



Federal Subsistence Board Public Meeting

Meeting Materials Volume II Book B

January 31 - February 3, 2023

William A. Egan Civic & Convention Center
Anchorage, Alaska



Volume II

Non-Consensus Agenda Fisheries Proposals, Closure Reviews, and other documents

What's Inside...

Page

i	Meeting Agenda
iii	Consensus Agenda
iv	Non-Consensus Agenda

Non-Consensus Agenda Fisheries Proposals and Closure Reviews

Book A

223	FP23-01
246	FCR23-02
271	FCR23-03
296	FCR23-05
314	FCR23-12
335	FCR21-13 (deferred)
362	FCR23-13
387	FP23-06a
402	FCR23-15 (addressed by FP23-06a)
416	FP23-06b
431	FCR21-16 (deferred) (addressed by FP23-06b)
445	FCR21-18 (deferred)
459	FCR21-19 (deferred)
472	FCR23-21
485	FCR23-22
500	FP23-07

Book B

527	FP23-14
547	FP23-15/16
569	FP23-19
635	FP23-21
658	FCR23-23
674	FCR23-24

Other Agenda Items

693	Deferred Proposal WP22-40
------------	---------------------------

Book C

727	WP22-07
779	WP22-08
822	WP22-10
863	NDP25-01 Threshold Assessment

This page intentionally left blank

**FEDERAL SUBSISTENCE BOARD
PUBLIC MEETING AGENDA
January 31 – February 3, 2023**

January 31, 2023: 1:30 p.m. to 5:00 p.m. (or until recessed)
February 1 - 3, 2023: 9:00 a.m. to 5:00 p.m. (or until recessed)
Egan Center, 555 West 5th Avenue
Anchorage, Alaska

To participate by teleconference, dial toll free **(888) 455-7761**, (passcode **2266069**)

On January 31, prior to the start of the Public Meeting, the Federal Subsistence Board will meet at 9:00 a.m. to conduct Tribal Government-to-Government and ANCSA Corporation consultations regarding proposals to change Federal subsistence management regulations for the harvest of fish and shellfish on Federal Public lands and waters in Alaska. **The Public Meeting will begin at 1:30 p.m.**

Updates on the Board's progress through the agenda will be posted on the Federal Subsistence Management Program website at <https://www.doi.gov/subsistence/board/> and on Facebook at www.facebook.com/subsistencealaska.

Updates may also be received by calling (800) 478-1456 or (907) 786-3888.

Public Meeting

*** Asterisk denotes Action Item**

- 1. Call to Order and Welcome**
- 2. Review and Adopt Agenda***
- 3. Federal Subsistence Board Information Sharing Session**
- 4. Regional Advisory Council Chairs Discuss Topics of Concern with the Board**
- 5. Public Comment Period on Non-Agenda Items**
(This opportunity is available at the beginning of each day)
- 6. Fisheries Delegation Letters & Special Action Authorities**
- 7. 2021–2023 Subparts C&D Proposals and Closure Reviews *(Fish and Shellfish Regulations)***
 - a. Tribal Government-to-Government and ANCSA Corporation Consultation Summary
 - b. Announcement of Consensus Agenda *(see detailed agenda that follows)*
 - c. Public Comment Period on Consensus Agenda Items *(This opportunity is available at the beginning of each subsequent day prior to the final action)*

- d. Board deliberation and action on Non-Consensus Agenda items*
(see detailed agenda that follows)
- e. Adoption of Consensus Agenda*

8. Old Business

- a. Hunter Ethics Education and Outreach Initiative update*
- b. Secretarial regulations proposing the inclusion of identified submerged lands in the Tongass National Forest *
- c. Deferred Proposal WP22-40*
- d. Deferred Unit 4 Deer Proposals (WP22-07, WP22-08, WP22-10)*

9. RFR22-01, Request for Reconsideration of Fisheries Proposal FP21-10, Threshold Analysis* (Supplemental)

10. NDP25-01, Nonrural Determination Proposal Ketchikan, Threshold Assessment*

11. North Pacific Fishery Management Council

12. Schedule of Upcoming Board Meetings*

- a. 2023 Summer Work Session and Executive Session *(Council Annual Report Replies & Council Appointment Recommendations)*
- b. 2024 January Work Session *(FRMP)*
- c. 2024 April Public Meeting *(Wildlife Regulations)*

13. Adjourn

Audio Access Information:
Toll-Free: 1-888-455-7761
Pass Code: 2266069

FEDERAL SUBSISTENCE BOARD
CONSENSUS AGENDA

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

Proposal/Closure Review	Region/Location/Species	Recommendation	Page
FP23-02	Yukon-Northern/Yukon River/Salmon C&T	Support	7
FCR21-08 (deferred)	Aleutian Islands/Unalaska Lake/Salmon	Retain Status Quo	36
FCR21-09 (deferred)	Aleutian Islands/Summers Lake and Morris Lake/Salmon	Retain Status Quo	60
FCR21-11 (deferred)	Aleutian Islands/McLees Lake/Salmon	Retain Status Quo	84
FCR23-11	Aleutian Islands/Unalaska Bay Freshwater/Salmon	Retain Status Quo	107
FP23-05a	Kodiak/Salmon C&T	Oppose	131
FP23-05b	Kodiak/Area Description	Oppose	151
FCR23-19	Kodiak/Selief Bay/Salmon	Rescind	160
FP23-08/09/12	Cook Inlet/Moose Pass/All fish C&T	Support	173
FP23-20	Yakutat & Southeastern Alaska/Shellfish	Support	188

**FEDERAL SUBSISTENCE BOARD
NON-CONSENSUS AGENDA**

Procedure for considering proposals:

- Analysis (*Lead Author*)
- Summary of public comments (*OSM Staff*)
- Open floor to public testimony
- Regional Advisory Council recommendation(s) (*Chair or designee*)
- Tribal/Alaska Native Corporation comments (*Native Liaison*)
- Alaska Department of Fish and Game comments (*State Liaison*)
- Interagency Staff Committee comments (*ISC Chair*)
- Federal Subsistence Board discussion with Council Chairs and State Liaison
- Federal Subsistence Board action

Proposal/Closure Review	Region/Location/Species	Page
FP23-01	Yukon-Northern/Jim River/Non-salmon fish	223
FCR23-02	Yukon-Northern/Kanutu River/All fish	246
FCR23-03	Yukon-Northern/Bonanza Creek/All fish	271
FCR23-05	Yukon-Northern/Delta River/All fish	296
FCR23-12	Aleutian Islands/Adak and Kagalaska/Salmon	314
FCR21-13 (deferred)	Alaska Peninsula/Russel Creek/Salmon	335
FCR23-13	Alaska Peninsula/Trout Creek/Salmon	362
FP23-06a	Kodiak/Womens Bay/Salmon	387
FCR23-15 (addressed by FP23-06a)	Kodiak/Womens Bay/Salmon	402
FP23-06b	Kodiak/Buskin Marine Waters/Salmon	416
FCR21-16 (deferred) (addressed by FP23-06b)	Kodiak/Buskin Marine Waters/Salmon	431
FCR21-18 (deferred)	Kodiak/Afognak Bay/Salmon	445
FCR21-19 (deferred)	Kodiak/Afognak Island/Salmon	459
FCR23-21	Kodiak/Marine Waters/King Crab	472
FCR23-22	Kodiak/Little Kitoi/Salmon	485
FP23-07	Cook Inlet/Kenai River/Chinook Salmon	500
FP23-14	Prince William Sound/Upper Copper River/Salmon C&T	527
FP23-15/16	Prince William Sound/Upper Copper River/Salmon C&T	547
FP23-19	Prince William Sound/Lower Copper River/Salmon	569

Proposal/Closure Review	Region/Location/Species	Page
FP23-21	Southeastern Alaska/Kah Sheets/Sockeye Salmon	635
FCR23-23	Southeastern Alaska/Taku River/Salmon	658
FCR23-24	Southeastern Alaska/Neva Lake Drainage/Sockeye Salmon	674

This page intentionally left blank

FP23-14 Executive Summary	
General Description	FP23-14 requests to add residents of the Serendipity subdivision to the customary and traditional use determination for salmon in the Chitina Subdistrict of the Upper Copper River District. <i>Submitted by: residents of Serendipity subdivision</i>
Proposed Regulation	<p>Prince William Sound Area - Salmon</p> <p><i>Chitina Subdistrict of the Upper Copper River District</i></p> <p><i>Residents of Cantwell, Chickaloon, Chisana, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Gakona Junction, Glennallen, Gulkana, Healy Lake, Kenny Lake, Lower Tonsina, McCarthy, Mentasta Lake, Nabesna, Northway, Paxson-Sourdough, Slana, Tanacross, Tazlina, Tetlin, Tok, Tonsina, and those individuals that live along the Richardson Highway between mile posts 45 and 47, along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.</i></p>
OSM Conclusion	Support
Southcentral Regional Advisory Council Recommendation	Oppose
Eastern Interior Regional Advisory Council Recommendation	Take No Action

FP23-14 Executive Summary	
Interagency Staff Committee Comments	The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and Federal Subsistence Board action on the proposal.
ADF&G Comments	Neutral
Written Public Comments	2 Oppose

STAFF ANALYSIS
FP23-14

ISSUES

FP23-14 was submitted by the residents of Serendipity subdivision. Serendipity is a subdivided 150-acre homestead located along the Richardson Highway, between mile posts 45 and 47. The community sits near the confluence of the Tiekel River and Tsina River, and it is surrounded by public lands (see **Figure 2**). The proponents are requesting that Serendipity be added to the customary and traditional use determination for salmon in the Chitina Subdistrict of the Upper Copper River District.

DISCUSSION

The proponents report having harvested salmon in the Chitina Subdistrict for between 10 to 20 years through the State of Alaska's personal use fishery, as the Chitina Subdistrict fishery is the most efficient and accessible for members of this community. The proponents currently fall within the customary and traditional use determination for salmon in the Glennallen Subdistrict of the Upper Copper River District. However, they have difficulty accessing the salmon fishery in the Glennallen Subdistrict because of limited public access points, and a lack of fishwheels and appropriate boats within the community. The Serendipity subdivision is about an hour's drive away from Chitina, and the proponents note that they are closer to the fishery in the Chitina Subdistrict than some other communities who already fall under the customary and traditional use determination for this Subdistrict.

Existing Federal Regulation

Prince William Sound Area – Salmon

<i>Chitina Subdistrict of the Upper Copper River District</i>	<i>Residents of Cantwell, Chickaloon, Chisana, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Gakona Junction, Glennallen, Gulkana, Healy Lake, Kenny Lake, Lower Tonsina, McCarthy, Mentasta Lake, Nabesna, Northway, Paxson-Sourdough, Slana, Tanacross, Tazlina, Tetlin, Tok, Tonsina, and those individuals that live along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.</i>
---	---

Proposed Federal Regulation

Prince William Sound Area – Salmon

Chitina Subdistrict of the Upper Copper River District

*Residents of Cantwell, Chickaloon, Chisana, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Gakona Junction, Glennallen, Gulkana, Healy Lake, Kenny Lake, Lower Tonsina, McCarthy, Mentasta Lake, Nabesna, Northway, Paxson-Sourdough, Slana, Tanacross, Tazlina, Tetlin, Tok, Tonsina, and those individuals that live **along the Richardson Highway between mile posts 45 and 47**, along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.*

Extent of Federal Public Lands and Waters

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. Federal public waters of the Copper River include all waters within the exterior boundaries of the Wrangell-St. Elias National Park and Preserve and the Chugach National Forest, and inland waters adjacent to these exterior boundaries. Federal public waters also include 181 river miles on the Middle Fork of the Gulkana River from the outlet at Dickey Lake to its confluence with the Gulkana River, and the entire West Fork of the Gulkana River designated as a wild river pursuant to the Wild and Scenic Rivers Act.

The Upper Copper River District is composed of the Chitina Subdistrict and the Glennallen Subdistrict. The Chitina Subdistrict consists of all waters of the mainstem Copper River downstream of the southern edge of the Chitina-McCarthy Road Bridge, to an east-west line crossing the Copper River approximately 200 yards upstream of Haley Creek. The Glennallen Subdistrict consists of all waters of the mainstem Copper River from the lower edge of the mouth of the Slana River to the downstream edge of the Chitina-McCarthy Road Bridge, a distance of approximately 120 miles (see **Figure 1**).

Regulatory History

On October 1, 1999, Federal subsistence fishery management adopted the State subsistence fishery regulations, including those for the Copper River. At that time, the State recognized the Glennallen Subdistrict as a subsistence fishery and classified the Chitina Subdistrict as a personal use fishery. In the new Federal regulations adopted from the State, all residents of the Prince William Sound Area were listed as having customary and traditional use of salmon in the Glennallen Subdistrict only.

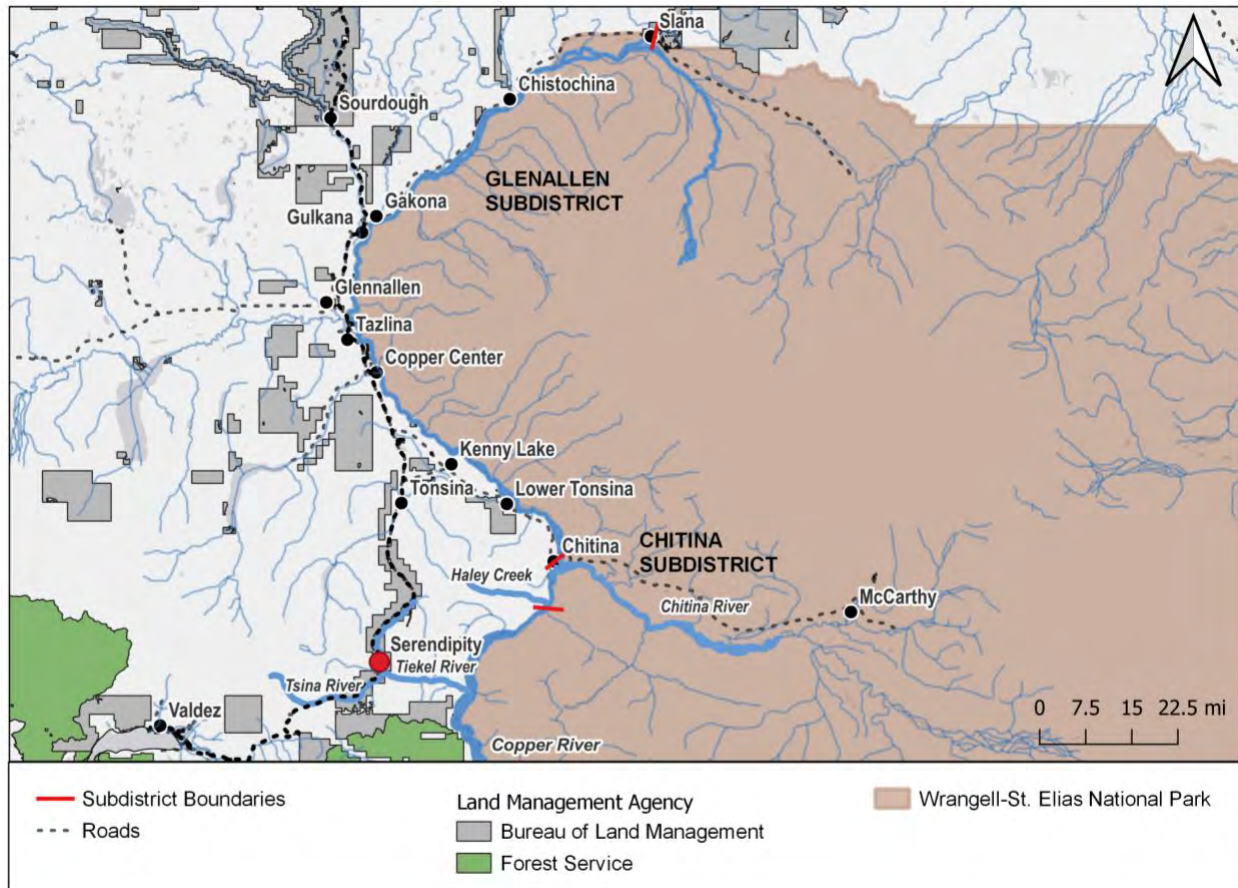


Figure 1. Upper Copper River drainage, showing exterior boundary of Wrangell-St. Elias National Park and Preserve as well as the Chitina and Glennallen Subdistricts of the Upper Copper River District.

In December 2000, the Federal Subsistence Board (Board) made additional customary and traditional use determinations for the Glennallen Subdistrict to include residents of Healy Lake, Dot Lake, Northway, Tanacross, Tetlin, Tok, and those individuals living along the Alaska Highway from the Alaskan/Canadian border to Dot Lake, along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.

In December 2000, the Board also adopted Proposal FP01-15, which established a customary and traditional use determination for salmon in the Chitina Subdistrict for residents of Chitina, Cantwell, Chistochina, Copper Center, Gakona, Gulkana, Mentasta, and Tazlina. The Board also adopted a modified version of Proposal FP01-16, submitted by the Copper River Native Association, which set harvest limits and created a Federal subsistence fishing season in the Glennallen Subdistrict from May 15 to September 30.

The Board initially adopted customary and traditional use determinations for the Chitina Subdistrict based on the traditional territories of three different Athabaskan groups. The traditional territory of the Ahtna extends from the Copper River Basin westward to Cantwell. To the north of Ahtna territory is the traditional area of the Upper Tanana and Tanacross Athabaskan language speakers. The Tanacross language area includes the communities of Healy Lake, Dot Lake, Tanacross, and Tok. The territory

upriver from Tetlin Junction, including the Nabesna and Chisana River valleys and the communities of Tetlin and Northway, is the traditional territory of the Upper Tanana Athabaskans. Dispersed within these traditional territories are communities initially settled by non-Natives. These settlements began with the building of gold rush trails and mining efforts around the beginning of the twentieth century (De Laguna and McClellan 1981, McKennan 1981, OSM 2001:81, Reckord 1983a, Reckord 1983b).

In 2002, The Wrangell-St. Elias National Park Subsistence Resource Commission submitted proposal FP02-16, requesting to add the remaining communities in the resident zone of the Wrangell-St. Elias National Park (Chisana, Dot Lake, Gakona Junction, Glennallen, Healy Lake, Lower Tonsina, McCarthy, Nabesna, Northway, Slana, Tanacross, Tetlin, Tok, Tonsina, and those individuals living along the Tok cutoff from Tok to Mentasta Pass, and along the Nabesna Road) to the customary and traditional use determination for salmon in the Chitina Subdistrict. This proposal was adopted by the Board, following the recommendation of the Southcentral Alaska Subsistence Regional Advisory Council (SCRAC). During that same regulatory year, the Wrangell-St. Elias National Park Subsistence Resource Commission also submitted proposal FP02-17, requesting several other changes to regulations including a review of eligible subsistence fishers for the Upper Copper River District. Prior to Board consideration, the proposal was divided into two separate proposals. Board action on Proposal FP02-17a added Chisana and Cantwell to the customary and traditional use determination for salmon in the Glennallen Subdistrict. Action on Proposal FP02-17b established a Federal subsistence salmon fishing season and methods and means for salmon harvest in the Chitina Subdistrict that were identical to the Federal season and methods and means in place for the Glennallen Subdistrict. Additionally, FP02-17b allowed those with customary and traditional use determinations for salmon in both the Chitina Subdistrict and the Glennallen Subdistrict to obtain a permit for each subdistrict in the same year, and it set a combined harvest limit from both subdistricts to the limit established for the Glennallen Subdistrict alone. FP02-17b also allowed for multiple gear types to be specified on each subsistence permit.

The Board also established a Federal permit requirement for the Upper Copper River District administered by the National Park Service in 2002. During the same regulatory cycle, the Board adopted Proposal FP02-20, which allowed those households with a Batzulnetas subsistence salmon permit to also be issued permits for the Chitina and Glennallen Subdistricts in the same year, provided that they were eligible for those permits. Also in 2002, the Board rejected proposals to add residents of Lake Louise and Delta Junction to the customary and traditional use determinations for salmon in the Glennallen and Chitina Subdistricts through the consent agenda. The stated justification was a lack of substantial evidence.

In 2004, the Chickaloon Village Traditional Council submitted Proposal FP05-14, which requested that Chickaloon be added to the Chitina Subdistrict customary and traditional use determination for salmon, and Proposal FP05-15, which requested that Chickaloon be added to the customary and traditional use determination for the Glennallen Subdistrict. The Board adopted these proposals, adding Chickaloon to the customary and traditional use determination for salmon in the Chitina and Glennallen Subdistricts during the 2005 regulatory year. In 2005, the Board also adopted proposal FP04-19, submitted by the Alaska Department of Fish and Game Paxson Fish and Game Advisory Committee, which requested that

the residents of Paxson-Sourdough be added to the customary and traditional use determination for salmon in the Chitina Subdistrict.

A 2017 Board decision regarding customary and traditional use status for Dry Creek Census Designated Place (CDP) may also have relevance for FP23-14 deliberations. In 2017, the Dry Creek Community Corporation submitted proposal FP17-11, requesting that the residents of Dry Creek be added to the customary and traditional use determination for salmon in the Glennallen Subdistrict of the Upper Copper River District (FSB 2017). The residents of Dry Creek had been harvesting salmon via State regulations in the Glennallen Subdistrict since Dry Creek was established in 1973 as a homesteading, subsistence-oriented community (OSM 2017). Dry Creek residents initially learned subsistence fishing, hunting, gardening, and gathering techniques from their neighbors in the area (OSM 2017). Subsistence knowledge and techniques were shared with other residents as the community grew (OSM 2017). Dry Creek residents also displayed a distinctive pattern of resource sharing that formed a key component of social life in the community (OSM 2017). The SCRAC and the Eastern Interior Subsistence Regional Advisory Council (EIRAC) supported FP17-11 for the reasons stated therein, and the proposal was adopted by the Board as part of its consensus agenda during the January 2017 Board meetings (FSB 2017).

Currently, Federal Regulations for the Upper Copper River District (Glennallen and Chitina Subdistricts) require users to have a subsistence fishing permit and allow the use of fishwheel, dip net, and rod and reel gear for the take of salmon. Households of federally qualified subsistence users who have a customary and traditional use determination in both subdistricts may be issued a permit for each.

State regulations allow subsistence fishing in the Glennallen Subdistrict, but not in the Chitina Subdistrict. The Chitina Subdistrict is designated as a State personal use fishery. Under State regulations, permits can only be issued for either the Glennallen Subdistrict subsistence fishery or the Chitina Subdistrict personal use fishery in the same year, but not both. Fishwheels and dip nets are allowed in the Glennallen Subdistrict, but a household may not use both in the same year. Only dip nets are allowed in the Chitina Subdistrict under State regulations. Serendipity residents currently have to choose between fishing in the more accessible Chitina Subdistrict State personal use fishery or the Federal subsistence fishery in the Glennallen Subdistrict.

Community Characteristics

According to key respondent interviews, the Serendipity subdivision is currently composed of approximately 15 to 20 permanent, year-round residents who live in 12 households on a subdivided 150-acre homestead along the Richardson Highway, between mile posts 45 and 47. Serendipity sits near the confluence of the Tiekkel River and Tsina River, and it is surrounded by public lands (**Figure 2**). Stuart Creek also runs through the community. Serendipity is approximately half-way between the Tonsina CDP and the Valdez CDP. However, Serendipity is not part of a named community or CDP, and there appears to be little documented information on the community. There has been no comprehensive subsistence survey conducted specifically on Serendipity. The information presented in this analysis comes primarily from key respondent interviews conducted with residents of Serendipity in 2022, and a study on the

harvest and use of wild resources in selected communities in the Copper River Basin conducted by the Alaska Department of Fish and Game (ADF&G) in 2013 (Holen et al. 2015).

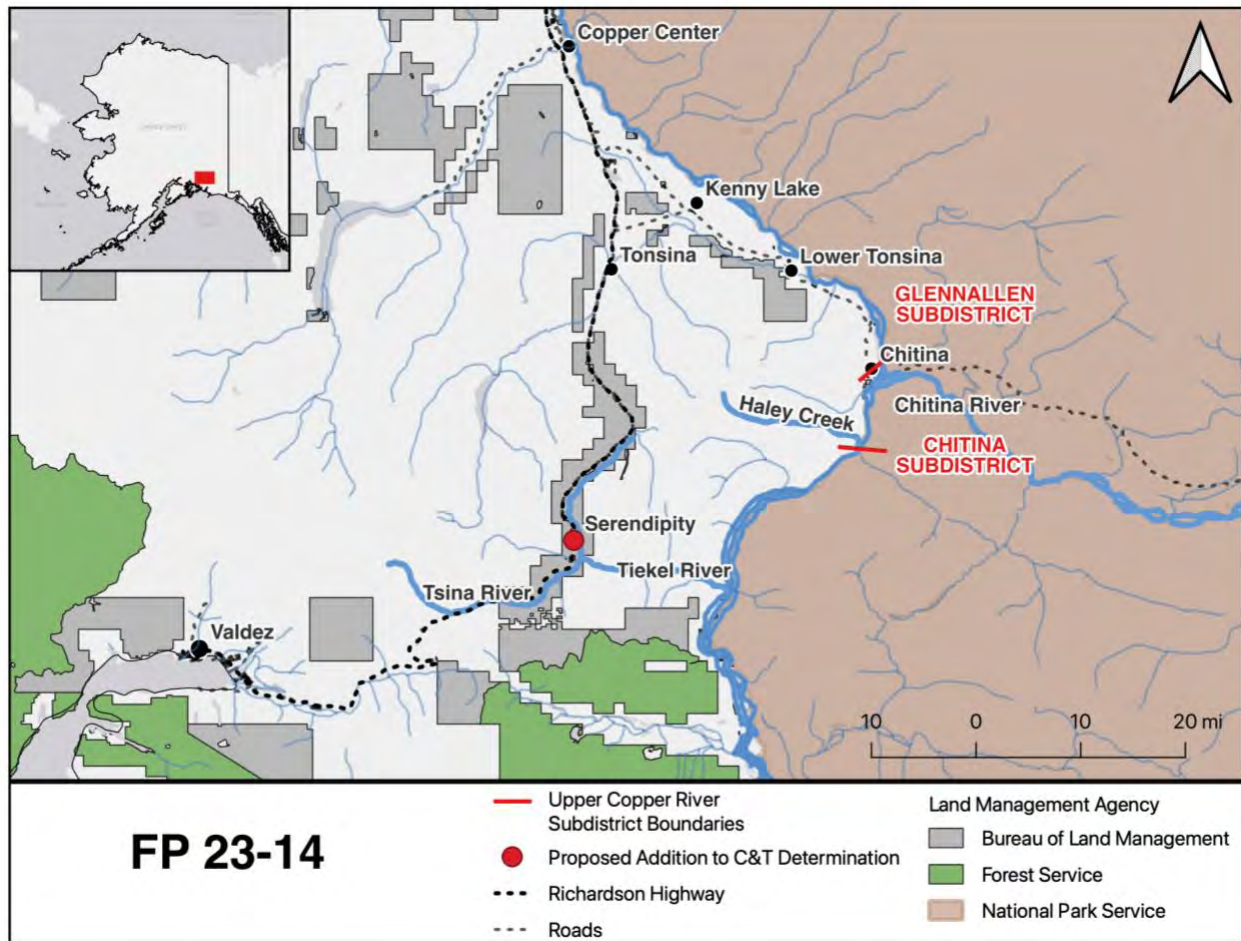


Figure 2. Serendipity Subdivision Vicinity Map

According to State records, the first parcels of the Serendipity subdivision were issued in June 2000. Serendipity parcels, however, were not connected to the electric grid until approximately 2020, and homes in the community have never had running water. However, many residents of Serendipity moved to the community because the land was affordable, they knew other residents of the community, and living in the area offered them the opportunity to lead a rural lifestyle. Since 2000, residents of Serendipity have harvested salmon in the Chitina Subdistrict through the State of Alaska’s personal use fishery, as the Chitina Subdistrict fishery is the most accessible for members of this community. The methods and means of harvest here have been shore-based dipnet fishing. Many residents at Serendipity also lived elsewhere along the Richardson Highway, or in communities like McCarthy, and regularly harvested salmon in the Chitina Subdistrict before moving to Serendipity. The residents of Serendipity currently fall within the customary and traditional use determination for salmon in the Glennallen Subdistrict. However, they have difficulty accessing the salmon fishery in the Glennallen Subdistrict because of limited public access points, and a lack of fishwheels and appropriate boats within the community.

The residents at Serendipity engage in a variety of occupations ranging from logging, construction, carpentry, commercial fishing, wilderness guiding, journalism, art, and nursing. Subsistence practices here form an important supplement to residents' other economic activities. In addition to fishing, residents here also engage in subsistence practices like gardening, gathering wild plants, hunting, and preserving meats and vegetable crops. There is also regular knowledge exchange between older and younger residents about subsistence practices, as well as regular sharing of subsistence resources between residents. These occupations and subsistence activities are similar to those discussed for the nearby Tonsina CDP (see Holen et al. 2015).

The study most relevant to life at Serendipity was conducted on the harvest and use of wild resources in selected communities in the Copper River Basin by ADF&G in 2013 (Holen et al. 2015). This study revealed that there were 12 households in the Serendipity community in 2013. However, only 4 of these households were permanent, year-round residents in 2013. These 4 households were surveyed as part of the Tonsina CDP for the purposes of the 2013 study. As such, Tonsina CDP information is used as a proxy for Serendipity for the following information.

In 2013, the total estimated population for Tonsina CDP was 90 individuals living in 39 households (Holen et al. 2015). About 25% of these individuals were born in the Copper River Basin (Holen et al. 2015). The mean household size for the Tonsina CDP was 2.3 residents, with an average length of residence of approximately 16 years, and a maximum length of residence of 50 years (Holen et al. 2015). The average household income for Tonsina CDP residents was \$85,334 in 2013 (Holen et al. 2015). Approximately 90% of this income was earned through employment (Holen et al. 2015). The greatest contributing job sectors for the area were the Service Industry (36% of total community income) and Agriculture, Forestry, and Fishing (27% of total community income) (Holen et al. 2015). Other key employment sectors included Local and Tribal Governments, Mining, and Construction (Holen et al. 2015).

Residents of the Tonsina CDP area “harvest a wide variety of resources, and like most rural Alaskan communities, they often target specific species during certain times of the year following a cyclical harvest pattern that is in part defined by seasonal availability and in part by laws, regulations, and land access” (Holen et al. 2015: 343). Approximately 83% of all residents of the Tonsina CDP harvested wild resources in 2013, while 89% of residents processed wild resources (Holen et al. 2015). Roughly 60% of community members fished, and 72% of community members processed fish (Holen et al. 2015). The average household harvested approximately 459 pounds (or 199 lbs. per capita) of usable wild resources during the 2013 survey year, with salmon constituting about half of this harvest weight (Holen et al. 2015). Salmon and other wild resources were regularly shared between households, as about 87% of households utilized salmon, while only 52% harvested salmon (Holen et al. 2015). This pattern of high producing households sharing resources with other households has been exhibited in many other rural Alaskan communities (Wolfe et al. 2010). Tonsina CDP residents harvested some salmon in the nearby Tonsina River; however, the majority of salmon were harvested by fishwheel near Chitina and Copper Center (Holen et al. 2015). Approximately 71% of salmon were harvested by fishwheel, while about 23% were harvested by dip net (Holen et al. 2015). Fishwheels are the predominant gear used by communities in the Upper Copper River Basin (Holen et al. 2015). However, flooding and high-water levels have

created challenges to installing, maintaining, and accessing fishwheels in recent years (Holen et al. 2015). The Upper Copper River District is easily accessible via the Richardson and Glenn Highways, and competition for resources is a significant concern for local residents (Holen et al. 2015). Approximately 30% of households in the Tonsina CDP area used boats to access and harvest wild resources in 2013 (Holen et al. 2015). The population of Tonsina CDP dropped to 55 individuals in 2020 (US Census Bureau 2020).

In the most recent research report available, the estimated State personal use salmon harvest in the Chitina Subdistrict was 82,955 fish, accounting for approximately 20% of all 409,662 salmon harvested through personal use fisheries in Alaska in 2018 (Brown et al. 2021). Unfortunately, specific information for the Serendipity community is not available in this report or similar reports for previous years. In these reports, Tonsina is the closest surveyed community to Serendipity. However, unlike Serendipity, residents of Tonsina possess a customary and traditional use determination for salmon in the Chitina Subdistrict.

In 2018, an estimated total of 3,388 salmon were harvested from the Chitina Subdistrict Federal subsistence fishery (Brown et al. 2021). Three households in Tonsina harvested an estimated 229 of these salmon in 2018. The estimated subsistence salmon harvest for both Federal and State fisheries in the Glenallen subdistrict was 65,792 fish, or approximately 9% of the total 737,469 subsistence salmon harvested in Alaska in 2018 (Brown et al. 2021). Five households in Tonsina harvested an estimated 508 salmon from the Glenallen Subdistrict in 2018 (Brown et al. 2021). Comparable Federal permit data for the year 2018 could not be located in the Federal Subsistence Database for Serendipity residents. However, permit data was located for one Serendipity resident who harvested 43 salmon through Federal subsistence permit in 2019. Another Serendipity resident harvested 9 salmon with a Federal subsistence permit in 2021. Similarly, one Serendipity resident has a record of hunting moose and caribou via Federal subsistence permit since 2016. Another resident had permit records for moose and caribou hunts in 2021. It should be noted, however, that linking residents of Serendipity to returned permit data in the Federal Subsistence Database is difficult because the Federal permit database does not allow the addition of new areas in the resident community field or have a specific way to document people who live outside of named communities. Likewise, Serendipity is not recognized as a community for the purposes of State data collection and State rules do not allow the disclosure of individual hunting and fishing permit information. It is therefore likely that the permit data discussed above understates the degree to which Serendipity residents have engaged in subsistence fishing and hunting activities in the Upper Copper River District.

Eight Factors for Determining Customary and Traditional Use

A community or area's customary and traditional use is generally exemplified through eight factors: (1) a long-term, consistent pattern of use, excluding interruptions beyond the control of the community or area; (2) a pattern of use recurring in specific seasons for many years; (3) a pattern of use consisting of methods and means of harvest which are characterized by efficiency and economy of effort and cost, conditioned by local characteristics; (4) the consistent harvest and use of fish or wildlife as related to past methods and means of taking: near, or reasonably accessible from the community or area; (5) a means of handling, preparing, preserving, and storing fish or wildlife which has been traditionally used by past generations, including consideration of alteration of past practices due to recent technological advances, where

appropriate; (6) a pattern of use which includes the handing down of knowledge of fishing and hunting skills, values, and lore from generation to generation; (7) a pattern of use in which the harvest is shared or distributed within a definable community of persons; and (8) a pattern of use which relates to reliance upon a wide diversity of fish and wildlife resources of the area and which provides substantial cultural, economic, social, and nutritional elements to the community or area.

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

In 2010, the Secretary of the Interior asked the Board to review, with Regional Advisory Council input, the customary and traditional use determination process, and present recommendations for regulatory changes. In June 2016, the Board clarified that the eight-factor analysis applied when considering customary and traditional use determinations is intended to protect subsistence use, rather than limit it. The Board stated that the goal of the customary and traditional use determination analysis process is to recognize customary and traditional uses in the most inclusive manner possible.

The subsistence practices of the communities that currently possess a customary and traditional use determination for salmon in the Chitina Subdistrict reflect the traditions of the Ahtna, Upper Tanana, and Tanacross; as well as those of Euro-American settler/homesteaders. These communities possess numerous interpersonal connections, and have a history of sharing subsistence resources, practices, and knowledge. These customary and traditional practices have been well-documented in previous proposal analyses for the Chitina Subdistrict (OSM 2000:13-38, OSM 2001:73-96). While there is documentation of the subsistence practices of communities along the Tok cutoff from Tok to Mentasta Pass, and along the Nabesna road, there has been little documentation of the subsistence practices of the residents of Serendipity.

According to key respondent interviews, the earliest residents of Serendipity subdivision have an approximately 20-year history of harvesting salmon via dipnet in the Chitina Subdistrict fishery through the State of Alaska's personal use regulations. This history dates back to the purchase of the first community parcel in 2000. Also, many of the residents at Serendipity lived along other portions of the Richardson Highway and harvested salmon from the Chitina Subdistrict personal use fishery before moving to Serendipity. The residents of Serendipity subdivision also have prepared and preserved harvested salmon through long-used practices such as canning and smoking since taking up residence in the community. Similarly, residents here engage in related subsistence practices such as gardening; collecting wild berries, herbs, and other plants; and hunting moose and caribou. These activities take place regularly every year, according to the standard seasons of planting and harvest. Residents here work

communally on larger gardens, while also tending their own smaller home gardens. Sharing of resources here is common, and these practices form an important part of social life in the community. Community meals where subsistence resources are shared generally take place several times per week. The sharing of moose meat is particularly common, as residents typically get together to assist with meat preparation after a successful hunt. Meat is shared with those who assist in the hunt and/or meat preparation. Salmon and other fish are also regularly shared, particularly when harvested in significant quantities, as this is another key means of building community and preventing potential food wastage. Subsistence knowledge about hunting, fishing, gardening, and gathering wild plants has been passed from older community residents to younger residents at Serendipity. Newer residents of Serendipity often moved to the community in part because of social connections with more established residents. Many younger residents now help older residents in their subsistence activities. These practices display broad similarities to the information documented for Tonsina CDP by ADF&G in 2013 (see Holen et al. 2015).

Effects of the Proposal

If the Board adopts this proposal, residents of the Serendipity subdivision would be eligible to harvest salmon under Federal subsistence regulations in the Chitina Subdistrict. This would provide Serendipity residents with greater, and potentially more efficient, access to subsistence salmon fisheries in the Upper Copper River District. If the Board adopts this proposal, residents of the Serendipity subdivision would be eligible to fish under the higher Federal harvest limit and longer Federal season in the Chitina Subdistrict. It is unclear whether this change would lead to increased salmon harvests by residents of the Serendipity subdivision.

If this proposal is rejected, the residents of Serendipity would not qualify as Federal subsistence salmon harvesters in the Chitina Subdistrict. However, Serendipity residents could continue to harvest salmon in the Chitina Subdistrict under State personal use fisheries regulations. They would also maintain a customary and traditional use determination for salmon harvest in the Glennallen Subdistrict fishery.

OSM CONCLUSION

Support Proposal FP23-14.

Justification

The permanent residents of the Serendipity subdivision meet the general eligibility requirements for Federal subsistence priority and have harvested salmon in the Chitina Subdistrict for between 10 to 20 years, through the State of Alaska's personal use fisheries regulations. Serendipity residents also have a history of engaging in related subsistence practices such as hunting, gardening, and gathering wild plants. These subsistence practices and the sharing of subsistence resources and knowledge form an important part of social life at Serendipity. These practices also display key similarities to the information documented for Tonsina CDP, a community which already possesses a customary and traditional use determination for salmon in the Chitina Subdistrict. Supporting this proposal is in keeping with the Board's stated goal from 2016 to recognize customary and traditional uses in the most inclusive manner possible. If necessary, a Section 804 Subsistence User Prioritization Analysis could be conducted in the future in the event of continued salmon declines.

LITERATURE CITED

- Brown, C.L., J.A. Fall, A. Goddhun, L. Hutchinson-Scarborough, B. Jones, J. Keating, B. McDavid, C. McDevitt, E. Mikow, J. Park, L.A. Sill, and T. Lemons. 2021. Alaska subsistence and personal use salmon fisheries 2018 annual report. ADF&G, Division of Subsistence Tech. Paper 484. Anchorage, AK. 294 pp.
- De Laguna F. and McClellan, C. 1981. Ahtna. In *Handbook of North American Indians*. Vol. 6: Subarctic. J. Helm, ed. Smithsonian Institution, Washington D.C. pp. 641-663.
- Holen, D, S.M. Hazell, and G. Zimpelman. 2015. The harvest and use of wild resources in selected communities of the Copper River Basin and East Glenn Highway, Alaska, 2013. ADF&G, Div. of Subsistence Tech. Paper No. 405. Anchorage, AK.
- FSB 2017. Transcripts of the Federal Subsistence Board Public Regulatory Meeting. January 12, 2017. Office of Subsistence Management, USFWS. Anchorage, AK. 124 pp.
- McKenna, R. A. 1981. Tanana. In *Handbook of North American Indians*. Vol. 6: Subarctic. J. Helm, ed. Smithsonian Institution, Washington D.C. pp. 562-576.
- OSM. 2000. Staff analysis FP01-15. Pages 13-38 *in* Federal Subsistence Board Meeting Materials. December 5-7, 2001. Office of Subsistence Management, USFWS. Anchorage, AK. 473 pp.
- OSM. 2001. Staff analysis FP02-16. Pages 73-96 *in* Federal Subsistence Board Meeting Materials. December 11-13, 2001. Office of Subsistence Management, USFWS. Anchorage, AK. 679 pp.
- OSM. 2017. Staff analysis FP11-17. Pages 26-42 *in* Federal Subsistence Board Meeting Materials. January 10-12, 2017. Office of Subsistence Management, USFWS. Anchorage, AK. 649 pp.
- Reckord, H. 1983a. That's the way we live: subsistence in the Wrangell-St. Elias National Park and Preserve. Anthropology and Historic Preservation, Cooperative Park Studies Unit, University of Alaska Fairbanks.
- Reckord, H. 1983b. Where Raven Stood: Cultural Resources of the Ahtna Region. Anthropology and Historic Preservation, Cooperative Park Studies Unit, University of Alaska Fairbanks.
- United States Census Bureau. 2020. Tonsina CDP, Alaska.
<https://data.census.gov/cedsci/profile?g=1600000US0278350>. Retrieved: June 9, 2022.
- Wolfe, R.J., C.L. Scott, W.E. Simeone, C.J. Utermohle, and M.C. Pete. 2010. The “super-household” in Alaska Native subsistence economies. Final Report to the National Science Foundation, Project ARC 0352611.

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southcentral Subsistence Regional Advisory Council:

Oppose FP23-14. The Southcentral Subsistence Regional Advisory Council felt that the residents of Serendipity did not fully demonstrate the criteria necessary to be recognized for customary and traditional use of salmon in the Chitina Subdistrict, particularly with regard to long-term patterns of use. The Council wanted to see additional research conducted into this community before recognizing Customary and Traditional use of this resource. They also noted that none of the community members spoke in support of their proposal at the Council meeting. Separately, the Council voiced support for the Federal Subsistence Board to review and revise the Customary and Traditional use request process.

Eastern Interior Subsistence Regional Advisory Council:

Take No Action on FP23-14. The Eastern Interior Subsistence Regional Advisory Council felt that the Southcentral Subsistence Regional Advisory Council was more familiar with the area/community under consideration, and therefore, better equipped to make a customary and traditional use recommendation on this proposal.

INTERAGENCY STAFF COMMITTEE COMMENTS

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

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Fisheries Proposal FP23-14

This proposal would modify the customary and traditional (C&T) use determination for salmon in the Chitina Subdistrict of the Upper Copper River District to include residents living along the Richardson Highway between miles 45-47.

Position

The Alaska Department of Fish & Game (ADF&G) is **NEUTRAL** on eligibility requirements for participation in the subsistence program provided under the Alaska National Interest Lands Conservation Act (ANILCA). ADF&G recommends the Federal Subsistence Board (FSB) thoroughly and carefully review the data relevant to the 8 criteria for those communities that lack a customary and traditional use finding.

Background

Salmon are an important subsistence resource in the Copper River Basin. Previously, federal C&T use determinations were largely adopted from the state's C&T findings, crafted when the state's subsistence law recognized a rural priority. In 1988, the Alaska Board of Fisheries (BOF) found positive C&T uses of salmon for residents living in the Prince William Sound area, based on domicile in Game Management Units 11, 13A, 13B, and 13D as described in the 1988 subsistence finfish regulations (5AAC 90.010). At

the time, the BOF evaluated evidence of long-term Alaska residents or multi-generational families being involved in a fishery to support a positive C&T finding, a requirement that was later invalidated in the Alaska Supreme Court by *Payton v. State of Alaska*. In 1992, when the state subsistence law was amended to not have a basis in residency requirements, the C&T finding for Prince William Sound became applicable to all Alaska residents, including those living along the Richardson Highway.

The Chitina Subdistrict of the Upper Copper River District is described in state regulation as all waters of the Upper Copper River District downstream of the downstream edge of the Chitina-McCarthy Road Bridge (5 AAC 01.605(a)(1)). Under state regulation, the majority of salmon harvested in this area are harvested under a state resident-only, personal use, dipnet fishery.

Impact on Subsistence Users

This proposal increases the pool of federal subsistence users eligible to participate in salmon harvesting opportunities provided under ANILCA. This would limit opportunities for currently federally qualified users (FQU) by increasing number of people fishing under federal regulations thus increasing competition. If this proposal is rejected, residents of the Serendipity Subdivision could continue to fish for salmon under state regulations in this area.

Impact on Other Users

If adopted, impact on other users would depend on future actions taken by the FSB.

Opportunity Provided by State

State customary and traditional use findings: Salmon in the state's Chitina Subdistrict have a negative C&T finding.

Amounts Reasonably Necessary for Subsistence (ANS): Alaska state law requires the BOF to determine the amount of the harvestable portion of a fish population that is reasonably necessary for customary and traditional uses. This is an ANS. The BOF does this by reviewing extensive harvest data from all Alaskans, collected either by ADF&G or from other sources. Because there is no C&T determination for the Chitina Subdistrict, there is no ANS.

Conservation Issues

There would only be conservation concerns if the FSB and federal in-season managers allowed these additional FQUs to overharvest fish populations in a given area.

Enforcement Issues

There are no known enforcement issues directly related to this proposal.

WRITTEN PUBLIC COMMENTS

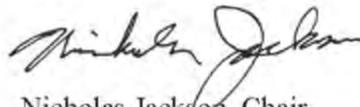
July 22, 2022

Federal Subsistence Board
Office of Subsistence Management
(Attn: Theo Matuskowitz)
1011 E. Tudor Road, MS-121
Anchorage, Alaska 99503-6199
Via Email to subsistence@fws.gov

Dear Mr. Matuskowitz:

On behalf of the shareholders of Ahtna, Incorporated, we are submitting the enclosed comments on select proposals from the Federal Subsistence Management Program 2023-2025 Fisheries Proposals book.

Respectfully,



Nicholas Jackson, Chair
Customary & Traditional Committee
Ahtna, Incorporated

Enclosure as noted

Comments:

We oppose FP 23-14. The Serendipity Subdivision Residents are not eligible for a positive customary and traditional use determination in the Chitina Subdistrict. As explained further below, they do not meet the criteria used in making a positive customary and traditional use determination.

This subdivision has not shown that their handling, methods or means establish a long term, consistent, pattern of use for harvesting salmon in the Chitina Subdistrict, nor have they provided written documentation establishing handing down the knowledge of taking salmon or the passing down of lore's or stories from generation to generation. They cannot prove substantial cultural, economic, social or nutritional subsistence uses of salmon in the Chitina Subdistrict.

Although they may have a positive customary and traditional use determination for the Glennallen Subdistrict, they do not have a consistent reoccurring and seasonal use of salmon in the Chitina Subdistrict.

All other communities or individuals that currently have positive customary and traditional use determinations went through a significant review process including providing written documentation proving their cultural and historical ties to the fisheries in the Upper Copper River District. These same requirements should be upheld for any other communities or individuals requesting a positive customary and traditional use determination.

- *Ahtna, Incorporated Customary and Traditional Committee*



Ahtna Intertribal Resource Commission

PO Box 613 – Glennallen, Alaska 99588 www.ahtnatribal.org
Phone: (907) 822-4466 Fax: (907) 822-4406 connect@ahtnatribal.org

July 25, 2022

Federal Subsistence Board
Office of Subsistence Management
(Attn: Theo Matuskowitz)
1011 E. Tudor Road, MS-121
Anchorage, Alaska 99503-6199

Dear Chairman Anthony Christianson:

Introduction

The Ahtna Intertribal Resource Commission (AITRC) is an inter-tribal agency serving the 8 Federally recognized tribal governments and 2 Alaska Native Corporation landowners located within the Ahtna Traditional Use Territory. The customary and traditional homelands of the 'Atna' *hwtaene* include the Upper Copper River basin, Upper Susitna River valley, and portions of the Tanana River drainage along the Denali Highway region. The mission of AITRC is to honor and integrate traditional indigenous knowledge and values through innovative stewardship that is respectful of the land for all generations with the vision of exercising tribal sovereign authority and stewardship of cultural and natural resources within our traditional territory to ensure our future self-sustainability.

In 2016, AITRC and its member tribes and corporations entered into an historic agreement with the US Department of the Interior for the purpose of formalizing the subsistence wildlife management partnership and pursue cooperative management of customary and traditional subsistence uses within the Ahtna Traditional Use Territory. Within this agreement, the US Department of the Interior recognized that special circumstances within the Ahtna region have not permitted the 'Atna' *hwtaene* to meet their subsistence needs. Moreover, the Department recognized its obligation to uphold the Federal trust responsibility to Ahtna tribes and the right of rural resident members of Ahtna tribal communities to maintain their cultural identity through opportunities to practice their ancestral customary and traditional ways of life on Federal public lands in a manner that enables them to pass down indigenous knowledge and ancestral customary practices from generation to generation.

In passing ANILCA Title VIII, US Congress invoked its constitutional authority over Native affairs and its constitutional authorities under the property and commerce clauses and found and declared that the "continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened by the increasing population of Alaska, with resultant pressure on subsistence resources, by sudden declines in the populations of some wildlife species which are crucial subsistence resources, by increased accessibility of remote areas containing subsistence resources, and by taking of fish and wildlife in a manner inconsistent with recognized principles of fish and wildlife management" and called for a federal subsistence management program that requires a meaningful role in the management of fish and wildlife and of subsistence uses by "rural residents who have personal knowledge of local conditions and requirements" (ANILCA Section 801).

**COMMENTS ON
2023-2025 FEDERAL SUBSISTENCE FISHERIES
REGULATORY CHANGE PROPOSALS**

FP23-14/15/16 Expand Federal Customary and Traditional Use Determinations for Additional Communities and Areas

FP23-14, FP23-15, and FP23-16 all ask to expand the federal customary and traditional use determinations for additional communities and areas both within and outside the Copper River basin, which if passed would increase the number of federally qualified users of our Copper River salmon. As outlined above and in ANILCA Title VIII itself, the continuation of ancestral indigenous customary and traditional uses of fish and wildlife remains under increasing threat by a growing human population, declining ancestral tribal subsistence resource populations, and increasing access to once-remote areas. These three proposals contribute to these ongoing problems and trends, which further disenfranchise the *'Ahtna' hwtaene*, by further expanding the opportunity for others who had not been customary and traditional users or residents of the Ahtna Traditional Use Territory when ANILCA was passed by Congress in 1980.

AITRC and its member tribes and Alaska Native Corporations are opposed to each of these proposals. During recent years of declining Copper River salmon productivity, tribal citizens and other rural residents who customarily, traditionally, and historically fished for salmon in the upper portions of the Glennallen Subdistrict and Batzulnetas Area have experienced significant declines in the availability and efficiency of subsistence salmon fishing activities. A recent historical assessment of catch per unit effort conducted by Wrangell-St. Elias National Park and Preserve staff, and shared with AITRC, suggests that when numbers of salmon passing Miles Lake sonar are less than about 750,000 salmon, subsistence salmon harvest success above the Gakona River, and consequently federal subsistence uses, may be negatively impacted. ADF&G managers respond to these concerns by AITRC and its member tribes by suggesting that Ahtna people aren't putting enough effort into their subsistence fishing activities, in effect, blaming the victim. However, when tribal elders inform fishwheel operators to stop fishing to ensure sufficient salmon pass to reach specific spawning beds, or the costs of keeping the wheel fishing throughout the summer to catch what used to be caught in a single day are prohibitive, many Ahtna tribal citizens and other rural residents simply cannot afford to keep putting in the fishing effort to obtain historic harvest levels and risk compromising indigenous stewardship practices of ensuring sufficient spawners of various specific tributaries. The amount of time needed to invest in harvesting sufficient numbers of salmon to meet previous and ongoing subsistence needs is often so great that many cannot spend that much time a fish camp now given the lack of salmon abundance in the river. In turn, this is having devastating impacts on our abilities to pass on ancestral indigenous knowledge to our children, grandchildren, nieces and nephews.

Most Copper River-bound salmon are harvested by the state-managed commercial fishery before the salmon enter the river. Commercial salmon fishing has long been a challenge to the *'Ahtna' hwtaene* in meeting their ancestral customary and traditional subsistence needs for salmon. In fact, Chief Goodlataw filed a complaint with the US Federal government in 1917 regarding the commercial fishing that had been taking place within Abercrombie Canyon, which was causing the Ahtna people to face starvation.¹

¹ Ahtna Subsistence Search Conference: A Conference for the Ahtna People To Plan For the Future of Their Subsistence Resources, Practices and Lifestyle, November 12-13, 2013.

Then, those salmon that escape the commercial fishery at the mouth of the Copper River, our migrating salmon swim up the river and into the Chitina Subdistrict with its ever-expanding number of users participating in the state-managed Personal Use dipnet fishery. This gauntlet fishery continues to be of great concern to AITRC and its member Tribes and Alaska Native Corporations. Efforts to make the canyon more accessible to non-local users and the salmon collapses in other areas of Alaska, like the Yukon and Kuskokwim rivers has contributed to the increased pressure on Copper River salmon stocks and declines in salmon availability in the Glennallen Subdistrict, and especially its uppermost sections where subsistence needs are not being met.

FP23-14, FP23-15, and FP23-16 each asks to expand the federal customary and traditional use determinations for additional Alaska residents within the Chitina Subdistrict, many of whom claim their customary and traditional use eligibility through their prior participation in the nonsubsistence Chitina personal use dipnet fishery. While AITRC and its members recognize and support the importance of the federal subsistence priority over all other uses, after all there would not be a federal subsistence fishing priority for salmon without the decades long efforts of the *'Atna' hwtæene*, we do not support such determinations that would expand eligibility to additional users just because they have moved to rural areas and now seek to establish new traditions in efforts to mitigate the increasing pressures on Copper River resources by non-local and non-rural Alaska residents long after the passage of ANILCA, especially at the expense of the *'Atna' hwtæene*, the original stewards of the Copper River basin. Finally, these proposals contribute to and expand the threats to the continuation of customary and traditional uses acknowledged by Congress when enacting ANILCA Title VIII as outlined in our introductory comments above.

- *Ahtna Intertribal Resource Commission*

FP23-15/16 Executive Summary	
General Description	<p>Proposal FP23-15/16 requests that the Federal Subsistence Board recognize the customary and traditional use of salmon in the Chitina Subdistrict of the Upper Copper River District by permanent rural residents who live between named communities along the Alaska Highway from the U.S./Canada Border to Dot Lake. <i>Submitted by: ADF&G Upper Tanana Fortymile Advisory Committee.</i></p>
Proposed Regulation	<p>Prince William Sound Area - Salmon</p> <p><i>Chitina Subdistrict of the Upper Copper River District</i></p> <p><i>Residents of Cantwell, Chickaloon, Chisana, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Gakona Junction, Glennallen, Gulkana, Healy Lake, Kenny Lake, Lower Tonsina, McCarthy, Mentasta Lake, Nabesna, Northway, Paxson-Sourdough, Slana, Tanacross, Tazlina, Tetlin, Tok, Tonsina, and those individuals that live along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road and along the Alaska Highway from the U.S./Canada Border to Dot Lake.</i></p>
OSM Conclusion	Support
Southcentral Regional Advisory Council Recommendation	Oppose

FP23-15/16 Executive Summary	
Eastern Interior Regional Advisory Council Recommendation	Oppose
Interagency Staff Committee Comments	The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and Federal Subsistence Board action on the proposal.
ADF&G Comments	Neutral
Written Public Comments	2 oppose, 1 support with modification

STAFF ANALYSIS
FP23-15/16

ISSUES

Proposal FP23-15/16 submitted by the Alaska Department of Fish and Game (ADF&G) Upper Tanana Fortymile Mile Advisory Committee (AC) requests that the Federal Subsistence Board (Board) recognize the customary and traditional (C&T) use of salmon in the Chitina Subdistrict of the Upper Copper River District by permanent rural residents who live between named communities along the Alaska Highway from the U.S./Canada border to Dot Lake (**Figure 1**). Two identical proposals were submitted and are therefore being analyzed together.

