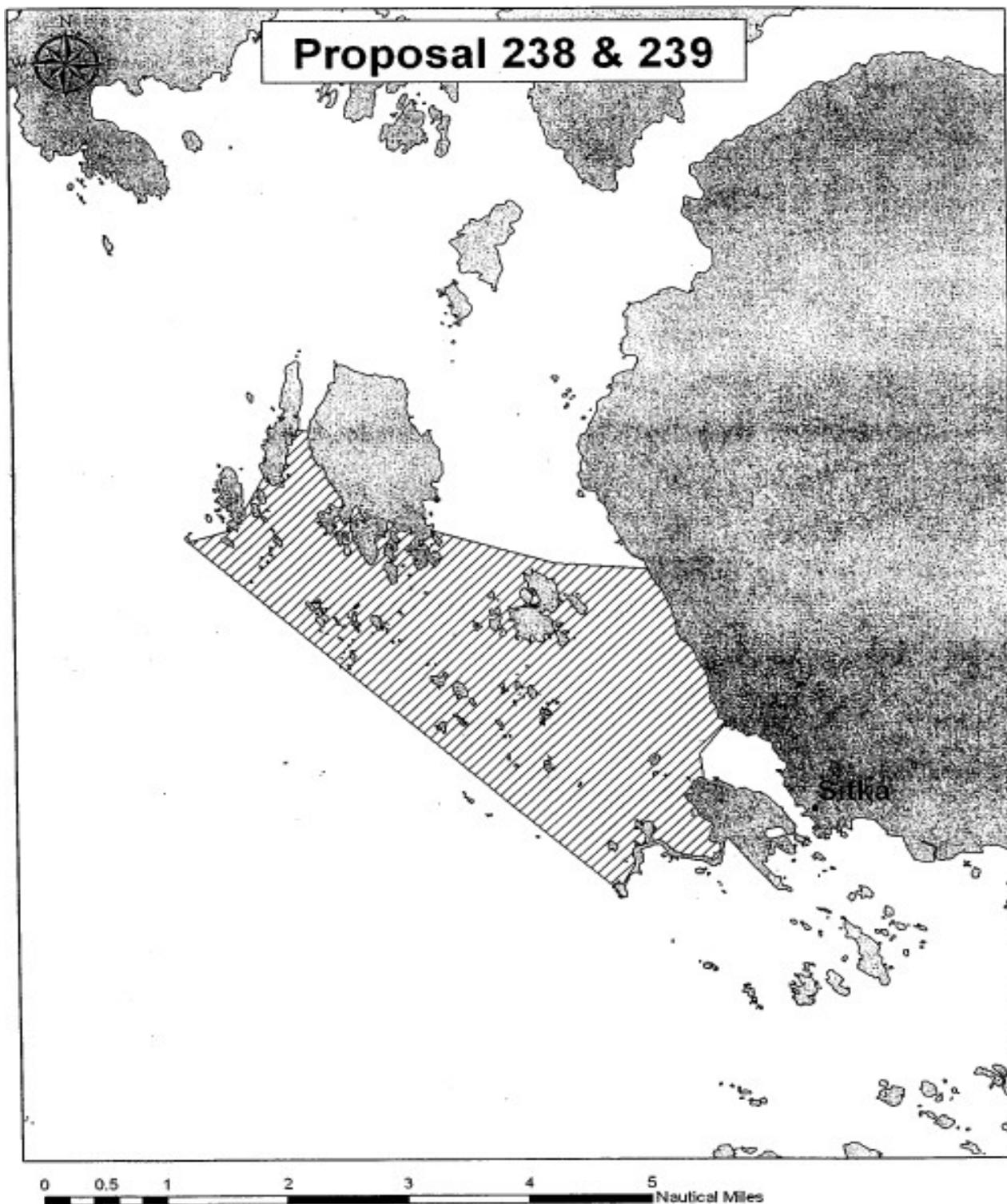


Figure 1. January 2012 Alaska Board of Fisheries action to create a non-commercial herring sac-roe fishery zone (indicated by diagonal lines) in Sitka Sound that includes part of the Makhnati Federal waters.

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 41 years of commercial fishing (**Figure 2**). The 2010 forecast estimate of herring biomass in the Sitka Area was estimated at 91,467 tons and the 2011 forecast was 97,449 tons. The 2012 forecast was the largest to date at 144,143 tons (Thynes et al., 2012).

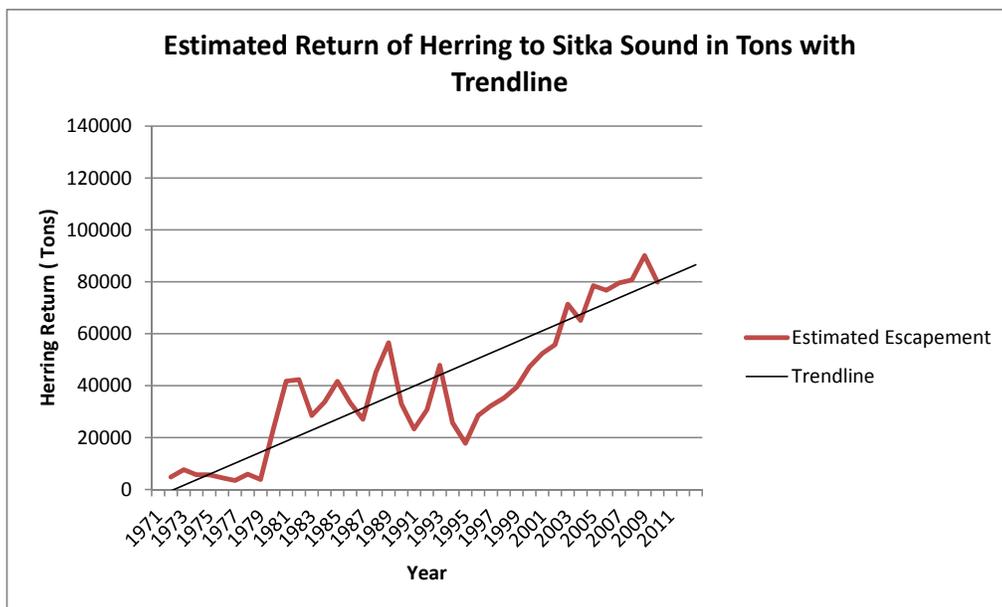


Figure 2. Trend line illustrating herring escapement in Sitka Sound from 1971 to 2011.

Harvest History

Subsistence Harvest Methods

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

Subsistence Harvest

The ADF&G Division of Subsistence conducted research on the subsistence harvest of herring eggs in Sitka Sound as part of household harvest surveys conducted in Sitka in 1997 (ADF&G 2003). At the January 2002 meeting, the Alaska Board of Fisheries requested that ADF&G Division of Subsistence work with the Sitka Tribe of Alaska and conduct harvest surveys for the Sitka Sound herring egg fishery. In 2002 and 2003, the ADF&G provided field survey and interview project support, and data analysis. The Sitka Tribe of Alaska, working with ADF&G staff conducted interviews in person with harvesters and provided harvest data to ADF&G for analysis in 2002 and 2003. Research conducted by ADF&G and the Sitka Tribe of Alaska in 2002 and 2003 produced harvest estimates of the total pounds of herring eggs-on-hemlock-branches and the total pounds of herring eggs harvested on *Macrocystis*, hair seaweed and other substrate. The Sitka Tribe of Alaska also collected harvest data from 2004 through 2008 (STA 2006 and Turek 2008). In 2008 the Fisheries Resource Monitoring Program funded project 08-651, Makhnati Island Subsistence Herring Fishing Assessment, to determine the total harvest of herring spawn from Federal public waters 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 2012, 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 2012, the observed spawn deposition was quite extensive in the traditional subsistence harvest areas (**Figure 3**).

For the available years of data (1997, 2002–2011), the average annual total harvest of eggs in Sitka Sound on all substrates was 168,471 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, 2008 and 2011 (Holen et al. 2011).

Table 1. Subsistence Harvest of Herring Roe on All Substrates, Sitka Sound (Coonradt 2012).

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	154,620
2011	83,443
2012	Pending
Average	168,471

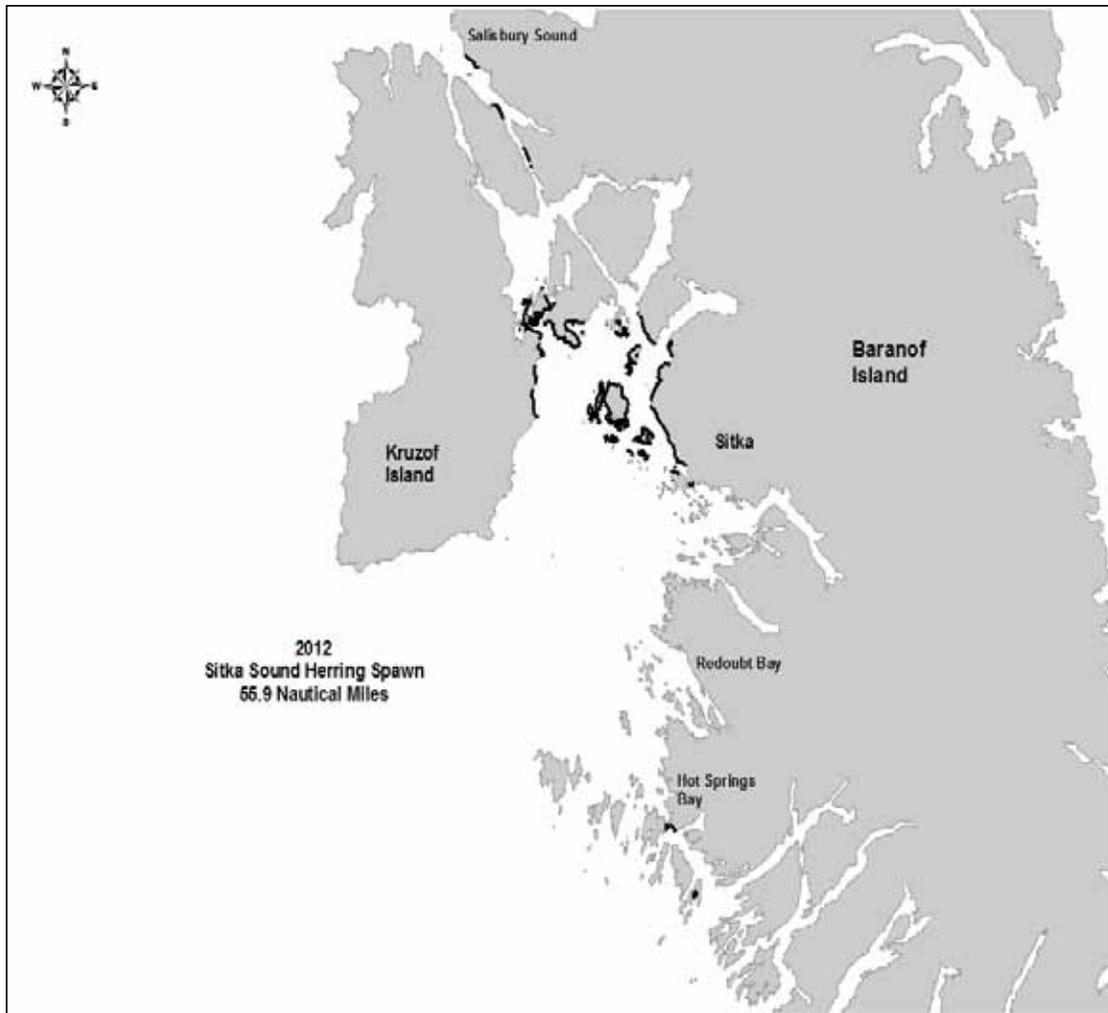


Figure 3. 2012 cumulative herring spawn in Sitka Sound. (Coonradt 2012)

Commercial Harvest

The following is excerpted from Woodby et al. (2005):

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

The Southeast Alaska Sac Roe Herring Fishery is managed by ADF&G under a management plan (Gordon et al 2010). **Table 2** displays the fisheries statistics for the Sitka Sound commercial sac roe herring fishery from 1971 through 2012 (Coonradt 2012).

The area where the commercial sac roe herring fishery occurs varies widely from year to year. From 1992 to 2012, the Federal public waters near Makhnati Island have made up part of the areas open to commercial sac roe herring fishing 7 out of 21 years (1993, 1999, 2001, 2003, 2005, 2006 and 2011). In 1993, the entire area was part of a larger area open to commercial fishing. In 1999, 2001 and 2005, only

Table 2. Sac Roe Herring Harvest and Herring Spawn Information, Sitka Sound (Coonradt 2012).

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	NA	3/24,3/27,3/30,4/2	2-Apr	87.7
2011	97,449	19,490	19,429	13.3	132,000	3/31,4/1,4/4,4/7,4/9	3-Apr	78.3
2012	144,143	28,829	10,795	11.8		3/31,4/2,4/7	31-Mar	55.9
Average								
1971-2012	40,625	6,606	6,839	10.8	40,941			49.7

* Pre-1980 Estimated Escapement based on either hydroacoustic surveys or applying a conversion of approximately 45

* 1980 to present estimated escapement from current year ASA model

the Whiting Harbor side (north side) was included and in 2003, 2006 and 2011 only the Nepovorotni side (south side) was included. In 2011, one commercial opening occurred in the southern portion of the Makhnati Federal public waters (**Figure 4**). In 2012, all commercial sac roe harvest occurred well north of the Makhnati Federal waters (**Figure 5**). 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. The most of the commercial harvest has been taken well away from Federal public waters and traditional subsistence harvest areas, yet adequate subsistence harvests were not obtained in 2005, 2007, 2008 and 2011.

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 State subsistence, sport or commercial harvest in Federal public waters.

Under ANILCA 815(3), 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 would not benefit subsistence users (FSB 2007b).

Federal fisheries managers have been delegated the authority to close or re-open Federal public waters to non-subsistence fishing. This delegation may be exercised only when it is necessary to conserve fish stocks or to continue subsistence uses. Although the ADF&G forecasts the herring biomass before the season starts, the actual return and spawning success of herring is not known until after the commercial and subsistence fisheries are completed. Therefore, Federal actions to close waters to non-Federal uses would only take place in years for which the herring biomass was forecasted to be below the threshold needed to support commercial uses. Otherwise, since the commercial fishery usually takes place well before the subsistence fishery, managers would usually not know that subsistence harvests were poor until long after the commercial fishery ended.

Adequate subsistence harvests were obtained in 2009 and 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 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.

The Alaska Board of Fisheries has taken several steps to improve harvest opportunities for subsistence users. In 2009, they 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 four times that amount. Second, they added Salisbury Sound to the commercial fishery area. However, this had little or no effect on subsistence users since no subsistence harvest of herring eggs occurs there. Third, they raised the Amounts Necessary for Subsistence range for the subsistence harvest of herring roe in recognition of

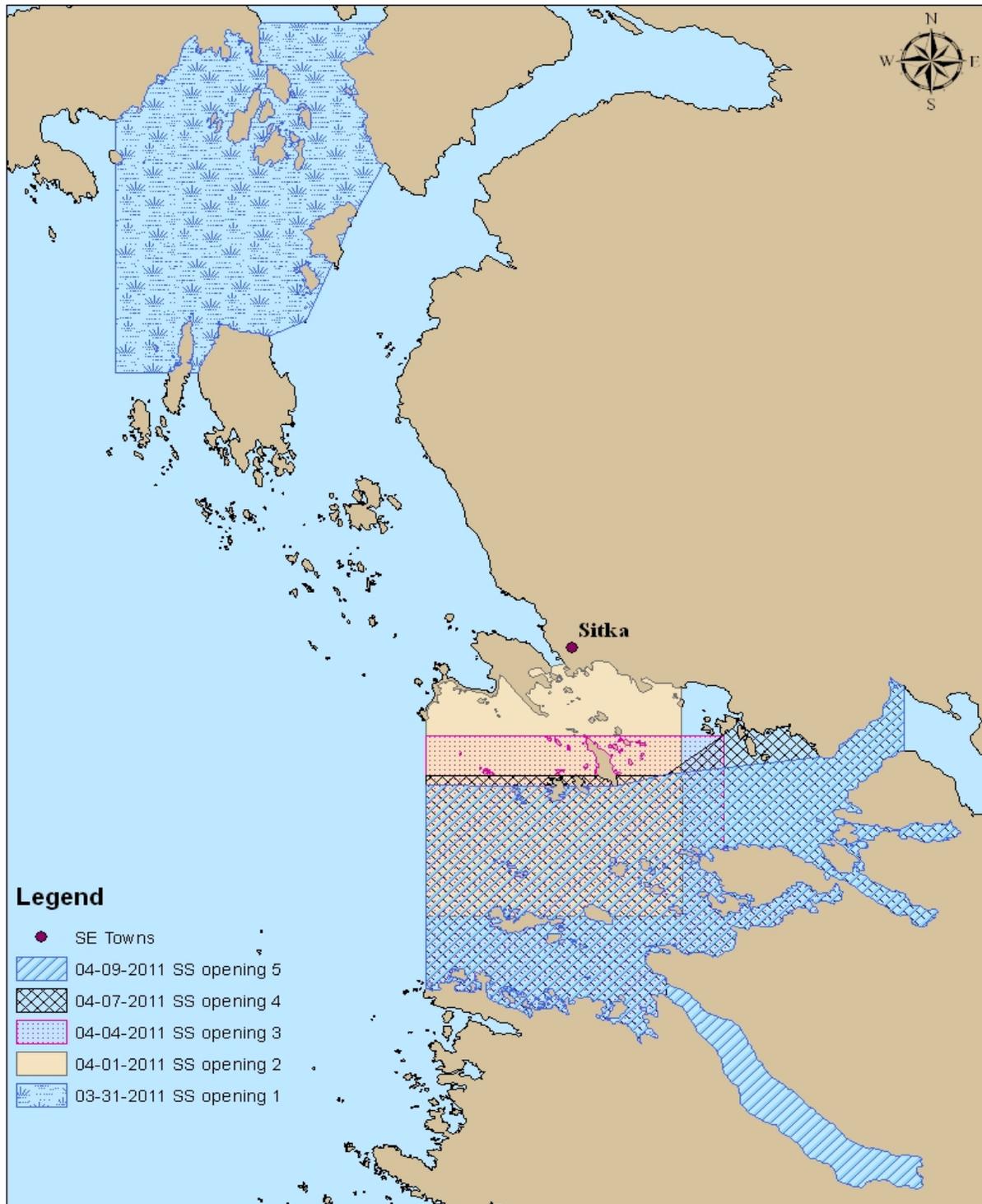


Figure 4. The second opening of the 2011 herring sac-roë fishery encompassing the southern portion of the Makhnati Federal public waters (Coonradt 2011).