DISCUSSION

The proponent states that FP02-16, adopted by the Board, neglected to include this area in the list of communities and areas that have a customary and traditional use determination for salmon in the Chitina Subdistrict of the Upper Copper River District. The area affected by this proposal includes the permanent rural resident households situated along the Alaska Highway that fall between the U.S./Canada border to Dot Lake. The communities along this portion of the Alaska Highway, Northway, Tetlin, Tok, Tanacross, and Dot Lake have a customary and traditional use determination for salmon in the Chitina Subdistrict. The proponent notes that the households located between these communities along the Alaska Highway are not separate from these communities but are linked to them by geography, kinship, economy and practice the same subsistence way of life.

Existing Federal Regulation

Prince William Sound Area - Salmon

Chitina Subdistrict of the Upper Copper River District

Residents of Cantwell, Chickaloon, Chisana, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Gakona Junction, Glennallen, Gulkana, Healy Lake, Kenny Lake, Lower Tonsina, McCarthy, Mentasta Lake, Nabesna, Northway, Paxson-Sourdough, Slana, Tanacross, Tazlina, Tetlin, Tok, Tonsina, and those individuals that live along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.

Proposed Federal Regulation

Prince William Sound Area - Salmon

Chitina Subdistrict of the Upper Copper River District

*Residents of Cantwell, Chickaloon, Chisana, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Gakona Junction, Glennallen, Gulkana, Healy Lake, Kenny Lake, Lower Tonsina, McCarthy, Mentasta Lake, Nabesna, Northway, Paxson-Sourdough, Slana, Tanacross, Tazlina, Tetlin, Tok, Tonsina, and those individuals living along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road **and along the Alaska Highway from the U.S./Canada border to Dot Lake.***

Extent of Federal Public Lands and Waters

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. Federal public waters of the Copper River include all waters within the exterior boundaries of the Wrangell-St. Elias National Park and Preserve and the Chugach National Forest, and inland waters adjacent to these exterior boundaries. Federal public waters also include 181 river miles on the Middle Fork of the Gulkana River from the outlet at Dickey Lake to its confluence with the Gulkana River, and the entire West Fork of the Gulkana River designated as a wild river pursuant to the Wild and Scenic Rivers Act.

The Upper Copper River District is composed of the Chitina Subdistrict and the Glennallen Subdistrict. The Chitina Subdistrict consists of all waters of the mainstem Copper River downstream of the southern edge of the Chitina-McCarthy Road Bridge, to an east-west line crossing the Copper River approximately 200 yards upstream of Haley Creek. The Glennallen Subdistrict consists of all waters of the mainstem Copper River from the lower edge of the mouth of the Slana River to the downstream edge of the Chitina-McCarthy Road Bridge, a distance of approximately 120 miles (see **Figure 2**).

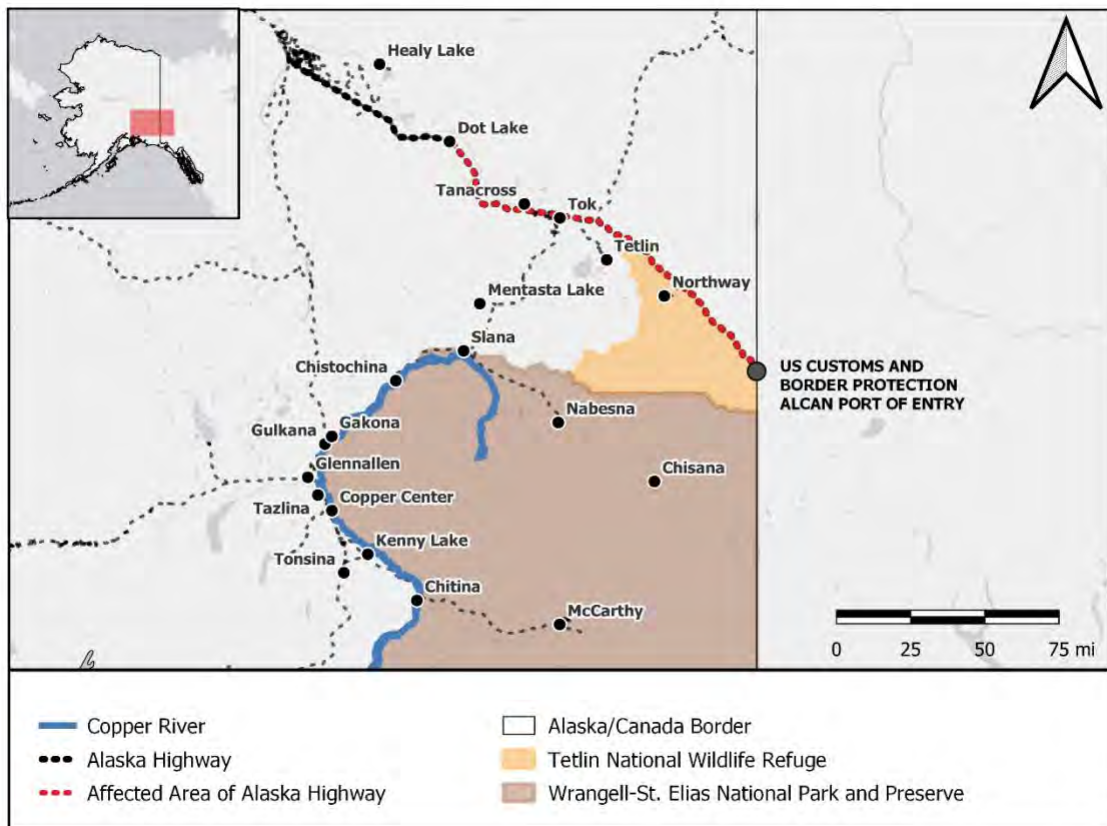


Figure 1: The area affected by this proposal includes the households between the named communities, Northway, Tetlin, Tok and Tanacross, along the Alaska Highway from the U.S./ Canada border to Dot Lake.

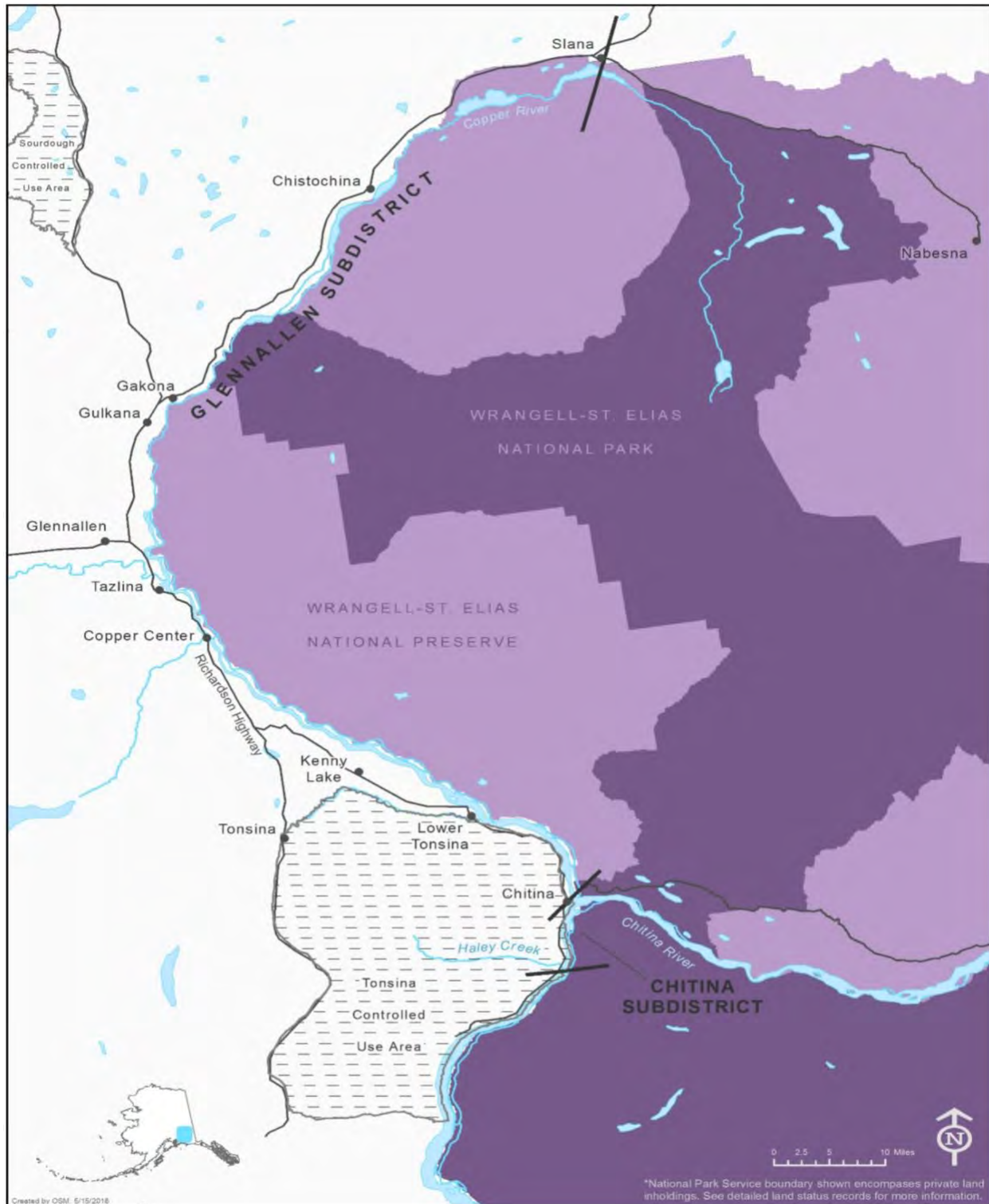


Figure 2: Upper Copper River drainage, showing exterior boundary of Wrangell-St. Elias National Park and Preserve as well as the Chitina and Glennallen Subdistricts of the Upper Copper River District.

Regulatory History

On October 1, 1999, Federal subsistence fishery management adopted the State subsistence fishery regulations, including those for the Copper River. At that time, the State recognized the Glennallen Subdistrict as a subsistence fishery and classified the Chitina Subdistrict as a personal use fishery. In the new Federal regulations adopted from the State, all residents of the Prince William Sound Area were listed as having customary and traditional use of salmon in the Glennallen Subdistrict only. In December 2000, the Board made additional customary and traditional use determinations for the Glennallen Subdistrict to include residents of Healy Lake, Dot Lake, Northway, Tanacross, Tetlin, and Tok, and those individuals living along the Alaska Highway from the U.S./Canada border to Dot Lake, along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.

In December 2000, the Board adopted Proposal FP01-15, which established a customary and traditional use determination for salmon in the Chitina Subdistrict for residents of Chitina, Cantwell, Chistochina, Copper Center, Gakona, Gulkana, Mentasta, and Tazlina. The Board also adopted a modified version of Proposal FP01-16, submitted by the Copper River Native Association, which set harvest limits and created a federal subsistence fishing season in the Glennallen Subdistrict from May 15 to September 30.

The Board adopted customary and traditional use determinations for the Chitina Subdistrict based on the traditional territory of three different Athabaskan groups. The traditional territory of the Ahtna extends from the Copper River Basin westward to Cantwell. To the north of Ahtna territory is the traditional area of the Upper Tanana and Tanacross Athabaskan language speakers, which includes the communities of Healy Lake, Dot Lake, Tanacross, Tok, Tetlin, and Northway. Two of these traditional areas, Tanacross and Upper Tanana, are referred to in this proposal analysis as Upper Tanana. Dispersed within these traditional territories are communities initially settled by Euroamerican homesteaders and settlers. These settlements began with the building of gold rush trails and mining efforts around the beginning of the twentieth century (De Laguna and McClellan 1981, McKennan 1981, OSM 2001:81; Reckord 1983a; Reckord 1983b). More recent infrastructure projects such as the construction of the Alaska Highway and the Northway airport have continued to attract new residents to this rural area (Marcotte 1991:21-25).

In 2001, the Board adopted FP02-16, submitted by the Wrangell-St. Elias National Park Subsistence Resource Commission, which expanded the customary and traditional use determination for salmon in the Chitina Subdistrict to include residents of Chisana, Gakona Junction, Glennallen, Nabesna, Slana, Tok, Tonsina, Tetlin, Dot Lake, Northway, Tanacross, Healy Lake, and those individuals that live along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.

During the same regulatory cycle, in 2001, the Wrangell-St. Elias National Park Subsistence Resource Commission submitted proposal FP02-17, requesting several changes to regulations including a review of eligible subsistence fishers for the Upper Copper River District. Prior to Board consideration, the proposal was divided into two separate proposals. Board action on Proposal FP02-17a added Chisana and Cantwell to the customary and traditional use determination for salmon in the Glennallen Subdistrict and Chisana to the customary and traditional use determination for salmon in the Chitina Subdistrict. Action on Proposal FP02-17b established a federal subsistence salmon fishing season and methods and means for

salmon harvest in the Chitina Subdistrict that were identical to the Federal season and methods and means in place for the Glennallen Subdistrict. Additionally, FP02-17b allowed those with customary and traditional use determinations for salmon in both the Chitina Subdistrict and the Glennallen Subdistrict to obtain a permit for each subdistrict in the same year, and it set combined harvests from both subdistricts to the limit established for the Glennallen Subdistrict alone. FP02-17b also allowed for multiple gear types to be specified on each subsistence permit.

In 2002, the Board created a Federal permit requirement for the Upper Copper River District administered by the National Park Service. During the same regulatory cycle, the Board adopted Proposal FP02-20, which allowed those households with a Batzulnetas subsistence salmon permit to also be issued permits for the Chitina and Glennallen Subdistricts in the same year, provided that they were eligible for those permits. Also in 2002, the Board rejected proposals to add residents of Lake Louise and Delta Junction to the customary and traditional use determinations for salmon in the Glennallen and Chitina Subdistricts through the consent agenda. The stated justification was a lack of substantial evidence.

In 2004, the Chickaloon Village Traditional Council submitted Proposal FP05-14, which requested that Chickaloon be added to the Chitina Subdistrict customary and traditional use determination for salmon, and Proposal FP05-15, which requested that Chickaloon be added to the Glennallen Subdistrict. The Board adopted the proposals adding Chickaloon to the customary and traditional use determination for salmon in the Chitina and Glennallen Subdistricts as of the 2005 regulatory year. In 2005, the Board also adopted proposal FP04-19, submitted by the Alaska Department of Fish and Game Paxson Fish and Game Advisory Committee, which requested that the residents of Paxson-Sourdough be added to the customary and traditional use determination for salmon in the Chitina Subdistrict.

Currently, Federal regulations for the Upper Copper River District (Glennallen and Chitina Subdistricts) require users to have a subsistence fishing permit and allow the use of fish wheel, dip net, and rod and reel gear for the take of salmon. Households of federally qualified subsistence users who have a customary and traditional use determination in both subdistricts may be issued a permit for each in any given year.

State regulations allow subsistence fishing in the Glennallen Subdistrict, but not in the Chitina Subdistrict. The Chitina Subdistrict is designated as a personal use fishery. Under State regulations, permits can only be issued for either the Glennallen Subdistrict salmon subsistence fishery or the Chitina Subdistrict salmon personal use fishery in the same year, but not both. Fish wheels or dip nets are allowed in the Glennallen Subdistrict, but a household may not use both in the same year. Only dip nets are allowed in the Chitina Subdistrict under State regulations.

Community Characteristics

The subsistence practices of the communities with customary and traditional use determinations for salmon in the Chitina Subdistrict are a blend of Ahtna and Upper Tanana Athabascan traditions and those of Euroamerican settler/homesteaders. The customary and traditional uses of salmon from the Chitina

Subdistrict by the Alaska Highway/Upper Tanana communities of Northway, Tetlin, Tok, Tanacross and Dot Lake are documented in a previous proposal analysis adopted by the Board (FP02-16). The three people interviewed for this analysis stated that they practice the same subsistence way of life and that they are connected to these communities by kinship, proximity and economy.

The area addressed in this analysis is referred to as the Upper Tanana. The subsistence harvests of Upper Tanana communities have been documented in several ADF&G Division of Subsistence Technical Papers. Whitefish and nonsalmon fish harvests tend to be higher than salmon harvests in some of these communities because there is no salmon fishery in the Upper Tanana. Copper River salmon, however, are important to the cultural and subsistence practices of Upper Tanana residents. They play a crucial cultural and dietary role in long-term kinship and trade connections between Upper Tanana and Ahtna Athabascans (Haynes et al. 1984:2; Marcotte 1991:16). Haynes et al. provided an example:

Reckord (1983) writes that Tetlin, Tok and Tanacross people all participated actively in salmon fishing at Chistochina during the summer of 1977. She views salmon as being especially important for activating social ties between Upper Tanana and Copper River people. While this may be true, salmon is equally if not more important to the Upper Tanana people for nutritional and economic reasons. In return, Copper River Basin residents obtain food resources otherwise not readily available to them (1984:8).

In his 1976 dissertation, Strong reported that Upper Tanana residents would travel to harvest Copper River salmon when resources in the Upper Tanana were scarce. He stated that this was just one aspect of flexible food sharing practices used in times of shortage by Upper Tanana and Upper Copper River peoples (Strong in Haynes et al. 1984:7).

The subsistence harvests of Northway, Tetlin, Tok, Tanacross, and Dot Lake are similar but not identical and fluctuate annually depending on weather and resource availability. The only subsistence baseline survey of all five of these communities during the same year was conducted by ADF&G during a one-year study period from June 1987-May 1988 (Marcotte 1991). In this study, all five Upper Tanana communities included residents who either used, received, shared, and/or harvested Copper River salmon (Marcotte 1991:70). Estimated subsistence harvests for all five communities collectively included 48,000 pounds of salmon (primarily Chinook salmon and sockeye salmon), 103,902 pounds of nonsalmon fish (primarily whitefish and pike), 121,261 pounds of large land mammals (primarily caribou and moose), 16,610 pounds of small land mammals and fur bearers (primarily hare), 9,812 pounds of birds and 7,338 pounds of edible plants for a total of 307,017 pounds of subsistence foods (Marcotte 1991:68). Individually, Dot Lake harvested an estimated 7,555 pounds of subsistence foods including 1,329 pounds of salmon; Tanacross harvested 23,287 pounds of subsistence foods including 3,598 pounds of salmon; Tok harvested 161,317 pounds of subsistence foods including 38,147 pounds of salmon; Tetlin harvested 24,767 pounds of subsistence foods total including 286 pounds of salmon and Northway harvested 90,091 pounds of subsistence foods including 4,684 pounds of salmon (Marcotte 1991:68). Tetlin salmon harvest is low because at the time of this research, Tetlin was not accessible by road and residents could not easily access the Copper River.

More recent subsistence baseline studies have been conducted in three of the five Upper Tanana communities, Northway in 2014 (Godduhn and Kostick 2016) and Tok and Dot Lake in 2011 (Holen et al. 2012). In 2014, residents of Northway harvested an estimated 60,791 pounds of subsistence foods including 7,908 pounds of salmon (primarily Sockeye Salmon and Chinook Salmon) (Godduhn and Kostick 2016:58-61). In 2011, residents of Dot Lake harvested an estimated 5,885 pounds of subsistence foods including 2,598 pounds of salmon (primarily Coho Salmon, Pink Salmon and Sockeye Salmon); residents of Tok harvested an estimated 64,934 pounds of subsistence foods including 67,320 pounds of salmon (primarily Sockeye and Coho Salmon) (Holen et al. 2012:446-449; 541-545).

In regard to Northway, Godduhn and Kostick noted that most residents harvested sockeye salmon near Slana and that Chinook salmon are harvested from the Yukon but that dependence on Copper River sockeye has increased due to subsistence harvest restrictions on the Yukon (2016:41, 67-69). Residents of Dot Lake reported fishing for salmon in Valdez and the Copper River, including at Slana, Copperville, and Chitina (Holen et al. 2012:457). Residents of Tok reported harvesting salmon from the Copper River at Copper Center, Kenny Lake, Chitina, Gulkana, Gakona with the majority harvested at Slana (Holen et al. 2012: 550, 552-553).

The subsistence harvests of the permanent rural residents who live between these named communities have not been formally documented. For this reason, staff contacted individuals who know this area including Shawn Bayless, Manager of Tetlin National Wildlife Refuge, and Leif Wilson, long-time Chair of the Upper Tanana Fortymile Advisory Committee. Chair Wilson lives in Tok, one of the communities whose customary and traditional use of salmon in the Chitina Subdistrict is recognized by the Board. Chair Wilson said that the AC submitted this proposal because their friends and family who live along the Alaska Highway, outside of the named communities, engage in the same subsistence harvest patterns as the people who live within the communities that have a customary and traditional use determination for salmon in the Chitina Subdistrict. The AC would like the customary and traditional use determination to be as inclusive as possible.

Chair Wilson described himself as an example of a permanent rural resident who might live in the area under consideration in this analysis. In the past, he harvested salmon with a fishwheel in Slana. He no longer does so because it is expensive and time consuming to run a fish wheel because water levels have been high in recent years. He explained that fish wheels are damaged by debris in high water which also disperses fish and decreases harvest. This phenomenon has been reported in Holen et al. 2015 (85). While the Glennallen Subdistrict is closer to this area, Chair Wilson explained that the fishing experience there is completely different than fishing in the Chitina Subdistrict. He said that Chitina fish are in better condition, fresher from the ocean and they are clustered together. He said that the road accessible areas of the river in the Glennallen Subdistrict are wide; the fish are dispersed and beat up by the time they are available to be harvested in the Glennallen Subdistrict. He stated that it is not efficient to dip net in the Glennallen Subdistrict. While it is expensive to drive to Chitina, Chair Wilson noted that some families pool resources and harvest salmon in the Chitina Subdistrict to share with others. In addition to salmon and nonsalmon fish, he and his family harvest caribou, moose, berries and other wild resources which they share and exchange with family and neighbors in other communities. His sharing practices extend to relatives in Northway and Tetlin. He said that the U.S. Customs and Border Protection Alcan Port of

Entry is not a community but that a few of the people who work there live in nearby communities or along the highway and come from local families. When asked specifically, Chair Wilson said he would not want to exclude the people who live and work at the Border Port of Entry (Wilson 2022, pers. comm.).

Refuge manager Bayless provided the names of two other people who live in the area under consideration, Greg Kumher and Marilyn Paul. Mr. Kumher is a homesteader who moved to the area from Ohio in 1992. He and his wife followed his brother-in-law who had been living on an off-grid homestead since 1979. The Kumher family lives with no electricity and states that they are directly dependent on fish and wildlife harvested for subsistence. In the past, they shared a fish wheel but that is no longer an option and they would like to have the opportunity to subsistence fish for salmon in the Chitina Subdistrict. The Kumher family relies on moose, caribou, berries, nonsalmon fish, plants and wood heat. During good years, the household traps lynx, marten, wolverine and wolf but said that last year was poor for trapping because there was too much snow. Their son and future daughter-in-law trap with them and have provided salmon from other parts of Alaska, depending on where they are working (Bayless 2022, pers. comm.; Kumher 2022, pers. comm.).

Marilyn Paul is a tribal member of Northway Village and a Tetlin National Wildlife Refuge employee originally from the village of Northway. She obtained a Native allotment along the Alaska Highway and now lives there, 30 miles from her home community. She said she would probably not go to Chitina to fish but knows other people who would like to do so. Ms. Paul harvests salmon by sharing sister's fish wheel near Slana. She uses a wide range of wild resources and, like the Kumhers, lives in a home without electricity except during occasional use of a generator. She harvests a wide range of wild resources including moose, caribou, muskrat, berries, firewood and nonsalmon fish. Her family traps for food and fur but she said the heavy snow last season led to poor harvests. She stated it was impossible to get caribou last winter because they were "skinny" and although she and her family harvested and shared a moose, she heard about three moose that had starved to death due to heavy snowfall (Paul 2022, pers. comm.).

Eight Factors for Determining Customary and Traditional Use

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

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

In 2010, the Secretary of the Interior asked the Board to review, with Regional Advisory Council input, the customary and traditional use determination process and present recommendations for regulatory changes. In June 2016, the Board clarified that the eight-factor analysis applied when considering customary and traditional use determinations is intended to protect subsistence use, rather than limit it. The Board stated that the goal of the customary and traditional use determination analysis process is to recognize customary and traditional uses in the most inclusive manner possible.

The testimony provided by the residents in the area under consideration in this proposal indicates that their subsistence patterns are similar to those in the communities that have a customary and traditional use determination for salmon in the Chitina Subdistrict and that they holistically meet the eight factor criteria for customary and traditional use for two reasons. First, they have chosen to live and subsist outside of community boundaries and closer to, more dependent upon the land. Second, these households are not separate from the communities and areas that are listed in the current customary and traditional use determination. They are situated along the Alaska Highway between these communities and are part of them, connected by geography, kinship and economy.

Effects of the Proposal

If this proposal is adopted, the permanent rural residents that live along the Alaska Highway from the U.S./Canada border to Dot Lake would be added to the customary and traditional use determination for salmon in the Chitina Subdistrict of the Upper Copper River District. This would allow them to harvest salmon under Federal subsistence regulations. If the proposal is rejected, they could continue to fish in the Glennallen Subdistrict under Federal regulations and in the Chitina Subdistrict under State personal use and sport fishing regulations. Federal regulations, however, provide more flexibility and higher harvest amounts which is supportive of more accessible subsistence harvest opportunity.

OSM CONCLUSION

Support Proposal FP23-15/16.

Justification

The permanent rural residents who live between communities along the Alaska Highway to Dot Lake are connected to these communities by geography, kinship and economy. Their subsistence salmon harvest patterns are not distinct and should be considered the same as their relatives and neighbors who live in the

named communities with a customary and traditional use determination for salmon in the Chitina Subdistrict.

LITERATURE CITED

- Bayless, S. 2022. Refuge Manager, Tetlin NWR. Personal communication: phone and email. June 9, 10, 2022 U.S Fish and Wildlife Service. Tok, AK.
- De Laguna F. and McClellan, C. 1981. Ahtna. In *Handbook of North American Indians*. Vol. 6: Subarctic. J. Helm, ed. Smithsonian Institution, Washington D.C. pp. 641-663.
- Godduhn, A. and M. Kostick. 2016. Harvest and use of wild resources in Northway, Alaska, 2014 with special attention to nonsalmon fish. ADF&G, Div. of Subsistence Tech. Paper No. 421. Fairbanks, AK.
- Haynes, T., M. Case, J. Fall, L. Halpin, and M. Robert. 1984. The use of Copper River salmon and other wild resources by Upper Tanana communities. ADF&G, Div. of Subsistence Tech. Paper No. 115. Fairbanks, AK.
- Holen, D, S.M. Hazell, and G. Zimpelman. 2015. The harvest and use of wild resources in selected communities of the Copper River Basin and East Glenn Highway, Alaska, 2013. ADF&G, Div. of Subsistence Tech. Paper No. 405. Anchorage, AK.
- Holen, D., S. Hazell and D. Koster. 2012. Subsistence harvests and uses of wild resources by communities in the Eastern Interior of Alaska, 2011. ADF&G, Div. of Subsistence Tech. Paper No. 372. Anchorage, AK.
- Kumher, G. 2022. Homesteader. Personal communication: phone. June 9, 2022. Thirty-three miles east of Tok, AK.
- Marcotte, J. 1991. Wildlife fish and game harvest and use by residents of five Upper Tanana communities, Alaska 1987-88. ADF&G, Div. of Subsistence Tech. Paper No. 168. Juneau, AK.
- McKenna, R. A. 1981. Tanana. In *Handbook of North American Indians*. Vol. 6: Subarctic. J. Helm, ed. Smithsonian Institution, Washington D.C. pp. 562-576.
- OSM. 2001. Staff analysis FP02-16. Pages 73-96 *in* Federal Subsistence Board Meeting Materials. December 11-13, 2001. Office of Subsistence Management, USFWS. Anchorage, AK. 679 pp.
- Paul, M. 2022. Tribal member, Northway Village and USFWS refuge employee, Tetlin NWR. Personal communication: phone. June 10, 2022. Alaska Highway Mile Post XX (30 miles from Northway).
- Reckord, H. 1983a. That's the way we live: subsistence in the Wrangell-St. Elias National Park and Preserve. Anthropology and Historic Preservation, Cooperative Park Studies Unit, University of Alaska Fairbanks.
- Reckord, H. 1983b. Where Raven Stood: Cultural Resources of the Ahtna Region. Anthropology and Historic Preservation, Cooperative Park Studies Unit, University of Alaska Fairbanks.
- Simeone, W. E. and J. A. Fall. 1996. Patterns and Trends in the Subsistence Salmon Fishery of the Upper Copper River, Alaska. Report to the Alaska Board of Fisheries.
- Strong, B. Historical sequence of the patterns of production of Ahtna Athabascan Indians of the Upper Copper Valley, Alaska: The development of capitalism in Alaska. Unpublished Ph.D. Diss., Montreal: McGill University.

Wilson, L. 2022. Chair, ADF&G Upper Tanana Fortymile Advisory Committee. Personal communication: phone and email. June 9, 10, 2022. Tok, AK.

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southcentral Subsistence Regional Advisory Council

Oppose FP23-15. **Take no action** FP23-16. The Council considered identical proposals FP23-15/16 as two separate proposals. The Council opposed the proposal because they felt the customary and traditional use determination analysis process was too inclusive of rural residents who provided no formal documentation of their subsistence salmon harvest traditions in the Chitina Subdistrict. The absence of public testimony was another factor in the Council's opposition to this proposal. The Council stated that it is important for members of proponent communities to attend Council meetings to speak in support of their proposals.

Eastern Interior Alaska Subsistence Regional Advisory Council

Oppose FP23-15/16. The Eastern Interior Alaska Subsistence Regional Advisory Council considered the proposal, with modification, to include the community of Dry Creek, which was not part of the original proposal, but submitted via public comment. The Council opposed the inclusion of new communities/areas that have not demonstrated the same long-term, traditional subsistence harvest patterns shown by the communities with recognized customary and traditional use determinations. The Council discussed the possibility of increased harvest pressure on the resource if the customary and traditional use determination were expanded. The Council noted that area residents who live in communities or areas without a customary and traditional use determination for salmon in the Chitina Subdistrict have harvest opportunities there under State regulations.

INTERAGENCY STAFF COMMITTEE COMMENTS

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

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Fisheries Proposal FP23-15/16

This proposal would modify the customary and traditional (C&T) use determination for salmon in the Chitina Subdistrict of the Upper Copper River District to include residents living along the Alaska Highway from the U.S.—Canada border to Dot Lake.

Position

The Alaska Department of Fish & Game (ADF&G) is NEUTRAL on eligibility requirements for participation in the subsistence program provided under the Alaska National Interest Lands Conservation Act (ANILCA). ADF&G recommends the Federal Subsistence Board (FSB) thoroughly and carefully review the data relevant to the 8 criteria for those communities that lack a customary and traditional use finding.

Background

Alaskans reside in Dot Lake and along the Alaska Highway to the U.S.—Canada border. For these comments, ADF&G will highlight research conducted in the community of Dot Lake. ADF&G Subsistence Section conducted subsistence research for the community of Dot Lake for study year 2011 as part of a larger research project. Research found that 43% of Dot Lake residents harvested salmon, primarily in Chitina and Valdez with rod and reel (coho and pink) and dipnet (sockeye), and in the Glennallen Subdistrict with relatives using fishwheels (Holen et. al. 2012).

The Chitina Subdistrict of the Upper Copper River District is described in state regulation as all waters of the Upper Copper River District downstream of the downstream edge of the Chitina-McCarthy Road Bridge (5 AAC 01.605(a)(1)). Under state regulation, the majority of salmon are harvested under a state resident-only personal use dipnet fishery.

Impact on Subsistence Users

This proposal increases the pool of federal subsistence users eligible to participate in salmon harvesting opportunities provided under ANILCA. This would limit opportunities for currently federally qualified users (FQU) by increasing the number of people fishing under federal regulations thus increasing competition. If this proposal is rejected, residents living along the Alaska Highway from the U.S.—Canada border to Dot Lake will still be able to continue fishing for salmon under state regulations in this area.

Impact on Other Users

If adopted, impact on other users would depend on future actions taken by the FSB.

Opportunity Provided by State

State customary and traditional use findings: Salmon in the Chitina Subdistrict have a negative C&T finding.

Amounts Reasonably Necessary for Subsistence (ANS): Alaska state law requires the BOF to determine the amount of the harvestable portion of a fish population that is reasonably necessary for customary and traditional uses. This is an ANS. The BOF does this by reviewing extensive harvest data from all Alaskans, collected either by ADF&G or from other sources. Because there is no C&T determination for the Chitina Subdistrict, there is no ANS.

Conservation Issues

There would only be conservation concerns if the FSB and federal in-season managers allowed these additional FQUs to overharvest fish populations in a given area.

Enforcement Issues

There are no known enforcement issues directly related to this proposal.

WRITTEN PUBLIC COMMENTS

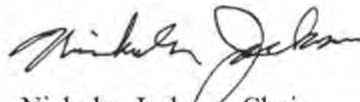
July 22, 2022

Federal Subsistence Board
Office of Subsistence Management
(Attn: Theo Matuskowitz)
1011 E. Tudor Road, MS-121
Anchorage, Alaska 99503-6199
Via Email to subsistence@fws.gov

Dear Mr. Matuskowitz:

On behalf of the shareholders of Ahtna, Incorporated, we are submitting the enclosed comments on select proposals from the Federal Subsistence Management Program 2023-2025 Fisheries Proposals book.

Respectfully,



Nicholas Jackson, Chair
Customary & Traditional Committee
Ahtna, Incorporated

Enclosure as noted

Comments:

We oppose FP23-15/16 to allow those individuals that live along the Alaska Highway from the Canadian border to Dot Lake to receive a positive customary and traditional use determination in the Chitina Subdistrict. The resident zone in the Wrangell St. Elias National Park is a different subject matter. Resident zone does not relate to the customary and traditional uses for Salmon in the Copper River that is adjacent to the Wrangell St. Elias National Park & Preserve. And, as explained further below, they do not meet the criteria used in making a positive customary and traditional use determination.

This community has not shown that their handling, methods or means establish a long term, consistent, pattern of use for harvesting salmon in the Chitina Subdistrict, nor have they provided written documentation establishing handing down the knowledge of taking salmon or the passing down of lore's or stories from generation to generation. They cannot prove substantial cultural, economic, social or nutritional subsistence uses of salmon in the Chitina Subdistrict.

Although they may have a positive customary and traditional use determination for the Glennallen Subdistrict, they do not have a consistent reoccurring and seasonal use of salmon in the Chitina Subdistrict.

The five Upper Tanana Villages that currently have positive customary and traditional use determinations went through a significant process including providing written documentation proving their cultural and historical ties to the fisheries in the Upper Copper River District.

Page 5 of 9

These same requirements should be upheld for any other communities or individuals requesting a positive customary and traditional use determination.

- *Ahtna, Incorporated Customary and Traditional Committee*



Ahtna Intertribal Resource Commission

PO Box 613 – Glennallen, Alaska 99588 www.ahtnatribal.org
Phone: (907) 822-4466 Fax: (907) 822-4406 connect@ahtnatribal.org

July 25, 2022

Federal Subsistence Board
Office of Subsistence Management
(Attn: Theo Matuskowitz)
1011 E. Tudor Road, MS-121
Anchorage, Alaska 99503-6199

Dear Chairman Anthony Christianson:

Introduction

The Ahtna Intertribal Resource Commission (AITRC) is an inter-tribal agency serving the 8 Federally recognized tribal governments and 2 Alaska Native Corporation landowners located within the Ahtna Traditional Use Territory. The customary and traditional homelands of the 'Atna' *hwtaene* include the Upper Copper River basin, Upper Susitna River valley, and portions of the Tanana River drainage along the Denali Highway region. The mission of AITRC is to honor and integrate traditional indigenous knowledge and values through innovative stewardship that is respectful of the land for all generations with the vision of exercising tribal sovereign authority and stewardship of cultural and natural resources within our traditional territory to ensure our future self-sustainability.

In 2016, AITRC and its member tribes and corporations entered into an historic agreement with the US Department of the Interior for the purpose of formalizing the subsistence wildlife management partnership and pursue cooperative management of customary and traditional subsistence uses within the Ahtna Traditional Use Territory. Within this agreement, the US Department of the Interior recognized that special circumstances within the Ahtna region have not permitted the 'Atna' *hwtaene* to meet their subsistence needs. Moreover, the Department recognized its obligation to uphold the Federal trust responsibility to Ahtna tribes and the right of rural resident members of Ahtna tribal communities to maintain their cultural identity through opportunities to practice their ancestral customary and traditional ways of life on Federal public lands in a manner that enables them to pass down indigenous knowledge and ancestral customary practices from generation to generation.

In passing ANILCA Title VIII, US Congress invoked its constitutional authority over Native affairs and its constitutional authorities under the property and commerce clauses and found and declared that the “continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened by the increasing population of Alaska, with resultant pressure on subsistence resources, by sudden declines in the populations of some wildlife species which are crucial subsistence resources, by increased accessibility of remote areas containing subsistence resources, and by taking of fish and wildlife in a manner inconsistent with recognized principles of fish and wildlife management” and called for a federal subsistence management program that requires a meaningful role in the management of fish and wildlife and of subsistence uses by “rural residents who have personal knowledge of local conditions and requirements” (ANILCA Section 801).

**COMMENTS ON
2023-2025 FEDERAL SUBSISTENCE FISHERIES
REGULATORY CHANGE PROPOSALS**

FP23-14/15/16 Expand Federal Customary and Traditional Use Determinations for Additional Communities and Areas

FP23-14, FP23-15, and FP23-16 all ask to expand the federal customary and traditional use determinations for additional communities and areas both within and outside the Copper River basin, which if passed would increase the number of federally qualified users of our Copper River salmon. As outlined above and in ANILCA Title VIII itself, the continuation of ancestral indigenous customary and traditional uses of fish and wildlife remains under increasing threat by a growing human population, declining ancestral tribal subsistence resource populations, and increasing access to once-remote areas. These three proposals contribute to these ongoing problems and trends, which further disenfranchise the *'Ahtna' hwtaene*, by further expanding the opportunity for others who had not been customary and traditional users or residents of the Ahtna Traditional Use Territory when ANILCA was passed by Congress in 1980.

AITRC and its member tribes and Alaska Native Corporations are opposed to each of these proposals. During recent years of declining Copper River salmon productivity, tribal citizens and other rural residents who customarily, traditionally, and historically fished for salmon in the upper portions of the Glennallen Subdistrict and Batzulnetas Area have experienced significant declines in the availability and efficiency of subsistence salmon fishing activities. A recent historical assessment of catch per unit effort conducted by Wrangell-St. Elias National Park and Preserve staff, and shared with AITRC, suggests that when numbers of salmon passing Miles Lake sonar are less than about 750,000 salmon, subsistence salmon harvest success above the Gakona River, and consequently federal subsistence uses, may be negatively impacted. ADF&G managers respond to these concerns by AITRC and its member tribes by suggesting that Ahtna people aren't putting enough effort into their subsistence fishing activities, in effect, blaming the victim. However, when tribal elders inform fishwheel operators to stop fishing to ensure sufficient salmon pass to reach specific spawning beds, or the costs of keeping the wheel fishing throughout the summer to catch what used to be caught in a single day are prohibitive, many Ahtna tribal citizens and other rural residents simply cannot afford to keep putting in the fishing effort to obtain historic harvest levels and risk compromising indigenous stewardship practices of ensuring sufficient spawners of various specific tributaries. The amount of time needed to invest in harvesting sufficient numbers of salmon to meet previous and ongoing subsistence needs is often so great that many cannot spend that much time a fish camp now given the lack of salmon abundance in the river. In turn, this is having devastating impacts on our abilities to pass on ancestral indigenous knowledge to our children, grandchildren, nieces and nephews.

Most Copper River-bound salmon are harvested by the state-managed commercial fishery before the salmon enter the river. Commercial salmon fishing has long been a challenge to the *'Ahtna' hwtaene* in meeting their ancestral customary and traditional subsistence needs for salmon. In fact, Chief Goodlataw filed a complaint with the US Federal government in 1917 regarding the commercial fishing that had been taking place within Abercrombie Canyon, which was causing the Ahtna people to face starvation.¹

¹ Ahtna Subsistence Search Conference: A Conference for the Ahtna People To Plan For the Future of Their Subsistence Resources, Practices and Lifestyle, November 12-13, 2013.

Then, those salmon that escape the commercial fishery at the mouth of the Copper River, our migrating salmon swim up the river and into the Chitina Subdistrict with its ever-expanding number of users participating in the state-managed Personal Use dipnet fishery. This gauntlet fishery continues to be of great concern to AITRC and its member Tribes and Alaska Native Corporations. Efforts to make the canyon more accessible to non-local users and the salmon collapses in other areas of Alaska, like the Yukon and Kuskokwim rivers has contributed to the increased pressure on Copper River salmon stocks and declines in salmon availability in the Glennallen Subdistrict, and especially its uppermost sections where subsistence needs are not being met.

FP23-14, FP23-15, and FP23-16 each asks to expand the federal customary and traditional use determinations for additional Alaska residents within the Chitina Subdistrict, many of whom claim their customary and traditional use eligibility through their prior participation in the nonsubsistence Chitina personal use dipnet fishery. While AITRC and its members recognize and support the importance of the federal subsistence priority over all other uses, after all there would not be a federal subsistence fishing priority for salmon without the decades long efforts of the *'Atna' hwtæene*, we do not support such determinations that would expand eligibility to additional users just because they have moved to rural areas and now seek to establish new traditions in efforts to mitigate the increasing pressures on Copper River resources by non-local and non-rural Alaska residents long after the passage of ANILCA, especially at the expense of the *'Atna' hwtæene*, the original stewards of the Copper River basin. Finally, these proposals contribute to and expand the threats to the continuation of customary and traditional uses acknowledged by Congress when enacting ANILCA Title VIII as outlined in our introductory comments above.

- *Ahtna Intertribal Resource Commission*

[EXTERNAL] Comment on proposal FP23-15/16

Tom Geyer <tcgeyer@gmail.com>

Mon 7/25/2022 10:58 AM

To: AK Subsistence, FW7 <subsistence@fws.gov>

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

This proposal should also include the village of Dry Creek, a community which has relied heavily on Copper River salmon for subsistence for well over forty years. There was a positive C and T finding in a study conducted by federal subsistence personnel for Dry Creek. It was determined that Copper River salmon made up a significant percentage of food obtained for the subsistence of the village. These salmon have come from both the Glennallen subdistrict and the Chitina subdistrict on the Copper River.

In a meeting with the Eastern Interior Regional Advisory Council several years ago, it was determined that the village of Dry Creek did meet the criteria for subsistence in regards to Copper River salmon, including consistent, long-term pattern of use, sharing salmon with all of the families and Elders in the village, and passing along the knowledge, techniques and lore to the young people in the community.

My suggestion would be to :Add residents along the Alaska Highway between the Canadian Border and the Johnson River to the Customary and Traditional use determination for the Chitina Subdistrict.

Sincerely, Tommy Geyer on behalf of the residents of Dry Creek

FP23-19 Executive Summary	
General Description	FP23-19 requests that the Lower Copper River Area Federal subsistence rod and reel and dip net fishery be rescinded. <i>Submitted by: Ahtna Intertribal Resource Commission.</i>
Proposed Regulation	<i>See pages 573 to 574 of this book for proposed regulations.</i>
OSM Conclusion	Oppose
Southcentral Subsistence Regional Advisory Council Recommendation	Oppose
Interagency Staff Committee Comments	The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and Federal Subsistence Board action on the proposal.
ADF&G Comments	Support
Written Public Comments	5 Oppose, 2 Support

**STAFF ANALYSIS
FP23-19**

ISSUES

Proposal FP23-19, submitted by the Ahtna Intertribal Resource Commission (AITRC), requests that the Lower Copper River Area Federal subsistence rod and reel and dip net fishery be rescinded.

DISCUSSION

The AITRC is concerned about the lack of salmon harvest opportunity in the uppermost reaches of the Glennallen Subdistrict and at Batzulnetas during years of low salmon escapement in the Copper River. They believe that Copper River salmon were fully allocated prior to the addition of the Lower Copper River salmon fishery and additional harvest from this new fishery will take opportunity away from upriver users, cause escapement goals to be unmet, and contribute to future fishing restrictions for upriver users.

The AITRC also asserts that the staff analysis for FP21-10 failed to consider the following: that the Lower Copper River Area salmon fishery would be open to all rural residents of the Prince William Sound Area, the impacts to the upriver subsistence opportunities, and the ample salmon harvest opportunities already available for the community of Cordova.

Existing Federal Regulation

§ __.27(e) *Subsistence taking of fish*

(11) Prince William Sound Area. The Prince William Sound Area includes all waters and drainages of Alaska between the longitude of Cape Fairfield and the longitude of Cape Suckling. The Lower Copper River Area includes that portion of the Copper River, from a boundary one-half mile upstream of the Copper River Highway to a boundary extending one-half mile downstream of the Copper River Highway, from the West bank of the river near highway mile 27 to the East bank of the river near highway mile 38.

(iv) In the Copper River drainage, you may take salmon only in the waters of the Upper Copper River District or in the vicinity of the Native Village of Batzulnetas and in the Lower Copper River Area.

(v) In the Upper Copper River District, you may take salmon only by fish wheels, rod and reel, or dip nets. In the Lower Copper River Area, you may take salmon

only by dip nets and rod and reel. All salmon retained from the Lower Copper River Area must be reported to area managers within 48 hours of harvest.

(A) In the Lower Copper River Area, you may not dip net from a boat.

(B) In the Lower Copper River Area, the salmon fishery opens on June 1 and closes on September 30.

(xvii) In the Chugach National Forest portion of the Prince William Sound Area, and the Lower Copper River Area, you must possess a Federal subsistence fishing permit to take salmon, trout, whitefish, grayling, Dolly Varden, or char. Permits are available from the Cordova Ranger District.

(A) Salmon harvest is not allowed in Eyak Lake and its tributaries, the remainder of the Copper River and its tributaries outside of the Lower Copper River Area, and Eyak River upstream from the Copper River Highway Bridge.

(B) You must record on your subsistence permit the number of subsistence fish taken. You must record all harvested fish prior to leaving the fishing site, and return the permit by the due date marked on the permit.

(C) You must remove both lobes of the caudal (tail) fin from subsistence-caught salmon before leaving the fishing site.

(D) Excluding the areas described above in (A), You may take salmon by rod and reel, dip net, spear, and gaff year-round.

(E) For a household with 1 person, 15 salmon (other than pink) may be taken, and 5 cutthroat trout, with only 2 over 20 inches, may be taken; no more than 5 Chinook salmon per household; for pink salmon, see the conditions of the permit

(F) For a household with 2 persons, 30 salmon (other than pink) may be taken, plus an additional 10 salmon for each additional person in a household over 2 persons, and 5 cutthroat trout, with only 2 over 20 inches per each household member with a maximum household limit of 30 cutthroat trout may be taken; no more than 5 Chinook salmon per household; for pink salmon, see the conditions of the permit.

(G) You may take Dolly Varden, Arctic char, whitefish, and grayling with rod and reel and spear year round and with a gillnet from January 1- April 1. The maximum incidental gillnet harvest of trout is 10.

(H) You may take cutthroat trout with rod and reel and spear from June 15 to April 14th and with a gillnet from January 1 to April 1.

(I) You may not retain rainbow/steelhead trout for subsistence unless taken incidentally in a subsistence gillnet fishery. Rainbow/steelhead trout must be immediately released from a dip net without harm.

Proposed Federal Regulation

§ __.27(e) *Subsistence taking of fish*

(11) Prince William Sound Area. The Prince William Sound Area includes all waters and drainages of Alaska between the longitude of Cape Fairfield and the longitude of Cape Suckling. ~~The Lower Copper River Area includes that portion of the Copper River, from a boundary one half mile upstream of the Copper River Highway to a boundary extending one half mile downstream of the Copper River Highway, from the West bank of the river near highway mile 27 to the East bank of the river near highway mile 38.~~

(iv) In the Copper River drainage, you may take salmon only in the waters of the Upper Copper River District or in the vicinity of the Native Village of Batzulnetas., ~~and in the Lower Copper River Area.~~

(v) In the Upper Copper River District, you may take salmon only by fish wheels, rod and reel, or dip nets. ~~In the Lower Copper River Area, you may take salmon only by dip nets and rod and reel. All salmon retained from the Lower Copper River Area must be reported to area managers within 48 hours of harvest.~~

~~(A) In the Lower Copper River Area, you may not dip net from a boat.~~

~~(B) In the Lower Copper River Area, the salmon fishery opens on June 1 and closes on September 30.~~

(xvii) In the Chugach National Forest portion of the Prince William Sound Area, and the Lower Copper River Area, you must possess a Federal subsistence fishing permit to take salmon, trout, whitefish, grayling, Dolly Varden, or char. Permits are available from the Cordova Ranger District.

(A) Salmon harvest is not allowed in Eyak Lake and its tributaries, the ~~remainder of the Copper River and its tributaries outside of the Lower Copper River Area,~~ and Eyak River upstream from the Copper River Highway Bridge.

(B) You must record on your subsistence permit the number of subsistence fish taken. You must record all harvested fish prior to leaving the fishing site, and return the permit by the due date marked on the permit.

(C) You must remove both lobes of the caudal (tail) fin from subsistence-caught salmon before leaving the fishing site.

(D) ~~Excluding the areas described in paragraph (e)(11)(xvii)(A) of this section,~~ You may take salmon by rod and reel, dip net, spear, and gaff year-round.

(E) For a household with 1 person, 15 salmon (other than pink) may be taken, and 5 cutthroat trout, with only 2 over 20 inches, may be taken; ~~no more than 5 Chinook salmon per household;~~ for pink salmon, see the conditions of the permit

(F) For a household with 2 persons, 30 salmon (other than pink) may be taken, plus an additional 10 salmon for each additional person in a household over 2 persons, and 5 cutthroat trout, with only 2 over 20 inches per each household member with a maximum household limit of 30 cutthroat trout may be taken; ~~no more than 5 Chinook salmon per household;~~ for pink salmon, see the conditions of the permit.

(G) You may take Dolly Varden, Arctic char, whitefish, and grayling with rod and reel and spear year round and with a gillnet from January 1-April 1. The maximum incidental gillnet harvest of trout is 10.

(H) You may take cutthroat trout with rod and reel and spear from June 15 to April 14th and with a gillnet from January 1 to April 1.

(I) You may not retain rainbow/steelhead trout for subsistence unless taken incidentally in a subsistence gillnet fishery. Rainbow/steelhead trout must be immediately released from a dip net without harm.

Existing State Regulation

5 AAC 01.005. Subsistence fishing permitted

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 only as provided in this chapter.

5 AAC 01.600. Description of the Prince William Sound Area

The Prince William Sound Area includes all waters of Alaska between the longitude of Cape Fairfield and the longitude of Caper Suckling south of the Yukon Area described in 5 AAC 05.100, and all waters of the Upper Susitna River drainage upstream of the Susitna River's confluence with the Oshetna River.

5 AAC 01.605. Description of districts and subdistricts

(a) The Upper River Copper District consists of all waters of the mainstem Copper River from the mouth of the Slana River downstream to an east-west line crossing of the Copper River approximately 200 yards upstream of Haley Creek as designated by ADF&G regulatory markers.

(1) The Chitina Subdistrict consists of all waters of the Upper Copper River District downstream of the downstream edge of the Chitina-McCarthy Road Bridge.

(2) The Glennallen Subdistrict consists of all remaining waters of the Upper Copper River District.

(b) Except as specified in (a) of this section, districts are as described in 5 AAC 24.200.

5 AAC 01.625. Waters closed to subsistence fishing

(a) All tributaries of the Copper River and waters of the Copper River that are not in the Upper Copper River District are closed to the taking of salmon.

(b) Salmon may not be taken in any area closed to commercial salmon fishing unless permitted in 5 AAC 01.610 – 5 AAC 01.645.

Extent of Federal Public Lands/Waters

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR §242.3 and 50 CFR §100.3. Federal public waters under consideration in this analysis include that portion of the Copper River, from a boundary one-half mile upstream of the Copper River

Highway to a boundary one-half mile downstream of the Copper River Highway, from the west bank of the river near highway mile 27 to the east bank of the river near highway mile 38 (**Figure 1**). These waters are within and adjacent to the external boundaries of the Chugach National Forest.

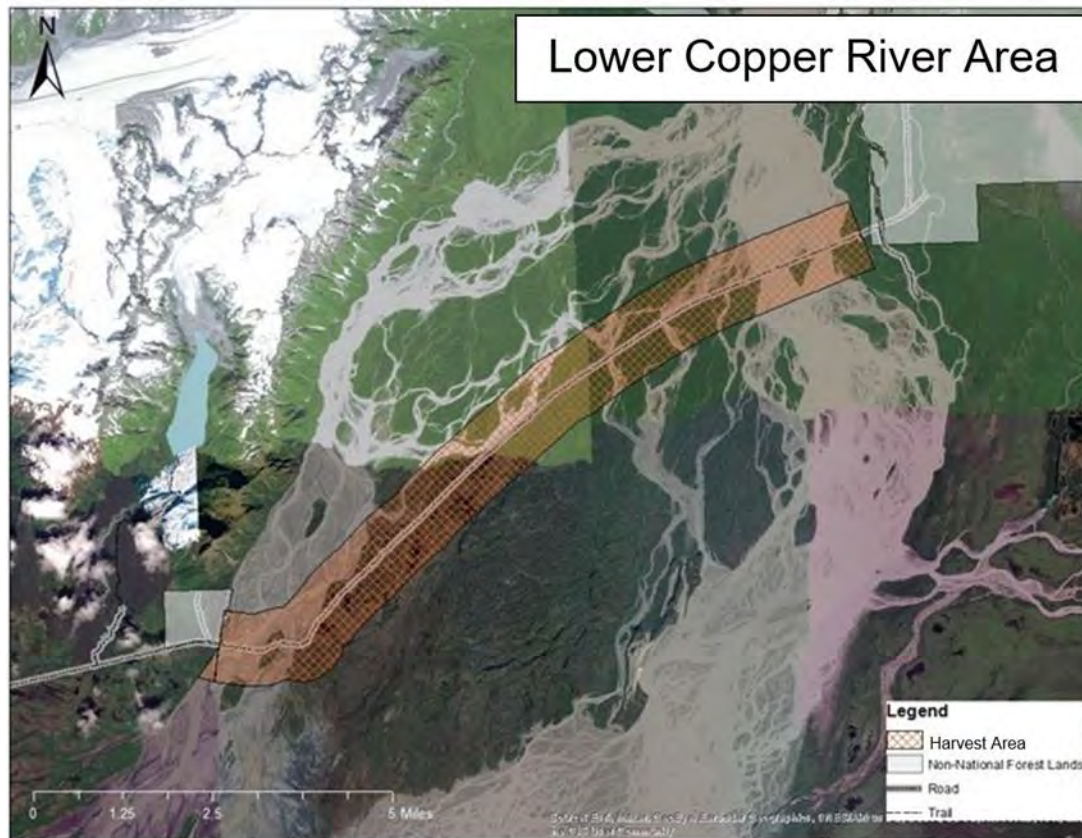


Figure 1. The Lower Copper River Area defined as the area from a boundary one-half mile upstream of the Copper River Highway to a boundary extending one-half mile downstream of the Copper River Highway, from the west riverbank near highway mile 27 to the east riverbank near highway mile 38.

Customary and Traditional Use Determinations

Residents of the Prince William Sound Area have a customary and traditional use determination for salmon in the remainder of the Prince William Sound Area, which includes the area under consideration in this proposal.

Regulatory History

The Upper Copper River District is separated into two parts: the Chitina Subdistrict and the Glennallen Subdistrict. In the Upper Copper River District, the Federal subsistence season runs from May 15 through September 30. The harvest limits and allowable gear are the same between the two subdistricts (**Table 1**). Subsistence users may obtain permits for both subdistricts, however the harvest limits are not additive. The allowable gear includes rod and reel, dip nets, and fish wheels. The annual harvest limit for a household of one is 30 salmon (including no more than 5 Chinook Salmon by dip net and 5 Chinook

Salmon by rod and reel). Upon request, permits will be issued for up to 200 salmon total (the Chinook Salmon limit does not change). The annual harvest limit for a household of two or more persons is 60 salmon plus 10 salmon for each additional person in a household over two people (including no more than 5 Chinook Salmon by dip net and 5 Chinook Salmon by rod and reel). Upon request, permits will be issued for up to 500 salmon total; the Chinook Salmon limit does not change (FSMP 2021).

The Alaska Department of Fish and Game (ADF&G) manages a personal use fishery in the Chitina Subdistrict and a subsistence fishery in the Glennallen Subdistrict of the Upper Copper River District. State permittees must choose between fisheries (subsistence or personal use) and methods (dip net or fish wheel, if subsistence fishing) when they get their permits. The State Chitina personal use fishery is managed separately from the Glennallen subsistence fishery, with State subsistence receiving priority over personal use (ADF&G 2017B). In the Chitina Subdistrict personal use fishery, dip nets are the only allowable gear, a permit fee is charged, and harvest limits differ from those for the subsistence fisheries.

There are also Federal and State subsistence fisheries in the vicinity of Batzulnetas (**Table 1**), which require a permit from either the National Park Service (Federal) or from the State. Only residents of Dot Lake and Mentasta Lake are eligible for the Federal subsistence fishery at Batzulnetas. This and the fact that Batzulnetas is much more difficult to access by highway than other harvest locations result in relatively low participation and harvest.

Additionally, there is a State subsistence fishing permit that allows for the harvest of salmon in the marine waters of the Copper River District (**Table 1**). The Copper River District includes the Copper River and other marine waters near Cordova (Fall et al. 2018). The legal gear allowed in the Copper River District is drift gillnet, and the harvest limits are 15 salmon for a household of one, 30 salmon for a household of two, and 10 salmon for each additional person in that household. There is also a limit of five Chinook Salmon per household, which is part of the household harvest limit. The season for this State subsistence fishery is May 15–October 31, with fishing periods: (1) from May 15 until two days before the commercial opening of that salmon district, seven days per week; (2) during the commercial salmon season, only during open commercial salmon fishing periods in that district and Saturdays from 6:00 a.m. to 10:00 p.m.; and (3) from two days following the closure of the commercial salmon fishing season in that district through October 31, seven days a week. Subsistence salmon fishing is not allowed 24 hours before open commercial salmon fishing periods in that district (5 AAC 01.610. Fishing seasons).

Table 1. Overview of current salmon subsistence and personal use fisheries in waters of the Copper River (ADF&G 2017B; FSMP 2017). Refer to specific regulations for information regarding each fishery. Emergency Orders, Special Actions, and other management actions affect these fisheries by limiting the season or allowable take throughout the year. The bolded row is the fishery requested to be rescinded by FP23-19 and the focus of this analysis.

Jurisdiction	Fishery	Allowable Gear	Season	Salmon Limits
Federal	Upper Copper River District: Glennallen Subdistrict ^a	Fish wheels; Dip nets; Rod and reel	May 15 – Sept 30	1-person ^b : 30 salmon, up to 200 salmon; 2-person or more ^b : 60 salmon, plus 10 for each additional household member, up to 500 salmon
Federal	Upper Copper River District: Chitina Subdistrict ^a	Fish wheels; Dip nets; Rod and reel	May 15 – Sept 30	1-person ^b : 30 salmon, up to 200 salmon; 2-person or more ^b : 60 salmon, plus 10 for each additional household member, up to 500 salmon
Federal	Batzulnetas	Copper River: Fish wheels; Dip nets; rod and reel Tanada Creek: Dip nets; Fyke nets; spears; rod and reel	May 15 – Sept 30	Copper River: no limit Tanada Creek: no limit for Sockeye taken by dip net, spear, or rod and reel; no (0) Chinook, ≤1,000 Sockeye by Fyke net
Federal	Lower Copper River Area	Dip net; rod and reel No dip netting from a boat	June 1 – Sept 30	1-person: 15 salmon; 2-person or more: 30 salmon, plus 10 for each additional household member; up to 5 of total can be Chinook
State	Upper Copper River District: Glennallen Subdistrict	Fish wheels; Dip nets	June 1 – Sept 30	1-person ^b : 30 salmon, up to 200 salmon; 2-person or more ^b : 60 salmon, plus 10 for each additional household member, up to 500 salmon
State	Batzulnetas	Copper River: Fish wheels; Dip nets Tanada Creek: Dip nets; Spears	June 1 – Sept 30	1-person: 30 salmon, up to 200 salmon; 2-person or more: 60 salmon, plus 10 for each additional household member; no (0) Chinook harvests in this Area
State	Copper River District (flats–marine waters)	Gillnets	May 15 – Oct 31 ^c	1-person: 15 salmon; 2-person or more: 30 salmon, plus 10 for each additional household member; up to 5 of total can be Chinook
State	Upper Copper River District: Chitina Subdistrict	Dip nets	June 7 – Sept 30 ^c	1-person: 25 salmon; plus 10 for each additional household member; up to 1 of total can be Chinook

^a Total combined harvest; see regulation for details

^b Per household, a maximum of 5 Chinook by dip net and 5 Chinook by rod-reel can be counted towards the total salmon limit.

^c See regulations for open period specifications within this season

Federal subsistence fishing permit FFPW01, for the Chugach National Forest portion of the Prince William Sound Area except the Copper River Drainage, allows for the harvest of fish in freshwater with rod and reel, dip net, spear, and gaff year-round, except in Eyak Lake and its tributaries and Eyak River upstream of the Copper River Highway bridge, which are closed to harvest of salmon. Harvest limits for salmon are 15 fish for a household of one, 30 fish for a household of two, and 10 salmon for each additional person in that household. There is a household limit of five Chinook Salmon that may be taken within the total salmon limit on this permit.

Federal subsistence fishing permit FFPW05, allows for harvest of fish only in the Chugach National Forest portion of the Copper River Drainage. Salmon harvest under this permit, which is the subject of this proposal, takes place only in within ½ mile of the Copper River Highway. Salmon harvest is only allowed by dip net and rod and reel, with no dip netting from boats. Harvest limits are the same as for FFPW01. Harvest limits are one combined limit between FFPW01, FFPW05, and the State Copper River District subsistence permit.

Federal subsistence fisheries in the upper Copper River were established shortly after the Federal Subsistence Management Program assumed a greater role in fisheries management in the early 2000s, largely through the adoption of State regulations; while Federal subsistence salmon fishing opportunities in the lower Copper River area were until recently limited to the Prince William Sound/Copper River Delta fishery established in 2005. The remainder of this section summarizes the regulatory history of subsistence salmon harvest opportunities on the Copper River since that time.

Historically, there have been several Board actions on proposals submitted for the harvest of salmon in the Copper River downstream of Haley Creek. In 2006, the Board adopted fisheries proposal FP06-16 to allow the accumulation of harvest limits under State sport fishing regulations and Federal subsistence management regulations in the Copper River Delta/Prince William Sound Area and in the Copper River drainage downstream of Haley Creek, provided that accumulation of harvest limits does not occur during the same day (FSB 2006); however, the Federal subsistence limit cannot be added to the limit for the State Copper River/Bering River/Prince William Sound Area Salmon Subsistence harvest permit.

In 2007, Proposal FP07-14 was submitted requesting that the Copper River waters downstream of the 52-Mile (Million Dollar) bridge be opened to Federal subsistence harvest of salmon using dip nets and rod and reel with bait for the months of May, June, and July (OSM 2007). The Board rejected Proposal FP07-14, despite noting in their decision justification that, at that time, there were no biological concerns and that harvest of salmon is a customary and traditional use in the Copper River (FSB 2007). At that time, the Southcentral Alaska Subsistence Regional Advisory Council (Council) felt that other opportunities for harvesting salmon for subsistence already existed in Cordova and Prince William Sound, both in marine waters with a gillnet and in fresh waters with a dip net (FSB 2007).

The Copper River Chinook Salmon escapement was estimated to be below average from 2009 through 2016 and failed to reach the sustainable escapement goal (SEG) of 24,000 fish mandated in the State's management plan in 2010, 2014, 2016, 2020, and 2021 (ADF&G 2017, 2020d). The 2016 escapement estimate of 16,764 fish was the lowest ever documented (ADF&G 2017). In a cooperative effort, pre-

season management actions were taken in 2017 directed at Chinook Salmon conservation. The State restricted its upriver subsistence fishery and closed both the upriver sport and the Chitina personal use fisheries to the retention of Chinook Salmon (ADF&G 2017). In addition, the Federal in-season manager issued Chinook Salmon emergency special actions in the Upper Copper River District. Federal actions included delaying the season start date for the Federal subsistence fisheries (Special Action SA 11-KS-01-17) and reducing the Federal subsistence Chinook Salmon harvest limit for dip net and rod and reel (Special Action SA 11-KS-02-17), the gear types that would allow selective release of live fish. These early-season 2017 restrictions were rescinded after abundance assessments indicated adequate escapement to meet the SEG.

In 2018, Proposal FP19-13 was submitted by the United States Forest Service, Cordova Ranger District. Proposal FP19-13 requested that conditions for the Federal subsistence permit (FFPW01) for the Prince William Sound Area be placed in Federal subsistence management regulations. This proposal was approved by the Board and moved the seasons, harvest limits, and methods and means of harvest for this fishery to the Federal subsistence management regulations for the Prince William Sound Area under § __.27(e)(11)(xvii).

The 2018 fisheries proposal cycle also included Proposal FP19-14, submitted by the Native Village of Eyak, which proposed to extend the current Federal subsistence salmon fishery opportunity afforded to residents of Prince William Sound Area to specific waters of the lower Copper River beginning one-half mile downstream of the road crossing at Copper River Highway Mile 27 and extending upstream to the Million Dollar Bridge, by dip net and rod and reel. The Native Village of Eyak withdrew Proposal FP19-14 during the first day of the 2018 Southcentral Alaska Regional Advisory Council fall meeting before the Council had an opportunity to take it up and make a recommendation.

During the 2018 season, the Federal in-season manager initially issued a Special Action to delay the Federal subsistence season in the Chitina Subdistrict until June 1, with the intent that the fishery would be open continuously thereafter, instead of the previous practice of aligning the Federal season in the Chitina Subdistrict with harvest windows of the State personal use fishery which is open only during periods announced by emergency order between June 7 and September 30. Around that same time, several Special Action Requests were submitted to close non-Federal fisheries in the Upper Copper River District. No action was taken on the requests; however, after the Federal in-season manager consulted with the State, the State issued a closure of their Glennallen Subdistrict subsistence fishery for the first time. There were also State closures to sport and personal use fisheries in 2018.

A request was submitted to the Board in April 2020 to open a Federal subsistence dip netting season for salmon in the lower Copper River (Fishery Special Action Request FSA20-04), to offset COVID-19 related health and safety issues associated with existing means of harvesting Copper River salmon in the State Copper River District fishery and to address food supply issues in Cordova. This issue generated a large amount of public interest, with 38 written comments supporting and 10 opposed to the measure. In response, the Board issued a delegation of authority letter to the in-season manager giving them the ability to open a fishery after consultation with the State of Alaska Unified Command Mass Care Group. This group stated that there was no food supply issues in Cordova so a fishery was never opened.

In 2020, Proposal FP21-10 was submitted by two residents of Cordova requesting the Board implement a subsistence salmon fishery in the lower Copper River adjacent to the Copper River Highway with the same harvest methods and limits as the Federal fishery in the Chugach National Forest portion of the Prince William Sound Area plus the addition of a limit of 5 Chinook Salmon per household. The harvest limit was not to be additive to the currently existing Federal subsistence permit FFPW01, or the State subsistence fishing permit in the Copper River District. The Southcentral Subsistence Regional Advisory Council provided a recommendation in support of the proposal, while the Eastern Interior Regional Advisory Council provided a comment in opposition.

The Board deferred action on FP21-10 at its January 2021 meeting, requesting the Eastern Interior and Southcentral Subsistence Regional Advisory Councils meet to further discuss the proposal since there was disagreement between the Councils. The Councils met in joint session in March 2022. The Board subsequently adopted the Lower Copper River salmon fishery at its April 2022 meeting, with modification to allow only dip net and rod and reel, delay the start of the fishery until June 1, prohibit dip netting from a boat, and require a 48-hour reporting period (see Existing Federal Regulations section).

Current Events

Poor runs of Copper River Sockeye Salmon prompted concerns in 2018 and 2020 with total Sockeye Salmon run size of less than 1 million in each year (Botz et al. 2021). Sockeye Salmon sustainable escapement goals (SEG) were met in both years, but the 2018 commercial harvest of 40,350 Sockeye Salmon in the Copper River District was the second lowest in the last 100 years (ADF&G 2018) and the 2020 commercial harvest of 102,270 Sockeye Salmon was well below the 10-year average (2010–2019) of over 1 million Sockeye Salmon (Botz et al. 2021). In-river personal use and sport fisheries were restricted in both years and State subsistence fisheries were restricted in 2018. In contrast to 2018 and 2020, the 2019 Copper River Sockeye Salmon total run of 2.42 million was near the recent 10-year (2010–2019) average of 2.44 million Sockeye Salmon, the commercial harvest of 1.28 million Sockeye Salmon was near the recent 10-year average, and the upper Copper River Sockeye Salmon escapement of 719,000 was above the recent 10-year average of 689,000. Chinook Salmon SEGs were met in 2018 and 2019 but missed in 2020 and 2021 when 22,050 and 18,521 Chinook Salmon escaped to spawn, below the SEG of 24,000 and below the recent 10-year average of 27,000 (Botz et al. 2021, Joy et al. 2021a, Joy et al. 2021b).

In 2021, cumulative passage of ~750,000 fish past the Miles Lake Sonar indicate in-river management objectives and SEG were met for Sockeye Salmon. Commercial harvest of about 400,000 Sockeye Salmon in 2021 was considerably below the 10-year average of 1.25 million (ADF&G 2021, Botz et al. 2021). The 2021 commercial harvest of 7,000 Chinook Salmon was below the 10-year average 13,000 fish (ADF&G 2021, Botz et al. 2021). The Native Village of Eyak's estimate of in-river abundance of Chinook Salmon was 21,656 (lower CI = 17,894 and upper CI = 25,417) (Piche et al. 2022).

As of July 28, 2022, 785,509 Sockeye Salmon have been counted at the Miles Lake sonar site. The total Copper River District commercial harvest reported for the season through August 11 is 590,852 Sockeye

Salmon, 11,625 Chinook Salmon, 987 Coho Salmon, 59,068 Pink Salmon, and 13,220 Chum Salmon. (ADF&G 2022). Information on 2022 Chinook Salmon escapement is not yet available.

Due to the unusual timing of Board action on FP21-10, the final rule did not publish in the Federal Register in time for the 2022 fishery. The Office of Subsistence Management submitted Fisheries Special Action FSA22-05 asking the Board to implement the fishery on the June 1 start date and delegate authority to the in-season manager to implement the fishery. The Board adopted this special action at a May 19 session.

A request for reconsideration (RFR) was submitted to the Board by Ahtna, Incorporated in response to Board action on FP21-10. The RFR is currently in the threshold analysis phase of the process. The Board will be presented with a threshold analysis and will decide whether the RFR meets the threshold to be reconsidered.

Biological Background

The Alaska Board of Fisheries established management plans designed to provide harvest opportunities while ensuring sustainable numbers of Copper River salmon reach their spawning grounds. These management plans allocate harvest among different fisheries targeting these stocks and are directly based on in-river salmon estimates from the Miles Lake sonar project in the lower river. In-season management actions designed to limit harvest in specific fisheries are used in an attempt to meet escapement goals in years when returns are weak.

The State upper Copper River SEG is 360,000–750,000 Sockeye Salmon, and the Copper River Delta SEG is 55,000–130,000 Sockeye Salmon (Joy et al. 2021a). Since 2001, the ADF&G has successfully met or exceeded the minimum threshold of the SEG range for Sockeye Salmon in the Copper River annually (Joy et al. 2021a; **Table 2**). The recent 10-year average (2011–2020) Copper River Sockeye Salmon total run is 2.34 million fish (Botz et al. 2021). The total estimated runs and fishery type (commercial, sport, and subsistence harvests and escapement information) for Sockeye Salmon in the Copper River system 2001–2020 are displayed in **Figure 2** and **Appendix 1** (Botz et al. 2021).

The Copper River Chinook Salmon lower bound SEG of 24,000 was not achieved in four years between 2011–2021. The recent 10-year average (2011–2020) Copper River Chinook Salmon total run is 47,700 fish (**Table 2**, Botz et al. 2021). The Alaska Board of Fisheries recently adjusted the Chinook Salmon SEG from 24,000 to 21,000-31,000 based on a space-state spawner-recruit model (Joy et al. 2021b). Estimated total run, harvests, and escapements (commercial, sport and subsistence harvests and escapement information) for Chinook Salmon in the Copper River system for 2001–2020 are displayed in **Figure 3** and **Appendix 2** (Joy et al. 2021a, Joy et al. 2021b, Botz et al. 2021).

Table 2. Estimated Sockeye and Chinook salmon returns and spawning escapements for the Copper River, 2010–2020, and the previous 5-year and 10-year averages (Botz et al. 2021).

Year	Sockeye Salmon Total Run	Upper Copper River Sockeye Salmon Spawning Escapement	Chinook Salmon Total Run	Chinook Salmon Spawning Escapement
2010	991,791	502,403	33,181	16,753
2011	2,004,078	607,142	53,889	27,936
2012	2,503,278	953,502	44,312	27,922
2013	2,224,817	860,258	42,885	29,013
2014	2,633,272	864,131	35,322	20,689
2015	2,679,815	930,145	56,174	26,751
2016	1,608,098	513,126	29,243	12,430
2017	1,115,036	461,268	56,133	33,644
2018	629,071	478,760	61,663	42,678
2019	2,067,914	718,876	64,443	35,080
2020	561,298	364,928	33,069	22,054
Average 2016–2020	1,196,283	507,392	48,910	29,177
Average 2011–2020	1,802,668	675,214	47,713	27,820

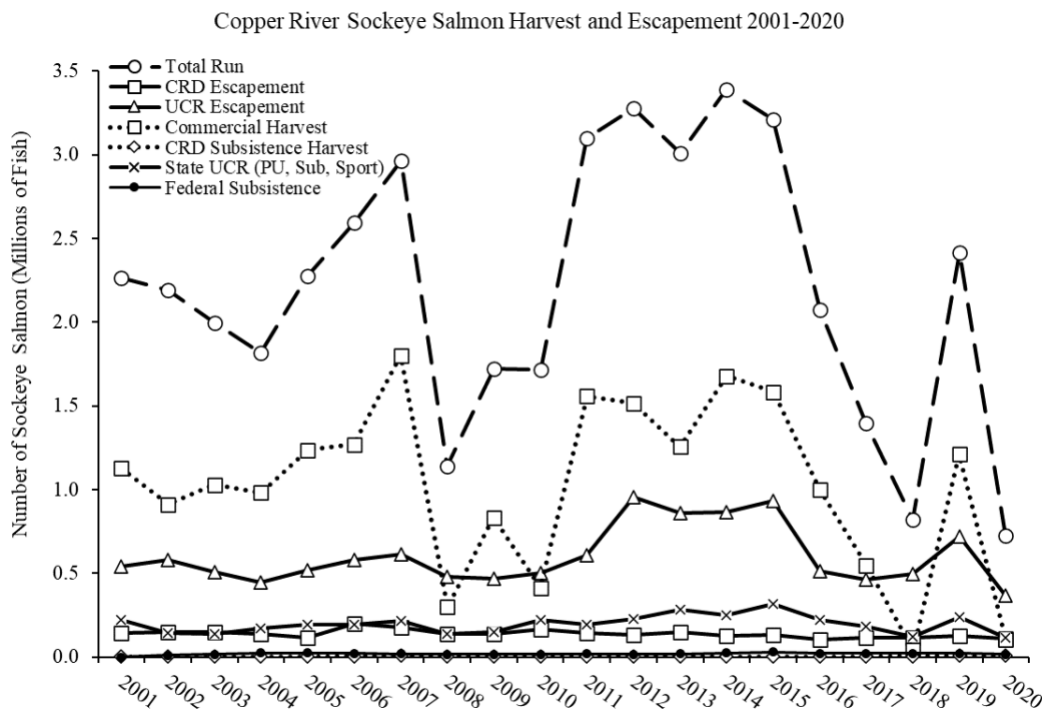


Figure 2. Copper River Sockeye Salmon total run, escapements, and harvests 2001–2020. Data from Botz et al. 2021.

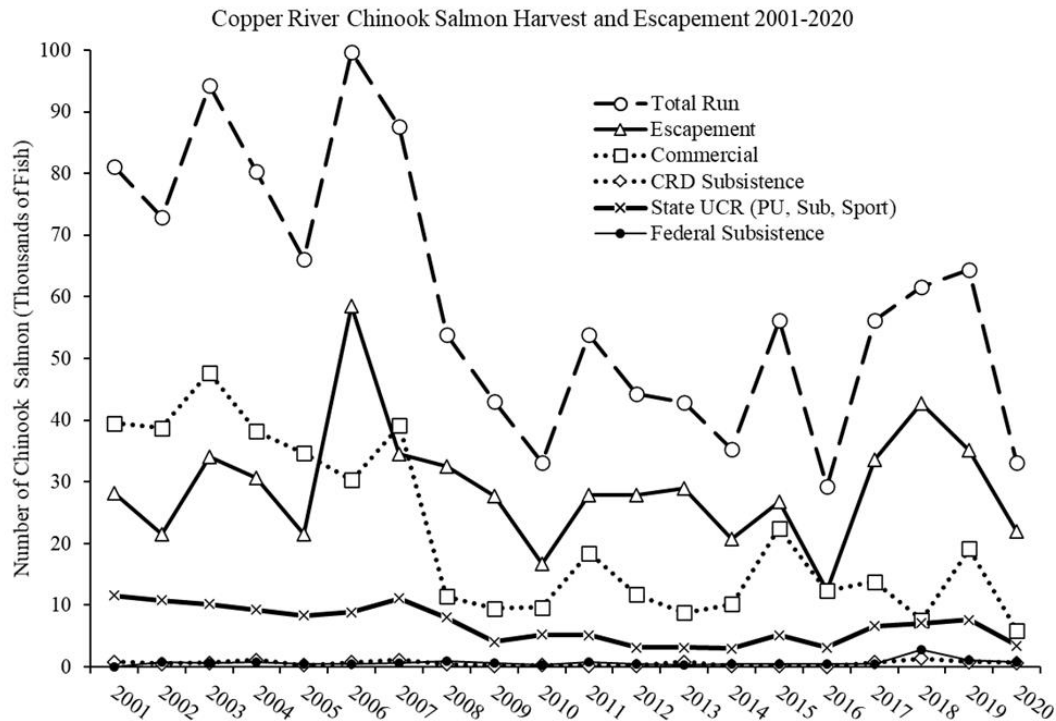


Figure 3. Copper River Chinook Salmon total run, escapements, and harvests 2001–2020. Data from Botz et al. 2021.

Coho, Chum, and Pink salmon are not expected to be significantly impacted by the Lower Copper River fishery, though some incidental take may occur. The existing recreational Coho Salmon fishery in the Lower Copper River Area is minimal. The State has a SEG of 32,000–67,000 for Copper River Delta Coho Salmon (Haught et al. 2017). Few Chum Salmon use the Copper River and have not historically been targeted by recreational or subsistence fishers, but some have been taken incidentally to other salmon species (Miller and Stratton 2001). The State has not established an escapement goal for Chum Salmon in the Copper River drainage. Few Pink Salmon migrate up the Copper River, and those that do enter the drainage are only found in the very lower reaches of clear water tributaries.

There are populations of unknown size of Rainbow Trout/steelhead that migrate up the Copper River. Current Federal subsistence management regulations require the immediate release of Rainbow Trout/steelhead unharmed unless taken incidentally in a fish wheel. Consequently, elimination of the lower Copper River fishery, which only allows salmon harvest by dip net and rod and reel, should not impact Rainbow Trout/steelhead populations.

Cultural Knowledge & Traditional Practices

Salmon and marine resources have always been critical to the people who live in the area now known as the Copper River delta (near the current town of Cordova). This area is the traditional territory of the Eyak dAXunhyuu, Native Village of Eyak (Kukkonen and Johnson 2016:186). At the time of contact with Europeans, multiple Eyak communities were present in the vicinity of the Copper River delta

including the communities of Eyak and Alaganik (Sherman 2012; Kukkonen and Johnson 2016:186). This area is in proximity to the traditional territories of the Ahtna, Chugach, and Tlingit peoples (Sherman 2012; Kukkonen and Johnson 2016:186).

In 1933, two anthropologists, Kaj Birket-Smith and Frederica DeLaguna, conducted field work in Cordova to document Eyak culture. They wrote that salmon is "...the most important source of food in the Eyak economy" (Birket-Smith and De Laguna 1938: 113). They observed that salmon were harvested with a variety of methods and means including spears, harpoons, bow and arrow, fish trap, and dip net (Birket-Smith and DeLaguna 1938: 115-118). The construction and use of this fishing equipment, including the application of traditional knowledge, is described in detail in their report (Birket-Smith and DeLaguna 1938: 115-119). The use of the dip net to harvest salmon appears in traditional Eyak stories about "Salmon Boy" which include beliefs about salmon and how humans should interact with them (Birket-Smith and DeLaguna 1938: 272, 274).

Like much of Alaska, the town of Cordova has a boom-and-bust economy with commercial and subsistence fisheries as the constant (Sherman 2012). In the late nineteenth and early twentieth centuries, there was a huge salmon packing boom in the Cordova area (Sherman 2012: 22-23, 49, 76). The effects of this boom are described in the 2003 report, *Patterns and Trends in the Subsistence Salmon Fishery of the Upper Copper River, Alaska*:

In 1915 commercial fish traps were introduced into the river, and a year later a cannery was constructed at Abercrombie, located at Mile 55 on the Copper River and Northwestern Railroad. Fishermen, using dip nets and gill nets, from this and several Cordova canneries, were stationed in Abercrombie Canyon and at Miles Lake (Thompson 1964:7). As a result, the commercial harvest jumped to 653,402 in 1915, and rose to 1,253,129 by 1919 (Gilbert 1921:1). There was an almost immediate effect on salmon abundance upriver, and by 1916 the situation for Ahtna fishermen was critical (Thompson 1964:8). According to reports from the Copper Basin, the local population faced starvation because of the depleted runs (Bourke 1917, Miller 1916). In addition, the health of the runs themselves was in danger from over harvest. (Gilbert 1921:2) (Thompson 1964, Gilbert 1921, Bourke 1917, Miller 1916 in Simeone and Fall 2003: 14,16)

Although commercial fish traps were abolished in 1960 after Alaska became a state in 1959, the competition for Copper River salmon has not decreased but has intensified with the increasing popularity of the Chitina personal use dip net fishery, the successful marketing of Copper River salmon and diminishing salmon returns due to climate change (Colt 2000; Medred 2022, 2017).

In 2015, the importance of subsistence harvests, including salmon, to the people of Cordova was studied by the ADF&G Division of Subsistence. ADF&G conducted comprehensive subsistence harvest surveys with a random sample of 184 households, approximately 19% of 950 households in Cordova (Kukkonen and Johnson 2016: 187, 189). The household surveys provided data for ADF&G to estimate the amount and variety of subsistence resources harvested by the entire community of Cordova during the 2014

calendar year. The estimated population of Cordova in 2014 was 2,602 people (Kukkonen and Johnson 2016: 187). The 2020 U.S. Census estimated the current population of Cordova at 2,609 people. The 2015 research shows that in 2014, approximately 77% of residents participated in the subsistence harvest of wild resources with an estimated community subsistence harvest of 302,404 pounds and an average harvest of 116 pounds per person (Kukkonen and Johnson 2016: 201, 205-206). Salmon was the most harvested subsistence resource and comprised 38% of the estimated community harvest, which was 114,031 pounds with an average harvest of 44 pounds per person (Kukkonen and Johnson 2016: 205). Salmon was used by 92% of the surveyed households in Cordova (Kukkonen and Johnson 2016: 204). Sockeye salmon was used by approximately 73% of surveyed Cordova households, more than any other type of salmon, with an estimated community subsistence harvest of 49,364 pounds or 19 pounds per person, followed by Coho salmon which was used by 71% of surveyed households with an estimated community subsistence harvest of 40,947 pounds or 16 pounds per person. Finally, Chinook salmon was used by 63% of households with an estimated community subsistence harvest of 21,235 pounds or 8 pounds per person. (Kukkonen and Johnson 2016: 207, 218).

The 2015 study provided insights into the factors that affect subsistence salmon fishing in Cordova. One of the conclusions researchers drew from the 2015 study is, "...the overall sentiment in the community is that current [subsistence] fishing regulations are not working and that more subsistence opportunity, separate from the commercial opportunity, is needed" (Kukkonen and Johnson 2016: 222).

The 2015 study identified issues that contribute to the "sentiment" that the subsistence fishing regulations were/are not working in Cordova. One of these, described by Cordova residents in 2015, is access to the State subsistence fishery that occurs in marine waters. This fishery requires a marine-worthy boat to participate. Residents lacking a boat are excluded from this fishery (Kukkonen and Johnson 2016: 219, 222). The Native Village of Eyak provides a captain and a boat to tribal members who do not have boats, many of whom proxy fish for elders.

Cordova residents with boats described obstacles to their participation in the State subsistence fishery. In 2014, State commercial and subsistence fishery openings conflicted which prevented some commercial fishers from subsistence fishery participation (Kukkonen and Johnson 2016: 220). These schedules have been adjusted to minimize overlap (see Regulatory History section of this analysis). Another factor in the 2015 study is the required use of different gear for each fishery and changing gear requires "...a minimum of boating 2 or more hours round trip from a commercial fishing location back to the harbor and out again before being able to participate in subsistence fishing" (Kukkonen and Johnson 2016: 219, 261). The frequent lack of alignment of weather and tides during subsistence openings and increasing fuel and boat maintenance costs are limiting factors for subsistence harvesters (Kukkonen and Johnson 2016: 220, 222).

It is important to note that the 2015 study documented a shift in the makeup Cordova subsistence salmon harvest:

Whereas the salmon harvest for all species combined is proportionally steady compared to the overall harvest, the composition of the salmon harvest has changed. This is seen in

the rise of Sockeye Salmon harvests, which people are becoming more dependent upon to meet their [subsistence] harvesting needs. For instance, 2014 was the first year in which Sockeye Salmon was the top harvested salmon species as measured in pounds usable weight, replacing Coho or Chinook salmon as the top harvested salmon species in previous study years. (Kukkonen and Johnson 2016: 261)

This is significant because the majority, 43%, of the subsistence salmon harvest is “home pack”, commercially harvested salmon retained for home use (Kukkonen and Johnson 2016: 261). The bulk of the home pack harvest is Sockeye Salmon, which is taking the place of Coho and Chinook salmon that provided higher amounts, by weight, of the subsistence salmon harvests documented in past ADF&G studies in 2003, 1997, 1993, 1992, 1991, 1988 and 1985 (ADF&G 2022; Kukkonen and Johnson 2016: 261). This practice of using Sockeye Salmon as home pack, the authors note, “occurs at the expense of the households’ direct cash income” (Kukkonen and Johnson 2016: 220, 261).

Cordova residents provided context for the decreases in their subsistence Chinook and Coho salmon harvests. Reasons cited for the decline in subsistence Chinook Salmon harvests were the general decline (both in number and size) of Chinook Salmon across the state and, in particular, concerns about abuse of and lack of enforcement of regulations at the Chitina personal use dip net fishery (Kukkonen and Johnson 2016: 222, 261). Coho Salmon subsistence harvest declines were attributed to competition with sport fishers. Coho Salmon is highly important to Cordova subsistence harvesters because it is one of the few species of salmon that can be harvested from streams, primarily Ibeck Creek, accessible by road without a boat. Coho Salmon is primarily harvested by rod and reel under State sport fishing regulations and Federal subsistence regulations.

In 2014, Cordova residents harvested approximately 5,523 Coho salmon with rod and reel (ADF&G 2022). After home pack, rod and reel was the gear type most used for the subsistence harvest of salmon in 2014 (Kukkonen and Johnson 2016: 220). This reflects a high amount of effort by Cordova residents, some of whom do not have access to the State subsistence fishery in marine waters (Kukkonen and Johnson 2016: 220, 222). The Federal subsistence rod and reel salmon fishery at Ibeck Creek occurs at the same time and place as the State sport fishery for Coho Salmon. Cordova residents stated that they have faced increased competition for Coho Salmon at Ibeck Creek as the popularity of the State sport fishery rises (Kukkonen and Johnson 2016: 222).

Harvest History

Salmon fisheries in the Copper River primarily harvest Chinook, Sockeye, and to a much lower extent, Coho salmon. These salmon stocks are harvested in multiple fisheries, including commercial and State subsistence gillnet fisheries in marine waters near the mouth of the Copper River, personal use dip net and Federal subsistence fisheries in the Chitina Subdistrict of the Upper Copper River District, subsistence fisheries in the Glennallen Subdistrict of the Upper Copper River District, Federal and State subsistence fisheries in the vicinity of Batzulnetas, and sport fisheries that occur in various tributaries. State subsistence fishing for Copper River stocks is restricted to three areas (**Table 1**): 1) the Copper River District marine waters; 2) the Glennallen Subdistrict within the Upper Copper River District; and 3) the Batzulnetas vicinity. Of the three State subsistence areas, the Glennallen Subdistrict has the highest use

and harvest (Botz and Somerville 2017). Federal subsistence fisheries occur at: 1) the Upper Copper River District (both the Glennallen and Chitina Subdistricts) 2) the Batzulnetas vicinity, and 3) the Lower Copper River Area.

The estimated annual salmon harvest by State subsistence permit holders in the Copper River District (Copper River Flats) of the Prince William Sound Area averaged 3,674 Sockeye Salmon and 530 Chinook Salmon for the previous 10-year period (2011–2020, Botz et al. 2021, **Appendix 1 and 2**). For the three State subsistence fishery districts in the Prince William Sound Area, the Copper River District near the community of Cordova accounts for most of the subsistence salmon harvested, with 91% of the total harvests in 2015 (Fall et al. 2018). However, subsistence harvest data for the Eastern and Southwest Districts are likely to be consistently underestimated (Ashe et al. 2005).

The estimated annual salmon harvest by State subsistence salmon permit holders in the Upper Copper River District (Glennallen Subdistrict) averaged 60,348 Sockeye Salmon and 2,533 Chinook Salmon for the previous 10-year period (2011–2020). During this time dipnet permits composed about 70% of State Glennallen subsistence permits issued (2011-2020, Botz et al., Somerville and Hanson 2021, **Appendix 1 and 2**). The Chitina Subdistrict personal use fishery, averaged harvests of 142,400 Sockeye Salmon and 1,197 Chinook Salmon from 2011–2020 (Somerville and Hanson 2021).

The yearly Federal subsistence harvests for the Upper Copper River District (Chitina and Glennallen Subdistricts combined) averaged 21,011 Sockeye Salmon and 809 Chinook Salmon from 2011–2020 (**Table 3**).

The Federal subsistence fishing permit FFPW01 for the Copper River Delta (CRD)/ Prince William Sound Area allows for the harvest of fish in fresh waters (not including the Copper River drainage waters) with harvest limits for salmon as described earlier. Under this permit, over 95% of the harvest by federally qualified subsistence users occurs in three river systems: Ibeck Creek, Eyak River, and Alaganik Slough (USFWS 2018). On average, 90 households fished under a Federal subsistence permit and harvested an annual average of 629 salmon from 2011–2021, approximately 80% of which were Coho Salmon (**Table 4**). Rod and reel is overwhelmingly the most common harvest method under this permit as relatively clear waters from the Alaganik and Eyak systems negatively impact dip net success (Burcham 2018, pers. comm.). Very few Chinook Salmon, on average one per year, have been reported as harvested under the Copper River Delta/Prince William Sound Area Federal subsistence permit since its inception in 2005 (USFWS 2018; Table 4). While permit FFPW01 is available to both Tatitlek and Chenega, no qualifying households outside of Cordova have requested or been issued this fishery permit.

As of August 12, 69 permits had been issued for the new Federal subsistence fishery in the lower Copper River for the 2022 season and a total of 104 Sockeye and 3 Chinook salmon have been reported harvested. No harvest has been reported after June 28. All permit holders are residents of Cordova.

Sport fishing is very popular in the Prince William Sound Area, especially along the road accessible systems. The Copper River drainage is the only major producer of Chinook Salmon in the Prince William Sound Area. Although allowed, a sport fishery for salmon or trout in the area created by FP21-10 has not developed, primarily because of the high turbidity of the Copper River. Additionally, Bridge No. 339 was

closed in August 2011 after sustaining substantial damage from a washout event that prevented vehicle access on the Copper River Highway beyond Mile 36 and limiting fishing opportunities for a large area of the Copper River Delta. The bait restriction from April 15 through June 14 to protect spawning trout also reduces the chances of harvesting Chinook Salmon migrating through the lower Copper River. Sockeye Salmon do not readily take bait or lures and are not often pursued in the turbid Copper River with rod and reel. Outside of the Copper River, the sport fishery for Chinook Salmon in Prince William Sound Area is supported almost entirely by hatchery-produced fish that are harvested in marine waters of the Cordova terminal harvest area (Thalhauser 2014).

Table 3. Estimated harvest of Sockeye, Chinook, and Coho salmon by federally qualified subsistence users in the Upper Copper River District, as reported for the Glennallen and Chitina Subdistricts, 2002-2021 (Sarafin 2022, pers. comm.).

Glennallen Subdistrict Federal Reported and Expanded Subsistence Fishery Harvests¹

Year	Permit Issued	Percentage of Permits Reported	Sockeye		Chinook		Coho		Steelhead/Rainbow Trout		Other Species		All Species Total Harvest Estimate ²
			Reported Harvest	Reported Harvest Estimate ²	Reported Harvest	Reported Harvest Estimate ²	Reported Harvest	Reported Harvest Estimate ²	Reported Harvest	Reported Harvest Estimate ²	Reported Harvest	Reported Harvest Estimate ²	
2002	201	80.6	7,944	9,856	564	700	81	100	62	77	35	43	10,777
2003	221	83.3	13,616	16,346	554	665	152	182	13	16	20	24	17,233
2004	261	78.9	17,704	22,439	636	806	152	193	12	15	12	15	23,468
2005	267	85.8	19,973	23,279	331	386	47	55	6	7	32	37	23,763
2006	254	87.4	16,711	19,120	430	492	28	32	15	17	32	37	19,698
2007	281	84.3	15,225	18,060	569	675	34	40	6	7	21	25	18,808
2008	269	81.4	11,347	13,940	705	866	148	182	17	21	44	54	15,063
2009	274	85.0	11,836	13,925	494	581	34	40	19	22	31	36	14,605
2010	269	87.7	12,849	14,651	300	342	64	73	39	44	22	25	15,136
2011	277	87.7	14,163	16,145	701	799	53	60	5	6	248	283	17,293
2012	275	92.0	14,461	15,718	371	403	78	85	40	43	104	113	16,363
2013	273	89.0	15,834	17,789	331	372	24	27	6	7	62	70	18,264
2014	315	90.5	21,603	23,877	399	441	23	25	10	11	52	57	24,412
2015	325	92.3	24,695	26,753	384	416	13	14	7	8	201	218	27,408
2016	320	82.8	15,884	19,181	369	446	9	11	5	6	332	401	20,044
2017	338	85.2	15,691	18,415	399	468	1	1	7	8	468	549	19,442
2018	335	91.3	15,287	16,736	2,432	2,662	0	0	4	4	41	45	19,448
2019	343	89.8	15,873	17,677	849	945	0	0	3	3	53	59	18,685
2020	376	89.9	11,456	12,744	682	759	0	0	6	7	54	60	13,569
2021	355	85.1	12,632	14,849	419	493	0	0	5	6	28	33	15,380
5-yr. Avg. 2016-2020	342	87.8	14,838	16,950	946	1,056	2	2	5	6	190	223	18,238
10-yr. Avg. 2011-2020	318	89.1	16,495	18,503	692	771	20	22	9	10	162	185	19,493

Table 3 cont.

Chitina Subdistrict Federal Reported and Expanded Subsistence Fishery Harvests¹

Year	Permits Issued	Percentage of Permits Reported	Sockeye		Chinook		Coho		Steelhead / Rainbow Trout		Other Species		All Species	
			Reported Harvest	Reported Harvest	Harvest Estimate ²	Reported Harvest	Harvest Estimate ²	Reported Harvest	Harvest Estimate ²	Reported Harvest	Harvest Estimate ²	Reported Harvest	Harvest Estimate ²	Reported Harvest
2002	122	73.0	575	33	45	0	0	0	0	0	0	N.A.	N.A.	833
2003	100	82.0	717	18	22	70	85	0	0	0	0	N.A.	N.A.	982
2004	109	76.1	1,215	7	9	18	24	0	0	0	0	N.A.	N.A.	1,629
2005	76	84.2	1,265	22	26	0	0	0	0	0	0	0	0	1,529
2006	75	85.3	1,379	13	15	20	23	0	0	0	0	0	0	1,655
2007	98	88.8	929	26	29	40	45	0	0	0	0	0	0	1,120
2008	82	85.4	789	22	26	74	87	0	0	0	0	0	0	1,036
2009	68	91.2	817	8	9	11	12	0	0	0	0	0	0	917
2010	92	85.9	2,061	17	20	33	38	1	1	0	0	0	0	2,459
2011	85	85.9	1,766	13	15	8	9	0	0	0	0	0	0	2,081
2012	89	93.3	1,332	6	6	8	9	1	1	0	0	0	0	1,443
2013	99	90.9	1,999	17	19	8	9	1	1	10	11	0	0	2,239
2014	113	94.7	1,549	14	15	68	72	3	3	0	0	0	0	1,726
2015	111	92.8	2,231	13	14	14	15	7	8	0	0	0	0	2,441
2016	128	80.5	1,549	16	20	33	41	0	0	0	0	4	5	1,991
2017	132	79.5	1,454	12	15	7	9	0	0	0	0	0	0	1,852
2018	132	91.7	3,144	92	100	28	31	0	0	0	0	0	0	3,561
2019	181	90.1	4,053	75	83	20	22	0	0	0	0	0	0	4,606
2020	216	88.4	3,249	76	86	23	26	0	0	0	0	0	0	3,786
2021	194	90.2	4,765	99	110	3	3	0	0	0	0	0	0	5,395
5-yr. Avg. 2016-2020	158	86.0	2,690	54	61	22	26	0	0	0	0	1	1	3,159
10-yr. Avg. 2011-2020	129	88.8	2,233	33	37	22	24	1	1	1	1	1	2	2,572

¹This table reflects entries to the online database from 2011 through 06/15/2022. Data prior to 2011 relies on NPS records. Data for all years subject to changes resulting from entry error corrections.

² Expanded Harvest estimate derived from a basic, direct ratio expansion based on the percentage of permits that reported.

Table 4. Federal subsistence permit activity and harvest of salmon, within the Chugach National Forest portion of the Prince William Sound Area (not including waters of the Copper River), 2011–2021.

Year	Permits Issued	Permits Returned	Permits Fished	Permits Not Fished ^a	Harvest Chinook	Harvest Sockeye	Harvest Coho	Harvest Total
2011	110	96	73	23	0	35	542	577
2012	102	85	69	16	0	83	428	511
2013	101	97	45	52	0	120	329	461
2014	164	148	117	31	0	76	610	699
2015	179	149	131	18	0	150	893	1068
2016	182	165	123	42	0	219	555	824
2017	155	140	102	38	0	127	514	689
2018	136	131	79	52	3	96	255	362
2019	172	155	104	51	6	116	671	815
2020	135	88	70	18	0	41	373	434
2021	121	112	75	37	0	19	459	482
Average	142	124	90	34	1	98	512	629

^a as reported on returned permits

Effects of the Proposal

This proposal would rescind the recently created Lower Copper River Area subsistence salmon fishery, reducing opportunity for federally qualified subsistence users in the Prince William Sound Area, primarily those residing in Cordova. Federally qualified subsistence users in the Cordova area historically concentrate their salmon harvest efforts through Federal fisheries in Ibeck Creek, Eyak River, and Alaganik Slough, or through the State subsistence fishery in the marine waters of the Copper River Flats. Most of the Federal subsistence harvest efforts focus on the fall Coho Salmon return across the Copper River Delta. State subsistence regulations only allow for the harvest of salmon in the marine waters of the Copper River District, which requires access to a suitable boat and the approved gear type (i.e., relatively expensive gillnets). In contrast, most of the State subsistence harvest efforts are focused on the early summer Sockeye Salmon returns to the Copper River District. This proposal would reduce access and methods for rural residents without boats capable of accessing marine waters to participate in the harvest of salmon. The total salmon harvest limit permitted per household would not change so effort may shift back to Ibeck Creek, Eyak River, and Alaganik Slough, or through the State subsistence fishery in the marine waters adjacent to the Copper River.

The proposed regulatory change is not likely to have significant biological effects on fish stocks or to significantly increase the subsistence, personal use, or sport harvests in the Upper Copper River District or Batzulnetas. The projected harvest is the smallest of any user group in the Copper River system, about 2,000 Sockeye Salmon and 300 Chinook Salmon annually (**Figures 4 and 5**), and actual harvest this season has fallen far below these projections. Sockeye Salmon runs to the upper Copper River have consistently exceeded the minimum bound of the SEG range (360,000) for wild stocks in all years (**Appendix 1**). Impacts to Chinook Salmon stocks by eliminating this fishery would be negligible since the harvest of Chinook Salmon is limited to no more than 5 per household.

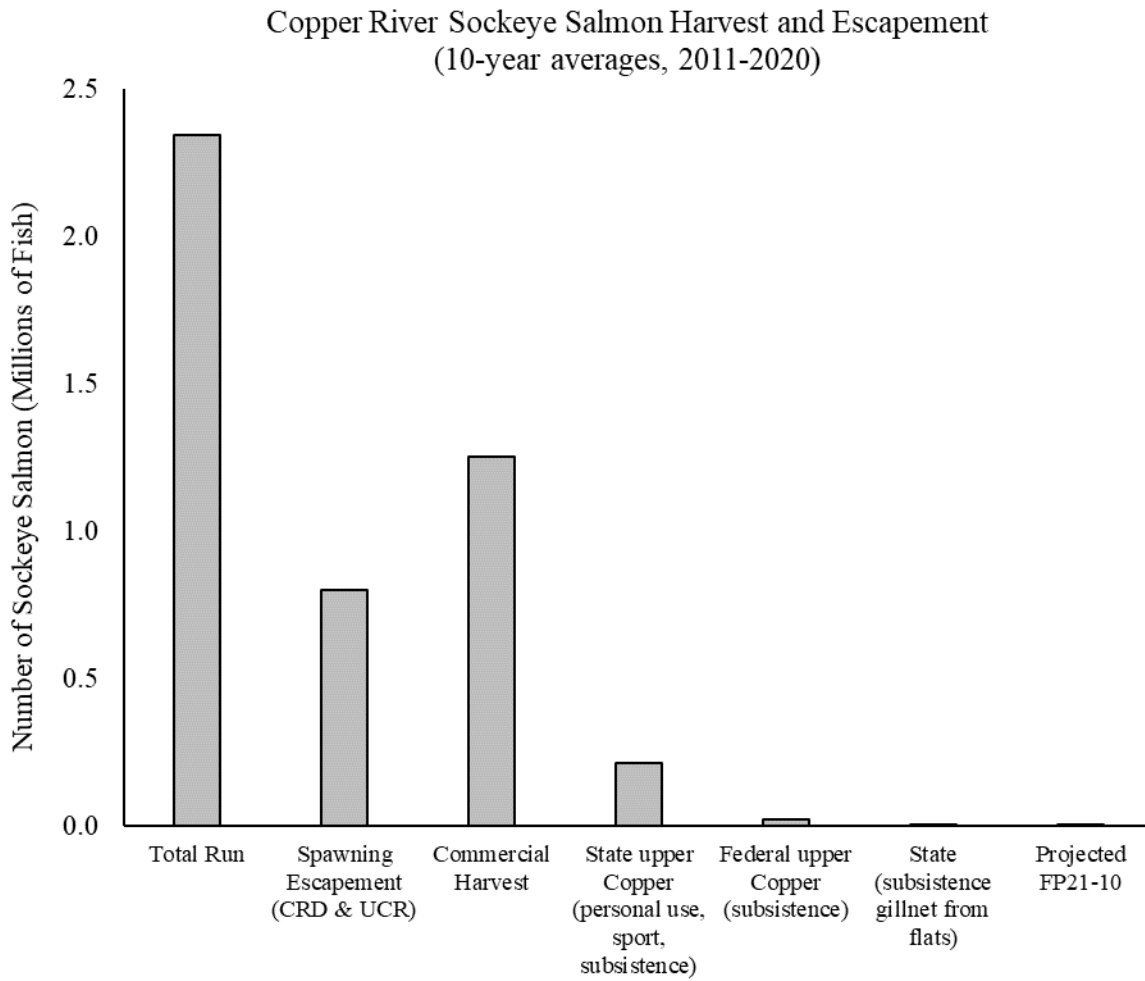


Figure 4. Comparison of ten-year average run size, escapement, and harvest of Sockeye Salmon in the Copper River by user group. The FP21-10 Lower Copper River Area is projected to harvest up to 2,000 Sockeye Salmon annually.

Copper River Chinook Salmon Harvest and Escapement
(10-year averages, 2011-2020)

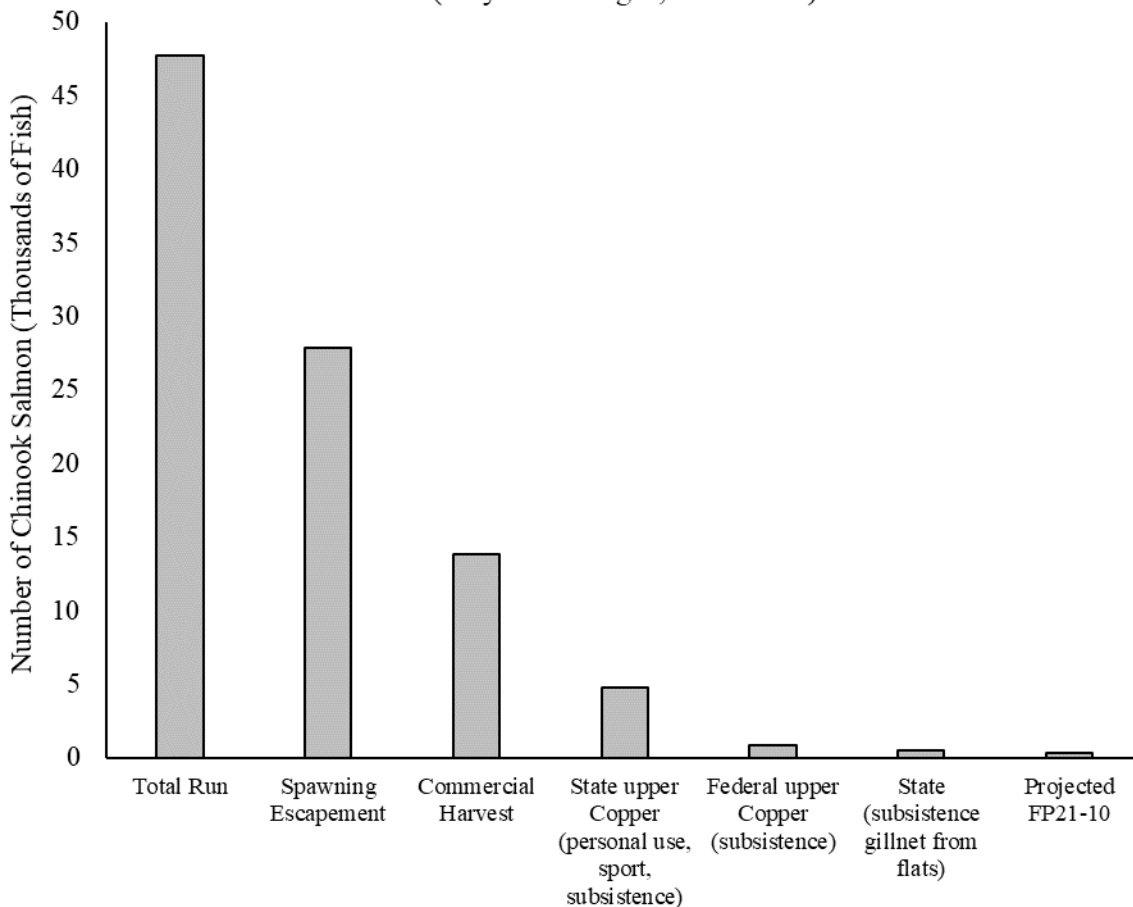


Figure 5. Comparison of ten-year average run size, escapement, and harvest of Chinook Salmon in the Copper River by user group. The FP21-10 Lower Copper River Area is projected to harvest up to 300 Chinook Salmon annually.

OSM CONCLUSION

Oppose Proposal FP23-19.

Justification

Harvest and escapement information indicate that sufficient salmon are present to continue the Federal subsistence fishery in the Lower Copper River Area without creating a conservation concern or significantly affecting upriver fisheries. The fishery provides an opportunity to harvest Sockeye and Chinook salmon in the lower Copper River for federally qualified subsistence users of Cordova and the Prince William Sound Area, many of whom do not have access to a saltwater capable boat and drift gillnet gear. Projected harvest is anticipated to be very small in comparison with other user groups and harvest from the 2022 fishery supports this. Title VIII of ANILCA mandates that federally qualified subsistence users have priority for consumptive uses of fish and wildlife on Federal public lands and

waters. During times of conservation concern other uses should be curtailed before restricting federally qualified subsistence users.

Commercial harvest is the largest component of harvest in the Copper River system, accounting for about 84% of the total harvest (**Figures 2-5**). The Copper River District Salmon Management Plan (5 AAC 24.360) was adopted in 1980 and directs ADF&G to manage the Copper River District commercial fishery to achieve both annual escapement goals and the in-river goal for salmon (Botz and Somerville 2021). The in-river goal includes escapement needs as well as in-river harvest needs and is measured at the Miles Lake sonar, located at the outlet of Miles Lake, 11 miles upstream of the lower river dip net fishery.

Maximum likely dip net harvests of 2,000 Sockeye Salmon and 300 Chinook Salmon over the course of a season are very minimal relative to the overall error of the Miles Lake sonar system where it is estimated that 14.7% of fish on the north bank of the river and 3.7% fish on the south bank of the river migrate outside of sonar range and are not enumerated (Maxwell et al. 2013). The lower Copper River fishery represents such a low proportion of the run to the Copper River relative to current management tools that it is unlikely to be a factor in management decision making. The primary management tool controlling in-river abundance in the Copper River is the commercial fishery. In times of conservation concern, restrictions to time and area available for commercial harvest is the most effective tool available.