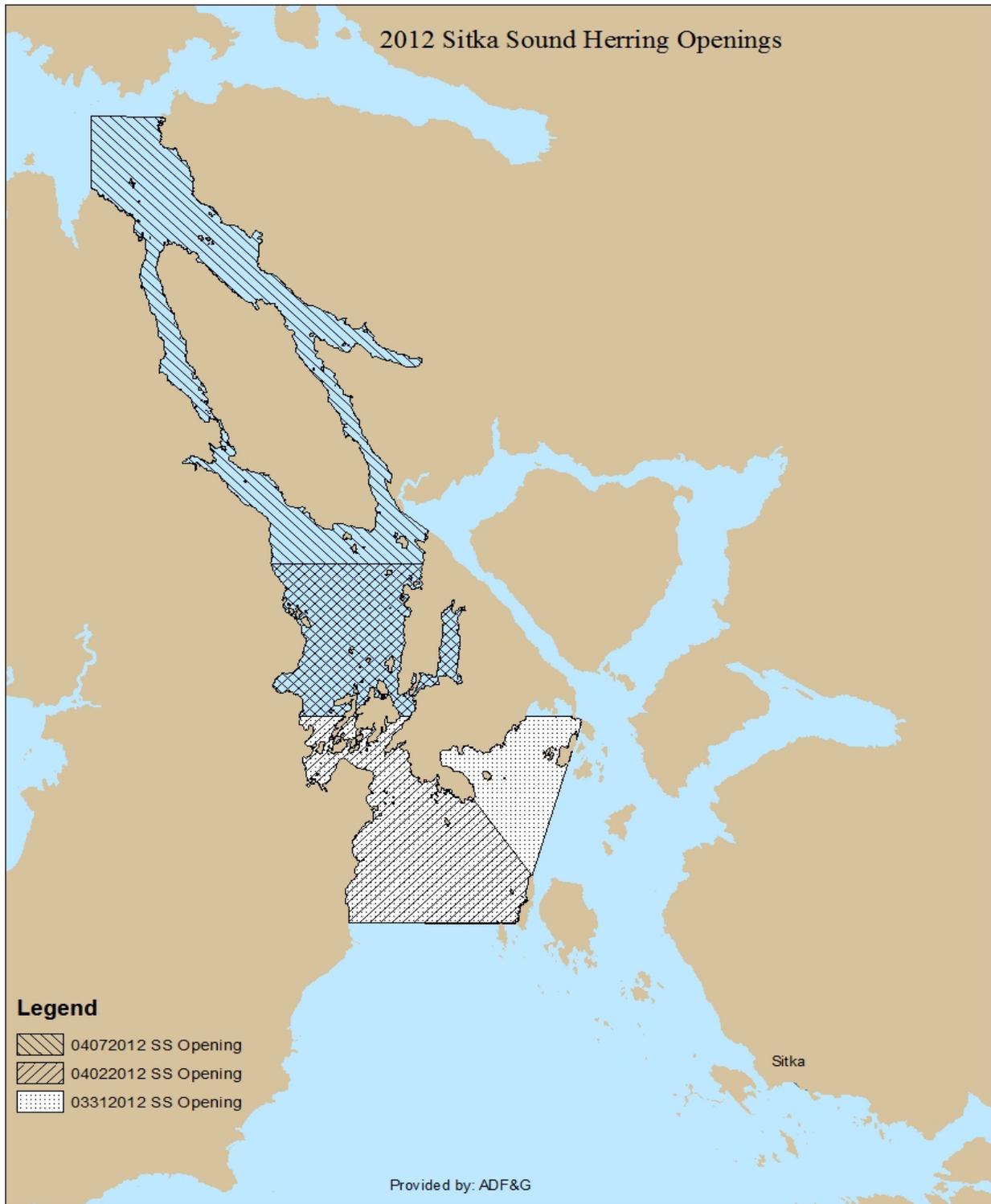


Figure 5. 2012 Sitka Sound commercial sac-roe herring openings (Coonradt 2012).

historical use, and the new amount better represents the needs of subsistence users. Lastly, in February of 2012, they set aside a sac-roe exclusion area that encompassed the northern portion of the Makhnati Federal public waters and included a large portion of the core subsistence areas near Kasiana, Crow and Middle Islands. While this area is smaller than the area requested by the Sitka Tribe of Alaska, it did set aside some of the most important waters for subsistence use. The Sitka Tribe of Alaska did not include the southern portion of the Federal Public waters in their request to the Alaska Board of Fisheries.

OSM PRELIMINARY CONCLUSION

Oppose Proposal FP09-05.

Justification

This proposal is similar to the proposal considered by the Board at its December 2007 meeting. At that time the Board determined there was no conservation concern in this area for herring and that closing Federal public waters to non-Federally qualified users would not benefit subsistence users. The biomass in Sitka Sound has been trending higher since 1971, and the greatest estimated biomass occurred in 2011.

No commercial harvest has occurred in Federal public waters from 2007 through 2010 or in 2012. Most of the commercial harvest has been taken well away from Federal public waters and traditional subsistence harvest areas, and there have been no restrictions on subsistence uses.

In years when subsistence harvests were not adequate it is unlikely that a closure to other users in the Makhnati Federal Public waters would have made a difference.

Recent actions by the Alaska Board of Fisheries have created a non-commercial sac-roe fishing zone that protects subsistence uses in the more productive portions of the Makhnati Federal Public waters.

Adoption of this proposal would result in further area closures to non-Federally qualified users, which do not appear to be needed for either conservation purposes or to protect Federally qualified uses.

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Alaska Department of Fish and Game
Updated 11/30/2010 Comments to Federal Subsistence Board¹

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

Introduction: Proposal FP09-05² 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 2012, the Alaska Board of Fisheries adopted regulations closing a large area of Sitka Sound to commercial herring harvest for the purpose of providing for subsistence opportunity. This closure area includes about half of the Makhnati Island Federal public waters and also includes areas of Sitka Sound more heavily used by subsistence harvesters than the Makhnati federal waters. The total area closed by the Alaska Board of Fisheries is approximately 25 square kilometers compared to the 3 square kilometers of the Makhnati federal waters (see attached map). There is no new information provided that would support the proposed closure.³

Impact on Subsistence Users: The proposed closure would prohibit subsistence and sport harvest in this area by non-federally qualified individuals. A closure in this small area (3 square kilometers) would have little or no impact on the total subsistence, sport, or commercial harvests.

Impact on Other Users: None noted at this time.

Opportunity Provided by State: For the majority of subsistence herring egg harvest, the department does not restrict fishing periods, seasons, or amount 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. The Alaska Board of Fisheries, in February 2012, closed approximately 25 square kilometers of Sitka Sound to the commercial harvest of herring for the purpose of providing for subsistence herring egg harvesting opportunity. This closure encompasses areas most heavily used by subsistence harvesters and includes a portion of the Makhnati federal public waters north of the causeway. 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 results of this monitoring program have indicated little subsistence harvesting effort occurs in the Makhnati federal waters.

¹ Source: USFWS (U. S. Fish and Wildlife Service). 2011. Federal Subsistence Board meeting: review of fisheries proposals January 18-20, 2011, discussion and develop approach to tribal consultation January 21, 2011. Office of Subsistence Management, Anchorage, AK, pp.272-274.

² 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.

³ 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).

ADF&G Comments on FP09-05
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The Alaska Board of Fisheries found that 136,000 to 227,000 pounds of herring spawn is the amount reasonably necessary for subsistence uses in Sections 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 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 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 Island area. From 1979 through present, the Sitka Sound herring resource has been above the current 25,000 ton threshold every year, with only one exception, and the run has averaged 105,000 tons per season in the ten-year period (2002-2011). 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 12-20 percent of total mature spawning biomass. This is a time-proven strategy that provides for conservation benefits above the threshold level and harvest rate, especially given the highly variable nature of herring spawning behavior.

Enforcement Issues: None noted at this time.

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 Subsistence 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, and 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.

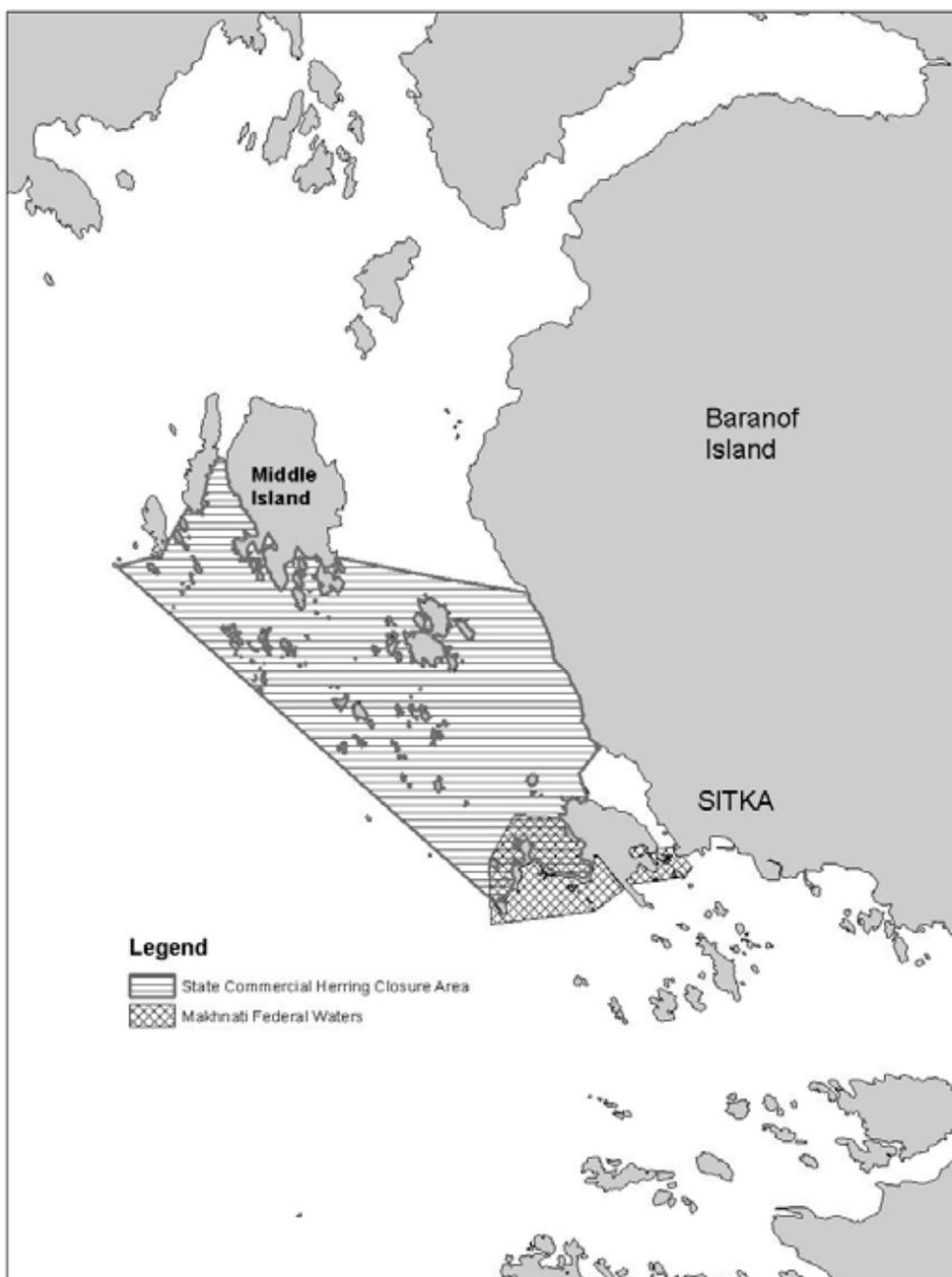
Other Issues: Herring biomass in Sitka Sound has shown a long-term increase and is considered healthy. The State closure applies only to the commercial harvest of herring allowing the continued use of this area by non-federally qualified subsistence, personal use and sport harvesters.

The 2012 herring biomass forecast was 144,143 tons and the commercial guideline harvest level was 28,829 tons. The commercial harvest in 2012 was 13,215 tons taken during 3 openings. The spawning biomass after the 2012 fishery, as estimated by spawn deposition surveys, is not available at this time, though the observed spawn indicated that the return of spawning herring to Sitka Sound was substantially less than forecast. In 2012, the total shoreline mapped with

ADF&G Comments on FP09-05
 August 13, 2012, Page 3 of 3

herring spawn was 55.9 nautical miles. The average spawn mileage for the period of 1979-2011 is 58.8 nautical miles.

Recommendation: Oppose.



Map of commercial herring closure area adopted by the Alaska Board of Fisheries (2012) and the Makhnati federal public waters.

WRITTEN PUBLIC COMMENTS

Oppose adoption of Proposal FP09-05. Southeast Herring Conservation Alliance (SHCA) represents Sitka Sound Sac Roe permit holders, crew members, tender operators and pilots. SHCA opposes Proposal FP09-05 requesting the closure to non-federal users of the marine waters near Makhnati Island and Whiting Harbor.

In March 2012, the State of Alaska Board of Fish closed an area in Whiting Harbor and near Makhnati Island to commercial fishing to recognize subsistence users. Half of the area requested in proposal FP09-05 is now closed due to the 2012 Board of Fish action. In addition, the BOF closed a much larger area that is contiguous with the area requested in the federal subsistence proposal. This area continues north along Kasiana and Middle Islands, where much of the subsistence herring egg harvest occurs. Additional area is not necessary at this time to provide for a subsistence priority.

Furthermore, the Makhnati area is not where herring spawn in most years and closing it could have a detrimental effect on subsistence harvest by shifting fishing effort toward more important and heavily used subsistence harvest beaches. Currently ADF&G manages the fishery in such a way to conduct openings away from the 'Core Area' for subsistence and Makhnati is not in the Core Area.

The Sitka Sound herring stock remains healthy and robust. Herring stocks throughout southeast Alaska behaved abnormally in 2012. It remains to be seen what the sampling data will reveal about the populations.

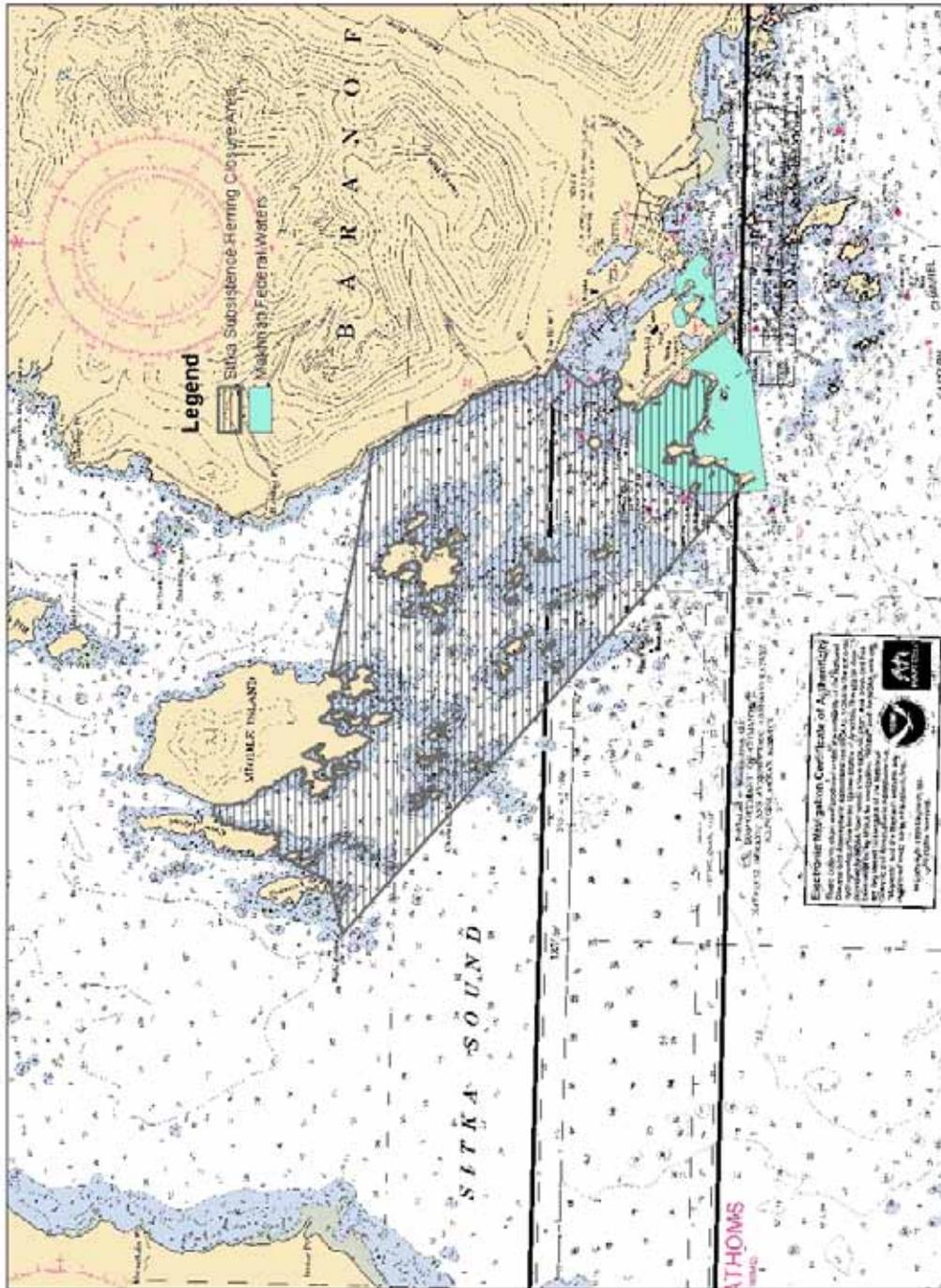
Subsistence needs are being met as evidenced by delivery of herring eggs to the dock in Sitka during 2009, 2010, and 2012 seasons when some 30,000 lbs of weighed and measured herring eggs were provided. Eggs were provided each year until community members stopped coming to the dock. Eggs were provided to supplement what individual harvesters provided on their own, or to people who could not harvest for themselves. Herring eggs on hemlock branches were distributed to anyone that wanted them and it was truly a joyous community event for five continuous days each year.

We agree with ADF&G's comments of December 2, 2008 and updated on August 31, 2010, pages 122 – 124 in the FSB proposal comment document. No information has been provided that justifies closing the Makhnati Island area; and therefore the proposal should remain withdrawn and no changes made to the federal waters.

Southeast Herring Conservation Alliance

Oppose. Southeast Alaska Fishermen's Alliance continues to oppose this proposal. The State of Alaska Board of Fish took action during the winter of 2011–2012 and closed an area to commercial fishing for the use by subsistence users. Approximately ½ of the area requested in the federal subsistence proposal was closed as well as substantially more area where subsistence fishermen testified as to fishing. Additional area is not necessary at this time to provide for a subsistence priority. Attached is a map showing the area closed by the Board of Fish compared to the area requested in this proposal.

*Kathy Hansen, Executive Director
Southeast Alaska Fishermen's Alliance*



Briefing for Regional Advisory Councils – Fall Cycle, 2012

on

Draft Memorandum of Understanding for Coordinated Interagency Fish and Wildlife Management for Subsistence Uses on Federal Public Lands in Alaska

One of the action items resulting from the 2009 Federal Subsistence Program review initiated by Secretary of the Interior, Ken Salazar, was to “Review, with Regional Advisory Council (RAC) input, the December 2008 Memorandum of Understanding (MOU) with the State to determine either the need for the MOU or the need for potential changes to clarify federal authorities in regard to the subsistence program.”

The 2008 MOU was distributed to the RACs during the winter 2011 meetings with a request for their comment. A summary document of all comments received is attached. The Federal Subsistence Board requested that a State/Federal Working Group be formed to review the comments and provide recommendations for changes to the MOU.

State and Federal MOU working group members¹ met twice over the winter 2012 to review the Regional Advisory Council (RAC) and other comments received, and develop proposed modifications to the 2008 MOU.

A revised version has been prepared for review which includes notes providing rationale for each recommended change (attached). On July 18, 2012, the Federal Subsistence Board approved the draft MOU for comment by Regional Advisory Councils, State Advisory Committees and the public, and for consultation with Tribes and ANCSA Corporations.

Some of the noteworthy modifications to this document are discussed here:

GENERAL CHANGES

1. *Plain language:* Several Councils requested that plain language be used wherever possible. A few changes were made in response as indicated in the document. We would appreciate if Councils can suggest additional such changes.
2. *Reordering:* The MOU is reformatted to consistently place Federal language before State language as this MOU focuses on the Federal Subsistence Program and Federal public lands. This partially addresses multiple Councils’ concerns about the tone of the MOU.
3. *Glossary and definition of terms:* Rather than creating a glossary or defining terms we have spelled out text fully and tried to use plain language.

¹ Working Group Members: State: Jennifer Yuhas – ADF&G; Federal: Pete Probasco – OSM, Sandy Rabinowitch – NPS, Jerry Berg – FWS, and Steve Kessler – USFS.

SOME SPECIFIC CHANGES

4. *Traditional Ecological Knowledge (TEK)*: Multiple Councils wanted TEK added wherever “scientific information” was used. We have responded by adopting the ANILCA terminology knowledge of “customary and traditional uses” in a number of areas because it provides clarity and is consistent with ANILCA.
5. *Predator management*: There were a number of comments specific to active management and its application to the Federal program. We interpreted this as a desire by some RACs to have the Federal program involved in predator management. We added to the MOU a section that quotes from the Board’s Predator Management Policy (III, #2).
6. *State Management Plans*: The current MOU states that State fish and wildlife management plans will be used as the initial basis for management actions. This has been changed as shown in IV, #11, to use Federal, State and cooperative plans.
7. *Evaluate MOU*: The Southeast RAC requested a way to evaluate whether the MOU is accomplishing its goals. Language has been added specifically recognizing an annual opportunity for RACs and ACs to comment on how the MOU is working and for those comments to be provided to and be considered by the signatories. (See V, #8.) (Note commitment for future action)
8. *Protocol Review*: Multiple Councils asked that existing protocols be reviewed and updated. The intent is to follow up with review of these protocols after adoption of this updated MOU. (Note commitment for future action)

The following schedule is proposed to complete and sign the revised MOU

Proposed Schedule

June-July 2012	Revised version is provided to the Federal Subsistence Board and State for review/approval to move forward with RAC and AC review. FSB approval occurred on July 18, 2012.
August-October 2012	RACs and ACs review and provide comments. Tribes / ANCSA Corporations are invited to consult on the revised version at Council meetings or by special request to OSM. At least one Federal MOU working group member participates in each RAC meeting to dialogue about the revised draft. Attendance is in-person if possible and otherwise by conference call.
November 2012	Federal & State MOU working group addresses comments received. MOU working group develops list of remaining issues.
November-December	Signatories (FSB / State) each meet with their respective agency staff to discuss the revised version and issues, if any; sends comments to the MOU working group.