Maximum anticipated harvest from the lower Copper River Federal subsistence fishery is likely to be about 0.08% of the average total annual Copper River Sockeye Salmon run and about 1% of the total annual Copper River Chinook Salmon run. Such low harvest levels are unlikely to have a significant impact on the overall in-river salmon abundance relative to other existing fisheries, particularly because they are occurring downstream of the sonar, the primary assessment tool for management. Given the small harvest potential of the lower river fishery (less than one tenth of one percent of the overall Sockeye Salmon run), and the sonar and in-river goal-based management of Copper River fisheries which explicitly provide for upriver harvest and have a long track record of meeting or exceeding goals, it is very unlikely that lower river subsistence harvests will take opportunity away from upriver users, cause escapement goals to be unmet, or contribute to future restrictions upriver.

The FP21-10 staff analysis acknowledged that the proposal would provide access for rural residents without boats capable of accessing marine waters. Access to the lower river fishery via the Copper River highway by residents of communities other than Cordova such as Tatitlek and Chenega would require a ferry or other boat trip to Cordova, then access to a highway vehicle once in Cordova. With the costs associated with such a trip and the expected low catch rate of the lower Copper River fishery, it is likely that participation by rural residents of Prince William Sound outside of Cordova will be minimal. Those rural residents of Prince William Sound with boat access would have greater opportunity for subsistence harvest through participation in the state subsistence gillnet fishery in the Copper River District or other Prince William Sound districts. It is unlikely that a significant number of other federally qualified subsistence users in the Prince William Sound Area will utilize this fishery. As of August 12, 2022 all 69 permit holders are residents of Cordova.

The Federal in-season fisheries manager has authority to manage the fishery based on near real-time harvest (based on the 48-hour reporting requirement) and escapement information (from the Miles Lake sonar). The impacts of this fishery to other user groups should be minimal due to the projected small size of the harvest relative to harvest by other user groups and the magnitude of the Copper River salmon runs and fisheries other than subsistence fisheries should be limited at times of conservation concern. The FP21-10 staff analysis evaluated existing Copper River fisheries histories and harvests and concluded that the likely harvest potential of a lower river Federal subsistence fishery was so small that it could not measurably impact upriver salmon abundance or harvest opportunity.

The FP21-10 staff analysis considered salmon harvest opportunities available in Cordova including the existing Federal subsistence fishery (FFPW01), state subsistence gillnet fishery, and sport fisheries. Historical harvest information from these fisheries was also included and showed that existing subsistence opportunities were limited for Sockeye and Chinook salmon. The existing Federal subsistence fishery primarily targets small Coho Salmon streams (2012-2021 average annual harvest of 105 Sockeye Salmon and 1 Chinook Salmon, **Table 4**) and the State subsistence fishery requires a saltwater capable boat and drift gillnet gear.

LITERATURE CITED

ADF&G Division of Sport Fisheries. 2017a. 2017 Upper Copper River King Salmon Fishery Restrictions. News Release NR 3-KS-1-01-17. Glennallen, Alaska. March 6.

ADF&G (Alaska Department of Fish and Game). 2017b. 2017-2018 Subsistence and Personal Use Statewide Fisheries Regulations. Division of Subsistence, Anchorage, AK.

ADF&G, Division of Commercial Fisheries. 2018a. 2018 Prince William Sound Salmon Season Summary. News Release. Cordova, Alaska. Oct 17.

ADF&G. 2018b. Southcentral Alaska 2018 Sport Fishing Regulations Summary. Division of Sport Fish, Anchorage, AK.

ADF&G, Division of Commercial Fisheries. 2020a. 2020 Prince William Sound Salmon Season Summary. News Release. Cordova, Alaska. Oct 9.

ADF&G, Division of Sport Fish, 2020b. Preseason Upper Copper River Fisheries Management Meeting 2020. May 6.

ADF&G. 2021a. Fish Count Database Online: Copper River (Miles L) Sockeye. Retrieved December 15, 2021. <https://www.adfg.alaska.gov/sf/FishCounts/index.cfm?ADFG=main.displayResults&COUNTLOCATIONID=39&SpeciesID=420>

ADF&G, Division of Commercial Fisheries. 2021b. 2021 Prince William Sound Salmon Season Summary. News Release. Cordova, Alaska. Nov 5, 2021.

ADF&G. 2022. Community subsistence information system. Cordova. <https://www.adfg.alaska.gov/sb/CSIS/index.cfm?ADFG=harvInfo.harvest>. Retrieved August 10, 2022.

- ADF&G. 2022. Copper River Inseason Commercial Harvest Estimates. <https://www.adfg.alaska.gov/index.cfm?adfg=commercialbyareacopperriver.harvestsummary>. Retrieved: August, 12 2022.
- Ashe, D., D. Gray, B. Lewis, S. Moffitt, and R. Merizon. 2005. Prince William Sound Management Area 2004 Annual Finfish Report. ADF&G Fishery Management Report No. 05-65. Anchorage, AK.
- Birket-Smith, K. and F. DeLaguna. 1938. The Eyak Indians of the Copper River Delta, Alaska. Levin and Munksgaard. Copenhagen, Denmark.
- Botz, J., C. W. Russell, J. Morella, and S. Haught. 2021. 2020 Prince William Sound area finfish management report. Alaska Department of Fish and Game, Fishery Management Report No. 21-18, Anchorage.
- Botz, J. 2018. Fisheries Biologist. Personal communication: in-person. ADF&G. Cordova, AK
- Botz, J., and M. A. Somerville. 2021. Management of salmon stocks in the Copper River, 2018–2020: a report to the Alaska Board of Fisheries. Alaska Department of Fish and Game, Special Publication No. 21-08, Anchorage.
- Botz, J. and M. Somerville. 2017. Management of salmon stocks in the Copper River, report to the Alaska Board of Fisheries: December 1-5, 2017, Valdez, AK. ADF&G, Special Publication 17-13, Anchorage, AK.
- Botz, J., C. Russell, and S. Vega. 2018. Prince William Sound Salmon Fishery News Release #9. ADF&G, Division of Commercial Fisheries, Cordova, AK.
- Bourke, J.A. 1898. Bourke Papers, Valdez Museum and Historical Archive Association, Valdez, Alaska.
- Brenner, R.E., A.R. Munro, and J.C. Shriver. 2018. Run forecast and harvest projections for 2018 Alaska salmon fisheries and review of the 2017 season. ADF&G, Special Publication No. 18-09, Divisions of Sport Fish and Commercial Fisheries, Anchorage, AK.
- Bue, B. G., J. J. Hasbrouck, and M. J. Evenson. 2002. Escapement goal review of Copper River and Bering Rivers, and Prince William Sound Pacific salmon stocks. ADF&G, Regional Information Report 2A02-35, Anchorage, AK.
- Burcham, M. 2018. Wildlife Biologist. Personal communication: email and in-person. USDA Chugach National Forest. Cordova, AK.
- Colt, S. 2000. Salmon Fish Traps in Alaska, An Economic History Perspective. www.alaskool.org. <http://www.alaskool.org/projects/traditionallife/fishtrap/FISHTRAP.htm>. Retrieved August 7, 2022.
- Fall, J.A., A. Godduhn, G. Halas, L. Hutchinson-Scarborough, B. Jones, E. Mikow, L.A. Sill, A. Trainor, A. Wiita, and T. Lemons. 2018. Alaska Subsistence and Personal Use Salmon Fisheries 2015 Annual Report. ADF&G, Technical Paper No. 440, Anchorage, AK.
- FSB (Federal Subsistence Board). 2006. Transcripts of the Federal Subsistence Board proceedings. January 10 - 13, 2006. Office of Subsistence Management, USFWS. Anchorage, AK.
- FSB. 2007. Transcripts of the Federal Subsistence Board proceedings. January 9 - 11, 2007. Office of Subsistence Management, USFWS. Anchorage, AK.

FSMP (Federal Subsistence Management Program). 2021. Management regulations for the harvest of fish and shellfish on Federal public lands and waters in Alaska. Office of Subsistence Management, USFWS. Anchorage, AK.

Gilbert, C.H. 1921. Letter to Dr. H.M. Smith, Commissioner of Fisheries, November 19, 1921. Reports and Related Records 1869-1937. Records of Division of Alaska Fisheries. U.S. Fish and Wildlife Service. National Archives, Washington, D.C.

Haught, S.B., R.E. Brenner, J.W. Erickson, J.W. Savereide, and T.R. McKinley. 2017. Escapement goal review of Copper and Bering rivers, and Prince William Sound Pacific salmon stocks, 2017. ADF&G, Fishery Manuscript No. 17-10, Anchorage, AK.

Joy, P. J., S. B. Haught, R. E. Brenner, S. Miller, J. W. Erickson, J. W. Savereide, and T. R. McKinley. 2021a. Escapement goal review of Copper and Bering Rivers and Prince William Sound Pacific salmon stocks, 2020. Alaska Department of Fish and Game, Fishery Manuscript No. 21-02, Anchorage, AK.

Joy, P., J. W. Savereide, M. Tyers, and S. J. Fleischman. 2021b. Run reconstruction, spawner–recruit analysis, and escapement goal recommendation for Chinook salmon in the Copper River. Alaska Department of Fish and Game, Fishery Manuscript No. 21-01, Anchorage, AK.

Kukkonen, M. and H. Johnson. 2016. Cordova. Pages 186-283 in J. Fall and G. Zimpelman, eds. Update on the status of subsistence uses in Exxon Valdez Oil Spill area communities, 2014. ADF&G, Div. of Subsistence Tech. Paper No. 141. Anchorage, AK. 400 pp.

Miller, A.H. 1916. Supplement to Annual Report of Arthur H. Miller, Teacher of the United States Public Schools, Copper Center, Alaska. June 30, 1916. Alaska Salmon Fisheries, 1908-1940. Offices of Territories. National Archives, Washington, D.C.

Miller M. and B. Stratton. 2001. Area management report for the recreational fisheries of the Prince William Sound management area, 2000. ADF&G, Fishery Management Report No. 01-8, Anchorage, AK.

OSM (Office of Subsistence Management). 2006. Staff analysis of fisheries proposal FP06-18. Pages 282-292 *in* Federal Subsistence Board Meeting Materials. January 10-12, 2006. Office of Subsistence Management, USFWS. Anchorage, AK. 555 pp.

OSM. 2007. Staff analysis of fisheries proposal FP07-14. Pages 335-350 *in* Federal Subsistence Board Fisheries Meeting Materials. January 9-11, 2007. Office of Subsistence Management, USFWS. Anchorage, AK. 375 pp.

Pearson, D. 2018. Fisheries Bio-technician. Personal communication: email. USDA Chugach National Forest. Moose Pass, AK

Peterson, W.T., J. L. Fisher, C.A. Morgan, B.J. Burke, S.M. Zeman, and K.C. Jacobson. 2017. Ocean ecosystem indicators of salmon marine survival in the northern California Current. Northwest Fisheries Science Center, National Marine Fisheries Service, Newport, OR.

Piche. M. J., J. B. Paley, J. C. Whissel, and J. J. Smith. 2022. Estimating the inriver abundance of Copper River Chinook salmon, 2021 Final Report. U.S. Fish and Wildlife Service, Office of Subsistence Management, Fisheries Resource Monitoring Program (Study No. 18-504), Anchorage, AK. 57pp

- Sarafin, D. 2022. Biologist. Personal communication: email. Wrangell-St. Elias National Park and Preserve. Copper Center, AK.
- Sherman, C.R. 2012. Cordova, Images of America. Arcadia Publishing: Charleston, SC.
- Simeone, W.E. and J.A. Fall. 2003. Patterns and Trends in the Subsistence Salmon Fishery of the Upper Copper River, Alaska. Final Report for FIS study 00-40. U.S. Fish and Wildlife Service. Office of Subsistence Management. Fisheries Resource Monitoring Program. Anchorage, AK.
<https://www.arlis.org/docs/vol1/94512477.pdf>. 126 pp. Retrieved August 3, 2022.
- Somerville, M. 2018a. Copper River personal use dip net salmon fishing closed until further notice. ADF&G, News Release, Division of Sport Fish, Glennallen, AK.
- Somerville, M. 2018b. Sport Fishing Emergency Order No. 3-RS-I-01-18. ADF&G, Division of Sport Fish, Glennallen, AK.
- Somerville, M. 2018. Fisheries Biologist. Personal communication: email. ADF&G. Glennallen, AK.
- Somerville, M. A., and T. R. Hansen. 2021. Fishery management report for the recreational, personal use, and subsistence fisheries of the Upper Copper/Upper Susitna Management Area, 2019. Alaska Department of Fish and Game, Fishery Management Report No. 21-07, Anchorage.
- Thalhauser, M. 2014. Recreational fisheries in the Prince William Sound management area, 2011-2013. ADF&G Fishery Management Report No. 14-44, Anchorage, AK.
- Thompson, S.H. 1964. The Red Salmon (*Oncorhynchus nerka*) of Copper River, Alaska. Manuscript Report 1964. U.S. Fish and Wildlife Service, Bureau of Commercial Fisheries. Biological Laboratory, Auke Bay, Alaska.
- U.S. Census. 2000. Data, Cordova. <https://data.census.gov/cedsci/profile?g=1600000US0217410>. Retrieved August 10, 2022.
- USFWS (U.S. Fish and Wildlife Service). 2018. Online database. Office of Subsistence Management, Anchorage, AK

SUBSISTENCE REGIONAL ADVISORY COUNCIL COMMENTS

Southcentral Alaska Subsistence Regional Advisory Council

Oppose FP23-19. The Council feels the Lower Copper River Area fishery needs more time to develop to assess harvest amounts and noted the very small estimated harvest from the fishery is not likely to cause conservation concerns. The Council supports the Federal subsistence priority and suggested limiting personal use and commercial fisheries before restricting access to federally qualified subsistence users.

INTERAGENCY STAFF COMMITTEE COMMENTS

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

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Fisheries Proposal FP23-19

This proposal would rescind the newly created federal subsistence salmon fishery for residents of Cordova in the lower Copper River adjacent to the Copper River Highway with a harvest limit of 15 salmon other than pink salmon and no more than five Chinook salmon per household, using dip net, rod and reel, spear, or gaff only.

Position

ADF&G **SUPPORTS** this proposal. Under the Alaska National Interest Lands Conservation Act, Congress provided that subsistence uses of fish and game shall receive priority among consumptive uses for rural residents only “when it is necessary to restrict taking in order to assure continued viability of a fish or wildlife population or the continuation of subsistence uses of that population for subsistence purposes.” Congress never authorized the FSB to open, only to close, a fishery or wildlife harvest season as set forth in sections 815 and 816 of ANILCA. The FSB may reopen a season after a closure is no longer warranted but lacks statutory authority to open a season otherwise.

Background

The proponent is seeking to rescind this newly created federal subsistence salmon fishery in the lower Copper River for residents of Cordova. The basis for this proposal is that the proponent believes this additional fishery on the Copper River delta will diminish the opportunity for upriver subsistence users to harvest the salmon they need to fill their needs as well as cause conservation concerns when there are low returns of salmon coming back to the Copper River drainage.

Impact on Subsistence Users

Adoption of this proposal would remove a subsistence opportunity for residents of Cordova to harvest salmon in the lower Copper River. Given this fishery has been in existence for only one year, the impact would be very minimal.

Impact on Other Users

Adoption of this proposal would likely have little impact on the sport fishery that occurs in the lower Copper River.

Opportunity Provided by State

5 AAC 55.022. General provisions for seasons, bag, possession, and size limits, and methods and means for the Prince William Sound Area

(a) Unless otherwise specified in 5 AAC 55.023, or by an emergency order issued under AS 16.05.060, the following are the seasons, bag, possession, and size limits, and methods and means that apply to sport fishing for finfish and shellfish in the Prince William Sound Area:

(1) in all fresh waters of the Prince William Sound Area, only unbaited, artificial lures may be used from April 15 - June 14;

(2) king salmon: may be taken from January 1 - December 31, as follows:

(A) in fresh waters, as follows:

(i) king salmon 20 inches or greater in length; bag limit of two fish; possession limit of four fish;

(ii) king salmon less than 20 inches in length; bag and possession limit of 10 fish;

5 AAC 55.023. Special provisions for seasons, bag, possession, and size limits, and methods and means for the Prince William Sound Area. Unless otherwise specified by an emergency order issued under AS 16.05.060, the following are special provisions to seasons, bag, possession, and size limits, and methods and means provisions under 5 AAC 55.022 in the Prince William Sound Area:

(1) the following special provisions apply to salmon, other than king salmon:

(A) in all freshwater drainages crossed by the Copper River Highway from and including Eyak River to the Million Dollar Bridge, including Clear Creek at mile 42,

(i) the bag and possession limit is three fish; a coho salmon removed from the water shall be retained and becomes part of the bag limit of the person originally hooking it; a person may not remove a coho salmon from the water before releasing the fish;

(ii) from August 15 - September 15, after taking and retaining a bag limit of coho salmon, a person may not sport fish with bait for the remainder of that day in any of the waters described in this subparagraph;

Conservation Issues

If this proposal is passed then there would be slightly less conservation concerns when run strength of salmon in the Copper River is weak as there would be less fishing pressure on those stocks.

Enforcement Issues

If this proposal is passed then there would be less enforcement issues in the area given you would not have similar gear types being used by both FQUs and NFQUs in the same area.

WRITTEN PUBLIC COMMENTS


July 22, 2022

Federal Subsistence Board
Office of Subsistence Management
(Attn: Theo Matuskowitz)
1011 E. Tudor Road, MS-121
Anchorage, Alaska 99503-6199
Via Email to subsistence@fwfws.gov

Dear Mr. Matuskowitz:

On behalf of the shareholders of Ahtna, Incorporated, we are submitting the enclosed comments on select proposals from the Federal Subsistence Management Program 2023-2025 Fisheries Proposals book.

Respectfully,



Nicholas Jackson, Chair
Customary & Traditional Committee
Ahtna, Incorporated

Enclosure as noted

2023-2025 Federal Fisheries Proposals

FP23-14

Submitted by Serendipity Subdivision residents: Allison Sayer, Heather Shiness, Derek Galbraith, Matthew Kress, Leigh Lubin, Phil Plunkett, Laurie Brown, Gareth Brown, Jon Ethers, Laura Deatherage, Jesse Maddox.

Point of contact/preparer: Allison Sayer, (907)822-4101, allisonmeridithsayer@gmail.com

We, the rural residents of the Richardson Highway who live between mile 45 and 47, would like a Customary and Traditional Use Determination for the Chitina Subdistrict of the Upper Copper River District for subsistence salmon fishing for the Richardson Highway Corridor from 45 mile north to the Chitina/Kenny Lake cutoff.

We are eligible for federal subsistence fishing rights in accordance with the law. However, we have been lumped into a fishery that we have no practical means to access. We would like to rectify this situation by having our determination reflect the closest and most accessible fishery to our homes, where we have already been fishing for decades.

The Richardson Highway corridor is inhabited by residents who are not part of any specific village, city, or township. However area residents have long accessed local subsistence resources including the closest and most accessible area for dipnet fishing. While residents of our community have received federal subsistence fishing permits for the Chitina Subdistrict in the past, more recently we have only been found eligible to participate in the Glennallen Subdistrict Federal Subsistence Fishery. Limited public access points and the lack of fishwheels or appropriate boats in our community make it excessively difficult for us to access that fishery.

We have a history of shore-based dipnet fishing in the Chitina Subdistrict. In past years, multiple residents have been issued permits for either the Glennallen Subdistrict, the Chitina Subdistrict, or both when applying for permits at the Wrangell St Elias National Park office in Copper Center.

In 2021, one resident actually received a Chitina Subdistrict permit and then was told she was not in fact eligible for the Chitina Subdistrict after she had already fished.

We also have a history of harvesting salmon in the Chitina Subdistrict as part of the State of Alaska Personal Use Fishery, as this is the most accessible place for members of our community to catch fish. We live an hour's drive from Chitina. However rural residents from much farther away, including communities such as Chickaloon and McCarthy, have a federal subsistence determination for the Chitina subdistrict that we do not.

The Richardson Highway corridor is not specifically demarcated by highway mile in the Prince William Sound Area Subsistence Fishing Customary and Traditional Use Determinations in the Federal Subsistence Management Regulations for the Harvest of Fish and Shellfish on Federal Public Lands and Waters in Alaska. It appears our area is lumped in with the "Prince William Sound Area."

Prince William Sound Area We are on the other side of the mountains from Prince William Sound. We are in the Copper Basin. We participate in the Copper Basin economy through our employment, as contractors, and as consumers. Our climate, our economy, and our lifestyle are more consistent with that of our northern neighbors than our southern ones. We would like our Customary and Traditional Use Determination to reflect our actual fishing practices, and to be eligible to receive federal subsistence permits for the Chitina subdistrict. Thank you for your consideration of this proposal.

Comments:

We oppose FP 23-14. The Serendipity Subdivision Residents are not eligible for a positive customary and traditional use determination in the Chitina Subdistrict. As explained further below, they do not meet the criteria used in making a positive customary and traditional use determination.

This subdivision has not shown that their handling, methods or means establish a long term, consistent, pattern of use for harvesting salmon in the Chitina Subdistrict, nor have they provided written documentation establishing handing down the knowledge of taking salmon or the passing down of lore's or stories from generation to generation. They cannot prove substantial cultural, economic, social or nutritional subsistence uses of salmon in the Chitina Subdistrict.

Although they may have a positive customary and traditional use determination for the Glennallen Subdistrict, they do not have a consistent reoccurring and seasonal use of salmon in the Chitina Subdistrict.

All other communities or individuals that currently have positive customary and traditional use determinations went through a significant review process including providing written documentation proving their cultural and historical ties to the fisheries in the Upper Copper River District. These same requirements should be upheld for any other communities or individuals requesting a positive customary and traditional use determination.

FP23-15/16

Proposal to correct FP02-16 Customary and Traditional Use Determination for the Chitina Subdistrict of the Upper Copper River for subsistence fishing.

Proposed by: Upper Tanana/40 Mile Advisory Committee (UT40 AC)

Proposed regulation:

Area:	Species	Determinations
Chitina Subdistrict of the Upper Copper River District	Salmon	Residents of Cantwell, Chickaloon, Chisana, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Gakona Junction, Glenallen, Gulkana, Healy Lake, Kenny Lake, Lower Tonsina, McCarthy, Mentasta Lake, Nabesna, Northway, Paxson-Sourdough, Slana, Tanacross, Tazlina, Tetlin, Tok, and Tonsina, and those individuals living along the Tok Cut-off from Tok to Mentasta Pass, the Alaska Highway from Canada to Dot Lake, and along the Nabesna Road.

Explanation of Proposal:

This proposal’s purpose is to address an apparent shortcoming in a previous proposal (FP02-16) submitted by the Wrangell/St. Elias SRC and eventually approved by the Federal Subsistence Board to include Upper Tanana residents in the Glenallen and Chitina sub-districts for salmon. The proposal for the Glenallen sub-district included the residents living along the length of the Alaska Highway from Canada to Dot Lake, but the proposal for the Chitina sub-district did not with the exception of a small length of the Alaska Highway near Northway. Consequently, an unknown number of rural residents in the Upper Tanana Region are restricted to the Glenallen sub-district for subsistence fishing.

The Wrangell/St Elias SRC submitted a proposal (FP2002-16) to adjust the C/T determination for the Chitina sub-district, initially stating “The following communities also have a customary and traditional use of salmon in the Chitina Sub-district of the Upper Copper River District which should be recognized by the Board: Chisana, Gakona Junction, Glennallen, Kenny Lake, Lower Tonsina, McCarthy, Nabesna, Slana, Tok, Tonsina, Tetlin, Dot Lake, Northway, Tanacross, Healy Lake, and those individuals that live along the Alaska Highway from the Canadian border to Dot Lake, along the Tok cutoff from Tok to Mentasta Pass, and along the Nabesna Road (emphasis added). Interestingly, many residents along the Alaska Highway were excluded in the proposal (items 2 and 6) and, when asked for clarification by the OSM staff, the NPS intentionally excluded the residents along the Alaska Highway except those living near Northway, to wit: “Staff members of the Wrangell St. Elias National Park who assisted the Commission in submitting the proposal, were contacted as to the intent of the proposal. It was determined that the omission was intentional and that the Commission was not requesting a positive customary and traditional use by those individuals that live “along the Alaska Highway from the Canadian border to Dot Lake”. No additional explanation why residents living along the Alaska Highway (including native and non-native Alaskans) were the only Upper Tanana rural residents excluded was provided in the proposal or the subsequent analysis.

However, UT40 AC investigated and determined the Park's reasoning may have been informed from an Environmental Assessment (1998), titled Add the Villages of Northway, Tetlin, Tanacross and Dot Lake to the Resident Zone for Wrangell-St. Elias National Park. In that EA, the Park selected Alternative B which determined '...the communities of Northway, Tetlin, Tanacross, and Dot Lake should be established as resident zones'. An additional alternative (which was rejected) would have designated the entire Upper Tanana (From Canada along the Alaska Highway to Dot Lake and south on the Tok Cutoff to Mentasta Pass). The Park's reasoning for the rejection, and our comments **(in red)** for each follow:

1) 'This alternative was rejected because of the vast areas along the Alaska Highway and the Tok Cut-off that have been subject to significant development and consequent increased population numbers in the past. The potential for similar development in the future and an increase of individuals and households that lack a customary and traditional pattern of use of local resources is great'.

Since 1998 there have been few, if any 'significant developments and increase of individuals and households'. In fact, US Censuses of the Census Designated Areas (CDA) since 1998 in the Upper Tanana (Dot Lake, Tok, Northway, Tetlin, Alcan Port of Entry, Mentasta and Tanacross) suggests the opposite is the case in 2022, to wit: Of the 7 CDAs in the Upper Tanana, only 3 have increased in population: Tetlin (+8%), Alcan Port (+33%) and Tanacross (+3%). It is important to note that two of the three currently enjoy Resident Zone status (Tetlin and Tanacross). Additionally, it is important to point out the Alcan Port CDA (arguably the most remote CDA in the Upper Tanana) currently includes only 36 individuals. Finally, the population of all CDAs in the Upper Tanana has declined 9% since the EA was published.

2) 'When the Alaska highway was built in the 1940s and in the 1970s when the Trans-Alaska oil pipeline was under construction a considerable number of people remained in the Copper River/Upper Tanana region as these projects were completed. Highway access to Anchorage and Fairbanks make this area appealing to people looking to relocate to a more rural setting but still retain access to the city'. **If ease of highway access to cities (Fairbanks and Anchorage in this case) is a consideration for the purposes of Title VIII C/T eligibility, then the vast majority of current Resident Zone Communities for Wrangell-St. Elias should no longer be considered eligible.**

3) 'In addition both federal and state land disposals could potentially give rise to new settlements or developments. There are two places in the Copper River/Upper Tanana region where this has already occurred: 1) Slana Homestead, a 1983 federal land disposal along the Nabesna Road, and 2) Dry Creek, a circa 1974 state land disposal northeast of Dot Lake.' **Since the EA was published in 1998, the population of Slana has declined -6% and the population of Dry Creek has declined by -43%.**

4) 'Given the past history of settlement in this region and the potential for future growth, NPS felt it was prudent to more narrowly define any new communities that were added to the resident zone. Boundaries identifying the "significant concentration" of subsistence users may preclude frequent re-evaluation of the communities subsistence uses of park lands should

Page 4 of 9

populations of non-local residents in the region substantially increase'. **All three UT40AC responses are relevant.**

At the May 2, 2022 AC meeting, NPS staff noted that C/T for the resource (in this case subsistence fishing below the Chitina bridge) is restricted to those who can show traditional and cultural use of a resource. In the case of the Upper Tanana for the Chitina dipnet fishery, very few, if any, had customary and traditional use of that area until after the highway(s) were constructed and opened to the public (1948 and 1946 for the Alcan and Tok Cutoff, resp). At that time the villages in the Upper Tanana, including Tok, **and everyone living along the Alaska Highway and the Tok Cutoff** enjoyed equal access to that fishery, including the Port of Entry staff who, at the time, lived and worked in Tok. In 1971 the Port of Entry and staff moved roughly 90 miles east to the border.

Potential Concerns: None

Effects on Subsistence Users:

This proposal, if approved, will provide additional subsistence fishery resources to residents living along the Alaska Highway from Canada to Dot Lake who were unfairly excluded by regulation, solely because they live outside of, or between two Census Designated Places which were approved by the Board in 2002. It will also eliminate confusion, frustration and potential violation of federal law by those residents who believe they were unfairly excluded in the earlier C/T determination for the Chitina sub-district.

Comments:

We oppose FP23-15/16 to allow those individuals that live along the Alaska Highway from the Canadian border to Dot Lake to receive a positive customary and traditional use determination in the Chitina Subdistrict. The resident zone in the Wrangell St. Elias National Park is a different subject matter. Resident zone does not relate to the customary and traditional uses for Salmon in the Copper River that is adjacent to the Wrangell St. Elias National Park & Preserve. And, as explained further below, they do not meet the criteria used in making a positive customary and traditional use determination.

This community has not shown that their handling, methods or means establish a long term, consistent, pattern of use for harvesting salmon in the Chitina Subdistrict, nor have they provided written documentation establishing handing down the knowledge of taking salmon or the passing down of lore's or stories from generation to generation. They cannot prove substantial cultural, economic, social or nutritional subsistence uses of salmon in the Chitina Subdistrict.

Although they may have a positive customary and traditional use determination for the Glennallen Subdistrict, they do not have a consistent reoccurring and seasonal use of salmon in the Chitina Subdistrict.

The five Upper Tanana Villages that currently have positive customary and traditional use determinations went through a significant process including providing written documentation proving their cultural and historical ties to the fisheries in the Upper Copper River District.

Page 5 of 9

These same requirements should be upheld for any other communities or individuals requesting a positive customary and traditional use determination.

FP23-17/18

Name, address, telephone number of requestor: Ahtna Intertribal Resource Commission (AITRC) Attn: Karen Linnell, Executive Director PO Box 613, Mile 187 Glenn Hwy Glennallen, Alaska 99588 (907) 822-4466

The issue we would like addressed:

Delay the start date for the federal subsistence fishery in the Glennallen Subdistrict from May 15 to June 1 to provide for increased conservation of upriver Copper River Chinook salmon and sockeye salmon stocks' escapement needs and better support customary and traditional subsistence salmon harvest needs in the Tonsina-Gakona and Gakona-Slana and Batzulnetas subsistence fisheries areas. Existing Federal Regulation we wish to change:

50 CFR § 100.27(e)(11)(ix):

“You may take salmon in the Upper Copper River District from May 15 through September 30 only.”

The new regulations would be: 50 CFR § 100.27(e)(11)(ix): “You may take salmon in the Upper Copper River District from June 1 through September 30 only.”

Why is the proposed change needed? The Ahtna Intertribal Resource Commission (AITRC) remains concerned about the lack of subsistence salmon harvest opportunity in the uppermost reaches of the Glennallen Sub-district and the Batzulnetas fisheries areas. Subsistence salmon harvest levels continue to be depressed in these reaches of the Copper River, except during high salmon passage years when the in-river run counts at the Miles Lake sonar exceed 750,000 salmon.

Furthermore, Chinook salmon escapement goals are increasingly going unmet and sockeye escapement appear to be declining in numbers near the bottom end of the escapement goal range. In addition, there are documented reports of both species size decline that have not been accounted for in the current escapement goals. Smaller fish produce fewer eggs and therefore more fish are required to meet future escapement goals.

It has also been documented that the uppermost stocks in the Copper River are the earliest salmon to return. Delaying the start date will allow for these fish to pass unmolested. State and Federal fisheries managers suggest that depressed harvest is due to less fishing effort in these areas. However, application of traditional stewardship principles and indigenous knowledge from Ahtna elders has resulted in self-imposed conservation measures throughout much of the Glennallen Sub-district and Batzulnetas area. These conservation measures are largely unnoticed by State and Federal managers and are discounted as a lack of effort. Ahtna fishing households

Page 6 of 9

have been taught to fish less in times of low return to ensure adequate salmon spawning escapement is achieved. Some Ahtna fishing households have not fished at all to conserve Copper River salmon and rebuild the runs. This indigenous stewardship, which is applied voluntarily and informally among certain Ahtna fishing households, is not sufficient to resolve the problems in reaching Copper River salmon escapement goals.

Therefore, AITRC is seeking to more formally recognize Ahtna tribal stewardship principles to ensure the availability of healthy Copper River salmon stocks for future generations by aligning this subsistence salmon fishery start date with the State of Alaska Copper River subsistence fishery. The delay of the federal subsistence salmon fisheries start date in the Chitina Sub-district to June 1st will allow additional time for the early salmon runs to pass upriver and provide adequate salmon escapement to spawning grounds. This action will perpetuate subsistence salmon fishing opportunities in the Glennallen Subdistrict and Batzulnetas areas.

Comments:

We oppose FP23-17/ 18 to change the fishing season in the Glennallen Subdistrict and Chitina Subdistrict of the Upper Copper River from May 15th to June 1st. An early season was allowed so that federally qualified Subsistence Users could harvest salmon before the state Subsistence Users and Personal Use fisheries. ANILCA was created to allow more opportunities to fish, hunt, or trap than state regulations allow.

Federally qualified Subsistence Users only take 1% of the fish, they should have an opportunity to have a longer fishing season. Federally qualified Subsistence Users should not be burdened with a shortened fishing season due to delayed or low runs. State fisheries in the Copper River and commercial fisheries should be restricted or closed before changing to a shorter fishing season for the federally qualified subsistence fisheries.

Federally qualified subsistence fisheries should not be on equal footing as state fisheries. ANILCA was fought for by Alaska Natives to provide for a priority to use the natural resources. Federally qualified subsistence fisheries should never give up their rights to allow more opportunity to harvest salmon or any other subsistence resources.

Additionally, the Superintendent of Wrangell St. Elias National Park & Preserve (WRST) has Delegation of Authority in the Copper River. If there is a low run or delayed run of salmon, the Superintendent may take actions to close or restrict the fisheries in the Copper River.

Due to climate change the Copper River has been affected by delayed runs. This is recurring and is becoming a pattern in the Copper River. If Personal Use fisheries and state subsistence fisheries are both opened June 7th and June 1st, then changing the federal fishing season to match the state regulations will not have a positive effect on salmon returning to spawning grounds, it will have a negative effect. If both the state and federal fisheries' season dates were to open on June 7th and June 1st, state and federal fisheries would be harvesting the first wild stock migrating up to spawning grounds. Less salmon would be migrating to spawn. We would all be fishing at the same time and competing with one another to harvest salmon.

In addition, more dip netters are changing to a subsistence fishery under state regulations to dip net in the Upper Copper River District to harvest salmon. Changing dates will not be effective; it will only add a new regulatory burden to the federally qualified subsistence fisheries.

FP23-19

Name, address, telephone number of requestor:

Ahtna Intertribal Resource Commission (AITRC) Attn: Karen Linnell, Executive Director PO Box 613, Mile 187 Glenn Hwy Glennallen, Alaska 99588 (907) 822-4466

The issue we would like addressed:

Repeal the newly created federal subsistence salmon dipnet fishery in the Lower Copper River area.

Existing Federal Regulation we wish to change: 50 CFR § 100.27(e)(11):

Repeal the regulatory language creating the new Lower Copper River federal subsistence salmon dipnet fishery.

The new regulations would be: 50 CFR § 100.27(e)(11):

Revert back to existing regulations prior to the Federal Subsistence Board's adoption of FP21-10 in April 2022.

Why is the proposed change needed?

The Ahtna Intertribal Resource Commission (AITRC) remains concerned about the lack of subsistence salmon harvest opportunity in the uppermost reaches of the Glennallen Sub-district and the Batzulnetas fisheries areas. Subsistence salmon harvest levels continue to be depressed in these reaches of the Copper River, except during high salmon passage years when the in-river run counts at the Miles Lake sonar exceed 750,000 salmon.

Furthermore, Chinook salmon escapement goals are increasingly going unmet and sockeye escapement appear to be declining in numbers near the bottom end of the escapement goal range. In addition, there are documented reports of both species size decline that have not been accounted for in the current escapement goals. Smaller fish produce fewer eggs and therefore more fish are required to meet future escapement goals.

Historically, the Copper River salmon fisheries have been fully allocated and perhaps over-allocated in recent years given the number of years where Chinook salmon escapement has not been achieved and sockeye salmon escapement approaching the lower limits of the escapement goal range. Adding additional salmon harvest opportunities only serve to increase the probability of additional future State and Federal subsistence salmon fishing restrictions.

The FP21-10 federal staff analyses focused solely upon serving the federally qualified rural residents of Cordova, who have other opportunities to provide for their subsistence needs. What this analysis failed to consider is that this new fishery will be open to all rural residents of the entire Prince William Sound fisheries management area. It also failed to consider the impacts to the subsistence harvest opportunities in the upper Copper River – the only source of salmon for Copper Basin communities.

Finally, the analysis does not include the available subsistence harvest information for the Cordova community, which shows there is no lack of subsistence opportunities for Cordova households. According to the most recent household survey (2014), 69% of Cordova households harvest salmon themselves, while 92% use the resource. This demonstrates that there is widespread access to salmon in the community.

Comments:

We support FP23-19. In addition to our comments below, we have attached (and incorporate by reference) our Request for Reconsideration of FP21-10, sent to the Federal Subsistence Board on May 17, 2022.

The Native Village of Eyak, both Southcentral and Eastern Interior Subsistence Regional Advisory Councils (RAC), and the Wrangell St. Elias National Park Subsistence Resource Commission (SRC) were and are opposed to the Lower Copper River fisheries on the Copper River in Cordova, Alaska. Members of the Federal Subsistence Board should have heard the message by all Upper Copper River users, RACs and SRC members. They should have also deferred to both Southcentral & Eastern Interior RACs on this fishery.

New information could have been heard if the Federal Subsistence Board would have allowed it to be presented. The Alaska Department of Fish & Game knew runs for Sockeye may have been met at the lower Sustainable Escapement Goal (“SEG”), they also had information that SEG for King Salmon would not be met for the 2022 fishing season.

Additionally, the information presented on the uses of salmon by Cordova residents was presented with data taken from only one year. Further research by the Office of Subsistence Management could have provided data from more years which would have produced results showing more uses of salmon harvested by Cordova residents.

Respectfully,



Nicholas Jackson, Chair
Customary & Traditional Committee
Ahtna, Incorporated

Attachment as noted

Page 9 of 9

Corporate Headquarters
 PO Box 649
 Glennallen, Alaska 99588
 Office: (907) 822-3476
 Fax: (907) 822-3495



Anchorage Office
 110 W 38th Avenue, Suite 100
 Anchorage, Alaska 99503
 Office: (907) 868-8250
 Fax: (907) 868-8285

Our Culture Unites Us; Our Land Sustains Us; Our People are Prosperous

May 17, 2022

Federal Subsistence Board
 Office of Subsistence Management
 U.S. Fish and Wildlife Service
 1011 E. Tudor Road, Mail Stop 121
 Anchorage, AK 99503

Via email to Subsistence@fws.gov and Robbin_Lavine@fws.gov:
 original mailed

RE: **Request for Reconsideration of FP21-10**

Dear Board Members,

Ahtna, Incorporated (“Ahtna”) requests reconsideration of the Federal Subsistence Board’s decision approving FP21-10. Ahtna is an Alaska Native Regional Corporation formed under the Alaska Native Claims Settlement Act (“ANCSA”). Ahtna’s more than 2,000 Ahtna Athabascan shareholders include many residents and tribal members from eight villages in the South Central and Interior regions of Alaska, centered on the Copper River Basin. These Native Village residents continue to live a customary and traditional hunting and fishing way of life.

On April 15, 2022, the Board voted to allow a subsistence dipnet fishery on the Lower Copper River for qualified residents of Cordova, Alaska. Under 50 C.F.R. Part 100, the Board will accept a request for reconsideration (1) if it is based on information not previously considered by the Board, (2) if it demonstrates that information used by the Board was incorrect, or (3) if it demonstrates that the Board’s interpretation of information, applicable law, or regulation is in error or contrary to existing law.¹ Here, the Board should grant reconsideration on the basis of each of those criteria.

- 1. The Board’s misinterpretation of its authority to take actions necessary to provide ANILCA’s subsistence priority warrants reconsideration.**

While deliberating FP21-10, the Board failed to acknowledge and use its authority to help alleviate the allocation crisis on the Copper River. When it originally considered FP21-10 in 2020, the Board acknowledged that both the Eastern Interior and South Central regions and

¹ 50 C.F.R. § 100.20(D).

www.ahtna.com

Federal Subsistence Board
 May 17, 2022
 Page 2

communities within those regions were already faced with a greatly diminished fisheries resource from which to meet their subsistence needs.² When the Board again considered FP21-10 in 2022, the Board identified state commercial fisheries as the cause of in-river abundance concerns and suggested that it lacked the authority to address the negative effects of those commercial fisheries on federal subsistence fisheries. But it failed to even consider taking action to address the cause of the diminished resource. Instead, the Board established another subsistence fishery in the Lower Copper River.

This is an egregious failure to acknowledge and understand the Board's scope of authority under applicable regulations to protect the subsistence priority. The Board is fully authorized to "evaluate whether ...fishing...which occurs on lands or waters in Alaska other than public lands interfere[s] with subsistence fishing on the public lands to such an extent as to result in a failure to provide the subsistence priority, and after appropriate consultation with the State, the RACs, and other federal agencies, may make a recommendation to the Secretaries for action."³ The Board had both the authority and the opportunity to take action to address the negative effects of the state commercial fishery on Upper Copper River subsistence users when it considered FP21-10, such as considering a recommendation to the Secretaries to exert extraterritorial jurisdiction over the state commercial fisheries at the mouth of the Copper River that available information obviously confirms as the primary source of the lack of fish in the Upper Copper River. The Board failed to do so. Instead, the Board created a new Lower Copper River subsistence fishery without any meaningful mechanism for protecting existing Upper Copper River subsistence uses. Thus, federally qualified users located in the Upper Copper River will bear the weight of the Board's failure to act. This warrants reconsideration.

2. When it approved FP21-10, the Board did not consider information demonstrating that federally qualified users along the Upper Copper River have failed to meet their subsistence needs and do not have sufficient alternative methods to meet those needs.⁴

The Board failed to consider information demonstrating that federally qualified users who participate in Upper Copper River subsistence fisheries are failing to catch enough salmon – and enough sockeye, in particular – to meet their subsistence needs. ADF&G has established an ANS range of 61,000-82,500 sockeye for Upper Copper River subsistence uses.⁵ This ANS range is broken down into subareas within the Glennallen subdistricts of the Upper Copper River. For the subarea from the downstream edge of the Chitina-McCarthy Road Bridge to the mouth of the Tonsina River, the ANS is 25,500-39,000 salmon.⁶ For the subarea from the mouth of the Tonsina River upstream to the mouth of the Gakona River, the ANS is 23,500-31,000 salmon.⁷ And, for the

² See transcript from RAC meeting on March 16, 2022, p. 33.

³ 50 C.F.R. § 100.10(4)(xviii).

⁴ 50 C.F.R. § 100.20(d).

⁵ *Id.*; see 5 AAC 24.360(b).

⁶ 5 AAC 01.616(b)(1)(A).

⁷ 5 AAC 01.616(b)(1)(B).

Federal Subsistence Board
 May 17, 2022
 Page 3

subarea from the mouth of the Gakona River upstream to the mouth of the Slana River, the ANS is 12,000-12,500 salmon.⁸

In contrast to the harvest of sockeye in excess of applicable ANS ranges on the Lower Copper River (ANS ranges which apply to all species of salmon, not just sockeye), ADF&G reports documenting the harvest of all salmon in Upper Copper River state and federal subsistence fisheries show that since 2002, participants in the state subsistence fishery in the Glennallen subdistrict have failed to meet the lower bound of the combined ANS eight times, including two of the last five years (2018 and 2020).⁹

ADF&G harvest reports for subsistence uses on the Upper Copper River also demonstrate that the operation of the federal subsistence fisheries on the Upper Copper River are insufficient to provide a reasonable opportunity. These reports demonstrate that between 2003 and 2020, far fewer federal subsistence fishery permits were issued than state subsistence fishery permits, by an almost 1:5 ratio (one federal permit to every 5 state permits).¹⁰ These reports also demonstrate that for this same period, the average harvest from federal subsistence fisheries did not come close to meeting the lower bounds of the applicable ANS range – by tens of thousands of fish.

While the Glenallen subdistrict subsistence dipnet and fishwheel fisheries and the Chitina subdistrict personal use dipnet fishery both provide federally qualified users additional opportunities to harvest fish under the State's subsistence management structure, these are not meaningful opportunities. Subsistence users can only participate in the subsistence dipnet/fishwheel fishery *or* the personal use fishery – they cannot participate in both. And both of those fisheries are open to all Alaskans and do not provide a preference for rural residents who have a documented cultural, traditional and nutritional dependence upon salmon. Federally qualified users who participate in the state subsistence dipnet and personal use fishery have to compete with other Alaskans for space on the riverbank, and the geography of the area provides limited locations to safely fish from shore. Federally qualified users who participate in the state dipnet and fishwheel subsistence fisheries must operate those fishwheels upriver from the state personal use fishery – a fishery that has a 10-year harvest average of 143,121 salmon.¹¹ The subsistence users are the users who depend on the resource the most, but who have the least meaningful access to that resource.

The Lower Copper River state commercial and subsistence fisheries occur pre-sonar where there is little to no information about the health or strength of the sockeye and Chinook runs. By the time there is reliable information about the health and strength of the runs, those fisheries have already been prosecuted; if a closure is necessary, it falls on federally qualified

⁸ 5 AAC 01.616(b)(1)(C).

⁹ See ADF&G Special Publication No. 21-08, p. 32; see also Fishery Management Report (FMR) No. 21-07, p. 60.

¹⁰ ADF&G Special Publication No. 21-08, p. 38.

¹¹ See FMR No. 21-07, p. 59.

Federal Subsistence Board
May 17, 2022
Page 4

users in the Upper Copper River to shoulder the burden of that closure. FP21-10 only exacerbates this issue. While the Board amended FP21-10 to include a 48-hour reporting requirement, FP21-10 lacks a meaningful method to enforce this requirement. Moreover, the Board failed to articulate how any information received through reporting will be used to ensure that FP21-10 has as minimal an impact as possible upon federally qualified users in the Upper Copper River region. The expedited reporting requirement is meaningless.

Significant existing pressures currently prevent federally qualified subsistence users on the Upper Copper River from meeting their subsistence needs. On the rare occasion when state subsistence and personal use fisheries are closed to better enable federally qualified users in the Upper Copper River to meet their subsistence needs, harvest from the federal fisheries alone is insufficient to meet those needs.¹² And, when state subsistence and personal use fisheries are open, the opportunity provided to federally qualified users is not meaningful, as they are required to compete with other Alaskans from outside of the region, similar to the levels of competition faced by federally qualified users of moose and caribou within Game Management Unit 13 with respect to hunters from other regions. The Board did not consider the continual failure of Upper Copper River federally qualified users to meet their ANS, and the competition presented by non-federally qualified users who participate in the state subsistence and personal use fisheries, when it deliberated and approved FP21-10. This information clearly demonstrates the potentially negative consequences of FP21-10 on Upper Copper River federally qualified users and warrants reconsideration of that determination.

Further, the Board failed to consider that, unlike federally qualified users along the Lower Copper River, there are significantly fewer opportunities to harvest salmon for federally qualified users along the Upper Copper River. As outlined above, in the Upper Copper River there are state and federal subsistence fisheries, state sport fisheries, and state personal use fisheries, all of which are accessible by road, and all of which are available to any and all Alaskan residents regardless of where they live. There are no commercial fisheries – and no opportunities for using homepack to supplement subsistence needs – on the Upper Copper River. There are also heftier potential restrictions on federally qualified users who turn to state subsistence fisheries or the state personal use fishery to meet their ANS in years with a weak salmon run (e.g., Upper Copper River subsistence and personal use closures in 2018 and 2020) because of the federal subsistence fishery locations up-river.

Finally, the Board failed to consult with all the impacted Tribes prior to approving FP21-10. We feel that the Upper Copper River Tribes have not been heard on the impact this fishery may have on their customary and traditional practices.

¹² ADF&G Special Publication No. 21-08, p. 38.

Federal Subsistence Board
 May 17, 2022
 Page 5

3. The Board failed to consider information demonstrating that federally qualified users in the Lower Copper River are meeting their subsistence needs without the addition of another road-accessible federal subsistence fishery.

The Board did not consider information demonstrating that federally qualified users in Cordova are meeting subsistence needs with existing subsistence and commercial fisheries. The proponents' rationale for submitting this proposal was to improve access to Copper River salmon by providing Cordova residents a road accessible harvest area in addition to the three road accessible federal subsistence dipnet fisheries currently open in the Copper River Delta.¹³ The Board failed to consider information that clearly demonstrates that, through their participation in the subsistence drift gillnet fishery in the Copper River District and commercial homepack, Lower Copper River federally qualified users are exceeding their ANS and do not require a new federal subsistence fishery to access sufficient fish or to meet their subsistence needs.

The State of Alaska has established two different ANS ranges for subsistence users in Cordova. When ADF&G predicts a harvestable surplus that will allow for a commercial fishery, the ANS range is 3,000-5,000 salmon.¹⁴ In a year when there is no commercial fishery, the ANS range is 19,000-32,000 salmon.¹⁵ As these numbers demonstrate, Cordova residents rely upon commercial homepack to meet their subsistence needs. But for at least the past 10 years, the State of Alaska has always prosecuted a commercial fishery at the mouth of the Copper River – which has thus provided Cordova residents the opportunity to both participate in the Copper River District subsistence drift gillnet fishery *and* use commercial homepack to meet their subsistence needs.

ADF&G harvest reports demonstrate that since 2010, a harvestable surplus has been consistently predicted to allow a commercial fishery in the Copper River Delta, making the applicable ANS for Cordova residents for this period of time 3,000-5,000 salmon. ADF&G reports also demonstrate that between 2010 and 2019, the 10-year average sockeye harvest from the Copper River District subsistence drift gillnet fishery alone – i.e., without considering commercial homepack, and without considering any other species of salmon harvested – is 3,163 sockeye,¹⁶ a number which is within the applicable ANS range. The 10-year average sockeye commercial homepack for this same period of time – exclusive of harvest from the subsistence drift gillnet fishery, and exclusive of harvest of other species of salmon – is 8,368 sockeye.¹⁷ The combination of the 10-year averages for both the subsistence drift gillnet fishery and commercial homepack is approximately 11,500 salmon, exceeding the upper bounds of the applicable ANS range by more

¹³ See transcript from FSB Meeting, January 27, 2021, starting at page 174 of Vol. 2; available at https://www.doi.gov/sites/doi.gov/files/fsb-mtg-26-jan-2021-vol-2-508_0.pdf

¹⁴ 5 AAC 01.616(b)(2)(A).

¹⁵ 5 AAC 01.616(b)(2)(B).

¹⁶ ADF&G Special Publication No. 21-08, Management of Salmon Stocks in the Copper River, 2018-2020: A Report to the Alaska Board of Fisheries, page 32.

¹⁷ *Id.*

Federal Subsistence Board
 May 17, 2022
 Page 6

than 6,000 salmon. This information demonstrates that Cordova residents are exceeding the upper bound of the 3,000-5,000 ANS range by thousands of fish and confirms that subsistence needs are being met without the addition of another subsistence fishery on the Copper River. The Board should have, but failed to, consider this information when it deliberated FP21-10.

4. The Board's interpretation of and reliance upon information suggesting that the subsistence fishery created by FP21-10 will have a minimal impact upon in-river returns and Upper Copper River subsistence harvest was in error.

The Board based its approval of FP21-10 on an erroneous interpretation of information regarding the estimated impact and popularity of a new federal subsistence fishery. OSM's Staff Analysis projected that participation in the fishery would be minimal and that the harvest of sockeye and Chinook salmon from the Lower Copper River dipnet fishery created by FP21-10 would also be minimal – no more than 2,000 fish.¹⁸ These projections are based upon faulty assumptions that limited participation in and access to a subsistence fishery (that participation in nonetheless met subsistence needs) would translate into a similarly limited participation in – and limited harvest of sockeye and Chinook salmon from – a new subsistence fishery.

OSM's Staff Analysis admitted that the harvest estimate was based at least in part upon the "annual State subsistence gillnet harvest in the Copper River District."¹⁹ But this analysis noted that current participation in the state subsistence drift gillnet fishery, prosecuted in marine waters of the Copper River Flats, "requires access to a suitable boat and the approved gear type (i.e., relatively expensive gillnets),"²⁰ suggesting that participation in the fishery was limited because of gear and methods and means barriers that prevented more participation. This "low participation in an existing fishery = low participation in and impact from a new fishery" theme was also emphasized in FP21-10 and public testimony,²¹ which reiterated that a primary reason supporting the need for FP21-10 was the inability of federally qualified users to access the subsistence drift gillnet fishery because participation required a boat that was suitable for marine waters.

In other words, the Board was told that the rate of participation in and level of harvest from the drift gillnet fishery was so low that it both required the creation of a new fishery to accommodate other federally qualified users who were not able to meet their subsistence needs and would not affect other federally qualified users – namely, those who harvest salmon along the Upper Copper River.

¹⁸ OSM Staff Analysis, p. 26.

¹⁹ OSM Staff Analysis, p. 26.

²⁰ OSM Staff Analysis, p. 25.

²¹ See OSM Staff Analysis, p. 17 ("I am writing to express my support for FP21-10... Currently, opportunities to harvest Copper River salmon for subsistence are limited to a State subsistence gillnet fishery on the Copper River flats which requires a boat to access the fishery, and is only open 3 periods/week...").

Federal Subsistence Board
 May 17, 2022
 Page 7

The Staff Analysis falsely assumes low participation in a dipnet subsistence fishery based upon currently low participation in a drift gillnet subsistence fishery that requires more expensive gear. It is illogical to assume that the level of participation in a fishery that few people can allegedly afford to access, i.e., the drift gillnet fishery, would suggest similar levels of limited participation in a fishery that is designed to provide easier access and for which the required gear is more affordable. The fishery created by FP21-10 is intentionally designed to be more accessible simply by virtue of the fact that users can access it by the road. And the fishery created by FP21-10 is intentionally designed to be cheaper to participate in – the cost of a dipnet is significantly lower than the cost of a drift gillnet, and does not require a boat to operate.

It is true that the frequency of openers in the State’s drift gillnet fishery is conditioned upon the timing of federal openers.²² But, unlike the drift gillnet fishery, the fishery created by FP21-10 will not be contingent upon or subject to state commercial fishing times – which will allow for more fishing time, more harvest, and more of an impact upon a fully allocated and diminished resource.

5. **The Board failed to accord sufficient deference to RAC recommendations and comments demonstrating that the fishery proposed by FP21-10 would be detrimental to the satisfaction of subsistence needs of Upper Copper River federally qualified users.**

The Board is required to defer to RAC recommendations unless they are not supported by substantial evidence, violate principles of wildlife conservation, or are detrimental to the satisfaction of subsistence needs.²³ In March, 2022, the South Central and Eastern Interior RACs met and recommended that the Board not approve FP21-10 because the proposal would be detrimental to the satisfaction of the subsistence needs of federally qualified users within the Upper Copper River region. The Board failed to accord sufficient deference to these recommendations.

When the Board deliberated FP21-10, it did not defer to the RACs’ recommendation that the proposal would be detrimental to the satisfaction of subsistence needs of federally qualified users in the Upper Copper River. Consideration of FP21-10 occurred through a highly irregular regulatory process. The Board emphasized the importance of RAC input on FP21-10 but then, when the South Central RAC and Eastern Interior RAC issued recommendations on the proposal that were at odds with one another, the Board took the highly unusual step of referring FP21-10 back to the South Central RAC and the Eastern Interior RAC and demanding that the RACs come up with a “compromise solution” with respect to their competing positions on the proposal. Subsequently, when the RACs met in March, 2022 and voted to provide the Board with an additional recommendation against approval of FP21-10, a primary concern underscoring the

²² 5 AAC 01.610(g).

²³ 50 C.F.R. § 100.10(e)(1).

Federal Subsistence Board
May 17, 2022
Page 8

discussion both RACs engaged in prior to issuing their recommendations was the effect FP21-10 would have on Upper Copper River subsistence users. The RACs' comments clearly articulated that FP21-10, if passed, would be detrimental to the satisfaction of the subsistence needs of federally qualified users within the Upper Copper River region. When it deliberated FP21-10, the Board should have deferred to the RACs' recommendation and should not have approved FP21-10.

The Board also failed to correctly interpret and apply relevant facts to its decision when it acknowledged extraordinary pressure on Copper River sockeye, acknowledged the diminution of the resource, but then took action that applied additional pressure on that resource. As discussed above, the Board failed to consider relevant information demonstrating that federally qualified users in Cordova have ample opportunity to meet subsistence needs, and also failed to consider the failure of Upper Copper River subsistence users to meet their subsistence needs. The Board should not have established a new federal dipnet fishery for people who have no documented inability to harvest enough salmon to meet their subsistence needs, a fishery which would be accessible by road and located below sonar critical for counting in-river run strength of salmon.

Conclusion

Because the Board failed to consider important information, misinterpreted available information, and failed to provide the required deference to RAC advice, the Board's decision adopting FP21-10 should be reconsidered.

Respectfully submitted,



Michelle Anderson, President
Ahtna, Incorporated



Ahtna Intertribal Resource Commission

PO Box 613 - Glennallen, Alaska 99588 www.ahtnatribal.org
Phone: (907) 822-4466 Fax: (907) 822-4406 connect@ahtnatribal.org

July 25, 2022

Federal Subsistence Board
Office of Subsistence Management
(Attn: Theo Matuskowitz)
1011 E. Tudor Road, MS-121
Anchorage, Alaska 99503-6199

Dear Chairman Anthony Christianson:

Introduction

The Ahtna Intertribal Resource Commission (AITRC) is an inter-tribal agency serving the 8 Federally recognized tribal governments and 2 Alaska Native Corporation landowners located within the Ahtna Traditional Use Territory. The customary and traditional homelands of the 'Ahtna' *hwtaene* include the Upper Copper River basin, Upper Susitna River valley, and portions of the Tanana River drainage along the Denali Highway region. The mission of AITRC is to honor and integrate traditional indigenous knowledge and values through innovative stewardship that is respectful of the land for all generations with the vision of exercising tribal sovereign authority and stewardship of cultural and natural resources within our traditional territory to ensure our future self-sustainability.

In 2016, AITRC and its member tribes and corporations entered into an historic agreement with the US Department of the Interior for the purpose of formalizing the subsistence wildlife management partnership and pursue cooperative management of customary and traditional subsistence uses within the Ahtna Traditional Use Territory. Within this agreement, the US Department of the Interior recognized that special circumstances within the Ahtna region have not permitted the 'Ahtna' *hwtaene* to meet their subsistence needs. Moreover, the Department recognized its obligation to uphold the Federal trust responsibility to Ahtna tribes and the right of rural resident members of Ahtna tribal communities to maintain their cultural identity through opportunities to practice their ancestral customary and traditional ways of life on Federal public lands in a manner that enables them to pass down indigenous knowledge and ancestral customary practices from generation to generation.

In passing ANILCA Title VIII, US Congress invoked its constitutional authority over Native affairs and its constitutional authorities under the property and commerce clauses and found and declared that the "continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened by the increasing population of Alaska, with resultant pressure on subsistence resources, by sudden declines in the populations of some wildlife species which are crucial subsistence resources, by increased accessibility of remote areas containing subsistence resources, and by taking of fish and wildlife in a manner inconsistent with recognized principles of fish and wildlife management" and called for a federal subsistence management program that requires a meaningful role in the management of fish and wildlife and of subsistence uses by "rural residents who have personal knowledge of local conditions and requirements" (ANILCA Section 801).

Tsin'aen

**COMMENTS ON
2023-2025 FEDERAL SUBSISTENCE FISHERIES
REGULATORY CHANGE PROPOSALS**

FP23-14/15/16 Expand Federal Customary and Traditional Use Determinations for Additional Communities and Areas

FP23-14, FP23-15, and FP23-16 all ask to expand the federal customary and traditional use determinations for additional communities and areas both within and outside the Copper River basin, which if passed would increase the number of federally qualified users of our Copper River salmon. As outlined above and in ANILCA Title VIII itself, the continuation of ancestral indigenous customary and traditional uses of fish and wildlife remains under increasing threat by a growing human population, declining ancestral tribal subsistence resource populations, and increasing access to once-remote areas. These three proposals contribute to these ongoing problems and trends, which further disenfranchise the *'Ahtna' hwtane*, by further expanding the opportunity for others who had not been customary and traditional users or residents of the Ahtna Traditional Use Territory when ANILCA was passed by Congress in 1980.

AITRC and its member tribes and Alaska Native Corporations are opposed to each of these proposals. During recent years of declining Copper River salmon productivity, tribal citizens and other rural residents who customarily, traditionally, and historically fished for salmon in the upper portions of the Glennallen Subdistrict and Batzulnetas Area have experienced significant declines in the availability and efficiency of subsistence salmon fishing activities. A recent historical assessment of catch per unit effort conducted by Wrangell-St. Elias National Park and Preserve staff, and shared with AITRC, suggests that when numbers of salmon passing Miles Lake sonar are less than about 750,000 salmon, subsistence salmon harvest success above the Gakona River, and consequently federal subsistence uses, may be negatively impacted. ADF&G managers respond to these concerns by AITRC and its member tribes by suggesting that Ahtna people aren't putting enough effort into their subsistence fishing activities, in effect, blaming the victim. However, when tribal elders inform fishwheel operators to stop fishing to ensure sufficient salmon pass to reach specific spawning beds, or the costs of keeping the wheel fishing throughout the summer to catch what used to be caught in a single day are prohibitive, many Ahtna tribal citizens and other rural residents simply cannot afford to keep putting in the fishing effort to obtain historic harvest levels and risk compromising indigenous stewardship practices of ensuring sufficient spawners of various specific tributaries. The amount of time needed to invest in harvesting sufficient numbers of salmon to meet previous and ongoing subsistence needs is often so great that many cannot spend that much time a fish camp now given the lack of salmon abundance in the river. In turn, this is having devastating impacts on our abilities to pass on ancestral indigenous knowledge to our children, grandchildren, nieces and nephews.

Most Copper River-bound salmon are harvested by the state-managed commercial fishery before the salmon enter the river. Commercial salmon fishing has long been a challenge to the *'Ahtna' hwtane* in meeting their ancestral customary and traditional subsistence needs for salmon. In fact, Chief Goodlataw filed a complaint with the US Federal government in 1917 regarding the commercial fishing that had been taking place within Abercrombie Canyon, which was causing the Ahtna people to face starvation.¹

¹ Ahtna Subsistence Search Conference: A Conference for the Ahtna People To Plan For the Future of Their Subsistence Resources, Practices and Lifestyle, November 12-13, 2013.

Then, those salmon that escape the commercial fishery at the mouth of the Copper River, our migrating salmon swim up the river and into the Chitina Subdistrict with its ever-expanding number of users participating in the state-managed Personal Use dipnet fishery. This gauntlet fishery continues to be of great concern to AITRC and its member Tribes and Alaska Native Corporations. Efforts to make the canyon more accessible to non-local users and the salmon collapses in other areas of Alaska, like the Yukon and Kuskokwim rivers has contributed to the increased pressure on Copper River salmon stocks and declines in salmon availability in the Glennallen Subdistrict, and especially its uppermost sections where subsistence needs are not being met.

FP23-14, FP23-15, and FP23-16 each asks to expand the federal customary and traditional use determinations for additional Alaska residents within the Chitina Subdistrict, many of whom claim their customary and traditional use eligibility through their prior participation in the nonsubsistence Chitina personal use dipnet fishery. While AITRC and its members recognize and support the importance of the federal subsistence priority over all other uses, after all there would not be a federal subsistence fishing priority for salmon without the decades long efforts of the *'Atna' hwtaene*, we do not support such determinations that would expand eligibility to additional users just because they have moved to rural areas and now seek to establish new traditions in efforts to mitigate the increasing pressures on Copper River resources by non-local and non-rural Alaska residents long after the passage of ANILCA, especially at the expense of the *'Atna' hwtaene*, the original stewards of the Copper River basin. Finally, these proposals contribute to and expand the threats to the continuation of customary and traditional uses acknowledged by Congress when enacting ANILCA Title VIII as outlined in our introductory comments above.

FP23-17 and FP23-18 Delay the Federal Subsistence Fishing Start Dates in the Upper Copper River District

AITRC submitted FP23-17 to delay the start date of the federal subsistence fishery in the Glennallen Subdistrict from May 15 to June 1. AITRC also submitted FP23-18 to delay the start date of the federal subsistence fishery in the Chitina Subdistrict from May 15 to June 1. AITRC submitted these two proposals because of our concerns regarding the inability of federally qualified users in meeting their subsistence needs in the upper portions of the Glennallen Subdistrict and the Batzulnetas Area. We also submitted these proposals because of our concerns regarding the quality of escapement of Chinook salmon and sockeye salmon given the recent challenges in meeting the Chinook salmon escapement goal and the challenges faced by the Gulkana fisheries enhancement program to obtain sufficient broodstock. AITRC felt that delaying the fishing start date may serve to ensure that those salmon bound for the uppermost reaches of the drainage have the opportunity to pass unmolested.

However, after much discussion among AITRC and its member Tribes and Alaska Native Corporations, we are requesting that the Federal Subsistence Board take no action on these two proposals. Our request to rescind FP23-17 and FP23-18 is not because conditions have changed, and our concerns outlined in the proposals remain. However, AITRC and its members recognize that federally qualified users should not bear the burden of conservation alone and that other changes to the Copper River salmon management regime and management plans should first be addressed prior to imposing further restrictions on the federal subsistence fishing opportunities.

FP23-19 Repeal the new Federal Lower Copper River Subsistence Fishery for Cordova Residents

AITRC submitted federal fisheries proposal FP23-19 to eliminate the new federal subsistence salmon fishery proposal adopted by the Federal Subsistence Board in April 2022 and subsequently implemented through Federal Special Action. Our reasons for opposing this new fishery are outlined in detail in the proposal itself as well as the Request for Reconsideration submitted by AITRC.

Tsin'aen,


Karen Linnell
Executive Director

Native Village of Eyak
110 Nicholoff Way
P.O. Box 1388
Cordova, Alaska 99574-1388
P (907) 424-7738 * F (907) 424-7739
www.eyak-nsn.gov



10,000 years in our Traditional Homeland, Prince William Sound, the Copper River Delta, and the Gulf of Alaska

Federal Subsistence Board
Attn: Theo Matuskowitz
Office of Subsistence Management
1011 E. Tudor Rd. M/S 121
Anchorage, AK 99503-6199

Re: Oppose FP23-19
To the members of the Federal Subsistence Board,

The lower Copper River dipnet fishery initiated through FP21-10 has been the source of much debate both for the Board, and for the community of Cordova, Alaska. After exhaustive discussions between the Southcentral and Eastern Interior RACs and deliberation by the Board, the fishery has opened in Cordova.

The Native Village of Eyak submitted comments in opposition to FP21-10 after providing the opportunity for our Tribal Members to inform the Tribe's position, settling on the position that no new harvests should be added until there is additional enforcement, stock-specific management, and an in-season inriver estimate for Chinook salmon. Our opposition was not universal, and many members have had positive feedback on this fishery both in our discussions, and moreso following the fishery's opening.

Because of this, the Native Village of Eyak opposes FP23-19, which would close this new fishery. While we may be amenable to closure at some point in the future, now that the fishery is open, we wish to evaluate the fishery before supporting a closure.

It is our sincere hope that this proposal is considered and acted on with the same alacrity that is the norm for the Board. We urge there to be no exchange between RACs, tabling, or otherwise pushing forward the decision before you. Rather, please consider the proposal before you, the comments submitted, the Office of Subsistence Management's analysis, and the recommendation of the SCRAC and make a determination at your first opportunity.

We thank you for the opportunity to provide a comment on this proposal and look forward to your timely decision.

Respectfully,

Mark Hoover
Tribal Council Chairman
Native Village of Eyak

Regarding Proposal FP-2319 which seeks to "repeal the newly created federal subsistence salmon dipnet fishery in the Lower Copper River area".

Dear South Central Regional Advisory Council of the Federal Subsistence Board,

I am NOT in favor of Proposal FP-2319 which seeks to "repeal the newly created federal subsistence salmon dipnet fishery in the Lower Copper River area".

Like the Ahtna Intertribal Resource Commission (AITRC), I too am concerned about the future of the red and king salmon runs in the Copper River and other places. AITRC specifically brought up decreasing run sizes and decreased average size of individual fish as concerns. However, the implication that this small dip net fishery is going to have significant impact (or any impact) on these concerns is not sound. I would like to respectfully remind the board that the newly established Lower Copper River federal subsistence salmon dip net fishery did not create any new federally qualified subsistence users or increase the household limits beyond what was already in place. It simply added some flexibility to how some already federally qualified users can obtain some salmon. Previously, federally qualified subsistence users in this area had no subsistence fishery in the only large river that can be driven to from Cordova.

I participated in the Lower Copper River fishery this year with a newly purchased dip net, and it seems the fishery, as others predicted, is insignificant. Due to most of the salmon migration occurring in the eastern channels of the river, I could only find one accessible back eddy that produced fish in the open area by car/walking without using a boat. People had varying success, personally I averaged 1 red every 4 hours. My total catch was 4 reds during four separate 70 mile round trip drives out the Copper River Highway to the river. Others did better and averaged closer to 1 salmon every half hour, but this level of productivity seemed to be sporadic and short in duration. This part of the river has several major channels and the fish migration is not concentrated to two banks the way it is in many places further up river where the water (and the fish) is all in one channel. I did not explore other potential fishing areas on the other side of the washed out bridge that would require a boat to access. There are potentially more productive areas there, but adding a boat to the process adds another layer of logistics. Also, I had hoped to use rod and reel methods to participate, but the area opened for this fishery did not include any areas suitable for this method.

AITRC also included this in their proposal: "According to the most recent household survey (2014), 69% of Cordova households harvest salmon themselves, while 92% use the resource. This demonstrates that there is widespread access to salmon in the community." Using these statistics to justify shutting rural Cordova residents out of dip net fishing in the only major river they have access to is inappropriate. These statistics do show that salmon is important to Cordovans, but it does not take into consideration the difficulty of participating in the local subsistence fisheries. Please keep in mind that Cordova is not only rural, but off the road system as well. Recently I talked to two different Cordova residents who previously lived on the road system. They expressed being appalled upon discovering that despite being very close to the Copper River in Cordova, that they had less access to Copper River salmon than when

they lived in Anchorage or Fairbanks. Places much further away from the Copper River, but on the road system.

Below I have included a letter I submitted previously in 2021 in support of creating the Lower Copper River dip net fishery because I feel parts of it are still relevant and may be of use as you consider proposal FP-2319, which again, I am NOT in support of. Thank you for considering my thoughts as to why proposal FP-2319 should be disregarded..

Sincerely,

Lance Westing

PO BOX 1045
798 Chase Avenue
Cordova, AK 99574

The following is from 2021:

RE: FP21-10

Dear Mr. Greg Encelewski and the South Central Regional Advisory Council,

I am in favor of FP21-10 which allows for a limited dipnet subsistence salmon fishery for federally qualified users on the Copper River.

These are my reasons:

- 1) There are Cordova residents that do not have the opportunity to participate in the state subsistence gillnet fishery on the Copper River flats due to time and cost restraints. Having a dip net fishery would make access to the resource more equitable for federally qualified subsistence users in the area.
- 2) The existing dip net fisheries on the smaller streams like the Alaganik and Eyak are inappropriate and should have never been implemented on such small streams with relatively fragile runs compared to the Copper River. These rivers were also already used by rod and reel "sport" fishermen who in reality are fulfilling subsistence needs. It seems like a recipe for conflict in the future if more people start taking advantage of the ability to dip net on these little systems.
- 3) Opening this fishery could potentially result in overall LESS dead Copper River red and king salmon. While there may be some new subsistence users of the resource who did not previously have access, most of the effect will be to shift the effort from ocean gillnetting to river dip netting. There will be fewer dead salmon for two reasons. The first is that seals stealing from *dip* nets is presumably far less likely to happen than from *gill* nets in the ocean where it *is* a problem. It seems reasonable to assume that seals eat more salmon than normal when they can easily steal them from a gill net, and less when they have to hunt naturally. Secondly, fewer salmon would be lost due to dropping out of

gill nets. Salmon that have already been killed or injured by a gill net commonly drop out of the net in the process of hauling them aboard... There would be less of this if people shifted from gill netting to dip netting. Kings seem especially prone to dropping out due to the small required mesh size.

- 4) Personally, I do not own a working gill net or a dip net, and I would take advantage of being able to use a rod and reel to subsistence fish for Copper River red salmon. This method allows me to target just male reds since females can usually be released without the kind of harm that would keep them from successfully spawning. This is even more true when small circle hooks are used. Currently only three reds per day are allowed to be taken this way. On the days I am lucky enough to be on the river when sufficient numbers of fish are passing to make this method effective. I would like to be able to put them on my subsistence permit so that I'm not limited to three. The three reds per day sportfish limit seems arbitrary anyway since the limit is six reds per day above the Million Dollar Bridge. (Please note that the area open for this fishery did not end up including any areas that are productive for rod and reel fishing. This note was added 7/2022)
- 5) It does not seem plausible that this proposal could open the door to a crazy mouth of the Kenai River or Chitna like dip netting situation, even if the state at some point followed suit and implemented a personal use dipnetting fishery on the lower Copper River. The logistics of a trip from the road system to Cordova for a dip netting trip would just be too much for most people. Even if some people started coming to Cordova instead of the upriver areas...we could use a little more economic diversity.

Here are some changes the council may want to consider making to the proposal.

- 1) Require the immediate release of any king salmon.
- 2) Eliminate the "gaff" and "spear" wording from the proposal since the Copper River is heavily glacial and species identification before spearing or gaffing would be unlikely. Plus, it seems unnecessary while also likely to result in maimed fish that get away.
- 3) Include all waters of the Copper River downstream of the Million Dollar Bridge, but within the current east/west confines as proposed. This would spread out the effort if this option becomes popular.

What follows is some contextual information:

As a 32 year resident of Alaska I have been blessed with the opportunity to participate in subsistence fishing opportunities in Kodiak, King Cove, Dillingham, Kotzebue, and here in Cordova, where I have resided for the past 7 years. Upon learning the ins and outs of the subsistence salmon fishing opportunities in the Cordova area, I was dismayed to discover how difficult and expensive it is to obtain the 20 or so Copper River red salmon our family would like to use in a year. Especially considering we have a major salmon producing river right in our backyard. Note that we are a family of four and would be allowed 50, but given the wide variety of protein sources available in Alaska, we prefer variety at the table.

The state subsistence gillnet fishery at the mouth of the Copper River works well for users who also participate in the commercial fishery or have bought a boat similar to those used in the

fishery. The rest of us use less than ideal boats and end up mostly fishing the western part of the district (closest to Cordova) where smaller streams like the Alaganik and Eyak are located. While we certainly catch some fish headed for the Copper River itself, this part of the district has a larger portion of the drier tasting "delta" reds that come from the relatively small systems previously mentioned. This is compared to reds caught in the parts of the district closer to the mouth of the Copper River. A red that comes from a short-run Copper River Delta stream tastes much drier than from a Copper River Red that has a long spawning run ahead.

The state subsistence gillnet fishery on the Copper River Delta is difficult for some of the users. Assuming someone has procured a gillnet and boat, it is about a 1 to 1.5 hour skiff run from town to the edge of the most productive fishing areas. It is shorter via jet boat down the Eyak River, but then you are in a too small boat for the sea conditions on many days. Once on the grounds we start making sets, and unlike subsistence gill netting I have experienced in other places around the state, we go long stretches of time with no fish in the net. Then, if we manage to find a spot that is putting an appreciable number of fish in the net, we are likely to start getting corked-off by commercial nets, which are three times as long. There are also the ever present seals and sea lions that of course take a share directly out of the net.

On my only subsistence gill netting trip this summer, two of us fished an entire 12 hour opening for a total of 19 reds split between our two households. We lost at least three from seals taking fish directly out of the net. We headed back to town happy since it is common to put in all that effort and catch far fewer fish, and sometimes the seals get a much higher proportion. This was on an opening that was subsistence only, and there was no competition from commercial boats.

Cordova residents need another option, and this proposal could lead to more fish up river. It is a win for everyone to meet our needs with fewer gill nets in the water.

Thank you for considering my thoughts regarding proposal FP21-10.

Sincerely,

Lance Westing

PO BOX 1045
798 Chase Avenue
Cordova, AK 99574

Milo Burcham
P.O. Box 2511
Cordova, AK 99574

I would like to express my opposition to proposal FP23-19 which would remove the newly established salmon dip net fishery in the Lower Copper River.

First, it is unfortunate that Federally qualified subsistence users of Cordova, and Federally qualified subsistence users of the upper Copper River, including Ahtna, are not on the same team. Both groups should have the highest preference for Copper River salmon as intended by ANILCA Title VIII, and account for just a tiny fraction of the total harvest of Copper River Salmon.

We all have an interest in healthy Copper River salmon runs. That said, the health of this fishery lies in the hands of two State managed fisheries: the commercial fishery at the river's mouth and State personal use, sport, and subsistence that take place in the upper Copper River. These fisheries, which are lower priority uses according to ANILCA, yet account for roughly 98% of Copper River Sockeye harvest and 93% of the King Salmon harvest. In short, the health of the Copper River lies in the management of those fisheries.

The newly established dip net fishery in the Lower Copper was anticipated to take no more than 2,000 Sockeye and 300 Kings. In its first season it took far fewer; just over 100 Sockeye and 3 Kings were harvested. Even as knowledge and effort expand in future years, it is unlikely that the total harvest will ever come close to the anticipated maximum harvest.

And while the harvest was modest, it was meaningful to those that did participate. For the first time, several Cordova residents were able to harvest Copper River Salmon for the very first time.

This fishery presents no conservation concern to Copper River salmon runs, yet provides a meaningful subsistence fishery, mainly for rural residents of Cordova.

Jesse Carter
P.O. Box 2771
Cordova, AK 99574

I strongly oppose proposal FP23-19 which would remove the salmon dip net fishery in the lower Copper River.

This is a new fishery that was just put in place for rural Cordova residents so they can have access to some of the healthy Copper River salmon runs. Subsistence fisheries should have the highest priority over commercial and sport fisheries. When proposal FP-21 was being put forth, it was carefully looked at for what type of impact it may have on the Copper River salmon run before moving forward with it, and the prediction was very little to no impact. Now that we have had our first season dip netting the lower Copper River, we will see data from the numbers that will confirm the impact prediction to be even lower than anticipated. I find this troubling that we are being targeted by special interest groups over less than one percent of the Copper River salmon run and especially when harvest numbers will confirm the impact assessment will likely never even be reached.

Sincerely,
Jesse Carter

I would like to express my opposition to proposal FP23-19 which would remove the newly established salmon dip net fishery on the lower Copper River.

First, I would like to thank the board for opening the fishery the residents of Cordova. As the only true rural community of the Copper River this fishery will make a difference in many Cordovans life by supplying their families with the enriched fish of the Copper River. We have no road access like the upper river users have and just like everyone else in this state our grocery bills keep growing, but unlike the upper river users we are not able to drive to Costco or Walmart to get our cheaper grocery's.

I am disappointed that a corporation would want to take access to this fishery away after just receiving it. I would just like to point out to the board that this fishery took less than 125 fish this year. Now I know that this fishery will grow and most likely hit the estimate that is anticipated of 2000 fish.

Let say we do hit the 2000 estimate and take the low count in the proposal of 750,000 fish that pass the Mile Lake sonar. That equates to .0027 amount of the fish for this fishery. I do not believe that you could find any biologist to state that this will decimate that Copper River fishery. And again these 2000 fish are going to the only rural community on this river.

I believe that the Ahtna Corporation should focus their frustration in this fishery to the folks who have harmed this fishery. The Upper Copper River Users. Many who use guides to gather their fish! The fishery based in Cordova is well managed. While the upper river users can gather 50 fish per person our fishery would need a family of 4 to achieve this. As we only allow 15 fish per head of household 15 for spouse and 10 for each dependent.

I would again like to thank each and everyone of you who votes this fishery in. Please do not allow a corporation take away the natural resource that is meant for Rural Alaskans like the good folks of Cordova.

Robert Jewell
P.O. Box 2173
Cordova, AK. 99574
Rural Subsistence Resident

APPENDIX 1

Total estimated Sockeye Salmon runs to the Copper River by end user or destination with previous 10-year average, 2010-2020 (Botz et al. 2021)

End User or Destination	Year 2010	Year 2011	Year 2012	Year 2013	Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	Average, 2010-2019
Commercial harvest ^e	636,214	2,052,432	1,866,541	1,608,117	2,050,007	1,750,762	1,175,100	586,079	46,524	1,283,736	102,269	1,305,551
Commercial, homepack ^a	7,064	9,070	7,985	9,448	12,072	10,590	9,598	8,289	1,545	8,016	1,455	8,368
Commercial, donated ^a	0	0	0	0	0	0	0	0	0	0	0	0
Educational drift gillnet permit ^a	61	23	200	152	186	91	203	217	6	18	7	116
State Subsistence (Cordova, drift gillnet) ^b	1,980	1,783	4,270	5,639	1,675	1,403	1,075	2,448	5,189	6,163	7,091	3,163
Federal Subsistence (PWS/Chugach Nat'l Forest, dip net, spear, rod and reel) ^b	36	35	64	102	76	152	234	127	96	70	98	99
Federal Subsistence (Batzulnetas, dip net, fish wheel or spear) ^b	106	9	101	862	146	0	0	254	468	209	67	216
State Subsistence (Glennallen Subdistrict, dip net or fish wheel) ^c	70,719	59,622	76,305	73,728	75,501	81,800	62,474	41,570	39,359	60,257	34,577	64,134
Federal Subsistence (Glennallen subdistrict, dip net, fish wheel or rod and reel) ^d	14,651	16,145	15,718	17,789	23,889	26,753	19,181	18,415	16,736	17,718	11,234	18,700
Personal Use Reported (Chitina Subdistrict, dip net) ^c	138,487	128,052	127,143	180,663	157,215	223,080	148,982	132,694	77,051	171,203	78,022	148,457

End User or Destination	Year 2010	Year 2011	Year 2012	Year 2013	Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	Average, 2010-2019
Federal Subsistence (Chitina subdistrict, dip net) ^d	2,399	2,056	1,427	2,199	1,636	2,404	1,925	1,828	3,430	4,479	3,406	2,378
Upriver sport harvest ^e	14,743	7,727	23,404	26,611	18,005	9,489	7,555	9,589	2,943	7,346	1,000	12,741
Delta sport harvest ^e	1,342	838	764	386	87	130	246	200	58	168	142	422
Upriver spawning escapement ^f	502,403	607,142	953,502	860,258	864,131	930,145	513,126	461,268	478,760	718,876	364,928	688,961
Delta spawning escapement ^g	167,810	153,014	133,700	151,410	128,410	132,390	103,100	113,900	116,940	122,930	111,240	132,360
Hatchery broodstock/Excess ^h	157,980	59,589	65,348	72,369	53,737	40,123	32,341	17,083	30,306	15,552	10,786	54,443
Total estimated sockeye salmon run size	1,715,995	3,097,537	3,276,472	3,009,733	3,386,773	3,209,312	2,075,140	1,393,961	819,411	2,416,741	726,322	2,440,108

^a Numbers are from fish ticket data. Homepack numbers for Sockeye Salmon are voluntarily reported, but are legally required.

^b Data are reported harvest from returned state and federal subsistence permits.

^c Data are expanded harvest from returned state and federal subsistence permits.

^d Data are reported harvest, 2002-2004, and expanded harvest, 2005-2017, from returned state and federal subsistence permits.

^e Upriver and Copper River Delta sport harvest data are from statewide sportfish harvest surveys.

^f Beginning in 1999 Sockeye Salmon spawning escapement is based on the total number of fish past the Miles Lake sonar minus the Chinook Salmon inriver midpoint abundance estimate, upriver subsistence, personal use, sport, hatchery broodstock and onsite hatchery surplus. Prior to 1999, upriver spawning escapement was based on the Miles Lake sonar passage (sockeye salmon only) minus upriver subsistence, personal use, sport, hatchery broodstock, and onsite hatchery surplus. The number of Sockeye Salmon past the Miles Lake sonar was determined by multiplying the total number of fish past the sonar by the percentage of Sockeye Salmon in the total upriver subsistence and personal use fisheries.

^g Delta spawning escapement estimated by doubling the peak aerial survey index.

^h Hatchery broodstock and onsite excess are from the PWSAC annual reports.

APPENDIX 2

Total estimated Chinook Salmon run to the Copper River by end user or destination and the previous 10-year average, 2010–2020 (Botz et al. 2021).

End user or Destination	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Average (2010–2019)
Commercial harvest ^a	9,645	18,500	11,764	8,826	10,207	22,506	12,348	13,834	7,618	19,148	5,880	13,440
Commercial, homepack ^a	906	1,282	853	564	768	1,145	727	744	85	742	225	782
Commercial, donated ^a	0	0	0	0	0	0	0	0	0	0	0	0
Educational drift gillnet permit ^a	31	6	6	55	36	50	86	50	40	31	14	39
State Subsistence (Cordova, drift gillnet) ^b	276	212	237	854	153	167	73	778	1,356	808	657	491
Federal Subsistence (Batzulnetas, dip net, fish wheel, or spear) ^b	0	0	0	5	0	0	0	2	0	0	0	1
State Subsistence (Glennallen Subdistrict, dip net, fish wheel, or spear) ^c	2,099	2,319	2,095	2,148	1,365	2,212	2,075	2,906	4,531	3,429	2,222	2,518
Federal subsistence (Glennallen Subdistrict, dip net, fish wheel, or spear) ^d	342	799	403	372	439	416	446	468	2,662	946	670	729
Personal use harvests (Chitina Subdistrict, dip net) ^c	700	1,067	567	744	719	1,570	711	1,961	1,273	2,611	751	1,192
Federal subsistence (Chitina Subdistrict, dip net) ^d	20	15	6	19	15	14	20	15	100	83	96	31
Sport harvest ^e	2,409	1,753	459	285	931	1,343	327	1,731	1,320	1,565	500	1,212
Upriver spawning escapement ^f	16,753	27,936	27,922	29,013	20,689	26,751	12,430	33,644	42,678	35,080	22,054	27,290
Total estimated Chinook salmon run size	33,181	53,889	44,312	42,885	35,322	56,174	29,243	56,133	61,663	64,443	33,069	47,725

^a Numbers are from fish ticket data.

^b Data are reported harvest from returned state and federal subsistence permits.

^c Data are expanded harvest from returned state and federal subsistence permits.

^d Data are reported harvest (2002–2004) and expanded harvest (2005–2011) from returned state and federal subsistence permits.

^e Upriver Chinook Salmon sport harvest only; there is no Copper River Delta Chinook Salmon sport harvest. The sport harvest numbers are generated from the statewide sport fish harvest survey.

^f Upriver Chinook Salmon spawning escapement was estimated using the inriver abundance estimate and subtracting subsistence, personal use, and sport Chinook Salmon harvests. Beginning in 1999, inriver abundance estimates were calculated using mark-recapture studies; prior to 1999 inriver abundance estimates were calculated using aerial and foot surveys.

FP23-21 Executive Summary	
General Description	FP23-21 requests closing the Federal waters of Kah Sheets Creek and Kah Sheets Lake to non-federally qualified users. <i>Submitted by: Gina Uppencamp</i>
Proposed Regulation	§ __.27(e)(13) <i>Southeastern Alaska Area</i> *** <i>(xxiii) The Federal public waters of Kah Sheets Lake and Kah Sheets Creek are closed to Sockeye Salmon fishing except by federally qualified subsistence users</i>
OSM Conclusion	Support with modification
Southeast Alaska Subsistence Regional Advisory Council Recommendation	Support as modified by OSM
Interagency Staff Committee Comments	The Interagency Staff Committee found the analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and the Federal Subsistence Board action on this proposal.
ADF&G Comments	Oppose
Written Public Comments	2 Support

STAFF ANALYSIS

FP23-21

ISSUES

Proposal FP23-03, submitted by Gina Uppencamp of Petersburg, requests that the Federal public waters of Kah Sheets Lake and Kah Sheets Creek be closed to the harvest of Sockeye Salmon by non-federally qualified users.

DISCUSSION

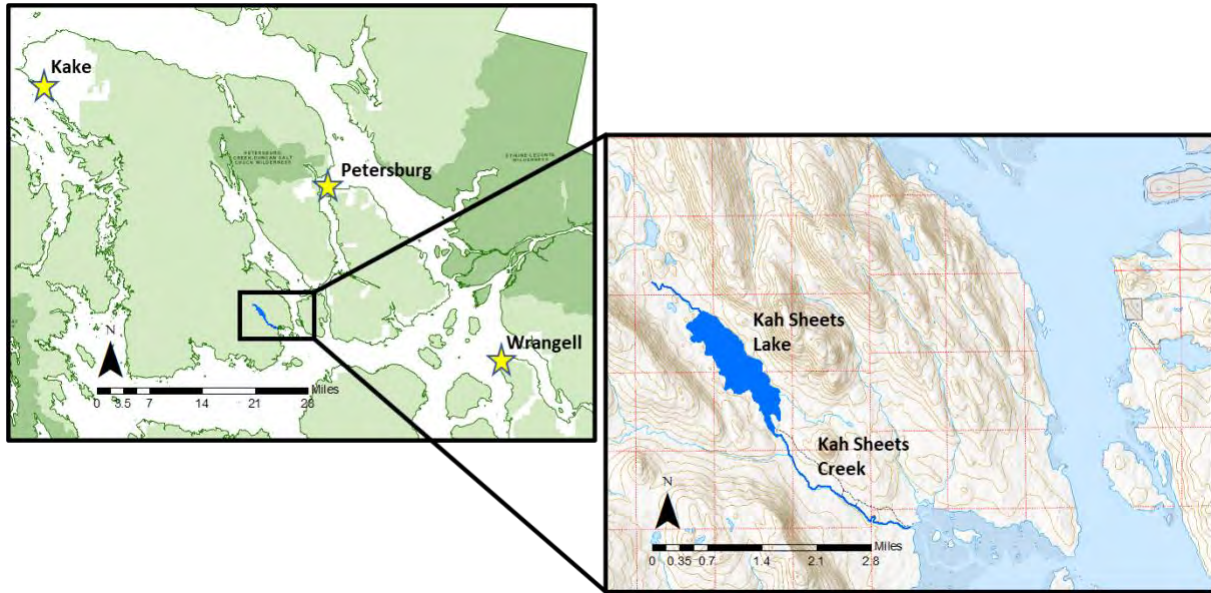
The proponent states that subsistence harvest of Sockeye Salmon at Kah Sheets Creek (pronounced “k’sheets”, **Map 1**) has been decreasing since 2012 due to conflict between federally qualified subsistence users and non-federally qualified users. The proponent attributes this conflict to the limited time and space suitable for fishing, stating that the Kah Sheets Creek has a very large tidal flat restricting access to large tides during daylight hours, limiting the number of harvest days. The proponent also noted that harvest in Kah Sheets Creek is generally concentrated to a small pool below a set of waterfalls and is limited to a very few harvesters at any one time (**Photo 1, Map 2**). Further, the proponent states that public cabins located above and below the harvest area add to the overall competition with FQSU. Overall, the proponent writes that the low return of Sockeye Salmon to Kah Sheets Lake, limited harvest days, concentration of harvesters in one pool, and sport fishing by unguided lodge guests has restricted FQSU ability to harvest meaningful amounts of Sockeye Salmon.

The proponent was contacted for further information (Uppencamp 2022, pers. comm). Their family has been fishing in the area for the last five years after they purchased a jet boat. They described how it is very rocky on both banks, so there are only one or two places, depending on water level, that you can stand and dipnet. The proponent stated that only one family can effectively harvest Sockeye Salmon at Kah Sheets Creek at one time. The proponent commented that they will just leave if someone is already fishing when they get there, out of respect for the other harvesters and because they don’t enjoy feeling crowded. However, they stated that lodges in Petersburg will send unguided fishermen who bring a “combat fishing” mentality and crowd other users. The proponent described the stream as a hydrologically “flashy” system, which necessitates having to pay attention to rain totals and other stream levels to be able to visit Kah Sheets at just the right time to successfully harvest. The proponent stated that it seems like the more restrictive State Chinook Salmon fishing regulations in recent years have caused the lodges to begin sending more guests to Kah Sheets Creek. They stated that the availability of the lower cabin can also be a limiting factor as tides make it a difficult location for a daytrip (**Map 2**). The proponent states that they have been significantly less successful harvesting at Kah Sheets Creek over the last few years and have begun harvesting on the Stikine River, which requires more specialized equipment.

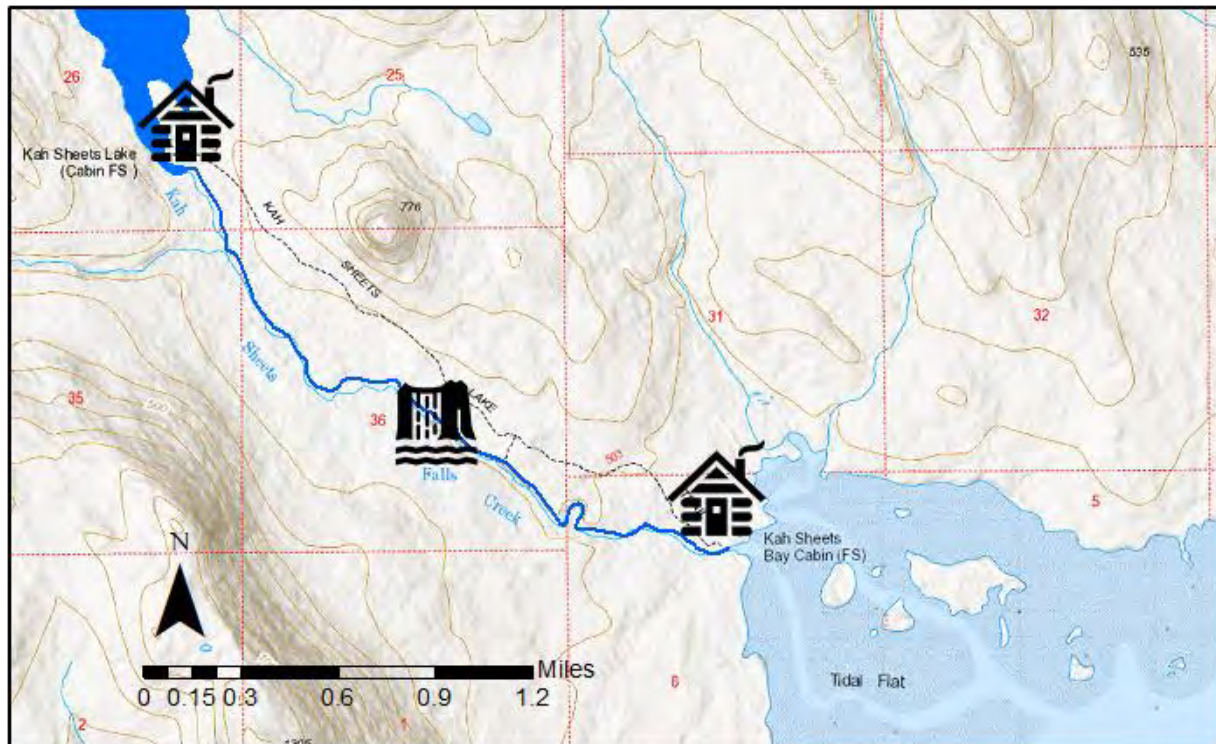


Photo 1. A subsistence user dipnetting salmon at Kah Sheets falls. The small size of the hole and steep cliff walls make it difficult for more than one person to harvest here at once.

Map 1. Location of the Federal public waters of Kah Sheets Creek and Kah Sheets Lake on the southeast side of Kupreanof Island, as well as its relative location southwest of Petersburg, west of Wrangell, and southeast of Kake.



Map 2. Closeup of Kah Sheets Creek. The cabin icons illustrate access points to the creek, and the waterfall icon illustrates the location of the falls where subsistence users dip net Sockeye Salmon. The trail is represented by a dashed line. Subsistence users generally access the creek from the Kah Sheets Bay Cabin at the outlet, which requires navigating the wide tidal flat in Kah Sheets Bay, and then hiking the foot trail to the falls.



Existing Federal Regulation

There are no existing regulations specific to this exact location.

Proposed Federal Regulation

§ ____.27(e)(13) Southeastern Alaska Area

(xxiii) The Federal public waters of Kah Sheets Lake and Kah Sheets Creek are closed to Sockeye Salmon fishing except by federally qualified subsistence users

Relevant Federal Regulation

§ ____.27(b)

(16) Unless specified otherwise in this section, you may use a rod and reel to take fish without a subsistence fishing permit. Harvest limits applicable to the use of a rod and reel to take fish for subsistence uses shall be as follows:

(i) If you are required to obtain a subsistence fishing permit for an area, that permit is required to take fish for subsistence uses with rod and reel in that area. The harvest and possession limits for taking fish with a rod and reel in those areas are the same as indicated on the permit issued for subsistence fishing with other gear types.

§ ____.27(e)(13) Southeastern Alaska Area

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

(iv) In areas where use of rod and reel is allowed, you may use artificial fly, lure, or bait when fishing with rod and reel, unless restricted by Federal permit. If you use bait, you must retain all federally regulated fish species caught, and they apply to your applicable daily, seasonal, and annual harvest limits for that species.

(A) For streams with steelhead, once your daily, seasonal, or annual limit of steelhead is harvested, you may no longer fish with bait for any species.

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

(v) Unless otherwise specified in this paragraph (e)(13), you may use a handline for snagging salmon or steelhead.

(xi) 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.

Existing State Regulation

No existing regulation

Relevant State Regulation

5 AAC 01.710 Fishing seasons

(a) Except in the nonsubsistence areas described in 5 AAC 99.010(a)(1) and (2) and unless restricted in this section, 5 AAC 01.725, or under the terms of a subsistence fishing permit, fish, other than rainbow trout and steelhead trout, may be taken in the Southeastern Alaska Area at any time.

5 AAC 01.745 Subsistence bag and possession limits; annual limits

(f) In the Petersburg-Wrangell Management Area, in waters open to subsistence salmon fishing under a household subsistence salmon fishing permit, the possession and annual limits for salmon per household are as follows:

(1) Sockeye Salmon may not be taken for subsistence uses, except that Sockeye Salmon may be taken in the vicinity of Point Baker as described in 5 AAC

01.710(f) and (c) of this section, and in the following waters, with the following possession and annual limits:

(B) District 6: in the following waters, the possession and annual limit is 30 Sockeye Salmon:

(i) Red Bay;

(ii) Salmon Bay;

5 AAC 42.022 General provisions for seasons and bag, possession, annual, and size limits for the fresh waters of Southeast Alaska Area

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

(2) salmon, other than king salmon: may be taken from January 1 December 31; no annual limit, no size limit; bag and possession limits, as follows:

(A) 16 inches or greater in length; bag limit of six fish per species; possession limit of 12 fish per species;

(B) less than 16 inches in length; bag and possession limit of 10 fish in combination;

5 AAC 47.023 Special provisions for seasons, bag, possession, annual, and size limits, and methods and means for the fresh waters of the Southeast Alaska Area

(h) In the Petersburg/Wrangell vicinity:

(5) in Kah Sheets Lake, Anan Lake, Thoms Lake, and Virginia Lake,

(A) only unbaited, artificial lures may be used;

(B) rainbow and cutthroat trout, in combination, must be no less than 14 inches and no greater than 22 inches in length;

Extent of Federal Public Lands/Waters

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. Federal public waters of Kah Sheets Creek and Kah Sheets Lake include freshwaters located within and adjacent to the exterior boundaries of the Tongass National Forest and encompass the entire watershed, approximately 11,034 acres.

Customary and Traditional Use Determinations

Rural residents of Southeastern Alaska and Yakutat Fishery Management Areas have a customary and traditional use determination for all fish in the Southeastern Alaska Area and the Yakutat Area, including Sockeye Salmon in Kah Sheets Creek and Kah Sheets Lake.

Regulatory History

There is no history of regulations affecting Federal fishing opportunity in Kah Sheets Creek or Kah Sheets Lake.

Current Events Involving the Species

There are currently no other proposals or current events involving Kah Sheets Creek or Kah sheets Lake.

Biological Background and Harvest History

Kah Sheets Lake encompasses approximately 384 acres (1.55km²). Kah Sheets Creek is the name of both the inlet stream and the outlet stream of the lake (**Map 1**). The outlet stream drains to Kah Sheets Bay, located in ADF&G statistical area 6, near where Duncan Canal opens to Sumner Strait. The entire Kah Sheets watershed is approximately 11,034 acres. Approximately 34 acres around the mouth of the creek were harvested for timber in 1971. Otherwise, the watershed is unharvested and has no roads. The anadromous waters catalogue states that Chum, Coho, Pink, and Sockeye salmon, as well as Cutthroat, Dolly Varden, and Steelhead are all present in the system.

Efforts to quantify Sockeye Salmon in Kah Sheets Creek have been made through ground and aerial surveys (1931, 1933, 1949-1950, 1952-1962). The most recent estimate was made when a weir was installed and operated by the Alaska Department of Fish and Game (ADF&G) during the 1965 and 1966 Sockeye Salmon runs, yielding escapement estimates of 5,128 and 2,446, respectively (**Figure 1**) (ADF&G 1965). However, these estimates should be treated as minimum counts as extreme water level fluctuations repeatedly compromised the rigid pipe and wire mesh weir used in this monitoring project. Furthermore, in 1966 the weir was removed a full month early despite observations of up to 1,500 Sockeye Salmon schooling behind the weir site.

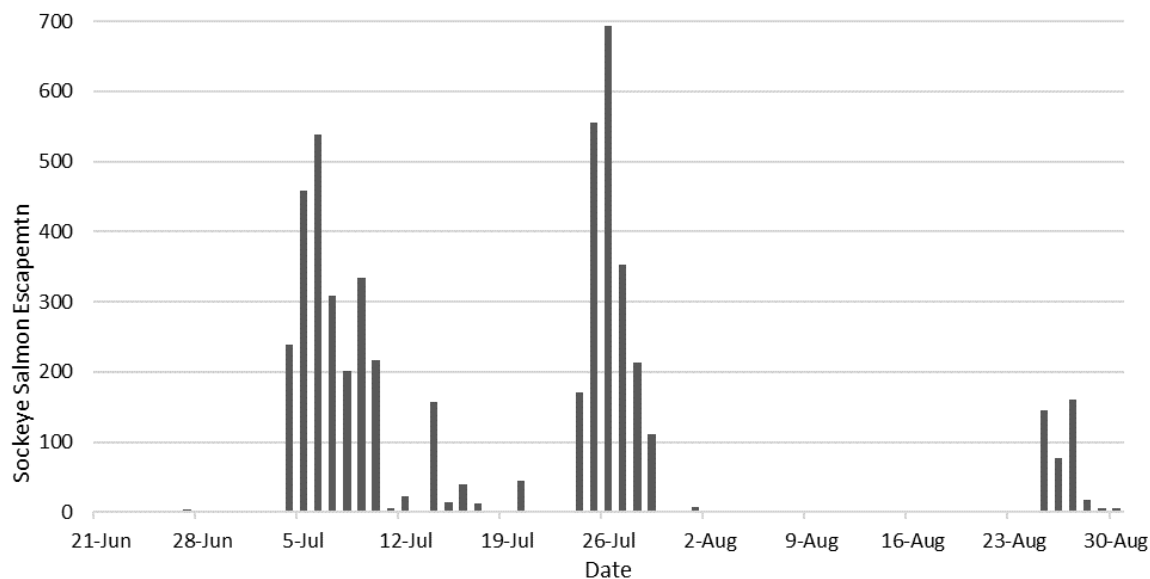


Figure 1. Kah Sheets Creek Sockeye Salmon Weir Count from June to September, 1965 (ADF&G 1965). ADF&G weir data from 1965 show thousands of fish migrating to the lake during July of that year.

ADF&G, in cooperation with USFS performed a series of annual harvest surveys of recreation cabin users on the Tongass from 1990–2012 (Coyle 2014). In 2012, a total of 17 fishing parties comprised of 56 individual users registered the Kah Sheets Creek cabin, and 10 fishing parties with 32 users registered the Kah Sheets Lake cabin. Kah Sheets Creek cabin users harvested an estimated 12 Cutthroat Trout and 0 steelhead and released an estimated 68 Cutthroat Trout and 12 steelhead that year. Kah Sheets Lake cabin users harvested an estimated 0 trout and 0 steelhead that year and released 0 trout as well. The majority of respondents to the survey fished during their stay at the cabins (12 of 14 parties at Kah Sheets Creek, and 7 of 7 respondents at Kah Sheets Lake). These data suggest that the majority of users visiting Kah Sheets participate in the fishery, though they don't tell us how many participated in the salmon fishery specifically. Over the course of the survey years, the average number of parties to visit each cabin per year was 17 for Kah Sheets Creek and 29 per year for Kah Sheets Lake (Coyle 2014). Since 2012, annual occupancy rates have averaged 46 users (range 37-53) for the Kah Sheets creek cabin, and 58 users (range 33-76) for the Kah Sheets Lake cabin (USFS 2022).

The Statewide Harvest Survey collects information from a randomly selected subset of licensed sport fish anglers through a mailed survey. For the last 10 years of available data (2011-2020) respondents reported no harvest of Sockeye Salmon from Kah Sheets Creek or Kah Sheets Lake. In addition, no respondents reported fishing effort for Sockeye Salmon in this location during 2020. However, at least one respondent reported fishing in this location in each year from 2011-2019 but was unsuccessful (Patrick Fowler 2022, pers. comm). This indicates sport fishing does occur but at low levels. Collectively the respondents fishing in this location reported fishing for cutthroat and rainbow trout, sockeye salmon, coho salmon, and pink salmon.

State Subsistence/Personal Use Salmon Harvest Permits are required to harvest salmon in the Petersburg Area. Personal use fisheries are authorized on some salmon stocks in the area that do not have a positive

State customary and traditional use determination. Subsistence/personal use methods include gaffs, spears, beach seines, dip nets, drift and set gillnets, and cast nets. Limited fishing seasons and annual harvest limits range from 20 to 50 salmon across the fishing sites in the Petersburg area.

On average over the last 10 years, 9 Federal Subsistence Salmon harvest reports were returned each year (range 3 to 15) with a slightly increasing number of permits over the course of the last decade (**Figure 2**) (USFWS 2022). All harvest reports from Kah Sheets belonged to members of the community of Petersburg. The number of days fished at Kah Sheets per permit averaged 1.2 days per fisher over the last 10 years (**Figure 3**). In other words, subsistence users who harvest Sockeye at Kah Sheets typically only fish one day each year. Sockeye Salmon is the predominant species of fish harvested by subsistence users at Kah Sheets. The average total harvest is 53 fish per year. Over the last four years, though, the average total harvest decreased to 27 fish. The average Sockeye Salmon harvest per permit is 6 fish, with a decreasing trend from 8 fish per permit in 2012 to 4 fish per permit in 2021 (**Figure 4**). The decreasing rate of harvest per permit suggests that subsistence users are experiencing a genuine increase in difficulty obtaining their Sockeye Salmon at Kah Sheets Creek.

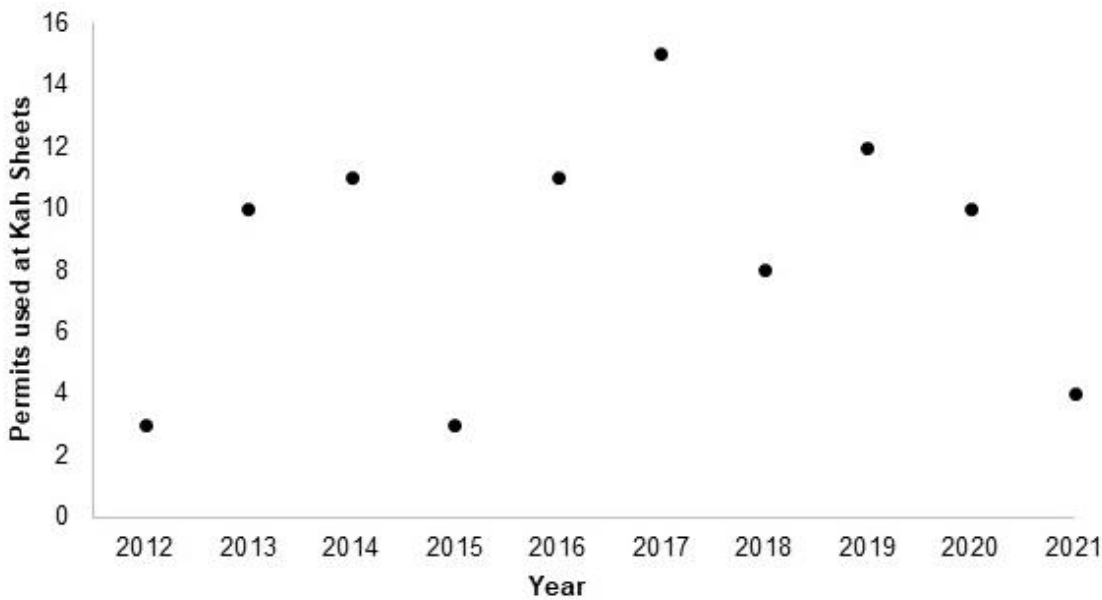


Figure 2. The number of federally qualified subsistence users reporting harvest at Kah Sheets 2012-2022 has averaged about 9 (range 3-15) (USFWS 2022).

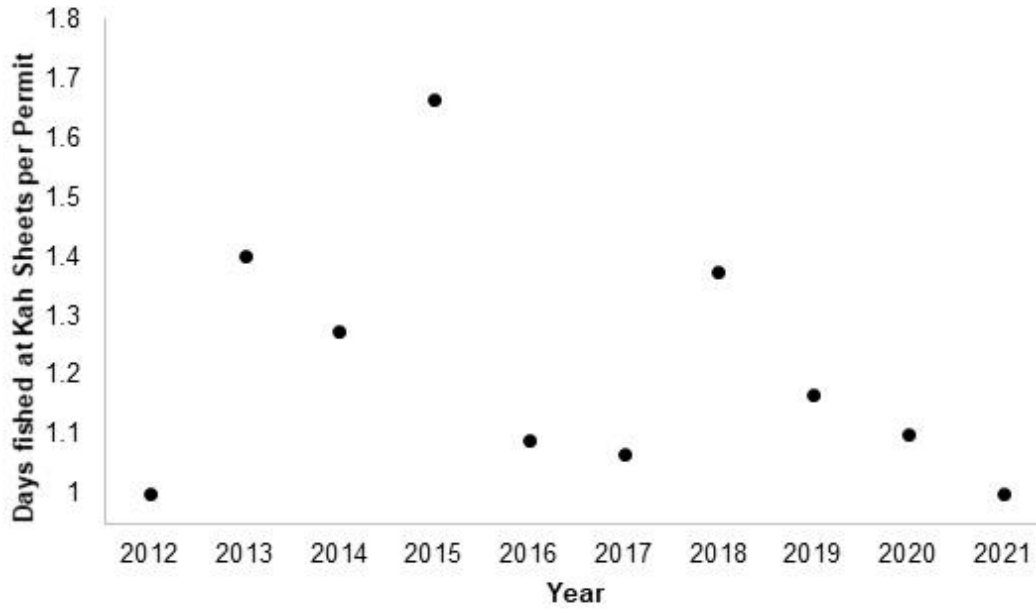


Figure 3. Days fished at Kah Sheets by federally qualified subsistence users who reported fishing at Kah Sheets 2012-2021 has averaged about 1, with a slight decrease in the last few years (USFWS 2022).