Memorandum of Understanding

- November-December MOU working group meets to resolve signatories' issues, if any, based on direction from their signatories.
- January 22-24, 2013 Federal Subsistence Board public meeting and final Tribal/ANCSA Corporation consultation. Signatories (FSB, BOG, BOF, and ADF&G) meet to work out final details and agree to sign revised MOU. This meeting also serves as the annual MOU meeting.

ACTION: Please develop and provide to the Board and Working Group your Regional Advisory Council comments concerning this DRAFT revised MOU. If the public, Tribes, or ANCSA Corporations wish to provide comments for your consideration, please allow for that during the time on your agenda for this topic. Thank you!

SUMMARY OF WINTER 2011 COUNCIL COMMENTS ON THE MEMORANDUM OF UNDERSTANDING

The **Seward Peninsula Council** supported the current wording of the MOU. Consistent with the MOU, the Council voted to send a letter to ADF&G asking that a check-box be added on the State harvest tag/ registration permit report forms for hunters to specify if they were hunting under Federal subsistence regulations.

The **Western Interior Council** supported the MOU in concept, and also recommended that the following language be incorporated into the preamble of an amended MOU:

ANILCA, Title VIII requires the Federal land managers to adhere fish and wildlife management consistent with sound management principles, and the conservation of healthy populations of fish and wildlife in accordance with recognized scientific principles and the purposes for each unit established. The Federal managers shall scientifically delineate and maintain healthy populations. If state management Boards actions jeopardize fish or wildlife population health, Federal managers shall preempt State regulations to assure population health in accordance with ANILCA to protect subsistence uses.

The **Eastern Interior Council** supported the MOU in concept. Several members expressed frustration regarding the lack of sharing of data between agencies. The Council asked that this concern be expressed to the Federal Board.

The **North Slope Council** was supportive of the MOU and felt that it is a valuable document. It also recommended the following changes:

Section I, paragraph 2: Change “such as” to “*especially.*”

Wording needs to be added throughout the MOU wherever it says who is involved in the MOU to include “*knowledgeable subsistence uses and/or tribal representatives.*” For example, the following edit should be made:

Section IV, number 9: To designate liaisons for policy communications and, as appropriate, to identify *tribal and/or* local agency representatives who are knowledgeable about subsistence uses....

The **Yukon Kuskokwim Delta Council** requested that the MOU be written in plain language so that people who speak English as a second language can understand it better. The specific guidance for edits was as follows:

Section III. Guiding principle, number 5: After the end of the principle, after “and,” add: “*through active management where conservation of the resource or continuation of subsistence uses is of immediate concern, reviews shall not delay timely management action.*”

Section IV, number 9, addition in italics: “To designate liaisons for policy communications and, as appropriate, to identify *tribal and/or* local agency representatives...”. The point the Council wanted to make was that tribes should be communicated with and not city offices. Several commenters said that tribal governments are more active in fish and wildlife management issues than the village corporations or city governments. Tribal governments have more influence on the Federal process than city governments. City governments know what the State wants them to do and are reluctant to be involved in Tribal affairs.

Section IV, number 10: The Council focused some discussion on this portion: “...*provide advance notice to Council and/or State Advisory Committee representatives. . . before issuing special actions or emergency orders.*” Council members noted that they do not hear about changes to regulations. They would like to make sure that Council members and State Advisory Committee members are told when there are special actions or emergency orders. No change in the MOU was suggested. This had to do with informing after special actions and emergency orders were implemented.

Section IV, number 12: “...reporting systems”. Council members noted there is a problem with relying on locals reporting harvests using the harvest ticket system. They always run out of harvest tickets and don’t receive enough. It was suggested that harvest tickets should be distributed through the Tribal council or city office and not the store. Chairman Lester Wilde reminded people that harvest tickets are good until June of the next year; harvest tickets are good all throughout the fall and winter seasons.

The **Bristol Bay Council** is pleased with the MOU and asked that the State and Federal governments work together whenever there are subsistence concerns. The Council supported the MOU with the following edits and additions:

III. Guiding Principles

(1) ... other entities. *This includes keeping an open mind to the possibility of and implementation of predator control when the conservation of a particular species is in peril;*

(2) Use best available ...and local traditional *and ecological* knowledge (*TEK*) for decisions...for subsistence use on *harvests* on Federal Public Lands.

IV. The FSB and State of Alaska Mutually agree:

(2) To recognize that State and Federal...data and information and cultural *TEK* information are important...

(9) To designate.to identify *Tribal and/or* local agency...

The **Southcentral Council** supported the MOU in principle, but had a number of comments. The Council agreed that the two programs (ADF&G, and FSMP) need to coordinate because both have different mandates. Additional revisions recommended by the Council included strengthening the Tribal consultation component, ensuring that the third paragraph in Section IV is clear that it only references the State Program (and not that the Federal Program is agreeing to that mandate) and suggesting that *TEK* be added as an important source of information whenever biological information is mentioned. The Council also suggested that Federal terms AND State terms be included in the MOU (i.e., harvestable surplus is a State term). The Council is interested in getting feedback once the MOU is revised.

The **Northwest Arctic Council** generally supported the concept of the MOU. Several members expressed concerns about what is actually stated in the MOU. The Council would like to see the MOU written in plain language so it can be easily understood. Some of the members expressed concerns that the MOU was not vetted through the Councils and there was no consultation with the affected users. There was only one specific comment on language found in the MOU. One member felt that the second paragraph in the Preamble was misleading:

WHEREAS, ...”subject to preferences among beneficial uses, such as providing a priority for subsistence harvest and use of fish and wildlife...”.

The Council member felt that the State manages resources providing for equal access to everyone, not any one group and especially not subsistence users.

Kodiak Aleutians Council supports the idea of the MOU, as it reduces redundancy and includes local input as possible. The MOU basically states that the State and Federal Programs will try and work things out and cause the least adverse impact possible to subsistence users, which the Council supports. One Council member stated that she wasn't sure how the MOU addresses the Unimak issue, but that overall it is a good idea to continue to work together.

The **Southeast Council** drafted a letter to the Board concerning this issue. The Council agrees that an agreement describing communication and coordination protocols between Federal and State governments and supporting agencies is required for effective management of fish and wildlife resources. The Council had the following general comments and concerns: that the MOU is unnecessarily difficult to understand and should be rewritten in plain language; that there has been testimony that the information sharing protocol has not been working as intended and that document should also be reviewed; that information vital for management of fish and wildlife is more than scientific data- the role of traditional ecological knowledge needs to be emphasized; that the wording and tone of the agreement appears to highlight the role of the State in how the Board manages subsistence and minimize the role of the Councils; that there needs to be a process to evaluate and monitor whether the "Purposes" and Guiding Principles" of cooperation are working to the advantage of subsistence users and that there needs to be a process to monitor and evaluate how the information sharing protocol is working.

The Council had the following specific recommendations:

Section IV, Paragraph 3: Delete the reference to Alaska Statute 16.05.258 in the last sentence. The Federal program is concerned with providing a priority for rural residents. That is the paramount distinction between the State and Federal management programs and should be made clear in this section. The Council rejects the reasonable opportunity standard specified in the State statute.

Section IV, Paragraph 11: delete the second sentence that begins "Consider State fish..." There is no need to incorporate State rules unnecessarily into the Federal program. If there is need to adopt a management plan or policy, it should be considered rulemaking and be subject to our regular public process. The standards for addressing subsistence needs and priority are different under State and Federal rules so it is impossible for the Board to commit to providing for subsistence priority under both Federal and State law.

MOU draft for comment, approved for distribution by FSB on 7-18-12

MEMORANDUM OF UNDERSTANDING

For

Coordinated Interagency Fish and Wildlife Management for Subsistence Uses on Federal Public Lands in Alaska

between the

Federal Subsistence Board

(U.S. Fish and Wildlife Service, U.S. Forest Service, National Park Service, Bureau of Land Management, Bureau of Indian Affairs, and Secretarial ~~appointed Chair~~Appointees)

and

State of Alaska

(Alaska Department of Fish and Game (ADF&G) and Alaska Board of Fisheries and Alaska Board of Game (State Boards))

I. PREAMBLE

This Memorandum of Understanding (MOU) between the Federal Subsistence Board and the State of Alaska establishes guidelines to coordinate ~~in managing~~management of subsistence uses of fish and wildlife resources on Federal public lands in Alaska.

~~WHEREAS, the State of Alaska, under its laws and regulations, is responsible for the management, protection, maintenance, enhancement, rehabilitation, and extension of the fish and wildlife resources of the State of Alaska on the sustained yield principle, subject to preferences among beneficial uses, such as providing a priority for subsistence harvest and use of fish and wildlife (where such uses are customary and traditional), and implements its program through the State Boards and the ADF&G, providing for public participation through Advisory Committees authorized in the State's laws and regulations (Alaska Statutes Title 16; Alaska Administrative Code Title 5) and through Alaska Administrative Procedure Act;~~

WHEREAS, the Secretaries of Agriculture and the Interior (Secretaries), by authority of the Alaska National Interest Lands Conservation Act (ANILCA) and other laws of Congress, regulations, and policies, are responsible for ensuring that the taking on Federal public lands of fish and wildlife for nonwasteful subsistence uses, as defined in ANILCA §803, shall be accorded priority over the taking on such lands of fish and wildlife for other purposes as provided for in ANILCA §804; and that the Secretaries are responsible for protecting and providing the opportunity for rural residents of Alaska to engage in a subsistence way of life on Federal public lands in Alaska, consistent with the conservation of healthy populations of fish and wildlife ~~and~~ recognized scientific principles; and that these lands are defined in ANILCA §102 and Federal regulation (36 CFR Part 242 and 50 CFR Part 100); and that the

Comment [SPR1]: Two members added.

Comment [SPR2]: Plain English, consistent with Southeast, Yukon- Kuskokwim Delta and Northwest Arctic Regional Advisory Councils comments.

Comment [SPR3]: MOU reformatted to consistently place federal language before state language. Thus this section is moved to just below the next paragraph. This change (along with others) is responsive to the Southeast Regional Advisory Council's concern that wording and tone of the MOU appears to highlight the role of the State.

Comment [SK4]: Addition responds to Western Interior Regional Advisory Council's recommendation to recognize use of scientific principles of management

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Secretaries primarily implement this priority through the Federal Subsistence Board, providing for public participation through Regional Advisory Councils authorized by ANILCA §805 and Federal regulations (above); and,

Comment [SPR5]: Addition to clarify that all implementation is not accomplished by Federal Board. (For example, designation of NPS resident zone communities.)

WHEREAS, the State of Alaska, under its laws and regulations, is responsible for the management, protection, maintenance, enhancement, rehabilitation, and extension of the fish and wildlife resources of the State of Alaska on the sustained yield principle, subject to preferences among beneficial uses, such as providing a priority for subsistence harvest and use of fish and wildlife (where such uses are customary and traditional), and implements its program through the State Boards and the ADF&G, providing for public participation through Advisory Committees authorized in the State's laws and regulations (Alaska Statutes Title 16: Alaska Administrative Code Title 5) and through Alaska Administrative Procedure Act; and,

Comment [SPR6]: Paragraph relocated from above.

Comment [SPR7]: North Slope Regional Advisory Council requested the "such as" be replaced with "especially". No change made.

Comment [SPR8]: Northwest Arctic Regional Council felt this phrase was misleading and that the State manages resources providing for equal access to everyone, not any one group, and especially not subsistence users. No change made.

WHEREAS, ANILCA, Title VIII, authorizes the Secretaries to enter into cooperative agreements in order to accomplish the purposes and policies of Title VIII, and the ~~State of Alaska and the~~ Federal Subsistence Board and the State of Alaska believe it is in the best interests of the fish and wildlife resources and the public to enter into this Memorandum of Understanding;

THEREFORE, the signatories endorse coordination of ~~State and Federal~~ and State regulatory processes and the collection and exchange of data and information relative to fish and wildlife populations and their use necessary for subsistence management on Federal public lands. This MOU forms the basis for such cooperation and coordination among the parties with regard to subsistence management of fish and wildlife resources on Federal public lands.

II. PURPOSES

The purpose of this MOU is to provide a foundation and direction for coordinated interagency fish and wildlife management for subsistence uses on Federal public lands, consistent with specific ~~State and Federal~~ and State authorities as stated above, that will protect and promote the sustained health of fish and wildlife populations, ensure conservation of healthy populations and stability in fish and wildlife management, and include meaningful public involvement. The signatories hereby enter this MOU to accomplish this purpose and to establish guidelines for subsequent agreements and protocols to implement coordinated management of fish and wildlife resources used for subsistence purposes on Federal public lands in Alaska.

Comment [SPR9]: Clarifies that federal management under Title VIII differs from state mandates. – This addition is made in part to respond to Southeast Regional Advisory Council's concern regarding the relationship between the Federal and State programs.

Comment [SPR10]: Plain language and a clarifying addition.

III. GUIDING PRINCIPLES

1) Ensure conservation of fish and wildlife resources while providing for continued uses of fish and wildlife, including a priority for subsistence uses, through interagency subsistence management and regulatory programs that promote coordination,

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cooperation, and exchange of information between ~~State and~~ Federal ~~and State~~ agencies, regulatory bodies, Regional Advisory Councils and/or State Advisory Committees, state and local organizations, tribes and/or other Alaska Native organizations, and other entities;

~~22)~~ Recognize that “wildlife management activities on Federal public lands, other than the subsistence take and use of fish and wildlife, such as predator control and habitat management, are the responsibility of and remain within the authority of the individual land management agencies.” (See *Predator Management Policy Federal Subsistence Board, May 20, 2004.*)

Comment [SPR11]: In response to Bristol Bay Regional Advisory Council comment; however this addition does not adopt their recommendation.

3) Use the best available scientific and cultural information and ~~local~~ knowledge of customary and traditional ~~knowledge~~ uses for decisions regarding fish and wildlife management for subsistence uses on Federal public lands;

Comment [SPR12]: In response to Southeast and Bristol Bay Regional Advisory Council comments seeking addition of Traditional Environmental Knowledge (TEK) language.

~~34)~~ Avoid duplication in research, monitoring, and management;

~~45)~~ Involve subsistence and other users in the fisheries and wildlife management planning processes;

~~56)~~ Promote stability in fish and wildlife management and minimize unnecessary disruption to subsistence and other uses of fish and wildlife resources; and

Comment [SPR13]: Yukon-Kuskokwim Regional Advisory Council wanted to add a comment that “active management” should not be delayed for conservation purposes or to continue subsistence uses.” No change was made in this section as it was interpreted to mean implementation of some level of predator control. Predator control is now addressed in #2 above. The federal program does manage for conservation and to continue subsistence uses consistent with Title VIII of ANILCA.

~~67)~~ Promote clear and enforceable hunting, fishing, and trapping regulations.

IV. THE FEDERAL SUBSISTENCE BOARD AND STATE OF ALASKA MUTUALLY AGREE:

1) To cooperate and coordinate their respective research, monitoring, regulatory, and management actions to help ensure the conservation of fish and wildlife populations for subsistence use on ~~federal~~ Federal public lands.

2) To recognize that ~~State and~~ Federal ~~and State~~ historical and current harvest and population data and ~~information~~ local knowledge of customary and ~~cultural information~~ traditional uses are important components of successful implementation of Federal responsibilities under ANILCA Title VIII.

Comment [SPR14]: In response to Southeast and Bristol Bay Regional Advisory Council comments seeking addition of TEK language.

~~3)~~ To ~~provide~~ recognize a Federal priority for rural residents on Federal public lands for subsistence uses of fish and wildlife resources ~~and~~ Additionally, to allow for other uses of fish and wildlife resources when harvestable surpluses are sufficient, consistent with ANILCA and Alaska Statute 16.05 ~~258~~.

Comment [SPR15]: In response to the Southeast and Southcentral Regional Advisory Councils concerns about interpretation of this paragraph. This was re-written to emphasize the federal priority on federal lands while also recognizing other uses consistent with ANILCA mandates. The Alaska Statute refers to other uses allowed by ANILCA when resources are sufficient for all users.

4) To recognize that cooperative funding agreements implementing the provisions of this MOU may be negotiated when necessary and as authorized by ANILCA §809 and other appropriate statutory authorities. Federal funding agreements for cooperative research and monitoring studies of subsistence resources with organizations representing local subsistence

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users and others will be an important component of information gathering and management programs.

5) To recognize that ~~State and~~ State scientific standards for conservation of fish and wildlife populations are generally compatible. When differences interpreting data are identified, the involved agencies should appoint representatives to seek resolution of the differences.

6) To cooperatively pursue the development of information to clarify ~~state~~ Federal and federal State regulations for the public.

7) To recognize that the signatories may establish protocols or other procedures that address data collection and information management, data analysis and review, in-season fisheries and wildlife management, and other key activities and issues jointly agreed upon that affect subsistence uses on Federal public lands. (See Appendix)

~~8) To provide an opportunity, through interagency Federal State technical committees, for appropriate scientific staff, along with Regional Advisory Council and/or State Advisory Committee representatives, subsistence users, and other members of the public to discuss and work cooperatively between Federal and State staff and other groups, such as RACs Regional Advisory Councils, ACs State Advisory Committees, and tribes, as appropriate to review data analyses associated with proposal analyses and resource and harvest assessment and monitoring.~~

Comment [SPR16]: Clarify current practices and use of plain language.

~~9) To designate liaisons for policy and program communications and, as appropriate, to identify local agency representatives for efficient day-to-day communication, field operations, and data retrieval/coordination between the State and Federal and State programs.~~

Comment [SPR17]: The North Slope Regional Advisory Council wanted representatives that were knowledgeable about subsistence uses. Additionally the North Slope, Bristol Bay and Yukon-Kuskokwim Regional Advisory Councils requested addition of tribal representatives. These were not added because Tribes are not signatories to this MOU and it is meant to facilitate communication and coordination.

10) To provide adequate opportunity for the appropriate Federal and State agencies to review analyses and justifications associated with special actions and emergency orders affecting subsistence uses on Federal public lands, prior to implementing such actions. Where possible and as required, ~~State and~~ State agencies will provide advance notice to Regional Advisory Council and/or State Advisory Committee representatives, tribes and other interested members of the public before issuing special actions or emergency orders. Where conservation of the resource or continuation of subsistence uses is of immediate concern, the review shall not delay timely management action.

Comment [SPR18]: The Yukon-Kuskokwim Regional Advisory Council is concerned that they do not received advanced notice about special actions. The Board will direct the Office of Subsistence Management and request that the local field staff to increase their effort at notifying the Council.

11) To cooperatively review and endorse existing, and ~~proposed develop as needed,~~ Federal subsistence management plans and State fish and wildlife ~~management plans and~~ Federal subsistence management plans that affect subsistence uses on Federal public lands, providing an opportunity for Regional Advisory Council and/or State Advisory Committee representatives, tribes and other public to participate in the review. -Consider Federal, State and cooperative fish and wildlife management plans as the initial basis for any management actions so long as they provide for subsistence priorities ~~under State and Federal law~~. Procedures for management plan reviews and revisions will be developed by the respective Federal and State Boards in a protocol.

Comment [SPR19]: This paragraph was rewritten in response the Southeast Regional Advisory Council's comment regarding using State management plans. The re-written text seeks to respond to this concern by now having a more balanced approach to use of management plans. Tribes were added to reflect the Federal Subsistence Board Tribal Consultation Policy.

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12) To use the State's harvest reporting and assessment systems supplemented by information from other sources to monitor subsistence uses of fish and wildlife resources on Federal public lands. In some cases, Federal subsistence seasons, harvest limits, or data needs ~~may~~ necessitate separate Federal subsistence permits and harvest reports.

Comment [SPR20]: The Yukon-Kuskokwim Regional Advisory Council noted their problem of using the State's harvest tickets as they are not always available. A new harvest reporting system has not been developed. We have clarified that federal permits are needed in specific circumstances.

13) To ensure that local residents, ~~tribes~~ and other users will have meaningful involvement in subsistence wildlife and fisheries regulatory processes that affect subsistence uses on Federal public lands.

Comment [SPR21]: Tribes were added to reflect the Federal Subsistence Board Tribal Consultation Policy.

V. GENERAL PROVISIONS

1) No member of, or Delegate to, Congress shall be admitted to any share or part of this document, or to any benefit that may arise ~~therefrom~~ ~~from it~~.

Comment [SPR22]: Plain language.

2) This MOU is complementary to and is not intended to replace, except as specifically regards Federal responsibility for subsistence uses of fish and wildlife on Federal public lands, the Master Memoranda of Understanding between the individual Federal agencies and ADF&G. Supplemental protocols to this document may be developed to promote further interaction and coordination among the parties.

Comment [SPR23]: The Eastern Interior Regional Advisory Council asked that supplemental protocols be reviewed and updated. The Southeast Regional Advisory Council also felt the Information Sharing Protocol was not working well. The intent is to follow up with review of these protocols after adoption of this updated MOU. (Note commitment for future action)

3) Nothing herein is intended to conflict with Federal, State, or local laws or regulations.