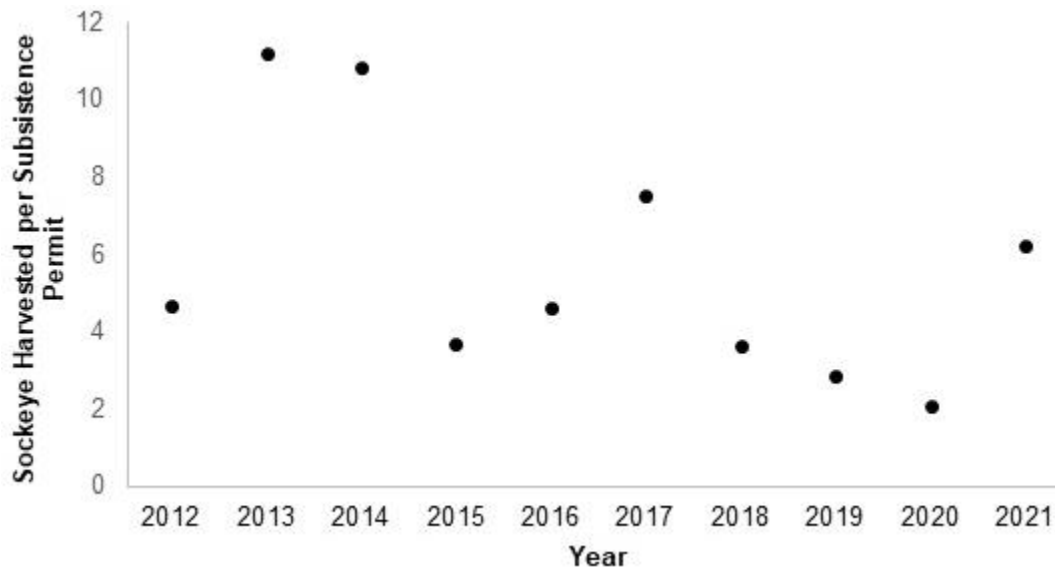


Figure 4. The average Number of Sockeye Salmon harvested by subsistence users from Kah Sheets Creek on Federal subsistence permit FFSE04 2012-2021 has steadily decreased (USFWS 2022).

Cultural Knowledge and Traditional Practices

Community Background

Kah Sheets Bay on south Kupreanof Island is within the traditional territory of the Stikine (Wrangell) Tlingit. In 1946, Petersburg resident Willis Hoagland reported that the bay was the territory of a Tlingit clan of the Raven moiety known as the *Kaach.ádi* and that it was a hunting ground with a small salmon creek where people dried fish and hunted bear, beaver, mink, and otter (Goldschmidt and Haas 1998). The Tlingit name “Kah Sheets” is said to mean “by the fisheries” or “given by the fisheries” by local navigators (Moser 1897; Orth 1967). More recent Tlingit placename documentation indicates “Kah Sheets” is a man’s name (Thornton 1999:153).

An investigation into the salmon fisheries of Alaska occurred in 1897 by Commander Jeffrey Moser of the U.S. Fish Commission. The expedition visited Kah Sheets Creek, which they described as located “northward of a house occupied by a number of Indians” (Moser 1899:108). The report includes a map sketch depicting two “Indian shacks” along the shore of the bay. Kah Sheets Creek was one of 12 streams supplying fish to the cannery in Wrangell in 1897 and during that summer it produced 4,118 Sockeye Salmon and 1,951 Coho Salmon, according to Moser (1989).

According to local experts, during the “early days” in Petersburg most of the salmon used at home was taken from commercial catches. Hand trolling, gill netting, and seining were the primary methods of salmon fishing, and all species were caught (Smythe 1988). Regulation changes prohibited beach seines, which were replaced by commercial fishing methods like shore-based gill nets, and resulted in the shift to rod and reel as the prevalent subsistence fishing method. Today, Petersburg is unique among Southeast Alaska communities in that rod and reel is the most prevalent method used for harvesting salmon for home use (Smyth 1987). However, at Kah Sheets, dip netting is the preferred method of harvest (USFWS 2022).

Residents of Petersburg are the primary salmon harvesters in the Kah Sheets area. The community of Petersburg grew up around a salmon cannery that was established before 1900. At that time, the community of Petersburg was centered around Norwegian and American commercial fishing interests and a few smaller industries such as logging, mining, fur farming, and trapping. Over time, shrimp, clam, crab, halibut, and black cod fisheries developed and refrigeration, freezing, and cold storage facilities became more and more common, facilitating the preservation of fish to sell later. Petersburg experienced economic and population declines after WWII. Commercial fishing intensified after 1975 following the imposition of the 200-mile fishing zone and the introduction of limited entry. Large scale logging in the area began in the 1960s (Smythe 1988). The population of Petersburg has doubled in the 60 years since 1960. In 2020, the population of the Petersburg Borough was estimated at 3,398 people (**Table 1**; ADCCED 2022).

Table 1. The population of the Petersburg Area 1960–2020 based on the U.S. Census (ADCCED 2022).

Community	1960	1970	1980	1990	2000	2010	2020
Petersburg CDP	1,520	2,042	2,821	3,207	3,224	2,948	3,042
Kupreanof City	26	36	47	23	23	27	21

Community	1960	1970	1980	1990	2000	2010	2020
Hobart Bay CDP	0	0	0	187	3	1	1
Petersburg Borough							3,398

Harvest and Use of Salmon

Harvest Surveys

Harvest surveys were conducted with residents of Petersburg in 1987 and 2000 (**Tables 2 & 3**). Respondents were queried about their harvests of salmon for home use using all legal methods, either removing fish from commercial catches, using subsistence/personal use methods, or with rod and reel. Personal use fisheries are authorized on some salmon stocks that do not have a positive State customary and traditional use determination. Subsistence/personal use methods include gaffs, spears, beach seines, dip nets, drift and set gillnets, and cast nets (Smythe 1987, Walker 2009).

In 1987, over three quarters (77%) of the estimated harvest of salmon was taken with rod and reel, 17% was removed from commercial catches, and 6% were taken with subsistence/personal use gear (ADF&G 2022). Surveyors were able to reach only 49 households in Petersburg during the 1987 survey, of whom none reported harvesting salmon from Kah Sheets Creek during their lifetimes.

Table 2. The harvest and use of salmon for home use by residents of Petersburg in 1987 based on household surveys. Black box means unable to determine a lower estimate (n=49, black cell=data not available; ADF&G 2022).

Salmon species	Households using	Households harvesting	Estimated harvest (fish)	Lower harvest estimate (fish)	Upper harvest estimate (fish)	Per person harvest (lb edible weight)
Salmon	97%	75%	19,373	11,317	27,428	45
Chum Salmon	16%	14%	1,089	151	2,027	2
Coho Salmon	70%	52%	6,979	4,051	9,906	14
Chinook Salmon	86%	68%	6,152	2,857	9,447	25
Pink Salmon	27%	16%	3,526		7,652	2
Sockeye Salmon	34%	11%	1,627		3,723	2

Table 3. The harvest and use of salmon for home use by residents of Petersburg in 2000 based on household surveys (n=125, ADF&G 2022).

Salmon species	Households using	Households harvesting	Estimated harvest (fish)	Lower harvest estimate (fish)	Upper harvest estimate (fish)	Per person harvest (lb edible weight)
Salmon	78%	47%	25,192	9,846	40,538	60
Chum Salmon	11%	6%	1,566	183	3,010	4
Coho Salmon	46%	27%	5,958	2,114	9,802	11
Chinook Salmon	65%	42%	9,056	4,677	13,436	36

Pink Salmon	9%	6%	4,828	564	12,794	4
Sockeye Salmon	27%	12%	3,784	442	7,856	6

In 1987, subsistence fishing was limited to Sockeye, Pink, and Chum Salmon (Smythe 1988). Subsistence gill net fishing was difficult from Petersburg because the locations of areas open to subsistence fishing lay some distance from town on neighboring islands or the mainland. The areas open to subsistence net fishing were in Farragut Bay (mainland), Gut Bay (Baranof Island), and the Bay of Pillars (Kuiu Island), targeting mostly Sockeye Salmon. Taking Chinook and Coho salmon with subsistence nets was not allowed in the Petersburg area. In 1987, Smythe (1988) reported on the harvest of Sockeye Salmon from the Kah Sheets area for subsistence by Petersburg residents,

A small run of Sockeye Salmon in Petersburg Creek was fished by a few local rod and reelers, but a larger return in the Kah Sheets system was fished more heavily by Petersburg residents, according to ADF&G. The productivity of this area which lies about a day's run by boat from town, is susceptible to annual fluctuations in rainfall. Consequently, it is used more heavily in years when conditions are more favorable for rod and reel fishing (Smythe 1988:83).

Based on household surveys in 2000, 61% of the estimated harvest of salmon was taken with rod and reel, 37% was removed from commercial catches, and 2% was taken with subsistence/personal use gear (predominantly dipnets and gillnets). An estimated 171 Sockeye Salmon and 26 Coho Salmon were harvested from Kah Sheets Creek; all were taken with rod and reel. Surveyors were able to reach only 125 households in Petersburg during the 2000 survey, so harvest estimates at Kah Sheets should be considered minimum estimates (Walker 2009, ADF&G 2022).

In 1987, salmon comprised 23% of the harvest of all wild resources harvested for home use in pounds edible weight, and 37% in 2000, indicating a continuing heavy reliance on salmon. The percentage of households harvesting salmon is larger than the percentage using salmon, which suggests the level sharing of salmon among households at Petersburg (ADF&G 2022).

Other Alternative(s) Considered

Alternative 1: Close fishing in Kah Sheets Creek from July 1 to July 31, except by federally qualified users,

Fishing pressure by non-federally qualified users, whether for Sockeye Salmon or other species, may continue to limit the success of federally qualified subsistence users due to limited access at the primary harvest location. The proposed regulation may not reduce the number of sport fishers attempting to fish for other species in the pool below the waterfall and this is the only location on Kah Sheets Creek that provides suitable dip netting. Closing the creek to all sport fishing during the main Sockeye Salmon run would reduce competition for access on the creek, reduce regulatory confusion, and allow for sport fishing at the lake where minimal subsistence salmon harvest occurs. Restricting the closure to July 1 – 31 would maintain opportunity for sport anglers targeting Steelhead, trout, (April-May) and Coho Salmon

(September-October) without impeding harvest success for subsistence users FQSU targeting Sockeye in July.

Effects of the Proposal

If this proposal is adopted, there would be reduced competition for limited access to a subsistence resource. In addition to reducing the amount of conflict between user groups, closing the Sockeye Salmon fishery to non-federally qualified users would reduce the overall fishing pressure on the Kah Sheets Sockeye Salmon stock. The proposed regulation would still allow non-subsistence users to fish in the primary harvest location but may deter them from fishing the creek if they are not able to keep Sockeye Salmon.

If the alternative is adopted instead, competition from non-subsistence users would be eliminated in the creek during the main portion of the Sockeye Salmon run, while avoiding unnecessary restriction to the lake, where minimal Sockeye Salmon harvest occurs. The per angler subsistence Sockeye Salmon harvest at Kah Sheets Creek is low, suggesting that the escapement is minimal. However, the low level of fishing effort in Kah Sheets makes it difficult to draw firm conclusions on escapement without further data. Sockeye Salmon harvest locations are limited in the area and the proposal would give a preference to subsistence users over sport harvesters and protect a small and vulnerable system.

If the proposal and alternative are both rejected, conflict between user groups for access to fishing opportunities in Kah Sheets Creek are expected to continue.

OSM CONCLUSION

Support Proposal FP23-21 **with modification** to close Kah Sheets Creek to non-federally qualified users from July 1 to July 31, while leaving Kah Sheets Lake open to all users.

The modification should read:

§ __.27(e)(13)

(xxiii) The Federal public waters of Kah Sheets Creek are closed from July 1 to July 31, except by federally qualified users.

Justification

Kah Sheets Creek is one of three primary Sockeye Salmon harvest locations for residents of Petersburg. However, harvesting Sockeye Salmon in Kah Sheets does not require crossing large bodies of water or specialized equipment, making it a favorite fishing location for Federally qualified subsistence users with small boats. Increasing competition with non-federally qualified users has led to user conflicts and may be leading to decreased harvest success for subsistence users. Harvesters on Kah Sheets Creek are limited by access to a singular harvest location below a waterfall. Local lodges direct non-Alaska resident sport

harvesters to the area, which has led to increased competition with subsistence users. Eliminating competition by nonsubsistence users at this location, while keeping Kah Sheets Lake open to all users, will give a Federal preference to rural residents and reduce user conflicts over Sockeye Salmon and be less restrictive than a full closure.

LITERATURE CITED

ADCCED (Alaska Department of Commerce, Community, and Economic Development) 2022. DCRA Open Data, online database. <https://dcra-cdo-dcced.opendata.arcgis.com/>, retrieved June 15, 2022. Division of Community and Regional Affairs. Juneau, AK.

Alaska Department of Fish and Game (1965) Kah Sheets Weir CFD Management Report. Report. Alaska Department of Fish and Game. Alaska. 3pp.

Coyle, C. 2014. Survey of Anglers Using Southeast Alaska Recreation Cabins During 2012. ADF&G, Div. of Sport and Commercial Fisheries. Fisheries Data Series Number 14-50. Juneau, AK. 50pp

Goldschmidt, W.R., and T. Haas. 1998. *Haa Aani: Our Land*. Tlingit and Haida land rights and use. University of Washington Press, Seattle and London and Sealaska Heritage Foundation, Juneau, AK. 219 pages.

Moser, J. F. (1899). The Salmon and Salmon Fisheries of Alaska. Report of the Operations of the United States Fish Commission Steamer Albatross for the Year Ending June 30, 1898. U.S. Fish Commission Bulletin for 1898.

Orth, D. J. 1967. Dictionary of Alaska Place Names. U.S. Government Printing Office, Washington, D.C. 1,084 pages.

Fowler, P. 2022. Petersburg-Wrangell Area Manager. Personal communication: FP23-21 LT draft review comments. ADF&G. Petersburg, AK.

Smythe, C.W. 1988. Harvest and use of fish and wildlife resources by residents of Petersburg, Alaska. ADF&G, Div. of Subsistence Tech. Paper No.. 164. Juneau, AK. 160 pages.

Thornton, T. F. 2012. *Haa Leelk'w Has Aani Saax'u: Our Grandparents' Name on the Land*. Juneau, Sealaska Heritage Institute. Juneau, AK.

Uppencamp, G. 2022. Proponent. Personal communication: phone. Petersburg, Alaska.

U.S. Fish and Wildlife Service. 2022. Federal Subsistence Permit System Database, updated June 2022.

USFS. 2022. Recreation.gov – camping facilities utilization details report data, updated July 2022.

Walker, R. 2009. The validity and reliability of fisheries harvest monitoring methods, Southeast Alaska. ADF&G, Div. of Subsistence Tech. Paper No. 286. Juneau, AK. 122 pages.

REGIONAL ADVISORY COUNCIL RECOMMENDATION

Southeast Alaska Subsistence Regional Advisory Council

Support Proposal FP23-21 **with modification** to close Kah Sheets Creek to non-federally qualified users from July 1 to July 31, while leaving Kah Sheets Lake open to all users. Although it is difficult to determine if there is a conservation concern without stock assessment data, this area attracts a fair amount of fishermen so it can be assumed there are lots of fish. Since fish are being harvested under a Federal permit, the Council feels obligated to provide a meaningful priority for an important resource (Sockeye Salmon) to subsistence users to help meet their subsistence harvest needs. This will not unnecessarily restrict non-federally qualified users. The modification still meets the general intent of proponent as it reduces competition and may prevent non-federally qualified users flooding into the area where there is already a significant competition for physical space between sport fishermen and subsistence users.

INTERAGENCY STAFF COMMITTEE COMMENT

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

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Fisheries Proposal FP23-21

This proposal would prohibit sockeye harvest in Kah Sheets Lake and Creek to non-federally qualified users (NFQU).

Position

The Alaska Department of Fish & Game (ADF&G) **OPPOSES** prohibiting NFQUs from harvesting sockeye from Kah Sheets Creek and Kah Sheets Lake. Current harvest of sockeye within this drainage by NFQUs is very low. As directed by Congress in Section 802 of ANILCA, subsistence uses of wildlife shall be the priority consumptive use on federal public lands “when it is necessary to restrict taking in order to assure the continued viability of a fish or wildlife population or the continuation of subsistence uses of such population.” Section 815 of ANILCA authorizes federal restrictions on nonsubsistence uses on the public lands only if “necessary for the conservation of healthy populations of fish and wildlife” or if necessary to “continue subsistence uses.” Based on ADF&G’s analysis of the data available there are no conservation concerns and given the amount of fishing effort by NFQUs, none of these stipulations under ANILCA apply and this proposal should not be passed.

ADF&G recommends the proponent participate in the Alaska Board of Fisheries (BOF) process if the intent is to prohibit sockeye harvest in the sport fishery by nonresident anglers.

Background

Kah Sheets Creek and Lake is located on the Southeast corner of Kupreanof Island approximately 25 miles from the community of Petersburg. This lake system supports pink, chum, coho and sockeye salmon along with populations of Steelhead, cutthroat trout and Dolly Varden. Access commonly occurs by two methods: float plane into the lake where the United States Forest Service (USFS) maintains a public use cabin and via boat from saltwater to the lower Kah Sheets Creek where a second USFS cabin is located. The saltwater approach is guarded by a mud and rock tidal flat requiring precise navigation at select tides.

There are no state personal use or subsistence sockeye salmon fisheries on Kah Sheets Creek or Lake. The sport fishery for sockeye salmon in Kah Sheets Creek and Lake is open with regional bag and possession limits while the use of bait is prohibited for all species within the drainage and snagging is prohibited in all freshwaters throughout Southeast Alaska.

The Statewide Harvest Survey collects information from sport fish anglers through a mailed survey. For the last 10 years of available data (2012-2021) respondents reporting catch or harvest from Kah Sheets Creek or Kah Sheets Lake is present but below minimums (12 responses) for quantifying harvest or effort. Given the low number of responses at this site ADF&G examined the freshwater sockeye salmon harvest in the greater Petersburg/Wrangell Management Area, which includes the Kah Sheets watershed and several other sockeye drainages surrounding the communities of Petersburg and Wrangell. In the last 10 years (2012-2021) this area has averaged 86 sockeye salmon harvested annually in the freshwater sport fishery.

Between 2007 and 2016 freshwater guides were required to report guided activity on daily logbooks. During these years guided activity occasionally occurred on the Kah Sheets drainage (6 of 10 years). However, no sockeye were harvested, guided activity only reported harvest of steelhead and cutthroat trout which likely occurred in the spring.

ADF&G has not regularly conducted surveys to monitor sockeye salmon escapement on the Kah Sheets drainage. The surveys ADF&G has conducted indicate it is a small system with annual escapement likely less than 3,000 sockeye salmon. Although there are more than 200 systems within Southeast Alaska that produce sockeye salmon, most are small and comprehensive stock assessment projects that provide detailed information on escapement and harvest are limited to the largest producers. Escapement goals have been established for 2 Yakutat area stocks (Situk and East Alosek), 4 transboundary river stocks

(Klukshu, Taku, Stikine, and Tahltan), and 6 other Southeast stocks (Chilkat, Chilkoot, Speel, Redoubt, McDonald, and Hugh Smith). Performance of these sockeye systems can be found in the ADF&G fisheries manuscript series authored by Heintz (2021) “Review of Salmon Escapement Goals in Southeast Alaska, 2020”. Generally, sockeye salmon abundance has been low in southern Southeast Alaska since about 2015.

Impact on Subsistence Users

The adoption of this proposal would have little impact on subsistence users. From the data available there are few NFQUs targeting sockeye salmon in Kah Sheets Creek/Lake.

Impact on Other Users

If adopted, this proposal would exclude NFQUs from participating in sport fisheries for sockeye salmon in the freshwaters of Kah Sheets Creek/Lake. Sport fishing for other species of salmon, trout and char in these waters would remain open.

Opportunity Provided by State

State customary and traditional use findings: The Alaska Board of Fisheries (BOF) has not made positive customary and traditional use findings for salmon in the waters encompassing Kah Sheets Lake and Creek.

Amounts Reasonably Necessary for Subsistence: Alaska state law requires the BOF to determine the amount of the harvestable portion of a fish population that is reasonably necessary for customary and traditional uses. This is an ANS. The BOF does this by reviewing extensive harvest data from all Alaskans, collected either by ADF&G or from other sources.

ANS provides the BOF with guidelines on typical numbers of fish harvested for customary and traditional uses under normal conditions. Fishing regulations can be re-examined if harvests for customary and traditional uses consistently fall below ANS. Because there is not a customary and traditional use finding for salmon in this area, there can be no ANS for salmon

5AAC 01.710 - Fishing seasons

- (a) Except in the nonsubsistence areas described in 5 AAC 99.010(a)(1) and (2) and unless restricted in this section, 5 AAC 01.725, or under the terms of a subsistence fishing permit, fish, other than rainbow trout and steelhead trout, may be taken in the Southeastern Alaska Area at any time.

5AAC 01.745 Subsistence bag and possession limits; annual limits

(f) In the Petersburg-Wrangell Management Area, in waters open to subsistence salmon fishing under a household subsistence salmon fishing permit, the possession and annual limits for salmon per household are as follows:

(1) Sockeye Salmon may not be taken for subsistence uses, except that Sockeye Salmon may be taken in the vicinity of Point Baker as described in 5 AAC 01.710(f) and (c) of this section, and in the following waters, with the following possession and annual limits:

(B) District 6: in the following waters, the possession and annual limit is 30 Sockeye Salmon:

(i) Red Bay;

(ii) Salmon Bay;

5 AAC 42.022 – General provisions for seasons and bag, possession, annual, and size limits for the fresh waters of Southeast Alaska Area

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

(2) salmon, other than king salmon: may be taken from January 1 - December 31; no annual limit, no size limit; bag and possession limits, as follows:

(A) 16 inches or greater in length; bag limit of six fish per species; possession limit of 12 fish per species;

(B) less than 16 inches in length; bag and possession limit of 10 fish in combination;

AAC 47.023 - Special provisions for seasons, bag, possession, annual, and size limits, and methods and means for the fresh waters of the Southeast Alaska Area

(h) In the Petersburg/Wrangell vicinity:

(5) in Kah Sheets Lake, Anan Lake, Thoms Lake, and Virginia Lake,

(A) only unbaited, artificial lures may be used;

(B) rainbow and cutthroat trout, in combination, must be no less than 14 inches and no greater than 22 inches in length;

Conservation Issues

There are no conservation concerns that would justify taking action on this proposal. As has been previously mentioned, the number of NFQUs who currently fish the freshwaters of Kah Sheets Creek/Lake for sockeye salmon is low.

Enforcement Issues

Enforcement challenges may occur with respect to NFQUs who would still be allowed to fish for trout, char, and other salmon species in the freshwaters of Kah Sheets Creek/Lake watershed with similar terminal tackle as an angler might use to target sockeye.

WRITTEN PUBLIC COMMENTS

July 25, 2022

TO Theo Matsukowitz, subsistence@fws.gov
FROM Tongass Women's Earth and Climate Action Network
SUBJECT **FB 23-21** Subsistence CTU priority during time of shortage

This request to close federal waters of "Kah Sheets" Lake and River to visitor non-qualified federal user's sports harvests is well warranted on several levels. The SOI-FS will be able to monitor and control this regulation in connection with their remote public recreational cabins and CTU.

QUESTION: What of the privately-owned lodges connected to the federally protected lands and waters under the jurisdiction of the AK Department of Fish and Game?

The state of Alaska's wild resource management of "sustained yield" is strictly financial. It is all about the money. Guided or unguided, the commercial visitor industry reins a #1 moneymaker for the state.

Large brown waxed "fish boxes" are a huge seller for coastal and inner water local store suppliers. Top of the list for visiting anglers grabbing the top species of salmon and lovers of all species of crab filling each box being exported to where ever. The state has no monitoring or restrictions on visitor taking or encroachments of "subsistence" dependent resources.

Due to the jurisdictional complications during the instances of warm weather conditions hindering the natural process of the salmon's lifecycle, federal authority must override the ADF&G and ban visitor commercial export of all threatened species of wild salmon stocks across the board.

We feel that this approach is truly based on the trust of the federal government to protect CTU and "Personal Use" of the wild natural resources we depend up daily, seasonally, annually. Those of us living off the land do not overtake or abuse the food we put into our mouths.

Wanda J Culp, Coordinator, Juneau, Alaska, wandajculp@yahoo.com
Rebekah Contrarez, Representative, Hoonah, Alaska
Kari Ames, Representative, Hoonah, Alaska
Adrien Lee, Representative, Juneau, Alaska
Mamie Williams, Representative, Hoonah, Alaska
Yolanda Fulmer, Representative, Juneau, Alaska

Wanda J Culp, Tlingit, 8477 Thunder Mt Rd Lot 65, Juneau, AK 99801
wandajculp@yahoo.com

July 26, 2022

RE: 1. **FB 23-20** Shell/Fish+ Revised Customary & Traditional Taking process to All S.E Residents
 2. **FP 23-21** Sockeye Salmon CTU priority closure at Kah Sheets Lake & River
 3. **Ketchikan Indians Nonrural Determination** Reversal of Saxmen Village.

Dear Theo Matuskowitz, DOI-F&WS, and DeAnna Perry, DOA-FS Federal Subsistence Board Liaison to the S.E. Alaska Regional Advisory Council

Please consider my comments for the above-mentioned FSB proposals from S.E.

2. **FP 23-21 – Closure of Sockeye Salmon in Federal Waters of Kah Sheets Lake and River to “Non-Federally Qualified Subsistence Users”** well justifies an emergency closure priority. This proposal involves visitor cabin use and competition for a depleting salmon stock in a small area. Whether the remote cabin is on U.S.F.S. public use land or connected to state of Alaska private owned property, the opportunity to “take” salmon is equal in both jurisdictions. What is not equal, is the state of Alaska not limiting, monitoring, or controlling the number/poundage of salmon and crab exporting Alaska daily from coastal communities and villages taken by the commercial visitor industry annually. Whereas, the FSB-state of Alaska dual management of “subsistence” strictly imposes a 6 salmon “take” limit with conditions under the state of Alaska’s sport hunting and fishing commerce-rooted regulations. Until this imbalanced management can become just and fair for “federally recognized Tribal Members” or a “federally qualified user”, the state of Alaska is literally in non-compliance of federal laws and jurisdictional authority of Alaska’s Federal Subsistence Board of Directors. Any fish and wildlife citations must begin to be routed into federal court for appropriate due process rather than the state of Alaska’s where the sentence is predetermined under their 1959 State Constitution.

And, without proper enforcement eyes and ears boots on the ground training to recognize differing harvesters and non-compliance to “sustained yield” aligning with stock shortages and threats to fish and wildlife, what good are these rules?

FCR23-23 Executive Summary	
General Description	FCR23-23 is a routine review of the Federal subsistence salmon fishery closure on the Taku River
Current Regulation	<p>§ __.27(e)(13) <i>Southeast Alaska Area</i></p> <p style="text-align: center;">***</p> <p style="text-align: center;"><i>(xix) There is no subsistence fishery for any salmon on the Taku River</i></p> <p style="text-align: center;">***</p>
OSM Conclusion	Rescind
Southeast Alaska Subsistence Regional Advisory Council Recommendation	Rescind
Interagency Staff Committee Comments	<p>The Interagency Staff Committee acknowledges that this closure is out of compliance with Title VIII of ANILCA by being closed to fishing by federally qualified subsistence users while allowing for personal use fishing under State regulations. The Federal Subsistence Board (Board) would need to take action to bring this situation back into compliance with ANILCA. The Board could modify the closure by closing to all uses. The Board could also rescind the closure and provide a priority consumptive use to federally qualified subsistence users.</p> <p>The Regional Advisory Council has recommended the closure be rescinded, bringing this fishery back into compliance with ANICLA. In the absence of this closure standard, area Federal subsistence regulations would apply which could present conservation concerns. Permanent regulations would be the preferable solution to address possible conservation concerns while still providing a meaningful priority to federally qualified subsistence users.</p> <p>Until the Board receives and takes action on proposals, Federal managers can use their delegated authority if conservation concerns arise. The ISC recognizes that unless modified by the Board, current Fisheries delegation of authority letters limit Federal managers to emergency special actions (actions lasting no longer than 60 days).</p>

ADF&G Comments	Supports the continued closure
Written Public Comments	None

FEDERAL FISHERIES CLOSURE REVIEW
FCR23-23

Issue

The Taku River has been closed to all subsistence salmon fishing since 2008. This closure is up for review. At the time of the initial closure, the Subsistence Board stated that this change was made because no subsistence salmon fishery in the Taku River is authorized by the Pacific Salmon Treaty. There is currently a personal use sockeye Salmon fishery on the Taku River. It is the Board's policy that Federal public lands and waters should be reopened as soon as practicable once the conditions that originally justified the closure have changed to such an extent that the closure is no longer necessary. The purpose of this closure review is to determine if the closure is still warranted and to ensure the closure does not remain in place longer than necessary.

Closure Location: Taku River—All Salmon

Current Federal Regulation

§ __.27(e)(13) Southeast Alaska Area

(xix) There is no subsistence fishery for any salmon on the Taku River

Closure Dates: Year Round

Current State Regulation

5 AAC 01.730. Subsistence fishing permits

(b) Permits will not be issued for the taking of coho salmon from the Taku River or Stikine River drainages, however coho salmon taken incidentally by gear operated under terms of a subsistence permit for other salmon are legally taken and possessed for subsistence purposes as described in (j) of this section.

5 AAC 77.682. Personal use salmon fishery

(f) in the Taku River drainage, the annual limit for each personal use sockeye salmon permit is 10 sockeye salmon for a household of one person and 20 sockeye salmon for a household of two or more persons.

(g) Salmon may be taken by gear listed 5 AAC 01.0101(a) except as may be restricted on a personal use fishing permit and except as follows:

(2) set gillnets may not be used to take salmon except

(B) in the Taky River drainage from the Taku River Lodge upstream to the United States / Canada border, salmon may be taken by set gillnets only;

(3) in the Chilkat and Taku rivers and in Shipley Bay and Yes Bay, the personal use permit holder shall be physically present at the net while it is in operation.

(4) a gillnet may not exceed 50 fathoms in length, except in the Taku River a set gillnet may not exceed 15 fathoms in length;

(h) Salmon may be taken at any time except

(3) in the Taku River drainage, sockeye salmon may be taken only in the waters from the Taku River Lodge upstream to the United States/Canada border and only from July 1 through July 31.

(n) In the Juneau Management Area, in waters open to personal use salmon fishing under a household personal use salmon fishing permit, and unless otherwise specified in a terminal harvest area under 5 AAC 33 or 5 AAC 77.685, the possession and annual limits for salmon per household are as follows:

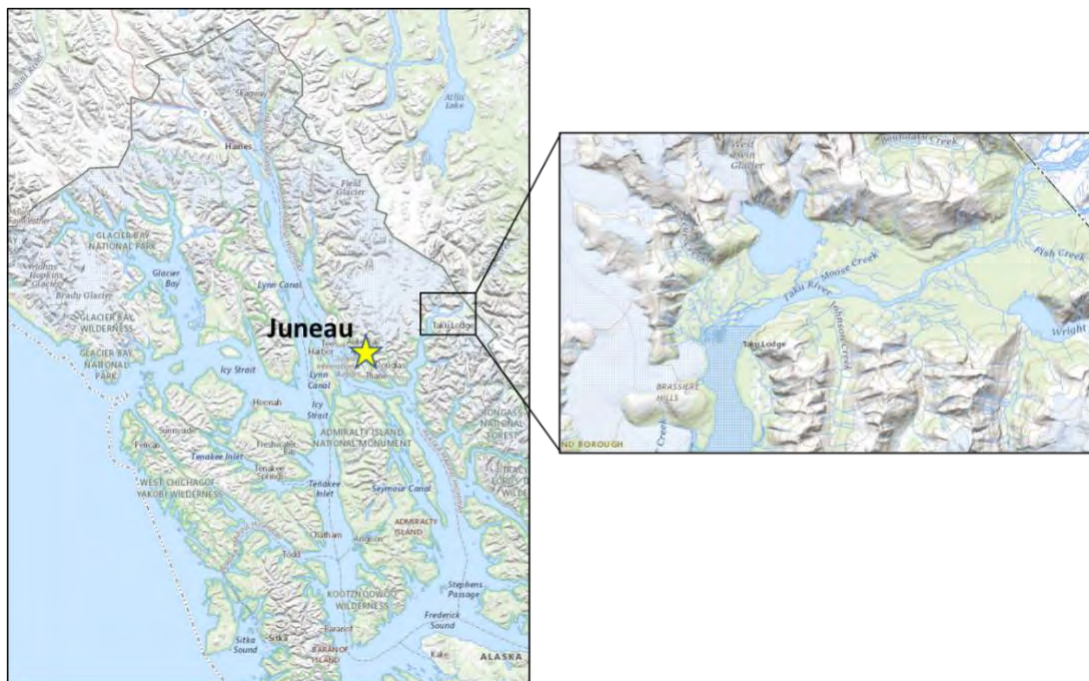
(1) sockeye salmon may not be taken for personal use, except that in the following waters sockeye salmon may be taken with the following possession and annual limits

(B) Taku River drainage: the possession and annual limit are as specified in (f) of this section

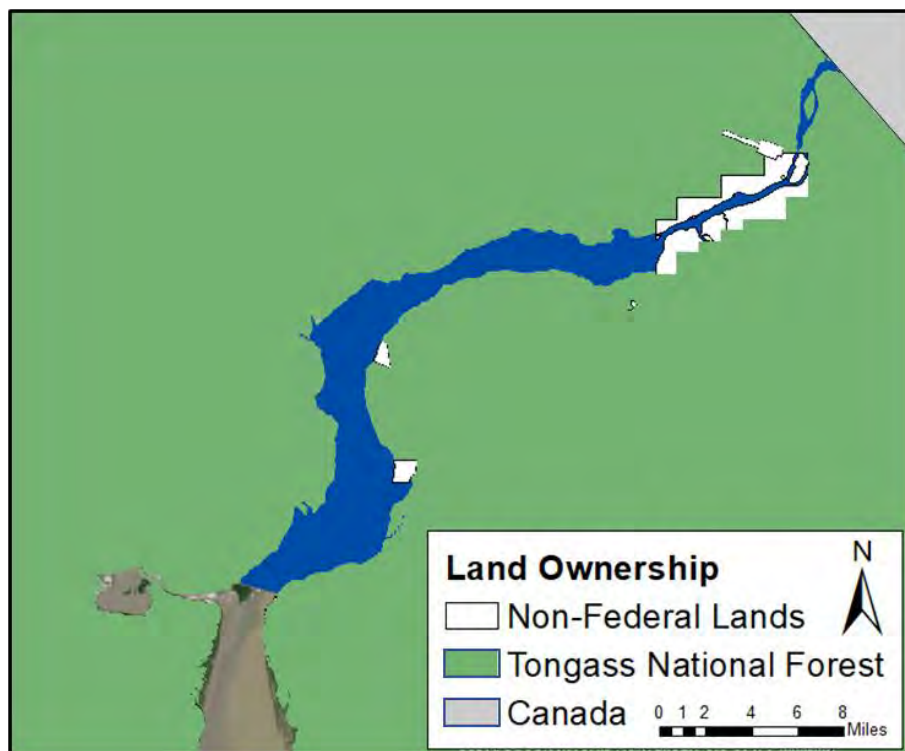
Regulatory Year Initiated: 2002-2003

Extent of Federal Public Lands/Waters

The Taku River is a transboundary river with headwaters in the Coast Mountains of British Columbia; its mouth is approximately 30 miles east of Juneau, Alaska. It is approximately 13 river miles from the U.S. Canada border to the outlet, where the river opens to Taku Inlet and Stephens Passage (**Map 1**). The watershed is transboundary, and the area on the American side that drains to the Taku is approximately 233,248 acres, most of which is part of the Tongass National Forest. Approximately 4 miles of the river are bordered on both sides by state land (**Map 2**). There are 1.5 miles of river above this section and downstream of the Canadian border, and approximately 28 miles of river below this section to the high tide line.



Map 1. Location and detail of the Taku River. The map illustrates the location of the Taku River relative to Juneau and the rest of northern Southeast Alaska, as well as the portion of the river that is within the United States.



Map 2. Federal Public Waters of the Taku River. The map illustrates the land ownership adjacent to the Taku River

Customary and Traditional Use Determination

Residents of Yakutat and the Southeastern Alaska Fishery Management Areas have a customary and traditional use determination for fish throughout Southeastern Alaska and Yakutat.

Regulatory History

The first mention of the Taku River in the Federal subsistence Regulations is in 68 FR 7275, when the Coho Salmon fishery on the Taku River was closed. 50 CFR 100.27 was amended to say:

§ 100.27(i)(13)(v): In the Southeastern Alaska Area, except for sections 3A, 3B, and 3C and the Stikine and Taku Rivers, you may take coho salmon in Southeast Alaska waters under Federal jurisdiction under the terms of a Federal subsistence fishing permit. There is no closed season. The daily harvest limit is 20 coho salmon per household, and the annual limit is 40 coho salmon per household. Only dipnets, spears, gaffs, and rod and reel may be used. Bait may only be used from September 15 through November 15. You may not retain incidentally caught trout and sockeye salmon unless taken by gaff or spear.

This passage was changed again in 2005, although it did not affect the closure of the Taku Coho Salmon fishery.

§ .27(i)(13)(xx): you may take coho salmon under the terms of a subsistence fishing permit, except in the Stikine and Taku Rivers. There is no closed season. The daily harvest limit is 20 coho salmon per household. Only dipnets, spears, gaffs, handlines, and rod and reel may be used. Bait may only be used from September 15 through November 15.

The next change was in 2007. Again, there was no change to the Coho Salmon closure on the Taku.

§ .27(i)(13)(xx): you may take coho salmon under the terms of a subsistence fishing permit, except in the Stikine and Taku Rivers. 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.

In 2008 § .27(i)(13)(xx) was again changed, this time to read:

§ .27(i)(13)(xx): There is no subsistence fishery for any salmon on the Taku River.

This change was explained in the Summary of Board Proposals section of 73 FR 13761 *Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D-2008-09 Subsistence Taking of Fish and Shellfish Regulations* with the following statement:

A clarification of the regulations for the Southeast Alaska area was made to show that there is no subsistence salmon fishery in the Taku River. This is because no subsistence salmon fishery is authorized by the Pacific Salmon Treaty and its annexes.

The closure of all subsistence fisheries on the Taku River has remained unchanged since then.

Closure last reviewed

There have been no previous reviews of this closure.

Justification for Original Closure

73 FR 13761

A clarification of the regulations for the Southeast Alaska area was made to show that there is no subsistence salmon fishery in the Taku River. This is because no subsistence salmon fishery is authorized by the Pacific Salmon Treaty and its annexes.

Council Recommendation for Original Closure

No documentation on the original closure, or discussion of the closure have been found in subsistence board transcripts.

State Recommendation for Original Closure

No documentation on the original closure, or discussion of the closure have been found from ADF&G documents.

Biological Background

The Taku River produces large runs of Chinook, Sockeye, Coho, Pink, and Chum Salmon. The Alaska Department of Fish and Game in coordination with the Canadian Department of Fisheries and Oceans, and Taku River Tlingit First Nation has estimated total escapement of Chinook Salmon to the Taku since 1989 under the terms of the Pacific Salmon Treaty. Prior to that, helicopter counts of large Chinook Salmon were carried out between 1975 and 1988. Escapement studies across Southeast Alaska have shown the Taku River to have the largest escapement of Chinook Salmon in the region (Pahlke 2009). However, stocks throughout Southeast Alaska have been depressed, and the Taku River stock has not met escapement goals since 2015 (**Figure 1**) (Skannes *et al.* 2016, Fowler *et al.* 2021). The Large Chinook Salmon escapement goal range is 19,000 to 36,000 fish, with a management objective of 25,500 fish (McPherson *et al.* 2010). The 10-year average terminal run of Chinook Salmon in the Taku River is 16,200, but the bilateral preseason forecast for 2022 is only 6,600 fish, well below the minimum escapement goal (Transboundary Technical Committee, 2022). The Taku River has been recommended as a Chinook Salmon stock of concern with an action plan to be developed at the 2022 Southeast Alaska finfish meeting (Fowler *et al.* 2021).

Sockeye Salmon escapement monitoring in the Taku River is also required under the Pacific Salmon Treaty. Taku stocks of Sockeye Salmon are meeting escapement goals, with an average escapement of 184,823 fish over the last decade (**Figure 2**). The 2022 escapement is goal range is 40,000 to 75,000 fish with a management objective of 58,000 fish (Miller and Pestal 2020). The preseason forecast is 128,000 wild fish, which exceeds the high end of the escapement goal, but falls below the 10-year average return of 150,000 fish (Transboundary Technical Committee, 2022).

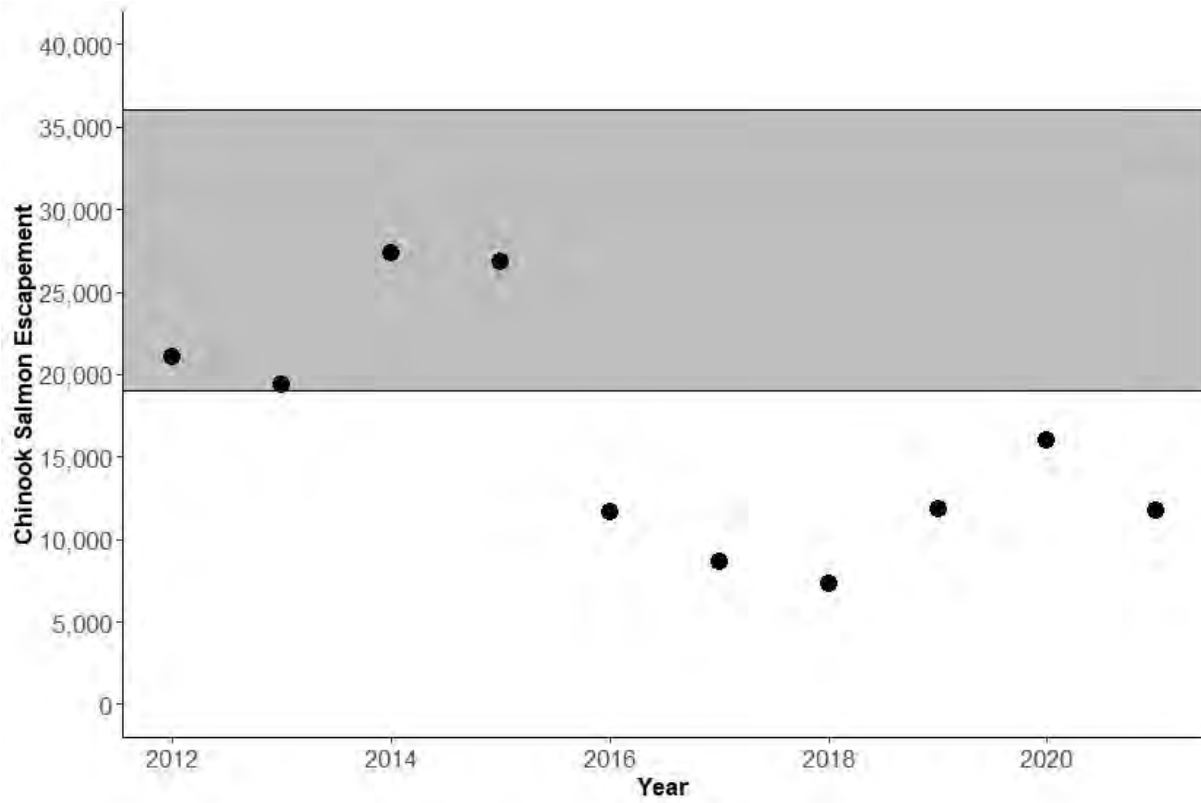


Figure 1. Actual Chinook Salmon escapement in the Taku River 2012-2021. The grey bar represents the escapement goal range (*Transboundary Technical Committee, 2022*).

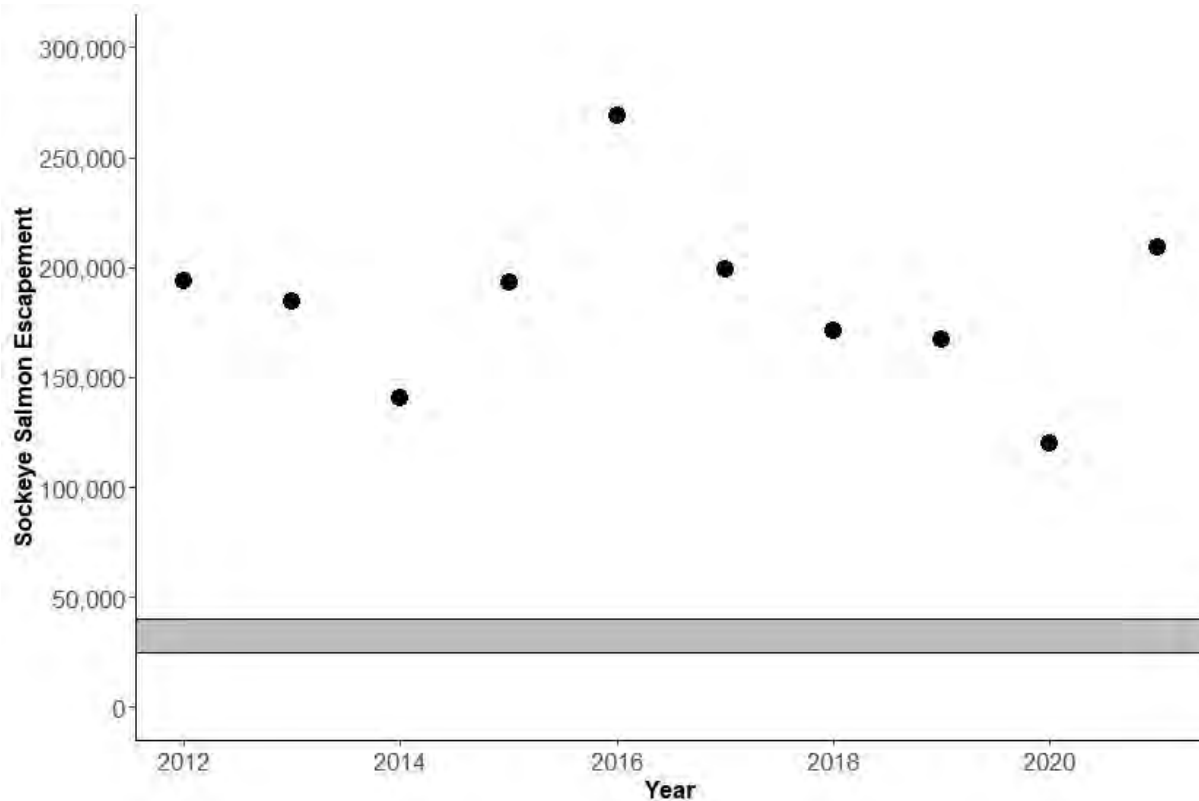


Figure 2. Actual escapement of Sockeye Salmon in the Taku River, 2012-2021. The grey bar represents the escapement goal range (Transboundary Technical Committee, 2022).

Cultural Knowledge and Traditional Practices

Traditionally and historically, Taku Tlingit occupied the Taku River drainage. It is generally accepted that Taku people occupied the Interior also and that they are closely intermarried with the group of Interior Natives of Atlin, British Columbia. People were able to live off the land in Taku Inlet by fishing, hunting and trapping, berry picking and trading fur to the boats that traded in the area. It has been reported that village sites were abandoned when people moved to the Douglas-Juneau area. For example, there was a village at Bishop Point but people moved to the Douglas-Juneau area when gold was discovered in the 1880s (Goldschmidt and Hass 1998).

Five former villages were reported to Goldschmidt and Hass (1998) in the 1940s in the Taku River drainage starting at Bishop Point at the mouth. One former and one existing smokehouse and a cemetery were also reported. One village was reported as being continuously used by Taku people at Taku Point where gillnetters had their shacks and smokehouses in the 1940s.

Harvest History

The Pacific Salmon treaty allows for a U.S. terminal harvest (commercial and sport) of up to 3,500 Chinook Salmon if the run is sufficient to support it and still meet minimum escapement, and a post-season personal use Chinook Salmon fishery. Currently there is no Chinook Salmon personal use fishery; Chinook Salmon are caught incidentally to the directed Sockeye Salmon personal use fishery. Between

2008 and 2017, the harvest estimate of the Taku River Chinook Salmon run averaged 25%, predominantly by the United States which harvested 15% of the run on average (Fowler *et al.* 2021). During these years, 61% of the U.S. harvest went to the commercial troll fishery, 22% to the commercial gillnet fishery, and 17% to the sport fishery; less than 1% of the harvest went to the personal use fishery (Fowler *et al.* 2021). In 2018, conservation measures were put in place to reduce the harvest of Chinook Salmon across Southeast Alaska, which significantly reduced the harvest of Taku River Chinook Salmon. From 2018 to 2020, the United States harvest averaged 2.4% of the run, with Canada harvesting an additional 0.2% (Fowler *et al.* 2021). Of the U.S. harvest, 65% occurred in the drift gillnet fishery, 23% in the sport fishery, and 12% in the commercial troll fishery, and a very small number of fish were harvested in the personal use fishery (Fowler *et al.* 2021). In 2020, the personal use harvest was 15 fish, out of a total U.S. harvest of 316 fish, thus making up 4.7% of the total U.S. harvest that year (Forbes 2020).

Commercial Sockeye Salmon Harvest in District 111 traditionally opens on the third Sunday of June and is open for 72 hours (Fowler *et al.* 2021). Further restrictions may be imposed depending on the development of the Chinook Salmon fishery.

Effects

Opening Federal subsistence harvest on the Taku River is not likely to have a significant impact on the Taku River salmon stocks, except perhaps to Chinook Salmon, due to the substantial distance between the mouth of the river and the nearest subsistence communities of Gustavus, Hoonah, Cube Cove, and Kake. However, the declining performance of the Chinook stock in recent years may indicate a conservation concern for that fishery. Special Actions by Federal managers could allow for a subsistence Sockeye Salmon harvest and prevent direct harvest of Chinook Salmon. However, Chinook Salmon bycatch by subsistence users while harvesting Sockeye Salmon could cause further decline in the Chinook stock.

OSM CONCLUSION:

- Retain the Status Quo
- Rescind the Closure**
- Modify the Closure
- Defer Decision on the Closure or Take No Action

The regulations should read:

§ ____ .27(e)(13) *Southeast Alaska Area*

~~(ix) There is no subsistence fishery for any salmon on the Taku River~~

Justification

The provisions listed in the Pacific Salmon Treaty for U.S. take and allocation of salmon apply only to the District 111 drift gillnet fishery, and therefore do not apply to the State personal use fishery, nor a Federal Subsistence Fishery (Pacific Salmon Commission 2022).

Title VIII of ANILCA mandates that Federal subsistence be given priority over other consumptive uses of fish and wildlife resources (16 U.S.C. 3112). Given that there is an in-river personal use fishery for Sockeye Salmon on the Taku River, there is no justification for maintaining the status quo. If there is an open State fishery, then the Federal subsistence closure should be rescinded.

Literature Cited

Forbes, S. 2020. District 11 Drift Gillnet Fishery: Taku Inlet, Stephens Passage, and Port Snettisham 2020 Management Summary, Alaska Department of Fish and Game, Gillnet Taskforce Meeting, 7 December 2020.

Fowler, Patrick A., Chapell, Richard S, and Southeast Region Division of Sport Fish Staff. 2021. Overview of the Sport Fisheries for King Salmon in Southeast Alaska through 2020: A Report to the Alaska Board of Fisheries. Special Publication number 21-10. Alaska Department of Fish and Game, Division of Sport Fish and Commercial Fisheries, Research and Technical Services. Juneau, AK. 98pp.

Goldschmidt, W.R., and T. Haas. 1998. *Haa Aani*: Our Land. Tlingit and Haida land rights and use. University of Washington Press, Seattle and London and Sealaska Heritage Foundation, Juneau, AK. 219pp.

McPherson, S.A., E.L. Jones III, S.J. Fleischman, and I.M. Boyce. 2010. Optimal Production of Chinook Salmon from the Taku River Through the 2001 Year Class. Alaska Department of Fish and Game, Fishery Manuscript Series No. 10-03 Anchorage, AK. 108pp.

Miller, S.E., and Pestal, G. 2020. Estimates of a Biologically-Based Spawning Goal and Management Benchmarks for the Canadian-Origin Taku River Sockeye Salmon Stock Aggregate. DFO Can. Sci. Advis. Sec. Res. Doc. 2020/nnn. vii + 74 p.

Pacific Salmon Commission. 2022. Chapter 1: Transboundary Rivers. Pages 14-35 in Annex IV. Pacific Salmon Treaty. Vancouver, British Columbia. 122pp.

Pahlke, Keith A. 2009. Escapements of Chinook salmon in Southeast Alaska and transboundary rivers in 2007. Fishery Data Series number 10-71. Alaska Department of Fish and Game, Division of Sport Fish, Research and Technical Services. Juneau, AK. 100pp.

Skannes, P., Hagerman, G., and Shaul, L. 2016. Annual Management Report for the 2015 Southeast Alaska/Yakutat Salmon Troll Fisheries. Fishery Management Report number 16-05. Alaska Department of Fish and Game, Division of Sport Fish and Commercial Fisheries, Research and Technical Services. Juneau, AK 94pp.

Transboundary Technical Committee. 2022. Salmon Management and Enhancement Plans for the Stikine, Taku, and Alek Rivers, 2022. Pacific Salmon Commission Transboundary Technical Committee Report. TCTR (22)-02. Vancouver, British Columbia. 133pp.

REGIONAL ADVISORY COUNCIL RECOMMENDATION

Southeast Alaska Subsistence Regional Advisory Council

Rescind the closure on FCR23-23: The Council was informed that this fishery was not mentioned in the Pacific Salmon Treaty, but it wasn't necessarily intentionally excluded, it was just never listed, addressed or approved. This is the last hurdle to overcome before the Council could support creation of a Chinook fishery and although the Taku River will continue to be closed until escapement goal is reached, this could lay a foundation to help subsistence users meet their harvest needs in the future. This would not restrict anyone since no regulation is created with the rescinding of this closure. The Council was happy to see the Transboundary Tech Committee citation in the analysis, encouraged that subsistence has a place in that treaty.

INTERAGENCY STAFF COMMITTEE COMMENT

The Interagency Staff Committee (ISC) acknowledges that this closure is out of compliance with Title VIII of ANILCA by being closed to fishing by federally qualified subsistence users while allowing for personal use fishing under State regulations. The Federal Subsistence Board (Board) would need to take action to bring this situation back into compliance with ANILCA. The Board could modify the closure by closing to all uses. The Board could also rescind the closure and provide a priority consumptive use to federally qualified subsistence users.

The Regional Advisory Council has recommended the closure be rescinded, bringing this fishery back into compliance with ANILCA. In the absence of this closure standard, area Federal subsistence regulations would apply which could present conservation concerns. Permanent regulations would be the preferable solution to address possible conservation concerns while still providing a meaningful priority to federally qualified subsistence users.