4) Policy and position statements relating specifically to this MOU may be made only by mutual consent of the parties.

5) Nothing in this MOU ~~is intended to enlarge enlarges~~ or ~~diminish diminishes~~ each party's existing responsibilities and authorities, ~~if any, for management of fish and wildlife.~~

Comment [SPR24]: Clarifies responsibilities and uses plainer language.

6) Upon signing, the parties shall each designate an individual and an alternate to serve as the principal contact or liaison for implementation of this MOU.

7) This MOU becomes effective upon signing by all signatories and will remain in force until such time as the Secretary of the Interior determines that the State of Alaska has implemented a subsistence management program in compliance with Title VIII of ANILCA, or, signatories terminate their participation in this MOU by providing 60 days written notice. Termination of participation by one signatory has no impact on this MOU's effectiveness between the remaining signatories.

8) Regional Advisory Councils and State Advisory Committees will be asked annually to provide comments to the signatories concerning Federal/State coordination of this MOU. The signatories will meet annually, or more frequently if necessary, to review coordinated programs established under this MOU, to consider Regional Advisory

Comment [SPR25]: This added text responds to the Southeast Regional Council's comments which requested a way to evaluate whether the MOU is accomplishing its goals.

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[Council and State Advisory Committee comments](#), and to consider modifications to this MOU that would further improve interagency working relationships. Documentation of the review and consideration of any modifications within the scope of this understanding shall be made by mutual consent of the signatories, in writing, signed and dated by all parties. If no review is conducted, this MOU will expire 5 years after the most recent review was conducted.

9) Nothing in this document shall be construed as obligating the signatories to expend funds or involving the United States or the State of Alaska in any contract or other obligations for the future payment of money, except as may be negotiated in future cooperative funding agreements.

10) This MOU establishes guidelines and mutual management goals by which the signatories shall coordinate, but does not create legally enforceable obligations or rights.

11) This MOU is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement, contribution of funds, or transfer of anything of value between the parties to this MOU will be handled in accordance with applicable laws, regulations, and procedures.

12) This MOU does not restrict the signatories from participating in similar agreements with other public or private agencies, [Tribes](#), organizations, and individuals.

Comment [SPR26]: Tribes were added to reflect the Federal Subsistence Board Tribal Consultation Policy.

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SIGNATORIES

In WITNESS THEREOF, the parties hereto have executed this MOU as of the last date written below.

Commissioner
Alaska Department of Fish and Game
Date:

Chair of the Federal Subsistence Board
Date:

Chair
Alaska Board of Fisheries
Date:

Regional Director
U.S. Fish and Wildlife Service
Date:

Chair
Alaska Board of Game
Date:

Regional Forester
U.S. Forest Service
Date:

Regional Director
National Park Service
Date:

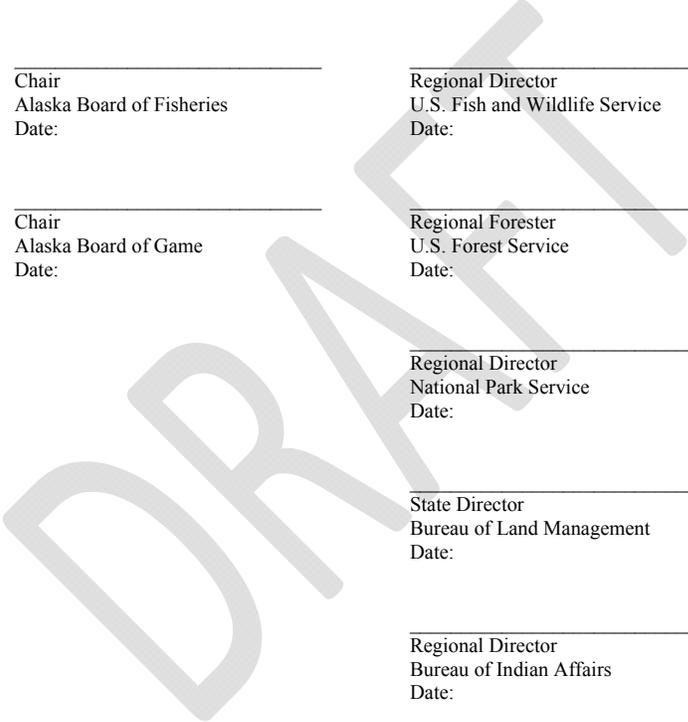
State Director
Bureau of Land Management
Date:

Regional Director
Bureau of Indian Affairs
Date:

Member of the Federal Subsistence Board
Date:

Member of the Federal Subsistence Board
Date:

Comment [SK27]: This page has been reformatted to correct titles and add two members to the Federal Subsistence Board.

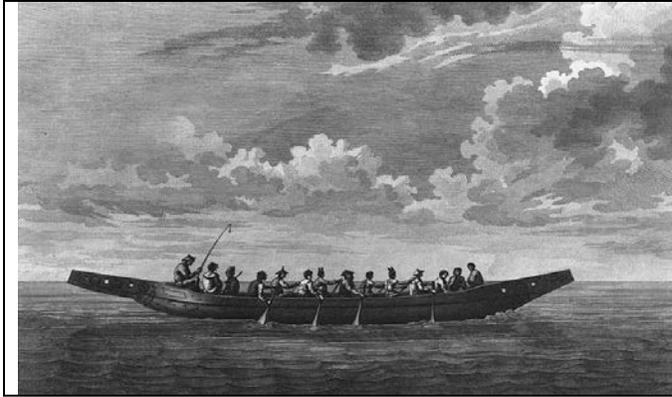


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APPENDIX

SCOPE FOR PROTOCOLS AND/OR PROCEDURES

- 1) Joint technical committees or workgroups may be appointed to develop protocols and/or procedures.
- 2) Individual protocols and/or procedures should:
 - a. Be developed by an interagency committee. The committee shall involve, as appropriate, Regional Advisory Council and/or State Advisory Committee representatives and other ~~State~~/Federal/~~State~~ regional or technical experts.
 - b. Identify the subject or topic of the protocol and provide justification.
 - c. Identify the parties to the protocol.
 - d. Identify the process to be used for implementing the protocol.
 - e. Provide for appropriate involvement of Regional Advisory Council and/or State Advisory Committees, tribes and/or other Alaska Native organizations, governmental organizations, and other affected members of the public when implementing protocols.
 - f. Specify technical committee or workgroup memberships.
 - g. Develop a timeline to complete tasks.
 - h. Identify funding obligations of the parties.
 - i. Define the mechanism to be used for review and evaluation.
- 3) Protocols or procedures require concurrence by the signatories of this MOU prior to implementation.



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

Bertrand Adams Sr., Chair

April 13, 2012

Mr. Tim Towarak, Chair
Federal Subsistence Board
C/o U.S. Fish and Wildlife Service
Office of Subsistence Management
1011 E. Tudor Road, Mail Stop 121
Anchorage, AK 99503

Greetings Chairman Towarak:

This is the 2011 Annual Report of the Southeast Alaska Subsistence Regional Advisory Council as authorized under Title VIII of the Alaska National Interest Lands Conservation Act. We are now entering into the 23rd year of Federal management of subsistence resources, and the Council wishes to raise a number of concerns dealing with implementation of Title VIII of ANILCA and the continuation of subsistence uses in the Yakutat and Southeastern Alaska Areas.

In 2011, the Council met in Sitka, March 22-24, and in Wrangell, September 27-29. The Council devoted a significant portion of the March meeting to develop responses to the Board's request for recommendations on the Memorandum of Understanding with the State, the Council Charter and whether the current customary and traditional use process is meeting the needs of the Southeastern Alaska Region. The Council responded with letters regarding: the two new Board members, changes to the customary and traditional use determination process, the Memorandum of Understanding, changes to the Council Charter, a Prince of Wales Island outfitter-guide environmental evaluation, concerns with the amount of halibut by-catch in Gulf of Alaska trawl fisheries, and the process of Tribal consultation. The Council submitted one proposal to the Alaska Board of Fish; requesting a nonresident annual limit for all salmon species.

Much of the September meeting focused on providing recommendations to the Subsistence Board for proposals to change subsistence wildlife regulations. The Council submitted a letter to the Board Chair concerning the inadequate budget necessary to support the subsistence program and a letter to the USF&WS regarding staffing for the sea otter position. The Council is grateful that the Office of Subsistence Management provided an opportunity for the Council members to participate in a field

trip to Makhnati Island during the Sitka meeting to see the marine waters under Federal jurisdiction and that the U.S. Forest Service provided funding for the Council to observe subsistence fishing locations in the Stikine River during the Wrangell meeting. Field trips are extremely beneficial to the Council when considering subsistence use priorities. Whenever logistics allow, we always welcome agency participation, including the State of Alaska, in these trips.

The Council supports pre-decisional communication and collaboration with the State Boards of Fish and Game. The needs of the subsistence users require cooperation at all levels of the various State and Federal management agencies.

2011 Annual Report Topics

Issue 1: Customary and traditional determinations

At the March 2011 Council meeting, the Council was asked to review how the current customary and traditional use determination process was working. The Council observed that the Federal customary and traditional use determination process and the eight factor analysis is a carryover from State of Alaska regulation. Now that it appears the Federal program will be permanent; it would be appropriate to develop a Federal process based on ANILCA rather than a process developed to address State regulatory authorities. Unfortunately, the Office of Subsistence Management did not provide sufficient information to the Council regarding how the current customary and traditional use determination process was being applied to allow the Council to make definitive recommendations to the Board. The Council wishes to reiterate the recommendation made to the Board during the March 2011 meeting:

Given that ANILCA does not require the Board make customary and traditional use determinations, the Council recommends the Federal Subsistence Board eliminate the current regulations for customary and traditional use determinations, and task the Office of Subsistence Management with drafting regulations which adhere to provisions contained within Section 804 of ANILCA.

The Council reiterates support for the following specific regulatory change as recommended at the March 2011 meeting:

Modify 50 CFR 100.16 (a). The regulation should read: “The Board shall determine which fish and wildlife have been customarily and traditionally used for subsistence. These determinations shall identify the specific community’s or area’s use of [~~specific fish stock and wildlife population~~] **all species of fish and wildlife that have traditionally used, in their (past and present) geographic areas**”.

Issue 2: Increased emphasis of social concerns in staff analysis

The format of the staff analysis used to describe the effects of a proposal to change either fish or wildlife regulations does not incorporate an adequate evaluation of the social and cultural issues encompassed by the proposal. The current process concentrates on a factual account of the status of the species in question (stock size, reproductive rates, life history, harvests, etc.) necessary to understand the scientific basis of the proposal. An increased emphasis on social, cultural and economic issues would facilitate dialog with Tribes and ANCSA Corporations similar to consultation but available to the Council prior to deliberations. An example of this problem is

the lack of discussion of the social, cultural and economic use of bear claws by residents of Southeast Alaska and the unfortunate adoption of WP12-01 by the Board.

Issue 3: Encourage Tribes to comment on social issues in testimony

The Council recommends the Board encourage Tribes and ANCSA Corporations to discuss the social, cultural and economic issues contained in the regulatory proposal (content of the analysis) not simply the Tribes position on a specific proposal. This information must be made available to the analyst early in the process to be truly effective. The Board needs to initiate communication and provide education to Tribes regarding their opportunities to affect the regulatory process (ask the tribes for what is needed). If an ANCSA Corporation is going to be involved in management of subsistence resources, they also need to be educated and formally incorporated into the Council process. The Council is concerned that interjecting comments from the Tribes and ANCSA Corporations directly to the Board increases that group's influence more than subsistence users.

Consultation by Tribes and ANCSA Corporations at Board meetings may contain significant new information that was not available to the Council. When that situation occurs, the proposal should be deferred and returned to the Council for additional consideration because the Council must always provide the primary "bottom-up" recommendation to the Federal Subsistence Board, consistent with ANILCA Section 805.

There will need to be a mechanism in the structure of Council meetings to accommodate testimony from Tribes and ANCSA Corporations prior to deliberations. Comments from that group must not circumvent the Council process.

Issue 4: Budget

The Council has a continuing concern with maintaining an adequate budget to support the subsistence program. Specifically, the Council has a priority need to fund wildlife resource information projects necessary for the successful management of the Region's wildlife populations.

There should be adequate funds available to respond to the wolf listing petition. These funds could be used for studies to include population monitoring, wolf ecology and population dynamics.

Issue 5: Coordination with the State regulatory processes

The Council must increase interactions, coordination and communication with the State regulatory process – specifically the Alaska State Boards of Fish and Game. The Federal and State management staff have a good working relationship but the Council must have a greater role in participating with the State Boards process. The Council should have a greater presence and adequate funding to participate in the State of Alaska Board of Game and Board of Fish regulatory meetings.

Issue 6: Sea otters

The Council recognizes the Subsistence Board does not manage sea otters or most of the resources that they consume. However, Title VIII of ANILCA, allows the Council to hear concerns regarding subsistence uses of wild renewable resources by residents of the Region. The Council has heard approximately 64 testimonies regarding sea otters since 2004; some of which have resulted in letters from the Council to either the Board or the U.S. Fish and Wildlife Service. Concerns regarding capricious enforcement and the definition of what is considered

significantly altered are being addressed by the users. It is good that those issues are being addressed through other channels; but there is a role for the Board. The Council believes there must be additional coordination between the various Federal and State Agencies to acknowledge the threat to the subsistence lifestyle of residents of this region by sea otters. Food resources available to residents and economic opportunities regarding shellfish are disappearing. That fact should be reported by the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, The Bureau of Indian Affairs and the U.S. Forest Service at every opportunity. The Council's recommendation is that the Board plan and fund a research study to quantify the impact of sea otters to subsistence users.

Thank you for considering the management and program issues of concern to the Council. Please address any questions with this letter directly to Mr. Robert Larson, Council Coordinator, U. S. Forest Service, Box 1328, Petersburg, AK 99833, 1 907-772-5930, robertlarson@fs.fed.us.

Sincerely,

/S/ Bertrand Adams, Sr.

Bertrand Adams Sr.
SESRAC Chair

cc. Interagency Staff Committee
Beth Pendleton, Forest Service Regional Forester



U.S. FISH and WILDLIFE SERVICE
BUREAU of LAND MANAGEMENT
NATIONAL PARK SERVICE
BUREAU of INDIAN AFFAIRS
FWS/OSM12056.CJ

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

SEP 10 2012



Mr. Bertrand J. Adams Sr., Chair
Southeast Alaska Subsistence
Regional Advisory Council
P.O. Box 75
Yakutat, Alaska 99689

Dear Mr. Adams:

This letter responds to the Southeast Alaska Subsistence Regional Advisory Council's (Council) 2011 Annual Report as approved at its winter 2012 meeting. The Secretaries of the Interior and Agriculture have delegated the responsibility to respond to these reports to the Federal Subsistence Board (Board). The 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 of the regulatory process and affect subsistence users in your region.

The Board has reviewed your Annual Report and offers the following responses:

Issue 1: Customary and traditional determinations

At the March 2011 Council meeting, the Council was asked to review how the current customary and traditional use determination process was working. The Council observed that the Federal customary and traditional use determination process and the eight factor analysis is a carryover from State of Alaska regulation. Now that it appears the Federal program will be permanent; it would be appropriate to develop a Federal process based on ANILCA rather than a process developed to address State regulatory authorities. Unfortunately, the Office of Subsistence Management did not provide sufficient information to the Council regarding how the current customary and traditional use determination process was being applied to allow the Council to make definitive recommendations to the Board. The Council wishes to reiterate the recommendation made to the Board during the March 2011 meeting:

Given that ANILCA does not require the Board make customary and traditional use determinations, the Council recommends the Federal Subsistence Board eliminate the current regulations for customary and traditional use determinations, and task the Office of Subsistence Management with drafting regulations which adhere to provisions contained within Section 804 of ANILCA.

Mr. Bertrand Adams Sr.

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The Council reiterates support for the following specific regulatory change as recommended at the March 2011 meeting:

*Modify 50 CFR 100.16 (a). The regulation should read: "The Board shall determine which fish and wildlife have been customarily and traditionally used for subsistence. These determinations shall identify the specific community's or area's use of ~~[specific fish stock and wildlife population]~~ **all species of fish and wildlife that have traditionally used, in their (past and present) geographic areas.**"*

Response

If the Council wishes to submit a proposal for a regulatory change, it will need to do so outside of the annual report process. Since this regulation is not part of the regular fish or wildlife regulatory cycle, the Council may submit a proposal at any time, using the standard regulation proposal format. Your Council Coordinator or any Office of Subsistence Management (OSM) staff can assist in preparing the proposal.

As you are aware, at the end of the Council meeting on March 22, 2012, the Council formed a working group to make recommendations on customary and traditional use determinations that would be brought back to the Board. Council member Needham volunteered to lead the working group, which is made up of Patty Phillips and Tim Ackerman. Ms. Needham noted an interest in having the workgroup address this issue between the March meeting and the September meeting of the Council (Board transcript, Volume II, March 21, 2012, page 346). Mr. Probasco then asked that the Council let OSM know what assistance they need in the form of staff and materials. It is the Board's understanding that the Council has been provided with information and the working group will be working on the issue at its own pace, and that it will meet in connection with the Council's fall 2012 meeting. If the working group comes up with any other recommendations, those too can be submitted as regulatory proposals at any time.

Issue 2: Increased emphasis of social concerns in staff analysis

The format of the staff analysis used to describe the effects of a proposal to change either fish or wildlife regulations does not incorporate an adequate evaluation of the social and cultural issues encompassed by the proposal. The current process concentrates on a factual account of the status of the species in question (stock size, reproductive rates, life history, harvests, etc.) necessary to understand the scientific basis of the proposal. An increased emphasis on social, cultural and economic issues would facilitate dialog with Tribes and ANCSA Corporations similar to consultation but available to the Council prior to deliberations. An example of this problem is the lack of discussion of the social, cultural and economic use of bear claws by residents of Southeast Alaska and the unfortunate adoption of WP12-01 by the Board.

Mr. Bertrand Adams Sr.

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Response

The Board recognizes that it is important to include traditional ecological knowledge in proposal analyses. Federal subsistence staff recognize the need for this type of information in analyses and strive to provide a thorough discussion of the social, cultural, and economic information in all analyses. However, staff will continue to endeavor to obtain additional information when possible. As you are aware, staff often rely on the Council to provide information that may not be available in the literature, which is incorporated into proposal analyses before the analysis goes to the Board. Therefore, in the future, OSM staff and your Council Coordinator will be encouraged to assist the Council in facilitating discussions of these issues. The Board believes that the Tribal consultation process itself is designed to start meaningful dialogue with Tribes.

Issue 3: Encourage Tribes to comment on social issues in testimony

The Council recommends the Board encourage Tribes and ANCSA Corporations to discuss the social, cultural and economic issues contained in the regulatory proposal (content of the analysis) not simply the Tribes position on a specific proposal. This information must be made available to the analyst early in the process to be truly effective. The Board needs to initiate communication and provide education to Tribes regarding their opportunities to affect the regulatory process (ask the tribes for what is needed). If an ANCSA Corporation is going to be involved in management of subsistence resources, they also need to be educated and formally incorporated into the Council process. The Council is concerned that interjecting comments from the Tribes and ANCSA Corporations directly to the Board increases that group's influence more than subsistence users.

Consultation by Tribes and ANCSA Corporations at Board meetings may contain significant new information that was not available to the Council. When that situation occurs, the proposal should be deferred and returned to the Council for additional consideration because the Council must always provide the primary "bottom-up" recommendation to the Federal Subsistence Board, consistent with ANILCA Section 805.

There will need to be a mechanism in the structure of Council meetings to accommodate testimony from Tribes and ANCSA Corporations prior to deliberations. Comments from that group must not circumvent the Council process.

Response

We appreciate your concerns and take note of your recommendations. We are considering the best approach to encourage Tribes and Alaska Native Claims Settlement Act (ANCSA) Corporations to discuss the social, cultural, and economic issues of the regulatory proposals. Training Tribes is included in the recently adopted Tribal Consultation Policy and your recommendation could be incorporated into the training. The training has not yet been developed, but we will forward your recommendations to those who will be developing training

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in the near future. An important aspect of this process will be to build trust, and hopefully a robust and meaningful consultation process will accomplish that.

At its May 2012 meeting, the Board tasked the Tribal Consultation Workgroup with drafting implementation guidelines for the Board's Tribal Consultation Policy. Your comments have been provided to Crystal Leonetti, co-chair of the Tribal Consultation Workgroup, and will be considered by the workgroup as it develops the implementation guidelines. We agree that it is vitally important for the Councils to have information from Tribes and ANCSA Corporations during the Council meetings prior to deliberations to ensure that Council recommendations best represent the regions' interests. It is the Board's intent to have Tribal and ANCSA Corporation input early to strengthen the Council process, not circumvent it.

Issue 4: Budget

The Council has a continuing concern with maintaining an adequate budget to support the subsistence program. Specifically, the Council has a priority need to fund wildlife resource information projects necessary for the successful management of the Region's wildlife populations.

There should be adequate funds available to respond to the wolf listing petition. These funds could be used for studies to include population monitoring, wolf ecology and population dynamics.

Response

On May 24, 2012, Secretary of Agriculture Thomas J. Vilsack responded to your letter dated March 27, 2012, regarding funding for the Federal Subsistence Management Program in Alaska. Secretary Vilsack recognizes that funding has decreased from a peak in 2005, and at that time there were sufficient moneys for a small Wildlife Resource Monitoring Program. The Secretary's letter does not predict future increases in funding.

Recognizing that funding is unlikely to increase, but that there may be high priority wildlife resource monitoring to fund at a future Council meeting, the U.S. Forest Service and OSM would be agreeable to engage in a discussion with you about prioritizing fish and wildlife monitoring needs.

The Board agrees that obtaining information on wolves is important for appropriate management of wolf populations and to respond to the petition to list the Alexander Archipelago wolf under the Endangered Species Act. While the Forest Service is in a challenging budget environment, it has been able to cooperatively fund, with the Alaska Department of Fish and Game, an ambitious research project which started in the spring of 2012 on Prince of Wales Island. The goal of this research is to combine multiple measures of abundance, each with its own unique set of strengths and limitations, into a reliable method for estimating the wolf population in the region. The research will use aerial counts of marked wolves, DNA-based population estimation derived

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from hair and scats, and surveys of local wolf harvesters. The work will focus on Unit 2 with the intent to develop a strategy that can be applied throughout Southeast Alaska. The project is planned to continue until September, 2015; however, it is subject to the availability of funding pending the annual Congressional appropriations process.

Issue 5: Coordination with the State regulatory processes

The Council must increase interactions, coordination and communication with the State regulatory process – specifically the Alaska State Boards of Fish and Game. The Federal and State management staff have a good working relationship but the Council must have a greater role in participating with the State Boards process. The Council should have a greater presence and adequate funding to participate in the State of Alaska Board of Game and Board of Fish regulatory meetings.

Response

The Board is supportive of Regional Advisory Councils (Councils) participating at State Alaska Board of Game and Board of Fish regulatory meetings when there are issues affecting Federal subsistence users of their region. OSM has worked with the Councils to support limited RAC member attendance and participation at the Board of Game and Board of Fish meetings in the past and will continue to do so as the travel budget allows. This will permit Councils to increase interactions, coordination and communication with the State regulatory process, to the benefit of Federally qualified subsistence users and the resources they depend upon.

Issue 6: Sea Otters

The Council recognizes the Subsistence Board does not manage sea otters or most of the resources that they consume. However, Title VIII of ANILCA, allows the Council to hear concerns regarding subsistence uses of wild renewable resources by residents of the Region. The Council has heard approximately 64 testimonies regarding sea otters since 2004; some of which have resulted in letters from the Council to either the Board or the U.S. Fish and Wildlife Service. Concerns regarding capricious enforcement and the definition of what is considered significantly altered are being addressed by the users. It is good that those issues are being addressed through other channels; but there is a role for the Board. The Council believes there must be additional coordination between the various Federal and State Agencies to acknowledge the threat to the subsistence lifestyle of residents of this region by sea otters. Food resources available to residents and economic opportunities regarding shellfish are disappearing. That fact should be reported by the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, The Bureau of Indian Affairs and the U.S. Forest Service at every opportunity. The Council's recommendation is that the Board plan and fund a research study to quantify the impact of sea otters to subsistence users.

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Response:

As you noted, marine mammals are not under Board jurisdiction. Except in a few very limited areas, the Federal Subsistence Board has no jurisdiction in the marine waters of Southeast Alaska where sea otters reside. However, the Board recognizes that the Council has a role in all subsistence issues in the Region, as described in ANILCA Section 805. The U.S. Fish & Wildlife Service (USFWS), outside of its role on the Board, is the lead Federal agency for overseeing sea otter populations.

Addressing stakeholders' concerns and working in cooperation with agencies on the Southeast sea otter issue is a priority for the USFWS. The USFWS made a lot of progress on stakeholder engagement in the last year. Verena Gill, USFWS sea otter biologist, attended your March meeting at the invitation of Robert Larson, Southeast Council Coordinator, and gave a joint presentation on the Southeast sea otter issue with USFWS law enforcement, the Southeast Regional Dive Fisheries Association, and Native representatives. The Southeast Alaska Sea Otter Working Group (along with University of Alaska, Sitka Tribe, ADF&G, and fishing organizations) has been giving various presentations across Alaska, for example, at the Marine Mammal Commission in Anchorage on January 25, 2012 and the Board of Fisheries in Petersburg on January 15, 2012. The working group, along with a representative from the Southeast Council, also met in Juneau on January 4, 2012, to discuss strategy. Additionally, the USFWS has participated in numerous interviews on APRN addressing the Southeast sea otter issue. So there has been good progress on coordination and information sharing in general in the last year. The USFWS will be continuing down the same coordination/outreach path in the future and will continue to engage the Southeast Council.

As to your specific concern – the impact of sea otters on subsistence resources in the Southeast – there have been some research developments in that area. According to recent estimates, rural residents of Southeast Alaska harvest approximately 900,000 pounds of shellfish each year. The potential loss of that amount of food could conceivably have significant but unknown effects on the use of subsistence foods under federal jurisdiction. How these foods will be replaced and what the effect will be from increased competition on other resources is unknown. The USFWS is working with the University of Alaska to study the impact of sea otters on subsistence and commercial fisheries in the Southeast. Information on this research can be found at <http://seagrant.uaf.edu/research/projects/10/otter/index.php>. This is a coordinated effort between multiple partners and was funded by the North Pacific Research Board, the Alaska Sea-Grant Program and the USFWS.

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In closing, I want to thank you and your Council for their continued involvement and diligence in matters regarding the Federal Subsistence 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,

/S/ Tim Towarak

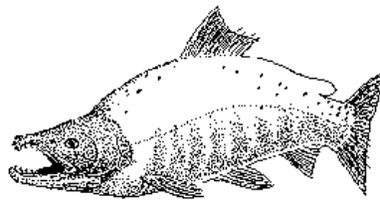
Tim Towarak, Chair
Federal Subsistence Board

cc: Southeast Alaska Subsistence
Regional Advisory Council
Federal Subsistence Board
Interagency Staff Committee
Pete Probasco, Assistant Regional Director, OSM
Kathy O'Reilly-Doyle, Deputy Assistant Regional Director, OSM
Carl Johnson, Council Coordinator Div. Chief, OSM
Robert Larson, U.S. Forest Service
Administrative Record

DRAFT

PRIORITY INFORMATION NEEDS

FEDERAL SUBSISTENCE FISHERIES



2014 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

The Office of Subsistence Management (OSM) invites the submission of proposals for fisheries investigation studies to be initiated under the 2014 Fisheries Resource Monitoring Program (Monitoring Program). Taking into account funding commitments for ongoing projects, and contingent upon Congressional funding, we anticipate approximately \$4.8 million available in 2014 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 2014 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.cfm>. Independent strategic plans were completed for the Yukon and Kuskokwim regions for salmon in 2005, and jointly for whitefish in 2012. 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 2014 for all six regions and a multi-regional category that addresses priorities that extend over two or more regions. Investigators preparing proposals for the 2014 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.

Because cumulative effects of climate change are likely to fundamentally affect the availability of subsistence fishery resources, as well as 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 on 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

management. Investigators are encouraged to combine interdisciplinary methods to address information needs, and to consider the cultural context of these information needs.

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 2014 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 Arctic char, Dolly Varden, whitefish, lake trout, and Arctic grayling fisheries as most important for its area. In addition, these Councils have expressed concern about the effects of climate change on subsistence fishery resources. The Multi-regional priority information needs section at the end of this document includes climate change research needs.

For the Northern Region, the 2014 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.
- Harvest and use of fish species by residents of Shishmaref.

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 2014 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 (e.g., gillnet dropout mortality) and subsistence 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 (e.g., egg deposition, size composition, habitat utilization) in establishing Chinook salmon spawning goals and determining the reproductive potential of spawning escapements.
- 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 changes through time in gillnet use (set versus drift, and by mesh size) for Chinook salmon subsistence harvest in the mainstem Yukon River, in context with harvest and escapement levels.
- 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.
- Retrospective analyses concerning effects of natural disasters (e.g. floods, fires) on salmon rearing and spawning habitat and subsistence activities.
- Arctic lamprey population assessment, including abundance, migration patterns, and habitat needs.

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 2014 Request for Proposals is focused on the following priority information needs:

- Reliable estimates of Chinook, chum, sockeye, and coho salmon escapement.

- Effects on salmon stocks and users of fishery management practices implemented to conserve Chinook salmon.
- Methods for including “quality of escapement” measures (e.g., egg deposition, size composition, habitat utilization) in establishing Chinook salmon spawning goals and determining the reproductive potential of spawning escapements.
- 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.
- Contextual information associated with whitefish harvest by species in central Kuskokwim River drainage communities to supplement information from previous research. Communities of interest include Upper Kalskag, Lower Kalskag, Aniak, Chuathbaluk, Red Devil, Sleetmute, Stony River, and Crooked Creek.
- 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 Cheforak, 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.
- Estimate the number of salmon, by species, transported from the Kuskokwim River drainage each year by Federal and State subsistence users.

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 2014 Request for Proposals is focused on the following priority information needs:

- Obtain reliable estimates of Chinook salmon escapements.
- 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.

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 2014 Request for Proposals is focused on the following priority information needs:

- Obtain reliable estimates of Chinook salmon escapement into Copper River.
- Mapping of lifetime and current subsistence use areas for harvest of salmon and non-salmon fish species by residents of Ninilchik, Hope, and Cooper Landing. Research should include intensity of use and use on Federal public lands and waters.
- Harvest, use, and associated contextual information for salmon and nonsalmon by species in communities of the Copper River Basin, updating previous research supported by the Monitoring Program.

Southeast Region Priority Information Needs

A strategic plan was developed for Southeast Region in 2006 and is reviewed and updated annually to ensure that priority information needs are identified. The 2014 Request for Proposals is focused on priority information needs for eulachon and sockeye salmon.

For the Southeast Region, the 2014 Request for Proposals is focused on the following priority information needs:

Eulachon

- Provide an index of escapement for Unuk River and Yakutat Forelands eulachon.

Sockeye Salmon

- Obtain reliable estimates of sockeye salmon escapement. Stocks of interest include: Hetta, Karta, Sarkar, Hatchery Creek, Redoubt, Gut Bay, Falls, Kah Sheets, Salmon Bay, Klag, Sitkoh, Kook, Kanalku, Hoktaheen, and Neva.
- Document in-season subsistence harvest of sockeye salmon. Stocks of interest include: Hetta, Hatchery Creek, Gut Bay, Falls, Kah Sheets, Salmon Bay, Klag, Kanalku, and Hoktaheen.

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 2014 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, fish quality, harvest methods and means, and methods of preservation. Include management implications.

- Develop models based on long-term relationships between ocean conditions and production for Bering Sea and Gulf of Alaska Chinook salmon stocks to better understand and respond to changes in run abundance.
- 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.

GUIDANCE ON ANNUAL REPORTS

Background

ANILCA established the Annual Reports as the way to bring regional subsistence uses and needs to the Secretaries' attention. The Secretaries delegated this responsibility to the Board. Section 805(c) deference includes matters brought forward in the Annual Report.

The Annual Report provides the Councils an opportunity to address the directors of each of the four Department of Interior agencies and the Department of Agriculture Forest Service in their capacity as members of the Federal Subsistence Board. The Board is required to discuss and reply to each issue in every Annual Report and to take action when within the Board's authority. In many cases, if the issue is outside of the Board's authority, the Board will provide information to the Council on how to contact personnel at the correct agency. As agency directors, the Board members have authority to implement most of the actions which would effect the changes recommended by the Councils, even those not covered in Section 805(c). The Councils are strongly encouraged to take advantage of this opportunity.

Report Content

Both Title VIII Section 805 and 50 C.F.R. 100.11 (Subpart B of the regulations) describe what may be contained in an Annual Report from the councils to the Board. This description includes issues that are not generally addressed by the normal regulatory process:

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

Please avoid filler or fluff language that does not specifically raise an issue of concern or information to the Board.

Report Clarity

In order for the Board to adequately respond to each Council's annual report, it is important for the annual report itself to state issues clearly.

- If addressing an existing Board policy, Councils should please state whether there is something unclear about the policy, if there is uncertainty about the reason for the policy, or if the Council needs information on how the policy is applied.
- Council members should discuss in detail at Council meetings the issues for the annual report and assist the Council Coordinator in understanding and stating the issues clearly.
- Council Coordinators and OSM staff should assist the Council members during the meeting in ensuring that the issue is stated clearly.

Thus, if the Councils can be clear about their issues of concern and ensure that the Council Coordinator is relaying them sufficiently, then the Board and OSM staff will endeavor to provide as concise and responsive of a reply as is possible.

Report Format

While no particular format is necessary for the Annual Reports, the report must clearly state the following for each item the Council wants the Board to address:

1. Numbering of the issues,
2. A description of each issue,
3. Whether the council seeks Board action on the matter and, if so, what action the Council recommends, and
4. As much evidence or explanation as necessary to support the Council's request or statements relating to the item of interest.

**Department of the Interior
U. S. Fish and Wildlife Service**

Southeast Alaska Subsistence Regional Advisory Council

Charter

1. **Committee's Official Designation.** The Council's official designation is the Southeast Alaska Subsistence Regional Advisory (Council).
2. **Authority.** The Council is reestablished by virtue of the authority set out in the Alaska National Interest Lands Conservation Act (16 U.S.C. 3115 (1988)) Title VIII, and under the authority of the Secretary of the Interior, in furtherance of 16 U.S.C. 410hh-2. The Council is established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., Appendix 2.
3. **Objectives and Scope of Activities.** The objective of the Council is to provide a forum for the residents of the region with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal lands and waters in the region.
4. **Description of Duties.** The Council possesses the authority to perform the following duties:
 - a. Recommend the initiation of, review, and evaluate proposals for regulations, policies, management plans, and other matters relating to subsistence uses of fish and wildlife on public lands within the region.
 - b. Provide a forum for the expression of opinions and recommendations by persons interested in any matter related to the subsistence uses of fish and wildlife on public lands within the region.
 - c. Encourage local and regional participation in the decision making process affecting the taking of fish and wildlife on the public lands within the region for subsistence uses.
 - d. Prepare an annual report to the Secretary containing the following:
 - (1) An identification of current and anticipated subsistence uses of fish and wildlife populations within the region.
 - (2) An evaluation of current and anticipated subsistence needs for fish and wildlife populations within the region.

- (3) A recommended strategy for the management of fish and wildlife populations within the region to accommodate such subsistence uses and needs.
 - (4) Recommendations concerning policies, standards, guidelines and regulations to implement the strategy.
- e. Appoint one member to the Wrangell-St. Elias National Park Subsistence Resource Commission in accordance with Section 808 of the Alaska National Interest Lands Conservation Act (ANILCA).
 - f. Make recommendations on determinations of customary and traditional use of subsistence resources.
 - g. Make recommendations on determinations of rural status.
 - h. Provide recommendations on the establishment and membership of Federal local advisory committees.
5. **Agency or Official to Whom the Council Reports.** The Council reports to the Federal Subsistence Board Chair, who is appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture.
 6. **Support.** The U.S. Fish and Wildlife Service will provide administrative support for the activities of the Council through the Office of Subsistence Management.
 7. **Estimated Annual Operating Costs and Staff Years.** The annual operating costs associated with supporting the Council’s functions are estimated to be \$175,000, including all direct and indirect expenses and .75 staff years.
 8. **Designated Federal Officer.** The DFO is the Subsistence Council Coordinator for the region or such other Federal employee as may be designated by the Assistant Regional Director – Subsistence, Region 7, U.S. Fish and Wildlife Service. The DFO is a full-time Federal employee appointed in accordance with Agency procedures. The DFO will:
 - Approve or call all of the advisory committee’s and subcommittees’ meetings,
 - Prepare and approve all meeting agendas,
 - Attend all committee and subcommittee meetings,
 - Adjourn any meeting when the DFO determines adjournment to be in the public interest, and
 - Chair meetings when directed to do so by the official to whom the advisory committee reports.

9. **Estimated Number and Frequency of Meetings.** The Council will meet 1-2 times per year, and at such times as designated by the Federal Subsistence Board Chair or the DFO.
10. **Duration.** Continuing.
11. **Termination.** The Council is subject to biennial review and will terminate 2 years from the date the charter is filed, unless prior to that date, the Charter is renewed in accordance with the provisions of Section 14 of the FACA. The Council will not meet or take any action without a valid current charter.
12. **Membership and Designation.** The Council's membership is composed of representative members as follows:

Thirteen members who are knowledgeable and experienced in matters relating to subsistence uses of fish and wildlife and who are residents of the region represented by the Council. To ensure that each Council represents a diversity of interests, the Federal Subsistence Board in their nomination recommendations to the Secretary will strive to ensure that seven of the members (70 percent) represent subsistence interests within the region and three of the members (30 percent) represent commercial and sport interests within the region. The portion of membership representing commercial and sport interests must include, where possible, at least one representative from the sport community and one representative from the commercial community.

The Secretary of the Interior will appoint members based on the recommendations from the Federal Subsistence Board and with the concurrence of the Secretary of Agriculture.

Members will be appointed for 3-year terms. A vacancy on the Council will be filled in the same manner in which the original appointment was made. Members serve at the discretion of the Secretary.

Council members will elect a Chair, a Vice-Chair, and a Secretary for a 1-year term.

Members of the Council will serve without compensation. However, while away from their homes or regular places of business, Council and subcommittee members engaged in Council, or subcommittee business, approved by the DFO, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service under Section 5703 of Title 5 of the United States Code.

13. **Ethics Responsibilities of Members.** No Council or subcommittee member may participate in any specific party matter in which the member has a direct financial interest in a lease, license, permit, contract, claim, agreement, or related litigation with the Department.

14. **Subcommittees.** Subject to the DFO's approval, subcommittees may be formed for the purposes of compiling information or conducting research. However, such subcommittees must act only under the direction of the DFO and must report their recommendations to the full Council for consideration. Subcommittees must not provide advice or work products directly to the Agency. The Council Chair, with the approval of the DFO, will appoint subcommittee members. Subcommittees will meet as necessary to accomplish their assignments, subject to the approval of the DFO and the availability of resources.

15. **Recordkeeping.** Records of the Council, and formally and informally established subcommittees or other subgroups of the Council, must be handled in accordance with General Records Schedule 26, Item 2, or other approved Agency records disposition schedule. These records shall be available for public inspection and copying, subject to the Freedom of Information Act, 5 U.S.C. 552.

/S/ Ken Salazar

Secretary of the Interior

DEC - 2 2011

Date Signed

DEC 03 2011

Date Filed

REGULATORY CYCLE REVIEW BRIEFING

Issue

During this past regulatory cycle, several Subsistence Regional Advisory Councils (Councils) have requested that the fall meeting window be moved to later in the year so meetings could occur in November after fall subsistence activities are finished. Additionally these Councils would like to see the January Federal Subsistence Board (Board) meetings moved to later in the year, possibly April or May stating that the move would: avoid overlap with other meetings such as the Board of Fish and the Board of Game; avoid the post-holiday rush; and avoid the travel of Council members that leave family to fend for themselves during one of the coldest months of the year. The Board met in May 2012 and discussed this issue and decided not to take action at that time, but to refer the issue back to the Councils for their recommendations.

Background

In 2003, a committee made up of Board staff, reviewed the regulatory cycle; the committee examined the historical timing of events in the Federal Subsistence Management Program's regulatory cycles and identified what was working well and where improvements could be made. Alternatives were developed to address issues and concerns. Each alternative was evaluated in terms of effectiveness, efficiency, cost, risks of compromising quality or customer service, ramifications for other subsistence program elements and other considerations. One of the issues addressed was the timing of Regional Advisory Council and Federal Subsistence Board meetings.

Several changes were made following this review:

1. The fall meeting window was expanded.

Historically, the meeting window was approximately 5–6 weeks and ran from early September to mid-October. The meeting window was expanded to mid-August to mid-October, adding approximately 3 weeks to the fall meeting window. Since 2003, in an effort to further accommodate the Councils, meetings have been allowed to be scheduled outside the meeting window (Table 1).

2. The effective date for subsistence fishing regulations was moved from 1 March to 1 April in 2005.
3. The Federal Subsistence Board meeting to address fisheries proposals was moved from early December to mid-January.

While subsistence fisheries occur in Alaska year-round, most subsistence fishing activities occur in spring, summer and fall. The March 1 effective date for the subsistence fisheries regulations was 4–12 weeks before most spring subsistence fisheries start across the state. Shifting the effective date for these regulations to April 1, allowed the publication of the regulations after various winter subsistence fisheries and the Southeast Alaska spring hooligan fishery.