Until the Board receives and takes action on regulatory proposals, Federal managers can use their delegated authority if conservation concerns arise. The ISC recognizes that unless modified by the Board, current Fisheries delegation of authority letters limit Federal managers to emergency special actions (actions lasting no longer 60 days).

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Fisheries Closure Review FC23-23

This is a routine closure review to determine if the federal subsistence fisheries closure for salmon in the Taku River is still warranted.

Position

The Alaska Department of Fish & Game (ADF&G) **SUPPORTS** the continued closure of the Taku River for subsistence salmon harvest to be consistent with state fishing regulations and the provisions of the 2019 Pacific Salmon Treaty (PST) Agreement.

Background

The Taku River is a large transboundary river which supports Chinook, sockeye, pink, chum and coho salmon, in addition to trout, char, and steelhead populations. ADF&G manages fisheries in the Taku River and its terminal marine waters in accordance with provisions of the Pacific Salmon Treaty. Escapement goals have been developed for Chinook, coho, and sockeye salmon returning to the Taku River and are bilaterally agreed to by the Pacific Salmon Commission. Cooperative U.S./Canadian stock assessment projects are conducted annually. Performance of both U.S. and Canadian fisheries is reviewed annually by the Transboundary Rivers Panel of the Pacific Salmon Commission.

Taku River Chinook salmon have been listed as a stock of concern and the Alaska Board of Fisheries (BOF) has developed an action plan to reduce harvest of Taku River Chinook salmon across Southeast Alaska fisheries. Taku River sockeye and coho salmon are managed in accordance with harvest sharing arrangements specified in the 2019 PST Agreement based on preseason projections and inseason run strength.

There is no state subsistence fishery on the Taku River. There is a personal use fishery for sockeye salmon where Alaska residents may use set gillnet gear only between Taku River Lodge upstream to the U.S./Canada border and only from July 1 through July 31. The permit holder is required to be physically present at the net while operating a set gillnet in the Taku River. Set gillnets may not be fished within 100 yards of ADF&G Taku River Fish wheels. Chinook and coho salmon, trout and char may be taken only incidentally by gear operated under the personal use fishing regulations. The personal use possession limit for Chinook salmon is 2 fish and for coho salmon is 6 fish. The average annual harvests and effort recorded on state personal use permits for the Taku River from 2012-2021 is 1,216 sockeye, 224 coho, and 18 Chinook salmon harvested by 124 permit holders.

The Taku River is open to sport fishing under regional bag and possession limits although harvest and effort within the Taku River is low. Sport fishing for Chinook salmon is closed in the majority of freshwaters of Southeast Alaska including the Taku River. The Statewide Harvest Survey collects information from sport fish anglers through a mailed survey. For the last 10 years of available data (2011-2020) respondents reporting catch or harvest from Taku River is present but below minimums (12 responses) for quantifying harvest or effort. This indicates sport fishing does occur but at low levels of effort. Collectively the respondents fishing in the Taku River reported harvesting Dolly Varden, cutthroat and rainbow trout, chum, sockeye, and coho salmon. No guided freshwater sport fishing was reported in freshwater logbooks between 2007-2016.

Annex IV, Chapter 1 of the 2019 Pacific Salmon Treaty (PST) Agreement defines the harvest sharing arrangements between U.S./Canada regarding transboundary rivers for salmon that spawn in the Canadian portion of the Alsek, Taku, and Stikine Rivers. The 2019 PST Agreement does not include provisions for subsistence harvest of salmon on the U.S. portion of Taku River. This is unlike the Stikine River which does include specific provisions to address U.S. subsistence harvest on the Stikine River.

Impact on Subsistence Users

If harvest of salmon by FQUs is permitted in the Taku River, this would not be in accordance with the with the harvest sharing arrangements of Taku River salmon per the provisions of the 2019 PST Agreement.

Impact on Other Users

Users include both U.S. and Canadian fishers. It is not clear at this time how rescinding this closure would impact other users; however, it would not be in accordance with the terms of the 2019 PST Agreement.

Opportunity Provided by State

State customary and traditional use findings: The Taku River is within the area identified by the Joint Board of Fisheries and Game as a nonsubsistence area (5 AAC 99.015(2)). As such, the Alaska Board of Fisheries (BOF) cannot make customary and traditional use determination for salmon in the Taku River.

Amounts Reasonably Necessary for Subsistence: Alaska state law requires the BOF to determine the amount of the harvestable portion of a fish population that is reasonably necessary for customary and traditional uses. This is an ANS. Because there are no customary and traditional use findings for salmon in the Taku River, there is no ANS for salmon either.

5 AAC 01.730. Subsistence fishing permits

(b) Permits will not be issued for the taking of coho salmon from the Taku River or Stikine River drainages, however coho salmon taken incidentally by gear operated under terms of a subsistence permit for other salmon are legally taken and possessed for subsistence purposes as described in (j) of this section.

5 AAC 77.682. Personal use salmon fishery

(f) in the Taku River drainage, the annual limit for each personal use sockeye salmon permit is 10 sockeye salmon for a household of one person and 20 sockeye salmon for a household of two or more persons.

(g) Salmon may be taken by gear listed 5 AAC 01.0101(a) except as may be restricted on a personal use fishing permit and except as follows:

(2) set gillnets may not be used to take salmon except

(B) in the Taky River drainage from the Taku River Lodge upstream to the United States / Canada border, salmon may be taken by set gillnets only;

(3) in the Chilkat and Taku rivers and in Shipley Bay and Yes Bay, the personal use permit holder shall be physically present at the net while it is in operation.

(4) a gillnet may not exceed 50 fathoms in length, except in the Taku River a set gillnet may not exceed 15 fathoms in length;

(h) Salmon may be taken at any time except

(3) in the Taku River drainage, sockeye salmon may be taken only in the waters from the Taku River Lodge upstream to the United States/Canada border and only from July 1 through July 31.

(n) In the Juneau Management Area, in waters open to personal use salmon fishing under a household personal use salmon fishing permit, and unless otherwise specified in a terminal harvest area under 5 AAC 33 or 5 AAC 77.685, the possession and annual limits for salmon per household are as follows:

(1) sockeye salmon may not be taken for personal use, except that in the following waters sockeye salmon may be taken with the following possession and annual limits

(B) Taku River drainage: the possession and annual limit are as specified in (f) of this section

5 AAC 42.022 – General provisions for seasons and bag, possession, annual, and size limits for the fresh waters of Southeast Alaska Area

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

(2) salmon, other than king salmon: may be taken from January 1 - December 31; no annual limit, no size limit; bag and possession limits, as follows:

(A) 16 inches or greater in length; bag limit of six fish per species; possession limit of 12 fish per species;

(B) less than 16 inches in length; bag and possession limit of 10 fish in combination;

Conservation Issues

Opening a federal subsistence salmon fishery for FQUs on the Taku River may increase harvest of salmon species through directed and incidental harvest. There is currently a conservation concern for Chinook salmon on the Taku River.

Enforcement Issues

There are no enforcement issues if this closure would remain in place.

FCR23-24 Executive Summary	
General Description	FCR23-24 is a review of the closure of Neva Lake, Neva Creek, and South Creek to the harvest of Sockeye Salmon by non-federally qualified users.
OSM Conclusion	Rescind
Southeast Alaska Subsistence Regional Advisory Council Recommendation	Retain status quo
Interagency Staff Committee Comments	The Interagency Staff Committee found the analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and the Federal Subsistence Board action on this proposal.
ADF&G Position	Rescind
Written Public Comments	None

FEDERAL FISHERIES CLOSURE REVIEW
FCR23-24

Issue

The Federal public waters of Neva Lake, Neva Creek, and South Creek are closed to the harvest of Sockeye Salmon by non-federally qualified users. The closure was initiated under Fisheries Proposal FP19-19, submitted by Calvin Casipit of Gustavus. The proponent stated that “over the past few years the subsistence harvest limit for Sockeye has been reduced from 40 to 10 salmon, at the same time sport harvest and use by nonresidents and unguided charter boat renters from urban areas in the lower 48, have continued uncontrolled and unabated.” He further stated that “this is a clear violation of Title VIII of ANILCA [the Alaska National Interest Lands Conservation Act],” and that “a meaningful preference for federally qualified subsistence users is not being provided in this area.”

Closure Location/Species: Neva Lake Sockeye Salmon

Current Federal Regulation***36 CFR 242 and 50 CFR 100***

§ __.27(e)(13) *Southeastern Alaska Area*

* * * *

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

* * * *

(xxii) Only federally qualified subsistence users may harvest sockeye salmon in Neva Lake, Neva Creek, and South Creek.

Closure Dates: Closure is year-round.

Current State Regulation***5 AAC 01.745 Subsistence bag and possession limits; annual limits***

(h) In the Juneau Management Area, in waters open to subsistence salmon fishing under a household subsistence salmon fishing permit, the possession and annual limits for salmon per household are as follows:

* * * *

(B) District 14: in the following waters, the following possession and annual limits apply:

* * * *

(ii) Neva Creek: the possession and annual limit is 10 sockeye salmon

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

* * * *

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

* * * *

(2) salmon, other than king salmon: may be taken from January 1 – December 31; no annual limit, no size limit, bag and possession limits as follows:

(A) 16 inches or greater in length; bag limit of six fish per species; possession limit of 12 fish per species;

Regulatory Year Initiated: 2019.

Extent of Federal Public Lands/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 fresh waters in Neva Lake and the Neva Creek area are within the exterior boundaries of the Tongass National Forest and are considered Federal public waters for the purposes of Federal subsistence fisheries management. Neva Lake, located near the community of Excursion Inlet, drains into Neva Creek, which flows into South Creek before emptying into the marine waters of Excursion Inlet (**Figures 1 and 2**).



Figure 1. Map of Exursion Inlet area. The thick blue line shows the waters of South Creek, Neva Creek, and Neva Lake covered under the closure.



Figure 2. Map of the Icy Strait area, showing communities of Hoonah, Gustavus, and Excursion Inlet.

Customary and Traditional Use Determination

All rural residents of the Southeast Alaska and Yakutat areas have a cultural and traditional use determination for fish throughout Southeast Alaska and Yakutat.

Regulatory History

Federal Regulatory History

Before 2007, only residents of Hoonah had customary and traditional use determination for salmon, Dolly Varden, trout, smelt, and eulachon in Sections 14B and 14C of District 14, which includes the Excursion Inlet/Neva area. In 2007, the Federal Subsistence Board (Board) adopted Fisheries Proposal FP07-17 to extend the customary and traditional use determination to include all fish to all residents of drainages flowing into Sections 12A, 13A, and District 14 (FSB 2007a).

For the 2008 regulatory cycle, Proposal FP08-06 proposed reducing the daily possession limit in Neva Creek from the 40 Sockeye Salmon limit provided in State regulation to 10 Sockeye Salmon, while eliminating the annual limit (OSM 2007). This proposal was rejected by the Board (FSB 2007b).

In 2019, Fisheries Proposal FP19-17 extended the customary and traditional use determination for fish in Southeast Alaska and Yakutat to all rural residents of Southeast Alaska and Yakutat.

State Regulatory History

Possession and annual limits on State subsistence permits were increased from 10 to 25 in 2002; and to 40 in 2004 in response to strong escapements. In 2015, the limit was decreased to 30 in response to a decline in escapements. The current bag and annual limit of 10 Sockeye Salmon for subsistence was established in 2016 (ADF&G 2016). Sport fishing falls under the Southeast Alaska general regulations and limits.

Closure last reviewed: This is the first review of this closure.

Justification for Original Closure (ANILCA Section 815 (3) criteria):

The Board has established a policy outlining the use of closures in managing fish and wildlife on Federal public lands (FSB 2007c). The policy is derived from sections 804, 814, 815(3), and 816 of ANILCA. Section 815(3) describes the criteria to be applied when establishing a closure:

Nothing in this title shall be construed as – (3) authorizing a restriction on the taking of fish and wildlife for nonsubsistence uses on public lands (other than national parks and monuments) unless necessary for the conservation of healthy populations of fish and wildlife, for the reasons set forth in section 816, to continue subsistence uses of such populations, or pursuant to other applicable law...

Under the Board's Closure Policy, the Board may restrict the taking of fish and wildlife by users on Federal public lands if necessary to protect continued subsistence uses of those populations. The low abundance of Sockeye Salmon, the resulting reduced harvest limits, and the perception of user conflict are the primary reasons for the decline in subsistence use of Neva Lake Sockeye Salmon. While it may have only a modest effect on the abundance of Sockeye Salmon available, the closure ensures primary access to this resource in Federal public waters by federally qualified subsistence users. It may also help reduce the user conflicts in a location with a documented unreported harvest and enforcement issues.

Council Recommendation for Original Closure:

The Southeast Alaska Subsistence Regional Advisory Council provided the following comment on the original closure proposal:

Support FP19-19. The Council identified a conservation concern based on information presented. On page 75 figure 3 of the analysis, escapements look to be down and it looks as though the 2016 harvest bag limit could not be filled. The Council discussed undocumented take from unguided – sportfish survey and Council members shared first-hand knowledge and experience. It is believed that there is a fairly high amount of non-federally qualified sport fishing that goes on in fresh waters. It is known to exist, but is poorly documented; however, anecdotal evidence suggests a fair impact on subsistence users. The analysis shows documented user conflict. The Council’s recommendation on this proposal is supported by the available evidence and also by information and testimony from a council member with lifelong experience with Neva Creek. The Council values this traditional ecological knowledge and along with the biological knowledge of this area, the Council adopts this proposal to help ensure primary access to this resource is by federally qualified subsistence users. It may also help to reduce the user conflicts. The Council does not believe leaving non-federally qualified users out of the stream is an unnecessary restriction.

State Recommendation for Original Closure:

ADF&G provided the following comment on the original closure proposal:

ADF&G **OPPOSES** this proposal. It would exclude non-federally qualified Alaska residents from participating in a subsistence fishery that they may have participated in historically and would exclude sport anglers from targeting sockeye salmon. The department recommends the proponent participate in the Board of Fisheries process if he wishes to amend regulations for sockeye salmon in the Neva Lake/Neva Creek and South Creek watershed.

Biological Background

Neva Lake is a relatively small 64.5 acre (26.1 ha) lake. Neva Creek, the outlet stream, is a tributary to South Creek, which empties into Excursion Inlet immediately south of the Ocean Beauty Seafood processing plant. A Fishery Resource Monitoring Program-funded weir project has estimated the annual escapement of Sockeye Salmon into Neva Lake from 2002 to 2022 (Musslewhite 2022). Sockeye Salmon escapements have trended downward over the years of escapement monitoring but have generally improved since a low point in 2015 (Figure 3).

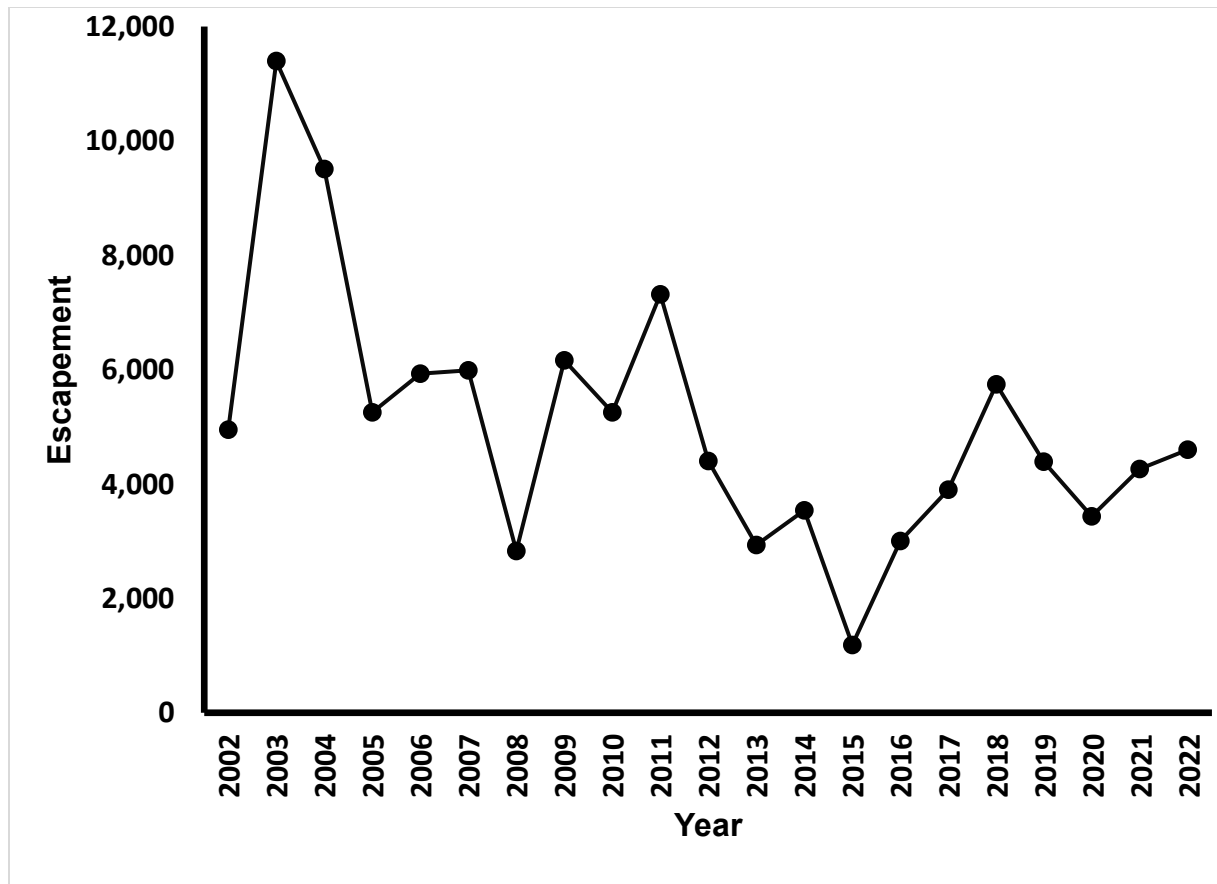


Figure 3. Escapement estimates of Neva Lake Sockeye Salmon, 2002-2022.

Most Sockeye Salmon smolts out-migrate after spending a year rearing in the lake, and there is a good distribution of one-, two-, or three-ocean age fish in the escapements. Adult Sockeye Salmon enter the lake from June through October. The earlier running fish spawn in the main inlet stream in August and September and the later running fish spawn on lake beaches from mid-September to December.

Habitat

The inlet stream to Neva Lake has been used as a water source for the Ocean Beauty seafood processing plant in Excursion Inlet. The inlet stream is a primary spawning area, and water withdrawals have likely adversely affected the quantity and temperature of water in the stream. Forest Service personnel have documented pre-spawn mortality of spawning Sockeye Salmon in the inlet stream during warm, dry periods. Ocean Beauty has developed an alternative water intake to draw water from South Creek instead, which has appeared to alleviate impacts on the inlet stream.

Cultural Knowledge and Traditional Practices

The Excursion Inlet/Neva area is in the traditional subsistence fishing area used by the Huna Tlingit (Goldschmidt and Haas 1946, 1998; Schroeder and Kookesh 1990). It is also thought to have been the traditional home of a Tlingit clan of the Raven moiety known as the Kuyeikeidi or the “People of Kuyeik

(Excursion Inlet)” (Thornton 1999). It is unclear if this clan dissipated or if it transformed into the Lukaaxadi clan of Haines (Thornton 1999). Another clan from Glacier Bay, the Wooshkeetan, is thought to have established a settlement in Excursion Inlet circa 1700 when the glacier rapidly advanced and forced the resettlement of several groups (Crowell and Howell 2013). This village was known as Weitadi Noow (the young woman in seclusion).

Several published documents point to archaeological records and cultural accounts of historic occupation and use of the Excursion Inlet area. A pool in the lower part of Neva Creek is a traditional site for taking Sockeye Salmon with a gaff (Langdon 2006). Smythe (1988) reported that the area was important for trapping in the early to mid-1900s, especially as winter income for local salmon fishermen.

The modern settlement at Excursion Inlet began with the construction of a salmon cannery at the mouth of the inlet in 1908 (Ocean Beauty Seafoods 2018). The name was first reported in the 1943 Coast Pilot, and it served as a resupply point for the Aleutian Campaign during World War II (ADCCED 2022). The population has increased from 12 people in 2010 to 40 in 2020 (ADCCED 2022).

Land ownership is complicated in the vicinity of the Neva Creek watershed in part due to the former military use of the area (Ratner and Dizard 2006). Ocean Beauty Seafoods operates in some of the former military buildings and tidelands. Neva Lake and the outlet creek are not within the Tongass National Forest and some of the land was selected by the Haines Borough (Ratner and Dizard 2006).

As recently as 2012 Excursion Inlet was reported as an important salmon fishing area by residents of both Haines and Hoonah (Sill and Koster, 2017). The use of Neva Lake and South Creek was specifically mentioned by key respondents of an earlier study in 2003 and some residents of Hoonah reported that they are entirely dependent on Neva Creek for their subsistence salmon needs (Ratner and Dizard 2006). Several respondents grew up in the Excursion Inlet, learned to fish at Neva Creek, and continue to fish in the same holes that their ancestors did (Ratner and Dizard 2006).

Some Hoonah respondents indicated that they tend to fish in the Neva area when the Hoktaheen area is closed to salmon fishing. Others used one or the other site exclusively or, both in the same day:

On occasion, harvesters have fished Neva/South Creek very early in the morning, about four or five o'clock and then gone to Hoktaheen on the same day when they were unsuccessful at Neva / South Creek. Other respondents used one site exclusively for sockeye salmon. One respondent has fished only at the Neva Creek watershed his entire life, except for six years when he was in the Navy. (Ratner and Dizard 2006:16)

Other Hoonah respondents noted that they tend to choose Hoktaheen fishing sites over Neva/South Creek due to lower possession limits at Neva Creek (Ratner and Dizard 2006). According to the study, most Hoonah salmon fishermen that historically fished at Neva Creek switched to Hoktaheen when regulations reduced the harvest limit to ten Sockeye Salmon per household at Neva (before 2002). Based on conversations with local residents and cabin users, there is a recent informal agreement among community members to forgo harvesting Neva Sockeye Salmon due to the perception of a conservation concern.

Fishers traveling to Neva/South Creek from Hoonah frequently return home the same evening (Ratner and Dizard 2006). Ratner and Dizard (2006) reported that many Hoonah respondents prefer beach seines over gillnets at Neva Creek. The latter are problematic in strong tidal currents at the mouth of the stream where there is debris and large rocks. Despite the preference, some fishers have switched to gillnets because they are lighter when wet and make the crossing of Icy Strait safer and less costly. At least one respondent reported using traditional gaffs exclusively in Neva Creek.

It is believed that the actual number of Sockeye Salmon harvested for home use from Neva/South Creek by residents of Hoonah is underreported due in part to the individual household focus of fishing permits which do not account for the widespread sharing and distribution of salmon resources throughout the community (Ratner and Dizard 2006). There are a relatively small group of high harvesters in the community who provide Sockeye Salmon for many of its residents; these regularly provide for 7–14 households, elders, single mothers, and for ceremonial and cultural events (Ratner and Dizard 2006).

User Conflict

There is some indication of user conflict regarding salmon fishing in the Neva Lake / South Creek area. In Ratner and Dizard (2006) several respondents noted avoidance of the Neva Creek area because of competition among user groups. One respondent stated the following when asked about fishing locations: “Usually Hoktaheen, you have too much hassle going over to Neva Creek anymore or Excursion Inlet. They have tourists over there; they’ll watch you. A lot of cannery people over there getting fish. They are being over fished there pretty much” (Ratner and Dizard 2006:16).

Contentions have also been documented regarding monitoring and enforcement. Ratner and Dizard (2006) noted that some Hoonah residents felt that their subsistence harvests are monitored and restricted much more closely than non-resident clients of the Excursion Inlet lodges.

User conflicts in the area are also known regarding contaminants and water withdrawals. The military abandoned hazardous waste in the area and during the 1940s the creek was believed to be unsafe and elders warned their families not to eat the salmon (Ratner and Dizard 2006). Though local perceptions of water and fish safety appear to have improved over time, withdrawals from Neva Creek for the operations at the Ocean Beauty Seafoods facility has also been noted as concerning (Ratner and Dizard 2006). The water system was originally constructed in the 1940s and the water right was issued to Ocean Beauty Seafoods by the Alaska Department of Natural Resources in 1970, with no documented consideration of fisheries (Ratner and Dizard 2006).

Harvest History

Sockeye Salmon returning to Neva Lake are targeted in both subsistence and sport fisheries occurring in the Neva/South Creek drainage and the marine waters of Excursion Inlet, as well as incidentally in mixed-stocked commercial fisheries in Icy Strait and Excursion Inlet. Subsistence fishing occurs in marine water at the mouth of South Creek, usually with beach seines or gillnets. In freshwater, salmon are taken with gaffs, dip nets, or spears. Sport fishing occurs both in marine waters and in fresh water.

The community of Excursion Inlet is home to a seafood processing plant, a number of seasonal recreational cabins, and a fishing lodge. The lodge specializes in “unguided anglers,” and provides clients with boats, equipment and local knowledge, but does not typically provide a fishing guide.

Sport and commercial fisheries

The Alaska Department of Fish and Game (ADF&G) Division of Sport Fish estimates sport effort, catch, and harvest from an annual statewide mail survey (Jennings et. al. 2015). This survey is sent to a portion of both resident and non-resident fishing license holders. In recent years, an average of less than one surveyed angler reported fishing at Neva or South Creeks, which does not provide enough data to make a statistically valid estimate of effort or catch. However, sport harvest of Neva Lake Sockeye Salmon is probably quite low (Teske 2018, pers. comm.).

Charter boat operators and fishing guides are required to record all salmon caught in the ADF&G logbook program. However, the lodge in Excursion Inlet has anglers that fish in freshwater and are unguided, so the number of Sockeye Salmon caught by clients of the lodge would be estimated from the Statewide Harvest Survey. Guided freshwater effort and harvest in the area is low. Freshwater logbook data (2006–2016) for all freshwater drainages of Glacier Bay, Cross Sound, and Icy Strait areas shows that average combined freshwater effort is 477 angler days with an average catch of 40 Sockeye Salmon and an average harvest of just over one Sockeye Salmon in the guided fishery (Teske 2018, pers. comm.).

The commercial harvest of Neva Sockeye Salmon is unknown and probably negligible in years when there is little or no purse seine fishing in the northern half of District 14B or 14C. Between 2004 and 2017, the commercial purse seine catch of Sockeye Salmon in Subdistrict 114-80 (Excursion Inlet) has ranged from 53 to 2,968 fish, with no catch reported in eight of the fourteen years (ADF&G 2018).

Subsistence Fisheries

Subsistence fishing at the Neva/South Creek system takes place both in freshwater and in marine waters at the mouth of South Creek. Most subsistence fishing is done under the State permit system, though some harvest occurs using Federal permits (**Table 1**). The amount of unreported harvest is unknown, as only limited harvest monitoring has occurred at the Neva Creek area.

Residents of Icy Strait communities (primarily Hoonah, Gustavus, and Excursion Inlet) and Angoon are the principal federally qualified subsistence users of Neva Lake Sockeye Salmon, while a substantial portion of the harvest goes to non-federally qualified residents of the Juneau area. The reported harvest of Sockeye Salmon by all users has declined sharply since 2015. Almost no harvest of Neva Lake Sockeye Salmon was reported on permits in 2019 and 2020.

Table 1. Harvest of salmon from Neva Creek as reported on State and Federal subsistence permits, 1985-2020.

State Subsistence/Personal Use Permits ^a	Federal Subsistence Permits ^b
---	--

Year	Permits Fished	Chinook	Sockeye	Coho	Pink	Chum	Permits Fished	Sockeye	Coho
1985	0	0	0	0	0	0			
1986	0	0	0	0	0	0			
1987	0	0	0	0	0	0			
1988	0	0	0	0	0	0			
1989	0	0	0	0	0	0			
1990	1	0	25	0	0	0			
1991	2	0	40	0	0	0			
1992	16	0	348	0	0	14			
1993	8	0	127	0	0	201			
1994	5	0	151	0	52	0			
1995	6	0	90	0	247	28			
1996	19	0	411	0	216	872			
1997	9	0	126	5	13	1156			
1998	4	0	25	0	89	50			
1999	5	0	50	0	46	73			
2000	22	0	197	0	23	53			
2001	7	0	157	30	15	23			
2002	6	0	36	0	0	0	0	0	0
2003	6	0	87	12	0	0	0	0	0
2004	23	0	397	0	6	3	0	0	0
2005	14	0	276	0	23	10	1	34	0
2006	11	0	140	0	23	12	0	0	0
2007	11	0	219	31	0	0	2	50	36
2008	26	0	601	113	5	14	0	0	0
2009	39	0	780	34	31	8	0	0	0
2010	26	1	329	29	6	1	1	13	2
2011	31	0	448	110	59	1	1	10	10
2012	38	0	607	42	66	23	1	20	18
2013	39	0	510				1	21	36
2014	36	0	459	66	4	4	2	6	32
2015	40	0	312	58	195	2	0	0	0
2016	24	0	136	23	0	3	2	8	0
2017	18	0	110	37	40	0	1	0	10
2018	14	0	103	2	0	0	2	10	0
2019	0	0	0	0	0	0	1	1	0
2020	0	0	0	0	0	0	0	0	0

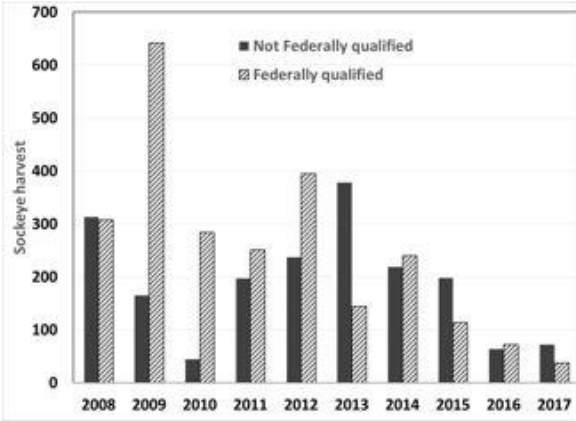
^aState subsistence data from ADF&G February 2022.

^bFederal subsistence fishing permits were not issued before 2002.

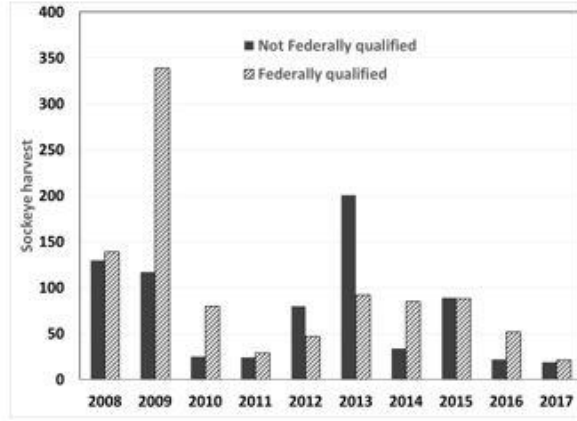
Figure 4 illustrates the recent reported harvest of Sockeye Salmon by both federally qualified and non-federally qualified users (based on residence community) in each water type as determined by the gear type. From 2008 to 2017, an average of 74 Sockeye Salmon were harvested annually in fresh water by non-federally qualified users, out of a total average annual harvest of 438. In 2016 and 2017, only about

20 Sockeye Salmon were harvested each year by non-federally qualified users using freshwater gear types, part of a trend towards reduced harvests among all gear types and users.

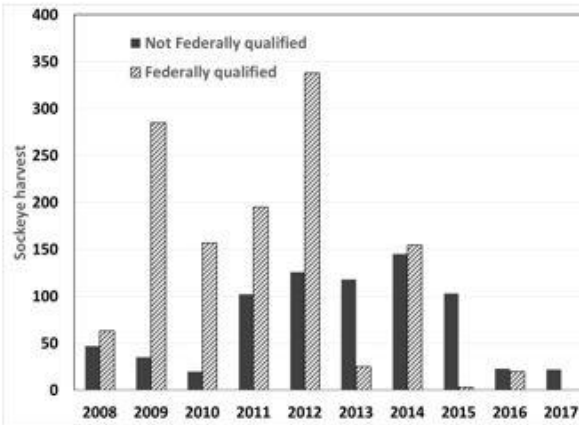
(A) Total harvest (all gear types)



(B) Freshwater harvest (gaff, dip net spear)



(C) Saltwater harvest (beach seine, gillnet)



(D) Unknown harvest (Cast net, hook and line, unspecified)

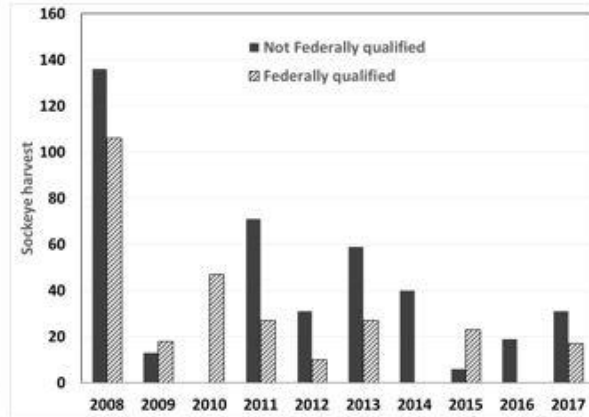


Figure 4. Subsistence harvest of Sockeye Salmon from Neva/South Creek by subsistence user type and location of harvest as inferred by gear type, as reported on State permits, 2008–2017.

Effects

The closure was intended to protect subsistence uses of Neva Lake Sockeye Salmon by reducing harvest by non-federally qualified users. While the closure has probably curtailed some harvest of Neva Lake Sockeye Salmon in Federal public waters (i.e. freshwater), the harvest limit reduction to ten fish appears to have played a larger role in reducing subsistence use of the resource. Since the harvest limit reduction in 2016, reported harvest has declined rapidly and has fallen to zero in 2019 and 2020. While the abundance of Neva Sockeye has improved, the restrictive harvest limit makes harvesting effort at Neva a less attractive option and reinforces local perceptions of a conservation concern. The closure to non-federally qualified subsistence users may also reinforce the perception of a conservation concern and further discourage use even by federally qualified users.

The closure also was intended to address a history of user conflicts in the area, mostly between subsistence users and non-resident lodge guests and processing plant workers. The effectiveness of the closure in alleviating these conflicts is unclear. For the past few years, the Ocean Beauty plant has been operating in a minimal capacity due to COVID-19 restrictions and a shift to other processing plants. The number of lodge guests and other visitors has also likely been reduced due to COVID-19. Coupled with the sharp drop in subsistence use, the likelihood of user conflict has been reduced for reasons other than the closure.

OSM CONCLUSION:

- Retain the Status Quo**
- Rescind the Closure**
- Modify the closure to . . .**
- Defer Decision on the Closure or Take No Action**

Justification

Under the Board closure policy and Section 815(3) of ANILCA, a closure to nonsubsistence uses may only be used to conserve healthy populations of fish and wildlife, for the reasons set forth in Section 816, to continue subsistence uses of those populations, or pursuant to other applicable law. In the case of Neva Lake Sockeye Salmon, ongoing monitoring has shown that the population is at healthy levels after increasing from a low point in 2015. However, reported subsistence use of the population has fallen to zero over the past few years. The drop in subsistence use is more likely due to the restrictive harvest limit and a perception of low abundance than competition from non-federally qualified users of the resource. The closure likely discourages subsistence use by contributing to the perception of a conservation concern, while doing relatively little to prevent competition. Thus, the closure is not necessary to continue subsistence uses of Neva Lake Sockeye Salmon.

Literature Cited

ADCCED (Alaska Department of Commerce, Community, and Economic Development). 2022. Community Database Online: Excursion Inlet. Retrieved June 29, 2022.

<https://dced.maps.arcgis.com/apps/MapJournal/index.html?appid=77a50636c9874fb680750199662aa706#>

Alaska Department of Fish and Game. 2018. Mark, Tag, and Age Lab Online Reports, Commercial harvest expansion report. <https://mtalab.adfg.alaska.gov/CWT/reports/comexpansion.aspx>. Retrieved: June 4, 2018.

Alaska Department of Fish and Game, Board of Fisheries. 2016. Findings and delegation of authority to adopt and amend regulations establishing bag, possession, and annual harvest limits for certain fish stocks in the subsistence and personal use fisheries in the southeastern Alaska area, the personal use fisheries in the Yukon area, and the subsistence fisheries in the Norton Sound-Port Clarence area and the Prince William Sound Area (2016-281-FB). ADF&G, Juneau, Alaska.

FSB. 2007a. Transcripts of the Federal Subsistence Board proceedings. January 9, 2007. Office of Subsistence Management, USFWS. Anchorage, Alaska.

FSB. 2007b. Transcripts of the Federal Subsistence Board proceedings. December 11 – 13, 2007. Office of Subsistence Management, USFWS. Anchorage, Alaska.

FSB. 2007c. Policy on closures to hunting, trapping, and fishing on Federal public lands and waters in Alaska. August 29, 2007. Office of Subsistence Management, USFWS. Anchorage, Alaska.

Crowell, A.L. and W.K. Howell. 2013. Time, Oral Tradition and Archaeology at Xakwnoowu, A Little Ice Age Fort in Southeastern Alaska. *American Antiquity* 78(1): 3-23).

Goldschmidt, W. R. and T. H. Haas. 1946. Possessory rights of the Natives of Southeastern Alaska. A report to the commissioner of Indian affairs. Washington: Bureau of Indian Affairs.

Goldschmidt, W.R. and T.H. Haas. 1998. Haa Aani, Our Land: Tlingit and Haida land rights and use. T.F. Thornton, ed. University of Washington Press, Seattle and Sealaska Heritage Foundation, Juneau.

Harris, D. 2018. Commercial Fisheries Area Management Biologist. Personal communication: email. ADF&G. Juneau, AK.

Jennings, G. B., K. Sundet, and A. E. Bingham. 2015. Estimates of participation, catch, and harvest in Alaska sport fisheries during 2011. Alaska Department of Fish and Game, Fishery Data Series No. 15-04 , Anchorage.

Langdon, S.J. 2006. Traditional knowledge and harvesting of salmon by Huna and Hinyaa Tlingit. U.S. Fish and Wildlife Service, Office of Subsistence Management, Final Report (Project No. 02-104), Anchorage

Musslewhite, J.G. 2022. Neva Lake Sockeye Salmon stock assessment, 2021. U.S. Fish and Wildlife Service, Office of Subsistence Management, Fisheries Resource Monitoring Program, Final Report (Study 18-607), Anchorage, Alaska. 50 pp.

Ocean Beauty Seafoods. 2018. Excursion Inlet. Retrieved June 6, 2018.
<http://www.oceanbeauty.com/portfolio/excursion-inlet/>

OSM. 2007. Staff analyses of fisheries proposal FP08-06. Pages 220 – 230 *in* Federal Subsistence Board Meeting Materials. December 11 - 13, 2007. Office of Subsistence Management, USFWS. Anchorage, AK. 400 pp.

Ratner, N.C., and J.A. Dizard. 2006. Local knowledge, harvest patterns, and community use of sockeye salmon in Hoonah, Alaska. Alaska Department of Fish and Game, Division of Subsistence Technical Paper No. 307. Juneau.

Schroeder, R. F. and M. Kookesh. 1990. Subsistence harvest and use of fish and wildlife resources and the effects of forest management in Hoonah, Alaska. Alaska Department of Fish and Game, Division of Subsistence, Technical Paper Number 142, Juneau.

Sill, L. and D. Koster. 2017. The harvest and use of wild resources in Haines, Hoonah, Angoon, Whale Pass, and Hydaburg, Alaska, 2012.

Smythe, C.W. 1988. Harvest and use of fish and wildlife resources by residents of Petersburg, Alaska. Alaska Department of Fish and Game Division of Subsistence Technical Paper No. 164 and the Chilkat Institute, Juneau.

Teske, D. 2018. Sport Fish Area Management Biologist. Personal communication: phone. ADF&G. Juneau, AK.

Thornton, T.F. 1999. Tleikw Aani, The “Berried” Landscape: The structure of Tlingit edible fruit resources at Glacier Bay, Alaska. *Journal of Ethnobiology* 19(1): 27-48.

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Southeast Alaska Subsistence Regional Advisory Council

Retain the Status Quo on FCR23-24. The Council found that there is substantial evidence to show that unguided sportfishing is negatively affecting subsistence users' harvest of Sockeye Salmon. This Council has made significant attempts in the past to address this issue, including but not limited to submitting various proposals through the State's Board of Fish proposals to help gather data and address the impacts of this virtually unregulated type of fishing. The Council continues to recognize the challenge of developing information other than traditional ecological knowledge (a perspective that gets discounted), and results in no action being taken and continued impact on subsistence resources. Maintaining the status quo of the closure will help subsistence users meet their needs and provide safer conditions to fish.

INTERAGENCY STAFF COMMITTEE COMMENTS

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

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Fisheries Closure Review FCR23-24

This is a routine closure review to determine if the current federal subsistence closure for non-federally qualified users (NFQU) for the harvest of sockeye salmon in Neva Lake, Neva Creek, and South Creek is still warranted.

Position

The Alaska Department of Fish & Game **OPPOSES** the continuation of this closure. As directed by Congress in Section 802 of ANILCA, subsistence uses of wildlife shall be the priority consumptive use on federal public lands "when it is necessary to restrict taking in order to assure the continued viability of a fish or wildlife population or the continuation of subsistence uses of such population." Section 815 of ANILCA authorizes federal restrictions on nonsubsistence uses on the public lands only if "necessary for the conservation of healthy populations of fish and wildlife" or if necessary to "continue subsistence uses." Based on ADF&G's analysis of the data available there are no conservation concerns and given the miniscule amount of fishing effort by NFQUs, none of these stipulations under ANILCA apply and this closure should be rescinded.

State subsistence and sport fisheries are in place on this system and the closure to NFQUs increases regulatory complexity and is inconsistent with state regulations. The ADF&G recommends that the issues described in the original proposal (FP19-19) would be best addressed through the Alaska Board of Fisheries (BOF) process.

Background

The closure of Neva Lake, Neva Creek, and South Creek to sockeye salmon harvest by NFQUs was passed by the Federal Subsistence Board in 2019.

Information from the ADF&G Statewide Harvest Survey (SWHS) and freshwater sport fishing guide logbooks indicates that effort and harvest of sockeye salmon in the sport fishery for the Neva Lake/ Neva Creek and South Creek watershed is low. The SWHS is a mailout survey that is sent to a portion of both resident and nonresident sport fishing license holders. In the last 10 years (2012-2021), an average of less than one surveyed angler reported fishing at Neva or South Creeks. Additionally, freshwater logbook data (2006–2016) for all freshwater drainages of Yakobi Island, Lisianski, Glacier Bay, Cross Sound, and Icy Strait (Area G), which includes 14 documented sockeye salmon systems, show that combined annual freshwater guided effort for this expanded reporting area is around 477 angler-days, an average annual catch of 40 sockeye salmon, and an average annual harvest of just over 1 sockeye salmon in the guided sport fishery.

Sockeye salmon are harvested in the Neva Creek watershed under an ADF&G subsistence salmon household permit. A weir has been in place at the outlet of Neva Lake since 2002 to monitor sockeye salmon escapements into the system. Escapements during this time have ranged from a high of 9,248 adult sockeye salmon in 2003 to a low of 1,129 adults in 2015. State subsistence permit limits have changed over time in response to escapement levels. In 2002 annual sockeye salmon subsistence limits were increased from 10 to 25 fish, and then to 40 fish in 2004 in response to strong escapements. In 2015, the limit was decreased to 30 fish in response to a decline in escapements. The current possession and annual limit of 10 sockeye salmon was established in 2016. Sport fishing falls under the Southeast Alaska general regulations, which allow a bag limit of 6 sockeye salmon per day and possession limit of 12.

During 2002–2021, reported harvests of sockeye salmon taken under a state subsistence permit ranged from 35 fish in 2021 to 807 fish in 2009. Reported harvests have declined substantially since 2016 when current possession and annual limits were established, with 7 permit holders recording fishing in 2021. Sockeye salmon harvest occurs both in salt waters at the mouth of South Creek and in the fresh waters of South and Neva creeks. Although not directly described in the reported harvest information, the proportion of harvest that occurs in fresh waters from 2002–2021 can be inferred by the reported gear utilized, which suggests an average of 59% of the annual harvest occurring in fresh water; this ranges from 2% in 2003 to 100% in 2018. The most recent 10-year average (2012–2021) percentage of the recorded harvest occurring in fresh water inferred by gear type is 69%. From 2012 to 2021, an average of 52% of the reported sockeye salmon harvest on state subsistence permits was by non-federally qualified residents, primarily from the Juneau area.

Impact on Subsistence Users

If this closure is rescinded there would be minimal, if any, impacts to subsistence users as the data provided indicates that there is very low usage of this system by other users.

Impact on Other Users

If this closure is rescinded it would provide fishing opportunities, both state sport and subsistence, to the other users that have historically utilized this fishery.

Opportunity Provided by State

State customary and traditional use findings: The BOF has made positive customary and traditional use findings for salmon, smelt, and char in the waters of Section 14-C.

Amounts Reasonably Necessary for Subsistence: Alaska state law requires the BOF to determine the amount of the harvestable portion of a fish population that is reasonably necessary for customary and

traditional uses. This is an ANS. The BOF does this by reviewing extensive harvest data from all Alaskans, collected either by ADF&G or from other sources.

ANS provides the BOF with guidelines on typical numbers of fish harvested for customary and traditional uses under normal conditions. Fishing regulations can be re-examined if harvests for customary and traditional uses consistently fall below ANS. This may be for many reasons: fishing regulations, changes in abundance or distribution, or changes in human use patterns, just to name a few.

The ANS for salmon in District 14 is 600-1,500 fish.

5 AAC 01.745 Subsistence bag and possession limits; annual limits

(h) In the Juneau Management Area, in waters open to subsistence salmon fishing under a household subsistence salmon fishing permit, the possession and annual limits for salmon per household are as follows:

(B) District 14: in the following waters, the following possession and annual limits apply:

(ii) Neva Creek: the possession and annual limit is 10 sockeye salmon;

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

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

(2) salmon, other than king salmon: may be taken from January 1 – December 31; no annual limit, no size limit, bag and possession limits as follows:

(A) 16 inches or greater in length; bag limit of six fish per species; possession limit of 12 fish per species;

Conservation Issues

There are no conservation issues associated with the rescinding of this closure. As stated above given the low historical use and harvest of sockeye salmon in this system by NFQUs their ability to harvest under state regulations again would not cause a conservation concern.

Enforcement Issues

Enforcement issues would be minimized if this closure was rescinded.

WP22-40 Executive Summary	
General Description	<p>Proposal WP22-40 requests that Federally qualified subsistence users be allowed to use a snowmachine to position wolves and wolverines for harvest on Federal public lands in Units 9B, 9C, 17B, and 17C, provided the animals are not shot from a moving snowmachine. <i>Submitted by the Bristol Bay Subsistence Regional Advisory Council.</i></p>
Proposed Regulation	<p>§ ____ .26 Subsistence taking of wildlife</p> <p>...</p> <p><i>(b) Except for special provisions found at paragraphs (n)(1) through (26) of this section, the following methods and means of taking wildlife for subsistence uses are prohibited:</i></p> <p>...</p> <p><i>(4) Taking wildlife from a motorized land or air vehicle when that vehicle is in motion, or from a motor-driven boat when the boat's progress from the motor's power has not ceased.</i></p> <p><i>(5) Using a motorized vehicle to drive, herd, or molest wildlife.</i></p> <p>§ ____ .26(n)(9)(iii) Unit 9—Unit-specific regulations</p> <p>...</p> <p><i>(I) In Units 9B and 9C, on Federal-managed lands, a snowmachine may be used to position a wolf or wolverine for harvest, provided that the animal is not shot from a moving snowmachine.</i></p> <p>...</p> <p>§ ____ .26(n)(17)(iii) Unit 17—Unit-specific regulations</p> <p>...</p> <p><i>(D) In Units 17B and 17C, on Federal-managed lands, a snowmachine may be used to position a wolf or wolverine for harvest, provided that the animal is not shot from a moving snowmachine.</i></p>

WP22-40 Executive Summary	
OSM Conclusion (April 2022)	<p>Support Proposal WP22-40 with modification to utilize the same regulatory language the Board adopted in Proposal WP20-27, and to include all Federal public lands in Unit 17.</p> <p>The modification should read:</p> <p>§ ____ .26 Subsistence taking of wildlife</p> <p>...</p> <p><i>(b) Except for special provisions found at paragraphs (n)(1) through (26) of this section, the following methods and means of taking wildlife for subsistence uses are prohibited:</i></p> <p>...</p> <p><i>(4) Taking wildlife from a motorized land or air vehicle when that vehicle is in motion, or from a motor-driven boat when the boat's progress from the motor's power has not ceased.</i></p> <p><i>(5) Using a motorized vehicle to drive, herd, or molest wildlife.</i></p> <p>§ ____ .26(n)(9)(iii) Unit 9—Unit-specific regulations</p> <p>...</p> <p><i>(I) In Units 9B and 9C, on Federal-managed lands, a snowmachine may be used to assist in the taking of a wolf or wolverine and a wolf or wolverine may be shot from a stationary snowmachine. "Assist in the taking of a wolf or wolverine" means a snowmachine may be used to approach within 300 yards of a wolf or wolverine at speeds under 15 miles per hour, in a manner that does not involve repeated approaches or that causes the animal to run. A snowmachine may not be used to contact an animal or to pursue a fleeing animal.</i></p> <p>§ ____ .26(n)(17)(iii) Unit 17—Unit-specific regulations</p> <p>...</p> <p><i>(D) In Unit 17, on Federal-managed lands, a snowmachine may be used to assist in the taking of a wolf or wolverine and a wolf or wolverine may be shot from a stationary snowmachine. "Assist in</i></p>

WP22-40 Executive Summary	
	<p><i>the taking of a wolf or wolverine" means a snowmachine may be used to approach within 300 yards of a wolf or wolverine at speeds under 15 miles per hour, in a manner that does not involve repeated approaches or that causes the animal to run. A snowmachine may not be used to contact an animal or to pursue a fleeing animal.</i></p>
<p>OSM Conclusion (January 2023)</p>	<p>Support as modified by the Bristol Bay Subsistence Regional Advisory Council to allow the use of a snowmachine to approach and pursue wolves and wolverines provided a snowmachine does not contact a live animal, to include all of Unit 17, and further OSM modification to clarify regulatory language.</p> <p>The modification should read:</p> <p>§____.26 Subsistence taking of wildlife</p> <p>...</p> <p><i>(b) Except for special provisions found at paragraphs (n)(1) through (26) of this section, the following methods and means of taking wildlife for subsistence uses are prohibited:</i></p> <p>...</p> <p><i>(4) Taking wildlife from a motorized land or air vehicle when that vehicle is in motion, or from a motor-driven boat when the boat's progress from the motor's power has not ceased.</i></p> <p><i>(5) Using a motorized vehicle to drive, herd, or molest wildlife.</i></p> <p>§____.26(n)(9)(iii) Unit 9—Unit-specific regulations</p> <p>...</p> <p><i>(I) In Units 9B and 9C, a snowmachine may be used to approach and pursue a wolf or wolverine provided the snowmachine does not contact a live animal.</i></p>

WP22-40 Executive Summary	
	<p>§ _____.26(n)(17)(iii) Unit 17—Unit-specific regulations</p> <p>...</p> <p><i>(D) In Unit 17, a snowmachine may be used to approach and pursue a wolf or wolverine provided the snowmachine does not contact a live animal.</i></p>
<p>Bristol Bay Subsistence Regional Advisory Council Recommendation</p>	<p><u>Fall 2021</u></p> <p>Support as modified by OSM with additional modification to clarify the regulatory language.</p> <p><u>Fall 2022</u></p> <p>Support with modification to allow the use of a snowmachine to approach and pursue wolves and wolverines if the snowmachine does not contact a live animal, to include all of Unit 17, and to specify these regulations only apply to Federal public lands open to subsistence hunting.</p>
<p>Western Interior Alaska Subsistence Regional Advisory Council Recommendation</p>	<p><u>Fall 2021</u></p> <p>Support as modified by OSM</p>
<p>Interagency Staff Committee Comments</p>	<p><u>April 2022</u></p> <p>The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Council recommendation and Federal Subsistence Board action on the proposal.</p> <p><u>January 2023</u></p> <p>The Interagency Staff Committee (ISC) acknowledges and appreciates the extensive efforts by the Bristol Bay Subsistence Regional Advisory Council (Council) and the interagency working group to clearly define their request as part of this proposal. The proponent and residents of the region have worked hard to identify and protect traditional methods of wolf and wolverine harvest, based on the most economic and efficient means available. The proposed change in regulatory language is an attempt to ensure that traditional practices continue without putting subsistence users in conflict with the law. The ISC recognizes this proposal represents a long-standing</p>

WP22-40 Executive Summary	
	issue that deserves resolution. The ISC further recognizes that regulations specific to each Federal agency may or may not conflict with the proposed regulatory language.
ADF&G Comments	Support with modification to align State and Federal regulations.
Written Public Comments	None
Notes	This is an updated executive summary from the Proposal WP22-40 analysis, which was included in the Federal Subsistence Board April 2022 meeting book. The Board deferred this proposal in April 2022. The April 2022 version of the analysis has been maintained below, followed by an analysis addendum, which contains new information since the Board's April 2022 deferral.

STAFF ANALYSIS

WP22-40

ISSUES

Proposal WP22-40, submitted by the Bristol Bay Subsistence Regional Advisory Council (Council), requests that Federally qualified subsistence users be allowed to use a snowmachine to position wolves and wolverines for harvest on Federal public lands in Units 9B, 9C, 17B, and 17C, provided the animals are not shot from a moving snowmachine.

DISCUSSION

The proponent states that the use of snowmachines to position wolves and wolverines is a traditional practice in rural areas, and the proposed regulation will mirror Federal regulations in Unit 23. The proponent continues “in April 2020, the Federal Subsistence Board (Board) addressed Proposal WP20-26 to position wolves and wolverines on Bureau of Land Management (BLM) managed lands in Units 17B and C. The Board deferred the proposal to a working group of the Council and Federal/State staff to develop and recommend language to define positioning of animals for the Board to consider.” This proposal replaces deferred Proposal WP20-26.

Existing Federal Regulation

§ ____ .26 Subsistence taking of wildlife

...

(b) Except for special provisions found at paragraphs (n)(1) through (26) of this section, the following methods and means of taking wildlife for subsistence uses are prohibited:

...

(4) Taking wildlife from a motorized land or air vehicle when that vehicle is in motion, or from a motor-driven boat when the boat's progress from the motor's power has not ceased.

(5) Using a motorized vehicle to drive, herd, or molest wildlife.

Proposed Federal Regulation

§ ____ .26 Subsistence taking of wildlife

...

(b) Except for special provisions found at paragraphs (n)(1) through (26) of this section, the following methods and means of taking wildlife for subsistence uses are prohibited:

...

(4) Taking wildlife from a motorized land or air vehicle when that vehicle is in motion, or from a motor-driven boat when the boat's progress from the motor's power has not ceased.

(5) Using a motorized vehicle to drive, herd, or molest wildlife.

§ _____.26(n)(9)(iii) Unit 9—Unit-specific regulations

...

(I) In Units 9B and 9C, on Federal-managed lands, a snowmachine may be used to position a wolf or wolverine for harvest, provided that the animal is not shot from a moving snowmachine.

...

§ _____.26(n)(17)(iii) Unit 17—Unit-specific regulations

...

(D) In Units 17B and 17C, on Federal-managed lands, a snowmachine may be used to position a wolf or wolverine for harvest, provided that the animal is not shot from a moving snowmachine.

Existing State Regulations

AS 16.05.940. Definitions.