Recommendations

Staff reviewed the current regulatory cycles (**Table 2**) and developed the following recommendations (**Table 3**):

1. Hold the Board's meeting to review proposed changes to the wildlife hunting and trapping regulations in early April.

The Board's wildlife meeting should be held no later than early April to ensure the regulations are published in the Federal register and the public book is published and distributed prior to the 1 July effective date. Historically, the Board meeting for wildlife occurred in early May; however, often there were problems getting the regulations published and distributed in a timely manner.

2. Extend the Regional Council meeting window into early November. This would have minimal impacts.
3. Hold the Board meeting to review proposed changes to the subsistence fisheries regulations no later than early January.

Based on the current effective date of 1 April for these regulations, it is impractical to change the Board meeting date any later than early January. Doing so would not allow staff the time to finalize the regulations and get them published in the Federal register and in the public regulations booklet. Note: In recent years, moving the regulations through the surname process in D.C. has taken considerably more time, which needs to be taken into account.

4. Maintain the current effective date for the subsistence fisheries regulations.

Historically, the Board held its meeting to review subsistence fisheries in December and the regulations became effective on 1 March. Following the 2003 regulatory cycle review, both of these dates were changed: the Board meeting was shifted into January and the effective date for the subsistence fisheries regulations was changed to 1 April. The effective date was changed to allow for the publication of the regulations after various winter subsistence fisheries and the Southeast Alaska spring hooligan fishery. In addition, regulatory years are defined in 50 CFR 100.25(a) and if these are changed it would need to go through the regulatory process, this is not a purely administrative action, it would require rule making, including a proposal to be submitted for public review. However, this is a plausible solution if the desire is to avoid all Board meetings conducted in January.

Reference tables for above narrative.

Table 1. Past FSB Meeting Dates.

Year	FSB Wildlife meeting dates (# of proposals)	FSB Fisheries meeting dates (# of proposals)
2003	May 20–22 (53)	December 9–11 (40)
2004	May 18–21 (87)	Due to a change in meeting cycles, there was no Fishery Board Meeting in 2004. The Fish Proposals submitted in 2004 were addressed in Jan. 2005.
2005	May 3–4 (20)	January 11–13 (30)
2006	May 16–18 (69)	January 10–12 (34)
2007	April 30 – May 2 (63)	January 9–11 (26)
2008	April 29 – May 1 (54)**	—
2009	—	January 13–15 (14)
2010	May 18 – 21 (105)	—
2011	—	January 18–20 (15)
2012	January 17–20 (100)	—
2013	—	January 22–24 (28)
Fisheries regulations became effective on 1 March, until 2006 when the effective date was changed to 1 April		
Wildlife regulations become effective on 1 July		
**Start of the two year cycle		

Table 2. Current Regulatory Cycle.

Fisheries		Wildlife
January – March	Proposal Period	January – March
February – March	Councils Meet to develop proposals	February – March
April – June	Comment Period	April – June
April – August	Staff Analyses Prepared	April – August
August – October	Councils meet to make Recommendations	August – October
November	Staff committee Meets	November
January	Federal Subsistence Board Meets	January
April 1	New Regulatory Year Begins	July 1

Table 3. Proposed Changes to the Regulatory Cycles

Fisheries		Wildlife
January – March	Proposal Period	January – March
February – March	Councils Meet to develop proposals	February – March
April – June	Comment Period	April – June
April – August	Staff Analyses Prepared	April – August
August – October Early November	Councils meet to make Recommendations	August – October Early November
November	Staff committee Meets	November
January Early April	Federal Subsistence Board Meets	January Early April
April July 1	New Regulatory Year Begins	July 1

STAFFING UPDATE

Kathy O'Reilly-Doyle was hired as the new Deputy Assistant Regional Director for the Office of Subsistence Management. Kathy previously worked for the U.S. Fish & Wildlife Service Branch of Habitat Restoration in Arlington Virginia, providing national oversight and implementation of the Partners for Fish and Wildlife Act.

Jack Lorrigan was hired as the new Native Liaison for the Office of Subsistence Management. Jack comes to OSM from the U.S. Forest Service where he worked in Sitka as a Subsistence Biologist. Prior to that, he was the Natural Resources Director for the Sitka Tribe.

Dr. David Jenkins was hired as the new Policy Coordinator for the Office of Subsistence Management. Dr. Jenkins was previously a staff anthropologist with OSM and had been the acting Policy Coordinator for several months. He has over a decade of teaching experience in anthropology, history, and environmental studies at MIT, Bates College in Maine, and the University of Arizona.

George Pappas was hired as the new State Subsistence Liaison for the Office of Subsistence Management. George has extensive experience working with State-Federal subsistence issues, and has worked with many of us since 2007 in his role as the Program Coordinator for the Alaska Department of Fish and Game's Federal Subsistence Liaison Team.

Melinda Hernandez was hired as one of the new Council Coordinators. Melinda comes to OSM from the U.S. Forest Service, where she has been working in the southeast on subsistence issues for the past eight years.

Eva Patton was hired as one of the new Council Coordinators. Eva has a background as a fisheries biologist and has been working in Bethel for the last seven years through the Partners for Fisheries Monitoring Program.

Trent Liebiech was hired as a fisheries biologist for the Office of Subsistence Management. Trent previously worked at the Izembek National Wildlife Refuge as an aquatic ecologist for two years. Prior to that, he was with the National Marine Fisheries Service for 6 years in the Atlantic salmon program through the Protected Resources Division.

Tom Evans has hired as a wildlife biologist for the Office of Subsistence Management. Tom previously worked for 20 years in the Marine Mammals Management office for Region 7 U.S. Fish & Wildlife Service, working primarily as a polar bear biologist.

Pam Raygor has hired as an Administrative Support Assistant for the Office of Subsistence Management. Pam previously worked as the Parish Administrator for the Holy Family Cathedral in Anchorage.

BUDGET UPDATE

The Office of Subsistence Management has experienced a declining budget since 2001 due to the economy and other factors beyond its control. FY2013 travel budgets may possibly be further reduced by 30% of FY2010 funding levels. These types of reductions will make it necessary for Regional Advisory Councils to continue to meet in communities that provide the greatest cost efficiencies. We will

continue to provide the Regional Advisory Councils with budget briefings to help them develop a better understanding of what cuts are being proposed and how these cuts will affect the Federal Subsistence Management Program. As a result of these continued cuts, travel outside of normal Council meetings in the future will be very limited.

COUNCIL MEMBERSHIP APPLICATION/NOMINATION UPDATE

The Office of Subsistence Management sent out over 1,500 Regional Advisory Council applications in direct mailings to individuals, villages, municipalities, Tribal organizations, ANCSA corporations, and various non-profit organizations. The application period closed on February 18, 2012. In total, OSM received 67 applications and nominations. However, OSM received low numbers of applications for the northern regions: Seward Peninsula, Western Interior, Eastern Interior, Northwest Arctic and North Slope. In two instances, there were only enough applications to submit names to fill vacancies; in another instance, the Council will still have a vacant seat under the best case scenario.

The regional nominations panels met in April and May to evaluate and rank the applicants for each region. In June, the Interagency Staff Committee met to consider the panel reports and make recommendations to the Federal Subsistence Board for appointment.

The Federal Subsistence Board, in an executive session on July 18, 2012, voted on the applicants it will forward to the Secretaries of Interior and Agriculture for appointment. The next step will be to prepare a package to forward those names for vetting and consideration. The Secretary of Interior will issue appointment letters by early December 2012. The Office of Subsistence Management will not have notice of who the appointments are until those letters are issued.

RURAL DETERMINATION PROCESS AND METHOD REVIEW

At its January 2012 public meeting, the Federal Subsistence Board passed a motion to direct staff “to initiate a review of the rural determination process and the rural determination findings through publication of a proposed rule” (FSB January 20, 2012:560).

The intention of the Board is to conduct a global review of rural determination processes, analytical methods, and findings, beginning with public input. Board member Gene Virden referred to the review as a “bottom up process,” which would include public comment, tribal consultations, and Regional Advisory Council recommendations.

Office of Subsistence Management Staff, in conjunction with the Interagency Staff Committee, met to develop a tentative outline of a global review, and to project a timeline for the review.

Staff concluded that a Public Notice published in the Federal Register is the first step. It would ask for public input on rural processes, methods, criteria, and determinations. That Public Notice is being drafted and will be published in January 2013. The winter 2013 Subsistence Regional Advisory Council meeting will provide an initial public forum for comment on the rural determination process, analytical methods, and findings.

The global review, with public, tribal, and Council input, may include the following topics:

- Rural definitions
- Population thresholds
- Rural characteristics
- Aggregation of communities
- Information sources

Other topics of concern may arise through the review process.

The final goal is to develop a rural determination process and through that process to make final determinations on rural status.

BRIEFING ON CONSULTATION POLICIES

The Federal Subsistence Board (Board) adopted its Government-to-Government Tribal Consultation Policy on May 9, 2012. The Board postponed adopting the supplemental ANCSA corporation consultation policy pending the Department of Interior finalizing its own policy on consultation with ANCSA corporations.

The Board directed that the Consultation Workgroup develop implementation guidelines, which will define the responsibilities of the five Federal agencies and the Office of Subsistence Management in the implementation of the Tribal Consultation Policy and supplemental ANCSA corporation consultation policy (once adopted) within the framework of the Federal Subsistence Management Program regulatory review cycles. The goal is to have final implementation guidelines for presentation to the Board sometime in 2013; interim implementation guidelines will be used until the Board adopts the final guidelines. The workgroup will also ensure that the policies are being implemented and identify areas for improvement.

The Board recently sent a letter to Tribes and ANCSA corporations seeking nominations to the workgroup in order to broaden the spectrum of members from the current seven Federal and seven Tribal representatives. In addition, Tribes and ANCSA corporations were notified that opportunities to provide input on the proposed changes to subsistence fisheries regulations will be available at the Subsistence Regional Advisory Council meetings and time will be available for consultation with the Board at the upcoming Board meeting, January 22–24, 2013.

Government-to-Government Tribal Consultation Policy

“Tribes and Alaska Native peoples have been this lands’ first conservationists and first multiple use land managers.” - Lillian Petershoare, Workgroup Member, United States Forest Service

Federal Subsistence Board

Government-to-Government Tribal Consultation Policy

Preamble

The Federal Subsistence Board (Board) recognizes that indigenous Tribes of Alaska are spiritually, physically, culturally, and historically connected to the land, the wildlife and the waters. These strong ancestral ties to the land, wildlife and waters are intertwined with indigenous ceremonies such as songs, dances, and potlatches. The customary and traditional way of life has sustained the health, life, safety, and cultures of Alaska Native peoples since time immemorial. To effectively manage the Federal Subsistence Program, the Board will collaborate and partner with Federally recognized Tribes in Alaska to protect and provide opportunities for continued subsistence uses on public lands.

The United States has a unique legal and political relationship with Indian tribal governments, which has been established through and confirmed by the Constitution of the United States, statutes, executive orders, judicial decisions and treaties. In recognition of that special relationship, and pursuant to direction given by the Secretaries of the Interior and Agriculture to implement Executive Order 13175 of November 2000, “Consultation and Coordination with Indian Tribal Governments,” and to meet the requirements of the Presidential Memorandum of November 5, 2009, “Tribal Consultation,” the Board is developing this Government-to-Government Tribal Consultation Policy. This Policy sets out the Board’s responsibility to engage in regular and meaningful consultation and collaboration with Federally recognized Indian Tribes in Alaska on matters that may have substantial effects on them and their members. This Policy also upholds the Congressional mandate to implement the provisions of the Alaska National Interest Lands Conservation Act (ANILCA) of 1980, P.L. 66-487, which, with its implementing regulations, defines the roles and responsibilities of the Departments of the Interior and Agriculture in administering subsistence management of fish and wildlife on Federal public lands.

Government-to-government consultation undertaken through the Board’s process is a direct two-way communication conducted in good faith to secure meaningful participation in the decision-making process to the full extent allowed by law. The Board will consider and respond to the Tribes’ concerns brought forth through the consultation process (as defined in this policy) before making final decisions.

Two Department-level consultation policies provide the foundation for this policy. They are the Department of the Interior’s *Policy on Consultation with Indian Tribes (2011)* and the Department of Agriculture’s *2010 Action Plan for Consultation and Collaboration*. This policy is consistent with the

Government-to-Government Tribal Consultation Policy

Department-wide consultation policies, and it expands on them to apply the policies to the Federal subsistence management program.

The intent of this policy is to describe a framework under which the Board and Federally recognized Tribes in Alaska may consult on ANILCA Title VIII subsistence matters under the Board's authority.

Background

The Federal Subsistence Program, as established by ANILCA and implemented by the Secretaries of the Interior and Agriculture, is a multi-agency program consisting of five agencies: Bureau of Indian Affairs, Bureau of Land Management, U.S. Forest Service, National Park Service, and U.S. Fish and Wildlife Service. These bureaus and rural subsistence users maintain the opportunity for a subsistence way of life by rural Alaskans on Federal public lands while managing for healthy populations of fish and wildlife. The Federal Subsistence Regional Advisory Councils have a foundational role in the Federal Subsistence Program. By statute, the Board must defer to Federal Subsistence Regional Advisory Council recommendations related to the taking of fish and wildlife on public lands unless they are: a) not supported by substantial evidence, b) violate recognized principles of fish and wildlife conservation, or c) would be detrimental to the satisfaction of subsistence needs (ANILCA § 805(c)). The Board distinguishes the deference to Federal Subsistence Regional Advisory Councils from the Tribal government-to-government relationship enjoyed by Federally recognized Tribes, and this Policy will not diminish in any way either the consultation obligations towards Federally recognized Tribes or its deference obligations to the Federal Subsistence Regional Advisory Councils.

The Federal Subsistence Management Program regulations are published twice in the Code of Federal Regulations (CFR): 50 CFR Part 100 and 36 CFR Part 242. The regulations have four subparts. Subparts A and B are within the sole purview of the Secretaries of the Department of the Interior and the Department of Agriculture. Responsibility and decisions relating to the provisions of Subparts C and D are delegated by the Secretaries to the Federal Subsistence Board. Subpart C concerns Board Determinations, including rural and customary and traditional use determinations, while subpart D consists of the regulations for taking fish, wildlife and shellfish.

Goals

The goals of the Federal Subsistence Management Program are to:

1. Create and maintain effective relationships with Federally recognized Tribes in Alaska.
2. Establish meaningful and timely opportunities for government-to-government consultation.
3. Be responsive to requests from Federally recognized Tribes in Alaska to engage in consultation.
4. Work with Federally recognized Tribes in Alaska to improve communication, outreach and education.
5. Acknowledge, respect and use traditional ecological knowledge.
6. Recognize the importance of coordination, consultation and follow-up between the Federal Subsistence Board and Federally recognized Tribes in Alaska.

Government-to-Government Tribal Consultation Policy

7. Integrate tribal input effectively into the decision-making process for subsistence management on public lands and waters while maintaining deference to the Federal Subsistence Regional Advisory Councils.

Consultation

1. Communication

It is the Board's intention that information sharing between Tribes and the Board/Federal staff will occur early and often. Information sharing includes, but is not limited to, sharing of traditional knowledge, research and scientific data. Communication between the Federal agencies and Tribes will occur in a timely manner to maximize opportunities to provide input to the Board's decisions. For in-season management decisions and special actions, consultation is not always possible, but to the extent practicable, two-way communication will take place before decisions are implemented. When Tribes bring up issues over which the Board does not have jurisdiction, the Board and Federal staff will provide Tribes with contact information for the state or Federal agency that can address the issue and will also provide the tribes' contact information to the relevant state or Federal agency

2. Roles and Responsibilities

Board members are responsible for implementing this policy and ensuring its effectiveness. The Native Liaison in the Office of Subsistence Management is the key contact for the Board's consultations with Tribes. The Native Liaison will also assist Federal land managers and Tribes with their consultations, as requested and as needed. Federal land managers and staff have a local relationship with Tribes and will maintain effective communications and coordination.

3. Topics for consultation are listed under the definition for "Action with Tribal Implications." They may include, but are not limited to:

- Regulations (e.g., taking of fish, wildlife and shellfish - harvest amounts, methods and means, cultural and educational permits and funerary/mortuary ceremonies; emergency and temporary special actions; customary and traditional use determinations and customary trade)
- Policies and guidance documents [Note: this is consistent with page 3 "Definitions" of DOI Policy "Departmental Action with Tribal Implication".]
- Budget and priority planning development [Note: this is consistent with page 16 USDA Action Plan for Tribal Consultation and Collaboration (Nov 2009) and page 3 "Definitions" of DOI policy – "Departmental Action with Tribal Implication" – specifically "operational activity".]
- Agreements (e.g. Cooperative Agreements, Memorandum of Understanding, Funding Agreements)

Government-to-Government Tribal Consultation Policy

4. Timing

Timing of consultation will respect both the Federal subsistence management cycle and the Tribal timeframes for doing business. The requirement of early notification, methods of notice, availability of Federal analyses and time and place of Federal Subsistence Regional Advisory Council meetings and Board meetings are described in Appendix A of the “Federal Subsistence Consultation Implementation Guidelines.” A chart showing the Federal subsistence management cycle is in Appendix B of the same document

5. Methods

No single formula exists for what constitutes appropriate consultation. The planning and implementation of consultation will consider all aspects of the topic under consideration. The Board will be flexible and sensitive to Tribal cultural matters and protocols. Familiarity with and use of Tribes’ constitutions and consultation protocols will help ensure more effective consultation. Consultation may be prompted by a Federally recognized Tribe in Alaska or by the Board. Methods for correspondence, meetings, and communication are further described in Appendix A: “Federal Subsistence Consultation Implementation Guidelines.”

Accountability and Reporting

The Board will monitor consultation effectiveness and report information to the Secretaries, pursuant to the Department of the Interior and Department of Agriculture policies. On an annual basis, the Board will evaluate whether the policy has been implemented and is effective and what progress has been made towards achieving the seven goals outlined in this policy. The Board will actively seek feedback from Federally recognized Tribes in Alaska on the effectiveness of consultation, and the Board’s evaluation will summarize and reflect this feedback. The Board will modify the consultation process to incorporate needed enhancements, as identified through the annual review. The Board will provide Tribes an oral and written summary of the evaluation and changes, if any, in Board meetings with Tribes.

Training

Training on this policy for Federal staff will conform to the requirements of the Department of the Interior and Department of Agriculture consultation policies. The Board recognizes the unique traditional values, culture and knowledge that Tribes can impart and shall incorporate Tribes into the training for the Board and staff. The Board will accompany subsistence users in the field to gain direct experience in traditional Alaska Native hunting and fishing activities. In addition, Federal Subsistence Management training will be offered to representatives of Tribal governments and Tribal members on a regular basis as funding allows. A list of possible venues for training is included in Appendix C: “Venues for Training.”

Government-to-Government Tribal Consultation Policy

Alaska Native Corporation Consultation

Refer to the supplemental policy for consultation with Alaska Native Claims Settlement Act (ANCSA) corporations.

Adopted by the Board on May 9, 2012

Government-to-Government Tribal Consultation Policy

Definitions

Action with Tribal Implications – Any Board regulations, rulemaking, policy, guidance, legislative proposal, grant funding formula changes, or operational activity that may have a substantial effect on an Indian Tribe in Alaska.

Alaska National Interest Lands Conservation Act of 1980 (ANILCA) – Title VIII of the Act provides for the protection and continuation of subsistence uses of fish and wildlife by rural Alaskans on Federal public lands.

ANCSA Corporations – As defined in 43 U.S.C. § 1606, those regional and village corporations formed by Congress through the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et seq., to provide for the settlement of certain land claims of Alaska Natives.

Consensus Agenda – The Federal Subsistence Board’s consensus agenda is made up of regulatory proposals for which there is agreement among the affected Regional Advisory Councils, a majority of the Interagency Staff Committee members, and the Alaska Department of Fish and Game concerning a proposed regulatory action. Anyone may request that the Board remove a proposal from the consensus agenda and place it on the non-consensus (regular) agenda. The Board votes on the consensus agenda after deliberation and action on all other proposals.

Consultation – The process of effective and meaningful government-to-government communication and coordination between the appropriate Federal agency and Tribe(s) conducted before the Federal government takes action or implements decisions that may affect Tribes.

Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) – Requires regular and meaningful consultation and collaboration with Tribal officials in the development of Federal policies that have Tribal implications to strengthen the United States government-to-government relationships with Indian Tribes, and to reduce the imposition of unfunded mandates upon Indian Tribes.

Federal Subsistence Board – The Board administers the subsistence taking and uses of fish and wildlife on public lands and exercises the related promulgation and signature authority for regulations of subparts C and D. The voting members of the Board are: a Chair, appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture; two public members appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture who possess personal knowledge of and direct experience with subsistence uses in rural Alaska; the Alaska Regional Directors of the U.S. Fish and Wildlife Service, National Park Service, and Bureau of Indian Affairs; the Alaska Regional Forester of the U.S. Forest Service; and, the Alaska State Director, Bureau of Land Management.

Federally Recognized Tribe in Alaska – Any Alaska Native Tribe, band, nation, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. §479a.

Interagency Staff Committee (ISC) – The ISC is made up of senior staff from the National Park Service, U.S. Fish and Wildlife Service, Bureau of Indian Affairs, Bureau of Land Management, and USDA Forest Service. The ISC members serve as the primary advisors for their agency’s respective Board member.

Office of Subsistence Management (OSM) – The OSM provides support to the Federal Subsistence Board and the Federal Subsistence Regional Advisory Councils. The staff includes fish and wildlife biologists, cultural anthropologists, technical and administrative staff, an Alaska Native liaison and liaisons to the Alaska Department of Fish and Game, and the Alaska Boards of Fish and Game.

Government-to-Government Tribal Consultation Policy

Regional Advisory Councils – Title VIII of ANILCA provides a foundational role for the ten Regional Advisory Councils in the development of regulations guiding the taking of fish and wildlife on Federal public lands in Alaska. Council members, a majority of whom are rural subsistence users, are appointed by the Secretary.

Special Action – An out-of-cycle change in the seasons, harvest limits or methods and means of harvest. The two types include: 1) emergency, which are effective for up to 60 days, and 2) temporary, which are effective for the remainder of the regulatory cycle.

List of Appendices

APPENDIX A: Federal Subsistence Consultation Implementation Guidelines

APPENDIX B: Federal Subsistence Management Cycle

APPENDIX C: Venues for FSMP Training

DRAFT April 27, 2012

The Board is directing the Consultation Workgroup to continue the development of the guidelines with agency field manager input. The Workgroup will present a more developed guideline at a future Board meeting.

Appendix A

Interim Implementation Guidelines

for

Fiscal Year 12-13

Federal Subsistence Management Program

Tribal and ANCSA Corporation Consultation

This document provides guidance for the Federal Subsistence Management Program's Tribal Consultation Policy and ANCSA Corporation Consultation Policy. The Office of Subsistence Management Native Liaison, working with the Federal Subsistence Board and Interagency Staff Committee, plays a central role in ensuring the implementation of the Board's consultation policies. The following guideline is intended to be flexible for implementing these policies.

CONSULTATION SCHEDULE FOR THE REGULATORY CYCLE

1. OSM Native Liaison: Notify Tribes and ANCSA Corporations and, on request made to OSM Native Liaison, facilitate consultation on regulatory proposals among the appropriate parties. Prepare written summaries of consultations, ensure appropriate coordination within the Federal Subsistence Program, and maintain records of consultation for the Program.
2. OSM Native Liaison: Coordinate consultation with Tribes and ANCSA Corporations when Team Review analyses are available. Ensure a written summary is prepared of the results of consultation and appropriate coordination within the Federal Subsistence Program.
3. OSM Native Liaison: In coordination with OSM's Subsistence Regional Advisory Council Coordinators and Council Chairs, ensure opportunity for Tribal and ANCSA Corporation input at Council meetings. Summarize pertinent input in writing and ensure appropriate coordination within the Federal Subsistence Program.
4. Opportunity is provided for consultation with Tribes and ANCSA Corporations at Federal Subsistence Board meetings.
5. Consultations may also be requested by Tribes and ANCSA Corporations at any time.



Appendix B FEDERAL SUBSISTENCE MANAGEMENT PROGRAM ANNUAL REGULATORY PROCESS AT A GLANCE



Step 6 (April 1 and July 1)

The Board's adopted proposals become the Final Rule which is published in the Federal Register. The Final Rule contains the regulations in effect for the next two year period. The fisheries regulations are effective April 1; the wildlife harvest regulations are effective July 1.

A public booklet of the regulations is published and distributed statewide. The booklet includes regulations and other information relevant to the Federal Subsistence Management Program.

Step 1 (January - March)

A Proposed Rule is published in the Federal Register. It consists of the existing Federal subsistence regulations for fisheries or wildlife harvest (hunting or trapping) and asks the public to propose changes (proposals) to the existing regulations. The Proposed Rule is issued in January and proposals are accepted for approximately 45 days. The fisheries Proposed Rule is published in even numbered years. The wildlife Proposed Rule is published in odd numbered years.

Step 2 (April - May)

Proposals are reviewed by staff and validated to ensure that they fall within the authority of the Federal Subsistence Board. Valid proposals are compiled in a book, which is made available to the public and the tribes for information and comment. The public comment period is usually open for 60 days.

Step 5 (January)

The Federal Subsistence Board meets to review the proposal analyses, Councils recommendations, and accept testimony. During the meeting, the Council Chairs and a State of Alaska representative serve as liaisons to the Board. The Board must defer to the Council's recommendation on a proposal unless it violates ANILCA 805(c). The Board can:

- Adopt
- Adopt with modification or
- Reject, OR
- Defer until later.

Step 4 (August - October)

The affected Federal Subsistence Regional Advisory Council(s) reviews the draft proposal analyses at their annual fall meeting. The Council(s) makes recommendations based on its knowledge of the resources and subsistence practices in the area, and testimony received during the meeting. Recommendations are to:

- Support
- Support with modification
- Oppose, OR
- Defer until later

Step 3 (April - August)

Proposals are analyzed by federal staff. A draft analysis with preliminary conclusion for each proposal is written, considering received public comments and with input from:

- Federal and state biologists
- Federal and state social scientists
- The federal Interagency Staff Committee
- State of Alaska
- At times subsistence users and others are directly consulted about the implications of the proposals.

Appendix C

Venues for Training

- Bureau of Indian Affairs Tribal Service Providers Conference
- Alaska Forum on the Environment
- Alaska Tribal Conference on Environmental Management
- Alaska Federation of Natives Annual Convention
- Association of Village Council Presidents
- Tanana Chiefs Conference
- Bristol Bay Native Association
- Aleutians Pribilof Islands Association
- Cook Inlet Tribal Council
- Karawek, Inc.
- Maniilaq Association
- Sealaska Heritage Institute
- Central Council of Tlingit and Haida Tribal Assembly
- Southeast Clan Conference
- Arctic Slope Native Association
- Chugach Regional Resources Commission
- Copper River Native Association
- Kodiak Area Native Association
- First Alaskans Institute Elders & Youth Conference
- Alaska Native Professionals Association



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

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



JUN 28 2012

FWS/OSM 12046.AM

Subjects: (1) Nominations to the Board's Consultation Workgroup
(2) Opportunities for consultation on proposed changes to subsistence fishing regulations

Dear Tribal Leader:

Thank you for your meaningful participation in the development of the Federal Subsistence Board's Tribal consultation policy and congratulations to you on this momentous occasion! The Federal Subsistence Board (Board) adopted the Government-to-Government Tribal Consultation Policy on May 9, 2012. The new policy and its three appendices are enclosed.

The Department of Interior (DOI) is working on a policy for consultation with ANCSA corporations¹. The Federal Subsistence Board has decided to wait until the DOI policy is finalized before writing and implementing its supplemental policy on ANCSA corporation consultation. Until that time, the Board is utilizing the attached interim implementation guidelines to consult with ANCSA corporations on Federal subsistence matters.

The next step, in addition to engaging in consultation with your Tribe, is to develop implementation guidelines. The implementation guidelines will define the responsibilities of the five Federal agencies and the Office of Subsistence Management in the implementation of the Tribal consultation policy and supplemental ANCSA corporation consultation policy (once adopted) within the framework of the Federal Subsistence Management Program regulatory review cycles.

The Board's Consultation Workgroup will develop the implementation guidelines. The workgroup will also ensure that we are following the consultation policies and help us evaluate how we are doing and identify areas for improvement.

¹ Consultation with Alaska Native corporations is based on Public Law 108-199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108-447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: "The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175."

1) Nominations to the Board's Consultation Workgroup

The Board is looking to expand the membership of the workgroup from its current membership of seven Federal and seven Tribal representatives to include a broader spectrum of members. To that end, we are now soliciting nominations for Tribal and ANCSA corporation representatives to serve on the Board's Consultation Workgroup and continue its good work.

Please send workgroup nominations to the contact below, either via mail, email, or fax by July 27, 2012. Include the name of the Tribe or ANCSA corporation, the nominee's name, title, and a brief description of their experience with the Federal Subsistence Management Program and/or consultation.

U.S. Fish and Wildlife Service
Office of Subsistence Management
Attention: Andrea Medeiros
1011 East Tudor Road, MS 121
Anchorage, AK 99503

or via e-mail to
subsistence@fws.gov

or via fax at
907-786-3898

Realize that while we strive to expand membership of the workgroup, we must keep the workgroup a reasonable size and not all nominees will be selected. Also, be aware that funding is not likely to be available for participation in this workgroup and that it may be necessary to meet by teleconference. Regardless of who is ultimately appointed to the workgroup, involvement of the Tribes and ANCSA corporations in the continued efforts of the Board to build constructive consultation processes is important to us. We will continue to dialogue with Tribes and ANCSA corporations as we work to develop the implementation guidelines and ANCSA corporation consultation policy. We will also be looking to you for feedback on how we are doing.

2) Consultation on Proposed Federal Subsistence Fishing Regulations

The Federal Subsistence Board is currently engaged in the process to review proposed changes to the Federal subsistence fishing regulations. You may have received a proposal book several weeks ago. The proposal book is also posted to the Federal Subsistence Management Program's website under Public Participation (<http://alaska.fws.gov/asm/public.cfm>) or may be requested by contacting the Office of Subsistence Management by e-mail (above) or by calling 1-800-478-1456 or (907) 786-3888.

Tribal Leader

3

Federal Subsistence Management Program staff are currently working on analyzing the subsistence fisheries proposals. The Board is seeking your input on the proposals and the analyses. We are sensitive to the demands on your time and would like to avoid sending unsolicited documents. If you are interested in participating in the review of the proposals and/or the early drafts of the analyses, please contact the Office of Subsistence Management (see contact information above) and copies will be provided. If your Tribe wants to consult on any proposals, please contact us to schedule a time.

There will be several other opportunities to review and comment on the proposals and the analyses throughout the regulatory process. At each Subsistence Regional Advisory Council meeting (calendar enclosed) there will be opportunities for Tribes and ANCSA corporations to provide input on the subsistence fisheries proposals. At the Federal Subsistence Board meeting in January, there will be time set aside for Tribes and ANCSA corporations to consult with the Board on the proposals and analyses. Teleconference access to all of the meetings will be provided, so there is no need to travel; written comments are also welcome. Your participation is essential in the process to review the proposals that have been submitted to the Federal Subsistence Board. Please participate in any way you can.

We are happy to be a part of this moment in history with all Federally recognized Tribes in Alaska and we look forward to many important dialogues in the future.

Sincerely,

/S/ Tim Towarak

Tim Towarak, Chair
Federal Subsistence Board

Enclosures (2)

cc: Regional Native Non-Profits
Ken Salazar, Secretary of the Interior
Tom Vilsack, Secretary of Agriculture
Federal Subsistence Board
Regional Advisory Council Chairs
Pete Probasco, Assistant Regional Director OSM
Kathy O'Reilly-Doyle, Deputy Regional Director OSM
Administrative Record



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

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



JUN 28 2012

FWS/OSM 12047.AM

Subjects: (1) Nominations to the Board's Consultation Workgroup
(2) Opportunities for consultation on proposed changes to subsistence fishing regulations

Dear ANCSA Corporations:

The Federal Subsistence Board (Board) adopted the Government-to-Government Tribal Consultation Policy on May 9, 2012. The new policy and its three appendices are enclosed.

The Department of Interior (DOI) is working on a policy for consultation with ANCSA corporations¹. The Federal Subsistence Board has decided to wait until the DOI policy is finalized before writing and implementing its supplemental policy on ANCSA corporation consultation. Until that time, the Board is utilizing the attached interim implementation guidelines to consult with ANCSA corporations on Federal subsistence matters.

The next step, in addition to engaging in consultation with ANCSA corporations, is to develop implementation guidelines. The implementation guidelines will define the responsibilities of the five Federal agencies and the Office of Subsistence Management in the implementation of the Tribal consultation policy and supplemental ANCSA corporation consultation policy (once adopted) within the framework of the Federal Subsistence Management Program regulatory review cycles.

The Board's Consultation Workgroup will develop the implementation guidelines. The workgroup will also ensure that we are following the consultation policies and help us evaluate how we are doing and identify areas for improvement.

¹ Consultation with Alaska Native corporations is based on Public Law 108-199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108-447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: "The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175."

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ANCSA Corporation

3

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There will be several other opportunities to review and comment on the proposals and the analyses throughout the regulatory process. At each Subsistence Regional Advisory Council meeting (calendar enclosed) there will be opportunities for Tribes and ANCSA corporations to provide input on the subsistence fisheries proposals. At the Federal Subsistence Board meeting in January, there will be time set aside for Tribes and ANCSA corporations to consult with the Board on the proposals and analyses. Teleconference access to all of the meetings will be provided, so there is no need to travel; written comments are also welcome. Your participation is essential in the process to review the proposals that have been submitted to the Federal Subsistence Board. Please participate in any way you can.

We are happy to be a part of this moment in history with Federally recognized Tribes and ANCSA corporations in Alaska and we look forward to many important dialogues in the future.

Sincerely,

/S/ Tim Towarak

Tim Towarak, Chair
Federal Subsistence Board

Enclosures (2)

cc: Regional Native Non-Profits
Ken Salazar, Secretary of the Interior
Tom Vilsack, Secretary of Agriculture
Federal Subsistence Board
Regional Advisory Council Chairs
Pete Probasco, Assistant Regional Director OSM
Kathy O'Reilly-Doyle, Deputy Regional Director OSM
Administrative Record

Winter 2013 Regional Advisory Council Meeting Calendar

February–March 2013 current as of 09/11/12

Meeting dates and locations are subject to change.

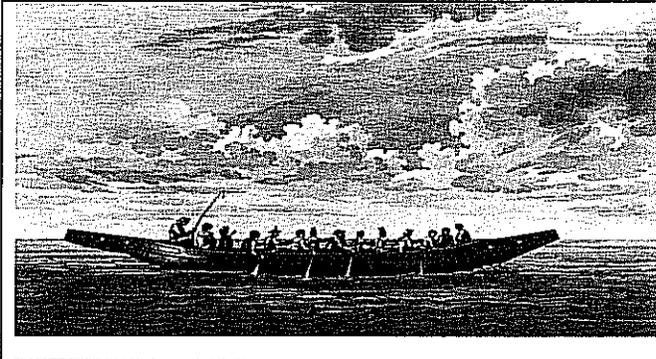
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Feb. 10	Feb. 11 <i>Window Opens</i>	Feb. 12 BB—Naknek SP—Nome	Feb. 13	Feb. 14	Feb. 15	Feb. 16
Feb. 17	Feb. 18 HOLIDAY	Feb. 19	Feb. 20 SC—TBA EI—Tok	Feb. 21	Feb. 22	Feb. 23
Feb. 24	Feb. 25	Feb. 26 NS—Barrow	Feb. 27 YKD—Bethel	Feb. 28	Mar. 1	Mar.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

Fall 2013 Regional Advisory Council Meeting Calendar

August–October 2013 current as of 09/11/12

Meeting dates and locations are subject to change.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<i>Aug. 18</i>	<i>Aug. 19</i> WINDOW OPENS	<i>Aug. 20</i>	<i>Aug. 21</i>	<i>Aug. 22</i>	<i>Aug. 23</i>	<i>Aug. 24</i>
	NS—Barrow		NWA—Kiana			
<i>Aug. 25</i>	<i>Aug. 26</i>	<i>Aug. 27</i>	<i>Aug. 28</i>	<i>Aug. 29</i>	<i>Aug. 30</i>	<i>Aug. 31</i>
<i>Sept. 1</i>	<i>Sept. 2</i> HOLIDAY	<i>Sept. 3</i>	<i>Sept. 4</i>	<i>Sept. 5</i>	<i>Sept. 6</i>	<i>Sept. 7</i>
<i>Sept. 8</i>	<i>Sept. 9</i>	<i>Sept. 10</i>	<i>Sept. 11</i>	<i>Sept. 12</i>	<i>Sept. 13</i>	<i>Sept. 14</i>
<i>Sept. 15</i>	<i>Sept. 16</i>	<i>Sept. 17</i>	<i>Sept. 18</i>	<i>Sept. 19</i>	<i>Sept. 20</i>	<i>Sept. 21</i>
<i>Sept. 22</i>	<i>Sept. 23</i>	<i>Sept. 24</i>	<i>Sept. 25</i>	<i>Sept. 26</i>	<i>Sept. 27</i>	<i>Sept. 28</i>
<i>Sept. 29</i>	<i>Sept. 30</i> END OF FY2013	<i>Oct. 1</i>	<i>Oct. 2</i>	<i>Oct. 3</i>	<i>Oct. 4</i>	<i>Oct. 5</i>
<i>Oct. 6</i>	<i>Oct. 7</i>	<i>Oct. 8</i>	<i>Oct. 9</i>	<i>Oct. 10</i>	<i>Oct. 11</i> WINDOW CLOSES	<i>Oct. 12</i>



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

**Bertrand Adams Sr., Chairman
P. O. Box 349
Yakutat, AK 99689**

RAC SE12002.BA

The Honorable Ken Salazar
Secretary of the Interior
U.S. Department of the Interior
Office of the Secretary
Washington, DC 20240

The Honorable Tom Vilsack
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Avenue, Southwest
Washington, DC 20250

Dear Secretary Salazar and Secretary Vilsack,

The Southeast Alaska Subsistence Regional Advisory Council (Council) continues to be concerned that reductions in the Alaska subsistence program budgets at both the Departments of the Interior and Agriculture will eliminate contracts and agreements with Alaska Native tribal entities that support critical monitoring of subsistence fish and wildlife populations. In rural Southeast Alaska, this program provides jobs for about 60 rural residents while developing local capacity within Tribal organizations to have a meaningful role in subsistence and resource management. The cultural and economic well-being of many rural residents is directly related to the success of the subsistence management program as access to subsistence resources is crucially important as a primary source of nutritious and affordable food.

In your September 21, 2010, letter to the Council, you noted several relevant findings of the recently completed Subsistence Program Secretarial Review. These included maintaining a meaningful role for the Councils in management of fish and wildlife on public lands and greater responsibilities by the Board for budget preparations for the Office of Subsistence Management.

Secretary Salazar and Secretary Vilsack

2

The Council considers providing advice on budget formulation a fundamental role in fish and wildlife management. The amount and allocation of funds not only controls the ability of the Council to provide meaningful recommendations to the Board and the Alaska Boards of Fisheries and Game but allows implementation of population monitoring and research activities for fish and wildlife. Maintaining a fisheries and wildlife monitoring program was the intent of Congress when they stated that research “shall” be undertaken in ANILCA Section 812.

During the September 2011 Council meeting, the Council received a report that the program will have funds available for Council operations and continuing studies in FY 2012, BUT that the Forest Service will probably NOT be able to implement the new Fisheries Monitoring Program studies recommended by the Council and developed through a State-wide interdepartmental process. The size of the future fisheries monitoring program continues to be in further doubt as budgets diminish both through actual decreases and through inflation.

For the wildlife monitoring program within the Forest Service, there is no funding anticipated for wildlife monitoring studies. Between 2005 and 2008, annual funding was available with the help of slight increase in subsistence funding. But those were eliminated after the funding peak of \$5.9 million was reduced to \$5.0 and then \$4.0 where it stands today.

The Council has identified several specific information needs associated with wildlife. The number of recent regulatory proposals concerning wolves, the petition to list this species, and the series of in-season management actions restricting the subsistence harvests of moose, deer, and goats are examples where inventory/research is needed to assist in the management decision making process.

In summary, the Council requests your assistance in obtaining funds through the national budgeting processes necessary for the continuation of this rural-area based fish and wildlife monitoring program, authorized by ANILCA, and so important to the continued livelihood of rural Alaskans. We believe that this program, probably to a much greater degree than other Departmental programs, best meets your priorities of sustaining the livelihood of rural families, ensures access to healthy and affordable food, provides jobs in rural communities, sustains cultural and traditional ways of life, and strengthens relationships with Alaska Native Tribes.

Secretary Salazar and Secretary Vilsack

3

Thank you, any questions regarding this letter can be addressed directly to me or through Mr. Robert Larson, Council Coordinator, U. S. Forest Service, Box 1328, Petersburg, Alaska 99833, (907) 772-5930, robertlarson@fs.fed.us.