...

(34) “take” means taking, pursuing, hunting, fishing, trapping, or in any manner disturbing, capturing, or killing or attempting to take, pursue, hunt, fish, trap, or in any manner capture or kill fish or game.

5 AAC 92.080. Unlawful methods of taking game; exceptions

The following methods of taking game are prohibited:

...

(4) unless otherwise provided in this chapter, from a motor-driven boat or a motorized land vehicle, unless the motor has been completely shut off and the progress from the motor’s power has ceased, except that a

...

(B) motorized land vehicle may be used as follows:

(iii) notwithstanding any other provision in this section, in Units 9(B), 9(C), 9(E), 17, 18, 19, 21, 22, 24, 25(C) and 25(D), except on any National Park Service or National Wildlife Refuge lands not approved by the federal agencies, a snowmachine may be used to position a hunter to select an individual wolf for harvest, and wolves may be shot from a stationary snowmachine;

...

(5) except as otherwise specified, with the use of a motorized vehicle to harass game or for the purpose of driving, herding, or molesting game.

5 AAC 92.990. Definitions

(a) In addition to the definitions in AS 16.05.940 , in 5 AAC 84 – 5 AAC 92, unless the context requires otherwise,

...

(70) “harass” means to repeatedly approach an animal in a manner which results in the animal altering its behavior;

NOTE: The complete text for 5 AAC 92.080(4)(B) is in **Appendix 1**.

Relevant Federal Regulations

50 CFR 100.4 and 36 CFR 242.4 Definitions

Take or taking as used with respect to fish or wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

§____.26(n)(17)(iii) Unit 17—Unit-specific regulations

...

(D) In Unit 17, a snowmachine may be used to assist in the taking of a caribou and caribou may be shot from a stationary snowmachine. "Assist in the taking of a caribou" means a snowmachine may be used to approach within 300 yards of a caribou at speeds under 15 miles per hour, in a manner that does not involve repeated approaches or that causes a caribou to run. A snowmachine may not be used to contact an animal or to pursue a fleeing caribou.

§____.26(n)(23)(iv) Unit 23—Unit-specific regulations

...

(E) A snowmachine may be used to position a hunter to select individual caribou for harvest provided that the animals are not shot from a moving snowmachine. On BLM-managed lands

only, a snowmachine may be used to position a caribou, wolf, or wolverine for harvest provided that the animals are not shot from a moving snowmachine.

There is a difference between the proposed regulation and agency-specific regulations. Adoption of this proposal may require clarification between new regulation and conflicting agency-specific regulations. Federal subsistence and agency-specific regulations are as follows:

§ _____.26(n)(17)(ii) Unit 17—In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Except for aircraft and boats and in legal hunting camps, you may not use any motorized vehicle for hunting ungulates, bear, wolves, and wolverine, including transportation of hunters and parts of ungulates, bear, wolves, or wolverine in the Upper Mulchatna Controlled Use Area consisting of Unit 17B, from Aug. 1-Nov. 1.

50 CFR 36.12 (Alaska National Wildlife Refuges) Use of snowmobiles, motorboats, dog teams and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses.

(a) Notwithstanding any other provision of subchapter C of title 50 CFR the use of snowmobiles, motorboats, dog teams and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses is permitted within Alaska National Wildlife Refuges except at those times and in those areas restricted or closed by the Refuge Manager.

...

(d) Snowmobiles, motorboats, dog teams and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses shall be operated (1) in compliance with applicable State and Federal law, (2) in such a manner as to prevent waste or damage to the refuge, and (3) in such a manner as to prevent the herding, harassment, hazing or driving of wildlife for hunting or other purposes.

36 CFR 13.460 (Alaska National Park System) Use of snowmobiles, motorboats, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses.

(a) Notwithstanding any other provision of this chapter, the use of snowmobiles, motorboats, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses is permitted within park areas except at those times and in those areas restricted or closed by the Superintendent.

...

(d) Motorboats, snowmobiles, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses shall be operated:

- (1) In compliance with applicable State and Federal law;*
- (2) In such a manner as to prevent waste or damage to the park areas; and*
- (3) In such a manner as to prevent the herding, harassment, hazing or driving of wildlife for hunting or other purposes.*

43 CFR 8341.1 (Bureau of Land Management)

(f.) No person shall operate an off-road vehicle on public lands: ... (4) In a manner causing or likely to cause significant, undue damage to or disturbance of... wildlife

Extent of Federal Public Lands

Unit 9B is comprised of approximately 34% Federal public lands and consist of 26% National Park Service (NPS) managed lands, and 8% BLM managed lands.

Unit 9C is comprised of approximately 85% Federal public lands and consist of 78% NPS managed lands, 4% BLM managed lands, and 4% U.S. Fish and Wildlife Service managed lands (USFWS). Katmai National Park lands are closed to subsistence hunting.

Unit 17B is comprised of approximately 8% Federal public lands and consist of 6% NPS managed lands, 1% BLM managed lands, and < 1% USFWS managed lands.

Unit 17C is comprised of approximately 25% Federal public lands and consist of 15% USFWS managed lands and 10% BLM managed lands.

Customary and Traditional Use Determination

The Federal Subsistence Board has not made a customary and traditional use determination for wolverines in Unit 9 or Unit 17. Therefore, all rural residents of Alaska may harvest this species in these units.

Rural residents of Units 6, 9, 10 (Unimak Island only), 11-13, Chickaloon, and 16-26 have a customary and traditional use determination for wolves in Units 9 and 17.

Regulatory History

In 1995, Proposal P95-52 requested that snowmachines and motor-driven boats be allowed in the taking of caribou and moose in Unit 25 during established seasons, except shooting from a snowmachine in motion was prohibited. There was no existing regulation on the use of motorized vehicles in Unit 25 prior to this. The Federal Subsistence Board (Board) adopted the recommendation of the Eastern Interior Alaska and Southcentral Alaska Subsistence Regional Advisory Councils who supported the proposal in recognition that methods change over time and because it supported subsistence uses.

In 2000, the Board adopted Proposal P00-53 with modification allowing the use of snowmachines to position a hunter and select individual caribou for harvest in Units 22 and 23. The Board did this to recognize a longstanding customary and traditional practice in the region (FWS 2000). However, the proponent had asked to position a caribou, not a hunter. The Interagency Staff Committee provided a rationale for the modification:

Following the Regional Council winter meetings, the Deputy Regional Director of the U.S. Fish and Wildlife Service (FWS), Alaska Region, met with the Assistant Regional Director for Law Enforcement, the Staff Committee member for FWS, the Refuge Supervisor for Northern Refuges, and the Native Liaison and, after lengthy discussion, agreed to recommend substituting “a hunter” for “caribou” in the proposal language. They agreed that this is consistent with conservation principles and existing agency regulations as long as herding does not occur and shooting from a moving snowmachine is prohibited (FWS 2000:13).

In 2012, Proposal WP12-53 was submitted by the Yukon Delta National Wildlife Refuge and requested unit specific regulation prohibiting a hunter in Unit 18 from pursuing an ungulate that is “fleeing” with a motorized vehicle. The Board adopted the proposal with modification and prohibited the pursuit with a motorized vehicle of an ungulate that was “at or near a full gallop” in Unit 18, providing greater clarity of allowable methods of harvest (FWS 2012).

At its March 2014 meeting, the Alaska Board of Game adopted Proposal 177, which allows a hunter to use a snowmachine in Units 22, 23 and 26A to position a caribou, wolf, or wolverine for harvest, as long as these animals are shot from a stationary snowmachine (see 5 AAC 92.080(4)(B)(i) at **Appendix 1**). The purpose of the proposal was to allow the use of snowmachines to track these animals.

In 2016, Proposal WP16-48, submitted by the Native Village of Kotzebue, requested that Federally qualified subsistence users be allowed to use snowmachines to position a caribou, wolf, or wolverine for harvest in Unit 23. The Board adopted the proposal with modification to allow this method of harvest only on those lands managed by the Bureau of Land Management. The Board recognized uses of snowmachines to position animals as customary and traditional practice. However, positioning animals by snowmachine is prohibited on National Park Service and U.S. Fish and Wildlife Service lands under agency-specific regulations. Bureau of Land Management regulatory language does not specifically prohibit the use of snowmachines to position animals for hunting and this harvest method is allowed on some State managed lands.

In the spring of 2017, Kenneth Nukwak of Manokotak submitted Proposal WP18-24 requesting that Federally qualified subsistence users be allowed to use a snowmachine to position caribou, wolves, and wolverines for harvest in Unit 17, provided the animals were not shot from a moving vehicle. During the fall 2017 meeting cycle, the Bristol Bay Subsistence Regional Advisory Council voted to oppose Proposal WP18-24, noting a lack of clear definitions for positioning and chasing of an animal.

At its February 2018 meeting in Dillingham, the Alaska Board of Game (BOG) adopted Proposal 148, also submitted by Kenneth Nukwak of Manokotak, with modification. The original proposal requested that Federally qualified subsistence users be allowed to use a snowmachine to position caribou, wolves,

and wolverines for harvest in Unit 17, provided the animals would not be shot from a moving vehicle. The modified regulation was limited to caribou and stated that a snowmachine may be used in Unit 17 to assist in the taking of a caribou, and caribou may be shot from a stationary snowmachine, with further clarification describing exactly how the snowmachine may be used for assistance (see 5 AAC 92.080(4)(B)(viii) at **Appendix 1**).

At its winter meeting in March of 2018, the Bristol Bay Subsistence Regional Advisory Council voted to request Proposal WP18-24 be removed from the consensus agenda at the next Board meeting. Reasoning for this included providing an opportunity for the Board to deliberate the proposal on record, in light of BOG deliberation, modification, and adoption of the same proposal on State lands in Unit 17. During the April 2018 Board meeting, Proposal WP18-24 was taken off the consensus agenda. Some public testimony was received in support of the proposal. The Board deliberated the proposal on record and rejected it.

In 2020, the Council submitted Proposals WP20-26 and WP20-27. Proposal WP20-26 requested that Federally qualified subsistence users be allowed to use a snowmachine to position wolves, and wolverines for harvest on BLM managed lands only in Units 9B, 9C, 17B, and 17C, provided the animals are not shot from a moving snowmachine. Proposal WP20-27, also submitted by the Council, requested a unit-specific regulation for Unit 17 allowing use of a snowmachine to assist in taking caribou and allowing caribou to be shot from a stationary snowmachine, using the regulatory language adopted by the BOG in February 2018. That regulatory language read:

In Unit 17, a snowmachine may be used to assist in the taking of a caribou and caribou may be shot from a stationary snowmachine. "Assist in the taking of a caribou" means a snowmachine may be used to approach within 300 yards of a caribou at speeds under 15 miles per hour, in a manner that does not involve repeated approaches or that causes a caribou to run. A snowmachine may not be used to contact an animal or to pursue a fleeing caribou.

During the April 2020 regulatory Board meeting, the Board first took up Proposal WP20-27, discussed and adopted it. The Board then considered Proposal WP20-26, which was supported by the Bristol Bay, Western Interior, and Yukon-Kuskokwim Delta Councils as it increased subsistence opportunity. The Board deferred Proposal WP20-26 and suggested further consideration of the proposal by the Council working group to (1) expand the analysis to include all Federal lands in Units 9B, 9C, 17B, and 17C; (2) identify specific language that may reduce complexity between State and Federal regulations; and (3) anticipate and address regulatory conflicts between the proposed regulatory language and agency specific regulations.

Current Events

The Nushagak Fish and Game Advisory Committee (AC) submitted Proposal 23 to the BOG for consideration at their January 2022 meeting. Proposal 23 requested allowing the use of a snowmachine to position wolves or wolverines for harvest in Unit 17, and that they may be shot from a stationary snowmachine. The Nushagak AC stated that Proposal 23 seeks to eliminate current conflicts between

regulatory prohibitions and common local hunting practices and that this opportunity is already available to users in Units 18, 22, 23, and 26A.

Following direction from the Federal Subsistence Board, a working group of Bristol Bay Council members, Federal agency and ADF&G staff formed to develop recommendations for deferred Proposal WP20-26. The working group met several times via teleconference between July 2020 and May 2021. At the February 2021 Council meeting the working group reported to the Council an agreement to expand the analysis to include all Federal public lands in Units 9B, 9C, 17B, and 17C. The working group met again in May and agreed to further clarify the term “position” using the same regulatory language as proposed in Proposal WP20-27.

Biological Background

Wolves and wolverines are present throughout Units 9 and 17. As with other furbearers in Alaska, there is scant objective data on abundance of these animals. Rather, relative abundance has typically been estimated using the results of trapper questionnaires, as well as incidental observations by biologists, hunters, trappers, guides, and others.

Wolves

Historically, wolf density has varied in response to harvest pressure, prey availability, and disease. In Unit 9, wolf densities were low in the early 1980s following the end of the Federal wolf control program. Abundance appears to have increased during the 1990s. Currently, the population is believed to be relatively stable, and monitoring efforts in Units 9C and 9E indicate that the population is 250 – 550 wolves, or 16-18 wolves/1,000 mi² (Crowley and Peterson 2018). Wolf dynamics in Unit 17 have been similar to those in Unit 9, with abundance increasing during the mid-1980s and early 1990s (Barten 2018). Recent observations suggesting that the population is relatively stable (Spivey 2019).

Wolverines

Compared to other furbearers, wolverines occur at low densities (Copeland and Whitman 2003). Though wolverine abundance remains unquantified due to the impracticality of formal assessment (Crowley 2013), low densities appear to be confirmed by local trappers, who report that wolverines in Units 9 and 17 are scarce but stable (Spivey 2019).

Cultural Knowledge and Traditional Practices

During his study years in 1964 and 1965, VanStone (1967:134) documented winter travel along the Nushagak River occurring almost exclusively by dog team. During the winter months dog teams were used to harvest caribou, access trap lines, and provide for the transportation of supplies and people throughout the region. Hunters used traditional methods to harvest wildlife. These methods included a hunter moving animals towards another hunter’s position (Nelson 1983 [1899] and Oswalt 1990). At the time of his study, VanStone was only aware of a few Bristol Bay residents that possessed snowmachines. Approximately 10 years later, when ADF&G first began conducting research on subsistence harvest

activities, dog teams were barely mentioned. Instead, reports noted that the communities of Nushagak Bay had mostly transitioned to the use of boats, aircrafts, and snowmachines as a preferred means of travel and for accessing animals for harvest (Coiley-Kenner et al. 2003; Evans et al. 2013; Fall et al. 1986; Holen et al. 2012; Holen et al. 2005; Krieg et al. 2009; Schichnes and Chythlook 1988; Seitz 1996; Wolfe et al. 1984; Wright et al. 1985).

In the past, prior to the use of snowmachines, people in the region were more nomadic. Residents of Southwest Alaska practiced an annual round of harvest activities that allowed them to effectively position themselves in proximity to important resources that supported their families through extended travel to seasonal subsistence camps. In La Vine and Lisac (2003), elders describe a harvest year that began at fish camp in the early summer, moved up the river to hunting and trapping camps for the fall and winter, traveled through mountain passes and down rivers to bays and estuaries for the spring harvest of migratory waterfowl and eggs, finally returning to fish camp once again in early summer. A trip such as this required travel by boat, sled, and foot and took the family hundreds of miles and 12 months to complete. As village life solidified around schools and economic opportunities, technological advances like boats with outboard motors and snowmachines allowed people to travel further over shorter periods of time in order to access resources they once had to follow over seasons instead of hours.

Wolves and Wolverine

Across Alaska, both wolves and wolverines are highly prized for their fur, which is used to trim locally made parkas and other items of clothing or handicrafts. While not as prominent an activity as in the past, rural residents still participate in trapping as a source of income in the Bristol Bay region, particularly for wolverine, which continues to fetch a high price for quality fur (Woolington 2013). Snowmachines were the primary means of transportation used by hunters and trappers for taking wolves and furbearers in Unit 17 from 2008 through 2012 (Woolington 2012 and 2013). Most wolves were harvested by firearm between the regulatory years of 1992 and 2010, while wolverines were more frequently taken by trap or snare.

The Division of Subsistence at ADF&G conducts household subsistence harvest surveys periodically throughout Alaska. Though this survey data is only available for some communities in some years, it is an additional source for documenting patterns of use in rural Alaska. The most recent surveys conducted in the Bristol Bay region describe the harvest and use of wolves and wolverines as varied between communities and study years (Evans et al. 2013; Holen et al. 2012; Holen et al. 2011; Holen et al. 2005; Krieg et al. 2009). A common pattern described in most reports is that a smaller percentage of households in each community report harvest or attempted harvest and use of furbearers than those reporting harvest and use of salmon or large land mammals like moose and caribou. In most cases only a few households are responsible for the majority of the harvest and use of furbearers, likely in association with keeping a trap line.

Harvest History

Wolves

Harvest of wolves is influenced by weather and travel conditions, which can result in variable harvest from year to year. Alaska Department of Fish and Game sealing records indicate that from 2010 to 2014, the most recent five-year period for which unit-specific sealing data is available, reported harvest ranged from 44 to 142 wolves in Unit 9. On average 64 wolves were harvested annually (Crowley and Peterson 2018).

Reported harvest was also variable in Unit 17, where between 6 and 105 wolves were harvest annually from 2010 to 2014. During that period, annual harvest averaged 47 wolves. In Unit 17, 70% of harvested wolves were shot, 18% were trapped or snared, and 69% of hunters and trappers used snowmachines to harvest wolves (Barten 2018).

Wolverines

Like wolf harvest, wolverine harvest can vary from year to year, reflecting trapper effort that varies with travel conditions. For 2007 – 2016, the most recent ten-year period for which unit-specific sealing data is available, reported harvest ranged from 9 to 36 wolverines in Unit 9. On average, annual reported harvest was 25 wolverines, 89% of which were trapped or snared, and 10% of which were shot. Snowmachines were used in 28% of wolverines harvested during this period (Crowley 2013; Rinaldi 2019, pers. comm.).

In Unit 17, sealing records indicate that reported harvest ranged from 8 to 63 wolverines annually during 2007 – 2016, averaging 37 wolverines annually. During this time, 79% of wolverines were trapped or snared and 17% were shot. Snowmachines were used 46% of the time (Woolington 2013; Rinaldi 2019, pers. comm.).

Other Alternatives Considered

When Proposal WP20-26 was proposed, it requested changes to regulations on BLM lands only in Units 9 and 17. BLM lands only occur in Subunits 9B, 9C, 17B, and 17C. When the proponent submitted Proposal WP22-40, the request was expanded to include all Federal public lands in the same subunits as before. An alternative to consider is that leaving out Unit 17A was an oversight, and the proposed regulatory changes should take place on all Federal public lands in Units 9B, 9C, and all of Unit 17. The Council may want to further consider this alternative.

Effects of the Proposal

If adopted, Proposal WP22-40 would allow hunters to use a snowmachine to position wolves and wolverines for selection and harvest, if they are not shot from a moving snowmachine. The most recent available reports suggest that, in the Bristol Bay region, most wolves are harvested by firearm, while the majority of wolverine are harvested by trapping. The proposed regulation may not result in an increase in harvest of wolves and wolverines by trap or snare. However, such regulatory changes could increase the

take of wolves and wolverines by firearm and may result in more opportunistic harvest. Currently, the wolf population is believed to be stable. Less is known about the resident wolverine population. However, as this is a traditional and common local practice, adopting the proposal may simply legalize a practice that is already occurring, therefore resulting in minimal changes in harvest.

Regulations for the use of snowmachines when harvesting wolves or wolverines would be different on State managed lands. However, this is already the case, and should the proposal be adopted, it does not add regulatory complexity that does not already exist. Specifically, in State regulations, a snowmachine may be used to position a hunter to select an individual wolf for harvest, and wolves may be shot from a stationary snowmachine; in Federal regulations, a snowmachine could be used to position a wolf or wolverine for harvest and shot from a stationary snowmachine. If both this proposal and State Proposal 23 are adopted, then State and Federal regulations would align in Units 17B and 17C but remain disparate in Units 9 and 17A.

OSM CONCLUSION

Support Proposal WP22-40 **with modification** to utilize the same regulatory language the Board adopted in Proposal WP20-27, and to include all Federal public lands in Unit 17.

The modification should read:

§ _____.26 Subsistence taking of wildlife

...

(b) Except for special provisions found at paragraphs (n)(1) through (26) of this section, the following methods and means of taking wildlife for subsistence uses are prohibited:

...

(4) Taking wildlife from a motorized land or air vehicle when that vehicle is in motion, or from a motor-driven boat when the boat's progress from the motor's power has not ceased.

(5) Using a motorized vehicle to drive, herd, or molest wildlife.

§ _____.26(n)(9)(iii) Unit 9—Unit-specific regulations

...

(I) In Units 9B and 9C, on Federal-managed lands, a snowmachine may be used to assist in the taking of a wolf or wolverine and a wolf or wolverine may be shot from a stationary snowmachine. "Assist in the taking of a wolf or wolverine" means a snowmachine may be used to approach within 300 yards of a wolf or wolverine at speeds under 15 miles per hour, in a manner that does not involve repeated approaches or that causes the animal to run. A snowmachine may not be used to contact an animal or to pursue a fleeing animal.

...

§_____.26(n)(17)(iii) Unit 17—Unit-specific regulations

...

(D) In Unit 17, on Federal-managed lands, a snowmachine may be used to assist in the taking of a wolf or wolverine and a wolf or wolverine may be shot from a stationary snowmachine. "Assist in the taking of a wolf or wolverine" means a snowmachine may be used to approach within 300 yards of a wolf or wolverine at speeds under 15 miles per hour, in a manner that does not involve repeated approaches or that causes the animal to run. A snowmachine may not be used to contact an animal or to pursue a fleeing animal.

Justification

Hunters using snowmachines to position wolves and wolverines for harvest is a traditional practice in the Bristol Bay area. While methods and means for taking wildlife in ethnographic literature describe hunters employing traditional strategies that might affect game behavior, until the 1960s hunters largely used dog sled or walked (Nelson 1983 [1899]; Oswalt 1990; VanStone 1967). As means for travel, access, and harvest continue to change over time, hunters persist in using traditional methods purposefully meant to alter the behavior of wildlife and position them for harvest because these methods are efficient. Additionally, the Board adopted a similar regulation in Unit 23, in recognition of the snowmachine as a customary and traditional harvest method. The proposed regulation change might increase opportunity through a more efficient method to harvest wolverines and could result in more harvest. Impacts to wolverine populations are unknown at this time and are difficult to track.

Finally, the proposed modification would align with similar regulations for hunting caribou on Federal public lands in all of Unit 17 as well as comply with agency specific regulations.

LITERATURE CITED

Barten, N.L. 2018. Wolf management report and plan, Game Management Unit 17: Report period 1 July 2010 – 30 June 2015, and plan period 1 July 2015 – 30 June 2020. ADF&G, Division of Wildlife Conservation. Juneau, AK.

Coiley-Kenner, P., T.M. Krieg, M.B. Chythlook, and G. Jennings. 2003. Wild resource harvests and use by residents of Manokotak, Togiak, and Twin Hills, 1999/2000. ADF&G, Div. of Subsistence Tech. Paper No. 275. Anchorage, AK

Copeland, J.P. and J.S Whitman. 2003. Wolverine. Pages 672 – 682 in G.A Feldhamer, B.C. Thompson and J.A. Chapman, eds. Wild mammals of North America: Biology Management and Conservation. The Johns Hopkins University Press, Baltimore, MD. 1216 pp.

Crowley, D.W. 2013. Unit 9 and 10 furbearer management report. Pages 129 – 137 in P. Harper and Laura A. McCarthy, eds. Furbearer management report of survey and inventory activities 1 July 2009– 30 June 2012. ADF&G. Juneau, AK.

Crowley, D.W. and C. Peterson. 2018. Wolf management report and plan, Game Management Units 9 and 10: Report period 1 July 2010 – 30 June 2015, and plan period 1 July 2015 – 30 June 2020. ADF&G, Division of Wildlife Conservation. Juneau, AK

Evans, S., M. Kullonen, D. Holen, and D.S. Koster. 2013. The harvest and use of wild resources in Dillingham, Alaska, 2010. ADF&G, Div. of Subsistence Tech. Paper No. 375. Anchorage, AK.

Fall, J. A., J.C. Schichnes, M. Chythlook, and R.J. Walker. 1986. Patterns of wild resource use in Dillingham: Hunting and fishing in an Alaskan regional center. ADF&G, Div. of Subsistence Tech. Paper No. 135. Anchorage, AK.

FWS. 2000. Staff analysis Proposal 00–053. Office of Subsistence Management, FWS. Anchorage, AK.

FWS. 2012. Staff analysis Proposal WP12-53. Office of Subsistence Management, FWS. Anchorage, AK.

Holen, D., J. Stariwat, T. M. Krieg, and T. Lemons. 2012. Subsistence harvests and uses of wild resources in Aleknagik, Clark's Point, and Manokotak, Alaska, 2008. ADF&G, Div. of Subsistence Tech. Paper No. 368. Anchorage, AK.

Holen, D., J., T. M. Krieg, and T. Lemons. 2011. Subsistence harvests and uses of wild resources in King Salmon, Naknek, and South Naknek, Alaska, 2007. ADF&G, Div. of Subsistence Tech. Paper No. 360. Anchorage, AK.

Holen, D., T. M. Krieg, R. Walker, and H. Nicholson. 2005. Harvests and uses of caribou, moose, bears, and Dall sheep by communities of Game Management Units 9B and 17, Western Bristol Bay, Alaska 2001-2002. ADF&G, Div. of Subsistence Tech. Paper No. 283. Anchorage, AK.

Krieg, T. M., D. Holen, and D Koster. 2009. Subsistence harvests and uses of wild resources in Igiugig, Kokhanok, Koliganek, Levelock, and New Stuyahok, Alaska, 2005. ADF&G, Div. of Subsistence Tech. Paper No. 322. Anchorage, AK.

La Vine, R. and M.J. Lisac. 2003. Oral history and traditional ecological knowledge gathering within Togiak National Wildlife Refuge: Progress Report. Togiak National Wildlife Refuge, Dillingham, AK.

Nelson, E.W. 1983 [1899]. The Eskimo about Bering Strait. Smithsonian Institution Press, Washington DC.

Oswalt, W.H. 1990. Bashful no longer: An Alaskan Eskimo ethnohistory, 1778–1988. University of Oklahoma Press. Norman and London.

Rinaldi, T. 2019. Fish and game coordinator. Personal communication: email. ADF&G. Palmer, AK.

Schichnes, J. and M. Chythlook. 1988. Use of fish and wildlife in Manokotak, Alaska. ADF&G, Div. of Subsistence Tech. Paper No. 152. Anchorage, AK.

Seitz, J. 1996. The use of fish and wildlife in Clarks Point, Alaska. ADF&G, Div. of Subsistence Tech. Paper No. 186. Anchorage, AK.

Spivey, T.J. 2019. 2017 Alaska trapper reports: 1 July 2107 – 30 June 2018. ADF&G. Juneau, AK.

VanStone, J. 1967. Eskimos of the Nushagak River. University of Washington Press. Seattle, WA.

Wolfe, R.J., J. J. Gross, S. J. Langdon, J. M. Wright, G. K. Sherrod, L. J. Ellana, V. Sumida, and P. J. Usher. 1984. Subsistence-based economies in coastal communities of Southwest Alaska. ADF&G, Div. of Subsistence Tech. Paper No. 89. Juneau, AK.

Woolington, J. D. 2012. Unit 17 wolf management report. Pages 221–226 *in* P. Harper, editor. Wolf management report of survey and inventory activities 1 July 2008– 30 June 2011. ADF&G, Species Management Report ADF&G/DWC/SMR-2012-4, Juneau, AK.

Woolington, J. D. 2013. Unit 17 furbearer management reports. Pages 222 – 242 *in* P. Harper and Laura A. McCarthy, eds. Furbearer management report of survey and inventory activities 1 July 2009– 30 June 2012. ADF&G. Juneau, AK.

Wright, John M., Judith Morris, and Robert Schroeder. 1985. Bristol Bay Regional Subsistence Profile. ADF&G, Div. of Subsistence Tech. Paper No. 114. Juneau, AK.

ANALYSIS ADDENDUM

ISSUES

The Federal Subsistence Board (Board) deferred Proposal WP22-40 at its April 2022 meeting to its meeting in January 2023, at the request of the Bristol Bay Regional Subsistence Regional Advisory Council, to allow the Council time to formulate language defining positioning of wolves and wolverines for harvest. The Council noted the discrepancy between traditional harvest methods and those described in the Office of Subsistence Management (OSM) recommended modification described in the **Executive Summary**, above (*‘Assist in the taking of a wolf or wolverine’ means a snowmachine may be used to approach within 300 yards of a wolf or wolverine at speeds under 15 miles per hour, in a manner that does not involve repeated approaches or that causes the animal to run*) (FSB 2022).

This addendum only presents *new* information collected after the analysis for Proposal WP22-40 was finalized for the Board April 2022 meeting book.

DISCUSSION

In January 2022, the Alaska Board of Game adopted Proposal 23 as amended regarding the harvest of wolves and wolverines with snowmachines that did not have the restrictions on distance, speed, and repeated approaches that were in the OSM recommended modification for Proposal WP22-40. The Board of Game added Unit 17 to an existing regulation that already included Units 9B and 9C (*A snowmachine may be used to position a hunter to select an individual wolf for harvest, and wolves may be shot from a stationary snowmachine*)

Subsequently, during its February 2022 meeting, the Bristol Bay Council reconsidered Proposal WP22-40 and changed its recommendation that was to support the OSM recommended modification. Instead, the Council recommended the Federal Subsistence Board defer the proposal, stating there were parts of the OSM recommended modification that did not capture the Council's intent when it submitted its original Proposal WP22-40 (*A snowmachine may be used to position a wolf or wolverine for harvest, provided that the animal is not shot from a moving snowmachine*) (BBSRAC 2022).

At the April 2022 Federal Subsistence Board meeting, the Bristol Bay Council Chair said that some Council members had spoken with hunters from the region who did not support the OSM recommended modification of Proposal WP22-40. These hunters expressed concern that the low-speed parameters and prohibition against hunters making numerous approaches did not reflect methods of traditional practice for the harvest of furbearers. Furthermore, the Council said that the OSM recommended modification might impact other subsistence activities that rely in part on cash received by hunters in trade for wolf pelts (FSB 2022).

The Council also noted that the Alaska Board of Game was scheduled to address a similar Proposal 271 concerning positioning wolves and wolverines for harvest at its March 2022 meeting. The Council expressed interest in the outcome of that meeting and the possibility of aligning a Federal regulation with any new State regulation, if appropriate. The Council recognized the complexity and widespread

ramifications those regulation might have on hunters and wished to gather more information from hunters so their interests could be considered in its recommendation to the Federal Subsistence Board (FSB 2022).

Additionally at the April 2022 Board meeting, the Chair of the Western Interior Alaska Council told the Board that his local ADF&G Fish and Game Advisory Committee was opposed to the OSM recommended modification of Proposal WP22-40. The Advisory Committee said that approaching at the low speed of 15 miles an hour was appropriate for the harvest of caribou but not for the harvest of wolves and wolverines. The Western Interior Council Chair said his Council’s recommendation to support the OSM recommended modification would likely be different now, based on the Alaska Board of Game’s actions on Proposal 23 in January 2022, and he agreed with the Bristol Bay Council’s request to defer the proposal (FSB 2022).

Existing State Regulations

AS 16.05.940. Definitions.

...

(34) “take” means taking, pursuing, hunting, fishing, trapping, or in any manner disturbing, capturing, or killing or attempting to take, pursue, hunt, fish, trap, or in any manner capture or kill fish or game.

5 AAC 92.080. Unlawful methods of taking game; exceptions

The following methods of taking game are prohibited:

...

(4) unless otherwise provided in this chapter, from a motor-driven boat or a motorized land vehicle, unless the motor has been completely shut off and the progress from the motor’s power has ceased, except that a

...

(B) motorized land vehicle may be used as follows:

...

(vi) under authority of a permit issued by the department;

...

(ix) a snowmachine may be used to approach and pursue wolves and wolverine; an approach and pursuit under this sub-subparagraph is not harassment under (5) of this section, but may not come in contact with a live animal;

...

(5) except as otherwise specified, with the use of a motorized vehicle to harass game or for the purpose of driving, herding, or molesting game.

5 AAC 92.990. Definitions

(b) In addition to the definitions in AS 16.05.940 , in 5 AAC 84 – 5 AAC 92, unless the context requires otherwise,

...

(70) “harass” means to repeatedly approach an animal in a manner which results in the animal altering its behavior;

Regulatory History

In January 2022, the Alaska Board of Game adopted Proposal 23, submitted by the ADF&G Nushagak Fish and Game Advisory Committee, as amended and added Unit 17 in the following regulation regarding the harvest of wolves and wolverines (ADF&G 2022a):

5 AAC 92.080(4). Unlawful methods of taking game; exceptions

...

(B) motorized land vehicle may be used as follows:

...

(iii) notwithstanding any other provision in this section, in Units 9(B), 9(C), 9(E), 17, 18, 19, 21, 22, 24, 25(C) and 25(D), except on any National Park Service or National Wildlife Refuge lands not approved by the federal agencies, a snowmachine may be used to position a hunter to select an individual wolf for harvest, and wolves may be shot from a stationary snowmachine;

The Alaska Board of Game concurrently generated its own proposal, Proposal 271, to be considered at its meeting in March 2022. Proposal 271 requested to establish a definition of “position” as it applied to using a snowmachine to take wildlife, statewide. The Alaska Board of Game said, “The intent is to provide clearer direction to hunters regarding use of snowmachines while hunting, and to help the Alaska Wildlife Troopers distinguish between allowable positioning as compared to prohibited ‘driving, herding, or molesting game’ with the use of a motorized vehicle (5 AAC 92.080(5))” (ADF&G 2022b).

On March 7, 2022, the Alaska Board of Game adopted Proposal 271 as amended that replaced the action it had taken on Proposal 23 at its January 2022 meeting, described above (ADF&G 2022c). The new regulation allowed for the use of a snowmachine to approach and pursue wolves and wolverines and no other wildlife. This new regulation reads,

5 AAC 92.080(4). Unlawful methods of taking game; exceptions

...

(B) motorized land vehicle may be used as follows:

...

(ix) a snowmachine may be used to approach and pursue wolves and wolverine; an approach and pursuit under this sub-subparagraph is not harassment under (5) of this section, but may not come in contact with a live animal;

In April 2022, the Federal Subsistence Board deferred Proposal WP22-40 for a second time, at the request of the Bristol Bay Council, to allow the Council time to formulate language defining positioning of wolves and wolverines for harvest. The Council noted the discrepancy between traditional harvest methods and those described in the OSM recommended modification (*‘Assist in the taking of a wolf or wolverine’ means a snowmachine may be used to approach within 300 yards of a wolf or wolverine at speeds under 15 miles per hour, in a manner that does not involve repeated approaches or that causes the animal to run*) (FSB 2022).

Extent of Federal Public Lands

Unit 9B is comprised of approximately 34% Federal public lands and consist of 26% National Park Service (NPS) managed lands within Lake Clark National Park and Preserve, and 8% BLM managed lands.

Unit 9C is comprised of approximately 85% Federal public lands and consist of 78% NPS managed lands within Katmai National Park and Preserve (most of which is closed to subsistence uses), 4% BLM managed lands, and 4% U.S. Fish and Wildlife Service managed lands (USFWS) within Becharof National Wildlife Refuge.

Unit 17 is comprised of approximately 28% Federal public lands and consist of 21% USFWS managed lands within Togiak National Wildlife Refuge, 4% BLM managed lands, and 3% NPS managed lands within Lake Clark National Park and Preserve.

Current Events

The Bristol Bay Regional Advisory Council held a public working group meeting via teleconference on Sept 29, 2022, to discuss deferred Proposal WP22-40. The working group, consisting of two Council members and Federal agency staff, discussed the original intent of Proposal WP22-40, which sought to

reflect the actual practice that has been used since snowmachines came into use. The working group considered using the same language the Alaska Board of Game adopted in March 2022, in Proposal 271 as amended, described in the **Regulatory History** above (OSM 2022).

The working group suggested that the amended language would support Federally qualified subsistence users to continue with their traditional way of life and to continue a practice that has evolved overtime and is a critical element of the subsistence way of life. Public testimony further supported the amended language as it would address situations a trapper may experience in the field. For example, a trapper who is targeting wolverine could legally harvest a wolverine from a snowmachine if they came upon one on their trapline. A local trapper gave the example of a fox being incidentally caught in a wolverine set. Wolverine sometimes come into the area drawn in by the scent of the fox. If a trapper came upon this situation on their snowmachine, the amended language would allow the trapper to lawfully harvest the species they were targeting (OSM 2022).

The working group discussed possible difficulties the Federal Subsistence Board may have with the amended language as it may conflict with agency-specific regulations. Alaska National Wildlife Refuge and National Park regulations prohibit the use of motorized vehicles to drive, herd or harass wildlife by rural residents engaged in subsistence uses. The working group discussed that using the same language the Alaska Board of Game adopted would alleviate the conflict with Federal agency-specific regulations as State regulations also prohibit the use of motorized vehicles to drive, herd, or harass wildlife (OSM 2022).

The working group supported using the language in Proposal 271 as amended by the Alaska Board of Game to modify the language of Proposal WP22-40. The working group then recommended the modification to the Bristol Bay Council at their November 2022 meeting, and the Council supported modifying WP22-40 with this language: [In Units 9B, 9C, and 17], *on open Federal-managed lands, a snowmachine may be used to approach and pursue wolves and wolverines but may not come in contact with a live animal; an approach and pursuit under this paragraph is not driving, herding, or molesting under §____.26(b)(5) Subsistence taking of wildlife.*

OSM CONCLUSION

Support Proposal WP22-40 as modified by the Bristol Bay Subsistence Regional Advisory Council to allow the use of a snowmachine to approach and pursue wolves and wolverines provided a snowmachine does not contact a live animal, to include all of Unit 17, and further OSM modification to clarify regulatory language.

The modification should read:

§____.26 Subsistence taking of wildlife

...

(b) Except for special provisions found at paragraphs (n)(1) through (26) of this section, the following methods and means of taking wildlife for subsistence uses are prohibited:

...

(4) Taking wildlife from a motorized land or air vehicle when that vehicle is in motion, or from a motor-driven boat when the boat's progress from the motor's power has not ceased.

(5) Using a motorized vehicle to drive, herd, or molest wildlife.

§ ____ .26(n)(9)(iii) Unit 9—Unit-specific regulations

...

(I) In Units 9B and 9C, a snowmachine may be used to approach and pursue a wolf or wolverine provided the snowmachine does not contact a live animal.

...

§ ____ .26(n)(17)(iii) Unit 17—Unit-specific regulations

...

(D) In Unit 17, a snowmachine may be used to approach and pursue a wolf or wolverine provided the snowmachine does not contact a live animal.

Justification

Hunters using snowmachines to position wolves and wolverines for harvest is a traditional practice in the Bristol Bay area. Methods and means for taking wildlife in ethnographic literature describe hunters employing traditional strategies that might affect wildlife behavior, although until the 1960s hunters largely used dog sleds or walked (Nelson 1983 [1899]; Oswalt 1990; VanStone 1967). As means for travel, access, and harvest continue to change over time, hunters persist in using traditional methods purposefully meant to alter the behavior of wildlife and position them for harvest because these methods are efficient.

There are no harvest limits for wolves and wolverines under Federal trapping regulations in Units 9 and 17. An increase in harvest is not anticipated because the method and means under which people harvest will not change. Positioning a wolf or wolverine for harvest is the traditional and efficient method used by trappers. Shooting an animal is an alternative to an animal dying in a leg trap.

Unlike the Alaska Board of Game that adopted a similar regulation effective statewide, the Council is seeking approval for a regulation in only Units 9B, 9C, and 17. The approach is to make explicit that pursuing a wolf or wolverine for harvest is legal if the animal is not shot from a moving snowmachine

and a snowmachine does not contact the animal. The new regulation will not encourage or discourage people to harvest wolves or wolverines; it simply clarifies that this method is legal.

The Office of Subsistence Management and the Bristol Bay Council modified the proposal to include all of Unit 17 instead of Units 17B and 17C only. This is because when the original proposal, Proposal WP20-26, was submitted, it requested changes to regulations on Bureau of Land Management lands only. These lands only occur in Units 9B, 9C, 17B and 17C. When the Board deferred action on the proposal in 2020, it requested the Council to expand its deliberations to include all Federal public lands in Units 9B, 9C, 17B, and 17C (OSM 2020). When revisiting the proposal (renamed Proposal WP22-40), the Council recommended expanding the proposal to include Federal public lands in all of Unit 17 (BBSRAC 2021).

The difference between this OSM Conclusion and the Bristol Bay Council's Recommendation is that OSM deleted the phrase that these regulations apply "*on open Federal public lands.*" This phrase is unnecessary because all Federal subsistence harvest regulations apply on only Federal public lands that are open to subsistence uses. Therefore, this regulation will not apply within Katmai National Park, which is closed to subsistence uses. Additionally, OSM deleted the phrase, "*an approach and pursuit under this paragraph is not driving, herding, or molesting under § ____ .26(b)(5) Subsistence taking of wildlife,*" because the restriction of not using a motorized vehicle to drive, herd, or molest wildlife is already addressed in § ____ .26(b)(5) and repeating this would possibly infer there are different interpretations of this regulation.

The Office of Subsistence Management will make it clear in the regulation booklet produced for the public that a snowmachine may be used to approach and pursue a wolf or wolverine "*provided an animal is not shot from a moving snowmachine,*" as is indicated in existing regulations at § ____ .26(b)(4).

LITERATURE CITED

ADF&G. 2022a. Meeting Summary. Alaska Board of Game Central and Southwest Region Meeting, Best Western Lake Lucille Inn, Wasilla, Alaska, January 21–27, 2022. Juneau, AK. 11 pages.
<http://www.adfg.alaska.gov/static/regulations/regprocess/gameboard/pdfs/2021-2022/csw/soa.pdf>

ADF&G. 2022b. Proposal 271. Alaska Board of Game, Juneau, AK. 1 page.
<https://www.adfg.alaska.gov/static/regulations/regprocess/gameboard/pdfs/2021-2022/proposals/271.pdf>

ADF&G 2022c. Meeting Summary. Alaska Board of Game Statewide Regulation Meeting, Pike's Waterfront Lodge, Fairbanks, Alaska, March 4–10, 2022. Juneau, AK. 10 pages.
<http://www.adfg.alaska.gov/static/applications/web/nocache/regulations/regprocess/gameboard/pdfs/2021-2022/swr/soa.pdf01630BF460AEF9D9455ABA6F4C0059F3/soa.pdf>

BBSRAC. 2021. Transcript of Bristol Bay Subsistence Regional Advisory Council proceedings. October 27, 2021. By teleconference. Office of Subsistence Management, USFWS. Anchorage, AK.

BBSRAC. 2022. Transcript of Bristol Bay Subsistence Regional Advisory Council proceedings. February 8, 2022. By teleconference. Office of Subsistence Management, USFWS. Anchorage, AK.

FSB. 2022. Transcript of the Federal Subsistence Board proceedings. April 14, 2022. By teleconference. Office of Subsistence Management, USFWS. Anchorage, AK.

OSM. 2020. ANILCA 805(c) report to the Bristol Bay Subsistence Regional Advisory Council. On file, Office of Subsistence Management, USFWS, Anchorage, AK. 1 page.

OSM. 2022. Teleconference meeting summary. Bristol Bay Regional Advisory Council Working Group: Deferred Proposal WP22-40. <https://www.doi.gov/sites/doi.gov/files/bbrac-wp22-40-working-group-meeting-summary-final.pdf>, retrieved November 16, 2022. Office of Subsistence Management, USFWS. Anchorage, AK. 1 page.

SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Bristol Bay Subsistence Regional Advisory Council

Fall 2021

Support WP22-40 as modified by OSM with additional modification to clarify the regulatory language. The Council supported the OSM modification stating that this would help with hunting by improving access to animals. However, the Council found the language OSM used to clarify “Assist in the taking of a wolf or wolverine” too confusing. After discussion, Chair Lyon proposed to modify the language clarifying that a snowmachine may be used to approach a wolf or a wolverine, but when you are within 300 yards, your speed must be at or under 15 mile/hour.

Additionally, the Council said that the proposed regulatory language as modified by the Council would be as follows: (D) In Unit 17, on Federal-managed lands, a snowmachine may be used to assist in the taking of a wolf or wolverine and a wolf or wolverine may be shot from a stationary snowmachine. "Assist in the taking of a wolf or wolverine" means a snowmachine may be used to approach a wolf or wolverine but when you are within 300 yards, your speed must be at or under 15 miles per hour. A snow machine may be used in a manner that does not involve repeated approaches or that causes the animal to run. A snowmachine may not be used to contact an animal or to pursue a fleeing animal.

The modified regulations should read:

§ ____ .26 Subsistence taking of wildlife

...

(b) Except for special provisions found at paragraphs (n)(1) through (26) of this section, the following methods and means of taking wildlife for subsistence uses are prohibited:

...

(4) Taking wildlife from a motorized land or air vehicle when that vehicle is in motion, or from a motor-driven boat when the boat's progress from the motor's power has not ceased.

(5) Using a motorized vehicle to drive, herd, or molest wildlife.

§ ____ .26(n)(9)(iii) Unit 9—Unit-specific regulations

...

(I) In Units 9B and 9C, on Federal-managed lands, a snowmachine may be used to assist in the taking of a wolf or wolverine and a wolf or wolverine may be shot from a stationary snowmachine. "Assist in the taking of a wolf or wolverine" means a snowmachine may be used to approach a wolf or wolverine but when you are within 300 yards, your speed must be at or under 15 miles per hour. A snow machine may be used in a manner that does not involve repeated approaches or that causes the animal to run. A snowmachine may not be used to

contact an animal or to pursue a fleeing animal.

...

§____.26(n)(17)(iii) Unit 17—Unit-specific regulations

...

(D) In Unit 17, on Federal-managed lands, a snowmachine may be used to assist in the taking of a wolf or wolverine and a wolf or wolverine may be shot from a stationary snowmachine. "Assist in the taking of a wolf or wolverine" means a snowmachine may be used to approach a wolf or wolverine but when you are within 300 yards, your speed must be at or under 15 miles per hour. A snow machine may be used in a manner that does not involve repeated approaches or that causes the animal to run. A snowmachine may not be used to contact an animal or to pursue a fleeing animal.

Fall 2022

Support WP22-40 with modification to allow the use of a snowmachine to approach and pursue wolves and wolverines if the snowmachine does not come in contact with a live animal, to include all of Unit 17, and to specify these regulations only apply on Federal public lands open to subsistence hunting. The Council noted that State regulations also prohibit driving, herding, harassing, or molesting wildlife with a motorized vehicle and that the new provision was not deemed in conflict with those regulations by the Alaska Board of Game or the State troopers. The Council noted that the amended language seemed to imply people could take wolves and wolverines from a moving snowmachine. However, this is already prohibited under Federal regulations at §__.26(b)(4).

The modified regulations should read:

§____.26 Subsistence taking of wildlife

...

(b) Except for special provisions found at paragraphs (n)(1) through (26) of this section, the following methods and means of taking wildlife for subsistence uses are prohibited:

...

(4) Taking wildlife from a motorized land or air vehicle when that vehicle is in motion, or from a motor-driven boat when the boat's progress from the motor's power has not ceased.

(5) Using a motorized vehicle to drive, herd, or molest wildlife.

§____.26(n)(9)(iii) Unit 9—Unit-specific regulations

...

(I) In Units 9B and 9C, on open Federal public lands, a snowmachine may be used to approach and pursue wolves and wolverine but may not come in contact with a live animal; an approach and pursuit under this paragraph is not driving, herding, or molesting under §____.26(b)(5) Subsistence taking of wildlife.

...

§____.26(n)(17)(iii) Unit 17—Unit-specific regulations

...

(D) In Unit 17, on open Federal public lands, a snowmachine may be used to approach and pursue wolves and wolverine but may not come in contact with a live animal; an approach and pursuit under this paragraph is not driving, herding, or molesting under §____.26(b)(5) Subsistence taking of wildlife.

Western Interior Alaska Subsistence Regional Advisory Council

Fall 2021

Support WP22-40 as modified by OSM. The Council felt the refined language recommended by OSM and the Bristol Bay Council working group addressed the Federal Subsistence Board’s previous concerns on this issue and was an equitable accommodation of both agency-specific and Federal subsistence regulatory systems. The Council also noted that Unit 19 residents who live within the Western Interior region would be affected by this proposal.

INTERAGENCY STAFF COMMITTEE COMMENTS

April 2022

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

January 2023

The Interagency Staff Committee (ISC) acknowledges and appreciates the extensive efforts by the Bristol Bay Subsistence Regional Advisory Council (Council) and the interagency working group to clearly define their request as part of this proposal. The proponent and residents of the region have worked hard to identify and protect traditional methods of wolf and wolverine harvest, based on the most economic and efficient means available. The proposed change in regulatory language is an attempt to ensure that traditional practices continue without putting subsistence users in conflict with the law. The ISC recognizes this proposal represents a long-standing issue that deserves resolution. The ISC further recognizes that regulations specific to each Federal agency may or may not conflict with the proposed regulatory language.

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Wildlife Proposal WP22-40

This proposal would allow federally qualified users (FQU) to use snowmachines to position wolves and wolverines for harvest on federal public lands in Game Management Units (GMU) 9B, 9C, 17B, and 17C, provided the animals are not shot from a moving snowmachine.

Background

This proposal seeks to align federal subsistence hunting regulations with state hunting regulations for positioning of wolves and adds wolverines to the list of animals that can be positioned in GMU 9A, 9B, 17B & 17C.

Current state regulations allow for the positioning of wolves and caribou in GMUs 9 & 17 because snowmachines are the major source of access for hunters and trappers pursuing these species. Harvest data from Alaska Department of Fish & Game (ADF&G) sealing records would seem to support this idea with harvest of both species increasing in years with high snow fall and decreasing in years with low snow fall.

Allowing the positioning of wolves and wolverines could lead to increased harassment (i.e., altering an animal's behavior through repeated approaches) leading to increased energy expenditure by the individual being pursued which can negatively affect the animal and occasionally may lead to the death of an individual animal. However, it is also possible that allowing for the positioning of these species would likely increase the chance of more accurate shots because hunters would be closer to the animal. Also, hunters taking more accurate shots would likely minimize the unnecessary waste of meat and fur that occurs when they take shots that are longer and riskier. Further, we know that positioning of wolves and wolverines is a common traditional practice because it is the only practical way to hunt for these species in winter and so making it legal would reduce the potential conflict between law enforcement personnel and subsistence hunters.

Impact on Subsistence Users

If adopted this proposal would align federal subsistence regulations with current state regulations allowing FQUs to legally position wolves and additionally allow subsistence users to position wolverines on federal lands in GMUs 9 and 17.

Impact on Other Users

If adopted, this proposal would have no effect on other non-federally qualified users.

Opportunity Provided by State

State customary and traditional use findings: The Alaska Board of Game (BOG) has made positive customary and traditional use findings for wolves and wolverines in GMU 17.

Amounts Reasonably Necessary for Subsistence: Alaska state law requires the BOG to determine the amount of the harvestable portion of a game population that is reasonably necessary for customary and traditional uses. This is an ANS. The BOG does this by reviewing extensive harvest data from all Alaskans, collected either by ADF&G or from other sources.

ANS provides the BOG with guidelines on typical numbers of animals harvested for customary and traditional uses under normal conditions. Hunting regulations can be re-examined if harvests for customary and traditional uses consistently fall below ANS. This may be for many reasons: hunting regulations, changes in animal abundance or distribution, or changes in human use patterns, just to name a few.

There is a positive ANS determination for wolves in GMU 17 however there is no set number of animals necessary for subsistence. The ANS for wolverines in GMU 17 is 90% of the harvestable portion within the GMU. The season and bag limit for big game hunting of wolves and wolverines in GMU 17 are 10 per day and 1 wolverine per season and the trapping regulations have no limit for both wolves and wolverines.

Conservation Issues

This regulatory change could lead to more opportunistic take of wolves and wolverines which pose a potential conservation issue in some areas. Wolves are currently under reduction efforts through predation control in GMUs 17B&C and the focus of intensive management in GMU 9 to benefit the northern Alaska Peninsula caribou herd. We have little information regarding the wolf and wolverine populations in GMU 17B & C; however, based on local reports, staff observations and the remoteness of much of the GMU, we can assume that there is minimal conservation risk to these populations from hunters. Likewise, given the traditional practice of positioning animals with snow machines changing this regulation is unlikely to increase harvest of either species because subsistence users have probably been positioning these animals for as long as they have been using snowmachines.

Enforcement Issues

Adopting this regulation would likely make enforcement efforts easier as enforcement officers won't have to differentiate between rules of positioning on state and federal lands in GMU 17B & C.

Position

ADF&G **SUPPORTS** any modification to the proposal that will align state and federal regulations.

APPENDIX 1

5 AAC 92.080. Unlawful methods of taking game; exceptions

AAC 92.080(4)(B)(viii)

The following methods of taking game are prohibited:

...

(4) unless otherwise provided in this chapter, from a motor-driven boat or a motorized land vehicle, unless the motor has been completely shut off and the progress from the motor's power has ceased, except that a

...

(B) motorized land vehicle may be used as follows:

(i) In Units 22, 23, and 26(A), a snowmachine may be used to position a caribou, wolf, or wolverine, for harvest, and caribou, wolves and wolverines may be shot from a stationary snowmachine.

(ii) notwithstanding any other provision in this section, in the wolf control implementation areas specified in 5 AAC 92.111 - 5 AAC 92.113, 5 AAC 92.118, and 5 AAC 92.121 - 5 AAC 92.124, a snowmachine may be used to position a hunter to select an individual wolf for harvest, and wolves may be shot from a stationary snowmachine;

(iii) notwithstanding any other provision in this section, in Units 9(B), 9(C), 9(E), 17, 18, 19, 21, 22, 24, 25(C) and 25(D), except on any National Park Service or National Wildlife Refuge lands not approved by the federal agencies, a snowmachine may be used to position a hunter to select an individual wolf for harvest, and wolves may be shot from a stationary snowmachine;

(iv) notwithstanding any other provision in this section, in the bear control implementation areas specified in 5 AAC 92.111 - 5 AAC 92.113, 5 AAC 92.118, and 5 AAC 92.121 - 5 AAC 92.124, a snowmachine may be used to position a hunter to select an individual bear for harvest, and bears may be shot from a stationary snowmachine;

(v) notwithstanding any other provision in this section, in Units 9(B), 9(C), 9(E), 17, 22 and 25(C), except on any National Park Service or National Wildlife Refuge lands not approved by the federal agencies, an ATV may be used to position a hunter to select an individual wolf for harvest, and wolves may be shot from a stationary ATV;

(vi) under authority of a permit issued by the department;

(vii) in Unit 18, a snowmachine may be used to position a wolf or wolverine for harvest, and wolves or wolverines may be shot from a stationary snowmachine;

(viii) in Unit 17, a snowmachine may be used to assist in the taking of a caribou and caribou may be shot from a stationary snowmachine. "Assist in the taking of a caribou" means a snowmachine may be used to approach within 300 yards of a caribou at speeds under 15 miles per hour, in a manner that does not involve repeated approaches or that causes a caribou to run. A snowmachine may not be used to contact an animal or to pursue a fleeing caribou.

(5) except as otherwise specified, with the use of a motorized vehicle to harass game or for the purpose of driving, herding, or molesting game;

(6) with the use or aid of a machine gun, set gun, or a shotgun larger than 10 gauge;

(7) with the aid of

(A) a pit;

(B) a fire;

(C) artificial light, except that artificial light may be used.

Follow and “Like” us on Facebook!
www.facebook.com/subsistencealaska