Sincerely,

/s/


Bertrand Adams Sr., Chairman

cc: Federal Subsistence Board
Interagency Staff Committee
Director, Office of Management and Budget
Pat Pourchot, Special Assistant to the Secretary of the Interior for Alaska Affairs
Pete Probasco, Assistant Regional Director, OSM

United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

MAY 24 2012

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

Dear Mr. Adams:

Thank you for your letter of March 27, 2012, regarding the amount of funding provided to the U.S. Department of Agriculture's (USDA) Forest Service for implementing its role in the Federal Subsistence Management Program in Alaska. I apologize for the delayed response.

I would like to thank you and other members of the Southeast Alaska Subsistence Regional Advisory Council for assisting the Secretary of the Interior, the Federal Subsistence Board, and USDA in carrying out the provisions of Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA). Your role is crucial for all rural residents of Southeast Alaska in assuring that those most affected by fish and wildlife harvest regulations have a meaningful role in the management of those resources and of subsistence uses on public lands.

Implementation of a subsistence program that fulfills the obligations of the United States Government to rural users in Alaska is very important to me. The program aligns closely with USDA's mission and embodies key priorities that include sustaining the livelihood of rural families, ensuring access to healthy and affordable food, providing jobs in rural communities, sustaining cultural and traditional ways of life, and strengthening relationships with Alaska Native Tribes.

Due to budget constraints, the Forest Service has had to make some difficult funding decisions. USDA funding for the Federal Subsistence Management Program for fiscal year (FY) 2012 is approximately \$3.5 million, of which \$2.6 million was appropriated specifically for the subsistence program. The additional \$0.9 million comes from the Forest Service's wildlife and fisheries habitat management program that will fund on-going fish monitoring projects.

You are correct that no new projects in Southeast Alaska will be implemented through the Federal Subsistence Board-approved FY 2012 Fisheries Resource Monitoring Program (FRMP). Funds available through the U.S. Department of the Interior (DOI) will allow a number of new

Mr. Bertrand Adams, Sr.
Page 2

starts elsewhere in the State. I recognize that at its peak in 2005, the Forest Service portion of the FRMP supported over 65 jobs in rural Alaska, and we were able to fund a small Wildlife Resource Monitoring Program. In 2011, this program supported 45 jobs in rural Alaska communities with chronically high unemployment rates.

Since the initiation of the FRMP in FY 2000, we have worked cooperatively with 11 Tribal organizations in Southeast Alaska to conduct increasingly complicated and labor intensive projects and participate in regulatory decisionmaking by the State and Federal Governments regarding fisheries issues. Information provided by our Tribal partners through the FRMP is critical for decisionmaking by the Federal Subsistence Board and Forest Service in-season managers for making emergency closures and other in-season adjustments to harvest regulations.

The FY 2013 President's budget request to Congress includes \$2.0 million for the USDA portion of the Federal Subsistence Management Program in Alaska. I anticipate that additional funds will be allocated from the Forest Service's wildlife and fisheries habitat management program in order to fund ongoing FRMP projects.

Working with our partners at DOI, USDA will continue to fulfill our regulatory responsibility for subsistence management under the ANILCA.

Again, thank you for writing. I look forward to future discussions concerning this high priority program for rural Alaska.

Sincerely,

/S/

Secretary

United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

AUG 23 2012

Mr. Bertrand Adams, Sr.
Chairman
Southeast Alaska Subsistence Regional Advisory Council
c/o Mr. Robert Larson, Council Coordinator
U.S. Forest Service
Post Office Box 1328
Petersburg, Alaska 99833

Dear Mr. Adams:

On May 10, 2010, and in supplemental materials on June 15, 2011, Kootznoowoo, Inc. petitioned the Secretary of Agriculture to exercise extraterritorial jurisdiction into “marine waters adjacent to Admiralty Island and beyond.” The central issue of the petition, as supplemented, is whether State management of the commercial purse seine fishery has interfered with subsistence fishing on Federal public lands and waters to such an extent as to result in a failure to provide the subsistence priority to Angoon residents, as provided for under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) and its implementing regulations.

On July 29, 2011, I initiated review of the Kootznoowoo Petition in accordance with the Federal Subsistence Board’s (Board) established procedures of July 18, 2005. I asked the Board to provide its recommendation for consideration by the U.S. Department of Agriculture (USDA) and the U.S. Department of the Interior.

On March 21-22, 2012, the Board met jointly with your Council in Juneau. Mr. Pat Pourchot, Special Assistant to the Secretary of the Interior for Alaska Affairs, represented Secretary Ken Salazar, and Mr. Arthur “Butch” Blazer, the USDA Deputy Under Secretary for Natural Resources and Environment, represented me at the meeting. Kootznoowoo, Inc., federally-recognized Alaskan Tribes, other Alaska Native Corporations, members of the public, and officials from the State provided informative testimony. Throughout the testimony, key participants in the process expressed a desire to work cooperatively to manage interception of sockeye salmon by the commercial purse seine fishery and to address other considerations in order to avoid the need for the Secretaries to exert extraterritorial jurisdiction into non-federal waters.

Secretary Salazar and I have reviewed the Board’s recommendation; it closely parallels your recommendation to the Board. Consistent with your recommendations, we believe that, where possible, these issues should be addressed at the local level, with key stakeholders being provided with the opportunity to develop solutions to the problems identified in the petition.

Mr. Bertrand Adams, Sr.
Page 2

You and the Board recommend deferring action on the extraterritorial jurisdiction petition for 3 years in order to allow for locally developed solutions. We concur with that recommendation; however, we are concerned that 3 years is a long time to wait for resolution of an issue so important to Angoon's customary and traditional harvesting of salmon. In deferring, we fully expect positive action by involved parties and will be monitoring the work of the stakeholders, including the applicable actions identified on page 4 of your Council's recommendation. We have requested a twice-yearly status report from the Board on the progress being made. In the event that we do not see demonstrable progress, we may take appropriate alternative measures within the 3-year period. A copy of our letter of response to the petitioner, along with a copy of your council's Council's recommendation that was included in the response, is enclosed for your information.

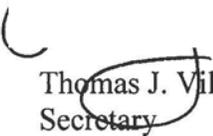
Recognizing it could be difficult for all parties to come together in a meaningful, productive, and timely manner, we plan to also concur with the Board's recommendation, set forth in their letter dated April 27, 2012, that the Board engage professional mediators to assist the parties. We hope that all parties will be receptive to such services.

If you need additional information concerning our decision, please contact Ms. Beth Pendleton, Regional Forester for the Alaska Region at (907) 586-8863. In coordination with the Federal Subsistence Board and the Office of Subsistence Management, Ms. Pendleton will be developing the next steps in helping the parties resolve these most important issues.

Before closing, I want to specifically thank your Council for its diligence in developing its recommendation to the Board. The Board forwarded your recommendation to me with their recommendation. Through Deputy Under Secretary Blazer, I have been told that the Council worked late into the night developing its recommendation, way beyond the call of duty for a volunteer group. I would also like to thank you and other members of the Southeast Alaska Subsistence Regional Advisory Council for assisting the Secretary of the Interior, the Federal Subsistence Board, and USDA in carrying out the many provisions of Title VIII of ANILCA. Your role is crucial for all rural residents of Southeast Alaska in ensuring that those most affected by fish and wildlife harvest regulations have a meaningful role in the management of those resources and of subsistence uses on Federal public lands.

Sincerely,

/S/


Thomas J. Vilsack
Secretary

Enclosures



AUG 23 2012

Mr. Floyd Kookesh
Chairman
Kootznoowoo, Inc.
8585 Old Dairy Road, Suite 104
Juneau, Alaska 99801

Dear Mr. Kookesh:

On May 10, 2010, and in supplemental materials on June 15, 2011, Kootznoowoo, Inc. petitioned the Secretary of Agriculture to exercise extraterritorial jurisdiction into “marine waters adjacent to Admiralty Island and beyond.” The central issue in the petition, as supplemented, is whether State management of the commercial purse seine fishery has interfered with subsistence fishing on Federal public lands and waters to such an extent as to result in a failure to provide the subsistence priority to Angoon residents as provided for under Title VIII of the Alaska National Interest Lands Conservation Act and its implementing regulations.

On July 29, 2011, Secretary Thomas J. Vilsack sent you a letter stating that, in accordance with the Federal Subsistence Board’s (Board) established procedures of July 18, 2005, the Board would consider Kootznoowoo’s request and provide a recommendation on the petition for consideration by the U.S. Department of Agriculture (USDA) and the Department of the Interior.

On March 21-22, 2012, the Board met jointly with the Southeast Alaska Subsistence Regional Advisory Council (Council) in Juneau. Mr. Pat Pourchot, Special Assistant to the Secretary of the Interior for Alaska Affairs, and Mr. Arthur “Butch” Blazer, USDA Deputy Under Secretary for Natural Resources and Environment, represented us at the meeting. Kootznoowoo, Inc., represented by you, federally-recognized Alaskan tribes, other Alaska Native corporations, members of the public, and officials from the State provided informative testimony. Throughout the testimony, key participants in the process expressed a desire to work cooperatively to manage interception of sockeye salmon by the commercial purse seine fishery and to address other considerations in order to avoid the need for the Secretaries to exert extraterritorial jurisdiction into non-federal waters.

We have reviewed the Board’s recommendation; it closely parallels the Council’s recommendation to the Board (enclosed). Consistent with their recommendations, we believe that, where possible, these issues should be addressed at the local level, with key stakeholders being provided with the opportunity to develop solutions to the problems identified in the petition. The Board and Council recommend deferring action on the extraterritorial jurisdiction

Mr. Floyd Kookesh
Page 2

petition for 3 years in order to allow for locally developed solutions. We concur with their recommendation; however, we are concerned that 3 years is a long time to wait for resolution of an issue so important to Angoon's customary and traditional harvesting of salmon. In deferring, we fully expect positive action by involved parties and will be monitoring the work of the stakeholders, including the applicable actions identified on page 4 of the Council's recommendation. We have requested a twice-yearly status report from the Board on the progress being made. In the event that we do not see demonstrable progress, we may take appropriate alternative measures within the 3-year period.

Recognizing that it could be difficult for all parties to come together in a meaningful, productive, and timely manner, we also concur with the Board's recommendation, set forth in their letter dated April 27, 2012, that the Board engage professional mediators to assist the parties. We hope all parties will be receptive to such services.

If you need additional information concerning our decision, please contact Ms. Beth Pendleton, Regional Forester for the Alaska Region, at (907) 586-8863. In coordination with the Federal Subsistence Board and the Office of Subsistence Management, Ms. Pendleton will be developing the next steps in helping the parties resolve these most important issues. A similar letter is being sent to Mr. Peter M. Naoroz, President and General Manager of Kootznoowoo, Inc.

Sincerely,

/S/

/S/

NEH Sarazai
Secretary of the Interior

Thomas J. Vilsack
Secretary of Agriculture

Enclosure

Recommendation on Kootznoowoo Petition for Extraterritorial Jurisdiction

Southeast Alaska Subsistence Regional Advisory Council March 22, 2012

Introduction:

The Council met in concurrent session with the Federal Subsistence Board to hear the staff analysis and public testimony regarding the Kootznoowoo Inc. Petition for extraterritorial jurisdiction into Chatham Strait. The petitioner contends that management of commercial fisheries by the State of Alaska has interfered with sockeye salmon escapements and subsistence harvests in systems fished by residents of the City of Angoon, including the Eva, Hasselborg, Kanalku, Kook, and Sitkoh drainages, to such an extent as to result in a failure of the subsistence priority.

The following comments are the Council's interpretation, summary and recommendations for action by the Secretaries.

Petition Requests:

The Kootznoowoo petition of May 10, 2010, requests Federal assertion of extraterritorial jurisdiction to restrict or close commercial fishing in marine waters of:

- 1) reserved Federal waters within and immediately surrounding Admiralty Island within the boundaries of Admiralty Island National Monument and Kootznoowoo Wilderness Area
- 2) reserved Federal waters three miles distant from the continental mainland and islands of Admiralty, Chichagof and Baranof
- 3) all marine waters and lands encompassed by "Angoon Territory," the defined boundaries of which are based on past use and current ownership

The petition supplement of June 15, 2011, requests:

- 1) reducing the harvest area adjacent to Hidden Falls Hatchery
- 2) closing all fishing districts in Chatham, Icy, and Peril Straits during June, July and the first two weeks of August
- 3) that "Kootznoowoo's rights, interests and quiet enjoyment of Federal lands and waters within Admiralty Island" be acknowledged, maintained and protected and that any current and continued enforcement efforts contrary to these be dismissed and discontinued.

Office of Subsistence Management Identification of Issues

Has State management of the commercial purse seine fishery interfered with subsistence fishing on Federal public lands and associated waters to such an extent as to result in a failure to provide

the subsistence priority to Angoon residents. This issue can be separated into three distinct questions:

1. Is there a Federal subsistence priority for Angoon residents?
2. Does State management of the commercial purse seine fishery interfere with subsistence fishing on Federal public lands and associated waters?
3. If there is interference, does it occur to such an extent as to result in failure to provide the subsistence priority to Angoon residents?

Council Findings:

There is no doubt that some sockeye salmon bound for streams used by residents of Angoon are intercepted by the commercial seine fishery operating in Chatham Strait. That is a reasonable conclusion because commercial fishery openings occur at the same time and in the same area where sockeye salmon of local origin are expected to migrate.

The total number or proportional contribution of sockeye salmon from these stocks to the Chatham Straits commercial fishery harvest is unknown. While the genetic stock database is generally complete, the commercial catch is not sampled for wild stock contributions.

The sockeye salmon streams in the local area are generally small in size with limited potential to provide for subsistence needs. In recent years, escapements in each of these five streams have likely been less than required to allow for returns within the natural range of sockeye production. Low estimates of sockeye fry densities and high estimates of prey species in the lakes support additional adult escapements. It is also likely that the demand for a 250 sockeye salmon per household annual limit for subsistence users will remain unfulfilled when adequate escapements are attained.

The geographic distribution of these streams force residents of Angoon to travel long distances over open waters to access the terminal areas of the five sockeye systems in question.

Subsistence fishing at these five systems occurs primarily in marine and intertidal waters near the mouths of these streams. There is little evidence of significant harvest in streams above the high tide mark. It appears that in addition to vagaries in natural production, management of the State mixed stock commercial seine fishery has the greatest effect on the State managed subsistence fishery in the terminal areas.

Critical habitat needs to be identified and addressed. Streams should be monitored each season, prior to sockeye returns to ensure that any blockages are removed. The Council supports the planning process currently in place to modify the natural barrier at Kanalku Lake. The falls will be altered to facilitate passage of sockeye salmon into the lake. Spawning areas need to be evaluated for quantity and quality. Some spawning areas are in need of rehabilitation.

Response to Questions Posed by the Office of Subsistence Management:

Question 1:

The Federal Subsistence Board has determined that residents of Angoon have a positive customary and direct dependence upon salmon returning to the five lakes under consideration (Eva, Hasselborg, Kanalku, Kook, and Sitkoh) as a mainstay of livelihood and have a subsistence priority.

Question 2:

The commercial purse seine fishery in Chatham Strait is a mixed-stock fishery; sockeye salmon system specific harvest data is limited, but based on Kanalku Lake and Kook Lake sockeye salmon escapements and seine harvest diagrams (Figures 4A, 4B, 5A, 5B, 5C from the staff analysis) the staff report summary states, “It appears more likely than not that the commercial purse seine fishery is reducing the number of sockeye salmon returning to Federally managed waters”. The Council supports this conclusion.

Question 3:

Sockeye salmon migrate to spawn within the exterior boundaries of the Tongass National Forest. Federal nexus extends into the marine waters of Southeast Alaska. Sockeye salmon subsistence fisheries at Eva, Hasselborg, Kanalku, Kook, and Sitkoh Lakes have historically occurred primarily in State waters and these fisheries are managed by the State. Subsistence sockeye salmon fisheries occur adjacent to Federal public land and on Federal public land. Sockeye salmon rear and return to spawn on Federal public land. Although there is interference, the proportion of fish harvested on Federal public land and the extent of this interference to the Federal fishery has yet to be determined. Based on public testimony, subsistence needs by the residents of Angoon are not being met at Kanalku Lake and this condition has failed to provide for the subsistence priority of Angoon residents.

Conclusion:

The Council suggests that the resolution of ownership of marine waters is not a requirement to address the question of whether there is a meaningful subsistence priority for the harvest of sockeye salmon on Federal public land by the residents of Angoon.

The Council feels strongly that the resolution of the questions and concerns contained within the petition is not a Secretarial responsibility alone. The ultimate solution will require cooperation between the State of Alaska, the Federal Subsistence Program and local communities.

Recommendation:

Defer extending Federal jurisdiction into waters of Chatham Straits, as recommended by the petition, for three years. Deferring action by the Secretaries to extend Federal jurisdiction into the marine waters of Chatham Strait will provide an opportunity for the State of Alaska, the Federal subsistence management program, and local residents and organizations to achieve the following milestones and management actions. The Council believes these actions will address the issues raised by Kootznoowoo Inc. and facilitate a solution developed at the local level.

Amend the Northern Southeast Alaska Seine Fishery Management Plan and the Hidden Falls Hatchery Management Plan to include accommodations for the State and Federal subsistence fisheries.

Close the commercial seine fishery areas in regulation that have been closed by State Emergency Order near Basket Bay and Kootznoowoo Inlet.

The Federal subsistence program and the Alaska Department of Fish and Game will assist the community of Angoon in developing a regulatory proposal for the State Board of Fish at the next regular cycle to change the Amounts Necessary for Subsistence finding to a community level rather than a Juneau management area designation.

It is advantageous for evaluation of the success of the management plan if escapement goals for Kanalku, Kook, Sitkoh, Hasselborg, and Eva Lakes are developed. Genetic stock identification programs and escapement goal studies by the State of Alaska in cooperation with the Federal subsistence management program will be implemented within three years.

The Federal subsistence program contact and cooperate with Kootznoowoo Inc. concerning the application of ANILCA.

The Council requests the Secretary provide annual progress reports to the Council and the Subsistence Board regarding these recommendations.

United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

APR 12 2012

Mr. Lawrence A. Widmark
Chairman
Sitka Tribe of Alaska
456 Katlian Street
Sitka, Alaska 99835

Dear Chairman Widmark:

Thank you for your letter of December 27, 2011, expressing your support for the request by the Organized Village of Saxman, Saxman I.R.A. Council to remain a rural community for the purposes of Federal Subsistence Management in Alaska. I apologize for the delayed response.

The implementation of a subsistence program for rural families that fulfills the obligations of the U.S. Government is important to me. The Federal Subsistence Management Program in Alaska aligns closely with the U.S. Department of Agriculture's (USDA) mission. It also embodies key priorities, including sustaining the livelihood of rural families, ensuring access to healthy and affordable food, providing jobs in rural communities, sustaining cultural and traditional ways of life, and strengthening relationships with Alaska Native Tribes.

During the Federal Subsistence Board (FSB) meeting, which in part took place on January 20, 2012, the board unanimously voted on two motions. First, consistent with the direction Interior Secretary Ken Salazar and I provided to the FSB in December 2010, the FSB directed staff to initiate a review of the Rural Determinations Process and the Rural Determination Findings through publication of a proposed rule. Second, the FSB voted to extend the compliance date of the Board's previous decision to revise the areas or communities, which includes the community of Saxman, from rural to non-rural status as they were published in the Federal Register on May 7, 2007.

The compliance date would be extended until either the completion of the 2010 Rural Determinations Process or 5 years, whichever comes first. On March 1, 2012, the FSB published a final rule, which also seeks comment on the 5-year extension of the compliance date. Enclosed is the Federal Register notice and news release.

Again, thank you for writing. Should you have any additional questions or concerns, please feel free to have your staff contact Mr. Steve Kessler, USDA's Forest Service Alaska Region Subsistence Program Leader, at skessler@fs.fed.us or (907) 743-9461.

Sincerely,

/S/

Thomas L. Vilsack
Secretary

Enclosures

United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

APR 12 2012

Mr. Richard Harris
Executive Vice President
Sealaska Corporation
One Sealaska Plaza, Suite 400
Juneau, Alaska 99801

Dear Mr. Harris:

Thank you for your letter of January 9, 2012, expressing your support for the request by the Organized Village of Saxman, Saxman I.R.A. Council to remain a rural community for the purposes of Federal Subsistence Management in Alaska. I apologize for the delayed response.

The implementation of a subsistence program for rural families that fulfills the obligations of the U.S. Government is important to me. The Federal Subsistence Management Program in Alaska aligns closely with the U.S. Department of Agriculture's (USDA) mission. It also embodies key priorities, including sustaining the livelihood of rural families, ensuring access to healthy and affordable food, providing jobs in rural communities, sustaining cultural and traditional ways of life, and strengthening relationships with Alaska Native Tribes.

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Again, thank you for writing. Should you have any additional questions or concerns, please feel free to have your staff contact Mr. Steve Kessler, USDA's Forest Service Alaska Region Subsistence Program Leader, at skessler@fs.fed.us or (907) 743-9461.

Sincerely,

/s/

Thomas J. Vilsack
Secretary

Enclosures